

## CLAIM SUMMARY / DETERMINATION FORM

Date	: 10/04/2011
Claim Number	: E11519-0001
Claimant	: Oakland County Mutual Aid Association
Type of Claimant	: Local Government
Type of Claim	: Removal Costs
Claim Manager	: [REDACTED]
Amount Requested	: \$18,958.32

### FACTS:

- 1. Oil Spill Incident:** The United States Environmental Protection Agency (USEPA) Region V reports<sup>1</sup> that, on April 28, 2011, at approximately 1900 hours local time, a caller reported a sheen on the Upper Rouge River to the Farmington Fire Department. The spill was discovered in a drainage retention pond near the intersection of Grand River and Orchard Lake Road in Farmington, MI. The drainage retention pond overflowed into the Upper Rouge River, a branch and tributary of the Rouge River, a navigable waterway of the US. The Responsible Party (RP) is unknown.
- 2. Description of removal actions performed:** On April 28, 2011, the agencies represented by the Claimant, Oakland County Mutual Aid Association (OCMAA), arrived on-scene, placing 55 feet of 3" hydrophobic boom across the Rouge River on the west side of Nine Mile Rd. in order to prevent drifting of oil downstream.

Both an Incident Action Plan (IAP) and a Safety Plan were developed. The IAP consisted of placing containment boom on both sides of the bridge on the Wayne County side (200 feet) with 170 feet of 8" absorbent boom on the inside (upstream). The Safety Plan consisted of having all members near the water, wear personal flotation devices (PFD) or be tied off by rope. 200 feet of containment boom and 170 feet of absorbent boom were placed in the creek to contain any migrating fuel released from the Farmington location.

At 2345 hours, the Claimant and others involved with the Unified Command (UC) assessed the scene and made recommendations to reinforce booms placed by Oakland County Hazmat team (OCH). Safety was performed by OCH, with Western Wayne County Hazardous Response Materials Team (WWC HMRT) placing containment boom on both sides of the bridge under Nine Mile Rd. 100 feet of containment boom was placed in the creek and 120 feet of 5" absorbent boom (from OCH) was placed in the creek on the east side of 9 Mile Rd., south of Grand River.

At 0310 hours, the Claimant cleared the scene, leaving a skeleton crew until it was turned over to Ms. [REDACTED], US EPA Region V at 0900 hours.

### THE CLAIM:

On September 13, 2011, the Claimant, OCMAA, presented a removal cost claim to the National Pollution Funds Center (NPFC), for reimbursement of their uncompensated removal costs in the amount of \$18,958.32 for the services provided from April 28 through April 29, 2011. This claim is for removal costs based on the rate schedule in place at the time services were provided. A copy of the vendor rate schedule is provided in the claim submission.

The original claim consisted of the following:

<sup>1</sup> See US EPA POLREP # 1 for this incident, dated 4/29/2011.

1. OSLTF Claim Form;
2. Farmington Department of Public Safety Report # 11-2192;
3. OCH Incident Report;
4. ReachBackID Scientific Assistance Report;
5. OCH Cost Recovery Worksheet;
6. City of Farmington Invoice # 11-2192;
7. Farmington Public Safety Department Personnel Breakdown for Incident # 11-2192;
8. Franklin-Bingham Fire Department Invoice #11-113;
9. Milford Fire Department Invoice;
10. Commerce Township Fire Department Invoice;
11. Farmington Dept. of Public Safety Narrative Report # 11-2192;
12. WWC HMRT Incident Report # 42811;
13. WWC HMRT Invoice # 339;
14. Letter from EPA Region V OSC [REDACTED];
15. US EPA Region V Oil Spill Analysis Report for FPN E11519;
16. US EPA POLREP # 1;
17. US EPA Extended Spill Summary for NRC Report # 974350.

### **REQUEST FOR RECONSIDERATION:**

On August 11, 2011, the NPFC issued its initial determination for this claim. The NPFC denied the claim in part because:

1. For the City of Farmington Invoice, no salary breakdown/explanation of billed costs was provided for Reserve Officers [REDACTED], [REDACTED], [REDACTED] and [REDACTED].
2. For the Oakland County Hazardous Materials Response Team:
  - a. No salary breakdown/explanation of billed costs were provided for Hazmat Techs [REDACTED].
  - b. OCH billed an hourly rate of \$50.00 per hour; however, invoices provided did not reflect this amount. More specifically: Farmington City (Madeline: \$32.17/ST and \$48.26/OT), Franklin—Bingham ([REDACTED] \$32.50/hour), Milford County ([REDACTED] \$20.00/hour) and Commerce Township ([REDACTED] \$32.51/hour);
  - c. Costs for Sgt. [REDACTED] had been double-billed, as he was also listed in costs related to the City of Farmington.

On September 13, 2011, OCMAA made an official request for reconsideration via email to [REDACTED], NPFC. Upon request, Sgt. [REDACTED], OCMAA, submitted documentation to support the claim.

### **DETERMINATION OF LOSS:**

#### **A. Overview:**

1. FOSC coordination has been established via a memo from Ms. [REDACTED], US EPA Region V, to the NPFC, dated June 13, 2011. 33 U.S.C. § 2712(a)(4).
2. The incident involved the report of a discharge of "oil" as defined in OPA 90, 33 U.S.C. § 2701(23), to navigable waters.
3. The claim was submitted within the six year statute of limitations. 33 U.S.C. § 2712(h)(2)
4. No RP could be determined. 33 U.S.C. § 2701(32).
5. In accordance with 33 CFR § 136.105(e)(12), the claimant has certified no suit has been filed in court for the claimed uncompensated removal costs.
6. The NPFC Claims Manager has thoroughly reviewed all documentation submitted with the claim and determined what removal costs presented were for actions in accordance with the NCP, and if the costs for these actions were indeed reasonable and allowable under OPA and 33 CFR § 136.205.

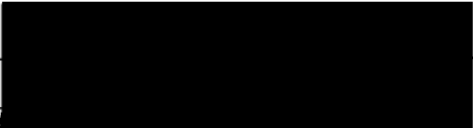
#### **B. Determination on reconsideration**

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. The NPFC considered all the documentation submitted by the Claimant. The request for reconsideration must be in writing and include the factual or legal grounds for the relief requested, providing any additional support for the claim. 33 CFR 136.115(d).

The NPFC performed a *de novo* review of the entire claim submission upon reconsideration.

The NPFC performed a complete review of the documentation presented by the Claimant. In the Claimant's request for reconsideration, the NPFC Claims Manager found that \$8.00 in claimed costs has not been accounted for, and is subsequently denied. Additionally, \$50.00 in claimed costs were denied because, while the NPFC will honor the flat rate of \$50.00 for HAZMAT personnel as set forth in the OCH Rate sheets provided with the claim, it can only compensate for hours worked, not a fixed time of six hours, as is the case here therefore the NPFC is only honoring hours worked as evidenced by the dailies as opposed to what was invoiced.

The NPFC hereby determines that the OSLTF will pay **\$18,902.32** as full compensation for reimbursable removal costs incurred by the Claimant and submitted to the NPFC under claim # E11519-0001. All costs claimed are for charges paid for by the Claimant for removal actions as that term is defined in OPA and, are compensable removal costs payable by the OSLTF as presented by the Claimant.

Claim Supervisor: 

Date of Supervisor's Review: *10/5/11*

Supervisor Action: *Reconsideration approved*