

AR: Montrose Settlements Restoration Program
Administrative Record


Title: MSRP Trustee Council Resolution 02-2
[regarding Past Costs -- Partial reimbursement
to the Department of the Interior]

TRUSTEE COUNCIL RESOLUTION 02-2
ADOPTED April 16, 2002

MONTROSE TRUSTEE COUNCIL RESOLUTION REGARDING
PAST COSTS - Partial Reimbursement to the
Department of the Interior

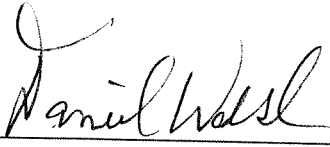
1. The National Oceanic and Atmospheric Administration; the State of California acting through the State Lands Commission, the Department of Parks & Recreation and the Department of Fish & Game; and the Department of the Interior, acting through the U.S. Fish & Wildlife Service and the U.S. Park Service are the natural resource trustees (Trustees) for natural resources injured by releases of DDT and PCBs into the Southern California Bight.
2. Sums recovered in the civil action *United States, et al. v. Montrose Chemical Corp., et al.*, No. CV 90-3122-R (C.D. Cal. 1990) are being held in a registry account administered by the U.S. District Court for the Central District of California.
3. The Trustees have entered into a memorandum of agreement (MOA), as modified, that establishes a Trustee Council (Montrose Trustee Council) composed of one voting member for each trustee agency. Under the terms of that MOA, the Montrose Trustee Council is authorized to disburse funds for activities related to the damage assessment and restoration process.
4. The Montrose Trustee Council resolves unanimously to authorize disbursement of \$910,345.00 from the registry account to the Department of Interior for partial reimbursement for past damage assessment costs incurred by the Fish and Wildlife Service, the National Park Service, the Office of Environmental Policy and Compliance, and the Office of the Solicitor (see attached memorandum and Attachment A).
5. The effective date of the Resolution shall be the date on which the last Trustee signs this document.

CONCURRED in by the following who are the duly authorized Montrose Trustee Council Representatives:



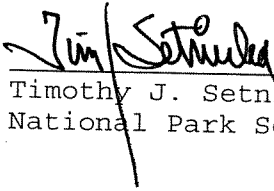
William Conner
National Oceanic &
Atmospheric Administration

4/16/02
Date



Daniel Welsh
U.S. Fish & Wildlife Service

4/16/02
Date



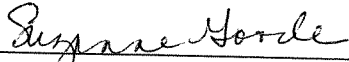
Timothy J. Setnicka
National Park Service

4/16/02
Date



Jonathan Clark
State Lands Commission

4/16/02
Date



Suzanne Goode
Department of Parks &
Recreation

4-16-02
Date



Patricia Velez
Department of Fish & Game

4-16-02
Date



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

Office of General Counsel
Suite 4470
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15 April 2002

MEMORANDUM FOR: William Conner, Chief, Damage Assessment Center
NOS/NOAA

Daniel Welsh, Contaminants/NRDAR Coordinator
USFWS/DOI

FROM: Katherine A. Pease
Senior Counselor for Natural Resources

SUBJECT: Montrose Past Costs - Partial Payment to Department of the Interior

Bill asked that I calculate a partial payment figure for the Department of the Interior that NOAA would feel comfortable support pending resolution of cost accounting issues. That figure is **\$910,345.00**. Below is a brief discussion of how I calculated that number.

I compared the Rubino Reconciliation Cost Table with the Rubino March 2000 report. The Rubino March 2000 report covered Interior's costs through September 30, 1995. I accepted those figures without question. Although not included in that report, I also accepted the figures for the Office of the Solicitor, the Office of Environmental Policy and Compliance and the National Park Service's boat costs which were included on the Rubino table. I next used the overhead rates for Interior and for the FWS that Dan provided (see Attachment A). With those rates, the amount totaled approximately **\$2,413,793**. I then deducted **\$1,200,000** previously reimbursed to Interior, leaving **\$1,213,793**. Because the total assessment costs for the case appear to exceed the **\$35,000,000** cap established by the Montrose Trustee Council, I applied a **25%** reduction which resulted in the **\$910,345.00** figure.

The **25%** reduction is a temporary withholding which provides a cushion should we have to prorate the final payments.

cc: McKinley
Bannon



ATTACHMENT A

BREAKDOWN ON INTERIOR'S OVERHEAD CALCULATION

Office of Environmental Policy & Compliance

Direct Labor & Benefits	\$2464.50
16.84% DOI overhead	415.02
Travel	1125.44
Total	\$4004.96

Office of the Solicitor

Direct Labor & Benefits	\$60,345.72
16.84% DOI overhead	10,162.22
Travel	5,190.85
Total	\$75,698.79

National Park Service

Direct Labor & Benefits	\$ 1251.35
16.84% DOI overhead	210.73
Travel	996.32
Vessel Costs	90,487.28
Total	\$92,945.68

U.S. Fish & Wildlife Service

Direct Labor & Benefits	\$203,980.97
16.84% DOI overhead	34,350.40
15% FWS overhead ¹	16,301.45
19% FWS overhead	18,107.88

¹The USFWS overhead for non-contractual costs was 15% for FY89-93 and 19% for FY 94-98. Labor costs (and other non-contractual costs such as travel) were allocated into fiscal years and then the appropriate rate was applied.

Travel	25,265.13
15% FWS overhead	2,110.54
19% FWS overhead	2,127.02
Other Direct Costs - Contractual	41,918.18
8.5% FWS overhead ²	68.00
10% FWS overhead	4,111.82
Other Direct Costs - Non-Contractual	4,125.74
15% FWS overhead	339.04
19% FWS overhead	354.30
Contracts & Agreements	1,727,963.40
8.5% FWS overhead	72,394.54
10% FWS overhead	87,626.30
Total	\$2,241,144.20
GRAND TOTAL	\$2,413,793.63

²The USFWS overhead for contractual costs was 8.5% for FY89-93 and 10% for FY 94-98. Contractual costs were allocated into fiscal years and then the appropriate rate was applied.