

**ADMINISTRATIVE SETTLEMENT AGREEMENT AMONG
THE UNITED STATES DEPARTMENT OF THE INTERIOR**

AND

**THE SECRETARY OF THE MASSACHUSETTS EXECUTIVE OFFICE
OF ENERGY AND ENVIRONMENTAL AFFAIRS**

AND

PATRIOT MARINE, LLC

**FOR NATURAL RESOURCE DAMAGES RELATING TO THE M/V OCEAN
KING AND GREAT HARBOR, WOODS HOLE, MASSACHUSETTS**

I. Introduction

1. The U.S. Department of the Interior (“DOI”), acting by and through the U.S. Fish and Wildlife Service (“FWS”), and the Secretary of the Massachusetts Executive Office of Energy and Environmental Affairs (the “Secretary,” and together with DOI, the “Trustees”), and Patriot Marine, LLC, a limited liability company organized under the laws of Massachusetts (“Patriot Marine”), enter into this Settlement Agreement to settle, without further litigation, DOI’s and the Commonwealth’s claims under Section 1002, 33 U.S.C. § 2702, of the Oil Pollution Act of 1990 (“OPA”), and the Commonwealth’s claim under Section 5, Mass. Gen. Laws ch. 21E, § 5, of the Massachusetts Oil and Hazardous Material Release Prevention and Response Act (“Chapter 21E”), for damages for injuries to, destruction of, loss of, or loss of use of natural resources resulting from discharges and/or releases of oil from the M/V OCEAN KING into the waters of Great Harbor, Woods Hole, Massachusetts, on or around January 20-21, 2018 (the “Spill”), including the reasonable costs of assessing and evaluating such injury, destruction, or loss.

2. The Trustees have a shared responsibility to assess and recover damages for the natural resources injured, destroyed, or lost as a result of the Spill, and this Settlement Agreement is executed by DOI and the Secretary in their capacities as the designated Natural Resource Trustees for the United States and the Commonwealth, respectively. *See* 33 U.S.C. § 2706(b); Mass. Gen. Laws ch. 21A, § 2A.

3. Under both OPA and Chapter 21E, each responsible party for a vessel from which oil is discharged and/or released into or upon navigable waters is liable for damages for injury to, destruction of, loss of, or loss of use of, natural resources, including the reasonable costs of assessing and evaluating such injury, destruction or loss. 33 U.S.C. § 2702; Mass. Gen. Laws ch. 21E, § 5. Here, the alleged injuries from the Spill include injuries to migratory birds, recreational shell fishing, and shoreline, and the public has suffered associated losses of natural resource services.

4. Patriot Marine is a limited liability company that was organized under the laws of Massachusetts on March 4, 2005 (ID No. 050618327). On February 28, 2019, a certificate of cancellation was filed with the Secretary of the Commonwealth of Massachusetts for Patriot Marine due to a ministerial error. On March 1, 2019 the error was corrected and the company was re-registered with the Commonwealth of Massachusetts (ID No. 001371120). Patriot Marine has at all times maintained the same Federal Tax ID No. 05-0618327). Patriot Marine's principal office is at 2 Poplar Street, New Haven, CT 06513, and it also maintains offices at 256 Marginal Street, East Boston, MA 02128. At all relevant times, including the time of the Spill, Patriot Marine was the owner and operator of the towboat M/V OCEAN KING. For the purposes of this Administrative Settlement Agreement, Patriot Marine means both the originally registered company (ID No. 050618327) and the re-registered Patriot Marine (ID No. 001371120).

5. On June 14, 2022, Patriot Marine stipulated that it was liable under both OPA and Chapter 21E for damages to injuries to, destruction of, loss of, or loss of use of natural resources resulting from the Spill, but the stipulation did not resolve the quantum of damages for injury to, destruction of, loss of, or loss of use of natural resources resulting from the Spill. Joint Stipulation in *United States & Massachusetts v. Patriot Marine, LLC*, Nos. 1:21-cv-10243 & 1:21-cv-11241 (D. Mass., June 14, 2022) (ECF No. 28).

6. Excepting the foregoing Joint Stipulation, this Settlement Agreement shall not otherwise constitute, or be interpreted or used as an admission of fault, liability, law or fact and shall not be admissible in any proceeding as such, except to the limited extent necessary to enforce the provisions of this Settlement Agreement. Patriot Marine agrees not to contest such facts or allegations for purposes of the issuance or enforcement of this Settlement Agreement.

7. The Massachusetts Attorney General has approved in writing, pursuant to Mass. Gen. Laws ch. 21A, § 2A, the Secretary's settlement and compromise of the Commonwealth's claim for natural resource damages set forth in this Settlement Agreement.

8. Nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a party to this Settlement Agreement.

II. Parties Bound

9. The provisions of this Settlement Agreement shall apply to and be binding upon Patriot Marine and all of its successors and assigns, and upon the Trustees.

III. Definitions

10. Unless otherwise expressly provided herein, terms used in this Settlement Agreement that are defined in OPA or in the Natural Resource Damage Assessment regulations promulgated pursuant to OPA (15 C.F.R. pt. 990) or in Chapter 21E or the Massachusetts Contingency Plan ("MCP") promulgated pursuant to Chapter 21E (310 C.M.R. § 40.0000 *et seq.*), shall have the meaning assigned to them in such statutes or regulations as the context requires.

IV. Payments by Patriot Marine

11. Within thirty (30) days after the Effective Date of this Settlement Agreement, Patriot Marine shall pay in accordance with Paragraph 12 a total amount of \$100,000 to the DOI Natural Resource Damage Assessment and Restoration Fund (“NRDAR Fund”) as payment for all damages resulting from the alleged injuries described in Paragraph 3. This payment shall be used to pay the Trustees’ past costs of assessing the natural resource damages resulting from the Spill, including, without limitation, investigating one or more potential restoration projects. The payment shall also be used to implement and monitor one or more restoration projects selected jointly by the Trustees in accordance with the terms of the Trustees’ Memorandum of Agreement, dated June 2021, as amended from time to time. Patriot Marine shall not be entitled to dispute, in any forum or proceeding, any decision by the Trustees relating to use of the funds or restoration efforts undertaken by the Trustees with the funds.

12. Payment of amounts due under Paragraphs 11, 13, and 14 shall be in the form of electronic funds transfer, payable to DOI, in accordance with the instructions attached to this Agreement as Appendix A. Such payment shall include a reference to “NRDA 14X5198” and “M/V Ocean King” on the transmittal documentation. At the time of payment, Patriot Marine shall send a written notice of payment and a copy of any transmittal documentation by e-mail to:

John D. Rudolph, Attorney-Advisor
Division of Parks and Wildlife
Office of the Solicitor
U.S. Department of the Interior
1849 C Street, N.W., MS-6313
Washington, D.C. 20240
john.rudolph@sol.doi.gov

and

Andrew Fowler, Counsel
Office of General Counsel
Massachusetts Department of Environmental Protection
Southeast Regional Office
20 Riverside Drive
Lakeville, MA 02347
andrew.fowler@mass.gov

and

Michelle L. Craddock
NRD Program Coordinator
Bureau of Waste Site Cleanup
Massachusetts Department of Environmental Protection

100 Cambridge Street, Suite 900
Boston, MA 02114
Michelle.l.craddock@mass.gov

13. If Patriot Marine fails to make any payment when due, then Patriot Marine shall pay interest thereon at the rate specified in 33 U.S.C. § 2705(b)(4). Interest shall be calculated from thirty (30) days after the Effective Date of this Settlement Agreement to the date of payment. Any interest that becomes due in accordance with this Paragraph shall be paid in accordance with the payment instructions in Paragraph 12.

14. In addition, if Patriot Marine fails to make the payment specified in Paragraph 11 when due, it shall pay a stipulated penalty of one hundred dollars (\$100.00) for each day that the payment is overdue until all the overdue payment (including stipulated penalties) is paid in full. The stipulated penalty of \$100.00 per day for failure to make the payment specified in this Paragraph shall be paid in accordance with the payment instructions in Paragraph 12. The stipulated penalty(ies) is/are due and payable within thirty (30) days of the date of any demand for payment of the stipulated penalty by DOI or the Secretary.

15. Payments made under Paragraphs 13 and 14 shall be in addition to any other remedies or sanctions available to DOI or the Secretary by virtue of Patriot Marine's failure to comply with the requirements of this Settlement Agreement. Notwithstanding any other provisions of this Section IV, DOI and the Secretary may, in their unreviewable discretion, jointly agree to waive any portion of the stipulated penalty that has accrued under this Settlement Agreement.

16. Patriot Marine shall be liable for reasonable attorneys' fees and costs incurred by the United States, including DOI and the U.S. Department of Justice, and fees and costs of the Commonwealth of Massachusetts, including the Secretary, MassDEP, and the Massachusetts Attorney General's Office, to collect any amount due under this Settlement Agreement that is not timely paid.

V. Release and Reservation of Rights by DOI and the Secretary

17. In consideration of the payments to be made by Patriot Marine, DOI and the Secretary hereby release Patriot Marine from any obligation to pay damages resulting from injuries to, destruction of, loss of, or loss of use of natural resources resulting from the Spill beyond what is due under this Settlement Agreement and agree not to take any administrative action against Patriot Marine for such damages under OPA or Chapter 21E, except as specifically reserved in Paragraph 18 below. This release and agreement by DOI and the Secretary shall take effect upon Patriot Marine's payments of all amounts due under Paragraph 11 and if necessary Paragraphs 13 and 14 of this Settlement Agreement. This release is conditioned upon satisfactory performance by Patriot Marine of its obligations under this Settlement Agreement.

18. Notwithstanding any other provision of this Settlement Agreement, DOI's and the Secretary's releases and agreements contained in Paragraph 17 shall not apply to, and DOI and

the Secretary reserve, any other rights, claims, causes of action or matters, including, but not limited to:

- a. claims or causes of action based upon Patriot Marine's failure to satisfy any requirement of this Settlement Agreement;
- b. claims or causes of action brought against Patriot Marine by the United States or the Commonwealth of Massachusetts for criminal liability;
- c. claims or causes of action that are not claims for natural resource damages; and
- d. claims or causes of action for discharges and/or releases or threats of release other than the Spill; and
- e. MassDEP's authority to (i) perform response actions, (ii) require any party to perform response actions, (iii) issue orders, (iv) obtain injunctive relief, and (v) recover costs incurred by the Commonwealth after the Effective date, in each case as authorized by Chapter 21E, the MCP, and other applicable law, and in each case with respect to the Spill or any other release or threat of release, as those terms are defined by Chapter 21E and the MCP.

VI. Release by Patriot Marine

19. Patriot Marine hereby releases and agrees not to assert any claims or causes of action against either Trustee (including all employees, agents, contractors, departments, agencies, administrations, and bureaus of either Trustee) or the United States or the Commonwealth, including their departments, agencies, or instrumentalities or their employees, agents, experts, or contractors, for:

- a. any claim related to natural resource damages associated with the Spill;
- b. any direct or indirect claim for reimbursement from the Oil Spill Liability Trust Fund; and
- c. any claim for costs, attorneys' fees, other fees, or expenses incurred in connection with this Settlement Agreement.

20. In any future action brought by DOI, the Secretary, the United States, and/or the Commonwealth related to the Spill, Patriot Marine shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon the contention that the claims raised by DOI, the Secretary, the United States and/or the Commonwealth in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the release by DOI and the Secretary set forth in Paragraph 17.

VII. Public Comment

21. DOI will publish notice of this Settlement Agreement via agency website publication and/or other appropriate means. The notice will invite members of the public to submit comments regarding the Agreement to DOI for its and the Secretary's review and evaluation for a period of 30 days after publication of the notice. If public comments disclose facts or considerations which indicate that this Settlement Agreement is inappropriate, improper, or inadequate, DOI or the Secretary may withdraw their approval of this Settlement Agreement. If DOI or the Secretary withdraws their approval, this Settlement Agreement shall be null and void.

VIII. Effective Date

22. The Effective Date of this Settlement Agreement shall be the date upon which all parties have signed the Settlement Agreement.

IX. Notices

23. Except as otherwise set forth in this Settlement Agreement, whenever, under the terms of this Settlement Agreement, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other party in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Notice to a party by electronic mail (if that option is provided below) or by regular mail in accordance with this Paragraph satisfies any notice requirement of this Settlement Agreement regarding such party. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Settlement Agreement.

As to DOI:

John D. Rudolph, Attorney-Advisor
Division of Park and Wildlife
Office of the Solicitor
U.S. Department of the Interior
1849 C Street, N.W., MS-6313
Washington, D.C. 20240
John.rudolph@sol.doi.gov

As to the Secretary:

Andrew Fowler
Office of General Counsel
Massachusetts Department of Environmental Protection
Southeast Regional Office
20 Riverside Drive

Lakeville, MA 02347
Andrew.fowler@mass.gov
Michelle L. Craddock
NRD Program Coordinator
Bureau of Waste Site Cleanup
Massachusetts Department of Environmental Protection
100 Cambridge Street, Suite 900
Boston, MA 02114
Michelle.l.craddock@mass.gov

As to Patriot Marine:

George M. Chalos
gmc@chaloslaw.com
Briton P. Sparkman
bsparkman@chaloslaw.com
CHALOS & CO., P.C.
55 Hamilton Ave.
Oyster Bay, NY 11771

Robert Lockyer
Patriot Marine, LLC
2 Poplar St.
New Haven, CT 06513

X. Signatories

24. Each undersigned representative of DOI, the Secretary, and Patriot Marine certifies that she or he is fully authorized to enter into the terms and conditions of this Settlement Agreement and to execute and legally bind such party to this Agreement.

XI. Entire Agreement

25. This Settlement Agreement constitutes the final, complete, and exclusive agreement and understanding between the parties with respect to the settlement embodied in the Settlement Agreement and supersedes all prior agreements and understandings, whether oral or written. No other document or any representation, inducement, agreement, understanding, or promise, constitutes any part of this Settlement Agreement or the settlement it represents, nor should they be used in construing the terms of this Settlement Agreement.


XII. Modification

26. The terms of this Settlement Agreement may be modified only by a subsequent written agreement signed by the parties.

27. This Settlement Agreement may be executed in counterparts, each of which shall constitute an original, all of which shall constitute one and the same instrument.

FOR U.S. DEPARTMENT OF THE INTERIOR

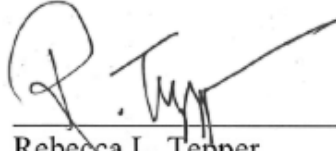
Date: 03.08.2024

 Acting For

Louise Milkman
Acting Associate Solicitor
Office of the Solicitor, U.S. Department of the
Interior
Division of Parks and Wildlife
1849 C Street, N.W., MS-6313
Washington, D.C. 20240

THE SECRETARY OF THE MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND
ENVIRONMENTAL AFFAIRS:

Date: 5/21/2024

A handwritten signature in black ink, appearing to read 'R. Tepper', written over a horizontal line.

Rebecca L. Tepper
Secretary

Massachusetts Executive Office of Energy and
Environmental Affairs
100 Cambridge Street, Tenth Floor
Boston, MA 02114

FOR PATRIOT MARINE, LLC:

Date: 2/29/2024

Robert Lockyer
Robert Lockyer
Managing Member
Patriot Marine LLC
Federal Employer ID No.: 05-0618327

Appendix A

U.S. Department of the Interior

Natural Resource Damage Assessment and Restoration Fund

Assessment and Settlement Deposit Remittance Procedures

The Department of Interior Business Center (IBC) has established procedures with the Department of Treasury to provide two electronic options for remitting payments to the Natural Resource Damage Assessment and Restoration Fund. Procedures for using these processes are attached.

The preferred electronic method is the Department of Treasury's Automated Clearing House (ACH)/Remittance Express. If your bank does not have ACH deposit transmission capabilities, then Treasury's Federal Wire (FedWire) Transfer procedure is the required alternative. Use the attached forms to assist in preparing your remittance.

All remitters are encouraged to use these electronic methods. Non-electronic remittances (checks) are acceptable as well, and should be written payable to the Department of Interior and forwarded to:

**DOI Restoration Fund
IBC Division of Financial Management Services
Branch of Accounting Operations
Attn: Collection Officer
Mail Stop D-2770
7301 West Mansfield Ave.
Lakewood, CO 80235**

**Please reference "NRDA 14X5198" and the site name
on check or transmittal letter**

U.S. Department of the Interior

Natural Resource Damage Assessment and Restoration Fund

Assessment and Settlement Deposit Remittance Procedures

In order to accomplish electronic transfers, in addition to other settlement or billing information, please provide the following information to the remitter:

Preferred method of electronic transfer: Automated Clearing House (ACH)

Receiver name: DOI Restoration Fund
ALC 14010001

Receiver Tax ID Number: 53-0196949

Receiver address: 7301 West Mansfield Ave.
Mailstop D-2770
Lakewood, CO 80235

Receiver bank: Federal Reserve Bank
New York, NY
ABA # 051036706

Receiver ACH Account No.: 312024 (See Attachment I-3)

Receiver Fedwire Acct No.: Treasury NYC 021030004
(To be used only for Fedwire transfers) (See Attachment I-4)

Payment Related Data:	Should at a minimum reference site location
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Attachments I-3 and I-4 provide more technical specifics which can be provided to the remitter's banking institution. Questions concerning electronic deposit procedures should be directed to Lorraine Willoughby at (303) 969-5335.

Attachment I-2

U.S. Department of the Interior

Natural Resource Damage Assessment and Restoration Fund

Assessment and Settlement Deposit Remittance Procedures

The following information is provided to assist Remitters in giving complete and accurate data to their financial institution for use in originating Automated Clearing House payments. The industry name for the following format is CCD+.

ACH CCD+ Format

Data Element Name	Contents	Size	Position
Record Type Code	'6'	1	01-01
Transaction Code	'22'	2	02-03
Receiving ABA	'05103670'	8	04-11
Check Digit	'6'	1	12-12
Account Number	'312024'	17	13-29
Payment Amount		12	30-41
Identification #		13	42-54
Receiver Name	DOI Restoration Fund	22	22-76
Discretionary	N/A	2	77-78
Addenda Indicator	'2'	1	79-79
Trace Number	Assigned by Remitters Bank	15	80-94

ACH Addenda Record Format

Data Element Name	Contents	Size	Position
Record Type Code	'7'	1	01-01
Addenda Type Code	'05'	2	02-03
Payment Related		80	04-83
Sequence Number	'0001'	4	84-87
Addenda Trace	Assigned by Remitters Bank	17	88-94

The data items in bold must be provided to the bank by the Remitter. Those items bolded and italicized must be provided verbatim. The **Payment Amount** is the judgement or settlement amount being remitted; dollars and cents must be separated by a decimal point, do not use commas or any other punctuation. The **Identification Number** is the case Court Number. The **Payment Related** data should include the paying potentially responsible party(ies) name, site or case name and site location.

U.S. Department of the Interior

Natural Resource Damage Assessment and Restoration Fund

Assessment and Settlement Deposit Remittance Procedures

Federal Wire (FedWire) Transfer

The following information is provided to assist Remitters in giving complete and accurate data to their financial institution for use in originating FedWire payments (**in the event ACH is not available**). The industry name for the following format is FedWire Transfer Format.

Required Fields and Tags

Field Tag Name	Field Tag Number	Field Tag Contents
Message Disposition	(1100)	Assigned by Federal Reserve Bank
Acceptance Time Stamp	(1110)	Assigned by Federal Reserve Bank
OMAD	(1120)	Assigned by Federal Reserve Bank
IMAD	(1520)	Assigned by Remitters Bank
Amount	(2000)	
Sender FI	(3100)	Assigned by Remitters Bank
Sender Reference	(3320)	Assigned by Remitters Bank
<i>Receiver FI</i>	<i>(3400)</i>	<i>'Treasury NYC 021030004'</i>
<i>Beneficiary</i>	<i>(4200)</i>	<i>'DOI Restoration Fund ALC 14010001'</i>
Ref for Beneficiary	(4320)	
Originator	(5000)	
Originator Financial Institution	(5100)	Assigned by Remitters Bank
Orig to Beneficiary	(6000)	

The data items in bold must be provided to the bank by the Remitter. Those bolded and italicized must be provided verbatim. The **Amount** is the judgement or settlement amount being remitted; dollars and cents must be separated by a decimal point, do not use commas or any other punctuation. The **Reference for Beneficiary** is the case Court Number. **Originator** is the paying potentially responsible party(ies). **Originator to Beneficiary** should include the site or case name and site location.