



Office of the Administrator of the Ship-source
Oil Pollution Fund

Bureau de l'administrateur de la Caisse
d'indemnisation des dommages dus à la
pollution par les hydrocarbures causée par les
navires

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PAYMENT NOTICE LETTER
(EXPEDITED PROCESS FOR SMALL CLAIMS)

Ottawa, 15 March 2023
SOPF File: 120-946-C1

VIA EMAIL

Manager, Response Services and Planning
Canadian Coast Guard
200 Kent Street
Ottawa, Ontario K1A 0E6

RE: *Kraken, Lunenburg, Nova Scotia*
Incident Date: 2022-01-28

SUMMARY

The claim in this matter has been received into the Expedited Process for Small Claims under the *Marine Liability Act*, SC 2001, c 6 (the “MLA”). It has passed initial screening.

Therefore, please be advised that a payment to Canadian Coast Guard (the “CCG”) in the amount of \$25,987.07 plus statutory interest is being requisitioned in response to the claim submitted in this matter and will be directed without delay.

It is recommended that the claimant collect and maintain the documents supporting its claim. To this point no complete examination of the merits of the claim has taken place. A more thorough examination can take place if the Administrator determines that the claim should be reassessed. Supporting documents, such as invoices, payment records, contracts, communications, and reports are necessary to help establish within the reassessment that the claim was fully justified.

Reassessment can take place at any point up until three years after the underlying incident. During reassessment, the claimant must provide documents requested by the Administrator within 30 days of the request. **Failure to do so can result in the claimant becoming liable to repay the entire amount indicated above, irrespective of the underlying merits of the claim.**

Please also give care to the “Important Notice” below. It describes how the findings made on reassessment can result in the claimant being required to return some, or all, of the above payment.

ASSESSMENT

This assessment was prepared in response to a submission from the CCG with respect to a sailing vessel identified as the *Kraken*. It was involved in an incident after dragging anchor near Lunenburg, Nova Scotia.

On 26 January 2023 the office of the Administrator of the Ship-source Oil Pollution Fund (the “Fund”) received a submission from the CCG on behalf of the Administrator. The submission was submitted on the forms for the Expedited Process for Small Claims. It presented a claim for \$25,987.07 for costs and expenses arising out of measures taken by the CCG with respect to the Incident, apparently in anticipation of oil pollution damage.

The submission has been assessed as a submission under subsection 106.1(1) of the MLA, as required by subsection 106.3(1) of that Act.

Based on the results of this assessment, the Administrator has no reason to suspect that the claim should be disallowed for failing to comply with the conditions set out at subsection 106.1(1) of the MLA or for failing to comply with subsection 106.1(2).

Pursuant to subsections 106.3(4) and 116(1) of the MLA, the Administrator is therefore required to direct a payment in the amount of the claim, in the amount of \$25,987.07, plus interest.

IMPORTANT NOTICE

The claimant should be aware that, upon payment, the Administrator becomes subrogated to the claimant’s rights with respect to the subject matter of the claim. The claimant must cease any efforts to further claim with respect to that subject matter (except for any claim for economic damages where the claimant has suffered no property damage, which the claimant may continue to pursue). Further, the claimant must cooperate with the Fund as efforts are made to recover any amounts paid to the claimant from the party or parties responsible for the Incident.

The claimant should further be aware that—as noted above—under subsection 106.5(1) of the MLA, the Administrator has until three years after the Incident to investigate and reassess the claim. Upon request by the Administrator, the claimant is required to provide supporting documents within 30 days, in default of which the claimant may be required to repay the payment.

It is recommended that the claimant begin gathering supporting documents immediately to avoid defaulting on the timeline for document submission.

If, as a result of a reassessment of the claim, it is determined that there was an overpayment, the claimant will be required to repay the difference between the amount claimed and the amount determined appropriate under the reassessment. This repayment requirement also applies to an appropriate *pro rata* portion of any interest paid to the claimant.

Yours sincerely,

Mark A.M. Gauthier, B.A., LL.B.
Deputy Administrator, Ship-source Oil Pollution Fund