



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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Ottawa, 27 November 2020  
*SOPF File: 120-868-C1*  
*CCG File:*

## **BY EMAIL**

Senior Director of Incident Management, Response Directorate  
Canadian Coast Guard  
200 Kent Street (5N177)  
Ottawa, Ontario K1A 0E6

**RE: *F/V NUMAS ISLE* — Discovery Harbour, Campbell River, British Columbia**  
**Incident date: 2018-09-09**

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### **SUMMARY AND OFFER**

This letter responds to a submission from the Canadian Coast Guard (the “CCG”) with respect to the fishing vessel NUMAS ISLE (the “Vessel”, identified as the “NAMUS” ISLE in parts of the CCG submission), which was involved in an incident on 9 September 2018, at Discovery Harbour, in Campbell River, British Columbia (the “Incident”).

On 1 September 2020, 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 advanced claims totaling \$30,169.93 for costs and expenses arising from measures taken by the CCG to respond to the Incident.

The submission has been reviewed and a determination with respect to its claims has been made. This letter advances an offer of compensation to the CCG pursuant to sections 105 and 106 of the *Marine Liability Act*, SC 2001, c 6 (the “MLA”).

The amount of \$23,285.10 (the “Offer”), plus statutory interest to be calculated at the time the Offer is paid and in accordance with section 116 of the MLA, is offered with respect to this claim.

The reasons for the Offer are set forth below, along with a description of the CCG’s submission.

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## THE SUBMISSION RECEIVED

The submission includes a narrative that describes events relating to the Incident. It also includes a summary of the costs and expenses that the CCG claims and corroborating documents. To the extent that the narrative and corroborating documents are relevant to the determination, they are reviewed below.

### The Narrative and Photographs

According to the narrative, on 9 September 2018:

ROC Pollution Desk called to advise a 48' ex fishing vessel, Numas Isle, sank next to the dock at Discovery Harbour Marina, Campbell River. Fuel observed upwelling through port side fuel vent. Harbour Authority deployed sorbent booms to contain the fuel and other contaminants. Vessel had been converted from a fishing vessel to a live-aboard. Unable to locate current owner [...]. Amount of fuel on board unknown.

Campbell River Lifeboat Station tasked to assess and help alleviate any pollution threat. On arrival sheen observed. Additional sorbent boom and pads placed around vessel. A strong smell of fuel present and slick observed being blown against the western shore of the harbour.

At this point it was determined that a salvage would be necessary (no owner/intentions and an unknown amount of pollutant on board actively discharging). Contacted salvage company, Rilaur Enterprise Ltd. Plan is to use divers (Pacific Pro Dive) to place lift bags, raise the vessel, pump off water and remove any remaining pollution threat from the marine environment, including the vessel if necessary. A marine survey to be completed once vessel is refloated.

Campbell River Lifeboat Station used 5 bundles of pads (each containing 100 pads) and 5 bundles of boom (each containing 40 feet) in Initial clean-up. Estimate 200-300 litres of diesel/oil.

On 10 September 2018, the CCG contacted four marine surveyors to assess the sunken vessel once it had been refloated. Only one of these surveyors responded to the CCG's request, but it was not available immediately. As such, the CCG decided to forego a professional survey and conduct its own assessment with the assistance of one of its contractors.

The narrative goes on:

ER personnel were unable to reach Campbell River due to a rock slide on the Trans-Canada Highway (Malahat). Salvage company, Rilaur Enterprise Ltd, would assess. Salvage of the vessel began at 0730LT. By early afternoon vessel was raised enough, using airbags, to be towed to nearby boat ramp. The airbags had to be

kept on the vessel because the pumps could not stay ahead of the ingress of water.

Waste disposal company, Hetherington Industries, arrived and removed all disposal bags containing soiled boom and pads. Any additional contaminants to be removed by salvage operator.

Vessel assessed and noted in poor condition. Engine and electronics ruined due to several days in the water. Quantity of fuel/oil on board unknown, however, approximately 200-300 litres of fuel/oil mixture collected using sorbent boom and pads. Many planks were rotted, in disrepair and heavily saturated with pollutants, enough to pose a significant threat to the marine environment. The best solution for eliminating the pollution threat was to have the vessel removed from the marine environment and deconstructed.

The narrative concludes:

During high tide vessel was removed from the water using an excavator from a local construction company (Alec Wood Bulldozing). Vessel was then deconstructed and placed into dump trucks for disposal.

Salvage operator continued with general cleanup of area which included removing any remaining soiled boom, pads and debris. Operations completed approximately 10 pm.

The claim submission includes several undated and uncaptioned colour photographs that document portions of the response. Some of those photographs depict an oil sheen in a harbour and others depict the Vessel. One of the photographs shows the Vessel being removed from the water.

### Cost Summary

The CCG submission summarizes claimed costs as follows:<sup>1</sup>

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<sup>1</sup> Due to a presumed rounding error, the sum of the amounts sought by the CCG is actually 30,169.93, or \$0.01 higher than indicated in Figure 1.

		<u>SCH</u>
MATERIALS AND SUPPLIES	-	1
CONTRACT SERVICES	28,834.97	2
TRAVEL	-	3
SALARIES - FULL TIME PERSONNEL	583.61	4
OVERTIME - FULL TIME PERSONNEL	54.03	5
OTHER ALLOWANCES	-	6
SALARIES - CASUAL PERSONNEL	-	7
SHIPS' COSTS (EXCL. FUEL & O/T)	-	8
SHIPS PROPULSION FUEL	-	9
AIRCRAFT	-	10
POLLUTION COUNTER-MEASURES EQUIPMENT (PCME)	600.00	11
VEHICLES	82.29	12
ADMINISTRATION	15.03	13
	<hr/>	
TOTAL CCG COST OF INCIDENT	<u>\$ 30,169.92</u>	

Figure 1 – Screen capture of the CCG cost summary

### Contractor Documentation

The CCG submission summarizes claimed contractor costs as follows:

CONTRACT SERVICES	AMOUNT	GST	TOTAL	REFERENCE
			-	
RILAUER ENTERPRISES LTD	5,460.95	273.05	5,734.00	INV 092188
			-	Paid Sept 29/18
PACIFIC PRO DIVE LTD	13,796.00	668	14,464.00	INV 19011
			-	Paid Oct 23/18
A.WOOD BULLDOZING LTD	7740.65	387.07	8,127.72	INV 14939
			-	Paid Sept 29/18
HETHERINGTON INDUSTRIES LTD	485	24.25	509.25	INV E-88162
			-	Paid Sept 29/18

Figure 2 – Screen capture of contractor costs summary

Each of the expenditures set out in Figure 2 is supported by an itemized invoice. The Rilaur Enterprises Ltd. (“Rilaur”) invoice also includes a tasking report, which reads as follows:

#### **Sept. 9, 2018**

Received call [...] to attend sunken vessel Numas Isle at Discovery Harbour. Left Stuart Island at 10:30 am. arriving at vessel at 1:45 pm. We assessed the vessel and put more booms and pads around the area. Called the Divers, they were available for the next morning. Finished at 2:45 pm. **(4.5 Hrs.)**

**Sept. 10, 2018**

Left South Harbor at 6:45 a.m. arrived at sunken vessel at 7:00 am. Collected up the oil-soaked absorbent materials and put new ones out. Rigged the air bags and lifted the boat out as far as we could, hooked the pump up and began pumping but it was ineffective due to the bad condition of the hull. We then towed it over to the boat ramp at 3:30 pm, keeping the rope hooked to an excavator to use in dragging it up the beach as the tide came in. Yarded the boat up the ramp and the demolition began....we continued in picking up the floating debris around the boat ramp job site using the floodlights as darkness set in. Finished at 9:45 pm. Ran back to South Harbour, shut down at 10:00pm. **(15.25 Hrs.)**

**Sept. 11, 2018**

Went to Discovery Harbour to assess and check for any debris and fuel sheen in daylight. Picked up remaining pieces of floating foam and wood and collected the last of the absorbent pads. Finished at 8:15am. **(1.25 Hrs)**

The Rilaur invoice also includes the following itemized description of services rendered:

DATE OF SERVICE	TIME	DESCRIPTION	RATE	TOTAL
Sept 9-11 2018	21 Hrs	Night Drifter w deckhand	\$250.00	\$5,250.00
		Skiff Outboard	\$150.00 day	\$150.00
		1 Bag absorbent pads		\$23.50
		Rental of 3" Scow pump		\$37.45
			SUBTOTAL	\$5,460.95
			GST REGISTRATION # R128624367001; GST	\$273.05
			TOTAL PAYABLE	\$5,734.00

Figure 3 – Screen capture from Rilaur invoice

The Pacific Pro Dive Ltd. ("Pacific Pro") invoice, with a subtotal of \$13,796.00 plus \$668.00 in GST, includes the following itemized description of services rendered:

Description	Qty	Rate	Amount
Surface Supply Labour - Sampson, 0730-1630hrs - 09 10	9	173.75	1,563.75
Surface Supply Labour - Singer, 0730-1630hrs - 09 10	9	173.75	1,563.75
Surface Supply Labour - Coltart, 0730-1630hrs - 09 10	9	173.75	1,563.75
Surface Supply Labour - Hawkins, 0730-1630hrs - 09 10	9	173.75	1,563.75
Scuba Labour - Sampson, 1630-2100hrs - 09 10	4.5	150.00	675.00
Scuba Labour - Coltart, 1630-2100hrs - 09 10	4.5	150.00	675.00
Scuba Labour - Hawkins, 1630-2100hrs - 09 10	4.5	150.00	675.00
Mileage - Singer - Nanaimo:Campbell River (Surface supply gear) - 09 10	285	0.80	228.00
Mileage - Sampson - Courtenay:Campbell River (Crane Truck) - 09 10	130	0.80	104.00
Mileage - Coltart - Courtenay:Campbell River (Salvage Kit) - 09 10	130	0.80	104.00
Misc. Rental - Cylinders Aluminum 80 - 09 10	12	15.00	180.00
Lift Bag / Bag (2 x 3000# pontoon, 1 x 6000# pillow, 2 x 4000# pillow, 8 x 2000# pillow) - 09 10	10	300.00	3,000.00
Vessel Use - 32' Aluminum Dive Vessel Ata-Tude (no skipper) - 0800:1600hrs - 09 10	8	295.00	2,360.00
DISCOUNT PRO (check tax code)		-760.00	-760.00
Supplies (line, decon supplies, damaged lifting straps, lost shackle pins x 2) - 09 10		150.00	150.00
Pump 2" -09 10	2	150.00	300.00
DISCOUNT PRO (check tax code)		-150.00	-150.00
Commercial Labour - investigate, assessment, deploy boom, prep - 09 09 (Sampson - 1200:1600 hrs)	4	65.00	260.00
DISCOUNT PRO (check tax code)		-100.00%	-260.00
Mileage - Sampson - 09 09 - Courtenay:Campbell River	130	0.80	104.00
DISCOUNT PRO (check tax code)		-100.00%	-104.00

Figure 4 – Screen capture from Pacific Pro invoice

The A. Wood Bulldozing Ltd. ("AWB") invoice includes the following itemized description of services rendered:

Item No.	Quantity	Unit	Description	Tax	Unit Price	Amount
85-105	29.87	Tonne	Tipping Fees	G	50.00	1,493.50
7635	6.00	Hrs	Trk# 6 Enddump35	G	130.00	780.00
7635	2.00	Hrs	Trk# 6 Enddump35 - OT @ 1.5	G	27.50	55.00
7635	3.00	Hrs	Trk# 6 Enddump35 - OT @ 2	G	55.00	165.00
7538	6.50	Hrs	Trk# 5 Enddump38	G	130.00	845.00
7538	1.00	Hrs	Trk# 5 Enddump38 - OT @ 1.5	G	27.50	27.50
69	7.00	Hrs	Excavator EX 1 220Komatsu	G	159.70	1,117.90
69	1.50	Hrs	Excavator EX 1 220Komatsu - OT @ 1.5	G	27.50	41.25
69	5.50	Hrs	Excavator EX 1 220Komatsu - OT @ 2	G	55.00	302.50
98	5.00	Hrs	Excavator EX 8 330DL	G	204.70	1,023.50
98	1.00	Hrs	Excavator EX 8 330DL	G	27.50	27.50
330	2.50	Hrs	Loader 416C	G	106.20	265.50
15	9.50	Hrs	Labour	G	65.00	617.50
2	2.00	each	Mob/Demob - EX8 to CR Harbour	G	489.50	979.00
			Subtotal:			7,740.65
			G - GST @ 5%			
			GST			387.07

Figure 5 – Screen capture from AWB invoice

Finally, the Heatherington Industries Limited (“Heatherington”) invoice includes the following itemized description of services rendered:

Item No.	Quantity	Unit	Description	Tax	Unit Price	Amount
E-02	3	Drum	Job Ref: 0797 Waste Absorbant Material	G	160.00	480.00
E-88	1	Each	Documentation Fee	G	5.00	5.00
			Subtotal:			485.00
			G - GST5%			
			GST			24.25

Figure 6 – Screen capture from Heatherington invoice

Personnel and Equipment Daily Logs

Two Personnel & Equipment Daily Logs (the “Logs”) are included with the CCG submission. The Logs are dated 9 and 10 September 2018 respectively.

Apart from identifying the Field Commander for the CCG’s response, and detailing his hours, the Logs add little to the detail contained in the narrative. The 10 September 2018 entry includes essentially the same description of the Vessel as that included in the narrative entry for the same date, adding that engine oil remained on board, and that the Vessel would be treated as oily waste, on account of its pollutant-saturated planks.

According to the Logs, the Field Commander worked from 09:02 to 16:30 (just shy of 7.5 hours) on 9 September 2018, and from 15:40 to 21:48 (just over 6 hours) on 10 September 2018. The latter Log includes the note “1 hr OT”.

No additional CCG personnel appear in the Logs, nor do details on vehicle use.

Additional CCG Internal Documentation

The submission provides only the following summary in support of claimed salary costs for three separate CCG personnel:

	Group & Level	Time (Hours)	Rate	COST	REFERENCE
	GT 04	4.5	43.23	194.54	As per Personnel log
	GT 04	4.5	43.23	194.54	As per Personnel log
	GT 04	4.5	43.23	194.54	As per Personnel log
				-	
				-	

\*did not arrive to spill site due to landslide

Figure 7 – Screen capture of CCG personnel salaries summary (names of personnel redacted)

Further summaries are provided in support of claimed overtime costs, pollution counter-measures equipment, vehicle usage, and administration costs. Claimed overtime aligns with the note in the Logs. Sorbent materials usage, claimed as pollution counter-measures equipment, also matches the figures cited in the narrative and Logs.

## **FUND CORRESPONDENCE WITH THE CLAIMANT**

On 24 September 2020, the Fund sent the following request to the CCG Western Region Acting Superintendent of Environmental Response, via email, the subject line of which read “CCG Claim for F/V Namus Isle Our File 120-868--C1-B”:

[...] Your narrative talks to many planks heavily saturated with pollutants. I need hard evidence showing this.

I note that the vessel was first assessed by the CCG Lifeboat personnel; they may have copies of log books, photographs, field note, messages documenting their initial assessment of the vessel. The contractor, from the narrative assessed the state of the vessel he may have taken annotated and dated photographs of the interior parts of this vessel showing this oiled saturation of planks.

I would appreciate receiving your evidence by October 7.

The Acting Superintendent replied to the Fund the same day. The reply included four photographs described as showing the interior of another vessel (i.e., not the NUMAS ISLE). The relevant text of the email reply read as follows:

Attached are photos showing oil-soaked timbers and ribs in the machinery space and into the V-birth of the F/V Teresa Anne.

[...] Should [the vessel’s planks] be sent to a lab to determine how “soaked” they are? [...] With that, I’m hoping the CCG Officer’s notes witnessing such soaking is enough for the fund to move forward on.

On another note, [...] While I’d like to ask my staff to take the time to detail pollutants, I must consider the risk to the employee.  
[...]

The Fund responded via email, also on 24 September 2020: “The photos are good examples of the type of evidence needed. I look forward to receiving your response to the evidence request for the Namus Isle.”

No further correspondence from the CCG has been received on the matter to date.

## **DETERMINATIONS AND FINDINGS**

The CCG submission presents potentially eligible claims under section 103 of the MLA

The Incident resulted in oil pollution damage suffered, or the threat of such damage, within the territorial seas or internal waters of Canada, as well as in costs and expenses to carry out measures to mitigate further damage. As a result, claims arising from the Incident are potentially eligible for compensation.



The CCG is an eligible claimant for the purposes of section 103 of the MLA.

The submission arrived prior to the limitation periods set out under subsection 103(2) of the MLA.

Some of the claimed costs and expenses arise from what appear to be reasonable measures taken to “prevent, repair, remedy or minimize” oil pollution damage from a ship, as contemplated under Part 6, Division 2 of the MLA, and are therefore potentially eligible for compensation.

Accordingly, the submission presents claims that are potentially eligible for compensation under section 103 of the MLA.

#### Identification of the Vessel

Investigation casts doubt on the specific identification of the Vessel as set out in parts of the CCG documentation. A search of Transport Canada and records was carried out. No registration information related to a vessel named “NAMUS ISLE”. Further review of Transport Canada records led to the registration information for a vessel named the “NUMAS ISLE”. The biographical details of that registration roughly match those of the Vessel: length of 44.3999 feet compared to the 48 feet described by the CCG, matching hull type and material, and the last registered owner matches the name identified in the CCG submission.

It is therefore concluded that the Vessel was in fact the NUMAS ISLE identified in Transport Canada records under the official number 348910.

#### Findings on the evidence submitted by the CCG

##### *The facts of the Incident set out by the CCG are generally accepted*

The CCG included with the submission a narrative which sets out the facts of the Incident in some detail. This description of the material events is accepted as generally accurate. There are, however, some important evidentiary shortcomings, all of which are detailed below.

##### *The pollution threat posed by the Vessel and the measures taken with respect to same*

It is accepted that the Incident as described by the CCG involved both an oil discharge with the threat of environmental damage as well as the threat of future discharges. While the Vessel remained sunken, it was not known how much oil remained aboard. It is accepted that the Vessel continued to discharge oils, as evidenced by sheening and the replacement of sorbent materials on the water by Rilaur on 10 September 2018. As a result, it is concluded that the raising and removal of the Vessel and the disposal of oiled sorbent materials were reasonable measures taken with respect to a demonstrated oil pollution threat. These measures were performed entirely by the four contractors engaged by the CCG from 9 through 11 September 2018.

The CCG submission did not include some important contractor documentation such as statements of work or agreements on rates. While in this case the invoices from the four contractors engaged, coupled with other evidence, are sufficient to establish the reasonableness of many of the claimed costs, such an omission could in other cases reduce the likelihood of a claim being accepted. The absence of presumably available evidence to establish a claim can result in an adverse inference being drawn where the claimed expense is not otherwise adequately supported.

Apart from a claim for the cost of sorbent materials deployed on 9 September 2018, which is accepted as reasonable, the CCG has not claimed for any costs associated with the efforts of the CCG Lifeboat Station at Campbell River.

*The CCG has not substantiated its assertions that the Vessel was itself oily waste*

The CCG narrative and Logs contain assertions that the Vessel's planks were saturated with "pollutants", rendering the Vessel itself a source of pollution and justifying its deconstruction as "oily waste". These assertions are problematic for a number of reasons.

While it is acknowledged and accepted that the CCG probably means to say "oil" where it instead says "pollutants", there is a crucial distinction between the two words. Whereas "pollutant" is defined broadly under the MLA, the definition of "oil", which falls entirely within that of "pollutant", is much narrower. And whereas the CCG's mandate under the *Canada Shipping Act, 2001*, SC 2001, c 26 covers all manner of pollutants, Part 7 of the MLA makes the Fund liable only with respect to oil. As a result, the CCG's assertions, even if accepted at face value, are in and of themselves insufficiently specific to properly engage the Fund. As noted at the beginning of this paragraph, the CCG's likely intended meaning is recognized and accepted by inference. But inference has its limits and should not be relied upon by claimants where specificity is possible.

Following 9 September 2018, when CCG Lifeboat Station personnel were on scene, the CCG appears to have managed the entirety of its response remotely, from Victoria. It further seems that Rilaur was used as the CCG's primary contractor on site, engaging other contractors as needed and reporting back to the CCG Field Commander, presumably by telephone. While not entirely clear on the record, it appears that the CCG decided to deconstruct the Vessel based solely on the assessment of Rilaur, which appears to have been delivered orally rather than in writing. None of the photographs submitted by the CCG show the interior of the Vessel, let alone any oil saturation. The CCG's sole evidence in support of its decision to deconstruct the Vessel takes the form of notes made following a conversation with a contractor in Campbell River. This reliance on a secondhand statement to establish the need for a continued response is problematic.

The CCG made attempts to contract a marine surveyor to assess the Vessel on short notice, but these attempts were unsuccessful. While an independent survey report might have represented helpful evidentiary support to the CCG's assertions, it is likely that less costly evidence would have sufficed. If the Vessel's planks were indeed saturated with oils, captioned and dated photographs depicting these oiled planks may well have been sufficient support.

Finally, while it is accepted that there were probably still oils in the Vessel's engine, and perhaps still fuel in its tanks, the evidence is scant or nonexistent. The fuel tanks do not appear to have been inspected at any point in the response, and the likely presence of engine oils in a closed system is seldom sufficient to render compensable the costs of deconstructing an entire vessel.

During the assessment process, a request was made to the CCG for further evidence in support of the deconstruction of the Vessel. The CCG's response to this request was unhelpful.

In the absence of any direct evidence on the point, a finding cannot be made that the Vessel's planks were saturated with oils. As a result, the deconstruction and disposal services rendered by AWB have not been established to be measures reasonably taken with respect to oil pollution.

#### *Problems with personnel tasking documentation and the related claims*

The CCG's documentation with respect to personnel tasking is unclear and contradictory. While this would usually result in reductions, it appears that the CCG has in fact claimed for fewer personnel hours than were actually devoted to its response.

The bulk of the response to the Incident was managed remotely by CCG personnel in Victoria. The Logs record a total of approximately 13.5 hours worked by the CCG's Field Commander, including a single hour of overtime. While the CCG's claim for overtime aligns with the Logs, the claim for 4.5 regular hours each for three different CCG personnel does not (see Figure 7, which refers to the Logs).

Despite the above-noted inconsistencies, it is accepted that the Field Commander worked the hours set out in the Logs, which represent a reasonable allocation of coordinating effort. It is further accepted that some number of CCG personnel attempted to reach Campbell River by vehicle on 10 September 2018 but were forced to turn around on account of a highway closure. It is acknowledged that this closure was unforeseeable, and it is accepted that an attempt to send personnel to the site of the Incident was reasonable in the circumstances.

In light of the above, and in part because it is likely that CCG personnel in fact worked more hours than appear in its claim documentation (for example the work done by Campbell River Lifeboat personnel), the CCG's claimed personnel costs are accepted as stemming from reasonable measures taken with respect to oil pollution.

### **CLAIM AND OFFER DETAILS**

The CCG presented its claimed costs and expenses to the Fund across six schedules, each of which is briefly outlined below.

Under Part 7 of the MLA, the measures taken to respond to an oil pollution incident and the resulting costs must be reasonable in order to be compensable by the Fund. To the

extent that reasons are not already set out in this letter, the below explains why certain portions of the CCG’s claim have been allowed while others have been disallowed.

Schedule 2 – Contract Services

Claimed: \$28,834.97

The contract services in this case were divided among four companies:

Company	Work Description	Claimed
Rilaur	Oversaw Incident response, deployed sorbents, cleaned up site	\$5,734.00
Pacific Pro	Raised the Vessel	\$14,464.00
AWB	Removed, deconstructed, and disposed of the Vessel	\$8,127.72
Heatherington	Disposed of soiled sorbent materials	\$509.25

*Table 1 – Summary and brief description of claimed contract services*

For the reasons already set out above, all of the costs associated with Rilaur, Pacific Pro, and Heatherington are accepted in full.

With respect to the AWB claim, only the portions representing mobilization, removal of the Vessel from the water, and demobilization are accepted. A photograph shows a Caterpillar excavator removing the Vessel from the water. The AWB invoice included at Figure 5 shows the usage of two excavators, “220Komatsu” and “330DL”. As the latter is a Caterpillar model, the itemized costs associated with that excavator have been used to approximate the cost of removing the Vessel from the water. According to the AWB invoice at Figure 5, that excavator was billed out hourly at \$204.70, plus \$979.00 for mobilization and demobilization to Campbell River. Given that the Vessel was hauled out of the water on a boat ramp, a single hour is deemed to have been sufficient to complete the job. As such, a subtotal of \$1,183.70 plus \$59.19 in GST is allowed with respect to the AWB invoice, for a total of \$1,242.89.

The remaining AWB costs, totaling \$6,884.83, are found to have been tied to the deconstruction and disposal of the Vessel, which are not supported on the evidence as reasonable measures taken in response to oil pollution. Accordingly, these costs are not accepted.

**The contract services portion of this claim is allowed in the amount of \$21,950.14.**

Schedule 4 – Salaries – Full Time Personnel

Claimed: \$583.61

While the exact number of regular hours worked by CCG personnel in response to the Incident is not clear on the evidence, it is accepted that that number probably exceeds the number of hours that have been claimed. For the reasons set out above, it is accepted that the claimed salary costs were incurred to facilitate measures taken in response to oil pollution.

**The salaries portion of the submission is allowed in its entirety in the amount of \$583.61.**

Schedule 5 – Overtime – Full Time Personnel

Claimed: \$54.03

Overtime was claimed for a single hour worked by the CCG Field Commander on 10 September 2018 at 1.5 times his ordinary rate, exclusive of employee benefits. Like the regular salary costs claimed, this overtime appears to attach to remote supervisory work undertaken in Victoria. As with the regular salaried time claimed, it is accepted that the overtime cost was incurred to facilitate measures taken in response to oil pollution.

**The overtime portion of the submission is allowed in its entirety in the amount of \$54.03.**

Schedule 11 – Pollution Counter-measures Equipment

Claimed: \$600.00

The claim submission indicates that CCG personnel from the Campbell River Lifeboat Station used five bales each of sorbent boom and sorbent pads in first responding to the Incident on 9 September 2018 at a total cost of \$375.00 and \$225.00 respectively. The use of these sorbent materials is considered reasonable as a measure taken in response to oil pollution.

**The pollution counter-measures portion of the submission is allowed in its entirety in the amount of \$600.00.**

Schedule 12 – Vehicles

Claimed: \$82.29

The CCG claims for the use of one vehicle for its response to the Incident: a 2018 model “GREEN FORD” (12-833), which appears to have departed Victoria on the morning of 10 September 2018 bound for Campbell River, only to be turned around by a highway closure. The vehicle in question drove 76 kilometers that day.

The CCG claims a day rate of \$65.57 for the use of that vehicle, plus fuel costs at a rate of \$0.22 per kilometer, or \$16.72.

For the reasons set out above, it is accepted that an attempt to send CCG personnel to the site of the Incident was reasonable in the circumstances. Furthermore, the vehicle expenses sought are reasonable, and in line with CCG costing guidelines.

**The vehicles portion of the submission is allowed in its entirety in the amount of \$82.29.**

Schedule 13 – Administration

Claimed: \$15.03

The CCG submission advances a claim for administration costs at a rate of 3.09%, applied against claimed salaries, less the 20% markup associated with the costs of the employee benefits plan.

The 3.09% rate is generally accepted as reasonable, and the dollar amount sought here is also considered reasonable in the context of the overall response to the Incident.

**The administration portion of the submission is allowed in its entirety in the amount of \$15.03.**

## OFFER SUMMARY AND CLOSING

The following table summarizes the claimed and allowed expenses with respect to the CCG claim regarding the Vessel:

Schedule	Claimed	Allowed
2 – Contract Services	\$28,834.97	\$21,950.14
4 – Salaries – Full Time Personnel	\$583.61	\$583.61
5 – Overtime – Full Time Personnel	\$54.03	\$54.03
11 – Pollution Counter-measures Equipment	\$600.00	\$600.00
12 – Vehicles	\$82.29	\$82.29
13 – Administration	\$15.03	\$15.03
<b>Totals</b>	<b>\$30,169.93</b>	<b>\$23,285.10</b>

*Table 2 – Summary of amounts claimed and allowed*

Costs and expenses in the amount of \$23,285.10 are accepted and will be paid together with statutory interest calculated at the date of payment if the Offer is accepted.

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In considering this Offer, please observe the following options and time limits that arise from section 106 of the MLA.

You have 60 days upon receipt of this Offer to notify the undersigned whether you accept it. You may tender your acceptance by any means of communication by 16:30 Eastern Time on the final day allowed. If you accept this Offer, payment will be directed to you without delay.

Alternatively, you have 60 days upon receipt of this Offer to appeal its adequacy to the Federal Court. If you wish to appeal the adequacy of the Offer, pursuant to Rules 335(c), 337, and 338 of the *Federal Courts Rules*, SOR/98-106 you may do so by filing a Notice of Appeal in Form 337. You must serve it upon the Administrator, who shall be the named Respondent. Pursuant to Rules 317 and 350 of the *Federal Courts Rules*, you may request a copy of the Certified Tribunal Record.

The MLA provides that if no notification is received by the end of the 60-day period, you will be deemed to have refused the Offer. No further offer will issue.

Finally, where a claimant accepts an offer of compensation, the Administrator becomes subrogated to the claimant's rights with respect to the subject matter of the claim. The claimant must thereafter cease any effort to recover for its claim, and further it must cooperate with the Fund in its subrogation efforts.

Yours sincerely,

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