



OFFER LETTER

Ottawa, 10 August 2023
SOPF File: 120-951-C1
CCG File:

VIA EMAIL

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RE: Unknown Name M/V Houseboat – Shiloh Park, Wallaceburg, Ontario
Incident date: 2021-05-03

SUMMARY AND OFFER

- [1] This letter responds to a submission from the Canadian Coast Guard (“CCG”) with respect to an unknown name houseboat vessel, which released hydrocarbons in the Shiloh Park Campground and Marina in Wallaceburg, Ontario, on 3 May 2021 (the “Incident”).
- [2] On 3 May 2023, the office of the Administrator of the Ship-source Oil Pollution Fund (“Fund”) received the claim submission from the CCG. The submission advanced claims under sections 101 and 103 of the *Marine Liability Act*, SC 2001, c 6 (“MLA”) totaling \$8,350.13 for costs and expenses arising from measures taken in response to the Incident.
- [3] 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 MLA.
- [4] The amount of **\$6,983.19** (the “Offer”), plus statutory interest to be calculated at the time the Offer is paid, 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 submission.

THE SUBMISSION RECEIVED

- [5] The submission includes a narrative that describes events relating to the Incident. It also includes a summary of the costs and expenses for which the CCG seeks reimbursement and corroborating documents.

Narrative Summary

- [6] On 3 May 2021 at 1918 hours, the CCG received a report that an unknown name 32-foot houseboat had partially sunk and was listing heavily to one side in eight feet of water in the Shiloh Park Campground and Marina. There was a visible sheen around the vessel. The quantity of hydrocarbons was unknown at the time.
- [7] The park owner advised the CCG that the vessel owner was a U.S. resident. He purchased the vessel from a local resident in 2020. It remained in the water over the winter. The owner was unable to enter the country due to the COVID-19 pandemic restrictions. The owner's wife was a resident of Ontario. The CCG was not able to contact the owner but was able to contact his wife, though she could not provide information on whether the vessel was insured or what response actions should be taken.
- [8] The Chatham Kent Fire Department ("CKFD") assisted on scene and confirmed that the pollutant being released was gasoline but could not confirm if other hydrocarbons had been released or remained in the vessel. The CKFD deployed approximately fifteen sections of eight-foot boom to prevent pollution from entering the Snye River.
- [9] Local sensitivities noted included the waterway shared with the nearby Walpole Island First Nations, the municipal water intake, and an important bird habitat. The CCG notified the nearby Nations the following morning.
- [10] In the morning of 4 May 2021, CCG response officers were dispatched to the Incident site to assess and monitor the situation due to the owner's lack of response and the noted sensitivities. The CCG decided to remove the vessel from the water to eliminate the pollution threat.
- [11] At 1510, the vessel owner contacted the CCG and informed them that the vessel was uninsured but that he planned to have the boat removed. He also informed them that there was approximately 45 gallons of gasoline and an unknown quantity of engine fuels on board. He contracted with the company C-Tow to refloat and remove the vessel. CCG response officers remained involved to monitor the process.
- [12] At 1930, CCG response officers arrived at the Incident site in a monitoring capacity. Due to mechanical issues, C-Tow's first attempts to refloat the vessel were unsuccessful.

- [13] On 5 May 2021, CCG response officers returned to the site to monitor the refloat and removal operations. C-Tow did not arrive until late afternoon, so CCG officers assessed the site for pollution risks while waiting. That night, the vessel was successfully refloated and removed from the water, and CCG response officers returned to base at 0130 hours on 6 May 2021.

Cost Summary

- [14] The CCG submission summarizes the amount of \$8,350.13 in claimed costs as follows:

Description	Total	Schedule #
MATERIALS AND SUPPLIES	\$ -	1
CONTRACT SERVICES	\$ -	2
TRAVEL	\$ 147.50	3
SALARIES - FULL TIME PERSONNEL	\$ 3,005.35	4
OVERTIME - FULL TIME PERSONNEL	\$ 4,734.89	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)	\$ 230.00	11
VEHICLES	\$ 135.12	12
ADMINISTRATION	\$ 97.27	13
TOTAL CCG COST OF INCIDENT	\$ 8,350.13	

Figure 1 – Screen capture of the cost summary

DETERMINATIONS AND FINDINGS

The submission is admissible

- [15] The majority of the costs and expenses are accepted as payable. In brief, the costs are reduced for some claimed overtime hours which are unsubstantiated in the evidence.
- [16] The Incident resulted in oil pollution damage within the territorial seas or internal waters of Canada, as well as in costs and expenses to carry out measures to address that oil pollution damage and mitigate further damage. As a result, claims arising from the Incident are potentially eligible for compensation.
- [17] The CCG is an eligible claimant for the purposes of section 103 of the MLA.
- [18] The submission was received within the limitation periods set out under subsection 103(2) of the MLA.
- [19] 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. Alternatively, those costs and expenses arise from “preventive measures”, as contemplated under the International Convention on Civil Liability for Bunker Oil Pollution Damage. In either case, some of the claimed costs and expenses are potentially eligible for compensation.
- [20] Accordingly, the submission presents claims that are potentially eligible for compensation under section 103 of the MLA.
- [21] The extent to which the measures taken were reasonable must be evaluated.

The CCG’s response operation was reasonable

- [22] The CCG’s claim was, in general, reasonable and supported by evidence. Most parts of the claim are accepted.
- [23] The claimed travel costs in Schedule 3 total \$147.50 and are accepted in full.
- [24] The claimed salary costs in Schedule 4 total \$3,005.35 and are accepted in full.
- [25] The claimed overtime costs in Schedule 5 total \$4,734.89. The amount of \$3,367.95 is accepted. This part of the claim is reduced by the overtime hours claimed for the Environmental Response Duty Officer and Deputy Superintendent. These officers were not on scene and operated solely in a remote capacity. The evidence does not establish what their involvement in this capacity was expected to (or did) accomplish. The claim for overtime hours is therefore reduced.
- [26] The claimed pollution counter-measures equipment (“PCME”) costs in Schedule 11 total \$230.00 and are accepted in full.

- [27] The claimed vehicle costs in Schedule 12 total \$135.12 and are accepted in full.
- [28] The claimed administration costs in Schedule 13 total \$97.27 and are accepted in full.

OFFER SUMMARY AND CLOSING

[29] The following table summarizes the claimed and offered expenses.

Schedule	Claimed	Offered
3 – Travel	\$147.50	\$147.50
4 – Salaries – Full time personnel	\$3,005.35	\$3,005.35
5 – Overtime – Full time personnel	\$4,734.89	\$3,367.95
11 – Pollution Counter-Measures Equipment (PCME)	\$230.00	\$230.00
12 – Vehicles	\$135.12	\$135.12
13 – Administration	\$97.27	\$97.27
TOTAL	\$8,350.13	\$6,983.19

Table 1 – Total claimed versus offered costs.

[30] Costs and expenses in the amount of **\$6,983.19** are accepted and will be paid together with statutory interest calculated at the date of payment if the Offer is accepted.

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

[32] 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.

[33] 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 on 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.

[34] 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 be issued.

[35] 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,

Chiamaka Mogo, MPPGA
Deputy Administrator, Ship-source Oil Pollution Fund