



OFFER LETTER

Ottawa, 28 November 2023
SOPF File: 120-958-C1

VIA EMAIL

A/Manager, Operational Support
Compliance and Enforcement
Canadian Coast Guard
200 Kent Street
Ottawa, Ontario K1A 0E6

*Via email to [DFO.CCGERCostRecoveryRSP-
RecouvrementdescoutsIESIPGCC.MPO@df-mpo.gc.ca](mailto:DFO.CCGERCostRecoveryRSP-RecouvrementdescoutsIESIPGCC.MPO@df-mpo.gc.ca)*

**RE: *Éclipse des Mers* – Gulf of St. Lawrence, Anticosti Island
Incident date: 2021-06-04**

SUMMARY AND OFFER

[1] This letter responds to a submission from the Canadian Coast Guard (“CCG”) with respect to a Motor Vessel called *Éclipse des Mers* (the “Vessel”). The Vessel caught on fire near Anticosti Island, Quebec, on or about 4 June 2021, representing a pollution risk (the “Incident”).

[2] On 23 June 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 advanced claims under sections 101 and 103 of the *Marine Liability Act*, SC 2001 (the “MLA”) totaling \$1,592.75 for costs and expenses arising from measures taken by the CCG while responding 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 pursuant to sections 105 and 106 of the MLA.

[4] The amount of \$1,592.75 (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 claimant's submission includes a narrative that describes events relating to the Incident. It also contains documents in support of the claimed costs. Those documents corroborate the claim and warrant no comment.

DETERMINATIONS AND FINDINGS

The CCG's factual account of the Incident is accepted

[6] The submission included a narrative which describes the Incident. The narrative is supported by evidence and is accepted as a substantially accurate account of the events surrounding the Incident.

[7] At 1100 on 4 June 2021, the CCG was notified of a fishing vessel which had caught fire northeast of Anticosti Island. The ship on fire was the *Éclipse des Mers*.

[8] The owner advised that the crew had been picked up by another ship and that the vessel itself was still afloat.

[9] The CCG considered that the fire-damaged boat was an environmental risk. Its response was to mobilize a management team and coordinate monitoring and surveillance activities with respect to measures taken by the owner.

[10] The CCG also prepared an intervention plan which could be compared with the polluter's plan, and which could also allow the CCG to proceed with a response if the owner had been unwilling or unable to properly carry out a response.

[11] On 5 June 2021, the Vessel was towed by another fishing vessel in the direction of Rivière-au-Renard. A CCG ship assisted with the end of the tow.

[12] By 9 June 2021, the owner notified the CCG that the ship had been removed from the water.

The submission is admissible

[13] The Incident represented an oil pollution risk to the territorial seas or internal waters of Canada, and costs and expenses to carry out measures to address and mitigate damage were incurred.

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

[15] The submission was received within the limitation periods set out under subsection 103(2) of the MLA.

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

The costs and expenses claimed

[17] The CCG provided descriptions and documentation supporting the expenses claimed.

[18] The Incident occurred on a Friday, and unsurprisingly overtime costs constituted a considerable part of the claim.

Findings on reasonability

[19] The Vessel posed a threat of oil pollution. The measures taken by the CCG were modest and commensurate with the risk posed.

[20] All claimed costs are accepted as having been reasonably incurred in response to a ship-source oil pollution incident.

OFFER SUMMARY AND CLOSING

[21] Costs and expenses in the amount of \$1,592.75 are accepted and will be paid together with statutory interest calculated at the date of payment if the Offer is accepted.

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

[23] 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.

[24] 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.

[25] 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.

[26] 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