



OFFER LETTER

Ottawa, 27 February 2024
SOPF File: 120-970-C1
CCG File:

BY EMAIL

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RE: *Lakefront Property* — Bridgeview Marina, St. Clair River, Sarnia, Ontario
Incident date: 2022-03-12

SUMMARY AND OFFER

[1] This letter responds to a submission from the Canadian Coast Guard (the “CCG”) with respect to the pleasure craft known as the *Lakefront Property* (the “Vessel), which caught fire on or about March 12, 2022, at the Bridgeview Marina in Sarnia, Ontario (the “Incident”).

[2] On 31 August 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 totaling \$41,477.27 for costs and expenses arising from measures taken by the CCG to respond 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 101 and 103 of the *Marine Liability Act*, SC 2001, c 6 (the “MLA”).

[4] The amount of \$41,477.27 (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.

[5] The reasons for the Offer are set forth below, along with a description of the CCG's submission.

THE SUBMISSION RECEIVED

[6] 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

[7] According to the narrative, at approximately midnight on 13 March 2022, the Alert and Warning Network received a notification of a vessel on fire. The fire had started at 20:40 on 12 March 2022, at slip #732 at Bridgeview Marina, located in Sarnia, Ontario. An unknown quantity of gasoline had been released as a result of the fire. The vessel's owner had been living on board the vessel and had suffered minor injuries.

[8] Later that morning, the CCG mobilized two officers to attend the scene. They confirmed a strong smell of gasoline, suggesting that a large volume of gasoline had spilled and was in the process of evaporating. The officers also believed that a significant risk of further discharges existed owing to the damaged condition of the vessel.

[9] As initial steps, the CCG boomed the burnt-out hull of the vessel.

[10] The CCG eventually retained a contractor, who removed the vessel from the water on 19 March 2022. There was some delay in carrying out the removal as a result of poor weather conditions.

Cost summary

[11] The CCG submission summarizes the claimed costs as follows:

Description	Total	Schedule #
	\$.....	
MATERIALS AND SUPPLIES	-	1
CONTRACT SERVICES	22,874.82	2
TRAVEL	675.60	3
SALARIES - FULL TIME PERSONNEL	7,109.17	4
OVERTIME - FULL TIME PERSONNEL	8,955.95	5
OTHER ALLOWANCES	-	6

Description	Total	Schedule #
SALARIES - CASUAL PERSONNEL	-	7
SHIPS' COSTS (EXCL. FUEL & O/T)	-	8
SHIPS PROPULSION FUEL	-	9
AIRCRAFT	-	10
POLLUTION COUNTER-MEASURES EQUIPMENT (PCME)	1,058.64	11
VEHICLES	609.24	12
ADMINISTRATION	193.85	13
TOTAL CCG COST OF INCIDENT	\$ 41,477.27	

Figure 1: Screen capture of the claim cost summary

DETERMINATIONS AND FINDINGS

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

[12] 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.

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

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

[15] 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.

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

Findings on the evidence submitted by the CCG

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

[17] This description of the material events in the CCG narrative is accepted as generally accurate.

[18] There was some delay in having the vessel removed from the water. The narrative and supporting evidence establish that the delay was reasonable in the circumstances.

CLAIM AND OFFER DETAILS

[19] The CCG presented its claimed costs and expenses to the Fund across seven schedules, each of which is outlined below.

[20] That delay might have somewhat increased CCG personnel costs, both salary and overtime, but this is accepted as reasonable in the circumstances. Similarly, the travel, vehicles and administration expenses are well established. The use of pollution counter-measures was eminently sensible and is accepted as a reasonable measure taken at a reasonable cost.

[21] Before retaining a contractor to remove the vessel from the water, the CCG received quotes from three contractors, and selected the low bidder. This is excellent evidence that the costs of this expense were reasonable, and as a measure removing the vessel from the water is accepted as appropriate to mitigate the threat of ship-oil pollution damage.

[22] In the result, the CCG claim is allowed, without deduction.

OFFER SUMMARY AND CLOSING

[23] The following table summarizes the claimed and allowed expenses:

Description	Schedule	Amount Claimed (\$)	Amount Recommended (\$)
Contract Services	Schedule 2	22,874.82	22,874.82
Travel	Schedule 3	675.60	675.60
CCG Salaries - FTP	Schedule 4	7109.17	7109.17
CCG Overtime - FTP	Schedule 5	8955.95	8955.95
PCME	Schedule 11	1058.64	1058.64
Vehicles	Schedule 12	609.24	609.24
Administration	Schedule 13	193.85	193.85
Total		41,477.27	41,477.27

Table 1 – Summary of amounts claimed and allowed.

[24] Costs and expenses in the amount of \$41,477.27 are accepted and will be paid together with statutory interest calculated at the date of payment if the Offer is accepted.

[25] 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.

[26] 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.

[27] 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.

[28] 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 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