



**Ship and Rail
Compensation Canada**
Ship Fund

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OFFER LETTER

Ottawa, 18 August 2025
SOPF File: 120-1038-C1

BY EMAIL

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

*Via email to **DFO.CCGERCostRecoveryRSP-
RecouvrementdescoutsIESIPGCC.MPO@dfo-mpo.gc.ca***

RE: Beau – Tsehum Harbour, Sidney, British Columbia
Incident date: 2023-10-22

SUMMARY AND OFFER

- [1] This letter responds to a submission from the Canadian Coast Guard (“CCG”) for an incident involving a wooden ex-fishing vessel, the *Beau* (“Vessel”). The Vessel was found to have taken on water on 22 October 2023 at Tsehum Harbour, near Sidney, British Columbia (“Incident”).
- [2] On 24 January 2025, the Ship Fund of Ship and Rail Compensation Canada (“Ship Fund”), the public-facing office of the Administrator of the Ship-source Oil Pollution Fund, received a submission from the CCG on behalf of the Minister of Fisheries and Oceans. The submission advanced a claim totaling \$6,430.40 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 105 and 106 of the *Marine Liability Act*, SC 2001, c 6 (“MLA”).

- [4] The amount of **\$5,494.46** (“Offer”), plus statutory interest 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 submission.

THE SUBMISSION RECEIVED

- [6] The claim 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.

Narrative Summary

- [7] According to the narrative, on 22 October 2023, the CCG received a report that a vessel was sitting low in the water at Tsheum Harbour near Sidney, British Columbia.
- [8] CCG lifeboat personnel attended the scene and identified the Vessel as the *Beau*, a wooden former fishing trawler approximately 40 feet in length. They pumped out the Vessel and arranged to have an adjacent vessel owner monitor the water ingress and pump it out further as required.
- [9] On 23 October, Victoria-based CCG Marine Environmental and Hazards Response (“MEHR”) assessed the Vessel. The bilge pump was continuously running, and the bilge contained a layer of black oil that saturated a sorbent pad. The water pumped overboard resulted in a faint sheen around the Vessel. CCG personnel concluded that the engine had released oil when the water level rose above it, hence the layer of black oil in the bilge.
- [10] The quantity of diesel in the Vessel’s fuel tank was calculated at approximately 530 liters. A hydraulic tank was found forward of the main engine on the starboard side with an estimated capacity of 200 liters.
- [11] On 24 October, CCG personnel returned to the site. They observed that the Vessel had taken on approximately one foot of water since the previous day. The bilge pump had ceased operating. A rainbow sheen was observed around the Vessel. The owner of the vessel could not be located.
- [12] The adjacent vessel owner agreed to keep the Vessel from sinking overnight by deploying a pump and generator.
- [13] On 25 October, two Victoria MEHR personnel and one Compliance and Enforcement officer arrived at the site. The presumed owner of the Vessel was present, though he denied ownership and refused to comply with CCG directions.
- [14] The CCG engaged Eagle Eye Marine Services Ltd. (“Eagle Eye”) which towed and removed the Vessel from the marine environment.

- [15] The CCG then contracted Total Boat Marine Surveyors Limited (“Total Boat Marine”) to survey the Vessel.
- [16] The CCG proceeded to have the Vessel deconstructed, which operation was completed by 29 January 2024. No compensation from the Ship Fund is sought for deconstruction-related measures.

Cost Summary

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

Schedule	Costs Claimed
2 – Contract Services	\$1,934.63
4 – Salaries – Full time personnel	\$1,818.52
11 – Pollution Counter-Measures Equipment	\$2,388.46
12 - Vehicles	\$232.60
13 – Administration	\$56.19
TOTAL	\$6,430.40

Table 1: Summary of amounts claimed.

DETERMINATIONS AND FINDINGS

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

- [18] The Incident resulted in oil pollution damage within the territorial seas or internal waters of Canada and 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.
- [19] The CCG is an eligible claimant under section 103 of the MLA.
- [20] The submission was received within the limitation periods set out under subsection 103(2) of the MLA.
- [21] 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.
- [22] 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

- [23] The description of the material events in the CCG narrative is accepted as generally accurate.

The Vessel posed a pollution threat and most of the measures taken by the CCG were reasonable

- [24] The Vessel was at risk of sinking and merited some response measures.
- [25] The narrative identifies factors showing that the Vessel posed a pollution threat. The claim documents both oil at risk of discharge and the fact that discharges had already taken place. It was reasonable to take measures to prevent future discharges, and for the most part the measures taken were reasonable.
- [26] The only part of the claim rejected entirely is the cost associated with the survey of the vessel. The survey was not directed at assessing the oil pollution threat posed by the Vessel; rather, it was focused on the Vessel's condition and value, if any. It is therefore not accepted as a compensable measure.

CLAIM AND OFFER DETAILS

- [27] The CCG presented its claimed costs and expenses to the Fund across five schedules, each outlined below.
- [28] Under Part 7 of the MLA, the measures taken to respond to an oil pollution incident and the resulting costs must be reasonable and established in the evidence in order to be compensable by the Fund. To the extent that reasons are not already set out in this letter, the sections below elaborate.

Schedule 2 – Contract Services

Claimed: \$1,934.63

- [29] The claimed contract services in Schedule 2 total \$1,934.63. Contract services costs were incurred via two contractors, Eagle Eye at \$1,010.63 and Total Boat Marine at \$924.00.
- [30] Eagle Eye towed the Vessel from mooring to Canoe Cove on 25 October. The costs incurred for the tow are accepted in full because they are connected to oil pollution prevention.
- [31] The amount of \$924.00 was paid to Total Boat Marine for a condition and valuation survey. The costs incurred for the survey are rejected for the reasons noted above.
- [32] **The contract services portion of the submission is allowed in part in the amount of \$1,010.63.**

Schedule 4 – Salaries – Full Time Personnel

Claimed: \$1,818.52

- [33] Claimed salary costs are for regular hours worked by six different CCG MEHR personnel at various levels and hourly rates, including 27% markup above base rates for Employee Benefits Plan (“EBP”) costs. The claimed rates are considered reasonable. The CCG does not appear to seek compensation for the work done by its lifeboat crew on 22 October 2023.
- [34] The CCG has not provided detailed contemporaneous documentation on the tasking of each of its deployed personnel. Further, the limited personnel logs that have been provided by the CCG do not easily reconcile with the narrative and costing documentation. That said, the scope of deployment described in the narrative is considered reasonable in the circumstances, and the CCG has claimed for fewer hours than were actually worked. As a result, the amount sought is accepted as reasonable.
- [35] **The salaries portion of the submission is accepted in its entirety.**

Schedule 11 – Pollution counter-measures equipment

Claimed: \$2,388.46

- [36] Claimed costs under this schedule cover the use of the *CGE 705*, a vessel similar in size and general capabilities to a Pollution Response Vessel, Class II (“PRVII”). The usage rate claimed here by the CCG matches the rate that is sought for the usage of a PRV II: \$1,194.23 per day.
- [37] The CCG used the *CGE 705* for two days. Its usage was necessary, and the claimed rate is reasonable.
- [38] **The pollution counter-measure equipment portion of this claim is accepted in its entirety.**

Schedule 12 – Vehicles

Claimed: \$232.60

- [39] The CCG claimed \$0.22 per kilometer plus the \$67.56 daily rate for use of three vehicles over two days. The rates and amounts claimed are considered reasonable.
- [40] **The vehicles portion of the submission is allowed in full.**

Schedule 13 – Administration

Claimed: \$56.19

- [41] The CCG claims for administration costs at a rate of 3.09% as applied to full-time salaries, including EBP costs. The inclusion of EBP costs does not accord with the calculation method generally accepted by the Ship Fund. In the absence of an explanation for this irregularity, an adjustment is required.
- [42] Applying the accepted administration rate of 3.09% to the \$1,431.91 in base salary costs yields an adjusted administration cost of \$44.25. It is this amount that is accepted.
- [43] **The administration portion of the submission is allowed in part in the amount of \$44.25.**

OFFER SUMMARY AND CLOSING

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

Schedule	Costs Claimed	Offered
2 – Contract Services	\$1,934.63	\$1,010.63
4 – Salaries – Full time personnel	\$1,818.52	\$1,818.52
11 – Pollution Counter-Measures Equipment	\$2,388.46	\$2,388.46
12 – Vehicles	\$232.60	\$232.60
13 – Administration	\$56.19	\$44.25
TOTAL	\$6,430.40	\$5,494.46

Table 2: Summary of amounts claimed and accepted.

- [45] Costs and expenses in the amount of **\$5,494.46** are accepted and will be paid together with statutory interest calculated at the date of payment if the Offer is accepted.
- [46] 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.
- [47] 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.
- [48] 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.
- [49] Finally, when 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 Ship Fund in its subrogation efforts.

Yours sincerely,

Caroline Healey, LL.B., J.D., MBA
Head of Ship and Rail Compensation Canada and
Administrator of the Ship Fund