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# OFFER LETTER

Ottawa, 27 July 2023
*SOPF File*: 120-929-C1
*CCG File*:

**VIA EMAIL**

Senior Director of Incident Management
Canadian Coast Guard
200 Kent Street
Ottawa, Ontario K1A 0E6

**RE: M/V *Mini Fusion* — Doctor Bay, British Columbia**
**Reported incident date: 2020-10-28**

## SUMMARY AND OFFER

[1] This letter responds to a submission from the Canadian Coast Guard (the "CCG") with respect to a 185-foot steel-hulled foreign-registered vessel under the name *Mini Fusion*. That vessel was reported to the CCG, prompting a response, in October of 2020.

[2] On 24 October 2022, 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, c 6 (the "MLA") totaling $1,083,551.42 for costs and expenses arising from measures taken by the CCG in its response.

[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 $88,878.11 (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.



Canada

## THE SUBMISSION RECEIVED

[5] The CCG summarizes its claimed costs and expenses as follows:

| | | | SCH |
|---|---|---|---|
| MATERIALS AND SUPPLIES | | - | 1 |
| CONTRACT SERVICES | $ | 961,668.65 | 2 |
| TRAVEL | $ | 16,882.75 | 3 |
| SALARIES - FULL TIME PERSONNEL | $ | 19,642.84 | 4 |
| OVERTIME - FULL TIME PERSONNEL | $ | 19,227.30 | 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) | $ | 64,708.98 | 11 |
| VEHICLES | $ | 393.42 | 12 |
| ADMINISTRATION | $ | 1,027.48 | 13 |
| TOTAL CCG COST OF INCIDENT | $ | 1,083,551.42 | |

*Figure 1 – CCG cost summary*

[6] The submission includes a narrative that describes events relating to the response. It also includes documents supporting the CCG's claimed costs.

### The narrative

[7] According to the narrative, on 28 October 2022, the CCG Vessels of Concern ("VOC") program was notified that the *Mini Fusion* had begun to list.[1] The person who made this report was related to the former Canadian owner of the ship. VOC notified CCG Environmental Response ("ER") so that an assessment of any oil pollution threat posed by the ship could be carried out.

[1] The narrative does not expressly say that this pollution report was the start of the CCG's involvement with the vessel. For reasons noted later in this decision, it has been determined that the CCG had some earlier involvement with the vessel, the details of which were not provided to the Fund.

[8] On 19 November 2020, a marine surveyor retained by the CCG boarded and surveyed the ship. The survey found little water in the ship's bilge. As to the list, the probable cause was identified as a hole in a wing tank mid-ship on the port side. Water was pumped from that tank. No obvious signs of water re-entering were noted. The ship's external hull was marked with a line so that a follow up observation could be made of the list.

[9] On 20 November 2020, the CCG reattended. The water in the wing tank had returned to its original level. The CCG concluded that there had been water ingress, but that the list was stable as the water would not rise further than that level.

[10] The surveyor issued reports to the CCG on 9 and 26 December 2020, noting quantities of hydrocarbons aboard the ship.

[11] The surveyor concluded that, in its present state, the vessel posed an immediate environmental threat and recommended the vessel be moved to a secure mooring, which would deal with the decay of the existing moorings and allow further investigation of the degradation of the hull.

[12] The CCG elected to instead replace the moorings of the ship where it was anchored. The moorings were replaced on 6 and 7 January 2021.

[13] On 16 January 2021, CCG divers completed an underwater survey of the hull. This survey established that the hull was covered in marine growth, and that there was significant corrosion. However, the divers did not locate visual evidence of holes, cracks or openings.

[14] The conclusion of the dive survey report was that further investigations were necessary.

[15] The narrative indicates that following the survey, the CCG began the process of retaining contractors to carry out a bulk oil removal.

[16] On 9 July 2021, Marine Recycling Corporation contracted to remove bulk oils from the ship. On 30 July 2021, London Offshore Consultants contracted to supervise the operation.

[17] On 8 August 2021, the contractors arrived on site, and removal operations began on 9 August.

[18] By 18 August 2021, the bulk oil removal process was complete.[2]

[2] After oil removal, the vessel was handed over to the CCG VOC program. The ship was loaded onto a barge, towed away, and ultimately deconstructed.

## DETERMINATIONS AND FINDINGS

The claim submission is partially admissible

[19] The CCG is an eligible claimant. The relevant events occurred within the territorial sea or internal waters of Canada for the purposes of section 103 of the MLA and involved oil pollution from a ship.

[20] Some of the claims submitted by the CCG are for responding to a ship-source oil pollution incident. Such claims may be eligible for compensation.

[21] Therefore, the claim is admissible, subject to determinations as to which of the claimed costs were reasonably incurred with respect to a ship-source oil pollution incident and the timeliness of the claim submission.

The incomplete history of the *Mini Fusion*

[22] The Canadian federal government involvement with the *Mini Fusion* has a lengthy history. Some important parts of that involvement were not documented in the submission. As a result, the evidentiary record is incomplete.

[23] The record does show that the vessel, built in 1990 in Japan, arrived in Canada in October of 2009. It was carrying Tamil migrants and was intercepted and arrested by the Canadian Border Services Agency (the "CBSA") near Port Renfrew.

[24] The CBSA sold the vessel to an individual Canadian, who in 2012 moved the ship to Waddington Channel, in Doctor Bay, at Desolation Sound. The ship was then sold again, to Pacific Cargo Line, an Ecuadorian corporation, in 2019.

[25] The history of the CCG's interactions with the *Mini Fusion* are not documented in the claim submission. The CCG's in-house documents do not include any reference to earlier involvement. However, the survey report prepared by an outside surveyor notes at page 3:

> The vessel has been moored at Doctor Bay for approximately six to eight years and over that time it is reported the Owner's presence or attendance to the vessel has been somewhat sporadic. More recently it is reported the vessel's attitude has apparently changed with a notable port side list developing and no apparent response from the vessel owners to address the change.
>
> CCG have loosely monitored the vessel over the past year and noted the generally degrading aspect to the vessel and moorings, the lack of maintenance to bilges & mooring lines and the listing aspect to the vessel's attitude.
>
> Owners attendance reported approximately 10 – 12 months ago with apparent work undertaken to prepare the vessel for tow.

*Figure 2 – Screen capture from the Building Sea Marine report*

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[26] The observations associated with the earlier CCG interactions with the *Mini Fusion*, including the extent to which the vessel had been listing are not included or otherwise described in the submission. Whatever led the CCG to monitor the vessel in the first place is also undocumented.

[27] For its part, the narrative gives the impression that an outside party alerted the CCG to the *Mini Fusion* on 28 October 2022:

**Incident Notification**

On 28 October 2022, [redacted] ([redacted]) contacted CCG Vessels of Concern ("**VOC**") and reported that the Vessel had changed attitude and had begun to list to the port side. [redacted] was concerned that this change in attitude indicated the Vessel posed a threat to pollute. Based on this information, VOC informed the CCG Environmental Response ("**ER**") duty officer in order for CCG ER to assess the threat of pollution posed by the Vessel.

*Figure 3 – Screen-capture from CCG narrative with the name of the individual in question redacted*

***

[28] It is concluded that the CCG's interactions with the vessel started earlier than 28 October 2022, and it is not accepted that the list of the *Mini Fusion* was necessarily new as of that date. However, the evidence does not permit a conclusion that the list had been present for so long that it creates an issue with the timeliness of the claim. This item is noted, rather, because missing evidence respecting the CCG's history of interactions with the vessel complicated attempts to reach an appropriate resolution of this claim.

The state of the *Mini Fusion* as documented in the survey report

[29] The survey report notes that when the marine surveyor attended, the vessel's anchor chain and mooring lines had been degraded by 25–30%.[3] The evidentiary record does not establish whether this amounted to a meaningful threat. A degradation allowance is typically included when anchors are fitted to a vessel. Here, it is noted there is no evidence that the degradation exceeded the allowance, or even what the precise nature of the moorings were.

[3] In the "Significant aspects to condition and seaworthiness" portion of the report, at point 6, the report indicates that the 25–30% degradation of the *Mini Fusion*'s moorings had taken place since the vessel was placed at Doctor Bay. This is different than a finding of 25-30% degradation overall. Nothing in the report explains how the surveyor would have determined the amount of degradation since the vessel was placed at Doctor Bay, versus overall degradation, and it is concluded that the degradation was 25–30% overall and not only since the arrival at Doctor Bay.

[30] The survey report documents an estimate of 12,000 litres of various oils aboard the *Mini Fusion.*[4] This could justify taking measures to prevent oil pollution if coupled with other evidence establishing an incident.

[31] The report also documents that the vessel's ballast tanks were 75% full of water.

[32] The survey report noted that the *Mini Fusion*'s port number 2 wing void/ballast tank had a hole in it. This was determined by the surveyor by having that tank drained, and then observed the following day. The tank had refilled, demonstrating that a hole somewhere was allowing seawater into the tank. As there is an absence of any other explanation, it is accepted that this hole was the cause of the *Mini Fusion*'s list.

[33] Importantly, while it is clear that the port number 2 wing void/ballast tank had a hole, the ship was, overall, stable. Before the surveyor arrived, the outside hull was marked to aid in the tracking of any progress in the list. No progress of the list was observed. Later overflights by the CCG did not indicate any change in the list status. The survey report does not identify the listing as a concern in its conclusions. There is no indication that the angle of the list was ever measured.

[34] The survey report concludes:

***There remains a large total amount of fuel and oil onboard the MINI FUSION, spread amongst a dozen tanks as well as engine sumps, gear boxes and hydraulic power pack reservoirs.***

***It is the opinion of the undersigned that, without the vessel owners providing a plan and schedule to address the Significant Aspects to Condition and Seaworthiness listed above, the MINI FUSION poses an immediate and very present threat to the environment and navigable waters of BC.***

It is considered a reasonable course of action for CCG / Environmental Response, &/or associated agencies within CCG and Transport Canada, to compel the owners of the vessel to immediately present a plan and schedule to mitigate the threats, as identified within this report.

It is strongly suggested the vessel be relocated away from the remote area of Desolation Sound where currently moored, as soon as reasonably possible, and placed to a secure mooring with easy access for personnel from shore to effectively further assess the condition of the vessel and commence removal of onboard fuel and oil if that is considered necessary.

*Figure 4 – Screen capture from the Building Sea Marine report*

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[4] Later dated documents show that the quantity of oil aboard was even higher.

[35] Neither the narrative nor the evidence included with the claim submitted indicate that an effort was made to contact the vessel's foreign owners or to compel them to address the vessel's seaworthiness issues.

[36] As well, the CCG did not strictly follow the recommendations of the surveyor. Instead of relocating the vessel to a secured location, the CCG chose to replace the vessel's moorings and continue investigations at the remote site. While the materials do not explain this choice, it is accepted as a reasonable one.

Investigation of the hull by a CCG dive team

[37] The CCG tasked a CCG dive team from Sea Island to investigate the hull of the *Mini Fusion*.

[38] A sub-surface hull survey report prepared by the CCG dive team is included in the claim submission. It documents that initial work was completed on 7 and 8 January 2021, measuring data points on the hull in advance of the dive itself. The dive survey itself took place on 16 January 2021, and was conducted using wrist type sonic thickness gauges.

[39] The report notes that no visual evidence of holes, racks or openings due to corrosion or hull damage were located.

[40] The dive survey report concludes:

> 4 Discussion and Next Steps
>
> The CCG dive team was able to conduct a small sampling of various portions of the ship's hull. This was not a complete comprehensive survey of the entire hull due to the excessive amount of marine growth. A full hull cleaning may be required to further evaluate the overall condition of the hull. The areas of the ship's hull where excessive pitting of the steel was evident should require further examination.
>
> A marine surveyor should be consulted to review initial baseline data findings to determine the allowable, and acceptable amount of steel thickness remaining for this ship's hull.
>
> A second diving survey should be conducted at a future date to determine any measurable changes since the first survey. This survey can be completed by the CCG Richmond dive team.

*Figure 5 – Excerpt from the CCG dive survey report*

***

[41] In short, there was no finding that the vessel posed an immediate risk of polluting. The furthest the dive assessment goes is to suggest that further investigations be undertaken.

[42] There is no evidence that further investigations took place, as recommended. As a result, the evidence does not permit a finding that the *Mini Fusion* posed an immediate

threat to the environment. The CCG narrative appears to concede this point: "This survey confirmed that while the hull was severely corroded, the Vessel was stable for the time being and was not at immediate risk of sinking."

[43] The CCG's conclusion in this respect is accepted as accurate.

Determinations on admissibility

[44] The CCG response dealt with the *Mini Fusion* in two stages: first, all oil was removed from the ship *in situ*; second, the ship itself was towed away and deconstructed.

[45] By way of its claim to the Fund, the CCG seeks to recover costs from the Ship-source Oil Pollution Fund only for the first stage (the oil removal operations) and not for the subsequent removal and deconstruction of the ship. In many cases, such a division of costs and expenses is appropriate and sufficient to bring all oil pollution removal measures within the requirements for compensation under the MLA. On the facts of this case, the typical division between oil response and pure wreck removal measures is not the only difficulty.

[46] The CCG initially treated the report of the *Mini Fusion* listing as the starting point of an oil pollution incident. There is an outstanding factual question as to whether the reporting of the list to the CCG was the starting point of the CCG's knowledge that the vessel might pose a threat. With respect to the list, evidence suggests a somewhat earlier start date for that incident, but it is concluded that this possibility does not have a material effect on the result. The list was not so dated as to create a problem with the timeliness of expenses up to the dive survey, which can be attributed to the list.

[47] What does have a material effect on the result is that through taking appropriate measures, the CCG established that the list was not itself a problem. The evidence shows that the measures taken to assess the potential threat posed by the list and to resecure the vessel were reasonably taken, and that those measures were sufficient to deal with the (apparent) threat. The costs and expenses associated with those measures are allowed.

[48] The survey report does consider the possibility that oil removal might be undertaken. Importantly, the survey report does not conclude that such a measure was advisable. Rather, it concludes that it may have been advisable, presumably subject to the findings of further assessments. There is no evidence that any subsequent assessment made such findings. As a result, the conclusion that the oil removal was not a measure taken with respect to the list is confirmed.

[49] The costs and expenses incurred subsequent to the dive survey are therefore not established as reasonably taken with respect to the list. But that does not conclude the assessment thereof, as they may have been otherwise justifiable.

[50] The evidence suggests that the CCG decided to undertake oil removal (and vessel deconstruction) measures because of a non-imminent threat posed by the vessel as a result of the ongoing degradation of the hull. This creates a substantial problem when considering claims made under the MLA, rather than with respect to wreck removal legislation.

[51] First, there was no "grave and imminent" threat of oil pollution, given the conclusions of the survey report. Second, it does not appear that there was a relevant oil pollution incident.

[52] With respect to the first issue, a "grave and imminent" threat is required for a claimant to recover damages from the owner of a ship for oil pollution prevention measures. In 2018, the MLA was amended to include provisions which allow claimants to obtain compensation from the Fund in some circumstances, even where there is no grave and imminent threat of oil pollution.[5] In the result, the oil removal operation is not necessarily barred despite the absence of a "grave and imminent" risk of a discharge.

[53] The second issue is a substantial problem for the bulk oil removal claim. Notwithstanding the 2018 amendments, the MLA still requires an identifiable incident for a claim to be eligible.[6]

[54] This claim appears to be one in which the CCG incurred costs and expenses described at section 71 of the MLA.[7] Section 71 provides that the liability of the owner of a ship under the International Convention on Civil Liability for Bunker Oil Pollution Damage (the "Bunkers Convention") also includes the costs and expenses described thereunder—including, via section 180 of the *Canada Shipping Act, 2001*, SC 2001, c 26 (the "CSA")—removing, dismantling destroying or otherwise disposing of a ship or its contents.

[55] Liability of the owner of a ship under the Bunkers Convention is established at Article 3, which provides:

[5] See for example subsection 71(2) of the MLA, which provides that an owner is not liable for costs and expenses absent a "grave and imminent" threat, but which is paired with subsections 101(1.1) and 103(1.1) to allow some claims for those costs and expenses to be paid by the Ship-source Oil Pollution Fund.

[6] This is a case to which the Bunkers Convention applies, which provides "*Incident* means any occurrence or series of occurrences having the same origin, which causes pollution damage or creates a grave and imminent threat of causing such damage." In this decision, the word "incident" is sometimes used as a shorthand for "occurrence or series of occurrences", consistent with the MLA and the conventions it puts into force.

[7] Which liability regime applies to the vessel is a complicated point. As described later in this decision, to the extent that corrosion of the vessel constitutes an incident, that incident comprises a series of occurrences beginning long ago. The Bunkers Convention has been in force in Canada only since 23 June 2009. It might be argued that the Bunkers Convention therefore does not apply to this potential incident. This issue is left aside because, if that was the case, the portions of the claim at issue would be time barred.

**ARTICLE 3**

## Liability of the Shipowner

**1** Except as provided in paragraphs 3 and 4, the shipowner at the time of an incident shall be liable for pollution damage caused by any bunker oil on board or originating from the ship, provided that, if an incident consists of a series of occurrences having the same origin, the liability shall attach to the shipowner at the time of the first of such occurrences.

**ARTICLE 3**

## Responsabilité du propriétaire du navire

**1** Sauf dans les cas prévus aux paragraphes 3 et 4, le propriétaire du navire au moment d'un événement est responsable de tout dommage par pollution causé par des hydrocarbures de soute se trouvant à bord ou provenant du navire, sous réserve que, si un événement consiste en un ensemble de faits ayant la même origine, la responsabilité repose sur le propriétaire du navire au moment du premier de ces faits.

[56] While section 71 of the MLA clarifies that the liability of the owner of a ship under the Bunkers Convention includes costs associated with the exercise of CCG powers under section 180 of the CSA, it does so by modifying the convention rather than establishing a new standalone right of recovery. Article 3 clearly requires "an incident", and nothing in section 71 of the MLA or the 2018 amendments modifies that requirement.

[57] It is noted as well that subsection 103(2) of the MLA creates timelines for the submission of claims to the Administrator based on when the relevant occurrences first began. Subsection 103(2) is premised on the existence of an incident (here described as an occurrence or series of occurrences):

**Limitation or prescription period**

**(2)** The claim must be made

**(a)** within two years after the day on which the oil pollution damage occurs and five years after the occurrence that causes that damage; or

**(b)** if no oil pollution damage occurs, within five years after the occurrence in respect of which oil pollution damage is anticipated.

**Prescription**

**(2)** La demande en recouvrement de créance doit être faite :

**a)** s'il y a eu des dommages dus à la pollution par les hydrocarbures, dans les deux ans suivant la date où ces dommages se sont produits et dans les cinq ans suivant l'événement qui les a causés;

**b)** sinon, dans les cinq ans suivant l'événement à l'égard duquel des dommages ont été prévus.

**Multiple occurrences**

**(2.1)** For the purposes of subsection (2), if an incident as a result of which oil pollution damage occurs or in respect of which oil pollution damage is anticipated consists of a series of occurrences, the period of five years referred to in that subsection begins on the day of the first occurrence in that series.

**Plusieurs faits liés au même événement**

**(2.1)** Pour l'application du paragraphe (2), lorsque des dommages dus à la pollution par les hydrocarbures ou des dommages prévus résultent d'un événement constitué d'un ensemble de faits, le délai de cinq ans court à compter du premier de ces faits.

[58] It is considered that for response measures to be compensable under the relevant provisions of the MLA, they must be taken with respect to an identifiable incident, which can include an occurrence or a series thereof that result in an anticipated discharge.

[59] It is accepted that without intervention, the vessel would have eventually discharged oil, and that the oil removal avoided that non-imminent threat. Those conclusions do not by themselves bring the bulk oil removal effort within the provisions of the MLA because, on the facts, with the list having been addressed separately, there was no apparent incident to which the oil removal measures can be attributed.

[60] It is concluded that the bulk oil removal took place because eventually the vessel would have corroded to the point of a discharge. The same is true for every ship in the water. It is not accepted that corrosion, which will at some underdetermined point in the future cause a discharge, is an incident.

[61] Moreover, even if such corrosion constitutes an incident, it comprises a "series of occurrences". Ships corrode in saltwater environments. The record shows this vessel had been moored in salt water in Canada since 2009. It can be presumed that it was in a marine environment long before that. Even if corrosion by itself can constitute an incident, the first occurrence was decades before this claim was submitted. As a consequence, even if the corrosion identified constitutes an incident, the bulk oil removal expense must be rejected as being submitted after the time specified under subsection 103(2) of the MLA.

[62] The bulk oil removal aspect of the claim is therefore rejected.

## ASSESSING THE ELEMENTS OF THE CLAIM

Schedule 2: Contract Services

[63] The contract services portion of the claim includes the following summary of expenses incurred:

| CONTRACT SERVICES | AMOUNT | GST | TOTAL | REFERENCE |
|---|---|---|---|---|
| | | | - | |
| JEPSON MOBILE BOOMING | $12,700.00 | $635.00 | $13,335.00 | INV JMB 20-56 |
| *anchoring of the vessel | | | | PAID JAN 2021 |
| BUILDING SEA MARINE | $3,900.90 | $195.05 | $4,095.95 | INV 173 |
| *conducted the vessel survey | | | | PAID MAY 2021 |
| MARINE RECYCLING CORP | $864,810.00 | $43,240.50 | $908,050.50 | INV 9974 |
| *bulk oil removal | | | | PAID NOV 2021 |
| LONDON OFFSHORE CONSULTANTS | $34,464.00 | $1,723.20 | $36,187.20 | INV -LOC-CA-0026A |
| *management of bulk oil removal | | | | PAID DEC 2021 |

*Figure 6 – Summary of contract expenses*

[64] Jepson Mobile Booming resecured the vessel after it was surveyed by the marine surveyor. The surveyor's report does not actually conclude that moorings needed to be replaced (i.e., that were decayed to the point that they posed a risk). This expense is nevertheless accepted because the associated measures obviated the need to move the vessel to a secure facility and likely saved money in the result. This portion of the claim is allowed in its entirety.

[65] The Building Sea Marine survey is also accepted. The survey was commissioned to investigate a new development with the vessel. While it turned out the list was not a

threat, this expense was reasonably taken while there was an apparent new threat. This portion of the claim is allowed in its entirety.

[66] The Marine Recycling Corp. and London Offshore Consultants expenses are disallowed in their entirety. These expenses were incurred to carry out the bulk oil removal. For the reasons set out above, they are not compensable.

Schedule 3: Travel

[67] Travel expenses were claimed for ten CCG personnel. This claim was supported by 67 pages of Expense Report Statements.

[68] Due to the location of the vessel, travel was both unavoidable and costly.

[69] Accepted travel expenses are, however, limited to the period up to January of 2021, when the vessel was resecured. Those expenses total to $7,772.70, and that amount is allowed.

[70] Subsequent travel was related to bulk oil removal, and associated costs are disallowed.

Schedules 4 and 5: CCG Salaries and Overtime

[71] Salary and overtime expenses were claimed for nine CCG personnel.

[72] The salary costs associated with the initial response and assessments are accepted as reasonable. Those total to $12,904.50. Applying the same rationale to overtime costs yields a figure of $10,045.27. That amount is also accepted as reasonable.

[73] Costs associated with the bulk removal are disallowed.

Schedules 11 and 12: Pollution Counter-measures and Equipment and Vehicles

[74] The remote location of the vessel necessitated the deployment of costly CCG equipment to access the site.

[75] Two CCG PRV III vessels were used to assist with the marine survey. The log extracts from this effort that were provided to the Fund are so minimal that they do not allow a reconstruction of precisely what activities were carried out. The associated expenses are nevertheless accepted. The decision to use two PRV III craft for the initial survey efforts was appropriate and necessary. Eight days of use are associated with this part of a claim, at a cost of $4,209.50 per day. The total for this part of the claim is $33,676.00, which is accepted in its entirety.

[76] In addition, one PRV III was used on 7 January 2021 to transport CCG response personnel back to the site for the resecuring operation, along with a rigid-hull inflatable vessel. One day is claimed for the PRV III ($4,209.50) and four days for the other vessel ($391.62 per day). The total for this part of the claim is $5,775.98, which is accepted in its entirety.

[77] The CCG also claims for the use of equipment during the bulk oil removal operation. Costs associated with the bulk removal have been disallowed for the reasons noted above.

[78] The CCG claims for the use of vehicles for eight days between 18 and 21 November 2020 and 5 and 8 January 2021 at a daily charge-out rate of $65.57. The total for this portion of the claim is $524.56, which is accepted. Notably, this is more than the CCG indicated was claimed in its summary (see Figure 1).

[79] The CCG also claims for use of a vehicle during the bulk oil removal operation. These costs have been disallowed for the same reasons noted above.

Schedule 13: Administration

[80] The CCG has applied a rate of 3.09% to its salary claims without EBP, plus travel. This rate has been previously agreed upon between this claimant and the Administrator as a formula to compensate for administrative costs associated with oil pollution responses.

[81] With the reductions to salary and travel expenses, this portion of the claim has been recalculated and accepted at $554.15.

## OFFER SUMMARY AND CLOSING

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

| Item | Claim | Offer |
|---|---|---|
| Schedule 2 - Contracts | $961,668.65 | $17,430.95 |
| Schedule 3 - Travel | $15,739.13 | $7,966.70 |
| Schedule 4 - Salary | $19,642.84 | $12,904.50 |
| Schedule 5 - Overtime | $19,227.30 | $10,045.27 |
| Schedule 11 - PCME | $64,708.98 | $39,451.98 |
| Schedule 12 - Vehicles | $393.43 | $524.56 |
| Schedule 13 - Administration | $1,027.48 | $554.15 |
| **Totals** | **$1,083,551.42** | **$88,878.11** |

*Table 1 – Summary of amounts claimed and allowed*

[83] Costs and expenses in the amount of $88,878.11 are accepted and will be paid together with statutory interest calculated at the date of payment if the Offer is accepted.

***

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

[85] 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.

[86] 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.

[87] 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.

[88] 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.
Administrator, Ship-source Oil Pollution Fund