



OFFER LETTER

Ottawa, 11 March 2024
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BY EMAIL

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Via email to [DFO.CCGERCostRecoveryRSP-
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RE: *M/V UMIAVUT* — Lac St. Pierre, Québec
Incident date: 2018-08-12

SUMMARY AND OFFER

[1] This letter responds to a submission from the Canadian Coast Guard (the “CCG”) with respect to the motorized vessel UMIAVUT (the “Vessel”), which grounded on or about 12 August 2018, in St. Pierre Lac, Québec (the “Incident”).

[2] On 10 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 \$31,072.39 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 \$17,395.61 (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, on 12 August 2018, the CCG was notified at 1106 hours that a vessel had lost steering due to the rudder failing and went aground in Lac St. Pierre, Québec. The vessel was reported to contain carburants and petrochemicals on board, which caused the CCG to determine that a threat of pollution existed.

[8] The CCG mobilized a team of eight personnel to observe the incident response and prevent oil pollution damage. No leak or pollution was observed.

[9] On 13 August 2018, the CCG was in contact with the owner and relevant organizations. The owner hired a contractor to refloat the vessel, and the CCG would monitor that plan.

[10] On 14 August 2018, the attempts to refloat the vessel were unsuccessful. The CCG monitored the attempts. Issues were noted operationally as the vessel was being unloaded and refloating was attempted. CCG supported with the use of a hovercraft.

[11] On 15 August 2018, the owner and contractor devised a new response plan. The CCG continued to monitor the vessel.

[12] On 16 August 2018, the vessel was refloated successfully by the contractor. The CCG monitored by helicopter. No pollution was observed at any point. That concluded the CCG operation.

Cost summary

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

Schedule	Cost claimed
1 – Materials & Supplies	nil
2 – Contract Services	nil
3 - Travel	\$221.25
4 - Salaries - CFT personnel	\$5,586.19
5 - Overtime - CFT personnel	\$3,604.86
6 - Other allowances	nil

Schedule	Cost claimed
7 – Salaries Casual Personnel	nil
8 – Ships Costs (excluding fuel & overtime)	nil
9 – Ships propulsion fuel	\$1,583.44
10 – Aircraft	\$19,217.12
11 - Pollution counter-measures equipment (PCME)	nil
12 - Vehicles	\$135.12
13 - Administration	\$724.41
Total Claim	\$31,072.39

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

[14] 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.

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

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

[17] 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.

[18] 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

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

The Vessel posed a pollution threat and some of the measures taken are admissible

[20] The vessel was loaded with approximately 201m³ of Heavy Fuel Oil and 77m³ of diesel fuel on board. There was never any evidence of oil pollution caused by the ship.

Considering the amount of oil on board, it is accepted that there was a risk of oil pollution meriting at least an initial response.

[21] It is concluded that some of the measures taken by the CCG to respond to this incident are reasonably within the scope of oil pollution prevention. However, the threat of oil pollution was low because of the vessel's low speed, the lake's soft bottom, and the owner's actions to mitigate the threat.

CLAIM AND OFFER DETAILS

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

[23] Under Part 7 of the MLA, the measures taken to respond to an oil pollution incident and the resulting costs must be reasonable in order to be compensable by the Fund. To the extent that reasons are not already set out in this letter, the sections below explain why certain portions of the CCG's claim have been allowed while others have been decreased.

Schedule 3 – Travel

Claimed: \$221.25

[24] The submitted costs are presumably for meals for the four CCG personnel involved in helicopter operation on 14 and 16 August. The claim is missing definitive evidence linking the expenses to these individuals. However, the expenses are in line with the National Joint Council (NJC) directive rates for the period in effect.

[25] The costs for all three CCG personnel are accepted. The travel costs are supported by screenshots and the "Note de Service" from the pilot. The amount of the costs is also reasonable.

The travel portion of this claim is accepted in its entirety.

Schedule 4 – Salaries – Full Time Personnel

Claimed: \$5,586.19

[26] These costs are for the regular hours worked by the CCG personnel at various levels and hourly rates, including 17.6% Employee Benefit Plan (EBP). The rates per employee provided are reasonable when checked against the Treasury Board Secretariat website, but the claim lacks sufficient documentation to solidify the claims made in this schedule. Much of the analysis is based on assumptions from comparing the provided hourly rates in Excel spreadsheets to the statements made in the narrative.

[27] The CCG claims salary costs for sixteen personnel, which include the On-Site Captain, the Duty Officer, the Planning Officer, the Logistics Officer, the Operations Officers, the Situation Unit Leader, the helicopter pilots, and the hovercraft crew. The groups and levels of the personnel involved are those that would be reasonably expected and they all either fall within the claimed 2018 group and level or are lower. Apart from the Duty Officer (the “DO”) and one of the Operations Officers (“O1”), none of the hours claimed are supported by any documentation.

[28] The accepted salary and overtime for the 6 days of the incident are summarized in the following table, with reasons for reductions provided below:

Date August 2018	Accepted Salary cost with 17.6% EBP	Accepted Total daily OT
Sunday 12 th	Not applicable	\$882.60
Monday 13 th	\$335.95	\$296.85
Tuesday 14 th	\$630.48	\$325.43
Wednesday 15 th	\$335.95	\$85.73
Thursday 16 th	\$546.36	\$560.53
Friday 17 th	\$492.70	\$196.02
Totals	\$2,341.44	\$2,347.16

[29] The overtime hours incurred by the DO and O1 on 12 August are accepted as presented. The DO was working from 1106 hours until around 2000 hours to obtain more information about the incident and distribute that information. The DO also provided updates to the O1.

[30] On 13 August, the salary and overtime hours of the DO and one overtime hour from the O1 is accepted, while the rest is rejected. It was clear from the excel spreadsheets provided that the DO monitored the incident. The hour of work from the Planning Officer to get a marine forecast is excessive, as it could have been performed by the DO.

[31] On 14 August, the salary and overtime of the DO, plus one hour of salary and overtime respectively for the O1 are accepted. The DO was once again monitoring the incident, and the O1 incurred those hours for the purpose of receiving updates which is reasonable. Another two claimed hours for a different Operations Officer providing a safety and security plan to CCG helicopter crews is excessive.

[32] The use of two CCG personnel on the helicopter is reasonable, and it is deduced, with reference to the provided excel spreadsheet listing the employees’ hours worked, that it was two other Operations Officers on board the helicopter. The claim is reduced to three hours for each because of a delayed takeoff according to the narrative. The rest of the time for these two Officers is rejected due to a lack of explanation for what they did. The 4 hours of work from the Logistical Officer, the half hour of work from the Planning

Officer, and the 3 hours of work from the Situation Unit Leader are rejected due to the work performed being redundant with other personnel.

[33] On 15 August, the salary and overtime hours of the DO are accepted because it is reasonable to have someone monitor the planning between the owner and the owner's contractor to refloat the vessel. The work of two Operations Officers, presumably the ones in the helicopter on 14 August, to prepare a flight report and possibly transfer photos are rejected given the lack of a report provided in the claim. The two hours of work from the Situation Unit Leader to gather new information to document the air mission is unexplained and unnecessary. The 5.5 hours to the Logistics Officer to arrange the next flight and develop a buoy replacement plan is unreasonable for being excessive. The work of the Planning Officer to obtain a marine forecast is rejected because it could have been done by the DO during the time accepted for his efforts.

[34] On 16 August, the salary of the DO is accepted. The lack of a helicopter log leads to the assumption based on the Excel spreadsheet that flight time was from around 1200 hours to 1530 hours. Three hours of salary and overtime of the two Operations Officers assumed to be the ones in the helicopter are accepted because that was the accepted amount of time the helicopter was in the air, but the other hours claimed for them are unsubstantiated and therefore rejected. This point is covered in more detail below in Schedule 10. The work by the Liaison Officer and Planning Officer is rejected for duplication of the DO's work. The 3.5 hours of work for the Logistics Officer to finalize planning for the helicopter flight is excessive and unsubstantiated. The lack of helicopter flight logs makes it difficult to substantiate the claim of 6.5 hours worked by the helicopter pilots. Without the logs, it is also impossible to reconcile the claimed overtime after 1600 hours when the vessel was refloated around 1530 hours.

[35] On 17 August, the salary hours claimed are rejected due to being unsubstantiated and irrelevant to oil pollution. The salary and overtime hours of the hovercraft crew on this day are accepted despite the lack of any evidence to substantiate the claimed hours.

The salaries portion of the submission is allowed in part in the amount of \$2,341.44.

Schedule 5 – Overtime – Full Time Personnel Claimed: \$3,604.86

[36] These costs are for the CCG personnel at various levels and hourly rates.

[37] The overtime hours accepted and rejected are covered in detail in Schedule 4.

The overtime portion of the submission is allowed in part in the amount of \$2,347.16.

[38] In accordance with the CCG ER Cost Recovery Manual, the fuel charges are to be for the standing offer price for location of the incident at the requisite time. That information was not provided by the CCG to the Fund, and it was not accessible, so the CCG provided a receipt.

[39] The CCG did not submit a claim for the hovercraft, but claimed for the salary costs and the fuel associated with the operation to remove and then replace the buoy. There is no vessel log or fuel receipts in the claim, so this analysis is solely based on an email between the hovercraft unit and the CCG that was provided.

[40] Based on the email, CCG claims that 1,524 litres of fuel at a cost of \$1,589.39 was used by the hovercraft during the 5-hour window where it was operational for the incident. The time commitment appears to be reasonable. The hovercraft uses normal diesel fuel.

[41] The cost of \$1,589.39 for 1,524 litres of fuel works out to 1.04 per litre, which is considered reasonable. The average cost of diesel fuel between Montréal and Québec from July to September 2018 was \$1.33 per litre.

[42] The fuel consumption of this hovercraft is between 100 and 300 litres per hour, depending on the load. If the engines were running the entire time, this suggests an estimated fuel usage between 2,000 and 6,000 litres for the 5 hours of operations. The CCG claimed for the use of 1,524 litres, which is considered reasonable.

The ship propulsion fuel portion of the submission is accepted in its entirety.

[43] The costs for the helicopter represent 62% of the total claim. The CCG failed to provide the supporting helicopter flight log, passenger manifest, tasking messages, or evidence of fuel costs and use. The CCG ER Cost Recovery Manual includes fuel and flight crew in the cost. Aircraft crew travel and overtime are covered by other schedules.

[44] Due to the lack of evidence, the analysis is based on the email between the Helicopter unit and CCG on August 21 and was compared against the CCG Salary Excel spreadsheet and CCG narrative. It is possible that the 9.1 hours of flight time overall as indicated in the email is accurate, however when comparing that to the excel spreadsheet's documentation of the CCG personnel most likely involved in the aerial operation, only 6 hours of flying time can definitively be linked to incident oversight.

[45] The CCG Bell 429 helicopter was used for this incident, and it has a maximum endurance of 4.5 hours, and thus a maximum range of about 275 nautical miles at

155 knots. The distance from the CCG helicopter base at the Québec Airport to the incident site was about 64 nautical miles and about a 30-minute trip. It is highly likely that the helicopter stopped at Trois Rivières for fuel on 14 August when the operation was delayed to account for the claimed 9.1 hours. Since the claimed 9.1 hours is not split up by day, it would be reasonable to accept 3 hours for each of the two days for a total of 6 flying hours. This allows for a 1 hour round trip and 2 hours of monitoring per day.

[46] Internet searches for Bell 429 operating rates were as low as \$1,025 per hour, and comparable rates ranged from \$1,635 to \$1,791 per hour. The rate charged here, \$1,730 per hour as provided by the Regional Supervisory Helicopter Pilot, appears to be reasonable given the information available in the claim.

[47] The claim for the fuel use is rejected for duplication, as that cost should already be included in the hourly rate. The pilot overtime is included in schedule 5, and the meals are comprised in schedule 3. Both claims are rejected for duplication.

The aircraft portion of the submission is allowed in part in the amount of \$10,380.00.

Schedule 12 – Vehicles

Claimed: \$135.12

[48] The CCG claimed \$0.22 per kilometre plus the \$67.56 daily rate for use of two vehicles presumably one for each of 14 and 16 August, to carry CCG personnel between the CCG base at the Québec Airport and the incident site. Vehicle and fuel logs were not submitted, however the costs match the rates in the CCG charge-out manual and are reasonable.

The vehicles portion of the submission is accepted in its entirety.

Schedule 13 – Administration

Claimed: \$724.41

[49] The CCG submission advances a claim for administration costs at a rate of 3.09%, applied against claimed salaries, travel, and aircraft expenses.

[50] The 3.09% rate is generally accepted as reasonable. In this case, there are four items that qualify for administrative costs: materials and supplies, travel, salaries, and ship costs. When recalculating the administrative costs for the readjustments to the salary, travel and aircraft claims, the sum of the recommended costs (Schedule 3 - \$221.25, Schedule 4 [less EBP] = \$1,929.35, Schedule 10 – \$10,380.00) becomes \$12,530.60. Applying the 3.09% administrative rate to this amount equals \$387.20.

The administration portion of the submission is allowed in part in the amount of \$387.20.

OFFER SUMMARY AND CLOSING

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

Schedule	Cost claimed	Recommendation
1 – Materials & Supplies	nil	nil
2 – Contract Services	nil	nil
3 - Travel	\$221.25	\$221.25
4 - Salaries - CFT personnel	\$5,586.19	\$2,341.44
5 - Overtime - CFT personnel	\$3,604.86	\$2,347.16
6 - Other allowances	nil	nil
7 – Salaries Casual Personnel	nil	nil
8 – Ships Costs (excluding fuel & overtime)	nil	nil
9 – Ships propulsion fuel	\$1,583.44	\$1,583.44
10 – Aircraft	\$19,217.12	\$10,380.00
11 - Pollution counter-measures equipment (PCME)	nil	nil
12 - Vehicles	\$135.12	\$135.12
13 - Administration	\$724.41	\$387.20
Total Claim	\$31,072.39	\$17,395.61

[52] Costs and expenses in the amount of \$17,395.61 are accepted and will be paid together with statutory interest calculated at the date of payment if the Offer is accepted.

[53] 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.

[54] 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.

[55] 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.

[56] 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