



OFFER LETTER

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BY EMAIL

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**RE: *M/V Maggie Mae* — Discovery Harbour Marina, Campbell River, British Columbia
Incident date: 2022-11-04**

SUMMARY AND OFFER

[1] This letter responds to a submission from the Canadian Coast Guard (the “CCG”) with respect to the motor vessel *Maggie Mae* (the “Vessel”), which sank on or about 4 November 2022, in the Discovery Harbour Marina near Campbell River, British Columbia (the “Incident”).

[2] On 24 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 \$104,739.19 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 \$99,855.19 (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 4 November 2022, the CCG received a notification from marina staff that a 64-foot wooden motor vessel had sunk at the Discovery Harbour Marina. Marina staff noted a significant amount of fuel on the water and placed sorbent pads on the spill. The lifeboat crew confirmed recoverable fuel on the water and deployed containment boom around the diesel fuel coming from the vessel.

[8] At 1623 hours, the CCG identified and contacted the owner. He was unsure of the amount of fuel onboard, but the header (auxiliary tank) contained at least 50 gallons of diesel. The owner failed to create a pollution prevention plan, so the CCG hired Strategic Resources Inc. ("Strategic") to maintain the sorbents and boom.

[9] On 5 and 6 November 2022, Strategic attended the incident site. Strategic reported minor sheening on the water and the containment efforts were effective. The owner was in discussions with a contractor to remove the vessel.

[10] On 10 November 2022, the CCG took over the removal planning from the owner due to failure on the part of the owner to provide an adequate plan.

[11] On 17 November 2022, the CCG hired Colmor Marine Services ("Colmor") to remove the vessel once it was no longer a pollution threat.

[12] On 14 December 2022, Colmor successfully lifted the ship, boarded the vessel, and removed approximately 30 gallons of diesel fuel and 10 gallons of engine oil.

[13] On 15 December 2022, CCG personnel attended the incident site to remove the remaining sorbents and boom. That concluded the CCG operation.

Cost summary

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

Schedule	Cost claimed (\$)
1. Material and supplies	Nil
2. Contract services	83,015.51
3. Travel	771.70
4. Salaries – Full time personnel	1,564.98
5. Overtime – Full time personnel	1,232.27
6. Other allowances	Nil
7. Salaries – Casual personnel	Nil
8. Ship costs (excluding fuel & overtime)	Nil
9. Ship propulsion fuel	Nil
10. Aircraft	Nil
11. Pollution countermeasures equipment	17,826.33
12. Vehicles	264.26
13. Administration	64.14
Total claim	104,739.19

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

[15] 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.

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

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

[18] 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.

[19] 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

[20] 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

[21] Marina staff reported sheening of recoverable oil surrounding the sunken vessel. In addition, the vessel possessed approximately 50 gallons of diesel fuel aboard. The vessel remained a pollution threat after sinking, albeit a low one. The threat merited at least an initial response – which is what the CCG carried out.

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 2 – Contract Services Claimed: \$83,015.51

[24] These costs arise from invoices for services provided by multiple different companies, Strategic in the amount of \$9,977.51, and Colmor for \$73,038.00. The invoice from Strategic is for the monitoring of the vessel and maintenance of the sorbents and boom from 4 November to 16 November. The invoice from Colmor is for the refloating and removal of the vessel.

[25] The Strategic invoice is accepted. The invoice is supported by documentation covering the work performed on each day. The allocation of work for each day was reasonable and necessary, and the costs were reasonable given the amount of work claimed. The tasks that Strategic performed were also necessary because the owner did not enact an adequate response plan and CCG did not take over planning until 10 November.

[26] The Colmor invoice is also accepted. This invoice was accompanied by a statement of work and a basis of payment along with other documentation. The statement of work was met by the contractor. The work performed was reasonable and necessary for the purpose of preventing further pollution. The costs for the work performed were also reasonable.

The contract services portion of this claim is allowed in its entirety.

Schedule 3 – Travel

Claimed: \$771.70

[27] These costs arise from the transportation of two CCG ER personnel on 14 and 15 December. The expense is documented in the expense report, although it was not signed. Hotel receipts were included in the claim, and meals and incidentals were in line with approved Treasury Board rates. The presence of CCG personnel for this phase of operations was reasonable, and the costs were reasonable as well.

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

Schedule 4 – Salaries – Full Time Personnel

Claimed: \$1,564.98

[28] These costs are for the two CCG Response Specialists who attended the incident site on 14 and 15 December 2022. The claim provides the total hours worked for each individual and the respective hourly rates as well as descriptions of work performed.

[29] On 14 December, both employees worked from 0700 hours to 2100 hours. The claim indicates they monitored the lifting of the vessel, lightered the vessel, and installed pumps.

[30] On 15 December, both employees worked from 0700 hours to 1800 hours. The claim indicates they collected the boom, packed up the equipment and returned to base in Victoria.

[31] It was reasonable for CCG personnel to attend this part of the operation and perform those tasks. The costs were also reasonable.

The salaries portion of the submission is allowed in its entirety.

Schedule 5 – Overtime – Full Time Personnel

Claimed: \$1,232.27

[32] These costs are for the two CCG Response Specialists who attended the incident site on 14 and 15 December 2022. The submission provides supporting documentation for this part of the claim.

[33] On 14 December, both employees claimed 6.5 hours at 1.5x. On 15 December, both employees claimed 3.5 hours at 1.5x. The description of the work performed is noted in Schedule 4.

[34] It was reasonable and necessary for CCG personnel to incur overtime hours for this part of the operation. The work performed and costs were also reasonable.

The overtime portion of the submission is allowed in its entirety.

Schedule 11 – Pollution Counter-measures Equipment Claimed: \$17,826.33

[35] The CCG claimed \$16,884.00 for the use of inshore 24-inch boom, using 600 feet and the daily charge per foot was \$0.067. The CCG also claimed \$500.01 for electric pumps, \$25.65 for discharge hoses, and \$416.67 for pump-gear-peristaltic. The need for all this equipment is established given the pollution from the vessel and the tasks required to remove the vessel.

[36] The CCG/6031 Manual lists the estimated replacement cost as \$20.00 per foot. Thus, the replacement cost for 600 feet would be \$12,000.00. This should be treated as an effective cap on claims for the use of a boom. The claim for the containment boom is reduced to reflect this difference.

The pollution counter-measures equipment portion of the submission is allowed in part in the amount of \$12,942.33.

Schedule 12 – Vehicles Claimed: \$264.26

[37] The CCG claimed \$0.22 per kilometre plus the \$67.56 daily rate for use of one vehicle, a Ford F-250 pickup, to carry the two CCG personnel to the incident site and back on 14 and 15 December 2022.

[38] The Vehicle Log indicates that 587 km were driven during the response, but the Personnel and Equipment Daily Logs indicate 598 km were driven. The cost claimed is consistent with the stated daily rate and the distance noted in the Vehicle Log. The use of transportation was necessary, and the costs were reasonable.

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

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

[40] The 3.09% rate is generally accepted as reasonable. When recalculating the administrative costs for the readjustments to the salary and travel claims, the sum of the recommended costs (Schedule 3 - \$771.70, Schedule 4 - \$ less EBP = \$1,304.15) becomes \$2,075.85. Applying the 3.09% administrative rate to this amount equals \$64.14.

The administration portion of the submission is allowed in its entirety.

OFFER SUMMARY AND CLOSING

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

Schedule	Cost claimed (\$)	Offer \$
Material and supplies	Nil	Nil
Contract services	83,015.51	83,015.51
Travel	771.70	771.70
Salaries – Full time personnel	1,564.98	1,564.98
Overtime – Full time personnel	1,232.27	1,232.27
Other allowances	Nil	Nil
Salaries – Casual personnel	Nil	Nil
Ship costs (excluding fuel & overtime)	Nil	Nil
Ship propulsion fuel	Nil	Nil
Aircraft	Nil	Nil
Pollution countermeasures equipment	17,826.33	12,942.33
Vehicles	264.26	264.26
Administration	64.14	64.14
Total claim	104,739.19	99,855.19

Table 1 – Summary of amounts claimed and allowed.

[42] Costs and expenses in the amount of \$99,855.19 are accepted and will be paid together with statutory interest calculated at the date of payment if the Offer is accepted.

[43] 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.

[44] 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.

[45] 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.

[46] 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,

Mark A.M. Gauthier, B.A., LL.B
Administrator, Ship-source Oil Pollution Fund