

Cormorant (2015)

Location: La Have River, Bridgewater, Nova Scotia
Case number: 120-672-C1

The Incident

On March 18, 2015, the Canadian Coast Guard (CCG) was notified that the *Cormorant*, a 2,174-tonne former diving support ship in the Royal Canadian Navy that had been decommissioned and sold in 1997, was listing heavily at the dock in LaHave River, Bridgewater, Nova Scotia, and leaking oil. CCG provided the vessel owner with a Notice of Intent informing him of his responsibilities under the *Marine Liability Act* and a Direction Order to develop a salvage plan to refloat the vessel. The owner engaged a salvage company. CCG assumed the role of Federal Monitoring Officer. The local fire department assisted by using water pressure to blast the snow and ice off the partially sunken vessel, and a containment boom was deployed around the wreck.

On May 5, CCG took over the role of On-Scene Commander after having been informed by the salvage company representatives that the salvage operations would not be continued until the issue relating to the ownership of the vessel was settled. RMI Marine Limited (RMI) was engaged to take care of the salvage operations. With the help of divers, RMI removed 5,850 litres of waste oil from the engine-room bilge and 350 litres of hydraulic oil from several tanks.

On May 27, the *Cormorant* was refloated, and all the absorbent pads and containment boom were recovered.

Measures taken by the Administrator

When CCG took over the role of On-Scene Commander on May 5, 2015, the Administrator engaged a marine technical surveyor to attend the site and observe the measures being taken. The surveyor made visits to the site and reported on the progress of the salvage operations.

The Claim

On November 2, 2015, CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator for costs and expenses incurred in the amount of \$549,581.18, pursuant to the *Marine Liability Act*.

The Administrator determined that the claim was admissible under Part 7 of the Act.

Assessment and Offer

Additional supporting information was requested for assessment purposes. After investigation and assessment of the claim, the daily rates claimed for some of the equipment were reduced to the rates specified in CCG document "EKME 3315540" Edition 1 that had been provided to the Ship-source Oil Pollution Fund (SOPF). Therefore, an offer for the established amount of \$515,267.25 was sent to DFO/CCG on March 29, 2016. The offer was accepted by DFO/CCG and, on or about August 19, 2016, a payment in the amount of \$534,340.76 including interest was made to DFO/CCG as full and final settlement.

Recovery Action

On September 1, 2016, counsel for the Administrator filed a Statement of Claim and an Affidavit to Lead Warrant with the Federal Court. The vessel was subsequently arrested.

The Port of Bridgewater brought a motion for permission to have certain maintenance bills paid and to be paid off the top of the proceeds of sale, without, however, bringing a formal motion for sale. The Administrator objected, seeking a formal motion for sale be filed, and the conditions that the vessel be removed from Canada by a financially capable new owner. By Order dated April 26, 2017, the Court granted time to the Port to produce a valuation survey, the result of which ultimately concluded the value of the vessel was not worth the time or money to bring it to sale. No motion for sale has since been brought.

The Administrator brought motion for summary judgment on the issue of ownership (not liability) which was heard in June 2018, along with the motion of the Port of Bridgewater for judgment on default of payment for outstanding berthage. After the motion, the Court requested further submissions. All counsel made written submissions by separate letters. The Court then requested a second oral hearing be held in March 2019. The second summary judgment hearing on the issue of ownership took place on March 5, 2019. The decision is currently under reserve.

Status

The file remains open given that no final judgment has been issued.

Related Files

Hannah Atlantic (2014), Case number: 120-652-C1 (same location of incident)

Ryan Atlantic II (ex Cape Rouge) (2014), Case number: 120-653-C1 (same location of incident)