

Marathassa (2015) (CCG)

Location: Vancouver Harbour, B.C.

Case number: 120-673-C1

The Incident

On April 8, 2015, the Canadian Coast Guard (CCG) was informed that there was an oil spill in English Bay near the entrance to Vancouver Harbour, B.C. The Cypriot registered bulk carrier *Marathassa* (43,229 GRT), which was at anchorage number 12 in English Bay, was identified as the probable source of the pollution. The vessel's Master initially denied any responsibility for the oil spill. Transport Canada Marine Safety (TCMS) inspectors later traced the source of the spill to a mechanical defect aboard the *Marathassa* which allowed bunker oil into the bilge.

Later that day, the CCG contracted the Western Canada Marine Response Corporation (WCMRC), a Transport Canada Certified Response Organization. The CCG took command of the operation as the lead agency and the WCMRC began collecting fuel oil and skimming operations. The *Marathassa* was boomed in the early morning on April 9, 2015, by WCMRC. This delay had a significant impact on the spread of the recoverable pollution.

The cleanup work executed by the WCMRC and the various subcontractors engaged by the CCG lasted 16 days, concluding on April 23, 2015. The *Marathassa* was released on April 24, 2015 and departed English Bay the next day.

A review of the incident found that the volume of the oil spill was approximately 2,800 litres of IFO 380, a ship's bunker product. It was estimated that about 600 litres, or more, could have impacted the shoreline. The coastal area surrounding English Bay contains several parks with popular beaches accessible from the downtown Vancouver area. The beaches are major tourist attractions and frequented by the local population all year long. English Bay and Burrard Inlet are important wintering areas for numerous marine birds and waterfowl, and have been designated by Birdlife International as important bird areas based on bird population and habitat thresholds.

Measures taken by the Administrator

A Letter of Undertaking (LOU) was received from the ship's insurer and the Administrator was advised that claims were being dealt with by counsel for the insurers.

The Claim

On April 3, 2017, while still pursuing settlement discussions with the insurer, the CCG acting on behalf of the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator in the amount of \$2,431,746.57 pursuant to the *Marine Liability Act*.

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

Assessment and Offer

At the request of the claimant, the Administrator kept the assessment on hold pending on-going settlement discussions between the claimant and the insurer. On June 16, 2017, CCG asked the

Administrator to proceed with the assessment and advised that they would inform the shipowner's representative of their decision.

During the assessment, the Administrator's office made several requests to CCG for additional information, which was provided. Under her investigative powers pursuant to the *Inquiries Act*, the Administrator also requested from Transport Canada Marine Safety a copy of their investigative report on the *Marathassa*.

Three different claims concerning the *Marathassa* incident of April 8-24, 2015 were eventually submitted. The measures and activities linked to the Incident Command System (ICS) identified in the individual claims (and their respective documentation) overlapped/intersected and therefore had to be assessed as an integrated package by the Administrator to ensure that the measures were part of the integrated plan and had not been duplicated; i.e. although each claim had to be assessed for itself, it had to be understood in the light of the global operation that took place and that involved efforts from other parties. The understanding of this global picture was necessary to make a determination as to the reasonableness of measures and activities and the reasonableness of the costs of the individual elements of each claim.

On January 17, 2018, the Administrator sent a draft letter of offer to DFO/CCG, for comments. On February 22, 2018, the Administrator received comments from DFO/CCG. On March 29, 2018, the Administrator made an offer for the established amount of \$1,855,627.75 plus interest, as full and final settlement. The salient reductions from the CCG claim were due to some duplication of effort with other parties to the ICS, some ineligible communications costs, costs incurred when there was no longer any pollution risk, and a number of charges paid to subcontractors that were found to be unreasonable.

On May 22, 2018, CCG accepted the offer and on May 25, 2018 the Administrator directed payment of \$2,027,940.44 (including \$172,312.69 in accrued interest) to CCG.

Recovery action

In May 2018, a demand letter was sent to the shipowner's counsel. On September 18, 2018, an amount of \$1,063,653.19 was received by the Administrator, as an advance payment. On January 22, 2019, the Administrator received an amount of \$888,036.32, including interest, representing the balance of the full payment of her subrogated claim of the CCG.

Having received the full recovery amount, the Administrator signed and sent the owner a Release and Settlement letter in January 2019.

Status

The file was closed on February 15, 2019.

Related Files

120-673-C1-1 (VFPA): same incident, claim from the Vancouver Fraser Port Authority
120-673-C1-2 (City of Vancouver): same incident, claim from the City of Vancouver