

Marathassa (2015) (City of Vancouver)

Location: Vancouver Harbour, B.C.

Case number: 120-673-C1-2

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 February 21, 2017, the City of Vancouver submitted a \$569,053.13 claim to the ship insurer's counsel, with copy to the Administrator's counsel, for damages incurred in relation to the *Marathassa* incident. The City of Vancouver advised that should no settlement be reached before March 21, 2017, they would seek payment from the Administrator directly.

On April 10, 2017, the City of Vancouver confirmed to the Administrator that their February 21, 2017 claim in the amount of \$569,053.13 was now submitted to the Administrator.

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 assessment on hold pending on-going settlement discussions between the claimant and the insurer. Assessment resumed in July 2017. Additional information was requested from the claimant.

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 that measures 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, after investigation and assessment of the claim, the Administrator sent a draft letter of offer to the City of Vancouver, for comments. On February 22, 2018, Counsel for the City of Vancouver reverted to the Administrator with comments and submissions on this draft letter of offer.

On April 5, 2018, having reviewed the further submissions, the Administrator issued her offer. On April 13, 2018, City of Vancouver submitted it had not had a fair chance to review the documentation relied on to assess its claim and that it had therefore not been able to respond accordingly to the draft decision.

On April 19, 2018, the Administrator agreed to share the documentation from third parties relied upon to assess the City of Vancouver's claim. Accordingly, the Administrator withdrew the offer and issued it as second draft offer open for further submissions and comments.

On July 3, 2018, Counsel for the City of Vancouver made its submissions on second draft offer.

On March 20, 2019, the Administrator made an offer for the established amount of \$235,748.23, plus interest, as full and final settlement to the claim of the City of Vancouver. As of March 31, 2019, the offer had not been accepted yet.

Status

The file remains open

Related Files

120-673-C1 (CCG): same incident, claim from the Canadian Coast Guard

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