

Matterhorn (2014)

Location: Mount Carmel, St. Mary's Bay, Newfoundland

Case number: 120-695-C1

The Incident

On August 10, 2014, the tug *Matterhorn*, a 535-tonne vessel fitted with 13 fuel oil tanks, sank while secured alongside another vessel at a marine facility at Mount Carmel, St. Mary's Bay, Newfoundland. The tug, which had been towed to Mount Carmel in 2011, was apparently awaiting repairs at Miller Shipping Facility when the incident occurred. At the time of sinking, the tug had 3,000 litres of diesel fuel in the fuel tanks, 1,000 litres of fuel in the day tanks and approximately 1,250 litres of lube oils. Pollution was observed and the Canadian Coast Guard (CCG) personnel attended the site for the response operation.

The owner's first response to the incident was inadequate, following which CCG advised him of the necessary measures to be taken. Booms and sorbents were subsequently put in place; however, over time, the owner refused to continue the response operation and ignored all notices issued by CCG, although oil was still present. On July 21, 2015, CCG assumed the role of On-Scene Commander.

In August 2015, a dive assessment and outside survey of the vessel was carried out. In addition, LOC Marine and Engineering Consultants were engaged to provide advice on possible actions to remove the pollutants. Three options were suggested and CCG made the decision to remove the pollutants from the vessel *in situ*. The work to remove the pollutants, which was done by Sea Force Diving, was completed on July 14, 2016. The tug was left on the bottom and no further pollution has been reported.

The Claim

On August 9, 2016, the Coast Guard, 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 \$172,751.64, pursuant to the *Marine Liability Act*.

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

Assessment and Offer

After investigation and assessment of the claim, the Administrator made an offer for the established amount of \$172,751.64 plus interest, as full and final settlement, to DFO/CCG. The offer was accepted on February 6, 2017, and a payment in the amount of \$181,208.40, including interest, was made to DFO/CCG on or about February 21, 2017.

Recovery Action

A professional locator service was hired to complete a locate and asset search on the *Matterhorn's* owners and operators. In March 2017, instruction was given to the counsel for the Ship-source Oil Pollution Fund to commence recourse action against the vessel owners and operators.

A Statement of Claim was issued on August 8, 2017 but was difficult to serve. The Court had to be seized to have the service validated. On October 27, 2017, an Order was received from the Court for alternative service and validating the service that was done. In March 2018, defences had been filed. In May 2018, replies to Defences were filed, and in June 2018, parties agreed to mediation, which was held in Halifax in November 2018.

Parties, including Counsel for the Administrator, held a Case Management Conference in March 2019. As of March 31, 2019, parties were still trying to agree on a settlement wording and on a consent judgment.

Status

The file remains open.