

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
BOSTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

PATRIOT MARINE, LLC,

Defendant.

Case No.:

In Admiralty

COMPLAINT

Plaintiff United States of America alleges as follows:

NATURE OF THE ACTION

1. This action is brought by the United States in accordance with the Oil Pollution Act of 1990 (“OPA”), 33 U.S.C. §§ 2701-2761, to recover removal costs arising from the clean-up and removal of oil discharged by the M/V OCEAN KING into the waters of Great Harbor, Woods Hole, Massachusetts, on or about January 20-21, 2018.

2. Federal oil spill removal actions may be financed through the Oil Spill Liability Trust Fund (the Fund). *See* 26 U.S.C. §§ 4611 and 9509. Under OPA Section 1012(a), 33 U.S.C. § 2712(a), the Fund can be used, *inter alia*, for the payment of federal and state removal costs; certain claims against the Fund related to uncompensated removal costs; and certain federal administrative, operational and personnel costs and expenses under OPA. As will be shown, the Fund was used to pay for the removal of oil from the navigable waters of Great Harbor following the oil spill.

3. The United States also seeks a declaratory judgment on liability for removal costs and damages against the Defendant, pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201(a), and OPA Sections 1002(a), 1005, 1015, and 1017(f)(2), 33 U.S.C. §§ 2702(a), 2705, 2715, and 2717(f)(2), that is binding in this action and will be binding on any subsequent action or actions against the Defendant, for all removal costs, natural resource damages, and interest resulting from the oil spill.

4. With respect to natural resource damages, the United States seeks a declaratory judgment under Section 1017(f)(2) that addresses only the elements of liability under Section 1002(a) of OPA that apply in common with liability for removal costs and liability for natural resource damages. The United States is not seeking an award of natural resource damages in this action, nor is it seeking declaratory judgment on what injury, destruction, or loss of natural resources has occurred as a result of the unlawful discharge of oil by the Defendant. Any such injury to, destruction of, or loss of natural resources and the damages that should be awarded are reserved for determination in a subsequent action or actions under Sections 1015(c) and 1017(f) of OPA, 33 U.S.C. §§ 2715(c), 2717(f).

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter and over the parties pursuant to 33 U.S.C. § 2717(b), and 28 U.S.C. §§ 1331, 1333 and 1345.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and 33 U.S.C. § 2717(b).

7. Authority to bring this action is vested in the United States Department of Justice pursuant to 28 U.S.C. §§ 516 and 519.

8. This action includes an admiralty and maritime claim against the Defendant, within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure.

PARTIES

9. Defendant Patriot Marine, LLC (“Patriot Marine”) is a limited liability company that was organized in Massachusetts in 2005. The company is engaged in marine construction and dredging. At the time of the matters at issue in this complaint, Patriot Marine had a place of business at 550 Pleasant Street, Suite 104, Winthrop, Massachusetts, 02152, and was doing business in the Commonwealth of Massachusetts and within the jurisdiction of this Court through, *inter alia*, the ownership and operation of the towboat M/V OCEAN KING.

10. In February of 2019, Patriot Marine reorganized and changed the location of its principal office from Winthrop, Massachusetts to New Haven, Connecticut. Patriot Marine’s current principal office is located at 2 Poplar Street, New Haven, Connecticut, 06513. Patriot Marine also maintains corporate records at 256 Marginal Street, East Boston, MA, 02128.

11. The M/V OCEAN KING, Official Number 259410, is a 199 gross register ton, 95 foot long, commercial towing vessel, built in 1950. Patriot Marine purchased this towing vessel in 2011.

12. At all material times, the M/V OCEAN KING was owned and operated by Patriot Marine, and was, at all material times, within the jurisdiction of this Court with respect to the matters alleged in this Complaint.

STATUTORY AND REGULATORY BACKGROUND

13. OPA Section 1002(a), 33 U.S.C. § 2702(a), provides that:
“Notwithstanding any other provision or rule of law, and subject to the provisions of this Act, each responsible party for a vessel or a facility from which oil is discharged, or which poses the substantial threat of a discharge of oil, into or upon the navigable waters or adjoining shorelines or the exclusive economic zone is liable for the removal costs and damages specified in subsection (b) that result from such incident.”

14. At all material times, the M/V OCEAN KING was a “vessel” within the meaning of OPA, 33 U.S.C. § 2701(37).

15. Under OPA Section 1017(f)(2), 33 U.S.C. § 2717(f)(2), in any action for recovery of removal costs referred to in OPA Section 2702(b)(1), 33 U.S.C. § 2702(b)(1), the court shall enter a declaratory judgment on liability for removal costs or damages that shall be binding on any subsequent action or actions to recover further removal costs or damages.

16. OPA Section 1002(b)(2), 33 U.S.C. § 2702(b), provides that the “damages” referred to in Section 1002(a) of OPA, 33 U.S.C. § 2702(a), include damages for injury to, destruction of, or loss of, or loss of use of, natural resources.

17. OPA Section 1001(20), 33 U.S.C. § 2701(20), provides that “natural resources’ includes land, fish, wildlife, biota, air, water, ground water, drinking water

supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the exclusive economic zone), any State or local government or Indian tribe, or any foreign government.”

18. Under OPA Section 1006, 33 U.S.C. § 2706, liability for natural resource damages shall be to the United States and/or a State for natural resources belonging to, managed by, controlled by, or appertaining to the United States and/or a State.

19. The United States is involved in the ongoing work of, and incurring costs related to, assessing injury, destruction, loss, or loss of use of natural resources belonging to, managed by, controlled by, or appertaining to the United States resulting from the unlawful discharge of oil from the M/V OCEAN KING.

GENERAL ALLEGATIONS

20. On January 20, 2018, the M/V OCEAN KING sustained hull damage when it ran aground in Sequetucket Harbor in Harwich, Massachusetts. After the grounding, the M/V OCEAN KING transited from Harwich to Woods Hole, Massachusetts, where it moored at the Woods Hole town dock.

21. In the morning of January 21, 2018, the M/V OCEAN KING departed Woods Hole. Several hours later, the Coast Guard’s National Response Center received a report from a private citizen of a 100 yard by 100 yard sheen, which smelled of motor oil, in the water and on the rocks in Great Harbor, Woods Hole, Massachusetts. Later that day, personnel from the Coast Guard’s Marine Safety Detachment Cape Cod arrived on scene to conduct a preliminary assessment and collect oil samples from the spill.

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