IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

DONJON-SMIT, LLC **VS.** **ADMIRAL KARL L. SCHULTZ, CAPTAIN JOHN W. REED, COMMANDER NORM C. WITT, and COMMANDER MATTHEW J. BAER, IN THEIR OFFICIAL CAPACITY AS OFFICERS OF THE UNITED STATES COAST GUARD**	**CIVIL ACTION NO. _____**

PLAINTIFF DONJON-SMIT, LLC'S
VERIFIED COMPLAINT, REQUEST FOR INJUNCTIVE RELIEF, AND
WRIT OF MANDAMUS

Plaintiff Donjon-SMIT, LLC ("Donjon-SMIT") files this Verified Complaint, Writ of Mandamus, and Request for Injunctive Relief (the "Complaint") against Defendants Admiral Karl L. Schultz, Captain John W. Reed, Commander Norm C. Witt, and Commander Matthew J. Baer (collectively, the "Defendants") in their official capacity as officers of the United States Coast Guard ("Coast Guard"), and in support thereof state as follows:

INTRODUCTION

1. Plaintiff Donjon-SMIT, LLC ("Donjon-SMIT") files this Complaint along with an accompanying Motion for Injunctive Relief.[1] to both prevent an almost certain environmental disaster in Port of Brunswick, St. Simons Sound caused by capsizing of the GOLDEN RAY and to require the United States Coast Guard to follow the requirements of the Oil Pollution Act of 1990 ("OPA 90"). The Coast Guard and the Federal On-Scene Coordinator, in direct violation of the OPA 90 and the corresponding regulations, are permitting an extremely high-risk salvage plan

[1] Donjon-SMIT's Motion for Injunctive Relief and Brief in Support Thereof is being filed simultaneously with this Complaint.

to move forward that has failed on two prior occasions involving similar shipwrecks. The vessel owner/responsible party and the Coast Guard are directly subverting the statutory and regulatory requirements of OPA 90. Donjon-SMIT has not only warned the Coast Guard about the imminent environmental risks but has also requested that the Coast Guard follow the requirements for OPA 90. Despite this and Donjon-SMIT's multiple requests for information from the Coast Guard regarding its decision, the Coast Guard has refused to respond instead unlawfully delegating its sole decision-making authority to the GOLDEN RAY'S owner/responsible party. This has left Donjon-SMIT with no other option but to seek court intervention in the best interest of the proper enforcement of OPA 90 and to avert an imminent environmental catastrophe.

PARTIES

2. Donjon-SMIT is a maritime salvage, firefighting, and lightering company that is registered as a limited liability company in the State of Delaware.

3. Defendant Admiral Karl L. Schultz ("Admiral Schultz") is the Commandant of the United States Coast Guard ("Coast Guard"). The Coast Guard is a military branch and federal agency within DHS. Admiral Schultz may be served with process at the National Command Center of the Coast Guard, US Coast Guard Stop 7318, 2703 Martin Luther King Jr Ave SE, Washington, DC 20032. Pursuant to Federal Rule of Civil Procedure 4(i), a copy of the summons and of this complaint will also be sent by registered or certified mail to the United States Attorney's Office for the Southern District of Georgia at 22 Barnard Street, Suite 300 Savannah, Georgia 31401, and to the Attorney General's Office at 950 Pennsylvania Avenue, NW Washington, DC 20530-0001.

4. Defendant Captain John W. Reed ("Captain Reed") is a Coast Guard Captain and Commander of the Coast Guard Sector Charleston. Captain Reed may be served with process at

196 Tradd Street, Charleston, SC 29401. Pursuant to Federal Rule of Civil Procedure 4(i), a copy of the summons and of this complaint will also be sent by registered or certified mail to the United States Attorney's Office for the Southern District of Georgia at 22 Barnard Street, Suite 300 Savannah, Georgia 31401, and to the Attorney General's Office at 950 Pennsylvania Avenue, NW Washington, DC 20530-0001.

5. Commander Norm C. Witt ("Commander Witt") is a Coast Guard Commander, the Commander of the Coast Guard Marine Safety Unit Savannah, and the Federal On-Scene Coordinator ("FOSC") in the State of Georgia. Commander Witt may be served with process at 1297 N. Lightning Road, Savannah, GA 31408. Pursuant to Federal Rule of Civil Procedure 4(i), a copy of the summons and of this complaint will also be sent by registered or certified mail to the United States Attorney's Office for the Southern District of Georgia at 22 Barnard Street, Suite 300 Savannah, Georgia 31401, and to the United States Attorney General's Office at 950 Pennsylvania Avenue, NW Washington, DC 20530-0001.

6. Commander Matthew J. Baer ("Commander Baer") is a Coast Guard Commander who at certain relevant times acted as the FOSC. Commander Baer may be served with process at 196 Tradd Street, Charleston, SC 29401. Pursuant to Federal Rule of Civil Procedure 4(i), a copy of the summons and of this complaint will also be sent by registered or certified mail to the United States Attorney's Office for the Southern District of Georgia at 22 Barnard Street, Suite 300 Savannah, Georgia 31401, and to the Attorney General's Office at 950 Pennsylvania Avenue, NW Washington, DC 20530-0001.

JURISDICTION AND VENUE

7. This Court has jurisdiction pursuant to the following statutes:

a. 28 U.S.C. § 1331, which provides district courts with original jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the United States;

b. 28 U.S.C § 1346, which provides district courts with original jurisdiction over any civil action or claim against the United States, not exceeding $10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department;

c. 33 U.S.C. § 1321(e)(2) of the Clean Water Act, which provides district courts with jurisdiction to grant any relief under § 1321(e) that the public interest and the equities of the case may require.

8. Venue is proper pursuant to 28 U.S.C. § 1391(e)(1)(B).

9. This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202.

BACKGROUND

A. The GOLDEN RAY Capsizes in St. Simons Sound.

10. On September 8, 2019, the GOLDEN RAY, a 200-metre-long car carrier vessel, capsized in the Port of Brunswick, St. Simons Sound. The capsizing of the GOLDEN RAY is the largest cargo shipwreck in U.S. coastal waters since the Exxon Valdez. At the time of the accident, the GOLDEN RAY was carrying approximately 4,200 automobiles and over twenty crew members. Though all crew members have been rescued, the automobiles remain trapped within the cargo hold of the GOLDEN RAY posing a "***substantial threat of a discharge***" in the navigable waters of St. Simons Sound if not properly removed.[2] In short, the cars need to be safely removed to avoid environmental disaster.

[2] A true and correct copy of Commander Witt's November 8, 2019 USCG Administrative Order 01-19 Amendment 1 is attached hereto as **Exhibit 1**.

Photograph of the capsized GOLDEN RAY vessel in St. Simons Sound

B. Congress Requires Non-Tank Vessel Response Plans Under OPA 90.

11. In response to the devastating impacts of the Exxon Valdez disaster, Congress passed OPA 90 amending the Clean Water Act. OPA 90 was designed to address a wide-range of problems associated with preventing, responding to, and paying for oil pollution incidents in the navigable waters of the United States. Importantly, OPA 90 greatly increased federal oversight of maritime oil transportation and significantly reduced the amount of discretion that responsible parties had in determining how to best respond to environmental emergencies of their own making.

12. Before OPA 90, a vessel owner responsible for an oil spill ironically also wielded significant control over how the spill would be cleaned up. In order to shift decision-making authority regarding oil spill response efforts back into the hands of public officials, OPA 90 requires owners of non-tank vessels carrying oil to submit to the Coast Guard a Non-Tank Vessel Response Plan ("NTVRP") detailing how they will respond to large discharges. 33 C.F.R. § 155.5010. Depending on the capacity of the vessel, the NTVRP must demonstrate that the vessel

owner has contracted with resource providers to provide certain services in case of an emergency, including salvage, emergency lightering, and marine firefighting. 33 C.F.R. § 155.5035. Once a plan is approved, a vessel owner ***may not*** deviate from the NTVRP without additional approval from the President or the FOSC. 33 U.S.C.A. § 1321(c)(3)(B) (emphasis added). Moreover, the FOSC may only approve a deviation from the NTVRP under "***exceptional circumstances***." 33 C.F.R. § 155.4032 (emphasis added). Section 155.4032 provides:

> Use of resource providers not listed in the VRP. If another resource provider, not listed in the approved plan for the specific service required, is to be contracted for a specific response, justification for the selection of that resource provider needs to be provided to, and approved by, the FOSC. Only under ***exceptional circumstances*** will the FOSC authorize deviation from the resource provider listed in the approved vessel response plan in instances where that would best affect a more successful response."

33 C.F.R. § 155.4032(a) (emphasis added).

According to the Coast Guard's own administrative guidance published in 2009, its NTVRP requirement was implemented "to ensure that an incident be responded to quickly and ***without the need for contract negotiations during an actual emergency***." Salvage and Marine Firefighting Requirements; *Vessel Response Plans for Oil*, 73 FR 80618-01. Clearly, the term "exceptional circumstances" was intended to rarely allow for deviations from an approved NTVRP.[3]

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[3] Though 33 C.F.R. § 155.4032 has not yet been interpreted by a court of law, courts have interpreted use of the term ***exceptional circumstances*** in other federal rules and regulations as setting a high threshold that should rarely be met. For example, under Supreme Court Rule 20, an "extraordinary writ" such as a writ of mandamus or habeas corpus may only be granted upon a showing of "exceptional circumstances [that] warrant the exercise of the Court's discretionary powers[.]" U.S. Sup. Ct. R. 20. Tellingly, though thousands of such petitions have been filed, the Court has not granted an extraordinary writ of habeas corpus since 1925, *see Ex parte Grossman*, 267 U.S. 87 (1925), or a writ of mandamus since 1962. *See Fong Foo v. United States*, 369 U.S. 141 (1962). Similarly, under Section 1229a of the Immigration and Nationality Act, a judge's removal order made in absentia may only be rescinded under "exceptional circumstances". 8 U.S.C. § 1229a(e)(1). This language has been interpreted to "set[] a high bar that 'will be met in only rare cases.'" *Jimenez-Castro v. Sessions*, 750 F. App'x 406, 408–09 (6th Cir. 2018) (quoting *Kaweesa v. Gonzales*, 450 F.3d 62, 68 (1st Cir. 2006)); *see also Herbert v. Ashcroft*, 325 F.3d 68, 72 (1st Cir. 2003). Likewise, pursuant to 18 U.S.C.A. § 3145(c), which governs the review of detention or release orders in criminal proceedings, a judicial officer may only order the release of a defendant held under a detention order if "it is clearly shown that there are exceptional reasons why such person's detention would not be appropriate." 18 U.S.C.A. § 3145. Here again,

C. The GOLDEN RAY's NTVRP Under OPA 90.

13. GL NV24 Shipping Inc. ("Owner") is the owner of the GOLDEN RAY. As the owner of a non-tank vessel carrying oil, Owner was required to prepare an NTVRP. Pursuant to an agreement signed on September 20, 2017, Donjon-SMIT was designated as the approved salvage and marine firefighter ("SMFF") provider under the GOLDEN RAY NTVRP for nineteen different salvage and marine firefighting services. Donjon-SMIT is a highly-experienced marine salvage and casualty response provider which currently holds active response agreements with approximately 7,000 vessels worldwide. In fact, Donjon-SMIT is the largest OPA 90 provider in the world.

D. Donjon-SMIT Provides Life Saving Emergency Services on the GOLDEN RAY and Limits Environmental Harm.

14. Within hours of the GOLDEN RAY capsizing, Donjon-SMIT provided emergency salvage, firefighting, and damage stability services as the approved SMFF under the GOLDEN RAY NTVRP. Donjon-SMIT assisted in the successful rescue of four trapped crewmen. Donjon-SMIT further stabilized the worksite by laying down a blanket of rock surrounding the ship, and by late October, Donjon-SMIT successfully removed most of the approximately 300,000 gallons of bunker fuel from the GOLDEN RAY's twenty-four fuel tanks. Donjon-SMIT performed everything it was asked to do. By all accounts, Donjon-SMIT's emergency services not only saved lives, but significantly limited the environmental harm caused by the GOLDEN RAY's capsizing. This is the exact type of response Congress envisioned under OPA 90 and its NTVRPs.

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what qualifies as ***exceptional*** has been narrowly defined. *See United States v. McGillivray*, No. 2:11 CR 22-7, 2012 WL 137409, at *2 (quotations omitted) (W.D.N.C. Jan. 18, 2012) ("Courts generally have defined 'exceptional reasons' as circumstances which are clearly out of the ordinary, uncommon, or rare."); *United States v. Lea*, 360 F.3d 401, 403 (2d Cir.2004) (quoting *United States v. DiSomma*, 951 F.2d 494, 497 *2d Cir.1991) ("Exceptional circumstances exist where there is 'a unique combination of circumstances giving rise to situations that are out of the ordinary.'").

Donjon-SMIT laying down rocks to stabilize the GOLDEN RAY

E. Donjon-SMIT Submits a Proven Salvage Plan Focused on Mitigating the Environmental Risks and Avoiding the Main Navigation Channel to the Port of Brunswick.

15. After securing the GOLDEN RAY, Donjon-SMIT was ready to move forward with removing the wreck under the GOLDEN RAY's NTVRP. On November 5, 2019, Donjon-SMIT submitted a salvage plan proposal to Owner and its representatives.[4] Under Donjon-SMIT's plan, the GOLDEN RAY would be cut and removed in small sections weighing approximately 600 tons each, allowing for a controlled removal of the over 4,000 automobiles still inside the vessel while minimizing stress on the damaged hull and reducing the significant risk of inadvertent discharges into St. Simons Sound.

16. This approach had been successfully employed in a similar shipwreck salvage operation for the REIJIN that also involved the safe removal of automobiles that had posed a

[4] A true and correct copy of Donjon-SMIT's November 5, 2020 salvage plan is attached hereto as **Exhibit 2.**

significant environmental risk. Additionally, Donjon-SMIT proposed establishing a small 4.6-acre protective perimeter around the GOLDEN RAY that not only mitigates environmental risks but also avoids the main navigation channel to the Port of Brunswick. Donjon-SMIT was prepared to move forward with its plan in November of 2019 and remains ready willing and able to implement its plan today.

F. The Owner subverts OPA 90 and Requests that Donjon-SMIT be replaced by Another Salvage Company.

17. Owner and its representatives rejected Donjon-SMIT's proposal out of hand, citing their unproven preference that the vessel be removed in much larger sections of approximately 4,000 tons. Rather than affording Donjon-SMIT an opportunity to advocate for its safer small section removal plan, Commander Witt instead allowed Owner to place the wreck removal project out for tender to third-party contractors who were not part of the NTVRP in violation of OPA 90 and its regulations. Further, Commander Witt permitted Owner to solicit proposals based on a "fixed-price" rate rather than on the "cost-plus" terms used in the GOLDEN RAY'S NTVRP. The change to a "fixed price" structure is alarming it that it appears that the Owner may be attempting to limit its exposure. Simply put, Commander Witt allowed Owner to conduct the very bidding process that OPA 90 was designed to prevent, wasting valuable time that Donjon-SMIT could have used to begin work on the GOLDEN RAY while at the same time allowing the Owner to potentially limit it exposure.

18. Soon thereafter, Donjon-SMIT learned that a third-party company named T&T Salvage ("T&T") had submitted its own proposal to Owner and was permitted to present its plan to the entire Unified Command, including Commander Witt and other Coast Guard officials. Donjon-SMIT, which again was the pre-contracted SMFF resource provider, was never afforded

a similar meeting with Unified Command to discuss its own proposal and its serious concerns with T&T's unproven, high risk plan.

G. T&T's High-Risk Plan Will Likely Result in an Environmental Disaster in the Waters of St. Simons Sound.

19. T&T proposed a high risk, "large section" removal whereby eight sections of the ship, weighing approximately 4,000 tons each, would be removed and transported by barge to the Gulf of Mexico. Similar large section removal processes have been used on capsized car carrier vessels twice before without success--once on the TRICOLOR in 2003, and again on the BALTIC ACE in 2014. In both instances, after removal of several large sections, the remaining sections collapsed, releasing additional pollutants into the surrounding waters. Additionally, T&T's proposed plan would require the construction of a thirty-one acre environmental protection barrier in St. Simons Sound that would interfere with the navigation channel, increasing the potential for another accident. Further, because each removed section would be even larger than the barge itself, there would be significant risk of the sections falling off the barge during transport to the Gulf. T&T's proposal is also significantly more expensive than Donjon-SMIT's.

H. The Coast Guard Permitted an Unlawful Deviation from GOLDEN RAY's NTVRP in Violation of OPA 90 and Its Regulations.

20. On December 19, 2019, Owner, without reference to any "exceptional circumstances," submitted a request to Commander Witt to deviate from the GOLDEN RAY's NTVRP and replace Donjon-SMIT with T&T as the salvage and marine fighting (SMFF) provider going forward. Again, and for undisclosed reasons, Donjon-SMIT was shut out of any discussions with Owner, Commander Witt, and the Coast Guard regarding the selection process. Two days later, on December 21, 2019 Commander Witt, in direct violation of OPA 90 and its corresponding regulation approved Owner's request to deviate from the GOLDEN RAY NTVRP without any

justification or reference to any "exceptional circumstances" as required by 33 C.F.R. § 155.4032. This is the exact conduct that OPA 90 was designed to prohibit.

21. Astonishingly, Donjon-SMIT was removed as the SMFF services provider on the GOLDEN RAY for ***each of the nineteen different services*** for which Donjon-SMIT was pre-contracted under the GOLDEN RAY NTVRP. Despite multiple inquiries from Donjon-SMIT, Commander Witt refused to articulate his reasoning for approving Owner's deviation request and has never explained why Donjon-SMIT was removed for all nineteen services.

I. The Coast Guard Unlawfully Delegated Its Sole Decision-Making Authority to the GOLDEN RAY'S Owner.

22. On December 22nd, Paul Hankins, Donjon's Vice President for Salvage Operations, emailed Commander Witt to explain Donjon-SMIT's concerns with the T&T plan and to request a meeting to discuss the Commander's unlawful deviation approval.[5] In response, Commander Witt, who as the designated FOSC is supposed to be sole decision-maker regarding any deviations from the NTVRP, tellingly "defer[red] to the Owner's representatives" regarding any meetings to discuss the deviation.[6] This is an unlawful delegation of the decision-making authority that Congress sought to prevent under OPA 90.

23. By (1) permitting Owner to circumvent use of its pre-contracted NTVRP service provider in favor of an open bidding process, (2) not affording Donjon-SMIT any opportunity to explain its salvage removal plan or address any potential concerns, and (3) never providing any

[5] As outlined in the detailed email, the T&T Plan is a high risk plan that costs substantially more than the Donjon-SMIT plan and employs a removal method that has previously failed on two other occasions resulting in more environmental harm. Moreover, T&T's approach appears to be that if its plan does not work, there is plenty of money to then try the Donjon-SMIT's approach. The Coast Guard's rejection of the safer, proven, and less expensive approach outlined in the Donjon-SMIT plan is arbitrary, at best, and increases the likelihood of greater environmental harm.

[6] A true and correct copy of the email exchange between Donjon-SMIT and the Coast Guard is attached hereto as **Exhibit 3**.

justification for their approval of Owner's deviation request, much less a finding of "exceptional circumstances," Defendants have subverted the very purpose of OPA 90 and effectively delegated their decision-making authority back to those responsible for the disaster at issue. Moreover, Defendants have deprived Donjon-SMIT of its contractual agreement with Owner to provide SMFF services in addition to causing damage to Donjon-SMIT's reputation that will directly harm its ability to contract in the future.

24. Implementation of T&T's large section removal plan is now imminent. On February 5, 2020, the Unified Command announced that construction of the environmental protection barrier will begin approximately one week from the date of this motion.[7] Soon thereafter, T&T will commence cutting and removing sections of the GOLDEN RAY. Time is of the essence if Defendants' blatant violations of Donjon-SMIT's statutory and constitutional rights are to be remedied.[8]

CAUSES OF ACTION

A. Count One: Request for Injunctive Relief.

25. Donjon-SMIT re-alleges and incorporates the above allegations as if fully set forth herein.

26. Pursuant to Federal Rule of Civil Procedure 65, Donjon-SMIT seeks entry of a temporary restraining order, preliminary injunction, and permanent injunction to avoid immediate and irreparably loss, injury, and damage. As set out in Donjon-SMIT's Motion for Injunctive Relief and Brief in Support Thereof filed simultaneously with this Complaint, Donjon-SMIT has shown substantial likelihood of success on the merits, that irreparable injury will be suffered if the

[7] A true and correct copy of the Unified Command Press Release is attached hereto as **Exhibit 4**.

[8] *See* Donjon-SMIT's Motion for Injunctive Relief and Brief in Support Thereof filed simultaneously with this Complaint.

relief is not granted, that the threatened injury outweighs the harm the relief would inflict on the Coast Guard, and that entry of the relief would serve the public interest.

27. The Coast Guard's unlawful actions in violation of OPA 90 will not only cause immediate and irreparable injury to Donjon-SMIT's constitutional rights, Donjon-SMIT's contractual relationship with the Owner, and Donjon-SMIT's reputation and ability to act as an OPA 90 salvage provider going forward, but poses a significant risk of another substantial discharge in the navigable waters of St. Simons Sound ending in a significantly great environmental disaster.

B. Count Two: Violation of OPA 90 and Request for Judicial Review Under the Administrative Procedure Act.

28. Donjon-SMIT re-alleges and incorporates the above allegations as if fully set forth herein.

29. In direct violation of OPA 90 and its corresponding regulations, Defendants approved the Owner's request to deviate from the GOLDEN RAY NTVRP without any justification or reference to any "exceptional circumstances" as required by 33 C.F.R. § 155.4032.

30. Defendants have subverted the very purpose of OPA 90 and effectively delegated their decision-making authority back to those responsible for the disaster at issue.

31. Under 5 U.S.C.A. § 706, a district court may "hold unlawful and set aside agency action, findings, and conclusions found to be-- (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; . . . (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; . . . [or] (D) without observance of procedure required by law[.]" 5 U.S.C.A. § 706(2).

32. Defendants are willfully failing to abide by 33 C.F.R. § 155.4032, which states that a FOSC may only approve the use of a resource provider not listed in the NTVRP "under exceptional circumstances" where such approval "would best affect a more successful response."

33. Additionally, Defendants are willfully failing to abide by 33 U.S.C.A. § 1321(c)(3)(B), which states that a FOSC may only deviate from the applicable NTVRP if he determines that the "deviation from the NTVRP would provide for a more expeditious or effective response to the spill or mitigation of its environmental effects."

34. Instead, Defendants, acting arbitrarily and capriciously, in excess of their statutory authority, and without observance of procedure required by law, approved Owner's deviation from the NTVRP.

35. Donjon-SMIT respectfully requests this Court, through its authority under 5 U.S.C.A. § 706, hold unlawful and set aside Defendants' approval of Owner's deviation from the NTVRP.

C. Count Three: Violation of Procedural and Substantive Due Process.

36. Donjon-SMIT re-alleges and incorporates the above allegations as if fully set forth herein.

37. 42 U.S.C. § 1983 provides a cause of action against any person "who under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws[.]"

38. Under the Fifth Amendment of the U.S. Constitution, no person shall "be deprived of life, liberty, or property, without due process of law[.]"

39. Defendants, acting in their official capacity, intentionally violated Donjon-SMIT's procedural and substantive due process rights under § 1983 and the Constitution.

40. Specifically, 33 C.F.R. § 155.4032 states that a FOSC may only approve the use of a resource provider not listed in the NTVRP "*under exceptional circumstances*" where such approval "would best affect a more successful response."

41. Instead, Defendants approved Owner's deviation from the NTVRP without any justification, much less a finding of "*exceptional circumstances*", and without providing Donjon-SMIT any opportunity to be heard.

42. Defendants thereby violated Donjon-SMIT's procedural and substantive due process rights and deprived Donjon-SMIT of its contractual agreement with Owner to provide SMFF services in addition to causing damage to Donjon-SMIT's reputation that will directly harm its ability to contract in the future.

D. Count Four: Declaratory Judgment.

43. Donjon-SMIT re-alleges and incorporates the above allegations as if fully set forth herein.

44. Donjon-SMIT seeks a declaratory judgment pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 and Fed R. Civ. P. 57, and as provided for by the Administrative Procedure Act under 5 U.S.C. § 704.

45. Donjon-SMIT seeks this Court's determination that:

a. Defendants' actions with respect to their approval of the deviation from the NTVRP were arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

b. Defendants' actions with respect to their approval of the deviation from the NTVRP were contrary to Donjon-SMIT's constitutional rights and Defendants' constitutional powers or privileges;

c. Defendants' actions with respect to their approval of the deviation from the NTVRP were in excess of their statutory jurisdiction, authority, and/or limitations; and

d. Defendants' actions with respect to their approval of the deviation from the NTVRP were without observation or procedure as required by law.

46. This Court has the authority to grant declaratory relief under Fed. R. Civ. P. 57 and 28 U.S.C. § 2201 as an actual controversy exists between the parties as to Defendants' actions and Donjon-SMIT's rights with respect to Defendants' approval of Owner's NTVRP deviation request.

47. Donjon-SMIT respectfully requests this Court enter an Order determining Defendants' actions exceeded the scope of their authority, etc., as specifically outlined above.

WRIT OF MANDAMUS

48. Donjon-SMIT re-alleges and incorporates the above allegations as if fully set forth herein.

49. Under 28 U.S.C. § 1361, "[t]he district court shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency therefor to perform a duty owed to the plaintiff."

50. The purpose of 28 U.S.C. § 1361 is to prevent federal officials from acting outside the permissible scope of their discretion, and it seeks to prevent such abuse by giving federal courts the authority to compel federal officials to perform acts required of them or, conversely, to refrain from acts which they are not authorized to perform.

51. Here, Defendants failed to abide by 33 C.F.R. § 155.4032, which states that a FOSC may only approve the use of a resource provider not listed in the NTVRP "under exceptional circumstances" where such approval "would best affect a more successful response."

52. Additionally, Defendants failed to abide by 33 U.S.C.A. § 1321(c)(3)(B), which states that a FOSC may only deviate from the applicable NTVRP if he determines that the

"deviation from the NTVRP would provide for a more expeditious or effective response to the spill or mitigation of its environmental effects."

53. Instead, Defendants, without justification, without evidence of "exceptional circumstances," and acting arbitrarily, capriciously and in bad faith, approved Owner's deviation from the NTVRP.

54. Donjon-SMIT has a clear right to relief that is sought in this Complaint, and there is no other adequate remedy available to Donjon-SMIT.

55. Donjon-SMIT respectfully requests this Court enter a writ of mandamus compelling Defendants to reverse its approval of Owner's deviation from the NTVRP.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Donjon-SMIT, LLC respectfully requests that this Court:

a. Enter a temporary restraining order, preliminary injunction, and permanent injunction against the Coast Guard as requested herein.

b. Hold unlawful and set aside Defendants' actions under the Administrative Procedure Act as requested herein;

c. Enter judgment against Defendants for violating Donjon-SMIT's procedural and substantive due process rights;

d. Enter a declaratory judgment against Defendants as requested herein;

e. Enter a writ of mandamus against Defendants as requested herein;

f. All such other relief at law or in equity as this Court deems appropriate.

[Signatures on following page]

DATED: February 13, 2020

Respectfully submitted,

TAYLOR, ODACHOWSKI, SCHMIDT & CROSSLAND, LLC

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ATTORNEYS FOR PLAINTIFF DONJON-SMIT, LLC

EXHIBIT “1”

U.S. Department of Homeland Security
United States Coast Guard

Commander
United States Coast Guard
Marine Safety Unit Savannah

Juliette G. Low Federal Bldg
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Savannah, GA 31401-3604
Phone: (912) 652-4353
Fax: (912) 652-4052

16450
08 November 2019

Hyundai Glovis CO., LTD.
Owner: GL NV24 Shipping Inc,
registered owner of MV Golden Ray
IMO: 9775816

Re: ADMINISTRATIVE ORDER: 01-19 Amendment 1

Dear Hyundai Glovis CO., LTD.:

Thank you for your efforts to date in working towards completion of the requirements established in Administrative Order 01-19, dated September 15, 2019. After reviewing your most recent response (dated November 7, 2019), and considering the estimate for removal of "virtually all bulk fuels and liquid pollutants" by November 19, 2019, I am amending Administrative Order 01-19 to clarify expectations.

Pursuant to 33 U.S.C. §§ 1251-1376 (c), 33 U.S.C. §§ 1251-1376 (e)(1)(B), 33 C.F.R. § 1.01-80, and 40 C.F.R. Part 300.130(d), 42 U.S.C. §§ 9601-9675 (a) and DHS Delegation #0170 Paragraph 80, I have determined that there may be an imminent and substantial threat to public health, welfare, or the environment because of an actual or substantial discharge/release of oil or designated hazardous substance from a vessel.

I have determined that such a threat may exist to the navigable waters of St. Simons Sound. There is a substantial threat of a discharge of oil from the M/V GOLDEN RAY, IMO number 9775816 as well as from the vehicle cargo onboard the M/V GOLDEN RAY. On September 8, 2019 the M/V GOLDEN RAY overturned discharging unkown amount of heavy fuel oil and diesel fuel into St. Simons Sound and the surrounding navigable waterways of the United States. You were issued a Notice of Federal Interest of an oil pollution incident on September 12, 2019, and Administrative Order 01-19 on September 15, 2019. Because the oil products remaining in the vessel pose an environmental hazard, the threat of a discharge may present an imminent and substantial endangerment to the public health or welfare of the United States.

For these reasons, and under the authority referred to above, in addition to the original provisions of Administrative Order 01-19 you are hereby ordered to undertake the following actions:

1. No later than November 12, 2019, provide a plan detailing all intended pollution removal efforts from now until your estimated completion date of November 19, 2019. This plan should indicate all tanks, spaces, and other containers (drums, piping, etc) you intend to access and address, as well as any planned assessments and other actions directed at the cargo decks. Additionally, this plan should define "completion" of this phase and provide a detailed estimate of the extent of pollution

risk remaining aboard the vessel after your planned activities.

2. No later than November 12, 2019, provide a statement and/or engineering assessment attesting whether structural integrity of the vessel is sufficient to remain in its current position/condition, without posing an unacceptable risk of pollution discharge, during the construction of a planned cofferdam.
3. No later than November 12, 2019, provide a detailed plan to provide continuous monitoring of the condition/status of the vessel's structural integrity.

Under the Oil Pollution Act of 1990, the responsible party is liable for, among other things, removal costs and damages resulting from this condition. The failure or refusal to comply with this Administrative Order will eliminate any defense or entitlement to limited liability, which might otherwise be available under the Act (33 U.S.C. §§ 2701-2762). Be advised that the following may result from your failure to properly carry out the removal actions as ordered to protect public health, welfare, and the environment. The responsible party, owners, operators or persons in charge of the vessel or facility from which oil or hazardous substances are discharged are subject, under the Federal Water Pollution Control Act, to a civil penalty of up to $47,357 per day of violation or up to three (3) times the cost incurred by the Oil Spill Liability Trust Fund. Failure to comply with the requirements of this Administrative Order may result in the federal government assuming full or partial control of removal actions.

This Amendment to Administrative Order 01-19 becomes effective immediately upon receipt. You may request, either orally or in writing, that I reconsider this order within 24 hours of its issuance. If you desire to appeal my decision on reconsideration, or the Administrative Order itself, you must direct the request for an appeal in writing to the district courts of the United States.

The act of requesting reconsideration or placing an appeal does not stay this order, but reviewing offices have the authority to take such action if they believe circumstances warrant it.

Please address all inquiries concerning this matter to me at (912) 652-4353.

Issued at U.S. Coast Guard Marine Safety Unit Savannah.

Sincerely,

N. C. Witt
Commander, U.S. Coast Guard
Federal On-Scene Coordinator

Acknowledgement:_____ _____
Name Date

Signature:_____ _____
Name Date

EXHIBIT “2”

Wreck Removal Method Statement

DOCUMENT NUMBER:	**GOLDENRAY-SUS192139-MS2121**
PROJECT NAME:	**Golden Ray wreck Removal, Brunswick, GA, USA**
PROJECT NUMBER:	**SUS192139**
COMPANY NAME:	**GL NV24 Shipping Inc. / North of England P&I Association Limited**
COMPANY REFERENCE:	**IMO 9775816**

DOCUMENT CONTROL

Revision Status

Rev	Issue Date	Reason for Issue	Prepared	Checked	Approved
0	05-NOV-2019	Issued for Information	STER	HLOO	TWIL

SALVAGE

DOCUMENT CONTROL

General document data	
Document Title:	Wreck Removal Method Statement
Document Number:	GoldenRay-SUS192139-MS2121
Project Name:	Golden Ray wreck Removal
Project Number:	SUS192139
COMPANY Name:	GL NV24 Shipping Inc. / North of England P&I Association Limited
COMPANY Reference:	IMO 9775816
Entity:	Donjon-SMIT LLC

Revision status		
Revision Number:	0	
Revision Date:	05-Nov-2019	
Approval Status:	For Information	
Prepared By:	Sylvia Tervoort	Role: Salvage Master
Reviewed By:	Chris Bos	Role: Salvage Master
Interdisciplinary Check:	Hans van Loon	Role: Naval Architect
Approved By:	Tim Williamson	Role: Manager Donjon-SMIT

Change log

Rev	Section	Change
0	All	First Issue

SALVAGE

TABLE OF CONTENTS

SALVAGE

1. REFERENCES, ABBREVIATIONS AND DEFINITIONS

1.1. References

NO.	DOCUMENT NO.	DOCUMENT TITLE
(1)	GOLDENRAY-SUS192006-CN801	Strength and Stability Calculation Note
(2)	GOLDENRAY-SUS192139-CN1118	Structural Analysis Hull
(3)	GOLDENRAY-SUS192139-CN1119	Engineering and Monitoring Weight Removal and Assessment of Residual Structural Strength and Stability
(4)	GOLDENRAY-SUS192139-SP9131	Organization Chart

1.2. Abbreviations

Abbreviation	Meaning
AIS	Automatic Identification System
FAA	Federal Aviation Authority
GPS	Global Position System
HAZMAT	Hazardous Material
HFO	Heavy Fuel Oil
Kn	Knots
LSD	Large Section Demolition
MARPOL	Marine Pollution (IMO protocol)
MBES	Multibeam Beam Survey
MDO	Marine Diesel Oil
Medevac	Medical Evacuation
MGO	Marine Gas Oil
MT	Metric ton
NE'ly	North Easterly
NINA	No Injuries No Accidents
OSRO	Oil Spill Response Organization
PS	Portside
PtW	Permit to Work
RAT	Rope Access Technician
SB	Starboard
sh. t	Short ton
SHEQ	Safety, Health, Environment and Quality
SIMOPS	Simultaneous Operations
SOPEP	Shipboard Oil Pollution Emergency Plan
SOW	Scope of Work
SSD	Small Section Demolition
UC	Unified Command
USACE	United States Army Corps of Engineers
USCG	United States Coast Guard
VIN	Vehicle Identification Number

1.3. Definitions

DEFINITION	MEANING
COMPANY	GL NV24 Shipping Inc. / North of England P&I Association Ltd
CONTRACTOR	Donjon-SMIT LLC
Subcontractor	Any subcontractor by CONTRACTOR
Wreck	MV Golden Ray

2. PROPOSAL SYNOPSIS

2.1. References

Donjon-SMIT, hereafter Contractor, is pleased to provide this method statement for the removal and disposal of the 'Golden Ray' wreck. This method statement is in accordance with the requirements of owner's interests, local authorities, stakeholders and international standards and regulations. Specific priorities include:

- Protection of the environment
- Safety of personnel
- Certainty of success and efficiency
- Earliest start date and shortest timeline
- Cost effectiveness

Various options have been considered for removing the wreck. All of the options considered require that the weaker upper decks (above deck 7) are to be removed in a piecemeal fashion, before larger, stronger sections of the lower hull can be removed. The difference in the various options has mostly to do with how the lower portion of the wreck (below deck 7) is removed. The three primary options that were considered are as follows:

1. Parbuckling and re-floating the wreck in one piece – This option is deemed not feasible mainly due to the lack of structural integrity and the stability of the wreck. This option is discussed in more detail in the Appendices.

2. Large Section Demolition (LSD) – To remove the wreck in the largest sections possible using heavy lift assets has been discarded for the following reasons:
   - At least 60% of the wreck is above water and accessible by other means;
   - Cost and time of mobilization / demobilization of heavy lift assets;
   - Scheduling risks;
   - Relative costs, compared to SSD, for heavy lift assets while on site including custom rigging;
   - Limited ability of the heavy lift assets to deal with changes in the condition of the wreck;
   - Flag state issues (i.e. Jones Act) and subsequent operating restrictions;
   - Complications for the scrapper to handle large, possibly unstable, sections ashore;

   The structural integrity of the upper decks, or lack thereof, does not allow this part of the wreck's structure to be removed in large sections. The inclusion of a typical heavy lift asset would therefore not preclude the need to remove the upper decks using the SSD methodology proposed below and can be found as 'Risk Register – Large Section Demolition' in the Appendices.

3. Small Section Demolition (SSD) - Removing the wreck in smaller sections using available assets and proven wreck removal techniques (e.g. chisels, grabs, shears etc.), which is the Contractor's preferred option. Using this methodology, the upper decks are removed in a piecemeal fashion after which the lower decks are removed in sections up to 600MT. This solution is cost-effective and has the lowest risk profile. This solution can begin almost immediately with the US-flagged assets already on site. This option mobilizes a variety of proven tools and has the flexibility to deal with most change of circumstances which are anticipated in regard to the condition of the wreck. Because of the beforementioned advantages this solution provides a high certainty of success. The SSD option will accommodate the introduction of heavy lift assets to lift larger sections of the lower hull if the need/opportunity arises (LSD for wreck section D). The SSD option is described in further in detail in Section 4.

2.2. SSD Risk forecast and base case assumptions

Contractor has worked closely with CL Risk Solutions to develop a base case for the SSD methodology. The SSD Base Case has been modeled in xpoSure (being software program), including a baseline schedule, baseline costs and risk register, for (1) the SSD methodology and for (2) the SSD methodology with an LSD option for removing section D (see Figure 8) in larger sections of the remaining hull. This is described further in Section 4.

The SSD business case has been developed with the following assumptions:

- A cofferdam will be constructed close around the wreck to contain surface pollutants and to prevent the escape of vehicles into the navigation channel or surrounding area. A further description of the cofferdam is provided in Section 5;
- Phases 1 and 2 of the wreck removal plan can be executed in parallel with the installation of the cofferdam;
- A Go / No-Go decision point to allow Contractor and Company to determine whether it is advantageous to bring in a heavy lift asset, e.g. Taklift 4, to remove large sections of the lower hull;
- Individual scrap pieces of no larger than 600MT;
- Internal water quality inside the cargo holds is not deemed a major concern, after evaluation the water samples results at this moment;
- Contract is signed in a timely manner, considering the long construction time of the cofferdam.

Further Base Case risks and assumptions will be determined in final contract negotiations.

3. NARRATIVE AND OBJECTIVE

3.1. Project introduction

Donjon-SMIT has been involved in all the operations with the wreck during all phases since the incident occurred on September 8th and has therefore gained an excellent understanding of the wreck and the conditions surrounding wreck location. During the currently ongoing operations, good relations have been established between all stakeholders in the project.

On the document issue date the wreck was resting on the seabed, laying on its portside. There has been significant scouring around the bow and stern of the wreck which has resulted in high stresses and subsequent deformation of the wreck.

Figure 1 Situation early October 2019

Technical facts as of October 2019:

- Resting on its portside
- Heading of 147°
- List of the SB side shell is approximately 100° to portside
- Spring tide currents around the wreck are high, with maximum current speeds over 6 knots, causing scouring around the bow and stern
- Hydrocarbons have been removed as much as possible prior to the wreck removal

Reference made to the Appendices for the structural engineering report.

3.2. Wreck parameters

The principal parameters and dimensions of "Golden Ray" are summarized in the table below together with further details of relevance to the work.

Ship's name	GOLDEN RAY	
Ships type	Car carrier	
Flag	Marshall Islands	
IMO	9775816	
Year built	2017	
Length overall	199.971	m

Ship's name	GOLDEN RAY	
Breadth Moulded	35.400	m
Depth Moulded	36.250	m
Design Draft Moulded	10.618	m
Gross Tonnage	71,178	MT
Light Ship Weight	21,433	MT

Table 1 Principle parameters 'Golden Ray'

3.3. Project location

At the time of the incident Golden Ray was sailing outbound from Brunswick near location 31° 07.6N 081° 24.18W in St Simons Sound, Georgia, United States. The vessel was carrying 4161 vehicles, which are still on board.

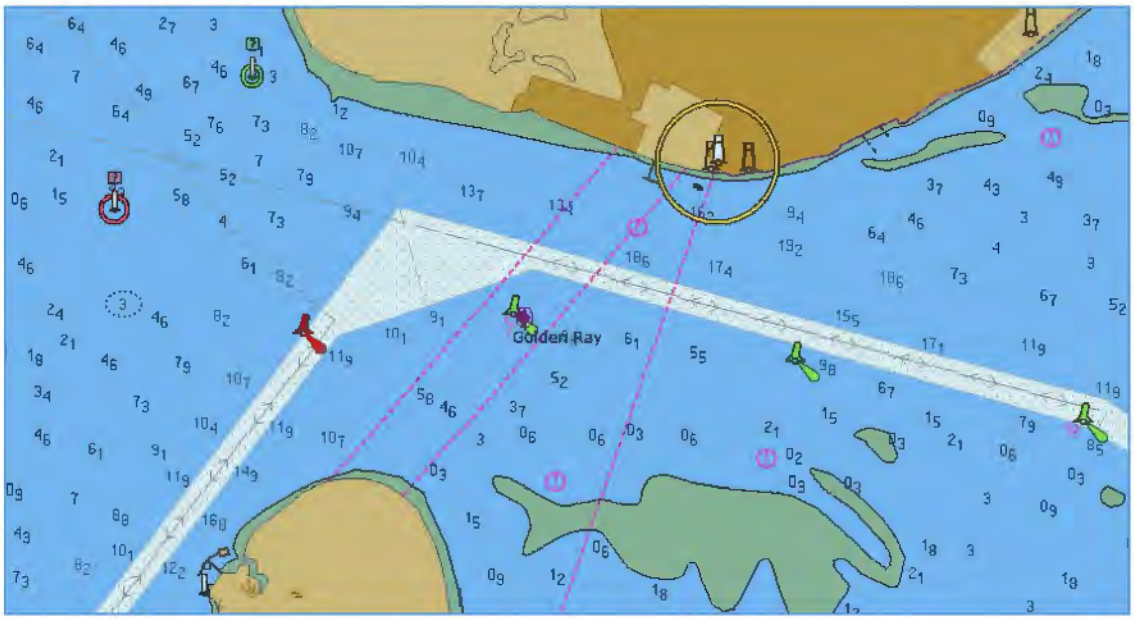


Figure 2 Project Location

The wreck is located close to the channel leading to the car marine terminal of Brunswick. The area is subject to seasonal hurricanes which may temporarily halt the salvage works. High winds may occur throughout the year, but are prevalent during the winter and early spring. The area is subject to occasional hurricanes from the 1st June through the 1st of December as well as NE'ly winds which are most prevalent during the winter and early spring months. Tidal currents around the wreck have caused significant scouring underneath the bow and stern.

The scouring has resulted in increased deformation and corresponding high stresses in the structure of the wreck. The list measured on the wreck has slowly increased close to 100° to port today. The list has been increasing daily some days more than others. The rate of increase has been greater during the spring tides

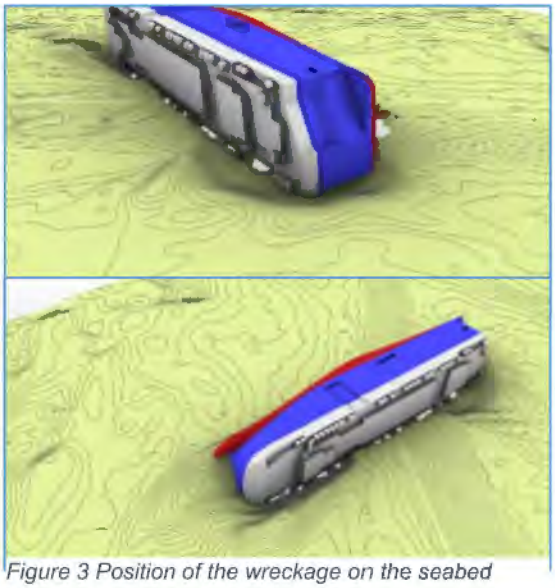


Figure 3 Position of the wreckage on the seabed

which produce stronger tidal currents and additional scouring. The change in the list is primarily due to the internal structure failing and not the global rigid-body rotation of the wreck itself. This trend is expected to continue. A 3D view of how the wreck is sitting on the bottom on the 18th of October 2019 is shown below in Figure 3.

The damage as observed to the upper decks on the portside, the open doors on the portside and the submerged portside vents have made all of the car decks tidal. There is an exchange of the internal water with each change of tide. Representative samples of the internal water have been taken and were sent to the lab for analysis. Test results were received for the samples from the cargo deck and engine room. Oysters have also been introduced into the internal waters as a means of measuring the quality of the water, besides the water samples taken during the earlier phase of the operations.

The bulk of the hydrocarbons have been removed. Only residuals oils remain in the HFO, MDO and MGO storage, service and settling tanks. An unknow quantity remains in the small tanks in the engine room double bottom tanks and within internal piping. The official spreadsheet provided to the Unified Command detailing the amount of hydrocarbons remaining onboard is provided in the Appendices.

It is assumed that the a certain amount of OSRO resources remain on site being adequate to respond to a worst case oil spill for the quantities remaining onboard. It is not known if these resources can be further reduced if the cofferdam is installed given that the cofferdam could leak or be damaged during the operation.

It can be assumed that failure (i.e. buckling due to compressive loads in combination with local loads imposed by the seabed) will continue to occur on the port side shell plating and internal car decks. This buckling is expected to release the stresses on the starboard side shell plate to some degree. The sequence of cutting up the wreck to remove the upper decks and automobiles will be closely monitored throughout the execution of the project to minimize the chance that any significant unexpected structural failure occurs. A detailed engineering analysis of the current condition of the wreck is provided in Appendices regarding the structural integrity and expectations of its further deterioration.

It is imperative to start weight reduction measures on the wreck as soon as possible as the deteriorating condition of the wreck increases the risk of the release of pollutants into the environment.

3.4. Local circumstances and regulatory compliance

In the United States, all salvage operations are subject to the input of the Unified Command (UC) and the Incident Management System (IMS). Reference can be made to the Incident Action Plans (IAP's), which are currently prepared, approved and distributed on a weekly basis by the Unified Command, due to the definition of the Operational Period, being 7 days.

In this document, IAP, an overview can be found of procedures regarding:

- the UC Incident Objectives,
- UC Directions,
- Critical Information requirements,
- Assignments for the various response teams on site
- Communications
- Medical Plan
- Organization Chart
- Any special policies, such as safety, lightning policy and meeting schedules

A great benefit to operations is that all three parties, such as the State of Georgia, the United States Coastguard and the Qualified Individual are combined in the Unified Command and are in close contact with the 'Company' and 'Contractor' providing understanding to the expectations of the stakeholders. The Qualified Individual for this project is Gallagher Marine Services, who are providing the all response team for various tasks as well as providing manpower for the Incident Command System.

3.5. Permits and approvals

For the transport and disposal of the wreck sections the following documents and letters are expected to be required:

- Import Declaration Form by Owners
- Scrap value per barge by 'Contractor'
- Non-tax state revenue permit
- Deletion certificate of 'Golden Ray' by Owners
- Cofferdam Construction
- Pile installations
- Core sampling
- Scour protection
- Wreck removal

4. TECHNICAL PLAN

4.1. Introduction

Contractor has evaluated three alternative plans for removing the wreck as discussed in the previous section. This section provides details for the SSD option, with a possibility for LSD sections, the removal of the wreck in smaller sections using available assets and proven wreck removal techniques, e.g. chisels, grabs etc. This is the Contractor's preferred methodology, because it is considered best suited for a wreck that is at least 60% out of the water and takes full advantage of the assets already on site. All assets to be employed are US-flagged. This plan is robust enough to deal with the anticipated changes to the wreck's structure and orientation. This plan will allow for the use of heavy lift assets, e.g. Taklift 4 for lifting larger underwater pieces of the wreck in the later stages should it prove advantageous to the project and agreed between the Parties.

Note: *This technical plan includes a cofferdam installed around the wreck. This plan does not materially change if there is, or is not, a cofferdam. The cofferdam design and layout is described in Section 5 as well as a discussion on how the cofferdam might affect the overall project.*

The baseline schedule presented in this plan assumes that the installation of the cofferdam and Phases 1 & 2 can be executed in parallel.

The above waterline part of the wreck can be cut to pieces relatively quickly using a combination of hydraulic shears, chisels, wreck grabs and hand-held cutting torches. The upper decks of the wreck, sections A &C in the section cut plan of Figure 8 are relatively light scantling. The current plan is to remove these decks in a piecemeal fashion down the seabed. Below deck 7, sections B & D, the hull is of heavier construction. It will be most efficient to remove this portion of the wreck in larger sections up to 600MT.

The wreck removal operation has been divided into four phases:

- Phase 1 - Mobilization & Preparations
- Phase 2 - Removal down to centerline
- Phase 3 - Removal down to seabed
- Phase 4 - Project Completion

4.2. Phase 1 – Mobilization & preparation phase

There are two main ongoing operations during this phase. The first will be the mobilization of additional personnel, craft and equipment. In parallel with the mobilization will be preparation works on the wreck itself.

In addition to the mobilization of additional assets, Phase 1 tasks include the following:

- Continuous monitoring of the condition of the wreck including scouring, bottom contact and hull deflections/deformations;
- Ventilate the car decks;
- Continue to remove any accessible hydrocarbons or other pollutants including the car decks if possible;
- Remove stern ramp (277MT);
- Remove starboard side ramp (55MT);
- Remove rudder;
- Remove propeller;
- Remove anchors.

The tasks identified for Phase 1 can commence immediately with the personnel and assets currently on site. Phase 1 can be executed in parallel with any cofferdam installation activities if agreed by parties.

4.3. Phase 2 – Removal down to waterline

4.3.1. Removal sequence

The primary concern in the initial stages of Phase 2 the removal of weight from the ends of the wreck to reduce the global bending stresses and to preserve as much of the wreck's structural integrity as possible. Monitoring of the weight removed and the residual strength and stability of the remaining structure will be critical. Regular assessments and re-evaluations will be made to ascertain the stability of the wreck remains.

Figure 4 Photo from REIJIN salvage in Portugal showing decks being cut away and cars accessible for removal

The Phase 2 removal will be done by Zones from the end towards midship as per the explanatory removal sequence in one of the Appendices and Figure 8.

The Zones show the 4 parts of the wreck transversely looking at it, where the Sections described the parts of the wreck looking at it from the starboard side.

Zone 1 at the bow and the stern will be removed first, followed by Zones 2 through 7 in sequential order. Sections 8 & 9 will be removed simultaneously.

- Zone A (above deck 7) - this structure will be removed down to approximately 6 meters to starboard of centerline. This will preserve the stanchions which, due to the lack of transverse bulkheads, are the only structure holding the decks together. Some of these stanchions may be damaged already by falling vehicles and the overall degradation of the wreck. These sections will be removed horizontally working deck by deck down from the accommodation deck down to deck 7. This will provide the optimum access to the interior decks and cars.

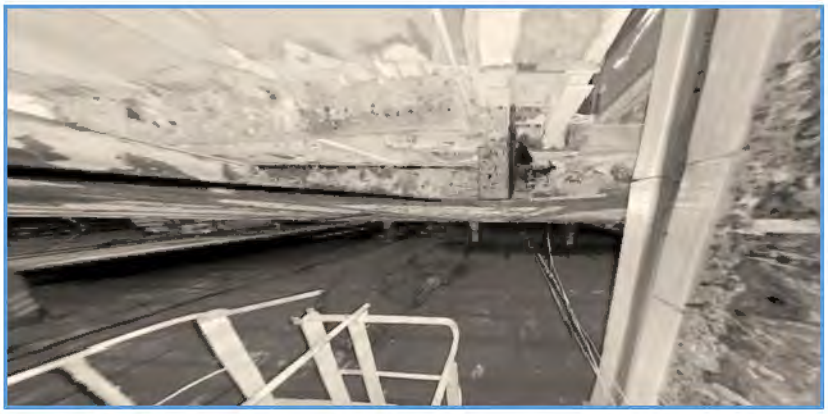


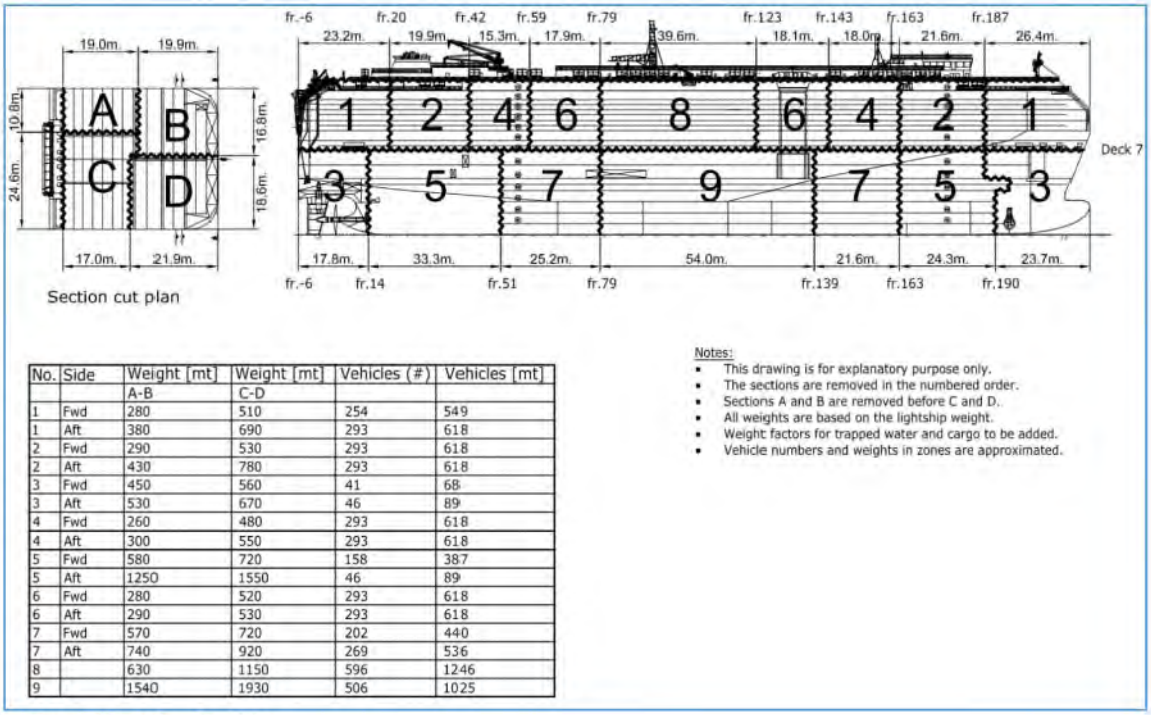
Figure 5 LIDAR image with moveable deck

Figure 6 LIDAR image show cargo damaged

Figure 7 LIDAR image hanging vehicles between decks

- Zone B (below deck 7) - this structure will be removed down to near the waterline, preserving the centerline stanchions. In no case will Zone B be cut any closer than three meters above the spring high tide waterline to ensure that these sections can be rigged for lifting on deck 5 and the bottom shell plate in the dry. These sections will be removed in larger sections up to 600MT. Where possible, HFO, MGO and MDO tanks will be cut out in blocks to contain the residual oils in these compartments.

Figure 8 should be considered as a *guideline* for the wreck removal. Adjustments to the sequence will be made as necessary and appropriate.



No.	Side	Weight [mt] A-B	Weight [mt] C-D	Vehicles (#)	Vehicles [mt]
1	Fwd	280	510	254	549
1	Aft	380	690	293	618
2	Fwd	290	530	293	618
2	Aft	430	780	293	618
3	Fwd	450	560	41	68
3	Aft	530	670	46	89
4	Fwd	260	480	293	618
4	Aft	300	550	293	618
5	Fwd	580	720	158	387
5	Aft	1250	1550	46	89
6	Fwd	280	520	293	618
6	Aft	290	530	293	618
7	Fwd	570	720	202	440
7	Aft	740	920	269	536
8		630	1150	596	1246
9		1540	1930	506	1025

Notes:
- This drawing is for explanatory purpose only.
- The sections are removed in the numbered order.
- Sections A and B are removed before C and D.
- All weights are based on the lightship weight.
- Weight factors for trapped water and cargo to be added.
- Vehicle numbers and weights in zones are approximated.

Figure 8 Section Cut Plan

4.4. Phase 3 - Wreck removal below waterline – SSD only

Phase 3 will be the removal of Wreck Sections C & D by zones from the end towards midship as shown in Figure 8. Zones 1 at the bow and the stern will be removed first followed by Zones 2 through 7 in sequential order. Wreck Sections 8 & 9 will be removed simultaneously.

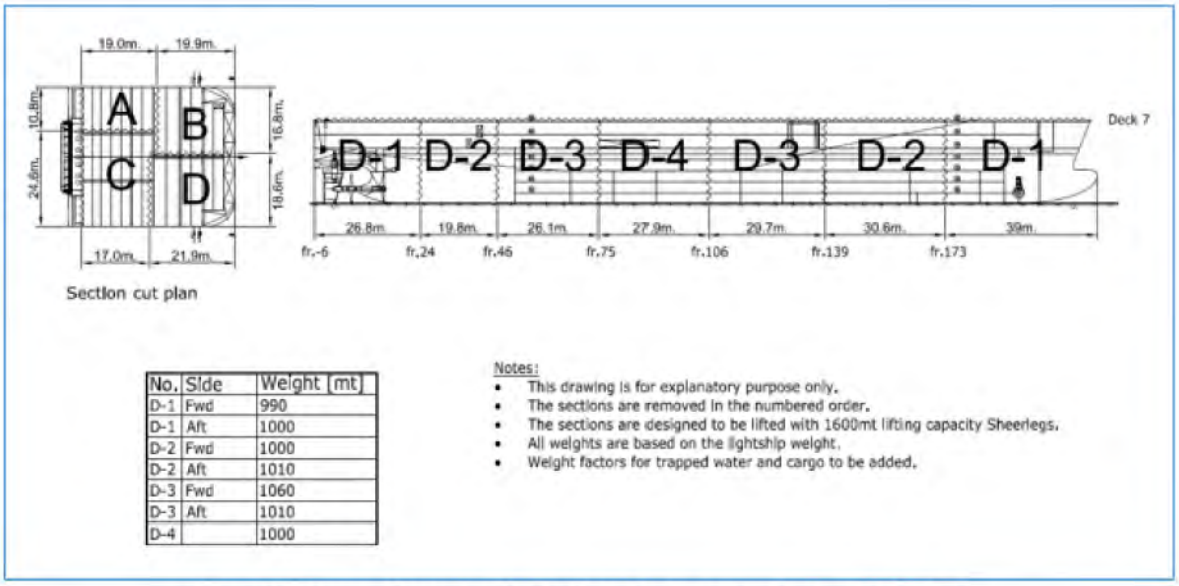
- Zone C (above deck 7) - this structure will be removed down to the seabed. These sections will be removed using a combination of chisel, complimented by the shears and the HDW1, being a salvage debris grab.
- Zone D (below deck 7) - this structure will be removed down to the seabed. These sections will be removed in larger sections up to 600MT. Where possible, HFO, MGO and MDO tanks will be cut out in blocks to contain the residual oils in these compartments.

The primary concern during Phase 3 shifts from one of structural integrity to wreck stability. The goal is to keep Zone 8 and Zone 9 stable on the seabed until these can be removed. This will require the constant monitoring of the footprint on which the remaining structures sits and the location of the remaining structure's center of gravity. The monitoring of the weight removed and the re-calculation of the residual center of gravity will be an ongoing process throughout Phase 2 and Phase 3 to minimize the chance of the residual structure from rolling off the footprint on which it sits. For further details see Appendices.

Cutting below the waterline will be done by chiseling mainly. The chisel will be complemented by the shears (vertical cuts) and by divers, if necessary, using Broco or PVL cutting tools. Below water wreck removal will rely on the use of the HDW1 salvage grab, which will be able to lift cut sections up to 600MT. The 500MT main engine block will be lifted in one piece, using either the salvage grab or rigging.

4.5. Phase 3 - Wreck removal below waterline – Small sections including LSD

Once the C sections have been removed the 'Contractor' can decide if the best solution is to remove sections D in large sections with a large sheerlegs or to continue with SSD. If section D is to be lifted using a sheerlegs, it will be cut transversely into max. 1500MT sections (1000MT lightship weight sections). These cuts can be done with chisels. The sections will be prepared for lifting by attaching lifting bollards onto the hull and deck 5. This work can be done above water on the hull protruding above the waterline. The sheerlegs will lift the sections by the lifting bollards and lower them onto barges for onwards disposal.



No.	Side	Weight [mt]
D-1	Fwd	990
D-1	Aft	1000
D-2	Fwd	1000
D-2	Aft	1010
D-3	Fwd	1060
D-3	Aft	1010
D-4		1000

Figure 9 Diagram of proposed hull sections to be removed using the Taklift 4.

4.5.1. Considerations for foreign flag units

For the LSD of section D a unique and critical heavy lift block, purpose built for heavy salvage activities, with heavy "A-frame" construction and multiple heavy lifting blocks. The SMIT salvage sheerlegs Taklift 4 or Asian Hercules 3 are assets capable of performing heavy lifts over the planned cofferdam wall. For this wreck removal however, these units require Jones Act Customs Border Protection ruling for the intended work. The ruling is anticipated within 90 days of submission.

4.5.2. Vehicle, steel scrap and waste disposal

Vehicles will be removed from Zones A and B to the extent possible during Phase 2. This will be done on a case by case basis until the optimum method is determined. Options for removing the vehicles include:

- Rigging individual vehicles
- Shears
- Orange peel grab
- Wreck grab

The goal is to remove all vehicles from the wreck if possible. Vehicles that are above the waterline will be removed at a minimum. Vehicles will be back loaded into ocean-class barges or inland hopper barges using the Intercoastal Waterway. Vehicles will be segregated from the scrap for delivery ashore. It may be difficult to log which vehicles have been removed, therefore any accounting of the individual vehicles will be done ashore. It is anticipated that part of the vehicles will be segregated on the disposal site and transported to a separate processing facility.

When barges are fully loaded, these will be towed or pushed to the disposal facility. The disposal facility will utilize a shredder and sorting system to properly dispose of the vehicles. Contractor will provide personnel on-site to record, to witness destruction and to obtain documentation ensuring that all vehicles are properly disposed of. During the removal operations the status of the seabed will be monitored with MBES equipment.

For the intended disposal yards, Contractor investigated the disposal of the recovered and condemned vehicles. In total 4,161 vehicles will be disposed. Accountability can be ensured as the VIN are provided by the Owners of the wreck. In agreement with parties involved a tally and survey procedure will be developed to ensure all cars are accounted for. While the collection of comprehensive proposals for the receipt and documented disposal of the vehicles and steel is ongoing, marine facility(s) and lay down area(s) capable of receiving the full volume of vehicles are being investigated by Contractor. Contractor will have its subcontractor arrange a landing area for delivery, offloading and scrapping. The subcontractors will need to certified and capable to arrange for proper disposal and audited by Contractor accordingly. This includes the handling and proper disposal of all materials, including HAZMAT teams if required, associated with vehicles.

Subcontractor shall include identification for provided environmental protections and pollution mitigation for the transfer of the vehicles from the barge to shoreside receiving facility and handling ashore.

It is anticipated that scrap from the wreck (primarily steel) will be disposed of by shipping removed hull sections to a 25-acre upland processing facility. Removed hull sections up to 600MT will be placed onto 300 ft. or larger ocean-class deck barges with a deadweight capacity in excess of 6,000MT, which have been configured to receive and transport the sections. The barges will be fitted with environmental barriers to ensure that any pollutants that may leak from the wreck sections are contained within the barge barrier. Sections will be properly seafastened before departure. Fully laden barges will be towed to the disposal facility. Upon arrival at the facility, the charter of the barges will be transferred to the facility, that will be responsible for offloading the barges, proper disposal of the hull sections, and clean-up of the barges. Hull sections will be properly disposed of by dismantling, separation into waste streams of recyclable steel and other waste materials, and then made ready for proper approved and certified disposal.

Separate waste streams and therefore special disposal arrangements may be required for the interior of the accommodation, hospital contents and provisions rooms. As this section is expected to be removed in one piece, it will be handled on shore. This will require a HAZMAT team (e.g. Clean Harbors), likely to be bleached out, and brought to an MARPOL approved facility for incineration. For the hospital contents, this can be accommodated by either the local police / sheriff and / or Custom and Border Protection. The provision rooms may be subject to Sanitation Department regulations and MARPOL.

4.5.3.Importation of wreck and scrap

Some cars that will be recovered will have been loaded onboard outside the USA . Customs importation and possible duties are expected to be applicable for the foreign loaded vehicles .

Four categories of scrap have been defined as:

- Vessel
- Vehicles from Mexico with destination Middle East
- Vehicles from Mexico with destination United States
- Vehicles from the United States with destination Middle East

Documentation supporting customs importation will be required.

4.6. Phase 4 - Debris clearance, cofferdam, scour protection removal and demobilization

During this phase of the project the focus will be on completing the project and getting a sign off from the Unified Command. Tasks to be completed in this phase include:

- Removal of the cofferdam
- Removal of the scour protection
- Conduct a post-removal debris survey, Contractor intends to conduct a MBES survey
- Final sign off by Unified Command
- Demobilization

4.6.1. Debris Clearance

Once the wreck has been removed in its entirety Contractor will conduct debris removal operations. The area for the post-removal survey and the subsequent debris removal will need to be agreed by parties.

Sonar surveys will be conducted on and around the area of the casualties in order to locate debris and to remove any debris left on the seabed. This can be conducted using a variety of methods. An electromagnet can be utilized to lift scrap and debris. Irrespective of this MBES will be used for the survey of the area to direct marine assets with crane and electromagnet to the locations that require debris recovery. Regular surveys will be required to clear the site from debris and to prevent debris is scoured away.

Figure 10 An electromagnet being used during a sub-surface debris removal operation

Orange peel grabs may be used to fish or grab larger sections of remaining debris identified by surveys. Once debris removal operations are completed, an agreed method to certify the area clear of debris will be agreed upon between the Company, Contractor and authorities.

4.6.2. Cofferdam and scour protection removal

In case the cofferdam will be installed, the removal of the cofferdam will consist of a similar operation as with installation of the cofferdam. The same assets, timeline and operations will be used to remove the cofferdam, only in reverse way, with piles being pulled by vibration instead of being driven. An important aspect of the removal operation will be the destination of the piles. The preferred option will to be to sell the piles back to the supplier or to another potential customer. This will reduce the cost of the cofferdam and will avoid storage costs of the piles once removed. Piles will be pulled by vibration, placed on barges and transported a pre-agreed destination. Pile removal operations are estimated to take 6 weeks working with two pile pulling teams.

The installed scour protection around the wrecks hull and the scour protection installed around the cofferdam wall will be removed. Contractor will recover as much scour protection as reasonably possible. It is important to note that the Contractor may not be able to remove the same amount of scour

protection as was initially installed. This is due to the fact that scour protection may have moved away by current and a considerable amount is expected to covered by sand. Crane barges with bucket grabs will be used to recover the exposed scour protection. A scour protection recovery grid will be made which will be used to ensure that the affected area is swept with a bucket grab to ensure all surface scour protection is recovered. The crane with GPS guided bucket grab will ensure that the whole recovery grid is accurately covered with sufficient overlap in grid areas. The crane barge will deposit all scooped material, consisting of sand and stones, into a hopper barge for disposal. Similar to the debris removal operation a method to certify the area clear of scour protection will be agreed upon between Company, Contractor and authorities.

4.6.3. Demobilization

Contractors marine spread will be demobilized after completion of the works. Services under the contract will be terminated upon the satisfactory removal and delivery of the wreck sections at the selected reception / disposal facility.

4.7. Engineering

All plans presented have been verified, checked, and confirmed by Contractor's in-house naval architects. Upon contract award detailed engineering will be performed and project plans will be prepared. The list below provides an overview of the required engineering and the deliverables per engineering scope.

[-]	Engineering scope	Deliverable
1	Positioning plans for all assets	Work site layout drawing
2	Cutting plan for each wreck section	Structural and weight control report Method statement
3	Rigging and lifting plan for each wreck section	Rigging arrangement (for each wreck section) Method statement
4	Transport manual for tug/barge combination, including stability and towing calculation for barges loaded with wreck sections	Transport manual barges

Table 2 Engineering scope and deliverables

Some important assumptions used for the calculations are explained below:

- The lightship weight of the wreck is approximately 21500MT.
- The hook load of each wreck section is a combination of the rigging weight, the section weight and 20% weight contingency bearing in mind standard lifting safety factors.
- The lifting capacity of the Chesapeake is 1000 short ton or 930MT at 19m outreach. The maximum weight of each wreck section is estimated to be around 600MT. After taking into account 20% extra of the section weight as contingency, industry standard lifting factors, settled mud sediment and rigging gear weight, the load on the hooks of each wreck section will be within the safe lifting capacity of the Chesapeake.

4.8. Marine site management

4.8.1. Traffic management, safety and contingency

Unified Command has established a safety zone around the wreck, which can be found in the Appendices. The exclusion zone is protected by guard vessel C2 conducting traffic management duties 24/7 and directing approaching vessels to keep well outside the exclusion zone. Security messages will be broadcasted via Notices to Mariners and navigational warnings. In the unlikely event that a vessel heads into or towards the exclusion zone without the permission of the guard vessel, all operations are stopped and crew and personnel will be alerted accordingly.

All project vessels and equipment in the exclusion zone will be marked with statutory light signals, suitable lighting, radar reflectors and AIS as required. These markings will include the requirements stated as per Federal Aviation Authority (FAA) regulations as the wreck located in the proximity of the airport of Brunswick.

5. COFFERDAM INSTALLATION

In concert with parties on site the proposed methodology includes the installation of a cofferdam. The purpose of the cofferdam is to prevent hydrocarbons or debris escaping from the worksite. A secondary benefit is that the cofferdam will eliminate the scouring around the wreck itself and with it the increase in stresses on the hull. A cofferdam is a temporary enclosure built within, or in pairs across, a body of water, constructed by 1 or 2 walls or being made of tubular pipes.

The latest version of a cofferdam may be a cofferdam as close to the wreck as possible to enable other vessels to reach the wreck from outside the wreck. Installation of the cofferdam will be compliant with environmental and US Army Corps of Engineers requirements.

The proposed wreck removal methodology has been developed with sufficient flexibility to work with or without a cofferdam. Figure 11 illustrates a proposed cofferdam layout with a spacing of 3 meters from the hull which would work with the proposed methodology.

The cofferdam and wreck removal can be executed sequentially, which obviously results in a longer duration. To expedite the start of the wreck removal operations and to save time and costs Phase 2 operations could be executed in parallel with the cofferdam installation.

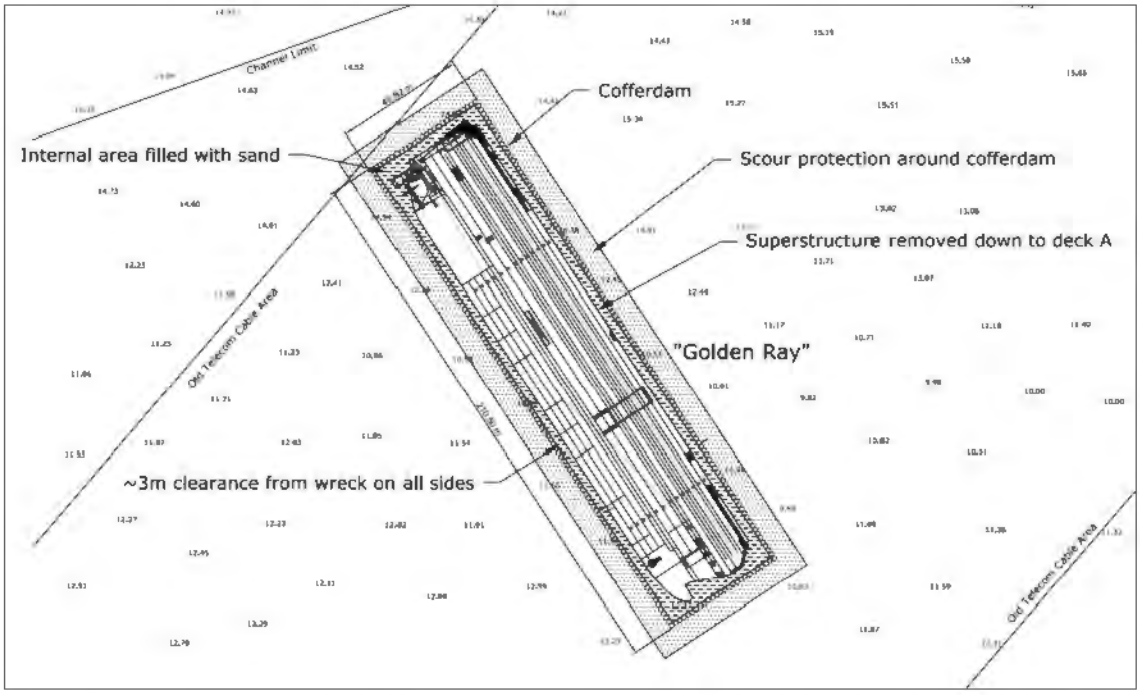


Figure 11 Cofferdam layout proposal.

A pile driven cofferdam surrounding the wreck has been investigated. After careful consideration and discussions with parties experienced in cofferdam design and installation, it is estimated that such a cofferdam would require roughly 5-6 months from award until completion of installation.

There are significant project and technical risks associated with integration of a cofferdam structure into the project. These risks are included in the risk register.

6. HSE MANAGEMENT INCLUDING WILDLIFE, POLLUTION AND WASTE MANAGEMENT

6.1. HSE Management

Safety, Health, Environment and Quality (SHE-Q) is of vital importance to 'Contractor'. In accordance with our SHE-Q policy we commit ourselves completely to the equal goals, such as there are:

- The supply of services according to contract agreement and to examine all our efforts in the field of quality to NEN-ISO 9001:2008;
- To maintain a safe and healthy work environment for all persons;
- To avoid harm to the environment.

It is of the utmost importance that all our employees comply with the management system in order to guarantee quality, safety and efficiency of operations. It is the tool with which the 'Contractor' systematically describes controls and assures with the aim:

- To work in accordance with the quality procedures and to meet the contract agreements;
- Safe working methods, in order to prevent accidents, anticipate and reduce risk;
- To meet law and regulations;
- To continuously improve our HSE performance.

The responsibility and concern for SHE-Q apply to everyone working with or in this project. This entails that all employees during the execution of their activities are required to demonstrably aim for this responsibility and concern. This responsibility and concerns constitute and inseparable and integral part of our daily activities. Further details on the SHE-Q management are described in the Appendices for reference. More detailed project related SHE-Q matters can be found below further in this Section of the document.

6.2. Wildlife Management

It is recognized that the project is subject to the Regulatory Requirements and Best Management Practices (latest version 26th of October) which are provided by the Environmental Unit under the Incident Response Management system.

These practices includes sections on the Sensitive Habitats, Wildlife and Fisheries Resources and the Various Acts to protect to local animals and species. The project is fully dedicated to keep all contractors aligned with these requirements. It may be that occasionally the operations will be stopped locally because of sightings of manatees or dolphins are sighted in the area.

Some equipment may not obtain approval for use on site, due to possible entanglement of animals. This is foreseen in the development of this methodology.

6.3. Pollution prevention and preparedness

Pollution prevention is a key element during all operations on site and all operations on site are aimed to minimize the release of any oil or other pollutants and debris inside the wreck. Still, it may not always be possible during the wreck cutting and removal operations to contain all residual oil or debris from tanks and other spaces or accommodation of the wreck.

Access to the internal waterline during Phase 2 will allow for the recovery of any hydrocarbons or other pollutants from the surface of the water using absorbent pads, absorbent boom or skimming. Any floating debris will also be recovered. Pollution control will be an ongoing process given the open nature of the car decks. A dedicated and robust response team will be assigned this task for oil within the boundaries of the wreck. The layout of the HFO, MGO and MDO storage, service and settling tanks enable removal without having to cut through these tanks. This is also true for the small miscellaneous tanks in the engine room double bottoms. These efforts should be sufficient to contain and recover pollutants and debris before it escapes from the wreck.

The cofferdam in effect will thus provide a second barrier for oil and pollution prevention. As during operations the inside of the wreck, the inside of the cofferdam will continually be monitored for visible oil or pollutants that will be recovered if observed. Oil absorbent material will be used to treat any hydrocarbons detected on the surface of the water inside the cofferdam. All floating material will also be recovered and disposed of to ensure the inside of the cofferdam remains acceptably clean. An oil boom will also be installed on the inside of the cofferdam wall to ensure that any hydrocarbons inside the cofferdam are contained from flowing through the interlocks of the wall. For the above pollution prevention activities, dedicated personnel and equipment will be allocated at all times.

If the decision is made to not install the cofferdam in addition to the wreck internal waterline management discussed above, other pollution prevention options will be considered. This could consist of the following pollution prevention options:

- Heavy Duty Oil Boom: A large heavy duty oil boom can be installed using piles to support the boom in the current. This boom will be large enough to allow vessels to work on the inside with access positions allowing vessels to enter or exit the boom defense. A maintenance and clean-up team will monitor, maintain and clean the inside of the boom. Hydrocarbon pockets will be treated using absorbent material and floating debris will be cleaned.
- Underwater Monitoring: During the wreck removal operation, the area around the wreck will be monitored to identify potential debris separating from the wreck. Multibeam sonar as well as Blueview sonar will be used to survey underwater. A dedicated recovery vessel will be used to recover identified debris swept away from the wreck. The dedicated vessel will have lifting, diving and storage capacity to execute this operation. This operation is important for pollution control, but also ensures all cars and car parts are recovered.
- Bubble Screen:

  The use of a bubble screen can be considered and needs further investigation.

6.3.1. Vehicles and scrap disposal

The details of the vehicles and scrap removal are addressed in section 4.5.1.

6.3.2. Other waste management

The project design shall adopt the principles and practice of waste minimization and the reduction / elimination of waste production wherever practicable. Waste generation and subsequent environmental impacts will be considered from the outset of all activities and throughout their lifecycles with the aim of eliminating waste generation where possible. Correct waste management will also enhance good housekeeping practices and eliminate nuisance conditions as well as health and safety concerns.

The waste management plan will be particular to the Golden ray and identify all types of waste and arising's expected to be found and recovered from the wreck. Close liaison with the environmental unit within the incident response group will maintain a controlled and safe disposal route for the complete waste management route. All waste will be handled and disposed of to both local and international laws and works will be carried out to all Approved Codes of Practice (ACOPS)

6.4. Fire plan

Given the nature of the Phase 2 and Phase 3 activities, a robust Fire Plan will be put in place including a constant fire watch, trained fire fighters and adequate firefighting equipment. The following precautions will be taken:

- Fire Team: A Marine Fire Chief will be responsible for fire prevention and fire-fighting. He will have a fire team on standby to respond to any flare-ups and also to monitor all hot cutting operations. Fire equipment will include, but is not be limited to, full fire-fighting suits, portable fire-fighting appliances, charged fire hoses and water walls. A 'Hell-beater' portable fire-monitor will be installed with each scrapping team. This will provide water main pressure to charge fire

hoses as well as an on-site monitor to fight fires. A tug with Fi-Fi monitors will be at stand-by to respond to a large flare-up if required. Good fire monitoring is essential during cutting operations. Monitoring will consist of Infrared monitoring and ensuring that the fire watch has access to monitor the inside area where cutting is to take place. Good awareness of potential fire hazards in cutting locations is essential. Good monitoring after cutting has been completed is also important to ensure no fires flare up after operations.

- Atmosphere Monitoring: A Marine Chemist will be present during the above water scrapping phase of the operation. The chemist will ensure that the atmosphere of the area in which hot cutting will be conducted is safe. No cutting will be conducted into the wreck or tanks before the marine chemist has declared the atmosphere safe for cutting.
- Water Shield: Cutting operations into the wreck decks / bulkheads will be conducted with a water shield. This will shield potential flammable material from the heat and flames caused by the cutting torches. Two fire nozzles with water deflection shields will be inserted into holes to cover the area to be cut from either side. Fire hoses will be supplied from 'Hell-beaters' on deck of the crane barges. A 3D representation of this water shield is presented in Figure 12 below.
- Choice of Cutting Method: Cold cutting methods should take preference to hot cutting. Hydraulic shears mounted on a long reach excavator should be used where possible to reduce fire risks.
-

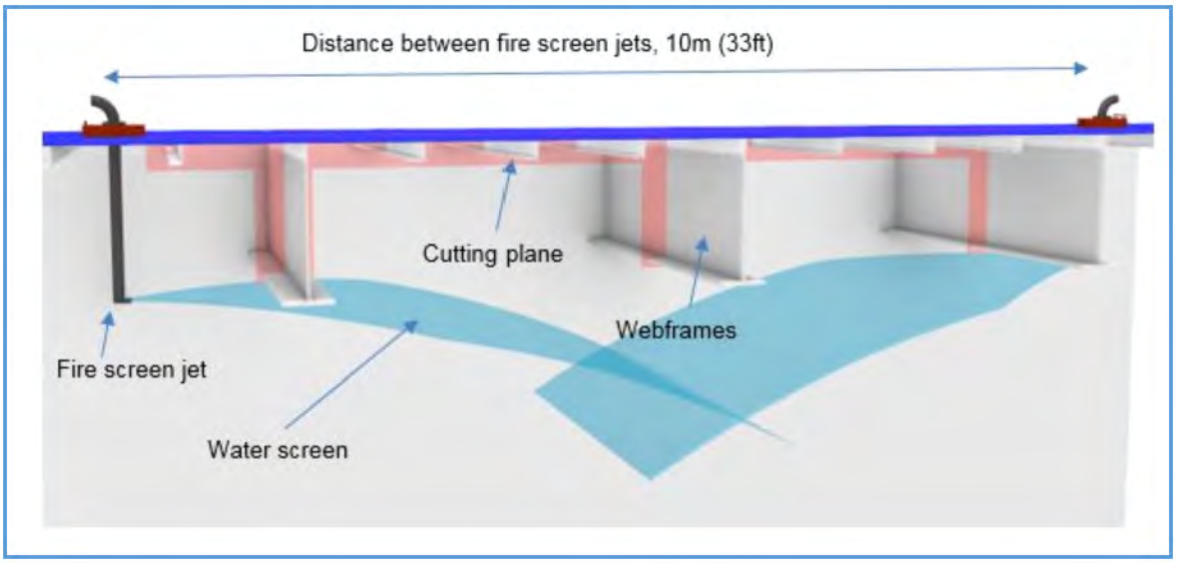


Figure 12 Diagram illustrating the use of water screens to protect cutting area. Cuts will be made between water screens.

7. RESOURCES AND PLANNING

7.1. Project Organization

Contractor will deploy its workforce on site and will set up a suitable project management organization. Please see attached project organization chart in the Appendices for details.

For the Wreck removal operation two scrapping teams will work from both sides of the wreck. They will be supported by various other teams and personnel to safely and effectively complete the operation. The onsite wreck removal operations will consist of the following key personnel:

Position	Qty / Shift	24/7
Project Manager	1	1
Salvage Master	2	2
Procurement Officer	1	1
Logistics Officer	1	2
Shore Coordinator / Controller	1	2
Marine Asset Operations	1	1
Project Engineer / Salvage Officer	1	2
Environmental Engineer	1	1
HSE Officer	1	1
Naval Architect	2	2
Scrap Processing	1	2
Piling Engineering	1	2
HDD Engineering	1	2
HSE Supervisor	1	2
Medic	1	2
Marine Chemist	1	2
Environmental Watcher	1	2
Field Engineer	1	2
Fire Watch	1	2
Fire fighters	3	6
Rope Access Technicians	8	16
Salvage Superintendent	2	4
Cutting Team on Wreck	8	16
Rigging Team	4	8
Hydrographic Survey	1	1
Scrap Control Offshore	2	4
Scrap Control Onshore	2	2

Table 3 Typical project team composition

7.1.1. *Working hours during operations on site*

In general the cutting and grabbing operations will be restricted to daylight operations only.

Besides daylight operations the following operations will continue 24/7:

- Movement of scrap,
- Installation of cofferdam,
- Surveys as required,
- Maintenance on board the various assets.

Main drivers to decide whether or not an operation is possible to conduct 24/7 will depend on the safety aspects of teach task.

7.2. Selected key assets

The scrapping operations will be conducted with 2 scrapping teams. Each team will work from a medium sized crane barge. Each crane barge is accompanied by scrap barges and tugs as required as well as a spud barge to assist with mooring and to carry the excavator with cutting sheers. The Chesapeake 1000 with the HDW1 grab will work between the two teams as required. The Taklift 4 may be used during the final scrapping phase to lift large sections of the hull should that option be selected.

Bow	Qty	Stern	Qty	Total
Chesapeake 1000 both sides	1	NA		**1**
HDW1 both sides	1	NA		**1**
Crane barge 300T	1	Crane barge 300T	1	**2**
Tug for crane barge	1	Tug for crane barge	1	**2**
Assisting tug	1	Assisting tug	1	**2**
Shear with spares	1	Shear with spares	1	**2**
Spud barge for shears/mooring	1	Spud barge for shears/mooring	1	**2**
Scrap barge with tug	3	Scrap barge with tug	3	**6**
Spud barge with BlueView, crane with grab, dive equipment		See left column	1	**1**
Cut team on wreck	4	*Cut team on wreck*	4	**8**
Rope access team	4	*Rope access team*	4	**8**
Fifi team	4	*Fifi team*	4	**8**
Rigging team	4	*Rigging team*	4	**8**
Dive team to cover both work sites	6	*Dive team to cover both work sites*	0	**6**
Sorting grab	1	Sorting grab	1	**2**
Orange peel grab	1	Orange peel grab	1	**2**
Rigging assortment incl chains: BOX	1	Rigging assortment incl chains: BOX	1	**2**
Hell beater incl manifold, hoses: SET	1	Hell beater incl manifold, hoses: SET	1	**2**
Anti-pollution equipment, skimmers, absorbents: SET	1	Anti-pollution equipment, skimmers, absorbents: SET	1	**2**
Land subcontract Scrap Spread	1	NA		**1**
Conveyor of transport to Scrap Buyer	1	NA		**1**

Table 4 List of assets and equipment

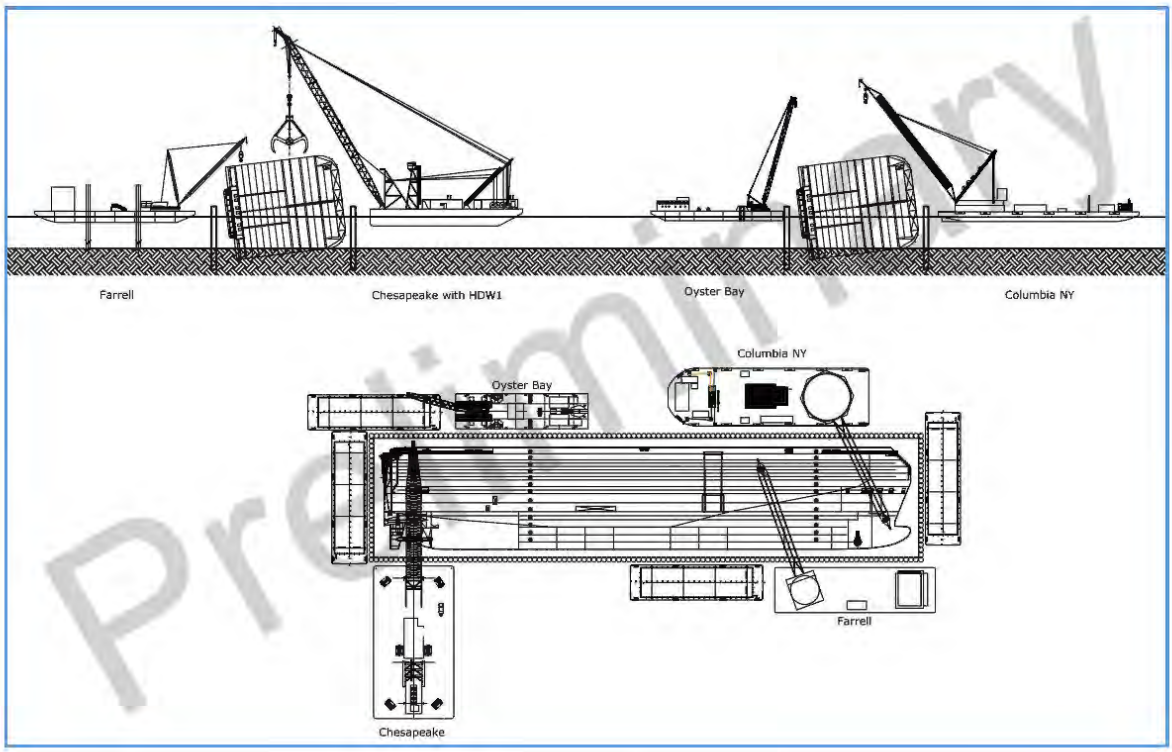


Figure 13 Diagram indicating 2 work teams on site working on the Bow And Stern. The 2 x work teams are complimented by the Chesapeake 1000 with the HDW1 grab. Please note 3 x medium sized crane barges are included in the diagram for crane barge size reference.

7.3. Cutting equipment

The wreck will be demolished using various cutting techniques. Each technique will be assessed on the application and preference of the salvage method. The various cutting methods and their suitability to the salvage plan will be described below.

7.3.1.Above water cutting

All cuts during Phase 2 will be made above the waterline. These cuts will be made using a combination of hydraulic shears operated from a high reach excavator, chisels from free-fall capable cranes and by experienced cutters using oxy-propane hand-held scrapping torches as required. Cutters will access the cut-lines by man basket or rope access. The excavator with 15MT shears will be operated from a barge which can be moved around the wreck as required.

The first method of cutting is using hydraulic cutting shears attached to a long reach excavator. This scrapping excavator will be operated from a barge which can be moved around the wreck as required and will work in tandem with a crane for lifting cut sections. This method is faster, safer and less manpower driven than cutting by hand. The drawback is that cuts are rough and jagged in comparison to hand cutting. The excavator is limited in reach, it does however allow the operator to cut remotely in hard to reach areas without having to access the cutting location in person. Cutting below the waterline will be reserved for strategic vertical cuts only, to avoid making a mess. Long reach excavators and shears are available in the USA.

The second means of cutting will be a chisel deployed from a free-fall crane. The 'Contractor' has extensive experience using chisels to dismantle vessels. The shear and chisel combination have proven to be a very efficient means of dismantling the wreck. It is envisaged that the shears will do a majority of the cutting *above* the waterline and the chisel will do a majority of the cutting *below* the waterline. The chisel will be available to execute the longitudinal cuts which are difficult for the shears to do. Likewise the shears will be available to do vertical cuts underwater to compliment the chisel. Both of these tools can be used regardless of the degradation or orientation of the wreck.

Figure 15 Long Reach excavator with shears used in demolition ashore.

Figure 14 Chisel operated by a free fall crane.

In cases where the hydraulic shears or the chisel are unable to cut the wreck, the use of oxy-propane gas-torches, BROCO, and PVL torches can be used.

The HDW1 600MT salvage debris grab will be made available and rigged from the CHESAPEAKE or other suitable asset to remove what the shears have left behind. A spec sheet for the HDW1 wreck grab is provided in the Appendices.

7.3.2. Underwater cutting

The most common underwater cutting method is the use of divers with Broco or PVL torches. This method is very labor intensive, slow and expensive. This method is also accompanied by significant added risks with method due to the release of explosive gasses and the explosion risk caused by pockets of gas forming in vicinity of the cutting operation. This method is less suitable for the majority of the underwater wreck removal operation, also because of limited underwater visibility.

An alternative underwater cutting method that is often employed by the 'Contractor' is the use of a crane operated gravity chisel. This method entails repetitive freefall dropping of a chisel from a suitable crane and using a positioning system to track cuts. This system is simple and cost effective but is leaves rough and ragged cuts. Furthermore it is a time consuming method comparable to Broco cutting and is determined by the speed of the crane. Due to the contractors extensive experience in this method and the cost effectiveness and robustness, it is deemed the most suitable method cutting the remaining hull below the waterline.

7.4. Schedule

The Contractor has worked closely with Company's CL Risk Solutions to build up an xpoSure risk models. The resulting schedules can be found in the Appendices.

APPENDICES

1. Risk Registers (xpoSure)
2. Risk Forecasts Commercial and Schedule (xpoSure)
3. Project Organization Chart
4. Master Document Register
5. GOLDENRAY-SUS192006-CN801 Feasibility study parbuckling & refloat of Golden Ray
6. GOLDENRAY-SUS192139-CN1118 Structural Analysis Hull
7. GOLDENRAY-SUS192139-CN1119 Wreck monitoring plan
8. GOLDENRAY-SUS192139-D1120 Multibeam comparison
9. GOLDENRAY-SUS192139-D1121 Section removal sequence illustration
10. GOLDENRAY-SUS192139-D1122 SSD-LSD Decision flowchart
11. GOLDENRAY-SUS192139-D302 Steel Sampling Locations Rev B
12. GOLDENRAY-SUS192139-D1314 Worksite layout Rev B
13. GOLDENRAY-SUS192139-D1214 Section cut plan Rev B
14. GOLDENRAY-SUS192139-D1215 Section cut plan for Large D-sections Rev B
15. GOLDENRAY-SUS192139-D1815 Cofferdam Layout design
16. NINA info
17. Safety Statement
18. Safety Zone by USCG
19. Best Management Practices - Wildlife
20. Vessel Particulars

EXHIBIT “3”

From: Witt, Norm C CDR <Norm.C.Witt@uscg.mil>
Sent: Monday, December 23, 2019 1:23 PM
To: Paul Hankins <paul.hankins@donjon.com>
Cc: John A. Witte <john.witte@donjon.com>; twilliamson@donjon-smit.com; Richard Janssen <r.janssen@smit.com>; Martin, Douglas <d.martin@smit.com>; Reed, John W CAPT <John.W.Reed@uscg.mil>; Baer, Matthew J CDR <Matthew.J.Baer@uscg.mil>; Beck, Kevin M CDR <Kevin.M.Beck@uscg.mil>; Coleman, Judson A LCDR <Judson.A.Coleman@uscg.mil>; Chris Graff <cgraff@chgms.com>; Tom Wiker <twiker@chgms.com>; Briggs, Salomee G LCDR <Salomee.G.Briggs@uscg.mil>
Subject: RE: [Non-DoD Source] Donjon-SMIT Meeting Request

Good afternoon, Mr Hankins-

Thank you for your email.

The FOSC and UC continue to prioritize the protection of the environment and integrity of the navigable waterways. The SMFF regulations found in 33 CFR 155.4010 et seq continue to apply to this response as approximately 44k gallons of petroleum products and hazardous substances remain onboard the vessel. Under 33 CFR § 155.4032(a), the Owner may seek approval from the FOSC to use another resource provider. Please note, the FOSC is not responsible for the Owner's selection of resource providers. The FOSC may approve an Owner's request to employ an additional resource provider if that resource provider is to be contracted for a specific response, under exceptional circumstances and when doing so would best affect a more successful response. The FOSC, in consultation with USN SUPSALV and USCG MSC SERT, thoroughly reviews all such requests, including an assessment of how it compares to the current resource providers proposed course of action.

Regarding your request for a meeting, I will defer to the Owner's representatives (copied) to schedule any desired meetings with the UC.

Thank you, again.

Very Respectfully,

CDR Norm Witt

Commanding Officer

Marine Safety Unit Savannah

(912) 652-4353

From: Paul Hankins <paul.hankins@donjon.com>
Sent: Sunday, December 22, 2019 5:38 PM
To: Reed, John W CAPT <John.W.Reed@uscg.mil>; Witt, Norm C CDR <Norm.C.Witt@uscg.mil>
Cc: John A. Witte <john.witte@donjon.com>; twilliamson@donjon-smit.com; Richard Janssen <r.janssen@smit.com>; Martin, Douglas <d.martin@smit.com>
Subject: [Non-DoD Source] Donjon-SMIT Meeting Request

Dear CAPT Reed/CDR Witt

As Donjon's Vice President for Salvage Operations and project manager for Golden Ray, I'm compelled to go on the record with my deep concerns of what has transpired over the last few weeks, prior to your decision to deviate from the VRP. We all know once approved it will be far more difficult for the U.S. Coast Guard FOSC to undo a deviation granted to the North of England P&I Club to engage T&T.

In hopes of providing Donjon-SMIT's perspective, I respectfully request a meeting with you to discuss the below.

As a prelude to this, Donjon-SMIT is frankly mystified by the continuing willingness of the UC to accept at face value the representations provided by the Club in regards to the salvage planning effort. The Club has been proven to be misstating facts, misstating our position, and misstating the risks and timelines associated with the removal. Why then are we on the precipice of a deviation approval without ever having sought a salvor meeting on our plan or our position on the removal of Golden Ray? In that regard, the following items highlight some of the concerns and the hypocrisy of what we have been going though the last several weeks.

- **Lack of UC Discussions with named SMFF provider.** We recently learned that T&T was afforded a meeting directly with the QI and your staff. That seems highly irregular, as we have never been asked to present our plan directly to that group. From our perspective, our position has always been required to be viewed through the prism of a clearly prejudiced Club. As you know our original plan was withheld from the UC for weeks by the Club and their consultants. But even after it's existence was made known, to date the UC has not had the time to meet once, NOT ONCE, to discuss this plan with the SMFF provider of record. Contrast that with this T&T plan, developed without on-scene real-time information. It was submitted to the Club and within two days! the UC was meeting one on one with that salvor. We should at least be told why we are being treated so differently. The fact that the SMFF provider can't get 30 minutes in front of our own Unified Command in deference to English underwriters and Dutch consultants with zero assets or responsibility (and no formal role in the UC) is an extreme disappointment. Donjon-SMIT was never allowed to present the plan to the UC and/or given an opportunity to address any questions they might have. It was all done through a Club with no formal position in that UC. The Club's consultant has become the defacto salvor.

- **Rationale for Deviation.** To our knowledge, Donjon-SMIT has met every aspect of our regulatory requirements, including saving 4 souls trapped in the wreck, removing the bulk oils, and preparing a thorough well engineered wreck removal plan. Nothing has been told to us indicating disappointment in our performance, beyond the Clubs insistence our plan "doesn't give them what the want', without a definition of what that exactly is.

- **Risk/Benefits.** The UC is poised to approve a plan that is significantly more risky, moves the completion date just a month earlier under a very questionable schedule, and costs nearly double what the SMFF provider's plan would cost.

    - **Cost Risk.** Of course cost is no longer a concern to the Club as they approach their Limits of Liability. The QI informed us to be extra mindful of costs as these limits are approached yet here we are on the precipice of a $200M effort all because of a dubious claim that a month can be shaved off the schedule. Meanwhile the American taxpayers, not the Club, will be footing the expense,

    - **Methodology Risk.**

        - **SMFF Plan vs. Other Bidders.** Apparently the UC is going to allow a plan/method that has failed the previous two times when tried on similar casualties, approved without the benefit of reviewing and comparing to the SMFF plan with the experts. Why are we treating the Donjon-SMIT plan as a pariah, some worst case plan to be considered apparently only if no other plan can be approved? T&T salvors were allowed to present their plan, why not seek the SMFF-of-record's perspective?

        - **Ultra-heavy removal.** The T&T plan calls for the GOLDEN RAY to be cut by chain-sawing into a few (8?) ultra large sections. Not withstanding the peril that cutting places on the structural integrity of the remaining wreck, we know the State has concerns with wire/chain cutting methodology. That is just one reason we chose not to go that route. But to learn that we might have been more successful discounting UC risk concerns is troubling. The discussion on why ultra large sections will not work was addressed in Donjon-SMIT's plan beginning on page 42. Pictures of the Baltic Ace and the Tricolor were included, both smaller vessels than the Golden Ray. Both efforts failed insofar as keeping pollutants out of the water and removing the wrecks in planned sections. The ONLY car carrier (of 3 recent similar casualties) successfully removed without spilling cargo used our proposed methodology. No explanation has been given as to why large section cuts would possibly work the third time it's tried, this time in the middle of St. Simon's Sound. Donjon-SMIT fully expects the wreck and her sections to break up and spill her cargo should this method be

attempted again, just as in previous cases. Even if the sections are landed onto a barge, they will be subject to collapse, as occurred for the ultra large sections lifted onto barges in the cases of the Baltic Ace and Tricolor - allowing cars from within and wreck sections to fall from the barge during transport.

▪ **Unfamiliarity with Wreck.** The T&T plan made sweeping inaccurate generalizations on wreck condition. These generalizations give them cover in the event the plan fails. One of the reasons we chose not to team with T&T is they represented to us that they are planning for failure, which is why T&T costs are more than double the cost of Donjon-SMIT's plan. Obviously, a repeat of the structural failures experienced by the Baltic Ace or the Tricolor in St. Simon's Sound would be a catastrophe, especially when it's a known likely outcome of the method resulting in uncontrolled release of cars into St Simon's Sound and pollutants.

• **Unchallenged Misrepresentations by the Club.** Throughout this process, our position and our plans have been misrepresented by the Club. We have been unsuccessful in getting the Unified Command to care about those misrepresentations. Some of the many misrepresentations include:

1. DJS's plan would push into 2021. **UNTRUE**

2. The Club was waiting for the plan to be developed by Donjon-SMIT. **UNTRUE**

3. Donjon-Smit did not provide the Club with a plan that could be discussed and amended if a clear logical methodology preference existed and communicated . **UNTRUE**

4. Donjon-SMIT was unwilling to negotiate. **UNTRUE**

5. After the Admin Order revision, Donjon-SMIT was unwilling to negotiate to correct the deviation. **UNTRUE**

6. During the ITT plan review, Donjon-SMIT was unable to justify our removal rates (resulting in a 76 day schedule penalty). **UNTRUE** (in fact we provided extensive detail and our own risk software provided a much more industry-relevant 18 day risk premium)

7. Donjon's ITT plan would push removal completion into October. **UNTRUE**

8. Donjon pulled out of a **T&T** 'deal' after agreeing to proceed. **UNTRUE**

• **Donjon's teaming with T&T.** The North of England P&I Club suggested, for its own reasons, that Donjon-SMIT consider 'cooperating' with T&T Salvage and enter a joint venture to remove the GOLDEN RAY in accordance with a plan developed by T&T. We agreed to listen to the proposal. However, upon finding that the T&T plan calls for cutting the GOLDEN RAY into ultra large sections, and finding they agreed there was a huge risk to the lifts, and lack of adequate planning to include a cofferdam, Donjon-SMIT quickly ended any consideration of partnering. We essentially were told the plan would likely fail but there was plenty of money to come back in "to do it our way" if it did fail. That was unacceptable to us. Donjon-SMIT and its parent companies are more concerned with their reputations than the immediate financial gain that might come from participating in a flawed plan. We were told No Plan is Perfect. In this case the plan is heavily flawed with fatal simplifications from the onset that knowingly will be revised once actual situation is taken into consideration.

Our concern regarding this case reaches beyond just the current work at hand for this specific incident.

- **"Wreck Removal Falls Outside the VRP"** We have heard that we are going into a project stage which therefore somehow justifies the Club's desire to switch contractors. In fact, the OPA 90 Salvage and Marine Firefighting (SMFF) regulations do not separate SMFF response by phases. There is no distinction between an emergency response phase and a later salvage or removal phase. The key factor, to our knowledge, is whether or not a significant pollution threat exists. The very existence of the UC belies the claim that the 'event' has somehow passed. And for now anyway Donjon-SMIT remains the named SMFF contractor in the GOLDEN RAY's Vessel Response Plan.

- **Precedent to Break OPA-90 SMFF Role.** As the former General Manager for Donjon-SMIT, I know first-hand the time and millions of dollars we spent putting our capability together. The only return we get on that investment is responding to these incidents, This deviation action puts the very reason for the venture's existence at risk - that is meeting the OPA-90 Salvage and Marine Firefighting regulations. If it's the USCG's position that the P&I Club is the one with ultimate responsibility for this case and therefore they can do whatever they wish to do and contract with whomever they please after the fact, that litmus test has no bounds. The Club knows this, and I presume setting this precedent is the precise reason for their actions. We might as well take the extra step for them and strike the SMFF regulations, the main cornerstone of which is pre-contracting and working in a Unified Command setting.

- **Responsibilities.** It has been suggested that the North of England P&I Club/Global Salvage Consultants are the controlling party in this matter. We do not agree with this. In fact, it is the U.S. Coast Guard that is responsible for maritime safety and environmental protection. It is the U.S. Coast Guard that is responsible for enforcement of its regulations. It is the U.S. Coast Guard that is responsible for approving contractor selection not a foreign insurance interest and its consultants. If the U.S. Coast Guard does not enforce its regulations in this case when will it?

While this is a lengthy email, I believe its content vital to your decision to grant any deviation. We simply want to know why the UC turns a blind eye to the regulations while allowing the Club to dictate UC actions. Why is the dedicated SMFF provider, with the successes to date, being kicked off the job? In fact, OPA 90 states limits of liability are not applicable if the Responsible Party fails to provide all reasonable cooperation and assistance requested by the responsible government official in connection with removal activities, or without sufficient cause, fails to comply with a proper order issued by a responsible federal official. It seems that given the above, the UC is closer to this scenario than the UC's apparant willingness to declare the SMFF provider so incompetent as to approve a deviation.

Why is the Club being rewarded with a precedent setting deviation, while Donjon-SMIT is being shuttled out, forever branded with "unwilling to cooperate" across our reputation, all in pursuit of a perverted agenda generated entirely by the Club.

Thanks for your time and I look forward to an opportunity to speak with you directly tomorrow.

Best regards,

Paul Hankins

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Paul Hankins

VP, Salvage Operations

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www.donjon.com

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www.donjon-smit.com

EXHIBIT “4”

St. Simons Sound Response

St. Simons Sound Incident Response Unified Command announces EPB construction and wreck removal plan

The Unified Command (UC) for the St. Simons Sound Incident Response, in coordination with the owners of the motor vessel Golden Ray, have developed a plan and received permits for the construction of an environmental protection barrier (EPB) to be built around the grounded vessel before it is cut into sections and removed.

U.S. Army Corps of Engineers, Savannah District, on Tuesday, Feb. 4, issued permits for EPB construction. The EPB is designed to protect the environment from pollution and debris.

The UC will be available at 10 a.m. Friday, Feb. 7, for media interviews about the construction of the EPB, at the Susan Shipman Environmental Learning Center at 1 Conservation Way in Brunswick.

EPB construction is scheduled to begin in approximately two weeks. Construction will require pile driving operations during daylight hours. The public should expect construction noise.

"There's no way to remove the Golden Ray without making noise—there's no way around it," said Kevin Perry of Gallagher Marine Systems, incident commander for the responsible party. "The EPB construction noise will be limited to daylight hours. We appreciate everyone's patience with the noise levels as we work to remove this wreck as quickly and safely as possible."

The EPB will include large floating boom to help contain surface pollutants, as well as double layer netting to contain subsurface debris.

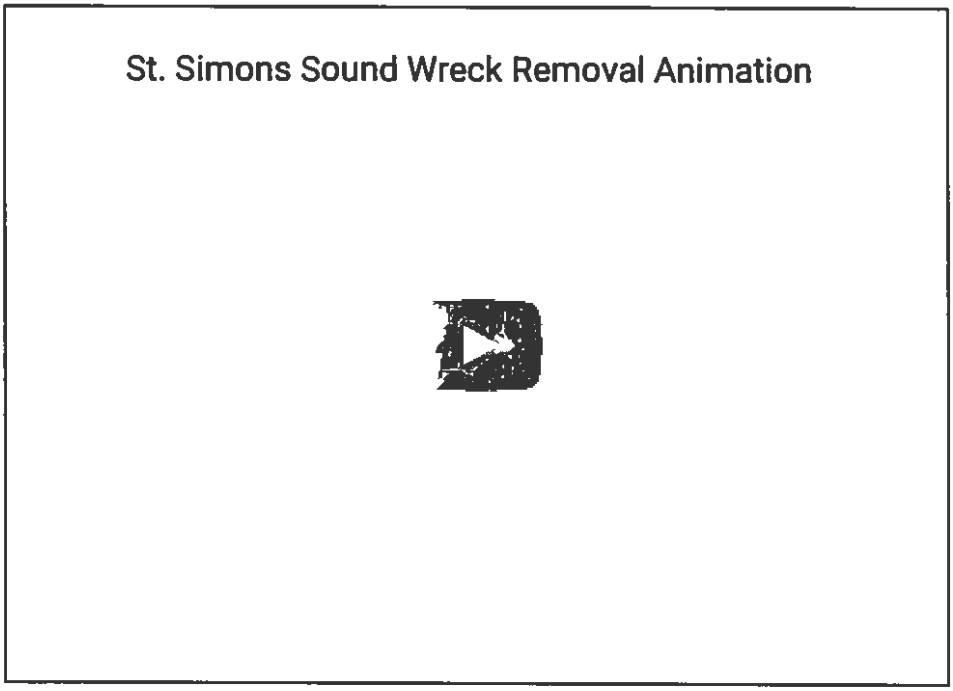
"We recognize that the floating boom of the EPB alone will probably not be enough to contain surface pollution when we cut into the hull," said Coast Guard Cmdr. Norm Witt, federal on scene coordinator for the response. "That's why we'll have crews and equipment, both inside the barrier and out, ready to respond."

Contractors will remove the wreck using the VB-10,000 floating crane to cut through the hull with a large diamond-cutting chain. The plan is to make seven cuts and remove eight large sections. Each section of the

Golden Ray, weighing approximately 2,700 to 4,100 tons, will be lifted by the VB-10,000 onto a barge, then transported to a certified off-site recycling facility for further dismantling and recycling.

"Each individual large-section cut will take approximately 24 hours, and once a cut begins, must continue until that cut is complete," said John Maddox, Georgia Department of Natural Resource state on scene coordinator. "That means noise through the night during some 24-hour periods. We do not yet know when the cutting will begin, but we will make announcements for cutting operations once they are scheduled."

Further details and graphics describing plans and equipment are available at the St. Simons Sound Incident Response official website: https://ssiresponse.com/ . The joint information center (JIC) for the St. Simons Sound Incident Response is the response's official source of information. The JIC can be reached by phone at 912 944 7122 or email at simonsresponse@gmail.com.



This entry was posted in Incident Updates on February 5, 2020 3:54 PM [https://ssiresponse.com/st-simons-sound-incident-response-unified-command-announces-epb-construction-and-wreck-removal-plan/] .

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

DONJON-SMIT, LLC **VS.** **ADMIRAL KARL L. SCHULTZ, CAPTAIN JOHN W. REED, COMMANDER NORM C. WITT, and COMMANDER MATTHEW J. BAER**	**CIVIL ACTION NO. _____**

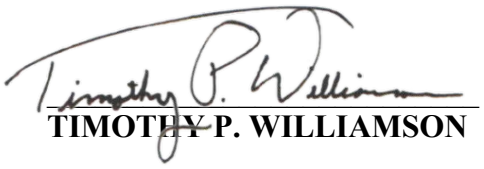
DECLARATION OF
TIMOTHY P. WILLIAMSON

1. My name is Timothy P. Williamson. I am over the age of 21, am of sound mind, have never been convicted of a felony or crime involving moral turpitude, and am fully competent in all respects to make this Declaration.

2. I am the General Manager for Donjon-SMIT, LLC. I am fully authorized by Donjon-SMIT, LLC to make this Declaration. I have read: (1) Plaintiff Donjon-SMIT, LLC's Verified Original Complaint, Request for Injunctive Relief, and Writ of Mandamus, and (2) Plaintiff Donjon-SMIT, LLC's Verified Motion for Injunctive Relief and Brief in Support Thereof. The facts stated these two documents are within my personal knowledge and are true and correct.

3. I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 13, 2020.



TIMOTHY P. WILLIAMSON

JS 44 (Rev. 08/18)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

DonJon-Smit, LLC

(b) County of Residence of First Listed Plaintiff Kent
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Joseph R. Odachowski, Esq. of Taylor, Odachowski, Schmidt & Crossland, LLC, 300 Oak Street, St. Simons Island, Georgia 31522; (912) 634-0955

DEFENDANTS

Admiral Karl L. Schultz, Captain John W. Reed, Commander Norm C. Witt, and Commander Matthew J. Baer

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ❒ 1 U.S. Government Plaintiff
- ❒ 3 Federal Question *(U.S. Government Not a Party)*
- ❒ 2 U.S. Government Defendant
- ☒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	❒ 1	❒ 1	Incorporated *or* Principal Place of Business In This State	❒ 4	❒ 4
Citizen of Another State	❒ 2	☒ 2	Incorporated *and* Principal Place of Business In Another State	☒ 5	❒ 5
Citizen or Subject of a Foreign Country	❒ 3	❒ 3	Foreign Nation	❒ 6	❒ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
❒ 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	❒ 625 Drug Related Seizure of Property 21 USC 881	❒ 422 Appeal 28 USC 158	❒ 375 False Claims Act
❒ 120 Marine	❒ 310 Airplane	❒ 365 Personal Injury - Product Liability	❒ 690 Other	❒ 423 Withdrawal 28 USC 157	❒ 376 Qui Tam (31 USC 3729(a))
❒ 130 Miller Act	❒ 315 Airplane Product Liability	❒ 367 Health Care/ Pharmaceutical Personal Injury Product Liability		PROPERTY RIGHTS	❒ 400 State Reapportionment
❒ 140 Negotiable Instrument	❒ 320 Assault, Libel & Slander	❒ 368 Asbestos Personal Injury Product Liability		❒ 820 Copyrights	❒ 410 Antitrust
❒ 150 Recovery of Overpayment & Enforcement of Judgment	❒ 330 Federal Employers' Liability	PERSONAL PROPERTY	LABOR	❒ 830 Patent	❒ 430 Banks and Banking
❒ 151 Medicare Act	❒ 340 Marine	❒ 370 Other Fraud	❒ 710 Fair Labor Standards Act	❒ 835 Patent - Abbreviated New Drug Application	❒ 450 Commerce
❒ 152 Recovery of Defaulted Student Loans (Excludes Veterans)	❒ 345 Marine Product Liability	❒ 371 Truth in Lending	❒ 720 Labor/Management Relations	❒ 840 Trademark	❒ 460 Deportation
❒ 153 Recovery of Overpayment of Veteran's Benefits	❒ 350 Motor Vehicle	❒ 380 Other Personal Property Damage	❒ 740 Railway Labor Act	SOCIAL SECURITY	❒ 470 Racketeer Influenced and Corrupt Organizations
❒ 160 Stockholders' Suits	❒ 355 Motor Vehicle Product Liability	❒ 385 Property Damage Product Liability	❒ 751 Family and Medical Leave Act	❒ 861 HIA (1395ff)	❒ 480 Consumer Credit
❒ 190 Other Contract	❒ 360 Other Personal Injury		❒ 790 Other Labor Litigation	❒ 862 Black Lung (923)	❒ 485 Telephone Consumer Protection Act
❒ 195 Contract Product Liability	❒ 362 Personal Injury - Medical Malpractice		❒ 791 Employee Retirement Income Security Act	❒ 863 DIWC/DIWW (405(g))	❒ 490 Cable/Sat TV
❒ 196 Franchise				❒ 864 SSID Title XVI	❒ 850 Securities/Commodities/ Exchange
				❒ 865 RSI (405(g))	❒ 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	IMMIGRATION	FEDERAL TAX SUITS	❒ 891 Agricultural Acts
❒ 210 Land Condemnation	❒ 440 Other Civil Rights	Habeas Corpus:	❒ 462 Naturalization Application	❒ 870 Taxes (U.S. Plaintiff or Defendant)	❒ 893 Environmental Matters
❒ 220 Foreclosure	❒ 441 Voting	❒ 463 Alien Detainee	❒ 465 Other Immigration Actions	❒ 871 IRS—Third Party 26 USC 7609	❒ 895 Freedom of Information Act
❒ 230 Rent Lease & Ejectment	❒ 442 Employment	❒ 510 Motions to Vacate Sentence			❒ 896 Arbitration
❒ 240 Torts to Land	❒ 443 Housing/ Accommodations	❒ 530 General			☒ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
❒ 245 Tort Product Liability	❒ 445 Amer. w/Disabilities - Employment	❒ 535 Death Penalty			❒ 950 Constitutionality of State Statutes
❒ 290 All Other Real Property	❒ 446 Amer. w/Disabilities - Other	Other:			
	❒ 448 Education	❒ 540 Mandamus & Other			
		❒ 550 Civil Rights			
		❒ 555 Prison Condition			
		❒ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ❒ 2 Removed from State Court ❒ 3 Remanded from Appellate Court ❒ 4 Reinstated or Reopened ❒ 5 Transferred from Another District *(specify)* ❒ 6 Multidistrict Litigation - Transfer ❒ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
28 U.S.C. 1331, 1346 & 1321(e)(2), and 28 U.S.C. 2201 & 2202

Brief description of cause: Capsize of GOLDEN RAY: Injunctive Relief – Violation of 33 C.F.R. § 155.4032 (Oil Pollution Act); 33 U.S.C. § 1321(c)(3)(B) (Oil and Haz. Sub. Liab. – Nat'l Contingency Plan) ; 42 U.S.C. § 1983 and Fifth Amendment; Declaratory Judgment; Mandamus

VII. REQUESTED IN COMPLAINT:

❒ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:

JURY DEMAND: ❒ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE
February 13, 2020

SIGNATURE OF ATTORNEY OF RECORD
/s/ Joseph R. Odachowski

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below**; NOTE: federal question actions take precedence over diversity cases.**)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.

V. **Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statue.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.