

Claims for Marine Accidents in the Panama Canal and Its Third Set of Locks

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Overview

- Dimensions: Existing vs. Third Set of Locks
- Compulsory Pilotage & Canal Waters
- Marine Accident Investigations
- Administrative Claims
- Suits against the ACP

Dimensions and Operation

Existing Locks (Panamax)

- Chamber
 - Length 305m (1,000')
 - Width 33.5m (110')
 - Depth 12.8m (42')
 - Locomotive aligned
- Vessel Capacity
 - LOA 294.3m (965')
 - Breadth 32.2m (106')
 - Draught 12.04m (39'-06")
 - up to 5,000 TEUs

New Locks (Neopanamax)

- Chamber
 - Length 427m (1,400')
 - Width 55m (180')
 - Depth 18.3m (60')
 - Tug aligned
- Vessel Capacity
 - LOA 365m (1,200')
 - Breadth 49m (160')
 - Draught 15.2m (50')
 - up to 13,000 TEUs

Existing Locks - Panamax Vessel



Existing Locks



Third Set of Locks



POST-PANAMAX LOCKS

The new locks complexes will have three chambers each, water-saving basins, a lateral filling and emptying system and rolling gates.

Source: <http://micanaldepanama.com/expansion/wp-content/uploads/2014/04/components-2011.pdf>





Pilotage and Canal Waters

Pilotage

- Compulsory in Canal Waters;
- Pilot assigned shall have control of the navigation and movement of the vessel.

Canal Waters / Operation Compatibility Area

- “Continuous area generally following the course of the Panama Canal, and generally contiguous to it, running from the Atlantic to the Pacific Ocean.”

Canal Waters

- It includes land and water encompassing:
 - Atlantic entrance and anchorage areas;
 - Port of Cristobal;
 - Gatun Locks, Dam, Spillway and power station;
 - Portions of Gatun Lake;
 - Culebra (Gaillard) Cut;
 - Pedro Miguel Locks;
 - Miraflores Lake and Locks;
 - Port of Balboa;
 - Pacific Entrance and anchorage areas; and
 - New locks in Atlantic and Pacific side.

Caveat: Canal Waters does not Include Manzanillo International Terminal (“MIT”)



Marine Accidents

- ACP can adjust and pay claims for damages to vessels which may arise from transit through Canal Waters.
- 3-part step:
 - Accident investigation and hearing;
 - Administrative claim; and
 - Judicial claim (if necessary)
- Type of accidents
 - Collisions (ship-to-Ship);
 - Allisions (bridges, aids, quays, locks, locomotives);
 - Groundings;
 - Marine spills;
 - Personal injury (crew, passengers, ACP workers).

Bow Contact with a Locomotive



Step 1 - BLI Investigation

Vessel involved must request ACP's Board of Inspectors ("BI" or "BLI") to conduct an accident investigation.

- ✓ BLI investigation – prerequisite to recover damages from ACP

BLI accident investigation hearing:

- ✓ Held within the day or next of accident and completed in a matter of hours (voyage not interrupted);
- ✓ Summons witnesses (crew, pilots, tug master);
- ✓ Administers oaths to witnesses;
- ✓ Submission of log books and other vessel documents (VDRs);
- ✓ Vessel may be assisted by counsel.

BLI Investigation

- BLI **Must** investigate “serious marine accidents”:
 - Substantial damage to any Canal structure;
 - Death or serious personal injury; or
- BLI **May** investigate non-serious marine accidents:
 - Master or agent of vessel involved request an investigation; or
 - At the discretion of the ACP.

BLI Investigation.

- Investigation request to the BLI must be made:
 - In writing;
 - Addressed to the Chairman of the BLI; and
 - Prior to departure of vessel from Canal Waters.

Failure to request a BLI investigation prior to the vessel's departure from Canal Waters is considered a waiver of the right to an investigation and to claim damages against the ACP.

OPINION OF THE BOARD

1. That the cause of this accident was the uncontrolled movement of the vessel towards the southwest approach wall when departing Pedro Miguel Locks and the subsequent impact of the forward portion of the vessel with the wall that caused the rupture of the hull and the spilling of fuel into Miraflores Lake.
2. That there was fault on the part of the Panama Canal Authority in that the pilot failed to properly use all means at his disposal to maintain the vessel properly aligned for a safe departure from the southwest approach wall of Pedro Miguel Locks.
3. That the hull of the M/V DORADO LEADER was stained by oil as a result of navigating across Miraflores Lake as instructed by the Panama Canal Authority Canal Port Captain.
4. That there was fault on the part of the M/V HANJIN MONACO for failing to maintain a bridge bell book and an engine room bell book indicating rpm changes on the engine and the times the changes were executed.
5. That there was no other fault on the part of the M/V HANJIN MONACO, its master, officers or crew.
6. That there was no fault on the part of the M/V DORADO LEADER, its master, officers or crew.
7. That there was no other fault on the part of the Panama Canal Authority or any other of its employees.

Respectfully submitted,

ORIGINAL SIGNED

Captain Arcelio H. Hartley, Chairman
Board of Inspectors

ORIGINAL SIGNED

Captain Diego Porras, Member
Board of Inspectors

ORIGINAL SIGNED

Captain Guillermo Manfredo, Member
Board of Inspectors

Sample BLI Marine Accident Report (accident narrative, finding of facts, opinion of the Board, transcript of testimony and exhibits)

Step 2 - Administrative Claim

- Procedural timing
 - claim can be filed as soon as BLI issues its accident report;
 - Time bar is two (2) years from date of accident;
 - Consider filing when damage's supportive documentation is available.
- Apportionment of Fault
 - Comparative fault scheme
 - Damages award shall be reduced in proportion to degree of fault of operator/owner/vessel/crew

Administrative Claim

- What can be claimed against the ACP?
 - ✓ Actual/estimated repairs;
 - ✓ Charter hire actually paid or lost;
 - ✓ Maintenance of crew and vessel (provided not covered by C/Hire);
 - ✓ If not operated under C/P, sums which similar vessels can be chartered in the market; and
 - ✓ Other expenses incurred
 - Superintendent fees/travel;
 - Surveyor fees;
 - Class fees
 - Bunkers

Administrative Claim

- What **cannot** be claimed against the ACP?
 - Agency fees or commissions and other “undetermined items”;
 - Transit delays caused by:
 - Natural causes (land slides)
 - Canal work ;
 - Channel obstructions/congestion
 - Time required for BLI investigation (except if it exceeds 24 hours or accident was caused by ACP’s fault.

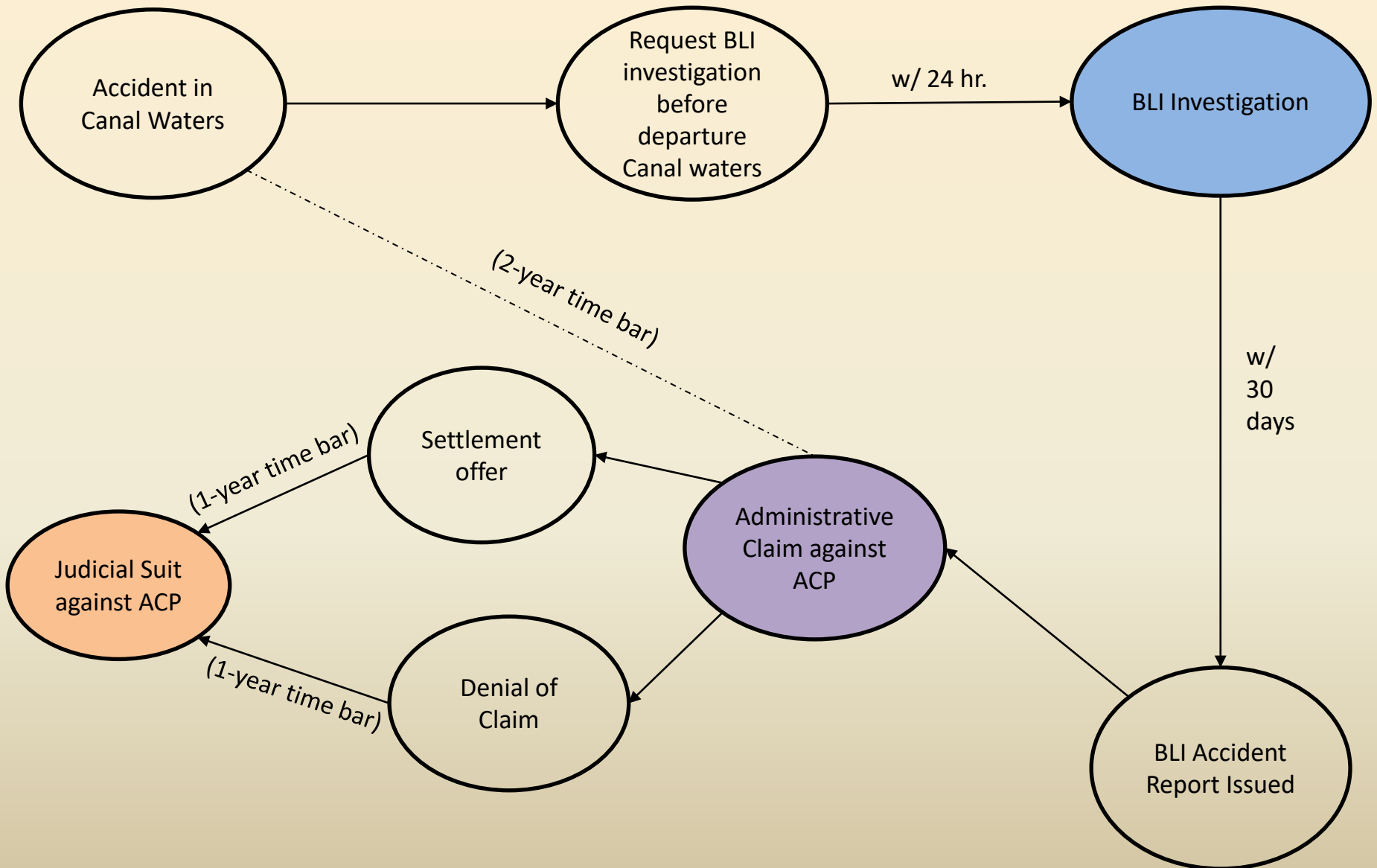
Administrative Claim.

- ACP can request additional evidence to support damages claimed
- Process ends with either:
 - Final determination of the claim (settlement offer);
 - Denial of the claim

Step 3 – Judicial Suit.

- Maritime Courts of Panama shall have exclusive and exclusionary jurisdiction;
- Time Bar is one (1) year from date of administrative claim's final determination;
- Defendant is the ACP;
- BLI accident report is admissible as evidence but its Finding of Facts and Opinion (cause of accident) are not binding.

Recap: a 3-STEP Process



Thank you!

