

Chilcotin Princess (2015)

Location: Namu, British Columbia

Case number: 120-669-C1

The Incident

On January 30, 2015, the *Chilcotin Princess*, a 51-metre, 570 GT old steel vessel which had been moored alongside the old dock of the abandoned Namu cannery for more than 10 years, was listing at its berth at Namu, British Columbia. A portion of the dock collapsed, and the vessel was at risk of capsizing and causing oil pollution. The vessel owner was contacted by the Canadian Coast Guard (CCG) Environmental Response personnel and issued a “Notice” requesting a plan to address the situation; however, no action was taken.

CCG assumed the role of On-Scene Commander and, on February 11, engaged a marine surveyor to examine the vessel. An imminent threat to the marine environment was noted due to the deteriorated condition of the hull. Therefore, having concluded that towing the vessel to a properly equipped oil removal facility would be unsafe, the surveyor recommended that oil on board be removed at the vessel’s location. The oil removal operation lasted five days and involved CCG crews and equipment, the CCGS *Bartlett* and a support platform from Wainwright Marine Services.

Measures taken by the Administrator

The Administrator hired a marine expert to review the survey report submitted by the marine surveyor engaged by CCG in February 2015. The expert agreed with CCG surveyor’s recommendation to remove pollutants from the vessel.

Furthermore, on July 27, 2015, upon receipt of the information from CCG that the *Chilcotin Princess* was being deconstructed by Wainwright Marine Services in Prince Rupert, with the Province of British Columbia (Province) as lead, the Administrator engaged a marine technical surveyor to attend the shipyard and monitor the deconstruction. The deconstruction process was halted by the finding of asbestos material on board. After the asbestos issue was resolved, a scrap contractor was engaged to proceed with the final demolition. The *Chilcotin Princess* was deconstructed in November 2015.

The Claim

On September 19, 2016, the Administrator received a claim from CCG, on behalf of the Department of Fisheries and Oceans (DFO/CCG), made pursuant to the *Marine Liability Act*, in the amount of \$137,680.88.

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

Assessment and Offer

After investigation and assessment of the claim, on November 2, 2016, the Administrator made an offer of compensation to DFO/CCG for the established amount of \$137,680.88 plus interest, as full and final resolution of the claim. The offer was accepted on November 14, 2016 and a payment of \$144,794.66 including interest was made to DFO/CCG on or about November 16, 2016.

Recovery Action

In December 2016, the Administrator tasked a professional locator service to complete a location and asset search on the vessel owner. Additionally, a demand letter was sent to the owner, but no response was received. However, it appeared that the registered owner, Intercoast Towing Ltd., a provincially incorporated company, had been dissolved prior to the incident, as a result of not filing corporate reports in the prior two years.

On February 1, 2017, it was decided that a recourse action would be taken against the Province since, under BC corporate law, it had become owner of the *Chilcotin Princess* by escheat, further to the dissolution of its registered owner. A demand letter was sent to the Province, to which a response denying liability for the claim was received on March 7.

The Administrator brought a subrogated action in the Federal Court against the Province of British Columbia as the owner of the vessel *Chilcotin Princess*. The Province filed a defence in the Federal Court, but also brought an application in the Supreme Court of British Columbia seeking to restore the dissolved corporation as if it had never been struck, with prejudice to the recovery rights of the Administrator. The action in Federal Court is stayed pending the outcome of the matter before the provincial courts.

On May 14, 2018, the Supreme Court of British Columbia accepted the Administrator's arguments and ruled that the Province had not demonstrated that the circumstances justified a reinstatement with prejudice to the Administrator's rights.

On June 13, 2018, the Province of British Columbia filed an appeal of the decision.

The British Columbia Court of Appeal heard arguments on December 6, 2018, and as of March 31, 2019, judgment had not been handed down yet.

Status

The file remains open.