

Crown Forest 84-6 (2014)

Location: Zeballos Inlet, British Columbia

Case number: 120-663-C1

The Incident

On September 25, 2014, the *Crown Forest 84-6*, a 39-metre, 427 GT camp barge, was sinking and polluting in Zeballos Inlet on the west side of Vancouver Island, BC. The barge was partially submerged and hard on the rocks, subject to tidal action, in a sensitive herring and salmon spawning ground. A light non-recoverable oil sheen was observed. A person who held himself out as the barge owner, but who was not in fact registered as such in the vessel registry, advised the Canadian Coast Guard (CCG) that he was not able to respond to the incident. The identity of the registered owner of the barge was later identified, but the latter claimed that he had already sold the barge.

CCG assumed the role of On-Scene Commander. The barge had various trailers and mechanical equipment on deck containing oils. Vacuum pumps were used by CCG personnel to remove 600 litres of diesel fuel from a tank on deck, and a local contractor having heavy equipment was hired to remove the remaining pollutants. On October 14, CCG deemed any ongoing pollution risk from the barge and its equipment to be minimal, so they stopped the response operation.

Measures taken by the Administrator

When informed about the incident by CCG, the Administrator engaged a marine technical surveyor to attend the incident location and investigate the situation. The surveyor met with the CCG Environment Response supervisor and the provincial government personnel who were involved. He was also informed that the provincial Ministry of Forests, Lands and Natural Resource Operations was working on a plan to pull the barge ashore and deconstruct it.

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 \$67,348.81 for costs and expenses incurred in the response to the *Crown Forest 84-6* incident.

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 24, 2016, the Administrator made an offer of compensation for the established amount of \$67,348.81 plus interest, as full and final resolution of the claim. The offer was accepted on December 14, 2016 and a payment of \$71,698.27 including interest was made to DFO/CCG on or about December 21, 2016.

Recovery Action

On February 2, 2017, a demand letter was sent to the registered owner of the vessel. On March 13, a response to the demand letter was received from the counsel of the registered owner denying any liability for the claims.

A Statement of Claim was filed with the Federal Court on February 21, 2017 against the registered owner of the Vessel. The registered owner added a recently-deceased third-party defendant to the action and alleged that the barge had been sold to this individual for \$1 prior to the sinking. At issue before the Federal Court was whether title to the barge had been properly conveyed to the deceased, and, if so, whether the registered owner could escape strict liability despite not having effected a change of registration and holding himself out as an owner.

The decision of the Federal Court was delivered on January 11, 2019. The Court found, based on the whole evidence, that the alleged transfer was valid despite the listing on the Canadian Register of Vessels and the absence of a formal bill of sale. As a result, there could be no finding of liability under the relevant section of the *Marine Liability Act* and the Administrator's action was dismissed with costs.

Status

The file was closed on February 28, 2019.