

## *Malecite (2017)*

Location: Kits Point, English Bay, BC

Case number: 120-819-C1

### **The Incident**

In August of 2017, the Canadian Coast Guard (CCG) received a report that the vessel *M/V Malecite*, a live aboard pleasure craft that was in very poor condition, contained a large quantity of oil and was in danger of sinking. On August 2, 2017, the CCG boarded the vessel in English Bay and confirmed the pollution threat posed by the vessel. Due to the uniqueness of the circumstances (live aboard vessel, personal residence, lack of means to address the situation) advice was sought from CCG Legal. In addition, Vancouver Police and City Outreach authorities were engaged to assist with dealing with the pending homeless situation.

On August 3, 2017, Transport Canada served a Detention Order to prevent the vessel from sailing with passengers until safety defects were addressed. The CCG made arrangements with the owner to board the vessel and to remove accessible oil as an interim measure.

On August 4, 2017, a contractor and CCG removed accessible pollutants from the vessel and boomed the boat to prevent further pollution damage in the event of a spill. All the accessible oil was pumped out and bilges and waste tanks were emptied. This operation concluded at 1600 hours. The vessel remained a pollution threat.

The British Columbia Ministry of the Environment issued a Section 52 Exemption under the BC Hazardous Waste Regulation of the *Environment Act*, which allowed the CCG to transport and dispose of the waste. On August 8, the Coast Guard requested that the National Aerial Surveillance Program (NASP) adjust their flights to monitor the *Malecite*. The owner had advised that the vessel was taking on an estimated 250 litres of seawater per day. The NASP flights observed sheening from the *Malecite* on every flight over the site.

The vessel was moved from Kits Point to Shelter Island Marina on August 25, 2017. Persons including the owner were removed from the vessel prior to the tow. The operation into the Fraser River required a flood tide and as a result, the vessel was hauled out around 2200 hours. On August 30, 2017, the vessel was surveyed and the decision was taken to deconstruct it to remove the ongoing pollution threat.

On September 15, 2017, after further discussion with the owner regarding his plans, the Coast Guard issued a Direction Order for him to remove the vessel and all contents from the shipyard by September 29. On September 29, 2017, a final Notice was delivered to the owner ordering him to remove the vessel and all contents before midnight at which time it would be turned over to the shipyard for demolition.

On September 30, 2017, CCG turned the vessel over to the shipyard for deconstruction. CCG was notified by the Shelter Island Marina that the vessel was disposed of on January 12, 2018.

### **The Claim**

On June 11, 2018, the CCG, acting on behalf of the Department of Fisheries and Oceans (DFO/CCG), filed a claim with the Administrator for costs and expenses incurred in the amount of \$48,230.18, pursuant to section 103 of the *Marine Liability Act*.

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

### **Assessment and Offer**

On July 11, 2018, after investigation and assessment of the claim, the Administrator made an offer to CCG for the established amount of \$48,230.18, plus interest, pursuant to section 105 of the Act. The offer was accepted on July 31, 2018 and, on August 7, 2018, a payment in the amount of \$49,677.13 including interest was made to CCG.

### **Recovery Action**

In August 21, 2018, a professional locator service was hired to complete a locate and asset search on the *Malecite's* owner. The report was received on August 29, 2018. In October 2018, the Administrator retained a Counsel in order to do further asset investigations. As of March 31, 2019, the Administrator is still trying to locate any exigible assets.

### **Status**

The file remains open.