

Mystery Spill (2017)

Location: Quebec City, QC

Case number: 120-719-C1

The Incident

On March 8, 2017, a shore personnel working on board the Cypriot register bulk carrier *Maccoa* (19,814 GT), berthed at the port of Quebec, noticed what appeared to be bunker oil in the water and on the ice between the vessel and the wharf. Local authorities were advised and oil samples were taken on board the vessel and from the water.

At the time, it was not clear whether the pollution was caused by the vessel, and the owner refused to take responsibility. Thereafter, the Quebec Port Authority hired various private contractors to undertake the clean-up operations and obtained a Letter of Undertaking from the ship's P&I Club (UK P&I).

On March 13, 2017, sorbent booms were seen to be stuck in the ice near the wharf and their removal was impossible without damaging them. However, disposal was necessary, as another ship was due at the wharf the next day.

On April 6, 2017, after inspection, the wharf was considered acceptable and no new cleaning was scheduled.

The Claim

On June 16, 2017, a claim in the amount of \$43,806.19 was received from the Quebec Port Authority for costs and expenses related to the pollution incident made pursuant to the *Marine Liability Act*.

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

Assessment and Offer

On June 30, 2017, the Administrator, acting under her *Inquiries Act* powers (provided by para. 105(2) of the *Marine Liability Act*), contacted Transport Canada (TC), Environment Canada (EC) and the Canadian Coast Guard (CCG) requesting reports of samples taken from both the water and the vessel. The Administrator received these reports in July and August 2017.

On August 4, 2017, the Administrator's office requested additional information from the Quebec Port Authority to substantiate the claim. This information was received on August 31.

On September 15, 2017, after investigation and assessment of the claim, the Administrator made an offer to the Quebec Port Authority for the established amount of \$43,806.19, plus interest, pursuant to section 105 of the Act. Interest was deemed to be in the amount of \$612.31. The offer was accepted by the Quebec Port Authority on October 4, 2017.

On October 12, 2017, the Administrator directed payment of \$44,418.50 (which includes \$612.31 in accrued interest) to the Quebec Port Authority.

Recovery Action

The Administrator advised Counsel for the P&I Club that a claim had been filed with the Fund and that the Administrator would revert to the owner/insurer of the *Maccoa* once the claim had been assessed and paid to the claimant. On September 28, 2017, counsel for the P&I Club informed the Administrator he will not advise to settle until he has access to the oil sample analysis. However, the Administrator could not share the information she received under the *Inquiries Act*, as this information was to be used as evidence by the Crown in support of Administrative Monetary Penalties (AMPs) against the shipowner with respect to the subject incident.

Counsel for the P&I Club advised in November 2017 that he was to file for a Transportation Appeal Tribunal of Canada (TATC) review of the AMPs and would therefore be able to access the relevant evidence.

On August 27, 2018, the Transportation Appeal Tribunal of Canada concluded that the pollutant discovered at section 28 of the Port of Quebec on or about March 8 originated from a source other than the *Maccoa*. It is held that “the evidence did not show, on a balance of probabilities, that the applicant discharged a prescribed pollutant in Canadian waters.”

Based on the decision of TATC, the Administrator decided to stop pursuing recovery from the shipowner’s Club and to close the file.

Status

The file was closed on October 18, 2018.