

Ryan Atlantic II (formerly Cape Rouge) (2014)

Location: Bridgewater, Nova Scotia
Case number: 120-653-C1

The Incident

On March 10, 2014, the Canadian Coast Guard (CCG) received a report that the *Cape Rouge*, a 120-foot old steel trawler, was sinking by the stern with a 30-degree list to starboard at the wharf in Bridgewater, Nova Scotia, and leaking oil. The river area has been recorded as a habitat for all stages of salmon, eel and whitefish development, and for ducks and bald eagles as well. The local fire department was on-site and placed an absorbent boom around the stern of the wreck. According to the owner, the vessel had approximately 1,000 gallons of diesel fuel and 40 gallons of lube oil. CCG gave the owner a verbal "Notice" of his legal responsibility to take measures to prevent further pollution damage from the *Cape Rouge*. The owner was to have an elderly gentleman on the dock pump the boat out, but this was refused by CCG who, judging the vessel unstable, did not allow anyone on board.

Due to the owner's lack of response, CCG took control of the response and assumed the role of On-Scene Commander. On March 11, with the use of a boat from the local fire department, CCG deployed 1,000 feet of 18" containment boom around the wreck, which was still releasing an oil sheen. On March 12, CCG arrived on site with a mobile command post unit and a Pollution Response Vessel (*PRVI*). Environment Canada was also on site to collect oil samples.

Having determined that the situation was severe, CCG engaged RMI Marine Limited (RMI) to raise the partially sunken *Cape Rouge*. Professional divers and a vacuum truck were utilized to pump out the fuel tanks, from which some 10,900 litres of fuel/water mixture were pumped. Meanwhile, CCG personnel conducted river patrols with the *PRVI* to ensure that released oil did not escape the containment boom. A boom truck was hired to lift the hatches off the submerged wreck as part of the recovery plan, and another subcontractor was also engaged on two occasions to sand the ice-covered dock.

On March 25, RMI commenced pumping out the forepeak and the accommodation space of the vessel, with the approval of Environment Canada's Environmental Emergencies personnel. By the end of the day, the *Cape Rouge* was floating with a five-degree port list. When the vessel began to right itself, the divers identified two leaks of water entering the engine room, which were subsequently remediated with neoprene and clamps. On March 28, Transport Canada Marine Safety inspected the vessel and determined that it was at risk of sinking again. CCG finished the response operation on April 7.

The Claim

On June 26, 2014, CCG 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 \$362,575.38, pursuant to the *Marine Liability Act*.

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

Assessment and Offer

Additional information and documentation were requested for assessment purposes. However, CCG failed to respond to some requests, specifically those relating to the contractors' invoices. The Administrator therefore retained a technical marine surveyor to review the invoices of the

contractors' charges from an industry practices perspective. The consultant was also instructed to carry out an overall survey of the condition of the temporary repairs done on the *Cape Rouge* and found that all was in order with respect to the water tightness of the hull; but he recommended that a regular monitoring of the vessel's condition be implemented by the party responsible for the vessel and that any deterioration be reported to the authorities in a timely fashion.

After investigation and assessment, the amount claimed relating to the pollution countermeasures equipment was reduced to take into account the days during which the *PRVI* was placed on a standby mode due to winter storm conditions. Furthermore, the rate used for the administration charges was adjusted to the one that had been agreed to between CCG and the Administrator on January 30, 2012. On March 19, 2015, the Administrator made an offer for the established amount of \$358,117.79, plus interest, as full and final settlement to DFO/CCG. The offer was accepted on April 29, 2015 and, on or about July 27, 2016, a payment in the amount of \$382,353.33 including interest was made to DFO/CCG.

Recovery Action

In July 2016, the Administrator tasked a professional locator service to investigate the assets of the *Cape Rouge*'s owner. No significant financial assets were identified. However, noting that the vessel owner was a repeat polluter, the Administrator decided to pursue recovery action and filed a Statement of Claim with the Federal Court on October 4, 2016.

The Motion for Summary Judgment was heard by teleconference on December 20, 2017.

On February 4, 2019, a decision on Motion for Summary Judgment (\$382,353.33 plus interest) was rendered in favor of the Administrator.

Status

The file remains open.

Related files

Hannah Atlantic (2014), Case number: 120-652-C1 (same owner and same location of incident)

Farley Mowat (2015), Case numbers: 120-679-C1 and 679-C1-1 (same owner)

Cormorant (2015), Case number: 120-672-C1 (same location of incident)