

## *Silver King (2014)*

Location: Deep Bay, Vancouver Island, B.C.

Case number: 120-660-C1

### The Incident

On June 23, 2014, the Canadian Coast Guard (CCG), Western Region, informed the Administrator that it was aware of an abandoned derelict tug near a sensitive fishing area in Deep Bay on the east coast of Vancouver Island. CCG hired a marine surveyor to inspect the tug and provide an opinion on any oil pollution threat it posed.

Upon receiving the report, the Administrator arranged through counsel – without prejudice to his obligations under the *Marine Liability Act* (MLA) – for a technical surveyor to jointly survey the vessel along with the CCG surveyor. The surveyors reported that the vessel contained approximately 2,323 litres of oil and 4,586 litres of oily water in accessible areas. These amounts did not include oils in other areas, such as double bottom fuel tanks. In addition, it was determined that the hull was in precarious condition and the vessel was in danger of sinking. It was the opinion of both surveyors that the *Silver King* posed a significant and imminent threat to the environment, due to its deteriorated condition and location in a sensitive area. Consequently, it was recommended that in order to remove the hydrocarbons, the old tug – built in Baltimore, Maryland, in 1945 for service in the United States Navy – should be moved to a suitable dock nearby as soon as possible. The action would avoid the additional costs of utilizing a tug and barge as a working platform and then transferring the hydrocarbons and equipment ashore.

Later, the CCG provided the Administrator a copy of its own surveyor's report, which recommended the deconstruction of the *Silver King*. The surveyor engaged by counsel, however, recommended that before carrying out the demolition, alternative quotes should be obtained for cleaning the vessel to a reasonable standard that would not cause damage to the environment should the old tug sink. On December 16, 2014, CCG advised the Administrator that quotes were solicited from several hazardous waste service providers for the option of *in situ* cleaning. In addition, Public Works and Government Services were engaged to administer the process of soliciting bids for the removal of the vessel. In June 2015, CCG reported that there was no further update at that time.

On April 6, 2016, CCG personnel returned to the *Silver King* in the company of a marine surveyor. Further water ingress was observed and pumping operations were undertaken. CCG decided to have the vessel towed to Ladysmith, BC, for scrapping.

CCG awarded the deconstruction contract to a Ladysmith contractor. The contractor towed the vessel to its yard on April 10, 2016. Deconstruction work concluded June 15, 2016. On July 26, 2016, CCG informed the Administrator that the *Silver King* had been dismantled and that a claim for the incident was forthcoming.

## **Measures taken by the Administrator**

As reported above, upon receiving the initial incident report from CCG, the Administrator retained counsel and arranged through counsel – without prejudice to his obligations under the MLA – for a technical surveyor to jointly survey the vessel along with the CCG-contracted surveyor.

On December 5, 2016, a review of the incident file confirmed that all pollutants remained on board the vessel and that none entered the surrounding environment.

## **The Claim**

On October 31, 2017, the Administrator received a claim from the CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) for costs and expenses in the amount of \$338,379.18, pursuant to the MLA.

The Administrator determined that the claim was admissible under Part 7 of the Act. Since no spill had occurred, the five-year limitation period for filing a claim applied.

## **Assessment and Offer**

On April 11, 2018, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$107,941.32, plus interest, as full and final settlement to DFO/CCG. The offer was accepted on June 11, 2018 and, on June 27, 2018, a payment in the amount of \$115,240.52 including interest was made to DFO/CCG.

The disparity between the amount claimed by CCG and that offered was primarily a result of the Administrator's determination that the oil pollution threat posed by the *Silver King* was not integral to the vessel itself. Therefore, deconstruction of the vessel was not compensable under the MLA, because it could not be considered a reasonable preventive measure.

## **Recovery Action**

On February 12, 2019, counsel for the Administrator sent a demand letter to the estate lawyer of the deceased shipowner.

## **Status**

The file remains open.