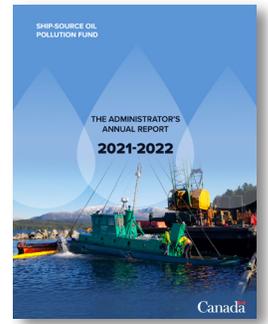


Ship-source Oil Pollution Fund



33 YEARS OF DECISIONS



The Administrator's Compilation of all Incident Summaries

from 1989 to 2022



Cover Image:

First row:

Rio Orinoco

Second row:

Chaulk Determination, Pitts Carillon

Third row:

Santa Emma, Oiled Black Gillemot, HMCS Cormorant

Fourth row:

MV Miner, Robertson II, Viking I, Ryan Atlantic II (formerly Cape Rouge)

All photos from the Canadian Coast Guard, except the *Chaulk Determination*, by Jacques Gauthier

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First Edition

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Message from the Administrator

Dear Stakeholder:

Every day, the Fund compensates victims of small and medium incidents that occur regularly in Canadian waters. By creating the Fund on April 24, 1989, Canada reinvented its compensation regime*, while protecting taxpayers. Since then, the Fund has offered compensation to victims of oil pollution over 400 times. It is a history that is worth sharing!

In May 2020, we published our first compilation of all incident summaries, reflecting 30 years of decisions, in a single searchable document. We have since updated the initial compilation with the developments which occurred in 2019-2020, 2020-2021 and 2021-2022, including the new claims received.

You can search this document by using:

- any **keyword** relevant to your search;
- the **incident index** at the end of this document; and/or
- the **table of contents** which lists the incidents by province, with icons identifying claimants other than the Canadian Coast Guard.

Please note that this document only captures incidents for which a claim was submitted by a claimant, whether the Administrator paid for damages or not. If the Administrator did not receive a claim, the incident will not be included in this document – but may be captured in the *Annual Report Incident Summaries* published on the Fund's website.

As always, your comments and recommendations are welcome for the next edition.

Thank you for your interest in the Fund.

Anne Legars, Administrator
Ship-source Oil Pollution Fund

*The Fund succeeded the Maritime Pollution Claims Fund, which existed from 1973 to 1989.

Summaries listed in the Table of Contents appear in the order that the claims were submitted to the Fund.

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NEWFOUNDLAND AND LABRADOR



South Angela (1988) ■

Location: Come-by-Chance, Placentia Bay, NL

Case number: 120-020-C1

The Incident

On March 5, 1988, the Liberian registered oil tanker *South Angela*, while discharging a crude oil cargo at the Newfoundland Processing Limited refinery (the Refinery) at Come-by-Chance, Placentia Bay, Newfoundland discharged a portion of her cargo into the water. There was a further discharge of oil in a similar fashion on March 7, 1988. The amounts discharged were estimated at 15 and 500 barrels, respectively. In the absence of action by the shipowner, the Canadian Coast Guard (CCG) responded to the spills and, with contractors and others, cleaned up the pollution, incurring costs and expenses totaling \$250,169.00 for the two incidents. To enable the tanker to sail, the shipowner's P&I Club posted bonds for the following amounts: \$300,000.00 for the CCG, \$4 million against potential claims from the fishermen and \$6 million against the Refinery claims. On December 10, 1988, the ship was found guilty of polluting the waters of Placentia Bay and subsequently fined.

Administrator as Party by Statute

The shipowner accepted responsibility for the first spill but no settlement could be agreed for the costs and expenses incurred by the CCG for the larger spill amounting \$234,336.58. On March 2, 1990, the Crown filed a Statement of Claim in the Federal Court of Canada against the *South Angela*, her owners and the Refinery, naming the Administrator as a Party by Statute. The Refinery also commenced a Court action against the *South Angela* and her owners, but later the two cases were consolidated into one by order of the Court.

Counsel was appointed to represent the interests of the Ship-source Oil Pollution Fund (the Fund) but it was agreed with the other parties and the Court that no appearance was necessary unless issues arose directly affecting the Fund. The issue in this action was to determine who was responsible for the March 7, 1988 oil spill. The Refinery took the view that the spill was caused by the negligence of the ship's officers, whereas in the shipowner's opinion, the spill was caused by the Refinery allowing a backflow from its refinery.

A pretrial conference was held in April 1994 and the case came to trial at various times during 1995. On September 23, 1996, the Court decision was filed and found that the *South Angela* and the Refinery were both responsible for the spill and that the cleanup of the oil spill on March 7, 1988 should be apportioned equally between the parties. Discussions on quantum then took place between the Crown's agent and legal counsels for the shipowner and the Refinery, following which an out-of-court settlement was reached. Thereafter, the parties, including the Administrator, executed a consent to the filing of a Notice of Discontinuance.

Local fishermen in the area, fearing that their livelihood would be affected, also took legal action against the *South Angela*; however, the Administrator was not named as a party in these proceedings.

Status

The file was closed on March 31, 2000.

St. John's Harbour Spill (1990) ➔

Location: St. John's Harbour, NL

Case number: 120-046-C1

The Incident

Oil was spilled in St. John's Harbour in the morning of May 10, 1990. It was reported that the oil originated from the Russian fish factory ship *Professor Baranov*'s bilges. However, the evidence was not conclusive.

The Claim

A small group of inshore fishermen filed claims with the Ship-source Oil Pollution Fund alleging damages because the oil spill postponed their preparation for the 1990 lobster season.

Further details and information were requested from the fishermen; however, they were unable to provide any definitive information to the Administrator for the latter to properly evaluate their claims.

Status

The file was closed on March 31, 1991.

Mystery Spill (1990)

Location: Big Barasway Beach, NL

Case number: 120-048-C1

The Incident

Some oil was reported and found on the Big Barasway Beach on or about September 21, 1990.

The Claim

On May 19, 1991, the Ship-source Oil Pollution Fund (the Fund) received a claim pursuant to section 720 of the *Canada Shipping Act* from a resident of Burgeo, Newfoundland for unspecified costs and expenses incurred in cleaning the Big Barasway Beach in September 1990.

Assessment and Offer

Investigation of the claim was carried out. According to a chemical analysis of the oil involved, it was a heavy fuel oil, such as Bunker C. As this fuel type was not used in the area, the oil must have been discharged by a passing ship, the identity of which was unknown.

An investigation by officials of Environment Canada and the Canadian Coast Guard revealed that the environmental damage caused by the oil was negligible. Hence, any action to recover and clean up the small amount of oil was not warranted.

For all the foregoing matters and while making clear to the claimant that the payment to be made by the Fund would cover out-of-pocket costs only and not for the claimant's own time, the amount of \$100.00 was offered by the Administrator on July 25, 1991, which the claimant accepted by letter dated July 31, 1991.

Status

The file was closed on March 31, 1992.

Mystery Spill (1993)

Location: Come by Chance, NL

Case number: 120-078-C1

The Incident

On January 31, 1993, when the M.V. *Rose au Rue* was moored for the winter at the community wharf at Come by Chance in Placentia Bay, Newfoundland, thick black oil was discovered covering the boat lines in the water. On February 8, 1993, an oil sample was collected from one rope leading from the vessel and analyzed for possible oil matching with a sample submitted by Newfoundland Processing Ltd. (NPL) and a sample from the beach. Further to the analysis and a chemical comparison of the samples, the profile of the sample by NPL had sufficient differences that it did not match the other samples.

The Claim

On April 15, 1993, Llewellyn Baker and Baker Enterprises Ltd. (the Claimant) filed a claim with the Ship-source Oil Pollution Fund (the Fund), pursuant to section 710 of the *Canada Shipping Act*, for costs and expenses incurred with respect to the oil pollution damage to the M.V. *Rose au Rue*, in the total amount of \$711.44.

Assessment and Offer

The Administrator investigated the claim. Since the NPL sample did not match the other samples, with the exception of the NPL refinery at Come by Chance, the only other potential source of bunker oil in the area would be an inbound tanker using the shipping lanes to the south of Placentia Bay. However, the identity of such tanker was unknown. Therefore, in such circumstances, the Claimant was not required to satisfy the Administrator that the occurrence was caused by a ship.

On November 10, 1993, a payment in the amount of \$738.12, including interest amounting to \$26.68, was made by the Fund to the Claimant in full and final settlement of the claim.

Status

The file was closed on March 31, 1994.

Mystery Spill (1996) ⚓

Location: Come By Chance, NL
Case number: 120-126-C1

The Incident

The Liberian flag tanker *Petrobulk Racer* was alongside No. 1 berth at the Come By Chance Refinery (the Refinery) terminal, Newfoundland when, during the morning of April 19, 1996, in foggy conditions, oil was observed around the stern of the ship. The Refinery's oil spill response team was called out and, using boats and booms, contained and cleaned up an estimated 10 litres of an oil sludge mixture. Another tanker was also berthed at the same terminal, but no oil was observed around it. The *Petrobulk Racer* denied it was involved in the spill.

A surveyor from the Marine Safety Branch of Transport Canada investigated the incident and since he was unable to find any physical evidence linking the tanker to the spill, he took oil samples for analysis and allowed the tanker to sail. Subsequent analysis of the oil samples found there was no match between those taken from the tanker and the spill.

The Claim

Since there was no evidence that *Petrobulk Racer* was the source of the oil, on August 12, 1996, the Refinery submitted a claim in the amount of \$21,265.47 to the Ship-source Oil Pollution Fund for the containment and clean-up costs and expenses.

Assessment and Offer

The Administrator investigated the claim. The actual amount incurred was \$7,087.49 but, without explanation, it was factored by the figure of three. Therefore, the Administrator offered a settlement of \$7,087.89 on September 17, 1996, which offer was accepted.

Following the receipt by the Administrator of the required Release and Subrogation document on May 8, 1997, a payment in the amount of \$7,087.89 was made to the Refinery in full and final settlement of its claim.

Status

The file was closed on March 31, 1998.

Nevada (1996) ⚓

Location: Come by Chance, NL
Case number: 120-126A-C1

The Incident

On May 3, 1996, the oil tanker *Nevada* was tied up at Berth 1 of the North Atlantic Refining Limited's refinery at Come by Chance, Newfoundland. While the tanker was taking on #6 oil after she had finished unloading, an unknown quantity of hydraulic and fuel oil on the deck washed into the harbour when it began to rain. As soon as the leak was discovered, the ship's crew took action to stop the runoff into the sea. An oil spill response team was mobilized and sampled the sheen, following which it was decided not to deploy oil spill booms. The Canadian Coast Guard was notified of the incident but they considered the quantity of the spill so small that they did not send an investigator.

The Claim

On July 5, 1996, North Atlantic Refining Limited filed a claim in the amount of \$6,173.73 with the Ship-source Oil Pollution Fund for costs and expenses incurred related to the mobilization of an emergency response team following the oil spill caused by the *Nevada*.

Assessment and Offer

Following his investigation of the claim, the Administrator was informed that a cheque in the amount of \$6,173.73 had been forwarded by the ship's agents to North Atlantic Refining Limited in full and final settlement of the latter's claim. He therefore considered the matter closed and informed the claimant accordingly by letter dated July 9, 1996. Upon receipt of the Administrator's letter, the claimant confirmed having received the cheque from the ship's agents, while noting that the amount paid did not cover legal fees. The Administrator declined to pay the legal fees.

Status

The file was closed on March 31, 2005.

Mystery Spill (1997)

Location: Placentia Bay, NL

Case number: 120-137-C1

The Incident

On January 20, 1997, an official of the Canadian Wildlife Service reported to the Canadian Coast Guard (CCG) large patches of oil had been sighted off the wharf at St. Bride's, Placentia Bay, Newfoundland. Aerial and foot surveys were then carried out of adjacent areas and other patches of oil, as well as oiled seabirds, were also found. During the course of another aerial survey on January 21, 1997, approximately 430 dead oiled seabirds were collected.

The CCG, the Marine Safety Branch of Transport Canada and Environment Canada commenced an investigation. Samples of the oil were collected for analysis. Charges for unlawfully dumping petroleum products were laid against the Bahamian cargo vessel *Elm* that had been observed to be discharging oil approximately 20 nautical miles south of Newfoundland, on November 23, 1996 during an overflight. However, it transpired that oil samples from the *Elm* did not provide a match with the oil samples collected in Placentia Bay.

The final CCG Situation Report on the incident released on March 19, 1997 noted that approximately 2,700 oiled dead birds had been collected and other live oiled birds had been taken to a rehabilitation centre for treatment.

The Claim

On December 1, 1997, the Crown filed a claim in the amount of \$119,421.70 with the Ship-source Oil Pollution Fund to recover the costs and expenses that had been incurred by the CCG and other government agencies in this incident.

Assessment and Offer

The Administrator investigated the claim and had a number of concerns, mainly related to the establishment of reasonable and fair costs for the use of fixed wing aircraft, the long hours claimed for many CCG personnel and the charges for some items, the purpose of which could not be established. On March 3, 1999, the Administrator paid by way of an interim payment to the Crown \$71,506.48, plus \$9,762.72 interest, and offered to investigate and assess any outstanding amounts on receipt of better particulars.

On March 1, 2000, the Administrator received the Crown's explanation supporting various charges, and others were withdrawn. Therefore, on March 28, 2000, he paid to the Crown the balance of the established claim, \$28,500.00, plus interest of \$5,956.63.

Status

The file was closed on March 31, 2000.

Mystery Spill (1997) ⚓

Location: Come By Chance, NL
Case number: 120-140-C1

The Incident

Two tankers, the *Lucky Lady* and the *Nomad*, were berthed at the Come By Chance Refinery (the Refinery) jetty during the morning of June 4, 1997 when oil was noticed between the *Lucky Lady* and the jetty. The Refinery response team responded to the spill and cleaned up the oil, which was found to be heavily weathered heavy marine diesel or crude oil and estimated to be between 5-8 barrels in quantity. A surveyor from the Marine Safety Branch of Transport Canada (MSB) conducted an investigation and took oil samples. Subsequent analysis of the samples showed that the oil from the water did not match the samples taken from the *Lucky Lady* or the *Nomad* fuel oils. Hence, the MSB surveyor concluded that neither of the tankers was the origin of the oil.

The Claim

On August 11, 1997, the Refinery filed a claim in the amount of \$26,877.30 with the Ship-source Oil Pollution Fund for their costs and expenses incurred in the cleanup. The claim amounted to \$8,959.10 but had been factored by a figure of three, making it \$26,877.30.

Assessment and Offer

The Administrator investigated the claim, following which he raised a number of concerns by letter to counsel for the Refinery, on January 21, 1998. However, complete answers were not forthcoming from the Refinery. On February 26, 1999, the Administrator then informed the Refinery that the reasonable costs and expenses within the meaning of the *Canada Shipping Act* had been established at \$6,431.25, which amount was offered as full and final settlement. The offer was accepted by the Refinery, and on March 30, 1999, the Administrator paid by cheque \$6,431.25, plus \$757.14 interest, to the Refinery. The cheque had been held in escrow until May 20, 1999 when a copy of the duly signed Release and Subrogation documents was received by the Administrator.

Status

The file was closed on March 31, 1999.

Koyo Maru #16 (1997)

Location: St. John's, NL
Case number: 120-164-C1

The Incident

During the evening of December 21, 1997, the Japanese flag fishing vessel *Koyo Maru #16* bunkered 215,000 litres of diesel oil alongside a refueling dock in St. John's, Newfoundland. The next morning, on December 22, 1997, the Port Police reported an oil spill extending along the south side of the harbour, the same side as the refueling facility. The Canadian Coast Guard (CCG) responded and, using its own personnel and equipment, cleaned up the oil, which clean-up operation was completed on December 24, 1997.

On the morning of the discovery of the spill, the Marine Safety Branch of Transport Canada (MSB) conducted an investigation and evidence of a fuel oil spill was found on the deck of the *Koyo Maru #16*. There was no evidence that the scuppers had been plugged. Besides, a sample from the vessel and one from a part of the harbour proved a match. Hence, the MSB laid charges for oil pollution, to which the *Koyo Maru #16* pleaded guilty on June 25, 1998, and she was fined \$5,000.00.

The CCG presented a claim to the shipowner for the recovery of its clean-up costs on February 12, 1998. Since other oil samples taken from the harbour at the same time as the original samples did not prove a match to those taken from the fishing vessel, the shipowner refused to accept responsibility for the CCG's claim.

A Letter of Undertaking was issued by the ship's agent to the CCG, upon receipt of which the ship left.

The Claim

On October 18, 1999, the Crown filed a claim with the Ship-source Oil Pollution Fund (the Fund) for reimbursement of the CCG's costs and expenses in the incident, stated to be \$7,631.82.

Assessment and Offer

The Administrator investigated the claim and had a number of questions regarding the spill itself and the quantum of the claim. The questions were responded to by the CCG. On January 25, 2000, the Administrator sent the Crown's claim to the vessel's agent requesting that the *Koyo Maru #16* pay the amount claimed directly to the Crown. Counsel for the vessel refused to pay, claiming that, whereas the vessel was alongside at Pier 24 when there was a spill, the cleanup took place at Piers 19-21 and the samples from that area did not match those from the vessel.

Following discussions with the Administrator, on March 2, 2000, the Crown revised their total claim to \$6,817.71. The Administrator re-assessed the claim and, on March 3, 2000, paid the amount he found established, namely \$4,425.31, plus \$693.10 interest. Issues of concern were the

charge-out rate for the sea truck and those claimed for the sorbent booms. The Administrator invited the Crown to provide additional evidence to support the claimed amounts; however, the CCG advised on September 26, 2000 that they had accepted the payment made on March 3, 2000 as final settlement.

Recovery Action

In a letter dated November 2, 2000 addressed to the counsel for the shipowner, the Administrator claimed reimbursement for payment of the Crown's claim in the amount of \$5,118.41, which included applicable interest. He also clarified in the same letter the issue of the clean-up area, which was incorrectly described in the CCG invoice, by indicating clearly that the response and clean-up operations took place in the harbour covering Piers 19-24. However, it appeared that agents for the vessel could get no direction from the Japanese shipowner.

On December 20, 2000, the Administrator filed an action in the Federal Court of Canada naming the *Koyo Maru #16* and others as defendants to recover the monies paid out to the Crown. On February 5, 2001, it was stated that the ship's agent, Blue Peter Steamships Ltd., issuer of the LOU to the CCG, was no longer in business, and there was a new company called Blue Peter Marine Agencies Ltd. Besides, the ship had left before the Administrator was involved in the incident.

On July 30, 2001, the Administrator made a settlement offer to the counsel who had represented the ship's agent. On August 22, 2001, that counsel replied that they had no authority to accept service of the Fund's claim and that the new agency, Blue Peter Marine Agencies Ltd., had not been able to make contact with the shipowner. The Administrator then conducted research into the names and particulars of all vessels owned by the owner of the *Koyo Maru #16* and found that there were a number of vessels, several of which were known to come into Canadian ports. On December 5, 2001, the Administrator offered a settlement to the shipowner in Japan; the alternative being the arrest of one of the company's vessels on arrival in Canada. On December 9, 2001, the shipowner authorized payment of the compromise settlement in the amount of \$2,793.84, which amount was received by the Administrator on January 15, 2002.

Status

The file was closed on March 31, 2002.

Mystery Spill (1998)

Location: Little Lawn Beach, Placentia Bay, N.L.

Case number: 120-176-C1

The Incident

Small oil patches were discovered in Little Lawn Beach, Placentia Bay, Newfoundland on August 3, 1998. The oil appeared to be tar-like. The Canadian Coast Guard (CCG) arranged for a beach survey by helicopter, but in a closer ground survey, it was discovered that about one kilometre of beach was affected, with much of the oil being buried by wave action. The CCG then arranged for the cleanup, and a total of 280 bags of oil and oil debris were recovered.

The Claim

On June 21, 1999, the Crown filed a claim in the amount of \$12,246.21 with the Ship-source Oil Pollution Fund (the Fund) for the recovery of the CCG's costs and expenses.

Assessment and Offer

Further to the investigation and assessment of the claim, an interim payment of \$10,889.13, plus \$742.21 interest, was made by the Fund to the Crown on July 26, 1999. A further payment in the amount of \$435.00, plus \$49.89 interest, was thereafter made on March 28, 2000, upon consideration of additional information, in full and final settlement of the claim.

Status

The file was closed on March 31, 2000.

Sam Won Ho – CCG Claim (2000)

Location: Long Harbour, NL

Case number: 120-221-C1

The Incident

On April 12, 1999, the *Sam Won Ho*, originally a South Korean freezer fishing trawler, which was being converted to a barge in Long Harbour, Newfoundland, following her sale to new owners, sank at her berth with resulting oil pollution. Further oil escaped from the wreck on April 24, 2000, requiring the response of the Canadian Coast Guard (CCG).

The Claim

On December 6, 2000, the Crown, on behalf of the CCG, presented a claim to the Ship-source Oil Pollution Fund (the Fund) in order to recover the CCG costs and expenses, stated to be \$45,809.19.

Assessment and Offer

Following his investigation and assessment of the claim, the Administrator had concerns, mainly, on the questions of equipment charge-out rates and administrative charges. Consequently, on February 8, 2001, he wrote to Crown counsel noting the established amount of \$36,084.47 and that the CCG administrative charges were not established. He subsequently arranged to pay \$36,084.47, plus \$2,343.53 interest.

Recovery Action

It appeared that two individuals were associated with the ownership of the craft, together with a limited company. However, all three parties denied liability. On January 5, 2001, Environment Canada laid charges against all three parties involving the release of oil pollution, pursuant to section 36(3) of the Federal *Fisheries Act*. The Administrator had an observer at the trial for the alleged infringement of the *Fisheries Act*, which started on August 23, 2001 and continued at various dates, the latest being held on March 18, 2004. In the meantime, on April 8, 2002, counsel for the Administrator filed a Statement of Claim in the Federal Court of Canada claiming the recovery of \$117,384.47, plus interest, such amount being the total amount paid by the Fund in relation to this incident and the original oil pollution caused by the *Sam Won Ho* on April 12, 1999.

In a decision dated October 15, 2004, the Provincial Court of Newfoundland and Labrador found that a limited company (the Company) was in control of the vessel at the time of the sinking, such that it was convicted for permitting the deposit of a deleterious substance into a fish habitat contrary to section 36(3) of the *Fisheries Act*. However, the decision did not reach any clear conclusions on the ownership of the vessel at the time of the sinking.

By April 2005, counsel for the Administrator was pursuing the possibility of settlement of the Administrator's action with counsel for the Company, and in August 2005, he was advised that

the Company had filed a Notice of Appeal in the Supreme Court of Newfoundland, Trial Division, against the decision of the Provincial Court dated October 15, 2004.

Given that the Administrator's civil action in the Federal court under case management order was about to enter into a costly phase of the litigation and there were poor prospects for settlement and recovery, for the proper administration of the Fund, the Administrator accepted \$1,000.00 in full and final settlement of his recovery action without further expense to the Fund.

Status

The file was closed on March 31, 2006.

Related files

Sam Won Ho (1999), Long Harbour, NL, Case number: 120-221-C1-1 (same ship, same location, different incident)

Sam Won Ho (1999), Long Harbour, NL, Case number: 120-221-C1-2 (same ship, same location, same claimant, different incident)

Sam Won Ho – Roy Murphy Claim (1999) →

Location: Long Harbour, NL
Case number: 120-221-C1-1

The Incident

On April 12, 1999, the *Sam Won Ho*, originally a South Korean freezer fishing trawler, which was being converted to a barge in Long Harbour, Newfoundland, following her sale to new owners, sank at her berth with resulting oil pollution. Roy Murphy's herring nets were only a few hundred feet from the *Sam Won Ho* at the time of the incident. Shortly after the incident, when Roy Murphy hauled his nets, he noted that they were contaminated with diesel oil, as were the inside and outside of his boat.

The Claim

On April 19, 1999, Roy Murphy (the Claimant) filed a claim in the amount of \$2,040.00 with the Ship-source Oil Pollution Fund (the Fund) for the replacement of his nets.

Assessment and Offer

The Administrator investigated and assessed the claim. He then had a telephone discussion with the Claimant, following which the latter accepted the Administrator's offer of \$1,300 all inclusive in full and final settlement of the claim on April 21, 1999. Payment of the settlement amount was made on June 7, 1999.

Recovery Action

It appeared that two individuals were associated with the ownership of the craft, together with a limited company. However, all three parties denied liability. On January 5, 2001, Environment Canada laid charges against all three parties involving the release of oil pollution, pursuant to section 36(3) of the *Fisheries Act*. The Administrator had an observer at the trial for the alleged infringement of the *Fisheries Act*, which started on August 23, 2001 and continued at various dates, the latest being held on March 18, 2004. In the meantime, on April 8, 2002, counsel for the Administrator filed a Statement of Claim in the Federal Court of Canada claiming the recovery of \$117,384.47, plus interest, such amount being the total amount paid by the Fund in relation to this incident and the further escape of oil from the *Sam Won Ho* wreck on April 24, 2000.

In a decision dated October 15, 2004, the Provincial Court of Newfoundland and Labrador found that a limited company (the Company) was in control of the vessel at the time of the sinking, such that it was convicted for permitting the deposit of a deleterious substance into a fish habitat contrary to section 36(3) of the *Fisheries Act*. However, the decision did not reach any clear conclusions on the ownership of the vessel at the time of the sinking.

By April 2005, counsel for the Administrator was pursuing the possibility of settlement of the Administrator's action with counsel for the Company, and in August 2005, he was advised that the Company had filed a Notice of Appeal in the Supreme Court of Newfoundland, Trial Division, against the decision of the Provincial Court dated October 15, 2004.

Given that the Administrator's civil action in the Federal court under case management order was about to enter into a costly phase of the litigation and there were poor prospects for settlement and recovery, for the proper administration of the Fund, the Administrator accepted \$1,000.00 in full and final settlement of his recovery action without further expense to the Fund.

Status

The file was closed on March 31, 2006.

Related files

Sam Won Ho (2000), Long Harbour, NL, Case number: 120-221-C1 (same ship, same location, same claimant, different incident)

Sam Won Ho (1999), Long Harbour, NL, Case number: 120-221-C1-2 (same incident, different claimant)

Note: Information on this claim was retrieved from the Fund's information management system and the Fund's archived files, as this claim is not reported in any Administrator's annual report.

Sam Won Ho – CCG Claim (1999)

Location: Long Harbour, NL

Case number: 120-221-C1-2

The Incident

On April 12, 1999, the *Sam Won Ho*, originally a South Korean freezer fishing trawler, which was being converted to a barge in Long Harbour, Newfoundland, following her sale to new owners, sank at her berth with resulting oil pollution. The Canadian Coast Guard (CCG) responded to the spill.

The Claim

On December 29, 1999, CCG filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$99,878.55 for costs and expenses incurred in the response to the spill. On March 2, 2000, the claim amount was revised to \$96,856.92.

Assessment and Offer

Following the investigation and assessment of the claim, the Administrator made an all-inclusive offer of settlement in the amount of \$80,000.00, which was accepted by CCG. Payment of the settlement amount was made on March 3, 2000.

Recovery Action

It appeared that two individuals were associated with the ownership of the craft, together with a limited company. However, all three parties denied liability. On January 5, 2001, Environment Canada laid charges against all three parties involving the release of oil pollution, pursuant to section 36(3) of the *Fisheries Act*. The Administrator had an observer at the trial for the alleged infringement of the *Fisheries Act*, which started on August 23, 2001 and continued at various dates, the latest being held on March 18, 2004. In the meantime, on April 8, 2002, counsel for the Administrator filed a Statement of Claim in the Federal Court of Canada claiming the recovery of \$117,384.47, plus interest, such amount being the total amount paid by the Fund in relation to this incident and the further escape of oil from the *Sam Won Ho* wreck on April 24, 2000.

In a decision dated October 15, 2004, the Provincial Court of Newfoundland and Labrador found that a limited company (the Company) was in control of the vessel at the time of the sinking, such that it was convicted for permitting the deposit of a deleterious substance into a fish habitat contrary to section 36(3) of the *Fisheries Act*. However, the decision did not reach any clear conclusions on the ownership of the vessel at the time of the sinking.

By April 2005, counsel for the Administrator was pursuing the possibility of settlement of the Administrator's action with counsel for the Company, and in August 2005, he was advised that the Company had filed a Notice of Appeal in the Supreme Court of Newfoundland, Trial Division, against the decision of the Provincial Court dated October 15, 2004.

Given that the Administrator's civil action in the Federal court under case management order was about to enter into a costly phase of the litigation and there were poor prospects for settlement and recovery, for the proper administration of the Fund, the Administrator accepted \$1,000.00 in full and final settlement of his recovery action without further expense to the Fund.

Status

The file was closed on March 31, 2006.

Related files

Sam Won Ho (2000), Long Harbour, NL, Case number: 120-221-C1 (same ship, same location, same claimant, different incident)

Sam Won Ho (1999), Long Harbour, NL, Case number: 120-221-C1-1 (same incident, different claimant)

Mystery Spill (2002)

Location: Hopedale, Newfoundland and Labrador

Case number: 120-314-C1

The Incident

On July 9, 2002, it was reported that six fishing vessels berthed at the wharf in Hopedale, Labrador had experienced oil pollution that was coming from the seabed. A Royal Canadian Mounted Police officer investigated the spill and found that there was a 45-gallon drum on the bottom in about 10-15 feet of water and some 10-15 feet from the edge of the wharf. It appeared that the drum was releasing what looked like thick black oil.

The Canadian Coast Guard (CCG) and Environment Canada responded to the incident and the drum was recovered from the water, and samples of its contents taken in July 13, 2002. In a report dated August 21, 2002, it was stated that analysis of the oil showed it to be a mixture of diesel and bunker fuel.

Measures taken by the Administrator

The Administrator engaged local counsel and a marine surveyor in regard to the ongoing investigation as to the origin of the drum.

The Claim

On July 7, 2003, the CCG filed a claim with the Ship-source Oil Pollution Fund in the amount of \$21,698.16 for their costs and expenses in responding to the incident.

Assessment and Offer

The Administrator investigated the claim. Investigations indicated that there was a United States Air Force base and Distant Early Warning (DEW) Line Station at Hopedale from 1951 to 1968 and archived photographs show oil drums both on the harbour ice to mark an aircraft runway and also stacked on the wharf. On December 9, 2004, the Administrator then advised the CCG that its claim was rejected on the ground that (a) no oil pollution damage had arisen from a ship but rather from a drum lying on the bottom of the harbour, and (b) based on the evidence, he was satisfied that the drum did not come from a ship.

Furthermore, the Administrator noted that the available evidence supported the view that the time the drum had remained under water was greater than five years. As such, even if it was assumed that the drum was discharged from a ship when it fell into the water, the claim would, in any event, be proscribed by section 85(2) of the *Marine Liability Act*.

Status

The file was closed on March 31, 2005.

Sekme & Treimani (2003)

Location: Bay Roberts Harbour, Conception Bay, NL

Case number: 120-384-C1

The Incident

The Lithuanian registered fishing vessels *Sekme* and *Treimani*, which are sister ships, had been moored at the Department of Fisheries and Oceans (DFO) wharf on the north side of Bay Roberts Harbour in Conception Bay, Newfoundland, since they were arrested in December 2001. It appeared the owners had abandoned the vessels, although the crews stayed on. In October/November 2002, both crews were repatriated, leaving the vessels completely abandoned. On June 16, 2003, a Minister of the Newfoundland and Labrador Government wrote to the Federal Environment Minister expressing concerns about the vessels' presence in Bay Roberts.

On July 29/30, 2003, the Canadian Coast Guard (CCG) Emergency Response in St. John's, Newfoundland commenced acting to secure the vessels and identify potential threats, including oil pollution from the vessels. They undertook work to ensure that the vessels remained safely moored at the DFO wharf and to minimize the risk of oil pollution and hazardous materials pollution should the vessels break adrift. A considerable quantity of oil, oily water and oily residue were then removed from the vessels.

The Claim

In July 27, 2005, the DFO, on behalf of the CCG (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses incurred in response to the incident, in the amount of \$72,732.02 pursuant to Part 6 of the *Marine Liability Act* (MLA).

Assessment and Offer

On October 7, 2005, the Administrator requested further particulars, which were provided by the CCG on January 24, 2006. After investigation and assessment of the claim, he concluded that the claim included costs and expenses that may fairly be attributable to non-oil pollution risks associated with the custody of the vessels, hazardous materials other than oil, and federal responsibilities other than oil pollution. Accordingly, he agreed to accept a portion of the claim as established and, on March 30, 2006, pursuant to section 86 of the MLA, offered DFO/CCG the global amount of \$15,000.00 plus interest under section 101 of the MLA in full and final settlement of the claim.

On May 19, 2006, the Administrator received a letter from DFO/CCG requesting that its claim remain unsettled. He then advised that unless he received additional evidence respecting the potential for further oil pollution before January 31, 2008, he would regard the original offer of \$15,000.00 plus interest as full and final settlement of the claim. DFO/CCG accepted the offer on January 2, 2008 and payment of compensation in the amount of \$18,784.55 including interest was made on January 4, 2008.

Recovery Action

The Administrator instructed counsel to investigate the feasibility of recovering the amount paid to DFO/CCG. Following the investigations, he concluded that there was no viable prospect of recovery against the shipowner. Therefore, he closed the file.

Status

The file was closed on March 31, 2009.

Mystery Spill (Oiled birds) (2004)

Location: Placentia and St. Mary's Bays, NL

Case number: 120-397-C1

The Incident

There was an oil spill of an unknown source in Placentia and St. Mary's Bays, Newfoundland, between November 26 and December 28, 2004. As a result of the spill, some seabirds were impacted.

The Claim

Following the receipt of a telephone call, on January 6, 2005, from Newfoundland respecting alleged losses and/or costs and expenses incurred concerning oiled birds said to be from an oil spill off the coast, the Administrator provided the caller with details on the working of the Ship-source Oil Pollution Fund (the Fund), along with information explaining the claims process.

On January 11, 2005, the Newfoundland and Labrador Environmental Association (NLEA) filed a claim with the Fund for expenses related to "monitoring and cleanup of a recent ship-source oil pollution mystery spill in Placentia and St. Mary's Bays, Newfoundland" in the amount of \$8,320.00. Particularly, the claim referred to seabirds impacted by the spill: their capture, cleaning, rehabilitation and release. The claimant noted that the NLEA was the only entity capable of responding to and dealing with seabirds contaminated by ship-source oil in Newfoundland and Labrador.

Assessment and Offer

On January 21, 2005, the Administrator requested further particulars in support of the claim, which additional information was received on March 11, 2005. Following his investigation of the incident, the Administrator formed the opinion it was not possible to say that the occurrence giving rise to the damage was from a source other than a ship. Accordingly, on September 27, 2007, he informed NLEA that, as a result of his investigation and assessment of the claim, he found the payment of fuel, replacement of required work wear and utility costs to be established. However, he did not find the remaining costs for payment of volunteers to be established. He then offered \$2,320.00 plus interest in full and final settlement of the claim, which offer was accepted by NLEA. Payment of \$2,720.00 including interest was made on November 1, 2007.

Status

The file was closed on November 30, 2007.

Mystery Spill (2006)

Location: St. Mary's Bay, NL

Case number: 120-490-C1

The Incident

On April 9, 2006, the Canadian Coast Guard (CCG) Emergency Response (CCG ER) personnel in St. John's received a report of oiled birds washing ashore in St. Mary's and Trepassey Bays on the southern coast of the Avalon Peninsula, Newfoundland. CCG ER then acted as the lead agency for the operational response to the oil spill of an unknown source. CCG provided support to the enforcement agencies of Transport Canada and Environment Canada in the carrying out of shoreline surveys and collecting oiled birds. The Canadian Wildlife Services chartered a commercial helicopter for aerial surveillance. Transport Canada also had an aircraft in the area on April 12. Following further beach surveys conducted by the CCG ER on April 13 and 14, more oiled debris and dead oiled birds were collected.

Transport Canada collected oil samples for the investigation of the source of the spill, which samples were thereafter sent to Environment Canada laboratories in Moncton, New Brunswick, for chemical analysis.

The Claim

On December 8, 2006, the Department of Fisheries and Oceans, on behalf of the CCG (DFO/CCG), filed a claim with the Ship-source Oil Pollution Fund in the amount of \$15,390.04 for costs and expenses incurred in responding to the incident.

Assessment and Offer

On February 19, 2007, the Administrator requested additional documentation and general information from DFO/CCG. On April 17, 2007, the CCG provided the Administrator with a copy of Environment Canada's oil match analysis. It also advised that further investigation to identify the source of the oil pollution had been led by Transport Canada, with Environment Canada and the CCG in a supporting role. As a result of such investigation, the source of the oil was determined to be ship-source. However, despite the fact that Transport Canada tried to narrow down the area of ocean to be investigated through the use of modeling and hindcast trajectories, it was not possible to identify a specific ship.

As a result of the investigation and assessment of the claim, on May 3, 2007, the Administrator offered DFO/CCG the total amount of \$15,390.04 plus interest in full and final settlement, pursuant to sections 86 and 101 of the *Marine Liability Act*, while noting in his letter of offer that the overall presentation and support documentation of the claim was exemplary and could well be used as a model for similar type incident claims. DFO/CCG accepted the offer and payment of \$16,360.88 including interest was made on May 14, 2007.

Status

The file was closed on March 31, 2008.

Abandoned Barge (2010)

Location: Sop's Arm, White Bay, NL

Case number: 120-592-C1

The Incident

On April 29, 2010, the Canadian Coast Guard (CCG) received a report from local residents of Sop's Arm, White Bay, Newfoundland, that an abandoned barge was aground near the community. The CCG Environmental Response personnel from the St. John's CCG depot proceeded to the site and investigated. Approximately 550 litres of diesel fuel were found in two internal tanks. Also, there was diesel fuel in a vehicle on deck and residual fuel oil in a large propane tank. The deck and sides were found in good condition with the exception of three small holes in the starboard side and two punched in the port side. There was no release of oil from the barge. The owner was reported to reside in Benton, Newfoundland, but the CCG attempts to contact him were unsuccessful. Consequently, on July 6 and 8, all the fuel oil and other potential pollutants were removed by the CCG, assisted by a local waste management and industrial service company. The barge tanks were flushed to remove any fuel remaining.

The Claim

On March 18, 2011, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses incurred in the amount of \$13,546.76, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

Following investigation and assessment of the claim, the Administrator found the full amount of the claim to be established. Therefore, on May 3, 2011, pursuant to sections 106 and 116 of the MLA, he offered such amount, plus interest, as full and final compensation. DFO/CCG accepted the offer on May 5 and payment of \$13,976.12, inclusive of interest, was thereafter made by the Administrator.

Recovery Action

The Administrator conducted background research to ascertain the location of the barge owner and identify any possible assets for cost recovery purposes. The investigations revealed that the owner did not have any financial assets. After consideration of the amount of the claim and the expenditure, the Administrator decided that it was not reasonable to pursue further attempts for cost recovery.

Status

The file was closed on July 3, 2012.

Connie James (2011)

Location: Savage Cove, NL

Case number: 120-637-C1

The Incident

During the night of August 31, 2011, the wooden-hull 54-tonne fishing vessel *Connie James*, built in 1968, caught fire and sank alongside the dock at Savage Cove, on the northwest coast of Newfoundland. The local fire department responded and pumped approximately 4,000 gallons of water onto the wheelhouse structure where the fire was most intense. While fighting the fire, the firefighters moved the burning vessel about 25 feet away from the wharf to prevent it from burning as well. Eventually the fire was extinguished but the vessel was now partially submerged. A sorbent boom was streamed around the wreck to contain the upwelling fuel oil. The fire department then informed the Canadian Coast Guard (CCG) and handed the incident over to the Royal Canadian Mounted Police.

The CCG contacted the vessel owner who advised that he was trying to reach his insurance company with respect to how best to proceed. In the morning of September 1, 2011, a commercial marine company was engaged by the owner to proceed to the scene and remove the fuel oil and other onboard pollutants. On September 2, two CCG emergency response personnel arrived at the site and assisted the owner in deploying additional sorbent boom. They also helped remove debris and oiled materials from the boomed area in order to allow the commercial divers to plug the fuel tank vents and prevent further pollution. On September 7, the wreck of the *Connie James* was removed from the water, and with the fuel tanks dismantled, there was no further release of oil into the marine environment.

The Claim

On August 8, 2013, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$13,265.56, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

On August 13, the Administrator requested from DFO/CCG certain information regarding the coordinates of the vessel owner and his insurance company. The request for support documentation was repeated on August 28 and again on November 20, 2013. Some information was later provided. On January 23, 2014, the CCG Headquarters informed the Administrator that its Atlantic Region had been actively pursuing repayment from the shipowner. However, these efforts to obtain payment from the vessel owner were unsuccessful.

On May 20, 2014, after investigation and assessment of the claim, the Administrator found the amount of \$13,390.05 to be established. A calculation error was found in the claim for administrative charges; hence, the claim was increased by \$124.49. The Administrator then offered \$13,390.05, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer and on June 4, 2014, the Administrator directed payment in the amount of

\$14,539.76, inclusive of interest. However, shortly after the Administrator's requisition for settlement, the CCG advised that the DFO had received three payments totaling \$5,974.43 further to the Canada Revenue Agency's Refund Set-off (RSO) program. Consequently, the original requisition was cancelled and the total of the RSO payments, \$5,974.43, was deducted from the original offer of \$13,390.05, leaving a remaining balance due in the amount of \$7,415.62, plus interest. The Administrator then directed a payment in the amount of \$8,070.02, inclusive of interest, to DFO/CCG.

Recovery Action

On August 5, 2014, the Administrator sent a letter, by registered mail, to the vessel owner requesting payment of the \$8,070.02 compensation paid to DFO/CCG within 30 days, failing which he may commence legal proceedings. The vessel owner did not respond to the demand letter. The Administrator then engaged a professional locator service to investigate and identify any possible assets the vessel owner may have for cost recovery action. The background investigation revealed that no significant financial assets were registered in the owner's name in the Province of Newfoundland. After careful consideration, the Administrator concluded that all reasonable recovery measures had been taken and that incurring further expenditures on the matter was not justified. He, therefore, closed the file.

Status

The file was closed on September 23, 2014.

Atlantic Endeavour (2011)

Location: Cow Head, NL
Case number: 120-638-C1

The Incident

On November 20, 2011, the Canadian Coast Guard (CCG) Marine Communications and Traffic Services Centre in St. John's, Newfoundland, received a call from the Captain (owner) of the fishing vessel *Atlantic Endeavour*, saying that his vessel was taking on water and in danger of sinking, approximately one nautical mile off Cow Head, Newfoundland. Later, the Captain reported being aground on the shoreline in the general area of Parson's Pond. The CCG Emergency Response personnel spoke to the owner about his plans for removal of the fuel oil, and during the discussion, the owner advised that there was no insurance coverage on the vessel.

When two CCG personnel from St. John's arrived on the scene, on December 2, they found the *Atlantic Endeavour* on the beach with a starboard list of 50 degrees or more. However, there was no sign of oil pollution around the grounded vessel. The owner was onboard the wreck removing electronic equipment and other salvageable items. He explained that there was no fuel oil in the stern tanks because they were used for ballast water.

The owner assumed responsibility of the incident by taking a suitable response, and the two CCG personnel, who attended on site, assumed the role of Federal Monitoring Officer. The owner hired an excavator to remove the wheelhouse and lift out the fuel tanks and the main engine from the vessel. In addition, he placed a sorbent boom around the wreck. A group of local fishermen then assisted the owner with the deconstruction of the vessel so that the oil waste could be removed. On December 3, the fuel tanks and engines were removed successfully without any release of oil pollution.

The Claim

On August 8, 2013, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$5,471.11, pursuant to sections 77(1), 101 and 103 of the *Marine Liability Act*.

Assessment and Offer

After investigation and assessment of the claim, the Administrator made an offer for the established amount of \$5,471.11, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and on September 25, 2013, payment in the amount of \$5,772.70, inclusive of interest, was directed by the Administrator.

Recovery Action

On December 11, 2013, the Administrator wrote to the registered owner of the *Atlantic Endeavour* requesting payment of the costs incurred by the CCG with respect to monitoring the measures taken in response to the incident. The owner was requested to respond within 14 days to advise

what arrangements could be made to pay the sum of \$5,772.70, failing which the Administrator may commence legal proceedings. No reply was received.

Taking into consideration that the owner had acted responsibly in responding to the incident and given the amount of the claim, the Administrator concluded that it was not reasonable to take further measures to recover the costs from the owner. Hence, he closed the file.

Status

The file was closed on March 22, 2014.

Nova Star I (2012)

Location: Cooks Harbour, NL

Case number: 120-648-C1

The Incident

On June 19, 2012, the fishing vessel *Nova Star I* ran aground on a rock, in thick fog and rain, while proceeding to the wharf in Cooks Harbour on the Northern Peninsula of Newfoundland. The fuel oil onboard the vessel was off-loaded into 45-gallon drums so that it could be towed from the grounded position. However, a storm arose and the fishing vessel was destroyed. The Canadian Coast Guard (CCG) deployed two Environmental Response specialists to the site in order to assess the incident.

The Claim

On March 7, 2014, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$6,523.50, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

For a proper assessment of the claim, on March 12, 2014, the Administrator requested additional support documentation. Upon receipt of the additional information, the Administrator completed his investigation and assessment, and found the full amount to be established. Therefore, on April 29, 2014, he offered \$6,523.50, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer and on May 27, 2014, the Administrator directed payment of \$6,922.49, inclusive of interest.

Recovery Action

Given the actions of the owner to deal with the pollution threat himself, the total constructive loss of the *Nova Star I*, which was his means of livelihood, and the amount of the claim, the Administrator decided that the cost of further recourse actions was not reasonable. Therefore, he closed the file.

Status

The file was closed on June 10, 2014.

Lakeview Venture (2013)

Location: Cobb's Arm, Notre Dame Bay, NL

Case number: 120-661-C1

The Incident

During the night of September 3, 2013, the Canadian Coast Guard (CCG) in St. John's, Newfoundland, received a report that the fishing vessel *Lakeview Venture* had caught fire at the wharf in Cobb's Arm, Notre Dame Bay. The fire had been extinguished, but the 40-foot vessel was in danger of sinking and releasing diesel fuel and hydraulic oils. When contacted by telephone the next morning, the owner advised that he would continue to monitor the situation until the CCG Emergency Response personnel arrived. On September 4, two CCG personnel departed St. John's and proceeded to the scene to monitor the owner's measures to remove the 300 litres of diesel oil contained in the fuel tanks. Upon arrival, the owner was on site, but lacked any effective response capability. He had, however, contacted his insurance representative who arranged for a vacuum truck the following day to remove the fuel and oily bilge water. In the meantime, CCG personnel assisted in stabilizing the vessel and prevented it from sinking. They pumped water from the engine room and deployed a sorbent boom to contain the oil sheen that resulted from the pumping operation. On September 5, the contracted vacuum truck arrived and pumped the fuel and oily bilge water from the wreck. Once the pollution was removed, CCG employees inspected the vessel and terminated their direct operational and monitoring role.

The Claim

On July 3, 2014, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$6,517.48, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

After investigation and assessment of the claim, the Administrator made an offer for the established amount of \$6,296.78, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer and on November 13, 2014, the Administrator directed payment of \$6,541.92, inclusive of interest.

Recovery Action

On December 10, 2014, the Administrator wrote to the owner of the *Lakeview Venture*, by registered mail, requesting payment of the compensation paid to DFO/CCG with respect to the measures taken in response to the incident. The letter was confirmed to be delivered on December 30, 2014. The owner was informed about his responsibilities pursuant to the MLA and was requested to respond within 30 days and advise what arrangements would be made to pay the sum of \$6,541.92, failing which legal actions may be taken. The owner was also informed that the Administrator was aware that his insurance company had sent him payment in full for his claim for the loss of the vessel, including the costs claimed by the CCG. Follow-up enquiries were unsuccessful.

The recourse investigation ascertained that the owner did not have any financial assets and that his only income was a Canada disability pension. The owner advised that he could make a one-time payment of \$1,000.00. After consideration, the Administrator concluded it was unreasonable to incur additional expenditure for any further cost recovery action and, thus, accepted the owner's offer. Subsequently, on May 27, 2015, a cheque in the amount of \$1,000.00 was received by the Administrator.

Status

The file was closed on June 9, 2015.

Baffin Sound (2015)

Location: St. Anthony, Newfoundland and Labrador

Case number: 120-685-C1

The Incident

On 23 June 2015, the Canadian Coast Guard (CCG) received a report from the local harbour authority that an oil sheen was originating from the fishing vessel *Baffin Sound*, which had been tied up at the town wharf in St. Anthony Harbour for the past seven to eight years. The vessel's main engine had been removed but the remaining quantity of hydrocarbons on board was unknown.

CCG environmental response (CCG ER) personnel were on scene and conducted an assessment of the vessel's condition, following which a Statement of Work (SOW) for removal of the pollutants from the *Baffin Sound* was developed. The SOW was subsequently sent to the vessel owner for action. Response was received from the owner on 30 June 2015 that he would be on-site to take the necessary measures.

The owner was on-site on 3 July and commenced the measures that were identified in the SOW. Pails and drums of oil and waste were collected. The hydraulic lines to deck machinery, the engine room generators, as well as the hydraulic and lube oil tanks were drained. CCG ER monitored the removal operations. Since the owner was not able to arrange for a vacuum truck to remove the fuel and bilge waste, CCG took the decision to hire one on 7 July. Approximately 1,100 litres of fuel were removed from the vessel, and 8,340 litres of oily water from the bilges.

The Claim

On 9 December 2015, the Administrator received a claim from CCG, on behalf of the Department of Fisheries and Oceans (DFO/CCG) in the amount of \$22,185.86 for costs and expenses incurred, pursuant to the *Marine Liability Act*.

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

Assessment and Offer

After investigation and assessment of the claim, an offer for the established amount of \$22,185.86, plus interest, was made to DFO/CCG by the Administrator, on 25 February 2016, as full and final settlement. The offer was accepted on 1 March 2016.

On or about 26 July 2016, a payment of \$22,926.95 including interest was made to DFO/CCG.

Recovery Action

A professional locator service was engaged to complete a locate and asset search on the *Baffin Sound's* registered owner. In addition, in January 2017, the owner was served with a Statement of Claim. In February 2017, counsel for the Ship-source Oil Pollution Fund secured a judgment from

the Federal Court against the owner in the amount of \$22,926.25 plus pre and post judgment interest.

In total, judgments of \$331,000.00 have been registered against the *Baffin Sound*'s owner. In May 2017, St. Anthony Port Authority instructed the seizure and sale of the *Baffin Sound*. However, the auction, held in October 2017, did not yield any bids.

In May 2018, counsel for the Administrator contacted the port authority legal counsel. There was no progress to report.

Status

The file remains open.

Related file

120-687-R – *Stelie II* (same owner)

Mystery Spill (2015)

Location: St. John's Harbour, NL

Case number: 120-686-C1

The Incident

On July 4, 2015, the Canadian Coast Guard (CCG) received a report of an oil sheen on the surface of the water at Pier 10 in St. John's Harbour. A local tour boat operator reported the occurrence and described it as thick oil covering an area of more than 50 square feet near Pier 10. A second report was received indicating that an oil slick extended along the shoreline of the Outer Battery towards the Harbour Narrows. In response, CCG Environmental Response personnel deployed small vessels and used sorbent material and booms to contain the oil slick. The pollution was found in several locations within the harbour because it was being dispersed by the tidal flow. The sheen appeared to be used motor oil. Samples were collected for analysis.

Transport Canada Marine Safety (TCMS) was notified about the spill and commenced an investigation into the possible source. It was determined that the polar adventure cruise ship *Ocean Endeavour* had departed Pier 10 shortly before the pollution was found, but there was no report of an oil spill from the ship. In addition, TCMS informed the CCG that another vessel was boarded during the investigation.

The CCG hired Crosbie Industrial Services to help skim waste oil and oily water from the spill sites and dispose of the recovered contaminated materials. During the operation, 30 drums of soiled absorbent products were collected. A total of 16,000 litres of contaminated water and 400 litres of waste oil were recovered for disposal at the local waste reception facility. The CCG utilized its own pollution response vessels for five full days during the clean-up operations. CCG personnel also investigated whether the spill might have been released from dockside or land-based outlets into the harbour, but no evidence of this was found. On July 8, the port authority was notified that the on-water recovery operations were completed.

The Claim

On December 17, 2015, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$27,169.98, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

For his investigation and assessment of the claim, the Administrator requested TCMS to provide a copy of its on-site investigation as to the origin of the oil spill. On December 30, 2015, TCMS advised the Administrator that the investigation continued; however, the actual source of the oil spill still remained unknown. Based on the overall assessment of the files claim documentation and further email exchange with the CCG response supervisor, the Administrator concluded that the full amount of the claim was established. He, therefore, on January 20, 2016, offered \$27,169.98, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer on February 3, 2016, but payment of the settlement amount was withheld as a

duly executed Release and Subrogation Agreement had not been returned by the CCG. The settlement amount of \$28,101.98, inclusive of interest, was paid in August 2016.

Recovery Action

Since the incident was a mystery spill, a responsible party could not be identified.

Status

The file was closed on December 6, 2016.

Stelie II (2016)

Location: Port Saunders, Newfoundland and Labrador

Case number: 120-687-C1

The Incident

On 23 March 2016, the CCG was informed that a 25-metre wooden fishing vessel, identified as the *Stelie II*, had broken free of its moorings and started to list heavily in icy waters in Port Saunders, Newfoundland and Labrador.

On 25 March 2016, the CCG dispatched personnel to the scene. It was observed that the vessel had taken on considerable volumes of water, and that this water ingress was oily. The entity thought to be the owner of the vessel had failed to take action as directed, so the CCG resolved to pump out the vessel and remove it from the marine environment. This was done on 25 and 26 March 2016, with the assistance of a local contractor. The *Stelie II* was then placed in storage on land.

Over the months that followed, the CCG attempted unsuccessfully to solicit action from the owner or owners of the vessel. On 18 August 2016, the CCG had the vessel surveyed. The survey report noted that the vessel was partially full of oily water, and that the condition of the hull was poor.

On 26 October 2016, the CCG hired a contractor to remove the oily water from the vessel. In total, 25,300 litres were removed, though some remained in inaccessible parts of the vessel.

The CCG continued to attempt to solicit action from the owner or owners of the vessel, which had become the subject of an ownership dispute. On 14 February 2018, the CCG placed two advertisements in local newspapers seeking proposals for the purchase and/or deconstruction of the *Stelie II*. No proposals were received. As a result, the CCG began to actively seek quotes for the dismantlement of the vessel.

On 7 March 2018, a Deputy Sherriff contacted the CCG, advising that the *Stelie II* had been placed under arrest as part of Federal Court proceedings initiated by one of the parties claiming to be its owner. The vessel was released from arrest on 21 March 2019 following a third-party motion made by the CCG.

On 31 July 2019, the CCG awarded a contract for the dismantlement and disposal of the *Stelie II*, which was completed in August 2019.

The Claim

On 1 May 2018, the Administrator received from the CCG, on behalf of the Minister of Fisheries and Oceans, the first part of a claim for costs and expenses incurred in response to the incident. As this submission represented only part of CCG's response, the Administrator advised CCG that the file would be held in abeyance pending receipt of the full claim. In addition, the Administrator

informed the CCG that the limitation period would not be suspended as a result of its partial submission.

On 8 October 2020, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totaling \$114,897.43, seeking compensation for costs and expenses arising from the response to the incident involving the *Stelie II*.

On preliminary review, the Administrator considered that the CCG's submission may have been time limited, as it appeared that the pumping operation of 25 and 26 March 2016 may have resulted in a discharge of oils from the *Stelie II*. The Fund put an inquiry to the CCG on this point on 26 February 2021, and a response asserting that no discharge of oils had occurred was received on 31 March 2021.

On 26 May 2021, the claim was disallowed. The rejection was made on the basis that the claim was not submitted within two years of a discharge which caused oil pollution damage. Canada challenged the disallowance by way of both an application for judicial review and an appeal. The hearing of those challenges is scheduled for July of 2022.

Status

The file remains open.

Related file

120-685-C1 – *Baffin Sound* (related owner).

Matterhorn (2014)

Location: Mount Carmel, St. Mary's Bay, Newfoundland and Labrador
Case number: 120-695-C1

The Incident

On 10 August 2014, the tug *Matterhorn*, a 535-tonne vessel fitted with 13 fuel oil tanks, sank while secured alongside another vessel at a marine facility at Mount Carmel, St. Mary's Bay, Newfoundland and Labrador. The tug, which had been towed to Mount Carmel in 2011, was apparently awaiting repairs at Miller Shipping Facility when the incident occurred. At the time of sinking, the tug had 3,000 litres of diesel fuel in the fuel tanks, 1,000 litres of fuel in the day tanks and approximately 1,250 litres of lube oils. Pollution was observed and the Canadian Coast Guard (CCG) personnel attended the site for the response operation.

The owner's first response to the incident was inadequate, following which CCG advised him of the necessary measures to be taken. Booms and sorbents were subsequently put in place; however, over time, the owner refused to continue the response operation and ignored all notices issued by CCG, although oil was still present. On 21 July 2015, CCG assumed the role of On-Scene Commander.

In August 2015, a dive assessment and outside survey of the vessel was carried out. In addition, LOC Marine and Engineering Consultants were engaged to provide advice on possible actions to remove the pollutants. Three options were suggested and CCG made the decision to remove the pollutants from the vessel *in situ*. The work to remove the pollutants, which was done by Sea Force Diving, was completed on 14 July 2016. The tug was left on the bottom and no further pollution has been reported.

The Claim

On 9 August 2016, the Coast Guard, 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 \$172,751.64, pursuant to the *Marine Liability Act*.

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

Assessment and Offer

After investigation and assessment of the claim, the Administrator made an offer for the established amount of \$172,751.64 plus interest, as full and final settlement, to DFO/CCG. The offer was accepted on 6 February 2017, and a payment in the amount of \$181,208.40, including interest, was made to DFO/CCG on or about 21 February 2017.

Recovery Action

A professional locator service was hired to conduct a locate and asset search on the *Matterhorn's* owners and operators. In March 2017, the Administrator instructed external counsel to commence a subrogated action against the vessel owners and operators.

A Statement of Claim was issued on 8 August 2017. Serving the claim on the vessel owner proved challenging. A motion was brought to validate service, and on 27 October 2017, the Court issued an order to that effect. In March 2018, Defences had been filed. In May 2018, replies to Defences were filed, and in June 2018, parties agreed to mediation in Halifax in November 2018.

It was initially thought that the mediation had succeeded, however a dispute subsequently arose as to the wording of the settlement agreement. As of 31 March 2019, the parties were still trying to agree on the settlement wording.

On 3 May 2019, it was determined that the Defendant may be trying to hide assets. Two motions seeking injunctions to prevent the defendants from disposing of assets were filed with the Court, and on 22 May 2019, the Court granted the injections sought, on an interim basis.

In June 2019, parties reached a settlement agreement. By the end of July 2019, the Administrator received the amount settlement of \$135,000.

Status

The file was closed on 10 October 2019.

Mystery Spill (2016)

Location: Belleoram, NL
Case number: 120-698-C1

The Incident

On July 4, 2016, the Harbour Master in Belleoram Harbour reported to the Canadian Coast Guard (CCG) an oil sheen in the vicinity of the main wharf and floating docks. The local response spill kit was used by the Harbour Master to contain the spill. The diesel sheen measured 100 feet by 500 feet and had been driven up onto the adjacent beach. Boom and absorbent pads were utilized and the used equipment was recovered for disposal by the harbour authority.

The CCG arrived on-scene on July 5, 2016 and spoke with local fishermen, who confirmed that the remainder of the spill had dispersed with the local weather conditions. The CCG assumed the role of Federal Monitoring Officer. They concluded that the source of the spill was unknown and that they were unable to establish that the occurrence was not caused by a ship.

The Claim

On December 2, 2016, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund in the amount of \$2,178.55.

Assessment and Offer

After investigation and assessment of the claim, the Administrator found the amount of \$2,137.39 to be established and on December 13, 2016, he offered such amount, plus interest, in full and final settlement. DFO/CCG accepted the offer and payment of \$2,174.38, inclusive of interest, was made.

Recovery Action

Since the incident was a mystery spill, a responsible party could not be identified.

Status

The file was closed on March 28, 2017.

Ronda SRTC (2016)

Location: Embree, Newfoundland and Labrador

Case number: 120-703-C1

The Incident

On 24 December 2016, the Canadian Coast Guard (CCG) received a report that the 39-foot wood and fibreglass fishing vessel *Ronda SRTC* was taking on water and in danger of sinking alongside a condemned dock at Embree, Newfoundland and Labrador. The vessel appeared to be low in the water, particularly at the bow, but there was no immediate risk of sinking and no visible pollution at this time. The local volunteer fire department arrived on scene, but a decision was made not to send personnel onto the unstable condemned dock.

The same evening, CCG contacted the owner of the vessel, who was then in St. John's. The owner informed CCG that he would instruct a local contact to pump and otherwise attend to the vessel in order to keep it from sinking. He further stated that there had been approximately 25 to 30 gallons of diesel on board the vessel, in addition to hydraulics and base oils. The owner also informed CCG that he had fallen behind on payments for the vessel's insurance.

On 25 December 2016, CCG received another report that the vessel was unlikely to be afloat much longer. CCG again spoke with the owner of the vessel, who said that his local contact was having trouble pumping the vessel. He was unable to do anything more and agreed to a CCG Environmental Response (ER). Later, CCG was informed by Transport Canada in an email that the vessel had sunk at the dock. No pollution was observed at the time.

During a snow storm on 26 December 2016, two CCG ER personnel arrived on scene with a small boat. They deployed sorbent booms and secured the vessel. After several days of poor weather during which CCG remained in contact with local observers, two ER specialists visited the vessel on 5 January 2017. CCG decided to raise the vessel and remove it from the marine environment. A contractor was engaged for this purpose. Poor weather, the condition of the dock, and technical difficulties delayed progress, but the vessel was raised on 9 January. The following day, the vessel was towed to Twillingate and removed from the water there. On 11 January CCG ER demobilized.

On 1 May 2018, the owner was notified that CCG had contracted to have the vessel deconstructed. The vessel had been assessed as valueless by a marine surveyor and storage on the hard meant that CCG was incurring a regular cost. The vessel was deconstructed at some point in May or June of 2018.

The Claim

On 26 November 2018, the Administrator received a claim in the amount of \$98,858.83 from CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) in respect of the incident, pursuant to the *Marine Liability Act*. The Administrator determined that the claim was admissible under Part 7 of the Act.

Assessment and Offer

During assessment, the Administrator's office made requests to CCG for additional information and documentation, which were provided.

On assessment, the Administrator determined that the CCG operation had largely been a wreck removal, and that the costs associated with the three contractors engaged by CCG were not compensable. Portions of the costs relating to salaries, travel, and vehicles were also not accepted as reasonable. In addition, the rate for the calculation of administration costs was adjusted.

On 26 February 2019, the Administrator made an offer for the established amount of \$5,953.87, plus interest, as full and final settlement to DFO/CCG. The offer was accepted on 5 March and payment in the amount of \$6,396.57, including interest, was made to DFO/CCG on 7 March.

Recovery Action

A professional locator service was hired to complete a locate and asset search on the owner of the *Ronda* SRTC. The report was received in November 2018.

As the Administrator was not able to locate or contact the owner with the information generated from the professional locator, and given that no further reasonable recourse measures were available, the Administrator decided, on recommendation of in-house counsel, to close the file.

Status

The file was closed on 4 July 2019.

Sikuk (2017)

Location: Clarenville, Newfoundland and Labrador
File number: 120-712-C1

The Incident

On 21 September 2017, the Canadian Coast Guard (CCG) was notified that two vessels, identified as the *Sikuk* and the *Françoise*, were together dragging anchor at Clarenville, Newfoundland and Labrador. The *Sikuk* had a gross tonnage of 584 and the *Françoise* a gross tonnage of 230. Both were disused fishing vessels placed at anchor by a local shipyard. The CCG issued directions to each of the owners under the *Canada Shipping Act, 2001*, ordering them to take action to secure their respective vessels. The owners were either silent or uncooperative at this stage.

On 22 September 2017, two CCG Environmental Response (ER) personnel from St. John's arrived on scene to find the *Sikuk* at anchor with the *Françoise* listing slightly and secured by three mooring lines to the *Sikuk*'s port side. The ER personnel boarded the *Sikuk* and found that both of its forward anchors were deployed but could not be retrieved due to the vessel's lack of power. The ER personnel determined that the *Sikuk* contained approximately 11,500 litres of pollutants. They were not able to board the *Françoise* due to safety concerns.

On 23 September 2017, the CCGS *Harp* arrived on scene. CCG personnel installed chaffing pads to protect the lines connecting the *Sikuk* and the *Françoise*.

Because the two vessels lacked operational lights, the CCG was concerned that they posed a navigational hazard. There were also concerns that the vessels would continue to drag anchor, damaging underwater cables in the process. With poor weather expected in the area, there were fears that the vessels would ground and discharge pollutants. As a result, the CCG resolved to engage a commercial tug to tow the *Sikuk* and the *Françoise* to safe refuge. Towing bridles were attached to each of the two vessels for this purpose.

On 24 September 2017, a contracted tug was en route from Sydney, Nova Scotia, and expected to arrive early the following day. The CCG had vetted a temporary place of refuge for the vessels at a disused local dock a few hundred metres from the anchorage. As the dock was in poor condition, its owner stipulated that only CCG personnel were to be allowed access. The CCG further agreed to arrange 24-hour security for the site. CCG personnel prepared both the dock and the vessels for the mooring arrangement, procuring the supplies deemed necessary to safely secure the vessels.

On 25 September 2017, the tug arrived and towed the vessels after a safety briefing. The *Sikuk* and the *Françoise* were secured to the dock by 10:00 and the tug and the CCGS *Harp* were released from the scene. Security guards contracted by the CCG began their 24-hour monitoring of the site and the ER personnel departed.

Further directions under the *Canada Shipping Act, 2001* were issued to the owners of both vessels, requiring that formal plans be presented to the CCG with respect to pumping the vessels of pollutants and towing them away for deconstruction or repair. Neither owner complied.

On 30 September 2017, ER personnel returned to the vessels to inspect their moorage situation. The *Françoise* continued to list, but its situation was unchanged. The *Sikuk* rested on even keel with no change to its draught. Minor adjustments were made to the mooring lines before the ER personnel departed. They continued to visit the site periodically over the months that followed to check on the vessels and make adjustments as needed.

On 4 October 2017, the owner of the *Sikuk* engaged a contractor and a marine consultant, but the owner's correspondence with the CCG remained vague and noncommittal.

On 8 November 2017, a direction was sent to the owner of the *Sikuk*, indicating that CCG action was imminent, and setting 14 November 2017 as a deadline to submit an acceptable plan. No such plan was received by the deadline.

On 16 November 2017, the CCG arrived on scene with a marine surveyor it had contracted to assess the *Sikuk*'s condition and quantify pollutants on board. The survey report indicated that *Sikuk* had been modified from its original fishing trim for the purpose of harvesting ice from icebergs. The report found that the hull appeared to be sound, raising no concerns about seaworthiness. Various miscellaneous pollutants were identified, and oils on board were estimated at 16,250 litres, though the bulk of these were assumed to be in a dirty oil tank that could not be sounded. Finally, it was concluded that given the vessel's age, it was likely to contain asbestos.

The owner of the *Sikuk* submitted an acceptable plan to the CCG on 14 December 2017, to be engaged two weeks later, but this was delayed by weather. On 4 January 2018, under CCG supervision, a tug contracted by the owner arrived on scene and was secured alongside the *Sikuk*. A pumping operation began, with some oil being pumped onto the tug and the remainder into to a truck on shore. Sorbent booms were deployed as a precaution. The pumping operation was complete on 6 January 2018, with approximately 18,000 litres of fluids removed.

The CCG conducted an inspection of *Sikuk* on January 7, 2018 and confirmed that all accessible hydrocarbons had been removed. Various other pollutants and barrels were also removed by the owner's contractor. A Transport Canada inspector arrived on scene to review the tow plan. The following day, after Transport Canada approval and under CCG supervision, the owner's contracted tug began towing the *Sikuk* to Springdale. The CCG departed the scene the following day, and the *Sikuk* was reported to have arrived at Springdale on 10 January 2018 with no release of pollution.

The Claim

On 1 March 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$195,109.00, seeking compensation for costs and expenses arising from the response to the incident involving the *Sikuk*.

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

Assessment and Offer

On 4 March 2019, the Administrator informed the CCG that given the involvement of two vessels in the same response and the resulting issue of apportionment of costs, assessment and investigation of the *Sikuk* claim would be held in abeyance until submission of the *Françoise* claim.

On 12 September 2019, the CCG submitted the *Françoise* claim and the Administrator began her investigation and assessment of the two claims together. Several requests for further information and documentation were put to the CCG, and responses were received in part.

The Administrator found that the initial measures taken by the CCG to secure the *Sikuk* were reasonably taken with respect to a demonstrated oil pollution threat. However, storage costs associated with the vessel that extended beyond one month were rejected, resulting in substantial reductions.

The Administrator made an offer of compensation to the CCG in the amount of \$79,826.14, plus accrued interest, on 10 June 2020.

The CCG accepted the offer on 7 August 2020, and payment from the Fund in the amount of \$88,540.68, including interest, was made on 17 August 2020.

Recovery Action

On 14 December 2018, prior to receiving the *Sikuk* claim, the Administrator obtained the vessel's historical transcript from Transport Canada. The transcript showed that the vessel's Canadian registration had been closed in 2009 to allow it to be registered in St. Vincent and the Grenadines. On 5 March 2019, the Administrator obtained the *Sikuk*'s transcript of registry from St. Vincent and the Grenadines, which showed that it had ceased to be registered there on 27 September 2017. In both Canada and St. Vincent Grenadines, the registered owner of the vessel had been the same Canadian corporation, representatives of which had dealt with the CCG throughout its response.

On 26 November 2019, the Administrator learned that the *Sikuk* remained moored at a private wharf in Springdale.

In August 2020, the Administrator issued two *Inquiries Act* subpoenas to Newfoundland and Labrador utility companies in an attempt to obtain a viable address for one of the directors of the corporate owner of the *Sikuk*. The responses to these subpoenas were inconclusive. In addition, demand letters were sent to another of the company's directors. A response was received on 3 September 2020.

On 17 September 2020, in-house counsel to the Administrator filed an action in the Federal Court against the *Sikuk*, its owner, and the owner of the *Françoise*.

Counsel for the owner of the *Françoise* filed a Statement of Defence on 11 December 2020, and counsel engaged by the *Sikuk* and its owner filed a Statement of Defence on 18 December 2020.

On 7 January 2021, the owner of the *Françoise* commenced third party proceedings against the CCG and the owners of the shipyard that had tied the *Françoise* to the *Sikuk* in Clarendville Harbour. The CCG filed a Statement of Defence to the third-party claim on 22 February 2021.

As of 31 March 2022, litigation remains ongoing.

Status

The file remained open at the end of the fiscal year.

Related Files

120-725-C1 – *Françoise* : same date and location, same type of incident (dragging anchor), same claimant

Françoise (2017)

Location: Clarenville, Newfoundland and Labrador

File number: 120-725-C1

The Incident

On 21 September 2017, the Canadian Coast Guard (CCG) was notified that two vessels, identified as the *Sikuk* and the *Françoise*, were together dragging anchor at Clarenville, Newfoundland and Labrador. The *Sikuk* had a gross tonnage of 584 and the *Françoise* a gross tonnage of 230. Both were disused fishing vessels placed at anchor by a local shipyard. The CCG issued directions to each of the owners under the *Canada Shipping Act, 2001*, ordering them to take action to secure their respective vessels. The owners were either silent or uncooperative at this stage.

On 22 September 2017, two CCG Environmental Response (ER) personnel from St. John's arrived on scene to find the *Sikuk* at anchor with the *Françoise* listing slightly and secured by three mooring lines to the *Sikuk*'s port side. The ER personnel boarded the *Sikuk* and found that both of its forward anchors were deployed but could not be retrieved due to the vessel's lack of power. The ER personnel determined that the *Sikuk* contained approximately 11,500 litres of pollutants. They were not able to board the *Françoise* due to safety concerns.

On 23 September 2017, the CCGS *Harp* arrived on scene. CCG personnel installed chaffing pads to protect the lines connecting the *Sikuk* and the *Françoise*.

Because the two vessels lacked operational lights, the CCG was concerned that they posed a navigational hazard. There were also concerns that the vessels would continue to drag anchor, damaging underwater cables in the process. With poor weather expected in the area, there were fears that the vessels would ground and discharge pollutants. As a result, the CCG resolved to engage a commercial tug to tow the *Sikuk* and the *Françoise* to safe refuge. Towing bridles were attached to each of the two vessels for this purpose.

On 24 September 2017, a contracted tug was en route from Sydney, Nova Scotia, and expected to arrive early the following day. The CCG had vetted a temporary place of refuge for the vessels at a disused local dock a few hundred metres from the anchorage. As the dock was in poor condition, its owner stipulated that only CCG personnel were to be allowed access. The CCG further agreed to arrange 24-hour security for the site. CCG personnel prepared both the dock and the vessels for the mooring arrangement, procuring the supplies deemed necessary to safely secure the vessels.

On 25 September 2017, the tug arrived and towed the vessels after a safety briefing. The *Sikuk* and the *Françoise* were secured to the dock by 10:00 and the tug and the CCGS *Harp* were released from the scene. Security guards contracted by the CCG began their 24-hour monitoring of the site and the ER personnel departed.

Further directions under the *Canada Shipping Act, 2001* were issued to the owners of both vessels, requiring that formal plans be presented to the CCG with respect to pumping the vessels of pollutants and towing them away for deconstruction or repair. Neither owner complied.

On 30 September 2017, ER personnel returned to the vessels to inspect their moorage situation. The *Françoise* continued to list, but its situation was unchanged. The *Sikuk* rested on even keel with no change to its draught. Minor adjustments were made to the mooring lines before the ER personnel departed. They continued to visit the site periodically over the months that followed to check on the vessels and make adjustments as needed.

The CCG repeatedly directed the owner of the *Françoise* to take action in the months following the towage operation. Communication was vague, noncommittal, and sometimes nonexistent.

The CCG had the *Sikuk* surveyed on 16 November 2017, and its owner ultimately removed the pollutants from the vessel under CCG supervision and had it towed away in January of 2018. This left the *Françoise* at the disused dock, with the CCG continuing to incur security costs. The owner of the *Françoise* was informed that these costs would no longer be shared with the owner of the *Sikuk*.

On 12 July 2018, with the owner of the *Françoise* still uncooperative, the CCG engaged a marine surveyor to inspect the vessel. A survey report was issued to the CCG on 6 August 2018. The report indicated that the vessel contained 17,000 litres of pollutants. Though the vessel was in very poor condition, the surveyor did not consider it likely to sink, but did express concerns that any water ingress might go unnoticed. Finally, the cost of deconstructing the vessel was estimated to be in the \$500,000 to \$750,000 range. In the fall and winter of 2018, the CCG obtained quotes from contractors for the deconstruction of the *Françoise*, all of which exceeded the range estimated by the surveyor.

On 3 October 2018, the owner of the *Françoise* informed the CCG that a marine consultant had been engaged to prepare a plan for removing pollutants from the vessel and ultimately deconstructing it.

On 2 November 2018, a contractor engaged by the owner pumped 11,000 litres of pollutants from the *Françoise* under CCG supervision.

On 7 December 2018, the owner presented the CCG with a plan to tow the *Françoise*. The tow was delayed repeatedly, finally being put into action on 4 February 2019. The vessel was delivered to Glovertown two days later.

The CCG demobilized when the *Françoise* was towed away.

The Claim

On 12 September 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$381,296.28, seeking compensation for costs and expenses arising from the response to the incident involving the *Françoise*.

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

Assessment and Offer

In November of 2018, while the *Françoise* was moored at the disused Clarenville dock under CCG supervision, and prior to receiving the CCG claim, the Administrator engaged a marine surveyor to inspect the vessel and assess the pollution threat it posed. The survey report was received in December of 2018.

Once the claim was received from the CCG, the Administrator began her investigation and assessment of it together with the *Sikuk* claim, which had been received in March of 2019 but held in abeyance. Several requests for further information and documentation were put to the CCG, and responses were received in part.

The Administrator found that the initial measures taken by the CCG to secure the *Françoise* were reasonably taken with respect to a demonstrated oil pollution threat. However, storage costs associated with the vessel that extended beyond one month were rejected, resulting in substantial reductions.

The Administrator made an offer of compensation to the CCG in the amount of \$73,908.57, plus accrued interest, on 10 June 2020.

The CCG accepted the offer on 7 August 2020, and payment from the Fund in the amount of \$81,977.09, including interest, was made on 17 August 2020.

Recovery Action

In September of 2018, prior to receiving the CCG claim, the Administrator requested ownership information on the *Françoise* from the CCG. The CCG provided the name of an individual, and in September 2018, the Administrator engaged a private investigation service to conduct an asset search on this individual. It later came to light that this individual is the director of the corporate registered owner of the vessel.

On 20 November 2019, the Administrator learned that the owner of the *Françoise* had had the vessel deconstructed at Glovertown in August of 2019.

On 18 August 2020, a demand letter was sent to the owner of the *Françoise*. A response from counsel engaged by the owner was received on 21 August 2020.

On 17 September 2020, in-house counsel to the Administrator filed an action in the Federal Court against the *Sikuk*, its owner, and the owner of the *Françoise*.

Counsel for the owner of the *Françoise* filed a Statement of Defence on 11 December 2020, and counsel engaged by the *Sikuk* and its owner filed a Statement of Defence on 18 December 2020.

On 7 January 2021, the owner of the *Françoise* commenced third party proceedings against the CCG and the owners of the shipyard that had tied the *Françoise* to the *Sikuk* in Clarenville Harbour. The CCG filed a Statement of Defence to the third-party claim on 22 February 2021.

As of 31 March 2022, litigation remains ongoing.

Status

The file remained open at the end of the fiscal year.

Related Files

120-712-C1 – *Sikuk*: same date and location, same type of incident (dragging anchor), same claimant

Lucas & Rebecca (2017)

Location: Bay of Islands, Newfoundland and Labrador

Case number: 120-727-C1

The Incident

On July 1, 2017, the Canadian Coast Guard Environmental Response (CCG ER) Duty Officer in St. John's was informed that a 40-foot fishing vessel, the *Lucas & Rebecca*, was aground in the Bay of Islands, on the west coast of the province. The crew had safely abandoned the vessel. The vessel owner reported that there was approximately 200 litres of diesel fuel onboard along with some hydraulic oil, engine oil, and steering fluid.

When the CCG ER officer in St. John's was informed about the incident, he contacted the CCGS *Cape Fox*, a 47-foot lifeboat based at Lark Harbour, approximately 10 nautical miles from the scene of the incident. The coxswain of the *Cape Fox* reported that he had responded to the grounding and attempted to tow the *Lucas & Rebecca* off the rocks on the shores of Saddle Island, but the efforts were unsuccessful. There was no oil pollution sighted. The owner was, at the time, in the process of removing containers of engine oil, steering fluid and pails of hydraulic oil. The weather forecast was for severe winds, which finally resulted in the destruction of the grounded vessel.

On July 3, 2017, the owner advised that the vessel he had arranged for to remove the diesel fuel from the *Lucas & Rebecca* was unable to operate because of severe weather conditions. During the day, however, the ER crew used its response equipment to successfully remove all accessible oil from the wreck: 850 litres of diesel, 20 litres of hydraulic oil, and 20 litres of steering fluid, as well as a small amount of oil from the engine. CCG ER personnel departed the area on July 4 and returned to St. John's.

The *Lucas & Rebecca* was a total loss.

The Claim

On November 3, 2017, the Administrator received a claim from CCG on behalf of the Minister of Fisheries and Oceans (DFO/CCG) for costs and expenses in the amount of \$17,744.64, 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 December 13, 2017, after investigation and assessment of the claim, the Administrator made an offer to DFO/CCG for the established amount of \$17,744.64, plus interest, as full and final settlement.

On December 19, 2017, the Administrator received a letter from DFO/CCG accepting the offer. A payment of \$18,301.77 (including \$557.13 in accrued interest) was directed to DFO/CCG on January 11, 2018.

Recovery Action

On February 27, 2018, in-house counsel to the Administrator sent a demand letter to the owner of the *Lucas & Rebecca*. The owner responded in April 2018 and advised that he had been aware of neither the CCG claim nor his own liability. He added that he had no means to pay at the time but understood his obligations. He asked for some time to get his things in order, at which time he should be in a position to offer payment. Counsel made further attempts to contact the owner without success.

In December 2018, the Administrator tasked a professional locator service to investigate the assets of the owner of the *Lucas & Rebecca*. No significant assets were identified.

In January 2019, external counsel was engaged. Two further demand letters were sent: the first to the known owner and a second to the estate of the deceased registered owner. Counsel heard back from the former and began negotiations. A representative of the estate of the registered owner contacted counsel and produced satisfactory proof that title to the vessel had been transferred prior to its grounding.

On July 31, 2019, counsel for the Administrator issued a Statement of Claim in the Federal Court of Canada under Court File Number T-1239-19. That legal action names the apparent owner of the vessel as defendant. The claim was served on the owner shortly after it was issued.

A lawyer representing the apparent owner contacted counsel for the administrator to discuss a settlement agreement. On two occasions, it appeared that a settlement was imminent, but no final agreement was executed.

On 9 November 2020, external counsel to the Administrator filed a motion for default judgment against the defendant, who had neither filed nor served a Statement of Defence.

On 24 November 2020, the Federal Court issued a default judgment in favour of the Administrator, in the amount of \$18,301.77, plus pre- and post-judgment interest.

As of 31 March 2022, external counsel was in the process of taking steps to recover the amount of the judgment.

Status

The file remained open at the close of the fiscal year.

Floyd II (2017)

Location: Happy Adventure, NL
Case number: 120-728-C1

The Incident

On August 2, 2017, the Canadian Coast Guard (CCG) was notified that the fishing vessel *Floyd II* had capsized close to Happy Adventure on the northern coast of Newfoundland. The crew had safely evacuated to shore in an open boat.

The vessel owner reported that the vessel contained 700 to 800 litres of diesel fuel and that there was insurance in place.

On August 3, three CCG representatives equipped with oil spill response equipment arrived at Happy Adventure to monitor the owner's response. The *Floyd II* was found afloat with its port side just above the waterline. The seas were calm with a light wind and there was a non-recoverable oil sheen along the shoreline. The CCG personnel met with the owner's contracted salvage crew and discussed measures to control the release of pollutants, and upright the *Floyd II*, and move it to the port.

At mid-day, a surveillance aircraft reported an oil sheen towards the inner shore to the north.

The vessel was uprighted and stabilized by the salvage crew and on August 4 the vessel was secured in the Happy Adventure harbour. At this point, CCG provided three bundles of absorbent boom for placement around the vessel. The owner hired a vacuum truck to empty the vessel of water; hydraulic oil and fuel oil was also removed by the vacuum truck.

The Claim

On November 3, 2017, the Administrator received a claim from CCG on behalf of the Department of Fisheries & Oceans (DFO/CCG) for costs and expenses in the amount of \$10,471.05, 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 December 12, 2017, after investigation and assessment of the claim, the Administrator made an offer to DFO/CCG for the established amount of \$10,471.05, plus interest, pursuant to section 105 of the Act. On December 14, 2017, the offer was accepted by DFO/CCG.

On December 20, 2017, the Administrator directed that the amount of \$10,598.42 (including \$127.37 in accrued interest) be paid to DFO/CCG as full and final payment of their claim.

Recovery Action

On February 27, 2018, Counsel for the Administrator sent a demand letter to the owner. On March 5, the owner engaged in settlement discussions involving his insurer as well. A settlement was eventually reached for the lump sum of \$5,250, which was received by the Administrator's office on March 22, 2018.

Status

The file was closed on April 12, 2018.

Joyce's Journey (2016)

Location: Bay of Islands, NFLD

Case number: 120-738-C1

The Incident

On December 18, 2016, the Canadian Coast Guard (CCG) was informed that the fishing vessel *Joyce's Journey* (46-foot length overall) was aground near the Bay of Islands, Newfoundland. The crew had safely abandoned the vessel.

The owner confirmed that there was approximately 500 gallons of diesel fuel onboard the vessel. Because of the sea state and high winds, salvage efforts were initially postponed. The owner was informed of his responsibility to take measures to prevent pollution damage and to present a response plan to the CCG before December 21, 1300 hrs.

The following day, two CCG personnel arrived in the vicinity of the grounding to monitor the owner's response; they had brought pollution equipment as a contingency.

On December 20, 2016, the CCG personnel met with the vessel's Captain and were advised the *Joyce's Journey* was holed from the bow to midship and the engine room was half full of water. An overflight was conducted by a CCG helicopter and no pollution was seen. The fuel tanks appeared to be intact and the vessel's engine was still running. The owner and insurance representative were developing a salvage plan to remove the fuel and salvage the craft when weather conditions improved.

On December 21, 2016, the insurance representative presented, verbally, a recovery plan to the CCG but it was deemed inappropriate. A revised plan was not provided on time consequently the CCG assumed command and control of the incident. During the late evening of December 21, the insurance representative confirmed that a contract had been made for removal of the wreck and the pollution. After reconsideration, the CCG deemed this measure appropriate and thereafter resumed an oversight role while the owner and his contractors were to execute the manoeuvre.

On December 23, 2016, the weather was favourable enough to permit recovery of the fuel oil and hydraulic fluid from the wreck. A total of 622 gallons of fuel were removed. The *Joyce's Journey* remained grounded but no longer posed a pollution threat to the marine environment. The insurance representative advised the CCG personnel that operations to salvage the vessel would start the following week if weather conditions permitted.

The Claim

On January 3, 2018, the Administrator received a claim from the CCG acting on behalf of the Department of Fisheries and Oceans (DFO/CCG) for the costs and expenses in the amount of \$11,373.42, 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 January 31, 2018, after an investigation and assessment of the claim, the Administrator made an offer to DFO/CCG for the established amount of \$11,373.42, plus interest. On February 7, 2018, DFO/CCG accepted the offer.

On February 14, 2018, the Administrator directed that the amount of \$11,775.35 (including \$401.93 in accrued interest) be transferred to DFO\CCG as full and final payment of the claim.

Recovery Action

Upon payment of CCG's claim, the Administrator instructed counsel to seek recovery of this amount with the insurer. On June 28, 2018, counsel accepted a settlement of \$9,000 with the insurer. On July 5, 2018, the payment of \$9,000 was received.

On July 10, 2018, a letter of release was sent to the insurer.

Status

The file was closed on July 12, 2018.

Baccalieu Endeavour (2017)

Location: Musgrave Harbour, NL

Case number: 120-739-C1

The Incident

On April 4, 2017, the Canadian Coast Guard (CCG) was advised that the *Baccalieu Endeavour* (40.45 GRT), a fibreglass hull, 15.69 metre fishing vessel, was partly submerged and listing heavily to port at the wharf of Musgrave Harbour, Newfoundland. Two CCG personnel arrived on site the following day and met with the owner who was in the process of responding to the emergency.

On April 6, 2017, the CCG personnel returned to the site to monitor the owner led response. The vessel was raised and upright by the afternoon of April 6, 2017. The *Baccalieu Endeavour* held approximately 800 litres of diesel fuel and 300 litres of lube and hydraulic oils at the time of the occurrence; there was no observable release of pollution. The area supports an active commercial groundfish industry.

The Claim

On December 29, 2017, CCG acting on behalf of the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator for costs and expenses incurred to respond to the incident in the amount of \$5,146.31, pursuant to the *Marine Liability Act*.

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

Assessment and Offer

On February 7, 2018, after investigation and assessment of the claim, the Administrator made an offer to DFO/CCG for the established amount of \$5,045.49, plus interest. DFO/CCG accepted the offer on February 13.

On February 14, the Administrator directed payment of \$5,179.44 (including \$133.95 in accrued interest) to DFO/CCG, as full and final payment of the claim.

Recovery Action

The Office of the Administrator contacted the owner of the ship and informed him the Administrator would take all reasonable measures to recover from him the amount of the payment made to DFO/CCG.

On January 15, 2019, the Administrator received a cheque of \$5,345.75 including accrued interest from the shipowner as full and final settlement of the claim. On January 21, 2019, the Administrator sent a Release from Liability letter to the shipowner.

Status

The file was closed on January 25, 2019.

Avalon Princess (2017)

Location: La Scie, Newfoundland and Labrador

Case number: 120-755-C1

The Incident

On 7 June 2017, the Joint Rescue Coordination Centre (JRCC) in Halifax was informed that the 41.08 GT fishing vessel *Avalon Princess* was sinking in icy waters off La Scie, Newfoundland and Labrador. The crew abandoned the vessel onto the ice and were later successfully rescued by helicopter. The vessel sank to a depth of approximately 59 metres, containing an estimated 6,000 litres of diesel, as well as other oils.

On 13 June 2017, the Canadian Coast Guard (CCG) Environmental Response (ER) issued a notice under section 180 of the *Canada Shipping Act, 2001* to the authorized representative of the vessel. The notice informed him of his liability and CCG powers while also directing him to notify CCG as to his intentions regarding the sunken Vessel.

On 14 June 2017, the authorized representative advised CCG that he and his insurer had engaged a response. A hired vessel was on scene cleaning up a sheen on the surface.

As directed by CCG, the owner/insurer engaged a private company to deploy a remotely operated vehicle (ROV), scheduled for 17 June 2017.

On 15 June 2017, two CCG ER personnel arrived on scene in a Transport Canada aircraft. From the aircraft, they observed loose ice pack around the site of the sinking, as well as an oil sheen. The estimated that this sheen amounted to 87.6 litres.

The same day, the owner/insurer was active in engaging local help to address any flotsam around the vicinity of the sinking. A contractor was formally engaged to this end on 17 June.

On 16 June 2017, CCG ER observed no pollution on surrounding shoreline and the entrances to the La Scie Harbour. Two further CCG ER personnel arrived on scene on 17 June to monitor the ROV operation. They arrived aboard a Fisheries vessel, along with two Conservation and Protection Officers.

During the ROV operation, a sheen of approximately 100' by 6' was observed in the area. It dissipated within an hour and no further pollution was observed.

On 18 June 2017, CCG personnel completed a final assessment of La Scie Harbour and its approaches. No pollution was observed.

By 27 June 2017, no further pollution had been sighted. Furthermore, Environment Canada was satisfied that “the majority of the oil was released within 24–36 hours and the remaining would have leaked out over the following 7–10 days.”

As no further pollution had been observed, CCG closed the case on 28 June 2017.

The Claim

On 1 May 2019, the Administrator received a claim in the amount of \$8,486.10 from CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) in respect of the incident, pursuant to the *Marine Liability Act*. The Administrator determined that the claim was admissible under Part 7 of the Act.

Assessment and Offer

On 7 May 2019, CCG advised the Administrator that it was in discussions with the vessel's owner to settle the claim. The Administrator notified CCG that assessment would be held pending the outcome of CCG's negotiations with the owner.

On 11 July 2019, the Administrator received a formal request from CCG asking to withdraw its claim with respect to this incident as it had been settled with the shipowner.

Status

The file was closed on 11 June 2019.

Eylander (2017)

Location: Green Island, Witless Bay, Newfoundland

File number: 120-761-C1

The Incident

On 25 August 2017, the Canadian Coast Guard (CCG) received a report of a vessel running aground on the southern end of Green Island, in Witless Bay, Newfoundland. The vessel was identified as the *Eylander*, an 18-metre, American-flagged fishing vessel. The vessel had approximately 5,000 to 6,000 gallons of diesel fuel aboard, and the location where it ran aground was part of an ecological preserve.

There was no release of fuel accompanying the grounding event itself. However, during removal and towing operations, a fuel line on the *Eylander* was severed. Approximately 10 to 15 gallons of diesel fuel were discharged into the marine environment.

The *Eylander* was towed to a wharf in Witless Bay. The CCG issued a notice to the vessel's owner under section 180 of the *Canada Shipping Act, 2001*. The CCG also conducted an assessment of the location of the grounding and discharge. The CCG noted a sheen on the surface of the water between Green Island and Mobile bay, which was concluded to be a result of the *Eylander* incident. Oil pollution containment equipment was deployed by the CCG in response.

On 26 August 2017, a wildlife survey was conducted of the Ecological Reserve at Green Island. On 28 August 2017, a second wildlife survey was carried out, including an assessment of the impact of the incident on the bird colonies within the ecological reserve. This included identifying birds which had apparently died as a result of the incident.

The Claim

On 25 July 2019, the Administrator received a submission from the CCG on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$12,812.93, seeking compensation for the response to the incident involving the *Eylander*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim. During the assessment, it was identified that the claim submission did not justify the use of private vehicles as claimed for. As well, while the claim sought to charge for three days of use of a CCG Pollution Response Vessel, Class II, only one day's use of the vessel was documented. These items were therefore disallowed.

On 17 October 2019, the Administrator made an offer of compensation to the CCG in the amount of \$10,272.68, plus statutory interest in the amount of \$820.13.

The CCG accepted the offer on 28 October 2019, and payment from the Fund in the amount of \$11,092.81, including statutory interest, was made on 1 November 2019.

Recovery Action

In October of 2019, in-house counsel made efforts to contact the American corporate owner of the *Eyelanders*, both directly and through a lawyer identified as representing the company. It was determined that the company had become insolvent and ceased operations.

In November and December 2019, the effort shifted to making contact with the insurer of the *Eyelanders*. In January, contact was made and a demand letter was sent on 27 January 2020. Documents supporting the demand were provided on 30 January 2020.

On 20 February 2020, the insurer agreed to pay the claim. Thereafter there was some discussion as to the appropriate method of transferring payment. An agreement was reached on that point on 16 March 2020.

A cheque in US funds was received by the Administrator on 1 April 2020 and was deposited. As a result of changes in the exchange rate, the total recovery was \$10,812.08.

Status

Having recovered in full, the Administrator closed the file on 23 April 2020.

Megan C (2019)

Location: Port aux Basques, Newfoundland and Labrador

File number: 120-838-C1

The Incident

On 28 January 2019, the Canadian Coast Guard (CCG) was notified that the 30-foot fishing vessel *Megan C* had sunk alongside a dock at Port aux Basques, Newfoundland and Labrador. The vessel had an unknown quantity of fuel on board and its ownership was uncertain.

That afternoon, three CCG Environmental Response (ER) personnel departed St. John's for Port aux Basques, arriving in the afternoon on 29 January 2019. That morning, the owner of the vessel had identified himself to the CCG. A Direction was issued to the owner under the *Canada Shipping Act, 2001*, and he replied that he lacked the resources necessary to remove the vessel from the water.

On scene, the ER personnel observed that the *Megan C* had only partially sunk. The owner arrived on scene and signed a statement acknowledging his responsibility for the vessel and stating his inability to take the appropriate measures. The ER personnel proceeded to deploy boom, remove onboard pollutants, and engage a contractor to remove the vessel from the water, which was done later the same day.

The ER personnel departed the scene on 30 January 2019, and the contractor deconstructed the *Megan C* that afternoon.

The Claim

On 1 May 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$11,784.58, seeking compensation for costs and expenses arising from the response to the incident involving the *Megan C*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim.

Given the unknown threat initially posed by the vessel and the owner's inability to act appropriately, the Administrator found that the CCG response up to and including the removal of the pollutants from the *Megan C* was reasonable. However, with no evidence that the vessel continued to pose a pollution threat after ER personnel removed onboard pollutants, the contractor costs associated with the removal and deconstruction of the vessel were rejected.

The Administrator made an offer of compensation to the CCG in the amount of \$8,170.82, plus accrued interest of \$120.52, on 12 June 2019.

The CCG accepted the offer on 19 July 2019, and payment from the Fund in the amount of \$8,291.34, including interest, was made on 24 July 2019.

Recovery Action

On 21 November 2019, in an attempt to reliably locate the owner of the *Megan C*, the Administrator issued a subpoena under the *Inquiries Act* to a telecommunications company. A response to the subpoena was received on 19 December 2019.

On 6 January 2020, the office of the Administrator sent a demand letter to a post office box belonging to the owner of the *Megan C*. A demand letter was also sent via email. No response was received, though the owner signed for receipt of the letter delivered to his post office box.

On 25 August 2020, the Administrator issued a subpoena under the *Inquiries Act* to Canada Post, in an attempt to determine the address of the owner's actual residence. The response to the subpoena yielded two addresses. Demand letters were sent to both of those addresses, but no response was received.

The Administrator's efforts to locate and contact the owner of the *Megan C* continued to 28 January 2021, when the three-year limitation period for filing an action against the owner of the vessel expired.

With all reasonable measures to recover from the owner having been exhausted, and with the Administrator's rights statute-barred, it was decided to close the file.

Status

The file was in the process of being closed at the end of the fiscal year.

Mary Shauna (2017)

Norris Point, Newfoundland and Labrador

Case number: 120-839-C1

The Incident

On 26 December 2017, the Canadian Coast Guard (CCG) Environmental Response (ER) was notified that the 39-foot vessel *Mary Shauna* had washed ashore in Bonne Bay, Newfoundland and Labrador. The vessel was reported to have between 100 to 150 gallons of diesel and 25 gallons of hydraulic oil on board. CCG contacted the vessel's owner, issued him a verbal section 180 notice under the *Canada Shipping Act, 2001* and requested to be advised as to his intentions. The owner indicated that he would attempt to remove the vessel from the rocks when weather conditions improved.

On 28 December 2019, no release of pollution was reported. The vessel's owner continued to wait for favorable weather to tow the vessel.

On 31 December 2019, CCG ER personnel departed Rocky Harbour for Woody Point, Newfoundland and Labrador to meet with the owner, who arrived at the dock with his crew to remove pollutants from the vessel. CCG ER attended the owner's vessel to monitor the pollution removal. Approximately 470 litres of fuel were removed from the port tank and 30 litres from another small tank. Approximately 30 litres of hydraulic oil were removed from the hydraulic tank on the deck.

CCG ER departed the scene later the same day.

The Claim

On 1 May 2019, the Administrator received a claim in the amount of \$5,389.77 from CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) in respect of the incident, pursuant to the *Marine Liability Act*. The Administrator determined that the claim was admissible under Part 7 of the Act.

Assessment and Offer

On 7 May 2019, CCG advised the Administrator that the owner had settled its claim.

On 23 May 2019, the Administrator received a formal request from CCG asking to withdraw its claim as a result of the settlement.

Status

The file was closed on 27 May 2019.

Noble Mariner (2018)

Location: Nipper's Harbour, Newfoundland and Labrador

File number: 120-841-C1

The Incident

On 25 April 2018, the Canadian Coast Guard (CCG) was informed that the 60-foot fishing vessel *Noble Mariner* had sunk alongside a dock at Nipper's Harbour, Newfoundland and Labrador. A sheen was visible around the vessel, and the smell of diesel was reported at the dock. The volume of pollutants on board the vessel was unknown at the time, and the registered owner was unable to respond. The CCG contracted divers to attend on scene and raise the *Noble Mariner*.

On 26 April 2018, three CCG Environmental Response (ER) personnel departed St. John's for Nipper's Harbour, arriving on scene in the afternoon, just before the contracted divers. The ER personnel assessed the situation, deployed sorbent pads around the *Noble Mariner*, and assisted the divers with preparations to raise the vessel the following day.

On 27 April 2018, the ER personnel attended on scene and deployed further sorbent materials while the contracted divers raised the *Noble Mariner* using lift bags and pumps. A second contractor arrived with a vacuum truck to remove pollutants and oiled water from the vessel. In total, 10,000 litres were removed.

On 28 April 2018, ER personnel handed the *Noble Mariner* over to the local harbour authority for disposal under the Small Craft Harbours Abandoned and Wrecked Vessels Removal Program and departed for St. John's.

The Claim

On 30 May 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$41,687.99, seeking compensation for costs and expenses arising from the response to the incident involving the *Noble Mariner*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim. Requests for further information were sent to the CCG on 5 and 12 June 2019. No response was received.

Based on the claim documentation submitted by the CCG, the Administrator concluded generally that the CCG operation to raise and pump out the *Noble Mariner* was reasonable given the active pollution threat posed by the vessel. The limited documentation presented with respect to some of the claimed contract services, however, resulted in reductions.

The Administrator made an offer of compensation to the CCG in the amount of \$36,601.67, plus accrued interest of \$1,573.88, on 11 July 2019.

The CCG accepted the offer on 6 August 2019, and payment from the Fund in the amount of \$38,175.55, including interest, was made two days later.

Recovery Action

On 8 August 2019, the office of the Administrator sent a demand letter to the registered owner of the *Noble Mariner*. A response was received on 20 August 2019 from a lawyer representing the registered owner of the vessel. Discussions between counsel continued into the fall.

The Administrator contracted a private investigation service to run an asset search on the registered owner of the *Noble Mariner*, the results of which were received on 6 September 2019.

On 12 April 2021, in-house counsel to the Administrator filed an action in the Federal Court against the registered owner of the *Noble Mariner*. Counsel emailed a copy of the Statement of Claim to the lawyer retained by the owner in August 2019. On 4 May 2021, a separate lawyer replied, accepting service on behalf of the Defendant.

A Statement of Defence was filed and served on 2 June 2021. On 11 June 2021, the Administrator's counsel filed and served a Reply to the Statement of Defence.

In September 2021, counsel to the Administrator learned that the Defendant had passed away. In December 2021, the lawyer who had been representing the Defendant filed and served a Notice of Transmission of Interest, indicating that he had been retained by the Defendant's estate.

Litigation in this matter continued as of 31 March 2022.

Status

The file remained open at the end of the fiscal year.

Beverly Gaie (2018)

Location: Summerside Marina, Newfoundland and Labrador

File number: 120-845-C1

The Incident

On 3 October 2018, the Canadian Coast Guard (CCG) was advised by the Summerside Marina, near Corner Brook, NL, that a 50-foot former fishing vessel identified as the *Beverly Gaie* posed a potential pollution risk. The vessel had been effectively abandoned for two years, during which time the Marina had monitored and periodically dewatered the vessel to keep it from sinking.

On 4 October 2018, the CCG contacted the Marina to obtain more details. The Marina provided photos of the *Beverly Gaie* and estimated that at least 10 gallons of fuel were on board the vessel. The Marina further advised that it could not locate the owner.

On 10 October 2018, the CCG obtained contact information for the owner of the *Beverly Gaie* and left him a voice message. The CCG first spoke to the owner on 12 October 2018, directing him to provide a plan to remove the vessel from the water by 16 October 2018.

On 17 October 2018, the owner contacted the CCG, proposing to use an excavator to remove the *Beverly Gaie* from the water. The CCG rejected this plan two days later, requesting a revised plan to include details on removal of pollutants and ultimate disposal of the vessel.

On 24 October 2018, the owner submitted a revised plan. The owner did not respond when the CCG requested further details on this plan, and the CCG was unsuccessful in making contact with him again.

On 7 November 2018, three CCG Environmental Response (ER) personnel from St. John's arrived on scene to assess the situation. They found the *Beverly Gaie* in poor condition, noted water ingress, and estimated that at least 250 litres of oils were on board, primarily diesel in fuel tanks. With no word from the owner, the ER personnel arranged for a vacuum truck to remove pollutants from the vessel the following day.

On 8 November 2018, 1,000 litres of fluids were removed from the *Beverly Gaie*. The ER personnel took measures to limit further water ingress before departing the scene. According to the CCG, some pollutants remained on board, including in the vessel's bilge.

The Marina continued to monitor the vessel in the absence of CCG personnel, but ultimately had to stop due to safety concerns. After repeated efforts to contact the owner failed, the CCG returned to the vessel on 17 November 2018 to dewater it and clear snow from its decks. This was done until 1 December 2018, with up to 500 gallons pumped overboard daily.

Meanwhile, the CCG was making arrangements, through Public Services and Procurement Canada, to have the *Beverly Gaie* towed away and removed from the water.

Contracting complications and weather delays meant that a tug did not arrive on scene until 28 November 2018. The tow was further delayed to 1 December 2018.

The *Beverly Gaie* arrived at Port Saunders under tow on 2 December 2018 and was removed from the water the same day by a second contractor before being placed on blocks.

The CCG engaged a marine consultant to survey the *Beverly Gaie*, which was done on 12 December 2018. The survey report issued to the CCG on 14 December 2018 made no mention of pollutants on the vessel but concluded that it had no residual value.

Based on the findings of the survey, the CCG had the *Beverly Gaie* deconstructed by its Port Saunders contractor. This work was completed on 4 January 2019.

The Claim

On 12 July 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$151,648.78, seeking compensation for costs and expenses arising from the response to the incident involving the *Beverly Gaie*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim.

Based on the documentation submitted by the CCG, the Administrator concluded that once the pollutants had been removed from the *Beverly Gaie* by vacuum truck on 8 November 2018, the vessel had ceased to pose a pollution threat. To this end, all of the costs incurred by the CCG after this date, including personnel costs and those incurred under contract as a result of towage, removal, surveying, and deconstruction, were rejected.

The Administrator made an offer of compensation to the CCG in the amount of \$9,614.71, plus accrued interest of \$410.75, on 31 October 2019.

The CCG accepted the offer on 20 December 2019, and payment from the Fund in the amount of \$10,025.46, including interest, was made four days later.

Recovery Action

In the course of investigation, in-house counsel to the Administrator determined that the subject vessel of this claim is registered in Canada under the name “*Beverley Gaie*” and that the registered owner was not the individual that the CCG dealt with in the course of its response. Further investigatory work revealed that the registered owner of the vessel may have sold it some years prior to the CCG intervention.

On 27 July 2019, the Administrator issued a subpoena under the *Inquiries Act* to a telecommunications company in an attempt to obtain current contact information for the owner of the *Beverly Gaie*. A response to the subpoena was received on 5 August 2019.

On 27 August 2019, the Administrator issued a subpoena under the *Inquiries Act* to Fisheries and Oceans Canada to clarify the identity of the *Beverly Gaie*, given that the vessel appeared to be registered under a slightly different name. A response to the subpoena was received on 13 September 2019.

On 6 January 2020, in-house counsel to the Administrator sent a demand letter to the individual identified by the CCG as the owner of the *Beverly Gaie*. No response was received, though an individual with the correct surname signed for receipt of the letter.

A follow-up letter was sent via email on 9 October 2020. No response was received. Further investigation uncovered additional possible addresses in Clarendville for the owner of the *Beverley Gaie*.

On 30 September 2021, in-house counsel to the Administrator filed an action against the owner of the *Beverley Gaie* in the Federal Court. Attempts were made to serve the Defendant via registered mail, but these initially appeared to have been unsuccessful.

On 8 December 2021, in-house counsel received a telephone call from a relation of the Defendant, who made a settlement offer on his behalf. Ultimately, the Administrator agreed to settle her claim against the Defendant for \$8,000.00. A bank draft in that amount was received by the office of the Administrator on 13 January 2022. As a result of outside factors, there were delays in processing the bank draft, but it was ultimately deposited in March 2022.

The Administrator's Federal Court action was discontinued on 23 March 2022.

Status

With the settlement funds received and the Federal Court action discontinued, the office of the Administrator was in the process of closing the file at the end of the fiscal year.

Arch's Pride (2018)

Location: Bonavista, Newfoundland and Labrador

File number: 120-846-C1

The Incident

On 22 November 2018, the Canadian Coast Guard (CCG) was advised that a small fishing vessel had sunk alongside a dock at Bonavista, Newfoundland and Labrador during a storm that occurred on or about 15 November 2018. A small quantity of oil had been observed in the water around the sunken vessel, identified as the *Arch's Pride*. The vessel was thought to be insured, but its ownership was uncertain due to the recent death of its last known owner.

Initially, the CCG understood that the vessel's insurer would manage a response and raise the *Arch's Pride*. After numerous delays and poor weather, however, the CCG resolved to take over the raising and removal operation on 26 November 2018. The following day, the CCG engaged a contractor to this end.

On 28 November 2018, three CCG Environmental Response personnel travelled from St. John's to Bonavista to monitor the contractor's removal of the *Arch's Pride*. In the course of the operation, several drums of oily water were removed, and a sheen was observed around the vessel. By the end of the day, the vessel had been placed in storage on blocks.

The *Arch's Pride* remained in storage for several months at CCG's expense before the deceased owner's son agreed to take possession of the vessel on 6 February 2019.

The Claim

On 25 July 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$12,183.57, seeking compensation for costs and expenses arising from the response to the incident involving the *Arch's Pride*.

The Administrator determined that the claim was admissible under Part 7 of the *Marine Liability Act* (MLA).

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, finding the CCG response reasonable in light of the pollution threat posed by the *Arch's Pride*. Due to a lack of clarity on claimed travel costs, however, these were the subject of some reductions.

The Administrator made an offer of compensation to the CCG in the amount of \$11,830.86, plus accrued interest of \$296.21, on 19 September 2019.

The CCG accepted the offer on 7 October 2019, and payment from the Fund in the amount of \$12,127.07, including interest, was made on 9 October 2019.

Recovery Action

On 27 August 2019, the Administrator issued a subpoena under the *Inquiries Act* to Fisheries and Oceans Canada in an attempt to clarify the identity and last known ownership status of the *Arch's Pride*, given that the vessel did not appear to be formally registered in Canada. A response to the subpoena was received on 13 September 2019.

On 22 October 2019, in-house counsel to the Administrator sent a demand letter to the son of the last known owner of the *Arch's Pride*. No response was received. An attempt to contact the insurance representative mentioned in the CCG's claim documentation was also unsuccessful.

On further investigation, the Administrator's in-house legal team identified the vessel's insurer, to whom a demand letter was sent on 6 January 2020. The insurer responded the following day, and was provided with all of the original CCG claim documentation as well as the Administrator's letter of offer. On 13 January 2020, following review of the documentation provided, the insurer agreed to pay the Administrator's subrogated claim in full.

On 21 January 2020, the Administrator received a cheque in the amount of \$12,230.27, including interest accrued under the MLA since payment to the CCG, from the insurer of the *Arch's Pride*.

Status

Having recovered in full, the Administrator closed the *Arch's Pride* file on 6 February 2020.

Jennifer Holly (2019)

Location: Main Brook, Newfoundland and Labrador

File number: 120-849-C1

The Incident

On 1 April 2019, the Canadian Coast Guard (CCG) was advised that a 34-foot, wooden-hulled fishing vessel moored at the government wharf in Main Brook, Newfoundland, had suffered significant damage while being frozen in the ice over winter. The vessel was identified as the *Jennifer Holly*.

The CCG contacted a Transport Canada office in the area to request that they dispatch an officer to inspect the vessel. The owner of the vessel was also contacted and advised that he must take appropriate measure to mitigate the oil pollution risk. The owner confirmed he would have the fuel tanks from the vessel pumped, but that he had little money and no insurance.

The Transport Canada officer who attended at the scene reported that the *Jennifer Holly* had suffered significant damage and was entirely frozen into the ice. It was considered not plausible to take steps beyond removing fuel from the vessel until the ice cleared.

On 3 April 2019, the owner advised the CCG that he had removed 45 gallons of fuel from the *Jennifer Holly*'s fuel tank, but that he could not access the hydraulic oil tank or the engine. The owner said he would take steps to ensure the buoyancy of the *Jennifer Holly*, and he was instructed by the CCG to keep them apprised of developments.

On 8 May 2019, the CCG was advised that, on 6 May 2019, the owner of the *Jennifer Holly* had attempted to extract the vessel from the ice through use of a wire rope and shore-based equipment. In the process the vessel had been dragged through the ice more than across it, and it had suffered significant additional damage. The vessel had left an oily sheen behind it.

A crew of CCG personnel attended at Main Brook to inspect the *Jennifer Holly*. Based on their observations, it was determined that the vessel would have to be refloated through use of divers before it could be removed from the water.

The CCG held a competition and received bids for the contract to refloat the vessel. There were several bidders, including one successful bid. The successful bidder entered into a formal contract for removal on 21 May 2019.

On 24 May 2019, the vessel was refloated, removed from the water, and then handed over to its owner for disposal.

The Claim

On 28 October 2019, the Administrator received a submission from the CCG on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$76,171.64, seeking compensation for the response to the incident involving the *Jennifer Holly*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim. In this case, the submission from the CCG was well done and substantially complete, requiring relatively little follow up.

The Administrator's investigation into the owner largely confirmed the information provided by the CCG. A subpoena was served on a telecommunications company to try to locate the owner.

On 6 March 2020, the Administrator made an offer of compensation to the CCG in the amount of \$72,939.19, plus statutory interest. The CCG accepted the offer on 18 March 2020, and payment from the Fund in the amount of \$75,161.08, including statutory interest, was made on 23 March 2020.

Recovery Action

Demand letters were sent to the owner of the *Jennifer Holly*, and contact was made. Settlement negotiations began, but they were inconclusive.

On 30 March 2022, in-house counsel to the Administrator filed an action in the Federal Court against the owner.

Status

The file remained open at the close of the fiscal year.

Northern Star (2018)

Location: Witless Point, Newfoundland and Labrador

File number: 120-851-C1

The Incident

On 10 February 2018, the Canadian Coast Guard (CCG) was informed that the 35-foot fishing vessel *Northern Star* had grounded in the night at Witless Point, Newfoundland and Labrador. Two individuals were removed by a Search and Rescue (SAR) helicopter, and the incident was transferred to CCG Environmental Response (ER). SAR reports indicated that the *Northern Star* was inaccessible by sea and that conditions were poor.

The CCG spoke with the owner of the *Northern Star*, one of the individuals rescued from the vessel. He stated that approximately 1,300 litres of diesel and 200 litres of other oils were on the vessel at the time of its grounding. He had just purchased the vessel and had been transiting to Nova Scotia.

With the owner unable to respond, four ER personnel were dispatched to the scene from St. John's at daybreak. They set up a staging area at the nearest road access to the site of the grounding and assessed the situation. The ER Duty Officer was dispatched to the scene from St. John's a few hours later.

The ER personnel removed 800 litres of diesel from the heavily damaged wreck of the *Northern Star*. The removed pollutants were slung by SAR helicopter to a nearby CCG vessel for disposal.

With accessible pollutants removed from the vessel, ER personnel demobilized their staging area and returned to St. John's in the early afternoon.

The Claim

On 11 December 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$4,574.63, seeking compensation for costs and expenses arising from the response to the incident involving the *Northern Star*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim. Based on the documentation submitted by the CCG, the Administrator concluded generally that the CCG response to the grounding of the *Northern Star* was reasonable given the pollution threat posed by the vessel, which was likely to break up on the rocks. In the absence of a justification for sending

the ER Duty Officer to the scene, however, the costs associated with this escalation were rejected.

The Administrator made an offer of compensation to the CCG in the amount of \$3,941.51, plus accrued interest of \$313.43, on 18 February 2020.

The CCG accepted the offer on 2 March 2020, and payment from the Fund in the amount of \$4,254.94, including interest, was made on 6 March 2020.

Recovery Action

On 29 January 2020, the Administrator requested additional information on the owner of the *Northern Star* from the CCG. A response was received on 20 February 2020.

On 6 March 2020, the Administrator issued a subpoena under the *Inquiries Act* to Fisheries and Oceans Canada in an attempt to clarify the identity and ownership status of the *Northern Star*, given that the vessel did not appear to be formally registered in Canada. A response to the subpoena was received on 16 March 2020.

On 17 March 2020, in-house counsel to the Administrator sent a letter of inquiry to the last individual to hold a fishing license associated with the *Northern Star*. The individual responded on 21 April 2020, stating that he had sold the vessel a number of days before its grounding to an individual from Nova Scotia. Bank records and a simple bill of sale dated 6 February 2018 were provided in support of the alleged sale.

As the name of the alleged purchaser of the *Northern Star* matched that provided by the CCG, in-house counsel to the Administrator sent a demand letter to his email address, as provided by the CCG. No response was received.

In an attempt to obtain a current address for the alleged purchaser, the Administrator issued a subpoena under the *Inquiries Act* to a telecommunications company on 18 June 2020. The subpoena yielded a number of addresses, one of which appeared to be potentially viable. A demand letter was sent to this address on 21 July 2020. It was returned soon after, undeliverable.

Further investigatory work by the office of the Administrator team yielded another possible address for the alleged purchaser of the *Northern Star*, to which a demand letter was sent on 31 July 2020. No response was received.

Additional investigatory work yielded no useful information on the purchaser of the *Northern Star*.

Status

The Administrator closed this file on 10 September 2020, having taken all reasonable measures to recover as required by the *Marine Liability Act*.

Lady Elizabeth I (2018)

Location: Woody Point, Newfoundland and Labrador

File number: 120-852-C1

The Incident

On 7 March 2018, the Canadian Coast Guard (CCG) was notified that the 42-foot tour boat *Lady Elizabeth I* had sunk at an old ferry dock at Woody Point, Newfoundland and Labrador. A representative of the vessel's corporate owner estimated that approximately 50 litres of diesel and 20 litres of lubricant were on board. He also reported that he had deployed boom from the local harbour authority around the sunken vessel and was in the process of making arrangements for it to be raised.

The CCG spoke with the owner's representative over the telephone and informed him of the owner's responsibilities under the *Marine Liability Act*.

Three CCG Environmental Response personnel departed St. John's for Woody Point, towing a response trailer. They stopped overnight at Deer Lake.

The CCG personnel arrived on scene on the morning of 8 March 2018 to conduct a pollution assessment and to monitor the owner's response. They observed that the *Lady Elizabeth I* was kept partially afloat by mooring lines and otherwise confirmed the account of the owner's representative. The owner's salvage crew arrived on scene later the same day and began making preparations to refloat the vessel, including plugging through-hulls and deploying additional boom. The vessel was refloated in the evening, and the owner's representative was left to monitor it through the night.

The CCG personnel arrived back on scene on 9 March 2018 to monitor the situation as pollutants and oily water were pumped from the *Lady Elizabeth I* by the owner's contractor. The owner's representative presented a removal plan for the vessel to the CCG, which was accepted, and the three CCG personnel departed for St. John's.

The Claim

On 13 December 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$8,489.01, seeking compensation for costs and expenses arising from the response to the incident involving the *Lady Elizabeth I*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim and made a request to

the CCG seeking further information. A response was received on 25 February 2020.

The Administrator found that the costs associated with sending three CCG personnel across the province to monitor the owner's response over several days were not reasonable in the circumstances, particularly given the CCG's ability to draw on local resources.

Using a smaller-scale monitoring operation as a model for the amounts found to be established, the Administrator made an offer of compensation to the CCG in the amount of \$1,620.37, plus accrued interest of \$129.42, on 11 March 2020.

The CCG accepted the offer on 16 April 2020, and payment from the Fund in the amount of \$1,749.79, including interest, was made on 21 April 2020.

Recovery Action

On 18 December 2019, in-house counsel to the Administrator sent a letter to the insurance representative of the *Lady Elizabeth I*, informing him of the Administrator's likely forthcoming subrogated claim against the vessel's owner. The insurance representative responded on 7 January 2020, referring counsel to the underwriter.

On 7 May 2020, in-house counsel to the Administrator sent demand letters to both the registered corporate owner of the *Lady Elizabeth I* and its underwriter. The sole director of the corporate owner responded on 12 May 2020, providing a copy of an insurance policy that expired prior to the vessel's sinking. Counsel wrote back the same day, requesting a copy of the policy that was in place at the time of the vessel's sinking. This was provided on 7 August 2020. The director agreed to put the Administrator's claim to his insurer.

Despite several follow-up calls and emails, counsel made no progress toward settlement of the Administrator's claim with either the director or the vessel's underwriter.

On 5 March 2021, counsel filed an action in the Federal Court against the registered owner of the *Lady Elizabeth I*.

On 11 March 2021, counsel sent a copy of the Administrator's Statement of Claim to the owner, together with a demand letter. A process server successfully effected personal service on the owner on 25 April 2021.

Shortly thereafter, counsel to the Administrator was contacted by a lawyer hired by the owner's insurer. A settlement agreement was reached in the amount of \$2,147.82, which included the full principal amount sought, accrued interest, and filing and service costs. Payment was received on 11 May 2021 and the Administrator's action was duly discontinued.

Status

Having recovered in full, the Administrator closed the file on 20 May 2021.

Lady Miranda (2018)

Location: Cow Head, Newfoundland and Labrador

File number: 120-863-C1

The Incident

On 17 August 2018, the CCG received a report from the RCMP that a 45-foot fiberglass fishing vessel had caught fire and sunk at the dock in Cow Head, Newfoundland and Labrador.

The CCG sent a crew to respond to the incident. When the CCG crew arrived, they found that the sunken vessel was the *Lady Miranda*. The vessel's owner was responding to the incident appropriately. The CCG crew monitored the owner's response, which successfully eliminated the threat of oil pollution posed by the vessel.

The Claim

On 25 May 2020, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$7,569.90, seeking compensation for costs and expenses arising from the response to the incident involving the *Lady Miranda*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, concluding that all measures claimed for by the CCG were appropriate and reasonable in the circumstances.

The Administrator made an offer of compensation to the CCG in the amount of \$7,569.90, plus accrued statutory interest, on 25 June 2020.

The CCG accepted the offer on 6 July 2020, and payment from the Fund in the amount of \$8,193.17, including \$623.27 in interest, was made shortly thereafter.

Recovery Action

The office of the Administrator sent a demand letter to the owner of the *Lady Miranda*, who was believed to be carrying insurance on the vessel at the time of the incident, but no response was received. An *Inquiries Act* subpoena was then sent to a telecommunications company in an attempt to locate the owner.

On 13 August 2021, in-house counsel to the Administrator filed an action in the Federal Court against the owner of the *Lady Miranda*. The owner was served with the Statement of Claim on 1 October.

In February 2022, the office of the Administrator received payment from the owner's insurer for the total principal amount sought, plus accrued statutory interest. Counsel then began the process of discontinuing the Administrator's Federal Court action.

Status

The office of the Administrator was in the process of closing the file at the end of the fiscal year.

Marcel Angie II (2018)

Location: Grand Bank, Newfoundland and Labrador

File number: 120-877-C1

The Incident

On 11 December 2018, the Canadian Coast Guard (CCG) was notified that an approximately 60-foot fishing vessel, identified as the *Marcel Angie II*, had caught fire alongside the main wharf in Grand Bank, Newfoundland and Labrador. The persons on board had been evacuated, and the fire appeared to be under control, so the focus shifted to mitigating oil pollution from the vessel.

The CCG Environmental Response (ER) Duty Officer spoke with the vessel's owner and representative, as well as local authorities. It was determined that the vessel, which was listing considerably, contained approximately 6,000 litres of diesel fuel and 800 litres of hydraulics. The owner's representative stated that the vessel was insured, and that a pollution response and a salvage operation were planned.

A team of three ER personnel from St. John's was dispatched to Grand Bank. The ER team was on scene from 12 through 18 December to monitor the owner's operation. This began with a diver survey of the *Marcel Angie II*, which had come to rest on the muddy bottom. Deck scuppers and fuel vents were plugged. Some of the vessel's gear was removed on 13 December 2018 to aid the raising operation, which began the following day. A sheen appeared on 15 December 2018 in the course of dewatering and sorbents were deployed around the vessel in response. It was determined that vacuum trucks were required to remove contaminated water from the refloated vessel, and these arrived on scene on 16 December 2018. Sorbent materials were changed out as needed through the continued dewatering process.

In total, 50,000 litres of contaminated water were removed from the vessel by vacuum trucks. An ER officer was interviewed by local media on the evening of 17 December 2018, and the ER team returned to St. John's the following day, satisfied that all recoverable oil pollutants had been removed from the vessel.

The Claim

On 3 November 2020, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$20,267.57, seeking compensation for costs and expenses arising from the response to the incident involving the *Marcel Angie II*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, concluding generally

that the CCG operation involving the *Marcel Angie* was reasonable given the pollution threat posed by the vessel. Finding no evidentiary support in favour of the CCG's decision to deploy three ER personnel, the Administrator made some reductions to claimed labour and travel costs.

The Administrator made an offer of compensation to the CCG in the amount of \$14,622.14, plus accrued statutory interest, on 2 March 2021.

The CCG accepted the offer on 16 April 2021, and payment from the Fund in the amount of \$15,853.51, including interest, was made shortly thereafter.

Recovery Action

In the course of the Administrator's investigation and assessment of the CCG's claim, it was determined that the *Marcel Angie II* was a non-Canadian vessel, registered in St. Pierre and Miquelon. On 23 February 2021, in-house legal counsel to the Administrator obtained the registration transcript for the vessel from St. Pierre and Miquelon, which confirmed the identity and the address of its owner. The following day, counsel obtained a transcript for another vessel owned by the same individual.

A demand letter was sent to the owner of the *Marcel Angie II* on 11 May 2021. As no response was received, a second demand letter was sent on 7 July 2021. Again, no response was received.

A possible email address for the owner was obtained, and a further demand letter was sent via email on 25 August 2021. No response was received.

In an attempt to locate the owner of the *Marcel Angie II*, who was believed to have some presence in Canada, the Administrator issued an *Inquiries Act* subpoena to a telecommunications company. The results, received in September 2021, were inconclusive.

On 29 October 2021, the owner responded to the email demand letter that had been sent two months prior, seeking to arrange payment of the Administrator's claim. Payment from the owner in the amount of \$16,088.71, including all accrued interest, was received on 3 November 2021.

Status

Having recovered in full, the Administrator closed the file on 18 November 2021.

Sweven (2019)

Location: St. John's, Newfoundland and Labrador

File number: 120-886-C1

The Incident

On 12 March 2019, the Canadian Coast Guard (CCG) was notified that a 33-foot pleasure craft, identified as the *Sweven*, had sunk in St. John's Harbour. A CCG response crew attended the scene and found that the vessel was partially submerged. They placed a sorbent boom around it.

The CCG contacted the owner of the *Sweven*, who initially failed to take appropriate or any steps to address the incident. A CCG crew had the vessel removed from the water.

On 16 March 2019, the owner of the *Sweven* removed it from the scene. The CCG ended its response to the incident.

The Claim

On 11 March 2021, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$6,134.57, seeking compensation for costs and expenses arising from the response to the incident involving the *Sweven*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, finding it to be established in full.

On 23 April 2021, the Administrator made an offer of compensation to the CCG in the amount of \$6,134.57, plus statutory interest. The CCG accepted the offer on 30 April 2021, and payment from the Fund in the amount of \$6,576.93, including interest, was made shortly thereafter.

Recovery Action

In an attempt to locate the owner of the *Sweven*, several *Inquiries Act* subpoenas were issued. A demand letter was then posted, but no response was received.

On 11 March 2022, in-house counsel to the Administrator filed an action in the Federal Court against the owner of the *Sweven*.

As of 31 March 2022, efforts to serve the Defendant were underway.

Status

The file remained open at the end of the fiscal year.

Danielle and Mark (2020)

Location: Old Bonaventure, Newfoundland and Labrador

File number: 120-894-C1

The Incident

On 10 February 2020, the Canadian Coast Guard (CCG) was informed that a fishing vessel named the *Danielle and Mark* had sunk at a dock in Old Bonaventure, Newfoundland and Labrador. The vessel was submerged in several feet of water and surrounded by ice. Discoloured snow around the vessel indicated the presence of hydrocarbons.

The CCG contacted the owner of the *Danielle and Mark* to determine his intentions for responding to the incident. The owner stated that he was unable to respond and reported that, while the vessel's bulk fuel had been removed, its tanks were unclean and likely contained hydrocarbon residuals. He also reported an estimated 10 to 15 gallons of hydraulic fluid onboard.

Three CCG officers travelled to Old Bonaventure to assess the *Danielle and Mark* on 11 February 2020. They observed that its hydraulic system appeared to have been damaged by ice and found engine base oil inside the vessel. However, the vessel could not be fully assessed due to heavy ice and snow.

The CCG engaged a contractor and determined to raise the *Danielle and Mark*, remove its pollutants, and dispose of the vessel. This work began on 28 February 2020 and concluded the following day when the vessel was deconstructed.

The Claim

On 3 June 2021, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim for costs and expenses in the amount of \$47,073.08, seeking compensation for costs and expenses incurred in the course of responding to the incident involving the *Danielle and Mark*.

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

Assessment and Offer

The Administrator investigated and assessed the claim. Ultimately, deconstruction costs were not accepted, as the evidence did not show that they were connected with mitigating oil pollution. On 8 September 2021, an offer of compensation in the amount of \$30,397.23 plus interest was made to the CCG.

The CCG accepted the offer on 16 September 2021, and a payment in the amount of \$31,879.76, representing the principal plus \$1,482.53 in accrued statutory interest, was made shortly thereafter.

Recovery Action

On 1 November 2021, an *Inquiries Act* subpoena was directed to the Department of Fisheries and Oceans to request information on fishing licences issued to the owner related to the *Danielle and Mark*.

A demand letter was sent to the owner in December 2021. On 15 December, the owner contacted the Administrator's in-house legal counsel.

Discussions with the owner of the *Danielle and Mark* were ongoing as of 31 March 2022.

Status

The file remained open at the end of the fiscal year.

Unknown name (sunken pleasure craft) (2020)

Location: Cupids, Newfoundland and Labrador

File number: 120-896-C1

The Incident

On 18 January 2020, the Canadian Coast Guard (CCG) was informed that a pleasure craft had sunk at Cupids, Newfoundland and Labrador, with a small sheen visible in the surrounding water. The name and owner of the vessel were unknown.

Two days later, two CCG personnel traveled to Cupids and found the vessel still partially submerged. They estimated that the vessel contained about 40 gallons of diesel. The oily sheen had begun to disperse. The owner of the vessel was identified, and the CCG worked with him to form a response plan.

On 22 January 2020, CCG personnel deployed sorbent boom around the vessel. As the owner had not provided a satisfactory response plan, the CCG took charge of the response. The following day, it engaged two contractors to remove the vessel from the marine environment.

On 24 January 2020, the CCG used pumps to partially dewater the vessel and, along with one of the contractors, partially raised it. A vacuum truck was then used to remove pollutants from the interior of the vessel.

The following day, two CCG personnel again assessed the vessel at Cupids, where they found the owner cleaning some of the debris. The CCG personnel found additional water in the vessel's bilge, which was believed to have come from waterlogged items in the cabin. They helped the owner move the vessel to a berth.

Days later, the CCG personnel returned to Cupids to retrieve the soiled sorbent materials and recovered oil for disposal.

The Claim

On 15 June 2021, the Administrator received a submission from CCG, on behalf of the Department of Fisheries and Oceans. The submission included a claim totalling \$14,826.38, seeking compensation for its response operation.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, and an offer of compensation was made to the CCG on 1 September 2021 in the amount of \$14,766.79, plus accrued interest.

The CCG accepted the offer on 3 September 2021, and a payment from the Fund in the amount of \$15,536.57, representing the principal plus \$769.78 in statutory interest, was made shortly thereafter.

Recovery Action

A demand letter was sent to the owner of the vessel on 28 March 2022. No response had been received as of 31 March 2022.

Status

The file remained open at the end of the fiscal year.

Mystery Spill (Postville) (2020)

Location: Postville, Newfoundland and Labrador

File number: 120-907-C1

The Incident

On 8 June 2020 the Canadian Coast Guard (CCG) was informed of an oil slick on the water near Postville, Newfoundland and Labrador. This was the day after the tanker vessel *Tuvaq* had made a delivery of fuel in the area.

The CCG deployed a response team to Postville. The team investigated the extent and cause of the spill, as well as collected samples. During their work, the team carried out both shore and air-based observations. The CCG also deployed the CCGS *George R. Pearkes* to assist with the response effort.

By 14 June 2020, the spill had dissipated. The CCG wound down its operation.

The Claim

On 1 December 2021, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$32,650.70, seeking compensation for costs and expenses arising from the response to the incident.

As this claim was submitted as a mystery spill, a determination must be made as to whether the evidence shows that the discharge of oil arose from a source other than a ship. As of 31 March 2022, both that determination and the evaluation of the CCG's claimed costs and expenses remained ongoing.

Status

The file remained open at the end of the fiscal year.

NOVA SCOTIA



Mystery Spill (1989) ➔

Location: Gabarus, NS
Case number: 120-028-C1

The Incident

On June 9, 1989, a report was received by the Canadian Coast Guard (CCG) of Bunker C oil coming ashore in Gabarus Harbour, Nova Scotia. There was no evidence of the source of the oil. The next day, additional reports were received regarding an oil slick and that lobster crates in the harbour had been oiled. CCG officials were deployed to recover the oil and prevent further damage. 300 feet of boom was placed around the lobster crates.

The Claims

- A lobster fisherman's claim

On July 26, 1989, a lobster fisherman filed a claim with the Ship-source Oil Pollution Fund (the Fund) pursuant to section 710 of the *Canada Shipping Act* (the Act) for oil pollution damage of some 4,000 lbs of market and canner lobsters. Actually, as a result of the contamination, the Department of Fisheries and Oceans (DFO) ordered him to dispose of 47 crates of live lobsters belonging to him. Subsequently, under the supervision of the DFO, and after culling 185 lbs of acceptable lobsters, the condemned ones were taken offshore and released to the sea.

- Local seafood processing companies' claim

On August 30, 1989, local seafood processing companies filed a claim with the Fund pursuant to section 710 of the Act for oil pollution damage, for the loss of 6,408 lbs of market lobsters, 5,922 lbs of canner lobsters and for the costs and expenses of cleaning and repairing 430 new or almost new lobster crates contaminated by the oil spill.

- CCG claim

On July 3, 1990, the CCG filed a claim with the Fund for its costs and expenses in attempting to recover the oil discharged in the amount of \$16,548.98.

Assessments and Offers

- A lobster fisherman's claim

Investigation of the claim was carried out and evidence was obtained from the claimant under oath of the quantum of his loss, damages, costs and expenses suffered and incurred by him, including his legal costs. After assessment, an amount of \$16,276.00 plus legal costs of \$2,700.00 was offered to the claimant on October 5, 1989, which the latter accepted. The payment was made on October 16, 1989.

- Local seafood processing companies' claim

Investigation of the claim was carried out and evidence was obtained from companies' officers and employees under oath, which revealed that the DFO ordered the companies to dispose of 55 crates of live lobsters belonging to them and to take the condemned lobsters offshore and release them to the sea. Further, to mitigate their loss, companies' employees culled and cleaned some 20,000 lbs of other lobsters contaminated by oil; however, about 6,438 lbs of lobsters died in the process. After assessment, on October 6, 1989, an amount of \$48,000.00 plus interest of \$2,000.00 was offered to the claimants and accepted. The payment was made on October 16, 1989.

- CCG claim

Upon review of the claim, further documents and information were requested. As the source of the oil pollution damage was unknown and the Administrator was unable to establish that the incident which gave rise to the damage was not caused by a ship, the CCG was entitled to the presumption in section 710 of the Act that the oil spill was discharged by a ship.

After investigation, an amount of \$12,000.00 was offered to the CCG on June 13, 1991, subject to the CCG supplying a report on their investigation of the source of the oil spill. Said report was supplied and the offer was accepted by the CCG. A payment in the amount of \$12,000.00 plus interest in the amount of \$3,982.85 was made by the Fund to the CCG in full and final settlement of its claim.

Status

The file was closed on March 31, 1992.

Mystery Spill (1989)

Location: Rocky Bay, NS
Case number: 120-029-C1

The Incident

On July 20, 1989, the Canadian Coast Guard (CCG) discovered an oil spill at Rocky Bay on the East shore of Isle Madame, Nova Scotia. The source of the oil was unknown.

The CCG, acting on behalf of the Minister of Transport, pursuant to section 677 of the *Canada Shipping Act* (the Act) took action to clean up the oil spill. Twenty-nine bags of oily debris were recovered from the beaches at Martinique and Pondville (Isle Madame).

The Claim

On July 3, 1990, the CCG filed a claim of \$1,239.81 with the Ship-source Oil Pollution Fund (the Fund) for costs and expenses incurred in the cleanup operations, under section 709 of the Act.

Assessment and Offer

Further documents and information were requested to properly assess the claim. As the cause of the oil pollution was unknown and the Administrator was unable to establish that the incident which gave rise to the damage was not caused by a ship, the CCG was entitled to the presumption that the oil spill was caused by a ship.

After investigation, the actual and reasonable costs and expenses incurred by the CCG were assessed at no more than \$500.00, which amount was offered to the CCG. The latter accepted the offer.

A payment of the sum of \$500.00, together with interest in the amount of \$149.04, was therefore made by the Fund to the CCG in full and final settlement of its claim.

Status

The file was closed on March 31, 1992.

Mystery Spill (1990)

Location: Wedgeport Harbour, NS
Case number: 120-040-C1

The Incident

On January 18, 1990, the Canadian Coast Guard (CCG) discovered an oil spill at the new government wharf in Wedgeport Harbour, Nova Scotia. The oil was said to be a mixture of diesel oil, hydraulic fluid and bilge wastes. The CCG, acting on behalf of the Minister of Transport, pursuant to section 677 of the *Canada Shipping Act*, took action to clean up the oil spill. Besides, there was a fear that a change of wind might carry the oil into the lobster-holding facilities nearby.

The source of the oil spill was investigated by the Ship Safety Branch of the CCG. However, as there were a large number of fishing vessels, possibly 50, in the harbour at the time of the incident, and all fueling from the same facility, the taking of oil samples was not considered.

The Claim

As the CCG was unable to identify the particular ship that caused the spill, on August 27, 1990, the CCG filed a claim with the Ship-source Oil Pollution Fund in the amount of \$3,282.82 for costs and expenses incurred to recover the oil and to prevent further oil pollution damage.

Assessment and Offer

Further information and documents were requested to properly assess the claim. As the cause of the oil pollution damage was unknown and the Administrator was unable to establish that the incident which gave rise to the damage was not caused by a ship, the CCG was entitled to the presumption that the oil spill was caused by a ship.

After investigation, the Administrator made an offer of \$2,000.00 to the CCG on June 10, 1991, which offer was accepted by the CCG. A payment of the sum of \$2,000.00, together with interest in the amount of \$456.69, was therefore made to the CCG in full and final settlement of its claim relating to the mystery spill in Wedgeport Harbour.

Status

The file was closed on March 31, 1992.

Mystery Spill (1990) ✻

Location: North Sydney, NS
Case number: 120-045-C1

The Incident

On April 5, 1990, there was an oil spill in the harbour at North Sydney, Cape Breton Island, Nova Scotia. The Canadian Coast Guard (CCG), acting on behalf of the Minister of Transport, pursuant to section 677 of the *Canada Shipping Act* (the Act), took action to clean up the oil spill.

The Claim

On May 22, 1992, the Department of Justice filed a claim with the Ship-source Oil Pollution Fund (the Fund) on behalf of the CCG in the amount of \$21,407.83 for costs and expenses incurred in response of the oil spill incident. No claim was made for interest.

Assessment and Offer

On September 17, 1992, the Fund requested further information and documents for the assessment of the claim. Additional information was submitted on April 28, 1993.

As the source of the oil pollution was unknown and the Administrator was unable to establish that the incident which gave rise to the damage was not caused by a ship, the CCG was entitled to the presumption in section 710 of the Act that the oil spill was discharged by a ship.

After assessment of the claim, an offer in the amount of \$16,226.62 was made to the CCG on June 30, 1993 in full settlement, which offer was accepted. A payment in that amount was therefore directed by the Fund to the CCG as a settlement of all the costs and expenses claimed.

Status

The file was closed on March 31, 1994.

Mystery Spill (1990)

Location: Louisbourg Harbour, NS
Case number: 120-049-C1

The Incident

On June 9, 1990, an oil spill was found in Louisbourg Harbour, Nova Scotia and the Canadian Coast Guard (CCG) responded. The source of the oil was unknown.

The Claim

On August 31, 1990, the Administrator received a *pro forma* invoice from the CCG Maritimes Regional Office amounting to \$8,848.29 relating to the response to the oil spill. In response, counsel for the CCG was advised that the *pro forma* invoice could not be accepted since it was not an acceptable method of establishing a claim against the Ship-source Oil Pollution Fund (the Fund).

No more information was received by the Administrator about this incident until November 30, 1994, when counsel for the CCG submitted a claim to the Fund for the first time. The claim was rejected because it had become time-barred on June 10, 1993.

Status

The file was closed on March 31, 1995.

Amy & Sisters (1990) ➔

Location: Gabarus Harbour, NS
Case number: 120-050-C1

The Incident

On July 20, 1990, the fishing vessel *Amy & Sisters* discharged a substantial amount of diesel oil in Gabarus Harbour, Nova Scotia, which spread across the harbour contaminating some 61 crates holding live lobsters owned by two lobstermen and a seafood processing company.

As a consequence of the contamination, the Department of Fisheries and Oceans condemned over 6,100 lbs of live lobsters and ordered that they be taken offshore and released to the sea in accordance with the *Fisheries Act*.

The Claim

By September 1990, three claims in the total amount of \$23,413.83 inclusive of interest and costs were filed with the Ship-source Oil Pollution Fund (the Fund) for oil pollution damage pursuant to section 710 of the *Canada Shipping Act* (the Act).

Assessment and Offer

Investigations of the claims were carried out, by obtaining evidence to establish the claimants' loss, damages, and the costs and expenses suffered by them. After review of the evidence and after having determined the interests that the claimants were entitled to under section 723 of the Act, an offer in the total amount of \$23,413.83 inclusive of interest and costs was made by the Administrator to the claimants. Each of the claimants accepted the Administrator's offer, and the payment of each settlement was made on December 31, 1990.

The owner of the *Amy & Sisters* was invited to challenge the proposed settlement, but he did not do so.

Recovery Action

A claim for the full amount paid to the three claimants was made by the Administrator against the owner of the *Amy & Sisters* on March 8, 1991. Various proposals to settle the claim were offered, and the Administrator finally accepted the shipowner's offer to pay \$8,000.00 in seven installments over a six month period.

The final installment was received in December 1991 and the shipowner was released for all liability to the Fund arising out of this incident.

Status

The file was closed on March 31, 1992.

Mystery Spill (1992) ➔

Location: Lockeport, NS
Case number: 120-066-C1

The Incident

On March 19, 1992, there was a discharge of diesel oil, apparently from a fishing vessel, into Lockeport Harbour, Nova Scotia. The fuel oil so discharged spread to the lobster car holding live lobsters owned by R. Baker Fisheries Ltd. As a direct result of the contamination, the Department of Fisheries and Oceans (DFO) ordered R. Baker Fisheries Ltd. to dispose of 3,400 lbs. of live lobsters. Subsequently, under the direct supervision of the DFO, the contaminated lobsters were taken off shore and released to the sea in accordance with the *Fisheries Act*.

The Claims

On April 16, 1992, R. Baker Fisheries Ltd. filed a claim with the Ship-source Oil Pollution Fund (the Fund) pursuant to section 710 of the *Canada Shipping Act* (the Act) for oil pollution damage for \$63,980.35.

Another claim was filed by the same claimant on June 11, 1992 with the Fund pursuant to section 712 of the Act for a total loss of income of \$36,960.00 with an indication that the company had suffered unspecified losses of future income for the weeks commencing April 13, 1992 and April 20, 1992.

Assessment and Offer

The Administrator investigated the claims and obtained evidence from the claimant to establish the quantum of its loss, damage, costs and expenses suffered as a result of the oil pollution damage and the loss of income resulting therefrom.

Further to the investigation, the Administrator assessed the claims of the claimant for oil pollution damage, for loss of income and future income, for interest pursuant to section 723 of the Act and for legal fees and disbursements in the total amount of \$59,350, which amount was offered to the claimant. The offer having been accepted, an interim payment of \$20,000.00 was made on May 22, 1992 and the balance of \$39,350.00, on July 15, 1992.

Recovery Action

Samples of the oil discharged in Lockeport Harbour were taken, analyzed and assessed by environmental consultants. Results of the assessment revealed that the samples most probably did not originate from a common source. Hence, the Administrator decided not to take any action to recover the amount paid to the claimant.

Status

The file was closed on March 31, 1993.

Mystery Spill (1992) ⚓

Location: Halifax Harbour, NS

Case number: 120-073-C1

The Incident

On November 5, 1992, there was a discharge of oil in Halifax Harbour, Nova Scotia. The source of the oil was unknown and Imperial Oil Limited took oil spill response measures.

The Claim

On November 24, 1992, Imperial Oil Limited filed a claim with the Ship-source Oil Pollution Fund pursuant to section 710 of the *Canada Shipping Act* for costs and expenses incurred in the amount of \$8,818.39.

Assessment and Offer

The Administrator investigated the claim and evidence was obtained from the claimant, the Canadian Coast Guard and the Department of the Environment, further to which the quantum of the claim was assessed at \$5,870.67. An offer in that amount was therefore made by the Administrator to the claimant and the latter accepted.

A total payment in the amount of \$6,236.28, including interest, was directed to the claimant in full and final settlement of its claim.

Status

The file was closed on March 31, 1993.

Mystery Spill (D.L. Williams) (1993) ➔

Location: Lockeport Harbour, NS

Case number: 120-077-C1

The Incident

On January 7, 1993, there was a discharge of diesel oil into Lockeport Harbour, Nova Scotia. The fuel oil so discharged spread to several crates of live lobsters recently purchased by D.L. Williams Fisheries Ltd. As a direct result of the contamination, the Department of Fisheries and Oceans (DFO) ordered D.L. Williams Fisheries Ltd. to dispose of 437 lbs. of live lobsters. Subsequently, under the direct supervision of the DFO, the contaminated lobsters were destroyed, in accordance with the *Fisheries Act*.

In the meantime, the lobsters in question had been sold to Wallace Fisheries Ltd., and there was litigation in the Supreme Court of Nova Scotia between the two companies to resolve the dispute between them as to the ownership of the contaminated lobsters and resulting damages.

The Claim

On April 4, 1993, D.L. Williams Fisheries Ltd. filed a claim with the Ship-source Oil Pollution Fund, pursuant to section 710 of the *Canada Shipping Act*, for oil pollution damage for 437 lbs. of lobsters at \$5.25 per pound, for a total amount of \$2,294.25.

Assessment and Offer

The Administrator investigated and assessed the claim. Upon receipt of evidence from D.L. Williams Fisheries Ltd. and others to establish the loss, he was satisfied that the occurrence was caused by the discharge of oil from a ship or ships in Lockeport Harbour. Besides, there was no evidence that the claim resulted wholly or partially from the wrongful act or omission or negligence of the claimant. He then assessed the claim at \$2,294.25. Since it was agreed by Wallace Fisheries Ltd. that the proceeds of the settlement be paid to D.L. Williams Fisheries Ltd., the settlement amount was paid to the latter on November 26, 1993.

Status

The file was closed on March 31, 1994.

Keta V (Wedgeport Mystery Spill) (1993) ➔

Location: Wedgeport Harbour, NS

Case number: 120-084-C1

The Incident

On November 19, 1993, a spill of diesel oil, estimated at approximately 45 litres, from an unidentified source was reported to have been found in Wedgeport Harbour, Nova Scotia. Later the same day, the crew of the Canadian tug *Keta V* admitted that the vessel had been involved in a minor diesel oil spill overnight in the harbour on November 18-19, 1993. On November 20, 1993, a beached dredging barge was also reported to the Canadian Coast Guard (CCG) to be leaking diesel oil in the harbour. It was subsequently ascertained that the barge was leaking oil through damaged bottom plating. Both crafts belonged to Verreault Navigation who had obtained a dredging contract in Wedgeport Harbour.

Wedgeport was a major home port for lobster fishermen and many held their catches in crates in the harbour prior to shipping. The incidents having occurred just before the start of the lobster season in that area, the fishermen were very concerned. Besides, on November 24, 1993, the Department of Fisheries and Oceans (DFO) prohibited the use of all lobster cars in Wedgeport Harbour.

The vessels' owner assisted the CCG in the response to the spills by cleaning the lobster holding tanks, the wharf pilings and other areas, and by removing as much of the contaminated topsoil as practical. The clean-up operations were declared completed on November 26, 1993 and the DFO was able to lift the ban on the use of the harbour by the lobster fishery in time for the opening of the lobster season.

The Claim

No claim was filed with the Ship-source Oil Pollution Fund as the vessels' owner paid in full the total costs and expenses incurred by the CCG with respect to these incidents in the amount of \$15,486.91.

Status

The file was closed on March 31, 1996.

Zim Savannah (1994)

Location: Halifax Harbour, NS

Case number: 120-096-C1

The Incident

On May 30, 1994, the Israeli flag container ship *Zim Savannah* was alongside Berth 41 in Halifax Harbour, Nova Scotia, when Bunker C fuel oil was discovered in the water around the vessel. The shipowners engaged a contractor to clean up the oil and arranged for a monetary security in response to the spill to be posted, as required by the Canadian Coast Guard (CCG). The precise source of the oil could not be ascertained, but oil samples were taken for analysis and the vessel was permitted to sail. Later that day, the *Zim Savannah* left the berth, bound for New York. Shortly afterwards, while still in Halifax Harbour, oil was noticed trailing astern and the ship master decided to return to a berth in Halifax to thoroughly inspect the ship. Again, action to contain and clean up the pollution was taken. An inspection by the Marine Safety Branch of Transport Canada could find no obvious source of the oil pollution emanating from the *Zim Savannah* and she was permitted to sail.

Later analysis of the oil samples by the Marine Safety Branch of Transport Canada did not provide a match between those taken on the ship and those taken from the water. However, it transpired that there were a number of problems with the sampling which had not been comprehensive.

The Claim

As the *Zim Savannah* was not proved to be the origin of the oil, her owners, Zim Navigation (Canada) Ltd., claimed it was a mystery spill and, on July 29, 1994, filed a claim in the amount of \$99,579.58 with the Ship-source Oil Pollution Fund (the Fund) to cover their costs and expenses in containing and cleaning up the spill.

Assessment and Offer

The Administrator investigated the claim, and in his investigation, he discovered that an underwater video of the inspection of the hull of the ship taken on May 30, 1994 showed a slight leakage of oil from an underwater discharge. In view of this finding, the Administrator invited the shipowners to withdraw their claim, but the offer was rejected.

Further investigation and correspondence between the parties followed, and on March 24, 1997, the shipowners suggested a 50/50 settlement of the claim by way of a compromise, but the Administrator rejected it. Finally, the shipowners, in their counsel's letter of August 12, 1997, agreed not to pursue their claim against the Fund further.

Status

The file was closed on March 31, 1998.

Mystery Spill (1995) ➔

Location: New Haven, Neils Harbour, NS
Case number: 120-107-C1

The Incident

On July 12, 1995, an anonymous caller reported to the Canadian Coast Guard that a fishing vessel had dumped about 700 litres of diesel fuel within approximately 160 metres off the New Haven shoreline in the area of Neils Harbour on July 11, 1995.

The Claim

On July 28, 1995, the Administrator received a letter from a fishing cooperative based in Neil's Harbour, Nova Scotia (the Cooperative), stating that on July 13, 1995, they had to stop their New Haven plant production line because some of the lobster being processed was found to be contaminated with diesel fuel. They were therefore claiming for \$6,856.00, being the loss with respect to the destruction of the contaminated lobster, further to the Department of Fisheries and Oceans' order. The weight of the lobster involved was claimed to be 571.53 kgs. It was not known if the contaminated lobster and the anonymous call were related.

Assessment and Offer

After investigation, it appeared that part of the 571.53 kgs of contaminated lobster had been sold to another fish plant, which was processing it on its production line and where contamination was also found. Difficulties relating to the settlement of the claim arose then because not all of the 571.53 kgs of contaminated lobster were in the possession of the Cooperative as claimed.

On January 28, 1997, the claim was settled for \$6,675.28 and a cheque in the same amount was sent by the Administrator to the Cooperative, on February 25, 1997, in full and final settlement of the claim. Besides, releases were received by the Administrator releasing the Ship-source Oil Pollution Fund from further claims by either of the two plants.

Status

The file was closed on March 31, 1997.

Chiloli (1995)

Location: Capelin Cove, Cape Breton Island, NS

Case number: 120-113-C1

The Incident

On September 13, 1995, a ship off the coast of Cape Breton, Nova Scotia reported sighting a life raft, which was found to contain drugs further to its recovery the same day by a Canadian Coast Guard (CCG) vessel. Later that day, a Department of National Defence marine reconnaissance aircraft spotted another life raft, which, when recovered, was also found to contain drugs. The search commenced by the Canadian Search and Rescue organization was therefore widened and on September 15, 1995, an offshore supply type vessel was found heavily aground and abandoned in Capelin Cove, a remote area on the south coast of Cape Breton Island, Nova Scotia, being pounded by wave action from the open sea. The name *Chiloli* and the Port of Registry - Panama were painted on the vessel, which contained an estimated 130 tonnes of diesel oil, together with other lubricating and hydraulic oils.

The CCG immediately responded to the pollution threat and, in the absence of any owner, took charge of the vessel. The oil removal operation commenced on September 22, 1995 and was completed on October 1, 1995, by which time some 190 tonnes of diesel oil and 900 litres of lubricating oil were recovered. The only pollution was an occasional minor leakage of oil from the propeller stern tube. On October 9, 1995, taking advantage of a high tide and using CCG vessels and contracted equipment, the *Chiloli* was refloated under CCG's direction and towed to the CCG base in Dartmouth, Nova Scotia.

Efforts to identify the true owner of the *Chiloli* were unsuccessful. The Republic of Panama confirmed that the ship was duly registered under their flag, but stated that the change of registry was not effected until October 2, 1995, several days after the grounding.

Administrator as Party by Statute

On December 12, 1995, the Crown launched an action in the Federal Court of Canada against the *Chiloli* and her owner to recover the costs incurred by the CCG in removing the oils, refloating the vessel and safely berthing her, which amounted to \$565,965.53. The Administrator was named a party by statute in the proceedings.

By terms of a Court Order dated December 18, 1995, the *Chiloli* was seized and offered for sale. Pursuant to a Court Order dated February 13, 1996, she was sold by private contract for \$226,073.41, from which sum were deducted the costs involved in the sale, leaving therefore a net amount of \$213,594.74 to the Crown.

No claim was thereafter presented to the Ship-source Oil Pollution Fund.

Status

The file was closed on March 31, 1996.

Mystery Spill, Halifax Harbour (1996) ⚓

Location: Dartmouth, NS
Case number: 120-129-C1

The Incident

A mystery spill occurred in the facility of a Dartmouth based oil refinery (the Refinery) on July 3, 1996. The Marine Safety Branch of Transport Canada launched an investigation in conjunction with Environment Canada. At the time of the incident, one ship was at the Refinery facility, another ship was at the autoport and a US submarine was berthed at the Shearwater Naval Base. The commercial ships were boarded, but access to the submarine was denied. The Refinery's response team responded to the spill, and a Response Organization was also contracted.

The oil had the appearance of new lubricating oil and the quantity was estimated as being between two and five barrels. Samples were taken from the commercial vessels which were at the facility and from the spill, but no absolute match was obtained.

In the morning of July 3, 1996, a sheen of oil was also reported off the container pier in Halifax, but in the afternoon the same day, the Department of National Defence reported that one of their ships had been involved in a diesel fuel oil spill at the Halifax Naval Base.

The Claim

On August 16, 1996, the Refinery filed a claim in the amount of \$28,083.45 with the Ship-source Oil Pollution Fund in respect of the cleanup of the spill that had occurred in its facility, which claim was amended to \$30,133.45 on October 1, 1996.

Assessment and Offer

The Administrator investigated the claim. He was concerned with the organization and cost of the cleanup since the Refinery claimed that 29 persons in their organization had been involved, plus those of the contractor.

Following negotiations, on January 22, 1997, the Administrator arranged an interim payment of \$19,046.60, including \$689.92 interest, to the Refinery. Further negotiations then followed after which it was agreed that an additional amount of \$5,888.39, plus \$296.80 interest, was also payable. This amount was paid by the Administrator on March 24, 1997.

Status

The file was closed on March 31, 1997.

Mystery Spill - Victoria Co-operative Fisheries Ltd. Claim (1995) ➔

Location: Neils Harbour, New Haven, NS

Case number: 120-147-C1

The Incident

On July 13, 1995, a lot of 1,260 pounds of lobster owned by Victoria Cooperative Fisheries Ltd. and located in its lobster and crab processing plant in New Haven, Cape Breton, Nova Scotia, was found to have been exposed to diesel fuel. The Department of Fisheries and Oceans (DFO), Inspection Branch was notified of the incident. Further to its sample analysis of the lot in question, it concluded that the lot was unacceptable for consumption and, therefore, had to be destroyed. The Canadian Coast Guard was subsequently made aware of a possible oil spill in the area. They investigated and found that about 700 litres of diesel fuel were dumped by an unknown vessel.

The Claim

On July 28, 1995, Victoria Co-operative Fisheries Ltd. (the Claimant) filed a claim in the amount of \$6,856.00 with the Ship-source Oil Pollution Fund (the Fund) for the loss of lobster.

Assessment and Offer

During his assessment of the claim, the Administrator was informed by DFO that part of the 1,260 pounds of lobster were sold to La Digue Fisheries of Cheticamp for further processing. He then requested further clarification from the Claimant, who advised that the total amount shipped to La Digue Fisheries was 1,901 pounds, out of which 872 were from the original 1,260 pounds of contaminated lobster, but DFO seized the whole 1,901 pounds since they could not separate the lots.

Following his investigation of the claim, the Administrator concluded that the maximum quantity of lobster contaminated on July 13, 1995 and rejected by DFO was 1,260 pounds and that any other loss or damage, if any, incurred by the Claimant was caused by the negligence of the Claimant in failing to isolate the contaminated lobsters and in selling them to La Digue Fisheries. Therefore, he assessed the claim in the amount of \$5,922.00 and, on January 24, 1997, offered such amount, plus interest, in full and final settlement of the claim. The Claimant accepted the offer and the Fund received executed Releases from both the Claimant and La Digue Fisheries on October 24, 1996. Payment in the amount of \$6,675.28, inclusive of interest, was subsequently made.

Status

The file was closed on March 31, 2006.

Note: Information on this claim was retrieved from the Fund's information management system and the Fund's archived files, as this claim is not reported in any Administrator's annual report.

Ossian (1997)

Location: Ship Harbour, NS

Case number: 120-153-C1

The Incident

On August 14, 1997, the Canadian pleasure craft *Ossian* caught fire in Ship Harbour, Nova Scotia. The local fire brigade responded but requested the assistance of the Canadian Coast Guard (CCG). The two owners aboard at the time of the incident were rescued and taken to hospital. Two small coves were contaminated with oil and a local mussel farmer expressed his concern. The CCG determined that approximately 300 to 500 litres of diesel were onboard and that pollution cleanup was required.

The CCG negotiated for payment of their costs and expenses with the ship's insurers; however, the latter indicated that they would only pay for the shipowner's limit of liability, calculated at \$3,100.00. The CCG then received payment in the amount of \$3,163.07 from the ship's insurers.

The Claim

On October 9, 1998, the Crown presented a claim to the Ship-source Oil Pollution Fund for \$13,823.11, being the balance of the costs and expenses incurred by the CCG in the cleanup.

Assessment and Offer

The Administrator investigated the claim and on October 21, 1998, asked a number of questions to the Crown's counsel, including the basis on which the limitation of liability figure for the *Ossian* was calculated. Answers to the questions were received from the Crown on April 28, 1999. Therefore, on June 28, 1999, the Administrator paid the Crown's full claim amount, namely \$13,823.11, which included \$1,768.35 in interest.

Status

The file was closed on March 31, 2000.

Mystery Spill (1998)

Location: Martinique Beach, Clam Bay, NS (and others)

Case number: 120-168-C1

The Incident

On March 10, 1998, a private citizen reported to the Canadian Coast Guard (CCG) the presence of large amounts of oil along Martinique Beach at Clam Bay, Nova Scotia, some 30 miles east of Halifax. Over the same period, oil, freshly washed ashore, was also discovered at Donkin, Cape Breton, on Sable Island, on the French Islands of St. Pierre and Miquelon, and several other locations. Samples from the different locations were analyzed and found to be from a similar source but none matched samples previously collected from known ship origins. Further oil sample analysis was undertaken, again without success in identifying the ship, or ships, involved. Hence, the incident was classified as a mystery spill.

The CCG employed contractors to clean up the oil on Martinique Beach and other local areas, with the work being completed by March 15, 1998. Approximately 380 bags of contaminated material were collected.

The Claim

On November 17, 1998, the Crown, on behalf of the CCG, presented a claim to the Ship-source Oil Pollution Fund in the amount of \$36,878.96.

Assessment and Offer

The Administrator investigated and assessed the claim which he found reasonable except for the hourly charge-out rates for the helicopters. He offered \$32,681.11, plus interest, for the settlement of the claim, which was accepted by the Crown. A total of \$34,968.29, which included \$2,287.18 interest, was therefore transferred to the Crown on March 3, 1999.

Status

The file was closed on March 31, 1999.

Anne Jolene (2001)

Location: Wrights Cove, Bedford Basin, Halifax Harbour, NS

Case number: 120-287-C1

The Incident

On September 28, 2001, the *Anne Jolene*, a Canadian wooden fishing scallop dragger, was reported sunk in Wrights Cove, Bedford Basin, Halifax Harbour, Nova Scotia. Approximately 100 litres of oil leaked out of the sunken vessel and the owner made an initial response by arranging with a local contractor to boom off the area in way of the craft and commence a cleanup. An inspection revealed that the sunken craft had no apparent damage and was lying on her starboard side, on mud, in 10 metres of water.

The Canadian Coast Guard (CCG) met with the owner and he was given until October 23, 2001 to fully respond to the incident. On October 16, 2001, the owner indicated that he was, in fact, unable to respond to the incident; hence, the necessary action was taken over by the CCG. On November 18, 2001, after numerous delays, the *Anne Jolene* was towed to the yard of the contractor appointed by the CCG but grounded off the facility. Some oil escaped from the hull during the tow but, later, was found to be dispersed.

The breaking up of the *Anne Jolene* then took place and some difficulties were experienced. On December 5, 2001, the CCG and Environment Canada officials declared that the vessel had been broken up and removed.

The Claim

On March 18, 2002, the Crown filed a claim with the Ship-source Oil Pollution Fund in the amount of \$77,024.26 to recover the CCG's costs and expenses in the incident.

Assessment and Offer

The Administrator investigated and assessed the claim. He had concerns, principally, regarding costs for delays, for testing the lead content of paint and for disposal costs. The CCG was also requested to justify their administration costs.

On March 25, 2002, the Administrator found \$55,899.52 of the claim to be established, which amount was offered to the Crown in settlement of the claim. On March 26, 2002, the Crown accepted the offer and the payment of the settlement amount, plus \$1,707.80 in interest, was made on March 27, 2002.

Status

The file was closed on March 31, 2002.

Lavallee II (2002)

Location: Ecum Secum Harbour, NS

Case number: 120-303-C1

The Incident

On March 8, 2002, it was reported that oil was being released from the *Lavallee II* into the Ecum Secum Harbour, Nova Scotia, where she had remained for the last 18 months. The harbour, in season, houses live lobster in cages and supports a rockweed harvest. The *Lavallee II* was built in 1942 as an American wooden minesweeper but, latterly, had been employed as a herring seiner and then as a herring transporter. The Canadian Coast Guard (CCG) responded on the same day and absorbent boom was deployed. It was found that the engineless engine room was flooded and the hull was holed. The CCG employed contractors who removed some 10,000 litres of diesel from fuel tanks inside the vessel.

It appeared that the *Lavallee II* was abandoned. Although the name of an owner had been provided to the CCG, all attempts to contact this person were unsuccessful. A private surveyor, employed by the CCG, concluded that the vessel had no value. Hence, it was proposed that the most economic solution to the alleged continuing potential for oil pollution was to break up the vessel on site. The question of breaking up the vessel raised the issue of toxicity of the paint aboard, some of which was found to exceed provincial limits for disposal in landfill sites, but the matter was later resolved as a result of further testing. Work to remove the vessel commenced on July 10, 2002, under the supervision of the CCG. By July 26, 2002, the vessel and associated debris had been removed from the site and disposed of and the area was restored to an acceptable condition with no sign of any residual oil contamination.

Measures taken by the Administrator

The Administrator appointed a surveyor, who attended the removal operation of the vessel.

The Claim

On January 28, 2003, the CCG filed a claim with the Ship-source Oil Pollution Fund (the Fund) for their costs and expenses in the amount of \$213,053.94.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator offered the assessed cost of \$212,126.10, on February 27, 2003, in settlement of the claim. In his letter of offer, he noted that the decision to accept the expenses associated with the removal and/or the destruction of the ship was based on the special circumstances of this case. The CCG accepted the offer on March 4, 2003, and payment of the settlement amount, plus \$7,404.98 interest, was made on March 6, 2003.

Recovery Action

The Administrator commenced a recovery action in the Supreme Court of Nova Scotia on February 11, 2005, pursuant to the *Marine Liability Act*, and amended its Statement of Claim on March 1, 2005. Recovery action resulted in negotiated settlements with the two defendants.

The first defendant agreed to pay \$1,000.00, which payment was received on January 3, 2007, and a final Release and Indemnity Agreement was executed between the Administrator and the first defendant.

The second defendant agreed to pay \$7,500.00, but failed to make the required payment by the due date of June 30, 2007. Besides, he did not sign the settlement agreement. On April 8, 2008, the Administrator received a cheque from the second defendant in the amount of \$3,100.00, representing the first installment of the \$7,500.00 settlement. The balance of \$4,400.00 was to be paid no later than May 1, 2008, which did not happen. Therefore, counsel for the Fund registered a Certificate of Judgment against the defendant in both the Land Registry and Personal Security Registry in Nova Scotia. On June 2, 2011, the Administrator was informed that a lawyer representing the debtor wished to pay out the judgment and he later received a cheque in the amount of \$5,065.50, representing the principal sum of \$4,400.00 plus post-judgment interest of \$665.50.

Status

The file was closed on August 3, 2011.

Miss Western Way (2002)

Location: Bush Island, Lunenburg Harbour, NS

Case number: 120-317-C1

The Incident

The fishing vessel *Miss Western Way* sank alongside the government wharf at Bush Island, Lunenburg Harbour, Nova Scotia during the night of September 24, 2002. Some oil onboard was released into the harbour but local information given to the Canadian Coast Guard (CCG) was that it could be handled at a lower level of urgency. Both the CCG and the Royal Canadian Mounted Police tried repeatedly to contact the registered owner, without success.

On September 26, 2002, the CCG decided to initiate its own response and engaged a contractor, who arrived on site on September 27, 2002 to begin raising the vessel. Shortly thereafter, the vessel owner arrived to attempt to take action himself and the CCG and its contractor stepped aside. However, one hour later, the owner advised that the situation was beyond his capability. The CCG then proceeded with its planned operation and the vessel was raised and pumped out by mid-afternoon.

The vessel owner was advised by the CCG that he was liable for the costs incurred and should take the necessary action to keep the vessel afloat. Since it appeared that little or no action had been taken by the owner, the CCG arranged for a local resident to keep the vessel from re-sinking. Attempts by the CCG to re-establish contact with the owner were initially unsuccessful, but he was eventually located and signed a transfer of ownership document to the local resident, who had agreed to take the vessel and break her up for scrap value at no cost to the CCG.

The Claim

The CCG filed a claim with the Ship-source Oil Pollution Fund in the amount of \$9,395.61 on January 29, 2003, which was then revised to \$9,554.73 on February 18, 2003.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator offered the established amount of \$9,011.13 to the CCG on February 24, 2003 in settlement of the claim. The CCG accepted the offer on March 6, 2003, and payment of the settlement amount, plus \$225.24 in interest, was made that same day.

Status

The file was closed on March 31, 2003.

Forrest Glen (2002)

Location: Long Wharf Dock, Digby, NS

Case number: 120-324-C1

The Incident

During the evening of November 16, 2002, the *Forrest Glen*, an ex-fishing vessel that had been altered to a pleasure craft, sank, while berthed at the Long Wharf dock in Digby, Nova Scotia in inclement weather. The following morning, the Canadian Coast Guard (CCG) arranged to have the area boomed-off by the Digby Fire Department and divers were engaged to plug the fuel tank vents. Following this, the CCG engaged a contractor to remove the oil from the tanks underwater and over the next two days, 1,700 gallons of oil were recovered together with 14 barrels of oily waste.

The shipowner was contacted by the CCG but he stated that he was unable to respond to the incident, as his company was insolvent.

Since the vessel still posed a pollution threat, it was decided that removal and disposal of the vessel was the only viable solution. Following preparatory work, recovery began on January 2, 2003 and the vessel was raised on January 8, 2003. The following day, she was placed ashore for break up and disposal. All work of disposing of contaminated material was completed on January 23, 2003 and the site was cleared of all contaminated debris.

Measures taken by the Administrator

Following the removal of the oil from the tanks, the vessel still posed a pollution threat. Hence, the Administrator engaged a marine surveyor who worked alongside and with full cooperation from the CCG.

The Claim

On March 10, 2003, the CCG submitted a claim to the Ship-source Oil Pollution Fund in the amount of \$272,159.26.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator offered to settle the CCG's claim for \$239,902.95 on March 21, 2003, which offer was accepted by the CCG. The payment of the settlement amount, plus \$3,308.34 interest, was thereafter made on March 25, 2003.

Status

The file was closed on March 31, 2003.

John Boy (2003)

Location: Lockeport Harbour, NS

Case number: 120-386-C1

The Incident

On November 25, 2003, the fishing vessel *John Boy*, secured adjacent to the slipway at the north end of Lockeport Harbour, Nova Scotia, tipped over and was awash, causing oil pollution. The Canadian Coast Guard (CCG) attempted to contact the owner but it became apparent that he could not provide a response due to his absence from Lockeport and that he had no insurance.

There were lobster cars in the area; hence, it was necessary for the CCG to take action. A contractor was engaged and remedial work undertaken such that the vessel was righted and the source of pollution removed on November 26, 2003. Cleanup of the area was completed by noon of that day.

The Claim

On January 30, 2004, the CCG made a claim to the Ship-source Oil Pollution Fund in the amount of \$24,133.30 to cover its costs and expenses.

Assessment and Offer

The Administrator investigated and assessed the claim. Additional documentation was requested from the CCG and the Administrator completed his assessment of the claim upon receipt of such documentation. A first offer of settlement was made on March 2, 2004.

The CCG made further representations on March 5, 2004 in respect to their claim and a revised offer in the amount of \$22,018.74 was made on March 9, 2004, which was accepted. Payment of the settlement amount, plus \$293.28 interest, was thereafter made on March 17, 2004.

Status

The file was closed on March 31, 2004.

Ronald M (2004)

Location: Long Wharf, Digby, NS

Case number: 120-387-C1

The Incident

On August 12, 2003, the Canadian Coast Guard (CCG) was informed that the fishing vessel *Ronald M* was in poor condition and in danger of sinking alongside Long Wharf in Digby, Nova Scotia. The Department of Fisheries and Oceans (DFO) Digby was asked to monitor the vessel's condition.

On July 28, 2004, the CCG first expressed concern for the vessel's condition vis-à-vis the local marine environment and operations at the wharf. On November 17, 2004, Transport Canada Marine Safety (TCMS), after inspecting the vessel, advised that the vessel posed an environmental risk of pollution if not rectified soon. The CCG then contracted for the removal of pollutants and oily debris. Removal operations were completed on December 6 and 7, 2004. Approximately 3,000 gallons of oily waste water/fuel/debris were removed from the vessel. Environment Canada expressed its satisfaction with the risks to the environment having been removed and TCMS stated that « at this time, the vessel is a minimum risk for pollution ». On December 8, 2004, the vessel was upright and properly secured.

On January 13, 2005, a letter was sent to the wharf's owners to prevent further accumulation of oily waste on board the *Ronald M* since it appeared that others had used the *Ronald M* as a depository for their oily waste/debris.

The Claim

On February 9, 2005, the CCG filed a claim with the Ship-source Oil Pollution Fund for their costs and expenses totaling \$13,957.80.

Assessment and Offer

Following investigation and assessment of the claim, on February 16, 2005, the Administrator directed payment of \$13,957.80, plus \$112.20 in interest, to DFO/CCG in settlement of the claim.

Status

The file was closed on March 31, 2005.

Alicia Dawn (2004)

Location: Caribou Harbour, NS

Case number: 120-412A-C1

The Incident

On the morning of September 8, 2004, the fishing vessel *Alicia Dawn*, with a severe list, was towed into Caribou Harbour, Nova Scotia. The vessel had some 1,200 litres of diesel and other engine and lube oils onboard. The Canadian Coast Guard Emergency Response (CCG ER) Charlottetown, Prince Edward Island responded. A diver was hired to plug the vents, release the fish tubs and take measures designed to bring the vessel to an upright position. Oil was escaping from the vessel, and the CCG ER recovered spilled oil and ordered that pumping be stopped.

The vessel departed Caribou, bound for Murray Harbour, Prince Edward Island on the same day.

The Claim

On February 4, 2005, the CCG filed a claim with the Ship-source Oil Pollution Fund (the Fund) for its costs and expenses totaling \$2,625.42.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator made an offer of compensation in the amount of 2,543.01, which offer was accepted by the CCG on February 9, 2005. Payment in the amount of \$2,595.99 including interest was made on February 11, 2005.

Recovery Action

Recovery action resulted in a negotiated settlement with the *Alicia Dawn*'s owner based on 50% of the costs put forward by the Fund. As a consequence of this action, on August 29, 2007, the Administrator received a cheque from the shipowner's insurance company in the amount of \$1,298.00.

Status

The file was closed on March 31, 2008.

Farley Mowat (2008)

Location: Halifax, NS
Case number: 120-450-C1

The Incident

The *M/V Farley Mowat* had been tied up at the Sydney Harbour, Sydport wharf since April 12, 2008, when she was arrested in connection with alleged illegal activities during the seal hunt in the Gulf of St. Lawrence. It was placed under custody by the Department of Fisheries and Oceans (DFO). Following an inspection of the vessel by a marine surveyor engaged by DFO enforcement officials, it was found that the vessel had no external leaks, but there were diesel fuel, engine lube oil and hydraulic fluids onboard. In addition, there were internal leaks in the engine room and 15 barrels of drummed oil on the deck aft. DFO enforcement officials then requested that the Canadian Coast Guard (CCG) boom the vessel until such time it would be returned to its owner. On April 25, a pollution countermeasures boom was placed by the CCG around the vessel. The boom remained in place until November 25, when it was removed due to marine growth and possible failure of the boom and its support equipment in the event that leakage of oil from the vessel would occur.

On December 11, 2008, the CCG issued a Direction Order to the owner of the *Farley Mowat* to remove all petroleum products from the vessel. Since no response had been received from the shipowner, the CCG took action and engaged RMI Marine Services Inc. for the oil removal operation. Removal of all the accessible oil was completed on December 23, 2008

The Claim

On March 23, 2009, the CCG filed a claim in the amount of \$50,260.46 for costs and expenses incurred with the Ship-source Oil Pollution Fund (the Fund), pursuant to sections 51(1), 84 and 85 of the *Marine Liability Act* (MLA).

Assessment and Offer

On March 24, 2010, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$45,862.29, plus interest, as full and final settlement of the claim pursuant to the MLA. CCG accepted the offer and a payment of \$48,594.10, inclusive of interest, was directed by the Administrator.

Recovery Action

Prior to finalization of the Administrator's investigation of the CCG claim, he was made aware of an application in the Federal Court of Canada for a judicial sale of the *Farley Mowat* on behalf of Her Majesty the Queen. Therefore, to safeguard any rights that he might acquire by subrogation, on payment of the CCG claim, the Administrator instructed counsel to start a protective action in the Federal Court to ensure that the Fund might be reimbursed from the proceeds of the sale of the vessel. The vessel was eventually sold for \$5,000.00, all of which was paid to the Sheriff to cover his costs and fees for conducting the sale. Since the vessel became free and clear of all pre-existing claims, the Administrator concluded that there was no reasonable prospect of recovery *in rem*

against the vessel itself. He then investigated any reasonable prospects of recovering any compensation in a personal action against the shipowner. However, on the advice of counsel, he concluded that there was no reasonable prospect for further proceedings against the shipowner.

Status

The file was closed on March 31, 2010.

Sea Sprite (2005)

Location: Wright's Cove, Dartmouth, NS

Case number: 120-458-C1

The Incident

On April 19, 2005, the pleasure craft *Sea Sprite* was reported in danger of sinking at Wright's Cove, Dartmouth, Nova Scotia. The Canadian Coast Guard (CCG) Emergency Response Dartmouth responded to have the vessel pumped out. On April 25, 2005, the vessel burned to the waterline and sank.

The Claim

On November 10, 2005, the Department of Fisheries and Oceans (DFO)/CCG filed a claim with the Ship-source Oil Pollution Fund in the amount of \$7,481.28 for its costs and expenses.

Assessment and Offer

For his assessment of the claim, the Administrator requested further particulars from the CCG on November 10, 2005. Upon receipt of these, he offered \$7,151.04 plus interest, in full and final settlement of the claim, which was accepted by DFO/CCG on December 23, 2005. Payment of \$7,381.52 including interest was then made on January 5, 2006.

Recovery Action

The Administrator instructed counsel to review the feasibility of undertaking cost recovery action pursuant to section 87(3) of the *Marine Liability Act*. Since it was impossible to locate the owner and given the amount involved, the Administrator considered the cost of further investigations not reasonable and decided to close the file.

Status

The file was closed on March 31, 2010.

Stephanie & Darrel (2007)

Location: Shelburne, Nova Scotia
Case number: 120-530-C1

The Incident

On 11 April 2007, the Port Manager of the Shelburne Marine Terminal in Nova Scotia informed the Canadian Coast Guard (CCG) that a 45-foot fishing vessel secured to its wharf, the *Stephanie & Darrel*, had been abandoned by its owner. The vessel contained approximately 3,500 litres of fuel plus hydraulic oils and had been pumped out several times to prevent it from sinking alongside the terminal. With no word from the vessel's owner, on 17 April, CCG personnel met with Environment Canada and Transport Canada personnel at the terminal to determine the action to be taken. All parties agreed that the pollutants should be removed from the vessel.

On 1 June 2007, a contractor was engaged to remove and dispose of all the oils and other contaminants onboard the *Stephanie & Darrel*. This operation was completed on 8 June 2007.

The Claim

On 9 February 2008, the Administrator received a claim from CCG, on behalf of the Department of Fisheries and Oceans (DFO/CCG), for costs and expenses in the amount of \$13,627.73, pursuant to the *Marine Liability Act*.

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

Assessment and Offer

After investigation and assessment of the claim, the Administrator made an offer to DFO/CCG for the established amount of \$13,627.73 plus interest, as full and final settlement. DFO/CCG accepted the offer and a payment of \$14,505.11, including interest was sent to DFO/CCG on or about 14 May 2008.

Recovery Action

A recovery action was commenced by the Administrator in the Supreme Court of Nova Scotia on 10 December 2008, from which he obtained an encumbrance against any property the owner of the *Stephanie & Darrel* may have or yet acquire. A Certificate of Judgment was registered in both the Land Registry and Personal Property Security Registry in Nova Scotia in December 2008. The registration in the Personal Property Security Registry was extended until 5 January 2019.

A search was conducted in October 2018, but no exigible assets were found. The registration of the judgment was extended until 10 December 2028.

Status

The file remains open.

Miner (ex-Canadian Miner) (2011)

Location: Scatarie Island, NS

Case number: 120-600-C1

The Incident

On September 20, 2011, the *Miner (ex-Canadian Miner)*, while undertow from the Port of Montreal to a scrap yard in Turkey, parted its towing bridle off the east coast of Cape Breton, Nova Scotia, and drifted onto the rocks at Scatarie Island. Built as a typical Canadian Great Lakes bulk carrier in 1965, the *Miner* had been out of service for several years. The towing vessel, *Hellas*, was an ocean-going salvage tug under the flag of St. Vincent and Grenadines. Before its departure from Montreal, Transport Canada Marine Safety (TCMS) inspected the tug *Hellas* and the towing arrangements. A “green passport”, providing an inventory of all potentially hazardous materials used in the ship, and a towing certificate were issued. TCMS also reported that, prior to departure, all oil had been removed from the towed vessel, except approximately 13 metric tonnes of marine diesel fuel contained in day tanks for the emergency generator. When informed about the incident, the Canadian Coast Guard (CCG) conducted a helicopter flight to assess the status of the grounded vessel.

On September 21, the CCG issued a Letter of Notice to the owners’ representative requesting notification of their intentions with respect to response measures. Later, a second notice was issued to the owners to remove the pollutants due to deteriorating weather conditions. Two days after the grounding, when sea state and wind conditions were favourable, the master of the tug *Hellas* inspected the *Miner* and reported that no hull damage had been sustained. The fuel tanks and ship bilges were found free of any ingress of sea water. No oil pollution was apparent in the surface of the water, neither near the ship nor in the surrounding area. On September 24 and during the following days, the tug made several attempts to pull the *Miner* off the rocks at high tide, but these efforts were unsuccessful. During this phase, the CCG deployed the *Spindrift*, a 16-metre Search and Rescue cutter, from nearby Louisburg as an observation platform. The *Spindrift* crew also placed a boom around the stern of the wreck to absorb any oil that may be released from the engines.

On September 27, Regional Environmental Emergency Team (REET) meetings were held resulting in requests for further information from the owners and their salvors concerning hull stress factors, availability of additional tugs and a detailed salvage plan. The following day, the REET was informed that the *Miner* had moved further up the shoreline and several sections of the hull were holed with some ingress of sea water. Accordingly, the next day, CCG and TCMS personnel boarded the wreck and determined that none of the double bottom tanks had been breached, but there were cracks along the hull in way of several cargo tanks. There was also sea water in the engine room with a skim of oil on the surface, but no oil was visible outside the hull. Following the survey, the CCG issued a Letter of Notice for removal of the fuel onboard. Subsequently, during the next week, Mammoet Salvage, which had been hired by the shipowners, transferred 10 metric tonnes of generator fuel, and some 5,000 litres of oily waste to the vessel *Vulcan* chartered from Samsonia Maritime Ltd. of Sydney, Nova Scotia.

On October 4, Mammoet Salvage advised the CCG that “all the funds were used and they will not be returning to the vessel the next morning as planned”. The following day, a storm caused additional major structural damage. The vessel moved further ashore and the engine room was now flooded. Consequently, on October 7, the CCG itself contracted Mammoet Salvage to remove the estimated 3,000 litres of oily mixture remaining onboard. In all, 15 tanks were opened and pumped dry, two of the four engines were opened and the oil removed. The other two engine bases and gearboxes were open to the sea and could not be pumped out. As of October 9, the only oil remaining onboard was some residual oils. Following the CCG contract completion, the Province of Nova Scotia then contracted Mammoet Salvage to remove the moveable objects still onboard. The contract, which commenced on October 21, was for 7 to 10 days and the CCG monitored these removal operations.

The Claim

On July 12, 2012, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund in the amount of \$251,629.13.

Assessment and Offer

On September 19, 2012, the Administrator wrote to the CCG and requested additional information and documentation in order to advance his investigation and assessment of the claim. A response to the request was received on December 7 but the response did not provide the requested detailed chronology clearly linking CCG actions and associated costs. On February 5, 2013, upon completion of his investigation and assessment of the claim, the Administrator found the amount of \$9,667.74 to be established. The established amount essentially reflected the costs incurred to place a boom around the stern of the wreck and to place sorbent material in the engine room. Accordingly, a global offer of \$10,000.00, inclusive of interest, was made in full and final settlement of the claim, pursuant to the *Marine Liability Act*. DFO/CCG accepted the offer on March 28, 2013 and payment of the settlement amount was made on April 2, 2013.

Recovery Action

After consideration of the amount of the claim settlement and given the legal complications in determining who was actually responsible for the grounding of the vessel, the Administrator concluded that recourse action would probably exceed \$10,000.00. Therefore, further recovery expenditures were not warranted and he closed the file.

Status

The file was closed on August 19, 2013.

Cetacean Venture (2012)

Location: Freeport, NS
Case number: 120-617-C1

The Incident

On February 21, 2012, the Canadian Coast Guard (CCG) received a report from the Harbour Authority at Freeport, Nova Scotia, that there was an oil sheen around the fishing vessel *Cetacean Venture*, which was secured at the local South Cove wharf. The Authority was unable to reach the vessel owner. Consequently, the CCG lifeboat at nearby Westport was tasked to investigate. The lifeboat crew found a light oil sheen but could not determine the source. Adverse weather prevented the CCG from responding further until February 24, at which time CCG Environmental Response personnel proceeded from Dartmouth to investigate. They found the leaking oil from the vessel resulted from damaged fuel lines and open fuel tanks valves. The fuel lines were then secured and sorbents were placed to absorb any additional leakage. It was estimated that 40 litres of oil remained in the fuel tanks. The CCG personnel met with Environment Canada enforcement officers and assisted in taking samples of the oil from the surface of the water, as well as from the fuel tanks. The oil samples were thereafter passed to Transport Canada for investigation. On February 27, CCG personnel responded to remove the fuel from the boat. It was pumped out and disposed of in a waste oil tank provided by the Harbour Authority. The CCG Situation Report indicated that the oil sheen surrounded several other fishing vessels, and that some lobsters in cages had died from the pollution. With the assistance of the Royal Canadian Mounted Police, the CCG personnel contacted the vessel owner, but he advised that he did not have insurance and was financially unable to care for *Cetacean Venture*.

The Claim

On May 8, 2012, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses incurred in the amount of \$3,176.96, pursuant to the *Marine Liability Act*.

Assessment and Offer

After investigation and assessment of the claim, the Administrator made an offer for the established amount of \$3,176.96, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer on June 5 and the Administrator directed a payment in the amount of \$3,205.60, inclusive of interest.

Recovery Action

On June 12, 2012, the Administrator mailed a letter to the owner of the *Cetacean Venture* requesting payment of the costs incurred in respect of the measures taken by the CCG during its response to the incident by July 15, 2012, failing which he may commence legal proceedings. No reply was received. In view of the amount of the claim, the Administrator concluded that it was not prudent to spend further funds for cost recovery and he, therefore, closed the file.

Status

The file was closed on August 8, 2012.

Dawn Til Dusk (2013)

Location: Annapolis Royal, NS

Case number: 120-634-C1

The Incident

On February 3, 2013, the old wooden-hull scallop dragger *Dawn Til Dusk* was sinking while at anchor near the tidal dam in Annapolis Royal, Nova Scotia. Members of the local fire department were at the scene, but were unable to place pumping equipment aboard the vessel due to its condition. The following day, Emergency Response personnel from the Canadian Coast Guard (CCG) depot at Dartmouth attended and found a non-recoverable oil sheen upwelling from the sunken vessel. The owner indicated that there were approximately 20 gallons of diesel fuel onboard. He also informed the CCG that he had hired a contractor to place an absorbent boom around the upwelling of oil and to recover the wreck. CCG personnel monitored the contractor's work.

On February 22, the CCG deployed 260 feet of its own boom because a light sheen was still present. On March 15, the contractor raised the wreck and began towing it ashore. However, due to the strong current, it sank again approximately 1,500 feet from the wharf. The *Dawn Til Dusk* was again refloated and successfully recovered on March 27. Upon arrival at the wharf, the fuel tanks were pumped dry. The owner then arranged with a salvage company to demolish and dispose of the wreckage.

The Claim

On June 7, 2013, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$7,442.88, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

On June 27, 2013, after investigation and assessment of the claim, the Administrator found the amount of \$7,158.04 to be established. He, therefore, offered such amount, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer and on July 17, 2013, the Administrator directed payment of \$7,258.37, inclusive of interest.

Recovery Action

On July 30, the Administrator sent a letter, via registered mail, to the registered owner of the *Dawn Til Dusk* informing him of his responsibilities for the costs and expenses incurred in respect of the measures taken by the CCG to prevent oil pollution in this incident. The owner was asked to respond within 14 days to advise what arrangements could be made to pay the sum of \$7,258.37, failing which the Administrator may commence legal proceedings. The letter was later returned as being unclaimed.

The Administrator then conducted further investigation to identify any possible assets the vessel owner may have for cost recovery action. The background investigation revealed that no

significant financial assets were registered in the owner's name in the Province of Nova Scotia. As a result, the Administrator concluded that all reasonable measures had been taken and incurring additional expenditure for cost recovery purposes was not justified. He, therefore, closed the file.

Status

The file was closed on October 1, 2013.

Norwin (2011)

Location: Digby, NS
Case number: 120-640-C1

The Incident

On September 30, 2011, the Canadian Coast Guard (CCG) was informed that the fishing vessel *Norwin* had sunk at the wharf in Digby, Nova Scotia. An oil sheen was upwelling from the wreck. The following day, an Emergency Response employee from the CCG depot at Dartmouth proceeded to the site of the incident and assumed the role of Federal Monitoring Officer (FMO). The owner took responsibility and engaged his insurance company and a diving contractor to plug the vessel's tank vents and stream an oil containment boom around the oil sheen. It was reported to the CCG that the oil onboard included 9,100 litres of diesel fuel, 680 litres of hydraulic oil and 455 litres of furnace oil. The CCG provided an additional containment boom to the owner's contractor. The FMO delivered a Notice of Intent to the vessel's insurance agent, informing him of the owner's responsibility under the *Marine Liability Act* (MLA).

The incident occurred in a location with a very large tidal range. On October 4 and 5, attempts were made to raise the *Norwin*, but without success. Operations were then suspended until October 7 when the wreck was finally refloated. Throughout the incident, the CCG continued to monitor the contractor's operations and provided assistance with booming, as well as giving direction with respect to the clean-up of oiled seaweed. On October 8, the FMO found no further threat of pollution and returned to the Dartmouth base.

The Claim

On September 16, 2013, the Department of Fisheries and Oceans (DFO/CCG) filed a claim in the amount of \$6,210.07 with the Ship-source Oil Pollution Fund, pursuant to the MLA.

Assessment and Offer

For his investigation of the claim, the Administrator requested from CCG copies of the correspondence between the CCG and the owner's insurance company concerning efforts to collect its costs directly from the shipowner. On January 22, 2014, the CCG advised that they were actively pursuing repayment from the responsible party. On March 3, 2014, they confirmed the shipowner's Mutual Protection Indemnity had paid the claim.

Status

The file was closed on March 6, 2014.

Hannah Atlantic (2014)

Location: Bridgewater, NS

Case number: 120-652-C1

The Incident

Two old steel trawlers, the *Cape Rouge* and the *Hannah Atlantic*, which were sister ships, had been tied up at a berth near each other in Bridgewater, Nova Scotia, in the environmentally sensitive LaHave River, when on March 10, 2014, the *Cape Rouge* sank, with an oil sheen of fuel and lube oils leaking from the vessel. The Canadian Coast Guard (CCG) responded to the incident and as they were demobilizing their oil pollution response equipment on April 10, they investigated whether there was any real threat of pollution from the *Hannah Atlantic*. Along with personnel from Transport Canada Marine Safety (TCMS) and an Environment Canada (EC) representative, the CCG inspected the *Hannah Atlantic*. They found the engine room bilges full of heavily contaminated water and that the sea valves were in a state of corrosion and leaking. It was determined that the old fishing vessel contained approximately 2,250 litres of diesel fuel, 900 litres of hydraulic oils and 15,000 to 20,000 litres of oily bilge water. All three agencies agreed that the vessel was a potential pollution threat. It was in danger of sinking and needed to be addressed. Consequently, TCMS placed a Detention Order onboard the *Hannah Atlantic* and EC enforcement officials collected bilge water samples. Furthermore, the CCG gave the owner a Direction Order to remove the pollutants, and instructed him to provide an appropriate action plan to deal with the situation by noon April 14, 2014.

During the morning of April 14, the vessel owner advised that since he did not have the financial means, he would not be taking any measures to remove the fuel and hydraulic fluids. Consequently, the CCG contracted RMI Marine Limited to remove the pollutants from the vessel as per the issued Direction Order. On April 15, RMI Marine Limited commenced removal of the bilge sludge, fuel, hydraulic oils and other pollutants from the vessel. In total, 18,000 litres of oily bilge water were pumped from the engine room and 5,400 litres of diesel oil were removed from the day tank. Also, 421 litres of waste oil were off-loaded from various containers onboard. After removal of the oil pollutants, the bilges and deck plates were steam cleaned.

The Claim

On July 3, 2014, the Department of Fisheries and Oceans filed a claim with the Ship-source Oil Pollution Fund for costs and expenses incurred during response to the incident, in the amount of \$19,956.15, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

After investigation and assessment of the claim, on September 16, the Administrator made an offer for the established amount of \$19,682.37, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer and on October 1, 2014, the Administrator directed payment of \$19,975.18, inclusive of interest.

Recovery Action

The Administrator obtained the services of a professional locator firm in order to identify assets that may be available for recovery purposes. The background investigation revealed that no significant financial assets were registered in the owner's name in the Province of Nova Scotia. After consultation with counsel, the Administrator then concluded that all reasonable recovery measures had been taken and incurring additional expenditure on the matter was not justified. He, therefore, closed the file.

Status

The file was closed on December 16, 2015.

Related Files

Ryan Atlantic II (formerly *Cape Rouge*) (2014), Bridgewater, NS, Case number: 120-653-C1 (same owner, same location)

Farley Mowat (2015), Shelburne Harbour, NS, Case number: 120-679-C1 (same owner)

Kings Endeavour (2015), Woods Harbour (Falls Point Wharf), NS, Case number: 120-692-C1 (same owner)

Ryan Atlantic II (formerly Cape Rouge) (2014)

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

The Incident

On 10 March 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 11 March, 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 12 March, CCG arrived on site with a mobile command post unit and a Pollution Response Vessel (PRV1). Environment Canada was also on site to collect oil samples.

Having determined that the situation was severe, CCG engaged a contractor 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 PRV1 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 25 March, the contractor 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 28 March, Transport Canada Marine Safety inspected the vessel and determined that it was at risk of sinking again. CCG finished the response operation on 7 April.

The Claim

On 26 June 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 PRV1 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 30 January 2012. On 19 March 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 29 April 2015 and, on or about 27 July 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 owner of the *Cape Rouge*. 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 4 October 2016. The Motion for Summary Judgment was heard by teleconference on 20 December 2017.

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

The judgment has been registered in the Personal Property Registry and in Nova Scotia at the Land Registration Office for Halifax County. A writ of seizure and sale was obtained in March 2019 but could not be enforced as no exigible assets could be identified or located.

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)

Schwalbe (2015)

Location: Lunenburg Harbour, NS

Case number: 120-670-C1

The Incident

On February 1, 2015, the 60-foot sailboat *Schwalbe* broke its moorings and drifted ashore in the south side of Lunenburg Harbour, Nova Scotia. The Canadian Coast Guard (CCG) Environmental Response personnel learned from local residents that the sailboat had been anchored in the harbour for several years and was thought to be abandoned. The boat owner was finally contacted and advised about his responsibilities to respond to the incident. He was requested to provide the CCG with a response plan by noon on February 3, but he replied that he had no insurance and no money so he was unable to deal with the situation. He did, however, inform the CCG that there were 20 litres of diesel fuel in the day tank, and additional oil in several containers on board and oil in the engine area. On February 4, CCG personnel boarded the vessel, which was aground with a 45-degree list. No oil sheen was detected in the water around the hull or in the rockweed surrounding the area. When the weather conditions were more suitable, several days later, CCG personnel removed the accessible oil from the wreck. The boat remained aground where it initially drifted ashore.

The Claim

On April 16, 2015, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses incurred in the amount of \$5,737.64, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

As a result of the investigation of the incident, it was considered that the response actions taken by the CCG under the circumstances were necessary and reasonable to prevent and minimize oil pollution within the harbour environment. Therefore, on the basis of the findings, on June 25, 2015, the Administrator made an offer for the established amount of \$5,294.62, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer on July 10, 2015, but payment of the settlement amount was withheld as a duly executed Release and Subrogation Agreement had not been returned by the CCG. The settlement amount of \$5,533.71, inclusive of interest, was paid on July 27, 2016.

Recovery Action

The Administrator concluded that all reasonable measures to recover the amount of the payment from the owner of the vessel, who was no longer residing in Canada, had been taken.

Status

The file was closed on November 29, 2016.

Cormorant (2015)

Location: La Have River, Bridgewater, Nova Scotia
File number: 120-672-C1

The Incident

On March 18, 2015, the Canadian Coast Guard (CCG) was notified that the *Cormorant*, a 2,174-tonne former Royal Canadian Navy diving support ship that had been decommissioned and sold in 1997, was listing heavily at the dock in LaHave River, Bridgewater, Nova Scotia, and leaking oil. CCG provided the vessel owner with a Notice of Intent informing him of his responsibilities under the *Marine Liability Act* (MLA) and a Direction Order to develop a salvage plan to refloat the vessel. The owner engaged a salvage company. CCG assumed the role of Federal Monitoring Officer. The local fire department assisted by using water pressure to blast the snow and ice off the partially sunken vessel, and a containment boom was deployed around the wreck.

On May 5, CCG took over the role of On-Scene Commander after having been informed by the salvage company representatives that the salvage operations would not be continued until the issue relating to the ownership of the vessel was settled. RMI Marine Limited (RMI) was engaged to take care of the salvage operations. With the help of divers, RMI removed 5,850 litres of waste oil from the engine-room bilge and 350 litres of hydraulic oil from several tanks.

On May 27, the *Cormorant* was refloated, and all the absorbent pads and containment boom were recovered.

Measures taken by the Administrator

When CCG took over the role of On-Scene Commander on May 5, 2015, the Administrator engaged a marine technical surveyor to attend the site and observe the measures being taken. The surveyor made visits to the site and reported on the progress of the salvage operations.

The Claim

On November 2, 2015, 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 \$549,581.18, pursuant to the MLA.

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

Assessment and Offer

Additional supporting information was requested for assessment purposes. After investigation and assessment of the claim, the daily rates claimed for some of the equipment were reduced to the rates specified in CCG document “EKME 3315540” Edition 1 that had been provided to the Ship-source Oil Pollution Fund. An offer for the established amount of \$515,267.25 was sent to

DFO/CCG on March 29, 2016. The offer was accepted by DFO/CCG and, on or about August 19, 2016, a payment in the amount of \$534,340.76 including interest was made to DFO/CCG as full and final settlement.

Recovery Action

On September 1, 2016, counsel for the Administrator filed a Statement of Claim and an Affidavit to Lead Warrant with the Federal Court. The *Cormorant* was subsequently arrested.

The Port of Bridgewater brought a motion for permission to have certain maintenance bills paid and to be paid off the top of the proceeds of sale, without bringing a formal motion for sale. The Administrator objected, seeking for a formal motion for sale be filed, and the conditions that the vessel be removed from Canada by a financially capable new owner. By Order dated April 26, 2017, the Court granted time to the Port to produce a valuation survey, the result of which ultimately concluded the value of the vessel was not worth the time or money to bring it to sale.

The Administrator brought motion for summary judgment on the issue of ownership (not liability) which was heard in June 2018, along with the motion of the Port of Bridgewater for judgment on default of payment for outstanding berthage. After the motion, the Court requested further submissions. All counsel made written submissions by separate letters. The Court then requested a second oral hearing be held in March 2019. The second hearing on the summary judgment motion with respect to the issue of ownership took place on March 5, 2019. The Court dismissed the motion on April 30, 2019.

On July 22, 2019, the Port of Bridgewater brought a motion seeking judicial sale of the vessel based on its claim for berthage, pollution countermeasures, salvage and other damages. The Court dismissed the motion on July 23, 2019.

On October 29, 2019, the Administrator, the Port of Bridgewater and a numbered company related to the Port of Bridgewater entered into a settlement agreement. Pursuant to the settlement agreement, the parties agreed to a consent judgment in favour of the Administrator against the Port of Bridgewater and the numbered company, in the amount of \$375,000.00. Further, as between those parties, the Port of Bridgewater and the numbered company admitted ownership of the vessel. In exchange for those concessions, the Administrator agreed to an immediate release of certain property from arrest.

On November 8, 2019, the Court issued a consent judgment based on the settlement agreement. The Administrator then registered that judgment against lands held by the Port of Bridgewater.

On November 28, 2019, the remainder of the action was discontinued and all property under arrest within the action was released.

On 17 January 2022, the Administrator recovered \$375,000, following the sale of lands against which the judgment was registered.

Status

The file was closed on 31 March 2022.

Related Files

120-652-C1 – *Hannah Atlantic* (2014), (same location of incident)

120-653-C1 – *Ryan Atlantic II* (ex *Cape Rouge*) (2014), (same location of incident)

120-850-I-G – *Cormorant* (same vessel, same location, same potential claimant, for measures taken starting in the year 2019)

Farley Mowat (2015) (CCG)

Location: Shelburne Harbour, Nova Scotia

Case number: 120-679-C1

The incident

On 24 June 2015, Canadian Coast Guard (CCG) Environmental Response personnel were notified that the MV *Farley Mowat* was sinking at the wharf in Shelburne, Nova Scotia. The vessel was well down by the stern and was thought to be touching the bottom off the Harbour Authority dock.

CCG personnel attended the site on 25 June and found that the *Farley Mowat* could not be boarded because it was unstable and some 20 feet off the side of the dock. A 600-foot containment boom was deployed around the vessel. The harbour was patrolled to locate debris and oil drums that had floated off the deck when the vessel sank. Transport Canada Marine Safety and Environment Canada Enforcement personnel were on site. A Transport Canada surveillance aircraft completed an over flight and reported 37 litres of oil in the harbour between the site and the shipyard. Several media interviews were conducted on site. A diving company was contracted to assess the vessel the following day. CCG arranged to deploy its regional mobile command post and security was posted at the dock gate.

On 26 June, sludge and an oil sheen were observed inside the containment boom and also extending 1000 feet off the dock outside the boom. An additional 200 feet of boom was deployed around the backside of the dock and absorbents were placed inside the booms. Divers assessed the condition of the vessel, the location of the hull leaks, and the amount of oil inside the structure. During the next several days, CCG conducted harbour patrols with two of its pollution response boats and inspected the local trout farm, which had not been affected by the spill. Transport Canada over flights reported 13 litres of oil sheen within the harbour itself.

On 27 June, a contractor arrived with a vacuum truck, which was used to remove oily waste that was floating within four accommodation spaces in the vessel. Oil was found in two separate holding tanks and removed by suction hose with the aid of the diving team. The total volume vacuumed out was 22,500 litres of oil mixture. It was estimated that 10 per cent of the total volume, or 2,250 litres, was fuel oil. In the meantime, CCG personnel recovered the last of the five oil drums that had floated away from the vessel during the sinking. An additional 1000 lbs of oil-soaked absorbents were recovered from the inside of the containment boom for a total recovery of 2000 lbs of absorbent materials.

The contractors continued daily salvage operations from 28 June to 2 August, when the wreck was raised and refloated alongside the pier. A contractor fabricated steel pilings which were driven into the harbour seabed adjacent to the wharf in preparation for the raising operation. These pilings were used as support for the vessel to stabilize it during the raising process. In addition, submersible pumps were used on the vessel once the hull was stabilized. During this extended salvage operation, CCG personnel continued to conduct daily harbour patrols with a pollution response boat, recovering stray oil pads found along the shoreline. CCG also tended to the

containment booms and collected oil-soaked absorbent materials. Air patrols were conducted frequently and the overall monitoring of the contractor's salvage measures continued throughout.

On 3 August, a vacuum truck and hot water pressure washer were used to clean the interior of the vessel. Pumps and hoses were removed, and the divers fabricated and installed plugs on the sea bays. CCG removed the containment booms and demobilized its response boat.

On 5 August, a final inspection of the *Farley Mowat* was completed by Transport Canada Marine Safety, Environment Canada Enforcement, Shelburne Harbour Authority and CCG. It was agreed that all reasonable measures had been taken to remove pollutants from the vessel. The owner was notified that CCG was finished with its response. The *Farley Mowat* was secured alongside and CCG personnel departed the site.

Measures taken by the Administrator

This incident was initially brought to the Administrator's attention on 25 June 2015, by counsel in Halifax. The Administrator, therefore, instructed counsel to engage a marine technical surveyor to attend the scene of the operation during salvage of the sunken vessel. The surveyor had discussions with CCG personnel about the measures planned for the recovery operations. As a result, the surveyor was able later to advise the Administrator about the measures being taken by the contractors during the re-floating operations.

The Claim

On 18 January 2016, CCG, on behalf of the Department of Fisheries & Oceans (DFO/CCG) filed a claim with the Administrator for costs and expenses incurred in the amount of \$814,815.05, pursuant to the *Marine Liability Act*.

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

Assessment and Offer

On 29 June 2016, after investigation and assessment of the claim, the Administrator sent an offer to DFO/CCG for the established amount of \$813,316.15, plus interest, as full and final payment.

The offer was accepted and a payment of \$839,863.02 (including \$26,546.87 in accrued interest) was made to DFO/CCG on or about 23 August 2016.

Recovery Action

In July 2016, the Administrator tasked a professional locator service to investigate the assets of the owner. No significant financial assets were identified. The owner is, however, a repeat polluter whose vessels *Ryan Atlantic II*, *Hannah Atlantic* and *Farley Mowat* have generated claims against the Fund totalling over \$1 million. As a result, the Administrator commenced an action in the Federal Court. The owner filed a defence, and the case was heard on 20 December 2017.

On 4 February 2019, a favourable decision on the Administrator's motion for summary judgment in the amount of \$839,863.02 plus interest was rendered by the Federal Court.

The judgment has been registered in the Personal Property Registry and in Nova Scotia at Land Registration Office for Halifax County. A writ of seizure and sale was obtained in March 2019 but could not be enforced as no exigible assets could be identified or located.

Status

The file remains open.

Related files

Farley Mowat (2015) (Shelburne), file 120-679-C1-1 (same incident, different claimant).

Farley Mowat (2017), file 120-718-C1 (same ship, same location, same claimant, different incident).

Ryan Atlantic II (2017), file 120-653-C1 (same owner).

Hannah Atlantic (2014), file 120-652-C1 (same owner).

Farley Mowat (2015) (Town of Shelburne) ♡

Location: Shelburne Harbour, Nova Scotia

Case number: 120-679-C1-1

The Incident

On 24 June 2015, Canadian Coast Guard (CCG) Environmental Response personnel were notified that the *Farley Mowat* was sinking at the wharf in Shelburne, Nova Scotia. The vessel was well down by the stern and was thought to be touching the bottom off the Harbour Authority dock. CCG responded to the pollution incident and engaged contractors (response measures are described in the summary related to the claim filed by CCG, 120-679-C1).

On 5 August 2015, a final inspection of the *Farley Mowat* was completed by Transport Canada Marine Safety, Environment Canada Enforcement, the Shelburne Harbour Authority, and CCG personnel. All agreed that all reasonable measures had been taken to remove contaminants from the vessel. The owner was notified that CCG was finished with its response. The *Farley Mowat* was secured alongside and personnel departed the site.

During May 2016, the owner's contractors removed the main engines from the vessel, and left the main deck open and exposed to weather. Starting in October 2016 the town had to regularly pump out a significant volume of oily water to prevent further pollution of the harbour and the sinking of the vessel. On 7 June 2017, CCG ordered the vessel's owner to produce a response plan to eliminate the threat of pollution from the *Farley Mowat* by 12 June. The order included the following note: "The MV *Farley Mowat* currently secured alongside the wharf in Shelburne, Nova Scotia, threatening to release pollutants into the marine environment".

The Claim

On 23 June 2017, the Town of Shelburne filed a claim in the amount of \$47,598.78 with the Administrator for costs and expenses incurred from 25 June 2015 to 12 June 2017.

The costs and expenses covered by the claim included:

- Cost of security services required by CCG during its operation to raise the vessel;
- Loss of berthage revenue from 25 June to 9 August (a period of 42 days), during the refloating of the *Farley Mowat* by CCG;
- Removal costs of the debris left on the wharf by the owner when he started to deconstruct the vessel; and
- Costs of pumping oily water from the vessel at regular intervals to prevent further pollution.

The claim of the Town of Shelburne covered two distinct incidents: one in 2015 (the sinking of the vessel), and the other, which created a new pollution risk, in 2016 (caused by the partial deconstruction of the vessel by the owner).

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

Assessment and Offer

On 18 July 2017, after investigation and assessment of the claim, the Administrator sent an offer to the Town of Shelburne for the established amount of \$43,641.94, plus interest, in full and final settlement.

The disparity between the established amount and the claim was due to several factors, the most salient being loss of berthage revenue, which was disallowed, and minor costs related to debris removal and miscellaneous charges.

The offer was accepted, and on or about 6 November 2017 payment was made to the Town of Shelburne.

Recovery Action

In July 2016, the Administrator tasked a professional locator service to investigate the assets of the owner. No significant financial assets were identified. The owner is, however, a repeat polluter whose vessels *Ryan Atlantic II*, *Hannah Atlantic* and *Farley Mowat* have generated claims against the Fund totalling over \$1 million. As a result, the Administrator commenced an action in the Federal Court. The owner filed a defence, and the case was heard on 20 December 2017.

On 4 February 2019, a favourable decision on the Administrator's motion for summary judgment in the amount of \$839,863.02 plus interest was rendered by the Federal Court.

The judgment has been registered in the Personal Property Registry and in Nova Scotia at Land Registration Office for Halifax County. A writ of seizure and sale was obtained in March 2019 but could not be enforced as no exigible assets could be identified or located.

Status

The file remains open.

Related files

Farley Mowat (2015) (CCG), file 120-679-C1 (same incident, different claimant)
Farley Mowat (2017), file 120-718-C1 (same incident, different claimant)
Ryan Atlantic II (2017), file 120-653-C1 (same owner)
Hannah Atlantic (2014), file 120-652-C1 (same owner)

Lady Young (2016)

Location: Deming's Island, Nova Scotia
Case number: 120-688-C1

The Incident

On 14 April 2016, the fishing vessel *Lady Young* grounded on Deming's Island, Nova Scotia, in a lobster fishing and holding area, while on a voyage from Liverpool, Nova Scotia to Jordan's Bay. The vessel had 300 gallons of diesel fuel as well as other pollutants on board. A sheen was observed in the water immediately surrounding the vessel, which was hard aground so that the Canadian Coast Guard (CCG) determined that it could not be salvaged. CCG responded by tasking the *CCGS Clarks Harbour* lifeboat to the scene. The crew with the exception of the skipper were offloaded.

The vessel owner was given a Notice under section 180 of the *Canada Shipping Act, 2001* by CCG, but he advised that he was not able to respond due to financial constraints and absence of insurance. Hence, CCG assumed the role of On-Scene Commander. Absorbent boom was utilized to protect the local lobster fishery, and the Argo ATV was deployed from Dartmouth to the site to provide transportation from the shore to the grounded vessel.

RMI Marine Services (RMI) was engaged to remove pollutants from the vessel. RMI removed the starboard fuel tank from the vessel and emptied other fuel tanks. Oil soaked debris and containers of oil and lube were also recovered. The work was completed on 19 April, and the vessel hulk was left on the island.

The Claim

On 9 August 2016, CCG, on behalf of the Department of Fisheries and Oceans (DFO/CCG), filed a claim with the Administrator of the Ship-source Oil Pollution Fund for costs and expenses incurred in the amount of \$25,747.66 pursuant to the *Marine Liability Act*.

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

Assessment and Offer

After investigation and assessment of the claim, the Administration rate claimed by CCG was reduced to the rate formerly agreed to between the Administrator and CCG. Therefore, the Administrator made an offer for the established amount of \$25,598.67 plus interest, as full and final settlement. DFO/CCG accepted the offer on 14 December 2016, and a payment of \$26,098.69 including interest was made to DFO/CCG on or about 21 December 2016.

Recovery Action

Confirmation was received from Transport Canada concerning the name of the *Lady Young*'s registered owner, who was also the registered owner of the *My4Boys*. On or about 15 March 2017, counsel for the Administrator sent a demand letter to the vessel owner, but it was not picked up. In June 2017, the Administrator instructed counsel to have the sister ship *My4Boys* arrested, and a warrant for arrest was issued on 15 June. An attempt carried out to locate the *My4Boys* was unsuccessful. In February 2018, a professional firm was engaged to conduct a location and asset search on the vessel owner. The search did not identify any property ownerships records under the owner's name, other than the sister ship. Notably, from the social media search effected, it became apparent that the owner had fled the jurisdiction, perhaps in an effort to evade service. Furthermore, there had been report to the effect that the *My4Boys* had also been wrecked.

On 31 August 2018, in the light of the unreasonable effort and cost associated to continue to have the owner engage with the process, and in light of the slim prospect of recovery given his reported impecuniosity, the Administrator filed for discontinuance of the action in the Federal Court. In addition, the Administrator filed documents releasing the previously-obtained vessel arrest warrant.

As the time bar for recourse action was reached and all recovery attempts were exhausted, the Administrator decided to close the file.

Status

The file was closed on 25 April 2019.

Kings Endeavour (2015)

Location: Woods Harbour (Falls Point Wharf), NS

Case number: 120-692-C1

The Incident

On December 29, 2015, the Canadian Coast Guard (CCG) was advised that the abandoned wooden fishing vessel *Kings Endeavour* was sinking at the Falls Point Wharf in Woods Harbour, Nova Scotia. The owner was contacted and promised to undertake necessary repairs, but later was not cooperative. The local Harbour Authority and the CCG concluded that the vessel was a pollution threat and, thus, engaged contractors in April 2016 to remove 900 litres of fuel, 100 litres of lube and hydraulic oils, as well as 2,500 litres of oily bilge water.

The CCG had the roles of On-Scene Commander, Responder and Federal Monitoring Officer during the response to the pollution threat.

The Claim

On August 9, 2016, the Department of Fisheries and Oceans (DFO/CCG) filed a claim in the amount of \$5,773.41 with the Ship-source Oil Pollution Fund.

Assessment and Offer

Following investigation and assessment of the claim, on August 18, 2016, the Administrator offered \$5,234.32, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and payment of \$5,366.90 was thereafter made.

Recovery Action

The Administrator considered all options available for recourse action. Given that the owner of the *Kings Endeavour* was also the owner of the *Farley Mowat* and the *Cape Rouge* and that the Administrator was already seeking a default judgment for these two claims, it was decided that it was not necessary to commence another action.

Status

The file was closed on November 23, 2016.

Related Files

Hannah Atlantic (2014), Bridgewater, NS, Case number: 120-652-C1 (same owner)

Ryan Atlantic II (formerly *Cape Rouge*) (2014), Bridgewater, NS, Case number: 120-653-C1 (same owner)

Farley Mowat (2015), Shelburne Harbour, NS, Case number: 120-679-C1 (same owner)

EM-AN-L (2016)

Location: Weymouth North, Nova Scotia
Case number: 120-699-C1

The Incident

On September 18, 2016, a 40-foot fishing vessel, the *EM-AN-L*, was reported to the Canadian Coast Guard (CCG) as sunk and causing pollution at the Irving Dock in Weymouth North Harbour, Nova Scotia. The vessel had struck a shoal while entering the harbour and was holed. An oil sheen was sighted in the area; however, the owner, who is unknown, did not respond to the incident.

CCG acted as both On-Scene Commander and responder. The vessel, which had a 60 degree list with the starboard quarter partially submerged, was boomed. Sorbents were used inside the vessel and pollutants were removed. A local fisherman assisted by plugging the hole in the stern of the vessel.

On September 20, the vessel was continuing to pollute and the pollution was threatening the lobster holding crates in the Sissiboo River. The soiled sorbents and the booms were subsequently recovered and replaced. On October 3, the soiled sorbent materials were removed and CCG confirmed that the vessel was no longer a pollution threat.

The Claim

On December 2, 2016, the 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 \$4,808.25, pursuant to the *Marine Liability Act* (the Act).

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

Assessment and Offer

Investigation and assessment of the claim were carried out, and an amount of \$202.31 was disallowed because no support documentation was provided. On January 25, 2017, an offer for the established amount of \$4,605.94 plus interest was made by the Administrator to DFO/CCG as full and final settlement. The offer was accepted on February 6, 2017 and a payment of \$4,663.38, including interest in the amount of \$57.44, was made on or about February 10, 2017.

Recovery Action

Since the current owner is unknown, a demand letter was sent to the vessel's registered owner in 2011 by the counsel for the SOPF, on or about March 24, 2017, in order to obtain from the former owner information on the identity of the current owner. The former owner's widow responded that her husband passed away two years ago and she did not know anything about the vessel.

Given the size of the claim, it was not deemed reasonable to further investigate on the change of ownership of the vessel.

Status

The file was closed on April 3, 2017.

Arca I (2017) ■

Location: Sydney Mines, N.S.
Case number: 120-702-C1

The Incident

On January 8, 2017, the small Panamanian registered bunkering tanker *Arca I* lost propulsion in heavy sea and swell conditions. The vessel was forced aground about six miles from the entrance to Sydney Harbour, Nova Scotia. The 53-metre double-hull tanker was in ballast with 15 tonnes of propulsion fuel aboard. Once aground, and considering the winter gale warning in effect, the Master decided to abandon ship; Search and Rescue efforts included a Department of National Defence Cormorant helicopter and the Canadian Coast Guard (CCG) ships *Spindrift* and *Earl Grey*. The crew of the *Arca I* were airlifted and transported ashore.

Shortly after the grounding, the owners contracted with their certified oil spill response contractor Eastern Canada Response Corporation Ltd. (ECRC) to provide the services to monitor the vessel and, if necessary, clean any resulting oil spill. The ECRC mobilized a response crew and equipment, while the owner also contracted McKeil Marine Ltd to deploy two tugboats from Sydney Harbour to salvage the vessel from its grounded location and tow it to a port of refuge.

Throughout the week, several attempts to refloat the vessel were made but were unsuccessful due to adverse weather conditions. Finally, on January 15 the *Arca I* was refloated and towed into Sydney Harbour. The hull of the vessel was undamaged and there was no fuel oil pollution other than the previously reported 3.4 litre hydraulic oil sheen observed by the Transport Canada surveillance aircraft.

Measures taken by the Administrator

The vessel was insured by an insurer which was not a P&I Club from the International Group. The Administrator instructed counsel to seek a security, failing which an action *in rem* would be introduced in the Federal Court and the vessel would be arrested, as provided under Section 102 of the *Marine Liability Act*. On February 28, counsel confirmed that the vessel had been arrested. On March 16, 2017, the Administrator accepted the issue of the Bail Bond as security and on March 27, 2017, the executed Bail Bond was filed with the Federal Court and the vessel was released.

The Claim

On March 28, 2017, the CCG on behalf of the Department of Fisheries & Oceans (DFO/CCG) filed a claim with the Administrator in the amount of \$100,649.50 (later reduced by CCG, after a re-evaluation, to \$94,933.65), pursuant to the *Marine Liability Act*.

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

Assessment and Offer

On April 7, 2017, CCG's Assistant Commissioner for the Atlantic region advised the Administrator's Office that CCG would contact the owner/insurer to settle the claim, and the assessment was put in abeyance. However, on July 21, the CCG requested that the Administrator resume his assessment.

After investigation and assessment of the claim, the Administrator made an offer to the CCG on November 23, 2017. On December 7, 2017, this offer was withdrawn by the Administrator and deemed to be a draft offer open for comment.

On January 25, 2018 the Administrator made a new offer to the CCG for the established amount of \$54,998.13 plus interest. The difference between the claim and the established amount was due to various elements that were disallowed by the Administrator. These included among others, several non-consumable sundry items, as well as the salaries and overtime of certain personnel, which were found to be outside the mandate of the Fund – notably, the cost of communications personnel that provided external communications or internal briefing to the headquarters, was rejected.

The CCG accepted the offer on February 16, 2018, with the caveat that “this acceptance should not be construed as an admission of facts or an agreement with any argument and /or conclusions contained” in the letter of offer.

On or about February 27, 2018, a payment of \$56,878.61 including interest (\$1,880.48) was made to DFO/CCG.

Recovery Action

Upon payment of CCG's claim, the Administrator instructed counsel to seek recovery of this amount with the insurer. On March 15, 2018, counsel advised that a settlement of \$57,000 had been reached with the insurer. On April 5, 2018, the payment of \$57,000 was received.

Status

The file was closed on April 12, 2018.

Farley Mowat (2017) (CCG)

Location: Shelburne Harbour, Nova Scotia

File number: file 120-718-C1

The Incident

On June 7, 2017, the Canadian Coast Guard (CCG) advised the Fund that it was taking action with respect to a new pollution threat related to the vessel *Farley Mowat*, docked at Shelburne Harbour, Nova Scotia.

The vessel, which had been resting alongside the wharf after it sank, was refloated and cleaned in 2015. Thereafter, it had been partially deconstructed by its owner. The owner had removed the vessel's main and auxiliary engines as well as its gearbox. The superstructure above the deck had been removed previously. While the owner was removing the engine and machinery, a large volume of contaminated oily fluid was pumped out. The remains of the engine room were open to the weather, so that during periods of rain or snow, water accumulated in the bilges and combined with oily residues. Consequently, the Town of Shelburne had to periodically engage the services of a pumper truck to empty the exposed bilges of oily water.

On June 27, 2017, the CCG awarded a contract for towage of the vessel to a private contractor. Preparations for the tow were commenced and by July 24, an estimated 33,000 litres of oily bilge mixture had been removed from the vessel. Fifteen tonnes of ballast concrete were loaded to improve stability. The *Farley Mowat* was towed to Liverpool, Nova Scotia on July 26, 2017 under escort, and was subsequently dismantled.

Measures taken by the Administrator

When initially informed about this new CCG response, the Administrator requested from the CCG a copy of the Stability Assessment as well as the Final Assessment Report, both of which were received on June 9, 2017. The Administrator also contracted a marine consultant to attend the vessel on July 11, 2017, for the purpose of observing the pre-tow preparations and the tow to a scrapping facility in Liverpool.

The Claim

On October 10, 2017, the CCG, on behalf of the Department of Fisheries and Oceans, filed a claim with the Administrator for costs and expenses incurred in the amount of \$1,176,126.41, pursuant to the *Marine Liability Act*.

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

Assessment and Offer

On December 14, 2017, after investigation and assessment of the claim, the Administrator sent a draft offer to the CCG. The original deadline for commenting on this draft offer was extended to

March 16, 2018. On March 14, the CCG reverted to the Administrator with comments and with a request to revisit the assessment.

On April 15, 2019, the Administrator made an offer for the established amount of \$872,107.92 plus interest, as full and final settlement. The CCG accepted the offer on May 3, 2019, and a payment of \$925,379.74 including interest was made to the CCG on or about May 14, 2019.

Recovery Action

Given that the Administrator had already obtained a favourable Federal Court judgment against the shipowner in the amount of \$839,863.02, on February 4, 2019, she decided not to pursue any recovery measures on this claim to avoid incurring any unreasonable expenditure.

Status

On recommendation from counsel, the Administrator closed this file on 23 May 2019.

Related files

120-679-C1-1 – *Farley Mowat* (2015) (Shelburne): same ship, previous incident
120-679-C1 – *Farley Mowat* (2015) (CCG): same ship, same claimant, previous incident
120-653-C1 – *Ryan Atlantic II (ex Cape Rouge)* (2014): same owner
120-652-C1 – *Hannah Atlantic* (2014): same owner

Nordika Desgagnés (2018)

Location: Cape Breton, Nova Scotia

File number: 120-746-C1

The Incident

On 11 March 2018, the *Nordika Desgagnés*, a Barbadian-flagged general cargo vessel of 12,974 GT, suffered a steering gear failure approximately 160 nautical miles southeast of Scatarie Island, Nova Scotia. The vessel was in ballast at the time and its main engines and bow thruster remained operational. A winter storm was expected in the area, and the owner of the stricken vessel had made arrangements for a tug to assist, which reached the vessel and connected a towline on 12 March 2018.

The Canadian Coast Guard (CCG) initially classed the incident as search and rescue in character, but it came to the attention of CCG Environmental Response (ER) on 12 March 2018.

CCG ER set up a remote Incident Command Post in Dartmouth to monitor progress on 13 March 2018 and issued a Direction under the *Canada Shipping Act, 2001* to the owner of the vessel requesting a formal Response Plan later the same day. A multilateral telephone conference was arranged that evening. It involved, among other interested parties, the owner of the vessel and CCG ER. A Response Plan was delivered thereafter and deemed acceptable by all parties.

With weather conditions deteriorating, the towline connected to the *Nordika Desgagnés* parted early in the morning on 14 March 2018. The stricken vessel was then 83 nautical miles from Scatarie Island. Regular updates on the situation were provided to CCG ER by the vessel's owner and the Response Plan was revised as needed.

A replacement tug was engaged later the same day, and a CCG vessel was also deployed in support. The drifting *Nordika Desgagnés* was successfully placed under tow a second time, 33 nautical miles from Scatarie Island, on 15 March 2018, and delivered to Port Hawkesbury for repairs just over a day later.

The Claim

On 2 March 2020, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$12,218.68, seeking compensation for costs and expenses arising from the response to the incident involving the *Nordika Desgagnés*.

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

Assessment and Offer

The Administrator conducted an initial review of the claim, which was entirely comprised of personnel costs associated with the Incident Command Centre in Dartmouth. A request for further information was presented to the CCG, and a response was received on 24 March 2020.

On 25 March 2020, in-house legal counsel to the Administrator wrote to the owner of the *Nordika Desgagnés* to advise that the Administrator was investigating and assessing a claim from the CCG with regard to the March 2018 incident involving the vessel. The owner wrote back, requesting the CCG's claim documentation for review, which was provided.

On 24 June 2020, the Administrator received a letter from the CCG indicating that it wished to withdraw its claim, as the matter had been privately settled with the owner of the *Nordika Desgagnés* on 3 June 2020.

Status

With the claim withdrawn by the claimant, the Administrator closed the file on 2 July 2020.

Ryan Atlantic II (2017)

Location: Bridgewater, Nova Scotia

Case number: 120-750-C1

The Incident

On March 25, 2017, the Canadian Coast Guard (CCG) was advised that the ex-fishing vessel *Ryan Atlantic II* appeared to be taking on water alongside the wharf in Bridgewater, Nova Scotia. The vessel was laid up in a deteriorated condition. The cause of the incident was an extremely corroded and leaking fire main pipe.

On March 26, 2017, the CCG assumed the role of Federal Monitoring Officer (FMO), responder and On-Scene Commander (OSC). The CCG hired a marine contractor that provided a dive van, truck, divers and necessary underwater equipment. Another subcontractor was contracted to pump out the engine room and dispose the oily water waste.

CCG sent two Environmental Response (ER) officers to the scene. The wharf manager and the CCG ER officers dewatered the vessel and the level of water in the engine room spaces was reduced to an acceptable level. No oil was removed from the surface area.

The vessel was boarded again on March 26, and it was confirmed that the vessel had oily water in the forward end of the engine room space and in the after engine room space. CCG and the subcontracted company dewatered the engine room space and placed absorbent boom fore and aft of the main engine to collect the residual oils. The vacuum truck removed 11,350 litres of oily, contaminated bilge water from the engine room.

It was discovered that a corroded pipe on the port side of the engine room was allowing a continuous ingress of sea water. Contracted divers fabricated and installed new sea bay covers. They removed the extremely corroded pipe and plugged the end with a wooden plug thus eliminating the ingress of sea water.

The CCG ER officers boarded the vessel to assess bilges in the engine room space. The forward bilge was completely dry, and the after bilge and shaft tunnel contained 0.5 meters of water. No further response action was necessary.

The Claim

On May 1, 2018, the Administrator received a claim from CCG, on behalf of the Department of Fisheries and Oceans (DFO/CCG), in the amount of \$17,975.67, for costs and expenses incurred in response to the incident, pursuant to the *Marine Liability Act*.

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

Assessment and Offer

On May 9, 2018, after investigation and assessment of the claim, the Administrator made an offer to DFO/CCG for the established amount of \$17,645.78, plus interest, pursuant to section 105 of the Act. On May 22, 2018, the Administrator received the acceptance letter from CCG.

On May 23, 2018, the Administrator directed that the amount of \$18,339.53 (which included \$693.75 in accrued interest) be transferred to CCG.

Recovery Action

The Administrator has already sued the same owner for a previous incident caused by the *Ryan Atlantic II* in 2014 (our file 120-653-C1) as well as for another incident caused by another ship owned by the same owner (the *Farley Mowat*). The owner's liability under these two court cases already exceeds by far the value of his identifiable assets. Accordingly, the Administrator decided not to pursue recovery action for this *Ryan Atlantic* additional incident.

Status

The file was closed on June 21, 2018.

Related Files

Ryan Atlantic II (formerly *Cape Rouge*) (2014), Case number: 120-653-C1 (same owner and same location of incident)

Farley Mowat (2015) (Town of Shelburne), Case number: 120-679-C1-1 (same owner)

Farley Mowat (2015) (CCG), Case number: 120-679-C1 (same owner).

Hannah Atlantic (2014), Case number: 120-652-C1 (same owner).

No Name (2018)

Location: Weymouth North, Nova Scotia
Case number: 120-824-C1

The Incident

On 8 January 2018, two Canadian Coast Guard (CCG) Environmental Response officers spotted a sunken 35-foot fishing vessel at the end of a disused dock at Weymouth North, Nova Scotia. At low tide, the wheelhouse of the vessel was visible above the water and an oil sheen was present. The two CCG officers reported the vessel to Labrador Marine Communications and Traffic Services and contacted RMI Marine (RMI), a third-party contractor.

The following day, CCG spoke with the owner of the dock to arrange access, which was barred to vehicles by a line of boulders and a locked gate. RMI then arrived on scene, moved the boulders, and cut the lock. Once it had access to the dock, RMI sent divers to assess the vessel.

On 10 January 2018, substantial ice accumulation on the dock delayed RMI divers in reaching the vessel. There was also a delay in the arrival of the appropriately equipped truck. When the ice had cleared and the truck had arrived, RMI sent a diver to the vessel to attach lift bags. These were inflated, and the vessel was floated and pulled closer to the shoreline as the tide rose. The vessel was secured to the dock and the lift bags were removed.

On January 11, 2018, RMI again sent a diver into the water, to right the vessel, which had listed to port. As the tide lowered, RMI dewatered the vessel. A vacuum truck was engaged to remove mud, debris, and hydrocarbons. Once the vessel had been cleaned, the site was secured and CCG declared the case closed.

The Claim

On 18 October 2018, the Administrator received a claim in the amount of \$33,606.49 from CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) in respect of the incident, pursuant to the *Marine Liability Act*.

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

Assessment and Offer

On 15 November 2018, after investigation and assessment of the claim, the Administrator made an offer to CCG for the established amount of \$33,606.49, plus interest, pursuant to section 105 of the Act. The offer was accepted on 19 November 2018 and, on 22 November, a payment in the amount of \$34,653.42, including interest, was made to CCG.

Recovery Action

In March 2019, the Office of the Administrator reached out to CCG asking if it was able to identify the vessel or its owner. No useful leads were obtained. Fisheries provided a lead on a potential owner, and in-house counsel sent a demand letter. The individual denied ownership of the vessel.

The Administrator determined that all reasonable measures to pursue her subrogated rights on this claim had been taken, and she decided, on recommendation of in-house counsel, to close the file.

Status

The file was closed on 11 July 2019.

Mystery Spill (2018)

Location: Ingomar, NS
Case number: 120-826-C1

The Incident

On April 30, 2018, the Canadian Coast Guard (CCG) at Dartmouth, received a marine pollution report indicating a spill at Ingomar wharf near Shelburne, Nova Scotia. CCG dispatched three Environmental Response (ER) personnel to the scene.

Upon arrival at Ingomar wharf, the CCG ER personnel spoke to a local fisherman who stated that the area had been covered by a sheen earlier in the day. When questioned as to the source of the sheen, the fisherman implicated a specific vessel on the north side of the wharf. The Wharf Supervisor indicated that the owner of this unnamed vessel had been provided with material to clean oil from her bilge. CCG advised that there was no evidence of active pollution by the time ER personnel reached the scene.

ER personnel spoke with a second fisherman before departing the scene. This second fisherman mentioned a second vessel that may have released hydraulic fluid around the time of the first discharge.

Transport Canada officials had been on the scene prior to the afternoon arrival of the CCG ER personnel on April 30. Transport Canada officials advised that the owner of the *Devil's Dream*, a small fishing vessel, had admitted to accidentally releasing engine oil while emptying the vessel's bilge outside the harbour. The owner estimated that eight litres had been lost, with less than one litre ending up in the harbour.

The Claim

On November 15, 2018, the Administrator received a claim in the amount of \$1,406.75 from the CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) in respect of the incident, pursuant to the *Marine Liability Act*.

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

Assessment and Offer

On December 12, 2018, after investigation and assessment of the claim, the Administrator made an offer to CCG for the established amount of \$1,406.75, plus interest, pursuant to section 105 of the Act. The offer was accepted on December 27, 2018 and, on January 10, 2019, a payment in the amount of \$1,446.68 including interest was made to CCG.

Recovery Action

Since the CCG was not able to identify the source of the unrecoverable sheen, the Office of the Administrator contacted Transport Canada in December 2018, to obtain the written statement given by the vessel owner to departmental officials. This attempt proved to be unsuccessful.

On January 31, 2019, counsel for the Administrator sent a demand letter to the owner of the vessel, to which there was no response. Given the small amount of the claim, and the absence of any further leads, the Administrator was satisfied that all reasonable measures had been taken to recover against the polluter, and ultimately decided, on recommendation of counsel, to close the file.

Status

The file was closed on March 28, 2019.

No Name (2018)

Location: Sandy Cove, Nova Scotia
Case number: 120-828-C1

The Incident

On 26 September 2018, the Canadian Coast Guard (CCG) received a report that a 30-foot unnamed fishing vessel was partially submerged alongside a wharf at Sandy Cove, Nova Scotia. The vessel had apparently been undergoing repairs. According to the report, the owner had been informed and intended to have the vessel removed from the water. A sheen was observed around the vessel at this time.

In the afternoon, an Environmental Response (ER) team of two specialists was dispatched from the CCG base at Dartmouth to the scene. The ER team arrived on scene at 15:00 and observed that there was a boom set up around the vessel. There was a mostly non-recoverable sheen both inside and outside the boom.

At 15:30, the ER specialists noted that a contractor had arrived on scene to right and refloat the vessel. A further plan was in place to move the vessel above the high tide line and pump her of pollutants. The contractor appears to have been engaged at the owner's expense. At 16:20, the ER team left the scene of the incident. On September 27, 2018, CCG was informed that the vessel had been successfully removed from the marine environment and was to be deconstructed.

The Claim

On 26 November 2018, the Administrator received a claim in the amount of \$1,157.98 from the CCG behalf of the Department of Fisheries and Oceans (DFO/CCG) in respect of the incident for monitoring costs (salaries, travel, and administration expenses), pursuant to the *Marine Liability Act*. The Administrator determined that the claim was admissible under Part 7 of the Act.

Assessment and Offer

On 7 February 2019, after investigation and assessment of the claim, the Administrator made an offer to CCG for the established amount of \$1,157.98, plus interest, pursuant to section 105 of the Act. The offer was accepted on 12 February and, on 14 February 2019, a payment in the amount of \$1,176.38, including interest, was made to CCG.

Recovery Action

On 28 February 2019, the Office of the Administrator contacted CCG seeking further information about the vessel. CCG's response was received on 1 March 2019.

As there were no leads on the name of the vessel, the owner could not be reliably identified.

Given all reasonable recourse measures had been exhausted, the Administrator, on recommendation of in-house counsel, decided to close the file.

Status

The file was closed on 9 May 2019.

Miss Mall Bay (2019)

Location: Lunenburg, Nova Scotia

File number: 120-890-C1

The Incident

On 22 March 2019, the Canadian Coast Guard (CCG) was notified that the roughly 13-metre fishing vessel *Miss Mall Bay* was dragging anchor at Lunenburg, Nova Scotia. The owner of the vessel later succeeded in securing it, but it broke free and grounded on 3 April 2019. The CCG was again alerted.

Two CCG personnel were dispatched to the scene, where they observed that the vessel was listing and rolling slightly. The owner attempted a refloating operation but was unsuccessful. At this stage, the CCG determined the *Miss Mall Bay* represented an oil pollution threat.

With the owner unable to respond further, the CCG determined that the *Miss Mall Bay* should be removed from the water. The CCG hired a contractor to remove all accessible oils from the vessel, and roughly 950 litres were pumped off on 5 April 2019. Some inaccessible oils remained on board.

On 8 April 2019, another contractor engaged by the CCG refloated the vessel and towed it to a local dock, where it was secured. It showed no signs of water ingress at this time. The CCG was unsuccessful in contacting the owner.

Having received reports that the *Miss Mall Bay* appeared to be low in the water, CCG personnel returned to the vessel on 17 May 2019. Those personnel noted that there had been water ingress into the vessel's bilge spaces. A vacuum truck was hired, and over 9,000 litres of oily water were pumped out of the vessel. The CCG later speculated that the water ingress was a result of rainwater entering the hull through the vessel's deck planking.

Over the roughly 22 months that followed, the CCG was in sporadic communication with the owner of the *Miss Mall Bay*, who repeatedly failed to comply with CCG directions to have the vessel towed away. He stated that he planned to sell it. Over the same period, CCG contractors pumped substantial quantities of oily water from the vessel on multiple occasions. The CCG bore the costs of storing the vessel throughout this entire period.

On 10 January 2020, the CCG had the vessel surveyed while it was in the water. The surveyor reported that the vessel had reached the end of its useful life. The surveyor also noted that the vessel and its components had minimal value.

On 8 March 2021, a contractor engaged by the CCG removed the vessel from the water and deconstructed it.

The Claim

On 1 April 2021, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$183,859.32, seeking compensation for costs and expenses arising from the response to the incident involving the *Miss Mall Bay*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, concluding that the CCG's response operation was unreasonably drawn out. Further, it was concluded that the evidence had failed to show that large portions of the CCG's costs were directed at preventing oil pollution. As a result, most of the claimed costs incurred from 9 April 2019 on were rejected.

The Administrator made an offer of compensation to the CCG in the amount of \$35,824.08, plus accrued statutory interest, on 5 November 2021.

The CCG accepted the offer on 23 December 2021, and payment from the Fund in the amount of \$39,193.09, including interest, was made shortly thereafter.

Recovery Action

On 16 April 2021, in-house Legal Counsel to the Administrator obtained from Transport Canada a registration transcript and additional documents with respect to the *Miss Mall Bay*. Though the individual identified as the vessel's owner was never listed as its registered owner, additional documents provided by Transport Canada showed that he had purchased it from its last registered owner in 2018.

In an attempt to obtain a current address for the owner of the *Miss Mall Bay*, the Administrator issued *Inquiries Act* subpoenas to Nova Scotia Power Inc. and the Nova Scotia Department of Transportation and Infrastructure Renewal. The responses provided several possible physical and email addresses for the owner. Further investigation efforts also turned up potentially useful leads.

Counsel sent a total of four demand letters to the various addresses obtained through investigation, but no reply was received from the owner.

On 22 March 2022, the Administrator filed an action against the owner of the *Miss Mall Bay* in the Federal Court.

As of 31 March 2022, the Administrator's attempts to locate the owner of the *Miss Mall Bay* continued.

Status

The file remained open at the end of the fiscal year.

Miss Tricia Lynn (2019)

Location: Chéticamp, Nova Scotia

File number: 120-893-C1

The Incident

In the early morning hours of 19 May 2019, the *Miss Tricia Lynn*, a wooden fishing vessel of approximately 14 metres in length, caught fire while moored at Chéticamp, Nova Scotia. The vessel began to drift and ultimately burned to the waterline. Oil was discharged into the water as a result.

Canadian Coast Guard (CCG) personnel were dispatched to the scene later in the day on 19 May 2019. They deployed sorbent materials around the vessel and met with the owner, who was mounting a response with the assistance of the vessel's insurer.

Over the following days, the CCG personnel returned to the scene on three occasions, mostly in a monitoring capacity. Ultimately, the owner had the vessel removed, and 23 May 2019 the CCG disposed of the sorbent materials that had been soiled in the course of the response.

The Claim

On 18 May 2021, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$10,812.75, seeking compensation for costs and expenses arising from the response to the incident involving the *Miss Tricia Lynn*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim. Nearly the entire claimed amount was found to be established, with only a minor reduction being made to the CCG's claim for administration costs.

The Administrator made an offer of compensation to the CCG in the amount of \$10,803.86, plus accrued statutory interest, on 27 July 2021.

The CCG accepted the offer on 30 July 2021, and payment of \$11,639.68, which included the principal plus \$835.82 in accrued statutory interest, was made shortly thereafter.

Recovery Action

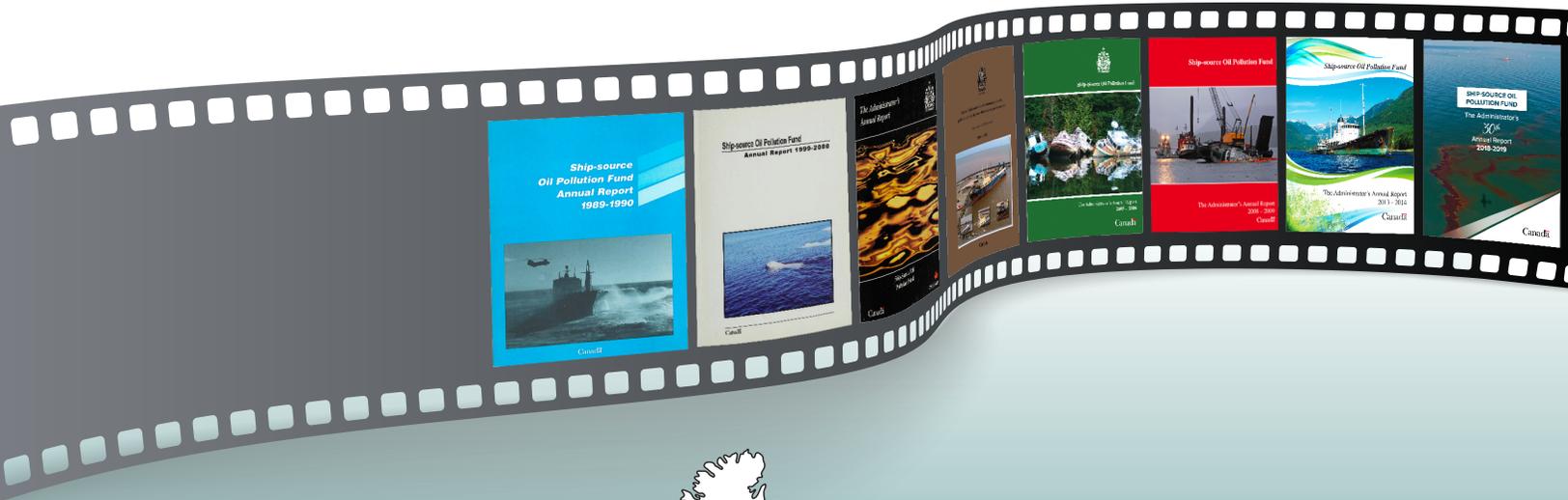
A demand letter was sent via registered mail to the registered owner of the *Miss Tricia Lynn*, a First Nations Band, on 26 August 2021. The letter was delivered, but no reply was received.

Attempts to contact the owner of the *Miss Tricia Lynn* continued as of 31 March 2022.

Status

The file remained open at the end of the fiscal year.

NEW BRUNSWICK



Camargue (1989) ☰

Location: Saint John, NB
Case number: 120-030-C1

The Incident

On June 17, 1989, the French flag tanker *Camargue* arrived at the Canaport Monobuoy off Mispic Point in the Bay of Fundy to discharge a cargo of crude oil. On the following day, during refueling operations from the Canadian oil barge *Irving Shark*, an estimated 80 tonnes of bunker fuel oil were discharged into the water. The Canadian Coast Guard (CCG) took measures to contain and recover the fuel oil discharge.

On or about June 19, 1989, the P&I Club acting for the ship issued a Letter of Undertaking for up to \$500,000.00 to cover the CCG costs involved.

Administrator as Party by Statute

As the *Camargue*'s owner did not agree to the amount claimed by the CCG for its incurred costs and expenses, on April 24, 1992, the Crown commenced an action against the *Camargue* and her owners and insurers (collectively, the Defendants) claiming \$1,275,048.78 for damages, costs and expenses incurred as a result of the oil discharged from the *Camargue*. An amended Statement of Claim was filed on June 12, 1992, changing the name of the shipowner. The Administrator was joined as a party by statute in accordance with Section 713 of the *Canada Shipping Act* (the Act).

The Defendants denied any liability for the Crown's costs and expenses on the basis that the incident did not result in any pollution damage and brought third party proceedings against the owner and operator of the refueling barge, the oil terminal involved and others (collectively, the Third Parties) on February 24, 1993. On September 2, 1993, the joint defence of the Third Parties replied to the Crown's amended Statement of Claim, denying the Crown's claim on the basis that no costs, expenses, loss or damage, as described in section 677(1)(b) or (c) of the Act, were incurred by the Crown.

On December 1, 1997, the Administrator was informed that an out of court settlement had been reached and a Notice of Discontinuance was filed on November 28, 1997. The settlement did not involve the Administrator.

Status

The file was closed on March 31, 1998.

Carapec 1 (1993)

Location: Caraquet, NB
Case number: 120-083-C1

The Incident

The Norwegian built and Canadian registered fishing vessel *Carapec 1* had been abandoned and tied up at the Caraquet Marine breakwater, Caraquet, New Brunswick since May 1993, in an apparently derelict condition. During October 1993, there was increasing local concern about the safety of the vessel and the potential for pollution. The situation was therefore brought to the attention of the Canadian Coast Guard (CCG). On October 21, 1993, in the absence of a response from the vessel registered owner, the CCG took measures to have the vessel dewatered, some 6,000 gallons of diesel lube oil and water mixture removed, the hull leakage stopped and the vessel properly secured.

Efforts were thereafter undertaken by the CCG to identify the true owner of the *Carapec 1*. Pursuant to a Bill of Sale dated January 27, 1993, the vessel's ownership was transferred to a person in Calgary, Alberta. However, the change of ownership was not reported to the Registrar at the vessel's Port of Registry, Caraquet, New Brunswick. The Calgary based owner then denied ownership of the vessel, claiming to have been only acting as agent for a Hong Kong company, which also refused to accept responsibility for the vessel. The dispute over the vessel ownership remained therefore unresolved.

The Claim

No claim has been filed with the Ship-source Oil Pollution Fund (the Fund) but the Administrator was informed that the CCG costs and expenses in making the *Carapec 1* safe amounted to \$25,326.44.

Any potential claim in this case against the Fund was time barred on or about October 22, 1995.

Status

The file was closed on March 31, 1996.

Tito Tapias (1994) ■

Location: Red Head, Saint John, NB

Case number: 120-089-C1

The Incident

On January 11, 1994, the Panamanian flag tanker *Tito Tapias* reported an oil spill of one to two barrels of bunker oil while refueling from the Canadian barge *Shark VII*. The *Tito Tapias* was at anchor off Red Head, Saint John, New Brunswick at the time of the incident, after completing discharge of her oil cargo. A helicopter overflight on January 11, 1994, raised the amount of oil spilled to a minimum of 10 barrels and noted that 200 meters of shoreline in the area had traces of oil and that further oil could be expected to come ashore.

The tanker's P&I Club engaged a response organization to undertake clean-up operations with the Canadian Coast Guard (CCG), and Environment Canada monitored the situation closely. Besides, to avoid detention of the vessel, on January 12, 1994, the tanker's P&I Club provided undertakings to the Ship-source Oil Pollution Fund (the Fund) to handle all third-party claims for oil pollution damages, costs and expenses, to the extent of the shipowner's legal liability and issued a Letter of Undertaking for the amount of up to \$75,000.00 as security for payment of clean-up costs to the CCG and the Fund.

Another helicopter overflight on February 1, 1994 confirmed reports of Bunker C type oil being washed ashore along the Digby shore from Delaps Cove to Hampton, Nova Scotia. Samples of the oil confirmed that it originated from the *Tito Tapias*. On February 28, 1994, new reports of oil pollution of the shoreline between Hillsburn and Hampton, Nova Scotia, were received. However, it could not be shown at the time that the oil was from the *Tito Tapias*. On May 31, 1994, further shoreline oiling was found at Hillsburn, Nova Scotia, and confirmed to have originated from the *Tito Tapias*. Further to a meeting between the CCG and representatives from the *Tito Tapias*' owners, it was reaffirmed that the vessel owners accepted the financial responsibility for the cleanup of the oil in the areas shown to be from the vessel.

The clean-up operations were completed on July 15, 1994. Up to that date, 25,043 bags of oiled debris and 237 oiled birds had been recovered.

On August 4, 1994, following a prosecution under the *Oil Pollution Prevention Regulations* during which witnesses, on behalf of the CCG, testified that the oil discharged amounted to between 17 and 35 tonnes, the Court ordered the tanker owners, who pleaded guilty, to pay a fine of \$75,000.

The Claim

No claim was filed with the Fund.

On February 26, 1996, the Crown settled its claim against the vessel for the CCG part of the cleanup for \$165,000.00, without recourse to the Fund.

Status

The file was closed on March 31, 1996.

Roxanne Reanne (2001)

Location: Navy Island, St. Andrews, NB
Case number: 120-295-C1

The Incident

During a storm on November 20, 2001, the Canadian wooden fishing vessel *Roxanne Reanne* broke her moorings and ran aground on Navy Island, near St. Andrews, New Brunswick. The Canadian Coast Guard (CCG) responded and found that the vessel contained diesel and lube oil. The *Roxanne Reanne* was refloated and then towed to St. Andrews public wharf where the CCG arranged for the approximately 450 litres of diesel and 40 litres of lube oil to be removed. No pollution occurred.

The owner was located in Montreal but he stated that he had no insurance and took no action. At the request of the CCG, a marine surveyor examined the *Roxanne Reanne* on November 29, 2001 and found her to be in deteriorated condition. Besides, he noted that the hull as is, where is, could have a maximum value of \$1,000.00. On December 12, 2001, the CCG moved the vessel to Bayside, New Brunswick where, on the next day, a contractor commenced demolition. On December 14, 2001, demolition was completed to the CCG's satisfaction and the debris had been transported to an approved landfill site.

The Claim

On March 27, 2003, the CCG filed a claim with the Ship-source Oil Pollution Fund in the amount of \$3,283.06 for their costs and expenses in responding to the incident.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator offered \$2,390.22 to settle the claim, which offer was accepted by the CCG on March 31, 2003. Payment of the settlement amount, plus \$153.92 interest, was thereafter made that same day.

Status

The file was closed on March 31, 2003.

Santa Emma (2005)

Location: Cape Tormentine, NB

Case number: 120-459-C1

The Incident

In early January 2004, the *Santa Emma*, a Panamanian registered twin screw Ro/Ro cargo vessel, arrived at Cape Tormentine, New Brunswick from Piraeus, Greece. Upon her arrival, she was detained by Transport Canada Marine Safety (TCMS) for a number of deficiencies. On June 24, 2004, she was arrested at Cape Tormentine. Concerns were expressed by some authorities for the safety and security of the *Santa Emma* at the Cape Tormentine wharf and the potential for an oil pollution incident involving the vessel. In the early morning of April 29, 2005, high winds caused the *Santa Emma* to part several of her lines which moved her off the wharf. The vessel was driven aground by the wind and collided with an adjacent wharf, resulting in a hole in her starboard quarter, approximately one metre above the waterline. At first light, it was observed that the *Santa Emma* had a 12-degree list, a damaged hull and an engine room and cargo hold flooded with hundreds of tonnes of fuel oil/water mixture. Several hundred tonnes of heavy fuel oil were also believed to be onboard in double-bottom tanks. Authorities were of the view that the vessel was at imminent risk of sinking and causing a serious marine pollution incident in an area where there were scallop and lobster fisheries and a wildlife refuge.

Since the vessel was still under a Transport Canada detention order, the Canadian Coast Guard (CCG) Emergency Response (CCG ER) deployed personnel and equipment to the site and engaged contractors in order to stabilize the vessel and conduct a pollution response. The response team was composed of the CCG ER, seven members of the United States Coast Guard Gulf Strike Force from Mobil, Alabama, TCMS, Environment Canada (EC) and the Regional Environmental Emergency Team. By May 27, 2005, some 1,000 tonnes of a mixture containing diesel fuel, lube oil, heavy fuel oil and water had been removed from the vessel. An estimated 50 tonnes of heavy oil remained in the *Santa Emma* distributed through several tanks. On May 30, 2005, all the response personnel and equipment left the site. On September 16, 2005, the *Santa Emma* left Cape Tormentine undertow destined for demolition in India. On October 7, 2005, it was reported that she went down as a result of bad weather approximately 135 nautical miles southwest of the Azores.

Measures taken by the Administrator

The Administrator retained a surveyor to monitor the response operations.

The Claim

On February 14, 2006, the Crown filed a claim with the Ship-source Oil Pollution Fund for the costs and expenses of CCG and EC totalling \$717,845.21.

Assessment and Offer

During the summer of 2006, the Administrator sought additional information and documentation from the CCG and EC to assist in his investigation and assessment of the claim. On July 21, the

CCG provided the Administrator with the requested information, and on September 25, EC responded with information with respect to the technical and scientific support provided to CCG during the incident. Further particulars on the quantum and reasonableness of various activities carried out by the commercial contractor engaged by the CCG were thereafter requested. In a letter dated October 4, 2006, the Administrator asked the CCG about the Crown's knowledge of the critical events (weather forecast, the state of the ship and whether it was properly secured, etc.) immediately prior to the incident, and about related responsibilities and actions of the Department of Fisheries and Oceans, the Department of Transport and the Department of Environment. The CCG replied to the Administrator's letter on July 17, 2007 by addressing the questions raised in connection with the Administrator's obligation under the parameters of section 86(3)(b) (ii) of the *Marine Liability Act* (MLA). Under this provision, the Administrator is to consider whether the claims presented by the CCG in the *Santa Emma* incident may be characterized as resulting wholly or partially from the negligence of the claimant.

After review of the additional information, the Administrator concluded the circumstances in section 86(3)(b) (ii) of the MLA were not established and thus, offered \$768,268.67 including interest in full and final settlement of the claim. The CCG accepted the offer on October 11, 2007, and payment of the settlement amount was made on October 19, 2007.

Recovery Action

The Administrator instructed counsel to investigate whether there were reasonable measures that could be taken to recover the amount paid to the CCG pursuant to section 87(3) of the MLA. On February 6, 2008, counsel obtained a certificate issued by the Consulate General of Panama in New York indicating that the vessel *Santa Emma* had been in the registered ownership of Marine Management Services (UK) Limited since September 23, 2003. However, other information was also obtained to the effect that the title was transferred to a Liberian corporation, Rikan Shipping Inc. in November or December 2004.

On April 24, 2008, a Federal Court action was served against the two companies identified as potentially having an ownership interest in the *Santa Emma* at the time of the pollution incident. Neither company filed a defence or otherwise appeared, nor made contact following service. The services of counsel both in the United Kingdom and Liberia were then engaged to search about the two companies. Unfortunately, despite the searches, it was not possible to identify any assets of the companies. On the basis of these investigations, the Administrator, in consultation with counsel, concluded that there was no reasonable prospect of recovering the costs related to the incident. He, therefore, considered inadvisable to incur further expenses in pursuing this matter.

Status

The file was closed on March 31, 2009.

Ma Belle (2011)

Location: Richibucto, NB
Case number: 120-639-C1

The Incident

On August 10, 2011, the Canadian Coast Guard (CCG) in Saint John, New Brunswick received a report that the fishing vessel *Ma Belle* had lost power and drifted onto the beach near Richibucto in the Northumberland Strait. The Captain of the vessel reported that there were approximately 700 litres of fuel oil on board, but no oil pollution had occurred. The CCG was informed that a representative of the local First Nations, Big Cow Band, was working in collaboration with the vessel owner on a recovery plan, which would include unloading the fishing traps and towing the stranded vessel off the rocks at high water.

When the CCG received the initial incident report, two Emergency Response personnel from the Saint John base proceeded to Richibucto for a first-hand inspection and to develop an action plan. Upon their arrival, no oil pollution was seen. The representative of the First Nations Band was provided with a Notice Order with respect to the vessel owner's responsibility. The representative was also advised that the CCG personnel would assume the role of Federal Monitoring Officer and that costs and expenses incurred would be invoiced.

Later in the week, CCG personnel from Charlottetown, Prince Edward Island, also attended the site of the incident to monitor the situation. Furthermore, a Regional Environmental Emergency Team (REET) teleconference was convened and chaired by Environment Canada. As a result, arrangements were made for a helicopter flight over the site on the following morning. CCG personnel were then advised by REET that, due to the sensitivities associated with the sand dunes in the area, if necessary, the fuel oil should be removed by helicopter with fuel bladders. The vessel owner and insurance adjuster were informed of the CCG's intentions. However, in the end, the process of mobilizing helicopter fuel bladders was not required. The first attempt to tow the *Ma Belle* off the beach was unsuccessful, but with additional salvage action on August 15, the vessel was refloated and secured at the Richibucto wharf. The next day, the owner's crew patrolled the beach and no oil pollution was discovered.

The Claim

On August 13, 2013, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$23,739.27 for costs incurred during the on-site monitoring, pursuant to the *Marine Liability Act*.

Assessment and Offer

After acknowledging receipt of the claim, the Administrator informed the CCG that, from a preliminary review, the submitted documentation was incomplete and he was, therefore, unable to make a thorough assessment. Besides, he indicated that the claim was probably time-barred as far as direct submission to the Fund was concerned, but it may not be time-barred against the vessel owner. On September 11, 2013, the CCG submitted its opinion that, in this case, any doubt with

respect to the limitation period should benefit the claimant and the assessment of the claim should be completed. On December 5, 2013, DFO/CCG was informed that the Administrator was unable to agree with the reasoning of the CCG and accordingly disallowed the claim on the grounds that it was time-barred, at least as far as direct filing with the office of the Administrator was concerned.

Status

The file was closed on March 31, 2014.

Rene Brazeau (2011)

Location: Saint John, NB
Case number: 120-645-C1

The Incident

On February 12, 2011, the Canadian Coast Guard (CCG) received a report that the dredge barge *Rene Brazeau* had sunk with an excavator onboard while moored to the dock at pier 23 in Saint John, New Brunswick. The Atlantic Emergency Response Team was engaged by the barge owner to conduct clean-up of the upwelling oil. The CCG Environmental Response personnel attended the scene and assumed the role of Federal Monitoring Officer. Representatives of the owner's P&I Club, the excavator insurance appraiser, a contracted diving company, the Port Authority, Transport Canada and the barge owner were all involved in the measures taken during the recovery operation. Response to the incident was carried out intermittently over several months throughout winter. On May 10, 2011, the barge was successfully raised.

The Claim

On February 3, 2014, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$40,880.32, pursuant to the *Marine Liability Act*.

Assessment and Offer

The Administrator acknowledged receipt of the claim and explained that upon preliminary review of the claim documentation, the claim appeared to be time-barred but he welcomed additional submission or argument to address the time-bar issue. On March 11, 2014, the CCG responded to advise that no further justification would be provided since they accepted that the claim was submitted beyond the time bar reserved for filing claims with the Fund.

Status

The file was closed on March 12, 2014.

MacEachern's Point Wharf (2014)

Location: Tabusintac, NB
Case number: 120-651-C1

The Incident

On May 5, 2013, a fire occurred at the MacEachern's Point Wharf in Tabusintac, New Brunswick. The fire destroyed the upper structure of five fishing vessels and they sank alongside their mooring docks, causing an upwelling of oil on the surface of the water. Each vessel contained approximately 150 gallons of fuel oil, plus a quantity of lube and hydraulic oils. The Canadian Coast Guard (CCG) Environmental Response personnel based at Charlottetown, Prince Edward Island, proceeded to the site and took appropriate action to mitigate the extent of oil pollution. Upon arrival, it was found that the Royal Canadian Mounted Police (RCMP) was conducting an investigation into the cause of the fire. In addition, the Small Craft Harbour Authority was arranging to remove the sunken fishing vessels. However, they were not prepared to remove the oil products and contaminated debris. On May 6, the RCMP released the scene and CCG personnel commenced removal of the debris and pollution in conjunction with the operations of the Small Craft Harbour Authority to raise the five sunken vessels. The CCG then engaged a local contractor to clean up and dispose of the contaminated materials.

The Claim

On March 27, 2014, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund in the amount of \$55,937.21 for costs and expenses incurred during response to the incident, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

The Administrator investigated and assessed the claim. There was significant delay in obtaining from CCG the necessary substantiating documentation to assess the merits of the claim. On January 15, 2015, the Administrator made an offer for the established amount of \$55,200.68, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer on March 10, 2015, but payment of the settlement amount was withheld as a duly executed Release and Subrogation Agreement had not been returned by the CCG. The settlement amount of \$60,497.28, inclusive of interest, was paid in August 2016.

Recovery Action

On August 10, 2016, the Administrator noted that a responsible party had not been identified during the assessment and investigation of the claim. Therefore, he concluded that all reasonable measures to recover the amount of the payment had been taken and closed the file.

Status

The file was closed on August 10, 2016.

L'Épaulard (2018)

Location: Black's Harbour, New Brunswick

File number: 120-876-C1

The Incident

On 4 November 2018, the Canadian Coast Guard (CCG) was notified that an approximately 54-foot wooden fishing boat known as the *L'Épaulard* had sunk at the wharf in Black's Harbour, New Brunswick. The report indicated there was oil pollution visible on the harbour's waters.

The CCG dispatched environmental response personnel to attend the scene. The CCG personnel communicated with the *L'Épaulard*'s owner, who confirmed he would be responding to the incident in conjunction with his insurer. The CCG proceeded to monitor the salvage effort over several days. CCG personnel also deployed sorbent materials to support the salvage effort and capture oil pollution from the harbour.

The Claim

On 3 November 2020, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$7,821.73, seeking compensation for costs and expenses arising from the response to the incident involving the *L'Épaulard*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, concluding generally that the CCG's response and monitoring efforts were reasonable in the circumstances. A moderate reduction was made with respect to the CCG salary claim for the last two days of response. On the last two days of the response, no further recoverable oil pollution was present. The only task remaining was to monitor the owner's salvage efforts, an effort which would reasonably have required only one CCG officer.

The Administrator made an offer of compensation to the CCG in the amount of \$7,674.80, plus accrued statutory interest, on 26 January 2021.

The CCG accepted the offer on 12 March 2021, and payment from the Fund in the amount of \$8,344.69, including \$669.89 in interest, was made shortly thereafter.

Recovery Action

The office of the Administrator sent a demand letter to the vessel's owner at an address provided by the CCG. No response was received.

On 3 November 2021, in-house counsel to the Administrator filed an action in the Federal Court against the owner of the *L'Épaulard*.

A process server was hired to personally serve the Defendant. Several attempts by the process server in January 2022 were unsuccessful. Copies of the Statement of Claim were left at the Defendant's apparent residence. In addition, copies were posted to that address and another address that had been uncovered by way of an *Inquiries Act* subpoena.

Ultimately, it was decided to prepare materials in support of a motion to validate service on the Defendant. Preparation of those materials was underway as of 31 March 2022.

Status

The file remained open at the end of the fiscal year.

PRINCE EDWARD ISLAND



Irving Whale (1970) ■

Location: Gulf of St. Lawrence, North Point, PEI

Case number: 120-002-C1

The Incident

On September 7, 1970, the Canadian ocean-going tank barge *Irving Whale*, carrying a cargo of 4,200 metric tonnes of Bunker C oil, while under tow by the tug *Irving Maple*, on a voyage from Dartmouth, Nova Scotia to Bathurst, New Brunswick, sank in the Gulf of St. Lawrence in some 67 metres of water, about 60 km northeast of North Point, Prince Edward Island. A large amount of oil leaked from the barge. It fouled the beaches of the Magdalen Islands and some appeared on the coast of western Cape Breton. A cleanup of the spill ensued. Following the incident, the shipowners were paid for the loss of the ship and abandoned it to the underwriters who refused to accept the abandonment. Consequently, the *Irving Whale* remained on the seabed in the Gulf of St. Lawrence.

In the summer of 1971, consideration was given to raising the wreck. However, although various steps were taken in preparation to salvage the wreck, no action was taken. Over the years, the Canadian Coast Guard (CCG) had maintained surface surveillance in the area of the sinking and conducted several diving inspections. In 1992-1993, there appeared to be some public perception that the *Irving Whale* had become a pollution threat and preventive measures must be taken. In fact, according to an underwater survey conducted in August 1990, about 3,100 metric tonnes of oil remained on board. It was estimated that approximately 1,100 metric tonnes of oil had leaked from the wreck.

An environmental assessment dealing with raising the wreck was carried out in early 1994 and on August 5, 1994, the Minister of Transport and the Minister of Environment announced the decision to proceed with the *Irving Whale* recovery project. The CCG organized public meetings at various locations in the Maritime Provinces and the Magdalen Islands in order to receive public input. On June 9, 1995, a contract to raise the *Irving Whale* was awarded and during the days that followed, activity to organize the recovery took place. In the course of that activity, on June 26, 1995, J.D. Irving Ltd., the barge owner, advised the Department of the Environment (EC) that there were polychlorinated biphenyls (PCBs) on the barge. Samples of sediment from around the barge and elsewhere were analyzed. It became clear that at least some of those PCBs had leaked into the marine environment; some were mixed with the oil that had escaped on the initial sinking of the barge and some appeared to have leaked independently of that event. As a result of this new information, another environmental assessment was undertaken. The study, released on July 14, 1995 (the July 1995 Study), concluded that as long as the barge remained underwater, any attempt to determine the actual location and quantity of PCBs on the barge, or the precise origin of the PCB contamination that had already occurred, introduced the risk of releasing uncontrolled PCBs into the environment. It further concluded that the potentially adverse environmental effects of lifting the barge were insignificant or mitigable with known technology. That decision led to litigation in the Federal Court of Canada; hence, the recovery project was stayed until either a full hearing on the challenge to the July 1995 Study could be heard by the Court or the relevant federal departments undertook a more in-depth environmental assessment. Pursuant to that order, a further

assessment was conducted and released on March 12, 1996, according to which the Department of Fisheries and Oceans (DFO) and EC concluded that the environmental impact of the recovery of the *Irving Whale* in light of the presence of PCBs was insignificant or mitigable with known technology. Public information sessions were then held and after a hearing in the Federal Court on June 3-4, 1996, the Court allowed the recovery project to proceed.

On June 25, 1996, the CCG commandship *Sir William Alexander* arrived on site. Diving operations commenced on June 30, 1996 and on July 30, 1996, the *Irving Whale* was brought to the surface and dewatering began. The following day, the *Irving Whale* was placed on *Boa 10* and towed to Alberton, Prince Edward Island, to be cleaned, marine growth removed and readied for towage to Halifax, Nova Scotia. The *Boa 10* and the *Irving Whale* arrived in Halifax on August 7, 1996.

Administrator as Party by Statute

On July 29, 1997, the Crown filed a Statement of Claim in the Federal Court of Canada against the following defendants: J.D. Irving Limited, Atlantic Towing Limited, Irving Oil Company Limited, the tug *Irving Maple*, her owners and all others interested in her, Universal Sales Limited (collectively, the Irving Defendants) and, as a Party by Statute, the Administrator of the Ship-source Oil Pollution Fund (the SOPF). On September 29, 1997, the Irving Defendants filed a Statement of Defence and Counterclaim in the action, alleging various defenses against the claims by the Crown and counterclaimed that in the event the defendant J.D. Irving Ltd., or any other defendant, was found liable for the Crown's claim, based on sections 677(1) of the *Canada Shipping Act* (the Act), those defendants would be entitled to limit their liability pursuant to section 679 of the Act because the sinking of the *Irving Whale* occurred without their actual fault and privity. On November 28, 1997, the Crown filed a Reply and Defence to Counterclaim. In its Defence to Counterclaim, it alleged that if the sinking of the *Irving Whale* was the occurrence giving rise to liability, it occurred with the fault and privity of the shipowner and thus, the latter would not be entitled to limit its liability.

On January 29, 1998, the Irving Defendants filed a Statement of Claim in the Federal Court of Canada against the International Oil Pollution Compensation Fund 1971 (the IOPC Fund) claiming that if they were found liable to the Crown, they would be entitled to indemnification from the IOPC Fund in accordance with Article 5 of the 1971 Fund Convention. Filing of affidavits and cross examinations of witnesses then followed. Motions for Summary Judgment were made to the Federal Court by the Irving Defendants on October 22, 1998, the IOPC Fund on October 28, 1998 and the SOPF on October 29, 1998. The Crown filed replies to these Motions on November 20, 1998 and the matter was set for hearing by Mr. Justice Hugessen on December 9-10, 1998 in Montreal.

On December 21, 1998, Mr. Justice Hugessen found, *inter alia*, that the Crown's claim against the SOPF was time-barred. In addition, it was declared that the SOPF had no liability to the plaintiff arising out of the sinking of the *Irving Whale*. The action against the Irving Defendants was also dismissed insofar as it was based on Part XVI of the Act, but claims based on other causes of action continued. Finally, the claim against the IOPC Fund as a defendant by statute was dismissed and it was declared that the IOPC Fund had no liability to the plaintiff arising out of the sinking of the *Irving Whale*. The Crown did not appeal the decision in respect of any of the defendants.

Therefore, it was understood that there would be no involvement of either the SOPF or the IOPC Fund in the Crown's claims against the Irving Defendants based on other causes of action.

Following negotiations with the Crown, the Administrator received payments from the Crown in the amount of \$10,000.00 in respect to SOPF's legal costs on August 4, 1999 and \$90,000.00 in respect to SOPF's allowable disbursements on September 28, 1999.

Status

The file was closed on March 31, 2000.

Mystery Spill (1990)

Location: Graham Pond, PEI

Case number: 120-047-C1

The Incident

On May 15, 1990, an oil spill was found at Graham Pond, Prince Edward Island. The source of the oil was unknown and the Canadian Coast Guard (CCG) responded to the spill.

The Claim

On August 31, 1990, the Administrator received a *pro forma* invoice from the CCG Maritimes Regional Office amounting to \$10,225.35 relating to the response to the oil spill. In response, counsel for the CCG was advised that the *pro forma* invoice could not be accepted since it was not an acceptable method of establishing a claim against the Ship-source Oil Pollution Fund.

On November 30, 1994, the CCG counsel sent a letter to the Administrator requesting that the claim be accepted. However, the claim was time-barred as of May 16, 1993.

Status

The file was closed on March 31, 1995.

Mystery Spill (1991)

Location: Red Point Provincial Park, PEI

Case number: 120-059-C1

The Incident

While patrolling the Red Point Provincial Park, Prince Edward Island, on August 30, 1991, a Park Warden found Bunker C oil on approximately 500 meters of beach. The Canadian Coast Guard (CCG) arranged a cleanup of the oil but was unable to determine its source, notwithstanding that, the night before the spill, a vessel was known to have passed through the Northumberland Strait, the stretch of water to the south of the Park.

The Claim

On July 16, 1992, the CCG filed a claim with the Ship-source Oil Pollution Fund for \$4,080.32 covering costs and expenses incurred in the response to the oil spill incident.

Assessment and Offer

As the source of the oil was unknown and it was not possible to establish that the incident which gave rise to the spill was not caused by a ship, the CCG was entitled to the presumption that the oil was discharged by a ship. Therefore, after assessment and investigation of the claim, an amount of \$3,396.13 was offered to the CCG in full settlement of its claim, which offer was accepted. A payment in that amount was therefore directed by the Fund to the CCG on February 20, 1995.

Status

The file was closed on March 31, 1995.

Jameson Point (2009)

Location: Summerside, PEI

Case number: 120-587-C1

The Incident

On December 9, 2009, the United States registered 90-foot ex-steel tug *Jameson Point*, built in 1944, reported dragging anchor off Point Escuminac, New Brunswick, while en route to the Miramichi River. The Canadian Coast Guard (CCG) ship *George R Pearkes* towed the vessel to Holman's Wharf Summerside, Prince Edward Island. It appeared that the tug was unable to cope with the moderate sea state and wind conditions. Alongside at Summerside on December 10, the CCG Environmental Response personnel, assisted by a Transport Canada Marine Safety inspector, investigated the status of the vessel to determine if there was any threat of pollution. In addition to bulk fuel and engine lubricants secured above deck, there was a 500-gallon diesel tank and a number of 45-gallon drums of unknown products. The crew was in process of winterizing the vessel.

On December 15, the wharfinger reported that the vessel had listed 12 degrees. There was concern about possible spills from the oil tank and drums on deck and the overall stability of the vessel. Consequently, a Notice of Detention was sent to the vessel owner. On January 6, 2010, the owner's contractor removed and disposed of the fuel oil onboard, the 500-gallon oil tank and the 45-gallon drums and, also, pumped bilges and sealed off vents to the main fuel tanks. The CCG monitored the operation.

The Claim

On October 20, 2010, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses incurred in the amount of \$3,385.22, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

Following investigation and assessment of the claim, the Administrator found the full amount to be established. Therefore, on March 17, 2011, he offered the amount of \$3,385.22, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer on April 1, and payment of \$3,526.29, inclusive of interest, was directed by the Administrator to DFO/CCG on April 28.

Recovery Action

On May 4, the Administrator mailed a letter to the owner of the *Jameson Point* at an address in Las Vegas, Nevada, that was provided by the CCG. The letter advised the ex-tug owner of his obligations and responsibilities under section 51 of the MLA and requested payment of \$3,385.22 for the CCG costs in preventing oil pollution damage, including the measures taken in anticipation of a discharge of oil during the vessel's winter lay-up in Charlottetown. The owner was asked to respond by June 1, 2011, failing which the Administrator may commence legal proceedings. No reply was received. Given the amount of the claim and the fact that the owner resided in a foreign

jurisdiction, the Administrator concluded that further legal expenses for recourse action were not reasonable.

Status

The file was closed on July 28, 2011.

QUEBEC



Carabobo (1945)

Location : Baie de Gaspé, QC
Case number: 120-001-C1

The Incident

During 1999, recreational divers, diving at a popular wreck site off Cap-aux-Os, in Baie de Gaspé, Quebec, noticed oil leaking from the hull of a wreck. On August 21, 2001, divers from Parks Canada, under direction of the Canadian Coast Guard (CCG), inspected the wreck, which was that of the *Carabobo*, a Canadian Flower class corvette that had been sold to the Venezuelan navy and was en route to Venezuela when she went aground and was lost in December 1945. The divers reported that there was an unknown quantity of oil in the wreck, that the wreck appeared in poor condition and that some oil continued to leak out.

The area being considered environmentally sensitive, the CCG decided to remove as much of the existing oil in the wreck as possible. Divers were employed and four tanks were identified as containing oil, which was of the Bunker C heavy fuel type. Pumping operations were commenced and over 5,000 litres of oil was recovered. Absorbent materials were used to remove oil which could not be pumped out. Holes in the *Carabobo* were sealed and divers and the CCG left the site.

The Claim

The Department of Justice advised the CCG that it was too late to submit a claim against the owner of the *Carabobo* or to the Ship-source Oil Pollution Fund (the Fund). However, on March 17, 2003, the Crown submitted a claim totaling \$320,000.00 to the Fund for the costs and expenses incurred for the removal of oil from the wreck.

The claim being time-barred per the *Irving Whale* decision of the Federal Court, on March 31, 2003, the Administrator disallowed it.

Status

The file was closed on March 31, 2003.

St. Spyridon / Florence (1973) ➔

Location: St. Lawrence River, QC

Case number: 120-005-C1

The Incident

On July 4, 1973, the Liberian tanker *St. Spyridon*, with a cargo of 35,000 tons of Bunker C oil, collided with the Liberian bulk carrier *Florence* off Les Escoumins, Quebec, in heavy fog. Following the collision, the *St. Spyridon*'s hull was ripped open, her stern almost completely submerged and her fore section tilting out of the water. Attempts to pump the damaged tanker empty in deeper water were abandoned because of the danger it would go to the bottom. Therefore, the pumping operation of the *St. Spyridon* only started after she was run aground by tugs in sand shallows off Trois-Pistoles, a village on the south shore of the St. Lawrence River. The government icebreaker *Montcalm*, equipped with especially designed equipment to fight oil spills, oversaw the operation. Some of the *St. Spyridon*'s cargo was transferred into three tankers so that her stern rose. She was thereafter towed to a port. The *Florence* was also being pumped of fuel, but she remained near Les Escoumins.

The Claim

A fisherman filed a claim under section 746 of the *Canada Shipping Act* with the Maritime Pollution Claims Fund for \$3,200.00 for loss of income as a result of a discharge of oil following the collision of the *St. Spyridon* and the *Florence*.

Assessment and Offer

Since it was the first claim of this nature received by the Administrator, he sought technical and professional advice on the effect of discharged oil on fish and on fishing.

The claimant fisherman was questioned and his books of account were examined at his residence and place of business in Father Point, Quebec, following which the Administrator made him an offer in the amount of \$345.90. The claimant did not agree to the amount of the offer and the Administrator transmitted the Notice of Claim to the Minister of Transport for the appeal procedure by way of assessment. Shortly before the hearing of the assessment proceedings, the claimant withdrew his appeal by expressing his agreement to the amount of the offer. Hence, payment in the amount of \$345.90 was directed to the claimant.

Status

The file was closed on March 31, 2005.

Lady Era (1977)

Location: St. Lawrence River, Port Cartier, QC

Case number: 120-007-C1

The Incident

On December 1, 1977, the *Lady Era*, a Greek cargo ship, ran aground in the St. Lawrence River in the vicinity of Port Cartier, Québec. The ship was carrying approximately 480 tonnes of diesel and lube oil. Because of the danger of pollution to Canadian waters, the Minister of Transport, acting under the authority of section 729 of the *Canada Shipping Act*, engaged Sanivan Inc. to remove and dispose of the oil from the ship.

After the grounding and prior to the oil removal operations, the ship was severely damaged by fire of unknown origin. The Crown later authorized the sale of the derelict vessel to Rondeau Métal Ltée for the sum of \$3,333, the Crown receiving \$2,499.77 after payment of commission charges.

Administrator as Party by Statute

On September 8, 1980, the Crown launched an action in the Federal Court against Oceanic Freighters Corporation, a company having its head office in Piraeus, Greece, the owner of *Lady Era* for the recovery of the costs and expenses involved in the oil removal and disposition of the ship in the amount of \$303,339.28 plus interest and costs. The Administrator became a statutory party defendant in the action after he was served with a copy of the related Statement of Claim on September 16, 1980. The Crown obtained an Order for Service out of Jurisdiction and service of the Statement of Claim upon the defendant company was effected on January 29, 1981.

Following the failure of the shipowner to file an appearance or any defence in the action, the Crown intended to seek Default Judgment. However, investigations disclosed that Oceanic Freighters Corporation was a company on paper only without a current place of business nor any assets and carried no insurance on the ship.

Considering that recovery from the shipowner was then impossible even if judgment were obtained against it and that pursuing the claim would be fruitless and costly, the Administrator entered into settlement discussions with the Crown. The proceeds of the sale of the ship to Rondeau amounting to \$2,499.77 were set off against the Crown's claim. Besides, the Crown agreed to reduce its claim by \$5,000, the amount of the security deposit it received from Rondeau by way of liquidated damages for failure to remove the wrecked vessel, and to waive any claim for interest and costs. Hence, the claim was settled for the total sum of \$298,339.28 and on September 2, 1982, a payment in that amount was made by the Marine Pollution Claims Fund in full and final payment of the Crown's claim as a result of the *Lady Era* casualty, after obtaining an Assignment and Release from the Crown (the 1982 Release). The Court proceedings were then discontinued.

On July 11, 1997, it was found that the *Lady Era* was again leaking oil. An informal approach was made to the Administrator as to whether the Ship-source Oil Pollution Fund would entertain a claim for recovery of the CCG costs and expenses incurred in respect of this release of oil.

However, on July 23, 1997, the Administrator wrote to the Crown Counsel referring him to the terms of the 1982 Release.

Status

The file was closed on March 31, 1998.

Czantoria (1988)

Location: Saint-Romuald, QC
Case number: 120-021-C1

The Incident

On May 8, 1988, the Liberian flag tanker *Czantoria* discharged oil at the oil terminal facility at Saint-Romuald, Quebec.

Administrator as Party by Statute

Two actions were filed in the Federal Court relating to the incident, joining the Administrator as a party by statute. The first action was commenced on May 11, 1988 by Ultramar Canada Inc. (Ultramar), the owner of the terminal, against the ship *Czantoria*, claiming not less than \$2,500,000.00 in losses and damages. The second action was commenced on May 7, 1990 by the Crown against the *Czantoria*, her owners, and Ultramar, for \$338,867.84 plus interest for the clean-up costs and expenses incurred. Considerable security was provided by the ship owner's underwriters to cover both claims.

The Director of the International Oil Pollution Compensation Fund (the IOPC Fund) was also joined as a party in the first action. However, since the incident occurred before the 1969 Civil Liability Convention and the 1971 Fund Convention entered into force for Canada, the Executive Committee of the IOPC Fund took the position, which position was also supported by Canada, that these conventions did not apply to any incident which occurred prior to their coming into force in the state where the damage occurred; thus, there was no right of compensation from the IOPC Fund in this case. The proceedings against the IOPC Fund were thereafter discontinued in July 1991.

In 1992, the Ship-source Oil Pollution Fund (the Fund) was involved in various interlocutory proceedings. On February 9, 1993, confirmation was received from the solicitors for Ultramar that Ultramar would not be making any claim against the Fund. The proceedings against the Administrator in the first action were therefore discontinued on April 27, 1993.

The Crown also wholly discontinued the proceedings against the Administrator in the second action on September 1, 1993.

Status

The file was closed on March 31, 1994.

Duke of Connaught (1988)

Location: Îles-de-la-Madeleine, QC

Case number: 120-021A-C1

The Incident

The *Duke of Connaught*, a 17,963 GT dry-dock, had served for many years in Montreal, Quebec before it was sold in 1988. The structure was under tow to Sydney, Nova Scotia when, in heavy weather on November 22, 1988, it broke adrift and grounded on Les Îles-de-la-Madeleine, Quebec. Subsequently, the dry-dock was declared a total loss and abandoned. In 1989, the Canadian Coast Guard (CCG) inspected the wreck and it was not considered to be a pollution threat. A local contractor worked on the wreck but there was a dispute over ownership.

On July 23, 1997, the CCG was informed by a journalist in les Îles-de-la-Madeleine about a pollution coming from the wrecked dry-dock. The CCG responded to the pollution and with the use of a helicopter, recovered six barrels of Bunker C mixture, two barrels of an oily liquid, one barrel of oil-contaminated asbestos and some containers of chemicals.

The Claim

On July 13, 1998, the Crown presented a claim to the Ship-source Oil Pollution Fund in the amount of \$32,056.91, in order to recover the CCG costs and expenses in the response operation. The Administrator acknowledged the claim but expressed that it was time-barred under Part XVI of the *Canada Shipping Act*.

Following further correspondence, both parties agreed to await the decision of the litigation before the Federal Court involving the *Irving Whale* relating to the interpretation of « occurrence » and thus, the date from which the time-bar was calculated. Such decision was issued on December 21, 1998, and on March 30, 1999, the Crown withdrew its claim agreeing it was time-barred in view of the *Irving Whale* decision.

Status

The file was closed on March 31, 1999.

Lucette C (1989)

Location: Newport, Baie des Chaleurs, QC

Case number: 120-026-C1

The Incident

On May 8, 1989, the Canadian wooden fishing vessel *Lucette C*, while at anchor at Newport Harbour in the Baie des Chaleurs, Quebec, sank with some 1,000 gallons of diesel oil on board, which spilled into the surrounding waters. The shipowner having failed to recover the discharged oil, the Canadian Coast Guard (CCG) took the necessary measures to contain and clean-up the pollution at a cost of \$136,669.32, which included the cost of raising the wreck of the *Lucette C*.

Administrator as Party by Statute

After failing to recover the CCG costs from the *Lucette C*'s owner and insurers, the Crown instituted proceedings in the Federal Court on April 24, 1992 against the vessel, her owner, the master and crew, and agents. The Administrator was named a party by statute in the proceedings. The court action was later suspended because of the bankruptcy of the vessel owner; however, the Crown maintained its claim against the Administrator.

Negotiations between the Crown and the Administrator took place in order to settle the case. On April 7, 1995, the Crown rejected the Administrator's settlement offer of \$70,000.00, and on February 20, 1997, the Administrator's final offer of \$100,000.00, inclusive of interest and all costs, was accepted by the Crown. The payment was made on February 28, 1997 and a Notice of Discontinuance of the action was filed by the Crown, with the Administrator's concurrence, on March 25, 1997.

Status

The file was closed on March 31, 1997.

Sirius III (1989)

Location: Longue Pointe de Mingan Sud, QC

Case number: 120-034-C1

The Incident

On August 26, 1989, the 11-metre Canadian fishing vessel *Sirius III* sank while tied up alongside the wharf at Longue Pointe de Mingan Sud, Quebec, discharging black fuel and diesel fuel oil into the waters at the wharf. The Canadian Coast Guard (CCG) took measures to recover the oil to prevent further pollution damage and at the same time, to refloat the *Sirius III*. An independent contractor was engaged by the CCG to do the necessary work.

Administrator as Party by Statute

When the CCG was unable to recover its costs and expenses, said to amount \$20,010.17, from the shipowner, the Crown instituted legal proceedings in the Federal Court on May 12, 1992 against the *Sirius III* and her owner to recover the CCG costs and expenses. The Administrator was named a party by statute in the proceedings.

Discussions took place between the parties to achieve a settlement. On December 22, 1993, the shipowner offered to settle in full and final settlement for \$8,000.00, which approximated to the vessel's limitation of liability. However, the Crown rejected it.

In June 1995, the Administrator made an offer of \$12,850.00, being the difference between the Ship-source Oil Pollution Fund (the Fund) calculation of the shipowner's limit of liability and the amount of the Crown's proven costs, plus interests as required by law. The offer was made in full and final settlement of the Fund's liability to the Crown on the understanding that the Crown would recover any balance of its claim from the *Sirius III*'s owner. The Crown accepted the offer and on June 19, 1995, the payment was made.

On June 27, 1995, Notice of Discontinuance against the Administrator was filed in the Federal Court.

Status

The file was closed on March 31, 1996.

Mystery Spill (1989) ⚓

Location: Baie des Ha! Ha!, QC
Case number: 120-038-C1

The Incident

There was an oil spill in Baie des Ha! Ha!, Quebec on December 2, 1989. The oil was discharged by one of the two ships, MV *Maria H* or MV *Singelgracht*, docked in the Port of Chicoutimi (the Port) at the time of the incident, but the Canadian Coast Guard (CCG) was unable to identify which of them caused the spill. As a consequence, both shipowners denied liability and the Port was unable to recover its costs and expenses for oil recovery and cleanup from either ship.

The Claim

On June 20, 1992, the Port filed a claim in the amount of \$9,185.31 with the Ship-source Oil Pollution Fund for costs and expenses incurred for the oil recovery and cleanup in Baie des Ha! Ha!

Assessment and Offer

Since the particular ship which had caused the spill was not identified, there was doubt whether the Port should be responsible for this failure of identification. In view of this uncertainty, on October 29, 1992, the Port offered to settle for 50% of its claim, together with interest payable under section 723 of the *Canada Shipping Act*, which totalled \$6,500.00. The Administrator accepted the offer on November 6, 1992 and the settlement was completed on November 23, 1992.

Status

The file was closed on March 31, 1993.

Marie Paule (1990)

Location: Port of Grande-Rivière, QC

Case number: 120-043-C1

The Incident

On March 5, 1990, the Canadian fishing vessel *Marie Paule* sank at its berth in the Port of Grande-Rivière, Quebec, when a pipe broke in the engine room, discharging fuel oil into the port. The shipowner informed the Canadian Coast Guard (CCG) that he was financially unable to accept responsibility for the oil cleanup and recovery. Hence, the CCG mobilized pollution equipment to mitigate the damages and engaged the services of a contractor to clean up the oil, at a total cost of \$25,692.13.

Administrator as Party by Statute

On December 2, 1992, the Crown, claiming for the CCG costs, commenced an action *in rem* and *in personam* in the Federal Court against the *Marie Paule*, her owners, officers and crew. The Administrator was named a party by statute in the proceedings.

Negotiations took place between the parties in an attempt to reach a settlement. On December 22, 1994, the Ship-source Oil Pollution Fund (the Fund) offered to the Crown to settle the claim for an amount of \$8,236.13, being the difference between the Fund's calculation of the *Marie Paule*'s limitation of liability, estimated at \$17,456.00, and the amount of the Crown's claim. The Crown accepted the offer and the payment was made on June 5, 1995. Notice of Discontinuance against the Administrator was therefore filed in the Federal Court on June 20, 1995.

The action was later discontinued when the Crown received the balance of its claim in full from the shipowner.

Status

The file was closed on March 31, 1996.

Rio Orinoco (1990) ☰

Location: Anticosti Island, QC

Case number: 120-052-C1

The Incident

On October 16, 1990, the tanker *Rio Orinoco*, registered in the Cayman Islands, loaded with 9,080 tonnes of liquid asphalt, on a voyage from Curacao to Montreal, grounded on the south shore of Anticosti Island in the Gulf of St. Lawrence after experiencing engine problems. Although no cargo was lost, about 185 tonnes of bunker fuel were discharged and heavily polluted 10 km of shoreline. Notwithstanding the bad weather, the Canadian Coast Guard (CCG) was able to recover some oil from the shoreline, but various salvage attempts by the shipowner to move the ship to a place of safety were unsuccessful. The *Rio Orinoco* was declared a constructive total loss on November 18, 1990 and shortly thereafter, the shipowner informed the CCG that it was unable to remove the ship and her cargo.

Having concluded that the ship, her cargo and the remaining fuel oil constituted a serious pollution threat, the CCG removed most of the remaining fuel oil in December 1990, but the ship and her cargo wintered in the ice. Removal operations of the *Rio Orinoco* commenced in July 1991. A portion of the cargo had to be removed to lighten the ship. On August 7, 1991, the *Rio Orinoco* was refloated and towed to Sept-Îles without causing any pollution.

Measures taken by the Administrator

As liquid asphalt is regarded as oil under the 1971 Fund Convention, the Administrator immediately informed the Director (the Director) of the International Oil Pollution Compensation Fund (IOPC Fund) upon receipt of the first report of the incident and continued to supply it with daily copies of the status report issued by the CCG.

The Claim

No claim in respect to this incident was received by the Administrator. All the claims were sent to the IOPC Fund.

The CCG submitted claims to the IOPC Fund in three parts. The first claim, submitted in August 1991 in respect of the operations up to January 31, 1991, amounted to \$7,261,540.00. After negotiations with the IOPC Fund and upon approval by the Executive Committee of the IOPC Fund (the Executive Committee), this claim was settled in the aggregate amount of \$6,950,000.00. The second claim covering the operations by the contractor to remove the *Rio Orinoco* and her asphalt cargo to a place of safety in the amount of \$3,497,667.00 was submitted to the IOPC Fund in September 1991, and settled at \$3,268,848.00 after authorization by the Executive Committee at its 28th session in October 1991. The third claim in respect of the operations by the CCG after January 31, 1991 and the operations of the Department of the Environment and the Department of Fisheries and Oceans was approved by the Executive Committee for a total amount of \$1,573,000.00 in May 1992.

With respect to the recovery of these monies paid by the IOPC Fund to the Canadian government, based on legal advice obtained by the Director, it was decided at the 40th session of the Executive Committee that it would not be meaningful to pursue legal action against the shipowner or the company managing the ship since it was unlikely that there would be any assets against which a judgment could be enforced. Further discussions then took place on the advisability of pursuing the P&I Club involved, but at its 42nd session in April 1995, based on the opinion of Swedish legal counsel, the Executive Committee decided not to take legal action against the P&I Club involved either.

The shipowner also claimed for indemnification by the IOPC Fund. However, the report of the Transportation Safety Board of Canada, released in December 30, 1993, noted a number of ongoing deficiencies in the fuel supply system and machinery, of which the ship's managers were aware, and which deficiencies could be claimed as having rendered the vessel unseaworthy. On this basis, the Executive Committee decided at its 42nd session that there was no obligation on the IOPC Fund to indemnify the shipowner or the P&I Club under Article 5 of the 1971 Fund Convention.

Status

The file was closed on March 31, 1996.

Forum Glory (1991)

Location: Port-Cartier, QC

Case number: 120-055-C1

The Incident

On March 27, 1991, bunker oil was discharged from one of the ships in Port-Cartier, Quebec. The *Forum Glory*, a Greek-flagged bulk carrier, was alongside Berth No. 4 at the Compagnie Minière Québec Cartier (CMQC) dock in Port-Cartier that day and oil pollution was observed in the water around her. Subsequent Canadian Coast Guard analysis of samples of fuel oil taken from the water showed them to be similar to those taken at the same time from the *Forum Glory*. The CMQC made the arrangements to clean up the oil, but the *Forum Glory*'s owners denied liability of the CMQC's claim for the oil spill cleanup.

The Claim

On March 26, 1993, the CMQC filed a claim with the Administrator of the Ship-source Oil Pollution Fund pursuant to section 710 of the *Canada Shipping Act* for cleanup costs and expenses incurred in the amount of \$32,776.41.

Assessment and Offer

The Administrator investigated the claim. Further to the investigation, the claim was assessed in the total amount of \$44,399.98, covering damage, interest and legal costs, which amount was offered to, accepted by and paid to the CMQC, on April 23, 1993, in full and final settlement of its claim.

By the terms of the settlement, the Administrator was subrogated to the rights of the CMQC against the owners of any ship from which the oil was discharged. Besides, the CMQC provided the Administrator with all evidence in its possession on the spill.

Recovery Action

On March 3, 1994, the Administrator filed a statement of claim in the Federal Court (Trial Division), both *in rem* and *in personam*, against the ship *Forum Glory* and her owners to recover \$44,399.98, the amount paid to the CMQC, together with interest and costs.

On April 18, 1995, the *Forum Glory* representatives offered to settle for \$39,399.98. The Administrator accepted the offer and the court action was terminated by a Notice of Discontinuance filed on May 19, 1995.

Status

The file was closed on March 31, 1996.

Captain Diamantis (May 1991); Jalatapi (August 1991); Mystery Spill (August 1991); Kristiania Fjord (May 1992); Edel SIF (July 1992) ⚓

Location: Port-Alfred, QC
Case number: 120-056-C1

The Incident

Five oil spill incidents occurred at the Société d'Électrolyse et Chimie Alcan Ltée (Alcan) port installations in Port-Alfred, Quebec, as detailed below:

Date	Ship	Amount of costs and expenses incurred by Alcan
May 3, 1991	<i>Captain Diamantis</i>	\$3,027.28
August 28, 1991	Unknown	\$439.45
August 30, 1991	<i>Jalatapi</i>	\$268.00
May 19, 1992	<i>Kristiania Fjord</i>	\$2,033.80
July 1, 1992	<i>Edel SIF</i>	\$4,827.00

Alcan responded to the spills and incurred costs and expenses totalling \$10,595.53 for oil spill recovery and cleanup.

The Claim

On April 23, 1993, Alcan filed a claim with the Ship-source Oil Pollution Fund, pursuant to section 710 of the *Canada Shipping Act*, for oil pollution damages, costs and expenses in the amount of \$10,595.53.

Assessment and Offer

The Administrator investigated the claim. On the evidence disclosed, he was satisfied that the incidents were caused from a ship or ships in Port-Alfred, and that the measures taken and the costs incurred were reasonable in the circumstances. He then paid the claim in full in September 1993.

Status

The file was closed on September 30, 1993.

Ogdensburg (1991)

Location: St. Augustine, QC

Case number: 120-060-C1

The Incident

On September 28, 1991, the Canadian flag barge *Ogdensburg*, owned by McKeil Work Boats Limited (the Owner), sank while under tow of the Canadian tug *Manic*, 17 miles west of St. Augustine, Quebec. The barge, which, at the time of the incident, was chartered to Navigation Harvey & Frères Inc. (the Charterer), was carrying a load of gravel, two payloaders and two trailers. It was reported that the fuel tanks of the payloaders had been drained prior to being loaded on the barge; however, an overflight on October 17, 1991 confirmed the existence of pollution on the shore and, soon afterwards, divers confirmed the payloaders as the source. The insurers for the barge arranged for the recovery of the payloaders but did not take further cleanup action. Hence, the Canadian Coast Guard (CCG) deployed pollution equipment to mitigate the oil pollution damage. A mussel farm was established along the shoreline in the area, but subsequent testing found that the mussels were not contaminated.

Administrator as Party by Statute

On May 7, 1993, the Crown filed a statement of claim in the Federal Court of Canada against the barge *Ogdensburg*, the Owner and the Charterer, with the Administrator named as a party by statute, to recover the costs and expenses incurred by CCG in their response to the pollution in the amount of \$157,916.49.

The Charterer having filed for bankruptcy on April 6, 1992, the trustee in bankruptcy suspended the proceedings in the Federal Court against it on May 13, 1993 under section 69 of the *Bankruptcy Act*. Besides, on September 3, 1993, the Owner filed a statement of defence denying all liability on the basis that the barge was under demise charter at the time of the incident, and therefore, the Charterer had possession and use of the barge. In view of this fact, the Administrator agreed to the discontinuance of the Crown's action against the Owner on November 15, 1995.

The Crown and the Administrator then resumed discussions on the Crown's claim as the Administrator had certain concerns on a number of issues, principally as to whether the Crown had taken sufficient action in the first instance to obtain financial security for its cleanup costs. Settlement discussions to resolve the claim took place on October 3, 1996 and the Administrator offered a settlement of \$110,000.00, inclusive of interest and legal costs. The Crown accepted the offer on February 20, 1997 and payment was made on March 3, 1997. A Notice of Discontinuance of the action was thereafter filed by the Crown, with the Administrator's concurrence, in the Federal Court of Canada on March 18, 1997.

Status

The file was closed on March 31, 1997.

Mystery Spill (1992)

Location: Ste-Anne-de-la-Pérade, QC

Case number: 120-068-C1

The Incident

On May 17, 1992, Environment Canada reported that an oil slick of approximately 5,000 litres of Bunker C had been sighted in the St. Lawrence River near Ste-Anne-de-la-Pérade, Quebec. The source of the oil was unknown and the Canadian Coast Guard (CCG), acting on behalf of the Minister of Transport, pursuant to section 677 of the *Canada Shipping Act* (the Act), took measures to clean up the oil spill.

The Claim

As the CCG was unable to identify the particular ship that caused the oil spill, it filed a claim with the Ship-source Oil Pollution Fund, under sections 709 and 710 of the Act, on July 30, 1993, for recovery of costs and expenses incurred in the amount of \$19,170.43.

Assessment and Offer

As the source of the oil pollution damage was unknown and the Administrator was unable to establish that the incident which gave rise to the damage was not caused by a ship, the CCG was entitled to the presumption in section 710 of the Act that the oil spilled was discharged by a ship.

After investigation, the actual reasonable costs and expenses incurred by the CCG in response to the incident were assessed to be equal to the amount claimed. Therefore, a payment in the amount of \$22,229.07, including \$3,058.64 interest, was directed by the Fund to the CCG in full and final settlement of the latter's claim.

Status

The file was closed on March 31, 1994.

Irenes Sapphire (1992)

Location: Trois-Rivières, QC

Case number: 120-070-C1

The Incident

On September 22, 1992, the Greek owned and Greek flag bulk carrier *Irenes Sapphire* discharged a quantity of bunker fuel into the waters, while moored alongside in the Port of Trois-Rivières, Quebec. As the registered owners of the vessel did not respond to the oil spill, the Canadian Coast Guard (CCG) responded to the incident by deploying its pollution equipment to mitigate the oil pollution damage so caused, incurring costs and expenses stated to amount to \$16,813.40.

Administrator as Party by Statute

As a result of the shipowners' failure to reimburse the CCG costs, on December 7, 1993, the Crown filed a claim in the Federal Court (Trial Division). The Administrator was named a party by statute in the proceedings; however, it was agreed at that time that he needed to take no action until so advised.

The Crown also instituted a prosecution under the *Oil Pollution Prevention Regulations* against the vessel for causing pollution, but the case was unsuccessful. The Crown was unable to demonstrate without reasonable doubt that the pollution originated from the *Irenes Sapphire* as oil samples had not been taken from another ship tied up nearby for matching purposes.

On February 8, 1995, the Crown presented its claim to the Ship-source Oil Pollution Fund (the Fund) for consideration. However, the Administrator had concerns about the claim because all evidence pointed to the conclusion that the *Irenes Sapphire* was the ship involved. Hence, he took the position that, as the level of proof for civil action is less than that required for a criminal action, the court action should proceed.

Negotiations between the Crown, the shipowners and the Administrator took place, and on February 25, 1997, the Administrator offered the Crown \$5,000 in full and final settlement of its claim. The Crown accepted the Administrator's offer and a settlement between the shipowners, the Crown and the Fund was later agreed.

Status

The file was closed on March 31, 1997.

Mystery Spill (1992)

Location: Île des Barques, Sorel, QC

Case number: 120-074-C1

The Incident

On November 21, 1992, the M.V. *Fastness* reported to the Canadian Coast Guard (CCG) the existence of a discharge of oil near Île des Barques in Lac Saint-Pierre, Sorel, Quebec. The CCG, acting on behalf of the Minister of Transport, pursuant to section 677 of the *Canada Shipping Act* (the Act) took measures to monitor and to perform slick surveillance flights over the oil spill, at a cost claimed to amount \$25,694.93.

The Claim

As the CCG was unable to identify the particular ship that caused the oil spill, it filed a claim with the Ship-source Oil Pollution Fund (the Fund) under sections 709 and 710 of the Act on July 30, 1993 for recovery of the costs and expenses incurred.

Assessment and Offer

As the source of the oil pollution damage was unknown and the Administrator was unable to establish that the incident which gave rise to the damage was not caused by a ship, the CCG was entitled to the presumption in section 710 of the Act that the oil spilled was discharged by a ship.

After investigation, on the basis of the information submitted, the Administrator assessed the actual reasonable costs and expenses incurred by the CCG relating to the incident at the amount claimed.

A payment of \$28,623.72, including prescribed interest, was therefore made by the Fund to the CCG in full and final settlement of its claim.

Status

The file was closed on March 31, 1994.

Mystery Spill (1992)

Location: Baie des Sables, QC

Case number: 120-075-C1

The Incident

On November 29, 1992, the Canadian Coast Guard (CCG) received a report concerning an apparent discharge of bunker oil off Pointe Michel, in the Baie des Sables, Quebec. The CCG, acting on behalf of the Minister of Transport, pursuant to section 677 of the *Canada Shipping Act* (the Act), took measures to monitor and supervise the cleanup of the oil spill by a private contractor.

The Claim

As the CCG was unable to identify the particular ship that caused the oil spill, it filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$48,109.32, under sections 709 and 710 of the Act, on July 30, 1993.

Assessment and Offer

As the source of the oil pollution damage was unknown and the Administrator was unable to establish that the incident which gave rise to the damage was not caused by a ship, the CCG was entitled to the presumption in section 710 of the Act that the oil spill was discharged by a ship.

After investigation of the claim, the Administrator assessed the actual reasonable costs and expenses incurred by the CCG relating to the incident to be equal to the amount claimed. Therefore, a payment in the amount of \$53,508.61, including prescribed interest, was made by the Fund to the CCG in full and final settlement of the latter's claim.

Status

The file was closed on March 31, 1994.

Valery IV (1993)

Location: Sabrevois, Richelieu River, QC

Case number: 120-079-C1

The Incident

The *Valery IV*, a Canadian registered concrete hulled yacht, sank alongside its berth on the Richelieu River, at Sabrevois, Quebec, on June 10, 1993. Oil was leaking out of the vessel. No one was aboard the yacht at the time of the incident, and the owner could not be contacted. The Canadian Coast Guard (CCG) was informed of the sinking and resultant pollution, and responded to contain and clean up the pollution, which mainly consisted of oil originating from the engine and diesel fuel system. The response included raising the vessel, and during this operation, it was discovered that two drain plugs were missing from the main engine cooling system, which had allowed water to enter the vessel.

On June 13, 1993, after the response was completed, the CCG was able to make contact with the shipowner, who stated that there was no insurance on the vessel nor had he any money to pay the CCG clean-up costs, which amounted to \$14,641.68. He, however, did agree to sell the *Valery IV* and to transfer the proceeds of the sale into trust for the CCG to offset the latter's costs. The CCG agreed to such proposal and on June 15, 1993, it was advised by the shipowner that the *Valery IV* was sold for \$2,000.00.

The Claim

On March 31, 1995, the Administrator was formally requested by the counsel for the Crown to accept the incident as a claim against the Ship-source Oil Pollution Fund (the Fund).

Assessment and Offer

Further to the Administrator's investigation of the claim, negotiations with the Crown took place since he had a number of concerns relating to the claim, principally the agreed arrangement for the sale of the vessel.

On March 14, 1996, the Administrator offered to settle for \$12,641.68, being the amount claimed by the CCG less the \$2,000 said to be the proceeds of the sale of the vessel, plus accrued interest. The offer was accepted by the Crown and on April 10, 1996, a payment in the amount of \$15,590.75, including \$2,949.07 of interest, was transferred to the Crown by the Fund.

Status

The file was closed on March 31, 1997.

Mystery Spill – (Oil drum) (1993)

Location: Bassin Lanctôt, Sorel, QC

Case number: 120-086-C1

The Incident

On November 30, 1993, late in the evening, a dredge working in the Bassin Lanctôt, Sorel, Quebec, for and on behalf of the government of Canada, struck and pierced an oil drum lying on the harbour seabed. Heavy oil spread over the basin, and several ships at anchor and the government wharf had to be cleaned. There was light ice over much of the basin at that time. The spill was responded to by the Canadian Coast Guard (CCG) which employed contractors for the cleanup.

The Claim

On February 14, 1994, the Crown filed a claim in the amount of \$46,813.79 with the Ship-source Oil Pollution Fund (the Fund) for recovery of the costs and expenses incurred by the CCG in the incident.

Assessment and Offer

The Administrator investigated the claim, and in view of its unusual nature and the potential precedent involved, he obtained outside counsel's opinion on his liabilities in the matter. In this case, the oil pollution damage was caused by a barrel on the seabed, whereas the authority of the Administrator to pay claims is restricted to oil pollution damage and cleanup caused by contamination resulting from the discharge of oil from a ship. On this basis, on July 12, 1994, the Administrator denied the claim but agreed to review any further submissions the Crown may wish to present. Further correspondence was exchanged and discussions took place between the parties; however, no agreement was reached on whether the claim was valid under Part XVI of the *Canada Shipping Act*.

On November 17, 1998, after the Administrator restated his position that the Fund was not liable for the claim, the CCG withdrew its claim.

Status

The file was closed on March 31, 1999.

Calypso IV (1994)

Location: Les Méchins, QC

Case number: 120-091-C1

The Incident

The Panamanian flag bulk carrier *Calypso IV* was secured at the shipyard dock at Les Méchins, Quebec, on the south shore of the Lower St. Lawrence River when, on February 2, 1994, ice around the ship was found to be polluted. It was subsequently ascertained that lubricating oil, a quantity of bilge waste and general garbage from the ship had been deposited on the ice. The shipyard responded to the spill, employing contractors for the cleanup, and the Canadian Coast Guard (CCG) and Environment Canada (EC) monitored the operation. At the same time, CCG icebreakers were engaged in clearing ice to free the approach to the shipyard's dry-dock. At first it was feared that the icebreaking operation would free the polluted ice which would drift off but, after evaluation, it was allowed to continue. Further to the clean-up operation, about 110 litres of oil were recovered, together with contaminated ice.

On February 11, 1994, a Letter of Undertaking for \$70,000.00 in favor of the CCG and the Ship-source Oil Pollution Fund (the Fund) was obtained from representatives of the ship's P&I Club to cover potential claims arising from this incident.

The Claim

On June 16, 1995, the Crown filed a claim in the amount of \$8,181.49 with the Fund for the CCG and EC monitoring costs.

In his acknowledgement of the claim, the Administrator confirmed his understanding that the Crown would also supply a copy of the claim directly to the shipowner's representatives who, on the premise that the polluter pays, would be called upon to ultimately pay. However, such copy was never submitted. Representations were made to the shipowner's representatives on February 11, 1997, but the latter took the position that any claim against the ship was time-barred.

Assessment and Offer

The Administrator investigated the claim. One of the main issues was that the costs and expenses claimed by the Crown consisted of monitoring costs of the work of the contractors which were under contract to the shipyard. The Administrator then wrote to the Crown counsel, on March 17, 1997, raising this issue and seeking opinion. In his reply dated June 18, 1997, Crown counsel took the view that monitoring costs were legally recoverable from the *Calypso IV* shipowner at the time in February 1994.

Besides, with the enactment into law of Bill S-4 containing the new regime of liability and compensation for oil pollution damage in Part XVI of the *Canada Shipping Act*, which received Royal Assent on May 12, 1998 and came into force on May 29, 1999, the Administrator was of

the view that any doubt as to the liability of the shipowner with regard to the Crown's costs in a monitoring role during an oil pollution incident have been removed.

In the light of the foregoing, on July 30, 1998, a payment in the amount of \$10,889.90, which included \$2,708.47 in interest, was made by the Administrator to the Crown in full and final settlement of the claim.

Status

The file was closed on March 31, 1999.

Stella (1994) ⚓

Location: Baie des Ha! Ha!, Saguenay River, QC
Case number: 120-102-C1

The Incident

On December 3, 1994, oil was reported in the water around the Greek flag cargo vessel *Stella* while she was alongside Duncan Quay at Baie des Ha! Ha!, Saguenay River, Quebec, a private wharf owned by Société d'électrolyse et de chimie Alcan Ltée (Alcan). Contractors were called in by Alcan to clean up the spill, which proved difficult because of the ice. Approximately 80% of the oil was recovered, the remainder being carried away on the ice cover.

Following negotiations further to the interdiction placed by the Canadian Coast Guard on the vessel leaving, the P&I Club issued a Letter of Undertaking to the amount of \$25,000.00. However, this was later cancelled when the analysis of the oil samples from the vessel and from the bay were inconclusive. Hence, the shipowner refused to pay Alcan costs and expenses in the cleanup.

The Claim

On April 5, 1995, Alcan filed a claim amounting to \$6,579.96 for clean-up costs with the Ship-source Oil Pollution Fund.

Assessment and Offer

Further to the investigation of the claim, the Administrator found costs and expenses incurred to be reasonable. On November 16, 1995, he then paid to Alcan the amount of \$6,837.47, including \$257.51 of interest, after obtaining the necessary subrogation.

Recovery Action

After careful consideration of the risks and potential costs in recourse action, the Administrator decided not to proceed further.

Status

The file was closed on March 31, 1996.

Cogna (1995)

Location: Ottawa River, Gatineau, QC

Case number: 120-105-C1

The Incident

On January 19, 1995, the *Cogna*, a 7 GT workboat, which had been moored in an exposed position to winter on the Ottawa River at Gatineau, Quebec, sank due to higher than normal water levels combined with ice conditions. On sinking, the boat released a quantity of oil.

The registered owner could not be contacted and the Canadian Coast Guard (CCG) organized the pollution response with contractors. An estimated two barrels of oil and oily debris were recovered. The boat was thereafter refloated and placed ashore.

The Crown, on behalf of the CCG, made attempts to recover the CCG costs and expenses incurred from the registered owner, but the latter claimed to have sold the boat to a U.S. resident.

The Claim

As it was claimed to be impossible to recover from the alleged new owner, on November 27, 1997, the Crown filed a claim in the amount of \$6,034.12 with the Ship-source Oil Pollution Fund.

Assessment and Offer

After investigation and assessment, the Administrator considered that if proceedings had been commenced earlier and within time, the limit of liability of approximately \$1,400.00 for the boat could have been recovered from the original owner. In view of this fact, he offered to settle the claim for \$4,634.12 on January 22, 1998, which was accepted by the Crown.

Status

The file was closed on March 31, 1998.

Mystery Spill (1995) ⚓

Location: Duncan Quay, Baie des Ha! Ha!, Saguenay River, QC
Case number: 120-106-C1

The Incident

On April 17 and 18, 1995, there was an oil pollution at the Société d'électrolyse et de chimie Alcan Ltée (Alcan) docks, Duncan Quay, Baie des Ha! Ha!, Saguenay River, Quebec. Two Canadian vessels were alongside at the time of the incident, the *Northern Progress* and the *Canadian Provider*. In view of the minor nature of the spill, estimated to be two to three litres, the Canadian Coast Guard was unable to obtain sufficient oil from the water to undertake analysis of samples. Therefore, it was impossible to conclusively determine which of the two vessels caused the spill.

The Claim

Alcan filed a claim with the Ship-source Oil Pollution Fund on May 31, 1995 in the amount of \$3,191.81 for clean-up costs.

However, while the Administrator was investigating the claim, on March 19, 1996, a letter was received from Alcan stating that it was withdrawing its claim.

Status

The file was closed on March 31, 1996.

Mystery Spill (1995)

Location: Montreal Harbour, QC

Case number: 120-108-C1

The Incident

The Canadian tanker *Le Brave* was moored at section 105, Montreal Harbour, Quebec when, late in the evening on July 23, 1995, the ship reported to the Canadian Coast Guard (CCG) Vessel Traffic Services that a wave of light oil followed by one of heavy oil had been brought down to its berth by the current. The *Le Brave* emphasized that she had not been involved in any spill.

CCG and Environment Canada (EC) officers responded to the report, and contractors were engaged by the CCG to contain and clean up the oil, including that from the hull of *Le Brave*.

The Claim

On March 24, 1997, the Crown filed a claim in the amount of \$27,212.01 with the Ship-source Oil Pollution Fund to recover the costs and expenses incurred by the CCG in what was considered to be a mystery spill.

Assessment and Offer

Further to the Administrator's investigation of the claim, it was found that the Marine Safety Branch of Transport Canada had investigated spills of oils on July 24, 1995, associated with two vessels upstream, but no charges had been laid. It was also discovered that on July 23, 1995, there had been torrential rain for much of the day in Montreal and this had resulted in EC instructing a shore-based oil facility to take action to reduce oily run off into the harbour.

Some of the oil could then be demonstrated to not be of ship-origin. Hence, following negotiations on October 16, 1997, the Administrator offered the sum of \$22,663.00 in full and final settlement of the Crown's claim, which offer was accepted.

Status

The file was closed on March 31, 1998.

Mystery Spill (1995)

Location: Sainte Félicité, QC

Case number: 120-109-C1

The Incident

On July 27, 1995, the Quebec Ministry of the Environment and Wildlife was advised of an oil slick sighted along the south shore of the St. Lawrence River, between Sainte Félicité and Anse-à-la-Croix, and passed on the information to the Canadian Coast Guard (CCG). The Marine Safety Branch of Transport Canada commenced an investigation in an attempt to identify the vessel involved. Subsequent analysis of the oil taken from the beaches showed it to be Bunker C, but that it had been weathered for at least two weeks before coming ashore. It was therefore impossible to ascertain which of the numerous ships that had transited the river during the relevant period was responsible.

Initially, the slick was stated to have contaminated some 9 km of shoreline. However, after a beach survey, oil was found at a number of places from Sainte Félicité to Cap-Chat, a distance of some 60 km. The total amount of oil which had come ashore was estimated at 23 tonnes.

Contractors were engaged by the CCG to clean up the spill, which work commenced on July 28, 1995. In some instances, as soon as a beach was cleaned, further oil floated in. By the time the contractors completed their work on August 2, 1995, approximately 30 barrels of oil/heavily oiled materials were recovered.

The Claim

On February 27, 1997, the Crown filed, on behalf of the CCG, a claim in the amount of \$127,177.83 with the Ship-source Oil Pollution Fund (the Fund) to recover the costs and expenses incurred. The claimed amount included taxes on Federal Government costs, which taxes are not payable by the Fund.

Assessment and Offer

The Administrator investigated the claim and requested further clarification from the CCG relating to some concerns he had on the claim. A reply was received from the CCG and the Administrator offered to settle the claim for \$114,456.61, which offer was accepted by the Crown.

A payment in the amount of \$114,456.61, plus \$23,167.46 interest, was transferred to the Crown on May 25, 1998.

Status

The file was closed on March 31, 1999.

Haltren No. 1 (1995)

Location: Port-Menier, Anticosti Island, QC

Case number: 120-117-C1

The Incident

On October 25, 1995, the Canadian registered barge *Haltren No. 1*, under tow of the Canadian tug *Techno St. Laurent*, which was sailing from Grande Vallée, Quebec, bound for Port-Menier, Anticosti Island, Quebec, broke its tow, when off Port-Menier, during darkness and heavy weather conditions. Since it was considered too dangerous to attempt to reconnect the tow overnight, the next morning, the barge was found to be aground on the southwest coast of Anticosti Island. The owners reported that there were 272 litres of hydraulic fluid in drums on board and that there was no threat to the environment as the barge showed no visual signs of damage. Several refloating attempts were made by the owners without success because of the adverse weather conditions.

On November 16, 1995, Canadian Coast Guard (CCG) personnel went to the scene to inspect the barge and report on the incident. They found that there was a slight leak of light oil from the barge and that, in addition to the hydraulic oil reported by the owners, there were approximately 56,000 litres of an oily mixture in the holds and a further 5,600 litres of diesel oil in a stern compartment. Further to the CCG request on November 21, 1995 for cleanup intentions and an action plan, a response plan was received from the owners on November 27, 1995, which plan was accepted by the CCG and Environment Canada (EC).

Following the hull insurers' decision that it was not practical to refloat the barge, it was declared a Constructive Total Loss and the P&I Club took over responsibility for the removal of the oils. The diesel oil was removed between December 8-12, 1995 but, with the onset of extreme cold, the oily mixture started freezing and further efforts were abandoned until the spring. At the end of April 1996, no step was taken for the removal of the remaining oily water; hence, the CCG commenced negotiations with the representative of the owners' insurers.

On July 4, 1996, a report was received from a local fisherman that the barge was causing oil pollution. A CCG vessel responded with interim containment measures. On July 16, 1996, under CCG surveillance, contractors employed by the P&I Club commenced removing the remaining oils on board, but the operations were stopped by the P&I Club representatives on July 25, 1996 on the basis that the shipowners' limit of liability for the barge had been reached. The removal operations then resumed under contract by the CCG beginning on August 8, 1996 and were completed to the satisfaction of the CCG and EC on August 24, 1996.

The Claim

On October 28, 1996, the Crown filed a claim in the amount of \$306,706.63, with the Ship-source Oil Pollution Fund (the Fund), to recover its costs in this incident.

Assessment and Offer

The Administrator investigated the claim and submitted questions to the CCG in August 1997. Following receipt of the answers from the CCG, meetings were held between the Administrator, the CCG and respective counsel, following which settlement was agreed. On October 21, 1998, a payment in the amount of \$200,000.00, including interest, was made by the Administrator to the Crown in full and final settlement of the latter's claim, and a duly signed receipt and release holding the Fund harmless against any potential future pollution claims that could be made involving the *Haltren No. 1* was received from the Crown.

Recovery Action

On October 23, 1998, counsel for the Fund commenced an action in the Federal Court of Canada (the Court) against the owners and other persons interested in the barge *Haltren No. 1* (collectively, the Defendants) for the recovery of the amount paid to the Crown. The Defendants filed, on December 14, 1998, a Statement of Defense and Counterclaim for Limitation stating that they had already paid \$301,432.12 for cleanup and prevention costs and expenses and that this amount exceeded the barge's limit of liability.

Further investigation then uncovered facts regarding the financial situation of the Defendants, which made the Administrator conclude that the likelihood of recovery was small, and therefore, further efforts were not justified. On this basis, a Discontinuance was filed in the Court on September 30, 1999 discontinuing the action against the Defendants without cost to either party.

Status

The file was closed on March 31, 2000.

APJ Shalin (1995) ⚓

Location: La Baie, QC
Case number: 120-119-C1

The Incident

On November 17, 1995, the Indian flag bulk carrier *APJ Shalin* sailed from the Alcan Aluminium Ltd. (Alcan) facilities at La Baie, Quebec and, as she left, a quantity of oil was found on the water between the vessel and the berth. The *APJ Shalin* had bunkered overnight.

A surveyor from the Marine Safety Branch of Transport Canada took samples of the oil from the water and made a request to have the United States Coast Guard (USCG) take samples from the *APJ Shalin* when she arrived at her next port of call, at New Orleans, USA. Unfortunately, the request was not passed on to the USCG.

The Claim

On October 15, 1996, Alcan filed a claim in the amount of \$14,454.91 with the Ship-source Oil Pollution Fund in respect of the cleanup of the spill.

Assessment and Offer

The Administrator investigated the claim and, after having obtained the necessary subrogation and witness statement documents from Alcan, a payment of \$14,454.91, together with interest in the amount of \$1,294.35, was made to Alcan on February 25, 1997.

Recovery Action

As all the evidence pointed to the *APJ Shalin* being the origin of the oil, the Alcan claim was forwarded by the Administrator to the Canadian representatives of the ship's P&I Club on August 1, 1997. Following an exchange with the P&I Club representatives, the latter offered, without admitting liability, \$5,000.00 in full and final settlement of the claim against the *APJ Shalin*, which offer was accepted by the Administrator. The cheque for the payment was received on July 13, 1998.

Status

The file was closed on March 31, 1999.

Kolomna (1996)

Location: Quebec City, QC

Case number: 120-124-C1

The Incident

On February 23, 1996, oil was found in the ice around the *Kolomna*, a Roll-On Lift-Off vessel under the Russian flag, berthed at section 102 in Quebec City, Quebec. Both Marine Safety Branch of Transport Canada (MSB) and Canadian Coast Guard (CCG) Environmental Response officers attended the scene for investigation, further which a detention order was served on the ship. The ship's agent contracted with a Response Organization for the cleanup. It was estimated that one barrel of heavy oil had been cleaned up.

Just after midnight, on February 25, 1996, the Harbour Master reported that the *Kolomna* had been involved in a second spill of oil. This time, the ship master refused to accept responsibility; hence, the CCG engaged contractors for the cleanup. A MSB surveyor carried out another investigation. Oil was seen to be escaping from the ship, but there was no immediate explanation for the loss. A diver's inspection of the hull was also ordered; however, no defects were found which would explain the loss of oil. The clean-up operations were completed early morning on February 26, 1996, and it was reported that a further 4,000 litres of oily water had been collected.

To ensure payment of any potential fine to be levied against the *Kolomna* for oil pollution, on February 23, 1996, the MSB obtained a Letter of Undertaking to the amount of \$30,000.00 from the ship's agent. Besides, on March 12, 1996, further to the request made by the CCG, a Letter of Undertaking to the amount of \$65,000.00 was also received from the counsel of the time charterers of the *Kolomna* (the Charterers' Counsel) on behalf of the Charterers' P&I Club to cover the clean-up costs. Upon receipt of such Letter of Undertaking, on the same day, the *Kolomna* was released and the ship sailed. On February 14, 1997, the ship was found guilty of causing oil pollution and was fined \$6,750.00, which fine was paid.

On February 27, 1997, the CCG presented their claim in the amount of \$52,837.26 to the Charterers' Counsel in order to recover the CCG costs and expenses in the cleanup. Correspondence was exchanged and on August 28, 1997, the Charterers' Counsel requested that the Crown deal directly with the Charterers' P&I Club, as they did not have the mandate to represent the owners or the operators. The Crown then presented the CCG claim, on August 29, 1997, to the Charterers' P&I Club, which pointed out that the *Kolomna* was entered with them for charters only and any pollution matters would be for the owners' account, and thus, the claim should be presented to the Owners' P&I Club.

The Claim

On January 19, 1998, the Crown presented the CCG claim to the Ship-source Oil Pollution Fund.

The Crown also prepared to take proceedings against the ship and others. Representations were made by the Crown and the Administrator to the P&I Clubs involved, in particular the Charterers' P&I Club, which had issued a Letter of Undertaking, and on February 16, 1999, the Crown

received a transfer of funds for \$52,827.26 from the Charterers' P&I Club. The transfer included no interest, but the Crown accepted it as final settlement of its claim.

Status

The file was closed on March 31, 1999.

Haralambos (1996)

Location: Port Cartier, QC

Case number: 120-135-C1

The Incident

Oil was found coming ashore on the beaches of the Gulf of the St. Lawrence southwest of Port Cartier, Québec on December 3, 1996, by residents of the small community of Rivière Pentecôte. The authorities were informed and the Canadian Coast Guard (CCG) responded with contractors to effect a cleanup. The cleanup operation commenced on December 5, 1996 and was completed to the satisfaction of the authorities on December 9, 1996. It was reported that 103 barrels of oil and oily material had been collected for disposal.

The Claim

On February 27, 1997, the Crown filed a claim with the Ship-source Oil Pollution Fund (the Fund) to recover the CCG costs and expenses incurred in the cleanup, totaling \$73,483.00. The claim was presented as a mystery spill.

Assessment and Offer

The Administrator commenced an investigation of the circumstances of the oil pollution and found that the Marine Safety Branch of Transport Canada (MSB) had carried out a thorough investigation of two oil spills, which had occurred on November 19 and November 25, 1996 within Port Cartier harbour and involving a Cypriot flag bulk carrier, *Haralambos*. The ship had come into the harbour on November 18 and had been at anchor off the harbour awaiting cargo between November 19 and 25, 1996. It was found that one of the topside water ballast tanks had a corrosion hole through to a fuel tank, which accounted for the loss of oil. The shipowners accepted responsibilities for these spills and undertook to pay for the cost of the cleanups within the harbour. The *Haralambos* sailed for Iran on November 30, 1996.

In the course of his investigation, the MSB surveyor took oil samples. The samples were then compared with the oil found on the beaches at Rivière Pentecôte, following which it was found that the oil from the harbour matched the oil from the beaches. Accordingly, on December 4, 1997, the Administrator forwarded the Crown's claim to representatives of the *Haralambos*' P&I Club in Canada for direct payment to the Crown. On May 22, 1998, counsel for the P&I Club replied to the Administrator denying liability of the *Haralambos* for the claim and stating that without more concrete evidence, they could not recommend that the ship accept responsibility for this pollution.

On November 17, 1998, the Administrator authorized an interim payment to the Crown of 75% of its claim, amounting to \$55,112.25, plus \$6,874.94 interest, and continued his investigation to obtain further evidence regarding the claim. A further analysis of oil samples was made, this time a direct comparison of a sample taken from the beach at Rivière Pentecôte with samples from the *Haralambos*' contaminated wing tank. The analysis, dated February 23, 1999, concluded that the samples were "very similar". To further assess the probability of the *Haralambos*, while off Port Cartier, being the origin of the oil, a hindcast trajectory study was also carried out on behalf of the

Fund. The hindcast report dated August 23, 1999 found that if a ship off Port Cartier released oil on November 19, 1996, the oil would have passed out into the Gulf and if a ship off Port Cartier released oil on November 25, 1996, the conditions were such that oil could have traveled to the general area of the beaches involved in the incident.

In the meantime, an agreement on quantum was reached between the Administrator and the Crown, which reduced their claim by \$1,975.89. Therefore, on March 28, 2000, the Administrator arranged to pay the outstanding balance of the Crown's claim, \$7,396.09, plus \$1,612.41 interest. The taxes were deducted from this final outstanding amount since they were incorrectly calculated in the Crown's original claim. On May 9, 2000, the Administrator directed payment of the correct amount of taxes, \$3,374.70, plus \$773.05 interest.

Recovery Action

The *Haralambos* returned to Canada in May 2000 and the Administrator obtained a Letter of Undertaking for \$125,000.00. Subsequently, the Administrator commenced an action against the ship in the Federal Court, to which a defense was filed. In the meantime, on November 3, 2000, it was reported that the *Haralambos* had been purchased by Chinese principals for breaking-up.

Offers and counter-offers were made between counsels for both parties, but no settlement had been reached by April 15, 2004. Hence, the Administrator instructed his counsel to proceed to trial. On June 15, 2004, prior to the trial hearing, the Administrator accepted a settlement offer in the amount of \$50,000.00.

Status

The file was closed on March 31, 2005.

Nita 1 (1997)

Location: Gros-Cacouna, QC

Case number: 120-138-C1

The Incident

On March 19, 1997, oil was found on the ice between the Panamanian flag multi-purpose cargo ship *Nita 1* and the quay at the port of Gros-Cacouna, Quebec. The ship denied responsibility and the Canadian Coast Guard (CCG) engaged contractors for the cleanup, which operation was completed on March 20, 1997, and resulted in approximately one barrel of oily debris being recovered.

A surveyor from the Marine Safety Branch of Transport Canada took samples of the oil and, subsequently, charges were laid against the *Nita 1* for causing oil pollution. Before the ship was allowed to sail, the ship's P&I Club was required to provide a Letter of Undertaking in favor of the CCG to the amount of \$5,000.00. Further to the criminal proceedings, the ship was found guilty and fined \$8,000.00.

The Claim

After a claim submitted by the CCG to the *Nita 1*'s legal representatives remained unpaid, on January 8, 1998, the Crown submitted a claim in the amount of \$3,787.30 with the Ship-source Oil Pollution Fund for the reimbursement of the CCG's costs and expenses with respect to this incident.

On February 26, 1998, the Administrator submitted the CCG claim to the *Nita 1*'s legal representatives with the request that settlement be made directly to the Crown. The claim was acknowledged; however, the legal representatives, on behalf of the ship, denied liability.

Negotiations took place between the counsels for the ship and the Crown, further to which an all-inclusive settlement of \$3,000.00 was agreed upon and paid to the Crown on March 2, 2000. A formal Receipt, Release and Discharge document was thereafter signed on behalf of the Crown in favor of the ship on March 23, 2000. The Administrator was not involved in the settlement.

Status

The file was closed on March 31, 2000.

Le Barachois (1997)

Location: Étang du Nord, Îles-de-la-Madeleine, QC

Case number: 120-141-C1

The Incident

On June 22, 1997, the Canadian fishing vessel *Le Barachois* was involved in a spill of diesel oil in the harbour of Étang du Nord, Îles-de-la-Madeleine, Quebec. It was stated that one of the fuel tanks inside the unmanned vessel developed a leak and the resultant loss of fuel was pumped overboard by the automatic bilge pump. The vessel owner did not undertake to clean up the estimated five litres of oil; hence, the Canadian Coast Guard (CCG) engaged local contractors. Live lobsters were caged within the harbour.

The Claim

After having not received any response from the vessel owner, the Crown, on behalf of the CCG, presented its claim to the Ship-source Oil Pollution Fund (the Fund), in the amount of \$2,386.22, for the recovery of costs and expenses incurred for the cleanup.

Assessment and Offer

The Administrator investigated the claim and, on October 13, 1998, paid \$2,386.22, plus \$200.95 interest, to the Crown in full and final settlement.

Recovery Action

On November 16, 1998, the Administrator wrote to the vessel owner requesting payment of \$2,566.55, which sum represented the calculated limit of liability, plus interest, to recover the payment made by the Fund to the Crown, but did not get any answer. Another letter was sent on July 14, 1999, and this time the owner replied by letter that, because of other vessel repair costs and small fishing revenue, he was unable to pay. Other information was forthcoming that, at the time of the incident, the vessel owner was in poor health, and it was confirmed that he had little income. Consequently, the Administrator decided that further recovery efforts were not justified and accepted a compromise and settlement.

On November 23, 1999, the Administrator received a cheque in the amount of \$850.00.

Status

The file was closed on March 31, 2000.

Mystery Spill (1997) ⚓

Location: La Baie, QC
Case number: 120-144-C1

The Incident

The bulk carrier *Island Sky* was moored alongside the Alcan facility at La Baie, Quebec, in the upper reaches of the Saguenay River, on July 2, 1997, when an oil film was observed around the ship. The crew of the ship was painting the hull at the time but the ship denied they, or any operation aboard, were responsible. Alcan organized contractors to clean up the oil but there was so little, that no samples could be obtained.

The Canadian Coast Guard was informed of the incident after the clean-up operation was completed. However, in view of the minor nature of the spill, no federal government officials went to the site.

The Claim

On March 2, 1998, Alcan filed a claim with the Ship-source Oil Pollution Fund for recovery of their costs and expenses in the amount of \$607.57. The incident was classified as a mystery spill, although no other ship was involved.

Assessment and Offer

The Administrator investigated the claim. Having a number of concerns, he sought further information from Alcan, but the latter did not respond.

On March 18, 1999, the Administrator paid the claim, plus \$65.62 interest, while making it clear that in any future claims made on behalf of Alcan, better on-site investigation of the origin of the spill should be undertaken by the Alcan owned wharf facility, since prompt and complete investigation is essential if the *polluter pays principle* is to be upheld.

Status

The file was closed on March 31, 1999.

Mystery Spill (1997)

Location: Bassin Lanctôt, Sorel Harbour, QC

Case number: 120-145-C1

The Incident

On July 3, 1997, oil pollution was reported by a Canadian Coast Guard (CCG) ship in Bassin Lanctôt, Sorel, Quebec. The CCG used their own personnel and equipment to respond to the spill. It was recorded that Sorel had experienced a total of 31.3 mm of rain during a 45-minute period overnight.

The Marine Safety Branch of Transport Canada sent a surveyor to the scene and the most likely origin of the oil at the time seemed to be a Canadian Great Lakes vessel discharging grain at a nearby berth, upriver from Bassin Lanctôt. Oil samples were taken but, on analysis, there was no match. Besides, it was found that the sample taken from the water in Bassin Lanctôt was vegetable oil based, whereas the ship's hydraulic oil was mineral based.

The Claim

The Crown filed a claim with the Ship-source Oil Pollution Fund (the Fund) on January 8, 1998, in the amount of \$13,581.64, seeking to recover the CCG's costs and expenses in responding to the oil pollution.

Assessment and Offer

The Administrator investigated the claim, and in view of the results of the oil samples analysis, advised that a vegetable based oil did not meet the definition of oil in Part XVI of the *Canada Shipping Act*. Consequently, on October 19, 1998, the Crown agreed not to pursue their claim against the Fund.

Status

The file was closed on March 31, 1999.

Mystery Spill (1997) ⚓

Location: La Baie, QC
Case number: 120-151-C1

The Incident

Three ships were berthed at two wharves at the Alcan facility in La Baie, Quebec, on August 9, 1997, in the upper reaches of the Saguenay River when an oil film was noticed between the two wharves. The oil appeared to be a bunker mix. Samples were taken but the Alcan personnel were unable to determine from which ship the oil originated.

Initially, Alcan personnel responded to the spill but contractors were then called in for the cleanup. The authorities were informed of the incident but did not attend the site, which is some three hours drive from the nearest offices of the Canadian Coast Guard and the Marine Safety Branch of Transport Canada.

The Claim

On October 19, 1997, Alcan filed a claim in the amount of \$344.00 with the Ship-source Oil Pollution Fund in respect to the attendance of their personnel, and on November 6, 1997, another claim in the amount of \$890.10 for the work of the contractors.

Assessment and Offer

Following an investigation and assessment of the claim, on May 21, 1998, the Administrator paid \$1,287.72, including \$53.62 interest, to Alcan in full and final settlement of the claim, and requested the latter to sign and return a Release and Subrogation document.

Status

The file was closed on March 31, 1999.

Mystery Spill (1997)

Location: Sept-Îles, QC
Case number: 120-155-C1

The Incident

On August 29, 1997, an oil spill consisting of 9-13 litres of light diesel oil was observed in Sept-Îles harbour, Quebec. An analysis of the oil determined it to be a mixture of diesel and lubricating oil. The oil was mainly in the fishing harbour, but some had flowed out into the main harbour. It was then considered that one of approximately 20 fishing vessels which were in port at the time of the incident was the origin of the spill. However, none of the fishing vessels was the obvious origin and as they had mainly all obtained their oils from the same source, oil analysis was considered impracticable. The Canadian Coast Guard (CCG) responded by employing a local contractor to contain and clean up the oil.

The Claim

The incident being classified as a mystery spill, on January 8, 1998, the Crown filed a claim with the Ship-source Oil Pollution Fund seeking reimbursement of the CCG costs and expenses in the amount of \$5,242.95.

Assessment and Offer

Further to the investigation and assessment of the claim, the Administrator requested from the Crown receipt of proof of payment of the contractors' invoices to be able to pay the claim in full. The required proof was received on April 16, 1998, and the next day, a payment in the amount of \$5,242.95, plus \$211.52 interest, was made by the Administrator to the Crown in full and final settlement of the claim.

Status

The file was closed on March 31, 1999.

Rani Padmini (1997)

Location: Baie Comeau, QC

Case number: 120-158-C1

The Incident

On October 9, 1997, the Indian flag bulk carrier *Rani Padmini* developed a crack in a fuel tank and released oil while coming alongside the public wharf at Baie Comeau, Quebec. The ship had an arrangement with a Response Organization, but refused to invoke it. Therefore, the Canadian Coast Guard (CCG) appointed contractors to contain and clean up the oil. Approximately 12.5 tonnes of #6 fuel oil, 12 tonnes of an oily water mix, 15 cubic metres of soiled sorbent materials and 15 cubic metres of soiled vegetation were recovered.

Before the ship was allowed to sail, the P&I Club provided a Letter of Undertaking for \$375,000.00.

The Claim

On January 27, 1998, the CCG submitted its claim to *Rani Padmini*'s owner, amounting to approximately \$335,000.00, for reimbursement of their costs and expenses incurred. However, payment by the shipowner was not forthcoming. Thus, on May 21, 1998, the Crown presented a claim in the amount of \$337,189.41 to the Ship-source Oil Pollution Fund (the Fund), pursuant to Section 710 of the *Canada Shipping Act* (the Act). During the Administrator's investigation of the claim, he learned that the shipowner was alleging the damage to the hull was caused by a projection on the federal public wharf in Baie Comeau. The Crown's claim with the Fund was later withdrawn on January 14, 2000.

On January 5, 2000, the shipowner commenced an action in the Federal Court of Canada against the Crown, in the amount of US \$800,000.00, for costs incurred as a result of damage to the vessel. The Crown filed a Statement of Defense and Counterclaim on August 11, 2000. As for the Administrator, no document was served on him making him a party to the proceedings pursuant to Section 713 of the Act.

On March 30, 2001, after having asked the Crown's counsel about their intentions, the Administrator concluded that no claim would be made on the Fund.

Status

The file was closed on March 31, 2002.

Mystery Spill (1998)

Location: Sainte-Anne-de-Sorel, QC

Case number: 120-173-C1

The Incident

The Canadian Coast Guard (CCG) reported to the Ship-source Oil Pollution Fund (the Fund) that, on May 18, 1998, a man and his dog became oil contaminated while walking on the beach at Sainte-Anne-de-Sorel, Quebec, on the St. Lawrence River, just below Sorel. The CCG responded by supervising contractors for the necessary cleanup of, what appeared to be, bunker oil.

Over the same period of time, there was a land-based spill of bunker oil nearby but an investigation by Environment Canada (EC), Environment Quebec and the CCG came to the conclusion that the two incidents were not related. Besides, the oil on the beach, by its location, appeared to come from up-channel, above Sorel; hence, it was classified as a mystery spill.

The Claim

The Crown filed a claim with the Fund for the recovery of the CCG costs and expenses on October 6, 1998, and an amended claim on October 26, 1998 to include the attendance of the EC officer. The amended claim totaled \$7,368.68.

Assessment and Offer

Further to the investigation and assessment of the claim, the Administrator concluded that the costs and expenses were reasonable within the meaning of the *Canada Shipping Act*. Therefore, on March 3, 1999, a payment in the amount of \$7,791.68, which included \$423.00 in interest, was made by the Administrator to the Crown.

Status

The file was closed on March 31, 1999.

Filomena Lembo (1998) ☰

Location: Quebec City, Que.

Case number: 120-174-C1

The Incident

The *Filomena Lembo*, an Italian flag tanker that had been converted from a cargo vessel, arrived at a berth in Quebec City, Quebec, on May 26, 1998, to deliver a part cargo of No. 6 bunker oil to a local pulp mill owned by Daishowa Inc. Daishowa Inc. decided to employ contractors in a simulated oil spill exercise and the contractors commenced placing a boom around the tanker on her arrival. Shortly after, oil was seen within the boom. The oil spill continued to increase within the boom to a final quantity estimated at some 200 to 400 litres. Daishowa Inc. employed the contracting company already on site to clean up the pollution. The tanker discharged her cargo and loaded bunkers.

The Marine Safety Branch of Transport Canada (MSB) conducted an investigation and the spill was found to have the consistency of old, dirty, lubricating or hydraulic oil, but the MSB was unable to find a match between this oil and other oil samples taken from the tanker. No source for the origin of the oil could be found from shore drainage systems either. However, the MSB found a number of deficiencies in the oil transfer system aboard compared to international requirements.

Measures taken by the Administrator

The tanker sailed on May 28, 1998, and on that same day, the Ship-source Oil Pollution Fund (the Fund) commenced an action in the Federal Court of Canada against the *Filomena Lembo*, her owners and all others interested in the ship. The tanker was therefore arrested at the next port, Sept-Îles, until a Letter of Undertaking (LOU) for the agreed sum of \$85,000.00 was issued by the P&I Club on May 29, 1998.

The Claim

On October 29, 1998, Daishowa Inc. filed a claim in the amount of \$35,179.11 with the Fund for their costs and expenses in responding to the spill.

Assessment and Offer

The Administrator investigated extensively the circumstances of the spill, including employing divers to search the seabed off the berth in question, where diverse material was found. The material consisted mainly of concrete and construction framing, and a cylindrical object, possibly a tank, buried in the mud. During a follow-up dive on November 23, 1998, in trying to relocate the cylindrical object, another object was also found that, in the divers' opinion, was the frame of an automobile or a small airplane. The divers brought a small piece of the object to the surface and concluded that it could not have caused the pollution. Since no evidence could be found for the origin of the oil, the incident was considered a mystery spill.

The Daishowa Inc. claim was therefore assessed for quantum. The Administrator had a number of concerns, principally the hourly rate charged for Daishowa Inc. employees, demurrage for the

delay of the *Filomena Lembo* and the Daishowa Inc. legal costs. Following negotiations between counsels, the Administrator reached a settlement with Daishowa Inc. Hence, on January 25, 2000, a payment of \$17,966.31, plus \$2,003.42 interest, and a further payment of \$2,172.39 in respect of sharing information of the oil sample analysis results, were made by the Administrator to Daishowa Inc. On February 1, 2000, a release in favour of the Fund was signed by Daishowa Inc.

Further to the settlement of the Daishowa Inc. claim and after both Daishowa Inc. and the Port of Quebec waived their interest in the LOU, the latter was returned by the Administrator to the ship's counsel, and the Administrator's action against the ship was discontinued by consent, with each party bearing its own costs.

Status

The file was closed on March 31, 2001.

Mystery Spill (1998)

Location: Île-des-Barques, QC

Case number: 120-177-C1

The Incident

On August 8, 1998, a Canadian Coast Guard (CCG) patrol vessel reported to the CCG Response Branch the presence of oil in the channel to the southwest of Île-des-Barques, Quebec, just below Sorel in the St. Lawrence River. At the southern end of the channel is a stone weir and it was found that the oil had permeated the weir, leaching out according to the state of tide. The oil pollution persisted and on August 13, 1998, the CCG installed an absorbent boom below the weir, which the next day was found to be unable to withstand the current. A standard boom was then installed to best capture the oil washing off the weir, and it was removed on October 22, 1998. It proved impossible to ascertain the source of the oil; hence, the incident was declared a mystery spill.

The Claim

On March 26, 1999, the Crown, on behalf of the CCG, presented a claim to the Ship-source Oil Pollution Fund in the amount of \$22,152.81, approximately half of which was to recover the costs for the use of the CCG craft and booms. The other main charge in the claim was for the attendance of contractors who monitored the booms.

Assessment and Offer

Further to the investigation of the claim, the Administrator noted that some charges were not established, particularly the costs of the oil contaminated waste disposal, and others were not reasonable, especially those related to the use of the CCG craft. Accordingly, on November 8, 1999, he made an interim payment of \$16,988.27, plus \$1,520.66 interest, to the CCG, and the latter advised that they would not pursue the remainder.

Status

The file was closed on March 31, 2000.

Mystery Spill (1998)

Location: Rimouski, QC
Case number: 120-180-C1

The Incident

On September 2, 1998, the Harbour Master of Rimouski reported to the Canadian Coast Guard (CCG) that a white colored emulsified oil was polluting the port. The CCG contracted for the cleanup. The Marine Safety Branch of Transport Canada carried out an investigation on the incident, but was unable to find the origin of the oil. Therefore, it was classified as a mystery spill.

The Claim

On January 18, 1999, the Crown, on behalf of the CCG, filed a claim in the amount of \$1,787.71 with the Ship-source Oil Pollution Fund.

Assessment and Offer

Further to the investigation and assessment of the claim, the Administrator paid the claim in full, plus \$66.51 interest, on March 3, 1999.

Status

The file was closed on March 31, 1999.

Mystery Spill (1998)

Location: Montreal Harbour, QC

Case number: 120-184-C1

The Incident

On October 13, 1998, the Norwegian flag cruise vessel *Seabourn Pride* refueled and offloaded waste oil while berthed at Section M5 in Montreal Harbour. Early morning on October 14, 1998, she sailed for Quebec City. Four hours afterwards, oil was reported in Montreal Harbour, covering Sections M5 and M6. There were five harbour crafts at M6, including a floating crane, and all experienced oiled hulls. The oil spill comprised both light and heavy oils.

On the cruise vessel's arrival at Quebec City, arrangements were made for a Letter of Undertaking to the amount of \$60,000.00, in the names of the Canadian Coast Guard (CCG) and the Ship-source Oil Pollution Fund (the Fund).

The CCG contracted for the cleanup of the oil. The Marine Safety Branch of Transport Canada boarded the *Seabourn Pride*, but was unable to establish that the oil found at Sections M5 and M6 came from that vessel.

The Fund also investigated the oil spill, and it appeared that either the cruise vessel itself or the small craft that was employed to offload the used oil was involved. However, it was impossible to determine which of them was the origin of the spill. Moreover, both ships denied responsibility. Hence, the incident was classified as a mystery spill.

The Claim

On March 4, 1999, the Crown presented a claim to the Fund in the amount of \$23,097.36.

Assessment and Offer

Further to the investigation and assessment of the claim, the Administrator noted that one of the costs in the claim, that for the manager of the response organization, in the amount of \$1,360.00, had not been paid by the CCG on the grounds that the individual had not been on site. The claim was therefore reduced to \$21,737.36. Besides, he had concerns regarding a number of other individual charges due to the lack of substantiating invoices from subcontractors and to the fact that contractors added an automatic mark-up of 10 per cent for handing subcontractors invoices, without justification.

On November 3, 1999, the Administrator then made a payment covering the established items of \$20,263.15, plus \$1,319.65 interest, to the Crown.

Status

The file was closed on March 31, 2000.

Mystery Spill (M103 – Shell) (1998) ⚓

Location: Montreal Harbour, QC

Case number: 120-186-C1

The Incident

Produits Shell Canada Limitée (Shell) had floating booms permanently installed off its facility at Section 103 in Montreal Harbour, Quebec. The booms were opened on November 14, 1998 to permit two vessels to berth at the facility and oil floated in with the current. Shell employed contractors to cleanup the oil, including that which fouled the hulls of the two ships required to berth there. The oil was of the heavy variety and the quantity estimated to be about 100 litres. Over the same period of time, on November 10, 1998, the container ship *Canmar Valour* spilled heavy fuel oil during refueling from a shore tanker truck, while berthed at section 79 in Montreal Harbour. The Marine Safety Branch of Transport Canada investigated the oil pollution at the Shell facility and obtained a match between oil samples taken from Section 103 and the spill involving the *Canmar Valour* at Section 79.

Measures taken by the Administrator

A Letter of Undertaking (LOU) for the amount of \$200,000.00 was obtained from the *Canmar Valour*'s representatives on behalf of the Canadian Coast Guard (CCG) and the Ship-source Oil Pollution Fund (the Fund) with respect to the spill that occurred at Section 79. Since the CCG's claim in relation to this incident had been settled directly by the shipowner, on September 13, 1999, the Administrator negotiated the release of the monies due to the CCG, and retained the LOU for the oil pollution at the Shell facility.

The Claim

On April 6, 1999, Shell filed a claim with the Fund in the amount of \$15,456.00 to recover their costs and expenses responding to the incident, and presented an additional claim in the amount of US\$14,375.83 for the demurrage on September 17, 1999, which claim was reduced to CA\$9,739.17 on September 28, 1999. In total, the Shell claim amounted to \$25,245.17.

Assessment and Offer

The Administrator investigated the claim and required better substantiation for some of the charges, which information was provided by Shell. When proof of the *Canmar Valour*'s involvement with the oil pollution at the Shell facility became available to the Administrator, he requested, on August 4, 1999, that counsel for the ship negotiate a settlement directly with Shell. Furthermore, the additional claim was forwarded to the representatives of the *Canmar Valour*.

On March 20, 2000, counsel for the ship offered Shell a compromise and settlement without prejudice. After negotiations, Shell accepted the offer in full and final settlement of the clean-up portion of the claim, and on January 17, 2001, a release and discharge document for this part of the claim was duly signed by Shell in favor of the shipowner and the Administrator.

With regard to the claim for demurrage, the Administrator advised Shell, on November 9, 2000, that it was not admissible given the fact that it constituted a claim for pure economic loss which was not recognized as falling within one of the exceptions to the general exclusion rule prevailing in Canadian Maritime Law, nor within the categories recognized by Section 712 of the *Canada Shipping Act*.

Status

The file was closed on March 31, 2001.

Solon of Athens (1999)

Location: Sorel, QC
Case number: 120-192-C1

The Incident

On March 9, 1999, while alongside at a Richelieu River berth in Sorel, Quebec, the Vanuatu flag bulk carrier *Solon of Athens* experienced a broken ballast water pipe routed through an oil tank, releasing an estimated 180 litres of a mixture of light oil and diesel into the river. The ship immediately contracted for the necessary containment and cleanup, and it was only later that the Canadian Coast Guard (CCG) and the Marine Safety Branch of Transport Canada were informed. The CCG provided personnel to oversee the operation, which was completed to their satisfaction. The CCG obtained a Letter of Undertaking for \$7,000.00 to cover their costs and expenses.

Information was later obtained by the Ship-source Oil Pollution Fund (the Fund) that the *Solon of Athens* had been broken up in India on June 28, 1999.

The Claim

On June 17, 1999, the Crown filed a claim in the amount of \$4,717.24 with the Fund for the recovery of the CCG costs and expenses in the incident.

Assessment and Offer

The Administrator investigated the claim, and on June 28, 1999, sent a copy to the *Solon of Athens* representatives with the request that direct settlement be made with the Crown.

As little progress was made during the remainder of 1999 in obtaining payment of the claim from the shipowner, the Administrator assessed the Crown's claim, and on March 16, 2000, paid it in full, plus \$350.99 in interest.

Recovery Action

The Administrator continued his efforts to recover the amount of the Crown's claim from the shipowner. Counsel for the shipowner disputed a number of individual charges in the Crown's claim, and further information was provided. On September 5, 2000, counsel for the shipowner made an offer to the Administrator, but the latter rejected it. Later, on September 15, 2000, an agreement to settle the claim for \$4,028.24, all-inclusive, was signed by the parties. The payment of the settlement amount was received by the Administrator on January 22, 2001.

Status

The file was closed on March 31, 2001.

Gordon C. Leitch (1999) ♦ →

Location: Havre-Saint-Pierre, QC
Case number: 120-193-C1

The Incident

On March 23, 1999, the *Gordon C. Leitch*, a Canadian Great Lakes vessel, was berthed at an iron ore facility in Havre-Saint-Pierre, Quebec, on the lower north shore of the St. Lawrence River. When moving the vessel along the quay for the loading operation, she was caught by strong winds and hit a dolphin, cracking the hull and releasing an estimated 49 tonnes of heavy fuel oil. The bay of Havre-Saint-Pierre is an environmentally sensitive area that includes a National park, traditional waterbird hunting grounds and a shell fishery.

The owners directed the cleanup with contractors, under the Canadian Coast Guard (CCG) guidance and making use of CCG materials and equipment. In this operation, the CCG claimed costs and expenses totaling \$233,065.00, which amount was paid by the shipowners on October 25, 1999.

Administrator as Party by Statute

On March 22, 2002, counsel for the Conseil des Innus de Ekuanitshit et tous les membres de la Bande Indienne de Ekuanitshit filed an action in the Federal Court of Canada against the owner of the *Gordon C. Leitch* and others and the International Oil Pollution Compensation (IOPC) Fund. The action claimed the sum of \$539,558.72 for stated damages for the local Indian Band due to the *Gordon C. Leitch* incident. The IOPC Fund was thereafter removed as a defendant in the action and the Ship-source Oil Pollution Fund (the Fund) became a party by statute.

A hearing took place on January 14, 2004 before Mr. Justice Hugesson who made it clear that liability of the Fund under Section 84 of the *Marine Liability Act* could not be contemplated because the conditions precedent had not yet been satisfied. He also indicated that a claim under Section 88 could exist against the Fund but it would be proscribed since no claim was filed within the three years from the date of the incident.

Settlement negotiations between the plaintiffs and the shipowner took place. By December 2005, an overall settlement had been agreed to, with contribution from the shipowner and its insurers and \$10,000.00 from the Fund. A full and final release was received in favour of the Administrator and proceedings were discontinued without costs.

Status

The file was closed on March 31, 2006.

Paterson (1999)

Location: Lac Saint-François, QC

Case number: 120-195-C1

The Incident

The bulk carrier *Paterson* was carrying a cargo of grain when she grounded in Lac Saint-François, Quebec, located between Montreal, Quebec and Cornwall, Ontario on April 5, 1999. There was no pollution as a result of the grounding, but the shipowners gave notice to his Response Organization to be in readiness. Arrangements were also made to lighten the vessel of some of her cargo, in preparation for refloating. This was successfully carried out on April 9, 1999, with no pollution occurring. The Canadian Coast Guard (CCG) and the Marine Safety Branch of Transport Canada (MSB) were in attendance.

The Claim

On April 4, 2000, the Crown presented a claim in the amount of \$10,350.57 to the Ship-source Oil Pollution Fund to recover the CCG costs and expenses in the incident.

Assessment and Offer

The Administrator investigated the claim, and on May 2, 2000, he wrote to the *Paterson*'s owners suggesting that they settle the claim directly with the Crown. *Paterson*'s owners rejected responsibility for the claim, by letter dated May 4, 2000, on the basis that they did not request CCG assistance, the ship was aground amidships where there were no tanks containing oil, the hull was not breached in any area of the ship, and according to the MSB, the damage was of little concern. On June 6, 2000, the Crown replied to the points raised by the shipowners in a letter to the Administrator, in which the following points were outlined: CCG actions were taken in anticipation of a discharge of oil, as provided by Section 677 of the *Canada Shipping Act* and the shipowners' request is not required.

The Administrator then assessed the claim and found the amount of \$3,625.50 to be established, which amount was offered to the Crown in full and final settlement. The Crown accepted it and on November 3, 2000, the amount of \$3,625.50, plus \$431.02 interest was transferred to the Crown.

Recovery Action

On June 8, 2001, the Administrator wrote to the shipowners requesting reimbursement of the payment made to the Crown. On or about July 30, 2001, the shipowners paid the Administrator the amount of \$3,625.50, plus \$588.50 interest.

Status

The file was closed on March 31, 2002.

Mystery Spill (1999)

Location: Paspébiac, QC
Case number: 120-199-C1

The Incident

On May 11, 1999, the provincial environment department advised the Canadian Coast Guard (CCG), that there was oil in the waters of the Paspébiac Harbour. The harbour master and the Marine Safety Branch of Transport Canada investigated the spill, however, the source could not be found. Hence, it was classified as a mystery spill.

The CCG arranged for a local contractor to clean up the spill, which work was completed during the morning of May 14, 1999.

The Claim

On February 14, 2000, the CCG submitted a claim in the amount of \$2,398.86 to the Ship-source Oil Pollution Fund.

Assessment and Offer

The Administrator investigated and assessed the claim. On March 17, 2000, he wrote to the CCG requesting substantiation for certain charges, which information was provided. Besides, other issues were raised by the Administrator, including the high cost of disposal of contaminated material. The CCG then revised its claim to \$2,366.73, which amount was paid by the Administrator, on November 2, 2000, plus \$265.40 interest, in full and final settlement.

Status

The file was closed on March 31, 2001.

Alcor (1999)

Location: St. Lawrence River, Northern tip of Île d'Orléans, QC

Case number: 120-210A-C1

The Incident

On November 9, 1999, following a reported steering gear problem, the Maltese-flag bulk carrier *Alcor* ran out of the channel and went aground in the St. Lawrence River, off the northern tip of Île d'Orléans, some 48 kilometres northeast of Quebec City. It was stated that approximately 3,000 Canada geese were in the area. The ship was loaded with clinker, a cement mixing agent. It contained an estimated 130 tonnes of residual bunker oil, and other oils were also in engine room tanks. Transport Canada Marine Safety and the Canadian Coast Guard attended the site together with a Response Organization (RO) contracted by the ship. Attempts were made to refloat the ship that same day and the following day, but both attempts were unsuccessful. On November 10, cracks were noted in the ship's hull and by the next day, there was a large crack around the hull, in the vicinity of amidships. Some of the cargo then escaped into the river. However, since the RO had boomed the ship, there was no pollution.

The Crown sent the owners a Letter of Intention, pursuant to the *Canada Shipping Act* and the *Navigable Waters Protection Act*. On November 13, 1999, the owner responded by preparing submissions for bids to salvage the *Alcor* and on November 22, 1999, the contract to refloat the ship was awarded to a local salvage company. The company carried out temporary repairs to the ship and offloaded some of the cargo into another ship to facilitate the refloating. The refloating successfully took place on December 5, 1999, and the *Alcor* was towed to a safe berth in Quebec City.

On December 20, 1999, the Administrator commenced an action *in rem* against the ship. On January 13, 2000, Crown counsel advised shipowner's counsel that the Crown sought to recover costs and expenses totaling \$131,630.04, but the Crown's claim remained unpaid. In the meantime, the ship was transferred to a Canadian company. The Administrator instructed counsel to refrain from serving the Statement of Claim on the ship to facilitate possible settlement between the parties. In April 2001, when the Administrator was advised that the ship had been sold again, equipment was being removed and the ship was to be taken to Sorel for demolition, he instructed counsel to have the ship arrested. Later, counsel for shipowners and their insurers reached a settlement with the Crown and provided an undertaking to pay by June 15, 2001, conditional on the ship being released from arrest. The Crown then undertook not to pursue a claim against the Ship-source Oil Pollution Fund (the Fund), in the event of default of payment by the shipowners and their insurers. Consequently, the ship was released from arrest and the Administrator's action *in rem* was discontinued.

The Claim

No claim was filed with the Fund.

Status

The file was closed on March 31, 2001.

Mystery Spill (1999)

Location: Quebec City and Sorel, Quebec

Case number: 120-211-C1

The Incident

On November 10, 1999, the vessel moored ahead of the *Amarantos*, a bulk carrier registered in the port of Valetta, Malta, reported that they could see traces of oil in the water in the vicinity of the *Amarantos* at Section 52, Quebec City. The Marine Safety Branch of Transport Canada placed a temporary detention order on the *Amarantos*, pending inspection. In the meantime, the master of the ship contracted for the response to the oil spill. It proved impractical to attempt recovery of the estimated 200-metre long patch of oil alongside the ship, which patch had floated downstream with the current. The Société d'Intervention Maritime, Est du Canada attended and booms were deployed.

The detention order was lifted on November 11, 1999, and the *Amarantos* moved upriver to Sorel. On November 20, 1999, an Environment Canada official reported that there had been an escape of oil from the *Amarantos* at section 21. Again, the master of the ship requested contractors to provide the necessary response.

The Claim

On July 10, 2000, alleging that the *Amarantos* was not the source of the spills, counsel acting for the *Amarantos* filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$23,653.68 for the costs and expenses incurred by the shipowners in the oil spill cleanup response for the two incidents.

Assessment and Offer

The Administrator commenced extensive nautical and legal investigations into the circumstances of the spills, following which he rejected the claim on the basis that oil was observed coming up alongside the *Amarantos* in Quebec City and that a small quantity of oil was observed leaking from the ship's shaft in Sorel. Besides, the surveyor from the P&I Club suggested the source of the pollution may not have been a discharge from a ship. However, for a claim to be receivable by the Fund, it must relate to a damage caused by pollutant discharge from a ship or a measure preventing discharge of oil from a ship.

No appeal against the Administrator's decision was received within the statutory 60-day period prescribed under section 87 of the *Marine Liability Act*.

Status

The file was closed on March 31, 2002.

Mystery Spill (*Anangel Splendour*) – CCG Claim (2000)

Location: Port Cartier, QC
Case number: 120-222-C1-1

The Incident

On May 12, 2000, oil pollution was found in the water between the Greek flag bulk carrier *Anangel Splendour* and the quay, alongside at Port Cartier, Quebec, and extending some 200 metres ahead. Port Cartier was a private harbour of the Compagnie Minière Québec Cartier (CMQC). There were two other vessel movements within the harbour over a similar period as the discovery of the oil spill.

CMQC took charge of the cleanup, in the presence of the Canadian Coast Guard (CCG). Transport Canada Marine Safety (TCMS) took oil samples. The oil resembled fuel oil and the quantity spilled was estimated at approximately 900 litres.

CMQC obtained a Letter of Undertaking (LOU) from counsel for the *Anangel Splendour* to cover the costs and expenses of the cleanup. TCMS also required a LOU from the ship to cover any possible fine, but the *Anangel Splendour* denied that she was the origin of the oil and sailed on May 15, 2000.

The Claim

On January 31, 2001, the Crown, on behalf of the CCG, filed a claim with the Ship-source Oil Pollution Fund (the Fund) to recover their costs and expenses, stated to amount to \$4,076.08.

Assessment and Offer

The Administrator investigated and assessed the claim. However, an offer of settlement was withheld pending results of the investigation into the origin of the spill. A key issue in this case was whether or not the oil came from a shore-based operation. It was reported that over a similar time frame to the incident, Environment Quebec was investigating a source of contamination coming from ashore in Port Cartier.

Following a lengthy investigation by the Fund, CCG, TCMS and Environment Quebec, the Administrator was not satisfied that the occurrence was not caused by a ship. Accordingly, he settled the CCG claim for \$3,776.05, together with interest of \$638.82, and payment of the settlement amount was made.

Recovery Action

Following further analysis of the oil samples and his investigation of ship-source spill probabilities, the Administrator commenced a cost recovery action against the *Anangel Splendour* and her owners in the Federal Court for all amounts paid by the Fund with respect to this incident. Since April 2004, there had been discovery of documents between the parties. Then, verbal communications had followed.

A trial date was set for November 2, 2009 in Montreal. However, before the trial date, the parties arrived at a settlement agreement. As a result, the claim was amicably settled for \$150,000.00 without admission of liability on the part of the defendant shipowners and the Administrator received a cheque in the amount of \$150,000.00 on October 1, 2009.

Status

The file was closed on October 1, 2009.

Related File

Mystery Spill (*Anangel Splendour*) (2000), Port Cartier, QC, Case number: 120-222-C1-2 (same incident, different claimant)

Mystery Spill (*Anangel Splendour*) – CMQC Claim (2000)

Location: Port Cartier, QC
Case number: 120-222-C1-2

The Incident

On May 12, 2000, oil pollution was found in the water between the Greek flag bulk carrier *Anangel Splendour* and the quay, alongside at Port Cartier, Quebec, and extending some 200 metres ahead. Port Cartier was a private harbour of the Compagnie Minière Québec Cartier (CMQC). There were two other vessel movements within the harbour over a similar period as the discovery of the oil spill.

CMQC took charge of the cleanup, in the presence of the Canadian Coast Guard (CCG). Transport Canada Marine Safety (TCMS) took oil samples. The oil resembled fuel oil and the quantity spilled was estimated at approximately 900 litres.

CMQC obtained a Letter of Undertaking (LOU) from counsel for the *Anangel Splendour* to cover the costs and expenses of the cleanup. TCMS also required a LOU from the ship to cover any possible fine, but the *Anangel Splendour* denied that she was the origin of the oil and sailed on May 15, 2000.

The Claim

On April 30, 2001, counsel for CMQC filed a claim with the Ship-source Oil Pollution Fund (the Fund) amounting to \$249,137.31, stated to have been incurred by them cleaning up the oil pollution. On July 27, 2001, a further claim was received from counsel for CMQC amounting to an additional \$10,878.08, stated to be for the recovery of their legal fees in connection with this incident.

Assessment and Offer

On November 28, 2001, the Administrator wrote to counsel for CMQC with a list of questions which had arisen in his investigation and assessment of the claim. Replies to the questions were received on March 22, 2002, and at the same time, CMQC corrected a stated error in one of the invoices submitted in the claim, increasing the claim by a further \$1,746.63. With regard to the legal expenses, they were rejected.

A key issue in this case was whether or not the oil came from a shore-based operation. It was reported that over a similar time frame to the incident, Environment Quebec was investigating a source of contamination coming from ashore in Port Cartier.

Following a lengthy investigation by the Fund, CCG, TCMS and Environment Quebec, the Administrator was not satisfied that the occurrence was not caused by a ship. Accordingly, he settled the CMQC claim for \$242,427.45, together with interest of \$42,335.13, and payment of the settlement amount was made.

Recovery Action

Following further analysis of the oil samples and his investigation of ship-source spill probabilities, the Administrator commenced a cost recovery action against the *Anangel Splendour* and her owners in the Federal Court for all amounts paid by the Fund with respect to this incident. Since April 2004, there had been discovery of documents between the parties. Then, oral discoveries had followed.

A trial date was set for November 2, 2009 in Montreal. However, before the trial date, the parties arrived at a settlement agreement. As a result, the claim was amicably settled for \$150,000.00 without admission of liability on the part of the defendant shipowners and the Administrator received a cheque in the amount of \$150,000.00 on October 1, 2009.

Status

The file was closed on October 1, 2009.

Related File

Mystery Spill (*Anangel Splendour*) (2000), Port Cartier, QC, Case number: 120-222-C1-1 (same incident, different claimant)

Tadoussac Marina (*L'Ance L'Eau*) (2001) ♣

Location: Tadoussac, QC
Case number: 120-277-C1

The Incident

The Canadian pleasure motor yacht *L'Ance L'Eau* spilled gasoline in a local marina in Tadoussac, Quebec on July 16, 2001. In fact, the marina fuel depot attendant, with the boat owner on site, commenced refueling into a fuel filling deck fitting no longer connected to a fuel tank. An estimated 67 litres of gasoline went directly into the engine room of the yacht and some gasoline automatically pumped into the harbour. Upon request of Parks Canada and because of the danger caused by the spill, the local fire brigade responded to the spill.

The Claim

On December 7, 2001, the Municipalité de Tadoussac filed a claim with the Ship-source Oil Pollution Fund in the amount of \$2,195.00 for the costs of the local fire brigade responding to the spill.

Assessment and Offer

The Administrator investigated the claim and after having carefully examined the circumstances, on April 3, 2002, he wrote to the Municipalité de Tadoussac rejecting the claim. It was considered that the measures taken were not to prevent, counter, repair or limit to the minimum the damages from contamination resulting from the spill but, rather, taken to minimize the risk of explosion or fire resulting from the gasoline spill.

Status

The file was closed on March 31, 2002.

Ocean Venture 1 (2001)

Location: Port of Rimouski, QC

Case number: 120-290-C1

The Incident

On October 5, 2001, a strong smell of diesel oil was noted in the Port of Rimouski, Quebec, and oil was found on the water near the *Ocean Venture 1*, a cargo ship registered in Panama. The Canadian Coast Guard (CCG) responded by engaging contractors to clean up the spillage. Some 6,060 litres of oily water, estimated to contain some 1,000 litres of oil, together with 16 barrels of debris were collected.

With winter fast approaching, the crew left the ship on December 18, 2001 and, without heat or lighting, the ship appeared to be abandoned. The Marine Safety Branch of Transport Canada employed contractors to supply the ship with electricity from shore and employed security guards.

Measures taken by the Administrator

The Administrator was advised of this incident on October 24, 2001 by the Crown counsel for the CCG. He then appointed a surveyor.

The Claim

On November 28, 2001, the Crown filed a claim with the Ship-source Oil Pollution Fund (the Fund) to recover the CCG's costs and expenses in the incident, amounting to \$13,237.81.

Assessment and Offer

Upon receipt of the Crown's claim, the Administrator submitted a copy of the claim to the registered owners of *Ocean Venture 1* in Panama, requesting them to settle directly with the Crown. He also advised the owners of their responsibilities under the *Marine Liability Act* and noted that the debt would follow the ship, even if sold, as, over a similar period, it was stated that the vessel had changed ownership. No reply was received from the shipowners. Hence, the Administrator investigated and assessed the claim, finding \$13,090.65 established on December 17, 2001. Crown counsel replied to the Administrator on February 27, 2002, offering justification for the CCG costs that had not been established. The justification was accepted by the Administrator, who then arranged on March 22, 2002 to transfer \$13,195.01, plus \$383.01 interest, to the CCG.

Recovery Action

In July 2002, legal action was commenced by the Crown in the Federal Court of Canada against the shipowners and the ship. The vessel was arrested and the Crown obtained a court order for appraisal and sale of the vessel. The Administrator filed a caveat against the proceeds of sale

and on October 28, 2002, the Court ordered payment to the Fund of the sum of \$16,704.66 including interest, plus costs of \$440.00, for a total of \$17,144.66.

Status

The file was closed on March 31, 2003.

Kung Fu (2002)

Location: Quai-des-Pêcheurs, Les Escoumins, QC

Case number: 120-315-C1

The Incident

The 38-foot length pleasure craft *Kung Fu* sank at her berth at the fisherman's wharf in Les Escoumins, Quebec during the early morning hours of July 16, 2002. The vessel had some 1,500 litres of diesel oil fuel on board and some of this was released into the harbour.

Later that morning, the Canadian Coast Guard (CCG) placed a containment boom around the vessel and engaged a contractor to clean up the spill. Refloating of the vessel and cleanup were completed by evening and the following day, July 17, 2002, the *Kung Fu* was towed to Rivière-du-Loup for repairs.

The Claim

The Crown presented a claim in the amount of \$2,782.08 to the shipowner on August 27, 2002, but did not get any response. Therefore, on October 1, 2003, the CCG filed a claim in the amount of \$3,899.75 with the Ship-source Oil Pollution Fund. To explain the difference between the amounts claimed, the CCG noted that there had been an error in the previous claim total submitted to the shipowner because direct CCG personnel costs were inadvertently omitted.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator made an offer of settlement of \$3,899.75. The CCG accepted the offer on November 5, 2003, and payment of the settlement amount, plus \$262.91 interest, was made that same day.

Status

The file was closed on March 31, 2004.

Mystery Spill (2002)

Location: Rivière-au-Renard, QC

Case number: 120-316-C1

The Incident

On September 18, 2002, the Canadian Coast Guard (CCG) was advised by Environment Quebec that there was oil in the Port of Rivière-au-Renard at the fisherman's wharf. The presence of oil was confirmed by a local inspector from the Marine Safety Branch of Transport Canada (MSB) who advised that cleanup was required. The CCG then engaged a local contractor to conduct the cleanup, which was completed by the evening of September 19, 2002.

The MSB inspected 15 fishing vessels in the harbour but was unable to identify the source of the oil.

The Claim

On March 21, 2003, the CCG made a claim to the Ship-source Oil Pollution Fund in the amount of \$2,914.55 for its costs and expenses incurred in responding to the incident.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator offered to settle it for the established amount of \$2,252.44 on March 25, 2003. The CCG accepted the offer on March 31, 2003 and payment of the settlement amount, plus \$31.60 in interest, was subsequently made by the Administrator.

Status

The file was closed on March 31, 2003.

Mystery Spill (2003)

Location: Bassin Louise, Port of Quebec, QC

Case number: 120-395-C1

The Incident

On May 14, 2003, the Canadian Coast Guard (CCG) was advised of an oil slick of unknown origin in Bassin Louise, Port of Quebec. Following investigation, a contractor was engaged and the oil was cleaned up that same day. The CCG and the Quebec Port Authority could find no land-based source for the spill.

The Claim

On February 3, 2004, the CCG made a claim of \$1,685.83 to the Ship-source Oil Pollution Fund for their costs and expenses.

Assessment and Offer

On March 4, 2004, following investigation and assessment of the claim, which was considered as a mystery spill under the *Marine Liability Act*, an offer of settlement in the amount of \$1,685.83 was made to CCG. The offer was accepted on March 11, 2004, and payment of the settlement amount, plus \$67.72 interest, was made on March 16, 2004.

Status

The file was closed on March 31, 2004.

Mystery Spill (2003)

Location: Port of Trois-Rivières, QC

Case number: 120-396-C1

The Incident

An oil slick was discovered at the tug basin, Section 15, in the Port of Trois-Rivières, Québec on August 5, 2003. No source could be found for the slick. The Canadian Coast Guard (CCG) engaged a contractor and the oil was cleaned up by the early hours of the next day using vacuum trucks.

The Claim

The CCG made a claim to the Ship-source Oil Pollution Fund on February 3, 2004 in the amount of \$12,364.77 for the clean-up costs.

Assessment and Offer

The Administrator investigated and assessed the claim, which was considered as a mystery spill. On March 4, 2004, he made an offer of settlement of \$12,364.77, which was accepted by the CCG on March 11, 2004. The payment of the settlement amount, plus \$382.85 interest, was made on March 17, 2004.

Status

The file was closed on March 31, 2004.

Horizon (2004)

Location: Sorel, QC
Case number: 120-409-C1

The Incident

On July 24, 2004, the Maltese registered container ship *Horizon* ran aground in the area of Buoy S-129 in the St. Lawrence River, near Sorel, Quebec. No oil pollution was reported. A diving survey indicated that the hull remained intact and soundings of all tanks revealed no ingress of water.

The Regional Environmental Emergency Team convened to assess all environmental issues surrounding the incident. Surveillance flights were conducted by the Canadian Coast Guard (CCG) over the site. Transport Canada Marine Safety, Environment Canada, Quebec Ministry of Environment and Ministry of Public Security were also involved.

On July 31, 2004, the owner of the *Horizon* submitted his salvage plan to the CCG. The latter approved it and salvage operations commenced. A total of 109 containers were removed and the vessel was successfully refloated with no pollution on August 5, 2004. The CCG monitored the salvage operations.

The Claim

On June 7, 2006, the CCG filed a claim with the Ship-source Oil Pollution Fund in the amount of \$9,730.44 for costs and expenses incurred in monitoring the response to this incident.

Assessment and Offer

The Administrator investigated the claim and sent it to the counsel for the shipowner's P&I Club while suggesting that the matter be settled directly between the CCG and the shipowner. Counsel responded stating that the shipowner had serious reservations about the reasonableness of the amount of CCG charges for monitoring the incident.

On January 26, 2007, CCG informed the Administrator that it had accepted the shipowner's offer of \$4,000.00 in full and final settlement of its claim.

Status

The file was closed on March 31, 2007.

Bleuvet (2004)

Location: Tadoussac, QC
Case number: 120-412B-C1

The Incident

On September 5, 2004, Canadian Coast Guard (CCG) Emergency Response Québec was informed of a diesel fuel spill on the water at a marina in Tadoussac, Québec. It was reported that, when refueling, diesel was accidentally pumped into the bottom of the pleasure craft *Bleuvet*, and the bilge pump discharged the diesel into the water. The CCG cutter *Isle Rouge* responded with sorbent rolls and pads by using its Rigid Hull Inflated (RHI) boat.

The Claim

On April 21, 2006, the Department of Fisheries and Oceans, on behalf of the CCG (DFO/CCG), filed a claim in the amount of \$3,335.02 with the Ship-source Oil Pollution Fund for their costs and expenses with respect to the incident.

Assessment and Offer

The Administrator investigated and assessed the claim. On August 2, 2006, he requested additional information from the CCG on the particulars of the RHI boat since the CCG claimed for one full day deployment at a cost \$1,888.87 for only two hours operation. Additional information was also requested about the actual work performed by each of the five CCG personnel during each day they worked. The CCG responded to those requests on December 11, 2006.

On December 13, 2006, the Administrator completed his investigation of the claim and informed the CCG that the claim had been assessed at \$1,549.18 plus interest. The CCG accepted such amount, and payment of \$1,736.16 including interest was made on December 18, 2006 in full and final settlement of the claim.

Recovery Action

The Administrator instructed counsel to investigate whether reasonable measures could be taken to recover the amount paid to DFO/CCG pursuant to section 87(3) of the *Marine Liability Act*. Based on the results of the investigation, he concluded that there was no reasonable prospect of recovering the costs and, thus, closed the file.

Status

The file was closed on March 31, 2008.

Gagtugwaw (2005)

Location: Matane, QC
Case number: 120-483-C1

The Incident

On October 16, 2005, the fishing vessel *Gagtugwaw* was reported sunk and leaking oil at the wharf in Matane, Québec. About 3,000 gallons of diesel and 114 gallons of hydraulic oil were estimated to be onboard the vessel. Insurers for the owners engaged clean-up contractors. Divers plugged the vents and the vessel, which was in very poor structural condition, was removed from the water. Following such operation, a considerable amount of oil was released, so a vacuum truck was engaged and booms were deployed to prevent the oil from spreading. The Canadian Coast Guard (CCG) Emergency Response Québec attended on-site during the response operation from October 17 to October 21, 2005.

The Claim

On March 31, 2006, the Department of Fisheries and Oceans, on behalf of the CCG (DFO/CCG), filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$8,060.43.

Assessment and Offer

Following investigation of the claim, on February 15, 2007, the Administrator requested additional information from DFO/CCG as to why it was considered necessary and reasonable for the CCG to have two persons on-site to monitor the operations of the clean-up crew contracted by the shipowner's representative. In its reply, DFO/CCG stated that CCG Emergency Response personnel were working on the "buddy" system for safety reasons.

On May 3, 2007, the Administrator completed his assessment of the claim and offered DFO/CCG the established amount of \$7,698.03 plus interest in full and final settlement. DFO/CCG accepted the offer and on May 14, 2007, payment of \$8,448.22 including interest was made.

Recovery Action

Following the Administrator's investigation as to whether or not it was feasible to undertake cost recovery action pursuant to section 87(3) of the *Marine Liability Act*, he noted that there did not appear to be any reasonable prospect of cost recovery. He therefore closed the file.

Status

The file was closed on March 31, 2009.

Mystery Spill - Port de Montréal (2005) ⚓

Location: Port de Montréal, QC

Case number: 120-485-C1

The Incident

An oil spill of an unknown source was found at the Port of Montreal (Vieux-Port), Bassin Jacques Cartier, Quai King Edward on September 6, 2005. La Société du Vieux-Port de Montréal Inc. responded by cleaning it up.

The Claim

On February 9, 2006, La Société du Vieux-Port de Montréal Inc. (the Claimant) filed a claim with the Ship-source Oil Pollution Fund for clean-up costs and expenses totaling \$6,488.90.

Assessment and Offer

Following investigation and assessment of the claim, on February 22, 2006, the Administrator requested from the Claimant documentation on some of the items claimed, which documentation was received on June 22, 2006. On August 29, 2006, the Administrator made an offer in the amount of \$5,642.52 plus interest in full and final settlement of the claim. The offer was accepted by the Claimant and payment of \$5,957.73 including interest was thereafter made by the Administrator.

Status

The file was closed on March 31, 2007.

Extasia I (2005)

Location : Ste-Anne-de-Bellevue, QC

Case number: 120-493-C1

The Incident

In the early morning of August 28, 2005, at Ste-Anne-de-Bellevue, Québec, the community firefighters reported to Environment Canada (EC) that the pleasure craft *Extasia I* had pumped diesel oil into the water near the Sainte-Anne lock. The oil slick extended over an area of approximately 20 feet by 3 feet and spread throughout aquatic plants and under the public wharf. The firefighters attempted to discuss clean-up action with the owner, but the latter did not want to be disturbed and indicated non-responsibility for the spill.

An EC employee arrived on-scene and notified the Canadian Coast Guard (CCG) of the incident. The CCG engaged a commercial contractor, Urgence Marine Inc., to respond and clean up the spill. Arrangements were also made for a Transport Canada Marine Safety inspector to talk to the owner and take oil samples. By noon, Urgence Marine Inc. finished the clean-up operation. Three 45-gallon drums of oily waste were collected and later disposed of by the contractor.

The Claim

On June 30, 2006, the Department of Fisheries and Oceans (DFO)/CCG filed a claim with the Ship-source Oil Pollution Fund in the amount of \$7,597.73 for costs and expenses incurred with respect to the incident.

Assessment and Offer

After investigation and assessment of the claim, the Administrator found the claim to be established at \$7,153.87, and payment of \$7,530.77 including interest was directed by the Administrator on August 31, 2006.

Recovery Action

The Administrator reviewed the feasibility of undertaking cost recovery action pursuant to section 87(3) of the *Marine Liability Act*. Discussions took place with the yacht owner's insurer and on June 9, 2009, counsel obtained a settlement offer in the amount of \$7,597.73. A Release and Subrogation Agreement was executed with respect to the *Extasia I* incident and on July 10, 2009, a cheque in the amount of \$7,597.73 was received by the Administrator.

Status

The file was closed on July 13, 2009.

SCL Bern (2006)

Location: Pointe-aux-Trembles, QC

Case number: 120-509-C1

The Incident

On December 16, 2006, an oil spill incident involving the dry cargo ship *SCL Bern* and the Shell Canada bunkering barge *Arca* occurred in the Pointe-aux-Trembles anchorage, Port of Montreal, Québec. Approximately 1,000 litres of heavy fuel oil were released during refueling/bunkering operations. Shell Canada contracted Eastern Canada Response Corporation to respond to the incident. Approximately 4 to 5 kilometres of shoreline at Varennes were impacted. By December 18, some 1,500 feet of shoreline were cleaned. Further clean-up assessment of the shoreline was conducted by Environment Canada, the Quebec Ministry of the Environment and Canadian Coast Guard (CCG) Emergency Response.

A Letter of Undertaking (LOU) naming the Ship-source Oil Pollution Fund (the Fund) was obtained from the ship's P&I Club, Gard, to cover any potential claim for costs and expenses incurred in the cleanup of the incident.

The Claim

On December 15, 2008, the Department of Fisheries and Oceans (DFO)/CCG, filed a claim with the Fund for costs and expenses incurred during the incident in the amount of \$16,991.50.

Assessment and Offer

For his assessment of the claim, on January 26, 2009, the Administrator requested that CCG provide additional information and documentation.

On January 11, 2010, the Administrator received confirmation that the CCG had reached a settlement with the shipowner and, therefore, was withdrawing its claim filed with the Fund. Consequently, he returned the LOU to the P&I Club and closed the file.

Status

The file was closed on January 12, 2010.

Grande Baie (2007)

Location: Port Alfred, QC

Case number: 120-522-C1

The Incident

On December 31, 2007, the Alcan harbour tug *Grande Baie* sank at the wharf in Port Alfred, Québec. It was reported that the tug had 100 tonnes of diesel fuel onboard, as well as other oil pollutants. Oil was observed around the vessel; however, the harbour ice contained the oil and prevented it from spreading. The shipowner assumed overall management and response to the incident. The Response Organization Eastern Canada Response Corporation (ECRC) was contracted to conduct response operations. The Canadian Coast Guard (CCG) assumed the role of Federal Monitoring Officer. On January 1, 2008, approximately 3,000 litres of product were recovered. Divers were hired to conduct an inspection of the tug and prepare it for salvage operations. On January 4, operations focused on recovering the oil-covered ice. On scene were personnel from the Department of Fisheries and Oceans (DFO) and the CCG (including representatives from Oceans, Habitat and Enforcement Branch) and the Quebec Ministry of the Environment. On January 9, the shipowner presented his salvage plan to CCG Emergency Response personnel. On January 16, the first salvage attempt of the tug *Grande Baie* was conducted unsuccessfully. The contractor then advised they were working on a revised plan and that Transport Canada was assisting. The tug *Grande Baie* was raised on January 18. By January 25, 2008, all clean-up operations had been completed.

The Claim

On December 29, 2009, DFO/CCG filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$42,949.15, two days before the expiry of the limitation period for filing this type of claim with the Fund. The claim was for costs and expenses incurred during the 24 days that the CCG monitored the recovery operation of the ECRC, which was contracted on behalf of the shipowner.

Assessment and Offer

On January 6, 2010, the Administrator requested confirmation that his understanding was correct that the CCG had also submitted its claim to the shipowner, which confirmation was received on March 17, 2010. Thereafter, CCG reported that the claim had been settled by the shipowner for the full amount.

Status

The file was closed on March 31, 2011.

Le Grand Détour (2007)

Location: Île d'Orléans, QC

Case number: 120-525-C1

The Incident

On July 24, 2007, the Canadian Coast Guard (CCG) was informed by Transport Canada that there was a risk of oil pollution from *Le Grand Détour*, an old pleasure craft that had run aground near a marina at Île d'Orléans, Québec. The pleasure craft contained fuel oil and other lubricating oils. The hull was damaged and the craft nearly submerged during each rising tide. The owner had abandoned the craft and when contacted, he advised that he was not in a financial position to undertake any remedial action. Representatives of the CCG, Transport Canada, Environment Canada and the province decided to remove the oil from the boat and engaged a local company, Veolia Services Ltd., to remove the pollutants and other waste oil. The CCG monitored the operation and provided support. On July 26, some 546 litres of oily waste were removed and disposed of. The clean-up operation was completed to the satisfaction of the CCG, Transport Canada and Environment Canada.

The Claim

On February 10, 2008, the Department of Fisheries and Oceans, on behalf of the CCG (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund (the Fund) for costs and expenses in the amount of \$3,558.51, pursuant to Part 6 of the *Marine Liability Act* (MLA).

Assessment and Offer

Following investigation and assessment of the claim, the Administrator concluded that it was a legitimate claim on the Fund and that the full amount had been established with supporting documentation. Consequently, he offered \$3,558.51 plus interest in full and final settlement pursuant to sections 86 and 101 of the MLA. DFO/CCG accepted the offer and payment of \$3,740.30 including interest was made on May 14, 2008.

Recovery Action

The Administrator instructed counsel to investigate whether reasonable measures could be taken to recover the amount paid to DFO/CCG since owners should not be allowed to abandon their vessels in a condition where they pose an oil pollution threat. During the investigation, it was determined that the owner of *Le Grand Détour* appeared to have little or no money. The Administrator therefore concluded that there was no likelihood of recovering the compensation paid out with respect to this claim and closed the file.

Status

The file was closed on March 31, 2009.

Richelieu - J W Shelley Claim (2010)

Location: St. Lawrence River, QC

Case number: 120-578-C1-1

The Incident

On July 12, 2010, while proceeding upbound in the St. Lawrence Seaway, approximately one kilometre above the Côte-Sainte-Catherine lock, the Canadian registered bulk carrier *Richelieu* went aground and spilled diesel oil. The initial oil slick was reported to cover an area of approximately 500 metres by 500 metres. Accordingly, the seaway was closed in an attempt to limit the spreading of the slick.

At the time of the grounding of the *Richelieu*, the Canadian registered ship *J W Shelley* was following close astern and encountered heavy soiling of its hull. The *J W Shelley* was instructed by Seaway authorities to secure at the Côte-Sainte-Catherine wharf until the Seaway re-opened. Transport Canada issued a marine safety notice ordering that the ship's hull must be cleaned to the satisfaction of Ship Safety Inspectors before departing. The ship finally departed on July 15 having lost over three days of operations.

The Claim

On September 28, 2010, the owner of the *J W Shelley* filed a claim with the Ship-source Oil Pollution Fund, in the amount of \$70,656.89, for costs and expenses incurred. \$16,389.00 of the claim related to the cleaning of the ship's hull, and the remainder, \$55,276.89, related to alleged losses of revenues resulting from the detention of the ship.

Assessment and Offer

For his assessment of the claim, the Administrator requested the claimant to provide further particulars regarding the claim. Also, arrangements were made for a joint inspection of the ship on behalf of the Administrator and the owners of the *Richelieu*.

In light of the inspection and further investigations, the Administrator concluded that the claim submitted was not established. A letter informing the claimant that the Administrator disallowed the entire claim was transmitted on June 14, 2011. Since no appeal was lodged in the Federal Court against such decision of the Administrator within the 60 days prescribed by the *Marine Liability Act*, the Administrator closed the file.

Status

The file was closed on September 30, 2013.

Related file

Richelieu (2010), St. Lawrence River, QC, Case number: 120-578-C1-2 (same incident, different claimant)

Richelieu - Boralex Claim (2010)

Location: St. Lawrence River, QC

Case number: 120-578-C1-2

The Incident

On July 12, 2010, while proceeding upbound in the St. Lawrence Seaway, approximately one kilometre above the Côte-Sainte-Catherine lock, the Canadian registered bulk carrier *Richelieu* went aground and spilled diesel oil. The initial oil slick was reported to cover an area of approximately 500 metres by 500 metres. Accordingly, the seaway was closed in an attempt to limit the spreading of the slick. The shipowner advised the Canadian Coast Guard (CCG) that it had engaged the Eastern Canada Response Corporation to conduct clean-up operations, which took several days before the seaway was reopened. The CCG assumed the role of Federal Monitoring Officer.

The Claim

On November 15, 2010, Boralex Inc., a hydroelectric plant at Saint-Lambert, filed a claim in the amount of \$40,438.90 with the Ship-source Oil Pollution Fund (the Fund) for financial loss of production during the incident. The claim related to the loss of revenue due to the stoppage of electricity production for a period during which Boralex was instructed by the Seaway Authority, in consultation with Fisheries and Oceans Canada, to close its water intake to prevent oily water from contaminating Boralex plant and from it being discharged below the Saint-Lambert lock.

Assessment and Offer

Upon receipt of the claim, the Administrator instructed counsel to investigate it. Counsel for the Fund requested that Boralex provide additional supporting evidence with respect to its claim for loss of revenues. Given that the shipowner is the primary responsible party for this type of claim, counsel for the Fund contacted the legal advisor for the owners of the *Richelieu*. Discussions took place between counsels for both parties with a view of securing an amicable resolution of the matter. Later, counsel for the owners of the *Richelieu* informed the office of the Administrator that a settlement had intervened as a result of which the claim was withdrawn.

Status

The file was closed on November 13, 2012.

Related file

Richelieu (2010), St. Lawrence River, QC, Case number: 120-578-C1-1 (same incident, different claimant)

Mystery Spill - (aka Avataq) - Transport Nanuk Inc.'s Claim (2010)

Location: Valleyfield, QC
Case number: 120-579-C1-1

The Incident

On July 6, 2010, while loading alongside the wharf at Valleyfield, Quebec, the Canadian registered vessel, *Avataq*, reported oil on the surface of the water, apparently between the loading dock and the vessel and covering an area of approximately 20 by 30 feet. The crew deployed its onboard emergency response containment booms and absorbent pads to prevent the oil sheen from floating downstream. In addition, the shipowner hired a private contractor from Montreal to deploy vacuum trucks to pump the oily residue from the surface and dispose of it. Furthermore, a shore-based response team assembled by Transport Canada Marine Safety (TCMS) and Environment Canada commenced shoreline clean-up operations.

An operations officer from Environment Canada made rounds of the onshore facilities, but found no evidence that the source of the oil was land-based. A technical surveyor of TCMS from Montreal also inspected the ship's records, engine room logs, equipment and the polluted area, but did not find any evidence that the ship may have discharged oil either intentionally or by accident. Consequently, the ship was cleared to sail. The following morning, after the *Avataq* departed Valleyfield, a small quantity of oil remained along the shoreline. The Canadian Coast Guard (CCG) responded and cleaned up the residue.

Measures taken by the Administrator

The Administrator was informed of the incident by the CCG on July 7, 2010. He then instructed counsel to maintain a watching brief on the incident.

The Claim

On March 25, 2011, Transport Nanuk Inc., owner of the *Avataq*, filed a claim with the Ship-source Oil Pollution Fund in the amount of \$13,707.47 for costs and expenses incurred during cleanup of the oil sheen.

Assessment and Offer

The Administrator commenced an investigation and assessment of the claim. On April 20, a letter was sent to the claimant requesting further general information and additional support documentation. Based on the investigation, which included written response for information, telephone conversations with two different representatives of the shipowner, discussion with the Marine Safety Inspector who attended the incident and the CCG response officer, the Administrator concluded that the measures taken by the shipowner to clean up the spill and dispose of the oily waste were reasonable. Therefore, on July 20, 2011, he offered \$13,707.47, plus interest, in full and final settlement of the claim, which offer was accepted by the claimant. Upon receipt of a duly executed Release and Subrogation Agreement from the claimant, the Administrator mailed a cheque in the amount of \$14,144.88, inclusive of interest, to the claimant.

Recovery Action

The Administrator accepted the incident as a mystery spill and, as a result, no recourse action was available.

Status

The file was closed on September 1, 2011.

Related file

Mystery Spill - (aka *Avataq*) (2010), Valleyfield, QC, Case number: 120-579-C1-2 (same incident, different claimant)

Mystery Spill - (aka Avataq) - CCG Claim (2010)

Location: Valleyfield, QC
Case number: 120-579-C1-2

The Incident

On July 6, 2010, while loading alongside the wharf at Valleyfield, Quebec, the Canadian registered vessel, *Avataq*, reported oil on the surface of the water, apparently between the loading dock and the vessel and covering an area of approximately 20 by 30 feet. The crew deployed its onboard emergency response containment booms and absorbent pads to prevent the oil sheen from floating downstream. In addition, the shipowner hired a private contractor from Montreal to deploy vacuum trucks to pump the oily residue from the surface and dispose of it.

Upon receipt of the information about the oil sheen from the ship *Avataq*, the following day, the Canadian Coast Guard (CCG) deployed emergency response personnel from Québec City to Valleyfield to investigate and respond as necessary. Upon arrival at Valleyfield on July 7, the CCG found that, after the *Avataq* departed, a quantity of oil still remained. The oil was mixed with reeds and other floating debris, and the wharf was soiled. To minimize further damage, the CCG engaged a private contractor for clean-up operations, which generated six cubic metre of solid waste and 12 cubic metre of oily water. On July 8, the CCG assessed the situation and, after consultation with Environment Canada, decided to terminate the response and demobilize the contractor.

An operations officer from Environment Canada made rounds of the onshore facilities, but found no evidence that the source of the oil was land-based. Furthermore, the CCG took oil samples from the surface of the water and had them analyzed at Exova. The results of the lab analysis confirmed that the samples were hydrocarbons, but did not reveal the source. Therefore, the incident was classified as a mystery spill.

Measures taken by the Administrator

The Administrator was informed of the incident by the CCG on July 7, 2010. He then instructed counsel to maintain a watching brief on the incident.

The Claim

On June 8, 2011, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for the costs and expenses incurred for monitoring and contract services in the amount of \$24,034.57, pursuant to sections 77(1), 101 and 103 of the *Marine Liability Act* (MLA).

Assessment and Offer

The Administrator investigated and assessed the claim. Based on the overall investigation, he considered that there was adequate documentation to support that the costs were reasonable and were actually incurred. Consequently, on July 12, 2011, he made an offer for the established amount of \$24,034.57, plus interest, in full and final settlement of the claim, pursuant to

sections 106 and 116 of the MLA. DFO/CCG accepted the offer and payment of \$24,806.96, inclusive of interest, was made.

Recovery Action

The Administrator accepted the incident as a mystery spill and, as a result, no recourse action was available.

Status

The file was closed on July 26, 2011.

Related file

Mystery Spill - (aka *Avataq*) (2010), Valleyfield, QC, Case number: 120-579-C1-1 (same incident, different claimant)

Centurion – CCG Claim (2012)

Location: Port of Sorel, QC

Case number: 120-615-C1

The Incident

On January 25, 2012, the Canadian owned dry bulk carrier *Centurion* caused an oil pollution incident in the ice-covered waters surrounding the Port of Sorel, Quebec. Transport Canada Marine Safety inspectors were informed that the engine room crew had discharged an oily mixture by inadvertently activating the bilge pump. As a result, it was estimated that approximately 9,000 litres of pollutants were discharged into port waters. The Canadian Coast Guard (CCG), along with a certified response organization and other contractors were mobilized in order to clean up the oil being discharged. By February 3, most of the pollution was recovered. There remained some oil pollution in the crevices of the quay, but ice conditions prevented removal at that time. It was envisioned that a further clean-up would be necessary in either spring or summer.

Measures taken by the Administrator

When informed about the incident, the Administrator instructed counsel to keep a watching brief and to explore whether or not the pollution incident fell within the scope of the Bunkers Convention. Counsel was also instructed to enquire with Transport Canada about the identity of the insurers under the certificate of compulsory insurance.

The Claim

On September 11, 2012, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund (the Fund) for costs and expenses in the amount of \$26,703.53, pursuant to the *Marine Liability Act*.

Assessment and Offer

Since the Administrator concluded that the incident fell within the scope of the Bunkers Convention, to which Canada is a party and which allows a claim to be sent directly to the shipowner's insurance, the Administrator suggested to the CCG to submit their claim directly to the Standard Steamship P&I Club (the Club). The CCG was unwilling to do that, and so, on December 19, 2012, the Administrator mailed the claims documentation to the Club's representative in New York. After negotiation between counsel for the Fund and the Club, an all-inclusive offer in the amount of \$24,000.00 was made by the Club. DFO/CCG accepted the offer and the Club paid the settlement amount upon receipt of the duly executed appropriate release from DFO/CCG.

Status

The file was closed on November 19, 2013.

Related file

Centurion (2012), Port of Sorel, QC, Case number: 120-615-C1-1 (same incident, different claimant)

Centurion – Eastern Canada Response Corporation Claim (2012)

Location: Port of Sorel, QC
Case number: 120-615-C1-1

The Incident

On January 25, 2012, the Canadian owned dry bulk carrier *Centurion* caused an oil pollution incident in the ice-covered waters surrounding the Port of Sorel, Quebec. Transport Canada Marine Safety inspectors were informed that the engine room crew had discharged an oily mixture by inadvertently activating the bilge pump. As a result, it was estimated that approximately 9,000 litres of pollutants were discharged into port waters. When the incident happened, the shipowner requested that the Eastern Canada Response Corporation (ECRC) respond and clean up the oil emanating from the *Centurion*. ECRC quickly cleaned up the oil pollution and by February 3, most of the pollution was recovered.

The Claim

On March 5, 2013, ECRC filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$111,055.48 for costs and expenses incurred in the cleanup of the oil spill, while noting that an invoice had been submitted to the shipowner on March 30, 2012, but the latter had filed for restructuring under the *Companies Creditor Arrangement Act*.

Assessment and Offer

As defined in the *Canada Shipping Act*, a Response Organization has no direct claims against the Fund unless it has taken all reasonable steps to recover the amount from the shipowners or their insurers. In this case, ECRC sent its claim to the shipowner when the latter had already filed for restructuring under the *Companies Creditor Arrangement Act* and the ship had been sold. Moreover, the ECRC claim was dismissed by the referee appointed by the Court to dispose of the assets of the shipowner on the grounds that the claim did not enjoy any priority over other creditors.

From the claims documentation submitted to the Administrator, it became clear that the shipowner at the time of the incident had valid P&I insurance, but that no effort had been made by ECRC to submit its claim directly to the insurers as it was entitled to do under the terms of the Bunkers Convention. As a consequence of discussion between counsel for the Fund and counsel for the insurers as to what constituted taking reasonable steps as per paragraph 101(1)(a) of the *Marine Liability Act*, the Administrator concluded that the claim did not meet the criteria for payment out of the Fund. He therefore informed counsel for ECRC that he declined to assess and pay the claim.

Status

The file was closed on January 15, 2014.

Related file

Centurion (2012), Port of Sorel, QC, Case number: 120-615-C1 (same incident, different claimant).

Mystery Spill (2011)

Location: Bonaventure, Gaspésie, QC

Case number: 120-616-C1

The Incident

On May 8, 2011, the Canadian Coast Guard (CCG) received a report that the fishing vessel *Le Dernier* had recovered a sealed barrel full of liquid labeled as kerosene from the sea near Bonaventure, Gaspésie, Québec. Given the time of the year and location of the finding, it was considered that the barrel originated from a vessel. The CCG subsequently contracted a private company, Plante Vacuum Transport et Fils Ltée of Gaspé, Québec, to transport the barrel to its storage area in order to identify the product and safely dispose of the contents. The contractor confirmed that the content of the barrel was only oily water.

The Claim

On April 24, 2012, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$1,907.86, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

The Administrator investigated and assessed the claim. He concluded that the response action was a reasonable measure under the circumstances and that the incident could be categorized as a mystery spill. Consequently, on May 9, 2012, he made an offer for the established amount of \$1,907.86, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and the Administrator directed a payment in the amount of \$1,970.20, inclusive of interest, pursuant to the MLA.

Recovery Action

Since the incident was classified as a mystery spill, no recourse action was available.

Status

The file was closed on August 8, 2012.

Mystery Spill (2011)

Location: Oka Marina, QC

Case number: 120-620-C1

The Incident

On June 5, 2011, the Canadian Coast Guard (CCG) was informed of an oil slick within the Oka Marina, Québec. The surface of the oil slick was approximately 40 feet by 60 feet between the Marina and the local ferry wharf. The CCG hired a private contractor from Montréal, Urgence Marine Inc., to deploy a containment boom and, if possible, to clean up and recover the oil with absorbents.

Although the source was never determined, it was initially considered that the ferries operating east of the Marina might have been the source of the oil pollution. Finally, the ferries were ruled out because the river current and the prevailing winds would have carried the spilled oil further eastwards and not towards the Marina. Also, the sheen was found to be composed of motor oil, but there was no evidence that the origin was land-based.

The Claim

On May 8, 2012, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$7,753.29, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

Following an investigation and assessment of the claim, the Administrator concluded that the incident was a mystery spill and most likely it was ship-source. Consequently, on May 30, 2012, he made an offer for the established amount of \$7,753.29, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and the Administrator directed payment in the amount of \$7,995.15, inclusive of interest, pursuant to the MLA.

Recovery Action

Since the incident was classified as a mystery spill, no recourse action was available.

Status

The file was closed on August 8, 2012.

Mystery Spill - Federal Progress (2013) ⚓

Location: Port of Montréal, QC

Case number: 120-633-C1

The Incident

On April 8, 2013, the Montreal Port Authority (the Port Authority) investigated the possible leakage of oil from the cargo ship *Federal Progress*, which was secured at the Alexandria Berth in the Port of Montreal. An area of 300 square metres surrounding the ship was contaminated by a light film of rainbow-coloured oil. The Port Authority arranged for Urgence Marine to place a containment boom in the area. Representatives of Transport Canada and the Canadian Coast Guard (CCG) were on site during the response to the incident.

The Claim

On November 1, 2013, the Port Authority filed a claim with the Ship-source Oil Pollution Fund in the amount of \$5,969.53 for costs and expenses related to its response to the oil spill near the *Federal Progress*.

Assessment and Offer

The Administrator investigated and assessed the claim. As a result of further inquiry about the findings of the CCG, Transport Canada and the Port Authority, it was clear that there were different opinions as to the exact source of the oil pollution. Consequently, the Administrator was not satisfied on the evidence available that the occurrence was not caused by a ship and, thus, the claim was allowed. On February 20, 2014, the Administrator offered \$5,969.53, plus interest, in full and final settlement of the claim, pursuant to the *Marine Liability Act*. The Port Authority accepted the offer, and upon receipt of a duly executed release from the Port Authority, the Administrator directed payment in the amount of \$6,149.95, inclusive of interest.

Recovery Action

Because the incident was found to be a mystery spill, no recourse action was available.

Status

The file was closed on March 31, 2014.

Tundra (2012)

Location: Sorel, QC
Case number: 120-636-C1

The Incident

On November 28, 2012, the Cyprus-registered bulk carrier *Tundra*, while en route to Halifax from Montreal with a cargo of approximately 20,000 tonnes of soya beans, grounded in the St. Lawrence River system near Sorel, Quebec. The *Tundra* was carrying 599 tonnes of bunker fuel, plus an estimated 50 tonnes of diesel and lube oil products. The ship's Master confirmed that there was no oil pollution. The owner engaged the Eastern Canada Response Corporation (ECRC) to prepare a plan for refloating the grounded vessel. Transport Canada Marine Safety inspectors proceeded to the scene and assisted with developing a salvage plan. On December 5, the *Tundra* was successfully refloated and the risk of oil pollution was prevented. From the beginning, the Canadian Coast Guard (CCG) assumed the role of Federal Monitoring Officer. However, CCG personnel were not required on-site during ECRC's response to the incident since they were able to utilize a video camera from the Lac St. Pierre area to monitor the ECRC's operations. In addition, they maintained regular communications with Transport Canada Marine Safety inspectors who were onboard the *Tundra*.

The Claim

On August 2, 2013, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$10,738.01, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

On January 8, 2014, after investigation and assessment of the claim, the Administrator concluded that the total amount claimed was not established and he, therefore, made an offer for the partially established amount of \$3,119.50, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer and on February 4, the Administrator directed payment of \$3,240.15, inclusive of interest.

Recovery Action

On February 27, 2014, the Administrator mailed a letter to the shipowner's insurance agent in Jersey City, United States, requesting payment of the compensation paid to DFO/CCG. The insurance agent was informed of the shipowner's responsibility under the *Canada Shipping Act*, the MLA and the 2001 Bunkers Convention, for expenses incurred by the CCG during its response to the incident. A copy of the letter was also sent to the registered shipowner. On May 7, 2014, a response was received to the effect that the shipowner's P&I Club, the UK Club, would pay the requested compensation subject to an appropriate Receipt, Release and Discharge. The claim release was executed on May 27 and a cheque in the amount of \$3,240.15 was received on June 11, 2014.

Status

The file was closed on June 17, 2014.

Kathryn Spirit (2014)

Location: Beauharnois, Quebec

File number: 120-642-C1

The Incident

In 2011, the *Kathryn Spirit*, a bulk hauler 153.4 m in length and of 9,261 GRT, was sold to a Quebec company to be scrapped. The company planned to carry out the demolition at Beauharnois, Quebec, and arranged for the vessel to be landed on the shores of Lac Saint-Louis.

After the vessel arrived at Beauharnois, quantities of oil were removed from the vessel. Before substantive deconstruction took place, opposition to the project at both the municipal and provincial level halted the process. The Quebec company sold the vessel to a Mexican company, who planned to have the vessel towed to Mexico for demolition.

The Mexican company arranged for a tug to tow the *Kathryn Spirit* to Mexico. However, while en route to Beauharnois, the tug was detained by Transport Canada over safety and crew accommodation issues. Subsequently the vessel was arrested by creditors. The tug's crew returned home to Central America, with the assistance of charity from individual Canadians. The *Kathryn Spirit* remained on the shore of Lac Saint-Louis.

In May of 2013, further problems affected the *Kathryn Spirit*. Water infiltrated the vessel. The Mexican company was unable to develop a plan to move the vessel that met environmental requirements. The vessel remained where it had been since 2011.

In early 2016, concerns were publicly raised about the stability of the vessel. Measures were taken to stabilize the vessel using mooring lines. In September of 2016, municipal leaders in and around Montreal began calling on the federal government to take steps to deal with the *Kathryn Spirit*. Subsequently, a panel composed of representatives from various governments determined that the vessel should be deconstructed where it sat.

Deconstruction work started in January of 2018. On 10 April 2018, the vessel caught fire while deconstruction efforts were ongoing. The deconstruction was completed in October of 2018.

The Litigation

On 18 June 2019, the federal government initiated a lawsuit with respect to costs and expenses incurred with respect to stabilizing and deconstructing the *Kathryn Spirit*. The proceeding has been assigned court file no. T-988-19.

The lawsuit names as defendants the Mexican company that apparently owns the *Kathryn Spirit* and the Administrator of the Ship-source Oil Pollution Fund.

As of 31 March 2022, the Mexican company had yet to be served with the lawsuit. Discussions between the parties were ongoing.

The Claim

On 29 April 2021, the federal government submitted a claim to the Administrator in respect of this incident under s. 103 of the MLA. The claim has been held in abeyance pending ongoing discussions in the litigation.

Status

The file remained open at the close of the fiscal year.

Mystery Spill – City of Salaberry-de-Valleyfield Claim (2013)

Location: Baie St-François, Salaberry-de-Valleyfield, QC

Case number: 120-650-C1

The Incident

On November 16, 2013, a local citizen reported an oil spill at the Valleyfield Marina. The Salaberry-de-Valleyfield fire department responded and took immediate measures by deploying containment booms to prevent the oil from drifting into the old seaway channel towards the City of Salaberry-de-Valleyfield (the City) water supply intake. Two patrol boats were used in order to determine the extent of the oil slick and ascertain the probable source of the spill. However, the source could not be determined. Also, there was no evidence of a land-based spill that might have been the source.

The Canadian Coast Guard (CCG) was notified about the oil spill in the marina shortly after the occurrence and concluded that the oil spill was not from a marine source. The CCG then informed the Valleyfield officials that it would not attend the scene, nor act as the office of the prime interest, due to the small amount of pollution involved. There were differences of opinion regarding the scope of the spill. The CCG, by using its computer program “SpillView” estimated the size of the spill to be 118 litres, whereas the citizen who reported the spill had estimated the size to be 1125 litres.

A representative of the Quebec Ministry of Sustainable Development, Environment, Wildlife and Parks (MDDEFP) attended the scene. He instructed that the oil on the water be recovered and that any polluted shoreline be cleaned. The main reason given for the clean-up action was the close proximity of the oil to the input pipe of the municipal filtration plant, which is the source of the City’s fresh water. The City took responsibility for and managed the operations of oil recovery and the contaminated shoreline clean-up. The firm of Environment North Shore was contracted to do the work and the action plan submitted by Environment North Shore was endorsed by the representatives of MDDEFP and the City.

The Claim

On March 24, 2014, the City filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$104,150.88 for costs and expenses incurred in its response to the oil spill.

Assessment and Offer

On March 27, the Administrator retained a marine consultant from Quebec to assist with the assessment and investigation of the circumstances surrounding the incident. As a consequence of the overall findings, the Administrator concluded that the clean-up measures adopted and the resulting costs and expenditures were not proportionate to the threat of oil pollution. This conclusion was based on the difference of opinion as to the probable quantities of oil in the water. Given the expertise of the CCG in modeling a spill size, the Administrator accepted the smaller quantity. Besides, the visible signs of the oil observed and reported on scene were consistent with

the smaller spill size. Consequently, the Administrator concluded that the work undertaken by the contractor was in excess of the requirements for a small spill of 118 litres.

In view of the fact that subsequent investigation did not reveal a land-based source, and on the evidence submitted, the Administrator was not satisfied that the occurrence resulting in the spill of oil in the marina was not caused by a ship. Accordingly, he found that the claim was properly filed with the Fund.

As a result of his investigation, the Administrator found the amount of \$45,000.00 to be established. He therefore, on October 1, 2014, offered such amount, inclusive of interest, in full and final settlement of the claim, pursuant to the *Marine Liability Act*. The City accepted the offer on October 30. Upon receipt of the duly executed Release and Subrogation Agreement from the City, on November 25, 2014, the Administrator mailed a cheque in the amount of \$45,000.00 to the City.

Recovery Action

Since the Administrator accepted the incident as a mystery spill, no recourse action was available.

Status

The file was closed on December 2, 2014.

Chaulk Determination (CCG Claim) (2014)

Location: Port of Trois-Rivières, Quebec

Case number: 120-667-C1

The Incident

On December 26, 2014, the tugboat *Chaulk Determination*, sank at the wharf of the Port of Trois-Rivières and was leaking fuel oil into the St. Lawrence River. At the time of the incident, the tug was reported as having 22 tonnes of diesel fuel on board, and the real amount of pollutants on board was unknown. The owner having declared that he had no money and insurance to respond to the incident, the Canadian Coast Guard (CCG) assumed the role of On-Scene Commander. The following organizations were involved in the response operation: Environment Canada, Transport Canada and local authorities.

After considering various options to deal with the pollution threat, while taking into account the sensitive ecosystem as well as the onset of winter, CCG decided to raise the vessel. Group Ocean was engaged for that purpose on January 12, 2015. The work started on January 22, 2015 with the removal of contaminated ice from within oil boom surrounding the tug. Vacuum trucks were used to recover oil and contaminated water from the boomed area. On February 10, all accessible pollutants were removed from the tug. A total of 50.315 tonnes of marine diesel was recovered, as well as significant amounts of other pollutants, including 10 tonnes of oily bilge water, 300,304 litres of water with traces of pollutants and 469,270 litres of ice with traces of pollutants. The tug was refloated on February 21. Once raised, it was winterized, cleaned, moored at Section 1 of the Port of Trois-Rivières and turned over to the port authority.

Measures taken by the Administrator

A technical marine surveyor was engaged to observe and report on the salvage operations.

On August 18, 2015, the Administrator filed an action *in rem* in the Federal Court (file T-1461-15) against the vessel in order to obtain a security as provided under section 102 of the *Marine Liability Act*. The vessel was subsequently deconstructed, however a sister ship, the *Chaulk Lifter*, was sold by the owners' creditors, the proceeds of the judicial sale being distributed by the Federal Court in the Court file T-272-15. File T-1461-15 involving the *Chaulk Determination* was put in abeyance and the Administrator became party to the file T-272-15 involving the *Chaulk Lifter*. On November 17, 2016, the Federal Court issued its decision, and allowed the Administrator to participate in the distribution of the proceeds of the judicial sale of the sister ship *Chaulk Lifter* on the basis of section 102 of the *Marine Liability Act*.

The Claim

On December 9, 2016, CCG filed a claim in the amount of \$4,585,963.68 with the Administrator, pursuant to the *Marine Liability Act*, for costs and expenses incurred responding to the pollution incident of the *Chaulk Determination*.

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

Assessment and Offer

Further information in support of the claim was requested from CCG on February 3, 2017, and the documentation was received on March 30, 2017.

The Administrator disallowed the claim for portions of the costs of the Contract Services engaged by CCG. Further, the Administrator disallowed portions of CCG costs relating to personnel, equipment, material and living expenses.

On July 18, 2018, after investigation and assessment of the claim, the Administrator made a global offer to CCG for the established amount of \$4,200,576.18, including interest, pursuant to section 105 of the Act. The offer was accepted on September 17, 2018 and, on September 19, 2018, a payment in the amount of \$4,200,576.18 inclusive of interest was made to CCG.

Recovery Action

The Fund had filed a claim in the judicial sale of *Chaulk Lifter*, a sister ship, which had been arrested and sold by Verreault Navigation Inc. for unrelated debts. The Fund received \$45,184.44 as per the Federal Court decision issued on November 17, 2016 (2016 FC 1281). The Administrator applied this amount against the claim of the Trois-Rivières Port Authority, which had been filed and assessed prior to the one received from CCG in the same incident. There was no reasonable prospect for additional recovery.

Status

The file was closed on March 26, 2019.

Related file

Chaulk Determination (Port Authority claim), case number 120-700 (same incident).

Bayliner 2655 (2013)

Location: Rivière-des Prairies, Montréal, QC

Case number: 120-675-C1

The Incident

During the afternoon of August 17, 2013, the 27-foot pleasure craft *Bayliner* ran aground in the “Rivière des Prairies, Rapides du Cheval Blanc” in the vicinity of Montreal, with its owner and two children on board. The Marine Rescue Centre in Quebec arranged for the local fire department to rescue the pleasure boaters. The owner attempted to recover the stranded boat. However, given the fact that the incident occurred in a very rocky part of the rapids with a strong river current, all the towing arrangements were unsuccessful.

With 250 litres of fuel oil on board and 10 litres of motor oil, the *Bayliner* constituted an oil pollution threat. Hence, the Canadian Coast Guard (CCG) took control of the response action. Urgence Marine Inc. was engaged to take the necessary measures to pump out the *Bayliner* and remove it from the rapids, but it was unable to respond due to the location of the incident. On August 23, CCG arranged for its hovercraft *Mamilossa* to proceed from its base at Trois-Rivières to the Montreal area. The hovercraft pumped out the *Bayliner*, which was refloated without an oil spill. The pleasure craft was subsequently towed clear of the rapids, removed from the water and placed ashore.

The Claim

On June 16, 2015, the Administrator received a claim in the amount of \$14,286.40 from CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) made pursuant to the *Marine Liability Act*.

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

Assessment and Offer

After investigation and assessment of the claim, the Administrator concluded that the full amount was established. Therefore, on August 27, 2015, an offer was made to DFO/CCG for the amount of \$14,286.40, plus interest, as full and final settlement. The offer was accepted on October 16, 2015.

A payment of \$15,585.20 including interest was made to DFO/CCG on or about July 27, 2016, after the latter was advised by the Administrator that the decision of the Federal Court in the test case with regard to the Release and Subrogation issue would apply to its claim.

Recovery Action

On or about July 25, 2016, a demand letter in the amount of \$15,585.20 was sent by the Administrator to the *Bayliner's* owner, who filed for bankruptcy on October 6, 2016. The Administrator has filed a completed claim form with the trustee in bankruptcy.

On October 11, 2018, the Administrator received a letter from the trustee in bankruptcy, stating that the Fund's dividend is \$0.00.

Status

The file was closed on October 19, 2018.

Tandem I (2013)

Location: Port of Montreal, QC

Case number: 120-676-C1

The Incident

On July 17, 2013, the maritime shuttle ferry *Tandem I* was aground in the St. Lawrence River, at Montreal, Quebec. The 24-metre vessel sustained a fire in the engine room and grounded about 2.34 cables off the wharf in Longueuil. There were three crew members, but no passengers onboard at the time of the incident. The local fire department responded and quickly extinguished the fire. The vessel had 4,000 litres of diesel fuel onboard and a sheen of oil pollution was seen to be dispersing with the river current. Using its own boat, the fire department placed a containment boom around the vessel.

The vessel owner, Croisières AML, assumed the role of On-Scene Commander. Arrangements were made by the owner for other vessels to assist in the lightering of the *Tandem I* so that the vessel could be towed to Section 25 in the Port of Montreal. During the response operation, a Transport Canada marine inspector boarded the grounded vessel and approved the owner's plan for refloating. It was determined that the hull was intact. The Canadian Coast Guard assumed the role of Federal Monitoring Officer and requested that Environment Canada (EC) provide an assessment of environmental issues. EC supplied several models of probable oil spill trajectories in the event of a spill during the refloating operations. Besides, the bird colonies at risk were identified, and it was confirmed that there were no drinking water intakes that could be contaminated. Some of the diesel fuel was then transferred into 45-gallon drums and then moved to other vessels. Subsequently, the vessel was safely towed off the rocks.

The Claim

On June 16, 2015, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$2,502.48, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

On June 24, 2015, after investigation and assessment of the claim, the Administrator found the total amount of the claim to be established. He, therefore, offered \$2,502.48, plus interest, in full and final settlement of the claim, pursuant to the MLA, while noting in the letter of offer that the fact that the CCG files claims so near the end of the two-year prescription period benefits the owner and, consequently, goes against the "polluter-pays" principle, because it becomes very difficult to try to collect information some two years after the occurrence.

DFO/CCG accepted the offer on July 10, 2015, but payment of the settlement amount was withheld as a duly executed Release and Subrogation Agreement had not been returned by the CCG. The settlement amount of \$2,733.69, including interest, was paid in July 2016.

Recovery Action

In July 2016, the Administrator proceeded with recourse action against the responsible shipowner before the statutory deadline. The shipowner did not accept financial responsibility under the MLA. Therefore, after consideration, the Administrator concluded that all reasonable steps to recover the costs of the claim had been taken and closed the file.

Status

The file was closed on March 31, 2017.

Grand Charlevoix (2013)

Location : Cap du Basque, QC
Case number: 120-677-C1

The Incident

On July 15, 2013, the *Grand Charlevoix*, a 19.8-metre commercial excursion vessel, touched bottom and was holed with 38 persons including passengers on board, about three nautical miles from Cap du Basque, at the mouth of the Saguenay River, Quebec. The engine room had flooded resulting in mechanical failure; however, the vessel was not in immediate danger. Several vessels in the immediate vicinity came to the assistance of the *Grand Charlevoix* and safely evacuated the passengers. The incident started as a Search and Rescue incident and migrated to a pollution response incident. The vessel had 800 litres of diesel on board and traces of pollution were sighted around the vessel. The Canadian Coast Guard (CCG) then concluded that there was an ongoing risk of pollution from the vessel and used the program “Farseek Spillview” to determine possible trajectory predictions for the spread of any pollution. The incident having occurred in the vicinity of Parc Marin du Saguenay, Environment Canada completed an issues assessment and concluded that the bird areas, mussel and beluga habitat were all at risk. Parks Canada was also concerned about the potential impact of any pollution within the boundaries of the park.

The owner of the vessel took on the role of On-Scene Commander, with the CCG assuming the role of Federal Monitoring Officer. The owner developed and put in place an action plan to deal with the situation. The CCG provided absorbent boom and absorbents to the vessel and the pollution risk was contained. Transport Canada approved a refloating and towing plan for the vessel and on July 16, the vessel was safely towed to Isle-aux-Coudres, where the vessel was boomed. Steps were then taken to deal with the onsite pollution and the vessel was finally pumped out and lifted out of the water onto the dock.

The Claim

On June 16, 2015, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$6,508.81, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

On July 14, 2015, after investigation and assessment of the claim, the Administrator found the full amount of the claim to be established. He, therefore, offered \$6,508.81, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer on August 27, but payment of the settlement amount was withheld as a duly executed Release and Subrogation Agreement had not been returned by the CCG. The settlement amount of \$7,111.26, including interest, was paid in July 2016.

Recovery Action

In July 2016, the Administrator proceeded with recourse action against the shipowner before the statutory deadline. The shipowner did not accept financial responsibility under the MLA. Therefore, after consideration, the Administrator concluded that all reasonable steps to recover the costs of the claim had been taken and subsequently closed the file.

Status

The file was closed on March 31, 2017.

Mystery Spill (2013)

Location : Sainte-Anne-de-Bellevue, QC

Case number: 120-678-C1

The Incident

On July 14, 2013, the Canadian Coast Guard (CCG) was alerted about an oil spill occurrence in the lock area of the Sainte-Anne-de-Bellevue Canal, which connects Lac St. Louis and Lac des Deux Montagnes near Montreal, Quebec. An oil slick of about 50 feet by 200 feet was observed. It was estimated to contain about 100 litres of an unidentified oil product. Personnel from the Montreal Fire Department Service attended and conducted an on-site inspection. Along with the local police, the fire department personnel visited several businesses and restaurants in the vicinity and ruled out a land source as the cause of the oil spill.

The area is managed by Parks Canada as a national historic site. At the time of the spill occurrence, there were more than 15 pleasure crafts alongside and seven or so other pleasure vessels in the area of the oil slick. The Montreal police restricted the transit of pleasure craft in the immediate area until the oil spill was cleaned up, and the lock was closed by Parks Canada. Boats in the area were checked by the local fire department, but the source of the pollution could not be determined.

The CCG assumed the role of On-Scene Commander and contracted Urgence Marine Inc. to evaluate the situation and prepare an action plan to address the necessary measures to clean up the oil slick. The situation was evaluated and the CCG approved the proposed response plan. Urgence Marine Inc. then boomed the oil spill and collected the pollution. On July 15, Parks Canada carried out an inspection of the site and shoreline with Urgence Marine Inc. No further oil pollution was visible; therefore, the lock was reopened for pleasure craft.

The Claim

On June 16, 2015, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$14,498.41, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

On July 30, 2015, after investigation and assessment of the claim, the Administrator found the full amount of the claim to be established. He, therefore, offered \$14,498.41, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer on September 18, 2015, but payment of the settlement amount was withheld as a duly executed Release and Subrogation Agreement had not been returned by the CCG. The settlement amount of \$15,857.00, including interest, was paid in July 2016.

Recovery Action

This incident has been classified as a mystery spill, as a responsible party could not be identified and the Administrator concluded that all reasonable efforts to identify the responsible party had been taken.

Status

The file was closed on August 10, 2016.

Chaulk Determination (2015) (Trois-Rivières Port Authority) ⚓

Location: Port of Trois-Rivières, Quebec
Case number: 120-700-C1

The Incident

The *Chaulk Determination* was an ocean-going tug of 566 gross tonnes owned by CAI Marine Inc. On December 26, 2014, the vessel sank at Section 1 of the Port of Trois-Rivières with 22 tonnes of pollutants on board. The owner was contacted and was unable to respond. Group Ocean was contracted by the Coast Guard to raise the vessel and on February 19, they commenced raising the vessel and completed the operation on February 21, 2015. Coast Guard took steps during the months of February/March 2015 to winterize the vessel and ensure that it was safe and secure at the port prior to turning the vessel over to the port authority. The port noted that the vessel was substantially contaminated with oil/residue at the time of turnover and that it presented a risk of pollution. These views were communicated to both Transport Canada and the Coast Guard.

In April of 2015, the vessel began to take on water. The Port of Trois-Rivières observed on April 16, 2015, that the refloated tug was listing and concluded after investigation that the vessel was again at risk of sinking and was a pollution threat. A marine surveyor was engaged by the port to provide a condition report on the state of the vessel when it was turned over to the port by Coast Guard. The local fire department evaluated the hazardous condition of the vessel and asked for the removal of all combustible and waste materials and noted the need for ongoing 24/7 monitoring. The port authority concluded that the tug presented an ongoing risk of pollution and that it was necessary to both remove and dismantle the vessel.

Contractors were engaged the following week to address the list problem, to dewater the vessel, to clean the internals of the vessel and to remove pollutants from the ship. Fuel tanks had been used as ballast tanks after the refloating of the tug, resulting in a significant amount of fuel residue mixed with ballast water. It was necessary to clean all ballast water tanks, fuel and lube oil tanks and accommodation spaces, and engine room spaces.

The Claim

On October 20, 2015, the port authority filed a claim with the Fund for costs and expenses incurred responding to the pollution threat of the tug, in the amount of \$71,909.71 made pursuant to articles 101 and 103 *Marine Liability Act*. The Administrator commenced an investigation and assessment of the claim and requested further documentation from the port in support of their claim. The port provided the amplifying information on January 13, 2016.

On February 2, 2017, the Administrator made an offer for the established amount of \$71,909.71 minus the amount of \$1,277.13 that the Port had received from the Federal Court. The offer was accepted by Counsel for the Port on February 7, 2017, and a payment of \$73,848.78 including interest was made to the Port.

Recovery Action

The Fund had filed a claim in the judicial sale of *Chaulk Lifter*, a sister ship, which had been arrested and sold by Verreault Navigation Inc. for unrelated debts. The Fund received \$45,184.44 as per the Federal Court decision issued on November 17, 2016 (2016 FC 1281).

Status

Considering the lack of assets and the amount of liabilities of the owners, the Administrator assessed that it would not be reasonable to dedicate additional resources to recovery action, and closed the file on September 5, 2017.

Related file

Chaulk Determination (2014) (CCG), case number 120-667 (same owner, same series of incidents)

Mystery Spill (2017) ⚓

Location: Port of Quebec, 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.

Mystery spill (2017)

Location: Port of Quebec, Quebec
Case number: 120-719-C1-1

The Incident

On 8 March 2017, the Harbor Master's Office of the Port of Quebec advised the Canadian Coast Guard (CCG) that an oil spill, possibly from the bulk carrier MACCOA, had occurred in section 28. Oil was discovered on the water, on ice between the wharf and the ship, as well as traces on the wharf and splashing on the hull of the ship.

Transport Canada and CCG estimated that between 30 and 40 litres of heavy fuel oil or sludge used oil have been dumped into the harbor. During this time, two safety inspectors of Transport Canada collected samples from outside the MACCOA as well as from its tanks. A local surveyor firm was tasked on scene by the shipowner.

The CCG gradually dispatched five members of its personnel, who monitored oil recovery measures taken by the Eastern Canada Response Corporation (ECRC), hired by the Quebec Port Authority.

The master of the MACCOA denied that the oil came from his ship; the ship remained detained. The Quebec Port Authority obtained a Letter of Undertaking from the ship's P&I Club (UK Club). CCG Environmental Response (ER) personnel began to support the pollution recovery and clean-up operations of the Port of Quebec, carried out by ECRC.

On 9 March 2017, the source of the pollution had not yet been identified, the operation was underway to melt the ice and recover hydrocarbons with absorbents. The hull cleaning operations took place in the afternoon. The vessel wanted to continue operations, but the CCG ER ban was maintained until the clean-up was completed. Pollution recovery was completed at between 80 and 90 percent, according to an estimate from the CCG on-site team.

On 10 March 2017, the vessel was allowed to sail. However, at 9:30 am, after the ship's departure, a black sheen was observed in the mouth of the Saint-Charles River in the Port of Quebec. The CCG ER team remobilized to sample and prepare equipment, and organized an aerial observation to find the source of the hydrocarbons. Following the investigation, no contamination was observed. The large black sheen at the mouth of the St. Charles River turned out to have been created by the reflection of the new ice on the water.

CCG mobilized resources until it was confirmed that the sheen was not oil.

The Claim

On 12 February 2019, 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 \$11,139.48, pursuant to section 103 of the *Marine Liability Act*.

After investigation and assessment of the submission, the Administrator dismissed the claim, pursuant to section 105 (4) of the *Marine Liability Act*, as she was satisfied on the evidence that the occurrence was not caused by a ship.

On 16 May 2019, a rejection letter was sent to the CCG, and since no appeal was filed by the end of the 60-day period, the Administrator decided to close the file.

Status

The file was closed on 17 July 2019.

Mystery Spill, Port of Quebec (2016) (formerly the *Anastasia*) ⚓

Location: Port of Quebec, Quebec
Case number: 120-720-C1

The Incident

On November 24, 2016, a Quebec Port Authority's (QPA) patroller noticed an iridescence on the water by wharf 52. Although there was no vessel at the wharf at the time, it was believed that the oil came from the Marshall Islands registered bulk carrier *Anastasia* (50,697 GRT), which had departed that location a few hours earlier. The pollution corresponded specifically to the wharf where the *Anastasia* had been berthed and inspection of the other wharfs showed no other source of contamination. The inspection found bunker oil around wharf 52, the associated fenders and some product in the river.

Both the Canadian Coast Guard (CCG) and Transport Canada (TC) were advised of the incident. Transport Canada sent inspectors but they did not take any oil samples as the bulk carrier had already left the scene. The QPA hired a contractor for recovery and cleanup work. The contractor installed booms to prevent the spread of the bunker oil and cleanup progressed until high tide made it impossible to continue. The next morning, the wharf fenders were lifted, cleaned and then reinstalled.

At one point there was no longer any discernible oil left in the river or on the fenders, so the QPA concluded that the pollution threat to new vessels arriving at wharf 52 was low. They allowed the next vessel to berth, and would continue cleaning the next day, after its departure.

On November 26, 2016, cleaning continued and on November 27, the wharf was considered acceptably clean and the incident closed.

The Claim

On June 16, 2017, the QPA filed a claim with the Fund for costs and expenses incurred in the amount of \$12,298.09, pursuant to section 101 of the *Marine Liability Act*.

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

Assessment and Offer

On June 28, the Administrator sent a letter to the QPA requesting specifications on the dock face. A response was received on June 29.

On September 14, 2017, after further investigation and assessment of the claim, the Administrator made an offer to QPA for the established amount of \$12,298.09, plus interest, pursuant to section 105 of the Act. Interest was deemed to be in the amount of \$304.66.

On September 15, 2017, the offer was accepted by the QPA.

On October 12, 2017, the Administrator directed payment of the amount of \$12,298.09 (which includes interest in the amount of \$304.66) to the QPA.

Recovery action

As the available evidence did not allow to conclude that the *Anastasia* was the source of the spill, this was deemed to be a mystery spill and no recovery action was possible.

Status

The file was closed on December 12, 2017.

Kavo Manali (2017)

Location: Port of Quebec, QC

File number: 120-734-C1

The Incident

On 3 December 2017, the bulk carrier *Kavo Manali*, discharged lubricating oil into the waters of the Port of Quebec. The Port of Quebec reported the pollution incident to the Canadian Coast Guard (CCG) on the same day. Transport Canada estimated the volume of discharged oil from the *Kavo Manali* to be approximately 1,000 litres. The CCG took immediate action to both respond to the report and to establish a monitoring role, including setting up a mobile command post.

Initially, on 3 December 2017, the CCG responded by mobilizing personnel and resources to deal with oil spill recovery and place absorbents. In the afternoon, the CCG determined that the pollution trapped between the ship and the wharf was recoverable by vacuum truck. Oil samples were recovered. The CCG also confirmed that the pollution had not moved upstream and hired a contractor with a vacuum truck. A response and monitoring plan was developed and put in place. In addition, the CCG took steps to keep the *Kavo Manali* in the port pending the final cleaning of the vessel. Absorbent boom was placed near the bow and stern of the vessel.

The Port of Quebec and the CCG considered the situation stabilized, and work plans were developed for 4 December 2017. Oil had potentially soiled the vessel's hull as well as port infrastructure. The shipowner took charge of the response, with the assistance of two contractors, and the CCG reverted to monitoring the operation and risk management.

The majority of the oil spilled was recovered by the end of 5 December 2017. Port infrastructure cleaning was completed on 6 December 2017. During the night of December 11 2017, the *Kavo Manali* departed the Port of Quebec, and the CCG monitored the situation until the following day.

The CCG carried out a final inspection of the area on 14 December 2017, and no trace of pollution was sighted. The CCG's total response involved 11 personnel over an 11-day period from 3 through 14 December 2017.

Measures taken by the Administrator

A Letter of Undertaking, as requested by the Administrator, was received from the vessel's P&I club on 14 December 2017.

The Claim

On 9 April 2019, the Administrator received a submission from the CCG on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$14,231.04, seeking

compensation for costs and expenses arising from the response to the incident involving the *Kavo Manali*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the CCG's claim.

The Administrator made an offer of compensation to the CCG in the amount of \$13,293.87, plus accrued interest of \$724.95, on 23 May 2019.

The CCG accepted the offer on 5 June 2019, and payment from the Fund in the amount of \$14,018.82, including interest, was made on 11 June 2019.

Recovery Action

On 12 June 2019, in-house legal counsel for the Administrator sent a demand letter to the shipowner's insurer.

On 8 July 2019, the Administrator received payment from the insurer in the amount of \$14,047.82, which included interest accrued since payment to the CCG. A release from liability was executed and the original Letter of Undertaking was returned.

Status

Having recovered in full, the Administrator closed this file on 18 July 2019.

BBC Maple Lea (2015)

Location: Lake Saint-Louis, QC

Case number: 120-735-C1

The Incident

On December 17, 2015, the Canadian Coast Guard (CCG) was notified that the German flagged general cargo vessel *BBC Maple Lea* (9,611 GRT) had grounded on Lake Saint-Louis in the St. Lawrence Seaway and was leaking bunkers. The CCG responded promptly and the incident was closed two days later, when the ship was refloated and continued its voyage.

The Claim

On December 15, 2017, CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator in the amount of \$1,329.54 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 December 19, 2017, after investigation and assessment of the claim, the Administrator made an offer to the CCG for the established amount of \$1,329.54, plus interest, pursuant to section 105 of the Act. Interest was deemed in the amount of \$91.68.

On January 8, 2018, the offer was accepted by DFO/CCG and on January 11, 2018, the Administrator directed payment of \$1,421.22 (which included \$91.68 in accrued interest) to DFO/CCG as full and final settlement

Recovery Action

The Administrator reverted to the shipowner's P&I Club for recovery and the P&I Club agreed to settle the claim for \$1,416.47. On May 15, 2018, the payment of \$1,416.47 was received from the P&I Club.

On May 16, 2018, a letter of release was sent to the P&I Club.

Status

The file was closed on May 17, 2018.

MSC Monica (2016)

Location: Deschaillons-sur-Saint-Laurent, Quebec

Case number: 120-741-C1

The Incident

On January 22, 2016, the Panamanian registered container vessel *MSC Monica* (37398 GT) grounded in the St. Lawrence River near Deschaillons-sur-Saint-Laurent, Quebec. The vessel was successfully refloated the next day at high tide, by the owner, with the assistance of three contracted tugs under light river ice conditions. Transport Canada, Environment Canada, the Canadian Coast Guard (CCG) and Quebec Government Ministries were involved in the planning and response to this incident. The vessel was carrying 673.2 cubic metres of heavier bunker and 173 cubic metres of diesel fuel. On January 24, the *MSC Monica* was secured alongside at the port of Quebec.

The grounding location was rocky and the vessel's speed at the time was about 10 knots. The extent of damage was only known once the vessel was refloated and inspected at the Port of Quebec but given the rocky bottom and vessel's speed, the possibility of severe negative consequences were viewed as high. As it turned out there was minor damage to the hull but major damage to the propeller blades. Although no pollution was reported during the incident, given the uncertain situation before the assessment of damage there was a perceived risk of potential pollution.

The Claim

On January 22, 2018, 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 \$13,121.81, pursuant to the *Marine Liability Act*.

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

Assessment and Offer

The Administrator noted that the ship was covered by P&I insurance and inquired as to whether the claim had already been brought to the attention of the P&I. CCG confirmed that they would do so, and the assessment was put in abeyance.

On June 28, 2018, CCG, having been unsuccessful in contacting the Club at all, asked the Administrator to proceed with assessing the claim and issuing an offer.

On July 4, 2018, after investigation and assessment of the claim, the Administrator made an Offer to CCG for the established amount of \$13,121.81, plus interest, pursuant to section 105 of the Act.

On July 13, 2018 the Offer was accepted by CCG.

On July 31, 2018, the Administrator directed that the amount of \$14,168.02 (which included \$1,046.21 in accrued interest) be transferred to CCG.

Recovery Action

On September 10, 2018, the in-house counsel for the Administrator sent a demand letter to both of the shipowner and the P&I Club informing them that the Administrator is subrogated in the rights of the claimant and asking them to pay the amount of \$14,168.02, plus accruing interest.

On November 13, 2018, the Administrator received the amount of \$14,192.33 from the shipowner.

On November 15, 2018, a Release from Liability letter was sent to the shipowner and the Club.

Status

The file was closed on November 29, 2018.

ATB Alouette Spirit & Wilf Seymour (2017)

Location: Lake Saint-Pierre, Quebec

Case number: 120-783-C1

The Incident

On 25 December 2017, the Canadian Coast Guard (CCG) was informed that the Articulated Tug Barge, the *Alouette Spirit*, 10,087-ton steel barge pushed by the tug WILF SEYMOUR, a 442-ton steel tug (individually the "barge" and the "tug"), had run aground just off the port side of the navigable waterway on Lake Saint-Pierre. The draught of the barge was greater than that of the tug. Only the barge was stuck in the mud and surrounded by ice.

On 25 December 2017, the owner quickly informed federal agencies involved that there were no signs of hull rupture, water ingress, instability, or actual or anticipated discharge of oil.

On 27 December 2017, the owner conducted further hull inspections and confirmed that there was no visual damage to the hull of the barge. On 28 December 2017, no pollution had been observed in Lake Saint-Pierre, nor any water ingress into the ship.

Between 27 December and 30 December 2017, three attempts were made to refloat the barge by the owner, but all were ineffective. In the days following these unsuccessful attempts, on or about 10 January 2018, it was decided to leave the barge there for the winter and to wait until the spring when the barge could be lightened and refloated. The barge was refloated and brought back to port on 23 March 2018, where a hydraulic oil leak of no more than one tablespoon was observed. That same day, the CCG, which had been monitoring the situation remotely, ended its response.

The Claim

On 13 May 2019, the Administrator received a claim from the CCG, on behalf of the Department of Fisheries and Oceans (DFO/CCG), in the amount of \$14,395.08 for compensation for costs and expenses incurred, pursuant to the *Marine Liability Act*.

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

Assessment and Offer

After investigation and assessment of the claim, the Administrator made an offer to the CCG for the established amount of \$44.38, plus interest on 6 August 2019, as full and final settlement. The Administrator found that only the amount representing costs claimed to assess the situation on 25 December 2017 was reasonable. The remaining costs and expenses claimed were found to be unreasonable, and were therefore rejected.

Since no notification was received by the end of the 60-day period, the CCG was deemed to have refused the Offer.

Status

The file was closed on 29 January 2020.

Sea Gypsy (2017)

Location: Port of Quebec, Quebec

File number: 120-793-C1

The Incident

On 5 November 2017, the 20-foot sailboat *Sea Gypsy* partially sank while tied to the dock in the Port of Quebec. A sheen was visible in the water around the vessel. The Canadian Coast Guard (CCG) was informed that 50 litres of diesel fuel were on board.

The owner of the vessel, who expected to be on scene by 6 or 7 November 2017, was contacted by both the CCG and the Port of Quebec. In the interim, CCG personnel responded in a small boat, placing sorbent boom around the *Sea Gypsy*.

On 6 November 2017, the CCG replaced the boom surrounding the vessel and held a meeting with the Port. The next day, the CCG again checked the site and noted that the boom was lightly saturated with oils. A small amount of pollution remained around the vessel.

On 8 November 2017, the CCG was unable to contact the vessel's owner. CCG personnel continued to monitor the *Sea Gypsy* regularly, changing out boom as needed.

On 10 November 2017, the owner advised the CCG that he was still looking for an affordable contractor to refloat his boat. He decided to start the work himself and advised he would be in Quebec from 13 through 15 November 2017. The CCG requested that the owner submit his refloating plan for vetting and advised him of his responsibility for any resulting pollution.

On 12 November 2017, the Port of Quebec advised the CCG that some oil was escaping from the boomed area around the vessel. The pollution was described as minimal and unrecoverable. The CCG re-assessed the situation, replacing boom.

On 14 November 2017, the owner advised the Port and the CCG that he would not continue to try to refloat his vessel. As a result, the Port of Quebec took over and the CCG maintained a monitoring and advising role.

On 17 November 2017, the vessel sank again after the chains attaching it to the dock parted. The CCG recovered its boom and determined that the vessel had come to rest 50 feet from the dock without discharging further pollutants. The CCG marked the site of the wreck with a buoy and the Port recovered the *Sea Gypsy* on 7 December 2017.

The Claim

On 27 March 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$7,278.30, seeking compensation for costs and expenses arising from the response to the incident involving the *Sea Gypsy*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim and made a request to the CCG seeking further information, which was received.

On 21 May 2019, the Administrator made an offer of compensation to the CCG in the amount of \$7,278.30, plus interest of \$419.15.

The CCG accepted the offer on 5 June 2019, and payment from the Fund in the amount of \$7,697.45, including interest, was made on 11 June 2019.

Recovery Action

In-house counsel to the Administrator sent a demand letter via courier and email to the owner of the *Sea Gypsy* at the addresses provided by the CCG. Neither letter was successfully delivered.

A second demand letter was sent via regular mail on 2 August 2019. No response was received.

On 23 October 2019, in an attempt to reliably locate the owner of the *Sea Gypsy*, the Administrator issued a subpoena under the *Inquiries Act* to a telecommunications company. A response to the subpoena was received on 15 November 2019.

A final demand letter was sent on 19 November 2019, to an email address provided by the telecommunications company, but no response was received.

Further investigatory steps, including email inquiries to a property management company and the Port of Quebec, yielded no useful leads on the owner of the *Sea Gypsy*.

Status

The Administrator closed this file on 17 January 2020, having taken all reasonable measures to recover as required by the *Marine Liability Act*.

GRT Synergie (2018)

Location: Baie des Chaleurs, Québec

File number: 120-865-C1

The Incident

On 13 May 2018, the Canadian Coast Guard (CCG) was notified that an approximately 35-foot fiberglass-hulled fishing vessel, identified as the *GRT Synergie*, had sunk at Quai des Pêcheurs in Baie des Chaleurs, near Carleton-sur-Mer, Québec. No one witnessed the sinking, which occurred abruptly shortly after the vessel, which had apparently been in good condition, was placed in the water.

A CCG environmental response crew arrived at the scene. After being unable to contact the owner of the vessel, they retained a local environmental contractor to initiate a response. The contractor placed a boom and sorbent materials. The *GRT Synergie* was righted using a backhoe, and preparations were made to remove the vessel from the water.

That evening, the owner attended at the scene. The owner confirmed the presence of 1,000 litres of hydrocarbons aboard the vessel. The owner confirmed he would take over the response.

The owner made an attempt to remove the *GRT Synergie* from the water using a trailer via a boat ramp. That effort failed when the boat trailer proved to be too small. Thereafter, the owner engaged a contractor to make repairs to the vessel where it sat in the water, with a plan to have the vessel towed to another location for more complete repairs. This effort succeeded.

The Claim

On 12 May 2020, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$10,449.01, seeking compensation for costs and expenses arising from the response to the incident involving the *GRT Synergie*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, concluding generally that the early stages of the CCG's response were reasonable given the unknown quantity of oil pollutants on board the *GRT Synergie*.

The initial costs for contractor work to place a boom and right the vessel were not included in the claim, having apparently been paid by the vessel's owner or the owner's insurer.

A large part of expenses included in the CCG claim turned out to be expenses incurred by the

environmental response contractor after the owner took over the response. It appeared that the owner did not pay that part of the contractor's bill, and that the CCG had determined it was appropriate to pay the contractor's unpaid invoices.

Without deciding whether it was appropriate to compensate the CCG for paying contractors for work done by others, generally, it was determined the expenses should be rejected in this case. The nature of the work paid for appeared to be to prepare the *GRT Synergie* to sail for repairs. It had been determined that the cause of the sinking was a faulty bilge pump which pumped water into the vessel rather than removing it. As such, repairs to the ship were not accepted as measures taken with respect to oil pollution or the threat thereof in this case. This part of the claim was therefore not payable irrespective of the issue of to whom the bills were properly directed.

The other aspects of the claim were for CCG personnel time to respond to the incident and monitor the owner's response, as well as administrative costs. These parts of the claim were accepted without deduction.

The Administrator made an offer of compensation to the CCG in the amount of \$1,297.67, plus accrued statutory interest, on 12 November 2020.

The CCG accepted the offer on 16 December 2020, and payment from the Fund in the amount of \$1,426.46, including \$128.79 in interest, was made shortly thereafter.

Recovery Action

Demand letters were sent to the representative of the insurer of the *GRT Synergie*.

On 7 May 2021, in-house counsel to the Administrator filed an action in the Federal Court against the owner of the *GRT Synergie*. The Defendant was served with the Administrator's Statement of Claim on 5 July 2021, but the process server hired by counsel was delayed in providing an affidavit of service. Accordingly, a motion was brought to request an extension of time to file proof of service. The Court granted the requested extension on 21 January 2022.

Status

The file remained open at the end of the fiscal year.

Le Sept Ilien (2018)

Location: Gros-Morne, Québec

File number: 120-866-C1

The Incident

On 22 June 2018, the Canadian Coast Guard (CCG) was notified that an approximately 41-foot lobster fishing craft, identified as the *Le Sept Ilien*, had grounded near Gros-Morne, Québec.

The CCG initially responded to the incident in a life-saving capacity. The crew of the *Le Sept Ilien* safely escaped from the vessel. Thereafter, the CCG transitioned its response into an environmental response which relied on remote monitoring.

The CCG coordinated with the vessel's owner and the representative of its insurer. This included an effort to re-establish contact after the representative of the vessel's insurer was unexpectedly hospitalized for reasons unrelated to the incident.

A small release of oil occurred during the owner-led response to the incident. This discharge was contained by a boom placed in anticipation of such a discharge. On June 29, the remaining oil aboard the vessel was pumped off and the owner made preparations to dismantle the vessel. The deconstruction of the *Le Sept Ilien* was completed by 21 July 2018.

The Claim

On 22 June 2020, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$3,087.54, seeking compensation for costs and expenses arising from the response to the incident involving the *Le Sept Ilien*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, concluding generally that the early stages of the CCG's response were reasonable given the presence of oil pollutants on board the *Le Sept Ilien* and its distressed state.

Some of the CCG claim for salary and overtime was not accepted. The owner or its insurer implemented all measures taken in response to the environmental aspects of the incident. While it was reasonable for the CCG to monitor that effort remotely, some of the activities carried out by CCG personnel were considered to be duplicative of the owner's efforts or those of other CCG personnel.

The Administrator made an offer of compensation to the CCG in the amount of \$1,996.69, plus accrued statutory interest, on 19 October 2020.

The CCG accepted the offer on 17 December 2020 and payment from the Fund in the amount of \$2,186.11, including \$189.42 in interest, was made shortly thereafter.

Recovery Action

The office of the Administrator sent demand letters to the representative of the insurer of the *Le Sept Ilien*. A response was received, and requested documents were sent to the representative.

On, 11 May 2021 in-house counsel to the Administrator filed an action in the Federal Court against the owner of the *Le Sept Ilien*. Attempts to serve the Defendant were complicated by his remote location on Quebec's Gaspé Peninsula, where it proved difficult to find a process server. It was later determined that the Defendant was incarcerated, and he was ultimately served in prison.

Counsel filed a motion to extend time for service on the Defendant, which the Court granted on 17 March 2022.

Status

The file remained open at the end of the fiscal year.

Ocean Uannaq (2016)

Location: Montreal, Quebec

File number: 120-889-C1

The Incident

On 1 April 2016, the Canadian Coast Guard (CCG) was notified that a tug known as the *Ocean Uannaq* had capsized and sunk immediately downstream from the Champlain Bridge in Montreal, Quebec.

Prior to capsizing, the tug was being used for construction of the bridge. The tug was understood to contain approximately 500 litres of diesel fuel and 60 litres of engine oil at the time of the sinking, and it also had a generator aboard.

The owner of the *Ocean Uannaq* took responsibility for the ship and coordinated response efforts with the CCG, whose personnel monitored that response.

On 27 May 2016, the owner of the *Ocean Uannaq* attempted to raise the tug from the riverbed. During the effort, a blueish black oil slick was observed on the surface of the water. Efforts were made to contain the oil slick. The tug was successfully raised during this effort.

On 28 May 2016, the tug was removed from the water.

The Claim

On 31 March 2021, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$5,074.17, seeking compensation for costs and expenses arising from the response to the incident involving the *Ocean Uannaq*.

The Administrator determined that the *Ocean Uannaq* had caused oil pollution damage on or about 27 May 2016 and that the CCG's claim had been made more than two years after the occurrence of that damage.

On 14 October 2021, the Administrator notified the CCG that the claim was inadmissible under Part 7 of the *Marine Liability Act* because the applicable limitation period had expired prior to submission.

Status

The file was closed on 31 January 2022.

Réjane (2020)

Location: Rapides du Cheval Blanc, Rivières des Prairies, Quebec

File number: 120-891-C1

The Incident

On 10 October 2020, the Canadian Coast Guard was notified that the *Réjane*, a small tug with 600 litres of diesel fuel on board, had run aground at Rapides du Cheval Blanc, Rivières des Prairies, Quebec the previous day after striking a buoy.

At first, the CCG struggled to identify the owner of the vessel. The owner eventually came forward, however, and began to mount a response. The CCG initially ordered that the vessel not be moved until the oils could be removed from it.

Over the 33 days that followed, the CCG worked with the owner and other stakeholders. Finally, the vessel was removed by its owner on 10 November 2020. No release of oil was reported.

The Claim

On 13 April 2021, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$3,428.93, seeking compensation for costs and expenses arising from the response to the incident involving the *Réjane*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, finding the entirety of claimed amounts to be established. An apparent CCG miscalculation in the amount claimed for administration costs resulted in an established amount slightly higher than the amount claimed by the CCG.

The Administrator made an offer of compensation to the CCG in the amount of \$3,441.79, plus accrued statutory interest, on 8 August 2021.

The CCG accepted the offer on 19 August 2021, and payment of \$3,530.09, which included the principal plus \$88.30 in accrued statutory interest, was made shortly thereafter.

Recovery Action

Demand letters were sent to the owner of the *Réjane* and an insurance broker identified by the CCG on 31 August 2021. No responses were received.

Attempts to locate the owner of the *Réjane* continued as of 31 March 2022.

Status

The file remained open at the end of the fiscal year.

Federal Leda (2019)

Location: Beauharnois, Quebec

File number: 120-905-C1

The Incident

On 21 November 2019, the Canadian Coast Guard (CCG) received a report of pollution in Lock #4 at Beauharnois, Quebec. It was determined that the source of the pollution was the *Federal Leda*, a Marshall Islands-flagged bulk carrier of 22,654 gross tons, the last ship that passed through the locks. The pollution was being contained by the St. Lawrence Seaway Authority.

The CCG's response consisted of remote monitoring while other entities conducted the containment and clean up. A liaison agent from the CCG's Environmental Response team was deployed to maintain communications between all parties. There was some discussion of the CCG providing a helicopter for surveillance of the pollution, but this never took place due to weather conditions.

The owner of the *Federal Leda* engaged the Eastern Canada Response Corporation to respond to the spill, including by containing the pollution and by providing divers to identify and plug the leak. The leak was stopped by 08:30 on 22 November 2019. Its source was identified as cooling water that had inadvertently mixed with diesel fuel.

The CCG imposed a ban on departure on the *Federal Leda* on the afternoon of 22 November 2019. The St. Lawrence Seaway Authority conducted the clean-up of the spill in the locks, which was completed by 18:30 on 22 November 2019. The locks were reopened that evening and the CCG lifted the departure ban on the *Federal Leda* the next day.

No other spill was reported concerning the *Federal Leda* in the following days. The CCG closed the case on 25 November 2019.

The Claim

On 20 November 2021, the Administrator received a submission from the Canadian Coast Guard, on behalf of the Minister of Fisheries and Oceans. The submission advanced a claim in the amount of \$2,956.29, seeking compensation for the costs and expenses incurred in the course of responding to the incident caused by the *Federal Leda*.

The Administrator began an investigation and assessment of the claim that was ongoing as of 31 March 2022.

Status

The file remained open at the end of the fiscal year.

ONTARIO



Mystery Spill (1984)

Location: Michipicoten, ON
Case number: 120-017-C1

The Incident

An unidentified discharge of oil occurred in Lake Superior near Michipicoten, Ontario in July 1984.

Administrator as Party by Statute

The Crown instituted proceedings against the Administrator on July 22, 1986 by virtue of subsection 745(1) of the *Canada Shipping Act* (the Act) to recover \$12,354.99 for clean-up costs and expenses further to the discharge incident.

The solicitors for the Administrator sought enlightenment on several aspects of the Crown's claim since there was a distinct lack of evidence as to the source of the oil. The Crown was eventually able to prove that the most likely source of the oil spill was a ship and that reasonable efforts had been made to identify the particular ship but without success. Further investigation revealed no possible land-based source for the oil spill.

Settlement discussions then took place between the parties. In view of the considerable delay by the Crown in bringing the claim to court and the further delay in responding to the Administrator's inquiries, the Crown agreed to drop the claim for five years of interest as well as any claim for court costs, resulting in the claim being settled for an amount of \$12,354.99. The action was subsequently discontinued and a release given.

Status

The file was closed on March 31, 1990.

Eastern Shell (1991) ■

Location: Parry Sound, ON

Case number: 120-057-C1

The Incident

On May 10, 1991, the Canadian single hull tanker *Eastern Shell*, loaded with a mixed cargo of diesel oil and gasoline, struck rocky bottom at the entrance to Parry Sound, Ontario. As a result of the occurrence, the ship was holed, discharging some 100,000 litres of gasoline and 62,000 litres of diesel. Soconav Inc., the shipowner, Shell Canada Products Limited (Shell), the owner of the cargo, and the Canadian Coast Guard (CCG) responded by cleaning up and containing the pollution, which was reported to be minimal in view of the efforts that had been made to minimize it and the fact that the petroleum products vaporized.

Soconav Inc., Shell, and the CCG claimed having incurred substantial costs and expenses in the total amount of \$992,689.56, in the pollution containment, cleanup and safe removal of the *Eastern Shell*, detailed as follows:

Soconav	\$326,546.08
Shell	\$310,000.00
CCG	\$356,143.48

The Claim

On February 2, 1993, the Administrator received a letter from the shipowner making a claim against the Ship-source Oil Pollution Fund (the Fund), under the *Canada Shipping Act* (the Act), for the balance of monies paid over and above the tanker's calculated limit of liability, \$728,238.33. On March 2, 1993, counsel for the Fund replied to the shipowner seeking more information and making the following main points: doubting whether the stated cleanup figure of \$992,689.56 was a valid figure for any balance of claim consideration against the Fund, and expressing the view that some of the costs were incurred in salvage of the vessel and repair to enable her to move to a permanent repair facility. Discussions and negotiations took place on these issues and others, without resolution.

Administrator as Party by Statute

The CCG claim having not been paid by the shipowner, on January 14, 1994, the Crown filed a statement of claim in the Federal Court of Canada against the *Eastern Shell*, her owners and others, to recover the CCG costs and expenses in the amount of \$356,143.48, naming the Administrator a party by statute in accordance with the Act. However, it was agreed that no further action on the part of the Administrator was required at that time. One of the main objections of the shipowner to the CCG claim was the method of costing the CCG vessel which stood-by the accident scene and rendered support. Statements of Defence and a Counter Claim for Limitation of Liability were filed by the shipowner on February 8, 1995. Based on the facts of the incident, the Crown and the Fund both took the position that the shipowner was not entitled to limit its liability. The parties then exchanged documents and Examinations for Discovery were held.

On February 7, 1997, notice was received that the shipowner had been placed into bankruptcy, which event was deemed to have taken place on September 20, 1996. Since 1996, discussions then took place between the Administrator and the Crown regarding the Crown's claim. On May 6, 1999, the Crown accepted the Administrator's offer of \$235,000.00, all inclusive of interest and costs, in full and final settlement, and on June 28, 1999, a release was signed on behalf of the Crown and delivered to the Fund. The settlement amount was paid to the Crown on July 20, 1999.

Status

The file was closed on March 31, 2000.

Mystery Spill (1993)

Location: Wolfe Island, ON

Case number: 120-081-C1

The Incident

On August 1, 1993, the Canadian Coast Guard (CCG) was informed of the existence of a discharge of Bunker C oil on the south side of Wolfe Island, Ontario. The CCG, acting on behalf of the Minister of Transport, pursuant to section 677 of the *Canada Shipping Act* (the Act), took measures to clean up the oil spill.

The Claim

As the CCG was unable to determine the source of the oil spill or identify the particular ship that caused it, it filed a claim with the Ship-source Oil Pollution Fund (the Fund) on October 20, 1994, under sections 709 and 710 of the Act, for costs and expenses incurred with respect to the clean-up operations in the amount of \$9,436.52.

Assessment and Offer

The Administrator investigated the claim. As the source of the oil pollution damage was unknown and it was not possible to establish that the incident which gave rise to the claim was not caused by a ship, the CCG was entitled to the presumption arising under section 710 of the Act that the oil spilled was discharged by a ship.

After investigation, on the basis of the information submitted by the CCG, the Administrator assessed the actual reasonable costs and expenses incurred by the CCG at \$7,071.57, which amount was offered to and accepted by the CCG in full and final settlement of its claim. A payment in the amount of \$7,071.57, plus interest of \$841.66, was therefore made by the Fund to the CCG.

Status

The file was closed on March 31, 1995.

Princess No. 1 (1994)

Location: Amherstburg, ON

Case number: 120-092-C1

The Incident

On February 10, 1994, while en route from Erieau, Ontario to the Thames River, Ontario, the Canadian tug *Princess No. 1* became imprisoned in an ice ridge in Lake Erie and listed heavily. The United States Coast Guard icebreaker *Neah Bay* responded and broke the ice around the tug, relieving the pressure. The Marine Safety Branch of Transport Canada suspected that the tug was not manned in accordance with the *Canada Shipping Act* and ordered her into the nearest port of refuge, which was the Canadian Coast Guard (CCG) base at Amherstburg, Ontario. The tug was escorted by the CCG icebreaker *Samuel Risley* to Amherstburg, where it docked on February 11, 1994. After being secured alongside, a crewmember and a CCG ship inspector briefly examined the tug and all appeared in order. Subsequently, the *Princess No. 1* sank at the berth, releasing a significant amount of diesel oil. The CCG responded and used CCG vessels and crews to contain and clean up the pollution, some of which was contaminated ice. Containment booms were placed around the site and divers sealed the leaks in the sunken vessel's hull. The *Princess No. 1* was then raised by the owners and placed in a slipway for safety on February 15, 1994.

The Claim

On December 30, 1994, the Crown, on behalf of the CCG, filed a claim in the amount of \$250,742.38 with the Ship-source Oil Pollution Fund (the Fund) for reimbursement of the CCG's costs and expenses.

Assessment and Offer

Further to the investigation and assessment of the claim, the Administrator had a number of concerns regarding the quantum, in particular the costing of the CCG vessels and crew. Following a number of meetings between the Fund and the Crown, further to which additional information was submitted by the Crown to the Fund, the Administrator offered \$105,000.00 including interest in settlement of the claim. The offer was accepted by the Crown and on November 26, 1996, arrangements were made to transfer the settlement amount to the Crown.

Recovery Action

On February 10, 1997, the Administrator filed a Statement of Claim in the Federal Court of Canada against the *Princess No. 1* and her owners to recover the amount of \$105,000.00 plus interest. On October 7, 1998, a default judgment in favour of the Fund was obtained.

It was difficult to contact the owners of the tug. The Administrator arranged for periodic checks to be made on the *Princess No. 1* and a smaller tug, also owned by a member of the same family, both crafts being laid-up in Windsor, Ontario. On February 22, 2000, the Administrator wrote to the owners and, this time, received a telephone reply.

Three family members were involved with the tug. The Administrator had several telephone discussions with two of the family members, further to which Counsel for the Fund prepared an agreement of settlement. Minutes of settlement were thereafter presented to the family member registered as the owner of the *Princess No.1* on June 21, 2000. Since the tug was of little to no value and it was very doubtful, on evidence, that the owners could, or would, satisfy the default judgment, settlement was agreed in March 2001 at \$50,000.00, to be paid in full no later than December 1, 2004, by scheduled post-dated cheques.

Status

The file was closed on March 31, 2006.

Simcoe Islander (1995)

Location: Wolfe Island, ON

Case number: 120-112-C1

The Incident

On September 12, 1995, the *Simcoe Islander*, a small cable ferry that runs between Wolfe Island and Simcoe Island in the Canadian Thousand Islands area of the St. Lawrence river, Ontario, capsized, in fair weather conditions, in the middle of the channel while carrying a large truck filled with rock. The ferry operator was thrown into the water and the truck driver was trapped in his cab, but both were later rescued.

The ferry and the truck both released oil. The ferry had on board approximately 200 litres of diesel fuel and 130 litres of hydraulic oil, and the truck contained an undetermined quantity of diesel fuel and lubricants. The Canadian Coast Guard (CCG) responded and, using its own personnel, contained and cleaned up the pollution. The ferry was later salvaged on September 14, 1995, and the truck, on September 16, 1995.

The Claim

On October 3, 1996, the Crown presented a claim in the amount of \$12,751.08 to the Administrator, in order to recover the CCG costs and expenses in the response.

Assessment and Offer

The Administrator investigated the claim and sent it to the ferry's owners for direct settlement with the Crown.

On May 28, 1997, the Crown received payment in full for its claim from the ferry's owners.

Status

The file was closed on March 31, 1998.

James Norris (1995)

Location: Port Colborne, ON

Case number: 120-118-C1

The Incident

On November 11, 1995, the *James Norris*, a Canadian registered self-unloading bulk carrier employed in the Great Lakes trade, was loading at a cement plant berth at Port Colborne, Ontario when strong winds suddenly developed blowing the ship onto the berth. Since the berth was exposed, the ship was subjected to pounding on the berth; hence, the ship master decided to sail. However, while departing, the ship lost control in the high wind and continued to pound the dock until she was holed and sank at the berth.

The ship had on board 400 tonnes of Bunker C oil and 50 tonnes of diesel oil, but the crew were able to secure all the oil supply valves before being safely evacuated ashore. Therefore, no pollution was reported. The shipowners responded to the threat of pollution with the Canadian Coast Guard (CCG) in attendance. The pollution was contained and, on November 18, 1995, the *James Norris* was refloated and towed away for repairs.

The Claim

On April 2, 1997, the Crown submitted a claim in the amount of \$16,561.52 with the Ship-source Oil Pollution Fund to recover the CCG's attendance costs and expenses at the scene.

The Administrator presented the Crown's claim to the shipowners by letter dated April 23, 1997, with a request that payment be made directly to the Crown. On August 25, 1997, it was confirmed that payment in full had been received by the Crown from the shipowners.

Status

The file was closed on March 31, 1998.

Motor Yacht 42E 6903 (1996)

Location: St. Clair River, ON

Case number: 120-133-C1

The Incident

A privately owned Canadian registered wooden motor yacht sank during heavy rain conditions, on September 21, 1996, while moored in a creek off the St. Clair River, a few kilometres north of Sombra, Ontario, releasing diesel fuel and residual oils. The Canadian Coast Guard (CCG) sent their own personnel to the site and used their own equipment to contain and clean up the pollution. The owner was contacted, and subsequently raised the boat. The hull of the boat was found to be rotted and it was reported that the boat was then broken up. The owner stated that he had no insurance coverage for the boat.

The Claim

On October 10, 1997, the Crown presented a claim in the amount of \$2,560.18 to the Ship-source Oil Pollution Fund to recover the CCG's costs and expenses.

Assessment and Offer

The Administrator investigated and assessed the claim, and on January 26, 1998, the claim was paid in full, plus \$209.92 interest.

Recovery Action

On March 31, 1998, the Administrator forwarded a claim to the boat owner, at an address the Administrator had been given, for the recovery of the amount paid out to the Crown. Having received no response from the owner, a further copy of the claim, together with an updated interest calculation, was sent again on September 13, 1999. However, no reply was received.

A Statement of Claim was therefore filed in the Federal Court of Canada by the Administrator on September 20, 1999 and served on the boat owner at an address in Corunna, Ontario on November 19, 1999. No Statement of Defence was filed, and judgment for \$3,770.10 including costs, was rendered on May 16, 2000 in favour of the Administrator.

Various attempts were made to find the boat owner without success. In the circumstances and in light of the amount involved, the Administrator was of the view that reasonable efforts had been taken. Hence, he closed his file on the incident until the boat owner is located.

Status

The file was closed on March 31, 2001.

Mystery Spill (1996)

Location: Goderich, ON
Case number: 120-134-C1

The Incident

On October 11, 1996, a dredging contractor in Goderich Harbour, Ontario observed oil being blown down onto the dredging operation in the harbour, and reported the pollution to the Harbour Master, who, in turn, reported it to the locally based Canadian Coast Guard (CCG). The local CCG responded to the oil pollution and investigated it. Further to the investigation, it was agreed that the oil, which had the appearance and smell of diesel, came from upwind of the dredging and that the dredging operation was not the origin of the spill.

Ten ships were in the harbour at the time of the incident; however, no analysis of oil samples was carried out. One tug was suspected, but there was no evidence linking it to the spill.

The Claim

On October 10, 1997, the Crown filed a claim in the amount of \$2,553.87 with the Ship-source Oil Pollution Fund to recover the CCG's costs and expenses in responding to the incident.

Assessment and Offer

The Administrator investigated the claim but was unable to find conclusive evidence as to the origin of the oil. Therefore, on March 20, 1998, he paid \$2,773.68, which included \$219.80 interest, to the Crown to settle the claim.

Status

The file was closed on March 31, 1998.

Jade Star (1996) ■

Location: Nanticoke, ON
Case number: 120-136-C1

The Incident

The Canadian flag tanker *Jade Star*, with registered owners in the Isle of Man and operating managers in New Brunswick, was reported to have experienced a loading hose breakage while loading Bunker C at Nanticoke, Ontario on December 21, 1996. This resulted in an estimated 2,300 litres of the cargo oil spilling onto the deck and an estimated 300-400 litres of the oil overflowing the deck edge into the water. The local refinery hired contractors to contain and clean up the oil outside the ship, and the ship used a private contractor and the crew to clean the deck and the ship's side. The Canadian Coast Guard (CCG) monitored the clean-up operations.

The Claim

On December 17, 1997, the Crown filed a claim in the amount of \$2,174.25 with the Ship-source Oil Pollution Fund to recover the costs and expenses incurred by the CCG in attending at Nanticoke.

On January 12, 1998, the Administrator forwarded the claim to the Canadian operators of the *Jade Star*, with the request that settlement be made directly to the Crown. On July 17, 1998, the Administrator was advised that the Crown had received full payment of its claim from the ship's operators.

Status

The file was closed on March 31, 1999.

Rhea (1997) ⚓

Location: Oshawa, ON
Case number: 120-157-C1

The Incident

On October 4, 1997, the *Rhea*, a former US Navy mine sweeper which had been purchased approximately ten years before for use as a houseboat in Oshawa Harbour, Ontario, sank, while no one was aboard, coming to rest in seven metres of water with only her superstructure showing. It was reported that the ship had some 1,600 litres of heating oil, 4,500 litres of diesel and 450 litres of lubricating oil aboard which, upon sinking, immediately began to seep out.

The owner advised that he had no insurance and was unable to accept responsibility for the oil pollution containment and cleanup. The local marine rescue association responded and boomed the sunken ship. The *Rhea* was subsequently raised and removed from the Oshawa Harbour.

The Claim

On August 26, 1998, the Oshawa Harbour Commission (the Harbour Commission) submitted a claim to the Ship-source Oil Pollution Fund (the Fund) in the amount of \$99,054.21 for the portion of the response activity pertaining to the oil spill cleanup. The claim included items in contention for which the Harbour Commission had not paid, totaling \$10,040.71.

Assessment and Offer

Further to the investigation and assessment of the claim, the Administrator concluded that a number of the individual charges in the claim were not reasonable, within the meaning of the *Canada Shipping Act*. On March 29, 1999, the Administrator had telephone discussions with the Harbour Commission, in which he outlined a number of individual amounts within the claim that he felt should be reduced or disallowed as not being reasonable.

An all-inclusive settlement of \$60,211.24, including interest, was thereafter agreed between the Administrator and the Harbour Commission on April 21, 1999. Part of the settlement agreement, as required by the Administrator, included the Harbour Commission taking the following actions: diligently pursuing collection from the boat owner, pursuing the Harbour Commission's insurers who had declined liability, and that any recovery of monies by the Harbour Commission would be returned to the Fund. On this basis, a release and subrogation agreement, signed on behalf of the Harbour Commission on May 12, 1999, was received by the Administrator, and the payment of the settlement amount was sent by the Fund on June 7, 1999.

Recovery Action

Further to the legal action instituted by the Harbour Commission against the boat owner on March 25, 1999, a default judgment was obtained on April 18, 2000 in the amount of \$146,630.55, including interest and costs. The Harbour Commission then requested a Writ of Seizure and Sale

on May 3, 2000; however, having not located the boat owner, who was said to have few assets, they considered the case closed.

On his side, the Administrator made his own efforts to trace the boat owner during the year 2000 without success. Following legal advice, he instructed counsel to obtain a partial assignment of the Harbour Commission judgment, which was done. He then closed his file on the incident until the boat owner is located.

Status

The file was closed on March 31, 2001.

Enerchem Refiner (1998)

Location: St. Lawrence River, Cornwall, ON

Case number: 120-169-C1

The Incident

On April 2, 1998, the Canadian tanker *Enerchem Refiner*, loaded with approximately 7,800 tonnes of Bunker C, ran aground in the Canadian section of the St. Lawrence Seaway, just below Cornwall, Ontario. There was no release of oil, but the ship contracted with a response organization to stand by, fully prepared to act, during the offloading and refloating operations, which were monitored by the Canadian Coast Guard (CCG). Assisted by tugs, the ship was freed on April 5, 1998, and proceeded to a nearby anchorage for a full inspection of the hull.

The Claim

On March 31, 1999, the Crown filed a claim in the amount of \$10,826.05 with the Ship-source Oil Pollution Fund (the Fund) for the recovery of the CCG's monitoring costs in the incident.

Assessment and Offer

The Administrator investigated the claim and forwarded it to the *Enerchem Refiner's* owner, Enerchem Transport Inc. (Enerchem) on April 12, 1999, requesting direct settlement by the owner with the Crown. In response, the Fund was advised that Enerchem had been sold to another Canadian shipping company, Algoma Tankers Inc. (Algoma), and the *Enerchem Refiner* was sold to foreign owners on April 29, 1999. Besides, Enerchem's insurers had settled all other claims related to the incident some months previously. Enerchem's representative considered then the Crown's claim to be late in being presented. The Administrator followed up with telephone calls and a number of letters, but settlement was not achieved.

On November 1, 1999, the Administrator wrote to Algoma, which, on January 10, 2000, agreed to pay the claim. The Crown then received payment of the principal amount from Algoma on March 3, 2000. On November 23, 2000, after reconsideration of the circumstances, the CCG decided not to pursue their claim for interest payable under section 723 of the *Canada Shipping Act* from the owner.

Status

The file was closed on March 31, 2001.

Mystery Spill (1998)

Location: Fighting Island, Detroit River, ON

Case number: 120-175-C1

The Incident

On May 31, 1998, a floating foul smelling substance was found coming ashore, and drifting just off the shore, on the northwest corner of Fighting Island, Ontario, a Canadian island in the Detroit River, downstream from Detroit. An analysis of a portion of the substance found that it was approximately 35% heavy oil and the rest a type of sewage. The Canadian Coast Guard (CCG) contracted for the cleanup. Samples of the oil and the other matter were taken by the United States Coast Guard (USCG) and the CCG, and compared to other samples taken from ships anchored in the vicinity and shore sources, without success at identifying the origin of the spill. In the meantime, the Ship-source Oil Pollution Fund (the Fund) ascertained that on that day, May 31, 1998, a heavy rainfall was reported throughout the local area.

The Ontario Ministry of the Environment and the Michigan Department of Environmental Quality were also involved. The report of the Ontario Ministry of the Environment was unable to identify the origin of the spill, and an official from the Michigan Department of Environmental Quality indicated that he did not believe the spill was ship related. The samples analysis done by the USCG laboratory did not positively identify the origin of the spill either. Besides, in a subsequent more detailed analysis, the site samples oil were found to contain « a severely evaporatively weathered light fuel oil mixed with lubricating oil », instead of being « of a heavy type » as initially stated.

The Claim

On June 1, 1999, the Crown, on behalf of the CCG, filed a claim in the amount of \$112,504.65 with the Fund.

Assessment and Offer

The Administrator investigated the claim. Some samples taken from the Fighting Island site were provided to the Fund. In view of the inconclusive results in previous analyses, in January 2000, the Administrator contracted for a more detailed analysis of some of the samples previously held by the USCG laboratory and those held by the Fund. Still, these analyses did not identify the source. The Administrator continued to investigate the origin of the spill and requested information, in particular from the Cities of Detroit, Ecorse and River Rouge, and the Michigan Department of Environmental Quality, which information was received in mid-February 2001. Upon review of the material received, further information was requested and received, in particular from the City of River Rouge (Michigan) and the City of Windsor (Ontario). The Administrator then undertook a detailed review of all the evidence. Following completion of this, on March 31, 2003, he wrote to the Crown stating that the claim would be disallowed since the incident was not caused by a ship. On May 30, 2003, the Crown advised that they accepted this ruling.

Status

The file was closed on March 31, 2003.

Algontario (1999)

Location: Neebish Channel, Sault Ste. Marie, ON

Case number: 120-194-C1

The Incident

On April 5, 1999, the bulk carrier *Algontario* grounded in the Neebish Channel off Sault Ste. Marie, Ontario. The vessel sustained bottom damage, but there was no pollution from the fuel tanks. The shipowners activated their arrangement with the Eastern Canada Response Corporation, who boomed around the vessel to contain a possible oil spill. Arrangements were also made with a contractor to remove oil from the ship to a lightering vessel to prepare for the refloating operation. The Canadian Coast Guard (CCG) and the Marine Safety Branch of Transport Canada were in attendance. The ship was successfully refloated with no pollution on April 7, 1999.

The Claim

On April 4, 2000, the Crown filed a claim with the Ship-source Oil Pollution Fund (the Fund) to recover the CCG's costs and expenses in attending the refloating of the vessel, in the amount of \$20,154.12.

Assessment and Offer

Upon receipt of the claim, on May 2, 2000, the Administrator forwarded it to the shipowners, Algoma Central Corporation (Algoma), with the suggestion that they settle the claim directly with the Crown. On May 26, 2000, Algoma replied to counsel for the Crown denying the CCG claim on the basis that the CCG services were not requested, that Algoma employed the necessary contractors and equipment at the site, and that there was no release of oil. The Crown replied to the points raised by Algoma, in a letter to the Administrator dated June 29, 2000, noting that CCG actions were taken in anticipation of a discharge of oil, as provided by section 677 of the *Canada Shipping Act* and that the CCG does not require the shipowners' request to respond to an anticipated discharge of oil.

The Administrator then investigated and assessed the claim. A number of minor errors were found in the CCG claim. The Administrator was unable to accept the charges for the use of the CCG helicopter, which was in the area at the time for other work.

Following exchanges of correspondence between the Administrator and the CCG, on January 4, 2002, a payment of \$13,767.49 for established costs, plus \$2,839.40 interest, was sent to the Crown.

On February 7, 2002, the Administrator reopened his investigation into the use of the CCG helicopter and paid the costs involved, \$1,792.00, plus \$443.16 interest, on November 22, 2002.

Recovery Action

On January 8, 2002, the Administrator wrote to the shipowners for the recovery of the amount paid to the Crown, totaling \$16,606.89. The shipowners paid such amount to the Administrator on February 7, 2002.

The shipowners also reimbursed the amount paid by the Fund with respect to the use of the CCG helicopter on December 19, 2002.

Status

The file was closed on March 31, 2003.

Miles and Sea (2002)

Location: Lions Head Harbour, ON

Case number: 120-304-C1

The Incident

On March 15, 2002, the unregistered fishing vessel *Miles and Sea* was reported to be sinking and spilling oil in Lions Head Harbour, which is situated on the eastern shore of the Bruce Peninsula, Georgian Bay, Ontario. This vessel had already been involved in a similar incident at the same location on March 18, 2000.

The Canadian Coast Guard (CCG) responded, found oil coming from the sunken hull and contacted the owner. The owner said he was unable to take responsibility of the response. Hence, the CCG contracted for the containment and cleanup of the oil. It was estimated that the *Miles and Sea* contained 15 to 25 litres of lube oil and 3,500 litres of diesel fuel.

The vessel had sunk in a Small Craft Harbour, owned by the Department of Fisheries (DFO) and Oceans, but leased to the local municipality. The DFO was concerned about the vessel remaining sunk in Crown property.

The Claim

On March 27, 2003, the CCG submitted a claim to the Ship-source Oil Pollution Fund for its costs and expenses in the amount of \$33,113.06.

Assessment and Offer

Following investigation of the claim, on March 31, 2003, the Administrator advised the CCG that particular further documentation would be required for some of the items claimed so that a full and proper assessment of the claim could be made. Some of the requested documentation was forwarded on June 11, 2003 and for the remaining, the Administrator was advised that he could review the entire CCG file at the Regional Office in Sarnia, Ontario. The Administrator wrote back to the CCG reminding that, like all claimants, the Crown must provide evidence substantiating its claims. On October 6, 2003, the CCG forwarded the balance of the documentation requested.

The Administrator then assessed the claim and, on October 24, 2003, made an offer of settlement in the amount of \$30,973.67, which offer was accepted by the CCG on November 18, 2003. Payment of the settlement amount, plus \$2,724.40 interest, was thereafter made to the CCG.

Status

The file was closed on March 31, 2004.

Mystery Spill (2004)

Location: Wheatley Harbour, ON

Case number: 120-429-C1

The Incident

On the morning of October 12, 2004, a man walking his dog near the Wheatley Harbour, Ontario noticed a strong smell of diesel oil and telephoned the Harbour Master of Wheatley Harbour Authority Corporation (WHAC). Wheatley Harbour is situated some 30 miles southwest of Pointe-aux-Pins and some 9 miles northeast of Point Pelee, on Lake Erie, one of the Great Lakes, and the village of Wheatley is located about one mile north of the harbour. The spill occurred in an area where commercial fishing vessels were secured.

On attending at the scene, the Harbour Master noted sludge in the harbour. Ontario Provincial authorities were then notified. Officials from the Ontario Ministry of Natural Resources (MNR), the WHAC, and other local persons tried to contain the spill. Concerned that the spill would drift out of the harbour into Lake Erie, the MNR officer advised the Canadian Coast Guard (CCG).

CCG Emergency Response (CCG ER) and its contractor, Eastern Canada Response Corporation (ECRC), responded. Equipment deployed by ECRC included a vacuum truck. By 2200 on October 12, 2004, 7,200 litres of water/oil and oiled debris had been recovered, and the CCG ER and ECRC departed the site.

The Claim

On January 31, 2005, the CCG filed a claim with the Ship-source Oil Pollution Fund for its costs and expenses in the amount of \$7,944.19.

Assessment and Offer

On February 7, 2005, the Administrator wrote to CCG requesting missing information, including the field notes and logs of officials attending the site from CCG ER and ECRC. In the meantime, the Administrator investigated the incident. He was informed by the MNR officer that a number of oil samples were taken from and around a suspected fishing vessel and that the CCG was advised that if they needed the samples, they could contact the MNR. However, the MNR having heard nothing from the CCG, the samples had been thrown out without having been analyzed. Both the WHAC and MNR officials who attended the site provided their written notes on the incident to the Administrator. Subsequently, CCG provided additional information in response to the Administrator's request of February 7, 2005.

Following investigation and assessment of the claim, the Administrator directed payment of compensation of \$7,502.88, plus \$89.71 interest, to DFO/CCG on February 16, 2005. In his letter of offer, the Administrator reminded the CCG of the transcending importance of the Administrator having timely access to oil samples where available, as part of the evidence package he needs in order to make the polluter pay.

Recovery Action

In light of the fact that the cause of the oil pollution damage was unknown and recovery from shipowner was compromised by lack of oil samples, the Administrator was unable to pursue cost recovery.

Status

The file was closed on March 31, 2005.

Mystery Spill (2008) ⚓

Location: Hamilton Harbour, ON
Case number: 120-536-C1

The Incident

On April 24, 2008, the Hamilton Harbour Spills Action Centre informed the Harbour Master's Office that an oil spill had occurred in the southwest area of the harbour. The Hamilton Port Authority (the Port Authority) staff, the Port Security Officers, a representative of the provincial Ministry of the Environment and a Ship Safety Inspector from Transport Canada investigated the possible sources of the oil spill. Based on visual observation, the oil on the water was considered to be diesel fuel. However, the Ministry of Environment had no reports of a land-based incident that could lead to diesel fuel entering into the water. Besides, the authorities who investigated the incident could not find evidence of diesel fuel inside the boom that the City of Hamilton places at all outlets that flow into the harbour. They also conducted a search of the marina and the adjacent shoreline, but did not find any evidence of the oil having originated from a land-based source. In addition, the Ship Safety Inspector visited ships secured in the area of the spill at the time of the occurrence, but did not find any evidence of oil discharge. As a result of the investigations, the authorities concluded that an unknown ship in Hamilton Harbour was the most likely source of the spill.

The Port Authority engaged a local contractor to clean up and dispose of the oil remaining on the surface of the water. On April 26, 2008, the removal of oil from within the containment booms was completed, and the oily waste was disposed of at a licensed waste facility.

The Claim

On June 6, 2008, the Port Authority filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$23,640.50, pursuant to Part 6 of the *Marine Liability Act*.

Assessment and Offer

On June 25, 2008, for his assessment of the claim, the Administrator requested further general information and documentation for some of the items claimed. On July 24, the additional information was provided by the Authority.

On September 23, 2008, following investigation and assessment of the claim, the Administrator informed the Port Authority that he had found the amount of \$19,903.81, plus interest, to be established. The Port Authority accepted the offer and executed a Release and Subrogation Agreement, upon receipt of which, on December 9, 2008, a cheque in the amount of \$20,525.40 was forwarded to the Port Authority.

Recovery Action

Since the extensive on-site investigations had proven it impossible to ascertain from where the oil originated, the Administrator accepted the claim as a mystery spill. Therefore, he was unable to take any recourse action.

Status

The file was closed on March 31, 2009.

Mystery Spill – Lakehead Marine and Industrial Inc. Claim (2008)

Location: Thunder Bay, ON
Case number: 120-538-C1-1

The Incident

On May 13, 2008, oil was discovered on the water around the drydock area of Lakehead Marine & Industrial Inc. in the Port of Thunder Bay, Ontario. Originally, it was considered that the source of the oil was the Great Lakes bulk carrier *John D. Leitch*, which had been in the shipyard's drydock undergoing maintenance and repairs.

On the day of the incident, the *John D. Leitch* was floated out of the dock, tied up at an adjoining pier, and was conducting engine trials alongside in preparation for departure. At the end of these trials, oil was discovered on the water near the ship's stern. Upon further investigation, oil was also found in the drydock itself and around the entrance to the drydock. Immediately, the drydock gate was closed and a containment boom was put in place. Clean-up procedures were started by employees of Lakehead Marine & Industrial Inc. The shipyard also hired the services of Potter Environmental to pump out the drydock and to clean up the oil pollution from the walls of the drydock and from within the pump room.

The Claim

On August 15, 2008, Lakehead Marine & Industrial Inc. filed a claim with the Ship-source Oil Pollution Fund (the Fund) for costs and expenses incurred during the clean-up, in the amount of \$32,291.12, pursuant to part 6 of the *Marine Liability Act*.

Assessment and Offer

Upon receiving the claim, the Administrator instructed legal counsel and a marine consultant to proceed to Thunder Bay and conduct investigations with the parties involved. Further to extensive on-site investigations at the shipyard and a review of other possible land-based sources in the area, including discussion with the Thunder Bay Harbour Master and the Transport Canada Manager of Marine Safety, the investigation concluded that the source of the oil found on the surface of the water was unknown. However, the Administrator was not able to rule out that the spill was not caused by a ship.

Accordingly, after investigation and assessment of the claim, on March 11, 2009, the Administrator offered \$27,328.40, plus interest, as full and final settlement of the claim. Lakehead Marine & Industrial Inc. accepted the offer on March 24, 2009, and on April 16, 2009, upon receipt of an executed Release and Subrogation agreement, a cheque in the amount of \$28,528.74, inclusive of interest, was sent to Lakehead Marine & Industrial Inc.

Recovery Action

Since it was impossible to ascertain from where the oil originated, the Administrator accepted the claim as a mystery spill. Therefore, he was unable to take any recourse action.

Status

The file was closed on March 31, 2010.

Related file

Mystery Spill – Seaway Marine Transport Claim (2008), Thunder Bay, ON, Case number: 120-538-C1-2 (same incident, different claimant)

Mystery Spill - Seaway Marine Transport Claim (2008)

Location: Thunder Bay, ON

Case number: 120-538-C1-2

The Incident

On May 13, 2008, oil was discovered on the water around the drydock area of Lakehead Marine & Industrial Inc. shipyard, in the Port of Thunder Bay, Ontario, and Seaway Marine Transport, the managing company of the Canadian registered ship *John D. Leitch*, was involved in the clean-up operation. At the time of the incident, the *John D. Leitch* had been in drydock at the shipyard of Lakehead Marine & Industrial Inc. for a five-year general survey and maintenance to the shaft and propeller assembly. The ship departed the dry dock on May 10 and was tied up at an adjoining pier, where a series of main engine trials were conducted. It was secured to the fitting-out berth near the entrance to the drydock when oil was discovered on the surface of the water near the stern of the ship.

Initially, the ship's officers were of the opinion that the oil had leaked from the ship's stern tube seals. However, an underwater inspection conducted by a contracted diving company did not find evidence of leakage from the propeller shaft. Investigation inside the engine room by the ship's chief engineer and the manufacturer's representative who installed the new stern seals, including the assistance provided by the local Transport Canada Marine Safety Inspector, determined that the stern tube and/or the stern seals were not the source of the spill. Furthermore, the investigation found no evidence of other activities in the engine room that would have allowed a lubricant to escape the confines of the engine room and get into the water.

In the meantime, the Master of the *John D. Leitch* activated the ship's arrangement with Eastern Canada Response Corporation, who mobilized a local contractor, Potter Environmental, on May 13, to conduct an on-site assessment and undertake clean-up and disposal of the oily waste. The clean-up operation was completed the following day.

The Claim

On October 22, 2008, Seaway Marine Transport filed a claim with the Ship-source Oil Pollution Fund (the Fund) for costs and expenses incurred during the clean-up in the amount of \$31,968.52, pursuant to Part 6 of the *Marine Liability Act*.

Assessment and Offer

Upon receiving the claim, the Administrator instructed legal counsel and a marine consultant to proceed to Thunder Bay and conduct investigations with the parties involved. Further to extensive on-site investigations at the shipyard and a review of other possible land-based sources in the area, including discussion with the Thunder Bay Harbour Master and the Transport Canada Manager of Marine Safety, the Fund's investigation concluded that the source of the oil found on the surface of the water was unknown. However, the Administrator was not able to rule out that the spill was not caused by a ship.

For his assessment of the claim, the Administrator requested additional information and documentation from the claimant, which was provided. Upon receipt and review of the additional information, the Administrator accepted that the claim was a legitimate one on the Fund. Therefore, on March 11, 2009, he made an offer in the amount of \$29,362.94, plus interest, as full and final settlement. Seaway Marine Transport accepted the offer on March 18, and on April 14, 2009, upon receipt of an executed Release and Subrogation agreement, a cheque in the amount of \$30,628.51, inclusive of interest, was sent to Seaway Marine Transport.

Recovery Action

Since it was impossible to ascertain from where the oil originated, the Administrator accepted the claim as a mystery spill. Therefore, he was unable to take any recourse action.

Status

The file was closed on March 31, 2010.

Related file

Mystery Spill – Lakehead Marine and Industrial Inc. (2008), Thunder Bay, ON, Case number: 120-538-C1-1 (same incident, different claimant)

Big Bobber (2008) ⚓

Location: Royal Hamilton Yacht Club, ON
Case number: 120-543-C1

The Incident

On August 10, 2008, an oil spill occurred at the Royal Hamilton Yacht Club. The security office of the Port Authority traced the source of the oil to a 20-foot pleasure craft, the *Big Bobber*. The provincial Ministry of the Environment Spills Action Centre, the Hamilton/Halton Marine Police Services and the Canadian Coast Guard (CCG) were notified of the occurrence. The Port Authority was unable to contact the boat owner. Therefore, the Assistant Harbour Master engaged Team-Hazco Environmental Services to deploy a containment boom around the boat and clean up the spill. On arrival, the response team determined that the flooring of the boat was saturated with fuel oil, and that there was a substantial amount of oil in the bilge. Besides, the boat was partially submerged causing oil to escape.

The clean-up operation was completed to the satisfaction of the authorities.

The Claim

During August and September 2008, the Hamilton Port Authority was unable to recover from the boat owner the clean-up costs in the amount of \$2,730.00 it had paid to Team-Hazco Environmental Services. Therefore, on October 9, 2008, it filed a claim for such amount with the Ship-source Oil Pollution Fund, pursuant to Part 6 of the *Marine Liability Act*.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator offered the full amount of the claim, plus interest, as full and final settlement, which offer was accepted by the Hamilton Port Authority. Upon receipt of a duly executed Release and Subrogation Agreement from the Hamilton Port Authority, payment of \$2,768.36 was directed by the Administrator.

Recovery Action

The Administrator instructed counsel to investigate the feasibility of effective cost recovery of the amount paid in response to this spill. Based on the results of the investigation, he concluded that there was no viable prospect of a successful recovery.

Status

The file was closed on November 25, 2009.

Mystery Spill (2009) ⚓

Location: Hamilton Harbour, ON

Case number: 120-554-C1

The Incident

On December 14, 2009, the Hamilton Port Authority received a report from a representative of Vopak Terminals about an oil sheen on the surface of the water along the length of Pier 11 on the south side of the harbour. The provincial Ministry of Environment's Spills Action Centre was notified about the occurrence and an investigator from the Spills Action Centre attended on scene. A Hamilton Port patrol officer also arrived on scene to investigate and met representatives from two of the marine facilities that share the pier, namely Vopak Terminals of Canada and IKO Industries.

Further to the Ministry of Environment inspector's investigation, no land-based source of the pollutant was found. A pipe in the dock wall seemed to be emitting a pollutant into the water, but it was later determined that wave action caused the oily mixture to surge into and out of the old dock wall pipeline that was no longer a functioning outlet. The harbour master also attended on site but could not detect a land or water-based source. Besides, there were no vessels in the general location and the only marine traffic in the general area was a tug that had departed in the morning.

The Hamilton Port Authority engaged a local contractor to clean up and dispose of the oil on the water. The oil sheen covered an area of approximately 800 to 1000 square feet of surface.

The Claim

On April 12, 2010, the Hamilton Port Authority filed a claim with the Ship-source Oil Pollution Fund in the amount of \$10,959.95, pursuant to the *Marine Liability Act*.

Assessment and Offer

In order to conduct an investigation of the claim, the Administrator engaged counsel to visit the Port of Hamilton to try to determine how, and from where, the oil got into the water at Pier 11. Counsel attended on site and interviewed the appropriate officials, but was unable to establish that the occurrence was not caused by a ship.

After assessment of the claim, the Administrator concluded that there was adequate documentation with the submission of evidence that the costs and expenses were actually incurred. Also, the documentation substantiated that reasonable measures were taken to clean up the spill and dispose of the oil waste. Therefore, on June 23, 2010, the Administrator offered \$10,959.95, plus interest, in compensation for the claim. The Hamilton Port Authority accepted the offer and on July 22, 2010, upon receipt of a duly executed Release and Subrogation Agreement, the Administrator directed payment of \$11,106.78, inclusive of interest, to the Hamilton Port Authority.

Recovery Action

The Administrator accepted the incident as a mystery spill. As a result, no recourse action could be undertaken.

Status

The file was closed on September 30, 2010.

Mystery Spill (2009) ♡

Location: Big Sound Marina, Parry Sound, ON
Case number: 120-563-C1

The Incident

On July 17, 2009, an oil spill occurred at a marina owned by the Town of Parry Sound and operated by the local Chamber of Commerce. The waterfront manager contacted the Spills Action Centre of the Ontario Ministry of Environment. A local firm, Adams Bros. Construction Ltd., was engaged to contain and clean up the diesel fuel in the harbour and dock area of the Big Sound Marina. An environmental technologist was also retained in conjunction with Adams Bros. Construction Ltd. to respond. Containment booms were placed around the outside of the spill in the harbour, and oil absorbent booms were placed along the dock to absorb the oil that had been contained in that area. Approximately 1,500 litres of oily water and fuel oil were recovered from the marina area. The containment booms were removed on July 20, and all booms and pads were disposed of as per Ontario environmental regulations.

The Claim

On September 3, 2009, the Town of Parry Sound filed a claim with the Ship-source Oil Pollution Fund (the Fund) for costs and expenses incurred during the cleanup in the amount of \$6,987.04, pursuant to Part 6 of the *Marine Liability Act*. The claimant characterized the incident as a mystery spill.

Assessment and Offer

Upon receipt of the claim, the Administrator commenced an investigation and requested additional information and documentation, which were provided.

During the investigation, the Community Development Department of the Town confirmed that there were no sewer outlets in the general area of the marina. Further, the Chamber of Commerce advised that it was not aware of any commercial ships or pleasure crafts that may have been at anchor, secured or transiting the area west of the marina when the incident occurred. Also, when contacted, the Emergency Response personnel at the Canadian Coast Guard base in Parry Sound were unable to add information about the possible source of the mystery oil spill.

On December 2, 2009, the Administrator made an offer in the amount of \$6,987.04, plus interest, as full and final settlement of the claim. The Town of Parry Sound accepted the offer on December 11, 2009, and upon receipt of a duly executed Release and Subrogation Agreement, the Administrator mailed a cheque in the amount of \$7,064.57, inclusive of interest, to the Town of Parry Sound.

Recovery Action

Since the investigations proved it impossible to ascertain the source of the oil pollution, the Administrator accepted the claim as a mystery spill. Accordingly, the Fund was unable to take recourse action.

Status

The file was closed on February 2, 2010.

Portofino 46 (2012)

Location : Port Dalhousie Harbour, ON

Case number: 120-656-C1

The Incident

On September 3, 2012, the 46-foot sports cruiser, *Portofino 46*, sank at its berth in Port Dalhousie, Ontario. After sinking, the vessel began and continued to leak hydrocarbons, such as diesel fuel and lubricating oil. Later, the owner of the vessel confirmed that there were two 200-gallon fuel tanks onboard containing an estimated 75 gallons of fuel, plus engine lubricants. A rainbow coloured oil sheen was reported drifting towards Lake Ontario. During the afternoon, the oil slick dissipated. The Canadian Coast Guard determined that their presence during the response measures, as either On-Scene Commander or Federal Monitoring Officer, was not required and, therefore, they did not attend on-site. Since the vessel owner was both unwilling and unable to take appropriate actions to remedy the pollution threat, the City of St. Catharines (the City) took responsibility and carried out appropriate response measures. The City arranged for the Harbour Master and the Fire and Emergency Management Services to take charge of the response.

Initially, the Niagara Regional Police Marine Unit took control of the scene because at the beginning the site of the sinking was considered to be a crime scene; however, in the afternoon, it was no longer considered a crime scene. On September 4, 2012, the Niagara Regional Police attempted to refloat the vessel using lift bags, but problems were encountered with the lift bags so the police divers withdrew from the incident. The next day, the fire department contracted a local company, Quantum Emergency Response, to stream a chemical containment boom around the wreck in order to control any chemical spill being released from the sunken vessel. On September 7, the *Portofino 46* was removed from the water.

The Claim

On November 2, 2012, the Administrator received a letter of notification from counsel for the City that legal action had been taken to arrest the *Portofino 46* in order to recover its incurred costs and expenses. The letter also indicated that a claim in the estimated amount of \$40,000.00 may be filed with the Ship-source Oil Pollution Fund (the Fund). The Administrator retained counsel to maintain a watching brief on the legal proceedings. On November 7, 2012, the Administrator received from counsel for the City a Statement of Claim served upon the Fund, pursuant to the Federal Court Rules. Counsel also indicated that the City was trying to reach a settlement with the vessel owner and was preparing to submit a claim to the Fund to seek a top-up, or payment in advance, of any settlement agreement negotiated with the vessel owner. In response, on July 31, 2013, counsel for the Fund informed the City that in the event it files a claim, the Administrator would have to be satisfied that the claim relates to costs and expenses for oil pollution abatement measures and not for wreck removal charges.

On May 8, 2014, the City filed a claim with the Fund in the amount of \$37,574.59.

Assessment and Offer

During the preliminary assessment and investigation, the Administrator found that there was insufficient information to determine whether the costs and expenses were incurred in respect of pollution prevention or whether they were properly related to wreck removal. Hence, he was unable to distinguish between oil pollution prevention measures that may be compensable, as opposed to simple wreck removal measures that are not necessarily compensable out of the Fund. As a result, the Administrator found it necessary to conduct an extensive investigation into the incident claim and, therefore, instructed a marine consultant from the office of the Fund to visit St. Catharines and speak with authorities in charge of the pollution occurrence.

On August 8, the Administrator received a letter from counsel for the City providing further information on the claim as was requested during the meeting with the consultant from the Fund. On September 14, information was received that through Court action the City had received payment from the vessel owner in the amount of \$16,666.67.

On October 9, 2014, after consideration of the facts and the law, and since some of the costs submitted were not directly associated with pollution prevention, but were more related to wreck removal and the preparation of the claim submission, the Administrator found the amount of \$27,494.34 to be established. He, therefore, offered \$10,827.67, plus interest - that is the established amount of \$27,494.34 minus the \$16,666.67 settlement reached between the vessel owner and the City - in full and final settlement of any and all claims of the City arising out or in connection with this incident. The City accepted the offer. Upon receipt of a duly executed Release and Subrogation Agreement from the City, a cheque in the amount of \$11,560.40, inclusive of interest, was mailed to counsel for the City on November 27, 2014.

Recovery Action

After consultation with counsel, the Administrator concluded that recovery action could not be executed against the owner of the *Portofino 46* because of the Court agreement previously reached between the City and the vessel owner.

Status

The file was closed on December 2, 2014.

Warren L. II (tug) and Marlene Wright (barge) (2015) (Municipality of Killarney)

Location: Killarney Channel, Ontario

File number: 120-722-C1

The Incident

On 7 December 2015, the Canadian Coast Guard (CCG) was advised that a large earth-moving truck had fallen off the barge *Marlene Wright* while under tow by the tug *Warren L. II*. The incident occurred in Killarney Channel, which separates the town of Killarney and George Island on Georgian Bay, Ontario.

The truck, which contained approximately 400 litres of diesel fuel as well as unspecified amounts of lube and hydraulic oils, came to rest on its side at a depth of 18-feet. The location of the incident was in the vicinity of the water intake for the municipality of Killarney. The CCG advised the municipality of the incident the same day; the water intake was closed shortly thereafter. The next day salvage plans and equipment were already being prepared.

By 9 December 2015, containment booms and equipment had been deployed and vacuum boats and a truck were collecting wastewater. Divers were also on scene and once underwater they plugged a leak on a diesel fuel hose, among other mitigation activities.

On 10 December 2015, a salvor was appointed, and by the next day, no further pollution was observed. Salvage efforts were hindered for a few days due to bad weather and then on 17 December, the truck was salvaged from the channel bottom and placed onto the deck of a barge. The next day the truck was landed ashore.

The municipality's water intake was reopened on 23 December 2015.

Measures taken by the Administrator

The Administrator appointed external counsel to represent the Fund and protect its interests in the Federal Court proceedings launched by the tug and barge owners against each other. On 26 February 2018, counsel filed a Notice of Claim for the Fund in action T-1191-17, based on section 102 of the *Marine Liability Act*, which provides for the issuance of financial security by the shipowner or its insurer even before a claim has been paid by the Administrator.

The Claim

On 21 August 2017, the Administrator received a claim from the Municipality of Killarney for costs and expenses in the principal amount of \$208,716.21, made pursuant to section 103 of the *Marine Liability Act*. Legal fees were added to this claim, bringing the total amount to \$270,286.31.

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

Assessment and Offer

The claim raised novel issues related to costs and expenses incurred as a result of closing water intakes to avoid contamination. On 7 December 2017, the Administrator issued a draft offer to the Municipality of Killarney, inviting comments and further submissions. The deadline for comments was extended to 16 January 2018, at which date the municipality provided additional comments and submissions.

On 4 July 2018, after investigation and assessment of the claim, the Administrator made an offer of compensation to the Municipality of Killarney for the established amount of \$209,575.43, plus interest, pursuant to section 105 of the *Act*. On 13 July 2018, the offer was accepted by the Municipality of Killarney. On 11 September 2018, a payment in the amount of \$225,094.77, including interest, was made to the Municipality of Killarney.

Recovery Action

Mediation was held in November and December 2018, and the parties reached a settlement agreement in January 2019. On 5 March 2019, the Administrator received \$225,000.00 in settlement of her subrogated claims arising from both the Canadian Coast Guard and the Municipality of Killarney.

Status

The file was closed on 29 October 2019.

Related files

120-722-C1-1 – *Warren L. II* (tug) and *Marlene Wright* (barge) (2015) (CCG): same incident, different claimant

120-740 – *Pitts Carillon* (2017): similar type of incident involving a barge in Ontario and its impact on a municipal water supply

Warren L. II (tug) and Marlene Wright (barge) (2015) (CCG)

Location: Killarney Channel, Ontario

File number: 120-722-C1-1

The Incident

On 7 December 2015, the Canadian Coast Guard (CCG) was advised that a large earth moving truck had fallen off the barge *Marlene Wright* while under tow by the tug *Warren L. II*. The incident occurred in Killarney Channel, which separates the town of Killarney and George Island on Georgian Bay, Ontario.

The truck, which contained approximately 400 litres of diesel fuel as well as unspecified amounts of lube and hydraulic oils, came to rest on its side at a depth of 18-feet. The location of the incident was in the vicinity of the water intake for the municipality of Killarney. The CCG advised the municipality of the incident the same day; the water intake was closed shortly thereafter. The next day salvage plans and equipment were already being prepared.

By 9 December 2015, containment booms and equipment had been deployed and vacuum boats and a truck were collecting wastewater. Divers were also on scene and once underwater they plugged a leak on a diesel fuel hose, among other mitigation activities.

On 10 December 2015, a salvor was appointed, and by the next day, no further pollution was observed. Salvage efforts were hindered for a few days due to bad weather and then on 17 December, the truck was salvaged from the channel bottom and placed onto the deck of a barge. The next day the truck was landed ashore.

Measures taken by the Administrator

The Administrator appointed external counsel to represent the Fund and protect its interests in the Federal Court proceedings launched by the tug and barge owners against each other. On 26 February 2018, counsel filed a Notice of Claim for the Fund in action T-1191-17, based on section 102 of the *Marine Liability Act*, which provides for the issuance of financial security by the shipowner or its insurer even before a claim has been paid by the Administrator.

The Claim

On 4 December 2017, the Administrator received a claim from the CCG, on behalf of the Minister of Fisheries and Oceans, for costs and expenses in the amount of \$30,999.97, made 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 21 March 2018, after investigation and assessment of the claim (which included several

requests for additional information), the Administrator made an offer of compensation to the CCG for the established amount of \$28,059.11, plus interest.

The differences between the amount claimed and the amount assessed were due to reductions to the amount allowed for personnel, the use of vehicle, and other miscellaneous costs.

On 26 March 2018, CCG accepted the offer, and on 28 March 2018, the Administrator directed payment of \$30,014.79 (which included \$1,955.68 in accrued interest), the CCG.

Recovery Action

Mediation was held in November and December 2018, and the parties reached a settlement agreement in January 2019. On 5 March 2019, the Administrator received \$225,000.00 in settlement of her subrogated claims arising from both the Canadian Coast Guard and the Municipality of Killarney.

Status

The file was closed on 29 October 2019.

Related files

120-722-C1 – *Warren L. II* (tug) and *Marlene Wright* (barge) (2015) (Municipality of Killarney): same incident, different claimant

120-740 – *Pitts Carillon* (2017): similar type of incident involving a barge in Ontario and its impact on a municipal water supply

Michipicoten (2015)

Location: Superior Terminal, Thunder Bay, Ontario

Case number: 120-723-C1

The Incident

On August 30, 2015, the Master of the bulk carrier *Michipicoten* (15,366 GRT), docked at the Superior Terminal at Thunder Bay, Ontario, reported that an internal fuel transfer had caused an overflow. Approximately 200 litres of heavy oil flowed onto the deck and down the port side of the vessel into the harbour.

The vessel's crew deployed an oil containment boom, which contained approximately two-thirds of the spill. The Master had contacted the local Response Organization (RO) to assist with the clean-up operations. The RO arrived on-site shortly afterwards and deployed containment booms and sorbent material. A vacuum truck was also contracted.

Once made aware of the spill, the Canadian Coast Guard (CCG) deployed an employee to Thunder Bay to assume the role of Federal Monitoring Officer. By the next day, the ship's hull had been cleaned by the crew and was deemed ready to load. The *Michipicoten* departed Thunder Bay on September 3, 2015.

After the vessel departed, any oil and residue remaining along the dock wall was removed. The Federal Monitoring Officer and the provincial environment representative conducted a final site visit on September 4, 2015, and did not observe any residual sheen on the water.

The Claim

On August 29, 2017, the CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator for monitoring costs in the amount of \$4,845.89, 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 October 25, 2017, after investigation and assessment of the claim, including requests for additional information and documentation, the Administrator made an offer to DFO/CCG for the established amount of \$4,745.46, plus interest, pursuant to section 105 of the Act. The elements of the claim were accepted in their entirety, with the exception of administration costs, which were accepted at the rate of 2.53% previously agreed upon by CCG and the Fund.

On December 13, 2017, the offer was accepted by CCG.

On December 20, 2017, the Administrator directed that the amount of \$5,076.99 (which includes \$331.53 in accrued interest) be transferred to DFO/CCG.

Recovery Action

On February 27, 2018, the Administrator's in-house counsel sent a demand letter to the shipowner. On March 13, 2018, a settlement was reached with the shipowner for the amount of the settled claim (\$4,745.46), without accrued interest. On March 26, 2018, the payment of \$4,745.46 was received.

On April 4, 2018, a letter of release was sent to the shipowner.

Status

The file was closed on April 12, 2018.

Pitts Carillon (2017) ♡

Location: Picton Bay, Prince Edward County, Ontario

File number: 120-740-C1

The Incident

On March 24, 2017, the spud barge *Pitts Carillon* sank alongside the Picton Terminals Dock in Picton Bay, Prince Edward County, spilling approximately 50 litres of oil. The barge had been chartered in support of work to establish a wind farm at nearby Amherst Island.

The barge was equipped with a 4,000-litre capacity diesel tank and a small machinery space to house a generator and a hydraulic power pack, all for the functioning of onboard machinery.

The Canadian Coast Guard (CCG) responded to the incident on March 24, 2017, with oil response efforts led by the Eastern Canada Response Corporation (ECRC). Salvage efforts were led by McKeil Marine, who was the owner of the vessel for the purposes of the *Marine Liability Act*. McKeil Marine raised the vessel on Saturday April 1, 2017. The *Pitts Carillon* was towed from the site on April 3, 2017.

The Municipal Emergency Control Group for Prince Edward County was activated on the day of the sinking to monitor the situation. Their primary concern was the town's water supply. By the afternoon of March 28, 2017, an oil sheen had moved further south into Picton Bay and entered the local water treatment plant's Intake Protection Zone. The treatment plant had remained in operation after the sinking under contingency plans. Those entailed manual control and constant monitoring of the raw water sampling line.

On March 28, 2017, the Picton mayor declared an emergency, asking residents to reduce water use. On March 29, a fuel odour was detected at the raw water sampling line. Since the plant was not capable of removing oil contaminants, that source was shut down and the water system was shifted to use reserve water from other reservoirs. Further arrangements were made to shuttle in treated water by tanker truck. A boil water advisory was issued the same day.

Advice sought by the plant indicated that the media contained within its four water filters should be replaced with activated carbon to safely mitigate any hydrocarbon contamination risks. This was done. The shuttling of treated water ended April 6, 2017 and the boil water advisory was lifted shortly thereafter. The process of resupplying treated water through the distribution system with additional system sample collection and testing continued until April 11. When test results were clear, normal monitoring resumed and the water emergency was lifted.

Measures taken by the Administrator

In June 2018, counsel for the Administrator sent a demand letter to the shipowner in order to obtain security. The shipowner commenced a limitation action and the Administrator was served in July 2018.

The limitation action sought to establish a limitation fund of \$500,000 and require that all claims by those affected by the incident be made only against that fund.

The Claim

On May 8, 2018, Prince Edward County filed a claim with the Administrator for costs, expenses, and interest in the amount of \$597,396.70, pursuant to the *Marine Liability Act*.

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

Assessment and Offer

After a number of further requests for information and responses, on July 26, 2019, the Administrator made an offer of compensation to Prince Edward County in the amount of \$380,714.53, plus statutory interest in the amount of \$13,396.23.

Subsequent to the Administrator advancing an offer of compensation, Prince Edward County sought to adduce additional documents and to submit additional claims. The Administrator declined to entertain those further submissions.

On September 10, 2019, Prince Edward County accepted the Administrator's offer.

Recovery Action

The Administrator filed a claim in the limitation action.

On July 25, 2019, the Court directed that the claims against the limitation fund be mediated. The mediation was scheduled for December 10, 2019, in Toronto.

At the mediation, the Administrator advanced claims totalling \$471,457.94 against the \$500,000 available in the limitation fund. The owner of the vessel advanced a claim in the amount of \$1,012,810, relying on provisions of the *Marine Liability Act* which permit owners to claim against limitation funds for the costs of their own voluntary pollution response measures.

At the mediation, the Administrator agreed to a settlement by which the Ship-source Oil Pollution Fund would recover \$283,500 or 56.7% of the available limitation funds. The parties agreed to an order awarding the Administrator the settlement amount and terminating the remaining portions of the limitation action. That order was issued by the Court on February 6, 2020.

The settlement funds were received by the Administrator on March 12, 2020.

Status

The Administrator closed the file on June 26, 2020.

Related File

120-740-C1-1 *Pitts Carillon* (A separate claim with respect to the same incident)

Pitts Carillon (2017)

Location: Picton Bay, Prince Edward County, Ontario

File number: 120-740-C1-1

The Incident

On March 24, 2017, the spud barge *Pitts Carillon* sank alongside the Picton Terminals Dock in Picton Bay, Prince Edward County, spilling approximately 50 litres of oil. The barge had been chartered in support of work to establish a wind farm at nearby Amherst Island.

The barge was equipped with a 4,000-litre capacity diesel tank and a small machinery space to house a generator and a hydraulic power pack, all for the functioning of onboard machinery.

CCG Environmental Response personnel were dispatched from a base in Prescott to the scene to conduct an initial assessment. They remained on site to continue monitoring for any pollution damage. Oil response efforts were led by the Eastern Canada Response Corporation, but CCG also deployed substantial quantities of boom. Contracted divers reported that no pollution was coming from the barge, though a sheen was sighted on the water and ice. The pollutants released on the day of the sinking totalled approximately 50 litres in volume and no further discharge occurred.

McKeil Marine, who was the owner of the vessel for the purposes of the *Marine Liability Act*, led the salvage efforts. On April 1, 2017, McKeil Marine raised the barge. The *Pitts Carillon* was towed from the site two days later.

Measures taken by the Administrator

In June 2018, counsel for the Administrator sent a demand letter to the shipowner in order to obtain security. The shipowner commenced a limitation action and the Administrator was served in July 2018.

The limitation action sought to establish a limitation fund of \$500,000 and require that all claims by those affected by the incident be made only against that fund.

The Claim

On November 22, 2018, CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator for costs and expenses incurred in response to the incident, in the amount of \$77,347.18, pursuant to sections 101 and 103 of the *Marine Liability Act*.

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

Assessment and Offer

On January 23, 2019, DFO/CCG submitted a revised narrative for its claim.

On March 5, 2019, after investigation and assessment of the claim, the Administrator made an offer to DFO/CCG for the established amount of \$32,694.66, plus interest, pursuant to section 105 of the *Act*. On March 13, the offer was accepted by CCG. On March 18, 2019, a payment in the amount of \$35,037.93, including interest, was made to DFO/CCG.

Recovery Action

The Administrator filed a claim in the limitation action.

On July 25, 2019, the Court directed that the claims against the limitation fund be mediated. The mediation was scheduled for December 10, 2019, in Toronto.

At the mediation, the Administrator advanced claims totalling \$471,457.94 against the \$500,000 available in the limitation fund. The owner of the vessel advanced a claim in the amount of \$1,012,810, relying on provisions of the *Marine Liability Act* which permit owners to claim against limitation funds for the costs of their own voluntary pollution response measures.

At the mediation, the Administrator agreed to a settlement by which the Ship-source Oil Pollution Fund would recover \$283,500, or 56.7% of the available limitation funds. The parties agreed to an order awarding the Administrator the settlement amount and terminating the remaining portions of the limitation action. That order was issued by the Court on February 6, 2020.

The settlement funds were received by the Administrator on March 12, 2020.

Status

The Administrator closed the file on June 26, 2020.

Related File

120-740-C1 – *Pitts Carillon* (A separate claim with respect to the same incident)

Dispatch II (2017)

Location: Sault Ste. Marie, Ontario

File number: 120-781-C1

The Incident

On December 24, 2017, the Canadian Coast Guard (CCG) was informed that the Sault Ste. Marie Fire Department had reported a sunken tugboat at the Bellevue Marina in Sault Ste. Marie, Ontario. The tugboat, identified as the *Dispatch II*, had been most recently used as a pleasure craft. The CCG learned that the vessel contained 1,000 gallons of oils.

The CCG confirmed that the vessel's last known owner was deceased and made contact with the executor of the estate. On December 24, 2017, the CCG sent the executor a notice requesting information on the vessel's current ownership situation. The executor responded that she was unable to respond at that time. The CCG assumed the role of On-Scene Commander.

During the afternoon of December 24, 2017, the CCG issued a Notice to the executor, and boom was deployed at the entrance to the marina to prevent any pollution escaping into St. Mary's River.

On December 25, 2017, the CCG requested quotes for raising the vessel and began staging personnel and equipment at the site. On December 27, 2017, the CCG completed its arrangement for contract services. On December 28, 2017, the vessel was refloated, removed from the water, and secured on land. No pollutants escaped during this operation.

The Claim

On July 19, 2018, the Administrator received a claim in the amount of \$49,123.47 from the CCG on behalf of the Department of Fisheries and Oceans in respect of the incident involving the *Dispatch II*.

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

Assessment and Offer

The Administrator carried out her investigation and assessment of the claim, making requests to the CCG for additional information and documentation, which was provided. Ultimately, the Administrator disallowed only the costs associated with winterizing the vessel.

On August 28, 2018, the Administrator made an offer of compensation, for the established amount of \$48,716.67, plus interest, to the CCG. The offer was accepted on August 31, 2018.

On September 5, 2018, a payment in the amount of \$49,872.93, including interest, was made to the CCG.

Recovery Action

In October 2018, counsel for the Administrator received a letter from the executor of the deceased vessel owner's estate. The letter indicated that work was being performed on the *Dispatch II* to increase its value for sale.

In January 2019, the CCG received correspondence from a lawyer representing the estate of the deceased owner of the *Dispatch II* to whom it had written in April 2018 demanding payment for its costs and expenses. The CCG advised the lawyer that the Administrator was subrogated to its rights. Counsel for the Administrator contacted the estate lawyer and negotiations commenced.

After protracted settlement discussions, counsel for the Administrator ultimately procured a total of \$12,500.00, paid in installments, as full and final settlement to the Administrator's subrogated claim.

Status

Having recovered in part via settlement, the Administrator closed this file on March 12, 2020.

Margarethe (2018)

Location: Wolfe Island, Ontario

File number: 120-840-C1

The Incident

On 5 April 2018, the Canadian Coast Guard (CCG) was informed that a small sailboat, later identified as the *Margarethe*, had slipped free of its moorings and drifted onto a lee shore of Wolfe Island, Ontario. Damage to the vessel's hull was suspected, and an unknown quantity of pollutants was on board, but no discharge was reported. The CCG contacted the vessel's owner, issuing him with a Notice under the *Canada Shipping Act, 2001*, and requesting that he inform the CCG of his intentions the following day.

On the morning of 6 April 2018, the CCG provided the owner of the *Margarethe* with contact information for Dedicated Environmental Services Inc. (DES). The owner replied that DES was en route to the vessel to remove onboard pollutants.

DES dispatched a vacuum truck and two members of its personnel to the *Margarethe*, removing almost 6,000 litres of bilge water, fuel, and engine oil, which were ultimately disposed of through a subcontractor. The response was concluded by the afternoon of 6 April 2018.

DES proceeded to contact the CCG, seeking payment, the same afternoon. The CCG declined to pay and directed DES to the owner of the *Margarethe*.

DES issued an invoice to the owner in the amount of \$6,854.41. The owner stated that he could not pay the entire balance immediately and proposed payments in \$1,500.00 installments, paying the first such installment on 6 April 2018. He indicated that he would issue his next payment on 16 April 2018. He did not. Instead, he began to dispute the DES invoice. On 23 April 2018, DES agreed to issue a partial credit to the owner. DES received a final payment of \$500.00 from the owner on 11 May. In March of 2019, the owner dropped entirely out of contact with DES, which had continued to attempt to collect the outstanding balance owing.

The Claim

On 22 May 2019, the Administrator received a submission from DES. The submission included an invoice showing an outstanding balance of \$4,854.41. DES sought compensation in this amount from the Administrator in respect of its response to the incident involving the *Margarethe*.

The Administrator requested additional documentation from DES, including a narrative, on 23 May 2019. A response containing the requested documentation was received on 6 August 2019.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, requesting further details from DES in October 2019. The requested details were provided.

Based on all the documentation submitted by DES, and based on broader investigation of the claim, the Administrator concluded that the response to the incident involving the *Margarethe* was reasonable in the circumstances. Nonetheless, reductions were made to represent the amounts credited to the owner of the vessel. Further reductions were made to account for HST. Finally, as the Administrator is limited to compensating claimants for loss, damage, costs, or expenses actually incurred as a result of a ship-source oil pollution incident, a global reduction to the entire claimed amount was made to account for DES mark-up on its invoiced services.

The Administrator made an offer of compensation to DES in the amount of \$2,550.80, plus accrued interest of \$78.13, on 17 October 2019.

DES accepted the offer on 18 October 2019, and payment from the Fund in the amount of \$2,628.93, including interest, was made on 30 October 2019.

Recovery Action

On 19 November 2019, in-house legal counsel to the Administrator sent a demand letter to the owner of the *Margarethe*, who replied by telephone the same day before breaking off contact thereafter.

Repeated attempts to re-establish contact with the owner by email and by telephone were not successful.

On 17 December 2020, the Administrator issued a subpoena under the *Inquiries Act* to Frontenac County in an attempt to determine whether the owner of the *Margarethe* was also the owner of any real property on Wolfe Island, his last-known place of residence. The reply to the subpoena showed no property ownership. It was also discovered that the cottage where the owner of the vessel had resided had been torn down.

Despite additional investigatory steps taken by the office of the Administrator, the owner of the *Margarethe* could not be located.

Status

The Administrator closed this file on 28 January 2021, having taken all reasonable measures to recover, as required by the *Marine Liability Act*.

The Left Hand (2021)

Location: Humber Park, Ontario

File number: 120-899-C1

The Incident

On 13 August 2021, C-Tow Marine Assistance Ltd. (C-Tow) received a call from a vessel operator who stated that his vessel, a 34-foot pleasure craft known as *The Left Hand*, was out of fuel near Humber Park, Ontario.

C-Tow mobilized to the scene and found that the vessel had sunk in approximately 25 feet of water. An oil sheen was visible. The operator, who had swum to shore, hired C-Tow to refloat the vessel. This was done, and the vessel was towed to a storage facility, where it was removed from the water.

C-Tow approached the vessel operator seeking payment for its services, but payment was never received.

The Claim

On 7 September 2021, the Administrator received a submission from C-Tow under the Expedited Process for Small Claims. The submission included a claim totalling \$15,000.00, seeking compensation for costs and expenses arising from the response to the incident involving *The Left Hand*.

The office of the Administrator contacted C-Tow to advise that some of its costs—namely its apparent claim for lost profit—would likely not be compensable under the Expedited Process for Small Claims. In response, C-Tow requested that its claim be considered under the General Claims Process (i.e., section 103 of the *Marine Liability Act*).

The office of the Administrator requested supporting documentation from C-Tow, but this was never received. Ultimately, the claim was treated as having been retracted by C-Tow.

Status

The file was closed on 31 March 2022.

Unknown name (Toronto pleasure craft) (2021)

Location: Bluffer's Park, Toronto, Ontario
File number: 120-902-C1

The Incident

On 13 April 2021, municipal authorities alerted the Canadian Coast Guard (CCG) that an abandoned pleasure craft had grounded at Toronto's Bluffer's Park and was taking on water. The vessel's engine was only partially intact and was at risk of being damaged or detached by the wind, waves, and rocky shoreline. The following day, municipal authorities assessed the vessel and found an approximately three-inch hole in the hull. They secured the vessel to nearby rocks but were unable to access its interior due to safety concerns about hazardous and noxious substances onboard.

Ownership of the vessel had changed several times in the years leading up to the grounding. The CCG contacted two former owners, one of whom provided a bill of sale purporting to show a transfer to yet another individual. After unsuccessfully attempting to contact that person, the CCG took charge of the response operation and engaged a contractor to remove the vessel from the water and deconstruct it.

The Claim

On 13 October 2021, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim seeking compensation for costs and expenses in the amount of \$9,982.18, incurred in the course of the CCG's response operation.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, determining that substantial reductions were necessary on the basis that the evidence did not show that the measures taken were proportionate to the oil pollution threat posed by the vessel. An offer of compensation was made to the CCG on 16 February 2022 in the amount of \$2,294.64, plus accrued interest.

The CCG accepted the offer on 15 March 2022, and a payment in the amount of \$2,356.33, representing the principal plus \$61.69 in statutory interest, was made shortly thereafter.

Recovery Action

As of 31 March 2022, the office of the Administrator was investigating the whereabouts of the vessel's owner.

Status

The file remained open at the end of the fiscal year.

SEA-Q-TI (2021)

Location: Humber Bay Park, Etobicoke, Ontario

File number: 120-904-C1

The Incident

On 8 February 2021, the Canadian Coast Guard (CCG) was advised of a pleasure craft sinking in icy water at Toronto's Humber Bay Park. The vessel had been abandoned and was awaiting disposal funded by the Transport Canada Navigation Protection Plan. A strong fuel smell was reported.

On 10 February 2021, two CCG personnel were deployed to Humber Bay Park, where they found the vessel locked in ice. They were unable to board it and assess its tanks. Toronto municipal authorities placed sorbent pads in the surrounding area and secured the vessel to a wall under the direction of the CCG.

The CCG engaged a contractor to pump and remove the vessel from the water. This work was completed on 13 February 2021.

The Claim

On 8 November 2021, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$35,614.93, seeking compensation for costs and expenses arising from its response operation.

The office of the Administrator identified the subject vessel as the *SEA-Q-TI* based on correspondence with the vessel's owner that was included with the CCG's claim.

The Administrator's investigation and assessment was ongoing as of 31 March 2022.

Status

The file remained open at the end of the fiscal year.

Tecumseh (2019)

Location: Detroit River, Windsor, Ontario

File number: 120-910-C1

The Incident

On 15 December 2019, the Canadian Coast Guard (CCG) was advised that the *Tecumseh*, a Canadian-flagged bulk carrier of 18,049 gross tons, had caught fire while in transit in the Detroit River. The CCG participated in a teleconference with relevant parties including the United States Coast Guard, Transport Canada, and the Port of Windsor, during which it was determined to tow the *Tecumseh* to a marine terminal in Windsor, Ontario, to assess the fire damage.

On 16 December 2019, the *Tecumseh* was secured at the marine terminal, the fire was extinguished, and sorbent boom was deployed. Approximately 33,500 liters of oil were removed from the vessel on 20 December 2019, and an additional 151 metric tons of fuel were removed in the following days.

The parties determined to leave the remaining oil onboard the *Tecumseh* to maintain its generators during the winter. Response operations ceased on 24 December 2019.

The Claim

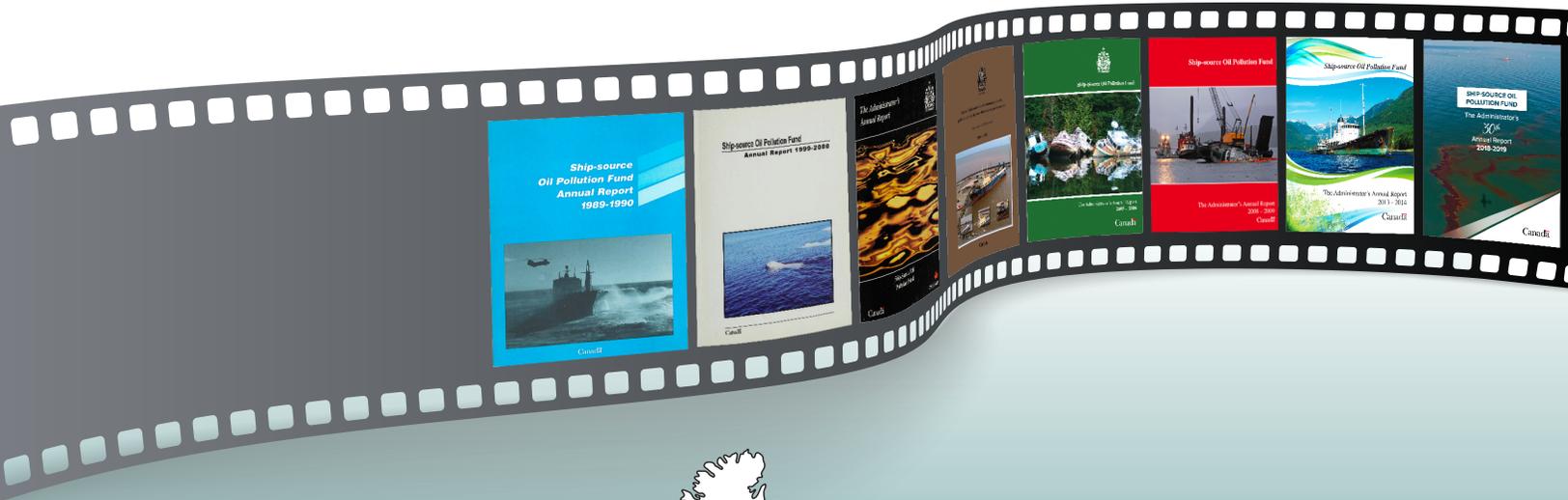
On 14 December 2021, the Administrator received a submission from the CCG. The submission included a claim totalling \$9,752.43, seeking compensation for costs and expenses arising from the response to the incident involving the *Tecumseh*.

The Administrator began an investigation and assessment of the claim that was ongoing as of 31 March 2022. Additional information from the CCG was requested in January 2022, and a response was received the following month.

Status

The file remained open at the end of the fiscal year.

MANITOBA



Lord Selkirk II (2014)

Location: Red River, Selkirk, MB

Case number: 120-655-C1

The Incident

In early March 2014, the Canadian Coast Guard (CCG) was informed by Transport Canada about the situation of the derelict vessel, *Lord Selkirk II*, aground in the ice-covered waters of the Red River, Manitoba. On March 14, CCG Environmental Response (CCG ER) personnel were tasked to investigate. They visited the Selkirk area to assess the reported situation and met with Transport Canada Marine Safety inspectors in Winnipeg and representatives of the City of Selkirk (the City). Based on the information obtained and due to the reported presence of hazardous materials on board, they did not board the derelict vessel. It was decided that a proper assessment would be undertaken after the breakup of the ice in the spring, at which time the appropriate oil prevention measures would commence.

With respect to the history of the vessel, the *Lord Selkirk II* was built in 1969 for operations as a passenger and cargo vessel on Lake Winnipeg and the Red River for approximately 20 years. In 1990, it was taken out of service and moored to the bank of the Red River within the City Park limits of Selkirk. In June 2012, the *Lord Selkirk II* was set ablaze and the fire engulfed two decks of the ship. The owners were in the process of scrapping the vessel when they declared bankruptcy, resulting in the vessel being an eyesore in Selkirk Park.

Following the initial discussions with the CCG, the City retained Pinchin Environmental Ltd. to assess the potential hazards posed to personnel working on board the derelict vessel. The Pinchin assessment strongly suggested pre-cleaning specific areas of the vessel to allow for the CCG to be able to safely remove any hydrocarbons found on board. On May 12, 2014, three response specialists from Vancouver, Victoria and Hay River travelled to Selkirk to assess the pollution threat. They had a pre-operations meeting with City representatives. The City advised that it had obtained “permission of the owner to enter the boat”. With City supplied pumps, the CCG crew spent three days attempting to dewater the compartments, but they encountered six to eight feet of ice in the forward cargo hold and in the engine room. Oil could be seen trapped in the ice. Ice heaters were placed on board with little success. A decision was reached after consultation with City Authorities to wait for the ice to melt so that a proper dewatering and a condition survey could be conducted. A containment boom was placed around the *Lord Selkirk II*, in the event oil would be released during the ice melt. From July 20 to 24, two CCG response specialists returned to Selkirk to respond to any oil pollution on scene. They recovered the absorbent materials used to soak up oil upwelling from the wreck that had accumulated in the previously deployed containment boom.

On October 7, CCG ER personnel returned to Selkirk to dewater the vessel. They worked on site from October 7 to October 16. Damage control found a broken pipe as the source of water ingress. The pipe was repaired. During the 10-day period, enough water was pumped out of the lower decks to allow access to the main engine room. Day tanks were located and approximately 100 litres of diesel fuel were removed. Also, 150 litres of diesel and 20 litres of lube oil were removed from the emergency generator compartment. The engine room was washed down and 26 pails of

miscellaneous lube oils and grease were recovered along with oily bilge water. On October 16, with its work completed, the CCG met with the City Manager who advised that the City would work in collaboration with Transport Canada and the Provincial authorities with respect to future disposal of the derelict vessel.

The Claim

On January 27, 2016, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$80,054.52, pursuant to the *Marine Liability Act*.

Assessment and Offer

For his assessment of the claim, on March 16, 2016, the Administrator requested additional support documentation about the contracted services. Upon receipt of the requested information and upon completion of his investigation and assessment of the claim, the Administrator made an offer for the established amount of \$78,793.14, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and payment of \$84,591.76, inclusive of interest, was made.

Recovery Action

The Administrator asked counsel to review the situation and recommend how best to proceed with recourse action. The shipowner being a US company that had gone into bankruptcy, counsel advised the Administrator to take no further steps as cost recovery success was unlikely. After careful consideration of all options available, the Administrator decided to close the file.

Status

The file was closed on October 11, 2016.

BRITISH COLUMBIA



Mystery Spill (1989)

Location: Sooke Harbour, Vancouver Island, BC

Case number: 120-037-C1

The Incident

On November 23, 1989, a report was received by the Canadian Coast Guard (CCG) of Bunker C oil coming ashore in Sooke Harbour on Vancouver Island, British Columbia. The CCG, acting on behalf of the Minister of Transport, pursuant to section 677 of the *Canada Shipping Act (CSA)*, took action to clean up the oil spill.

The Ship Safety Branch of the CCG carried out an investigation on a ship that may have been responsible for the discharge of oil. However, from the investigation and examination of oil records sighted on board, there was no evidence that the ship had discharged oil overboard. Samples of oil were taken, but it was not possible to conclusively match the samples from the ship with those taken at the site of the oil spill.

The Claim

On March 18, 1991, as the CCG was unable to identify the particular ship that had caused the oil spill, it filed a claim with the Ship-source Oil Pollution Fund under section 709 of the CSA, in the amount of \$84,551.90, for costs and expenses incurred in the oil spill response.

Assessment and Offer

The Administrator investigated and assessed the claim. As the source of the oil pollution damage was unknown and the Administrator was unable to establish that the incident, which gave rise to the damage, was not caused by a ship, the CCG was entitled to the presumption in section 710 of the CSA that the oil spill was discharged by a ship.

On the basis of the information submitted, the Administrator assessed the actual reasonable costs and expenses of the incident incurred by the CCG at \$55,370.20, which amount was offered to the CCG on February 7, 1992, on the condition that it may submit further material, information and submissions to enable the Administrator to reassess the claim. The CCG accepted the offer and payment in the amount of \$55,370.20, together with \$18,529.96 interest, was subsequently made as a partial settlement of the claim.

In April 1992, the Administrator received further documentation from the Department of Justice, on behalf of the CCG, and discussions relating to the outstanding amount of the claim took place between the parties. By letter dated April 26, 1995, the Administrator advised the CCG that he was not prepared to make an additional offer.

Status

The file was closed on March 31, 1992.

Tenyo Maru (1991)

Location: Juan de Fuca Strait, BC

Case number: 120-058-C1

The Incident

On July 22, 1991, the Chinese flag bulk carrier *Tuo Hai* collided in thick fog with the Japanese flag fish factory ship *Tenyo Maru*, at the entrance to the Juan de Fuca Strait, 23.2 miles northwest of Cape Flattery on the Olympic Peninsula, in the state of Washington, USA. As a result of the collision, the *Tenyo Maru* sank, was lying upright at a depth of 162 meters and discharging an estimated 440 tonnes of intermediate fuel oil and 185 tonnes of diesel oil. The *Tuo Hai* suffered damage around the bow area but did not discharge any oil. The location of the collision was within a Canadian fishing zone prescribed under the *Territorial Sea and Fishing Zones Act*.

In view of the considerable amount of oil left in the wreck of the *Tenyo Maru*, the Canadian Coast Guard (CCG) command centre established at Ucluelet, British Columbia decided to attempt to pump the remaining oil. Over a period of some 20 days, more than 100 tonnes of oil were pumped from the wreck. The currents in the vicinity of the wreck and the prevailing winds drove the bulk of the oil released from the *Tenyo Maru* into United States (US) waters, onto the coast of the state of Washington and as far south as the Oregon Coast. On the Canadian side, there were no confirmed sightings of oil on any beaches.

Administrator as Party by Statute

On August 7, 1991, the Crown commenced an action in the Federal Court of Canada against the two ships, *Tuo Hai* and *Tenyo Maru*, and their respective owners, claiming oil pollution damages, costs and expenses, with the Administrator named as a party by statute. Shortly thereafter, the *Tuo Hai* was arrested by the Crown in Vancouver Harbour as security for payment of the costs and expenses incurred by the CCG. The Federal Court set bail of US\$17.2 million for the release of the *Tuo Hai*, with annual updates to cover accrued interest payable under section 723 of the *Canada Shipping Act*. The security was posted by bank guarantees dated October 16, 1991 and October 19, 1992, respectively in the amount of US\$17.2 million and US\$1.29 million, bringing the total security to US\$18.49 million.

On March 29, 1993, the US State of Washington advised the Federal Court that it no longer intended to intervene in the actions.

The total claim of the Government of Canada amounted to \$5,328,185.36. The Crown's claims were thereafter settled out of court, without recourse to the Ship-source Oil Pollution Fund, and on March 31, 1995, orders discontinuing the relevant actions on consent were granted by the Federal Court.

Status

The file was closed on March 31, 1995.

Federal Ottawa (1992) ⚓

Location: Vancouver Harbour, BC
Case number: 120-064-C1

The Incident

On January 22-23, 1992, the Luxembourg flag bulk carrier *Federal Ottawa* discharged several quantities of bunker fuel oil while she was at anchorage in Vancouver Harbour, British Columbia. The Vancouver Port Corporation, having the administration of Vancouver Harbour, took remedial measures to prevent the spread of the oil and to clean the harbour.

Administrator as Party by Statute

The Vancouver Port Corporation instituted proceedings in the Federal Court against the *Federal Ottawa* and her owners for costs and expenses incurred for the oil spill response, estimated at \$50,000.00. The Administrator, being named a party by statute in the proceedings, was served with the statement of claim on January 11, 1993.

On November 3, 1994, the Administrator was informed that the claim was settled by the shipowners' insurers, except for an amount of \$4,358.00 representing the cleanup costs of the area off Siwash Rock in English Bay since it was not possible to ascertain that the oil recovered in this area was from the *Federal Ottawa*. As part of the settlement, the Administrator was requested to sign the Consent to Dismissal form terminating the court action, which was done on November 4, 1994, and a copy of the duly executed Dismissal Order dated December 6, 1994 was later received by the Administrator.

The Claim

On December 20, 1994, the Administrator received a claim on behalf of the Vancouver Port Corporation for \$4,358.80 representing the cleanup costs around the Siwash Rock area which became classified as a mystery spill.

The Administrator carried out considerable research into the spill and agreed that it was ship related, but had difficulty accepting that it was not from *Federal Ottawa*. He then offered \$2,911.50, being half of the amount claimed, to the Vancouver Port Corporation in full and final settlement of the latter's claim, which was accepted by the Vancouver Port Corporation. On or about December 19, 1995, a payment in that amount, plus interest of \$732.50, was directed by the Ship-source Oil Pollution Fund to the Vancouver Port Corporation.

Status

The file was closed on March 31, 1996.

Norpak 1 (1992)

Location: English Bay, Vancouver, BC

Case number: 120-069-C1

The Incident

On August 10, 1992, the Canadian fishing vessel *Norpak 1* (ex. *Seamark 1*) struck the Iranian flag bulk carrier *Iran Shariat* anchored at anchorage No. 12 in English Bay in the Port of Vancouver, British Columbia. As a result of the collision, the *Norpak 1*, with 700 gallons of diesel on board, began to sink at the bow, but was later securely beached and boomed on a falling tide by the tug *Miller Delta* on the Spanish Banks before it sank. Although there was a diesel sheen around the *Norpak 1*, a survey showed only minimal leaks and the vessel's fuel tanks were intact. A Canadian Coast Guard (CCG) hovercraft was on the scene, placing sorbent boom and pads inside the containment boom to recover small amount of oil being released. On August 20, 1992, the *Norpak 1* was salvaged and taken to a shipyard.

Administrator as Party by Statute

On August 20, 1993, the Crown filed a statement of claim in the Federal Court against the owners of the *Norpak 1* to recover the costs and expenses incurred by the CCG, claimed to be \$38,237.53. The Administrator was joined as a party by statute in the proceedings.

On September 20, 1993, the shipowners filed a statement of defence denying all liability and alleging, among others, that the Crown's costs in the pollution containment were inflated.

Out-of-court negotiations took place between the Crown and the shipowners, and the Crown agreed to settle its claim for \$25,000.00 without resort to the Ship-source Oil Pollution Fund.

The case was discontinued on consent on November 4, 1994.

Status

The file was closed on March 31, 1995.

Leader (1994)

Location: Vancouver Harbour, BC

Case number: 120-093-C1

The Incident

On April 8, 1994, while alongside a grain loading terminal in Vancouver Harbour, British Columbia, the Greek registered cargo ship *Leader* reported a spill of a few gallons of fuel oil. The Harbour Master's launch arrived on the scene to investigate and found a significant oil spill alongside the vessel. It was later determined that there had been a spill aboard the ship during a bunker oil transfer. Among other areas in the harbour, about three cables of shoreline bounding New Brighton Park were oiled. The Canadian Coast Guard (CCG) assumed the role of lead agency for the clean-up operation, which was completed on April 15, 1994, incurring costs and expenses in the amount of \$103,792.74.

In order to prevent the detention of the vessel, the P&I Club provided Letters of Undertaking for \$180,000 to cover the clean-up costs and \$10,000 as security for any potential fine.

The Claim

No claim was filed with the Ship-source Oil Pollution Fund (the Fund), and on November 14, 1996, the Administrator was informed that the CCG had accepted to settle its claim for \$80,000.00 without recourse to the Fund.

Status

The file was closed on March 31, 1997.

Sky Princess (1994) ⚓

Location: Vancouver Harbour, BC
Case number: 120-094-C1

The Incident

On May 16, 1994, oil was discovered around the British flag cruise ship *Sky Princess* when she shifted berth in the Vancouver Harbour that day. The ship's officers denied their ship was the source of the oil. A surveyor from the Marine Safety Branch of Transport Canada commenced an investigation on scene but, because the *Sky Princess* had just refueled, he did not take any samples aboard. He then concluded that he was unable to establish that the ship was the source of the oil. However, there were no other ships in the incident area, no ships had been at the particular berth for some two days and no source of a land based spill could be found. Besides, the oil from the harbour was sampled and identified as bunker oil.

The Claim

On April 22, 1996, the Vancouver Port Corporation (VPC) filed a claim in the amount of \$46,045.83 with the Ship-source Oil Pollution Fund (the Fund).

Assessment and Offer

The Administrator investigated the claim and on March 11, 1997, paid the VPC 50% of its claim, namely \$23,022.15, pending action against the ship.

Recovery Action

On April 8, 1997, the VPC and the Fund (collectively, the Plaintiffs) commenced an action in the Federal Court against the *Sky Princess*, her owners and others (collectively, the Defendants) to recover the sum of \$46,045.83 with interest and costs. On May 5, 1997, the P&I Club issued a Letter of Undertaking in the amount of \$70,000.00 to avoid the arrest of the *Sky Princess*. The Defendants then filed a Statement of Defence on June 19, 1997 denying the main issues alleged in the action.

In October 1997, orders were issued to compel the Defendants to file an Affidavit of Documents within 15 days and also requiring them to comply with the preparations for the case to go forward. However, no response to the orders was received by November 6, 1997. On December 5, 1997, the Defendants offered to settle out of court for 50% of the Plaintiffs' claim, namely \$23,022.15, with no interest, which offer was accepted by the Plaintiffs. Upon receipt of the payment, the action against the *Sky Princess* was dismissed with the consent of all parties on December 29, 1997. The amount of \$23,022.15 recovered from the *Sky Princess*' owners, less the legal expenses of \$5,140.24, was paid to the VPC.

Status

The file was closed on March 31, 1998.

Marwood (1994)

Location: Ucluelet, BC
Case number: 120-099-C1

The Incident

On August 14, 1994, the *Marwood*, a Canadian flag fishing trawler, sank while alongside the government wharf in Ucluelet, British Columbia, with one crew member losing his life. The Transportation Safety Board of Canada investigated the incident and found that the vessel's trawl doors caught under the wharf on a rising tide, which contributed to the vessel down flooding. The trawler was stated to contain approximately 36,000 litres of diesel oil, 2,700 litres of lubricating oil and an undetermined quantity of hydraulic oil. In the absence of effective response from the shipowner, the Canadian Coast Guard (CCG) organized an immediate response to contain and clean up the escaped oil, using their own and contractor's personnel. The *Marwood* was then successfully salvaged by her owner on August 17, 1994.

The Department of Justice sent a letter to the shipowner representatives on August 25, 1994 requesting, on behalf of both the Crown and the Ship-source Oil Pollution Fund, a security to cover the Crown's costs and expenses involved in containing and cleaning up the oil pollution. It appeared that the salvaged vessel had little value and that her main value was her fishing license. Negotiations took place between the parties. Since the required guarantee could not be obtained, on February 21, 1995, the Crown filed an action in the Federal Court of Canada for the arrest of the vessel. On August 4, 1995, the P&I Club issued a Letter of Undertaking in the amount of \$250,000.00 and the following day, the *Marwood* was released from arrest.

Administrator as Party by Statute

Together with the legal action to have the *Marwood* arrested, the Crown also filed in the Federal Court of Canada, on February 21, 1995, an action against the *Marwood*, her owners and others (collectively, the Defendants) for the recovery of the CCG costs and expenses incurred, amounting to \$178,951.65. The Administrator was named as Party by Statute.

A Statement of Defence and a Counter Claim by the Defendants, as well as the Administrator's Statement of Defence were filed with the Court. On September 2, 1998, the Court made an order regarding the schedule for advancing the litigation and Examination for Discovery proceeded.

On October 7, 1998, the Administrator was informed that the action had been settled out of court between the Crown and the Defendants. The formal Agreement of Settlement and Release, releasing the Administrator and others from the action, was signed on October 22, 1998, followed by the Notice of Discontinuance duly signed on November 12, 1998.

Status

The file was closed on March 31, 1999.

Mystery Spill – Pacific Rim (1996)

Location: Vancouver, BC
Case number: 120-121-C1

The Incident

The lighthouse keeper at Carmanah Point lighthouse, on the west coast of Vancouver Island, British Columbia, reported a spill after having seen heavy patches of oil washing ashore on the local beaches on January 8, 1996. A Canadian Coast Guard (CCG) helicopter overflight on the same day could find no further evidence of oil out to the sea. However, over the same time frame, authorities in the State of Washington also reported similar oil washing ashore on some of their coastline.

On January 10, 1996, more patches of oil started coming ashore on Vancouver Island and response action was taken by Pacific Rim National Park personnel, monitored by the CCG. 400 oiled birds, one oiled mammal and approximately 45 kgs of oiled debris were recovered further to the clean-up operation.

Both Canadian and US officials took samples of the oil, but the vessel involved has never been traced; hence, the incident has been classified as a mystery spill.

The Claim

- The Crown's claim

On March 15, 1996, the Crown filed a claim in the amount of \$23,259.38 with the Ship-source Oil Pollution Fund.

- The two individuals' claims

Two individuals also sent correspondence to the Administrator stating that they were volunteers in the incident and wished to claim certain expenses. The work of these individuals not having been authorized by any official, raised an issue of principle, namely, if self-appointed volunteers could claim reasonable expenses for their work in such an incident.

Assessment and Offer

- The Crown's claim

Further to the investigation of the claim, on March 21, 1996, the Administrator offered \$20,925.19 to settle the Crown's claim, which was accepted.

- The two individuals' claims

After the Administrator investigated the claims, offers were sent to both claimants and the claims were subsequently settled.

Status

The file was closed on March 31, 1996.

Kathy K (1996)

Location: Kitimat, BC
Case number: 120-125-C1

The Incident

The *Kathy K*, a former tugboat registered as a workboat in Vancouver, British Columbia, built of wood in 1912 and rebuilt in 1944, was moored, with no crew on board, at a public dock at Kitimat Village, British Columbia on April 2, 1996 when she sank at the berth. The workboat had on board approximately 3,100 litres of diesel, together with an unknown quantity of lubricating oil. Some of these oils were released when the *Kathy K* sank and a boom was quickly rigged to contain the pollution.

The owner, having been requested to accept responsibility of the spill, advised that he had no means to effect a cleanup and that the workboat carried no insurance. The Canadian Coast Guard (CCG) then responded with contractors to clean up the oil, raise the sunken workboat and take her to a secure berth. Difficulties were experienced in raising the vessel and, on refloating, she was found to be leaking heavily.

On April 5, 1996, under tow, en route to a secure berth, the *Kathy K* threatened to sink again and had to be beached at the nearest convenient facility. Further damage was incurred by the beaching and because of the vessel's poor hull condition, it was decided to break her up at no cost for the CCG, but in return, the contractors were allowed to keep any salvaged material. The *Kathy K* was then broken up and her hull burnt.

The Claim

On April 2, 1997, the Crown filed a claim in the amount of \$73,495.30 with the Ship-source Oil Pollution Fund (the Fund) to recover the CCG's costs and expenses in this incident.

Assessment and Offer

The Administrator investigated the claim, following which he had a number of concerns, principally the question of raising the wreck, which cost was included in the claim. Actually, in his view, the costs of salvage operations were only recoverable from the Fund if its primary purpose was to prevent pollution damage; otherwise, if the operations had another purpose, such as salvage of the hull and cargo, or wreck removal, which was the case of *Kathy K*, such costs should not be the concern of the Fund.

Following a meeting between the Fund, the CCG and their respective counsels, as well as the CCG On-Scene Commander, the Administrator offered \$42,000.00, plus interest, to settle the claim, which offer was accepted by the Crown. A payment of \$47,552.80, including \$5,552.80 interest, was thereafter transferred by the Administrator to the Crown on April 22, 1998.

Recovery Action

As the Administrator was informed that, on April 14, 1997, the person who had been the duly registered appointed manager of the *Kathy K* was placed into bankruptcy, he then notified the Trustee in bankruptcy of the Fund's claim against such duly registered appointed manager of the *Kathy K*. On July 22, 1998, the Fund received a cheque in the amount of \$188.51 from the Trustee in bankruptcy, as the Fund's portion of the available funds.

Status

The file was closed on March 31, 1999.

Ethel K (1997)

Location: North Vancouver, BC

Case number: 120-149-C1

The Incident

On July 29, 1997, the *Ethel K*, a Canadian registered wooden gillnet fishing vessel, built in 1953 and rebuilt in 1995, started to sink while berthed at a private marina in North Vancouver, British Columbia. The marina operators attempted to contact the owner without success.

The Vancouver Port Corporation boomed off the partially sunk vessel and the Canadian Coast Guard (CCG) placed absorbent pads to absorb the small amount of oil leaking from the hull. The vessel's condition continued to deteriorate and, on August 26, 1997, the CCG decided the best course of action was to pump out the vessel and remove the pollutants.

The Claim

The Crown was unable to trace the owner, and thus on July 17, 1998, presented a claim to the Ship-source Oil Pollution Fund, in the amount of \$5,509.61, to recover the CCG's costs and expenses in the incident.

Assessment and Offer

The Administrator investigated the claim, and correspondence was exchanged between the Crown and the Administrator in that regard. Following such correspondence, the Crown revised their claim to \$2,704.38, which amount, plus \$236.75 interest, was paid by the Administrator to the Crown on November 12, 1998 in full and final settlement.

Status

The file was closed on March 31, 1999.

Mystery Spill (1998)

Location: Stanley Park, Vancouver Harbour, BC

Case number: 120-170-C1

The Incident

On April 5, 1998, oil was reported on the shoreline on the north side of Stanley Park, Vancouver Harbour, British Columbia. It was estimated that about 180 litres of oil were involved. The Canadian Coast Guard (CCG) contracted for the cleanup of the spill. Environment Canada and the Marine Safety Branch of Transport Canada were involved in the investigation to attempt to find the origin of the spill, without success.

The Claim

On March 31, 1999, the Crown, on behalf of the CCG, filed a claim in the amount of \$23,662.82 with the Ship-source Oil Pollution Fund for the CCG's costs and expenses in the incident.

Assessment and Offer

The Administrator investigated the claim and on June 29, 1999, wrote to the Crown outlining the established and non-established items of the claim. In response, the Crown advised, on August 5, 1999, that, at that time, it would not be providing further documentation. Hence, on September 16, 1999, the Administrator directed an interim payment of \$20,318.62, plus \$2,116.33 interest, be made to the Crown.

On December 15, 2000, as no further information had been provided by the Crown, the Administrator confirmed in a letter sent to the Crown that the amount paid was in full and final settlement of the Crown's claim.

Status

The file was closed on March 31, 2001.

Miss Babs (1998)

Location: Miller Bay, B.C.

Case number: 120-181-C1

The Incident

The *Miss Babs*, a Canadian fishing vessel, was observed sunk, on September 16, 1998, in Miller Bay, a remote inlet some 15 kilometers south of Prince Rupert, British Columbia. Oil pollution was reported. The Canadian Coast Guard (CCG) responded and the owner arrived on scene on September 18, 1998. The CCG subsequently wrote to the owner requesting his intentions on the pollution aspects and the hazard to navigation that the sunken vessel posed to other vessels, but no reply was received. Hence, contractors employed by the CCG raised the *Miss Babs* and took her to a safe berth.

Measures taken by the Administrator

The Administrator employed a surveyor to determine the extent of the oil pollution.

The Claim

On October 6, 1999, the Administrator received a numbered invoice from the Department of Fisheries and Oceans (DFO), acting on behalf of the CCG, in the amount of \$31,542.17 for the cleanup costs and expenses incurred by the CCG in the incident. The Administrator rejected it on the basis that an invoice implies a debt owing, however, as per Section 710 of the *Canada Shipping Act*, when a claim is filed with the Administrator, the latter shall investigate and assess it and offer compensation to the claimant for whatever portion of the claim he considers to be established. Therefore, DFO arranged cancellation of the invoice.

On October 8, 1999, DFO presented a claim in the normal manner for the same amount to the Ship-source Oil Pollution Fund.

Assessment and Offer

The Administrator investigated and assessed the claim, which also covered the raising of the wreck, stated by the CCG to be necessary as part of the oil pollution prevention. Further to the assessment, costs incurred after the *Miss Babs* no longer posed a threat of oil pollution were disallowed.

Besides, it was noted that on October 13, 1999, the Crown sold the *Miss Babs* « as is, where is » for \$6,000.00 all-inclusive.

Therefore, on November 22, 1999, the Administrator made a payment of \$23,836.70, plus \$2,079.86 interest, to DFO, which amount was accepted by the latter in full and final settlement of its claim.

Recovery Action

Efforts were made to trace the vessel's owner without success, and investigations failed to indicate any property in the name of the owner. Hence, after receipt of legal advice, the Administrator concluded that further recovery action would not be reasonable.

Status

The file was closed on March 31, 2001.

Reed Point Marina (1999)

Location: Port Moody, BC

Case number: 120-208-C1

The Incident

Early morning on October 16, 1999, a fire broke out in one of the covered structures (boathouse) of the Reed Point Marina, situated near Port Moody, British Columbia, at the eastern end of Vancouver Harbour, and spread to some of the boats. The local fire department and a Vancouver Port harbour craft responded and the fire was eventually extinguished. Three marine craft were reported sunk and four others damaged; four boathouses collapsed. Insurance companies covering two of the vessels accepted responsibility, without prejudice, for the cleanup and salvage of the sunken vessels. The work commenced on October 17, 1999; however, following legal advice, the insurers stopped it on October 19, 1999. The Canadian Coast Guard (CCG) then contracted with the local response organization to continue the task. The response organization completed the final “mop-up” of the boomed area on October 25, 1999. Environment Canada coordinated the disposal of approximately 80 bags of recovered contaminants.

The Claim

The Crown presented a claim to the Ship-source Oil Pollution Fund (the Fund), on September 11, 2000, in the amount of \$39,366.81, to recover the stated CCG costs and expenses incurred in responding to the incident.

Assessment and Offer

For the investigation and assessment of the claim, information was requested by the Administrator from the Crown. On March 30, 2001, the Administrator found \$36,247.58 to be established and arranged transfer of such sum plus \$4,188.57 interest to the Crown.

Recovery Action

Upon receipt of the Crown’s claim, counsel for the Fund sent, on October 12, 2000, letters to three of the vessel owners involved, notifying them of the Administrator’s intention to recover any payments made in settlement of claims against the Fund.

On May 10, 2002, a Statement of Claim was filed by the Administrator in the Federal Court against the three owners in the amount of \$40,436.15. Following discussion between counsels, the Administrator accepted a settlement of \$24,261.69 from the shipowners.

Status

The file was closed on March 31, 2003.

Mystery Spill (2000) ⚓

Location: Seaboard Terminal, North Vancouver, B.C.
Case number: 120-227-C1

The Incident

Oil was found on the water at Seaboard Terminal, North Vancouver, British Columbia on June 20, 2000. It proved impossible to determine the origin of the oil; hence, it was classified as a mystery spill. The Vancouver Port Authority (VPA) responded by cleaning up the oil.

The Claim

On January 23, 2001, the VPA filed a claim in the amount of \$20,375.80 with the Ship-source Oil Pollution Fund for oil pollution clean-up costs.

Assessment and Offer

On February 13, 2001, further to the investigation and assessment of the claim, the Administrator requested information from the VPA, which was received on March 12, 2001. On March 30, 2001, the Administrator requested more additional information and documentation. A reply was received by way of a letter dated July 23, 2001.

Following a review of the information received, the Administrator found, principally, that some of the handling charges for payments of subcontractors' invoices were not established. On this basis, on October 4, 2001, he offered \$17,953.31 to the VPA, plus interest of \$1,883.15, in full and final settlement of the claim. The VPA accepted the offer on October 9, 2001. A Release and Subrogation document was signed on behalf of the VPA on October 23, 2001. The Administrator sent the payment to the VPA for the total amount, on October 25, 2001.

Status

The file was closed on March 31, 2002.

Unnamed Vessel (2000)

Location: Fanny Bay, BC
Case number: 120-230-C1

The Incident

On July 13, 2000, the owner of an oyster farm in Fanny Bay, just south of Comox, east coast of Vancouver Island, British Columbia, advised the Department of Fisheries and Oceans in Comox that a wooden planked pleasure craft made by Chris-Craft of approximately 9-metre in length, apparently un-registered, un-licensed and un-named, which was tied to a mooring buoy, had sunk and was leaking diesel. The Canadian Coast Guard vessel *Kestrel I* and an emergency response (ER) crew responded. On July 14, 2000, absorbent booms and pads were deployed as an initial measure. Then, commercial divers were used to close off fuel valves and plug leaking oil pipes and vents. After patching a hole in the hull, the craft was refloated, but on the next day, on a return visit by ER personnel, the craft was found to have disappeared.

The Claim

On July 29, 2001, the Crown filed a claim with the Ship-source Oil Pollution Fund, in the amount of \$2,882.15.

Assessment and Offer

The Administrator investigated the claim and found the amount of \$2,569.59 established. He then made an offer for that amount, plus \$226.28 interest, in full and final settlement of the Crown's claim. The Crown accepted the settlement and payment was made on August 23, 2001.

Recovery action

After consideration of the circumstances of the ownership and the craft herself, the Administrator decided that it would not be reasonable to take recovery action, unless the situation changed.

Status

The file was closed on March 31, 2002.

Skaubryn Mystery Spill - Vancouver Port Authority Claim (2000) ⚓

Location: Seaboard Terminal, North Vancouver Harbour, BC
Case number: 120-233-C1-01

The Incident

An oil spill was reported in late evening, August 3, 2000, at Seaboard Terminal, North Vancouver, British Columbia. Two ships were berthed at the terminal, the *Skaugran* and the *Skaubryn*. Early on August 4, 2000, the Vancouver Port Authority (VPA) responded to the spill and tasked local contractors for cleanup. Later that morning, VPA determined the spill was sufficiently large to transfer overall responsibility for the cleanup to the Canadian Coast Guard (CCG). The Marine Safety Branch of Transport Canada, the CCG and Environment Canada investigated the circumstances of the origin of the spill. Samples from the spill and ships in the vicinity were taken.

The Claim

On March 14, 2001, VPA submitted a claim to the Ship-source Oil Pollution Fund (the Fund) for its response to the incident, amounting to \$13,007.72.

On July 20, 2001, VPA counsel wrote to the Administrator advising that VPA had submitted its claim, together with that of the CCG, directly to the *Skaubryn*'s owner and requesting that, in the meantime, the VPA claim against the Fund for this incident be held in abeyance. On August 2, 2011, the Administrator replied to VPA agreeing to hold the claim in abeyance.

The shipowner's P&I Club declined to accept the claim of both the VPA and CCG. Therefore, by letter dated July 17, 2002, VPA reinstated its claim on the Fund.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator offered \$10,809.93 plus interest as settlement, which was accepted by VPA on August 20, 2002. VPA then provided an executed Release and Subrogation Agreement in favour of the Administrator, and payment of the settlement amount, plus \$1,502.82 interest, was made on September 17, 2002.

Recovery Action

A Statement of Claim was filed against the shipowner in July 2003 for recovery of all the compensation paid by the Fund in relation to the *Skaubryn* incident. This was amended and re-filed on September 3, 2003. A Statement of Defence was filed by the shipowner on September 4, 2003.

Settlement discussions then took place between the parties and on March 5, 2004, the shipowner made an offer of settlement in the amount of \$76,031.82, which was accepted by the Administrator.

Status

The file was closed on March 31, 2004.

Related files

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-02 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-03 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-04 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-05 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-06 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-07 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-08 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-09 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-10 (same incident, different claimant)

Skaubryn Mystery Spill - CCG Claim (2000)

Location: Seaboard Terminal, North Vancouver, BC

Case number: 120-233-C1-02

The Incident

An oil spill was reported in late evening, August 3, 2000, at Seaboard Terminal, North Vancouver, British Columbia. Two ships were berthed at the terminal, the *Skaugran* and the *Skaubryn*. Early on August 4, 2000, the Vancouver Port Authority (VPA) responded to the spill and tasked local contractors for cleanup. Later that morning, VPA determined the spill was sufficiently large to transfer overall responsibility for the cleanup to the Canadian Coast Guard (CCG). The Marine Safety Branch of Transport Canada (MSB), the CCG and Environment Canada (EC) investigated the circumstances of the origin of the spill. Samples from the spill and ships in the vicinity were taken.

The Claim

On July 2, 2002, the CCG submitted a claim to the Ship-source Oil Pollution Fund (the Fund) in the amount of \$74,525.79.

Assessment and Offer

The Administrator investigated and assessed the claim and, on October 9, 2002, wrote to CCG advising of his preliminary assessment and findings and inviting CCG to comment on these prior to a final offer of settlement being made. The CCG replied on October 30, 2002 with more information and on February 21, 2003, with additional comments.

On February 27, 2003, the Administrator made an offer of settlement in the amount of \$55,804.25 plus interest, which was accepted by the CCG that same day. Payment of the settlement amount, plus \$7,914.82 interest, was thereafter made on March 6, 2003.

During the spill response, oil samples were taken from various locations including the ship. These were analyzed by EC for the CCG and MSB to possibly identify the source of the pollution and for prosecution purposes. The cost of these analyses, in the amount of \$2,335.35, was included in the CCG claim but was disallowed because under the *Marine Liability Act*, it was not a direct component of the cleanup activity. However, the Administrator agreed to pay it separately on the grounds that access to the samples and analyses would be of importance in subsequent cost recovery action. Payment of \$2,335.35 was therefore made to CCG on March 7, 2003.

Recovery Action

A Statement of Claim was filed against the shipowner in July 2003 for recovery of all the compensation paid by the Fund in relation to the *Skaubryn* incident. This was amended and re-filed on September 3, 2003. A Statement of Defence was filed by the shipowner on September 4, 2003.

Settlement discussions then took place between the parties and on March 5, 2004, the shipowner made an offer of settlement in the amount of \$76,031.82, which was accepted by the Administrator.

Status

The file was closed on March 31, 2004.

Related files

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-01 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-03 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-04 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-05 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-06 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-07 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-08 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-09 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-10 (same incident, different claimant)

Skaubryn Mystery Spill - Prosperity Claim (2000)

Location: Vancouver Harbour, BC

Case number: 120-233-C1-03

The Incident

An oil spill was reported in late evening, August 3, 2000, at Seaboard Terminal, North Vancouver, British Columbia. Two ships were berthed at the terminal, the *Skaugran* and the *Skaubryn*. Early on August 4, 2000, the Vancouver Port Authority (VPA) responded to the spill and tasked local contractors for cleanup. Later that morning, VPA determined the spill was sufficiently large to transfer overall responsibility for the cleanup to the Canadian Coast Guard.

Following the oil spill, a number of vessels in the harbour also reported oil contamination, including the *Prosperity*, a Canadian registered aluminium fishing vessel. At the time of the incident, the *Prosperity* was at a dock in downtown Vancouver unloading sardines, when the hull became oil contaminated.

The Claim

On September 13, 2000, the *Prosperity*'s owner filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$54,794.29, stated to be the costs incurred by the vessel in dealing with the oil pollution encountered during the morning of August 4, 2000.

Assessment and Offer

The Administrator investigated and assessed the claim, which raised a number of concerns, including the charges stated to have been incurred by the shipyard, fishing time lost, crew wages, fuel costs, owner's charges and other items. Another issue was the question of the owner's legal fees, which were rejected.

Following a number of negotiations with the owner on the contentious items, on February 14, 2001, counsel for the Fund confirmed to the owner a full and final settlement offer of \$27,172.88, plus \$1,239.34 interest. On February 22, 2001, the owner signed the release and subrogation document, and on the same day, a cheque in the amount of \$26,924.22 was forwarded to the owner. The payment of the balance of \$1,488.00 was made upon receiving the necessary evidence of payment to the crew.

Recovery Action

A Statement of Claim was filed against the *Skaubryn*'s owner (the Shipowner) in July 2003 for recovery of all the compensation paid by the Fund in relation to the *Skaubryn* incident. This was amended and re-filed on September 3, 2003. A Statement of Defence was filed by the Shipowner on September 4, 2003.

Settlement discussions then took place between the parties and on March 5, 2004, the Shipowner made an offer of settlement in the amount of \$76,031.82, which was accepted by the Administrator.

Status

The file was closed on March 31, 2004.

Related files

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-01 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-02 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-04 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-05 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-06 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-07 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-08 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-09 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-10 (same incident, different claimant)

Skaubryn Mystery Spill – Burrard Clean #17 Claim (2000)

Location: Vancouver Harbour, BC

Case number: 120-233-C1-04

The Incident

An oil spill was reported in late evening, August 3, 2000, at Seaboard Terminal, North Vancouver, British Columbia. Two ships were berthed at the terminal, the *Skaugran* and the *Skaubryn*. Early on August 4, 2000, the Vancouver Port Authority (VPA) responded to the spill and tasked local contractors for cleanup. Later that morning, VPA determined the spill was sufficiently large to transfer overall responsibility for the cleanup to the Canadian Coast Guard (CCG).

Following the oil spill, a number of vessels in the harbour also reported oil contamination, including the *Burrard Clean #17*, a Canadian registered barge owned and used by the local response organization Western Canada Marine Response Organization (WCMRC), which was moored in Vancouver Harbour.

The Claim

On August 15, 2000, the WCMRC submitted an invoice to the CCG for \$2,542.35 to recover their stated costs due to the oiling of the *Burrard Clean #17*. The CCG forwarded the invoice to the Administrator on November 21, 2000. The Administrator sent an acknowledgment to the WCMRC on November 24, 2000, and information to assist in submitting a claim to the Ship-source Oil Pollution Fund (the Fund) on November 30, 2000.

The WCMRC submitted a claim to the Fund on December 27, 2000, in its capacity as shipowner and not as a response organization.

Assessment and Offer

The Administrator investigated and assessed the claim. Further information was obtained from the WCMRC and third party sources with respect to some aspects of the claim. The Administrator found a number of individual items were not established within the meaning of the *Canada Shipping Act* and, on February 27, 2001, offered \$1,333.93, plus the appropriate interest, in settlement. The WCMRC disputed some of the Administrator's assessments, but accepted the offer and provided a duly signed release and subrogation document on March 20, 2001. Payment of \$1,333.93, plus \$70.27 interest, was made on March 22, 2001 in full and final settlement of the claim.

Recovery Action

A Statement of Claim was filed against the *Skaubryn*'s owner (the Shipowner) in July 2003 for recovery of all the compensation paid by the Fund in relation to the *Skaubryn* incident. This was amended and re-filed on September 3, 2003. A Statement of Defence was filed by the Shipowner on September 4, 2003.

Settlement discussions then took place between the parties and on March 5, 2004, the Shipowner made an offer of settlement in the amount of \$76,031.82, which was accepted by the Administrator.

Status

The file was closed on March 31, 2004.

Related files

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-01 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-02 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-03 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-05 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-06 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-07 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-08 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-09 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-10 (same incident, different claimant)

Skaubryn Mystery Spill – Island Provider Claim (2000)

Location: Vancouver Harbour, BC

Case number: 120-233-C1-05

The Incident

An oil spill was reported in late evening, August 3, 2000, at Seaboard Terminal, North Vancouver, British Columbia. Two ships were berthed at the terminal, the *Skaugran* and the *Skaubryn*. Early on August 4, 2000, the Vancouver Port Authority (VPA) responded to the spill and tasked local contractors for cleanup. Later that morning, VPA determined the spill was sufficiently large to transfer overall responsibility for the cleanup to the Canadian Coast Guard (CCG).

Following the oil spill, a number of vessels in the harbour also reported oil contamination, including the *Island Provider*, a Canadian wooden fishing vessel, which was delivering salmon to a company located in downtown Vancouver when, during the early hours of August 5, 2000, the hull, mooring ropes and floats became coated with oil.

The Claim

The *Island Provider's* owner presented a claim to the CCG for the amount of \$4,415.89 on October 6, 2000 to recover his stated costs and expenses in the incident. The CCG then forwarded it to the Administrator on November 21, 2000. The Administrator acknowledged the correspondence on November 24, 2000 and, on November 30, 2000, provided information to the owner on submitting a claim to the Ship-source Oil Pollution Fund (the Fund). Telephone discussions with the owner followed and a further letter was sent by the Administrator on May 28, 2002 since no reply had been received further to the letter of November 30, 2000. A letter from the owner was received on July 30, 2002 confirming the claim and enclosing various documents in support of it.

Assessment and Offer

The Administrator investigated and assessed the claim. He advised the *Island Provider's* owner of his initial findings on October 8, 2002 and requested comments. A reply was received on November 28, 2002 and the following day, the Administrator offered \$3,486.83 in settlement of the claim. The owner accepted the offer and provided the Administrator with an executed Release and Subrogation Agreement on December 5, 2002. The payment of the settlement amount, plus \$529.29 interest, was thereafter made on December 6, 2002.

Recovery Action

A Statement of Claim was filed against the *Skaubryn's* owner (the Shipowner) in July 2003 for recovery of all the compensation paid by the Fund in relation to the *Skaubryn* incident. This was amended and re-filed on September 3, 2003. A Statement of Defence was filed by the Shipowner on September 4, 2003.

Settlement discussions then took place between the parties and on March 5, 2004, the Shipowner made an offer of settlement in the amount of \$76,031.82, which was accepted by the Administrator.

Status

The file was closed on March 31, 2004.

Related files

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-01 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-02 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-03 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-04 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-06 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-07 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-08 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-09 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-10 (same incident, different claimant)

Skaubryn Mystery Spill – Trophy 13K112086 Claim (2000)

Location: Vancouver Harbour, BC

Case number: 120-233-C1-06

The Incident

An oil spill was reported in late evening, August 3, 2000, at Seaboard Terminal, North Vancouver, British Columbia. Two ships were berthed at the terminal, the *Skaugran* and the *Skaubryn*. Early on August 4, 2000, the Vancouver Port Authority (VPA) responded to the spill and tasked local contractors for cleanup. Later that morning, VPA determined the spill was sufficiently large to transfer overall responsibility for the cleanup to the Canadian Coast Guard (CCG).

Following the oil spill, a number of vessels in the harbour also reported oil contamination, including the *13K112086*, a 3-metre, open, fibreglass pleasure craft of the model name “Trophy”, which is owned by an employee of Ocean Fisheries of Vancouver (the Company) and was moored at the Company dock at Commissioner Street, Vancouver, at the time of the soiling.

The Claim

On October 5, 2000, the Company wrote to the CCG enclosing photographs of the craft soiled with oil. Also enclosed were two original invoices dated August 24 and September 6, 2000, totaling \$331.22 for removal of the oil stains from the hull of the craft and for the supply of replacement mooring lines and fenders. The Company advised that some of their commercial boats were also soiled but, being steel, they were able to be cleaned by the Company.

On July 12, 2001, the CCG forwarded the Company’s letter and invoices to the Administrator. On July 30, 2001, the Administrator wrote to the Company advising that, if the person who had suffered the pollution damage wished the letter and invoices to be a claim against the Ship-source Oil Pollution Fund (the Fund), then to confirm the claim in writing. Written confirmation of the claim against the Fund in the amount of \$331.22 was received by the Administrator on November 27, 2002.

Assessment and Offer

The Administrator investigated and assessed the claim. On November 28, 2002, he made an offer of compensation in the claim amount, plus interest. Upon receipt of a duly executed Release and Subrogation Agreement, payment of \$331.22, plus \$50.19 interest, was made by the Administrator on December 2, 2002.

Recovery Action

A Statement of Claim was filed against the *Skaubryn*’s owner (the Shipowner) in July 2003 for recovery of all the compensation paid by the Fund in relation to the *Skaubryn* incident. This was amended and re-filed on September 3, 2003. A Statement of Defence was filed by the Shipowner on September 4, 2003.

Settlement discussions then took place between the parties and on March 5, 2004, the Shipowner made an offer of settlement in the amount of \$76,031.82, which was accepted by the Administrator.

Status

The file was closed on March 31, 2004.

Related files

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-01 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-02 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-03 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-04 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-05 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-07 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-08 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-09 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-10 (same incident, different claimant)

Skaubryn Mystery Spill – Georgie Girl Claim (2000)

Location: Vancouver Harbour, BC

Case number: 120-233-C1-07

The Incident

An oil spill was reported in late evening, August 3, 2000, at Seaboard Terminal, North Vancouver, British Columbia. Two ships were berthed at the terminal, the *Skaugran* and the *Skaubryn*. Early on August 4, 2000, the Vancouver Port Authority (VPA) responded to the spill and tasked local contractors for cleanup. Later that morning, VPA determined the spill was sufficiently large to transfer overall responsibility for the cleanup to the Canadian Coast Guard (CCG).

Following the oil spill, a number of vessels in the harbour also reported oil contamination, including the *Georgie Girl*, an 8-metre fibreglass pleasure motor yacht, which was moored at a marina on the south side of Vancouver Harbour, when the hull and fenders became oil coated.

The Claim

The *Georgie Girl's* owner filed a claim with the CCG on September 18, 2000, amounting to \$217.86, to cover the cleaning and replacement costs involved, which correspondence was passed to the Administrator on November 21, 2000. The Administrator acknowledged the correspondence on November 24, 2000, and information as to how to file a claim against the Ship-source Oil Pollution Fund (the Fund) was sent to the owner on November 30, 2000.

On January 9, 2001, the owner submitted a claim to the Fund in the amount of \$217.86.

Assessment and Offer

The Administrator investigated and assessed the claim, and paid it in full, together with \$12.20 interest. A Release and Subrogation Agreement in favour of the Administrator was thereafter executed and delivered by the owner on April 10, 2001.

Recovery Action

A Statement of Claim was filed against the *Skaubryn's* owner (the Shipowner) in July 2003 for recovery of all the compensation paid by the Fund in relation to the *Skaubryn* incident. This was amended and re-filed on September 3, 2003. A Statement of Defence was filed by the Shipowner on September 4, 2003.

Settlement discussions then took place between the parties and on March 5, 2004, the Shipowner made an offer of settlement in the amount of \$76,031.82, which was accepted by the Administrator.

Status

The file was closed on March 31, 2004.

Related files

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-01 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-02 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-03 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-04 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-05 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-06 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-08 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-09 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-10 (same incident, different claimant)

Skaubryn Mystery Spill – Leedon Claim (2000)

Location: Vancouver Harbour, BC

Case number: 120-233-C1-08

The Incident

An oil spill was reported in late evening, August 3, 2000, at Seaboard Terminal, North Vancouver, British Columbia. Two ships were berthed at the terminal, the *Skaugran* and the *Skaubryn*. Early on August 4, 2000, the Vancouver Port Authority (VPA) responded to the spill and tasked local contractors for cleanup. Later that morning, VPA determined the spill was sufficiently large to transfer overall responsibility for the cleanup to the Canadian Coast Guard (CCG).

Following the oil spill, a number of vessels in the harbour also reported oil contamination, including the *Leedon*, a private, small, motor yacht. The *Leedon* was moored in a marina on the south side of Vancouver Harbour, in a downtown location when, on August 9, 2000, her owner contacted the CCG with respect to the craft having been found to be oiled.

The Claim

On October 8, 2000, the *Leedon*'s owner submitted a claim to the CCG for \$298.65, which claim covered hauling-out, power washing and repainting the affected part of the hull. The claim was then forwarded to the Administrator by the CCG on November 21, 2000. The Administrator wrote to the owner on November 24, 2000 providing him with information to assist with the presentation of a formal claim to the Ship-source Oil Pollution Fund (the Fund).

On January 11, 2001, the owner submitted a formal claim to the Fund with supporting documentation and information.

Assessment and Offer

The Administrator investigated and assessed the claim, and paid it in full, together with \$16.01 interest, in April 2001.

Recovery Action

A Statement of Claim was filed against the *Skaubryn*'s owner (the Shipowner) in July 2003 for recovery of all the compensation paid by the Fund in relation to the *Skaubryn* incident. This was amended and re-filed on September 3, 2003. A Statement of Defense was filed by the Shipowner on September 4, 2003.

Settlement discussions then took place between the parties and on March 5, 2004, the Shipowner made an offer of settlement in the amount of \$76,031.82, which was accepted by the Administrator.

Status

The file was closed on March 31, 2004.

Related files

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-01 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-02 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-03 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-04 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-05 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-06 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-07 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-09 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-10 (same incident, different claimant)

Skaubryn Mystery Spill – Silver Bullit Claim (2000)

Location: Vancouver Harbour, BC

Case number: 120-233-C1-09

The Incident

An oil spill was reported in late evening August 3, 2000 at Seaboard Terminal, North Vancouver, British Columbia. Two ships were berthed at the terminal, the *Skaugran* and the *Skaubryn*. Early on August 4, 2000, the Vancouver Port Authority (VPA) responded to the spill and tasked local contractors for cleanup. Later that morning, VPA determined the spill was sufficiently large to transfer overall responsibility for the cleanup to the Canadian Coast Guard (CCG).

Following the oil spill, a number of vessels in the harbour also reported oil contamination, including the *Silver Bullit*, a family-owned and operated 7-metre aluminium workboat. The boat was working by the B.C. Sugar Company dock on the south side of Vancouver Harbour on August 4 and 5, 2000, when the hull and engine cooling system were stated to have become oil contaminated.

The Claim

On August 10, 2000, the *Silver Bullit*'s owner (the Owner) wrote to the CCG indicating a wish to register a claim for damages against the deep-sea vessels which had caused the oil contamination. The correspondence was then passed by the CCG to the Administrator on November 21, 2000. On November 30, 2000, the Administrator wrote to the Owner asking for written confirmation that he wished to make a claim on the Ship-source Oil Pollution Fund and, at the same time, providing information as to how to make such a claim. After numerous follow-ups, on February 19, 2003, the Owner sent a letter to the Administrator enclosing the receipts that had been requested and advising that his claim was in the amount of \$8,585.16.

Assessment and Offer

The Administrator engaged a marine surveyor to conduct an investigation on certain aspects of the claim, following which the claim was found not to be established. The Owner was informed of the decision on July 17, 2003, while noting that it would become final after 30 days unless additional evidence or arguments were provided. Since no response was received from the Owner, the claim was rejected.

Status

The file was closed on March 31, 2004.

Related files

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-01 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-02 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-03 (same incident, different claimant)
Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-04 (same incident, different claimant)
Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-05 (same incident, different claimant)
Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-06 (same incident, different claimant)
Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-07 (same incident, different claimant)
Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-08 (same incident, different claimant)
Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-10 (same incident, different claimant)

Skaubryn Mystery Spill – 17' Speedboat Claim (2000)

Location: Vancouver Harbour, BC

Case number: 120-233-C1-10

The Incident

An oil spill was reported in late evening August 3, 2000 at Seaboard Terminal, North Vancouver, British Columbia. Two ships were berthed at the terminal, the *Skaugran* and the *Skaubryn*. Early on August 4, 2000, the Vancouver Port Authority (VPA) responded to the spill and tasked local contractors for cleanup. Later that morning, VPA determined the spill was sufficiently large to transfer overall responsibility for the cleanup to the Canadian Coast Guard (CCG).

Following the oil spill, a number of vessels in the harbour also reported oil contamination, including a 17' speedboat.

The Claim

On August 29, 2000, the speedboat owner submitted a claim in the amount of \$500.00 to the CCG for cleaning his boat of oil. The claim was then passed to the Administrator on November 21, 2000 and on November 24, 2000, the Administrator wrote to the boat owner requesting confirmation that he wished to make a claim against the Ship-source Oil Pollution Fund (the Fund). The boat owner replied to the Administrator on December 4, 2000 confirming his claim against the Fund.

Assessment and Offer

The Administrator investigated and assessed the claim, and on March 30, 2001, he requested substantiation for the individual amounts making up the claim. The claimant replied on June 10, 2002 advising that he did not have any specific receipts. Due to the lack of supporting documents, the claim was rejected.

Status

The file was closed on March 31, 2003.

Related files

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-01 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-02 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-03 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-04 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-05 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-06 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-07 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-08 (same incident, different claimant)

Skaubryn (2000), Seaboard Terminal, North Vancouver, BC, Case number: 120-233-C1-09 (same incident, different claimant)

Rivers Inlet (1999)

Location: Deep Bay, BC
Case number: 120-234-C1

The Incident

The *Rivers Inlet*, a Canadian registered wooden fishing vessel, built in 1926, sank at her berth in Deep Bay, British Columbia on June 16, 1999, releasing oil, of which an estimated 330 litres were aboard. It was stated that she was no longer engaged in fishing but in transporting wooden shake blocks for cutting. Moreover, the vessel had an ingress of water, which the owner was aware of, and had arranged for pumping.

There were clam and oyster harvesting areas in Deep Bay. The local Harbour Master reported the sinking, which was in a small craft harbour, and the Canadian Coast Guard (CCG) responded by engaging contractors. On June 25, 1999, the owner signed an agreement authorizing the Crown to remove and dispose of the vessel, and indemnifying for all costs, expenses and liabilities incurred by the Crown. On June 28, 1999, a CCG contractor raised the vessel. It was later broken up and disposed of.

The Claim

On March 1, 2000, the owner stated that he had no money to meet his obligations regarding the sinking. Therefore, on June 15, 2000, the Crown filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$15,777.43 to recover the CCG's costs and expenses in the incident.

Assessment and Offer

The Administrator investigated and assessed the claim, which included costs for oil pollution response, salvage and wreck removal. On December 12, 2000, he offered to settle the claim for \$10,819.91, plus the appropriate interest of \$1,248.38, which amount, in his view, related to oil pollution response, and on the same day, the payment of the settlement amount was made to the Crown.

Recovery Action

On October 23, 2001, the Administrator received the shipowner's written acknowledgment of a debt to the Fund in the amount of \$12,068.29 and agreement to extend the time by which the Fund could bring a recovery action up to December 31, 2006. In the meantime, the Administrator evaluated the Fund's recovery options, but considering that any recovery action did not appear promising, he closed his file on the incident.

Status

The file was closed on March 31, 2002.

Texada (2000)

Location: Dolomite Narrows, BC

Case number: 120-242-C1

The Incident

Early in the morning of August 4, 2000, the *Texada*, a Canadian registered wooden fishing vessel, built in Nova Scotia in 1930, went heavily aground in Dolomite Narrows, locally known as Burnaby Narrows, a dangerous passage, near the southern end of the Queen Charlotte Islands, British Columbia. The area is near Gwaii Hacas National Park Reserve - Haida Heritage Site. The grounding was responded to by the Canadian Coast Guard, Parks Canada and a West Coast salvage company (the Salvor), which was engaged to assist with the salvage of the *Texada*.

By August 7, 2000, the fuel had been removed from the tanks of the vessel but other residual oils remained on board. On August 8, 2000, the *Texada* was successfully refloated and then beached nearby to effect temporary repairs. During this operation, an unknown quantity of oil escaped from the vessel and the slick extended out into the inlet, requiring a shoreline cleanup.

Measures taken by the Administrator

The Administrator was made aware of this incident on August 5, 2000 by the Salvor's counsel. On August 18, 2000, the Administrator received a copy of a letter from the Salvor's counsel advising that the Salvor would not present any claim to the Government of Canada for their services and that the owner would bear full cost of the incident from the date of the grounding.

The Administrator employed a surveyor to assess the circumstances and condition of the vessel, who attended on site on August 19, 2000. Further to his survey, the surveyor advised on pollution aspects, condition of the vessel, proposed towing operation and suitability.

The Claim

No claim has been received by the Administrator with respect to this incident.

The CCG's costs and expenses in the amount of \$11,235.41 were paid in full by the shipowner on November 22, 2000.

Status

The file was closed on March 31, 2001.

Sandy S (2001)

Location: Prince Rupert Harbour, BC

Case number: 120-260-C1

The Incident

On February 9, 2001, the Canadian wooden fishing vessel *Sandy S*, built in 1947, sank alongside in Prince Rupert Harbour, British Columbia, releasing some of the approximately 900 litres of diesel fuel aboard. The local Department of Fisheries and Oceans Small Craft Harbour personnel provided initial response to the sinking. The owner stated that he would obtain help from friends to raise the vessel, which did not happen and thus, forced the Canadian Coast Guard (CCG) to act.

The CCG sent a letter to the owner, on February 13, 2001, advising him that, pursuant to the *Canada Shipping Act* (the Act), they held the owner responsible for all costs and expenses incurred by the Government of Canada in responding to the sinking of the *Sandy S*. In response, the owner stated that he had no funds available to salvage the vessel, but he signed a letter of undertaking to be responsible for all costs and expenses incurred by the Canadian authorities under sections 677 and 678 of the Act. On the same day, February 13, 2001, under contract to the CCG, salvors raised the vessel and removed the remaining oils aboard. The vessel was then towed to the Osborne Burn Site where it was temporarily beached.

The Claim

On October 26, 2001, the Crown submitted to the owner a claim in the amount of \$9,677.30 to recover the CCG's costs and expenses in the incident. However, no reply was received. The CCG then, by letter dated August 23, 2002, filed a claim with the Ship-source Oil Pollution Fund in the revised amount of \$9,433.02.

Assessment and Offer

Following investigation of the claim, the Administrator offered a settlement amount of \$9,331.69, together with \$1,035.94 interest, to the CCG on November 18, 2002, which was accepted and paid.

Status

The file was closed on March 31, 2003.

Destiny 1 (2001)

Location: Granville Island, Vancouver, BC

Case number: 120-266-C1

The Incident

On April 10, 2001, the Canadian charter passenger vessel *Destiny 1*, used for dinner cruises, caught fire while moored at Granville Island, Vancouver. A Canadian Coast Guard (CCG) craft and the Vancouver fireboat responded. Later the decision was made to tow the damaged hull to a mooring buoy at Kitsilano, Vancouver. The CCG put contractors on stand-by in case of need. The vessel was stated to have 1,300 litres of diesel fuel aboard and the CCG Emergency Response personnel took the opportunity to plug the two fuel tanks to help minimize the risk of pollution.

The following day, April 11, 2001, the *Destiny 1* sank at the Kitsilano mooring buoy. A representative of the vessel's insurers arrived on scene and declared the vessel a total loss. The CCG advised the owner of his responsibilities under the *Canada Shipping Act* to remove the pollutants and the vessel.

The CCG instructed their Search and Rescue vessel crews to check the wreck periodically. No pollution was reported. On April 12, 2001, the *Destiny 1* was raised and moved ashore. Precautions were taken to ensure that no pollution was caused during the dewatering of the hull.

The Claim

The CCG submitted a claim to recover their costs and expenses to the shipowner, but to no avail. Therefore, on December 20, 2002, the CCG filed a claim with the Ship-source Oil Pollution Fund.

Assessment and Offer

The Administrator investigated the claim and sent it to the shipowner for direct payment to the Crown. Settlement discussions took place between the shipowner's insurer and the Crown, and the settlement amount was paid to the CCG on May 20, 2003.

Status

The file was closed on March 31, 2003.

Egret Plume II (2001)

Location: Ladysmith, BC
Case number: 120-269-C1

The Incident

The Canadian wooden craft *Egret Plume II*, built in 1931 and registered as a yacht, sank in the Small Craft Harbour at Ladysmith, British Columbia on April 26, 2001. It was reported that the vessel had recently refueled and had an estimated 660 to 1,100 litres of diesel aboard. A contractor deployed booms and absorbent pads. The next day, April 27, 2001, the Canadian Coast Guard (CCG) Emergency Response personnel arrived on scene and assumed the On-Scene Commander role.

The owner stated that he had no money and did not take an active role in responding to the situation. On April 28, 2001, the CCG contracted to have the craft removed from the water and placed on a trailer in the Small Craft Harbour's property. No pollution was released during this operation.

In the sinking, the craft's bow was damaged, and the *Egret Plume II* was considered to have little or no value.

The Claim

The CCG attempted to recover its costs from the owner without success; therefore, by letter dated May 10, 2002, they submitted a claim to the Ship-source Oil Pollution Fund in the amount of \$5,075.02.

Assessment and Offer

On May 27, 2002, following investigation and assessment of the claim, the Administrator made an offer of settlement to the CCG, in the amount of \$4,904.36. The CCG accepted the offer on June 6, 2002 and the payment of the settlement amount, plus \$313.00 interest, was made by the Administrator on June 10, 2002.

Recovery Action

The Administrator wrote to the shipowner requesting cost recovery action, but to no avail.

Status

The file was closed on March 31, 2003.

Twinkle (2001)

Location: Campbell River, BC

Case number: 120-280-C1

The Incident

On August 3, 2001, the *Twinkle*, a Canadian wooden craft, built in 1925 and registered as a fishing vessel but, reportedly, no longer used in that employment, reported taking on water when off Cape Mudge in Discovery Passage, on the east side of Vancouver Island, British Columbia. A Canadian Coast Guard (CCG) cutter responded and the vessel was escorted safely back to Yucata Dock, Cape Mudge. During the rescue, the cutter had to pump the vessel to keep it afloat, and in the pumping operation, oil was discharged into the water. The oil came from the vessel's bilges and possibly some containers within the hold of the vessel. The *Twinkle* was then moved to Campbell River dock where she sank on August 7, 2001. The owner did not act. With the concurrence of the CCG Emergency Response, the Campbell River Harbour Authority responded to the threat of oil pollution. The *Twinkle* was raised by a contractor engaged by the CCG on August 9, 2001, and fuel onboard was removed.

The Claim

On June 4, 2002, the CCG submitted a claim to the Ship-source Oil Pollution Fund, in the amount of \$9,966.35, for its costs and expenses.

Assessment and Offer

Following assessment of the claim, the Administrator offered \$9,904.39 to the CCG in full and final settlement, which amount, together with \$623.02 interest, was paid on September 25, 2002.

Status

The file was closed on March 31, 2003.

Linbe (2001)

Location: Port Alberni, BC

Case number: 120-286-C1

The Incident

On September 13, 2001, the *Linbe*, a Canadian wooden craft, registered as a fishing vessel, was semi-submerged and spilling diesel in Alberni Inlet, on the west coast of Vancouver Island, British Columbia. The owner said he had no insurance but, later, called a local tug company. The harbour master monitored the incident and the tug company recovered the derelict using a barge. The tug company then invoiced the Canadian Coast Guard (CCG) for the work and was paid.

The Claim

On December 13, 2002, the CCG made a claim to the Ship-source Oil Pollution Fund in the amount of \$9,024.72.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator paid the CCG claim in full, plus \$344.68 interest, on January 17, 2003.

Status

The file was closed on March 31, 2003.

BCP Carrier #17 (2001)

Location: Ladysmith Harbour, BC
Case number: 120-289-C1

The Incident

On October 3, 2001, the *BCP Carrier #17*, a Canadian registered wooden barge, built in 1943, sank in Ladysmith harbour, British Columbia. The barge had some 2,300 litres of diesel and some 1,100 litres of hydraulic oil in tanks and equipment aboard. It was stated that the barge was in poor condition and that it may break apart if lifted. The Canadian Coast Guard (CCG) responded by booming the site, employed divers to plug the vents, and removed the loose oil that had been collected in the booms. The Ladysmith Town Council became involved as the incident occurred in a British Columbia Crown water lease.

On October 22, 2001, the owner advised the CCG that he was unable to handle the situation. Therefore, the CCG tasked a contractor to raise and remove the wreck. At the same time, the CCG continued their monitoring of the site. A local beach, with minor pollution, was cleaned up.

Preparations for salvage began on November 1, 2001, with the barge being partially floated on November 3 and pumped dry on November 4, 2001. Pumps were used to keep the barge dewatered. The salvors removed much of the pollution threat, including taking out the fuel tanks, before moving the barge to their premises for dismantling and disposal on November 17, 2001. The dismantling was completed by November 20, 2001.

Measures taken by the Administrator

The Administrator was first advised of this incident by the local CCG Emergency Response officer. He then engaged counsel and a surveyor.

The Claim

On November 7, 2002, the CCG submitted a claim to the Ship-source Oil Pollution Fund for its costs and expenses of \$101,531.26, incurred in responding to this incident.

Assessment and Offer

The Administrator investigated and assessed the claim, which included expenses relating to the loading out of remaining wood waste and the disposal of clean wood waste totaling \$14,412.00. Based on the special circumstances of this case, the Administrator was satisfied that these expenses were reasonably incurred as part of the measures necessary to repair, remedy, minimize or prevent pollution damage from the *BCP Carrier # 17*, and thus, found them established.

On February 27, 2003, an offer of settlement in the amount of \$101,367.75 was made by the Administrator, which offer was accepted by the CCG. The payment of the settlement amount, plus \$6,436.87 interest, was thereafter made to the CCG on March 6, 2003.

Status

The file was closed on March 31, 2003.

Rivtow Lion (2001)

Location: Sansum Narrows, BC

Case number: 120-291-C1

The Incident

On November 6, 2001, an oily sheen was observed coming from the *Rivtow Lion*, a Canadian steel tug, built in 1940, as she was moored in Sansum Narrows, Maple Bay, on the south east coast of Vancouver Island. There was a considerable amount of oil in the tug. The vessel owner was found but was unable to accept responsibility, forcing the Canadian Coast Guard (CCG) to act. The CCG contracted for the removal of oil from the vessel tanks to minimize the pollution threat. Besides, at the time, the *Rivtow Lion* was moored to an abandoned fish farm structure, a mooring not considered secure. The CCG then arranged for the tug to be towed to a proper mooring buoy in Patricia Bay.

On February 7, 2002, the CCG contractors advised that they had successfully emptied the tug of waste products and cleaned the hull. 23,154 litres of diesel, 11,889 litres of waste oil and 9,100 litres of oily water were recovered from the vessel. However, the removal of the oil in the tug tanks did not remove the threat of further pollution since there was also oil in the main engine and piping, which necessitated further work.

Concurrently, the CCG arranged to have the vessel ownership transferred to the Nanaimo Dive Association, so that the tug would eventually be sunk as an underwater artificial reef. For this to occur, it was necessary to meet Environment Canada (EC) standards for ocean dumping and to have the oil contamination and other debris removed. The *Rivtow Lion* was sunk in early May 2002.

Measures taken by the Administrator

The Administrator engaged a surveyor to monitor any actions regarding the vessel. Along with the CCG Emergency Response officer and a surveyor acting for the CCG, the surveyor made a visit to the tug on March 22, 2002.

The Claim

On October 10, 2002, the CCG filed a claim with the Ship-source Oil Pollution Fund in the amount of \$105,543.95.

Assessment and Offer

The Administrator investigated and assessed the claim. He became concerned that some of the costs claimed were not related to measures necessary to deal with oil pollution damage, but rather to meet EC standards for ocean dumping. On March 10, 2003, he then advised the CCG of items that were compensable and, on March 31, 2003, authorized payment of \$92,541.54, plus \$3,966.59 interest.

On March 31, 2003, the CCG requested the Administrator to reconsider certain items of the claim that had been disallowed, to which the Administrator replied that he would review any new or material information which the CCG might wish to provide to him in order to determine whether it would be appropriate to re-open his investigation and/or reconsider his assessment of these items. On May 8, 2003, the CCG provided the Administrator with new or material information. Further to his review of the newly submitted information, the Administrator advised the CCG, on June 10, 2003, that he had decided not to re-open his investigation.

Status

The file was closed on March 31, 2003.

First Lady (2002)

Location: Boat Harbour, BC

Case number: 120-333-C1

The Incident

The pleasure craft *First Lady* dragged its anchor during a storm and ran aground in Boat Harbour, south of Nanaimo, British Columbia, on December 25, 2002. The vessel had laid over to one side during the tide cycle, which caused it to flood and spill oil. The following day, the Canadian Coast Guard (CCG) arrived on scene and hired a local contractor to pull the vessel from the shore and re-set the anchor. The CCG Cutter *Skua* pumped out the remaining water from the interior of the vessel and towed it to the Institute of Ocean Sciences (IOS) in Sidney, British Columbia. An unknown quantity of diesel oil remained onboard.

The CCG requested a Letter of Undertaking from the owner on December 27, 2002, and the following day, faxed an invoice to the owner to cover the costs and expenses incurred. On December 30, 2002, the *First Lady* was secured at IOS Port Bay, lifted from the water and stored on the travel lift. No response had been received from the owner by January 21, 2003; hence, a « letter of intent to sell » was sent to him by the CCG. However, the letter was later returned marked « moved, address unknown ». Besides, attempts to contact the owner by telephone were unsuccessful. On January 24, 2003, the CCG obtained a new address for the vessel owner and a new « letter of intent to sell » was sent, but again without success. The CCG took over the vessel on February 5, 2003 pursuant to the *Canada Shipping Act* and initiated action to sell the vessel to recover its costs. The *First Lady* was sold to the successful bidder on February 21, 2003.

The Claim

The proceeds of the sale of the vessel having not covered the full cost of the CCG's involvement in the incident, on January 7, 2004, the CCG filed a claim with the Ship-source Oil Pollution Fund in the amount of \$2,539.15, being the balance of the CCG's costs that had not been recovered.

Assessment and Offer

Following investigation and assessment of the claim, on March 2, 2004, the Administrator made a first offer of settlement in the amount of \$2,316.38, which was then increased to \$2,390.51 to take into account further representations by the CCG. This offer was accepted by the CCG, and payment of the settlement amount, together with \$83.15 interest, was made on March 17, 2004.

Status

The file was closed on March 31, 2004.

Silver Eagle (2003)

Location: Cumshewa Inlet, BC

Case number: 120-339-C1

The Incident

The fishing vessel *Silver Eagle* had broken loose from her mooring lines on January 25, 2003 during severe weather and ran aground in Cumshewa Inlet, British Columbia, in an area that is home to a fish hatchery and fish pens. The vessel was lying on her side and there was loss of oil. The shipowner was attempting to salvage the vessel.

On January 30, 2003, the Canadian Coast Guard (CCG) took over the salvage operation and contracted a salvage team, who arrived on site on February 1, 2003. By the following day, the salvage team had refloated the vessel and cleaned both it and the grounding area. The vessel was then towed to Queen Charlotte City on February 3, 2003 and berthed at the Small Craft Harbour.

The vessel's engine had pumped the bilges and caused an oil sheen in the harbour on February 6, 2003, which was contained by an absorbent boom. Considering that this was not attended to in a correct manner, the following day, the CCG Auxiliary Unit 64 deployed a containment boom and removed the absorbent boom.

Measures taken by the Administrator

On February 17, 2003, the Administrator engaged counsel to contact the shipowner's insurers to obtain a Letter of Undertaking in favour of the Ship-source Oil Pollution Fund and the Crown.

Administrator as Party by Statute

CCG efforts to have the shipowner cover the response costs were unsuccessful. Hence, on November 27, 2003, the Crown filed a Statement of Claim in the amount of \$103,458.84 in the Federal Court of Canada against the shipowner and all others interested in the ship. The Administrator was named as a Party by Statute and filed his Statement of Defence on December 17, 2003.

To enable the shipowner's insurers to consider settlement of the claim, it was necessary to obtain evidence from the salvage team that had been contracted by the CCG. By March 19, 2004, the salvage contractor provided answers to the insurers' questions, following which the insurers' surveyor recommended a reduction of \$26,721.91 in contractor's costs. Counsel for the Crown indicated acceptance of the surveyor's findings. Following negotiations, the matter was settled by shipowner and insurers paying to the Crown \$66,356.03.

On March 7, 2005, the Federal Court granted an order by consent dismissing the Crown's action without costs to any party.

Status

The file was closed on March 31, 2005.

Northern Light V (2003)

Location: Baynes Sound, BC

Case number: 120-340-C1

The Incident

On February 3, 2003, it was reported that the *Northern Light V*, a converted cable layer, was abandoned and listing at anchor in Baynes Sound, British Columbia, which area was said to be a principal shellfish and fisheries habitat and of great economic importance to British Columbia. Two days later, the vessel was inspected by the Canadian Coast Guard (CCG), the Transport Canada Marine Safety and the Provincial Ministry of Aquaculture Food and Fisheries. The hull was found to be badly rusted with signs of severe wastage at the draft level, with an unknown quantity of oil and other unknown chemicals on board.

The CCG located the owner and attempted to deliver a Removal Notice letter by registered mail, but the owner refused to accept it. Accordingly, the CCG began to consider the available options. Following a detailed inspection of the vessel carried out by the CCG and a surveyor acting for the Administrator, it was concluded that the vessel was in imminent danger of sinking because of the condition of the hull, and therefore posed a considerable threat of oil pollution. The vessel was then towed to Ladysmith on February 22, 2003 and boomed off. The CCG solicited bids for oil removal and breaking up of the vessel since it was not possible to dump it. A contract was issued on March 28, 2003 to the successful bidder and work on oil removal from the vessel and removal of oil contaminated material was carried out.

Measures taken by the Administrator

The Administrator appointed a nautical surveyor, who, along with the CCG, carried out a detailed inspection and survey of the vessel on February 14, 2003.

The Claim

On January 16, 2004, the CCG filed a claim with the Ship-source Oil Pollution Fund in the amount of \$257,387.65 to cover their costs and expenses incurred in responding to the incident.

Assessment and Offer

Following investigation and assessment of the claim, on March 9, 2004, the Administrator made an offer of settlement for the whole amount of the claim, which was accepted by the CCG on March 11, 2004. Payment of the settlement amount, together with \$12,534.14 interest, was thereafter made on March 16, 2004.

Recovery Action

After considering possible recovery under subsection 87(3) of the *Marine Liability Act*, the Administrator concluded that further measures were not justified.

Status

The file was closed on March 31, 2006.

Jolie Vie (2002) ✻

Location: Bedwell Bay, BC
Case number: 120-343-C1

The Incident

The 34-foot cabin cruiser *Jolie Vie* ran aground in Bedwell Bay, British Columbia during the early hours of August 10, 2002. The four persons on board, including two children, were rescued by the Canadian Coast Guard Deep Cove lifeboat. The vessel sustained underwater damage to her bow and was partially submerged by the stern. She had on board an unknown quantity of diesel fuel.

The owner contracted a pleasure craft salvage company to refloat the vessel. The Transport Canada Marine Safety (TCMS) duty officer arranged to have the West Coast Response Organization mobilized and rig a containment boom around the vessel. The shipowner was advised that he would be liable for the incurred costs. By late afternoon, the vessel was refloated and towed to a local marina where it was lifted from the water and placed ashore.

The Claim

TCMS efforts to recover the costs of the Response Organization from the shipowner were unsuccessful. Therefore, on February 20, 2003, TCMS filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$5,551.22.

Assessment and Offer

Following a preliminary investigation of the claim, the Administrator attempted to have the shipowner meet his obligations under the *Marine Liability Act* and make direct payment to TCMS, but this was unsuccessful. Hence, the Administrator made the necessary applications to the Federal Court of Canada on May 5, 2003 and arrested the vessel.

The Administrator then investigated and assessed the TCMS claim. On July 9, 2003, he offered \$3,479.53 in settlement of the claim, which was accepted by TCMS. Payment of the settlement amount, plus \$86.37 interest, was made on July 30, 2003.

Recovery Action

With the vessel still under arrest, following extensive communications between the shipowner and counsel for the Fund with a view to recovering the amount paid out to TCMS, agreement was reached in early September 2003 that the shipowner would repay the amount of \$2,250.00 by means of monthly cheques. The first of these in the amount of \$500.00 was received on September 22, 2003 and no further payments were received afterwards.

Given that the costs of proceeding with an application for judgment and sale of the *Jolie Vie* would probably exceed the value of the vessel, counsel for the Fund requested the dismissal without costs of the Administrator's action, which was ordered by the Court on September 13, 2004.

Status

The file was closed on March 31, 2005.

Sandpiper - Steveston Harbour Authority Claim (2003) ⚓

Location: Steveston Harbour, BC

Case number: 120-365-C1-1

The Incident

The *Sandpiper*, an old dredge, had been berthed at the disused Pacific Cannery Dock in Steveston Harbour, British Columbia since December 2001 further to her arrest for matters other than pollution. During the night of April 17, 2003, she sank at her berth and oil was released into the water. The Steveston Harbour Authority (SHA) was notified and the following morning, cleanup commenced with the assistance of the Canadian Coast Guard (CCG). The shipowner was notified of the occurrence by the SHA but showed reluctance to become actively involved in the cleanup. The CCG took over the cleanup on April 25, 2003.

On May 7, 2003, the shipowner and a salvage crew were on site preparing to raise the dredge. This was accomplished on May 12, 2003.

The Claim

On July 9, 2003, the SHA filed a claim with the Ship-source Oil Pollution Fund in the amount of \$1,587.53 for their response activities.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator made an offer of settlement of \$1,517.93, which was accepted by the SHA. Payment of the settlement amount, plus \$524.25 interest, was thereafter made on July 16, 2003.

Recovery Action

The Administrator considered possible recovery measures pursuant to subsection 87(3) of the *Marine Liability Act*. However, having been advised that there was little, if any, value in the sunken vessel even before incurring the costs of raising and towing it, he concluded that such measures were not justified.

Status

The file was closed on March 31, 2006.

Related file

Sandpiper (2003), Steveston Harbour, BC, Case number: 120-365-C1-2 (same incident, different claimant)

Sandpiper - CCG Claim (2003)

Location: Steveston Harbour, BC

Case number: 120-365-C1-2

The Incident

The *Sandpiper*, an old dredge, had been berthed at the disused Pacific Cannery Dock in Steveston Harbour, British Columbia since December 2001 further to her arrest for matters other than pollution. During the night of April 17, 2003, she sank at her berth and oil was released into the water. The Steveston Harbour Authority (SHA) was notified and the following morning, cleanup commenced with the assistance of the Canadian Coast Guard (CCG). The shipowner was notified of the occurrence by the SHA but showed reluctance to become actively involved in the cleanup. The CCG took over the cleanup on April 25, 2003.

On May 7, 2003, the shipowner and a salvage crew were on site preparing to raise the dredge. This was accomplished on May 12, 2003.

The Claim

On January 29, 2004, the CCG filed a claim with the Ship-source Oil Pollution Fund in the amount of \$20,151.97 for their costs and expenses in responding to the incident since efforts to recover these monies from the shipowner had elicited no response.

Assessment and Offer

The Administrator investigated and assessed the claim and, on March 4, 2004, made an offer of settlement for the full amount of the claim. Payment of the settlement amount, plus \$831.38 interest, was thereafter made on March 16, 2004.

Recovery Action

The Administrator considered possible recovery measures pursuant to subsection 87(3) of the *Marine Liability Act*. However, having been advised that there was little, if any, value in the sunken vessel even before incurring the costs of raising and towing it, he concluded that such measures were not justified.

Status

The file was closed on March 31, 2006.

Related file

Sandpiper (2003), Steveston Harbour, BC, Case number: 120-365-C1-1 (same incident, different claimant)

Pender Lady (2003)

Location: Naden Harbour, Queen Charlotte Islands, BC
Case number: 120-371-C1

The Incident

On June 23, 2003, the *Pender Lady*, an old British Columbia ferry, built in 1923, was sinking and listing to port. Together with another old ferry named *Samson IV*, it was moored at Naden Harbour on the north end of the Queen Charlotte Islands, British Columbia and used as a fishing lodge with paying guests. The guests were safely taken ashore by the Canadian Coast Guard (CCG) cutter *Arrow Post* and transported to Masset. On June 24, 2003, CCG response personnel were on scene and the vessels were boomed off. The stern of the *Pender Lady* submerged in the early morning hours and later that day sank completely and released oil into the water.

The owner pointed out to the CCG that the vessel had, at some time in the past, been stuffed full of foam plastic blocks below decks, presumably to add buoyancy and maintain the vessel afloat. Pumps, including those of the *Arrow Post*, were unable to reduce the flooding, which indicated a non-watertight hull condition. At the time of the incident, the *Pender Lady* was on the Canadian Ship Registry, but had not apparently been subjected to Transport Canada Marine Safety inspection and safety surveys for a considerable time. In addition, it was discovered that the *Samson IV* was in the same condition as the *Pender Lady*, even down to the foam blocks for buoyancy.

The owner having no insurance and being financially incapable of responding to the incident, the CCG took it over and engaged a contractor. It was decided that the only way to rectify the pollution problem was to totally demolish both vessels and dispose of them as recoverable scrap or by burning onshore, which was done. At the same time, work crews recovered oil from the water as it was released and also cleaned up the shoreline as necessary.

Measures taken by the Administrator

The Administrator engaged a marine surveyor to advise him on the response operation.

The Claim

On February 11, 2004, the CCG submitted a claim to the Ship-source Oil Pollution Fund for their costs and expenses in responding to the incident, in the amount of \$2,101,017.72.

Assessment and Offer

Following investigation and assessment of the claim, on March 31, 2004, the Administrator made an offer of settlement, which was accepted by the CCG that same day. On April 1, 2004, payment of \$1,659,663.06, which included interest, was made.

Recovery Action

On May 3, 2006, the Administrator instructed counsel to undertake cost recovery action pursuant to section 87(3) of the *Marine Liability Act*. An action was then launched in the Federal Court of Canada against the vessels' owner, Samson Marine Resources Inc. (the Defendant). After extensive discoveries, participation in several dispute resolution, case management and pre-trial conferences, as well as a thorough examination of the Defendant's business, it was apparent that there was a very little value in Samson Marine Resources Inc. Given the high cost of a six-week trial and considering that the prospect of recovering any substantial amount was poor, after consultation with his solicitors, the Administrator concluded that proceeding with the trial was not justified, and accepted the settlement offer of \$30,000.00 all inclusive.

Status

The file was closed on March 31, 2009.

Gillking (2003)

Location: Bamfield, BC
Case number: 120-376-C1

The Incident

On August 12, 2003, the wooden tug *Gillking*, built in 1942, sank at the wharf at Bamfield, British Columbia, releasing diesel oil in the water. The Canadian Coast Guard (CCG) Bamfield lifeboat responded to the incident, boomed off the area and commenced using absorbent pads to clean up the released oil.

The shipowner was contacted by the CCG but proved unable or unwilling to accept responsibility. Therefore, a Response Order was obtained and the CCG engaged a local contractor on a daily basis to effect cleanup. Divers were also hired to plug the fuel tank vents.

On August 27, 2003, a contract for the removal and disposal of the vessel was awarded by the CCG to the successful bidder. The vessel was raised on September 4, 2003 and towed to Ladysmith on September 8, 2003. The *Gillking* was at the contractor's yard the next day when work started on the disposal of the vessel. The remaining oil and oily machinery was removed from the tug and by October 30, 2003, the vessel had been broken up and disposed of in a landfill site.

The Claim

On January 27, 2004, the CCG filed a claim with the Ship-source Oil Pollution Fund in the amount of \$144,344.47 for their costs and expenses in responding to the incident.

Assessment and Offer

The Administrator investigated the claim and requested further information from the CCG on March 5, 2004. On March 9, 2004, he offered \$132,406.27 in settlement of the claim, which offer was accepted by the CCG. Payment of the settlement amount, plus \$3,003.46 interest, was authorized on March 17, 2004.

Status

The file was closed on March 31, 2004.

Mary Todd (2003)

Location: Tsehum Harbour, BC

Case number: 120-380-C1

The Incident

On October 5, 2003, the *Mary Todd*, a seine fishing vessel, sank off the Fisherman's Wharf in Tsehum Harbour, British Columbia, with resulting oil pollution. The Canadian Coast Guard (CCG) responded and ascertained that the owner was unable to respond to the incident. The vessel was boomed off by the CCG and was raised by a CCG contractor on October 6, 2003. The *Mary Todd* was then taken to the shipyard at Mitchell Island and lifted from the water thereby eliminating the threat of future oil pollution.

The Claim

On June 28, 2004, the CCG submitted a claim to the Ship-source Oil Pollution Fund in the amount of \$18,336.77 for its costs and expenses in the incident.

Assessment and Offer

The Administrator investigated and assessed the claim and on July 15, 2004, he directed payment in the amount of \$18,336.77, plus \$691.05 interest, to the CCG.

Recovery Action

While considering his recovery options pursuant to section 87(3) of the *Marine Liability Act*, the Administrator concluded that recovery measures were not justified.

Status

The file was closed on March 31, 2007.

Black Dragon (Heung Ryong) - CCG Claim (2003)

Location: Barkley Sound (Mayne Bay), BC

Case number: 120-382-C1-1

The Incident

The *Black Dragon* was an old Chinese flag-fishing vessel of some 120 feet in length involved in the smuggling of illegal immigrants to the West Coast at the end of 1999 and had been seized by the authorities and tied up at Port Alberni, British Columbia. The vessel had then been sold by Crown Assets to a Reef Society, which later resold it to a private owner. Over the ensuing years, the *Black Dragon* had been moored at several locations and was in a dilapidated condition. She eventually ended up moored to a Department of National Defence buoy in Mayne Bay, where she sank on October 26, 2003 in about 120 feet of water, releasing an unknown amount of diesel into the surrounding waters. The Canadian Coast Guard (CCG) Bamfield lifeboat crew boomed off the vessel. Efforts by the CCG to get the owner to respond to the incident and the resultant oil pollution were to no avail. Consequently, the CCG engaged a contractor to raise the vessel and work commenced on November 7, 2003.

Initial efforts over the next two days to conduct the lift were unsuccessful. It was apparent that the 200-tonne capacity-lifting derrick was not sufficient. The vessel was firmly stuck in the very soft mud bottom. Heavier equipment was on site on November 28, 2003 and the *Black Dragon* was raised with great difficulty on December 5, 2003. Water and mud were pumped out of the vessel over the next two days and some hull repairs made in preparation for the tow to Ladysmith for disposal.

On December 9, 2003, while undertow and in a position off Johnstone Reef, the *Black Dragon* sank again. The CCG did not undertake further action regarding this sinking.

Measures taken by the Administrator

Upon being made aware of the incident, the Administrator engaged his own marine surveyor to attend on site.

The Claim

On February 3, 2004, the CCG filed a claim in the amount of \$728,797.28 with the Ship-source Oil Pollution Fund to cover costs and expenses incurred for their response to the incident.

Assessment and Offer

Following considerable investigation and assessment of the claim, on March 30, 2004, the Administrator made an offer of settlement in the amount of \$568,749.63, which was accepted by the CCG that same day. Payment of \$568,749.63, plus \$8,897.00 interest, was subsequently directed by the Administrator in full and final settlement of the claim.

Status

The file was closed on March 31, 2008.

Related Files

Black Dragon (Heung Ryong), Barkley Sound (Mayne Bay), BC, Case number: 120-382-C1-2
(same incident, different claimant)

Black Dragon (Heung Ryong), Barkley Sound (Mayne Bay), BC, Case number: 120-382-C1-3
(same incident, different claimant)

Black Dragon (Heung Ryong) - Toquaht First Nation Claim (2003) ♦➔

Location: Barkley Sound (Mayne Bay), BC
Case number: 120-382-C1-2

The Incident

The *Black Dragon* was an old Chinese flag-fishing vessel of some 120 feet in length involved in the smuggling of illegal immigrants to the West Coast at the end of 1999 and had been seized by the authorities and tied up at Port Alberni, British Columbia. The vessel had then been sold by Crown Assets to a Reef Society, which later resold it to a private owner. Over the ensuing years, the *Black Dragon* had been moored at several locations and was in a dilapidated condition. She eventually ended up moored to a Department of National Defence buoy in Mayne Bay, where she sank on October 26, 2003 in about 120 feet of water, releasing an unknown amount of diesel into the surrounding waters.

The Canadian Coast Guard (CCG) Bamfield lifeboat crew boomed off the vessel. Efforts by the CCG to get the owner to respond to the incident and the resultant oil pollution were to no avail. Consequently, the CCG engaged a contractor to raise the vessel and work commenced on November 7, 2003.

Initial efforts over the next two days to conduct the lift were unsuccessful. It was apparent that the 200-tonne capacity lifting derrick was not sufficient. The vessel was firmly stuck in the very soft mud bottom. Heavier equipment was on site on November 28, 2003 and the *Black Dragon* was raised with great difficulty on December 5, 2003. Water and mud were pumped out of the vessel over the next two days and some hull repairs made in preparation for the tow to Ladysmith for disposal.

On December 9, 2003, while undertow and in a position off Johnstone Reef, the *Black Dragon* sank again.

The Claim

On January 5, 2005, the Administrator received a notice of claim from the Toquaht First Nation (the Claimant) in Ucluelet, British Columbia for oil pollution damage from the *Black Dragon*. It was alleged that damage to clams occurred as a result of the *Black Dragon* being towed, partially submerged, to the mouth of Pipestem Inlet, Toquaht Bay, Barkley Sound, after its raising and prior to its tow to Ladysmith.

Assessment and Offer

On January 13 and 18, 2005, the Administrator requested further information from the Claimant, and on February 3, 2005, he wrote to the CCG advising of the claim and requesting documents and information regarding the incident and related operations. Some of the requested information was obtained by the Administrator during his investigation. In addition, the Administrator consulted a marine surveyor and experts in the aquaculture and fisheries sectors.

Following his investigation, on February 8, 2007, the Administrator wrote to the Claimant informing him that he was unable to find the claim to be established. He also advised that if the Claimant provided further evidence, he would reopen the investigation. However, no response was received from the Claimant.

Status

The file was closed on March 31, 2008.

Related Files

Black Dragon (Heung Ryong), Barkley Sound (Mayne Bay), BC, Case number: 120-382-C1-1
(same incident, different claimant)

Black Dragon (Heung Ryong), Barkley Sound (Mayne Bay), BC, Case number: 120-382-C1-3
(same incident, different claimant)

Black Dragon (Heung Ryong) - Parks Canada Claim (2003)

Location: Barkley Sound (Mayne Bay), BC
Case number: 120-382-C1-3

The Incident

The *Black Dragon* was an old Chinese flag-fishing vessel of some 120 feet in length involved in the smuggling of illegal immigrants to the West Coast at the end of 1999 and had been seized by the authorities and tied up at Port Alberni, British Columbia. The vessel had then been sold by Crown Assets to a Reef Society, which later resold it to a private owner. Over the ensuing years, the *Black Dragon* had been moored at several locations and was in a dilapidated condition. She eventually ended up moored to a Department of National Defence buoy in Mayne Bay, where she sank on October 26, 2003 in about 120 feet of water, releasing an unknown amount of diesel into the surrounding waters. Subsequent to the sinking, a Regional Environmental Emergency Team (REET) chaired by Environment Canada (EC) was convened to develop strategies in response to the incident. Participants in the REET process included EC, the Canadian Coast Guard (CCG), the Department of Fisheries and Oceans, Parks Canada and local First Nations.

A Parks Canada rigid hull was tasked to work in joint support of the CCG to monitor the spill and to assist with product recovery efforts. The vessel dedicated 30 days on the response, working approximately six hours per day. As a result, there was some contamination of equipment and expenses for fuel, oil and maintenance.

The Claim

On February 24, 2005, the Pacific Rim National Park Reserve of Canada sent a letter to the CCG requesting the reimbursement of its costs and expenses incurred in the response to the *Black Dragon* incident, amounting to \$9,541.76. The CCG then sent the letter to the Ship-source Oil Pollution Fund (the Fund) on April 1, 2005.

Assessment and Offer

Upon receipt of the claim, the Administrator requested from CCG information and facts respecting the appropriateness of the claim in the circumstances of the response. The CCG replied that since they did not request the support of the Pacific Rim National Park Reserve of Canada during the incident, as described, they could not provide substantiation on the claim. In addition, the CCG informed the Administrator that the Pacific Rim National Park Reserve of Canada would not pursue their claim against the CCG or the Fund.

Status

The file was closed on March 31, 2008.

Related Files

Black Dragon (Heung Ryong), Barkley Sound (Mayne Bay), BC, Case number: 120-382-C1-1 (same incident, different claimant)

Black Dragon (Heung Ryong), Barkley Sound (Mayne Bay), BC, Case number: 120-382-C1-2 (same incident, different claimant)

Note: Information on this claim was retrieved from the Fund's information management system and the Fund's archived files, as this claim is not reported in any Administrator's annual report.

Kaien (2004)

Location: Slack Point, Ladysmith Harbour, BC

Case number: 120-393-C1

The Incident

The *Kaien*, a 50-foot long ex-fish packing vessel, was moored to the pilings at Slack Point, Ladysmith Harbour, British Columbia when, on January 7, 2004, she partially sank, lying on her side and leaking oil. She was then righted by the owner with the unsolicited aid of neighbors and a local marine contractor, but sometime during the night of January 13/14, 2004, she sank completely. There was some oil pollution as a result of the incident and the area around the vessel was boomed off.

The vessel owner was contacted by the Canadian Coast Guard (CCG) as to his intentions but he advised that he had no money to deal with the situation and turned the vessel over to the CCG, who engaged a contractor to raise the vessel. The *Kaien* was raised on January 15, 2004 and taken to the contractor's yard for decontamination and disposal, which work was completed on January 26, 2004.

Measures taken by the Administrator

The Administrator engaged a marine surveyor to report on the various aspects of the incident and the proposed response.

The Claim

On February 13, 2004, the CCG filed a claim in the amount of \$12,067.88 with the Ship-source Oil Pollution Fund for their incurred costs and expenses with respect to the incident.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator made a first offer of settlement on March 5, 2004, which was then revised to the full amount of the claim following receipt of further information from the CCG. The revised offer was accepted by the CCG and payment of \$12,067.88, plus \$99.67 interest, was made on March 16, 2004.

Status

The file was closed on October 31, 2004.

Beaufort Spirit (2003)

Location: Lantzville, Nanoose Bay, BC

Case number: 120-393A-C1

The Incident

It was reported to the Canadian Coast Guard (CCG) that the *Beaufort Spirit*, an old riveted construction steel tug built in about the late 1940s, was leaking oil into the waters of the Nanoose First Nations Marina at Lantzville, Nanoose Bay, British Columbia on May 11, 2003. The next day, the CCG and Transport Canada Marine Safety met with the owner to inspect the vessel. The owner was advised to plug the leak which he did and was also instructed by the CCG to do further work on the vessel's tanks and bilges to ensure that there was no future threat of pollution.

On January 20, 2004, the CCG received a further report that the vessel was in a state of disrepair and at risk of leaking oil into the marine environment. The next day, the vessel was towed to Ladysmith and inspected by CCG who discovered on board a container with 1,000 gallons of oil and some 25 pails that were leaking oil onto the deck of the vessel. The vessel was also beginning to list.

On January 22, 2004, the CCG took over the incident. A contractor was engaged and by February 6, 2004, the CCG contractor, who had also pumped oily water from the hull, had removed drums, cans and propane tanks from the vessel. Another contractor was also selected, further to a bid process, to demolish and break up the vessel and resolve the remaining pollution problem. By March 28, 2004, the vessel had been broken up and disposed of.

Measures taken by the Administrator

The Administrator engaged a surveyor to advise him on the condition of the vessel. The surveyor's inspection of the vessel on January 28, 2004 revealed that it was a non-operable floating derelict and that there was a considerable risk of oil pollution, particularly if she sank at her moorings.

The Claim

On July 11, 2004, the CCG submitted a claim to the Ship-source Oil Pollution Fund for \$132,775.12 representing its costs and expenses in the incident.

Assessment and Offer

The Administrator investigated and assessed the claim. On September 29, 2004, he requested further information from the CCG, which information was provided by letter dated November 19, 2004. However, the CCG refused to provide copies of tender documents respecting the contract for the breakup of the vessel. On December 10, 2004, the Administrator wrote to the CCG reminding them of his powers of investigation under Part I of the *Inquiries Act* pursuant to section 86(2) of the *Marine Liability Act* (MLA) and, on the evidence available, offered compensation in the amount of \$109,220.00 plus interest, in settlement of the CCG claim.

There was an exchange of correspondence between the CCG and the Administrator with respect to the use of the "firm price" contracting approach used in this case by the CCG for the breakup of the vessel. On February 22, 2005, the CCG accepted the Administrator's offer of compensation, and payment of \$113,971.50, which included \$4,751.50 in interest, was directed on February 23, 2005.

Recovery Action

The Administrator considered whether or not it was appropriate to take recovery measures under section 87(3) of the MLA. On May 15, 2006, his counsel advised that there was not much point in pursuing litigation against the owner of the *Beaufort Spirit*; therefore, he was of the view that reasonable recovery efforts had been taken.

Status

The file was closed on May 31, 2006.

Anscomb – CCG Claim (2004)

Location: Woodberry Creek Kootenay Lake, BC

Case number: 120-394-C1

The Incident

The *Anscomb* had served as a provincially owned ferry on Kootenay Lake, British Columbia, until April 2003, when she was sold to a private operator. On January 11, 2004, the vessel sank in deep water with resulting oil pollution. The Provincial Ministry of Water, Air and Land Protection (WALP) assumed lead agency status, provided the initial clean-up procedures and hired a contractor. Work was done on cleaning up oil surfacing from the sunken vessel and recovering contaminated debris including shoreline cleanup.

On January 23, 2004, the Canadian Coast Guard (CCG) took over the lead agency status from the Ministry of WALP. With the bulk of the work completed, the contractor was stood down on January 28, 2004. The work of incinerating contaminated debris, oiled absorbent pads and boom maintenance was conducted by CCG personnel. Since it had been determined that salvage of the sunken vessel was not feasible and there was no recoverable oil at the site, work was terminated on February 2, 2004.

The Claim

On March 11, 2004, the CCG submitted a claim in the amount of \$29,753.68 for costs and expenses to the Ship-source Oil Pollution Fund (the Fund).

Assessment and Offer

Following investigation and assessment of the claim, the Administrator made an offer of settlement of \$24,316.40 on March 24, 2004. CCG accepted the offer and payment of \$24,316.40, plus \$195.23 interest, was directed by the Administrator on March 25, 2004.

Recovery Action

On September 28, 2004, pursuant to section 87(3) of the *Marine Liability Act*, counsel for the Administrator filed a statement of claim in the Federal Court in Vancouver against the *Anscomb* to recover the amount paid by the Fund with respect to this incident, totalling approximately \$47,000.00. Consequently, the *DPW No. 590*, a sister ship of the *Anscomb*, was arrested on October 4, 2004 on Kootenay Lake, near the city of Nelson, British Columbia. On February 17, 2005, the Federal Court ordered default judgment against the *Anscomb* and the *DPW No. 590* for an amount of liability to be determined. On March 10, 2005, counsel for the *Anscomb* served the Administrator's counsel with a notice of a motion to have the default judgment and the arrest of the *DPW No. 590* set aside, and for leave to file a defence. Counsel for the parties then postponed hearing of the motion and had settlement discussions. On December 7, 2005, a settlement agreement was reached for the amount of \$40,000.00. Under the terms of the agreement, an initial sum of \$3,500.00 was to be paid and the balance by way of monthly payments of \$500.00.

Payments were made at irregular intervals for a total amount of \$6,500.00, the last payment being received on November 21, 2007.

On December 21, 2009, on the Administrator's instruction, counsel engaged the services of CPA International Investigation Inc. to investigate on any reasonable measures that could be taken to collect the outstanding amount. Based on the results of the investigation, the Administrator concluded that all reasonable measures had been taken but with no reasonable prospect of success. He therefore closed the file.

Status

The file was closed on March 10, 2010.

Related file

Anscomb (2004), Woodberry Creek Kootenay Lake, BC, Case number: 120-394-C1-1 (same incident, different claimant)

Anscomb – Provincial Ministry of Water, Air and Land Protection Claim

(2004) 

Location: Woodberry Creek Kootenay Lake, BC
Case number: 120-394-C1-1

The Incident

The *Anscomb* had served as a provincially owned ferry on Kootenay Lake, British Columbia, until April 2003, when she was sold to a private operator. On January 11, 2004, the vessel sank in deep water with resulting oil pollution. The Provincial Ministry of Water, Air and Land Protection (WALP) assumed lead agency status, provided the initial clean-up procedures and hired a contractor. Work was done on cleaning up oil surfacing from the sunken vessel and recovering contaminated debris including shoreline cleanup.

On January 23, 2004, the Canadian Coast Guard (CCG) took over the lead agency status from the Ministry of WALP. With the bulk of the work completed, the contractor was stood down on January 28, 2004. The work of incinerating contaminated debris, oiled absorbent pads and boom maintenance was conducted by CCG personnel. Since it had been determined that salvage of the sunken vessel was not feasible and there was no recoverable oil at the site, work was terminated on February 2, 2004.

The Claim

On March 25, 2004, the Provincial Ministry of WALP submitted a claim to the Ship-source Oil Pollution Fund (the Fund) in the amount of \$23,024.54 for costs and expenses associated with the initial response to the incident.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator made an offer of settlement of \$22,524.54 on April 26, 2004. The Provincial Ministry of WALP accepted the offer and payment of \$22,524.54, plus \$250.09 interest, was thereafter directed by the Administrator.

Recovery Action

On September 28, 2004, pursuant to section 87(3) of the *Marine Liability Act*, counsel for the Administrator filed a statement of claim in the Federal Court in Vancouver against the *Anscomb* to recover the amount paid by the Fund with respect to this incident, totalling approximately \$47,000.00. Consequently, the *DPW No. 590*, a sister ship of the *Anscomb*, was arrested on October 4, 2004 on Kootenay Lake, near the city of Nelson, British Columbia. On February 17, 2005, the Federal Court ordered default judgment against the *Anscomb* and the *DPW No. 590* for an amount of liability to be determined. On March 10, 2005, counsel for the *Anscomb* served the Administrator's counsel with a notice of a motion to have the default judgment and the arrest of the *DPW No. 590* set aside, and for leave to file a defence. Counsel for the parties then postponed

hearing of the motion and had settlement discussions. On December 7, 2005, a settlement agreement was reached for the amount of \$40,000.00. Under the terms of the agreement, an initial sum of \$3,500.00 was to be paid and the balance by way of monthly payments of \$500.00. Payments were made at irregular intervals for a total amount of \$6,500.00, the last payment being received on November 21, 2007.

On December 21, 2009, on the Administrator's instruction, counsel engaged the services of CPA International Investigation Inc. to investigate on any reasonable measures that could be taken to collect the outstanding amount. Based on the results of the investigation, the Administrator concluded that all reasonable measures had been taken but with no reasonable prospect of success. He therefore closed the file.

Status

The file was closed on March 10, 2010.

Related file

Anscomb (2004), Woodberry Creek Kootenay Lake, BC, Case number: 120-394-C1 (same incident, different claimant)

Anna M (2004)

Location: Venn Pass, Prince Rupert, BC

Case number: 120-398-C1

The Incident

On March 26, 2004, the Canadian Coast Guard (CCG) was advised that the fishing vessel *Anna M* had struck a rock and sunk at the inner side of Venn Pass, Prince Rupert, British Columbia. The CCG responded and boomed off the vessel. Divers plugged off the vents in the vessel. The hole in the vessel's bow was too big to patch where she lay and the vessel could not be pumped afloat. Another obstacle to refloating was the 17 tonnes of herring in the vessel's hold. As the herring was thought to be contaminated, no mobile packers were willing to assist in pumping off the cargo. The CCG took over the operation and arranged to have the vessel lifted between two barges on slings and towed to a contractor's yard. There the herring cargo and pollutants were removed to prevent the threat of further pollution. The vessel was refloated with the aid of several pumps running full time. It was then temporarily patched to stop it from sinking and returned to the contractor's yard. The vessel was a constructive total loss.

The Claim

On November 23, 2004, the CCG filed a claim with the Ship-source Oil Pollution Fund for their costs and expenses totaling \$67,496.15.

Assessment and Offer

The Administrator investigated and assessed the claim and on January 31, 2005, he directed payment to the CCG for \$58,243.47, plus \$2,070.62 interest, in full and final settlement of the claim.

Recovery Action

The Administrator considered his recovery options pursuant to section 87(3) of the *Marine Liability Act*; however, following investigation, he concluded that further measures were not justified.

Status

The file was closed on March 31, 2006.

Sea Shepherd II (2004)

Location: Robbers Pass, Tzartus Island, BC

Case number: 120-400-C1

The Incident

In April 2004, the Canadian Coast Guard (CCG) received a number of reports that the *MV Sea Shepherd II*, located in Robbers Pass, Tzartus Island, British Columbia, was in a derelict state and in danger of sinking. The CCG, Transport Canada Marine Safety and Provincial authorities attended on-scene to investigate and it was concluded that the vessel's condition made it a threat to the marine environment. The ownership of the vessel could not be determined; therefore, a Response Order under section 678 of the *Canada Shipping Act* was issued on April 26, 2004 by the Commissioner of the CCG.

On May 10, 2004, CCG contractors began pumping operations on site. By May 11, 2004, some 188 tonnes of a mixture of waste oil and diesel fuel was pumped off the *Sea Shepherd II*, but some 16 gallons per hour of seawater was leaking back into the vessel. On May 26, 2004, the vessel was taken in tow, arriving at the Esquimalt graving dock the next day for break up. By June 17, 2004, seven large waste bins of oiled debris had been removed from the vessel and the break up of the vessel was completed on July 30, 2004.

Measures taken by the Administrator

The Administrator engaged local counsel and a marine surveyor, who attended onboard the vessel.

The Claim

On November 22, 2004, the CCG filed a claim with the Ship-source Oil Pollution Fund for its costs and expenses totaling \$515,333.70.

Assessment and Offer

For his assessment of the claim, on December 13 and 14, 2004, the Administrator sought further information and materials from CCG. On February 23, 2005, the CCG provided the Administrator with some of the information requested. Based on the information that was available, on March 3, 2005, the Administrator advised the CCG that he found only \$331,892.31 of the claim to be established and offered compensation in that amount plus interest, while noting that he would consider further evidence in support of the portion of the claim that had not been established – that is, the amount of \$170,000.00 indicated in the fixed-price contract dated May 20, 2004 for contracted services – when provided to him. The CCG accepted the offer on March 3, 2005 and the Administrator directed payment of \$331,892.31, plus \$9,810.24 interest.

By August 13, 2008, the requested documentation had not yet been forthcoming, and the CCG was advised that it had 30 days to provide them. On September 9, 2008, CCG advised that, in order to respond to the Administrator's request for additional documentation, it had made repeated requests

to the contractor for invoices and more details about the work actually completed. With its letter to the Administrator, the CCG enclosed a copy of a response it had received from the contractor dated March 21, 2005. The Administrator assessed the new material and considered that the limited information did not fully substantiate or prove that all of the expenses in question under the fixed-price contract were actually incurred. Consequently, he concluded that it was not fully established that all the measures taken or that all of the expenses claimed were fair and reasonable in the circumstances prevailing. He did, however, accept that some reasonable measures had been taken under the fixed-price contract to prevent a discharge of oil from the ship. Therefore, on September 30, 2008, the Administrator informed CCG that, as a result of his ongoing assessment, he was prepared to make a final global offer in the amount of \$100,000.00 inclusive of interest to settle the claim, which offer was accepted and paid to CCG on October 21, 2008.

Recovery Action

On November 18, 2008, counsel for the Administrator filed a Statement of Claim against the owner of the *Sea Shepherd II* for the recovery of the amount paid to the CCG pursuant to section 87(3) of the *Marine Liability Act*. The defendant filed a statement of defence which essentially said that he was the owner of the vessel for a short period of time in 1992 and then sold the vessel to an individual who sold it to someone else prior to the incident.

On the basis of the investigation, the Administrator concluded that all reasonable measures to recover the costs and expenses had been taken and there were no reasonable prospects of success.

Status

The file was closed on March 31, 2010.

P.H. Phippen (2004)

Location: Fisherman's Wharf, Port Hardy, BC

Case number: 120-415-C1

The Incident

On November 3, 2004, the *P.H. Phippen*, an ex-tug converted to a live aboard type vessel, for sale at the time and also known as *Underwater Sunshine*, sank at the dock at Fisherman's wharf in Port Hardy, British Columbia. The vessel had not been moved in several years, but had been regularly pumped.

The *P.H. Phippen* was lying on its side with fuel leaking from one tank containing some 30-40 gallons of diesel. The second tank containing some 100 gallons of diesel was said to be not leaking. The Harbour Master boomed the vessel to contain the leaking fuel.

On November 5, 2004, the Canadian Coast Guard (CCG) Emergency Response (CCG ER) was advised that divers had been successful in plugging the vents. With the CCG ER on scene, on November 12-13, 2004, contractors commenced lift operations with a barge and excavators. An airbag was inflated on the stern of the vessel and a forward sling was put in place for the lift. On November 14, 2004, the vessel was lifted to the surface and pumped out. After it was stabilized, it was considered to be no longer a pollution threat. Some unrecoverable diesel was spilled during the recovery operation.

The Claim

On January 31, 2005, the CCG filed a claim with the Ship-source Oil Pollution Fund for its costs and expenses in the incident totaling \$2,113.91.

Assessment and Offer

Following investigation and assessment of the claim, on February 7, 2005, the Administrator directed payment of compensation in the amount of \$2,141.95 including interest to the CCG in full and final settlement of the latter's claim.

Recovery Action

On March 12, 2007, the Administrator instructed counsel to investigate whether there was reasonable measure that could be taken to recover the amount paid to the CCG pursuant to subsection 87(3) of the *Marine Liability Act*. On May 22, 2007, counsel advised that various searches ascertained that further cost recovery action was not justified; hence, the Administrator closed the file.

Status

The file was closed on March 31, 2008.

Amanda (2004)

Location: Portland Island, BC

Case number: 120-425-C1

The Incident

On December 24, 2004, the *Amanda*, a 42-foot wooden troller probably built in the 1940s or 1950s, which had been converted for pleasure use, was reported high and dry south of Turnbull Reef off Portland Island, British Columbia. An estimated 100 gallons of diesel was thought to be onboard. No pollution of the marine environment had yet occurred. The Canadian Coast Guard (CCG) Emergency Response, Victoria requested the CCG cutter *Skua*, which was already on scene, to plug the vents.

By 2210 hours the same day, Vancouver Island Marine Assist had been engaged to help with the salvage. However, on December 27, 2004, the latter reported that their attempts to salvage had failed. The vessel had moved to deeper water and was beginning to break up.

On December 29, 2004, a CCG contractor advised that they had found the *Amanda*, which appeared to be impaled on the rocks. Little sign of oil leakage was found. On December 31, 2004, the contractor reported that the severely damaged vessel had been brought to the surface. One tank was found to have been ripped out and was recovered from the ocean floor. The contractor was then directed to deconstruct the vessel ashore and dispose of all the contaminants. The deconstruction of the vessel was completed on January 17, 2005.

The Claim

On February 18, 2005, the CCG filed a claim with the Ship-source Oil Pollution Fund for its costs and expenses incurred in the amount of \$11,382.06.

Assessment and Offer

Following investigation and assessment of the claim, on March 3, 2005, the Administrator directed payment of compensation in the amount of \$10,980.16, plus \$66.55 interest, to the CCG in full and final settlement of the claim.

Status

The file was closed on March 31, 2005.

Mary Mackin (2005) ✳

Location: Patricia Bay, BC
Case number: 120-426-C1

The Incident

On January 23, 2005, a report was received of an oil spill in Patricia Bay, Vancouver Island, British Columbia from the *Mary Mackin*, a world war II-era 125-foot twin screw wooden tug, which had been beached near the Institute of Ocean Sciences by the Receiver of Wrecks since October 31, 1998. A Transport Canada Environmental screening report of January 6, 2005 did not indicate the presence of significant oil volume in the vessel.

In January 2005, prior to the reported spill, a contractor had been engaged by the Federal Receiver of Wrecks for the demolition and disposal of the vessel on the beach for \$60,000.00. During demolition, they discovered considerable oil onboard and a spill resulted. Substantial oil was found within the vessel, including a large amount of engine oil and oil soaked mud. On January 24, 2005, the contractor advised the Canadian Coast Guard Emergency Response that it had removed most of the internal components that could contain oil. On-site demolition and disposal of the vessel was completed by mid-February 2005.

The Claim

On August 2, 2005, Transport Canada, Pacific Region Marine Safety, Navigable Waters Protection Division filed a claim with the Ship-source Oil Pollution Fund for costs and expenses incurred in the cleanup and disposal of the tug *Mary Mackin* in the amount of \$223,543.88.

Assessment and Offer

Following investigation of the claim, the Administrator concluded that most of the costs arose out of the failure of Transport Canada to deal with the oil in the vessel prior to it being beached. Accordingly, on March 21, 2006, pursuant to section 86 of the *Marine Liability Act* (MLA), he offered \$20,000.00 to Transport Canada in full and final settlement of the claim, which offer was rejected. On April 24, 2006, in response to a request from Transport Canada, the Administrator offered to review any new or material information which Transport Canada might wish to provide in order for him to determine whether it would be appropriate to reopen his investigation.

In the meantime, on May 25, 2006, the Administrator was served with a Notice of Appeal by the Crown to the Federal Court concerning the adequacy of his offer of compensation, pursuant to section 87(2) of the MLA. The appeal was heard on September 3 and 4, 2008 by the Federal Court, which concluded that the lengthy delay in removing and disposing of the vessel and its contents was unreasonable under the circumstances and that the Crown was negligent in waiting five years in responding to its statutory obligation. However, the Court also found that the Administrator should have shared with the Crown the report of the surveyor on which he relied to reduce the

claim. Accordingly, the Court quashed the Administrator's decision and ordered him to share the report with the Crown and afford it the opportunity to comment and provide arguments on it.

Fresh argument was submitted by the Crown. After due consideration, the Administrator repeated his offer of \$20,000.00 plus interest as per section 101 of the MLA. The Crown accepted the offer on January 21, 2009 and on January 26, 2009, payment of \$24,701.66 including interest was made.

Recovery Action

The Administrator found that there was no reasonable prospect of recovering the costs related to the incident and, thus, closed the file.

Status

The file was closed on March 31, 2009.

Tor (2005)

Location: Small Craft Harbour, Mission, BC

Case number: 120-427-C1

The Incident

On January 16, 2005, the converted fishing vessel *Tor* sank alongside the dock at the small craft harbour in Mission, British Columbia. Some diesel was seen seeping under the ice in the harbour. Sorbent booms and pads were deployed by the harbour master. On January 2, 2005, the Canadian Coast Guard (CCG) Emergency Response was advised that fuel was still onboard the vessel; hence, they took over the management of the response.

Following a bidding process, the contract to raise the vessel was awarded on January 28, 2005. The contractor raised the vessel and the harbour master kept it afloat over the weekend with pumps. On January 31, 2005, due to the continuing ingress of water, the vessel was towed to Shelter Island Marina and placed on land. The CCG surveyor advised that the cost to repair the vessel would well exceed the vessel's market value. It was then decided that the vessel be destroyed. The removal and disposal of pollutants and destruction of the *Tor* had been completed by March 2, 2005.

The Claim

On July 27, 2005, the Department of Fisheries and Oceans, on behalf of the CCG (DFO/CCG), filed a claim with the Ship-source Oil Pollution Fund in the amount of \$22,196.25 for its cost and expenses in the response to the incident.

Assessment and Offer

On September 28, 2005, the Administrator requested further particulars from DFO/CCG, which were provided on October 5, 2005. Accordingly, on October 6, 2005, pursuant to section 86 of the *Marine Liability Act* (MLA), the Administrator offered \$21,436.76 plus interest in full and final settlement of the claim. DFO/CCG accepted the offer and on October 13, 2005, payment of \$22,054.71 including interest was made.

Recovery Action

On March 12, 2007, the Administrator instructed counsel to investigate whether there were reasonable measures that could be taken to recover the amount paid to DFO/CCG pursuant to section 87(3) of the MLA. On the basis of the results of the investigation, the Administrator concluded that there was no reasonable prospect of recovering the costs related to the incident and closed the file.

Status

The file was closed on March 31, 2008.

Sonny Boy (2004)

Location: Fisherman's Wharf, Port Hardy, BC

Case number: 120-428-C1

The Incident

On September 26, 2004, the fishing vessel *Sonny Boy* sank at the Fisherman's Wharf in Port Hardy, British Columbia, with an unconfirmed amount of pollutants on board. The vessel was boomed off and pads applied by the Harbour Manager. Further inquiries revealed that the *Sonny Boy* was tied to another vessel and thus, if immediate action was not taken there would be two sunken vessels. The Canadian Coast Guard (CCG) Emergency Response then hired a contractor who, using air bags and pumps, refloated the vessel at 2230 on September 26, 2004 and secured it to the wharf. All suspected pollutants on board had apparently dissipated and the contractor could not find any reason for the sinking of the vessel.

The Claim

On January 31, 2005, the CCG filed a claim with the Ship-source Oil Pollution Fund for its costs and expenses totaling \$7,902.37.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator directed payment of \$7,902.37, plus \$122.80 interest, to the CCG on February 10, 2005.

Recovery Action

While noting that the CCG was unsuccessful in its efforts to obtain recovery of costs and expenses from the *Sonny Boy*'s owner, the Administrator concluded that there was little prospect for cost recovery.

Status

The file was closed on March 31, 2005.

Related file

Sonny Boy (2005), Port Hardy, BC, Case number: 120-474-C1 (same ship, same location)

Abandoned Vessel (2004)

Location: English Bay, Vancouver Harbour, BC

Case number: 120-436-C1

The Incident

During the evening of October 8, 2004, the Canadian Coast Guard (CCG) crew at Kitsilano Search and Rescue (SAR) station received a report that a semi-submerged vessel was drifting past a deep-sea vessel at anchorage #4 in English Bay, Vancouver Harbour, British Columbia. The SAR crew responded and found an abandoned vessel adrift and the smell of fuel oil. As it posed a navigational hazard adrift in the dark, it was decided to tow the vessel, beach it beside the SAR station and boom it off to prevent further pollution, which was successfully completed that night.

At daylight on October 9, the crew observed pockets of oil and oily debris both inside and outside the boom. At this point, the CCG Emergency Response (CCG ER) was notified of the incident. With the assistance of the SAR crew, CCG ER plugged the vent, recovered the free oil from the water with pads and boom and removed the oiled debris.

No indication of ownership or identification of the vessel was found. The vessel had been stripped and it appeared that someone had attempted to sink it out in the bay, as slabs of concrete were found inside and holes had been cut in the hull. Because of the amount of debris inside the vessel, the fuel tanks could not be accessed to determine the amount of fuel remaining onboard. Therefore, it was decided that it would be necessary to remove the vessel from the water, deconstruct it to access the tanks and dispose of the contaminated waste.

On October 12, 2004, a contractor working in the area was engaged to do the removal. The following day, he brought in a barge and crane, removed the vessel and took it to its yard for deconstruction and disposal.

The Claim

On February 4, 2005, the CCG filed a claim with the Ship-source Oil Pollution Fund for its costs and expenses totaling \$7,493.10.

Assessment and Offer

The Administrator investigated and assessed the claim. After requesting and receiving further information from CCG, on February 11, 2005, the Administrator directed payment of compensation of \$7,236.73, plus \$62.28 interest, to CCG.

Recovery Action

The identity of the shipowner would have to be established for any successful recovery action. However, no indication of ownership or identification of the derelict vessel was found at the scene of the incident. Therefore, the Administrator closed the file.

Status

The file was closed on March 31, 2007.

Malaspina Castle (2005)

Location: Port Mellon, BC

Case number: 120-462-C1

The Incident

On April 9, 2005, an oil spill occurred at Howe Sound Pulp and Paper Mill deep sea dock in Port Mellon, British Columbia, while the *MV Malaspina Castle* was alongside the dock.

The Administrator was made aware of the incident on May 5, 2005. He was also advised that Transport Canada Marine Safety had returned the Letter of Undertaking as security it had obtained from the shipowners under the *Canada Shipping Act* Pollution Prevention Regulations since an analysis of the oil samples taken at the spill site and from the vessel did not show a match.

The Claim

On July 28, 2005, the *MV Malaspina Castle*'s owners presented a claim to the Ship-source Oil Pollution Fund in the amount of \$75,468.52 for costs and expenses in cleaning up the spill.

Assessment and Offer

The Administrator conducted an extensive investigation into the source of the spill. On November 21, 2005, he requested the solicitor for the shipowner to produce sounding tables for the ship's fuel tanks. Despite several follow-ups, these were never provided.

After a thorough investigation of the circumstances surrounding the incident, including the physical features of the port, in order to eliminate any land-based sources of the spill, the Administrator concluded that the *MV Malaspina Castle* was the source of the spill and thus, the incident could not be characterized as a mystery spill. The Administrator, therefore, disallowed the claim and informed the claimant to that effect on May 24, 2007. No response was received from the claimant and the Administrator closed the file.

Status

The file was closed on March 31, 2008.

Elvera II (2005)

Location: North Saanich Marina, Sidney, BC

Case number: 120-466-C1

The Incident

On April 4, 2005, the *FV Elvera II* was reported high and dry on the breakwater at the North Saanich Marina, near Sidney, British Columbia. The Canadian Coast Guard (CCG) Emergency Response Victoria responded and noted that the hull of the vessel appeared to be intact with only a bent rudder stock. An inspection on April 5, 2005, with the vessel still aground, showed fuel spilled in the hold. There was a fuel tank in the hold and a full portable fuel tank on deck. A contractor removed the vessel off the breakwater and moved it to Ladysmith.

The CCG sold the vessel for \$1,498.00 including tax.

The Claim

On November 10, 2005, the Department of Fisheries and Oceans, on behalf of the CCG (DFO/CCG), filed a claim with the Ship-source Oil Pollution Fund for its response costs and expenses in the amount of \$4,319.93.

Assessment and Offer

The Administrator investigated and assessed the claim. After deducting the amount the CCG received for the sale of the vessel, he paid DFO/CCG the amount of \$2,821.93, plus \$79.01 interest, in full and final settlement of the claim.

Recovery Action

On March 12, 2007, the Administrator instructed counsel to investigate whether there were reasonable measures that could be taken to recover the amount paid to DFO/CCG pursuant to section 87(3) of the *Marine Liability Act*. On May 22, 2007, counsel advised that various searches related to this matter indicated that further costs would exceed any recovery. The Administrator therefore decided to abandon any recovery claim.

Status

The file was closed on March 31, 2008.

Rover No. 1 (2005)

Location: Genoa Bay, BC
Case number: 120-467-C1

The Incident

On May 8, 2005, the *Rover No. 1*, a 74-foot ex-tug, went aground and sank in Genoa Bay, British Columbia. On July 20, 2005, the Canadian Coast Guard (CCG) responded by engaging a contractor to raise the vessel. After the vessel was raised, she was towed to Nanaimo Shipyards. By September 9, 2005, destruction of the vessel had been completed. Nanaimo Shipyards reported 4,500 litres of oil had been removed from the vessel.

The Claim

On March 28, 2006, the Department of Fisheries and Oceans, on behalf of the CCG (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund in the amount of \$72,155.93 for its costs and expenses in responding to the incident.

Assessment and Offer

On May 25, 2006, the Administrator requested further particulars, which were provided by the claimant. On June 30, 2006, the Administrator engaged a local marine surveyor to conduct an investigation on certain aspects of the claim. Following the investigation, he informed DFO/CCG that the claim amount had been reduced due to the disallowance of several visits to the site by Emergency Response personnel to monitor the contractor's work and the commensurate time for the use of pollution countermeasures equipment. He therefore offered \$64,740.15 plus interest in settlement of the claim, which was accepted by DFO/CCG on December 18, 2006. On that same day, payment of \$69,394.41 including interest was made.

Recovery Action

On March 12, 2007, the Administrator instructed counsel to investigate whether there were reasonable measures that could be taken to recover the amount paid to DFO/CCG pursuant to section 87(3) of the *Marine Liability Act*. The investigations suggested that the shipowner did not own any property. Accordingly, there was no reasonable prospect of recovering the costs related to the incident.

Status

The file was closed on March 31, 2008.

Sonny Boy (2005)

Location: Port Hardy, BC
Case number: 120-474-C1

The Incident

The fishing vessel *Sonny Boy* sank at the dock in Port Hardy, British Columbia on August 28, 2005. The Canadian Coast Guard (CCG) lifeboat at Port Hardy was dispatched to assist with the pumping. The CCG had already been called in to attend this vessel after she had sunk at the same location on September 26, 2004.

The vessel was refloated, but was still taking on water. On August 31, 2005, the CCG determined that the vessel was in extremely poor condition with approximately 400 to 500 litres of fuel onboard. On September 27, 2005, the CCG Emergency Response (CCG ER) Victoria attended on the vessel and, with help from a local contractor, removed some 140 gallons of contaminated oil from the tanks. On September 29, 2005, the remaining oil in the bilge was recovered with sorbents and all material was taken away for disposal. CCG ER then left the vessel in the care of the Harbour Authority.

The Claim

On December 6, 2005, the Department of Fisheries and Oceans, on behalf of the CCG (DFO/CCG), filed a claim with the Ship-source Oil Pollution Fund for its costs and expenses related to this incident in the amount of \$3,278.06.

Assessment and Offer

For his assessment of the claim, the Administrator requested further particulars, which were provided. On January 5, 2006, he then offered \$3,155.86 plus interest in full and final settlement of the claim. DFO/CCG accepted the offer and payment of \$3,200.38 including interest was made on January 6, 2006.

Recovery Action

On March 12, 2007, the Administrator instructed counsel to investigate whether there were reasonable measures that could be taken to recover the amount paid to DFO/CCG pursuant to section 87(3) of the *Marine Liability Act*. The investigation proved negative; therefore, the Administrator decided to abandon any recovery action and close the file.

Status

The file was closed on March 31, 2008.

Related file

Sonny Boy (2004), Port Hardy, BC, Case number: 120-428-C1 (same ship, same location)

Mystery Spill (*Northwind*) (2004) ⚓

Location: Victoria Harbour, BC

Case number: 120-480-C1

The Incident

On December 30, 2004, there was an oil spill at the Fisherman's Wharf Facility of the Greater Victoria Harbour Authority (GVHA), Victoria Harbour, British Columbia. The GVHA and volunteers mounted the initial clean-up operations the night of December 30 and through the early morning hours of December 31, 2004, and a contractor was then engaged by the GVHA to complete the cleanup.

Since the source of the spill was unknown, the GVHA considered it as a mystery spill.

The Claim

On December 14, 2005, the GVHA filed a claim in the amount of \$16,012.02 with the Ship-source Oil Pollution Fund (the Fund) for its costs and expenses in the response and cleanup of the incident.

Assessment and Offer

The Administrator requested further particulars of the incident, which were provided by the GVHA on February 20, 2006. Following investigation and assessment of the claim, the Administrator offered \$10,443.50 in settlement of the GVHA's claim. The GVHA accepted the offer and on April 18, 2006, payment of the settlement amount, plus \$621.35 interest, was made.

Recovery Action

On December 31, 2004, an oil sample was taken from the surface of the waters of Victoria Harbour adjacent to the *M.V. Northwind*. Also, on the same date, an oil sample was taken from the machinery space bilge of the *M.V. Northwind*. A chemical analysis of these samples by Environment Canada concluded that the two samples were extremely similar. Besides, a common source of the samples was indicated.

On August 17, 2006, counsel for the Fund wrote to the owner of the *M.V. Northwind* to see if a settlement could be achieved for the recovery of the monies paid by the Fund to the GVHA. Offers and counter-offers were made between counsels for both parties. On February 19, 2007, the owner of the *M.V. Northwind*, while denying liability, made without prejudice an offer of \$5,500.00 as final release in connection with the spill that occurred in Victoria Harbour on December 30, 2004. The payment was received by the Administrator on February 22, 2007.

Status

The file was closed on February 22, 2007.

Dominion I (2005) ⚓

Location: Victoria Harbour, BC
Case number: 120-481-C1

The Incident

On March 28, 2005, there was an oil spill at the Ship Point Facility of the Greater Victoria Harbour Authority (GVHA), Victoria Harbour, British Columbia. The GVHA hired a contractor for the cleanup of the spill, which was considered as a mystery spill since its source was unknown.

The Claim

On December 14, 2005, the GVHA filed a claim with the Ship-source Oil Pollution Fund in the amount of \$8,521.16 for its costs and expenses in the incident clean-up response.

Assessment and Offer

On January 16, 2006, the Administrator requested further particulars surrounding the incident. Upon receipt of the additional information from the GVHA on February 20, 2006, the Administrator continued his investigation and assessment of the claim, and offered \$6,847.42 plus interest in full and final settlement of the claim. The GVHA accepted the offer and on April 18, 2006, payment of \$7,170.31 including interest was made.

Recovery Action

During the response, Transport Canada Marine Safety personnel took samples of oil from the *Dominion I*, which was moored to the wharf at Ship Point Facility, and from the water in the vicinity of the *Dominion I*. A chemical analysis by Environment Canada concluded that the two oil samples were extremely similar.

On September 11, 2006, the Administrator then wrote to the owner of the *Dominion I* to recover the amount paid to the GVHA plus interest. Negotiations between the parties took place. On January 17, 2007, counsel for the shipowner advised that his client's offer of \$4,000.00 was made without prejudice. After further consideration, the Administrator accepted the settlement offer and on April 13, 2007, a cheque in the amount of \$4,000.00 was received.

Status

The file was closed on May 14, 2007.

Related Files

Dominion I (2010), Cowichan Bay, BC, Case number: 120-605-C1 (same ship)
Dominion I (2012), Cowichan Bay, BC, Case number: 120-613-C1 (same ship)

Joan WI (2005)

Location: Lynnwood Marina, North Vancouver, BC

Case number: 120-482-C1

The Incident

The fishing vessel *Joan WI* was reported sunk at Lynnwood Marina, North Vancouver, British Columbia on June 10, 2005. Marina staff responded and boomed off the area. The Canadian Coast Guard (CCG) engaged a contractor who raised the vessel and towed it to Ladysmith, British Columbia. Given the oil-contaminated condition of the interior of the vessel, the CCG entered into a contract with Saltair Marine Services Limited to remove, break-up and dispose of the *Joan WI*. By August 4, 2005, the vessel had been destroyed and was in the process of being disposed of.

The Claim

On November 30, 2005, the Department of Fisheries and Oceans, on behalf of the CCG (DFO/CCG), filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$29,821.43.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator sought further particulars from the CCG, which were received on February 6, 2006. On February 7, 2006, the Administrator offered DFO/CCG \$28,510.38 plus interest in settlement of the claim. DFO/CCG accepted the offer and on February 8, 2006, payment of \$29,389.72 including interest was made.

Recovery Action

On March 12, 2007, the Administrator instructed counsel to investigate whether there were reasonable measures that could be taken to recover the amount paid to DFO/CCG pursuant to section 87(3) of the *Marine Liability Act*. Since it proved impossible to locate the vessel owner or any property he owned in British Columbia, the Administrator decided not to pursue the matter.

Status

The file was closed on March 31, 2008.

Skipjack (2005)

Location: Opitsat, Vancouver Island, BC

Case number: 120-484-C1

The Incident

On November 3, 2005, the fishing vessel *Skipjack* sank at Opitsat, Vancouver Island, British Columbia, and was leaking oil. The vessel, with a considerable amount of fuel onboard, was beached and fully awash with the high storm tides. There was a thick layer of diesel throughout the vessel.

The Canadian Coast Guard (CCG) Tofino lifeboat was dispatched to begin the cleanup. On November 5, 2005, the CCG Emergency Response Victoria arrived on scene. An estimated 110 gallons of oil was removed from the vessel, and an estimated 100 gallons of oil and oiled pads were recovered. The recovery operation was completed on November 8, 2005. The vessel was left at its position on the beach.

The Claim

On February 20, 2006, the CCG filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$15,269.18.

Assessment and Offer

The Administrator investigated and assessed the claim, and requested further particulars from the CCG. Upon receipt and after review of the additional information from the CCG, the Administrator offered \$11,140.14 in full and final settlement of the claim, which offer was accepted by the CCG on March 23, 2006. Payment of \$11,303.43 including interest was then made on March 24, 2006.

Recovery Action

On March 12, 2007, the Administrator instructed counsel to investigate whether there were reasonable prospects to recover the amount paid to the CCG pursuant to section 87(3) of the *Marine Liability Act*. On May 22, 2007, counsel advised that, because of the vessel owner's financial circumstances, it was recommended to abandon any recovery action. The Administrator therefore closed the file.

Status

The file was closed on March 31, 2008.

Abandoned Vessel (2006)

Location: Brentwood Bay, BC

Case number: 120-486A-C1

The Incident

On January 14, 2006, an overturned vessel at a mooring buoy in Brentwood Bay, British Columbia, was reported. No oil appeared to be coming from the vessel. The Canadian Coast Guard (CCG) engaged a contractor who refloated the vessel on January 20, 2006. The vessel, whose owner was unknown, turned out to be a fiberglass hull pleasure craft with twin gasoline engines and inboard fuel tanks. The starboard engine had been removed. The contractor removed the partially filled fuel tanks and oil from the engine. The hatches were replaced, a drain cock closed and the vessel re-secured to the mooring buoy.

The Claim

On April 21, 2006, the CCG filed a claim with the Ship-source Oil Pollution Fund for its costs and expenses in the incident totaling \$7,150.60.

Assessment and Offer

After obtaining further particulars from the CCG, the Administrator investigated and assessed the claim, and offered \$6,614.88 plus interest in full and final settlement of the claim, pursuant to sections 86 and 101 of the *Marine Liability Act*. The CCG accepted the offer and the Administrator directed payment of \$6,804.42 including interest on August 2, 2006.

Status

The file was closed on March 31, 2007.

Queen of the North (2006)

Location: Gil Island, Grenville Channel, BC

Case number: 120-487-C1

The Incident

On March 22, 2006, the British Columbia ferry *Queen of the North* (ex-*Stena Danica*), while enroute from Prince Rupert to Port Hardy, ran aground at the north end of Gil Island, Grenville Channel, British Columbia. With a capacity of 700 people and 115 automobiles, she had on board some 100 passengers and crew for the 450-kilometre overnight trip along British Columbia's so-called Inside Passage, when the incident occurred approximately 135 kilometres away from Prince Rupert. It was reported that she might have had more than 225,000 litres of fuel on board at the time.

Passengers and crew left the vessel in lifeboats and life rafts. Subsequently, the vessel sank. The Canadian Coast Guard (CCG) Emergency Response (CCG ER) Prince Rupert was notified, and various CCG vessels and others were tasked. BC Ferry Services Inc. (BC Ferry) took on management of the response and activated its arrangement with the pollution response organization, Burrard Clean Operations. CCG ER assumed the role of Federal Monitoring Officer.

The ferry was located in some 1,400 feet of water and was sitting upright buried in mud up to its rubbing strip. On March 23, 2006, a steady stream of oil was surfacing from the wreck site. The resulting slick was seen moving around the top of Gil Island and then dissipating to the west side of the island. On March 24, 2006, an overflight showed only sheens of oil near the shoreline. A CCG overflight on March 29, 2006 also reported a small amount of oil upwelling from the incident site, producing a silver sheen, but which dissipated down current in less than two miles.

By April 3, 2006, on-water recovery equipment had been demobilized. The CCG ER vessels stood down and returned to the Prince Rupert base. BC Ferry developed with local First Nations a long term monitoring plan, to be activated if necessary. On its part, the CCG ER also established a communication plan with the First Nations to respond to any changes in the situation.

The Claim

No claim was filed with the Ship-source Oil Pollution Fund with respect to this incident.

Status

The file was closed on March 31, 2008.

André (2006)

Location: Burrard Inlet, Vancouver Harbour, BC

Case number: 120-494-C1

The Incident

On July 4, 2006, the bulk carrier *M.V. André* reported that an oil spill occurred during a bunkering operation in Burrard Inlet, British Columbia. The Harbour Master estimated that 200 gallons of bunker C was spilled on the deck of the *M.V. André* and approximately 20 gallons escaped into the harbour. The agent for the ship contracted the Response Organization, Burrard Clean Operations, to conduct cleanup of the oil. The Canadian Coast Guard (CCG) assumed the role of Federal Monitoring Officer. It was reported that pleasure craft at a nearby marina were stained by oil and other private property was oiled as well. A number of oiled birds were collected for rehabilitation under the guidance of the Canadian Wildlife Service.

A joint Letter of Undertaking in the name of the Ship-source Oil Pollution Fund (the Fund) and the CCG was provided by the ship's P&I Club.

Measures taken by the Administrator

On July 6, 2006, the Administrator retained a marine surveyor, who provided him with an estimate of the total clean-up costs and expenses that would likely be incurred.

The Claim

No claim was filed with the Fund with respect to this incident. Most of the claims resulting from it had been resolved and paid by the shipowner.

Status

The file was closed on March 31, 2008.

Blue Dawn (2006)

Location: Ladysmith Harbour, BC

Case number: 120-495-C1

The Incident

On April 1, 2006, the ex-fishing vessel *Blue Dawn* built in Lunenburg, Nova Scotia, in 1962, which, in recent years, had been used as an accommodation for shake block crews on the British Columbia coast, was aground on Slag Point, Ladysmith Harbour, British Columbia. Later that day, when the Canadian Coast Guard (CCG) Emergency Response (CCG ER) officer arrived on scene, the owner was preparing to float the vessel on the rising tide, but the CCG ER officer advised him to seek salvage support from professionals. The owner reported that there were approximately 400 gallons of diesel oil onboard.

On April 2, there was an oil sheen on the water extending along the shoreline; hence, the CCG deployed a containment boom around the vessel. The following day, the CCG assumed responsibility to float the vessel. A contractor was engaged to tow the *Blue Dawn* to Ladysmith so that a surveyor could conduct an evaluation survey. The vessel required pumping out on a regular basis. On April 10, the contractor advised the CCG that the *Blue Dawn* had spilled a significant amount of fuel oil. The contractor responded with a containment boom and sorbent pads.

On April 12, the CCG was advised by the shipowner of his inability to deal with the situation and provide an acceptable plan ensuring that the vessel would no longer be a threat of pollution. By the end of April 2006, demolition of the vessel and disposal of the oil and other contaminated materials had been completed.

The Claim

On July 18, 2006, the Department of Fisheries and Oceans, on behalf of the CCG (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$121,856.95.

Assessment and Offer

The Administrator investigated and assessed the claim, and offered \$119,482.80 including interest in full and final settlement of the DFO/CCG's claim. DFO/ CCG accepted the offer on December 18, 2006 and payment of the settlement amount was thereafter made.

Recovery Action

The Administrator investigated, with the assistance of counsel, whether reasonable steps could be taken to recover the amount paid to DFO/CCG. Given the limited income of the shipowner and the fact that the claim exceeded \$120,000.00, there did not appear to be any reasonable prospect of cost recovery. Therefore, the Administrator considered that it would not be worthwhile to obtain a default judgment in this matter.

Status

The file was closed on March 31, 2009.

Wishing Star (2006)

Location: Hudson Bay Passage, BC

Case number: 120-496-C1

The Incident

On July 26, 2006, the Marine Communications and Traffic Services in Prince Rupert was informed that the charter fishing vessel *Wishing Star* grounded and sank in Hudson Bay Passage on the east side of nearby Dundas Island, British Columbia. The passengers and crew were rescued by the Canadian Coast Guard (CCG) cutter *Point Henry*. There were 2,000 litres of diesel oil in the vessel, but only a small amount of oil was released causing a sheen on the water.

Due to the shipowner's inaction, the CCG assumed the role of On-Scene Commander for the incident. A commercial company, Wainwright Marine Services, was contracted and its tug, *Ingenika*, arrived on scene. The tug boomed the area of the sunken vessel and deployed absorbent pads. Divers plugged the vents and rigged the vessel for lifting. On July 31, the *Wishing Star* was raised and towed to Wainwright Marine Services' yard in Prince Rupert. Work crews continued to remove the residual and bilge oil.

On December 15, 2006, the Department of Fisheries and Oceans (DFO/CCG) awarded a fixed-price contract to Wainwright Marine Services for deconstruction and disposal of the *Wishing Star* and all the contaminants onboard.

Measures taken by the Administrator

The Administrator engaged a marine surveyor in Prince Rupert to attend the vessel at Wainwright Marine Services' yard and to meet with the CCG response officer. On August 3, 2006, the marine surveyor submitted an interim report of his initial findings. It was indicated that the vessel was a wreck and had no salvage value.

The Claim

On February 14, 2007, DFO/CCG filed a claim with the Ship-source Oil Pollution Fund (the Fund) for costs and expenses in the amount of \$112,945.77.

Assessment and Offer

For his assessment of the claim, the Administrator requested additional information and documentation from the CCG. On November 1, 2007, CCG provided the requested information. The Administrator then investigated the circumstances surrounding the incident, including the specific issue whether the deconstruction and disposal of the vessel could properly be characterized as an oil pollution threat removal, as opposed to wreck removal. After due investigation, he was of the view that break up of the vessel was the most effective method to remove any further threat of oil pollution from residual oil that might still be onboard. Consequently, he concluded that the total amount was a legitimate claim on the Fund and offered the full amount of \$112,945.77 plus interest in full and final settlement of the claim. DFO/CCG accepted the offer on November 8, 2007 and payment of \$121,566.79 including interest was thereafter directed by the Administrator.

Recovery Action

Various searches indicated that there might be some prospects of recovery. Accordingly, on February 10, 2008, a Statement of Claim was served on the owner of the *Wishing Star*. No Statement of Defense having been filed by the closing date of March 11, 2008, on April 2, 2008, an Order was filed in the Federal Court, Vancouver, granting judgment by default against the defendant in the amount of \$123,772.20, plus interest from April 8, 2008 to the date of payment of the judgment.

The Administrator, with the assistance of counsel, investigated what assets of the debtor could be identified to satisfy the outstanding default judgment. On October 28, 2009, on the basis of the investigation, counsel advised that there seemed to be no purpose in conducting examination in aid of execution and payment of the judgment appeared not to be recoverable at that time. On November 12, 2009, it was then decided to hold the file in abeyance for two years. At the close of the two-year period, the Administrator decided that additional expenditures in any further attempt to recover the amount were not reasonable and he, therefore, closed the file.

Status

The file was closed on November 30, 2011.

Westwood Annette (2006)

Location: Squamish, BC
Case number: 120-497-C1

The Incident

On August 5, 2006, when departing Squamish Terminals Ltd. No. 2 berth in high winds, with the aid of two tugs, the bulk carrier *Westwood Annette* struck a Pier dolphin, causing two holes in the ship's shell plating. Bunker C oil ran out of the holes. Later, the Canadian Coast Guard (CCG) estimated that approximately 29,000 litres of oil were released into the water in the north end of Howe Sound, near the Squamish River estuary. The Response Organization Burrard Clean Operations was contracted to conduct response operations. Preliminary results indicated that as much as two-thirds of the amount of oil spilled had been recovered by the end of day August 5. Approximately 1 kilometre of shoreline was impacted and beach clean-up operations were implemented. Canadian Wildlife Service also found that some birds were oiled, mostly Canada Geese.

A Letter of Undertaking naming the Department of Fisheries and Oceans and the Ship-source Oil Pollution Fund (the Fund) was obtained from the shipowner's P&I Club. It was understood that the total costs and expenses incurred by the Response Organization of approximately \$5 million were addressed by the P&I Club.

Measures taken by the Administrator

Following the receipt of a copy of Alert Update #1 issued by the National Environmental Emergencies Centre regarding the oil spill incident of August 5, 2006, the Administrator engaged a local marine surveyor.

The Claim

On April 25, 2007, Squamish Outdoor Recreation (the Claimant) filed a claim with the Fund in the amount of \$11,510.35 to recover expenses incurred during the oil spill.

The Squamish Outdoor Recreation officials had already filed a claim in the amount of \$15,460.35 with the legal representative of the *Westwood Annette*. However, the shipowner only paid \$3,950.00 to cover the costs incurred by the District of Squamish for the services that were specifically requested by the shipowner, the remaining parts of the claim having not been considered to be recoverable claims.

Assessment and Offer

Under instructions from the Administrator, counsel for the Fund (the Counsel) investigated the material received with respect to the claim and discussed the matter directly with the solicitor for the shipowner. On May 9, 2007, Counsel responded to the Claimant's letter and advised, *inter alia*, that if they had additional information that, in their opinion, supported that some part of their remaining claim was recoverable, they should provide it to the solicitor for the shipowner, with a copy to the Counsel's office.

Since no response was received from the Claimant, the Administrator closed the file.

Status

The file was closed on March 31, 2009.

Ocean Tribute (2006)

Location: Ladysmith, BC
Case number: 120-507-C1

The Incident

On September 5, 2006, the *Ocean Tribute*, an ex-fishing vessel built in 1926 and which had been converted to a fish & chip restaurant, sank at the dock of the Fisherman's Wharf, Ladysmith, British Columbia. There was fuel oil in the water and absorbent pads were used to clean up. The shipowner hired a contractor to raise the vessel, but it sank again shortly after it was raised.

On September 9, the Canadian Coast Guard (CCG) was informed that the vessel was not insured. The shipowner did not have the means to respond any further. The CCG then assumed the role of On-Scene Commander and contracted Saltair Marine Services to raise the vessel and remove the accessible fuel, engine oils and hydraulics. Approximately 100 gallons of oily fluids were removed. The vessel was subsequently demolished and disposed of on September 20.

The Claim

On December 13, 2006, the Department of Fisheries and Oceans, on behalf of the CCG (DFO/CCG), filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$26,407.23 for costs and expenses incurred with respect to the incident.

Assessment and Offer

The Administrator investigated and assessed the claim. On February 9, 2007, he made an offer in the amount of \$24,901.42 plus interest in full and final settlement of the claim, which offer was rejected by DFO/CCG. On March 30, 2007, DFO/CCG advised that as of April 2006, the CCG vehicle rates were revised to reflect industry standard. Accordingly, they asked the Administrator to reconsider his reduction in the mileage rates when establishing the amount of the claim. The Administrator accepted the new vehicle rate submitted by DFO/CCG, and on May 3, 2007, he made an offer in the amount of \$25,041.42 plus interest in full and final settlement of the claim, pursuant to sections 86 and 101 of the *Marine Liability Act* (MLA). DFO/CCG accepted the offer on May 10, 2007, and payment of \$25,806.29 including interest was made on May 14, 2007.

Recovery Action

The Administrator instructed counsel to review the feasibility of undertaking cost recovery action pursuant to section 87(3) of the MLA. Based on the results of the investigation, the Administrator concluded that it was unlikely that the Fund would obtain recovery on any judgment against the shipowner. He therefore closed the file.

Status

The file was closed on March 31, 2009.

Saxony (2006)

Location: Manion Bay, Bowen Island, BC

Case number: 120-508-C1

The Incident

On December 11, 2006, it was reported that the pleasure craft *Saxony* appeared to be sinking at its mooring buoy in Manion Bay, approximately ten miles north of Vancouver, British Columbia. The Canadian Coast Guard (CCG) attended on-scene to investigate and found no one onboard. The vessel sank in approximately 30 feet of water shortly after the CCG arrived, with minimal pollution. On December 13, residents of Bowen Island observed a large sheen emanating from the vessel. As no owner of the vessel could be identified, the CCG assumed the role of On-Scene Commander and, on December 16, engaged a local salvage company to raise the *Saxony* to control and prevent further pollution. Salvage operations were undertaken on December 21 and 22. The CCG monitored these operations throughout and stood-by to control any release of pollutants. During this period, a marine surveyor representing the shipowner's insurance company arrived on scene. He had been in contact with the shipowner and advised CCG to continue as planned. On December 23, the *Saxony* was raised and towed to Arrow Shipyard, where it was placed on blocks ashore.

The Claim

On February 9, 2008, the Department of Fisheries and Oceans (DFO)/CCG, filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$6,802.99, pursuant to Part 6 of the *Marine Liability Act* (MLA).

Assessment and Offer

For his assessment of the claim, on April 8, 2008, the Administrator wrote to CCG requesting further general information and additional documentation in support of the claim. On November 10, 2008, the CCG provided the requested information and material. Upon receipt of these, the Administrator made an offer of compensation in the amount of \$6,089.06, plus interest, on January 29, 2009. DFO/CCG accepted the offer and on February 12, 2009, payment of \$6,909.60 including interest was made.

Recovery Action

The Administrator reviewed the feasibility of undertaking cost recovery action pursuant to section 87(3) of the MLA. Since the owner could not be found, the Administrator concluded that incurring additional expenditure in attempts to recover the amount was not reasonable and he, therefore, closed the file.

Status

The file was closed on September 3, 2009.

Gayle Ann II (2006)

Location: Powell River, BC

Case number: 120-511-C1

The Incident

On August 15, 2006, the fishing vessel *Gayle Ann II* sank at the Powell River City Marina. Diesel fuel oil was leaking from the vessel, causing a large oil slick in the marina. The Powell River Lifeboat crew boomed off the vessel and used absorbent pads to contain the spill. The Canadian Coast Guard (CCG), being the On-Scene Commander, hired local divers to raise and stabilize the vessel in order to remove the fuel from its tanks, including other accessible engine and transmission oils. Besides, on August 17, 2006, they sent a notice of intended action to the shipowner, outlining the work required to remove the pollution hazard.

On September 14, 2006, the CCG submitted an invoice related to the costs and expenses incurred in responding to the oil spill caused by the *Gayle Ann II* to the shipowner; however, no payment was received.

The Claim

On February 14, 2007, the CCG filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$9,934.75.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator offered \$9,876.01 plus interest in full and final settlement of claim, which offer was accepted by the CCG on May 10, 2007. The payment of \$10,391.73 including interest was made on May 14, 2007.

Recovery Action

Further to his investigation on any reasonable measures that could be taken to recover the amount paid to the CCG, the Administrator concluded not to take cost recovery action.

Status

The file was closed on March 31, 2008.

Robertson II (2007)

Location: Minx Reef, Saturna Island, BC

Case number: 120-515-C1

The Incident

On July 1, 2007, a 40-metre sailing vessel, *Robertson II*, grounded on Minx Reef, in the Gulf Islands off Vancouver Island. It was reported that the vessel was leaking traces of diesel fuel. The Canadian Coast Guard (CCG) cutter *Cape Calvest* arrived on scene to assess the situation. The CCG hovercraft from the Richmond Environmental Response base deployed 240 feet of sorbent boom, but reported minimal fuel in the water. However, some oil escaped the containment boom around the *Robertson II* due to the high volume of vessel traffic causing wave action.

On July 2, the CCG contracted local salvage operators to board the vessel and remove the remaining fuel from the tanks. CCG also contracted a marine surveyor to conduct a full survey of the vessel and determine its condition, value and any further oil pollution threat.

The Claim

On February 9, 2008, the CCG filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$20,748.53.

Assessment and Offer

For his assessment of the claim, on April 17, 2008, the Administrator requested additional information and documentation from the CCG. On January 19, 2010, the Administrator received a letter from CCG in response to his request. On July 21, 2010, after investigation and final assessment of the claim, the Administrator made an offer to the CCG for the established amount of \$19,084.85, plus interest, in full and final settlement of the claim pursuant to the *Marine Liability Act*. CCG accepted the offer and payment of \$21,759.59 inclusive of interest was thereafter directed by the Administrator.

Status

The file was closed on July 28, 2010.

Crown Forest 84-12 – Ministry of the Environment of British Columbia Claim

(2007) 

Location: Robson Bight Ecological Reserve Area, Northeastern end of Vancouver Island, BC
Case number: 120-517-C1-1

The Incident

On August 20, 2007, a barge, *Crown Forest 84-12*, owned by Ted Leroy Trucking, while under tow by a tug, *M/V Kathy L.*, owned by Gowlland Towing Ltd., listed and most of the equipment it was carrying fell into the sea. The incident took place near the northeastern end of Vancouver Island within the boundaries of the Robson Bight Ecological Reserve, reported as being a highly sensitive area frequented by various species of wildlife, including from time to time, orca whales. The barge cargo included a diesel tanker truck, containing 10,000 litres of diesel fuel, and a products container cube containing 1,400 litres of lubricant oil and hydraulic fluids. A substantial sheen of oil, some 14 kilometres long and 500 metres wide, was observed on the water soon after the equipment slipped off the barge. The barge owner engaged the Response Organization, Burrard Clean Operations, to take the necessary measures to contain the oil that had been released. In accordance with advice from the Regional Environmental Emergency Team, protective booms were placed around some beaches within the boundaries of the ecological reserve. On August 21, the provincial government established an incident command post at Port McNeil to manage the on-scene provincial spill response. Since most of the oil carried in the equipment was light diesel oil, it dispersed relatively quickly. On August 22, Transport Canada aerial surveillance indicated that 95 percent of the oil slick seen the previous day on the shoreline had dissipated. The remaining diesel fuel was also expected to evaporate and dissipate naturally. The Canadian Wildlife Services advised that no oiled birds had been found. In sum, there was no noticeable impact on wildlife or the shoreline as a result of the spill. Accordingly, within a few days, the protection booms were removed, and the provincial incident command post was demobilized during the late evening of August 23.

In November and December 2007, the Province of British Columbia and the federal government, on a shared cost basis, conducted a series of dives by a diver operated vehicle to locate the equipment and assess its condition. The equipment, notably the tank truck, was located and appeared to be in good condition. However, it was observed that the latch on the forward compartment of the truck was partially open. In May 2009, it was decided to go ahead with the salvage of the tanker truck and container cube. The Canadian Coast Guard (CCG) monitored the salvage operation, which was successfully completed on May 19 without further spillage of oil. The tanker truck was found to contain roughly 3,000 litres of diesel fuel and the cube contained 1,800 litres of hazardous materials.

Measures taken by the Administrator

Following the announcement of the plans to salvage the Robson Bight wreckage on April 18, 2008, the Administrator engaged counsel and a technical marine surveyor to monitor developments and advise on the various aspects concerning the salvage plan being developed by the British Columbia Ministry of Environment.

The Claim

On August 13, 2009, the Ministry of the Environment of British Columbia filed a claim with the Ship-source Oil Pollution Fund in the amount of \$2,707,477.14 pursuant to the *Marine Liability Act* (MLA). The claim was divided into three segments:

- the costs and expenses, in the amount of \$47,590.13, incurred in respect of the initial response to the incident;
- the costs and expenses, in the amount of \$150,713.11, incurred in respect of the diving operation to locate the equipment and assess its condition; and
- the costs and expenses, in the amount of \$2,509,173.90, incurred to salvage the tanker truck and the cube.

Assessment and Offer

The Administrator engaged counsel and technical marine consultants to assist with a thorough investigation and assessment of each segment of the claim.

For the costs and expenses for initial response, the Administrator found them to be established, except for the fee in the amount of \$3,049.12 for modeling services obtained from Environment Canada to predict the effects of potential oil released from the submerged equipment during the salvage operation. Accordingly, \$44,541.01 was offered for this segment of the claim.

With respect to the costs and expenses for diving operations, the Administrator also found them to be established, except for \$4,000.00. Accordingly, \$146,713.11 was offered for this segment of the claim.

Finally, concerning the costs and expenses for salvage operations, based on the documentation that was filed with the claim and those that had been received in response to request for further particulars, the Administrator concluded that the salvage of the tank truck and the cube was not a reasonable measure. In his view, the measures taken were out of proportion to the threat posed. Consequently, he disallowed this segment of the claim.

On July 23, 2010, the Administrator made an offer in the amount of \$191,254.12, plus interest, as full and final settlement of the claim, pursuant to the MLA. The offer was not accepted within the time limits prescribed by the legislation; hence, no payments were made and the Administrator closed the file.

Status

The file was closed on March 31, 2011.

Related file

Crown Forest 84-12 (2007), Robson Bight Ecological Reserve Area, Northeastern end of Vancouver Island, BC, Case number: 120-517-C1-2 (same incident, different claimant)

Crown Forest 84-12 - CCG Claim (2007)

Location: Robson Bight Ecological Reserve Area, Northeastern end of Vancouver Island, BC
Case number: 120-517-C1-2

The Incident

On August 20, 2007, a barge, *Crown Forest 84-12*, owned by Ted Leroy Trucking, while under tow by a tug, *M/V Kathy L.*, owned by Gowlland Towing Ltd., listed and most of the equipment it was carrying fell into the sea. The incident took place near the northeastern end of Vancouver Island within the boundaries of the Robson Bight Ecological Reserve, reported as being a highly sensitive area frequented by various species of wildlife, including from time to time, orca whales. The barge cargo included a diesel tanker truck, containing 10,000 litres of diesel fuel, and a products container cube containing 1,400 litres of lubricant oil and hydraulic fluids. A substantial sheen of oil, some 14 kilometres long and 500 metres wide, was observed on the water soon after the equipment slipped off the barge. The barge owner engaged the Response Organization, Burrard Clean Operations, to take the necessary measures to contain the oil that had been released. In accordance with advice from the Regional Environmental Emergency Team, protective booms were placed around some beaches within the boundaries of the ecological reserve. On August 21, the provincial government established an incident command post at Port McNeil to manage the on-scene provincial spill response. Since most of the oil carried in the equipment was light diesel oil, it dispersed relatively quickly. On August 22, a Transport Canada aerial surveillance indicated that 95 percent of the oil slick seen the previous day on the shoreline had dissipated. The remaining diesel fuel was also expected to evaporate and dissipate naturally. The Canadian Wildlife Services advised that no oiled birds had been found. In sum, there was no noticeable impact on wildlife or the shoreline as a result of the spill. Accordingly, within a few days, the protection booms were removed, and the provincial incident command post was demobilized during the late evening of August 23.

In November and December 2007, the Province of British Columbia and the federal government, on a shared cost basis, conducted a series of dive by a diver operated vehicle to locate the equipment and assess its condition. The equipment, notably the tank truck, was located and appeared to be in good condition. However, it was observed that the latch on the forward compartment of the truck was partially open. In May 2009, it was decided to go ahead with the salvage of the tanker truck and container cube. The Canadian Coast Guard (CCG) monitored the salvage operation, which was successfully completed on May 19 without further spillage of oil. The tanker truck was found to contain roughly 3,000 litres of diesel fuel and the cube contained 1,800 litres of hazardous materials.

Measures taken by the Administrator

Following the announcement of the plans to salvage the Robson Bight wreckage on April 18, 2008, the Administrator engaged counsel and a technical marine surveyor to monitor developments and advise on the various aspects concerning the salvage plan being developed by the British Columbia Ministry of Environment.

The Claim

On August 19, 2009, the CCG filed a claim with the Ship-source Oil Pollution Fund in the amount of \$92,836.24 for costs and expenses incurred in connection with monitoring the salvage operation of the incident. The claim was divided into two segments:

- the costs and expenses, in the amount of \$9,780.84, incurred in respect of the diving operation to locate the equipment and assess its condition; and
- the costs and expenses, in the amount of \$83,055.40, incurred in connection with the operation to salvage the tanker truck and the cube.

Assessment and Offer

On the basis of the documentation submitted, the Administrator found the first segment of the claim to be fully established and offered \$9,780.84, plus interest, for this portion.

With respect to the costs and expenses for the salvage operations, for his assessment of the claim, the Administrator requested and obtained additional information and documentation from CCG. Since it was concluded that the salvage operation, which the CCG agreed to fund jointly with the British Columbia Ministry of Environment, was out of proportion to the actual threat, the Administrator regarded the salvage segment as an unreasonable measure. Accordingly, this segment of the claim was disallowed.

On July 23, 2010, the Administrator offered \$9,780.84, plus interest, in full and final settlement of the claim, but the offer was not accepted within the time limit prescribed by the legislation. Therefore, no payment was made and the Administrator closed the file.

Status

The file was closed on March 31, 2011.

Related file

Crown Forest 84-12 (2007), Robson Bight Ecological Reserve Area, Northeastern end of Vancouver Island, BC, Case number: 120-517-C1-1 (same incident, different claimant)

Delta I (2008)

Location: Toquart Bay, BC

Case number: 120-529-C1

The Incident

On January 3, 2008, the Canadian Coast Guard (CCG) received a report that over the holidays the barge *Delta I*, loaded with scrap steel, had overturned while secured to a mooring buoy in Toquart Bay, on the west side of Vancouver Island, British Columbia. During the subsequent investigation, the owner advised that the only unit of equipment containing oil was a backhoe. By January 10, the barge had submerged completely. CCG had not considered the incident a pollution risk until it was later discovered that additional equipment, which included a pickup truck and some pails of oil, contained oil. Furthermore, it was revealed that the backhoe was actually a full-size excavator. On January 30, the CCG informed the owner of his legal responsibilities to take measures to prevent a discharge of pollutants and to advise the CCG of his intentions. On February 5, the barge owner stated that his insurance would not pay for the removal of the oil related items. However, he would remove what he could. By February 12, the owner reported that everything that might cause pollution had been removed, except the pickup truck and excavator.

On February 25, fisheries officers reported an intermittent upwelling and sheen of oil at the site. Accordingly, additional containment booms were deployed. On March 20, Environment Canada (EC) provided the CCG with an environmental risk statement indicating that EC planned to recommend a shellfish closure in the area, which measure was put into effect a short time later. On April 1, the CCG engaged Saltair Marine Services Ltd. to conduct a dive survey of the area. The surveyor found the excavator a short distance from the barge upside down in 35 to 40 feet of water with a pickup truck and scrap steel on top of it. Also, there was a considerable amount of scrap steel and other heavy equipment beside and under the barge.

On April 16, the CCG learned that Saltair Marine Services Ltd. had arranged with the barge owner to remove the barge and the scrap steel. The removal of the excavator was not included in the arrangement as it would not be cost effective to remove it for its value. During the salvage operation, it became apparent that some of the scrap metal cargo contained oil and was polluting when disturbed. The salvor ceased operations when the barge was raised and there was enough scrap steel to pay for its costs. The CCG then contracted the salvor to continue operations in order to recover all items containing oil, including the excavator. The operation was completed during the first week of May.

The Claim

On March 23, 2009, the CCG filed a claim with the Ship-source Oil Pollution Fund in the amount of \$142,604.26 for costs and expenses incurred for monitoring and contract services.

Assessment and Offer

On July 21, 2009, the Administrator requested that the CCG provide additional information and substantiating documentation about the contract with Saltair Marine Services. At the same time, counsel was instructed to engage a local marine surveyor to interview the salvage contractor and CCG personnel, and report on the reasonableness of the work performed to raise the equipment containing oil. The CCG replied to the Administrator's request for additional material on January 19, 2010.

On December 21, 2010, after investigation and assessment of the claim, the Administrator informed the CCG that he planned to make an offer of compensation, but that he was contemplating a substantial reduction from the full amount of the claim. The CCG was then provided with additional time, until January 31, 2011, to make further representations in respect of the concerns raised by the Administrator. On January 31, a written response was received from the CCG.

On March 7, 2011, the Administrator made a global offer in the amount of \$100,000.00, inclusive of interest, in full and final settlement of the claim. CCG accepted the offer and on May 25, 2011, a payment of \$100,000.00 was directed by the Administrator to the CCG, in accordance with the *Marine Liability Act*.

Recovery Action

The Administrator instructed counsel to commence legal proceedings against the barge owner, Swail Developments Ltd., and all others interested in the *Delta I*. As a result of a dispute conference in the Federal Court on November 17, 2011, the claim was settled for \$25,000.00 without admission of liability, which amount, in the Administrator's judgment, was reasonable taking into account the costs of pursuing the litigation and the inherent risk of an unfavorable outcome.

Status

The file was closed on March 31, 2012.

La Lumiere (ex-Seaspan Chinook) (2008)

Location: Howe Sound, BC

Case number: 120-531-C1

The Incident

On May 10, 2008, an article in the newspaper, Vancouver Sun, reported the sinking of the *La Lumiere (ex-Seaspan Chinook)* at Britannia Beach in Howe Sound, British Columbia, and an upwelling of diesel oil into the Howe Sound. The wooden-hull *La Lumiere* was originally a Second World War heritage tug built in 1944 for the United States Navy, and the Transport Canada Vessel Registration Query System showed the Maritime Heritage Society of Vancouver (the Society) to be the owner.

The Canadian Coast Guard (CCG) responded to the incident. Its response team deployed a 1600-foot oil containment boom to encircle the position where oil was upwelling from the sunken vessel, approximately 100 metres offshore. By May 15, the upwelling of hydrocarbons had decreased markedly to several small globules per second. The CCG then engaged the services of Fraser River Pile and Dredge and Canpac Divers to use a remotely operated vehicle to locate the *La Lumiere* to determine the cause of sinking and assess the condition of the hull. On the second dive, the submerged vessel was positively identified as the *La Lumiere*. It was found resting on a slope in depths ranging from 245 to 290 feet. Video footage was obtained and the hull appeared intact.

On May 17, only light intermittent oil sheen was sighted; hence, the CCG engaged the response organization Burrard Clean to remove the oil containment boom. The incident was then moved to a monitoring-only stage.

Measures taken by the Administrator

When the Administrator was aware of the incident, he instructed counsel to engage a marine surveyor from Oceatec Marine Services Ltd. to attend at Britannia Beach to monitor clean-up operations and report on developments.

The Claim

On May 7, 2010, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$127,149.07, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

On February 1, 2011, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$85,641.19, plus interest, in accordance with the MLA. DFO/CCG accepted the offer on April 1, and payment of \$93,210.63, inclusive of interest, was made.

Recovery Action

Prior to June 23, 2006, the registered and beneficial owner of the vessel was the Society. The Society ceased operating on June 23, 2006 and was dissolved. Pursuant to the *Society Act of British Columbia*, the assets of the Society were surrendered to Her Majesty the Queen in right of British Columbia. Consequently, on April 21, 2011, counsel for the Administrator requested that the Province of British Columbia (the Province) pay the Administrator the amount of \$85,641.19, plus interest, in respect of the oil pollution remediation costs. However, the Province denied that it was the owner of the vessel and refused to pay the costs.

On May 3, 2011, counsel commenced legal proceedings against the Province. During the litigation process, the solicitors for the Fund and the Province discussed a potential out-of-court settlement, and on February 8, 2013, the Province accepted the Administrator's counter-offer to settle the action for the sum of \$60,000.00, inclusive of all costs and disbursements. On April 6, 2013, an appropriate release was executed by the Administrator and sent to the Legal Services Branch of the Provincial Ministry of Justice. The full amount of the settlement was thereafter received by the Administrator.

Status

The file was closed on May 17, 2013.

Winamac (2007)

Location: Powell River, BC

Case number: 120-540-C1

The Incident

On November 27, 2007, the ex-tug *Winamac* sank off the Saltery Bay government wharf, at Powell River, British Columbia. Oil was being released from the sunken vessel causing an oil sheen on the surface of the water. The Canadian Coast Guard's (CCG) attempts to determine the owner of the vessel having been unsuccessful, they deployed personnel and equipment to the site from their Emergency Response depot in Richmond. Containment booms were placed around the oil sheen and absorbent materials were used inside the boom to recover upwelling oil. On November 30, 2007, the upwelling of oil ceased and the situation appeared stable. On December 1, 2007, divers were deployed to survey the wreck. They reported no visible fuel leakage and that no fuel had been trapped within the vessel. Therefore, the CCG Environmental Response personnel demobilized and returned to Richmond.

The Claim

On September 10, 2008, the Department of Fisheries and Oceans (DFO)/CCG filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$6,971.58, pursuant to Part 6 of the *Marine Liability Act* (MLA).

Assessment and Offer

Following investigation and assessment of the claim, the Administrator concluded that the full amount of the claim was established. He therefore offered such amount, plus interest, as settlement, pursuant to sections 86 and 101 of the MLA. DFO/CCG accepted the offer and on November 3, 2008, payment of \$7,343.52 was made.

Recovery Action

The Administrator instructed counsel to investigate whether there were reasonable measures that could be taken to recover the amount paid to DFO/CCG pursuant to section 87(3) of the MLA. Based on the results of the investigation, he concluded that there was no reasonable prospect of recovering the costs related to this incident.

Status

The file was closed on March 24, 2010.

Steveston II (2008)

Location: Ladner Harbour, BC

Case number: 120-546-C1

The Incident

On November 27, 2008, the ex-fishing vessel, *Steveston II*, partially sank at the wharf in Ladner Harbour, British Columbia. The Ladner Harbour Authority informed the Canadian Coast Guard (CCG) that all its efforts to reach the vessel registered owner were unsuccessful.

Since the derelict vessel leaked diesel oil and hydraulic fluids, CCG Environmental Response personnel deployed a containment boom around the vessel. An oil skimmer was utilized to recover the upwelling oily waste, and absorbent pads and booms were used to clean up small patches of oil in other areas of the harbour basin. CCG personnel then contracted Fraser River Pile and Dredge to raise the vessel from the seabed. On November 28, the vessel was raised, placed on a barge and transported to the salvor's shore facility for further assessment of the damaged hull. It was determined that several hull planks had let go and the vessel was saturated with pollutants. On December 19 and 20, an environmental service company was hired to remove all oil from the fuel tanks and machinery. The interior of the old vessel was found to be contaminated. As a result, the *Steveston II* was completely demolished and disposed of into a landfill.

The Claim

On June 16, 2009, the Department of Fisheries and Oceans (DFO)/CCG filed a claim with the Ship-source Oil Pollution Fund for costs and expenses incurred in the amount of \$68,929.72, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

On May 26, 2010, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$68,929.72, plus interest, as full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer, and on June 8, 2010, the Administrator directed payment in the amount of \$71,888.97, inclusive of interest.

Recovery Action

On October 15, 2010, a letter was sent by registered mail to the vessel owner in effort to recover the costs. However, the letter was returned marked « not at address anymore ». Accordingly and as a result of further investigations, the Administrator concluded that there was no reasonable prospect for obtaining recovery from the vessel owner. He, therefore, closed the file.

Status

The file was closed on March 31, 2011.

Columbia (2008) ⚓

Location: Steveston Harbour, BC
Case number: 120-547-C1

The Incident

On August 25, 2008, an American-owned 65-foot fishing vessel, *Columbia*, sank at the mooring float at Steveston Harbour, British Columbia. The Steveston Harbour Authority (the Authority) boomed off the old wooden vessel and commenced cleanup of the leaking oil in order to minimize pollution from entering the marine environment. On August 28, the Authority contacted the vessel owner who was fishing in Alaska. The latter appeared to accept responsibility for the costs of cleanup and salvage, but indicated that there was no insurance on the old vessel. The *Columbia* was later abandoned since no follow-up action was taken by the owner. On August 30, the Authority contracted a salvage company, and the *Columbia* was raised and transported to Shelter Island Marina, where it was lifted ashore. It was then discovered that the vessel's fuel tanks were partially full.

On October 10, the Authority engaged Chris Small Marine Surveyors Ltd. to offer an opinion as to the vessel's condition. The surveyors inspected the *Columbia* and reported it to be derelict beyond any practical or feasible repair with no remaining salvage value. Consequently, the Authority arranged for the demolition and disposal, effectively ending the environmental risk.

The Claim

On December 8, 2008, the Authority filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$81,470.88 for costs and expenses incurred.

Assessment and Offer

On December 18, the Administrator acknowledged receipt of the claim. He then engaged legal counsel and a technical marine surveyor to investigate the circumstances surrounding the incident.

As a result of his investigation and assessment of the claim, the Administrator made an offer for the established amount of \$68,760.33, plus interest, in full and final settlement of the claim, pursuant to sections 86 and 101 of the *Marine Liability Act* (MLA). The Authority accepted the offer, and on July 9, 2009, upon receipt of a duly executed Release and Subrogation Agreement, a cheque in the sum of \$69,874.09, inclusive of interest, was forwarded to the Authority.

Recovery Action

The Administrator instructed counsel to review the feasibility of undertaking cost recovery action pursuant to section 87(3) of the MLA. As a result of subsequent investigations and counsel's opinions, the Administrator concluded that it was unlikely that the Fund would obtain any recovery against the vessel owner. He, therefore, closed the file.

Status

The file was closed on March 31, 2010.

Barbydine (2011)

Location: Port Edward Government Docks, BC

Case number: 120-549-C1

The Incident

During the morning of April 15, 2011, the wharfinger at Port Edward Harbour, British Columbia, reported to the Canadian Coast Guard (CCG) that an old 35-foot ex-fishing vessel, *Barbydine*, was sinking at the government wharf. The CCG was informed that the Harbour Authority had used pumps to try to keep the vessel from sinking completely. However, despite these efforts, the vessel sank so that only the bow remained above water. Light oil sheen emerged around the wreck and a layer of oil was visible inside the wheelhouse. Consequently, an oil containment boom and absorbent pads were placed around the sunken vessel. Emergency Response personnel from CCG at Prince Rupert attended and assumed the role of On-Scene Commander. They ascertained that the vessel owner was an elderly person in hospital and neither he nor his son, who arrived on-site as the owner's representative, had the means to respond to the incident. Nevertheless, the son was handed a "Letter of Intent" with respect to the owner's responsibilities under the *Marine Liability Act* (MLA) to take the necessary measures to prevent oil pollution damage.

CCG engaged three local contractors to raise the sunken vessel and remove the pollutants. On April 16, the vessel was raised and CCG engaged a local marine technical surveyor to assess its structural integrity. The surveyor indicated that given its deterioration, there was no remaining monetary value. Hence, in his view, the vessel would be declared a total constructive loss. CCG then instructed Wainwright Marine to tow the *Barbydine* to its repair yard for removal of the hydrocarbons. Approximately 230 litres of diesel oil and 20 litres of hydraulic oil were recovered, but more fuel remained in the tanks, engine and fuel lines. As a result, it was necessary to deconstruct the hull and dispose of the oil-soaked debris, which measures were completed within the next few days.

The Claim

On November 9, 2011, the Department of Fisheries and Oceans (DFO)/CCG filed a claim with the Ship-source Oil Pollution Fund (the Fund) for costs and expenses in the amount of \$27,714.52, pursuant to sections 77(1), 101 and 103 of the MLA.

Assessment and Offer

Upon completion of an investigation and assessment of the claim, the Administrator found the full amount to be established. Therefore, on November 26, pursuant to sections 106 and 116 of the MLA, he offered \$27,714.52, plus interest, as full and final settlement of the claim. DFO/CCG accepted the offer and on December 2, the Administrator directed payment of \$28,101.29, inclusive of interest.

Recovery Action

On the Administrator's instructions, counsel for the Fund sent, on April 12, 2012, a letter by registered mail to the owner of the *Barbydine* requesting to make arrangements to pay the sum of \$27,714.52 to the Fund. On June 12, a cheque in that amount was received by the Fund and on July 19, counsel wrote to the vessel owner to confirm that the claim of the Fund had been fully satisfied.

Status

The file was closed on August 8, 2012.

Gala Babe II (2008)

Location: Ladner Harbour, BC

Case number: 120-551-C1

The Incident

On December 29, 2008, the fishing vessel *Gala Babe II* sank at the wharf in Ladner Harbour, British Columbia. Diesel fuel oil was leaking from the vessel causing an oil slick on the surface. The Canadian Coast Guard (CCG) Environmental Response personnel from Richmond investigated and assessed the situation. On December 31, 2008, the vessel owner was informed by letter of his liability for pollution damage.

By January 7, 2009, the amount of oil on the surface was increasing. The owner having not taken any corrective action to prevent the pollution or raise the vessel, on January 8, the CCG contracted a local salvage operator, Fraser River Pile and Dredge, to raise the vessel and transport it to Shelter Island Marina (the Marina). The salvaged vessel was then assessed for fair market value by Active Marine Services, which noted in its report that the *Gala Babe II* was not economically salvageable and only represented scrap value, or possible salvage value of the hull and machinery. In the opinion of the surveyor who did the assessment, the actual cash value of the *Gala Babe II* was \$20,000 to \$25,000.

The vessel was eventually sold by CCG for the amount of \$11,715.90, which amount was accounted for in the CCG's claim with the Ship-source Oil Pollution Fund (the Fund).

Measures taken by the Administrator

The Administrator was informed about the incident by the CCG on January 9. In anticipation of a claim and litigation, he instructed counsel to engage a marine surveyor to conduct a survey of the vessel at the Marina and determine the fair market value. On February 2, a marine surveyor, engaged on behalf of the Fund, provided his report estimating the fair market value at \$15,000 to \$20,000.

The Claim

On August 20, 2009, the Department of Fisheries and Oceans (DFO)/CCG, filed a claim with the Fund for costs and expenses in the amount of \$21,314.03, pursuant to Part 6 of the *Marine Liability Act* (MLA).

Assessment and Offer

On January 7, 2010, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$21,314.03, plus interest, in full and final settlement of the claim, pursuant to sections 86 and 101 of the MLA. DFO/CCG accepted the offer and payment in the amount of \$21,941.78, inclusive of interest, was directed by the Administrator.

Recovery Action

On the Administrator's instructions, a demand letter was sent via registered mail to Jay Sea Fisheries Ltd., the registered owner of the *Gala Babe II*. Counsel then found that as the vessel had been sold by the CCG and the fishing license went into the buyback program, there were no other assets of the company. The Land Registry Office and Personal Property Security searches revealed no real or personal property in the name of the shipowner. Based on these investigations, the Administrator concluded that it was not reasonable to take further measures to recover payment, and he, therefore, closed the file.

Status

The file was closed on April 11, 2010.

Island Ranger (2008)

Location: Tofino Harbour, BC

Case number: 120-553-C1

The Incident

On November 30, 2008, the 68-foot wooden tug *Island Ranger* grounded and partially sank in Tofino Harbour, British Columbia. The vessel, which was reported to contain 800 gallons of diesel fuel, 84 gallons of lubricant oil and a quantity of hydraulic fluids, lay with its port side submerged across the current, approximately 70 metres off the crab dock. The crew managed to plug the starboard vents but the port vents were inaccessible. The Canadian Coast Guard (CCG) personnel assisted the owner in placing oil booms around the vessel to contain oil being released from the wheelhouse area.

On December 1, 2008, the owner engaged a contractor to respond to the situation and raise the *Island Ranger*. On December 3, the CCG booms were removed from around the vessel and redeployed to protect a nearby beach area that was identified as a local shellfish beach. On December 5, the CCG personnel returned its pollution response equipment to Victoria, but continued to monitor the shipowner cleanup and salvage operations. On January 26, 2009, the *Island Ranger* was recovered and the remaining fuel tanks were pumped out. It was later deconstructed and the debris were disposed of.

The Claim

On June 16, 2009, the Department of Fisheries and Oceans (DFO)/CCG, filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$54,337.20 for costs and expenses incurred, pursuant to sections 51(1), 84 and 85 of the *Marine Liability Act*.

Assessment and Offer

On June 23, the Administrator requested additional information from the CCG about whether it had followed up with the shipowner, Hustler Tug & Barge Limited, with respect to its efforts to have the company pay the CCG claim. On January 29, 2010, CCG replied and noted that the company, on advice from its legal counsel, was not in a position to pay the claim since the shipowner was suing the CCG on the grounds that a navigation buoy was out of place causing the *Island Ranger* to hit the rock and sink. In view of the fact that litigation was underway between the shipowner and the CCG to establish responsibility from the grounding, on June 24, 2010, the Administrator advised CCG that there would be no offer of compensation until resolution of the litigation.

Since the period of prescription for bringing an action against the owner of the *Island Ranger* was due to expire on November 30, 2011, the Administrator started a protective action on November 7, 2011 in the Federal Court against the owner of the *Island Ranger*. On October 15, 2013, the Administrator was informed that a settlement agreement in principle between the shipowner and the CCG had been achieved and the following day, a signed release withdrawing the CCG claim with the Fund with respect to the grounding of the *Island Ranger* was obtained.

Status

The file was closed on March 31, 2014.

Ganges I (2008)

Location: Ucluelet Harbour, BC

Case number: 120-555-C1

The Incident

On July 6, 2008, the Canadian Coast Guard (CCG) was informed that the pleasure craft *Ganges I* was aground and listing at 45 degrees in Ucluelet Harbour, on the west side of Vancouver Island, British Columbia. The vessel was holed and diesel fuel was leaking from its tanks. The CCG ship, *Provo Wallis*, was on scene and rescued the crew. The CCG then successfully plugged the fuel vents and deployed a sorbent boom around the *Ganges I*.

On July 7, because of the owner's inability to handle the incident, CCG personnel at Victoria went to Ucluelet Harbour with response equipment and a 17-foot boat. However, they were unable to safely get aboard the stranded vessel because of the sea state and wind conditions. Saltair Marine Services Ltd. was then engaged to attend the following morning with a larger boat and board the damaged vessel to make an assessment about removing the oil. Saltair Marine Services Ltd. personnel's inspection found that the vessel could be refloated and should be relocated to an area for destruction and safe removal of oil. Some of the necessary equipment for raising the vessel had to be brought in from Ladysmith and arrived by barge on July 9. As the contractors boarded to make preparations to pump out the fuel, they found the tanks empty due to a broken filler pipe on the low tank and an open crossover valve. Approximately 12 gallons of waste oil were recovered from the engine and lube oil tank, and sorbent pads were placed throughout the engine space and inside the fuel tanks to collect the pools of residual oil that remained. The contractors were stood down after the removal of the oils. It was not necessary to deconstruct the vessel. The next day, CCG personnel returned to the site with Saltair Marine Services Ltd. and removed the pads and remaining oily waste found inside. The *Ganges I* remained where it was stranded. No further action was planned.

The Claim

On March 23, 2009, the Department of Fisheries and Oceans (DFO)/CCG filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$47,895.49, pursuant to Part 6 of the *Marine Liability Act* (MLA).

Assessment and Offer

On July 21, 2009, the Administrator requested CCG to provide additional information and documentation about its contract with the salvor. A written response was received on January 19, 2010. In addition, to complete his investigation and assessment of the claim, the Administrator instructed counsel to engage a marine surveyor to review and further investigate the documentation referring to the services provided by the contractor, Saltair Marine Services Ltd., in order to assess whether the measures taken were reasonable and, if so, were the charges fair and reasonable for the services provided.

On December 21, 2010, the Administrator informed CCG that he was planning to make an offer of compensation, but that he was contemplating a substantial reduction from the full amount of the claim. CCG was then provided an opportunity to make further representations in writing in respect to the matters raised by the Administrator. On February 11, 2011, CCG replied to the Administrator's letter. On March 7, 2011, after extensive investigation and assessment of the claim, involving independent surveyors and counsel, the Administrator made a global offer of 60% of the established amount of the claim, namely \$28,740.00, including interest, in full and final settlement. DFO/CCG accepted the offer and on April 28, 2011, payment of \$28,740.00 was directed by the Administrator to DFO/CCG, in accordance with the MLA.

Recovery Action

On June 15, 2011, a letter was sent to the owner of the *Ganges I* in an effort to recover the amount of compensation paid to DFO/CCG. The following day, the owner responded by email and explained that he was only able to make a lump sum payment of \$5,000.00. On the advice of counsel, the Administrator decided to accept the settlement offer of \$5,000.00 all inclusive. The appropriate release document was executed on June 28 and on July 26, a cheque in the amount of \$5,000.00 was received by the Administrator.

Status

The file was closed on August 16, 2011.

May's Landing (2008)

Location: Toquart Bay, BC

Case number: 120-556-C1

The Incident

On September 29, 2008, the Canadian Coast Guard (CCG) received a report that the barge *May's Landing*, located in Toquart Bay, on the west side of Vancouver Island, was listing significantly and in danger of sinking. The *May's Landing*, an old cargo vessel converted to a helicopter maintenance barge, was apparently no longer in operation. The CCG contacted the owner to have the barge stabilized by pumping out the excess water. On October 2 and 21, the CCG personnel visited the barge and found that the list still existed. There was no indication that the barge had been pumped out.

On November 12, CCG personnel and a Transport Canada Marine Safety surveyor inspected the barge. They did not find any oil in the fuel tanks or elsewhere below deck. However, a number of tanks and compartments were tidal or open to rain water. On deck, there was oil stored in 45-gallon drums and in 5-gallon pails. There was also a crane truck onboard. On November 14, 2008, the owner of the *May's Landing* was sent a "Notice" requesting information about his intentions with respect to measures to prevent a discharge of oil into the water, but he did not take any measures to remedy the situation. Accordingly, on December 8 and 9, CCG personnel removed three drums of oil, including hydraulic fluid from the crane truck and other waste oil. The oil was thereafter taken to a contractor for disposal.

The Claim

On March 20, 2009, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$3,209.82, pursuant to Part 6 of the *Marine Liability Act*.

Assessment and Offer

On July 7, 2009, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$3,209.82, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer on July 13, 2009 and payment in the amount of \$3,290.60, inclusive of interest, was directed by the Administrator.

Recovery Action

The Administrator was of the view that there was no reasonable prospect of recovering the costs related to the incident. Accordingly, he closed the file.

Status

The file was closed on March 31, 2010.

Patricia Louise (2008)

Location: Campbell River, BC

Case number: 120-557-C1

The Incident

On November 1, 2008, the old wooden fishing vessel *Patricia Louise* sank at a Discovery Harbour Marina dock in Campbell River, British Columbia. There was an upwelling oil slick from the vessel, which was reported to contain approximately 100 gallons of diesel fuel. The Harbour Authority assisted the owner to deploy a containment boom around the vessel. In addition, on behalf of the owner, the marina officials hired the barge and crane company DCD Pile Driving (1990) Ltd. to raise the submerged vessel. Upon recovery, it was found that the interior of the vessel was coated with diesel oil.

On November 2, the owner advised the Canadian Coast Guard (CCG) of his financial inability to pay for the raising of the vessel and the costs of oil removal and disposal. In addition, the vessel was not insured. The CCG then took over the response to the pollution incident and engaged DCD to remove the oil from the *Patricia Louise* and deconstruct it. The deconstruction process began on November 3 and the next day, the *Patricia Louise* was fully deconstructed and the oil removed. One truck load of metal, six loads of oiled wood, ten bags of sorbent material and approximately 45 gallons of oil were removed from the site where the vessel was dismantled.

The Claim

On March 23, 2009, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund (the Fund) for costs and expenses in the amount of \$36,696.95, pursuant to Part 6 of the *Marine Liability Act*.

Assessment and Offer

On February 2, 2010, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$35,364.76, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and on February 11, 2010, payment of \$36,377.82, inclusive of interest, was made.

Recovery Action

On the Administrator's instructions, counsel for the Fund conducted searches for land and registered vessels in the name of the *Patricia Louise*'s registered owner. Searches revealed that the owner had no fixed address and no apparent eligible assets. The Administrator therefore concluded that no further recovery efforts were justified.

Status

The file was closed on July 19, 2010.

Saxon Viking (2008)

Location: Ucluelet Harbour, BC

Case number: 120-558-C1

The Incident

On November 14, 2008, the Canadian Coast Guard (CCG) received a report that the 60-foot fishing vessel, *Saxon Viking*, had slipped anchor in Ucluelet Harbour, on the westside of Vancouver Island, British Columbia and grounded near a seaplane base. The vessel, with approximately 500 gallons of fuel oil onboard, was taking on water with the incoming tide, but there was no oil pollution. The vessel owner was informed of his responsibilities with regard to potential oil pollution and advised to produce a plan of action by the following day. The CCG auxiliary and the Royal Canadian Mounted Police attended on site and tried to refloat the vessel. On November 16, the CCG checked the condition of the vessel. It had moved further up the mud flat and was grounded at high tide. In the event that it would lie over on the falling tide, CCG personnel plugged the accessible vents. In addition, on November 18, the CCG Environmental Response team from Victoria removed containers of oil.

When the owner was provided a written copy of a “Notice” to deal with the situation, the CCG was informed by the owner that he had no resources to handle the situation. Accordingly, on November 19, the CCG personnel pumped the fuel from the vessel’s tanks. Some 24 drums of fuel oil were removed, and the waste oil was staged at the CCG base for disposal.

The Claim

On January 29, 2009, the CCG sent a letter to the owner with an enclosed cost summary requesting payment within 30 days of \$10,036.28 for costs and expenses, but did not receive any reply. Consequently, on March 20, 2009, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$9,999.32, pursuant to Part 6 of the *Marine Liability Act*.

Assessment and Offer

On July 7, 2009, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$9,999.32, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and on July 28, 2009, payment of \$10,249.60, inclusive of interest, was directed by the Administrator to DFO/CCG.

Recovery Action

On July 30, the Administrator instructed counsel to investigate whether reasonable measures could be taken for effective cost recovery from the owner for the amount paid to DFO/CCG. On the basis of the results of the investigation, the Administrator concluded that further measures were not justified, and he therefore closed the file.

Status

The file was closed on March 31, 2011.

Hey Dad (2009)

Location: Gowlland Harbour, BC

Case number: 120-560-C1

The Incident

On June 28, 2009, the Canadian Coast Guard (CCG) was informed that the 50-foot ex-fishing vessel, *Hey Dad*, had sunk in Gowlland Harbour, British Columbia. The vessel was releasing oil onto the surface of the water. The CCG responded and deployed absorbent booms and pads to recover the oily waste that was upwelling from the sunken vessel. The vessel owner informed the CCG that he did not have insurance and was not financially able to respond to the situation. The following day, as the upwelling of oil continued, the CCG hired DCD Pile Driving contractors to lift the wreck. When it was raised to the surface, all pumping attempts to refloat the vessel were unsuccessful. Consequently, the CCG had the vessel towed, while slung by a crane, to Middle Point Barge Terminal for further assessment. A marine surveyor was engaged and he advised CCG that the vessel had no value and should be deconstructed to safely remove all pollutants. On June 30, the *Hey Dad* was dismantled and the materials with all oily waste were disposed of so that no further threat of pollution into the marine environment existed.

The Claim

On December 15, 2009, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund in the amount of \$32,960.91, pursuant to Part 6 of the *Marine Liability Act* (MLA).

Assessment and Offer

For his assessment of the claim, on February 11, 2010, the Administrator instructed counsel to engage a technical marine surveyor to investigate whether all the expenses could be reasonably characterized as pollution prevention, or whether some of them were, in essence, for wreck removal. As a result of his investigation, the surveyor reported that he concurred with the view of the CCG's independent technical surveyor that the vessel had no value and should be deconstructed to safely remove all pollutants. The Administrator therefore concluded that the amount of \$32,069.53 was established and on February 1, 2011, he offered such amount, plus interest, as compensation in full and final settlement, pursuant to the MLA. DFO/CCG accepted the offer on April 1, and on April 12, payment of \$33,730.24, inclusive of interest, was directed by the Administrator to DFO/CCG.

Recovery Action

On May 18, 2011, the Administrator sent a letter by registered mail to the owner of the *Hey Dad* requesting payment of the costs incurred in respect of the measures taken by the CCG during the incident by June 20, failing which he may commence legal proceedings. On June 15, the Administrator's letter was returned by Purolator courier as being unclaimed.

After conducting further investigations, the Administrator concluded that it was not reasonable to expend further funds to collect from the owner the amount paid out for this claim, and he therefore closed the file.

Status

The file was closed on December 20, 2011.

Oceanic – Western Canada Marine Response Corporation Claim (2009)

Location: Burrard Inlet, BC

Case number: 120-561-C1

The Incident

On July 30, 2009, a black oil sheen was discovered around the *Oceanic*, a Panamanian-registered cruise ship, which had been secured at Canada Place cruise terminal in Vancouver Harbour, British Columbia. The oil slick then drifted into a private marina located on the south shore of Burrard Inlet (the Marina), causing considerable damages to fourteen pleasure crafts. When the incident occurred, the agent of the shipowner engaged Burrard Clean Operations, a division of Western Canada Marine Response Corporation (WCMRC), to respond to the oil spill. Burrard Clean Operations deployed 2,000 feet of containment boom around the vessel, utilized two workboats to skim the oil from the surface, and cleaned both the port and starboard side of the vessel.

Environment Canada and the Canadian Wildlife Services were contacted as a result of oiled birds found along the shoreline. Transport Canada Marine Safety personnel inspected the *Oceanic* for evidence that it was responsible for the pollution, but to no avail. The Canadian Coast Guard (CCG) took over the position of On-Scene Commander at the request of the Harbour Master and continued the investigation of the source of the oil by taking samples of the *Oceanic*'s fuel tanks and from the water surface. The CCG considered the incident as a mystery spill until they got the results of the ongoing investigation. In the meantime, the *Oceanic* was allowed to depart and leave the jurisdiction without any Letter of Undertaking or any other security from the shipowner or its agent.

Measures taken by the Administrator

The Administrator was informed about the incident on August 11, 2009 by a spokesperson representing the Marina. On August 30, he engaged a marine surveyor to investigate the circumstances surrounding the incident with Burrard Clean Operations, CCG, Transport Canada Marine Safety and the representative of the Marina.

Administrator as Party by Statute

In August and October 2009, WCMRC delivered invoices in the sum of \$223,056.46 to the shipowner for costs and expenses incurred in respect to the measures taken to minimize the oil pollution damage. On November 23, 2009, a representative of the agent of the shipowner wrote to WCMRC advising that the shipowner was disputing that the *Oceanic* was the source of the spill. Subsequently, on April 17, 2012, WCMRC counsel commenced legal proceedings in the Federal Court of Canada against both the shipowner and its agent. Pursuant to section 109 of the *Marine Liability Act* (MLA), a copy of the Statement of Claim was served on the Administrator.

On April 24, 2013, the Administrator received from counsel for the plaintiff a copy of the Federal Court Judgment granting judgment in favour of Burrard Clean Operations in the amount of \$223,056.46. In addition, he was advised that several attempts had been made to locate the

responsible party and collect judgment, but without success. Accordingly, WCMRC was seeking compensation from the Ship-source Oil Pollution Fund (the Fund).

On December 5, 2013, the Administrator wrote to counsel for WCMRC to disallow the claim on the grounds that WCMRC had not taken all reasonable measures to secure payment of its claim from the shipowner. In fact, under the terms of the MLA, Response Organizations, who are essentially agents of the shipowners, cannot recover their costs from the Fund unless they have taken all reasonable measures to recover their costs from the shipowners. The claimant had 60 days after notification of the Administrator's decision to appeal, but no appeal was lodged in the Federal Court within the prescribed period.

Status

The file was closed on March 27, 2014.

Related files

Oceanic (2009), Burrard Inlet, BC, Case number: 120-561-C1-1 (same incident, different claimant)

Oceanic (2009), Burrard Inlet, BC, Case number: 120-561-C1-2 (same incident, different claimant)

Oceanic (2009), Burrard Inlet, BC, Case number: 120-561-C1-3 (same incident, different claimant)

Oceanic - Gary Squires Claim (2009)

Location: Burrard Inlet, BC
Case number: 120-561-C1-1

The Incident

On July 30, 2009, a black oil sheen was discovered around the *Oceanic*, a Panamanian-registered cruise ship, which had been secured at Canada Place cruise terminal in Vancouver Harbour, British Columbia. The oil slick then drifted into a private marina located on the south shore of Burrard Inlet (the Marina), causing considerable damages to fourteen pleasure crafts. When the incident occurred, the agent of the shipowner engaged Burrard Clean Operations, a division of Western Canada Marine Response Corporation (WCMRC), to respond to the oil spill. Burrard Clean Operations deployed 2,000 feet of containment boom around the vessel, utilized two workboats to skim the oil from the surface, and cleaned both the port and starboard side of the vessel.

Environment Canada and the Canadian Wildlife Services were contacted as a result of oiled birds found along the shoreline. Transport Canada Marine Safety personnel inspected the *Oceanic* for evidence that it was responsible for the pollution, but to no avail. The Canadian Coast Guard (CCG) took over the position of On-Scene Commander at the request of the Harbour Master and continued the investigation of the source of the oil by taking samples of the *Oceanic*'s fuel tanks and from the water surface. The CCG considered the incident as a mystery spill until they got the results of the ongoing investigation. In the meantime, the *Oceanic* was allowed to depart and leave the jurisdiction without any Letter of Undertaking or any other security from the shipowner or its agent.

Measures taken by the Administrator

The Administrator was informed about the incident on August 11, 2009 by a spokesperson representing the Marina. On August 30, he engaged a marine surveyor to investigate the circumstances surrounding the incident with Burrard Clean Operations, CCG, Transport Canada Marine Safety and the representative of the Marina.

The Claim

On July 6, 2010, Gary Squires, one of the members of the Marina, filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$1,623.95 for costs and expenses relating to the cleaning of oil contamination to his boat *Manana*, which was moored at the Lantic dock at the time of the incident.

Assessment and Offer

The marine surveyor engaged by the Administrator investigated the claim and determined the oil that entered the Marina was consistent with heavy or intermediate grade fuel oil utilized by large commercial ships. Since no heavy oil pipelines or shore-based sources of heavy oil were found

near the Canada Place cruise ship terminal, he offered an opinion that the most probable source of the spilled oil was the *Oceanic*.

As a result of the investigation, the Administrator concluded that the full amount claimed was established and he therefore offered \$1,623.95, plus interest, in full and final settlement of the claim. The claimant accepted the offer and executed the applicable release and subrogation agreement on January 20, 2011. Compensation in the amount of \$1,714.05, inclusive of interest, was subsequently paid out pursuant to the terms of the *Marine Liability Act*.

Recovery Action

The Administrator found that there was no viable prospect of cost recovery.

Status

The file was closed on March 31, 2011.

Related files

Oceanic (2009), Burrard Inlet, BC, Case number: 120-561-C1 (same incident, different claimant)

Oceanic (2009), Burrard Inlet, BC, Case number: 120-561-C1-2 (same incident, different claimant)

Oceanic (2009), Burrard Inlet, BC, Case number: 120-561-C1-3 (same incident, different claimant)

Oceanic - Norman Ellis Claim (2009)

Location: Burrard Inlet, BC
Case number: 120-561-C1-2

The Incident

On July 30, 2009, a black oil sheen was discovered around the *Oceanic*, a Panamanian-registered cruise ship, which had been secured at Canada Place cruise terminal in Vancouver Harbour, British Columbia. The oil slick then drifted into a private marina located on the south shore of Burrard Inlet (the Marina), causing considerable damages to fourteen pleasure crafts. When the incident occurred, the agent of the shipowner engaged Burrard Clean Operations, a division of Western Canada Marine Response Corporation (WCMRC), to respond to the oil spill. Burrard Clean Operations deployed 2,000 feet of containment boom around the vessel, utilized two workboats to skim the oil from the surface, and cleaned both the port and starboard side of the vessel.

Environment Canada and the Canadian Wildlife Services were contacted as a result of oiled birds found along the shoreline. Transport Canada Marine Safety personnel inspected the *Oceanic* for evidence that it was responsible for the pollution, but to no avail. The Canadian Coast Guard (CCG) took over the position of On-Scene Commander at the request of the Harbour Master and continued the investigation of the source of the oil by taking samples of the *Oceanic*'s fuel tanks and from the water surface. The CCG considered the incident as a mystery spill until they got the results of the ongoing investigation. In the meantime, the *Oceanic* was allowed to depart and leave the jurisdiction without any Letter of Undertaking or any other security from the shipowner or its agent.

Measures taken by the Administrator

The Administrator was informed about the incident on August 11, 2009 by a spokesperson representing the Marina. On August 30, he engaged a marine surveyor to investigate the circumstances surrounding the incident with Burrard Clean Operations, CCG, Transport Canada Marine Safety and the representative of the Marina.

The Claim

On July 10, 2010, Norman Ellis, one of the members of the Marina, filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$626.15 for costs and expenses relating to the cleaning of oil contamination to his boat *Stella Maris*.

Assessment and Offer

The marine surveyor engaged by the Administrator investigated the claim and determined the oil that entered the Marina was consistent with heavy or intermediate grade fuel oil utilized by large commercial ships. Since no heavy oil pipelines or shore-based sources of heavy oil were found near the Canada Place cruise ship terminal, he offered an opinion that the most probable source of the spilled oil was the *Oceanic*.

As a result of the investigation, the Administrator concluded that the full amount claimed was established and he therefore offered \$626.15, plus interest, in full and final settlement of the claim. The claimant accepted the offer and executed the applicable release and subrogation agreement on January 20, 2011. Compensation in the amount of \$652.93, inclusive of interest, was subsequently paid out pursuant to the terms of the *Marine Liability Act*.

Recovery Action

The Administrator found that there was no viable prospect of cost recovery.

Status

The file was closed on March 31, 2011.

Related files

Oceanic (2009), Burrard Inlet, BC, Case number: 120-561-C1 (same incident, different claimant)

Oceanic (2009), Burrard Inlet, BC, Case number: 120-561-C1-1 (same incident, different claimant)

Oceanic (2009), Burrard Inlet, BC, Case number: 120-561-C1-3 (same incident, different claimant)

Oceanic – John Olson Claim (2009)

Location: Burrard Inlet, BC
Case number: 120-561-C1-3

The Incident

On July 30, 2009, a black oil sheen was discovered around the *Oceanic*, a Panamanian-registered cruise ship, which had been secured at Canada Place cruise terminal in Vancouver Harbour, British Columbia. The oil slick then drifted into a private marina located on the south shore of Burrard Inlet (the Marina), causing considerable damages to fourteen pleasure crafts. When the incident occurred, the agent of the shipowner engaged Burrard Clean Operations, a division of Western Canada Marine Response Corporation (WCMRC), to respond to the oil spill. Burrard Clean Operations deployed 2,000 feet of containment boom around the vessel, utilized two workboats to skim the oil from the surface, and cleaned both the port and starboard side of the vessel.

Environment Canada and the Canadian Wildlife Services were contacted as a result of oiled birds found along the shoreline. Transport Canada Marine Safety personnel inspected the *Oceanic* for evidence that it was responsible for the pollution, but to no avail. The Canadian Coast Guard (CCG) took over the position of On-Scene Commander at the request of the Harbour Master and continued the investigation of the source of the oil by taking samples of the *Oceanic*'s fuel tanks and from the water surface. The CCG considered the incident as a mystery spill until they got the results of the ongoing investigation. In the meantime, the *Oceanic* was allowed to depart and leave the jurisdiction without any Letter of Undertaking or any other security from the shipowner or its agent.

Measures taken by the Administrator

The Administrator was informed about the incident on August 11, 2009 by a spokesperson representing the Marina. On August 30, he engaged a marine surveyor to investigate the circumstances surrounding the incident with Burrard Clean Operations, CCG, Transport Canada Marine Safety and the representative of the Marina.

The Claim

On November 16, 2010, John Olson, one of the members of the Marina, filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$852.78 for costs and expenses relating to the cleaning of oil contamination to his boat.

Assessment and Offer

The marine surveyor engaged by the Administrator investigated the claim and determined the oil that entered the Marina was consistent with heavy or intermediate grade fuel oil utilized by large commercial ships. Since no heavy oil pipelines or shore-based sources of heavy oil were found near the Canada Place cruise ship terminal, he offered an opinion that the most probable source of the spilled oil was the *Oceanic*.

As a result of the investigation, the Administrator concluded that the full amount claimed was established and he therefore offered \$852.78, plus interest, in full and final settlement of the claim. The claimant accepted the offer and executed the applicable release and subrogation agreement on January 20, 2011. Compensation in the amount of \$889.22, inclusive of interest, was subsequently paid out pursuant to the terms of the *Marine Liability Act*.

Recovery Action

The Administrator found that there was no viable prospect of cost recovery.

Status

The file was closed on March 31, 2011.

Related files

Oceanic (2009), Burrard Inlet, BC, Case number: 120-561-C1 (same incident, different claimant)

Oceanic (2009), Burrard Inlet, BC, Case number: 120-561-C1-1 (same incident, different claimant)

Oceanic (2009), Burrard Inlet, BC, Case number: 120-561-C1-2 (same incident, different claimant)

Sea Wing II (2009)

Location: Chatham Islands, BC

Case number: 120-565-C1

The Incident

On May 31, 2009, the Canadian Coast Guard (CCG) received a report of a derelict fishing vessel, the *Sea Wing II*, on the beach at Chatham Islands, British Columbia. The CCG Victoria-based Environmental Response personnel investigated and found oil inside the vessel and on the water, but the structural condition of the vessel made it too dangerous to work onboard. The CCG was unable to locate the owner and, therefore, made a decision to remove the vessel. On June 21, Saltair Marine Services Ltd. was engaged to tow the wreck to its facility in nearby Ladysmith. A marine surveyor from Lipsett Marine Consultants Ltd. was hired to determine the status of the vessel. The surveyor reported that there were areas of rot, the stern was missing and the engine room was contaminated with oil. He also advised that there was no salvage value in the vessel. He then recommended that since the vessel required the constant operation of pumps to remain afloat and as it had contaminants aboard, it should be hauled ashore, dismantled and disposed of. The CCG contracted Saltair Marine Services Ltd. to deconstruct the vessel and remove the pollutants, which work was accomplished over a nine-day period from June 22 to July 2.

The Claim

On December 15, 2009, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund in the amount of \$35,552.69 pursuant to Part 6 of the *Marine Liability Act* (MLA).

Assessment and Offer

On February 11, 2010, the Administrator instructed counsel to engage a technical marine surveyor to investigate whether all the expenses could be reasonably characterized as pollution prevention, or whether some of them were, in essence, for wreck removal. The surveyor reported that, as a result of his investigation, he concurred with the view of the CCG's independent marine surveyor that the *Sea Wing II* presented a real potential source of hydrocarbon pollution and the only practical method to prevent the continuation of oil pollution emanating from the vessel was to have it hauled ashore out of the marine environment. Moreover, complete removal of hydrocarbons, which had been absorbed into the wooden components of the derelict, required deconstruction of the vessel's hull.

As a result of the assessment and investigation of the circumstances surrounding the incident, the Administrator found the amount of \$30,268.68 to be established and offered such amount, plus interest, on February 1, 2011, in full and final settlement of the claim. On April 1, DFO/CCG accepted the offer and payment of \$31,856.72, inclusive of interest, was made on April 13 in accordance with the MLA.

Recovery Action

The Administrator conducted background research to ascertain the location of the vessel owner and identify any possible assets for cost recovery purposes. The investigation having revealed that the owner did not have any financial assets, the Administrator decided that it would not be reasonable to pursue further attempts for cost recovery.

Status

The file was closed on April 10, 2012.

Meota (2009)

Location: Tsehum Harbour, BC

Case number: 120-566-C1

The Incident

On June 6, 2009, the Canadian Coast Guard (CCG) received a report that a derelict vessel was sinking at anchor in Tsehum Harbour, British Columbia. CCG Emergency Response personnel proceeded to the site and found the old wooden hull vessel, *Meota*, approximately 75 feet offshore resting on the bottom with a starboard list. Oil sheen was present around the wreck. The CCG was informed by the owner that he had no financial resources to pay for dealing with the situation. Accordingly, the CCG engaged a contractor, Saltair Marine Services Ltd., to raise the vessel and transport it to its yard facility in Ladysmith, where it was kept afloat by pumping operations.

On June 13, a marine surveyor was hired by the CCG to determine the status of the vessel. The surveyor found the *Meota* in a derelict condition after being sunk. It had extensive areas of rot throughout the structure. The surveyor then concluded that, given the condition of the vessel and the fact that oil products were still onboard, the vessel should be hauled ashore and dismantled. On June 19, the *Meota* was lifted ashore by Saltair Marine Services Ltd. and deconstructed. Approximately 60 litres of gasoline, 12 litres of lubricant oil and 280 litres of diesel fuel were removed from the vessel.

The Claim

On December 15, 2009, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund in the amount of \$27,564.01 pursuant to Part 6 of the *Marine Liability Act* (MLA).

Assessment and Offer

On February 11, 2010, the Administrator instructed counsel to engage a technical marine surveyor to investigate whether all the expenses could be reasonably characterized as pollution prevention, or whether some of them were, in essence, for wreck removal. The surveyor reported that, as a result of his investigation, he concurred with the view of the CCG's independent technical surveyor to haul the *Meota* ashore and have it dismantled.

As a result of his investigation and assessment of the claim, the Administrator found the amount of \$25,290.45 to be established. He therefore offered such amount, plus interest, on February 1, 2011, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer on April 1 and payment of \$26,611.25, inclusive of interest, was directed by the Administrator on April 13.

Recovery Action

On May 18, the Administrator sent a letter to the owner of the *Meota* requesting payment of the costs incurred during the incident by June 20, 2011, failing which he might commence legal proceedings. No reply was received. The Administrator then conducted research to ascertain the location of the vessel owner and identify any available assets. The investigation having revealed that the owner did not have any financial assets, the Administrator decided that it was not reasonable to pursue further attempts for cost recovery.

Status

The file was closed on April 10, 2012.

Just Magic (2009)

Location: Tod Inlet, BC
Case number: 120-567-C1

The Incident

On June 23, 2009, the Canadian Coast Guard (CCG) received a report of a sunken vessel in Tod Inlet, British Columbia. The Victoria-based CCG Environmental Response personnel investigated and determined that there was a risk of oil pollution from the partially submerged ex-fishing boat *Just Magic* that was tied to a deteriorating barge. The owner was contacted, but stated he had no financial resources to deal with the matter. Therefore, the CCG engaged Saltair Marine Services Ltd. to raise the derelict vessel and transport it to its facility in Ladysmith. Also, a marine surveyor was engaged to determine the vessel's status. As a result of his survey, the surveyor concluded that the boat had been damaged, had deteriorated beyond repair and presented an environmental hazard. He then recommended that the wreck be hauled ashore and dismantled.

Following the marine surveyor's condition survey, the CCG contracted Saltair Marine Services Ltd. to deconstruct the *Just Magic* and remove the pollutants.

The Claim

On December 15, 2009, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund in the amount of \$13,659.53, pursuant to Part 6 of the *Marine Liability Act* (MLA).

Assessment and Offer

On February 11, 2010, the Administrator instructed counsel to engage a technical marine surveyor to investigate whether all the expenses could be reasonably characterized as pollution prevention, or whether some of them were, in essence, for wreck removal. The surveyor reported that, as a result of his investigation, he concurred with the view of the CCG's independent technical surveyor to deconstruct the *Just Magic* and remove the oil pollutants.

As a result of his investigation and assessment of the claim, the Administrator found the amount of \$12,266.64 to be established. Therefore, on February 1, 2011, he offered such amount, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer on April 1 and payment of \$12,906.82, inclusive of interest, was directed by the Administrator on April 13 in accordance with the MLA.

Recovery Action

On May 18, 2011, the Administrator sent a letter by registered mail to the known owner of the *Just Magic* requesting payment of the compensation paid to DFO/CCG by June 20, failing which he may commence legal proceedings. On May 31, the Administrator's letter was returned to his office with a "return to sender" stamp indicating that the addressee had moved.

Further investigations were unable to identify a residential address or any financial assets of the vessel owner. Consequently, the Administrator concluded that it was not reasonable to expend additional funds for cost recovery purposes.

Status

The file was closed on May 9, 2012.

Camino Real (2009)

Location: Union Bay, BC
Case number: 120-568-C1

The Incident

On July 10, 2009, the Canadian Coast Guard (CCG) received a report about a sunken vessel near Union Bay close to Comox, British Columbia. The CCG investigation determined that the ex-fishing vessel *Camino Real* had been partially submerged for several months. Upon inspection, the vessel was leaking diesel oil and there was oil in the engine and other equipment as well as fuel in its tanks. A search for the owner, with the assistance of the Comox Harbour Authority, found that the vessel had been sold by the registered owner to a person who had lived onboard the previous fall.

On July 14, the CCG contracted Saltair Marine Services Ltd. to raise the vessel. Temporary measures were taken to reduce water ingress so that the vessel could be towed to the company's shipyard in Ladysmith. The vessel was later demolished and the debris and wood waste were disposed of by the contractor. In total, 51 litres of oil were removed during the process.

The Claim

On December 15, 2009, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund in the amount of \$23,264.74, pursuant to Part 6 of the *Marine Liability Act*.

Assessment and Offer

On February 11, 2010, the Administrator instructed counsel to engage a technical marine surveyor to investigate whether all the expenses could be reasonably characterized as pollution prevention, or whether some of them were, in essence, as wreck removal. The CCG was requested to advise on what basis the decision to deconstruct the vessel was taken. On November 9, 2010, the CCG responded that the CCG Environmental Response personnel on site observed the vessel, which was constructed of wood with a fiberglass shell over the exterior, was submerged during low tide and the keel was exposed. Moreover, the wood was extremely rotten and sea water was entering through deteriorated planks.

On December 17, 2010, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$19,440.49, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer on February 7, 2011 and payment of \$20,346.91, inclusive of interest, was directed by the Administrator on February 8.

Recovery Action

The Administrator conducted further investigations to locate the vessel owner and identify any possible assets for cost recovery purposes. The investigations revealed the identity of the owner,

but no significant assets were located in the vessel owner's name. Accordingly, the Administrator concluded that it would not be reasonable to take further measures to recover the amount paid to DFO/CCG.

Status

The file was closed on February 7, 2012.

Norqueen (2009)

Location: Comox, BC
Case number: 120-569-C1

The Incident

On June 3, 2009, the ex-fishing vessel *Norqueen* was found to be leaking oil while it was secured to the fishermen's wharf in Comox, British Columbia. The Harbour Authority cleaned up the initial oil spill that seemed to be coming from the vessel's day tank. On June 6, the Canadian Coast Guard (CCG) personnel boarded the vessel and found the day tank with only 1.5 inches of fuel, but still leaking to the deck. Furthermore, the hydraulic tank was full and there was lubricating oil in the engines. There was also a slow ingress of sea water through a bulkhead from the shaft tunnel. The owner indicated that he would take measures to control further leakage of oil and the gradual ingress of water.

On June 23, the Harbour Authority, who had pumped the vessel four times in the past week, reported that the vessel was not being maintained as previously agreed to between the CCG and the owner. Accordingly, the CCG gave a Letter of Notice to the owner that the *Norqueen* was continuing to take on water and would sink if not frequently pumped out. The pollutants on board would be discharged if the vessel sank. As a result, from July to September, the vessel was maintained by the owner. On October 28, the CCG learned that the owner had declared bankruptcy. The CCG then hired a surveyor from Lipsett Marine Consultants Ltd. to determine the condition of the *Norqueen*. Based on his report, the surveyor concluded that the net value of the vessel was nil and he advised that the vessel would sink in a short time if not tended to regularly. The Harbour Authority also informed the CCG that the shore electricity power supply to the vessel's automatic bilge pump would not be reliable during the fall and winter seasons.

On November 2, a new Letter of Notice was sent to the trustee who informed CCG that they had no resources to look after the vessel and would not attempt to do so. Therefore, CCG engaged Saltair Marine Services Ltd. to move the vessel to Ladysmith and arrange for a pump watch. On November 6, approximately 300 gallons of bulk fuels were removed and by November 19, the *Norqueen* was partially deconstructed with the engines and oil tanks removed. The hull was then moved to a shore side facility where it was dismantled and disposed of.

The Claim

On April 6, 2010, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses incurred in the amount of \$96,716.06, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

The Administrator investigated and assessed the claim. Based on the claim documentation, he had some concerns that a portion of the costs and expenses incurred really related to wreck removal, particularly the deconstruction and disposal of debris after the fuel tanks and machinery had been removed. He then engaged a technical marine surveyor to review the CCG surveyor's report and

contact the disposal contractor in order to provide an opinion as to whether the services rendered to dispose of the *Norqueen* constituted pollution prevention expenses or wreck removal. On December 14, 2010, the surveyor offered an opinion that, based on the documentation provided and information obtained from the disposal contractor, all the services rendered were pollution prevention expenses.

On January 4, 2011, after completing an investigation and assessment of the claim, the Administrator made an offer of compensation for the established amount of \$92,378.57, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer and on February 8, 2011, payment of \$97,131.63, inclusive of interest, was directed by the Administrator.

Recovery Action

Given the bankruptcy of the *Norqueen*'s owner, the Administrator concluded that no further steps were available for the recovery of the amount paid to DFO/CCG.

Status

The file was closed on March 31, 2011.

Sion (2009)

Location: Ganges Harbour, BC

Case number: 120-570-C1

The Incident

On August 12, 2009, the 36-foot wooden ex-fishing vessel *Sion*, sank and leaked oil at the Centennial Dock, Ganges Harbour, British Columbia. Initially, response was carried out by the crew of the Canadian Coast Guard (CCG) lifeboat at Ganges who deployed containment booms and sorbent pads to contain and recover the upwelling oil. CCG Environmental Response personnel from Victoria later arrived with additional equipment. They met with the owner who stated he did not have resources to deal with the situation. Accordingly, the CCG engaged a local contractor, Island Marine Construction Services, to raise the vessel, which operation was completed that day. A marine surveyor from Lipsett Marine Consultants was then engaged by the CCG to carry out a condition survey of the *Sion* and to assess its value. The surveyor reported the *Sion*, having been retired from the fishery some years earlier and fallen into disrepair, to be in poor condition and not seaworthy and estimated its value was nil. He also reported the vessel was discharging fuel, engine and gear oil into the water, representing a serious pollution hazard. He therefore recommended the *Sion* be hauled ashore, dismantled and disposed of. Accordingly, the CCG directed the contractor to deconstruct the vessel in order to remove the oil, which work was carried out on August 13.

The Claim

After having received a reply from the vessel owner on November 23, 2009, to the effect that he was not able to financially cover the costs and expenses, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund on April 6, 2010, in the amount of \$23,456.08, for costs and expenses incurred, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

Upon receipt of the claim, the Administrator requested additional information about the claim submission. A response was received on October 5. After investigation and assessment of the claim, the Administrator found the amount of \$20,167.12 to be established. Therefore, on December 22, 2010, pursuant to the MLA, he offered such established amount, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and payment in the amount of \$21,000.06, inclusive of interest, was made on February 4, 2011.

Recovery Action

The Administrator instructed counsel to investigate whether there was any party against whom a recourse action may be started. Counsel made appropriate enquiries and advised that both the *de facto* owner of the *Sion*, who had possession and use of the boat when it sank, and the registered owner were both financially incapable of meeting the owner's legal obligations under the MLA. The Administrator therefore concluded that it was not reasonable to pursue the matter any further and closed the file.

Status

The file was closed on March 31, 2011.

Westville (2009)

Location: Port Alice, BC
Case number: 120-571-C1

The Incident

On December 5, 2009, the 40-foot wooden fishing vessel *Westville* partially submerged while moored offshore in Port Alice, British Columbia. The next day, the Canadian Coast Guard (CCG) Environment Response personnel were informed that the vessel was polluting. Therefore, on December 7, the CCG ship *John P Tully* deployed a sorbent boom around the wreck, which had been reported to contain up to 2,000 litres of diesel fuel. On December 8, a Letter of Notice was served on the vessel owner by the Royal Canadian Mounted Police on behalf of the CCG, but the owner responded that he had no ability to deal with the incident.

CCG engaged a nearby contractor, North Island Diving Commercial, to raise the fishing vessel and stabilize it so that the Environmental Response personnel could remove the fuel oil. On December 10, the vessel was raised and approximately 400 litres of diesel fuel were removed. The vessel was thereafter returned to the care of the owner.

The Claim

On January 14, 2010, the CCG wrote to the owner requesting payment of \$21,731.88 for costs and expenses incurred, but did not get any response. Hence, on April 6, 2010, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund (the Fund) for costs and expenses incurred in the amount of \$21,714.28, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

Upon receipt of the claim, the Administrator requested additional information from CCG on April 7. Upon receipt of the requested information on October 5, the Administrator completed his investigation and assessment of the claim, and found the amount of \$21,453.29 to be established. Therefore, pursuant to the MLA, on December 21, 2010, he offered \$21,453.29, plus interest, as compensation in full and final settlement of the claim. DFO/CCG accepted the offer and on January 18, 2011, payment of \$22,158.30, inclusive of interest, was made.

Recovery Action

On the Administrator's instructions, counsel for the Fund conducted Vessel Registry and Personal Property Searches. Furthermore, a marine surveyor from Oceatec Marine Services Limited was engaged to ascertain the present location of the *Westville*. The investigation found that the registered owner and the operator at the time of the incident appeared to have been two separate individuals. The marine surveyor found that the *Westville* sank again and lay offshore near Port Alice.

On February 14, 2011, counsel confirmed that having communicated with the vessel operator he obtained from him a letter, as well as a Notice of Bankruptcy and Statement of Affairs. Given that

the operator had sworn that he had no significant assets, the Administrator concluded that it was not worthwhile to file a Proof of Claim. In addition, since the registered owner did not respond to the demand letter, he further concluded that additional steps for cost recovery were not reasonable and closed the file.

Status

The file was closed on March 31, 2011.

Beverly K (2009)

Location: Tsehum Harbour, BC

Case number: 120-572-C1

The Incident

On September 24, 2009, the Canadian Coast Guard (CCG) received a report of two vessels aground and partially sunk in Tsehum Harbour, British Columbia. On arrival on scene that day, CCG Environmental Response personnel found the bow of the wooden fishing vessel *Beverly K* aground on a rock with the stern underwater. The second vessel, a cabin cruiser, had been removed. Sorbent booms were deployed around the *Beverly K*. The owner stated he had no resources to deal with the situation. He was unsure how much fuel was onboard and confirmed that vents to the fuel tanks were not plugged. The owner was informed that the CCG would arrange for the vessel to be raised at his expense. CCG then contracted Island Marine Construction Services Ltd. (IMC) to raise the vessel and remove the threat of oil pollution. However, later that day, the owner advised that he now had the resources and decided to hire his own contractor. While informing the owner that he remained liable for costs already incurred by CCG, IMC was asked to stand down. The owner's contractor raised and removed the vessel on September 26, and no further risk of oil pollution existed.

The Claim

On November 12, 2009, CCG wrote to the owner requesting payment of \$8,931.71 as costs incurred, but did not get any response. Consequently, on March 31, 2010, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses incurred in the amount of \$9,010.66, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

On October 6, 2010, after investigation and assessment of the claim, the Administrator offered \$9,010.66, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer and payment of \$9,300.22, inclusive of interest, was thereafter directed by the Administrator.

Recovery Action

On May 4, 2011, the Administrator mailed a letter to the vessel owner informing him of his responsibilities for the costs incurred in respect of measures taken to prevent pollution in this incident. The owner was asked to respond to the letter by June 1, 2011, failing which the Administrator may commence proceedings for cost recovery. The letter was delivered by courier, but no reply was received.

Subsequent investigations did not reveal that the owner had any significant assets. Therefore, after consideration of the amount of the claim and the expenditures to date, the Administrator decided not to pursue further attempts for cost recovery and closed the file.

Status

The file was closed on December 14, 2011.

Rain Dancer (2009)

Location: Bella Coola, BC

Case number: 120-573-C1

The Incident

On August 20, 2009, the Canadian Coast Guard (CCG) received a report that an ex-fishing boat, *Rain Dancer*, converted to a pleasure craft, had sunk and was leaking oil in the marina at Bella Coola, British Columbia. CCG response personnel were dispatched from the Richmond base with response equipment to assess the situation. On scene, the investigation found that the vessel sank a few weeks earlier, but had only recently begun to pollute. The harbour master had deployed sorbent boom but was unable to contact the vessel owner. On August 29, the CCG deployed additional boom around the vessel. The CCG also engaged commercial contractors, Shearwater Marine Group, to raise the vessel and have it deconstructed for disposal. The commercial contractors placed slings under the hull and raised it to the surface. A marine surveyor was then hired by CCG to conduct a condition survey and assess the value of the vessel. The surveyor's inspection report indicated that, because the vessel was under water from July 28 to August 29, the condition of the hull planking, machinery and instruments were beyond reasonable repair or salvage value. Also, the surveyor found that there was a thick layer of oily silt throughout the entire vessel. The surveyor advised that the *Rain Dancer* was suitable for demolition only. The CCG confirmed that the surface on all decks and the inside of the vessel were covered with oil and that the wooden hull structure was saturated with oil. Consequently, the *Rain Dancer* was deconstructed on site. Approximately 400 litres of diesel fuel and other engine oils were removed from within the tanks.

The Claim

On April 6, 2010, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses incurred in the amount of \$60,988.93, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

Following investigation and assessment of the claim, the Administrator made an offer for the established amount of \$60,988.93, plus interest, as final settlement, pursuant to the MLA. DFO/CCG accepted the offer and on November 30, 2010, payment of \$63,365.00, inclusive of interest, was directed by the Administrator.

Recovery Action

The Administrator instructed counsel to investigate whether there was any party against whom a recourse action could be undertaken. Counsel's search of the Transport Canada vessel registration query system found that the *Rain Dancer* was suspended from registry in Canada on March 10, 2008. Also, there were no other registered vessels owned by the owner of the *Rain Dancer*. Furthermore, a search of the personal property registry (PPR) indicated that the owner did not appear to own any real property, and there were no chattels shown in the PPR search.

Consequently, the Administrator concluded that no further reasonable measures could be taken by way of recourse.

Status

The file was closed on March 31, 2011.

Saida (2009)

Location: Ladysmith Harbour, BC

Case number: 120-574-C1

The Incident

On September 17, 2009, the Canadian Coast Guard (CCG) received a report of two sunken vessels in Ladysmith Harbour, British Columbia. Upon arriving on site, CCG personnel found the vessel *Saida*, a 87-foot wooden ex-fish packer, resting on the bottom with oil escaping from it. The second vessel, a 26-foot pleasure craft, had been secured to and pulled down by the *Saida*. It was not a pollution threat and was subsequently refloated by the owner. CCG personnel informed the owner of the *Saida* of his legal responsibilities and liabilities. The owner advised that the vessel contained approximately 80 gallons of fuel oil and approximately 80 gallons of other oils. He also informed the CCG that he did not have the resources to raise the *Saida*. Consequently, the CCG engaged a local contractor, Saltair Marine Services Limited, to deploy containment booms and sorbents to contain the oil escaping from the vessel and to raise it to the surface. The lifting operation proved more difficult than expected and, together with the pumping, was not completed until September 20.

The CCG then engaged a marine surveyor to conduct a condition survey, assess the vessel and advise on the removal of pollutants. The surveyor determined that the vessel was continuing to take on water and could not be left unattended. He found extensive rot and deterioration throughout the vessel's structure with oil coating and saturation, and considered it to be a source of oil contamination in the area. He then recommended it to be removed on shore, dismantled and disposed of. Following the marine surveyor's condition survey, the CCG contracted Saltair Marine Services Limited to move the vessel to its nearby marine facilities to remove all the fuel, deconstruct and dispose of the debris.

The Claim

On January 4, 2010, the CCG wrote to the owner of the *Saida*, requesting payment of \$99,317.48 as costs incurred with respect to this incident. However, no response was received. Consequently, on March 31, the CCG filed a claim with the Ship-source Oil Pollution Fund in the amount of \$94,567.57.

Assessment and Offer

Upon receipt of the claim, the Administrator requested, on April 7, further information from the CCG, which additional information was received on October 5.

On February 1, 2011, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$85,390.81, plus interest, in full and final settlement of the claim. CCG accepted the offer and on April 12, payment of \$89,147.34, inclusive of interest, was made.

Recovery Action

On May 18, the Administrator sent a registered letter to the owner of the *Saida*, requesting payment of the costs incurred by the CCG during response to the incident. The owner was informed about his responsibilities under section 51 of the *Marine Liability Act*, and was requested to respond by June 20, failing which the Administrator may commence legal proceedings. On June 9, the Administrator's letter was returned by Canada Post as being unclaimed.

In the meantime, the Administrator caused further background investigations to be conducted with the aim of locating the owner and identifying assets for cost recovery purposes. Those investigations having proved negative, the Administrator concluded that further investigations were not warranted and he, therefore, closed the file.

Status

The file was closed on January 30, 2012.

Jessie Island XI (2010)

Location: Ladysmith Harbour, BC

Case number: 120-576-C1

The Incident

On January 18, 2010, the Canadian Coast Guard (CCG) received a report of two vessels sinking together in Ladysmith Harbour, British Columbia, following a severe windstorm. One was a 30-foot sailboat and the other, a 55-foot ex-fishing vessel, the *Jessie Island XI*. The vessels sank in approximately 30 feet of water. The owner of both vessels advised CCG Environmental Response personnel that there was oil onboard the *Jessie Island XI*. Therefore, the CCG deployed a containment boom. The vessels' owner was given a Letter of Notice of his responsibilities and liabilities, but he responded that he was unable to provide the resources to respond to the oil spill or to raise the wreck. Consequently, the CCG contracted Saltair Marine Services Ltd. to salvage the vessels. The vessels were raised on January 19 and were then moved to the contractor's nearby facility to determine further risk of oil pollution. The *Jessie Island XI* was still taking on water and needed to be pumped periodically.

On January 20, the CCG hired a marine surveyor from Lipsett Marine Consultants Ltd. to conduct a condition survey and estimate the value of the *Jessie Island XI*. The surveyor concluded that the oil-fouled vessel was unseaworthy and represented a clear environmental hazard. In addition, he added that the vessel, which value was nil, should be deconstructed and disposed of. As a result, the CCG directed Saltair Marine Services Ltd. to deconstruct the *Jessie Island XI* to remove all the oil and dispose of the debris. By January 29, deconstruction of the wreck was completed.

The Claim

On March 11, 2010, the CCG mailed a claim to the owner of the *Jessie Island XI* in the amount of \$34,281.31 for costs and expenses incurred, but did not get any response. Accordingly, on April 19, 2010, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$34,281.31 pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

After investigation and assessment of the claim, the Administrator found the full amount to be established. Therefore, on October 6, 2010, pursuant to the MLA, he offered such amount, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer on October 26 and the Administrator directed payment in the amount of \$34,971.87, inclusive of interest.

Recovery Action

On May 13, 2011, the Administrator sent a letter to the vessel owner requesting payment of the compensation paid by the Fund to DFO/CCG by June 12, 2011, failing which he may commence legal proceedings. On May 20, an email was received from the vessel owner in which he claimed not to have any money. The Administrator then instructed counsel to conduct further research into the ownership of the *Jessie Island XI* in order to identify any possible assets for recovery purposes.

During counsel's investigation, it was ascertained that the Registry of Shipping showed that the actual registered owner of the vessel was not the person that the CCG responders met at the time of the incident, who had advised that he did not have the resources to raise the vessel and prevent ongoing pollution. The research further disclosed that the registered owner had sold the *Jessie Island XI* in August 2008 and had received a Bill of Sale with the understanding that the buyer would register the vessel. However, no Bill of Sale had ever been filed with the Registrar of Shipping, thus leaving the name of the registered owner unchanged.

On January 20, 2013, counsel commenced legal proceedings and filed a Statement of Claim against the registered owner, and also the presumed owner (the person who purchased the vessel in 2008), for the costs and expenses incurred. In response, a Statement of Defence was filed on February 25 by the actual registered owner, whereas the presumed owner did not file a Statement of Defence. Consequently, on August 9, the Administrator filed with the Federal Court in Vancouver a Notice of Motion for judgment by default against both parties. On September 30, 2013, the Prothonotary granted default judgment against the presumed owner of the vessel. Therefore, on October 2, counsel wrote to the presumed owner to inform him that the Administrator had obtained a default judgment against him for \$41,164.89 and that, unless arrangements were made to pay the judgment by October 31, 2013, the Administrator would have no alternative but to seize his property to justify the judgment. In the course of the following months, counsel for the Fund and the presumed owner communicated with a view to securing a settlement. As a result of their negotiation, on September 2, 2014, the presumed owner offered to settle the matter for the sum of \$7,000.00, all inclusive, in return for a release of all claims and a Consent Dismissal Order with respect to the action against him. In agreement with the recommendation of counsel, the Administrator executed the appropriate release document on September 25, 2014 and mailed it to the presumed owner, together with the Motion record for dismissal of the action against the latter. The cheque in the amount of \$7,000.00 was then received by the Administrator on October 28.

Status

The file was closed on November 4, 2014.

Rivers Inlet Resort (2008)

Location: Rivers Inlet Resort, BC

Case number: 120-577-C1

The Incident

On October 6, 2008, Burrard Clean Operations (BCO) responded to a request for assistance from the owner of the Rivers Inlet Inc. resort near Prince Rupert, British Columbia. An oil spill had occurred in the Inlet off the dock of the resort facilities. BCO personnel arranged for a local contractor to proceed to the site and clean up the oil from the surface of the water. By utilizing a containment boom, absorbent pads and other consumables, the clean-up operation was completed on the following day.

The Claim

On April 21, 2010, BCO filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$9,660.76 pursuant to the *Marine Liability Act*. In its submission, BCO noted that they had only received a total payment of \$1,000.00 from the responsible party, who advised of an inability to pay further due to financial difficulties.

Assessment and Offer

On June 22, 2010, the Administrator requested additional information and documentation in respect to the operational details of the incident in order to advance his investigation and assessment of the claim. BCO replied on July 22 and advised that “the spill was a result of the valve being left open on a diesel tank, and the diesel flowed into the Inlet”. Consequently, on July 14, 2010, the Administrator informed BCO that the Fund was unable to offer compensation for cleanup of oil spills originating from land sources.

Status

The file was closed on March 31, 2011.

Corregidor (2010)

Location: Bedwell Bay, BC

Case number: 120-582-C1

The Incident

On May 20, 2010, the Canadian Coast Guard (CCG) received a report from the Harbour Master that the old 70-foot wooden-hull fishing vessel *Corregidor*, anchored in Bedwell Bay, British Columbia, was taking on water and sinking with an unknown quantity of pollutants onboard. The Harbour Master requested assistance to address the risk to the environment should the vessel sink. The initial CCG response was conducted by the CCG vessel *Osprey* which reported emulsified oil in the engine room, oily water in the holds and a 5 to 10 degree list, but the CCG personnel were unable to remove oily water from the vessel given the environmental sensitivity of the area.

On May 21, the CCG engaged a contractor to remove all hydrocarbons from the vessel at its anchorage into a vacuum tank truck and without causing further hardship to the vessel. The contractor and the CCG staff were on scene on May 22 and removed approximately 8,500 litres of oily water and diesel fuel, together with numerous containers of other hydrocarbon based materials. After the hydrocarbons and other pollutants were removed, the Port of Vancouver took control of the vessel and had it towed to Shelter Island Marine in the Fraser River, but the vessel was still taking on water. Shortly afterward, the Vancouver Port Authority (the Port Authority) disposed of the *Corregidor* because the owner was unable or unwilling to cover the financial expenses the Port Authority was accumulating.

The Claim

On August 16, 2010, the CCG wrote to the shipowner requesting payment of \$26,320.80 as costs incurred by the CCG in respect of the incident, but no response was received. Accordingly, on October 18, 2010, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund in the amount of \$26,893.95.

Assessment and Offer

After investigation and assessment of the claim, on December 15, 2010, the Administrator made an offer for the established amount of \$25,518.99, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and payment of \$25,949.42, inclusive of interest, was directed by the Administrator.

Recovery Action

On May 18, 2011, the Administrator mailed a registered letter to the owner of the *Corregidor* requesting payment of the costs incurred by the Minister of Fisheries and Oceans in respect of the measures taken by the CCG during the incident by June 20, 2011, failing which he may commence legal proceedings. On May 27, the Administrator's letter was returned with a "return to sender" stamp indicating that the addressee had moved. Further investigations did not reveal the location of the *Corregidor*'s owner or any other assets. Therefore, the Administrator concluded that all

reasonable steps had been taken to recover the compensation paid to DFO/CCG and decided to close the file.

Status

The file was closed on July 11, 2012.

Bruce Dawn (2010)

Location: Deep Bay, BC
Case number: 120-583-C1

The Incident

On June 8, 2010, the Canadian Coast Guard (CCG) was notified that the former fishing vessel *Bruce Dawn* had sunk overnight at the Deep Bay Marina, British Columbia. The Harbour Authority reported oil on the surface of the water and had placed sorbent boom around the vessel. CCG personnel were on scene the following day and found an oil sheen on the surface inside and outside the boom. As there was a high chance the vessel contained more oil and the site was close to an active oyster spawn operation, the CCG concluded the vessel needed to be raised to eliminate the pollution threat. A contractor was engaged and the work started the morning of June 11. The vessel was raised and pumped that day. A thin layer of diesel fuel coated the interior.

The owner stated that he had no ability to deal with the incident. Accordingly, the CCG hired a local marine surveyor to survey the vessel and assess its potential to pollute. The surveyor reported extensive rot in the hull and superstructure, with engines and other systems worthless. Examination of the vessel also found the fuel tanks to be empty or to contain water. They were then drained to confirm the remaining amount of oil. The engine contained only water and the steering and transmission were sealed. Subsequently, the CCG concluded the vessel was no longer a risk to pollute and left it in the custody of the harbour master.

The Claim

On October 20, 2010, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund in the amount of \$12,375.87, pursuant to the *Marine Liability Act*.

Assessment and Offer

In his overall assessment of the claim, the Administrator concluded that the measures taken were reasonable. Also, there was adequate documentation with the submission as evidence that the costs and expenses were actually incurred. Therefore, on December 15, 2010, the Administrator made an offer for the established amount of \$10,473.07, plus interest, as full and final settlement of the claim. DFO/CCG accepted the offer and on February 8, 2011, payment of \$10,666.63, inclusive of interest, was made.

Recovery Action

The Administrator instructed counsel to investigate whether reasonable measures could be taken for cost recovery from the vessel owner for the amount paid to DFO/CCG. However, based on the results of the investigations, the Administrator concluded that further measures were not reasonable.

Status

The file was closed on June 1, 2011.

Seaspan Barge 156 (2010)

Location: Powell River, BC

Case number: 120-584-C1

The Incident

On January 28, 2010, the Canadian Coast Guard (CCG) received a report that the *Seaspan Barge 156* was sinking alongside a wharf in Powell River, British Columbia. The initial CCG assessment confirmed that the barge was taking on water and that approximately 800 litres of fuel were onboard in a tank on the aft deck. In addition, it was reported that below deck there was a generator fuel tank containing up to 500 litres of diesel oil. The flat-top steel barge had a large amount of water inside the interior spaces. In addition, there were large holes in the hull near the waterline. Structural accommodations were built on deck for use as a costal floating camp for employees of the forestry industry.

The CCG personnel contacted the barge owner on the day of the incident report and advised him of the owner's responsibility with respect to potential oil pollution. The CCG also requested a written plan from the owner to mitigate the likelihood of oil discharge. The owner arrived on scene on January 29 and provided a plan of action to stabilize the barge and remove the diesel fuel. On March 15, the CCG received information that the *Seaspan Barge 156* was still being maintained against sinking and had fuel oil onboard. In fact, the owner did not fully comply with the Letter of Notice of January 28 and the action taken was deemed to be inadequate. The CCG then informed the owner that it would respond and remove the fuel oil from the barge, which operation was completed by March 19.

The Claim

On October 20, 2010, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund (the Fund) for costs and expenses incurred during response to the incident in the amount of \$9,848.58, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

On December 1, 2010, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$9,848.58, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and on December 20, payment of \$10,115.42, inclusive of interest, was made by the Administrator.

Recovery Action

On May 13, the Administrator sent a letter to the owner of the *Seaspan Barge 156* requesting payment of the costs incurred in respect of the measures taken by the CCG during response to the incident by June 12, 2011, failing which he may commence legal proceedings. No reply was received.

Further investigation revealed that the barge was sold to a new owner. Actually, the Transport Canada Vessel Registration System showed that it was re-registered on December 19, 2011 under the ownership of City Transfer Inc. of Power River, British Columbia. On February 29, 2012, counsel for the Fund then wrote to the new owner and informed him about the claim that the CCG had made against the Fund while noting that it was approved and paid in full. City Transfer Inc. was informed that, pursuant to section 79(2) of the MLA, the jurisdiction conferred on the Federal Court of Canada to allow the Administrator to recover pollution claims may be exercised *in rem* against the vessel that caused the damage, as well as *in personam* against the owner of the vessel. On March 5, counsel on behalf of City Transfer Inc. advised that the company would pay the expenses incurred to remove the threat of marine oil pollution from the *Seaspan Barge 156* and provided, on April 25, 2012, a promissory note promising to pay the Fund the sum of \$9,848.58, which would be paid in the sum of \$1,641.43 per month for six months, commencing on May 1, 2012 and ending on October 1, 2012. The final of the six post-dated cheques was deposited on October 5, 2012.

Status

The file was closed on October 24, 2012.

Lions Gate (2010)

Location: Tofino Harbour, BC

Case number: 120-585-C1

The Incident

On February 1, 2010, the Canadian Coast Guard (CCG) received a report that the 15-metre wooden fishing vessel *Lions Gate*, built in 1938, had sunk in Lemmen's Inlet, Tofino Harbour, British Columbia. The Tofino CCG lifeboat crew investigated and found only part of the superstructure remaining above water. A sheen of oil was on the surface. The CCG deployed an absorbent boom around the sunken vessel. The owner was on site and advised that he would raise the vessel on evening tide. The following day, a large area of heavy sheen covered the cove where the vessel sank. Environment Canada personnel attended and, in cooperation with the Canadian Food Inspection Agency and the Department of Fisheries and Oceans (DFO), placed a temporary closure of several shellfish farms close to the area.

The owner's attempts to raise the vessel the previous evening were unsuccessful. Accordingly, the CCG engaged a local contractor, Wichita Marine Services, to install additional 250-feet of general purpose containment boom around the wreck. In addition, the CCG ordered a lifting crane to be brought in from Ladysmith by Saltair Marine Services Ltd. to raise the *Lions Gate*. However, on February 3, the CCG learned that it had been successfully refloated overnight by its owner, and the fuel tanks drained. The owner then moved the vessel to a tidal grid where the hull could be repaired. No further threat of oil pollution existed.

The Claim

On April 30, 2010, the CCG wrote to the owner requesting payment for costs incurred in respect to the incident, but no response was received. Consequently, on October 20, 2010, the Department of Fisheries & Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund in the amount of \$8,455.79 for costs and expenses incurred in respect to the incident, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

Following investigation and assessment of the claim, the Administrator made an offer for the established amount of \$7,982.14, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer and on February 24, 2011, payment of \$8,222.24, inclusive of interest, was made.

Recovery Action

The Administrator instructed counsel to investigate whether reasonable measures could be taken for effective cost recovery from the owner of the *Lions Gate* for the amount of compensation paid to DFO/CCG. Based on the results of the investigations, the Administrator concluded that incurring additional expenditure in an attempt to recover the costs was not reasonable and closed the file.

Status

The file was closed on July 28, 2011.

Zodiac (2010)

Location: Port Alberni Harbour, BC

Case number: 120-586-C1

The Incident

On March 17, 2010, the Harbour Master at Port Alberni, British Columbia, informed the Canadian Coast Guard (CCG) personnel in Victoria that the 41-foot ex-fishing vessel, *Zodiac*, was gradually sinking at the dock in Port Alberni. The Harbour Authority pumped the vessel to prevent it from sinking completely until the CCG could respond. There was considerable oil floating inside the derelict vessel, which was continuing to take on water. The *Zodiac* had previously sustained a fire in the accommodation area and only the wooden hull and wheelhouse remained. Both fuel tanks contained oil and there was a 200-litre drum full of fuel on deck.

The Harbour Authority identified the owner but was unable to contact him. The CCG sent a letter of Notice to the vessel owner by registered mail informing him of his responsibilities to take measures to prevent a discharge of pollutants, but the letter was later returned as unclaimed. Attempts to contact the owner by phone were also unsuccessful.

On April 7, CCG Environmental Response personnel from Victoria proceeded to Port Alberni to deal with the incident. Approximately 1,000 litres of oily fluid and 12 bags of soaked absorbent pads were removed. The vessel was then left at the dock in the care of the Harbour Authority.

The Claim

On May 19, 2010, the CCG submitted a claim to the owner of the *Zodiac* requesting payment within 30 days in the amount of \$3,915.96 for costs and expenses. However, no response was received. Subsequently, on October 20, 2010, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$3,915.96, pursuant to sections 77(1), 101 and 103 of the *Marine Liability Act* (MLA).

Assessment and Offer

Following investigation and assessment of the claim, the Administrator found the full amount to be established. Therefore, he made an offer in the amount of \$3,915.96, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and on November 10, 2010, payment of \$3,997.07, inclusive of interest, was made in accordance with the MLA.

Recovery Action

On May 13, 2011, the Administrator sent a letter by registered mail to the vessel owner requesting payment of the compensation paid in respect of the measures taken by the CCG in response to the partial sinking of the *Zodiac* by June 12, 2011, failing which the Administrator may commence legal proceedings. On June 11, the Administrator's letter was returned as being unclaimed.

Given the amount of the claim, the Administrator concluded that it was not reasonable to take further measures to recover the amount paid out to DFO/CCG and closed the file.

Status

The file was closed on July 28, 2011.

Rosemary G (2010)

Location: Ladysmith Harbour, BC
Case number: 120-589-C1

The Incident

On November 10, 2010, the 11-metre wooden fishing vessel *Rosemary G*, built in 1972, sank and released diesel fuel oil in Ladysmith Harbour, British Columbia. With aid of local volunteers, the wharfinger at Ladysmith placed a containment boom around the vessel and reported the incident to the Canadian Coast Guard (CCG). Initially, the CCG was unable to contact the owner, so it hired a local contractor, Saltair Marine Services Ltd., to raise the *Rosemary G* and remove the oil. The owner arrived as the recovery operation was well underway, but was unable to provide funding to deal with the situation. When the vessel was raised, approximately 275 litres of oil were removed. The vessel was then towed to the nearby Saltair Marine Services Ltd. dock where a pump watch was maintained. On November 15, the owner was informed that CCG was finished with the *Rosemary G*, and that the owner should remove it from Saltair Marine Services Ltd. facility unless it made other arrangements with the contractor.

The Claim

On January 19, 2011, the CCG submitted a claim to the vessel owner in the amount of \$13,145.60 for costs and expenses, but did not get any response. Consequently, on March 18, 2011, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses incurred during response to the incident in the amount of \$13,168.47, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

On May 3, 2011, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$13,168.47, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer and the Administrator directed payment of \$13,317.36, inclusive of interest.

Recovery Action

On May 18, 2011, the Administrator sent a letter to the owner of the *Rosemary G* requesting payment of the costs incurred in respect of the measures taken by the CCG during the incident by June 20, 2011, failing which he may commence legal proceedings. No reply was received.

The Administrator then conducted background research of the owner of the *Rosemary G* to determine his location and identify any possible assets for cost recovery purposes. However, no significant financial assets were found to be registered in the owner's name. After consideration of the investigation findings and the money to be spent to trace possible assets, the Administrator concluded that all reasonable measures had been taken to recover the costs and that further expenditure was not warranted. He, therefore, closed the file.

Status

The file was closed on August 28, 2012.

Irene W (2011)

Location: Deep Bay, BC
Case number: 120-590-C1

The Incident

On January 15, 2011, the Canadian Coast Guard (CCG) received a report of a 60-foot fishing vessel, *Irene W*, partially sunk at the dock in Deep Bay, British Columbia. Diesel fuel and hydraulic oil were leaking from the vessel, which was built of wood in 1941. The Harbour Authority deployed a containment boom and sorbent pads. The vessel was located near several operating oyster aquaculture beds, although the wind and current at the time was keeping the oil away from the beds.

When contacted, the vessel owner stated that he had no financial resources to raise the vessel. Accordingly, on January 17, the CCG arranged a contract with Sawchuck Pile Diving Ltd. to raise the vessel and remove the pollutants, which operation was completed on January 19. Following completion of the oil removal, the *Irene W* was returned to the owner on site, and the sorbents and recovered oils were disposed of by the contractor.

The Claim

On March 18, 2011, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$17,369.80, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

Following investigation and assessment of the claim and after taking into account the additional information provided on June 1, the Administrator found the amount of \$16,754.40 to be established. Therefore, pursuant to sections 106 and 116 of the MLA, he offered such amount, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and on August 9, 2011, payment of \$16,895.60, inclusive of interest, was made.

Recovery Action

On August 16, 2011, the Administrator sent a letter by registered mail to the owner of the *Irene W* requesting payment of the costs incurred in respect of the measures taken by the CCG during the incident by August 31, 2011, failing which he may commence legal proceedings. The letter was returned as being unclaimed. Consequently, the Administrator directed further investigations to be carried out to locate the vessel owner and identify any possible assets for cost recovery action. The investigations revealed a mailing address but no assets in the Province of British Columbia. Given the amount of the claim, the Administrator instructed counsel to send a letter to the vessel owner demanding payment of the amount paid to DFO/CCG. Counsel later advised that he had found no evidence that the owner had any exigible assets and that incurring further expenses may not be justifiable. The Administrator therefore closed the file.

Status

The file was closed on February 29, 2012.

Resilience (2010)

Location: Brentwood Bay, BC

Case number: 120-591-C1

The Incident

On December 7, 2010, the Canadian Coast Guard (CCG) received a report that the 40-foot wooden fishing vessel *Resilience*, built in 1926, had partially sunk in Brentwood Bay, British Columbia. A non-recoverable oil sheen was visible around the stern of the vessel. The CCG Environmental Response personnel from Victoria went to the scene to assess the situation. The owner was contacted in Alberta, informed of the incident and advised of the owner's responsibilities and liability, but he informed the CCG about his financial inability to deal with the situation and that he no longer wanted the vessel. Accordingly, the CCG hired a contractor, Saltair Marine Services Ltd., to raise the wreck and remove the hydrocarbons. On December 9, the vessel was raised to the surface, but the ingress of seawater continued. Since the vessel was located directly over subsea cables and was in an unstable condition, the CCG instructed the contractor to move the vessel to its facility in Ladysmith where it could be worked on safely.

The CCG then contracted a technical marine surveyor from Lipsett Marine Consultants Ltd. to conduct a condition survey of the *Resilience* and to assess its value. The surveyor reported the vessel to be in a very poor condition with significant rot within the hull structure. It was fouled with leaking oil and was continuing to pollute the environment. The surveyor recommended that the vessel be hauled ashore, dismantled and disposed of completely. He also concluded that the *Resilience's* value was nil since the salvage value was far less than the costs of removing any salvageable items. Based on the surveyor's report and given the owner's inability to deal with the situation, the CCG instructed Saltair Marine Services Ltd. to remove the vessel from the water, to deconstruct it for removal of all the hydrocarbons and to dispose of the debris.

The Claim

On March 18, 2011, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$26,514.74, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

The Administrator investigated and assessed the claim while taking into account the additional information provided by the CCG concerning the expenses incurred for supervision of the hired contractor, and found the amount of \$26,261.20 to be established. Therefore, pursuant to sections 106 and 116 of the MLA, he offered such amount, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and on August 9, 2011, payment of \$26,714.62, inclusive of interest, was made.

Recovery Action

On August 16, 2011, the Administrator sent a letter by registered mail to the owner of the *Resilience* requesting payment of the costs incurred in respect of the measures taken by the CCG

during the incident by August 31, 2011, failing which he may commence legal proceedings. The letter was returned indicating that the addressee had moved or was unknown. The Administrator then conducted further investigations with the aim of locating the owner and identifying any possible assets for cost recovery purposes, but no assets were identified. Accordingly, he concluded that further measures were not reasonable and decided to close the file.

Status

The file was closed on January 4, 2012.

Burnaby M (2010)

Location: Lyall Harbour, Saturna Island, BC

Case number: 120-594-C1

The Incident

On July 17, 2010, the 13-metre ex-fishing vessel *Burnaby M*, built in 1927, sank at anchor and released diesel oil in Lyall Harbour, Saturna Island, British Columbia. The Canadian Coast Guard (CCG) was informed and immediately deployed its shore-based search and rescue lifeboat *Cape Calvert* to investigate. The lifeboat crew found a slight oil sheen on the surface at the location of the sunken vessel, approximately 500 metres off Lyall Harbour's ferry landing. The oil was upwelling at a rate of one drop every four seconds and dissipated within a radius of 20 metres. The CCG streamed a cautionary buoy to mark the location of the underwater hazard.

Fire department officials advised that the owner had confirmed there was no one onboard when the vessel sank. The vessel owner also confirmed to the Environmental Response personnel that he had hired a contractor to salvage the wreck. On July 18, the CCG hovercraft *Siyah* arrived on-site and utilized a diving team to plug the fuel vents of the sunken *Burnaby M*. Subsequently, on July 23, the salvage contractor successfully raised the wreck and towed it to Canoe Cove Marina near Sidney, where it was removed from the water.

The Claim

On August 20, 2010, the CCG mailed a registered letter to the vessel owner requesting payment in the amount of \$9,352.59 for costs and expenses incurred in respect of the measures taken in response to the incident, but no response was received. Consequently, on June 8, 2011, the Department of Fisheries and Oceans (DFO/CCG) filed a claim, pursuant to the *Marine Liability Act* (MLA), with the Ship-source Oil Pollution Fund in the amount of \$9,772.45 for costs and expenses incurred in dealing with the incident and for monitoring the salvage operations of the owner's contractor.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator made an offer for the established amount of \$9,413.70, plus interest, in full and final settlement pursuant to the MLA. DFO/CCG accepted the offer and payment of \$9,721.64, inclusive of interest, was made on August 9, 2011.

Recovery Action

On August 16, 2011, the Administrator sent a letter by registered mail to the owner of the *Burnaby M* requesting payment of the costs incurred by the CCG in respect of the measures taken during response to the incident by August 31, 2011, failing which he may commence legal proceedings. Upon receipt of the letter, the vessel owner phoned the Administrator and explained that he was financially incapable of meeting his obligations. The Administrator then sent another letter to the owner stating that it was necessary to receive in writing a statement of his position. A written response was received outlining the owner's financial situation. Therefore, the

Administrator decided that it was not reasonable to take further steps to recover the monies paid out to the DFO/CCG and sent another letter to the vessel owner informing him of such decision.

Status

The file was closed on November 9, 2011.

Bates Pass (2010)

Location: Heriot Bay, Quadra Island, BC

Case number: 120-595-C1

The Incident

On November 18, 2010, the old 52-foot ex-fishing vessel *Bates Pass* sank while alongside the government wharf in Heriot Bay, Quadra Island, British Columbia, resulting in an oil sheen on the surface extending approximately 6 by 50 feet. The Harbour Master contacted the owner who advised that he had no financial resources to deal with the incident. He also claimed that there was not much fuel oil onboard. The Harbour Master informed the Canadian Coast Guard (CCG) of the situation and advised that there was an oyster lease approximately 2,000 feet away from the sunken wreck. In response, CCG personnel deployed its search and rescue cutter *Point Race* from nearby Campbell River to stream an absorbent boom around the upwelling oil. The next day, after meeting with the owner, the CCG engaged a contractor, DCD Pile Driving Ltd., to raise the submerged *Bates Pass*. On November 20, the contractor raised and found it could not remain afloat without support of the lifting crane because numerous hull planks had opened up along the starboard side and at the stern. Therefore, the contractor was instructed to move the vessel to Campbell River, where the CCG hired a technical marine surveyor from Lipsett Marine Consultants Ltd. to survey the condition of the vessel. The surveyor determined that the *Bates Pass* had been “subject of extreme neglect”. He reported that it was leaking oil from its fuel tanks, engine base and hydraulic tank, and that the structural integrity was beyond salvage or repair with no monetary value. He then recommended that the *Bates Pass* be demolished and disposed of. Accordingly, the contractor was instructed to remove the remaining oil and deconstruct the vessel, which operation was completed on November 23.

The Claim

On March 8, 2011, the CCG mailed a registered letter to the vessel owner requesting payment in the amount of \$53,848.60 for costs and expenses incurred on behalf of the Minister of Fisheries and Oceans for measures taken in response to the incident, but no response was received. Consequently, on June 8, 2011, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$54,215.63, pursuant to the *Marine Liability Act*.

Assessment and Offer

For his assessment of the claim, the Administrator requested additional information about the costs of demolition and trucking the debris to the landfill site. Upon receipt of the requested information, he investigated and assessed the claim, and found the claimed amount of \$54,215.63 to be established. Therefore, on July 19, 2011, he offered such amount, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and on August 9, 2011, payment of \$55,233.92, inclusive of interest, was made.

Recovery Action

On August 16, 2011, the Administrator sent a letter by registered mail to the owner of the *Bates Pass* requesting payment of the amount paid to DFO/CCG by August 31, failing which he may commence legal proceedings. On October 25, the Administrator's letter was returned as being unclaimed. The Administrator then conducted further investigations to locate the vessel owner and identify any possible assets for cost recovery action, but no significant financial assets were found to be registered in the owner's name. Based on the results of the investigation, the Administrator concluded that all reasonable measures had been taken to recover the amount paid to DFO/CCG and that incurring additional expenditure was not justified. He therefore closed the file.

Status

The file was closed on August 7, 2012.

Tempest (2010)

Location: Grenville Channel, BC

Case number: 120-596-C1

The Incident

During the early morning of December 18, 2010, the American-owned commercial fishing vessel *Tempest* ran aground in Grenville Channel, near Prince Rupert, British Columbia. The 112-foot steel vessel sustained hull penetrations around the bow and amidship on the starboard side. There was ingress of seawater into the engine room. In response to the distress call, a pump was provided by the British Columbia ferry *Northern Adventure*, which was at the time transiting southbound in the Grenville Channel. In addition, the Royal Canadian Mounted Police cutter *Inster* departed nearby Hartley Bay and on arrival on-site released the ferry. A Canadian Coast Guard (CCG) search and rescue vessel, *Point Henry*, also responded. It towed the fishing vessel to Prince Rupert for damage assessment and temporary repairs. In the afternoon of the same day, the *Tempest* was secured alongside the Atlin terminals dock.

The owner contracted divers and welders to identify and affect hull repairs. There was a slight sheen of oil on the water, and it was estimated that some 20,000 litres of diesel fuel and 2,300 litres of hydraulic oil remained onboard. At the CCG's request, the owner and the crew of the *Point Henry* streamed an absorbent boom around the vessel as a precautionary measure in the event of further release of fuel oil. A CCG response supervisor remained on-scene to monitor the owner's work until completion and on December 20, Transport Canada Marine Safety cleared the *Tempest* to proceed to Ketchikan, Alaska for a hull survey and repair.

The Claim

On March 3, 2011, the CCG, on behalf of the Minister of Fisheries and Oceans, mailed a registered letter to the owner of the *Tempest* in Oregon, USA, with an attached claim in the amount of \$1,996.15 for costs and expenses with respect to the measures taken in response to the incident. However, no reply was received. Accordingly, on June 8, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$1,996.15, pursuant to sections 77(1), 101 and 103 of the *Marine Liability Act*. The claim did not include any charges for the search and rescue operations, but only for one employee engaged in the monitoring of the work of the owner's contractor.

Assessment and Offer

On June 23, 2011, following investigation and assessment of the claim, the Administrator made an offer for the established amount of \$1,996.15, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and payment of \$2,036.18, inclusive of interest, was made by the Administrator.

Recovery Action

Given the amount of the claim, the owner's location in a foreign jurisdiction and the additional cost of mounting an action in a foreign jurisdiction, the Administrator decided it was not reasonable to proceed further.

Status

The file was closed on September 20, 2011.

Alibi Ike (2011)

Location: Brentwood Bay, BC

Case number: 120-597-C1

The Incident

On January 1, 2011, the Canadian Coast Guard (CCG) was informed that the 30-foot wooden ex-fishing vessel *Alibi Ike* partially sank at the Anglers Anchorage Marina in Brentwood Bay, British Columbia. The flooding of the *Alibi Ike* resulted from the sustained hull damage as the vessel transited Brentwood Bay through thin ice. At the outset, local CCG Auxiliary personnel secured the vessel to the public dock and supplied a pump, but they were unable to control the amount of seawater entering the hull. As the vessel sank to the level of its superstructure, a rainbow oil sheen surfaced. The owner advised that there were approximately 100 gallons of diesel fuel on board. Consequently, the CCG tasked the Ganges Harbour lifeboat, *Cape Kuper*, to attend and place a containment boom around the *Alibi Ike* and use absorbent pads to clean-up the oil sheen. The following day, the owner informed the CCG that he was arranging for a local contractor to raise the sunken vessel, but he was having difficulties due to the holidays. Throughout the next two weeks, CCG personnel made several visits to the site to assess the situation. During these visits, no oil was visible outside of the containment boom, and the sorbent pads were removed and replaced as required. After several delays, due in part to adverse weather conditions and an unsuccessful attempt to refloat using airbags, the *Alibi Ike* was floated enough for towing to nearby Mill Bay Marina where it was hauled out of the water. There was no further threat of oil pollution.

The Claim

On March 10, 2011, the CCG submitted a claim in the amount of \$4,290.29 to the owner of the *Alibi Ike* for costs and expenses incurred by the Minister of Fisheries and Oceans for the measures taken during the incident. The owner was requested to ensure payment within 30 days of receipt of the claim, but no response was received. Accordingly, on June 8, 2011, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses incurred during response to the incident in the amount of \$3,700.15, pursuant to sections 77(1), 101 and 103 of the *Marine Liability Act*. The difference between the amounts of the two claim submissions was explained as arising from an error in costing schedules for the deployment of the cutter *Cape Kuper*.

Assessment and Offer

On June 30, 2011, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$3,700.15, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and on August 9, payment of \$3,770.40, inclusive of interest, was made by the Administrator.

Recovery Action

On August 16, 2011, the Administrator sent a letter by registered mail to the owner of the *Alibi Ike* requesting payment of the compensation paid to DFO/CCG by August 31, 2011, failing which he may commence legal proceedings. Since no reply was forthcoming, in view of the amount of the claim and the further cost of taking legal action to recover the compensation paid, the Administrator decided not to proceed further.

Status

The file was closed on September 20, 2011.

Ladysmith Harbour Fire (2011)

Location: Ladysmith Harbour, BC

Case number: 120-598-C1

The Incident

Shortly after midnight on January 5, 2011, the Canadian Coast Guard (CCG) received an initial report of a fire at the Ladysmith Maritime Society Marina in Ladysmith Harbour, southeast Vancouver Island, British Columbia. The report indicated that there were several boathouses on fire, and vessels were sinking at the marina. There was a gasoline/oil slick on the water. The local fire department and members of the CCG Auxiliary, unit 29, were at the scene. Also, the nearby CCG search and rescue cutter *Cape Kuper* was en route to assist with firefighting and pollution control. The Maritime Society personnel, assisted by the CCG Auxiliary, streamed a containment boom. In the morning, CCG Environmental Response personnel from Victoria proceeded to Ladysmith to assess the damage and marine environmental impact. The Director of the Maritime Society informed CCG personnel that it was actively seeking a contractor to clean up the debris and raise four sunken pleasure craft.

On January 13, the CCG was advised that the insurance companies had been able to arrange for removal of the accumulated debris and salvage of the wrecks. The operation began on January 17, and during the next three days of clean-up activities, the CCG Environmental Response supervisor from Victoria attended as the Federal Monitoring Officer (FMO) to monitor the response of the contractors hired by the boat owners' insurance company. The contractors successfully carried out a survey of the seabed and the removal of the vessels and associated debris. Consequently, on January 20, the FMO concluded that oil pollution was no longer a threat.

The Claim

On February 28, 2011, the CCG submitted a claim to the insurance companies of the four vessels for the costs and expenses incurred by the Minister of Fisheries and Oceans in respect of the measures taken during the incident, including the cost to monitor the work of the contractors hired by one insurance company. However, no response was received. Accordingly, on June 8, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$2,115.85.

Assessment and Offer

For his assessment of the claim, on June 23, the Administrator wrote to CCG requesting information as to whether or not the claim submitted to the insurance adjuster had been rejected. On January 24, 2012, the CCG received payment from one insurance company, and on April 16, it received payment from two additional shipowners. A total amount of \$1,586.88 was recovered from three of the four owners involved in the incident; however, all efforts to contact the fourth owner for the amount of \$528.96 due were unsuccessful.

On April 17, 2012, after investigation and assessment of the claim, the Administrator informed CCG that \$1,907.47 of its claim was found to be established. He, therefore, pursuant to the *Marine Liability Act*, offered, in full and final settlement of the claim, the amount of \$320.59, plus interest, that is \$1,907.47 minus the \$1,586.88 collected. DFO/CCG accepted the offer and payment of \$334.39, inclusive of interest, was made.

Recovery Action

On June 27, 2012, the Administrator mailed a demand letter to the outstanding vessel owner requesting payment in the amount of \$334.39 paid to DFO/CCG by July 15, 2012, failing which he may commence legal proceedings. No reply was received. After consideration of the minimal amount of the claim, the Administrator concluded that it was not reasonable to incur further expenditure to recover the costs.

Status

The file was closed on January 23, 2013.

Arbutus Isle (2011)

Location: Ladysmith Harbour, BC

Case number: 120-599-C1

The Incident

On January 24, 2011, the Canadian Coast Guard (CCG) received a report of an oil slick upwelling from a sunken vessel in Ladysmith Harbour, Vancouver Island, British Columbia. The CCG engaged a local contractor, Saltair Marine Services Ltd., to assess the situation and take measures to contain the oil escaping from the wreck. Upon arriving on-site, the CCG found the *Arbutus Isle*, a 36-foot wooden fishing vessel built in 1962, tied between old concrete pilings near Slag point. It was submerged to the top of its wheelhouse, but remaining buoyant and not yet resting on the seabed. The contractor streamed an absorbent containment boom, collected absorbent pads as required, plugged the vents and tightened the oil tank filler caps. At first, the CCG was unable to locate the registered owner of the vessel. Therefore, Saltair Marine Services Ltd. was hired to move the wreck to its nearby facility, where it was raised to the surface by a shore-based crane. All of the oil was removed from two fuel tanks, the day tank and the intact hydraulic tank. The fuel tanks were then decanted. The salvors found that the engine had been removed previously. On January 26, the CCG decided that there was no further risk of oil pollution and the salvaged vessel was returned to the owner's mooring location.

On January 26, the registered owner contacted CCG and stated that he had sold the *Arbutus Isle* a year earlier. However, he did not know the name of the person he sold it to and could not provide any documentation showing the actual sale. The CCG advised him of his responsibilities and liabilities as the registered vessel owner.

The Claim

On February 28, 2011, the CCG mailed a registered letter to the vessel owner requesting payment of \$6,478.25 to cover the costs and expenses of the measures taken. The letter was delivered but there was no reply. Accordingly, on June 8, 2011, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund in the amount of \$6,484.25, pursuant to sections 77(1), 101 and 103 of the *Marine Liability Act*.

Assessment and Offer

On June 30, 2011, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$6,484.25, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and on August 9, the Administrator directed payment in the amount of \$6,583.21, inclusive of interest.

Recovery Action

On August 16, the Administrator mailed a registered letter to the owner of the *Arbutus Isle* requesting payment of the costs incurred in respect of the measures taken by the CCG during the

incident by August 31, 2011, failing which he may commence legal proceedings. The letter was returned because the recipient was not located at the address provided.

The Administrator then directed further investigations to be carried out to locate the vessel owner and identify any possible assets that may be available for cost recovery purposes. While the investigations identified an address for the shipowner in Ladysmith, British Columbia, they did not identify any assets. Therefore, the Administrator concluded that it was not reasonable to take further measures and closed the file.

Status

The file was closed on January 3, 2012.

Dominion I (2010)

Location: Cowichan Bay, BC

Case number: 120-605-C1

The Incident

On October 2, 2010, the Canadian Coast Guard (CCG) received a report of a 120-foot vessel listing and possibly sinking in Cowichan Bay, Vancouver Island, British Columbia. Environmental Response personnel from the CCG Victoria base investigated and found the ex-fish-packing vessel *Dominion I*, built in 1970, at anchor. The vessel had a 5-degree port list and down by the stern, but in no immediate danger of sinking completely. No oil pollution was seen around the vessel. Upon boarding, the engine room was found to be flooded some two feet above the deck plates with oil on the surface of the water. Accordingly, the responders pumped out approximately six feet of water from the engine room. The ingress of water was from damaged small copper intake cooling lines. Furthermore, there was little or no maintenance of the vessel. On deck there were nine drums of various hydrocarbons. In addition, the day tank contained 750 gallons of fuel. The ship's drawings indicated 13 main fuel tanks, but it was difficult to take accurate tank soundings. Hence, the CCG estimated some 5,800 gallons of diesel oil were still onboard.

The CCG then contacted the owner of the *Dominion I* residing in Oregon, USA, who stated that he would be on-site within ten days to determine what could be done with the vessel. Following the discussion, a written Notice was sent by fax to the owner. Later, the CCG forwarded to the owner a claim in the amount of \$17,653.61 for expenses incurred during the incident. The owner contacted the CCG and advised that he was making arrangements to move the vessel to Victoria, where it could be placed for sale. However, this arrangement did not materialize. Additional visits to the vessel were made between October and December, but no change to the vessel's condition was found. The CCG became concerned about the vessel's anchoring arrangements; both anchors had been deployed and were clearly fouled which could cause chafing and eventual parting of the mooring cable. Although the *Dominion I* was no longer taking on water, CCG personnel considered that a risk of pollution still remained. Therefore, on December 6, the CCG conducted a remote-operated submersible vehicle (ROV) dive survey and found the anchor cables fully twisted down to the seabed. However, the ROV was unable to locate the anchors that were buried in the sand. On January 13, 2011, the CCG attended again the scene and found that the vessel was not taking on more water.

The Claim

On November 9, 2011, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund (the Fund) for costs and expenses in the amount of \$15,951.45, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

Following investigation and assessment of the claim, the Administrator found the amount of \$15,916.30 to be established. Therefore, on February 14, 2012, he offered such amount, plus interest, as compensation in full and final settlement. DFO/CCG accepted the offer and on

February 28, 2012, payment of \$16,589.81, inclusive of interest, was made in accordance with the MLA.

Recovery Action

The Administrator conducted background research of the owner of the *Dominion I* in order to identify any possible assets for cost recovery purposes. On April 18, 2012, counsel wrote to the vessel owner, via registered mail, requesting, pursuant to the MLA, payment of the amount of \$16,589.81 paid by the Fund to DFO/CCG in respect of the alleviation of oil pollution problems. The owner was asked to advise, prior to May 2, what arrangement he could offer to repay the Fund, failing which the Administrator may take legal proceedings. Subsequently, it was found that the registered owner of the vessel had a new address in Oregon, USA. Accordingly, on April 25, 2012, counsel sent, via registered mail, a demand letter to the new mailing address in Oregon. However, no replies were forthcoming.

Counsel eventually located the registered owner of the *Dominion I* in Idaho, USA, and served him with a copy of the Federal Court Statement of Claim on December 14, 2013. The owner advised that he was elderly and in ill health with no income other than social security. He also stated that he had sold the vessel to others who were responsible for it at the time of the incident and provided documents in respect of that sale. However, the documents showed that while he may have passed possession of the vessel, he still retained the title.

After consultation with counsel, the Administrator concluded that it was futile to proceed further against the registered owner because it would incur legal costs with no substantial likelihood of recovery. Therefore, on April 28, 2014, counsel actioned a Notice of Discontinuance in respect of the matter without costs to any party.

Status

The file was closed on September 23, 2014.

Related Files

Dominion I (2005), Victoria, BC, Case number: 120-481-C1 (same ship)

Dominion I (2012), Cowichan Bay, BC, Case number: 120-613-C1 (same ship, same location)

Gulf Stream II (2011)

Location: Fraser River, BC

Case number: 120-606-C1

The Incident

On February 14, 2011, the *Gulf Stream II*, a 115-foot wooden hull passenger vessel built in 1943, was taking on water while secured to its berth at Sunbury on the Fraser River. The Rescue Co-ordination Centre (RCC) in Victoria classified the incident as distress and, thus, tasked the Canadian Coast Guard (CCG) hovercraft *Siyay* to proceed and assist it. The *Gulf Stream II* had a log imbedded in its hull. Due to the ingress of water and the imminent threat of sinking, the Captain was going to evacuate. When the *Siyay* arrived, it provided de-watering pumps and other assistance to stabilize the situation. A temporary hull patch was installed and the flooding controlled. The hovercraft crew informed the RCC that there were 500 litres of diesel fuel in the damaged passenger vessel.

Later in the morning, Environmental Response personnel from the Richmond CCG depot attended the *Gulf Stream II*. They determined that, on reasonable grounds, the old passenger vessel was not seaworthy. Subsequently, on February 16, a Transport Canada Ship Safety Inspector boarded and confirmed the vessel to be unseaworthy, pursuant to section 222 of the *Canada Shipping Act*, and issued a detention order.

The Claim

On April 11, 2011, the CCG mailed a registered letter to the vessel owner requesting payment in the amount of \$6,096.47 for costs and expenses incurred during response to the incident, but did not receive any reply. Consequently, on November 14, 2011, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$5,646.91, pursuant to sections 77(1), 101 and 103 of the *Marine Liability Act*.

Assessment and Offer

For his assessment of the claim, on November 23, the Administrator wrote to DFO/CCG requesting that they provide documentation/amplifying information to support that this was not a search and rescue response to the incident. DFO/CCG did not provide the requested information. On January 4, 2012, after completing his assessment of the claim, the Administrator found the expenses and costs incurred by the Environmental Response unit to be established in the amount of \$252.47. He then offered such amount, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and payment in the amount of \$259.73, inclusive of interest was directed by the Administrator.

Recovery Action

Having concluded that further efforts and expenditures for costs recovery purposes was not reasonable, the Administrator closed the file.

Status

The file was closed on February 1, 2012.

Dana (2011)

Location: Ferguson Bay, BC

Case number: 120-607-C1

The Incident

On May 17, 2011, the Canadian Coast Guard (CCG) received a report that the ex-fishing vessel *Dana* was listing and apparently aground in Saanichton Bay on the northwest side of Haro Strait, Vancouver Island, British Columbia. CCG Environmental Response personnel from Victoria investigated and found the non-registered 36-foot vessel not aground but afloat in Ferguson Bay, north of the James Island ferry dock. The following day, CCG personnel boarded the vessel to assess the potential threat of oil pollution. Meanwhile, the owner had returned and pumped out the excess water. The CCG found 150 litres of diesel oil in the fuel tanks and three separate five-gallon jerry cans of fuel on the aft deck. No oil pollution was seen around the vessel, but there were small traces of oil in the bilges and an oil-water mixture in the engine room. The responders concluded that the vessel was not in danger of sinking and there was no further threat of oil pollution.

The Claim

On November 14, 2011, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses incurred in the amount of \$755.53, pursuant to sections 77(1), 101 and 103 of the *Marine Liability Act*.

Assessment and Offer

On November 24, 2011, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$740.35, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and on December 14, the Administrator directed payment in the amount of \$753.36, inclusive of interest.

Recovery Action

Given the fact that the owner could not be located and the minimal amount of the claim, the Administrator concluded that it was not reasonable to incur any expenditure for any attempt of cost recovery.

Status

The file was closed on January 3, 2012.

Mistann (2011)

Location: Prince Rupert, British Columbia

Case number: 120-608-C1

The Incident

On 14 October 2011, the 37-foot fibreglass fishing vessel, *Mistann*, sank at the Yacht Club in Prince Rupert with approximately 1200 litres of diesel fuel and an unknown quantity of lube oil on board. The owner was informed of his responsibilities, but he replied that he could not respond since he had no insurance. Hence, the Canadian Coast Guard (CCG) assumed the role of On-Scene Commander. The CCG Environmental Response (CCG ER) personnel, judging that the vessel was a risk to the marine environment, deployed boom to contain the spill.

A local contractor was engaged to assess the vessel and mitigate the pollution. Divers assessed the vessel and noted that it was sitting upright with vents plugged. Meanwhile, the vessel was still polluting and it was difficult to determine the amount of pollutants still on board. A decision was subsequently taken to raise the vessel to remove the remaining hydrocarbons. The work was hindered by strong gusting winds, the tidal currents and the local Yacht Club traffic. Late on 17 October, the vessel was finally raised to surface, dewatered, refloated and taken to the contractor's shipyard for further assessment. Repairs were made to the vessel engines.

On 9 December 2011, a Notice of Intent to put the vessel up for sale was sent by CCG to the vessel owner. However, it was returned to CCG as undeliverable. In January 2012, the *Mistann* was sold by CCG for \$1,200.

The Claim

On 26 April 2012, the Administrator received a claim, made pursuant to the *Marine Liability Act* (MLA), in the amount of \$113,787.48 from CCG, on behalf of the Minister of Fisheries and Oceans (DFO/CCG).

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

Assessment and Offer

Investigation and assessment of the claim were carried out. A part of the Contract Services portion of the claim was disallowed since the vessel salvage operation over the weekend, which incurred premium costs, was not considered necessary. The costs relating to the repairs of the vessel engines were not accepted as reasonable either. Besides, the rate for the calculation of administration charges was adjusted.

On 12 September 2012, an offer for the established amount of \$100,462.51 plus interest was made by the Administrator to DFO/CCG as full and final settlement. DFO/CCG accepted the offer and received payment of \$103,428.74 (inclusive of interest) on or about 27 September 2012.

Recovery Action

On or about 16 October 2012, the counsel for the Ship-source Oil Pollution Fund (SOPF) sent a letter to the registered owner of the *Mistann* requesting payment of the amount paid by the SOPF to CCG. The letter was returned to the sender, marked with “moved/unknown”. In order to try to locate the registered owner and identify assets that may be available for recovery purposes, a professional locator firm was engaged by the Administrator.

On 20 September 2013, counsel for the SOPF served a Statement of Claim on the vessel owner at Port Edward near Prince Rupert. No Statement of Defence was filed. On 29 January 2014, a default judgment against the defendant was issued by the Prothonotary of the Federal Court in Vancouver.

In 2016, the Administrator learned that the owner of the *Mistann* also owned two other vessels. A legal action was subsequently taken to seize those assets. In February 2017, three vessels, generator sets and one vehicle belonging to the vessel owner were seized and sold, from which sale the SOPF recovered \$18,080.42, after costs.

In July 2018, a further search was conducted but no new pursuable assets or streams of income could be identified.

Status

The file remains open.

Lady Patricia (2011)

Location: Saanich Peninsula, BC
Case number: 120-609-C1

The Incident

On September 2, 2011, the Canadian Coast Guard (CCG) received a report from a concerned citizen that a half-sunken vessel was on the beach in front of her residence, near Deep Cove, Saanich Inlet, Vancouver Island, British Columbia. The vessel had arrived overnight and was leaking oil pollutants. The CCG lifeboat *Cape Naden* was tasked to investigate and the grounded vessel was identified as a 1975 fiber form 24-foot cabin cruiser named *Lady Patricia*. A quantity of gasoline and lubricating oil was sweeping into the marine environment on the high tides. There was also a thick film of engine oil covering the interior of the craft. The *Cape Naden* towed the pleasure craft to the Institute of Ocean Sciences at Patricia Bay. Upon arrival, during the evening of September 2, the *Lady Patricia* was hauled out of the water and loaded onto a boat trailer.

In its efforts to trace the vessel owner, the CCG found that it had been registered in Maple Ridge, British Columbia, in 1980, under the Transport Canada Pleasure Craft Licensing System. The registered owner had died and the *Lady Patricia* was sold several years ago. However, the Royal Canadian Mounted Police at North Cowichan and the Vancouver Police Department Marine squad were unable to determine the new ownership.

The CCG engaged an accredited marine surveyor of Active Marine Services to ascertain the vessel's fair market value. The surveyor reported that in its salvaged condition it had no appreciable sale value. Accordingly, on October 4, the CCG contracted with Jenkins Marine Ltd. of Victoria to break-up and dispose of the vessel and dispose of the remaining pollutants. Some 20 litres of fuel and oily water and eight litres of lubricating oil were recovered from onboard during the deconstruction.

The Claim

On June 5, 2012, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$5,656.31, pursuant to the *Marine Liability Act*

Assessment and Offer

Following investigation and assessment of the claim, on August 29, 2012, the Administrator made an offer for the established amount of \$4,856.35, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer on September 12, and the Administrator directed payment in the amount of \$5,009.34, inclusive of interest.

Recovery Action

Since it was impossible to determine the ownership of the vessel, the Administrator concluded that no recourse action was available.

Status

The file was closed on October 9, 2012.

Kelly Maree (2011)

Location: Fraser River, Maple Ridge, BC

Case number: 120-610-C1

The Incident

On November 16, 2011, the Canadian Coast Guard (CCG) received a report from a concerned citizen that an old fishing vessel had partially sunk in the Fraser River near Maple Ridge, British Columbia. Environmental Response personnel from the Richmond CCG base attended the scene of the incident. The 17-metre *Kelly Maree* was found in derelict condition, with its foredeck awash. It had not settled lower in the water or submerged because it was secured alongside a steel hulled larger vessel, the *Norpak III*. There was a strong odour of hydrocarbons, and the water trapped within the hull was covered with a sheen of oil. The forward compartment and the cargo hold were nearly full of water with free-floating emulsified oil. The wheelhouse and engine room spaces were also contaminated with free-floating oil. The response crew used portable equipment to pump out water from the hull. After dewatering the interior, the vessel was found coated with fuel oil and lubricants.

On November 23, a report was received that the *Kelly Maree* was again sinking, with a sheen of oil on the surrounding surface of the water. CCG personnel attended and once more pumped out the hull. Because the vessel owner could not be found, on November 29, the CCG engaged Forrest Marine Towing to tow the vessel to Shelter Island Marina and Boatyard in Richmond. During the transit down river, the CCG cutter 709 escorted the tow in the event further pumping was necessary.

With the assistance of the Royal Canadian Mounted Police, the CCG ascertained that the registered owner of the *Kelly Maree* had died. The CCG then engaged Chris Small Marine Surveyors Ltd. to conduct a survey in order to assess the vessel's condition and value. Upon inspection, the surveyor noted that the vessel was beyond reasonable restoration, or refit, and that there was no net salvage value available in the craft. On December 21, Shelter Island Marina and Boatyard was instructed to commence cleaning and deconstruction of the *Kelly Maree*.

Measures taken by the Administrator

The Administrator was informed by the CCG about the circumstances of the incident. He then instructed counsel for the Ship-source Oil Pollution Fund (the Fund) to engage a technical marine surveyor to investigate the cause of the partial sinking and determine the vessel's potential to pollute the marine environment with hydrocarbons. On January 9, 2012, the surveyor provided a comprehensive report, which concluded the course of action taken by the CCG Environmental Response was reasonable and cost effective to prevent, remedy and minimize oil pollution emanating from the *Kelly Maree*. The surveyor also concurred with the assessment of the CCG engaged technical marine surveyor.

The Claim

On April 24, 2012, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Fund for costs and expenses in the amount of \$26,604.41, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

Following investigation and assessment of the claim, the Administrator offered \$26,548.10, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer and the Administrator directed payment of \$27,018.40, inclusive of interest.

Recovery Action

On the Administrator's instructions, counsel for the Fund wrote a demand letter to the executor of the estate of the registered vessel owner.

As a result of his investigations, counsel advised that there appeared to be little prospect for recovery and, thus, recommended that the file be closed.

Status

The file was closed on August 23, 2012.

Dominion I (2012)

Location: Cowichan Bay, BC

Case number: 120-613-C1

The Incident

On March 12, 2012, the *Dominion I*, which had already been involved in two previous incidents, in 2005 and 2010, dragged anchor and collided with the anchored fishing vessel *Polar Prince* in Cowichan Bay, British Columbia. When the Canadian Coast Guard (CCG) was notified of this incident, they hired tugs to place the vessel alongside the wharf at Cowichan Bay terminals. Throughout the incident, the *Dominion I* did not release any pollutants. On August 9, 2012, the CCG confirmed to the Administrator that they had removed 2,400 litres of accessible hydrocarbons from the vessel by way of a vacuum truck, but some 50,000 litres of oily waste remained onboard.

On June 22, 2013, with the approval of Transport Canada Marine Safety, the *Dominion I* was towed outside of the Canadian jurisdiction by the Mexican-flagged tug *Gaviota*, brought by the *Dominion I*'s owner, who resided in the United States.

The Claim

On March 10, 2014, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund in the amount of \$220,937.25 for costs and expenses for measures taken in anticipation of a discharge of oil.

Assessment and Offer

Initially, the Administrator had some concerns whether the costs and expenses really related to a fresh incident or whether they were further costs and expenses arising out of the previous incidents in respect of which compensation had already been paid. He was also concerned about whether the claim had been filed within the prescription periods specified by the *Marine Liability Act* (MLA). On the advice of counsel, he concluded that the claim related to a fresh incident and accordingly, it had been filed within the prescription period for filing claims mandated by the MLA.

On examination of the documentation filed in support of the claim, the Administrator noted that it was not completed and on September 25, 2014, he requested in writing further particulars. In particular, he had concerns about justification for the moorage charges, some \$154,074.00, paid to Western Stevedoring for keeping the vessel alongside at Cowichan Bay wharf for over a year. In addition, the documentation submitted in support of the claim did not include particulars of a clear plan to deal with the alleged threat of pollution posed by the vessel. There was also a lack of explanation as to why the vessel dragged its anchor and collided with the fishing vessel *Polar Prince*. On October 30, the CCG responded to the request for further information.

At the conclusion of his investigation of the documentation filed in support of the claim and taking into account the further explanations provided by the CCG, the Administrator concluded that bringing the vessel alongside for an initial period to remove the readily accessible hydrocarbons and re-anchor it was a reasonable measure. However, the decision to leave the vessel alongside at the Cowichan Bay wharf at significant cost without exploring cheaper options and in the absence of any real plan to deal with the supposed threat the vessel posed was not reasonable. The Administrator also noted that the shipowner towed the *Dominion I*, with the approval of Transport Canada, with some 50,000 litres of oily waste remaining onboard. It was then assumed that, at that point, she no longer constituted a threat and since nothing had been done to remove the remaining oily waste onboard during most of the time she remained tied up, it was open to conjecture whether she remained a pollution threat once the initial securing of the vessel and removal of accessible hydrocarbons had been completed.

On March 19, 2015, the Administrator informed the CCG that, on the basis of his finding, he found the amount of \$65,000.00 to be established. The amount essentially reflected the initial costs and expenses incurred in the measures taken in response to the actual threat of oil pollution. The Administrator then offered \$65,000.00, inclusive of interest, in full and final settlement of the claim. DFO/CCG accepted the offer on May 15, 2015, but payment of the settlement amount was withheld as a duly executed Release and Subrogation Agreement had not been returned by the CCG. The settlement amount was finally paid on November 9, 2016.

Recovery Action

After consideration of advice from counsel that there was little potential for successful cost recovery, the Administrator concluded that all reasonable measures to recover the amount of the payment from the vessel owner had been taken, and closed the file.

Status

The file was closed on November 29, 2016.

Related Files

Dominion I (2005), Victoria, BC, Case number: 120-481-C1 (same ship)

Dominion I (2010), Cowichan Bay, BC, Case number: 120-605-C1 (same ship, same location)

Finella - Deep Bay Harbour Authority Claim (2011) ⚓

Location: Deep Bay, BC
Case number: 120-614-C1-1

The Incident

On October 11, 2011, the commercial fishing vessel *Finella* partially sank at the dock in Deep Bay, Vancouver Island, British Columbia. The vessel commenced leaking diesel fuel and heavier engine and gear oil. There was an estimated 2,000 litres of fuel onboard, as well as other hydraulic oils. With the assistance of the local Canadian Coast Guard Auxiliary, the Harbour Authority deployed containment booms and absorbent pads in an attempt to prevent the material from moving into the nearby commercial shellfish growing waters and beaches. The vessel owner was reported to be “out of the country”. Consequently, the Harbour Authority hired a contractor to raise the *Finella* and move it to shallow water in order to prevent it from sinking completely and cause environmental damage to the surrounding wetlands and commercial shellfish areas. The *Finella* was removed from the water on October 12, 2011 and placed on the beach.

The Claim

On March 22, 2012, the Manager of the Deep Bay Harbour Authority filed a claim with the Ship-source Oil Pollution Fund for costs and expenses incurred during response to the incident in the amount of \$9,969.09, while noting that he had attempted to recover the costs from the vessel owner but no reply was received to any of his communications.

Assessment and Offer

After investigation and assessment of the claim, on May 8, 2012, the Administrator made an offer for the established amount of \$9,969.09, plus interest, for a total compensation of \$10,098.60. The offer was accepted and on June 5, upon receipt of a duly executed Release and Subrogation Agreement, the Administrator mailed a cheque in the amount of \$10,098.60 to the Manager of the Deep Bay Harbour Authority.

Recovery Action

On June 5, 2012, the Administrator mailed a registered letter to the owner of the *Finella* requesting payment of the costs incurred by the Deep Bay Harbour Authority in response to the incident, in the amount of \$10,098.60, failing which he may commence legal proceedings. On July 4, the letter was returned to the Administrator.

Further investigation did not reveal the location of the owner or any assets. Accordingly, the Administrator concluded that incurring additional expenditure for cost recovery action was not reasonable and he closed the file.

Status

The file was closed on December 19, 2012.

Related File

Finella (2011), Deep Bay, BC, Case number: 120-614-C1-2 (same incident, different claimant)

Finella - CCG Claim (2011)

Location: Deep Bay, BC
Case number: 120-614-C1-2

The Incident

On October 11, 2011, the commercial fishing vessel *Finella* partially sank at the dock in Deep Bay, Vancouver Island, British Columbia. The vessel commenced leaking diesel fuel and heavier engine and gear oil. There was an estimated 2,000 litres of fuel onboard, as well as other hydraulic oils. With the assistance of the local Canadian Coast Guard (CCG) Auxiliary, the Harbour Authority deployed containment booms and absorbent pads in an attempt to prevent the material from moving into the nearby commercial shellfish growing waters and beaches. The vessel owner was reported to be “out of the country”. Consequently, the Harbour Authority hired a contractor to raise the *Finella* and move it to shallow water in order to prevent it from sinking completely and cause environmental damage to the surrounding wetlands and commercial shellfish areas. The *Finella* was removed from the water on October 12, 2011 and placed on the beach.

The vessel owner was eventually contacted by the CCG and issued a Letter of Notice to remove the vessel so as to prevent any further discharge of pollutants into the sheltered bay and its sensitive aquaculture sites. However, he did not remove it as per the CCG Notice. On December 6, the CCG was informed that the vessel had fallen over on the tidal grid and was again discharging pollutants into the marine environment. Upon inspection, CCG personnel found that the vessel was leaking oil through ruptured hull planks. There were approximately 700 litres of fuel oil onboard, with considerable amounts of lube oil floating freely in the engine space. The hull damage was such that the wreck was filling up on the high tide and leaking out on the low tide. CCG personnel hired a vacuum truck to remove all oil from the fuel tank and used sorbent material in the engine room to recover the free-floating sheen of oil. Some 3,000 litres of oily waste were removed, and on December 17, the wrecked vessel was removed from the area.

The Claim

On June 14, 2012, the CCG mailed a registered letter to the owner of the *Finella* requesting payment in the amount of \$3,686.76 for costs and expenses incurred during response to the incident. However, being unclaimed, the letter was later returned to sender. Consequently, on October 19, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund in the amount of \$3,686.76, pursuant to the *Marine Liability Act*.

Assessment and Offer

After investigation and assessment of the claim, the Administrator found the amount of \$3,675.26 to be established. He, therefore, on November 15, 2012, offered such amount, plus interest, in full and final settlement of the claim. The offer was not accepted within the time limits prescribed by legislation and DFO/CCG was notified by letter dated January 23, 2013 that the offer was deemed to have been refused.

Status

The file was closed on January 24, 2013.

Related File

Finella (2011), Deep Bay, BC, Case number: 120-614-C1-1 (same incident, different claimant)

Emerald Tide (2012)

Location: Port McNeill, BC

Case number: 120-618-C1

The Incident

On May 1, 2012, the Canadian Coast Guard (CCG) was informed that the old abandoned pleasure craft *Emerald Tide* was sinking near the fuel dock at Port McNeill on Vancouver Island, British Columbia. The fuel dock personnel had placed a bilge pump onboard when the vessel's automatic pumping system failed. The next day, CCG Environmental Response personnel travelled from Victoria for an on-site assessment of the incident. Upon arrival, the vessel was found to be low in the water, with visible rotten planking with patches above and below the waterline. The personnel also discovered that the bilges were filled with oily waste above the deck plates. Furthermore, the engine room space was awash with oil. The fuel tanks contained several hundred litres of fuel. When contacted, the owner's representative informed CCG, in writing, that the owner did not have the financial means to respond to the pollution threat. Consequently, on May 7, CCG personnel removed the accessible oils from the vessel's machinery and tankage. Meanwhile, a commercial marine surveyor was contracted by the CCG to conduct an independent condition assessment of the *Emerald Tide*. The surveyor reported that the vessel was saturated with oil and the hull was thoroughly rotted. Hence, it should be removed from the water in order to dispose of the contaminated materials. On May 25, following a bidding process, a deconstruction contract was awarded to Jenkins Marine Ltd. of Esquimalt and demolition of the *Emerald Tide* was completed on June 22.

Measures taken by the Administrator

When the towed vessel arrived at the Esquimalt Graving Dock, the Administrator instructed counsel to engage a technical marine surveyor to survey the old vessel after it was hauled out of the water. The marine surveyor reported that as a consequence of the poor hull condition and hydrocarbon-saturated hull planking, decking, stringers and framing, the most economic course of action to minimize the threat of pollution from the *Emerald Tide* was to deconstruct the vessel.

The Claim

On January 28, 2013, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund (the Fund) for costs and expenses in the amount of \$123,073.89, pursuant to the *Marine Liability Act*.

Assessment and Offer

After investigation and assessment of the claim, the Administrator made an offer for the established amount of \$122,195.62, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and on March 7, 2013, the Administrator directed payment in the amount of \$125,370.70, inclusive of interest.

Recovery Action

On March 31, 2013, counsel for the Fund wrote to the vessel owner requesting that he make arrangements to pay the costs incurred within 14 days, failing which the Administrator may proceed with an action in the Federal Court. On April 22, 2013, a second demand letter was sent to the registered office address of the owner, but it was returned and marked “moved/address unknown”. A corporate search indicated a different address than the one of the registered office; hence, on May 10, another copy of the demand letter was mailed to the new address. On June 3, counsel received a reply from the owner requesting additional time, until July 31, 2013, to make an official settlement offer without resorting to legal action. An extension until the end of the month was granted. On July 22, however, contrary to offering a settlement proposal, the owner sent counsel a “Notice of Injury” which was claiming for payment of \$45,000.00 against the CCG and the Fund.

After further investigation, it was ascertained that the owner of the *Emerald Tide* had no exigible assets. In light of this finding, the Administrator concluded that incurring additional expenditure for cost recovery purposes was not reasonable and he, therefore, closed the file.

Status

The file was closed on October 7, 2013.

Viki Lyne II (2012)

Location: Ladysmith, B.C.

Case number: 120-619-C1

The Incident

On June 21, 2012, the Canadian Coast Guard (CCG) informed the Administrator that an old steel-hulled fishing vessel, *Viki Lyne II*, 224 GT, was abandoned in Ladysmith Harbour, British Columbia, and was likely to discharge a pollutant. The CCG conducted an initial assessment and found the vessel in a deteriorated condition with substantial amounts of oil aboard. Consequently, the CCG contracted McAllister Marine Survey & Design Ltd. to have a technical surveyor examine the vessel and provide an opinion as to whether an imminent threat of pollution existed.

On August 31, 2012, McAllister Marine Survey and Design Ltd. presented its technical survey report. The surveyor concluded that due to the overall condition of the *Viki Lyne II*, it posed a significant, imminent and ever-increasing threat to the environment. The report recommended that the only certain way of removing the oils aboard contained in piping and machinery was to disassemble and scrap the vessel as soon as possible.

The CCG later advised that it was working with Public Works and Government Services Canada (PWGSC) to develop contract specification for the process of tendering. On July 9, 2013, counsel for the Administrator was informed by CCG that an environmental response employee had attended the vessel in late June, and there was no evidence that the owner had removed any oil, or other pollutants. Therefore, the CCG was assessing available options and would welcome an opportunity to discuss with the Administrator the reasonableness of each option.

On July 30, 2013, counsel replied and reminded CCG of the earlier opinion of the independent technical surveyor appointed by the Administrator – notably, that the removal of the pollutants could be done at a lesser cost than deconstruction of the vessel. The surveyor had also recommended that quotations be obtained for both alternatives. Counsel confirmed to CCG that the Administrator cannot prejudge the measures taken prior to the submission of the claim.

On March 31, 2014, CCG reported in its year-end claims status report that the vessel had been identified as a potential hazard and that preventive measures would soon be taken, following which a claim would be submitted to the SOPF.

On March 17, 2016, the CCG informed the Administrator that a contractor was hired in 2014 to remove approximately 23,000 litres of oil and oily water from the vessel. Furthermore, CCG advised that a survey completed in February 2016, indicated that there were approximately 18,000 litres of oil/oily pollutants remaining in the vessel. CCG was now planning to remove the remaining oil and oily pollutants in early 2016.

On July 26, 2016, the Fund was advised by CCG that they had published a Request for Proposals for the deconstruction of the vessel.

Measures taken by the Administrator

When notified about the incident in 2012, the Administrator retained external counsel and instructed him to engage a marine surveyor to represent the Administrator and to arrange with CCG to have the surveyor attend the inspection of the vessel on behalf of the Administrator. The technical surveyor engaged on behalf of the Administrator confirmed that McAllister's report accurately reflected the condition of the fishing vessel, and the amount of hydrocarbons on board. However, the surveyor had offered an opinion that the removal and cleaning of hydrocarbons from the *Viki Lyne II*, rather than demolition would have been a reasonable option to minimize the threat of hydrocarbon pollution. CCG was informed of this independent opinion.

In March of 2017, in anticipation to the upcoming claim, the Administrator engaged a locator service to trace the location of the registered owner and identify assets that may be available for recovery purposes.

The Claim

On June 15, 2017, the Administrator received a claim from the CCG on behalf of the Department of Fisheries & Oceans (DFO/CCG) for costs and expenses in the amount of \$1,267,926.71 made pursuant to the *Marine Liability Act*.

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

Assessment and Offer

The investigation gave rise to requests to CCG for additional information. On October 30, 2017, the Administrator sent a letter to CCG requesting additional submissions on the issue of wreck removal in this file. On December 20, 2017, the Administrator sent CCG a draft offer of compensation for additional comments and submissions. On January 9, 2018, the CCG requested an extension for providing comments, following which the comment period on this draft offer was extended to March 16, 2018. CCG's comments and further submissions were received on March 15, 2018.

The Administrator carried out her investigation and assessment of the claim. The Administrator disallowed a large proportion of the claim that she found was related to wreck removal, rather than to "preventive measures" within the meaning of ss. 71 or 77 MLA. Further, the Administrator disallowed costs of some of the Contract Services engaged by CCG.

On May 2, 2018, the Administrator made an offer for the established amount of \$100,373.14, plus interest, as full and final settlement to DFO/CCG. The offer was accepted on June 25, 2018 and, on June 27, 2018, a payment in the amount of \$109,867.92 including interest was made to DFO/CCG.

Recovery Action

On May 14, 2018, counsel for the Administrator sent a demand letter to the shipowner advising him that she had received a claim from CCG and that she would commence proceedings against him in case he did not admit liability for all of the proven costs and expenses of CCG.

In June 20, 2018, Statement of Claim was filed against the shipowner. The owner was granted an extension until October 30, 2018 to file his Statement of Defence. The Statement of Defence was received on October 18, 2018. A Case Management Order was issued on January 14, 2019.

In February 8, 2019, the Administrator accepted a settlement agreement of \$20,000 proposed by the Solicitor of the owner provided the owner produce sufficient supporting documentation.

As agreed, the owner provided the requested documents and the payment of \$20,000 was received on March 14, 2019, and in exchange, the Administrator sent the owner a Release.

Status

The file was closed on March 28, 2019.

Lady Mary III (2012)

Location: Penelakut Island, BC

Case number: 120-623-C1

The Incident

On November 19, 2012, the Canadian Coast Guard (CCG) received a report that a derelict ex-fishing vessel, the *Lady Mary III*, had blown off its mooring in Lamalchie Bay, Penelakut Island, British Columbia. The vessel had been grounded at high tide on an adjacent shoreline and was reported to likely discharge oil pollutants. A pollution response employee was deployed from the CCG station at Sea Island to inspect the grounded vessel and assess the potential for oil pollution. Upon arrival, no oil pollution was observed but the identified owner, who resided aboard the vessel while at anchor, advised that the *Lady Mary III* contained more than 2,000 litres of diesel fuel, as well as lubricating oils. The incident occurred in proximity to the sensitive shellfish harvesting area of the First Nations' territory on Penelakut Island.

The vessel owner advised the CCG that he did not have the financial means to remove and repair the wreck, which had an extensively rotten hull and was badly holed. Consequently, he signed a statement relinquishing control of the *Lady Mary III* to the CCG to allow them to take measures to prevent a discharge of pollutants. Following a bidding process, a contract was awarded to Saltair Marine Services Ltd. to salvage the wreck in order to prevent a discharge of oil. A CCG employee attended to coordinate the salvage measures in order to prevent and/or minimize any oil-pollution damage. On November 20, the contractor recovered the vessel and towed it to the Saltair Marine facility in Ladysmith Harbour. The CCG then hired Lipsett Marine Consultants to ascertain the condition of the vessel and estimate its monetary value. The consultant reported that the vessel, being in a "dismal condition", had no salvage value and he recommended that it "be hauled ashore, cut up and disposed of in an environmentally safe manner". Because of these findings, Saltair Marine Services Ltd. was instructed to deconstruct the vessel in order to remove all the oils and contaminated material.

The Claim

On May 13, 2013, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund (the Fund) for costs and expenses in the amount of \$31,548.55, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

After investigation and assessment of the claim, based on the initially submitted documentation and the additional requested information, the Administrator found it to be fully established. Therefore, on September 4, 2013, he offered \$31,548.55, plus interest, in full and final settlement of the claim, in accordance with the MLA. DFO/CCG accepted the offer and on September 19, the Administrator directed payment in the amount of \$32,354.69, inclusive of interest.

Recovery Action

The Administrator instructed counsel to send a letter, via registered mail, to the registered owner of the *Lady Mary III* requesting that arrangements be made to pay the Fund the sum of \$32,354.69, plus additional interest, pursuant to section 116 of the MLA. In response, counsel was informed that the registered owner had sold the vessel last summer. In addition, he was living on a disability pension and had no money to pay the Fund. It was further found that the live-aboard individual was essentially a homeless person, and not the owner of the vessel. The Administrator, therefore, concluded that incurring further expenditure for any further attempt at cost recovery was unreasonable and he closed the file.

Status

The file was closed on December 10, 2013.

Silver Harvester (2010) ⚓

Location: Esquimalt Harbour, BC
Case number: 120-625-C1

The Incident

On April 2, 2010, the *Silver Harvester*, a 45-tonne wooden fishing vessel built in 1944, dragged anchor in a windstorm and went aground at the north end of Esquimalt Harbour, Vancouver Island, British Columbia. When the vessel was swept onto the rocks, it was partially submerged and released oil into the water. The following day, when the storm subsided, the Esquimalt Harbour Management Authority (the Authority) dispatched its Marine Environmental Emergency Response Team to provide containment of the oil spill. In addition, the Authority conducted a technical survey of the vessel and found that the hull was severely damaged and impregnated with hydrocarbons. The vessel was determined to be unsalvageable and the threat of further pollution continued. It was therefore concluded that the most cost effective way to deal with the situation was to deconstruct the vessel.

When contacted, the registered owner advised that he was financially incapable of dealing with the incident. Also, he provided written permission for the Authority to deconstruct and dispose of the wreck. The Authority then applied to Transport Canada's Receiver of Wrecks to have the ownership transferred to the Department of National Defense (DND) in order to proceed with the salvage and prevent further pollution. When the custody of the transfer was completed, all hydrocarbons and other hazardous materials were removed. The oil-impregnated old fishing vessel was finally demolished by DND personnel at the Canadian Force Base in Esquimalt. The salvage operation was completed on April 27, 2010.

The Claim

On November 23, 2012, the Authority filed a claim with the Ship-source Oil Pollution Fund in the amount of \$17,956.53 for costs and expenses incurred during its response to the sinking of the *Silver Harvester* in Esquimalt Harbour.

Assessment and Offer

The time period between the completion of the deconstruction work and the filing of the claim seemed to be well after the two-year limitation period prescribed by the *Marine Liability Act*. Consequently, on the advice of counsel, the Administrator concluded that the claim was time-barred.

Status

The file was closed on January 24, 2013.

Golden Dragon I (2012)

Location: Fairview Dock, Prince Rupert, BC

Case number: 120-626-C1

The Incident

On April 10, 2012, the Canadian Coast Guard (CCG) received a report from the Harbour Authority at Prince Rupert, British Columbia, that the fishing vessel *Golden Dragon I*, secured to the Fairview dock, was discharging diesel oil. Along with the local wharfinger, CCG personnel attended the scene. They found a large oil slick encompassing the vessel and extending throughout the dock area. The CCG assisted the Harbour Authority in streaming a containment boom and absorbent pads around the vessel. The vessel owner was reported to be out of the country and could not be contacted. Upon inspection of the unmanned vessel, the CCG found that the bilge pump was pumping overboard oily waste that had accumulated in the bilges from a leaking fuel line. The CCG then effected temporary repairs and pumped the bilges of the remaining oily residue. It was estimated that 2,000 litres of diesel oil remained in the fuel tank.

On April 17, the vessel owner was contacted by the CCG and was officially informed of his responsibility under the *Marine Liability Act* (MLA) with respect to the oil pollution incident. Subsequently, the owner removed the remaining fuel and effected repairs.

The Claim

On January 28, 2013, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund (the Fund) for costs and expenses in the amount of \$3,697.35, pursuant to the MLA, while noting that they had submitted the original claim to the vessel owner who paid only \$1,000.00.

Assessment and Offer

After investigation and assessment of the claim, the Administrator made an offer for the established amount of \$3,559.53, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer and on March 7, 2013, the Administrator directed payment of \$3,657.56, inclusive of interest.

Recovery Action

On March 31, 2013, the Administrator instructed counsel to write to the registered owner of the vessel and request that he make arrangements within 14 days to pay the costs incurred, plus additional interest pursuant to the MLA. The owner was informed that failing satisfactory arrangements being made to pay the outstanding balance owing, the Administrator may proceed with an action in the Small Claims Court. On April 26, 2013, the vessel owner verbally agreed to pay the balance owing, but actually failed to do so. As a result, a Notice of Claim was issued and served in the Small Claims Court in Prince Rupert. The owner did not file a Reply to the Notice of Claim. Therefore, on September 27, a default order of the Provincial Court of British Columbia

was filed, granting judgment against the vessel for \$3,957.48, plus interest to the date of payment of the judgment. On October 7, the owner was informed by registered mail that unless satisfactory arrangements were made to pay the judgment by October 31, 2013, the Administrator would take execution proceedings against his assets, including the *Golden Dragon I*. However, on December 10, 2013, the Transportation Safety Board of Canada's daily notification report noted that the *Golden Dragon I* sustained a fire while moored in Port Hardy, British Columbia. The vessel's superstructure burnt to the hull, but no oil pollution occurred.

On January 15, 2014, the lawyer for the vessel owner confirmed that he held a sum of money in trust for his client pending a trial date on other matters. On March 30, counsel for the Fund advised that in light of the legal proceedings, it appeared there would not be any funds to pay the Administrator's judgment. The Administrator then concluded that all reasonable steps had been taken to recover the amount paid by the Fund and closed the file.

Status

The file was closed on March 30, 2015.

Pine Isle (2013)

Location: Silva Bay, Gabriola Island, BC

Case number: 120-628-C1

The Incident

On January 1, 2013, the Canadian Coast Guard (CCG) received a report that the ex-fishing vessel *Pine Isle* sank at anchor in Silva Bay, Gabriola Island, British Columbia, and was discharging oil pollutants into the marine environment. The next day, CCG environment response personnel from Victoria attended the scene. The vessel was found partially afloat with a mixture of diesel fuel and lube oil upwelling to the surface. When disturbed by the wake of passing vessels, a significant amount of fuel and small particles of lube oil spread upon the surface of the water. Therefore, an absorbent containment boom was streamed by a contractor to minimize further pollution damage. When contacted, the owner confirmed he had abandoned the vessel. In addition, living in social assistance housing in Vancouver, he had no financial means to respond to the incident.

Following a bidding process, a contract was awarded to Saltair Marine Services Ltd. to refloat and remove the *Pine Isle*. On January 4, the sunken vessel was raised and towed to Saltair Marine Services' facility in Ladysmith, where it was hauled out of the water on the marine slipway for survey and assessment. Two CCG environment response personnel monitored the salvage operation. The CCG then hired an independent technical marine surveyor to determine the condition and provide an evaluation of the 40-foot wooden hull vessel. The surveyor found there was oil contamination throughout the entire structure and advised that there was no salvage value remaining in the vessel. Subsequently, the CCG instructed Saltair Marine Services Ltd. to remove all the hydrocarbons and deconstruct the *Pine Isle*.

The Claim

On April 23, 2014, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses incurred, in the amount of \$20,672.23, pursuant to the *Marine Liability Act* (MLA). While noting that because the sunken vessel was a hazard to navigation, the CCG contacted Transport Canada's Navigable Waters group and was successful in obtaining the amount of \$8,900.00 toward the removal of the sunken vessel.

Assessment and Offer

On June 26, 2014, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$20,336.73, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer and on July 9, payment of \$21,325.71, inclusive of interest, was made.

Recovery Action

The Administrator obtained the services of a professional locator firm in order to try to identify assets that may be available for recovery purposes. It was confirmed that the owner was an elderly person living in a subsidized senior citizen's accommodation without financial means to pay the

costs incurred. Accordingly, the Administrator concluded that it was not reasonable to pursue further attempts for cost recovery and he closed the file.

Status

The file was closed on August 5, 2014.

Mikon (2013)

Location: Port Browning, Pender Island, BC

Case number: 120-629-C1

The Incident

On March 2, 2013, the Canadian Coast Guard (CCG) received a report that the 37-foot wooden hull ex-fishing vessel *Mikon* had sunk at its moorings and caused oil pollution in Port Browning, Pender Island, British Columbia. The CCG then deployed a crew from the Ganges lifeboat station to investigate. The lifeboat crew found both diesel and hydraulic oils being discharged from the sunken wreck. When asked about his plans for the control of the situation, the vessel owner advised that he did not have the financial means to raise the wreck and prevent further pollution. Accordingly, on March 7, 2013, the CCG engaged Public Works and Government Services Canada to solicit bids for a contractor to remove the *Mikon*. A contract was awarded to Saltair Marine Services Ltd. to refloat the *Mikon* and stream a containment boom and sorbent material, which was supplied by the Pender Island Fire Department as a measure to minimize the oil pollution damage caused by the upwelling of oil. The volume of diesel and other oils on board the wreck was unknown. On March 13, the *Mikon* was lifted to the surface and when stabilized, it was towed to the Saltair Marine Services facility in Ladysmith Harbour, where it was placed onto a concrete containment pad with a catch basin for any seeping oils.

An independent technical marine surveyor was hired by the CCG to determine the condition and provide an evaluation of the wooden hull vessel. The surveyor reported that there was oil contamination throughout the interior which damaged all mechanical systems that were submerged under seawater. In short, the wreck had no salvage value. Consequently, by March 20, the *Mikon* was deconstructed and all the debris and oil were cleaned up for disposal.

The Claim

On December 16, 2014, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$41,451.84, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

The Administrator investigated and assessed the claim documentation. While noting that the CCG took the necessary measures to address the pollution threat in a timely manner, he found the amount of \$40,351.84 to be established. The contract charge of \$1,100.00 for additional insurance coverage incurred by the engaged salvage company was not accepted. Therefore, on March 25, 2015, the Administrator offered \$40,351.84, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer on April 29, 2015, but payment of the settlement amount was withheld as a duly executed Release and Subrogation Agreement had not been returned by the CCG. The settlement amount of \$44,595.50, inclusive of interest, was paid on August 25, 2016.

Recovery Action

Recourse action for this claim was time-barred.

Status

The file was closed on September 28, 2016.

Colleen K (2012)

Location: Port Simpson, Prince Rupert, BC

Case number: 120-631-C1

The Incident

On December 12, 2012, the Canadian Coast Guard (CCG) received a report that the old 13-metre steel-hulled tugboat *Colleen K* had sunk at Port Simpson Marina in Northern British Columbia. The following day, the CCG Environmental Response personnel, based at Prince Rupert, conducted a helicopter flight and observed that oil was visible around the submerged vessel, and several non-recoverable oil slicks were seen in the marina area. With local assistance, the CCG streamed a sorbent boom around the area of the polluting wreck. The tug owner advised that he did not have the financial resources to respond to the incident. Consequently, the CCG engaged commercial salvors to take measures to remove the 1949-built tug from the marine environment. The *Colleen K* was raised by the contractor on December 16, placed on a barge and taken to Wainwright Marine Services' shipyard for survey and assessment. The CCG monitored the recovery operations throughout. The CCG then hired an independent technical marine surveyor to attend at Wainwright Marine to determine the condition and make an evaluation of the vessel. The surveyor noted that the *Colleen K* was a Total Constructive Loss and the cost of repairs would far exceed any recoverable value. Subsequently, the CCG contracted with Wainwright Marine to remove all hydrocarbons from the tug, deconstruct it and dispose of the debris.

The Claim

On March 20, 2013, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund (the Fund) for costs and expenses in the amount of \$84,522.02, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

Upon receipt of the claim, the Administrator instructed counsel to engage a marine technical surveyor to examine the submitted documentation referring to the services provided by the contractor in order to assess whether the measures taken were reasonable under the circumstances. On August 30, 2013, the technical surveyor reported that the charges appeared reasonable and were consistent with the work performed. In addition, he considered that the deconstruction and disposal of the *Colleen K* was the most economic course of action to prevent the vessel from causing future oil pollution to the marine environment. He also noted that the vessel had no salvage value.

On October 9, 2013, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$84,522.02, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer and on November 12, payment of \$87,020.27, inclusive of interest, was made.

Recovery Action

On November 22, the Administrator sent a demand letter, via registered mail, to the registered owner of the *Colleen K* informing him of his responsibilities for the costs incurred in respect of the measures taken in this incident. The owner was requested to advise within 14 days what arrangements could be made to pay the outstanding claim, failing which the Administrator may commence legal proceedings. No response was received.

After further investigation by counsel which did not reveal any exigible assets belonging to the registered owner, the Administrator concluded that incurring additional expenditures to recover the amount paid out of the Fund was not reasonable and he, therefore, closed the file.

Status

The file was closed on March 31, 2014.

Bromada (2013)

Location: Ladysmith, BC
Case number: 120-641-C1

The Incident

On September 19, 2013, the Canadian Coast Guard (CCG) received a report that the old fishing vessel *Bromada* sank in Ladysmith Harbour, British Columbia, and was discharging oil. CCG Environmental Response personnel from Victoria were deployed to assess the occurrence. Upon arrival, the abandoned derelict vessel was found to be submerged and oil was upwelling to the surface forming an oil sheen, likely a mixture of diesel fuel, lube oils and hydraulic fluid.

Information gathered from residents of neighboring vessels indicated that the alleged owner had not been seen for several months. The CCG was also informed that the *Bromada* had changed ownership several times prior to ending up in Ladysmith's "Dogpatch", the cluster of decrepit derelict vessels in Ladysmith Harbour. However, no documentary evidence of these transactions was available. In addition, the CCG's research of the Transport Canada ship registration determined that the 50-foot wooden hull vessel, built in 1926, was removed from the ships' register years ago.

The owner having not been identified, the CCG Regional Superintendent of Environmental Response decided to remove the vessel from its sunken position to prevent and minimize further oil pollution damage. Following a bidding process, Saltair Marine Services Ltd. was awarded the contract to raise the *Bromada*. On September 21, the wreck was raised, placed onboard a barge and towed to the contractor's facility. The CCG then hired an independent marine surveyor to inspect the *Bromada* and provide a monetary value assessment. The surveyor concluded that the vessel had no value, as the planking was loose and caulking had fallen out of the seams. The machinery also had no value because it had been submerged under sea water for some time. Moreover, the cost of removing any other equipment would exceed its scrap value. Consequently, the CCG instructed Saltair Marine Services Ltd. to remove all the hydrocarbons, then deconstruct and dispose of the *Bromada*.

The Claim

On February 4, 2015, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$34,586.25, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

After investigation and assessment of the claim, the Administrator did not accept the \$2,200.00 for additional insurance coverage charged by Saltair Marine Services Ltd. and, thus, found the amount of \$32,386.25 to be established. On April 9, 2015, he offered such amount, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer on April 29, 2015, but payment was withheld since a Release and Subrogation Agreement had not been executed.

DFO/CCG received payment of their claim in the amount of \$35,066.41, including interest, in September 2016.

Recovery Action

Since it was not possible to identify the vessel owner during the CCG response to the incident and the assessment of the claim, the Administrator concluded that all reasonable measures to recover the amount paid to DFO/CCG had been taken and closed the file.

Status

The file was closed on September 30, 2016.

Porcher G (2014)

Location: Campbell River, BC

Case number: 120-644-C1

The Incident

On January 13, 2014, the 45-foot wooden hull ex-fishing vessel *Porcher G* sank at the wharf in Campbell River, British Columbia, and was discharging oil. Personnel from the Campbell River lifeboat station attended and streamed a containment boom around the sunken vessel. The owner of the vessel was located and informed of his responsibilities and liabilities with respect to taking necessary measures to minimize and prevent further pollution damage, but he responded that he did not have the means to stop the discharge of oil or recover the wreck. Therefore, the CCG Environmental Response personnel took over management of the response and arranged for local contractors to raise the sunken vessel. On January 14, the vessel was raised and placed onboard a barge, which was towed to the Duncan Bay barge terminal just north of Campbell River. The CCG then hired a local marine surveyor to inspect the *Porcher G* and appraise its value. The surveyor advised that the vessel had no real value and was realistically irreparable. The only possible value seen was in some scrap metal.

On January 15, the CCG decided to deconstruct the vessel in order to remove the oil and prevent further pollution. A local excavating contractor was engaged to do the work. All oils were drained from the engine, and the recyclable metals were segregated from oil-contaminated wood waste, which was disposed of at an appropriate facility.

The Claim

On March 6, 2015, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses incurred in response to the occurrence, in the amount of \$30,585.25, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

After investigation and assessment of the claim, the Administrator found the full amount of the claim to be established. Therefore, on May 6, 2015, he offered \$30,585.25, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer on June 16, 2015, but payment was withheld since a Release and Subrogation Agreement had not been executed.

DFO/CCG received payment of their claim in the amount of \$32,828.07, inclusive of interest, in July 2016.

Recovery Action

The Administrator engaged a professional locator service to conduct an asset search of the vessel owner. It was determined that there were no exigible assets. Accordingly, the Administrator concluded that all reasonable measures to recover the amount paid to DFO/CCG had been taken, and closed the file.

Status

The file was closed on August 10, 2016.

Elf (2014)

Location: Squamish Harbour, British Columbia
Case number: 120-646-C1

The Incident

On January 14, 2014, the District of Squamish reported to the Canadian Coast Guard (CCG) that the tug *Elf*, a 74-foot wooden tug built in 1902, sank near the government wharf in Squamish Harbour. A significant amount of oil was upwelling from the wreck. In view of the environmental sensitivities of the incident location, the CCG Environmental Response (ER) personnel from the Richmond depot proceeded to the area with pollution counter-measures equipment. They then met with municipal officials, the RCMP, concerned citizens, and an individual who presented himself as the owner of the vessel but who could not provide proof of ownership. After verification with Transport Canada Ship Safety, it was found that the *Elf* was not registered; however, later, it was ascertained that the person who was operating the vessel was in fact the owner's representative. The latter was subsequently advised about the owner's responsibility to respond and his liability if he chose not to. He replied that the owner did not have insurance and was unable to contain and clean up the oil spill.

The CCG assumed the role of On-Scene Commander. Oil containment boom and sorbent materials were deployed to contain the spill and upwelling from the sunken vessel. At the same time, a local oil spill clean-up contractor was hired by the District Authority to boom off an area upstream where there was an endangered species of red-legged frogs. As 90% of the Mamquam Blind Channel was covered with a rainbow of sheen and other dull coloured oil, Environment Canada was requested to provide sensitivity mapping as well as a trajectory model for the spill.

An emergency response contractor, Quantum Marine, was hired by CCG to clean up oil that had made its way in and around the marina and docks within the channel. Divers from Hydra Marina Services Inc. were also engaged to plug the vents, but this did not stop the leak of fuel oil completely. Given the level of environmental risk, CCG engaged a contractor, Vancouver Pile Driving Ltd., to raise the wreck, which operation commenced on January 16. The *Elf* was slowly brought to the surface and dewatered as much as possible. CCG then hired a marine surveyor to inspect the condition and seaworthiness of the vessel. The surveyor reported a significant wood deterioration to the hull and advised that the vessel should be raised so the hull below the waterline could be inspected. Arrangements were made to have the vessel towed from Squamish to English Bay and then transferred to another tug to tow it up the Fraser River to Shelter Island Marina, where it would be hauled out of the water.

On January 17, shortly after the *Elf* was transferred to another tug company, it started to sink. CCG returned to Squamish and continued with containment and recovery of oil pollution that lingered throughout the Mamquam Blind Channel. On January 20, the response operation was discontinued and the *Elf* was left at the bottom.

Measures taken by the Administrator

When the Administrator was informed by CCG about the incident and the eventual significant costs associated to the response, a marine technical surveyor was engaged to attend the scene of the incident during the salvage of the sunken vessel. The surveyor had discussions with the CCG ER personnel about the measures planned for the recovery and he was also invited to the operational meetings. He reported to the Administrator that the measures taken by the contractors during the refloating operations and preparing the *Elf* for tow to the Fraser River for storage were sufficient to eliminate the threat of further oil pollution, other than light unrecoverable sheening.

The Claim

On August 12, 2014, 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*, for costs and expenses in the amount of \$82,512.70.

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

Assessment and Offer

Investigation and assessment of the claim were carried out. Additional documentation was requested and provided without delay. On December 18, 2014, the Administrator made an offer of compensation to DFO/CCG for the established amount of \$82,512.70, plus interest, as full and final settlement. DFO/CCG accepted the offer on February 3, 2015 and, on or about August 4, 2016, a payment in the amount of \$88,702.92 including interest was made to DFO/CCG.

Recovery Action

On September 30, 2016, a demand letter was sent to the vessel owner. Having received no response, a Statement of Claim was filed with the Federal Court on October 7. The court case was later joined with another Federal Court case further to the Statement of Defence and Counterclaim filed by the vessel owner on October 26, 2016, pursuant to which the latter sued DFO/CCG for damages caused to the *Elf* and to which several third parties were involved, such as the Administrator, Squamish Marine Services Ltd. and Valley Towing Ltd.

The trial took place on December 20, 2017 and the Administrator was successful in her claim. The shipowner was found liable for damages, costs and interest. The Administrator agreed with the solicitor of the shipowner to take no further action to recover the judgment for 120 days. The grace period that the Administrator gave to the owner expired on May 28, 2018 with no payment received.

Counsel for the Administrator attempted to serve the shipowner with a Direction to Attend an examination in aid of execution, but the owner failed to appear on two appointments. When he did appear he produced none of the documents listed in the Appointment and refused to answer any questions.

On March 19, 2019, the Judge issued an Order requiring the owner to attend at a court-supervised examination in aid of execution in April 2019.

The owner made an assignment in bankruptcy. The Administrator filed a claim in the bankruptcy proceedings and submitted a list of questions and requests for documentation to the bankruptcy trustee.

The Administrator sought to have the Superintendent in Bankruptcy examine the owner within the bankruptcy as to whether he had properly disclosed assets and income. The Superintendent in Bankruptcy agreed to carry out that examination. The examination proceeded on February 19, 2020. This led to the discovery of funds which had not been disclosed as part of the bankruptcy.

On December 12, 2020, the Administrator received a cheque in the amount of \$1,189.70, which represented the Administrator's pro-rata share of the defendant's estate in bankruptcy, including the additional funds discovered.

Status

The Administrator closed this file on January 1, 2021, on the basis no further measures towards recovery were reasonable in the circumstances.

Elf - District of Squamish Claim (2014)

Location: Squamish Harbour, BC

Case number: 120-646-C1-1

The Incident

On January 14, 2014, the old wooden tug *Elf* sank near the government wharf in Squamish Harbour, British Columbia, in an environmentally sensitive area. It was reported that a significant amount of oil was upwelling from the wreck. The Canadian Coast Guard (CCG) responded to the incident by proceeding to the area with pollution counter-measures equipment. The representatives of the First Nation and City of Squamish were also directly involved through the response operation. They provided support to the CCG by arranging multi-agency meetings in collaboration with the Provincial Ministry of Environment, the Royal Canadian Mounted Police, Environment Canada and the tug owner.

At the outset, the District of Squamish activated its Emergency Operations Centre to assist in the operations and to liaise with the Squamish First Nation. The counter-measures taken included checking a series of catch basins and drainage area for the possibility of an oil spill in the drainage system. Upon discovery of oil in the boat harbour, the staff proceeded to close the gates to the estuary and prevent further spread of the pollutants. Particular attention was paid to monitoring the flood gates at Blind Channel where there existed a greater risk of oil contamination.

The Claim

On November 3, 2014, the General Manager of Financial Services, District of Squamish, filed a claim with the Ship-source Oil Pollution Fund in the amount of \$3,463.67 for costs and expenses incurred during response to the incident. The claim indicated that the total expenditure for the measures taken was \$6,314.73, but a claim for the difference was submitted to the Provincial Emergency Management Agency.

Assessment and Offer

After investigation and assessment of the claim, on January 20, 2015, the Administrator made an offer for the established amount of \$3,463.67, plus interest, in full and final settlement of the claim, pursuant to the *Marine Liability Act*. The District of Squamish accepted the offer and executed a Release and Subrogation Agreement. On February 16, 2015, a cheque in the amount of \$3,579.82, inclusive of interest, was mailed to the District of Squamish.

Recovery Action

On the basis of his findings with respect to the vessel ownership, the Administrator concluded that recourse action would probably exceed \$3,579.82; therefore, incurring further recovery expenditures was not warranted.

Status

The file was closed on February 24, 2015.

Related File

Elf (2014), Squamish Harbour, BC, Case number: 120-646-C1 (same incident, different claimant)

Baltic II (2014)

Location: Deep Bay, BC
Case number: 120-647-C1

The Incident

On January 24, 2014, the Canadian Coast Guard (CCG) received a report from the harbour authority at Deep Bay, British Columbia, that the abandoned wooden fishing vessel, *Baltic II*, was at risk of sinking and discharging oil at its mooring in the harbour. The harbour manager advised that the vessel was not equipped with any bilge pumping arrangement. Upon inspection, CCG personnel found the vessel in a very derelict state. The bilges contained fuel and lubricating oils, and containers of oil were discovered in the fish cargo hold and in the engine space. Sorbent material was used to remove the oil from the bilges. Also, the fuel tanks were drained.

On January 30, a letter was mailed to the registered owner to notify him of the situation and explain his responsibility with respect to preventing a potential oil pollution of the nearby ecological and sensitive aquaculture area. However, no reply was received. Consequently, given the condition of the vessel, the sensitivity of the surrounding area and the lack of response by the owner, the CCG decided to remove the *Baltic II* and transport it to a facility for disposal. On February 7, the CCG hired a marine surveyor of the firm Blue Seas Yacht Surveys to inspect the *Baltic II* and appraise its value. The surveyor found that the vessel was unfit for any service and in its condition, with considerable wood contamination it would require a major rebuild. The value, which took into account the scrap value, was estimated at \$2,000.00. After receiving the surveyor's report, the CCG decided to have the vessel deconstructed and disposed of at an appropriate facility.

The Claim

On March 13, 2015, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund in the amount of \$9,712.57 to cover the costs and expenses incurred in response to the incident, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

In light of the overall assessment and investigation of the circumstances surrounding the incident that occurred in a sensitive ecological area with a significant aquaculture industry, the Administrator found the full amount of the claim to be established. He, therefore, on June 11, 2015, offered \$9,712.57, plus interest, in full and final settlement of the claim, pursuant to the MLA. DFO/CCG accepted the offer on June 16, 2015, but payment of the settlement amount was withheld as a duly executed Release and Subrogation Agreement had not been returned by the CCG. The settlement amount of \$10,449.72, inclusive of interest, was paid on July 28, 2016.

Recovery Action

In September 2016, counsel for the Administrator sent a registered demand letter to the vessel owner for costs and expenses paid, but the letter was not delivered. Accordingly, having fully considered the likelihood of successful recourse action, the Administrator closed the file.

Status

The file was closed on March 31, 2017.

Heather Princess (2013)

Location: Prince Rupert, BC

Case number: 120-654-C1

The Incident

On July 3, 2013, the Canadian Coast Guard (CCG) was alerted that the fishing vessel *Heather Princess* was aground off Prince Rupert, British Columbia. The vessel was known to contain 50 litres of hydraulic oil and 24 litres of diesel fuel. Concerned with the potential for pollution, the CCG removed pollutants from the vessel on July 9, 2013 and the vessel remained grounded on the rocks.

The Claim

On April 23, 2014, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$6,578.87 for costs and expenses related to the *Heather Princess* incident pursuant to sections 77(1), 101 and 103 of the *Marine Liability Act* (MLA).

Assessment and Offer

After investigation and assessment of the claim, on May 20, 2014, the Administrator made an offer for the established amount of \$6,578.87, plus interest, as full and final settlement pursuant to the MLA, which offer was accepted by DFO/CCG on June 1, 2014. A payment in the amount of \$6,780.92, including \$202.05 interest, was directed by the Administrator on June 4, 2014.

Status

The file was closed on August 5, 2014.

Note: Information on this claim was retrieved from the Fund's information management system and the Fund's archived files, as this claim is not reported in any Administrator's annual report.

Maryjack (2014)

Location: Sibell Bay, Vancouver Island, BC
Case number: 120-657-C1

The Incident

On May 31, 2014, the *Maryjack*, a 60-foot wooden hull ex-fishing vessel built in 1927 sank at anchor in Sibell Bay, near Ladysmith on Vancouver Island, BC, which is the home territory of the Stz'uminus First Nation and site of a shellfish aquaculture industry. As a result, oil pollutants were discharged into the marine environment.

The same day, the incident was reported to the Canadian Coast Guard (CCG) and the CCG Environmental Response (CCG-ER) personnel assumed the role of On-Scene Commander. A containment boom and absorbent pads were deployed in order to recover the pollutants. On June 1, further to the finding that the wreck was still discharging fuel and lubricating oil as well as hydraulic fluid, the CCG-ER hired local divers to try and restrict the flow of oil by plugging vents; however, oil continued to escape. The day after, CCG team continued recovering the oiled sorbents from within the containment boom.

The registered owner was contacted and a formal "Notice to Owner" outlining the owner's responsibility in the first place to take measures to remedy or minimize pollution damage was sent to him by CCG, but he was unable to respond financially to the situation.

On June 4, a contractor, Saltair Marine Services, was hired through Public Works and Government Services Canada to raise, deconstruct and dispose of the *Maryjack*. The vessel was brought to the surface, dewatered and towed to the contractor's facility at Ladysmith. An independent technical marine surveyor evaluated its condition and recommended its deconstruction since it was unfit for any service. All the hydrocarbons were removed and the *Maryjack* was dismantled by the contractor.

The Claim

On July 10, 2015, the CCG on behalf of the Minister of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator for costs and expenses incurred in the amount of \$94,689.51, pursuant to the *Marine Liability Act* (the Act).

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

Assessment and Offer

Further information was requested for the assessment. Some of the claimed costs and expenses incurred were disallowed, such as the overtime, which was not considered necessary, the additional insurance charges, and the new charge-out rates, which were not yet in force at the time of the incident.

On November 13, 2015, the Administrator made a final offer to CCG for the established amount of \$86,228.70 plus interest, as full and final settlement. The offer was accepted by CCG on December 18, 2015. However, the payment was withheld due to the Release and Subrogation issue.

This incident having been selected as the test case for such issue, on October 7, 2016, the counsel for the SOPF served and filed a Notice of Application. The hearing took place in April 2017, and the Federal Court issued their decision on May 31, 2017 to the effect that the Administrator does not have the right to require a claimant to execute the Release and Subrogation Agreement as a condition precedent to payment of their claim under the Act.

A payment of \$93,812.48, which includes interest in the amount of \$7,583.78, was made to CCG on or about June 8, 2017.

Recovery Action

Due to the shipowner's lack of financial means at the date of the incident, as well as the impossibility to trace back this shipowner after the incident, the Administrator was not able to commence a recourse action.

Status

The file was closed on July 5, 2017.

Windago (2014)

Location: Kitsilano Beach, B.C.
Case number: 120-659-C1

The Incident

On June 11, 2014, the 53-foot ferro-cement sailing vessel *Windago*, which had more than 400 litres of diesel on board and various unknown quantities of lube oils, dragged anchor and ran aground off Kitsilano Beach, Vancouver. The vessel was holed and oil was leaking. The Canadian Coast Guard (CCG) took steps to minimize the oil pollution damage. A sensitivity map of the area impacted was requested from Environment Canada.

The owner had advised his inability to salvage the vessel and to mitigate the threat of additional pollution damage. CCG Environmental Response group assumed the roles of On-Scene Commander and responder. Western Canada Marine Response Corporation was engaged by CCG to boom the area around the grounded vessel. At the same time, CCG responders used absorbents and Vac pumps to recover and control the spread of pollution, and removed oil and pollutants into containment cubes.

An initial survey of the holed vessel enabled to determine that the hull could not be patched. Hence, a decision was taken to remove and dispose of the vessel, in order to prevent further pollution. Vancouver Pile and Dredge was hired on an emergency basis to remove the wrecked vessel. The dismantling and removal operations were finished at the end of the day on June 12, 2014.

During the removal process, a significant amount of flotsam and oil found its way onto the beach, covering a strip approximately one metre wide and 100 metres in length. The beach was cleaned by CCG and personnel from Vancouver Pile and Dredge during the morning of June 13, 2014.

The Claim

On February 17, 2016, the 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 \$41,506.93, pursuant to the *Marine Liability Act* (the Act).

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

Assessment and Offer

After investigation and assessment of the claim, the Administrator made an offer to DFO/CCG, on June 1, 2016, for the established amount of \$41,506.93 plus interest, as full and final settlement. The offer was accepted by DFO/CCG on June 20, 2016, and a payment of \$44,035.16, which included interest in the amount of \$2,528.23, was made.

Recovery Action

On February 16, 2017, a demand letter was sent to the shipowner, but no response was received. A location and asset search on the shipowner was subsequently conducted; however, all attempts were unsuccessful.

Status

The file was closed on June 7, 2017.

Silver King (2014)

Location: Deep Bay, Vancouver Island, British Columbia

Case number: 120-660-C1

The Incident

On 23 June 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 at the time 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 16 December 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 6 April 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, British Columbia, for scrapping.

CCG awarded the deconstruction contract to a Ladysmith contractor. The contractor towed the vessel to its yard on 10 April 2016. Deconstruction work concluded 15 June 2016. On 26 July 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 5 December 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 31 October 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, and the *Silver King* was not a Convention ship, the five-year limitation period for filing a claim applied.

Assessment and Offer

On 11 April 2018, after investigation and assessment of the claim, the Administrator made an Offer of Compensation for the established amount of \$107,941.32, plus interest, as full and final settlement to DFO/CCG. The Offer was accepted on 11 June 2018, and, on 27 June 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 12 February 2019, counsel for the Administrator sent a demand letter to the estate lawyer of the deceased shipowner. On 10 April 2019, the Administrator received a response from the estate lawyer advising that her claim against the estate is time-barred pursuant to section 366.2 of the California Code of Civil Procedure.

On 2 May 2019, the Administrator received an opinion from a California lawyer who confirmed that the claim against the estate of the deceased shipowner is definitively time-barred.

Given that no further recourse measures were available, the Administrator decided, on recommendation of in-house counsel, to close the file.

Status

The file was closed on 23 May 2019.

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.

Bertha G (2012)

Location: Dunsmuir Island, Ladysmith Harbour, BC

Case number: 120-664-C1

The Incident

On November 14, 2012, the Canadian Coast Guard (CCG) Environmental Response (CCG ER) personnel received reports that an ex-fishing vessel was aground near Dunsmuir Island in Ladysmith Harbour, Vancouver Island, British Columbia. People in the area reported that there was oil leaking from the vessel as it rested aground and listed to port. The following morning, two CCG ER personnel with a pollution response craft and other counter-measures equipment from Victoria depot proceeded to the site in order to assess the situation. They found the vessel hard aground and flooded. It was discharging black oil onto the surface of the water. At the outset, the vessel owner could not be determined because there was no visible name or registration number. However, the CCG was later advised by the engaged salvage master that he believed that the vessel was the *Bertha G*, which had been acquired by a local person who had no means to respond to the discharge of pollutants. In research, it was found that the Transport Canada Vessel Registration Query System indicated that the old 80-foot fishing vessel *Bertha G*, originally registered in Prince Rupert, had been suspended from the vessel listing.

The CCG decided to remove the vessel from the grounded position so as to prevent and minimize further oil pollution damage. The decision was based on the inability, under the circumstances, to safely determine the volume of the potential pollutants or to remove the oil from on board where the vessel lay aground. In addition, citizens from the local Stz'Uminus First Nation territory were expressing concern about polluting the location, which is a traditional shellfish harvesting area. Following a bidding process, Saltair Marine Services Ltd. was awarded a contract to remove the vessel. In order to take advantage of low tide and because of the adverse weather forecast, the salvage contractor expedited preparations and raised the vessel during the night of November 16. The wreck was then towed to the contractor's facility, where the CCG engaged a surveyor to assess its condition. Upon arrival at the shipyard, the surveyor advised that he was unable to conduct a proper survey because the contractor had already removed a portion of the vessel's superstructure to reduce weight and raise the hull out of the water. The surveyor did, however, indicate that the vessel was contaminated with oil throughout and had no value. The vessel was removed from the water at the contractor's facility and placed onto a concrete containment pad so that, during the process of demolition, the waste oils would be contained in a catch basin. The fuel and oils were drained from the fuel tank and the piping. When the engine was removed, an excavator was utilized to dismantle and sort the debris, waste wood, and recyclable scrap steel.

The Claim

On October 14, 2014, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund (the Fund) for costs and expenses in the amount of \$63,789.60, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

The Administrator investigated and assessed the claim. The chronology of the claim material noted that the ownership of the vessel remained unclear. It was reported that the last person to have care of the *Bertha G* was a destitute senior citizen who lived aboard another decrepit derelict vessel. The CCG indicated that it had not taken any further effort to recover costs from that individual. The Administrator then instructed counsel to engage a marine technical surveyor to review the Fund's preliminary assessment. On January 23, 2015, the surveyor reported that if the salvage measures had not been undertaken before the storm occurred, there was a high probability that the *Bertha G* would have shifted into deeper waters and broken up.

On January 29, 2015, upon completion of his investigation and assessment of the claim, the Administrator found the full amount of the claim to be established. He, therefore, offered \$63,789.60, plus interest, in full and final settlement, pursuant to the MLA. DFO/CCG accepted the offer on March 27, 2015 but payment of the settlement amount was withheld as a duly executed Release and Subrogation Agreement had not been returned by the CCG. The settlement amount of \$71,298.93, inclusive of interest, was paid on November 9, 2016.

Recovery Action

The Administrator considered all recourse options available; however, given that the ownership of the vessel could not be established, he closed the file.

Status

The file was closed on November 29, 2016.

Spudnik (2014)

Location: Howe Sound, British Columbia

Case number: 120-665-C1

The Incident

On 12 November 2014, the 487 GT, ex-US Navy landing ship built in 1945, *Spudnik*, broke free of its moorings and was adrift in Howe Sound, British Columbia. It was estimated that there were 5,000 litres of diesel fuel in open tanks on board, and 1,500 litres of lube oils and oily water in the engine room. The vessel owner was unable to take any proper response action. Hence, the Canadian Coast Guard (CCG) assumed the role of On-Scene Commander.

Seaspan tugs were hired to tow the *Spudnik* to a facility in the Fraser River for removal of the pollutants from the vessel. The hydrocarbon removal operation commenced on 20 November 2014 and was completed on 4 December. A total of 120,000 litres of oil and water were removed from the vessel. At the completion of the hydrocarbon removal, all double bottom tanks were opened and individual tanks were inspected. Inspection revealed that the engine room bilges were cleaned to the extent that no recoverable oil would be discharged from the bilges should the vessel become submerged again. Furthermore, oil absorbent pads were placed in each tank.

The Claim

On 28 April 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*, for costs and expenses incurred in the cleaning of the *Spudnik* in the amount of \$149,043.60.

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

Assessment and Offer

After investigation and assessment of the claim, the costs associated with moorage from 22 December 2014 through 31 March 2016 in the amount of \$17,979.15 were disallowed, since all work related to hydrocarbon removal had been completed by 9 December 2014, the daily moorage costs were only accepted from 12 November through 21 December 2014. Therefore, on 26 July 2016, the Administrator made a final offer to CCG for the established amount of \$131,064.45 plus interest, as full and final settlement. The offer was accepted by DFO/CCG on 8 September 2016 and a payment in the amount of \$137,747.51 including interest was sent to DFO/CCG on or about 13 September 2016.

Recovery Action

A locator service was tasked to complete a locate and asset search on the *Spudnik*'s owners but it did not identify any exigible assets. Additionally, in December 2016, demand letters were sent to the vessel owners, but were returned as unclaimed.

On 27 March 2017, a Statement of Claim was filed with the Federal Court against both owners. Since no defence was received from any defendants, the Administrator filed a Motion for Default Judgment on 30 August 2017, following which a Default Judgment was rendered in favour of the

Administrator. The Examination in Aid of Execution of one of the owners was held in November 2017.

As of 31 March 2022, the Administrator continued to monitor the judgment debtors' financial status.

Status

The file remains open.

Related file

120-689-C1 – *King Arthur* and *SL 104* (same owner)

120-856-I-G – *Spudnik* (same ship)

120-833-C1 – Darrell Bay Incident (same owner)

120-885-C1 – Unknown name (Deck Barge) (same owner)

Chilcotin Princess (2015)

Location: Namu, British Columbia

File number: 120-669-C1

The Incident

On January 30, 2015, the *Chilcotin Princess*, a 51-metre, 570 GT old steel vessel which had been moored alongside the old dock of the abandoned Namu cannery for more than 10 years, was listing at its berth at Namu, British Columbia. A portion of the dock collapsed, and the vessel was at risk of capsizing and causing oil pollution. The vessel owner was contacted by the Canadian Coast Guard (CCG) Environmental Response personnel and issued a “Notice” requesting a plan to address the situation; however, no action was taken.

CCG assumed the role of On-Scene Commander and, on February 11, engaged a marine surveyor to examine the vessel. An imminent threat to the marine environment was noted due to the deteriorated condition of the hull. Therefore, having concluded that towing the vessel to a properly equipped oil removal facility would be unsafe, the surveyor recommended that oil on board be removed at the vessel’s location. The oil removal operation lasted five days and involved CCG crews and equipment, the *CCGS Bartlett* and a support platform from Wainwright Marine Services.

Measures taken by the Administrator

The Administrator hired a marine expert to review the survey report submitted by the marine surveyor engaged by CCG in February 2015. The expert agreed with the CCG surveyor’s recommendation to remove pollutants from the vessel.

Furthermore, on July 27, 2015, upon receipt of the information from CCG that the *Chilcotin Princess* was being deconstructed by Wainwright Marine Services in Prince Rupert, with the Province of British Columbia (Province) as lead, the Administrator engaged a marine technical surveyor to attend the shipyard and monitor the deconstruction. The deconstruction process was halted by the finding of asbestos material on board. After the asbestos issue was resolved, a scrap contractor was engaged to proceed with the final demolition. The *Chilcotin Princess* was deconstructed in November 2015.

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 \$137,680.88.

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 2, 2016, the Administrator made an offer of compensation to DFO/CCG for the established amount of \$137,680.88 plus interest, as full and final resolution of the claim. The offer was accepted on November 14, 2016 and a payment of \$144,794.66 including interest was made to DFO/CCG on or about November 16, 2016.

Recovery Action

In December 2016, the Administrator tasked a professional locator service to complete a location and asset search on the vessel owner. Additionally, a demand letter was sent to the owner, but no response was received. It appeared that the registered owner, Intercoast Towing Ltd., a provincially incorporated company, had been dissolved prior to the incident, as a result of not filing corporate reports in the prior two years.

On February 1, 2017, it was decided that a recourse action would be taken against the Province since, under BC corporate law, it had become owner of the *Chilcotin Princess* by escheat, further to the dissolution of its registered owner. A demand letter was sent to the Province, to which a response denying liability for the claim was received on March 7.

The Administrator brought a subrogated action in the Federal Court against the Province of British Columbia as the owner of the vessel *Chilcotin Princess*. The Province filed a defence in the Federal Court, but also brought an application in the Supreme Court of British Columbia seeking to restore the dissolved corporation as if it had never been struck, with prejudice to the recovery rights of the Administrator. The action in Federal Court was stayed pending the outcome of the matter before the provincial courts.

On May 14, 2018, the Supreme Court of British Columbia accepted the Administrator's arguments and ruled that the Province had not demonstrated that the circumstances justified a reinstatement with prejudice to the Administrator's rights.

On June 13, 2018, the Province of British Columbia filed an appeal of the decision with the Court of Appeal for British Columbia.

On June 26, 2019, the Court of Appeal for British Columbia dismissed the appeal. As a result, the Province was unable to avoid liability as owner of the vessel. The Federal Court action was thereafter settled with British Columbia agreeing to pay the Administrator's demand. Subsequent to the settlement, the Federal Court Action was dismissed.

The Administrator received a payment of \$162,734.74, which included interest accrued under the *Marine Liability Act* since the Administrator's payment to the CCG, from the Province in settlement on August 15, 2019.

Status

The file was closed on September 17, 2019.

Marathassa (2015) (CCG)

Location: Vancouver Harbour, B.C.

Case number: 120-673-C1

The Incident

On April 8, 2015, the Canadian Coast Guard (CCG) was informed that there was an oil spill in English Bay near the entrance to Vancouver Harbour, B.C. The Cypriot registered bulk carrier *Marathassa* (43,229 GRT), which was at anchorage number 12 in English Bay, was identified as the probable source of the pollution. The vessel's Master initially denied any responsibility for the oil spill. Transport Canada Marine Safety (TCMS) inspectors later traced the source of the spill to a mechanical defect aboard the *Marathassa* which allowed bunker oil into the bilge.

Later that day, the CCG contracted the Western Canada Marine Response Corporation (WCMRC), a Transport Canada Certified Response Organization. The CCG took command of the operation as the lead agency and the WCMRC began collecting fuel oil and skimming operations. The *Marathassa* was boomed in the early morning on April 9, 2015, by WCMRC. This delay had a significant impact on the spread of the recoverable pollution.

The cleanup work executed by the WCMRC and the various subcontractors engaged by the CCG lasted 16 days, concluding on April 23, 2015. The *Marathassa* was released on April 24, 2015 and departed English Bay the next day.

A review of the incident found that the volume of the oil spill was approximately 2,800 litres of IFO 380, a ship's bunker product. It was estimated that about 600 litres, or more, could have impacted the shoreline. The coastal area surrounding English Bay contains several parks with popular beaches accessible from the downtown Vancouver area. The beaches are major tourist attractions and frequented by the local population all year long. English Bay and Burrard Inlet are important wintering areas for numerous marine birds and waterfowl, and have been designated by Birdlife International as important bird areas based on bird population and habitat thresholds.

Measures taken by the Administrator

A Letter of Undertaking (LOU) was received from the ship's insurer and the Administrator was advised that claims were being dealt with by counsel for the insurers.

The Claim

On April 3, 2017, while still pursuing settlement discussions with the insurer, the CCG acting on behalf of the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator in the amount of \$2,431,746.57 pursuant to the *Marine Liability Act*.

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

Assessment and Offer

At the request of the claimant, the Administrator kept the assessment on hold pending on-going settlement discussions between the claimant and the insurer. On June 16, 2017, CCG asked the Administrator to proceed with the assessment and advised that they would inform the shipowner's representative of their decision.

During the assessment, the Administrator's office made several requests to CCG for additional information, which was provided. Under her investigative powers pursuant to the *Inquiries Act*, the Administrator also requested from Transport Canada Marine Safety a copy of their investigative report on the *Marathassa*.

Three different claims concerning the *Marathassa* incident of April 8-24, 2015 were eventually submitted. The measures and activities linked to the Incident Command System (ICS) identified in the individual claims (and their respective documentation) overlapped/intersected and therefore had to be assessed as an integrated package by the Administrator to ensure that the measures were part of the integrated plan and had not been duplicated; i.e. although each claim had to be assessed for itself, it had to be understood in the light of the global operation that took place and that involved efforts from other parties. The understanding of this global picture was necessary to make a determination as to the reasonableness of measures and activities and the reasonableness of the costs of the individual elements of each claim.

On January 17, 2018, the Administrator sent a draft letter of offer to DFO/CCG, for comments. On February 22, 2018, the Administrator received comments from DFO/CCG. On March 29, 2018, the Administrator made an offer for the established amount of \$1,855,627.75 plus interest, as full and final settlement. The salient reductions from the CCG claim were due to some duplication of effort with other parties to the ICS, some ineligible communications costs, costs incurred when there was no longer any pollution risk, and a number of charges paid to subcontractors that were found to be unreasonable.

On May 22, 2018, CCG accepted the offer and on May 25, 2018 the Administrator directed payment of \$2,027,940.44 (including \$172,312.69 in accrued interest) to CCG.

Recovery action

In May 2018, a demand letter was sent to the shipowner's counsel. On September 18, 2018, an amount of \$1,063,653.19 was received by the Administrator, as an advance payment. On January 22, 2019, the Administrator received an amount of \$888,036.32, including interest, representing the balance of the full payment of her subrogated claim of the CCG.

Having received the full recovery amount, the Administrator signed and sent the owner a Release and Settlement letter in January 2019.

Status

The file was closed on February 15, 2019.

Related Files

120-673-C1-1 (VFPA): same incident, claim from the Vancouver Fraser Port Authority

120-673-C1-2 (City of Vancouver): same incident, claim from the City of Vancouver

Marathassa (2015) (Vancouver Fraser Port Authority) ⚓

Location: Vancouver Harbour, B.C.

Case number: 120-673-C1-1

The Incident

On April 8, 2015, the Canadian Coast Guard (CCG) was informed that there was an oil spill in English Bay near the entrance to Vancouver Harbour, B.C. The Cypriot registered bulk carrier *Marathassa* (43,229 GRT), which was at anchorage number 12 in English Bay, was identified as the probable source of the pollution. The vessel's Master initially denied any responsibility for the oil spill. Transport Canada Marine Safety (TCMS) inspectors later traced the source of the spill to a mechanical defect aboard the *Marathassa* which allowed bunker oil into the bilge.

Later that day, the CCG contracted the Western Canada Marine Response Corporation (WCMRC), a Transport Canada Certified Response Organization. The CCG took command of the operation as the lead agency and the WCMRC began collecting fuel oil and skimming operations. The *Marathassa* was boomed in the early morning on April 9, 2015, by WCMRC. This delay had a significant impact on the spread of the recoverable pollution.

The cleanup work executed by the WCMRC and the various subcontractors engaged by the CCG lasted 16 days, concluding on April 23, 2015. The *Marathassa* was released on April 24, 2015 and departed English Bay the next day.

A review of the incident found that the volume of the oil spill was approximately 2,800 litres of IFO 380, a ship's bunker product. It was estimated that about 600 litres, or more, could have impacted the shoreline. The coastal area surrounding English Bay contains several parks with popular beaches accessible from the downtown Vancouver area. The beaches are major tourist attractions and frequented by the local population all year long. English Bay and Burrard Inlet are important wintering areas for numerous marine birds and waterfowl and have been designated by Birdlife International as important bird areas based on bird population and habitat thresholds.

Measures taken by the Administrator

A Letter of Undertaking (LOU) was received from the ship's insurer and the Administrator was advised that claims are being dealt with by counsel for the insurers.

The Claim

On April 5, 2017, while still pursuing settlement discussions with the insurer, the Vancouver Fraser Port Authority (VFPA) filed a claim with the Administrator in the amount of \$198,947.22 pursuant to the *Marine Liability Act*.

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

Assessment and Offer

At the request of the claimant, the Administrator kept the assessment on hold pending on-going settlement discussions between the claimant and the insurer. Assessment resumed at the end of June 2017. Additional information was requested from the claimant and was provided.

Three different claims concerning the *Marathassa* incident of April 8-24, 2015 were eventually submitted. The measures and activities linked to the Incident Command System (ICS) identified in the individual claims (and their respective documentation) overlapped/intersected and therefore had to be assessed as an integrated package by the Administrator to ensure that the measures were part of the integrated plan and that measures had not been duplicated; i.e. although each claim had to be assessed for itself, it had to be understood in the light of the global operation that took place and that involved efforts from other parties. The understanding of this global picture was necessary to make a determination as to the reasonableness of measures and activities and the reasonableness of the costs of the individual elements of each claim.

On January 15, 2018, after investigation and assessment of the claim, the Administrator sent a draft letter of offer to VFPA, for comments. On February 14, 2018, VFPA requested that the final offer be issued, and the Administrator made an offer for the established amount of \$158,800.49, plus interest, as full and final settlement. The salient reductions from the VFPA claim were due to some duplication of effort with other parties to the ICS, as well as some ineligible meal expenses and hospitality costs.

On February 20, 2018, VFPA accepted the offer and on March 1, 2018 the Administrator directed payment of \$172,674.87 (including \$13,874.38 in accrued interest) to VFPA.

Recovery action

On March 6, 2018, Counsel for the Administrator sent a demand letter to the insurer's counsel.

On March 21, 2018, a payment of \$172,935.87 was received by the Administrator, as final settlement of her subrogated claim of the VFPA.

Having received the full recovery amount, the Administrator signed and sent the owner a Release and Settlement letter in March 2018.

Status

The file was closed on April 12, 2018.

Related Files

Marathassa (2015) (CCG Claim), Case number: 120-673-C1 (same incident)

Marathassa (2015) (City of Vancouver), Case number: 120-673-C1-2 (same incident)

Marathassa (2015)

Location: Vancouver Harbour, British Columbia
File number: 120-673-C1-2

The Incident

On April 8, 2015, the Canadian Coast Guard (CCG) was informed that there was an oil spill in English Bay near the entrance to Vancouver Harbour, British Columbia. The Cypriot registered bulk carrier *Marathassa* (43,229 GRT), which was at anchorage number 12 in English Bay, was identified as the probable source of the pollution. The vessel's Master initially denied any responsibility for the oil spill. Transport Canada Marine Safety (TCMS) inspectors later traced the source of the spill to a mechanical defect aboard the *Marathassa*, which allowed bunker oil into the bilge.

Later that day, the CCG contracted the Western Canada Marine Response Corporation (WCMRC), a Transport Canada Certified Response Organization. The CCG took command of the operation as the lead agency and the WCMRC began collecting fuel oil and skimming operations. The *Marathassa* was boomed in the early morning on April 9, 2015, by WCMRC. This delay had a significant impact on the spread of the recoverable pollution.

The cleanup work executed by the WCMRC and the various subcontractors engaged by the CCG lasted 16 days, concluding on April 23, 2015. The *Marathassa* was released on April 24, 2015 and departed English Bay the next day.

A review of the incident found that the volume of the oil spill was approximately 2,800 litres of IFO 380, a ship's bunker product. It was estimated that about 600 litres, or more, could have impacted the shoreline. The coastal area surrounding English Bay contains several parks with popular beaches accessible from the downtown Vancouver area. The beaches are major tourist attractions and frequented by the local population all year long. English Bay and Burrard Inlet are important wintering areas for numerous marine birds and waterfowl and have been designated by Birdlife International as important bird areas based on bird population and habitat thresholds.

Measures taken by the Administrator

A Letter of Undertaking (LOU) was received from the ship's insurer and the Administrator was advised that claims were being dealt with by counsel for the insurers.

The Claim

On February 21, 2017, the City of Vancouver submitted a \$569,053.13 claim to the ship insurer's counsel, with copy to the Administrator's counsel, for damages incurred in relation to the *Marathassa* incident. The City of Vancouver advised that should no settlement be reached before March 21, 2017, it would seek payment from the Administrator directly.

On April 10, 2017, the City of Vancouver confirmed to the Administrator that its February 21, 2017 claim in the amount of \$569,053.13 was now submitted to the Administrator.

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

Assessment and Offer

At the request of the claimant, the Administrator kept the assessment on hold pending on-going settlement discussions between the claimant and the insurer. Assessment resumed in July 2017. Additional information was requested from the claimant.

Three different claims concerning the *Marathassa* incident of April 8–24, 2015 were eventually submitted. The measures and activities linked to the Incident Command System (ICS) identified in the individual claims (and their respective documentation) overlapped/intersected and therefore had to be assessed as an integrated package by the Administrator to ensure that the measures were part of the integrated plan and that measures had not been duplicated; i.e. although each claim had to be assessed for itself, it had to be understood in the light of the global operation that took place and that involved efforts from other parties. The understanding of this global picture was necessary to make a determination as to the reasonableness of measures and activities and the reasonableness of the costs of the individual elements of each claim.

On January 17, 2018, after investigation and assessment of the claim, the Administrator sent a draft letter of offer to the City of Vancouver, for comments. On February 22, 2018, Counsel for the City of Vancouver reverted to the Administrator with comments and submissions on this draft letter of offer.

On April 5, 2018, having reviewed the further submissions, the Administrator issued her offer. On April 13, 2018, the City of Vancouver submitted it had not had a fair chance to review the documentation relied on to assess its claim and that it had therefore not been able to respond accordingly to the draft decision.

On April 19, 2018, the Administrator agreed to share the documentation from third parties relied upon to assess the City of Vancouver's claim. Accordingly, the Administrator withdrew the offer and reissued it as a second draft offer open for further submissions and comments.

On July 3, 2018, Counsel for the City of Vancouver made submissions on the second draft offer.

On March 20, 2019, the Administrator made an offer for the established amount of \$235,748.23, plus interest, as full and final settlement to the claim of the City of Vancouver. Thereafter, the City of Vancouver made submissions suggesting it would be appropriate to amend the offer. The Administrator accepted those submissions. The City of Vancouver accepted the amended offer and on May 10, 2019, the Administrator directed a payment to the City of Vancouver in the amount of \$266,014.96.

Recovery Action

Upon payment to the City of Vancouver, a demand was submitted against the LOU for the amount of the payment. On July 9, 2019, the Administrator received a payment in the amount of \$236,070.59.

Status

The file was closed on 31 March 2021 as it was determined that the underlying litigation had fully resolved.

Related Files

120-673-C1 – *Marathassa* - (same incident, claim from the Canadian Coast Guard)

120-673-C1-1 – *Marathassa* - (same incident, claim from the Vancouver Fraser Port Authority)

Gale Force (2013)

Location : Comox Harbour, BC

Case number: 120-680-C1

The Incident

On October 9, 2013, the *Gale Force*, a derelict 61-foot wooden hull ex-fishing vessel, built in 1940, was aground and discharging pollutants in the sensitive marine estuary at Comox, British Columbia. The Canadian Coast Guard (CCG) Environmental Response personnel were deployed from Victoria to assess the situation. Upon arrival, the vessel was found to be awash and surrounded by an oil sheen. The response personnel boarded the derelict and found fixed and portable containers of oil. The machinery space was awash with oily water, and the engine and auxiliary generators were under water. Local beaches were checked and a light oil sheen was observed.

CCG personnel spoke to a few local people, but the owner of the vessel could not be identified. The *Gale Force* had been removed from the Transport Canada Vessel Registry. Personnel from the French Creek CCG rescue station streamed a containment boom around the vessel to minimize further pollution damage. The CCG then decided to remove the vessel from its position in order to deal with the pollution incident. On October 17, 2013, a local contractor, Sawchuck Pile Driving Ltd., was engaged to recover the *Gale Force* from the beach in Comox and tow it to the shipyard of Saltair Marine Services Ltd. at Ladysmith, where it was raised out of the water. When the vessel was hauled out, the CCG hired an independent marine surveyor of Coastal Marine Surveys to inspect the *Gale Force* and provide a monetary value assessment. The surveyor noted that the vessel had been partially submerged in salt water for a number of weeks; therefore, the machinery would be worthless and the labour cost of salvaging the equipment would exceed any recovery value. He further concluded that the vessel had no value, and the cost to salvage any items and transport the contaminated materials to an approved environmental dump site would greatly exceed any salvage value.

Following a bidding process, Saltair Marine Services Ltd. was awarded a contract for the removal of the waste oils and all the oil-contaminated materials, and the demolition and disposal of the vessel. On April 25, 2014, Saltair Marine Services Ltd. informed the CCG that the Provincial Ministry of Social Development (the Ministry) had contacted them on behalf of the vessel owner, who was from the local First Nations Reserve. The enquiry was to determine the owner's eligibility for social assistance and whether the vessel should be considered an asset. The CCG informed the Powell River office of the Ministry about the disposition of the *Gale Force*.

The Claim

On August 14, 2015, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$54,169.48, pursuant to the *Marine Liability Act* (MLA).

Assessment and Offer

After investigation and assessment of the claim, the Administrator found the amount of \$51,382.12 to be established. He, therefore, on October 13, 2015, offered such amount, plus interest, in full and final settlement of the claim, pursuant to the MLA, while bringing to the attention of the CCG senior management concerns about claims being filed near the very end of the prescription periods laid down in the MLA. DFO/CCG accepted the offer on October 21, 2015, but payment of the settlement amount was withheld as a duly executed Release and Subrogation Agreement had not been returned by the CCG. The settlement amount of \$55,249.73, including interest, was paid in July 2016.

Recovery Action

During the assessment of potential recourse actions, the Administrator determined that it was unlikely that successful recourse actions could be taken. He, therefore, closed the file.

Status

The file was closed on August 12, 2016.

Mystery Spill (2015)

Location: False Creek, BC

Case number: 120-682-C1

The Incident

On September 12, 2015, diesel oil was discovered on the surface of the water in False Creek, Vancouver, British Columbia, between the Burrard and Granville Bridges on the north end of Granville Island. The diesel fuel accumulated near two boats of the whale-watching company, Wild Whales Vancouver. The oil was found under the piers where the boats were secured, and near a fleet of other boats of the Granville Island Boat Rentals, which were also tied up in the vicinity. When the oil was discovered, during the early morning, the owner of the boat rentals contacted the Canadian Coast Guard (CCG). At the same time, the whale-watching personnel commenced an active clean-up response. The necessary absorbent pads were purchased and streamed to soak up the fuel oil. The responders then collected all the deployed absorbent pads and placed them into garbage bags for disposal at False Creek fuels. The owner of the Granville Island Boat Rentals also assisted with the cleanup.

When the CCG Environmental Response specialist arrived on scene, he boarded the whale-watching vessels and checked the bilges for diesel fuel. It was determined that the diesel fuel surrounding the boats and the docks did not come from the whale-watching boats. The CCG employee speculated that the oil might have originated from one of the large fishing vessels that were tied-up at the nearby fisherman's wharf. There was a trail of diesel sheen visible across the channel. The tides and current could have caused the pollution to concentrate in the area of whale-watching boats and dock space. However, the CCG later advised that no investigation was conducted in the location of the Fisherman's terminal.

The Claim

On October 6, 2015, the Office Manager of Wild Whales Vancouver filed a claim with the Ship-source Oil Pollution Fund in the amount of \$1,019.02 for costs and expenses incurred during response to the incident.

Assessment and Offer

On October 8, the Administrator requested that the claimant provide further information and support documentation, such as whether there were any service station or boat fueling facility in the area of the spill, that would support the likelihood of a land-based occurrence. He also requested copies of paid invoices for the purchase of absorbent pads and for invoices for the expense of disposal of the collected pollution. The requested information was received on October 26.

During his investigation, the Administrator also contacted the CCG officer by phone. The latter confirmed that the incident had occurred and had been responded to in an appropriate manner by the owners of the two companies. The CCG followed up with a written letter in which it was noted

that “the source remains a mystery”. After completion of his investigation and assessment of the claim, on November 4, 2015, the Administrator made an offer for the established amount of \$959.02, plus interest, in full and final settlement. The claimant accepted the offer on November 27, and upon receipt of the duly executed Release and Subrogation Agreement, a cheque in the amount of \$965.96, inclusive of \$6.94 interest, was mailed to Wild Whales Vancouver on December 17, 2015.

Recovery Action

Since the incident was a mystery spill, no recourse action was available.

Status

The file was closed on December 17, 2015.

Barges King Arthur and SL 104 (2016)

Location: Mamquam Blind Channel, Squamish, British Columbia

File number: 120-689-C1

The Incident

On April 14, 2016, the Administrator was informed by the Canadian Coast Guard (CCG) of an incident that occurred on April 10, 2016, involving two barges, the *SL 104* and the *King Arthur*, in the Mamquam Blind Channel, in Squamish, British Columbia. The derelict barges were deemed a pollution threat by CCG. The owners of the barges were no longer able to control the situation, and CCG took over the response. Booms were deployed to contain any potential release of pollution. Environment and Climate Change Canada provided sensitivity mapping products for the area around the barges. Transport Canada Marine Safety was also on scene.

CCG hired AMIX Marine Services to evaluate the stability of the *King Arthur*, and an additional independent surveyor to oversee the assessment. The Western Canada Marine Response Corporation was also contracted to provide additional resources on standby. On April 15, 2016, the *King Arthur* was moved away from the Squamish shoreline and secured to a local spud barge to prevent grounding and the possibility of hull damage at low tide.

A substantial quantity of solid waste was removed and approximately 135,700 litres of oily liquids were pumped from the *King Arthur*. All of the waste was transferred onto another barge for sampling.

On July 27, 2016, CCG confirmed that the *King Arthur* had been deconstructed.

Measures taken by the Administrator

On June 7, 2016, the Administrator engaged a firm to complete a locate and asset search on the owner of the *King Arthur*.

The Claim

On April 4, 2018, the Canadian Coast Guard filed a claim with the Administrator for costs and expenses incurred in the amount of \$819,134.67, pursuant to section 103 of the *Marine Liability Act* (MLA).

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim. During the assessment, he requested additional information and documentation from the CCG, which was provided. On October 31, 2018, the Administrator made an offer to CCG for the established amount of

\$814,012.78, plus interest, as full and final settlement. CCG accepted the offer on November 19 and, on November 22, 2018, payment in the amount of \$876,798.87, including interest, was made to CCG.

Recovery Action

On April 2, 2019, counsel for the Administrator filed a Statement of Claim with the Federal Court of Canada under court file number T-569-19. The claim named several persons identified as owners of the barges as defendants.

After entering a defence, one defendant has issued a claim against Her Majesty the Queen in right of Canada as a third-party defendant. The defendant claims that if they are found to be an owner of the barges, they were misled into ownership by representatives of the CCG.

The legal proceeding remains ongoing. It is at the stage of documentary discovery.

Status

The file remained open as of the close of the fiscal year.

Related file

- 120-665-C1 – *Spudnik* (same owner)
- 120-856-I-G – *Spudnik* (same owner)
- 120-833-C1 – Darrell Bay Incident (same owner)
- 120-885-C1 – Unknown name (Deck Barge) (same owner)

Pacific Grizzly (2015)

Location: Bella Coola, BC

Case number: 120-691-C1

The Incident

On August 4, 2015, the Canadian Coast Guard (CCG) was informed that the 80-year old wooden fishing vessel *Pacific Grizzly* had sunk alongside the dock in Bella Coola, British Columbia, and was polluting the local area. The vessel contained an estimated 1,000 gallons of diesel fuel and 10 gallons of lube oil. The release of pollutants was both visible and continuing. The owner took responsibility for the spill and responded to the situation. He removed 13 barrels of diesel fuel and six drums of fuel/water mixture from the vessel, and deconstructed the vessel. The CCG had two roles during the response operation: to monitor the work arranged and managed by the owner, and to provide specific booms and absorbents directly to the site.

The Claim

On June 10, 2016, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund (the Fund) for costs and expenses in the amount of \$23,110.35, pursuant to the *Marine Liability Act*.

Assessment and Offer

The Administrator confirmed that the claim was a legitimate one on the Fund, and after investigation and assessment, he made an offer for the established amount of \$23,110.35, plus interest, in full and final settlement of the claim. DFO/CCG accepted the offer on July 7, 2016 and payment of \$23,851.79, inclusive of interest, was made.

Recovery Action

The Administrator engaged a professional locator service to identify the assets of the registered owner of the *Pacific Grizzly*. Counsel for the Fund then pursued recourse action against the registered owner, following which a negotiated settlement of \$12,500.00 was agreed. Upon receipt of the payment, the Administrator provided the owner with a duly executed Release.

Status

The file was closed on February 8, 2017.

Western Chief (2015)

Location: False Creek, BC

Case number: 120-693-C1

The Incident

On June 14, 2015, the Canadian Coast Guard (CCG) was advised of a mystery diesel spill near the fishing vessel *Western Chief* at the Fisherman's Wharf in False Creek, British Columbia. The CCG responded to the scene and confirmed that the spill was both significant and recoverable. The vessel owner did not initially accept responsibility for the spill. Transport Canada inspectors attended the scene as well as the Vancouver Fire Department. The CCG responded as Incident Commander. 1,000 litres of oily water were skimmed from the area, 3,000 litres of oily water were removed from the bilges of the vessel and 76 bags of solid waste (absorbents) were recovered from the area. The Western Canada Marine Response Corporation was contracted by the CCG and provided timely and effective response.

The Claim

On July 18, 2016, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund in the amount of \$45,521.92, pursuant to the *Marine Liability Act*.

Assessment and Offer

After investigation and assessment of the claim, the Administrator found the full amount of the claim to be established and, therefore, offered, on August 18, 2016, \$45,521.92, plus interest, in full and final settlement. DFO/CCG accepted the offer and payment of \$47,199.42, inclusive of interest, was made.

Recovery Action

The Administrator pursued recourse action against the owners of the *Western Chief*.

On March 14, 2017, upon execution of a Release for the owners of the *Western Chief*, the Administrator received a settlement payment of \$43,000.00 from the owners' insurers.

Status

The file was closed on March 28, 2017.

Nathan E. Stewart (2016) ♦

Location: Bella Bella, British Columbia
File number: 120-697-C1

The Incident

On 13 October 2016, the tug *Nathan E. Stewart* ran aground, sank, and spilled diesel fuel at the entrance to Seaforth Channel, near Bella Bella, British Columbia. At the time of the grounding, the *Nathan E. Stewart* was pushing the tank barge DBL 55 in an articulated tug barge (ATB) configuration. The tug contained approximately 59,924 gallons of diesel and up to 2,700 gallons of oil when the incident occurred. Hot tapping operations were carried out to remove hydrocarbons from the tug. In addition, the sunken tug was boomed and sorbent materials were used to recover hydrocarbons from within the boomed off areas. The oil recovery operations were impaired by inclement weather conditions.

The barge, which was unladen at the time of the incident, separated from the tug and was moved to safe anchorage. No oil escaped from the barge.

A Unified Command and Incident Management Team was set up at the offices of the Heiltsuk Nation Tribal Council to facilitate the response. The incident occurred in the traditional territories of the Heiltsuk, who were among the first responders.

In December 2017, a report issued by the Transportation Safety Board of Canada found that the probable cause of the grounding was the second mate falling asleep while on watch. Another contributing factor was determined to be the ineffective implementation of the company's safety procedures for watchkeeping.

The Claim

On 11 October 2019, the Administrator received a submission from lawyers for the Heiltsuk Tribal Council. The submission made complex submissions to the effect that the Heiltsuk Tribal Council sought to advance claims under s. 107 of the *Marine Liability Act* to the Administrator for the benefit of the members of the Heiltsuk Nation or, in the alternative, submit claims on behalf of the individual members of the Heiltsuk Nation in a collective fashion.

The letter also requested that a determination of the Heiltsuk Tribal Council submission not be made at present time as evidence not currently available may become available as separate court proceedings continue.

The Administrator is developing a response to the Heiltsuk Tribal Council's submission and requests. The expected response may necessitate increased interactions with individual claimants, and has therefore been delayed in light of the ongoing COVID-19 pandemic.

Status

The file remained open at the close of the fiscal year.

Related File

120-697-L-S – *Nathan E. Stewart* (Litigation arising out of the same incident)

Nathan E. Stewart (2016)

Location: Bella Bella, British Columbia

File number: 120-697-L-S

The Incident

On October 13, 2016, the tug *Nathan E. Stewart* ran aground, sank, and spilled diesel fuel at the entrance to Seaforth Channel, near Bella Bella, British Columbia. At the time of the grounding, the *Nathan E. Stewart* was pushing the tank barge DBL 55 in an articulated tug barge (ATB) configuration. The tug contained approximately 59,924 gallons of diesel and up to 2,700 gallons of oil when the incident occurred. Hot tapping operations were carried out to remove hydrocarbons from the tug. In addition, the sunken tug was boomed and sorbent materials were used to recover hydrocarbons from within the boomed off areas. The oil recovery operations were impaired by inclement weather conditions.

The barge, which was unladen at the time of the incident, separated from the tug and was moved to safe anchorage. No oil escaped from the barge.

A Unified Command and Incident Management Team was set up at the offices of the Heiltsuk Nation Tribal Council to facilitate the response. It is noteworthy that the incident occurred in the traditional territories of the Heiltsuk, who were among the first responders.

In December 2017, a report issued by the Transportation Safety Board of Canada found that the probable cause of the grounding was the second mate falling asleep while on watch. Another contributing factor was determined to be the ineffective implementation of the company's safety procedures for watchkeeping.

The Administrator as a party by statute

On October 9, 2018, the Heiltsuk Nation filed an action *in rem* against the *Nathan E. Stewart* and DBL 55, as well as an action *in personam* against the owners in the Supreme Court of British Columbia. In addition, the Attorneys General of both Canada and British Columbia were named in the action as part of a constitutional challenge of the validity of portions of the *Marine Liability Act*. The Administrator and the International Oil Pollution Compensation Funds were served notice of the proceedings, in accordance, respectively, with the *Marine Liability Act* and the Civil Liability Convention. On November 7, 2018, counsel for the Administrator filed a requisition for an appearance pursuant to section 109 of the *Marine Liability Act*.

On December 19, 2018, counsel for the International Oil Pollution Compensation Funds filed a requisition for an appearance pursuant to sections 62 and 68 of the *Marine Liability Act*.

On April 1, 2019, the owners filed a "Jurisdictional response" (Court Form 108), pursuant to Rule 21-8 of the *British Columbia Supreme Court Civil Rules*. Effectively the owners disputed the jurisdiction of the British Columbia Supreme Court to determine the claims initiated by the Heiltsuk Nation.

On May 1, 2019, the owners filed a Notice of Application in the British Columbia Supreme Court seeking an order staying or dismissing that action as against the owners. At the same time, the owners initiated an action in the Federal Court of Canada, under court file T-733-19. They also sought an order constituting a limitation fund and enjoining other proceedings.

On May 31, 2019, the Heiltsuk Nation filed a Notice of Application before the British Columbia Supreme Court seeking an order that that court confirm its jurisdiction to adjudicate the Heiltsuk Nation's claims.

On June 14, 2019, the Chief Justice of the Federal Court issued a direction to the Heiltsuk Nation to bring a motion seeking to stay the Federal Court proceeding and for that motion to be heard on July 8, 2019.

On July 3, 2019, the Administrator, as a party by statute to the Federal Court proceedings, filed a Notice of Appearance and submitted motion records in response to the enjoining motion and the motion to stay the Federal Court Proceedings.

On July 26, 2019, the Federal Court issued an order granting the owners motion to constitute a limitation fund and granting the order to halt other proceedings — but only in part. Certain of the Heiltsuk Nation's claims in the British Columbia proceeding were allowed to proceed in parallel with the Federal Court proceeding.

Both sets of legal proceedings remain ongoing.

The Administrator as a Defendant

The Heiltsuk Nation issued a counterclaim in the Federal Court proceeding against the Administrator, the owners, and the Federal Crown. All defendants to the counterclaim have defended, and the Heiltsuk Nation has issued a number of replies to the defences to counterclaim.

The litigation has not advanced during the COVID-19 pandemic.

Status

The file remained open at the close of the fiscal year.

Related File

120-697-C1 – *Nathan E. Stewart* (Submission under s. 107 to the Administrator by the Heiltsuk)

Sea-Que (2016)

Location: Sidney Marina, Sidney, British Columbia

File number: 120-701-C1

The Incident

On 21 September 2016, the Canadian Coast Guard (CCG) was advised that an unidentified 42-foot wooden vessel had partially sunk at Vancouver Island Marina in Sidney, British Columbia the previous day. The report indicated that the vessel was actively discharging pollutants into the marine environment. The Marina had engaged a local contractor to raise the vessel and contain upwelling pollutants.

When CCG personnel arrived on scene later in the day on 21 September 2016, they observed an oil sheen around the vessel, which had been refloated with air bags and surrounded by sorbent boom. CCG personnel also observed that the vessel's machinery spaces were filled with oily water and debris and that its fuel tanks were at least partially full.

Attempts by the CCG to contact the owner were not successful. The CCG decided to remove the vessel from the marine environment.

The CCG engaged its own contractors to tow the vessel to a facility in Ladysmith on 26 September 2016. The vessel was removed from the water at Ladysmith the same day, and placed in temporary storage pending a survey, which was conducted on 28 September 2016.

The CCG made further unsuccessful attempts to contact the vessel owner. Based on the results of the survey, the CCG decided to have the vessel deconstructed, which was completed on 8 November 2016.

The Claim

On 2 August 2018, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$18,730.67, seeking compensation for costs and expenses arising from the response to the incident involving the unidentified vessel.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim and made a request to the CCG seeking further information, which was received. In the course of investigation and assessment, the unnamed vessel was identified as the *Sea-Que*.

On 21 September 2018, the Administrator made an offer of compensation to the CCG in the amount of \$18,730.67, plus interest.

The CCG accepted the offer on 5 October 2018, and payment from the Fund in the amount of \$19,996.23, including interest, was made on 11 October 2018.

Recovery Action

On 22 May 2019, in an attempt to reliably locate the owner of the *Sea-Que*, the Administrator issued a subpoena under the *Inquiries Act* to a telecommunications company. A response to the subpoena was received on 24 May 2019.

The office of the Administrator sent a demand letter to the owner of the *Sea-Que* on 4 June 2019. No response was received.

The Administrator contracted a private investigations service to run an asset search on the owner of the *Sea-Que*, the results of which were received on 15 August 2019.

The office of the Administrator sent a second demand letter to the owner of the *Sea-Que* on 16 August 2019. Again, no response was received.

On 30 August 2019, the Administrator retained external legal counsel, who was instructed to file an action in the Federal Court against the owner of the *Sea-Que*. This was done on 16 September 2019.

The Defendant was personally served with the Administrator's Statement of Claim on 28 September 2019.

As the Defendant had neither filed nor served a Statement of Defence, a motion for default judgment was prepared and filed in December 2020. On 1 April 2021, the Federal Court dismissed the motion without prejudice to further submissions, finding that the evidence provided in support of the Defendant's ownership of the *Sea-Que* was insufficient.

Additional affidavit evidence of ownership was obtained by the Administrator's in-house counsel, and a second motion for default judgment was filed. On 16 June 2021, the Federal Court issued a judgment in favour of the Administrator for \$21,295.97 plus post-judgment interest.

As of 31 March 2022, the Administrator was considering steps to enforce or otherwise recover on her judgment.

Status

The file remained open at the end of the fiscal year.

Elva M II (Steveston Harbour Authority) (2016) ⚓

Location: Steveston Harbour, British Columbia
Case number: 120-704-C1

The Incident

On the night of 4/5 November 2016, the 55-tonne fishing vessel *Elva M II*, a wooden vessel built in 1927, sunk while alongside in Steveston Harbour, British Columbia. The local Harbour Authority attended the scene along with the Canadian Coast Guard (CCG) to respond to the incident. They deployed booms and equipment to deal with the pollution. Diving services and local contractors were hired to raise the sunken vessel. The recovery operation took place the same day, and in the evening, the *Elva M II* was removed from the water. Once raised, the vessel was hauled ashore and deconstructed.

The Claim

On 9 February 2017, the Steveston Harbour Authority filed a claim with the Administrator for costs and expenses in response to the incident, in the amount of \$7,649.63, pursuant to the *Marine Liability Act* (MLA).

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

Assessment and Offer

After investigation and assessment of the claim, the Administrator made an offer to the Steveston Harbour Authority for the established amount of \$7,649.63 plus interest on 22 February 2017, as full and final settlement. The offer was accepted on 6 March 2017, and on 21 March, a payment in the amount of \$7,736.30 including interest was sent to Steveston Harbour Authority.

Recovery Action

On 31 May 2017, a demand letter was sent to the vessel owner, from which a response was received. On 27 June, counsel for the Ship-source Oil pollution Fund (SOPF) informed the vessel owner of the strict liability provisions of the MLA and advised him that action would be commenced by the SOPF in seven days, unless a satisfactory settlement offer was received. In addition, on 29 June, a proposal was sent by counsel to the vessel owner. However, the latter replied that he was unable to pay.

In July 2017, a locator service was engaged to complete an asset search on the vessel owner, and in October 2017, a Statement of Claim was filed. As no Statement of Defence was received, a Motion for Default Judgment was filed with the court, following which a judgment against the vessel owner was received. The Examination in Aid of Execution was held on 22 December 2017.

In August 2018, Counsel for the Administrator filed a Federal Court Garnishment Order. The Court made an order attaching all further payment from the owner's employer to the judgment

debtor. By 24 December 2018, the Administrator received a total amount of \$3,266.46 for her subrogated claims of CCG and of Steveston Harbour Authority.

Given the impecuniosity and the age of the owner, the Administrator has assessed that the defendant has reached his ability to pay for the time being and she has decided to suspend further collection. This decision will be subject to review and the Administrator will resume collection in respect of the outstanding judgment should the financial status of the owner improve.

Status

The file remains open.

Related file

Elva M II (CCG claim), case number 120-704-C1-1 (same incident, different claimant)

Elva M II (CCG) (2016)

Location: Steveston Harbour, British Columbia

Case number: 120-704-C1-1

The Incident

On the night of 4/5 November 2016, the 55-tonne fishing vessel *Elva M II*, a wooden vessel built in 1927, sunk while alongside in Steveston Harbour, British Columbia. The Canadian Coast Guard (CCG) attended the scene along with the local Harbour Authority. The vessel owner advised CCG that he was not financially able to respond to the incident. Hence, CCG assumed the role of On-Scene Commander and advised the owner that he would be liable for the costs and expenses incurred.

CCG and the Harbour Authority deployed booms and equipment to deal with the pollution. Diving services and local contractors were hired to raise the sunken vessel. The recovery operation took place the same day, and in the evening, the *Elva M II* was removed from the water. Once raised, the vessel was hauled ashore and deconstructed.

The Claim

CCG's request for payment for costs and expenses incurred having been declined by the vessel owner, it then filed a claim pursuant to the *Marine Liability Act* (MLA), with the Administrator on 28 February 2017 in the amount of \$46,351.57.

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

Assessment and Offer

After investigation and assessment of the claim, the Administrator made an offer to CCG for the established amount of \$46,351.57 plus interest on 31 March 2017, as full and final settlement. The offer was accepted on 24 April 2017, and on 15 May 2017, a payment in the amount of \$46,967.15 including interest was sent to CCG.

Recovery Action

On 31 May 2017, a demand letter was sent to the vessel owner, to which a response was received. On 27 June, counsel for the Ship-source Oil pollution Fund (SOPF) informed the vessel owner of the strict liability provisions of the MLA and advised him that action would be commenced by the SOPF in seven days, unless a satisfactory settlement offer was received. In addition, on 29 June, a proposal was sent by counsel to the vessel owner. However, the latter replied that he was unable to pay.

In July 2017, a locator service was engaged to complete an asset search on the vessel owner, and in October 2017, a Statement of Claim was filed. As no Statement of Defence was received, a

Motion for Default Judgment was filed with the court, following which a judgment against the vessel owner was received. The Examination in Aid of Execution was held on 22 December 2017.

In August 2018, Counsel for the Administrator filed a Federal Court Garnishment Order. The Court made an order attaching all further payment from the owner's employer to the judgment debtor. By 24 December 2018, the Administrator received a total amount of \$3,266.46 for her subrogated claims of CCG and of Steveston Harbour Authority.

Given the impecuniosity and the age of the owner, the Administrator has assessed that the defendant has reached his ability to pay for the time being and she has decided to suspend further collection. This decision will be subject to review and the Administrator will resume collection in respect of the outstanding judgment should the financial status of the owner improve.

Status

The file remains open.

Related file

Elva M II (Steveston Harbour Authority), case number 120-704-C1 (same incident, different claimant).

Pursepa (2015)

Location: Campbell River, BC
Case number: 120-707-C1

The Incident

On March 2, 2015, the *Pursepa*, a 50-foot vessel built in 1928 as a fisheries patrol boat, but which in recent years had been converted to a live-aboard boat, was aground on Tyee Spit and discharging oil pollutants into the Campbell River Estuary. Canadian Coast Guard (CCG) personnel contacted the vessel owner and informed him of his responsibilities. The owner advised that he would take necessary measures to mitigate the threat of pollution by refloating his vessel at high tide. His attempts were unsuccessful due apparently to lack of funds.

On March 4, CCG took over the response. CCG personnel from Victoria were deployed to assess the situation and assumed the role of On-Scene Commander. It was determined necessary to remove the wreck in order to prevent further oil pollution. At the outset, personnel at the Campbell River Lifeboat Station surrounded the wreck with a containment boom in case of a release of hydrocarbons.

On March 16, a local contractor from Campbell River was engaged to salvage and dispose of the abandoned vessel. Approximately 100 gallons of diesel fuel were removed from the vessel's tanks. The engine, the fuel tanks and other contaminants were also removed. During the lift process the stern of the vessel separated from the hull. After several failed attempts to remove the wreckage, it was decided to leave the shell of the vessel on the Tyee Spit.

The Claim

On February 28, 2017, the Administrator received a claim from CCG on behalf of the Minister of Fisheries and Oceans (DFO/CCG) for costs and expenses in the amount of \$24,504.93 made pursuant to the *Marine Liability Act* (the Act).

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

Assessment and Offer

Further to the investigation and assessment of the claim, an offer for the established amount of \$24,473.92 plus interest was made to DFO/CCG by the Administrator as full and final settlement on March 31, 2017. The offer was accepted by DFO/CCG on April 24, 2017.

A payment of \$26,007.70, including interest in the amount of \$1,533.78, was made to DFO/CCG on or around May 12, 2017.

Recovery Action

On or about June 12, 2017, a demand letter was sent by the counsel for SOPF to the shipowner, to which the owner's trustee in bankruptcy responded that the SOPF claim was likely to be barred.

After review of the information received from the owner's trustee in bankruptcy, no other further recovery action was deemed to be reasonable by the counsel for SOPF.

Status

The file was closed on August 1, 2017.

Mystery Spill (City of Vernon Claim) (2016) ♡

Location: Paddlewheel Park, Vernon, B.C.

Case number: 120-709-C1

The Incident

A small pleasure craft at the boat launching ramp in Paddlewheel Park, Vernon, B.C., apparently abandoned and sinking, was the source of an oil spill. The RCMP reported the incident to Vernon Fire Rescue Services on September 25, 2016. A small oil slick was visible emanating from the partially submerged fibreglass pleasure craft.

Vernon Fire Rescue Services dispatched an employee to install a sock at the base of the launching ramp and an absorbent boom to contain the slick, which covered an area approximately 600 square metres. After inspecting the site, the Public Works Coordinator for the City of Vernon contacted appropriate authorities including the Canadian Coast Guard (CCG). On September 26, 2016, the CCG provided a Direction Order to the City of Vernon to proceed removing all hydrocarbon and chemical pollutants from the boat or to remove the vessel from the water.

On September 27, 2016, the City of Vernon Public Works staff removed the boat from the water and transported it to the town's local disposal facility. Vernon Fire Rescue Services recovered the oil boom and other materials for appropriate cleaning and disposal.

The Claim

On April 3, 2017, the Administrator received a claim in the amount of \$2,011.56 submitted by the Corporation of the City of Vernon (City of Vernon) pursuant to section 101 of the *Marine Liability Act*, for costs incurred in removing the pleasure craft and pollution clean-up work.

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

Assessment and Offer

On June 19, 2017, after investigation and assessment of the claim, the Administrator made an offer to the City of Vernon for the established amount of \$1,586.62, plus interest, pursuant to section 105 of the Act. Interest was deemed to be in the amount of \$39.61.

The offer's reduced amount versus the claim was mainly due to the following:

- Charges related to overhead salary costs (47%) and administrative fees, at rates that were not found to be reasonable. These charges were accepted at a reduced amount.
- A 5% GST charge was applied to the total amount of the claim and invoiced to the Fund, as though the Fund had bought taxable services provided by the City. This GST charge was disallowed.

July 10, 2017, the offer was accepted by the City of Vernon.

On July 19, 2017, the Administrator directed that the amount of \$1,626.23 (which included \$39.61 in accrued interest) be paid to the City of Vernon.

Status

The file was closed on August 2, 2017.

Command Performance (2016)

Location: Ahousat, British Columbia

File number: 120-710-C1

The Incident

On July 10, 2016, the Canadian Coast Guard (CCG) received a report that the *Command Performance*, an old fishing vessel of 39.58 GT, was sinking at the dock in Ahousat, British Columbia and discharging oil into the marine environment. A containment boom was deployed by CCG Environment Response personnel to prevent spreading of the oil; however, oil continued to upwell from the vessel. Attempts to locate the vessel owner were unsuccessful. Therefore, CCG assumed the role of On-Scene Commander.

A local diving company was engaged to plug the vessel's fuel vents, and another contractor was hired to refloat the vessel. The salvage operations were completed on July 12, 2016. Due to the lack of facilities around Ahousat, the refloated vessel was towed by Wichita Marine Services to a shipyard facility in Ladysmith on the east coast of Vancouver Island, where a technical marine surveyor inspected it while it was being dry-docked to establish its general condition. Inspection results indicated that it would be very costly to make the vessel seaworthy again. Since all further attempts to locate the vessel owner were unsuccessful, it was decided to deconstruct the vessel and dispose of the debris.

The Claim

On March 21, 2017, the Administrator received a claim from CCG, on behalf of the Minister of Fisheries and Oceans (DFO/CCG), for costs and expenses incurred in the amount of \$116,433.70, made pursuant to section 103 of the *Marine Liability Act* (the Act).

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

Assessment and Offer

Investigation and assessment of the claim were carried out. A part of the amount claimed for the Damage Survey and Condition Assessment Report was disallowed because the purpose of the report was to establish the requirements to return the vessel to a seaworthy condition, a purpose which is not directly linked to pollution prevention or pollution damage. GST claimed on travel allowances for meals and incidentals was also rejected pursuant to the Treasury Board guidelines. On June 7, 2017, an offer of compensation for the established amount of \$114,047.53 was made by the Administrator to DFO/CCG as full and final settlement. The offer was accepted by DFO/CCG on June 28, 2017, and a payment of \$116,867.46, including \$2,819.93 in interest, was made on or about July 5, 2017.

Recovery Action

On or about August 3, 2017, a corporate search was carried out by counsel to the Administrator on Ahousat Freight Services Ltd., which was recorded as the owner of the *Command Performance* in the Transport Canada Vessel Registration Query System. The search revealed that the company was dissolved on January 7, 2013 for failing to file corporate returns.

As in the file *Chilcotin Princess* (File 120-672-C1), an action was initiated against the Province of British Columbia on the basis that the vessel had escheated to the Provincial Crown. Under British Columbia corporate law, upon the dissolution of the corporation Ahousat Freight Services Ltd., the Province became the owner of the vessel. The Provincial Crown was therefore the owner of the vessel at the time of the incident.

After the decision of the Court of Appeal for British Columbia in the *Chilcotin Princess* matter, the Province of British Columbia agreed to pay the full amount of the Administrator's claim, \$127,033.56.

The Federal Court Action was thereafter dismissed on consent on November 7, 2019.

Status

The file was closed on January 29, 2020.

South Wind (2015)

Location: Porpoise Bay, Sechelt, British Columbia
Case number: 120-714-C1

The Incident

On August 31, 2015 the Canadian Coast Guard (CCG) received a report that the *South Wind*, a wooden-hull fishing vessel of approximately 36 feet in length, was mostly submerged near the marina at Sechelt Inlet, British Columbia. Oil was leaking from the vessel. CCG Environmental Response personnel were deployed on site with response equipment and a pollution response vessel. Oil sorbent boom was utilized around the oil sheen.

CCG contacted the vessel owner on September 2, but the latter's attempt to salvage the vessel was unsuccessful. Therefore, a local contractor was hired by CCG to raise the vessel. On September 12, the *South Wind* was refloated and removed from the marine environment.

The Claim

On March 30, 2017, the Administrator received a claim from CCG, on behalf of the Department of Fisheries and Oceans (DFO/CCG), for costs and expenses incurred in the amount of \$14,300.21, pursuant to the *Marine Liability Act*.

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

Assessment and Offer

After investigation and assessment of the claim, the Administrator made an offer for the established amount of \$14,300.21 plus interest, as full and final settlement, to DFO/CCG on May 5, 2017. The offer was accepted on May 15, 2017 and a payment in the amount of \$15,028.16 including interest was made to DFO/CCG on or about June 8, 2017.

Recovery Action

The counsel for the Ship-source Oil Pollution Fund has tried to reach the vessel owner in an effort to recover the amount paid, but all efforts have been unsuccessful.

Status

All reasonable measures to recover the amount from the owner having been taken, the Administrator concluded that recovery of funds is not likely. Hence, the file was closed on August 30, 2017.

Kokanee (2016)

Location: Port Hardy, B.C.

Case number: 120-715-C1

The Incident

On March 22, 2016, the Canadian Coast Guard (CCG) was informed that the fishing vessel *Kokanee* (35 feet length overall) was sinking at the Port Hardy dock, British Columbia and that oil was being discharged into the marine environment. The port authority deployed absorbent pads and a containment boom around the vessel to help mitigate oil pollution damage.

The CCG deployed local personnel to assess the situation and respond as necessary. The vessel owner advised that he did not have the ability nor funds to remove the *Kokanee* from the water. Consequently, the CCG assumed the On-Scene Commander role and hired a local contractor to tow the wooden hull to a vessel storage yard at Port Hardy.

When the vessel was lifted out of the water, the CCG engaged a marine surveyor to attend and conduct a survey for condition and salvage value of the wreck. The CCG subsequently contracted for the deconstruction of the vessel.

The Claim

On April 20, 2017, the 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 \$4,109.75, made pursuant to the MLA.

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

Assessment and Offer

On June 7, 2017, after investigation and assessment of the claim, the Administrator made a final offer to DFO/CCG for the established amount of \$2,501.35, plus interest.

The salient difference between the claim and the amount established by the Administrator was due to the dismissal of costs related to the survey performed, post-recovery, while the vessel was on the blocks in storage. A survey of this nature is not directly linked to pollution prevention or pollution damage and as such not admissible for a claim under the Act.

On June 28, 2017, the offer was accepted by the CCG. On July 5, 2017, the Administrator directed payment of the amount of \$2,592.33 (which includes interest in the amount of \$90.98) to DFO/CCG.

Recovery Action

During the months of July and August 2017, the Administrator carried out numerous attempts to reach the vessel owner, but these attempts were unsuccessful.

Status

On August 30, 2017, the Administrator closed the file.

Viking I (2016) ⚓

Location: Nanaimo, British Columbia
File number: 120-716-C1

The Incident

On August 10, 2016, the Nanaimo Port Authority (NPA) received a report that the *Viking I* (29.7 GT), a 40-foot retired fishing vessel converted to a pleasure craft, was sinking in the small craft anchorage at Mark Bay, British Columbia. The Harbour Master found the vessel completely submerged in approximately 30 feet of water with evidence of oil pollution on the water's surface. A containment boom was deployed, and pads were placed inside the boom.

The Canadian Coast Guard (CCG) was informed of the situation by the NPA; the CCG instructed the NPA to provide both monitoring and response functions. The boat owner advised that there was an 800 gallon diesel fuel tank on board, but it was less than one-quarter full. Divers contracted to inspect the wreck for victims (none were found) were instructed to plug the fuel vents and try to raise the vessel by utilizing air bags and water pumps.

By August 15, 2016, the *Viking I* was brought to the surface using additional buoyancy equipment. The following day, it was shifted to a secure working site at the nearby Brechin boat launch. A heavy lift crane and barge were set up at the boat launch facility and the *Viking I* was brought to an upright position for dewatering.

On August 19, 2016, the vessel was lifted onto a barge and all debris and contaminated materials were removed prior to completion of the salvage efforts. The wreck was transported to Vancouver for disposal.

The Claim

On May 3, 2017, the Administrator received a claim from the NPA for costs and expenses in the amount of \$31,458.19, made pursuant to the *Marine Liability Act* (MLA).

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

Assessment and Offer

On May 24, 2017, further information was requested from NPA in support of its claim. Several reminders were sent over the following months. On August 30, 2017, after investigation and assessment of the claim, the Administrator made an Offer to the NPA for the established amount of \$29,432.92, plus interest. On October 3, 2017, the offer was accepted by the NPA.

On October 12, 2017, the Administrator directed that the amount of \$30,484.30 (including \$1,051.38 in interest) be paid from the Fund to the NPA.

Recovery Action

The Administrator tasked a professional locator service to investigate the assets and location of the owner of the *Viking I*.

On June 1, 2018, counsel for the Administrator sent a demand letter to *Viking I*'s owners. An action was then brought in Federal Court, with a Statement of Claim and Warrant and Affidavit served on the sister ship *S/V Full Circle* on October 22, 2018.

On November 20, 2018, the owner of the *Viking I* filed his Statement of Defence. He alleged not to be the actual owner of the *Full Circle*. On January 15, 2019, counsel sent demand letters to both potential owners of the *Full Circle* asking them to provide all documents they had relating to both that vessel and the *Viking I*.

On March 12, 2019, counsel to the Administrator granted the person claiming to be the owner of the *Full Circle* a 30-day extension to retain counsel. This defendant subsequently filed a defence, without retaining counsel.

The parties to this matter exchanged documents pursuant to the *Federal Courts Rules* on documentary discovery. The Administrator examined the shipowner of the *Viking I* and the person claiming to be the owner of the *Full Circle*. The Administrator answered written questions posed by the defendants.

After reviewing the responses to her questions, the Administrator determined that no further steps could reasonably be taken with respect to the suspected sistership. The Administrator agreed to release the *Full Circle* from arrest and discontinue claims against its owners, on a without costs basis.

After a number of case conferences, the Court issued an Order on February 12, 2020, directing a summary trial to proceed. After a number of delays related to COVID-19, the matter proceeded to a summary trial. A decision issued on 26 October 2021 granted judgment to the Administrator in the full amount claimed.

The Administrator continues to monitor the debtor's ability to pay the judgment.

Status

The file remained open at the close of the fiscal year.

Related File

120-716-C1-1 – *Viking I* (same incident, different claimant)

Viking I (2016)

Location: Nanaimo, British Columbia
File number: 120-716-C1-1

The Incident

On August 10, 2016, the Nanaimo Port Authority (NPA) received a report that the *Viking I* (29.7 GT), a 40-foot retired fishing vessel converted to a pleasure craft, was sinking in the small craft anchorage at Mark Bay, British Columbia. The Harbour Master found the vessel completely submerged in approximately 30 feet of water with evidence of oil pollution on the water's surface. A containment boom was deployed, and pads were placed inside the boom.

The Canadian Coast Guard (CCG) was informed of the situation by the NPA; the CCG instructed the NPA to provide both monitoring and response functions. The boat owner advised that there was an 800-gallon diesel fuel tank on board, but it was less than one-quarter full. Divers contracted to inspect the wreck for victims (none were found) were instructed to plug the fuel vents and try to raise the vessel by utilizing air bags and water pumps.

By August 15, 2016, the *Viking I* was brought to the surface using additional buoyancy equipment. The following day, it was shifted to a secure working site at the nearby Brechin boat launch. A heavy lift crane and barge were set up at the boat launch facility and the *Viking I* was brought to an upright position for dewatering.

On August 19, 2016, the vessel was lifted onto a barge and all debris and contaminated materials were removed prior to completion of the salvage efforts. The wreck was transported to Vancouver for disposal.

The Claim

On February 20, 2018, CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator for costs and expenses in the amount of \$128,246.91, pursuant to the *Marine Liability Act* (MLA).

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

Assessment and Offer

During the assessment, the Office of the Administrator made requests to CCG for additional information and documentation, which was provided.

On April 24, 2018, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$128,246.91, plus interest, as full and final settlement to DFO/CCG. The offer was accepted on April 30, 2018 and on May 17, 2018, a payment in the amount of \$134,694.56 including interest was made to DFO/CCG.

Recovery Action

The Administrator tasked a professional locator service to investigate the assets and location of the owner of the *Viking I*.

On June 1, 2018, counsel for the Administrator sent a demand letter to *Viking I*'s owners. An action was then brought in Federal Court, with a Statement of Claim and Warrant and Affidavit served on the sister ship *S/V Full Circle* on October 22, 2018.

On November 20, 2018, the owner of the *Viking I* filed his Statement of Defence. He alleged not to be the actual owner of the *Full Circle*. On January 15, 2019, counsel sent demand letters to both potential owners of the *Full Circle* asking them to provide all documents they had relating to both that vessel and the *Viking I*.

On March 12, 2019, counsel to the Administrator granted the person claiming to be the owner of the *Full Circle* a 30-day extension to retain counsel. This defendant subsequently filed a defence, without retaining counsel.

The parties to this matter exchanged documents pursuant to the *Federal Courts Rules* on documentary discovery. The Administrator examined the shipowner of the *Viking I* and the person claiming to be the owner of the *Full Circle*. The Administrator answered written questions posed by the defendants.

After reviewing the responses to her questions, the Administrator determined that no further steps could reasonably be taken with respect to the suspected sistership. The Administrator agreed to release the *Full Circle* from arrest and discontinue claims against its owners, on a without costs basis.

After a number of case conferences, the Court issued an Order on February 12, 2020, directing a summary trial to proceed. After a number of delays related to COVID-19, the matter proceeded to a summary trial. A decision issued on 26 October 2021 granted judgment to the Administrator in the full amount claimed.

The Administrator continues to monitor the debtor's ability to pay the judgment.

Status

The file remained open at the close of the fiscal year.

Related File

120-716-C1 – *Viking I* (same incident, different claimant)

Feelin' Free (2017)

Location: Port Neville, British Columbia

File number: 120-717-C1

The Incident

On 30 January 2017, the Canadian Coast Guard (CCG) was notified that a vessel with people on board was on fire in Kelsey Bay, near Sayward, British Columbia. The report also indicated that approximately 4,000 litres of diesel were on board. The ship was identified by the CCG as the *Feelin' Free*, a 14-metre reinforced moulded plastic fishing vessel.

The CCG's Campbell River Lifeboat Station dispatched a Search and Rescue response team. Attempts to contact the owner of the *Feelin' Free* were unsuccessful at this stage. Due to the remote location of the developing incident and the pollution threat posed by the vessel, the CCG entered into an emergency contract with the Western Canada Marine Response Corporation (WCMRC). WCMRC deployed personnel and equipment to Sayward but was unable to get near the vessel due to extreme heat from the fire.

On 31 January 2017, CCG mobilized Emergency Response (ER) personnel out of Victoria. The *Feelin' Free* continued to burn. WCMRC remained on site and the CCG team arrived later in the day. A non-recoverable sheen was observed around the vessel, which remained inaccessible.

The owner of the *Feelin' Free* designated the vessel's insurer as his representative. The CCG contacted the insurer, which agreed that an environmental response was necessary and undertook to salvage the vessel once safe to do so. A formal Notice was issued to the owner informing him of his liability and requesting information on his intentions. The CCG team departed the scene for Victoria before the end of the day.

On 1 February 2017, the vessel was partially sunken but still smoldering. WCMRC began cleaning small pockets of recoverable sheen. Residents of the area reported the smell of diesel and a sheen along local beaches. On 2 February 2017, WCMRC demobilized after cleaning as much oil pollution as deemed possible. The CCG issued a Direction to the owner and insurer of the *Feelin' Free*, ordering them to have the vessel towed and removed from the marine environment. Later the same day, the owner complied.

The Claim

On 24 January 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$37,731.13, seeking compensation for costs and expenses arising from the response to the incident involving the *Feelin' Free*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim and made requests to the CCG seeking further information. Responses were received. A portion of the WCMRC costs were not accepted.

The Administrator made an offer of compensation to the CCG in the amount of \$21,224.15, plus accrued interest of \$1,582.70, on 1 May 2019.

The CCG accepted the offer on 19 June 2019, and payment from the Fund in the amount of \$22,806.85, including interest, was made on 26 June 2019.

Recovery Action

On 5 July 2019, in-house legal counsel to the Administrator sent a demand letter and a copy of the CCG's claim documentation to the insurer of the *Feelin' Free*.

On 30 July 2019, the Administrator received the amount of \$22,796.85 from the insurer, and a release from liability was executed in exchange.

Status

Having recovered in full, the Administrator closed this file on 12 August 2019.

Miss Universe (2016) ⚓

Location: Port Edward, British Columbia
File number: 120-721-C1

The Incident

On December 10, 2016, the Port Edward Harbour Authority (PEHA) became aware of a sunken vessel in waters under its jurisdiction. Upon investigation, the vessel was identified as the *Miss Universe*, a 12.45 GT former fishing vessel. It was determined that there was a high risk for both safety and pollution, so the Canadian Coast Guard was contacted by the PEHA.

A thick grey substance was observed on the water around the vessel, so the PEHA laid down absorbent pads and deployed a boom around the vessel to mitigate pollution damage to the environment. The absorbent pads were replaced the following day. Since the volume of pollutants on the vessel was unknown and difficult to safely contain, the decision was taken to salvage and demolish the *Miss Universe*.

The PEHA continued to monitor the vessel and change the absorbent pads until December 15, 2016, when the sunken vessel was salvaged by a contractor and brought to a safe location for demolition.

The Claim

On July 12, 2017, the PEHA filed a claim with the Administrator for costs and expenses incurred in the amount of \$19,911.85, 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 August 31, 2017, after investigation and assessment of the claim, which included requests for extra documents, timesheets, and invoices, the Administrator made an offer to the PEHA for the established amount of \$18,711.85, plus interest.

On September 15, 2017, the Administrator received the PEHA's letter of acceptance.

On October 12, 2017, the Administrator directed that the amount of \$19,113.80, including \$401.95 in accrued interest, be paid to the PEHA.

Recovery Action

The PEHA informed in-house legal counsel to the Administrator that the registered owner of the *Miss Universe* had passed away, and that her sons, who may have been the owners of the vessel at the time, had been in contact with the PEHA but unhelpful after the sinking. The ownership of the

vessel at the time of the incident was unclear.

In-house legal counsel to the Administrator sent demand letters to various addresses associated with the registered owner and her sons. No responses were received.

Despite a search of court records and British Columbia death certificates, no record of the registered owner of the *Miss Universe* could be found by the Administrator's legal team.

Status

The Administrator closed this file on October 24, 2019, having taken all reasonable measures to recover as required by the *Marine Liability Act*.

Related file

120-701-R – Mystery Spill, Port Edward (2016): same incident

No Name (ship) (2017)

Location: Wellington Point Park, Ladner River, B.C.

Case number: 120-729-C1

The Incident

On January 14, 2017, an unnamed vessel, apparently sinking at Wellington Point Park, Ladner River, British Columbia, came to the attention of the Canadian Coast Guard (CCG) from a concerned citizen. The CCG responded and the vessel was pumped out and determined to be safe to leave in the water. The boat was secured to a log boom in the vicinity, and the rescue crews departed the scene. The next day, the vessel became the subject of a pollution report.

The owner proved difficult to contact so the CCG took the initiative to have the vessel removed from the water. On January 16, 2017, the CCG contracted a salvage company and the same day the salvor was on scene with a barge and crew. The vessel was raised and beached in order to effect repairs prior to being towed on January 17, to a nearby marina where it was removed from the water with a marine travelift.

The Claim

On November 21, 2017, a claim was filed with the Administrator by the CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) for costs and expenses in the amount of \$7,650.03 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 November 30, 2017, after investigation and assessment of the claim, the Administrator made an offer to the CCG for the established amount of \$7,650.03, plus interest, pursuant to section 105 of the Act.

On December 13, 2017, the offer was accepted by CCG. Once accepted, interest on the claim was deemed to be in the amount of \$218.81.

On December 20, 2017, the Administrator directed payment of the amount of \$7,868.84 (which included \$218.81 accrued interests) to DFO/CCG.

Recovery Action

All reasonable efforts have been taken to recover payments of compensation without any success as there was no registered owner and the vessel was removed from the marine environment, therefore, on the recommendation of legal counsel, the Administrator decided to stop the recovery action and to close the file.

Status

The file was closed on April 12, 2018.

Dawn Marie (2016)

Location: Strait of Georgia, British Columbia

File number: 120-730-C1

The Incident

On January 8, 2016, the Canadian Coast Guard (CCG) was notified that the *Dawn Marie*, a 32-foot crab fishing vessel containing approximately 400 litres of diesel fuel, was taking on water in the Strait of Georgia, between Mayne Island and Tsawwassen, British Columbia.

In order to minimize further oil pollution damage, the CCG hired salvage contractors to stabilize the water ingress and tow the vessel to a port of refuge.

The Claim

On November 21, 2017, the Administrator received a claim from CCG, on behalf of the Department of Fisheries and Oceans. This claim was in the amount of \$11,372.23 and was made 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 December 7, 2017, after investigation and assessment of the claim, the Administrator made an offer to the CCG for the full amount claimed, plus interest.

On December 13, 2017, the CCG accepted the offer.

On December 20, 2017, the Administrator directed payment of \$12,044.30, including \$672.07 in accrued interest, to the CCG.

Recovery Action

In March 2018, in-house legal counsel to the Administrator sent a demand letter to the owner, but received no reply.

The Administrator retained external legal counsel, who sent a second demand letter to the owner in November 2018. The owner replied and reported ongoing financial difficulties.

In December 2018, the Administrator signed a settlement agreement with the owner of the *Dawn Marie*. The agreement provided that the owner would make payments to the Administrator totalling \$9,000.00. The first payment, of \$4,500.00, was due by December 29, 2018. The balance would be paid in four additional installments of \$1,125.00 over the first four months of 2019.

The Administrator received all of the scheduled payments on time.

Status

Having recovered the full settlement amount, the Administrator closed this file on September 9, 2019.

Sea C Strider (2015)

Location: Gorge, BC
Case number: 120-731-C1

The Incident

On December 27, 2015, the Canadian Coast Guard (CCG) was notified of a sunken vessel, the *Sea C Strider*, causing oil pollution damage in the Gorge Waterway, Victoria, B.C.

Due to the continued release of pollutants, the unknown amount of diesel fuel and lube oils aboard, and the fact that the deteriorated wooden vessel was, in and of itself, an oil pollution source, the CCG had the vessel removed from the water.

The Claim

On November 21, 2017, CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator in the amount of \$35,972.56 pursuant to the *Marine Liability Act*.

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

Assessment and Offer

On December 7, 2017, after investigation and assessment of the claim, the Administrator made an offer to CCG for the entirely established amount of \$35,972.56, plus interest, pursuant to section 105 of the Act. The Administrator found that the *Sea C Strider* was a severely deteriorated wooden vessel in which both oil and water were impregnated, and that permanently removing the vessel from the marine environment constituted the most reasonable course of action to prevent further oil pollution damage.

On December 15, 2017, the offer was accepted by CCG. On December 20, 2017, the Administrator directed payment of \$38,133.87 (which includes \$2,161.31 in accrued interest) to DFO/CCG.

Recovery Action

Reasonable search and investigation efforts were made by the Office of the Administrator in order to locate the owner of the vessel but without any success, as the owner has apparently left the Jurisdiction. Given the aforementioned results, and taking into account the approaching time bar, the Administrator decided to stop all recovery actions and to close the file.

Status

The file was closed on December 13, 2018.

Tempest (2016)

Location: Ford Cove Marina, Hornby Island, B.C.
Case number: 120-736-C1

The Incident

On January 7, 2016, the Canadian Coast Guard (CCG) received a report that the vessel *Tempest*, a 36-foot pleasure craft, had sunk alongside the wharf at the Ford Cove Marina, Hornby Island B.C. There was a large diesel oil slick surrounding the partially submerged boat. A sorbent boom had been placed around the oil spill and the CCG had contacted the owner, who explained that he was unable to arrange salvage or clean-up activities.

The CCG employed a private contractor to refloat the vessel and remove it from the water. On January 8, 2016, the *Tempest* was refloated and taken out of the water. A contractor trailered the craft to a facility approximately 20 miles away, in Comox, where the owner planned to repair the damage.

The Claim

On January 2, 2018, the Administrator received a claim from CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) for costs and expenses in the amount of \$15,136.08, pursuant to the *Marine Liability Act*. The Administrator determined that the claim was admissible under Part 7 of the Act.

Assessment and Offer

On February 1, 2018, after investigation and assessment of the claim, the Administrator made an offer to CCG for the established amount of \$14,252.58, plus interest, pursuant to section 105 of the Act. The only cost the Administrator had not found to be established was for an invoice in the amount of \$883.50, for trailering the *Tempest* to a different location for repairs, once the pollution occurrence was dealt with. The cost of these services was disallowed as such services were not directly or consequently related to oil pollution damage, or its prevention.

On February 7, 2018, the offer was accepted by CCG. On February 14, 2018, the Administrator directed that the amount of \$15,160.47 (which includes \$907.89 in accrued interest) be transferred to DFO/CCG.

Recovery Action

On March 15, 2018, a demand letter was sent to the owner; his daughter received the letter.

The Administrator requested a location and asset search, which revealed no assets to pursue, and that the shipowner had left the Canadian jurisdiction to the USA. Based on the aforementioned findings, and given that all reasonable steps had been taken to recover payments of compensation from the owner of the ship, the Administrator decided to stop recovery efforts and to close the file.

Status

The file was closed on December 13, 2018.

Seamee II (2017)

Location: Cattermole Slough, Squamish, B.C.
Case number: 120-737-C1

The Incident

On March 4, 2017, the Canadian Coast Guard (CCG) became aware that the *Seamee II*, an 11-metre wooden hull pleasure craft in the vicinity of the Squamish Cattermole Slough, was partially submerged and discharging pollution. It was estimated that diesel fuel and lube oil was leaking at a rate of 0.1 litres per hour. Absorbent pads had been placed inside the boat where most of the pollutants were contained.

On March 7, 2017, CCG personnel arrived on site with a Pollution Response Vessel, which was launched and proceeded to the sunken *Seamee II*. After the assessment, considering the oil soaked flotsam and contaminated timbers, it was decided that the most appropriate action was to raise the boat and remove it from the marine environment.

A tugboat operator working in the area was contracted to salvage the *Seamee II*, bring it to a port of refuge and deconstruct the wreck. Meanwhile, to prevent further leakage of oil, the CCG personnel placed a containment boom around the boat and put more absorbent pads inside.

On March 10, 2017, the salvage operation was initiated by the contractor. The recovery and removal of the sunken boat by a crane-equipped barge was completed in about three hours. Later that day, the salvage tug departed the area with the *Seamee II* on its barge and proceeded to a port of refuge to permit deconstruction of the vessel.

The Claim

On January 2, 2018, the Administrator received a claim from CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) for costs and expenses in the amount of \$10,184.69, 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 January 25, 2018, after investigation and assessment of the claim, the Administrator made an offer to CCG for the established amount of \$10,184.69 plus interest, pursuant to section 105 of the Act.

On January 29, 2018, the offer was accepted by CCG. On January 31, 2018, the Administrator directed that the amount of \$10,469.30 (which includes interest in the amount of \$284.61) be drawn from the Fund to the credit of DFO/CCG.

Recovery Action

On October 26, 2018, a demand letter was sent to the shipowner but the letter bounced back. Further, a search was conducted in order to locate the owner but turned up no useful results.

On recommendation of counsel, given that all reasonable steps have been taken to recover payments of compensation from the owner of the ship, the Administrator decided to stop the recovery action and to close the file.

Status

The file was closed on January 17, 2019.

Laurier II (2014)

Location: Deep Bay, British Columbia

File number: 120-742-C1

The Incident

On 14 July 2014, the Canadian Coast Guard (CCG) was informed by the Harbour Authority at Deep Bay, British Columbia, that the *Laurier II*, an abandoned vessel of 201 GT that had long been at anchor in the area, posed an oil pollution threat.

On 31 July 2014, the CCG sent a Direction under the *Canada Shipping Act, 2001* to the presumed owner informing him of his responsibilities. This individual responded, declaring that he was a representative of the registered corporate owner of the vessel. He informed the CCG that the vessel was being monitored and that repairs were planned.

Throughout the next two years, the CCG periodically checked on the *Laurier II*. It was moored in a sensitive area. On occasion, the CCG pumped water ingress out of the vessel.

On 23 June 2016, the CCG contracted a marine consultant to survey the *Laurier II* to assess its condition and locate and quantify the pollutants on board. Two CCG Environmental Response (ER) personnel were on scene during the survey.

The survey report indicated that the *Laurier II* was in poor condition. Significant quantities of diesel and lubricating oils were present in its fuel tanks, fuel lines, engines, and engine beds. The surveyor recommended dry-docking the vessel in order to ensure its integrity and reduce the risk of pollution.

On 30 August 2016, the Deep Bay Harbour Authority advised the CCG that the *Laurier II* was low in the water and likely to sink. CCG personnel stationed nearby were tasked to pump out the vessel and take further measures as needed. The vessel was dewatered, and the CCG personnel identified a baseball-sized hole in the starboard bow about a foot below the waterline. A temporary plug was installed and the water ingress was stopped.

On 1 September 2016, the CCG sent a further Direction under the *Canada Shipping Act, 2001* to the owner's representative, ordering him to take measures to prevent oil pollution damage from the *Laurier II*. A response was required by 7 September 2016. On 2 September 2016, the owner's representative replied that a crew would be on site on 6 September 2016 to conduct interim repairs.

On 6 September 2016, the CCG observed that the crew working on the *Laurier II* appeared to be removing items from the vessel rather than making the required repairs. Satisfied that the vessel now posed an imminent pollution threat, the CCG decided to have it towed out of Deep Bay to a location where it could be more easily monitored. The owner's representative was informed that the owner would be liable for the costs incurred by the CCG.

On 6 September 2016, a contractor hired by the CCG towed the *Laurier II* to Ladysmith.

On 12 September 2016, a second survey of the *Laurier II* was conducted and Transport Canada Marine Safety (TCMS) conducted its own inspection. The surveys found that the vessel was at high risk of spontaneous foundering, which would lead to oil pollution.

A final Direction was issued to the owner's representative on 24 October 2016, ordering him to remove the *Laurier II* from the marine environment. With no timely response, the CCG contracted to have the vessel removed and deconstructed. Deconstruction began on 7 November 2016 and was completed on 31 January 2017.

The Claim

On 22 January 2018, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$384,365.01, seeking compensation for costs and expenses arising from the response to the incident involving the *Laurier II*.

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

Assessment and Offer

The Administrator carried out investigation and assessment of the claim, during which several requests were made to the CCG for additional information and documentation.

The Administrator was satisfied that the oil pollution threat posed by the *Laurier II* justified the measures undertaken by the CCG, including removal and deconstruction of the vessel. However, the Administrator found that some of the claimed costs arising from contracted services were not justified. Reductions were made accordingly.

On 7 February 2019, the Administrator made an offer to the CCG in the amount of \$265,768.99, plus accrued interest of \$17,892.23.

The CCG accepted the offer on 8 April 2019, and payment in the amount of \$283,661.22, including interest, was made on 18 April 2019.

Recovery Action

On 8 July 2019, the Administrator engaged external legal counsel to provide an opinion on the viability of recovery on this file. The opinion was received on 15 August 2019.

On 18 September 2019, in-house counsel to the Administrator sent a demand letter to the registered owner of the *Laurier II*. No response was received.

On 8 July 2020, in-house counsel to the Administrator filed an action in the Federal Court against the corporate registered owner of the *Laurier II*. The Administrator's Statement of Claim was personally served on the Defendant on 17 August 2020.

On 4 September 2020, counsel for the Defendant filed and served a Statement of Defence.

On 18 February 2021, the Administrator's Affidavit of Documents was sent to counsel for the Defendant. At the end of the fiscal year, no response had been received.

As of 31 March 2022, the Administrator's efforts to recover on this file continued.

Status

The file remained open at the end of the fiscal year.

Central Isle (2016)

Location: French Creek, British Columbia

File number: 120-744-C1

The Incident

On 1 June 2016, the Canadian Coast Guard (CCG) was informed that the 35-foot former fishing vessel *Central Isle*, was taking on water and in danger of sinking at French Creek, British Columbia. The CCG was initially unable to locate the owner of the vessel. A lifeboat crew was dispatched to conduct a preliminary assessment, finding the vessel in derelict condition and in immediate danger of sinking and discharging pollutants. Two pumps were deployed to keep the vessel afloat.

The owner of the *Central Isle* eventually contacted the CCG, stating that he lacked the means to act appropriately. As a result, the CCG resolved to have the vessel removed from the marine environment. Meanwhile, the CCG kept the pumps on the vessel operational to ensure that it would not sink.

On 4 June 2016, the CCG engaged a contractor to tow the *Central Isle* to a yard in Ladysmith, where it was hauled out of the water and placed on blocks.

On 9 June 2016, the CCG engaged a marine surveyor to inspect the *Central Isle*. The surveyor found that the vessel's wooden hull had deteriorated to the extent that it could not be safely placed back in the water without significant repairs. The surveyor also found that the vessel's interior was fouled with oil.

On 10 June 2016, the CCG instructed its Ladysmith contractor to proceed with the deconstruction of the vessel, which was completed on 22 June 2016.

The Claim

On 20 February 2018, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$25,035.02, seeking compensation for costs and expenses arising from the response to the incident involving the *Central Isle*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim and made a request to the CCG seeking further information, which was received.

On 4 April 2018, the Administrator made an offer of compensation to the CCG in the amount of \$24,108.07, plus interest.

The CCG accepted the offer on 6 April 2018, and payment from the Fund in the amount of \$25,344.78, including interest, was made on 26 April 2018.

Recovery Action

In-house legal counsel to the Administrator sent a demand letter to the owner of the *Central Isle* on 23 May 2018. No response was received.

The Administrator contracted a private investigations service to run an asset search on the owner of the *Central Isle*, the results of which were received on 12 December 2018.

On 4 January 2019, the Administrator retained external legal counsel, who was instructed to issue a further demand letter to the owner of the *Central Isle*.

The Administrator instructed external counsel to file an action in the Federal Court against the owner of the *Central Isle*, which was done on 2 April 2019.

The Defendant was personally served with the Administrator's Statement of Claim on 5 May 2019.

The Administrator instructed external counsel to file a motion seeking default judgment against the Defendant, who had neither filed nor served a Statement of Defence. This was done on 31 July 2020.

On 10 August 2020, the Federal Court issued a default judgment in favour of the Administrator, in the amount of \$25,344.78, plus pre- and post-judgment interest.

Through external counsel, the Administrator filed for costs. On 9 October 2020, the Administrator's judgment was against real property owned by the judgment debtor.

Status

The file remained open at the end of the fiscal year.

Ocean Eagle & ZB 335 (2016)

Location: Johnstone Strait, Vancouver Island, British Columbia

Case number: 120-745-C1

The Incident

On 15 March 2016, the Canadian Coast Guard (CCG) was advised that the US flagged, 102-foot, 337 GT tug *Ocean Eagle*, towing the US flagged, barge *ZB 335*, 3,674 GT, had grounded at Rock Point (Chatham Point), Johnstone Strait on the NE coast of Vancouver Island.

Johnstone Strait and Discovery Passage form part of the “Inside Passage” extending from southeast Alaska, through British Columbia to Washington State. The route is heavily travelled by cruise ships, coastal freighters, fishing vessels and tugs and barges, including ATBs.

Given the reported 80,000 gallons of diesel aboard the *ZB 335* as well as an unknown quantity of possible dangerous goods, but although no spill had occurred, CCG immediately deployed efforts to respond to the incident and contracted the Western Canada Marine Response Corporation (WCMRC) to provide pollution prevention assistance. Upon completion of a damage assessment of both the barge and tug by the crew, both vessels sailed towards the shelter of Menzies Bay under escort by CCG and an assist tug, where they anchored on 15 March.

Late in the day of 17 March, both TC and the US Coast Guard cleared the tug to sail from Menzies Bay for a shipyard in Seattle Washington.

After temporary repairs, the barge was allowed to sail from Menzies Bay, and on 31 March, it departed Menzies Bay under tow for Ketchikan, Alaska. During this time, CCG monitored the incident and paid to keep WCMRC on site.

Measures taken by the Administrator

Upon receipt of the claim, the Administrator retained counsel to contact the insurers of the tug and the barge to put up security, pursuant to section 102 of the *Marine Liability Act*.

On 31 May 2018, a Statement of Claim was filed in the Federal Court against the shipowners and the ships *in rem* in which the Administrator sought security for the claim. Solicitors for the defendants filed their Statement of Defence on 4 June 2018.

On 8 June 2018, the Administrator received a security in the form of a bail bond filed in the Federal Court.

The Claim

On 13 March 2018, 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 \$156,632.65 pursuant to the *Marine Liability Act*.

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

Assessment and Offer

The Administrator carried out investigation and assessment of the claim and on 19 June 2018, the Administrator made an Offer of Compensation for the established amount of \$61,597.45, plus interest, as full and final settlement to DFO/CCG. The CCG rejected the Offer on 17 August 2018.

On 20 August 2018, the CCG filed a Notice of Appeal of the Administrator's Offer of Compensation, a first in the last 10 years.

On 12 April 2019, without a hearing being held on the merits, the CCG discontinued the appeal. As no order was issued ordering payment, and the Offer had lapsed per the statute, no payment was made, nor could have been made, to CCG in relating to this incident. The Administrator chose not to seek costs.

Accordingly, on 12 April 2019, the Administrator discontinued its action for security against the shipowners and ships.

On 6 June 2019, the Federal Court issued an Order dismissing the action without costs to any party and cancelling the Bail Bond.

Status

The file was closed on 17 July 2019.

Norob (2016)

Location: Degnen Bay, British Columbia

Case number: 120-754-C1

The Incident

On 21 June 2016, the Canadian Coast Guard (CCG) was notified that a 16-metre wooden fishing vessel (later identified as the *Norob*) was sinking in Degnen Bay, Gabriola Island, British Columbia. CCG dispatched a lifeboat from Ganges Lifeboat Station to the site, which reported to Ganges Base that the vessel was in imminent danger of sinking. Pumps were immediately deployed and CCG was successful in keeping the vessel afloat.

CCG Environmental Response (ER) mobilized to Degnen Bay to conduct a thorough assessment of the situation. The *Norob* was in a state of severe neglect, with obvious signs of structural damage, and it was taking on water as a result of its damaged hull.

Given that the *Norob* was in danger of sinking and releasing pollutants, CCG ER made the decision to remove it from the water. A contractor was engaged to tow the vessel to a nearby facility in Ladysmith. While awaiting the arrival of the contractor, CCG personnel pumped out 400 litres of pollutants from the fuel tanks and engine compartment of the vessel.

The contractor arrived on scene in the early afternoon of 22 June 2016 and soon had the vessel under tow. That evening, the vessel was delivered to the marine facility in Ladysmith.

The vessel was removed from the water on 25 June 2016 and stored on the hard until 29 June. The deconstruction of the *Norob* was completed by 21 July 2016.

The Claim

On 1 May 2018, the Administrator received a claim in the amount of \$12,930.15 from CCG, on behalf of the Department of Fisheries and Oceans (DFO/CCG), in respect of the incident, pursuant to the *Marine Liability Act*. The Administrator determined that the claim was admissible under Part 7 of the Act.

Assessment and Offer

The Administrator carried out her investigation and assessment of the claim. On 9 May 2018, the Administrator made an offer for the established amount of \$12,930.15, plus interest, as full and final settlement to DFO/CCG. The offer was accepted on 22 May and, on 25 May, a payment in the amount of \$13,662.43, including interest, was made to DFO/CCG.

Recovery Action

In May 2018, the Administrator, acting within her powers under the *Inquiries Act* issued a subpoena to the Chief Registrar of the Canadian Register of Vessels in order to obtain the official registration transcripts for the *Norob*.

On 26 October 2018, in-house counsel to the Administrator sent a demand letter to the last registered owners of the vessel. They responded, claiming that they had sold the vessel prior to the incident. An informal alleged bill of sale was produced.

On 31 January 2019, in-house counsel to the Administrator sent a demand letter to the last known address of the alleged purchaser of the *Norob*, but the letter could not be delivered. Another demand letter was e-mailed to the alleged purchaser on March 19, 2019 but no response was received.

Given that no further reasonable recourse measures were available, the Administrator decided, on recommendation of in-house counsel, to close the file.

Status

The file was closed on 9 May 2019.

Alaskan (2016)

Location: Jenkins Island, British Columbia

Case number: 120-796-C1

The Incident

On 16 December 2016, the Canadian Coast Guard (CCG) was notified that the *Alaskan*, a forty-foot vessel, had sunk near Jenkins Island, British Columbia. The vessel stranded on a falling tide and was fully flooded on the rise of the subsequent tide. CCG assumed the role of On-scene Commander. An upwelling of pollution was observed on scene and CCG deployed containment and sorbent boom around the vessel.

CCGS Cape Coburn was tasked to respond and the crew carried out initial response activities on scene including booming the sunken vessel. CCG, with the knowledge that the vessel contained more than 100 gallons of diesel fuel plus an unknown quantity of lube oil, made the decision to remove the vessel and its contents from the marine environment. This decision was taken to mitigate the ongoing threat of pollution.

CCG engaged a contractor to mobilize the site and recover the vessel. On 17 December 2016, the vessel was righted, recovered, pumped out and towed to Stones Marina in Nanaimo. The vessel was removed from the water at Stones Marina using the travel lift. This allowed for a survey of the vessel by a marine expert.

The survey confirmed that the interior spaces of the vessel were lightly fouled with diesel fuel and oil. Both fuel tanks were full of diesel and water, each containing 250 gallons. The vessel's hull was unsound, and the vessel was unseaworthy. Furthermore, there was zero residual value in the vessel.

Based on the survey results, the decision was taken to have the vessel deconstructed. On 13 January 2017, the vessel was towed to facilities in Ladysmith where it was hauled out, placed on a containment pad and secured for inaccessible pollutant removal, deconstruction, and disposal.

The Claim

On 11 June 2018, the Administrator received a claim in the amount of \$37,723.18 from CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) in respect of the incident for clean-up and preventive measures, including deconstruction services provided by a third party, pursuant to the *Marine Liability Act*. The Administrator determined that the claim was admissible under Part 7 of the Act.

Assessment and Offer

During the assessment, the Office of the Administrator made requests to CCG for additional information and documentation, which was provided.

On 4 July 2018, after investigation and assessment of the claim, the Administrator made an offer for the established amount of \$37,723.18, plus interest, as full and final settlement to DFO/CCG. The offer was accepted on 10 July 2018 and, on 20 July 2018, a payment in the amount of \$39,440.38, which included interest, was made to DFO/CCG.

Recovery Action

In July 2018, the Administrator tasked a professional locator service to investigate the assets of the *Alaskan*'s registered owners. On 24 July 2018, in-house counsel for the Administrator sent a demand letter to the registered owners of the *Alaskan*, who advised that they had sold the vessel five years prior and provided an alleged bill of sale as evidence of this transfer. In September 2018, the Administrator tasked a professional locator service to investigate the assets of the *Alaskan*'s alleged purchaser. On 7 September 2018, a demand letter was sent to the alleged purchaser of the vessel, but the letter could not be delivered.

As no further reasonable recourse measures were available to the Administrator, and as CCG had dealt with an entirely different individual during its response who too, could not be located, the Administrator decided to close the file, on recommendation of in-house counsel.

Status

The file was closed on 9 May 2019.

Anapaya (2017)

Location: The Dog Patch, Ladysmith, British Columbia

File number: 120-797-C1

The Incident

On 21 October 2017, the Canadian Coast Guard (CCG) was advised that a vessel had sunk in an area known as the “Dog Patch”, near the Community Marina in Ladysmith, British Columbia. The report indicated that the sunken vessel was actively upwelling pollutants into the marine environment.

A contractor retained by the CCG attended at the scene of the sinking the same day and identified the sunken vessel as the *Anapaya*, a 90-foot wooden ex-fishing vessel. The contractor deployed a boom-fence to contain the oil pollution being released from the vessel.

The CCG attempted to contact the vessel’s apparent owner, without success.

A CCG crew attended at the scene on 22 October 2017 and determined that the *Anapaya* should be raised to halt the discharge of oil pollution. A contractor was retained for that purpose.

An underwater survey was conducted on 24 October 2017 in advance of raising the vessel. Significant hull damage was identified which would require patching prior to the lift. While preparations for the lift were carried out, pollution mitigation efforts were continued. On 2 November 2017, the *Anapaya* was raised and hooked to a salvage barge.

After it was raised, the *Anapaya* was inspected. It was determined to have no residual value and to pose a continuing risk of oil pollution due to its oil-soaked hull. A decision was made to deconstruct it. Because of its size, the vessel could not be landed at a local facility. The CCG determined that the vessel should be deconstructed on a barge floating in the water. Pollution containment efforts would need to be maintained through the deconstruction process as a result.

The deconstruction process was completed on 31 December 2017.

The Claim

On 10 September 2019, the Administrator received a submission from the CCG on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$311,073.37, seeking compensation for the response to the incident involving the *Anapaya*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, including requesting supplemental information from the CCG about the arrangements with the contractor who carried out the deconstruction. The investigation included efforts to locate the owner of the vessel, including internet searches, the issuance of a subpoena to a telecommunications company and the issuance of a subpoena to a social network company.

On 5 December 2019, the Administrator made an offer of compensation to the CCG in the amount of \$296,024.24, plus statutory interest. The CCG accepted the offer on 20 December 2019, and payment from the Fund in the amount of \$317,467.67, including statutory interest, was made on 24 December 2019.

Recovery Action

At the time the Administrator became subrogated, the address of the apparent owner of the *Anapaya* was unknown. Efforts to secure that information were made, including via a subpoena issued to a social networking company.

The office of the Administrator made contact with the apparent owner of the *Anapaya* on 7 July 2020. The apparent owner denied ownership of the vessel at the relevant time. He identified another individual as the owner. Efforts were commenced to locate that identified owner.

On 19 October 2020, The Administrator commenced a legal claim in the Federal Court against multiple persons who may be the owner of the *Anapaya*.

The Administrator exhausted all reasonable efforts to locate the purported owner of the *Anapaya*. Those efforts were not successful. As a result, the purported owner could not be served as required by the applicable court rules. The legal claim was discontinued.

Status

The file was closed on 9 September 2021.

Big Kahuna (2017)

Location: Port Hardy, British Columbia

File number: 120-799-C1

The Incident

On 29 November 2017, the Canadian Coast Guard (CCG) received a report that a 40-foot sailboat identified as the *Big Kahuna* was in distress while moored at a facility operated by the Port Hardy Harbour Authority, in Port Hardy, British Columbia.

That day, a CCG crew from the Port Hardy Lifeboat Station attended at the scene. The crew observed the vessel to be sitting low in the water. They pumped water from the vessel.

CCG Environmental Response officers made contact with the Port Hardy Harbour Authority and learned that the vessel had been sitting abandoned for an extended period of time. The CCG was unable to contact the owner.

The CCG towed the vessel and then had it removed from the water by contractors. The vessel was found to be in poor condition, and the CCG determined it should be deconstructed.

The Claim

On 30 September 2019, the Administrator received a submission from the CCG on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$9,016.06, seeking compensation for the costs and expenses incurred in response to the incident involving the vessel.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim. During the investigation, it was determined that the vessel identified as the *Big Kahuna* did not match the biographical details for the vessel registered with Transport Canada under that name. Specifically, the vessel type, hull materials and dimensions were all different. It was concluded that the vessel identified by the CCG as the *Big Kahuna* was in fact an unregistered vessel.

Subpoenas were issued to the Port Hardy Harbour Authority and to a telecommunications company to attempt to identify the vessel and its owner.

On 24 December 2019, the Administrator made an offer of compensation to the CCG in the amount of \$6,811.45, plus statutory interest. The CCG accepted the offer on 6 February 2020, and payment from the Fund in the amount of \$7,346.20, including interest, was made on 14 February 2020.

Recovery Action

Searches carried out by the Fund and *Inquiries Act* subpoenas issued by the Administrator identified the apparent owner of the *Big Kahuna*, but no current address was obtained. Further searches indicated that the owner was facing various criminal charges in Port Alberni.

On 24 November 2020, in-house counsel to the Administrator filed an action in the Federal Court against the owner of the *Big Kahuna*.

After exhausting investigatory avenues into the owner of the ship, the Administrator determined that there were no further reasonable steps towards recovery available. The legal action was discontinued.

Status

The file was closed on 9 September 2021.

Blue Pacific No. 1 (2016)

Location: Salt Spring Island, British Columbia

File number: 120-800-C1

The Incident

On 3 December 2016, the Canadian Coast Guard (CCG) received a report that the derelict vessel *Blue Pacific No. 1* was listing heavily while at anchor in Fulford Harbour, Salt Spring Island, British Columbia. The vessel was a 68-foot, Canadian-registered former commercial fisher with a wooden hull. Upon receiving the report, the CCG dispatched a lifeboat to the scene. It was observed that the deckhouse of the *Blue Pacific No. 1* had been completely destroyed by a fire that had apparently occurred some years prior. Damage from this fire also extended to the interior of the hull. The vessel's deck and interior were in disarray, strewn with detritus and several buckets and barrels of hydrocarbons. The engine room was exposed to rainwater.

At this time, the CCG pumped out the vessel and reported no pollution. The CCG contacted the registered owner of the vessel on at least two occasions in December of 2016 and instructed him to remove pollutants and set up pumps. He indicated that he lacked both the financial and physical capacity to act as directed.

On 25 December 2016, the CCG received a second report that the *Blue Pacific No. 1* was listing. A lifeboat was again dispatched to the scene and 5,000 litres of water were pumped from the vessel's bilge.

On 28 December 2016, the CCG pumped another 10,000 litres of water from the vessel and tasked two of its Environmental Response (ER) personnel to attend on scene. The ER personnel found that the engine room of the *Blue Pacific No. 1* had substantially flooded, with the space coated in oily sludge. Furthermore, the bilge was contaminated with fuel and oils. On sounding of the fuel tanks, it was estimated that the vessel contained 3,000 litres of fuel and oil in its tanks and machinery. Buckets and barrels on the vessel contained an additional 500 litres. At this stage, an unrecoverable sheen was observed by the ER personnel, who deployed sorbent boom around the vessel's port side, the apparent source of the discharge.

Given the increasing rate of water ingress from both sea and rainwater, the decrepit state of the *Blue Pacific No. 1*, and the inaction of the owner, the CCG determined the vessel posed a substantial pollution risk and resolved to remove it from the marine environment. On 29 December 2016, the vessel was towed by a contractor to Ladysmith.

The CCG arranged for an in-water survey of the *Blue Pacific No. 1* to be conducted on 31 December 2016.

The CCG decided to deconstruct the vessel based on pollution risk from the fuel and oil contained in its tanks, the oil-saturated timbers of the engine room, and the charred wood left by fire. The vessel was removed from the water and deconstruction was complete as of 13 March 2017.

The Claim

On 9 October 2018, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$132,339.06, seeking compensation for costs and expenses arising from the response to the incident involving the *Blue Pacific No. 1*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim. Additional documentation was requested from and provided by the CCG. The Administrator found that the CCG response had been generally reasonable given the demonstrated pollution threat posed by the *Blue Pacific No. 1*.

In light of evidence that the survey report procured by the CCG had not informed the ultimate decision to deconstruct the *Blue Pacific No. 1*, the amount claimed for this contracted service was rejected. Further reductions were made to the claims for contracted services to account for various discrepancies. In the absence of justifying evidence, the claim for the cost of 58 days of vessel storage was reduced. Finally, various reductions to CCG salary, travel, and vessel costs were made to account for evidentiary shortcomings and measures found to be duplicative.

The Administrator made an offer of compensation to the CCG in the amount of \$114,129.56, plus accrued interest, on 23 January 2019.

The CCG accepted the offer on 12 February 2019, and payment from the Fund in the amount of \$122,089.99, including interest of \$7,960.43, was made two days later.

Recovery Action

The Administrator contracted a private investigations service to run an asset search on the registered owner of the *Blue Pacific No. 1*. The results were received on 24 January 2019.

On 19 February 2019, in-house legal counsel to the Administrator sent demand letters to two addresses known to be associated with the owner. No response was received.

On 19 March 2019, in an attempt to reliably locate the owner of the *Blue Pacific No. 1*, the Administrator issued a subpoena under the *Inquiries Act* to a telecommunications company. A response to the subpoena was received on 25 March 2019.

The owner of the *Blue Pacific No. 1* responded to the demand letters sent in February of 2019 by telephone on 29 March 2019.

On 1 May 2019, the Administrator retained external legal counsel, who issued a further demand

to the owner of the *Blue Pacific No. 1*.

The Administrator instructed external counsel to file an action in the Federal Court against the owner, which was done on 5 June 2019.

The Defendant was personally served with the Administrator's Statement of Claim on 26 June 2019. Settlement discussions ensued, but these were inconclusive.

As the Defendant had neither filed nor served a Statement of Defence, affidavits were prepared in support of a motion for default judgment in March 2020.

The Administrator's default judgment motion was filed by external counsel on 25 September 2020.

On 30 September 2020, the Federal Court issued a judgment in the amount of \$127,841.12, plus interest, against the owner of the *Blue Pacific No. 1*.

The Administrator's in-house lawyers contacted the owner, who claimed to be impecunious. He supported his impecuniosity claim with financial documentation. Discussions then began, with the aim of determining what amount, if any, the owner might be able to pay in settlement of the Administrator's claim. Those discussions remain ongoing as of the end of the fiscal year.

Status

The file remained open at the end of the fiscal year.

Drifter (2016)

Location: Gold River, BC
Case number: 120-801-C1

The Incident

On September 28, 2016, the Canadian Coast Guard (CCG) was informed by the RCMP of a 35 to 40-foot wooden fishing vessel sinking in Gold River Harbour, BC. The vessel had been in the area for some time and was being monitored and pumped out by members of a local First Nation.

The band administrator explained to the CCG that the owner was out fishing and would be gone for weeks or months. Apparently, the vessel was in need of constant monitoring to keep it afloat. There were also concerns about the *Drifter*, which had not yet released any pollution, would eventually sink at the dock and pollute as a result.

On September 30, 2016, CCG left Victoria for the location of the incident in order to conduct an assessment. The assessment found that the vessel was actively taking on water and had likely flooded multiple times. The assessment also observed that the two internal tanks were full of diesel. The quantity of diesel would later be confirmed at 500 gallons.

Numerous attempts were made to contact the owner. A direction order was issued on September 29, 2016, but it went unanswered. CCG took the decision to remove the vessel from the water given the pollution risk and absence of the owner.

On October 14, 2016, CCG engaged a contractor to tow the *Drifter* to the local boat ramp, where it was met by another contractor. The latter removed the vessel from the water and placed it in a secured facility on shore.

With these actions, CCG concluded that the pollution threat was mitigated. However, with the owner unresponsive, CCG decided to have the vessel surveyed so as to gain a better understanding of its value and condition. On October 28, 2016, about two weeks after the vessel was removed from the water, a surveyor determined that it had zero residual value and would require extensive repairs in order to be made seaworthy again.

CCG engaged a contractor to move the vessel to a facility that had the capacity to deconstruct it. Weather delays meant that the move was delayed until January 17, 2017, over a month after the survey. Soon after the move, the vessel was deconstructed. During the time that the vessel was in storage, the owner contacted CCG, advising that he lacked the funds to make necessary repairs.

The Claim

On August 23, 2018, the Administrator received a claim in the amount of \$24,076.66 from CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) in respect of the incident pursuant to the *Marine Liability Act*.

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

Assessment and Offer

During the assessment of the claim, the Administrator's office made requests to CCG for additional information. CCG provided the required information.

The Administrator carried out investigation and assessment of the claim, finding that the bulk of contract services engaged by CCG were not established. Further, portions of the costs relating to salaries and vehicles were not accepted as reasonable either.

On November 2, 2018, the Administrator made an offer for the established amount of \$3,349.04, plus interest, as full and final settlement to CCG claim. The offer was accepted on January 4, 2019 and, on January 10, 2019, a payment in the amount of \$3,599.28 including interest was made to CCG.

Recovery Action

On January 31, 2019, counsel for the Administrator sent a demand letter to the shipowner at his last-known address but the letter bounced back. Further, attempts to locate the owner turned up no useful results.

Given the small dollar figure at stake and the absence of any leads, the Administrator was satisfied that all reasonable measures had been taken to recover against the polluter and ultimately decided, on recommendation of counsel, to close the file.

Status

The file was closed on March 14, 2019.

No Name (ferro-cement sailboat) (2016)

Location: Chatham Island, British Columbia

File number: 120-802-C1

The Incident

On the morning of December 8, 2016, the Canadian Coast Guard (CCG) Environmental Response (ER) was notified that a 41-foot sailboat of ferro-cement construction was aground near Discovery Island, British Columbia. The people on board the grounded vessel had been rescued during the night.

Due to poor weather, a response was delayed until later in the morning. When ER personnel arrived on scene, the vessel was found to be lying on its side, with signs of oil pollution in the area. The ER personnel deployed sorbent boom around the vessel and collected various debris from the area, including jerry cans and oil jugs, before departing the scene for the day.

The people on board the vessel had reported that it carried 50 to 100 gallons of diesel fuel, in addition to other miscellaneous pollutants, so the ER personnel began a response.

The CCG decided to remove the vessel from the marine environment. To this end, a contractor was engaged, but the salvage operation with barge and crane was delayed until January 3, 2017 due to poor weather conditions.

For some of this period, the vessel upwelled pollution and the booms were tended to by the CCG.

Once removed from the marine environment and placed on a barge, the vessel was brought to the contractor's facility, where it was deconstructed.

The Claim

On December 3, 2018, the Administrator received a claim in the amount of \$53,954.45 from the CCG in respect of the incident, on behalf of the Department of Fisheries and Oceans.

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

Assessment and Offer

During assessment and investigation of the claim, the Administrator made several requests to the CCG for further information, which was provided in part.

On March 28, 2019, in an attempt to obtain more information on the entire operation involving the unidentified sailboat, including its name and any leads on its owners, the Administrator sent a subpoena to the Joint Rescue Coordination Centre (JRCC) in Victoria, requesting situation reports and any other documents pertaining to the incident. A response was received on April 8, 2019.

The Administrator concluded that by the time the vessel was raised and removed from the marine environment after nearly a month of delays, it had ceased to pose an oil pollution threat. As such, all of the claimed contracted services were rejected.

The Administrator made an offer of compensation to the CCG in the amount of \$10,563.98, plus accrued interest of \$866.48, on April 25, 2019.

The CCG accepted the offer on May 3, 2019, and payment from the Fund in the amount of \$11,430.46, including interest, was made on May 10, 2019.

Recovery Action

The CCG was unable to provide any leads on the identity of the vessel or its owner. The documentation received from the JRCC in response to the Administrator's subpoena was also unhelpful, in that it contained only first names and the telephone number of a possible relation of one of the persons rescued from the vessel. The Administrator was thus unable to identify the vessel or anyone associated with it.

Status

The Administrator closed this file on August 1, 2019, having taken all reasonable measures to recover as required by the *Marine Liability Act*.

Hi Rose (2017)

Location: Ladysmith, British Columbia

File number: 120-803-C1

The Incident

On 20 August 2017, the Canadian Coast Guard (CCG) was notified that an approximately 35 or 45-foot former fishing vessel was taking on water and at risk of sinking at Ladysmith, British Columbia. According to the report, the vessel, later identified as the *Hi Rose*, was discharging pollutants.

The CCG mobilized two Environmental Response personnel from Victoria to assess the situation. On scene, the CCG personnel found an individual who identified himself as the owner of the *Hi Rose* attempting to push the vessel aground to keep it from sinking. The individual informed the CCG that he intended to repair the vessel, which was his home, and he indicated that significant quantities of pollutants were on board.

The owner's attempts to salvage the *Hi Rose* failed, and the CCG stepped in, engaging a contractor to remove the vessel from the water. This was done later the same day, with the CCG monitoring the operation.

The vessel was surveyed while on blocks on 23 August 2017, and the CCG decided to have it deconstructed. This work was completed on 26 September 2017.

The Claim

On 23 April 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$17,584.55, seeking compensation for costs and expenses arising from the response to the incident involving the *Hi Rose*.

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

Assessment and Offer

On assessment and investigation of the claim, the Administrator found generally that the CCG response was reasonable in light of the demonstrated pollution threat posed by the *Hi Rose*. Given that the survey report was dated 26 September 2017, the same date that the deconstruction work was concluded, the Administrator was unable to find that this report informed the CCG's decision to deconstruct the *Hi Rose*. Further, the CCG had not provided an explanation for the extended storage of the vessel on blocks prior to its deconstruction. As a result, the related claimed costs were the subject of reductions.

On 24 May 2019, the Administrator made an offer of compensation to the CCG in the amount of \$16,243.83, plus accrued interest of \$966.27.

The CCG accepted the offer on 19 June 2019, and payment from the Fund in the amount of \$17,210.10, including interest, was made on 26 June 2019.

Recovery Action

The CCG had obtained only a surname and no address or other contact information for the individual who had identified himself as the vessel's owner.

On 24 April 2019, in-house legal counsel to the Administrator obtained from Transport Canada the full historical registration transcript for the *Hi Rose*, which indicated that the vessel had ceased to be registered in Canada in 2002, when it was sold to an unnamed foreign citizen.

Further investigatory work conducted by the Administrator's in-house legal team turned up no useful leads to assist in identifying the owner of the *Hi Rose*.

Status

The Administrator closed this file on 24 October 2019, having taken all reasonable measures to recover as required by the *Marine Liability Act*.

Jasper (2017)

Location: Deep Bay, British Columbia

File number: 120-804-C1

The Incident

On 25 July 2017, the Canadian Coast Guard (CCG) was notified that an approximately 40-foot wooden vessel was sinking at Deep Bay, British Columbia. The volume of pollutants on board the vessel, which was later identified as the *Jasper*, was not known.

The CCG lifeboat station at French Creek dispatched personnel to the scene, who found the vessel listing heavily to one side. The CCG personnel pumped approximately four feet of water from the vessel's engine compartment to keep it afloat.

On 26 July 2017, three CCG Environmental Response (ER) personnel departed Victoria to assess the *Jasper*. On arrival, they observed that the vessel was in derelict condition and they pumped it of approximately eight inches of water. Its fuel tanks were found to be about a quarter full. The CCG resolved to remove the vessel from the water.

A contractor was engaged to tow the *Jasper* to Ladysmith, where it was removed from the water. This was done on 2 August 2017, and personnel from the French Creek lifeboat station monitored the situation in the interim, dewatering the vessel as needed to ensure that it would not sink.

An individual was identified as the potential owner of the *Jasper*, but he denied any involvement when the CCG questioned him.

A marine surveyor inspected the *Jasper* on 14 August 2017. Based on the results of the survey, the CCG decided to have the vessel deconstructed. This work was completed on 26 September 2017.

The Claim

On 23 April 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$36,490.94, seeking compensation for costs and expenses arising from the response to the incident involving the *Jasper*.

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

Assessment and Offer

On investigation and assessment, the Administrator found generally that the CCG response was reasonable in light of the demonstrated pollution threat posed by the *Jasper*. Given that the survey report was dated 24 September 2017, however, by which time the deconstruction of the vessel was largely completed, the Administrator was unable to find that this report informed the CCG's

decision to deconstruct the *Jasper*. Further, the CCG failed to provide rationale for costs associated with storing the vessel on blocks for 48 days prior to deconstruction. As a result, these claimed costs were the subject of reductions.

On 31 May 2019, the Administrator made an offer of compensation to the CCG in the amount of \$33,657.50, plus accrued interest of \$2,041.50.

The CCG accepted the offer on 19 June 2019, and payment from the Fund in the amount of \$35,699.00, including interest, was made on 26 June 2019.

Recovery Action

On 25 June 2019, in an attempt to reliably locate the individual identified by the CCG as the potential owner of the *Jasper*, who was also identified as a potential owner of the two other vessels that had been the subject of claims, the Administrator issued a subpoena under the *Inquiries Act* to a telecommunications company. A response to the subpoena was received on 26 July 2019.

In-house legal counsel to the Administrator sent a demand letter to the individual who was the subject of the subpoena on 26 July 2019. He replied by telephone on 29 July 2019, denying ownership.

On 6 August 2019, a demand letter was sent to the registered owner of the *Jasper*, a different individual. The letter was returned, undeliverable.

The Administrator contracted a private investigations service to run an asset search on the potential owner of the *Jasper*, the results of which were received on 3 September 2019. No significant assets were found.

Despite additional investigatory work conducted by the Administrator's in-house legal team, no compelling evidence of the ownership of the *Jasper* was obtained.

Status

The Administrator closed this file on 25 November 2019, having taken all reasonable measures to recover as required by the *Marine Liability Act*.

Related Files

120-830-C1 - *Persephone II*: same potential owner

120-816-C1 - *White Orca*: same potential owner

Lady M. II (2017)

Location: Ladysmith, British Columbia

File number: 120-805-C1

The Incident

On 13 March 2017, the Canadian Coast Guard (CCG) was notified that a 50-foot wooden live-aboard, later identified as the *Lady M. II*, had partially sunk off Dunsmuir Island, near Ladysmith, British Columbia. The vessel was reportedly upwelling pollutants.

The CCG, assisted by a local First Nation, made several unsuccessful attempts to locate and contact the owner of the *Lady M. II*. A contractor was engaged to conduct an initial assessment and deploy sorbent boom around the vessel.

On 14 March 2017, three CCG Environmental Response (ER) personnel were dispatched to the scene from Victoria. They observed a sheen around the *Lady M. II*, both inside and outside the boomed area. The CCG resolved to have the vessel raised and removed from the water, as it contained unknown quantities of pollutants and appeared to be abandoned. This was done under CCG supervision the same evening by the same contractor that had deployed boom.

On 30 March 2017, the CCG arranged for the vessel to be surveyed while in storage on blocks. Based on the results of the survey, the CCG instructed its contractor to deconstruct the *Lady M. II*, the interior of which was saturated with oils. Deconstruction began on 3 April 2017 and concluded two days later. The remaining sorbent materials and pollutants from the vessel were disposed of on 11 April 2017.

The Claim

On 7 February 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$32,388.76, seeking compensation for costs and expenses arising from the response to the incident involving the *Lady M. II*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, finding that the CCG response was generally reasonable in light of the oil pollution threat posed by the *Lady M. II*. Because no evidence was provided by the CCG to explain the approximately two-week delay before the vessel was surveyed, the costs associated with this period, during which the vessel was stored on blocks by the contractor, were rejected.

On 25 April 2019, the Administrator made an offer of compensation to the CCG in the amount of \$31,590.05, plus interest of \$2,301.78.

The CCG accepted the offer on 3 May 2019, and payment from the Fund in the amount of \$33,891.83, including interest, was made on 7 May 2019.

Recovery Action

On 12 February 2019, the Administrator obtained from Transport Canada the full historical registration transcript for the *Lady M. II*, which indicated that the vessel had ceased to be registered in 2011.

On 5 June 2019, in-house legal counsel to the Administrator sent a demand letter to the last registered owners of the *Lady M. II* at their last known address. No response was received.

The Administrator contracted a private investigations service to locate the two last registered owners of the *Lady M. II*. A report from the investigator was received on 24 September 2019.

Using the addresses obtained, demand letters were again sent to the last registered owners on 23 October 2019. Each responded, explaining that the vessel had been sold several years prior to the 2017 incident that was the subject of the CCG claim. Neither was able to provide documentation of the alleged sale.

With no evidence connecting the last registered owners of the *Lady M. II* to the vessel at the time of the incident, and no further leads, the file was flagged for closure once the statutory limitation period for recovery action had expired.

Status

The Administrator closed this file on 19 March 2020, having taken all reasonable measures to recover as required by the *Marine Liability Act*.

Melampus (2017)

Location: Goat Island, British Columbia

File number: 120-807-C1

The Incident

On 21 September 2017, the Canadian Coast Guard (CCG) was notified that an approximately 40-foot pleasure craft later identified as the *Melampus* was taking on water and at risk of sinking near Goat Island, in Ganges Bay, British Columbia.

The CCG lifeboat station at Ganges dispatched personnel to the scene, who dewatered the vessel before handing the response over to CCG Environmental Response (ER). When CCG ER personnel arrived on scene, they estimated that 300 litres of diesel fuel were on board the *Melampus* and observed additional oils in the vessel's bilge and engine room.

The CCG determined that the vessel was at risk of sinking if left unattended and resolved to have it removed from the water. A contractor was engaged to this end, and the *Melampus* was towed to Ganges, while it was stowed overnight before being towed to Sidney on 22 September 2017 to be removed from the water at a second contractor's facility.

The CCG arranged to have the vessel surveyed on 25 September 2017 while it lay on blocks in Sidney. Considering the vessel valueless and oil-saturated, and unable to identify an owner, the CCG had the *Melampus* deconstructed.

The Claim

On 15 August 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$15,106.38, seeking compensation for costs and expenses arising from the response to the incident involving the *Melampus*.

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

Assessment and Offer

On investigation and assessment, the Administrator found that the decision to remove the *Melampus* from the water was reasonable, as the vessel had posed a risk of polluting. With regard to the other contracted costs incurred by the CCG, including those associated with deconstruction, the Administrator was not able to make the same finding. The evidence presented by the CCG contained several key inconsistencies, and the survey report commissioned by the CCG was at odds with the narrative included with the CCG submission. In addition, the CCG use of a Pollution Response Vessel, Class III, and its associated cost, was found to be disproportionate.

On 24 December 2019, the Administrator made an offer of compensation to the CCG in the amount

of \$6,522.62, plus accrued interest of \$549.98.

The CCG accepted the offer on 6 February 2020, and payment from the Fund in the amount of \$7,072.60, including interest, was made on 14 February 2020.

Recovery Action

On 22 August 2019, in-house legal counsel to the Administrator obtained from Transport Canada the full historical registration transcript for the *Melampus*, which indicated that the vessel had ceased to be registered in 2016.

On 12 December 2019, in an attempt to trace the ownership of the *Melampus*, the Administrator issued a subpoena under the *Inquiries Act* to Transport Canada. Transport Canada responded to the subpoena on 17 December 2019, providing documentation in which the last registered owner of the vessel alleged to have sold it in 2008. A letter of inquiry was sent to the last registered owner of the vessel, but no response was received. Additional investigatory work was successful in tracing ownership of the *Melampus* to 2014.

Further investigatory work conducted by the Administrator's in-house legal team revealed that during the CCG response, an individual had come forward, representing himself as the owner of the *Melampus*. According to this account, the individual was permitted to remove his belongings from the vessel while it was tied up at Ganges overnight.

On 27 February 2020, in-house counsel to the Administrator sent an inquiry to the CCG regarding the individual who had apparently identified himself as the vessel's owner. The CCG responded on 5 March, largely verifying the account, but providing no useful leads.

Further investigatory work conducted by the office of the Administrator identified an individual who appeared to have been the owner of the *Melampus* until at least March of 2015. When contacted, this individual claimed to have sold the vessel in 2014 to another individual who had since passed away.

Despite additional investigatory work, no compelling evidence of the ownership of the *Melampus* was obtained.

Status

The Administrator closed this file on 10 September 2020, having taken all reasonable measures to recover as required by the *Marine Liability Act*.

Nika (2017)

Location: Campbell River, British Columbia

File number: 120-808-C1

The Incident

On 12 May 2017, the Canadian Coast Guard (CCG) was notified that the approximately 50-foot pleasure craft *Nika* was discharging oil at Fresh Water Marina, in Campbell River, British Columbia.

CCG personnel were dispatched from the Campbell River lifeboat station. They observed a substantial diesel sheen around the vessel, which was sitting low in the water. On boarding the vessel, they observed diesel throughout the bilge and engine compartments, noting that this was being pumped overboard. Fresh Water Marina pumped diesel from inside the vessel into waste drums. The CCG contacted the registered owner of the vessel, who agreed to have it removed from the water and to conduct repairs to the fuel lines.

On 16 May 2017, the CCG was informed that the vessel was again discharging diesel. CCG personnel arrived on scene and determined that the bilge pump was again the cause. Unsuccessful attempts were made to contact the owner, and the CCG directed Fresh Water Marina to remove the vessel from the water.

On 17 May 2017, two CCG Environmental Response (ER) personnel travelled from Victoria to Campbell River to assess the situation. They observed diesel saturation throughout the vessel's interior, and soft spots in the hull. Further, they noted that the fuel line had not been repaired. The CCG engaged a surveyor to inspect the vessel, which was done on 21 May 2017. The surveyor noted oil fouling throughout the interior of the *Nika*.

The CCG made several attempts to contact the owner, but received no response until 1 June 2017, when the owner sent an email claiming to have paid Fresh Water Marina for the haul-out. The owner further indicated that he planned to have the vessel remediated in Nanaimo.

Throughout the above period, and extending to 6 July 2017, the CCG issued three Directions under the *Canada Shipping Act, 2001* to the owner stating that the *Nika* remained a threat to the marine environment and ordering him to make necessary repairs. Having received no satisfactory plan from the owner, the CCG opted to have the *Nika* deconstructed by a contractor. This was done by Fresh Water Marina on or about 19 July 2017.

The Claim

On 26 March 2019, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$23,646.38, seeking compensation for costs and expenses arising from the response to the incident involving the *Nika*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, concluding generally that the CCG operation involving the *Nika* was reasonable given the pollution threat posed by the vessel. Given the owner's persistent lack of cooperation, reductions were applied to the costs associated with storing the vessel on blocks after 6 July 2017.

The Administrator made an offer of compensation to the CCG in the amount of \$22,720.29, plus accrued interest of \$2,074.41, on 1 May 2019.

The CCG accepted the offer on 14 May 2019, and payment from the Fund in the amount of \$24,794.70, including interest, was made on the same date.

Recovery Action

On 15 July 2019, the office of the Administrator sent a demand letter to the registered owner of the *Nika*, who replied by telephone on 31 July 2019, leaving a voice message. Further attempts to contact the owner were unsuccessful.

The Administrator contracted a private investigations service to run an asset search on the owner, the results of which were received on 21 August 2019.

On 8 May 2020, the office of the Administrator filed an action in the Federal Court against the owner of the *Nika*.

On 4 June 2020, counsel sent a demand letter enclosing a copy of the Administrator's Statement of Claim to the owner via registered mail. No response was received.

Counsel to the Administrator engaged a local process server, who effected personal service of the Administrator's Statement of Claim on the owner of the *Nika*, on 6 August 2020.

With no Statement of Defence filed or served on the Administrator, counsel filed written representations to the Federal Court on 5 March 2021, seeking default judgment against the owner of the *Nika*.

On 9 March 2021, the Federal Court issued a default judgment in favour of the Administrator in the amount of \$25,674.45. This amount included statutory interest accrued to the date of the judgment. The Administrator was also awarded post-judgment interest.

Measures to recover the amount of the judgment from the owner of the *Nika* were ongoing as of 31 March 2022.

Status

The file remained open at the end of the fiscal year.

Salerosa (2017)

Location: Oak Bay, British Columbia

File number: 120-809-C1

The Incident

On 6 February 2017, the Canadian Coast Guard (CCG) was notified that the *Salerosa*, a 45-foot sailboat of ferro-cement construction, was sinking at its moorings at Oak Bay, British Columbia. The CCG contacted the owner who indicated that he lacked the capacity to respond adequately.

The CCG engaged a contractor to assess the situation. The contractor reported that the vessel had sunk completely and was upwelling oil pollution. Booms were deployed.

On 7 February 2017, two CCG Environmental Response (ER) personnel attended on scene. They observed a sheen around the sunken vessel and replaced the soiled sorbent boom. The CCG resolved to remove the vessel from the marine environment, engaging a contractor to this end.

Weather and equipment constraints delayed the raising of the vessel to 11 February 2017, and the CCG monitored the situation in the intervening days. Once raised, the *Salerosa* was placed on a barge and towed to a facility at Bamberton. Two ER personnel monitored this operation.

The CCG arranged to have the *Salerosa* surveyed on 20 February 2017, while it lay on a barge at Bamberton. The CCG ultimately had the vessel deconstructed, citing oil saturation.

The Claim

On 1 February 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$62,673.20, seeking compensation for costs and expenses arising from the response to the incident involving the *Salerosa*.

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

Assessment and Offer

The Administrator conducted an investigation and assessment of the claim. On 19 February 2019, a request for further information and documentation was made to the CCG. No response was received.

On the claim documentation submitted by the CCG, the Administrator was not satisfied that the *Salerosa* remained an oil pollution threat by the time the delayed raising operation was conducted. As a result, many of the costs associated with contracted services were rejected.

The Administrator made an offer of compensation to the CCG in the amount of \$8,254.51, plus accrued interest of \$619.95, on 11 April 2019.

The CCG accepted the offer on 24 April 2019, and payment from the Fund in the amount of \$8,874.46, including interest, was made three days later.

Recovery Action

In-house legal counsel to the Administrator sent a demand letter to the registered owner of the *Salerosa* at the address provided by the CCG on 21 May 2019. No response was received.

Additional investigatory work conducted by the Administrator's in-house legal team yielded no useful leads on the owner's address or contact information.

On 28 January 2020, the Administrator issued a subpoena under the *Inquiries Act* to a local utilities provider in an attempt to reliably locate the owner of the *Salerosa*. A response to the subpoena was received on 11 February 2020.

On 5 February 2020, in-house counsel to the Administrator filed an action in the Federal Court against the owner of the *Salerosa*. On 29 June 2020, the Administrator's claim was served on the Defendant.

On 2 February 2021, the Court issued a Notice of Status Review. In-house counsel to the Administrator responded with written representations on 17 February 2021, proposing a timetable for proceeding with the action.

On 17 March 2021, the Federal Court responded with an order giving the Defendant until 20 April 2021 to file a defence. No defence was entered.

On 7 May 2021, the Federal Court granted the Administrator a judgment in default for the full amount of the claim.

The Administrator later determined that the defendant died after being served with the legal action. Efforts to locate a representative of his estate have not yet been successful.

Status

The file remained open at the end of the fiscal year.

SC 170 (2017)

Location: Port McNeil, British Columbia

File number: 120-811-C1

The Incident

On 22 August 2017, the Canadian Coast Guard (CCG) was notified that a wooden 35 or 40-foot fishing vessel was discharging pollution at Port McNeil, British Columbia. Personnel from the CCG's Port Hardy lifeboat station were tasked to conduct an assessment of the vessel, which was later identified as the *SC 170*.

The *SC 170* was found to be low in the water and surrounded by an oil sheen. CCG personnel dewatered the vessel and returned to base, unable to find the source of the water ingress.

The local harbour authority identified the owner of the vessel to the CCG, who contacted him. The owner informed the CCG that the vessel's fuel tanks were approximately 40% full and indicated that he would remove the vessel from the water to conduct necessary repairs. In the meantime, the harbour authority monitored the vessel.

On 5 September 2017, the harbour authority reported to the CCG that the vessel remained in the water, with its bilge pumps constantly pumping out seawater. The owner had not attended to his vessel.

On 6 September 2017, two CCG Environmental Response (ER) personnel drove to Port McNeil from Victoria to assess the situation. They observed that the *SC 170* was in poor condition and relying on shore power to remain afloat. The vessel's bilge and engine compartment were coated in oils. The owner was again contacted, and again indicated that he would take measures to have the vessel removed.

On 17 October 2017, the Harbour Authority informed the CCG that the vessel remained in the water with its bilge pumps operating under heavy strain. The CCG decided to have the vessel removed from the water, which was done by a contractor on 19 October 2017. The owner was updated.

The vessel was stored on blocks with a notice posted on it requiring action from the owner. A marine surveyor was engaged to inspect the vessel on 16 November 2017. Based on the findings of the surveyor, and the mounting storage costs, the CCG decided to have the *SC 170* deconstructed by the same contractor that had removed it from the water. This was done in early 2018.

The Claim

On 4 June 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$11,606.93, seeking

compensation for costs and expenses arising from the response to the incident involving the *SC 170*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, finding generally that the CCG response was reasonable in light of the pollution threat posed by the *SC 170*. Several costs associated with the lengthy storage of the vessel and duplicate charges from the contractor were the subject of reductions. In addition, the survey of the vessel was found to be duplicative, and therefore not compensable.

The Administrator made an offer of compensation to the CCG in the amount of \$8,528.54, plus accrued interest of \$451.38, on 11 July 2019.

The CCG accepted the offer on 15 August 2019, and payment from the Fund in the amount of \$8,979.92, including interest, was made on 20 August 2019.

Recovery Action

On 8 October 2019, the Administrator issued a subpoena under the *Inquiries Act* to a telecommunications company in an attempt to locate the owner of the *SC 170*. A response to the subpoena was received on 29 October 2019.

In-house counsel to the Administrator sent a demand letter to the owner of the *SC 170* on 30 October 2019. An individual representing the owner responded on 7 November 2019. Discussions with this individual continued for several months, but were ultimately inconclusive.

On 7 August 2020, the office of the Administrator filed an action in the Federal Court against the owner of the *SC 170*. The Defendant was personally served with the Administrator's Statement of Claim on 19 January 2021.

On 26 February 2021, the Court issued a Notice of Status Review. Counsel responded with written representations on 5 March 2021, proposing a timetable for proceeding with the action.

On 30 June 2021, the Administrator obtained default judgment in the full amount of the claim. On 3 August 2021, the Administrator received a payment from the owner in the full amount of the judgment, plus interest.

Status

The file was closed on 26 August 2021.

Shimoiget (2017)

Location: Cowichan Bay Marina, BC

File number: 120-812-C1

The Incident

On 22 October 2017, the Canadian Coast Guard (CCG) received a report that a 70-foot ex-fishing vessel moored at Cowichan Bay was taking on water and in danger of sinking. The vessel was identified as the *Shimoiget*. The CCG sent a crew to inspect the vessel the same day.

Upon inspection, the *Shimoiget* was found to be in poor condition. The vessel taking on approximately 6 inches of water per day. The vessel was not connected to shore power and was relying on an unsatisfactory system of onboard bilge pumps. Containers of what appeared to be oily waste were observed on the deck of the vessel.

On 31 October 2017, the CCG retained a contractor to remove oil pollutants from the *Shimoiget*. Approximately 1,500 litres of oily waste were removed.

On 17 November 2017, a contractor retained by the CCG removed the *Shimoiget* from the water and placed on dry land. Subsequently, the CCG determined that the vessel should be deconstructed.

The Claim

On 24 September 2019, the Administrator received a submission from the CCG on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$43,078.26, seeking compensation for the costs and expenses incurred in response to the incident involving the *Shimoiget*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim and made a request to CCG for further information about the decisions made by the CCG and the work carried out by one of the contractors retained. The CCG advised that it had had a difficult time securing information from the contractor, despite following up with them more than ten times. Ultimately, the requested information could not be provided by the CCG.

On 30 January 2020, the Administrator made an offer of compensation to the CCG in the amount of \$5,730.96, plus statutory interest. The CCG accepted the offer on 20 February 2020, and payment from the Fund in the amount of \$6,187.67, including interest, was made on 28 February 2020.

Recovery Action

The *Shimoiget* was deregistered from Transport Canada's register several years before the subject incident. It was subsequently registered in the United Kingdom.

The Administrator investigated two potential owners for the vessel and located them in Europe. Communications were established with one potential owner in early 2020.

Several rounds of communications with the owners failed to result in a settlement. The cost of serving the prospective defendants with legal proceedings in their current location was investigated and determined to be high relative to the value of the claim.

Status

The Administrator closed this file on 28 January 2021 on the basis no further measures towards recovery were reasonable in the circumstances.

Pacific Fibre Barge No. 1 (2018)

Location: Port Mellon, British Columbia

File number: 120-813-C1

The Incident

On 31 January 2018, the Canadian Coast Guard (CCG) received a report of a strong odour of diesel emanating from a water lot adjacent to a log sort at Port Mellon, British Columbia. A floating structure at the water lot appeared to have recently sunk.

Using Google Maps, the CCG was able to identify the structure as part of a wood chip conveyor system connected to an apparently disused wood handling facility.

The CCG had some uncertainty as to whether the structure qualified as a “ship” pursuant to the *Marine Liability Act*. Notwithstanding those concerns, the CCG mobilized a response on the basis that an aggressive approach to environmental response is preferred, with jurisdictional issues being resolved at a later time.

A boom was deployed at the scene of the incident by a contractor before a CCG crew arrived at the incident scene.

During the response, the CCG involved various other parties and stakeholders, including a diving contractor, a remote operated vehicle contractor, the BC Ministry of the Environment, and Environment and Climate Change Canada.

The diving contractor initially expressed concern about carrying out work at the incident scene because of the danger posed by the overhead conveyor system which was attached to the sunken barge.

The CCG then attempted to have a remote operated vehicle contractor conduct an underwater survey of the vessel. This contractor had difficulty and ultimately was not able to complete a proper survey because of the presence of large numbers of underwater entanglement hazards, principally logs.

On 8 February 2018, the CCG crew returned to the scene to change out the boom.

Between 8 February and 18 May 2018, the CCG along with the BC Ministry of Environment were able to get in contact with the owner of the water lot. During that conversation, the CCG was able to get information that the structure they were dealing with was not a vessel, but rather a floating platform or dock. Based on this, the BC Ministry of the Environment took over from the CCG as lead agency responding to the incident. Notwithstanding the change in control to the response, the CCG arranged for the disposal of waste by retaining a waste disposal contractor.

On 18 May 2018, the BC Ministry of the Environment returned to the scene with a diving contractor. A revised assessment of the situation meant it was considered safe for divers to enter

the water. Divers identified that the only remaining fuel/oil on the structure was a tank attached to a log grappler. That tank, and hoses associated with it, were discharging hydraulic oil into the natural environment.

On 24 May 2018, the CCG returned to the scene and removed 15 to 20 liters of diesel fuel and approximately 100 litres of hydraulic oil from the structure. On 14 June 2018, the CCG again returned to the scene to retrieve the boom it had left in place to contain the oil being discharged by the structure.

The Claim

On 2 December 2019, the Administrator received a submission from the CCG on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$121,187.55, seeking compensation for the response to the incident involving the *Pacific Fibre Barge No. 1*.

The Administrator has yet to determine whether the CCG's claim is admissible under Part 7 of the *Marine Liability Act*.

Assessment

The Administrator sent a draft decision to the claimant on 11 November 2020. The draft decision suggested that the submission was not admissible as a claim, on the basis that the *Pacific Fibre Barge No. 1* had been converted into a structure prior to the date of the incident. The Administrator cannot pay compensation where it is determined that the incident was not caused by a ship.

On 15 December 2020, the claimant provided comments on the draft offer. The comments provided pointed out that at the time the claimant incurred costs and expenses, it was not recognized that the *Pacific Fibre Barge No. 1* was a ship and that it was appropriate to incur costs until that determination was made.

On 8 March 2021, the claim was disallowed on the basis that the *Pacific Fibre Barge No. 1* was not a ship at the time of the incident and costs and expenses arising from the response were therefore inadmissible.

Status

The file was closed on 20 May 2021.

Unknown Name (blue trawler) (2017)

Location: Campbell River, British Columbia

File number: 120-814-C1

The Incident

On 25 November 2017, the Canadian Coast Guard (CCG) was advised that a 45-foot ex-fishing vessel was sinking or had sunk in the Campbell River Estuary. Personnel from the Campbell River Lifeboat Station attended at the scene and found that an unidentified vessel was substantially sunken. The vessel was repositioned to prevent it from sinking further and an oil containment boom was deployed.

On 26 November 2017, the CCG mobilized an Environmental Response crew out of Victoria to attend at the scene of the sinking. When it arrived, the crew replaced sorbent materials and repositioned the containment boom. The CCG crew was then redeployed to respond to another incident and the Campbell River Lifeboat Station reassumed responsibility for the incident.

On 27 November 2017, a contractor retained by the CCG lifted the vessel and removed it from the water. The vessel was subsequently deconstructed.

The Claim

On 30 September 2019, the Administrator received a submission from the CCG on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$26,640.92, seeking compensation for the response to the incident involving the vessel.

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

Assessment and Offer

The Fund sent a number of inquiries to the CCG to better understand the incident and what was, and was not, being claimed for in the CCG submission.

The Administrator carried out an investigation and assessment of the claim, concluding generally that the CCG operation was reasonable given the demonstrated oil pollution threat posed by the vessel. Reductions were made with respect to vessel survey costs and some personnel expenditures, including overtime.

The Administrator made an offer of compensation to the CCG in the amount of \$23,505.95, plus accrued interest, on 27 April 2020.

The CCG accepted the offer on 16 June 2020, and payment from the Fund in the amount of \$26,640.92, including interest, was made shortly thereafter.

Recovery Action

On 29 October 2019, the Administrator issued a subpoena under the *Inquiries Act* to a telecommunications company in order to obtain a current address for the individual identified by the CCG as the owner of the subject vessel. A response was received shortly thereafter.

The office of the Administrator obtained possible email addresses for the owner of the vessel, and demand letters were sent to those addresses, as well as the physical address obtained via subpoena, on 26 August 2020. The physical letter was returned undeliverable, but the owner responded via email on 27 August 2020, indicating that he had changed physical addresses.

The office of the Administrator began discussions with the owner that were inconclusive, with the last communication from the owner received in November 2020.

On 23 November 2020, in-house counsel to the Administrator filed an action in the Federal Court against the owner of the vessel.

Three additional subpoenas were issued, with inconclusive results. Thereafter, several attempts at service were made unsuccessfully, with the Defendant having evidently changed physical addresses yet again.

Ultimately, counsel to the Administrator filed a motion in the Federal Court seeking an order for substitutional service on the Defendant, which would be effected by emailing the Statement of Claim to the Defendant, as well as posting a copy to a post office box known to be used by him. The Federal Court issued the requested order on 19 April 2021 and the Defendant was duly served.

As the Defendant did not serve and file a statement of defence within the required time period, counsel to the Administrator filed a motion for default judgment. The Federal Court issued a judgment in the amount of \$26,348.27, plus post-judgment interest, on 17 June 2021.

As of the end of the fiscal year, the Administrator was taking steps to enforce or otherwise recover on her judgment.

Status

The file remained open at the close of the fiscal year.

Tymac No. 20 (2017)

Location: Tsehum Harbour, Sidney, British Columbia

File number: 120-815-C1

The Incident

On 12 September 2017, the Canadian Coast Guard (CCG) was notified that a wooden 40 or 45-foot wooden tug had sunk and was upwelling pollution at Tsehum Harbour, near Sidney, British Columbia. The Harbour deployed boom around the sunken vessel, which was later identified as the *Tymac No. 20*.

Initially, a single CCG Environmental Response (ER) Specialist was sent to the scene to conduct an assessment. The ER Specialist observed a large sheen extending throughout the Harbour. The CCG contacted the registered owner of the vessel, who explained that he lacked the resources to respond and that the vessel was uninsured. The CCG determined that it was necessary to raise the *Tymac No. 20*. A contractor was engaged.

On 13 September 2017, four CCG ER personnel arrived on scene to reassess the situation and monitor the raising operation, which was conducted using divers and air bags. By the evening, the *Tymac No. 20* had been removed from the water and placed on blocks awaiting inspection by a marine surveyor contracted by the CCG.

The survey of the *Tymac No. 20* was conducted on 18 September 2017. Based on the findings of the surveyor, the CCG ultimately resolved to have the oily vessel deconstructed by a third contractor, in a local yard.

The Claim

On 9 July 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$36,177.31, seeking compensation for costs and expenses arising from the response to the incident involving the *Tymac No. 20*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, finding generally that the CCG response was reasonable in light of the pollution threat posed by the *Tymac No. 20*. Due to a lack of clarity and detail on the scope, costing, and specific tasking associated with the vessel's deconstruction and storage, however, these items were the subject of reductions.

The Administrator made an offer of compensation to the CCG in the amount of \$26,786.87, plus accrued interest of \$1,899.04, on 29 August 2019.

The CCG accepted the offer on 11 September 2019, and payment from the Fund in the amount of \$28,685.91, including interest, was made on 16 September 2019.

Recovery Action

In-house counsel to the Administrator sent a demand letter to the registered owner of the *Tymac No. 20* on 16 October 2019. No response was received.

Further investigatory work by the Administrator's in-house legal team identified a different potential owner of the *Tymac No. 20*. On 1 November 2019, the Administrator issued a subpoena under the *Inquiries Act* to a telecommunications company in an attempt to obtain current contact information for this second individual. A response to the subpoena was received on 4 November 2019.

On 2 March 2020, in-house counsel to the Administrator contacted the CCG, seeking further details on the ownership status of the *Tymac No. 20*. A partial response was received on 16 March 2020. Further details and documentation followed on 27 April 2020.

On 8 May 2020, the Administrator issued a subpoena under the *Inquiries Act* to BC Hydro in an attempt to locate the registered owner of the *Tymac No. 20*. A response was received on 19 May 2020. It showed that the registered owner's most recent BC Hydro account was closed in 2011. Further investigatory work by the Administrator's in-house legal team was also unsuccessful in locating the registered owner.

On 16 July 2020, counsel sent a letter of inquiry to the other potential owner of the *Tymac No. 20*. Following discussions with this individual, it became apparent that the registered owner no longer resided in Canada. His exact location was uncertain, but he was thought to be in Europe. Initial attempts to contact the registered owner of the *Tymac No. 20* via email were unsuccessful.

On 9 September 2020, in-house counsel to the Administrator filed an action in the Federal Court against the registered owner of the *Tymac No. 20*.

On 11 November 2020, counsel established email contact with the Defendant, who was provided with a copy of the Administrator's Statement of Claim.

As no physical address for the Defendant could be obtained, counsel to the Administrator filed a motion seeking an order for substitutional service of the Statement of Claim. The requested order was granted on 30 April 2021, and the Defendant was duly served via email.

As the Defendant did not serve and file a statement of defence within the required time period, counsel to the Administrator filed a motion for default judgment. The Federal Court issued a judgment in the amount of \$30,384.14, plus post-judgment interest, on 20 July 2021.

As of 31 March 2022, the Administrator was considering steps to enforce or otherwise recover on her judgment.

Status

The file remained open at the end of the fiscal year.

White Orca (2017)

Location: Ladysmith, British Columbia

File number: 120-816-C1

The Incident

On 15 November 2017, the Canadian Coast Guard (CCG) received a report that a 50-foot pleasure craft had sunk in the Dog Patch, near Ladysmith, British Columbia. According to the report, the sunken vessel was actively upwelling oil pollution into the marine environment.

An Environmental Response crew from the CCG was dispatched to the scene of the sinking. At the time the CCG crew arrived, a local marine services contractor was deploying an oil boom to contain the pollution from the sunken vessel.

The CCG identified the sunken vessel as the *White Orca*. The CCG contacted the person believed to be the owner of the vessel. That person denied ownership. The CCG proceeded to take steps with respect to the vessel on the basis that no owner could be located.

The CCG determined that the vessel should be raised and removed from the marine environment. A marine contractor was retained to carry out that project. While preparations to raise the vessel were underway, on 16 and 17 November 2018, both the CCG and the contractor deployed pollution containment measures to contain the pollution rising from the *White Orca*.

On 18 November 2018 the *White Orca* was raised and removed from the marine environment. The CCG determined that the vessel was in poor condition. They retained the contractor to deconstruct the *White Orca*. The deconstruction effort commenced on or about 15 December 2017 and was completed on 10 January 2018.

The Claim

On 24 September 2019, the Administrator received a submission from the CCG on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$63,404.86, seeking compensation for the costs and expenses incurred in response to the incident involving the *White Orca*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim and made a request to CCG for further information, which information was provided. The supplemental information suggested a new potential owner for the vessel.

On 20 December 2019, the Administrator made an offer of compensation to the CCG in the amount of \$49,005.97, plus statutory interest. The CCG accepted the offer on 6 February 2020, and payment from the Fund in the amount of \$52,824.08, including interest, was made on 14 February 2020.

Recovery Action

In February of 2020, research carried out by the office of the Administrator identified new information concerning the registered owner of the vessel. A letter requesting information from the registered owner was delivered. No response was received.

On 16 November 2020, in-house counsel for the Administrator issued a Statement of Claim in the Federal Court against the corporate owner of the *White Orca*. The claim was served on a director of the corporate defendant, who advised he would defend.

On 3 September 2021, the Administrator obtained a judgment in default for the full amount of the claim.

The Administrator has retained local counsel to pursue enforcement proceedings against the owner.

Status

The file remained open at the close of the fiscal year.

Malecite (2017)

Location: Kits Point, English Bay, British Columbia

File number: 120-819-C1

The Incident

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

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

On 4 August 2017, a contractor and the CCG removed accessible pollutants from the vessel and deployed boom to prevent pollution damage in the event of a spill. All accessible oil was pumped out and bilges and waste tanks were emptied. When the operation was completed, the CCG still considered the vessel a pollution threat.

On 8 August 2017, the CCG 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 daily. The NASP flights regularly observed sheening around the *Malecite*.

The vessel was moved from Kits Point to Shelter Island Marina on 25 August 2017. The owner and other individuals on board were removed from the vessel prior to the tow. On 30 August 2017, the vessel was surveyed and the CCG decided to deconstruct it.

On 15 September 2017, after further discussion with the owner regarding his plans, the CCG issued a Direction ordering him to remove the vessel and its contents from the shipyard by 29 September 2017. A final notice was delivered to the owner on that date, ordering him to remove the vessel and its contents before midnight, at which time it would be turned over to the shipyard for demolition.

On 30 September 2017, CCG turned the vessel over to the shipyard for deconstruction, which was completed on 12 January 2018.

The Claim

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

Recovery Action

On 21 August 2018, a professional locator service was hired to complete a locate and asset search on the *Malecite*'s owner. The report was received on 29 August 2018.

In October 2018, the Administrator retained external legal counsel in order to conduct a search for a potential sistership. Based on the information gathered, counsel advised the Administrator that any further recovery efforts would be unreasonable. Accordingly, the Administrator decided to close the file.

Status

The Administrator closed this file on 1 August 2019.

West Island 395 (2018)

Location: Haida Gwaii, British Columbia

File number: 120-822-C1

The Incident

On 8 September 2018, the *West Island 395*, a sportfishing accommodation barge, broke free of its moorings at Alliford Bay and drifted, ultimately grounding on Lina Island. At the time, the barge was estimated to contain 18,000 litres of gasoline and 15,000 litres of diesel fuel. The grounding caused damage to the barge's hull, and it was reported that one of the internal gasoline tanks was leaking. The barge was evacuated due to flammability concerns.

On 9 September 2018, the Canadian Coast Guard (CCG) established an emergency vessel exclusion zone around the *West Island 395*. Nearby CCG vessels were deployed or placed on standby.

CCG and British Columbia Ministry of Environment and Climate Change Strategy (BCMOE) personnel arrived on scene on 10 September 2018, helping to set up an Incident Command Post and forming a Unified Command alongside the owner of the *West Island 395*, its contractors, the Haida Nation, Environment and Climate Change Canada, and Transport Canada.

On 11 September 2018, a light sheen was first spotted near the barge. In response, boom was deployed.

In the days that followed, the owner's contractors ventilated the barge's hull, minimizing the risk of fire or explosion. Fire retardant foam was also deployed as a precaution. Another contractor began environmental sampling around the site of the grounding, assisted by BCMOE and other personnel.

On 16 September 2018, a lightering barge arrived on scene to begin offloading gasoline, diesel, and contaminated water from the *West Island 395*. This operation was completed on 24 September 2018, following which the Unified Command began to demobilize.

The owner's salvors refloated the *West Island 395* on 9 October 2018, and the barge was towed to Vancouver.

The Claim

On 14 January 2019, the shipowner, Haida Tourism Limited Partnership, presented a submission with the Administrator for costs and expenses incurred in the amount of \$1,857,314.06. The shipowner suggests that the incident was caused by sabotage perpetrated by a third party.

On 18 October 2019, the Administrator advised that he was prepared to consider the submission as a prospective claim under section 101 of the *Marine Liability Act*. The Administrator retained a naval architect to examine the technical evidence in this file. No settlement resulted.

After settlement talks ended, counsel for the owner filed what purported to be an appeal of the Administrator's decision not to settle the claim. After some discussion between counsels, the Administrator came to understand that Haico intended that its submission should be considered as one made under subsection 103(1) of the MLA. The Administrator confirmed that he would consider the submission as a filing into subsection 103(1) and render a decision, and the owner agreed to abandon its appeal.

On 16 March 2021, counsel for Haico provided submissions to address whether an owner can make a claim under subsection 103(1).

Four months later, Haico initiated an application for judicial review in July of 2021, seeking to compel the release of a decision on its subsection 103(1).

Before any steps were taken in the judicial review, the Administrator issued a decision on Haico's claim on 4 August 2021, dismissing it on the basis that Haico, as the owner of the only vessel involved in the incident, was incapable of suffering damages described in subsection 103(1).

Haico has initiated an appeal before the Federal Court of Canada. The hearing of the appeal is to take place in July of 2022.

Status

The file remained open at the close of the fiscal year.

Related Files

West Island 395, Case number: 120-822-C1-1 (same incident)

West Island 395, Case number: 120-822-C1-2 (same incident)

West Island 395 (2018)

Location: Haida Gwaii, British Columbia
File number: 120-822-C1-1

The Incident

On 8 September 2018, the *West Island 395*, a sportfishing accommodation barge, broke free of its moorings at Alliford Bay and drifted, ultimately grounding on Lina Island. At the time, the barge was estimated to contain 18,000 litres of gasoline and 15,000 litres of diesel fuel. The grounding caused damage to the barge's hull, and it was reported that one of the internal gasoline tanks was leaking. The barge was evacuated due to flammability concerns.

On 9 September 2018, the Canadian Coast Guard (CCG) established an emergency vessel exclusion zone around the *West Island 395*. Nearby CCG vessels were deployed or placed on standby.

CCG and British Columbia Ministry of Environment and Climate Change Strategy (BCMOE) personnel arrived on scene on 10 September 2018, helping to set up an Incident Command Post and forming a Unified Command alongside the owner of the *West Island 395*, its contractors, the Haida Nation, Environment and Climate Change Canada, and Transport Canada.

On 11 September 2018, a light sheen was first spotted near the barge. In response, boom was deployed.

In the days that followed, the owner's contractors ventilated the barge's hull, minimizing the risk of fire or explosion. Fire retardant foam was also deployed as a precaution. Another contractor began environmental sampling around the site of the grounding, assisted by BCMOE and other personnel.

On 16 September 2018, a lightering barge arrived on scene to begin offloading gasoline, diesel, and contaminated water from the *West Island 395*. This operation was completed on 24 September 2018, following which the Unified Command began to demobilize.

The owner's salvors refloated the *West Island 395* on 9 October 2018, and the barge was towed to Vancouver.

Measures Taken by the Administrator

In September 2018 the Administrator reached out to the CCG and the BCMOE for estimates of their response expenditures. The CCG provided two partial estimates, both in September 2018.

The Administrator engaged external counsel to enter security discussions with counsel for the owner of the barge, who advised that the owner was also considering submitting a claim for its own response expenses to the Administrator.

On 4 July 2019, counsel to the owners of the *West Island 395* provided the Administrator with a Letter of Undertaking in the amount of \$800,000.00 as security with respect to claims arising from the September 2018 grounding incident.

The Claim

On 29 July 2020, the Administrator received a submission from the BCMOE. The submission included a claim totalling \$114,463.99, seeking compensation for costs and expenses arising from the response to the incident involving the *West Island 395*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, concluding generally that the BCMOE operation involving the *West Island 395* was reasonable given the pollution threat posed by the vessel. Some questions were posed with respect to whether there was duplication of effort as between testing carried out by the BCMOE and the owner. The BCMOE explanations of its effort were accepted as sufficient to establish that part of its claim.

Some elements of the BCMOE claim, including personnel time, overtime, and travel costs, were disallowed in part as a result of inadequate documentation. A claim for administrative costs at a rate of 25% was mostly rejected. Though that rate was based on a provincial statute and regulations, the BCMOE supplied no evidence that it had incurred significant overhead costs that were not specifically captured elsewhere in its claim. Finally, a claim for unsubstantiated GST costs was also rejected.

The Administrator made an offer of compensation to the BCMOE in the amount of \$72,996.90, plus accrued interest, on 31 March 2021. The offer was accepted and paid shortly thereafter.

Recovery Action

In September of 2021, the Administrator commenced a subrogated claim against the owner of the polluting ship. As of 31 March 2022, that claim is on hold pending a judicial hearing in a related appeal.

Status

The file remained open at the end of the fiscal year.

Related Files

West Island 395, Case number: 120-822-C1 (same incident)
West Island 395, Case number: 120-822-C1-2 (same incident)

West Island 395 (2018)

Location: Haida Gwaii, British Columbia

File number: 120-822-C1-2

The Incident

On 8 September 2018, the *West Island 395*, a sportfishing accommodation barge, broke free of its moorings at Alliford Bay and drifted, ultimately grounding on Lina Island. At the time, the barge was estimated to contain 18,000 litres of gasoline and 15,000 litres of diesel fuel. The grounding caused damage to the barge's hull, and it was reported that one of the internal gasoline tanks was leaking. The barge was evacuated due to flammability concerns.

On 9 September 2018, the Canadian Coast Guard (CCG) established an emergency vessel exclusion zone around the *West Island 395*. Nearby CCG vessels were deployed or placed on standby.

CCG and British Columbia Ministry of Environment and Climate Change Strategy (BCMOE) personnel arrived on scene on 10 September 2018, helping to set up an Incident Command Post and forming a Unified Command alongside the owner of the *West Island 395*, its contractors, the Haida Nation, Environment and Climate Change Canada, and Transport Canada.

On 11 September 2018, a light sheen was first spotted near the barge. In response, boom was deployed.

In the days that followed, the owner's contractors ventilated the barge's hull, minimizing the risk of fire or explosion. Fire retardant foam was also deployed as a precaution. Another contractor began environmental sampling around the site of the grounding, assisted by BCMOE and other personnel.

On 16 September 2018, a lightering barge arrived on scene to begin offloading gasoline, diesel, and contaminated water from the *West Island 395*. This operation was completed on 24 September 2018, following which the Unified Command began to demobilize.

The owner's salvors refloated the *West Island 395* on 9 October 2018, and the barge was towed to Vancouver.

Measures Taken by the Administrator

In September 2018 the Administrator reached out to the CCG and the BCMOE for estimates of their response expenditures. The CCG provided two partial estimates, both in September 2018.

The Administrator engaged external counsel to enter security discussions with counsel for the owner of the barge, who advised that the owner was also considering submitting a claim for its own response expenses to the Administrator.

On 4 July 2019, counsel to the owners of the *West Island 395* provided the Administrator with a Letter of Undertaking in the amount of \$800,000.00 as security with respect to claims arising from the September 2018 grounding incident.

The Claim

On 1 September 2020, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$64,697.02, seeking compensation for costs and expenses arising from the response to the incident involving the *West Island 395*.

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

Assessment and Offer

On preliminary review of the claim, the Administrator found that the CCG had submitted neither a narrative nor copies of its personnel logs. The latter was particularly problematic, as the entirety of the claim was for personnel-related costs. On 9 September 2020, the Fund requested further documentation from the CCG.

On 18 September 2020, the CCG informed the Administrator that a narrative was being prepared.

On 28 September 2020, the CCG provided the Administrator with Incident Action Plan documentation, covering most of its response. A narrative was submitted on 12 November 2020, but no personnel logs were provided.

The Administrator conducted an investigation and assessment of the claim, concluding that insufficient evidence had been provided with respect to the specific tasking of CCG personnel. As a result, considerable reductions were made.

The Administrator made an offer of compensation to the CCG in the amount of \$36,521.88, plus accrued interest, on 25 February 2021. This offer was accepted and paid shortly thereafter.

Recovery Action

In September of 2021, the Administrator commenced a subrogated claim against the owner of the polluting ship. As of 31 March 2022, that claim is on hold pending a judicial hearing in a related appeal.

Status

The file remained open at the end of the fiscal year.

Related Files

West Island 395, Case number: 120-822-C1 (same incident)

West Island 395, Case number: 120-822-C1-1 (same incident)

Persephone II (2017)

Location: Deep Bay, British Columbia

File number: 120-830-C1

The Incident

On 5 January 2017, the Deep Bay Harbour Authority notified the Canadian Coast Guard (CCG) that a dilapidated wooden former fishing vessel later identified as the *Persephone II* had slipped its moorings and grounded over the night.

The CCG dispatched two Environmental Response (ER) personnel from Victoria to the scene the following day. The vessel was listing and oil was observed in its bilge. The CCG personnel were unable to open the vessel's fuel tanks to determine their contents.

Given the likelihood that the vessel would break up, the sensitivity of the local environment, and the unknown quantity of pollutants aboard, the CCG decided to remove the vessel from the water. The CCG personnel secured the *Persephone II* to the shore, stabilized it to the extent possible, deployed sorbent boom, and departed for Victoria.

A contractor was engaged to remove the *Persephone II* from the water, but there were mobilization delays. In the interim, CCG personnel from a nearby lifeboat station were on scene to monitor the vessel.

Under CCG supervision on 9 January 2017, the contractor towed the *Persephone II* to Union Bay, removed it from the water, and proceeded to deconstruct the vessel.

The Claim

On 3 December 2018, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$11,345.17, seeking compensation for costs and expenses arising from the response to the incident involving the *Persephone II*.

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

Assessment and Offer

On investigation and assessment, the Administrator found that the entire claimed amount was established.

On 7 February 2019, the Administrator made an offer of compensation to CCG in the amount of \$11,345.17, plus interest.

The CCG accepted the offer on 12 February 2019 and payment in the amount of \$12,137.86, including accrued interest of \$792.69, was made on 14 February 2019.

Recovery Action

In-house legal counsel to the Administrator sent a demand letter to the registered owner of the *Persephone II* on 29 April 2019. The registered owner responded on 4 May 2019, alleging that he had sold the vessel to another individual in 2015, and providing an address for that individual. On 16 May 2019, the registered owner provided personal banking records in support of the alleged sale.

The Deep Bay Harbour Master was contacted, and he confirmed the registered owner's account.

Demand letters sent to the alleged purchaser of the *Persephone II* went unanswered.

Further investigation connected yet another individual to the *Persephone II*, an individual also linked to two other vessels that had been the subject of claims in the Administrator's portfolio.

In-house counsel to the Administrator sent a demand letter to this individual on 26 July 2019, who replied by telephone on 29 July 2019, denying ownership.

The Administrator contracted a private investigations service to run an asset search on this potential owner, the results of which were received on 3 September 2019. No significant assets were found.

Despite additional investigatory work conducted by the Administrator's in-house legal team, no compelling evidence of ownership was uncovered.

Status

The Administrator closed this file on 25 November 2019, having taken all reasonable measures to recover as required by the *Marine Liability Act*.

Related Files

120-804-C1 – *Jasper*: same potential owner

120-816-C1 - *White Orca*: same potential owner

Darrell Bay Incident (2018)

Location: Squamish, British Columbia

File number: 120-833-C1

The Incident

On 12 December 2018, the Canadian Coast Guard (CCG) was notified that a flotilla of vessels had gone adrift during a storm and now posed a risk of oil pollution in Darrell Bay, near Squamish, British Columbia. A CCG environmental response crew was dispatched to assess the situation.

The CCG determined that the vessels involved in the Darrell Bay Incident included:

- The ex-fishing vessel *Zena*,
- The motor vessel *Sea Angel II*,
- The ex-fishing vessel *La Rata Bastarda*,
- An unnamed sailing Vessel (identified in some documents as the *Tantis*),
- An unnamed 18-foot pleasure craft, and
- The ex-tug *J.S. Polhemus*.

The vessels were in different circumstances. *La Rata Bastarda* was inadequately moored to questionable pilings; the unnamed sailing vessel, although secured to a dock, had sunk; the pleasure craft was partially sunken and pinned under a ferry ramp; and the *J.S. Polhemus* had sunk and was discharging pollutants. The CCG was concerned about the *Sea Angel II* and the *La Rata Bastarda*, but no particular peril respecting them was identified.

Efforts were made to place a containment boom around the *J.S. Polhemus* to contain the oil pollution upwelling from the sunken vessel. Those efforts were not effective owing to the underwater geography. A dive team hired by the CCG inspected the *J.S. Polhemus* where it had sunk in approximately 100 feet of water. However, before any decision could be made on raising the vessel, currents caused the *J.S. Polhemus* to slip off of an underwater shelf and further sink to a depth of 300 feet. The CCG ultimately determined that in light of the limited amounts of oil aboard, it was not practical to take further steps to deal with the continuing discharge from that vessel.

Separately, the CCG took steps to have a number of the other vessels involved in the incident removed and disposed of. A containment boom was placed around the *Zena* as it was believed to be leaking oil. The *Zena*, the *Tantis* and the pleasure craft were deconstructed at the site of the Incident. The *Sea Angel II* and the *La Rata Bastarda* were removed from the scene by contractors and later deconstructed.

The CCG response was made more difficult by the fact that a number of other incidents were caused by the same storm. In addition, the apparent owner of the vessels at Darrell Bay was not cooperative.

The Claim

On 17 December 2020, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$202,213.22, seeking compensation for costs and expenses arising from the response to the incident involving the Darrell Bay Incident.

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

Assessment and Offer

On 10 May 2021, an offer letter was issued. Significant portions of the claim were found to arise from measures taken with respect to vessels which were never documented as constituting an oil pollution threat. The portions of the claim deemed eligible amounted to \$43,721.14, and the offer was made in that amount plus statutory interest.

The offer was accepted and paid with interest shortly thereafter.

Recovery Action

The CCG documentation identified the owner of all of the vessels involved in the incident as one individual, who is known to the Fund from other files.

The Administrator commenced an action against the owner in the Federal Court on 20 December 2021. As of the end of the fiscal year, efforts to serve the Defendant remained ongoing.

Status

The file remained open at the end of the fiscal year.

Related File

Unknown Name (Deck Barge), Case number: 120-885-C1 (same owner)

Atrevida No. 1 (2018)

Location: Maple Bay, British Columbia

File number: 120-835-C1

The Incident

On 20 December 2018, the Canadian Coast Guard (CCG) was notified that a 60-foot ex-ferry known as the *Atrevida No. 1* had grounded near Arbutus Point, in Maple Bay, British Columbia.

The CCG dispatched an environmental response crew who found the vessel washed against a rocky shore and listing severely. CCG personnel noted that there was a sheen on the water, but the weather conditions were too severe to immediately take steps in response.

The next day, contractors retained by the CCG began efforts to refloat the *Atrevida No. 1*. These efforts were successful. After the vessel was refloated, the owner contacted the CCG and said he would assume responsibility. The owner failed to produce a plan to deconstruct the vessel. The CCG retained contractors who deconstructed the vessel on-site.

The Claim

On 23 December 2020, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$223,719.10, seeking compensation for costs and expenses arising from the response to the incident involving the *Atrevida No. 1*.

On 10 March 2021 the Administrator notified the CCG that the claim was inadmissible under Part 7 of the *Marine Liability Act* because the applicable limitation period had expired prior to receipt of the claim. The Administrator determined that the subject incident involved oil pollution damage and that the claim had been made more than two years after the occurrence of the oil pollution damage.

On 29 November 2021, the office of the Administrator reached out to the CCG to inform it that it may still be able to obtain compensation with respect to its response operation from the Fund, if it were to file legal proceedings against the owner of the *Atrevida No. 1*. No response was received.

Status

The file was closed on 20 May 2021.

Sundowner (2017)

Location: Bella Coola, British Columbia

File number: 120-842-C1

The Incident

On 23 July 2017, the Canadian Coast Guard (CCG) was notified by the Bella Coola Harbour Authority that an approximately 35-foot wooden pleasure craft called the *Sundowner* had sunk alongside a dock. The CCG advised the Harbour Authority to deploy sorbent boom around the sunken vessel to prevent any discharged pollutants from escaping.

Later the same day, two CCG Environmental Response (ER) personnel flew to Bella Coola in a CCG helicopter to assess the situation and provide support to the Harbour Authority. On arrival, the ER personnel assessed the situation and began making arrangements for a contractor to remove the sunken vessel from the water, as it continued to discharge oils.

On 24 July 2017, ER personnel worked with the Harbour Authority to change out sorbent materials and stabilize the *Sundowner*, deploying pumps and righting the vessel. The CCG contacted the registered owner of the vessel, who was unable to take action.

On the morning of 25 July 2017, the *Sundowner* was successfully raised at low tide, with the assistance of pumps and lines. Later in the day, the ER personnel arranged for a contractor to remove the vessel with the assistance of an excavator that had been placed on standby the first day of the response. This was done successfully the same evening, and the ER personnel removed oils and sorbent materials from the vessel before handing it over to the Harbour Authority.

On 26 July 2017, the ER personnel and the Harbour Authority conducted a final cleanup of sorbent materials, which were bagged for disposal. The ER personnel departed Bella Coola the following day by CCG helicopter.

The Claim

On 4 June 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$27,846.02, seeking compensation for costs and expenses arising from the response to the incident involving the *Sundowner*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, in the course of which requests for further information were sent to the CCG. The CCG complied with these requests.

The Administrator found that the CCG response was reasonable in light of the pollution threat posed by the *Sundowner*. With the exception of a small reduction to the claimed amount for administration costs, the entirety of the CCG's claim was accepted.

The Administrator made an offer of compensation to the CCG in the amount of \$27,761.32, plus accrued interest of \$2,017.22, on 25 July 2019.

The CCG accepted the offer on 6 August 2019, and payment from the Fund in the amount of \$29,778.54, including interest, was made two days later.

Recovery Action

On 8 August 2019, in-house counsel to the Administrator sent a demand letter to the registered owner of the *Sundowner*, who responded by telephone on 19 August 2019.

The Administrator contracted a private investigations service to run an asset search on the registered owner, the results of which were received on 28 August 2019.

On 6 September 2019, after discussions with the Administrator's in-house counsel, the registered owner agreed to settle the Administrator's claim against him for \$29,778.54, the full amount the Administrator had paid to the CCG, inclusive of interest.

On 11 September 2019, the Administrator received a bank draft in the amount of \$30,000.00 from the registered owner of the *Sundowner*. As this represented an overpayment of \$221.46, this amount was returned to the owner.

Status

Having recovered in full, the Administrator closed the *Sundowner* file on 7 November 2019.

Widow Maker (2017)

Location: Ganges Harbour, British Columbia

File number: 120-847-C1

The Incident

On 8 October 2017, the Canadian Coast Guard (CCG) was notified that an approximately 30-foot former fishing vessel was sinking in Ganges Harbour, British Columbia. According to the report, the vessel had been in the area for some time and was in derelict condition. Nothing was known of the owner or the quantity of pollutants on board.

The local CCG lifeboat station dispatched personnel to the scene, who found the vessel sunken to its gunnels and discharging pollutants. The lifeboat personnel deployed sorbent boom around the sunken vessel and recommended to CCG Environmental Response (ER) that the vessel be raised.

CCG ER agreed with this assessment and arranged for a contractor to raise the vessel, which was done that afternoon. The vessel was towed to Ganges, where it could be tied up, monitored, and regularly dewatered. On 10 October 2017, the vessel was towed to Sidney, where it was removed from the water by a second contractor. Various pollutants were removed from the vessel before it was deconstructed and disposed of.

Throughout the response, the CCG was unable to identify the vessel's owner, although several persons were considered to be loosely associated with it.

The Claim

On 12 September 2019, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$8,959.25, seeking compensation for costs and expenses arising from the response to the incident involving the *Widow Maker*.

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

Assessment and Offer

On investigation and assessment, the Administrator found that the costs associated with the raising and removal of the vessel were reasonable, as well as the costs for the removal of oil pollutants. The Administrator was unable, however, to accept the costs claimed for the vessel's deconstruction due to a lack of evidence in support of the decision to take that measure.

On 28 November 2019, the Administrator made an offer of compensation to the CCG in the amount of \$5,761.16, plus accrued interest of \$450.87.

The CCG accepted the offer on 21 December 2019, and payment from the Fund in the amount of \$6,212.03, including interest, was made three days later.

Recovery Action

The Administrator determined that the subject vessel of the CCG's claim was not the "Widow Maker" registered under the Transport Canada official number 369592.

Calls to two Ganges Harbour contacts confirmed that neither the identity nor the ownership of the vessel had ever been certain, and that various persons had lived on board over the years.

Status

The Administrator closed this file on 16 January 2020, having taken all reasonable measures to recover as required by the *Marine Liability Act*.

Unknown Name (black Gaff Cutter) (2018)

Location: Comox, British Columbia

File number: 120-853-C1

The Incident

On 17 January 2018, the Canadian Coast Guard (CCG) was advised that a vessel had drifted from its moorings and run aground on the Comox breakwater. The vessel was a sailboat equipped with a stern-mounted outboard motor. The vessel had no known name but was described as a black gaff cutter.

Several containers which might contain oil were observed on the deck of the vessel. A smell of diesel was reported in the vicinity of the stranded vessel. The CCG contacted a local contractor and sought to have the contractor remove the oil tanks from the deck of the vessel. However, the poor weather conditions made it unsafe to access the stranded vessel.

On 23 January 2018, the CCG reached the owner of the vessel and instructed him to provide a plan to recover the vessel and prevent oil pollution. The owner responded promptly. The CCG determined that the owner's proposed plan was unsatisfactory.

On 24 January 2018, the contractor was still unable to remove the portable oil tanks and outboard engine from the vessel. There were reports of a slight sheen in the vicinity of the vessel.

On 25 January 2018, water was removed from the vessel, and it was floated to Comox Marina where it was placed on a trailer and removed from the water.

Between 5 February 2018 and 6 March 2018, the CCG determined that the vessel posed an ongoing pollution risk and that it should be deconstructed.

The Claim

On 17 December 2019, the Administrator received a submission from the CCG on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$30,993.43, seeking compensation for the response to the incident involving the vessel.

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

Assessment and Offer

The Administrator sent inquiries to the CCG about its response. A response was sent in March 2020, but nothing was received until June 2020, owing to an email issue.

The Administrator carried out an investigation and assessment of the claim, ultimately concluding that the evidence failed to show that the vessel remained an oil pollution threat after being awash

for more than a week in poor conditions. As such, the majority of claimed contractor costs were rejected.

The Administrator made an offer of compensation to the CCG in the amount of \$3,164.17, plus accrued interest, on 31 July 2020.

The CCG accepted the offer on 25 September 2020, and payment from the Fund in the amount of \$3,491.62, including interest, was made shortly thereafter.

Recovery Action

On 17 November 2020, the office of the Administrator sent a demand letter to the owner of the subject vessel to an email address provided by the CCG. No response was received.

On 15 January, in-house counsel to the Administrator filed an action in the Federal Court against the owner of the vessel.

On 26 January 2021, the Administrator issued a subpoena under the *Inquiries Act* to the Insurance Corporation of British Columbia in an attempt to locate the Defendant. A response was received on 3 February 2021, indicating that the most recent address for the individual in question was a post office on Quadra Island.

On 25 February 2021, counsel sent a demand letter and a copy of the Administrator's Statement of Claim to the Defendant via registered mail.

The Defendant sent an email reply on 13 March 2021, and a settlement agreement involving a payment schedule was reached on 16 March 2021. Though the Defendant had very limited means, he agreed to pay installments to the Administrator totalling \$2,000.00 over a three-month period.

All scheduled payments were received in a timely fashion and the Administrator discontinued her Federal Court action on 13 July 2021.

Status

Having successfully recovered from the owner of the subject vessel, the Administrator closed the file on 29 July 2021.

Unknown Name (sport fisher) (2018)

Location: Cowichan Bay, British Columbia

File number: 120-854-C1

The Incident

On 19 January 2018, the Canadian Coast Guard (CCG) received a report of a vessel drifting in Cowichan Bay. The CCG retained a local contractor to locate and secure the vessel. By the time that contractor located the vessel, it had sunk substantially. The contractor observed and photographed a sheen emanating from the sunken vessel.

The contractor towed the sunken vessel to shallow water, secured the vessel to the shore, and deployed a boom to contain the oil.

On 20 January 2018, a CCG crew attended at the scene of the sunken vessel. The crew deployed a new containment boom and additional sorbent materials. On 21 January 2018, the crew attended again and noted the continued presence of an oily sheen on the water.

On 22 January 2018, a contractor retained by the CCG removed the vessel from the water under CCG supervision.

The vessel was a 34-foot white sport fisher, of fiberglass sheathed plywood construction. The vessel has no known name and no registration information for the vessel has been located. No information about an owner of the vessel is available.

After the vessel was removed from the water, the CCG concluded that it was in poor condition and, with no owner available, decided to have it deconstructed.

On 2 February 2018, the vessel was deconstructed.

The Claim

On 27 December 2019, the Administrator received a submission from the CCG on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$29,705.45, seeking compensation for the response to the incident involving the vessel.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim. Based on the documentation submitted by the CCG, the Administrator concluded generally that the CCG's response to the grounding of the vessel was reasonable given the pollution threat it posed.

Most of the costs and expenses claimed by the CCG were accepted. However, the Administrator concluded that a marine survey claimed by the CCG was not carried out as a measure taken in response to oil pollution. As well, the Administrator determined that the day rate claimed for the use of a CCG vessel had not been established as reasonable, and so a lesser rate was substituted.

The Administrator made an offer of compensation to the CCG in the amount of \$19,482.51, plus accrued interest of \$1,890.01, on 16 June 2020. The CCG accepted the offer on 14 July 2020, and payment was made the same day.

Recovery Action

Neither the ownership of the vessel nor its name could be determined.

The Administrator's legal team made cold calls to businesses operating in the area where the vessel was found. This effort resulted in information about more businesses in the area which could be contacted for information, but never resulted in any information about the vessel itself.

Status

The Administrator closed this file on 10 September 2020 on the basis no further measures towards recovery were reasonable in the circumstances.

Tinker II (2018)

Location: Campbell River, British Columbia

File number: 120-855-C1

The Incident

On 20 January 2018, the Canadian Coast Guard (CCG) Campbell River Lifeboat Station was notified that a 36-foot Bayliner, identified as the *Tinker II*, was adrift in Discovery Passage, near the Campbell River ferry dock. By the time the CCG arrived, the vessel was stranded ashore.

The vessel remained stranded ashore through several tide cycles. During this time it sustained impacts from logs and rocks. The CCG determined the vessel should be removed from the marine environment as it posed an oil pollution risk. The CCG contacted the vessel's owner and determined that he was unable to mount a proper response. The CCG hired a local contractor to lift the vessel.

On 22 January 2018, the vessel was lifted further up the beach to dry land. The vessel was deemed to have no residual value. The fuel tanks and engine were removed from the vessel at the scene, and the rest of the vessel was trailered to a marine contractor's facility to complete deconstruction.

On 25 January 2018, deconstruction was completed.

The Claim

On 7 January 2020, the Administrator received a submission from the CCG on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$8,979.14, seeking compensation for the response to the incident involving the *Tinker II*.

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

Assessment and Offer

The Administrator sent inquiries to the CCG about its response, and in particular the quantities of oil on board the vessel and about whether the correct documentation had been included in the submission. The CCG responded to the Administrator's requests, declining to provide situation reports.

The Administrator carried out an investigation and assessment of the claim, concluding that the evidence presented by the CCG did not establish that the *Tinker II* remained an oil pollution threat following its removal from the water. As such, considerable reductions were made to claim contract services costs.

The Administrator made an offer of compensation to the CCG in the amount of \$3,892.56, plus accrued interest, on 8 April 2020.

The CCG accepted the offer on 29 April 2020, and payment from the Fund in the amount of \$4,224.01, including interest, was made on 5 May 2020.

Recovery Action

During the assessment and investigation process, the Administrator obtained a name and telephone number for the apparent owner of the *Tinker II* from the CCG. Online investigation turned up two possible physical addresses for this individual, to which demand letters were sent on 16 July 2020. No response was received.

In-house counsel to the Administrator filed an action in the Federal Court against the owner of the *Tinker II* on 20 January 2021.

All reasonable avenues to locate the apparent owner of the *Tinker II* were exhausted, without success. The action before the Federal Court was discontinued and the matter was closed on 9 September 2021.

Status

The file was closed on 9 September 2021.

Zodiac Light (2018)

Location: Kitamaat Village, British Columbia

File number: 120-857-C1

The Incident

On 14 February 2018, the Haisla Nation Council (HNC) found that a vessel had sunk at the harbour it operates at Kitamaat Village, British Columbia. The sunken vessel was identified as the *Zodiac Light*, a 58-foot wooden-hulled fishing vessel. The vessel apparently sank as a result of excessive snow loading.

The Canadian Coast Guard (CCG) was contacted and sent a crew to respond. In the interim, HNC personnel deployed a boom to contain the oil pollution upwelling from the sunken vessel and took steps to secure the vessel.

When the CCG crew arrived, they worked together with HNC personnel to contain the oil pollution and prepare the vessel for removal from the water. The CCG contacted the vessel owner, who advised that he was unable to remove the vessel itself or to fund its removal.

A contractor retained by the CCG removed the *Zodiac Light* from the water on 17 February 2018. The vessel was removed from the Kitamaat Village harbour via barge, and was eventually deconstructed.

After the *Zodiac Light* was removed from the water, HNC personnel cleaned the docks to remove oil contamination.

The *Zodiac Light* was deconstructed in Prince Rupert over a protracted period of time. The CCG and its contractor experienced difficulty in securing the necessary disposal permits.

The Claim

On 15 January 2020, the Administrator received a submission from the CCG on behalf of the Minister of Fisheries and Oceans. The submission included a claim for \$176,462.73, seeking compensation for the response to the incident involving the *Zodiac Light*.

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

Assessment and Offer

The Administrator found that the CCG claim was generally admissible. Most of the CCG claim was accepted without deduction. However, the evidence did not show that the *Zodiac Light* was itself an oily waste so as to justify vessel deconstruction as a measure against oil pollution. The costs and expenses associated with deconstruction were deemed inadmissible.

The Administrator made an offer of compensation to the CCG in the amount of \$133,879.10, plus accrued interest, on 1 June 2020.

The CCG accepted the offer on 6 July 2020, and payment from the Fund in the amount of \$147,436.68, including interest, was made on 7 July 2020.

Recovery Action

The office of the Administrator conducted an asset search on the owner and investigated his whereabouts. After locating an address, a demand letter was sent. Counsel responded on behalf of the owner and settlement discussions ensued.

In order to protect the Administrator's right to claim, in-house counsel initiated an action before the Federal Court of Canada on 10 February 2021. The defendant has filed a defence. Settlement discussions remain ongoing.

Status

The file remained open at the close of the fiscal year.

Related File

120-857-C2 – *Zodiac Light* (same incident, different claimant)

Zodiac Light (2018) ♦

Location: Kitamaat Village, British Columbia

File number: 120-857-C2

The Incident

On 14 February 2018, the Haisla Nation Council (HNC) found that a vessel had sunk at the harbour it operates at Kitamaat Village, British Columbia. The sunken vessel was identified as the *Zodiac Light*, a 58-foot wooden hulled fishing vessel. The vessel apparently sank as a result of excessive snow loading.

The Canadian Coast Guard (CCG) was contacted and sent a crew to respond. In the interim, HNC personnel deployed a boom to contain the oil pollution upwelling from the sunken vessel and took steps to secure the vessel.

When the CCG crew arrived, they worked together with HNC personnel to contain the oil pollution and prepare the vessel for removal from the water. The CCG contacted the vessel owner, who advised that he was unable to remove the vessel itself or to fund its removal.

A contractor retained by the CCG removed the *Zodiac Light* from the water on 17 February 2018. The vessel was removed from the Kitamaat Village harbour via barge, and was eventually deconstructed at Prince Rupert, British Columbia.

After the *Zodiac Light* was removed from the water, HNC personnel cleaned the docks to remove oil contamination.

The Claim

On 15 January 2020, the Administrator received a submission from the CCG on behalf of the Minister of Fisheries and Oceans. The submission provided evidence relating to the incident involving the *Zodiac Light*, including the involvement of HNC personnel in responding to the incident.

The Administrator's office reached out to the Haisla Harbour Authority to inquire as to whether the HNC would be submitting a claim for the incident. On 12 February 2020, the Administrator received a submission from the Haisla Harbour Authority on behalf of the HNC. The submission provided additional evidence about the incident involving the *Zodiac Light*, and advanced claims for costs and expenses arising from the incident which totalled \$14,028.00.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim. The office of the Administrator verbally sought, and received, additional information from the HNC about the nature of the vessel and what led to its sinking.

On 26 March 2020, the Administrator made an offer of compensation to the HNC in the amount of \$14,028.00, plus statutory interest. The HNC accepted the offer on 27 March 2020, and payment from the Fund in the amount of \$15,195.61, including statutory interest, was made on 19 May 2020.

Recovery Action

The office of the Administrator conducted an asset search on the owner and investigated his whereabouts. After locating an address, a demand letter was sent. Counsel responded on behalf of the owner and settlement discussions ensued.

In order to protect the Administrator's right to claim, in-house counsel initiated an action before the Federal Court of Canada on 10 February 2021. The defendant has filed a defence. Settlement discussions remain ongoing.

Status

The file remained open at the close of the fiscal year.

Related File

120-857-C1 – *Zodiac Light* (same incident, different claimant)

Severn Mist (2018)

Location: Alert Bay, British Columbia

File number: 120-858-C1

The Incident

On 10 February 2018, three Canadian Coast Guard (CCG) Environmental Response (ER) personnel departed Victoria, British Columbia for Alert Bay as part of a bulk oil pollution removal operation. The operation was prompted by two years of oil pollution reports involving several vessels in the area.

On the morning of 11 February 2018, the ER personnel assessed vessels around two local marinas. Several vessels were observed sitting low in the water.

The *Severn Mist*, an approximately 35-foot fishing vessel, was deemed particularly problematic. ER personnel noted that it had taken on five feet of water, which they proceeded to pump overboard. Unknown quantities of diesel and other oils were observed on board. CCG personnel removed all oils in containers from the vessel. Despite local inquiries, an owner could not be identified.

On 12 February 2018, the ER personnel returned to the *Severn Mist*, finding it severely listing and at risk of sinking. The vessel was dewatered again, and the decision was made to remove it from the water. The ER personnel used a Pollution Response Vessel to tow the *Severn Mist* to a local marina. A contractor was engaged to remove the vessel from the water, which was done on 14 February 2018. In the interim, ER personnel monitored and dewatered the vessel as needed.

The vessel was surveyed, and further attempts were made, without success, to identify an owner. Ultimately, the CCG arranged for its contractor to deconstruct the *Severn Mist*.

Throughout the February 2018 operation in Alert Bay, ER personnel dealt with several vessels in addition to the *Severn Mist*, most of which were not identified in the CCG's claim documentation. One vessel, the *Silver Luck*, was also deconstructed as a result of the operation.

The Claim

On 5 February 2020, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$28,226.69, seeking compensation for costs and expenses arising from the response to the incident involving the *Severn Mist* and for the broader response operation at Alert Bay in February 2018.

Based on the documentation received from the CCG, it was not possible for the Administrator to determine whether the claim was admissible under Part 7 of the *Marine Liability Act*.

On 21 February, in-house counsel to the Administrator sent a request for further information and documentation to the CCG. A response was received on 19 March 2020. As the information

provided was insufficient, a follow-up request was sent on 27 March 2020. The CCG responded to this second request on 9 April 2020.

The information provided by the CCG ultimately allowed the Administrator to determine that the claim was admissible under Part 7 of the *Marine Liability Act*.

Assessment and Offer

On assessment, the Administrator found that the decision to remove the *Severn Mist* from the water was reasonable, as the vessel was likely to sink and it contained unknown quantities of oil. Accordingly, the costs directly associated with the removal operation were accepted. Due in part to a lack of evidence in support of the rationale behind the measures taken following the removal of the vessel, however, the costs associated with those measures were not accepted.

In addition, it was found that the CCG's broader operation at Alert Bay had been directed at vessels other than the *Severn Mist* and planned entirely before the CCG was aware of that vessel and its situation. Because the costs of the broader operation would have been incurred whether or not the CCG had taken measures with respect to the *Severn Mist*, and because the CCG declined to provide details on its broader operation, the claimed personnel and equipment costs were largely rejected.

On 26 May 2020, the Administrator made an offer of compensation to the CCG in the amount of \$703.28, plus accrued interest.

The CCG accepted the offer on 16 June 2020, and payment from the Fund in the amount of \$768.48, including interest of \$65.20, was made shortly thereafter.

Recovery Action

On 8 May 2020, in an attempt to obtain current contact information on the registered owner of the *Severn Mist*, the Administrator issued a subpoena under the *Inquiries Act* to a utility company. The subpoena results were inconclusive.

On 19 June 2020, the office of the Administrator sent a demand letter to the registered owner's last known address. No response was received.

On 25 August 2020, an *Inquiries Act* subpoena was issued to a telecommunications company, in a further attempt to obtain current coordinates for the registered owner. The subpoena yielded an email address, to which a demand letter was sent on 3 September 2020. Again, no response was received.

Despite additional investigatory steps taken by the office of the Administrator, the registered owner of the *Severn Mist* could not be definitively located.

Status

The Administrator closed this file on 8 October 2020, having taken all reasonable measures to recover as required by the *Marine Liability Act*.

Delphinus (2018)

Location: Gowlland Island, British Columbia
File number: 120-859-C1

The Incident

On 19 February 2018, the Canadian Coast Guard (CCG) received a report of a sailing vessel washed ashore on Gowlland Island, British Columbia. The vessel was described as 42 feet in length, with a green hull and an inboard engine. The CCG Campbell River Lifeboat Station sent a crew to assess the situation.

When the CCG crew arrived, they saw that the vessel was sitting on a beach completely out of the water at low tide. The vessel was listing and appeared unstable. It was believed that this same vessel had been found adrift in January and anchored at that time.

On 20 February 2018, a CCG Environmental Response crew attended at the scene. They determined that the vessel had a 100 litre fuel tank and a four cylinder diesel engine full of oil. There were also loose containers of oil scattered about. The CCG crew was able to remove 75 litres of oil from the fuel tank and four litres from the engine.

On 21 February 2018, the CCG began working with the Royal Canadian Mounted Police to locate the owner of the vessel. This effort did not succeed. The same day, the CCG made arrangements with a salvage contractor to remove the vessel.

On 22 February 2018, the salvage contractor retained by the CCG removed the vessel from the beach and towed it to Freshwater Marina, where it was removed from the water. The vessel was then surveyed and identified as the *Delphinus*.

On 26 February 2018, the CCG determined that the vessel should be deconstructed and obtained a quote for that to be done.

On 30 July 2018, the vessel was deconstructed.

The Claim

On 5 February 2020, the Administrator received a submission from the CCG on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$25,579.91, seeking compensation for costs and expenses arising from the response to the incident involving the *Delphinus*.

The submission provided a narrative and evidence relating to the incident.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim. The bulk of the claim related to the costs of deconstructing the vessel. The vessel's hull was constructed of ferro-cement, which generally resists contamination by oil, and the claim documents did not otherwise identify how deconstructing the vessel constituted a measure taken with respect to mitigating oil pollution. As a result, the deconstruction elements of the claim were rejected.

Other parts of the claim, relating to the cost of towing and removing the vessel from the water for examination, were deemed admissible.

On 31 July 2020, the Administrator made an offer of compensation to the CCG in the amount of \$4,378.08, plus statutory interest.

The CCG accepted the offer on 25 September 2020. Payment from the Fund in the amount of \$4,819.28, including statutory interest, was made 30 September 2020.

Recovery Action

On investigation, the office of the Administrator found that the *Delphinus* was never registered in Canada, but that the vessel had carried a pleasure craft license in the 1980s, with two individuals listed as its owners. A letter was sent to the last known address for those individuals, but no response was received.

Further investigations turned up no useful leads on the possible owner of the vessel.

With all reasonable measures having been taken to identify and locate an owner, the Administrator decided to close the file.

Status

The file was closed on 18 November 2021.

Vahine Moana (2018)

Location: Fernwood Point, Salt Spring Island, British Columbia

File number: 120-860-C1

The Incident

On 23 March 2018, the Canadian Coast Guard (CCG) was advised of a vessel dragging anchor off Fernwood Point, Salt Spring Island, British Columbia. CCG personnel from the Ganges Lifeboat Station attended at the scene. The CCG crew identified the vessel in distress as the *Vahina Moana*.

It was later recognized that the vessel was in fact known as the *Vahine Moana*. The *Vahine Moana* was a 37-foot sailing vessel with a ferro-cement hull. It had a diesel-powered engine for propulsion, as well as a mast for a sail.

The CCG crew removed two passengers from the vessel for their own safety. The CCG, having previously responded to incidents involving the *Vahine Moana* on two prior occasions, determined the vessel should be towed to a secured location.

The CCG spoke with a number of potential owners about the poor condition of the vessel. None of the potential owners developed a plan to repair the vessel and equip it with proper navigational equipment and charts. One potential owner committed to paying for services provided to the vessel, but also apparently vanished without leaving further contact information.

On 26 April 2018, the *Vahine Moana* suffered spontaneous damage, attributed to its poor condition. The damage caused the vessel to begin taking on water at an increased rate. It was determined the vessel should be removed from the water.

On 8 May 2018, the vessel was removed from the water for inspection. The vessel was determined to have no residual value and the CCG decided to have it deconstructed.

The deconstruction process for this vessel was protracted as a result of difficulty in complying with local environmental regulations. Deconstruction was completed on 1 August 2018.

The Claim

On 19 March 2020, the Administrator received a submission from the CCG on behalf of the Minister of Fisheries and Oceans, for costs and expenses arising from the incident involving the *Vahine Moana*, which totalled \$14,473.00.

The submission also provided a narrative, as well as evidence related to the incident.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim.

The evidence showed a determination was made by the CCG to deconstruct the *Vahine Moana* by no later than 12 April 2018. Neither the evidence available up to that point, nor after that date, established that the ferro-cement hull of the *Vahine Moana* posed a risk of oil pollution.

The Administrator did accept that the cost for a contractor to remove oil from the vessel was a reasonable measure taken with respect to oil pollution, as were the costs associated with having CCG personnel attend to inspect the vessel.

The Administrator made an offer of compensation to the CCG in the amount of \$2,823.73, plus accrued interest of \$233.73, on 5 May 2020. The CCG accepted the offer on 15 June 2020, and payment was made on 18 June 2020.

Recovery Action

The ownership of the *Vahine Moana* was never conclusively established. Information respecting ownership from the time of the incident was contradictory, and did not match Transport Canada records.

The office of the Administrator carried out searches and eventually made contact with one of the purported owners of the vessel. The account given by this person was considered neither credible nor actionable.

Additional investigations did not yield any information establishing who owned the vessel at the time of the incident.

Status

The Administrator closed this file on 3 December 2020 on the basis no further measures towards recovery were reasonable in the circumstances.

Theresa N (2018)

Location: Bamfield, British Columbia

File number: 120-867-C1

The Incident

On 8 September 2018, the Canadian Coast Guard (CCG) was notified that an approximately 40-foot fishing boat initially identified as the “*Teresa Anne*” (but later identified as the “*Theresa N*”), was in poor condition and at risk of sinking at a marina facility in Bamfield, British Columbia.

The CCG initially dispatched a lifeboat crew to inspect the incident scene. That crew, along with the marina operator, took initial steps to deal with the *Theresa N* and keep it afloat. They also contacted the owner and asked him to respond to the situation. The owner did not comply with the directions issued by the CCG.

On 19 September 2018, the CCG then dispatched an environmental response crew to the scene, along with a marine surveyor. When they arrived at Bamfield, they discovered that the *Theresa N* was no longer there. The owner had moved the vessel up the coast and moored it to a dock at Grappler Inlet, British Columbia. The CCG personnel had to deal with an aggressive person after they located the vessel, and they were unable to undertake an appropriate inspection.

Shortly after the CCG departed Grappler Inlet, the CCG received a report that the *Theresa N* had sunk.

The CCG returned to the scene and confirmed that the *Theresa N* had sunk and was releasing oils. It appears that the ship had also damaged the dock during the sinking. The CCG deployed a boom to contain pollution and retained contractors to raise the vessel and remove it from the water.

The *Theresa N* was successfully refloated through use of divers and lift bags. The vessel was then towed to a local contractor for removal from the marine environment and for deconstruction.

The Claim

On 24 July 2020, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$28,656.55, seeking compensation for costs and expenses arising from the response to the incident involving the *Theresa N*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim and determined that the measures taken by the CCG were reasonable and taken with a view to responding to oil pollution damage or the threat of oil pollution damage.

The Administrator made an offer of compensation to the CCG in the amount of \$28,656.55, plus accrued statutory interest, on 22 October 2020.

The CCG accepted the offer on 16 December 2020, and payment from the Fund in the amount of \$31,130.13, including \$2,473.58 in interest, was made shortly thereafter.

Recovery Action

In-house counsel to the Administrator sent a demand letter to a post office box associated with the registered owner of the *Theresa N.* in January 2021. No response was received.

In June 2021, two *Inquiries Act* subpoenas were issued in an attempt to locate the owner of the vessel. A possible physical address for the owner was obtained.

On 7 September 2021, in-house counsel to the Administrator filed an action in the Federal Court against the registered owner of the *Theresa N.* Attempts to effect personal service on the Defendant in October and November 2021 were unsuccessful.

Two further *Inquiries Act* subpoenas were issued in January and February 2022, to Canada Post and BC Hydro. A further possible physical address for the Defendant was obtained, and a copy of the Statement of Claim was posted to that address via registered mail. The Defendant signed a Canada Post receipt for the Statement of Claim on 9 February 2022 and called the Administrator's counsel the next day.

As service occurred outside the time period allowed under the *Federal Courts Rules*, counsel filed a motion with the Court seeking to have that period extended. The Court issued the requested order on 29 March 2022.

As of 31 March 2022, settlement discussions with the Defendant were underway.

Status

The file remained open at the end of the fiscal year.

Numas Isle (2018)

Location: Discovery Harbour, Campbell River, British Columbia

File number: 120-868-C1

The Incident

On 9 September 2018, the Canadian Coast Guard (CCG) was notified that the approximately 48-foot former fishing vessel *Numas Isle* had sunk and was discharging oil at Discovery Harbour, in Campbell River, British Columbia. The Discovery Harbour Authority deployed sorbent materials in response.

CCG personnel were dispatched to the scene from the Campbell River lifeboat station. They observed a sheen around the sunken vessel and deployed additional sorbent materials. An unknown volume of oil pollutants were on board. The CCG determined that the *Numas Isle* would need to be raised to mitigate the continuing oil pollution threat it posed. With no owner in the picture, a salvage company and divers were engaged.

On 10 September 2018, CCG Environmental Response personnel were dispatched from Victoria, but they were forced to turn around due to a rock slide that obstructed the highway. As a result, the remainder of the response and the CCG's contractors were managed remotely.

The *Numas Isle* was raised and removed from the water at a nearby boat ramp. With no marine surveyors available immediately, one of the CCG's contractors assessed the vessel, noting that it was in poor condition with rotten, oil-saturated planks.

The CCG decided to have the *Numas Isle* deconstructed, which operation was completed by additional contractors by 11 September 2018.

The Claim

On 1 September 2020, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$30,169.92, seeking compensation for costs and expenses arising from the response to the incident involving the *Numas Isle*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, concluding that the CCG operation was generally reasonable up to and including the removal of the *Numas Isle* from the water.

Finding insufficient evidence in support of the decision to deconstruct the vessel, the Administrator

requested additional documentation from the CCG on 24 September 2020. The CCG responded the same day with photographs of a vessel that was not the *Numas Isle*. A follow-up from the Fund yielded no response, and ultimately the costs associated with the deconstruction and disposal of the vessel were rejected due to a lack of evidence that the vessel was saturated with oils.

The Administrator made an offer of compensation to the CCG in the amount of \$23,285.10, plus accrued interest, on 27 November 2020.

The CCG accepted the offer on 26 January 2021, and payment from the Fund in the amount of \$25,297.94, including \$2,012.84 in interest, was made soon thereafter.

Recovery Action

On 2 September 2020, in-house legal counsel to the Administrator obtained a registration transcript from Transport Canada for the *Numas Isle*. The transcript identified the vessel's last registered owner and showed that the vessel had ceased to be registered in 2010.

On 8 September 2020, the Administrator issued a subpoena under the *Inquiries Act* to BC Hydro in an attempt to locate the last registered owner of the *Numas Isle*. BC Hydro responded to the subpoena on 24 September 2020. The results yielded nothing of use with respect to the last registered owner, but they did produce an address for an apparent previous registered owner of the vessel, who also appeared to be a relation of its last registered owner.

On 10 September 2020, the office of the Administrator learned from the Discovery Harbour Authority that the last registered owner of the *Numas Isle* appeared to have been the owner at the time of the incident, and that he had been living on the vessel. No fixed address was available for the individual in question.

On 3 November 2020, in a further attempt to locate the last registered owner of the *Numas Isle*, the Administrator issued an *Inquiries Act* subpoena to the Insurance Corporation of British Columbia (ICBC). ICBC responded on 16 November 2020, but the response yielded nothing of assistance.

On 10 December 2020, having no other leads on the last registered owner, counsel sent a letter of inquiry to the previous registered owner and possible relation of the vessel's last registered owner whose address had been provided by BC Hydro. No response was received.

Despite additional investigatory work conducted by the office of the Administrator, no further useful leads on the owner of the *Numas Isle* were obtained.

Status

The Administrator closed this file on 11 February 2021, having taken all reasonable measures to recover as required by the *Marine Liability Act*.

Miss Terri (2018)

Location: Discovery Harbour, Campbell River, British Columbia

File number: 120-869-C1

The Incident

On 23 February 2018, the Canadian Coast Guard (CCG) was notified that an approximately 67-foot fishing vessel, identified as the *Miss Terri*, was taking on water at an excessive rate at Discovery Harbour, Campbell River, British Columbia.

The CCG dispatched a crew to the scene of the incident. The CCG installed supplemental pumps to dewater the *Miss Terri* and instructed its owner to take measures to address the threat of oil pollution.

On 11 September 2018, a CCG environmental response crew was inspecting another vessel at Discovery Harbour when they observed that the *Miss Terri* was sitting low in the water. They contacted the *Miss Terri*'s owner who advised he could not immediately attend to the situation because he was at sea aboard another vessel.

On 18 September 2018, the harbour master at Discovery Harbour called the CCG and advised that the *Miss Terri*'s pumps were running continuously. The CCG deployed an environmental response crew and hired a contractor to tow the *Miss Terri* to another facility where it could be continuously monitored.

The CCG made efforts to get the *Miss Terri*'s owner to take responsibility for the vessel. The owner did not take appropriate actions. Rather, he began threatening legal action against CCG personnel involved in the incident response.

The CCG instructed its contractor to begin deconstructing the *Miss Terri*, and on 29 November 2018 that process began. Deconstruction was completed on 14 December 2018.

The Claim

On 4 September 2020, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$88,576.24, seeking compensation for costs and expenses arising from the response to the incident involving the *Miss Terri*.

The Administrator determined that the claim might be time limited under Part 7 of the *Marine Liability Act*.

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim. 23 February 2020, the Administrator issued a draft offer letter to the CCG. The draft offer noted that it was possible that

the incident involved discharges of oil and that, drawing appropriate inferences from the evidence, some of those discharges may have taken place more than two years before the CCG claim was submitted to the Administrator. If the claim was submitted more than two years after an event of oil pollution damage, it may not be admissible.

The CCG provided a response letter on 30 March 2021.

On 17 May 2021, the claim was disallowed. The rejection was made on the basis that the claim had not been submitted within two years of a discharge which caused oil pollution damage. The Canada challenged the disallowance by way of both an application for judicial review and an appeal. The hearing of those challenges is scheduled for July of 2022.

Status

The file remained open at the end of the fiscal year.

Reliant (2020)

Location: Gibsons, British Columbia

File number: 120-870-C1

The Incident

On 13 June 2020, a 17.68-metre wooden-hulled tugboat known as the *Reliant* sank near Gibsons, British Columbia.

After the sinking, the owner initiated a response to the incident, including the retention of marine contractors. Over the days following the sinking, the owner's efforts succeeded and the *Reliant* was removed from the marine environment, thereby eliminating the oil pollution threat from the vessel.

Subsequent to the sinking, the insurer of the owner of the vessel refused to pay for the costs incurred in raising the vessel and eliminating the threat of oil pollution.

The Claim

On 9 September 2020, the owner of the *Reliant* contacted the office of the Administrator of the Ship-source Oil Pollution Fund by telephone and inquired about making a claim in order to pay the contractors who carried out the raising operation. Later that day, the owner filed a claim with the Administrator by email. This claim was accepted as being made under section 103 of the *Marine Liability Act*.

On 15 September 2020, a second email was sent refining the claim. The vessel owner sought to obtain funding in the form of a loan of \$90,000.00. The funding was to be used to prosecute a lawsuit against the vessel owner's insurer. The basis for the proposed lawsuit was the insurer's refusal to cover the losses under the terms of the owner's policy for the *Reliant*.

Decision

On 2 December 2020, a Letter of Disallowance and Dismissal was sent to the owner. The claim was rejected on the basis that the subject matter of the claim was not admissible. The *Marine Liability Act* does not permit the Administrator to provide funding for litigation.

Status

The Administrator closed this file on 2 February 2021.

Maverick IV (2018)

Location: Cowichan Bay, British Columbia

File number: 120-871-C1

The Incident

On 5 October 2018, the Canadian Coast Guard (CCG) was notified that an approximately 55-foot pleasure craft, identified as the *Maverick IV*, was sinking at Cowichan Bay, British Columbia. Local marina personnel had deployed several small pumps on board the vessel, and contact had not been made with the owner.

The CCG dispatched personnel from the Ganges Lifeboat Station to assess the situation. It also dispatched Environment Response (ER) personnel from Victoria, who were equipped with a Pollution Response Vessel (PRV). In addition, a local contractor was engaged. The contractor was first to arrive on scene. It reported that the *Maverick IV* had broken loose from the dock and was still slightly buoyant. A slight oil sheen was present. The contractor towed the vessel into shallower water, grounding it, and Ganges Lifeboat Station personnel deployed sorbent materials around the vessel.

When ER personnel arrived on scene, they deployed additional sorbents and relieved the Lifeboat Station personnel. The *Maverick IV* was deemed a continuing oil pollution threat, and the contractor was engaged to raise it and remove it from the water.

The *Maverick IV* was raised at low tide on 6 October 2018, under the supervision of ER personnel. Subsequently, pumps were placed on the vessel and the CCG's contractor towed it to the Sidney facilities of another contractor, where it was removed from the water. ER personnel escorted much of the tow in their PRV.

Though the CCG's narrative terminated at that stage, invoices submitted as part of the claim showed that the *Maverick IV* was ultimately surveyed and deconstructed by contractors engaged by the CCG. The survey report found that the vessel's fuel tanks and machinery were estimated to be full of oils and water. The surveyor could not access much of the vessel's interior, as it was full of detritus, but it was concluded based on leaking lower hull planks that oily water was present in the bilge.

The Claim

On 24 September 2020, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$52,522.45, seeking compensation for costs and expenses arising from the response to the incident involving the *Maverick IV*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, concluding generally that the early stages of the CCG's response were reasonable given the discharge and unknown quantity of oil pollutants on board the *Maverick IV*. As a result, costs associated with the deployment of sorbent materials, the raising, and removal of the vessel were accepted. Due to a lack of evidence showing that the vessel was saturated with oils and in the absence of any explanation of the CCG's decision-making process, however, the deconstruction costs were largely rejected. To the extent that they could be clearly linked with oil pollutants, some of the claimed disposal costs were accepted.

The Administrator made an offer of compensation to the CCG in the amount of \$18,905.55, plus accrued statutory interest, on 17 December 2020.

The CCG accepted the offer on 26 January 2021, and payment from the Fund in the amount of \$20,439.56, including \$1,534.01 in interest, was made shortly thereafter.

Recovery Action

On 28 September 2020, in-house Legal Counsel the Administrator obtained the registration transcript for the *Maverick IV* from Transport Canada.

The same day, counsel spoke to the manager of the marina where the *Maverick IV* incident occurred. The manager wrote back on 30 September 2020, providing a name and contact details for an individual who he understood to be the owner of the vessel. That individual was not the registered owner of the vessel.

On 7 and 8 October 2020, the Administrator issued *Inquiries Act* subpoenas to BC Hydro in an attempt to obtain a current address for the registered owner of the *Maverick IV* as well as the individual identified by the marina manager. Responses were received shortly thereafter, appearing to disclose a viable address for the registered owner but not for the other individual.

On 15 October 2020, counsel sent a letter of inquiry to the registered owner of the *Maverick IV*.

Counsel wrote to the CCG on 29 October 2020 to request further detail on an unnamed individual identified in the CCG's claim documentation as a possible owner of the *Maverick IV*. On 8 November 2020, the CCG replied, stating that the individual its personnel had spoken to turned out not to be the owner, and that the vessel's registered owner was deceased by the time of the incident. Further details on the CCG's interactions with the unnamed individual were requested, along with an explanation of how that individual was ruled out as a possible owner.

On 11 November 2020, counsel received an email from the registered owner of the *Maverick IV*, who was not in fact deceased. The registered owner stated that he had sold the vessel nearly a decade prior to its sinking. He was not able to offer documentation of the transfer, but he provided a physical description of the alleged purchaser and confirmed that he recognized the name provided by the marina manager.

On 27 November 2020, the Administrator issued an *Inquiries Act* subpoena to the Insurance Corporation of British Columbia, in an attempt to locate the individual identified by the marina manager and the registered owner of the *Maverick IV*. A response was received on 8 December 2020.

On 12 April 2021, counsel sent a demand letter to the apparent owner of the *Maverick IV*. The individual responded shortly thereafter, providing documentation of correspondence between himself and the registered owner. Though he had entered into an agreement to purchase the vessel in 2012, paid for it in part, and taken possession, the individual took the position that he was not the owner at the time of the *Maverick IV* at the time of its sinking. A list of follow-up questions was put to the individual, but no response was received.

On 30 September 2021, in-house counsel to the Administrator filed an action in the Federal Court against the apparent owner of the *Maverick IV*. Initial attempts to serve him were unsuccessful, as it appeared he had moved house since April 2021. Follow-up *Inquiries Act* subpoenas were issued, and a current address for service was obtained. Ultimately, the Defendant was served just outside the time period allowed under the *Federal Courts Rules*, so a motion was filed with the Court on 23 December 2021 to retrospectively extend that time period. In early January 2022, the Defendant hired a lawyer.

As of 31 March 2022, the Administrator was awaiting a determination from the Court with respect to her motion to extend time for service.

Status

The file remained open at the end of the fiscal year.

Atanook (2018)

Location: Ganges Harbour, Salt Spring Island, British Columbia

File number: 120-872-C1

The Incident

On 5 October 2018, the Canadian Coast Guard (CCG) was notified that an approximately 42-foot sailboat with a ferro-cement hull, identified as the *Atanook*, was sinking in Ganges Harbour, on Salt Spring Island, British Columbia.

The CCG dispatched an environmental response crew to assess the incident. Working with contractors, they placed pumps onboard the *Atanook* to prevent it from capsizing.

The CCG determined that the *Atanook* should be towed to a marine facility and removed from the water. Eventually contact was made with the vessel's owner. The owner declined to take any steps with respect to the *Atanook*.

A marine survey was carried out on the *Atanook*. Subsequently the CCG had a contractor deconstruct the ship.

The Claim

On 5 October 2020, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$19,017.43, seeking compensation for costs and expenses arising from the response to the incident involving the *Atanook*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, concluding generally that the early stages of the CCG's response were reasonable given the threat of discharge and unknown quantity of oil pollutants on board the *Atanook*.

Vessel deconstruction can constitute a measure taken with respect to oil pollution where the subject vessel is itself an oil pollution threat. Most often this occurs because a wooden vessel has become saturated in oil. In the case of the *Atanook*, the evidence was insufficient to establish the ship itself posed an oil pollution threat.

Logs submitted by the CCG refer to oil-soaked planking aboard the *Atanook*. However, in context this was not determinative. The *Atanook* was a sailboat, and was never equipped with substantial quantities of oil. As well, its hull type was ferro-cement rather than wood. This means that there were limited quantities of oil which could have saturated limited amounts of wood. The one log

note on that point was considered insufficient to accept that the *Atanook* itself might cause oil pollution if returned to the water.

The Administrator made an offer of compensation to the CCG in the amount of \$4,905.93, plus accrued statutory interest, on 24 December 2020.

The CCG accepted the offer on 26 January 2021, and payment from the Fund in the amount of \$5,330.30, including \$424.37 in interest, was made shortly thereafter.

Recovery Action

The office of the Administrator sent a demand letter to the owner of the *Atanook*. It turned out that the owner did not live at the address registered with Transport Canada. However, the current occupant of the home was able to arrange to have the demand letter forwarded to the owner of the sailboat.

On 6 October 2021, in-house counsel to the Administrator filed an action against the owner of the *Atanook* in the Federal Court. The Statement of Claim was subsequently served on the Defendant, who did not file or serve a defence within the time permitted by the *Federal Courts Rules*.

Efforts to locate the owner of the *Atanook* continued as of 31 March 2022.

Status

The file remained open at the end of the fiscal year.

Halary No. 1 (2018)

Location: Campbell River, British Columbia

File number: 120-873-C1

The Incident

On 11 October 2018, the Canadian Coast Guard (CCG) was notified that an approximately 35-foot former fishing vessel, the *Halary No. 1*, had sunk alongside the dock at Discovery Harbour, in Campbell River, British Columbia.

Personnel from the CCG's local Lifeboat Station were dispatched to the scene, where they observed oil pollution upwelling from the sunken vessel. They deployed sorbent materials, alongside the Harbour Master. The owner of the vessel, who was also on scene, estimated that as much as 200 gallons of fuel were on board. The owner stated that he was unable to provide assistance to the CCG, financial or otherwise.

CCG Environmental Response, acting remotely from Victoria, determined that the sunken vessel would need to be raised in order to mitigate any oil pollution threat. A local contractor was engaged to this end, and work began immediately. Divers from another contractor were brought in to assist with the raising operation, and the *Halary No. 1* was refloated on the afternoon of 11 October 2018. With no surveyor available, it was decided to have the vessel removed from the water immediately.

The CCG's contractor removed the *Halary No. 1* on the morning of 12 October 2018, and the vessel was transported to a storage facility belonging to another contractor. Soiled sorbent materials were disposed of.

On 23 October 2018, the CCG had the *Halary No. 1* surveyed while it sat on blocks. The surveyor observed light oil fouling in the vessel's machinery space bilge and noted that oils probably remained in its fuel tanks and machinery. The vessel was found to be in poor condition and valueless.

On 30 October 2018, the CCG engaged the owner of the storage facility to deconstruct and dispose of the *Halary No. 1*. This operation was completed by 22 December 2018.

The Claim

On 9 October 2020, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$25,413.44, seeking compensation for costs and expenses arising from the response to the incident involving the *Halary No. 1*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, concluding generally that the raising and removal portions of the CCG's operation involving the *Halary No. 1* were reasonable given the active pollution threat posed by the vessel. With respect to costs associated with the deconstruction of the vessel, however, the Administrator found that insufficient evidence had been provided in support of the CCG's decision-making process. As a result, this portion of the claim was rejected.

The Administrator made an offer of compensation to the CCG in the amount of \$17,021.27, plus accrued statutory interest, on 28 January 2021.

The CCG accepted the offer on 12 March 2021, and payment from the Fund in the amount of \$18,551.74, including interest, was made on 17 March 2021.

Recovery Action

On 25 January 2021, in-house Legal Counsel to the Administrator obtained from Transport Canada a registration transcript for the *Halary No. 1*. The transcript showed that the registered owner of the vessel was not the same individual as the owner identified by the CCG.

The same day, counsel sent a letter of inquiry to the registered owner of the vessel, who responded explaining that he had sold the vessel to the individual identified by the CCG several years prior to its sinking. Though he had no documentation of the alleged sale, the registered owner did eventually provide an invoice from Discovery Harbour that suggested the alleged purchaser was in fact the owner of the *Halary No. 1* at the time of the sinking.

On 9 March 2021, counsel obtained further documentation linking the alleged purchaser to the *Halary No. 1*.

In an attempt to obtain a current address for the apparent owner of the *Halary No. 1*, the Administrator issued *Inquiries Act* subpoenas to BC Hydro and the Insurance Corporation of British Columbia on 10 March 2021. Responses were received shortly thereafter.

On 19 March 2021, counsel sent a demand letter to the individual whose address was obtained via subpoena.

In the course of investigations into the apparent owner, it was learned that he was suffering from extremely poor health. He appeared to have been hospitalized for some time.

In light of the high cost and complexity of litigating against some severely ill persons, and in considering that there was no evidence that the apparent owner of the *Halary No. 1* had any meaningful financial resources, it was determined that all reasonable measures to recover on this file had been exhausted.

Status

The file was closed on 21 October 2021.

San Jolyne III (2018)

Location: Dusenbury Island, British Columbia

File number: 120-874-C1

The Incident

On 19 October 2018, the Canadian Coast Guard (CCG) was notified of an oil slick between Dusenbury Island and the Francis Peninsula in British Columbia. The CCG investigated. On 21 October 2018, the CCG determined that the source of the slick was a sunken vessel, which it identified as the *San Jolyne III*, a 45-foot fishing vessel.

The owner of the *San Jolyne III* carried out an operation to raise it while the CCG monitored the operation. The owner was ultimately able to raise the vessel himself. The CCG issued a direction to the owner to not move the *San Jolyne III* until certain measures were taken. Ultimately, the *San Jolyne III* sunk a second time.

The CCG retained contractors to raise the *San Jolyne III* a second time. The operation was successful, and the CCG subsequently had the ship deconstructed.

The Claim

On 16 October 2020, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$181,475.67, seeking compensation for costs and expenses arising from the response to the incident involving the *San Jolyne III*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, which included requesting additional submissions from the CCG. The owner of the *San Jolyne III* was also contacted. On 18 August 2021, the Administrator made an offer of compensation to the CCG in the amount of \$127,118.46, plus statutory interest.

The CCG accepted the offer on 24 August 2021, and payment from the Fund in the amount of \$138,452.17, including statutory interest, was made on 27 August 2021.

Recovery Action

Inquiries Act subpoenas were issued to BC Hydro and a telecommunications company in an attempt to obtain an address for the owner of the *San Jolyne III*.

On 15 October 2021, in-house counsel to the Administrator commenced an action in the Federal

Court against the owner. Contact with the Defendant was established in December 2021, but service was effected on him just outside the time period allowed by the *Federal Courts Rules*.

A motion was brought on 4 March 2022 to extend the time allowed for serving the Defendant. The Court granted the requested order on 29 March.

Status

The file remained open at the end of the fiscal year.

Alhena (2018)

Location: Alert Bay, British Columbia

File number: 120-875-C1

The Incident

On 1 November 2018, the Canadian Coast Guard (CCG) was notified that an approximately 37-foot fishing vessel, identified as the *Alhena*, was sinking at the Namgis Dock, in Alert Bay, British Columbia. The CCG deployed an officer from Port Hardy to respond to the incident.

The CCG hired a local contractor to remove fuel and oil from the *Alhena*. While this was ongoing, and after the contractor had removed approximately 200 litres of fluids from the *Alhena*, the owner attended at the scene. The owner indicated he wanted to do that work himself, and the CCG issued an order directing him to do so.

The owner pumped water from the *Alhena* but did not promptly remove the oil. The CCG had the vessel removed from the water and assessed. The CCG concluded the vessel should be deconstructed. The *Alhena* was sent to landfill for deconstruction after a delay of three months, attributable to ground conditions at the site of the landfill.

The Claim

On 30 October 2020, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$12,654.91, seeking compensation for costs and expenses arising from the response to the incident involving the *Alhena*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, concluding generally that the early stages of the CCG's response were reasonable.

The narrative provided by the CCG included a reference to a determination that the *Alhena* was saturated with oil, which necessitated its deconstruction. The evidence included was insufficient to allow a determination that that was the case.

The Administrator made an offer of compensation to the CCG in the amount of \$5,440.03, plus accrued statutory interest, on 6 January 2021.

The CCG accepted the offer on 26 January 2021, and payment from the Fund in the amount of \$5,896.89, including \$456.86 in interest, was made shortly thereafter.

Recovery Action

The office of the Administrator sent a demand letter to the owner of the *Alhena*. No response was received.

In October 2021, in-house counsel to the Administrator filed an action against the owner of the *Alhena* in the Federal Court. Attempts to serve the Defendant by registered mail were unsuccessful.

On 31 March 2022, *Inquiries Act* subpoenas were issued to the Insurance Corporation of British Columbia and a telecommunications company in an attempt to locate the Defendant.

As of 31 March 2022, the Administrator's recovery efforts continued.

Status

The file remained open at the end of the fiscal year.

Unknown Name (Houseboat) (2020)

Location: Sicamous, British Columbia

File number: 120-878-C1

The Incident

On 3 January 2020, the Canadian Coast Guard (CCG) was notified that an unnamed houseboat had partially sunk at Sicamous, British Columbia. The vessel was secured to the shore, but snow build-up had caused its stern to submerge. As a result, its engine compartment flooded, causing an oil sheen around the vessel.

The CCG engaged a contractor to raise and remove the vessel, which operation was completed on 24 January 2020.

The CCG identified the owner of the vessel on 27 January 2020 and demanded payment for its response costs, but the owner stated he was unable to pay. The CCG proceeded to have a contractor rehabilitate the vessel's engine to prepare the vessel for possible sale.

Despite regular correspondence with the owner, who alleged financial hardship, the CCG continued to incur costs associated with storing the vessel on land until the end of May 2020. The houseboat was ultimately returned to its owner the following month.

The Claim

On 2 December 2020, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$6,941.10, seeking compensation for costs and expenses arising from the response to the incident involving the unnamed houseboat at Sicamous, British Columbia. The submission was the first ever to be submitted under the Expedited Process for Small Claims, a special claims process that was added to the *Marine Liability Act* in 2018.

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

Payment and Reassessment

Having determined that the CCG's claim met the basic eligibility requirements under the Expedited Process for Small Claims, the Administrator issued payment in full to the CCG of \$6,941.10 plus accrued interest of \$258.68, as required by the *Marine Liability Act*, on or about 29 January 2021.

On 19 March 2021, the Administrator informed the CCG that she would be conducting a reassessment and investigation of its claim. The Administrator requested detailed supporting documentation from the CCG with respect to its response operation and claimed costs. Documentation was provided in response in March, April, and June 2021.

In the course of the Administrator's investigation and reassessment, the owner of the subject vessel was invited to provide information, but no response was received.

The Administrator issued a Notice of Overpayment on 17 June 2021, requiring repayment of \$2,696.30 in principal plus *pro rata* interest of \$100.49. The overpayment determination applied to costs associated with the extended storage and rehabilitation of the houseboat, neither of which were determined to have represented oil pollution mitigation measures.

The CCG repaid the overpayment amount, along with *pro rata* interest, to the Fund in December 2021.

Recovery Action

In an attempt to obtain a current address for the owner of the vessel, the Administrator issued six *Inquiries Act* subpoenas between May and November 2021.

A demand letter was sent via mail and email in September 2021, but no response was received.

The Administrator's recovery efforts continued as of 31 March 2022.

Status

The file remained open at the end of the fiscal year.

Aura Lee (2018)

Location: Cowichan Bay, British Columbia

File number: 120-880-C1

The Incident

On 13 December 2018, the Canadian Coast Guard (CCG) was notified that an approximately 35-foot ex-fishing vessel, identified as the *Aura Lee*, was sinking at Cowichan Bay, British Columbia. The cause of the sinking was not known, and it was believed that another smaller vessel had been moored to the *Aura Lee* and that it had been dragged down as a result of the sinking.

The CCG dispatched personnel to the scene. By the time the response crew arrived, the *Aura Lee* was entirely sunken. A sheen was observed on the water. The CCG retained a contractor to raise the vessel. That effort was successfully completed on 17 December 2018. The other vessel believed to have been moored to the *Aura Lee*, a 16-foot speedboat, could not be located.

The *Aura Lee* was removed from the water and then deconstructed.

The Claim

On 8 December 2020, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$42,176.45, seeking compensation for costs and expenses arising from the response to the incident involving the *Aura Lee*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, concluding generally that the early stages of the CCG's response were reasonable given the discharge and unknown quantity of oil pollutants on board the *Aura Lee*. As a result, costs associated with the deployment of sorbent materials and the raising and removal of the vessel, were accepted.

Based on the evidence, the Administrator accepted that the *Aura Lee* itself posed a risk of oil pollution. The costs of deconstruction could therefore be accepted as measures reasonably taken with respect to a risk of oil pollution.

The Administrator made an offer of compensation to the CCG in the amount of \$33,908.13, plus accrued statutory interest, on 31 March 2021.

Recovery Action

After exhausting all possible avenues to identify the owner of the *Aura Lee*, the file was closed on 18 November 2021.

Status

The file was closed on 18 November 2021.

Friday While (2019)

Location: Tsehum Harbour, Sidney, British Columbia

File number: 120-881-C1

The Incident

On 9 January 2019, the Canadian Coast Guard (CCG) was notified that an approximately 30-foot fibreglass pleasure craft, identified as the *Friday While*, had sunk near the Van Isle Marina, in Tsehum Harbour. The harbour is located in Sidney, British Columbia.

The CCG dispatched a response crew who found the vessel mostly sunken, with a small portion protruding above the water. A small, unrecoverable sheen was observed. Pollution countermeasures were deployed.

The amount of oil aboard the sunken vessel was not known. To prevent possible future discharges of oil, the CCG determined the *Friday While* should be raised and removed from the marine environment. A contractor was retained for that purpose.

After the vessel was removed from the water, the CCG had it deconstructed on the basis that the vessel itself posed an oil pollution risk.

The Claim

On 31 December 2020, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$27,442.55, seeking compensation for costs and expenses arising from the response to the incident involving the *Friday While*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, concluding generally that the early stages of the CCG's response were reasonable given the sinking and the unknown quantity of oil pollutants on board the *Friday While*. As a result, costs associated with the deployment to inspect the vessel and to remove it were approved. The costing for the use of the CCG response craft involved in the response was not accepted, and a lesser amount was paid for the use of the response craft as a result.

The claims for CCG personnel time were generally accepted, but some reductions were made as the CCG escalated its personnel deployment on the second day of the response, and the evidence did not support such a decision.

The evidence did not establish that the *Friday While* in fact posed an oil pollution threat once it

was removed from the water. The costs relating to the deconstruction of the vessel were rejected.

The Administrator made an offer of compensation to the CCG in the amount of \$10,531.22, plus accrued statutory interest, on 3 March 2021.

The CCG accepted the offer on 16 April 2021, and payment of \$11,329.39, which included the principal plus \$798.17 in accrued statutory interest, was made shortly thereafter.

Recovery Action

The office of the Administrator is attempting to contact the person believed to have been the owner of the *Friday While* at the time of the incident.

A number of possible addresses for the individual in question were found, but further investigation revealed that the individual was likely deceased. In an attempt to make contact with a representative of that individual's estate, several letters of inquiry were posted. No response was received.

Attempts to make contact with the apparent owner's estate continued as of 31 March 2022.

Status

The file remained open at the end of the fiscal year.

Rolano (2019)

Location: Cortes Island, British Columbia

File number: 120-882-C1

The Incident

On 10 February 2019, the Canadian Coast Guard (CCG) was notified that a 70-foot wooden motor vessel, identified as the *Rolano*, had grounded at the western corner of Gorge Harbour, on Cortes Island, in the Province of British Columbia. The initial reports included mention of barrels and buckets of oil on the deck, and as much as 10,000 litres of oil in its fuel tanks. No oil slick was observed.

On 11 February 2019, the CCG retained the Western Canada Marine Response Corporation (WCMRC) to attend the scene and place a boom around the *Rolano*. WCMRC confirmed the presence of containers of oil on the deck of the vessel.

Later the same day a CCG crew arrived at the scene to inspect the *Rolano*. They confirmed that the vessel was grounded on a rocky shore. It was determined a contractor should be retained to shift the vessel at the next high tide, before being towed to Campbell River for further assessment.

The *Rolano* was successfully shifted from its position the next day and towed to Campbell River. On 14 February 2019, the vessel was towed to Ladysmith, arriving on 16 February.

On 11 March 2019, the CCG had a marine surveyor inspect the *Rolano* while it was still in the water. Subsequently, the CCG determined that the vessel should be deconstructed. That effort began on 26 August 2019, and was completed on 18 October 2019.

The Claim

On 2 February 2021, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$248,265.04, seeking compensation for costs and expenses arising from the response to the incident involving the *Rolano*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, which included correspondence with the CCG.

Ultimately, the Administrator concluded that the early stages of the CCG's response were reasonable given the size of the *Rolano*, the possible volume of oils on board, and the situation of the vessel. As a result, costs associated with refloating and towing the vessel to Campbell River

were accepted, along with the costs associated with removing accessible oils. Given the size and complexity of the vessel, the Administrator allowed for a 21-day assessment period, which would have enabled the CCG to determine whether the vessel continued to pose an oil pollution threat. Most of the CCG's costs during this period were allowed.

On the evidence, the Administrator determined that the *Rolano* did not in fact continue to pose an oil pollution threat following the removal of its accessible oils at Campbell River. Accordingly, the CCG's costs following the 21-day assessment period were not accepted.

The Administrator made an offer of compensation to the CCG in the amount of \$71,058.05, plus accrued statutory interest, on 28 September 2021.

The CCG accepted the offer on 25 November 2021, and payment from the Fund in the amount of \$77,627.43, including \$6,569.38 in interest, was made on 30 November 2021.

Recovery Action

In the course of the Administrator's investigation and assessment of the CCG's claim, it was discovered that the British Columbia corporation that was registered as the owner of the *Rolano* had been dissolved prior to the subject incident for failure to file its annual reports. As a result, by operation of the British Columbia *Business Corporations Act*, it was determined that the Province of British Columbia was the likely owner of the vessel at the time of the incident, and therefore the liable party under the *Marine Liability Act*.

On 7 February 2022, in-house counsel to the Administrator filed an action against the Province of British Columbia in the Federal Court.

As of 31 March 2022, efforts were underway to effect service of the Administrator's Statement of Claim on the Province.

Status

The file remained open at the end of the fiscal year.

Unknown Name (Deck Barge) (2019)

Location: Port Mellon, British Columbia

File number: 120-885-C1

The Incident

On 7 March 2019, the Canadian Coast Guard (CCG) was notified that a steel-hulled deck barge with dimensions of 160 feet by 40 feet was listing in the vicinity of Port Mellon, British Columbia. The barge had no known name. The CCG mobilized a response.

The CCG determined that the barge posed a significant threat to the environment. The deck of the barge had a number of containers of potentially hazardous chemicals on it, including Brill Sheen, bromine chloride and corrosive adhesive vinyl. There was also an excavator aboard the barge, which was considered likely to have oil in its fuel tanks and hydraulic systems.

The apparent owner of the barge was well known to the CCG. His vessels have been the subject of a number of claims by the CCG to the Administrator of the Ship-source Oil Pollution Fund.

The CCG retained contractors to remove the hazardous substances and right the barge. On the evening of 7 March 2019, the excavator was removed. On 9 and 10 March, efforts continued to assess and remove the other chemicals and right the barge.

By 11 March 2019, the barge was turned over to the CCG Vessels of Concern Program, and the environmental response portion of the effort was completed.

The Claim

On 26 February 2021, the Administrator received a submission from the CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$396,954.40, seeking compensation for costs and expenses arising from the response to the incident involving the unknown name deck barge.

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

Recovery Action

The Administrator commenced an action against the owner in the Federal Court on 20 December 2021. As of the end of the fiscal year, efforts to serve the Defendant remained ongoing.

Assessment and Offer

On investigation and assessment, the Administrator determined that most of the CCG's response operation was not directed at mitigating oil pollution. As a result, only the costs associated with the initial response operation and removing the excavator from the barge were accepted. On

20 October 2021 an offer of compensation in the amount of \$57,102.91, plus interest, was issued to the CCG.

The CCG accepted the offer on the same day, and payment of \$62,613.93, including the principal and interest of \$5,511.02, was made shortly thereafter.

Status

The file remained open at the end of the fiscal year.

Related File

Darrell Bay Incident, Case number: 120-833-C1 (same owner)

Seal Rock (2019)

Location: Saturna Island, British Columbia

File number: 120-887-C1

The Incident

On 4 April 2019, the Canadian Coast Guard (“CCG”) was notified that the *Seal Rock*, a 43-foot vessel which in the past had been used as a forestry services vessel, was at risk of sinking off of Saturna Island, British Columbia.

The CCG dispatched a crew who attended the scene. CCG personnel removed approximately 800 litres of oil from the *Seal Rock* and made temporary repairs so that the vessel would not sink when subjected to sea water.

The CCG requested that the vessel’s owner produce a plan to address the pollution threat posed by the vessel. The plan provided by the owner was deemed unsatisfactory. The CCG had the vessel towed to a contractor’s facility, where it was deconstructed.

The Claim

On 15 March 2021, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$51,805.59, seeking compensation for costs and expenses arising from the response to the incident involving the *Seal Rock*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim. Substantial markdowns were deemed necessary, as the CCG had not provided sufficient evidence to show that the *Seal Rock* remained an oil pollution threat after it was removed from the water.

On 25 June 2021, the Administrator made an offer of compensation to the CCG in the amount of \$13,390.66, plus statutory interest.

The CCG accepted the offer on 30 July 2021. Payment from the Fund in the amount of \$14,260.86, including statutory interest, was made shortly thereafter.

Recovery Action

In an attempt to locate the individual identified by the CCG as the owner of the *Seal Rock*, an *Inquiries Act* subpoena was sent to the Insurance Corporation of British Columbia. A demand letter was sent to the address yielded from the subpoena, but no response was received.

Attempts to locate the owner of the *Seal Rock* continued as of 31 March 2022.

Status

The file remained open at the end of the fiscal year.

Zac (2019)

Location: Port Alberni, British Columbia
File number: 120-892-C1

The Incident

On 27 May 2019, the CCG received a report that the *Zac*, a wooden fishing vessel of approximately 11 metres in length, had sunk at Port Alberni, British Columbia. Oil was leaking from the sunken vessel. The local harbour authority deployed sorbent materials and Canadian Coast Guard (CCG) personnel were dispatched to the scene.

The owner of the vessel informed the CCG that he was unable to mount an adequate response, so the CCG took over, hiring a contractor to raise and remove the vessel. This was done successfully on 28 May 2019, and the vessel was surveyed and ultimately deconstructed by one of the CCG's contractors, on the basis that its planking was saturated with oil.

The Claim

On 22 April 2021, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$43,758.69, seeking compensation for costs and expenses arising from the response to the incident involving the *Zac*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim. In general, the CCG's claimed costs were accepted, and only minor reductions were made, with respect to the costs of the survey and some unexplained delays during the salvage operation.

The Administrator made an offer of compensation to the CCG in the amount of \$40,277.24, plus accrued statutory interest, on 8 August 2021.

The CCG accepted the offer on 18 August 2021, and payment of \$43,410.71, which included the principal plus \$3,133.47 in accrued statutory interest, was made shortly thereafter.

Recovery Action

A demand letter was sent to the last known address for the owner of the *Zac* on 31 August 2021. No response was received.

Attempts to locate the owner of the *Zac* continued as of 31 March 2022.

Status

The file remained open at the end of the fiscal year.

Western Chief (2019)

Location: Miners Bay, British Columbia

File number: 120-895-C1

The Incident

On 24 June 2019, the Canadian Coast Guard (CCG) was notified that the roughly 82-foot fishing vessel *Western Chief* was taking on water. A contractor hired by the vessel's owner had been towing it from Sidney, British Columbia to Vancouver. When it discovered the water ingress, the contractor secured the vessel at Miners Bay, on Mayne Island and left the scene. A representative of the vessel's owner advised that it contained no fuel, but that an unspecified volume of hydraulic oils were on board.

Nearby CCG Search and Rescue (SAR) personnel were sent to assess the *Western Chief*. On arrival, they noted that the vessel was holed below the waterline and listing considerably. A contractor was hired to deploy pumps on board the vessel, and the situation gradually stabilized.

Because the SAR team might be called away at any moment, a team of four CCG Environmental Response (ER) personnel was sent to Miners Bay by boat. The ER personnel relieved the contractor, set up its own pump on the vessel, and deployed sorbent materials around the vessel to ensure that any discharges of oil would be recovered. The CCG contracted divers to conduct temporary repairs on the vessel's hull, and this work was completed in the early morning hours of 25 June 2019. ER personnel departed the scene and a representative of the owner remained on board through the night.

On the morning of 25 June 2019, ER personnel returned to the *Western Chief* to re-assess the vessel. The ER team noted that the vessel's bilge was oily and determined that—given the temporary nature of the hull repair job—the vessel would remain an oil pollution threat until it could be removed from the water.

The owner made arrangements for the *Western Chief* to be removed from the water near Vancouver, and ER personnel escorted the tow until satisfied that the vessel was not at risk of taking on water.

On 26 June 2019, the CCG learned that the *Western Chief* had not yet been removed from the water. The owner's representative reported that unfavourable tides had caused a delay, and that removal had been arranged for 2 July 2019. Further tide-related delays meant that the removal was ultimately delayed until 8 July 2019. Through this period, the CCG remained in contact with the owner's representative.

The Claim

On 14 June 2021, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$22,528.61, seeking compensation for costs and expenses arising from the response to the incident involving the

Western Chief.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, concluding that the CCG's response operation and its costs had generally been reasonable. The only reductions made were with respect to costs associated with the use of a CCG vessel that was found to have been misclassified.

The Administrator made an offer of compensation to the CCG in the amount of \$16,498.07, plus accrued statutory interest, on 28 October 2021.

The CCG accepted the offer on 2 November 2021, and payment from the Fund in the amount of \$17,819.72, including interest, was made shortly thereafter.

Recovery Action

In an attempt to obtain a current address for the representative of the corporate owner of the *Western Chief*, the Administrator issued *Inquiries Act* subpoenas to BC Hydro, the Insurance Corporation of British Columbia, and a telecommunications company on 19 October 2021. The responses provided a physical address and an email address.

On 8 November 2021 in-house Legal Counsel to the Administrator sent demand letters to the owner's representative by post and by email.

On 16 November 2021, counsel made contact with the owner's representative. Settlement discussions were ongoing as of 31 March 2022.

Status

The file remained open at the end of the fiscal year.

Western Breeze (2019)

Location: Steveston Harbour, British Columbia

File number: 120-897-C1

The Incident

On 10 July 2019, the Steveston Harbour Authority notified the Canadian Coast Guard (CCG) that the roughly 18-metre wooden fishing vessel *Western Breeze* was taking on water at Paramount Pond, near Steveston, British Columbia. As it was tied to another vessel, the *Western Breeze* was moved to another location, where it later sank entirely.

The CCG spoke to a representative of the corporate owners of the vessel, who stated that there was no fuel on board, but that some hydraulic oils remained. The owners had hired a contractor to address any oil pollution from the vessel and to ultimately raise and remove it from the water.

The CCG dispatched Environmental Response (ER) personnel to the scene, who considered that the owners' measures were insufficient to contain and recover upwelling oils. ER personnel provided assistance to the owners' contractor.

On 11 July 2019, ER personnel returned to the scene, again taking issue with the owners' oil pollution mitigation efforts. A conference call was held involving several government authorities, including the CCG. Those authorities decided to reject the salvage plan put forward by the owners' contractor. The contractor was given a few hours to present a new plan but failed to do so. Ultimately, the CCG removed the owners' contractor and hired a contractor of its own to raise and remove the *Western Breeze*.

On 12 July 2019, the CCG's contractor conducted a diver survey of the *Western Breeze*.

On the morning of 13 July 2019, a Saturday, the CCG's contractor began its salvage operation. Complications during the raising operation resulted in the vessel sinking a second time. Ultimately, the vessel was raised and towed to Shelter Island, where it was removed from the water.

The CCG had the *Western Breeze* surveyed before the vessel was returned to its owners.

The Claim

On 6 July 2021, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$147,492.93, seeking compensation for costs and expenses arising from the response to the incident involving the *Western Breeze*.

The Administrator began an investigation and assessment of the claim that was ongoing as of 31 March 2022. In the course of that investigation and assessment, the office of the Administrator contacted several parties to procure additional information and documentation. Those parties included representatives of the owners of the *Western Breeze*, contractors involved in the response operation, the Steveston Harbour Authority, and the CCG.

Status

The file remained open at the end of the fiscal year.

Salish Guardian (2019)

Location: Goat Island, Ganges Harbour, British Columbia

File number: 120-898-C1

The Incident

On 24 July 2019, the Canadian Coast Guard (CCG) was notified that the *Salish Guardian*, a fibreglass pleasure craft of approximately 15 metres in length, had grounded on Goat Island, in Ganges Harbour, British Columbia. The vessel had sustained considerable damage and was discharging oil. It was known to have capacity for 3,000 litres of fuel.

CCG personnel were dispatched to the scene, where they deployed sorbent materials. As the owner of the vessel could not be identified, the CCG engaged a contractor to refloat the vessel and remove it from the water. The owner was then identified, but it became apparent that he lacked the means to adequately respond. An attempt was made during the night of 24 July 2019 to refloat the vessel, but it was unsuccessful due to crew fatigue and low tides.

On 25 July 2019, a second attempt was made to refloat the vessel, and accessible oils were removed. It was discovered that the vessel was holed in its port side, so temporary repairs were necessary in order to allow it to be safely towed to Sidney, where it was removed from the water that evening.

The CCG had the vessel surveyed and ultimately decided to have it deconstructed, after several attempts to contact its owner. Deconstruction was completed on 4 October 2019.

The Claim

On 21 July 2021, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$98,810.32, seeking compensation for costs and expenses arising from the response to the incident involving the *Salish Guardian*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim. In large part because the documentation submitted in support of some contractor costs was very limited, the Administrator disallowed large portions of the claim, including those with respect to removing the *Salish Guardian* from the water, surveying it, and deconstructing it. In addition, substantial reductions were made to the claimed amounts for CCG personnel overtime and equipment costs.

The Administrator made an offer of compensation to the CCG in the amount of \$38,662.05, plus accrued statutory interest, on 29 November 2021.

The CCG accepted the offer on 22 December 2021, and payment of \$41,823.42, which included the principal plus \$3,161.37 in accrued statutory interest, was made shortly thereafter.

Recovery Action

A demand letter was sent to the registered owner of the *Salish Guardian* on 22 February 2022. No reply was received.

Attempts to locate the owner of the *Salish Guardian* continued as of 31 March 2022.

Status

The file remained open at the end of the fiscal year.

Red Fir No. 9 (2019)

Location: English Bay, Vancouver, British Columbia

File number: 120-900-C1

The Incident

On 25 October 2019, the Canadian Coast Guard (CCG) was notified that the 47-foot motor vessel *Red Fir No. 9* was sinking in Vancouver's English Bay. Three CCG officers were dispatched to the scene to dewater the vessel and keep it afloat. They observed free-floating hydrocarbon oil in the vessel's engine space.

On 30 October 2019, the CCG directed the owner to clean all remaining hydrocarbons from the bilge to prevent further oil discharges and requested proof of completion. The owner did not provide such proof and subsequently moved the *Red Fir No. 9* to an unknown location.

On 9 November 2019, while responding to an unrelated incident in False Creek, which empties into English Bay, CCG officers observed the *Red Fir No. 9* surrounded by an oily sheen. They again contacted the owner, who stated that he was away but would return on 11 November.

The owner informed the CCG on 12 November 2019 that the *Red Fir No. 9*'s bilge had been cleaned but failed to produce photographic evidence when requested by the CCG.

CCG officers again attended at the scene on 15 November 2019, where they found the *Red Fir No. 9* discharging unrecoverable oil into the marine environment. They provided the owner's representative with pollution response materials and instructed him to act. When they returned on 19 November, they found the vessel's state unchanged and the materials unused.

The CCG officers used the sorbent materials at the scene to recover hydrocarbons from the vessel's engine room and engaged a contractor to tow the vessel to a marina, where it was removed from the water. A subsequent marine survey concluded that the *Red Fir No. 9* had no realistic market value. The CCG placed a detention order on the vessel and required the owner to pay the costs of its deconstruction.

In January 2020, the owner initiated and served a small claims legal action against the CCG, in opposition to its detention of his vessel. The legal proceeding delayed the CCG's vessel deconstruction plan. During this time, the CCG removed accessible hydrocarbons from the vessel.

In November 2020, the CCG determined to proceed with deconstruction despite the ongoing legal proceedings. Deconstruction was completed on 18 January 2021.

The Claim

On 6 October 2021, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$37,526.55, seeking

compensation for costs and expenses incurred in the course of responding to the incident involving the *Red Fir No. 9*.

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

Assessment and Offer

The Administrator investigated and assessed the CCG's claim, determining that the CCG's long-term storage and deconstruction costs were not reasonably incurred with respect to mitigating oil pollution. On 31 January 2022, an offer of compensation was made to the CCG in the amount of \$15,058.53, plus accrued interest.

The CCG accepted the offer on 25 March 2022, and a payment in the amount of \$16,253.34, representing the principal plus \$1,194.81 in statutory interest, was made shortly thereafter.

Recovery Action

As of 31 March 2022, the Administrator was making efforts to locate the owner of the vessel.

Status

The file remained open at the end of the fiscal year.

Scotia River (2019)

Location: Lax Kw'alaams, British Columbia

File number: 120-903-C1

The Incident

On 10 November 2019, the motor vessel *Scotia River* sank at the Lax Kw'alaams marina and discharged diesel and hydraulic fluid. Canadian Coast Guard (CCG) personnel reported to the scene the following morning and, along with local first responders, deployed containment boom and sorbent pads around the vessel.

Days later, the CCG contacted the apparent owner of the *Scotia River*, who claimed to have sold it to an Alberta resident. The CCG requested the bill of sale and the individual responded that he would search for it. The vessel continued to discharge diesel and transmission fluid but remained stable within the boomed area.

In the next two weeks, CCG personnel deployed additional sorbent materials around the *Scotia River* and recover soiled materials three times. Meanwhile, the CCG engaged a contractor to raise and remove the *Scotia River* from the marine environment, with the operation occurring on 26 November 2019.

Once the vessel was raised from the water, the contractor deployed a team of divers to investigate the source of a water ingress. Several entry points were identified and sealed, but the water ingress continued from unknown points. The CCG began to remove the recoverable oil within the boomed area.

The operation continued the following day, when the CCG recovered the remaining oil from the boomed area and the *Scotia River* was secured on the contractor's barge for towing. Due to poor weather, the towing operation was briefly delayed.

The *Scotia River* was towed to the contractor's marina in the early morning of 28 November 2019 and was offloaded the following day. A marine survey was conducted on 2 December 2019. The surveyor concluded that the vessel had no residual value.

The CCG removed debris from the interior of the vessel, deployed additional sorbent materials in the bilge, drained the accessible tanks, and on 12 December 2019, transported the *Scotia River* to a recycling facility for disposal. CCG personnel returned to the recycling facility days later to oversee the removal of additional oil. An additional contractor disposed of the recovered waste.

The Claim

On 3 November 2021, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim seeking compensation in the amount of \$101,618.52, for costs and expenses incurred in the course of responding to the incident involving the *Scotia River*.

The Administrator began an assessment and investigation of the CCG's claim that was ongoing as of 31 March 2022.

Status

The file remained open at the end of the fiscal year.

Related File

Mistann (2011), Prince Rupert, British Columbia, File Number 120-608-C1: (The Administrator seized the *Scotia River*, which then had the same owner as the *Mistann*, and had it judicially sold to aid in recovery against the owner of the *Mistann*).

Go-Getter (2019)

Location: Port Hardy, British Columbia

File number: 120-906-C1

The Incident

On 2 December 2019, Canadian Coast Guard (CCG) personnel at Port Hardy observed the small fishing vessel *Go-Getter* listing alongside a dock. Water was observed in the vessel's bilge, and an oily sheen was sighted around the vessel. An electric pump was deployed to dewater the vessel.

CCG personnel determined that there was a small volume of fuel and engine oil on board the *Go-Getter*, and that the water in the vessel's bilge was oily. The CCG determined that the vessel should be removed from the water. The owner was contacted, but he was unable to respond.

On 3 December 2019, the CCG hired a contractor to remove the *Go-Getter* from the water. This was done the following day, and the vessel was towed over land to a storage facility. Significant damage was noted to the vessel's hull.

On 11 December 2019, the CCG issued a notice to the owner, requiring that he pay the CCG's costs to that point before he would be allowed to retake possession of the vessel. The owner informed the CCG that he would be unable to pay.

On 13 December 2019, the CCG had the vessel surveyed. Ultimately, the CCG chose to deconstruct the vessel, which work was completed in January 2020.

The Claim

On 24 November 2021, the Administrator received a submission from CCG, on behalf of the Minister of Fisheries and Oceans. The submission included a claim totalling \$12,623.68, seeking compensation for costs and expenses arising from the response to the incident involving the *Go-Getter*.

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

Assessment and Offer

The Administrator carried out an investigation and assessment of the claim, concluding that the evidence had failed to show that large portions of the CCG's costs, including those associated with the removal and deconstruction of the *Go-Getter*, were directed at preventing oil pollution.

The Administrator made an offer of compensation to the CCG in the amount of \$2,123.68, plus accrued statutory interest, on 18 February 2022.

The Administrator's offer of compensation was outstanding as of 31 March 2022.

Status

The file remained open at the end of the fiscal year.

Autumn Winds (2021) ♦

Location: Humpback Bay, British Columbia

File number: 120-909-C1

The Incident

On 15 July 2021, the Canadian Coast Guard (CCG) began a response to an incident involving the *Autumn Winds*, a commercial fishing vessel reported to be taking on water in Discovery Passage, near Humpback Bay, British Columbia. The vessel ultimately grounded.

Contractors were engaged to contain a release of approximately 150 litres of diesel fuel and hydraulic fluids. An overflight on 16 July 2021 reported sheening on the water along the shoreline extending up to 4 kilometres west of the vessel. The response operation ran from 17 through 26 July 2021, with contractors maintaining booms, collecting oiled waste, and ultimately salvaging the vessel.

During the response to the incident involving the *Autumn Winds*, the Nanwakolas Council, an organization representing several local First Nations, hired an environmental response consultant to advise on the impacts of spilled oil on local ecologically sensitive areas. Representatives of the Nanwakolas Council and one of its constituent First Nations also travelled to the incident site and surrounding areas to monitor the situation.

The Claim

On 9 December 2021, the Administrator received a submission from the Nanwakolas Council. The submission included a claim totalling \$9,266.96, seeking compensation for costs and expenses arising from its response to the incident involving the *Autumn Winds*. The submission was made under the Expedited Process for Small Claims.

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

Payment

Having determined that the Nanwakolas Council's claim met the basic eligibility requirements under the Expedited Process for Small Claims, the Administrator issued a Payment Notice Letter on 4 February 2022. Payment itself, in the amount of \$9,266.96 plus statutory interest of \$132.93, was delayed until 2 March 2022 due to unforeseen disruptions in downtown Ottawa.

The Administrator has not yet determined whether the claim will be reassessed.

Status

The file remained open at the end of the fiscal year.

NUNAVUT



Mystery Spill (1999) ❁

Location: Ungava Bay, Nunavut
Case number: 120-206-C1

The Incident

On September 27, 1999, the ship *Aivik* reported to the Canadian Coast Guard (CCG) Traffic Centre at Iqaluit that it had sailed through patches of an unknown hydrocarbon near the eastern entrance to Ungava Bay, Nunavut. On September 29, 1999, the CCG ice reconnaissance aeroplane confirmed the existence of the oil slick.

Pursuant to the working agreement on the response of government and regulatory agencies to spills in the Northwest Territories, Indian and Northern Affairs Canada was designated lead agency responsible. An aircraft was chartered and overflights were carried out on October 1, 3 and 6, 1999, but no oil was sighted. It was believed that heavy seas had dissipated the slick, with no visible impact on the shoreline.

There were no potential shore facilities in the area that could have caused the spill; hence, the incident was classified as a mystery spill.

The Claim

On February 21, 2000, Indian and Northern Affairs Canada submitted a claim in the amount of \$15,214.92 to the Ship-source Oil Pollution Fund for the costs involved in the response.

Assessment and Offer

After investigation and assessment, the Administrator offered \$6,410.00 to settle the claim, which amount was accepted by Indian and Northern Affairs Canada and paid by the Administrator on March 28, 2000, plus \$228.05 interest.

Status

The file was closed on March 31, 2000.

Clipper Adventurer (2010)

Location: Coronation Gulf, Nunavut

Case number: 120-580-C1

The Incident

On August 27, 2010, the Bahamian-registered cruise ship, *Clipper Adventurer*, with 128 passengers and 69 crew on board, grounded on a shoal in the Coronation Gulf, Nunavut, in the Canadian Arctic. No pollution was reported. After several failed attempts to refloat the vessel, the captain ordered an evacuation of all passengers and non-essential crew on board. The evacuated people were transported to Kugluktuk (formerly Coppermine) by the Canadian Coast Guard (CCG) icebreaker *Amundsen*, which was tasked with the rescue mission.

The cruise ship reported sustaining considerable damage to its double bottom fuel tanks. However, there was no leakage of oil and no risk of sinking. Several days following the grounding, a light sheen was visible but it dissipated quickly. Upon the shipowner's request, the vessel's classification society developed a salvage plan, for which a Transport Canada Marine Safety inspector provided oversight. Transport Canada, Environment Canada and CCG maintained a monitoring role throughout the salvage operation to ensure an appropriate response. The CCG ship *Sir Wilfrid Laurier* was deployed to function as the local command centre.

On September 14, the *Clipper Adventurer* was successfully refloated and towed by tug to Cambridge Bay, Nunavut, for damage assessment and preliminary repairs in preparation for departure from the Arctic. On September 23, Transport Canada and the vessel's classification society granted clearance for the vessel to transit from Cambridge Bay to Nuuk, Greenland. The *Clipper Adventurer* departed Nuuk, Greenland, on October 28, 2010, and proceeded to the port of Gdansk, Poland, where permanent repairs were made from November 11, 2010, to December 31, 2010.

Measures taken by the Administrator

The Administrator instructed counsel to investigate the response operation and ascertain that the vessel had a Bunker Convention insurance certificate.

A Letter of Undertaking signed on September 23, 2010 and covering both the Administrator and the CCG, was received.

Administrator as Party by Statute

Two actions were launched with regard to the incident, with the Ship-source Oil Pollution Fund (SOPF) being a party by statute to both actions. The first lawsuit was brought against the Crown by the shipowner, Adventurer Owner Ltd., alleging negligence on the part of the Crown (CCG and the Canadian Hydrographic Service), in failing to properly notify shipowners of the shoal on which the *Clipper Adventurer* had grounded. The amount claimed was about \$15 million. About one year later, the Crown launched its own action against the shipowner in the amount of \$468,801.72 for

costs and expenses it incurred arising out of the incident. The Crown contended that the existence of the shoal had been properly publicized to mariners in a Notice to Shipping.

The two actions have been joined as one action under case management by the Federal Court. A mediation was held by the Federal Court on February 10, 2016, but no agreement was reached by the parties. The case went to trial in November 2016. Judgment was rendered in January 2017, dismissing Adventurer Owner Ltd.'s action and awarding the Crown a principal amount of \$445,361.64 plus interest at 5%.

On February 24, 2017, a notice of appeal was filed by Adventurer Owner Ltd. with the Federal Court. One of the plaintiff's request was the application of the interest provision provided at section 116 of the *Marine Liability Act* (MLA) to all claims against a shipowner by virtue of section 109 of the MLA, instead of the Admiralty interest, which was awarded to the Crown at trial. The counsel for SOPF sent a notice to the Federal Court to the effect that the SOPF would not appear nor be seeking to be involved.

On February 7, 2018, the Federal Court of Appeal upheld the Federal Court's judgment, which was in favour of the Crown. In addition, while elaborating on the SOPF's jurisdiction, namely the scope of the interest provision, it decided that section 116 of the MLA was inapplicable in this case since the claimant sued a shipowner directly. The shipowner has since applied for a leave to appeal before the Supreme Court of Canada (SCC). On November 29, 2018, SCC denied the application.

The Claim

On October 17, 2011, the Administrator received a claim in the amount of \$468,801.72 from the CCG on behalf of the Department of Fisheries and Oceans (DFO/CCG) to cover the monitoring costs and expenses incurred in respect of the incident pursuant to the MLA. However, the Administrator has kept assessment in abeyance pending the outcome of the litigation.

Court found the shipowner liable for the amount of \$445,361.64 plus interest and CCG claim was consequently settled by the shipowner. As a result, the Administrator decided to close the file.

Status

The file was closed on December 13, 2018.

Nanny (2010) ☰

Location: Gjoa Haven, Nunavut

Case number: 120-581-C1

The Incident

On September 1, 2010, the Canadian registered tanker *Nanny*, loaded with approximately 9,000 metric tonnes of diesel oil, gasoline and jet fuel, went aground on an uncharted shoal of sand and gravel near Gjoa Haven, Nunavut, while en route to deliver petroleum products to communities in the Arctic. Following internal inspection carried out by the crew, it was determined that there was no structural, hull or mechanical damage incurred as a result of the incident. Furthermore, there was no discharge of oil.

The Canadian Coast Guard (CCG) icebreaker *Henry Larsen*, which was in the vicinity, was tasked to proceed to the site and monitor the shipowner's salvage operations. The shipowner promptly assumed responsibility and developed a preliminary plan to transfer a quantity of the cargo from the *Nanny* to the tanker *Tuvaq*, a ship also owned by the same company. The CCG and Transport Canada Marine Safety inspectors then worked with the shipowner to provide advice and guidance with respect to the development of a salvage plan. In addition, a Federal Monitoring Officer from the CCG was dispatched from Sarnia, Ontario, to monitor the planned cargo transfer. On September 13 and 14, the fuel was transferred under the supervision of the Marine Safety inspector from Transport Canada and the *Nanny* was refloated on September 15. Following a damage survey conducted by the Marine Safety inspector and the vessel's representative, the *Nanny* was cleared for re-loading and allowed to proceed with the community fuel resupply. No oil pollution occurred throughout the response to the incident.

The Claim

On June 19, 2012, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$441,842.17, made pursuant to section 103(1) of the *Marine Liability Act* (MLA). The Administrator was informed that CCG had previously sent the claim to the shipowner in April 2012, and that the owner had declined to pay it on the grounds that the incident had not caused any pollution damage.

Assessment and Offer

Upon receipt of the claim, the Administrator requested a copy of the response letter, if any, received from the shipowner declining the CCG claim. Meanwhile, he investigated and assessed the claim. On August 23, 2012, he wrote to DFO/CCG and explained that from the analysis of the material filed in support of the claim, the preliminary view was that the claim was not established. The CCG was then requested to provide additional documentation to support the reasonableness of the essential elements of the claim, namely the costs incurred by the *Henry Larsen* and its helicopter to monitor the incident, which amounted to approximately 95 percent of the original overall claim. The Administrator specifically requested documentation demonstrating that the degree of monitoring in this case was reasonable, given the considerable presence of federal officials throughout the duration of the incident, and in particular, the timely and competent

response of the shipowner. On September 28, the Administrator received a response to his request. However, the requested information was not provided in sufficient detail or, in some cases, not at all. The Administrator completed his investigation and assessment of the claim and found only \$85,000.00 to be established, which amount essentially reflected the costs incurred in the first 24 to 36 hours to determine that there was no damage to the tanker. Accordingly, on December 12, 2012, pursuant to section 105(1)(b) of the MLA, a global offer of \$85,000.00, inclusive of interest, was made to DFO/CCG in full and final settlement of the claim. DFO/CCG accepted the offer on February 8, 2013, and payment of such global amount was thereafter made.

Recovery Action

The Administrator instructed counsel to commence action in the Federal Court against Coastal Shipping Limited, the owner of the *Nanny*, for recovery of the amount paid by the Fund to DFO/CCG.

As a result of settlement discussions between counsels, the shipowner agreed, without admission of liability, to pay \$70,000.00 as full and final settlement. The settlement amount was paid to the Fund after execution of an appropriate release and the Administrator discontinued the action in the Federal Court.

Status

The file was closed on October 2, 2013.

GULF OF ST. LAWRENCE



Flare (1998)

Location: Gulf of St. Lawrence

Case number: 120-165-C1

The Incident

On January 16, 1998, a distress message was received at the Canadian Coast Guard (CCG) East Coast Rescue Coordination Centre, indicating that the *Flare*, a Cypriot registered bulk carrier, was sinking. Inbound for Montreal, the *Flare* was in ballast when, in a position southwest of St. Pierre and Miquelon, she broke in two. Only four men of a crew of 25 were saved. The stern section sank quickly, but the bow continued to float and drifted off into the Atlantic. On January 23, 1998, it was concluded that the bow section had also sunk.

Attempts were made to minimize the oil pollution coming from the stern section, but a report on February 6, 1998 stated that the stern part of the wreck continued to occasionally release oil. The search continued for the bow section and it was the CCG's intention to establish a program to monitor the sites where the two sections sank.

The Claim

On June 21, 1999, the Crown made a claim on the shipowner amounting to \$1,037,363.69. Settlement discussions took place between the Crown and the shipowner's legal counsel and, on March 9, 2001, the Crown accepted the shipowner's offer of settlement.

The Administrator was not involved in the claim.

Status

The file was closed on March 31, 2001.

UNITED STATES OF AMERICA



Nestucca (1988) →

Location: Grays Harbour, WA, USA
Case number: 120-022-C1

The Incident

On December 23, 1988, about two nautical miles west of Grays Harbour in the State of Washington, the United States (US) flag tug *Ocean Service* collided in heavy seas with its own tow, a US tanker barge, the *Nestucca*, carrying approximately 11 million litres of Number 6 fuel oil from Ferndale, Washington to Portland, Oregon. As a result of the collision, *Nestucca*'s No. 1 starboard tank was punctured, causing a discharge of some 875,000 litres of oil. Both the tug *Ocean Service* and the *Nestucca* were owned by Sause Brother's Ocean Towing Inc.

On December 31, 1988, large quantities of oil were discovered on Canadian beaches, near Carmanah Point Lighthouse station, samples of which matched the oil from the *Nestucca*. The Canadian Government incurred substantial costs and expenses in the cleanup of oil.

The Claim

Notices of some 15 claims were filed with the Ship-source Oil Pollution Fund (the Fund), pursuant to section 675 of the *Canada Shipping Act*, for loss of fishing income caused as a result of the closure of two fishing areas on the west coast, off Vancouver Island. However, under applicable law, the Fund had no authority to pay these claims until it was established that the fishermen could not recover their loss from the shipowner whose ship caused the oil spill. Therefore, all the fishermen claimants were advised to take the necessary steps to recover their loss from the shipowner by filing their claims with the US District Court for Oregon by December 1, 1989, which most of the claimants did.

The *Nestucca*'s owners commenced legal proceedings in the US Courts to limit their liability in accordance with US law. In a judgment rendered on January 24, 1991, the Court found that the shipowner could not be exonerated from its liability for the damages caused by the oil spill and he was ineligible for limitation of liability pursuant to the *United States Limitation of Liability Act*.

After extensive Discoveries, a conference before a settlement judge was held in May 1992 in Portland, Oregon, and on May 20, 1992, all claims and issues were settled by agreement. The shipowner agreed to pay for all the individual and commercial fishing claims, the cleanup costs and the environmental claims. Besides, on June 17, 1992, the Canada-British Columbia-Nestucca Agreement, which established the *Nestucca* Oil Spill Natural Resource Damage Fund and provided for the administration of that fund, was signed by the Minister of the Environment, Canada and the Minister of the Environment, Lands and Parks, British Columbia. The shipowner paid the amounts stipulated in the settlement by July 27, 1992.

Status

The file was closed on March 31, 1993.

Sunny Blossom (1999) ■

Location: off Kingston, ON in US waters
Case number: 120-198-C1

The Incident

The *Sunny Blossom*, a Bahamian-flag double hull chemical tanker, engaged in the caustic soda trade, in and out of the Great Lakes, grounded off Kingston, Ontario, in the United States (US) waters, on April 24, 1999. The US Coast Guard (USCG) responded and the Canadian Coast Guard (CCG) attended at the site. The *Sunny Blossom* was refloated with no release of a pollutant.

Apart from this grounding, the *Sunny Blossom* was also involved in three other incidents during the years 1999 and 2000.

The Claim

On April 20, 2000, the Crown presented a claim to the Ship-source Oil Pollution Fund (the Fund) in the amount of \$9,526.57, to recover the CCG's costs and expenses in the incident.

Assessment and Offer

The Administrator reviewed the circumstances of the claim. On September 27, 2000, counsel for the Fund wrote to Crown counsel raising some issues, particularly whether or not the incident was considered as subject to the terms of the Great Lakes Water Quality Agreement and the Joint Marine Pollution Contingency Plan. In the meantime, the CCG reported that they had submitted a claim to the USCG, and then to the shipowner.

By letter of September 26, 2001, Crown counsel advised that the CCG had been successful in obtaining payment of their claim from the shipowner.

Status

The file was closed on March 31, 2002.

1989-2022 INCIDENT INDEX

Name, File # and Location	Year of Incident	Ship Type and Flag	Spill	Oil Type	Security	Claim(s) filed		Offer		Recovery Status	Date File Closed
						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Newfoundland and Labrador											
South Angela 120-020-C1 Come-by-Chance, Placentia Bay	1988	Tanker Liberia	√	Crude oil	√	Crown (for CCG) 1990-03-02	234,336.58				2000-03-31
St. John's Harbour Spill 120-046-C1 St. John's	1990	Unidentified ship	√	Bilge oil		Fishermen	Unspecified				1991-03-31
Mystery Spill 120-048-C1 Big Barasway	1990	Unidentified ship	√	Bunker C oil		A resident of Burgeo, NL 1991-05-19	Unspecified	1991-07-25	100.00		1992-03-31
Mystery Spill 120-078-C1 Come by Chance	1993	Unidentified ship	√			Llewellyn Baker and Baker Enterprises Ltd. 1993-04-15	711.44	1993-11-10	711.44		1994-03-31

Incident Index

Name, File # and Location	Year of Incident	Ship Type and Flag	Spill	Oil Type	Security	Claim(s) filed		Offer		Recovery Status	Date File Closed
						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Mystery Spill 120-126-C1 Come By Chance	1996	Unidentified ship	√	Oil sludge mixture		Come By Chance Refinery 1996-08-12	21,265.47	1996-09-17	7,087.49		1998-03-31
Nevada 120-126A-C1 Come By Chance	1996	Oil tanker	√	Hydraulic and fuel oil		North Atlantic Refining Limited 1996-07-05	6,173.73				2005-03-31
Mystery Spill 120-137-C1 St. Bride's, Placentia Bay	1997	Unidentified ship	√			Crown 1997-12-01	119,421.70	1999-03-03 2000-03-28	71,506.48 28,500.00		2000-03-31
Mystery Spill 120-140-C1 Come By Chance	1997	Unidentified ship	√	Heavy marine diesel or crude oil		Come By Chance Refinery 1997-08-11	26,877.30	1999-02-26	6,431.25		1999-03-31
Koyo Maru #16 120-164-C1 St. John's	1997	Fishing vessel Japan	√	Diesel oil	√	Crown (for CCG) 1999-10-18	7,631.82 (revised to 6,817.71)	2000-03-03	4,425.31	2,793.84	2002-03-31
Mystery Spill 120-176-C1 Little Lawn Beach, Placentia Bay	1998	Unidentified ship	√			Crown (for CCG) 1999-06-21	12,246.21	1999-07-26 2000-03-28	10,889.13 435.00		2000-03-31
Sam Won Ho 120-221-C1 Long Harbour	2000	Freezer fishing trawler	√			Crown (for CCG) 2000-12-06	45,809.19	2001-02-08	36,084.47	1,000.00	2006-03-31

Incident Index

Name, File # and Location	Year of Incident	Ship Type and Flag	Spill	Oil Type	Security	Claim(s) filed		Offer		Recovery Status	Date File Closed
						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Sam Won Ho 120-221-C1-1 Long Harbour	1999	South Korea				Roy Murphy 1999-04-19	2,040.00	1999-04-21	1,300.00		2006-03-31
Sam Won Ho 120-221-C1-2 Long Harbour	1999					CCG 1999-12-29	99,878.55 (revised to 96,856.92)	2000-03-03	80,000.00		2006-03-31
Mystery Spill 120-314-C1 Hopedale	2002		√			CCG 2003-07-07	21,698.16				2005-03-31
Sekme & Treimani 120-384-C1 Bay Roberts Harbour, Conception Bay	2003	Fishing vessels				DFO/CCG 2005-07-27	72,732.02	2006-03-30	15,000.00		2009-03-31
Mystery Spill (Oiled birds) 120-397-C1 Placentia and St. Mary's Bays	2004	Unidentified ship	√			Newfoundland and Labrador Environmental Association 2005-01-11	8,320.00	2007-11-01	2,320.00		2007-11-30
Mystery Spill 120-490-C1 St. Mary's Bay	2006	Unidentified ship	√			DFO/CCG 2006-12-08	15,390.04	2007-05-03	15,390.04		2008-03-31

Incident Index

Name, File # and Location	Year of Incident	Ship Type and Flag	Spill	Oil Type	Security	Claim(s) filed		Offer		Recovery Status	Date File Closed
						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Abandoned Barge 120-592-C1 Sop's Arm, White Bay	2010	Barge				DFO/CCG 2011-03-18	13,546.76	2011-05-03	13,546.76		2012-07-03
Connie James 120-637-C1 Savage Cove	2011	Fishing vessel	√	Fuel oil		DFO/CCG 2013-08-08	13,265.56		7,415.62		2014-09-23
Atlantic Endeavour 120-638-C1 Cow Head	2011	Fishing vessel				DFO/CCG 2013-08-08	5,471.11	2013-09-25	5,471.11		2014-03-22
Nova Star I 120-648-C1 Cooks Harbour	2012	Fishing vessel				DFO/CCG 2014-03-07	6,523.50	2014-04-29	6,523.50		2014-06-10
Lakeview Venture 120-661-C1 Cobb's Arm, Notre Dame Bay	2013	Fishing vessel				DFO/CCG 2014-07-03	6,517.48	2014-11-13	6,296.78	1,000.00	2015-06-09
Baffin Sound 120-685-C1 St Anthony	2015	Fishing vessel (derelict)				DFO/CCG 2015-12-09	22,185.86	2016-02-25	22,185.86 100%		Open
Mystery Spill 120-686-C1 St. John's	2015	Unidentified ship	√			DFO/CCG 2015-12-17	27,169.98	2016-01-20	27,169.98		2016-12-06

Incident Index

Name, File # and Location	Year of Incident	Ship Type and Flag	Spill	Oil Type	Security	Claim(s) filed		Offer		Recovery Status	Date File Closed
						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Stelie II 120-687-C1 Port Saunders	2016	Derelict fishing vessel	√	Diesel		DFO/CCG 2020-10-08	114,897.43	Claim was rejected			Open
Matterhorn 120-695-C1 Mount Carmel	2014	Tug - abandoned	√	Diesel & waste oil		DFO/CCG 2016-08-09	172,751.64	2016-12-19	172,751.64 100%	135,000.00	2019-10-10
Mystery Spill 120-698-C1 Belleoram	2016	Unidentified ship	√	Diesel		DFO/CCG 2016-12-02	2,178.55	2017-02-13	2,137.39		2017-03-28
Ronda 120-703-C1 Embree	2016	Fishing vessel				DFO/CCG 2018-11-26	98,858.83	2019-02-26	5,953.87 6%		2019-07-04
Sikuk 120-712-C1 Clarenville Harbour	2017	Fishing vessel				DFO/CCG 2019-03-01	195,109.00	2020-06-10	79,826.14 40.91%	Recovery efforts ongoing	Open
Françoise 120-725-C1 Clarenville Harbour	2017	Fishing vessel				DFO/CCG 2019-09-12	381,296.28	2020-06-10	73,908.57 19.38%	Recovery efforts ongoing	Open
Lucas & Rebecca 120-727-C1 Bay of Islands	2017	Fishing vessel				DFO/CCG 2017-11-03	17,744.64	2017-12-13	17,744.64 100%	Recovery efforts ongoing	Open
Floyd II 120-728-C1 Happy Adventure	2017	Fishing vessel	√			DFO/CCG 2017-11-03	10,471.05	2017-12-12	10,471.05	5,250.00	2018-04-12

Incident Index

Name, File # and Location	Year of Incident	Ship Type and Flag	Spill	Oil Type	Security	Claim(s) filed		Offer		Recovery Status	Date File Closed
						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
<i>Joyce's Journey</i> 120-738-C1 Bay of Islands	2016	Fishing vessel				DFO/CCG 2018-01-03	11,373.42	2018-01-31	11,373.42	9,000.00	2018-07-12
<i>Baccalieu Endeavour</i> 120-739-C1 Musgrave Harbour	2017	Fishing vessel				DFO/CCG 2018-01-03	5,146.31	2018-02-07	5,045.49	5,345.75	2019-01-25
<i>Avalon Princess</i> 120-755-C1 La Scie	2017	Fishing vessel	√	Diesel		DFO/CCG 2019-05-01	8,486.10				2019-06-11
<i>Eylander</i> 120-761-C1 Witless Bay	2017	Fishing vessel	√		√	DFO/CCG 2019-07-25	12,812.93	2019-10-17	10,272.68 80.20%	10,812.68	2020-04-23
<i>Megan C</i> 120-838-C1 Port aux Basques	2019	Fishing vessel (derelict)				DFO/CCG 2019-05-01	11,784.58	2019-06-12	8,170.82 69.33%	Recovery efforts ongoing	Open
<i>Mary Shauna</i> 120-839-C1 Norris Point	2017	Fishing vessel				DFO/CCG 2019-05-01	5,389.77				2019-05-27
<i>Noble Mariner</i> 120-841-C1 Nipper's Harbour	2018	Fishing vessel (derelict)	√	Diesel		DFO/CCG 2019-05-30	41,687.99	2019-07-11	36,601.67 87.80%	Recovery efforts ongoing	Open

Incident Index

Name, File # and Location	Year of Incident	Ship Type and Flag	Spill	Oil Type	Security	Claim(s) filed		Offer		Recovery Status	Date File Closed
						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Beverly Gaie 120-845-C1 Summerside Marina	2018	Converted pleasure craft				DFO/CCG 2019-07-12	151,648.78	2019-10-31	9,614.71 6.34%	8,000.00 2022-03-11	2022-04-08
Arch's Pride 120-846-C1 Bonavista	2018	Pleasure craft	√			DFO/CCG 2019-07-25	12,183.57	2019-09-19	11,830.86 97.10%	12,230.27	2020-02-06
Jennifer Holly 120-849-C1 Main Brook	2019	Fishing vessel (derelict)	√	Fuel, base oil, hydraulic oil		DFO/CCG 2019-10-28	76,171.64	2020-03-06	72,939.19 95.76%	Recovery efforts ongoing	Open
Northern Star 120-851-C1 Witless Point	2018	Fishing Vessel				DFO/CCG 2019-12-11	4,574.63	2020-02-18	3,941.51 86.16%		2020-09-10
Lady Elizabeth I 120-852-C1 Woody Point	2018	Passenger/ Cargo vessel				DFO/CCG 2019-12-13	8,489.01	2020-03-11	1,620.37 19.09%	2,147.82 2021-05-19	2021-05-20
Lady Miranda 120-863-C1 Cow Head	2018	Fishing vessel				DFO/CCG 2020-05-25	7,569.90	2020-06-25	7,569.90 100%	8,639.92 2022-03-11	Open
Marcel Angie II 120-877-C1 Grand Bank	2018	Fishing vessel				DFO/CCG 2020-11-03	20,267.57	2021-03-02	14,622.14 76%	16,088.71 2021-11-03	2021-11-18
Sweven 120-886-C1 St. John's	2019	Pleasure craft				DFO/CCG 2021-03-11	6,134.57	2021-04-23	6,134.57 100%	Recovery efforts ongoing	Open

Incident Index

Name, File # and Location	Year of Incident	Ship Type and Flag	Spill	Oil Type	Security	Claim(s) filed		Offer		Recovery Status	Date File Closed
						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Danielle and Mark 120-894-C1 Old Bonaventure	2020	Fishing vessel				DFO/CCG 2021-06-03	47,073.08	2021-09-21	30,397.23 64.6%	Recovery efforts ongoing	Open
Unknown name 120-896-C1 Cupids	2020	Pleasure craft	√	Diesel		DFO/CCG 2021-06-15	14,826.38	2021-09-01	14,766.79 99.6%	Recovery efforts ongoing	Open
Mystery Spill 120-907-C1 Postville	2020			Kerosene spill		DFO/CCG 2021-12-01	32,650.70	Assessment ongoing			Open
Nova Scotia											
Mystery Spill 120-028-C1 Gabarus	1989	Unidentified ship	√	Bunker C oil		A lobster fisherman 1989-07-26		1989-10-05	16,276.00 + 2,700.00 (legal costs)		1992-03-31
						Local seafood processing companies 1989-08-30		1989-10-06	48,000.00 + 2,000.00 (interest)		
						CCG 1990-07-03	16,548.98	1991-06-13	12,000.00		
Mystery Spill 120-029-C1 Rocky Bay	1989	Unidentified ship	√			CCG 1990-07-03	1,239.81		500.00		1992-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Mystery Spill 120-040-C1 Wedgeport	1990	Unidentified ship	√	Mixture of diesel oil, hydraulic fluid and bilge wastes		CCG 1990-08-27	3,282.82	1991-06-10	2,000.00		1992-03-31
Mystery Spill 120-045-C1 North Sydney	1990	Unidentified ship	√			Department of Justice (for CCG) 1992-05-22	21,407.83	1993-06-30	16,226.62		1994-03-31
Mystery Spill 120-049-C1 Louisbourg	1990	Unidentified ship	√			CCG 1994-11-30	8,848.29				1995-03-31
Amy & Sisters 120-050-C1 Gabarus	1990	Fishing vessel	√	Diesel oil		Two lobstermen and a seafood processing company	23,413.83		23,413.83	8,000.00	1992-03-31
Mystery Spill 120-066-C1 Lockeport	1992	Unidentified ship	√	Diesel oil		R. Baker Fisheries Ltd. 1992-04-16	63,980.35		59,350.00 (including interest and costs)		1993-03-31
						R. Baker Fisheries Ltd. 1992-06-11	36,960.00				

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Mystery Spill 120-073-C1 Halifax	1992	Unidentified ship	√			Imperial Oil Limited 1992-11-24	8,818.39		5,870.67		1993-03-31
Mystery Spill 120-077-C1 Lockeport	1993	Unidentified ship	√	Diesel oil		D.&L. Williams Fisheries Ltd. 1993-04-04	2,294.25	1993-11-26	2,294.25		1994-03-31
Keta V (Wedgeport Mystery Spill) 120-084-C1 Wedgeport	1993	Tug & dredging barge Canada	√	Diesel oil							1996-03-31
Zim Savannah 120-096-C1 Halifax	1994	Container ship Israel	√	Bunker C fuel oil		Zim Navigation (Canada) Ltd. 1994-07-29	99,579.58				1998-03-31
Mystery Spill 120-107-C1 New Haven	1995	Unidentified ship	√	Diesel fuel		A fishing cooperative based in Neil's Harbour, NS 1995-07-28	6,856.00	1997-01-28	6,675.28		1997-03-31
Chiloli 120-113-C1 Capelin Cove	1995	Offshore supply type vessel Panama	√			Crown (for CCG) 1995-12-12	565,965.53				1996-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Mystery Spill 120-129-C1 Dartmouth	1996	Unidentified ship	√			A Dartmouth based oil refinery 1996-10-01	30,133.45	1997-01-22 1997-03-24	18,356.68 5,888.39		1997-03-31
Mystery Spill 120-147-C1 Neils Harbour, New Haven	1995	Unidentified ship	√	Diesel fuel		Victoria Cooperative Fisheries Ltd. 1995-07-28	6,856.00	1997-01-24	5,922.00		2006-03-31
Ossian 120-153-C1 Ship Harbour	1997	Pleasure craft Canada	√			Crown (for CCG) 1998-10-09	13,823.11	1999-06-28	13,823.11		2000-03-31
Mystery Spill 120-168-C1 Martinique Beach, Clam Bay (and others)	1998	Unidentified ship				Crown (for CCG) 1998-11-17	36,878.96	1999-03-03	32,681.11		1999-03-31
Anne Jolene 120-287-C1 Wrights Cove, Bedford Basin, Halifax	2001	Fishing scallop dragger	√			Crown (for CCG) 2002-03-18	77,024.26	2002-03-25	55,899.52		2002-03-31
Lavallee II 120-303-C1 Ecum Secum	2002	Herring transporter	√			CCG 2003-01-28	213,053.94	2003-02-27	212,126.10	9,165.50	2011-08-03

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
<i>Miss Western Way</i> 120-317-C1 Bush Islands, Lunenburg	2002	Fishing vessel	√			CCG 2003-01-29	9,395.61 (revised to 9,554.73)	2003-02-24	9,011.13		2003-03-31
<i>Forrest Glen</i> 120-324-C1 Long Wharf, Digby	2002	Pleasure craft (ex-fishing vessel)				CCG 2003-03-10	272,159.26	2003-03-21	239,902.95		2003-03-31
<i>John Boy</i> 120-386-C1 Lockeport	2003	Fishing vessel	√			CCG 2004-01-30	24,133.30	2004-03-09	22,018.74		2004-03-31
<i>Ronald M</i> 120-387-C1 Long Wharf, Digby	2004	Fishing vessel				CCG 2005-02-09	13,957.80	2005-02-16	13,957.80		2005-03-31
<i>Alicia Dawn</i> 120-412A-C1 Caribou Harbour	2004	Fishing vessel	√			CCG 2005-02-04	2,625.42	2005-02-09	2,543.01	1,298.00	2008-03-31
<i>Farley Mowat</i> 120-450-C1 Halifax	2008	Motor vessel				CCG 2009-03-23	50,260.46	2010-03-24	45,862.29		2010-03-31
<i>Sea Sprite</i> 120-458-C1 Dartmouth	2005	Pleasure craft				DFO/CCG 2005-11-10	7,481.28	2005-12-23	7,151.04		2010-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Stephanie & Darrel 120-530-C1 Shelburne	2007	Fishing vessel - abandoned	√	Fuel and hydraulics		DFO/CCG 2008-02-09	13,627.73	2008-05-13	13,627.73 100%	Recovery efforts ongoing	Open
Miner (ex-Canadian Miner) 120-600-C1 Scatarie Island	2011	Bulk carrier				DFO/CCG 2012-07-12	251,629.13	2013-02-05	10,000.00 (inclusive of interest)		2013-08-19
Cetacean Venture 120-617-C1 Freeport	2012	Fishing vessel	√			DFO/CCG 2012-05-08	3,176.96	2012-06-05	3,176.96		2012-08-08
Dawn Til Dusk 120-634-C1 Annapolis Royal	2013	Scallop dragger	√			DFO/CCG 2013-06-07	7,442.88	2013-06-27	7,158.04		2013-10-01
Norwin 120-640-C1 Digby	2011	Fishing vessel	√			DFO/CCG 2013-09-16	6,210.07				2014-03-06
Hannah Atlantic 120-652-C1 Bridgewater	2014	Trawler				DFO/CCG 2014-07-03	19,956.15	2014-09-16	19,682.37		2015-12-16

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Ryan Atlantic II (formerly Cape Rouge) 120-653-C1 Bridgewater	2014	Ex-fishing vessel	√			DFO/CCG 2014-06-26	362,575.38	2015-03-19	358,117.79 98.77%	Recovery efforts ongoing	Open
Schwalbe 120-670-C1 Lunenburg	2015	Sailboat				DFO/CCG 2015-04-16	5,737.64	2015-06-24	5,294.62		2016-11-29
Cormorant 120-672-C1 Bridgewater	2015	Derelict vessel (ex-military)	√	Hydraulic Oil		DFO/CCG 2015-11-02	549,581.18	2016-03-29	515,267.25 93.76%	375,000.00 2022-01-06	2022-03-31
Farley Mowat 120-679-C1 Shelburne Harbour	2015	Derelict Research ship	√			DFO/CCG 2016-01-18	814,815.05	2016-06-29	813,316.15 99.82%	Recovery efforts ongoing	Open
Farley Mowat 120-679-C1-1 Shelburne Harbour	2015	Derelict Research ship	√			Town of Shelburne 2017-06-23	47,598.78	2017-07-18	43,641.94 91.69%	Recovery efforts ongoing	Open
Lady Young 120-688-C1 Deming's Island	2016	Pleasure craft	√	Diesel		DFO/CCG 2016-08-09	25,747.66	2016-11-23	25,598.67 99.42%		2019-04-25
Kings Endeavour 120-692-C1 Woods Harbour (Falls Point Wharf)	2015	Fishing vessel - Abandoned				DFO/CCG 2016-08-09	5,773.41	2016-08-18	5,234.32		2016-11-23

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
<i>EM-AN-L</i> 120-699-C1 Weymouth North	2016	Fishing vessel	√			DFO/CCG 2016-12-02	4,808.25	2017-01-25	4,605.94		2017-04-03
<i>Arca</i> 120-702-C1 Sydney Mines	2017	Bunkering tanker	√	Bunker Oil		DFO/CCG 2017-04-04	100,649.50	2018-01-25	54,998.13	57,000.00	2018-04-12
<i>Farley Mowat</i> 120-718-C1 Shelburne Harbour	2017	Derelict	√	Oily liquids		DFO/CCG 2017-10-10	1,176,126.41	2019-04-15	872,107.92 74.15%		2019-05-23
<i>Nordika Desgagnés</i> 120-746-C1 Scatarie Island	2018	Cargo ship				DFO/CCG 2020-03-02	12,218.63	Claim was withdrawn by claimant			2020-07-02
<i>Ryan Atlantic II</i> 120-750-C1 Bridgewater	2017	Ex-fishing vessel		Motor Oil		DFO/CCG 2018-05-01	17,975.67	2018-05-09	17,645.78		2018-06-21
No name 120-824-C1 Weymouth North	2018	Fishing vessel	√			DFO/CCG 2018-10-18	33,606.49	2018-11-15	33,606.49 100%		2019-07-11
Mystery spill 120-826-C1 Ingomar	2018		√			DFO/CCG 2018-11-15	1,406.75	2018-12-12	1,406.75		2019-03-28

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
No name 120-828-C1 Sandy Cove	2018	Fishing Vessel (derelict)	√			DFO/CCG 2018-11-26	1,157.98	2019-02-07	1,157.98 100%		2019-05-09
Miss Mall Bay 120-890-C1 Lunenburg	2019	Fishing vessel				DFO/CCG 2021-04-01	183,859.32	2021-11-05	35,824.08 19%	Recovery efforts ongoing	Open
Miss Tricia Lynn 120-893-C1 Chéticamp	2019	Fishing vessel				DFO/CCG 2021-05-18	10,815.75	2021-07-27	10,803.86 99.9%	Recovery efforts ongoing	Open
New Brunswick											
Camargue 120-030-C1 Saint John	1989	Tanker France	√	Bunker fuel oil	√	Crown (for CCG) 1992-04-24	1,275,048.78				1998-03-31
Carapec I 120-083-C1 Caraquet	1993	Fishing vessel Canada									1996-03-31
Tito Tapias 120-089-C1 Red Head, Saint John	1994	Tanker Panama	√	Bunker C oil	√						1996-03-31
Roxanne Reanne 120-295-C1 Navy Island, St. Andrews	2001	Fishing vessel Canada				CCG 2003-03-27	3,283.06	2003-03-31	2,390.22		2003-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Santa Emma 120-459-C1 Cape Tormentine	2005	Ro/Ro cargo vessel Panama				Crown 2006-02-14	717,845.21	2007-10-11	768,268.67 (including interest)		2009-03-31
Ma Belle 120-639-C1 Richibucto	2011	Fishing vessel				DFO/CCG 2013-08-13	23,739.27				2014-03-31
Rene Brazeau 120-645-C1 Saint John	2011	Barge	√			DFO/CCG 2014-02-03	40,880.32				2014-03-12
MacEachern's Point Wharf – Vessels Fire 120-651-C1 Tabusintac	2014		√			DFO/CCG 2014-03-27	55,937.21	2015-01-15	55,200.68		2016-08-10
L'Épaulard 120-876-C1 Blacks Harbour	2018	Fishing vessel	√	Diesel		DFO/CCG 2020-11-03	7,821.73	2021-01-26	7,674.80 98%	Recovery efforts ongoing	Open
Prince Edward Island											

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
<i>Irving Whale</i> 120-002-C1 Gulf of St. Lawrence, North Point	1970	Barge	√			Crown 1997-07-29				100,000	2000-03-31
Mystery Spill 120-047-C1 Graham Pond	1990	Unidentified ship	√			CCG 1994-11-30	10,225.35				1995-03-31
Mystery Spill 120-059-C1 Red Point	1991	Unidentified ship	√	Bunker C oil		CCG 1992-07-16	4,080.32		3,396.13		1995-03-31
<i>Jameson Point</i> 120-587-C1 Summerside	2009	Tug United States of America				DFO/CCG 2010-10-20	3,385.22	2011-03-17	3,385.22		2011-07-28
Quebec											
<i>Carabobo</i> 120-001-C1 Baie de Gaspé	1945	Wreck	√			Crown 2003-03-17	320,000.00				2003-03-31
<i>St. Spyridon / Florence</i> 120-005-C1 St. Lawrence River	1973	Liberian tanker Liberian bulk carrier	√	Bunker C		A Fisherman	3,200		345.90		2005-03-31
<i>Lady Era</i> 120-007-C1 Port Cartier	1977	Cargo ship Greece		Diesel and lube oil		Crown 1980-09-16	303,339.28		298,339.28		1998-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Czantoria 120-021-C1 St. Romuald	1988	Tanker Liberia	√		√	Ultramar Canada Inc. 1988-05-11	2,500,000.00				1994-03-31
						Crown 1990-05-07	338,867.84				
Duke of Connaught 120-021A-C1 Îles-de-la-Madeleine	1988	Dry-dock	√			Crown (for CCG) 1998-07-13	32,056.91				1999-03-31
Lucette C 120-026-C1 Baie des Chaleurs	1989	Fishing vessel Canada	√	Diesel oil		Crown (for CCG) 1992-04-24	136,669.32	1997-02-20	100,000.00 (including interest and costs)		1997-03-31
Sirius III 120-034-C1 Longue Pointe de Mingan Sud	1989	Fishing vessel Canada	√	Black fuel and diesel fuel oil		Crown (for CCG) 1992-05-12	20,010.17	1995-06-01	12,850.00		1996-03-31
Mystery Spill 120-038-C1 Baie des Ha! Ha!	1989	Unidentified ship	√			Port of Chicoutimi 1992-06-20	9,185.31		6,500.00 (including interest)		1993-03-31
Marie Paule 120-043-C1 Grande-Rivière	1990	Fishing vessel Canada	√	Fuel oil		Crown (for CCG) 1992-12-02	25,692.13	1994-12-22	8,236.13		1996-03-31
Rio Orinoco 120-052-C1 Anticosti Island	1990	Tanker Cayman Islands	√	Bunker fuel							1996-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Forum Glory 120-055-C1 Port Cartier	1991	Bulk carrier Greece	√	Bunker oil		Compagnie Minière Québec Cartier 1993-03-26	32,776.41	1993-04-23	44,399.98 (including interest and legal costs)	39,399.98	1996-03-31
Captain Diamantis; Jalatapi; Mystery Spill; Kristiania Fjord; Edel SIF 120-056-C1 Port-Alfred	1991-1992		√			Société d'Électrolyse et Chimie Alcan Ltée 1993-04-23	10,595.53	1993-09-30	10,595.53		1993-09-30
Ogdensburg 120-060-C1 St. Augustine	1991	Barge Canada	√			Crown (for CCG) 1993-05-07	157,916.49	1996-10-03	110,000.00 (including interest and legal costs)		1997-03-31
Mystery Spill 120-068-C1 Ste-Anne-de-la-Pérade	1992	Unidentified ship	√	Bunker C		CCG 1993-07-30	19,170.43		19,170.43		1994-03-31
Irenes Sapphire 120-070-C1 Trois-Rivières	1992	Bulk carrier Greece	√	Bunker fuel		Crown (for CCG) 1993-12-07	16,813.40	1997-02-25	5,000.00		1997-03-31
Mystery Spill 120-074-C1 Île des Barques, Sorel	1992	Unidentified ship	√			CCG 1993-07-30	25,694.93		25,694.93		1994-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Mystery Spill 120-075-C1 Baie des Sables	1992	Unidentified ship	√	Bunker oil		CCG 1993-07-30	48,109.32		48,109.32		1994-03-31
Valery IV 120-079-C1 Sabrevois	1993	Yacht Canada	√	Engine and diesel fuel system oil		Crown (for CCG) 1995-03-31	14,641.68	1996-03-14	12,641.68		1997-03-31
Mystery Spill (Oil drum) 120-086-C1 Bassin Lanctôt, Sorel	1993		√	Heavy oil		Crown (for CCG) 1994-02-14	46,813.79				1999-03-31
Calypso IV 120-091-C1 Les Méchins	1994	Bulk carrier Panama	√	Lubricating oil and bilge waste	√	Crown 1995-06-16	8,181.49	1998-07-30	8,181.49		1999-03-31
Stella 120-102-C1 Baie des Ha! Ha!	1994	Unidentified ship	√			Société d'électrolyse et de chimie Alcan Ltée 1995-04-05	6,579.96	1995-11-16	6,579.96		1996-03-31
Cogna 120-105-C1 Gatineau	1995	Workboat	√			Crown (for CCG) 1997-11-27	6,034.12	1998-01-22	4,634.12		1998-03-31
Mystery Spill 120-106-C1 Baie des Ha! Ha!	1995	Unidentified ship	√			Société d'électrolyse et de chimie Alcan Ltée 1995-05-31	3,191.81				1996-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Mystery Spill 120-108-C1 Montreal	1995	Unidentified ship	√			Crown (for CCG) 1997-03-24	27,212.01	1997-10-16	22,663.00		1998-03-31
Mystery Spill 120-109-C1 Sainte Félicité	1995	Unidentified ship	√	Bunker C		Crown (for CCG) 1997-02-27	127,177.83	1998-05-25	114,456.61		1999-03-31
Haltren No. 1 120-117-C1 Port Menier, Anticosti Island	1995	Barge Canada	√	Light oil		Crown 1996-10-28	306,706.63	1998-10-21	200,000.00 (including interest)		2000-03-31
APJ Shalin 120-119-C1 La Baie	1995	Bulk carrier India	√			Alcan Aluminium Ltd. 1996-10-15	14,454.91	1997-02-25	14,454.91	5,000.00	1999-03-31
Kolomna 120-124-C1 Quebec	1996	Roll-On Lift-Off Russia	√			Crown (for CCG) 1998-01-19	52,837.26				1999-03-31
Haralambos 120-135-C1 Port Cartier	1996	Bulk carrier Cyprus	√		√	Crown (for CCG) 1997-02-27	73,483.00 (thereafter reduced by 1,975.89)	1998-11-17 2000-03-28 2000-05-09	55,112.25 7,396.09 3,374.70	50,000.00	2005-03-31
Nita 1 120-138-C1 Gros-Cacouna	1997	Multi-purpose cargo ship Panama	√		√	Crown (for CCG) 1998-01-08	3,787.30				2000-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
<i>Le Barachois</i> 120-141-C1 Étang du Nord, Îles-de-la-Madeleine	1997	Fishing vessel Canada	√	Diesel		Crown (for CCG)	2,386.22	1998-10-13	2,386.22	850.00	2000-03-31
Mystery Spill 120-144-C1 La Baie	1997	Unidentified ship	√			Alcan 1998-03-02	607.57	1999-03-18	607.57		1999-03-31
Mystery Spill 120-145-C1 Lanctôt Basin, Sorel	1997	Unidentified ship	√			Crown (for CCG) 1998-01-08	13,581.64				1999-03-31
Mystery Spill 120-151-C1 La Baie	1997	Unidentified ship	√	Bunker mix		Alcan 1997-10-19 1997-11-06	344.00 890.10	1998-05-21	1,287.72		1999-03-31
Mystery Spill 120-155-C1 Sept-Îles	1997	Unidentified ship	√	Mixture of diesel and lubricating oil		Crown (for CCG) 1998-01-08	5,242.95	1998-04-17	5,242.95		1999-03-31
<i>Rani Padmini</i> 120-158-C1 Baie Comeau	1997	Bulk carrier India	√	#6 fuel oil	√	Crown (for CCG) 1998-05-21	337,189.41				2002-03-31
Mystery Spill 120-173-C1 Sainte-Anne-de-Sorel	1998	Unidentified ship	√	Bunker oil		Crown 1998-10-26	7,368.68	1999-03-03	7,368.68		1999-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Filomena Lembo 120-174-C1 Quebec	1998	Unidentified ship	√	Lubricating or hydraulic oil	√	Daishowa Inc. 1998-10-29	35,179.11	2000-01-25	20,138.70		2001-03-31
Mystery Spill 120-177-C1 Île-des-Barques	1998	Unidentified ship	√			Crown (for CCG) 1999-03-26	22,152.81	1999-11-08	16,988.27		2000-03-31
Mystery Spill 120-180-C1 Rimouski	1998	Unidentified ship	√			Crown (for CCG) 1999-01-18	1,787.71	1999-03-03	1,787.71		1999-03-31
Mystery Spill 120-184-C1 Montreal	1998	Unidentified ship	√	Light and heavy oils		Crown (for CCG) 1999-03-04	23,097.36	1999-11-03	20,263.15		2000-03-31
Mystery Spill 120-186-C1 Montreal	1998	Container ship	√	Heavy fuel oil	√	Produits Shell Canada Limitée 1999-04-06 1999-09-17	15,456.00 9,739.17				2001-03-31
Solon of Athens 120-192-C1 Sorel	1999	Bulk carrier Vanuatu	√	Mixture of light oil and diesel	√	Crown (for CCG) 1999-06-17	4,717.24	2000-03-16	4,717.24	4,028.24 (all-inclusive)	2001-03-31

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Name, File # and Location	Year of Incident	Ship Type and Flag	Spill	Oil Type	Security	Claim(s) filed		Offer		Recovery Status	Date File Closed
						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Gordon C. Leitch 120-193-C1 Havre-Saint-Pierre	1999	Canada	√	Heavy fuel oil		Conseil des Innus de Ekuanitshit et tous les membres de la Bande indienne de Ekuansitshit 2002-03-22	539,558.72		10,000.00		2006-03-31
Paterson 120-195-C1 Lac Saint-François	1999	Bulk carrier				Crown (for CCG) 2000-04-04	10,350.57	2000-11-03	3,625.50	3,625.50	2002-03-31
Mystery Spill 120-199-C1 Paspébiac	1999	Unidentified ship	√			CCG 2000-02-14	2,398.86 (revised to 2,366.73)	2000-11-02	2,366.73		2001-03-31
Alcor 120-210A-C1 St. Lawrence River, Northern tip of Île d'Orléans	1999	Bulk carrier Malta									2001-03-31
Mystery Spill 120-211-C1 Quebec and Sorel	1999	Unidentified ship	√			Counsel for the <i>Amarantos</i> 2000-07-10	23,653.68				2002-03-31

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Name, File # and Location	Year of Incident	Ship Type and Flag	Spill	Oil Type	Security	Claim(s) filed		Offer		Recovery Status	Date File Closed
						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Mystery Spill <i>(Anangel Splendour)</i> 120-222-C1-1 Port Cartier	2000	Bulk carrier Greece	√	Fuel oil	√	Crown (for CCG) 2001-01-31	4,076.08		3,776.05	150,000.00	2009-10-01
Mystery Spill <i>(Anangel Splendour)</i> 120-222-C1-2 Port Cartier						Compagnie Minière Québec Cartier 2001-04-30 2001-07-27	249,137.31 10,878.08		242,427.45		2009-10-01
Tadoussac Marina <i>(L'Ance L'Eau)</i> 120-277-C1 Tadoussac	2001	Yacht Canada	√	Gasoline		Municipalité de Tadoussac 2001-12-07	2,195.00				2002-03-31
Ocean Venture 1 120-290-C1 Rimouski	2001	Cargo ship Panama	√			Crown (for CCG) 2001-11-28	13,237.81	2002-03-22	13,195.01	17,144.66	2003-03-31
Kung Fu 120-315-C1 Les Escoumins	2002	Pleasure craft	√	Diesel oil		CCG 2003-10-01	3,899.75	2003-11-05	3,899.75		2004-03-31
Mystery Spill 120-316-C1 Rivière-au- Renard	2002	Unidentified ship	√			CCG 2003-03-21	2,914.55	2003-03-25	2,252.44		2003-03-31

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Name, File # and Location	Year of Incident	Ship Type and Flag	Spill	Oil Type	Security	Claim(s) filed		Offer		Recovery Status	Date File Closed
						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Mystery Spill 120-395-C1 Bassin Louise, Quebec	2003	Unidentified ship	√			CCG 2004-02-03	1,685.83	2004-03-11	1,685.83		2004-03-31
Mystery Spill 120-396-C1 Trois-Rivières	2003	Unidentified ship	√			CCG 2004-02-03	12,364.77	2004-03-04	12,364.77		2004-03-31
Horizon 120-409-C1 Sorel	2004	Container ship Malta				CCG 2006-06-07	9,730.44				2007-03-31
Bleuvet 120-412B-C1 Tadoussac	2004	Pleasure craft	√	Diesel		DFO/CCG 2006-04-21	3,335.02	2006-12-13	1,549.18		2008-03-31
Gagtugwaw 120-483-C1 Matane	2005	Fishing vessel	√			DFO/CCG 2006-03-31	8,060.43	2007-05-03	7,698.03		2009-03-31
Mystery Spill 120-485-C1 Montréal	2005	Unidentified ship	√			La Société du Vieux-Port de Montréal Inc. 2006-02-09	6,488.90	2006-08-29	5,642.52		2007-03-31
Extasia I 120-493-C1 Ste-Anne-de-Bellevue	2005	Pleasure craft	√	Diesel oil		DF0/CCG 2006-06-30	7,597.73	2006-08-31	7,153.87	7,597.73	2009-07-13

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
SCL Bern 120-509-C1 Pointe-aux-Trembles	2006	Dry cargo ship	√	Heavy fuel oil	√	DFO/CCG 2008-12-15	16,991.50				2010-01-12
Grande Baie 120-522-C1 Port Alfred	2007	Tug	√			DFO/CCG 2009-12-29	42,949.15				2011-03-31
Le Grand Détour 120-525-C1 Île d'Orléans	2007	Pleasure craft				DFO/CCG 2008-02-10	3,558.51	2008-05-14	3,558.51		2009-03-31
Richelieu 120-578-C1-1 St. Lawrence River	2010	Bulk carrier Canada	√	Diesel oil		Owner of the <i>J W Shelley</i> 2010-09-28	70,656.89				2013-09-30
Richelieu 120-578-C1-2 St. Lawrence River						Borex Inc. 2010-11-15	40,438.90				2012-11-13
Mystery Spill 120-579-C1-1 Valleyfield	2010	Unidentified ship	√			Transport Nanuk Inc. 2011-03-25	13,707.47	2011-07-20	13,707.47		2011-09-01
Mystery Spill 120-579-C1-2 Valleyfield						DFO/CCG 2011-06-08	24,034.57	2011-07-12	24,034.57		2011-07-26
Centurion 120-615-C1 Sorel	2012	Bulk carrier	√	Oily mixture		DFO/CCG 2012-09-11	26,703.53				2013-11-19

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Centurion 120-615-C1-1 Sorel	2012	Bulk carrier	√	Oily mixture		Eastern Canada Response Corporation 2013-03-05	111,055.48				2014-01-15
Mystery Spill 120-616-C1 Bonaventure, Gaspésie	2011	Unidentified ship				DFO/CCG 2012-04-24	1,907.86	2012-05-09	1,907.86		2012-08-08
Mystery Spill 120-620-C1 Oka Marina	2011	Unidentified ship	√			DFO/CCG 2012-05-08	7,753.29	2012-05-30	7,753.29		2012-08-08
Mystery Spill – Federal Progress 120-633-C1 Montréal	2013	Unidentified ship	√			Montreal Port Authority 2013-11-01	5,969.53	2014-02-20	5,969.53		2014-03-31
Tundra 120-636-C1 Sorel	2012	Bulk carrier Cyprus				DFO/CCG 2013-08-02	10,738.01	2014-01-08	3,119.50	3,240.15	2014-06-17
Kathryn Spirit 120-642-C1 Lac St. Louis, Beauharnois	2013	Bulk carrier				DFO/CCG 2021-05-04	25,731,208.24				Open

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Mystery Spill 120-650-C1 Baie St-François, Salaberry-de-Valleyfield	2013	Unidentified ship	√			City of Salaberry-de-Valleyfield 2014-03-24	104,150.88	2014-10-01	45,000.00 (inclusive of interest)		2014-12-02
Chaulk Determination 120-667-C1 Trois-Rivières	2014	Tug	√	Diesel		DFO/CCG 2016-12-09	4,585,963.68	2018-07-18	4,200,576.18 (inclusive of interest)		2019-03-26
Bayliner 2655 120-675-C1 Rivière des Prairies (Rapide du Cheval Blanc)	2013	Pleasure boat	√	Fuel and motor oil		DFO/CCG 2015-06-16	14,286.40	2015-08-27	14,286.40		2018-10-19
Tandem I 120-676-C1 Montreal	2013	Ferry	√			DFO/CCG 2015-06-16	2,502.48	2015-06-24	2,502.48		2017-03-31
Grand Charlevoix 120-677-C1 Cap du Basque	2013	Excursion vessel				DFO/CCG 2015-06-16	6,508.81	2015-07-14	6,508.81		2017-03-31
Mystery Spill 120-678-C1 Sainte-Anne-de-Bellevue	2013	Unidentified ship	√			DFO/CCG 2015-06-16	14,498.41	2015-07-30	14,498.41		2016-08-10

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Chaulk Determination 120-700-C1 Trois-Rivières	2015	Tug	√	Diesel		Trois-Rivières Port Authority 2015-10-20	71,909.71	2017-02-02	70,632.58	45,184.44	2017-09-05
Mystery Spill 120-719-C1 Quebec	2017		√			Québec Port Authority 2017-06-16	43,806.19	2017-09-15	43,806.19		2018-10-18
Mystery Spill 120-719-C1-1 Port of Quebec	2017		√			DFO/CCG 2019-02-12	11,139.48				2019-07-17
Mystery Spill 120-720-C1 Quebec	2016	Bulk carrier	√			Québec Port Authority 2017-06-16	12,298.09	2017-09-14	12,298.09		2017-12-12
Kavo Manali 120-734-C1 Quebec Harbour	2017	Bulk carrier	√	Lube oil	√	DFO/CCG 2019-04-09	14,231.04	2019-05-23	13,293.87 93.41%	14,047.82	2019-07-18
BBC Maple Lea 120-735-C1 Lac St-Louis	2015	Cargo ship	√	Bunker		DFO/CCG 2017-12-15	1,329.54	2017-12-19	1,329.54	1,416.47	2018-05-17
MSC Monica 120-741-C1 Deschaillons-sur-Saint-Laurent	2016	Container ship	√	Heavy Bunker and Diesel		DFO/CCG 2018-01-22	13,121.81	2018-07-04	13,121.81	14,192.33	2018-11-29

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
<i>Alouette Spirit and Wilf Seymour</i> 120-783-C1 Lac Saint-Pierre	2017	Barge and tug	√			DFO/CCG 2019-05-13	14,395.08	2019-08-06	44.38 0.30%		2020-01-29
<i>Sea Gypsy</i> 120-793-C1 Port of Quebec	2017	Pleasure craft (sailboat)	√	Diesel		DFO/CCG 2019-03-27	7,278.30	2019-05-21	7,278.30 100%		2020-01-17
<i>GRT Synergie</i> 120-865-C1 Carleton-sur-Mer	2018	Fishing vessel	√	Diesel		DFO/CCG 2020-05-12	10,449.01	2020-11-12	1,297.67 12.42%	Recovery efforts ongoing	Open
<i>Le Sept Ilien</i> 120-866-C1 Gros-Morne, Gaspésie	2018	Fishing vessel				DFO/CCG 2020-06-22	3,087.54	2020-10-19	1,996.69 64.70%	Recovery efforts ongoing	Open
<i>Ocean Uannaq</i> 120-889-C1 New Champlain Bridge, Montreal	2016	Tug	√			DFO/CCG 2021-03-31	5,074.17	Claim was rejected			Closed
<i>Réjane</i> 120-891-C1 Rapides du Cheval Blanc, Rivière des Prairies	2020	Tug				DFO/CCG 2021-04-13	3,428.93	2021-08-08	3,441.93 100%	Recovery efforts ongoing	Open

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
<i>Federal Leda</i> 120-905-C1 Beauharnois	2019	Bulk carrier				DFO/CCG 2021-11-20	2,956.29	Assessment ongoing			Open
Ontario											
Mystery Spill 120-017-C1 Michipicoten	1984	Unidentified ship	√			Crown 1986-07-22	12,354.99		12,354.99		1990-03-31
<i>Eastern Shell</i> 120-057-C1 Parry Sound	1991	Tanker Canada	√	Gasoline and diesel		Crown (for CCG) 1994-01-14	356,143.48	1999-05-06	235,000.00 (including interest and costs)		2000-03-31
Mystery Spill 120-081-C1 Wolfe Island	1993	Unidentified ship	√	Bunker C oil		CCG 1994-10-20	9,436.52		7,071.57		1995-03-31
<i>Princess No. 1</i> 120-092-C1 Amherstburg	1994	Tug Canada	√	Diesel oil		Crown (for CCG) 1994-12-30	250,742.38	1996-11-26	105,000.00 (including interest)	50,000.00	2006-03-31
<i>Simcoe Islander</i> 120-112-C1 Wolfe Island	1995	Cable ferry	√	Diesel, hydraulic oil and lubricants		Crown (for CCG) 1996-10-03	12,751.08				1998-03-31
<i>James Norris</i> 120-118-C1 Port Colborne	1995	Self- unloading bulk carrier Canada				Crown (for CCG) 1997-04-02	16,561.52				1998-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Motor Yacht 42E 6903 120-133-C1 St. Clair River	1996	Motor yacht Canada	√	Diesel fuel and residual oils		Crown (for CCG) 1997-10-10	2,560.28	1998-01-26	2,560.28		2001-03-31
Mystery Spill 120-134-C1 Goderich	1996	Unidentified ship	√	Diesel		Crown (for CCG) 1997-10-10	2,553.87	1998-03-20	2,553.87		1998-03-31
Jade Star 120-136-C1 Nanticoke	1996	Tanker Canada	√	Bunker C		Crown (for CCG) 1997-12-17	2,174.25				1999-03-31
Rhea 120-157-C1 Oshawa	1997	Houseboat	√	Heating oil, diesel and lubricating oil		Oshawa Harbour Commission 1998-08-26	99,054.21	1999-04-21	60,211.24 (including interest)		2001-03-31
Enerchem Refiner 120-169-C1 St. Lawrence River, Cornwall	1998	Tanker Canada				Crown (for CCG) 1999-03-31	10,826.05				2001-03-31
Mystery Spill 120-175-C1 Fighting Island, Detroit River	1998	Unidentified ship	√			Crown (for CCG) 1999-06-01	112,504.65				2003-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Algontario 120-194-C1 Neebish Channel, Sault Ste. Marie	1999	Bulk carrier				Crown (for CCG) 2000-04-04	20,154.12	2002-01-04 2002-11-22	13,767.49 1,792.00	18,842.05	2003-03-31
Miles and Sea 120-304-C1 Lions Head	2002	Fishing vessel	√			CCG 2003-03-27	33,113.06	2003-10-24	30,973.67		2004-03-31
Mystery Spill 120-429-C1 Wheatley Harbour	2004	Unidentified ship	√			CCG 2005-01-31	7,944.19	2005-02-16	7,502.88		2005-03-31
Mystery Spill 120-536-C1 Hamilton	2008	Unidentified ship	√			Hamilton Port Authority 2008-06-06	23,640.50	2008-09-23	19,903.81		2009-03-31
Mystery Spill 120-538-C1-1 Thunder Bay	2008	Unidentified ship	√			Lakehead Marine & Industrial Inc. 2008-08-15	32,291.12	2009-03-11	27,328.40		2010-03-31
Mystery Spill 120-538-C1-2 Thunder Bay	2008	Unidentified ship	√			Seaway Marine Transport 2008-10-22	31,968.52	2009-03-11	29,362.94		2010-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Big Bobber 120-543-C1 Hamilton	2008	Pleasure craft	√			Hamilton Port Authority 2008-10-09	2,730.00		2,730.00		2009-11-25
Mystery Spill 120-554-C1 Hamilton	2009	Unidentified ship	√			Hamilton Port Authority 2010-04-12	10,959.95	2010-06-23	10,959.95		2010-09-30
Mystery Spill 120-563-C1 Parry Sound	2009	Unidentified ship	√	Diesel fuel		Town of Parry Sound 2009-09-03	6,987.04	2009-12-02	6,987.04		2010-02-02
Portofino 46 120-656-C1 Port Dalhousie Harbour	2012	Sports cruiser	√	Diesel fuel and lubricating oil		City of St. Catharines 2014-05-08	37,574.59	2014-10-09	10,827.67		2014-12-02
Warren L. II 120-722-C1 Killarney Channel	2015	Tug and barge	√	Fuel Oil		Municipality of Killarney 2017-08-21	270,286.31	2018-07-04	209,575.43 77.54%	198,450.00	2019-10-29
Warren L. II 120-722-C1-1 Killarney Channel	2015	Tug and barge	√	Fuel Oil		DFO/CCG 2017-12-04	30,999.97	2018-03-21	28,059.11 90.51%	26,550.00	2019-10-29

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Michipicoten 120-723-C1 Thunder Bay - Lake Superior - Superior Terminals	2015	Motor vessel (wreck)	√			DFO/CCG 2017-08-29	4,845.89	2017-10-25	4,745.46	4,745.46	2018-04-12
Pitts Carillon 120-740-C1 Picton Bay, Prince Edward County	2017	Barge	√	Residual oil		Prince Edward County 2018-05-08	597,396.70	2019-07-26	380,714.53 63.73%	260,353.60	2020-06-26
Pitts Carillon 120-740-C1-1 Picton Bay, Prince Edward County	2017	Barge	√	Residual oil		DFO/CCG 2018-11-22	77,347.18	2019-03-05	32,694.66 42.27%	23,146.41	2020-06-26
Dispatch II 120-781-C1 Sault Ste Marie	2017	Tug boat	√	Mixture of oil, diesel & water		DFO/CCG 2018-07-19	49,123.47	2018-08-28	48,716.67 99.1%	12,500.00	2020-03-12
Margarethe 120-840-C1 Wolfe Island	2018	Pleasure craft				Dedicated Environmental Svcs. Inc. 2019-05-22	4,854.41	2019-10-17	2,550.80 52.5%		2021-01-28

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
<i>The Left Hand</i> 120-899-C1 Humber Park	2021	Pleasure craft				Tow Marine Assistance Ltd 2021-09-07	15,000.00	Claim was withdrawn.			2022-03-31
Unknown name 120-902-C1 Bluffers Park, Toronto	2021	Pleasure craft				DFO/CCG 2021-10-13	9,982.18	2022-02-16	2,294.64 23%	Recovery efforts ongoing	Open
<i>Sea-Q-TI</i> 120-904-C1 Humber Bay Park Toronto	2021	Pleasure craft				DFO/CCG 2021-11-08	35,614.93	Assessment ongoing			Open
<i>Tecumseh</i> 120-910-C1 Detroit River	2019	Bulk carrier				DFO/CCG 2021-12-14	9,752.43	Assessment ongoing			Open
Manitoba											
<i>Lord Selkirk II</i> 120-655-C1 Red River, Selkirk	2014	Cruise ship derelict				DFO/CCG 2016-01-27	80,054.52		78,793.14		2016-10-11
British Columbia											
Mystery Spill 120-037-C1 Sooke Harbour	1989	Unidentified ship	√	Bunker C oil		CCG 1991-03-18	84,551.90	1992-02-07	55,370.20		1992-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Tenyo Maru 120-058-C1 Juan de Fuca Strait	1991	Fish factory ship Japan	√	Intermediate fuel oil and diesel oil	√	Crown 1991-08-07	5,328,185.36				1995-03-31
Federal Ottawa 120-064-C1 Vancouver	1992	Bulk carrier Luxembourg	√	Bunker fuel oil		Vancouver Port Corporation 1994-12-20	4,358.80		2,911.50		1996-03-31
Norpak 1 120-069-C1 English Bay, Vancouver	1992	Fishing vessel Canada	√	Diesel		Crown (for CCG) 1993-08-20	38,237.53				1995-03-31
Leader 120-093-C1 Vancouver	1994	Cargo ship Greece	√	Fuel oil	√						1997-03-31
Sky Princess 120-094-C1 Vancouver	1994	Cruise ship United Kingdom	√	Bunker oil	√	Vancouver Port Corporation 1996-04-22	46,045.83	1997-03-11	23,022.15		1998-03-31
Marwood 120-099-C1 Ucluelet	1994	Fishing trawler Canada	√	Diesel oil, lubricating oil and hydraulic oil	√	Crown (for CCG) 1995-02-21	178,951.65				1999-03-31
Mystery Spill 120-121-C1 Vancouver	1996	Unidentified ship	√			Crown (for CCG) 1996-03-15	23,259.38	1996-03-21	20,925.19		1996-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Kathy K 120-125-C1 Kitimat	1996	Workboat (former tugboat) Canada	√	Diesel and lubricating oil		Crown (for CCG) 1997-04-02	73,495.30	1998-04-22	42,000.00	188.51	1999-03-31
Ethel K 120-149-C1 North Vancouver	1997	Wooden gillnet fishing vessel Canada	√			Crown (for CCG) 1998-07-17	5,509.61 (revised to 2,704.38)	1998-11-12	2,704.38		1999-03-31
Mystery Spill 120-170-C1 Stanley Park, Vancouver	1998	Unidentified ship	√			Crown (for CCG) 1999-03-31	23,662.82	1999-09-16	20,318.62		2001-03-31
Miss Babs 120-181-C1 Miller Bay	1998	Fishing vessel Canada	√			DFO/CCG 1999-10-08	31,542.17	1999-11-22	23,836.70		2001-03-31
Reed Point Marina 120-208-C1 Port Moody	1999					Crown (for CCG)	39,366.81	2001-03-30	36,247.58	24,261.69	2003-03-31
Mystery Spill 120-227-C1 Seaboard Terminal, North Vancouver	2000	Unidentified ship	√			Vancouver Port Authority 2001-01-23	20,375.80	2001-10-04	17,953.31		2002-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
Unnamed vessel 120-230-C1 Fanny Bay	2000	Wooden planked pleasure craft	√	Diesel		Crown 2001-07-09	2,882.15	2001-08-23	2,569.59		2002-03-31
Skaubryn 120-233-C1-01 Seaboard Terminal, North Vancouver	2000	Wooden fishing vessel Canada	√			Vancouver Port Authority 2001-03-14	13,007.72	2002-08-20	10,809.93	76,031.82	2004-03-31
Skaubryn 120-233-C1-02 Seaboard Terminal, North Vancouver	2000		√			CCG 2002-07-02	74,525.79	2003-02-27	55,804.25		2004-03-31
Skaubryn 120-233-C1-03 Vancouver	2000		√			Owner of the <i>Prosperity</i> 2000-09-13	54,794.29	2001-02-14	27,172.88 + 1,239.34 interest		2004-03-31
Skaubryn 120-233-C1-04 Vancouver	2000		√			Western Canada Marine Response Organization 2000-12-27	2,542.35	2001-02-27	1,333.93		2004-03-31
Skaubryn 120-233-C1-05 Vancouver	2000		√			Owner of the <i>Island Provider</i> 2002-07-30	4,415.89	2002-11-29	3,486.83		2004-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
<i>Skaubryn</i> 120-233-C1-06 Vancouver	2000		√			An employee of Ocean Fisheries of Vancouver 2002-11-27	331.22	2002-11-28	331.22		2004-03-31
<i>Skaubryn</i> 120-233-C1-07 Vancouver	2000		√			Owner of the <i>Georgie Girl</i> 2001-01-09	217.86	2001-04-10	217.86		2004-03-31
<i>Skaubryn</i> 120-233-C1-08 Vancouver	2000		√			Owner of the <i>Leedon</i> 2001-01-11	298.65	2001-04	298.65		2004-03-31
<i>Skaubryn</i> 120-233-C1-09 Vancouver	2000		√			Owner of the <i>Silver Bullit</i> 2003-02-19	8,585.16				2004-03-31
<i>Skaubryn</i> 120-233-C1-10 Vancouver	2000		√			Owner of a 17' speedboat 2000-12-04	500.00				2003-03-31
<i>Rivers Inlet</i> 120-234-C1 Deep Bay	1999	Fishing vessel Canada	√			Crown (for CCG) 2000-06-15	15,777.43	2000-12-12	10,819.91		2002-03-31
<i>Texada</i> 120-242-C1 Dolomite Narrows	2000	Fishing vessel Canada	√								2001-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
<i>Sandy S</i> 120-260-C1 Prince Rupert	2001	Fishing vessel Canada	√	Diesel		CCG 2002-08-23	9,433.02	2002-11-18	9,331.69		2003-03-31
<i>Destiny I</i> 120-266-C1 Granville Island, Vancouver	2001	Charter passenger vessel Canada				CCG 2002-12-20					2003-03-31
<i>Egret Plume II</i> 120-269-C1 Ladysmith	2001	Yacht Canada				CCG 2002-05-10	5,075.02	2002-05-27	4,904.36		2003-03-31
<i>Twinkle</i> 120-280-C1 Campbell River	2001	Fishing vessel Canada				CCG 2002-06-04	9,966.35	2002-09-25	9,904.39		2003-03-31
<i>Linbe</i> 120-286-C1 Port Alberni	2001	Fishing vessel Canada	√	Diesel		CCG 2002-12-13	9,024.72	2003-01-17	9,024.72		2003-03-31
<i>BCP Carrier #17</i> 120-289-C1 Ladysmith	2001	Barge Canada				CCG 2002-11-07	101,531.26	2003-02-27	101,367.75		2003-03-31
<i>Rivtow Lion</i> 120-291-C1 Sansum Narrows	2001	Tug Canada	√			CCG 2002-10-10	105,543.95	2003-03-31	92,541.54		2003-03-31
<i>First Lady</i> 120-333-C1 Boat Harbour	2002	Pleasure craft	√			CCG 2004-01-07	2,539.15	2004-03-17	2,390.51		2004-03-31

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<i>Silver Eagle</i> 120-339-C1 Cumshewa Inlet	2003	Fishing vessel	√			Crown (for CCG) 2003-11-27	103,458.84				2005-03-31
<i>Northern Light V</i> 120-340-C1 Baynes Sound	2003	Converted cable layer				CCG 2004-01-16	257,387.65	2004-03-09	257,387.65		2006-03-31
<i>Jolie Vie</i> 120-343-C1 Bedwell Bay	2002	Cabin cruiser				Transport Canada Marine Safety 2003-02-20	5,551.22	2003-07-09	3,479.53	500.00	2005-03-31
<i>Sandpiper</i> 120-365-C1-1 Steveston	2003	Old dredge	√			Steveston Harbour Authority 2003-07-09	1,587.53	2003-07-16	1,517.93		2006-03-31
<i>Sandpiper</i> 120-365-C1-2 Steveston	2003	Old dredge	√			CCG 2004-01-29	20,151.97	2004-03-04	20,151.97		2006-03-31
<i>Pender Lady</i> 120-371-C1 Naden Harbour, Queen Charlotte Islands	2003	Old ferry (used as a fishing lodge)	√			CCG 2004-02-11	2,101,017.72	2004-03-31	1,659,663.06 (including interest)	30,000.00	2009-03-31
<i>Gillking</i> 120-376-C1 Bamfield	2003	Tug	√	Diesel oil		CCG 2004-01-27	144,344.47	2004-03-09	132,406.27		2004-03-31

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						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered		
Mary Todd 120-380-C1 Tsehum Harbour	2003	Fishing vessel	√			CCG 2004-06-28	18,336.77	2004-07-15	18,336.77		2007-03-31	
Black Dragon (Heung Ryong) 120-382-C1-1 Barkley Sound (Mayne Bay)	2003	Ex-fishing vessel	√	Diesel		CCG 2004-02-03	728,797.28	2004-03-30	568,749.63		2008-03-31	
Black Dragon (Heung Ryong) 120-382-C1-2 Barkley Sound (Mayne Bay)						Toquaht First Nation 2005-01-05						2008-03-31
Black Dragon (Heung Ryong) 120-382-C1-3 Barkley Sound (Mayne Bay)						Pacific Rim National Park Reserve of Canada 2005-04-01		9,541.76				2008-03-31
Kaien 120-393-C1 Slack Point, Ladysmith	2004	Ex-fish packing vessel	√			CCG 2004-02-13	12,067.88	2004-03-16	12,067.88		2004-10-31	
Beaufort Spirit 120-393A-C1 Lantzville, Nanoose Bay	2003	Tug	√			CCG 2004-07-11	132,775.12	2004-12-10	109,220.00		2006-03-31	

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Anscomb 120-394-C1 Woodberry Creek Kootenay Lake	2004	Ferry	√			CCG 2004-03-11	29,753.68	2004-03-24	24,316.40	6,500.00	2010-03-10
Anscomb 120-394-C1-1 Woodberry Creek Kootenay Lake						Provincial Ministry of Water, Air and Land Protection 2004-03-25	23,024.54	2004-04-26	22,524.54		2010-03-10
Anna M 120-398-C1 Venn Pass, Prince Rupert	2004	Fishing vessel				CCG 2004-11-23	67,496.15	2005-01-31	58,243.47		2006-03-31
Sea Shepherd II 120-400-C1 Robbers Pass, Tzartus Island	2004	Motor vessel				CCG 2004-11-22	515,333.70	2005-03-03 2008-09-30	331,892.31 100,000.00 (inclusive of interest)		2010-03-31
P.H. Phippen 120-415-C1 Fisherman's Wharf, Port Hardy	2004	Ex-tug (converted to a live aboard type vessel)	√	Diesel		CCG 2005-01-31	2,113.91	2005-02-07	2,141.95 (including interest)		2008-03-31
Amanda 120-425-C1 Portland Island	2004	Troller				CCG 2005-02-18	11,382.06	2005-03-03	10,980.16		2005-03-31

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<i>Mary Mackin</i> 120-426-C1 Patricia Bay	2005	Tug	√			Transport Canada 2005-08-02	223,543.88	2009-01-21	20,000.00		2009-03-31
<i>Tor</i> 120-427-C1 Small Craft Harbour, Mission	2005	Converted fishing vessel	√	Diesel		DFO/CCG 2005-07-27	22,196.25	2005-10-06	21,436.76		2008-03-31
<i>Sonny Boy</i> 120-428-C1 Fisherman's Wharf, Port Hardy	2004	Fishing vessel				CCG 2005-01-31	7,902.37	2005-02-10	7,902.37		2005-03-31
Abandoned Vessel 120-436-C1 English Bay, Vancouver	2004	Abandoned vessel	√			CCG 2005-02-04	7,493.10	2005-02-11	7,236.73		2007-03-31
<i>Malaspina Castle</i> 120-462-C1 Port Mellon	2005	Motor vessel	√			Owners of the <i>Malaspina Castle</i> 2005-07-28	75,468.52				2008-03-31
<i>Elvera II</i> 120-466-C1 North Saanich Marina, Sidney	2005	Fishing vessel				DFO/CCG 2005-11-10	4,319.93		2,821.93		2008-03-31

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Rover No. 1 120-467-C1 Genoa Bay	2005	Ex-tug				DFO/CCG 2006-03-28	72,155.93	2006-12-18	64,740.15		2008-03-31
Sonny Boy 120-474-C1 Port Hardy	2005	Fishing vessel				DFO/CCG 2005-12-06	3,278.06	2006-01-05	3,155.86		2008-03-31
Mystery Spill (Northwind) 120-480-C1 Victoria	2004	Motor vessel				Greater Victoria Harbour Authority 2005-12-14	16,012.02	2006-04-18	10,443.50	5,500.00	2007-02-22
Dominion I 120-481-C1 Victoria	2005	Ex-fish-packing vessel	√			Greater Victoria Harbour Authority 2005-12-14	8,521.16	2006-04-18	6,847.42	4,000.00	2007-05-14
Joan WI 120-482-C1 Lynnwood Marina, North Vancouver	2005	Fishing vessel				DFO/CCG 2005-11-30	29,821.43	2006-02-07	28,510.38		2008-03-31
Skipjack 120-484-C1 Opitsat	2005	Fishing vessel	√	Diesel		CCG 2006-02-20	15,269.18	2006-03-23	11,140.14		2008-03-31
Abandoned Vessel 120-486A-C1 Brentwood Bay	2006	Abandoned vessel				CCG 2006-04-21	7,150.60	2006-08-02	6,614.88		2007-03-31

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<i>Queen of the North</i> 120-487-C1 Gil Island, Grenville Channel	2006	Ferry	√								2008-03-31
<i>André</i> 120-494-C1 Burrard Inlet, Vancouver	2006	Bulk carrier	√	Bunker C	√						2008-03-31
<i>Blue Dawn</i> 120-495-C1 Ladysmith	2006	Ex-fishing vessel	√			DFO/CCG 2006-07-18	121,856.95	2006-12-18	119,482.80		2009-03-31
<i>Wishing Star</i> 120-496-C1 Hudson Bay Passage	2006	Fishing vessel	√	Diesel oil		DFO/CCG 2007-02-14	112,945.77	2007-11-08	112,945.77		2011-11-30
<i>Westwood Annette</i> 120-497-C1 Squamish	2006	Bulk carrier	√	Bunker C	√	Squamish Outdoor Recreation 2007-04-25	11,510.35				2009-03-31
<i>Ocean Tribute</i> 120-507-C1 Ladysmith	2006	Ex-fishing vessel (converted to a restaurant)	√			DFO/CCG 2006-12-13	26,407.23	2007-05-03	25,041.42		2009-03-31

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Saxony 120-508-C1 Mannion Bay, Bowen Island	2006	Pleasure craft	√			DFO/CCG 2008-02-09	6,802.99	2009-01-29	6,089.06		2009-09-03
Gayle Ann II 120-511-C1 Powell River	2006	Fishing vessel	√			CCG 2007-02-14	9,934.75	2007-05-10	9,876.01		2008-03-31
Robertson II 120-515-C1 Minx Reef, Saturna Island	2007	Sailing vessel	√	Diesel fuel		CCG 2008-02-09	20,748.53	2010-07-21	19,084.85		2010-07-28
Crown Forest 84-12 120-517-C1-1 Robson Bight Ecological Reserve Area, Vancouver Island	2007	Barge	√			Province of British Columbia 2009-08-13	2,707,477.14	2010-07-23	191,254.12		2011-03-31
Crown Forest 84-12 120-517-C1-2 Robson Bight Ecological Reserve Area, Vancouver Island	2007	Barge	√			CCG 2009-08-19	92,836.24	2010-07-23	9,780.84		2011-03-31

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<i>Delta I</i> 120-529-C1 Toquart Bay	2008	Barge				CCG 2009-03-23	142,604.26	2011-03-07	100,000.00 (inclusive of interest)	25,000.00	2012-03-31
<i>La Lumiere</i> (ex-Seaspan Chinook) 120-531-C1 Howe Sound	2008	Tug	√	Diesel oil		DFO/CCG 2010-05-07	127,149.07	2011-02-01	85,641.19	60,000.00	2013-05-17
<i>Winamac</i> 120-540-C1 Powell River	2007	Ex-tug	√			DFO/CCG 2008-09-10	6,971.58	2008-11-03	6,971.58		2010-03-24
<i>Steveston II</i> 120-546-C1 Ladner	2008	Ex-fishing vessel	√	Diesel oil and hydraulic fluids		DFO/CCG 2009-06-16	68,929.72	2010-05-26	68,929.72		2011-03-31
<i>Columbia</i> 120-547-C1 Steveston	2008	Fishing vessel	√			Steveston Harbour Authority 2008-12-08	81,470.88	2009-07-09	68,760.33		2010-03-31
<i>Barbydine</i> 120-549-C1 Port Edward	2011	Ex-fishing vessel	√			DFO/CCG 2011-11-09	27,714.52	2011-11-26	27,714.52	27,714.52	2012-08-08
<i>Gala Babe II</i> 120-551-C1 Ladner	2008	Fishing vessel	√	Diesel oil		DFO/CCG 2009-08-20	21,314.03	2010-01-07	21,314.03		2010-04-11
<i>Island Ranger</i> 120-553-C1 Tofino	2008	Tug	√			DFO/CCG 2009-06-16	54,337.20				2014-03-31

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<i>Ganges I</i> 120-555-C1 Ucluelet	2008	Pleasure craft	√	Diesel fuel		DFO/CCG 2009-03-23	47,895.49	2011-03-07	28,740.00 (inclusive of interest)	5,000.00	2011-08-16
<i>May's Landing</i> 120-556-C1 Toquart Bay	2008	Barge				DFO/CCG 2009-03-20	3,209.82	2009-07-07	3,209.82		2010-03-31
<i>Patricia Louise</i> 120-557-C1 Campbell River	2008	Fishing vessel	√	Diesel		DFO/CCG 2009-03-23	36,696.95	2010-02-02	35,364.76		2010-07-19
<i>Saxon Viking</i> 120-558-C1 Ucluelet	2008	Fishing vessel				DFO/CCG 2009-03-20	9,999.32	2009-07-07	9,999.32		2011-03-31
<i>Hey Dad</i> 120-560-C1 Gowlland Harbour	2009	Ex-fishing vessel	√			DFO/CCG 2009-12-15	32,960.91	2011-02-01	32,069.53		2011-12-20
<i>Oceanic</i> 120-561-C1 Burrard Inlet	2009	Cruise ship	√			Western Canada Marine Response Corporation 2012-04-17	223,056.46				2014-03-27
<i>Oceanic</i> 120-561-C1-1 Burrard Inlet						Gary Squires 2010-07-06	1,623.95	2011-01-20	1,623.95		2011-03-31
<i>Oceanic</i> 120-561-C1-2 Burrard Inlet						Norman Ellis 2010-07-10	626.15	2011-01-20	626.15		2011-03-31

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<i>Oceanic</i> 120-561-C1-3 Burrard Inlet						John Olson 2010-11-16	852.78	2011-01-20	852.78		2011-03-31
<i>Sea Wing II</i> 120-565-C1 Chatham Islands	2009	Derelict fishing vessel				DFO/CCG 2009-12-15	35,552.69	2011-02-01	30,268.68		2012-04-10
<i>Meota</i> 120-566-C1 Tsehum Harbour	2009	Derelict vessel	√			DFO/CCG 2009-12-15	27,564.01	2011-02-01	25,290.45		2012-04-10
<i>Just Magic</i> 120-567-C1 Tod Inlet	2009	Ex-fishing vessel				DFO/CCG 2009-12-15	13,659.53	2011-02-01	12,266.64		2012-05-09
<i>Camino Real</i> 120-568-C1 Union Bay	2009	Ex-fishing vessel	√	Diesel oil		DFO/CCG 2009-12-15	23,264.74	2010-12-17	19,440.49		2012-02-07
<i>Norqueen</i> 120-569-C1 Comox	2009	Ex-fishing vessel	√			DFO/CCG 2010-04-06	96,716.06	2011-01-04	92,378.57		2011-03-31
<i>Sion</i> 120-570-C1 Ganges	2009	Ex-fishing vessel	√			DFO/CCG 2010-04-06	23,456.08	2010-12-22	20,167.12		2011-03-31
<i>Westville</i> 120-571-C1 Port Alice	2009	Fishing vessel	√	Diesel fuel		DFO/CCG 2010-04-06	21,714.28	2010-12-21	21,453.29		2011-03-31

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Beverly K 120-572-C1 Tsehum Harbour	2009	Fishing vessel				DFO/CCG 2010-03-31	9,010.66	2010-10-06	9,010.66		2011-12-14
Rain Dancer 120-573-C1 Bella Coola	2009	Pleasure craft	√			DFO/CCG 2010-04-06	60,988.93	2010-11-30	60,988.93		2011-03-31
Saida 120-574-C1 Ladysmith	2009	Ex-fish packer	√			CCG 2010-03-31	94,567.57	2011-02-01	85,390.81		2012-01-30
Jessie Island XI 120-576-C1 Ladysmith	2010	Ex-fishing vessel				DFO/CCG 2010-03-11	34,281.31	2010-10-06	34,281.31	7,000.00	2014-11-04
Rivers Inlet Resort 120-577-C1 Rivers Inlet	2008		√			Burrard Clean Operations 2010-04-21	9,660.76				2011-03-31
Corregidor 120-582-C1 Bedwell Bay	2010	Fishing vessel				DFO/CCG 2010-10-18	26,893.95	2010-12-15	25,518.99		2012-07-11
Bruce Dawn 120-583-C1 Deep Bay	2010	Ex-fishing vessel	√			DFO/CCG 2010-10-20	12,375.87	2010-12-15	10,473.07		2011-06-01
Seaspan Barge 156 120-584-C1 Powell River	2010	Barge				DFO/CCG 2010-10-20	9,848.58	2010-12-01	9,848.58	9,848.58	2012-10-24

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Lions Gate 120-585-C1 Tofino	2010	Fishing vessel	√			DFO/CCG 2010-10-20	8,455.79	2011-02-24	7,982.14		2011-07-28
Zodiac 120-586-C1 Port Alberni	2010	Ex-fishing vessel				DFO/CCG 2010-10-20	3,915.96	2010-11-10	3,915.96		2011-07-28
Rosemary G 120-589-C1 Ladysmith	2010	Fishing vessel	√	Diesel fuel oil		DFO/CCG 2011-03-18	13,168.47	2011-05-03	13,168.47		2012-08-28
Irene W 120-590-C1 Deep Bay	2011	Fishing vessel	√	Diesel fuel and hydraulic oil		DFO/CCG 2011-03-18	17,369.80	2011-08-09	16,754.40		2012-02-29
Resilience 120-591-C1 Brentwood Bay	2010	Fishing vessel	√			DFO/CCG 2011-03-18	26,514.74	2011-08-09	26,261.20		2012-01-04
Burnaby M 120-594-C1 Lyll Harbour, Saturna Island	2010	Ex-fishing vessel	√	Diesel oil		DFO/CCG 2011-06-08	9,772.45	2011-08-09	9,413.70		2011-11-09
Bates Pass 120-595-C1 Heriot Bay, Quadra Island	2010	Ex-fishing vessel	√			DFO/CCG 2011-06-08	54,215.63	2011-07-19	54,215.63		2012-08-07
Tempest 120-596-C1 Grenville Channel	2010	Fishing vessel				DFO/CCG 2011-06-08	1,996.15	2011-06-23	1,996.15		2011-09-20

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<i>Alibi Ike</i> 120-597-C1 Brentwood Bay	2011	Ex-fishing vessel	√			DFO/CCG 2011-06-08	3,700.15	2011-06-30	3,700.15		2011-09-20
Ladysmith Harbour Fire 120-598-C1 Ladysmith	2011		√	Gasoline/oil		DFO/CCG 2011-06-08	2,115.85	2012-04-17	320.59		2013-01-23
<i>Arbutus Isle</i> 120-599-C1 Ladysmith	2011	Fishing vessel	√			DFO/CCG 2011-06-08	6,484.25	2011-06-30	6,484.25		2012-01-03
<i>Dominion I</i> 120-605-C1 Cowichan Bay	2010	Ex-fish-packing vessel				DFO/CCG 2011-11-09	15,951.45	2012-02-14	15,916.30		2014-09-23
<i>Gulf Stream II</i> 120-606-C1 Fraser River	2011	Passenger vessel				DFO/CCG 2011-11-14	5,646.91	2012-01-04	252.47		2012-02-01
<i>Dana</i> 120-607-C1 Ferguson Bay	2011	Ex-fishing vessel				DFO/CCG 2011-11-14	755.53	2011-11-24	740.35		2012-01-03
<i>Mistann</i> 120-608-C1 Prince Rupert	2011	Fishing vessel	√	Diesel		DFO/CCG 2012-04-26	113,787.48	2012-09-12	100,462.51 88.29%	18,080.42 2017-05-05	Open
<i>Lady Patricia</i> 120-609-C1 Saanich Peninsula	2011	Cabin cruiser	√	Gasoline and lubricating oil		DFO/CCG 2012-06-05	5,656.31	2012-08-29	4,856.35		2012-10-09

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<i>Kelly Maree</i> 120-610-C1 Fraser River, Maple Ridge	2011	Fishing vessel				DFO/CCG 2012-04-24	26,604.41		26,548.10		2012-08-23
<i>Dominion I</i> 120-613-C1 Cowichan Bay	2012	Ex-fish-packing vessel				DFO/CCG 2014-03-10	220,937.25	2015-03-19	65,000.00 (inclusive of interest)		2016-11-29
<i>Finella</i> 120-614-C1-1 Deep Bay	2011	Fishing vessel	√	Diesel fuel, heavier engine and gear oil		Deep Bay Harbour Authority 2012-03-22	9,969.09	2012-05-08	9,969.09		2012-12-19
<i>Finella</i> 120-614-C1-2 Deep Bay						DFO/CCG 2012-10-19	3,686.76	2012-11-15	3,675.26		2013-01-24
<i>Emerald Tide</i> 120-618-C1 Port McNeill	2012	Pleasure craft				DFO/CCG 2013-01-28	123,073.89	2013-03-07	122,195.62		2013-10-07
<i>Viki Lyne II (ex Admiral Hardy & Aberdeen)</i> 120-619-C1 Ladysmith	2012	Motor vessel (wreck)				DFO/CCG 2017-06-15	1,267,926.71	2018-05-02	100,373.14	20,000.00	2019-03-28
<i>Lady Mary III</i> 120-623-C1 Penelakut Island	2012	Ex-fishing vessel				DFO/CCG 2013-05-13	31,548.55	2013-09-04	31,548.55		2013-12-10

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Silver Harvester 120-625-C1 Esquimalt	2010	Fishing vessel	√			Esquimalt Harbour Management Authority 2012-11-23	17,956.53				2013-01-24
Golden Dragon I 120-626-C1 Fairview Dock, Prince Rupert	2012	Fishing vessel	√	Diesel oil		DFO/CCG 2013-01-28	3,697.35	2013-03-07	3,559.53		2015-03-30
Pine Isle 120-628-C1 Silva Bay, Gabriola Island	2013	Ex-fishing vessel	√	Mixture of diesel fuel and lube oil		DFO/CCG 2014-04-23	20,672.23	2014-06-26	20,336.73		2014-08-05
Mikon 120-629-C1 Port Browning, Pender Island	2013	Ex-fishing vessel	√	Diesel and hydraulic oils		DFO/CCG 2014-12-16	41,451.84	2015-03-25	40,351.84		2016-09-28
Colleen K 120-631-C1 Port Simpson, Prince Rupert	2012	Tug	√			DFO/CCG 2013-03-20	84,522.02	2013-10-09	84,522.02		2014-03-31
Bromada 120-641-C1 Ladysmith	2013	Fishing vessel	√	Mixture of diesel fuel, lube oils and hydraulic fluid		DFO/CCG 2015-02-04	34,586.25	2015-04-09	32,386.25		2016-09-30

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Porcher G 120-644-C1 Campbell River	2014	Ex-fishing vessel	√			DFO/CCG 2015-03-06	30,585.25	2015-05-06	30,585.25		2016-08-10
Elf 120-646-C1 Squamish Harbour, Point Atkinson	2014	Tug – Derelict	√	Diesel, hydraulic & lube oil		DFO/CCG 2014-08-12	82,512.70	2014-12-18	82,512.70 100%	1,189.70	2021-01-01
Elf 120-646-C1-1 Squamish Harbour, Point Atkinson	2014	Tug – Derelict	√	Diesel, hydraulic & lube oil		District of Squamish 2014-11-03	3,463.67	2015-01-20	3,463.67		2015-02-24
Baltic II 120-647-C1 Deep Bay	2014	Fishing vessel (Abandoned)	√			DFO/CCG 2015-03-13	9,712.57	2015-06-11	9,712.57		2017-03-31
Heather Princess 120-654-C1 Prince Rupert	2013	Fishing vessel				DFO/CCG 2014-04-23	6,578.87	2014-05-20	6,578.87		2014-08-05
Maryjack 120-657-C1 Sibell Bay	2014	Wood ex-fishing vessel - wreck	√	Hydro-carbons		DFO/CCG 2015-07-10	94,689.51	2015-11-13	86,228.70		2017-07-05
Windago 120-659-C1 Kitsilano (Kits) Beach	2014	Sailing vessel	√			DFO/CCG 2016-02-17	41,506.93	2016-06-01	41,506.93		2017-06-07

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<i>Silver King</i> 120-660-C1 Deep Bay	2014	Tug - wreck				DFO/CCG 2017-10-31	338,379.18	2018-04-11	107,941.32 31.90%		2019-05-23
<i>Crown Forest 84-6</i> 120-663-C1 Zeballos	2014	Barge	√			DFO/CCG 2016-09-19	67,348.81	2016-11-25	67,348.81		2019-02-28
<i>Bertha G</i> 120-664-C1 Dunsmuir Island, Ladysmith	2012	Ex-fishing vessel	√			DFO/CCG 2014-10-14	63,789.60	2015-01-29	63,789.60		2016-11-29
<i>Spudnik</i> 120-665-C1 Howe Sound (Squamish)	2014	Derelict vessel	√			DFO/CCG 2016-04-28	149,043.60	2016-07-26	131,064.45 87.94%	Recovery efforts ongoing	Open
<i>Chilcotin Princess</i> 120-669-C1 Prince Rupert	2015	Motor vessel	√			DFO/CCG 2016-09-19	137,680.88	2016-11-02	137,680.88 100%	162,734.74	2019-09-17
<i>Marathassa</i> 120-673-C1 English Bay, Vancouver	2015	Bulk carrier Korea	√	Fuel Oil IFO 380	√	DFO/CCG 2017-04-03	2,431,746.57	2018-03-29	1,855,627.75		2019-02-15
<i>Marathassa</i> 120-673-C1-1 English Bay, Vancouver	2015	Bulk carrier Korea	√	Fuel Oil IFO 380	√	Vancouver Fraser Port Authority 2017-04-05	198,947.22	2018-02-14	158,800.49	172,935.87	2018-04-12

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Marathassa 120-673-C1-2 English Bay, Vancouver	2015	Bulk carrier Korea	√	Fuel Oil IFO 380	√	City of Vancouver 2017-04-10	569,053.13	2019-03-20	235,748.23 41.43%	236,070.59	2021-03-31
Gale Force 120-680-C1 Comox	2013	Ex-fishing vessel	√			DFO/CCG 2015-08-14	54,169.48	2015-10-13	51,382.12		2016-08-12
Mystery Spill 120-682-C1 False Creek	2015	Unidentified ship	√	Diesel oil		Wild Whales Vancouver 2015-10-06	1,019.02	2015-11-04	959.02		2015-12-17
Barges King Arthur & SL 104 120-689-C1 Mamquam Blind Channel	2016	Barges				DFO/CCG 2018-04-04	819,134.67	2018-10-31	814,012.78 99.37%	Recovery efforts ongoing	Open
Pacific Grizzly 120-691-C1 Bella Coola	2015	Fishing vessel	√	Diesel fuel and lube oil		DFO/CCG 2016-06-10	23,110.35	2016-07-07	23,110.35	12,500.00	2017-02-08
Western Chief 120-693-C1 False Creek	2015	Fishing vessel	√	Diesel		DFO/CCG 2016-07-18	45,521.92	2016-08-18	45,521.92	43,000.00	2017-03-28
Nathan E. Stewart 120-697-C1 120-697-L-S Seaforth Channel, Bella Bella	2016	Tug	√	Diesel fuel and lube oils	√	Heiltsuk Tribal Council (HTC) 2019-10-11	Not yet set.				Open

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<i>Sea-Que</i> 120-701-C1 Sidney	2016	Motor vessel				DFO/CCG 2018-08-02	18,730.67	2018-09-21	18,730.67 100%	Recovery efforts ongoing	Open
<i>Elva M II</i> 120-704-C1 Steveston Harbour, Richmond	2016	Fishing vessel	√			Steveston Harbour Authority 2017-02-09	7,649.63	2017-02-22	7,649.63 100%	3,266.46 2019-07-01	Open
<i>Elva M II</i> 120-704-C1-1 Steveston Harbour, Richmond	2016	Fishing vessel	√			DFO/CCG 2017-02-28	46,351.57	2017-03-31	46,351.57 100%		Open
<i>Pursepa</i> 120-707-C1 Campbell River	2015	Motor vessel	√			DFO/CCG 2017-02-28	24,504.93	2017-03-31	24,473.92		2017-08-01
Mystery Spill 120-709-C1 Vernon	2016	Pleasure	√			City of Vernon, BC 2017-04-03	2,011.56	2017-06-19	1,586.62		2017-08-02
<i>Command Performance</i> 120-710-C1 Ahousat	2016	Fishing vessel	√			DFO/CCG 2017-03-21	116,433.70	2017-06-07	114,047.53 97.95%	127,033.56	2020-01-29
<i>South Wind</i> 120-714-C1 Porpoise Bay, Sechelt	2015	Motor vessel	√	Fuel		DFO/CCG 2017-03-30	14,300.21	2017-05-05	14,300.21		2017-08-30

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Kokanee 120-715-C1 Port Hardy	2016	Fishing vessel	√	Oil/Diesel		DFO/CCG 2017-04-20	4,109.75	2017-06-07	2,501.35		2017-08-30
Viking I 120-716-C1 Nanaimo	2016	Fishing vessel	√	Oil & Potential Fuel		Nanaimo Port Authority 2017-05-03	31,458.19	2017-08-30	29,432.92 93.56%	Recovery efforts ongoing	Open
Viking I 120-716-C1-1 Nanaimo	2016	Fishing vessel	√	Oil & Potential Fuel		DFO/CCG 2018-02-20	128,246.91	2018-04-24	128,246.91 100%		Open
Feelin' Free 120-717-C1 Port Neville	2017	Fishing vessel	√	Diesel & lube oil		DFO/CCG 2019-01-24	37,731.13	2019-05-01	21,224.15 56.25%	22,796.85	2019-08-12
Miss Universe 120-721-C1 South Gillnet Floats, Port Edward	2016	Fishing vessel	√			Port Edward Harbour Authority 2017-07-12	19,911.85	2017-08-31	18,711.85 93.97%		2019-10-24
No Name (Ship) 120-729-C1 Wellington Point, Ladner River	2017	Wooden tug	√			DFO/CCG 2017-11-21	7,650.03	2017-11-30	7,650.03		2018-04-12
Dawn Marie 120-730-C1 Mayne Island	2016	Fishing vessel	√	Diesel		DFO/CCG 2017-11-21	11,372.23	2017-12-07	11,372.23 100%	9,000.00	2019-09-09

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<i>Sea C Strider</i> 120-731-C1 Gorge	2015	Fishing vessel (wreck)	√			DFO/CCG 2017-11-21	35,972.56	2017-12-07	35,972.56		2018-12-13
<i>Tempest</i> 120-736-C1 Ford Cove, Hornby Island	2016	Pleasure craft (wreck)	√			DFO/CCG 2018-01-02	15,136.08	2018-02-01	14,252.58		2018-12-13
<i>Seamee II</i> 120-737-C1 Cattermole Slough, Squamish	2017	Wreck removal				DFO/CCG 2018-01-02	10,184.69	2018-01-25	10,184.69		2019-01-17
<i>Laurier II</i> 120-742-C1 Deep Bay	2014	Motor Vessel				DFO/CCG 2018-01-22	384,365.01	2019-02-07	265,768.99 69.14%	Recovery efforts ongoing	Open
<i>Central Isle</i> 120-744-C1 French Creek	2016	Ex-fishing vessel				DFO/CCG 2018-02-20	25,035.02	2018-04-04	24,108.07 96.30%	Recovery efforts ongoing	Open
<i>Ocean Eagle & ZB 335</i> 120-745-C1 Johnstone Strait	2016	Tug				DFO/CCG 2018-03-13	156,632.65	2018-06-19	61,597.45 39.33%		2019-07-17
<i>Norob</i> 120-754-C1 Degnen Bay	2016	Fishing vessel	√			DFO/CCG 2018-05-01	12,930.15	2018-05-09	12,930.15 100%		2019-05-09
<i>Alaskan</i> 120-796-C1 Jenkins Island	2016	Ex-fishing vessel (derelict)	√			DFO/CCG 2018-06-11	37,723.18	2018-07-04	37,723.18 100%		2019-05-09

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Anapaya 120-797-C1 Ladysmith	2017	Abandoned wooden sailing vessel	√	Diesel & Lube Oil		DFO/CCG 2019-09-10	311,073.37	2019-12-05	296,024.24 95.16%	No recovery	2021-09-09
Big Kahuna 120-799-C1 Port Hardy	2017	Pleasure craft				DFO/CCG 2019-09-30	9,016.06	2019-12-24	6,811.45 75.55%	No recovery	2021-09-09
Blue Pacific No.1 120-800-C1 Saltspring Island	2016	Ex-fishing Vessel	√	Fuel Oil		DFO/CCG 2018-10-09	132,339.06	2019-01-23	114,129.56 86.24%	Recovery efforts ongoing	Open
Drifter 120-801-C1 Gold River	2016	Derelict fishing vessel				DFO/CCG 2018-08-23	24,076.66	2018-11-02	3,349.04		2019-03-14
No name (ferrocement sailboat) 120-802-C1 Chatham Island	2016	Ferrocement sailboat	√	Diesel fuel		DFO/CCG 2018-12-03	53,954.45	2019-04-25	10,563.98 19.58%		2019-08-01
Hi Rose 120-803-C1 Ladysmith	2017	Ex-fishing vessel	√	Diesel & oil		DFO/CCG 2019-04-23	17,584.55	2019-05-24	16,243.83 92.37%		2019-10-24
Jasper 120-804-C1 Deep Bay	2017	Fishing vessel				DFO/CCG 2019-04-23	36,490.94	2019-05-31	33,657.50 92.23%		2019-11-25

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Lady M. II 120-805-C1 Ladysmith	2017	Abandoned wood vessel	√	Diesel		DFO/CCG 2019-02-07	32,388.76	2019-04-25	31,590.05 97.53%		2020-03-19
Melampus 120-807-C1 Goat Island, Ganges Bay	2017	Pleasure craft				DFO/CCG 2019-08-15	15,106.38	2019-12-24	6,522.62 43.18%		2020-09-10
Nika 120-808-C1 Campbell River	2017	Ex-fishing vessel	√	Diesel		DFO/CCG 2019-03-26	23,646.38	2019-05-01	22,720.29 96%	Recovery efforts ongoing	Open
Salerosa 120-809-C1 Oak Bay	2017	Ferrocement sailboat	√	Diesel		DFO/CCG 2019-02-01	62,673.20	2019-04-11	8,254.51 13.17%	Recovery efforts ongoing	Open
SC 170 120-811-C1 Port McNeil	2017	Fishing vessel	√			DFO/CCG 2019-06-04	11,606.93	2019-07-11	8,528.54 73.48%	9,573.20 2021-07-15	2021-08-26
Shimoiget 120-812-C1 Cowichan Bay	2017	Derelict				DFO/CCG 2019-09-24	43,078.26	2020-01-30	5,730.96 13.30%		2021-01-28
Pacific Fibre Barge No. 1 120-813-C1 Port Mellon	2018	Barge	√	Diesel		DFO/CCG 2019-12-02	121,187.55	Claim was rejected			2021-05-20
Unknown name (blue trawler) 120-814-C1 Campbell River	2017	Converted fishing trawler				DFO/CCG 2019-09-30	26,640.92	2020-04-27	23,505.95 88.23%	Recovery efforts ongoing	Open

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Tymac No. 20 120-815-C1 Tsehum Harbour, Sidney	2017	Derelict tug	√	Diesel		DFO/CCG 2019-07-09	36,177.31	2019-08-29	26,786.87 74.04%	Recovery efforts ongoing	Open
White Orca 120-816-C1 Ladysmith	2017	Pleasure craft (derelict)	√			DFO/CCG 2019-09-24	63,404.86	2019-12-20	49,005.97 77.29%	Recovery efforts ongoing	Open
Malecite 120-819-C1 Kits Point, English Bay	2017	Pleasure craft (derelict)	√	Fuel oil		DFO/CCG 2018-06-11	48,230.18	2018-07-11	48,230.18 100%		2019-08-01
West Island 395 120-822-C1 Haida Gwaii	2018	Lodge barge	√			Haida Tourism Limited Partnership (Haico) 2019-01-14	1,857,314.06	Claim was dismissed			Open
West Island 395 120-822-C1-1 Haida Gwaii	2018	Lodge barge	√		√	BC Ministry of Environment and Climate Change Strategy 2020-07-29	114,463.99	2021-03-31	72,996.90 64%	Recovery efforts ongoing	Open
West Island 395 120-822-C1-2 Haida Gwaii	2018	Lodge barge	√			DFO/CCG 2020-09-01	64,697.02	2021-02-25	36,521.88 56%		Open

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<i>Persephone II</i> 120-830-C1 Deep Bay	2017	Wooden ex-fishing vessel				DFO/CCG 2018-12-03	11,345.17	2019-02-07	11,345.17 100%		2019-11-25
<i>Darrell Bay Incident</i> 120-833-C1 Darrell Bay, Squamish	2018	Ex-fishing vessels, pleasure craft, ex-tug (all derelict)	√	Diesel		DFO/CCG 2020-12-17	202,213.22	2021-05-10	43,721.14 21.6%	Recovery efforts ongoing	Open
<i>Atrevida No. 1</i> 120-835-C1 Maple Bay, near Arbutus Point	2018	Pleasure craft, ex-ferry	√	Diesel		DFO/CCG 2020-12-23	223,719.10	Claim was rejected			2021-05-20
<i>Sundowner</i> 120-842-C1 Bella Coola	2017	Pleasure craft	√	Diesel		DFO/CCG 2019-06-04	27,846.02	2019-07-25	27,761.32 99.69%	29,778.54	2019-11-07
<i>Widow Maker</i> 120-847-C1 Ganges Bay	2017	Ex-fishing vessel	√	Diesel		DFO/CCG 2019-09-12	8,959.25	2019-11-28	5,761.16 64.3%		2020-01-16
<i>Unknown name (black gaff cutter)</i> 120-853-C1 Comox	2018	Pleasure craft				DFO/CCG 2019-12-17	30,993.43	2020-07-31	3,164.17 10.21%	2,000.00 2021-07-06	2021-07-29
<i>Unknown name (sport fisher)</i> 120-854-C1 Cowichan Bay	2018	Pleasure Craft	√	Diesel		DFO/CCG 2019-12-27	29,705.45	2020-06-16	19,482.51 65.59%		2020-09-10

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<i>Tinker II</i> 120-855-C1 Campbell River	2018	Pleasure craft				DFO/CCG 2020-01-07	8,979.14	2020-04-08	3,892.56 43.35%	No recovery	2021-09-09
<i>Zodiac Light</i> 120-857-C1 Kitamaat Village	2018	Fishing vessel	√	Diesel		DFO/CCG 2020-01-15	176,462.73	2020-06-01	133,879.10 75.87%	Recovery efforts ongoing	Open
<i>Zodiac Light</i> 120-857-C2 Kitamaat Village	2018	Fishing vessel	√	Diesel		Haisla Nation Council 2020-02-12	14,028.00	2020-03-26	14,028.00 100%		Open
<i>Severn Mist</i> 120-858-C1 Alert Bay	2018	Fishing vessel (derelict)	√	Diesel		DFO/CCG 2020-02-05	28,226.69	2020-05-26	703.28 2.49%		2020-10-08
<i>Delphinus</i> 120-859-C1 Gowlland Island	2018	Sailing vessel (derelict)				DFO/CCG 2020-02-05	25,579.91	2020-07-31	4,378.08 17.12%		2021-11-18
<i>Vahine Moana</i> 120-860-C1 Fernwood Point	2018	Sailing vessel (pleasure craft)				DFO/CCG 2020-03-19	14,473.00	2020-05-05	2,823.73 19.51%		2020-12-03
<i>Theresa N</i> 120-867-C1 Bamfield	2018	Fishing vessel	√	Diesel		DFO/CCG 2020-07-24	28,656.55	2020-10-22	28,656.55 100%	Recovery efforts ongoing	Open

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<i>Numas Isle</i> 120-868-C1 Campbell River	2018	Derelict ex-fishing vessel (live aboard)				DFO/CCG 2020-09-01	30,169.92	2020-11-27	23,285.10 77.18%		2021-02-11
<i>Miss Terri</i> 120-869-C1 Discovery Harbour, Campbell River	2018	Derelict fishing vessel				DFO/CCG 2020-09-04	88,576.24	Claim was rejected			Open
<i>Reliant</i> 120-870-C1 Gibsons	2020	Tug				Reliant Marine Services Ltd 2020-09-09	90,000.00	Claim was dismissed			2021-02-02
<i>Maverick IV</i> 120-871-C1 Cowichan Bay	2018	Derelict pleasure craft				DFO/CCG 2020-09-24	52,522.44	2020-12-17	18,905.55 36%	Recovery efforts ongoing	Open
<i>Atanook</i> 120-872-C1 Ganges Harbour	2018	Abandoned sailing vessel (pleasure craft)				DFO/CCG 2020-10-05	19,017.43	2020-12-24	4,905.93 25.80%	Recovery efforts ongoing	Open
<i>Halary No. 1</i> 120-873-C1 Campbell River	2018	Derelict ex-fishing vessel	√	Fuel oil		DFO/CCG 2020-10-09	25,413.14	2021-01-28	17,021.27 67%	Recovery efforts ongoing	2021-10-21

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Name, File # and Location	Year of Incident	Ship Type and Flag	Spill	Oil Type	Security	Claim(s) filed		Offer		Recovery Status	Date File Closed
						Claimant and Date of Claim	Amount \$	Date	Amount \$ %	\$ Recovered	
<i>San Jolyne III</i> 120-874-C1 Dusenbury Island, Pender Harbour	2018	Derelict fishing vessel	√	Fuel oil		DFO/CCG 2020-10-16	181,475.67	2021-08-18	127,118.46 70%	Recovery efforts ongoing	Open
<i>Alhena</i> 120-875-C1 Alert Bay	2018	Fishing vessel				DFO/CCG 2020-10-30	12,654.91	2021-01-06	5,440.03 42.99%	Recovery efforts ongoing	Open
<i>Unknown name (houseboat)</i> 120-878-C1 Sicamous Narrows Shuswap Lake	2020	Houseboat (pleasure craft)	√	Diesel		DFO/CCG 2020-12-02	6,941.10	2021-02-01	4,402.99 63%		Open
<i>Aura Lee</i> 120-880-C1 Cowichan Bay	2018	Derelict ex-fishing vessel	√	Diesel		DFO/CCG 2020-12-08	42,176.45	2021-03-31	33,908.13 80%	Recovery efforts ongoing	2021-11-18
<i>Friday While</i> 120-881-C1 Tsehum Harbour	2019	Pleasure craft	√	Diesel		DFO/CCG 2020-12-31	27,442.55	2021-03-03	10,531.22 38%	Recovery efforts ongoing	Open
<i>Rolano</i> 120-882-C1 Cortes Island	2019	Derelict passenger vessel				DFO/CCG 2021-02-02	248,265.04	2021-09-28	71,058.05 28%	Recovery efforts ongoing	Open

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Unknown name (deck barge) 120-885-C1 Port Mellon	2019	Derelict deck barge				DFO/CCG 2021-02-26	396,954.40	2021-10-20	57,102.91 14%	Recovery efforts ongoing	Open
Seal Rock 120-887-C1 Lyll Harbour, Saturna Island	2019	Derelict pleasure craft				DFO/CCG 2021-03-15	51,805.59	2021-06-25	13,390.66 26%	Recovery efforts ongoing	Open
Zac 120-892-C1 Port Alberni	2019	Fishing vessel				DFO/CCG 2021-04-22	43,758.69	2021-08-08	40,277.24 92%	Recovery efforts ongoing	Open
Western Chief 120-895-C1 Miner's Bay, Mayne Island	2019	Seiner (fishing vessel)				DFO/CCG 2021-06-14	22,528.61	2021-10-28	16,498.07 73%	Recovery efforts ongoing	Open
Western Breeze 120-897-C1 Steveston Harbour	2019	Derelict ex-fishing vessel		Diesel		DFO/CCG 2021-07-06	147,492.93	Assessment ongoing			Open
Salish Guardian 120-898-C1 Goat Island, Ganges Harbour	2019	Pleasure craft				DFO/CCG 2021-07-20	98,810.32	2021-11-29	38,662.05 39%	Recovery efforts ongoing	Open

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Red Fir #9 120-900-C1 Kitsilano Base, English Bay	2019	Pleasure craft, ex-tug				DFO/CCG 2021-10-06	37,526.55	2022-01-31	15,058.53 40%	Recovery efforts ongoing	Open
Scotia River 120-903-C1 Lax Kw'Alaams	2019	Tug	√	Diesel and hydraulic fluid		DFO/CCG 2021-11-03	101,618.52	Assessment ongoing			Open
Go-Getter 120-906-C1 Port Hardy	2019	Fishing vessel	√	Diesel		DFO/CCG 2021-11-24	12,623.68	2022-02-18	2,123.68 17%	Recovery efforts ongoing	Open
Autumn Winds 120-909-C1 Discovery Passage	2021	Commercial fishing vessel				Nanwakolas Council Society 2021-12-09	9,266.96	2022-02-04	9,266.96 (100%)		Open
Unknown name 120-878-C1 Sicamous	2020	Houseboat (pleasure craft)	√	Diesel		DFO/CCG 2020-12-02	6,941.10	2021-02-01	\$4,402.99 (63%)		Open
Nunavut											
Mystery Spill 120-206-C1 Ungava Bay	1999	Unidentified ship	√			Indian and Northern Affairs Canada 2000-02-21	15,214.92	2000-03-28	6,410.00		2000-03-31

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<i>Clipper Adventurer</i> 120-580-C1 Coronation Gulf	2010	Cruise ship	√		√	DFO/CCG 2011-10-17	468,801.72				2018-12-13
<i>Nanny</i> 120-581-C1 Gjoa Haven	2010	Tanker Canada				DFO/CCG 2012-06-19	441,842.17	2012-12-12	85,000.00 (inclusive of interest)	70,000.00	2013-10-02
Gulf of St. Lawrence											
<i>Flare</i> 120-165-C1 Gulf of St. Lawrence	1998	Bulk carrier Cyprus	√								2001-03-31
United States of America											
<i>Nestucca</i> 120-022-C1 Grays Harbour, WA, USA	1988	Barge	√	Number 6 fuel oil		Fishermen					1993-03-31
<i>Sunny Blossom</i> 120-198-C1 off Kingston, ON, in USA waters	1999	Tanker Bahamas				Crown (for CCG) 2000-04-20	9,526.57				2002-03-31