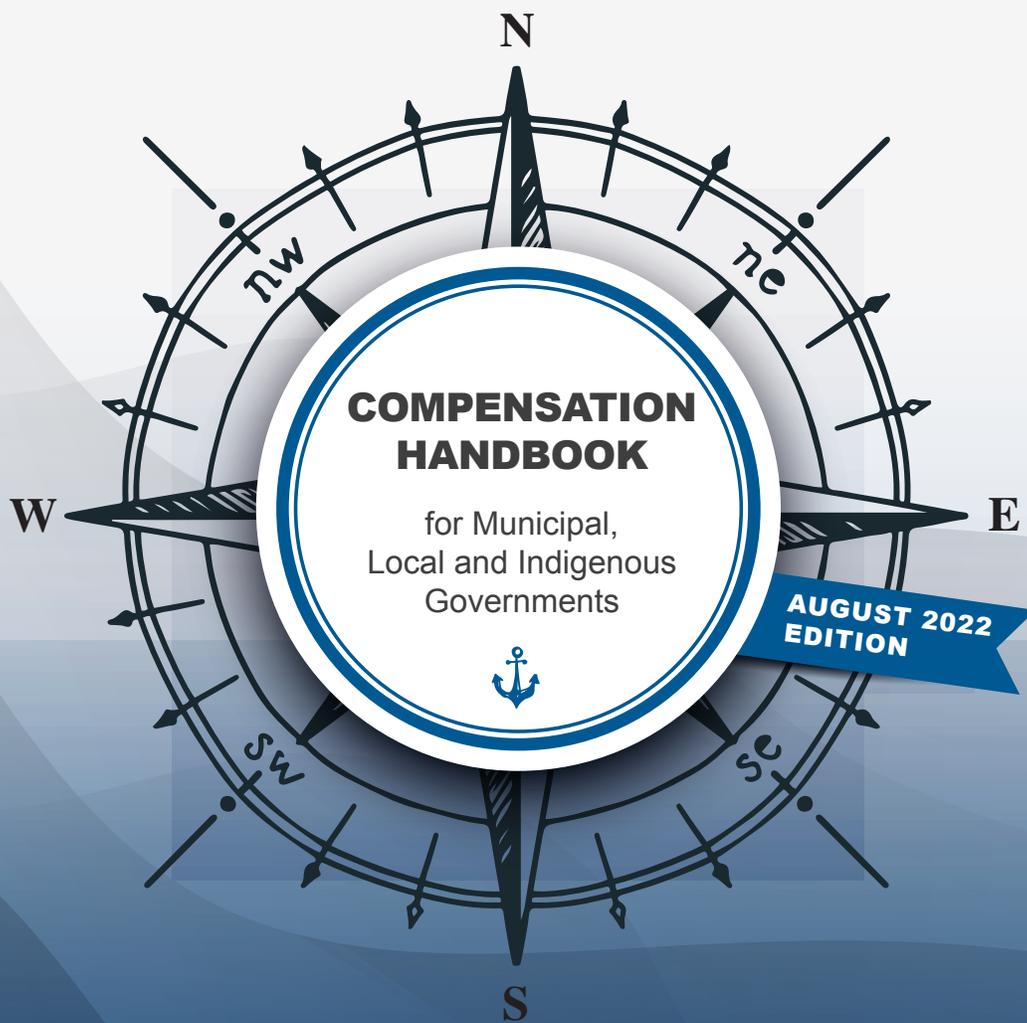


SHIP-SOURCE OIL POLLUTION FUND



Note: The information contained in this handbook does not constitute legal advice and does not substitute any provision in the *Marine Liability Act*, its regulations, or any other applicable laws of Canada.

**Published by the Administrator of the
Ship-source Oil Pollution Fund**

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First edition

Visit us at: www.sopf.gc.ca

MESSAGE FROM THE ADMINISTRATOR

Dear Stakeholder,

Did you know that there is a federal Fund that compensates those who suffer damages caused by any type of hydrocarbon oil, from any type of ship or boat, anywhere in Canadian waters?

Municipal, local and Indigenous governments are one of the many claimants who can benefit from the Ship-source Oil Pollution Fund (the Fund).

Since 1989, we received a low number of claims from this sector. They represent less than 3.2% of all claims we received. We are therefore increasing our outreach efforts to make sure you are not missing out!

This handbook provides general information for cities, towns, villages, districts, band councils, including elected officials, employees, and their citizens.

You may find this handbook especially useful if your municipal, local or Indigenous government owns, manages or is in proximity of:

- A marina, wharf or other docking area;
- A coastal park, trail or beach;
- A water treatment plant near marine traffic;
- Any navigable lake, river, canal, or ocean.

We operate based on the polluter pays principle. Once we pay a claimant, we take all reasonable measures to recover from the shipowner or other responsible persons.

You can find examples and frequently asked questions (FAQ) used throughout this handbook.

If your group or organization would like to get in touch to discuss this handbook or the Fund, we can arrange a teleconference, webinar, or face-to-face meeting.

Thank you for your interest,

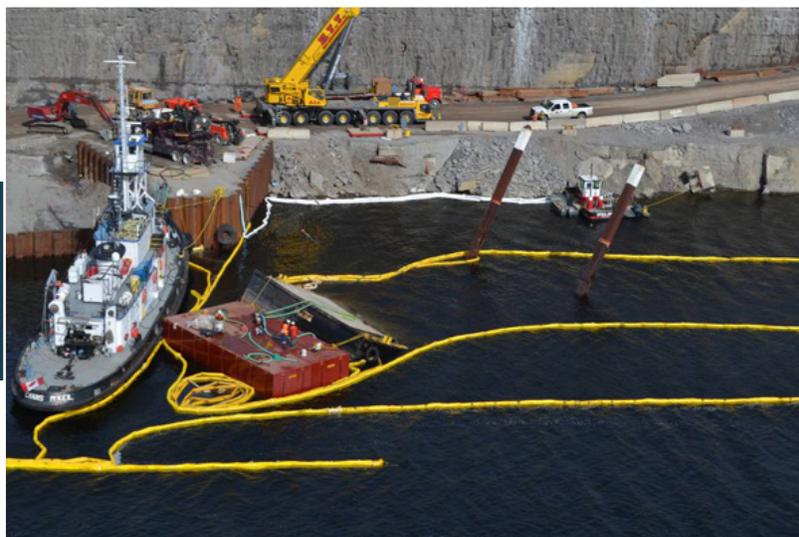


Anne Legars, Administrator
Ship-source Oil Pollution Fund



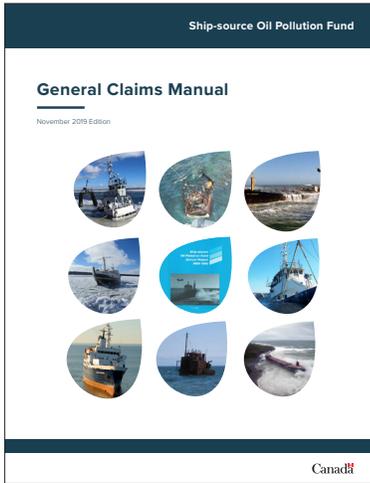
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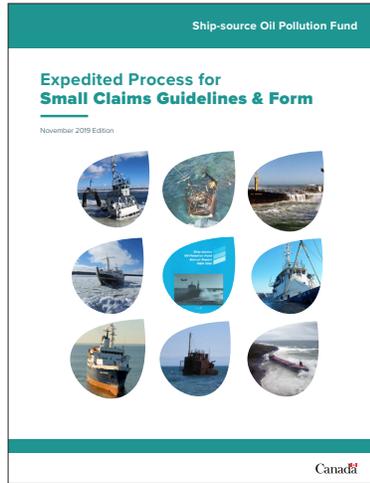


The Fund paid almost \$400,000 to the County of Prince Edward, ON as a result of the sinking of the barge *Pitts Carillon* in 2017. To date, this is the highest amount the Fund has ever paid to a municipal government.

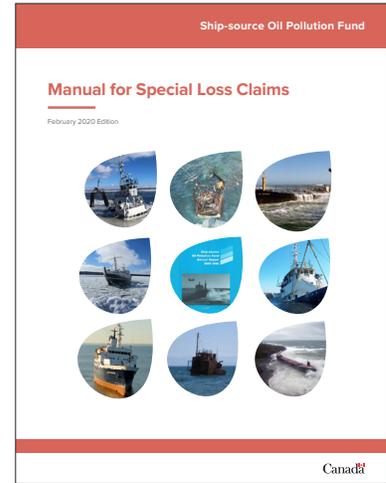
To go beyond this handbook, our claims manuals provide detailed information on how to submit a claim. Visit the “Submit a Claim” tab on our website for more information at www.sopf.gc.ca.



General Claims Manual — provides a comprehensive overview of the Fund, Canada’s ship-source oil pollution liability and compensation regime, and the General Claims Process.



Expedited Process for Small Claims: Guidelines & Form — describes a dedicated fast-track process for claimants who have suffered damages of \$35,000 or less, also providing simplified guidelines and a fillable Small Claims form.



Manual for Special Loss Claims — describes and provides guidance on a dedicated claims process for fisheries, aquaculture, and hunting losses that are not compensable under either the General Claims Process or the Small Claims Process.

If your community is involved in the fishing sectors, from catch or harvest to consumption or use, the **Compensation Handbook for Fishers, Aquaculturists, and All Involved in Related Activities** provides information:



1. WHAT TYPES OF DAMAGES ARE COVERED BY THE FUND?

WE COMPENSATE FOR THE FOLLOWING DAMAGES SUFFERED AS A RESULT OF A SHIP-SOURCE OIL POLLUTION INCIDENT:

Preventive measures and clean-up costs

Cost of reasonable measures taken to prevent, repair, remedy, or minimize damage



Equipment purchased to prepare for an eventual spill, and not for a specific incident, are not compensable.

Examples for municipal, local and Indigenous governments:

- Measures taken to safeguard property, water supply, or other infrastructures including shutdown of a water treatment plant to prevent contamination and using an alternative water supply.
- Collecting, transporting, and disposing of oily waste;
- Wages and overtime of employees carrying out preventative measures or monitoring efforts, such as:
 - City council staff;
 - Emergency services, and first responders;
 - Waste management services.

Costs to inform the population about public safety concerns, such as closures of contaminated beaches, drinking water advisory, other preventive measures to mitigate the risks associated with the spill.

Other examples:

- Costs of cleaning a contaminated private waterfront property.

Property damage

Any physical damage to property caused by oil contamination

Examples for municipal, local and Indigenous governments:

- Costs of cleaning or replacing soiled municipal docks, marinas, and beaches.
- Costs of repairing or replacing parts of municipal water treatment plants including soiled filters.

Other examples:

- Costs of cleaning a contaminated private waterfront property.



Did you know?

The Fund has received sixteen claims from municipal, local and Indigenous governments. We paid over \$1 million for these claims.



Lost wages or profits

Example for municipal, local and Indigenous governments:

- Inability to collect berthage fees due to a municipal port closure.

Other examples:

- Economic downturns, closures or cancellations to coastal resorts, hotels or other tourism and hospitality businesses.



Environmental impact studies and measures taken to accelerate the natural recovery of the environment

Examples for municipal, local and Indigenous governments:

- Shoreline restoration;
- Repopulating species of fish, plants, or animals.



Subsistence, cultural, recreational, and ceremonial losses, as well as lost access to traditional resources

Example for municipal, local and Indigenous governments:

- Costs incurred by a local government to arrange transportation to another site for a ceremonial gathering.

Other examples:

- Inability to fish for subsistence, and the associated cost for the replacement of fish or animal skins.



Did you know?

We cover “mystery spills” too. If you cannot identify the ship that caused a spill, you can submit a claim.



Where it is determined that the spill was not from a ship, however, we cannot provide compensation.

2. HOW DOES THE CLAIMS PROCESS WORK?

2.1. WHO CAN SUBMIT A CLAIM TO THE FUND?

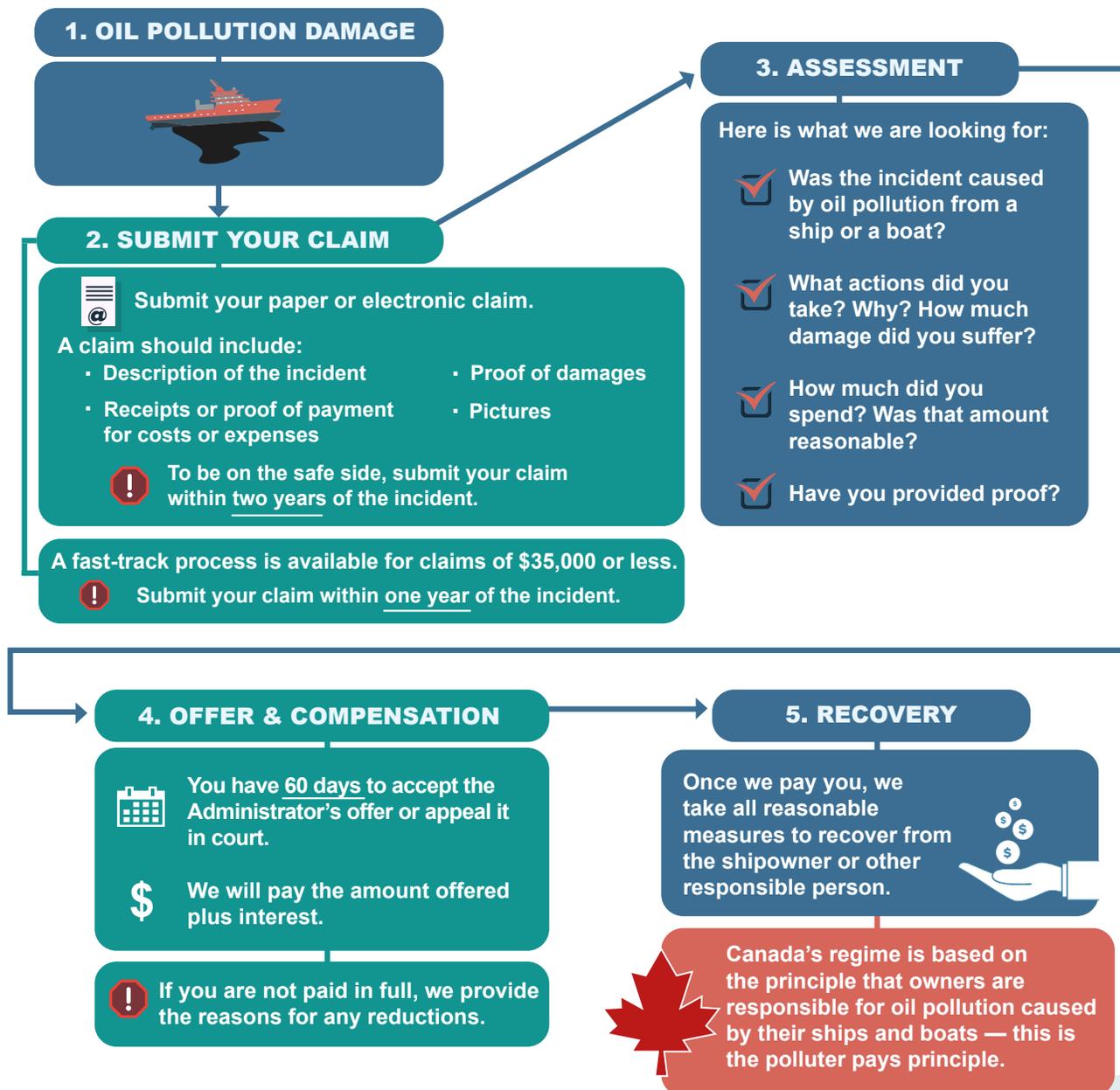
Any person in Canada that has suffered damages, including:

- ✓ Canadian Coast Guard
- ✓ Ports, harbours and marinas
- ✓ Fishing & tourism industries
- ✓ All levels of government



- ✓ Corporations
- ✓ Indigenous communities
- ✓ Individuals
- ✓ Coastal landowners & owners of impacted ships or boats

2.2. HOW DOES THE CLAIMS PROCESS WORK?



Did you know?

No maximum or minimum to compensation:

- There is no limit on how much we can compensate.
- There is no minimum amount: the smallest claim ever received was close to \$200.
- For some claims of \$35,000 or less, an expedited option is also available.



The second-largest payout from the Fund, almost \$2.5 million, went to three claimants who responded to the 2015 spill caused by the bulk carrier *Marathassa* in Vancouver Harbour, BC. One of those claimants, the City of Vancouver, received the second-largest payment to a municipality in our history.

2.3. CAN YOU GO DIRECTLY TO THE SHIPOWNER?

It is your choice. You have two options if you suffer damages.

OPTION 1: you can submit a claim directly to the Fund.

It is often **easier and less expensive** to submit a claim to us.

You can use the *General Claims Process* form. Its use is optional, but it can help prepare and submit your claim:

General Claims Process
Claims Form

This form assists claimants in preparing and submitting claims. Its use is optional. If you choose to use this form, you must also attach supporting documentation.

For information on eligibility for compensation, the kinds of compensable damages, submission deadlines, and the assessment process, see the General Claims Manual, available online at www.sopf.ca under the "Submit a Claim" tab.

Our Claims Centre takes questions and provides free guidance at every step of the way. We can be reached at 604.293.3728 or claims.demande@sopf.ca.

IMPORTANT: Most claims should be submitted within two years of the incident that caused your damages.

Part A: Identification of the Claimant

1. Full name of claimant: _____
2. Mailing address:
Street and number: _____
Unit or apartment number (if applicable): _____
City: _____ Province: _____
Country: _____ Postal code: _____
3. Telephone: _____
4. Fax: _____
5. Email: _____
6. Preferred method(s) of contact: Mail Telephone Fax Email

OPTION 2: you can choose to negotiate with the shipowner directly, or sue.

If a claimant commences a lawsuit, the Administrator of the Fund becomes party to the lawsuit, providing an extra layer of protection to the claimant.

2. HOW DOES THE CLAIMS PROCESS WORK?

2.4. ANSWERS TO QUESTIONS FROM YOUR SECTOR

TYPES OF DAMAGES

QUESTION

1

Is compensation available if a coastal park or a city-owned marina is damaged?

- Yes, costs of repair and restoration, including clean-up costs, are compensable.

QUESTION

2

Is compensation available if a water treatment plant is shut down to avoid or to clean-up contamination?

- Yes, as this may result in economic loss. For example, it may include the costs of supplying an alternative water source and communicating the shutdown to citizens.

QUESTION

3

Can the Fund compensate for the costs of responding to an abandoned vessel causing or threatening to cause oil pollution damage?

- Yes, if the cost is directly related to responding to an oil pollution incident. A response could include pumping out oil and deploying absorbent pads. In specific circumstances, it may be reasonable to deconstruct the vessel.



In many cases, the costs of dealing with a nuisance vessel do not arise from an oil pollution incident, and are therefore not compensable.

CLAIMS PROCESSING

QUESTION

1

Following an incident, when should you submit a claim?

- We recommend that you submit your claim as soon as possible after damages are suffered!
A safe rule: submit your claim within two years of the incident.
 - For the expedited process for small claims, the submission deadline is one year after the incident.
- There are numerous benefits when claims are submitted soon after an incident:
 - Supporting documentation is fresher and more readily available.
 - There is less risk of missing the submission deadline.
 - Compensation is received more promptly.
 - Other potential claimants can be identified and contacted by us.
 - Recovery efforts can start earlier.



If you missed the submission deadline, we cannot evaluate or compensate your claim.



QUESTION
2

Is it possible for people suffering similar losses from the same incident to bundle their claims in a single package?

- Yes, and by doing so, you might save time and money putting your claims together.
 - Any compensation paid will go to individual claimants based on their own damages.

QUESTION
3

What proof of damages do you need to submit a claim?

- You must submit the best evidence available to you, including a detailed description of the incident **and** your damages, as well as any relevant invoices or receipts.
 - Our *General Claims Process* form can help when preparing and submitting claims.



Remember that all claimed costs and expenses must have been reasonable in the circumstances.

QUESTION
4

What is a common compensation shortfall for claimants in your sector?

- They have often suffered reductions when there is duplication of effort in the oil spill response.
 - When we process a claim, we look at the overall actions taken by each organization involved. We also look at their respective mandate and delegation of tasks. Where we notice duplication of efforts, we often must apply reductions to the amount claimed.



By duplication of efforts, we mean, when two or more claimants conduct similar tasks.

QUESTION
5

How long does it take the Fund to process a claim?

- We try to make an offer of compensation as soon as possible: most claims are assessed within three to six months.
- Under the Expedited Process for Small Claims, successful claimants receive payment within 60 days.

QUESTION
6

How difficult is it to submit a claim and can you get assistance in submitting a claim?

- Our claims manuals are easy to use and will help you through the process. If a question arises, please let us know. We are responsive to inquiries.
- Most claimants can submit their claims without the need for professional help. However, with large or complex claims, it may be helpful to obtain the advice or assistance of a lawyer or other professional. If this assistance is reasonably necessary, it may be compensated.



3. WHO PAYS FOR A SHIP-SOURCE OIL SPILL?

Canada's regime is based on the principle that owners are responsible for the oil pollution caused by their ships and boats.

- Liability and compensation is governed by the *Marine Liability Act* (MLA).
- Polluting shipowners are responsible under the MLA even if they are not at fault.

Once a claimant receives payment, we take all reasonable measures to recover from the shipowner or other responsible persons.

This may mean:

- Out-of-court settlement
- Court action
- Arrest of the polluting ship or any other ship owned by the same person.

We are always ready to discuss settlement rather than going to court. However, we must sometimes sue a shipowner, notably where they do not respond to our communications. As well, lawsuits are often used simply to preserve our legal rights, allowing settlement discussions to continue.



In early 2019, the Administrator obtained a judgment in the Federal Court for over \$800,000 against the owner of the derelict vessel *Farley Mowat*. The vessel had caused three separate oil pollution incidents at Shelburne, NS, resulting in four claims including from the town of Shelburne.

APPENDIX: SUMMARY OF CLAIMS FOR DAMAGES SUSTAINED BY MUNICIPAL, LOCAL AND INDIGENOUS GOVERNMENTS

INCIDENT	CLAIMS SUBMITTED	DECISION
Ship name Date of incident Location Ship type Spilled oil (if applicable, and type of spill, if available)	Amount claimed Date of submission Name of claimant	Amount offered with interest (\$)
Nova Scotia		
Farley Mowat 2015-06-24 Shelburne Other	\$47,599 2017-06-23 Town of Shelburne	\$44,818
Quebec		
Gordon C Leitch 1999-03-23 Saint-Pierre Harbour Canadian Great Lakes vessel Heavy fuel oil	\$539,559 2002-03-22 Conseil des Innus de Ekuanitshit et tous les membres de la Première Nation Ekuansitshit	\$10,000
L'Ance L'Eau 2001-07-16 Tadoussac Pleasure craft Gasoline	\$2,195 2001-12-07 Municipality of Tadoussac	\$0
Mystery Spill 2013-11-16 Baie St-François	\$104,151 2014-03-24 Ville de Salaberry de Valleyfield	\$45,000
Ontario		
Mystery Spill 2009-07-17 Big Sound Marina	\$6,987 2009-09-03 Town of Parry Sound	\$7,065
Portofino 46 2012-09-03 Port Dalhousie Harbour Pleasure craft Diesel fuel and lubricating oil	\$37,575 2014-05-08 City of St Catharines	\$11,560
Warren L. II 2015-12-07 Killarney Channel Tug Fuel oil	\$270,286 2017-08-21 Municipality of Killarney	\$225,095
Pitts Carillon 2017-03-24 Picton Bay Spud barge Residual oil	\$597,397 2018-05-08 County of Prince Edward	\$394,111

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INCIDENT	CLAIMS SUBMITTED	DECISION
Ship name Date of incident Location Ship type Spilled oil (if applicable, and type of spill, if available)	Amount claimed Date of submission Name of claimant	Amount offered with interest (\$)
British Columbia		
<i>Black Dragon – (Heung Ryong)</i> 2003-10-26 Barkley Sound Chinese flag fishing vessel Diesel	– 2005-01-05 Toquaht First Nation	–
<i>Elf</i> 2014-01-14 Squamish Harbour Tug Diesel, hydraulic and lube oil	\$3,464 2014-11-03 District of Squamish	\$3,580
<i>Marathassa</i> 2015-04-08 English Bay Bulk carrier Fuel Oil	\$569,053 2017-04-10 City of Vancouver	\$266,015
<i>No Name</i> 2016-09-25 Paddle Wheel Park Pleasure craft	\$2,012 2017-04-03 City of Vernon	\$1,626
<i>Nathan E. Stewart</i> 2016-10-13 Seaforth Channel, Bella Bella Tug Diesel fuel and lube oils	– 2019-10-11 Heiltsuk Tribal Council	–
<i>Zodiac Light</i> 2018-02-14 Kitimaat Village Fishing vessel Diesel	\$14,028 2020-02-12 Haisla Nation Council	\$15,196
<i>Autumn Winds</i> 2021-07-15 Discovery Passage, off Bear Point near Humpback Bay Commercial fishing vessel	\$9,267 2021-12-09 Nanwakolas Council Society	\$9,400 Amount could be re-evaluated since submitted under the Expedited Process for Small Claims.
<i>Santa Rita</i> 2022-06-28 Goldstream Marina Tug Diesel	\$3,225 2022-07-12 Pauquachin First Nation	Under assessment