

# FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS

The Administrator's  
Annual Report  
2019-2020

Canada 



Cover Image: Photo by Earl Minnis (2012): Kama Lookout, Nipigon, ON

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***Published by the Administrator of the***

Fund for Railway Accidents Involving Designated Goods

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The Honourable Marc Garneau, P.C., M.P.  
Minister of Transport  
Ottawa, Ontario  
K1A 0N5

Dear Minister:

Pursuant to Section 155.93 of the *Canada Transportation Act*, I have the honour of presenting to you the Annual Report for the Fund for Railway Accidents Involving Designated Goods to be laid before each House of Parliament.

The report covers the fiscal year ending March 31, 2020.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Anne Legars', with a long horizontal flourish extending to the right.

Anne Legars, LL.M., CAE  
Administrator of the  
Fund for Railway Accidents Involving Designated Goods





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# INTRODUCTION

The Fund for Railway Accidents Involving Designated Goods (the Fund) is a specified purpose account in the accounts of Canada, established under section 153.4 of the *Canada Transportation Act* (the Act). The Fund compensates victims of damages caused by a major crude-by-rail accident. Compensation starts after federally regulated railway companies have paid damages up to the amount required by law, and for which they must have insurance coverage. This mandatory insurance coverage is based on the risk, type and volume of crude oil they transport. It varies between \$100 million to \$1 billion.

The Fund is financed through a levy, a per-tonne fee, paid by the first railway to carry the crude oil in Canada.

A railway company involved in a crude oil accident is liable for damages without needing to prove fault or negligence. If more than one railway company is liable, the railway companies are jointly and severally liable each up to the amount of the minimum liability insurance coverage they are required to have by law.

In the event of a disaster, the Fund has no limit to how much it can compensate. The Fund also has access to additional federal money through the Consolidated Revenue Fund, should the funds available with the Fund be insufficient to pay all eligible claims.

This is the fourth annual report on the operations of the Fund, and it covers the fiscal year ending March 31, 2020.



## 2019-2020 AT A GLANCE

**No accidents** involving the Fund, but four accidents monitored by the Administrator

**\$1.76 per tonne** collected from shippers of crude oil by rail

Over **\$31 million** in levies, a “per-tonne fee” collected this year

A total of over **\$75 million accumulated** by the Fund at the end of the fiscal year

Advancement of the readiness **action plan** to provide compensation

**Successful outreach and engagement** throughout Canada

**Continued engagement with Indigenous groups and organizations**, for the development of the compensation process, particularly for the loss of fishing, hunting and gathering opportunities

# 1. ACTIVITY REPORT

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## THE FUND'S 2019-2020 FISCAL YEAR WAS MARKED BY THE FOLLOWING:

- ▶ **No railway accidents involving crude oil that could have triggered the Fund's intervention.** Four accidents involving crude oil prompted the monitoring process of the Fund and the opening of an accident report for each of them. However, it is unlikely that any of those accidents will reach the railway's limit of liability.
- ▶ **Levy indexation update.** On April 1, 2019, the levy was adjusted from \$1.72 to \$1.76 per tonne for the 2019-2020 fiscal year, a 1.023% increase. The levy, a per-tonne fee, is paid by the first railway to carry the crude oil in Canada. As announced on March 28, 2020, for the fiscal year starting on April 1, 2020, the amount is \$1.79 per tonne, a 1.017% increase.
- ▶ **Increasing the Fund's readiness.** The Administrator and her team are implementing an action plan to facilitate access to justice and compensation for victims in case of a rail accident triggering the Fund. Strategic initiatives undertaken or further developed this year as part of this action plan include:
  - The improvement of the accident monitoring process and follow-up
  - A Communications plan in case of an accident, including the circulation of the 2020 Annual Crude-by-rail Update Form
  - The publication of the rail accident summaries
  - The process for the prequalification of Claims Assessment Services and eventual request for proposal (RFP)
- ▶ **Successful outreach and external relations across Canada.** The objective of reaching all provinces and territories by the 3<sup>rd</sup> anniversary of the Fund was reached. A significant number of stakeholders met with members of the Office of the Administrator for the first time. These efforts to engage stakeholders are part of the Administrator's strategic plan aimed at ensuring that her office offers a relevant and effective means of providing access to justice for all types of claims and claimants, including Indigenous claimants.
- ▶ **Ramping up and consolidation of the team.** In order to be able to accelerate the deployment of the Fund's readiness plan and ensure continuity in the relevant in-house expertise, the Administrator staffed and structured her office in a more permanent manner. This involved the recruitment of three staff (a Director, a lawyer and an analyst) through competitions, as well as major office refits to accommodate new workstations, including two closed offices. Sadly enough and to the shock of the whole team, the new Director hired in December 2019 passed away in March 2020.
- ▶ **Transition to an upgraded management and governance model.** The model under which the Fund and its sister Fund, the Ship-source Oil Pollution Fund (Ship Fund) have been managed jointly, has been stretched to its limits. Both Funds have therefore started to transition towards a new model, whereby the claims compensation dimension of each Fund is managed by a team leader (for the Fund: the Director) reporting to the Administrator, and the Corporate Services



common to both Funds are managed by the Director, Corporate Services, also reporting to the Administrator. This reduces the number of consultants and staff reporting directly to the Administrator. The Administrator and Deputy Administrator can therefore focus on strategic orientations, policies and guidelines, while remaining the ultimate decision makers.

- ▶ **Coronavirus disease (COVID-19).** The Office of the Administrator started to operate remotely on March 17, 2020, with a rotation of minimal office attendance covering for basic compliance needs in the context of fiscal year closing. The pandemic had nevertheless an impact on several engagement projects, which were delayed or cancelled. The COVID situation has also impacted the demand for crude by rail. This may be felt on the revenue side of the Fund in the 2020-2021 fiscal year.

The Act provides that the Administrator is responsible for:

- ▶ Establishing and paying out claims (sections 154.6 and 155 of the Act);
- ▶ Ensuring records and systems are properly maintained (section 155.92 of the Act);
- ▶ Submitting an annual report to the Minister of Transport for tabling in Parliament (section 155.93 of the Act).

This annual report is therefore structured along these core elements of the Administrator's statutory mandate.

## 1.1. READINESS FOR THE ASSESSMENT AND PAYMENT OF CLAIMS

Receiving, investigating, assessing and paying claims in case of a crude-by-rail accident where damages exceed the railway's limit of liability is at the heart of the Administrator's mandate. No such accident happened in 2019-2020, nor since the Fund was established in 2016. However, the Administrator must still ensure that her office is ready to respond to claims, should a major accident trigger its involvement. In addition to the ability to deal with a volume and variety of claims similar to what occurred following the Lac-Mégantic tragedy, the Administrator would also have to assess and pay new types of claims that are now provided for in the Act (such as pure environmental loss, and Aboriginal peoples' loss of hunting, fishing or gathering opportunities), when applicable.

If proceedings are commenced against a federally regulated railway company for damages, as provided for in the Act, this railway shall name the Administrator as party by statute, even though the railway's limit of liability has not been reached. This has not happened this year, neither since the Fund was established.

**In 2019-2020, the Administrator continued to work on the action plan aimed at ensuring the Fund's readiness to manage and assess claims. The plan includes:**

1. Work with railway companies carrying crude oil to develop communication protocols in case of spills.
2. Retain, on a stand-by basis, resources specialized in claims assessment for different types of damages that can be compensated under the regime, so that the Fund can manage large volumes of claims, if needed.
3. Consolidate the key stakeholders' network and the key payers' network.
4. Develop a key payers' network readiness plan, including a number of best practices and tools.
5. Develop claims management policies and assessment guidelines, and circulate them for comments.
6. Work with other federal entities who would be involved in the compensation of damages following an accident, such as the Canadian Transportation Agency (CTA) (who would be involved in assessing damages caused by fire) and the Federal Courts administration (who would be involved in reviewing the Administrator's assessment decisions).
7. Hold discussions with federal and provincial entities who also have a mandate to assess (1) pure environmental losses or a loss of non-use value relating to a public resource, or (2) Aboriginal peoples' claims for loss of fishing, hunting or gathering opportunities.
8. Conduct additional research and consultation on these new fields of law.
9. Hold periodic workshops, including workshops dedicated to table-top indemnification scenarios.

To ensure readiness and progress on the implementation of the action plan, the Administrator has taken the following measures:

► **Monitoring and follow-up of railway accidents.**

The Office of the Administrator receives incident notifications from the Transportation Safety Board of Canada (TSB) and opens an accident report file when the three following criteria appear to be met:

1. The accident involved crude oil.
2. At least one federally regulated railway was involved in the accident.
3. Available information indicates that there are third-party damages, such as:
  - a. Injuries or casualties
  - b. Fire response costs
  - c. Environmental damage
  - d. Property damage
  - e. Economic loss
  - f. Loss of fishing, hunting and gathering opportunities for Indigenous peoples
  - g. Loss of subsistence living

Should the Fund be contacted by potential claimants in relation to any of these accidents, these claimants would be redirected to the contact-persons within the relevant railway companies responsible for the compensation of damages until the subject railway has paid up to its limit of liability. Each year the Administrator will publish accident summaries to inform the public on the development of these accident report files, involving her office.

Four railway accidents involving crude oil occurred during the fiscal year (see boxes on next page), none of which is likely to trigger the Fund's involvement. With the two accidents reported during fiscal year 2018-2019, the Office of the Administrator has now six open files for follow-up purposes (i.e. for ongoing monitoring, for advising potential claimants if any, and/

or becoming party by statute). However, the Office of the Administrator has not received any claim or query from claimants so far, nor has the Administrator been served as party by statute in relation to any of these six accidents.

► **Communication with railway companies after a crude-by-rail accident.**

As already done the previous year and as part of the Administrator's communication preparedness plan, a communication protocol is engaged when a crude-by-rail accident causing damages is reported to the Fund. First, an accident report file is opened. Second, the Office of the Administrator reaches out to company(ies) involved to assess the types of damages and the Fund's involvement. This allows the Administrator to validate the critical elements of the file. Most importantly, the Office of the Administrator validates the information of both the claims and communications contacts. Third, the Office of the Administrator prepares a draft message (general content) in case of media requests or inquiries from potential claimants or the public. The Administrator therefore calls upon the collaboration of all railway companies, so to have adequate information in a timely manner.

► **Engagement with all federally regulated railways prior to any accident.**

Although the Office of the Administrator had already met the very few railway companies that pay the levy, many more federally regulated companies could potentially be captured by the liability and compensation regime. This would be the case if, for instance, a crude-by-rail accident happens on their railway track segment or when they are operating the tanker cars for a section of the entire carriage. The Administrator therefore reached out to all federally regulated railway companies holding a Certificate of Fitness and sent them a 2020 Annual Crude-by-rail Update Form, to facilitate further engagement and communication in case of a crude-by-rail accident, especially with the companies that have not yet been involved with the Office of the Administrator.



## 2019-2020 RAILWAY ACCIDENTS INVOLVING CRUDE OIL

### Barwick, Ontario – May 4, 2019

On May 4, 2019, a Canadian National Railway (CN) freight train carrying crude oil, heading east, derailed near Barwick, Ontario. Five cars carrying crude oil and one sand buffer car derailed. No leaks or exposures were reported. There were no injuries and no impact to waterways. The damages incurred will not exceed the railway company's limit of liability; therefore, the Fund will not be involved for compensation purposes.

### Guernsey, Saskatchewan (Lanigan) – December 9, 2019

On December 9, 2019, a Canadian Pacific Railway (CP) freight train carrying crude oil heading east, derailed near Guernsey, Saskatchewan. Thirty-three cars derailed, nineteen of which lost their entire load of crude oil, releasing 1.5 million litres of crude oil. About twenty cars were engulfed in a large fire which burned for approximately 24 hours. No injuries or casualties were reported. There is concern that damages may have impacted the traditional land of the Kawacatoose First Nation. There was no impact to waterways. The damages incurred will not exceed the railway company's limit of liability; therefore, the Fund will not be involved for compensation purposes.

### Guernsey, Saskatchewan – February 6, 2020

On February 6, 2020, a Canadian Pacific Railway (CP) train heading east, derailed near Guernsey, Saskatchewan. Thirty-two cars derailed and an estimated 1.6 million litres of crude oil product was released. The product ignited and resulted in nineteen cars catching fire. CP's emergency response teams were working with local first responders to contain the fire and ensure the clean-up of the area. No injuries or casualties were reported, but as a precaution due to air quality, 85 residents of the town of Guernsey were evacuated. The damages incurred will not exceed the railway company's limit of liability; therefore, the Fund will not be involved for compensation purposes.

### Emo, Ontario – February 18, 2020

On February 18, 2020, a Canadian National Railway (CN) train, heading east, derailed near Emo, Ontario. Thirty-one cars derailed, including twenty-six cars carrying crude oil, five of which released their load. CN's environmental teams led the clean-up. Six homes in the area were evacuated as a precautionary measure. There were no injuries or casualties reported, as well as no fire and no impact to waterways. The damages incurred will not exceed the railway company's limit of liability; therefore, the Fund will not be involved for compensation purposes.

## FOLLOW-UP ON 2016-2019 RAILWAY ACCIDENTS INVOLVING CRUDE OIL

### St. Lazare, Manitoba – February 16, 2019

It was confirmed that the damages caused by the accident did not reach the railway's limit of liability.

### Party by Statute

The Administrator has not been served as statutory defendant in any proceeding in relation to a crude-by-rail accident that happened after June 2016.

► **Resources specialized in claims assessment.**

The Administrator is proceeding towards prequalifying external service providers specialized in claims assessment services. The Administrator has retained an external law firm to support this prequalification process, as well as the RFP process, should a relevant railway accident occur.

► **Intensification and systematization of efforts to engage the Fund’s key stakeholders as instrumental to relevancy of the compensation process.**

As the Fund marks its 3<sup>rd</sup> anniversary, stakeholder engagement is still considered as an essential pillar to ensure that the Fund is efficient and relevant to claimants. The Fund’s Canada-wide network has been growing based on the Administrator’s action plan. Contacts have been made in all provinces and territories including all levels of government, Indigenous peoples, industry, and other relevant stakeholders. Efforts continue to be made to keep our key partners engaged in the development of the claims management process, as well as reaching out to new stakeholders to make them aware of the existence of the regime. These outreach efforts are detailed in section 1.3 below.

► **Triggering of the Fund, management policies and guidelines.**

The Office of the Administrator has developed or worked on a number of management policies, some for internal use, and others for circulation to stakeholders. Publications to stakeholders should be circulated in the first part of the 2020-2021 fiscal year.

► **Further developed knowledge of compensation in case of a railway accident involving designated goods.**

The Administrator continued examining the scope and method for assessing and compensating certain losses and damages, more particularly actual loss or damage from loss of hunting, fishing and gathering opportunities with respect to any Aboriginal peoples of Canada (see section 153 of the Act). The various dimensions of readiness in this matter involve understanding what can

be claimed under loss of Aboriginal hunting, fishing and gathering opportunities, how these damages should be documented in order to file a claim, and how such claims will be assessed (relevant methodology or criteria). The goal of the Administrator is to develop and circulate a schedule to the Claims Manual addressing these types of losses or damages. In addition to ongoing research, the Administrator has engaged in discussions with entities who have a shared interest in this matter, in particular Indigenous groups, Indigenous Services Canada (ISC), and Transport Canada (TC). The Administrator’s reflection on compensation of Indigenous loss of hunting, fishing and gathering opportunities and compensation of non-use value may take into account the work undertaken by TC in this respect on the marine side. Indeed, TC has been tasked to:

“review the federal marine oil spill compensation regimes with regards to compensation for non-use values, for Indigenous and non-Indigenous communities, including any non-coastal communities that may be impacted as a result of a marine oil spill” (Recommendation 15 of the (then) National Energy Board’s review of the Transmountain pipeline project).

This development puts a new twist to the reflection of the Administrator on the compensation of these types of damages after a crude-by-rail accident.

## **1.2. ASSURANCE THAT RECORDS AND SYSTEMS ARE PROPERLY MAINTAINED**

To this end, the Administrator has taken the following measures:

► **Validation of the revenue side and alignment for the five-year Special Examination.**

The Administrator and Deputy Administrator had meetings with TC (Rail Policy), the CTA, and TC (Transportation of Dangerous Goods), to develop a better understanding on the data

and information held by these organizations with respect to the carriage of crude-by-rail. The Administrator is looking at potential ways of obtaining assurance that the global volume reported for levy purposes is accurate. The Auditor of the Fund has also recommended that the Fund put in place controls to identify all third-party companies (shipping entities) requesting shipments of crude oil in Canada and then corroborate such volumes to the volume reports declared by railway companies. These discussions will resume when a new Director is appointed. In the meantime, the 2020 Annual Update Form sent by the Administrator to all federally regulated railways seeks to obtain a clear picture on how and by whom the levy is actually collected and remitted. This is critical as the Fund is approaching its 5<sup>th</sup> year of existence and its first Special Examination will take place in 2021 as required by s. 155.94 of the Act. This Special Examination will focus on financial and management matters relevant to the Fund, which will likely include a review of the revenue side of the Fund. Follow-up communications on this topic of the 2020 Annual Update Form will take place between the Administrator and the railways during the 2020-2021 fiscal year.

- ▶ **Fund's staffing and transition to an upgraded management and governance model.** Since its creation, the Fund had been piggybacking on the Ship Fund, which was celebrating its 30<sup>th</sup> anniversary year in 2019-2020. The Administrator and Deputy Administrator have been cross appointed for the two Funds, which share their staff and premises. Direct costs are billed directly to each Fund, and indirect/shared costs are prorated between the Funds according to the terms of their MOU. The Ship Fund has been the employer for the staff serving both Funds, invoicing the Fund for the use of staff. The Ship Fund has increased its level of activity tremendously over the past couple of years, with a strong acceleration during its 30<sup>th</sup> anniversary year, used as a springboard for the delivery of a multitude of projects. The capacity crunch of

the Administrators experienced from early 2019 triggered the transition to a new model based on three pillars: the Ship Fund claims team lead by a lead-in house Counsel, the Fund team lead by a Director, and the shared administrative and professional corporate services, lead by the Director of Corporate Services. The job descriptions of all positions have been either updated or written down and classified by an external Human Resources firm, the remuneration policies have been updated, all Human Resources policies have been updated and consolidated, and a delegation framework has been drafted. Over the second half of the year 2019, the three new positions attached to the Fund (Director, lawyer and analyst) have been opened, advertised and filled through competitions. This consolidation of the team specifically allocated to the Fund should help accelerate the implementation of the readiness plan.

- ▶ **Office renovations to accommodate growing needs of the two Funds.** These additional recruitments, as well as a number of recruitments for the Ship Fund and the need for a number of closed offices, led to major office refits to accommodate new workstations and a number of closed offices. The related costs have been shared 50/50 between the two Funds.
- ▶ **File management processes and records retention and disposal.** To further the office's transition to an electronic record-keeping environment, an additional feature was successfully installed on the Fund's information management system. This feature allows greater ease of use and efficiency for users interacting with office records filed electronically in the system. The situation arising from the COVID-19 pandemic is expected to accelerate the adoption of electronic record-keeping operationally in the coming year. Additionally, as the number of employees and consultants working for the office continues to grow, new policies and procedures were adopted throughout the year to improve the capture, organization, access, and retrieval of the office's information.



- ▶ **New requirements of the Access to Information Act (AIA).** As a result of amendments to the AIA, following the enactment of *An Act to amend the Access to Information Act and the Privacy Act and to make consequential amendments to other Acts* (Bill C-58) in June 2019, the Office of the Administrator made adjustments to certain procedures in order to comply with new statutory requirements, including the monthly proactive disclosure of hospitality and travel expenses. These new requirements ensure greater transparency from the Office of the Administrator.
- ▶ **MOU with TC.** During the first year of existence of the Fund, the Administrator and TC entered into a Memorandum of Understanding which clarifies their operational, administrative, financial, auditing and reporting relationships. A similar MOU exists between the Administrator of the Ship Fund and TC. The latter MOU needed amendments in 2019 to reflect amendments brought to the home statute. This was the

opportunity to upgrade a number of other elements of the document, especially with respect to the terms of delivery of financial services by TC. In the wake of these upgrades of the Ship Fund MOU, the Administrator has proposed to TC a new MOU to replace and upgrade accordingly the Fund's former MOU. This upgrade will also provide the opportunity to operationalize further the collaboration with respect to levy remittance and compliance, in anticipation to the five-year Special Examination.

### 1.3. ANNUAL REPORT TO THE MINISTER OF TRANSPORT FOR TABLING IN PARLIAMENT AND OUTREACH ACTIVITIES

The Act provides that the Administrator shall submit an annual report for the activities in that year to the Minister, including financial matters set out at paragraph 155.93(2) of the Act. The financial report is submitted under part 2 of this annual report.

**FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS**

**WHO ARE WE?**  
The Fund compensates victims of damages caused by a major crude-by-rail accident. Compensation starts after railway companies have paid damages up to the amount required by law.  
We were created as a response following the Lac-Mégantic tragedy:  
• Now, in the event of a railway accident involving crude oil, we protect Canadians from bearing the cost of damages.  
The independent Administrator of the Fund is implementing an action plan to facilitate access to justice and compensation for victims.

**THE POLLUTER-PAYS PRINCIPLE**  
**HOW DOES IT APPLY IN CANADA?**  
Canada has strengthened its liability and compensation regime, it:  
• Holds railways involved in crude oil accidents liable for damages without needing to prove fault or negligence;  
• Requires minimum insurance levels based on the risk, type and volume of crude oil they transport;  
• Varies between \$100 million to \$1 billion of minimum insurance.

**WHAT TYPES OF DAMAGES DO WE COMPENSATE?**

- Preventive measures and clean-up costs
- Environmental damage
- Personal injury
- Property damage
- Economic loss
- Loss of fishing, hunting and gathering opportunities for indigenous peoples
- Loss of subsistence living

**HOW DOES COMPENSATION WORK FOR VICTIMS?**

1. Claimants send their claim to the responsible railway company;
2. That company compensates claimants until it reaches its insurance limit of liability;
3. Claimants who did not receive compensation send their claims to us;
4. We will cover all remaining claims.

To be on the safe side, be sure to file your claim within three years of the damage you suffered.

**WHAT ARE "DESIGNATED GOODS"?**

- Crude oil;
- Other goods can be added by regulation.

**HOW ARE WE FINANCED?**  
All federally regulated railways that transport crude oil in Canada must pay a per-tonne fee:  
• This fee, called a "levy", increases every year;  
• Since 2016, we have collected between one and two million dollars per month in levies and from interest generated on that money.  
In the event of a disaster, the Fund has access to additional money and has no limit to how much it can compensate.

**HOW TO GET IN TOUCH?**  
We are actively working on a comprehensive compensation process with our key stakeholders! Join the discussion by subscribing to our newsletters, and by sharing your views on social media!

www.fraidg.gc.ca | fraidg\_ciafimd | fraidg-claifimd

**Canada**

**The Fund compensates victims of damages caused by a major crude-by-rail accident.**  
Compensation starts after railway companies have paid damages up to the amount required by law.

**La Caisse indemnise les victimes de dommages causés par un accident ferroviaire majeur impliquant du pétrole brut.**  
L'indemnisation commence dès que les compagnies de chemin de fer ont payé les dommages jusqu'au montant exigé par la loi.

**Examples of compensation: | Exemples d'indemnisation :**

- Preventive measures and clean-up costs / Mesures de prévention et frais de nettoyage
- Environmental damage / Dommages à l'environnement
- Personal injury / Blessures
- Property damage / Dommages à la propriété
- Economic loss / Pertes économiques
- Loss of fishing, hunting and gathering opportunities for indigenous peoples / Perte de possibilités de chasse, de pêche et de cueillette pour les peuples autochtones
- Loss of subsistence living / Pertes des moyens de subsistance

The Office of the Administrator also carried out a number of outreach activities – sometimes jointly with the Ship Fund – most of which were aimed at further engaging stakeholders. In order to interact more effectively with these different stakeholders, the Administrator is in the process of entering into a service agreement with a provider of stakeholder databases.

► **Plain language to ensure better communication.**

Efforts were targeted at creating new communications products in simpler and clearer language. The information sheet “Key Facts about the Fund” is now widely shared and available on the Fund’s website. A new roll-up banner maximizes the Fund’s visibility at events in which it participates as an exhibitor or presenter. The next step will be to redesign the website. In preparation for the upcoming release of a summary document informing claimants on who to contact if they incur damages as a result of an accident, the Administrator consulted with federal entities that would also be involved in compensation.

► **Continued engagement with Indigenous groups.**

Efforts to reach Indigenous communities continued, as well as discussions on issues having an impact on these communities. As part of this commitment, the Fund held meetings with various groups regarding the development of the compensation process, in order to ensure that the Fund is ready to respond to Indigenous claimants, particularly for the loss of fishing, hunting and gathering opportunities.

► **Using online platforms to accelerate outreach:**

- **Social media** – Since 2019, there has been a steady increase of the use of the LinkedIn and Twitter pages. As part of an online

engagement strategy, the Fund’s social media presence helped reach, engage, and sustain strong relationships with stakeholders. From the publication of new material and media articles, to webinar alerts and the participation to events and trade shows, additional efforts were made to keep the public informed.

- **Newsletter** – A monthly email newsletter is used to help the public keep up to date on the latest news, publications, job postings, forthcoming events and other announcements issued by the Fund. Over 355 people have subscribed to the newsletter. The Fund also sometimes provides material for publication in stakeholders’ newsletters, such as the Union of BC Municipalities (UBCM) – The Compass.

► **Impact of the COVID-19 on the Administrator’s outreach plan**

– A number of engagements were canceled or postponed due to COVID-19, such as the:

- Meeting with a delegation from the Université de Sherbrooke
- Meeting with key stakeholders

Following Public Health’s recommendations, the Fund also suspended participation to all external events until further notice. All events organized by the Fund, including webinars were also postponed. Stakeholders were encouraged to continue engaging with the office staff working remotely by sending comments and questions via email.












## FUND OUTREACH ACTIVITIES IN 2019-2020

### Engagement highlights:

- ▶ **42 meetings** with key stakeholders
- ▶ **3 presentations** at national or international conferences
- ▶ **7 provinces & territories** reached
- ▶ **4 exhibitions** at provincial and national trade shows with high foot traffic
- ▶ The Fund continues to do joint outreach with the Ship Fund when appropriate.

### LEGEND FOR THE TYPE OF STAKEHOLDERS

	Federal government		Legal communities
	Provincial and territorial governments		Local governments, municipalities and related associations
	Indigenous engagement		Railway companies and related associations
	Emergency responders		Oil & gas industry
	Claims and insurance specialists		

*\*Recurring meetings with TC and the CTA are not listed below.*

## 2019

### APRIL



#### Red Deer, Alberta

- ▶ Participation as exhibitor at the trade show at the Annual Conference of the Local Government Administration Association of Alberta (LGAA)



#### Ottawa, Ontario

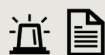
- ▶ Meeting with the Canadian Red Cross



#### Toronto, Ontario

- ▶ Meetings with the Canadian Independent Adjusters Association (CIAA) Member Adjusting Firms: ClaimsPro, Crawford & Company (Canada) Inc. and Sedgwick Canada Inc.

### MAY



#### Ottawa, Ontario

- ▶ Teleconference with the Canadian Red Cross



# JUNE



## Ottawa, Ontario

- ▶ Meeting with the Canadian Red Cross
- ▶ Attendance at the Cost-Benefit Analysis Community of Practice meeting organized by the Office of the Community of Federal Regulators



## Huntsville, Ontario

- ▶ Participation as exhibitor at the trade show and side discussions at the Annual Conference of the Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO)



## Regina, Saskatchewan

- ▶ Meetings with the Saskatchewan Ministries of:
  - Environment
  - Highways and Infrastructure
  - Energy and Resources
  - Government Relations and the Disaster Assistance Program
- ▶ Meeting with the Global Transportation Hub



## Winnipeg, Manitoba

- ▶ Meetings with the Manitoba Departments of:
  - Agriculture and Resource Development – Petroleum Branch
  - Growth, Enterprise and Trade
  - Infrastructure and the Emergency Measures Organization
- ▶ Meeting with the Assembly of Manitoba Chiefs
- ▶ Meeting with the Canadian Council of Ministers of the Environment



# JULY



- ▶ Meeting on Indigenous engagement with ISC and Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) and TC

# AUGUST



## Ottawa, Ontario

- ▶ Meeting with the Rail Transportation Branch (RTB) of the Quebec Department of Transport, as part of parallel consultations with federal agencies at the Summit on Rail Transportation
- ▶ Teleconference with BNSF Railway Company (External Counsel)

# SEPTEMBER



## Winnipeg, Manitoba

- ▶ Presentation at the Canadian Transport Lawyers Association (CTLA) Annual General Meeting & Educational Conference



## Ottawa, Ontario

- ▶ Attendance at the Canada Moves By Rail Conference organized by the Railway Association of Canada



## Calgary, Alberta

- ▶ Presentation and participation as exhibitor at the trade show Canadian Crude-by-rail Exhibition & Conference
- ▶ Meeting with CP
- ▶ Meeting the Canadian Energy Regulator
- ▶ Presentation to Borden Ladner Gervais LLP



## Gatineau, Québec

- ▶ Attendance at the regional consultation of the Summit on Rail Transportation, organized by the Quebec Department of Transport



## Vancouver, British Columbia

- ▶ Presentation and participation as exhibitor at the trade show of the Union of BC Municipalities (UBCM) Annual Conference



- ▶ Meetings with the British Columbia:
  - Emergency Management BC (EMBC) of the Ministry of Public Safety and Solicitor General
  - Ministry of Environment and Climate Change Strategy



- ▶ Meeting with the Fire Chiefs' Association of British Columbia



# OCTOBER



## Ottawa, Ontario

- ▶ Meeting with the Railway Association of Canada

JANUARY



**Ottawa, Ontario**

- ▶ Meeting on Indigenous engagement with ISC, CIRNAC and TC



**Fredericton, New Brunswick**

- ▶ Meetings with the New Brunswick Departments of:
  - Transportation and Infrastructure
  - Emergency Measures Organization
  - Agriculture, Aquaculture and Fisheries
  - Environment and Local Government



- ▶ Meeting with the Association of Municipal Administrators of New Brunswick (AMANB)

FEBRUARY



**Ottawa, Ontario**

- ▶ Conference call with the Canadian Association of Municipal Administrators (CAMA)
- ▶ Conference call with the Union of the Municipalities of New Brunswick (UMNB)



**Montreal, Québec**

- ▶ Meeting with Énergie Valero

## 2. FINANCIAL REPORT

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During the fiscal year, the Fund collected \$31,154,877 in levies (compared to \$22,780,995 in 2018-2019). The Fund was also credited with \$637,687 in interest in 2019-2020 (compared to \$513,245 in 2018-2019).

The Fund's expenses amounted to \$538,462 for the fiscal year (compared to \$579,716 the previous year), including fees of \$57,631 paid to the Administrator and Deputy Administrator (compared to \$38,494 in 2018-2019). Expenses decreased despite renovations costs to accommodate additional workstations (see 1.2. above, and note 4 to the Financial Statements). This decrease is due to the slower pace of the Fund compared with the Ship Fund during year 2019-2020 (as explained at 1.2 above), which translated in lower operating expenses, notably a decrease in consulting fees and in the Fund's share of the rent (see note 6 to the Financial Statements).

At the end of the fiscal year, the Fund had an accumulated surplus of \$75,378,808 (compared to \$44,124,706 on March 31, 2019).

The Auditor's Report is included in the attached Financial Statements. The Fund has not yet been billed for the preparation of the report, but the cost should not exceed \$8,300 (plus taxes), according to the Service Agreement concluded in early 2020.

Note on financial impact of COVID-19 for fiscal year 2019-2020:

- ▶ Effective March 17, 2020, the staff started to work remotely, except for tasks necessary for compliance which required to come to the office: processing of pays and payments, closing of fiscal year. Staff who needed to come were requested to take their car (rather than public transit), and the Fund paid for their parking during work hours. These persons were also granted a 20% bonus (as additional vacation time) for their time spent in the office. Given that very few persons came to the office and that they provided corporate and administrative services for both Funds, the related costs were shared between the Funds and were minimal. Except for this, the Fund did not incur extra costs for deploying the staff remotely.



**FUND FOR RAILWAY ACCIDENTS  
INVOLVING DESIGNATED GOODS**

FINANCIAL STATEMENTS

MARCH 31, 2020

**FUND FOR RAILWAY ACCIDENTS  
INVOLVING DESIGNATED GOODS**

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## INDEPENDENT AUDITOR'S REPORT

To the Administrator of  
The Fund for Railway Accidents involving Designated Goods

### *Opinion*

We have audited the financial statements of the Fund for Railway Accidents involving Designated Goods (“the Fund”), which comprise the statement of financial position as at March 31, 2020, and the statements of operations, change in net financial assets and cash flow for the year then ended, and notes to the financial statements, including a summary of significant accounting policies.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Fund as at March 31, 2020, and the results of its operations and its cashflows for the year then ended, in accordance with Public Sector Accounting Standards.

### *Basis for Opinion*

We conducted our audit in accordance with Canadian generally accepted auditing standards. Our responsibilities under those standards are further described in the “Auditor's Responsibilities for the Audit of the Financial Statements” section of our report. We are independent of the Fund in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

### *Emphasis of Matter – Budget figures*

As explained in Note 7 to the financial statements, budget figures are not disclosed in the financial statements, although it is required according to Public Sector Accounting Standards. Our opinion is not modified in respect of this matter.

### *Responsibilities of Management and Those Charged with Governance for the Financial Statements*

Management is responsible for the preparation and fair presentation of the financial statements in accordance with Public Sector Accounting Standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Fund's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Fund or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Fund’s financial reporting process.

### *Auditor's Responsibilities for the Audit of the Financial Statements*

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

**Marcil Lavallée**

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Comptables professionnels agréés  
Chartered Professional Accountants

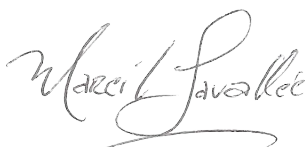
Cabinet indépendant affilié à  
Independent firm affiliated to



As part of an audit in accordance with Canadian generally accepted auditing standards, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Fund's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Fund to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.



Chartered Professional Accountants, Licensed Public Accountants

Ottawa, Ontario  
May 11, 2020



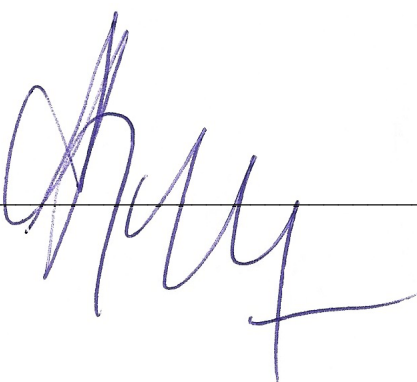
# FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS

## STATEMENT OF FINANCIAL POSITION

MARCH 31, 2020

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	2020	2019
<b>FINANCIAL ASSETS</b>		
Balance of the account with Receiver General for Canada (Note 3)	\$ 66,609,195	\$ 39,568,124
Accounts receivable	8,809,101	4,517,528
Accrued interest receivable	36,031	42,750
<b>TOTAL FINANCIAL ASSETS</b>	<b>75,454,327</b>	<b>44,128,402</b>
<b>LIABILITIES</b>		
Accounts payable and accrued liabilities	129,665	3,696
Due to Ship-Source Oil Pollution Fund	45,151	-
	<b>174,816</b>	<b>3,696</b>
<b>NET FINANCIAL ASSETS</b>	<b>75,279,511</b>	<b>44,124,706</b>
<b>NON-FINANCIAL ASSETS</b>		
Capital assets (Note 4)	99,297	-
<b>ACCUMULATED SURPLUS</b>	<b>\$ 75,378,808</b>	<b>\$ 44,124,706</b>

  
\_\_\_\_\_, Administrator

# FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS

## STATEMENT OF OPERATIONS

FOR THE YEAR ENDED MARCH 31, 2020

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	2020	2019
<b>REVENUE</b>		
Levy	\$ 31,154,877	\$ 22,780,995
Interest	637,687	513,245
	<b>31,792,564</b>	<b>23,294,240</b>
<b>OPERATING EXPENSES</b>		
Administrative services, salaries and office expenses	209,906	212,810
Consulting fees	198,937	251,169
Administrator and deputy administrator's fees	57,631	38,494
Rent	28,997	57,601
Travel	9,463	10,602
Audit fees	9,153	9,040
Amortization of capital assets	24,375	-
	<b>538,462</b>	<b>579,716</b>
<b>EXCESS OF REVENUE OVER EXPENSES</b>	<b>31,254,102</b>	<b>22,714,524</b>
<b>ACCUMULATED SURPLUS, BEGINNING OF YEAR</b>	<b>44,124,706</b>	<b>21,410,182</b>
<b>ACCUMULATED SURPLUS, END OF YEAR</b>	<b>\$ 75,378,808</b>	<b>\$ 44,124,706</b>

# **FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS**

## **STATEMENT OF CHANGE IN NET FINANCIAL ASSETS**

**FOR THE YEAR ENDED MARCH 31, 2020**

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	2020	2019
<b>EXCESS OF REVENUE OVER EXPENSES</b>	<b>\$ 31,254,102</b>	<b>\$ 22,714,524</b>
Acquisition of capital assets	(123,672)	-
Amortization of capital assets	24,375	-
	(99,297)	-
<b>INCREASE IN NET FINANCIAL ASSETS</b>	<b>31,154,805</b>	<b>-</b>
<b>NET FINANCIAL ASSETS, BEGINNING OF YEAR</b>	<b>44,124,706</b>	<b>21,410,182</b>
<b>NET FINANCIAL ASSETS, END OF YEAR</b>	<b>\$ 75,279,511</b>	<b>\$ 44,124,706</b>

# FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS

## STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED MARCH 31, 2020

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	2020	2019
<b>OPERATING ACTIVITIES</b>		
Excess of revenue over expenses	\$ 31,254,102	\$ 22,714,524
<b>Adjustment for:</b>		
Amortization of capital assets	24,375	-
	<b>31,278,477</b>	<b>22,714,524</b>
<b>Net change in non-cash working capital items:</b>		
Accounts receivable	(4,291,573)	(1,140,060)
Accrued interest receivable	6,719	155,090
Accounts payable and accrued liabilities	125,969	(14,861)
Due to Ship-Source Oil Pollution Fund	45,151	-
	<b>(4,113,734)</b>	<b>(999,831)</b>
<b>INVESTING ACTIVITY</b>		
Acquisition of capital assets	(123,672)	-
<b>INCREASE IN THE BALANCE OF ACCOUNT WITH RECEIVER GENERAL FOR CANADA</b>		
	<b>27,041,071</b>	<b>21,714,693</b>
<b>BALANCE, BEGINNING OF YEAR</b>	<b>39,568,124</b>	<b>17,853,431</b>
<b>BALANCE, END OF YEAR</b>	<b>\$ 66,609,195</b>	<b>\$ 39,568,124</b>



# FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS

## NOTES TO THE FINANCIAL STATEMENTS

MARCH 31, 2020

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### 1. GOVERNING STATUTES AND PURPOSE OF THE ORGANIZATION

The Fund for Railway Accidents involving Designated Goods (the Fund) was created on June 18, 2016 under the *Safe and Accountable Rail Act* (the Act). The Act amends the *Canada Transportation Act*.

### 2. SIGNIFICANT ACCOUNTING POLICIES

#### Basis of accounting

The financial statements are prepared in accordance with Treasury Board accounting policies which are consistent with Public Sector Accounting Standards.

#### Accounting estimates

The preparation of financial statements in accordance with Treasury Board Secretariat accounting policies, which are consistent with Public Sector Accounting Standards requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the reported amounts of revenue and expenses for the periods covered. The primary estimate relates to the valuation of provision for claims under review when such claims are received. Actual amounts could differ from the estimates.

#### Capital assets

Capital assets are recorded at cost. Capital assets are amortized over their estimated useful lives according to the straight-line method over the following periods:

Computer equipment	3 years
Furniture and equipment	10 years
Leasehold improvements	Remaining term of lease

#### Revenue recognition

The levy income is recognized when earned as per the volume of crude oil carried in Canada declared by railway companies.

### 3. BALANCE OF THE ACCOUNT WITH RECEIVER GENERAL FOR CANADA

The cash balance of the Fund is held within the Consolidated Specified Purpose Accounts of the Government of Canada. Public Works and Government Services Canada acts as the custodian of this cash balance and Transport Canada records the various transactions on behalf of the Fund. Interest is credited to the account in accordance with the provisions of the agreement signed on April 20, 2018 between Transport Canada and the Department of Finance at a rate based on a 5-year Government of Canada bond interest rate, calculated monthly. The interest rates varied between 0.78% and 1.64% during the year (2019: 1.43% and 2.42%). The average interest rate for the year ended March 31, 2020 was 1.36% (2019: 2.06%).

# FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS

## NOTES TO THE FINANCIAL STATEMENTS

MARCH 31, 2020

8

### 4. CAPITAL ASSETS

	Cost	Accumulated amortization	2020	2019
Computer equipment	\$ 5,141	\$ 1,713	\$ 3,428	\$ -
Furniture and equipment	10,448	1,045	9,403	-
Leasehold improvements	108,083	21,617	86,466	-
	\$ 123,672	\$ 24,375	\$ 99,297	\$ -

### 5. RELATED PARTY TRANSACTIONS

The Fund is related, as a component of the accounting framework of the Government of Canada, to all Government of Canada departments, agencies and Crown Corporations.

During the year, the Fund paid to the Ship-Source Oil Pollution Fund an amount of \$207,637 (2019: \$243,163) for its share of the following operating expenses:

	2020	2019
Rent	\$ 28,997	\$ 57,601
Administrative services, salaries and office expenses	178,640	179,085
Consulting fees	-	6,477
	\$ 207,637	\$ 243,163

### 6. CONTINGENCIES

In the normal course of its operations, the Fund may receive information about incidents that have occurred but for which no claims have been received. It is not possible for the Fund to determine the likelihood of a claim for any of these reported incidents, if any. The Fund is also not able to assess the financial value of any such claims should they materialize. No provision related to such incidents is recognized in the financial statements. A provision is recognized when a claim is effectively received.

As of April 1, 2020, the Minister of Transport has the statutory power to impose a levy of \$1.79 (2019: \$1.76) per metric tonne of crude oil carried by a federally regulated railway in Canada. The levy is indexed annually based on the Inflation and Consumer Price Index.

### 7. BUDGET

The Fund for Railway Accidents involving Designated Goods does not prepare an annual budget due to the nature of its operations.



