



SHIP-SOURCE OIL POLLUTION FUND

THE ADMINISTRATOR'S
ANNUAL REPORT

2020-2021

Canada 

Cover Image: *Rolano* (Canadian Coast Guard)

Published by the Administrator of the

Ship-source Oil Pollution Fund

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The Honourable Omar Alghabra, P.C., M.P.
Minister of Transport
Ottawa, Ontario
K1A 0N5

Dear Minister:

Pursuant to section 121 of the *Marine Liability Act*, I have the honour of presenting to you the Annual Report for the Ship-source Oil Pollution Fund to be laid before each House of Parliament.

The report covers the fiscal year ending March 31, 2021.

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
Ship-source Oil Pollution Fund

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INTRODUCTION

The Ship-source Oil Pollution Fund (the Fund or the Ship Fund), a special purpose account in the accounts of Canada, is established under Part 7 of the *Marine Liability Act (MLA)*. The Fund compensates victims of oil pollution damage caused by any type of oil, from any type of ship or boat, anywhere in Canadian waters.

Canada's compensation regime is based on the principle that the shipowner is responsible for oil pollution damage caused by the ship or boat – that is, the polluter pays principle.

Those who suffer damages can submit a claim directly to the Fund. The Administrator assesses and offers compensation for eligible claims. Once the claimant receives payment, the Administrator takes all reasonable measures to recover from the shipowner or other responsible person.

Alternatively, those who suffer damages (including costs incurred to prevent, mitigate or remedy oil pollution damage) can also choose to negotiate with the shipowner directly, or sue. If a claimant commences a lawsuit, the Administrator becomes party to the lawsuit, providing an extra layer of protection to the claimant.

Canada's national Fund covers all classes of ships or boats that discharge persistent and non-persistent oil, including "mystery spills" (oil spills from unknown sources).

Any incident caused by an oil tanker carrying persistent oil as cargo in bulk would also be covered under the international regime (www.iopcfunds.org).

This annual report covers the fiscal year ending March 31, 2021.

This is the 32nd annual report of the Fund, which turned 30 on April 24, 2019.



This is also the 5th annual report submitted by the present Administrator, whose current five-year term (2018-2023) was preceded by two interim mandates (in 2016, then in 2017).

In order to provide an overview of those first five years,

- Statistics compiled over five years are shown next to statistics reported for the last fiscal year;
- An additional section, at the end of the report, summarizes the 2018-2021 strategic planning cycle and sets out future directions.

2020-2021 AT A GLANCE

- ▶ Accumulated surplus: nearly **\$409M**
- ▶ **27** new claims submitted (over \$2M in total)
- ▶ **52%** of claims submitted were below **\$35,000**
- ▶ First ever claim submitted under the Expedited Process for Small Claims
- ▶ 92% of claims came from the **Canadian Coast Guard (CCG)**
- ▶ Most claims were from **British Columbia**
- ▶ Most claims involved **vessel deconstruction**
- ▶ 45% of claims were generated by **wrecks, derelict or abandoned vessels**
- ▶ **78%** of claims were assessed within 6 months
- ▶ Amount offered: about **42% of what is claimed** (on average)
- ▶ About **\$500 000** for payments of Canadian claims
- ▶ No contributions were made to the IOPC Funds
- ▶ The Fund was involved in **24** court cases
- ▶ **\$2M** for operating expenses
- ▶ Nearly **\$1.7M** collected in interest

1. ACTIVITY REPORT

THE FUND'S FISCAL YEAR 2020-2021 WAS MARKED BY THE FOLLOWING EVENTS:

Impact of the pandemic

Although the office of the Administrator continued to operate normally (though mostly remotely) throughout the pandemic, the pandemic had a major impact on the number of claims submitted, recovery efforts through courts and tribunals, outreach, and interest rates applicable to the balance of the Fund.



Throughout this report, the icon will highlight the impact the pandemic had this year on the activities of the Office of the Administrator.

Several claims found not admissible

For the first time in many years, three claims were rejected as not admissible, as the time bar had expired, or the source of the spill was not a ship. A further draft offer was open for comments at year end concerning a potentially missed limitation period.

First Small Claim submitted under the expedited process

This new process has been available to claimants since December 2018, but the first Small Claim was submitted this fiscal year, allowing the CCG (as claimant) and the office of the Administrator to use it as a test.



More vessel deconstruction claims than ever

The vast majority of claims submitted were linked to the removal of vessels of concerns from the marine environment and their subsequent deconstruction and disposal. The oil pollution dimension was generally only a small part of the costs attached to the whole operation and so was the compensation offered by the Administrator.

Novel compensation issues: Several Draft Offers issued

For the first time in more than two years, the Draft Offer mechanism was used. Two Draft Offers were issued in files which raised novel compensation issues, providing the claimant with the opportunity to comment the reasoning of the Administrator before she finalized her decision.

Webinars for the fishing sector

Many webinars and virtual presentations were delivered to the fishing sectors, in the wake of the previous fiscal year's efforts to raise awareness with this key segment of potential claimants.

A full portfolio of court cases

The Administrator managed a portfolio of some 24 court cases in 2020-2021. This includes an action to recover approximately \$25M brought by the CCG for costs and expenses it incurred in relation to the case involving the *Kathryn Spirit*; the Administrator is one of the defendants in the case.

Special Examination

The five-year statutory Special Examination was carried this fiscal year to assess whether the internal processes and procedures in place provide reasonable assurance that the assets of the Fund are safeguarded and that the operations are carried in an efficient way. This was the second Special Examination in the Fund's history.



Engagement with Indigenous groups

Engagement with Indigenous communities progressed through the webinars for the fishing sector, as well as in the wake of Transport Canada's outreach to coastal communities under the Oceans Protection Plan and the *Marine Liability Act* review – opening the door to further discussions on that front.

The polluter pays principle in action

This fiscal year saw two financial recoveries from shipowners. The previous year was a record for the number of recoveries, but resulted in few valuable claims being left in the recovery inventory. The Fund 3.0 initiative is now fully operational, and saw 14 court cases initiated this year. One case proceeded to judgment. Progress in Fund 3.0 matters was significantly slowed by COVID-19 measures, which slowed the pace of court proceedings and significantly affected all recovery files.

Even though these developments had a direct impact on the Fund in 2020-2021, the main driver of the Administrator's activities was the fulfilment of her statutory mandate under Part 7 of the MLA, i.e.:

- Administering claims for oil pollution from a ship-source in Canadian waters (see Section 1.1);
- Providing emergency funding to the CCG in cases of major incidents, as directed by the Minister of Transport (Section 1.2);
- Contributing to Administrative Monetary Penalties to be issued against contributors in case of lack of compliance of their reporting obligations (Section 1.3);
- Contributing to the international Oil Pollution Compensation Funds (Section 1.4);
- Causing books of account and records to be kept, control and information systems and management matters to be maintained, and providing reasonable assurance that assets of the Fund are safeguarded and that the operations of the Fund are carried out effectively (Section 1.5); and
- Causing the financial statements of the Fund to be audited (Part 2 of this report).

1.1. CLAIMS AND INCIDENT REPORTS FOR CANADIAN OIL SPILL INCIDENTS

The Administrator dealt with a portfolio of 102 active files during the 2020-2021 fiscal year (compared with 103 files the preceding year). The details of the 2020-2021 active files can be found in the Appendix. This portfolio includes:

- 81 claims files, vs. 87 claims files in 2019-2020 (from the moment a claim is received by the Administrator, to its investigation and assessment, to the offer made by the Administrator to the claimant, to the payment by the Administrator along the terms of the offer, to the recovery action by the Administrator against the shipowner, its insurer, or any responsible third party); and
- 21 incident report files, vs. 16 incident files in 2019-2020 (from the moment the Administrator is informed of a ship-source oil spill in Canadian waters or of the imminent risk thereof, to any measure undertaken by the Administrator to protect the exposure of the Fund, to the moment a claim is actually filed in relation to this incident). This number does not include the incident files that turned into claims during the year.

The Administrator continues to monitor oil spill incidents and to take all reasonable proactive measures against polluters.

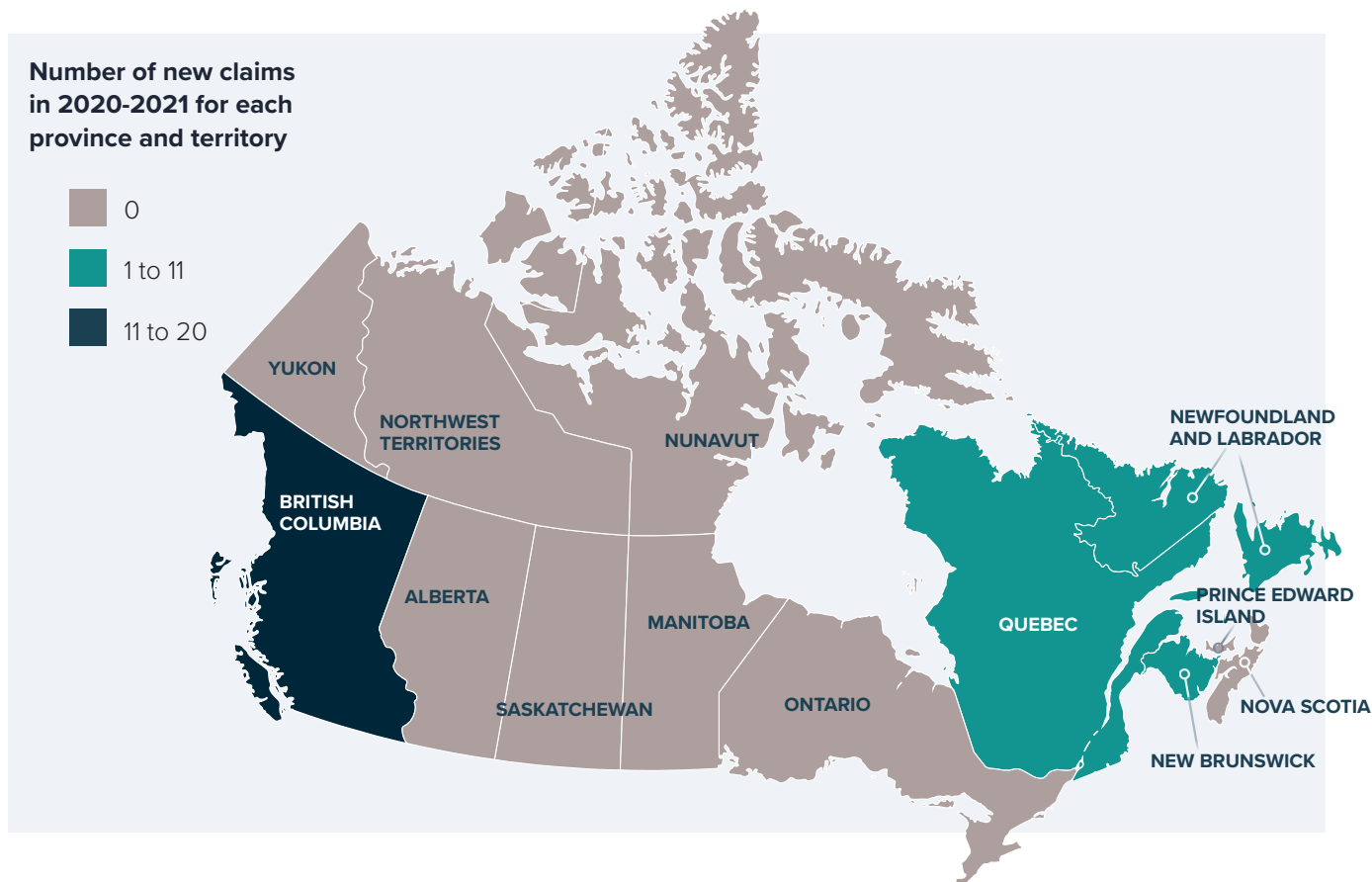
► FUND FACTS:

THE CANADIAN COAST GUARD IS STILL THE PRIMARY CLAIMANT.



MAP OF THE FUND'S ACTIVE PORTFOLIO IN 2020-2021

The map shows the geographical spread of the Fund's 2020-2021 portfolio.



PROVINCE OR TERRITORY	NEW CLAIMS SUBMITTED IN 2020-2021	NEW INCIDENT REPORTS OPENED IN 2020-2021 FOR WHICH NO CLAIM WAS SUBMITTED	ACTIVE FILES THAT INCLUDE ALL FILES THAT WERE TREATED IN 2020-2021 AND FILES FROM PREVIOUS YEARS	TOTAL AMOUNT PAID IN THE PROVINCE OR TERRITORY IN 2020-2021 (\$)
British Columbia	19	4	63	\$340,003.04
Ontario	0	0	3	0
Quebec	3	0	4	\$3,612.57
New Brunswick	1	0	2	\$8,344.69
Nova Scotia	0	2	10	0
Newfoundland and Labrador	4	1	18	\$180,460.73

1.1.1. 2020-2021 CLAIMS PORTFOLIO OVERVIEW

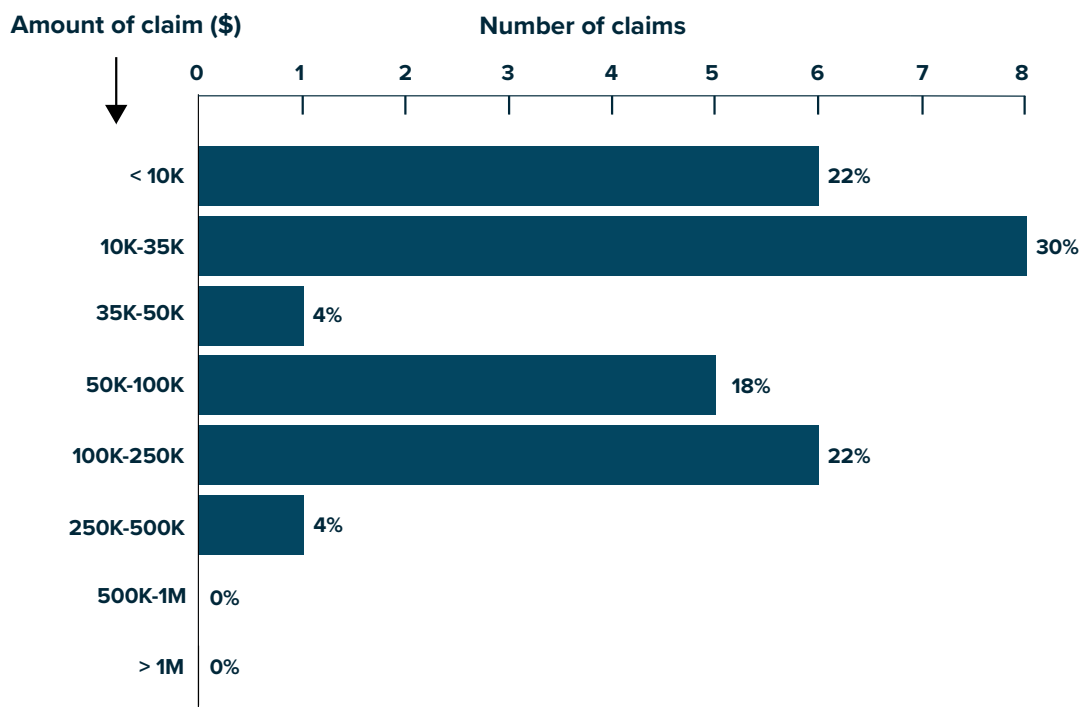


Despite the COVID-19 pandemic, 27 claims were submitted during the fiscal year, compared with a record number of 37 claims the previous year. The number of submitted claims in 2020-2021 is the third highest ever on record in the history of the Fund. The claims submitted in 2020-2021 ranged from \$3,087 to \$396,954 for a total of \$2,082,447 (2019-2020: \$1,816,845). The total amount claimed this fiscal year is the sixth highest amount since the creation of the Fund in 1989.

Half the claims are below \$35,000. The average value per claim is \$77,127 this fiscal year, more than 50% increase from the average of last year (\$50,468). Despite this hike in the average claim amount, 52% of the claims submitted were for amounts lower than \$35,000 and would have fit under the statutory small claims scheme. However, only one of these claims was submitted as such.

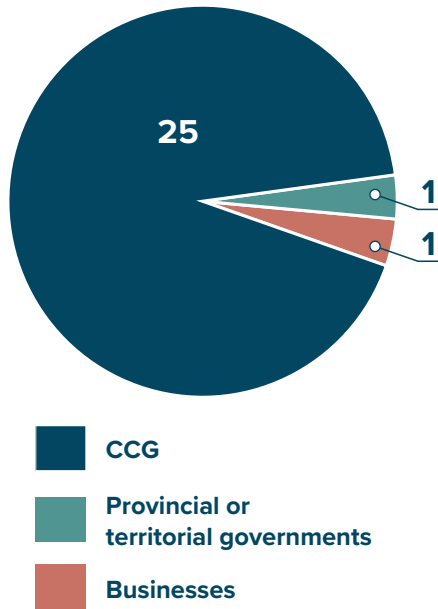
First ever claim submitted under the Expedited Process for Small Claims (claims under \$35,000). The claim was submitted by the CCG. Initial assessment and payment were processed within 60 days from day of receipt of the claim, as set out in subsections 106.3 (1) and 106.3 (4) of the MLA. The claim is currently under re-assessment.

Table 1: Spread by amounts of the 27 claims submitted in 2020-2021



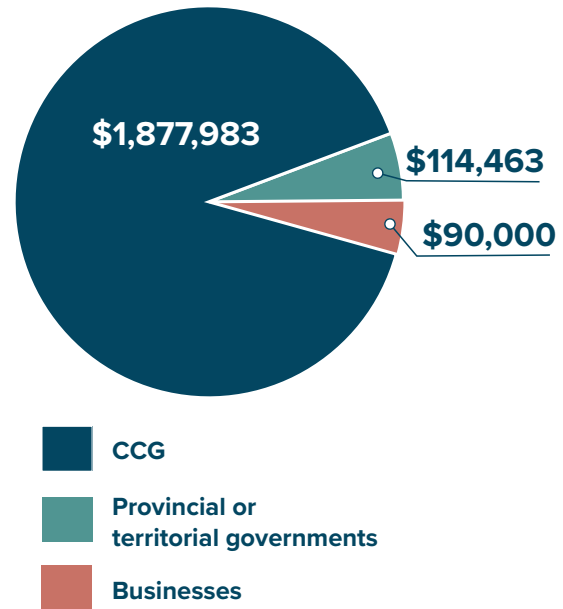
Half of the claims submitted in 2020-2021 are for amounts lower than \$35,000.

Table 2.1: Number of claims submitted by type of claimants in 2020-2021



92% of claims submitted to the Fund in 2020-2021 are from the CCG.

Table 2.2: Amount claimed by type of claimants in 2020-2021



90% of the total amount claimed to the Fund in 2020-2021 was claimed by the CCG.

The CCG still the main claimant; a Province as a claimant for the third time in the Fund’s history. Similar to previous years, there is little diversity in claimants, with the CCG being the major claimant in 2020-2021. The CCG submitted 25 out of the 27 claims submitted in 2020-2021, representing 92% of the number of claims submitted and around 90% of the total amount claimed, (2019-2020: 99%). In 2020-

2021, the two remaining claimants were the Ministry of Environment and Climate Change Strategy of the Province of British Columbia and one private business. This is the third time in the Fund’s history that a Province files a claim with the Administrator. This year, no claims were submitted by Indigenous groups, local governments, or ports and harbours.

British Columbia remains the largest source of claims. With 19 claims this fiscal year, British Columbia continues to have the lion's share of the incidents that are the source of claims submitted to the Fund, followed by Newfoundland & Labrador (4), Quebec (3), and New Brunswick (1).



► **FUND FACTS:**

From 2016-2021, most claims are from British Columbia.

Fishing vessels and pleasure craft remain the top vessels leading to claims to the Fund. Almost two thirds of claims resulted from incidents involving fishing vessels and pleasure craft. Despite this, the aggregated amount claimed for accidents involving tugs and barges represented close to a third of the Fund's total exposure. Compared to fishing vessels only, the total amount claimed for incidents involving tugs and barges is 50% higher, and the average claim is roughly double. A full breakdown is provided in Table 3 on the next page.

► **FUND FACTS:**

From 2016-2021, fishing vessels have generated the highest number of claims.



Table 3: Types of vessels involved in the claims submitted in 2020-2021*

TYPE OF VESSEL	NUMBER OF CLAIMS	PERCENTAGE OF TOTAL (%)	TOTAL AMOUNT (\$)	PERCENTAGE OF TOTAL (%)	AVERAGE AMOUNT PER CLAIM (\$)
Tankers	0	0	0	0	0
Cargo, container, and passenger vessels	1	4	248,265	12	248,265
Tugs and barges	5	18	671,189	32	134,237
Fishing vessels	10	37	475,437	23	47,543
Pleasure craft	7	26	387,582	19	55,368
Ex-fishing vessels	4	15	299,972	14	74,993
Other	0	0	0	0	0
Mystery spills	0	0	0	0	0
TOTAL	27	100	2,082,445	100	77,127

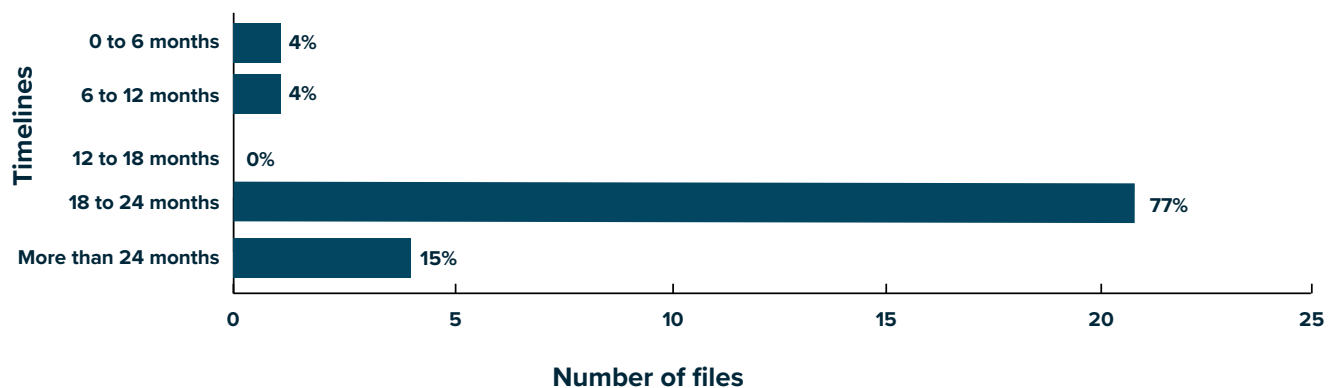
77% of claims were for fishing vessels, ex-fishing vessels or pleasure craft. These claims account for over half (56%) of the total amount claimed to the Fund.

** Note: Due to rounding, numbers may not sum exactly to totals.*

The trend continues and timelines for the filing of claims get even longer. 77% of claims were submitted between 18 and 24 months following the date of the incident, compared to 73% in 2019-2020 and 56% in 2018-2019. Only 4% of the claims submitted were

filed within the first six months. Delay in filing claims may cause the Administrator to miss the opportunity to obtain financial security or to reach out to other potential claimants who may have incurred expenses or suffered damages while responding to the same incident.

Table 4: Amount of time before claimants submitted claims in 2020-2021



Only 4% of the claims submitted were filed within the first six months.

Although less than last year, the Administrator performed high number of assessments. Over the fiscal year, the Administrator assessed and issued 28 decisions (2019-2020: 32), including 25 offers of compensation and three rejections.

Three claims were rejected:

- **Time-barred.** A first in very many years, a claim was submitted after time bar and was rejected as time-barred (*Atrevida No. 1*).
- **Damage not from ship-source.** The structure which was the source of oil pollution was found not to be a ship (*Pacific Fibre Barge No. 1*).
- **A shipowner claim seeking to finance litigation against an insurer.** The claim to the Administrator was for loss, damage, costs or expenses suffered or incurred. Even if legal costs could be considered measures taken with respect to oil pollution, which was doubtful in this case, here they were clearly anticipatory. The costs and expenses had not yet been incurred (*Reliant*).

78% of claims were processed within 6 months, and 93% of the claims were processed in less than 9 months. Only two claims have taken more than one year to be assessed. In the first case (*Sikuk*), there was a delay in commencing the assessment, as the Administrator had to wait for the receipt of an associated claim (*Françoise*), so both claims could be assessed simultaneously, due to shared expenses between the two claims. In the second case (*Pacific Fibre Barge No. 1*), the assessment was delayed because of a complex legal question, the issuance of a draft offer, and communications with the claimant. Eventually, the claim was dismissed and a letter of disallowance and denial was sent to the claimant. The time it takes the Administrator to complete the assessment of claims, and to make an offer, are summarized in Table 5. This time varies based on the claim's complexity and supporting documentation.

Two draft offers were issued this fiscal year. The Administrator resorted twice to her established policy on draft offers. The *Pacific Fibre Barge No. 1* involved a novel legal issue on what constitutes a ship, while the *Miss Terri* involved a time bar limitation question and a novel issue of mixed fact and law. In both instances, the Administrator invited the claimant to submit their comments on the draft offer before finalizing the decision letter.

Table 5: Average time to assess claims based on the value of the claims submitted in 2020-2021



Amount of claim (\$) and (number of claims)	Average time to assess (in months)
0 - 35 k (18)	→ 3
35 k - 100 k (4)	→ 3
100 k - 500 k (6)	→ 9
500 k - 1 M (0)	→ N/A
More than 1 M (0)	→ N/A

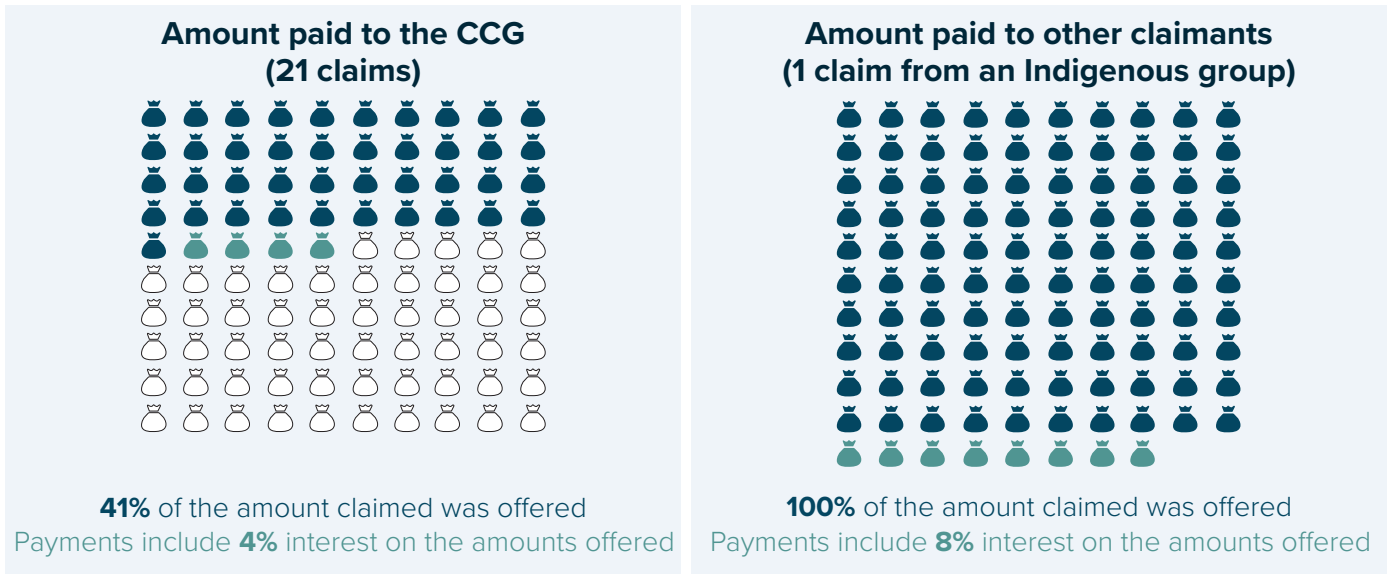
Claims under \$500,000 were processed in less than 9 months on average. The complexity of the claim and the time required to process it are, in most cases, proportional to its amount.

Overall success rate of less than 50%. In 2020-2021, the overall success rate of the amount offered compared to the amount claimed for all claimants was at 42%. This represents a 27% decline from the ratio of 2019-2020. The main reason behind the relatively low recovery rate of statutory entities is that their mandate is much broader than the mandate of the Administrator, and therefore some of the expenses they incur might be unrecoverable against the Fund.

Sharp decline (-80%) in the total amount paid during the fiscal year. Excluding small claims, 22 claims were paid this year for a total of \$525,221 (2019-2020: 30 claims for a total of \$2,671,902). The majority of the claims paid this fiscal year were for low amounts (less than \$50,000), and, in most cases when a big claim was submitted, offer amounts were relatively lower.

Table 6: Percentage of amount paid (including interest) vs claimed

 Amounts offered  Interest paid



Almost all CCG files involved deconstruction costs, many of which were found ineligible for compensation. Despite the overall low success rate, seven (around 1/3) of CCG claims saw recovery of 76% or better, and two of these were paid in full.

Low recovery results. The Administrator had 81 active recovery files in 2020-2021. At the end of the fiscal year, 66 of those files remained active. Files in active recovery can be at many stages:

- investigating, locating or identifying liable persons (subpoenas, inquiries, etc.)
- issuing demand letters, engaging in settlement discussions
- initiating and prosecuting court actions, and
- enforcement of judgments.

At the beginning of the fiscal year, as compared to previous years, there were few files remaining in the Fund's recovery inventory with a high value, offering good prospects for recovery.

In total, the Administrator was able to recover only **\$3,190** in two files (the *Elf* and the *Unknown Name* (Black Gaff Cutter)) in this fiscal year. An additional payment of \$10,812 was received as part of a settlement reached in 2019-2020.

The Administrator established an infrastructure to allow for an increased number of lower value claims to be recovered at a lower cost.

CHALLENGES AND OPPORTUNITIES WITH RESPECT TO CLAIMS MANAGEMENT

The challenges and opportunities that have kept the Office of the Administrator busy in 2020-2021 include:

- **The Fund as an access to justice tool for Indigenous claimants.** The webinar for fishing communities was attended by a number of Indigenous groups, and triggered requests for presentations delivered specifically to these

groups. The Office of the Administrator was also involved as a presenter at a number of outreach sessions organized by the Government of Canada's Ocean Protection Plan outreach to coastal communities. In addition, several Indigenous groups copied the Administrator in their submissions to Transport Canada with respect to the MLA review. A number of recommendations formulated in these briefs raised a number of issues already relevant to the Administrator's management of her mandate under the existing statute. All of this has fed the Administrator's strategic reflection on better equipping her office with the knowledge, expertise and engagement approaches needed to better serve Indigenous claimants from an access to justice standpoint.

- **Publishing the Administrator's letters of offer.**

The Administrator decided a couple of years ago to publish her letters of offer starting with the ones issued in FY 2019-2020, in order to increase transparency of the decision making to the public and to thereby increase access to justice. Rather than posting these letters in-house on the Fund's website, the Administrator has decided to use a well-known platform already used by many courts and administrative tribunals, which provides for indexation in the legal research database CanLII, thereby increasing access to researches by parties who are not aware of the existence of the Fund. The 2019-2020 decisions have been primed for posting via this platform and are about to go online as a first batch at the time of writing this report. The 2020-2021 decisions will be posted as a second batch thereafter.

- **Readiness for the indemnification of border spills.** Building on the two Transboundary Oil Spill Liability and Compensation workshops held in 2017 and 2019, the Administrator, the US Oil Spill Liability Trust Fund (OSLTF) and other US, Canadian and international partners have started to work toward the next edition, which will be held in 2022, probably with an interim session in the Fall 2021. These workshops build on the strong appetite from all private and public parties to work together in getting ready for the fluid compensation of claims should a spill happen on the Canada-US marine border.

- **Compensation of claims arising out of an Incident Command System (ICS) deployment.**

In 2017-2018, several claimants involved in the same ICS deployment filed claims with the Fund. Although the Office of the Administrator started to assess these claims separately, it eventually had to assess them jointly, especially with respect to the elements of these claims that were based on the ICS. This was the first time that the Administrator had to process several claims stemming from the same incident in a joint ICS deployment, which raised a number of assessment issues. In 2019-2020, after all claimants had accepted their compensation offers, the Office of the Administrator started to reflect on the potential use of some elements of the ICS documentation (developed during the deployment of response operations) for claims documentation purposes. Representatives of the Office of the Administrator met several times with the CCG this year to reflect on this topic. More work is intended, with the involvement of additional stakeholders.

- **Claims for wreck removal and subsequent dismantlement (derelict vessels).** In 2020-2021, most of the CCG claims submitted included a claim for compensation for the wreck removal and subsequent dismantlement of the vessel. Deconstruction claims tend to attract lower than average offers of compensation. The *Wreck, Abandoned or Hazardous Vessels Act* (S.C. 2019, c1) (*WAHVA*) provides that the shipowner is responsible for wreck removal and related risks and costs (including oil pollution) and that wreck removal insurance is mandatory for ships of 300 gross tons and above. However, none of the claims involving wreck removal received so far were covered by wreck removal insurance: either the wreck removal operations were carried before *WAHVA* came into force, or the vessel's tonnage was below 300 GT.
- **Fund 3.0, managing more recovery litigation in-house.** Right before the March 2020 shutdown, the Administrator's in-house legal department had lined up a number of statements of claims for default judgements or for summary judgements, in an effort to expand the scope of cases in which economic recovery can be made.



However, the court processes in civil matters were suspended for most of the year, and court activity restarted only close to the end of the fiscal year. All in all, the in-house legal department was able to obtain one default judgement out of the dozen of statements of claims for default judgement or for summary judgement filed this year. It is therefore still too early to measure the success of this new approach.

▶ The coming into force of the *Wrecked, Abandoned or Hazardous Vessels Act* (*WAHVA*) is a positive development. The Act clarifies the Canadian legislative scheme around wrecked, abandoned and derelict vessels. The Administrator is eager to see an incident involving the new insurance requirement for wreck removal, which came into force on July 1st, 2019. So far, this new statutory requirement has not had any impact on the Administrator's portfolio. Incidents that generated claims occurred prior to the coming into force of the new requirement, or the ships involved were of a tonnage below the threshold for mandatory wreck removal insurance.

1.1.2. 2020-2021 INCIDENT REPORTS OVERVIEW

Few new incident files. Seven new incident files were opened this fiscal year. Three incident files that had been carried over from the previous year became claim files in 2020-2021. In addition to these incident files, the Administrator followed further five new incidents and eight previous incidents during the fiscal year, but upon investigation, it was ultimately decided that these incidents were unlikely to have a significant impact on the Fund, so official incident files were not opened.

Financial security obtained. In 2020-2021, the Administrator did not obtain financial security for any of the new incident files, compared to one case in 2019-2020. The Administrator had a total of nine active Letters of Undertaking in fiscal year 2020-2021. As in the previous fiscal year, the Administrator did not arrest any ship or any sistership in order to secure a financial guarantee.

COURT CASES IN 2020-2021



The Administrator managed a portfolio of some 24 court cases in 2020-2021. This includes entering new appearances in 14 legal proceedings during the fiscal year, in which the Administrator is involved in a variety of capacities:

- as a subrogated plaintiff in a recovery action initiated by in-house counsel against a shipowner (*Lady Elizabeth I, Zodiac Light, Tinker II, Unknown Name (Black Gaff Cutter), Big Kahuna, Unknown Name (Blue Trawler), White Orca, Anapaya, Sikuk and Françoise, Tymac No. 20, SC 170, Laurier II and Nika*); and
- as a respondent to an application for judicial review concerning a shipowner who desired to submit a claim to the Administrator under s. 103 (*West Island 395*).

COURT CASES DEVELOPMENTS AND OUTCOMES



The Administrator was involved in several important pieces of litigation in the 2020-2021 fiscal year. Developments in all litigation were slowed by court closures and delays resulting from COVID-19 measures. Notwithstanding those delays, notable developments this year include:

- Securing a ruling that the Administrator's efforts with respect to the compensatory part of her mandate remain protected by the doctrine of deliberative privilege even when she initiates a claim as a subrogated plaintiff under the recovery part of her mandate (*Barges King Arthur and SL 104*);
- Secured a recovery in a bankruptcy proceeding, following the securement of a judgment and the initiation of enforcement proceedings against a shipowner (*Elf*);
- Securing a default judgment against the owner of a vessel in a subrogated claim initiated by external counsel (*Central Isle, Blue Pacific No. 1, Lucas & Rebecca*);
- Securing a default judgment against the owner of a vessel in a subrogated claim initiated and prosecuted entirely by in-house counsel (*Nika*);
- Prepared Affidavits of Documents for actions which were initiated and prosecuted by in-house counsel (*Laurier II, Sikuk and Françoise*); and
- Entered into settlement discussions with counsel for a shipowner on an action initiated and prosecuted by in-house counsel (*Zodiac Light*).



As a result of the coronavirus disease (COVID-19) pandemic, the Federal Court of Canada issued a practice direction suspending all nonurgent proceedings. The Administrator was in the midst of preparing or had completed materials in preparation for motions seeking judgment in three additional court files: *Viking I, Blue Pacific No. 1 and Sea-Que*. It is expected that those matters will proceed to judgment in the new fiscal year, although the timeline is currently unclear.

In total, through litigation or settlement, the Administrator recovered amounts in two files this fiscal year: *Elf* and *Unknown Name (Black Gaff Cutter)*. As well, although it was settled during the 2019-2020 fiscal year, the payment in the *Eyelanders* matter was received in 2020-2021.

DETAILS OF NOTABLE COURT CASE OUTCOMES

***The Administrator of the Ship-source Oil Pollution Fund v. Bosa-Kingswood Properties (Squamish) Inc. et al.*, Federal Court Docket: T-569-19, Decision Date 2021-01-05**

This decision concerns the protection of materials generated to assess claims received by the Administrator. It affirms a privilege that protects such materials from disclosure during litigation.

The incident involved two barges that posed an oil pollution threat. The CCG response led to a claim, which resulted in a payment of \$819,134.67. The Administrator then commenced a subrogated action against the owners. Within the litigation, one of the defendants asked the court to compel the Administrator to turn over documents relating to the assessment of the claim. The Administrator objected on the basis of privilege.

The dispute was heard by a case management judge, who rendered a decision on January 5, 2021. The decision upheld the Administrator's claim of privilege.

In the decision, the Court noted existing jurisprudence from the Supreme Court of Canada (*Laval c Syndicat de l'enseignement de la région de Laval*, 2016 SCC 8 at para 57) on the importance of shielding judicial decision-making processes from review. The Court reiterated that the doctrine of deliberative secrecy promotes consistency and finality of decisions, and candid, collegial debate and ensuring that decision makers do not spend more time explaining their decisions in court than making them. The principle of deliberative secrecy applies not just to judges, but also administrative decision-makers, including the Administrator.

The Court also rejected the assertion that the Administrator waives privilege when she initiates subrogation against a shipowner. It was ruled that deliberative secrecy cannot be waived by the Administrator, expressly or impliedly, and may only be lifted if a valid reason for doing so is established. No valid reason was established in this case.

***The Administrator of the Ship-source Oil Pollution Fund v. David Sean Murphy*, Federal Court Docket: T-536-20, Decision Date 2021-03-09**

Beginning late in the 2019-2020 fiscal year, the "Fund 3.0" initiative was launched to use in-house legal resources to pursue subrogation. The objective was to reduce the expense of litigation, expanding the scope of where recovery can be reasonably pursued. This decision marks the first judgment secured entirely by in-house efforts by the Administrator's staff.

The facts in the underlying case were straightforward. On May 12, 2017, the CCG was notified that the approximately 50-foot pleasure craft *Nika* was discharging oil at Fresh Water Marina, in Campbell River, British Columbia. The CCG responded to the incident and incurred costs. On March 26, 2019, the Administrator received a submission from CCG. The Administrator made an offer of compensation to the CCG in the amount of \$22,720.29 plus accrued interest of \$2,074.41.

The Administrator's in-house counsel filed a Statement of Claim with the Federal Court of Canada on May 8, 2020. The defendant did not respond to the action. On March 5, 2021, in-house counsel filed a motion record seeking default judgment against the defendant. Judgment was granted in the amount of \$25,674.45 (the full amount sought), plus interest at 5% per annum, on March 9, 2021.

1.2. EMERGENCY FUNDING OF THE DEPARTMENT OF FISHERIES & OCEANS IN CASE OF A MAJOR OIL SPILL INCIDENT

Amendments to the MLA (ss 110 seq.) that entered into force in 2018 allow the Minister of Transport to direct, at the request of the Minister of Fisheries and Oceans and after consultation with the Administrator, the release of emergency funding to respond to a significant incident involving the discharge of oil from a ship. This emergency funding can be up to \$10 million per year. If this maximum amount has been charged to the Fund and the Minister of Fisheries and Oceans is of the opinion that additional emergency funds are necessary, up to \$50 million per year can be released, with the authorization of the Governor in Council.

The emergency funds so released must be reimbursed to the Fund within two years through an *Appropriation Act*, less any amount claimed as damage by the Minister of Fisheries and Oceans under the normal claim process.

These new provisions are intended to be used in exceptional circumstances. Such circumstances have not happened since coming into force, and the Fund has not been used for this purpose during the fiscal year. However, the Administrator had discussions with Transport Canada and the CCG during this fiscal year on the administrative and financial processes (including reimbursement) involved in the activation of these emergency funding provisions.

1.3. INQUIRY AND ENFORCEMENT WITH RESPECT TO CONTRIBUTORS' REPORTING OBLIGATIONS

Amendments to the MLA (ss 117.3 seq.), entered into force in 2018, provide the Administrator with new inspection and inquiry powers with respect to contributors' data reporting obligations. Other amendments to the MLA (s. 130.01) provide for Administrative Monetary Penalties (AMPs) in case of infringement of these obligations.

The Administrator has not yet used these new powers during this fiscal year and no AMPs were issued.

1.4. CONTRIBUTION TO THE INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS

Remote attendance at the IOPC Funds meetings.

The IOPC Funds are two intergovernmental organizations (the 1992 Fund and the Supplementary Fund) which provide compensation for oil pollution damage resulting from spills of persistent oil from tankers. The 1992 Fund (118 member States, from 117 the previous year) provides some \$358 million in compensation per incident, while the Supplementary Fund (32 member State) provides an additional layer of compensation of over \$1 billion, for a total of some \$1.340 billion (based on March 31, 2021 exchange rates). Canada is a member of both Funds.



The Spring 2020 meetings were cancelled at the last minute due to the pandemic, and the Fall 2020 and Spring 2021 meetings were held remotely, in a compressed format of three hours a day to minimize the inconvenience for the delegations based in time zones distant from London, where the offices of the IOPC Funds secretariat are located. The Administrator attended these meetings remotely as member of the Canadian delegation.

Discussions and decisions. The compressed format had to focus on corporate and governance decisions needed for the functioning of the Fund (such as elections and budget approval) and did not allow for long discussions on compensation policy topics. Key topics of discussion and decision of the IOPC Funds included notably:

- **Discussions on the *Agia Zoni II* file** (a 2017 tanker sinking in Greece), which might eventually cause the need for further contributions from the 1992 Fund's members;
- **Discussions on the *Bow Jubail* file**, a collision in Netherlands, which raises the issue of the sufficiency (or insufficiency) of MARPOL Convention and commercial cleanliness certificates in the determination of the applicability of the Bunkers Convention or the Civil Liability Convention for limit of liability purposes;
- **Two new files opened in 2021** with the 1992 Fund, for an incident in Nigeria (*MT Harcourt*, which seems a low exposure, if any, for the contributors to the 1992 Fund) and an incident in Israel (a mystery spill for the time being, which seems to be a potential exposure for the contributors to the 1992 Fund).
- **The Canadian Gillian Grant was re-elected as Chair of the 1992 Fund Executive Committee** for a second year.
- **The Canadian Alfred Popp, former Administrator of the Fund**, was elected as member of the IOPC Funds' Audit Body at the Fall 2020 meeting.

- **The decision was made not to levy any contribution in 2021** from the contributors to the Funds. This is only the third time since Canada has joined the international regime in 1989; there was also no call for Canadian contributions to the International Funds during the fiscal years 2005-2006 and 2009-2010.
- **A paper from India** on reviewing the Fund Convention and Civil Liability Convention was discussed briefly during the Fall 2020 meeting.
- **The Director of the IOPC Funds** will be retiring at the end of 2021, and a large part of the discussions of the Spring 2021 session were dedicated to the election procedure for his successor in a COVID environment. An additional session for virtual discussions on this topic will take place in July 2021.



The full report of the IOPC Funds discussions and the relevant supporting documentation are available online at the IOPC Funds website (<https://www.iopcfunds.org/>).

Collection of the data from Canadian contributors.

The Administrator is responsible for ensuring that the Canadian receivers of crude oil by water (150,000 tonnes minimum on an annual basis) provide their return on the quantities received. The Administrator may follow up on the information received and inquire on significant variances over the preceding year, before reporting Canadian data to the Secretariat of the International Fund. Generally speaking, the global tonnage of persistent oil received in Canada by water has been declining steadily over the past decades.

No payment of contribution to the IOPC Funds this fiscal year.

As mentioned above, it was decided at the Fall 2020 session of the IOPC Funds not to levy any contribution in 2021. Over its 32 years of existence, the Fund has still paid a total of some \$57.5 million to the IOPC Funds.

Update on the progress towards the entry into force of the HNS Convention. Although Canada ratified in 2018 the *International Convention on Liability and Compensation in Connection with the Carriage of Hazardous and Noxious Substances by Sea*, as amended by its 2010 Protocol (2010 HNS Convention), this convention (and its related HNS Fund) is still not in force as it has still not gained the required number of parties: France, Germany, Netherlands, Belgium and Estonia have reported progress in their implementing legislation, which paves the way for their upcoming ratification of the Convention. The update delivered at the IOPC Funds meetings confirmed that the Convention could come into force before 2025. More information on the 2010 HNS Convention can be found on the Convention's website (www.hnsconvention.org).

1.5. OFFICE MANAGEMENT AND CONTROLS



A COVID new workplace. The Fund has operated mostly remotely over the 2020-2021 fiscal year, with employees being directed to work from home during the shutdown periods and allowed to work from home at their request when the shutdown periods were lifted. Minimal presence in the office was nevertheless assured all along the year, notably to cover for the fact that the filing and archiving system is not remotely accessible. One year later, it is clear that the post-COVID workplace will be different from pre-COVID, and that the new normal will require new work-from-home policies and an upgraded Information management /Information technology (IM/IT) system.

Special Examination: the audit criteria are met. Section 122 of the MLA provides that the Administrator shall cause a special examination to be carried out at least every five years. This examination is to determine if the systems and practices implemented in the Office of the Administrator provide reasonable assurance that the assets are safeguarded and controlled and that the financial, human and physical resources used are managed economically and efficiently. This Special Examination requirement was introduced in 2010. The first Special Examination Report in 2015 revealed that the Fund was being operated efficiently and in a cost-effective manner at the time.

The 2020 Special Examination report covered the systems and practices that were in place between March 2015 and September 2020. The level of activity of the Administrator's office had grown exponentially during this period, from the number of claims submitted, to the level of recovery, to the outreach effort, to special projects – including readiness for compensation of large spills –, the implementation of the important legislative changes of December 2018, to the establishment of the Fund for Railway Accidents Involving Designated Goods (Rail Fund) managed by the same Administrator and Deputy Administrator with a number of human and material resources shared between the two funds. The staff of the Administrator's office had tripled in less than 5 years. As all these developments occurred in a compressed timeframe, it is essential to ensure that the underlying management processes still provide reasonable assurance that the assets and resources of the Fund are properly managed. The Special Examination found that the audit criteria are met. The Special Examination report is posted on the Fund website (in the “Transparency” section) and the highlights are featured on page 23.

HIGHLIGHTS OF THE 2020 SPECIAL EXAMINATION REPORT

Special Audit **conducted in accordance with** the standards for assurance engagements set out by the Chartered Professional Accountants of Canada (CPA) in the CPA Canada Handbook—Assurance.

Answers the question: Do the Fund systems and practices provide reasonable assurance that:

- assets are safeguarded and controlled;
- resources are managed economically and efficiently,
- operations are carried out effectively?

Covered the following systems and practices selected for their relevance:

- Governance and risk management;
- Internal management, performance measurement and reporting;
- Operations management: review of claims process;

- Human Resources;
- Information Technology and Information Management.

Found that for the period under examination, there was reasonable assurance that there were no significant deficiencies in the Office of the Administrator's systems and practices examined.

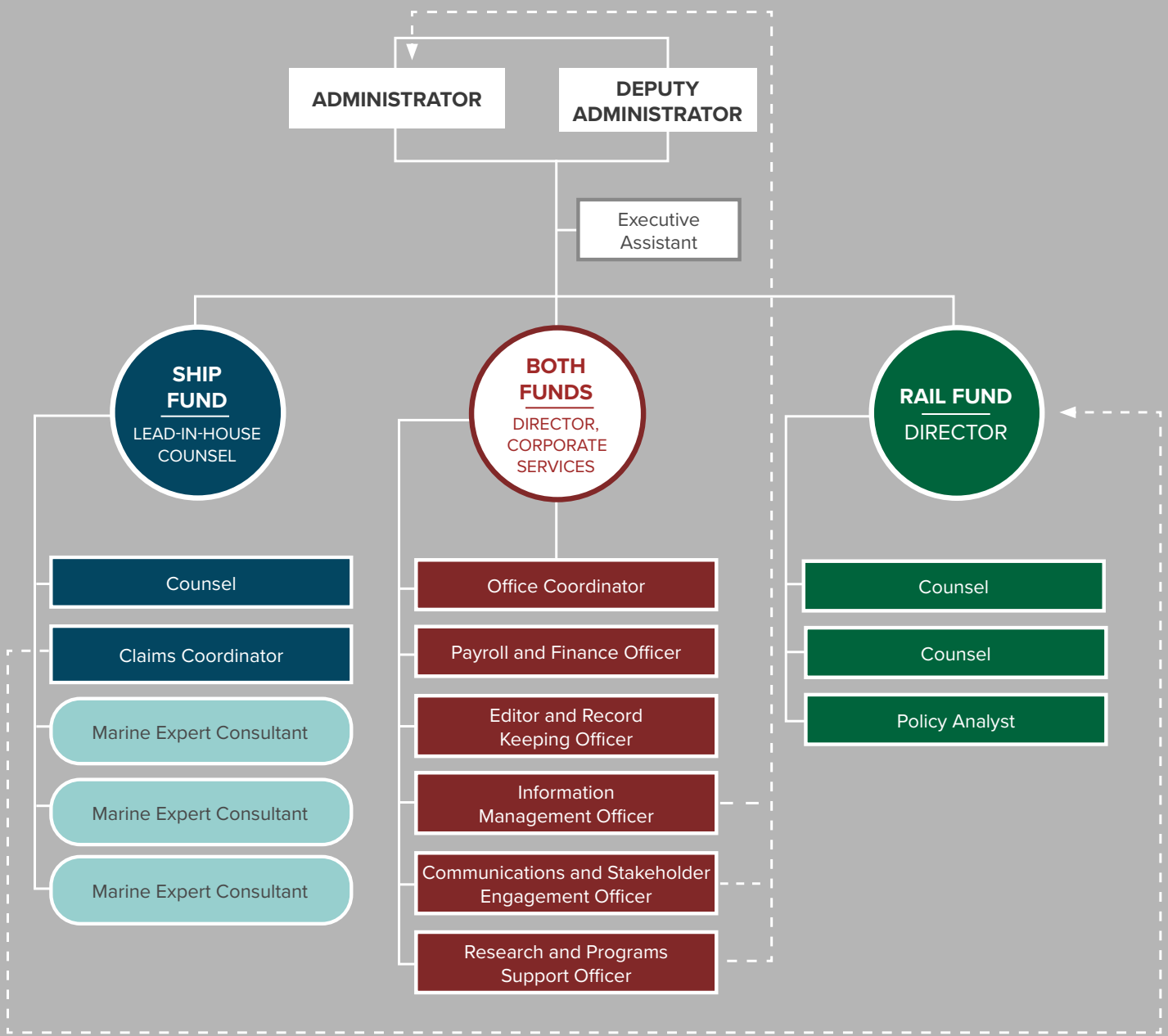
Identified some opportunities for improvement in three of the five areas under examination and made recommendations accordingly on:

- Governance
- Human Resources and Information technology, and
- Information Technology and Information Management

The Administrator agreed with all of the recommendations. These have been incorporated in the special insert “2016-2021: Strategic Orientations and Results” found on page 30.

Upgraded governance model for both Funds: Year 2 completed. The “three-pillar” model includes: the Fund Claims team led by the lead in-house counsel, Maritime; the Rail Fund team led by the Director, Railway Fund; and the shared administrative and professional services led by the Director, Corporate Services (see the organizational chart below). This model meets the expectations in allowing the Administrator and Deputy Administrator to focus on strategic orientations, policies and guidelines, while remaining the ultimate decision makers.

ORGANIZATIONAL CHART OF THE FUNDS



The Fund's student program's most active year to date. A total of five students worked for the Fund over the course of the fiscal year. Four of these were law students, while a fifth was engaged on information management special projects. Three of the law students worked part-time remotely for the Fund during the university year.



This was the first time that students worked remotely (from Quebec, Ontario and British Columbia) for the Fund, which can be seen as an increased access to the professional opportunities provided by the Fund. Although the physical presence of the students in the office is of value for the students as well as for the staff, the program will likely continue to accept remote students as part of a student contingent.

1.6 REPORTING AND OUTREACH & COMMUNICATIONS

Communications wise, 2020-2021 stands in sharp contrast with the previous year. While the first semester was very quiet since the various planned outreach events were cancelled or postponed, things started to pick up during the second half of the year. Activities targeting the fishing sector – the area of focus suspended when the first lockdown kicked in – resumed at that time. In addition, Transport Canada's engagement activities about the upgrade of Canada's marine liability and compensation system resumed at the same time, with the Office of the Administrator being invited to



deliver presentations on the existing compensation process. As a number of Indigenous groups were involved in this TC-led outreach initiative, this helped the Administrator become part of discussions that will develop further in the near future.

During all this COVID year, the use of social platforms was instrumental in the ability to reach out, engage and meet virtually.

In addition to the activities already reported above, the Office of the Administrator has also carried out a number of outreach activities in 2020-2021.

Area of focus: Fisheries sectors – In 2020-2021, a particular attention has been paid to stakeholders of this sector. Over the past 31 years, the Fund has received very few claims from the fishing sectors: less than 1% of the total amount paid from the Fund. Therefore, outreach efforts have increased to reach a broad audience across the fishing sectors, including workers and business owners, Indigenous communities, and those pursuing commercial and non-commercial activities, both in fresh and salt water. This includes activities such as:

- Meeting with national and provincial fishing organizations;
- Meeting with provincial Departments of Fisheries and Aquaculture;
- The Introduction to Compensation for Fishers, Aquaculturists, and all Involved in Related Activities Webinar, with invites sent to over 200 organizations and individuals in the Fishing sector for the webinar;

WEBINAR ALERT

Introduction to compensation for Fishers, Aquaculturist, and All Involved in Related Activities
Wednesday, October 7, 2020

A collage of six images: 1. Aerial view of a large body of water with a grid pattern. 2. A close-up of a large, textured, brownish object, possibly a piece of wood or a large fish. 3. A group of people standing outdoors, possibly at a market or event. 4. A person in a red jacket standing next to a boat on a body of water. 5. A person in a red jacket standing next to a boat on a body of water. 6. A group of people standing in front of a building with a sign that says "FISH MARKET".

- Presentation at the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec (MAPAQ) and the Centre d'expertise en gestion des risques d'incidents maritimes (CEGRIM) training.

Continued engagement with Indigenous groups.

Efforts to reach Indigenous communities continued, as well as discussions on claims management issues having impacts on these communities. This year, as part of its commitment, the Administrators participated in various presentations and workshops with Indigenous groups, including the Musqueam Indian Band and Partners, l'Institut de développement durable des Premières Nations du Québec et du Labrador (IDDPNQL), the Mi'kmaw Conservation Group and Confederacy of Mainland Mi'kmaq, as well as Indigenous groups in the Nunavik, Quebec region.

The Fund is currently in the process of reviewing and tailoring its overall engagement strategies and communications products to improve the sharing of information and accessibility for Indigenous groups across the country.

Using online platforms to accelerate outreach.

- **Webinars** – In 2020, the Administrator revised the Fund's outreach strategies, focusing efforts towards the targeting of the fisheries sectors. To help facilitate the claim process for this particular audience, the Fund hosted an Introduction to compensation for Fishers, Aquaculturists, and All Involved in Related Activities webinar. This webinar addressed the types of compensable damages as well as the process for submitting a claim and pursuing compensation. The live webinar welcomed over 130 registrants from across the country and provided access to the recording to those who were unable to attend. This webinar received the highest level of participation to date. A document outlining

frequently asked questions was prepared in response to potential inquiries from the attendees. The recording and the associated documents can be accessed through the "Past Webinars" section of our website.

- **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 at events, additional efforts were made to keep the public informed. As for this year's social media metrics:
 - The LinkedIn page attracted 4,185 new followers over the past year, and has now 4,402 followers.
 - The Twitter page attracted 35 new followers over the past year, and has now 198 followers.
- **Newsletter** – In the Fall of 2018, we launched the Fund's first newsletter campaign. Our newsletter has evolved into a monthly initiative that highlights the Fund's latest news, publications, job postings and past and upcoming events.

Over the past four years, our list of subscribers has increased from 104 recipients in 2018 to 373 recipients in 2021.

Our average campaign performance reflects a 35.5% open rate along with a 5.6% click rate. This is slightly above the average open and click rate of campaigns distributed via Mail Chimp.

Since the beginning of our fiscal year in April 2020, our newsletters have maintained a stable average of open and click rates with a consistent list of loyal subscribers.

Our newsletter has increased awareness among our network of stakeholders as well as the general public and we foresee continued growth in the coming year.

Media as a way to increase the Fund's profile and to accelerate outreach. The Administrator began to measure metrics of media coverage in April 2017. Since then, the overall hits have reached almost 400 publications: 2018-2019 being the highest (206), followed by 2019-2020 (130) and 2020-2021 (21). Most articles were published online (385) versus print (35). The geographic breakdown of hits is primarily focused in British Columbia (195), followed by Ontario (61), National (49) and Nova Scotia (48). 2020-2021 has seen an increase of articles published in local media types, with the majority of publications originating from Nova Scotia.

CHALLENGES AND OPPORTUNITIES



The Impact of COVID-19 on the Administrator's outreach plan.

Despite the initial very disruptive impact of COVID-19 on the Administrator's outreach plan, both the Administrator's office and its partners and stakeholders have gained a new literacy and a level of comfort in the use of virtual meetings and tools. This has helped remove distance and allowed participation to a number of events, which might not have been possible otherwise. Although face-to-face meetings have intrinsic benefits, the outreach plan for a post-COVID world will incorporate a wide use of virtual meetings to increase the reach and the accessibility at a minimal cost.

FUND OUTREACH ACTIVITIES IN 2020-2021



Engagement highlights:


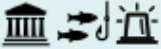









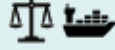

- **8 presentations** at local, national or international conferences and committees
- **3 webinars** available to participants across the country
- The Fund continues to do joint outreach with the Rail Fund when appropriate

Note: as all events took place virtually, the location of the organization was used.

LEGEND FOR THE TYPE OF STAKEHOLDERS			
	Federal government		Maritime legal community
	Provincial and territorial governments		Indigenous engagement
	International partners		Fishing sectors
	Shipping and boating industry		Environmental response professionals and industry
	Academics		

* Recurring meetings with CCG and TC are not listed below.

OTTAWA, ONTARIO		
	Attendance at the PNR Canadian Marine Advisory Council (CMAC) Teleconference	
	Attendance at the Emergency Recovery Cost Recovery (ERCR) workshop meeting with the CCG	
	Participation in the <i>Sikuk</i> and <i>Françoise</i> post-mortem workshop with the CCG	
	The Fund hosted the <i>Introduction to Compensation for Fishers, Aquaculturists, and all Involved in Related Activities Webinar</i> (English session)	
	The Fund hosted the <i>Introduction à l'indemnisation pour les pêcheurs, les aquaculteurs et toute personne exerçant des activités connexes Webinar</i> (French Session)	
	Attendance and presentation at the Annual CCG Environmental Response Cost Recovery (ERCR) workshop	
	Presentation at the National CMAC to the Committee on Fishing Vessel Safety	
	Presentation at the National CMAC to the Committee on the Environment	

TORONTO, ONTARIO		Attendance at the Annual General Meeting and the annual law seminar of the Canadian Maritime Law Association (CMLA)
QUEBEC CITY, QUEBEC		Presentation and training for the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec (MAPAQ) and the Centre d'expertise en gestion des risques d'incidents maritimes (CEGRIM) formation
		Presentation at the Indemnisation 101 training session organized by CEGRIM and the Ministère de l'Environnement et de la Lutte contre les changements climatiques du Québec
		Presentation at the Séance de mobilisation virtuelle dans le cadre du Plan de protection des océans (PPO) du gouvernement du Canada - Quebec Region
WENDAKE, QUEBEC		Presentation at the Atelier préparatoire – Séance de mobilisation du PPO de l'Institut de développement durable des Premières Nations du Québec et du Labrador (IDDPNQL)
MONTREAL, QUEBEC		Attendance at the Borden Ladner Gervais (BLG) Maritime Annual Law Seminar
NUNAVIK, QUEBEC		Presentation at the Oceans Protection Plan Preparatory Workshop – Nunavik Region
SHERBROOKE, QUÉBEC		The Fund hosted the Student Program Webinar for the Université de Sherbrooke
TRURO, NOVA SCOTIA		Presentation at the Mi'kmaq Conservation Group and Confederacy of Mainland Mi'kmaq for the MLA Review
VANCOUVER, BRITISH COLUMBIA		Attendance at the 31 st Annual Meeting of the Pacific States/British Columbia Oil Spill Task Force
		Presentation at the Workshop on Oil Spill in the Marine Environment to the Musqueam Indian Band and Partners
		Attendance at the Vancouver Maritime Arbitrators Association (VMAA) Luncheon Series
LONDON, UNITED KINGDOM		Participation in the Canadian delegation to the IOPC Funds' governing bodies

2016-2021: STRATEGIC ORIENTATIONS AND RESULTS

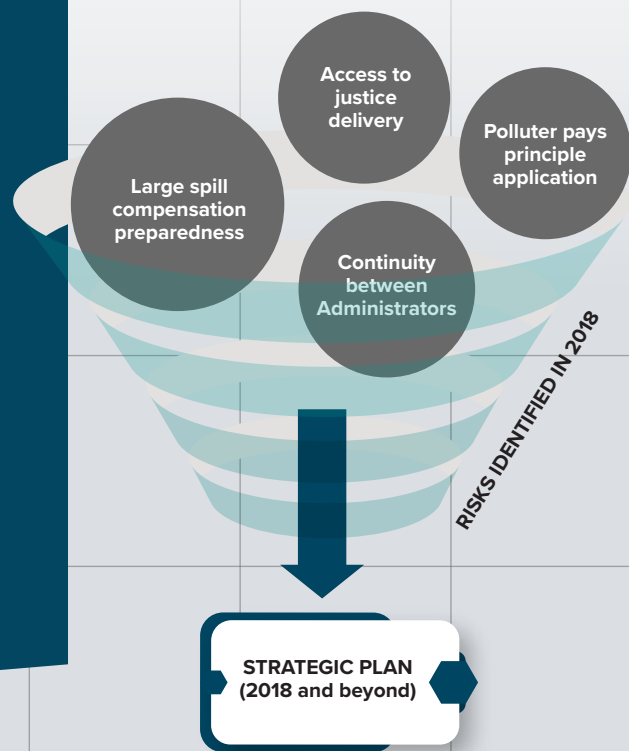


Anne Legars, who has served as Administrator since 2016, was reappointed Administrator for a five-year term in 2018. Also in 2018, Mark Gauthier was appointed as Deputy Administrator. This allowed for the deployment of a strategic plan (as reported in the 2018-2019 Annual Report) to address the strategic risks identified. This section will assess the results of the strategic plan (see graphic below) and identify the next steps.

IMPORTANT ISSUES IDENTIFIED

The main challenge identified was making the Fund and its over 400 million dollar balance as relevant to the public as possible. It was determined that this goal could best be achieved by:

- ▶ Improving access to justice;
- ▶ Ensuring that many claims could be processed quickly in the case of a very large spill;
- ▶ Systematically enforcing the polluter pays principle to every extent possible;
- ▶ Ensuring continuity from one Administrator to the next with respect to all the core functions of the Fund.



1 Provide access to justice

2 Supported by a professional and motivated team linked to a vast web of expertise

3 Be an efficient and transparent organization, both agile and structured

ASSESSMENT

The five-year Special Examination, carried out in the Fall of 2020, noted the need to have an annual update of the strategic plan and to develop key performance indicators linked to its objectives (Recommendation #1). The Administrator agreed with this recommendation. The following section will provide a brief overview of the past 5 years on this front, and a complete version will be published on the Fund's website in the 2021-2022 fiscal year.

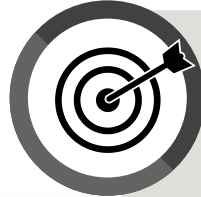
ACCESS TO JUSTICE FOR CLAIMANTS



Description of the orientation

Improving access to justice for claimants by:

- ▶ Making the existence of the Fund known to potential claimants;
- ▶ Ensuring that the claims decision-making processes are clear and swift;
- ▶ Developing readiness to provide compensation in all situations;
- ▶ Increasing diversity of claimants and use of the Fund by Indigenous claimants;
- ▶ Enforcing the polluter pays principle, by deploying all reasonable efforts to recover from the polluter, resulting in lifting this task off the claimant's shoulders.



What has been done

Making the existence of the Fund known to potential claimants by:

- ▶ Systematic outreach across Canada;
- ▶ Delivering presentations, holding information booths, publishing articles, interviews, etc.;
- ▶ Opening an account and being active on Twitter and LinkedIn.

Building a variety of communications material:

- ▶ Ensuring readability and accessibility of all products and new infographics;
- ▶ Publishing three claims manuals (General, Small Claims, Special Claims), and sample claims;
- ▶ Hosting webinars and publishing Q&A documents;
- ▶ Holding workshops;
- ▶ Implementing new claimant-centered policies and processes.

Preparedness for compensation following a large spill:

- ▶ Co-organizing three Transboundary Oil Spill Liability and Compensation Workshops;
- ▶ Working with international groups and organizations;
- ▶ Participating in workshops on Incident Command System (ICS) response;
- ▶ Building a pool of marine experts.

Preparedness for claims from the fisheries sector:

- ▶ Publication of the *Compensation Handbook for Fishers, Aquaculturists, and All Involved in Related Activities*, and hosting of webinars;
- ▶ Research on section 107 of the MLA;
- ▶ Developing of a list of potential experts.

Improving service to Indigenous claimants:

- ▶ Statistical research on Indigenous interaction with the Fund;
- ▶ Participating in over 20 engagement events, meetings or initiatives;
- ▶ Hiring of an Indigenous expert consultant;
- ▶ Hosting a panel of the 30th anniversary conference on access to justice for coastal and Indigenous communities;
- ▶ Opening a pool of experts.

Application of the polluter pays principle:

- ▶ Systematization of recovery effort, including going to court to enforce and clarify the liability regime;
- ▶ some 45 court cases were initiated;
- ▶ New in-house legal department with a lead counsel, a lawyer, and students on a term basis.



Assessment

Increase in claims submitted, amount claimed and amount paid.

Increase of claimants' diversity.

Access to Justice Index score improvement.

Faster time to issue compensation.

Better recovery from the polluter.

Increase of Indigenous representativeness in the claims portfolio.



What's next (2021-2022 strategic plan adjustments)

Renew outreach efforts to continue increasing the number of claims, and diversity of claimants.

Implement additional measures listed in the Access to Justice Index.

Continued participation in management of large spills (TLC, ICS) workshops and the development of the pools of external expertise.

Continued discussion with Indigenous groups, retain expertise and increase literacy in Indigenous matters.

PROFESSIONAL TEAM, LINKED TO A WEB OF EXPERTISE



Description of the orientation

Recruiting, developing and retaining:

- ▶ key in-house expertise;
- ▶ a robust network of external resources via the procurement of professional services and engagement with the stakeholders who have relevant expertise.

Measures of success: the ability to fill available positions (vacant positions) and retain staff (retention rate).



What has been done

Development of new positions (job descriptions and classification, and benchmark of salaries against the Ottawa job market), and hiring through competitions.

57 people have worked for the Administrator since her appointment:

- ▶ 23 as employees; including 18 as shared services;
- ▶ 14 as students, including 4 articling students;
- ▶ 20 as consultants, including 8 marine experts.

Implementation of a new “3-pillar” structure (see organizational chart p. 24).

Development of pools of contractual resources and development of a student program.

Development and upgrade of the Human Resources policies.

Networking with “communities of practice” (legal, compensation, insurance, justice administration, small agencies, etc.).



Assessment

All positions have been filled (no vacant position); 18 staff plus 14 students hired, onboarded and trained, managed, coached and assessed over the period

Retention rate: from 2018, the retention rate of permanent employees has been high.

The Special Examination report found that the Office of the Administrator met the examination criteria for human resources systems and practices.



What's next (2021-2022 strategic plan adjustments)

- ▶ A formal human resources plan, linked to the strategic plan, will be developed.
- ▶ Formal training plans are being developed for the various profiles.

EFFICIENT AND TRANSPARENT ORGANIZATION, AGILE AND STRUCTURED



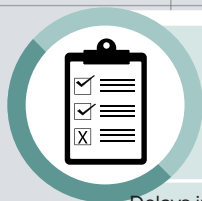
Description of the orientation

Engaging in a continuous improvement process and being open to challenges coming from inside or outside the organization.

Documenting the Administrator's decisions, which are based on reasonability, while developing policies when needed.

Measures of success:

- ▶ ability to adjust to changing circumstances (agility);
- ▶ annual ratio of compensation paid vs. office and management costs (efficiency).



Assessment

The ratio of the amount paid to claimants vs. office and management costs improved from 0.5 in 2011–2016 to 1.6 in 2016–2021.

Delays in adjusting to changing circumstances have been relatively short, including adjusting to COVID-19, retirements, long-term leaves, new positions, changes in the organizational chart, etc.

The Special Examination report found that:

- ▶ the governance structure and responsibilities are clearly defined, documented and communicated;
- ▶ the internal management is effective;
- ▶ the Administrator identifies, assesses, monitors and reports risks identified in achieving strategic objectives.



What has been done

- ▶ Implementation of a "3-pillar" structure.
- ▶ Use of a simplified procurement process.
- ▶ Information technology assessment, development and implementation of a 3-year IT plan (2017-2020).
- ▶ Implementation of new management software applications.

- ▶ Published all reports since 1989 and from the Marine Pollution Claims Fund (1974-1989).
- ▶ Published statistical research papers.
- ▶ Included key data and statistics in the annual reports.
- ▶ Hosted a 30th anniversary conference and a celebration year.
- ▶ Compiled and published all incident summaries in the Fund's history.
- ▶ Publication of offer letters issued since April 2019.
- ▶ Use of social media and publishing a monthly newsletter.

- ▶ Flexibility and synergy between the Funds for efficient staffing resources sharing.
- ▶ Shared student programs and pools of resources to enhance capacity and adjust to work fluctuation.
- ▶ Delegation framework involving the Deputy Administrator and directors.
- ▶ Documentation and development of policies and processes.

Efficiency

Transparency

Agility

Structure



What's next (2021-2022 strategic plan adjustments)

Conduct a privacy impact assessment, carry out an information management and information technology assessment and develop an information technology plan (as per the recommendation of the Special Examination).

Develop of a post-COVID workplace policy to manage remote work.

Try to gain access to the federal government's pools of prequalified suppliers.

2. FINANCIAL REPORT

During the fiscal year, the Fund collected \$1,682,337 in interest (compared to \$5,196,197 in 2019-2020). It also recovered \$3,190 from shipowners responsible for pollution, or from their insurers (compared to \$1,051,004 in 2019-2020).

As a result, total Fund revenues were \$1,685,527 over the year (compared to \$6,247,201 in 2019-2020).

Fund expenses were \$2,600,329 (compared to \$4,311,447 in 2019-2020), of which \$2,049,928 were operating expenses (compared to \$2,623,236 in 2019-2020).

No contributions were made to the IOPC Funds (compared to \$554,235 in 2019-2020), and \$532,421 was paid for Canadian claims (including \$47,514 paid in statutory interest), compared to \$2,673,088 the previous year (including \$165,066 paid in statutory interest).

- ▶ Interest revenue decreased by \$3,513,860 reflecting a decline in the average rate of interest from 1.26% in 2019-2020 to 0.34% in 2020-2021. There were only two recoveries related to previously awarded settlements in 2020-2021 compared to 12 in 2019-2020.
- ▶ The provision for claims under review increased by \$17,980 compared to last year due to a relatively smaller portfolio under review at the end of the fiscal year (see note 4 of the attached Financial Statements).
- ▶ Operating expenses decreased by \$573,308 largely due to:

- A \$436,000 reduction in legal fees reflecting a combination of reduced claims work and enhanced internal legal capacity;
- \$74,000 in reduced travel expenses as a result of Covid-19 and the elimination of extraordinary one-time travel costs incurred in the previous year in relation to the 30th anniversary year projects;
- The absence of office refit costs in 2020-2021 compared to \$108,000 in 2019-2020, offset by an increase of approximately \$44,000 across other administrative services, salaries and general office expenses.



At the end of the fiscal year, the Fund had an accumulated surplus of \$409,056,372 (compared to \$409,971,174 at the end of the previous fiscal year).

The Auditor's Report is included in the attached Financial Statements.



Note on financial impact of COVID-19 for fiscal year 2020-2021:

Effective March 17, 2020, the Administrator requested that staff begin working remotely as much as possible, except where operational tasks required attendance at the office—for example, access to secure on-site information systems and materials, processing payroll and accounting transactions, and certain on-site administrative duties. Staff who were required to come to the office during specific 'lockdown' periods were reimbursed for parking expenses and provided

with a bonus (as additional vacation time) for time spent in the office. All employees were also offered a one-time reimbursable allowance of up to \$500 to offset incremental home office and equipment expenses. The cost of these COVID-related initiatives was minimal and was shared between the Funds. Altogether, they amounted to less than \$20 000 for the Fund for the whole fiscal year and were more than offset by reduced travel expenses mentioned above. No other additional costs were incurred in transitioning to remote work.



► 2016-2021: OVERVIEW OF THE CONSOLIDATED FINANCES OF THE FUND

When the current Administrator joined in April 2016, the accumulated surplus of the Fund was \$408.5M. Five years later, the balance is still the same (\$409M).

Despite this apparent stability, during these past five years:

- 137 claims were submitted and assessed, and following payment, approximately the same number of files were subject to recovery;
- A large number of cases have been pleaded before the courts and some 18 judgments have been obtained;
- A major effort has been deployed with regard to the capture, validation, analysis and evaluation of data;
- Thousands of information pages have been written, translated and published on the Fund's website;
- An ambitious communications plan has been deployed in an effort to reach targeted entities across Canada;
- Numerous workshops were organized involving potential claimants (which included the CCG, a recurrent claimant) and/or other compensation regime partners;
- More than 50 individuals have worked for the Fund as employees or consultants; these included fifteen or so students and interns. These are nearly 50 individuals who have been recruited, managed and aligned to work teams; the number of permanent employees has tripled, making it necessary to readjust office work space and planning accordingly;
- The overview of consolidated revenues and expenses of the Fund at this time provides an opportunity to measure this level of activity.

▶ IN FIVE YEARS, THE FUND HAS COLLECTED SOME \$28M AND HAS SPENT NEARLY THE SAME AMOUNT.

Of the \$28M of cumulative revenue during this period:

- \$24.4M (87%) consist of interest collected on the balance of \$409M;
- \$3.6M (13%) consist of recovery from shipowners, their insurers, or other responsible parties;

During the same period, the Fund spent \$27.5M of which:

- 2/3 (\$18M) as payments made towards claims (Canadian: 82%; IOPC Funds contributions: 18%)
- 1/3 (\$9M) as operating expenses.

Operating expenses represented approximately \$1.8M per year on average (compared to \$1.2M on average, during the years 2011-2015).

This ratio of 2/1 (amount of compensation paid vs operating costs) is a net improvement (a twofold increase) compared to the years 2011-2015, when the ratio was 1/1.

This improvement is even more substantial if one considers that, during the years 2011-2015, the contribution to the IOPC Funds represented half of the sums paid as compensation. If the ratio of compensation paid to operating costs only takes into account compensation for Canadian claims, this ratio increases from around 0.5 to about 1.6 (a threefold increase).

Operating expenses for the last 5 years are distributed as follows:

- **53%** in office expenses and salaries (approx. \$5 million), or \$1 million per year on average
- **18%** in consulting fees (\$1.7 million), or \$344,000 per year on average
- **17%** in external legal fees (approx. \$1.6 million), or \$314,000 per year on average
- **8%** in governance fees (Administrators and auditors) (approx. \$758,000), or \$152,000 per year on average
- **3%** in travel expenses (\$288,000), or \$58,000 per year on average.

SHIP-SOURCE OIL POLLUTION FUND

FINANCIAL STATEMENTS

MARCH 31, 2021

SHIP-SOURCE OIL POLLUTION FUND

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INDEPENDENT AUDITOR'S REPORT

To the Administrator of
Ship-source Oil Pollution Fund

Opinion

We have audited the financial statements of the Ship-source Oil Pollution Fund (the Fund), which comprise the statement of financial position as at March 31, 2021, the statements of operations, change in net financial assets and cash flows for the year then ended, as well as a summary of significant accounting policies and other explanatory information.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Fund as at March 31, 2021, and the results of its operations and its cash flows 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 10 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.

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 12, 2021

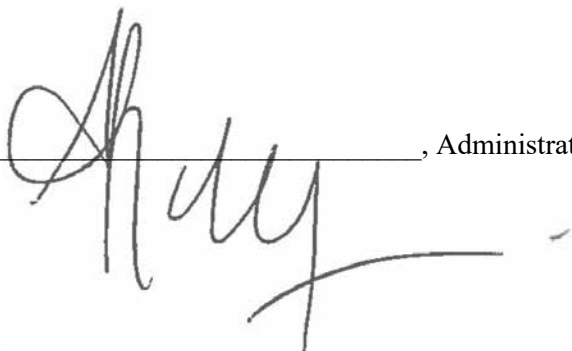
SHIP-SOURCE OIL POLLUTION FUND

STATEMENT OF FINANCIAL POSITION

MARCH 31, 2021

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	2021	2020
FINANCIAL ASSETS		
Balance of the account with Receiver General for Canada (Note 3)	\$ 410,938,132	\$ 411,993,318
Accrued interest receivable	292,964	212,863
Accounts receivable	2,000	10,812
Advances to the Fund for Railway Accidents Involving Designated Goods	164,285	45,151
TOTAL FINANCIAL ASSETS	411,397,381	412,262,144
LIABILITIES		
Accounts payable and accrued liabilities	151,934	186,886
Provision for claims under review (Note 4)	2,311,758	2,293,777
TOTAL LIABILITIES	2,463,692	2,480,663
NET FINANCIAL ASSETS	408,933,689	409,781,481
NON-FINANCIAL ASSETS		
Capital assets (Note 5)	122,683	189,693
ACCUMULATED SURPLUS	\$ 409,056,372	\$ 409,971,174

 _____, Administrator

SHIP-SOURCE OIL POLLUTION FUND

STATEMENT OF OPERATIONS

FOR THE YEAR ENDED MARCH 31, 2021

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	2021	2020
REVENUE		
Interest	\$ 1,682,337	\$ 5,196,197
Recoveries related to previously awarded settlements	3,190	1,051,004
	1,685,527	6,247,201
CLAIMS		
Payments made towards Canadian claims	484,907	2,508,022
Interest on payments made towards Canadian claims	47,514	165,066
Increase (decrease) of provision for claims under review	17,980	(1,539,112)
International Oil Pollution Compensation Funds		
Contributions (Note 6)	-	554,235
	550,401	1,688,211
	1,135,126	4,558,990
OPERATING EXPENSES		
Administrative services, salaries and office expenses (Schedule A)	1,237,840	1,194,090
Consulting fees (Schedule B)	359,392	399,954
Administrator and deputy administrator's fees	149,701	160,556
Rent	123,818	156,726
Legal fees	76,652	512,434
Travel	18,847	93,018
Audit fees	16,668	20,397
Amortization of capital assets	67,010	86,061
	2,049,928	2,623,236
EXCESS (DEFICIENCY) OF REVENUE OVER EXPENSES	(914,802)	1,935,754
ACCUMULATED SURPLUS, BEGINNING OF YEAR	409,971,174	408,035,420
ACCUMULATED SURPLUS, END OF YEAR	\$ 409,056,372	\$ 409,971,174

SHIP-SOURCE OIL POLLUTION FUND

STATEMENT OF CHANGE IN NET FINANCIAL ASSETS FOR THE YEAR ENDED MARCH 31, 2021

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	2021	2020
EXCESS (DEFICIENCY) OF REVENUE OVER EXPENSES	\$ (914,802)	\$ 1,935,754
Acquisition of capital assets	-	(136,911)
Amortization of capital assets	67,010	86,061
	67,010	(50,850)
INCREASE (DECREASE) IN NET FINANCIAL ASSETS	(847,792)	1,884,904
NET FINANCIAL ASSETS, BEGINNING OF YEAR	409,781,481	407,896,577
NET FINANCIAL ASSETS, END OF YEAR	\$ 408,933,689	\$ 409,781,481

SHIP-SOURCE OIL POLLUTION FUND

STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED MARCH 31, 2021

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	2021	2020
OPERATING ACTIVITIES		
Excess (deficiency) of revenue over expenses	\$ (914,802)	\$ 1,935,754
Adjustment for:		
Amortization of capital assets	67,010	86,061
	(847,792)	2,021,815
Net change in non-cash working capital items:		
Accrued interest receivable	(80,101)	304,343
Accounts receivable	8,812	(10,812)
Advances to the Fund for Railway Accidents		
Involving Designated Goods	(119,134)	(45,151)
Accounts payable and accrued liabilities	(34,952)	(66,741)
Provision for claims under review	17,981	(1,537,945)
	(207,394)	(1,356,306)
INVESTING ACTIVITY		
Acquisition of capital assets	-	(136,911)
INCREASE (DECREASE) IN BALANCE OF THE ACCOUNT WITH THE RECEIVER GENERAL FOR CANADA		
	(1,055,186)	528,598
BALANCE, BEGINNING OF YEAR	411,993,318	411,464,720
BALANCE, END OF YEAR	\$ 410,938,132	\$ 411,993,318

SHIP-SOURCE OIL POLLUTION FUND

NOTES TO THE FINANCIAL STATEMENTS

MARCH 31, 2021

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1. GOVERNING STATUTES AND PURPOSE OF THE ORGANIZATION

The Ship-source Oil Pollution Fund (the Fund) was created on April 24, 1989 by amendments to the *Canada Shipping Act* and succeeded the Maritime Pollution Claims Fund. The Fund is governed by Part 7 of the *Marine Liability Act* (MLA) as modified by Statutes of Canada, 2009, Chapter 21.

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. Actual amounts could differ from the estimates.

Revenue recognition

Interest income is recognized as revenue when it is earned. Recoveries related to previously awarded settlements are recognized when they are received.

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

Recognition of the provision for claims under review

Provisions for indemnification claims are estimated and recognized when a formal claim is submitted by the claimant and is duly received by the Fund.

Recognition of the contributions to the International Oil Pollution Compensation Funds

The Fund recognizes its contributions to the International Oil Pollution Compensation Funds when the contributions are determined and requested by the International Oil Pollution Compensation Funds.

Foreign currency translation

Transactions involving foreign currencies are translated into Canadian dollars using rates of exchange in effect at the time of these transactions.

SHIP-SOURCE OIL POLLUTION FUND

NOTES TO THE FINANCIAL STATEMENTS

MARCH 31, 2021

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3. BALANCE OF THE ACCOUNT WITH THE 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 performs the various transactions on behalf of the Fund. Interest is credited to the account in accordance with the provisions of the MLA at a rate based on a 5-year Government of Canada bond interest rate, calculated monthly. The interest rates varied between 0.22% and 0.84% during the year (2020: 0.61% and 1.49%). The average interest rate for the year ended March 31, 2021 was 0.34% (2020: 1.26%).

4. MEASUREMENT UNCERTAINTY

Due to uncertainties inherent to the claims review process, it is possible that the provision for claims under review is insufficient. Accordingly, a provision of \$2,311,758 for claims received prior to March 31, 2021 (2020: \$2,293,777) but not completely reviewed by that date has been calculated and recorded in the books. This provision is based on management's estimate and supported by claims payment historical data. All subsequent adjustments due to further investigation will be recognized in the year in which the claims are reviewed.

Provision for claims under review

As of March 31, 2021, the provision for claims under review was as follow:

- \$168,580 (2020: \$16,816) which represents the amount offered through formal offers and provisioned for claims received and currently under review;
- \$2,143,178 (2020: \$2,276,961) which represents the amount provided for on claims received not yet processed.

5. CAPITAL ASSETS

	2021		
	Cost	Accumulated amortization	Net book value
Computer equipment	\$ 224,426	\$ 218,300	\$ 6,126
Furniture and equipment	233,130	189,975	43,155
Leasehold improvements	638,259	564,857	73,402
	\$ 1,095,815	\$ 967,132	\$ 122,683

	2020		
	Cost	Accumulated amortization	Net book value
Computer equipment	\$ 224,426	\$ 189,911	\$ 34,515
Furniture and equipment	233,130	182,335	50,795
Leasehold improvements	638,529	533,876	104,693
	\$ 1,095,815	\$ 906,122	\$ 189,693

SHIP-SOURCE OIL POLLUTION FUND

NOTES TO THE FINANCIAL STATEMENTS

MARCH 31, 2021

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6. CONTINGENCIES

The Ship-source Oil Pollution Fund may be required to make contributions to the International Oil Pollution Compensation Funds, for which the amount owing is determined by the International Oil Pollution Compensation Funds. The amounts contributed are used to pay compensation for claims arising under the jurisdiction of the contracting states to the International Oil Pollution Compensation Funds. The size of the contribution is contingent on the number of claims received by the International Oil Pollution Compensation Funds, resulting in varying levels of contributions from year to year. Given this volatility, it has been determined that this contribution cannot be reasonably estimated from year to year. The amount of the contribution is paid and recorded by the Ship-source Oil Pollution Fund once the contribution is determined and requested by the International Oil Pollution Compensation Funds. During the year ended March 31, 2021, the Fund has contributed \$Nil (2020: \$554,235) to the International Oil Pollution Compensation Funds.

Starting December 18, 2018, the Ship-source Oil Pollution Fund no longer has a liability limit per claim. Furthermore, as of April 1, 2021, the Minister of Transport has the statutory power to impose a levy of 55.05 cents (2019: 54.45 cents) per metric tonne of “contributing oil” imported into or shipped from a place in Canada in bulk as cargo in a ship. Both the maximum liability and the levy are indexed annually to the consumer price index. No levy has been imposed since 1976.

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 likeliness of a claim for any of these reported incidents. The Fund is also not able to assess the financial value of any such claims should they materialize. No provision related to these incidents is recognized in the financial statements. A provision is recognized when a claim is effectively received.

7. INFORMATION INCLUDED IN OPERATIONS

	2021	2020
Foreign exchange loss included in the International Oil Pollution Compensation Funds contributions	\$ -	\$ (7,438)

8. 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.

Rent

During the year, the Fund has paid \$185,722 (2020: \$185,722) to Public Works and Government Services Canada (PWGSC) for the use of office spaces of which a portion (\$61,905; 2020: \$28,997) is then charged to the Fund for Railway Accidents Involving Designated Goods. The Fund is committed to pay an annual minimum rent of \$185,722 to PWGSC for the rental of premises under a lease agreement expiring March 31, 2023. As a tenant, the Fund is also responsible to pay its share of escalation costs annually.

SHIP-SOURCE OIL POLLUTION FUND

NOTES TO THE FINANCIAL STATEMENTS

MARCH 31, 2021

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8. RELATED PARTY TRANSACTIONS (continued)

Accounting services

During the year, the Fund paid \$26,820 (2020: \$27,797) to Transport Canada for accounting services.

Other

During the year, the Fund recovered \$420,075 (2020: \$207,637) from the Fund for Railway Accidents Involving Designated Goods for the following operating expenses:

	2021	2020
Administrative services, salaries and office expenses	\$ 358,171	\$ 178,640
Rent	61,904	28,997
	\$ 420,075	\$ 207,637

9. SUBSEQUENT EVENTS

The Fund recognizes a provision for an indemnification claim when a formal and duly prepared claim is submitted by the claimant and is effectively received by the Fund. All claims received before March 31, 2021 were provided for in the financial statements. During the period from April 1, 2021 to May 12, 2021, the Fund has received additional claims totalling \$25,962,255. These claims are not provided for in the financial statements.

10. BUDGET

The Ship-source Oil Pollution Fund does not prepare an annual budget due to the nature of its operations.

SHIP-SOURCE OIL POLLUTION FUND

ADDITIONAL INFORMATION

FOR THE YEAR ENDED MARCH 31, 2021

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	2021	2020
SCHEDULE A - Administrative services, salaries and office expenses		
Salaries and benefits	\$ 925,328	\$ 815,393
Office expenses	72,782	127,200
Information technology services	64,827	67,893
Telecommunications	8,194	10,337
Other administrative services	166,709	173,267
	\$ 1,237,840	\$ 1,194,090
SCHEDULE B – Consulting fees		
Claims consultants and investigators	\$ 173,129	\$ 158,188
Special projects – management and expertise services	172,325	205,342
Graphic and multimedia services	13,938	36,424
	\$ 359,392	\$ 399,954

APPENDIX

LIST OF INCIDENT REPORTS AND CLAIMS FILES IN 2020-2021

The index of cases provides additional information on each of the cases of the 2020-2021 files portfolio.

- Cases are listed by province and territory
- The “Status” column indicates whether the file is open or closed as of March 31, 2021

- The type of oil is not always known or defined, especially at the incident report stage, i.e. before a claim is filed.

A summary of each of the cases listed below can be found on the Fund’s website (www.sopf.gc.ca under Incidents and Claims Portfolio).

2020-2021 INCIDENT INDEX

SHIP NAME AND LOCATION	YEAR OF INCIDENT	SHIP TYPE AND FLAG	SPILL	OIL TYPE	SECURITY	CLAIM(S) FILED		OFFER		RECOVERY STATUS	STATUS AS OF 2021-03-31
						CLAIMANT AND DATE OF CLAIM	AMOUNT \$	DATE	AMOUNT \$ %	\$ RECOVERED	
NEWFOUNDLAND AND LABRADOR											
BAFFIN SOUND ST ANTHONY	2015	DERELICT FISHING VESSEL				DFO/CCG 2015-12-09	22,185.86	2016-02-25	22,185.86 100%		OPEN
BBC OREGON BAY BULLS	2019	CARGO SHIP									OPEN
BEVERLY GAIE SUMMERSIDE MARINA	2018	CONVERTED PLEASURE CRAFT				DFO/CCG 2019-07-12	151,648.78	2019-10-31	9,614.71 6.34%		OPEN
EYELANDER WITLESS BAY	2017	FISHING VESSEL	✓		✓	DFO/CCG 2019-07-25	12,812.93	2019-10-17	10,272.68 80.20%	10,812.08	CLOSED
FRANÇOISE CLARENVILLE HARBOUR	2017	DERELICT FISHING VESSEL				DFO/CCG 2019-09-12	381,296.28	2020-06-10	73,908.57 19.38%		OPEN
JENNIFER HOLLY MAIN BROOK	2019	DERELICT FISHING VESSEL	✓	FUEL, BASE OIL, HYDRAULIC OIL		DFO/CCG 2019-10-28	76,171.64	2020-03-06	72,939.19 95.76%		OPEN
LADY ELIZABETH I WOODY POINT	2018	PASSENGER/ CARGO VESSEL				DFO/CCG 2019-12-13	8,489.01	2020-03-11	1,620.37 19.09%		OPEN
LADY MIRANDA COW HEAD	2018	FISHING VESSEL				DFO/CCG 2020-05-25	7,569.90	2020-06-25	7,569.90 100%		OPEN
LUCAS & REBECCA BAY OF ISLANDS	2017	FISHING VESSEL				DFO/CCG 2017-11-03	17,744.64	2017-12-13	17,744.64 100%		OPEN
MARCEL ANGIE II GRAND BANK	2018	FISHING VESSEL				DFO/CCG 2020-11-03	19,156.45	2021-03-02	14,622.14 76%		OPEN
MEGAN C PORT AUX BASQUES	2019	DERELICT FISHING VESSEL				DFO/CCG 2019-05-01	11,784.58	2019-06-12	8,170.82 69.33%		OPEN

SHIP NAME AND LOCATION	YEAR OF INCIDENT	SHIP TYPE AND FLAG	SPILL	OIL TYPE	SECURITY	CLAIM(S) FILED		OFFER		RECOVERY STATUS	STATUS AS OF 2021-03-31
						CLAIMANT AND DATE OF CLAIM	AMOUNT \$	DATE	AMOUNT \$ %	\$ RECOVERED	
NOBLE MARINER NIPPER'S HARBOUR	2018	DERELICT FISHING VESSEL	✓	DIESEL		DFO/CCG 2019-05-30	41,687.99	2019-07-11	36,601.67 87.80%		OPEN
NORTHERN RANGER LEWISPORTE	2019	PASSENGER VESSEL (FERRY)	✓								OPEN
NORTHERN STAR WITLESS POINT	2018	FISHING VESSEL				DFO/CCG 2019-12-11	4,574.63	2020-02-18	3,941.51 86.16%		CLOSED
OMNI ST.LAURENT STEPHENVILLE	2019	TUG									OPEN
SIKUK CLARENVILLE HARBOUR	2017	DERELICT FISHING VESSEL				DFO/CCG 2019-03-01	195,109.00	2020-06-10	79,826.14 40.91%		OPEN
STELIE II PORT SAUNDERS	2016	DERELICT FISHING VESSEL				DFO/CCG 2020-10-08	114,897.43				OPEN
SWEVEN ST. JOHN'S	2019	PLEASURE CRAFT				DFO/CCG 2021-03-11	6,134.57				OPEN
NOVA SCOTIA											
CORMORANT BRIDGEWATER	2015	DERELICT – WRECK	✓	HYDRAULIC OIL		DFO/CCG 2015-11-02	549,581.18	2016-03-29	515,267.25 93.76%		OPEN
CORMORANT BRIDGEWATER	2019	DERELICT – WRECK									OPEN
FARLEY MOWAT SHELBURNE HARBOUR	2015	DERELICT	✓			DFO/CCG 2016-01-18	814,815.05	2016-06-29	813,316.15 99.82%		OPEN
FARLEY MOWAT SHELBURNE HARBOUR	2015	DERELICT	✓			TOWN OF SHELBURNE 2017-06-23	47,598.78	2017-07-18	43,641.94 91.69%		OPEN
HYDRA MARINER HALIFAX	2021	PLEASURE CRAFT									OPEN
ILE D'AIX HALIFAX HARBOUR	2018	OTHER									CLOSED
NORDIKA DESGAGNÉS SCATARIE ISLAND	2018	CARGO SHIP				DFO/CCG 2020-03-02	12,218.63	CLAIM WAS WITHDRAWN BY CLAIMANT			CLOSED
PRIMO LUNENBURG	2021	DERELICT FISHING VESSEL									OPEN
RYAN ATLANTIC II (FORMERLY CAPE ROUGE) BRIDGEWATER	2014	EX-FISHING VESSEL	✓			DFO/CCG 2014-06-30	362,575.38	2015-03-19	358,117.79 98.77%		OPEN
STEPHANIE & DARREL SHELBURNE	2007	FISHING VESSEL -ABANDONED	✓	FUEL AND HYDRAULICS		DFO/CCG 2008-02-09	13,627.73	2008-05-13	13,627.73 100%		OPEN
NEW BRUNSWICK											
L'ÉPAULARD BLACKS HARBOUR	2018	FISHING VESSEL	✓	DIESEL		DFO/CCG 2020-11-03	7,821.73	2021-01-26	7,674.80 98%		OPEN
SBI CARIOCA BELLEDUNE	2017	BULK CARRIER			✓						OPEN

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QUEBEC											
GRT SYNERGIE CARLTON-SUR-MER	2018	FISHING VESSEL	✓	DIESEL		DFO/CCG 2020-06-22	10,449.01	2020-11-12	1,297.67 12.42%		OPEN
KATHRYN SPIRIT BEAUHARNOIS AREA, ST. LAWRENCE RIVER (LAC ST. LOUIS AREA)	2013	WRECK									OPEN
LE SEPT ILIEN GROS-MORNE, GASPÉSIE	2018	FISHING VESSEL				DFO/CCG 2020-06-22	3,087.54	2020-10-19	1,996.69 64.70%		OPEN
OCEAN UANNAQ NEW CHAMPLAIN BRIDGE, MONTREAL	2016	TUG	✓			DFO/CCG 2021-03-31	5,074.17				OPEN
ONTARIO											
MARGARETHE WOLFE ISLAND	2018	PLEASURE CRAFT				DEDICATED ENVIRONMENTAL SERVICES INC. 2019-05-22	4,854.41	2019-10-17	2,550.80 52.5%		CLOSED
PITTS CARILLON 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	CLOSED
PITTS CARILLON 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	CLOSED
BRITISH COLUMBIA											
ALASKA PLAZA AND SEA LANDER PORT MCNEIL	2020	BARGES	✓								OPEN
ALHENA ALERT BAY	2018	FISHING VESSEL				DFO/CCG 2020-10-30	12,654.91	2021-01-06	5,440.03 42.99%		OPEN
ANAPAYA 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%		OPEN
ATANOOK GANGES HARBOUR	2018	ABANDONED SAILING VESSEL (PLEASURE CRAFT)				DFO/CCG 2020-10-05	19,017.43	2020-12-24	4,905.93 25.80%		OPEN
ATREVIDA NO. 1 MAPLE BAY, NEAR ARBUTUS POINT	2018	PLEASURE CRAFT, EX-FERRY	✓	DIESEL		DFO/CCG 2020-12-23	223,719.10	CLAIM WAS DISMISSED			OPEN
AURA LEE COWICHAN BAY	2018	DERELICT EX-FISHING VESSEL	✓	DIESEL		DFO/CCG 2020-12-08	42,176.45	2021-03-31	33,908.13 80%		OPEN
BARGES KING ARTHUR & SL 104 MAMQUAM BLIND CHANNEL	2016	BARGES				DFO/CCG 2018-04-04	819,134.67	2018-10-31	814,012.78 99.37%		OPEN

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BIG KAHUNA PORT HARDY	2017	ABANDONED FISHING VESSEL				DFO/CCG 2019-09-30	9,016.06	2019-12-24	6,811.45 75.55%		OPEN
BLUE PACIFIC NO.1 SALTSPRING ISLAND	2016	EX-FISHING VESSEL	✓	FUEL OIL		DFO/CCG 2018-10-09	132,339.06	2019-01-23	114,129.56 86.24%		OPEN
CENTRAL ISLE FRENCH CREEK	2016	EX-FISHING VESSEL				DFO/CCG 2018-02-20	25,035.02	2018-04-04	24,108.07 96.30%		OPEN
DARRELL BAY INCIDENT DARRELL BAY, SQUAMISH	2018	EX-FISHING VESSELS, PLEASURE CRAFT, EX-TUG (ALL DERELICT)	✓	DIESEL		DFO/CCG 2020-12-17	202,213.22				OPEN
DELPHINUS GOWLLAND ISLAND	2018	DERELICT SAILING VESSEL				DFO/CCG 2020-02-05	25,579.91	2020-07-31	4,378.08 17.12%		OPEN
ELF SQUAMISH HARBOUR, POINT ATKINSON, WEST VANCOUVER	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	CLOSED
ELVA M II STEVESTON HARBOUR, RICHMOND	2016	FISHING VESSEL	✓			STEVESTON HARBOUR AUTHORITY 2017-02-09	7,649.63	2017-02-22	7,649.63 100%	462.53	OPEN
ELVA M II STEVESTON HARBOUR, RICHMOND	2016	FISHING VESSEL	✓			DFO/CCG 2017-02-28	46,351.57	2017-03-31	46,351.57 100%	2,803.93	OPEN
FOSS 153 HAIDA GWAI	2020	BARGE	✓								OPEN
FRIDAY WHILE TSEHUM HARBOUR	2019	PLEASURE CRAFT	✓	DIESEL		DFO/CCG 2020-12-31	27,442.55	2021-03-03	10,531.22 38%		OPEN
GEORGE H. LEDCOR DEERING ISLAND, VANCOUVER	2018	TUGBOAT									OPEN
HALARY CAMPBELL RIVER	2018	DERELICT EX-FISHING VESSEL	✓	FUEL OIL		DFO/CCG 2020-10-09	25,413.14	2021-01-28	17,021.27 67%		OPEN
LAURIER II DEEP BAY	2014	MOTOR VESSEL				DFO/CCG 2018-01-22	384,365.01	2019-02-07	265,768.99 69.14%		OPEN
LIGHTSHIP LV76 (QUEEN OF EAST VANCOUVER) MISSION, (FRASER RIVER)	2017	DERELICT – SUNKEN SHIP									CLOSED
MARATHASSA 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	CLOSED
MAVERICK IV COWICHAN BAY	2018	DERELICT PLEASURE CRAFT				DFO/CCG 2020-09-24	52,522.44	2020-12-17	18,905.55 36%		OPEN

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MELAMPUS GOAT ISLAND, GANGES BAY	2017	PLEASURE CRAFT				DFO/CCG 2019-08-15	15,106.38	2019-12-24	6,522.62 43.18%		CLOSED
MISS TERRI DISCOVERY HARBOUR, CAMPBELL RIVER	2018	DERELICT FISHING VESSEL				DFO/CCG 2019-09-04	88,576.24				OPEN
MISTANN 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	OPEN
NATHAN E. STEWART SEAFORTH CHANNEL, BELLA BELLA	2016	TUG	✓	DIESEL FUEL AND LUBE OILS	✓	HEILTSUK TRIBAL COUNCIL (HTC) 2019-10-11					OPEN
NIKA CAMPBELL RIVER	2017	EX-FISHING VESSEL	✓	DIESEL		DFO/CCG 2019-03-26	23,646.38	2019-05-01	22,720.29 96%		OPEN
NUMAS ISLE 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%		CLOSED
PACIFIC FIBRE BARGE NO. 1 PORT MELLON	2018		✓	DIESEL		DFO/CCG 2019-12-02	121,187.55	CLAIM WAS DISMISSED			OPEN
RELIANT GIBSONS	2020	TUG				RELIANT MARINE SERVICES LTD 2020-09-09	90,000.00	CLAIM WAS DISMISSED			CLOSED
ROLANO CORTEZ ISLAND	2019	DERELICT PASSENGER VESSEL				DFO/CCG 2021-02-02	248,265.04				OPEN
SALEROSA OAK BAY	2017	FERRO CEMENT SAILBOAT	✓	DIESEL		DFO/CCG 2019-02-01	62,673.20	2019-04-11	8,254.51 13.17%		OPEN
SAN JOLYNE III DUSENBURY ISLAND, PENDER HARBOUR	2018	DERELICT FISHING VESSEL	✓	FUEL OIL		DFO/CCG 2020-10-16	181,475.67				OPEN
SC 170 PORT MCNEIL	2017	FISHING VESSEL	✓			DFO/CCG 2019-06-04	11,606.93	2019-07-11	8,528.54 73.48%		OPEN
SEA-QUE SIDNEY MARINA, SIDNEY	2016	MOTOR VESSEL				DFO/CCG 2018-08-02	18,730.67	2018-09-21	18,730.67 100%		OPEN
SEAL ROCK LYALL HARBOUR, SATURNA ISLAND	2019	DERELICT PLEASURE CRAFT				DFO/CCG 2021-03-15	51,805.59				OPEN
SEVERN MIST ALERT BAY	2018	DERELICT FISHING VESSEL	✓	DIESEL		DFO/CCG 2020-02-05	28,226.69	2020-05-26	703.28 2.49%		CLOSED
SHEENA M GIBSONS	2019	TUG	✓	FUEL	✓						OPEN
SHIMOIGET COWICHAN BAY	2017	DERELICT				DFO/CCG 2019-09-24	43,078.26	2020-01-30	5,730.96 13.30%		CLOSED
SIMUSHIR QUEEN CHARLOTTE ISLANDS	2014	MOTOR VESSEL			✓						CLOSED

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SPUDNIK HOWE SOUND (SQUAMISH)	2014	DERELICT VESSEL	✓			DFO/CCG 2016-04-28	149,043.60	2016-07-26	131,064.45 87.94%		OPEN
SPUDNIK SURREY	2020	DERELICT VESSEL									OPEN
TAKESHIO OAK BAY	2020	BULK CARRIER									CLOSED
THERESA N BAMFIELD	2018	FISHING VESSEL	✓	DIESEL		DFO/CCG 2020-07-24	28,656.55	2020-10-22	28,656.55 100%		OPEN
TINKER II CAMPBELL RIVER	2018	PLEASURE CRAFT				DFO/CCG 2020-01-07	8,979.14	2020-04-08	3,892.56 43.35%		OPEN
TYMAC NO. 20 TSEHUM HARBOUR, SYDNEY	2017	DERELICT TUG	✓	DIESEL		DFO/CCG 2019-07-09	36,177.31	2019-08-29	26,786.87 74.04%		OPEN
UNKNOWN NAME (BARGE) PARKSVILLE	2020	BARGE	✓	DIESEL							OPEN
UNKNOWN NAME (DECK BARGE) PORT MELLON	2019	DERELICT BARGE				DFO/CCG 2021-02-26	396,954.40				OPEN
UNKNOWN NAME (BLACK GAFF CUTTER) COMOX BREAKWATER	2018	PLEASURE CRAFT				DFO/CCG 2019-12-17	30,993.43	2020-07-31	3,164.17 10.21%		OPEN
UNKNOWN NAME (BLUE TRAWLER) CAMPBELL RIVER	2017	CONVERTED FISHING TRAWLER				DFO/CCG 2019-09-30	26,640.92	2020-04-27	23,505.95 88.23%		OPEN
UNKNOWN NAME (HOUSEBOAT) SICAMOUS NARROWS SHUSWAP LAKE	2020	HOUSEBOAT (PLEASURE CRAFT)	✓	DIESEL		DFO/CCG 2020-12-02	6,941.10				OPEN
UNKNOWN NAME (WHITE SPORT FISHER) COWICHAN BAY	2018	PLEASURE CRAFT	✓	DIESEL		DFO/CCG 2019-12-27	29,705.45	2020-06-16	19,482.51 65.59%		CLOSED
VAHINE MOANA FERNWOOD POINT	2018	SAILING VESSEL (PLEASURE CRAFT)				DFO/CCG 2020-03-19	14,473.00	2020-05-05	2,823.73 19.51%		CLOSED
VIKING I NANAIMO	2016	FISHING VESSEL	✓	OIL & POTENTIAL FUEL		NANAIMO PORT AUTHORITY 2017-05-03	31,458.19	2017-08-30	29,432.92 93.56%		OPEN
VIKING I NANAIMO	2016	FISHING VESSEL	✓	OIL & POTENTIAL FUEL		DFO/CCG 2018-02-20	128,246.91	2018-04-24	128,246.91 100%		OPEN
WEST ISLAND 395 HAIDA GWAIL	2018	LODGE BARGE	✓		✓	HAIDA TOURISM LIMITED PARTNERSHIP (HAICO) 2019-01-14	1,857,314.06				OPEN
WEST ISLAND 395 HAIDA GWAIL	2018	LODGE BARGE	✓			DFO/CCG 2020-09-01	64,697.02	2021-02-25	36,521.88 56%		OPEN

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WEST ISLAND 395 HAIDA GWAI	2018	LODGE BARGE	✓		✓	BC MINISTRY OF ENVIRONMENT AND CLIMATE CHANGE STRATEGY 2020-07-29	114,463.99	2021-03-31	72,996.90 64%		OPEN
WHITE ORCA LADYSMITH	2017	PLEASURE CRAFT, DERELICT AND / OR ABANDONED	✓			DFO/CCG 2019-09-24	63,404.86	2019-12-20	49,005.97 77.29%		OPEN
ZIDELL MARINE 277 & JAKE SHEARER GOOSE ISLAND	2017	TUG AND BARGE			✓						OPEN
ZODIAC LIGHT KITAMAAT VILLAGE	2018	FISHING VESSEL	✓	DIESEL		DFO/CCG 2020-01-15	176,462.73	2020-06-01	133,879.10 75.87%		OPEN
ZODIAC LIGHT KITAMAAT VILLAGE	2018	FISHING VESSEL	✓	DIESEL		HAI SLA NATION COUNCIL 2020-02-12	14,028.00	2020-03-26	14,028.00 100%		OPEN
NUNAVUT											
AKADEMIK IOFFE KUGAARUK	2018	PASSENGER VESSEL			✓						OPEN
NORTHWEST TERRITORIES											
INVESTIGATOR TOKER POINT	2016	BARGE	✓	FUEL OIL	✓						OPEN