



Ship-source Oil Pollution Fund



The Administrator's Annual Report
2013 - 2014

Canada 

Cover Image: “*Pacific Challenge*” (Section 2.35 refers)

On June 27, 2013, the Canadian Coast Guard informed the Administrator that the ex-tug *Pacific Challenge* was in danger of sinking at its anchorage off Pender Harbour, British Columbia. The owner reported that hull deterioration was the cause for the slow ingress of water, but that he was unable to respond to the incident.

Photo by Engineer Andrei Zapisov,
courtesy of the Powell River Life Boat Station

With the co-operation of
Jeff Brady, Fisheries and Oceans Canada
Environmental Response
Richmond, British Columbia, Canada

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The Administrator's Annual Report

2013-2014

Canada

The Honourable Lisa Raitt, P.C., M.P.
Minister of Transport, Infrastructure and Communities
Ottawa, Ontario
K1A 0N5

Dear Minister:

Pursuant to Section 121 of the *Marine Liability Act* (MLA), 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, 2014.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A. Popp', with a stylized flourish above the name.

Alfred H. Popp, QC
The Administrator of the
Ship-source Oil Pollution Fund

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Abbreviations

AMOP	Arctic and Marine Oil Spill Program
ATIP	Access to Information and Privacy
BIO	Bedford Institute of Oceanography
CCG	Canadian Coast Guard
CLC	Civil Liability Convention
CMAC	Canadian Marine Advisory Council
CMLA	Canadian Maritime Law Association
CPA	Canada Port Authority
CSA	<i>Canada Shipping Act</i>
CWS	Canadian Wildlife Service
DFO	Department of Fisheries and Oceans
EC	Environment Canada
ECRC	Eastern Canada Response Corporation
ER	Emergency Response
ESTD	Emergencies Science and Technology Division
EPA	Environmental Protection Agency
EU	European Union
FV	Fishing Vessel
GT	Gross Tonnage
HNS	Hazardous and Noxious Substances
IMO	International Maritime Organization
IOPC	Fund International Oil Pollution Compensation Fund
IT	Information Technology
ITOPF	International Tanker Owners Pollution Federation
LOU	Letter of Undertaking
MCTS	Marine Communication Traffic Services
MLA	<i>Marine Liability Act</i>
MOU	Memorandum of Understanding
MPCF	Maritime Pollution Claims Fund
MV	Motor Vessel
NASP	National Aerial Surveillance Program
NTCL	Northern Transportation Company Limited
P&I Club	Protection and Indemnity (Marine Insurance) Association
REET	Regional Environmental Emergency Team
RIM	Records and Information Management
RO	Response Organization
SDR	Special Drawing Rights*
SITREP	Situation Report
SOPF	Ship-source Oil Pollution Fund
TC	Transport Canada
TCMS	Transport Canada Marine Safety
WCMRC	Western Canada Marine Response Corporation

* The value of the SDR at April 1, 2014, was \$1.70394 CAD. This actual value is reflected in Figure 1.

Summary

The Canadian Compensation Regime

This Annual Report on the operations of the Ship-source Oil Pollution Fund (SOPF) covers the fiscal year ending March 31, 2014. Section 1 describes the Canadian compensation regime, which since January 2, 2010, is governed by Chapter 21 of the Statutes of Canada, 2009 – the amended *Marine Liability Act*. Canada’s national SOPF covers all classes of ships that discharge persistent and non-persistent oil, including oil spills from unknown sources which are commonly referred to as “mystery spills”.

Canada is currently a Member State of the 1992 International Oil Pollution Compensation Fund (1992 IOPC Fund), and the 1992 Civil Liability Convention (1992 CLC). In 2003, the international regime was expanded to include a Supplementary Fund Protocol. These funds mutualise the risk of persistent oil discharged from sea-going tankers. On October 2, 2009, Canada acceded to the International Convention on Civil Liability for Bunker Oil Pollution Damage, known as the 2001 Bunkers Convention. The Convention provides international rules governing compensation for spills of bunker oil carried onboard to fuel ships.

The total limits of liability and compensation available in Canadian waters, including the exclusive economic zone of Canada, are illustrated in Figure 1 – Section 1 refers.

Financial Section

The financial statements of the SOPF for the fiscal year were examined by independent auditors – Section 5 refers. During the year, six Canadian claims were settled and paid for in the amount of \$141,796.13 including interest. Furthermore, the SOPF paid to the 1992 IOPC Fund a contribution in the amount of \$1,028,982.01 for incidents that occurred outside of Canada – Table 1 refers.

During the fiscal year commencing April 1, 2014, the maximum liability of the SOPF is \$162,745,303 for all claims from one oil spill. As of April 1, the Minister of Transport has statutory power to impose a levy of 48.81 cents per metric ton of oil, as defined in the Act, imported by ship into or shipped from a place in Canada in bulk as cargo. The levy is indexed to the consumer price index annually. However, no levy has been imposed since 1976.

As of March 31, 2014, the accumulated surplus in the SOPF was \$405,291,718.

Canadian Oil Spill Incidents

The Administrator receives reports of oil pollution incidents from different sources, notably: the Canadian Coast Guard, the Department of Environment and the Transportation Safety Board Agency. Some of the incidents that were reported to the Administrator by the Canadian Coast Guard did not result in claims against the SOPF. These occurrences were usually dealt with satisfactorily at the local level, including acceptance of financial responsibility by the shipowner’s insurers. In most cases where the claims were settled by the shipowner there was no need for an investigation by the Administrator.

When the Administrator pays a claim, he has a statutory obligation to take all reasonable measures to recover the amount of payment from the owner of the ship or any other person liable. For that purpose the Administrator may commence legal proceedings. (Section 1: Funds of first and last resort refers.)

In claims where the responsible shipowner is clearly known, the services of legal counsel may be obtained for recourse action. In some situations involving abandoned and derelict vessels, the name of the shipowner is not always readily available. In these instances, when it is necessary to trace the name and location of the registered owner and identify assets that may be available for recovery purposes, the Administrator may obtain the services of a professional locator firm.

The oil spill incidents described in Section 2 indicate that status of oil pollution claims that were assessed and settled during the fiscal year. This section also includes claims that are in various stages of progress. As described in Section 2, the Administrator dealt with 42 active incidents files during the year. The current status of recovery action by the Administrator against shipowners is also noted in the oil spill incident section. During the fiscal year, 13 new claims were received in the aggregate amount of \$532,814.24. Investigations are underway but not all of the assessments of the claims received during the year were completed by March 31, 2014.

Outreach Initiatives

The Administrator continues with outreach initiatives aimed at raising awareness of the existence of the Ship-source Oil Pollution Fund and its availability to provide compensation for oil pollution caused by ships. This outreach affords an opportunity for the Administrator to further his personal understanding of the perspectives of individual claimants, shipowners, clean-up contractors and other stakeholders who respond to oil spill incidents and file claims with the Fund for compensation.

The Administrator personally participated in a number of outreach initiatives during the year. For example, he attended the Annual General Meeting of the Canadian Maritime Law Association. The meetings of the Association provide the Administrator with opportunities to cultivate contacts in the maritime community, as well as to keep abreast with the developments in maritime law both nationally and internationally.

The Administrator visited the offices of the three separate Canadian Coast Guard regional headquarters – i.e., Vancouver, Montreal and St. John's and, among other claim filing issues, he discussed the revised SOPF claims manual. The purpose of the claims manual is to assist claimants in the filing of claims with the SOPF. It provides general information about the type of claims that may be submitted to the Fund for compensation, and the particulars that supporting claim documentation should include. Outreach initiatives are addressed in Section 3.

The International Compensation Regime

During the fiscal year the Administrator attended meetings of the governing bodies of the International Oil Pollution Compensation Funds in London, United Kingdom. These meetings were held, respectively, in April and October, 2013, both of which the Administrator attended as an advisor to the Canadian delegation.

The Administrator also served as chairman of the Consultation Group established in October 2013 by the 1971 Administrative Council to consider options and make recommendations for the early winding up of the 1971 Fund. In addition to previous meetings, the Consultation Group held two meetings, respectively, in April and September 2013.

This Annual Report highlights some of the agenda items discussed at the IOPC Fund meetings. The Administrator is interested in different aspects of the IOPC Fund - namely, matters relating to incidents and budgetary allocations. Furthermore, the Administrator deems it desirable to keep close attention on the claim policies of the IOPC Fund. Active participation at the international meetings ensure that the Canadian Ship-source Oil Pollution Fund claim policies and practices are as closely aligned as possible with those of the 1992 IOPC Fund (Section 4 refers).

1. The Canadian Compensation Regime

The Ship-source Oil Pollution Fund (SOPF) was established under amendments to the former *Canada Shipping Act* (CSA) that came into force on April 24, 1989. The SOPF succeeded the Maritime Pollution Claims Fund (MPCF), which had existed since 1973. In 1989, the accumulated amount of \$149,618,850.24 in the MPCF was transferred to the SOPF. Formerly the SOPF was governed by Part 6 of the *Marine Liability Act* (MLA), which superseded the above-mentioned amendments to the CSA. As of January 2, 2010, the Fund is governed by Part 7 of the Act, contained in amendments included in Chapter 21 of the Statutes of Canada, 2009.

The SOPF is a special account established in the accounts of Canada upon which interest is credited monthly by the Minister of Finance. Pursuant to the pertinent provisions of the MLA, the Minister of Transport has the statutory power to impose a levy on each metric ton of contributing oil imported into or shipped from Canada in bulk as cargo on a ship. The levy is indexed annually to the consumer price index, most recently to the amount 48.81 cents per metric ton. A levy of 15 cents was imposed from February 15, 1972, to September 1, 1976. During that period, a total of \$34,866,459.88 was collected and credited to the MPCF from 65 contributors. Payers into the MPCF included oil companies, power generating authorities, pulp and paper manufacturers, chemical plants and other heavy industries. No levy has been imposed since it was suspended in 1976.

In addition to containing important provisions governing the operation of the SOPF, the provisions contained in Chapter 21, referred to above, also implement two international instruments, which have been ratified by Canada as of October 2, 2009. These instruments are the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunkers Convention) and the Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 2003, (Supplementary Fund Protocol). The Bunkers Convention, as the name suggests, provides international rules governing bunkers spills. Canada has had a statutory bunkers regime since the early 1970s. Implementation of the international rules in Canada bring with them the additional advantage of the requirement that all ships having a gross tonnage greater than 1,000 must maintain insurance or other financial security. This security allows claimants for oil pollution caused by such ships to go directly against the insurer or other person providing financial security. It is anticipated that this feature could be of some benefit to the SOPF in recourse actions, since many of the claims handled by the Fund are in respect of non-tanker spills.

The Supplementary Fund Protocol sets up the International Oil Pollution Compensation Supplementary Fund (Supplementary Fund), which provides compensation for tanker spills in addition to what is currently provided by the 1992 IOPC Funds. Canadian participation in the Supplementary Fund provides additional protection for the SOPF in case of tanker spills that cause pollution damage in Canada or in waters under Canadian jurisdiction.

Subject to the terms and conditions of the governing legislation, the SOPF is available to pay claims for oil pollution damage or anticipated damage at any place in Canada, or in Canadian waters including the exclusive economic zone of Canada, caused by the discharge of oil from a ship. The SOPF pays established claims regarding oil spills from all classes of ships. It is not limited for purposes of compensation to spills from sea-going tankers carrying persistent oil, as are IOPC Funds.

The SOPF is also available to provide additional compensation (a fourth layer) in the event that compensation from the shipowner under the 1992 Civil Liability Convention and the IOPC Funds with respect to spills in Canada from oil tankers is insufficient to cover all established claims arising from such spills (*see Figure 1*).

During the fiscal year commencing April 1, 2014, the maximum liability of the SOPF is \$162,745,303 for all claims from one oil spill. This amount is indexed annually. The classes of claims for which the SOPF may be available include the following:

- Claims for oil pollution;
- Claims for costs and expenses of oil spill clean-up including the cost of preventative measures; and
- Claims for oil pollution damage and clean-up costs where the identity of the ship that caused the discharge cannot be established, known as mystery spills.

A widely defined class of persons in the Canadian fishing industry may claim for loss of income caused by an oil spill from a ship. The present statutory claims regime set out in Parts 6 and 7 of the MLA is based on the principle that the polluter should pay.

The SOPF is a fund of last resort, that is, it pays claims to the extent claimants have been unable to obtain full payment of their claims from the shipowner or any other party. It is also a fund of first resort, that is, claimants may file their claims directly with the SOPF which takes over the task of recovering compensation from the polluter or other responsible party to the extent that the Administrator finds the claim to be established.

As noted elsewhere in this report, Canada is a Contracting State to both the 1992 Civil Liability Convention and the 1992 Fund Convention. In addition, Canada is a Contracting State to the Supplementary Fund Protocol and therefore is a member of both the 1992 Fund and the Supplementary Fund.

These international funds are financed by levies on certain types of oil carried by sea. In most States the levies are paid by entities which receive oil after sea transport. Annual contributions are levied by the 1992 Fund to meet the anticipated payments of compensation and administrative expenses during the coming year. In Canada, the Administrator of the SOPF is responsible for reporting to the IOPC Funds annually the amount of contributing oil received in Canada by sea. Contributing oil means crude oil and fuel oil. Under the *Marine Liability Act*, it is mandatory for a person who receives oil, if the total quantity of oil received by the person or associated persons during the calendar year exceeds 150,000 metric tons, to report quantities of “contributing oil” imported by sea into Canada in each calendar year. The Administrator consolidates the national figure and reports it to the IOPC Funds Secretariat. It is on this basis that the amount of the Canadian contribution is determined. The obligation to pay contributions to the IOPC Funds on behalf of the Canadian oil receivers is fulfilled by the Ship-source Oil Pollution Fund. The amount of the levy varies from year to year.

SOPF: A Fund of Last Resort

As previously noted, the Canadian compensation regime is based on the fundamental principle that the shipowner is primarily liable for oil pollution caused by the ship up to its statutory limits of liability. The MLA makes the shipowner strictly liable for oil pollution damage caused by the ship, and for costs and expenses incurred by the Minister of Fisheries and Oceans and any other person in Canada for clean-up and preventive measures. In the case of tanker spills, the strict liability regime is governed by the 1992 Civil Liability Convention (CLC), given the force of law in Canada by section 48 of the MLA. In the case of bunker oil spills, the liability regime is governed by the Bunkers Convention, given the force of law in Canada by section 69 of the MLA. Oil spills not covered by either of these conventions are governed by the liability regime set out in section 76 and following of the MLA.

As provided in the MLA, in the first instance, a claimant can take action against a shipowner. The Administrator of the SOPF is a party by statute to any litigation in Canadian courts commenced by a claimant against a shipowner, its guarantor, or the IOPC Funds (see section 109 of the MLA). In such event, the extent of the SOPF's liability as a last resort is stipulated in section 101 of the MLA. The Administrator also has the power and authority to participate in any settlement of such litigation, and may make payments out of the SOPF as may be required by the terms of the settlement.

A Response Organization (RO) as defined in the CSA has no direct claim against the SOPF, but it can assert a claim for unsatisfied costs and expenses after exhausting its right of recovery against the shipowner.

SOPF: A Fund of First Resort

The SOPF can also be a fund of first resort for claimants, including the Crown. As provided in section 103 of the MLA, any person may file a claim with the Administrator of the SOPF respecting oil pollution loss or damage or costs and expenses originating from a spill from a ship, with the one exception. As previously stated, a RO, established under the CSA, has no direct claim against the SOPF.

The Administrator, as an independent authority, has the duty to investigate and assess claims filed with the SOPF. For these purposes, the Administrator has the powers of a commissioner under Part I of the *Inquiries Act*, which includes the power to summon witnesses, to require them to give evidence under oath and to obtain documents.

The Administrator may either make an offer of compensation or decline the claim to the extent that it has not been established. The only recourse of an unsatisfied claimant against a final determination of the Administrator is by way of appeal to the Federal Court of Canada, which must be made within 60 days after notification of the Administrator's decision.

When the Administrator pays a claim out of the SOPF, the Administrator is subrogated to the rights of the claimant and is obligated to take all reasonable measures to recover the amount of compensation paid to the claimant from the shipowner or any other person liable. As a consequence, the Administrator is empowered to commence an action *in rem* against the ship (or against the proceeds of sale, if the ship has been sold) to obtain security to protect the SOPF in the event that no other security is provided. The Administrator is entitled to obtain security either prior to or after receiving a claim, but the action *in rem* can only be continued after the Administrator has paid the claim and has become subrogated to the rights of the claimant (see section 102 of the MLA).

As indicated above, the Administrator has a duty to take reasonable measures to recover the compensation paid to claimants out of the SOPF from the owner of the ship, the IOPC Funds, or any other person. This includes the right to prove a claim against the shipowner's limitations fund set up under the 1992 CLC.

It is worth noting that all claims that arise under the MLA must be made within the established time limits. Those time limits are prescribed either by the international convention that governs the claim or by the time limits set out in the Act (see subsection 77(6)). Particularly important to note is that shorter time limits are prescribed by the Act in those instances where the claimant elects to file the claim with the Administrator (first resort) (see subsection 103(2)). The purpose of shorter time limits is to enable the Administrator to pursue the claim by way of recourse action within the required time limits where the claim has been established and has been paid out of the SOPF.

Ship-source Oil Pollution Fund

Notes:

- (1) *Figure 1* illustrates the current limits of liability and compensation for oil tanker spills in Canada.
- (2) *Table 1* shows the Canadian contributions to the International Funds since 1989.

Figure 1

**Limits of Liability and Compensation
Per Incident for Oil Tanker Spills in Canada**
Based on the value of the SDR (\$1.70394) on April 1, 2014

International Conventions and Funds	\$1,277,955,000
Total Domestic Fund (SOPF)	\$162,745,303
Total Available to Canada	\$1,440,700,303

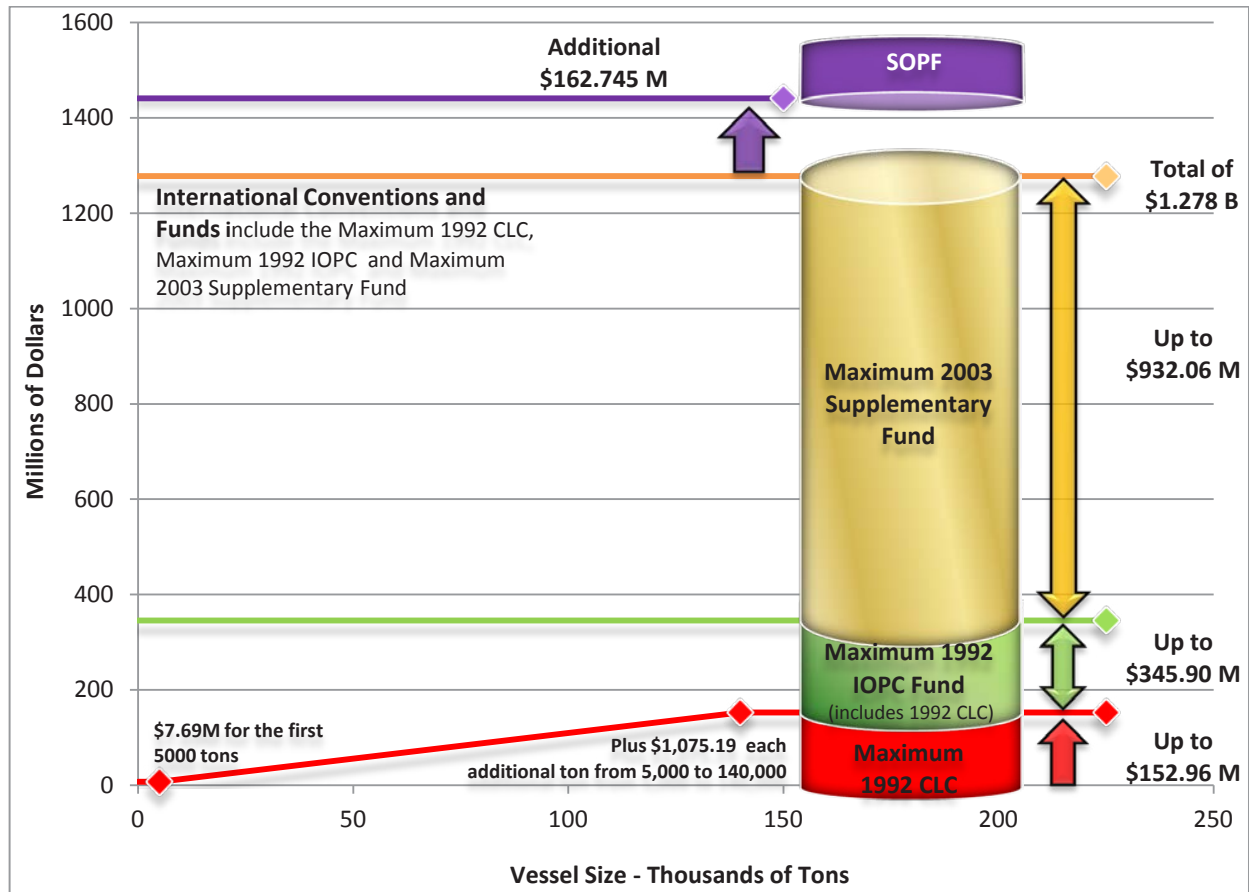


Figure 1 shows the limits of liability and compensation available under the 1992 CLC and the 1992 IOPC Fund Convention. The Supplementary Fund provides \$932.06 million beyond the amount available under the CLC and IOPC Funds.

The aggregate amount available under the 1992 CLC, the 1992 IOPC Fund and the Supplementary Fund is \$1.278 billion. The SOPF amount of \$162.745 million, on top of the International Conventions, results in approximately \$1.441 billion being available for a tanker spill in Canadian domestic waters, including the territorial sea and the exclusive economic zone.

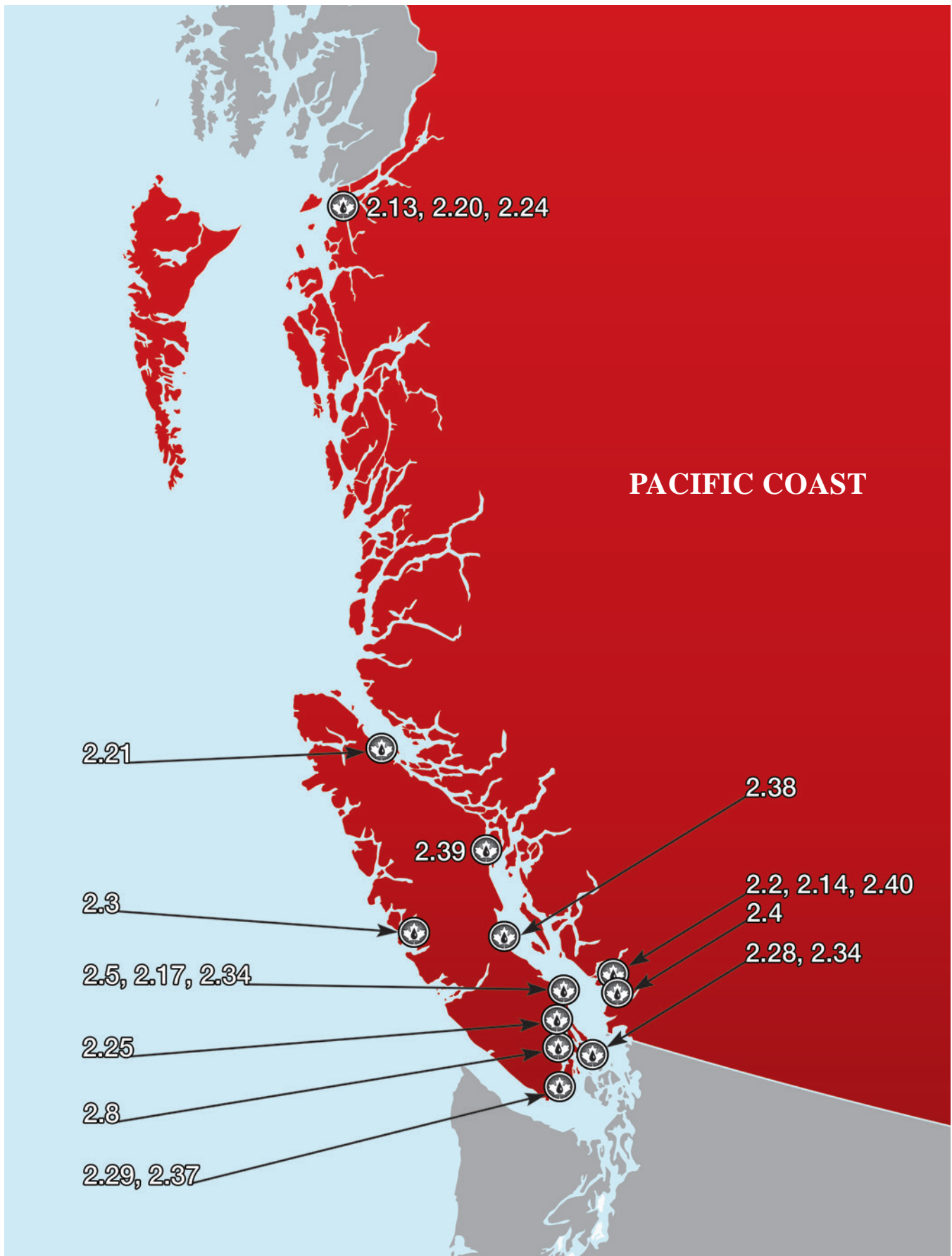
Table 1**Canadian Contributions to the International Funds**

The amount of nearly \$54 million that is listed below reflects the contributions Canada has paid to the IOPC Funds since 1989.

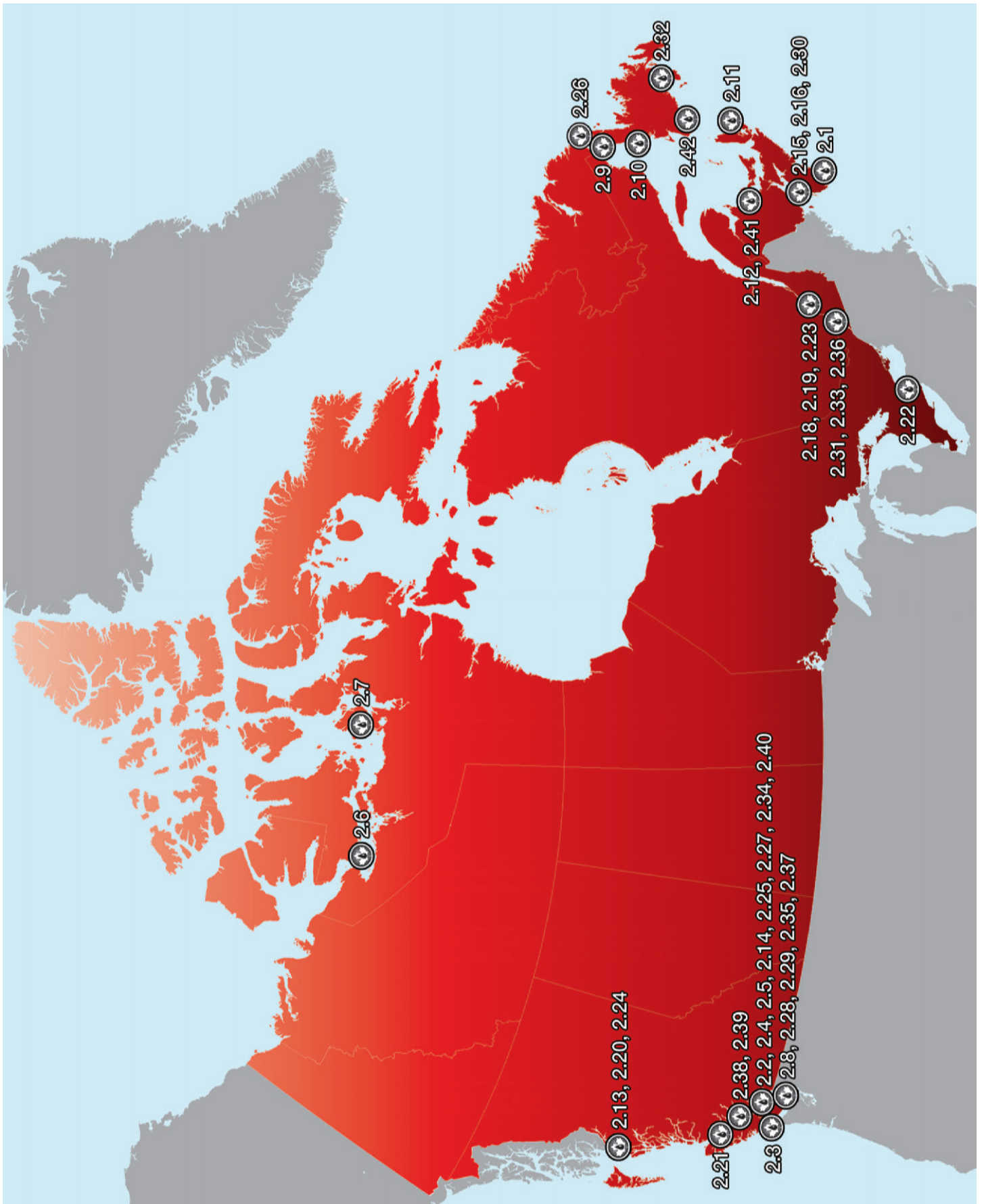
Fiscal Year	Paid from the SOPF (\$)
1989/90	207,207.99
1990/91	49,161.28
1991/92	1,785,478.65
1992/93	714,180.48
1993/94	4,927,555.76
1994/95	2,903,695.55
1995/96	2,527,058.41
1996/97	1,111,828.20
1997/98	5,141,693.01
1998/99	902,488.15
1999/00	273,807.10
2000/01	6,687,696.71
2001/02	2,897,244.45
2002/03	3,219,969.17
2003/04	4,836,108.49
2004/05	3,448,152.80
2005/06	-
2006/07	360,233.37
2007/08	106,305.06
2008/09	5,161,013.63
2009/10	-
2010/11	3,895,877.19
2011/12	1,394,815.32
2012/13	318,156.19
2013/14	1,028,982.01
Total	53,898,708.97

Note (1): There was no call for Canadian contributions to the International Funds during the fiscal years 2005-2006 and 2009-2010.

Note (2): In 2013 the IOPC Funds' Secretariat advised that, because of the closing of the *Erika* Major Claims Funds, the SOPF was being reimbursed the amount of £1,086,326.38 sterling. The total amount of the 2013/14 contribution noted above was covered by the amount of this IOPC refund, with the remaining balance of £529,837.19 sterling, (\$979,668.96 CDN) refunded to the SOPF. (Section 4.4 refers to this credit balance.)







2. Canadian Oil Spill Incidents

The Administrator receives many reports of oil pollution incidents from a variety of sources. These include individuals who wish to be advised if they are entitled to compensation under the *Marine Liability Act* for costs and expenses incurred in the clean-up of oil pollution. The Administrator responds to all enquiries about compensation entitlement and investigates all claims resulting from oil pollution that are submitted to him. The Administrator is aware that additional oil pollution incidents are reported nationally, but most of them are minor oil sheens. Others may involve greater quantities of oil but are not brought to the attention of the Administrator, because they were satisfactorily dealt with at the local level. A number of ship-source oil pollution incidents are dealt with by the shipowner through contractual arrangements with the applicable Canadian response organization.

This section summarizes the 42 incident files which were handled by the Administrator during the fiscal year beginning April 1, 2013, and ending March 31, 2014. They involve either claims filed with the SOPF, or those for which some action may have been initiated to ensure that the SOPF's interests are properly protected. Some 13 new claims were received during the fiscal year in the aggregate amount of \$532,814.24. Investigations are ongoing with regards to the outstanding claims filed with the Fund, but not all of the assessments of the claims were completed by the end of the fiscal year. During the fiscal year, six claims were settled and paid in the total amount of \$141,796.13 including interest.

Note: The location of incidents is indicated on the illustrated maps.

When the Administrator pays a claim he has a statutory obligation to take all reasonable measures to recover the amount of payment from the owner of the ship or any other person liable. For that purpose, the Administrator may commence legal proceedings. (Section 1: Funds of first and last resort refers.) In claims where the responsible shipowner is known, the services of legal counsel may be obtained to commence recourse action where appropriate. In some situations involving abandoned and derelict vessels, the name of the shipowner is not always readily available. In these instances, the Administrator may engage a professional locator service to trace the name and location of the registered owner and identify assets that may be available for recovery purposes.

2.1 Stephanie & Darrel (2007)

Case number: 120-530

On April 11, 2007, the Port Manager of the Shelburne Marine Terminal, in Nova Scotia, informed the Canadian Coast Guard (CCG) that a 45-foot fishing vessel secured to its wharf had been abandoned. It contained approximately 3,500 litres of fuel plus hydraulic oils. The vessel had been pumped out several times to prevent sinking alongside the terminal. Consequently, on April 17, CCG representatives met with Environment Canada and Transport Canada personnel at the terminal to determine what action should be taken. All parties agreed that the pollutants should be removed. No response had been received from the owner indicating that he would take responsibility for the vessel and the pollution threat that it posed.

On June 1, a contract was awarded to RMI Marine Limited to remove all the oil contaminants found onboard the abandoned fishing vessel. The contract included disposal of the waste oil. The contractor's rates were as per a standing offer agreement between the company and CCG. On June 8, the clean-up operation was completed. Transport Canada and CCG personnel inspected the vessel and advised the Port Manager and Environment Canada that the vessel was as clean from pollutants as could be expected.

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

On May 13, 2008, the Administrator, having completed an investigation and assessment of the claim, made an offer to DFO/CCG in the amount of \$13,627.73 plus interest in full and final settlement. The offer was accepted and the Administrator directed payment in the amount of \$14,505.11, inclusive of interest.

The Administrator commenced a recovery action in the Supreme Court of Nova Scotia in Halifax on December 10, 2008. A Certificate of Judgment was registered on December 23, 2008, in both the Land Registry and Personal Property Security Registry in Nova Scotia. These registrations resulted in the judgment representing an encumbrance against any property the owner of the vessel may have or acquire. The registration of the judgment under the *Land Legislation Act* expired on December 23, 2013, and the registration in the Personal Property Registry expired on January 5, 2014. The Administrator renewed the registration for five years. It will be brought forward in November 2018. Meanwhile, the file remains open.

2.2 La Lumiere (2008)

Case number: 120-531

On May 10, 2008, an article in the newspaper, Vancouver Sun, reported the sinking of the *La Lumiere* (ex: *Seaspan Chinook*) at Britannia Beach in Howe Sound, British Columbia. There was an upwelling of diesel oil into Howe Sound. The wooden-hull *La Lumiere* was originally a Second World War heritage tug built in 1944 for the United States Navy. The Transport Canada Vessel Registration Query System (VRQS) shows the Maritime Heritage Society of Vancouver to be the owner.

The Administrator instructed counsel to engage a marine surveyor to attend at Britannia Beach to monitor clean-up operations and report on developments. The surveyor reported that a Canadian Coast Guard (CCG) response team had arrived on-site in May and had deployed a 1,600-foot oil containment boom to encircle the position where oil was upwelling from the sunken vessel – approximately 100 metres offshore. By May 15, the upwelling of hydrocarbons had decreased markedly to several small globules per second.

The CCG engaged the services of Fraser River Pile and Dredge and Canpac Divers to use a remotely operated vehicle to locate the *La Lumiere* to determine the cause of sinking and assess the condition of the hull. On the second dive, the submerged vessel was positively identified as the *La Lumiere*. It was found resting on a slope in depths ranging from 245 to 290 feet. Video footage was obtained and the hull appeared intact. On May 17, only light intermittent oil sheen was sighted. CCG then engaged the response organization, Burrard Clean, to remove the oil containment boom. The incident was then moved to a monitoring-only stage.

On May 7, 2010, just days short of being time-barred, the Department of Fisheries and Oceans (DFO/CCG) filed a claim in the amount of \$127,149.07, pursuant to the *Marine Liability Act* (MLA). Receipt of the claim was acknowledged on May 14.

On February 1, 2011, after investigation and assessment of the claim, the Administrator made a final offer to DFO/CCG for the established amount of \$85,641.19, plus interest, in accordance with the MLA. On April 1, the offer was accepted by DFO/CCG. In accordance with the MLA, the Administrator directed payment of \$93,210.63, inclusive of interest.

Prior to June 23, 2006, the registered and beneficial owner of the vessel was the Maritime Society of Vancouver. The Society ceased operating on June 23, 2006, and was dissolved. Pursuant to the *Society Act of British Columbia*, the assets of the Society were surrendered to Her Majesty the Queen in right

of British Columbia. Consequently, on April 21, 2011, counsel for the Administrator requested that the Province of British Columbia pay the Administrator the amount of \$85,641.19, plus interest, in respect of the oil pollution remediation costs. The province denied that it was the owner of the vessel and refused to pay the costs. On May 3, 2011, counsel commenced legal proceedings against the Province of British Columbia. During the litigation process, the solicitors for the Ship-source Oil pollution Fund and the province of British Columbia discussed a potential out-of-court settlement for this claim. As a result, on February 8, 2013, the province accepted the Administrator's counter offer to settle the action for the sum of \$60,000.00, inclusive of all costs and disbursements. In the Administrator's judgment the amount of the settlement was reasonable, taking into account the potential cost of pursuing the litigation.

On April 6, 2013, an appropriate release was executed and sent to the legal services branch of the Provincial Ministry of Justice. The full amount of the settlement was paid to the Receiver General of Canada, and credited to the Ship-source Oil Pollution Fund. Accordingly, on May 17, 2013, the Administrator closed his file on this matter.

2.3 Island Ranger (2008)

Case number: 120-553

On November 30, 2008, the 68-foot wooden tug *Island Ranger* grounded and partially sank in Tofino Harbour, British Columbia. The vessel lay with its port side submerged across the current, approximately 70 metres off the crab dock. It was reported to contain 800 gallons of diesel fuel, 84 gallons of lubricant oil and a quantity of hydraulic fluids. The crew managed to plug the starboard vents but the port vents were inaccessible. Canadian Coast Guard (CCG) personnel assisted the owner in placing oil booms around the vessel to contain oil being released from the wheelhouse area.

On December 1, 2008, the owner engaged a contractor to respond to the situation and raise the *Island Ranger*. On December 3, the CCG booms were removed from around the vessel and redeployed to protect a nearby beach area that was identified as a local shellfish beach. On December 5, CCG personnel returned its pollution response equipment to Victoria, but continued to monitor the shipowners clean-up and salvage operations.

On January 26, 2009, the *Island Ranger* was recovered and the remaining fuel tanks were pumped out. The vessel was slung between two barges and moved to a remote site with less current. The owner deconstructed the vessel and disposed of the debris

On June 16, 2009, the Administrator received a claim from the Department of Fisheries and Oceans (DFO/CCG) in the amount of \$54,337.20 for costs and expenses incurred, pursuant to the *Marine Liability Act*. On June 23, the Administrator requested additional information from CCG about whether it had followed up with the shipowner, Hustler Tug & Barge Limited, with respect to its efforts to have the company pay the CCG claim.

On January 29, 2010, CCG replied to the Administrator's request for information and noted that they had followed up with the owner of the vessel. The owner had indicated that, on advice from its legal counsel, the company was not in a position to pay the claim. (It would seem that the shipowner is suing the CCG on the grounds that a navigation buoy was out of place causing the *Island Ranger* to hit the rock and sink.)

On June 24, 2010, the Administrator advised CCG that, in view of the fact that litigation is underway between the shipowner and the CCG to establish responsibility from the grounding, there would be no offer

of compensation until the litigation is resolved. The Administrator also suggested that it may be helpful if CCG would keep the SOPF informed about the progress of the litigation. A trial date was fixed for October 21, 2013.

Since the period of prescription for bringing an action against the owner of the barge was due to expire on November 30, 2011, the Administrator thought it prudent to start a protective action on November 7, 2011 in the Federal Court against the owners of the barge. On October 15, 2013, the Administrator was informed that a settlement agreement in principle between the shipowner and the Crown had been achieved. The following day, the Counsel for the Administrator obtained a signed release withdrawing the Coast Guard claim filed with the Ship-source Oil Pollution Fund with respect to the grounding of the *Island Ranger*. On March 31, 2014, the Administrator closed his file.

2.4 Oceanic (2009)

Case number: 120-561

The Administrator's Annual Report of 2010-2011 (section 2.20) describes an incident that occurred in Vancouver, British Columbia, on July 30, 2009, when a black oil sheen was discovered around the *Oceanic* – a Panamanian-registered cruise ship of some 38,772 gross tonnage.

When the incident occurred, the agent for the shipowner SeaHawk NA engaged Burrard Clean Operations, a division of Western Canada Marine Response Corporation (WCMRC), to respond to the oil spill. A work order was signed by the Captain of the vessel to “contain and recover oil around the *Oceanic*”. Moreover, the documentation indicates that the WCMRC was provided with three work orders dated July 30, 31 and August 1, 2009. During the response, Burrard Clean Operations deployed 2,000 feet of containment boom around the vessel, and utilized two workboats to skim the oil from the surface. In addition, both the port and starboard side of the vessel had to be cleaned. During the response, no Letter of Undertaking, or any other security, was obtained from the shipowner or its management company, SeaHawk NA, prior to the *Oceanic* departing Vancouver and leaving Canadian jurisdiction.

In August and October 2009, the Response Corporation delivered invoices in the sum of \$223,056.46 to the shipowner for costs and expenses incurred in respect to the measures taken to minimize oil pollution damage. On November 23, a representative of SeaHawk NA, the agent of the shipowner, wrote to WCMRC to advise that the shipowner was disputing that the *Oceanic* was the source of the spill. Consequently, the Response Corporation retained counsel to identify any other avenues of recovery. On April 17, 2012, counsel commenced legal proceedings in the Federal Court of Canada against both the shipowner and the agent. Pursuant to section 109 of the *Marine Liability Act*, (MLA) a copy of the Statement of Claim, as issued by the Court, was served on the Administrator. Counsel for the Ship-source Oil Pollution Fund was instructed to advise what action would be appropriate in this litigation, assuming that WCMRC may eventually be looking to the Administrator for reimbursement.

One year later, on April 24, 2013, the Administrator received from counsel for the plaintiff, a copy of the Federal Court Judgment, granting judgment in favour of Burrard Clean Operations in the amount of \$223,056.46. The Administrator was advised that several attempts had been made to locate the responsible party and collect judgment, but without success. Accordingly, the WCMRC was seeking compensation from the Ship-source Oil Pollution Fund.

On December 5, 2013, the Administrator wrote to counsel for WCMRC to disallow the claim on the grounds that, in his opinion, WCMRC had not taken all reasonable measures to secure payment of its claim from

the owners of the ship. Under the terms of the MLA, Response Organizations, who are essentially agents of the owners, cannot recover their costs from SOPF unless they have taken all reasonable measures to recover their costs from the owner of the ship. Counsel was reminded that if there is disagreement with this disallowance, in accordance with the MLA, the claimant has 60 days after notification of an offer to appeal to the Admiralty Court (Federal Court of Canada). Since no appeal was lodged in the Federal Court against the decision of the Administrator in disallowing the entire claim within the 60 days prescribed by the *Marine Liability Act*, on March 27, 2014, the Administrator closed his file on this claim.

2.5 Jessie Island XI (2010)

Case number: 120-576

On January 18, 2010, the Canadian Coast Guard (CCG) received a report of two vessels sinking together in Ladysmith Harbour, British Columbia, following a severe windstorm. One was a 30-foot sailboat and the other a 55-foot ex-fishing vessel – *Jessie Island XI*. The vessels sank in approximately 30 feet of water. The owner of both vessels advised CCG Environmental Response personnel that there was oil onboard the *Jessie Island XI*. CCG deployed a containment boom.

The vessel owner was given a Letter of Notice of his responsibilities and liabilities. The owner responded that he was unable to provide the resources to respond to the oil spill or to raise the wreck. Therefore, CCG contracted Saltair Marine Services Ltd. to salvage the vessels. A purchase order contract of Fisheries and Oceans Canada was issued for the operation. On January 19, the contractor raised the vessel using a barge and crane. It was then moved to the contractor's nearby facility to determine further risk of oil pollution. The vessel was still taking on water and needed to be pumped periodically.

On January 20, CCG hired a marine surveyor from Lipsett Marine Consultants Ltd. to conduct a condition survey and estimate the value of the vessel. The surveyor concluded that the oil-fouled vessel was unseaworthy and represented a clear environmental hazard. Furthermore, the vessel should be dismantled and disposed of and that the value was nil. As a result, CCG directed Saltair Marine Services Ltd. to deconstruct the vessel to remove all the oil and dispose of the debris. By January 29, deconstruction of the wreck was completed.

On March 11, 2010, CCG mailed a claim to the owner of the *Jessie Island XI* in the amount of \$34,281.31 for payment of costs and expenses incurred. There was no response. On April 19, the Administrator received a claim from the Department of Fisheries and Oceans (DFO)/CCG in the amount of \$34,281.31 pursuant to the *Marine Liability Act* (MLA). Upon completion of the investigation and assessment of the claim, the Administrator found the full amount to be established. Therefore, on October 6, 2010, pursuant to the MLA, an offer was made in the amount of \$34,281.31, plus interest, as full and final settlement of the claim. The offer was accepted on October 26 and the Administrator directed payment in the amount of \$34,971.87, inclusive of interest.

On May 13, 2011, the Administrator sent a letter to the vessel owner requesting payment of the compensation paid to the Canadian Coast Guard. The owner was informed of his responsibility for the costs and expenses incurred by CCG in respect of the measures taken during the incident. It was explained that, as the owner of the *Jessie Island XI*, he is responsible for those costs under section 77 of the *Marine Liability Act*. A response and payment were requested by June 12, 2011, failing which the Administrator may commence proceedings to recover the costs. On May 20, an e-mail was received from the vessel owner in which he claimed not to have any money.

The Administrator instructed counsel to conduct further research into the ownership of the *Jessie Island XI* in order to identify any possible assets for recovery purposes. During counsel's investigation, it was ascertained that the Registry of Shipping shows that the actual registered owner of the vessel was not the person that the Canadian Coast Guard responders met at the time of the incident. The alleged owner, who had lived aboard the vessel and was present when it sank, had advised the Coast Guard that he did not have the resources to raise the vessel and prevent ongoing pollution. The research further disclosed that the registered owner had sold the *Jessie Island XI* in August 2008 and had received a Bill of Sale with the understanding that the buyer would register the vessel. However, no Bill of Sale was ever filed with the Registrar of Shipping, thus leaving the name of the registered owner unchanged.

On January 20, 2013, counsel commenced legal proceedings and filed a Statement of Claim against the owner, and also the presumed owner, for the costs and expenses incurred. In response, a Statement of Defence was filed on February 25, by the actual registered owner. The alleged owner did not file a Statement of Defence. Consequently, on August 9, the Administrator filed with the Federal Court, in Vancouver, a Notice of Motion for judgment by default against both parties.

On September 30, 2013, the Prothonotary granted default judgment against the presumed owner of the vessel. Therefore, on October 2, counsel wrote to the defendant (the person who purchased the vessel in 2008) and informed him that the Administrator had obtained a default judgment against him for \$41,164.89 as shown in the order, which was enclosed with the letter. The defendant was advised that unless arrangements were made to pay the judgment by October 31, 2013, the Administrator will have no alternative but to seize his property to justify the judgment. As of the closed of the fiscal year, the file remains open.

2.6 Clipper Adventurer (2010)

Case number: 120-580

On August 27, 2010, the Bahamian-registered cruise ship, *Clipper Adventurer*, ran aground in the Coronation Gulf, Canadian Arctic. The vessel reported that it was not taking on water nor was there any sign of oil pollution. After several failed attempts to refloat the vessel, the captain ordered an evacuation of all passengers and non-essential crew onboard. The CCG icebreaker *Amundsen* was deployed from the Beaufort Sea on a rescue mission to evacuate and transport 128 passengers to Kugluktuk (formerly Coppermine).

The cruise ship reported sustaining considerable damage to its double bottom fuel tanks. The damage was below the waterline and, consequently, the fuel oil was forced to the top of the tank due to the ingress of sea water. As a result, there was no leakage of the oil. CCG also verified that at the time of grounding there was no sign of oil pollution in the vicinity of the grounded ship. However, several days following the grounding, a light sheen was visible but dissipated quickly.

The shipowner engaged its classification society, Lloyds Register, to develop a salvage plan. A Transport Canada Marine Safety Inspector provided oversight regarding the salvage plan. The CCG deployed the *Sir Wilfred Laurier* as a support and logistical centre to monitor for oil pollution. Transport Canada, Environment Canada and CCG maintained a monitoring role throughout the salvage operation to ensure an appropriate response.

The Administrator instructed counsel to investigate the ongoing response and ascertain whether the *Clipper Adventurer* had a Bunker Convention insurance certificate. CCG advised that a request for a Letter of Undertaking, dated September 23, 2010, was transmitted to the vessel owner and also to the owner's on-scene representative.

On September 14, the *Clipper Adventurer* was successfully refloated and towed by tug to Cambridge Bay, Nunavut, for damage assessment and preliminary repairs in preparation for departure from the Arctic. On September 23, Transport Canada and the vessel's classification society granted clearance for the vessel to transit from Cambridge Bay to Nuuk, Greenland. Under CCG icebreaker escort, the cruise ship was towed to Pond Inlet for rendezvous with an ocean tug for passage to Greenland.

The *Clipper Adventurer* departed Nuuk, Greenland, on October 28, 2010, and proceeded to the port of Gdansk, Poland, where permanent repairs were made from November 11, 2010, to December 31, 2010.

On October 17, 2011, the Administrator received a claim from the Department of Fisheries and Oceans (DFO/CCG) to cover monitoring costs and expenses incurred in the amount of \$468,801.72, pursuant to sections 71(b) (i), 101 and 103 of the *Marine Liability Act*. In its letter of transmittal DFO/CCG informed the Administrator that it had previously sent the claim to the shipowner in April 2011. In the meantime, the Administrator has become aware that the shipowner is suing the Crown (Canadian Coast Guard and Canadian Hydrographic Service) in the Federal Court. Given the ongoing litigation to which the Administrator is party by statute, the Administrator has declined to assess and pay this claim.

The Administrator instructed counsel to monitor closely this unfolding litigation. The outcome of the litigation may well determine the validity of the Crown's claim for monitoring costs and expenses. Counsel for the Administrator is in touch with both the shipowner's counsel and Crown's counsel. During the past year, there was an Examination of Discovery of several Coast Guard and Hydrographic Services personnel by counsel for the shipowner. Meanwhile, at the end of the fiscal year, the file remains open.

2.7 Nanny (2010)

Case number: 120-581

On September 1, 2010, the Coast Guard was informed that the Canadian-registered product tanker *Nanny* had grounded on an uncharted shoal of sand and gravel near Gjoa Haven, Nunavut. The double hulled tanker was en route to deliver petroleum products to communities in the Arctic. The cargo consisted of approximately 9,000 metric tonnes of diesel oil, gasoline and jet fuel. After the ship ran aground, the crew conducted an internal inspection of the ballast tanks and determined that there was no structural, hull, or mechanical damage sustained as a result of the incident. Furthermore, there was no discharge of oil. This was confirmed by an overflight conducted by a Transport Canada aerial surveillance aircraft. At the outset, the Administrator was informed about the incident and instructed counsel to cooperate with the Canadian Coast Guard in obtaining a Letter of Undertaking as security.

The Coast Guard icebreaker *Henry Larsen*, which was in the vicinity, was tasked to proceed to the site and monitor the shipowner's salvage operations. The *Henry Larsen* was informed that the grounded ship remained stable, and there was "no list or change of trim" resulting from the 20 centimetre range of tide. The weather was seasonal and not expected to deteriorate during the next week. The *Nanny* was in open water and there was no immediate concern about local ice conditions.

The shipowner promptly assumed responsibility and developed a preliminary plan to transfer a quantity of the cargo from the *Nanny* to the tanker *Tuvaq*, another ship owned by the company, which was also engaged in the Arctic sealift operations. The *Tuvaq* had to proceed to Cambridge Bay and discharge cargo in order to make tank capacity available to lighten the grounded tanker. The *Henry Larsen* later provided ice escort to the *Tuvaq* in Victoria Strait, some distance west of Gjoa Haven. When the accident occurred, Transport Canada Marine Safety was informed. A Ship Safety Inspector and a Canadian Transportation Accident Investigation representative went onboard the tanker. They worked with the shipowner to provide advice and guidance for the development of a salvage plan. In addition, a Federal Monitoring Officer from Canadian Coast Guard was dispatched from Sarnia, Ontario, to monitor the planned cargo transfer in order to lighten the tanker and allow it to move off the shoal.

In the period from September 2 to 13, when the shipowner was awaiting the arrival of the *Tuvaq*, there was no action at the site of the grounding. On September 13 and 14, the fuel was transferred under the supervision of the Marine Safety Inspector. Consequently, the *Nanny* was refloated on September 15. The Marine Safety Inspector and the tankers representative conducted a damage survey. The *Nanny* was cleared for reloading and allowed to proceed with the community fuel resupply. No oil pollution occurred throughout the response to the incident. Coast Guard resources were demobilized.

On June 19, 2012, almost 2 years after the incident, the Administrator received a claim in the amount of \$441,842.17 made pursuant to section 103(1) of the *Marine Liability Act* from the Department of Fisheries and Oceans (DFO/CCG). The Administrator was informed that CCG had previously sent the claim to the shipowner in April 2012, and that the owner had declined to pay the claim on the grounds that the incident had not caused any pollution damage. The Administrator acknowledged receipt of the claim documentation and requested a copy of the response letter, if any, received from the shipowner with the coordinates of the shipping company. Meanwhile, the Administrator commenced an investigation and assessment of the claim.

On August 23, 2012, the Administrator wrote to DFO/CCG and explained that an initial assessment had been made of the material filed in support of the claim. From the analysis, the preliminary view was that the claim was not established. The Coast Guard was requested to provide additional documentation to support the reasonableness of the essential elements of the claim – namely, the costs incurred by the *Henry Larsen* and its helicopter to monitor the incident, which amounted to approximately 95 percent of the original overall claim. The Administrator specifically requested documentation demonstrating that the degree of monitoring in this case was reasonable, given the considerable presence of federal officials throughout the duration of the incident, and in particular, the timely and competent response of the shipowner. The Administrator asked for clear evidence of the reasonable grounds on which the Minister (Canadian Coast Guard) formed the belief that the *Nanny* at the time of this incident had discharged, was discharging, or was likely to discharge oil.

On September 28, the Administrator received a response to his written request. However, the requested information was not provided in sufficient detail or, in some cases, not at all. The Administrator completed his investigation and assessment of the claim and found only the amount of \$85,000.00 to be established. The established amount essentially reflected the costs incurred in the first 24 to 36 hours to determine that there was no damage to the tanker. Accordingly, pursuant to the *Marine Liability Act* section 105(1) (b) on December 12, 2012, a global offer of \$85,000.00, inclusive of interest, was mailed to Coast Guard in full and final settlement of this claim. On February 8, 2013, CCG accepted the offer. Therefore, the Administrator authorized payment of that global amount.

Following settlement of the claim, the Administrator instructed counsel to commence action in Federal Court against Coastal Shipping Limited for recovery of its amount paid by the Fund in way of settlement of the Canadian Coast Guard claim.

As a consequence of settlement discussions between Counsel, the shipowner agreed, without admission of liability, to pay \$70,000.00 as full and final settlement. After execution of an appropriate release, the amount was paid to the Receiver General of Canada to the credit of the SOPF. The Administrator accordingly discontinued the action in the Federal Court and on October 2, 2013, closed the file.

2.8 Dominion I (2010)

Case number: 120-605

On October 2, 2010, the Canadian Coast Guard (CCG) received a report of a 120-foot vessel listing and possibly sinking in Cowichan Bay, Vancouver Island. Environmental Response personnel from the CCG Victoria base investigated. They found the ex-fish-packing vessel *Dominion I* at anchor. It had been built in 1970 of steel construction and later converted to a pleasure craft. The vessel had a 5-degree port list and down by the stern, but in no immediate danger of sinking completely. No oil pollution was seen around the vessel.

Upon boarding, the engine room was found to be flooded some two feet above the deck plates with oil on the surface of the water. The responders pumped out approximately six feet of water from the engine room. The ingress of water was from damaged small copper intake cooling lines. It would seem that vandals had been removing copper wire and other equipment from the vessel while at anchor for more than two years. Furthermore, there was little or no maintenance of the vessel. Temporary repairs of the cooling lines prevented further ingress of seawater. On deck were nine drums of various hydrocarbons. In addition, the day tank contained 750 gallons of fuel. The ship's drawings indicated 13 main fuel tanks. It was difficult to take accurate tank soundings, but CCG estimated some 5,800 gallons of diesel oil were still onboard.

CCG contacted the owner of the *Dominion I* residing in Oregon, USA, who stated that he would be on-site within 10 days to determine what could be done with the vessel. Following the discussion, a written "Notice" was sent by fax to the owner. Later, the owner was forwarded a claim in the amount of \$17,653.61 for expenses incurred during the incident. The owner contacted CCG and advised that he was making arrangements to move the vessel to Victoria, where it could be placed for sale. This arrangement did not materialize.

Additional visits to the vessel were made between October and December, but no change to the vessel's condition was found. However, CCG became concerned about the vessel's anchoring arrangements—both anchors had been deployed and were clearly fouled which could cause chafing and eventual parting of the mooring cable. Although the *Dominion I* was no longer taking on water, CCG personnel considered that a risk of pollution remained. First, further vandalism could result in flooding and sinking. Second, should the anchor cable wear through, the vessel would drift into the local marinas, other vessels, or even a sensitive nearby river estuary. Therefore, on December 6, CCG conducted a remote-operated submersible vehicle (ROV) dive survey and found the anchor cables fully twisted down to the seabed. The ROV was unable to locate the anchors that were buried in the sand. On January 13, 2011, CCG again attended the scene and found that the vessel was not taking on more water. CCG continues to monitor the vessel's status.

On November 9, 2011, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator for costs and expenses in the amount of \$15,951.45, pursuant to the *Marine Liability Act*.

As a result of his investigation and assessment of the claim, the Administrator found the amount of \$15,916.30 to be established. Therefore, on February 14, 2012, he made an offer in the amount of \$15,916.30, plus interest, as compensation in full and final settlement. DFO/CCG accepted the offer. Accordingly, on February 28, 2012, the Administrator directed payment of \$16,589.81, inclusive of interest, in accordance with the *Marine Liability Act*.

The Administrator conducted background research of the owner of the *Dominion I* to try and identify any possible assets for cost recovery purposes. On April 18, 2012, counsel wrote to the owner, via registered mail, and informed him that, pursuant to the *Marine Liability Act*, the Administrator is subrogated to (acquires) the rights of CCG/DFO and is required to recover the amount of \$16,589.81, paid in respect of the alleviation of oil pollution problems. The owner was asked to advise, prior to May 2, what arrangement he could offer to repay the Fund, failing which the Administrator would take action to compel payment of that debt. Subsequently, it was found that the registered owner of the vessel has a new address in Oregon, United States. On April 25, 2012, counsel sent, via registered mail, a demand letter to the new mailing address in Oregon. No replies were forthcoming. As of the end of the fiscal year the owner has not replied to the demand letter. Counsel is continuing efforts of recovery. Meanwhile the file remains open.

2.9 Connie James (2011)

Case number: 120-637

The incident occurred during the night of August 21, 2011, when the wooden-hull 54 tonne fishing vessel *Connie James*, built in 1968, caught fire and sank alongside the dock at Savage Cove, on the northwest coast of Newfoundland. The local fire department responded and pumped approximately 4,000 gallons of water onto the wheelhouse structure where the fire was most intense. While fighting the fire, the firemen moved the burning vessel about 25 feet away from the wharf to prevent it from burning as well. Eventually the fire was extinguished but the vessel was now partially submerged. A sorbent boom was streamed around the wreck to contain the upwelling fuel oil. The fire department informed the Canadian Coast Guard and handed the incident over to the RCMP.

The Coast Guard contacted the vessel owner who indicated that he was trying to reach his insurance company with respect to how best to proceed. As a result, in the morning of September 1, 2011, a commercial marine company, Sea Force Diving, based in St. John's was engaged by the owner to proceed to the scene – a highway distance of more than 800 kilometres – and remove the fuel oil and other onboard pollutants. On September 2, two Coast Guard emergency response personnel arrived at the site and assisted the owner in deploying additional sorbent boom. They also helped remove debris and oiled materials from the boomed area in order to allow the commercial divers to plug the fuel tank vents and prevent further pollution. A vacuum truck removed the oil sheen from the surface of the water. The contractor used an excavator to refloat the wreck and lift it from the water. On September 7, the wreck of the *Connie James* was removed from the water, and with the fuel tanks dismantled there was no further release of oil into the marine environment.

On August 8, 2013, nearly two years after the incident, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator for costs and expenses in the amount of \$13,265.56, pursuant to the *Marine Liability Act*. The Administrator acknowledged receipt of the claim on August 13, and requested certain information regarding the coordinates of the vessel owner and his insurance company. The request for support documentation was repeated on August 28 and again on November 20, 2013.

On January 23, 2014, Coast Guard Headquarters informed the Administrator that its Atlantic Region has been actively pursuing repayment from the shipowner, and it may be possible for the Region to rescind this claim submission shortly. Meanwhile, as of the end of the fiscal year the file remains open.

2.10 Atlantic Endeavour (2011)

Case number: 120-638

On November 20, 2011, the Canadian Coast Guard, (CCG) Marine Communication Centre in St. John's, Newfoundland, received a call from the Captain (owner) of the fishing vessel *Atlantic Endeavour* that his vessel was taking on water and was in danger of sinking. The position was approximately one nautical mile off Cow Head on the Northern Peninsula of the Island. Later the Captain reported being aground on the shoreline in the general area of Parson's Pond, at which time CCG contacted the local Fisheries Officer and requested that he attend and determine whether any oil had been released or if the potential for pollution existed. The Emergency Response personnel also spoke – via telephone – to the owner about his plans for removal of the fuel oil. During the discussion the owner advised that there was no insurance coverage on the vessel.

On December 1, two CCG personnel departed St. John's to attend and monitor the owner's operational measures to remove the 200 litres of diesel fuel contained in the fuel tanks. When CCG personnel arrived on the scene the next day, they found the *Atlantic Endeavour* on the beach with a starboard list of 50 degrees or more. However, there was no sign of oil pollution around the grounded vessel. The owner was onboard the wreck removing electronic equipment and other salvageable items. He explained that there was no fuel oil in the stern tanks, because they were used for ballast water.

The Coast Guard personnel, who attended on site, assumed the role of Federal Monitoring Officer to observe the shipowner's response and to ensure that the oil was removed from the wrecked fishing vessel. The response trailer that the Coast Guard towed to the location contained tools and equipment that would expedite the response should any special requirements arise. The two Coast Guard personnel were not directly involved with the fuel removal; however, the shipowner was provided with some tools and a bundle of sorbent pads. A number of garbage bags were also left for collection of engine room waste.

The shipowner informed Coast Guard of the circumstances and assumed responsibility by taking a suitable response for cleanup of the oil spill. The owner hired an excavator in order to remove the wheelhouse and lift out the fuel tanks and the main engine from his 1979 built 52-foot wooden-hull fishing vessel. Moreover, the owner borrowed a sorbent boom from the local Harbour Authority and placed it around the wreck. A group of local fishermen assisted with the deconstruction of the vessel so that the oil waste could be removed. On December 3, the fuel tanks and engines were removed successfully without any release of oil pollution. During the deconstruction of the vessel CCG personnel provided sorbent pads to clean up the waste oil within the engine room bilges. The CCG personnel returned to St. John's on December 4 and reported that there was no further threat of oil pollution.

On August 8, 2013, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator for the costs and expenses in the amount of \$5,471.11, pursuant to sections 77(1), 101 and 103 of the *Marine Liability Act*. After investigation and assessment of the claim, the Administrator made a final offer to DFO/CCG for the established amount of \$5,471.11 plus interest. The offer was accepted. On September 25, 2013, the Administrator directed payment in the amount of \$5,772.70, inclusive of interest.

On December 11, 2013, the Administrator wrote to the registered owner of the *Atlantic Endeavour* requesting payment of the costs incurred by the Canadian Coast Guard with respect to monitoring the measures taken in response to the incident. The owner was informed about his responsibilities pursuant to Section 106(3)(d) of the *Marine Liability Act* (MLA). The owner was requested to respond within 14 days to advise what arrangements can be made to pay the sum of \$5,772.70, failing which the Administrator may commence legal proceedings for the above amount. No reply was received.

Where the Administrator pays compensation in respect of a claim, he is required to take all reasonable measures to recover the amount of the payment from the owner of the ship. Taking into consideration that the owner had acted responsibly in responding to this incident and, further, given the amount of the payment, the Administrator considered that it should not be reasonable to take further measures to recover the amount from the owner. Accordingly, on March 22, 2014, the Administrator closed the file.

2.11 Miner (2011)

Case number: 120-600

This incident occurred on September 20, 2011, when the *Miner* (*ex-Canadian Miner*) parted its towing bridle while undertow off the east coast of Cape Breton, Nova Scotia, and drifted onto the rocks at Scatarie Island. The *Miner* was undertow from the port of Montreal to a scrap yard in Turkey. Built as a typical Canadian Great Lakes bulk carrier in 1965, the *Miner* had been out of service for several years. The towing vessel, *Hellas*, was an ocean-going salvage tug under the flag of St. Vincent and Grenadines. Its agent in Greece was Pella Shipping Company. The agent for the owner of the *Miner* is indicated in the documentation as Protos Shipping Limited.

Before its departure from Montreal, Transport Canada Marine Safety inspected the tug *Hellas* and the towline arrangements. A “green passport” and a towing certificate were issued. (A green passport provides an inventory of all potentially hazardous materials used in the ship and is aimed at ensuring the safety of all workers involved in dismantling the vessel.) Marine Safety also reports that, prior to departure all oil had been removed from the towed vessel, except approximately 13 metric tons of marine diesel fuel contained in day tanks for the emergency generator. When informed about the incident, CCG conducted a helicopter flight to assess the status of the grounded vessel. In addition to the 20.3 hours of helicopter monitoring flights throughout the duration of the incident, a further 9 hours of flight reconnaissance was carried out by fixed-wing aircraft operated by the Transport Canada National Aerial Surveillance program.

On September 21, CCG issued a Letter of Notice to the owner’s representative requesting notification of their intentions with respect to response measures. Later a second notice was issued to the owners to remove the pollutants due to deteriorating weather conditions.

Two days after the grounding, when sea state and wind conditions were favourable, the master of the tug, *Hellas*, inspected the *Miner* and reported that no hull damage had been sustained. The fuel tanks and ship bilges were found free of any ingress of sea water. No oil pollution was apparent on the surface of the water, neither near the ship nor in the surrounding area. On September 24, and during the following few days, the tug made several attempts to pull the *Miner* off the rocks at high tide, but those efforts were unsuccessful. During this phase, CCG deployed the *Spindrift*, a 16-metre Search and Rescue cutter, from nearby Louisburg as an observation platform.

On September 27, Regional Environmental Emergency Team (REET) meetings were held resulting in requests for further information from the owners and their salvors concerning hull stress factors, availability

of additional tugs and a detailed salvage plan. The following day, REET was informed that the *Miner* had moved further up the shoreline. Several sections of the hull were holed with some ingress of sea water. The next day CCG and Transport Canada personnel boarded the wreck and determined that none of the double bottom tanks had been breached, but there were cracks along the hull in way of several cargo tanks. There was also seawater in the engine room with a skim of oil on the surface, but no oil was visible outside the hull. Following the survey, CCG issued a Letter of Notice for removal of the fuel onboard. Subsequently, REET was informed that the shipowner had hired Mammoet Salvage to conduct a survey in advance of removing the oil. During the next week, Mammoet transferred 10 metric tons of generator fuel, and some 5,000 litres of oily waste to the vessel *Vulcan* chartered from Samsonia Maritime Ltd. of Sydney, Nova Scotia.

On October 4, Mammoet Salvage advised Coast Guard that “all funds were used and they will not be returning to the vessel the next morning as planned”. The following day a storm caused additional major structural damage. The vessel moved further ashore and the engine room was now flooded. Consequently, on October 7, the Coast Guard itself contracted Mammoet Salvage to remove the estimated 3,000 litres of oily mixture remaining onboard. The Mammoet personnel were flown in from Texas and Amsterdam. In all, 15 tanks were opened and pumped dry, two of the four engines were opened and the oil removed. The other two engine bases and gearboxes were open to the sea and could not be pumped out. As of October 9, the only oil remaining onboard was some residual oils, which allowed sheening to continue. Later in the month, on October 18, Coast Guard replaced the sorbent boom that had been originally placed around the stern to absorb any oil that may be released from the engines.

The Coast Guard situation reports indicate that, following the CCG contract completion, the Province of Nova Scotia contracted Mammoet to remove the moveable objects, panelling etc. still onboard (chairs, beds, tables etc.). Mammoet commenced removing the floatables the morning of October 21. The contract with the Province was for 7 to 10 days. Coast Guard monitored operations for the duration of the removal operations. On July 12, 2012, the Administrator received a claim from Coast Guard in the amount of \$251,629.13. The Administrator acknowledged receipt of the claim documentation.

On September 19, 2012, the Administrator wrote to Coast Guard and requested additional information and documentation in order to advance his investigation and assessment of the claim. Coast Guard was advised that the original documents filed in support of the claim contained insufficient detail to assess the claim and allow an offer of compensation. The Administrator’s letter of request enumerated the areas in which he would require further information, documentation and explanations. A response to the request was received on December 7 but the response did not provide the requested detailed chronology clearly linking CCG actions and associated costs. The absence of a detailed chronology made an assessment of the measures taken by CCG and the associated costs impossible.

On February 5, 2013, the Administrator informed the Coast Guard that the investigation and assessment of the claim was completed and the amount of \$9,667.74 was found to be established. The established amount essentially reflected the costs incurred to place a boom around the stern of the wreck and to place sorbent material in the engine room. The *Spindrift* crew deployed the boom and later retrieved this containment equipment. These incurred costs and expenditures were allowed. Accordingly, a global offer of \$10,000.00, inclusive of interest, was made in full and final settlement pursuant to the *Marine Liability Act*. On March 28, 2013, the Administrator received a letter of notification that DFO/CCG accepts the global offer of \$10,000. On April 2, the Administrator directed the amount of \$10,000.00 be transferred from the Ship-source Oil Pollution Fund to the credit of the Receiver General of Canada, and that an interdepartmental settlement notification be issued to the Department of Fisheries and Oceans.

After consideration of the amount of the claim settlement, and given the legal complications in determining who was actually responsible for the grounding of the vessel, the Administrator concluded that recourse action would probably exceed \$10,000.00. Therefore, further recovery expenditures would not be warranted. Accordingly, on August 19, 2013, the Administrator closed the file.

2.12 Ma Belle (2011)

Case number: 120-639

On August 10, 2011, the Canadian Coast Guard (CCG) in Saint John, New Brunswick, received a report that the fishing vessel *Ma Belle* had lost power and drifted onto the beach near Richibucto in the Northumberland Strait. The Captain of the vessel reported that there were approximately 700 litres of fuel oil on board, but no oil pollution had occurred. CCG was informed that a representative of the local First Nations, Big Cow Band, was working in collaboration with the vessel owner on a recovery plan, which would include unloading the fishing traps and towing the stranded vessel off the rocks at high water.

When CCG received the initial incident report, two Emergency Response personnel from the Saint John base proceeded to Richibucto for a first-hand inspection, and to develop an action plan. Upon their arrival, no oil pollution was seen; however, the representative of the First Nations Band was provided with a “Notice Order” with respect to the vessel owner’s responsibility. The representative was also advised the CCG personnel would assume the role of a Federal Monitoring Officer and that costs and expenses incurred would be invoiced.

Later in the week, CCG personnel from Charlottetown, Prince Edward Island, also attended the site of the incident to monitor the situation. Furthermore, a Regional Environmental Emergency Team (REET) teleconference was convened and chaired by Environment Canada. As a result, arrangements were made for a helicopter flight over the site on the following morning. (No reports on finding any oil sheen by the helicopter are indicated in the claim submission for compensation of the cost for the 3.3 hour flight.) CCG personnel were advised by REET, that due to the sensitivities associated with the sand dunes in the area, if necessary, the fuel oil should be removed by helicopter with fuel bladders. The vessel owner and insurance adjuster were informed of CCG’s intentions. However, in the end, the process of mobilizing helicopter fuel bladders was not required.

The first attempt to tow the *Ma Belle* off the beach was unsuccessful, but with additional salvage action on August 15, the vessel was refloated and secured at the Richibucto wharf. The next day, the owner’s crew patrolled the beach. No oil pollution was discovered. CCG personnel obtained the name and telephone number of the vessel’s insurer, and on August 16 closed the incident for any further Environmental Response.

On August 13, 2013, the Administrator received a claim from Coast Guard, made pursuant to the *Marine Liability Act* (MLA), in the amount of \$23,739.27 for costs incurred during the on-site monitoring. The Administrator acknowledged receipt of the claim. He informed CCG that, from a preliminary review, the submitted documentation was incomplete and he was, therefore, unable to make a thorough assessment. More important, the Administrator indicated that the claim is probably time barred as far as direct submission to the Ship-source Oil Pollution Fund is concerned, but it may not be time barred against the owner of the fishing vessel. Coast Guard was invited to make further submissions, particularly on the subject of time bar.

On September 11, 2013, Coast Guard submitted its opinion that, in this case, any doubt with respect to the limitation period should benefit the claimant, and the assessment of the claim should be completed. On December 5, 2013, DFO/CCG was informed that the Administrator was unable to agree with the reasoning

of the Coast Guard and accordingly disallowed the claim on the grounds that it was time barred, at least as far as direct filing with the office of the Administrator is concerned. On March 31, 2014, the Administrator closed the file.

2.13 Mistann (2011)

Case number: 120-608

This claim involves the 37-foot fiberglass fishing vessel *Mistann*, which sank at the Yacht Club in Prince Rupert on Friday October 14, 2011. When the CCG received a report that the *Mistann* had sunk with approximately 1200 litres of diesel fuel and a quantity of lube oil onboard, the local Environmental Response personnel attended and deployed a boom and absorbents to the upwelling of oil between individual dock fingers at the marina. The vessel owner was verbally informed of his responsibilities in regard to the sunken vessel by the attending CCG personnel. The owner replied that he did not have sufficient resources or insurance to respond as required. The owner was then advised that CCG would take command of the situation and hire a local contractor, Wainwright Marine Services, to recover the vessel.

Throughout the weekend CCG Environmental Response staff minimized the impact of the marine pollution by maintaining containment boom, replacing soiled absorbent boom and pads and monitoring boating activities during the diver operations. A review of the contractor's invoices indicates that two cranes and a winch equipped bulldozer were on the barge during the salvage operation. It was necessary to utilize two cranes in order to facilitate rigging of two lifting points on the sunken vessel from a depth of 100 feet of water. The Environment Canada weather report confirms that strong gusting winds to 30 knots were present during the recovery; the tidal tables confirm that tidal fluctuations were between 10 and 15 feet creating strong tidal currents. However, by late Monday afternoon the *Mistann* was brought to the surface still partially submerged and it was secured to the salvage barge. Shortly after midnight the vessel was refloated and taken to the Wainwright Marine shipyard for further assessment.

On December 9, 2011, CCG sent, via registered mail, a Notice of Intent to the vessel owner informing him of his responsibilities under the *Marine Liability Act*. The Notice advised that unless arrangements were made within 10 days for reimbursement of the Coast Guard costs and expenses the *Mistann* would be placed for sale. The letter was returned to CCG as undeliverable. Consequently, the *Mistann* was put up for sale in Prince Rupert. The highest bid of \$1,200 was accepted by Coast Guard in January 2012. The CCG claim filed with the Fund was reduced by the equivalent amount of \$1,200.

On April 26, 2012, the Administrator received a claim from Coast Guard made pursuant to the *Marine Liability Act*. The claimed totaled \$113,787.48. The Administrator acknowledged receipt of the claim.

The Administrator commenced an investigation and assessment of the claim. On May 28, 2012, the Administrator instructed counsel to engage a technical marine surveyor to investigate whether all the expenses claimed could reasonably be characterized as pollution prevention, or whether some of them were, in essence, wreck removal. Subsequently, the surveyor reported that, diesel and lubricating oil were emanating from the fishing vessel *Mistann* up until the time it was refloated, consistent with hydrocarbons being displaced from internal machinery spaces and fuel tanks by seawater. The vessel had sunk in a recreational and commercial marina situated approximately 400 metres from a cruise ship dock. Approximately 540 litres of hydrocarbons and oily water were removed from the *Mistann* subsequent to it being refloated. The surveyor concluded that the course of action by the Canadian Coast Guard was reasonable to minimize and remedy oil pollution emanating from the sunken vessel.

In light of the overall assessment, investigation and circumstances surrounding the incident, the Administrator found the amount of \$100,462.51 to be established. Therefore on September 12, 2012, the Administrator made an offer of \$100,462.51, plus interest, as full and final settlement pursuant to the *Marine Liability Act*. DFO/CCG accepted the offer. On September 27, 2012, the Administrator directed payment of \$103,428.74, inclusive of interest, in accordance with the MLA.

Given the amount of the claim, the Administrator instructed counsel to send a letter, on October 16, 2012, via registered mail, to the registered owner of the fishing vessel *Mistann* requesting payment of the amount paid to the Canadian Coast Guard. The vessel owner was informed that failing satisfactory arrangements being made to pay the outstanding balance owing, the Administrator may proceed with an action in the Federal Court to recover the balance owing. The letter was returned by Canada Post marked “moved/unknown” at that address.

In order to try and locate the registered owner and identify assets that may be available for recovery purposes, the Administrator obtained the services of a professional locator firm. On September 20, 2013, a Statement of Claim was served on the vessel owner at Port Edward near Prince Rupert. No Statement of Defence was filed by the defendant by the closing date. As of the end of the fiscal year the file remains open.

2.14 Tyee Princess & YF-875 (2011)

Case number: 120-611 & 120-612

During investigation of *La Lumiere* incident claim (Section 2.2 refers) the Canadian Coast Guard informed the Administrator that two additional vessels, *Tyee Princess* and *YF-875*, are moored at Britannia Beach, Howe Sound, British Columbia. The Administrator takes the position that the two vessels belong to the Province of British Columbia, since the previous owners, the Maritime Heritage Society of Vancouver, has ceased to exist and the assets of the Society were transferred to the Province. They continue to present a serious threat to cause pollution damage. Given the visual condition of these vessels, the Coast Guard hired McAllister Marine Survey and Design Ltd. to conduct a technical survey of their condition. The Administrator then instructed counsel to engage a surveyor to attend the inspection of the vessels.

On January 31, 2012, McAllister Marine Survey and Design Ltd. concluded that the old vessels pose a significant and ever increasing risk of polluting the marine environment with the fuel oil remaining onboard. Furthermore, it recommended that both vessels should be pumped out as soon as possible, drydocked and scrapped. The Administrator was provided with a copy of the technical report.

On March 30, 2012, the surveyor engaged by the SOPF was advised that the provincial Ministry of Forests, Lands and Natural Resources had hired Hazco (a company specializing in disposal of pollutants) to remove pollutants from the two vessels. During the following week Coast Guard personnel boarded the vessels to determine whether any hydrocarbons remained onboard. The inspection found that the contractor had removed loose barrels and other containers of used oils, paints and thinners. Also, they had pumped out the engine room bilges of oily water, and the rainwater accumulated in the cargo hold of the *Tyee Princess*. However, the oil had not been removed from machinery sumps, hydraulic systems or fuel tanks of the *Tyee Princess*, or from the bilges and oil filter casing in the engine room of the *YF-875*. Consequently, the overall situation remained unchanged in that oil pollution will occur if either of the vessels sinks.

As a result of its findings, Coast Guard developed a Statement of Work and Request for Proposals to remove the oils from the vessels. Subsequently, cost estimates were obtained. On October 9, 2012, the Coast Guard was informed that the Province does not intend to undertake any further remedial work on the *Tyee Princess* or the *YF-875* at this time.

Throughout, the Administrator encouraged those responsible to take measures to remove the threatened pollution, because response action in the future will undoubtedly be more expensive if the vessels sink at the wharf. On December 2, 2012, counsel enquired with Coast Guard as to whether or not the Federal Government is taking any action to prevent the inevitable pollution that would be caused by the sinking of these vessels. Coast Guard was requested to provide an up-to-date status report in respect of what is being done to remove the remaining hydrocarbons from the vessels to avoid their sinking and polluting Howe Sound.

On February 11, 2014, Coast Guard informed the Administrator that the two vessels had been moved from Britannia Beach to Mission, British Columbia, for dismantling. Coast Guard will investigate further; meanwhile, these files are held in abeyance.

2.15 Norwin (2011)

Case number: 120-640

On September 30, 2011, the Canadian Coast Guard (CCG) was informed that a fishing vessel, *Norwin*, had sunk at the wharf in Digby, Nova Scotia. An oil sheen was upwelling from the wreck. The following day, an Emergency Response employee from the CCG depot at Dartmouth proceeded to the site of the incident and assumed the role of Federal Monitoring Officer.

The owner took responsibility and engaged his insurance company and a diving contractor to plug the vessel's tank vents and stream an oil containment boom around the oil sheen. It was reported to CCG that the oil onboard included 9,100 litres of diesel fuel, 680 litres of hydraulic oil and 455 litres of furnace oil. The 18 metre vessel was built in 1958 of wood construction. The incident occurred in a location with a very large tidal range. The CCG provided an additional containment boom to the owner's contractor. The monitoring officer delivered a "Notice of Intent" to the vessel's insurance agent, informing him of the owner's responsibility under the *Marine Liability Act*.

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

Nearly two years later, on September 16, 2013, the Administrator received a claim from the Department of Fisheries and Oceans (DFO/CCG) in the amount of \$6,210.07, made pursuant to the *Marine Liability Act*.

During the investigation and assessment of the claim, the Administrator wrote to the CCG and requested copies of the correspondence between CCG and the owner's insurance company concerning efforts to collect its costs directly from the shipowner. (This sort of documentation is required to assist the Administrator to take all reasonable measures to recover from the shipowner the amount paid out by the SOPF.)

On January 22, 2014, CCG advised that the Region was actively pursuing repayment from the responsible party. On March 3, CCG confirmed the shipowner's Mutual Protection Idemnity Association had paid the claim. Accordingly, on March 6, 2014, the Administrator closed the file.

2.16 Rene Brazeau (2011)

Case number: 120-645

On February 12, 2011, the Canadian Coast Guard (CCG) received a report that a dredge barge, *Rene Brazeau*, had sunk with an excavator onboard while moored to the dock at pier 23 in Saint John, New Brunswick. The Atlantic Emergency Response Team (ALERT) – a local Response Organization – was engaged by the barge owner to conduct clean-up of the upwelling oil. The CCG Environmental Response personnel attended the scene and assumed the role of Federal Monitoring Officer. Representatives of the owner's P&I Club, the excavator insurance appraiser, a contracted driving company, the Port Authority, Transport Canada and the barge owner were all involved in the measures taken during the recovery operation. Response to the incident was carried out intermittently over several months throughout the winter. On May 10, 2011, the barge was successfully raised and the CCG personnel completed their role as Federal Monitoring Officers.

On February 3, 2014, the Administrator received a claim from the Department of Fisheries and Oceans (DFO/CCG) in the amount of \$40,880.32, made pursuant to the *Marine Liability Act*. The Administrator acknowledged receipt of the claim information and explained that upon preliminary review of the documentation submitted to the SOPF, the claim appears to be time barred but he welcomed additional submission or argument to address the time-bar issue. On March 11, 2014, Coast Guard responded to advise that no further justification of the incident will be provided, because they accepted that the claim was submitted beyond the time bar reserved for filing claims with the SOPF. Accordingly, on March 12, 2014, the Administrator closed the file.

2.17 Vicki Lyne II (2012)

Case number: 120-619

On June 21, 2012, the Canadian Coast Guard (CCG) informed the Administrator about this incident. A concerned citizen had reported that an old steel-hulled fishing vessel, *Vicki Lyne II*, was abandoned in Ladysmith Harbour, British Columbia, and was likely to discharge a pollutant. The CCG conducted an initial assessment and found the vessel in a deteriorated condition with substantial amounts of oil aboard. In consequence, the CCG contracted McAllister Marine Survey & Design Ltd. to have a technical surveyor examine the vessel and offer an opinion as to whether an imminent threat of pollution exists. The Administrator instructed counsel to engage a marine surveyor to arrange with CCG to have a surveyor attend the inspection of the vessel on behalf of the Fund.

On August 31, McAllister Marine Survey and Design Ltd. presented its technical survey report. The surveyor concluded that due to the overall condition of *Vicki Lyne II*, it posed a significant, imminent and ever-increasing threat to the environment. The report recommended that the only certain way of removing the oils aboard contained in piping and machinery was to disassemble and scrap the vessel as soon as possible. The technical surveyor engaged on behalf of the Fund confirmed that McAllister's report accurately reflects the condition of the fishing vessel, and the amount of hydrocarbons onboard. However, the surveyor from

the Fund offered an opinion that the removal and cleaning of hydrocarbons from the *Vicki Lyne II*, rather than demolition would be the least cost option to minimize the threat of hydrocarbon pollution. CCG has been informed of this independent opinion.

At the end of the last fiscal year, CCG advised that it was working with Public Works and Government Services Canada to develop contract specification for the process of tendering. On July 9, 2013, counsel for the Administrator was informed by Coast Guard that an environmental response employee had attended the vessel in late June, and there was no evidence that the owner has removed any oil, or other pollutants. Therefore, the Coast Guard was assessing available options and would welcome an opportunity to discuss with the Administrator the reasonableness of each option.

On July 30, 2013, counsel replied and reminded Coast Guard of the earlier opinion of the independent technical surveyor appointed by the Administrator – notably, that the removal of the pollutants could be done at a lesser cost than deconstruction of the vessel. The surveyor had also recommended that quotations be obtained for both alternatives. Counsel confirmed to Coast Guard that the Administrator cannot prejudge the measures taken prior to the submission of the claim. No claim has been filed with the Fund, meanwhile this filed is held in abeyance.

2.18 Centurion (2012)

Case number: 120-615

Note: Two claims 2.18 and 2.19 arose out of the same incident.

On January 25, 2012, a Canadian owned dry bulk carrier, *Centurion*, caused an oil pollution incident in the ice-covered waters surrounding the port of Sorel, Quebec. Transport Canada Marine Safety inspectors were informed that the engine room crew had discharged an oily mixture by inadvertently activating the bilge pump. As a result, it was estimated that approximately 9,000 litres of pollutants were discharged into port waters. The Canadian Coast Guard, along with a certified Response Organization and other contractors were mobilized in order to clean-up the oil being discharged. By February 3 most of the pollution was recovered. There remained some oil pollution in the crevices of the quay, but ice conditions prevented removal at that time. It was envisioned that a further clean-up operation would be necessary in either spring or summer.

When originally informed about this incident, the Administrator instructed counsel to keep a watching brief and to explore whether or not the pollution incident falls within the scope of the Bunker Convention. Counsel was also instructed to enquire with Transport Canada about the identity of the insurers under the certificate of compulsory insurance.

On September 11, 2012, the Administrator received a claim from the Department of Fisheries and Oceans (DFO/CCG) for costs and expenses in the amount of \$26,703.53, pursuant to the *Marine Liability Act* (MLA).

Since the Administrator concluded that this incident falls within the scope of the Bunkers Convention, to which Canada is a party and which allows claims to be sent directly to the shipowner's insurance, the Administrator, in the interest of saving costs, suggested to the Coast Guard that they submit their claim directly to the Standard Steamship P&I Club. The Coast Guard was unwilling to do that, and so on December 19, 2012, the Administrator mailed the claims documentation to the Club's representative in New York. After some negotiation between counsel for the SOPF and the Club, an all inclusive offer of settlement of this claim in the amount of \$24,000.00 was made by the Club. The Coast Guard accepted

the offer. After the Coast Guard had executed the appropriate release, the Club paid the amount of the settlement. Accordingly, as of November 19, 2013, the Administrator closed his file with respect to this claim.

2.19 Centurion (2012)

Case number: 120-615

As noted in our previous Annual Report, 2012-2013, this incident gave rise to a second claim, namely, a claim from the Eastern Canada Response Corporation (ECRC) in respect of costs and expenses incurred by them at the request of the shipowner to clean up oil being discharged from the *Centurion*. In spite of the fact that this spill, as previously mentioned in section 2.18, appears to fall under the terms of the Bunkers Convention, the ECRC organization submitted its claim to the Administrator on March 5, 2013. Response organizations are not entitled, however, to submit their claims directly to the Administrator. They can only receive compensation out of the SOPF as a last resort if they can demonstrate that they have taken all reasonable steps to recover their costs from the shipowner.

In fact, the response organization only sent its claim to the shipowner on March 30, 2013, at which time the shipowner had already filed for restructuring under the *Companies Creditor Arrangement Act* and the ship had been sold. Moreover, the claim of the response organization was dismissed by the referee appointed by the Court to dispose of the assets of the ship owning company on the grounds that the claim did not enjoy any priority over other creditors of the owner.

From the claims documentation submitted to the Administrator, it became clear that the shipowner at the time of the incident had valid P&I insurance, but that no effort had been made by the response organization to submit the claim directly to the insurers as they were entitled to do under the terms of the previously mentioned Bunkers Convention. As a consequence of discussion between counsel for the Administrator and counsel for the insurers as to what constitutes taking reasonable steps as per paragraph 101 (1)(a) of the *Marine Liability Act*, the Administrator concluded that the claim did not meet the criteria in the Act for payment out of the SOPF. Accordingly, the Administrator instructed counsel to inform counsel for the response organization that he declined to assess and pay this claim. However, the file remains open, since applicable prescription periods have not yet been exhausted.

2.20 Golden Dragon I (2012)

Case number: 120-626

On April 10, 2012, the Canadian Coast Guard (CCG) received a report from the Harbour Authority at Prince Rupert, British Columbia, that a fishing vessel, *Golden Dragon I*, secured to the Fairview dock was discharging diesel oil. Along with the local wharfinger, CCG personnel attended the scene. They found a large oil slick encompassing the vessel and extending throughout the dock area. CCG assisted the Harbour Authority in streaming a containment boom and absorbent pads around the vessel. A Transport Canada Marine Safety inspector obtained oil samples. The vessel owner was reported to be out of the country and could not be contacted. Upon inspection of the unmanned vessel, CCG found that the bilge pump was pumping oily waste overboard that had accumulated in the bilges from a leaking fuel line. CCG effected temporary repairs and pumped the bilges of the remaining oily residue. It was estimated that 2,000 litres of diesel oil remained in the fuel tank.

On April 17, the vessel owner was contacted by CCG and was officially informed of his responsibility under the *Marine Liability Act* with respect to the oil pollution incident. Subsequently, the owner removed the remaining fuel and effected repairs.

On January 28, 2013, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator for costs and expenses in the amount of \$3,697.35, pursuant to the Act. (CCG submitted the original claim to the vessel owner who paid only the amount of \$1,000.00.)

After investigation and assessment of the claim, the Administrator made a final offer to DFO/CCG for the established amount of \$3,559.53, plus interest. The offer was accepted by DFO/CCG and on March 7, 2013, the Administrator directed payment of \$3,657.56, inclusive of interest, in accordance with the Act.

At the end of last fiscal year, the Administrator instructed counsel to write to the registered owner of the vessel and request that he make the arrangements within 14 days to pay the costs incurred, plus additional interest pursuant to the Act. The owner was informed that failing satisfactory arrangements being made to pay the outstanding balance owing, the Administrator may proceed with an action in Small Claims Court.

On April 26, 2013, the vessel owner verbally agreed to pay the balance owing, but actually failed to do so. As a result, a Notice of Claim was issued and served in the Small Claims Court in Prince Rupert. The owner did not file a Reply to the Notice of Claim. Therefore, on September 27, a default order of the Provincial Court of British Columbia was filed, granting judgment against the vessel for \$3,957.48, plus interest to the date of payment of judgment. On October 7, the owner was informed – via Registered Mail – that unless satisfactory arrangements are made to pay the judgment by October 31, 2013, the Administrator will take execution proceedings against his assets, including the *Golden Dragon I*. Meanwhile, as of the end of the fiscal year, the file is held in abeyance.

2.21 Emerald Tide (2012)

Case number: 120-618

On May 1, 2012, the Canadian Coast Guard (CCG) was informed that an old abandoned pleasure craft, *Emerald Tide*, was sinking near the fuel dock at Port McNeil on Vancouver Island. The fuel dock personnel had placed a bilge pump onboard when the vessel's automatic pumping system failed. The next day CCG Environmental Response personnel travelled from Victoria for an on-site assessment of the incident. Upon arrival the vessel was found to be low in the water, with visible rotten planking with patches above and below the waterline. The personnel discovered that the bilges were filled with oily waste above the deckplates. Furthermore, the engine room space was awash with oil. The fuel tanks contained several hundred litres of fuel. When contacted, the owner's representative informed CCG, in writing, that the owner did not have the financial means to respond to the pollution threat.

On May 7, CCG personnel removed the accessible oils from the vessel's machinery and fuel tanks. Meanwhile, a commercial marine surveyor of Strathcona Marine Surveyors of Campbell River was contracted by Coast Guard to conduct an independent condition assessment of the *Emerald Tide*. The surveyor reported that the vessel was saturated with oil and the hull was thoroughly rotten. As a result, the vessel should be removed from the water in order to dispose of the contaminated materials.

Consequently, CCG engaged Public Works and Government Services Canada (PWGSC) to undertake competitive bidding to ensure that costs and expenses were kept to a minimum. On May 25, PWGSC

awarded a deconstruction contract to Jenkins Marine Ltd. of Esquimalt. As a result, the *Emerald Tide* was towed to Esquimalt and demolition was completed on June 22.

When the towed vessel arrived at the Esquimalt Graving Dock, the Administrator instructed counsel to engage a technical marine surveyor to survey the old vessel after it was hauled out of the water. The marine surveyor reported that as a consequence of the poor hull condition and hydrocarbon-saturated hull planking, decking, stringers and framing, as well as residual hydrocarbons being contained within tanks, piping and machinery, the most economic course of action to minimize the threat of pollution from the *Emerald Tide* was to deconstruct the vessel.

On January 28, 2013, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator for costs and expenses in the amount of \$123,073.89, pursuant to the *Marine Liability Act*. Receipt of the claim was acknowledged the next day.

After completion of an investigation and assessment of the claim, the Administrator made a final offer to DFO/CCG for the established amount of \$122,195.62, plus interest. The offer was accepted by DFO/CCG. On March 7, 2013, the Administrator directed payment in the amount of \$125,370.70, inclusive of interest. (In his letter of offer the Administrator complimented the Coast Guard personnel on both the content and presentation of the claim documentation.)

At the end of last fiscal year, on behalf of the Fund, counsel wrote to the vessel owner and requested that he make arrangements to pay the costs incurred plus additional interest. The owner was asked to advise within 14 days, what arrangements could be made to pay the amount. He was also informed that failing satisfactory arrangements being made to pay the balance, the Administrator may proceed with an action in the Federal Court.

On April 22, 2013, a second demand letter was sent to the registered office address of the owner. The letter was returned and marked “moved/address unknown”. A corporate search indicated a different address than the one of the registered office. On May 10, another copy of the demand letter was mailed to the new address. On June 3, counsel received a reply from the owner requesting additional time – until July 31, 2013 - to make an official settlement offer without resorting to legal action. An extension until the end of the month was granted. On July 22, however, contrary to offering a settlement proposal, the owner sent counsel a “Notice of Injury” which was claiming for payment of \$45,000.00 against the Canadian Coast Guard and Ship-source Oil Pollution Fund.

After further investigation, it was ascertained that the owner of *Emerald Tide* has no exigible assets. In light of this finding, the Administrator concluded that additional expenditure of funds to recover the amount paid in compensation to the Coast Guard would not be reasonable. Accordingly, on October 7, 2013, the Administrator closed the file.

2.22 Portofino 46 (2012)

Case number: 120-621

On September 3, 2012, the 46-foot sports cruiser, *Portofino 46*, sank at its berth in Port Dalhousie, Ontario. After sinking, the small passenger vessel began and continued to leak hydrocarbons, including diesel fuel and engine lubricating oil. The Corporation of the City of St. Catharines requested that the owner raise the wreck forthwith, and take measures to prevent or minimize

discharge of pollutants and damage to the environment. Because the vessel owner failed to take any effective measures, on September 7 the Corporation arranged for the wreck to be raised and placed in storage.

On November 2, the Administrator received a letter of notification from counsel for the City of St. Catharines that legal action had been taken to arrest the *Portofino 46* in order to recover its incurred costs and expenses. The letter also indicated that later a claim may be filed with the Fund. The Administrator acknowledged receipt of the notice of claim in the estimated amount of \$40,000. At this point, the Administrator retained counsel to maintain a watching brief on the legal proceedings. On November 7, the Administrator received from counsel for the Corporation, a Statement of Claim served upon the Fund pursuant to the Federal Court Rules.

During the current fiscal year, counsel for the municipality tried to reach a settlement with the vessel owner. According to the Statement of Claim, the city's expenses were estimated at \$40,000.00. Counsel indicated that the City was preparing a claim to lodge with the Administrator seeking a top-up, or payment in advance, of the settlement agreement being negotiated.

On July 31, 2013, counsel, on behalf of the Administrator, informed the City that in the event it files a claim, the Administrator would have to be satisfied that the claim relates to costs and expenses for oil pollution abatement measures and not for wreck removal charges. As of the end of the fiscal year, no claim for compensation has been filed with the SOPF. Meanwhile, the file is held in abeyance.

2.23 Tundra (2012)

Case number: 120-636

On November 28, 2012, the Cyprus - registered bulk carrier, *Tundra*, grounded in the St. Lawrence River system near Sorel, Quebec. The vessel was en route to Halifax from Montreal with a cargo of approximately 20,000 tonnes of soya beans. The *Tundra* was carrying 599 tonnes of bunker fuel, plus an estimated 50 tonnes of diesel and lube oil products. The ship's Master informed the owners about the situation. He confirmed that there was no oil pollution, and that arrangements were in-hand to refloat the vessel. The owner engaged the Eastern Canada Response Corporation (ECRC) to prepare a plan for refloating the grounded vessel. Transport Canada Marine Safety inspectors proceeded to the scene and assisted with developing a salvage plan. On December 5, the *Tundra* was successfully refloated and the risk of oil pollution was prevented. From the beginning, the Canadian Coast Guard assumed the role of "Federal Monitoring Officer". However, Coast Guard personnel were not required on-site during ECRC's response to the incident. The Coast Guard personnel were able to utilize a video camera from the Lac St. Pierre area to monitor the ECRC's operations. Furthermore, Coast Guard maintained regular communications with Transport Canada Ship Safety Inspectors who were onboard the *Tundra*.

On August 13, 2013, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator for costs and expenses in the amount of \$10,738.01, pursuant to the *Marine Liability Act* (MLA).

On January 8, 2014, after investigation and assessment of the claim, the Administrator concluded that the total amount claimed was not established and made a final offer to DFO/CCG for the partially established amount of \$3,119.50, plus interest, as full and final settlement pursuant to the *Marine Liability Act*. DFO/CCG accepted the offer. On February 4, the Administrator directed payment of \$3,240.15, inclusive of interest, in accordance with the MLA.

On February 27, 2014, the Administrator mailed a letter to the shipowner's insurance agent in Jersey City, United States, requesting payment of the compensation paid to the Canadian Coast Guard. The insurance agent was informed of the shipowner's responsibility, under the terms of the *Canada Shipping Act*, the *Marine Liability Act* and the 2001 Bunkers Convention, for expenses incurred by the Canadian Coast Guard during its response to the incident. A copy of the letter was also sent to the registered shipowner in Athens, Greece. Meanwhile, as of the end of the fiscal year the file remains open.

2.24 Colleen K (2012)

Case number: 120-631

On December 12, 2012, the Canadian Coast Guard (CCG) received a report that an old 13-metre steel-hulled tugboat, *Colleen K*, had sunk at Port Simpson Marina in Northern British Columbia. The following day the CCG Environmental Response personnel, based at Prince Rupert, conducted a helicopter flight and observed that oil was visible around the submerged vessel, and several non-recoverable oil slicks were seen in the marina area. With local assistance, Coast Guard streamed a sorbent boom around the area of the polluting wreck. The tug owner explained that he did not have the financial resources to respond to the occurrence. As a result, Coast Guard engaged commercial salvors to take measures to remove the 1949 built tug from the marine environment.

The *Colleen K* was raised by the contractor on December 16, placed on a barge and taken to Wainwright Marine Services shipyard for survey and assessment. Coast Guard monitored the recovery operations throughout. Coast Guard hired an independent technical marine surveyor from Northern Breeze Surveyors Ltd. to attend at Wainwright Marine to determine the condition and evaluation of the vessel. The surveyor offered the opinion that the *Colleen K* was a "Total Constructive Loss" and the cost of repairs would far exceed any recoverable value. Subsequently, CCG contracted with Wainwright Marine to remove all hydrocarbons from the tug, deconstruct and dispose of the debris in accordance with the applicable federal and provincial regulations.

On March 20, 2013, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator for costs and expenses in the amount of \$84,522.02, pursuant to the *Marine Liability Act* (MLA). Receipt of the claim was acknowledged.

The Administrator instructed counsel to engage a marine technical surveyor to review the Ship-source Oil Pollution Fund's preliminary assessment, and examine the submitted documentation referring to the services provided by the contractor. The purpose of the surveyor's investigation was to independently assess whether the measures taken were reasonable under the circumstances. The surveyor was also instructed to talk directly with the principals involved.

On August 30, 2013, the technical surveyor reported that the charges appear reasonable and are consistent with the work performed. In addition, the surveyor considered that the deconstruction and disposal of the *Colleen K* was the most economic course of action to prevent the vessel from causing future hydrocarbon pollution to the marine environment. The surveyor's report noted that the vessel had no salvage value.

On October 9, the Administrator informed the Canadian Coast Guard that the investigation and assessment of the claim was completed. As a result, an offer was made to DFO/CCG for the established amount of \$84,522.02, plus interest, as full and final settlement, pursuant to the *Marine Liability Act*. The offer was accepted, and on November 12 the Administrator directed payment in the amount of \$87,020.27, inclusive of interest.

On November 22, counsel sent a demand letter – via Registered Mail – to the registered owner informing him of his responsibilities for the costs incurred in respect of measures taken in this incident. The owner was requested to advise within 14 days, what arrangements could be made to pay this outstanding claim, failing which the Administrator may proceed with action in the Federal Court to recover the balance owing.

After further investigation by counsel which did not reveal any exigible assets belonging to the registered owner, the Administrator concluded that additional expenditures to recover the amount paid out of the SOPF would not be reasonable. Accordingly, on March 31, 2014, the Administrator closed the file.

2.25 Lady Mary III (2012)

Case number: 120-623

On November 19, 2012, the Canadian Coast Guard (CCG) received a report that a derelict ex-fishing vessel, *Lady Mary III*, had blown off its mooring in Lamalchie Bay, Penelakut Island, British Columbia. The vessel had been grounded at high tide on an adjacent shoreline. The report indicated that the vessel was likely to discharge oil pollutants. A pollution response employee was deployed from the CCG station at Sea Island to inspect the grounded vessel and assess the potential for oil pollution. Upon arrival no oil pollution was observed but the identified owner, who resided aboard the vessel while at anchor, advised that the *Lady Mary III* contained more than 2,000 litres of diesel fuel, as well as lubricating oils. (The 42-foot wooden-hull vessel had been designed and constructed during 1971 in Nova Scotia.) It was found stranded in proximity to the sensitive shellfish harvesting area of the First Nations' territory on Penelakut Island.

The vessel's live-aboard owner informed the Coast Guard that he did not have the financial means to remove and repair the wreck, which had an extensively rotten hull and was badly holed. Consequently, he signed a statement relinquishing control of the *Lady Mary III* to the Coast Guard to allow them to take measures to prevent a discharge of pollutants. The Coast Guard then engaged Public Works and Government Services Canada (PWGSC) to procure bids and put in place a contract for salvage of the wreck in order to prevent a discharge of oil. A PWGSC contract was awarded to Saltair Marine Services Ltd. The contractor arrived on scene and a CCG employee attended to coordinate the salvage measures in order to prevent and/or minimize any oil pollution damage. (During the investigation, it was later found that the actual registered owner of the *Lady Mary III* was not the live-aboard person the CCG responders met at the time of the incident.)

On November 20, the contractor recovered the vessel and towed it to the Saltair Marine facility in Ladysmith Harbour. When the vessel was hauled out on the marine ways, CCG hired Lipsett Marine Consultants at Ladysmith to ascertain the condition of the vessel and estimate the monetary value. The consultant's technical report of the survey described that the old fishing vessel was in a "dismal condition" with no salvage value. The structure was rotten and its overall condition was beyond repair. The surveyor recommended that the *Lady Mary III* should "be hauled ashore, cut-up and disposed of in an environmentally safe manner". Because of these findings, Saltair Marine Services Ltd. was instructed to deconstruct the vessel in order to remove all the oils and contaminated material in accordance with the provincial waste disposal regulations.

On May 13, 2013, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator for costs and expenses in the amount of \$31,548.55, pursuant to the *Marine Liability Act* (MLA). After completion of the investigation and assessment of the initially submitted documentation and additional requested information, the claim was found to be fully established. Therefore, on September 4, 2013, the

Administrator made an offer of \$31,548.55, plus interest, as full and final settlement in accordance with MLA. DFO/CCG accepted the offer. Accordingly, on September 19, the Administrator directed payment of \$32,354.69, inclusive of interest.

Given the amount of the claim, the Administrator instructed counsel to send a letter – via Registered Mail – to the registered owner requesting that arrangements be made to pay the Administrator the sum of \$32,354.69, plus additional interest, pursuant to section 116 of the MLA. In response, counsel was informed that the registered owner had sold the vessel “last summer” and delivered a Bill of Sale. Most important, he was living on a disability pension and had no money to pay the Administrator. It was further found that the live-aboard individual was essentially a homeless person. The Administrator concluded that it would be unreasonable to incur further expenditure for any further attempt at cost recovery. Accordingly, on December 10, 2013, the Administrator closed the file.

2.26 Nova Star I (2012)

Case number: 120-648

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

On March 7, 2014, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator for costs and expenses in the amount of \$6,523.50, pursuant to *Marine Liability Act*. In the letter of acknowledgement, the Administrator requested additional support documentation to allow for a proper assessment of the claim. As of March 31, the Administrator has not received the requested documentation. Meanwhile, at the end of the fiscal year the file remains open.

2.27 Pine Isle (2013)

Case number: 120-628

On January 4, 2013, the Canadian Coast Guard (CCG) informed the Administrator that a small vessel, *Pine Isle*, had sunk at Silva Bay, Gabriola Island, BC. The vessel sank overnight on December 31 while at anchor and was discharging oil. The vessel was reported to be abandoned and the owner could not be found. Consequently, the CCG engaged a local contractor to refloat the wreck and prevent further discharge of oil pollutants. At the end of the fiscal year, no claim had been filed with the Fund. The file remains open.

2.28 Mikon (2013)

Case number: 120-629

On March 6, 2013, the Canadian Coast Guard (CCG) informed the Administrator that an ex-fishing vessel, *Mikon*, had sunk at Port Browning, Pender Island, British Columbia, and was discharging oil. The CCG Environmental Response personnel were tasked to deploy containment booms and absorbent pads in response to the incident. The vessel owner informed CCG that he did not have the financial means to respond to the incident. Coast Guard advises that it intends to raise the wreck to prevent further discharge and minimize pollution damage. At the end of the fiscal year, no claim had been filed with the Fund. The file remains open.

2.29 Mystery Spill, Victoria, British Columbia (2013)

Case number: 120-630

On March 12, 2013, the Canadian Coast Guard (CCG) informed the Administrator that it was responding to an oil spill in Victoria, British Columbia. There was a slick of black oily substance – with no source determined – between the ship *Wave Venture* and the Ogden Point jetty. The CCG Environmental Response personnel contained the waste oil and recovered it with absorbent material. The thick black substance adhered to the *Wave Venture* and the jetty, both of which would require cleaning. A Transport Canada Marine Safety Inspector investigated the incident and took oil samples in an attempt to determine the source. At the end of the fiscal year no claim had been filed. The file remains open.

2.30 Dawn Til Dusk (2013)

Case number: 120-634

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

On February 7, Coast Guard personnel returned to the site to monitor the operations and assist the owner's contractor in the deployment of additional containment booms and to replace existing soiled sections. On February 22, Coast Guard deployed 260 feet of its own boom, because a light sheen was still present. On March 15, Coast Guard personnel were present when the owner's contractor was able to raise the wreck and began towing it ashore. However, due to the strong current, it sank again approximately 1,500 feet from the wharf. On March 27, *Dawn Til Dusk* was again refloated and successfully recovered. Upon arrival at the wharf the fuel tanks were pumped dry. The owner then arranged with a salvage company to demolish and dispose of the wreckage.

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

On June 27, the Administrator informed the CCG that the investigation and assessment of the claim was completed and the amount \$7,158.04 was established. Therefore, the Administrator made an offer of \$7,158.04, plus interest, as full and final settlement, pursuant to the MLA. The offer was accepted and on July 17, 2013, the Administrator directed payment in the amount of \$7,258.37, inclusive of interest.

On July 30, the Administrator sent a letter – via Registered Mail – to the registered owner of the vessel *Dawn Til Dusk* informing him of his responsibilities for the costs and expenses incurred in respect of the measures taken to prevent oil pollution in this incident. The owner was asked to respond within 14 days to advise what arrangements could be made to pay the sum of \$7,258.37. The vessel owner was informed that failing a satisfactory arrangement being made to pay the outstanding balance, the Administrator may proceed with an action to recover the amount owing. The registered letter was returned by Canada Post as being “unclaimed”. Consequently, the Administrator conducted further investigation to identify any possible assets the vessel owner may have for costs and recovery action. The background investigation revealed that no significant financial assets were registered in the

owner's name in the Province of Nova Scotia. As a result, the Administrator concluded that all reasonable measures had been taken to recover the claim costs, and that additional expenditure of the Ship-source Oil Pollution Fund could not be justified. Accordingly, on October 1, 2013, the Administration closed the file.

2.31 Mystery Spill – Federal Progress (2013)

Case number: 120-633

On April 8, 2013, the Montreal Port Authority investigated the possible leakage of oil from the cargo ship *Federal Progress*, which was secured at the Alexandria Berth in the Port of Montreal. An area of 300 square metres surrounding the ship was contaminated by a light film of rainbow-coloured oil. The Port Authority arranged for Urgence Marine to place a containment boom in the area. Representatives of Transport Canada and the Canadian Coast Guard were on-site during the response to the incident.

On November 1, 2013, the Port Authority filed a claim with the Ship-source Oil Pollution Fund in the amount of \$5,969.53 for costs and expenses related to its response to the oil spill near the vessel *Federal Progress*.

The Administrator commenced an investigation and assessment of the claim. As a result of further enquiry about the findings of Coast Guard, Transport Canada, and the Port Authority, it was clear that there were different opinions as to the exact source of oil pollution. As a consequence, the Administrator was not satisfied on the evidence available that the occurrence was not caused by a ship. Therefore, the claim was allowed. On February 20, 2014, the Administrator made an offer to the Montreal Port Authority in the amount of \$5,969.53, plus interest, as full and final settlement pursuant to the *Marine Liability Act*. The offer was accepted. After the Port Authority executed the appropriate release, the Administrator directed payment in the amount of \$6,149.95, inclusive of interest. Because the incident was found to be a mystery spill, no recourse action was available. Accordingly, on March 31, 2014, the Administrator closed the file.

2.32 Navi Wind (2013)

Case number: 120-643

On December 4, 2013, the Joint Rescue Co-ordination Centre in Halifax was alerted that the cargo ship *Navi Wind* was disabled in heavy seas in the outer traffic lanes of Placentia Bay, Newfoundland. The ship had earlier taken onboard 50 tons of water from down flooding, but the ingress of sea water was reported to be under control. Because of the ship's steering gear and other main engine problems, Coast Guard arranged for tugs from the Newfoundland Trans-Shipments terminal at Whiffen Head to proceed and tow the ship into Argentia, Newfoundland. A local Harbour Pilot was able to board the disabled ship, but sea state conditions were initially too severe to connect a tow line for the towing operation. It was determined that there was some 40 tons of oily contaminated water in the engine room along with approximately 200 tons of bunker oil onboard. The 4,281 ton ship had a cargo of scrap metal. There was a real risk that it would drift ashore.

Transport Canada and the Coast Guard had no confidence in the ability of the *Navi Wind* to repair the engines in a timely fashion, given the forecasted wind and sea state conditions. As a result, Coast Guard deployed its ship *Hudson* and a helicopter to monitor and assist the salvage operation. When the sea state moderated the tug was able to connect and tow the ship into Port. With the assistance of Coast Guard crew members and CCG supplied mooring lines, the ship was secured alongside in Argentia.

When informed about the ongoing incident, the Administrator instructed counsel to maintain a watching brief and ascertain the ship's ownership and other general particulars, including whether or not there was a Bunkers Convention Certificate onboard.

The Transport Canada Marine Safety office confirmed that it had detained the Panama-registered *Navi Wind* in Argentina. The Administrator was later informed that the *Navi Wind* sailed for Europe in early March 2014. No claim has been filed with the SOPF; however, as of the end of the fiscal year the file is being held in abeyance.

2.33 Katryn Spirit (2013)

Case number: 120-642

On September 19, 2013, the Canadian Coast Guard (CCG) informed the Administrator about a potential oil pollution incident near Beauharnois in the St. Lawrence River. In 2011 a ship, *Katryn Spirit*, which was owned by a Mexican company went aground in the Beauharnois area of Lac St. Louis. In 2012, a private contractor attempted to tow the ship off the shoal, but was not successful. During the winter of 2012 further damage occurred and the ship has listed considerably.

In its report, CCG noted that when the ship ran aground there were approximately 100 tonnes of bunker fuel oil onboard, which could become a pollution threat in Lac St. Louis. Transport Canada, Marine Safety, is in contact with the owner of the ship and has informed CCG that by mid-September 2013, only 30 tonnes of oil has been pumped out of the grounded ship. As of the end of the current fiscal year no claim has been filed with the SOPF. Therefore, the file remains open.

2.34 Bromada (2013)

Case number: 120-641

On September 20, 2013, the Canadian Coast Guard (CCG) informed the Administrator that a fishing vessel, *Bromada*, had sunk at Ladysmith, Vancouver Island, and was discharging oil. The CCG Environmental Response personnel were in the process of arranging through the Department of Public Works Canada to engage a contractor to raise and remove the sunken vessel in order to minimize and prevent further oil pollution. As of the end of the fiscal year the CCG has not filed a claim with the Fund. Therefore, the file remains open.

2.35 Pacific Challenge (2013) (cover photo)

Case number: 120-635

On June 27, 2013, the Canadian Coast Guard informed the Administrator that the ex-tug *Pacific Challenge* was in danger of sinking at its anchorage off Pender Harbour, British Columbia. The owner reported that hull deterioration was the cause for the slow ingress of water, but that he was unable to respond to the incident.

The Coast Guard Environmental Response personnel investigated and found that the derelict vessel contained approximately 25,000 litres of a mixture of diesel oil and sea water in its fuel tanks. There was also some 400 litres of hydraulic oil onboard, and a quantity of oily waste in the bilges. The tug owner was unable or unwilling to respond appropriately. Therefore, at the time of the report, the Coast Guard was in

the process of trying to ensure that in the event the tug sank there would be no oil pollution damage to the marine environment. As of the end of the fiscal year no claim has been filed with the fund; meanwhile, the file remains open.

2.36 Mystery Spill – Baie St-François, QC (2013)

Case number: 120-650

On March 24, 2014 the Administrator received a claim from the City of Salaberry-de-Valleyfield, QC. The amount of the claim is \$104,150.88. The claim was for the costs and expenses incurred by the city in responding to a pollution incident which occurred on November 16, 2013 in the area of Baie St-François. On March 26 2014, the Administrator acknowledged receipt of the claim and commenced his assessment and investigation of the incident. The file remains open.

2.37 Dominion I (2014)

Case number: 120-613

The Administrator's Annual Report 2012-2013 (sections 2.17 and 2.42) notes that the ex-fish-packing vessel *Dominion I* was involved in two previous incidents. In 2005 the Greater Victoria Harbour Authority filed a claim for oil pollution clean-up costs and expenses, and secondly, in 2011 the Canadian Coast Guard filed a claim in response to an occurrence with the vessel while at anchor in Cowichan Bay, Vancouver Island. The Administrator assessed and settled both these claims. (Section 2.8 refers.)

On March 10, 2014, the Administrator received another claim from the Department of Fisheries and Oceans (DFO/CCG) in the amount of \$220,937.25 for costs and expenses incurred in respect of measures taken in anticipation of a discharge of oil from the *Dominion I*. This incident involved removing the vessel from its anchorage and securing it at the Cowichan Bay docks with the assistance of a tug. The claim documentation indicates that CCG engaged a vacuum truck to remove 2,400 litres of accessible hydrocarbons, but some 50,000 litres of oily waste remained onboard. Overall, approximately \$204,000.00 of the total claim is for contracted services. The majority of which is for the \$300.00 per day wharfage fee over an extended period.

The claim documentation also indicates that the shipowner – who resides in the United States – arrived in Canada aboard a Mexican – flagged tug, *Gaviota*, and prepared the *Dominion I* for towing. On June 22, 2013, with the approval of Transport Canada, Ship Safety, the Mexican tug and *Dominion I* departed the Canadian jurisdiction.

The Administrator has commenced an investigation of the claim so the file remains open.

2.38 Baltic II (2014)

Case number: 120-647

On February 6, 2014, the Canadian Coast Guard (CCG) informed the Administrator that an old ex-fishing vessel, *Baltic II*, was abandoned at its mooring in Deep Bay, Vancouver Island. It was reported by the Deep Bay Harbour Authority to be at risk of sinking and discharging oil. CCG Environmental Response personnel from Victoria boarded and assessed the vessel. It was confirmed that the derelict contained oils, which could not be safely and effectively cleaned where the vessel was moored. Due to the potential for oil pollution damage to the local aquaculture industry, should the *Baltic II* sink and

discharge fuel oil, CCG decided to remove the vessel and dispose of it ashore. As of the end of the fiscal year CCG has not filed a claim with the Fund. Therefore, the file remains open.

2.39 Porcher G (2014)

Case number: 130-644

On January 13, 2014, the Canadian Coast Guard (CCG) informed the Administrator that the 45-foot ex-fishing vessel *Porcher G* had sunk and was discharging oil at Campbell River, British Columbia. CCG Environmental Response personnel took over the appropriate response, because the identified owner indicated that he did not have the financial means to deal with the situation. CCG advises that it intends to file a claim with the Fund. Meanwhile, the file remains open.

2.40 Elf (2014)

Case number: 120-646

On January 14, 2014, an old wooden tug, *Elf*, sank near Passage Island, British Columbia. The tug *Elf* was itself under tow from Squamish to the Fraser River to be demolished. A preliminary report indicated that there was a substantial sheen of fuel oil in the channel where the sinking occurred. The Canadian Coast Guard responded and streamed an oil containment boom around the unrecoverable “light silver and rainbow sheening”.

The Administrator instructed counsel to engage a technical marine surveyor to investigate the possibility of oil pollution claims being filed with the SOPF. As of the end of the fiscal year no claim has been filed. Meanwhile, the file remains open.

2.41 MacEachern’s Point Wharf (2014)

Case number: 120-651

On May 5, 2013, a fire occurred at the MacEachern’s Point Wharf in Tabusintac, New Brunswick. The fire destroyed the upper structure of five fishing vessels and they sank alongside their mooring docks. Each vessel contained approximately 150 gallons of fuel oil, plus a quantity of lube and hydraulic oils. The sinking of the vessels caused an upwelling of oil on the surface of the water.

The Canadian Coast Guard (CCG) Environmental Response personnel based at Charlottetown, Prince Edward Island, proceeded to the site and took appropriate action to mitigate the extent of oil pollution. Upon arrival it was found that the RCMP was conducting an investigation into the cause of the fire. In addition, the Small Craft Harbour Authority was arranging to remove the sunken fishing vessels; however, they were not prepared to remove the oil products and contaminated debris. On May 6, the RCMP released the scene and CCG personnel commenced removal of the debris and pollution in conjunction with the operations of the Small Craft Harbour to raise the five sunken vessels. CCG engaged a local contractor, Sutherland Excavating Ltd., to clean-up the site and dispose of the contaminated materials.

On March 27, 2014, the Department of Fisheries and Oceans filed a claim with the Administrator in the amount of \$55,937.21 pursuant to the *Marine Liability Act* for costs and expenses incurred during response to the incident. Meanwhile, the Administrator has commenced an investigation and assessment of the claim. The file remains open.

2.42 John I (2014)

Case number: 120-649

The Administrator was informed that on March 14, 2014, the Panama-registered bulk carrier, *John I*, had lost power and, as a result, drifted onto a shoal near Rose Blanche on the south coast of Newfoundland. The 23 crew members were rescued by a search and rescue helicopter. The shipowner arranged for a tug, *Ryan Leet*, out of Mulgrave, Nova Scotia. The Canadian Coast Guard ship *Earl Grey* also proceeded to the site and attempted several times to connect a tow line before the ship grounded. Due to the adverse wind and sea state conditions these efforts were unsuccessful.

The CCG Environmental Response personnel considered the grounded ship to be an oil pollution threat. Therefore, personnel were deployed to the area from St. John's. They set up a mobile command post in Rose Blanche with oil pollution response equipment. CCG staff assumed the role of Federal Monitoring Officers. On March 20, the Administrator was advised that the CCGS *Earl Grey* was escorting the tug and its tow to the Port of Argentia. It was reported that there was an oil sheen of about 6 to 8 litres detected by surveillance aircraft, but that it was unrecoverable.

When initially informed about the incident, the Administrator instructed counsel to ascertain the ship's ownership and other general particulars, because the case would likely fall under the Bunkers Convention. As of the end of the fiscal year no claim has been filed with the SOPF. The file meanwhile remains open.

3. Outreach Initiatives

The Administrator's outreach initiatives are aimed at raising awareness of the existence of the Ship-source Oil Pollution Fund (SOPF) and its availability to provide compensation for oil pollution caused by ships. The outreach affords an opportunity for the Administrator to further his personal understanding of the perspectives of individual claimants, shipowners and other stakeholders who respond to an oil spill incident and, as a result, may file a claim for compensation. When attending meetings of the International Oil Pollution Compensation Funds (IOPC Funds), the Administrator maintains contact and dialogue with delegates representing international organizations and government agencies of IOPC Funds member states. Attendance at these meetings also provides opportunities to review IOPC Fund claims policies to ensure that SOPF claims policy is aligned as closely as possible with IOPC Fund policy.

3.1 Canadian Marine Advisory Council (National)

The Canadian Marine Advisory Council (CMAC) is Transport Canada's national consultative body for marine regulatory amendments and other domestic marine matters. The CMAC meetings are held in Ottawa during the spring and autumn. In addition, regional CMAC meetings are held in each of Transport Canada's operational regions. Participants include representatives of shipping companies, the fishing industry and other stakeholders who have a recognized interest concerning marine safety, recreational boating matters, navigational aids and so forth. There are Standing Committees and Working Groups that discuss a variety of issues and make recommendations for the development of regulations and standards. During the fiscal year, CMAC held national meetings in Ottawa from April 23 to 25, 2013 and from November 5 to 7, 2013. The CMAC meetings are of interest to the Administrator, particularly the discussions and findings of the Standing Committee on the Environment. The Administrator personally attends some of the meetings, but when he is unable to be present the Fund is represented by a marine consultant. The Administrator wishes to keep abreast of the regulatory framework for the prevention of oil pollution from ships.

During the fall session, the Director General, Marine Safety and Security, provided an update on recent developments in Transport Canada. The Director General explained that a Tanker Safety Expert Panel is focussing on the areas of marine oil spill prevention, preparedness, response, liability and compensation. The Expert Panel will provide its recommendations to the Minister of Transport, which will be released to the public when finalized.

The Deputy Commissioner of the Canadian Coast Guard gave a summary of Coast Guard initiatives. The remarks included an update of the operations to remove 700 tonnes of Bunker C fuel oil from the United States Army Transport vessel, *Brigadier General, M.G. Zalinski*, that sank in 1946 in the Grenville Channel, British Columbia. Recently, a small amount of oil has been spotted on the waters above the wreck. Investigation has determined that the *Zalinski's* structural integrity has weakened to the point that release of the estimated 700 tonnes of fuel out from a depth of 130 feet is imminent. In order to remove the oil, an internationally renowned marine salvager, Mammoet Salvage, has been contracted to pump out as much of the Bunker C oil and other pollutants as possible. The contractor will use a process known as "hot tapping". In short, divers will cut holes in the hull where oil is present. Hoses will be attached from which steam will be pumped in to warm the oil and increase its viscosity. Finally, the fuel oil and dirty water will be pumped to shortage tanks on the surface.

The Administrator appreciates being invited to participate in the deliberations of the National CMAC sessions.

Note: Minutes of the CMAC meetings held in Ottawa are available on the National CMAC website at www.tc.gc.ca/eng/marinesafety/rsqa-cmac-menu.

3.2 Annual General Meeting of the Canadian Maritime Law Association and Seminar

The Administrator attended the Annual General Meeting (AGM) of the Canadian Maritime Law Association (CMLA) which was held in Toronto on June 6, 2013.

As has become the practice, the CMLA organized a Maritime Law Seminar, the following day (June 7), which the Administrator also attended. Over many years it has been the practice of the Administrator to attend the AGM. Not only is he a member of the Association, but it has also been considered as a useful forum for the Administrator of the Ship-source Oil Pollution Fund to reach out to the maritime law community. The Association is comprised of lawyers active in the practice of maritime law, and other stakeholders in the field of maritime transport in Canada, such as ship owning interests, insurers and cargo interests. The AGM and other meetings of the Association provide the Administrator with opportunities to cultivate contacts in the maritime community, as well as to keep abreast with developments in maritime law, both nationally and internationally.

The Seminar, the following day, covered a variety of subjects, including recreational boating on Canada's lakes and rivers, police and criminal investigation in the boating and small vessel sector, liabilities and responsibilities of operators of marinas and an update of recent cases in Canadian maritime law. The Administrator, in cooperation with Mr. John O'Connor, an esteemed member of the maritime bar practicing out of Quebec City, made a power point presentation on the implications of some recent decisions in the French courts in the 1999 *Erika* tanker incident off the coast of France. The presentation, backed by a paper prepared jointly by Mr. O'Connor and the Administrator, focused on the consequences of those cases for the international regime of liability and compensation embodied in the Civil Liability Convention and the IOPC Fund Conventions. Those international instruments constitute fundamental elements of the Canadian regime of liability and compensation laid out in the *Marine Liability Act*. The presentation also focused critical attention on recent amendments to the *Migratory Birds Convention Act* and the *Canadian Environmental Protection Act*, noting that those amendments might also have implications for the regime of liability and compensation for ship-source oil pollution in Canada. The presentation was well received and served to emphasize the importance of the international regime, and the Canadian regime contained in Canadian law.

3.3 Arctic Marine Oilspill Program (AMOP) Seminar

The Administrator was represented by a Marine Consultant, Mr. Charles Gadula, at the 36th Arctic Marine Oilspill Program (AMOP) technical seminar on Environmental Contamination and Oil Spill Response held in Halifax, Nova Scotia, from June 4 to 6, 2013.

Environment Canada began the Arctic and Marine Oil Spill Program (AMOP) in 1978 to improve the knowledge base and technology for cleaning up Arctic marine oil spills. The AMOP Technical Seminar soon

evolved into an international technical forum about oil spills in any environment, as well as spill-related topics. The seminar is organized annually by the Emergencies Science and Technology Section (ESTS) of Environment Canada. The ESTS runs an ongoing national program of research and development (R&D) with respect to marine oil spills. The results of the R&D program are applied to actual oil spill incidents, providing assistance to spill responders on the direction of their work. Most of the ESTS projects are conducted in partnership with other government departments, agencies, and industry, and cover a wide spectrum of issues related to spills.

During the 36th AMOP Technical Seminar, a large number of professional, informative papers were presented by representatives from around the world. Abstracts of each presentation were available as part of the proceedings of the meeting and are available from the Emergencies Science and Technology section of Environment Canada in Ottawa. Many of the presentations had a focus on the ongoing research and development (R&D) activities of the participating countries, and how their research is being applied to actual spill incidents. Further, this work was then used to provide assistance to spill responders who in turn provided their field observations back to R&D groups to be used in their future work.

Key areas addressed during the Seminar included: properties, behavior, detection, measurements and effects of spilled hazardous materials, with a focus on conventional and –nonconventional petroleum products; modelling and remote sensing of spilled hazardous materials; spill countermeasures – evaluation, effectiveness, effects and environmental benefits of mechanical and chemical treating agents; and shoreline impact and restoration, including the utilization of the Shoreline Cleanup Assessment Technique. There were several presentations dealing with oil spills in ice-infested waters, including the development of a system for early detection and monitoring of oil spills on water bodies, with a glance to its use in the Arctic Zone.

Presenters came from many parts of Canada, China, France, the United States, Portugal, the United Kingdom, Norway, New Zealand, Georgia, Denmark, Indonesia, Japan and the Ukraine. This broad participation adds immense value to the Seminar and provides participants with a world view of emerging research and its practical application in the field.

The displays provided attendees with a firsthand look at the latest technologies and equipment, and are valuable to the Ship-source Oil Pollution Fund (SOPF) in the ongoing work of investigation and assessing claims filed with SOPF.

3.4 Canadian Marine Advisory Council - Northern

The Administrator was invited to attend the Regional Canadian Marine Advisory Council - Northern (CMAC-N) meeting held in Ottawa on May 22 and 23, 2013. The Ship-source Oil Pollution Fund (SOPF) was represented by a Marine Consultant, Mr. Charles Gadula. The meeting was co-chaired by the Regional Director, Marine, Transport Canada (TC), Prairie and Northern Region, and the Assistant Commissioner, Canadian Coast Guard, Central and Arctic Region. Mr. Gadula attended on May 22. An official record of the meeting was produced and circulated to attendees in due course. Details and copies of the presentations are part of the Record of Decision.

The meeting was well attended with representatives from TC, Canadian Coast Guard, Northern Transportation Company Ltd, Environment Canada, Government of Nunavut, World Wildlife Canada, Transport Desgagnés, Office of Boating Safety – Transport Canada, Nunavut Eastern Arctic Shipping Ltd.,

Department of Fisheries and Oceans, National Research Council, Memorial University of Newfoundland, Canadian Hydrographic Services, Government of the Northwest Territories, Parks Canada and others, including those involved with Sealift.

The Regional Director General (RDG) of Transport Canada provided the keynote address. The RDG highlighted recent departmental changes resulting in a smaller and better focused organization. In addition, the trends, challenges and opportunities in the Arctic, as seen through the Transport Canada lens, were highlighted for the group. Tanker Safety, with the security linkage was a key point raised by the RDG, as well as the intention for Canada to develop a “world class tanker safety system”.

Two regional updates were provided. The RDG provided the Prairie and Northern Region, Transport Canada piece and the Assistant Commissioner of CCG provided the Central and Arctic Region Coast Guard piece. Details are found in the minutes. It was of interest to note the expected increase in cruise ship voyages into the Arctic, as well as the recent decision by TC to eliminate the outreach program from the Office of Safe Boating. Coast Guard identified their priorities for the coming year and noted the reduction in Regions from five to three, the reduction in the Marine Communications and Traffic Services centres from 22 to eventually 12, and their intent to increase the contracting out of aids to navigation.

A representative of the Canadian Shipping Company, Federal Navigation, (Fed-Nav) provided an update on the commercial ice information services (Ice-Nav) that provides users with up-to-date oceanographic and meteorological data including its recent use and development. The presentation was informative and identified the value of having radar interface with Ice-Nav. Participants were engaged in this item.

Desgagnés Transarctik Inc., Nunavut Sealink and Supply and Taqramut Transport Inc. provided an industry update. Mention was made of the difficult ice conditions in Frobisher Bay last year. The CCG representatives were complimented for their dedication and support in providing icebreaker escort services. Twenty-two voyages were planned for the 2013 shipping season, using much the same fleet of tankers and vessels as the previous year.

The representative of Fed-Nav provided a briefing on the recent Arctic Marine Advisory Board meeting. He brought to the attention of the group that Marine Services Fees are clearly on the table, that the recent review still requires on-going work, and the next steps have not yet been defined. Mention was made of the need for priority hydrographic charting in the Arctic area.

The Department of Fisheries and Oceans (DFO) provided an update on the regulatory development for the Anuniaqvia Niqiyuam area. This is part of the Oceans Program of DFO and details can be found in the meeting minutes.

The National Research Council provided a very informative presentation on predicting the formation of pressured ice zones and the besetting of ships. Integrating the work with Ice-Nav is seen as the way to predict en route ice condition.

The Director Marine Navigation, CCG, provided *an* update on the “Northern Marine Transportation Corridors Initiative”. This initiative is still at the idea stage and CCG would be pleased to hear comments/views from attendees.

Other topics covered during the day included future plans of the Canadian Hydrographic Services for the Arctic area; changing patterns in passenger vessel activity in Arctic Canada, Northern operations by Atlantic Towing and Baffin Island Iron Mines.

The Administrator has a direct interest in keeping up-to-date on the issues surrounding the transportation by sea of oil products throughout the Canadian Arctic.

3.5 Canadian Coast Guard Environmental Response Workshop – Atlantic Region

The Administrator of the Ship-source Oil Pollution Fund (SOPF) and a Marine Consultant, Mr. George Legge, were requested by senior Coast Guard officials to make a presentation on the revised SOPF claims manual at the CCG Environmental Response workshop held in St. John's, Newfoundland from September 23 to 26, 2013.

The presentation was divided into two parts. First, the Administrator briefly addressed the Canadian Regime of Liability and Compensation for oil pollution caused by ships, as contained in the *Marine Liability Act*. He explained that in contrast to the international regime, Canada's domestic fund is not restricted to providing compensation for spills from tankers laden with persistent oil. The SOPF covers all waters under Canadian jurisdiction and applies to claims from all classes of ships and all types of oil, persistent or not, except vegetable oil. The Administrator also noted that Canada is party to a number of international conventions under which the international regime of liability and compensation, including the International Oil Pollution Compensation Funds (IOPC Funds), is set up to deal with compensation for oil spills caused by ships. He emphasized that the IOPC Funds, however, are restricted in their application to tankers carrying persistent oil in bulk.

Consequently, it was emphasized that the scope of the international and domestic funds is somewhat different, but in the event of a major tanker spill in Canadian waters, the two compensation funds would work together in close cooperation. The current limits of liability and compensation available in Canada, including the territorial sea and the exclusive zone, under the 1992 Civil Liability Convention, the 1992 IOPC Fund and the 2003 Supplementary Fund Protocol were covered in the presentations.

Furthermore, the Administrator dealt briefly with several key elements of the Canadian Regime, noting that the owner of the ship remains the primary responsible party for ship-source oil pollution. In the event that claims are found to be established and the Administrator pays the established claim, the Administrator is obliged to take all reasonable measures to recover the amount paid out by the SOPF from the owner of the ship, or any other party that may be responsible for the pollution. In this way, the notion of the "polluter pays" has been preserved in Canadian law.

In the second part of his presentation the Administrator focused on the new claims manual. It was explained that the purpose of this manual is to assist claimants in the filing of claims with the SOPF. It provides general information about the type of claim for compensation that may be filed, and the particulars that the supporting claim documentation should include. Basically, the manual is intended to be a practical guide for presenting claims to the Administrator of the SOPF to ensure that the supporting material is comprehensive and complete.

The Administrator was assisted by the marine consultant in addressing areas of concern in the occasional inadequacy of documentation submitted by the claimant. Where there is insufficient substantiating documentation filed with a claim it is difficult to conduct a thorough investigation and assessment. Moreover, the Administrator requires sufficient documentary evidence for recourse action against the shipowner. The claims manual is intended to assist all claimants in understanding the sort of

documentation required without the Administrator having to request additional materials. Requests for additional information inevitably lead to delays in the assessment of claim.

The presentation was well received and there was a positive exchange of views on the issues raised and the benefits of a revised claims manual.

During the visit to the Coast Guard Region, the Administrator and the Marine Consultant took advantage of the opportunity to go to the CCG Marine Environment equipment storage facility in St John's. The first-hand knowledge and information obtained during the tour of the depot was very beneficial. The Administrator is interested in visiting other Coast Guard regions and continuing the ongoing cooperation and working relationships between both agencies.

3.6 Eastern Canada Response Corporation

On September 23, 2013, while in St. John's, Newfoundland, for meetings with the Canadian Coast Guard, the Administrator of the Ship-source Oil Pollution Fund and Mr. Legge attended a meeting at the Eastern Canada Response Corporation (ECRC) facility in Donovan's Industrial Park. The visit provided the Administrator and Mr. Legge with an opportunity to see first-hand the ECRC inventory of marine pollution spill response equipment. The ECRC depot in Donovan's Industrial Park has a high response capability at the Tier 3 level (2,500 tonnes) within 18 hours after notice of an oil spill.

The Response Organization depot comprises a mix of specialized oil spill response equipment to meet the capability for which it is certified. The inventory includes containment barges and storage tanks for recovery of waste oil. There is also a large amount of shoreline cleanup equipment and mobile command communication units. The personnel of the Response Organization Centre work closely with federal, provincial and local authorities and various sectors of the oil industry – particularly with off-shore oil exploration and development industry located on the Grand Banks of Newfoundland and Labrador.

The first-hand knowledge and information obtained during the visit to the Newfoundland-based ECRC depot is invaluable when investigating and assessing claims filed with the SOPF. Consequently the Administrator intends to continue dialogue and ongoing cooperation with the Response Organization in all regions of Canada. He is appreciative of their respective roles and responsibilities regarding oil spill pollution prevention, preparedness and response.

3.7 Newfoundland Trans-shipment Limited

While in St. John's, Newfoundland, for meetings with the Canadian Coast Guard, the Administrator and Mr. Legge also took the opportunity on September 26, 2013, to visit the central office of Newfoundland Trans-shipment Limited (NTL). The NTL owns and oversees the operation of a major crude oil trans-shipment terminal at Whiffen Head, Placentia Bay, approximately 100 kilometres west of St. John's. The Administrator met with both the President and Business Manager of the company. During the discussion, the President explained that the NTL facility at Whiffen Head was originally constructed in 1998 to receive crude oil from the Hibernia production platform on the offshore Grand Banks for trans-shipment to the North American refining centres. In 2002, the terminal was expanded to accommodate crude oil from the Terra Nova oil field, which is located offshore approximately 350 kilometres southeast of St. John's. Since 2007, the terminal receives production from the White Rose

oil field in the Jean d'arc Basin east of St. John's. Currently the crude oil is also being shipped to international markets – occasional shipments to Chile and European refineries were mentioned. The President noted that the Whiffen Head terminal has a stellar record of environmental stewardship and prides itself in not having experienced any oil spills since it has been in operation.

Following the head office meetings, the Business Manager drove the Administrator and Mr. Legge to the trans-shipment terminal at Whiffen Head. Upon arrival, the on-site terminal Manager gave a very interesting and informative inspection tour of the overall facility. He pointed out that the terminal has an exceptional world-class infrastructure – namely, it is equipped with large storage tanks, an access causeway and two fully outfitted piers. The six crude oil storage tanks each have a 500,000 barrel working capacity. Also, there is an intricate loading and discharge pipeline and support structure. The two docking berths are each designed to accommodate 159,000 ton tankers. A third berth could be added to handle production from other offshore fields.

Before departure, the Administrator expressed his appreciation for the on-site tour and explanation about the operations of the terminal and the insights regarding the administrative role of the head office. In particular, he noted that the SOPF is vitally interested in the safe transportation of oil by sea and the vital role played by operations such as the Whiffen Head terminal in the transportation chain.

3.8 Tanker Safety Expert Panel

On May 14, 2013, the Administrator responded to an invitation to meet with the Tanker Safety Expert Panel. The Panel, it may be recalled, was appointed by the government to review the current ship-source oil spill preparedness and response regime and to propose new ways to enhance it. The aim of the discussion with members of the Panel was to clarify the role that is played by the SOPF in current regime of liability and compensation for ship-source oil spills in Canada.

In the course of the discussion, the Administrator was asked to comment on the suggestion that the responsibility of the SOPF might be extended to spills in relation to offshore oil exploration and exploitation. The Administrator noted that such an extension is a matter of policy and would require changes to the legislation which governs the SOPF. He further drew attention to the fact that the SOPF is not an investment fund but simply a special account in the Accounts of Canada. While the Fund was initially funded by a levy on oil movements by ship, that levy had been discontinued in 1976. Since that time, the Fund has grown by notional payments of interest, on a monthly basis, by the Minister of Finance. The Administrator suggested that if the SOPF was to be extended to offshore activities, the funding arrangements for the Fund might need to be revisited.

The panel was interested to learn the Administrator's views on whether the Canadian Fund should be made available for hazardous and noxious substances (HNS) incidents. Again, he noted, this could be done as a matter of policy, but appropriate changes were required to the governing legislation to accommodate the maritime transport of HNS. He also pointed to the fact that the HNS Convention covered both pollution and fire and explosion. There could, consequently, be claims for death and personal injury, which might change the claims handling mechanism. The Administrator drew attention to the bill before Parliament, proposing amendments to the *Marine Liability Act*, a first step on the way to implementation of the HNS Convention. However, entry into force of that convention could only be carried out in concert with other states representing a critical mass of HNS transport to finance the HNS Fund contemplated by that convention.

The Panel was interested to hear the Administrator's views on whether the SOPF is adequately funded and resourced for oil pollution incidents. With regard to the first question he suggested that Canada, under the current SOPF/IOPC Fund regime, probably had more coverage than any other country, including the USA under OPA 90. With regard to resources – response and clean up – he declined to express an opinion, except to wonder whether we were really set up for the big tanker spill. The Administrator noted that the current claims experience of the SOPF was confined to small incidents, usually abandoned and wrecked vessel, where the Coast Guard, in most instances, is required to intervene. Since joining the international regime, Canada has been spared any large incidents, but we have been able to observe what goes on in other major incidents, such as the *Prestige*, the *Erika* and the *Hebei Spirit*. It is for others to respond whether the Fund would be ready for incidents of that scale.

On a more general note, the Panel seemed to question who would be in charge of response in the event of a major spill. While it was recognized that the Minister of Fisheries and Oceans, the minister responsible for the Canadian Coast Guard, has powers under the *Canada Shipping Act* to monitor response and, if necessary, to intervene, there seemed to be some concern about the role of the Minister of the Environment. The Administrator referred, in response, to what used to be known as the Regional Environmental Emergency Team (REET) Organization aimed at providing advice to those in charge of response measures. Members sitting on that committee would be drawn from various departments and it that the committee would provide was envisaged as a coordinating mechanism. Recently, this coordinating mechanism was reorganized, but the Administrator is not aware of the details.

3.9 Canadian Coast Guard Environmental Response Workshop – Montreal

The Administrator accompanied by a marine consultant, Mr. Charles Gadula, met with Central and Arctic regional environmental response personnel, on May the 8, 2013 at the Coast Guard Regional Office in Montreal. The purpose of the meeting was twofold: first to provide participants with a presentation on the Canadian Regime of Liability and Compensation for oil pollution caused by ships including the role of the SOPF and second to discuss and seek comment on the draft Ship-Source Oil Pollution Fund Claims Manual which had been circulated.

Eight regional staff members participated in the meeting. Documents were distributed in both official languages to all participants. (Central and Arctic CCG Region Presentation Deck and the Ship-Source Oil Pollution Fund Claims Manual). The documents were the focus of the meeting. Participants were engaged in the discussion and sought the views of the Administrator to clarify their understanding of some of the issues surrounding both the legislation and eligible claims. It was agreed that in cases where it was not evident whether a claim was valid for consideration by the Administrator it could nevertheless be submitted to the SOPF for consideration and determination as to whether it was a valid claim. Further, there was discussion on the specifics of the SOPF submission requirements for claims including the supporting documentation required to properly assess the claim.

It was agreed that the SOPF would provide electronic file copies of the documents to the Superintendent for distribution to attendees. No substantive comments were received on the Claims Manual during the meeting; however, the Region noted their intention to provide the Administrator with any substantive Coast Guard comments on the manual in a timely manner. Participants did raise the idea of inclusion of a check list for claim completion as part of the manual.

The Region asked if the Administrator would be agreeable to meeting with Quebec Provincial Authorities and others with roles in compensation and response. The Administrator expressed his willingness to participate and the Region undertook to try to set up a meeting over the winter period.

The Administrator undertook to discuss with counsel the current work notification protocol in place between CCG Regional Superintendent E/R and Counsel for the SOPF to determine if it should be widened to include other CCG E/R personnel having direct access to SOPF counsel.

The meeting was valuable to both Coast Guard and the Administrator and allowed participants to better appreciate the necessity for complete claims documentation as well as common strategic messaging re the “polluter pay” principle.

4. SOPF Involvement in the International Compensation Regime

As in the past, the Administrator has attended meetings of the governing bodies of the International Oil Pollution Compensation Funds (IOPC Funds) in the fiscal year ending March 31, 2014. In that year, the governing bodies held two meetings, respectively, April 22 to 24, 2013, and October 21 to 25, 2013, both of which the Administrator attended as an advisor to the Canadian delegation. It may be recalled that the 1971 Fund is administered by an Administrative Council, set up to deal with and resolve outstanding issues of the 1971 Fund. The governing bodies of the 1992 Fund consist of an Assembly and an Executive Committee. Finally, there is also an Assembly of the Supplementary Fund, which meets at the same time as the other governing bodies.

The 1971 Administrative Council, at its meeting in October 2012, established a Consultation Group with the mandate to consider options and make recommendations for the early winding up of the 1971 Fund. The Administrator attended the meetings of the Group and was elected to serve as its chairman. In addition to two initial meetings in October 2012 and January 2013, the Group held two further meetings, respectively, April 25 and September 11, 2013.

The Administrator's interest in the work of the IOPC Funds focuses on two aspects. First, the Administrator is interested in the treatment of claims by the Funds. It is the policy of the SOPF to align its claims policies as closely as possible with those of the IOPC Funds. Secondly, since contributions to the IOPC Funds are paid out of the SOPF on behalf of Canadian receivers of contributing oil, the Administrator has a keen interest in the annual budgets adopted by the governing bodies of the Funds, which determine contributions, if any, levied by the Funds.

It is not proposed to give a detailed account of the various meetings, since records of decisions of these meetings are available online at www.iopcfunds.org. This report will merely draw attention to some of the highlights of the discussion in the governing bodies. The winding up of the 1971 Fund will be dealt with first because, although technically this subject only concerns the 1971 Fund, nevertheless the manner in which this process is resolved has significance for the entire international regime of liability and compensation represented by all the Funds. Also, Canada has played a significant role in dealing with this matter, having provided, as noted above, the chair for the Consultation Group, referred to above.

4.1 Winding up of the 1971 Fund

At the October 2013 session of the Administrative Council of the 1971 Fund, the Chairman of the Consultation Group presented the final report of the Group. The basic recommendation of the Group was that the 1971 Fund should be wound up as soon as possible, the reason being that the Fund is rapidly running out of money, having only some £5 million left in its accounts to cover its liabilities. As noted in the last Annual Report, while, technically, the Administrative Council could authorize the levy of contributions, in practice this might prove to be difficult, given that the governing convention (1971 Fund Convention) has ceased to be in force as of May 22, 2002. While the Secretariat has succeeded in resolving most of the outstanding issues, two matters have not been resolved, namely, the litigation in respect of the *Iliad* incident and an outstanding judgement in the *Nissos Amorgos* incident.

The *Iliad* incident, which dates back to 1993, has had a long history before the Greek courts. Although indications so far suggest that the 1971 Fund does not face any liability in this case, since the total amount of established claims is likely to be within the shipowner's limit of liability, the insurers have

been unwilling to release the Fund from the litigation. In the case of the *Nissos Amorgos*, as already reported in the last Annual Report, all individual claims have been settled. There remains, however, an outstanding judgement in respect of a government claim valued at some US\$60 million. While this claim has not yet been quantified, final judgement on liability has been rendered. The difficulty here is that the final judgement is not against the Fund, but only against the shipowner. Moreover, the Venezuelan courts have denied the owners right to limit their liability.

Details of the final report of the Consultation Group are contained in the Records of Decision, referred to earlier. For present purposes it may be sufficient to note that the basic recommendation was that the 1971 Fund should be wound up as soon as possible, preferably without the need to levy contributions, given the difficulties that might be involved in collecting levies so long after the 1971 Convention has ceased to be in force. The Group also recommended the steps that should be taken to ensure an orderly dissolution of the Fund. The International Group of P&I Clubs registered their strong opposition to any winding up of the Fund before a mutually satisfactory resolution has been found in respect of the two outstanding cases, the *Iliad* and the *Nissos Amorgos*. Since the meetings in October, the Gard Club (a member of the International Group of P&I Clubs) has commenced action against the 1971 Fund in the High Court in London aimed at “freezing” its assets and thus preventing its dissolution.

Since the Consultation Group has fulfilled its mandate, the Administrative Council agreed to its dissolution.

4.2 1992 Fund

Since there have been no new major tanker incidents involving the 1992 Fund, the sessions of the governing bodies (Executive Committee, Assembly) have not given rise to any major policy discussions. The Director has reported on a number of incidents where the claims assessment and payment have not been completed, notably in the *Volgoneft 139* (Russian Federation, November 2007), the *Hebei Spirit* (Republic of Korea, December 2007) and two incidents in Nigeria, *Redfferm* (March 2009) and *JS Amazing* (June 2009). Details of these and other cases currently being dealt with by the 1992 Fund are fully reported in Notes of the Director submitted to the governing bodies and accessible on the IOPC Funds website, noted earlier.

4.3 Supplementary Fund

Canada is also a member of the Supplementary Fund, which holds its Assembly concurrently with the meetings of the governing bodies of the other Funds. Currently there are no incidents that might involve the Supplementary Fund.

4.4 Budget

Traditionally the Funds Secretariat presents a draft budget at the October meetings of the governing bodies of the Funds. The budget, as adopted, then determines the contributions, if any, that need to be levied to enable the Funds to meet their obligations in the subsequent fiscal year. A budget was adopted at the meetings of October 2013, based on the draft budget submitted by the Director to cover both administrative costs as well as the anticipated settlements of claims in the various incidents.

In the case of the 1971 Fund, it was agreed to allocate £505,300.00 for administrative costs, including the administration fee of £240,000.00 to be paid to the 1992 Fund Secretariat. It was further agreed that this payment should be made out of the General Fund of the 1971 Fund. As already mentioned, this Fund has not accepted any new claims since the 1971 Fund Convention has ceased to be in force, so the bulk of its administrative costs are now associated with the winding up of the Fund.

In the case of the Supplementary Fund, £45, 600.00 was allocated to be paid out of its working capital of £1 million. This Fund is currently not involved in any compensation matters, so its only costs are administrative, consisting of the management fee mentioned above and the cost for external auditing of the Fund.

In the case of the 1992 Fund, a number of decisions were made. First, it was agreed that the *Erika* Major Claims Fund should be closed and the remaining monies in that Fund, £26.2 million, be reimbursed to contributors. Secondly, it was agreed that there should be a levy of contributions for the *Prestige* Major Claims Fund, £2.5 million, and the *Vologoneft 139* Major Claims Fund, £7.5 million. These levies would be payable by March 1, 2014. There was no actual transfer of funds to pay the 2013 contribution because the IOPC refund for the closure of the *Erika* Major Claims Fund, covered the 2013 expense with an additional amount of £529, 837.19 being credited to the SOPF.

5. Financial Statements

This section contains the auditor's report on the financial position of the SOPF and the results of its operations as of March 31st, 2014.

SHIP-SOURCE OIL POLLUTION FUND

FINANCIAL STATEMENTS

MARCH 31, 2014

SHIP-SOURCE OIL POLLUTION FUND

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INDEPENDENT AUDITOR'S REPORT

To the Administrator of
Ship-source Oil Pollution Fund

We have audited the accompanying financial statements of the Ship-source Oil Pollution Fund, which comprise the statement of financial position as at March 31, 2014, 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.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these 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.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Fund's preparation and fair presentation of the financial statements 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 entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements present fairly, in all material respects, the financial position of the Ship-source Oil Pollution Fund as at March 31, 2014, as well as the results of its operations, its change in net financial assets and its cash flows for the year then ended in accordance with public sector accounting standards.

Budget

As explained in Note 11 to the financial statements, budget figures are not disclosed in the financial statements, although it is required according to public sector accounting standards.



Chartered Professional Accountants, Licensed Public Accountants

Ottawa, Ontario
May 14, 2014

SHIP-SOURCE OIL POLLUTION FUND

STATEMENT OF FINANCIAL POSITION

MARCH 31, 2014

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	2014	2013
FINANCIAL ASSETS		
Balance of the account with Receiver General for Canada (Note 3)	\$ 406,005,275	\$ 399,257,679
Accounts receivable	1,000	-
Prepaid expenses	1,189	-
TOTAL FINANCIAL ASSETS	406,007,464	399,257,679
LIABILITIES		
Accounts payable and accrued liabilities	129,776	101,716
Provision for claims under review (Note 4)	804,020	604,324
TOTAL LIABILITIES	933,796	706,040
NET FINANCIAL ASSETS	405,073,668	398,551,639
NON-FINANCIAL ASSETS		
Capital assets (Note 5)	218,050	355,177
ACCUMULATED SURPLUS	\$ 405,291,718	\$ 398,906,816

Contingencies (Note 6)


_____, Administrator

SHIP-SOURCE OIL POLLUTION FUND

STATEMENT OF OPERATIONS

FOR THE YEAR ENDED MARCH 31, 2014

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	2014	2013
REVENUE		
Interest	\$ 6,826,266	\$ 5,133,742
Recoveries related to previously awarded settlements	2,138,651	37,605
	8,964,917	5,171,347
CLAIMS		
Payments made towards Canadian claims	(141,796)	(383,089)
Increase of provision for claims under review	(199,696)	(86,324)
International Oil Pollution Compensation Funds Contributions (Note 6)	(1,028,982)	(318,156)
	(1,370,774)	(787,569)
	7,594,443	4,383,778
OPERATING EXPENSES		
Administrator's fees	98,450	96,800
Legal fees	74,787	109,248
Consulting fees	96,630	109,572
Audit fees	16,216	15,820
Administrative services, salaries and office	460,149	397,154
Travel	16,247	31,744
Rent	225,717	225,717
Access to Information and Privacy Act (Note 8)	62,294	77,745
Amortization of capital assets	159,051	161,774
	1,209,541	1,225,574
OPERATING SURPLUS	6,384,902	3,158,204
ACCUMULATED SURPLUS, BEGINNING OF YEAR	398,906,816	395,748,612
ACCUMULATED SURPLUS, END OF YEAR	\$ 405,291,718	\$ 398,906,816

SHIP-SOURCE OIL POLLUTION FUND

STATEMENT OF CHANGE IN NET FINANCIAL ASSETS FOR THE YEAR ENDED MARCH 31, 2014

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	2014	2013
OPERATING SURPLUS	\$ 6,384,902	\$ 3,158,204
Acquisition of capital assets	(21,924)	(4,103)
Amortization of capital assets	159,051	161,774
	137,127	157,671
INCREASE IN NET FINANCIAL ASSETS	6,522,029	3,315,875
NET FINANCIAL ASSETS, BEGINNING OF YEAR	398,551,639	395,235,764
NET FINANCIAL ASSETS, END OF YEAR	\$ 405,073,668	\$ 398,551,639

SHIP-SOURCE OIL POLLUTION FUND

STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED MARCH 31, 2014

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	2014	2013
OPERATING TRANSACTIONS		
Operating surplus	\$ 6,384,902	\$ 3,158,204
Adjustment for:		
Amortization of capital assets	159,051	161,774
	6,543,953	3,319,978
Net change in non-cash working capital items:		
Accounts receivable	(1,000)	-
Prepaid expenses	(1,189)	-
Accounts payable and accrued liabilities	28,060	(104,639)
Provision for claims under review	199,696	86,324
	225,567	(18,315)
INVESTING TRANSACTION		
Acquisition of capital assets	(21,924)	(4,103)
INCREASE IN BALANCE OF ACCOUNT WITH RECEIVER GENERAL FOR CANADA		
	6,747,596	3,297,560
BALANCE, BEGINNING OF YEAR	399,257,679	395,960,119
BALANCE, END OF YEAR	\$ 406,005,275	\$ 399,257,679

SHIP-SOURCE OIL POLLUTION FUND

NOTES TO THE FINANCIAL STATEMENTS

MARCH 31, 2014

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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 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 disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenue and expenses during the period. Actual amounts could differ from these estimates.

Revenue recognition

Interest income is recognized as revenue in the year it is earned. Recoveries related to previously awarded settlements are recognized in the year 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:

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

Recognition of the provision for claims

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

SHIP-SOURCE OIL POLLUTION FUND

NOTES TO THE FINANCIAL STATEMENTS

MARCH 31, 2014

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2. SIGNIFICANT ACCOUNTING POLICIES (continued)

Recognition of the International Oil Pollution Compensation Funds Contributions

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 those transactions.

3. BALANCE OF THE ACCOUNT WITH RECEIVER GENERAL FOR CANADA

The cash balance of the Fund is held within the Consolidated Specified Purpose Accounts of the Government of Canada. Public Works and Government Services Canada acts as the custodian of this cash balance and Transport Canada 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 1.10% and 2.24% during the year (2013: 1.12% and 1.51%). The average interest rate for March 2014 was 2.24% (2013: 1.24%).

4. MEASUREMENT UNCERTAINTY

Due to uncertainties inherent to the claims review process, it is possible that the provision for claims under review may be insufficient. Accordingly, a provision of \$804,020 for claims received prior to March 31, 2014 (2013: \$604,324) 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.

5. CAPITAL ASSETS

	2014		
	Cost	Accumulated amortization	Net book value
Computer equipment	\$ 153,345	\$ 138,777	\$ 14,568
Furniture and equipment	176,874	76,206	100,668
Leasehold improvements	487,714	384,900	102,814
	\$ 817,933	\$ 599,883	\$ 218,050

SHIP-SOURCE OIL POLLUTION FUND

NOTES TO THE FINANCIAL STATEMENTS

MARCH 31, 2014

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5. CAPITAL ASSETS (continued)

	2013		
	Cost	Accumulated amortization	Net book value
Computer equipment	\$ 133,005	\$ 100,226	\$ 32,779
Furniture and equipment	175,290	58,519	116,771
Leasehold improvements	487,714	282,087	205,627
	<u>\$ 796,009</u>	<u>\$ 440,832</u>	<u>\$ 355,177</u>

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, 2014, the Fund has contributed \$1,028,982 (2013: \$318,156) to the International Oil Pollution Compensation Funds.

During the fiscal year commencing April 1, 2014, the maximum liability of the Fund is \$162,745,303 (2013: \$161,293,660) for all claims from one oil spill. Furthermore, as of April 1, 2014, the Minister of Transport also has the statutory power to impose a levy of 48.81 cents (2013: 48.37 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 likelihood 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 will be recognized when a claim is effectively received.

SHIP-SOURCE OIL POLLUTION FUND

NOTES TO THE FINANCIAL STATEMENTS

MARCH 31, 2014

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7. INFORMATION INCLUDED IN OPERATIONS

	2014	2013
Foreign exchange gain included in the Recoveries related to previously awarded settlements	\$ 178,704	\$ -
Foreign exchange gain (loss) included in the International Oil Pollution Compensation Funds contributions	\$ (91,546)	\$ 521

8. ACCESS TO INFORMATION AND PRIVACY ACT EXPENSES

	2014	2013
Consultant fees	\$ 54,042	\$ 57,856
Records and information management database	7,595	7,701
Administration costs	657	2,168
Legal fees	-	10,020
	\$ 62,294	\$ 77,745

The Access to Information and Privacy Act expenses incurred in 2014 were related to application development and system improvements of a records and information database and activities to facilitate the processing of access to information requests and to ensure that records containing personal information are dealt with in accordance with privacy laws and regulations.

9. RELATED PARTY TRANSACTIONS

The Fund is related, in terms of common ownership, to all Government of Canada departments, agencies and Crown Corporations.

During the year, the Fund has paid \$225,717 (2013: \$225,717) to Public Works and Government Services Canada (PWGSC) for the use of office space.

The Fund is committed to making minimum annual lease payments to PWGSC in the amount of \$225,717 for the rental of office space. The commitment of the Fund under the lease agreement aggregates to \$225,717 for the next year. 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, 2014

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10. 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, 2014 were provided for in the financial statements. During the period from April 1, 2014 to May 14, 2014, the Fund has received additional claims totalling \$64,825. These claims are not provided for in the financial statements.

11. BUDGET

The Ship-source Oil Pollution Fund does not prepare an annual budget.

