



Celebrating **30** YEARS

Compensating victims of oil pollution

Ship-source Oil Pollution Fund



Analysis of the 30 Years of History of Incidents and Compensation to Ports and Harbours

Canada

Cover Image: “*Chaulk Determination*” by Jacques Gauthier
Location: Port of Trois-Rivières, Quebec

Prepared for the members of the Association of Canadian Port Authorities

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Table of Contents

About Us.....	2
Our Mandate.....	2
Impacts of the 2018 Modifications to the <i>Marine Liability Act</i> on the Fund.....	3
Types of Damages Compensated.....	4
Totals Claimed by Ports and Harbours, by Province, and Paid by the Fund.....	4
Statistics on Claims with the Fund from Ports and Harbours.....	5
Filing a Claim with the Fund	7
Summaries of the Incidents by Province	9
British Columbia.....	9
Federal Ottawa (1992)	9
Sky Princess (1994)	10
Mystery Spill (2000)	11
Mystery Spill - Skaubryn (2000)	11
Sandpiper (2003)	12
Mystery Spill - Northwind (2004)	13
Dominion I (2005)	14
Columbia (2008).....	15
Silver Harvester (2010).....	16
Finella (2011).....	17
Marathassa (2015)	18
Elva M II (2016)	20
Miss Universe (2016)	21
Viking I (2016).....	22
Ontario	24
Rhea - (1997)	24
Big Bobber (2008)	25
Mystery Spill (2008)	26
Mystery Spill (2009)	27
Quebec.....	29
Mystery Spill (1989)	29
Mystery Spill (2005)	29
Mystery Spill (2013)	30
Chalk Determination (2015).....	31
Mystery Spill (2016)	32
Maccoa (2017).....	33
Contact Us.....	36

About Us

By creating the Fund on April 24, 1989, Canada established a compensation regime, while protecting taxpayers, something the Fund has done over 400 times!

The polluter pays principle being key to our compensation regime has allowed us to take all reasonable steps to recover costs from polluters, and this despite the challenges.

Every day, the Fund compensates victims of small and medium incidents that occur regularly in Canadian waters.

Luckily, there have been no major spills in Canada during all these years, but the Fund would be able to compensate Canadian victims in the event of a disaster. The Fund benefits from an accumulated surplus and access to the Consolidated Revenue Fund; from its efforts to develop processes and an international network of expertise; and from the support of international funds in the event of a spill from a tanker.

Our Mandate

The Fund has been mandated to compensate victims of oil pollution damage (including costs incurred for preventive measures) caused by ships and then take action to recover the costs from the polluters or other responsible parties.

We assess claims and compensate victims of pollution caused by any type of oil from any ship or boat anywhere in Canadian waters.

Impacts of the 2018 Modifications to the *Marine Liability Act* on the Fund

Legislative amendments to the *Marine Liability Act* (MLA) to modernize the Fund came into force in December 2018. They:

- ✚ Removed the Fund’s per-incident liability cap, meaning compensation for claimants is now unlimited;
 - If the Fund is ever emptied, the Consolidated Revenue Fund may provide temporary replenishment;
- ✚ Added a new simplified and fast-tracked process for most claims up to \$35,000;
- ✚ Made available emergency funding up to \$10 million to Fisheries and Oceans Canada in the event of a major oil spill;
 - If the initial funds are exhausted, additional funding can be provided up to \$50 million;
- ✚ Clarified that certain forms of economic loss (including loss of revenue) are compensable;
- ✚ Expanded the Fund’s liability when Fisheries and Oceans Canada takes preventive measures before a “grave and imminent threat” of oil pollution damage arises.
- ✚ Modernized the levy (fee per tonne, inactive since 1976) that can be charged to oil importers and exporters;
 - Administrative monetary penalties have been created for contraventions of these provisions.

Types of Damages Compensated



Preventive measures



Clean-up costs



Costs for reinstatement of the environment



Property damage



Economic loss



Fisheries losses



Tourism losses



Loss of subsistence living

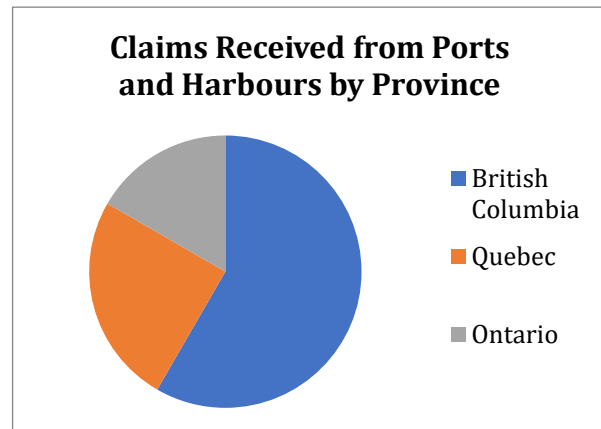
Totals Claimed by Ports and Harbours, by Province, and Paid by the Fund

Province	Total Amount Claimed (\$)	Settlement Amount (\$) (including interest) Paid	Percentage of Amount Paid versus Amount Claimed (%)
British Columbia	477,272.25	389,074.66	82
Ontario	136,384.66	94,611.78	69
Quebec	149,657.83	149,477.71	100

Statistics on Claims with the Fund from Ports and Harbours

Number of claims received from ports and harbours since 1989	24
Total amount claimed to the Fund by ports and harbours since 1989	\$763,314.74
Total amount paid by the Fund for claims by ports and harbours since 1989	\$633,164.15
Percentage of total amount claimed paid to ports and harbours by Fund	83%

Province	Claims received
BC	14
QC	6
ON	4
Grand Total	24



	Incident Name (Year) & File No.	Claimant	Type of Ship	Total Amt Claimed (\$)	Settlement Amt Including Interest (\$)	% of Amt. paid vs. Amt claimed	
B R I T I S H C O L U M B I A	Federal Ottawa (1992) 064-C1	Vancouver Port Corp.	Bulk Carrier	4,358.80	3,644.00	84	
	Sky Princess (1994) 094-C1	Vancouver Port Corp.	Cruise Ship	46,045.83	23,022.15	50	
	Mystery Spill (2000) 227-C1	Vancouver Port Corp.		20,375.80	19,836.46	97	
	Mystery Spill - Skaubryn (2000) 233-C1	Vancouver Port Authority	Fishing Vessel	13,007.72	12,312.75	95	
	Sandpiper (2003) 365-C1-1	Steveston Harbour Authority	Tug & barge	1,587.53	2,042.18	129	
	Mystery Spill - Northwind (2004) 480-C1	Greater Victoria Harbour Authority		16,012.02	11,064.85	69	
	Dominion I –(2005) 481-C1	Greater Victoria Harbour Authority		8,521.16	7,170.031	84	
	Columbia – (2008) 547-C1	Steveston Harbour Authority	Fishing Vessel	81,470.88	69,874.09	86	
	Silver Harvester (2010) 625-C1	Esquimalt Harbour Mgmt. Authority	Fishing Vessel	17,956.53	0	0	
	Finella (2011) 614-C1-1	Deep Bay Harbour Authority	Fishing Vessel	9,969.09	10,098.60	101	
	Marathassa (2015) 673-C1-1	Vancouver Fraser Port Authority	Bulk Carrier	198,947.22	172,674.87	87	
	Eiva M II (2016) 704-C1	Steveston Harbour Authority	Fishing Vessel	7,649.63	7,736.30	101	
	Miss Universe (2016) 721-C1	Port Edward Harbour Authority	Fishing Vessel	19,911.85	19,113.80	96	
	Viking I (2016) 716-C1	Nanaimo Port Authority	Fishing Vessel	31,458.19	30,484.30	97	
	Rhea (1997) 157-C1	Oshawa Harbour Commission	Other (houseboat)	99,054.21	60,211.24	61	
	O N T A R I O	Big Bobber (2008) 543-C1	Hamilton Port Authority	Pleasure Craft	2,730.300	2,768.36	101
		Mystery Spill (2008) 536-C1	Hamilton Port Authority		23,640.50	20,525.40	87
Mystery Spill (2009) 554-C1		Hamilton Port Authority		10,959.95	11,106.78	101	
Mystery Spill (1989) 038-C1		Port of Chicoutimi		9,185.31	6,500.00	71	
Mystery Spill (2005) 485-C1		La Société du Vieux-Port de Montréal		6,488.90	5,957.73	92	
Mystery Spill (2013) 633-C1		Montreal Port Authority		5,969.53	6,149.95	103	
Chaulk Determination (2015) 700-C1		Trois-Rivieres Port Authority	Tug	71,909.71	73,848.78	103	
Mystery Spill (2016) 720-C1		Québec Port Authority		12,298.09	12,602.75	102	
Maccoa (2017) 719-C1		Québec Port Authority	Bulk Carrier	43,806.19	44,418.50	101	
		GRAND TOTAL		\$763,314.74	\$633,164.15	83	
Q U E B E C							

Filing a Claim with the Fund

1. Who can be compensated?

- Any person in Canada who has suffered damages.
- For example:
 - i. Canadian Coast Guard;
 - ii. Ports, harbours and marinas;
 - iii. All levels of government;
 - iv. Corporations;
 - v. The fishing and the tourism industries;
 - vi. Indigenous communities;
 - vii. Coastal landowners; and
 - viii. Individuals (including boat owners) that have suffered damages.

2. So, a ship spilled oil and damaged your property, what now?

- Submit your paper or electronic, well-documented claim to us before the time limit expires.
 - i. A well-documented claim should include proof of damages or losses caused to you, and receipts or other proof of payment for the costs or expenses you incurred.
 - ii. Pictures are also helpful.
- To be on the safe side, be sure to file the claim within two years of the damage you suffered.
- We also have an expedited process for damages of \$35,000 or less, where you need to submit your claim within one year
 - i. Under this process, you do not have to submit the documentation in support of your claim, but we may ask for it later.

3. After you have submitted your claim, what happens next?

- The Administrator and marine experts will assess the claim.
- Here is what they will be looking for:
 - i. What was the incident? Was it caused by oil pollution from a ship or a boat?

- ii. What actions did you take? Why? And how much damage did you suffer?
- iii. How much did you spend? And was that amount reasonable?
- iv. Do you have the appropriate documentation to prove the loss you claimed?
- v. Importantly, if the claimant caused or contributed to his own losses and damages, we will not provide compensation, or we will reduce it.
- vi. Also important is that double recovery is not allowed. Once you have been compensated, you cannot claim additional compensation from anyone else.

- Once your claim is assessed, the Administrator will make you an offer.
- If you are not paid in full, we will provide the reasons for the reduction.

4. What are your options when you receive an offer?

- You have 60 days to either accept or appeal the offer.
- If you accept the offer, the Administrator will pay the amount offered plus interest.
- If you choose to appeal the offer, you must file proceedings in the Federal Court.

5. Recovery

Once we pay you, we take all reasonable measures to recover from the shipowner or other responsible person.

Canada's regime is based on the principle that owners are responsible for oil pollution caused by their ships or boats – this is the polluter-pays principle.

Summaries of the Incidents by Province

British Columbia

Federal Ottawa (1992)

LOCATION: Vancouver Harbour, British Columbia

Case number: 120-064-C1

The Incident

On January 22-23, 1992, the Luxembourg flag bulk carrier *Federal Ottawa* discharged several quantities of bunker fuel oil while she was at anchorage in Vancouver Harbour, British Columbia. The Vancouver Port Corporation, having the administration of Vancouver Harbour, took remedial measures to prevent the spread of the oil and to clean the harbour.

Administrator as Party by Statute

The Vancouver Port Corporation instituted proceedings in the Federal Court against the *Federal Ottawa* and her owners for costs and expenses incurred for the oil spill response, estimated at \$50,000.00. The Administrator, being named a party by statute in the proceedings, was served with the statement of claim on January 11, 1993.

On November 3, 1994, the Administrator was informed that the claim was settled by the shipowners' insurers, except for an amount of \$4,358.00 representing the cleanup costs of the area off Siwash Rock in English Bay since it was not possible to ascertain that the oil recovered in this area was from the *Federal Ottawa*. As part of the settlement, the Administrator was requested to sign the Consent to Dismissal form terminating the court action, which was done on November 4, 1994, and a copy of the duly executed Dismissal Order dated December 6, 1994 was later received by the Administrator.

The Claim

On December 20, 1994, the Administrator received a claim on behalf of the Vancouver Port Corporation for \$4,358.80 representing the cleanup costs around the Siwash Rock area which became classified as a mystery spill.

The Administrator carried out considerable research into the spill and agreed that it was ship related, but had difficulty accepting that it was not from *Federal Ottawa*. He then offered \$2,911.50, being half of the amount claimed, to the Vancouver Port Corporation in full and final settlement of the latter's claim, which was accepted by the Vancouver Port Corporation. On or about December 19, 1995, a payment in that amount, plus interest of \$732.50, was directed by the Ship-source Oil Pollution Fund to the Vancouver Port Corporation.

Status

The file was closed on March 31, 1996.

Sky Princess (1994)

LOCATION: Vancouver Harbour, British Columbia

Case number: 120-094-C1

The Incident

On May 16, 1994, oil was discovered around the British flag cruise ship *Sky Princess* when she shifted berth in the Vancouver Harbour that day. The ship's officers denied their ship was the source of the oil. A surveyor from the Marine Safety Branch of Transport Canada commenced an investigation on scene but, because the *Sky Princess* had just refueled, he did not take any samples aboard. He then concluded that he was unable to establish that the ship was the source of the oil. However, there were no other ships in the incident area, no ships had been at the particular berth for some two days and no source of a land based spill could be found. Besides, the oil from the harbour was sampled and identified as bunker oil.

The Claim

On April 22, 1996, the Vancouver Port Corporation (VPC) filed a claim in the amount of \$46,045.83 with the Ship-source Oil Pollution Fund (the Fund).

Assessment and Offer

The Administrator investigated the claim and on March 11, 1997, paid the VPC 50% of its claim, namely \$23,022.15, pending action against the ship.

Recovery Action

On April 8, 1997, the VPC and the Fund (collectively, the Plaintiffs) commenced an action in the Federal Court against the *Sky Princess*, her owners and others (collectively, the Defendants) to recover the sum of \$46,045.83 with interest and costs. On May 5, 1997, the P&I Club issued a Letter of Undertaking in the amount of \$70,000.00 to avoid the arrest of the *Sky Princess*. The Defendants then filed a Statement of Defence on June 19, 1997 denying the main issues alleged in the action.

In October 1997, orders were issued to compel the Defendants to file an Affidavit of Documents within 15 days and also requiring them to comply with the preparations for the case to go forward. However, no response to the orders was received by November 6, 1997. On December 5, 1997, the Defendants offered to settle out of court for 50% of the Plaintiffs' claim, namely \$23,022.15, with no interest, which offer was accepted by the Plaintiffs. Upon receipt of the payment, the action against the *Sky Princess* was dismissed with the consent of all parties on December 29, 1997. The amount of \$23,022.15 recovered from the *Sky Princess*' owners, less the legal expenses of \$5,140.24, was paid to the VPC.

Status

The file was closed on March 31, 1998.

Mystery Spill (2000)

LOCATION: Seaboard Terminal, Vancouver Harbour , British Columbia

Case number: 120-227-C1

The Incident

Oil was found on the water at Seaboard Terminal, North Vancouver, British Columbia on June 20, 2000. It proved impossible to determine the origin of the oil; hence, it was classified as a mystery spill. The Vancouver Port Authority (VPA) responded by cleaning up the oil.

The Claim

On January 23, 2001, the VPA filed a claim in the amount of \$20,375.80 with the Ship-source Oil Pollution Fund for oil pollution clean-up costs.

Assessment and Offer

On February 13, 2001, further to the investigation and assessment of the claim, the Administrator requested information from the VPA, which was received on March 12, 2001. On March 30, 2001, the Administrator requested more additional information and documentation. A reply was received by way of a letter dated July 23, 2001.

Following a review of the information received, the Administrator found, principally, that some of the handling charges for payments of subcontractors' invoices were not established. On this basis, on October 4, 2001, he offered \$17,953.31 to the VPA, plus interest of \$1,883.15, in full and final settlement of the claim. The VPA accepted the offer on October 9, 2001. A Release and Subrogation document was signed on behalf of the VPA on October 23, 2001. The Administrator sent the payment to the VPA for the total amount, on October 25, 2001.

Status

The file was closed on March 31, 2002.

Mystery Spill - Skaubryn (2000)

LOCATION: Seaboard Terminal, North Vancouver, British Columbia

Case number: 120-233-C1-01

The Incident

An oil spill was reported in late evening of August 3, 2000, at Seaboard Terminal, North Vancouver, British Columbia. Two ships were berthed at the terminal, the *Skaugran* and the *Skaubryn*. Early on August 4, 2000, the Vancouver Port Authority (VPA) responded to the spill and tasked local contractors for cleanup. Later that morning, VPA determined the spill was sufficiently large to transfer overall responsibility for the cleanup to the Canadian Coast Guard (CCG). The Marine Safety Branch of Transport Canada, the CCG and

Environment Canada investigated the circumstances of the origin of the spill. Samples from the spill and ships in the vicinity were taken.

The Claim

On March 14, 2001, VPA submitted a claim to the Ship-source Oil Pollution Fund (the Fund) for its response to the incident, amounting to \$13,007.72.

On July 20, 2001, VPA counsel wrote to the Administrator advising that VPA had submitted its claim, together with that of the CCG, directly to the *Skaubryn's* owner and requesting that, in the meantime, the VPA claim against the Fund for this incident be held in abeyance. On August 2, 2011, the Administrator replied to VPA agreeing to hold the claim in abeyance.

The shipowner's P&I Club declined to accept the claim of both the VPA and CCG. Therefore, by letter dated July 17, 2002, VPA reinstated its claim on the Fund.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator offered \$10,809.93 plus interest as settlement, which was accepted by VPA on August 20, 2002. VPA then provided an executed Release and Subrogation Agreement in favour of the Administrator, and payment of the settlement amount, plus \$1,502.82 interest, was made on September 17, 2002.

Recovery Action

A Statement of Claim was filed against the shipowner in July 2003 for recovery of all the compensation paid by the Fund in relation to the *Skaubryn* incident. This was amended and re-filed on September 3, 2003. A Statement of Defence was filed by the shipowner on September 4, 2003.

Settlement discussions then took place between the parties and on March 5, 2004, the shipowner made an offer of settlement in the amount of \$76,031.82, which was accepted by the Administrator.

Status

The file was closed on March 31, 2004.

Sandpiper (2003)

LOCATION: Steveston Harbour , British Columbia

Case number: 120-365-C1-1

The Incident

The *Sandpiper*, an old dredge, had been berthed at the disused Pacific Cannery Dock in Steveston Harbour, British Columbia since December 2001 further to her arrestation for matters other than pollution. During the night of April 17, 2003, she sank at her berth and

oil was released into the water. The Steveston Harbour Authority (SHA) was notified and the following morning, cleanup commenced with the assistance of the Canadian Coast Guard (CCG). The shipowner was notified of the occurrence by the SHA but showed reluctance to become actively involved in the cleanup. The CCG took over the cleanup on April 25, 2003.

On May 7, 2003, the shipowner and a salvage crew were on site preparing to raise the dredge. This was accomplished on May 12, 2003.

The Claim

On July 9, 2003, the SHA filed a claim with the Ship-source Oil Pollution Fund in the amount of \$1,587.53 for their response activities.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator made an offer of settlement of \$1,517.93, which was accepted by the SHA. Payment of the settlement amount, plus \$524.25 interest, was thereafter made on July 16, 2003.

Recovery Action

The Administrator considered possible recovery measures pursuant to subsection 87(3) of the *Marine Liability Act*. However, having been advised that there was little, if any, value in the sunken vessel even before incurring the costs of raising and towing it, he concluded that such measures were not justified.

Status

The file was closed on March 31, 2006.

[Mystery Spill - Northwind \(2004\)](#)

LOCATION: Greater Victoria Harbour Authority, British Columbia

Case number: 120-480-C1

The Incident

On December 30, 2004, there was an oil spill at the Fisherman's Wharf Facility of the Greater Victoria Harbour Authority (GVHA), Victoria Harbour, British Columbia. The GVHA and volunteers mounted the initial clean-up operations the night of December 30 and through the early morning hours of December 31, 2004, and a contractor was then engaged by the GVHA to complete the cleanup.

Since the source of the spill was unknown, the GVHA considered it as a mystery spill.

The Claim

On December 14, 2005, the GVHA filed a claim in the amount of \$16,012.02 with the Ship-source Oil Pollution Fund (the Fund) for its costs and expenses in the response and cleanup of the incident.

Assessment and Offer

The Administrator requested further particulars of the incident, which were provided by the GVHA on February 20, 2006. Following investigation and assessment of the claim, the Administrator offered \$10,443.50 in settlement of the GVHA's claim. The GVHA accepted the offer and on April 18, 2006, payment of the settlement amount, plus \$621.35 interest, was made.

Recovery Action

On December 31, 2004, an oil sample was taken from the surface of the waters of Victoria Harbour adjacent to the *M.V. Northwind*. Also, on the same date, an oil sample was taken from the machinery space bilge of the *M.V. Northwind*. A chemical analysis of these samples by Environment Canada concluded that the two samples were extremely similar. Besides, a common source of the samples was indicated.

On August 17, 2006, counsel for the Fund wrote to the owner of the *M.V. Northwind* to see if a settlement could be achieved for the recovery of the monies paid by the Fund to the GVHA. Offers and counter-offers were made between counsels for both parties. On February 19, 2007, the owner of the *M.V. Northwind*, while denying liability, made without prejudice an offer of \$5,500.00 as final release in connection with the spill that occurred in Victoria Harbour on December 30, 2004. The payment was received by the Administrator on February 22, 2007.

Status

The file was closed on February 22, 2007.

[Dominion I \(2005\)](#)

LOCATION: Ship Point Facility, Greater Victoria Harbour Authority, British Columbia
Case number: 120-481-C1

The Incident

On March 28, 2005, there was an oil spill at the Ship Point Facility of the Greater Victoria Harbour Authority (GVHA), Victoria Harbour, British Columbia. The GVHA hired a contractor for the cleanup of the spill, which was considered as a mystery spill since its source was unknown.

The Claim

On December 14, 2005, the GVHA filed a claim with the Ship-source Oil Pollution Fund in the amount of \$8,521.16 for its costs and expenses in the incident cleanup response.

Assessment and Offer

On January 16, 2006, the Administrator requested further particulars surrounding the incident. Upon receipt of the additional information from the GVHA on February 20, 2006, the Administrator continued his investigation and assessment of the claim, and offered

\$6,847.42 plus interest in full and final settlement of the claim. The GVHA accepted the offer and on April 18, 2006, payment of \$7,170.31 including interest was made.

Recovery Action

During the response, Transport Canada Marine Safety personnel took samples of oil from the *Dominion I*, which was moored to the wharf at Ship Point Facility, and from the water in the vicinity of the *Dominion I*. A chemical analysis by Environment Canada concluded that the two oil samples were extremely similar.

On September 11, 2006, the Administrator then wrote to the owner of the *Dominion I* to recover the amount paid to the GVHA plus interest. Negotiations between the parties took place. On January 17, 2007, counsel for the shipowner advised that his client's offer of \$4,000.00 was made without prejudice. After further consideration, the Administrator accepted the settlement offer and on April 13, 2007, a cheque in the amount of \$4,000.00 was received.

Status

The file was closed on May 14, 2007.

Columbia (2008)

LOCATION: Steveston Harbour, British Columbia

Case number: 120-547-C1

The Incident

On August 25, 2008, an American-owned 65-foot fishing vessel, *Columbia*, sank at the mooring float at Steveston Harbour, British Columbia. The Steveston Harbour Authority (the Authority) boomed off the old wooden vessel and commenced cleanup of the leaking oil in order to minimize pollution from entering the marine environment. On August 28, the Authority contacted the vessel owner who was fishing in Alaska. The latter appeared to accept responsibility for the costs of cleanup and salvage, but indicated that there was no insurance on the old vessel. The *Columbia* was later abandoned since no follow-up action was taken by the owner. On August 30, the Authority contracted a salvage company, and the *Columbia* was raised and transported to Shelter Island Marina, where it was lifted ashore. It was then discovered that the vessel's fuel tanks were partially full.

On October 10, the Authority engaged Chris Small Marine Surveyors Ltd. to offer an opinion as to the vessel's condition. The surveyors inspected the *Columbia* and reported it to be derelict beyond any practical or feasible repair with no remaining salvage value. Consequently, the Authority arranged for the demolition and disposal, effectively ending the environmental risk.

The Claim

On December 8, 2008, the Authority filed a claim with the Ship-source Oil Pollution Fund (the Fund) in the amount of \$81,470.88 for costs and expenses incurred.

Assessment and Offer

On December 18, the Administrator acknowledged receipt of the claim. He then engaged legal counsel and a technical marine surveyor to investigate the circumstance surrounding the incident.

As a result of his investigation and assessment of the claim, the Administrator made an offer for the established amount of \$68,760.33, plus interest, in full and final settlement of the claim, pursuant to sections 86 and 101 of the *Marine Liability Act* (MLA). The Authority accepted the offer, and on July 9, 2009, upon receipt of a duly executed Release and Subrogation Agreement, a cheque in the sum of \$69,874.09, inclusive of interest, was forwarded to the Authority.

Recovery Action

The Administrator instructed counsel to review the feasibility of undertaking cost recovery action pursuant to section 87(3) of the MLA. As a result of subsequent investigations and counsel's opinions, the Administrator concluded that it was unlikely that the Fund would obtain any recovery against the vessel owner. He, therefore, closed the file.

Status

The file was closed on March 31, 2010.

Silver Harvester (2010)

LOCATION: Esquimalt Harbour, Vancouver Island , British Columbia

Case number: 120-625-C1

The Incident

On April 2, 2010, the *Silver Harvester*, a 45-ton wooden fishing vessel built in 1944, dragged anchor in a windstorm and went aground at the north end of Esquimalt Harbour, Vancouver Island, British Columbia. When the vessel was swept onto the rocks, it was partially submerged and released oil into the water. The following day, when the storm subsided, the Esquimalt Harbour Management Authority (the Authority) dispatched its Marine Environmental Emergency Response Team to provide containment of the oil spill. In addition, the Authority conducted a technical survey of the vessel and found that the hull was severely damaged and impregnated with hydrocarbons. The vessel was determined to be unsalvageable and the threat of further pollution continued. It was therefore concluded that the most cost effective way to deal with the situation was to deconstruct the vessel.

When contacted the registered owner advised that he was financially incapable of dealing with the incident. Also, he provided written permission for the Authority to deconstruct and dispose of the wreck. The Authority then applied to Transport Canada's Receiver of Wrecks to have the ownership transferred to the Department of National Defense (DND) in order to proceed with the salvage and prevent further pollution. When the custody of the transfer was completed, all hydrocarbons and other hazardous materials were removed.

The oil-impregnated old fishing vessel was finally demolished by DND personnel at the Canadians Force Base in Esquimalt. The salvage operation was completed on April 27, 2010.

The Claim

On November 23, 2012, the Authority filed a claim with the Ship-source Oil Pollution Fund in the amount of \$17,956.53 for costs and expenses incurred during its response to the sinking of the *Silver Harvester* in Esquimalt Harbour.

Assessment and Offer

The time period between the completion of the deconstruction work and the filing of the claim seemed to be well after the two-year limitation period prescribed by the *Marine Liability Act*. Consequently, on the advice of counsel, the Administrator concluded that the claim was time-barred.

Status

The file was closed on January 24, 2013.

[Finella \(2011\)](#)

LOCATION: Deep Bay, Vancouver Island, British Columbia

Case number: 120-614-C1-1

The Incident

On October 11, 2011, the commercial fishing vessel *Finella* partially sank at the dock in Deep Bay, Vancouver Island, British Columbia. The vessel commenced leaking diesel fuel and heavier engine and gear oil. There was an estimated 2,000 litres of fuel onboard, as well as other hydraulic oils. With the assistance of the local Canadian Coast Guard Auxiliary, the Harbour Authority deployed containment booms and absorbent pads in an attempt to prevent the material from moving into the nearby commercial shellfish growing waters and beaches. The vessel was reported to be “out of the country”. Consequently, the Harbour Authority hired a contractor to raise the *Finella* and move it to shallow water in order to prevent it from sinking completely and cause environmental damage to the surrounding wetlands and commercial shellfish areas. The *Finella* was removed from the water on October 12, 2011 and placed on the beach.

The Claim

On March 22, 2012, the Manager of the Deep Bay Harbour Authority filed a claim with the Ship-source Oil Pollution Fund for costs and expenses incurred during response to the incident in the amount of \$9,969.09, while noting that he had attempted to recover the costs from the vessel owner but no reply was received to any of his communications.

Assessment and Offer

After investigation and assessment of the claim, on May 8, 2012, the Administrator made an offer for the established amount of \$9,969.09, plus interest, for a total compensation of

\$10,098.60. The offer was accepted and on June 5, upon receipt of a duly executed Release and Subrogation Agreement, the Administrator mailed a cheque in the amount of \$10,098.60 to the Manager of the Deep Bay Harbour Authority.

Recovery Action

On June 5, 2012, the Administrator mailed a registered letter to the owner of the *Finella* requesting payment of the costs incurred by the Deep Bay Harbour Authority in response to the incident, in the amount of \$10,098.60, failing which he may commence legal proceedings. On July 4, the letter was returned to the Administrator.

Further investigation did not reveal the location of the owner or any assets. Accordingly, the Administrator concluded that incurring additional expenditure for cost recovery action was not reasonable and he closed the file.

Status

The file was closed on December 19, 2012.

Marathassa (2015)

LOCATION: English Bay, British Columbia

Case number: 120-673-C1-1

The Incident

On April 8, 2015, the Canadian Coast Guard (CCG) was informed that there was an oil spill in English Bay near the entrance to Vancouver Harbour, B.C. The Cypriot registered bulk carrier *Marathassa* (43,229 GRT), which was at anchorage number 12 in English Bay, was identified as the probable source of the pollution. The vessel's Master initially denied any responsibility for the oil spill. Transport Canada Marine Safety (TCMS) inspectors later traced the source of the spill to a mechanical defect aboard the *Marathassa* which allowed bunker oil into the bilge.

Later that day, the CCG contracted the Western Canada Marine Response Corporation (WCMRC), a Transport Canada Certified Response Organization. The CCG took command of the operation as the lead agency and the WCMRC began collecting fuel oil and skimming operations. The *Marathassa* was boomed in the early morning on April 9, 2015, by WCMRC. This delay had a significant impact on the spread of the recoverable pollution.

The cleanup work executed by the WCMRC and the various subcontractors engaged by the CCG lasted 16 days, concluding on April 23, 2015. The *Marathassa* was released on April 24, 2015 and departed English Bay the next day.

A review of the incident found that the volume of the oil spill was approximately 2,800 litres of IFO 380, a ship's bunker product. It was estimated that about 600 litres, or more, could have impacted the shoreline. The coastal area surrounding English Bay contains several parks with popular beaches accessible from the downtown Vancouver

area. The beaches are major tourist attractions and frequented by the local population all year long. English Bay and Burrard Inlet are important wintering areas for numerous marine birds and waterfowl and have been designated by Birdlife International as important bird areas based on bird population and habitat thresholds.

Measures taken by the Administrator

A Letter of Undertaking (LOU) was received from the ship's insurer and the Administrator was advised that claims are being dealt with by counsel for the insurers.

The Claim

On April 5, 2017, while still pursuing settlement discussions with the insurer, the Vancouver Fraser Port Authority (VFPA) filed a claim with the Administrator in the amount of \$198,947.22 pursuant to the *Marine Liability Act*.

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

Assessment and Offer

At the request of the claimant, the Administrator kept the assessment on hold pending ongoing settlement discussions between the claimant and the insurer. Assessment resumed at the end of June 2017. Additional information was requested from the claimant and was provided.

Three different claims concerning the *Marathassa* incident of April 8-24, 2015 were eventually submitted. The measures and activities linked to the Incident Command System (ICS) identified in the individual claims (and their respective documentation) overlapped/intersected and therefore had to be assessed as an integrated package by the Administrator to ensure that the measures were part of the integrated plan and that measures had not been duplicated; i.e. although each claim had to be assessed for itself, it had to be understood in the light of the global operation that took place and that involved efforts from other parties. The understanding of this global picture was necessary to make a determination as to the reasonableness of measures and activities and the reasonableness of the costs of the individual elements of each claim.

On January 15, 2018, after investigation and assessment of the claim, the Administrator sent a draft letter of offer to VFPA, for comments. On February 14, 2018, VFPA requested that the final offer be issued, and the Administrator made an offer for the established amount of \$158,800.49, plus interest, as full and final settlement. The salient reductions from the VFPA claim were due to some duplication of effort with other parties to the ICS, as well as some ineligible meal expenses and hospitality costs.

On February 20, 2018, VFPA accepted the offer and on March 1, 2018 the Administrator directed payment of \$172,674.87 (including \$13,874.38 in accrued interest) to VFPA.

Recovery action

On March 6, 2018, Counsel for the Administrator sent a demand letter to the insurer's counsel.

On March 21, 2018, a payment of \$172,935.87 was received by the Administrator, as final settlement of her subrogated claim of the VFPA.

Having received the full recovery amount, the Administrator signed and sent the owner a Release and Settlement letter in March 2018.

Status

The file was closed on April 12, 2018.

[Elva M II \(2016\)](#)

LOCATION: Steveston Harbour, British Columbia

Case number: 120-704-C1

The Incident

On the night of November 4/5, 2016, the 55-tonne fishing vessel *Elva M II*, a wooden vessel built in 1927, sunk while alongside in Steveston Harbour, British Columbia. The local Harbour Authority attended the scene along with the Canadian Coast Guard (CCG) to respond to the incident. They deployed booms and equipment to deal with the pollution. Diving services and local contractors were hired to raise the sunken vessel. The recovery operation took place the same day, and in the evening, the *Elva M II* was removed from the water. Once raised, the vessel was hauled ashore and deconstructed.

The Claim

On February 9, 2017, the Steveston Harbour Authority filed a claim with the Administrator for costs and expenses in the amount of \$7,649.63, pursuant to the *Marine Liability Act* (MLA).

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

Assessment and Offer

After investigation and assessment of the claim, the Administrator made an offer to the Steveston Harbour Authority for the established amount of \$7,649.63 plus interest on February 22, 2017, as full and final settlement. The offer was accepted on March 6, 2017, and on March 21, a payment in the amount of \$7,736.30 including interest was sent to Steveston Harbour Authority.

Recovery Action

On May 31, 2017, a demand letter was sent to the vessel owner, from which a response was received. On June 27, counsel for the Ship-source Oil pollution Fund (SOPF) informed the vessel owner of the strict liability provisions of the MLA and advised him that action would be commenced by the SOPF in seven days, unless a satisfactory settlement offer was received. In addition, on June 29, a proposal was sent by counsel to the vessel owner. However, the latter replied that he was unable to pay.

In July 2017, a locator service was engaged to complete an asset search on the vessel owner, and in October 2017, a Statement of Claim was filed. As no Statement of Defence was received, a Motion for Default Judgment was filed with the court, following which a judgment against the vessel owner was received. The Examination in Aid of Execution was held on December 22, 2017.

In August 2018, Counsel for the Administrator filed a Federal Court Garnishment Order. The Court made an order attaching all further payment from the owner's employer to the judgment debtor. By December 24, 2018, the Administrator received a total amount of \$3,266.46 for her subrogated claims of CCG and of Steveston Harbour Authority.

Given the impecuniosity and the age of the owner, the Administrator has assessed that the defendant has reached his ability to pay for the time being and she has decided to suspend further collection. This decision will be subject to review and the Administrator will resume collection in respect of the outstanding judgment should the financial status of the owner improve.

Status

The file remains open.

Miss Universe (2016)

LOCATION: Port Edward Harbour Authority, British Columbia

Case number: 120-721-C1

The Incident

On December 10, 2016, the Port Edward Harbour Authority (PEHA) was made aware of a sunken vessel in waters under their jurisdiction. Upon investigation the vessel was identified as the *Miss Universe* (12.45 GRT), a disaffected fishing vessel; it was determined that there was a high risk for both safety and pollution so the Canadian Coast Guard (CCG) was contacted by the PEHA.

A thick grey substance was observed on the water; oil absorbent pads were laid down and a boom was deployed around the vessel to mitigate pollution damage to the environment. The absorbent pads were replaced the following day. Since the vessel and contaminants were unknown and pollution leaking from vessel was of a substantial volume, not to mention the port authority was without the capability of safely containing the contaminants, the decision was taken to salvage and then demolish the wreck.

The PEHA continued to monitor the vessel and change the absorbent pads until December 15, 2016, when the sunken vessel was salvaged by a private contractor and brought to a safe location for demolition.

The Claim

On July 12, 2017, the Port Edward Harbour Authority (PEHA) filed a claim with the

Administrator for costs and expenses incurred in the amount of \$19,911.85, pursuant to section 103 of the *Marine Liability Act*.

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

Assessment and Offer

On August 31, 2017, after investigation (including requests for extra documents, timesheets and invoices) and assessment of the claim, the Administrator made an offer to the PEHA for the established amount of \$18,711.85, plus interest, pursuant to section 105 of the Act.

The salient reductions from the PEHA claim were on account of punt rental fees deemed excessive compared to competitive rates.

On September 15, 2017, the letter of acceptance was received from the PEHA.

On October 12, 2017, the Administrator directed that the amount of \$19,113.80 (including \$401.95 in accrued interest) be paid to the Port Edward Harbour Authority.

Recovery Action

The Administrator continues to gather information to support potential recovery action.

Status

The file remains open.

Viking I (2016)

LOCATION: Mark Bay, British Columbia

Case number: 120-716-C1

The Incident

On August 10, 2016, the Nanaimo Port Authority (NPA) received a report that the *Viking I* (29.7 GRT), a 40-foot retired fishing vessel converted to a pleasure craft, was sinking in the small craft anchorage at Mark Bay, B.C. The Harbour Master found the vessel completely submerged in approximately 30 feet of water with evidence of oil pollution on the water's surface. A containment boom was deployed, and pads were placed inside the boom.

The Canadian Coast Guard (CCG) was informed by the NPA; the CCG instructed the NPA to provide both monitoring and response functions. The boat owner advised that there was an 800-gallon diesel fuel tank on board, but it was less than one-quarter full. Divers contracted to inspect the wreck for victims (none were found) were instructed to plug the fuel vents and try to raise the vessel by utilizing air bags and water pumps.

By August 15, 2016, the *Viking I* was brought to the surface using additional buoyancy equipment. The following day, it was shifted to a secure working site at the nearby Brechin

boat launch. A heavy lift crane and barge was set up at the boat launch facility and the *Viking I* was brought to an upright position to dewater the vessel.

On August 19, 2016, the hull was lifted into a barge and all debris and contaminated materials were removed prior to completion of the salvage efforts. The wreck was transported to Vancouver for disposal.

The Claim

On May 3, 2017, the Administrator received a claim from the NPA for costs and expenses in the amount of \$31,458.19 made pursuant to the *Marine Liability Act*.

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

Assessment and Offer

On May 24, further information was requested from the Port Authority in support of their claim. Several reminders were sent over the following months. On August 30, 2017, after investigation and assessment of the claim, the Administrator made an offer to the NPA for the established amount of \$29,432.92, plus interest, pursuant to section 105 of the Act.

On October 3, 2017, the offer was accepted by the NPA.

On October 12, 2017, the Administrator directed that the amount of \$30,484.30 (including \$1,051.38 in interest) be drawn from the Fund to the credit of the Nanaimo Port Authority.

Recovery Action

The Administrator tasked a professional locator service to investigate the assets and location of the owner of the *Viking I*. However, the Administrator decided to assess the claim of the CCG in the same incident before moving to recovery action against the owner.

Status

The file remains open.

Ontario

Rhea - (1997)

LOCATION: Oshawa, Ontario

Case number: 120-157-C1

The Incident

On October 4, 1997, the *Rhea*, a former US Navy mine sweeper which had been purchased approximately ten years before for use as a houseboat in Oshawa Harbour, Ontario, sank, while no one was aboard, coming to rest in seven metres of water with only her superstructure showing. It was reported that the ship had some 1,600 litres of heating oil, 4,500 litres of diesel and 450 litres of lubricating oil aboard which, upon sinking, immediately began to seep out.

The owner advised that he had no insurance and was unable to accept responsibility for the oil pollution containment and cleanup. The local marine rescue association responded and boomed the sunken ship. The *Rhea* was subsequently raised and removed from the Oshawa Harbour.

The Claim

On August 26, 1998, the Oshawa Harbour Commission (the Harbour Commission) submitted a claim to the Ship-source Oil Pollution Fund (the Fund) in the amount of \$99,054.21 for the portion of the response activity pertaining to the oil spill cleanup. The claim included items in contention for which the Harbour Commission had not paid, totaling \$10,040.71.

Assessment and Offer

Further to the investigation and assessment of the claim, the Administrator concluded that a number of the individual charges in the claim were not reasonable, within the meaning of the *Canada Shipping Act*. On March 29, 1999, the Administrator had telephone discussions with the Harbour Commission, in which he outlined a number of individual amounts within the claim that he felt should be reduced or disallowed as not being reasonable.

An all-inclusive settlement of \$60,211.24, including interest, was thereafter agreed between the Administrator and the Harbour Commission on April 21, 1999. Part of the settlement agreement, as required by the Administrator, included the Harbour Commission taking the following actions: diligently pursuing collection from the boat owner, pursuing the Harbour Commission's insurers who had declined liability, and that any recovery of monies by the Harbour Commission would be returned to the Fund. On this basis, a release and subrogation agreement, signed on behalf of the Harbour Commission on May 12, 1999, was received by the Administrator, and the payment of the settlement amount was sent by the Fund on June 7, 1999.

Recovery Action

Further to the legal action instituted by the Harbour Commission against the boat owner on March 25, 1999, a default judgment was obtained on April 18, 2000 in the amount of \$146,630.55, including interest and costs. The Harbour Commission then requested a Writ of Seizure and Sale on May 3, 2000; however, having not located the boat owner, who was said to have few assets, they considered the case closed.

On his side, the Administrator made his own efforts to trace the boat owner during the year 2000 without success. Following legal advice, he instructed counsel to obtain a partial assignment of the Harbour Commission judgment, which was done. He then closed his file on the incident until the boat owner is located.

Status

The file was closed on March 31, 2001.

Big Bobber (2008)

LOCATION: Royal Hamilton Yacht Club, Ontario

Case number: 120-543-C1

The Incident

On August 10, 2008, an oil spill occurred at the Royal Hamilton Yacht Club. The security office of the Port Authority traced the source of the oil to a 20-foot pleasure craft, the *Big Bobber*. The provincial Ministry of the Environment Spills Action Centre, the Hamilton/Halton Marine Police Services and the Canadian Coast Guard (CCG) were notified of the occurrence. The Port Authority was unable to contact the boat owner. Therefore, the Assistant Harbour Master engaged Team-Hazco Environmental Services to deploy a containment boom around the boat and clean-up the spill. On arrival, the response team determined that the flooring of the boat was saturated with fuel oil, and that there was a substantial amount of oil in the bilge. Besides, the boat was partially submerged causing oil to escape.

The cleanup operation was completed to the satisfaction of the authorities.

The Claim

During August and September 2008, the Hamilton Port Authority was unable to recover from the boat owner the cleanup costs in the amount of \$2,730.00 it had paid to Team-Hazco Environmental Services. Therefore, on October 9, 2008, it filed a claim for such amount with the Ship-source Oil Pollution Fund, pursuant to Part 6 of the *Marine Liability Act*.

Assessment and Offer

Following investigation and assessment of the claim, the Administrator offered the full amount of the claim, plus interest, as full and final settlement, which offer was accepted by the Hamilton Port Authority. Upon receipt of a duly executed Release and Subrogation

Agreement from the Hamilton Port Authority, payment of \$2,768.36 was directed by the Administrator.

Recovery Action

The Administrator instructed counsel to investigate the feasibility of effective cost recovery of the amount paid in response to this spill. Based on the results of the investigation, he concluded that there was no viable prospect of a successful recovery.

Status

The file was closed on November 25, 2009..

Mystery Spill (2008)

LOCATION: Hamilton Harbour, Ontario

Case number: 120-536-C1

The Incident

On April 24, 2008, the Hamilton Harbour Spills Action Centre informed the Harbour Master's Office that an oil spill had occurred in the southwest area of the harbour. The Hamilton Port Authority (the Port Authority) staff, the Port Security Officers, a representative of the provincial Ministry of the Environment and a Ship Safety Inspector from Transport Canada investigated the possible sources of the oil spill. Based on visual observation, the oil on the water was considered to be diesel fuel. However, the Ministry of Environment had no reports of a land-based incident that could lead to diesel fuel entering into the water. Besides, the authorities who investigated the incident could not find evidence of diesel fuel inside the boom that the City of Hamilton places at all outlets that flow into the harbour. They also conducted a search of the marina and the adjacent shoreline, but did not find any evidence of the oil having originated from a land-based source. In addition, the Ship Safety Inspector visited ships secured in the area of the spill at the time of the occurrence, but did not find any evidence of oil discharge. As a result of the investigations, the authorities concluded that an unknown ship in Hamilton Harbour was the most likely source of the spill.

The Port Authority engaged a local contractor to clean-up and dispose of the oil remaining on the surface of the water. On April 26, 2008, the removal of oil from within the containment booms was completed, and the oily waste was disposed of at a licensed waste facility.

The Claim

On June 6, 2008, the Port Authority filed a claim with the Ship-source Oil Pollution Fund for costs and expenses in the amount of \$23,640.50, pursuant to Part 6 of the *Marine Liability Act*.

Assessment and Offer

On June 25, 2008, for his assessment of the claim, the Administrator requested further general information and documentation for some of the items claimed. On July 24, the additional information was provided by the Authority.

On September 23, 2008, following investigation and assessment of the claim, the Administrator informed the Port Authority that he had found the amount of \$19,903.81, plus interest, to be established. The Port Authority accepted the offer and executed a Release and Subrogation Agreement, upon receipt of which, on December 9, 2008, a cheque in the amount of \$20,525.40 was forwarded to the Port Authority.

Recovery Action

Since the extensive on-site investigations had proven it impossible to ascertain from where the oil originated, the Administrator accepted the claim as a mystery spill. Therefore, he was unable to take any recourse action.

Status

The file was closed on March 31, 2009.

Mystery Spill (2009)

LOCATION: Pier 11, Hamilton Port , Ontario

Case Number: 120-554-C1

The Incident

On December 14, 2009, the Hamilton Port Authority received a report from a representative of Vopak terminals about an oil sheen on the surface of the water along the length of Pier 11 on the south side of the harbour. The provincial Ministry of Environment's Spills Action Centre was notified about the occurrence, and an investigator from the Spills Action Centre attended on scene. A Hamilton Port patrol officer also arrived on scene to investigate. The patrol officer met representatives from two of the marine facilities that share the pier, namely, Vopak Terminals of Canada and IKO Industries.

The Ministry of the Environment (MOE) inspector conducted an investigation of the incident. As a result, no land-based source of the pollutant was found. A pipe in the dock wall seemed to be emitting a pollutant into the water. It was determined that wave action caused the oily mixture to surge into and out of the old dock wall pipeline that is no longer a functioning outlet. The MOE investigation included a search ashore, but did not find any facility that could be the source of the pollutant. The harbour master also attended on site but could not detect a land or water-base source. There were no vessels in the general location and the only marine traffic in the general area was a tug that had departed in the morning.

The Hamilton Port Authority engaged a local contractor, Team-Hazco Environmental Services, to clean-up and dispose of the oil on the water. The oil sheen covered an area of approximately 800 to 1000 square feet of surface.

The Claim

On April 12, 2010, the Administrator received a claim from the Hamilton Port Authority in the amount of \$10,959.95, pursuant to the *Marine Liability Act*. On the 14th, the Administrator acknowledged receipt of the claim and supporting documentation.

Assessment and Offer

In order to conduct an investigation the Administrator engaged counsel to visit the Port of Hamilton to try and determine how, and from where, the oil got into the water at Pier 11. Counsel attended on site and interviewed the appropriate officials. Counsel advised that he was unable to establish that the occurrence was not caused by a ship.

In his overall assessment of the claim, the Administrator concluded that there was adequate documentation with the submission of evidence that the costs and expenses were actually incurred. Also, the documentation substantiated that reasonable measures were taken to clean-up the spill and dispose of the oil waste. Therefore, on June 23, 2010, the Administrator made an offer to the Hamilton Port Authority in the full amount of \$10,959.95 plus interest in compensation for the claim. The Administrator's offer was accepted. When the appropriate Release and Subrogation Agreement was executed by a duly authorized official and returned, the Administrator, on July 22, 2010, directed payment in the amount of \$11,106.78, inclusive of interest.

Recovery Action

The Administrator accepted the claim as a mystery spill and, as a result, no recourse action could be undertaken.

Status

The file was closed on September 30, 2010.

Quebec

[Mystery Spill \(1989\)](#)

LOCATION: Baie des Ha! Ha!, Quebec

Case Number: 120-038-C1

The Incident

There was an oil spill in Baie des Ha! Ha!, Quebec on December 2, 1989. The oil was discharged by one of the two ships, MV *Maria H* or MV *Singelgracht*, docked in the Port of Chicoutimi (the Port) at the time of the incident, but the Canadian Coast Guard (CCG) was unable to identify which of them caused the spill. As a consequence, both shipowners denied liability and the Port was unable to recover its costs and expenses for oil recovery and cleanup from either ship.

The Claim

On June 20, 1992, the Port filed a claim in the amount of \$9,185.31 with the Ship-source Oil Pollution Fund for costs and expenses incurred for the oil recovery and cleanup in Baie des Ha! Ha!

Assessment and Offer

Since the particular ship which had caused the spill was not identified, there was doubt whether the Port should be responsible for this failure of identification. In view of this uncertainty, on October 29, 1992, the Port offered to settle for 50% of its claim, together with interest payable under section 723 of the *Canada Shipping Act*, which totalled \$6,500.00. The Administrator accepted the offer on November 6, 1992 and the settlement was completed on November 23, 1992.

Status

The file was closed on March 31, 1993.

[Mystery Spill \(2005\)](#)

LOCATION: Port of Montreal (Vieux-Port), Quebec

Case Number: 120-485-C1

The Incident

Oil spill of an unknown source was found at the Port of Montreal (Vieux-Port), Bassin Jacques Cartier, Quai King Edward on September 6, 2005. La Société du Vieux-Port de Montréal Inc. responded by cleaning it up.

The Claim

On February 9, 2006, La Société du Vieux-Port de Montréal Inc. (the Claimant) filed a claim with the Ship-source Oil Pollution Fund for cleanup costs and expenses totaling \$6,488.90.

Assessment and Offer

Following investigation and assessment of the claim, on February 22, 2006, the Administrator requested from the Claimant documentation on some of the items claimed, which documentation was received on June 22, 2006. On August 29, 2006, the Administrator made an offer in the amount of \$5,642.52 plus interest in full and final settlement of the claim. The offer was accepted by the Claimant and payment of \$5,957.73 including interest was thereafter made by the Administrator.

Status

The file was closed on March 31, 2007

Mystery Spill (2013)

LOCATION: Alexandria Berth, Port of Montreal, Quebec

Case number: 120-633-C1

The Incident

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

The Claim

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

Assessment and Offer

The Administrator investigated and assessed the claim. As a result of further inquiry about the findings of the CCG, Transport Canada and the Port Authority, it was clear that there were different opinions as to the exact source of the oil pollution. Consequently, the Administrator was not satisfied on the evidence available that the occurrence was not caused by a ship and, thus, the claim was allowed. On February 20, 2014, the Administrator offered \$5,969.53, plus interest, in full and final settlement of the claim, pursuant to the *Marine Liability Act*. The Port Authority accepted the offer, and upon receipt of a duly executed release from the Port Authority, the Administrator directed payment in the amount of \$6,149.95, inclusive of interest.

Recovery Action

Because the incident was found to be a mystery spill, no recourse action was available.

Status

The file was closed on March 31, 2014.

Chaulk Determination (2015)

LOCATION: Port of Trois-Rivières, Quebec

Case number: 120-700-C1

The Incident

The *Chaulk Determination* was an ocean-going tug of 566 gross tonnes owned by CAI Marine Inc. On December 26, 2014, the vessel sank at Section 1 of the Port of Trois-Rivières with 22 tonnes of pollutants on board. The owner was contacted and was unable to respond. Group Ocean was contracted by the Coast Guard to raise the vessel and on February 19, they commenced raising the vessel and completed the operation on February 21, 2015. Coast Guard took steps during the months of February/March 2015 to winterize the vessel and ensure that it was safe and secure at the port prior to turning the vessel over to the port authority. The port noted that the vessel was substantially contaminated with oil/residue at the time of turnover and that it presented a risk of pollution. These views were communicated to both Transport Canada and the Coast Guard.

In April of 2015, the vessel began to take on water. The Port of Trois-Rivières observed on April 16, 2015, that the refloated tug was listing and concluded after investigation that the vessel was again at risk of sinking and was a pollution threat. A marine surveyor was engaged by the port to provide a condition report on the state of the vessel when it was turned over to the port by Coast Guard. The local fire department evaluated the hazardous condition of the vessel and asked for the removal of all combustible and waste materials and noted the need for ongoing 24/7 monitoring. The port authority concluded that the tug presented an ongoing risk of pollution and that it was necessary to both remove and dismantle the vessel.

Contractors were engaged the following week to address the list problem, to dewater the vessel, to clean the internals of the vessel and to remove pollutants from the ship. Fuel tanks had been used as ballast tanks after the refloating of the tug, resulting in a significant amount of fuel residue mixed with ballast water. It was necessary to clean all ballast water tanks, fuel and lube oil tanks and accommodation spaces, and engine room spaces.

The Claim

On October 20, 2015, the port authority filed a claim with the Fund for costs and expenses incurred responding to the pollution threat of the tug, in the amount of \$71,909.71 made pursuant to articles 101 and 103 *Marine Liability Act*. The Administrator commenced an investigation and assessment of the claim and requested further documentation from the

port in support of their claim. The port provided the amplifying information on January 13, 2016.

On February 2, 2017, the Administrator made an offer for the established amount of \$71,909.71 minus the amount of \$1,277.13 that the Port had received from the Federal Court. The offer was accepted by Counsel for the Port on February 7, 2017, and a payment of \$73,848.78 including interest was made to the Port.

Recovery Action

The Fund had filed a claim in the judicial sale of *Chaulk Lifter*, a sister ship, which had been arrested and sold by Verreault Navigation Inc. for unrelated debts. The Fund received \$45,184.44 as per the Federal Court decision issued on November 17, 2016 (2016 FC 1281).

Status

Considering the lack of assets and the amount of liabilities of the owners, the Administrator assessed that it would not be reasonable to dedicate additional resources to recovery action, and closed the file on March 31, 2017.

Mystery Spill (2016)

LOCATION: Port of Quebec, Quebec

Case number: 120-720-C1

The Incident

On November 24, 2016, a Quebec Port Authority's (QPA) patroller noticed an iridescence on the water by wharf 52. Although there was no vessel at the wharf at the time, it was believed that the oil came from the Marshall Islands registered bulk carrier *Anastasia* (50,697 GRT), which had departed that location a few hours earlier. The pollution corresponded specifically to the wharf where the *Anastasia* had been berthed and inspection of the other wharfs showed no other source of contamination. The inspection found bunker oil around wharf 52, the associated fenders and some product in the river.

Both the Canadian Coast Guard (CCG) and Transport Canada (TC) were advised of the incident. Transport Canada sent inspectors but they did not take any oil samples as the bulk carrier had already left the scene. The QPA hired a contractor for recovery and cleanup work. The contractor installed booms to prevent the spread of the bunker oil and cleanup progressed until high tide made it impossible to continue. The next morning, the wharf fenders were lifted, cleaned and then reinstalled.

At one point there was no longer any discernible oil left in the river or on the fenders, so the QPA concluded that the pollution threat to new vessels arriving at wharf 52 was low. They allowed the next vessel to berth, and would continue cleaning the next day, after its departure.

On November 26, 2016, cleaning continued and on November 27, the wharf was considered acceptably clean and the incident closed.

The Claim

On June 16, 2017, the QPA filed a claim with the Fund for costs and expenses incurred in the amount of \$12,298.09, pursuant to section 101 of the *Marine Liability Act*.

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

Assessment and Offer

On June 28, the Administrator sent a letter to the QPA requesting specifications on the dock face. A response was received on June 29.

On September 14, 2017, after further investigation and assessment of the claim, the Administrator made an offer to QPA for the established amount of \$12,298.09, plus interest, pursuant to section 105 of the Act. Interest was deemed to be in the amount of \$304.66.

On September 15, 2017, the offer was accepted by the QPA.

On October 12, 2017, the Administrator directed payment of the amount of \$12,298.09 (which includes interest in the amount of \$304.66) to the QPA.

Recovery action

As the available evidence did not allow to conclude that the *Anastasia* was the source of the spill, this was deemed to be a mystery spill and no recovery action was possible.

Status

The file was closed on December 12, 2017.

Maccoa (2017)

LOCATION: Quebec City, Quebec

Case number: 120-719-C1

The Incident

On March 8, 2017, a shore personnel working on board the Cypriot register bulk carrier *Maccoa* (19,814 GT), berthed at the port of Quebec, noticed what appeared to be bunker oil in the water and on the ice between the vessel and the wharf. Local authorities were advised and oil samples were taken on board the vessel and from the water.

At the time, it was not clear whether the pollution was caused by the vessel, and the owner refused to take responsibility. Thereafter, the Quebec Port Authority hired various private contractors to undertake the clean-up operations and obtained a Letter of Undertaking from the ship's P&I Club (UK P&I).

On March 13, 2017, sorbent booms were seen to be stuck in the ice near the wharf and their removal was impossible without damaging them. However, disposal was necessary as another ship was due at the wharf the next day.

On April 6, 2017, after inspection, the wharf was considered acceptable and no new cleaning was scheduled.

The Claim

On June 16, 2017, a claim in the amount of \$43,806.19 was received from the Quebec Port Authority for costs and expenses related to the pollution incident made pursuant to the *Marine Liability Act*.

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

Assessment and Offer

On June 30, 2017, the Administrator, acting under her *Inquiries Act* powers (provided by para. 105(2) of the *Marine Liability Act*), contacted Transport Canada (TC), Environment Canada (EC) and the Canadian Coast Guard (CCG) requesting reports of samples taken from both the water and the vessel. The Administrator received these reports in July and August 2017.

On August 4, 2017, the Administrator's office requested additional information from the Quebec Port Authority to substantiate the claim. This information was received on August 31.

On September 15, 2017, after investigation and assessment of the claim, the Administrator made an offer to the Quebec Port Authority for the established amount of \$43,806.19, plus interest, pursuant to section 105 of the Act. Interest was deemed to be in the amount of \$612.31. The offer was accepted by the Quebec Port Authority on October 4, 2017.

On October 12, 2017, the Administrator directed payment of \$44,418.50 (which includes \$612.31 in accrued interest) to the Quebec Port Authority.

Recovery Action

The Administrator had advised Counsel for the P&I Club that a claim had been filed with the Fund and that the Administrator would revert to the owner/insurer of the *Maccoa* once the claim had been assessed and paid to the claimant. On September 28, 2017, counsel for the P&I Club informed the Administrator he will not advise to settle until he has access to the oil sample analysis. However, the Administrator could not share the information she received under the *Inquiries Act*, as this information was to be used as evidence by the Crown in support of Administrative Monetary Penalties (AMPs) against the shipowner with respect to the subject incident.

Counsel for the P&I Club advised in November 2017 that he was to file for a Transportation Appeal Tribunal of Canada (TATC) review of the AMPs and would therefore be able to access the relevant evidence.

Status

Settlement discussions will resume when the TATC issues its decision. As of March 31, the TATC hearing had still not taken place.

The file remains open.

Contact Us

Throughout the year of celebration, our priority is to increase awareness of the Fund for the benefit of all Canadians.

This anniversary year provides us with an ideal opportunity to engage further with numerous stakeholders including ports and harbours. We will continue to promote access to justice, while respecting the interests of shipowners.

As our key stakeholders, we invite you to join the discussion by subscribing to our distribution list on our website and sharing your views on our social media.

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Celebrating **30** YEARS

Compensating victims of oil pollution