

SOPF Technical Report

Analysis of the history of incidents involving interaction between Indigenous Peoples and the Ship-source Oil Pollution Fund



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April 2018

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Cover Image: “*Chilcotin Princess*” Photograph by Chris Harris

Notice of Change: On page 34 of this report, it is mentioned that the claim was paid out by the shipowner to the Heiltsuk First Nation. However, following the publication of this report, the claimants initiated a lawsuit for damages against the owners. In 2019, the Heiltsuk First Nation also submitted a claim to the Fund for damages under Article 107 of the *Marine Liability Act*.

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About the Ship-source Oil Pollution Fund (SOPF)

Mandate:

“The Ship-source Oil Pollution Fund is an independent fund under the *Marine Liability Act*, which is responsible for the investigation and payment of claims for oil spills from all classes of ships in Canada as well as making Canada’s contribution payments to the International Oil Pollution Compensation Funds (IOPC Funds) in London, U.K.”¹

The Administrator:

An Administrator appointed by the Governor in Council is responsible for the proper operation of the Fund and submits an annual report to the Minister of Transport. On receipt of a claim, the Administrator shall investigate and assess it; and make an offer of compensation to the claimant for whatever portion of it that the Administrator finds to be established.²

Preface from the Administrator

Indigenous groups have been very present in the Fund’s incident files, alerting the Canadian Coast Guard to spills or risks of spills, providing information relevant for response, contributing to the response, monitoring the impacted wildlife. In some instances, they were the owner of a ship that caused a spill and in others, the spill occurred in waters used for indigenous fishing or aquaculture, or of cultural importance. This presence is tangible as background information when one reads the claims documentation submitted by claimants. However, the Fund has had very few claims filed by Indigenous groups throughout its history, and this indigenous presence is therefore not fully captured in the Fund’s annual reports.

This research project is a first step in trying to identify what is at stake with the presence of indigenous groups in the Fund’s incident files, and to set the stage for the Fund’s outreach to - and engagement with - indigenous communities.

Anne Legars,
Administrator
Ship-source Oil Pollution Fund

¹ Government of Canada, “Organization Profile Ship-source Oil Pollution Fund,” *Federal Organizations*. <https://appointments.gc.ca/prflOrg.asp?OrgID=SSO&type-tyt=1&lang=eng> (Accessed March 20, 2017)

² Government of Canada, *Marine Liability Act* (S.C. 2001, c. 6)

About this Report

Abstract:

The report provides valuable information from the SOPF Annual Reports and incident case files, in regards to Indigenous Peoples involvement with incidents filed with the SOPF. The report documents the role of Indigenous Peoples as stakeholders of the Fund, based on the history since its formation in 1973 as the Maritime Pollution Claims Fund (MPCF), and its transition into the Ship-source Oil Pollution Fund in 1989. The nature of the incident files and annual reports limit the findings of the research as Indigenous Peoples involvement was not always reported to the SOPF.

Objective:

The objective of this report was to research and document the role of Indigenous Peoples as stakeholders of the SOPF based on the history of incidents and claims brought to the Fund, and to locate areas of importance for the SOPF to develop further outreach initiatives.

Introduction:

This report looks at the involvement of Indigenous Peoples with the Fund, to discover what the nature of their involvement was, what were the sizes of the claims that were in their proximity, and how many incidents had occurred in which they could have been stakeholders. As well, it provides details of certain individual cases where an Indigenous group was a claimant to find the narrative of that experience. Finally, the report looks at the nature of the abandoned and derelict vessels problem in Canada in relation to its effects on Indigenous Peoples.

Information Sources:

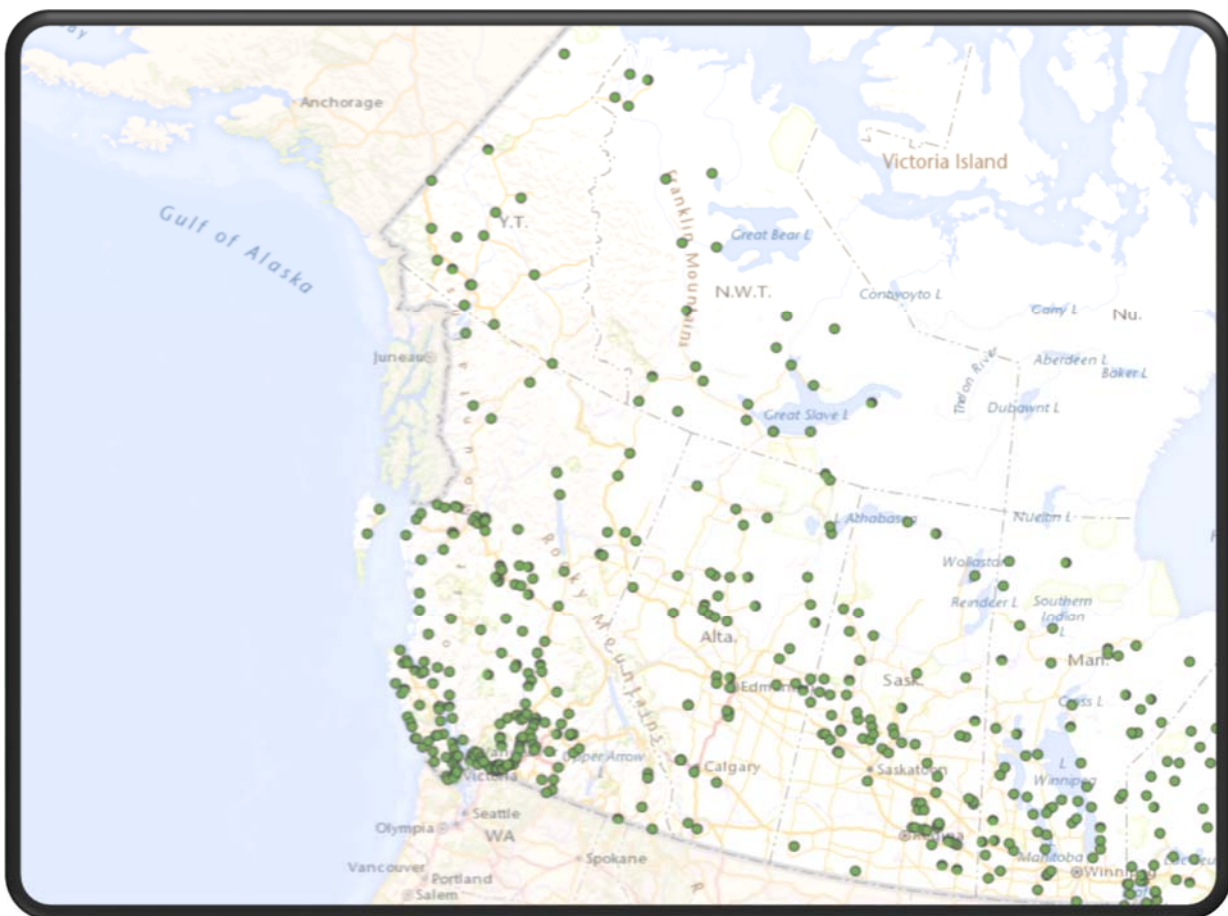
In my research, I consulted the SOPF database of all claims (Ultima), the incident case files on record at the Fund, and the annual reports of the SOPF, in order to find the narrative of events and find much of the pertinent data. I consulted the older incident case files of the SOPF at Library and Archives Canada to find information on cases where the narrative and data were lacking. I consulted the Department of Indigenous and Northern affairs, for the locations and information on Indigenous Peoples in Canada. As well, I consulted *Shipspotting.com*, Fisheries and Aquaculture Department of Food and Agriculture Organization of the United Nations, and *marinetraffic.com* to find specifications on vessels where the information was not provided in the above sources.

Locations of Indigenous Peoples Groups:

Western Canada

There are many Indigenous Peoples across Canada. Each green dot represents a different nation in its registered location with Indigenous and Northern Affairs Canada. This map only represents First Nations groups and does not include Métis or Inuit groups. As can be seen on the Pacific coast of British Columbia, there are many first nation groups located in coastal communities.

Map 1

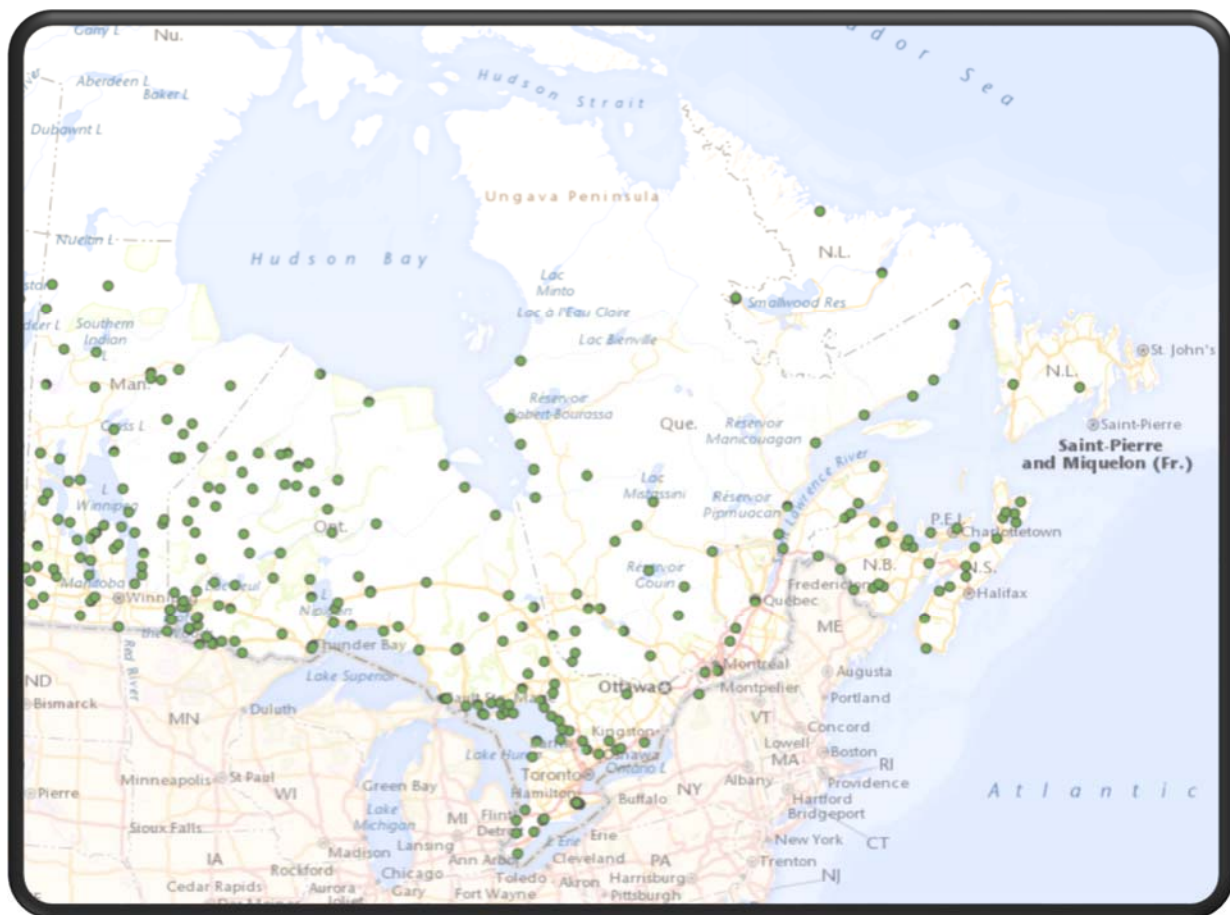


³ Indigenous and Northern Affairs Canada, *First Nation Profiles Interactive Map*, (Carto Vista, 2012) (retrieved March 21, 2018). <http://fnpim-cipn.aandc-aadnc.gc.ca/index-eng.html>

Eastern Canada

As with the previous map of Western Canada, this map also only represents First Nations groups and does not include Métis or Inuit groups. As can be seen on the Atlantic coast of the Maritime Provinces and in the St. Lawrence Seaway, there are fewer first nation groups located in coastal communities, than in BC. However, there is still a large amount. An Arctic map has not been included as Inuit groups organize themselves in hamlets and incorporated towns and cities.

Map 2



⁴ Indigenous and Northern Affairs Canada, *First Nation Profiles Interactive Map*, (Carto Vista, 2012) (retrieved March 21, 2018). <http://fnpm-cipnp.aandc-aadnc.gc.ca/index-eng.html>

Discussion of Results:

This section presents the results of my research in a series of maps and graphics, with a discussion of the pertinent information to be extracted from them.

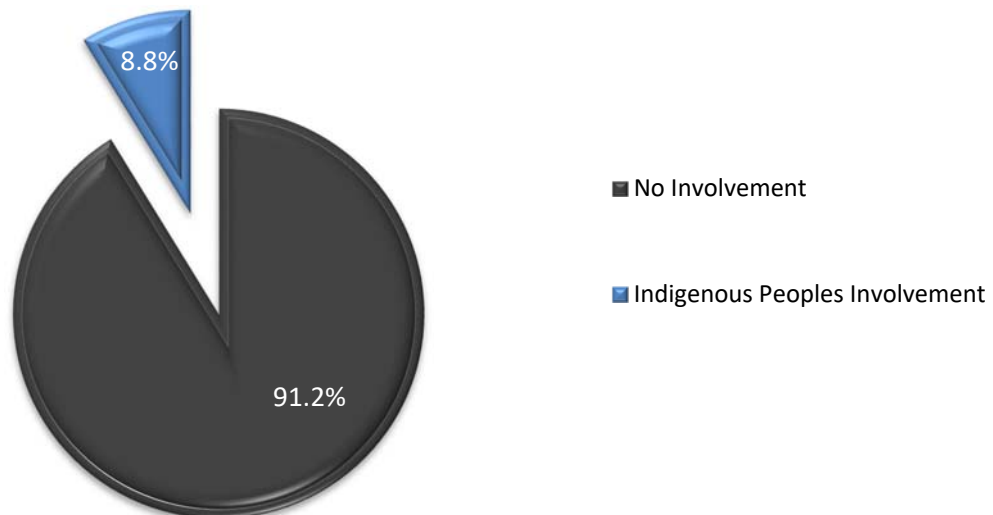
While there have been a significant number of incidents within the vicinity of coastal Indigenous communities, only a relatively small fraction of them have historically involved these communities, as will become clear in this analysis.

Indigenous involvement with the SOPF

Claims and pertinent reports with SOPF that involved Indigenous Peoples out of the total number of claims

Indigenous Peoples have not been involved with many of the incidents brought to the Fund, having only been involved with 32 of 365 incidents (8.8%). However, many coastal Indigenous communities have the potential to be stakeholders with the SOPF, as these groups tend to be concerned with the protection of their local environments and their historical cultural significance.

Figure 1

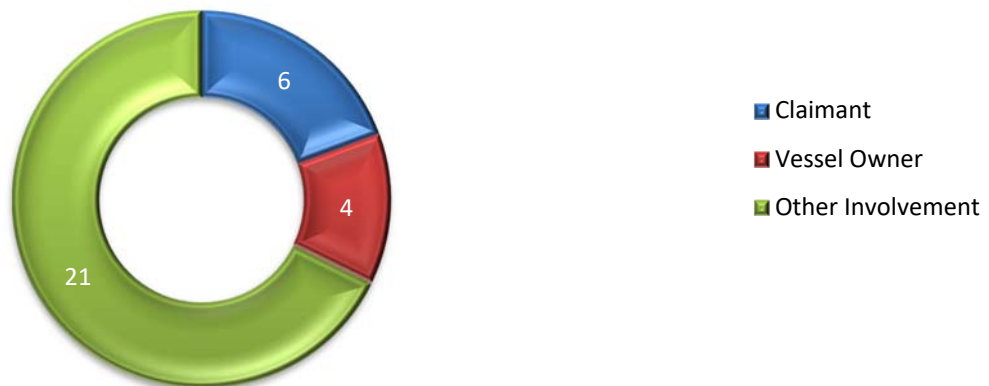


The nature of Indigenous Peoples involvement in incidents filed with the SOPF

Indigenous Peoples do not represent a large portion of claims at the Fund, and having submitted only six claims since 1970. Most often, indigenous involvement has been in consultation with the various organizations involved and in monitoring the incidents occurring in areas of importance to them. As well, Indigenous Peoples do not represent a large portion of identifiable owners of the vessel involved in the incidents, as they have only been identified as the liable party four times in the history of the Fund. Under the *Marine Liability Act* the vessel owner is liable for the cost of damages resulting from marine pollution caused by vessels. When Indigenous Peoples have been involved in other ways this generally includes being a part of the restorative process, whether that is through monitoring the spill, cleaning up, or consulting with the involved groups.

The following graphic shows the breakdown of the number and nature of incidents in which Indigenous Peoples were involved.

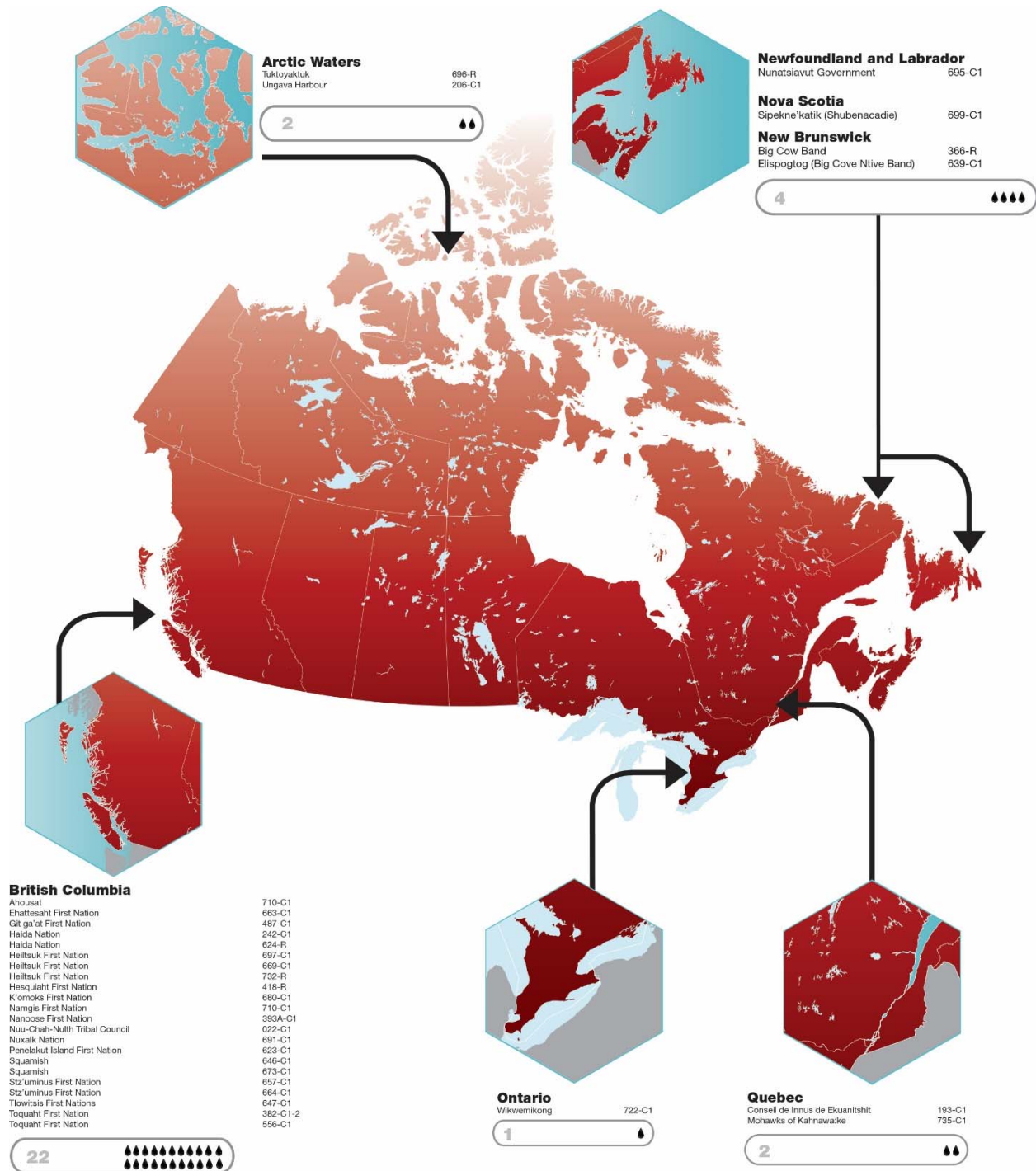
Figure 2



Location of Indigenous Peoples involved with the SOPF

The following map shows the regional location of each incident that involved an Indigenous Peoples group with the SOPF and identifies the group with the case file number. In British Columbia, certain groups have been involved with the Fund on multiple occasions.

Map 3

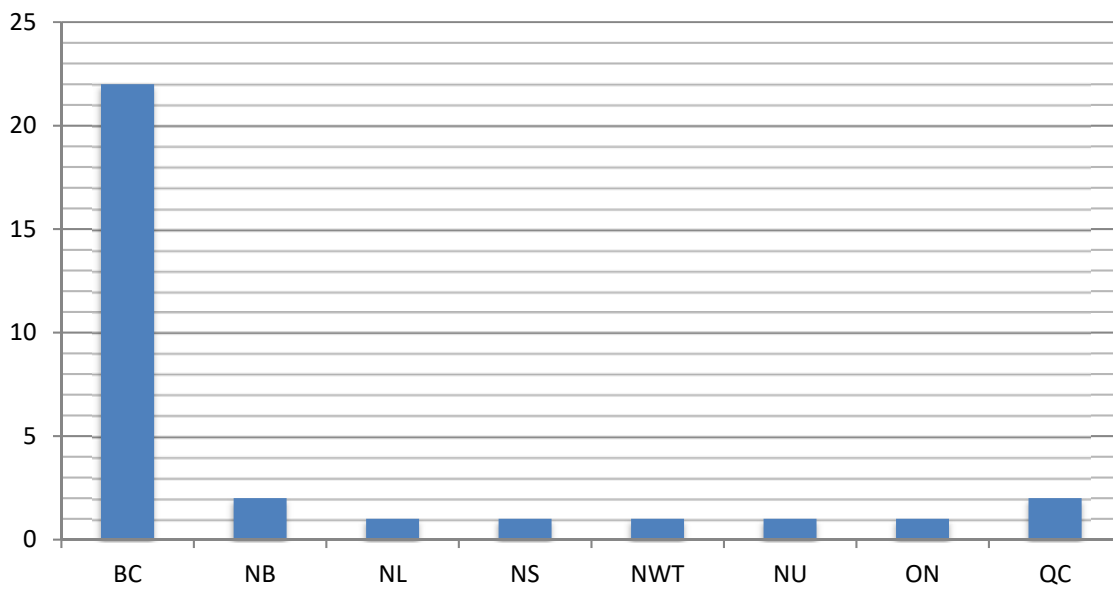


Location of Indigenous Peoples Involved with the Ship-source Oil Pollution Fund

Number of incidents with direct involvement of Indigenous Peoples by province

In British Columbia, a greater number of incidents have occurred in which Indigenous Peoples were involved. This can be attributed to the greater number of (primarily) fishing boats and consequentially the number of incidents occurring on the Pacific Coast overall, and the fact that there are more First Nations communities along the coast.

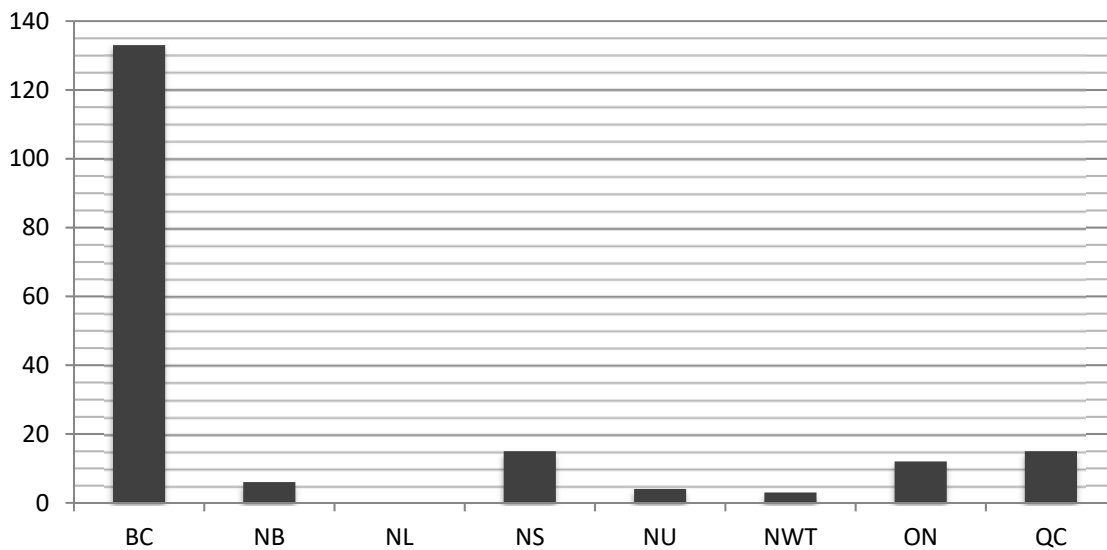
Figure 3



Number of incidents within 15km of an Indigenous group

As many Indigenous Peoples are not making claims with the SOPF and there is very limited data on involvement in the occurring incidents, a limiting identifier was required to gain an understanding of when Indigenous Peoples could have been potential stakeholders, but did not make a claim. This was set as a 15km parameter and should the event take place in a river, the group's location must have been downstream. The greater number of incidents within 15km without involvement in British Columbia is attributable to the greater number of First Nations coastal communities and the lack of incidents in the Maritimes, Ontario and Quebec is attributable to the less dense population of Indigenous Peoples communities on coasts and seaways. The lack of incidents in the Arctic is due to the nature of having larger areas of coastline with less dense settlement, and fewer vessels in operation overall.

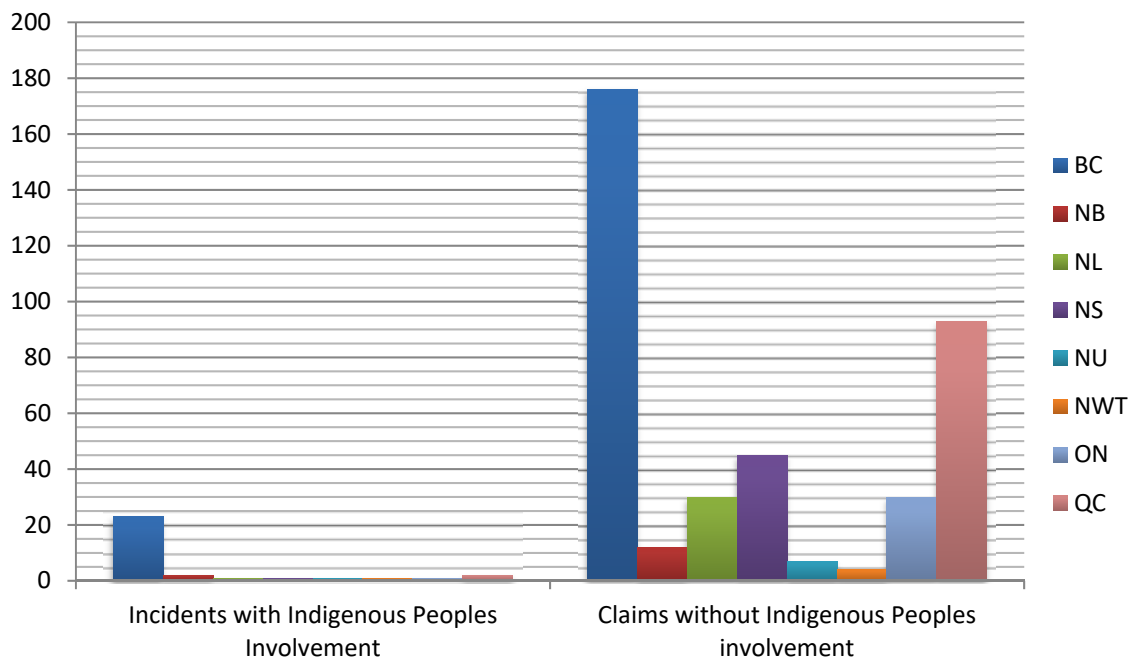
Figure 4



Incidents with Indigenous Peoples involvement compared to the number of claims without involvement

This graph below shows the vast disparity between the numbers of claims made with the Fund and the number of incidents with direct involvement. In most of the relevant provinces there have only been one or two incidents with direct involvement, whereas in BC there have been twenty-two incidents with direct involvement.

Figure 5



Pacific Coast

The following map depicts the areas of high volume of incidents in close proximity to Indigenous Peoples communities. The minimum number of incidents for an area to be considered a high volume was three. To be considered in close proximity to an Indigenous Peoples group, the incident must have been within 15km of that group, or had their involvement. These areas are generally situated around ports and harbours, and would be a good place to start for the SOPF to conduct outreach initiatives.

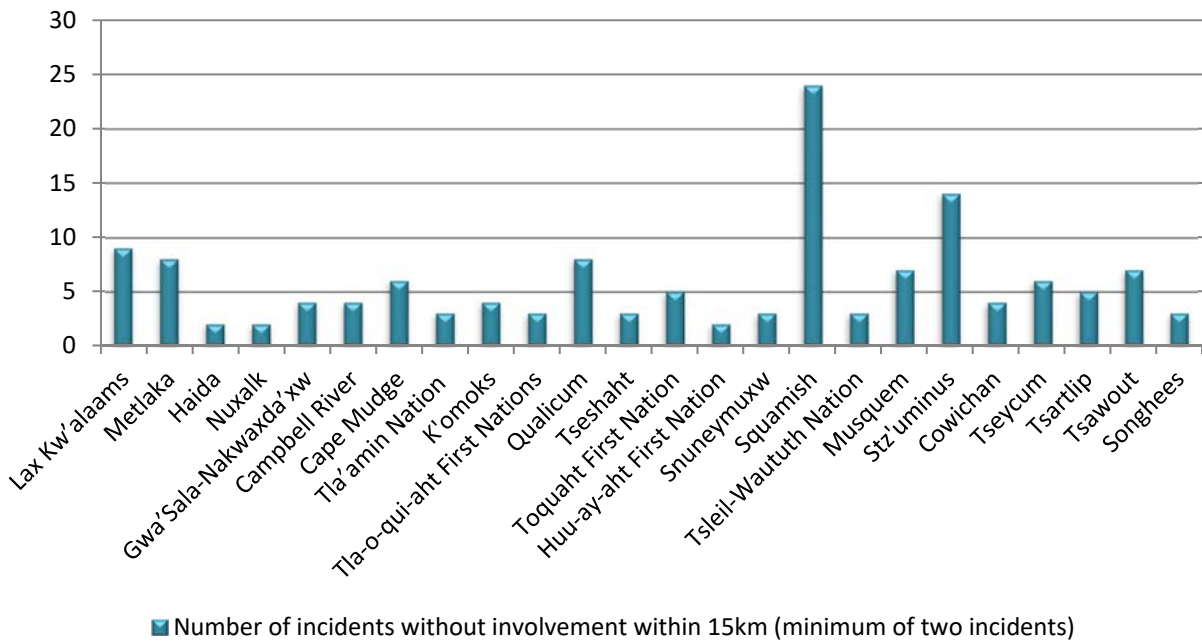
Map 4



Number of incidents within 15km of a coastal Indigenous community without involvement

The parameters used for understanding whether these groups were potential stakeholders in an event was whether they were within 15km of an incident and located downstream of the event. In British Columbia, there have been many incidents in close proximity to First Nations that have not involved them. Each of these nations could have been potential stakeholders in these events. First Nations that populate a larger area of coastline tend to have more events occurring in close proximity. The Squamish, for example, have reserves in Vancouver on the harbour and up the Howe Sound towards the city of Squamish.

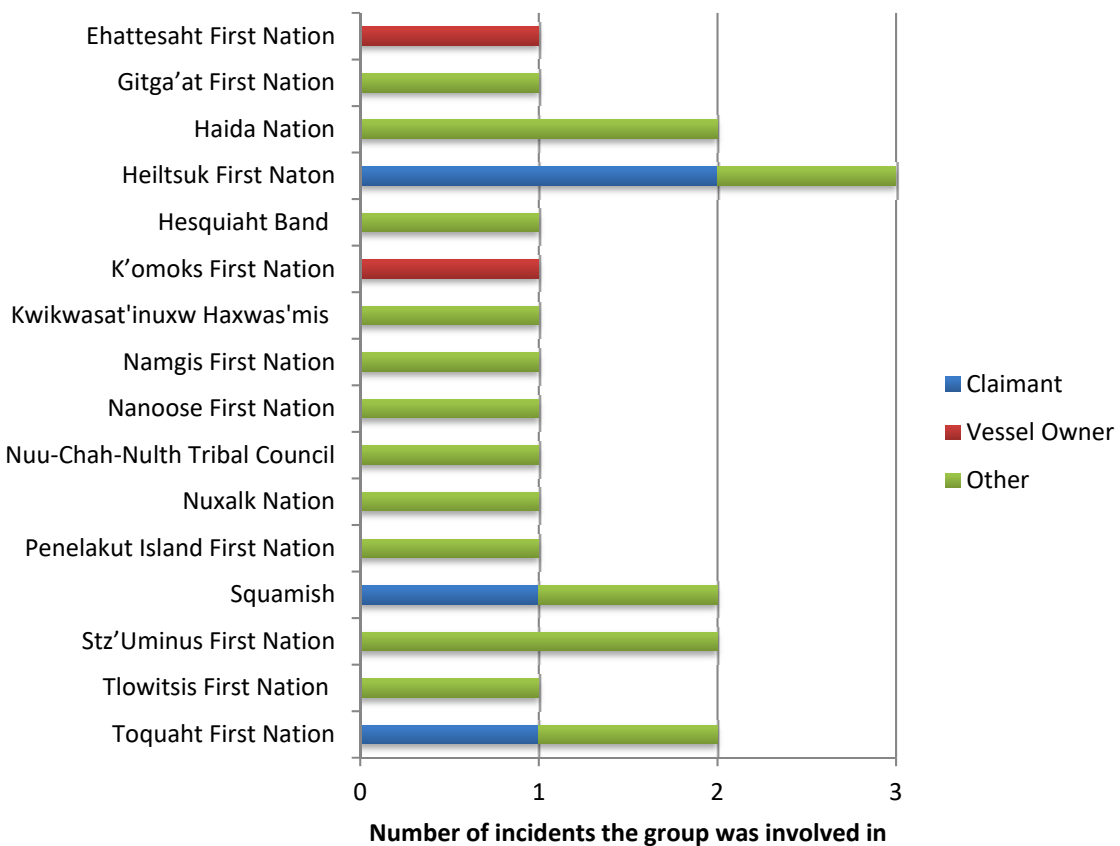
Figure 6



Nature of involvement by Indigenous Peoples

The following graph depicts how each First Nation was involved in each incident. Only three communities have made claims and only two incidents have occurred where an Indigenous Person was liable for the incident. Consistent with the previous data, the involvement of First Nations in British Columbia, when involved, is most often in the restorative process of the incident.

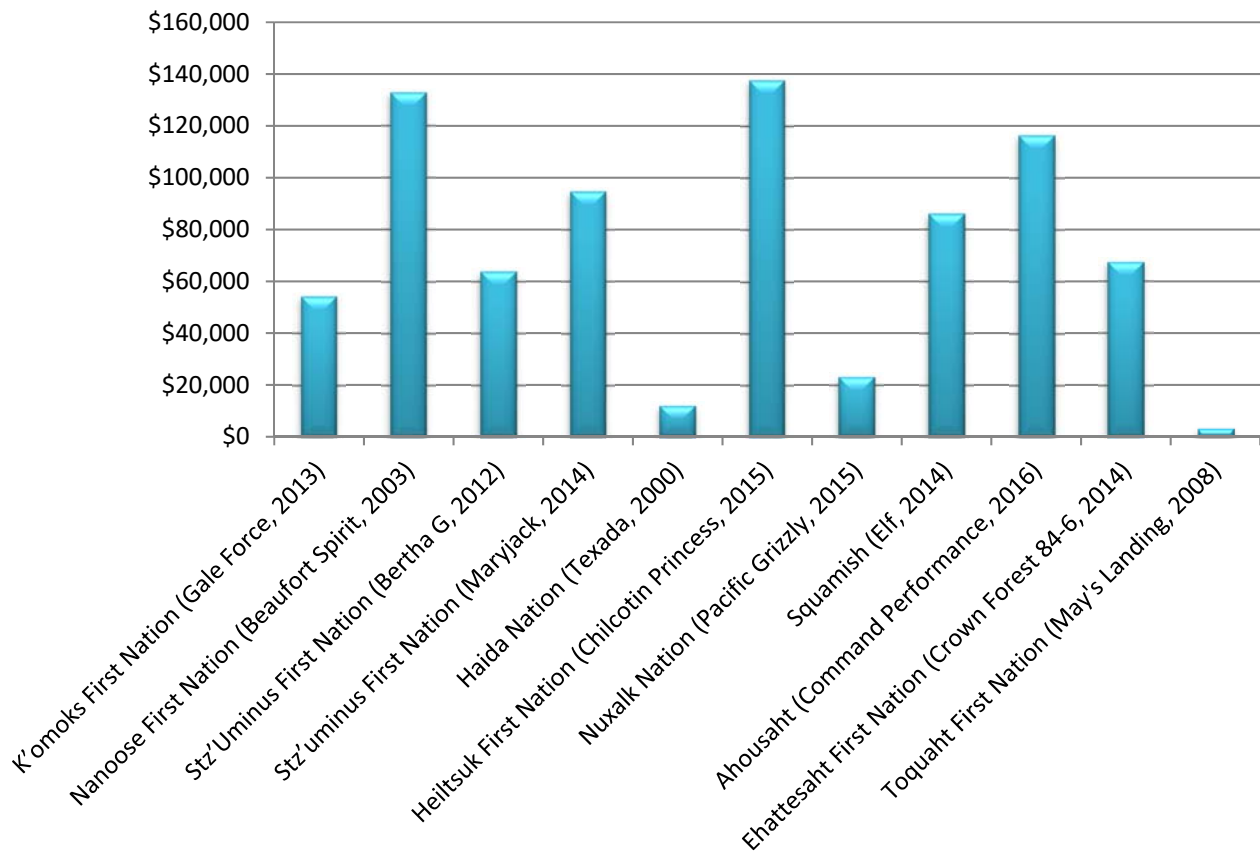
Figure 7



Totals of claims in those cases involving Indigenous Peoples under \$700,000

Next I looked at the size of the claims under \$700,000 involving Indigenous Peoples, which were submitted to the Fund. In general, the cost of the claim is an indication of the severity of the impact of the incident. This analysis does not include those incidents where the claim was settled with the ship-owner and where the claim amount was not. Some incidents resulted in claims submitted by more than one party; in these cases I have used the sum of those claims as a single data point. In each incident a claim was not necessarily made by Indigenous peoples, but involved them in some way as a claimant, a polluter or another kind of involvement in the restorative process.

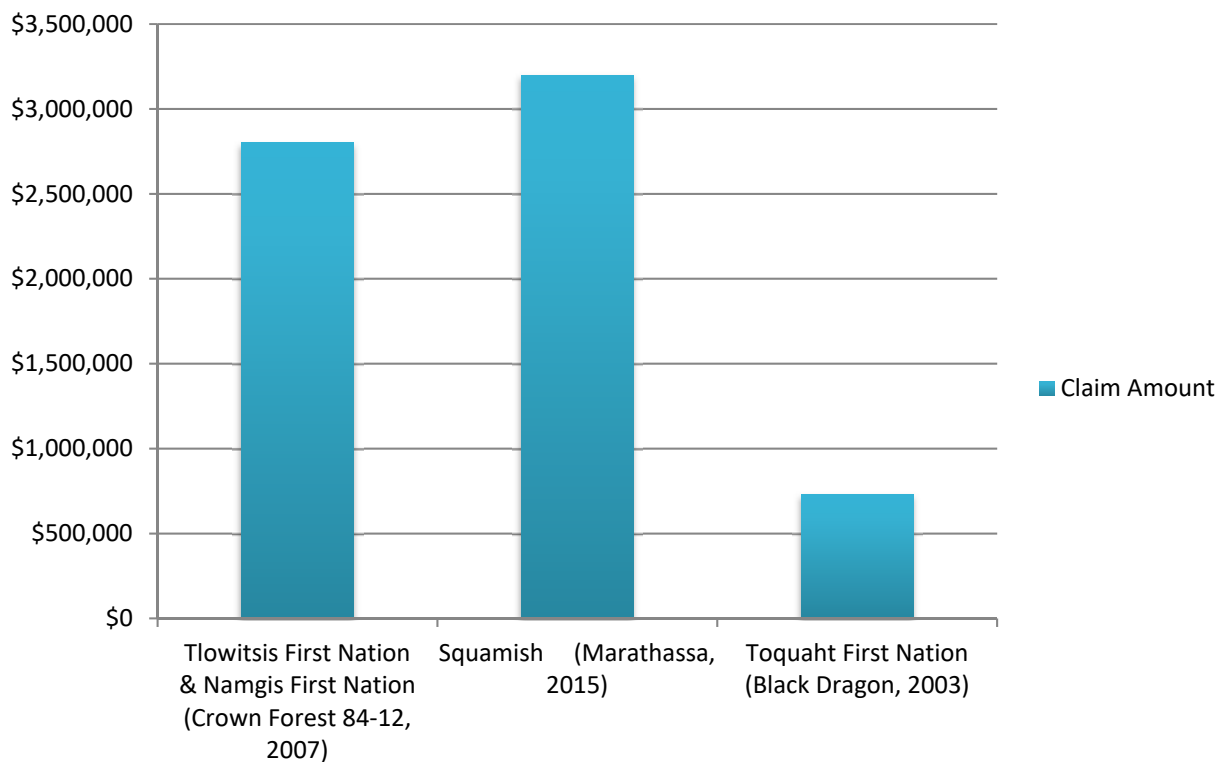
Figure 8



Totals of claims over \$700,000 involving Indigenous Peoples

Figure 9 shows the size of the claims over \$700,000 involving Indigenous Peoples submitted to the Fund. In the *Crown Forest 84-12* incident, two First Nations were identified as having been involved. Again, where multiple claims were against one incident I have summed those claims into one figure. In each incident a claim was not necessarily made by Indigenous peoples, but involved them in some way as a claimant, a polluter or another kind of involvement in the restorative process.

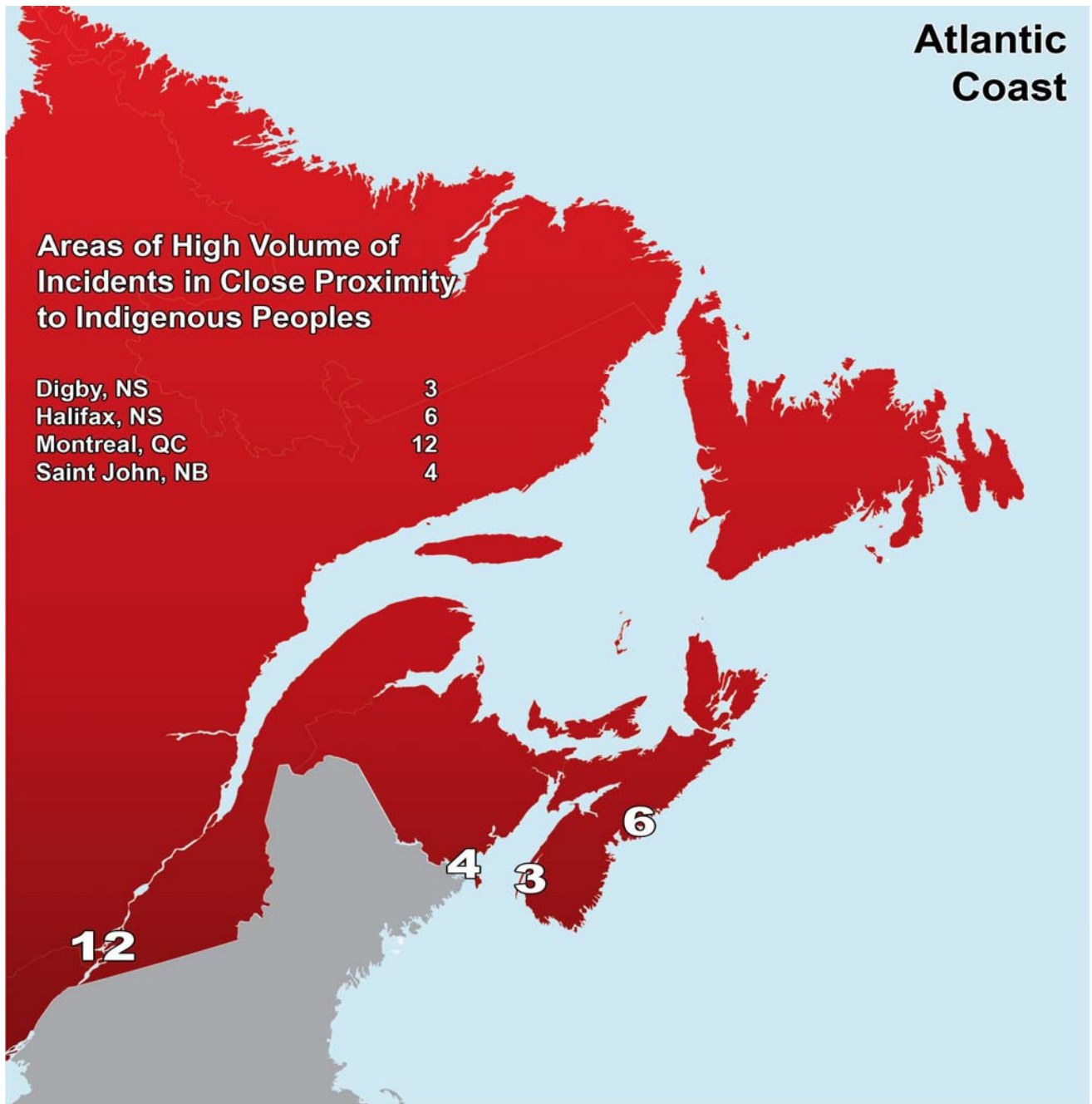
Figure 9



Atlantic Coast & St. Lawrence Seaway

The following map indicates the areas of high volume of incidents in close proximity to Indigenous Peoples. The minimum number of incidents for an area to be considered a high volume was three. To be considered in close proximity to an Indigenous Peoples group, the incident must have been within 15km of that group, or had their involvement. In the St. Lawrence the incident must have also been downstream. These areas are generally situated around ports and harbours, and would be a good place to start for the SOPF to conduct outreach initiatives.

Map 5

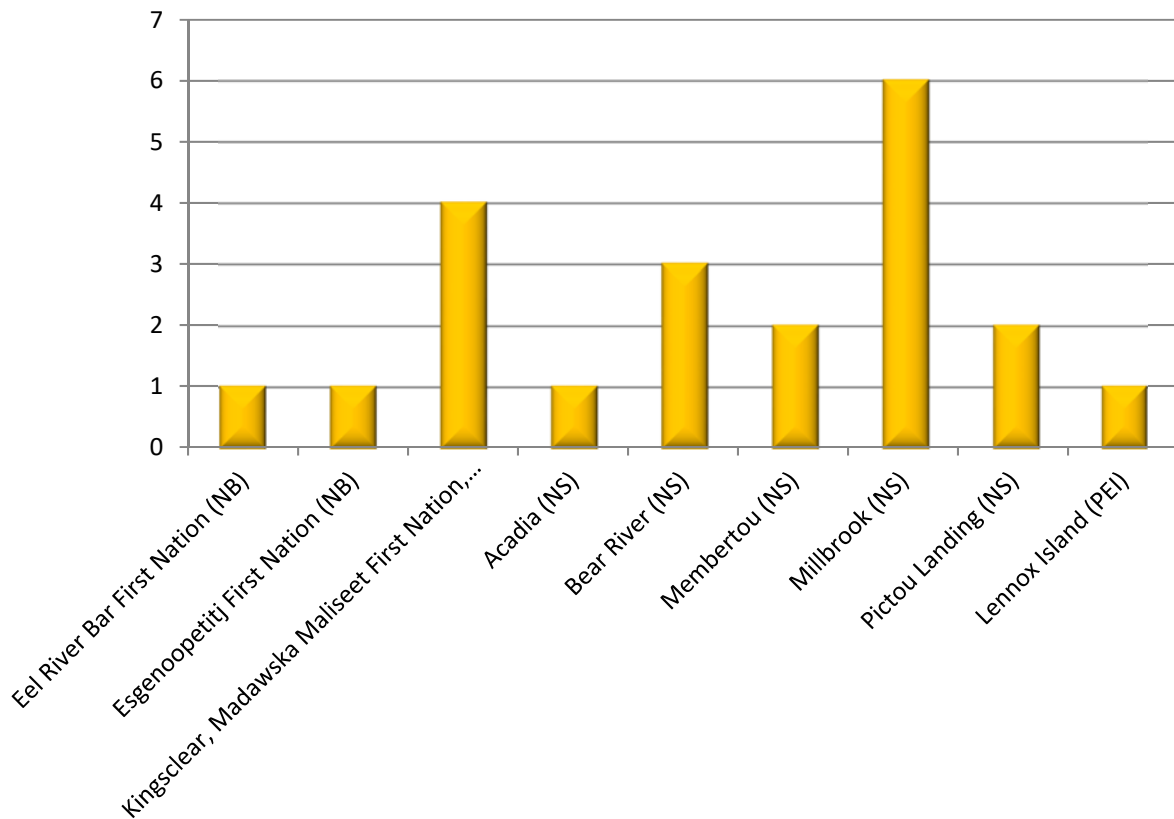


Maritimes

Number of incidents within 15km of a coastal Indigenous community without involvement

In comparison to the West Coast, in the Maritimes there are fewer incidents as a whole, and fewer Indigenous Peoples coastal communities. Each of the coastal Indigenous communities listed below could have been a potential stakeholder in a number of incidents in its area. Therefore, the areas with the greatest number of incidents in close proximity to Indigenous Peoples tend to be in major ports, such as Halifax-Dartmouth, Nova Scotia (Millbrook) and St. John, New Brunswick (Kingsclear, Madawska Maliseet First Nation, Tobique, Woodstock).

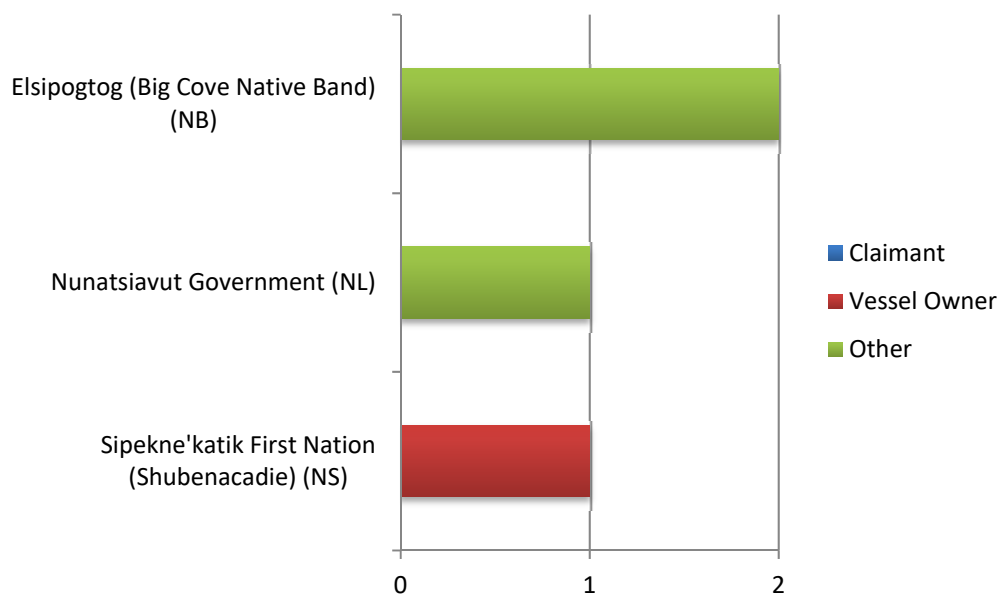
Figure 10



Nature of involvement by Indigenous Peoples

There have been only a few incidents involving Indigenous communities in the Maritimes, and in most cases, they are involved with the restorative processes of the incident. Interestingly, while no claim was submitted to the Fund, there was one incident where the vessel owner and polluter was an indigenous person.

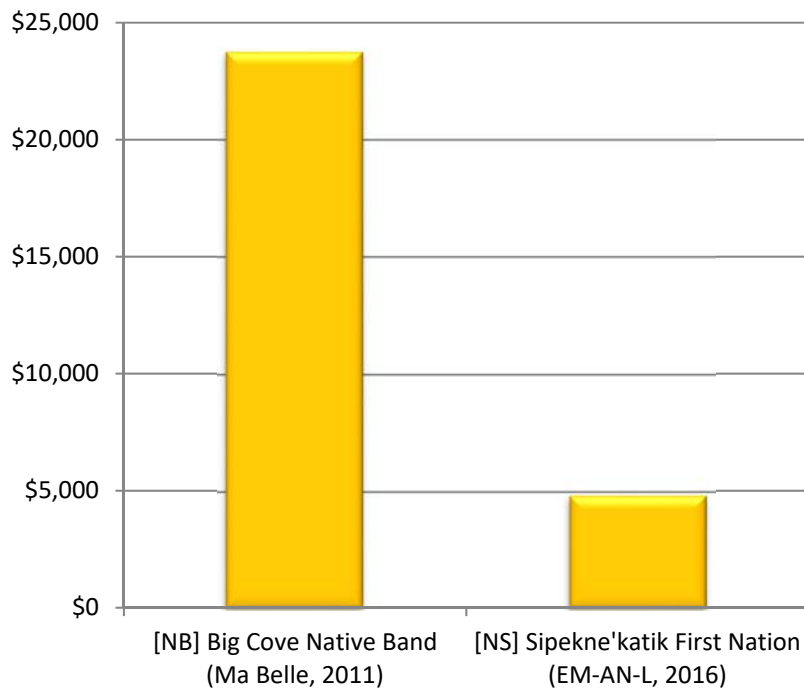
Figure 11



Totals of claims in those cases involving Indigenous Peoples

In the Maritime Provinces, there have been only four claims involving coastal Indigenous communities submitted to the Fund, none of which were made by those communities. Two claims were under \$25,000, whereas the other two were settled with the shipowner and the amounts were not released; these have not been included in this analysis.

Figure 12

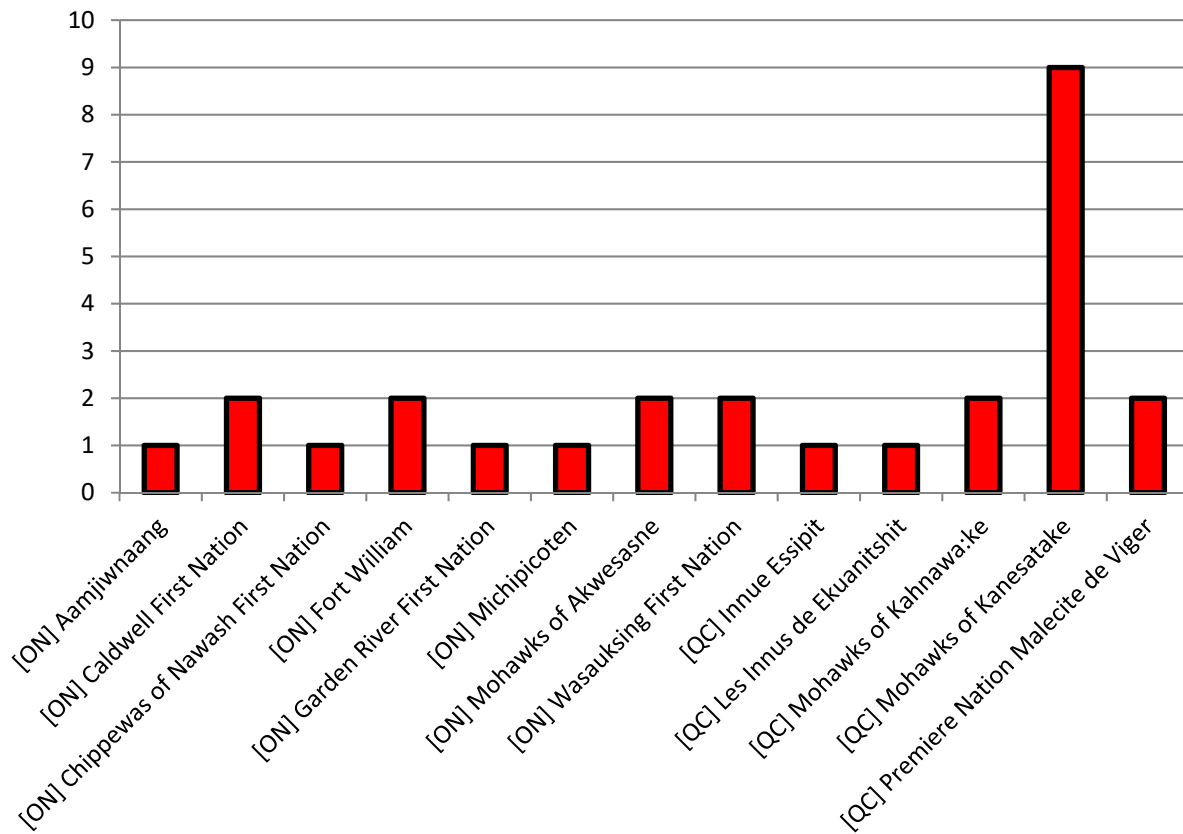


Ontario & Quebec

Number of incidents within 15km of a coastal Indigenous community without involvement

I used the same parameters of 15km distance from coastal Indigenous communities and only those downstream where the community was on a river. In Ontario there were a comparable number of incidents to the Maritimes, but there are more First Nation communities located along shorelines of navigable waters. Quebec has a comparable number of coastal communities as there are in the Maritimes, but a higher number of incidents. Each of the Indigenous Peoples listed below could have been a potential stakeholder in a number of incidents in their area. There were a larger number of incidents close to the Mohawks of Kanesatake, who are located in close proximity to Montreal on the St. Lawrence Seaway.

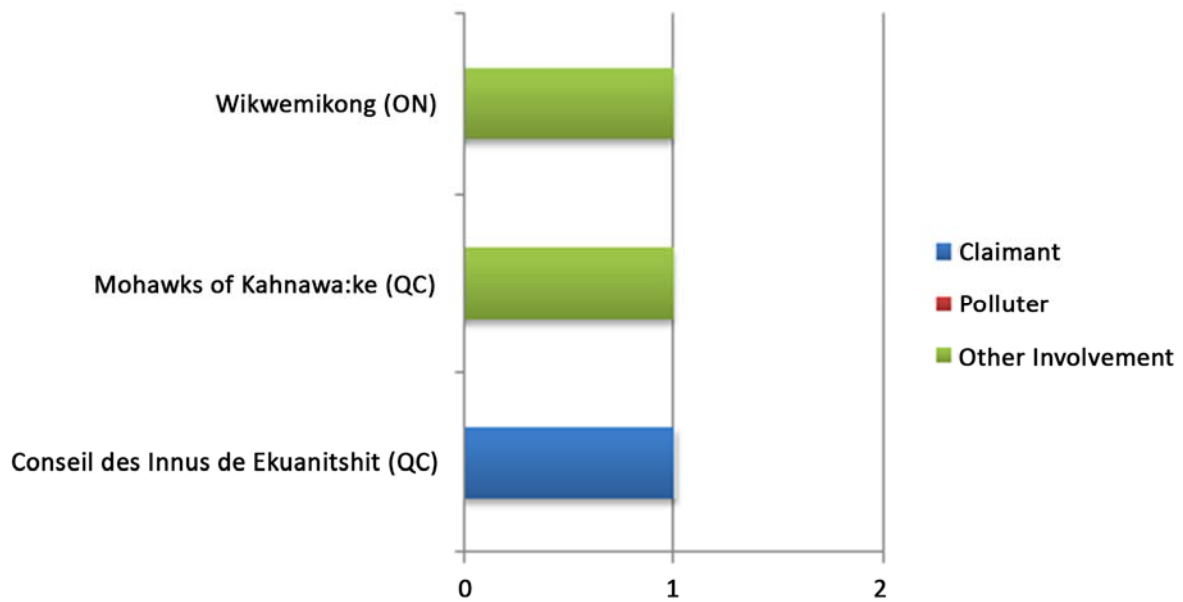
Figure 13



Nature of involvement by Indigenous Peoples

There have been only a few incidents involving Indigenous communities in Ontario and Québec, and in most cases they are involved with the restorative processes of the incident. Only one claim was submitted to the Fund by an Indigenous Group, and that was in Quebec.

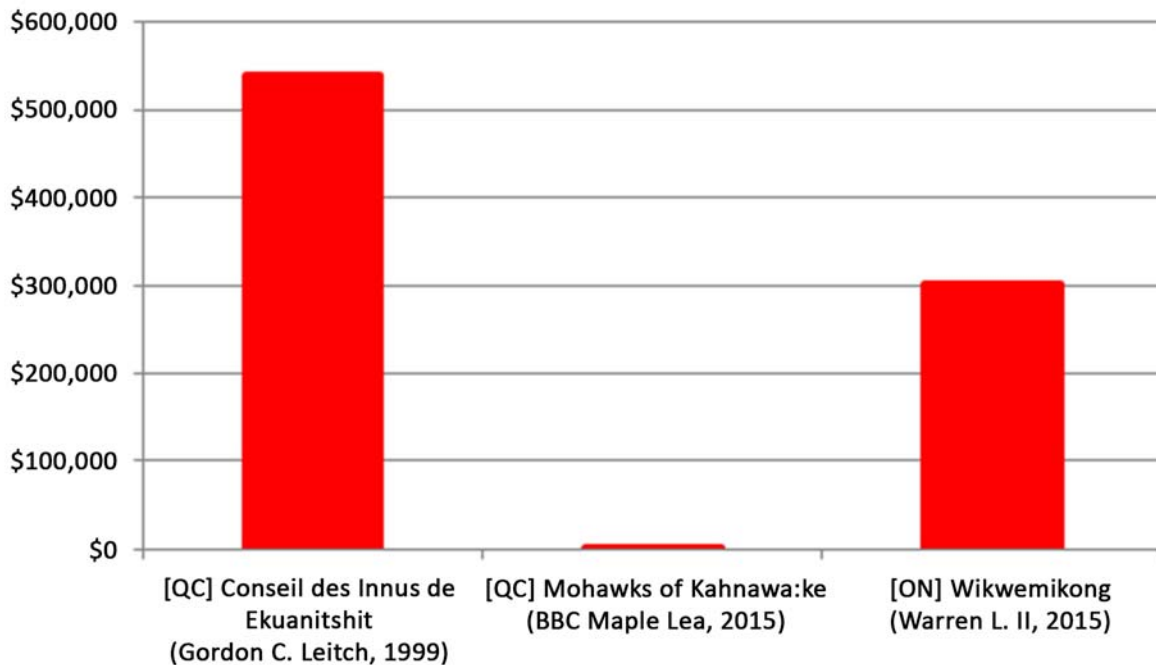
Figure 14



Totals of claims in those cases involving Indigenous Peoples groups

The Fund has received only three claims involving Indigenous Peoples. The claim for the *BBC Maple Lea* was quite small (\$1,329.54), whereas the *Gordon C. Leitch* and *Warren L. II* incidents resulted in claims in the hundreds of thousands of dollars. The claims from the *BBC Maple Lea* and the *Warren L. II* were not made by Indigenous peoples, but involved them nonetheless. However, the claim for the *Gordon C. Leitch* was made by the Conseil des Innus de Ekuanitshit. Incidents where the claim was settled with the shipowner and in which the claim amount was not released have not been included in this analysis.

Figure 15



The Arctic

The following map indicates the areas of high volume of incidents in close proximity to Indigenous Peoples. The minimum number of incidents for an area to be considered a high volume was two as there are very few incidents occurring in the Arctic. To be considered in close proximity to an Indigenous Peoples group, the incident must have been within 15km of that group, or had their involvement.

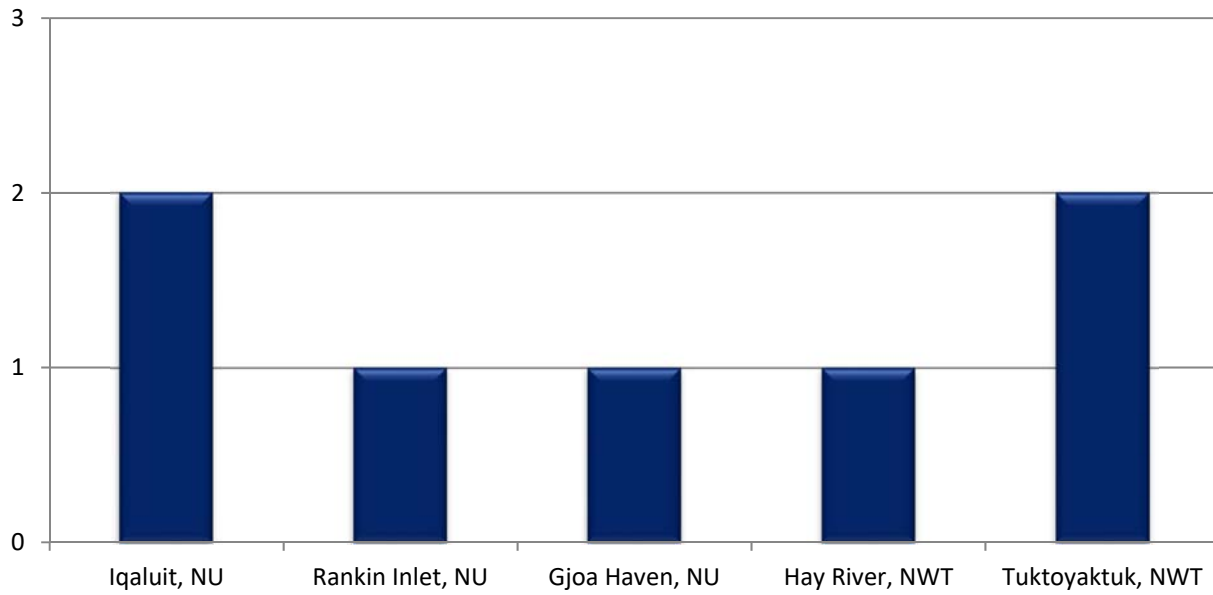
Map 6



Number of incidents within 15km of a coastal Indigenous group without involvement

In the Arctic there were few incidents and the areas in which most occurred were dissimilar. Shipping is restricted to a few months when the navigable waters are open for navigation or are otherwise ice-free. Most of the incidents occurred between Gjoa Haven and Tuktoyaktuk.

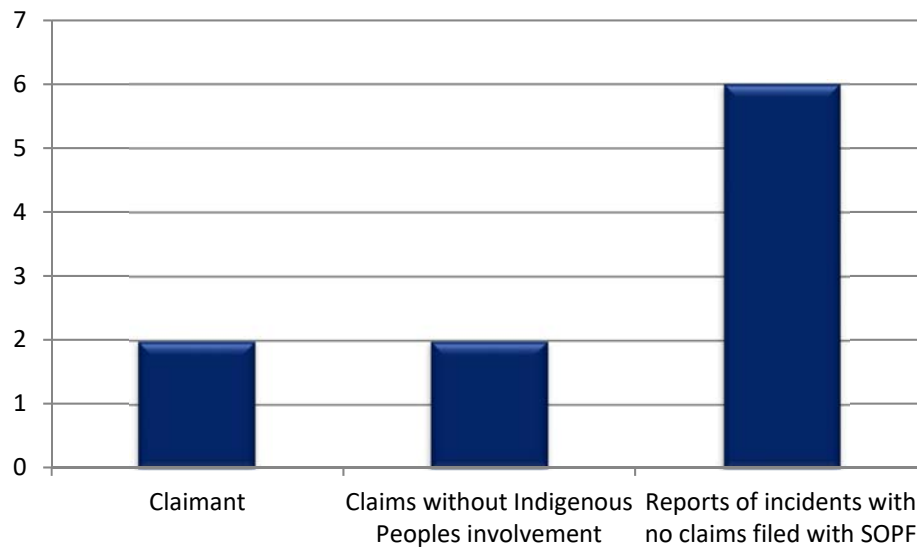
Figure 16



Nature of involvement by Indigenous Peoples

Of the four incidents in the Arctic resulting in claims to the SOPF, only two involved Indigenous Peoples, and they were both as claimants. Only two other claims were made in the Arctic region overall. More often there have been reports of an incident but no claim filed with the SOPF.

Figure 17



Totals of claims in those cases involving Indigenous Peoples groups

In Nunavut and the Northwest Territories, there have only been two claims made with the fund that involved Indigenous Peoples. The claim size for the Mystery Spill in Ungava Bay was quite small at only \$15,214.92, whereas the *Investigator* is estimated to be about \$306,000.00. This is not considered a claim amount as the claim amount has not been finalized as of March 29, 2018.

Case Studies

These following narratives pertain to five case studies in which Indigenous Peoples were involved. The narratives include what became of their involvement with the incident and with the SOPF. Two of these claims were rejected, while another two pertain to claims that were paid by either the Fund or by the liable party. Interestingly, there seems to be a progression towards increased involvement with these cases.

Gordon C. Leitch – 1999

5



The *Gordon C. Leitch* is a 19,160 gross ton Canadian Great Lakes vessel, which on March 23, 1999, struck a dolphin in the wharf in Havre St-Pierre on the Lower North Shore of the Gulf of St Lawrence. This cracked the hull and caused the release of an estimated 49 tonnes of heavy fuel oil. The owners directed the clean-up with a Response Organization, and contractors, under the guidance of the Canadian Coast Guard.⁶

On March 22, 2002, the Conseil des Innus de Ekuanitshit filed an action in the Federal court of Canada against the shipowners and the IOPC Fund, which was removed as defendant. The SOPF became a party by statute to the action.⁷ The claim was for \$539,558.72 for damages suffered by the Indigenous Peoples due to the incident.

The hearing took place on January 14, 2004, and Mr. Justice Hugesson decided “that liability of SOPF under Section 84 of the *Marine Liability Act*, could not be contemplated because the conditions precedent had not yet been satisfied. He also indicated that a claim under Section 88 could exist against the SOPF, but even there, the claim would be proscribed since no claim was filed within the three year [limit from the date of the incident.]”⁸ The *Gordon C. Leitch* was the first case in which an Indigenous Peoples group made a claim. The claim was settled with contribution from the shipowner, its insurers, and \$10,000 from the SOPF.

⁵ *GORDON C. LEITCH* by Michel Gosselin. December 23, 2006

⁶ 3.1 *Gordon C. Leitch* (1999), The Administrator’s Annual Report, 2005-2006, Ship-source Oil Pollution Fund, page 7.

⁷ *Ibid.*

⁸ *Ibid.*

Black Dragon (Heung Ryong) – 2003



9

The *Black Dragon* was an old Chinese flag fishing vessel that was being used to smuggle illegal immigrants to the Pacific Coast. In 1999 the ship was seized and subsequently sold, ending up moored in Mayne Bay, BC. On October 26, 2003, the vessel sank. By December 5, the vessel was raised and readied for towing to Ladysmith Harbour. Along the way the vessel sank near Johnstone Reef, and it was decided that the vessel did not require salvage or clean-up, as it did not pose a pollution threat.¹⁰

On January 5, 2005, the SOPF received a claim from the Toquaht First Nation in Ucluelet, BC for oil pollution damage from the *Black Dragon*, alleging that damage to clams had occurred in the process of raising the vessel and its subsequent towing. However, in accordance with the advice of marine experts and the evidence, the Administrator could not establish the claim; the Administrator wrote to the claimant that if more evidence pertaining to the shortcomings of the claim could be provided he would reopen the investigation.¹¹ No response was received and the file was closed. This was the first time a claim was submitted to the Fund by an Indigenous Peoples group and was rejected.

⁹ Andrew Dick - *Black Dragon* Graphic, Paint, March 27, 2018

¹⁰ 2.5 *Black Dragon (Heung Ryong) (2003)*, The Administrator's Annual Report, 2007-2008, Ship-source Oil Pollution Fund, page 10-11.

¹¹ Ibid. 11.

Marathassa – 2015



12

On April 8, 2015, an oil spill was reported at the entrance to Vancouver harbour. It was determined that the bulk carrier, *Marathassa*, was the source of the spill. In the subsequent clean-up, the Squamish and Tsleil-Waututh First Nations helped with monitoring the spill and assisted in surf smelt spawning surveys.¹³

The Local First Nations made a claim in 2015 to the ship insurer, which was subsequently rejected. It was deemed that the marine habitat of their subsistence fishery was polluted and closed permanently for recreational and commercial harvesting. They demonstrated that the marine habitat was restored to its level of quality prior to the incident. Therefore, as the claim could not be established, they did not submit their claim to the SOPF.¹⁴

¹² City of Vancouver, Photograph of the *Marathassa*. July 2015

¹³ *Marathassa* – 2015 – General claim file from DFO/CCG (Case number: 120-673- C1-W) Ship-source Oil Pollution Fund

¹⁴ Ibid.

Investigator – 2016



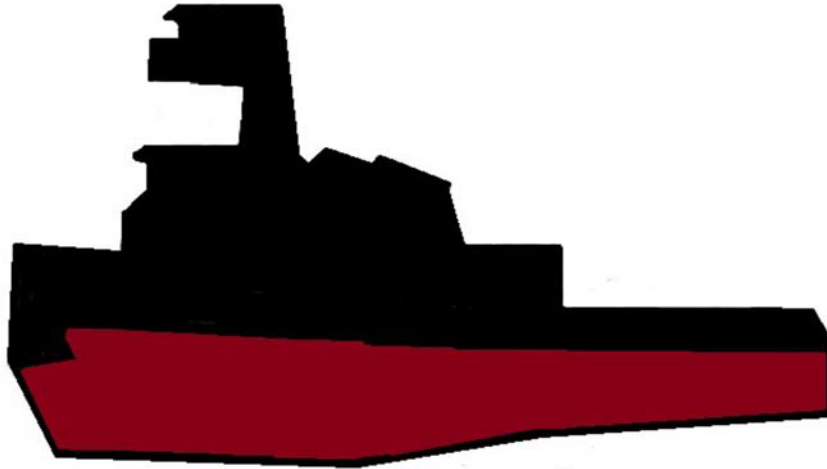
15

On September 2, 2016, the fuel barge *Investigator* ran aground near Toker Point, NWT. It was successfully relocated and brought to Tuktoyaktuk by September 11, 2017. The Inuvialuit are stakeholders in this incident as the barge sat for a year in a sensitive ecological zone where the Inuvialuit harvest geese. The SOPF was notified that potential claims would be coming in from the Inuvialuit Regional Corporation and the Tuktoyaktuk Hunters and Trappers Committee, alongside the claim from the Coast Guard¹⁶. They will make a claim with the shipowner and are covered by a Letter of Undertaking.

¹⁵ *INVESTIGATOR* by Phil Gilston. July 6, 2008

¹⁶ *Investigator* - 2016 – Report file (Case number: 120-696-R) Ship-source Oil Pollution Fund.

Nathan E. Stewart – 2016



17

October 13, 2016 the Tug *Nathan E. Stewart* and Barge *DBL 55* ran aground at the entrance to the Sea Forth Channel, near Bella Bella, British Columbia. The Heiltsuk First Nation monitored the spill and estimated that nearly 200,000 litres (200 tonnes) had been spilled. The Heiltsuk First Nation was one claimant in this incident filed with the shipowner and was subsequently paid out by the shipowner.¹⁸ This event has led to increased participation of Indigenous Peoples in protecting the coasts from oil spills, and is an example of the shipowner paying out the cost for damages.

Note: please consult the notice of change on page 2 of this report.

Abandoned and Derelict Vessels and Wrecks

The abandoned and derelict vessels and wrecks issue in Canada has been recognized and addressed by the Canadian Government through their Oceans Protection Plan and Bill C-64. Because a large fraction of pollution incidents close to coastal Indigenous communities and, in general on the East and West Coasts, involve abandoned and derelict vessels, this issue has been examined in the context of this study.

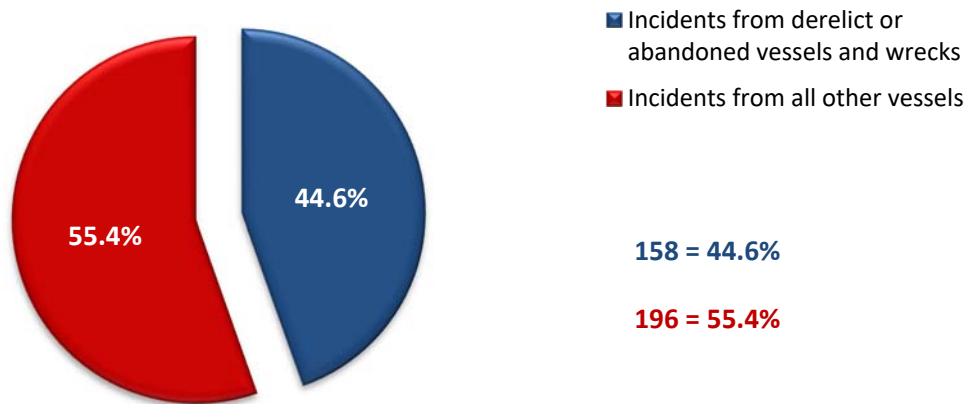
¹⁷ Andrew Dick - *Nathan E Stewart* Graphic, Paint, March 27, 2018

¹⁸ *Nathan E. Stewart* - 2016 – Report file (Case number: 120-697-R-2) Ship-source Oil Pollution Fund.

Number of incidents that resulted in claims with the SOPF

In 2017 the SOPF published the “Statistical Report on incidents involving Derelict and Abandoned Vessels and Wrecks that resulted in claims with the Ship-source Oil Pollution Fund over a 10 year period (Jan-01-2006 to Dec-31-2015).” The data base compiled for that report has been expanded to cover the number of these incidents over the entire life of the Fund and its predecessor (i.e. since 1973). The ratio of the total number of incidents arising from abandoned and derelict vessels compared to the total number of incidents involving other vessels is a near reversal of this ratio shown in the 2017 report.

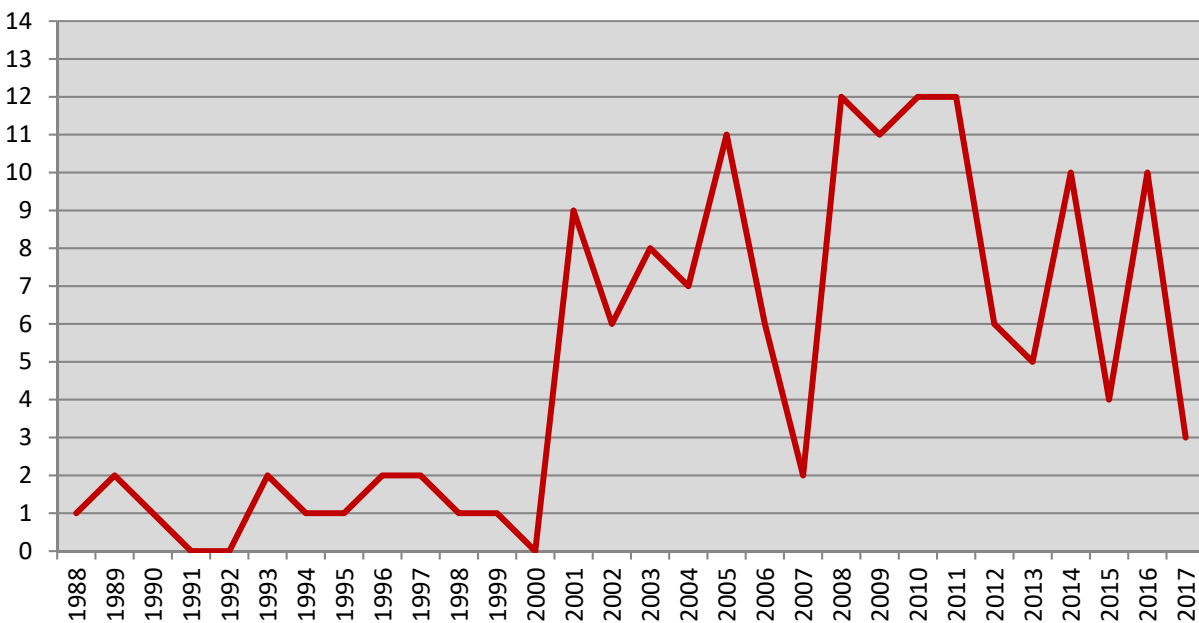
Figure 18



Cumulative number of abandoned and derelict vessels and wrecks resulting in claims with the SOPF

This graph shows the number of incidents resulting in claims from abandoned and derelict vessels and wrecks from 1988 through 2017. The number of claims resulting from abandoned and derelict ships before 1988 is negligible and therefore, has not been included. The percentage of incidents involving abandoned and derelict vessels was lower during the period 1970 to 2000 and then increased dramatically beginning in 2000. That number has remained at an elevated ratio since the increase but has varied year to year. It is likely that a series of policies implemented by the Department of Fisheries and Oceans (DFO),¹⁹ particularly with respect to the Pacific commercial salmon fishery, has resulted in the significant reduction of the Pacific commercial fishing fleet. The emphasis of these policies, especially from 1996, was on buying back fishing licenses and it would be logical to assume that older vessels were subsequently removed from the fleet. There was apparently no provision for the disposition of the retired vessels and these probably constituted the increase in abandoned and derelict vessels leading to the increase in oil pollution incidents.

Figure 19

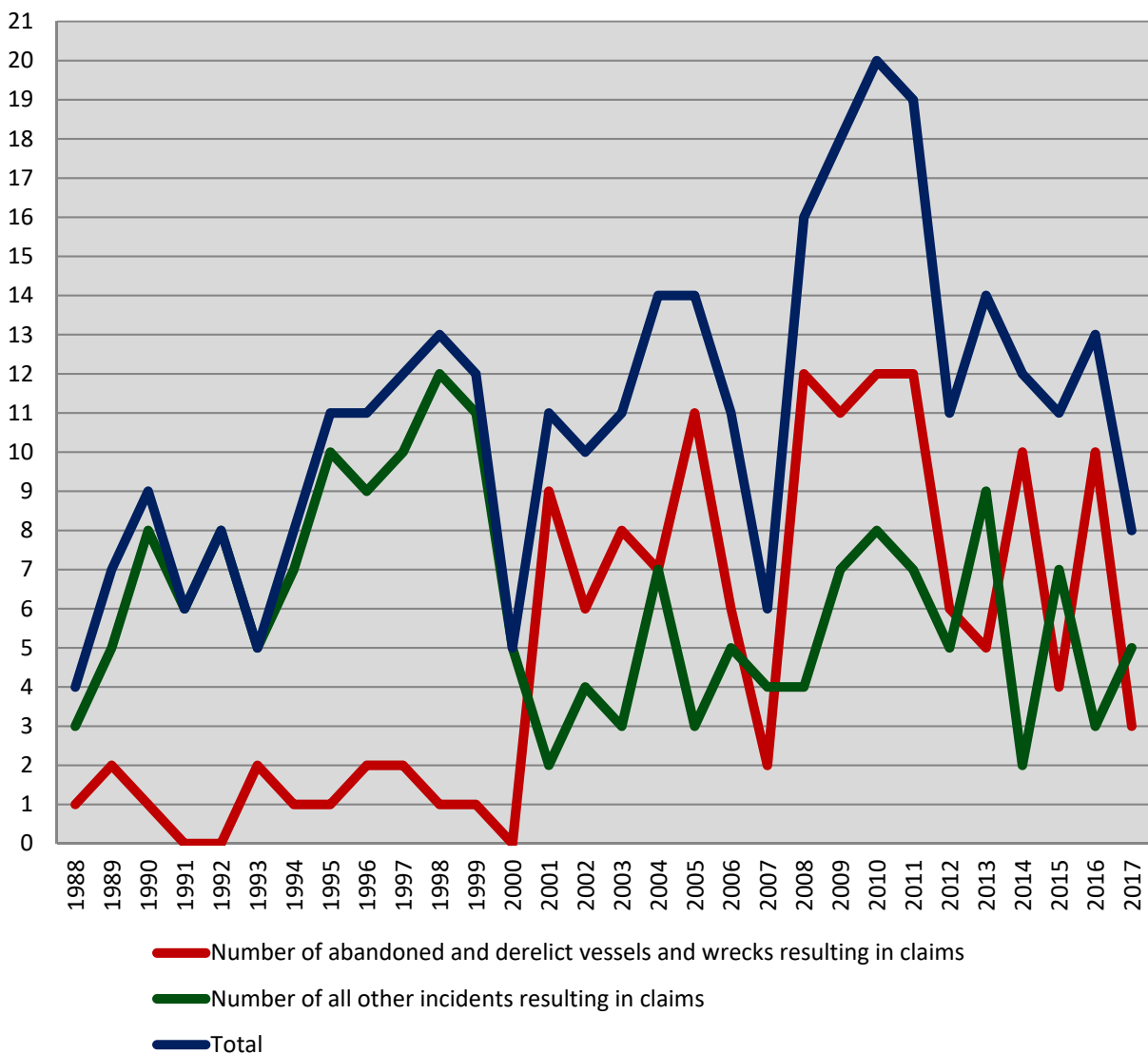


¹⁹ DFO, "Policy and Practice Report – Commercial Salmon Fishery: Licensing, Allocation, and Related Issues" (December 22, 2010) http://publications.gc.ca/collections/collection_2017/bcp-pco/CP22-134-2010-eng.pdf

Cumulative number of incidents that resulted in claims with the SOPF

This graph shows the number of incidents resulting in claims from abandoned and derelict vessels and wrecks against the number of all other vessels from 1988 through 2017. The spike in the number of claims resulting from abandoned and derelict vessels and wrecks in 2000 have lead to an increase in the number of claims being made as a whole, but also a decrease has occurred in the number of all other incidents resulting in claims. As well, since the spike in 2000, the number of claims from abandoned and derelict vessels and wrecks has varied year to year but at a similar rate to claims made as a whole.

Figure 20

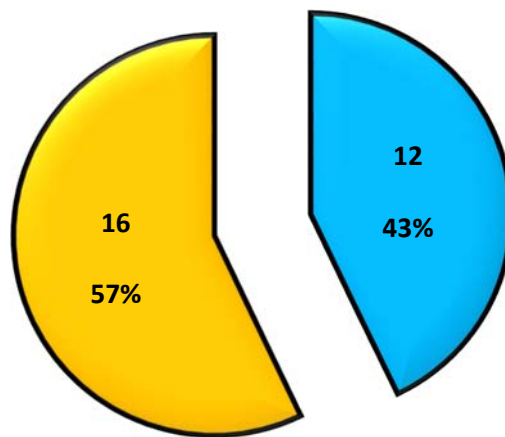


Cumulative number of incidents that resulted in claims with the SOPF involving Indigenous Peoples

This graph depicts the relationship between the number of claims resulting from derelict and abandoned vessels and wrecks that involved Indigenous Peoples against all other claims from incidents involving Indigenous Peoples. The ratio is quite similar to that of the ratio of all incidents in the history of the SOPF that resulted from abandoned and derelict vessels and wrecks (refer to figure 18), with the difference of 1.6%.

Figure 21

- Number of claims from derelict and abandoned vessels and wrecks involving Indigenous Peoples
- Number of claims from all other vessels involving Indigenous peoples



Oceans Protection Plan – Abandoned Boats Program

This discussion of abandoned and derelict vessels is congruent with the problem recognized by the Government of Canada in its Oceans Protection Plan (OPP). Under the Abandoned Boats Program (ABP) from the OPP, it is claimed, “At least 21 vessels are slated to be removed from a number of harbours including in Ladysmith, B.C., Vancouver, Victoria and Port Saunders, N.L. There is also funding in B.C. to assess 26 abandoned and wrecked boats, allowing port authorities and others to apply to have them removed.”²⁰ The identification of Victoria as an area that has many abandoned boats to be assessed correlates well to the history of incidents reported or submitted to the Fund, as there have been many incidents in that area. Interestingly, in Sechelt there is a high population of Indigenous Peoples and high number of boats to be assessed under the program. However, there has been a lack of incidents in proximity to Sechelt reported to the Fund.

ABP projects to assess abandoned boats ²¹			
Organization	Location	Scope of project	Funding
Capital Regional District	Victoria, British Columbia (B.C.)	10 boats	\$10,000+
Pender Harbour Advisory Council	Madeira Park, B.C.	2 boats	\$10,000
District of Sechelt	Sechelt, B.C.	14 boats	\$70,000

²⁰ Transport Canada and Fisheries and Oceans Canada, “Abandoned Boats Program projects 2017-2018” (2018-03-13). <http://www.tc.gc.ca/en/campaigns/abandoned-boats-program-projects-2017-18.html#abp1>

²¹ Ibid.

The locations of ABP projects to remove abandoned boats are congruent with the locations of high numbers of incidents in close proximity to Indigenous Peoples in British Columbia. The Port Edward and Prince Rupert regions have had a high number of incidents reported or submitted to the Fund, as have Ladysmith and Vancouver. Should programs such as this continue for the future, we should see a reduction in the number of incidents resulting from abandoned and derelict vessels, and therefore a decrease in these types of claims with the SOPF.

ABP projects to remove abandoned boats²²			
Organization	Location	Scope of project	Funding
Vancouver Fraser Port Authority	Vancouver, B.C.	1 boat	\$12,000
BC Parks	Vancouver, B.C.	2 boats	\$15,000
Town of Ladysmith	Ladysmith, B.C.	9 boats	\$62,000

Projects to remove abandoned boats from small craft harbours²³			
Organization	Location	Scope of project	Funding
Ford Cove Harbour Authority	Ford Cove, B.C.	1 boat	\$6,500
Powell River Harbour Authority	Powell River, B.C.	1 boat	\$6,400
Port Edward Harbour Authority	Port Edward and Prince Rupert, B.C.	6 boats	\$113,600
Port Saunders Harbour Authority	Port Saunders, Newfoundland	1 boat	\$13,900

²² Ibid.

²³ Ibid.

Conclusions:

The SOPF mandate is to investigate and pay claims for clean-up and preventative measures undertaken in response to oil spills from all vessels in Canada. “It is available to pay for claims for oil pollution damage or anticipated damage caused by the discharge of oil from all classes of ships on inland or coastal waters, including the exclusive economic zone of Canada. Once compensation is paid to a claimant, the Administrator is obligated to take all reasonable measures to recover that payment from the shipowner or any other responsible party.”²⁴

In that context this study has shown what has happened in the past with Indigenous Peoples involvement with the SOPF. There have been few incidents with claims submitted to the Fund from Indigenous Peoples. They have sometimes been involved in the restorative processes. However, they could have been stakeholders in many of these cases, especially on the Pacific Coast, where they did not have involvement.

As potential stakeholders, who likely are not often aware of the SOPF, it is important that the SOPF conduct outreach initiatives to help make more Indigenous Peoples groups aware that they can submit claims to the Fund for costs incurred resulting from incidents in their areas.

British Columbia is the province that could most benefit from outreach initiatives. Areas such as Ladysmith Harbour, Prince Rupert, Port Edward, Port Hardy, Vancouver, Tofino, and Ucluelet, are areas that have had a high number of incidents in close proximity to coastal Indigenous Peoples communities, and the SOPF has not had many claims from the Indigenous Peoples in those areas.

In the Maritimes, areas such as Digby, NS, Halifax, NS, and St. John, NB could also benefit from outreach initiatives to Indigenous Peoples.

In the Arctic regions there have been fewer incidents. However, it would be a good idea to conduct outreach initiatives.

In terms of the issue of abandoned and derelict vessels and wrecks, it is clear that these issues affect Indigenous Peoples coastal communities equally to the rest of Canada. Should the government continue its program of proactively removing abandoned and derelict vessels, there should be a decrease in the amount of these types of incidents that affect all Canadians.

Acknowledgements

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²⁴ The Ship-source Oil Pollution Fund, “Mission” http://sopf.gc.ca/?page_id=270 (Accessed March 20, 2017)