Ship-source Oil Pollution Fund

The Administrator's Annual Report
2015 - 2016

Canada

Photo taken early April 2016
Darrell Bay, Squamish, British Columbia, Canada
Courtesy of Tim Cyr

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Ship-source Oil Pollution Fund

The Administrator's Annual Report

2015-2016

Canada

The Honourable Marc Garneau, P.C., M.P.
Minister of Transport
Ottawa, Ontario
K1A ON5

Dear Minister:

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

The report covers the fiscal year ending March 31, 2016.

Yours sincerely,

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

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Abbreviations

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

* The value of the SDR at April 1, 2016, was $1.83849 CAD. This actual value is reflected in Figure 1.

Summary

The Canadian Compensation Regime

This Annual Report on the operations of the Ship-source Oil Pollution Fund (SOPF) covers the fiscal year ending March 31, 2016. Section 1 describes the Canadian compensation regime, which since January 2, 2010, is governed by Chapter 21 of the Statutes of Canada, 2009 – the amended *Marine Liability Act* (MLA). Canada's compensation regime is based on the fundamental principle that the shipowner is primarily liable for oil pollution damage caused by the ship up to its statutory limits of liability – that is, the polluter pays principle. Canada's national SOPF covers all classes of ships that discharge persistent and non-persistent oil, including oil spills from unknown sources which are commonly referred to as "mystery spills". The SOPF is available to pay compensation for reasonable claims for oil pollution response costs, or preventive measures taken to minimize damage caused by the discharge of oil from any class of ship in Canadian waters. Any occurrence caused by an oil tanker carrying persistent oil as cargo would be covered under the international regime.

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

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

Canadian Oil Spill Incidents

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

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

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

The oil spill incidents described in section 2 indicate the status of oil pollution claims that were assessed and settled during the fiscal year. This section also includes claims that are in various stages of progress. As described in section 2, the Administrator dealt with 48 active incident files during the year. The current status of recovery action by the Administrator against shipowners is also noted in the oil spill incident section. During the fiscal year, 15 new claims were received in the aggregate amount of $1,800,634.98. Investigations are underway but not all of the assessments of the claims received during the year were completed by March 31, 2016.

Challenges and Opportunities

During recent years, the Administrator had dealt with a number of administrative challenges related to modernizing the day-to-day operations of the SOPF and complying with federal legislation and directives. These opportunities for improvement and compliance requirements are a perpetual challenge to a small agency such as the Ship-source Oil Pollution Fund. The increased workload has to be accomplished in addition to the growing core work of the SOPF in order to conduct the investigation, assessment and settlement of claims. Some of the challenges are addressed in detail in section 3.

Outreach Initiatives

The Administrator continues with outreach initiatives aimed at raising awareness of the existence of the Ship-source Oil Pollution Fund and its availability to provide compensation for oil pollution caused by ships. This outreach affords an opportunity for the Administrator to further his personal understanding of the perspectives of individual claimants, shipowners, clean-up contractors and other stakeholders who respond to oil spill incidents and file claims with the Fund for compensation. He personally participated in a number of outreach initiatives during the year. For example, he attended the Annual General Meeting of the Canadian Maritime Law Association. The meetings of the Association provide the Administrator with opportunities to cultivate contacts in the maritime community, as well as to keep abreast with the developments in maritime law, both nationally and internationally.

The Administrator participated in discussions with the Canadian Coast Guard's senior staff about the handling of claims filed by Coast Guard. Furthermore, the Administrator was represented by a Marine Consultant engaged by the SOPF to attend sessions of the Canadian Marine Advisory Council semi-annual national conferences held in Ottawa and Iqaluit. Also, the Administrator was represented at the Arctic and Marine Oilspill Program (AMOP) seminar held in Vancouver, British Columbia. (Section 4 refers to these outreach initiatives.)

The International Compensation Regime

During the fiscal year, the Administrator attended meetings of the governing bodies of the International Oil Pollution Compensation Funds (IOPC Funds) in London, United Kingdom, as an advisor to the Canadian delegation.

This Annual Report also highlights some of the agenda items discussed at the IOPC Funds meetings. The Administrator is interested in different aspects of the IOPC Funds - namely, matters relating to incidents and budgetary allocations. Furthermore, the Administrator deems it desirable to keep close attention on the claim policies of the IOPC Funds. Active participation at the international meetings ensures that the Canadian Ship-source Oil Pollution Fund claim policies and practices are as closely aligned as possible with those of the 1992 IOPC Fund. (Section 5 refers).

Financial Statements

The financial statements of the SOPF for the fiscal year were examined by independent auditors – section 6 refers. During the year, Canadian claims were settled and paid for in the amount of $27,483.06 including interest. Furthermore, the SOPF paid to the 1992 IOPC Fund a contribution in the amount of $268,029 for incidents that occurred outside of Canada – Table 1 refers.

During the fiscal year commencing April 1, 2016, the maximum liability of the SOPF is $168,656,700 for all claims from one oil spill. As of April 1, the Minister of Transport has statutory power to impose a levy of 50.59 cents per metric tonne of oil, as defined in the *Marine Liability Act*, imported by ship into or shipped from a place in Canada in bulk as cargo. The levy is indexed to the consumer price index annually. However, no levy has been imposed since 1976.

As of March 31, 2016, the accumulated surplus in the SOPF was $408,498,597.

1. The Canadian Compensation Regime

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

The SOPF is a special account established in the accounts of Canada to which interest is credited monthly by the Minister of Finance. Pursuant to the pertinent provisions of the MLA, the Minister of Transport has the statutory power to impose a levy on each metric tonne of contributing oil imported into or shipped from Canada in bulk as cargo on a ship. The levy is indexed annually to the consumer price index, most recently to the amount of 50.59 cents per metric tonne. A levy of 15 cents was imposed from February 15, 1972, to September 1, 1976. During that period, a total of $34,866,459.88 was collected and credited to the MPCF from 65 contributors. Payers into the MPCF included oil companies, power generating authorities, pulp and paper manufacturers, chemical plants and other heavy industries. No levy has been imposed since it was suspended in 1976.

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

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

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

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

During the fiscal year commencing April 1, 2016, the maximum liability of the SOPF is $168,656,700 for all claims from one oil spill. This amount is indexed annually. The classes of claims for which the SOPF may be available include the following:

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

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

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

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

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

SOPF: A Fund of Last Resort

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

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

A Response Organization (RO) as defined in the CSA has no direct claim against the SOPF, but it can assert a claim against the Fund for unsatisfied costs and expenses to the extent it has taken all reasonable measures to satisfy its claim from the shipowner.

SOPF: A Fund of First Resort

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

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

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

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

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

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

Notes:

(1) *Figure 1* illustrates the current limits of liability and compensation for oil tanker spills in Canada.

(2) *Table 1* shows the Canadian contributions to the International Funds since 1989.

Figure 1

Limits of Liability and Compensation Per Incident for Oil Tanker Spills in Canada

Based on the value of the SDR ($1.83849) on April 1, 2016

International Conventions and Funds	$1,378,867,500
Total Domestic Fund (SOPF)	$168,656,700
Total Available to Canada	**$1,547,524,200**

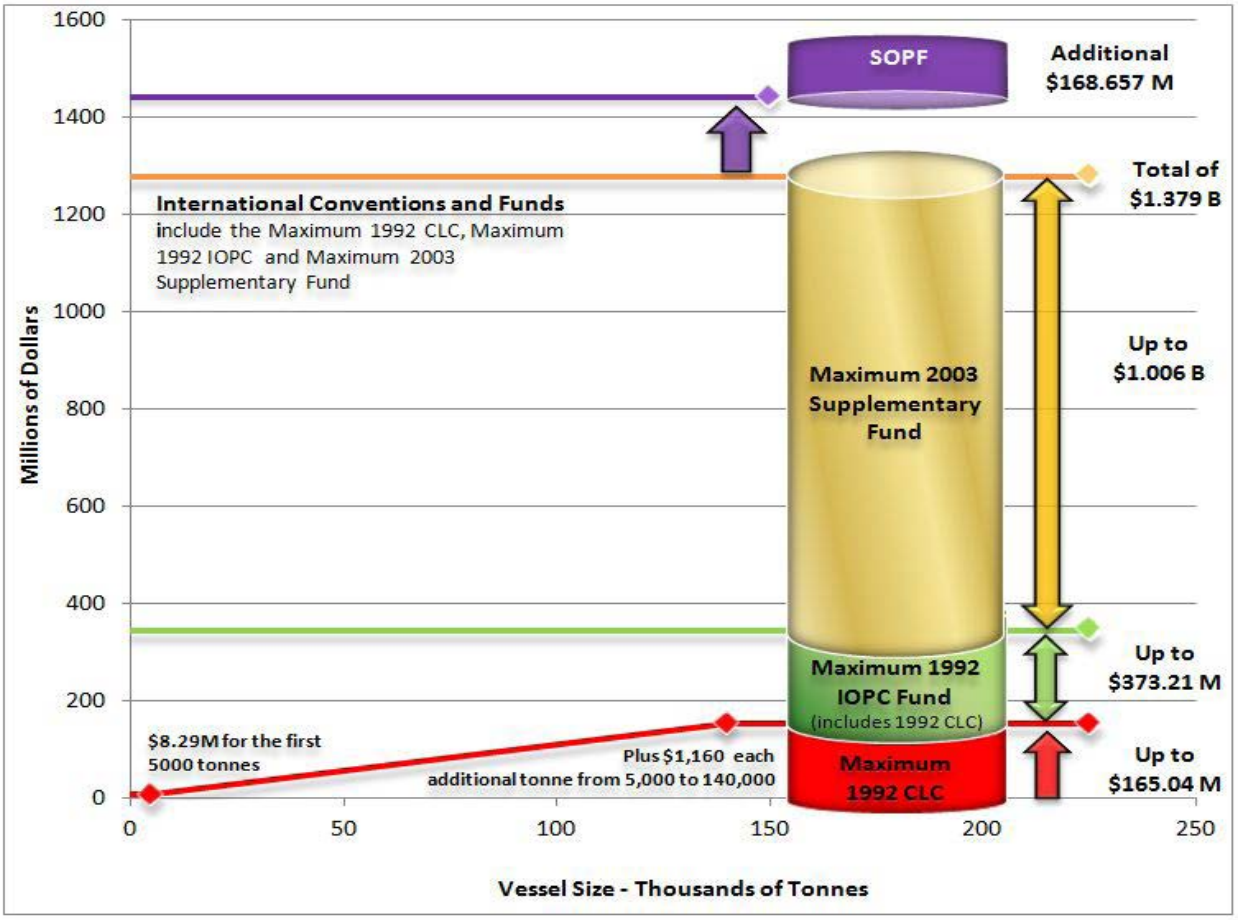


Figure 1 shows the limits of liability and compensation available under the 1992 CLC and the 1992 IOPC Fund Convention. The Supplementary Fund provides $1.006 billion beyond the amount available under the CLC and IOPC Funds.

The aggregate amount available under the 1992 CLC, the 1992 IOPC Fund and the Supplementary Fund is $1.379 billion. The SOPF amount of $168.657 million, on top of the International Conventions, results in approximately $1.548 billion being available for a tanker spill in Canadian domestic waters, including the territorial sea and the exclusive economic zone.

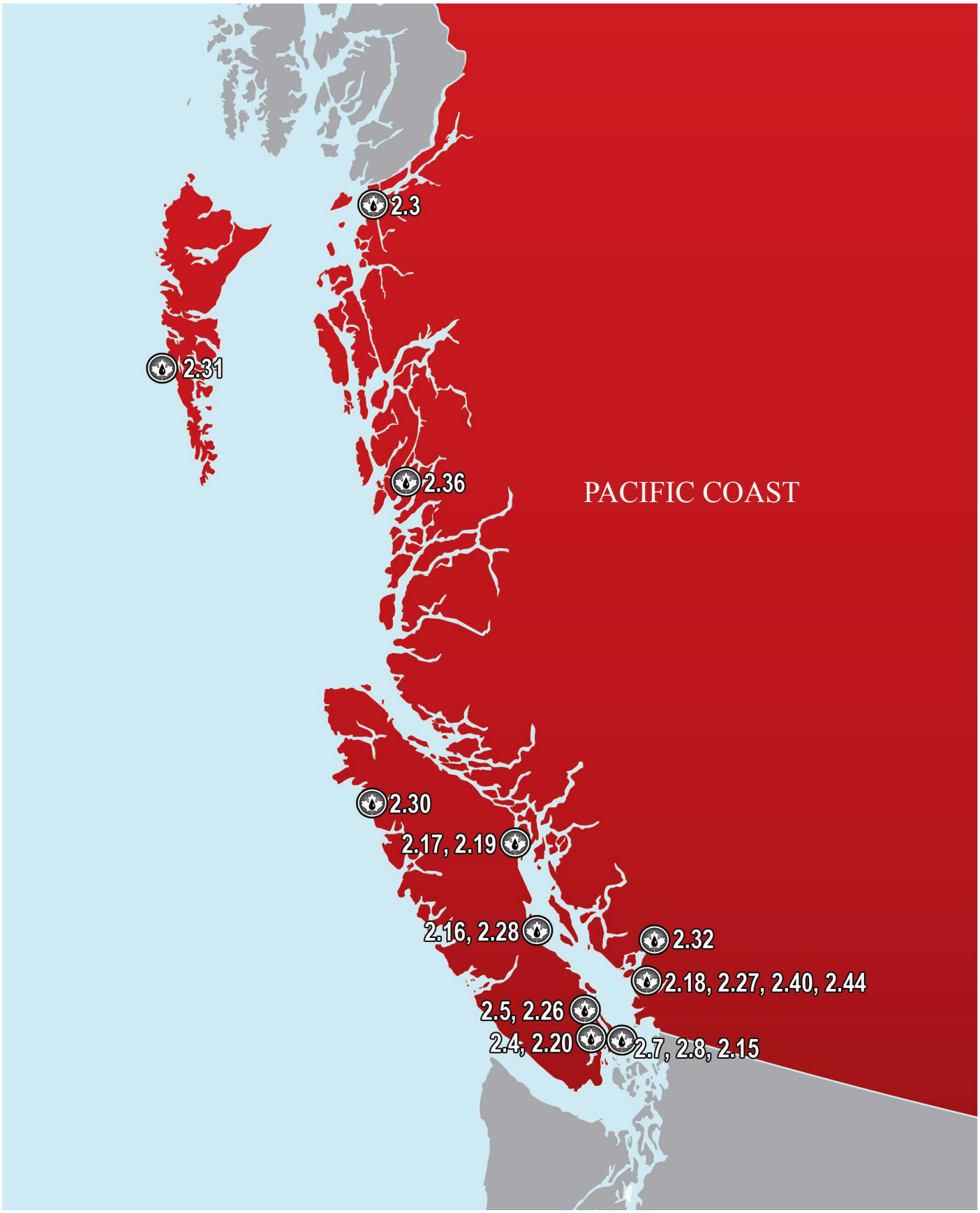
Table 1

Canadian Contributions to the International Funds

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

Fiscal Year	Paid from the SOPF ($)
1989/90	207,207.99
1990/91	49,161.28
1991/92	1,785,478.65
1992/93	714,180.48
1993/94	4,927,555.76
1994/95	2,903,695.55
1995/96	2,527,058.41
1996/97	1,111,828.20
1997/98	5,141,693.01
1998/99	902,488.15
1999/00	273,807.10
2000/01	6,687,696.71
2001/02	2,897,244.45
2002/03	3,219,969.17
2003/04	4,836,108.49
2004/05	3,448,152.80
2005/06	-
2006/07	360,233.37
2007/08	106,305.06
2008/09	5,161,013.63
2009/10	-
2010/11	3,895,877.19
2011/12	1,394,815.32
2012/13	318,156.19
2013/14	1,028,982.01
2014/15	246,094.95
2015/16	268,029
Total	**54,413,832.92**

Note : There was no call for Canadian contributions to the International Funds during the fiscal years 2005-2006 and 2009-2010.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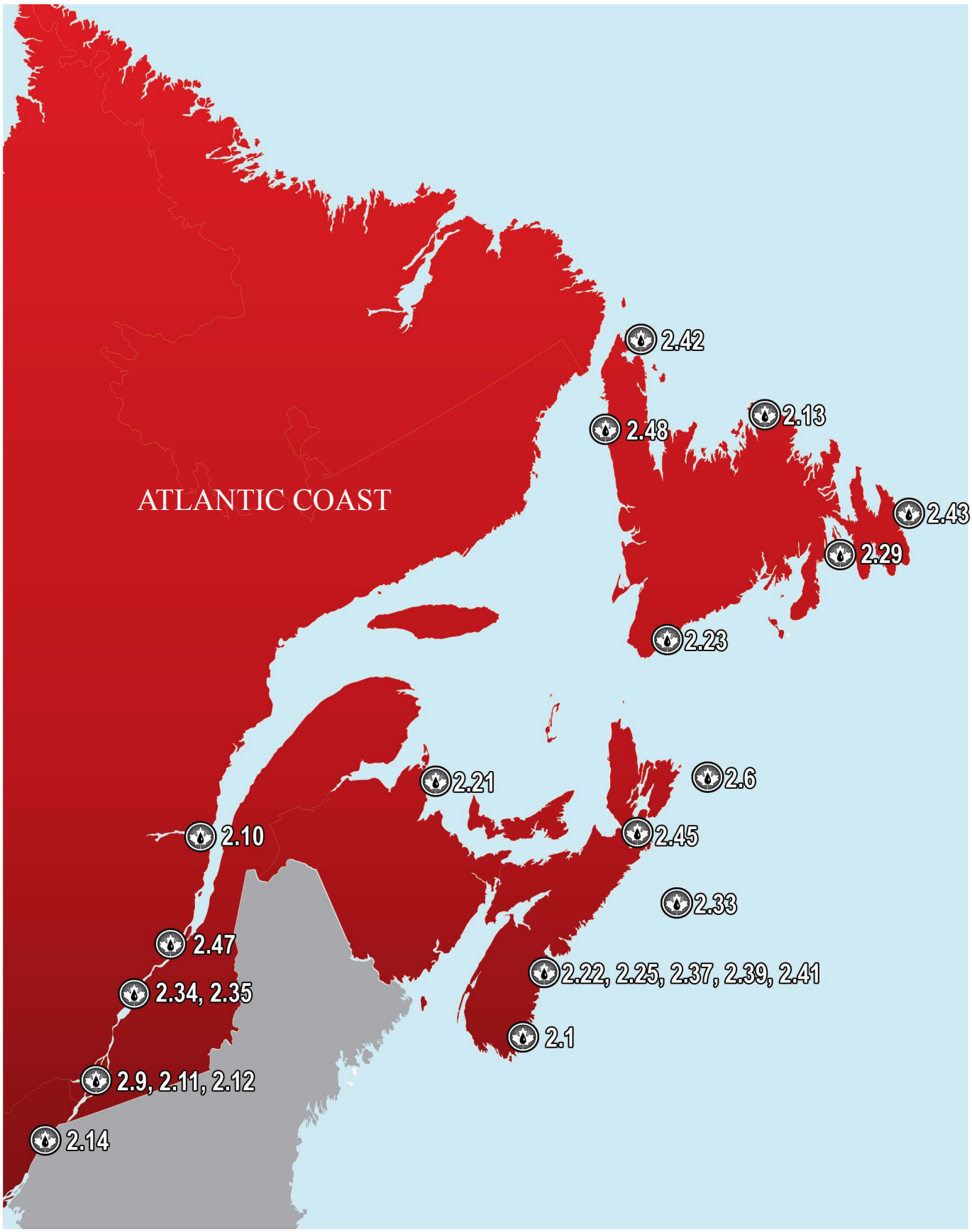
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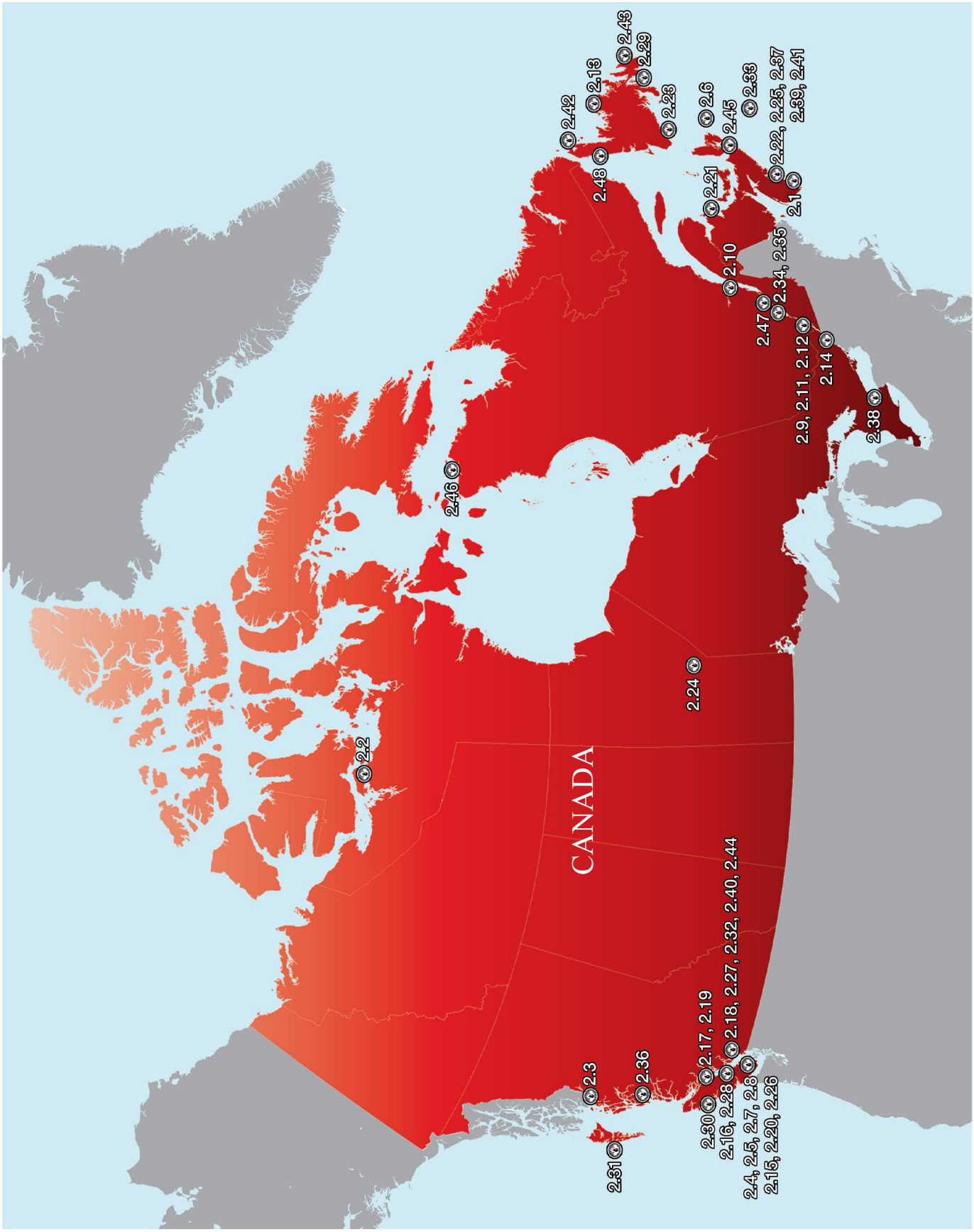
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2.15, 2.20, 2.26
2.31

2. Canadian Oil Spill Incidents

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

This section summarizes each of the 48 incident files – that is, actual claims and reports, which were handled by the Administrator during the fiscal year beginning April 1, 2015, and ending March 31, 2016. They involve either claims filed with the SOPF, or those for which some action may have been initiated to ensure that the SOPF's interests are properly protected. Some 15 new claims were received during the fiscal year in the aggregate amount of $1,800,634.98. Investigations are ongoing with regard to the outstanding claims filed with the Fund, but not all of the assessments of the claims were completed by the end of the fiscal year. During the fiscal year, three claims were settled and paid in the total amount of $27,483.06 including interest. As described in this incident section, some 17 offers of compensation in the total amount of $1,417,981.31, plus interest, remain unpaid due to the issue of the Release and Subrogation Agreement. The Administrator has informed the Coast Guard that he will not proceed with the requisitioning of payment of these claims until the issue of Release and Subrogation Agreement has been resolved.

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

Note: With regard to the issue of the Release and Subrogation Agreement, which arises in a number of incidents described in this section, please refer to Challenges and Opportunities, section 3, with respect to the status of the matter as of March 31, 2016.

2.1 Stephanie & Darrel (2007)

Case number: 120-530

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

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

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

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

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

2.2 Clipper Adventurer (2010)

Case number: 120-580

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

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

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

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

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

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

On October 17, 2011, the Administrator received a claim in the amount of $468,801.72 from the Department of Fisheries and Oceans (DFO/CCG) to cover the monitoring costs and expenses incurred by CCG in respect of the incident pursuant to the *Marine Liability Act* (MLA). In the meantime, the Administrator became aware of an action by the owners of the ship against the Crown alleging negligence on the part of the Crown (CCG and the Canadian Hydrographic Service) in failing to properly notify shipowners of the shoal on which the *Clipper Adventurer* had grounded. The amount claimed in the action is some $15 million in damages. About a year after the

initial action was launched on behalf of the shipowner, the Crown launched its own action against the shipowner in the amount of $468,801.72 for its costs and expenses arising out of the incident. The Crown contended that the existence of the shoal had been properly publicized to mariners in a Notice to Shipping.

The Administrator was made a party to both actions, having been served with the proceedings as required by the MLA. The two actions have been joined and are now proceeding as one action under case management by the Federal Court. So far, the Administrator has declined to assess the Crown's (DFO/CCG) claim pending the outcome of the litigation. He has, however, instructed counsel to monitor the proceedings. Extensive discoveries have been conducted. While the parties have been encouraged by the case management judge to consider settlement, so far the Crown has been reluctant to do so until certain discoveries have been completed. A date for the trial has not been set but it has been estimated that if a trial takes place it will not be before the second half of 2016.

A mediation was held by the Federal Court on February 10, 2016. The Administrator was represented by a Marine Consultant. No agreement was reached by the parties, however, the Prothonotary allowed the parties to continue their discussion and advised them to provide the Court with the status of their discussions by February 26, 2016. If the matter was not settled, then representations should be made as to the venue of the trial and list of witnesses. Accordingly, as of the end of the current fiscal year, the file remains open.

2.3 Mistann (2011)

Case number: 120-608

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

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

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

On April 26, 2012, the Administrator received a claim from Coast Guard made pursuant to the MLA. The claim totaled $113,787.48. The Administrator acknowledged receipt of the claim.

The Administrator commenced an investigation and assessment of the claim. On May 28, 2012, the Administrator instructed counsel to engage a technical marine surveyor to investigate whether all the expenses claimed could reasonably be characterized as pollution prevention, or whether some of them were, in essence, wreck removal. Subsequently, the surveyor reported that, diesel and lubricating oil were emanating from the fishing vessel *Mistann*

up until the time it was refloated, consistent with hydrocarbons being displaced from internal machinery spaces and fuel tanks by seawater. The vessel had sunk in a recreational and commercial marina situated approximately 400 metres from a cruise ship dock. Approximately 540 litres of hydrocarbons and oily water were removed from the *Mistann* subsequent to it being refloated. The surveyor concluded that the course of action by the CCG was reasonable to minimize and remedy oil pollution emanating from the sunken vessel.

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

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

In order to try and locate the registered owner and identify assets that may be available for recovery purposes, the Administrator obtained the services of a professional locator firm. The firm ascertained by a province-wide search that the vessel owner does not own any property in the Province of British Columbia. Furthermore, the owner is not a proprietor or partner of any provincial registered sole proprietorships, limited partnership, or general partnership. Nevertheless, on September 20, 2013, a Statement of Claim was served on the vessel owner at Port Edward near Prince Rupert. No Statement of Defence was filed by the defendant by the closing date.

On January 29, 2014, a default judgment against the defendant was issued by the Prothonotary of the Federal Court in Vancouver. The Court ordered that the defendant shall pay the Administrator of the Ship-source Oil Pollution Fund the amount of $103,428.74, plus $4,199.36 in interest incurred to January 24, 2014. Furthermore, the Defendant shall pay interest thereafter on the sum owing at a rate of $8.50 per day.

Given the amount of the claim, the Administrator instructed counsel to engage a Prince Rupert based marine surveyor to investigate locally and offer an opinion as to the market value of two vessels apparently still owned by the owner, which are located at the Port Edward Marina.

During the past year, the Administrator learned that the owner of the *Mistann* owns other vessels. Counsel was instructed to investigate the potential financial benefits in taking legal action to seize those other vessels. Meanwhile, the file remains open.

2.4 Viki Lyne II (2012)

Case number: 120-619

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

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

and the amount of hydrocarbons on board. However, the surveyor from the Fund had offered an opinion that the removal and cleaning of hydrocarbons from the *Viki Lyne II,* rather than demolition would have been the least cost option to minimize the threat of hydrocarbon pollution. CCG has been informed of this independent opinion.

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

On July 30, 2013, counsel replied and reminded Coast Guard of the earlier opinion of the independent technical surveyor appointed by the Administrator – notably, that the removal of the pollutants could be done at a lesser cost than deconstruction of the vessel. The surveyor had also recommended that quotations be obtained for both alternatives. Counsel confirmed to Coast Guard that the Administrator cannot prejudge the measures taken prior to the submission of the claim.

On March 31, 2014, Coast Guard reported in its year-end claims status report that the vessel has been identified as a potential hazard and that preventive measures would soon be taken, following which a claim would be submitted to the SOPF.

On March 17, 2016, the Coast Guard informed the Administrator that a contractor was hired in 2014 to remove approximately 23,000 litres of oil and oily water from the vessel. Furthermore, Coast Guard advises that a survey completed in February 2016, indicated that there are approximately 18,000 litres of oil/oily pollutants remaining in the vessel. Coast Guard is now planning to remove the remaining oil and oily pollutants in early 2016. As of the end of the fiscal year, no claim has been filed with the Fund. Meanwhile, the file remains open.

2.5 Bertha G (2012)

Case number: 120-664

The response to this incident commenced during the afternoon of November 14, 2012, when the Canadian Coast Guard Environmental Response (CCG ER) personnel received reports that an ex-fishing vessel was aground near Dunsmuir Island in Ladysmith Harbour, Vancouver Island. People in the area reported that there was oil leaking from the vessel as it rested aground and listed to port. The following morning two CCG ER personnel with a pollution response craft and other counter-measures equipment from the Victoria depot proceeded to the site, in order to assess the situation. They found the vessel hard aground and flooded. It was discharging black oil onto the surface of the water. At the outset, the vessel owner could not be determined, because there was no visible name or registration number. However, Coast Guard was later advised by the engaged salvage master that he believed that the vessel was the *Bertha G*, which had been acquired by a local person who had no means to respond to the discharge of pollutants. In research, it was found that the Transport Canada Vessel Registration Query System indicates that the old 80-foot fishing vessel *Bertha G*, originally registered in Prince Rupert, has been suspended from the vessel listing.

Coast Guard's Regional Superintendent of Environmental Response decided to remove the vessel from the grounded position so as to prevent and minimize further oil pollution damage. His decision was based on the inability, under the circumstances, to safely determine the volume of the potential pollutants or to remove the oil from on board where the vessel lay aground. In addition, citizens from the local Stz'Uminus First Nation territory were expressing concern about polluting the location, which is a traditional shellfish harvesting area. As a consequence, CCG ER engaged Public Works and Government Services Canada (PWGSC) to solicit bids for the removal of the vessel from qualified known contractors. Saltair Marine Services Ltd., located at nearby Ladysmith, was awarded the contract.

In order to take advantage of low tide and because of the adverse weather forecast (the documentation notes a forecast of winds of 35-40 knots with strong wave action) the salvage contractor expedited preparations and raised the vessel during the night of November 16. There was a hole in the hull of the wreck, which required pumping throughout the salvage operation. The wreck was towed to the contractor's facility, where Coast Guard engaged a surveyor to

assess the vessel's condition. Upon arrival at the shipyard, the surveyor advised that he was unable to conduct a proper survey because the contractor had already removed a portion of the vessel's superstructure to reduce weight and raise the hull out of the water. The surveyor did, however, indicate that the vessel was contaminated with oil throughout and had no value. The vessel was removed from the water at the contractor's facility and placed onto a concrete containment pad so that, during the process of demolition, the waste oils would be contained in a catch basin. The fuel and oils were drained from the fuel tank and the piping. When the engine was removed, an excavator was utilized to dismantle and sort the debris, waste wood, and recyclable scrap steel.

On October 14, 2014, one month short of the limitation period, the Administrator received a claim from Coast Guard, on behalf of the Department of Fisheries and Oceans, for costs and expenses in the amount of $63,789.60, pursuant to the *Marine Liability Act* (MLA).

The Administrator commenced an investigation and assessment of the claim documentation. The findings ascertained that there is adequate documentation and photographs to show that the old vessel was aground causing oil pollution. It was discharging and would have very likely continued to discharge oil pollutants as it lay partially submerged near Dunsmuir Island. The filed documentation clearly substantiated that the measures taken by the contractor were in accordance with the PWGSC contract, which contains a "Statement of Work" for the oil containment, clean-up, and demolition of the vessel. The vessel was totally deconstructed to remove the pollutants as a final measure to prevent any more discharge of oil into the marine environment. The chronology of the claim material notes that the ownership of the vessel remains unclear. It is reported that the last person to have care of the *Bertha G*, is a destitute senior citizen who lives aboard another decrepit derelict vessel. The Coast Guard indicates that it has not taken any further effort to recover costs from that individual.

The Administrator instructed counsel to engage a marine technical surveyor to review the Fund's preliminary assessment. On January 23, 2015, the technical surveyor reported that if the salvage measures had not been undertaken before the storm occurred, there was a high probability that the *Bertha G* would have shifted into deeper waters and broken up.

On January 29, the Administrator informed the Coast Guard that the investigation and assessment of the claim was completed. The full amount was found to be established. Therefore, on the basis of the findings, the offer was for the amount of $63,789.60, plus interest, as full and final settlement, pursuant to the MLA. The Administrator also explained that the offer was made conditional on his receiving with Coast Guard's notification of acceptance of the offer, the return of the Release and Subrogation Agreement duly executed.

On March 27, 2015, a letter of acceptance of the offer was received from the Coast Guard, but the letter of acceptance did not include the executed Release and Subrogation Agreement which was attached to the Administrator's offer. On March 30, the Administrator informed the Coast Guard that he will not proceed with requisitioning payment of this claim until the issue of Release and Subrogation Agreement has been resolved. Meanwhile the file remains open.

2.6 Maple Lea (2013)

Case number: 120-671

On February 17, 2013, the general cargo vessel *Maple Lea*, registered in Antigua and Barbuda sustained mechanical problems and was adrift off the coast of Cape Breton. The vessel was threatening to drift aground and possibly discharge oil pollutants into the marine environment. The Coast Guard responded on February 21, as the vessel was under tow by commercial tugs but then stuck in ice. While conducting icebreaking operations around the *Maple Lea,* the icebreaker *Louis S. St-Laurent* made contact with the escorted vessel, resulting in hull damage to both of them.

On March 2, 2015, the Administrator received a copy of the Statement of Defence in an action in the Federal Court between the Crown, Canadian Coast Guard (CCG), and the shipowner in relation to the incident. The Fund has been served by the Department of Justice because there may have been a threat of oil pollution and the Coast Guard felt obliged to intervene.

On March 25, 2015, the Administrator instructed counsel to file an appearance with the Court without any admission or prejudice to the rights of the Ship-source Oil Pollution Fund under the *Marine Liability Act*. On September 15, 2015, counsel provided the Administrator with copies of the receipt and release and the notice of discontinuance of the suit between the shipowner and the Crown.

The litigation had been settled. Accordingly, on September 15, the Administrator closed the file.

2.7 Mikon (2013)

Case number: 120-629

This claim involves a 37-foot wooden hull ex-fishing vessel, *Mikon*, that sank at its moorings and caused oil pollution in Port Browning, Pender Island, British Columbia. The Canadian Coast Guard (CCG) received a report of the incident on March 2, 2013, and deployed a crew from the Ganges lifeboat station to investigate. They found both diesel and hydraulic oils being discharged from the sunken wreck. The lifeboat crew requested the owner to advise before noon on March 3 what his plans, if any, were to take appropriate measures for control of the situation. The owner acknowledged that he did not have the financial means to raise the wreck and prevent further pollution.

On March 7, 2013, the CCG engaged Public Works and Government Services Canada to solicit bids for a contractor to remove the *Mikon*. A contract was awarded to Saltair Marine Services Ltd., to refloat and stream a containment boom and sorbent material, which was supplied by the Pender Island Fire Department, as a measure to minimize the oil pollution damage caused by the upwelling of oil. The volume of diesel and other oils on board the wreck was unknown. On March 13, the contractor deployed a tug and barge loaded with oil pollution containment and clean-up equipment, including a 45-tonne crane. Lifting lines were secured to the bow and stern and the vessel was lifted to the surface. When stabilized, it was towed to the Saltair Marine facility in Ladysmith Harbour, where it was placed onto a concrete containment pad with a catch basin for any seeping oils.

An independent technical marine surveyor from the firm of Coastal Marine Surveys was hired by CCG to determine the condition and provide an evaluation of the wooden hull vessel. The surveyor reported that there was oil contamination throughout the interior which damaged all mechanical systems that were emerged under sea water. The planking at the stem had separated, leaving openings in the hull. The rest of the vessel had strained with broken planking. In short, the wreck had no salvage value. Photographs were submitted with the surveyor's findings. As a result, by March 20, the vessel was deconstructed and all the debris and oil was cleaned up for disposal.

On December 16, 2014, the Administrator received a claim from Coast Guard, on behalf of the Department of Fisheries and Oceans (DFO/CCG), for costs and expenses in the amount of $41,451.84, pursuant to the *Marine Liability Act* (MLA).

The Administrator commenced an investigation and assessment of the claim documentation. The investigation confirmed that, at the time of the incident, Coast Guard personnel became aware there was no insurance coverage for the vessel. Further, the legal ownership of the vessel was in question and that the possible owners had said they lacked the resources to respond. Therefore, CCG took the necessary measures to address the pollution threat in a timely manner. Upon completion of the investigation and assessment of this claim, the Administrator found the amount of $40,351.84 to be established. The contract charge of $1,100.00 for additional insurance coverage incurred by the engaged salvage company was not accepted.

On March 25, 2015, an offer was made to DFO/CCG for the amount of $40,351.84, plus interest, as full and final settlement pursuant to the MLA. The offer was made conditional on the Administrator receiving with Coast Guard's notification of acceptance of the offer, the return of the enclosed Release and Subrogation Agreement duly executed.

On April 29, 2015, a letter of acceptance of the offer was received; however, it did not include the requested Release and Subrogation Agreement. Coast Guard advised that the Commissioner was seeking advice from DFO Legal Services with regard to the Agreement. Coast Guard was then informed that pending resolution of this issue, the Administrator has not requisitioned payment. Meanwhile, the file remains open.

2.8 Pacific Challenge (2013)

Case number: 120-635

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

The Coast Guard Environmental Response personnel investigated and found that the derelict vessel contained approximately 25,000 litres of a mixture of diesel oil and sea water in its fuel tanks. There was also some 400 litres of hydraulic oil on board, and a quantity of oily waste in the bilges. The tug owner was unable or unwilling to respond appropriately. Therefore, at the time of the report, the Coast Guard was in the process of trying to ensure that in the event the tug sank, there would be no oil pollution damage to the marine environment. As of the end of the fiscal year, no claim has been filed with the Fund. Meanwhile, the file remains open.

2.9 Mystery Spill, Sainte-Anne-de-Bellevue (2013)

Case number: 120-678

Early in the morning of July 14, 2013, the Canadian Coast Guard (CCG) was alerted about an oil spill occurrence in the lock area of the Sainte-Anne-de-Bellevue Canal, which connects Lac St. Louis and Lac des Deux Montagnes near Montreal. An oil slick of about 50 feet by 200 feet was observed. It was estimated to contain about 100 litres of an unidentified oil product. Personnel from the Montreal Fire Department Service attended and conducted an on-site inspection. Along with the local police, the fire department personnel visited several businesses and restaurants in the vicinity and finally ruled out a land source as the cause of the oil spill.

The area is managed by Parks Canada as a national historic site. During the summer months, the canal and locks are busy with tourist and transient pleasure boats. At the time of the spill occurrence, there were more than 15 pleasure craft alongside and seven or so other pleasure vessels in the area of the oil slick. The Montreal police restricted the transit of pleasure craft in the immediate area until the oil spill was cleaned up. The lock was closed by Parks Canada. Boats in the area were checked by the local fire department, but the source of the pollution could not be determined.

The Coast Guard assumed the role of On-Scene Commander and contracted Urgence Marine Inc. to evaluate the situation and prepare an action plan to address the necessary measures to clean up the oil slick. The situation was evaluated and Coast Guard approved the proposed response plan. The response measures had to take into consideration the amount of oil involved; the normal evaporation rate for diesel in the environmental conditions; the national historic site; the potable water intakes; and the potential ecological impacts of oil in the shoreline vicinity. As a result, Urgence Marine Inc. boomed the oil spill and collected the pollution. On July 15, Parks Canada carried out an inspection of the site and shoreline with Urgence Marine Inc. No further oil pollution was visible; therefore, at 1600 hrs Sainte-Anne-de-Bellevue Canal lock was re-opened for pleasure craft.

On June 16, 2015, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator of the Ship-source Oil Pollution Fund for costs and expenses in the amount of $14,498.41, pursuant to the *Marine Liability Act* (MLA). Once again, the claim was submitted near the end of the prescription period.

On July 30, 2015, after investigation and assessment of the claim, the Administrator found the full amount of $14,498.41 to be established. The Administrator made a final offer to Coast Guard for the established amount, plus interest, as full and final settlement pursuant to the MLA. Enclosed with the registered letter of offer was a Release and Subrogation Agreement for execution on behalf of the Coast Guard. The letter also noted that the amount of interest will be calculated upon receipt of acceptance of the offer.

On September 18, 2015, a letter of notification was received that the CCG accepts the settlement offer. It did not, however, include the executed Release and Subrogation Agreement as requested. The Coast Guard advised that the Commissioner is considering options on how to proceed. On September 23, the Administrator informed Coast Guard that he will not proceed with the requisitioning of payment of this claim until he is in receipt of a duly executed Release and Subrogation Agreement. Meanwhile, the file remains open.

2.10 Grand Charlevoix (2013)

Case number: 120-677

Late in the morning of July 15, 2013, the Canadian Coast Guard (CCG) was alerted that the *Grand Charlevoix*, a 19.8-metre commercial excursion vessel touched bottom and was holed with 38 persons including passengers on board about three nautical miles from Cap du Basque, at the mouth of the Saguenay River, Quebec. The engine room had flooded resulting in mechanical failure; however, the vessel was not in immediate danger. CCG broadcasted a Pan-Pan-Pan alert followed by a Mayday relay. Several vessels in the immediate vicinity came to the assistance of the *Grand Charlevoix* and safely evacuated the passengers. The incident started as a Search and Rescue incident and migrated to a pollution response incident.

The vessel had 800 litres of diesel on board and traces of pollution were sighted around the vessel. The CCG concluded that there was an ongoing risk of pollution from the vessel and used the program *Farseek Spillview* to determine possible trajectory predictions for the spread of any pollution.

This incident occurred in the vicinity of Parc Marin du Saguenay. Environment Canada completed an issues assessment and concluded that the bird areas, mussel and beluga habitat were all at risk. Parks Canada was concerned about the potential impact of any pollution within the boundaries of the park.

The owner of the vessel took on the role of On-Scene Commander, with the Coast Guard assuming the role of Federal Monitoring Officer. The owner developed and put in place an action plan to deal with the situation. Coast Guard provided absorbent boom and absorbents to the vessel and the pollution risk was contained.

Transport Canada approved a refloating and towing plan for the vessel. On July 16 the vessel was safely towed to Isle-aux-Coudres, where the vessel was boomed. Steps were taken to deal with the onsite pollution and the vessel was finally pumped out and lifted out of the water onto the dock.

A claim from Coast Guard was received by the SOPF on June 16, 2015 for costs and expenses in the amount of $6,508.81, almost two years from the date of the incident.

On July 14, 2015, after investigation and assessment of the claim, the Administrator found the full amount of $6,508.81 to be established. The Administrator subsequently made a final offer for the established amount, plus interest, as full and final settlement pursuant to the *Marine Liability Act* (MLA). The offer included a Release and Subrogation Agreement.

Coast Guard acceptance of the offer was received by the SOPF on August 27. The letter of acceptance included a CCG prepared and signed document titled “Release and Subrogation Agreement”. The substance of the agreement provided by Coast Guard was not acceptable to the Administrator and Coast Guard was informed on the specifics as to why it was not acceptable. This file remains open.

2.11 Tandem I (2013)

Case number: 120-676

During the morning of July 17, 2013, the Canadian Coast Guard (CCG) was alerted that the maritime shuttle ferry, *Tandem I*, was aground in the St. Lawrence River, at Montreal. The 24-metre vessel sustained a fire in the engine room, and grounded about 2.34 cables off the wharf in Longueuil. There were three crew members, but no passengers on board at the time. The local fire department responded and quickly extinguished the fire. The vessel had 4,000 litres of diesel fuel on board, and a sheen of oil pollution was seen to be dispersing with the river current. Using its own boat, the fire department placed a containment boom around the vessel.

The vessel owner, Croisières AML, based in Quebec assumed the role of On-Scene Commander. Arrangements were made by the owner for other vessels to assist in the lightering of the *Tandem I*, so that the vessel could be towed to Section 25 in the Port of Montreal. During the lightering operations, the owner did not find it necessary to activate his agreement with the Response Organization. During the response to the incident a Transport Canada marine inspector boarded the grounded vessel and approved the owner’s plan for refloating. It was determined that the hull was intact.

Some of the diesel fuel was transferred into 45-gallon drums and then moved to other vessels. Subsequently, the vessel was safely towed off the rocks.

Throughout the operational response, the Coast Guard assumed the role of Federal Monitoring Officer and requested that Environment Canada provide an assessment of environmental issues. Environmental Canada supplied several models of probable oil spill trajectories in the event of a spill during the refloating operations. The bird colonies at risk were identified, and it was confirmed that there were no drinking water intakes that could be contaminated. The claim documentation indicates that the amount of oil that escaped was quickly dispersed by the river current, and that no further pollution occurred after the *Tandem I* was refloated and transferred to the pier.

On June 16, 2015, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator for costs and expenses in the amount of $2,502.48, pursuant to the *Marine Liability Act* (MLA). The claim was submitted just one month short of the prescription period allowed under the MLA.

On June 24, after investigation and assessment of the claim, the Administrator concluded that the total amount of the claim was established. He, therefore, made a final offer to DFO/CCG for the established amount, plus interest, as full and final settlement pursuant to the MLA. Enclosed with the registered letter of offer was a Release and Subrogation Agreement to be executed on behalf of the Coast Guard. The Administrator also advised that he will not proceed with the calculation of interest and requisitioning the transfer of funds until he has received the duly executed Release and Subrogation Agreement.

In the letter of offer, the Administrator briefly addressed the matter of recourse and recovery action. He once again reminded Coast Guard senior management that under the Act, he has a duty to take reasonable measures to recover the compensation paid to claimants out of the Ship-source Oil Pollution Fund, from the owner of the ship. He explained that it is very difficult to try to collect in circumstances such as this case, some two years after the occurrence. When Coast Guard files claims so near the end of the two-year prescription period, the chances of collecting from the owners are remote. This sort of delayed filing benefits the owner and, consequently, goes against the "polluter-pays" principle.

On July 10, 2015, a letter of acceptance of the final offer was received from Coast Guard. It did not, however, include the executed Release and Subrogation Agreement, which had been included with the final settlement. In the response, Coast Guard advised that it was seeking advice from DFO Legal Services with regard to the agreement. On July 14, the Administrator informed Coast Guard that he will not proceed with the requisitioning of payment of this claim until the issue of Release and Subrogation Agreement has been resolved. Meanwhile, pending resolution of the issues, the file remains open.

2.12 Bayliner (2013)

Case number: 120-675

This occurrence began as a Search and Rescue response and transformed into an Environmental Response incident. During the afternoon of August 17, 2013, the Coast Guard received a report that the 27-foot pleasure craft *Bayliner* was aground in the "Rivière des Prairies Rapides du Cheval Blanc" in the vicinity of Montreal. The owner and two children were on board the pleasure craft. The Marine Rescue Centre in Quebec arranged for the local fire department to rescue the pleasure boaters.

On August 21, 2013, Coast Guard was notified that the boat owner was still unable to recover his stranded pleasure boat with his attempted towing arrangements, because it was aground in a very rocky part of the rapids with a strong river current. All attempts to convince other boaters to assist were also unsuccessful. The Coast Guard was informed that the stranded *Bayliner* had 250 litres of fuel oil on board, as well as 10 litres of motor oil. This, therefore, meant that there was an oil pollution threat requiring immediate response action. First of all, Coast Guard tried to engage Urgence Marine Inc. in the Port of Montreal to take the necessary measures to pump out the *Bayliner* and remove it from the rapids. However, the clean-up and waste removal company decided it was unable to respond because of the location of the incident.

Consequently, on August 23, Coast Guard arranged for its 28.5 metre hovercraft, *Mamilossa*, to proceed from its base at Trois-Rivières to the Montreal area. The next day, with a police boat in attendance to establish a keep-clear zone, the hovercraft went alongside the *Bayliner*. It was pumped out and refloated without an oil spill. The hovercraft then towed the pleasure craft clear of the rapids. It was removed from the water and placed ashore on August 23. The use of the hovercraft as an environmental response was a somewhat unique operation. The fact that the hovercraft and its crew of eight transited from Trois-Rivières to Rivière des Prairies, made it necessary for overnight hotel accommodations. The craft used 4829 litres of fuel during the tasking.

On June 16, 2015, some 22 months later – the Administrator received a claim from the Canadian Coast Guard (CCG) made pursuant to the *Marine Liability Act* (MLA). The claim totalled $14,286.40. The Administrator acknowledged receipt of the claim on the day it was received.

After investigation and assessment of the filed documentation, the Administrator concluded, on the basis of his findings, that the full amount was established. Therefore, on August 27, 2015, an offer was made to DFO/CCG for the amount of $14,286.40, plus interest, as full and final settlement. The offer was made conditional upon execution of an attached Release and Subrogation Agreement.

On October 16, 2015, the Administrator received a letter of acceptance of the final offer, but it did not include the Release and Subrogation Agreement duly executed as requested. Coast Guard advised that with respect to the Release and Subrogation Agreement, the Commissioner is considering options on how to proceed. Upon receipt of the letter of acceptance, the Administrator advised Coast Guard that he will not proceed with the requisitioning of payment of this claim until he is in receipt of a duly executed Release and Subrogation Agreement. Meanwhile, the file remains open.

2.13 Lakeview Venture (2013)

Case number: 120-661

During the night of September 3, 2013, the Canadian Coast Guard (CCG) in St. John's, Newfoundland, received a report from the RCMP that fishing vessel, *Lakeview Venture*, had caught fire at the wharf in Cobb's Arm, Notre Dame Bay. The fire had been extinguished, but the 40-foot vessel was in danger of sinking and releasing diesel fuel and hydraulic oils. When contacted by telephone the next morning, the owner advised that he would continue to monitor the situation until CCG Emergency Response personnel arrived.

On September 4, two CCG personnel departed St. John's and proceeded to the scene – a highway distance of approximately 450 kilometers – to monitor the owner's measures to remove the 300 litres of diesel oil contained in the fuel tanks. The trailer that the Coast Guard towed to the location contained tools and equipment that would expedite the response should any special requirements arise. Upon arrival, the owner was on site, but lacked any effective response capability. He had, however, contacted his insurance representative who arranged for a vacuum truck the following day to remove the fuel and oily bilge water. In the meantime, CCG personnel assisted in stabilizing the vessel and prevented it from sinking. They pumped water from the engine room and deployed a sorbent boom to contain the oil sheen that resulted from the pumping operation. On September 5, the contracted vacuum truck arrived and pumped the fuel and oily water from the wreck. Once the pollution was removed, CCG employees inspected the vessel and terminated their direct operational and monitoring role. The personnel returned to St. John's on September 6 and reported that there was no further risk of pollution.

On July 3, 2014, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator for the costs and expenses in the amount of $6,517.48, pursuant to the *Marine Liability Act* (MLA).

After investigation and assessment of the claim, the Administrator made a final offer to DFO/CCG for the established amount of $6,296.78, plus interest, as full and final settlement pursuant to the MLA. The offer was accepted. On November 13, 2014, the Administrator directed payment in the amount of $6,541.92, inclusive of interest.

On December 10, 2014, the Administrator wrote to the owner of the *Lakeview Venture* by registered mail, requesting payment of the compensation paid to the CCG with respect to the measures taken in response to the incident. Canada Post confirms that the registered letter was delivered to the vessel owner on December 30, 2014. The owner was informed about his responsibilities pursuant to the MLA. He was requested to respond within 30 days and advise what arrangements would be made to pay the sum of $6,541.92, failing which may result in legal actions. The owner was also informed that the Administrator is aware that his insurance company had sent him payment in full for his claim for the loss of the vessel, including the costs claimed by the Coast Guard. Follow-up enquiries were unsuccessful.

The recourse investigation ascertained that the owner did not have any financial assets and that his only income is a Canada disability pension. The owner advised that he could make a one-time payment of $1,000.00. After consideration, the Administrator concluded it would be unreasonable to incur additional expenditure for any further cost recovery action. Subsequently, on May 27, 2015, the Administrator received a cheque in the amount of $1,000.00 payable to the Receiver General for Canada. The cheque was forwarded to Expenditure Accounting and Control Department of Transport to be credited to the Ship-source Oil Pollution Fund. Accordingly, on June 9, 2015, the Administrator closed the file.

2.14 Kathryn Spirit (2013)

Case number: 120-642

On September 19, 2013, the Canadian Coast Guard (CCG) informed the Administrator about a potential oil pollution incident near Beauharnois in the St. Lawrence River. In 2011 a ship, *Kathryn Spirit*, which was owned by a Mexican company went aground in the Beauharnois area of Lac St. Louis. In 2012, a private contractor attempted to tow the ship off the shoal, but was not successful. During the winter of 2012, further damage occurred and the ship had listed considerably. In its report, CCG noted that when the ship ran aground there were approximately 100 tonnes of bunker fuel oil on board, which could become a pollution threat in Lac St. Louis. Transport Canada Marine Safety contacted the owner of the ship and informed CCG that by mid-September 2013, only 30 tonnes of oil has been pumped out of the grounded ship. The ship still remains near the locks in Lac St. Louis and has been wasting away. The City of Beauharnois has been raising concerns about the incident for a few years and is seeking to have the authorities intervene.

On February 1, 2016, the Media Relations of Fisheries and Oceans Canada reported that a collaborative Working Group has been established to examine options for a permanent and safe solution for the *Kathryn Spirit*. The Working Group consists of representatives from the CCG, Transport Canada, Environment Canada and the province of Quebec. The Media Relations adds that to maintain a safe marine environment, the derelict vessel will continue to be monitored by Transport Canada until the situation is permanently resolved. Meanwhile, the report file remains open.

2.15 Bromada (2013)

Case number: 120-641

On September 19, 2013, the Canadian Coast Guard (CCG) received a report that an old fishing vessel *Bromada* sank in Ladysmith Harbour, British Columbia, and was discharging oil. CCG Environmental Response personnel from Victoria were deployed to assess the occurrence. Upon arrival, the abandoned derelict was found to be submerged all but for the mast and rigging. Oil was upwelling to the surface forming an oil sheen (likely a mixture of diesel fuel, lube oils, and hydraulic fluid).

Information gathered from residents of neighbouring vessels indicated that the alleged owner had not been seen for several months. Coast Guard was also informed that the ex-fishing vessel had changed ownership several times prior to ending up in Ladysmith's "Dogpatch". No documentary evidence of these transactions was available. (Locals have named the cluster of decrepit derelict vessels currently in Ladysmith Harbour the "Dogpatch".) Coast Guard's further research of the Transport Canada ship registration system determined that the 50-foot wooden hull vessel, built in 1926, was removed from the ship's register years ago.

Coast Guard's Regional Superintendent of Environmental Response decided to remove the vessel from its sunken position to prevent and minimize further pollution damage. Public Works and Government Services Canada was engaged to solicit bids from qualified contractors. Saltair Marine Services Limited was awarded the contract. On September 21, the wreck was raised; placed on board a barge and towed to the contractor's facility.

Coast Guard hired an independent marine surveyor to inspect the *Bromada* and provide a monetary value assessment. The technical surveyor concluded that the vessel had no value, as the planking was loose and caulking had fallen out of the seams. The machinery also had no value because it had been submerged under sea water for sometime. Moreover, the cost of removing any other equipment would exceed its scrap value. As a consequence, CCG instructed Saltair Marine Services Ltd. to remove all the hydrocarbons then deconstruct and dispose of the *Bromada*.

On February 4, 2015, the Administrator received a claim from Coast Guard, on behalf of the Department of Fisheries and Oceans (DFO/CCG), for costs and expenses in the amount of $34,586.25, pursuant to the *Marine Liability Act* (MLA).

After an investigation and assessment of the claim, the Administrator found the amount of $32,386.25 to be established. He did not accept the $2,200.00 for additional insurance coverage charged by Saltair Marine Services Ltd. On April 9, 2015, the Administrator made a final offer to DFO/CCG for the established amount of $32,386.25, plus interest, as full and final settlement pursuant to the MLA. Coast Guard was informed that interest will be calculated upon receipt of acceptance of the offer. Enclosed with the offer was a Release and Subrogation Agreement.

On April 29, 2015, a letter of acceptance of the offer was received; however, it did not include the executed Release and Subrogation Agreement requested. Coast Guard advised that management was seeking advice from DFO Legal Services with regard to the Agreement.

On April 29, the Administrator informed the Coast Guard that he will not be able to proceed with requisitioning of payment of this claim until the issue of Release and Subrogation Agreement has been resolved. Meanwhile, the file remains open.

2.16 Gale Force (2013)

Case number: 120-680

The incident was reported to the Canadian Coast Guard (CCG) on October 9, 2013. The *Gale Force*, a derelict 61-foot wooden hull ex-fishing vessel built in 1940, was aground and discharging pollutants in the sensitive marine estuary at Comox, British Columbia. Coast Guard Environmental Response personnel were deployed from Victoria to assess the situation. Upon arrival, the vessel was found to be awash and surrounded by an oil sheen. The response personnel boarded the derelict and found fixed and portable containers of oil. The machinery space was awash with oily water. The engine and auxiliary generators were under water. Local beaches were checked and a light oil sheen was observed. First of all, personnel from the French Creek Coast Guard rescue station streamed a containment boom around the vessel to minimize further pollution damage. Coast Guard personnel spoke to a few local people, but the owner of the vessel could not be identified. Furthermore, the old vessel had been removed from the Transport Canada Vessel Registry.

Coast Guard decided to remove the vessel from its position, in order to deal with the pollution incident. On October 17, a local contractor, Sawchuck Pile Driving Ltd., was engaged to recover the *Gale Force* from the beach in Comox and deliver it to the shipyard of Saltair Marine Services Ltd. at Ladysmith. On October 22, the contractor mobilized a barge fitted with a 65-tonne crane to recover the vessel from the beach. The contractor applied temporary patches to the hull. At high tide, the vessel was dragged off the beach and towed to Ladysmith. Pumps had to be maintained during the tow. It was raised out of the water at Saltair Marine Services facility. When the vessel was hauled out, Coast Guard hired an independent marine surveyor of Coastal Marine Surveys to inspect the *Gale Force*, and provide a monetary value assessment. The technical surveyor concluded that the vessel had no value. It had been partially submerged in salt water for a number of weeks; therefore, the machinery would be worthless and the labour cost of salvaging the equipment would exceed any recovery value. The hull and keel had extensive damage and portions of the hull planking had sprung, straining the rest of the derelict. It was concluded that the cost to salvage any items and transport the contaminated materials to an approved environmental dump site would greatly exceed any salvage value.

The Coast Guard developed a Statement of Work for the removal of the waste oils and all the oil contaminated materials. The scope of the work was described for the demolition and disposal of the vessel. At this time, Public Works and Government Services Canada (PWGSC) was engaged to solicit bids from qualified contractors. Saltair Marine Services Ltd. was awarded the contract.

On April 25, 2014, the contractor, Saltair Marine Services Ltd. informed Coast Guard that the Provincial Ministry of Social Development had contacted them on behalf of the vessel owner, who was from the local First Nations Reserve. The enquiry was to determine the owner's eligibility for social assistance and whether the vessel should be considered an asset. Coast Guard informed the Powell River office of the Ministry about the disposition of the *Gale Force*.

On August 14, 2015, less than two months short of the prescription two-year period laid down in the *Marine Liability Act* (MLA), the Administrator received a claim from Coast Guard, on behalf of the Department of Fisheries and Oceans, for costs and expenses in the amount of $54,169.48, pursuant to the MLA.

The Administrator commenced an investigation and assessment of the claim. The findings ascertained that there is adequate documentation and photographs to show that the old fishing vessel was aground causing oil pollution. It was discharging oil and would have very likely continued to discharge pollutants as it lay partially submerged near Comox harbour. The submitted material clearly substantiated that the measures taken by the contractors were in accordance with the PWGSC contract, which contained a comprehensive "Statement of Work". The vessel was totally deconstructed to remove the pollutants, as a final measure to prevent any more discharge of oil into the sensitive marine environment. Throughout the operation, Coast Guard personnel assumed the role of On-Scene Commander to deal with the occurrence.

After completion of the investigation and assessment of the claim, the Administrator concluded that the amount of $51,382.12 was clearly established. Therefore on the basis of these findings, an offer was mailed to the Department of Fisheries and Oceans (DFO/CCG) on October 13, 2015, for the amount of $51,382.12, plus interest, as full and final settlement pursuant to the MLA. The Administrator explained that the amount of interest will be calculated upon receipt of acceptance of the offer. Enclosed with the offer was a Release and Subrogation Agreement to be executed on behalf of the Coast Guard.

The Administrator's letter of October 13 also brought Coast Guard's senior management attention to concerns about claims being filed near the very end of the prescription periods laid down in the MLA. It was pointed out that filing a claim long after the response to an incident has been completed entails certain risks. As previously discussed with Coast Guard officials, before the Administrator can offer compensation of a claim, he must satisfy himself that it has been established and that all costs and expenses that make up the claim are reasonable. This may be difficult long after the occurrence and the response operation has been completed, especially if the individuals involved in the response are no longer available to answer questions. Where the Administrator is unable to satisfy himself as to the reasonableness of the claim, or certain costs and expenses involved in the claim, he has no alternative but to disallow them. The Administrator also has the responsibility to take all reasonable measures to recover any payments out of the Ship-source Oil Pollution Fund from the shipowners, their insurers, or any other party that may bear responsibility for the occurrence. A recourse action will only be successful if the claim on which it is based has been thoroughly investigated and documented. Coast Guard management was, therefore, encouraged to submit their claims as quickly as possible.

On October 21, 2015, a letter of acceptance of the offer was received from the Coast Guard, but it did not include the executed Release and Subrogation Agreement. The reply noted that the Commissioner is considering options on how to proceed with respect to the Agreement. The Administrator responded that he will not proceed with the requisitioning of payment of this claim until he is in receipt of a duly executed Release and Subrogation Agreement. Meanwhile, the file remains open.

2.17 Porcher G (2014)

Case number: 120-644

On January 13, 2014, the Canadian Coast Guard (CCG) informed the Administrator that the 45-foot wooden hull ex-fishing vessel *Porcher G* sank at the wharf in Campbell River, British Columbia and was discharging oil. Personnel from the Campbell River lifeboat station attended and streamed a containment boom around the sunken vessel. The owner of the vessel was located and informed of his responsibilities and liabilities with respect to taking necessary measures to minimize and prevent further pollution damage. The vessel owner responded that he did not have the means to stop the discharge of oil or recover the wreck. Therefore, the CCG Environmental Response personnel took over management of the response, and arranged for local contractors to raise the sunken vessel.

On January 14, the vessel was raised and placed on board a barge, which was towed to the Duncan Bay barge terminal just north of Campbell River. Coast Guard hired a local marine surveyor from the firm of Strathcona Marine Surveyors to inspect the *Porcher G* and appraise its value. The technical surveyor advised that the vessel had no real value and was realistically irreparable. The only possible value seen was in some scrap metal.

On January 15, Coast Guard decided to deconstruct the vessel in order to remove the oil and prevent further pollution. A local excavating contractor, A. Wood Bulldozing Ltd., was engaged to deconstruct the wreck. All oils were drained from the engine. The recyclable metals were segregated from oil-contaminated wood waste, which was disposed of at an appropriate facility.

On March 6, 2015, the Administrator received a claim made pursuant to the *Marine Liability Act* (MLA) in the amount of $30,585.25 from the Department of Fisheries and Oceans (DFO/CCG) to cover the costs and expenses incurred in response to the occurrence. On March 10, the Administrator acknowledged receipt of the claim and commenced an investigation and assessment.

Upon completion of an investigation and assessment of the claim, the Administrator found the full amount of the costs and expenses incurred in response to the incident to be established. Therefore, on the basis of his findings on May 6, 2015, the Administrator made an offer of $30,585.25, plus interest, as full and final settlement pursuant to the MLA. The DFO/CCG was informed that the amount of interest will be calculated upon receipt of acceptance of the offer. Enclosed with the offer was a Release and Subrogation Agreement to be executed on behalf of the Coast Guard. The letter of offer also noted that the Administrator will not proceed with a requisition for the transfer of funds until the duly executed Release and Subrogation Agreement is received.

On June 16, 2015, a letter of notification was received that the CCG accepts the offer of compensation. However, the notification did not include the executed Release and Subrogation Agreement as required. The Administrator was informed that the Commissioner of the CCG was considering options on how to proceed with respect to the outstanding issue of Release and Subrogation Agreement. Meanwhile, the file remains open.

2.18 Elf (2014)

Case number: 120-646

The incident occurred on January 14, 2014, when the Canadian Coast Guard (CCG) received a report from the District of Squamish that the *Elf* sank near the government wharf in Squamish Harbour. It was reported that a significant amount of oil was upwelling from the wreck, which had sunk in an environmentally sensitive area. The Canadian Coast Guard Environmental Response (CCG ER) personnel indicated that they were aware of the vessel prior to its sinking, and had dealt with the owners in previous pollution incidents involving vessels they owned.

In light of the well-known environmental sensitivities of the geographical area, the CCG ER personnel from the Richmond depot proceeded to the area with pollution counter-measures equipment. They went to the Squamish Yacht Club, which is directly across the Mamquam Blind Channel from the site of the incident. At the Yacht Club they met with municipal officials, the RCMP, concerned citizens, and an individual who presented himself as the owner of the vessel. Because the person could not provide proof of ownership, Coast Guard requested information directly from Transport Canada Ship Safety, and found that the *Elf* was not registered. Later it was ascertained that the person who was operating the vessel was in fact the owner's representative. The owner's representative was advised about the owner's responsibility to respond, and his liability if he chose not to. He responded, basically, that the owner did not have insurance and that he was unable to contain or clean up the oil spill. The lack of response, combined with CCG previous experiences with the owner's representative, left CCG no choice but to raise the vessel itself. As a consequence, the CCG ER personnel took immediate steps to contain the spill and upwelling from the sunken vessel. An oil containment boom and sorbent materials were deployed. At the same time, a local oil spill clean-up contractor was hired by the District Authority to boom off an area upstream where there is an endangered species of red-legged frogs.

The initial assessment of the three-kilometre long Mamquam Blind Channel showed that 90 per cent of the channel was covered with a rainbow of sheen and other dull coloured oil. Environment Canada was contacted by Coast Guard and requested to provide sensitivity mapping as well as a trajectory model for the spill. The Provincial Ministry of

Environment advised Coast Guard that it could be used as a resource if needed. During the evening of January 14, Coast Guard convened a meeting at the Yacht Club. It was attended by representatives of the City of Squamish, Squamish First Nation, Provincial Ministry of Environment, RCMP, Environment Canada and the owner's representative. Following the meeting, CCG ER contacted Hydra Marine Services Inc., and arranged for divers to arrive the next morning and try to plug the vents, or at least reduce the amount of upwelling diesel, hydraulic and lubrication oils.

On January 15, Coast Guard continued to clean up oil around the sunken vessel by the use of absorbent pads, containment booms and a small skimmer. An emergency response contractor, Quantum Marine, was hired by Coast Guard to clean up oil that had made its way in and around the marina and docks within the channel. The divers from Hydra Marine were able to slow the leak of fuel oil, but not stop it completely. Given the situation, and the level of environmental risk, Coast Guard engaged a contractor, Vancouver Pile Driving Ltd., to raise the wreck. On January 16, the salvor arrived from Vancouver harbor with a large crane and divers and commenced work. The divers prepared lifting straps around the vessel. The *Elf* was slowly brought to the surface.

Pumps were placed on board and the vessel dewatered as much as possible. It was found that the majority of the fuel and oil had settled in various cavities of the vessel. Coast Guard was unable to quantify the amount of oil remaining on board. Once the *Elf* came to the surface and was dewatered, Coast Guard hired a marine surveyor from the firm of Reliable Marine Surveyors to inspect the condition and seaworthiness of the vessel. The surveyor reported that there was "significant wood deterioration" to the hull and advised that the vessel should be raised so the hull below the waterline could be inspected. There remained a risk that it could sink again; therefore, CCG decided to remove the vessel from the marina to control oil leaking in the environmentally sensitive area. Arrangements were made to have the vessel towed from Squamish to English Bay and then transferred to another tug to tow it up the Fraser River to Shelter Island Marine, where it would be hauled out of the water.

When Coast Guard first responded, the Administrator was advised that the costs associated with pollution abatement resulting from the sinking of the wooden tug could be significant. The Administrator, therefore, instructed counsel to engage a marine technical surveyor to attend the scene of the incident during salvage of the sunken vessel. The surveyor spoke to the representative and boarded the *Elf* when it was refloated. He also had discussions with the CCG ER personnel about the measures planned for the recovery. Coast Guard invited the surveyor to attend operational meetings at the Squamish Yacht Club. As a result, the surveyor was able later to advise the Administrator that the measures taken by the contractors during the refloating operations, and preparing the *Elf* for tow to the Fraser River for storage, were sufficient to eliminate the threat of further oil pollution, other than light unrecoverable sheening.

Finally, on January 17, the *Elf* was handed over from one tug company to a second company, Valley Towing. Shortly after the transfer, the *Elf* started to sink. This second sinking occurred within only one minute. On the day of the second sinking, the Coast Guard responders returned to Squamish and continued with containment and recovery of oil pollution that lingered throughout the Mamquam Blind Channel. On January 20, Coast Guard recovered its containment boom and departed the area. The *Elf*, a 74-foot wooden hull tug built in 1902, is presently resting in approximately 120 metres of water one mile off Point Atkinson.

On August 12, 2014, the Administrator received a claim from Coast Guard, on behalf of the Department of Fisheries and Oceans (DFO/CCG), for costs and expenses in the amount of $82,512.70, pursuant to the *Marine Liability Act* (MLA).

The Administrator commenced an investigation and assessment of the claim. In general, the Administrator found that the presentation and the support documentation of this claim, as compiled by the officials in the Pacific Region was impressive. The manner in which the claim was submitted facilitated making a full assessment and offering recommendations for settlement and payment of the established amount. When asked for clarification on a few matters, the regional staff replied with the requested documentation without delay. The claim documentation, along with the photographs, indicated that the *Elf* had discharged, was discharging, and was likely to continue discharging oil as it lay partially submerged at the wharf. There was adequate documentation to substantiate that it was necessary to raise the sunken vessel and remove it from the marina to prevent further oil pollution throughout the area. There is clear evidence that the invoices CCG received from the contractors have been paid.

After investigation and assessment of the claim, the Administrator concluded, on the basis of his findings, that the full amount of the claim was established. Therefore, on December 18, 2014, an offer was made to DFO/CCG for the full amount of $82,512.70, plus interest, as full and final settlement. The Administrator explained that the offer was made conditional on his receiving with Coast Guard's notification of acceptance of the offer, the return of the Release and Subrogation Agreement duly executed. The Administrator noted that he would not proceed with requisitioning payment of this claim until he received the duly executed Release and Subrogation Agreement.

On February 13, 2015, a letter of acceptance of the offer was received from the Coast Guard, but the letter of acceptance did not include the executed Release and Subrogation Agreement, which was attached to the Administrator's offer. On February 17, the Administrator informed the Coast Guard that the matter has been referred to counsel. Meanwhile, pending resolution of the issues, the file remains open.

2.19 Baltic II (2014)

Case number: 120-647

On January 24, 2014, the Canadian Coast Guard (CCG) received a report from the harbour authority at Deep Bay, British Columbia, that an abandoned wooden fishing vessel was at risk of sinking and discharging oil at its mooring in the harbour. The harbour manager advised that the vessel was not equipped with any bilge pumping arrangement. Upon inspection, CCG personnel found the vessel in a very derelict state. The bilges contained fuel and lubricating oils, and containers of oil were discovered in the fish cargo hold and in the engine space. Sorbent material was used to remove the oil from the bilges. Also, the fuel tanks were drained.

On January 30, a letter was mailed to the registered owner to notify him of the situation and explain his responsibility with respect to preventing a potential oil pollution of the nearby ecological and sensitive aquaculture area. The owner was instructed to describe the specific measures he planned to take to prevent the discharge of oil from his moored vessel. No reply was received from the owner. Therefore, based on the condition of the vessel, the sensitivity of the surrounding area, and the lack of response by the owner, the CCG personnel decided to remove the *Baltic II* and transport it to a facility for disposal.

On February 7, Coast Guard hired a marine surveyor of the firm Blue Seas Yacht Surveys to inspect the *Baltic II* and appraise its value. The technical surveyor found that the vessel was unfit for any service. In its condition, with considerable wood contamination, it would require a major rebuild. The value, which took into account the scrap value, was estimated at $2,000.00. After receiving the surveyor's report, CCG decided to have the vessel deconstructed and disposed of at an appropriate facility.

On March 13, 2015, the Administrator received a claim made pursuant to the *Marine Liability Act* (MLA) in the amount of $9,712.57 from the Department of Fisheries and Oceans (DFO/CCG) to cover the costs and expenses incurred in response to the incident. On March 13, 2015, the Administrator acknowledged receipt of the claim and commenced an investigation and assessment.

In light of the overall assessment and investigation of the circumstances surrounding the incident that occurred in a sensitive ecological area with a significant aquaculture industry, the Administrator found the full amount of $9,712.57 to be established. Therefore, on the basis of the findings on June 11, 2015, the Administrator made an offer of $9,712.57, plus interest, as full and final settlement pursuant to the MLA. DFO/CCG was informed the amount of interest will be calculated upon receipt of acceptance of the offer. Also, enclosed with the offer was a Release and Subrogation Agreement to be executed on behalf of the Coast Guard. The letter of offer noted that the Administrator will not proceed with a requisition for transfer of funds until the duly executed Release and Subrogation Agreement has been received.

On June 16, 2015, a letter of notification that the Canadian Coast Guard accepts the offer of compensation was received. The notification did not include the Release and Subrogation Agreement as required, because the Commissioner was considering options on how to proceed with respect to the issue of Release and Subrogation Agreement. Meanwhile, the file remains open.

2.20 Dominion I (2014)

Case number: 120-613

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

On March 12, 2012, the *Dominion I* dragged anchor and came in contact with the anchored fishing vessel *Polar Prince* in Cowichan Bay. When the Coast Guard was notified of this new incident, they hired tugs to place the vessel alongside the wharf at Cowichan Bay terminals. Throughout the incident, the *Dominion I* did not release any pollutants. This incident involved removing the vessel from its anchorage and securing it at the Cowichan Bay docks with the assistance of a tug. On August 9, 2012, Coast Guard confirmed to the Administrator that they had removed 2,400 litres of accessible hydrocarbons from the vessel by way of a vacuum truck, but some 50,000 litres of oily waste remained on board.

On March 10, 2014, the Administrator received a claim from the Department of Fisheries and Oceans (DFO/CCG) in the amount of $220,937.25 for costs and expenses for measures taken in anticipation of a discharge of oil in respect of the incident of March 12, 2012.

Initially, the Administrator had some concerns whether these costs and expenses really related to a fresh incident or whether they were further costs and expenses arising out of the previous incident in respect of which compensation had already been paid. The Administrator was also concerned about whether, consequently, the claim had been filed within the prescription periods specified by the *Marine Liability Act* (MLA). On the advice of counsel, he concluded that the claim related to a fresh incident and that the claim, accordingly, had been filed within the prescription period for filing claims mandated by the Act.

On examination of the documentation filed in support of the claim, the Administrator noted that it was not complete and on September 25, 2014, he requested in writing further particulars. In particular he had concerns about justification for the moorage charges, some $154,074.00, paid to Western Stevedoring for keeping the vessel alongside at Cowichan Bay wharf for over a year. Also, the documentation submitted in support of the claim did not include particulars of a clear plan to deal with the alleged threat of pollution posed by the vessel. There was also a lack of explanation as to why the vessel dragged its anchor and collided with the fishing vessel, *Polar Prince*.

On October 30, CCG responded to the request for further information. It seems that the moorage of the vessel at the Western Stevedoring wharf for such a long period of time related to lengthy negotiations with PWGSC to issue a request for proposals to remove the oil and deconstruct the vessel. No serious effort was made to find alternative locations to tie up the vessel that might have been less costly. It also became clear that besides the initial measures to secure the vessel and remove some of the oil, nothing further was done to the vessel.

At the conclusion of his investigation of the documentation filed in support of the claim, and taking into account the further explanations provided by CCG, the Administrator concluded that bringing the vessel alongside for an initial period to remove readily accessible hydrocarbons and re-anchor the vessel was a reasonable measure. However, the decision to leave the vessel alongside at the Cowichan Bay wharf at significant cost ($300.00 per day), without exploring cheaper options and in the absence of any real plan to deal with the supposed threat the vessel posed was not reasonable. The Administrator noted that in the end, the shipowner residing in the United States, towed the vessel out of the jurisdiction, June 22, 2013, with the approval of Transport Canada and with some 50,000 litres of oily waste remaining on board. At this point, it must be assumed that she no longer constituted a threat and since nothing had been done to remove the remaining oily waste on board during most of the time she remained tied up, it is open to conjecture whether she remained a pollution threat once the initial securing of the vessel and removal of accessible hydrocarbons had been completed.

On March 19, 2015, the Administrator informed the Coast Guard that the investigation and assessment of the claim was completed, and on the basis of his finding, the amount of $65,000.00 was found to be established. The amount essentially reflected the initial costs and expenses incurred in the measures taken in response to the actual threat of

oil pollution. The Administrator considers that 20 days of moorage alongside at Cowichan Bay would have been a reasonable period for Coast Guard to assess the situation and prepare the vessel for re-anchoring at a cheaper location. For convenience of reference, the Administrator provided Coast Guard with a schedule reflecting the amounts that were allowed, as well as a description of the reductions and disallowed amount of the claim. Accordingly, the offer of $65,000.00, inclusive of interest, was made as full and final settlement of the claim conditional on receiving the included duly executed Release and Subrogation Agreement.

On May 15, 2015, a letter of acceptance was received but it did not include the requested executed Release and Subrogation Agreement. Coast Guard advised that the Commissioner is considering options on how to proceed with respect to the Release and Subrogation Agreement. On May 19, 2015, the Administrator informed Coast Guard senior management that he would not proceed with requisitioning of funds until he is in receipt of the duly executed Release and Subrogation Agreement that was enclosed with the offer. Meanwhile, the file remains open.

2.21 MacEachern's Point Wharf (2014)

Case number: 120-651

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

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

On March 27, 2014, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator in the amount of $55,937.21 pursuant to the *Marine Liability Act* (MLA) for costs and expenses incurred during response to the incident.

The Administrator commenced an investigation and assessment of the claim. There was significant delay in obtaining from Coast Guard the necessary substantiating documentation to assess the merits of the claim. However, on January 15, 2015, the Administrator was in a position to make an offer to DFO/CCG for the established amount of $55,200.68, plus interest, as full and final settlement pursuant to the MLA. The offer was made conditional upon execution of an attached Release and Subrogation Agreement.

On March 10, 2015, the Administrator received a letter from Coast Guard accepting the offer of settlement, but it did not include the Release and Subrogation Agreement duly executed as requested. The Administrator informed the Coast Guard that he would not be requisitioning payment of this claim pending resolution of the issues concerning the execution of Release and Subrogation Agreements by the Canadian Coast Guard. Meanwhile, the file remains open.

2.22 Cape Rouge (Former Reg'd Name of Ryan Atlantic II) (2014)

Case number: 120-653

The incident occurred on March 10, 2014, when the Canadian Coast Guard (CCG) received a report from a concerned citizen that the vessel *Cape Rouge* was sinking at the wharf in Bridgewater, Nova Scotia. During the mid-afternoon, Canadian Coast Guard Environmental Response (CCG ER) personnel arrived at the Bridgewater community wharf where the 120-foot old steel trawler sank by the stern with a 30 degree list to starboard. There was an oil sheen of fuel and lube oils leaking from the vessel. The local fire department was on-site and had placed an absorbent boom around the stern of the wreck.

The Coast Guard on-scene supervisor contacted the owner and gave him verbal "Notice" of his legal responsibility to take measures to prevent further pollution damage from the *Cape Rouge*. The owner stated that he would arrange with a contractor to raise the vessel and have the fuel oil removed. He also advised that the vessel contained approximately 1,000 gallons of diesel fuel and 40 gallons of lube oil. The owner said he was arranging for an elderly gentleman on the dock to pump the boat out. The owner was informed by Coast Guard that this was unacceptable, because the vessel was so unstable no one could be allowed on board.

On March 11, two Coast Guard responders returned to Bridgewater from the Dartmouth depot with an emergency response equipment trailer. When on site, with the use of a boat from the local fire department, Coast Guard deployed 1,000 feet of 18" containment boom around the wreck, which was still releasing an oil sheen into the waters of the LaHave River. Because the owner had not complied with the "Notice" to take appropriate preventative measures, Coast Guard personnel assumed the role of On-Scene Commander. The owner was notified that Coast Guard was taking appropriate measures due to his lack of response. The Coast Guard legal department was notified accordingly. At that time, Environment Canada enforcement personnel was given a written copy of the "Notice" to deliver to the vessel owner. Environment Canada also boarded the vessel and collected oil samples.

It was soon determined that the situation was severe enough to require special measures by a private contractor. As a result, RMI Marine Limited, with whom Coast Guard has a Standing Offer Agreement for rendering an oil spill response, was engaged to raise the partially sunken *Cape Rouge* and remove the oil pollution threat.

On March 12, Coast Guard arrived on site with a mobile command post unit and a Pollution Response Vessel (*PRV1*). The *Cape Rouge* had by now sunk to the river bed with only the wheelhouse above the water. It was still releasing oil into the LaHave River. RMI began pumping out the fuel tank. Professional divers and a vacuum truck were utilized. Some 10,900 litres of fuel/water mixture were pumped from the fuel tanks, which settled in holding tanks to about 5,000 litres of oil. During the day, CCG personnel recovered two cubic metres of oil soaked absorbent pads by using the *PRV1* response boat. They also patrolled down river for approximately four nautical miles to ensure that released oil had not escaped the containment boom. They found some sheening along the shoreline in certain areas. The river patrol continued for several days.

On March 13 and during the next three days, a boom truck was hired to lift the hatches off the submerged wreck as part of the recovery plan. Throughout this period, the contracted divers continued to prepare the vessel's hull for refloating. Meanwhile, CCG personnel continued to remove and replace absorbent boom and conduct river patrols to assess the amount of sheening down stream. In addition, another sub-contractor was hired on two occasions to sand the ice-covered dock.

On March 17, the sub-contractor, Eagle Beach Contractors Limited, arrived with a 10-tonne boom truck. Its crane and other heavy equipment were used for three days to drive six piles into the river bed between the *Cape Rouge* and the jetty in preparation for refloating. On March 19, all the piles were in place and RMI demobilized the crane. Throughout this period the RMI four-man diving crew secured extra mooring lines to the bow in order to help stabilize the vessel. They also removed hatch covers from the fish holds to remove debris, such as rope and fish nets that could clog the pumps during salvage. The recovered equipment and salvaged rope were stored on deck of the owner's other vessel, *Hannah Atlantic*, which was also secured at the same dock in Bridgewater. Throughout these operations, Coast Guard personnel placed more sorbent boom in the area, since the vessel was still leaking oil.

On March 25, RMI commenced pumping out the forepeak and the accommodation space of the vessel. This was done with the approval of Environment Canada's Environmental Emergencies personnel. At 1800 hrs, the *Cape Rouge* was floating with a five degree port list. When the vessel began to right itself, the divers were able to identify two leaks of water entering the engine room. The divers were able to remediate those slow leaks by using neoprene and clamps. The next day there was a snow storm with 40 to 50 cm of snow with winds up to 110 km/per hour. On March 28, Transport Canada Marine Safety inspected the vessel. It was found "to have corroded pipes and faulty valves in the engine room, a broken line to the generator and a rotted out fire main which is the suspected cause of the flooding and sinking". The vessel was determined by Transport Canada Marine Safety and also by the CCG to be at risk of sinking again. Finally, on April 7, Coast Guard demobilized its command trailer and emergency response equipment. RMI also demobilized equipment on this day. The owner was informed that Coast Guard was finished with the response operation.

On June 26, 2014, Canadian Coast Guard, on behalf of the Department of Fisheries and Oceans (DFO/CCG), filed a claim with the Administrator for costs and expenses incurred in the amount of $362,575.38, pursuant to the *Marine Liability Act* (MLA).

The Administrator commenced a preliminary assessment of the claim. On July 29, the Administrator wrote to Coast Guard and explained that the submitted package was not in a form that could be properly assessed without additional information and substantiating documentation. Most of the support information requested was provided later by the Regional Coast Guard Office. However, several items with respect to the Standing Offer Agreement the Coast Guard had with the prime contractor, RMI Marine Services Limited, and the appropriate Statement of Work for the salvage operation were not provided. Coast Guard responded that this specific requested information was "not available".

In order to assess the claim submission thoroughly, the Administrator engaged a technical marine surveyor to review the invoices of the contractor's charges from an industry practices perspective. The consultant was also instructed to carry out an overall survey of the condition of the temporary repairs, which prevent a further ingress of water that caused the *Cape Rouge* to sink in the first place. He found that currently all appears to be in order with respect to the water tightness of the hull. However, he noted that a regular monitoring of the vessel's condition should be implemented by the party responsible for the vessel. Furthermore, he recommended that any deterioration in the condition of the *Cape Rouge* should be reported to the authorities in a timely fashion. (These findings were relayed to the Coast Guard officials for information purposes.)

In general, the Administrator's finding clearly indicated that the subsequent claim documentation, along with a series of photographs, show that the *Cape Rouge* had discharged, was discharging, and was likely to continue discharging oil as it lay partially submerged at the old government wharf. Furthermore, it was reasonable for Coast Guard to take over, because the vessel owner was unable to take appropriate measures. Moreover, CCG ER personnel worked in collaboration with the local community authority, the Department of the Environment and personnel of Transport Canada Marine Services throughout the duration of the incident. The documentation also records that several overflights were requested and conducted by Transport Canada surveillance aircraft over the LaHave River. Several oil slicks were detected. It is recorded that the river area is an extremely sensitive salmon habitat for all stages of salmon, eel, and whitefish development. It is also a habitat for ducks and bald eagles.

On March 19, 2015, the Administrator informed Coast Guard that, on the basis of the documentation filed and his overall assessment, he was able to offer the amount of $358,117.79, plus interest, as full and final settlement pursuant to the MLA. The letter of offer was made conditional on the Administrator receiving notification of acceptance along with the duly executed Release and Subrogation Agreement which was included with the letter of offer.

On April 29, 2015, a letter of acceptance of the offer was received. However, it did not include the requested Release and Subrogation Agreement. Coast Guard advised that with respect to the Release and Subrogation Agreement, it was seeking advice from DFO Legal Services. The Administrator then informed Coast Guard that he will not be able to proceed with requisitioning of payment of this claim until the issue of Release and Subrogation Agreement has been resolved. Meanwhile, the file remains open.

2.23 John I (2014)

Case number: 120-649

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

The Canadian Coast Guard Environmental Response (CCG ER) personnel considered the grounded ship to be an oil pollution threat. Therefore, personnel were deployed to the area from St. John's. They set up a mobile command post

in Rose Blanche with oil pollution response equipment. CCG staff assumed the role of Federal Monitoring Officer. On March 20, the Administrator was advised that the CCGS *Earl Grey* was escorting the tug and its tow to the port of Argentia. It was reported that there was an oil sheen of about 6 to 8 litres detected by surveillance aircraft, but that it was unrecoverable. Also, there is a report that the ship severed an underwater cable off Rose Blanche.

Coast Guard further advised that on March 22 the bulk carrier was secured in Argentia. Upon arrival, Transport Canada Marine Safety inspected the ship and found a significant amount of oily water in the engine room bilges. The bunker fuel had cooled and would require heating in order to pump out the tanks. A diving survey of the hull confirmed that the ship was badly damaged and may be a complete write-off. Transport Canada held the ship under Port State Control. The *John I* was held moored in Argentia and the shipowner arranged for Svitzer Salvage to remove the bunker fuel and lube oils. Finally, the ship was purchased by Meridian Marine of Quebec and was sold for scrap.

When initially informed about the incident, the Administrator instructed counsel to ascertain the ship's ownership and other general particulars, because the case would likely fall under the Bunkers Convention. On May 2, 2014, counsel informed the Administrator that he holds a Letter of Undertaking (LOU) from the shipowner's P & I Club. The LOU is in favour of the Ship-source Oil Pollution Fund and the Canadian Coast Guard. It concerns the monitoring costs incurred by the Coast Guard during the grounding event.

On February 29, 2016, counsel informed the Administrator that the Crown and the shipowner's P & I Club have come to terms whereby the P & I Club will settle the claim. In the meantime, the file remains open.

2.24 Lord Selkirk II (2014)

Case number: 120-655

In early March 2014, the Superintendent of the Canadian Coast Guard Environmental Response (CCG ER) for Western Region was informed by Transport Canada in Prairie and Northern Region about the situation of the derelict vessel, *Lord Selkirk II*, aground in the ice-covered waters of the Red River. The vessel was previously within the jurisdiction of the CCG Central and Arctic Region, but with changes in the Region's organizational structure, the vessel lay within the boundaries of Western Region. On March 14, CCG ER personnel were tasked to investigate. They visited the Selkirk area to assess the reported situation. They met with Transport Canada Marine Safety inspectors in Winnipeg and representatives of the City of Selkirk. Based on the information obtained, the Coast Guard personnel did not board the derelict at that time due to the reported presence of hazardous materials on board. It was decided that a proper assessment would be undertaken after the break-up of the ice in the spring, at which time the appropriate oil pollution prevention measures would commence.

With respect to the history of the vessel, the *Lord Selkirk II* was built in 1969 for operations as a passenger and cargo vessel on Lake Winnipeg and the Red River for approximately 20 years. In 1990 the old Red River cruise ship was taken out of service and moored to the bank of the Red River within the City Park limits of Selkirk. In June 2012 the once prestigious cruiser was set ablaze. The fire engulfed two decks of the ship and it took the fire department more than six hours to put the flames out. When the fire was extinguished, the ship ended up partially sunk where it still remains resting on the bottom in 22 feet of water. The current owners were in the process of scrapping the vessel when they declared bankruptcy. It is now a rusted hull and an eyesore in Selkirk Park. The Selkirk Journal reported on May 22, 2014, that the derelict had been leaching hazardous materials into the Red River, such as arsenic, lead, mercury, and other minerals. The newspaper reports all of these minerals are proven to be a danger to aquatic life, the watershed and the park marine environment.

Following the initial discussions with Coast Guard, the City of Selkirk retained Pinchin Environmental Ltd. to assess the potential hazards posed to personnel working on board the derelict vessel. Among other findings, the firm advised the City that it should not permit anyone to board the wreck without wearing Hazmat Protective Gear and that they are to be fitted with Scott Air Packs. The Pinchin assessment strongly suggested pre-cleaning specific areas of the vessel to allow for the Coast Guard to be able to safely remove any hydrocarbons found on board.

On May 12, three response specialists from Vancouver, Victoria, and Hay River, travelled to Selkirk to assess the pollution threat. They had a pre-operations meeting with City representatives. The City advised that it had obtained

"permission of the owner to enter the boat". With city supplied pumps the CCG crew spent three days attempting to dewater the compartments, but they encountered 6 to 8 feet of ice in the forward cargo hold and in the engine room. Oil could be seen trapped in the ice. Ice heaters were placed on board with little success. A decision was reached after consultation with City Authorities to wait for the ice to melt, so that a proper dewatering and a condition survey could be conducted. A containment boom was placed around the *Lord Selkirk II,* in the event oil would be released during the ice melt. Plans to return in early July had to be deferred due to high water levels in the Red River that would prevent successful dewatering of the vessel.

From July 20 to 24, two CCG response specialists returned to Selkirk to respond to any oil pollution on scene. They recovered the absorbent materials used to soak up oil upwelling from the wreck that had accumulated in the previously deployed containment boom. They also met with local authorities to ensure that Coast Guard is made aware of any future pollution damage.

On October 7, CCG ER personnel returned to Selkirk to dewater the vessel. They planned to complete a survey for hydrocarbons and, if required, work with a local environmental contractor to remove all quantifiable products. The Coast Guard crew worked on site from October 7 to October 16. Damage control found a broken pipe as the source of the water ingress. The pipe was repaired. During the 10-day period, enough water was pumped out of the lower decks to allow access to the main engine room. Day tanks were located and approximately 100 litres of diesel fuel removed. Also, 150 litres of diesel and 20 litres of lube oil were removed from the emergency generator compartment. The engine room was washed down and 26 pails of miscellaneous lube oils and grease were recovered along with oily bilge water. On October 16, with its work completed, the Coast Guard personnel met with the City Manager who advised that the City would be working in collaboration with Transport Canada and the Provincial authorities with respect to future disposal of the derelict vessel.

On January 27, 2016, the Administrator received a claim from Coast Guard for costs and expenses in the amount of $80,054.52, pursuant to the *Marine Liability Act* (MLA). Receipt of the filed claim was acknowledged on the following day.

The Administrator commenced an investigation and assessment of the claim. On March 16, 2016, he wrote to Coast Guard and requested additional support documentation about the contracted services in order to finalize an assessment of the claim. Meanwhile, the file remains open.

2.25 Hannah Atlantic (2014)

Case number: 120-652

This claim from the Canadian Coast Guard (CCG) and the above-noted claim (section 2.22 - *Cape Rouge*) both occurred in Bridgewater, Nova Scotia, during March and April 2014, respectively. The two old steel trawlers were sister ships. They were tied up at a berth near each other in the environmentally sensitive LaHave River.

As CCG personnel were demobilizing their oil pollution response equipment at the site of the *Cape Rouge* incident on April 10, they investigated whether there was any real threat of pollution from the *Hannah Atlantic*. Along with personnel from Transport Canada Marine Safety (TCMS) and an Environment Canada (EC) representative, CCG inspected the vessel. They found the engine room bilges full of heavily contaminated water and that the sea valves were in a state of corrosion and leaking. It was determined that the old fishing vessel contained approximately 2,250 litres of diesel fuel, 900 litres of hydraulic oils and 15,000 to 20,000 litres of oily bilge water. All three agencies agreed that the vessel was a potential pollution threat. It was in danger of sinking and needed to be addressed. Consequently, TCMS placed a Detention Order on board the *Hannah Atlantic*, and EC enforcement officials collected bilge water samples. Furthermore, CCG gave the owner a Direction Order to remove the pollutants, and instructed him to provide an appropriate action plan to deal with the situation by noon April 14, 2014.

During the morning of April 14, Coast Guard personnel were in communication with the vessel owner. He advised that since he did not have the financial means he would not be taking any measures to remove the fuel and hydraulic fluids. Therefore, Coast Guard contracted RMI Marine Limited to render a response under its existing Standing Offer Agreement to remove the pollutants from the vessel as per the issued Direction Order.

On April 15, RMI Marine Limited commenced removal of the bilge sludge, fuel, hydraulic oils and other pollutants from the vessel. In total, 18,000 litres of oily bilge water was pumped from the engine room, and 5,400 litres of diesel oil was removed from the day tank. Also, 421 litres of waste oil was off-loaded from various containers on board. After removal of the oil pollutants, the bilges and deck plates were steam cleaned.

On July 3, 2014, the Department of Fisheries and Oceans, (DFO/CCG) filed a claim with the Administrator in the amount of $19,956.15, pursuant to the *Marine Liability Act* (MLA), for costs and expenses incurred during response to the incident.

After investigation and assessment of the claim, on September 16 the Administrator made a final offer to DFO/CCG for the established amount of $19,682.37, plus interest. The offer was accepted, and on October 1, 2014 the Administrator directed payment of $19,975.18, inclusive of interest. There was no Release and Subrogation Agreement requested with that payment of claim.

In order to try and identify assets that may be available for recovery purposes, the Administrator obtained the services of a professional locator firm. The background investigation revealed that no significant financial assets were registered in the owner's name in the Province of Nova Scotia. After consultation with counsel, the Administrator decided that all reasonable recovery measures had been taken and that the expenditure of further funds on the matter was not justified. Accordingly, the file was closed on December 16, 2015.

2.26 Maryjack (2014)

Case number: 120-657

The incident occurred on May 31, 2014, when the ex-fishing vessel *Maryjack* sank in Sibell Bay on Vancouver Island. On June 2, the Canadian Coast Guard (CCG) informed the Administrator that the 60-foot wooden hull vessel was discharging oils. The CCG Environmental Response personnel deployed an oil containment and sorbent boom, and was in the process of engaging a salvor to raise and remove the pollutants from the wreck. Coast Guard estimated the response measures to be in the order of $57,500.00.

When the initial CCG notification was received, the Administrator instructed counsel to engage a marine technical surveyor to attend during the recovery operation. He was assigned to independently assess whether the measures taken by CCG and the salvor were reasonable under the circumstances. The surveyor was also instructed to talk directly with the principals involved.

On June 16, the surveyor reported to the Administrator that CCG personnel had captured over 1,000 litres of hydrocarbons prior to June 4, but that the upwelling of oil continued. As a result, Coast Guard engaged Public Works and Government Services Canada (PWGSC) to procure bids and put in place a contract for salvage of the wreck in order to prevent a further discharge of oil. A PWGSC contract was awarded to Saltair Marine Services Ltd. Coast Guard informed the surveyor that the awarded contract was based on time and materials with a $68,000.00 ceiling. The contract included refloating, hauling, deconstruction, and disposal of the vessel. The refloating of the vessel commenced on the morning of June 5. Saltair Marine mobilized two spud barges with cranes aboard. To assist with the refloating, the prime contractor hired divers from Westcoast Divers Ltd. They rigged basket slings near the forward and aft ends of the *Maryjack*.

After the old fishing vessel was raised to the surface, an inspection revealed that all interior bulkheads of the wooden hulled 1927 built ex-fishing vessel were heavily contaminated by hydrocarbons. The hull planks were rotting and the beams and frames were saturated with oil. It was apparent that the hull was unseaworthy and the oil contaminated material within the vessel presented a potential of future oil pollution. On August 14, 2014, the Administrator was informed by counsel that the *Maryjack* had been deconstructed.

On July 10, 2015, the Canadian Coast Guard, on behalf of the Department of Fisheries and Oceans (DFO/CCG), filed a claim with the Administrator for costs and expenses incurred in the amount of $94,689.51, pursuant to the *Marine Liability Act* (MLA). On July 14, receipt of the claim was acknowledged.

After investigation and assessment of the claim, on November 13, 2015, the Administrator made a final offer to DFO/CCG for the established amount of $86,228.70, plus interest, as full and final settlement pursuant to the Act. Coast Guard was informed that interest will be calculated upon receipt of acceptance of the offer. Enclosed with the letter of offer was a Release and Subrogation Agreement to be executed on behalf of the Coast Guard. The letter also advised that the Administrator will not proceed with requisitioning the transfer of funds until he receives the duly executed Release and Subrogation Agreement.

On December 18, 2015, a letter of acceptance of the offer was received. However, it did not include the requested Release and Subrogation Agreement. Coast Guard advised that with respect to the Agreement, the Commissioner is considering options on how to proceed. On December 21, the Administrator again informed Coast Guard that he will not proceed with the requisitioning of payment of this claim until he is in receipt of a duly executed Release and Subrogation Agreement. Meanwhile, the file remains open.

2.27 Windago (2014)

Case number: 120-659

On June 11, 2014, the sailing vessel *Windago* dragged anchor and grounded on Kitsilano Beach, Vancouver, British Columbia. There was oil leaking from the vessel and there was a significant risk of further pollution, given that the vessel had 400 plus litres of diesel, as well as various lube oils on board. The Canadian Coast Guard (CCG) responded and, through communication with the City of Vancouver, learned that the owner had advised the City that he was unable to salvage the vessel or mitigate the threat of additional pollution damage. This information was later confirmed when Coast Guard responders spoke with the owner directly about his responsibility and liabilities.

The Kitsilano Beach is Vancouver's busiest beach and because of the oil spill and its inherent health concerns, the Vancouver Health Authority found it necessary to close the beach.

During the initial response, Coast Guard personnel boarded the grounded sailing vessel and found a thick layer of oil in the bilges. Sea water was entering through a large hole in the hull. The *Windago* was resting on various sized beach boulders that penetrated the hull. As a result of the findings, Coast Guard hired Western Canada Marine Response Corporation (WCMRC) to deploy a containment boom around the vessel. In parallel to WCMRC's efforts, Coast Guard personnel commenced removing the oil remaining on board with suction and transfer pumps. Coast Guard rushed to remove as much oil as possible before the rising tide.

In order to prevent further pollution damage with the change of tide, Coast Guard engaged Vancouver Pile and Dredge to remove the wrecked sailing vessel. Later that night, the vessel was deconstructed and removed in sections. Unfortunately, a significant amount of oil floated away from the wreckage and lined the immediate beach area – covering a strip of approximately 1 metre in width by 100 metres in length. To mitigate this pollution on the beach, a small crew from Coast Guard and Vancouver Pile and Dredge met early in the morning the next day and manually removed the oily waste.

On February 17, 2016, the Administrator received a claim from Coast Guard, on behalf of the Department of Fisheries and Oceans, for costs and expenses in the amount of $41,506.93, pursuant to the *Marine Liability Act*.

The Administrator commenced an investigation and assessment of the claim. As of the end of the current fiscal year, the file remains open.

2.28 Silver King (2014)

Case number: 120-660

On June 23, 2014, the Canadian Coast Guard (CCG), Western Region, informed the Administrator that it was aware of an abandoned derelict tug near a sensitive fishing area in Deep Bay on the east coast of Vancouver Island. The CCG was hiring a surveyor of McAllister Marine Survey and Design Ltd. to inspect the old tug and offer an opinion as to whether there existed a significant or imminent oil pollution threat to the environment.

Upon receiving the report, the Administrator arranged through counsel – without prejudice to his obligations under the *Marine Liability Act* (MLA) – for a technical surveyor to jointly survey the vessel along with the Coast Guard contractor. The surveyors reported that the vessel contained approximately 2,323 litres of oil and 4,586 litres of oily water in accessible areas. These amounts did not include oils in other areas, such as double bottom fuel tanks. In addition, it was determined that the hull was in a precarious condition and in danger of sinking. It was the opinion of both surveyors that the *Silver King* posed a significant and imminent threat to the environment, due to its deteriorated condition in a sensitive area. Consequently, it was recommended that in order to remove the hydrocarbons, the old tug – built in Baltimore, Maryland, in 1945 for service in the United States Navy – should be moved to a nearby suitable dock as soon as possible. The action would avoid the additional costs of utilizing a tug and barge as a working platform and then transferring the hydrocarbons and equipment ashore.

Later, the CCG provided the Administrator a copy of its own surveyor's report, which recommended the deconstruction of the *Silver King*. The surveyor engaged by counsel, however, recommended that before carrying out the demolition, alternative quotes should be obtained for cleaning the vessel to a reasonable standard that will not cause damage to the environment should the old tug sink.

On December 16, 2014, Coast Guard advised in its latest update to the Administrator that quotes were solicited from several hazardous waste service providers for the option of *in situ* cleaning. In addition, Public Works and Government Services were engaged to administer the process of soliciting bids for the removal of the vessel. On June 24, 2015, counsel requested that Coast Guard report on the status of the *Silver King*. Coast Guard advised by e-mail that "there is no further update at this time". In the meantime, no claim has been filed with the Fund; therefore, at the end of the current fiscal year, the file remains open.

2.29 Jana (2014)

Case number: 120-662

On September 21, 2014, the Administrator was informed about the incident involving the Canadian Coast Guard about the multi-purpose cargo ship *Jana*. At the time, the disabled ship was at anchor in Mortimer Bay on the south coast of Newfoundland. The Coast Guard had engaged a tug to tow the ship to the nearby port of Argentia, because the ship had bunker fuel on board and the forecast called for hurricane force winds. These measures were taken to prevent the risk of oil pollution should the ship drag anchor and run aground. The towage services were paid by Coast Guard.

When informed about the situation, the Administrator conducted background research and ascertained through Ship Safety that the *Jana* had a certificate of insurance in respect of Civil Liability required by the Bunkers Convention, which was valid until February 20, 2015. Further information advised that previously on August 14, the ship had lost engine power shortly after embarking a pilot eight nautical miles off Argentia.

The Administrator instructed counsel to conduct background research of the vessel's ownership. Counsel confirmed that the *Jana* was registered in St. John's, Antigua and Barbuda, in the Eastern Caribbean. The registered owner is an entity located in Haren, Germany.

On September 30, Coast Guard informed the Administrator that it was intended to submit a claim to the shipowner's P&I Club. The Administrator instructed counsel to keep a watching brief and explore whether any claim that may be filed with the Fund would fall within the scope of the Bunker Convention. Meanwhile, the report file remains open.

2.30 Crown Forest 84-6 (2014)

Case number: 120-663

On September 27, 2014, the Canadian Coast Guard (CCG) informed the Administrator that an old 40-metre barge was sinking and polluting in Zeballos Inlet on the west side of Vancouver Island. The apparent barge owner, a former chief of the Ehattesaht First Nation territory, advised CCG that he was unable to respond. (It was later determined that the person who presented himself as the owner was not, in fact, the registered owner of the barge. The registered owner had previously sold the barge for $1.00, so that the barge could be built as a youth centre for the Ehatis Nation; he did not realize at the time that it was registered in a vessel registry.)

The CCG Environmental Response personnel found the barge partially submerged and hung up on the rocks, subject to tidal action, in a sensitive herring and salmon spawning ground. A light non-recoverable oil sheen was observed. They also found that the old camp barge, originally used to accommodate a 25-men logging crew, still had various trailers and mechanical equipment on deck containing oils. The CCG personnel used vacuum pumps to remove 600 litres of diesel fuel from a tank on deck. In addition, CCG hired a local contractor – the Response Organization, Western Canada Marine Response Corporation (WCMRC) – to use heavy equipment to remove the remaining pollution threats, such as fuel tanks and miscellaneous oil containers.

When informed about the incident, the Administrator instructed counsel to engage a marine technical surveyor to attend at Zeballos and investigate the situation. The surveyor met with the CCG Environmental Response supervisor and the provincial government personnel who were involved. The surveyor was informed that the provincial Ministry of Forests, Lands and Natural Resource Operations was working on a plan to pull the barge ashore and deconstruct it.

On March 30, 2016, Coast Guard advised that it expects to have a claim completed and filed with the SOPF by the end of April 2016. Meanwhile, the file remains open.

2.31 Simushir (2014)

Case number: 120-624

On October 16, 2014, the Canadian Coast Guard (CCG) received a report that the Russian Federation general cargo ship *Simushir* was adrift 19 nautical miles west of the island Haida Gwaii, British Columbia. The ship had a main engine failure and was experiencing 7-metre seas with winds in excess of 90 kilometres per hour. On board there were 472 metric tonnes of bunker fuel oil and 59 tonnes of diesel fuel. All the fuel oils were in immediate danger of being released should the vessel drift aground on the Queen Charlotte Islands. The Coast Guard deployed three ships: *Gordon Reid*, *Sir Wilfred Laurier*, and *Bartlett*. The Department of National Defence positioned a Search and Rescue helicopter at Sandspit. Transport Canada tasked a surveillance aircraft to overfly the cargo ship. While awaiting a tug chartered by the owners, the CCGS *Gordon Reid* took the disabled *Simushir* in tow and was able to move the vessel further westwards. The master of the disabled ship was transferred to Sandspit with injuries. The contracted tug, *Barbara Foss*, out of Prince Rupert was having difficulties in the heavy sea conditions, but arrived on the 18th and towed the cargo ship to a safe berth in Prince Rupert Harbour on October 20. In port, some of the deck cargo had to be discharged and re-stowed. Also, a number of containers were damaged and cargo had to be transferred to new containers. The engine failure that was caused by a fuel cooler breakdown was repaired by the ship's engineering staff. On October 22, a new Russian master joined the ship and it departed for Russia in due course.

While the event was occurring, there was significant involvement by the British Columbia Ministry of Environment and local First Nations Bands. On October 18, several environmental teams were deployed to Queen Charlotte City. The shipowner contracted a company to be prepared to conduct an environmental clean-up if required.

At the very beginning of the incident, the Administrator instructed counsel to obtain a Letter of Undertaking in the usual manner. On October 24, 2014, counsel for the Administrator in Prince Rupert served the ship *Simushir* with an arrest warrant. Subsequently, a satisfactory arrangement was reached with the lawyer for the shipowners regarding the appropriate level of security to cover any potential outstanding claims. In the meantime, the Administrator is aware that a number of claims have been settled on behalf of the shipowners.

As of the end of the fiscal year, no claim has been filed with the Administrator. Meanwhile, the file remains open until the prescription period has expired.

2.32 Spudnik (2014)

Case number: 120-665

On November 12, 2014, the Canadian Coast Guard (CCG) informed the Administrator that the vessel *Spudnik* had broken its moorings and was adrift in Howe Sound, British Columbia. At the time there was a north wind of some 20 to 30 knots outflowing the Sound, which is almost entirely hemmed in by rugged mountains. The owner was unable to take any proper action. The vessel is an ex-US Navy landing ship of approximately 195 feet in length and 35 feet

in breadth, constructed of welded steel and built in 1945. It was estimated that there were 5,000 litres of diesel fuel in tanks on board, and 1,500 litres of lube oil mixed with water in the engine room. CCG Emergency Response personnel hired a Seaspan tug to tow the vessel to New Westminster in the Fraser River for removal of the diesel and lube oils. On December 11, 2014, the Administrator learned that the cleaning of the vessel had been completed. The vessel was secured at the Valley Towing dock in the Fraser River, and it was incurring a daily moorage cost. As of the end of the current fiscal year, it appears that there will be no claim submitted to the SOPF, as the vessel has been cleaned of hydrocarbons.

On December 1, 2015, counsel asked Coast Guard about the status of its claim against the shipowner for the substantial expenses incurred in cleaning the *Spudnik*. In response Coast Guard advised that the matter is "in-hand" and that they are still dealing with the owner with respect to its claim. Meanwhile, the file remains open.

2.33 Australian Spirit (2014)

Case number: 120-666

The Administrator was informed by the Canadian Coast Guard (CCG) on December 10, 2014, that the Bahamian-registered crude oil tanker *Australian Spirit* was adrift about 40 nautical miles off the coast of Nova Scotia due to loss of steering. The offshore supply tug *Venture Sea* had arrived on scene and connected to tow the disabled crude carrier to Halifax. The Coast Guard vessel *Earl Grey* was deployed to escort the tow. Transport Canada selected Bedford Basin as a port of refuge, awaiting a sister tanker to arrive from New England, in order to offload the cargo of oil. Rudder repairs, if necessary, would be undertaken at the Halifax shipyard.

The Coast Guard indicated that there may not be a claim against the Ship-source Oil Pollution Fund. All costs and expenses incurred by Coast Guard would be submitted to the shipowner's P & I Club. As of the end of the current fiscal year, no claim has been filed with the Fund. In the meantime, the file remains open.

2.34 Chaulk Determination (2014)

Case number: 120-667

The incident occurred on December 26, 2014, when the tugboat *Chaulk Determination* sank at the wharf in the port of Trois-Rivières, Quebec, and began leaking fuel oil into the St. Lawrence River. The tug was holding 22 tonnes of fuel when it sank. Government agencies, including the Canadian Coast Guard (CCG), Transport Canada, the provincial Ministry of the Environment, and the port authority responded to the incident. The priority was to conduct oil containment and vessel recovery operations.

On December 28, counsel based in Montreal advised the Administrator about the ongoing incident. On January 6, 2015, the CCG informed the Administrator that the tug owner – some numbered company operating out of Moncton, New Brunswick – had declared that they had no money and no insurance. The estimated cost of the initial clean-up was in the region of $200,000.00 and that raising the vessel may entail a further cost of over $1 million.

At this point, the Administrator instructed counsel to retain a technical advisor to monitor the developing situation, as well assist if, and when, a claim is submitted to the Fund by the CCG. Consequently, counsel engaged a technical marine surveyor to keep in touch with the government authorities and report back, from time to time, on the reasonableness of the measures being proposed to salvage the sunken tug. Throughout the salvage operations, the surveyor provided a series of updates including photographs capturing the work performed by the salvage master and the various contractors involved in the efforts to refloat the *Chaulk Determination*.

The Administrator was informed that the fuel was removed from the tanks and that the *Chaulk Determination* was refloated on February 19, 2015. When the tug was raised, the hull and interior were cleaned. Also the engine room was partially cleaned. The wreck was secured alongside the wharf in Trois-Rivières.

In April of 2015, the Port of Trois-Rivières took action to deal with the ongoing pollution threat posed by this vessel. Details of their actions are found in section 2.35 of this report. On August 25, 2015, it was confirmed to the port authority that the vessel had been deconstructed and disposed of at the facilities of Verrault Navigation. As of the end of the current fiscal year, the file remains open.

2.35 Trois-Rivières Port Authority (Chaulk Determination) (2015) *Case number: 120-667*

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. Coast Guard contacted the Ship-source Oil Pollution Fund on January 6, 2015, and advised that a substantial claim would likely be submitted to the Fund. The Fund engaged a technical advisor to monitor the situation and to assist the Fund if and when a claim is eventually submitted by Coast Guard. 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.

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. 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.

As of the end of the current fiscal year, the file remains open.

2.36 Chilcotin Princess (2015) *Case number: 120-669*

On January 30, 2015, the Canadian Coast Guard (CCG) informed the Administrator that a 51-metre old steel vessel, *Chilcotin Princess*, was listing at its berth and in danger of sinking at Namu, British Columbia. The vessel was moored alongside the old dock of the abandoned Namu cannery for over 10 years. A portion of the dock had collapsed, so the vessel was at risk of capsizing and causing oil pollution.

The CCG Environmental Response personnel from Prince Rupert had previously contacted the owner and issued a "Notice" requesting that he provide a plan to address the situation by either relocating the vessel or removing the oil and lubricants from aboard. However, no action was taken by the owner.

On February 11, CCG engaged a marine surveyor from the firm of McAllister Marine Survey & Design Ltd., to examine the *Chilcotin Princess* and offer an opinion as to whether there was a significant threat to the marine environment. The surveyor found that due to the deteriorated condition of the hull, an imminent and ever-increasing threat existed. He recommended that all oils on board should be removed at the vessel's current location, because the hull condition was in such poor condition that it would be unsafe to tow the vessel to any properly equipped oil removal facility.

The Administrator was further informed that in mid-March, Coast Guard hired a tug and barge loaded with recovery and pumping equipment from Wainwright Marine Services in Prince Rupert, to proceed to Namu and remove all recoverable hydrocarbons from the *Chilcotin Princess*. The on-site operation was expected to take at least three days and the cost was established at approximately $60,000.00.

On April 15, 2015, the Administrator received a report from the technical marine surveyor engaged by counsel to investigate with Coast Guard as to whether the removal of hydrocarbons from the derelict had been completed. Coast Guard advised the surveyor that the removal of the oil from the vessel was carried out over a period of five days. The recovered oil was transported to Prince Rupert aboard the Wainwright barge and subsequently transferred to Newalta for disposal. At that time, it was Coast Guard's understanding that the Province was having a berth constructed in the nearby settlement of Shearwater on the north coast of Denny Island and the *Chilcotin Princess* would be moved to the new site.

On July 27, Coast Guard informed counsel that the vessel was in Prince Rupert being deconstructed by Wainwright Marine Services with the Province as lead. With this information, the Administrator instructed counsel to engage a marine technical surveyor to attend the shipyard and monitor the deconstruction to determine what, if any, part of the cost relates to oil pollution prevention. The following day the surveyor reported that the work on the vessel had started, but was halted when asbestos material was found on board. Remediation of the asbestos issue was later completed, and a scrap contractor had been engaged to begin final demolition in early August. The surveyor also advised that Coast Guard had removed all accessible fuel oil from the vessel at Namu, but it was expected that some minor fuel residue may be present in the tanks. The contractor had a plan to remove any residue found during demolition.

The surveyor also reported that Wainwright Marine Services had a contract in place with the Province of British Columbia to undertake the wreck removal and subsequent disposal of the vessel. It was expected that all work would be completed by August 21, 2015. As of the end of the fiscal year, no claim has been filed with the Fund. Meanwhile, the file remains open.

2.37 Schwalbe (2015)

Case number: 120-670

The Canadian Coast Guard (CCG) informed the Administrator that on February 1, 2015, a 60-foot sailboat, *Schwalbe*, had broken its moorings and drifted ashore on the south side of Lunenburg Harbour, Nova Scotia. The CCG Environmental Response personnel learned from local residents that the sailboat had been anchored in the harbour for several years and was thought to be abandoned. The boat owner was finally contacted and advised about his responsibilities to respond to the incident. He was requested to provide CCG with a response plan by noon on February 3. The owner replied that he had no insurance and no money, so he was unable to deal with the situation. He did, however, inform CCG that there were 20 litres of diesel fuel in the day tank, and additional oil in several containers on board and oil in the engine area. On February 4, CCG personnel boarded the vessel which was aground with a 45 degree list. No oil sheen was detected in the water around the hull or in the rockweed surrounding the area. When the weather conditions were more suitable, several days later, CCG personnel removed the accessible oil from the wreck. The boat remains aground where it initially drifted ashore.

On April 16, 2015, the Coast Guard filed a claim with the Administrator for costs and expenses incurred in the amount of $5,737.64, pursuant to the *Marine Liability Act* (MLA).

As a result of the investigation of the incident, it was considered that the response actions taken by Coast Guard under the circumstances were necessary and reasonable to prevent and minimize oil pollution within the harbour environment. The claim was well documented and easy to assess. It was submitted promptly. After assessment of the claimed expenditures, the Administrator found the amount of $5,294.62 to be established. Therefore, on the basis of the findings on June 24, 2015, an offer was made to Coast Guard for the amount of $5,294.62, plus interest, as full and final settlement pursuant to the MLA. The standard Release and Subrogation Agreement was enclosed with the letter of offer. The letter of offer noted that the Administrator will not proceed with requisitioning the transfer of funds until he receives the duly executed Release and Subrogation Agreement.

On July 9, 2015, a letter of acceptance was received, but it did not include the requested executed Release and Subrogation Agreement. Coast Guard advised that the Commissioner is considering options on how to proceed with respect to the Release and Subrogation Agreement. Meanwhile, the file remains open.

2.38 Navicula (2015)

Case number: 120-668

On February 3, 2015, the Canadian Coast Guard (CCG) informed the Administrator that a former Canada Fisheries Research Vessel, *Navicula*, sank at a Welland Canal marina in Port Weller, Ontario. The manager of the marina reported to Coast Guard that the old 65-foot vessel was half encased in ice. All that was visible was part of the hull and a rusty foremast. There was a small amount of oil released, resulting in a minimal sheen but it was contained by the use of absorbent pads. Furthermore, Coast Guard was advised by the Seaway Authority that a salvage plan was under review.

As of the end of the fiscal year, no claim has been filed with the Fund. In the meantime, the file remains open.

2.39 Cormorant (2015)

Case number: 120-672

On March 18, 2015, the Canadian Coast Guard (CCG) was notified that the *Cormorant*, a former diving support ship in the Royal Canadian Navy that had been decommissioned and sold in 1997, was listing heavily at the dock in LaHave River, Bridgewater, Nova Scotia. Inspection indicated that water had flooded the main hold in the ship. It was most likely as a result of frozen and ruptured pipe lines. It was reported by the owner's representative that there was no fuel in the main tanks, but there were approximately 200 litres of diesel fuel in the emergency generator tank and lube oil in the main engines. The vessel was leaking oil from the time of sinking. Initially, a containment boom could not be used due to the snow-covered ice around the hull of the vessel.

Coast Guard personnel proceeded to Bridgewater and met with the person who identified himself as the vessel owner. The Coast Guard gave the owner a Notice of Intent informing him of his responsibilities under the *Marine Liability Act* (MLA). Also, he was provided with a Direction Order to develop a salvage plan to refloat the *Cormorant*. The owner engaged Horseshoe Bay Marine Salvage Group and they commenced to develop a salvage plan. The local fire department assisted by using water pressure to blast the snow and ice off the partially sunken vessel. Eventually, a containment boom was streamed around the wreck. Locals were hired to maintain the boom and remove absorbents as necessary. Throughout this period, the Coast Guard assumed the role of Federal Monitoring Officer.

Towards the end of March, the Coast Guard located a response equipment trailer at Bridgewater to deal with the continuing oil pollution caused by the wreck. In mid-April, meetings were held with the owner and the salvage company to review the overall pollution response plan. By April 27, the federal agencies−that is, Coast Guard, Transport Canada and Environment Canada, were expressing concern about the level of the measures being taken. A further meeting was held on May 4 with the salvage representatives, at which time Coast Guard was informed that the salvor would not be continuing with salvage operations until the ownership of the vessel was settled in court.

On May 5, Coast Guard assumed the role of On-Scene Commander and contacted RMI Marine Limited to take measures to control the salvage operation. On May 8, with the aid of divers, RMI removed 5,850 litres of waste oil from the engine room bilge and 350 litres of hydraulic oil from several tanks. Meanwhile, Coast Guard maintained the containment boom and recovered oil contaminated pads from the surface of the water. By May 21, the divers completed most of their work.

On May 27, the *Cormorant* was refloated. All the absorbent pads and containment boom were recovered. In total some 70,000 litres of pollution products were removed. The Coast Guard Environmental Response crew was demobilized and returned to the Dartmouth Depot.

On November 2, 2015, the Canadian Coast Guard, on behalf of the Department of Fisheries and Oceans, filed a claim with the Administrator for costs and expenses incurred in the amount of $549,581.18, pursuant to the MLA. The Administrator acknowledged receipt of the claim and commenced an investigation and assessment.

By way of background information, in 2002 the old naval diving support vessel of some 2174 gross tonnes was moored alongside the wharf of the Artificial Reef Society in Bridgewater, Nova Scotia. In 2009, the Federal Court gave the Society permission to sell the vessel through a Sheriff's Sale. This is the third claim that the Fund has received concerning vessels moored alongside the same wharf in Bridgewater. First the *Hannah Atlantic* ($19,956.15), second the *Cape Rouge* ($362,575.38), and now the *Cormorant* ($549,581.18).

When the Administrator was initially informed that Coast Guard had assumed the role of On-Scene Commander of the incident on May 5, 2015, he instructed counsel to engage a marine technical surveyor to attend the scene of the incident and observe the measures being taken. The surveyor made four different visits to the site between May 11 and June 3. He reported upon the progress of the ongoing removal of the oily pollutants and the stabilization of the vessel to an upright position.

In general, the investigation ascertained that it was reasonable for Coast Guard to take over and engage the RMI contractor, since the owner was not continuing with any appropriate salvage operations.

On March 29, 2016, the Administrator informed Coast Guard that on the basis of the documentation filed, and his receipt of the additional support information earlier requested, he was able to offer $515,267.25 as the established amount of the claim. The standard Release and Subrogation Agreement was enclosed with the letter of offer. Meanwhile, the file remains open.

2.40 Marathassa (2015)

Case number: 120-673

On April 8, 2015, the owner of the local sailing vessel, *Hali*, reported to the Canadian Coast Guard (CCG) that there was an oil spill near the entrance to Vancouver Harbour. The Harbour Master was also informed and assigned a duty harbour boat to investigate. The boat found an oil spill of approximately 200 square metres near the anchored grain ship *Marathassa*. (The bulk carrier had arrived from Korea on its maiden voyage to load grain. The ship of 43,229 gross tonnage was built in 2015. The 229-metre ship was registered in Cyprus.) Later the oil spill was found to be more significant than originally believed. Consequently, Coast Guard contracted the Western Canada Marine Response Corporation (WCMRC) to take appropriate response measures. WCMRC streamed a containment boom around the anchored grain freighter. A number of the Corporation's skimmers were used to try and recover the heavy oil surrounding the ship. The Coast Guard remained on site throughout as On-Scene Commander.

The WCMRC informed the Administrator about the occurrence. Counsel was then instructed to discuss the situation with the Vancouver based Coast Guard Environmental Response Manager. During daily follow-up discussions, counsel was informed that a large amount of oil had escaped the containment boom. Reports were received that oil was washing up on a small beach in West Vancouver known as Sandy Cove, and that oil was also seen on the water off Stanley Park. During the next few days, the bunker fuel soiled several beaches along English Bay and Burrard Inlet. All this contamination required more clean-up operations and monitoring of the possible effects upon migratory bird species in the anchorage area. The overall response and clean-up lasted a total of 16 days.

Counsel also reported that Transport Canada, Marine Safety, had boarded the ship and obtained oil samples from each individual fuel tank. The Ship Safety officers conducted a Port State Control inspection. The Transport Canada aerial overflights estimated some 2,800 litres of oil in the water in addition to the 800 litres recovered by WCMRC. The Captain and representatives of the *Marathassa* initially denied responsibility; however, it was subsequently determined that the ship had discharged an unknown quantity of intermediate fuel oil. The Ship Safety inspectors identified the source of the oil spill from the *Marathassa* as being a mechanical defect in the newly built vessel that allowed bunkers into the bilges. Therefore, when the crew washed down the cargo holds in preparation for the loading of grain, they believed they were pumping clean bilge water overboard. However, they were pumping overboard bilge water contaminated with bunker fuel oil. Transport Canada reported that during the investigation of the cause of the leak the Captain and owners of the ship co-operated fully.

Due to the complexity of the incident and criticism that Coast Guard received from the city authorities and others for what was perceived as a slow response to the persistent fuel oil spill, the Commissioner of the Coast Guard initiated

a review for the purpose of identifying what worked well and what could be improved. The "Independent Review of the *M/V Marathassa* Fuel Oil Spill Environmental Response Operation" was released to the public on July 31, 2015. The Minister of the Department of Fisheries and Oceans accepted all 25 recommendations and advised that they are being addressed.

As instructed, counsel contacted the legal advisor for the Standard Club and Europe Ltd. and the owners of *Marathassa* to discuss security on behalf of the Ship-source Oil Pollution Fund, both as to quantum and form. A Letter of Undertaking was received from the Standard Club in a form that has been accepted by the Administrator in similar circumstances. The Administrator has been advised that claims are being dealt with by counsel for the insurers. No claims have been filed with the Ship-source Oil Pollution Fund. Meanwhile, the file remains open.

2.41 Farley Mowat (2015)

Case number: 120-679

On June 24, 2015, the Canadian Coast Guard Environmental Response personnel (CCG ER) were notified that the *M/V Farley Mowat* was sinking at the wharf in Shelburne, Nova Scotia. The ship was well down by the stern and was thought to be touching the bottom off the Harbour Authority dock. CCG ER personnel attended the site on June 25 and found that the ship could not be boarded because it was unstable, and some 20 feet off the side of the dock. A 600 ft containment boom was then streamed around the ship. The harbour was patrolled to locate debris and oil drums that had floated off the deck when the vessel sank. Transport Canada Marine Safety and Environment Canada Enforcement personnel were on site. The Transport Canada surveillance aircraft completed an overflight and reported 37 litres of oil in the harbour between the site and the shipyard. (Several media interviews were conducted on site.) The firm of RMI was contracted to dive on the ship the following day. Coast Guard arranged to deploy its regional mobile command post and security was posted at the dock gate.

On June 26, sludge and an oil sheen were observed inside the containment boom and also extending 1000 feet off the dock outside the boom. An additional 200 feet of boom was deployed around the backside of the dock and absorbents were placed inside the booms. RMI divers assessed the condition of the vessel, the location of the hull leaks, and the amount of oil inside the structure. During the next several days, Coast Guard completed harbour patrol with two of its pollution response boats and inspected the local trout farm, but apparently the sheen had not reached the trout farm area. Transport Canada overflights reported 13 litres of oil sheen within the harbour itself.

On June 27, the sub-contractor, Atlantic Industrial Cleaners, arrived with a vacuum truck. The truck was used to remove oily waste that was free floating within four accommodation spaces. Oil was found in two separated holding tanks and removed by suction hose with the aid of the diving team. The total volume vacuumed out was 22,500 litres of oil mixture. It was estimated that 10 per cent of the total volume was fuel oil – that is, 2,250 litres. In the meantime, Coast Guard personnel recovered the last of the five oil drums that had floated away from the ship during the sinking. An additional 1000 lbs of oil soaked absorbents were recovered from inside the containment boom, for a total recovery of 2000 lbs of absorbent materials.

The contractors continued daily salvage operations from June 28 to August 2 when the wreck was raised and refloated alongside the pier. The sub-contractor Eagle Beach Construction fabricated steel pilings which were driven into the harbour seabed adjacent to the wharf, in preparation for the ship's raising. These pilings were used as support for the ship as a counter-measure to its turning over during the raising process, where it was tethered and secured by steel ropes. Furthermore, a series of submersible pumps were used to pump out the sunken wreck in a controlled fashion once the vessel's hull was stabilized. During this extended salvage operation, Coast Guard personnel continued to conduct daily harbour patrols with the CGE 319 pollution response boat and recovered stray oil pads found along the shoreline. Furthermore, it was necessary to attend to the containment booms that were still releasing an oil sheen. Oil soaked absorbent materials were collected. The air patrols were also conducted frequently. The overall monitoring of the contractor's salvage measures continued throughout.

On August 3, Atlantic Industrial Cleaners was again on site with a vacuum truck and hot water pressure washer to clean the interior of the ship. RMI removed the pumps and hoses. The divers fabricated and installed plugs on the sea bays. Coast Guard removed the containment booms and demobilized the CGE 319 response boat. On August 5,

a final inspection of the *Farley Mowat* was completed by Transport Canada Marine Safety, Environment Canada Enforcement, Shelburne Harbour Authority and the Coast Guard personnel. They agreed that all reasonable measures had been taken to remove contaminates from the ship. The owner was notified that Coast Guard was finished with its response. The *Farley Mowat* was secured alongside and personnel departed the site.

This incident was initially brought to the Administrator's attention at the outset on June 25, 2015, by counsel in Halifax. The Administrator, therefore, instructed counsel to engage a marine technical surveyor to attend the scene of the operation during salvage of the sunken ship. The surveyor for the Fund had discussions with the Coast Guard personnel about the measures planned for the recovery operations. As a result, the surveyor was able later to advise the Administrator about the measures being taken by the contractors during the refloating operations.

On January 18, 2016, the Administrator received a claim from Coast Guard for costs and expenses in the amount of $814,815.05, pursuant to the *Marine Liability Act*. Receipt of the filed claim was acknowledged on the following day.

The Administrator commenced an investigation and preliminary assessment of the claim documentation. On February 24, 2016, the Administrator wrote to Coast Guard and explained that additional information and substantiating documentation was required in order to advance the claim assessment. Meanwhile, the file remains open.

2.42 Baffin Sound (2015)

Case number: 120-685

The incident occurred on June 23, 2015, when the Canadian Coast Guard (CCG) in St. John's Newfoundland, received a report from the local Harbour Authority that an oil sheen was originating from the fishing vessel *Baffin Sound* in St. Anthony – a fishing town on the northern reaches of the island of Newfoundland. The vessel had been tied up at the town wharf in St. Anthony Harbour for the past 7 to 8 years. The diesel engine had been removed, but it was unknown how much hydrocarbon remained on board. The Transport Canada registration system details that the fishing vessel was built in 1976. It was constructed of steel and was some 24.35 metres in length. At the time of the occurrence, the vessel's hull was very rusty and the mooring lines were not in good condition.

At mid-day on June 23 two Canadian Coast Guard Environmental Response (CCG ER) personnel motored from St. John's and arrived at St. Anthony the following day. Arrangements were made to meet with the owner's representative. (The owner himself resides in a community across the Strait of Belle Isle on the Labrador Coast.) The Coast Guard personnel conducted an assessment of the vessel's condition, which formed the basis for a Statement of Work for the owner to remove the oil pollutants from aboard the *Baffin Sound*. The personnel also met with the Harbour Authority of St. Anthony and briefed him about the situation. Upon return to St. John's, a Statement of Work (SOW) for removal of the pollutants from the *Baffin Sound* was developed. It was faxed to the owner for review and action. He was advised to provide his intentions and action plan. On June 30, the owner replied that he would be on site in St. Anthony on July 2 or 3 to take the necessary measures. Two CCG ER personnel returned to St. Anthony. The Coast Guard towed a trailer fitted with oil spill response equipment that may have been required during the tasking to monitor the vessel owner's response. The next day they arrived in St. Anthony and briefed the local Harbour Authority on the status of the operation.

On July 3, the owner arrived in St. Anthony and commenced the measures identified in the Statement of Work. Pails and drums of oil and waste were collected. The hydraulic lines to deck machinery were drained. The engine room generators, hydraulic and lube oil tanks were also drained. The owner reported that he was unsuccessful in arranging for a vacuum truck to remove diesel fuel from the tanks and oily waste from the bilges. The CCG ER personnel continued to monitor the removal of pollutants from the vessel as per the SOW. The owner did not make arrangements within the allotted time frame to hire a vacuum truck to remove the fuel oil. On July 7, after discussion with the Department of Fisheries and Oceans (DFO) legal, Coast Guard itself ordered a vacuum truck to remove the fuel and bilge waste. The vacuum truck removed 1,100 litres of fuel from the vessel into drums. Altogether there were 8,340 litres of waste oily water removed from the bilges. The owner's representative was on scene during the final operation. Coast Guard personnel briefed the local Harbour Authority on the status of the operation and returned to St. John's.

On December 2, 2015, the Canadian Coast Guard, on behalf of the Department of Fisheries and Oceans (DFO/CCG), filed a claim with the Administrator for costs and expenses incurred in the monitoring. The claim included the costs and expenses for on-site operations in the amount of $22,185.86, pursuant to the *Marine Liability Act* (MLA). The claim was received on December 9, 2015 and acknowledged the next day.

On February 24, 2016, after investigation and assessment of the claim, the Administrator made a final offer to DFO/CCG for the established amount of $22,185.86, plus interest, as full and final settlement pursuant to the Act. Coast Guard was informed that interest will be calculated upon acceptance of the offer. The Administrator noted that the prompt submission of this claim is appreciated. In this incident there was a shorter period than usual in the time between the occurrence and the filing of Coast Guard's claim with the Fund. When asked for clarification and additional support documentation on a few matters, the requested information was provided without delay. Enclosed with the offer of settlement was the standard Release and Subrogation Agreement to be executed on behalf of Coast Guard. Coast Guard was also informed that the Administrator will not proceed with requisitioning of funds until he receives the duly executed Release and Subrogation Agreement.

On March 1, 2016, a letter of acceptance of the offer of settlement was received. It did not, however, include the Release and Subrogation Agreement. Coast Guard advised that, with respect to the Agreement, the Commissioner is considering options on how to proceed. On March 1, 2016, the Administrator acknowledged receipt of the letter of acceptance. He again reminded Coast Guard that a requisition for payment would not be made until the issue of Release and Subrogation Agreements has been resolved. Meanwhile, the file remains open.

2.43 Mystery Spill, St. John's Harbour (2015)

Case number: 120-686

On July 4, 2015, the Canadian Coast Guard (CCG) received a report of an oil sheen on the surface of the water at Pier 10 in St. John's Harbour. (Pier 10 is the deep water pier in front of Water Street where large vessels such as cruise ships tie up.) A local tour boat operator reported the occurrence, he described it as thick oil covering an area of more than 50 square feet near Pier 10. A second report was received indicating that an oil slick extended along the shoreline of the Outer Battery towards the Harbour Narrows. In response, Canadian Coast Guard Environmental Response (CCG ER) personnel deployed small vessels and used sorbent material and booms to contain the oil slick. The pollution was found in several locations within the harbour, because it was being dispersed by the tidal flow. The sheen appeared to be used motor oil. Samples were collected for analysis.

Transport Canada Marine Safety were notified about the spill and commenced an investigation into the possible source. It was determined that the polar adventure cruise ship *Ocean Endeavour* had departed Pier 10 shortly before the pollution was found, but there was no report about an oil spill from the ship. In addition, Transport Canada informed Coast Guard that another vessel was boarded during the investigation.

Coast Guard hired Crosbie Industrial Services to help skim waste oil and oily water from the spill sites and dispose of the recovered contaminated materials. During the operation, 30 drums of soiled absorbent products were collected. A total of 10,600 litres of contaminated water and 400 litres of waste oil were recovered for disposal at the local waste reception facility. The sorbent boom streamed around the docks was recovered. Coast Guard utilized its own pollution response vessels for five full days during the clean-up operations. Coast Guard personnel also investigated whether the spill might have been released from dockside or land-based outlets into the Harbour, but no evidence of this was found. On July 8, the port authority was notified that the on-water recovery operations were completed.

On December 17, 2015, the Department of Fisheries and Oceans (DFO/CCG) filed a claim with the Administrator for costs and expenses in the amount of $27,169.98, pursuant to the *Marine Liability Act* (MLA). The Administrator acknowledged with appreciation the timely submission of this claim to the Fund.

The Administrator commenced an investigation and assessment of the claim. First, Transport Canada was requested to provide a copy of its on-site investigation as to the origin of the oil spill. On December 30, 2015, Ship Safety in

St. John's advised the Administrator that the investigation continues; however, the actual source of the oil spill still remains unknown. Based on the overall assessment of the filed claim documentation and further e-mail exchange with the Coast Guard's response supervisor, it was determined that the full amount of $27,169.98 was established. Therefore, an offer was made to Coast Guard by registered mail on January 20, 2016, in the amount of $27,169.98, plus interest, as full and final settlement.

On February 3, 2016, a letter of acceptance was received from Coast Guard, but it did not include the executed Release and Subrogation Agreement. The reply indicated that the Commissioner is considering options on how to proceed. The Administrator responded on the same day and again advised that he will not proceed with the requisitioning of payment of this claim until the issue of the Release and Subrogation Agreement has been resolved. Meanwhile, the file remains open.

2.44 Mystery Spill, False Creek (2015)

Case number: 120-682

This incident occurred in False Creek, Vancouver, on September 12, 2015. The diesel oil was discovered on the surface of the water between the Burrard and Granville Bridges on the north end of Granville Island. The diesel fuel accumulated near two boats of the whale-watching company, White Whales Vancouver. The oil was found under the piers where the boats were secured, and near a fleet of other boats at the Granville Island boat rentals, which were also tied up in the vicinity. When the oil was discovered, during the early morning, the owner of the boat rentals contacted the Coast Guard. At the same time, the whale watching personnel commenced an active clean-up response. The necessary absorbent pads were purchased and streamed to soak up the fuel oil. The responders collected all the deployed absorbent pads. They were placed into garbage bags for disposal at False Creek fuels. During the response operation the owner of the Granville Island Boat Rentals assisted with the clean-up.

When the Canadian Coast Guard Environmental Response (CCG ER) specialist arrived on scene, he boarded the whale-watching vessels and checked the bilges for diesel fuel. It was determined that the diesel fuel surrounding the boats and the docks did not come from the whale-watching boats. The Coast Guard employee speculated that the oil might have originated from one of the large fishing vessels that tie-up at the nearby fisherman's wharf. There was a trail of diesel sheen visible across the channel. The tides and current could have caused the pollution to concentrate in the area of whale-watching boats and dock space. However, Coast Guard later advised that no investigation was conducted in the location of the Fisherman's terminal.

On October 6, 2015, the Office Manager of Wild Whales Vancouver filed a claim in the amount of $959.02 with the Ship-source Oil Pollution Fund for costs and expenses incurred during response to the incident. On October 8, the Administrator acknowledged receipt of the claim, and requested that the claimant provide further information and support documentation, such as whether there are any service station or boat fueling facility in the area of the spill, that would support the likelihood of a land-based occurrence. Also, requested were copies of paid invoices for the purchase of absorbent pads and for invoices for the expense of disposal of the collected pollution. On October 26, the Administrator received the information requested.

During the investigation, the Coast Guard response officer was contacted by phone. In discussion, he confirmed that the incident had, in fact, occurred and was responded to in an appropriate manner by the two boat owners. Coast Guard followed up with a written letter in which it is noted that "the source remains a mystery". Based on the findings of the investigation and assessment of the documentation filed as evidence, the Administrator considered that reasonable measures were taken in response to the occurrence and that the claimed amount was established.

On November 4, 2015, the Administrator made a final offer to Wild Whales Vancouver for the established amount of $959.02, plus interest, as full and final settlement of the claim. The offer was accepted on November 27, when the duly executed Release and Subrogation Agreement was received at the office of the Administrator. On December 17, 2015, a cheque in the amount of $965.96, inclusive of $6.94 interest, was mailed to Wild Whales Vancouver as full and final settlement. No recourse action was available because the incident was a mystery spill. Accordingly, on December 17, 2015 the Administrator closed the file.

2.45 Arrow (2015)

Case number: 120-681

In late September 2015, the Administrator was informed that the Canadian Coast Guard (CCG) was investigating a report of oil sheens near the location where the tanker *Arrow* sank in 1970 after grounding in Chedabucto Bay, Nova Scotia. The oil slicks – estimated at 10 litres – were spotted by a Transport Canada pollution patrol aircraft.

By way of additional background information, it was on February 4, 1970, that the oil tanker *SS ARROW*, carrying almost 17,000 tonnes of Bunker "C" fuel oil, went aground in Chedabucto Bay, Nova Scotia. The *Arrow* subsequently broke in two and sank. Approximately, 10,000 tonnes of oil escaped from the tanker, contaminating the water and beaches of the Chedabucto Bay area. In the immediate aftermath of the sinking about 4,000 tonnes of oil were recovered, leaving over 6,000 tonnes remaining trapped in the ship's cargo tanks. After the *Arrow* incident, major amendments were made to the *Canada Shipping Act.* The principles of liability and compensation established by these amendments largely remain in force to this day.

At the end of the current fiscal year, Coast Guard informed the Administrator that it has taken measures to remove the accessible bunker "C" oil from the wreck leaving only small amounts of residue oil. On March 31, 2016, the Administrator closed this report file.

2.46 Sarah Desgagnés (2015)

Case number: 120-683

On November 6, 2015, the Administrator received a written enquiry from a lawyer representing the Makivik Corporation of Nunavik about the procedure to obtain compensation for loss of damage due to an oil spill caused by a tanker in Canadian waters. The enquiry was with respect to an oil spill occurrence caused by the tanker *Sarah Desgagnés* during its annual fuel delivery to the hamlet of Salluit, West of Ungava Bay. The lawyer asked whether it was necessary to first file judicial proceeding against the shipowner, or his insurer, or could he simply file a claim with the Ship-source Oil Pollution Fund.

The Administrator advised counsel for the Makivik Corporation that the Canadian regime is based on the fundamental principle that the shipowner is primarily liable for oil pollution damaged caused by the ship. Pursuant to the *Marine Liability Act* (MLA), the action for compensation may be taken directly against the shipowner or insurer by submitting a claim directly to them. In most cases this is the effective and timely way to proceed, particularly when the owner of the *Sarah Desgagnés* is a known responsible party. Furthermore, counsel was informed that a claim may be filed with the Administrator as a first resort. The lawyer was also mailed copies of the SOPF claims manual in both official languages.

The Administrator investigated with Coast Guard and learned that the spill had occurred in Northern Quebec on October 7, while the tanker was transferring fuel to the community. Strong winds and snow required the fuel transfer to be quickly stopped for safety reasons. Following the standard emergency disconnect process, the fuel line was severed by the ship's propeller. At the time, the fuel transfer had already stopped, but an estimated 3,000 litres of fuel was spilled from the fuel line. The fuel dissipated quickly, and there was no observable sheen seen around the tanker. On October 8, the CCGS *Terry Fox* arrived on site to assist in the initial assessments and clean-up operation, if necessary.

Representatives of Environment Canada assessed whether there were impacts to the shoreline; fish and wildlife. The risk was considered low but as a precautionary measure, and to address any potential impact on the subsistence harvest of clams and mussels, the local residents were advised not to conduct harvesting near the area until further notice. Coast Guard advised later that the *Sarah Desgagnés* took responsibility and appropriate measures to respond to the incident.

As of the end of the fiscal year, the Administrator has not received a claim for this incident. The file remains open.

2.47 Louis Jolliet (2015)

Case number: 120-684

In early November 2015, the cruise vessel *Louis Jolliet* was reported to be leaking diesel into the St. Lawrence River at Quebec City. On November 8, the amount of diesel pollution was reported by the media to be 7,500 litres, however, the company later confirmed that the amount was significantly less.

A Letter of Undertaking was not sought by the Administrator because the spill was limited and quickly addressed and further, the owner was known to operate a well established company in Quebec.

The Fund did engage counsel to liaise with the owner, Croisières AML, and to seek the owner's concurrence to provide a copy of their certificate of financial responsibility and to obtain their undertaking to handle clean-up and any future claims.

A letter was subsequently sent from the Administrator to the owner on November 17, 2015, outlining the Fund requirements. On December 2, 2015, the owner responded and agreed to the request from the Fund. A copy of the certificate of financial responsibility was provided as well as assurance that the company would deal with both the clean-up and any future claims.

The Administrator's file remains open.

2.48 Stelie II (2016)

Case number: 120-687

On March 29, 2016, the Administrator was informed by the Canadian Coast Guard that the fishing vessel *Stelie II* was a potential oil pollution threat in the harbour of Port Saunders, Newfoundland. The 90-foot vessel, built in 1963, had broken free of its moorings at the Northern Boat Repair facility and was causing damage to the dock. The vessel had a severe starboard list and was taking on water. The local authorities were concerned that there was fuel oil on board which would cause pollution.

Coast Guard personnel proceeded to Port Saunders to assess the situation. They met the vessel owner and advised him of his responsibility. The owner was also issued a Direction Order, but he did not respond as directed. Consequently, Coast Guard took the necessary measures to control the incident. The response personnel boarded the vessel and found that the engine room was nearly full of water. There was diesel fuel, lubricating oils, and other hydraulic oils on board, and oil on the ice around the wreck. The old wooden hull vessel was removed from the water to prevent it from sinking altogether. When the wreck was placed on the wharf of the Northern Boat Repair Company, it was found to be damaged both on the bow and stern.

Coast Guard has informed the Administrator that a marine surveyor will be engaged to assess the value of the vessel. Meanwhile, the file remains open.

3. Challenges and Opportunities

Since this report reflects the activities of the Ship-source Oil Pollution Fund (SOPF) during the last year of the outgoing Administrator, Alfred Popp, it might be appropriate to reflect on some of the challenges and opportunities that emerged in the course of his time at the SOPF, some nine years. This can be a short report, since details of those challenges and opportunities have been written up in previous Annual Reports.

When Alfred Popp took over in December 2006, the Fund administration consisted of the Administrator, one full-time executive assistant recruited from a temp agency to deal with all administrative matters and a Marine Consultant to assist in the claims work of the SOPF. Since then, the administration and operation of the SOPF has been completely transformed to ensure timely and effective operations, full transparency, and a degree of stability and retention of key personnel in its workforce.

Since the employees of the SOPF are not members of the Public Service of Canada and do not have access to the protections and benefits accruing to members of the public service, the Administrator concluded that something needed to be done to give some measure of security to its employees, as well as to make the SOPF a more attractive place to work in terms of benefits. Accordingly, the Administrator has offered contracts to key employees, in some cases, indeterminate contracts. Additionally, the Administrator has been able to negotiate some benefits for contracted employees, such as health coverage and disability insurance. While it is impossible for the Administrator to offer any pension benefits to employees, he has arranged to make contributions to registered retirement savings funds of employees.

One of the first challenges facing the Administrator in the early years of his administration was to reorganize completely the filing system of the SOPF to facilitate compliance with the *Access to Information* and *Privacy Acts*. This included the development of a proper recordkeeping system including a file retirement policy and the establishment of an electronic data bank to keep track of files, particularly of various prescription periods mandated by the governing legislation with respect to submitting claims and commencing recourse actions.

A further challenge was to bring transparency to the financial aspects of the Fund. To improve financial controls, yearly audits of the financial transactions of the SOPF were introduced, at first on a voluntary basis, subsequently to comply with legislative requirements enacted in 2010 amendments to the *Marine Liability Act* (MLA). In 2014, a special examination of the SOPF was conducted, which revealed that the SOPF was being operated efficiently and in a cost effective manner.

To improve public access to the operations of the SOPF, there has been on-going work on the website of the Fund. The site is now accessible to the public and provides historical information, access to our Annual Reports and information on how to submit a claim to the Fund.

An ongoing challenge for the office of the Administrator has been keeping up with information technology and maintaining a website. The SOPF is too small to have onsite IT personnel dedicated to this task. Therefore, the office has to rely on consultants and external providers which can raise security concerns.

The main business of the SOPF is of course the timely assessment and settlement of established claims that are submitted to the Administrator. The claims work of the Fund is detailed in the incident part of this report and previous Annual Reports. The record will show that, broadly speaking, claims are handled in a timely fashion. Regrettably, this cannot always be said about claims submission. The Administrator has repeatedly raised with claimants the issue of timely submission of claims, since late submission of claims work in favour of the polluter and against the polluter pays principle and can frustrate successful recourse actions.

Lately, a further problem has emerged. Since the beginning of 2015, the Administrator, in settling Canadian Coast Guard (CCG) claims, has requested a Release and Subrogation Agreement from the CCG before advancing compensation funds. This has been the practice of the Administrator with respect to non-CCG claims and also reflects the invariable practice of owners and their insurers. On the advice of counsel it was suggested that this practice should

also apply to CCG claims. However, to date, CCG has declined to provide Release and Subrogation Agreements in the standard form, on the grounds that the MLA does not mention such agreements. The result of this refusal is that some 17 offers of compensation remain unpaid. Currently there are discussions underway between Crown counsel and counsel for the Administrator to find a quick and inexpensive way to mediate this dispute, possibly by submission to the Federal Court of Canada. It should be noted that in those instances where the Administrator successfully recovers compensation, for example, from the insurers of the shipowner, he is invariably required to provide a release before any payments are made.

Another area of concern relates to the many wrecks and abandoned vessels in waters under Canadian jurisdiction. Problems associated with these vessels have been mentioned in previous Annual Reports. Current legislation does not provide an avenue for federal departments to deal effectively with the removal of these potential pollution threats until an accident happens.The liability and compensation regime set out in the MLA is ill-suited to deal with liability and compensation issues arising out of oil pollution caused by these vessels. The reason for this is that the regime, in its origins, is based on a series of international conventions aimed at providing compensation for major spills, such as spills from laden tankers and spills caused by ships bunkers. The incident that causes these spills can usually be quickly identified. To ensure adequate compensation on a timely basis, these regimes also include funds financed by cargo interests to supplement compensation available from the owners of ships.

It becomes a challenge to apply this regime to wrecks and abandoned vessels. When do they become a threat justifying the intervention of those charged with the responsibility to deal with the threat? What is the occurrence which triggers the running of limitation periods for bringing claims or mounting a recourse action? Another problem arising out of wrecks and abandoned vessels relates to the issue of what to do with them once they have been cleaned and the pollution threat has been addressed. Clearly, under the terms of the MLA, costs and expenses associated with responding to a ship-source oil pollution threat, to the extent that they are reasonable, are recoverable from the shipowner and, to the extent that the owner is unable or not readily identifiable, from the SOPF. However the SOPF is not available for wreck removal.

Given that a high proportion of claims submitted to the SOPF, usually by CCG, relate to wrecks and abandoned vessels and further that these claims often have a high dollar value, it would be timely to revisit the liability and compensation provisions of the MLA to adjust them so that they address this problem squarely. It should not be left to the Administrator to deal with them under the legislation that was clearly intended to deal with the big spill and not really with the ongoing and widespread problem of dealing with these vessels in Canadian waters.

4. Outreach Initiatives

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

During the fiscal year covered by this annual report, the Administrator attended meetings of the governing bodies of the IOPC Funds in London, England, as part of the Canadian delegation. (Section 5 refers.)

4.1 Meeting with Canadian Maritime Law Association and Government Officials

On April 8, 2015, the Administrator attended the annual meeting organized by Transport Canada with the Canadian Maritime Law Association (CMLA). This meeting, which was held in Ottawa, was informative since it provided an update on a number of government initiatives relating to marine transport, as well as some feedback from industry groups represented in the CMLA. The Administrator was asked to give a brief report on the activities of the SOPF. A number of other subjects were covered, notably progress on the World-Class Tanker Safety System initiative and implementation of the 2010 HNS Convention, in particular the passage of a Bill incorporating that convention, which received Royal Assent in December, 2014.

4.2 Canadian Marine Advisory Council (National)

The Canadian Marine Advisory Council (CMAC) is Transport Canada's national consultative body for marine regulatory amendments and other domestic marine matters. The CMAC meetings are traditionally held in Ottawa during the spring and autumn. However, in 2015 only one meeting was convened from April 21 to 23 at the Shaw Centre located in Ottawa. In addition, regional CMAC meetings are held in each of Transport Canada's operational regions. The Administrator was represented at the CMAC meetings by a Marine Consultant, Mr. Charles Gadula, who attended some of the sessions – namely, the opening plenary and the discussions and findings of the Standing Committee on the Environment. Participants include representatives of shipping companies, the fishing industry and other stakeholders who have a recognized interest concerning marine safety, recreational boating matters, navigational aids and so forth. There are Standing Committees and Working Groups that discuss a variety of issues and make recommendations for the development of regulations and standards. The CMAC meetings are of interest to the Administrator, particularly the discussions and findings of the Standing Committee on the Environment. The Administrator personally attends some of the meetings, but when he is unable to be present, the Fund is represented by a Marine Consultant. The Administrator wishes to keep abreast of the regulatory framework for the prevention of oil pollution from ships.

During the spring session of the CMAC meeting, the Minister of Transport, Ms. Lisa Raitt, spoke at the plenary and held a question and answer session. The Minister noted her pleasure at having the opportunity to meet stakeholders face to face and underlined the value of such meetings. She talked of the government commitment to a "World-Class Tanker Safety System" for Canada and noted the importance of the "polluter pays" principle. Ms. Raitt invited attendees to provide written comments on the just released Phase II, Tanker Safety Expert Panel report to better inform the government response. The Minister thanked the front line people across Canada who do the hands-on work and noted the need to develop a new workforce of trained professionals comprised of more women and more youth. She noted that government would continue to evaluate services and user fees and would continue to remove red tape. The Minister acknowledged the excellent and necessary work completed to address the safety of fishing vessels. All participants enjoyed the active question and answer session, particularly the well informed responses of the Minister.

The Associate Assistant Deputy Minister of Safety and Security, Mr. Donald Roussel, announced that Mr. Tim Meisner was appointed as the new Director General of Marine Safety and Security, Transport Canada. Mr. Meisner explained the Department's integration plans concerning National and Regional CMACs and advised that in future there would be greater participation by Headquarters personnel in Regional CMAC meetings. He also briefly mentioned the April 23 "R and D" forum planned for this CMAC and encouraged attendees to participate. Fishing vessel safety, particularly the "Stability" piece has been progressing well and it is expected to have a consensus draft document available in the fall. Mr. Meisner noted that there is significant activity in the Arctic, including the development of Marine Corridors, and the implementation of the Polar Code expected in 2017. Regarding environmental response, he mentioned area response planning as a significant new approach and coupled this with the e-nav work being undertaken by Fisheries and Oceans. Transport Canada also highlighted the work underway to achieve "World-Class Tanker Safety". Mr. Meisner explained that Canada will continue to further strengthen ship-source oil spill prevention, preparedness and response, as well as liability and compensation.

The Deputy Commissioner, Canadian Coast Guard, Ms. Nadia Bouffard, provided the Coast Guard update. She noted that Coast Guard was shifting to their client approach to building more partnerships. She also explained that the ice season (2014/15) had significant demands on Coast Guard personnel and ships. There was a demand by clients to have icebreaking services available for a greater part of the year. It is the intention of Coast Guard to update their icebreaking requirements program. The Deputy Commissioner also explained that Coast Guard rarely is called on to respond to oil spills but noted the following incidents as requiring significant effort *Marathassa*, *Chaulk Determination*, *Zalinski*, and the *Manolis L*. She further identified the concerns of both Transport Canada and Fisheries and Oceans Canada with respect to the many derelict vessels that are the cause of oil pollution incidents. The Deputy Commissioner emphasized that the Coast Guard continues to work with stakeholders to address the concerns about derelict vessels. Coast Guard practices are under review to ensure effective and timely coordination to manage these situations.

Updates were provided by Canadian Hydrographic Service (CHS) on Navigation Safety and Efficiency initiatives, by Canada Border Services Agency (CBSA) on an Alternative Approach to Arctic Commercial Marine Clearances and by Transport Canada on the Priorities of their regulatory plan.

4.3 Canadian Marine Advisory Council (Prairie and Northern Region)

The Administrator was invited to attend the Canadian Marine Advisory Council – Prairie and Northern Region Meeting held in Iqaluit on May 13 and 14, 2015. The Ship-source Oil Pollution Fund was represented by a Marine Consultant, Mr. Charles Gadula. The meeting was co-chaired by the Regional Director, Marine, Transport Canada, Prairie and Northern Region and the Director Maritime Services, Canadian Coast Guard, Central and Arctic Region. The meeting was well attended with representatives from Transport Canada, Canadian Coast Guard, Baffin land Project, Government of Nunavut, Government of NWT, and many shipping companies including NTCL, NEAS, Desgagnés, Petro Nav, Crystal Cruises and Arctica. In addition the National Research Council provided a presentation on the Canadian Arctic Shipping Risk Assessment System – CASRAS. A tour of the state of the art marine training simulator in Iqaluit was made available to attendees.

Transport Canada provided a regional update on their activities including Technical Services, Marine Safety and Marine Security. The update was followed with detailed presentations by subject matter experts. A "CD" of the presentations was made available to attendees of the meeting.

The Coast Guard provided a regional update as well as a program update specific to the Arctic. The meeting was informed that Mr. Mario Pelletier has been appointed as Deputy Commissioner, Canadian Coast Guard.

Detailed informative presentations were made to the group covering subjects including: research and development; the Sealift Safety Program; Canadian Arctic Shipping Risk Assessment System; future development requirements in individual communities; Baffin land and the phased development of the Mary River Iron Ore Project; WWF – information within Hudson Strait and Nunavut Sealink and Supply Inc. and Taqramut Transport Inc. These presentations provided insight into the challenges facing northern shipping and thoughtful ideas on the way ahead.

It was noted that future meetings should include a presentation by an ice expert on the seasonal outlook as this information is considered critical. The limited availability of Coast Guard icebreakers to assist shipping during sealift was identified as a concern; the principals undertook to find a workable solution.

By having a representative at the meetings, the Administrator keeps up to date on the issues surrounding the transportation by sea of oil products throughout the high Arctic and the many challenges that shippers face.

4.4 Arctic and Marine Oilspill Program (AMOP) Seminar

The Administrator was represented by a Marine Consultant, Captain George Legge, at the 38th Arctic and Marine Oilspill Program (AMOP) seminar held in Vancouver, British Columbia, from June 2 to 4, 2015.

By way of background, Environment Canada began the AMOP technical seminar in 1978 to improve the knowledge base and technology for cleaning up Arctic marine oil spills. Basically, the AMOP seminars have evolved into an international technical forum about oil spills in any geographical area, as well as other spill-related topics. It has gone beyond the original intent of Environment Canada more than 38 years ago when AMOP first sought to improve the knowledge base and technology for cleaning up Arctic and other marine oil spills. Presently, the seminars are organized annually by the Emergencies Science and Technology Section (ESTS) of Environment Canada. Most of the ESTS projects are conducted in partnership with other government departments, agencies and industry.

The annual seminar is a venue to facilitate the transfer of scientific research and development on a variety of topics related to environmental emergencies caused by spills of oil and other hazardous materials.

In Vancouver, the presenters were from many parts of Canada and from the USA, United Kingdom, Spain, Australia, Norway, Finland, and Denmark. The seminar featured plenary sessions of approximately 20 minutes on spill-related topics including oil, chemical and biological research. The presentations were followed by a question and answer period. Poster sessions were also held daily at which participants presented their most recent research. In addition, a number of exhibits were set up to display equipment used for oil and chemical cleanup, spill-related services and the latest technologies.

The overall seminar addressed, among many other things, the following:

- Detection, tracking and remote sensing of oil spills under ice and in other Arctic conditions
- Oil spill modelling, which covered new developments in the general operational modelling environment
- Contingency planning, preparation and prevention of spills of chemicals and hazardous materials
- Case histories and recent chemical spill experiences
- Special session on diluted bitumen and pipeline spills
- An update on shoreline surveys and the penetration and retention of diluted bitumen into the marine shoreline
- The use of spill treating agents in Canada and the selection of appropriate products
- The fate and effects of oil
- Building an oil spill response team
- An environmental risk analysis of oil handling facilities in port areas
- The *M/V Zalinski* salvage operation: an overview of Environment Canada's role
- The Eastern Canada Response Corporation Ltd. (ECRC) response to the oil spill following the train incident at Lac Mégantic, Quebec.

The up-to-date information obtained during attendance at the AMOP seminars is valuable for any consultant engaged in the process of investigating and assessing claims filed with the Administrator of the SOPF. The person-to-person contact with participants and the discussion on the margin are also very beneficial.

4.5 Marine Oil Spill Exercise – Hamilton Harbour

The Administrator was represented by a Marine Consultant, Captain George Legge, at the two-day Marine Oil Spill Exercise held in Burlington, Ontario, on May 12 and 13, 2015. The exercise was conducted by the Eastern Canada Response Corporation (ECRC). It involved ECRC representatives from Ottawa Headquarters and from St. John's, Halifax, Quebec, and Corunna, Ontario. Also the Western Canada Marine Response Corporation (WCMRC) based in Vancouver was represented. The participants included personnel from Algoma Tankers, the Canadian Coast Guard, Environment Canada, Transport Canada and the Hamilton Port Authority – some 65 persons in all.

The objective of the training and exercise program was to evaluate the capability of the Response Organization (RO) oil spill operational management and the training of spill responders, including the deployment of spill response equipment. The general scenario was a Tier IV Exercise – that is, a 10,000 tonne table top exercise. It was designed to demonstrate that the Response Organization (RO) can quickly establish a management team and identify the necessary resources to respond to a significant marine oil spill.

The Canadian Response Organizations are required to file for certification over a three-year cycle and demonstrate a response plan that conforms to the regulations of *Canada Shipping Act*. A report of the Tier IV Exercise held in Burlington would be submitted to Transport Canada for certification purposes. The certification is dependent on the approval of a response plan that conforms to the regulations respecting the procedures, equipment and resources that will be used by the RO for a spill of a specified quantity of oil within its geographic area.

For the exercise scenario, the laden Algoma tanker, *Algoscotia*, was at anchor in Hamilton Harbour awaiting a berth assignment. A foreign bulk cargo vessel was proceeding to an anchorage in close proximity to the *Algoscotia* and, due to a propulsion problem, the vessel lost control and collided with the tanker. The force of impact caused the vessel to imbed itself three metres into the hull of the *Algoscotia*. The contents of #3 and #4 cargo fuel tanks were released to the surrounding waterway. There was a loss of approximately 1765 metric tonnes of ultra low sulphur diesel oil.

The responsible party, Algoma Tankers, engaged the ECRC for the waters of the Great Lakes. Algoma Tankers maintained the role of On-Scene Commander throughout the exercise. On the other hand, the Canadian Coast Guard assumed the responsibility of the Federal Monitoring Officer. The assembled management team was staffed from seven different ECRC regional offices, and they coordinated their efforts with the responsible party.

The Marine Consultant for the Ship-source Oil Pollution Fund attended at the government docks of the Canadian Centre for Inland Waters to view several of the equipment deployments, which included the streaming of containment booms and mobile skimming/sweep systems and other oil recovery units. The overall operational plan was spread over seven days for a total expenditure of approximately $2.5 million. The Administrator finds that the attendance of a Marine Consultant at the table top exercise as an observer on behalf of the Ship-source Oil Pollution Fund was beneficial toward assessing future claims that may be filed under similar circumstances.

4.6 Clean Pacific Conference – Vancouver, BC

The Administrator was invited to attend the above-mentioned conference, in Vancouver, June 16 – 18, 2015. The conference, held on a biannual basis, dealt with all aspects of pollution response. The theme of the conference was the changing landscape: shifts in rail, pipeline and vessel transportation. There was a good mix of public and private sector people in attendance, both from Canada and from the United States. The Administrator was invited to attend and speak on a panel devoted to funding and insurance issues. In his presentation, the Administrator provided an outline of the history and development of the Ship-source Oil Pollution Fund, described how the claims mechanism works and advised on the interplay between the Canadian Fund and the International Oil Pollution Compensation Funds.

4.7 Canadian Coast Guard Environmental Response Workshop – Pacific Region

The Administrator received a request from senior Canadian Coast Guard officials to participate in its Oil Pollution Response Workshop held in Richmond, British Columbia. The Administrator was represented by a Marine Consultant, Captain George Legge. As requested, the Consultant attended the workshop on November 23, 2015, and gave presentations which addressed concerns with respect to the investigation and assessment of claims filed with the Fund by the Coast Guard. One of the prime areas of concern is the filing of a claim near the very end of the prescription periods laid down in the *Marine Liability Act* (MLA). It was pointed out that filing a claim long after the response to an incident has been completed entails certain risks, particularly when the Administrator must take all reasonable measures to recover payment from the shipowner responsible for the occurrence. Coast Guard was encouraged to submit their claims as soon as practical after the response action has been completed.

The second part of the presentation addressed the Administrator's concern about the occasional inadequacy of documentation submitted by the claimant. Where there is insufficient substantiating documentation filed with a claim, it is difficult to conduct a thorough investigation and assessment. Frequently, the Administrator has to request additional materials, which inevitably leads to delay in the assessment of Coast Guard claims.

Another part of the discussions was focused on the Fund's new claims manual. It was explained that the purpose of this manual is to assist claimants in the filing of claims with the SOPF. It provides general information about the type of claim for compensation that may be filed, and the particulars that the supporting claim documentation should include, such as a good narrative chronology of the events surrounding the incident. Basically, the claims manual is intended to be a practical guide for presenting claims to the Administrator of the SOPF to ensure that the supporting material is comprehensive and complete.

The presentation and participation of the Fund's Marine Consultant were well received. There was a positive exchange of views on the issues raised. The Administrator is interested in visiting other Coast Guard workshops and continuing the ongoing cooperation and working relationships between both agencies.

4.8 Transport Canada Workshop on the 2010 HNS Convention

The Administrator attended a workshop on the 2010 HNS Convention organized by Transport Canada in Montréal, March 17 and 18, 2016. This convention, originally adopted at a diplomatic conference in 1996, was modified by a protocol adopted at a diplomatic conference in 2010. The modified version of the convention has come to be known as the 2010 HNS Convention. The aim of the convention is to fill a critical gap in the global network of liability and compensation conventions for ship-source oil pollution. It would, for example, cover oil spills from ships not covered by that global network of conventions. Hence early entry into force of the convention would be of interest to the SOPF, since it would provide further cover for oil spills which might otherwise fall on the SOPF.

Canada has played a leading role in promoting efforts to achieve speedy entry into force of the convention. The aim of the workshop was to provide a forum for discussion of necessary steps to be taken to implement the convention. It should be noted that the convention has been incorporated into Canadian legislation *Marine Liability Act* (MLA), but it has not yet been brought into force in Canada. It is necessary for the proper functioning of the convention, which includes a fund to pay compensation supplementary to compensation payable by shipowners and their insurers, for a critical mass of states to implement the convention.

The Administrator, who had a critical role to play at both the 1996 conference and at the 2010 conference in supervising the negotiations at those conferences, was invited to make a presentation giving a brief history of the convention. Accordingly, he gave an introductory presentation at the opening of the workshop. The participants at the workshop consisted of government officials from a number of states, as well as industry representatives. The workshop was well organized and provided some excellent discussion which, hopefully, will advance the implementation of this important convention as quickly as possible.

5. SOPF Involvement in the International Compensation Regime

5.1 IOPC Funds Meetings (April 2015)

The Administrator attended, as part of the Canadian delegation, the meetings of the governing bodies of the IOPC Funds held in London, April 20 to 23, 2015. For a detailed account of the meetings, please refer to the IOPC Funds website: http://www.iopcfunds.org/

The Executive Committee of the 1992 Fund undertook a review of the ongoing incident files. Most of the reports submitted by the Secretariat were progress reports. In the case of the *Hebei Spirit*, the largest incident currently before the Executive Committee, it was decided to maintain the level of payment of established claims at 35%. This issue will be revisited at the October meeting of the Executive Committee.

Since there was no quorum at the beginning of the meeting, the 1992 Assembly reconstituted itself as the Administrative Council. The main issue for discussion related to interim payments in the aftermath of the winding up of the 1971 Fund.

Over the years, a system of interim payments has been developed. These payments are usually made by the P&I Clubs. They constitute an essential element of the claims settlement process, developed over many years, particularly in major incidents, where the total amount of established claims is likely to exceed the shipowner's limit of liability. The mechanism is intended to ensure speedy payment of established claims.

In the light of what happened in the winding up of the 1971 Fund, with particular reference to the *Nissos Amorgos* case, these arrangements will have to be re-visited. The International Group has signalled that in future incidents, the clubs may be reluctant to make interim payments and, might, instead, simply put up security for the limit of the shipowner's liability. To avoid undue delay, the IOPC Funds would then have to become involved in the payment of established claims at a much earlier stage than has been the practice. A workable interim payment scheme is therefore desirable.

The Secretariat has advised that a meeting with the International Group has been scheduled for the beginning of May to discuss what changes need to be made to the current MOU between the IOPC Funds and the International Group to continue interim payments in future incidents.

The Administrative Council gave the green light for the publication of the Guidelines for presenting claims for clean up and preventive measures. The debate revealed that a number of delegations saw these Guidelines strictly as guidelines that would not be binding on national courts in the event of a dispute on specific aspects of a particular claim. The Administrative Council also discussed the draft Guidelines for Member States in the Management of Fisheries Closures and Restrictions, but work on these guidelines have not been finalized.

5.2 IOPC Funds Meetings of the Governing Bodies (October 19 – 23, 2015)

The Administrator attended meetings of the governing bodies of the IOPC Funds, held in London, October 19 to 23, 2015, as part of the Canadian delegation. A detailed account of these meetings is contained in the Records of Decisions, http://documentservices.iopcfunds.org/ IOPC/OCT15/11/1. In keeping with past practices, the Executive Committee of 1992 IOPC Fund reviewed reports on all incidents that remain open. There are no incidents to which the Supplementary Fund applies. At the fall session, the IOPC Funds also adopted a budget for 2016.

5.3 Executive Committee

It has been a relatively quiet year for the IOPC Funds in terms of claims settlement, since no new incidents have been reported. For present purposes, reference will be made to three incidents. Details of other incidents that remain outstanding can be found in the Records of Decisions, referred to above.

The Executive Committee was advised that in the *Erika* incident, the last outstanding claim had become stale for lack of prosecution. Under French law, legal actions become stale if there is no activity for ten years. Consequently, this incident, which dates back to December 1999, is now closed.

Unfortunately, this cannot be said of the *Prestige* incident, which dates back to November 2002, where criminal proceedings only concluded in November 2013, with the result that compensation issues to a significant extent remain unresolved, not only in Spain, but also in France. Although under Spanish law, civil claims can be submitted to the criminal courts, those courts only have jurisdiction to deal with them if the accused parties were found criminally responsible. It may be recalled that criminal charges had been brought against the master, the chief engineer and the civil servant who had refused to allow the ship into a place of refuge in Spain. All three parties were acquitted of criminal responsibility for the incident. It is impossible to predict when all civil claims will be resolved and this case can be closed.

While most of the compensation issues in the *Volgoneft*, which dates back to November 2007, have been resolved, there is one issue that has not been resolved and, consequently, this incident remains open. The issue relates the limitation of liability of the shipowner. It may be recalled that the limit was established at a lower level than was provided under the 1992 Civil Liability Convention at the time of the incident. The Russian authorities had failed to implement the latest limits of liability agreed to under that Convention. After protracted proceedings in the Russian courts, it was decided that the higher limits should prevail. Although this has now been rectified, it has resulted in an overpayment of compensation by the IOPC Funds to certain, non-government claimants. How the IOPC Funds should recoup these overpayments has not yet been decided, so this case remains open.

By far the biggest case being dealt with by the IOPC Funds relates to the *Hebei Spirit* incident, off the west coast of the Republic of Korea in December, 2007. This resulted in a vast number of claims, some 127,483, many of which have been resolved. Nevertheless, legal proceedings are underway and, although the Korean courts are dealing with them in an efficient and timely fashion, it is not clear when this matter can be finally resolved. It seems clear, however, that the 1992 IOPC Fund will have to pay compensation up to the limit of its liability. At the time of the incident, the Republic of Korea was not a party to the Supplementary Fund. Because of the uncertainty regarding the total amount of compensation that might be payable, the level of payment was fixed at 35% to avoid the possibility of the IOPC Funds having to pay compensation beyond its limit of liability.

Given the favorable manner in which claims are being handled and given, further, the guarantees provided by the Korean Government under the Special Law adopted in connection with this incident, the Executive Committee agreed to raise the level of payment to 50%. The Committee also instructed the Director to explore the possibility of a global settlement with the Korean Government.

5.4 Administrative Council

On the first day of the meeting, it was clear that the quorum requirements for the Assembly had not been achieved. Consequently, the Assembly reconstituted itself into the Administrative Council with authority to act on behalf of the Assembly. For details of the business dealt with by the Council, the Record of Decision, referred to above, should be consulted. For present purposes, it is proposed to deal only with the budget and with the levy of contributions.

The Secretariat submitted its proposal for the 2016 budget. The draft budget covers both the administrative costs of the Organization, dealt with in the General Fund, and includes estimates for levies of contributions to the various Major Claims Funds established in relation to certain incidents.

With respect to the General Fund, it was agreed to levy a contribution of £ 4.4 million, payable by March 1, 2016. The invoice for the Canadian share of that contribution was received November 27, 2015.

In relation to two incidents, the *Alfa* incident and the *Nesa R3* incident, it was agreed to make a deferred levy of £ 6 million, subject to the Executive Committee's decision to make payments in respect of these incidents. With respect to the other Major Claims Funds, it was decided not to levy contributions.

6. Financial Statements

This section contains the auditor's report on the financial position of the SOPF and the results of its operations as of March 31st, 2016.

SHIP-SOURCE OIL POLLUTION FUND

FINANCIAL STATEMENTS

MARCH 31, 2016

SHIP-SOURCE OIL POLLUTION FUND

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INDEPENDENT AUDITOR'S REPORT

To the Administrator of
Ship-source Oil Pollution Fund

We have audited the accompanying financial statements of the Ship-source Oil Pollution Fund, which comprise the statement of financial position as at March 31, 2016, the statements of operations, change in net financial assets and cash flows for the year then ended, as well as a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements

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

Auditor's Responsibility

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

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

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

Opinion

In our opinion, the financial statements present fairly, in all material respects, the financial position of the Ship-source Oil Pollution Fund as at March 31, 2016, as well as the results of its operations, its change in net financial assets and its cash flows for the year then ended in accordance with Public Sector Accounting Standards.

Budget

As explained in Note 11 to the financial statements, budget figures are not disclosed in the financial statements, although it is required according to Public Sector Accounting Standards.

Chartered Professional Accountants, Licensed Public Accountants

Ottawa, Ontario
May 31, 2016

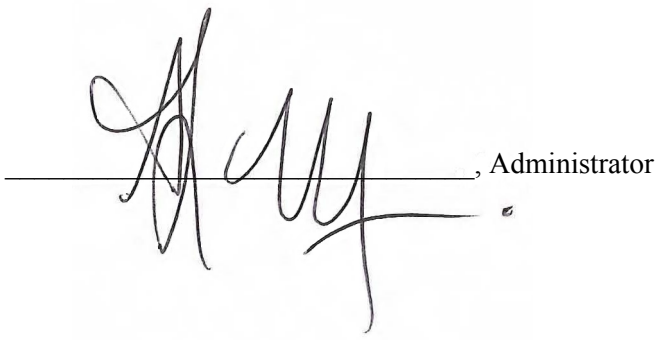
SHIP-SOURCE OIL POLLUTION FUND

STATEMENT OF FINANCIAL POSITION

MARCH 31, 2016 **3**

	2016	2015
FINANCIAL ASSETS		
Balance of the account with Receiver General for Canada (Note 3)	**$ 411,346,610**	$ 409,835,893
Accrued interest receivable	**202,498**	-
Prepaid expenses	**1,730**	1,690
TOTAL FINANCIAL ASSETS	**411,550,838**	409,837,583
LIABILITIES		
Accounts payable and accrued liabilities	**1,854,408**	336,633
Provision for claims under review (Note 4)	**1,271,890**	948,619
TOTAL LIABILITIES	**3,126,298**	1,285,252
NET FINANCIAL ASSETS	**408,424,540**	408,552,331
NON-FINANCIAL ASSETS		
Capital assets (Note 5)	**74,057**	97,963
ACCUMULATED SURPLUS	**$ 408,498,597**	$ 408,650,294

Contingencies (Note 6)



_____, Administrator

SHIP-SOURCE OIL POLLUTION FUND

STATEMENT OF OPERATIONS
FOR THE YEAR ENDED MARCH 31, 2016

	2016	2015
REVENUE		
Interest	**$ 3,009,550**	$ 5,266,651
Recoveries related to previously awarded settlements	**1,000**	133,144
	3,010,550	5,399,795
CLAIMS		
Payments or commitments made towards Canadian claims	**1,351,144**	341,218
Increase of provision for claims under review	**323,271**	144,599
International Oil Pollution Compensation Funds Contributions (Note 6)	**268,029**	246,095
	1,942,444	731,912
	1,068,106	4,667,883
OPERATING EXPENSES		
Administrator's fees	**92,950**	99,000
Legal fees	**126,053**	83,527
Consulting fees	**235,040**	133,176
Audit fees	**15,820**	16,498
Special examination fees	**-**	56,500
Administrative services, salaries and office	**446,715**	467,789
Travel	**17,693**	37,310
Rent	**196,487**	225,717
Access to Information and Privacy Act (Note 8)	**62,994**	60,633
Amortization of capital assets	**26,051**	129,157
	1,219,803	1,309,307
OPERATING SURPLUS (LOSS)	**(151,697)**	3,358,576
ACCUMULATED SURPLUS, BEGINNING OF YEAR	**408,650,294**	405,291,718
ACCUMULATED SURPLUS, END OF YEAR	**$ 408,498,597**	$ 408,650,294

SHIP-SOURCE OIL POLLUTION FUND

STATEMENT OF CHANGE IN NET FINANCIAL ASSETS

FOR THE YEAR ENDED MARCH 31, 2016 5

		2016		2015
OPERATING SURPLUS (LOSS)	**$**	**(151,697)**	$	3,358,576
Acquisition of capital assets		**(2,145)**		(9,656)
Amortization of capital assets		**26,051**		129,157
Loss on disposal of capital assets		**-**		586
		23,906		120,087
INCREASE (DECREASE) IN NET FINANCIAL ASSETS		**(127,791)**		3,478,663
NET FINANCIAL ASSETS, BEGINNING OF YEAR		**408,552,331**		405,073,668
NET FINANCIAL ASSETS, END OF YEAR	**$**	**408,424,540**	$	408,552,331

SHIP-SOURCE OIL POLLUTION FUND

STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED MARCH 31, 2016

		2016		2015
OPERATING TRANSACTIONS				
Operating surplus (loss)	**$**	**(151,697)**	$	3,358,576
Adjustments for:				
Amortization of capital assets		**26,051**		129,157
Loss on disposal of capital assets		**-**		586
		(125,646)		3,488,319
Net change in non-cash working capital items:				
Accrued interest receivable		**(202,498)**		1,000
Prepaid expenses		**(40)**		(501)
Accounts payable and accrued liabilities		**1,517,775**		206,857
Provision for claims under review		**323,271**		144,599
		1,638,508		351,955
INVESTING TRANSACTION				
Acquisition of capital assets		**(2,145)**		(9,656)
INCREASE IN BALANCE OF ACCOUNT WITH RECEIVER GENERAL FOR CANADA		**1,510,717**		3,830,618
BALANCE, BEGINNING OF YEAR		**409,835,893**		406,005,275
BALANCE, END OF YEAR	**$**	**411,346,610**	$	409,835,893

1. GOVERNING STATUTES AND PURPOSE OF THE ORGANIZAT/ON

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

2. SIGNIFICANT ACCOUNTING POLICIES

Basis of accounting

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

Accounting estimates

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

Revenue recognition

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

Capital assets

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

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

Recognition of the provision for claims under review

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

Recognition of the Contributions to the International Oil Pollution Compensation Funds

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

Foreign currency translation

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

3. BALANCE OF THE ACCOUNT WITH RECEIVER GENERAL FOR CANADA

The cash balance of the Fund is held within the Consolidated Specified Purpose Accounts of the Government of Canada. Public Works and Government Services Canada acts as the custodian of this cash balance and Transport Canada performs the various transactions on behalf of the Fund. Interest is credited to the account in accordance with the provisions of the MLA at a rate based on a 5-year Government of Canada bond interest rate, calculated monthly. The interest rates varied between 0.46% and 0.98% during the year (2015: 0.66% and 1.57%). The average interest rate for March 2016 was 0.62% (2015: 0.70%).

4. MEASUREMENT UNCERTAINTY

Due to uncertainties inherent to the claims review process, it is possible that the provision for claims under review may be insufficient. Accordingly, a provision of $1,271,890 for claims received prior to March 31, 2016 (2015: $948,619) but not completely reviewed by that date has been calculated and recorded in the books. This provision is based on management's estimate and supported by claims payment historical data. All subsequent adjustments due to further investigation will be recognized in the year in which the claims are reviewed.

5. CAPITAL ASSETS

	2016		
	Cost	**Accumulated amortization**	**Net book value**
Computer equipment	**$ 153,800**	**$ 152,371**	**$ 1,429**
Furniture and equipment	**185,555**	**112,927**	**72,628**
Leasehold improvements	**487,714**	**487,714**	**-**
	$ 827,069	**$ 753,012**	**$ 74,057**

	2015		
	Cost	Accumulated amortization	Net book value
Computer equipment	$ 151,768	$ 144,988	$ 6,780
Furniture and equipment	185,555	94,372	91,183
Leasehold improvements	487,714	487,714	-
	$ 825,037	$ 727,074	$ 97,963

6. CONTINGENCIES

The Ship-source Oil Pollution Fund may be required to make contributions to the International Oil Pollution Compensation Funds, for which the amount owing is determined by the International Oil Pollution Compensation Funds. The amounts contributed are used to pay compensation for claims arising under the jurisdiction of the contracting states to the International Oil Pollution Compensation Funds. The size of the contribution is contingent on the number of claims received by the International Oil Pollution Compensation Funds, resulting in varying levels of contributions from year to year. Given this volatility, it has been determined that this contribution cannot be reasonably estimated from year to year. The amount of the contribution is paid and recorded by the Ship-source Oil Pollution Fund once the contribution is determined and requested by the International Oil Pollution Compensation Funds. During the year ended March 31, 2016, the Fund has contributed $268,029 (2015: $246,095) to the International Oil Pollution Compensation Funds.

During the fiscal year commencing April 1, 2016, the maximum liability of the Fund is $168,656,700 (2015: $165,837,463) for all claims from one oil spill. Furthermore, as of April 1, 2016, the Minister of Transport also has the statutory power to impose a levy of 50.59 cents (2015: 49.74 cents) per metric tonne of "contributing oil" imported into or shipped from a place in Canada in bulk as cargo in a ship. Both the maximum liability and the levy are indexed annually to the consumer price index. No levy has been imposed since 1976.

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

7. INFORMATION INCLUDED IN OPERATIONS

		2016		2015
Foreign exchange gain included in the recoveries related to previously awarded settlements	**$**	**-**	$	1,563
Foreign exchange gain (loss) included in the International Oil Pollution Compensation Funds contributions	**$**	**3,977**	$	(19,436)

8. ACCESS TO INFORMATION AND PRIVACY ACT EXPENSES

		2016		2015
Consultant fees	**$**	**58,678**	$	54,452
Records and information management database		**3,146**		5,932
Administration costs		**1,170**		249
	$	**62,994**	$	60,633

The *Access to Information and Privacy Act* expenses incurred in 2016 are related to application development and system improvements of a records and information database and activities to facilitate the processing of access to information requests and to ensure that records containing personal information are dealt with in accordance with privacy laws and regulations.

9. RELATED PARTY TRANSACTIONS

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

Rent

During the year, the Fund has paid $196,487 (2015: $225,717) to Public Works and Government Services Canada (PWGSC) for the use of office space.

As a tenant, the Fund is also responsible to pay its share of escalation costs annually. The lease agreement has not yet been renewed as at May 31, 2016.

Accounting services

During the year, the Fund has paid $29,178 (2015: $29,934) to Transport Canada for accounting services.

10. SUBSEQUENT EVENT

The Fund recognizes a provision for an indemnification claim when a formal and duly prepared claim is submitted by the claimant and is effectively received by the Fund. All claims received before March 31, 2016 were provided for in the financial statements. During the period from April 1, 2016 to May 31, 2016, the Fund has received an additional claim totalling $149,044. This claim is not provided for in the financial statements.

11. BUDGET

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