

INTERVIEW OF THE MONTH

ANNE LEGARS - ADMINISTRATOR OF THE SHIP-SOURCE OIL POLLUTION FUND (SOPF)

Anne Legars, who has served as Administrator of the Ship-source Oil Pollution Fund (SOPF) since May of 2016, has been reappointed Administrator for a five-year term, beginning March 26, 2018.

Over the past 25 years, she has worked extensively on maritime, transportation, environment and trade files, issues and policies as a lawyer, a trade association representative, and head of organizations.

Member of the Quebec Bar, Anne Legars holds a Bachelor, a Master and a Post-graduate Degree in Law from Université de Grenoble II, France, as well as a Bachelor in Law equivalency and a LL.M. from Université de Montréal. She also holds a Bachelor's Degree in Political Science from Institut d'Études Politiques de Grenoble, France. and is also a Certified Association Executive (CAE).



Ms. Legars, could you tell us about the Ship-Source Oil Pollution Fund?

Simply put, we receive and assess claims for any type of damage caused by any type of oil spilled by any class of ship or boat in Canadian waters.

"For 30 years, the Fund has been mandated to pay victims' claims for oil pollution damage (including costs incurred for preventive measures) caused by ships and then take action against the polluters or responsible parties."

The biggest claim the Fund has paid to a single claimant was granted in 2018, when \$4.2 million was paid to the Canadian Coast Guard after the *Chaulk Determination*, which was carrying 22 tons of pollutants, sank in section 1 of the Port of Trois-Rivières.

The Fund also covers the Canadian contribution to the IOPC Fund, which compensates Canadian

victims in cases involving oil spills from tankers. IOPC Fund membership enabled direct IOPC Fund payment of damages caused by the oil tanker *Rio Orinoco* (approximately \$12 M) after it sank off Anticosti Island in 1990.

When a claim is received and assessed, we make an offer for the amount established. Claimants may contest our assessment before the Federal Court and this has happened twice in the Fund's history. If the claimant accepts the offer, we become subrogated as soon as payment is made. This allows us to take action against the owner of the ship or boat (or his insurer) and claim reimbursement for the amounts paid to the victim.

If the victim takes legal action directly against the ship owner or his insurer, we pay the amounts established that cannot be recovered if the ship owner is insolvent or if the damages exceed his liability limit.

We also compensate victims of “mystery spills”, that is marine oil pollution that cannot be attributed to a specific vessel when it is likely that the origin of the damage is not land-based.

Fund accounting is reported under the Consolidated Revenue Fund of Canada. Today, the Fund represents approximately \$408 million due to interest accumulated, since the Fund’s credit balance earns statutory interest, paid monthly by the Treasury.

The Fund is managed by an Administrator, who is completely independent of the Government and who reports to Parliament every year through the federal Minister of Transport. Located in Ottawa, the office of the administrator includes a 20-person multidisciplinary team and is shared with another compensation fund (Fund for Railway Accidents). We also have a network of lawyers and experts Canada-wide and work closely with the IOPC Fund, international insurers (P&I) and our US counterpart.

This year, the Fund is celebrating its 30th anniversary. Can you briefly outline its history and tell us what challenges it will face in the future?

Over the past 30 years, the Fund has received more than 409 claims for small or medium-sized incidents involving oil pollution, cleaning operations or taking preventive measures.

«This anniversary offers an ideal opportunity to interact more with a great many stakeholders in order to continue promoting access to justice while respecting ship owners’ interests.»

Challenges facing the Fund are to continue making itself known to potential claimants and ship owners – more specifically, fishing boats and pleasure craft – in order to inform them of their potential liability.

Another challenge is to step up work with the other payers involved in the process – insurers, international funds and US funds – to optimize compensation’s effectiveness in cases of incidents involving more than one of us.

Last December, the Canadian Parliament adopted Bill C-86. Can you explain what this means for the Fund and the marine industry?

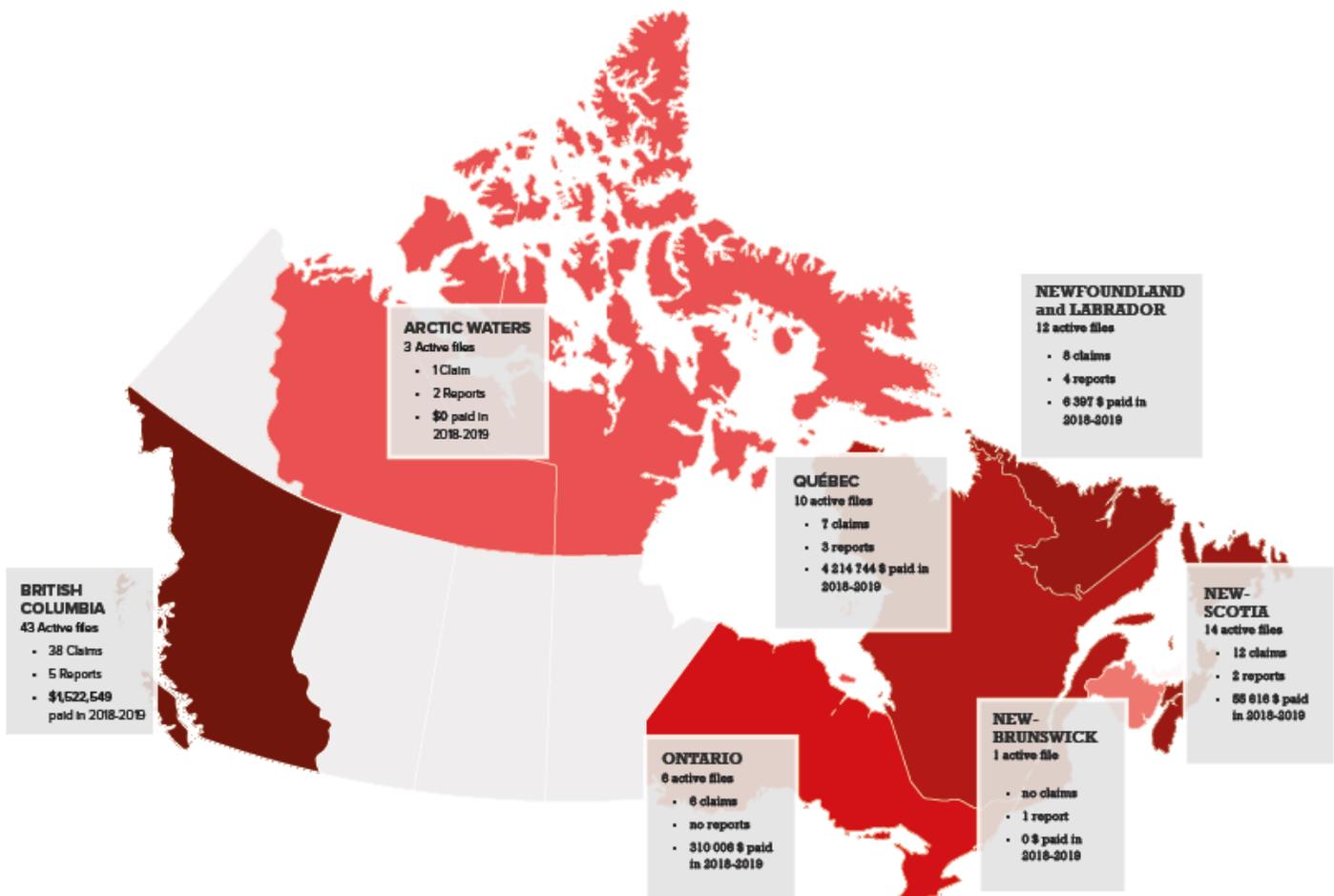
The Fund no longer has a per-occurrence liability limit, purely economic losses are now clearly eligible for compensation, there is now an expedited, simplified process for small claims settlement (up to \$35 000) and the Fund can now provide up-front emergency funding of \$50 million (maximum) for Coast Guard environmental response operations in cases involving major spills. All of this increasingly positions the Fund as a very relevant resource in cases involving major oil spills causing significant damages, including income losses for certain victims.

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The marine industry will not have to pay more for this, since ship operators' liability limit has not changed. The industry could take advantage of compensation in case of damage caused by a spill (oily ships, inaccessible terminals, etc.).

Should the Fund's capital run out and the Treasury have to advance monies to the Fund to cover claims, oil shippers and receivers may be charged the fees that were suspended more than 40 years ago (but formerly levied by the former Fund which the current Fund (SOPF) replaced).

2018-2019 CANADIAN INCIDENTS PORTFOLIO MAP



Source: Ship-source oil pollution Fund. 2018-2019 Annual report