



REASSESSMENT OF THE RESPONSES FROM TRANSPORT CANADA TO MARINE SAFETY RECOMMENDATION M02-04

SEAWAY EMERGENCY PREPAREDNESS

Background

On 11 August 2001, at approximately 2054, while proceeding downbound under Bridge 11 in the Welland Canal, at Allanburg, Ontario, the bulk carrier *Windoc* was struck by the bridge's vertical-lift span, which was lowered before the vessel had passed clear of the bridge structure. The vessel's wheelhouse and funnel were destroyed. The vessel drifted downstream, caught fire, and grounded approximately 800 metres from the bridge. Although the vessel's cargo of wheat was not damaged, the vessel was declared a constructive total loss. The bridge sustained structural damage, and the Welland Canal was closed to vessel traffic for two days. There were no serious injuries or oil pollution.

The Board concluded its investigation and released report M01C0054 on 09 January 2003.

Board Recommendation M02-04 (09 January 2003)

Ongoing work by the St. Lawrence Seaway Management Corporation (SLSMC) concerning its preparedness for responding to vessel-related emergencies was noted by the Board. However, the Board was concerned that there has been no indication from the SLSMC that it will undertake a multi-agency, vessel-related emergency response exercise. Such exercises are necessary to evaluate preparedness for responding to a major emergency. Other agencies have conducted similar exercises within the St. Lawrence River and Great Lakes, but there has been limited participation by the SLSMC.

No major vessel-related emergency response exercise involving other agencies has been conducted within the Welland Canal. The risks associated with an improperly coordinated response are higher than that associated with a fully coordinated response. Following commercialization of the Seaway in which the SLSMC is responsible for Canadian operations, there has been little, if any, oversight provided by Transport Canada (TC) to ensure that emergency plans, training and exercises were in place and adequate to respond to vessel-related emergencies in the Seaway. Although the Corporation is responsible for Seaway operations, TC retains regulatory authority and is responsible to ensure that arrangements are in place for dealing with vessel-related emergencies within the Seaway. The Board therefore recommended that:



The Department of Transport ensure that overall preparedness is appropriate for responding to vessel-related emergencies within the Seaway.

M02-04

Response to M02-04 (20 March 2003)

The Minister of Transport, under the *Canada Marine Act*, does have responsibility for the safety oversight of the Canadian marine transportation system in general; however, the *Canada Marine Act* does not provide a safety oversight role to the Minister in respect to the Seaway.

Responsibility for emergency/contingency plans specific to the Seaway falls under the purview of the SLSMC. Emergency/contingency response plans have been updated by the SLSMC. They are currently conducting training, exercises and establishment of links with partners to test whether their level of preparedness is appropriate to respond to any vessel-related emergencies within the Seaway.

Board Assessment of the Response to M02-04 (06 May 2003)

Subsequent meetings between TC and TSB were held. TC undertook to provide to the TSB additional information relative to the department's response to recommendation M02-04.

Response to M02-04 (09 May 2005)

With reference to the department's original response, as provided by letter of 20 March 2003, and having regard to the management role which the Minister of Transport (Minister) has given to the SLSMC under Part 3 of the *Canada Marine Act*, the department will not be taking responsibility for approving the emergency response plan of the SLSMC.

Nonetheless, all parties involved will benefit from an up-to-date, well-developed emergency response plan, under which linkages with other parties are well established and exercises are held regularly.

In order to achieve this, discussions have been held between the department and the SLSMC and a decision has been made to amend the "Management, operation and Maintenance Agreement" between Her Majesty (as represented by the Minister) and the SLSMC. This decision will require the SLSMC to have in place an up-to-date emergency response plan that is validated every two years by an independent third party that is qualified to carry out such a validation. TC's legal advisors are currently preparing the wording of the amendment. A signed copy of this amendment will be provided to the TSB in due course.

Board Reassessment of the Response to M02-04 (16 May 2005)

In its initial reply (20 March 2003), TC stated that the Minister of Transport, under the *Canada Marine Act*, does have responsibility for the safety oversight of the Canadian marine transportation system in general; however, the Act does not provide a safety oversight role to the Minister in respect to the Seaway. The response also stated that the responsibility for emergency/contingency plans specific to the Seaway falls under the purview of the SLSMC.

In follow-up information provided by TC (09 May 2005), the department re-affirmed its position and that, having regard to the management role which the Minister of Transport has given the SLSMC under the *Canada Marine Act*, the department will not be taking responsibility for approving emergency response plans of the SLSMC. However, as a result of discussions between TC and the SLSMC, it has been decided to amend the *Management, Operation and Maintenance Agreement*. The agreement mandates how the SLSMC manages, operates and maintains the Seaway.

It is intended that the amendment will require the SLSMC to have in place an up-to-date emergency response plan. The plan will also have to be validated every five years by a qualified independent third party, and copies of their report will be forwarded to TC and the SLSMC. In this way, "oversight" for overall preparedness will essentially have been addressed by TC, as intended by the recommendation. The SLSMC will continue to conduct annual emergency response exercises.

If fully implemented, the proposed action will substantially reduce the risks associated with inappropriate preparedness by ensuring that response plans are kept up to date and appropriate for responding to vessel-related emergencies within the Seaway. It is anticipated that the planned action to amend the agreement will be completed this spring.

The response is considered **Satisfactory Intent**.

Next TSB Action (16 May 2005)

Upon receipt, the wording of the proposed amendment to the Agreement will be verified and assessed against the intent of the recommendation, and implementation of the proposed action will be monitored.

The deficiency file is assigned an **Active** status.

Response to M02-04 (November 2006)

TC's update, dated November 2006, stated that the SLSMC has indicated that the validation of the plans will be done by an independent party once every five years. Further, the outside party would provide TC and the Seaway a copy of their report, and that the Seaway will continue to have annual emergency response plan exercises.

Board Reassessment of the Response to M02-04 (November 2006)

The *Management, Operation and Maintenance Agreement* was amended in January 2006 to require the SLSMC to have and maintain an emergency response plan that it shall audit and update annually. Furthermore, the emergency response plan shall be validated by an independent third party every five years. The emergency response plan will include, among other things, a list of the roles and responsibilities of the SLSMC and other organizations involved in the emergency response, a description of the emergency response procedures and communications, and a description of training and exercises for emergency response. Copies of the updated and

validated emergencies response plan and the results of the annual audits are to be provided to TC. As a result of these actions, TC will be made aware of the overall preparedness for responding to vessel-related emergencies within the Seaway.

Therefore, the assessment is **Fully Satisfactory**.

Next TSB Action (November 2006)

Because the safety deficiency associated with recommendation M02-04 is considered rectified, no further action is necessary.

The deficiency file is assigned an **Inactive** status.