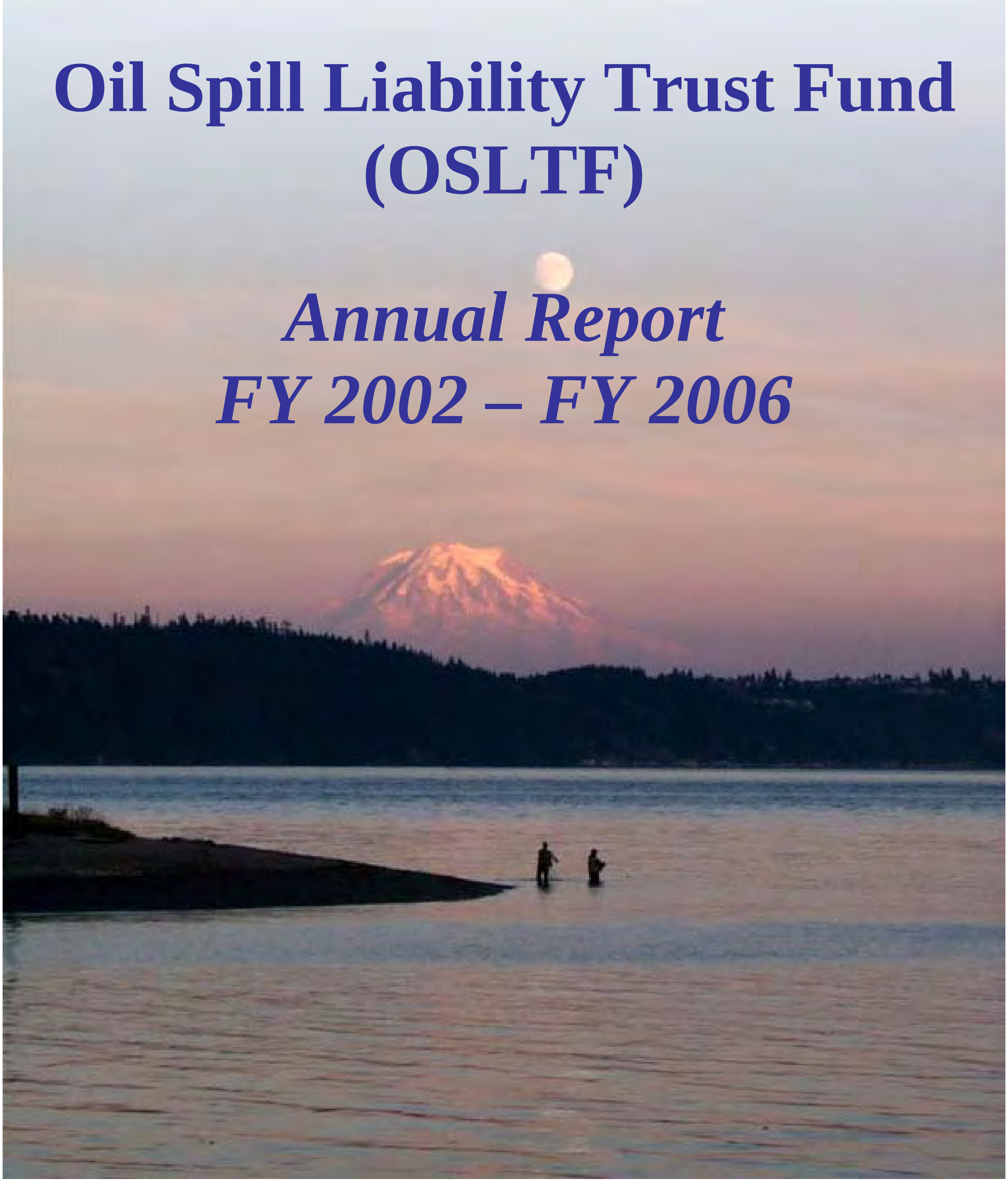
U.S. Department of Homeland Security

United States Coast Guard

Oil Spill Liability Trust Fund (OSLTF)

Annual Report FY 2002 – FY 2006



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EXECUTIVE SUMMARY

This annual report is provided to record the level of funds currently in the Oil Spill Liability Trust Fund (OSLTF), provide projections for levels of funds through FY 2014, and report accomplishments of the OSLTF over the past five years (FY 2002 – FY 2006).

Level of Funds

The level of funds in the OSLTF at the end of FY 2006 was $604 million. Based on past spending trends, current forecasts, and the significant costs anticipated for recent spills offset by the resumption of the barrel tax in accordance with the Energy Act of 2005, the OSLTF is expected to gradually grow until the tax once again expires on December 31, 2014. This forecast is tempered by Coast Guard experience that the actual removal costs and damages the OSLTF may pay are highly dependent on the number and severity of oil spills. A single major or catastrophic oil spill could have a significant impact on the OSLTF balance and these projections.

Long-Term OSLTF Viability

The current structure of the OSLTF as it has evolved is not self-sustaining absent tax revenue.
OPA provides that the OSLTF is the ultimate insurer for oil spill removal costs and damages when those responsible do not pay. In many incidents, liable responsible parties cannot be located, do not have the ability to pay, or have defenses or limits to their liability. Therefore, recoveries from liable parties cannot fully reimburse the removal costs and damages expended from the OSLTF.

While penalty deposits and interest on the fund balance provide significant OSLTF revenue, they do not make up the shortfall in cost recovery from liable parties. In addition, the OSLTF must make substantial contributions to agency annual appropriations, as well as payments in support of the Prince William Sound Oil Spill Recovery Institute (OSRI) and the Alaska Denali Commission (Denali) that are not balanced by any other revenue source.

The impact of the OSLTF is significant and far-reaching. First, the OSLTF is available to fund cleanup of oil discharges, supporting Federal responses by Coast Guard and EPA Federal On-Scene Coordinators (FOSCs). Second, a viable OSLTF compensates those persons that incur removal costs or damages as a result of an oil spill. Significantly, state and local governments receive important compensation for their qualifying spill response projects. Finally, Federal agency operations are funded by appropriations from the OSLTF, as directed by Congress.

BACKGROUND

The Oil Pollution Act of 1990 (OPA) addressed the wide-ranging problems associated with prevention, response, and compensation for oil pollution from vessels and facilities in our nation's navigable waters, adjoining shorelines, and exclusive economic zone. OPA greatly increased Federal oversight of maritime oil transportation, while providing greater environmental safeguards. This was accomplished by setting new requirements for vessel construction and crew licensing and manning, mandating contingency planning, enhancing Federal response capability, broadening enforcement authority, increasing penalties, creating new research and development programs, increasing potential liabilities, adding new compensation provisions, and significantly broadening financial responsibility requirements.

Title I of OPA established new and higher liability limits for oil spills, with commensurate changes to financial responsibility requirements. It substantially broadened the scope of damages, including natural resource damages, for which polluters are liable. It also provided for the use of a $1 billion OSLTF to pay for expeditious oil removal and uncompensated damages. In section 7 of Executive Order 12777, the President delegated management responsibility for the OSLTF to the Secretary of the Department in which the Coast Guard is operating. Upon re-delegation by the Secretary, the Commandant of the Coast Guard delegated responsibility to the newly created National Pollution Funds Center (NPFC), an independent unit reporting directly to the Coast Guard Chief of Staff.

HISTORY OF THE FUND

In August 1990, when President George H. W. Bush signed OPA into law and authorized use of the OSLTF, the Fund was already four years old. Congress created the Fund in 1986, but did not pass legislation to authorize the use of the money or the collection of revenue to maintain it. Only after the 1989 *T/V EXXON VALDEZ* oil spill and the passage of OPA, was authorization granted. Provisions establishing the Fund can be found at 26 U.S.C. 9509. In addition to authorizing use of the OSLTF, OPA consolidated the liability and compensation requirements of certain prior Federal oil pollution laws and their supporting funds, including:

- The Federal Water Pollution Control Act (FWPCA) 311k revolving fund,
- The Deepwater Port Liability Fund,
- The Trans-Alaska Pipeline Liability Fund, and
- The Offshore Oil Pollution Compensation Fund.

With the gradual consolidation of these funds and the collection of a tax on the petroleum industry, the OSLTF balance increased to more than $1 billion. Fund uses were delineated by OPA section 1012 (33 U.S.C. 2712) to include:

- Removal costs incurred by USCG and U.S. Environmental Protection Agency (EPA) Federal On-Scene Coordinators (FOSCs);
- Payments to Federal, state, and Indian tribe trustees to conduct Natural Resource Damage Assessments (NRDAs) and restorations;
- Payment of claims for uncompensated removal costs and damages; and
- Administrative, operational, and personnel costs and expenses incidental to implementation, administration, and enforcement of OPA and certain provisions of section 311 of the FWPCA (33 U.S.C. 1321).

OPA included a sunset provision for the tax that supported the OSLTF that expired on December 31, 1994. In 2005, Congress reinstated the tax as a provision of the 2005 Energy Act and authorized a new, higher limit of $2.7 billion for the OSLTF. The current tax provisions became effective on April 1, 2006, and will expire on December 31, 2014.

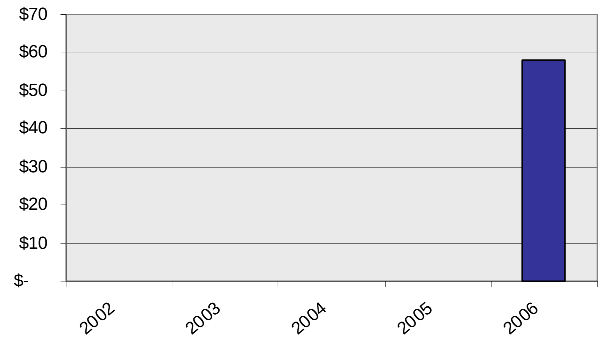
FUND REVENUE SOURCES

The OSLTF has several recurring and nonrecurring sources of revenue.

Barrel Tax

The largest source of revenue is a 5¢ per barrel tax, collected from the oil industry on petroleum produced in or imported to the United States (Figure 1). The tax expired on December 31, 1994, pursuant to 26 U.S.C. 4611(f)(1). The tax was reinstated by the Energy Act of 2005, and is currently being deposited in the OSLTF.

Figure 1: Barrel Tax Revenue ($M)



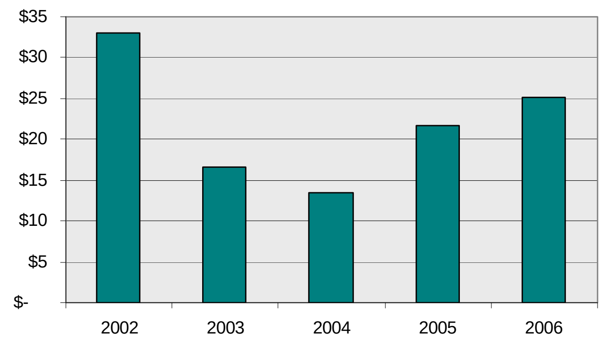
Transfers

A second major source of revenue was transfers from other existing pollution funds. Total transfers into the Fund since 1990 have exceeded $550 million. Over $216 million in transfers from the Oil Pollution Fund, the Offshore Oil Pollution Compensation Fund, and the Deepwater Port Liability Fund were deposited into the Fund in 1990. The largest source has been the Trans-Alaska Pipeline Liability Fund (TAPS), which transferred $335 million over the period of 1995 to 2000. No additional funds remain to be transferred to the OSLTF.

Interest

Interest on the Fund principal from U.S. Treasury investments is an ongoing source of OSLTF revenue (Figure 2). As a result of historically low interest rates, interest income declined in 2003 and 2004, but has rebounded in recent years as Treasury rates have risen with the economic recovery. The Department of the Treasury serves as the OSLTF's investment manager.

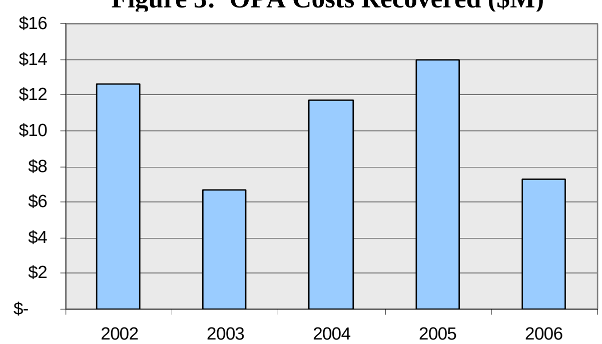
Figure 2: Interest Earned ($M)



Cost Recoveries from Responsible Parties

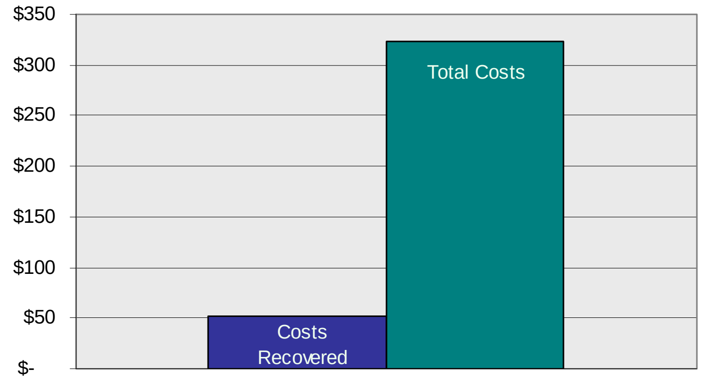
A fourth source of revenue is cost recoveries from responsible parties (RPs). Those responsible for oil incidents are liable for costs and damages. The NPFC has a billing and collection program to recover costs expended by the OSLTF, carried out in accordance with the U.S. debt collection laws. Figure 3 shows cost recoveries for FY 2002 to FY 2006, which fluctuated between $6 million and $14 million per year.

Figure 3: OPA Costs Recovered ($M)



NPFC collected 16% of the OSLTF removal and claims expenditures made during the period FY 2002 to FY 2006 as shown in Figure 4. There are several barriers to achieving a higher rate of recovery. In nearly 50% of spills, the FOSC is unable to identify the source of the spill or identify a responsible party. Costs expended in excess of a responsible party's liability limit are generally unrecoverable. The prospect of successful cost recovery for a Federal Project involving an onshore facility is also generally low. Many Federal projects arise from legacy environmental problems associated with aging infrastructure such as leaking underground storage tanks, abandoned pipelines, leaking oil wells, and abandoned oil production facilities. Unfortunately, in many instances like these, the government cannot collect because of lack of sufficient evidence to litigate successfully or otherwise compel the RP to pay, or because the RP is bankrupt, deceased, or otherwise unable to pay. These projects are typically complex and costly, often involving removal over a period of years, as action is taken to cleanup the soil and groundwater that is discharging to navigable waters.

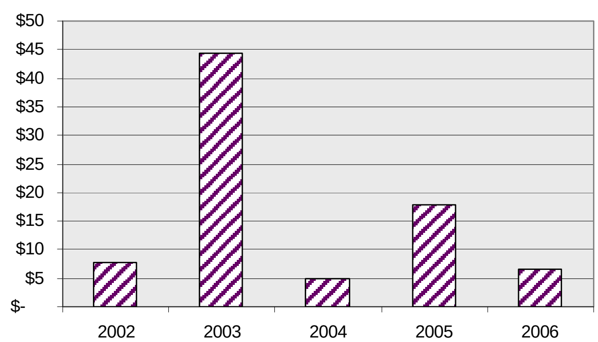
Figure 4: Removal and Claims Expenditures vs. Cost Recovered ($M) FY 2002 – FY 2006



Penalties

Specific penalties paid pursuant to section 311 of the FWPCA, the Deepwater Port Act of 1974, and section 207 of the Trans-Alaska Pipeline Authorization Act are required to be deposited into the Fund. Penalty deposits are generally between $4 million and $7 million per year; but, as shown in Figure 5, two large penalties were deposited to the Fund in FY 2003 and FY 2005.

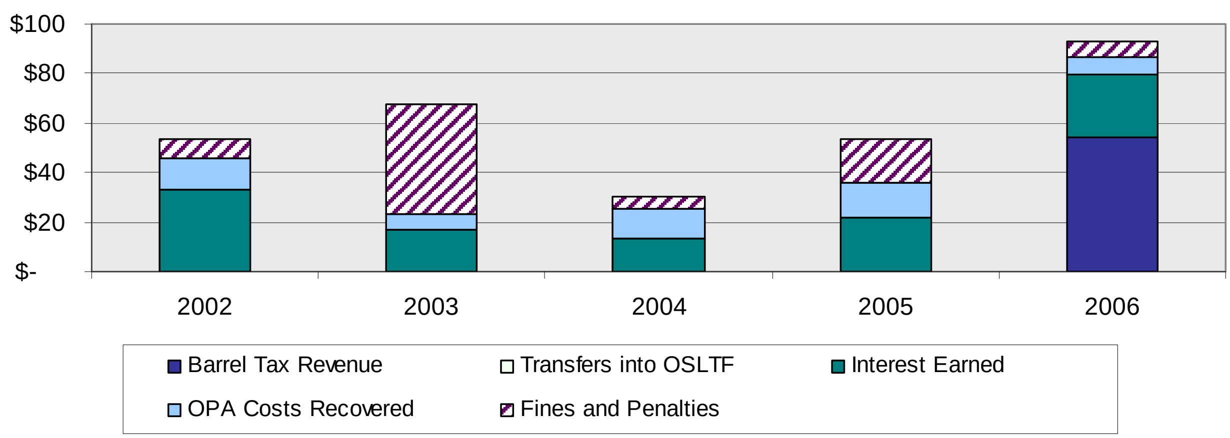
Figure 5: OSLTF Penalty Collections ($M)



Summary of Revenues

A summary of OSLTF revenues can be found in Figure 6.

Figure 6: Summary of OSLTF Revenues ($M)



FUND EXPENSES

The Emergency Fund

To ensure rapid, effective response to oil spills, OPA section 6002 provides that the President has the authority to make available from the OSLTF, without further appropriation, up to $50 million each year to fund removal activities and initiate NRDAs. Funds not used in a fiscal year are carried over to subsequent fiscal years and remain available until expended. To the extent that $50 million is inadequate, authority was granted under section 323 of the Maritime Transportation Security Act (MTSA) of 2002 to advance up to $100 million from the OSLTF to fund removal activities. This provision has not been utilized to date.

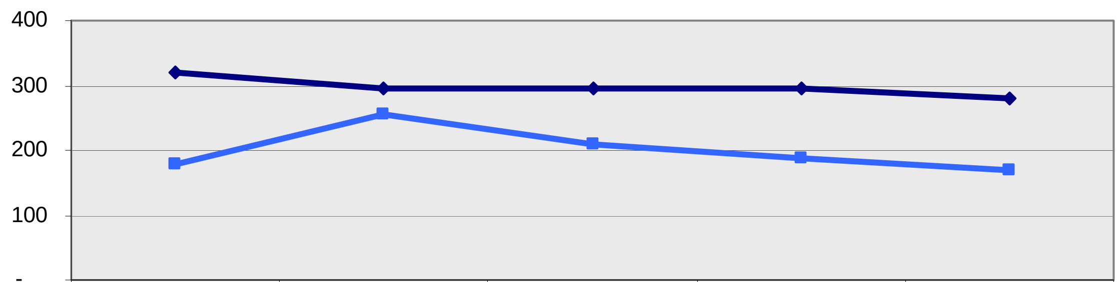
Removal Activities

The OSLTF provides funding for oil pollution removal activities when oil is discharged into the navigable waters, adjoining shorelines, and the exclusive economic zone of the U.S. Funding is also provided to prevent or mitigate the substantial threat of such an oil discharge. The Emergency Fund may be used for—but is not limited to—containing and removing oil from water and shorelines, preventing or minimizing a substantial threat of discharge, and monitoring the removal activities of RPs. Examples of removal costs include the cost of:

- Contract services (e.g., cleanup contractors),
- Equipment used in removals,
- Chemical testing required to identify the type and source of oil,
- Proper disposal of recovered oil and oily debris,
- Costs for government personnel and temporary government employees hired for the duration of the spill response, and
- Completion of documentation.

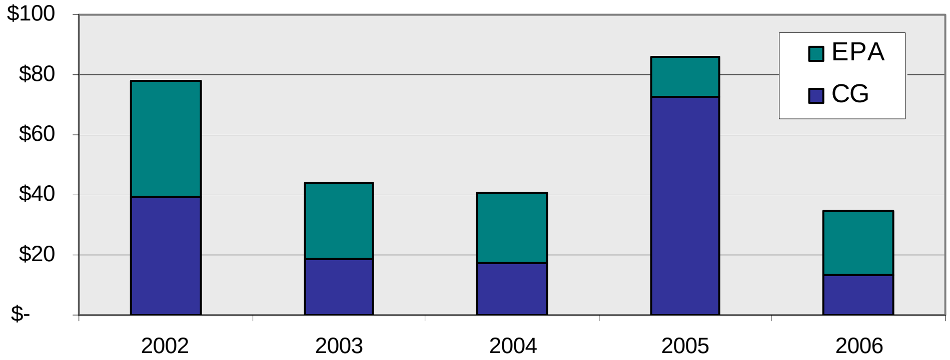
The Coast Guard has responsibility for removal actions in the coastal zone, while EPA has responsibility in the inland zone. Figures 7 and 8 show the number of new cases opened and the corresponding dollar amounts for Coast Guard and EPA removal actions. It is important to note that these cases do not represent all cases where oil is spilled, but only those incidents where the OSLTF has been accessed.

Figure 7: USCG vs. EPA Cases



	2002	2003	2004	2005	2006
CG	319	295	295	294	279
EPA	178	256	210	188	168

Figure 8: OSLTF Response Funds Assigned ($M)



EPA cases are generally removal actions occurring at onshore facilities. There are several apparent reasons for the significant number and cost of spills from facilities. First, the vast oil production industry infrastructure, as previously stated, is aging. A great number of oil wells that were drilled (onshore and offshore) have been depleted and are now abandoned, most with no identifiable RP. Many of these pollution sites are 20 to 50 years old—pre-dating current state regulatory programs—and have not been properly maintained.

Second, a complex factor in the domestic oil production economy has been the wide cyclical swings in the price per barrel of crude oil. As a result, the domestic oil industry has produced a large number of marginal or non-viable oil well facilities which are "abandoned" when production is no longer economically viable, leaving behind a grim environmental legacy.

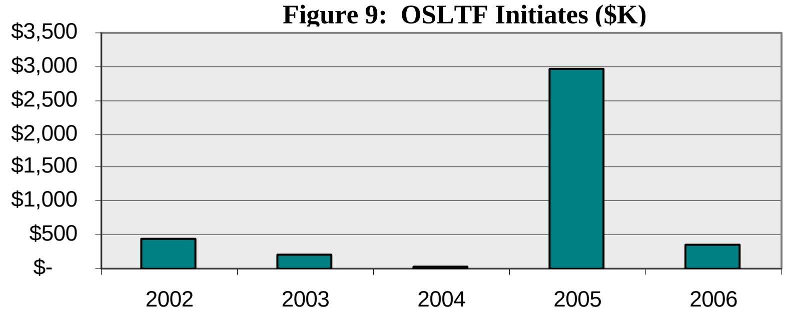
A third factor is that the vast majority of onshore oil-producing, -transporting, and -storing facilities that spill or threaten to spill are older facilities that do not have adequate insurance at the time of the spill. When no viable RP is identified or no insurance coverage is available, response costs are likely to be borne directly by the OSLTF Emergency Fund without effective recourse. OPA, as originally designed, did not anticipate the extent to which the OSLTF would be needed to address water pollution threats from aging, often derelict, land-based facilities.

Many of these same arguments are directly cited by and corroborated in a 2001 report to the President by the National Energy Policy Development Group (National Energy Policy Development Group, *Reliable, Affordable, and Environmentally Sound Energy for America's Future*, May 2001, p. 3-10).

Mystery spills, or spills for which a responsible party cannot be identified, also have a sustained impact.

NRDA Initiate Requests

Figure 9: OSLTF Initiates ($K)



The Emergency Fund is also available to pay for the Initiation of Natural Resource Damage Assessments (INRDAs) conducted by designated Federal natural resource trustees. In the pre-assessment phase, outlined in 15 CFR 990 subpart D, trustees must determine jurisdiction, undertake preliminary data collection, assess the effectiveness of the response, identify feasible restoration measures, and provide a notice of intent to conduct restoration planning. The NPFC and the Federal Lead Administrative Trustee (FLAT) execute an Inter-Agency Agreement (IAG) for each OPA incident requiring funds for pre-assessment phase activities. Natural resource trustees include authorized representatives of the U.S. Departments of Commerce (NOAA), Interior, Defense, Agriculture, and Energy, as well as states, Indian tribes, and foreign trustees. Pursuant to Executive Order 12777, amounts to initiate an assessment are available exclusively to the five Federal trustees, who may further allocate funds among all other affected trustees. Initiates have not had a significant impact on the OSLTF, as Figure 9 reflects for the past five years. The large initiate in FY 2005 was for the *M/V SELENDANG AYU* case.

Significant OSLTF Cases 2002-2006

Table 1 provides summary information regarding OSLTF cases that exceeded $300 thousand in removal costs and claims over the past five years.

Table 1: Significant OSLTF Cases 2002 - 2006

FPN	Project Name	Source of Spill	On-Scene Coordinator	Total Cost
2002 Cases				
A02005	SS J Luckenbach - A02005	Vessel (Non-COFR)	San Francisco-33260	$20,719,922
E02504	Little Scioto River - E02504	Facility	EPA Region 5	$5,150,000
G02AAA	Mystery Spill - G02AAA	Mystery	Detroit-33250	$4,991,168
E02503	Mystery Spill - E02503	Mystery	EPA Region 5	$3,650,000
P02079	Johnston Oil Farm - P02079	Facility	EPA Region 3	$3,546,000
E02414	Pryor Well Blowout - E02414	Facility	EPA Region 4	$3,156,609
E02507	Gemco Oil Wells - E02507	Facility	EPA Region 5	$1,700,000
N02051	Tire Recycling Fac - N02051	Facility	EPA Region 7	$1,579,746
N02010	Lake Pontchartrain - N02010	Facility	New Orleans-33292	$1,275,000
N02001	Lake Pontchartrain - N02001	Facility	New Orleans-33292	$1,120,000
E02612	River Bend Byo E. Cen - E02612	Facility	EPA Region 6	$992,454
N02003	Lake Pontchartrain - N02003	Facility	New Orleans-33292	$920,000
N02002	Lake Pontchartrain - N02002	Facility	New Orleans-33292	$896,000
M02AAT	M/V Ever Reach - M02AAT	Vessel (COFR)	Charleston-33233	$827,914
M02046	F/V Teresa Lynn - M02046	Vessel (Non-COFR)	Miami-33215	$690,822
E02614	River Bend W. Central - E02614	Facility	EPA Region 6	$676,035
H02AAA	T/V Insiko - H02AAA	Vessel (Non-COFR)	Honolulu-33275	$575,461
S02AAL	Seattle Marina Fire - S02AAL	Vessel (Non-COFR)	Puget Sound-33271	$569,012
E02611	River Bend Bayou Fac - E02611	Facility	EPA Region 6	$566,657
N02009	Lake Pontchartrain - N02009	Facility	New Orleans-33292	$565,254
J02AAN	M/V Qanirtuuq Princess- J02AAN	Vessel (Non-COFR)	Anchorage-33280	$509,940
M02045	F/V Blind Faith - M02045	Vessel (Non-COFR)	Miami-33215	$388,150
E02806	Mystery - E02806	Mystery	EPA Region 8	$350,000
M02AAC	F/V Dutchman - M02AAC	Vessel (Non-COFR)	San Juan-33239	$303,299
2003 Cases				
M03008	M/V Red Diamond - M03008	Vessel (Non-COFR)	Jacksonville-33231	$2,900,000
A03025	Crane Barge Monarch - A03025	Vessel (Non-COFR)	San Francisco-33260	$2,700,000
B03030	T/B B NO. 120 - B03030	Vessel (COFR)	Providence-33286	$1,747,982
M03025	M/V Bowstring - M03025	Vessel (Non-COFR)	Jacksonville-33231	$1,577,164
E03201	Monoco Oil - E03201	Facility	EPA Region 2	$1,139,130
J03004	F/V Genei Maru #7- J03004	Vessel (Non-COFR)	Anchorage-33280	$850,420
E03012	Ashton Texaco Station - E0301	Facility	EPA Region 10	$610,000
M03022	M/V Freedom Express - M03022	Vessel (Non-COFR)	Miami-33215	$480,323
E03016	Alley Fuels - E03016	Facility	EPA Region 10	$468,000
P03018	M/V Seawitch - P03018	Vessel (Non-COFR)	Baltimore-73133	$348,687

FPN	Project Name	Source of Spill	On-Scene Coordinator	Total Cost
2004 Cases				
H04007	F/V Mwalil Saat - H04007	Vessel (Non-COFR)	Guam-33296	$3,413,514
E04116	Mystery - E04116	Mystery	EPA Region 1	$1,900,000
E04503	Hartford Plume - E0450	Facility	EPA Region 5	$1,138,262
H04010	M/V Ajman 2 - H04010	Vessel (COFR)	Guam-33296	$900,000
M04020	M/V Oriental I - M04020	Vessel (Non-COFR)	Jacksonville-33231	$732,643
E04634	Opmi-Edna Delcambre - E04634	Facility	EPA Region 6	$726,312
P04006	Mystery - P04006	Mystery	Philadelphia-33211	$432,758
A04010	Kinder Morgan - A04010	Facility	San Francisco-33260	$352,720
P04019	Texas	Vessel (Non-COFR)	Philadelphia-33211	$350,000
2005 Cases				
P05005	T/V Athos I - P05005	Vessel (COFR)	Philadelphia-33211	$129,548,302
J05003	M/V Selendang Ayu - J05003	Vessel (COFR)	Anchorage-33280	$7,506,986
S05003	Dalco Pass Spill - S05003	Vessel (COFR)	Puget Sound-33271	$2,233,865
S05049	GIG HBR Marina Fire - S05049	Mystery	Puget Sound-33271	$1,700,863
A05015	Albion - A05015	Vessel (Non-COFR)	San Francisco-33260	$1,500,000
G05002	T/B EMC 423 - G05002	Vessel (COFR)	Chicago-33247	$1,160,970
H05013	M/V Casitas - H05013	Vessel (Non-COFR)	Honolulu-37340	$1,058,946
B05026	M/V Hammurabi - B05026	Vessel (COFR)	New York-73136	$1,050,000
S05002	The Boss - S05002	Vessel (Non-COFR)	Portland, OR-33270	$926,070
E05303	Exxon Mobil Allentown - E05303	Facility	EPA Region 3	$896,050
H05006	Cape Flattery - H05006	Vessel (COFR)	Honolulu-37340	$852,944
M05025	M/V Sea Astride - M05025	Vessel (Non-COFR)	San Juan-33239	$659,084
J05009	LCM's - J05009	Vessel (Non-COFR)	Anchorage-33280	$500,000
E05913	Pyramid LK Pipeline - E05913	Facility	EPA Region 9	$491,538
S05037	Florence Filbern - S05037	Vessel (Non-COFR)	Puget Sound-33271	$387,504
N05019	Abandoned Facility - N05019	Mystery	Galveston-33265	$364,072
P05014	Mystery - P05014	Mystery	Philadelphia-33211	$300,000
2006 Cases				
E06505	Dearborn Refining - E06505	Facility	EPA Region 5	$2,500,000
E06502	Delta Fuels - E06502	Facility	EPA Region 5	$1,780,000
S06024	F/V Heron - S06024	Vessel (Non-COFR)	Seattle-37320	$750,000
N06047	Citgo Refinery - N06047	Facility	Port Arthur-33241	$600,000
P06017	M/V Bermuda Islander - P06017	Mystery	Delaware Bay-37050	$500,000
P06009	Mystery - P06009	Mystery	Delaware Bay-37050	$350,000
E06902	Greka Energy - E06902	Facility	EPA Region 9	$300,000

Claims

OPA provides that any person or government may present a claim for compensation for removal costs or damages resulting from an oil pollution incident covered by the Act. Claims can be presented for:

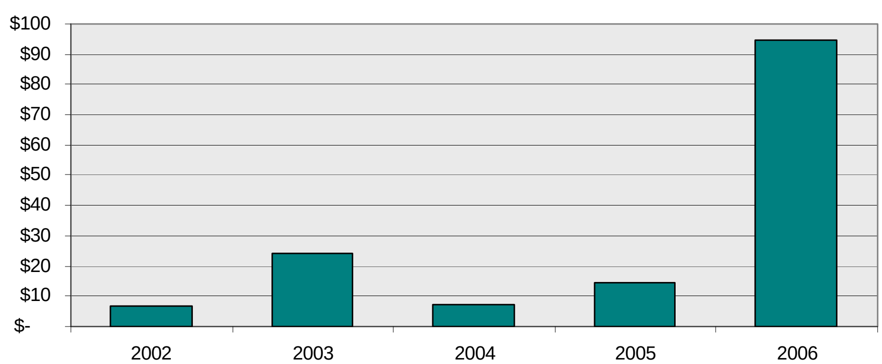
- Uncompensated removal costs,
- Natural resource damages,
- Damage to real or personal property,
- Loss of profits and earning capacity,
- Loss of subsistence use of natural resources,
- Loss of government revenues, and
- Increased cost of public services.

To centralize the OSLTF claims process, the President delegated authority to pay claims from the OSLTF to the Secretary of the Department in which the Coast Guard is operating. Upon re-delegation by the Secretary, the Commandant of the Coast Guard further delegated that authority to the NPFC on March 12, 1992. The NPFC’s claim procedures attempt to strike a reasonable balance between the objectives of compensating deserving claimants and acting as a fiduciary for the Fund. Before claimants can be compensated, they must satisfy the statutory requirements of OPA. The incident must involve a discharge of oil or a substantial threat of a discharge of oil from a vessel or facility into the navigable waters, adjoining shorelines, or the exclusive economic zone of the U.S. The removal actions for which costs are claimed must be consistent with the National Contingency Plan (NCP), and the claim must be submitted within express time periods (generally three years for damages, six years for removal costs).

The most common claim type received by the NPFC is removal cost claims. These claims may be presented by any person who has incurred costs for removal actions that are consistent with the NCP. Removal cost claimants include state governments, RPs who can show that the oil came from another source, response contractors who have not been paid by the hiring RP, and members of the public who have discovered a spill and responded to the need for cleanup. Most of the removal cost claims presented to the NPFC are state claims.

A claimant must claim a damage or removal cost compensable under OPA and must have first presented the claim to the RP or guarantor except in certain circumstances. Two exceptions to this are that state governments may present claims for uncompensated removal costs directly to the NPFC, and that claimants may present removal or damage claims directly to the NPFC if there is no known RP. Other exceptions allow a claim to be presented directly to the Fund when the Fund advertises for such claims or when an RP presents a claim based on an OPA defense or liability limit. Figure 10 provides claims paid for the past five years (FY 2002 to FY 2006). Significant claims payments in 2006 were associated with the *M/V ATHOS I* case.

Figure 10: Claims Paid ($M)
FY 2002 - FY 2006



Agency Appropriations

Several federal agencies receive annual appropriations from the OSLTF to cover specific administrative, operational, personnel, enforcement, and research and development costs as authorized in OPA, and as delegated by Executive Order 12777 (Table 2). Agency responsibilities for carrying out OPA requirements include regulation, administration, and enforcement of changes in vessel construction; tighter controls on licensing and manning; new requirements for vessel and facility operations and response planning; stricter liability and compensation requirements including increased financial responsibility, management of the OSLTF, compensation to claimants, and cost recovery from responsible parties; and improved cooperative relationships among responding agencies and oil industry stakeholders, to include periodic drills and implementation of changes to the National Contingency Plan, Area Contingency Plans, and National Response System.

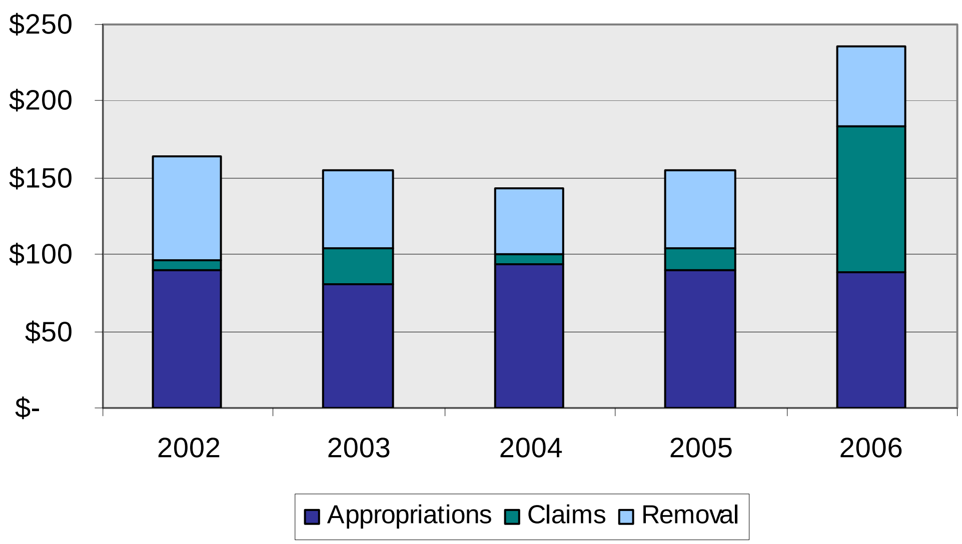
Table 2: Agency OSLTF Appropriations ($K)

Agency	2002	2003	2004	2005	2006
United States Coast Guard	$48,437	$48,185	$52,000	$46,500	$46,035
Environmental Protection Agency	$15,000	$15,480	$16,113	$15,872	$15,330
Minerals Management Service (DOI)	$ 6,105	$ 6,065	$ 7,017	$ 7,006	$ 6,903
DOT Office of Pipeline Safety	$ 7,864	$ 7,423	$12,771	$14,880	$14,850
Treasury	$ 41	$ 40	$ 40	$ 51	$ 70
Prince William Sound Oil Spill Recovery Institute	$ 1,147	$ 924	$ 880	$ 863	$ 851
Denali Commission	$11,361	$ 2,487	$ 4,274	$ 4,252	$ 4,227
Total	**$89,955**	**$80,604**	**$93,095**	**$89,424**	**$88,266**

Summary of Expenses

OSLTF expenses are comprised of oil spill responses/removals, claims, and annual appropriations to federal agencies (Figure 11).

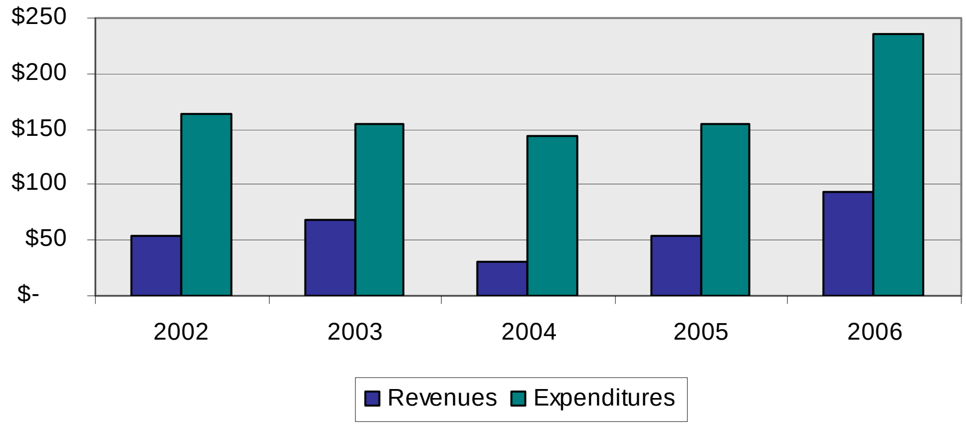
Figure 11: Summary of OSLTF Expenses ($M)



COMPARISON OF REVENUES AND EXPENSES

Figure 12 compares the incoming revenues to the outgoing fund expenditures in the OSLTF for FY 2002 to FY 2006. In FY 2006, expenses exceeded revenues by $142 million.

Figure 12: Comparison of OSLTF Revenue and Expenses ($M)



THE OSLTF AND NATIONWIDE SPILL RESPONSE

A principal purpose of the Fund is to ensure the President has the resources to respond when oil is discharged or substantially threatens to discharge into navigable waters, adjoining shorelines, and the exclusive economic zone. If the Fund is exhausted, the $50 million now available from the Fund annually, will no longer be available, and the President will not have the resources needed for response.

Table 3 shows the distribution, by state, of OSLTF response funds over the past five years. Every state, as well as the District of Columbia, the Commonwealth of Puerto Rico, and the various Territories administered by the Department of the Interior have reaped the benefits of a Federal response system and OSLTF funding for oil spills (although South Dakota has not seen a spill in the past 5 years, it received $85,000 in 2001). All continue to be at risk for oil spills. Without the OSLTF, states would have to provide funds for these highly visible emergency events, further straining their domestic emergency response capabilities.

New Jersey, California, Louisiana, Michigan, Alaska, Florida, and Washington all have long shorelines and see significant oil transport and production; it follows that they have many spills that require Federal funds. Ohio and Pennsylvania are the sites of significant abandoned oil production wells and facilities whose cleanup is being funded by the OSLTF. Twenty-nine states (out of 57 states, territories, and possessions) had combined OSLTF costs that exceeded $1 million during this period (FY 2002-FY 2006). Clearly, the federal response mechanism, the National Contingency Plan, and the OSLTF provide a significant benefit to all states that assume the operational and financial burden of responding to oil spills into their navigable waters and shorelines.

Table 3: Oil Spill Response Funds by State
FY 2002 - FY 2006

State	Funding	State	Funding
Alaska	$11,195,810	Missouri	$267,810
Alabama	$2,093,362	Mississippi	$2,587,479
Arkansas	$1,787	Montana	$420,711
American Samoa (Terr.)	$82,160	North Carolina	$245,778
Arizona	$330,652	North Dakota	$14,741
California	$29,396,879	Nebraska	$1,585,050
Colorado	$451,575	New Hampshire	$6,243
Connecticut	$967,284	New Jersey	$132,725,225
District of Columbia	$21,683	New Mexico	$31,428
Delaware	$445,382	Nevada	$80,204
Florida	$8,701,083	New York	$2,791,206
Federated States of Micronesia (Terr.)	$34,148	Ohio	$8,469,186
		Oklahoma	$878,602
Georgia	$1,954,543	Oregon	$2,070,925
Guam (Comm.)	$4,396,367	Pennsylvania	$7,185,580
Hawaii	$2,051,624	Puerto Rico (Comm.)	$1,323,782
Iowa	$138,574	Rhode Island	$2,466,899
Idaho	$1,913,942	South Carolina	$1,041,005
Illinois	$4,327,421	Tennessee	$3,492,431
Indiana	$571,575	Texas	$3,882,042
Kansas	$135,491	Utah	$271,833
Kentucky	$1,975,436	Virginia	$522,106
Louisiana	$29,122,595	Virgin Islands (Terr.)	$97,959
Massachusetts	$2,121,262	Vermont	$15,129
Maryland	$2,547,642	Washington	$8,307,366
Maine	$63,534	Wisconsin	$135,812
Michigan	$12,224,643	West Virginia	$3,278,656
Minnesota	$24,297	Wyoming	$224,738

In the event the OSLTF was depleted, the President would still have the statutory responsibility under the Federal Water Pollution Control Act (FWPCA) to respond to oil spills. Arguably, this would place the Federal Government in the position it was in prior to the *T/V EXXON VALDEZ* spill in Prince William Sound, when the President had authority to respond, but did not have adequate resources in the FWPCA 311k fund to do so.

The Department of Homeland Security has promulgated the National Response Plan (NRP), mandated by the Homeland Security Act. The NRP is the nation's all-hazards approach when responding to a major emergency, including a terrorist attack. The NRP incorporates the National Contingency Plan (NCP) as one of two major subordinate plans under the NRP. The OSLTF is a key component of the NCP. All NRP planners and participants expect OSLTF funding to be available in the event of a terrorist incident that results in a major oil spill.

Another major purpose of the Fund is to compensate third parties for removal costs and damages when polluters do not pay. If the Fund were exhausted, persons who have a right to compensation under OPA would be deprived of a ready source of compensation and would have to resort to more costly and time-consuming litigation against a non-paying responsible party. In passing OPA, Congress intended that injured persons would not have to resort to litigation in order to be compensated (House Report 101-653, August 1, 1990, p. 117). Further, in many instances, responsible parties cannot be located or simply do not have the financial ability to pay claimants. Thus, in the absence of a viable Fund, claimants may have no effective means of compensation.

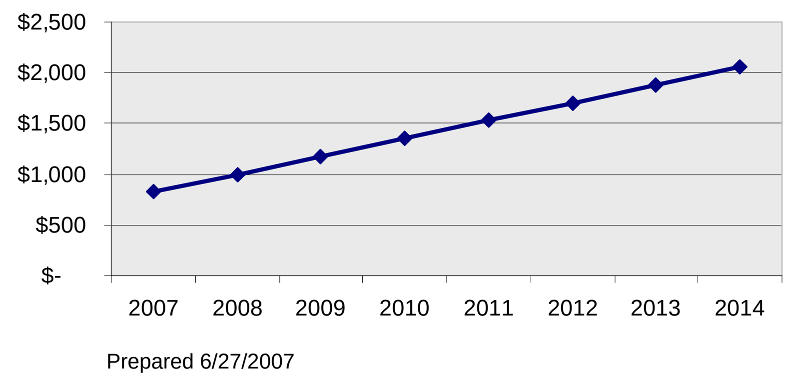
The largest category of claimants to the OSLTF is states, which submit removal cost claims for oil spills for which they are the sole responders. These same state organizations are often part of the "first responders" community that DHS is committed to supporting.

Additionally, as previously noted, the Fund is the source for substantial annual appropriations to various agencies, principally the Coast Guard and EPA. If the Fund were exhausted, Federal appropriations would have to come from other sources, or the activities financed from such appropriations would have to be reduced. Even before the Fund is exhausted, the balance will decline to a point at which all of the current uses cannot be fully supported. Current appropriations may take precedence over all prior enacted uses as the most recent expression of Congressional intent.

FUND PROJECTIONS

The level of funds in the OSLTF at the end of FY 2006 was $604 million. Based on past spending trends, current forecasts, and significant costs anticipated for recent spills offset by the resumption of the barrel tax in accordance with the Energy Act of 2005, the OSLTF is expected to gradually grow until the tax once again expires on December 31, 2014. This forecast is tempered by Coast Guard experience that the actual removal costs and damages the OSLTF may pay are highly dependent on the number and severity of oil spills. A single major or catastrophic oil spill could have a significant impact on the OSLTF balance and these projections. Figure 13 and Table 4 provide Fund projections through FY 2014. The assumptions upon which the forecast is based are summarized on the next page.

Figure 13: Projected Fund Balance ($M)



(Visit the NPFC Web site for an updated projection.)

Table 4: Oil Spill Liability Trust Fund Projections

Oil Spill Liability Trust Fund (OSLTF): FY 2007 - FY 2014

	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
REVENUES:	*Forecast*	*Forecast*	*Forecast*	*Forecast*	*Forecast*	*Forecast*	*Forecast*	*Forecast*
Barrel Tax	$408,000,000	$350,000,000	$312,000,000	$285,000,000	$272,000,000	$263,000,000	$258,000,000	$258,000,000
Cost Recoveries	$6,000,000	$6,000,000	$6,000,000	$6,000,000	$6,000,000	$6,000,000	$6,000,000	$6,000,000
Penalties	$4,500,000	$4,500,000	$4,500,000	$4,500,000	$4,500,000	$4,500,000	$4,500,000	$4,500,000
Interest on Investments	$31,428,818	$42,932,196	$52,017,750	$61,367,753	$70,475,957	$79,381,786	$88,282,719	$97,386,501
Transfers in (TAPS)	$0	$0	$0	$0	$0	$0	$0	$0
Total Revenue	$449,928,818	$403,432,196	$374,517,750	$356,867,753	$352,975,957	$352,881,786	$356,782,719	$365,886,501
EXPENSES:								
Emergency Fund (EF)	$50,000,000	$50,000,000	$50,000,000	$50,000,000	$50,000,000	$50,000,000	$50,000,000	$50,000,000
Claims - Other	$14,000,000	$44,000,000	$20,000,000	$20,000,000	$20,000,000	$20,000,000	$20,000,000	$20,000,000
Claims - Athos	$13,000,000	$20,000,000	$0	$0	$0	$0	$0	$0
Claims - NRD	$60,000,000	$23,000,000	$33,000,000	$20,000,000	$20,000,000	$20,000,000	$20,000,000	$20,000,000
OSRI (earmark)	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
Denali (earmark)	$4,000,000	$4,000,000	$4,000,000	$4,000,000	$4,000,000	$4,000,000	$4,000,000	$4,000,000
Transfer to CG (approps)	$44,550,000	$44,550,000	$44,550,000	$44,550,000	$44,550,000	$44,550,000	$44,550,000	$44,550,000
Transfer to EPA (approps)	$16,000,000	$16,000,000	$16,000,000	$16,000,000	$16,000,000	$16,000,000	$16,000,000	$16,000,000
Transfer to DOI (approps)	$7,100,000	$7,100,000	$7,100,000	$7,100,000	$7,100,000	$7,100,000	$7,100,000	$7,100,000
Transfer to other DOT (approps)	$19,000,000	$19,000,000	$19,000,000	$19,000,000	$19,000,000	$19,000,000	$19,000,000	$19,000,000
Transfer to Treasury (approps)	$60,000	$60,000	$60,000	$60,000	$60,000	$60,000	$60,000	$60,000
Total Expenses	$228,710,000	$228,710,000	$194,710,000	$181,710,000	$181,710,000	$181,710,000	$181,710,000	$181,710,000
FY Net Change - Revenue less Expenses	$221,218,818	$174,722,196	$179,807,750	$175,157,753	$171,265,957	$171,171,786	$175,072,719	$184,176,501
Projected EOY Fund Asset Balance	$825,619,157	$1,000,341,353	$1,180,149,103	$1,355,306,856	$1,526,572,813	$1,697,744,599	$1,872,817,318	$2,056,993,819

Prepared 6/27/2007

Assumptions

Barrel Tax - Revenue estimate provided by Treasury, Office of Tax Analysis, Receipts Forecasting Division. Tax expires 12/31/2014.

Fines and Penalties - Based on historical rates

Interest on Investments - Based on projected 3.3% Treasury investment rate applied against Previous Year's Ending Balance.

Emergency Fund - Based on historical usage.

Athos Claims - Reflects potential total claims of $157.2 million

Katrina Claims-None

(Visit the NPFC Web site for an updated projection.)

ACRONYMS

CFR	Code of Federal Regulations
COFR	Certificate of Financial Responsibility
Denali	Denali Commission
DHS	Department of Homeland Security
DOC	Department of Commerce
DOI	Department of the Interior
DOT	Department of Transportation
EOY	End of Year
EPA	U.S. Environmental Protection Agency
EF	Emergency Fund
FLAT	Federal Lead Administrative Trustee
FOSC	Federal On-Scene Coordinator
Fund	Oil Spill Liability Trust Fund
FWPCA	Federal Water Pollution Control Act, as amended
FY	Fiscal Year
IAG	Inter-Agency Agreement
INRDA	Initiate Natural Resource Damage Assessment
MTSA	Maritime Transportation Security Act
NCP	National Contingency Plan
NOAA, DOC	National Oceanographic and Atmospheric Administration, Department of Commerce
NPFC	National Pollution Funds Center
NRD	Natural Resource Damage
NRDA	Natural Resource Damage Assessment
NRP	National Response Plan
OPA	Oil Pollution Act of 1990
OSLTF	Oil Spill Liability Trust Fund
OSRI	Prince William Sound Oil Spill Recovery Institute
RP	Responsible Party
TAPS	Trans-Alaska Pipeline System Liability Fund
Treasury	Department of the Treasury
U.S.C.	U.S. Code
USCG	U.S. Coast Guard