



# WEST.

## Claims Guides

# Tug and Barge Series: Fixed and Floating Objects (FFO)

This class of P&I cover primarily addresses interference with or physical damage to fixed or floating objects which give rise to third party liabilities.

**It can however also include indirect damage, for example, if a vessel is transiting a river or narrow passage and causes wash damage to fixed or floating objects.**

The definitions of “fixed” and “floating” are largely self-explanatory but can be summarized below:-

1. A fixed object is one that does not float and is not designed to be moved on water, for example, a harbor, quay, dock, fender, dolphin, or gantry crane. It can also include permanent offshore platforms, subsea pipelines and bridges, as well as natural features such as coral reefs.
2. A floating object includes e.g. navigational buoys but excludes all vessels. This is an important distinction as damage caused to another vessel is classed as a collision.

### Examples of West cases

- Barge made contact damage with navigational lock gate
- Vessel allision with bridge fender system
- Damage to gangway caused by vessel surge
- Vessel dropped anchor on submerged pipeline causing escape of oil
- Barge in shipyard broke away from moorings during Hurricane Sandy and struck dock wall
- Contact with fender and moored vessel whilst berthing
- Damage to submerged fish cages at salmon farm.

### Club cover/response

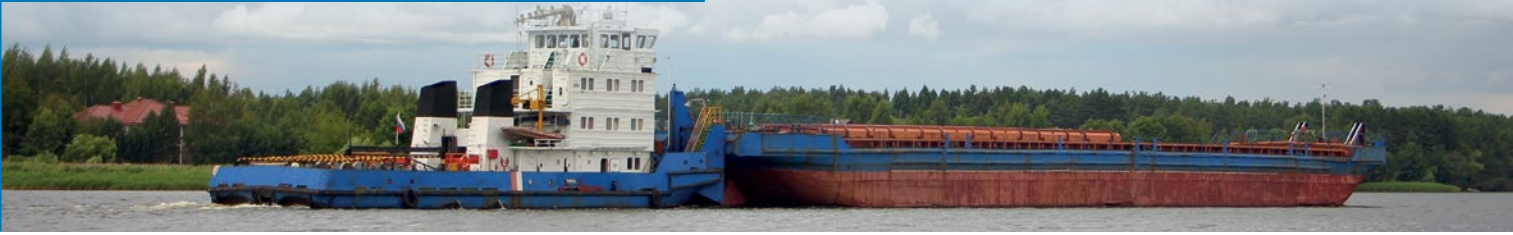
In the event of an FFO claim arising, the Club will cover Members’ liability to pay damages or compensation for any loss or damage in respect of any property (including infringement of rights) whether on land or water and whether fixed or moveable. Members will be indemnified for all such losses that exceed their agreed FFO deductible.

The Club is on standby to assist if an incident occurs involving an entered vessel, and Members should notify their dedicated claims team immediately of any incident that may give rise to a FFO claim. This will allow our local correspondents to be instructed to survey and investigate the circumstances of the incident and protect Members’ interests with regards to any third-party liabilities. The Club can also arrange for urgent legal representation where necessary if, for example, the Master or crew are required to be interviewed by the USCG or other maritime authorities.

In some cases, security is requested by the claimants to cover their anticipated losses and the Club may in its discretion assist with the provision of such security in the form of a Club Letter of Undertaking. This form of security is widely accepted and can help minimize disruption to the operation of the

vessel. Establishing liability for FFO incidents will usually depend on the factual matrix so it is essential that the Members undertake the following internal measures:

- 1: Follow company guidelines, including promptly reporting the following incidents to the USCG: all accidental groundings, loss of main propulsion or primary steering, an occurrence materially and adversely affecting the vessel’s seaworthiness or fitness for service (fire, flooding, failure/damage to lifesaving equipment) and loss of life;
- 2: Conduct an initial assessment/ investigation to determine the cause that led to the loss;
- 3: Gather all evidence, preserve any recordings/data related to the incident, take high resolution close-up photographs from different aspects and take statements from all relevant personnel immediately following the incident. Ensure all evidence is carefully labelled and stored.



## Case Studies

1. On February 28, 2008, at approximately 2200 hours, the Tug ALPHA with its tow (1 fuel barge and 2 grain barges), were transiting upstream through the John Day Dam Navigation Lock on the Columbia River. During the rise in the locks, the tug and its tow reportedly moved forward, causing the push knees to the barge to make contact damage with the upstream lock wall causing extensive damage to the gate and ancillary equipment. The alleged damage to the navigation lock was approximately \$4.9M.
2. On January 10, 2008, after being loaded with a full cargo of fuel oil at Rodeo Terminal in San Francisco, CA, the double hulled T/B BETA, proceeded outbound in tow of the Tug GAMMA, with a local tug assisting astern, when at approximately 1800 hours, the barge made contact damage with the Richmond-San Rafael Bridge fender system. Damage was sustained by both tug and barge (approximately \$700K), and bridge repairs were in the region of \$2.8M.
3. On August 6, 2011, a tug and barge combination DELTA/ EPSILON struck a crane barge at the Yonkers sugar refinery whilst in the process of docking. As a result of the incident extensive damage was caused to the crane barge as well as the dock. Initial investigations suggested the Master came into the refinery to dock at too great a speed and too great an angle, not appreciating the effect of the wind or tide. Expert surveyors were appointed and assessed that the repair costs and replacement crane barge costs amounted to US\$300k, whereas repair costs for the dock were assessed at between US\$750k to US\$1.1million. However, this did not consider a loss of use claim, permit fees, containment system costs or additional fees. Legal advice was sought, and it was confirmed that liability could be limited to the value of the tug at US\$1.2m. The claim was eventually settled at this level.

## Lessons learned

All navigational and operational watches require the full attention of the watch officer. Each watch officer must maintain situational awareness and minimize interruptions to focus on required duties (no multi-tasking or use of cell phones). The watch officer must inform the Master of any situation where distractions are affecting (or may affect) their watch performance.

Overall, voyage planning is critical. It is essential to:

- Plot the vessel position on the chart (if using ECDIS then plot lines of positions (LOP) to confirm GPS position) at short intervals
- Post lookouts
- Keep a watchful eye on the radar
- Maintain wheelhouse communication with VTS (vessel traffic services)
- Be wary of bank effect and suction
- Plan ahead and adjust speed and rudder, when the transiting includes critical turning points in channels.

## Conclusion

When facing a claim, mitigating the cost to repair FFO structures and any corresponding loss of use claim is paramount. This can often be achieved by the immediate appointment of a qualified surveyor or structural engineer to determine the cause, nature, and extent of damage. It is essential to establish any pre-existing damage (and the general condition of the object) to distinguish from new damage caused by the incident so that Members can defend excessive demands or claims for betterment of the property.

It is often recommended that experts oversee the use of the FFO structure during the period of repair up until the works are completed. This helps verify any loss of use claim presented and provides solid evidence to refuting claims that are inaccurate or excessive.