



## OFFER LETTER

Ottawa, 23 June 2022  
SOPF File: 120-920-C1

### BY EMAIL

Harbour Authority of Arnold's Cove  
P.O. Box 221  
Arnold's Cove, Newfoundland and Labrador A0B 1A0

**RE: F/V *Michael Marie III* — Arnold's Cove, Newfoundland and Labrador  
Incident date: 2022-04-09**

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### SUMMARY AND OFFER

[1] This letter responds to a submission from the Harbour Authority of Arnold's Cove (the "Harbour Authority") with respect to the fishing vessel *Michael Marie III* (the "Vessel"). The Vessel had taken on water on 9 April 2022 at a pier at Arnold's Cove, Newfoundland and Labrador (the "Incident").

[2] On 18 April 2022, the office of the Administrator of the Ship-source Oil Pollution Fund (the "Fund") received a submission from the Harbour Authority on behalf of the Administrator. The submission advanced claims under section 103 of the *Marine Liability Act*, SC 2001, c 6 (the "MLA"). The claim totals \$4,681.58 and arises from costs and expenses of measures taken by the Harbour Authority to respond to the Incident.

[3] The submission has been reviewed and a determination with respect to its claims has been made. This letter advances an offer of compensation to the Harbour Authority pursuant to sections 105 and 106 of the MLA.

[4] The amount of \$4,681.58 (the "Offer"), plus statutory interest to be calculated at the time the Offer is paid, in accordance with section 116 of the MLA, is offered with respect to this claim. The reasons for the Offer are set forth below.

## THE SUBMISSION RECEIVED

[5] The claim was submitted using the Fund’s General Claims Process Claims Form. It includes a narrative that describes events relating to the Incident, as well as a contractor invoice and work order. These items are reviewed below.

### Narrative

[6] According to the narrative, on 9 April 2022, Harbour Authority personnel observed that the Vessel had taken on water while at a pier at the Arnold’s Cove wharf. An attempt to pump the Vessel was made, but the operation was paused when an oily sheen was produced.

[7] The Harbour Authority contracted with GFL Environmental Services, Inc. (“GFL Environmental”) to pump the Vessel. The contractor removed 14,942 liters of contaminated wastewater from the Vessel.

[8] The Canadian Coast Guard and the Department of Fisheries and Oceans Small Craft Harbours program were notified of the Incident.

### Contractor documentation

[9] The claim includes the following invoice from GFL Environmental:

**GFL** **Invoice**

HARBOUR AUTHORITY - ARNOLDS COVE  
PO BOX 221  
ARNOLD'S COVE NL A0B 1A0  
CANADA  
Customer # 165455

Invoice Date: 04/13/2022  
Invoice Number: 93358381  
Payment Terms: Net 30 Days

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GFL Environmental Services, Inc.  
GFL Logy Bay  
418 Logy Bay Road  
St John's NL A1A 6C8

Customer Acct Ref: WO 83678  
CSO Number: 20027709  
Job Description: Vac Truck to pump Bilges on Boat  
(Michael Marie)

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Job Location: HARBOUR AUTHORITY - ARNOLDS COVE PO BOX 221

Date	Product/Service	PO #	DMR #	Mat. #	QTY	Unit Price	Total
04/10/2022	Vacuum Truck (Carbon Steel) w/ OP OT		80123920	93464	12.00 HR	\$145.00	\$1,740.00
04/10/2022	Waste Water		80123920	70122	14,942.00 L	\$0.11	\$1,643.82
04/10/2022	Waste Oil		80123920	73627	900.00 L	\$0.09	\$81.00

Env, Ener & Rec Fee \$808.31  
Invoice Sub-Total: \$4,070.93  
HST (10631 3019 RT0001): \$810.65  
Total In CAD: \$4,881.58

Figure 1—GFL Environmental invoice (13 April 2022)

[10] The following work order from GFL Environmental, which provides further details on the response to the Incident, is also included:

**GFL GREEN FOR LIFE**  
 dburke@terrapureenv.com  
 Phone: 709.722.8212  
 Fax: 709.739.0602

DATE: April 10 2022  
 WORK ORDER# NO 83678  
 CSO# 20627709  
 PO#

CUSTOMER NAME: Harbour Authority  
 OFFICE USE ONLY  
 DMR# 6023920  
 INVOICE# 9358381

JOB SITE: Arnold's Cove Wharf

CONTACT: [REDACTED] TELEPHONE: [REDACTED] Email: [REDACTED]

EQUIPMENT	UNIT #	PRODUCTS	QUANTITIES	HOURS
<input checked="" type="checkbox"/> Vacuum Truck	16-116	<input checked="" type="checkbox"/> Used Oil 900 Litres	<input checked="" type="checkbox"/> Litres 15942	AM <input checked="" type="checkbox"/> Dispatch Time PM <input type="checkbox"/> Dispatch Time
<input type="checkbox"/> Vacuum Trailer		<input checked="" type="checkbox"/> Waste Water 1494 Litres	<input type="checkbox"/> Tonne	6000
<input type="checkbox"/> Sewer Flusher		<input type="checkbox"/> Septic	<input type="checkbox"/> Drums	0330
<input type="checkbox"/> Used Oil Truck		<input type="checkbox"/> Pits/Catch Basins	<input type="checkbox"/> Disposal Site LBR	1500
<input type="checkbox"/> Wash Unit		<input type="checkbox"/> Oil Based Mud	Bulk Waste #	2000
<input type="checkbox"/> Hydro Blaster		<input type="checkbox"/> Water Based Mud	<input type="checkbox"/> Disposal Site Foxtrap	TOTAL HRS
<input type="checkbox"/> Service Vehicle/Deck		<input type="checkbox"/> Drums/Filters		12
<input type="checkbox"/> Confined Space Trailer		<input type="checkbox"/> Confined Space Entry		
<input type="checkbox"/> Gas Meter		<input type="checkbox"/> Rescue Team		
<input type="checkbox"/> Extra Operators		<input type="checkbox"/> Other		
<input type="checkbox"/> Foreman				
<input type="checkbox"/> Other				

JOB INSTRUCTIONS: pump water from Boat as required. (Michael Marie)

NOTES:  
 1st Load = 9842 Litres  
 2nd Load = 6000 Litres  
 14942 Litres = water - Total.  
 900 Litres waste oil Total

Sub Total	
HST	
TOTAL	

WORK COMPLETED SATISFACTORILY

White - File Copy Yellow - Customer File Copy Pink - Customer Copy Golden Rod - Office Copy

Figure 2—GFL Environmental work order (personal information redacted)

### DETERMINATIONS AND FINDINGS

The submission presents potentially eligible claims

[11] The Incident resulted in the threat of oil pollution damage within the territorial seas or internal waters of Canada, as well as in costs and expenses to carry out measures to prevent such damage. As a result, claims arising from the Incident are potentially eligible for compensation.

[12] The Harbour Authority is an eligible claimant for the purposes of section 103 of the MLA.

[13] The evidence shows that a discharge of oil was reasonably anticipated, and the submission arrived prior to the limitation period set out under paragraph 103(2)(b) of the MLA, which applies where oil pollution damage has not occurred.

[14] Some of the claimed costs and expenses arise from what appear to be reasonable measures taken to “prevent, repair, remedy or minimize” oil pollution damage from a ship, as contemplated under Part 6, Division 2 of the MLA, or under the International Convention on Civil Liability for Bunker Oil Pollution Damage, and are therefore potentially eligible for compensation.

[15] Accordingly, the submission presents claims that are potentially eligible for compensation under section 103 of the MLA.

Identification and description of the *Michael Marie III*

[16] Built in 1962, the *Michael Marie III* is a wooden fishing vessel that measures 14.2 meters in length, 5.12 meters in breadth, and 2.59 meters in depth. It weighs 40.23 gross tons and 27.36 net tons.

[17] The Vessel is registered at the Port of St. John’s, NL, under the Official Number 318626.

**CLAIM AND OFFER DETAILS**

[18] The Vessel had taken on water and, when initially pumped at the pier, released an oily sheen. Additionally, Arnold’s Cove has an active fishing industry, including a significant lobster and mussel fishery in Placentia Bay. At the time of the Incident, the Harbour Authority was aware that several hundred crates of lobsters were floating in the nearby waters and was concerned that oil pollution from the Vessel could harm them.

[19] Considering these factors, it was reasonable for the Harbour Authority to deem the Vessel an oil pollution threat and take steps to mitigate that threat.

[20] The Harbour Authority’s claim covers work done by GFL Environmental, which, according to the above invoice and work order, removed 900 liters of waste oil and 14,942 liters of contaminated water from the Vessel on 10 April 2022. For this work, GFL Environmental used a carbon steel vacuum truck for 12 hours.

[21] Given the oily sheen that was discharged during the initial pumping efforts, it was reasonable for the Harbour Authority to cease pumping and hire a contractor with specialized equipment. The decision was made in a timely manner and without undue delay.

[22] The hourly rate of \$145 for the use of a vacuum truck aligns with typical industry rates, and the 12-hour time period of the response operation was due to the fact that only one vacuum truck was available.

[23] Finally, the Harbour Authority and GFL Environmental have provided proof that the Harbour Authority paid the amount listed in the invoice.

[24] An HST rate of 15% was levied on the subtotal of \$4,070.93, for a total HST of \$610.65. In fact, when rounded to two decimal places, a 15% HST charge would be \$610.64. This one-cent difference is attributed to a rounding error or typo.

[25] On these grounds, the claim is accepted in its entirety in the amount of \$4,681.58.

### **OFFER SUMMARY AND CLOSING**

[26] Costs and expenses in the amount of \$4,681.58 are accepted and will be paid together with statutory interest calculated at the date of payment if the Offer is accepted.

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[27] In considering this Offer, please observe the following options and time limits that arise from section 106 of the MLA.

[28] You have 60 days upon receipt of this Offer to notify the undersigned whether you accept it. You may tender your acceptance by any means of communication by 16:30 Eastern Time on the final day allowed. If you accept this Offer, payment will be directed to you without delay.

[29] The MLA provides that if no notification is received by the end of the 60-day period, you will be deemed to have refused the Offer. No further offer will issue.

[30] Finally, where a claimant accepts an offer of compensation, the Administrator becomes subrogated to the claimant's rights with respect to the subject matter of the claim. The claimant must thereafter cease any effort to recover for its claim, and further it must cooperate with the Fund in its subrogation efforts.

Yours sincerely,

Mark A.M. Gauthier, B.A., LL.B.  
Deputy Administrator, Ship-source Oil Pollution Fund