



## **OFFER LETTER**

Ottawa, 23 April 2021  
*SOPF File:* 120-886-C1  
*CCG File:* n/a

### **BY EMAIL**

Manager, Response Services and Planning  
Canadian Coast Guard  
200 Kent Street (Stn 5N177)  
Ottawa, Ontario K1A 0E6

**RE: P/C *Sweven*– St. John's, Newfoundland and Labrador  
Incident date: 2019-03-12**

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### **SUMMARY AND OFFER**

This letter responds to a claim submitted by the Canadian Coast Guard (the “CCG”) with respect to an incident involving the pleasure craft *Sweven* (the “Vessel”), which sunk in St. John's Harbour, Newfoundland and Labrador, on 12 March 2019 (the “Incident”).

On 11 March 2021, the Office of the Administrator of the Ship-source Oil Pollution Fund (the “Fund”) received the CCG's claim for costs and expenses related to the Incident. The claimed costs and expenses total \$6,134.57. The Fund has reviewed the claim and reached a determination. This Offer Letter explains the determination and advances an offer of compensation pursuant to sections 105, 106 and 116 of the *Marine Liability Act* (the “MLA”).

The Fund has determined that the CCG's claim should be allowed. The amount of \$6,134.57 (the “Offer”) is offered with respect to this claim.

The reasons which explain the Offer are set forth below.

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### **THE CLAIM SUBMISSION**

The CCG submission includes a narrative which describes relevant events relating to the Incident. It also includes a summary of the costs and expenses claimed, backup documents related to some of those claimed costs and expenses, and a contractor invoice. To the extent that these are relevant to the Fund's determination, their contents are described below.

### Narrative

On 12 March 2019, the CCG received word that a 33' pleasure craft identified as the *Sweven* had sunk in St. John's Harbour. Three CCG personnel were dispatched to the site of the Incident. When they arrived, they observed that the Vessel was mostly submerged in the water, with the stern section still afloat via mooring lines. They placed four bags of 8" sorbent boom around the Vessel. A light sheening in the water and an oily odour were detected around the Vessel.

Several attempts to contact the purported owner were made without success. On 13 March 2019, the purported owner informed the CCG that he was not the true owner of the Vessel, despite correspondence with the local harbour authority indicating otherwise. The CCG then contacted the Vessel's previous owner, who confirmed that the purported owner, to whom he had sold the Vessel, was in fact the owner. The previous owner supplied the CCG with the Bill of Sale to this effect and indicated that the Vessel contained an unknown amount of diesel fuel and a small engine. The CCG subsequently issued the owner an order regarding his obligations, pursuant to s. 180 of the *Canada Shipping Act, 2001*.

Three CCG personnel were again dispatched to the scene that day with a response vehicle and trailer. Upon arrival, they observed that the oily sheen inside the boom was still present and non-recoverable. They deployed additional boom as a precautionary measure. Crews dewatered the Vessel, removed its pollutants, and secured it to a dock.

On 14 March 2019, CCG personnel returned to the site of the Incident and removed the sorbent boom for disposal. The CCG again informed the owner of his obligation to submit written correspondence regarding his intentions with the Vessel and that failure to respond could result in the CCG selling or deconstructing it. The owner indicated that he would remove the Vessel from the dock on the morning of 16 March 2019 and accepted responsibility for the incurred costs and expenses. On 16 March 2019, the owner removed the Vessel from the dock.

### The costs and expenses summary

The submission also included the following summary of the costs and expenses claimed by the CCG:

**COST SUMMARY**  
**POLLUTION INCIDENT**

<b>INCIDENT:</b>	PC Sweven	<b>PROJECT CODE:</b>	2E150
<b>INCIDENT DATE:</b>	March 12, 2019	<b>DATE PREPARED:</b>	April 25, 2019
<b>DEPARTMENT:</b>	Canadian Coast Guard	<b>PREPARED BY:</b>	[REDACTED]

		<u>SCH</u>
MATERIALS AND SUPPLIES	\$ 470.00	1
CONTRACT SERVICES	\$ 1,842.88	2
TRAVEL	\$ -	3
SALARIES - FULL TIME PERSONNEL	\$ 1,458.51	4
OVERTIME - FULL TIME PERSONNEL	\$ 1,922.16	5
OTHER ALLOWANCES	\$ -	6
SALARIES - CASUAL PERSONNEL	\$ -	7
SHIPS' COSTS (EXCL. FUEL & O/T)	\$ -	8
SHIPS PROPULSION FUEL	\$ -	9
AIRCRAFT	\$ -	10
POLLUTION COUNTER-MEASURES EQUIPMENT (PCME)	\$ 138.89	11
VEHICLES	\$ 239.64	12
ADMINISTRATION	\$ 62.50	13
<b>TOTAL CCG COST OF INCIDENT</b>	<b><u>\$ 6,134.57</u></b>	

Figure 1 - Screen capture of CCG cost summary

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## **FINDINGS OF THE ADMINISTRATOR**

### *Eligibility of the claimant*

The Administrator has determined that the CCG is an eligible claimant and that the Incident occurred within the territorial sea of Canada for the purposes of s. 103 of the MLA. As the Vessel posed an identified risk of oil pollution, it is further determined that at least some of the claims submitted by the CCG are eligible for compensation from the Fund.

### *The pollution threat posed*

The Vessel posed a light pollution risk, indicated by the oily sheen and diesel odour that CCG personnel detected on 12 March 2019, as well as the former owner's statement that the Vessel contained an engine with some diesel and base oil. The Administrator concludes that the Vessel was in fact polluting after it sank in the harbour on 12 March 2019, and continued to pose a pollution threat until it was secured on the dock.

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## **CLAIM AND OFFER DETAILS**

The CCG submission broke its claim down into several categories. This section of the Offer Letter reviews each of those categories of claim in detail and provides reasons as to why the claimed costs and expenses have been allowed.

### *Schedule One – Materials and Supplies* \$470.00

CCG personnel deployed four bags of 8-inch sorbent boom and two bags of 4-inch sorbent boom. These materials were used to contain the sheening observed around the Vessel, as well as a preventive measure in response to the previous owner's statement regarding pollutants that the Vessel contained. These costs align with the market value and are accepted as reasonable.

**This portion of the claim is allowed in full.**

### *Schedule Two – Contract Services* \$1,842.88

The CCG contracted Technical Lift & Transport Limited to lift the Vessel from the water with a crane. Invoice 4675 and correspondence between the CCG and the contractor, both of which are included in the submission, substantiate these costs. The number of hours worked is supported by the Personnel and Equipment Daily Logs. As it was necessary to lift the Vessel to respond to the threat of oil pollution that it posed, the costs claimed for this purpose are accepted as reasonable.

**This portion of the claim is allowed in full.**

Schedule Four – Salaries for Full Time Personnel \$1,458.51

The salary costs are attributed to four CCG personnel (two at the GT-04 level and two at the GT-05 level) for 13-14 March 2019. Personnel and Equipment Daily Logs and salary forms listing individual work hours are included in the CCG claim. The salary costs align with Treasury Board contracts in place at the time of the Incident, and the hours claimed are accepted as reasonable.

**This portion of the claim is allowed in full.**

Schedule Five – Overtime for Full Time Personnel \$1,922.16

The CCG claimed overtime costs for the same four personnel. Extra duty forms, individual overtime calendars, and payable time summaries were submitted for each of these personnel and are accepted as reasonable in the circumstances. Namely, the CCG responded to the Incident in a timely manner, and given the time frame of the response to the Incident, a modest amount of overtime was unavoidable.

**This portion of the claim is allowed in full.**

Schedule 11 - Pollution Counter-Measures Equipment \$138.89

These costs arise from the one-day use of a response trailer to transport sorbent boom to the site of the Incident. This measure was necessary in the circumstances, and the charge-out rate is reasonable.

**This portion of the claim is allowed in full.**

Schedule 12 – Vehicles \$239.64

These costs arise from the use of one vehicle during the three days of the response to the Incident. The charge-out rate of \$67.56 per day plus \$.22 per kilometer are accepted as reasonable.

**This portion of the claim is allowed in full.**

Scheduled 13 – Administration \$62.50

The claimed administration fees were charged at a rate of 3.09%, which is the rate on which the CCG and the Administrator have agreed.

**This portion of the claim is allowed in full.**

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**OFFER SUMMARY AND CLOSING**

The following table is provided to summarize the claimed and allowed expenses with respect to the CCG claim for the P/C *Sweven* incident.

<b>SCHEDULE</b>	<b>CLAIM</b>	<b>OFFER</b>
1: Materials and Supplies	\$470.00	\$470.00
2: Contract Services	\$1,842.88	\$1,842.88
4: Salaries	\$1,458.51	\$1,458.51
5: Overtime	\$1,922.16	\$1,922.16
11: Pollution Countermeasures Equipment	\$138.89	\$138.89
12: Vehicles	\$239.64	\$239.64
13: Administration	\$62.50	\$62.50
<b>Total</b>	<b>\$6,134.57</b>	<b>\$6,134.57</b>

Table 1 – Claimed and allowed expenses (all schedules)

The amount of the Offer is \$6,134.57, plus statutory interest accrued to the time payment is made.

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

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.

Alternatively, you have 60 days upon receipt of this Offer to appeal its adequacy to the Federal Court. If you wish to appeal the adequacy of the Offer, pursuant to Rules 335(c), 337, and 338 of the *Federal Courts Rules*, SOR/98-106 you may do so by filing a Notice of Appeal on Form 337. You must serve it upon the Administrator, who shall be the named Respondent. Pursuant to Rules 317 and 350 of the *Federal Courts Rules*, you may request a copy of the Certified Tribunal Record.

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.

Finally, where a claimant accepts an offer of compensation from the Fund, the Fund 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 efforts to pursue subrogation.

Yours sincerely,

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