

**MINISTRY OF ENVIRONMENT
MEETING INFORMATION NOTE**

March 12, 2012
File: 280-20/BN
CLIFF/tracking #: 164813

PREPARED FOR: The Honourable Terry Lake, Minister of the Environment

DATE AND TIME OF MEETING: March 21, 2012; 2:30-3:00pm

ATTENDEES: Minister Lake, Stephen Brown, President of Chamber of Shipping of British Columbia, Jim Standen, ADM of Environmental Protection Division, Graham Knox, Manager of Environmental Emergency Program

ISSUE: Oil Spill Response

BACKGROUND:

The BC Chamber of Shipping is a not-for-profit trade association representing ship owners, operators and agencies conducting business in Western Canada. There are two membership categories and subscribers. The voting membership is comprised of the principal membership owners, operators and agencies. The associate members are non-voting and include ports, lawyers, insurers, classification societies, surveyors and other industry service providers.

The Chamber of Shipping along with other maritime industry associations including the BC Council of Marine Carriers and the BC Coast Pilots Association see potential new employment opportunities for their members associated with natural resource development proposals that rely on shipping their products from the west coast. This includes mining and pipeline proposals and the associated port developments on the north coast.

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Jurisdiction for marine spills and their impacts is complicated by the division of constitutional powers in Canada and the various levels and agencies of government that have enacted specific legislation that governs shipping, environment, wildlife, etc. The federal government has constitutional authority for navigation and shipping, whereas both the province and the federal government have shared authority over the environment. The province has authority for the management of provincial lands and natural resources. Specific responsibilities for a major marine spill include:

- Transport Canada (TC) – sets regulations for marine spill response planning and preparedness, including the capability and performance requirements for Western Canada Marine Spill Response Corporation.
- Canadian Coast Guard (CCG) – serves as the Federal Monitoring Officer when a responsible party is managing a ship source spill and manages the response directly as the Federal On-scene Commander in the event there is no responsible party.
- Environment Canada (EC) – provides scientific and environmental advice to the responsible party and federal lead agencies and is responsible for federal environmental enforcement actions.
- BC Ministry of Environment – provides the Provincial Incident Commander to represent the province’s interests (including public safety, environment, and economic impacts) in Unified Command with the responsible party and other participating levels of government, or Incident Commander if there is no identified responsible party. Identified lead ministry under the *Emergency Program Act* to plan and respond to all spills impacting the province regardless of the source. Responsible for ensuring compliance with the *Environmental Management Act*.
- Spiller / Responsible Party – manages the incident in cooperation with other levels of government participating in Unified Command. If the responsible party is unable, unwilling or inadequately managing the response the CCG, or the Ministry of Environment may assume management of the incident.
- Western Canada Marine Response Corporation (WCMRC) – provides spill response services to any spiller once a contract is in place. Certain size vessels must hold membership in WCMRC but are not actually required to have them respond on their behalf. TC sets the planning and capability standards of WCMRC.
- First Nations and Local Governments may also hold a position in Unified Command when their lands are directly impacted. Other federal and provincial agencies may also participate in the spill response or exercise their legislation.

DISCUSSION:

The Environmental Emergency Program, which is the program area tasked with provincial spill preparedness and response planning, is also concerned with the current state of the marine spill response regime in Canada. There are clear opportunities for both the federal and provincial governments to enhance regulatory requirements to ensure that industry is properly positioned to prevent, mitigate, respond and recover from marine spills and improve on those aspects of spill response that the two levels of government provide. The current gaps and deficiencies have been well documented in a variety of forums and reports including the recent federal audits, non-governmental organization reports on this issue, and the Pacific States / British Columbia Oil Spill Task Force report on trans-boundary spills.

Key challenges and gaps include:

- Differing spill response management system between the Canadian Coast Guard and the Incident Command System which is used by the Province of BC, industry and the United States.

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- Environmental Emergency Program lacks sufficient resources to deliver appropriate level of prevention, preparedness, response and recovery for spills.
- Limits of liability for marine spills create significant exposure for both the provincial and federal governments who will have to manage and fund the response and recovery activities once current limits are reached.

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SUMMARY:

Currently the province, the federal government and industry are not adequately prepared or resourced to effectively manage spills on Canada's west coast and this is being highlighted through public, media and stakeholder scrutiny of the increasing risks posed by existing and proposed development activities. The situation grows progressively worse outside of the Port of Vancouver area and as one moves into the more remote sections of the coast.

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Prepared by:

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Reviewed by	Initials	Date
DM	VJ for CM	Mar 13/12
DMO	VJ – edits	Mar 13/12
EPD ADM	JStanden	Mar. 12/12
Director, EMB	MM	Mar. 12/12
Mgr, EEP	GK	Mar. 12/12

MINISTRY OF ENVIRONMENT INFORMATION NOTE

March 16, 2012
File: 280-20/BN
CLIFF/tracking #: 165249

PREPARED FOR: The Honourable Terry Lake, Minister of the Environment

ISSUE: Environmental Emergencies Oil Spill Response Overview

BACKGROUND:

The province and the federal government share constitutional authority for the environment.

The Ministry of Environment is the designated lead ministry in the provincial government to prevent, mitigate, respond to and recover from spills affecting the province. The Minister of Environment is required by the *Emergency Program Act* to develop and implement as required the provincial plans for hazardous material spill response.

Under federal legislation a variety of federal agencies play a planning or lead federal role in spill response. Transport Canada is the lead federal agency for regulating marine spill response planning requirements for industry and the Canadian Coast Guard serves as either the federal monitoring officer or federal on-scene commander during a marine spill. The National Energy Board serves as the lead federal agency for inter-provincial pipeline spills. Environment Canada serves as the lead federal agency for most other types and sources of spills.

Local government, First Nations and industry also play important roles in spill preparedness and response. Industry is required under both federal and provincial legislation to take responsibility for their spills and manage the response. Local governments have responsibilities for emergency response planning within their local jurisdiction. First Nations, especially those who have completed treaties, have important roles to play in spill response.

DISCUSSION:

The Ministry requires immediate notification of all spills affecting the province to assess the potential impacts and ensure that the spiller is taking all appropriate steps to stop, contain and mitigate the spill. For the majority of reported spills in the province, ministry staff simply monitor the response of the spiller to ensure appropriate cleanup occurs, consistent with the provisions of the *Environmental Management Act*.

For spills where significant risks to the environment, public safety and other provincial interests are identified, the Ministry takes a more active role in the oversight and management of the spill. The Ministry's involvement can range from the involvement of

a single Environmental Emergency Response Officer, to the broader activation of provincial resources through the Ministry's Incident Management Team.

In the event that a spiller is unidentified, unwilling, inadequately managing, or has reached the limits of capacity, the Ministry may need to "take over" the full management and response to the incident to ensure public safety, environmental protection and address other aspects of the spill appropriately.

In general, spill response will involve participation at some level by one of the lead federal agencies. For marine spills the Canadian Coast Guard handles the response to the majority of spills, with the province taking a more active role in larger marine spills that pose a greater risk to provincial lands and areas of jurisdiction. Local government typically plays a key role in spills within their jurisdiction through their fire departments and public works departments. The provincial government has the responsibility to assist local governments whenever local government capabilities are exceeded, thus it is essential that the province is prepared to provide this support.

SUMMARY:

The Province of BC has clear legal and jurisdictional obligations that must be met during a spill response to ensure public safety and protection of the environment. The government also has a significant interest in the management of spills to ensure that impacts to local businesses and the overall provincial economy are mitigated as well as the impacts to the social and cultural fabric of communities. The province has a significant governance and leadership role to play in these spills to demonstrate to the citizens of BC that their interests are being fully represented and that government is not seen to be abdicating its responsibilities by leaving the responsible party (who caused the spill) to address the public's concerns.

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DM	VJ for CM	Mar 16/12
DMO	VJ – edits	Mar 16/12
EPD ADM	JS	Mar.16/12
Director, EMB	MM	Mar 16/12
Mgr, EEP	GK	Mar 16/12

MINISTRY OF ENVIRONMENT INFORMATION NOTE

26 April 2012
File: 282-30
CLIFF/tracking #: 167979

PREPARED FOR: Honourable Terry Lake, Minister of Environment

ISSUE: Marine spill response roles and responsibilities

BACKGROUND:

During a March 2012 briefing on the subject, Minister Lake requested concise information outlining responsibilities for marine oil spills. Attached to this information note is a one-page primer that brings more clarity to this issue (appendix 1).

DISCUSSION:

Jurisdiction for marine spills and related impacts is complicated by the division of constitutional powers in Canada. Both the provincial and federal governments have legislated interests in spill response.

The federal government has constitutional authority for navigation and shipping, whereas both the province and federal government have shared authority over the environment. The province has authority for the management of provincial lands and natural resources.

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CONCLUSION:

Regardless of jurisdiction, if a major spill were to occur in BC's marine environment the Ministry's Environmental Emergency Program would play a significant role in any subsequent response.

The Ministry would participate in the incident command structure as the provincial lead, and actively monitoring developments as they unfold. The Ministry would also be prepared to take over part or all of the response if provincial interests – health, environmental, social, and economic – were impacted and appropriate response actions were not being taken.

Attachment 1: Typical Response for a Ship Source Marine Oil Spill
Attachment 2: Typical Incident Command Structure/Unified Command
Attachment 3: Key Ministry Concerns about Marine Spill Response

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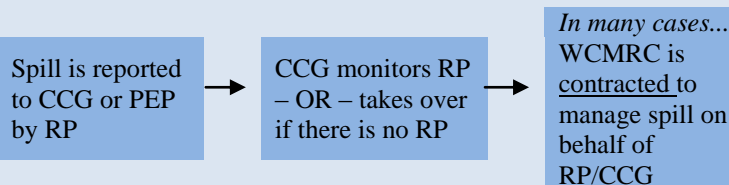
Prepared by:

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Reviewed by	Initials	Date
DM	CM	May 2, 2012
DMO	VJ	May 2, 2012
ADM	JH for JS	May 2, 2012
Dir./Mgr.	JH	May 2, 2012
Author	BVS	26 Apr 2012

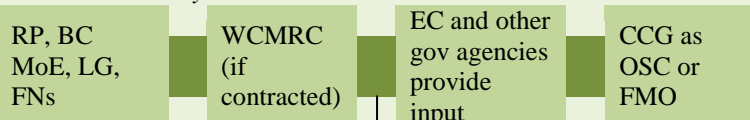
Attachment 1: Typical Response for a Ship-Source Marine Oil Spill

1. The initial actors once a spill occurs

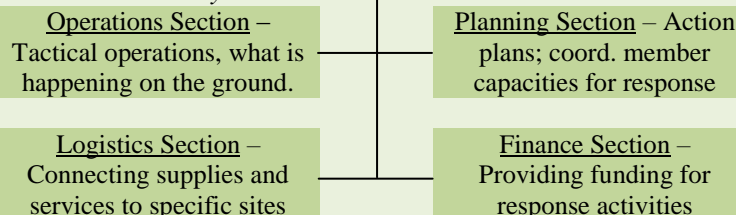


2. Initial actors – likely the RP and BC MoE – initiate a Unified Command Structure to Oversee Response

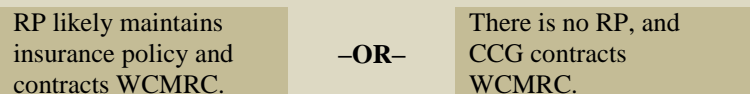
The members may be:



Their activities may be:



3. Source of funding & limits of liability for marine spill response



Limits of liability:

<u>Tier 1</u>	<u>Tier 2 & 3</u>	<u>Tier 4</u>
Up to \$140 M Civil Liability Convention – RP costs before Tiers 2-4 are avail. (covered by RP's insurance).	Up to \$1.18 B International Oil Pollution Compensation Funds (incl. Tier 1)	Additional \$155 M Canada's Ship Source Oil Pollution Fund (exclusive of Tiers 1-3)

LEGEND

CCG	Can. Coast Guard	OSC	On-scene Commander
TC	Transport Canada	FMO	Fed. Monitoring Off.
EC	Env. Canada	RP	Responsible Party
PEP	Prov. Emerg Program	MoE	Min of Environment
UC	Unified Command	LG	Local Government
FN	First Nations		
WCMRC	Western Can. Marine Response Corp.		

Additional Information

TC sets regulations for marine spill response, including for RP and WCMRC.

WCMRC provides spill response services to any spiller once a contract is in place. Tankers and barges of 150 tonnes and greater, all ships 400 tonnes and greater, and oil handling facilities must hold a membership with WCMRC (to support maintaining readiness).

EC provides scientific advice to RC and federal lead agencies; and, is responsible for federal environmental enforcement actions.

BC MoE plans/responds to all spills impacting BC, regardless of source.

RP manages incident with other parties through Unified Command. If there is no RP, or an inadequate RP, then the CCG or BC MoE assumes management.

BC MoE provides the Provincial Incident Commander to represent all provincial interests (public safety, env, economic).

Additional provincial/federal agencies may join the UC if it impacts their mandates.

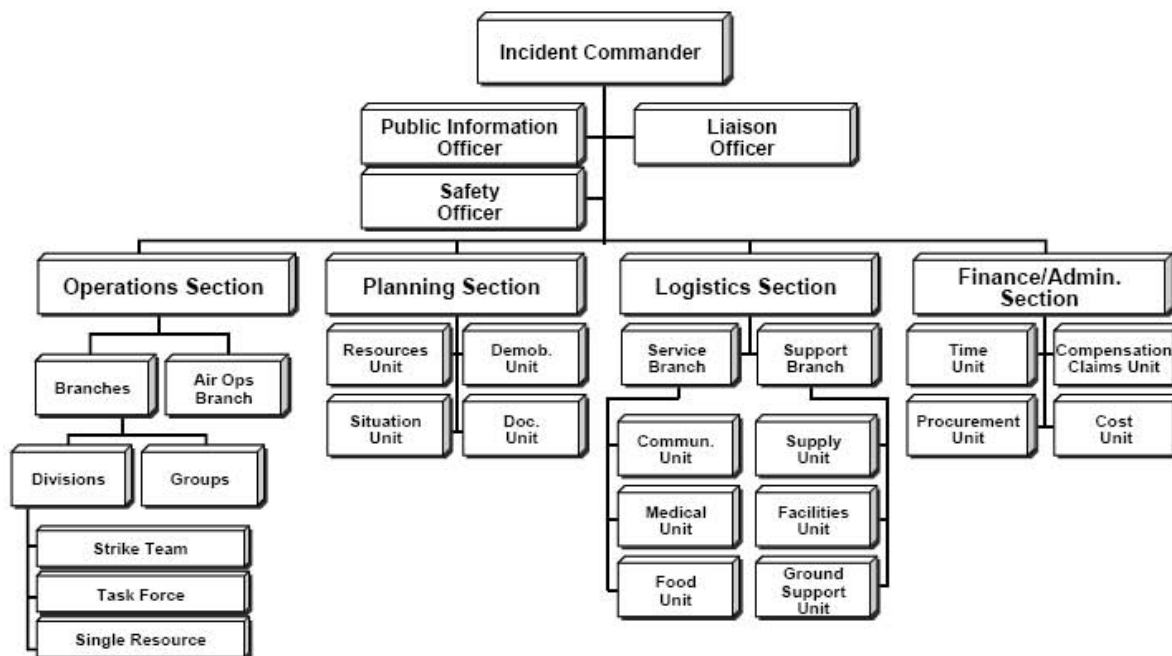
CCG does not participate in UC (though are considering it for the future). In an RP-led response CCG serves as the Federal Monitoring Officer or when there is no RP they assume the role of On-Scene Commander.

Clean-ups that exceed \$1.34 B require public funds. Estimates for some major spills far exceed this threshold (e.g., Exxon Valdez spill cost \$3.8 B, not including all potential losses).

If no RP is identified, initial claims under Tier 1 can be made from Tier 4 (e.g., responding federal – or provincial – agencies can attempt to recover clean-up costs through Tier 4).

Final note the Provincial role, led by BC MoE, will expand to: ensure protection of provincial lands, species and their habitat; manage waste, air quality, shoreline clean-up, chemical dispersant, and in-situ burning approvals; and, protect public health and safety and economic and community impacts.

Attachment 2:
Typical Incident Command Structure/Unified Command



Attachment 3:
Key Ministry Concerns about Marine Spill Response

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- CCG may not have the appropriate response equipment positioned along the west coast. The potential to move equipment from other areas of Canada in the event of a spill has been raised. The time it would take to move equipment may be too long to provide adequate support to respond to a major west coast spill.

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- The geography – including the rocky coastline and distances between equipment caches – in addition to the weather and sea conditions along BC’s coastline, will pose unique challenges to response efforts in BC’s coastal waters.

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MINISTRY OF ENVIRONMENT INFORMATION NOTE

September 25, 2012
Date of previous note: August 31,
2011 and July 7, 2011
File: 280-20/BN
CLIFF/tracking #: 173240

PREPARED FOR: Honourable Terry Lake, Minister of Environment

DATE AND TIME OF MEETING: October 2, 2012 at 1:00pm

ATTENDEES: Minister Terry Lake, Graham Knox and Jim Hofweber

ISSUE: The Environmental Emergency Program is moving forward with public consultation on our intentions to develop an industry-funded model for enhanced spill preparedness and response in British Columbia (BC).

BACKGROUND:

The safe transportation and use of hazardous materials – including petrochemicals, such as oil and natural gas – is critical to BC's economy and way of life. Whenever hazardous materials are present the possibility of a spill into the environment exists. While public interest focuses most heavily on the risks posed by oil tankers at sea, there are risks that exist in the terrestrial environment as well; an area where the province has significant management responsibilities.

Major resource developments in the province's northeast and Alberta, coupled with proposals to open new and expand existing transportation corridors for petrochemicals and other hazardous materials, are resulting in increased risks to provincial resources and infrastructure accompanied by enhanced public expectations for preparedness and response to spills in BC.

DISCUSSION:

The Ministry of Environment (MoE), as the legislatively designated ministry responsible for preparedness, prevention, response and recovery related to spill incidents is not adequately staffed and resourced to meet the existing and growing expectations to address spills. Even a moderate-sized spill would overwhelm the province's ability to oversee an effective response and could result in a significant liability for government.

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There are a number of funding mechanisms used in other jurisdictions that could be used as a model to finance a *polluter-pays* system for high spill risk industries in BC.

Ministry staff have engaged in preliminary dialogue with a few key industry representatives (Canadian Association of Petroleum Producers, Canadian Petroleum Producers Institute, Canadian Energy Pipelines Association) and expressed the Ministry's interest in working with the regulated community to develop an industry funded model for enhanced spill management in BC. The initial response from industry has been supportive. Appendix A provides a draft intentions paper and response form with further background and details, and highlights our intention to solicit stakeholder and public feedback on:

- Identifying and developing alternative funding mechanisms for BC's Environmental Emergency Program;
- Supporting development and implementation of a provincial scale spill prevention and response organization; and
- Establishing a mechanism to ensure fair and timely natural resource damage assessment and reparation.

NEXT STEPS:

The intentions paper will be posted on the Environmental Emergency Program website for 60 days. The paper will solicit feedback from all stakeholders on the development of this policy. In addition, staff will be seeking engaged feedback and support from affected parties throughout the development of this policy. While staff have engaged with a few key industry stakeholders, they will continue to engage with focused stakeholders prior to and during the posting of the intentions paper. These groups include; the petroleum industry associations, industry associations representing transporters of hazardous materials (railways, pipelines, trucking, marine vessels, ports, response contractors), the Union of BC Municipalities, the Union of BC Indian Chiefs, non-government organizations and associations, and professional associations in BC.

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Reviewed by	Initials	Date
DM	CM	Oct 1/12
DMO	VJ edits	Sept 28/12
ADM	JStanden	Sept 27/12
Exec. Dir.	JH	Sep 25/12
Author/Mgr.	TC	Sep 18/12

Pages 16 through 28 redacted for the following reasons:

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Spill Preparedness and Response in British Columbia

Ministry of Environment – Environmental Emergency Program

Response Form

The Ministry of Environment (the ministry) is reviewing options to strengthen BC's spill preparedness and response policies and capacity. This review addresses three aspects of spill preparedness and response:

- ◆ Effective oversight and coordination through the ministry's Environmental Emergency Program
- ◆ World-class standards for spill preparedness and response are in place and followed
- ◆ Effective and efficient rules for restoration of the environment following a spill

Comments regarding the proposed intentions of the ministry are being solicited and will be carefully considered in the development of the Province's spill preparedness and response policies and capacity.

The ministry welcomes all suggestions with respect to the intentions discussed in the intentions paper, or other aspects of spill preparedness and response in British Columbia.

Comments to the ministry should be made on or before * **, 2012.**

The intentions paper, the response form for providing comments to the ministry and related links are posted on the **ministry's consultation website: www.env.gov.bc.ca/epd/codes/**.

Those interested are invited to submit comments on the ministry's intentions – using the instructions and questions provided on this response form. Individuals or organizations are also welcome to make written submissions to the ministry without following the format set out in the response form.

A summary report of comments and submissions received, including both printed and web-based responses, will be compiled and summarized without specific attribution by an independent contractor and posted on the Ministry of Environment website.

Comments received will be treated with confidentiality by government staff and contractors. However, comments that you provide and information that identifies you as the source of those comments may be publicly available if a Freedom of Information (FOI) request is made under the *Freedom of Information and Protection of Privacy Act*.

If you have any questions or comments, check the website address above, or contact Cindy Bertram of C. Rankin & Associates who has been contracted to manage consultation comments, at:

Email: cindybertram@shaw.ca
Mail: PO Box 28159 Westshore RPO
Victoria B.C. V9B 6K8
Fax: (250) 598-9948

Completed response forms or submissions may be returned by any of the means listed above (email, fax or mail), or by directly submitting the web-based response form on the ministry website.

Thank you for your time and comments!

Spill Preparedness and Response in British Columbia

Ministry of Environment – Environmental Emergency Program

Response Form

Discussion Areas and Questions

The following discussion areas and questions are based on a policy intentions paper for consultation available from the ministry's consultation website: www.env.gov.bc.ca/epd/codes/.

1. Guiding principles

The ministry uses the following principles to guide the Environmental Emergency Program (see section 2.1 of the intentions paper):

- ♦ The polluter-pay principle
- ♦ Emergency management is a shared responsibility
- ♦ The level of emergency preparedness is commensurate with known risk
- ♦ Emergency planning and response is in accordance with accepted protocols and standards
- ♦ Response strives for a net environmental benefit
- ♦ Response decisions are based on fairness and transparency
- ♦ The primary role of a government is to demonstrate and apply governance

1.1 Do you have any general comments regarding the ministry's guiding principles for BC's Environmental Emergency Program?

1.2 Are there any gaps in the principles or principles that you feel are not appropriate?

1.3 Do you have any comments or suggestions on how these principles should be applied to support spill preparedness and response in British Columbia?

2. Strengthening and funding BC's Environmental Emergency Program

Recognizing competing demands on government funding and guiding program principles, the ministry is seeking comment on establishing means to fund spill preparedness and response by a levy linked to the production or transport of petroleum products and other hazardous materials (see section 3.1 of the intentions paper).

A. Increased staff and prevention, preparedness and response capacity (see intentions paper section 3.1 A)

2.1 Do you have any comments regarding staff and capacity to address prevention, preparedness and response to spills in the BC Environmental Emergency Program?

Spill Preparedness and Response in British Columbia

Ministry of Environment – Environmental Emergency Program

Response Form

B. Establishment of a provincial spill response fund (see intentions paper section 3.1 B)

2.2 Do you have any comments regarding establishing a provincial spill response fund?

C. Instituting a fair and efficient funding mechanism (see intentions paper section 3.1 C)

2.3 Do you have any comments regarding establishing levies or other means of funding for BC's Environmental Emergency Program?

2.4 Do you have any comments or suggestions regarding appropriate mechanisms to fund spill prevention and response capacity in BC?

3. Establishing world-leading standards for spill preparedness and response

The ministry intends to ensure that world-leading standards for spill preparedness and response are in place and followed across British Columbia (see section 3.2 of the intentions paper).

3.1 Do you have any comments or suggestions regarding appropriate regulatory standards and oversight for companies responsible for the transport or storage of materials which may pose a risk to environment if spilled?

3.2 Do you have any comments or suggestions on whether companies should be required to meet the standards: (1) individually; (2) through required membership in a provincially regulated spill response organization or; (3) have the option to choose?

3.3 Do you have any comments or suggestions regarding the next steps that should be taken to further develop industry-funded spill preparedness and response capacity in BC (through strengthened standards and oversight of individual companies, support for development of industry-funded response organizations, or other actions)?

Spill Preparedness and Response in British Columbia

Ministry of Environment – Environmental Emergency Program

Response Form

4. Establishing a mechanism to ensure fair and timely natural resource damage assessment and reparation

The ministry intends to bolster its policy from removal and remediation to formally include restoration of damaged species, habitats, and loss of public access and use. This process, is known as natural resource damage assessment (see section 3.3 of the intentions paper).

- 4.1 Do you have any comments or suggestions regarding the ministry's intention to establish natural resource damage assessment policies and guidance for BC?

5. Protection of human health and the environment – meeting ministry principles

- 5.1 In your view, how effectively do the ministry's intentions and proposals for strengthening spill preparedness and response address the ministry's guiding principles for managing environmental emergencies?

Not effective at all	Significant gaps	Adequate	Quite effective	Very effective
Circle or highlight one				
1	2	3	4	5

What are the reasons for your choice? Do you have any additional suggestions for the ministry to support a world-leading spill preparedness and response system for BC?

- 5.2 Do you have any other comments or suggestions for the ministry regarding spill preparedness and response?

Thank you for your time and comments!

Please remember to return this response form to the ministry on or before **, 2012.**

If you wish, you may also provide contact information on the following page. This information will be compiled separate from responses and used to inform respondents of posting of the summary of comments and subsequent actions of the ministry related to BC's Environmental Emergency Program.

Spill Preparedness and Response in British Columbia

Ministry of Environment – Environmental Emergency Program

Response Form

(Optional) Contact Information

If you wish to receive further information concerning the ministry's review to strengthen BC's spill preparedness and response policies and capacity, please provide your contact information – **including an e-mail address** – below. Note that all submissions will be treated with confidentiality by government staff and contractors however information that identifies you as the source of those comments may be publicly available if a Freedom of Information request is made under the *Freedom of Information and Protection of Privacy Act*.

Contact Name:

Business or Organization Name (if appropriate):

Email:

Mailing address:

Telephone:

Background and Area of Interest

Please mark an "x" in the appropriate boxes if your primary interest in the ministry's intentions relates to your:

- ☐ **Work in the land (freight) transport sector**
- ☐ **Work in the production, processing or transport of chemical or petroleum products**
- ☐ **Work in the marine transport sector**
- ☐ **Work for a government regulatory agency:**
Please describe (e.g., federal, provincial, municipal):
- ☐ **Work for a public sector organization:**
Please describe (e.g., health authority, education institution, Crown corporation):
- ☐ **First Nation**
Please describe:
- ☐ **Involvement or work for an environmental or community interest group**
Please describe:
- ☐ **Other interest:**
Please describe:

Thank you once more for your time and interest in spill preparedness and response.

If you have any further questions, please contact Cindy Bertram at: cindybertram@shaw.ca

MINISTRY OF ENVIRONMENT INFORMATION NOTE

January 16, 2013
Date of previous note:
September 25, 2012
File: 280-20/BN
CLIFF/tracking #: 185518

PREPARED FOR: Honourable Terry Lake, Minister of Environment

DATE AND TIME OF MEETING: January 24, 2013 2:00pm-2:30pm

ATTENDEES: Minister Terry Lake, Graham Knox and Jim Hofweber
UBCM Environmental Committee

ISSUE: To provide an overview of the Land Based Spill Preparedness and Response in British Columbia Intentions Paper, released November 28th for public consultation.

BACKGROUND:

On November 28, 2012 the ministry released an intentions paper on the review of British Columbia's (BC) spill preparedness and response regime. This document is currently posted for public consultation and feedback is encouraged until February 15, 2013.



This paper is the first step in the review of spill preparedness and response in BC. The ministry will continue to engage with industry, local governments, First Nations and other key stakeholders as we continue to work on enhancing BC's spill preparedness and response regime.

One of the corner stone elements of this paper is the goal to implement a polluter-pays system for high spill risk industries in BC, meaning that those presenting the risk of spills are responsible for funding spill response, including such instances where the spiller is unknown or unable to respond. Such instances today tend to fall on the tax payer. A polluter-pays model would make industry more accountable in all spill scenarios.

DISCUSSION:

The Ministry of Environment, as the legislatively designated ministry responsible for preparedness, prevention, response and recovery related to spill incidents is not adequately staffed and resourced to meet the existing and growing expectations to address spills.

The Intentions Paper

The intentions paper provides an overview of the mandate and responsibilities of the both the provincial and federal government, the current status of BC's program and outlines potential challenges, ministry guiding principles, and a brief review of industry funding models. This paper also illustrates a number of funding mechanisms used in other

jurisdictions that could be used as a model to finance a polluter-pays system for high spill risk industries in BC.

The three areas of focus in the intentions paper are:

1. The first section explores the need for a world leading regime for spill preparedness and response and includes both;
 - The intention for government to develop world leading standards (e.g., minimum response time, cleanup performance expectations). These standards will be built upon risk and will be consulted on during the development process.
 - The intention to work with industry to establish a framework to meet standards, individually or as part of a spill response organization (co-operative), or possibly allow a combination of the two.
2. The second section explores the need to develop effective and efficient rules for restoration of the environment following a spill. These rules, often referred to as natural resource damage assessment (NRDA) should include both the restoration of damaged species and habitats, as well as reconciliation for the loss of public access and use.
3. The third section is to ensure effective government oversight of industry spill response. This section explores three different ideas. These are;
 - Institute a fair and efficient funding mechanism with industry support
 - Establish a provincial spill response fund
 - Enhance government preparedness and response capacity.

Consultation/Engagement

Ministry staff have engaged in preliminary dialogue with a few key industry representatives (Canadian Association of Petroleum Producers, Canadian Fuels Association, Canadian Energy Pipelines Association) and expressed the ministry's interest in working with the regulated community to develop an industry funded model for enhanced spill management in BC.

The intentions paper and feedback opportunity is an open public process and we expect to hear from a variety of stakeholders, including local governments, First Nations, the spill response community and non-government organizations.

Industry has been the key focus of further dialogue during this early stage of consultation, given the industry funded model being proposed. As this policy work develops ministry staff will continue to engage with all affected parties including local governments, the BC Association of Emergency Managers and the members of the emergency response community in BC.

NEXT STEPS:

- The intentions paper will be posted on the Environmental Emergency Program website until February 15, 2013.

- Ministry staff are hosting a preliminary meeting with key industry stakeholders, and others (e.g. UBCM Environment Committee).
- Ministry staff are working on forming an industry government working group to commence following the intentions paper posting.
- The ministry is hosting a symposium on spill preparedness and response. This will be held in the Vancouver area, March 25 – 27, 2013. UBCM representatives have been invited to attend the symposium.

Attachment:

Appendix A: Land Based Spill Preparedness and Response in British Columbia Policy Intentions Paper for Consultation

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Appendix A

Land Based Spill Preparedness and Response in British Columbia

MINISTRY OF ENVIRONMENT



**LAND BASED
SPILL PREPAREDNESS
AND RESPONSE
IN BRITISH COLUMBIA**

POLICY INTENTIONS PAPER FOR CONSULTATION



LAND BASED SPILL PREPAREDNESS AND RESPONSE IN BRITISH COLUMBIA

INTRODUCTION

The Province of British Columbia (B.C.) is committed to a world leading spill preparedness and response regime for land based spills, as expressed most recently in B.C.'s five conditions necessary for support of heavy oil projects. In keeping with the established polluter-pay principle, and recognizing the increase in development activities across the province, the Ministry of Environment (the ministry) is reviewing industry funded options for strengthening B.C.'s spill preparedness and response policies and capacity. Land based spill refers to any spill impacting the terrestrial environment, including coastal shorelines, regardless of the source.

This review addresses three aspects of land based spill preparedness and response:

- » World leading regime for land based spill preparedness and response
- » Effective and efficient rules for restoration of the environment following a spill
- » Effective government oversight and coordination of industry spill response

The review and consultation process consists of five phases:

- 1 Scoping** – including a review of emergency spill management programs in other jurisdictions, identification of current issues and consideration of alternatives for addressing the issues.
- 2 Policy Intentions Paper for Consultation** – (intentions paper) outlining the areas where the ministry is seeking stakeholder feedback on strengthening spill preparedness and response in B.C.
- 3 Consultation** – consulting with affected stakeholders and the general public, using the intentions paper and response forms posted on the ministry website, and other means as appropriate.
- 4 Detailed program and policy development** – drafting of any required regulatory changes for consideration by the Minister and/or Lieutenant Governor-in-Council, and engagement of appropriate parties to design desired funding and/or service delivery mechanisms.
- 5 Implementation of revised program components** – orientation and training of ministry staff and external stakeholders, development of guidelines and/or policies, monitoring and review for effectiveness and efficiency of program components.

The purpose of this intentions paper is to seek responses and comments from stakeholders and the public on the ministry's intentions and next steps in strengthening B.C.'s land based spill preparedness and response system. The intentions paper includes the following information:

- » Background information on B.C.'s land based spill response regime, including mandate and responsibilities and current status, guiding principles and challenges facing the ministry's Environmental Emergency Program
- » Federal responsibilities for spill preparedness and response and industry funded spill response organizations in B.C.
- » Discussion and summary of the ministry's intentions

LAND BASED SPILL PREPAREDNESS AND RESPONSE IN BRITISH COLUMBIA

- » A description of the avenues for providing comment on the ministry's intentions
- » A summary of spill prevention and response programs on the Pacific Coast and neighbouring jurisdictions (Appendix A)

The intentions paper and response form for providing comments to the ministry, as well as further information and links to related legislation, are posted on the ministry's website. The information can be accessed on the [ministry's consultation webpage](#), or from the [Ministry of Environment homepage](#) by following the [Environmental Emergency Program link](#).

BACKGROUND INFORMATION

British Columbia's Land Based Spill Response Regime

Mandate and Responsibilities

The *B.C. Emergency Program Act* (1996) and its [Emergency Program Management Regulation](#) identify the hazards for which the Ministry of Environment is the lead provincial agency. The ministry provides central emergency planning and technical support through the Environmental Emergency Program for the following environmental and public safety threats:

- » Oil and hazardous material spills
- » Gas and gas leaks

SHARED RESPONSIBILITY

Responsibility for emergency preparedness and response in B.C. is shared among federal, provincial and local government agencies, as well as private sector and not for profit organizations.

The ministry also provides support to other provincial agencies in the event of flood hazards, landslides, dam safety issues and seismic threats, as well as clandestine drug lab cleanup, dumping incidents, fires and other events on request.

Scope and responsibilities for environmental emergency prevention, preparedness and response are set out in three key provincial statutes. The *Environmental Management Act* (SBC 2003) sets out requirements for disposal of oil and hazardous materials, spill prevention and reporting, and pollution abatement. The [Spill Cost Recovery Regulation](#) (B.C. Reg. 250/98) under the Act outlines the process and parameters for recovering costs for responding to spills.

The [Spill Reporting Regulation](#) (B.C. Reg. 263/90) under the Act outlines the process for reporting spills, as well as the amounts of hazardous materials (such as flammable gases or liquids, chemicals and radioactive materials) that must be reported if they are spilled. Additional information about relevant legislation is provided on the ministry's [Environmental Emergency Program website](#) under the [legislative framework link](#).

LAND BASED SPILL PREPAREDNESS AND RESPONSE IN BRITISH COLUMBIA

Current status

B.C.'s Environmental Emergency Program has 16 fulltime staff (including ten response officers stationed in seven communities across the province) and about \$2.4 million/year in dedicated funding. In the event of a major spill the program can also draw on support from technical specialists from, and funded by, other government programs. The Environmental Emergency Program covers the inland areas and coastal shoreline of B.C. (an area of 947,800 km² with a coastline of 27,000 km).

The ministry receives approximately 3,500 notifications of environmental emergencies per year. Approximately 90% of these are considered to be minor spills and are handled by regionally based environmental emergency response officers working in coordination with the spiller, local emergency response agencies (such as fire departments) and response contractors. For more significant spills, the ministry may invoke one of three [provincial response plans](#) (hazardous material, inland oil, marine oil) and deploy technical specialists as members of the provincial spill incident management team.

Funding for direct provincial spill response actions is secured through [Emergency Management BC](#). The province does not maintain a dedicated spill response fund. If necessary, the Minister of Environment may request and direct withdrawal of funds from provincial consolidated revenues for immediate response to an environmental emergency.



LAND BASED SPILL PREPAREDNESS AND RESPONSE IN BRITISH COLUMBIA

Guiding Principles

B.C.'s land based spill preparedness and response regime is guided by the following principles:

- » **The polluter-pay principle** – industrial and commercial sectors that pose a risk to the environment and public safety have the responsibility to address risks and impacts to human health and the environment.
- » **Emergency management is a shared responsibility** – stakeholders (businesses, governments) whose interests are directly affected by a spill (or threat) and have a capability to respond have a shared role in emergency preparedness and response.
- » **The level of emergency preparedness is commensurate with known risk** – the level of emergency preparedness by industry and government should be commensurate with the degree of threat which it either creates or is mandated to handle. Risk needs to be assessed and managed. These risks include physical risks (people, property, environment) and institutional risks (political, financial, legal).
- » **Emergency planning and response is in accordance with accepted protocols and standards** – emergency planning, preparedness and response are based on proven and accepted standards and protocols.
- » **Response strives for a net environmental benefit** – most spills degrade the environment. Response actions can also cause environmental impacts. The objective of response is to seek a net environmental benefit whereby the overall response outcome is beneficial to people, property and the environment. Human health and safety is not to be compromised.
- » **Response decisions are based on fairness and transparency** – emergency response is not at “any cost,”¹ nor can unreasonable impacts be transferred from one area (or group of stakeholders) to another. Reasonable costs and inclusiveness in response decisions is a primary principle of effective incident management.
- » **The primary role of a government is to demonstrate and apply governance** – it is government – not the spiller – that has the accountability and responsibility to determine priorities for the public, infrastructure, business and environmental protection, and to establish and monitor response performance.

The ministry is seeking comment on the principles and their application in guiding spill preparedness and response in B.C. Comments and suggestions are also welcome on any gaps in the guiding principles or on strengthening the effectiveness of the principles.

¹ Response decisions are based on environmental, social and economic considerations with an underlying objective of seeking a net environmental benefit, in keeping with the full set of guiding principles.

LAND BASED SPILL PREPAREDNESS AND RESPONSE IN BRITISH COLUMBIA

Challenges facing B.C.'s land based spill preparedness and response regime

Transport of materials with potential risk to the environment (including petroleum products, chemicals and other materials) can involve highways and roads, marine and air transport, pipelines and rail. Risks to the environment include risks to terrestrial, freshwater aquatic and marine ecosystems and species, as well as risks to human health through contaminated air, water and soil. Spills can also have significant economic, social and cultural impacts for British Columbians.

The safe transport and use of materials is an essential element of B.C.'s economy. The province's growing population and role as a Pacific transportation gateway result in a growing volume of materials being transported, as well as increased volumes of traffic movement. For example, in the past seven years there have been almost half a million large vessel movements along the B.C. coast.² Over the next 15 years, large vessel movements of all types along B.C.'s coast are expected to increase. Highway freight, rail and pipeline volumes are also projected to rise as commodities are moved in and out of B.C.'s ports.

B.C.'s spill response regime emphasizes cooperation with federal, local and industry partners within staff and budget resources. Response is currently focused on higher risk environmental emergencies, limiting support for B.C.'s prevention and preparedness activities (such as training and reviews of operations). Additional challenges include timely response to remote events, access to and transport of specialized equipment, ability to work with local and other provincial emergency response agencies to provide training and support, and ability to monitor and report cleanup and remediation.



² Transport Canada figures, see: [Technical Analysis – Requirements for British Columbia to Consider Support for Heavy Oil Pipelines](#) page 8, footnote 8.

LAND BASED SPILL PREPAREDNESS AND RESPONSE IN BRITISH COLUMBIA

Federal responsibilities for spill preparedness and response



The Government of Canada has responsibilities under federal legislation and international agreements for navigation and shipping, marine fisheries and works connecting provinces. Transport Canada establishes the [regulatory framework and guidelines for preparedness and response to ship-source spills](#) and the transportation of dangerous goods, as well as [certifying private sector marine response organizations](#). The [National Energy Board](#) regulates construction and operation of inter-provincial pipelines, and as such is the federal lead for spills along these lines. The [Canadian Coast Guard](#) is the lead federal agency responsible for ensuring the cleanup of ship-sourced spills of oil and other pollutants into Canadian waters. [Environment Canada](#) is the federal authority for providing environmental advice in the event of a spill and may serve as the lead federal agency for other types and sources of spills.

As the provincial lead for environmental emergencies, the Ministry of Environment works with federal lead agencies for any spills under federal jurisdiction that impact provincial interests.

Industry funded spill response organizations in British Columbia

Under [Canada Shipping Act](#) regulations, Transport Canada sets requirements and certifies private sector organizations that provide marine oil spill preparedness and response services. The [Western Canada Marine Response Corporation](#) is currently the only organization that has been certified to provide these services in B.C.'s navigable waters. The corporation is funded by industry through membership, bulk oil cargo and capital asset fees. The corporation provides training, undertakes response exercises and responds to approximately twenty spills each year. In the 2011 calendar year, the corporation reported revenues of \$5.5 million, expenses of \$5.3 million and a net income of \$200,000.

Petroleum companies operating in northeastern B.C. have established a cooperative to develop and maintain contingency plans, containment equipment and training through [Western Canadian Spill Services](#). Revenue for the company is generated through membership (service) fees, and fees are based on number of wells and length of pipeline. Cooperative agreements for spill services cover all of Alberta, and portions of B.C. and Saskatchewan. In 2007 both revenue and expenses for the company were about \$1.6 million.

LAND BASED SPILL PREPAREDNESS AND RESPONSE IN BRITISH COLUMBIA

MINISTRY INTENTIONS

The ministry has undertaken a number of reviews in recent years to identify opportunities and options for strengthening spill preparedness and response in B.C. These include a review of program funding mechanisms, [a technical analysis of requirements for British Columbia to consider support for heavy oil pipelines](#) and a jurisdictional scan of programs in Pacific and neighbouring jurisdictions (see Appendix A). Environmental Emergency Program staff also participate in regular inter-jurisdictional meetings and incident reviews with the aim of identifying and maintaining best practices. This includes participation in the [Pacific States-British Columbia Oil Spill Task Force](#).

Building on this information, the ministry is seeking comment on three specific areas intended to affirm and strengthen spill preparedness and response in B.C.:

- » Establishing a world leading regime for land based spill preparedness and response
- » Developing effective and efficient rules for restoration of the environment following a spill
- » Ensuring effective government oversight and coordination of industry spill response

1 Establishing a world leading regime for land based spill preparedness and response

World leading standards

The ministry intends to ensure that world leading standards for land based spill preparedness and response are in place and followed across B.C. Standards may include such elements as: minimum response times, equipment requirements, trained personnel requirements, wildlife response, temporary and final waste management, drill and exercise requirements, cleanup performance expectations (e.g., x km of oiled shoreline per day), sampling and monitoring, impact assessment, notification and provision of spill information, and stakeholder engagement.

COORDINATION

The intention of the ministry is to establish world leading standards for spill preparedness and response in B.C., while at the same time recognizing existing and ongoing emergency management efforts in various sectors that are consistent with and complementary to overarching provincial standards. For example, the BC Oil and Gas Commission is working with other oil and gas regulators from across Canada to develop the first national standard for emergency management within the oil and gas sector.



LAND BASED SPILL PREPAREDNESS AND RESPONSE IN BRITISH COLUMBIA

Standards and associated response capacity will ensure:

- » A robust capacity to respond to the range of spill incidents that can impact human health and the environment
- » Geographic response plans that consider and address conditions and capacity specific to B.C.'s diverse regions (e.g., terrain, weather, ecosystems, population centres, response capacity, materials)
- » Ability to support and coordinate response with other agencies and across jurisdictions that may affect terrestrial, aquatic, marine and intertidal ecosystems

Mechanism to meet standards

Provincial standards could be met: (1) on an individual (company by company) basis; (2) collectively, through one or more cooperative response organizations; or (3) through a hybrid of options 1 and 2, with obligated parties (i.e., individual companies) able to choose their preferred option. If an industry group achieves standards individually, rather than using a collective approach, greater government capacity would be required to verify standards on a company by company basis.

The ministry supports the establishment of a provincially regulated, industry funded spill response organization for industry sectors that represent significant spill risk. The spill response organization would be required to meet provincial planning and response standards. These would include the responsibility to ensure that region-specific spill response capability and capacity exists, develop and maintain geographic spill response plans to ensure rapid and effective response to spills, and conduct regular drills and exercises to test and verify equipment, training and plans.

The ministry is seeking comment on the suitability of this mechanism for B.C., the range of activities that a provincially regulated response organization would cover and on the next steps that should be taken to consider options and further develop one or more industry funded spill response organizations for B.C.

It is envisioned that funding arrangements for a provincially regulated response organization would be determined and administered directly by the membership of that organization.

2 Developing effective and efficient rules for restoration of the environment following a spill

In the event that provincial environmental resources are impacted as a result of a hazardous material spill, a policy on restoration and public restitution for loss of use is needed. The ministry intends to bolster its policy from one of "removal and remediation" to a more formal process that includes restoration of damaged species, habitats, and loss of public access and use. This process, known as natural resource damage assessment, is well established in neighbouring jurisdictions in the United States ([Washington State](#) and [Alaska](#)).

LAND BASED SPILL PREPAREDNESS AND RESPONSE IN BRITISH COLUMBIA

The ministry's intention is to develop this policy in collaboration with stakeholders, to both establish a predetermined formula to assess damages to the environment for the majority of hazardous material spills and to establish a more in-depth research based process (that either the province or the spiller can elect) for assessing costs of more significant spills. This policy would provide greater certainty to both industry and the general public and would reinforce the polluter-pay principle.

The ministry is seeking stakeholder feedback on this intended policy development.

3 Ensuring effective government oversight and coordination of industry spill response

Institute a fair and efficient funding mechanism

The ministry is considering establishing a funding mechanism that ensures an adequate level of annual funding for land based spill preparedness and response based on spill response regime principles (including recognition of risk, responsibilities and the benefits of prevention and preparation). In accordance with the polluter-pay principle, funding should be fair across affected industry sectors. The funding mechanism should address the degree of risk and potential impacts associated with different sources and types of spills – including spills involving the bulk transport of hazardous materials (chemical and hydrocarbons), spills of other types of materials that pose a risk to the environment, and spills of fuel used for propulsion (i.e., vessels, locomotives, transport trucks). The funding would be used for two specific purposes: 1) establishment of a provincial spill response fund; and 2) increased staff and prevention, preparedness and response capacity.

Some examples of fees and amounts levied in other jurisdictions are provided in Appendix A.

Establishment of a provincial spill response fund

A portion of any levies received could be dedicated to establishing and maintaining a provincial spill response fund to cover operational costs incurred by the province in monitoring, augmenting or taking over a spill incident response. The ministry is considering establishing such a fund – supported by industry levies. Some neighbouring jurisdictions have set a maximum limit of \$50 million, with levies suspended when the response fund meets that limit (see Appendix A). Rules governing the amount and purpose of this fund would address appropriate uses of the fund, such as provincial staff time and equipment usage, contract fees for response or assessment activities, and environmental restoration.

Increased staff and prevention, preparedness and response capacity

Effective government oversight is necessary to ensure public confidence in B.C.'s spill response regime. The Ministry of Environment's Environmental Emergency Program could be strengthened to ensure spill prevention and preparedness is adequate to address growth in the industrial activity in B.C.

LAND BASED SPILL PREPAREDNESS AND RESPONSE IN BRITISH COLUMBIA

Additional program staff and resources could be dedicated to such activities as:

- » Liaison and training support for provincial spill incident management team members, First Nations, local and regional response agencies and organizations
- » Development and dissemination of standards, plans and protocols for prevention, preparation and response
- » Monitoring and compliance activities
- » Spill related research and incident reviews
- » Baseline data acquisition and maintenance
- » Spill response equipment and tools

The ministry is seeking comment on the mechanisms – linked to the production, transport and storage of petroleum products and other hazardous materials – that could be used for collecting funds to support B.C.'s spill preparedness and response regime. Comments are also being sought on the principles by which fees can be collected and used in a fair and efficient manner – relative to the spill risks presented by different industry sectors.

PROVIDING COMMENT

The ministry intends to proceed with its intentions and prepare recommendations for consideration by the Minister through 2012 and 2013. Comments regarding the ministry's intentions are being solicited and will be carefully considered in the development of the province's spill preparedness and response policies and capacity.

The intentions paper and response form for providing comments to the ministry, as well as further information and links to related legislation, are posted on the ministry's website. The information can be accessed on the [ministry's consultation webpage](#), or from the [Ministry of Environment homepage](#) by following the [Environmental Emergency Program link](#).

Those interested are invited to submit comments on the ministry's intentions. All submissions will be reviewed for inclusion in a consultation summary report and comments will be treated as confidential by ministry staff and contractors when preparing consultation reports. Please note that comments you provide and information that identifies you as the source of those comments may be publicly available if a Freedom of Information request is made under the *Freedom of Information and Protection of Privacy Act*.

LAND BASED SPILL PREPAREDNESS AND RESPONSE IN BRITISH COLUMBIA

If you have any questions or comments regarding the consultation process, review the information posted on the ministry website, or contact Cindy Bertram of C. Rankin & Associates, who has been contracted to manage consultation comments, at:

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Thank you for your time and comments!

Comments to the ministry should be made on or before February 15, 2013.

LAND BASED SPILL PREPAREDNESS AND RESPONSE IN BRITISH COLUMBIA

APPENDIX A: Spill response program funding in neighbouring jurisdictions

The ministry has undertaken a review of spill response program funding mechanisms in neighbouring jurisdictions (Alaska, Washington, Oregon, California, Hawaii and Alberta) to provide context for the review.

The legislative and administrative framework for preventing and responding to environmental spills is specific to each jurisdiction, however U.S. jurisdictions generally have legislated industry funded mechanisms implementing the polluter-pay principle. U.S. jurisdictions also commonly have separate oil spill prevention response accounts, as well as separate procedures for assessing damages and collecting damages from the spiller.

Both the U.S. and Canada have a federal program addressing marine oil spills. The U.S. Federal Government oversees the Oil Spill Liability Trust Fund for Marine Oil Spills. A tax of 8¢/barrel of oil produced or imported is charged to maintain this fund. In Canada, the Maritime Pollution Claims Fund supported by a 15¢/tonne (2¢/barrel) levy on shipments by sea and movement of oil by water within Canada was in effect between 1972 and 1976. No levy has been charged since 1976. In 1989 the Ship Source Oil Pollution Fund was created and established by a transfer of \$149,618,850 from the Maritime Pollution Claims Fund.

State of Alaska – Department of Environmental Conservation, Spill Prevention & Response Program

The Oil and Hazardous Substances Release Prevention and Response Fund in Alaska is based on a tax on crude oil production of 5¢/barrel (4¢ is allocated to a “prevention account” and 1¢ is allocated to a “response account”). Cleanup costs incurred by the state are recovered from the spiller and allocated to the prevention account, as well as fines, settlements and penalties. The surcharge allocated to the response fund is suspended when the response account reaches or exceeds \$50 million. Additional information is available at dec.alaska.gov/spar.

State of Washington – Department of Ecology, fish & Wildlife

A 5¢/barrel tax is applied to the owner of the oil product that is received into a storage tank by a vessel at a marine terminal (4¢ is deposited into the Oil Spill Prevention Account (OSPA) and 1¢ is deposited into the Oil Spill Response Account (OSRA)). The department seeks reimbursement for all response costs from the oil spiller. These funds are also supported by a 16.6% tax of motor vehicle certification fees and a 0.07% tax on the first in-state possessor of hazardous substances.

Washington also charges a tax to handlers of any toxic substance in the state, including pipelines and railways, which go to the Model Control Toxics Account (MCTA).

In the event of a spill, funds are drawn from both the OSRA and the MCTA.

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The OSRA is used exclusively for costs associated with responses to oil spills in water that are likely to exceed \$50,000.

Additional information is available at www.ecy.wa.gov/programs/spills/spills.html.

State of California – Department of Fish & Game, Office of Spill Prevention and Response

The Oil Spill Prevention and Administration Fund supports the Oil Spill Prevention and Response program and is currently supported by a 6.5¢/barrel tax assessed on petroleum products at marine terminals and a biennial fee for all non-tank vessels up to \$3,250 (USD) per vessel.

The Oil Spill Response Trust Fund is used to clean up oil spills in the marine environment and is supported by a 25¢/barrel tax (that was assessed in 1991) on petroleum products at marine terminals to maintain a Trust Fund of \$50 million (this fee is presently not being charged).

Additional information is available at www.dfg.ca.gov/ospr.¹

State of Oregon – Department of Environmental Quality, Land Quality Division

The Marine Spill Prevention Fund is supported by a \$70 (USD) per trip levy on cargo vessels and tank barges and \$1,200 (USD) per trip levy on tank vessels, \$5,900 (USD) annual fee applied to petroleum handling facilities, a daily fee for dredges and an annual fee for facilities and pipelines receiving fuel from tank vessels and barges. A Hazardous Substance Remedial Action Fund is supported by a graduated per tonne fee on disposal of hazardous waste.

Additional information is available at www.deq.state.or.us/lq/cu/emergency/index.htm.

State of Hawaii – Department of Health, Office of Hazard Evaluation Emergency Response

The program is funded through an environmental response tax of 5¢/barrel of petroleum product sold by a distributor, and fines and penalties for environmental violations.

In total, a tax of \$1.05/barrel of petroleum product sold by a distributor is charged. This tax is divided among various government funds.

Fees are also collected on the storage of hazardous materials (\$100/year) and shared between emergency planning bodies.

Additional information is available at hawaii.gov/health/environmental/hazard/spill.html.

¹ California has a bill pending to increase fees to 6.8¢/barrel and \$3,500/vessel

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Province of Alberta – Emergency Response Program

The Energy Resources Conservation Board, a quasi-judicial agency of the Government of Alberta, uses a cost share model with industry and government contributions addressing spill preparedness and response. The Board regulates several aspects of the energy sector including the requirement for petroleum producers to either have their own emergency response equipment and plan or to join a cooperative group. Western Canadian Spill Services is the only cooperative at this time. Government supported spill response is provided through the Alberta Environment Support and Emergency Response Team (AESERT). AESERT would be engaged in the event of a major spill event and has the authority to take over a spill response event.

Additional information is available at www.ercb.ca/safety-and-compliance.

Note: In western Canada, industry funds Western Canadian Spill Services (WCSS) which addresses petroleum sector spill prevention and response. This voluntary industry organization offers training and maintains spill contingency plans and strategically placed Oil Spill Containment and Recovery units. WCSS has annual revenues and expenses of about \$1.6 million to provide training, support development of spill contingency plans and maintain regional and specialty spill response equipment. WCSS relies primarily on contractors to provide services.

MINISTRY OF ENVIRONMENT INFORMATION NOTE

July 18, 2013

File:

CLIFF/tracking #:

PREPARED FOR: Honourable Mary Polak, Minister of Environment

ISSUE: Next steps for the *West Coast Spill Response Study*

BACKGROUND:

In February 2013, the Premier's Office engaged Nuka Research to conduct a *West Coast Spill Response Study*. The three volume study: (1) outlines the state of spill preparedness and response on the west coast today; (2) provides a snapshot of current and future vessel traffic; and, (3) explores what it would take to make the current system world class.

Volume titles are:

- Volume 1: Assessment of BC Marine Oil Spill Prevention & Response Regime;
- Volume 2: Vessel Traffic Study; and,
- Volume 3: World-Class Oil Spill Prevention, Preparedness, Response & Recovery System.

Given related expertise, MoE has led this contract work. A final Volume 1 was submitted to the province in April, and final Volumes 2 and 3 will be submitted on July 19, 2013.

Notable key findings include:

- Volume 1: Nuka's analysis indicates that Western Canada Marine Response Corporation (WCMRC) – the only Transport Canada certified Response Organization on the west coast – could not meet Transport Canada's 10,000 tonne spill response requirement in all operating environments.
- Volume 3: Lists 11 broad features of what constitutes a world class system and provides 37 related opportunities [overview in *attachment 1*] on how it can be achieved on the west coast. If implemented, these opportunities – or recommendations – would have to be implemented over a fairly long period of time. Themes in the *opportunities* include the need for:
 - New approaches, such as creating multi-stakeholder geographic response plans, and ensuring salvage is available for vessel losses.
 - Additional resources for existing approaches, such as increasing the 10,000 tonne response planning standard, strategically locating resources, and ensuring there are sufficient funds available to respond to a spill.
 - Clear information, data management and transparency, such as ensuring vessel data is tracked to assist safe transit in high traffic areas, and having clear information about resource types/location for spill responders.

DISCUSSION:

The study was completed on a tight timeline. It has been shared in draft and final versions with other ministries, as well as Transport Canada and Canadian Coast Guard for comment; however, detailed reviews have not taken place outside of MoE.

This study can be considered to have three interrelated purposes, it: (1) demonstrates to British Columbians that the government is continuing to take marine spill preparedness and response seriously; (2) serves as the basis for engaging with federal partners on this issue; and, (3) provides the province with a clear foundation of what it will take to be world class.

The study has generated considerable stakeholder interest and the government has made multiple related public statements (including an initial press release [*attachment 2*]).

s.13

Marine spill preparedness and response is a federal responsibility; adopting a world class system will be its decision. The province's desire to protect its many coastal interests has led the Ministry to maintain capacity around the issue of marine spills (largely in an advocacy role, but also as a provincial leader in the event of marine spill incidents).

This study will assist the province as it engages with the federal government on advocating for world class, as well as assessing the changes ultimately made at the federal level.

s.16

s.16

Last, it is important to recognize that the province is working actively on developing world class land-based spill preparedness and response, as this is an area that does fall under provincial responsibility. These two issues are interrelated and are both being advanced – albeit in different manners – in order to ensure that hazardous materials are developed, transported, used, and traded in a responsible manner.

CONCLUSION:

s.13, s.16

This study makes up an important part of the basis of BC's view about what constitutes world class, but other elements do exist. Ultimately, decisions about what type of regime is implemented will rest with the federal government.

Attachments 1: Nuka Research Volume 3 – Overview of features of a world class system

Attachment 2: BC Government Press Release – BC taking action on marine spill response

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Attachment 1:

Nuka Research Volume 3 – Overview of features of a world class system

Features of a World-Class Marine Spill Prevention and Response System

PREVENTION ELEMENTS

1. **Vessel operations surpass international safety and spill prevention standards**
 - Vessels meet or surpass international requirements
 - Vessels operate within a corporate safety culture that goes beyond compliance
2. **Vessel traffic is monitored and, in higher risk areas, actively managed to prevent accidents**
 - Vessel movement data is compiled and archived for analysis
 - Vessel traffic is actively managed in high-risk areas
 - Marine pilots are required for large vessels transiting certain waterways
 - Escort vessels accompany certain vessels in high-risk operating areas
3. **Rescue and salvage resources are able to be on-scene quickly enough to be effective in the event of an incident or spill**
 - Emergency towing resources are available for rapid deployment
 - Marine firefighting resources are available for rapid deployment
 - Salvage resources are available for deployment as needed to be effective
 - Potential places of refuge are identified in advance

PREPAREDNESS & RESPONSE ELEMENTS

4. **Geographic areas are prioritized for protection from oil spills**
 - Marine and coastal resources are inventoried
 - A process is in place to prioritize areas for spill protection
 - Areas to be avoided are established as appropriate
 - Geographic response plans are developed as appropriate
5. **Contingency planning is comprehensive, integrated, and well understood by all relevant parties**
 - Planning is integrated across jurisdictions and sectors
 - Contingency plans address all major spill response functions
 - Response planning standards ensure sufficient response capacity to respond to a worst-case spill
 - Response operating limits are identified and mitigation measures established
 - Operational tactics are defined
6. **Sufficient equipment can be deployed quickly to respond to a worst-case spill**
 - Response inventories are up-to-date, accessible, and accurate; resources are tracked during a response
 - Response caches are strategically located, stocked, and maintained
 - Equipment is the best available for the operating environments, environmental conditions, and potential spilled substances
 - Logistical support is in place to support the response
 - Spills can be detected, tracked, and modeled as needed to perform the response
7. **Sufficient personnel are available to respond to a worst-case spill**
 - Trained responders are available to staff a significant, prolonged response
 - All responders and response managers use the same incident management system
 - Responders are well-trained and regularly exercised
 - Volunteers are managed to maximize their effectiveness
8. **A process is in place to restore damaged resources and promote ecosystem recovery after a spill**

SYSTEM ELEMENTS

9. **Government ensures compliance and transparency**
 - Government authorities review and audit industry contingency plans
 - Other stakeholders are actively engaged
 - Effective enforcement mechanisms are in place
10. **All parties actively pursue continuous improvement through research and development and the testing of planning assumptions**
 - A research and development program is in place
 - Planning assumptions are verified through drills and exercises, and plans are updated to reflect lessons learned
 - Incident reviews support continuous improvement
 - Data on spill causality and "near misses" are compiled, analyzed, and used to inform changes to systems
11. **Financial mechanisms and resources meet needs from initiating the response through recovery**
 - Sufficient funds are available from industry and/or government to fully
 - Fair compensation is awarded for environmental, fiscal, and/or social impacts

Attachment 2:

BC Government Press Release – BC taking action on marine spill response

B.C. taking action on marine spill response

Thursday, February 28, 2013 11:15 AM

VICTORIA - The B.C. government is proactively taking the first step toward defining a world-leading marine-based spill response model to protect B.C.'s vast 27,000-kilometre coastline.

The Ministry of Environment is contracting Alaska-based Nuka Research and Planning Group to review, evaluate and prepare a report on the current marine oil spill prevention, preparedness and response regime for coastal British Columbia to identify changes needed to support a world-class system.

- As part of the contract, Nuka will complete the following work around B.C.'s oil spill response and preparedness regime:
- A vessel traffic study assessing the current and potential levels of shipping on the west coast of Canada, focusing on oil-carrying vessels.
- An assessment of the existing spill prevention and response regime in place for B.C.
- A preliminary analysis to identify international best practices for marine oil spill prevention and response, based on a high-level review of other systems.

This work supports the second of government's five minimum requirements for new heavy oil pipelines in B.C. - world-leading marine oil spill response, prevention and recovery systems for B.C.'s coastline and ocean to manage and mitigate the risks and costs of heavy oil pipelines and shipments.

Marine spill responsibility primarily falls under the jurisdiction of the federal government, and the Province remains committed to collaborating with Ottawa on a world-class spill response model.

Quotes:

Terry Lake, Minister of Environment -

"We are taking an important first step in the creation of a world-leading marine spill plan for B.C. while respecting federal authority over marine-based protection and response. Ultimately, a spill response plan for the B.C. coast is a shared responsibility and we will continue to press the federal government for a stronger role in the work they are undertaking on a world-leading marine-based spill response model so we can ensure the interests of British Columbians are being met."

Elise DeCola, operations manager and principal consultant, Nuka Research and Planning Group, LLC. -

"Nuka Research is pleased at the opportunity to support the B.C. government in establishing a world-class marine oil spill preparedness and response regime for the west coast. The B.C. government has shown a strong commitment to apply

world-leading practices and technologies to protect their marine waters and coastline, and Nuka Research is excited to contribute our spill response preparedness expertise to this effort."

Learn More:

BC Newsroom - Ministry of
Environment: <http://www.newsroom.gov.bc.ca/ministries/environment-1>

Contact:

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**MINISTRY OF ENVIRONMENT
MEETING INFORMATION NOTE**

October 28, 2013
File: 32910-30
CLIFF/tracking #: 198986

PREPARED FOR: Honourable Mary Polak, Minister of Environment

DATE AND TIME OF MEETING: October 31, 2013 at 1:15pm

ATTENDEES: Wes Shoemaker, Jim Standen and Jim Hofweber

ISSUE: Update on a world class spill preparedness and response regime for land-based and marine spills.

BACKGROUND:

The Environmental Emergencies and Land Remediation Branch has been working for a year to develop a world class spill preparedness and response regime for B.C. The work to develop this new spill response program is broadly divided into two areas – marine and land-based – in recognition that the land and marine environments fall under different areas of jurisdiction. On the land-based side, Ministry staff are preparing a second policy intentions paper (IP) outlining specific changes to strengthen the current system.

s.13, s.16

DISCUSSION:

Land-based:

Three technical working groups – nominated by an overarching Advisory Committee and dealing with 19 specific spill response topics – have completed their work. The advisory committee includes representatives of the BC Trucking Association, Tsawwassen First Nation, Canadian Association of Chemical Distributors, Canadian Energy Pipeline Association, Canadian Fuels Association, Union of BC Municipalities, Canadian Association of Petroleum Producers, Canadian Emergency Response Contractor's Alliance, Railway Association of Canada, the Council of Forest Industries, and the BC Business Council.

Industry representatives consulted to date are supportive of the elements of a world class land-based spill response system as outlined for them. There is also general support for several concepts discussed by the working groups: a province-wide response organization(s); standards for: responder training, response capacity, response planning and exercising, spill reporting requirements; and, creating geographic response plans. Some concerns remain about how each of these elements will be designed and implemented. Industry is concerned about duplicating existing regulations or the creation of requirements that impede business delivery.

Generally speaking, those industries with pending energy projects see effective spill response oversight as a key part of their social license and are ready to move forward.

Local governments are looking to the province to set standards that will provide a consistent level of spill preparedness and response throughout B.C.

Marine:

For the marine environment where the federal government has the lead, the province has received and published the results of its 8-month 3-volume *West Coast Spill Study* by Nuka Research to assess the current regime and suggest how it can become world class. It will use this study to advocate for changes to federal requirements. It has already done so once, through its submission to the federal government's Tanker Safety Expert Panel, which will provide its own recommendations to the federal government later this year.

s.16

NEXT STEPS:

Land-based Consultation: The project team is working on an outreach plan for conducting further consultation with First Nations, local governments and environmental non-governmental organizations.

Land-based Intentions Paper development: Work has begun on a second, more focussed IP s.13 The second IP will outline new requirements for industry and new measures to protect and engage communities. It will take into account all feedback the Ministry of Environment has heard to date, beginning with the first intentions paper and the spill response symposium.

s.13

Marine: The province will continue to engage with federal partners on how it can implement a world-class marine system.

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Reviewed by	Initials	Date
DM	WS	30/10/13
DMO	VJ	30/10/13
ADM	JS	28/10/13
Exec. Dir.	JH	28/10/13
Author	AP	28/10/13

MINISTRY OF ENVIRONMENT MEETING INFORMATION NOTE

October 21, 2013
File: 32910-05
CLIFF/tracking #: 198909

PREPARED FOR: Honourable Mary Polak, Minister of Environment

DATE AND TIME OF MEETING: TBC

ATTENDEES: Friends of Wild Salmon (FOWS) Delegation –

- Gerald Amos, Haisla elder, Chair of FOWS (and former president of Coastal First Nations);
- John Ridsdale, Wet'sutwet'en Cheif (delegated to speak to Northern Gateway);
- Rob MacDougall, Mayor of Fort-St. James;
- Des Nobels, Regional District Rep for North Coast;
- Henry Clifton, commercial fisherman from Hartley Bay and President of Northern Native Brotherhood;
- Bruce Martindale, business owner and former Terrace Councillor

ISSUE: Discussion regarding how the five requirements for BC to consider support for heavy oil pipelines relate to the Northern Gateway Pipelines Project proposal.

BACKGROUND:

In July 2012, the province released its *Technical Analysis: Five Requirements for British Columbia to Consider Support for Heavy Oil Pipelines*. The requirements outlined in this document provide the foundation for how the province views both the Northern Gateway Pipelines Project and Kinder Morgan Trans Mountain Pipeline Expansion Project proposals. The five conditions are:

1. Successful completion of the environmental review process;
2. Create world-leading marine oil spill prevention, response and recovery systems for British Columbia's coastline and ocean to manage and mitigate the risks and costs of heavy oil pipelines and shipments;
3. Implement world-leading practices for land oil spill prevention, response and recovery systems to manage and mitigate the risks and costs of heavy oil pipelines;
4. Legal requirements regarding Aboriginal and treaty rights are addressed, and provide First Nations with the opportunities, information and resources necessary to participate in and benefit from a heavy-oil project; and
5. British Columbia must receive a fair share of the fiscal and economic benefits of a proposed heavy oil project that reflects the level, degree and nature of the risk borne by the province, the environment and taxpayers.

It is important to recognize that the National Energy Board (NEB) is responsible for reviewing the proposed NGP project through a Joint Review Panel (JRP), as it would cross the British Columbia/Alberta border. The province has actively participated in this

process as an intervener, having both cross-examined Northern Gateway in fall 2012-winter 2013 and contributed its final argument in June 2013. In its submission to the JRP, the province stated that it cannot support the project as presented because the proponent has been unable to address British Columbians' environmental concerns (concerns reflected in requirements two and three for world-leading spill preparedness and response regimes).

The JRP must deliver a recommendation on the project in December 2013; then the federal Cabinet has six months to consider providing it approval through a certificate of public convenience and necessity. As it stands today, the province has been clear that the project does not satisfy its requirements.

DISCUSSION:

The FOWS delegation has asked for this meeting to discuss all five requirements. It is important to note that the Ministry of Environment is centrally involved in work related to requirements two (*world-leading* marine regime) and three (*world-leading* land regime), but not four (First Nation engagement) and five (fair share to BC).

The first requirement – that the proposal successfully complete its environmental review process – rests with the federal JRP and its recommendation, not the province. Like all parties with a vested interest, the province awaits the JRP's recommendation.

Regarding the call for *world-leading* regimes, NGP has not demonstrated to the province that an effective response could be launched in BC's remote areas, on fast flowing rivers, or during adverse weather conditions (either on land or at sea). However, NGP has proposed measures that do go beyond what is currently required by its federal regulators.

The province is committed to allowing proponents the fair opportunity to demonstrate how projects will benefit BC (while adhering to strict environmental requirements). It is no different for NGP and therefore the province will allow the environmental assessment process to conclude before it delivers a final judgement. While the province is not satisfied today, it is possible for NGP to make further enhancements to its spill programs that alter the province's position.

While the NGP and Trans Mountain Pipeline Enhancement proposals are being considered, the province is actively assessing how it can ensure *world-class* practices are in place for sectors that present risks (either on land or at sea). While NGP could be seen as a catalyst for this, it is important to note that proposed increase in resource development in BC alone creates the need for improvements.

On the land side, the province will release an intentions paper in early 2014 outlining proposed improvements to its current regime. For the marine environment where the federal government has the lead, the province has received and published the results of its 3-volume *West Coast Spill Study* contract to assess the current regime and suggest how it can become world class. It will use this study to advocate for changes to federal requirements. It has already done so once, through its submission to the federal government's Tanker Safety Expert panel, which will provide its own recommendations to the federal government later this year.

Note: whether the term *world-leading* or *world-class* is used has presented some reaction from those entities Ministry staff has engaged with on spill preparedness and response. While the five requirements use *world-leading*, *world-class* has been used interchangeably.

SUGGESTED RESPONSE:

The province has been clear regarding its position on the NGP project: as it stands now, the commitments made for the project do not satisfy its requirements.

During the NGP hearings, the province had the opportunity to hear from numerous individuals and parties from along the NGP route about how they feel regarding the proposal. The province is pleased to have this opportunity to hear from FOWS.

Other than the existing, somewhat capacity-limited Trans Mountain pipeline, the drive to move Alberta oil to export off BC's coast – both by pipeline or rail – is relatively new. The province will work to ensure that any project that advances does so in a manner that adheres to world-leading spill preparedness and response.

The Ministry of Natural Gas Development has established an Oil and Strategic Initiatives Division that is working closely with the Ministries of Environment, Transportation and Infrastructure, and Aboriginal Relations and Reconciliation to articulate various elements of the five conditions.

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DM	WS	Nov 7, 2013
DMO	VJ	Nov 4, 2013
ADM	JS	Nov 1, 2013
Exec. Director	JH	Oct 28, 2013
Author	BJVS	Oct 21, 2013

Minister Mary Polak – meeting with Minister James Moore

November 12 4:00 - 5:00

Not Responsive

3) Jim - Marine spill response and BC-Alberta Deputy Minister's working group on the five conditions

Background for Minister Polak

The Environmental Emergencies and Land Remediation Branch has been working for a year to develop a world class spill preparedness and response regime for BC. The work to develop this new spill response program is broadly divided into two areas – marine and land-based – in recognition that the land and marine environments fall under different areas of jurisdiction. On the land-based side, Ministry staff are preparing a second policy intentions paper (IP) outlining specific changes to strengthen the current system. Work on this project includes significant collaboration with the province of Alberta, in alignment with the Ministry of Natural Gas Development's working groups to deliver on the Premier's commitments on bilateral cooperation.

Ministry of Environment staff are providing support on the five conditions for heavy oil pipelines, which must be met for BC to consider supporting any new or expanded heavy oil pipeline in the province. The Ministry is building on recommendations outlined in the *West Coast Spill Study*, commissioned by the Province from Nuka Research, and is jointly discussing with Alberta on how best to approach the federal government on items within its jurisdiction.

Environment Canada closed their Vancouver Environmental Emergencies office in 2012 and relocated these functions to Montreal and Ottawa. As a result, Environment Canada no longer has any capacity in

BC to participate in spill preparedness and response activities, or co-chair the Regional Environmental Emergency Team, which Environment Canada initiated.

How should she raise the topic? Who will support/oppose?

- As the volume of shipping on Canada's west coast has increased, and with several major marine transportation projects proposed for BC ports, in addition to recent and anticipated heavy oil pipeline proposals, the Province and British Columbians have a strong interest in understanding the associated risks and ensuring world class regimes are in place.
- Industry representatives consulted to date are supportive of the elements of a world class land-based spill response system as outlined for them.
- Local governments are looking to the Province to set standards that will provide a consistent level of spill preparedness and response throughout BC.

What outcome would the Ministry like to get to? How could Minister Moore advance this?

- Responsibility for emergency preparedness and response is shared among federal, provincial and local government agencies, as well as private sector and non-profit organizations.
- The Province is working closely with Transport Canada on marine spill response and with Natural Resources Canada on pipelines.

MINISTRY OF ENVIRONMENT MEETING INFORMATION NOTE

March 23, 2012
File: 280-20/BN
CLIFF/tracking #: 164559

PREPARED FOR: The Honourable Terry Lake, Minister of the Environment

DATE AND TIME OF MEETING: April 3, 2012; 1:00-1:30pm

ATTENDEES: Minister Lake; Minister Mary Polak; Chief Ellis Ross, Haisla Nation; Jim Hofweber, Director of Environmental Management; Graham Knox, Manager of Environmental Emergency Program

ISSUE: Emergency response to a spill in Douglas Channel

BACKGROUND:

Douglas Channel is facing increasing shipping traffic from current and proposed developments intending to take advantage of port facilities offered. With the proposed development of the Enbridge Northern Gateway pipeline, and the Liquefied Natural Gas Plant proposal, Douglas Channel and surrounding waters will be exposed to higher and more significant spill risks. Numerous fishers and recreational boaters also use this area extensively and Wright Sound marks the intersection with the heavily travelled inside passage route serving northern BC and Alaska.

A spill into Douglas Channel falls under the same spill response regime as the remainder of the marine waters along the BC coast out to Canada's territorial limit. However, Douglas Channel along with the outer coast of Vancouver Island and the central and north coast, face the added logistical challenges of responding in a remote area and, currently, a lack of available spill response equipment and personnel. Some specific challenges at this time have been listed in Appendix A.

Jurisdiction for marine spills and their impacts is complicated by the division of constitutional powers in Canada and the various levels and agencies of government that have enacted specific legislation that governs shipping, environment, wildlife, etc. The federal government has constitutional authority for navigation and shipping, whereas both the province and the federal government have shared authority over the environment. The province has authority for the management of provincial lands and natural resources. See Appendix B for a list of specific responsibilities of agencies and stakeholders and Appendix C for a list of key items the province needs to address.

DISCUSSION:

As one can see from the above, the roles of particular agencies change depending on the specific factors involved in the incident. In most spill incidents the responsible party would manage the spill response and employ Western Canada Marine Response Corporation (WCMRC) to carry out those response activities that they are capable of

providing. The Canadian Coast Guard (CCG) would maintain an “arm’s length” monitoring role and other federal agencies like Environment Canada (EC) would provide input either through the incident command structure or the Regional Environmental Emergency Team (REET). The Ministry of Environment (MoE) would enter into Unified Command with the responsible party and assign provincial staff throughout the incident command structure.

Industry, all provincial agencies, WCMRC, and all US organizations use the United Nations recommended Incident Command System (ICS) and the concept of Unified Command to manage spills. ICS is widely used as it recognizes that no one agency or level of government has sole jurisdiction and therefore it is best to manage incidents in a way that integrates everyone without anyone giving up their legislative powers. CCG does not use either ICS or the concept of Unified Command; however, they are discussing a move to ICS. The fact that CCG does not share the same spill management system with all of the other parties is not typically a problem as in a responsible party led spill they simply sit outside the incident management structure and monitor the response. Were CCG to assume management of the spill, or in the event of a spill where there was no responsible party, there would be significant challenges in providing a coordinated and effective response.

The province of BC clearly has legal and jurisdictional obligations that must be met during a marine spill response to ensure public safety and protection of the environment. The government also has a significant interest in the management of marine spills to ensure that impacts to local businesses and the overall provincial economy are mitigated as well as the impacts to the social and cultural fabric of coastal communities. The province has a significant governance and leadership role to play in these spills to demonstrate to the citizens of BC that their interests are being fully represented and that government is not seen to be abdicating its responsibilities by leaving the responsible party (who caused the spill) to address the public’s concerns.

Appendices, D, E and F provide additional information on mutual aid, cascading resources and the spill response resources of WCMRC.

SUMMARY:

The province of BC has an important role to play in the management and response to all spills including marine spills in the Douglas Channel. Regardless of legal or jurisdictional requirements the province must ensure its interests are being appropriately managed and this is achieved through participation in Unified Command and throughout the response structure. Answering the question of “who is in charge” is complicated by the fact that in spill response there can be considerable overlap of jurisdiction from the local to the federal government level as well as First Nations (especially as treaties continue to be signed). One way to respond to this type of question is to simply indicate that MoE is the lead provincial agency and CCG is the lead federal agency for spills occurring in the marine environment.

Currently there are concerns with the province, the federal government, and industry capacity and resources effectively managing spills on Canada’s west coast. This is being highlighted through public, media and stakeholder scrutiny of the increasing risks posed

by existing and proposed development activities. The concerns increase outside of the Port of Vancouver area and as one moves into the more remote sections of the coast such as the Douglas Channel.

s.13, s.17

s.13, s.17

Attachments:

- Appendix A – Marine Spill Response Deficiencies
- Appendix B – Responsibilities of Government Agencies and Key Stakeholders
- Appendix C – Key Provincial Response Objectives
- Appendix D – Mutual Aid Consideration in Marine Spills
- Appendix E – Use of *Cascading Resources* in Marine Spills
- Appendix F – Overview of Western Canada Marine Response Corporation

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DM	CM – edits	Mar 28/12
DMO	VJ	Mar 27/12
A/EPD ADM	JHofweber	Mar 27/12
Director, EMB	TylerKeith	Mar 23/12
Mgr, EEP	GK	Mar 23/12

Appendix A

Marine Spill Response Deficiencies

The following list provides examples of some of the current marine spill response deficiencies:

- 72 hour Transport Canada (TC) mandated response time to Douglas Channel and surrounding area which would result in significant spread in the extent of oil and oiling of shorelines.
- Lack of facilities to house, feed and otherwise support thousands of required responders are not available in the area which would limit the response.
- Lack of equipment and trained responder capability and capacity in this region to adequately respond to a spill in a timely manner.
- Significant safety and operational challenges due to the weather and sea conditions in the area which may limit any response activities for days or weeks at a time.
- Lack of air and vessel support to move equipment and personnel over the large distances involved to respond effectively.
- Condensate shipments when spilled cannot be recovered due to the risks to responder safety and the risk of explosion. Significant toxic impacts to the environment and high public safety risk if spill were to occur near Kitimat.
- Lack of oily waste disposal facilities which would lead to a cessation of all response activities since oil and oil water emulsions cannot be collected if there is nowhere to store them.
- No salvage or marine fire-fighting capabilities. Spill response in some cases may not be started until the stability of the vessel is first addressed due to responder safety concerns.

Appendix B

Responsibilities of Government Agencies and Key Stakeholders

Specific responsibilities of agencies, First Nations and key stakeholders for a major marine spill include the following:

- TC – sets regulations for marine spill response planning and preparedness, including the capability and performance requirements for Western Canada Marine Spill Response Corporation.
- CCG – serves as the Federal Monitoring Officer when a responsible party is managing a ship source spill. Manages the response directly as the Federal On-scene Commander in the event there is no responsible party.
- EC – providing scientific and environmental advice to the responsible party and federal lead agencies. Responsible for federal environmental enforcement actions.
- BC MoE – provides the Provincial Incident Commander to represent the province's interests (including public safety, environment, and economic impacts) in Unified Command with the responsible party and other participating levels of government, or Incident Commander if there is no identified responsible party. Identified lead ministry under the *Emergency Program Act* to plan and respond to all spills impacting the province regardless of the source. Responsible for ensuring compliance with the *Environmental Management Act*.
- Spiller / Responsible Party – manages the incident in cooperation with other levels of government participating in Unified Command. If the responsible party is unable, unwilling or inadequate to manage the response CCG, or MoE may assume management of the incident.
- WCMRC – provides spill response services to any spiller once a contract is in place. Certain size vessels must hold membership in WCMRC but are not actually required to have them respond on their behalf. TC sets the planning and capability standards of WCMRC.
- First Nations and local governments may also hold a position in Unified Command when their lands are directly impacted. Other federal and provincial agencies may also participate in the spill response or exercise their legislation.

Appendix C

Key Provincial Response Objectives

The key aspects of a marine spill response that the province needs to address include but are not limited to the following:

- Protection of provincial lands – these include the entire shoreline with the exception of First Nation Reserves.
- Protection of provincial species – the province has jurisdiction over all terrestrial species, some fish species, and non-migratory birds. Many provincial species habitat includes the marine environment and terrestrial species may be impacted in numerous ways.
- Waste disposal – the province is responsible for approving the handling and final disposition of all waste from the response. Oil spills generate significant volumes of waste, well in excess of the volume of spilled material.
- Air quality management – the province is responsible for addressing air quality impacts from both the toxic components of spills as well as from response tactics such as in-situ burning of spilled hydrocarbons.
- Consequence Management – addressing potential consequences to communities such as the need for evacuations, setup of reception centres for evacuees and other logistical impacts to coastal communities from closures of the marine water ways that could impact food deliveries, fuel deliveries, ferry traffic, etc.

Appendix D

Mutual Aid Consideration in Marine Spills

Oil Spill Mutual Aid:

- Pacific States / BC Oil Spill Task Force provides us with mutual aid assistance from staff and state resources of the members.
- As we are not the regulator for WCMRC we cannot authorize the release of their equipment to other jurisdictions (this would be a TC decision).
- US-based private sector response organizations (ROs) have publicly stated they will not provide mutual aid into Canada due to lack of responder immunity in the *Canadian Shipping Act*.

s.13, s.16

Appendix E

Use of *Cascading Resources* in Marine Spills

Cascading Resources:

- Deepwater Horizon demonstrated that only light weight equipment and trained personnel can be cascaded in from distant regions.
- Specialized response vessels (dedicated spill response vessels, dispersant aircraft) and heavy equipment cannot be easily cascaded into a region.
 - For vessels this is due to the fact that they cannot be airlifted from one region to another and transit times, especially from central and eastern Canada, rule this option out.

s.16

- The factor of how long it takes to identify and arrange transport of lighter equipment to a spill site on the west coast means that most or all of the oil will be ashore before it can arrive.

Appendix F

Overview of Western Canada Marine Response Corporation

Western Canada Marine Response Corporation:

- Very professional and dedicated organization that does what they are mandated to do.
- They meet equipment and personnel standards set by TC.

s.13, s.16