

**MINISTRY OF ENVIRONMENT  
MEETING INFORMATION NOTE**

November 15, 2016  
File: 280-20  
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**PREPARED FOR:** Deputy Ministers Wes Shoemaker, Elaine McKnight, and Neil Sweeney

**DATE AND TIME OF MEETING:** November 21, Ottawa Ontario

**ATTENDEES:** Transport Canada and Canadian Coast Guard

**ISSUE(S):** Spills and Coastal Protection.

**BACKGROUND:**

One of BC's five conditions for heavy oil is world-class marine oil-spill prevention, preparedness, response and recovery systems for B.C.'s coastline and ocean to manage and mitigate the risks and costs of heavy-oil pipelines and shipments.

BC is working to develop a world-leading spill response regime, and is planning to launch the critical elements of it in spring of 2017. This includes a legislative amendment that has already passed in the House and a suite of spill preparedness, response, and recovery regulations.

BC Ministry of Environment (MOE) staff have been working closely with Transport Canada (TC) staff over the last year and a half to ensure the new regulatory regime is in alignment with federal spills regulations. MOE has also supported TC staff on several initiatives, including:

- Area response planning pilot
- Emergency response task force on the transportation of dangerous goods
- National places of refuge contingency plan

The ministry's long-term goal is to have a seamless spills regime for BC, irrespective of whether a spill originates on land or in the marine environment.

**DISCUSSION:**

In spring 2016, B.C. passed legislation to enable the creation of a world-leading provincial spill regime; many of the proposed requirements may apply equally to spills into or affecting the marine environment where BC has jurisdiction.

Once implemented, the ministry's spill preparedness, response and recovery program will improve and incentivize collaboration between all actors in the space, ensure all sectors are prepared for the risk they bring, and assure effective response and recovery actions should a spill occur.

Spills in the marine setting can impact the shoreline and vice versa. MOE envisions setting standards in the land environment which will help close the gaps with respect to spill response in the marine environment. The announcement made by Transport Canada of the Oceans Protection Plan on November 7<sup>th</sup> is encouraging and demonstrates both that the federal government is also committed to protection of BC coastline.

**SUGGESTED RESPONSE:**

s.13,s.16

**Attachments:**

1. News Release Ocean Protection Plan
2. Canada's Ocean Protection Plan
3. Marine Response Summary

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# Release

For immediate release

## **THE PRIME MINISTER OF CANADA ANNOUNCES THE NATIONAL OCEANS PROTECTION PLAN**

November 7, 2016

Vancouver, British Columbia

Prime Minister's Office

Whether facing the Atlantic, Pacific or Arctic oceans, the health and protection of our coasts are critical to our environment, our economy, and to all Canadians. Today, Canada is announcing a marine safety plan that meets – or exceeds – international standards and is supported by commitments to Indigenous co-management, environmental protections, and science-based standards.

Canada has the longest coastline in the world. Our coasts support traditional Indigenous and coastal community livelihoods, enable the export and import of our goods overseas, are home to abundant Canadian fisheries, attract tourism, and play a key role in strengthening the economy and growing our middle class.

It is therefore vital for Canada to have a plan to ensure that our coasts are protected in a modern and advanced way that ensures environmental sustainability, safe and responsible commercial use, and collaboration with coastal and Indigenous communities.

In order to meet these objectives, the Prime Minister today announced a \$1.5 billion national Oceans Protection Plan.

The Oceans Protection Plan has four main priority areas:

- creating a world-leading marine safety system that improves responsible shipping and protects Canada's waters, including new preventive and response measures;
- restoring and protecting the marine ecosystems and habitats, using new tools and research, as well as taking measures to address abandoned boats and wrecks;

- strengthening partnerships and launching co-management practices with Indigenous communities, including building local emergency response capacity; and,
- investing in oil spill cleanup research and methods to ensure that decisions taken in emergencies are evidence based.

The Oceans Protection Plan was developed based on work done over the past two years between Indigenous and coastal communities and various government programs, and will be implemented next year.

### **Quote**

“Canada’s economy, environment and history are inextricably linked to our coastal regions. The \$1.5 billion Oceans Protection Plan unveiled today will make Canada a world-leader in marine safety and takes a powerful step toward co-management of our coasts with Indigenous and coastal communities, together making sure they remain healthy, clean, and safe for generations to come.”

—*The Rt. Hon. Justin Trudeau, Prime Minister of Canada*

“As a government, everything we do, and every action we take, is done with one goal in mind: we want to leave our kids and grandkids with a better place to live – whether we’re creating good, well-paying jobs for the middle class; ensuring our communities are safe and protected; or taking the necessary action to safeguard our environment. And by working together with our partners along the coasts and across the country, I know we can preserve our coastlines for generations to come.”

—*The Rt. Hon. Justin Trudeau, Prime Minister of Canada*

### **Quick Facts**

- A significant volume of Canada’s commodities and processed goods are exported via marine transportation.
- Marine trade employs approximately 250,000 Canadians and injects more than \$25 billion to Canada’s economy.
- The Oceans Protection Plan will include over \$1.5 billion in funding over five years, starting in 2017-18.
- As soon as 2017, Canadians will begin to see concrete improvements, such as a Maritime Rescue Sub-Centre in St. John’s and legislation introduced to prohibit vessel abandonment in Canadian waterways.
- As part of the new marine safety system, improved marine traffic and navigation information – including hydrography and charting – will be provided to mariners, Indigenous peoples, and coastal communities.
- Enhanced resources will be provided to the Canadian Coast Guard, including new rescue stations, new towing capacity, and new communications equipment.

- New research into the impacts of increased shipping on marine ecosystems will be funded.
- New oil spill response methods will also be funded.

### **Related Products**

- World-leading Marine Safety System
- Preserving and Restoring the Marine Ecosystem
- Partnerships with Indigenous Communities and Stronger Evidence Base
- Oceans Protection Plan in Each Region

### **Associated Links**

- [Canada.ca/oceans-protection-plan](http://Canada.ca/oceans-protection-plan)

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PMO Media relations: 613-957-5555

This document is also available at <http://pm.gc.ca>

# CANADA'S OCEANS PROTECTION PLAN

## **The Plan: Summary**

Canada is a maritime nation, with more coastline than any other country in the world. Canadians rely on their coasts and waterways for recreation, to deliver products to market, and to earn their livelihood, but also cherish them for cultural reasons. The Oceans Protection Plan will help keep Canadians waters and coasts safe and clean, for today's use and for future generations. The Government of Canada will partner with Indigenous and coastal communities to develop a world-leading marine safety system that meets the unique needs of Canada from coast-to-coast-to-coast.

All Canadians, and especially coastal communities, need confidence that commercial shipping is taking place in a way that is safe for mariners and that protects and sustains the economic, environmental, social, and cultural health of our oceans and coasts.

Canada will invest \$1.5 billion over five years in long-needed coastal protections, with an action plan to deliver results for the coming decade.

This Plan will engage communities, first responders, and governing authorities to work together effectively to respond to emergencies.

## **World-leading marine safety system**

The national Oceans Protection Plan is designed to achieve a world-leading marine safety system for our country's unique context that will increase the Government of Canada's capacity to prevent and improve response to marine pollution incidents.

## **Better information sharing of marine traffic with coastal communities**

### *Real-time awareness of marine traffic in Canadian waters*

Indigenous and coastal communities expect that more local data on marine traffic (who is doing what and where) will be shared in a user-friendly way that meets their needs.

The Government of Canada will work with Indigenous and coastal communities to design new information-sharing systems and platforms so they have access to real-time information on marine shipping activities in their local waters.

To enhance real-time awareness, on the West Coast, a new program will fund initiatives to test new ways to bring local marine traffic information to Indigenous and local communities, from

existing, open-source information from ports, the Canadian Coast Guard (CCG) and other government systems.

#### *Proactive vessel management*

Transport Canada will work with partners to develop regulatory and other tools to engage Indigenous and coastal communities to better respond to local marine traffic issues.

While the national interest and economic drivers would still be considered, Indigenous and coastal communities could, for instance, request restrictions on speed and routing of certain sizes and classes of ships to minimize safety risks, establish areas to be avoided around sensitive sites, prohibit sewer discharges near harvesting areas, and other measures that would contribute to safety and environmental protection objectives. Processes for consultations and community engagement will be streamlined to ensure greater accessibility for communities to be engaged and involved.

The Government of Canada will work with Indigenous communities and others to further explore this concept.

#### *Strengthened marine communications and traffic services centres*

Canada's Marine Communications and Traffic Services Centres, located across the country, are an essential source of information for and about marine traffic. The Oceans Protection Plan will prevent "black-out" periods, ensuring continuing connection with mariners contributing to a stronger marine safety system.

#### *Radar Capacity*

Radars provide Marine Communications and Traffic Services Centres with an active capability to monitor marine traffic, providing more complete and accurate marine situational awareness. Eight new radars will be installed: six in British Columbia, one in Newfoundland and Labrador, and one in Nova Scotia.



## **Safer navigation in Canada's waters through better information in the hands of mariners**

### *Modern hydrography for charting in priority areas*

Major Canadian ports will have access to increased charting and electronic and navigation tools to allow ships to operate more efficiently and safely.

This new investment will allow the Canadian Hydrographic Service to increase surveys, deliver dynamic information for water levels, tides, and currents, and more quickly produce high resolution electronic navigation charts and navigational products over the next five years for mariners. Over 20 of the highest traffic commercial ports and waterways in Canada, covering two thirds of Canada's total cargo vessel traffic, will have updated navigational information.

### *Enhanced Marine Weather Forecasting*

To make marine navigation safer, Environment and Climate Change Canada will launch a five-year project to provide more detailed marine weather services in high-traffic areas, with high-resolution wind, and sea-state information for the upcoming 12 hours.

## **Safer resupply in Arctic communities**

### *Basic equipment and tools for safer resupply*

Approximately 95% of goods in the North are carried by ships, including the majority of natural resources leaving the Arctic, as well as the re-supply of essential goods to northern communities. Arctic shipping is challenged by remoteness, ice conditions, and scarce marine infrastructure.

In response to the need for faster, safer, and more efficient resupply operations with improved environmental protections, the Government of Canada will fund on-the-ground marine installations to support safer unloading of resupply, benefiting many northern communities.

## **Tougher requirements for industry response to incidents**

### *Regional response planning*

Stronger regional response plans are being developed in collaboration with partners, including coastal and Indigenous communities. Four pilot studies have already been launched in Port Hawkesbury, Nova Scotia; Saint John and the Bay of Fundy in New Brunswick; the Gulf of St. Lawrence in Quebec; and southern British Columbia.

The Government of Canada will work with coastal Indigenous communities and British Columbia to develop a new emergency response plan in northern British Columbia.

As part of the planning process, Fisheries and Oceans Canada and the Canadian Coast Guard will work with Indigenous communities and others to identify and map regions of high ecological sensitivity as well as areas of cultural, social, and economic importance. This will improve the identification of conservation priorities, such as identifying critical habitat, and enable authorities to take rapid appropriate action, such as fisheries closures if necessary. Also, Environment and Climate Change Canada will build a geospatial platform for synchronizing environmental sensitivity information in support of spill response.

#### *Stronger polluter-pay principle*

Funds must be easily accessible for response and clean-up. Canadians should not be responsible for cleaning up spills in our oceans. This is the responsibility of the polluter. The Government of Canada will strengthen the polluter-pay principle by amending the Canadian Ship-Source Oil Pollution Fund to ensure adequate industry-funded compensation is available for those affected by oil spills.

This will include:

- **Unlimited compensation:** Adequate and sufficient compensation in the event of a spill. The Government of Canada will remove the Ship-Source Oil Pollution Fund per-incident limit of liability, and make an unlimited amount of compensation available for spill response.
- **Guaranteed fund top-up:** In the unlikely event that the Fund is depleted, a modernized levy on those who ship oil would be instated, ensuring that the compensation continues to be funded by industry, not by middle class Canadians.
- **Funding into the hands of who needs it:** Quickly providing funds to responders and victims of spills is crucial to the system's integrity.

#### *Better identification of where ships can find refuge*

The Government of Canada will engage with Indigenous and coastal communities to support regional planning that ensures environmental, traditional knowledge, and cultural knowledge is incorporated into identifying appropriate sites of refuge.

#### *Greater leadership internationally*

Canada will play an active role in developing more stringent international standards with the International Maritime Organization and international partners.

Canada will also work domestically to implement faster industry response times, require Indigenous community participation in industry response, proactive vessel management, and new, more protective Arctic navigation regimes. Canada will also work with other jurisdictions to promote the use of these models.

#### *Modernize the ship pilotage regime*

The Government of Canada will review the *Pilotage Act*, starting in 2017, to deliver safe, efficient and environmentally responsible pilot services into the future.

### **Proactive monitoring and response capacity on water**

Fundamental to a world-leading marine safety system, is the ability for the Government of Canada to provide 24/7 command and control for marine incidents. The Canadian Coast Guard's command systems will be strengthened to lead the responses to marine emergencies, and ensure a coordinated response to spills to protect coastal environments and Canadians at sea.

#### *24/7 Emergency response capacity*

The Canadian Coast Guard will have dedicated 24/7 emergency management capacity in its three operational regions and will re-open the Maritime Rescue Sub-Centre in St. John's, Newfoundland.

To mount an effective science-based federal response that minimizes environmental damage, Environment and Climate Change Canada will provide emergency officers on each coast, increase the number of wildlife service staff, enhance its 24/7 oil spill modelling capacity, and improve communications and enforcement officer readiness to ensure the environment is protected in the event of an oil spill.

#### *Canadian Coast Guard to take command in marine emergencies*

Canada's Coast Guard will be given greater power to intervene directly to prevent marine incidents such as where ship operators have been reluctant to act.

#### *Increase Canadian Coast Guard towing capacity*

Two new vessels will be leased with the ability to tow large commercial ships, including tankers. The vessels will be operated by the Canadian Coast Guard in the areas that pose the greatest risk. In addition, towing capacity will be added to major Canadian Coast Guard vessels on the East and West coasts.

The Government of Canada will work with provincial and Indigenous partners to develop a plan for the best location and most effective use of these new vessels and resources.

#### *Modern response equipment*

The Government of Canada will upgrade Canadian Coast Guard assets to better respond in the event of a spill. This includes booms, small response vessels, and clean-up technologies.

In addition, the Canadian Coast Guard will deploy new mobile command posts to establish on-site command capacity and procure the necessary communications equipment to better operate with its partners.

#### *New logistics depot*

A new logistic depot will be built along British Columbia's central coast, in Port Hardy, to house environmental response staff and equipment to ensure rapid response to spills.

#### *Increase on-scene environmental response*

Training and exercising is key to having an effective marine emergency response. Because of this, the Canadian Coast Guard will increase its on-scene primary environmental preparedness and response personnel to effectively manage and respond to vessels in distress and ship-source pollution.

#### *Expand duties and training of the Canadian Coast Guard Auxiliary*

The Canadian Coast Guard is supported by a network of 4,000 volunteers across Canada to support maritime search and rescue activities. A new chapter of the Coast Guard Auxiliary will be created in British Columbia to support Indigenous communities. A second one will be created in the Arctic, to bolster response to emergencies and pollution incidents.

#### *Increase search and rescue capacity*

Six new lifeboat stations will be built: four along the West coast and two in Newfoundland and Labrador. In addition, a lifeboat station in Newfoundland and Labrador will be refurbished. The Canadian Coast Guard will also implement a seasonal in-shore rescue boat station in the Arctic, with trained local personnel, which will support near-shore search and rescue operations.

## **Develop comprehensive response systems for spills on water**

### *Working with partners to build a seamless response system*

The Government of Canada will work in partnership with stakeholders, experts, industry, and coastal and Indigenous communities to explore options as to how Canada could better prepare for and respond to dangerous goods spills. This work includes exploring scientific research, data, operational requirements, and Canada's accession to the International Protocol on Preparedness, Response and Co-operation to Pollution Incidents by hazardous and noxious substances.

## **Preservation and restoration of marine ecosystems**

The Government of Canada's Oceans Protection Plan aims to preserve and restore marine ecosystems vulnerable to increased marine shipping and development.

## **Develop a coastal environmental baseline and cumulative effects program**

The Government of Canada will launch environmental monitoring plans in six high-use areas on all three coasts, which will include environmental indicators, monitoring protocols and strategies.

Baseline environmental data collection will help detect changes in the ecosystem and improve our understanding of the cumulative effects of shipping.

## **Coastal habitat restoration fund**

The Government of Canada will create a fund to protect and restore abundant coastal marine ecosystems that are vulnerable to increased marine shipping and development activities. This fund will support the establishment of coastal habitat zone plans and the identification of habitat restoration priorities located on the West, East and Arctic coasts.

The habitat restoration projects would contribute to the mitigation of stressors affecting marine life and their habitats and would work with Indigenous communities, local groups and communities leading restoration activities.

## **New whale protections**

The Oceans Protection Plan is an important step forward in addressing the threats to marine mammals. The key threats include contaminants, prey availability and noise in the marine environment.

The Government of Canada will:

- Address priority issues on each coast through the coastal habitat restoration fund.
- Take action to better understand and address the cumulative effects of shipping on marine mammals, such as the southern resident killer whales pods, belugas, and northern right whales. This includes work to better establish baselines for noise and consideration of options to mitigate these effects.
- Work with partners to implement a real-time whale detection system in specific areas of the species' habitat to alert mariners to the presence of whales, which will allow them to better avoid interactions with this and other marine mammal species.
- Will immediately launch a science based review of the effectiveness of current management and recovery actions under way for the southern resident killer whale, the northern right whale and the St. Lawrence beluga. The review will be completed by Summer 2017 and will seek to identify areas for immediate improvement in recovery efforts and priorities for new or enhanced action efforts.

## **Baseline data for Northern British Columbia coast**

The Government of Canada will work with local and regional partners, including Indigenous communities, to design and launch a five-year project to collect and update baseline biological, ecological, social, cultural and economic data to support effective environmental stewardship and improve the ability to react to potential incidents and spills.

## **Reduce abandonment of ships, and clean up existing ship wrecks**

The Oceans Protection Plan includes a comprehensive strategy based on the best international models to reduce abandoned, derelict and wrecked vessels and to minimize the associated risks of environmental harm.

While most vessel owners properly dispose of their property, the Government of Canada recognizes the risks that abandoned, derelict and wrecked vessels pose to safe navigation, the marine environment, public health and local economies. This is why it has developed a comprehensive plan that focuses on prevention and removal, including a robust, polluter-pay approach for future vessel clean-up. This new plan will prohibit owners from abandoning their vessels.

## **Negotiating meaningful Indigenous partnerships**

The Government of Canada will partner with Indigenous and coastal communities and seek their advice in a number of areas, including:

- understanding the combined effects of shipping;
- creating local vessel control areas to minimize safety risks and/or environmental impacts;
- updating and modernizing regulations and other tools to better respond to community issues related to marine traffic;
- setting habitat restoration priorities and taking the most appropriate measures when monitoring clean-up, in the event of a spill; and
- developing training programs to increase participation of Indigenous group members, particularly women, in marine safety jobs.

These partnerships will be integrated within the multi-agency Incident Command System, a standardized on-site management system designed to enable effective and efficient incident management.

Agreements will build on existing initiatives and dialogues to create new opportunities for Indigenous communities, who will receive capacity funding to participate in the negotiations.

## **Better Indigenous capacity in design and delivery of marine safety**

Building on the success of the Canadian Coast Guard Auxiliary model, the Government of Canada will work with Indigenous communities to design and establish new national Indigenous Auxiliary chapters in the Arctic and the Pacific to enroll those Indigenous individuals and groups who want to be part of the federal marine safety system.

As an additional measure to support Arctic coastal communities, the Canadian Coast Guard will extend its community boats pilot program and will provide Arctic communities with up to eight vessels for incident response purposes.

## **Indigenous community response teams**

The Canadian Coast Guard will work with Indigenous communities to design and launch new Indigenous Community Response Teams, starting in British Columbia. Interested Indigenous communities will gain the skills to support search and rescue missions, environmental response, and incident management activities. These formal training activities will be centered at Canadian Coast Guard facilities and in communities where applicable.

### **Multi-partner oil spill response technology research for spill clean-up**

The Government of Canada will fund improved research capacity to seek safe, reliable, and more effective technologies to clean up oil spills. Research into new clean-up technologies is an essential part of a world-leading marine safety plan.

New investments will fund research to help improve emergency response to marine pollution incidents on the water drawing on the expertise and experience of the science community both in Canada and abroad.

New international partnerships will give Canadians access to the best technology available for spill clean-up. A program will build on the work of Fisheries and Oceans Canada's world-leading Centre for Offshore Oil, Gas and Energy Research and will encourage collaboration on scientific research with Indigenous and local communities, international research facilities and industry.

### **Improve localized ocean circulation knowledge to inform oil spill trajectories**

Government of Canada scientists will conduct research to better understand how different petroleum products behave in Canada's waters and specific environmental conditions. This will include work to build and refine ocean models using information such as currents, winds and waves to allow responders to accurately track spills and predict their path.

### **Better ability to predict behaviour of oil in water**

In response to concerns raised by Indigenous and coastal communities regarding risks posed by existing tanker traffic, the Government of Canada will ensure that this scaled-up research initiative includes further analysis on how various types of oil and petroleum products behave when spilled in a marine environment. This will provide scientific advice to oil spill responders that will improve the Net Environmental Benefit Analysis approach to a spill and the resulting decision-making process.



## Federal Gaps in World-Leading Marine Spill Preparedness and Response in British Columbia

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As British Columbia (B.C.) pursues a world-leading marine spill preparedness and response regime, the Province recognizes that the Federal Government plays a lead role in regulating marine safety in B.C.'s ports and waters. From a review of existing regulations, standards and initiatives, the Province has compiled the following list of gaps in marine safety which the Federal Government must address in order to ensure world-leading marine spill preparedness and response in B.C.:

1. B.C. requires federal regulation to enforce mandatory escort tugs for all tankers calling in B.C. ports, for the purposes of emergency rescue and salvage. The Federal Government should also analyse the need for 3 salvage tugs in southern (2) and northern areas (1), and if it is deemed necessary, provide the capital expenditure for the construction of salvage tugs in B.C. Not only are salvage tugs required for the shipping lanes into Port Metro Vancouver, but the Haida Gwaii, Prince Rupert and Kitimat areas also require salvage tug support to address spills in extreme weather conditions and achieve a 99% incident response rate.

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2. Canada should continually adopt state of the art (world-leading) monitoring systems to manage port traffic and to uphold high standards for vessels coming into port based on historical inspection data.

**Cost Estimates:**

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3. B.C.'s marine training institutions require adequate funding to ensure that B.C. provides a center for excellence in marine training on Canada's west coast. Additional resources are required to update simulator training to world-leading standards, and to ensure that seating in required courses is expanded to meet the need. Consideration should be given to a dedicated labour force, with an emphasis on First Nations training.

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<sup>1</sup> Based on consultation with Kinder Morgan

**Cost Estimates:**

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4. Canada must ensure that the Canadian Coast Guard (CCG) adequately services the entirety of B.C.'s coast. This necessitates a center in the northwest to ensure an appropriate CCG presence along B.C.'s north coast.

**Cost Estimates:**

s.17

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5. Canada must provide clarification on the proposed northern BC moratorium around shipping lanes and what kinds of vessels that it would encompass.

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6. Canada must work with the United States (U.S.) to establish response regulation for spills crossing international borders. The *United States Wreckers Act* specifically allows for U.S. vessels to assist in salvage in Canadian waters which are contiguous with the U.S. without necessary approval. Should the U.S. require support, Canada's west coast assistance is limited.

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<sup>2</sup> Based on estimates from British Columbia Coast Pilots and British Columbia Institute of Technology

<sup>3</sup> Based on estimates from British Columbia Coast Pilots and British Columbia Institute of Technology

<sup>4</sup> CBC News – "Kits Coast Guard loses out to N.L. base." Feb. 21, 2013.

<sup>5</sup> Vancouver Sun: Darah Hansen and Brian Morton – "Federal government closes Vancouver's Kitsilano coast guard station." Feb. 20, 2013

7. Federal requirements for response standards must incorporate spill characteristics beyond size of spill. Risk assessments for spills should apply equally to all marine vessels, not just tankers. B.C. recommends updating the existing minimum response standards.

s.13

8. Canada should consider lifting its ban on the use of alternative spill response measures, including dispersants and in situ burning. A plan for the appropriate usage of alternative response measures in B.C. should be developed collaboratively between Canada, the Province, and Western Canada Marine Response Corporation (WCMRC).

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9. Canada must ensure that resources are in place to ensure that necessary emergency and security services are available along the entirety of B.C.'s coast. Currently there is a need for resources including emergency health services, firefighting services and border security.

**Cost Estimates:**

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<sup>6</sup> Ministry of Community, Sport and Cultural Development – “Infrastructure and Service Growth Needs in Northwest B.C. – DRAFT.” (Confidential)

<sup>7</sup> Ibid.

<sup>8</sup> Globe and Mail: Renata d’Alieso – “Long-promised helipad for Fort McMurray hospital mired in delays.” Aug. 17, 2015.

10. Canada should undertake risk-based Area Response Planning for the entirety of B.C.'s coast. Southern B.C. will be analysed as part of the announced Area Response Planning pilot. This level of analysis should extend to the entirety of B.C.'s waters as part of a world-leading spill preparedness and response system.

**Cost Estimates:** s.13,s.17

s.13,s.17

11. Federal funds for reimbursement of costs incurred in response and clean-up must be more readily available to the Province, and must be provided in a more timely manner. A lack of immediate access to funds creates delays in response, as was witnessed during the *Simushir* incident in 2014. Canada should have upfront funds available which can be recouped from the Responsible Party after the incident.

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**MINISTRY OF NATURAL GAS DEVELOPMENT  
BRIEFING NOTE FOR INFORMATION**

**I PREPARED FOR:** Wes Shoemaker, Deputy Minister, Ministry of Environment  
and Neil Sweeney, Deputy Minister, Corporate Policy

**II ISSUE:** Trans Mountain Expansion Project Update for November 21, 2016  
meeting with Natural Resources Canada

**III KEY MESSAGES**

- The project falls under the National Energy Board review process which has now concluded and the NEB has recommended the Governor in Council approve the project.
- The Province participated as an intervener and actively represented the interests of the people of B.C.
- The Province submitted a final written argument stating that the evidence submitted by Trans Mountain, to the National Energy Board, did not provide the Province with enough confidence that spill prevention and response measures were addressed.
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**IV BACKGROUND:**

Trans Mountain Pipeline ULC is a Canadian corporation with its head office located in Calgary, Alberta. Trans Mountain ULC is a general partner of Trans Mountain Pipeline L.P. (collectively “Trans Mountain”), a limited partnership registered in Alberta and the owner of the existing Trans Mountain Pipeline system. Trans Mountain is a wholly-owned subsidiary of Kinder Morgan Energy Partners, L.P. (Kinder Morgan). Kinder Morgan is the largest midstream and the fourth largest energy company in North America.

Trans Mountain filed its regulatory Application with the National Energy Board (NEB) on December 16, 2013 for approval to proceed with the \$5.4 billion twinning of the existing 1,150 kilometer pipeline within the existing right-of-way, where possible, from Edmonton to Vancouver. The proposed expansion would increase the current pipeline

capacity of 300,000 barrels per day (bbl/d) to two continuous pipelines with a sustainable capacity of 890,000 bbl/d.

The NEB conducted a review and a public hearing process of the proposed Trans Mountain Expansion Project (TMP) in which the Province participated as an intervenor. The Province submitted its final written argument on January 11, 2016 stating it could not support the project at this time based on the current information filed with the NEB by Kinder Morgan. In particular, the Province stated that Kinder Morgan had not spelled out plans on how it would deal with oil spills on land and on water.

The NEB issued its recommendations report to the Governor in Council on May 19, 2016 recommending approval subject to 157 conditions. The Governor in Council final decision is expected no later than December 20, 2016.

## **V DISCUSSION:**

All heavy oil pipeline proposals, including the TMP, are subject to British Columbia's (B.C.) five conditions. The conditions include:

1. The successful completion of the environmental review process.
2. Ensuring world-leading marine spill response, prevention and recovery systems are in place.
3. Ensuring world-leading land-based spill response, prevention and recovery systems are in place.
4. Ensuring legal requirements regarding Aboriginal and treaty rights are addressed and First Nations are provided with the opportunities to participate in and benefit from a heavy-oil project.
5. B.C. receives a fair share of the fiscal and economic benefits from any proposed heavy-oil projects.

The January 2016 B.C. Supreme Court (Court) decision on the validity of the Equivalency Agreement entered into by the B.C. Environmental Assessment Office and the NEB for the Northern Gateway Pipelines project (NGP) will also apply to the TMP. The Court found that while Provincial Ministers can rely on the environmental assessment (EA) conducted by the NEB, they must render a decision on whether to issue a Certificate for the NGP and by extension to the Project. TMP applied to the B.C. Environmental Assessment Office (EAO) in May 2016, but must receive Governor in Council approval before EAO can issue an EA Certificate.

## **VI CONCLUSION:**

s.12,s.13

### **APPROVED BY:**

Linda Beltrano, ED, OSID

Fazil Mihlar, DM, MoE

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## **MINISTRY OF NATURAL GAS DEVELOPMENT**

### **BRIEFING NOTE FOR INFORMATION**

**I PREPARED FOR:** Fazil Mihlar, Deputy Minister, Ministry of Environment

**II ISSUE:** Trans Mountain Pipeline Expansion Project Update

### **III BACKGROUND:**

Trans Mountain (TMP) filed its regulatory Application with the National Energy Board (NEB) December 2013 for approval to proceed with the \$6.8 billion twinning of the existing 1,150 kilometer pipeline within the existing right-of-way, where possible, from Edmonton to Vancouver. The proposed expansion would increase the current pipeline capacity of 300,000 barrels per day (bbl/d) to two continuous pipelines with a sustainable capacity of 890,000 bbl/d.

The NEB conducted a review and a public hearing process of the proposed Trans Mountain Pipeline Expansion Project (Project) in which the Province participated as an intervenor. The Province submitted its final written argument on January 11, 2016 stating it could not support the Project at this time based on the current information filed with the NEB by TMP. In particular, the Province stated that TMP had not spelled out plans on how it would deal with oil spills on land and on water.

The NEB issued its recommendations report to the Governor in Council (GIC) on May 19, 2016 recommending approval subject to 157 conditions. The Governor in Council final decision is expected November 29, 2016.

The January 2016 B.C. Supreme Court (Court) decision on the validity of the Equivalency Agreement entered into by the B.C. Environmental Assessments Office (EAO) and the NEB for the Northern Gateway Pipelines Project (NGP). The Court found that while Provincial Ministers can rely on the environmental assessment (EA) conducted by the NEB, they must render a decision on whether to issue a Certificate for the NGP and by extension to the TMP Project. TMP applied to the EAO in May 2016.

On January 27, 2016, the Federal Minister of Environment and Climate Change and Minister of Natural Resources Canada announced an interim approach that included a Ministerial Panel, Phase IV First Nations Consultation, an assessment of upstream greenhouse gas emissions, and an extension to the legislative time limit for the GIC decision.

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#### **IV DISCUSSION:**

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## **V CONCLUSION:**

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## **NEB REVIEW OF TRANS MOUNTAIN EXPANSION PROJECT APPLICATION**

- On May 19<sup>th</sup> of this year the National Energy Board recommended to the federal government that the project be approved, subject to 157 conditions.
- Today (November 29<sup>th</sup>) the federal government announced its approval of the Trans Mountain Expansion Project.
- The provincial environmental assessment process has been underway for more than seven months but, I understand, is nearing conclusion. Aboriginal consultation efforts have been conducted jointly with the federal government.
- The Environmental Assessment Office informs me that they anticipate referring the project to me and Minister Coleman for decision shortly.
- The Province has been considering the National Energy Board's report and information obtained through consultation with Aboriginal groups and government agencies to help inform its analysis and recommendations to Ministers.
- If a provincial Environmental Assessment Certificate is issued, Ministers may decide to attach additional conditions.

**Background:**

- As a result of a January 2016 Supreme Court of British Columbia decision regarding the Environmental Assessment Office's equivalency agreement with the National Energy Board, Ministers can rely on the Environmental Assessment conducted by the National Energy Board for the Trans Mountain Expansion Project but are required to render a decision under the British Columbia Environmental Assessment Act.
- The Province has the authority to conduct an environmental assessment on an interprovincial pipeline or project because the Court found that the *Environmental Assessment Act* represents a valid exercise of provincial authority even if it may affect certain aspects of an interprovincial pipeline, which is under federal jurisdiction. There may be limits to the Province's jurisdiction (for example, the conditions that the Province may be able to place on an interprovincial project), but that can only be considered once the Province has made a decision.
- The National Energy Board (NEB) issued its report to the federal Cabinet recommending that the project should proceed, subject to 157 conditions, on May 19, 2016. On November 3, 2016, Natural Resources Canada released a report from the Ministerial Panel tasked with engaging local and Aboriginal communities to identify any additional views not heard during the NEB review process. On November 29, 2016, the federal government announced its approval of the Trans Mountain Expansion Project with 157 conditions.
- Kinder Morgan Canada's proposed twinning of the existing oil pipeline from Edmonton to Burnaby triggers an NEB review process because it crosses an interprovincial border.
- The Environmental Assessment Office (EAO) will accept the NEB's report and the information considered throughout the remaining provincial process, including Aboriginal consultation, to help inform the Ministers' Environmental Assessment (EA) decision. The EAO coordinated Aboriginal consultation with the federal government's Major Projects Management Office - Natural Resources Canada (MPMO).
- EAO and MPMO consulted with 96 Aboriginal groups in British Columbia (BC) about the proposed project and provided Aboriginal groups with two opportunities to review and submit comments on their joint draft consultation report.
- The first draft of the consultation report was shared with Aboriginal groups for review and comment in August 2016.
- EAO and MPMO shared the second draft (with explanations about how Aboriginal input on the first draft was considered) with Aboriginal groups for additional review and comment in November 2016. EAO provided additional draft supporting documents for review and comment at the same time.
- The Province participated as an intervenor in the NEB review and in its final submission, the Province stated that it cannot support the project based on evidence presented by the company, because it is not sufficient for BC to determine if Kinder Morgan will use a world-leading spills regime. The Province also stated that it will continue to evaluate the project, based on the company's ability to meet its "five requirements".
- BC's minimum requirements for any heavy oil pipeline are:
  - successful completion of an EA;
  - establishment of world-leading marine oil spill response, prevention and recovery systems for BC's coastline and ocean;

- establishment of world-leading land oil spill prevention, response and recovery systems;
- legal requirements regarding Aboriginal and treaty rights are addressed and First Nations are provided with the opportunities, information and resources to participate and benefit from the project;
- BC receives a fair share of the fiscal and economic benefits.

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