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November 5, 2018

File No.: 11-5020-30

Via Email: TC.OppHNS-PpoSNPD.TC@tc.gc.ca

To Whom It May Concern:

Re: Improving how Canada prepares for and responds to releases of hazardous and noxious substances (HNS) from ships

Thank you for your consulting on how Canada can improve how it prepares for and responds to releases of hazardous and noxious substances from ships into the marine environment.

At this time, due to our local elections, we do not have capacity for a substantive response to the discussion paper. As an alternative, we have attached the letter we sent on March 28, 2014 on this topic to the Tanker Safety Expert Panel as many of our comments are still relevant. Please consider these comments as you develop an approach to preparing for and responding to hazardous and noxious substances incidents in Canadian waters.

We look forward to future consultation on this topic. Thank you for considering this submission.

Yours sincerely,

Peter Luckham
Chair, Islands Trust Council
pluckham@islandstrust.bc.ca

Attach: 2014 letter from Islands Trust to Tanker Safety Expert Panel re hazardous and noxious substances

cc: Islands Trust Area MPs
Cowichan Tribes
Esquimalt First Nation
Halalt First Nation
Homalco First Nation
Hul'qumi'num Treaty Group
K'omoks First Nation
Klahoose First Nation
Laich-kwil-tach Treaty Society
Lake Cowichan First Nation
Lyackson First Nation
Malahat Nation
Musqueam First Nation
Nanwakolas Council
Pauquachin First Nation
Snuneymuxw (Nanaimo) First Nation
Songhees First Nation
Squamish First Nation
Stz'uminus (Chemainus) First Nation
Te'mexw Treaty Association
Tla'amin (Sliammon) First Nation
T'Sou-ke (Sooke) First Nation
Tsartlip First Nation
Tsawout First Nation
Tsawwassen First Nation
Tseil-Waututh (Burrard Inlet) First Nation
Tseycum First Nation
We Wai Kai (Cape Mudge First Nation)
Wei Wai Kum (Campbell River First Nation)
Port of Vancouver

Cc list con't

Penelakut Tribe
Qualicum First Nation
Scia'new (Beecher Bay) First Nation
Semiahmoo First Nation
Shíshálh (Sechelt) First Nation
Snaw-naw-as (Nanoose) First Nation

Chamber of Shipping of British Columbia
San Juan County Council
Bowen Island Municipal Council
Islands Trust Council
Islands Trust website



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March 28, 2014

File Number: 5450-30

By email: tsep-cesnc@tc.gc.ca

Tanker Safety Panel Secretariat
330 Sparks Street, Place de Ville Tower C (AAM)
Ottawa ON K1A 0N5

Dear Captain Gordon Houston, Richard Gaudreau, and Dr. Michael Sinclair:

Re: Hazardous and Noxious Substances

Executive Summary

On behalf of the Islands Trust Council, I am writing to provide input to your review of requirements for a potential Ship-source Hazardous and Noxious Substances (HNS) Incident Preparedness and Response Regime in Canada.

In this submission, I request that the Panel develop recommendations that address the need for:

1. Accommodation within the regulatory regime for special measures in sensitive regions
2. Lack of regulations aimed at preventing spills from vessels in distress
3. Effective trans-boundary oil spill response
4. Transparency and citizen engagement on major vessel casualty and spill issues
5. Regulations aimed at preventing spills from vessels in distress
6. Industry-funding
7. Seamless integration between a new Hazardous and Noxious Substances (HNS) Incident Preparedness and Response Regime and the existing oil spill regime.

Submission

Our Concerns:

The Islands Trust Council is greatly concerned about the lack of hazardous material response capability for a vessel-based incident in British Columbia. Shipping traffic in our region is expected to increase dramatically as the economy recovers and West Coast ports expand their capacity. The safety net needs to grow with the risk, rather than face erosion from federal government budget cuts. Our communities are concerned about what would happen in the event that there was a spill of a noxious and hazardous substance, which our residents typically refer to as "dangerous goods".

In the Panel's November 2013 report about your review of Canada's ship-source oil spill preparedness and response regime, you noted that the waters around southern Vancouver Island faced a very-high environmental risk due to the large volumes of vessel traffic and bulk oil movements that occur within close proximity to environmentally sensitive areas. You also noted that our region and the Gulf of St. Lawrence are Canada's areas of highest potential impact in the event of a spill.

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1. Concern: Need for accommodation within the regulatory regime for special measures in sensitive regions

Different regions have different values and risks, so a one-size-fits-all regulatory regime does not make sense to us. Some regions, including ours, justify extra precautions. The Salish Sea is home to some of the most biologically rich waters in the world, and our local marine conditions make spill clean-up extremely challenging. These unique conditions and special values justify enhanced levels of oil spill prevention and response resources and regulations. Regionally-based solutions and standards for our region should be developed in consultation with other levels of government, First Nations, and non-profit organizations in Canada and the United States.

Some noxious and hazardous substances may be too hazardous to ship near our communities. In 2008, the Islands Trust Council supported a ban on LNG tankers in the waters of the Malaspina and Georgia Straits.

2. Concern: Lack of regulations aimed at preventing spills from vessels in distress

As I mentioned in our Phase One submission about Canada's oil spill regime, industry has made few investments in prevention measures such as dedicated stand-by emergency tugs in strategic locations and salvage capabilities, that could stop a 'vessel in trouble' situation from turning into a catastrophic spill situation. We wonder why regulations are not in place requiring industry to invest in: 1) ocean rescue capabilities such as the American industry-funded Neah Bay stand-by tugboat in Washington State that has played a key role in preventing spills in our region, and 2) in ocean salvage equipment to remove cargo, fuels, and wreckage to prevent environmental damage. Canada's HNS system needs to take an inclusive incident management approach so as to better address this topic.

3. Concern: Trans-boundary oil spill response barriers

Relationships are key in emergency situations. It seems prudent, no matter which regime system is adopted, to include requirements for Canadian agencies to address trans-boundary issues that pose a barrier to effective responses incidents, and to require regular exercises and consultation to identify and resolve issues.

4. Concern: Lack of transparency, citizen engagement and public oversight

As I mentioned in our Phase One submission, it has become apparent to us that there is a need for industry and the federal government to proactively engage citizens on major vessel casualty and issues. Decisions should be made transparently and should incorporate the knowledge and priorities of local communities and First Nations. There is a lack of detailed information about HNS movements in our waters. We have no easy way to judge the nature and scale of the risks to human health and safety, and the environment.

The Islands Trust Council has said repeatedly that places of refuge and geographic response plans should reflect local and regional social, economic, cultural and ecological values. We are concerned that place of refuge sites may be selected based on their ability to protect a ship owner's asset without regard for the interests of our communities and the environmental sensitivities of the region. In January 2011, the MCP Altona, containing spilled uranium concentrate, commonly called yellow cake, travelled through our region to Ladysmith B.C. for refuge. Media reports stated the vessel first tried to seek refuge in Honolulu but was refused by the United States Coast Guard due to concerns about the hazardous nature of the spilled material. The media coverage of the issue highlighted public concerns about the types of hazardous and noxious materials being shipped through our waters and about Transport Canada's port of refuge decision-making process.

The Islands Trust Council has also heard from first responders and concerned community members that it would be beneficial to have a public database documenting 'near-miss' accident and accident events in our region to promote learning by all agencies. We can also see the value in having an on-line system that provides the public with real-time information about what chemicals are being transported through our waters so local responders and the public can be as prepared and educated as possible.

5. Concern: Lack of local government awareness of vessel-based HNS risks

Our communities and our partner local governments need much more training and support from Transport Canada, the Canadian Coast Guard and/or industry response agencies to understand their roles in spill response. The Islands Trust Council sees a need for secure, on-going funding to bring citizens together to provide the public oversight needed to foster practical, workable solutions to marine spill prevention, preparedness and response gaps.

6. Concern: Inadequate funding for the system

While the Islands Trust Council does not have a defined position about how the HNS system should be funded, it makes sense to us that there should be secure on-going revenue from industry for a sustained increase in federal and private spill prevention, preparedness, mitigation and response resources. We support the polluter-pay principle, not just for response but for all aspects of the prevention, preparedness and response regime.

7. Concern: Need for seamless integration between a new Hazardous and Noxious Substances (HNS) Incident Preparedness and Response Regime and the existing oil spill regime.

We see the need to design a HNS system that integrates seamlessly with the oil spill prevention, preparedness and response regime. We are concerned that if a new HNS system operates independently from the existing oil spill regime, there might be unintended gaps between the two systems. We hope the Panel will recommend how a HNS system should integrate with existing oil spill response plans for products such as diluted bitumen which contain both petroleum and chemicals such as condensate which can pose significant air quality issues. We also hope you will recommend how the two response regimes should integrate in situations where a chemical or liquefied natural gas tanker has an accident that causes spills of both its cargo and its bunker fuel.

About Us

The Islands Trust is a federation of local governments that represents 25,000 people living within the Islands Trust Area and 10,000 non-resident property owners. The Islands Trust Area covers the islands and waters between the British Columbia mainland and southern Vancouver Island. It includes 13 major and more than 450 smaller islands covering 5200 square kilometres. The Islands Trust has a legislated mandate to preserve and protect the trust area and its unique amenities and environment for the benefit of the residents of the trust area and of the province generally, in cooperation with municipalities, regional districts, improvement districts, other persons and organizations and the Government of British Columbia.

The Islands Trust Council has been concerned with oil spill and oil tanker issues since 1979. The Islands Trust Policy Statement, a statutory document founded in extensive community consultation and approved in 1994 by the then Minister of Municipal Affairs, includes a policy encouraging provincial and federal agencies to ensure safe shipment of materials hazardous to the environment. An oil spill within the Islands Trust Area could have devastating impacts on the abundant biodiversity of the region and could significantly affect species already at risk, as well as harm the liveability and economic well-being of local communities.

Oil spill prevention and response became a strategic advocacy priority for Islands Trust Council in 2009 after the bulk carrier, the Hebei Lion, grounded in Plumper Sound, located between Saturna, Mayne, North Pender and South Pender Islands. Our initial concern was compounded by two more near-groundings in Plumper Sound in 2010 and 2011.

Since 2009, to educate ourselves about oil spill preparedness and response issues, we have:

- hosted information sessions with speakers from industry, the federal and provincial governments, Canadian and American oil spill response agencies, and non-profit organizations;
- participated in 1,000 and 10,000 tonne oil spill exercises organized by Western Canada Marine Response Corporation;
- attended oil spill open houses and workshops in Washington State; and
- been represented by staff at meetings of the Transport Canada Pacific region's Regional Advisory Council (RAC) on Oil Spills.

Thank you for considering this submission and for inviting input into your review. Your leadership and vision is needed to help us fulfil our mandate to preserve and protect the Islands Trust Area.

Sincerely,



Sheila Malcolmson
Chair, Islands Trust Council
smalcolmson@islandstrust.bc.ca

cc: Islands Trust Council
San Juan County Council
Honourable Mary Polak, BC Minister of Environment
Islands Trust Area MPs: Elizabeth May, Saanich-Gulf Islands
Jean Crowder, Nanaimo-Cowichan
James Lunney, Nanaimo-Alberni
John Duncan, Vancouver Island North
John Weston, West Vancouver/Sunshine Coast
Murray Rankin, Victoria

Islands Trust website