



Main Office:

#201-195 Commercial St, Nanaimo, BC, V9R 5G5
Phone: 250 753 3459 | Fax: 250 753 2567

Georgia Strait Alliance

#607-207 W. Hastings St, Vancouver, BC, V6B 1H7
Phone: 604 633 0530

Georgia Strait Alliance submission to Transport Canada's Tanker Safety Expert Panel review of Canada's Marine Oil Spill Preparedness and Response Regime

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Via email to: tsep-cesnc@tc.gc.ca

Executive Summary

This submission outlines Georgia Strait Alliance's concerns about the inadequacies of Canada's existing oil spill preparedness and response regime, particularly in light of proposals to dramatically increase shipments of diluted bitumen through the Georgia Strait.

More comprehensive oil spill risk assessments and peer reviewed, independently funded studies into the behaviour of bitumen in marine environments are needed, as is investment in research and development of methods to recover floating and sunken bitumen. The current 10,000 tonne response capacity is indefensibly low and must be significantly increased, alongside specific improvements to the existing response standards in the areas of oiled wildlife, workforce management, oily waste management, salvage and tug assist, and the definition of oil. We call for stakeholders to be brought in to the response process more effectively and holistically, and for improved planning, research, and training operations to overcome trans-boundary challenges that affect oil spill response. Canada's existing funding and damage compensation regime is nowhere near strong enough to deal with the costs of a major ship-source oil spill, and we recommend that the Ship-Source Oil Pollution Fund be bolstered by reinstating a levy on oil imported into and shipped out of Canada. Finally, we suggest that the responsible party for a spill be made the cargo owner rather than the ship owner, to increase the available financial resources and scope for public accountability. Canada should also enact legislation that requires the responsible party to compensate for losses to ecological services.

About Georgia Strait Alliance

Georgia Strait Alliance (GSA) is a non-profit citizens' organization that works to protect and restore the marine environment and promote the sustainability of the Strait of Georgia, one of Canada's most at-risk environments, and its adjoining waters and communities. Founded in 1990, GSA has over 1000 members and supporters who work collectively to address root causes of threats to the Strait and find solutions that protect it. Our interest in this review relates to protecting the Georgia Strait from the threat of a major oil spill, particularly in light of current proposals to dramatically increase shipments of diluted bitumen through the Strait.

Preparedness

1. Preparedness and response plans must be based on comprehensive risk assessments that take into account all of the environmental, social, economic and community impacts of an oil spill, including as these may persist for decades after the incident.

2. We are very concerned about the lack of knowledge about the properties, behaviour and impacts of diluted bitumen and other varieties of heavy oils in marine environments. It is unacceptable that despite many known risks, these materials are already being transported in Canadian waters without scientific understanding or consensus of how they would affect human health, ocean environments and marine species if there were to be a spill; and without a comprehensive response plan in place. Academic, peer reviewed, full-scale, non-industry funded research into the behaviour of heavy oils in marine environments should be commissioned and used to develop such a response plan.

Response

3. The current Response Organizations Standards are inadequate and lag behind other comparable jurisdictions.

In particular, the regulated 10,000 tonne response capacity is indefensibly low. This volume is about a quarter of the amount of oil spilled from the 1989 *Exxon Valdez* oil tanker disaster; 7-8 times lower than the capacity of the Aframax tankers that currently transit the Georgia Strait; and 20-30 times less than the capacity of the VLCC tankers that could be present on the West Coast if the Northern Gateway project were to go ahead. This fundamental measure of response capacity must be significantly increased.

In addition, we recommend the following specific improvements to Canada's response capabilities¹:

- *Oiled wildlife.* Wildlife response capability should include hazing, capture, assessment, rehabilitation and release of oiled birds and mammals. Oiled wildlife tactical response should be delivered by qualified workforce primarily from BC's wildlife rehabilitators groups.
- *Workforce capacity.* Response standards should focus on oil spill workforce capacity to respond to a specific amount of oil spilled (where the maximum response capability should again be increased from the current 10,000 tonne requirement). For tier 4 response planning (ie. the largest spills), the workforce capacity building should be a minimum of 1,000 workforce members that is readily expandable to 5,000 members.
- *Oily waste management.* Response standards should not be based on a time-frame for holding temporary oily wastes, but specify holding capacities that are in the range of 4 to 5 times the tier level of oil spill preparedness.

¹ Recommendations adapted from: EnviroEmerg Consulting, 2008, [Major Marine Vessel Casualty Risk and Response Preparedness in British Columbia](#). (partly funded by Georgia Strait Alliance)

- *Definition of 'oil'*. Documents guiding response standards should broaden the definition of 'oil' to include all types of oil that pose an environmental or health risk if spilled. All forms of heavy oil should be explicitly referenced including diluted bitumen, synthetic crude/bitumen blends etc. A Response Organization should be required to prepare for and respond to spills of all types of products carried by vessels and/or off-loaded at facilities in Canadian waters.
- *Salvage and tug assist*. Response standards need to address all aspects of a major vessel casualty, and not just the oil spill impact or threat. This includes measures to salvage the vessel, to off load its cargo and fuels, and to remove wreckage so as to prevent or minimize environmental damage. Dedicated rescue tugs should be part of an integrated major marine vessel casualty response regime. Their size, specifications, equipment and training should include salvage, cargo and bunker lightering, firefighting and other response capabilities.

4. Canada's inadequate response capacity for spills of diluted bitumen and other heavy oils requires particularly urgent attention. The best available technology for responding to oil spills depends on the oil remaining on the surface of the water, and there is a strong case being made that bitumen may sink in certain marine environments. If bitumen does sink, there is no known technology that can remove it from the ocean floor. Bitumen is also known to be highly resistant to chemical dispersants, which in any case also carry under-researched risks to the marine environment. Investment in research and development into methods to improve recovery rates of bitumen on the surface of the water, and to identify technologies to recover bitumen that may sink to the ocean floor, should be a high priority.

5. Stakeholders need to be brought in to the response process more effectively and holistically. Geographically based response plans should be developed that utilize the full capability of provincial oil response communities (industry and government); and that are developed in consultation with, and benefiting from the expertise of First Nations, coastal communities and non-profit organizations. The Prince William Sound Regional Citizens' Advisory Council, formed in the wake of the Exxon Valdez spill, provides an example to be emulated in Canada of an entity with ongoing government funding that allows citizens to work together to identify and address gaps in spill prevention and preparedness. Finally, First Nations should be involved in spill prevention and response on a government-to-government basis rather than being treated as one of many non-government stakeholders.

6. Oil spills cross international boundaries, and we recognize that effective response must involve joint planning, research, and training operations to overcome trans-boundary challenges. We recommend that thorough consideration be given to the recommendations set out by the Pacific States/British Columbia Oil Spill Task Force in their 2011 report on trans-boundary oil spill response.²

² Pacific States/British Columbia Oil Spill Task Force, 2011, [Stakeholder Workgroup Review of Planning and Response Capabilities for a Marine Oil Spill on the U.S./Canadian Transboundary Areas of the Pacific Coast Project Report](#).

Liability and funding

7. Canada's existing funding and damage compensation regime is nowhere near strong enough to deal with the costs of a major ship-source oil spill, which could leave Canadian taxpayers liable for covering costs in the billions. We appreciate the challenges that international constraints pose to changing the current compensation regime. Nevertheless, there are avenues available to the government, in particular the significant strengthening of Canada's domestic Ship-Source Oil Pollution Fund. We recommend that the Minister of Transport reinstates a levy of 44.85 cents per metric tonne of contributing oil imported into or shipped from Canada (a similar levy exists for the US Oil Spill Liability Fund, and used to be in place in Canada from 1972- 1976). Consideration should also be given to expand the fund mandate to be inclusive of all environmental consequences of a major vessel casualty - not just oil pollution.

8. Consideration should be given to changing who the responsible party is for a marine casualty. Currently in Canada, the ship owner is responsible for incident management and impact mitigation from an oil spill or other environmental consequences, not the cargo owner or vessel charterer, as in the United States. Once reaching their budget for response, the ship owner may no longer be either "willing" or "able" to continue with response activities, in which case the government assumes all incident management responsibilities, including response cost. Making the cargo owner the responsible party, as in the US, would generally provide greater financial backing for response, and greater scope for public accountability.

9. Canada should enact legislation similar to the Natural Resource Damage Assessment (NRDA) provisions in the United States, which require the responsible party to compensate for losses to ecological services. Such legislation, currently lacking in Canada, recognizes that natural resources such as beaches and habitats provide valuable services to society, and can fund restoration and enhancement of the damaged environment.