



March 28, 2014

## **UBCM SUBMISSION ON CANADA'S LINES OF INQUIRY PANEL REVIEW PHASE II: HAZARDOUS AND NOXIOUS SUBSTANCES**

### **1. EXECUTIVE SUMMARY**

The Union of BC Municipalities represents 188 local governments and six post-treaty First Nations in British Columbia and advocates for policy and programs on behalf of its members. Given the proposed pipeline and LNG projects in British Columbia, the UBCM membership has a strong interest in the changes to the federal hazardous and noxious substances spill response. Environmental protection is a top priority for UBCM members, with resolutions calling for a 100% polluter pay model, environmental restoration when a spill occurs, a collaborative approach to response planning with local governments, and the need to increase federal agency staffing and training.

### **OUR ORGANIZATION**

UBCM represents 100% of BC's local governments and a number of First Nation governments, and has advocated for policy and programs that support local government needs since 1905. The UBCM Executive is comprised of 21 elected officials from all regions of the province who represent communities of all sizes - from rural areas to urban centers. UBCM has a number of issue-specific committees including Environment, Community Economic Development, and First Nations Relations, all of which have an interest in the federal marine oil spill preparedness and response regime.

### **2. SUBMISSION**

Thank you for the opportunity to comment on Transport Canada's Lines of Inquiry Panel Review Phase II: Hazardous and Noxious Substances (HNS). UBCM has reviewed the consultation guidance document and the comments provided below are reflective of the policy of the membership on hazardous and noxious spill preparedness, response, compensation and governance. This response is structured to reflect the posted Lines of Inquiry, with relevant UBCM policy related to: Coverage; Roles, Responsibilities and Legal Framework; and Preparedness and Response.

A review of the federal regime is a timely endeavor as BC local governments are very concerned with the increase in ocean traffic along the west coast of BC, and particularly from ships carrying hazardous and noxious substances. As reflected in the resolutions, UBCM's members do not believe that the current environmental measures are adequate to clean up damages caused by hazardous materials spills or disasters.

## **COVERAGE**

The materials provided for this Panel Review submission state that “notwithstanding the Panel’s future recommendations, for the purposes of gathering views and information for the review the Panel is considering vegetable and animal oils, liquefied natural gas (LNG) and liquefied petroleum gas (LPG), among many other substances, as part of HNS.” The scope of this definition, which includes LNG and LPG, aligns with the UBCM membership’s interests.

In addition to the above definition, UBCM policy would suggest that the regime also address HNS transported in bulk and in packaged form (e.g. containers) as the impact to UBCM members is the same irrespective of the form of transportation.

## **ROLES, RESPONSIBILITIES AND LEGAL FRAMEWORK**

The Panel Review is seeking guidance as to whether a separate preparedness and response regime for HNS should be created, or if the existing Ship-source Oil Spill Preparedness and Response Regime should be expanded to include HNS. UBCM members have endorsed a regional planning authority to oversee spill response, and have not identified that this authority to be different for oil spills or federally defined HNS spills (see Resolutions 1992-B28, 2007-B173 and 2008-B32).

While our members would support a streamlined and clear governance model with HNS included in the existing Oil Spill regime, the current oil spill regime is inadequate to meet the needs of UBCM members, which includes all coastal local governments in BC. UBCM members’ concerns regarding the existing oil spill regime include the issues of geographic coverage and response times.

The existing response organization Western Canadian Marine Response Corporation (WCMRC) has clearly stated response time standards for communities within a geographic area that includes the southern coast of Vancouver Island, the Vancouver Port and surrounding area, and the Sunshine Coast. Although UBCM understands there is some response capability up to Prince Rupert, WCMRC’s capacity is quite limited beyond the south coast.

WCMRC’s geographic range does not meet the concerns of the UBCM membership given the proposed HNS shipping activity throughout BC waters. While the communities identified in the existing WCMRC plan are highly vulnerable given the current amount of shipping activity, given proposed shipping of HNS (LNG, LPG) there are vulnerable communities all along the BC coast and Fraser River, most of which are UBCM members. UBCM also has concerns about the WCMRC’s ability to respond in areas that may require equipment more appropriate for rougher geographic and navigational conditions than found along the south coast.

The WCMRC indicates response times that range from six hours for spills of 150 tons or less, to 72 hours for spills greater than 2500 tons, and only for communities in a limited geographic area. UBCM proposes that 72 hour response times is not adequate or timely given the impact to environment and community economic activity that will take place within 72 hours of a large spill, especially for many of BC’s resource dependent coastal communities. And for communities outside of the south coast of BC, given WCMRC’s current capacity, UBCM anticipates WCMRC’s response times will be much longer.

## PREPAREDNESS AND RESPONSE

From 2005 -2009 UBCM worked with the Province of BC on issues related to offshore oil and gas development. UBCM's Offshore Oil and Gas Working Group's issues, concerns and recommendations are consistent with the views of the broader membership on environmental protection, economic development, and hazardous and noxious preparedness and response. Although the working group referenced offshore oil primarily, its findings are largely applicable for safe marine transportation of HNS.

### UBCM Offshore Oil and Gas Working Group (2005 – 2009)

In 2005, UBCM and the Province, through the then Ministry of Energy, Mines and Petroleum Resources, entered into a Memorandum of Understanding (MoU) on Consultation in Respect of Offshore Oil and Gas Development. Under this MoU, the UBCM Working Group on Offshore Oil and Gas was established. This working group included 13 locally elected officials from coastal communities that would be most directly impacted if there were a decision to move forward with offshore oil and gas development in BC.

In 2009, the working group submitted its *Report from the UBCM Working Group on Offshore Oil and Gas to the Ministry of Energy, Mines and Petroleum Resources*. This paper looked at environmental concerns, ocean planning, the regulatory context and regional benefits. A key area of consensus was that a stringent environmental and fiscal regulatory system was necessary, and must be implemented. The report also contained a number of recommendations regarding HNS spills. These recommendations provide BC's local context during the Panel's consideration of required preparedness and response strategies. Recommendations that pertain to this Panel Review include:

- *Work with coastal communities and First Nations to identify sensitive sites that need to be protected in the event of an accident.*
- *Establish a substantial remediation fund from industry to be used in the event of an oil spill. In light of the high costs for clean up of oil spills, the fund will have to be very robust.*
- *Invest in the necessary infrastructure to minimize risk of an oil spill and damage to surrounding areas in the event of an oil spill by:*
  - *Establishing deep-sea salvage tugs along the central and north coast to assist vessels in distress.*
  - *Implementing a vessel tracking system for the British Columbia coast.*
- *Develop tight regulations which would delineate exact responsibilities in the event of an oil spill to ensure timely clean-up. This would include:*
  - *Development of an Incident Command System (ICS) and an oil spill organization that would be a repository for all equipment and contact information in the case of an oil spill.*
  - *Enhance current marine spill response capability on the British Columbia coast, such as Burrard Clean Operations, or create a separate organization to deal strictly with offshore oil and gas, similar to Cook Inlet Spill Prevention and Response Inc. (CISPRI) in Alaska.*

## **UBCM Policy Regarding Preparedness and Response**

In recent years, there has been much interest and discussion from BC communities, industry and the provincial government on pipeline and LNG development in BC. As a result, UBCM's members have passed a number of recent resolutions on HNS spills, tanker traffic, and environmental concerns.

### **100% Polluter Pay Principle**

BC local governments support the 100% polluter pay principle, which makes polluters responsible for paying for damages caused by a spill. UBCM members have endorsed resolutions on this issue, calling for an industry-funded contingency fund.

UBCM policy includes resolution 2012-B122, which supports this principle. Specifically, this resolution asked that federal legislation be created to require:

- *that liability for cargo on a ship be the responsibility of both the carrier and the one who sold the cargo until such time as the cargo reaches its final destination, and/or is outside of Canadian waters;*
- *that shippers of dangerous goods and cargo, as well as the manufacturers, to pay into an emergency fund designed to clean up.*

The resolution also requests that a polluter pay fund or emergency fund be substantial, and that it be used to clean up, and compensate for any and all damages, including capital devaluation, social, cultural, and ecological damage, caused by an accident involving said goods and cargo; fund research into improving clean-up methods to deal with the eventuality of such spills; and fund a sustained increase in provincial spill prevention, preparedness, mitigation and response resources. Additional resolutions to consider on this topic include: 2007-B173, 2008-B32 and 2010-B87.

Local governments also ask that they be compensated for any local resources utilized during the response and restoration period of an environmental emergency (2006-LR2).

### **Response Plans for High Risk Areas**

Recognizing that certain areas will have higher risk areas given potential increased navigation as well as geographic impediments and weather conditions, UBCM's membership has called for plans that will facilitate quick and effective response in these areas. Resolution 2007-B6 calls for the provincial and federal governments to take measures to improve the rural community response capacity in light of the potential increase in hazardous goods traffic.

Given the lack of spill response resources and capacity for many BC communities, UBCM's membership endorsed Resolution 2010-B149 seeking a permanent ban on coastal drilling and bulk crude oil tanker traffic in BC waters in order to protect the unique and diverse marine ecosystems of our coast and the livelihood of communities who depend on those resources.

### **Environmental Restoration**

As discussed earlier, BC local governments have advised that the protection of the environment is their top priority.

In addition to the environmental concerns outlined in the Offshore Oil and Gas Working Group paper, UBCM's members have asked that legislation be established to require that wildlife rescue and ecosystem recovery be part of standard response activities either on land or in water; that the legislation require payment of those costs attributable to wildlife rescue and ecosystem recovery caused by spill events to be borne by the Responsible Party; and, that a Liability Trust Fund be created to provide funding for spill event remediation when the Responsible Party cannot be identified or held accountable (Resolution 2008-B32).

UBCM's members have also endorsed numerous resolutions supporting the protection of coastal marine areas and species at risk, as well as those that encourage the establishment of new marine conservation areas in the BC.

### **Increased Staff, Training and Support**

There is also a need in the regime for increased staff at the federal level, as well as additional training and support for local governments.

Recognizing that the Canadian Coast Guard (Fisheries and Oceans Canada) is the lead federal agency under the *Canada Shipping Act* responsible for responding to major spills in marine waters involving vessels, UBCM's members have asked for a suitably equipped and staffed Coast Guard service as well as an expansion of funding for the Coast Guard Auxiliary (Resolution 2012- B122).

### **Working with Local Governments**

With regard to working with local government in BC, UBCM members have requested that:

- *the federal government work closely and collaboratively with coastal communities and First Nations to identify sensitive sites that need to be protected in the event of an accident*
- *the federal government engage in a process to inform local citizens of the potential risks and benefits of any offshore oil and gas development*

UBCM's membership has endorsed additional resolutions on this issue including resolution 2011- LR6 which sought for any applications to expand the amount of oil transported by pipeline or tanker in British Columbia undergo meaningful public consultation, including direct engagement with affected municipalities, regional authorities and British Columbia First Nations.

BC local governments also want the provincial and federal governments to commit to increased engagement and collaboration in integrated Oceans Management Planning Processes for the Pacific Coast of Canada (2008- B147).

### 3. CONCLUSION

Thank you for the opportunity to comment on Canada's Lines of Inquiry Panel Review Phase II: Hazardous and Noxious Substances. The resolutions referenced in this response are included in the attached addendum, and can be found in the online UBCM Resolutions Database: <http://www.ubcm.ca/resolutions/default.aspx>.

The issue of tanker safety as it pertains to hazardous and noxious substances is a key area of concern for many UBCM members. The UBCM membership would welcome further engagement from Transport Canada with BC's local governments on this issue. Should you have any questions or seek follow up with UBCM, please feel free to contact us at [ubcm@ubcm.ca](mailto:ubcm@ubcm.ca) or at (604) 270- 8226.

THEREFORE BE IT RESOLVED that the UBCM urge the provincial government to conduct an immediate and comprehensive review of legislation and policies affecting emergency preparedness to B.C. This review should focus on the adequacy of preparations for a major earthquake or other disaster that could seriously affect many neighbouring municipalities at the same time to include:

- a) delegation of regional emergency planning authority with post disaster decision making, coordination and communication and responsibility to conduct intermunicipal response;
- b) Creation of emergency radio communication systems which will function in the event of a prolonged telephone system failure;
- c) Clarify authorities for post disaster inspection of facilities and structures;
- d) Provide support for neighbourhood emergency preparedness programs such as Coquitlam Block Watch HEROS (Home Emergency Response Organization System) to improve our population ability to survive and recover the economy after a major disaster;
- e) Integrate Search and Rescue with all other aspects of Emergency Preparedness on a province wide basis.
- f) That the provincial government establish and equip a hazardous material team to deal with hazardous chemical spills around the province.

**CONVENTION DECISION:            ENDORSED AS AMENDED**

2003 B48 **HAZARDOUS MATERIALS  
EMERGENCY RESPONSE**

Cowichan Valley RD

WHEREAS hazardous materials are transported through communities in British Columbia by commercial and industrial vehicles on a daily basis;

AND WHEREAS local fire departments across the province, in particular on Vancouver Island, have little or no hazardous materials response training and equipment but are expected to respond to motor vehicle accidents and hazardous materials incidents in the community and on transportation corridors including those under the jurisdiction of the Province:

THEREFORE BE IT RESOLVED that:

1. The Province provide more frequent and more stringent commercial vehicle inspection and testing for commercial vehicles, and specifically those vehicles carrying hazardous material;
2. The Province require industry to fund and support regional HazMat Response Teams, to be located central to identified highway corridors, including Vancouver Island, on a 24/7/12 basis and also provide funding for fire department *HazMat Awareness* training;
3. The Province support regional governments in recovering costs associated with response to HazMat incidents that occur outside of municipal boundaries.

CONVENTION DECISION:           **ENDORSED**

PROVINCIAL RESPONSE

**MINISTRY OF COMMUNITY, ABORIGINAL AND WOMEN'S SERVICES**

The Ministry of Public Safety and Solicitor General advises that the transportation of dangerous goods is a federal regulation adopted by the Province as the *Transportation of Dangerous Good Act*. Any changes to that regulation would need to come from the Federal government.

In regard to part 2 of the resolution: the provision of Hazardous Materials response is a local government responsibility. The level and type of services provided is decided by local councils based on their willingness and ability to fund that service.

**MINISTRY OF WATER, LAND AND AIR PROTECTION**

In regard to part 3 of the resolution: the Province supports regional governments in recovering costs associated with response to a HazMAT incident from the party responsible for the hazardous material when that party requests regional government assistance. This point addresses most incidents where the responsible party is providing the response. The legislation states that the responsible party is in charge of spill response. The ministry and regional government may expend resources for regulatory activities associated with the spill. Costs associated with these regulatory duties are not cost recoverable.

The Province also supports regional governments in recovering costs associated with response to a HazMat incident where the province has requested regional government assistance. This point addresses situations where the provincial government has assumed the responsibilities of the responsible party (e.g. abandoned drums, emergency declarations). The province may request assistance from regional government. The provincial government may adjudicate the bills submitted or join with regional governments and seek cost recovery from the responsible

plans submitted or joint with regional governments and seek cost recovery from the responsible party.

#### RESOLUTIONS COMMITTEE COMMENTS

*In 1992 UBCM delegates endorsed resolution B28 on several Emergency Preparedness issues. One of those issues was "that the provincial government establish and equip a hazardous material team to deal with hazardous chemical spills around the province."*

2006 LR2 **LOCAL GOVERNMENT A  
STAKEHOLDER IN ENVIRONMENTAL  
DISASTERS**

Squamish

WHEREAS on August 5, 2005 a Canadian National Railway train derailed in Squamish, resulting in 40,000 litres of Sodium Hydroxide being spilled in the Cheakamus River and Squamish River systems, with the provincial Ministry of Environment responding as the government having jurisdiction;

AND WHEREAS on August 4, 2006 a ship (the Westwood Anette) became damaged while leaving port, resulting in 29,000 litres of bunker oil spilled in the Squamish Harbour, causing substantial environmental damage within the Squamish Estuary and land areas within the Squamish Harbour, with the provincial Ministry of Environment and the Canadian Coast Guard responding as the governments having jurisdiction;

AND WHEREAS although the governments having jurisdiction respond on the basis of their policies, pursuant to statute and regulation, with immediate cleanups and remediation, local governments remain the recipient of long-term socio-economic and environmental impacts of the incidents that occur within their areas:

THEREFORE BE IT RESOLVED that the UBCM and FCM petition the federal and provincial governments to recognize local governments within environmental emergency response protocols as active participants, where there is meaningful consultation with local governments and compensation for any local resources utilized during the response and restoration period.

CONVENTION DECISION:           **ENDORSED AS AMENDED**

PROVINCIAL RESPONSE

**MINISTRY OF ENVIRONMENT**

*The Ministry of Environment's (Ministry) policy is to actively involve all impacted local governments and other stakeholders in its emergency response activities related to the spill of hazardous materials. This is typically achieved through the use of the Incident Command System and Unified Command to manage the incident.*

*The Ministry has recently completed a review of its existing environmental emergency legislation. The Ministry is now in the process of organizing a working group to review the findings and identify possible future changes that might include expanding the scope of our existing spill cost recovery regulation.*

**MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL**

*The British Columbia Emergency Management Structure supports an integrated response to emergencies. The Province of British Columbia, along with federal agencies, work closely with local authorities to determine any risk to the public.*

*The Compensation and Disaster Financial Assistance Regulation provides the mechanism to compensate local authorities for operational expenditures.*

## FEDERAL RESPONSE

### **MINISTRY OF FISHERIES AND OCEANS**

*In Resolution LR2, UBCM and the Federation of Canadian Municipalities urge the federal government to recognize local governments as active participants during environmental emergency response measures. Indeed, DFO and the Canadian Coast Guard (CCG) make a concerted effort to involve local governments wherever it is appropriate, recognizing that they have an intimate knowledge of the needs of their communities. While CCG is part of the first line of response to marine pollution incidents, Environment Canada and the British Columbia Ministry of Environment share the lead on spill response in British Columbia. I note that you have sent a copy of your letter to my colleague, the Honourable John Baird, Minister of the Environment. I recommend you also contact the British Columbia Ministry of Environment on this matter.*

## OTHER RESPONSE

### **FEDERATION OF CANADIAN MUNICIPALITIES**

*Resolution CSCP072.06 - Local Government a Stakeholder in Environmental Disasters was categorized as "A" and adopted at the 2007 Annual Conference.*

## RESOLUTIONS COMMITTEE COMMENTS

*The Resolutions Committee notes that the bunker oil spill occurred at the Squamish Harbor after the June 30th resolutions deadline, which qualifies the resolution for emergency consideration. The Committee also notes that the UBCM membership has not previously considered any resolutions requesting that local governments be recognized by statute, and under federal and provincial funding programs, as a stakeholder in responses to local environmental disasters.*

*According to existing legislation, provincial and federal agencies take the lead in co-ordinating and responding to environmental disasters. The Canadian Coast Guard (Fisheries and Oceans Canada) is the lead federal agency under the Canada Shipping Act for responding to major spills in marine waters involving vessels. Under the Emergency Act, Environment Canada, in collaboration with provincial authorities, is responsible for assessing and mitigating incidents causing pollution of the environment, including mystery spills and land-based spills from federal facilities or property.*

*Given the impact of environmental disasters on local ecosystems, some local governments have expressed their desire to have more substantive roles on both the planning and operational side of disaster responses. Meaningful consultation and participation within the response structure could capitalize upon local knowledge and/or resources to help mitigate the effects of an environmental disaster. The proposed amendment would achieve the goal of recognizing local governments as significant participants in the response and mitigation of environmental disasters.*

WHEREAS on June 22, 2006, local governments were notified that key transport development initiatives in northern British Columbia will potentially result in a high level of risk for uncontrollable major spills resulting from the transport of hazardous goods;

AND WHEREAS existing private hazardous material response resources are located far away from the North, causing actual deployment of qualified personnel to take days to reach the North in sufficient strength;

AND WHEREAS the initial burden to respond to hazardous spill incidents rests with the local communities and minimal agency resources:

THEREFORE BE IT RESOLVED that the Union of British Columbia Municipalities urge the provincial and federal governments to take measures to improve the rural community response capacity in light of the potential increase in hazardous goods traffic.

CONVENTION DECISION: ENDORSED

#### PROVINCIAL RESPONSE

##### **MINISTRY OF ENVIRONMENT**

*Local governments are responsible for planning and preparing for the hazards and risks that face their communities. The Ministry of Environment (Ministry) currently supports local governments on hazardous materials issues and incidents, as required, through the regionally based Environmental Emergency Response Officers, and through two ministry Incident Management Teams.*

*The Ministry's Environmental Emergencies Program has commenced a review of the existing Environmental Emergency Legislation and will be seeking comment on any proposed changes via a policy intentions paper. The creation of an industry funded response cooperative for hazardous material spills is one of the issues that has been flagged for consideration in the review.*

#### RESOLUTIONS COMMITTEE COMMENTS

*The Resolutions Committee notes that this resolution was originally submitted as 2006-LR7 and, since it did not meet the criteria for emergency debate, was automatically referred to the 2007 resolutions cycle.*

*The sponsor indicates that this is not a new issue as "local emergency services in northern communities have long expressed concerns regarding their severely limited ability to respond to emergencies involving hazardous materials." The lack of adequate emergency services may become a bigger issue, however, as a result of expanding economic activity and the increasing use of rail and roads to haul hazardous materials.*

*The Committee would note that the UBCM has previously endorsed requests for the Province to provide funding for fire department HazMat awareness training and to require industry to fund and support regional HazMat response teams (2003-B48; 1992-B28).*

2007 B173 **WILDLIFE RESCUE & ECOSYSTEM  
RECOVERY COST ACCOUNTABILITY**

Burnaby

WHEREAS financial accountability for wildlife rescue and ecosystem recovery during, and subsequent to, oil spill response procedures is not currently part of the required cost liability for standard spill response costs undertaken by the Responsible Party in Canadian waters;

AND WHEREAS the recovery and rehabilitation of the detrimental impacts to wildlife and ecosystems following oil spill events require adequate resources;

AND WHEREAS wildlife rescue and ecosystem recovery are not currently a requirement of the emergency spill response process;

AND WHEREAS government agency responsibilities for the management of oil spill events and their effects are fragmented;

AND WHEREAS the inclusion of financial accountability for wildlife rescue and ecosystem recovery along the US west coast would be familiar both in concept and in business practice to industry;

AND WHEREAS the US Environmental Protection Agency has an Oil Spill Liability Trust Fund which supplies adequate funding for wildlife rescue and ecosystem recovery costs in the event that a Responsible Party is either not identifiable or not able to be held accountable:

THEREFORE BE IT RESOLVED that:

1. The provincial and federal governments enact legislation to require that wildlife rescue and ecosystem recovery be part of standard oil spill response activities either on land or in water;
2. The provincial and federal governments explore appropriate measures to streamline governmental responsibilities in spill events;
3. The provincial and federal governments enact legislation to require payment of those costs attributable to wildlife rescue and ecosystem recovery caused by spill events to be borne by the Responsible Party;
4. The provincial and federal governments explore the feasibility of a Liability Trust Fund to provide funding for spill event remediation when the Responsible Party cannot be identified or held accountable.

CONVENTION DECISION:           **ENDORSED**

PROVINCIAL RESPONSE

**MINISTRY OF ENVIRONMENT**

*The Ministry should continue to press the federal government to adopt a national incident management system based on the Incident Command System. This would include adopting Unified Command to ensure the federal response to all types of emergencies is consistent with the approach taken by the Province of British Columbia (Province), industry, local government, and most jurisdictions in North America.*

*The Environmental Emergencies Program has formed a legislative review team that will recommend changes to the existing environmental emergency legislation. The scope of this review includes oiled wildlife response, and the creation of an industry-funded hazardous material spill response cooperative.*

*The Province should continue to advocate that Transport Canada (as the responsible federal agency) require the existing marine response cooperative to develop an appropriate oiled wildlife response capacity and capability.*

*The Ministry is in the process of developing an oiled wildlife response plan to provide clear direction to a Responsible Party. Ministry staff will meet the Canadian Wildlife Service and other stakeholders to discuss the draft plan in the near future.*

## **FEDERAL RESPONSE**

### **MINISTRY OF TRANSPORTATION**

*With respect to resolution B173 pertaining to oil spill response procedures in regard to wildlife rescue, such a project would not be eligible within the categories under the Building Canada Fund.*

## **RESOLUTIONS COMMITTEE COMMENTS**

*The Resolutions Committee notes that the UBCM membership has not previously endorsed a resolution specifically requesting either the enactment of legislation that would require wildlife rescue and ecosystem recovery to be part of standard oil spill responses or the enactment of legislation that would make the responsible party bear the costs of recovery efforts. However, the membership has called for the protection of wildlife from oil spills (2003-B23) and for industry's responsibility for response capabilities to spills (1993-B48). In addition, the membership supported calling on the federal and provincial governments to recognize local governments within environmental emergency response protocols as active participants and provide compensation for any local resources utilized during the response and restoration period (2006-LR3).*

*The Committee would note that support for this resolution was also received from the City of Langley. In addition, this resolution was adopted as a Category A resolution by the Federation of Canadian Municipalities at its 2007 conference.*

2008 B32 **WILDLIFE RESCUE & ECOSYSTEM  
RECOVERY COST ACCOUNTABILITY**

Burnaby

WHEREAS financial accountability for wildlife rescue and ecosystem recovery during and subsequent to oil spill response procedures is not currently part of the required cost liability for standard spill response costs undertaken by the responsible party in Canadian waters;

AND WHEREAS the recovery and rehabilitation of the detrimental impacts to wildlife and ecosystems following oil spill events require adequate resources;

AND WHEREAS wildlife rescue and ecosystem recovery are not currently a requirement of the emergency spill response process;

AND WHEREAS government agency responsibilities for the management of oil spill events and their effects are fragmented;

AND WHEREAS the inclusion of financial accountability for wildlife rescue and ecosystem recovery along the US west coast would be familiar both in concept and in business practice to industry;

AND WHEREAS the US Environmental Protection Agency has an Oil Spill Liability Trust Fund which supplies adequate funding for wildlife rescue and ecosystem recovery costs in the event that a responsible party is either not identifiable or not able to be held accountable:

THEREFORE BE IT RESOLVED that the provincial and federal governments be requested to:

1. enact legislation to require wildlife rescue and ecosystem recovery be part of standard oil spill response activities either on land or in water;
2. explore appropriate measures to streamline governmental responsibilities in spill events;
3. enact legislation to require payment of those costs attributable to wildlife rescue and ecosystem recovery caused by spill events to be borne by the Responsible Party;
4. explore the feasibility of a Liability Trust Fund to provide funding for spill event remediation when the Responsible Party cannot be identified or held accountable.

CONVENTION DECISION:           **ENDORSED**

PROVINCIAL RESPONSE

*Ministry of Environment*

*Amendments were made to the Environmental Management Act in May, 2008 which clarify and strengthen the responsibility of spillers to fund oiled wildlife response. The Environmental Emergencies Program is looking at potential changes to the existing environmental emergency legislation. These include the approach to oiled wildlife response and the creation of a Contingency Fund as a source of funds for spill response when the spiller is either unwilling or unable to carry out response in a timely manner, or is unknown.*

*The Ministry of Environment is in the process of developing an oiled wildlife response plan to provide clear direction to spillers. Ministry staff has met with the Canadian Wildlife Service and other stakeholders to discuss the draft plan.*

*The Province will continue to advocate that Transport Canada (as the responsible federal agency) require the existing marine response cooperative to develop an appropriate oiled wildlife response capacity and capability.*

*capacity and capability.*

## FEDERAL RESPONSE

### ***Ministry of Transport, Infrastructure and Communities***

*[...] the polluter pays all reasonable costs of an oil spill in Canadian waters. In the event that the polluter is unknown, or unwilling or unable to cover the clean-up costs of an oil spill, including reasonable costs to wildlife and ecosystem recovery, compensation can be sought from the Ship-Source Oil Pollution Fund.*

*The Ship-Source Oil Pollution Fund is a special account in the Accounts of Canada, delivered by an administrator accountable only to Parliament. The Fund acts as an independent domestic compensation fund, which was established under Part 6 of the Marine Liability Act.*

*The Fund also acts as a first resort for claims for all oil spills from all classes of ships at any place in Canada, or in Canadian waters, including the Exclusive Economic Zone, whether or not the ships fall under the international regime. Therefore, funding is not limited to seagoing oil tankers or to persistent oil, as is the case with the International Fund. The Ship-Source Oil Pollution Fund can pay claims for oil spills from all other classes of ships, including oil from ship bunkers and other spills from unknown sources.*

*It would not be feasible for the federal government to explore another liability trust fund to provide funding for a marine spill when the responsible party cannot be identified or held accountable.*

## RESOLUTIONS COMMITTEE COMMENTS

*The Resolutions Committee notes that UBCM members have previously considered and endorsed this same resolution in 2007 (B173). The Ministry of Environment consulted UBCM on the resolution in late 2007. Bill 29, which received Royal Assent on May 29th, will make amendments to Section 80 of the Environmental Management Act. These amendments will provide the provincial government with the tools to take action on wildlife recovery, rehabilitation, and habitat restoration and recover the costs for doing so from a party that is responsible for the spill.*

WHEREAS the provincial Environmental Management Branch has been responsible for a wide array of environmental management regulatory programs, including environmental emergency response and spill reporting, but is now limiting their spill response to local governments based on resources available and sensitivity of the spill;

AND WHEREAS local governments do not have the in-house expertise or financial resources necessary to respond to and evaluate the hazards associated with spills that occur on public or private property within the local government boundaries:

THEREFORE BE IT RESOLVED that the Province allocate adequate funding for the provincial Environmental Management Branch that will ensure that all spills that occur in the province can be evaluated for hazards and environmental impact by the Environmental Management Branch and be responded to by the trained professionals at the Environmental Management Branch including any remediation necessary, rather than relying on local governments to take the lead.

CONVENTION DECISION:           **ENDORSED**

## PROVINCIAL RESPONSE

### *Ministry of Environment*

*Under the Emergency Program Act, local authorities must prepare or cause to be prepared local emergency plans respecting preparation for, response to and recovery from emergencies and disasters.*

*Ministry of Environment is designated under the Emergency Management Program Regulation as the lead ministry for hazardous material spills and is to provide professional and technical advice and direction at hazardous material or pollution spills.*

*The Ministry's Environmental Emergency Program (EEP) receives reports of spills in the province and determines the level of response required based on an initial risk assessment.*

*The EEP provides regulatory oversight, technical assistance, and may take over the management of a spill response if the responsible party (i.e. the spiller) is unable, unwilling, unidentified or is deemed not to be providing the appropriate level of response required.*

*The program has undertaken a review of existing environmental emergency legislation and is currently evaluating options that could address the issues raised in this resolution. Local governments continue to have a role to play in spill response within their communities to ensure public safety, protect municipal infrastructure and mitigate the effects of spills wherever possible (example: fire department and public works) until the responsible party or ministry-directed spill response contractors can arrive on-scene.*

*EEP staff will continue to assist local governments as requested and ensure appropriate actions are undertaken by the responsible party to address the spill incident. Where no responsible party exists, EEP staff will fulfill their role in ensuring appropriate response occurs either directly or through the use of spill response contractors.*

## RESOLUTIONS COMMITTEE COMMENTS

*The Resolutions Committee advises that the UBCM membership has not previously considered a resolution requesting that the Province allocate funding to the provincial Environmental Management Branch (EMB) to ensure that:*

- the EMB can evaluate all spills occurring in BC for hazards and environmental impact; and*
- trained professionals from the EMB can respond to spills and provide any remediation necessary, rather than relying on local governments to take the lead.*

*However, members endorsed resolution 1992-B28, which requested in part that the provincial government establish and equip a hazardous material team to deal with hazardous chemical spills around the province. Resolution 2008-B32 was also endorsed, which called on the provincial and federal governments to:*

- enact legislation to require wildlife rescue and ecosystem recovery be part of standard oil spill response activities either on land or in water;*
- explore appropriate measures to streamline governmental responsibilities in spill events;*
- enact legislation to require payment of those costs attributable to wildlife rescue and ecosystem recovery caused by spill events to be borne by the Responsible Party; and*
- explore the feasibility of a Liability Trust Fund to provide funding for spill event remediation.*

## 2011 B149 TRANSPORTATION OF HAZARDOUS MATERIALS

Telkwa

WHEREAS the new Asia Pacific Gateway has, and will contribute to, increased freight transportation along the Highway 16 corridor, including hazardous materials;

AND WHEREAS the federal *Transportation of Dangerous Goods Act* regulates the transportation of hazardous materials including the emergency response support capabilities of shippers, carriers, and/or consignees:

THEREFORE BE IT RESOLVED that UBCM request that the federal and provincial governments conduct a review to determine whether the emergency response capabilities are appropriate for the quantities and class of hazardous materials now being transported along the new Asia Pacific Gateway corridor.

CONVENTION DECISION:                    **ENDORSED AS AMENDED**

### PROVINCIAL RESPONSE

#### *Ministry of Transportation & Infrastructure*

*The Ministry of Transportation and Infrastructure recognizes that the safe transit of goods and commodities on Highway 16 and the adjacent rail corridor is a concern of local governments. To ensure the safe transit of dangerous goods, and provide improved spill response capability, the Ministry of Environment, as part of its Environmental Emergency legislative review process and as the lead provincial ministry for hazardous material spill response, has been reviewing measures that could be implemented to improve spill response capability and capacity in the province while ensuring that those sectors that present the risk bear the costs.*

*The Ministry of Environment is currently examining the concept of both an industry funding model to support prevention, preparedness and response activities of the Ministry's Environmental Emergency Program, as well as the creation of a regulated terrestrial spill cooperative by industry to ensure that geographic response plans are developed and the required capability and capacity to respond effectively to spills exists. Government will be review the options being prepared by ministry staff to determine how best to protect British Columbians from the increasing risk of hazardous material spills and ensure a true polluter pay system is in place.*

### FEDERAL RESPONSE

#### *Minister of Transport, Infrastructure & Communities*

*In Canada, the transportation of dangerous goods is strictly regulated under the Transportation of Dangerous Goods Act, 1992. The Act was designed with the sole purpose of maintaining public safety during the import, handling, offering for transport and transport of dangerous goods.*

*The Transportation of Dangerous Goods (TDG) program is based on the premise that properly classifying dangerous goods and ensuring that they are transported in an appropriate means of containment along with the use of proper safety markings, shipping documents, emergency response assistance plans, and training are all essential elements of a preventative safety program.*

*There are more than 30 million shipments of dangerous goods in Canada every year, with 99.999% of them reaching their destination without incident. A person who imports, handles, offers for transport or transports dangerous goods must comply with the Act, its regulations and standards. Compliance is verified through inspection by TDG inspectors. Ports and modal modes of transportation of dangerous*

verified through inspection by TDG inspectors. Ports and modal modes of transportation of dangerous goods are inspected regularly as part of the TDG inspection program.

As you may be aware, Canada leads the world in the use of industry emergency response assistance for first responders. Emergency Response Assistance Plans (ERAPs) are required by the Transportation of Dangerous Goods Regulations (set out in Schedule 1 of the Regulations) for certain dangerous goods that necessitate special expertise and response equipment. Any person who offers for transport or imports one of these dangerous goods must submit a plan to the TDG Directorate, which will then review the plan and, if it is found adequate, approve it. There are currently about 1,000 ERAPs that have been approved by Transport Canada.

ERAPs are intended to assist local emergency responders by providing them with technical experts and specialized equipment at accident sites. Such assistance is available to local firefighters at no cost in response to an incident involving an ERAP dangerous good in transport.

Transport Canada takes the lead for Canada at international dangerous goods meetings. The Department leads a federal delegation at the United Nations Dangerous Goods Committee, International Civil Aviation Organization, International Maritime Organization and the North American Free Trade Agreement dangerous goods meetings. Transport Canada is also a technical advisor at the International Atomic Energy Agency meetings (led by the Canadian Nuclear Safety Commission). The Canadian regulations are harmonized or aligned with international trading partners as appropriate to ensure not only a level playing field, but also the highest level of public safety possible as established by the Act.

Further, the TDG program leads the development of dangerous goods regulations in Canada. The Transportation of Dangerous Goods Regulations, adopted by all provinces and territories, establish the regulatory requirements for the importing, handling, offering for transport and transporting of dangerous goods by all modes within Canada. This means that TDG regulations are similar and universally applied across all provinces, modes of transport, ports and gateways across the country.

In addition, Transport Canada operates the Canadian Transport Emergency Centre (CANUTEC) to assist emergency response personnel in handling dangerous goods emergencies. CANUTEC is staffed by bilingual professional scientists who specialize in emergency response and who are experienced in interpreting technical information and providing advice to first responders.

The centre operates 24 hours a day and handles some 30,000 phone calls a year related to safety. In the event of an emergency involving dangerous goods, Canadians can call CANUTEC at 613-996-6666 or by dialing \*666 on a cellular phone for immediate professional help. First responders (fire, police and ambulance) use this service on a regular basis.

To enhance and support first responders' capabilities at an incident involving dangerous goods, Transport Canada publishes an Emergency Response Guidebook every four years. The Emergency Response Guidebook is an informative and comprehensive guide designed for use at a dangerous goods incident occurring on a highway, aircraft, ship, railroad, port or gateway. It enables first responders to quickly identify the specific or generic hazards of the material(s) involved in an incident. For example, it provides a list of dangerous goods in numerical order by identification number or in alphabetical order by material name.

The Guidebook also assists first responders in making initial decisions upon arriving at the scene of a dangerous goods incident. For example, it provides recommended evacuation distances, describes potential hazards of a dangerous good, supplies relevant public safety information, including first aid, and recommended type of protective clothing and respiratory protection.

Transport Canada makes the Guidebook available online and in a PC downloadable version. It

*distributes almost 60,000 paperback copies of the Guidebook every four years, enough for all vehicles at fire departments, police departments and ambulance services across Canada. The new updated guidebook (2012) will be sent to first responders shortly.*

*Should you have any particular questions with regard to the dangerous goods program, I would invite you to contact Ms. Marie-France Dagenais, Director General, Transportation of Dangerous Goods Directorate, at 613-990-1147 or at [marie-france.dagenais@tc.gc.ca](mailto:marie-france.dagenais@tc.gc.ca).*

#### RESOLUTIONS COMMITTEE COMMENTS

*The Resolutions Committee advises that the UBCM membership has not previously considered a resolution requesting that a review be undertaken of the emergency response capabilities for hazardous materials along the new Asia Pacific Gateway corridor.*

*An amendment is proposed as the federal and provincial governments have legislative/regulatory responsibility for the transportation of hazardous materials and for setting the emergency response standards that are required. The federal and provincial governments have the technical expertise and financial resources to undertake a review to determine whether the emergency response capabilities are appropriate, whereas the NCLGA and UBCM do not have the expertise or resources.*

2012 B122 **SHIPPING OF DANGEROUS GOODS  
LIABILITIES**

Prince Rupert

WHEREAS the amount of ocean traffic is increasing along the West Coast of British Columbia due to increased economic activity, which increases the risk of accidents and spills, particularly from ships carrying dangerous and/or toxic products;

AND WHEREAS current environmental measures are not able to adequately clean up damages caused by these types of large scale spills or disasters, and continual cuts are being made that undermine the ability of our Coast Guard to address such disasters in a timely and adequate manner:

THEREFORE BE IT RESOLVED that UBCM petition the provincial and federal governments to create legislation that requires that liability for cargo on a ship be the responsibility of both the carrier and the one who sold the cargo until such time as the cargo reaches its final destination, and/or is outside of Canadian waters;

AND BE IT FURTHER RESOLVED that UBCM petition the provincial and federal governments to create legislation that requires shippers of dangerous goods and cargo, as well as the manufacturers, be required to pay into an emergency fund designed for three purposes:

1. to clean up, and compensate for any and all damages, including capital devaluation, social, cultural, and ecological damage, caused by an accident involving said goods and cargo;
2. to fund research into improving clean-up methods to deal with the eventuality of such spills; and
3. to fund a sustained increase in provincial spill prevention, preparedness, mitigation and response resources;

AND BE IT FURTHER RESOLVED that UBCM petition the federal government to restore the Coast Guard complement and safety measures along our coast to a standard that protects our coastline from the dangers of such accidents, and mitigates the amount of damage that would occur from the result of any such incidents.

CONVENTION DECISION:           **ENDORSED AS AMENDED**

PROVINCIAL RESPONSE

**RESPONSE: Ministry of Environment**

*The Province recognizes that resource development that involves the movement of goods along our coast brings an element of risk to the environment from spills. In response to the increase in pipeline proposals, BC has established five requirements for support for any for proposal for the shipment of "heavy oil" including:*

- *World-leading marine oil spill response, prevention and recovery systems for BC's coastline and ocean to manage and mitigate the risks and costs of heavy oil pipelines and shipments*
- *World-leading practices for land-based oil spill prevention, response and recovery systems to manage and mitigate the risks and costs of heavy oil pipelines;*

*Recognizing that marine spill response is the jurisdiction of the Federal Government, BC is committed to working with Transport Canada and the Canadian Coast Guard to strengthen marine spill requirements and capacity on the west coast.*

*The Ministry of Environment is also currently reviewing options for an industry funded model to support increased capacity for planning, spill response and restoration of land impacted by spills.*

## RESOLUTIONS COMMITTEE COMMENTS

*The Resolutions Committee advises that the UBCM membership has not previously considered a resolution calling for: the enactment of legislation that requires the liability for cargo on a ship to be the responsibility of both the carrier and the shipper; the creation of legislation that requires the shippers and manufacturers of dangerous goods and cargo to pay into an emergency clean-up fund; and to restore the Coast Guard compliment and safety measures along the coast.*

*However, the membership has endorsed resolutions calling for industry to assume greater responsibility in covering costs associated with hazardous materials spills that occur outside of municipal boundaries (2003-B48). In particular, resolution 2008-B32 called for the enactment of legislation that would require responsible parties to pay for the costs of wildlife rescue and ecosystem recovery caused by spills, as well as an exploration of the feasibility of creating a Liability Trust Fund to provide funding for spill event remediation when responsible parties cannot be identified or held accountable. In addition, the membership has endorsed resolutions calling for “a modern, suitably equipped and staffed Coast Guard service” as well as an expansion of funding for the Coast Guard Auxiliary (2002-LR3, 2004-B50).*

*See also resolution C22.*

### **2012 C16 OIL TANKER TRAFFIC IN COASTAL WATERS**

**Metchosin**

WHEREAS a crude oil spill could have devastating and long lasting effects on British Columbia’s unique and diverse coast, which provides critical marine habitat and marine resources that sustain the social, cultural, environmental and economic wealth of coast communities including First Nations communities:

THEREFORE BE IT RESOLVED that UBCM oppose projects furthering the expansion of tanker traffic through coastal waters and without substantive increases of safeguards in place.

**CONVENTION DECISION: NOT ADMITTED FOR DEBATE**

## RESOLUTIONS COMMITTEE COMMENTS

*Refer to resolution A8.*

WHEREAS a crude oil spill would have devastating and long lasting effects on British Columbia's unique and diverse coast, which provides critical marine habitat and marine resources that sustain the social, cultural, environmental and economic health of coastal and First Nations communities;

AND WHEREAS citizens of British Columbia, particularly those living in coastal communities, and First Nations communities and environmental groups have expressed well-founded concerns over the expansion of oil pipelines and oil tankers:

THEREFORE BE IT RESOLVED that UBCM oppose projects that would lead to the expansion of oil tanker traffic through BC's coastal waters;

AND BE IT FURTHER RESOLVED that UBCM urge the Premier of British Columbia, the Leader of the Official Opposition and members of the Legislative Assembly to use whatever legislative and administrative means that are available to stop the expansion of oil tanker traffic through BC's coastal waters.

CONVENTION DECISION:           ENDORSED

#### PROVINCIAL RESPONSE

##### **RESPONSE: Ministry of Environment**

*British Columbia recognizes increased risk to the environment posed by an increase in tanker traffic linked to approval of pipelines transporting Alberta bitumen to the coast.*

*British Columbia has publicly released its technical analysis "Requirements for British Columbia to Consider Support for Heavy Oil Pipelines." Within that analysis, BC outlines five conditions for formal support. These include: 1. Joint Review Panel Approval; 2. World Class Coastal Protection Regime; 3. Terrestrial Protection and Spill Prevention; 4. Appropriate Aboriginal Engagement, Participation and Accommodation; and 5. Improved Fiscal Benefits to British Columbia.*

*A key condition requires world leading marine spill preparedness and response systems for British Columbia. Within that requirement, there are 11 recommendations the Province sees as necessary to bring British Columbia to that standard.*

*In order for there to be any possibility of heavy oil projects receiving the support of the Province, each of the five principles must be satisfactorily addressed in advance of formal support being considered by British Columbia.*

#### RESOLUTIONS COMMITTEE COMMENTS

*The Resolutions Committee notes that the UBCM membership has consistently endorsed resolutions opposing the expansion of oil tanker traffic on the coast of British Columbia (2010-B139, 2010-B140, 2008-B143).*

*Resolution 2010-B139 opposed the expansion of tanker traffic, and further, requested a legislated ban on bulk crude oil tanker traffic through Dixon Entrance, Hecate Strait and Queen Charlotte Sound.*

*Resolution 2010-B140 expressed UBCM opposition to tar sands oil being shipped in pipelines across northern BC for loading onto crude oil tankers, especially as related to the proposed Enbridge Northern Gateway Pipelines (NGP) project.*

*In response to Resolution 2010-B139 the Province pointed out that “coastal communities, including Vancouver Island, are able to obtain supplies of oil and gasoline by barge and tanker transport. It is important for tankers to reach our ports.” However, the Province indicated that the federal government has regulatory authority over tanker traffic on the British Columbia coast.*

*In their responses to 2010-B140, the federal Ministry of Natural Resources and Ministry of Environment both stated that comments regarding the Enbridge Project specifically are welcome through the review process. The Ministry of Environment also stated that “(w)ith regard to oil tanker traffic, although a moratorium exists on oil and gas exploration and development off the coast of British Columbia, it does not apply to tanker traffic. Under federal and provincial law, tankers are free to travel to and from British Columbia ports. There is, however a Tanker Excursion Zone, which is a voluntary measure negotiated between Canada and the United States. This applies only to loaded southern-bound oil tankers en route from Alaska and would not apply to the proposed Enbridge Gateway Pipeline Project.”*

*The Committee also notes that the membership endorsed a related resolution, 2011-LR6, which requested that any applications to expand the amount of oil transported by pipeline or tanker in BC undergo the highest degree of environmental assessment and meaningful public consultation, including local government and First Nations.*

*See also resolutions C16, C17 and C18.*

2011 B149 **TRANSPORTATION OF HAZARDOUS MATERIALS**

Telkwa

WHEREAS the new Asia Pacific Gateway has, and will contribute to, increased freight transportation along the Highway 16 corridor, including hazardous materials;

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FEDERAL RESPONSE

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