

ITEM	6
MANAGER'S REPORT NO.	27
COUNCIL MEETING	90/04/09

RE: SUMMARY OF INITIATIVES AND EXPRESSIONS OF CONCERN RELATED TO TANKER TRAFFIC IN BURRARD INLET

MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendation of the Director Planning & Building Inspection be adopted.

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TO: MUNICIPAL MANAGER 1990 APRIL 04

FROM: DIRECTOR OF PLANNING AND BUILDING INSPECTION Our File: 00.486

SUBJECT: SUMMARY OF INITIATIVES AND EXPRESSIONS OF CONCERN RELATED TO TANKER TRAFFIC IN BURRARD INLET

PURPOSE: To provide Council with an update and summary of initiatives and expressions of concern related to tanker traffic in Burrard Inlet.

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RECOMMENDATION

1. THAT this report be received for information purposes.

REPORT

1.0 INTRODUCTION

As discussed at the Council Meeting of 1990 April 02, the Planning and Building Inspection Department has prepared this report summarizing recent developments concerning tanker traffic in Burrard Inlet. Attachment 2 to this report outlines the chronology of events and Council initiatives related to tanker traffic and hazardous industries in Burrard Inlet from November 1988 through March 1990.

2.0 RECENT DEVELOPMENTS

Council, staff and residents of Burnaby and other municipalities located on Burrard Inlet have repeatedly expressed concern over increased tanker traffic and the concentration of industries involved in the handling and storage of hazardous goods in Burrard Inlet. The Municipality's limited regulatory authority to control or restrict these activities has been a continuing source of frustration to Council, staff and residents. Council has written to higher levels of government and other regulatory authorities requesting that existing tanker traffic and proposals for facility expansion and new projects be subjected to an independent, comprehensive environmental and risk assessment.

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Most recently at the regular Council Meeting of 1990 February 26, Council adopted resolutions 1) to request the Honourable Lucien Bouchard, Minister of the Environment to direct that an independent, comprehensive environmental and risk assessment of hazardous goods movement and storage in Burrard Inlet be undertaken; 2) to prepare a UBCM resolution leading to amendments allowing municipal authorities a greater degree of regulation over existing and new industries handling hazardous materials, and 3) to request the Minister of the Environment reconvene the Burrard Inlet Technical Working Group on Environmental Emergencies.

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Three recent developments indicate that higher levels of government and other regulatory authorities are initiating activities that will begin to address concerns expressed repeatedly by Council. These developments are summarized here.

o **Court Decision Regarding Environmental Impact Assessment for the Oldman River Dam - 1990 March 13**

A recent court decision found that federal ministers were obligated to address the potential environmental effects of a project on areas of federal responsibility, specifically fisheries, Indian peoples, and Indian lands. In this case heard before the Federal Court of Appeal, the Friends of the Oldman River argued successfully that the construction of a dam on the Oldman River in Alberta had proceeded based on an unlawful approval. The court found that the Ministers of Transport and Fisheries and Oceans failed to comply with the Environmental Assessment and Review Process Guidelines Order when an approval for the construction of the dam was issued.

The effect of this decision could be to make environmental assessment mandatory for all new projects, such as the Petro-Canada/Neste Oy MTBE project, with potential impacts on areas of federal responsibility (i.e. fisheries). The effect of the decision on environmental assessment of existing "projects" such as tanker traffic in the Port of Vancouver is less clear. However, if it were shown that existing or increased levels of tanker traffic in Burrard Inlet have potentially negative effects on fisheries in the area, the court decision might establish an obligation for the Minister of Fisheries and Oceans to conduct an environmental assessment.

o **Port of Vancouver Environmental Risk Study - 1990 March 15**

The Port of Vancouver announced its plans to commission an independent analysis of the environmental and operational risks associated with tanker traffic in the Port. The contractor selected to conduct the risk analysis will be instructed to obtain input from municipalities and the public. The final report will be provided for public review and comment.

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Proposals for undertaking the risk analysis are due on 1990 April 6, and the selected contractor will be announced at the end of April. At that time, the detailed terms of reference for the risk assessment will probably be made public.

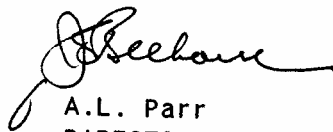
o **Public Review Panel on Tanker Safety Call for Public Hearings on Vessel Traffic in Burrard Inlet - 1990 March 23**

David Brander-Smith, Chairman, Public Review Panel on Tanker Safety, released a letter (see Attachment 1) he had written to the Honourable Lucien Bouchard, Minister of the Environment, identifying the need for formal public hearings to review increased tanker traffic in Burrard Inlet. Also released was a copy of Bouchard's response indicating his intention to call the concerned parties to a meeting to discuss tanker traffic in Burrard Inlet.

3.0 CONCLUSION

There have been several significant initiatives related to tanker traffic in Burrard Inlet since the reports considered by Council on 1990 February 26 and March 19. Staff is discussing the implications of the recent Court decision with local representatives of Federal Environmental Assessment Review Office (FEARO). A copy of the Court decision has also been provided to the Municipal Solicitor for review. Staff will keep Council posted on these discussions and any future initiatives related to tanker traffic in Burrard Inlet.

A chronology of events and Council initiatives related to tanker traffic in Burrard Inlet from 1988 November through 1990 March is included as Attachment 2 for Council's reference.



A.L. Parr
DIRECTOR PLANNING &
BUILDING INSPECTION

SG/mcb
Attach:

cc: Chief Public Health Inspector
Municipal Solicitor

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ATTACHMENT 1

Public Review Panel on Tanker Safety and Marine Spills Response Capability

Comité d'examen public des systèmes de sécurité des navires-citernes
et de la capacité d'intervention en cas de déversements en milieu marin

January 3, 1990

Honourable Lucien Bouchard, P.C., M.P.
Minister of the Environment
House of Commons
Room 511-S, Center Block
Ottawa, Ontario
K1A 0H3

Dear Minister,

During our Panel's November 29th set of hearings in Vancouver, a number of intervenors expressed concern over a recent decision taken by the National Energy Board to approve a request by Trans Mountain Pipe Line Company Ltd. to expand its regional operations, and a plan by Petro-Canada to begin shipments of a new oil product, Methyl Tertiary Butyl Ether (MTBE), from its refinery located along Burrard Inlet. These expansion plans, approved without the benefit of a full environmental impact assessment or review, would have the effect of significantly increasing tanker/barge activity in the Port of Vancouver and Burrard Inlet.

Four of the municipalities most likely to be affected by these decisions, Vancouver, North Vancouver, Port Moody and Burnaby, have each requested, in one or another form, that an independent, comprehensive environmental and risk assessment of increased tanker traffic in Burrard Inlet and the Port of Vancouver be undertaken by appropriate authorities. Moreover, until such a review has been completed, Port Moody has requested a moratorium on future increases in tanker traffic, while Vancouver and North Vancouver have requested a moratorium on future increases in oil exports out of the Port of Vancouver. All four municipalities have asked us to endorse their position and convey to you their views on this issue.

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After considerable reflection and review, our Panel considers that the concerns expressed by these municipalities, as well as others who participated in our public hearings, are warranted. We accept the principle that an environmental assessment of both present and future expansion plans which would increase tanker/barge traffic in this region be undertaken as quickly as possible. This assessment should examine the effects of increased movements of crude oil and petroleum products through Burrard Inlet, and establish a sustainable limit for such activity. We shall address the "moratorium" request shortly.

In making this recommendation, we in no way wish to imply any criticism of either TMPL, Petro Canada or the NEB. In seeking approval for their expansion plans, both companies followed due process and fully discharged all of the responsibilities imposed on them by the existing regulatory regime; the NEB was entirely within its jurisdiction to issue the type of decision it did. Rather, it is the process itself we have difficulty with.

In the case of TMPL, the NEB, in its Reasons for Decision, quite correctly acknowledges that with respect to the submission:

"Environmental issues raised by interested parties were related only to TMPL facilities in Burnaby...(pg 11)".

and that,

"...the Board has jurisdiction to deal with emissions to the air and water only insofar as these are related to the construction and operation of TMPL's interprovincial pipe line facilities in Burnaby...(pg 17)".

(The Federal Court subsequently confirmed this limited view of the Board's jurisdiction by refusing leave to appeal the TMPL decision on the grounds that the environmental assessment it conducted was inadequate).

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On the issue of increased vessel traffic and the risks associated with this, the Board acknowledged that:

"The regulation of vessel traffic in the Vancouver area is not under the jurisdiction of the NEB... (pg 13)".

The NEB nevertheless went on to state that those responsible for vessel traffic gave assurances that the Port of Vancouver could easily handle the increased traffic the planned expansions suggest and finally that:

"...this evidence is uncontradicted and is accepted by the Board... (pg 13)".

Taken together, these statements by the Board add substance to the claims of the municipalities. In effect, there has not been a full environmental impact assessment of the planned expansion on the surrounding cities/municipalities, nor of the increased risks of tanker traffic to the air and water. The environmental review which did occur was extremely narrow in scope and limited simply to the construction and operation of the facility in question. Regarding the Port's ability to handle increased traffic, the fact that the "...evidence was uncontradicted..." is scarcely comforting when one considers that no opportunity was provided to challenge the "evidence".

In the case of Petro-Canada's planned shipments of MTBE the Panel has no problems with any of the company's actions on this issue - indeed, they have shown considerable good will and a laudatory degree of civic responsibility by voluntarily making information about their plans publicly available during a November 3, 1989 open-house in Port Moody. The fact remains, however, that their plans will not be subject to a full environmental impact assessment.

The cumulative effects of these two decisions would roughly double the volume of tanker traffic in the Burrard Inlet without any real public input or substantive environmental assessment of this increased traffic. In short, the overall issue of what constitutes a sustainable level for tanker/barge activity in Burrard Inlet has yet to be discussed. More importantly, the views of those most likely to be affected in the event of an incident have not been heard, and assurances to them regarding the safety of such traffic, contingency plans, liability and compensation have not been forthcoming. In the Panel's view, these concerns should be addressed as a matter of principle.

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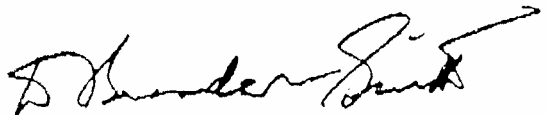
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Regarding the moratorium request, although it may well be considered by the same body as the environmental assessment we recommend above, we suggest it be considered only after due consideration is given to the potential short, medium and long-term consequences it would have for the oil industry, transportation companies, the workers affected, the Port itself and related industries. Our Panel notes that while Port Moody's request for a moratorium focusses on tankers, the Vancouver and North Vancouver resolutions refer to oil exports from the Port of Vancouver (which would include exports by barge). The Burnaby submission is silent on the issue. None of those calling for a moratorium suggest what the effective date for it should be, nor do they shed any light on whether the moratorium should apply to current levels, presently forecast levels or previous maximum levels. These are fundamental questions which, in the absence of all of the necessary facts, we as a Panel are not equipped to answer.

We thank you in advance for your consideration of this issue.

Sincerely,



David Brander-Smith, Q.C.
Chairman

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Minister of the Environment



Ministre de l'Environnement

MAR 5 1990

Mr. David Brander-Smith, Q.C.
Chairman
Public Review Panel on Tanker Safety and
Marine Spills Response Capability
14th Floor, Jules Léger Building
25 Eddy Street
Hull, Quebec
K1A 0H3

Dear Mr. Brander-Smith:

Thank you for your letter of January 3, regarding tanker traffic in the Port of Vancouver.

I have taken careful note of the concerns raised by the municipalities of Vancouver, North Vancouver, Port Moody and Burnaby. There are, as you know, several groups that could be affected by any decision on the expansion proposals of Trans Mountain Pipe Line Company Ltd. and Petro Canada.

Accordingly, a meeting to examine those issues is being arranged that will include officials from my department, the Federal Environmental Assessment Review Office, the National Energy Board, the Canadian Coast Guard, the Canada Ports Corporation and the Vancouver Ports Corporation. I will keep you informed of developments as they occur.

I want to commend you and the panel on your excellent work. Your letter reflects the diligence with which you have approached your task, and I assure you that your views will be carefully considered.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Lucien Bouchard".

Lucien Bouchard

ATTACHMENT 2

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CHRONOLOGY OF EVENTS AND COUNCIL INITIATIVES
RELATED TO TANKER TRAFFIC IN BURRARD INLET
1988 NOVEMBER THROUGH 1990 MARCH

1. Letter to Council from Burnaby Citizens for Environmental Protection concerning expansion of Trans Mountain Pipe Line's facilities - 1988 November 07 (Delegation appeared at Council Meeting of 1988 November 28)

The Burnaby Citizens for Environmental Protection (BCEP) requested Council's support in opposing Trans Mountain Pipe Line's application to the National Energy Board for their Stage I expansion. BCEP also requested that Council oppose any further expansion or the handling of any additional hazardous substances in Burnaby and establish bylaws to restrict the petroleum and other hazardous industries to their current level of operation.

2. Report from Chief Public Health Inspector Responding to the Burnaby Citizens for Environmental Protection Brief of 1988 November 28 - 1989 January 11 (Council Meeting of 1989 January 16)

The Chief Public Health Inspector presented a legal opinion obtained from consulting legal counsel that the BCEP would be unlikely to obtain leave to appeal the National Energy Board decision, and that even if leave were granted, the appeal would be unlikely to succeed. It was also recommended, based on the opinion of consulting legal counsel, that a Municipal Health Bylaw regulating air emissions be developed.

3. Announcement of proposed Petro-Canada/Neste Oy MTBE project - 1989 June 05

Petro-Canada and Neste Oy announced plans to produce methyl tertiary butyl ether (MTBE), a gasoline additive to replace lead, in Edmonton, Alberta, and ship the product via pipeline to Petro-Canada's Burnaby dock. At the dock, the MTBE would be loaded into tankers and shipped to California. Approximately, 26 tankers would be loaded at the Burnaby dock each year.

4. Letter to Council from Burnaby Citizens for Environmental Protection regarding provincial review of oil transportation - 1989 July 15 (Council Meeting of 1989 August 08)

BCEP described their submission to David Anderson, Special Advisor to the Premier on Oil Transportation. The BCEP submission pointed out that no further expansion of the transportation of petroleum products in Burrard Inlet should be permitted until a comprehensive environmental impact or risk assessment has been conducted. BCEP requested Council's support for their submission to Anderson.

5. Report from Chief Public Health Inspector Regarding David Anderson's Review of Oil Transportation - 1989 August 17 (Council Meeting of 1989 August 24)

The Chief Public Health Inspector recommended that Council request David Anderson to include the area of Burrard Inlet to the east of the Second Narrows Bridge in his final report to the Premier.

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6. Letter from Council to Mr. David Anderson, Special Advisor on Oil Transportation and Oil Spills - 1989 August 24

In a letter to David Anderson, Council requested him to include the area of Burrard Inlet to the east of Second Narrows Bridge in his final report.

7. Letter to Council from Burnaby Citizens for Environmental Protection and Concerned Citizens for a Clean Environment regarding increased oil tanker traffic in Burrard Inlet - 1989 November 14 (Council Meeting of 1989 November 20)

These two citizens' groups expressed their concern about increased tanker traffic in Burrard Inlet due to expansion of Trans Mountain Pipe Line's facilities and Petro-Canada and Neste Oy's proposal to ship MTBE by tanker. The letter asked Council to send a statement to the Public Review Panel on Tanker Safety expressing opposition to increased oil tanker traffic until an independent environmental impact and risk assessment has been completed.

8. Report from Chief Public Health Inspector Regarding Proposed Neste Oy/Petro-Canada MTBE Project - 1989 November 23 (Council Meeting of 1989 November 27)

This report documented environmental concerns related to the proposed MTBE project and pointed out the need for an environmental impact assessment of the MTBE project and increased tanker traffic in Burrard Inlet. Recommendations for expressing this concern to the Federal Minister of the Environment, the Federal Environmental Assessment Review Office, the Vancouver Port Corporation, the Public Review Panel on Tanker Safety, and Petro-Canada were made.

9. Letter from Council to Mr. David Brander-Smith, Chairman, Public Review Panel on Tanker Safety - 1989 November 28

This letter identified the need to identify a sustainable limit on the movement of crude oil and petroleum products in Burrard Inlet.

10. Letter from Council to the Honourable Lucien Bouchard, Federal Minister of the Environment - 1989 December 04

This letter requested the Minister to direct that the proposed MTBE project be submitted to an environmental review under EARP.

11. Letter from Council to Mr. F. McNaughton, Chief Executive Officer, Vancouver Port Corporation - 1989 December 04

This letter requested the Vancouver Port Corporation to direct that the proposed MTBE project be submitted to an environmental review under EARP.

12. Letter from Council to Federal Environmental Assessment Review Office - 1989 December 04

This letter requested that the Federal Environmental Assessment Review Office direct that the proposed MTBE project be submitted to an environmental review under EARP.

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13. Letter from Council to Mr. W. H. Hopper, Chief Executive Officer and Chairman of the Board, Petro-Canada - 1989 December 04

This letter requested that Petro-Canada voluntarily submit the proposed MTBE project to an environmental review under EARP.

14. Letter to Council from Carol Boothroyd on Behalf of the Burnaby Citizens for Environmental Protection regarding establishment of a municipal bylaw to restrict hazardous industries in Burrard Inlet - 1990 January 18 (Council Meeting of 1990 January 29)

Ms Boothroyd wrote to Council on behalf of BCEP requesting that Burnaby establish a bylaw restricting the growth of hazardous industries in Burrard Inlet.

15. Report from Director Planning and Building Inspection in Response to Carol Boothroyd's Letter - 1990 February 21 (Council Meeting of 1990 February 26)

This report documented the existing regulatory framework governing the handling and movement of hazardous goods in Burrard Inlet and the limited regulatory authority of municipalities to control the volume or types of hazardous goods handled.

16. Letter from Council to the Honourable Lucien Bouchard, Minister of the Environment - 1990 March 01

In this letter Council again requested the Minister of the Environment to direct that an independent, comprehensive environmental and risk assessment of hazardous goods movement and storage in Burrard Inlet be undertaken.

17. Report from Director of Planning and Building Inspection on Petro-Canada's Lands in Burrard Inlet and the Approval Process for the MTBE Project - 1990 March 13 (Council Meeting of 1990 March 19)

In response to a motion passed by Council at its meeting of 1990 February 26, this report documented the area and zoning of the land owned by Petro-Canada on Burrard Inlet. The approval process through which Petro-Canada would apply for a PPA for the additional facilities required to handle MTBE at the site was described.

Council passed a motion directing staff to defer processing of any application from Petro-Canada for a PPA until the Vancouver Port Corporation completes a risk assessment and the MTBE project has undergone a thorough assessment.

