

PUBLIC HEARING

WHITES POINT QUARRY AND MARINE TERMINAL PROJECT

JOINT REVIEW PANEL

V O L U M E 4

HELD BEFORE: Dr. Robert Fournier (Chair)
Dr. Jill Grant (Member)
Dr. Gunter Muecke (Member)

PLACE HEARD: Digby, Nova Scotia

DATE HEARD: Wednesday, June 20, 2007

PRESENTERS: -Bilcon of Nova Scotia
Mr. Paul Buxton
-Transport Cda and Atlantic Pilotage Authority
Jim Cormier/John Prentiss/Gary MacCaul/Steve
Bone/Patrick Gates/Mike Freeman/Alan Milne
-Fisheries and Oceans Canada
Mike Murphy/Dave Bishara/Ian Marshall/David
Millar/John Tremblay/Ted Potter/Kent Smedbol
Tana Worcester/Tony Henderson/Norman Cochrane
-Dalhousie University
Mr. Chris Taggart
-Jerry Ackerman
-Leslie Wade
-Linda O'Neil

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Per: H el ene Boudreau-Laforge, CCR

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1 of what they have to undertake.

2 Pilot boats. The Authority operates
3 pilot boats in Halifax, Saint John, New Brunswick and
4 Placentia Bay, Newfoundland. The Authority has 16 contract
5 pilot boat operators in the remaining compulsory and non-
6 compulsory areas.

7 These are pilot boats that are
8 continued. And the one on the left is actually the same one
9 on the right, but we have that from Boston, and the one on
10 the... That's the new one in Saint John now.

11 And this is the end except questions.
12 Thank you, gentlemen.

13 **TRANSPORT CANADA/ATLANTIC PILOTAGE AUTHORITY - QUESTIONS BY**
14 **THE PANEL**

15 THE CHAIRPERSON: Gentlemen, I don't know
16 which one will answer this, but I have a question about the
17 Port Procedure Manual. Is that mandatory?

18 Mr. GARY MACCAULL: No, it's not
19 mandatory. The term port review process is a voluntary
20 process, and the guidelines for that Port Procedure Manual
21 comes from that review process.

22 But it's... Like I said, Transport
23 Canada would strongly recommend that a Port Procedure Manual
24 be developed for this operation.

25 THE CHAIRPERSON: From your standpoint,

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1 it's a useful exercise, is it?

2 Mr. GARY MACCAULL: Indeed it is. Indeed
3 it is, yes.

4 THE CHAIRPERSON: It regularizes the port
5 activities.

6 Mr. GARY MACCAULL: Exactly. It's put
7 standard procedures in place so that the ship knows what to
8 do, you know... And when they're doing a transfer of cargo,
9 you know, it will talk about situations...

10 They talked about contingency plans but
11 you know, this is just regular operations, you know?
12 Contingency plans would be in place too.

13 THE CHAIRPERSON: Okay. Thank you.
14 Jill?

15 Ms. JILL GRANT: The Proponent proposes
16 to have a ship coming in on what it calls an exact line, or
17 I think Mr. Buxton this morning called it a precise line, in
18 and out. And we're wondering how reasonable it is to think
19 that the ship will come in in a very precise way?

20 This is to avoid fishing gear and other
21 things. Can you comment on that?

22 Mr. GARY MACCAULL: If the vessel is
23 taking a pilot, it would be under the guidance of the pilot
24 for a certain approach to the port.

25 When he comes into the traffic lane, he

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1 would... I would expect that the fishermen would recognize
2 that that is the route that this vessel is going to come in
3 and they wouldn't lay their gear across that area.

4 It can be fairly standard, you know?
5 The route can be very standard.

6 I have one comment on the route that's
7 indicated on the Proponent's diagram there.

8 He indicates that the vessel will depart
9 and join the traffic separation scheme, but under Rule 10 of
10 the Collision Regulations, it's required to rejoin or...
11 When you're crossing the separation scheme, the vessel
12 should do, as best as practical, a right angle to the flow
13 of the traffic.

14 So in that case, that would indicate
15 that the vessel probably would come and join a little
16 further North, you know, to do the right-angle crossing into
17 the traffic zone.

18 But as far as coming in... Also too,
19 weather conditions would affect, you know, how the vessel's
20 going to approach. Like I say, if the vessel was on a
21 regular schedule, a week schedule, I think the fishermen...
22 And probably it would be a good idea for the Proponent to
23 advise the fishermen that they're coming in.

24 I can give you a little anecdote or
25 example of the Northumberland Strait where we're dealing

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1 with a situation right now where the cruise ships, you know,
2 in the summertime, ply up to Northumberland Strait.

3 The fishermen are always saying they're
4 running through the gear all the time, you know, so what we
5 have done with the cruise lines there in that case is they
6 have recommended routes that they maintain, understanding
7 that, you know, these are recommended.

8 You can't dictate that the vessel always
9 follow these routes. There's other instances where he has
10 to deviate from these routes for the safety of the vessel.

11 Ms. JILL GRANT: So you would suggest
12 that the route becomes a kind of exclusion zone for fishing
13 then?

14 Mr. GARY MACCAULL: I don't know if we
15 could make it an exclusive zone. As the traffic separation
16 scheme, that's not exclusive to fishing.

17 You know, the fishing is still allowed
18 in the traffic separation scheme, although under Rule 10 a
19 fishing vessel, when he's engaged in fishing and displaying
20 his proper signals, has the obligation of a burden vessels,
21 so other vessels have got to stay out of his way.

22 Under Rule 10 of the Collision
23 Regulations, in the traffic separation scheme, the fishing
24 vessel doesn't have that right. He has to act like another
25 vessel.

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1 So in this case here, you know, we can't
2 exclude him from fishing in the area, but on the other hand
3 he still would have to abide by the Collision Regulations
4 and, you know, give way where appropriate, although if he's
5 outside the traffic separation scheme, and if he's a fishing
6 vessel he would be... He'd have some privileges as a
7 fishing vessel.

8 Ms. JILL GRANT: And can you clarify, I
9 wasn't sure from the presentation whether a pilot has to go
10 onto this ship from the Pilot Authority, or would that only
11 be determined through the kind of risk assessment process
12 that was described?

13 Mr. PATRICK GATES: There has been no
14 determination on pilotage at this stage, and this is the
15 first opportunity that the Authority has been brought in to
16 be involved with this project.

17 And we would propose that we would have
18 to do a risk management review, a PRMM, in order to
19 establish the feasibility of pilotage and whether it'd be
20 necessary or not.

21 There are certain benefits to bringing a
22 pilot in with his experience of the local tides and weather
23 conditions and so on, and also with the proposed terminal,
24 we would strongly recommend that the Proponent do some
25 computer modelling at the simulator.

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1 There's one in Port Hawkesbury or
2 Summerside where you can actually model this and bring
3 people in and try doing it under certain weather conditions
4 and define the practicality of it and to find out whether or
5 not or how many tugs you may need for this operation.

6 Just as an aside, we have conducted this
7 for the Nova Scotia Power Terminal in Port Hawkesbury. We
8 did a review for Bear Head Project. We've done a review for
9 the Celtic Petrochemicals in Goldborough (ph) on simulation,
10 and we've spent a lot of time working with Irving Oil in
11 Saint John for the L&G Terminal.

12 And out of that, between Irving Oil and
13 Repsol and ourselves, we've developed protocol and procedure
14 of how those ships are going to be taken to the dock, how
15 many tugs have to be available to do it, and also determine
16 the weather conditions, the sea states, of how that vessel
17 can stay at the dock and work its cargo.

18 So there is certain benefits of getting
19 into consultation with the Pilotage. You'd have to
20 establish this as a separate entity, and we would probably,
21 if it was to come about, it would probably be serviced from
22 Halifax, or from one of the collection of pilots in Halifax,
23 and we'd have to do some additional training and the like
24 for that, and establish an area and where the pilot would
25 board and how he would get on board the ship and so on and

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1 so forth.

2 Ms. JILL GRANT: Thank you. The proposal
3 suggests that exiting the shipping lanes the ship will be
4 down to 12 knots maximum speed, reducing its speed obviously
5 as it comes in.

6 If the pilot sees a whale, how long does
7 it take to actually slow down a ship of that size that's
8 coming in? Is it feasible to be able to slow down to avoid
9 a marine mammal, or is it feasible to divert course to avoid
10 a mammal that might be spotted in the vicinity?

11 Mr. GARY MACCAULL: I'll try and answer
12 that. I was involved with the lane change in the Bay of
13 Fundy when we moved the lanes to avoid the Right Whales. At
14 that time, we had several discussions about the speed. In
15 fact, in the United States some of the way they deal with
16 that in some of the areas is reduction of speed.

17 For the situation we had in the Bay of
18 Fundy, the speed, because of the size of the vessels
19 involved, you would get down in speed and you know, you'd
20 run the risk of starting to lose manoeuverability.

21 In some cases I think in the States
22 they're down, maybe down to six knots but I mean...

23 So we did look at that, but we came up
24 with the idea that the best option in the Bay of Fundy was
25 to actually move the lanes to get away from the high density

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1 area of the whales. The problem is, reduce the speed, I
2 mean to spot the whales too, they're not that easy to see.
3 And, you know, it could be nighttime fog, you know?

4 And with the Right Whales, they're
5 peculiar because they don't seem to... They seem to be, you
6 know, they don't seem to pay attention to ships at times,
7 eh? Sometimes they do, sometimes they don't.

8 So you know, the trouble with... It can
9 be argued that going through an area of Right Whales at a
10 certain speed, lessen the time you're going to be there, or
11 if you reduce the speed you're going to be in the area
12 longer, so I don't know, you know, what's the best way to
13 deal with this, you know.

14 Like I say, in the Bay of Fundy we did a
15 lane change, and that substantially reduced the risk to
16 strike a Right Whale because of the concentration.

17 I'm not saying that you're ever going
18 to, you know, eliminate it altogether.

19 I don't know if I could speak to
20 whether, you know, if they have time to... When they see a
21 Right Whale, you're that close, whether a reduction in speed
22 of 12 knots or even, you know, slower, but then you run into
23 the risk when you get the slower speed of the
24 manoeuverability of the vessel, so in fact you can't turn
25 the vessel anyway.

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1 So it's... It's not an easy subject to
2 talk about, okay, but you know, when they talk about
3 reducing the speed to 12 knots, I would think that 12 knots
4 is still an acceptable speed to maintain manoeuverability of
5 the vessel.

6 Whether, you know, a speed from... I
7 don't know what the top speed of these vessels are, but I
8 would expect it to be any more than 16 knots, and to reduce
9 from 16 to 12, you know, whether how much that eliminates
10 the risk of strikes to whales, I don't know. I can't talk
11 to that.

12 THE CHAIRPERSON: Captain Gates, I was
13 going to ask you about docking, but you were in the room and
14 you heard the exchange between myself and Mr. Buxton about
15 docking a big ship and the risks involved and the
16 unpredictability of the weather and so forth.

17 And just a moment ago when you were
18 speaking and you were talking about model, my sense is, is
19 that you were answering my question. Were you, in fact?

20 What I mean is, I was suggesting to Mr.
21 Buxton that it's a very unpredictable place. You're dealing
22 with a great big vessel and that maybe a risk analysis would
23 be useful thing in order to assess what the mitigative steps
24 would have to be.

25 Can you offer a comment on that?

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1 Mr. PATRICK GATES: Yes, Mr. Chairman.
2 First off, we have to recognize that these vessels, they are
3 a good size, and they're going to be coming in on ballast,
4 which is going to give them a fairly high windage, and so
5 there's less below the water.

6 When they leave, they're going to be in
7 the reverse condition, and so therefore probably much more
8 manoeuvrable and can handle somewhat more adverse conditions
9 under better control.

10 We would strongly recommend that this
11 terminal be...this proposed terminal be exercised with a
12 modelling and also to undergo a risk analysis for pilotage.

13 I'm not trying to impose pilotage on here. The Authority
14 would probably take it to review it. There's only one port
15 which was exempted from compulsory pilotage by the APA in
16 1972, and that is Hantsport, and I'm not quite sure of the
17 details of why that wasn't included, but that's... That is
18 a fact.

19 All the other ports, where there were
20 pilots came in under the umbrella of the APA, so new
21 terminals and facilities that are outside of the recognized
22 ports will be looked at, we will be directed by our board to
23 review them, and we would ask the corporation, the Proponent
24 of course, to get involved with that.

25 But for docking the ship, it is going to

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1 be very difficult. Personally, I've only just seen a little
2 bit of that comment there, and I was a little bit concerned
3 about the fact that he proposed to use some mooring buoys
4 for the bow and stern lines, the long lines, and our
5 experience on using those buoys in this part of the world is
6 not very good.

7 The icing conditions in the wintertime
8 create huge problems in trying to get rid of those lines
9 when you have to get off in a hurry, and adverse conditions.
10 You have to put a man on the buoy and you have to get off.
11 So the thought would be, it would be better to have a
12 dolphin setback, and a gantry, a gangway walkway, so that
13 the lines can be brought by a boat to the dolphin, and they
14 have a capstan on the hooks there, the mooring hooks, and
15 haul them up.

16 So that would be one suggestion that
17 needed to be evaluated, I would say, because you can't do
18 that work in the wintertime.

19 THE CHAIRPERSON: Thank you, Captain
20 Gates. Very helpful. Jill?

21 Mr. GUNTER MUECKE: Maybe I could come
22 back, for just a moment, to how the ship will have to leave
23 the shipping lane.

24 And we just heard from you that the
25 recommended course is at right angles as opposed to the

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1 oblique angle that is shown on the plans.

2 Mr. GARY MACCAULL: Yes, that's correct.

3 Yes.

4 Mr. GUNTER MUECKE: In terms of whale
5 strikes, would it not be preferable to - I haven't measured
6 it out on the map, obviously - but the shortest route is the
7 best, regardless of angle?

8 Mr. GARY MACCAULL: Well, we're having...
9 You know, we're having traffic come out the outbound lane
10 now, and he's not going to be anywhere outside the outbound
11 lane.

12 Mr. GUNTER MUECKE: H'm.

13 Mr. GARY MACCAULL: He's cutting across
14 the separation scheme to into the outbound lane. Albeit,
15 he's going to be closer to the conservation area. But the
16 vessels in the outbound lane come right by that, but that
17 was, when we were looking at the development of the lane
18 change that, you know, that moved the traffic. Because
19 before, the outbound lane was right through the middle of
20 that.

21 If he has... You know, if he was going
22 out and he encountered a whale, could see a whale, sure, he
23 would alter, you know. The whole area is under vessel
24 traffic management, Fundy Traffic, of course, you know, and
25 radar coverage, so he'd be in constant consultation with

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1 them.

2 Also, Fundy Traffic does, if they had
3 reports of our right whales in the area, they'd broadcast
4 that to ships, you know, when they're in the zone.

5 But all I'm saying is that in the
6 collision regulations, just for the safety of the traffic
7 movement, it's... Or it's... Unless it's, you know... You
8 try to go across the separation zone at as right an angle as
9 possible before joining it.

10 Mr. GUNTER MUECKE: Okay. Thank you.
11 Could I perhaps ask a few things about ballast water and
12 bilge waters? Okay.

13 In terms of ballast water discharge,
14 maybe you could clarify for us what the current regulations
15 are, and follow that up with how these regulations
16 accommodate exceptional circumstances; if the captain thinks
17 an unballasted docking is not safe, what leeway he has in
18 terms of ballast water discharge?

19 There's... As you know, there's
20 considerable concern about that in the fishing community
21 because of invasive species.

22 Mr. GARY MACCAULL: I have the Ballast
23 Water Control and Management Regulations right here, and you
24 want to know the exceptions? Or...

25 Mr. GUNTER MUECKE: Well, could you just

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1 briefly outline for me what the regulations state as to
2 where the ballast water can be discharged?

3 Mr. GARY MACCAULL: I have a graphic,
4 actually, that would probably help too, if we can get that
5 up on the screen, that would show the areas for exchange of
6 ballast water.

7 Mr. MIKE FREEMAN: Just watch your eyes.
8 --- Pause

9 Mr. GARY MACCAULL: There's two different
10 scenarios we have for vessels arriving in Canada. There is
11 the trans-oceanic navigation, which are the vessels coming
12 from like Europe or overseas, and then we have the non-
13 trans-oceanic navigation, which would be vessels coming up
14 from the States.

15 A lot of... In this case here, that
16 would apply because the vessels are only coming from New
17 Jersey. The regulation requires for, you know... It does
18 require that vessels go beyond the thousand metres to
19 exchange heir ballast, okay?

20 But in this case here, we have traffic
21 that is not, you know... To have it enforced to go to sea
22 to exchange a ballast and come back in, there's been other
23 areas that have been identified that it can be, you know,
24 acceptable to your ballast while on route to Canadian
25 ports.

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1 The green zone there shows the traffic
2 heading to and from Nova Scotia. So this is an area that's
3 just off the Continental Shelf in greater than 1,000 metres
4 of water, and these vessels, you know, especially heading to
5 Nova Scotia, are going up into the Gulf of St. Lawrence and
6 up the river, would require the exchange of ballast that
7 way.

8 For vessels coming from Calais in the
9 Gulf of Maine, we have the area yellow. Now, ballast waters
10 are required to be exchange if ballast is taken south of
11 Cape Cod, the area of Cape Cod.

12 So the vessels exclusively trading north
13 of Cape Cod in Canadian waters to come back and forth to
14 Canada, then they could, you know... They would exchange
15 their ballast, and it wouldn't really come under these
16 regulations. Okay?

17 The red area would be vessels which the
18 Proponent's vessel would come under. He's heading into the
19 Bay of Fundy, and so they're required... They can change
20 the ballast in this area, and also keeping or avoiding any
21 shallow water. I have to look. I think it's... Yeah.
22 Depths of at least 500 metres, okay.

23 And I mentioned before, you know, the
24 other options for not exchanging ballast is to have
25 treatment facilities on board. That's still under

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1 development, and I don't know how far they are with that,
2 but that's...

3 And also there's retention onboard,
4 which is not very practical either, you know? Or to assure
5 reception areas for ballast, which is... We don't have
6 reception facilities in the area right now, but that's what
7 is set up for in that.

8 So the vessels are required to exchange
9 the ballast. We monitor the ballast, this change, you know,
10 to ensure that they do. We have metres and we go aboard the
11 vessels and determine...

12 And basically what it is, it's just to
13 test the salinity of the ballast water. If it's... You
14 know, if it's a high enough salinity, then it can be pretty
15 well assured that the ballast is taken at sea, as opposed to
16 taken in port in fresh water.

17 So... And there is, you know, it's...
18 For compliance, there is a prosecution procedure for vessels
19 who do not comply.

20 Mr. GUNTER MUECKE: Thank you, that was
21 very informative. Now the next part of my question was
22 under certain circumstances, the Captain may consider it
23 unsafe to de-ballast at that stage, and my question is what
24 circumstances would warrant that, and what would be the
25 strategies then in terms of getting rid of the ballast

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1 water? Would he have to stay in that area until conditions
2 have improved?

3 Mr. GARY MACCAULL: Okay. There's... In
4 the regulations it says:

5 "It is not necessary to manage ballast
6 water if one of the following emergency
7 situation occurs:

8 (a) the discharge or uptake of ballast
9 water is necessary for the purpose of
10 ensuring the safety of a ship in an
11 emergency situation or saving life at
12 sea;

13 (Bilcon of Nova Scotia) the discharge or
14 uptake of ballast water is necessary for
15 the purpose of avoiding or minimizing
16 the discharge of pollutants from the
17 ship; or

18 (c) the accidental ingress or discharge
19 of ballast water results from damage in
20 the ship or its equipment that was not
21 caused by the wilful or reckless act of
22 the owner or officer in charge, and all
23 reasonable precautions are taken before
24 and after occurrence of damage, or
25 discovery of the damage, for the purpose

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1 of preventing or minimizing the ingress
2 or discharge."

3 We have situations since these
4 regulations come in effect, which was just last year, that
5 vessels going up into the Gulf of St. Lawrence, into the
6 river...

7 Because it's more problematic in the
8 Great Lakes for vessels, the Marine Safety has directed
9 vessels back out to discharge their ballast and to change
10 ballast, okay?

11 So it depends on the case too, you know?

12 I mean, so we would look at that, you know? But so... I
13 mean, we do have the authorities there to direct the vessel
14 out or just not allow them to discharge their ballast in the
15 Canadian waters.

16 Mr. GUNTER MUECKE: Okay. I think that
17 clarifies it for me.

18 The next point that came up, as you
19 heard earlier, was with respect to bilge water, because
20 loading of moist aggregate will no doubt result in a certain
21 amount of bilge water being generated, and what the
22 regulations are regarding that, and when and how that
23 material can be discharged.

24 Mr. GARY MACCAULL: That would be covered
25 under the MARPOL, the International Convention on Marine

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1 Pollution from Ships, and it would be section... It would
2 come under section...

3 Bilge water would be also encompassed
4 like tank sweepage too. We get into that, you know, where a
5 vessel is cleaning the salt out, eh, and garbage.

6 So there is... Under the MARPOL
7 Convention, there is listed procedures, and also where
8 you're allowed to discharge this bilge water, okay? And I'm
9 just quoting off the top of my head. I don't exactly, but I
10 would expect and know from other incidents in the MARPOL
11 that if it's at sea, at this certain distance from land, at
12 a certain rate, it's allowed to do that. Okay?

13 I can't give you the specifics on it
14 from the top of my head. I can get back to you on that, if
15 required.

16 Mr. GUNTER MUECKE: But is it allowed
17 while the vessel is docked in coastal waters?

18 Mr. ALAN MILNE: There is a certain
19 distance off shore that you're allowed to discharge, and the
20 vessel has to be underway. And as Gary pointed out, it's a
21 limited quantity. It's a rate per nautical mile, the
22 discharge. And of course it's down to... I believe it's 15
23 parts per million, so it's very diluted in terms of
24 pollutants.

25 Mr. GARY MACCAULL: It wouldn't be, you

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1 know, like I say, under MARPOL or even in the ballast water,
2 you know, under "Safety Conditions" too, it would be
3 allowed, okay?

4 If the vessel wasn't... If safety of
5 the vessel or life onboard the vessel was... Or if it's a
6 choice between discharging bilge water or having to
7 discharge oil pollution, you know? So it depends on the
8 case.

9 I don't know exactly the wording of the
10 regulation, you know, but there's... I would expect that
11 there's some allowable, you know, off shore. I don't know
12 alongside. I'd have to get back to you on that. I can't
13 really talk to that specifically.

14 Mr. GUNTER MUECKE: It would perhaps be
15 useful to clarify that for us, because what I visualize is
16 because we are dealing with the same situation every time
17 they load, that they, you know, generate a certain amount,
18 and we have no much, of course, but water that will
19 accumulate in the holds that they...

20 So that, you know, we can have an idea
21 as to, you know, where that water is going to go.

22 Mr. GARY MACCAULL: Yeah. There again, I
23 think, you know, the vessel is allowed to do it a certain
24 distance from shore. That would be the procedure to do, to
25 wait until the vessel got out to discharge that bilge water.

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1 I don't think it would be that amount that would make a
2 difference in the...on the ballast of the vessel.

3 And also it depends on, too, the bilge
4 water, you know? If there's no oil components in that bilge
5 water... I mean, that's definitely not allowed.

6 Mr. GUNTER MUECKE: Yeah, sorry. I don't
7 understand that. If there is no oil in it, it'll make a...
8 Will that allow the ship to discharge at the docking
9 facility?

10 Mr. GARY MACCAULL: There again, I'll
11 have to get back to you. I don't know at that docking
12 facility. It would be allowed off shore, but I would have
13 to check the regulations to see for the docking facility.

14 Mr. GUNTER MUECKE: Okay. Could we have
15 an undertaking from you to clarify this for us?

16 Mr. GARY MACCAULL: Indeed sir.

17 THE CHAIRPERSON: By which date could you
18 get it to us? The hearings end on the 30th. Could we get
19 it before the 30th of June?

20 Mr. GARY MACCAULL: I'll endeavour to do
21 it. If I can't do it myself, I'll task someone to do it for
22 you.

23 THE CHAIRPERSON: Can I put you down for
24 the 29th of June?

25 Mr. GARY MACCAULL: 28th?

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1 THE CHAIRPERSON: 29th.

2 Mr. GARY MACCAULL: 29th.

3 THE CHAIRPERSON: Well earlier, if
4 possible.

5 Mr. GARY MACCAULL: Yeah. I'll try to
6 get it. I'm out of the office, but like I say, I'll task
7 someone to do it for you.

8 THE CHAIRPERSON: Okay. Thank you.

9 Ms. JILL GRANT: I'd like to ask a
10 follow-up question on the exchange of ballast water. You
11 suggested that in the Gulf of St. Lawrence ships are
12 sometimes sent back out.

13 Is that the standard policy, that if a
14 ship is coming in and has not been able to exchange its
15 ballast water that it will be sent back out to do so before
16 it comes into the Bay of Fundy?

17 Mr. GARY MACCAULL: You mentioned the
18 Gulf of St. Lawrence but now you're talking about the Bay of
19 Fundy so...

20 Ms. JILL GRANT: Well, you had said that,
21 you gave an example---

22 Mr. GARY MACCAULL: Yeah.

23 Ms. JILL GRANT: ---from the Gulf of St.
24 Lawrence. So I'm asking whether it's going to be the policy
25 in the Bay of Fundy that if a ship does not or has not been

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1 able to exchange its ballast water, will it be required to
2 go back out to that read zone to do so before it comes in
3 and discharges?

4 Mr. GARY MACCAULL: Yes. That would be
5 the requirement. You're not allowed to just, you know...
6 If it's ballast water that was taken below Cape Cod, that
7 would...

8 Ms. JILL GRANT: Thank you. And the
9 ballast exchange requirement, does that require a hundred
10 percent exchange of the ballast water or is some percent
11 retained?

12 There's a two-day passage from New
13 Jersey. We're just wondering how much of the ballast water
14 would actually be exchanged in that time.

15 Mr. GARY MACCAULL: I think it's better
16 if I include that in, because I don't know the numbers right
17 off the top of my head, you know? So I'll include that in
18 the reply to you on the other one.

19 Ms. JILL GRANT: Thank you. The study
20 provided by the Proponent on the waters where the ballast
21 water will be taken on in the Hudson-Raritan Bay Estuary
22 area indicate that there's very high risk there for a number
23 of organisms of concern, including parasitic lobster
24 disease, mollusk disease, Asian crab, brown tide.

25 So I'm wondering... And perhaps hull

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1 fowling agents.

2 So I'm wondering what kinds of concerns
3 Transport Canada has, and what kind of monitoring you'd be
4 doing around whether these invasive organisms are coming in,
5 in the ballast water, even after exchange?

6 Mr. GARY MACCAULL: As to monitor what
7 species are in the ballast water, I think we would defer
8 that to DFO, because we work in conjunction with them, you
9 know, in consultation with them, to set up the ballast
10 exchange areas, and also they do the monitoring for what's
11 in the water.

12 We check and monitor, like I say, for
13 salinity so that we can check to see that it has being
14 exchanged at sea, but what's actually in the components that
15 could be harmful to our environment, that we'd leave that
16 for the DFO.

17 Mr. GUNTER MUECKE: Could I move on to
18 the decommissioning and abandonment fees of the port, of the
19 loading facility? And I guess we're interested in
20 Transport's opinion on how decommissioning should proceed.

21 Could the terminal actually be left in
22 place after operations cease? How is this seen in terms of
23 an obstruction to navigation?

24 Mr. ROSS MUNN: Well, I'll handle that
25 question, and it's a good question. Under the **N**

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1 **P** **A** , should the work be approved, it is
2 approved for a set period of time, based on regulation. In
3 the case of marine terminal, it's 30 years, just off the top
4 of my head, but I think it's 30 years.

5 The owner of the work is obliged to seek
6 re-approval at that time, should they wish to continue
7 operation. It's standard in our approvals to have a
8 condition of approval that relates to removing the work at
9 the end of its...should you wish to not use it anymore, we
10 expect you to remove it.

11 Should the owner decide to sell it or
12 divest of it in some way or another, give it or somehow
13 exchange it to another owner, that new owner would then be
14 responsible for any terms and conditions of the **N**

15 approval, which would include lighting or whatever
16 conditions they were.

17 So in theory, it could continue on into
18 time, the way the act is set up now, or at some point the
19 owner could modify the structure and seek approval for that,
20 as well, and modification could be completely removing it or
21 changing it in some format, maybe for another purpose.

22 And we would look at that and assess
23 that at the time.

24 Mr. GUNTER MUECKE: What about change of
25 usage?

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1 Mr. ROSS MUNN: We're not, in our...
2 When we analyse the impact on the public right of
3 navigation, we're not really that concerned with the usage,
4 other than the fact that the thing is sticking out into a
5 navigable waterway, and we expect a boat to be tied up to
6 it.

7 If the ship is handling, say, oil or
8 crushed rock, it's kind... From my assessment, it's the
9 same.

10 Others, you know, other departments and
11 other people within Transport Canada may have... It would
12 trigger other ways of assessing the project.

13 But for us, it's just strictly how it
14 impacts on or into the waterway.

15 Mr. JIM CORMIER: And if I could just add
16 to that, the nature of the authorization that **N**
17 may be issuing, depending on the type of change, it
18 could trigger **C E A A** . If the
19 authorization is a 5(1) or a 6(4) authorization, under their
20 Act, they're both triggers under CEAA. So that change might
21 likely invoke CEAA on that change.

22 Mr. GUNTER MUECKE: Thank you.

23 Ms. JILL GRANT: The **S A R A** ,
24 SARA, requires that if a potential harmful effect or death
25 of any kind of endangered species is contemplated, that

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1 there has to be a notification so that special attention is
2 paid to that.

3 I'm just wondering whether Transport
4 Canada issued or received any notifications under SARA about
5 species at risk, and what the implications of those might be
6 for this project.

7 Mr. MIKE FREEMAN: I think those
8 notifications would be directed at the competent Minister,
9 and if it was a marine species it would be directed at DFO,
10 if it's a mammal, marine mammal, and if it was a marine bird
11 or a migratory bird it would be directed at Environment
12 Canada.

13 Ms. JILL GRANT: And did Transport Canada
14 issue such a notice with regard to the shipping for this
15 Project?

16 Mr. MIKE FREEMAN: Not that I'm aware of.

17 THE CHAIRPERSON: That brings the
18 questions from... Oh, sorry.

19 Mr. GARY MACCAULL: I wonder if I just
20 could, if it would be all right if I could ask the recorders
21 to get your questions down, because I didn't, you know, get
22 the specific questions you asked me.

23 THE CHAIRPERSON: The undertaking?

24 Mr. GARY MACCAULL: Yes.

25 THE CHAIRPERSON: Yes. I don't know if

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1 we have it formalized yet, but before you leave perhaps we
2 can give it to you exactly.

3 Mr. GARY MACCAULL: I appreciate it.
4 Thank you very much.

5 THE CHAIRPERSON: Yes. Thank you.

6 The Panel's questions are finished at
7 this point, so we will then ask the Proponent whether he or
8 they wish to ask a question. Mr. Buxton?

9 Mr. PAUL BUXTON: Thank you, Mr. Chair.
10 We have no questions, thank you.

11 THE CHAIRPERSON: That... Following
12 that, I ask if there are any individuals from Government who
13 would like to ask questions from Federal or Provincial
14 Government. If not, then we will ask if there are any
15 questions from registered participants.

16 There's one. Mr. Hunka? We don't have
17 a microphone for you unfortunately. Can you see to that
18 Debbie?

19 **PRESENTATION BY TRANSPORT CANADA/ATLANTIC PILOTAGE AUTHORITY**
20 **- QUESTIONS RO THE PUBLIC**

21 Mr. ROGER HUNKA: I have a number of
22 questions, but I don't know which one to address first.

23 We've used the term "invasive". I
24 assume you mean alien species?

25 THE CHAIRPERSON: To whom are you

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1 directing that question?

2 Mr. ROGER HUNKA: To the Panel, the
3 Proponent, and this Panel.

4 Ms. JILL GRANT: Invasive species would
5 be species not native to this area.

6 Mr. ROGER HUNKA: Alien species.

7 Ms. JILL GRANT: That grow out of normal
8 conditions, yeah.

9 Mr. ROGER HUNKA: Okay. I'll use the
10 term "alien" because that's the term that I understand it to
11 be.

12 In the discharge areas from Transport
13 Canada of ballast, the red area, is that ballast taken on
14 anywhere along the Bay of Fundy? Because I'm not clear of
15 the question from the Panel and your answer.

16 Mr. GARY MACCAULL: The exchange, if
17 ballast is taken on in the Bay of Fundy, you wouldn't be
18 required to exchange it. It's ballast is taken on south of
19 the latitude of Cape Cod that causes a problem.

20 So if the vessel is ballasting on the
21 way out, he's going out of our waters anyway, so we're not
22 concerned about...

23 For example, if a vessel goes into
24 Sydney with a load, discharges its load, takes on ballast
25 water, and then comes to Halifax and discharges in Halifax,

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1 he's not outside the regulations.

2 Mr. ROGER HUNKA: No, but in this case
3 the ship is coming from the Hudson to the Bay of Fundy.
4 Bringing in ballast from the Bay, from the Hudson.

5 Mr. GARY MACCAULL: Okay. I'm sorry.

6 Mr. ROGER HUNKA: So where would that
7 ship be prepared or allowed to discharge its ballast?

8 Mr. GARY MACCAULL: In the red zone
9 that's in areas greater, I think it's 500 metres.

10 Mr. ROGER HUNKA: Okay. The other
11 supplementary to Transport Canada, is Transport Canada or
12 does Transport Canada have a Memorandum of Understanding
13 between itself and the Department of Agriculture, the
14 Inspections Unit, dealing with "alien" and invasive
15 species?

16 Mr. GARY MACCAULL: I'm not aware of
17 anything with the Department of Agriculture. We have MOUs
18 with the Department of the Environment and DFO.

19 Mr. ROGER HUNKA: Are you aware that the
20 Department of Agriculture just recently has established a
21 unit to deal with "alien" invasive species and their
22 pathways?

23 Mr. GARY MACCAULL: Personally, I'm not.

24 Mr. ROGER HUNKA: Is anyone on this Panel
25 aware of it with Transport Canada?

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1 Mr. JIM CORMIER: No, I'm not.

2 THE CHAIRPERSON: Mr. Hunka, I think
3 that's your question and your follow-up, so I'm going to see
4 if there's anyone else interested.

5 Mr. ROGER HUNKA: All right. Thank you,
6 Mr. Chair.

7 THE CHAIRPERSON: I see a hand. Mr.
8 Stanton? Remember, these questions can be directed to the
9 Proponent as well as to Transport Canada or the Pilotage
10 Authority.

11 Mr. Stanton, there's a microphone right
12 there for you.

13 Mr. KEMP STANTON: I'd like to know if
14 it's just the terminal that the Department of Transport is
15 looking at here, or whether they would be looking at the
16 amount of buoys and other parts of the project that the
17 Proponent is putting in the water.

18 Mr. JOHN PRENTISS: From the **N**
19 **P** **A** perspective, we authorize any works
20 that are placed below the high water mark. So the plans
21 that we have show a terminal, I think a couple of mooring
22 dolphins, maybe three mooring dolphins, and I think two
23 mooring buoys.

24 Those are the only things that we have
25 under consideration at this point in relation to the

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1 terminal, that I'm aware of.

2 THE CHAIRPERSON: Okay. Additional
3 questions? Yes, Mr. Sharp?

4 Mr. ANDY SHARP: A question for Captain
5 Gates. In his discussion about the modelling and review of
6 ship movements into a terminal, he indicated that there was
7 a modelling facility through the Pilotage Authority, and he
8 indicated that other projects in the area had made use of
9 this facility.

10 Am I correct in taking from your
11 comments then that this is something that's typically done
12 before a project gets to the Environmental Assessment or the
13 Environmental Impact Assessment stage? You mentioned the
14 Irving Refinery I believe.

15 Mr. PATRICK GATES: My mention, actually,
16 was to the Irving L&G, only on the marine side of the
17 project, and what we... What usually happen is that we come
18 to meetings such as this and these issues are raised, and
19 then recommendations come from the Committee to the
20 Proponent to follow some guidelines or suggestions, or take
21 it up.

22 The modelling abilities and facilities
23 are at the Community College, Marine Institute, Nautical
24 Institute, in Port Hawkesbury, and the Nautical College in
25 Summerside, for this area, or you can go to Memorial in

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1 Newfoundland, St. John's, Newfoundland, to do that.

2 But normally, at this stage, we put it
3 out there for the Proponent so he will be... We're
4 providing some information, and it's for the Committee to
5 then either recommend to the Proponent to follow up on some
6 of the suggestions that we bring, the information brought
7 forward.

8 THE CHAIRPERSON: Thank you. Additional
9 Questions? Mr. Hunka?

10 Mr. ROGER HUNKA: Thank you Mr. Chair.
11 This is to the Proponent. In your Environmental Impact
12 Statement, also appreciating that you were not informed
13 about the Aboriginal communities or the representatives to
14 these communities, the area of Aboriginal fisheries,
15 commercial fisheries and food fisheries is not addressed at
16 all.

17 The question is, are you prepared to
18 begin to address the issue of the Aboriginal food fisheries
19 and the Aboriginal commercial fisheries in your
20 Environmental Impact Statement?

21 Mr. PAUL BUXTON: I'm not sure really
22 quite exactly what your question means. I was under the
23 assumption that the issue of food fishery for Aboriginal
24 people was a point of negotiation between Federal agencies
25 and the various Native Councils, Native Bands, et cetera,

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1 but...

2 We have not addressed that, and I'm not
3 sure just where we would fit into that process, and as much
4 as I don't believe that we would be interfering with any
5 Native fisheries, it might be useful to raise that same
6 question with the Department of Fisheries and Oceans
7 officials who will be here this afternoon.

8 Mr. ROGER HUNKA: All right. Thank you.

9 THE CHAIRPERSON: Yes? Mr. Morsches.

10 Mr. BOB MORSCHEs: Doctor, I'd like to
11 address my question to Mr. Buxton.

12 During this morning's session, you
13 mentioned about the ship and it coming in during various
14 weather conditions. Have you thought about a formal risk
15 assessment whereby even, I think even Dr. Fournier mentioned
16 this, where you would actually take a ship of ore size, an
17 ore-size ship, and take it under various seasons and all the
18 various weather conditions - fog, snow, rain, ice, and high
19 winds - and come around the Sandy - or Sandy Cove, excuse me
20 - the Whale Cove, Whale Point (sic) area...

21 I've been on many ships during my
22 career, and when you have high winds or inclement weather, a
23 ship, even though it only wants to do 12 knots, will go at a
24 flank speed, and indicates that the props are going to be
25 about 25 to 30 knots per hour.

1 That kind of prop wash causes a
2 turbulence that could go down 50 to 70 metres in depth. The
3 area that we're talking about is full of kelp, urchins, and
4 lobsters.

5 Of course, they may not be there at the
6 time, but the kelp was always there. We have two layers of
7 kelp in that area, it's a very major area for kelp.

8 And so I'm wondering if you have
9 considered having a formal risk assessment by actually
10 deploying a ship, borrowing a ship for a day under these
11 various conditions and try it out?

12 Mr. PAUL BUXTON: I'm not sure, Mr.
13 Chair, that we would do a risk assessment by engaging a ship
14 for a few days.

15 I think we have every intention of
16 consulting the experts in the Atlantic Pilotage Authority at
17 the appropriate time, and availing ourselves of their
18 experience and the experience of the Federal Department of
19 Transportation.

20 There's a lot of expertise out there. I
21 think what we have done is gone as far as to satisfy
22 ourselves that there are sufficient openings and windows
23 that we can carry out a commercial traffic from that
24 facility.

25 We know there are constraints. The

1 constraints are built into our business plan, and we will
2 certainly seek the advice of those with the greatest amount
3 of knowledge with Atlantic Pilotage Authority at the
4 appropriate time.

5 THE CHAIRPERSON: I think that I will
6 bring these questions to a close. There will be another
7 opportunity later this afternoon after DFO presents.

8 But for the moment, I'd like to thank
9 the Pilotage Authority and Transport Canada for coming here
10 this morning. Thank you very much, gentlemen.

11 We will resume the session at quarter
12 past one.

13 --- Recess at 12:13 p.m.

14 --- Upon Resuming at 1:15

15 THE CHAIRPERSON: We've got a minor
16 glitch that we'd like to have... I hope you'll agree with
17 it. Dr. Chris Taggart from Dalhousie is on a tight
18 schedule. He's scheduled... He's got to be out of here by
19 3:00, so what... And he's got a 15-minute presentation, so
20 what we were thinking...

21 You stay put, but what we would do is we
22 would just let him jump in ahead of you, and then you would
23 follow.

24 I know it's a little inconvenient, but I
25 think this will suit everybody.