PUBLIC HEARING

WHITES POINT QUARRY AND MARINE TERMINAL PROJECT

JOINT REVIEW PANEL

VOLUME 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 MacCaull/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: Hélène Boudreau-Laforge, CCR
of what they have to undertake.

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

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

And this is the end except questions.

Thank you, gentlemen.

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

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

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

THE CHAIRPERSON: From your standpoint,
it's a useful exercise, is it?

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

THE CHAIRPERSON: It regularizes the port activities.

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

They talked about contingency plans but you know, this is just regular operations, you know?

Contingency plans would be in place too.

THE CHAIRPERSON: Okay. Thank you.

Jill?

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

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

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

When he comes into the traffic lane, he
would... I would expect that the fishermen would recognize
that that is the route that this vessel is going to come in
and they wouldn't lay their gear across that area.

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

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

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

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

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

I can give you a little anecdote or
example of the Northumberland Strait where we're dealing
with a situation right now where the cruise ships, you know, in the summertime, ply up to Northumberland Strait.

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

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

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

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

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

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

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

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

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

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

There are certain benefits to bringing a pilot in with his experience of the local tides and weather conditions and so on, and also with the proposed terminal, we would strongly recommend that the Proponent do some computer modelling at the simulator.
There's one in Port Hawkesbury or Summerside where you can actually model this and bring people in and try doing it under certain weather conditions and define the practicality of it and to find out whether or not or how many tugs you may need for this operation.

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

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

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

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so forth.

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

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

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

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

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

So we did look at that, but we came up with the idea that the best option in the Bay of Fundy was to actually move the lanes to get away from the high density...
area of the whales. The problem is, reduce the speed, I mean to spot the whales too, they're not that easy to see. And, you know, it could be nighttime fog, you know?

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

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

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

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

I don't know if I could speak to whether, you know, if they have time to... When they see a Right Whale, you're that close, whether a reduction in speed of 12 knots or even, you know, slower, but then you run into the risk when you get the slower speed of the manoeuvrability of the vessel, so in fact you can't turn the vessel anyway.
So it's... It's not an easy subject to talk about, okay, but you know, when they talk about reducing the speed to 12 knots, I would think that 12 knots is still an acceptable speed to maintain manoeuvrability of the vessel.

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

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

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

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

Can you offer a comment on that?
Mr. PATRICK GATES: Yes, Mr. Chairman.

First off, we have to recognize that these vessels, they are a good size, and they're going to be coming in on ballast, which is going to give them a fairly high windage, and so there's less below the water. When they leave, they're going to be in the reverse condition, and so therefore probably much more manoeuvrable and can handle somewhat more adverse conditions under better control.

We would strongly recommend that this terminal be...this proposed terminal be exercised with a modelling and also to undergo a risk analysis for pilotage. I'm not trying to impose pilotage on here. The Authority would probably take it to review it. There's only one port which was exempted from compulsory pilotage by the APA in 1972, and that is Hantsport, and I'm not quite sure of the details of why that wasn't included, but that's... That is a fact.

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

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

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

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

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

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

And we just heard from you that the recommended course is at right angles as opposed to the
oblique angle that is shown on the plans.

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

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

Mr. GARY MACCAULL: Well, we're having...

You know, we're having traffic come out the outbound lane now, and he's not going to be anywhere outside the outbound lane.

Mr. GUNTER MUECKE: H'm.

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

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

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them.

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

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

Mr. GUNTER MUECKE: Okay. Thank you.

Could I perhaps ask a few things about ballast water and bilge waters? Okay.

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

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

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

Mr. GUNTER MUECKE: Well, could you just
briefly outline for me what the regulations state as to where the ballast water can be discharged?

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

Mr. MIKE FREEMAN: Just watch your eyes.

--- Pause

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

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

But in this case here, we have traffic that is not, you know... To have it enforced to go to sea to exchange a ballast and come back in, there's been other areas that have been identified that it can be, you know, acceptable to your ballast while on route to Canadian ports.
The green zone there shows the traffic heading to and from Nova Scotia. So this is an area that's just off the Continental Shelf in greater than 1,000 metres of water, and these vessels, you know, especially heading to Nova Scotia, are going up into the Gulf of St. Lawrence and up the river, would require the exchange of ballast that way.

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

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

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

And I mentioned before, you know, the other options for not exchanging ballast is to have treatment facilities on board. That's still under
Mr. GUNTER MUECKE: Thank you, that was very informative. Now the next part of my question was under certain circumstances, the Captain may consider it unsafe to de-ballast at that stage, and my question is what circumstances would warrant that, and what would be the strategies then in terms of getting rid of the ballast development, and I don't know how far they are with that, but that's...

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

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

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

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

Mr. GUNTER MUECKE: Thank you, that was very informative. Now the next part of my question was under certain circumstances, the Captain may consider it unsafe to de-ballast at that stage, and my question is what circumstances would warrant that, and what would be the strategies then in terms of getting rid of the ballast...
water? Would he have to stay in that area until conditions
have improved?

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

"It is not necessary to manage ballast
water if one of the following emergency
situation occurs:
(a) the discharge or uptake of ballast
water is necessary for the purpose of
ensuring the safety of a ship in an
emergency situation or saving life at
sea;
(Bilcon of Nova Scotia) the discharge or
uptake of ballast water is necessary for
the purpose of avoiding or minimizing
the discharge of pollutants from the
ship; or
(c) the accidental ingress or discharge
of ballast water results from damage in
the ship or its equipment that was not
caused by the wilful or reckless act of
the owner or officer in charge, and all
reasonable precautions are taken before
and after occurrence of damage, or

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of preventing or minimizing the ingress
or discharge."

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

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

So it depends on the case too, you know?
I mean, so we would look at that, you know? But so... I
mean, we do have the authorities there to direct the vessel
out or just not allow them to discharge their ballast in the
Canadian waters.

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

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

Mr. GARY MACCAULL: That would be covered
under the MARPOL, the International Convention on Marine
Pollution from Ships, and it would be section... It would come under section...

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

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

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

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

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

Mr. GARY MACCAULL: It wouldn't be, you
know, like I say, under MARPOL or even in the ballast water, you know, under "Safety Conditions" too, it would be allowed, okay?

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

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

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

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

Mr. GARY MACCAULL: Yeah. There again, I think, you know, the vessel is allowed to do it a certain distance from shore. That would be the procedure to do, to wait until the vessel got out to discharge that bilge water.
I don't think it would be that amount that would make a difference in the...on the ballast of the vessel. And also it depends on, too, the bilge water, you know? If there's no oil components in that bilge water... I mean, that's definitely not allowed.

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

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

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

Mr. GARY MACCAULL: Indeed sir.

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

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

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

Mr. GARY MACCAULL: 28th?
THE CHAIRPERSON: 29th.

Mr. GARY MACCAULL: 29th.

THE CHAIRPERSON: Well earlier, if possible.

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

THE CHAIRPERSON: Okay. Thank you.

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

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

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

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

Mr. GARY MACCAULL: Yeah.

Ms. JILL GRANT: ---from the Gulf of St. Lawrence. So I'm asking whether it's going to be the policy in the Bay of Fundy that if a ship does not or has not been
able to exchange its ballast water, will it be required to
go back out to that read zone to do so before it comes in
and discharges?

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

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

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

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

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

So I'm wondering... And perhaps hull
fouling agents.

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

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

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

Mr. GUNTER MUECKE: Could I move on to the decommissioning and abandonment fees of the port, of the loading facility? And I guess we're interested in Transport's opinion on how decommissioning should proceed. Could the terminal actually be left in place after operations cease? How is this seen in terms of an obstruction to navigation?

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

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Mr. GUNTER MUECKE: What about change of usage?

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

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

Should the owner decide to sell it or divest of it in some way or another, give it or somehow exchange it to another owner, that new owner would then be responsible for any terms and conditions of the approval, which would include lighting or whatever conditions they were.

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

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

Mr. GUNTER MUECKE: What about change of usage?
Mr. ROSS MUNN: We're not, in our...

When we analyse the impact on the public right of
navigation, we're not really that concerned with the usage,
other than the fact that the thing is sticking out into a
navigable waterway, and we expect a boat to be tied up to
it.

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

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

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

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

Mr. GUNTER MUECKE: Thank you.

Ms. JILL GRANT: The S A R A ,
SARA, requires that if a potential harmful effect or death
of any kind of endangered species is contemplated, that
there has to be a notification so that special attention is
paid to that.

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

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

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

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

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

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

THE CHAIRPERSON: The undertaking?

Mr. GARY MACCAULL: Yes.

THE CHAIRPERSON: Yes. I don't know if

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

Mr. GARY MACCAULL: I appreciate it.

Thank you very much.

THE CHAIRPERSON: Yes. Thank you.

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

Mr. PAUL BUXTON: Thank you, Mr. Chair.

We have no questions, thank you.

THE CHAIRPERSON: That... Following

that, I ask if there are any individuals from Government who
would like to ask questions from Federal or Provincial
Government. If not, then we will ask if there are any
questions from registered participants.

There's one. Mr. Hunka? We don't have

a microphone for you unfortunately. Can you see to that

Debbie?

PRESENTATION BY TRANSPORT CANADA/ATLANTIC PILOTAGE AUTHORITY
- QUESTIONS TO THE PUBLIC

Mr. ROGER HUNKA: I have a number of

questions, but I don't know which one to address first.

We've used the term "invasive". I

assume you mean alien species?

THE CHAIRPERSON: To whom are you
directing that question?

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

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

Mr. ROGER HUNKA: Alien species.

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

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

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

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

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

For example, if a vessel goes into
Sydney with a load, discharges its load, takes on ballast
water, and then comes to Halifax and discharges in Halifax,
he's not outside the regulations.

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

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

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

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

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

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

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

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

Mr. ROGER HUNKA: Is anyone on this Panel
aware of it with Transport Canada?
Mr. JIM CORMIER: No, I'm not.

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

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

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

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

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

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

Those are the only things that we have under consideration at this point in relation to the...
THE CHAIRPERSON: Okay. Additional questions? Yes, Mr. Sharp?

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

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

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

The modelling abilities and facilities are at the Community College, Marine Institute, Nautical Institute, in Port Hawkesbury, and the Nautical College in Summerside, for this area, or you can go to Memorial in
Newfoundland, St. John's, Newfoundland, to do that.

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

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

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

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

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

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

Mr. ROGER HUNKA: All right. Thank you.

THE CHAIRPERSON: Yes? Mr. Morsches.

Mr. BOB MORSCHES: Doctor, I'd like to address my question to Mr. Buxton.

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

I've been on many ships during my career, and when you have high winds or inclement weather, a ship, even though it only wants to do 12 knots, will go at a flank speed, and indicates that the props are going to be about 25 to 30 knots per hour.
That kind of prop wash causes a turbulence that could go down 50 to 70 metres in depth. The area that we're talking about is full of kelp, urchins, and lobsters.

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

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

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

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

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

We know there are constraints. The
constraints are built into our business plan, and we will
certainly seek the advice of those with the greatest amount
of knowledge with Atlantic Pilotage Authority at the
appropriate time.

THE CHAIRPERSON: I think that I will
bring these questions to a close. There will be another
opportunity later this afternoon after DFO presents.
But for the moment, I'd like to thank
the Pilotage Authority and Transport Canada for coming here
this morning. Thank you very much, gentlemen.
We will resume the session at quarter
past one.
--- Recess at 12:13 p.m.
--- Upon Resuming at 1:15

THE CHAIRPERSON: We've got a minor
glitch that we'd like to have... I hope you'll agree with
it. Dr. Chris Taggart from Dalhousie is on a tight
schedule. He's scheduled... He's got to be out of here by
3:00, so what... And he's got a 15-minute presentation, so
what we were thinking...
You stay put, but what we would do is we
would just let him jump in ahead of you, and then you would
follow.
I know it's a little inconvenient, but I
think this will suit everybody.