
TO: CITY MANAGER **DATE:** 2015 May 20

FROM: DIRECTOR PLANNING AND BUILDING **FILE:** 2125 20
Reference: UBCM Resolutions

SUBJECT: 2015 FCM/UBCM RESOLUTION: RISK OF OIL SPILL – EMERGENCY RESPONSE

PURPOSE: To present an emergency resolution for submission to the 2015 Federation of Canadian Municipalities (FCM) Annual Conference, and a resolution for regular submission to the 2015 Union of BC Municipalities (UBCM) Convention.

RECOMMENDATIONS:

1. **THAT** Council endorse the emergency resolution outlined in Section 4.2 of this report for submission to the 2015 Federation of Canadian Municipalities Annual Conference.
2. **THAT** Council also endorse the resolution outlined in Section 4.2 of this report for regular submission to the 2015 Union of BC Municipalities Convention.
3. **THAT** staff be authorized to forward a copy of this report, accompanied by any applicable background reports and information, to the FCM, located at 24 Clarence St, Ottawa, ON K1N 5P3 and to the UBCM, located at Suite 60, 10551 Shellbridge Way, Richmond, BC V6X 2W9.
4. **THAT** copies of this report be forwarded for information to Burnaby MLAs and MPs.

REPORT**1.0 INTRODUCTION**

At its meeting of 2015 April 27, Council received a City Manager's report regarding the recent oil spill in English Bay from the MV Marathassa. Resulting from discussion, Council requested staff to prepare a motion for submission to the Federation of Canadian Municipalities (FCM) and to the Union of BC Municipalities (UBCM) regarding risks of an oil spill and associated emergency response(s). This report responds to that request.

2.0 FCM AND UBCM RESOLUTIONS PROCESS

Each year, the Federation of Canadian Municipalities (FCM) invites members to submit resolutions on subjects of national municipal interest that fall within the jurisdiction of the federal government. The regular 2015 resolution submission deadline was 2015 January 25. However, due to the emerging and potentially immediate impact of the subject matter of this resolution upon municipal operations, an emergency resolution is being requested. All emergency resolution requests are considered by the FCM

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Board of Directors before proceeding to the Annual Conference. If the resolution is accepted as 'emergency' it would be discussed at the 2015 Annual Conference, which will take place from June 5 – 8, in Edmonton, Alberta. If the resolution is not accepted as 'emergency' it will be held for discussion until the next regular FCM Board Meeting, which is scheduled to occur in 2015 September.

The Union of B.C. Municipalities (UBCM) receives annual resolution requests from its member local governments for consideration at its annual Convention. These resolutions are a means to request amendments to the *Community Charter, Local Government Act* and other Provincial or Federal legislation and policies to address issues of significance to local government. The UBCM Convention will take place from 2015 September 21 – 25, in Vancouver, BC. The deadline for resolution submissions made directly to the UBCM is 2015 June 30.

3.0 OIL SPILL IN ENGLISH BAY, VANCOUVER – MV MARATHASSA

At approximately 5:00 pm on 2015 April 8, Port Metro Vancouver Operations Centre and the Canadian Coast Guard received calls regarding an oil sheen observed in English Bay. In response to the calls, a Port Metro Harbour boat was dispatched shortly thereafter to investigate the area where the oil sheen was observed. At approximately 8:00 pm, the Canadian Coast Guard called Western Canada Marine Response Corporation (WCMRC) to respond to the oil spill. WCMRC clean-up crews arrived at the site at approximately 9:25 pm, undertook skimming activities and upon confirmation of the source at approximately 4:00 am on 2015 April 09, placed a boom around MV Marathassa. The City of Vancouver was notified about the oil spill at approximately 5:00 am on 2015 April 9.

The spill consisted of approximately 2,700 litres of 'Bunker C' fuel oil (approximately 17 barrels) leaked from the MV Marathassa. WCMRC claims to have recovered four-fifths of the reported release amount. As Council has previously been informed, WCMRC is a private company with five major shareholders - Imperial Oil, Shell Canada, Chevron, Suncor and Trans Mountain Pipeline. Trans Mountain currently owns 50.9 percent of the shares in WCMRC. These five companies also sit on WCMRC's Board. WCMRC is certified as a Response Organization by Transport Canada – Marine Safety and its geographic area of response includes the BC coast extending 200 nautical miles off shore as well as all inland navigable waters in the province. WCMRC has three main offices/warehouses to service the North Coast, South Coast and the Vancouver Island. The South Coast office/warehouse is located at the former Shell Refinery site in Burnaby.

3.1 Spill Responsibility for Similar Occurrence in/Near Burnaby

In the event of an oil spill within coastal waters, including the Burrard Inlet and the Fraser River, the vessel owner would be responsible for the costs relating to the clean-up. The Canadian Coast Guard is responsible for conducting spill management, under the oversight of Transport Canada¹, as per section 180 of the *Canada Shipping Act*. For vessels docked at the time of a spill, the owner of the vessel would be held responsible for legal liabilities arising from the spill caused by the vessel. The terminal owner/operator would be responsible for legal liabilities arising from the spill caused by the terminal facilities. The lead response agency in this instance would depend on whether the spill is contained on land or also occurs in the marine environment.

¹ Transport Canada is the lead regulatory agency for the *National Oil Spill Preparedness and Response Regime* which sets the guidelines and regulatory structure for the preparedness and response to marine oil spills. The Honourable Lisa Raitt is the Current Minister for Transport Canada.

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In the event of a spill on land the company who owns the pipeline is responsible for clean-up and remediation. This responsibility is articulated via the *National Energy Board Onshore Pipeline Regulations* (OPR) and made under the *National Energy Board Act*.

However, there is current expectation on the part of the Canadian Coast Guard, WCMRC, and related industry present in Burnaby that the City would play an essential role in the response, as part of the unified command through activation of an emergency response centre and other functions, as required by the particular situation.

4.0 POTENTIAL IMPACTS TO BURNABY AND OTHER LOCAL GOVERNMENTS FOR SIMILAR OCCURANCES

As has been previously expressed by Council, the proposed Trans Mountain Pipeline Expansion Project by Kinder Morgan, which is currently before the National Energy Board (NEB) for consideration, poses significant concerns for the City, given the impacts and risks the project would have on Burnaby and its residents, including human health and safety risks, oil spill/accident risks² and emergency response issues, seismic risk impacts, land use impacts, environmental impacts, and socio-economic impacts.

Council, together with the Cities of Vancouver, New Westminster, North Vancouver, Victoria, Squamish, Port Moody and Bowen Island have issued a 'Declaration of Non-Confidence'³ in the current NEB process. This Declaration was issued as the current NEB process has not facilitated a clear and transparent review of the issues both in terms of lacking a solid scientific evidentiary basis and for disallowing cross-examination and the incorporation of oral public hearings into evidence. The NEB has also accepted Kinder Morgan's incomplete responses to Information Requests. Approximately 98% of the questions by Intervener local governments, including the City of Burnaby and the cities of Abbotsford, Vancouver, Port Moody, North Vancouver and Edmonton, have not been fully addressed by Kinder Morgan.

As the City has noted in previous submissions to the NEB, issues of adequate, coordinated emergency response time, the need for an independent emergency response agency, and appropriate funding/compensation for local response resources are unresolved. As the response to the oil spill in English Bay from the MV Marathassa demonstrates, significant concerns remain in place, including the length of response time from initial reports, the lack of coordination between different agencies, and the length of time (approximately 12 hours) it took before the City of Vancouver was notified. The closing of the Kitsilano Coast Guard station in 2013 February, and the closure of the Coast Guard Marine Communications and Traffic Centre announced on 2015 May 6⁴, further amplify these concerns.

In addition, the 50.9 % share ownership in WCMRC by Trans Mountain pipeline underlines the need for an independent emergency response agency responsible for spill response. The current ownership of the private response agency, certified by Transport Canada, creates a situation in which the same entity benefiting from an expanded pipeline could also potentially benefit from a spill or accident.

²Two related incidents have previously occurred in Burnaby – 2007 pipeline spill (at Inlet Dr. and Ridge Dr.) and 2009 leak from Burnaby Mountain Terminal (contained on site).

³Issued on 2015 March 31.

⁴Marine traffic for the region is now managed from a centre in Victoria.

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Indeed, this was articulated by Kinder Morgan in their initial application to the NEB for the Trans Mountain Pipeline Expansion Project which stated that "Spill response and clean-up creates business and employment opportunities for affected communities, regions, and clean-up service providers".⁵

Another significant issue that remains unresolved is the need for appropriate recognition, funding and/or compensation for the use of local resources in oil spill emergencies. Under the current model of response operations, affected local governments are expected to play a core role in the response including through the activation of an emergency response centre, the provision of police and fire services, and the provision of communication updates and warnings to the public. Emergency services in Burnaby are not necessarily equipped to respond to an emergency of the scale that could occur in a potential oil spill or related pipeline/storage tank incident. Nor are sufficient resources currently available to compensate the local government and local tax payers for the expenses of providing these emergency services.

4.1 Past Related Resolutions Approved by Council

Council has previously endorsed several resolutions related to these matters.

At its meeting of 2011 August 29, Council endorsed a resolution '*Oil Pipelines & Tanker Traffic in BC*', which was subsequently forwarded to the UBCM and then endorsed at the annual convention, which took place from 2011 September 26 – 30 in Vancouver, BC. This resolution arose from concerns regarding Kinder Morgan's then emerging plans to expand its oil pipeline system and significantly increase its shipping capacity out of Burrard Inlet. This resolution was also forwarded to the National Energy Board, Port Metro Vancouver, and all appropriate Federal Ministers.

In 2014, Council endorsed two related resolutions. At its meeting of 2014 March 10 Council approved a resolution '*Comprehensive Pipeline & Energy Transport Plan*'. The resolution articulated concerns with impacts of the Trans Mountain Pipeline Expansion Project upon Burnaby and other communities along its route, and called for the development of a national, comprehensive pipeline and energy transport plan to inform the construction of any pipelines. This resolution was forwarded by the LMLGA where it was approved, but it was not endorsed by the UBCM.

In addition, Council approved a related emergency resolution '*National Energy Board Public Hearing Process*' at its meeting of 2014 August 25. The resolution was forwarded to the UBCM after the regular deadline had passed and was thus categorized as an 'emergency' submission. The resolution detailed gaps in the National Energy Board (NEB) hearing process, and recommended that the right of interveners to participate in oral hearings and to cross-examine evidence within the NEB regulatory review process be reinstated. The City of Victoria and the City of Vancouver also submitted related emergency resolutions. The resolution was endorsed by the UBCM at its annual convention, which took place from 2014 September 22 – 26 in Whistler, BC, and was then forwarded to the FCM. At its 2015 March meeting, the FCM Board of Directors passed a related resolution, calling for the reinstitution of a full public hearing process to the National Energy Board's consideration of all applications, including the Trans Mountain Pipeline Expansion Project.

⁵ Trans Mountain Expansion Project Application, Filing [A3S5Q3](#), Volume 8A, Section 5.6.1.1 – Economy, Page 7.

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4.2 Resolution: Oil Spill Emergency Response Coordination and Support for Local Governments

Given the significant risks of a potential oil spill and/or pipeline related emergency poses for our shared environment and ecosystems, and the impact of such an event upon the capacity of local emergency response functions – and given that many local governments would be impacted by similar risks and impacts – the following resolution has been prepared for Council’s consideration:

RESOLUTION: Oil Spill Emergency Response Coordination and Support for Local Governments

WHEREAS demonstrated oil spill emergency response times have been uncoordinated and inadequate;

WHEREAS there is need for a national, transparent, independent emergency response agency;

AND WHEREAS local governments currently do not have access to sufficient resources to compensate for the mobilization costs of response services related to emergencies of this nature;

THEREFORE BE IT RESOLVED that the Union of BC Municipalities and the Federation of Canadian Municipalities call upon the Federal Government to develop a comprehensive emergency response plan and procedure for oil spill related emergencies that includes due recognition of and compensation for the role of local government emergency response services.

5.0 CONCLUSION

This report proposes one new resolution for emergency submission to Federation of Canadian Municipalities (FCM), and for regular submission to the Union of BC Municipalities (UBCM).

It is recommended that Council endorse the resolution, as outlined in Section 4.2 of this report, for emergency submission to the 2015 FCM Annual Conference, and for regular submission to the 2015 UBCM Convention. It is also recommended that staff be authorized to forward a copy of this report, accompanied by any supporting background reports and information, to the FCM and UBCM. Finally, it is recommended that a copy of this report be forwarded for information to Burnaby MLAs and MPs.


Lou Pelletier, Director
PLANNING AND BUILDING

RM:sa

cc: Deputy City Managers
Director Engineering
Director Finance
Director Parks, Recreation and Cultural Services
OIC – RCMP

Fire Chief
Chief Building Inspector
Chief Librarian
City Solicitor
City Clerk