

Presentation to
the House of Commons Standing Committee on
Fisheries and Oceans
by the Honourable R.D. (Bob) Mercer
Minister



GOVERNMENT OF
NEWFOUNDLAND AND LABRADOR

Department of Environment

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I welcome the members of the Standing Committee on Fisheries and Oceans to Newfoundland and Labrador. I say to the honourable members you could not have made your trip here at a more appropriate time.

Mr. Chairman,

By way of introduction to my presentation, it is my intent over the next few minutes to provide information on the economic and cultural significance of our coast and coastal waters; on the risk to these areas posed by oil pollution; and to identify specific actions for the federal government to increase the prevention of illegal discharges of oil and oily water and Canada's preparedness to respond to a major marine oil spill.

Economic and Cultural Significance of our Coast and Marine Resources

Our coastal and marine resources provide us with 26 per cent of our Gross Domestic Product and over 20 per cent of our employment.

Major contributions to our economy come from offshore petroleum production and from the fishery. Tourism is one of the fastest growing industries in our province - a tourism largely based on our spectacular coastline, our coastal communities and our clear coastal waters.

But the significance of our coasts and ocean is deeper than dollars. It is where we live, what we look at, what affects our climate, our weather, our geography, what we do and who we are. More than any other Atlantic province, Newfoundland and Labrador is a marine based society and economy.

Risk

This same marine environment is at risk from oil pollution from illegal discharges and from accidents. These risks have been the focus of concerns and recommendations in correspondence between my Department and Minister Thibault as well as with my counterpart, David Anderson, Minister, Environment Canada.

Our coasts are highly vulnerable to oil pollution. Ongoing losses of seabirds to oil in the waters off our coasts have been documented since 1984. It is estimated that each year, off our south coast alone, we lose 100,000 or more seabirds to oil in the sea - this is roughly comparable to the loss of seabirds as a result of the Exxon Valdez spill. Every year.

Our province is on the historical and still heavily used "Great Circle Route" for vessels travelling from Europe to Canada and the eastern Seaboard. This brings vessels of all kinds and from many nations within our coastal waters. For example, surveillance aircraft out of Newfoundland and Labrador and Nova Scotia, last year, sighted more than 10,000 commercial vessels (other than fishing vessels) in the Atlantic region, just during the hours that they were in the air!

The 1990 report by the federal appointed Public Review Panel on Tanker Safety and Marine Spills Response Capability stated, "The risk of spills is highest in eastern Canada, particularly in Newfoundland. Placentia Bay is considered by many to be the most likely place in Canada for a major spill."

Mr. Chairman,

This risk has increased over the intervening years, with the expanding operations of the North Atlantic refinery at Come by Chance and the establishment of the Newfoundland Transshipment terminal at Whiffen Head - both facilities are located at the far end of Placentia Bay, a one way distance of 60 miles for a vessel, through a bay dotted with 365 islands. In 2002, these two facilities received almost 500 tankers - meaning 1,000 transits of Placentia Bay by tankers alone, with additional traffic by ferries, cargo vessel and fishing boats.

Actions Needed

Prevention of oil entering into the sea is key.

Deterrence is a major factor in prevention. We have been pushing the federal agencies responsible for regulation and protection of our marine environment for increased surveillance; increased enforcement of national and international law; and increased fines.

We realize that there has been increased aerial surveillance over the last few years, as well as efforts to combine resources and information with other federal departments such as the Department of National Defence and recently, a pilot project with the Canada Space Agency to use satellite imagery in the detection of oil on the sea surface. It is our hope that these efforts will continue and even expand beyond the present 400 - 450 hours of surveillance - vessels in transit are present 24 hours a day, seven days a week, all year round!

International Maritime Organization (IMO) policy will see Automatic Identification Systems (AIS) mandatory for all vessel by 2008. AIS are ship based systems that allow vessel position, identification, cargo and direction information to be available in real time. Canada should work aggressively within IMO to accelerate the implementation of long-range Automatic Identification Systems - a system far more effective in allowing Canada to know what vessels are within the Exclusive Economic Zone (EEZ) than the present AIS which is not yet even fully implemented and has an effective range of only 40 - 60 nautical miles.

In January of this year, the federal government announced an investment in marine security, including surveillance. Yet in one of the first demonstrations of its effectiveness in pollution prevention, at the last minute, Canada blinked!

Charges of illegally discharging oily waste and polluting the ocean against the vessel, *Tecam Sea*, were dropped at the last minute, without explanation. This incident underlines the absolute need for all affected federal agencies to identify and agree to the roles, responsibilities, evidence and chain of evidence needed in order to move to prosecution.

Mr. Chairman,

It is our understanding that an enabling mechanism which may be a means to achieve this has been put in place among the Departments of Environment, Transport and Fisheries and Oceans, and that A Memorandum of Understanding for Cooperation to Reduce Illegal Oil Pollution in Atlantic Canada's Waters around Newfoundland with specific annexes outlining enforcement approaches was signed in December 2002. This is very encouraging. However, in the recent incident with the Tecam Sea, it was the federal Department of Justice that decided to drop the charges. With this in mind, should the Departments of Justice and possibly Foreign Affairs and International Trade also be included? They may have different, even conflicting, sensitivities, needs and constraints.

We must be certain that we have all necessary tools, whether technology such as remote sampling devices or process or legal, to improve Canada's capabilities to protect our marine environment and its resources.

Prevention of illegal discharges can be greatly enhanced through greater deterrence - increased surveillance, increased enforcement, increased fines - and a willingness to stay the course and see prosecution carried through!

Spill Response Preparedness

In spite of various prevention measures in place (such as navigation aids, pilots, vessel traffic management), there is still risk of an oil spill. We are not comfortable with the state of the preparedness to respond to a major spill off the coast of Newfoundland and Labrador.

It is our understanding that the Canadian Coast Guard will soon initiate a risk analysis for oil spills off our south coast. While in principle we strongly support such an analysis, we have several outstanding concerns and questions about this work:

1. We have asked in our letters to Minister Thibault that there be a Steering Committee for this work that includes representation from the province. We have had no response to our request.
2. The terms of reference do not include consideration of what is necessary in order to address the risk identified. If there are to be improvements in preparedness, this is necessary information. This must be done. We have been informed, for example, by Minister Thibault, that only 15 per cent of Coast Guard's National Emergency Response Program resources are allocated to the Newfoundland Region: this seems unacceptably low considering the level of risk. We need to know if we have sufficient quantities of the right equipment, available in the right locations!

3. There is no intent to include a review of the present oil spill response regime in the risk analysis. A recent workshop with world experts on spill preparedness and response has stated that “Spill risk assessments should be unconstrained by existing plans, capabilities and past assumptions.” The present regime in Canada has been in place for more than 10 years and may no longer represent what is most appropriate. Response technology and equipment; the sources and location of the major volumes of oil on the east coast; and public expectations have all changed over the years and a review would be timely.

With the major amounts of crude oil being produced and transported over the Grand Banks, for example, why is the major amount of equipment and the regional office for the Eastern Canada Response Corporation located in Nova Scotia and not in Newfoundland and Labrador? Indeed, there is no mechanism for regular review of the requirements of Response Organisations and this should be reconsidered.

Mr. Chairman,

We believe the above are essential to the risk analysis and without these addressed, the risk analysis is fundamentally flawed.

Lessons from the Prestige incident

My predecessor as Minister of Environment, Kevin Aylward, led a delegation from this province to Galicia, Spain, to learn first hand from their experience in responding to the oil spill and loss of the tanker, Prestige, in November. The delegation was unusual - it was a voluntary group with, in addition to the Department of Environment, representatives from the offshore oil production operations, the shuttle tanker owner/operator, the transshipment terminal, the North Atlantic refinery and transportation operations, the environmental industry, the fishing industry and an environmental interest group - all with interest and/or operations off Newfoundland and in Placentia Bay. The Department of Fisheries and Oceans declined to participate in any way. The Canadian Ambassador to Spain joined the delegation in Spain.

I am pleased to table a copy of the report of the many meetings that took place during this mission which included discussions with the tanker industry, the insurance industry and a major vessel classification society in London, UK.

There are two key ‘lessons learned’ that I will mention at this time.

1. The need for sound and practical protocols to be in place between the provincial and national governments to allow for immediate and effective response and management in anticipation of such an event as a major oil spill.
2. The need to designate ‘safe havens’ or ‘ports of refuge’ to be used when necessary in a response to such an incident.

Mr. Chairman,

There have been many criticisms of the response by both the national (Spanish) and provincial (Galicia) governments to the *Prestige* spill, including massive demonstrations. There was confusion as to roles and responsibilities between the two levels of government in the early days of the spill, confusion which greatly hampered actual response and may well have lasting political repercussions, as well aggravated the environmental and economic damage. The need to avoid this type of confusion and loss of control through having established protocols in place was emphasized repeatedly.

There was much confusion as to how to respond first, to the *Prestige* captain's request for entry to a port with his stricken vessel and subsequently, to the salvor's request to bring the vessel into quiet waters for offloading. In the end, the Spanish government made the decision to have the vessel towed out to sea - the vessel broke apart and sank in deep ocean waters, where it continued to leak its cargo of heavy fuel oil. This decision appears to have led to excessive dispersion of the spilled oil and more extensive oiling of the coast and coastal waters. Galicia has since announced that it will establish a designated 'safe haven'. Canada too should address and resolve this very difficult issue.

Mr. Chairman,

In summary, we believe that the federal government must take more action to meet its responsibilities for protection of the marine environment, specifically as it regards oil pollution, both from illegal discharges and from accidents.

I have identified several specific actions for the federal government to improve prevention and preparedness off our coast. This government is prepared to assist and participate in any way possible and practical.

I thank the committee members for your time today and I am prepared to discuss this issue further with you.