

Submission to the Senate Standing Committee on Transport and Communications Regarding Bill C-48, the *Oil Tanker Moratorium Act*

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I. INTRODUCTION AND SUMMARY

1. West Coast Environmental Law Association (“West Coast”) supports Bill C-48, the *Oil Tanker Moratorium Act*.
2. Bill C-48 is about protecting a remote and ecologically important place from the introduction of a risk that does not currently exist there, namely the introduction of bulk crude oil tanker traffic. Crude oil tankers do not ply BC north coast waters because of a half-century of regular and impassioned efforts by Indigenous nations, northern communities and supporters throughout BC and Canada.
3. West Coast will limit submissions to two areas that we hope will offer useful context to the Committee as it considers Bill C-48:
 - i. The history of the BC north coast oil tanker moratorium dating back to the 1970s; and
 - ii. Some other examples from around the world of oil tanker and vessel moratoria/prohibitions, enacted in domestic law for environmental reasons.
4. We offer this context to the Committee because we submit that it demonstrates the following:
 - i. The current absence of bulk crude oil tanker traffic in Hecate Strait, Queen Charlotte Sound and Dixon Entrance (the “BC north coast”) is not by chance. Over the past 50 years there have been multiple proposals that could have brought crude oil tankers to the BC north coast, but this has not occurred due to the sustained work of BC north coast residents, as well as other British Columbians and Canadians, to protect the area.
 - ii. The BC north coast oil tanker moratorium is not a new measure. Rather, a federal policy moratorium on crude oil tankers in BC north coast waters was announced in the early 1970s. Although this informal moratorium was not legally-binding, it has resulted in *de facto* protection of the BC north coast from bulk crude oil tanker traffic. Bill C-48 emerges from that unique history and reflects the federal government’s commitment to legally “formalize” that longstanding policy.
 - iii. The oil tanker moratorium that Bill C-48 seeks to formalize is not targeted at oil from Alberta. The BC north coast moratorium originated and has been upheld over time to protect the region from proposals that would have involved tankers carrying American crude oil, as well as crude oil from other international destinations, and it has operated in tandem with a moratorium on development of BC’s offshore petroleum reserves. In other words, the BC north coast crude oil tanker moratorium is about protecting the BC north coast from the risks posed by crude oil tankers, regardless of where the oil in such tankers might originate.

- iv. Bill C-48 is not alone. Other countries (and indeed Canada itself) have used domestic laws to implement tanker or general vessel moratoria/prohibitions for environmental reasons. Bill C-48 is a valid exercise of Canada's jurisdiction, and suggestions that the moratorium will harm Canada's international economic or legal reputation are difficult to reconcile with the presence of other international examples of this approach.

II. HISTORY OF THE BC NORTH COAST OIL TANKER MORATORIUM

5. After the Enbridge Northern Gateway project was proposed, the federal government announced in 2009 that there was no crude oil tanker moratorium policy on the BC north coast (while acknowledging that Canada does maintain a policy moratorium on petroleum exploration and development in BC – discussed below). Canada further stated that previous federal reference to such an oil tanker moratorium had been in error.¹
6. Ultimately, any argument about whether a BC north coast crude oil tanker moratorium policy existed in 2009 is moot, because a policy moratorium was not legally binding in any event.
7. What is relevant in the historical account below is that, over many decades, the federal government repeatedly made and upheld policy decisions to keep crude oil tankers, and crude oil development generally, out of the BC north coast. What is equally clear is that these decisions were made in response to repeated indications from the public that risks posed by oil tankers were not considered to be acceptable in light of the existing ecological, cultural and economic values at stake in the region.

BC North Coast Moratorium Announced in Response to Oil Tankers from Valdez, Alaska

8. Following the discovery of oil in Prudhoe Bay, Alaska, plans were advanced beginning in the late 1960s for the Trans-Alaska Pipeline System ("TAPS"), with a marine terminal in Valdez, Alaska. The potential navigation routes of TAPS crude oil tankers, and the spill risks that they would pose to the British Columbia coast, became a concern of both provincial and national importance in Canada.
9. A House of Commons Special Committee on Environmental Pollution, chaired by BC back bench Member of Parliament David Anderson (later a federal Cabinet Minister between 1993-2004), was established in 1970 and held hearings into the proposed TAPS oil tanker traffic.²
10. Also in 1970, Mr. Anderson and the Canadian Wildlife Federation, along with American environmental groups, launched litigation in the United States seeking to enjoin the American Secretary of the Interior from issuing permits required for the TAPS, on a number of grounds.³
11. In February 1971, the British Columbia Legislature unanimously passed the following Motion:

That this House expresses to the Federal Government their deep misgivings over the ecological disaster which will engulf the coast of British Columbia following the construction of a trans-Alaska pipe-line and attendant supertanker transport of oil off the coast of British Columbia. We ask the Federal Government to use every available resource at their disposal to persuade the American Government to use alternate methods of transporting crude oil from Alaska to the United States.⁴
12. In June 1971, the Special Committee on Environmental Pollution reported as follows:

In summary, your Committee concludes that the establishment of the proposed oil tanker route would result in severe environmental damage and substantial economic loss to Canadians. The Committee notes with approval the current discussions between the United States and Canadian governments on this subject and urges the Canadian government to oppose vigorously the establishment of the proposed tanker route between Alaska and Washington State.⁵

13. In this context of growing pressure on the Canadian government, Mr. Anderson recounts his personal involvement in a policy commitment made by Canada in 1971 to “a ban on crude-oil-carrying tankers from the waters off Canada’s north-west coast” based on support “from residents of the coast, from First Nations and from Canadians across the country”⁶:

A Canadian government ban on all future traffic was important to my lawsuit, as it would demonstrate that Canadian objections were, on the one hand, not restricted to me and the Canadian Wildlife Federation, which had joined me in the suit, but to Canada generally.

Second, it would show that the Canadian objections were not restricted to the American tanker traffic from the port being built at Valdez, Alaska, but applied to all tanker traffic, regardless of origin.

[Prime Minister Pierre Elliott] Trudeau did not take the decision lightly. He had invited me to his office the evening he made the decision...

So that evening, I went to his office with some trepidation, not sure what his decision would be... The ban was announced, a ban that has been honoured by every subsequent prime minister, Stephen Harper excepted.⁷

14. On May 15, 1972, the House of Commons unanimously passed the following Motion:

That this House herewith declares that the movement of oil by tanker along the coast of British Columbia from Valdez in Alaska to Cherry Point in Washington is inimical to Canadian interests especially those of an environmental nature.

And further, that this resolution be forthwith transmitted to the Government of the United States of America in order that that government be apprised of the concern that the House of Commons of Canada has about the proposed movement of oil.⁸

15. The federal oil tanker moratorium policy on the BC north coast was referenced in various federal statements and documents over the years, for example:

- i. In 1986, an Assessment Panel created jointly by the BC and federal governments stated in its report that “In 1972, the federal government imposed a moratorium to prevent crude oil tankers travelling through the Dixon Entrance, Hecate Strait and Queen Charlotte Sound enroute from the Trans-Alaska pipeline terminal at Valdez, Alaska”;⁹
- ii. In 2004, Natural Resources Canada issued Terms of Reference to a federal Public Review Panel that stated “In 1972, the Government of Canada imposed a moratorium on crude oil tanker traffic through Dixon Entrance, Hecate Strait, and Queen Charlotte Sound due to concerns over the potential environmental impacts”;¹⁰

- iii. The Library of Parliament legislative summary for Bill C-48 states: “The moratorium is in keeping with a 1972 federal government policy decision to impose a moratorium on crude oil tanker traffic through Dixon Entrance, Hecate Strait and Queen Charlotte Sound.”¹¹

Negotiation of an Oil Tanker Exclusion Zone

16. The litigation pursued by Mr. Anderson, the Canadian Wildlife Federation and other groups ultimately resulted in an injunction in 1973 against the US Secretary of the Interior issuing right-of-way permits for the TAPS, based on non-compliance with technical aspects of the *Mineral Leasing Act*.¹² However, the US Congress quickly stepped in by passing the *Trans-Alaska Pipeline Authorization Act* to address the issues and authorize prompt construction of the TAPS.¹³
17. With construction of the TAPS proceeding, and TAPS oil tanker transit commencing in 1977, Canada and the United States came to an arrangement that would keep TAPS oil tankers out of BC north coast waters. Canadian Coast Guard documents state:

Environmental concerns resulted in a routing system for the TAPS tankers in 1977. These routes were designed to keep tankers in excess of 100 miles west of the Queen Charlotte Islands [Haida Gwaii].¹⁴
18. The 1977 TAPS routes were established by the US Coast Guard. Members of the federal Cabinet of the day are on record stating that this was the result of an agreement between Canada and the United States.¹⁵
19. According to Canadian Coast Guard documents, the 1977 TAPS routes were unpopular with the tanker industry, and in 1982 the routes were cancelled by the US Coast Guard. This led to negotiations between the Canadian Coast Guard, the US Coast Guard and the tanker industry, which resulted in agreement in 1985 to establish an interim Tanker Exclusion Zone, while the Canadian Coast Guard conducted a “tanker drift study.”¹⁶
20. The Canadian Coast Guard reports that this subsequently resulted in an agreement on a permanent, voluntary Tanker Exclusion Zone for TAPS oil tankers:

On January 26th, 1988, members of the Canadian and U.S. Coast Guard met with members of American Institute of Merchant Shipping in Seattle to discuss the Tanker Drift Study and the recommended Tanker Exclusion Zone. All three parties accepted the results of the Study. The Tanker Exclusion Zone defines an area off Canada’s West Coast where a disabled tanker would likely drift ashore prior to the arrival of salvage tugs in unfavourable weather conditions... The purpose of the zone is to keep laden tankers west of the zone boundary in an effort to protect the environment and shoreline in the event of a tanker becoming disabled while in transit.¹⁷
21. The Tanker Exclusion Zone and its coordinates are included in Canada’s Notices to Mariners.¹⁸
22. Shortly after the Exxon Valdez disaster, a body called the “Federal Internal Review of Tanker Safety – Prevention Group” published a report in August 1989 entitled *A Review of the Adequacy of the West Coast Tanker Exclusion Zone*. The review concluded that the Tanker Exclusion Zone was being complied with by TAPS oil tankers.¹⁹

23. Of relevance in the context of Bill C-48, the 1989 Tanker Exclusion Zone review also suggested “a regulation giving the zone legal status and containing an enforcement provision. The most basic requirement of the regulation would be the exclusion of tankers from the zone.”²⁰ Furthermore, the report concluded that: “The principle of “Exclusion Zones” was reviewed for all regions of Canada and nowhere was it found to be as directly applicable as on the West Coast.”²¹

Kitimat Oil Port Proposal and the West Coast Oil Ports Inquiry

24. The TAPS was not the only proposal for oil tanker traffic in the 1970s with implications for the BC north coast.
25. In December 1976, Kitimat Oil Pipe Line Ltd. filed an application with the National Energy Board and made a TERMPOL submission to build a deep sea oil port in Kitimat and an associated crude oil pipeline, in order to import crude oil via tanker from Alaska, Indonesia and the middle east for delivery through Canada to American markets.²²
26. In response, in 1977 the federal government launched an Inquiry into the matter under the federal *Inquiries Act*. The West Coast Oil Ports Inquiry held public hearings in various locations in British Columbia during 1977.²³
27. Concerns about the Kitimat Oil Port were also being expressed outside the Inquiry process. For example, the Gitga’at First Nation states:
- ...in 1977, Gitga’at blockaded the cruise ship *Princess Patricia* as it passed through Douglas Channel near our village of Hartley Bay, BC. On board the *Patricia* were oil and shipping industry executives intending to demonstrate to the media, public relations and government officials also onboard, the route oil tankers would travel to and from a then-proposed oil loading terminal in Kitimat, BC. The Gitga’at blockade was intended to encourage the *Patricia’s* passengers to stop in Hartley Bay so Chief Johnny Clifton could explain why Gitga’at could not support the proposal.²⁴
28. While the Inquiry’s mandate initially focused on the Kitimat Oil Port proposal, it was later expanded to consider west coast oil ports in general because another proposal was filed by Trans Mountain Pipe Line Co. to engineer and link an alternating-flow pipeline to a proposed expanded oil tanker dock in Cherry Point, Washington.²⁵
29. The West Coast Oil Ports Inquiry proceedings were complicated by the fact that both the Kitimat Oil Port proposal and Trans Mountain’s proposal were withdrawn later in 1977. Incidentally, the Trans Mountain proposal was withdrawn because it was made impossible by an amendment passed by US Congress that prohibited further expansion of crude oil transshipment facilities in Puget Sound, thus ruling out the Cherry Point proposal (discussed further in a subsequent section).²⁶
30. The Inquiry was therefore adjourned in November 1977 and instructed to issue a statement of proceedings rather than a final report. Yet, in January 1978, Kitimat Oil Pipeline Ltd. announced that it was reinitiating its oil port proposal.²⁷
31. In this context, with the Kitimat Oil Port proposal once again active, the West Coast Oil Ports Inquiry published its *Statement of Proceedings* in February 1978, in which Inquiry Commissioner Andrew Thompson stated:

Despite my familiarity with this history of determined opposition to tanker traffic, I have been surprised to find it so universal. In my preliminary meetings through-out the province and in the formal and community hearings of the Inquiry held to date, the oil port proposals have inspired few advocates other than the proponent companies themselves. It alarms me that this opposition is so vehement. Whether they be motel operators, sport fishermen, shore workers, naturalists or just plain citizens, people are indignantly outspoken.²⁸

32. The *Statement of Proceedings* did not make final findings, noting that further hearings and related study would be needed, however it did reach a number of conclusions including:
- i. “If an oil port is established at Kitimat there will inevitably be oil spills on the adjacent coast of British Columbia”;
 - ii. Imported oil would service American rather than Canadian supply needs at that time; and
 - iii. “Even if the desirable Canadian energy policy is to construct an oil port at Kitimat, this project should be rejected if the oil spill risks are too high, just as the Americans have rejected Puget Sound locations for transshipment port facilities.”²⁹
33. The same month that the Inquiry’s *Statement of Proceedings* was released, the federal government announced that it would not permit the Kitimat Oil Port to proceed.³⁰ The government’s decision was once again a statement of policy. This is evident in Ministers’ responses to questions in the House of Commons regarding Canada’s rejection of the Kitimat Oil Port:
- i. “...if I were the Kitimat oil company, or any other oil company, I would think twice before proceeding with an application because the Government of Canada made a very clear decision on the question of west coast oil ports, reflecting our view that we do not see the need for a west coast oil port in the foreseeable future.” (Hon. Len Marchand, Minister of State for Environment);³¹
 - ii. “...in law a consortium or a company has a right to apply to the National Energy Board and to make a submission to the National Energy Board regarding the building of a pipeline from Kitimat to whatever other point might be proposed. The hon. member also knows that through a number of policy statements the government has made it quite clear that it does not favour an oil pipeline through that route.” (Hon. Alastair Gillespie, Minister of Energy, Mines and Resources);³²
 - iii. “Kitimat is not an option; it is as dead as dead can be.” (Hon. Len Marchand, Minister of State for Environment).³³

Moratorium on Offshore Petroleum Development on BC North Coast

34. BC has also foregone development of offshore petroleum resources on the BC north coast in order to maintain a high level of protection for the region. In 1972 the federal government adopted a moratorium on oil and gas activities offshore BC, which has been described in federal sources as “an extension of a moratorium on crude oil tanker traffic through Dixon Entrance, Hecate Strait and Queen Charlotte Sound.”³⁴ (However, as noted above, in 2009 Canada took the position that reference to such a link between the BC north coast offshore moratorium and an oil tanker moratorium was an error).³⁵

35. In any event, there is no question that a federal policy moratorium exists for BC offshore development. Natural Resources Canada describes the BC offshore moratorium as follows:

Prior to 1972, a number of permits for oil and gas exploration were issued for offshore British Columbia. Due to environmental concerns, rights under those permits were suspended as of 1972 by way of Orders in Council, thus forming a de facto moratorium.

The Orders in Council expired on March 5, 1982...

At that time, the Government chose not to renegotiate the permits in the area under moratorium offshore British Columbia, whereby maintaining the moratorium on offshore oil and gas activity by way of policy decision... the moratorium continues to be maintained through government policy.³⁶

36. The federal government has considered lifting the BC offshore oil and gas development moratorium on two occasions, but in both cases it has maintained the moratorium.
37. In the 1980s, the federal and BC governments abandoned work on a pacific accord for offshore oil and gas development after British Columbians witnessed and experienced the impacts of two west coast oil spills: the 1988 Nestucca tanker barge spill which resulted in bunker C oil fouling the BC coastline,³⁷ followed by the 1989 Exxon Valdez spill. The federal and BC governments both affirmed the moratorium on offshore petroleum development in 1989.³⁸
38. In the early 2000s, at the request of a new BC government, Canada once again considered lifting the offshore petroleum development moratorium in BC but, again, ultimately maintained it. Materials informing the federal decision included the 2004 report of a federal Public Review Panel which, based on its 22 volumes of hearing transcripts and 13 volumes of written submissions, noted that “Overall, 75% of all participants wish to keep the moratorium and 23% wish to lift it.”³⁹

Enbridge Northern Gateway

39. The now-rejected Enbridge Northern Gateway proposal would have introduced between 190 to 250 tanker calls per year to a proposed marine terminal in Kitimat, with tankers up to 320,000 tons deadweight in size.⁴⁰ This led to extensive efforts to legislate the BC north coast oil tanker moratorium.
40. Following the proposal of Enbridge Northern Gateway, no fewer than six Private Members’ Bills were proposed between 2008 and 2014 to entrench a BC north coast oil tanker ban, and in 2010 a majority of the House of Commons passed a motion calling for the enactment of such a ban.⁴¹
41. There has been strong, widespread support for a legislated oil tanker ban on BC’s north coast in recent years, for example:
- i. Coastal First Nations, “a unique alliance of nine distinct First Nations working together to protect our coast and improve the quality of life in our communities,”⁴² declared a ban on crude oil tankers in their waters in 2010 with the *Coastal First Nations Declaration*, and called Bill C-48 “a big step in the right direction,” urging that the Bill be passed;⁴³
 - ii. The Yinka Dene Alliance, consisting of six First Nations in north-central B.C., issued a joint statement with Coastal First Nations supporting the federal government in fulfilling its commitment to legislate a BC north coast oil tanker ban;⁴⁴

- iii. The Union of B.C. Indian Chiefs has publicly supported Bill C-48;⁴⁵
- iv. Local governments in northwest BC including the City of Prince Rupert, the Village of Queen Charlotte, the District of Kitimat, the City of Terrace, the Town of Smithers and the Skeena-Queen Charlotte Regional District have passed resolutions or sent letters opposing crude oil tanker traffic on B.C.'s north coast, and/or supporting the federal government's commitment to a formal BC north coast crude oil tanker ban;⁴⁶
- v. The Union of B.C. Municipalities has passed a resolution calling on the federal government to legislate an oil tanker ban on B.C.'s north coast;⁴⁷
- vi. Labour organizations including the United Fishermen and Allied Workers' Union – Unifor, the Canadian Union of Postal Workers, and the Prince Rupert District Teachers' Union have supported Bill C-48;⁴⁸
- vii. Well over 30 community and environmental groups across northern BC and throughout Canada have supported a legislated BC north coast oil tanker ban and applauded Bill C-48;⁴⁹ and
- viii. In 2018, over 12,000 Canadians signed a House of Commons petition calling for a legislated oil tanker ban on the BC north coast, which was initiated by Marilyn Slett, president of Coastal First Nations and elected Chief of the Heiltsuk Tribal Council.⁵⁰

III. EXAMPLES OF VESSEL PROHIBITIONS BY OTHER JURISDICTIONS

- 42. This section looks beyond Bill C-48 to provide other examples where jurisdictions have used domestic law to impose tanker or general vessel moratoria/prohibitions for environmental reasons.
- 43. The examples are not intended to be a comprehensive list, nor do they arise in circumstances identical to Bill C-48 or legalize identical prohibitions. Rather, the examples are intended to demonstrate that Bill C-48 is not alone; other countries (and indeed Canada itself) have used domestic law to impose vessel moratoria or prohibitions to protect the environment.

Restriction on Oil Tanker Traffic in Washington State

- 44. As of 1977, the Puget Sound area of Washington State already had a number of refineries. As noted in the federal West Coast Oil Ports Inquiry referenced above, in 1977 a proposal was on the table to significantly expand crude oil tanker docking facilities in Cherry Point, WA.
- 45. The US Congress put an end to the proposed Cherry Point crude oil tanker port expansion in 1977 by passing a law to prohibit the US government from issuing approvals that would expand crude oil transshipments east of Port Angeles (unless for refining and consumption in Washington). As evident from its text, the clear intent of this legislation is to establish a moratorium on expansion of crude oil tanker traffic on this part of Washington's coast:

§476. Restrictions on tanker traffic in Puget Sound and adjacent waters

- (a) The Congress finds that

- (1) the navigable waters of Puget Sound in the State of Washington, and the natural resources therein, are a fragile and important national asset;
- (2) Puget Sound and the shore area immediately adjacent thereto is threatened by increased domestic and international traffic of tankers carrying crude oil in bulk which increases the possibility of vessel collisions and oil spills; and
- (3) it is necessary to restrict such tanker traffic in Puget Sound in order to protect the navigable waters thereof, the natural resources therein, and the shore area immediately adjacent thereto, from environmental harm.

(b) Notwithstanding any other provision of law, on and after October 18, 1977, no officer, employee, or other official of the Federal Government shall, or shall have authority to, issue, renew, grant, or otherwise approve any permit, license, or other authority for constructing, renovating, modifying, or otherwise altering a terminal, dock, or other facility in, on, or immediately adjacent to, or affecting the navigable waters of Puget Sound, or any other navigable waters in the State of Washington east of Port Angeles, which will or may result in any increase in the volume of crude oil capable of being handled at any such facility (measured as of October 18, 1977), other than oil to be refined for consumption in the State of Washington.⁵¹

46. This law is still in force.

Moratorium in Head Harbour Passage, New Brunswick

47. Bill C-48 would not be the first moratorium on laden oil tankers to be legally implemented in Canada. In 1982, Canada enacted the *Oil Carriage Limitation Regulations* under the *Canada Shipping Act*, which stated: “No oil tanker that is within the waters of Head Harbour Passage, New Brunswick, shall carry on board, as cargo or otherwise, oil in excess of 5000 m³.”⁵²
48. The Regulation arose in order to protect the area from oil tankers in connection with a proposed large refinery in Maine. The Regulation was repealed in 1987, with the following rationale provided in the *Canada Gazette*:

The Standing Joint Committee of the Senate and the House of Commons on Regulations and other Statutory Instruments has claimed that the *Oil Carriage Limitation Regulations* lack enabling legislation and are therefore “Ultra Vires.” Amendments incorporated within the Bill to amend the *Canada Shipping Act* will remedy the vires problem and permit speedy reintroduction of the *Oil Carriage Limitation Regulations*, should this prove necessary. However, there is no longer a current need for the Regulations, since plans to build a large refinery at Eastport, Maine, have been abandoned. The threat of environmental damage to the waters of Head Harbour Passage, New Brunswick, from large oil tankers traffic, has therefore subsided.⁵³

Florida Keys Tanker Exclusion

49. In 1990, the United States enacted the *Florida Keys National Marine Sanctuary and Protection Act*, implementing measures including a prohibition on tankers (and any vessel greater than 50 metres in length) over an area covering 5,354 square kilometres.⁵⁴

50. In 2002, the United States also obtained designation of the Florida Keys National Marine Sanctuary as a Particularly Sensitive Sea Area by the International Maritime Organization. This designation was not accompanied by additional rules, rather it sought to elevate public awareness of the existing domestic protection measures.⁵⁵

Sanctuary Area Surrounding Prince Edward Islands, South Africa

51. In 2013, the government of South Africa issued regulations under the *Marine Living Resources Act, 1998*, creating a Sanctuary Area surrounding the South African Prince Edward Islands in which no vessels are permitted (with limited exceptions for research vessels, etc.).⁵⁶
52. The Sanctuary Area extends 12 nautical miles out from the Islands, excluding vessels from a marine area covering 17,903 square kilometres. The regulations establishing the Sanctuary Area also set out zones of a larger Marine Protected Area (in which various fishing activities are restricted or controlled).⁵⁷

Transshipment Ban in the Great Barrier Reef

53. In the context of proposals over a number of years to develop infrastructure along the Great Barrier Reef coast for small vessels to transfer coal (and some other materials) to larger vessels offshore, to enable development of coal mines, in 2018 the Queensland government announced a policy prohibiting transshipping within the Great Barrier Reef Marine Park and stated that it is “currently developing necessary regulations” to implement the policy in law.⁵⁸
54. The Queensland government is in the process of passing a Bill to furnish legal authority that, in the words of Environment Minister Leeanne Enoch speaking to Parliament in March 2019, will “assist the Queensland government to give full effect to its newly announced transshipping policy, which recognises the multiple pressures our Great Barrier Reef is facing by prohibiting transshipping operations within the Great Barrier Reef Marine Park.”⁵⁹
55. One of the purposes of the Bill, according to the Minister, is to enable the Queensland government to implement such environmental protection measures consistently throughout the Great Barrier Reef Marine Park, which covers an area of 344,400 square kilometres.⁶⁰

IV. CONCLUSION

56. Bill C-48 reflects the particular history of the BC north coast, and responds to many decades of efforts by Indigenous nations, northern communities and citizens throughout BC and Canada to protect this remote and ecologically important place from the introduction of risks posed by oil tanker traffic.
57. While Bill C-48 is not unique in the world, as the examples above illustrate, it is uniquely important to the BC north coast and those who are connected to it. Bill C-48 should be enacted.
58. We thank the Committee for an opportunity to provide submissions.

ENDNOTES

- ¹ Attorney General of Canada, “Northern Gateway Project: Response of the Attorney General of Canada to the Motion of Gitxaala Nation” (A43620), online: <https://www.ceaa-acee.gc.ca/050/documents/p21799/81083E.pdf>, Appendix pages 19-20 [“Attorney General, “Response to Motion of Gitxaala Nation””].
- ² Canada, House of Commons, Special Committee on Environmental Pollution, *Report to the House*, 28th Parl., 3rd Sess. (June 21, 1971) at 21:3 [“Special Committee on Environmental Pollution, *Report to the House*”].
- ³ See summary in *Wilderness Society et al. v. Rogers C.B. Morton, Secretary of the Interior, et al*, 479 F.2d 842 (D.C. Cir. 1973) [“*Wilderness Society v. Secretary of the Interior*”].
- ⁴ British Columbia, Legislative Assembly, *Journals*, 29th Parl., 2nd Sess. (February 4, 1971) at 32.
- ⁵ Special Committee on Environmental Pollution, *Report to the House*, *supra* at 21:5.
- ⁶ David Anderson, “David Anderson: Tanker-ban decision was not taken lightly” (November 14, 2015), *The Times Colonist*, online: <http://www.timescolonist.com/opinion/columnists/david-anderson-tanker-ban-decision-was-not-taken-lightly-1.2111348>
- ⁷ *Ibid*
- ⁸ Canada, House of Commons, *Journals*, 28th Parl., 4th Sess. (May 15, 1972) Vol. 118, No. 52 at 295
- ⁹ British Columbia and Canada, *Offshore Hydrocarbon Exploration: Report and Recommendations of the West Coast Offshore Exploration Environmental Assessment Panel* (April 1986) at 9.
- ¹⁰ Natural Resources Canada, *Report of the Public Review Panel on the Government of Canada Moratorium on Offshore Oil and Gas Activities in the Queen Charlotte Region British Columbia* (October 29, 2004), Appendix A1 [“NRCAN, *Report of Public Review Panel on the Government of Canada Moratorium on Offshore Oil and Gas Activities*”].
- ¹¹ Jed Chong and Nicole Sweeney, *Legislative Summary of Bill C-48: An Act respecting the regulation of vessels that transport crude oil or persistent oil to or from ports or marine installations located along British Columbia’s north coast*, Library of Parliament Publication No. 42-1-C48-E (May 19, 2017) at 1.
- ¹² *Wilderness Society v. Secretary of the Interior, supra*.
- ¹³ For a summary history of this sequence of events, see *A Giant Step Backwards: Alyeska Pipeline Service Co. v. Wilderness Society and Its Effect on Public Interest Litigation*, 35 Md L Rev 675 (1976).
- ¹⁴ Canadian Coast Guard, Marine Communications and Traffic Services, *TEZ* (September 29, 1993 revised) at 2 [“Coast Guard, *TEZ*”].
- ¹⁵ For example, during debate regarding the Exxon Valdez disaster, former Liberal leader John Turner, who in 1977 had been a federal Cabinet Minister, said: “In 1977 we signed an agreement with the United States to keep tanker traffic well offshore.” Canada, House of Commons, *House of Commons Debates*, 34th Parl., 2nd Sess. (April 4, 1989) Vol. 1 at 53.
- ¹⁶ Coast Guard, *TEZ, supra* at 2.
- ¹⁷ *Ibid* at 3-4.
- ¹⁸ Fisheries and Oceans Canada and Canadian Coast Guard, *Notices to Mariners 1 to 46, Annual Edition 2019* (2019), section A5, notice 10, article 2.5.
- ¹⁹ Federal Internal Review of Tanker Safety – Prevention Group, *A Review of the Adequacy of the West Coast Tanker Exclusion Zone* (August 1989), section 3.2.3.
- ²⁰ *Ibid*, section 3.1.
- ²¹ *Ibid*, section 3.4.
- ²² West Coast Oil Ports Inquiry, *Statement of Proceedings* (February 1978) at 3, 104-105 [“West Coast Oil Ports Inquiry, *Statement of Proceedings*”].
- ²³ *Ibid*.
- ²⁴ Gitga’at First Nation, *Submission to the Standing Committee on Transport, Infrastructure and Communities Regarding Bill C-48, the Oil Tanker Moratorium Act* (November 7, 2017) at para 5.
- ²⁵ West Coast Oil Ports Inquiry, *Statement of Proceedings, supra* at 114-115.
- ²⁶ *Ibid* at 121-122.
- ²⁷ *Ibid* at 123-124.
- ²⁸ *Ibid* at 2.
- ²⁹ *Ibid* at 58 and 80.
- ³⁰ Robert Trumbell, “Oil Port at Kitimat Barred by Canada” (February 24, 1978), *New York Times*, online: <https://www.nytimes.com/1978/02/24/archives/oil-port-at-kitimat-barred-by-canada-oil-port-at-kitimat-is-barred.html>
- ³¹ Canada, House of Commons, *House of Commons Debates*, 30th Parl., 3rd Sess. (March 10, 1978) Vol. 4 at 3660.
- ³² Canada, House of Commons, *House of Commons Debates*, 30th Parl., 4th Sess. (March 15, 1979) Vol. 4 at 4186.
- ³³ *Ibid* at 4184.
- ³⁴ NRCAN, *Report of Public Review Panel on the Government of Canada Moratorium on Offshore Oil and Gas Activities, supra* at 1-2.
- ³⁵ Attorney General, “Response to Motion of Gitxaala Nation,” *supra*, appendix, pages 19-20.
- ³⁶ *Ibid*.

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- ³⁷ J.C. Davis, “Nestucca” Oil Spill: Department of Fisheries and Oceans – Report on Spill Response, online: <http://www.dfo-mpo.gc.ca/Library/173303.pdf>.
- ³⁸ For a summary see Al Hudec and Van Penick, “British Columbia Oil and Gas Law” (2003) 41:1 Alberta Law Review 101 at 106.
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