

**Slide #1 – The Future of Spill Management in BC**

- I am pleased to be here today to talk about the future of spill management in British Columbia.
- I have been the executive director responsible for corporate policy at the Ministry of Environment for a number of years. I am new to direct leadership over the provincial spill management file, but my staff and I have been actively involved in pipeline reviews and policy development related to this initiative for a long time now.
- I am grateful for the important contribution of all those who have provided their perspectives, advice and expertise in our engagement on this topic over the years.
- I believe we are striking an appropriate balance with what we will be sharing with you over these two days.
- In some cases we are asking for more from companies involved in the use and transport of hazardous substances.
- In other instances we are asking you to provide information that confirms for us what you already do, so we have confidence in the capability that exists out there, and we are assured that we are satisfying our mandate to protect the environment.

**Slide #2 - Agenda**

- In this presentation I will discuss three topics with you that together set a course for the day and the next steps in developing the provincial spill preparedness and response regime.
- First, I want to give you a brief history of how we got to today. I recognize many of you have heard this before, but bear with me because I want us all to have the same context going into today's upcoming discussions.
- Then I will turn to what we believe the future of spill management in BC will look like, before rounding the presentation off with an overview of how you can help inform and shape that shared future in the months and year ahead.

**Slide #3 - Context**

- As you know, in July 2012, the Premier released a paper indicating there will be five conditions that must be met for British Columbia to consider support for heavy oil pipelines.
- Included in the list was a call for world leading spill preparedness and response in the marine and terrestrial environment.
- Simultaneously, the Ministry was already looking at the state of spill management across all sectors - - beyond just pipelines to look for ways to improve BC's spill preparedness and response capacity and capability.
- The Program was doing this for good reason – increased use and transport of hazardous substances, increased public interest in environmental emergencies, and a need – after 20 years – to review and improve upon the outdated provincial regime for managing spills.

**Slide #4 – Research and Engagement**

- We spent time reviewing the current landscape of spill management in British Columbia. Over the last few years –
  - We studied how things were done in neighboring provinces and states, as well as around the world;
  - We reviewed what our federal partners require, but also what individual companies and industry associations already do on a voluntary basis;

- We set up a policy advisory committee and a series of working groups to focus on what the best policy options for British Columbia might be.
- We also established a government committee, comprised of representatives from Alberta, British Columbia, and Federal Agencies.
- We released two policy intentions papers and hosted a spill policy symposium, with the aim of obtaining even more feedback from British Columbians, First Nations, local governments, industry, and other regulators.
- Finally, we led and participated in a series of contracts looking at the state of spill response in the marine environment and interprovincial pipelines, as well as participated in a Canadian Council of Ministers of the Environment contract looking into approaches for managing spills in all Canadian jurisdictions.

#### **Slide #5 – Multiple Regulators**

- In all this work we found a number of challenges that have to be addressed so we can implement a world-leading spill response regime in British Columbia.
- Each sector typically has their own primary industry regulator – we recognize that – :
  - Oil and Gas has the Oil and Gas Commission;
  - Interprovincial pipelines have the National Energy Board;
  - Transport Canada has rail, trucking and marine, though the actual on-water responses are handled by the Canadian Coast Guard;
  - And, Environment & Climate Change Canada has responsibility for certain fixed facilities, as do we and many other regulators.
- When it comes to spill management, each regulator handles their requirements in unique ways.
- That’s of course fine for prevention, where sector specific conditions require unique rules. For example, you would expect the National Energy Board to have rules about pipe wall thickness and valve spacing, but those rules are not relevant for rail transportation.
- However, when it comes to preparing for effective spill responses we found the lack of consistency among regulators to be a challenge. We believe once material is spilled to the environment what has to happen in a response is basically the same from one sector to another, the only variable being how to handle the material-type that was spilled. For example, once oil is spilled you need the same type of trained responders, deploying the same equipment to clean up the spilled material.
- One would expect then that preparedness requirements should be uniform – everyone working to ensure the same level of response once spilled material reaches the environment.
- We found some companies or industry associations went well beyond what was required of them, while others stuck to the letter of the law.
- We want to set a single bar for preparedness that must be met no matter who your industry regulator is. If it turns out that you already meet or exceed that bar, then great, if you don’t then you may have to augment the good work you’re already doing to come up to the standard.

#### **Slide #6 – High Profile Incidents**

- When we reviewed actual spill incidents, in British Columbia, but also internationally, we found many examples of responses that went poorly:
  - Either there were too few responders available;
  - Inappropriate equipment for the incident;
  - Delays in setting up monitoring stations for public health;
  - Failures to alert the right authorities or public;
  - Or failures to establish an incident command post;
  - And a series of delays in getting the response started in the first place.

- At the Ministry of Environment we are responsible for ensuring environmental protection. We have to be able to expect that when a spill occurs an effective response is available as soon as possible, and that response will contain the spilled material and address the impacts in a predictable manner.

#### Slide #7 – Clarity on the Risk

- Our review also uncovered a need for greater clarity in British Columbia on the extent of risk that exists – we don't have a full handle on where hazardous goods are being used, stored and transported in British Columbia, and we don't know what capability exists to address it. We know individual regulators may manage this information for their sector – but the lack of a central, current, and transparent repository is problematic.

#### Slide #8 – Public Trust

- Finally, we have work to do to build public trust. There is a lot of world leading practices already out there in British Columbia, we need to communicate those successes while building up on the capability where it doesn't exist.
- This public trust is critical to our economy, without it industry lacks the social license needed to develop natural resources in a responsible manner.
- Together – the various preparedness capabilities, varying response performances, clarity on the risk and public trust are all issues the new provincial spill management regime intends to address – your help in designing the system will be essential to its success.

#### Slide #9 – Leaders Set a High Bar

- I want to stress - even though there is room for improvement, we also found many who go above and beyond what is required to ensure readiness to provide a world leading response.
- We heard from the responder community about the rigor that goes into their planning and response work.
- We heard from all types of industries about how they prepare for spills.
- And we met with other regulators to learn about the initiatives they are planning to improve the state of spill response across sectors and into the marine environment.
- All these leaders also provided us with input through working groups and reports to help us arrive at where we've landed today. We are grateful for their help.
- Where we are addressing gaps, the work is not about pointing fingers, it is about working together to improve spill management for British Columbia.

#### Slide #10 – Design Principles for the future state

- In our previous policy intentions papers we introduced seven principles that that we felt should guide the development of the regime.
- These were well received and we've since committed that they would serve as our design principles.
- They are:
  - First, the system will be **risked-based**. Spillers must meet new response requirements and businesses that have the potential to have a significant spill will be required to demonstrate preparedness.
  - Second, we are calling for **strong government oversight** – the public expects us to ensure the protection of the environment.
  - Third, **continuous improvement** – we will routinely look at how we're doing, and make improvements where necessary.
  - Forth, we need to be **transparent**, with information, but also in how we develop the regime. We're committed to being open about what we are proposing and learning from your expertise.

- Fifth, government and industry can't do this alone. We've committed to ensuring that **First Nations and local communities have as strong a role** as necessary in the regime to ensure we've got the right level of oversight and protection.
- Sixth, **polluter pays**. This is already in effect here and will not change – if you spill you must respond in accordance with what's required. If you can spill, you must ensure you are adequately prepared to respond.
- And last, **avoid unnecessary duplication**, which I will address in the next slide.

#### Slide #11 – Spill Management is a shared space

- We have heard a lot of concern about duplication – and rightly so. No one wants to do something that is unnecessary. Industry doesn't want to waste resources and government has no interest in asking companies to do something twice simply for the sake of it.
- We will avoid all unnecessary duplication with existing requirements from other regulators, and align with what's in place as much as possible.
- I can envision an outcome in the future where we have a suite of new preparedness requirements – there will be some companies that satisfy all our requirements, either voluntarily or due to requirements in place under their industry-regulator. There will be others that do not, and they will have to augment what they are doing now to meet what is newly required.
- Where existing requirements do not go far enough, we will require the higher provincial bar be met. The commitment to avoid unnecessary duplication is made within the context that our first goal is to have a world leading regime that ensures the protection of the environment.
- Some necessary duplication may occur and there will be additional administration, when it comes to reporting and the development of contingency plans.
- In a moment I will talk about the spill preparedness and response organization – or PRO – that we envision taking form. We believe a PRO is critical because it can ensure an effective response is always available, anytime, anywhere in British Columbia.
- Some may see this as duplicative. If they have capability and a PRO has capability then it might appear there is redundancy.
- Our perspective is that a PRO can be designed to incorporate existing capability rather than duplicate it. We would strongly encourage anyone looking to develop a PRO to look at how it can incorporate existing capability where it can – sharing equipment, responder contracts, and plans may actually save people money.
- Finally, I think the number of other regulators in the room today is a testament to ours and their commitment to working together on this to have a world leading regime and avoid duplication.

#### Slide #12 – Overview of the Future State

- As you know legislation is currently before the house that would establish the building blocks for a world leading regime in British Columbia.
- It includes new preparedness requirements that regulated persons would be required to meet – regulated persons being those companies that handle large quantities of listed hazardous substances.
- It also includes new response requirements and recovery requirements, as well as creating the conditions where a PRO could take form.
- You will hear more about the legislation in the next presentation. For now, I am going to fly through an overview of one way the future state could take form.
- The first critical point is to state that now we are working to establishing new rules – we know we will have to increase our oversight role to match the new rules we're creating, and that we will need to participate in efforts to increase coordination, collaboration and communication among regulators, industry, First Nations and communities. What that looks like is still being explored –

we're happy to discuss this, but our focus today is on the building blocks... the preparedness, response and recovery requirements, and how a PRO could come to be.

#### **Slide #13 – Prevention in the Future State**

- Spill management has four pillars: prevention, preparedness, response and recovery. Our proposed regime address the latter three – preparedness, response and recovery.
- The Ministry believes that existing regulators are best positioned to continue to address prevention. We know it is a critical piece to spill management – if you can stop a spill from ever happening in the first place, that is the best possible result.
- Other regulators have technical and sector specific knowledge that we lack. Our focus and expertise is on the environment and how to address spills once they occur.

#### **Slide #14 – Preparedness in the Future State**

- After prevention comes preparedness. We know companies do everything they can to prevent spills from ever happening in the first place, but spills do happen, it is a reality.
- We need a provincial regime that sets a clear bar for preparedness that must be met regardless of sector. Once a spill reaches the environment, it doesn't matter if it came from a pipeline, train, truck or fixed facility – it has spilled and it is in the environment, we expect the same world leading response from whoever spilled it.
- To that end, we intend to identify regulated persons, based on prescribed substances in prescribed quantities that will be required to reach that new bar for preparedness – from those entities that can have major spills we cannot wait until and actual incident to know if they have the means to respond effectively.
- To start, as per the legislation, we will require regulated persons to prepare, test and implement spill contingency plans.
- And, if ordered to do so, participate in the development of a geographic response plan, which provides shared tactical on-the-ground response actions for waterways or sensitive areas.
- They will have to have an arrangement with a spill preparedness and response organization if one is certified for their area of operation, and that organization will have to have an area response plan that provides a high-level overview of the risks in a broad zone.
- As part of ensuring oversight, we will also require reports from regulated persons indicating what prescribed substances at what prescribed quantities they have in their possession.

#### **Slide #15 – Response in the Future State**

- In the unfortunate event that a spill does occur, we expect whoever the spiller is to respond to that incident in accordance with our new spill response rules – the rules will ensure everyone knows what their role and responsibilities are during a spill.
- We intend to establish response times, linking responders, equipment, and the establishment of an incident command post to reasonable time frames for which these things should be operational.
- I want to be clear, because I know this has caused some stress before. Reasonable rationales for why a response action did not occur within the prescribed time would be accepted, thus not resulting in compliance or enforcement actions.
- We intend to require an initial spill report and follow up spill reports, so the government, First Nations, local communities and the public all have the information they need to make decisions on how to interact with a given incident.
- We will also require sampling and monitoring to begin as soon as practicable to ensure we have the data needed to make informed decisions about next steps.

### **Slide #16 – Recovery in the Future State**

- The province believes that once clean-up is complete and spilled material is removed from the area, a spiller has the responsibility to address the damage done to the environment. This could include replacing damaged ecosystems or species, as well as ongoing monitoring to ensure that recovery is taking place.
- There's a lot of policy work left to be done here and we look forward to engaging on this topic and exploring a range of options to address recovery following a spill. For now, we want to talk about what a recovery plan could look like if one were required for a given incident. You will learn more about where we want to go on this topic during the session.

### **Slide #17 – How can a PRO help**

- No matter what form the regime takes, we need preparedness, response and recovery to happen effectively.
- The province will ensure its program and oversight align with the requirements that are set so we can be actively engaged in ensuring compliance, but also in promoting greater collaboration, coordination and communication – we want to create a spill response community that can ensure a world leading response.
- We believe a Provincial Spill Preparedness and Response Organization is critical, and the legislation creates the right conditions for one to form.
- Exactly what it looks like will be influenced by you – industry, local government, First Nations, Stakeholders and the public.
- To us, we believe a PRO could serve to assist industry in meeting the requirements we are proposing here in a cost-effective and cutting-edge way.....but the province will not be the PRO, we will create the conditions for one to emerge, we will certify one and require people who operate in this area to have an arrangement with it – but we will look to you and/or others in the response or business community to lead the charge. We will provide oversight and engage with it as a regulator.
- Tomorrow you will hear from us with some potential roles and functions the PRO could serve, but I want to stress that this is not exhaustive, one of the key reasons we want a PRO to emerge, is that as an industry led body, it could fill a greater role than we require or envision at great benefit to its users and partners.

### **Slide #18 – PRO and regulated persons**

- We believe a PRO could be designed to provide assistance and leadership to regulated persons in preparedness.
- It will have to develop Area Response Plans, the highest order of planning, and be available to respond to up to a defined worst-case spill on behalf of its members (either with own forces or through a network of existing response contractors and equipment).
- It could coordinate exercises and drills; prepare geographic response plans on behalf of members; and, provide leadership for regulated persons in their development of contingency plans.
- It could become a coordinating body for responder contracts, equipment caches and inventories, ensuring that each regulated person has the capability they are required to have to meet new provincial requirements.

### **Slide #19 – PRO and spillers**

- A spiller will not be required to use the PRO to respond, but should one be certified the option will be there – a spiller will have at their means the response capability of the whole, at a cost, to address the incident that has occurred.

- Indeed, a PRO can ensure an effective response is always available, even if the province has to contract it if a spiller is unable, unwilling, or unidentified.

#### **Slide #20 – PRO as the connector**

- You're going to hear much more about the PRO today and tomorrow. Daphne will highlight how the legislation supports its development, and we have a significant portion of tomorrow's agenda dedicated to it.
- I want to underscore our vision for the PRO. We believe that today there are numerous companies with varying capabilities to respond. Once the new requirements are established, there will be clear provincial rules on what type of preparedness must exist and what a response must look like.
- A PRO can step into this space and organize across companies and sectors to coordinate resources for given areas so that resources are shared where it makes sense to do so, while ensuring an effective response is always available. We believe a PRO is critical to avoiding duplication and saving us all time and energy in ensuring we are adequately prepared to respond.
- Further, it can add significant value as a hub for information and continuous improvement. It can house contingency plans, geographic response plans, and critical data about the use/movement of hazardous materials, it can provide training leadership, and host drills and exercises on behalf of its members. Finally, it can serve as a source for open and transparent information for all those involved in the spill response system – First nations, local governments, regulators, the public and industry.
- I am looking forward to engaging with you further on this topic.

#### **Slide #21 – Other Considerations**

- I want to take this time to address some lingering considerations I'm sure that most of you have thought of or are concerned about.
- One significant consideration, particularly as it represents one of the Province's Five Conditions, is how this proposed regime impacts spill preparedness response and recovery in the marine environment.
- We recognize that our federal partners play a lead role in the marine environment, in particular for ship-source spills.
- We intend to work very closely with Transport Canada and the Canadian Coast Guard to see the changes we believe are necessary to improve what happens there.
- We are pleased to see the good work that has been done so far, and will continue to monitor progress.
- I want to be clear though. The Province has more than just an interest in marine spill response. We do have responsibilities when spilled material reaches the shoreline, and that is why we're keen to ensure greater preparedness in the marine sector as well as more stringent response requirements once a spill does occur. We have, and will continue to participate in marine spill responses, and have advice on how we think it can be improved.
- With regard to funding this regime there are a number of considerations. As you'll note from the design principles, it is a core tenet of this regime that those who pollute, or who present a risk to pollute, pay. This means that industry will be responsible for paying their way to meet new requirements set out in law, and the Province believes that they should have the freedom to meet these requirements in a manner they see fit, so industry will be counted on to self-regulate their funding to a point, noting that the Minister will retain powers to adjudicate complaints about fees set by a PRO.
- And finally, speaking of the ministry's capability and capacity, it is possible that under this new regime, the ministry will have to make changes to its Environmental Emergencies Program. You'll note today some of our response officers under this program are here with us. Any changes to this program, the duties or roles of its response officers, or how ministry resources are deployed

province-wide will be handled internally, and we'll work diligently to ensure that the ministry is capable of implementing and operating this new regime.

#### **Slide #22 – What do we hope the new regime will do**

- This summary slide shows the most crucial objectives this regime needs to achieve.
- We want a regime that improves and incents collaboration, we believe the PRO is the best way to do this.
- We want spill management to be predictable. Everyone has the same information and knows what they are required to do with it – in terms of planning, but also in reporting spills and responding to them.
- The regime will not duplicate existing regulatory powers. We've committed to that throughout this process. You can help us ensure we get this right.
- We are not interested in making rules simply to have authority – we don't want to spend tax payer resources on unnecessary oversight and you don't want to spend your money following unnecessary rules. Our rules will be based on risk and on the polluter pays principle.

#### **Slide #23 – Expectations for Today and Tomorrow**

- Today's workshop is going to achieve some key things for you as attendees, and for myself and my team going forward.
- You should leave these sessions with a much more detailed understanding of what our intentions are in terms of our vision for this regime, how we will implement the legislation, the development of new regulations and policies to support this. As an attendee here, you should also leave with a sense that your feedback was heard at the session, and that any other feedback you have will be heard by us, through the channels we have provided.
- It is my hope that my team leaves these sessions with a better understanding of both the challenges we are faced with as we move forward, and the opportunities to capitalize on the work that is already being done across sectors to achieve our goals. We will leave these sessions with lots of comments to sort through as part of this ongoing engagement process, and later this year we will report back publicly on the outcomes.
- Speaking specifically about today though, these sessions will follow a general structure to allow you to learn more about our plans, ask questions about what we're proposing, and have a chance to provide comment on the proposals.
- In each session, expect to see an approximately 15 to 20 minute presentation, be given some time for questions, and then have a chance to provide comment on specific topics for the remainder of the time. Please remember that we will have staff members recording notes throughout the sessions, working hard to capture the comments and questions you have, so remember to identify yourself in your comments and questions so we are able to accurately capture your comments.
- I appreciate that these two days will move quickly, this is a lot of material to digest in only a couple of days, so bear in mind that you can ask further questions, and provide further comments to us after the session in writing and we will consider them and respond where required.

#### **Slide #24 – Engagement in 2016**

- Finally, I am providing you with an overview of engagement in 2016, so you can see where we are in the process. I am looking forward to working with you all as we move forward on this project.