Brief to the Senate Standing Committee on Energy, the Environment and Natural Resources

Consideration of Bill C-69

March 2019
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About the Canadian Ferry Association

The Canadian Ferry Association (CFA) is the national voice of the ferry industry in Canada. Our members adhere to the highest professional and operational standards and promote the safe delivery of ferry services across Canada.

CFA is a member-based organization representing Canadian ferry owners, operators and industry stakeholders across the country and internationally. CFA has more than 115 members, with our owner/operator members accounting for nearly all of the major ferry routes in Canada.

Ferries are an integral part of Canada’s transportation system. Collectively, ferries in Canada:

- Run a fleet of more than 250 vessels
- Employ approximately 6,300 people directly
- Generate 22,600 jobs
- Carry more than 55 million passengers and 21 million vehicles annually

Recommendations

1. Ensure that future Major Works Orders accurately reflect the realities of the marine sector and do not impose burdensome and unnecessary review and approval processes. Exempt ferry cables from future Major Works Orders.

2. Clarify ambiguity regarding ministerial discretionary powers in the bill.
Proposed Major Works Order

The government’s proposed changes, notably the new Canadian Navigable Waters Act (CNWA), have the potential to impact Canada’s ferry sector. Should this bill be passed, the Minister of Transport would issue a Major Works Order that defines which types of projects are deemed to be an interference to navigation and would require additional oversight.

Transport Canada publications (released in November 2018 and August 2017) outline a list of potential works that could be included in a new Major Works Order. Included in this list are cable ferries.

Per the government’s own definition, works to be included are those that are “likely to pose a substantial interference to navigation;” and would be subject to an approval process should the owner “construct, place, alter, rebuild, remove or decommission a major work.”

Other examples of Potential Major Works proposed by the federal government include dams and causeways. It is obvious that dams and causeways of a certain size would pose significant impact to navigation, however, to classify ferry cables in the same category is not a fair characterization of our sector.

Our sector believes that the inclusion of ferry cables in this designation does not accurately reflect the realities of our sector and would become burdensome and unnecessary.

Ferry cables do not substantially interfere with navigation

Cable ferries vary within Canada – overhead vs submerged cable, differing route lengths, most serving remote communities – but one characteristic they all have in common is minimal impact to the land, water, and navigability of the waterways.

In most cases, there is limited vessel activity in the area serviced by the cable ferry, often times the only vessels are canoes and small aluminum fishing boats. In most cases, the ferry is the largest vessel in the area. Some examples are listed below.

<table>
<thead>
<tr>
<th>Region</th>
<th>Type of ferry</th>
<th>Other Vessels in Region</th>
</tr>
</thead>
<tbody>
<tr>
<td>British Columbia – remote lakes</td>
<td>Submerged ferry cable</td>
<td>Small recreational power boats</td>
</tr>
<tr>
<td>Manitoba</td>
<td>Submerged ferry cable</td>
<td>Small aluminum boats</td>
</tr>
<tr>
<td>New Brunswick</td>
<td>Submerged ferry cable</td>
<td>Local pleasure crafts, aluminium boats</td>
</tr>
<tr>
<td>Northwest Territories</td>
<td>Submerged ferry cable</td>
<td>Small vessels</td>
</tr>
<tr>
<td>Nova Scotia</td>
<td>Submerged ferry cable</td>
<td>Local pleasure crafts, aluminium boats</td>
</tr>
<tr>
<td>Saskatchewan</td>
<td>Overhead ferry cable – 11 routes served</td>
<td>Canoes, small aluminum fishing boats</td>
</tr>
<tr>
<td>Saskatchewan</td>
<td>Submerged ferry cable</td>
<td>Pleasure craft – large and small</td>
</tr>
</tbody>
</table>
For submerged ferry cables, the cable itself is affixed to the shore and resides on the bottom of the body of water. When the ferry is making a crossing, the cable rises from the bottom, is pulled through the ferry’s winch, and settles again on the bottom. The only impact to navigation is when the vessel is physically moving, at which time its navigational interference does not vary much from any other vessel.

In the regions where overhead ferry cables are utilized, there is very minimal vessel traffic – both in size and frequency. Additionally, due to water level fluctuations, only small recreational boats (i.e. canoes) visit the area.

**Government review unlikely to reveal new information**

Canada’s cable ferries have been used for over two centuries and therefore a long history of safe operation in Canada. Prior to being installed and launched, various reviews and risk mitigation measures are put in place to ensure that the ferry operates safely and with minimal impact.

Adding additional oversight mechanisms for routine actions (such as placing, removing, altering, etc.) related to ferry cables is unlikely to reveal any new information not previously known.

It is also likely to become repetitive and may be a questionable use of government resources, particularly if the same review is to be conducted on the same vessel and route each time a cable is removed, replaced, etc. (in some cases, as short as 6 weeks apart).

**Required government oversight is unrealistic**

Ferry cables are replaced on a schedule, and, from time to time, as required for safety and other reasons. In some cases, cables are installed at the beginning of the season and removed at the end.

The replacement process is relatively short and has virtually no impact on the surrounding area.

Per the process outlined in Bill C-69 and supporting documents, should ferry cables be included in the new *Major Works Order*, every time a cable needed to be installed, repaired, replaced, etc., the operator could be required to go through a review process. This would significantly extend the amount of time needed for relatively straightforward repairs and considerably inconvenience the surrounding communities.

Depending on the length of time required for the review and approval process, it may unrealistic for some operators who install their ferry cables on a seasonal basis.
There is also concern that these additional review requirements would be a barrier to completing required maintenance in a timely manner, which could create unintentional safety risks.

<table>
<thead>
<tr>
<th>Region</th>
<th>Replacement Schedule</th>
<th>Time required</th>
</tr>
</thead>
<tbody>
<tr>
<td>British Columbia – remote lakes</td>
<td>Every 6-9 months</td>
<td>Few hours</td>
</tr>
<tr>
<td>Manitoba</td>
<td>1-3 times per season</td>
<td>2-6 hours</td>
</tr>
<tr>
<td>New Brunswick</td>
<td>Varies depending on location.</td>
<td>12 hours</td>
</tr>
<tr>
<td>Northwest Territories</td>
<td>Every 2 years, or as needed</td>
<td>4 hours</td>
</tr>
<tr>
<td>Nova Scotia</td>
<td>Varies depending on location – between every 3-9 months and 1-2 years.</td>
<td>12 hours</td>
</tr>
<tr>
<td>Saskatchewan – overhead cable</td>
<td>Underwater component – every 6 weeks-3 months, depending on traffic</td>
<td>4-8 hours</td>
</tr>
<tr>
<td></td>
<td>Overhead cable – 40 years (approx.)</td>
<td></td>
</tr>
<tr>
<td>Saskatchewan – underwater cable</td>
<td>Typically once per year</td>
<td>1-2 hours</td>
</tr>
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Ambiguity surrounding Ministerial Discretion

As echoed by other industries, our sector is concerned about the ministerial discretionary powers provided under Bill C-69.

While there is no doubt that major projects should be required to undergo relative levels of assessments, the ability for the minister to unilaterally order one at any stage of the process may have significant ramifications for project proponents.

This proposed provision is creating uncertainty. We believe that clarity is needed in order to ensure that projects are able to move forward in an appropriate timeframe.