March 18, 2019

Senator David Tkachuk, Chair
Senate Standing Committee on Transport and Communications
The Senate of Canada
Ottawa, ON K1A 0A4
david.tkachuk@sen.parl.gc.ca

Dear Senator Tkachuk:

On behalf of the Government of Alberta, I welcome the opportunity to provide comments to the Senate Standing Committee on Transport and Communications for consideration during the study 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. Please find enclosed the Government of Alberta’s submission to your review of this proposed legislation.

The Government of Alberta strongly opposes Bill C-48 and does not support the passing of the legislation in the current or amended form. The Government of Canada has not done its due diligence to consider all reasonable evidence, science, risk assessments, and implications of a tanker moratorium, and until adequate and meaningful consultation has taken place with Alberta, impacted communities and First Nations, and the energy, shipping and marine response industries, further progress of this legislation should be put on hold. We do not believe the federal government fully understands the economic variables impacting the energy industry, such as the widening crude oil price differential, energy infrastructure and regulatory uncertainties, optionality constraints, and how Bill C-48, in addition to Bill C-69, further threatens Canada’s ability to attract investment and reach new energy markets. Bill C-48 is a deliberate ban on Alberta crude oil and our efforts to diversify our product, and does not reflect confidence in Canada’s energy industry, our safe shipping record, nor the marine conservation response measures and partnerships along B.C.’s coastline.

At the same time, we recognize the importance of providing meaningful input into any proposed legislation which is harmful to the Alberta and Canadian economies. Therefore, we propose two amendments for consideration if the Senate and federal government chooses to proceed with this bill regardless of strong opposition.

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The amendments do not alleviate our fundamental concerns about the discriminatory nature of this bill and the significant threat it poses to future investment opportunities; however, they emphasize the need for science-based legislation and inclusive, thoughtful, and meaningful consultation to ensure the continuing safe shipment of our resources and economic prosperity.

Given the current economic realities of Canada's energy industry, the Government of Alberta urges the federal government to fully consider all aspects of the economic and trade implications of imposing a ban on the export of Alberta crude oil. Canada does not need an additional barrier against our own products and the establishment of access to lucrative new markets as proposed through Bill C-48.

Alberta is proud of its energy industry, our environmental performance, and commitment to innovation. We urge the Senate and federal government to show confidence and support for our energy industry, resources, diversification efforts, and ability to safely ship our products for the greater good of all Canadians.

If you have any questions about our submission or our proposed amendments, please do not hesitate to contact my office.

Sincerely,

Margaret McCuaig-Boyd
Minister

Enclosure

cc: Honourable Marc Garneau, Minister, Transport Canada
    Honourable Catherine McKenna, Minister, Environment and Climate Change Canada
    Honourable Amarjeet Sohi, Minister, Natural Resources Canada
    Douglas Black, Senate of Canada, Senator
    Paula Simons, Senate of Canada, Member, Standing Committee on Transport and Communications
    Joelle Nadeau, Clerk of the Committee, Senate of Canada, Standing Committee on Transport and Communications
Alberta’s Written Submission to
Senate Standing Committee on Transport and Communications

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

Introduction

The Government of Alberta has long advocated for the need for western Canadian crude oil to reach new markets. A lack of crude oil market access continues to have detrimental effects on Canada’s oil producers, government revenues, employment and the Canadian economy as a whole. Canada continues to sell crude to one customer, the U.S., at a discounted price. Canadian oil will continue to command a lesser price unless we gain access to existing markets, and access to new markets.

This is the challenging economic reality in which Bill C-48 was introduced by the federal government. Alberta views Bill C-48 as a discriminatory piece of legislation that specifically targets the export of Alberta crude oil. Under Bill C-48, Alberta’s crude oil products are prohibited from being exported off the North Coast of B.C. Liquefied Natural Gas (LNG) development and export, by comparison, will not be impacted by the proposed legislation. By prohibiting oil shipments from the strategic deep-water ports on B.C.’s North Coast, we limit access to lucrative Asian markets and hamper our ability to be a world-class energy supplier of choice. Bill C-48 prevents us from seizing these economic opportunities for the benefit of all Canadians. No similar ban exists on any other Canadian coastline despite the fact that, according to Transport Canada, 85 per cent of the approximately 20,000 oil tanker movements off the coasts of Canada occur on the Atlantic coast. Were a similar tanker implemented on the East Coast, the unloading and loading of product at Come By Chance, Newfoundland, and St. John, New Brunswick, would be affected. In addition, tankers currently travel through the Bay of Fundy to Irving Refineries in St. John, New Brunswick, which is an environmentally and culturally sensitive area.

More than ever, Canada must demonstrate confidence in our crude oil, the environmental performance of our energy sector, and in our ability to safely ship our resources to new customers. Bill C-48 demonstrates no such confidence. Canada has an excellent record of tanker safety; a fact that has been largely ignored in the proposed legislation. Furthermore, the Government of Canada’s Oceans Protection Plan (OPP) provides $1.5 billion into marine safety, confusing the need for a ban on tanker traffic on the grounds of marine safety.

The federal government claims one of the objectives of Bill C-48 is to provide an unprecedented level of coastal protection. Alberta believes the proposed legislation will not achieve this intent. Bill C-48 will not stop or lessen tanker traffic along the West Coast of Canada. Loaded oil tankers will continue to transit the B.C. coast between Alaska and Washington, abiding by the Voluntary Exclusion Zone. The bill does, however, prohibit Alberta’s ability to move its resources. In addition, foreign vessels will still have the right of innocent passage through coastal waters under international law, and vessels are still free to load and unload crude oil just to the north of the proposed moratorium zone in Alaska. This means
Canada is taking on the risk of these foreign tankers, but not receiving any economic benefit of potential exports off B.C.’s North Coast.

Bill C-48 will not support the OPP, which aims to protect Canada’s coasts while growing the economy. On the contrary, Bill C-48 prohibits the export of Alberta product from a strategic port that would ensure access to new markets beyond the U.S., the effects of which are harmful to the Canadian economy as a whole.

Alberta believes there has been a lack of inclusive, thoughtful, and meaningful consultation with all impacted parties including the Government of Alberta, the energy, shipping and marine safety industries, as well as coastal and First Nations communities, to ensure the continuing safe shipment of our resources and economic prosperity.

Through this submission, the Government of Alberta will outline for members of the Senate Standing Committee on Transport and Communications the factors impacting Canada’s long-term energy outlook and how Bill C-48 presents yet another impediment to long-term economic growth in the energy sector. The current low-price environment for western Canadian crude oil, and infrastructure and regulatory uncertainties, costs and timelines are contributing factors causing capital investment to flee Canada’s energy sector. Canada needs to provide a stable and consistent regulatory environment to attract foreign investment and increase our global competitiveness.

Alberta recommends Bill C-48 not be passed in either its current or amended form. We believe opportunities exist to balance economic growth and environmental protection. Despite our opposition to the bill, we believe it is important to provide meaningful input into proposed legislation that is harmful to the Canadian economy. Therefore, in this submission, Alberta also presents amendments for consideration of the Senate Standing Committee on Transport and Communications that promote evidence-based policy and safe shipping mechanisms.

**Discriminatory Legislation**

Alberta views this legislation as discriminatory against the Province of Alberta and our resources. No similar ban exists along any other Canadian coastline, and no ban exists to protect B.C.’s South Coast, where oil is currently shipped out of the Port of Vancouver, and tankers traverse the waters daily delivering crude from Alaska to refineries in Washington State. In addition to their strategic proximity to Asian markets, from a safety perspective, deep water ports, such as the Port of Prince Rupert and Kitimat, B.C., are more suitable to accommodate the increasing size of international vessels.

Alberta notes that Bill C-48 prohibits the export of Alberta crude, yet exempts vessels carrying other fuels on B.C.’s North Coast, such as LNG. While development and trade of LNG presents a significant economic growth opportunity for Canada, shipment of Alberta crude to emerging economies presents similar opportunities. Expanding trade export of these products is in line with the federal government’s desire to diversify trade with key global markets¹, yet Bill C-48 hinders Canada’s ability to pursue

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¹ Minister of International Trade Diversification Mandate Letter, August 28, 2018
potential export of Alberta’s oil to markets in Asia, where our oil can command a higher price compared with the American market today.

We also note, that, as mentioned, Bill C-48 does not apply to international vessels. Canada will continue to assume risk for the transit of these vessels with no economic gain.

**Market and Product Diversification**

Alberta produces energy products to the highest environmental standards in the world, but currently can’t move the products to market. The Canadian economy loses billions of dollars every year in lost economic activity due to this lack of adequate transportation infrastructure (pipeline and rail) available to move Alberta’s new crude oil production to its existing markets (refineries in B.C., eastern Canada and the U.S.) and also to new, high growth and higher-priced international markets. Future growth in energy demand will be led not by the U.S., but by large emerging economies, such as China and India. Canada has the ability to meet this demand, and must work to seize these opportunities. This bill effectively stops the export of oil to these potentially lucrative Asian markets. This clearly goes against Canada’s economic interests.

The struggle to move new, incremental crude oil production out of Alberta is due to the fact that all existing crude oil export pipelines, are operating at maximum capacity. Large amounts of new crude oil production has therefore been placed into storage facilities in Alberta, resulting in rising crude oil inventories. This, coupled with rising crude oil production throughout North America over the past decade the and lack of adequate transportation infrastructure to move crude oil efficiently to key refineries within North America and international markets has resulted in discounted prices for Canadian crude.

Crude oil producers need optionality, which would allow them to choose where they send their product, minimizing the affects of a volatile market. Weather, maintenance of energy infrastructure, planned or otherwise, and natural disasters all cause uncertainty in the market. The impact of the 2016 Fort McMurray forest fires on the energy industry provides an indication of how susceptible the market is to volatility. The wildfire forced Suncor and other oil producers in northern Alberta to halt production for weeks. Suncor’s production decreased by approximately 20 million barrels, with the company recording $735 million net loss\(^2\). A hurricane on the U.S. Gulf Coast or other unplanned circumstances would have far greater consequences for the Canadian economy if we do not have more options to export our oil.

The deep-water ports of B.C.’s North Coast provide strategic access to Asian markets at a lower cost option than any other Canadian port. Costs to transport crude oil from Alberta to Vancouver, B.C., falls in the range of US $3.70 to US$5.00 per barrel, and a further US$4 per barrel in waterborne freight costs to Asian markets. Shipping from Alberta to Asia through Vancouver therefore has a total cost of approximately US$7.70 to US$9.00. Shipping from northern ports would reduce the waterborne freight costs to reach Asian markets. Conversely, transportation costs to move crude oil from Alberta to the U.S. Gulf Coast are more expensive, due to the large distance between the two regions. The cost to move

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crude oil from Alberta to the U.S. Gulf Coast falls in the range of US$8.50 to US$9.50 per barrel, and a further US$8.50 to US$10.50 per barrel in waterborne freight costs to Asian markets from the U.S. Gulf Coast. The cost of shipping from Alberta to Asia through the Gulf Coast therefore costs between US$17.00 to US$20.00, double the cost of shipping off Canada’s West Coast. Limiting opportunities to reach Asian markets in a cost-effective way is detrimental to the future of Alberta’s crude oil industry. West Coast market access, in addition to increased access to existing markets in the U.S. Gulf Coast provides the optionality Alberta and our energy industry has been fighting for and desperately needs.

Moreover, Alberta believes Bill C-48 hinders Alberta’s energy diversification efforts. For example, we have invested $1 billion in partial upgrading refining projects that can be sold internationally. Expanded market access for our existing and potential value-added energy products is a win for the Canadian economy and all Canadians. Unfortunately, Bill C-48 will prohibit the ability for this refined product to reach new markets.

**Confidence in Canada’s Safe Shipping Record**

Alberta believes that in the drafting of this legislation, there has been a lack of consideration of the full scope of spill response measures Canada has at the ready. Canada has an exceptional safe shipping record. In fact, the safety of moving oil by tankers has continued to increase even as more oil is being transported by sea. Spills from oil tankers have been rare in Canadian waters\(^3\). According to Transport Canada data, the only significant oil spill off Canada’s West Coast in the last 20 years was in 2006 and involved a B.C. ferry which spilled fuel oil, not an oil tanker. Fuel oil, however, is not a prohibited substance under Bill C-48, and the new law would not prevent a similar incident from occurring.

Tanker safety continues to improve with new regulations, more robust ship design codes, enhanced emergency preparedness and response systems, and better self-regulation and procedures. As an example, as of 2010, large crude oil tankers can no longer operate in Canadian waters without a double hull (where the bottom and sides of a vessel have two complete layers of watertight hull surface).

If a marine spill occurs, the Western Canada Marine Response Corporation (WCMRC) is in place to mitigate the impacts on B.C.’s coast. As you are aware, the WCMRC is a Transport Canada-certified marine organization that believes strongly in risk-based spill response planning and preparedness. They consistently exceed Transport Canada-recommended response standards. Prohibiting tankers along the North Coast shows a lack of confidence in Canada’s spill response preparedness, which, as indicated, is world-class.

Alberta also points out that the OPP already has multiple programs across Canada to further protect marine environments. Concerns of tanker traffic in northern B.C. may be alleviated with many of the programs already underway under the OPP.

Additionally, the proposed legislation largely ignores the fact that any major project to export crude oil from the North Coast, including a pipeline that terminates in this area or a large rail transloading facility, would likely require a federal environmental impact assessment. Therefore, any project that would

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result in a major increase in tankers being loaded off the North Coast would require federal approval, and would have conditions attached to it that may include marine safety considerations. This science-based federal assessment and the associated conditions attached to a project approval would ensure safe shipping and incorporate feedback from impacted stakeholders. Instead, the arbitrary tanker ban only serves to damage investor confidence and inhibits the proposal of any project that will terminate in this area.

Amendments

Alberta recommends Bill C-48 not be passed in either its current or amended form. Minor changes to the proposed legislation will not lessen the discriminatory nature of the bill nor the negative impact on Canada’s economy and competitiveness. Alberta believes we can balance economic growth and environmental protection without an outright ban. Bill C-48 removes any potential additional ability for Alberta product to reach new markets in an efficient manner that protects Canada’s North Coast. If the Senate and federal government proceed with the proposed legislation despite the Government of Alberta’s opposition, we ask it be amended to reflect a science-based approach that more fairly balances marine protection with economic prosperity.

REQUEST ONE: Amend the proposed Oil Tanker Moratorium Act to require a science-based assessment to set the proposed schedule of prohibited substances.

Alberta maintains that the schedule of prohibited substances included in Bill C-48 is not based on science. The prohibition of Alberta crude due to spill concerns fails to consider the scientific research conducted by the federal government’s own scientists, led by Natural Resources Canada, who have conducted extensive testing of the behaviour of bitumen in water. The research shows that diluted bitumen behaves similarly to conventional crude oils in marine environments. Further, dating back to 2017, Alberta voiced concerns regarding the treatment of crude oil and partially upgraded bitumen as a persistent oil, as well as the inaccurate methodology that defined condensates, such as propane, as a persistent oil, subjecting these products to the ban.

Currently, the legislation prohibits transportation of “persistent oil,” as defined under the legislation as an oil, or class of oil, set out in the schedule to the legislation. Section 24 provides authority to amend the legislated schedule by regulation. As noted, Alberta finds it is far too premature for the federal government to identify prohibited classes of oil, products, or materials directly into legislation. The Government of Alberta recommends the federal government not pass Bill C-48 until it has done its due diligence to consider all reasonable evidence, science, risk assessments and implications, and until there has been adequate and meaningful consultation with Alberta and the energy industry. Alternatively, the schedule of products should be entirely removed from the legislation, to instead be prescribed through regulations, again, once the federal government has properly consulted with Alberta and the energy industry, which has not occurred to date. However, enacting the legislation without finalizing regulations specifying which materials are prohibited will be detrimental to investment in Canada, across several sectors beyond oil and gas directly. Therefore, meaningful consultation must take place before moving ahead with the legislation.
The arbitrary inclusion of substances in the schedule may discourage technological advancements in the energy industry to increase the safety of the shipment of crude that could potentially exceed current environmental standards. This is contrary to Canada’s aspirations to become a global energy supplier of choice. We are a responsible energy producer, and a sustainably-produced barrel produced in Canada may displace a barrel produced in parts of the world with no climate goals, regulatory oversight, or commitment to improvement.

**REQUEST TWO:** Amend the proposed Oil Tanker Moratorium Act to redefine the area protected from oil tankers based on scientific and socio-economic criteria that is subject to periodic review.

The stated purpose of Bill C-48 is to protect the marine ecosystem of B.C.’s North Coast from oil tanker spills. However, in its current form, Bill C-48 is, at best, overly broad to achieve its objective to protect B.C.’s North Coast from tanker traffic impacts, and will have significant negative economic impacts. The federal government, by its own admission, has not fully researched the sweeping area as defined within the legislation to understand what makes B.C.’s North Coast particularly vulnerable to shipping and other marine activities. We believe this is a significant knowledge gap that must be further researched before instituting an area-based ban that has significant regional and national economic implications.

As with the arbitrary list of prohibited substances, Alberta believes implementing an area-based moratorium is also premature given the lack of scientific evidence. An area-based moratorium could be removed from legislation and moved to regulations, which would provide for periodic review — provided the federal government has done its due diligence to consider all reasonable science, evidence, risk assessment and implications, and provided there is adequate and meaningful consultation with Alberta, and the shipping, marine response, and energy industries.

Bill C-48 is also inconsistent with Canada’s existing marine shipping measures, as Canada has a world-leading marine safety system in place to protect all of Canada’s coastal ecosystems from marine traffic, including any potential spills. We support ongoing efforts that fairly and effectively build upon these prevention, conservation, and spill response measures. As raised by other opponents of Bill C-48, Alberta also supports a science-based framework that ensures the preservation of vulnerable marine areas. Therefore, we encourage the federal government to work with the B.C. Chamber of Shipping and the International Chamber of Shipping on the development of a framework that considers the ecological, socio-economic, and scientific reasons for area-based marine protection. We further encourage the federal government to consult with all impacted coastal and inland communities and First Nations to understand the full scope of the cultural, traditional, ecological, and socio-economic concerns related to the development and implementation of a coastal protected area.

Alberta believes that Bill C-48 requires more, and more meaningful, consultation with coastal municipalities and Indigenous communities to fully reflect the diversity of views across communities. Alberta acknowledges that some Indigenous communities are concerned about the environmental impact of additional tanker traffic on their communities and lands. Alberta also recognises that many other Indigenous communities rely on and are deeply involved in the oil and gas sector, and see the export of Canada’s resources as an important step in growing their communities’ economic wellbeing. Alberta believes that meaningful consultation with Indigenous communities is warranted, so C-48 could take into account the diversity of Indigenous communities’ views.
Lastly, we ask the federal government to build upon research conducted by independent organizations, such as Clear Seas, or other peer-reviewed fact-based research to understand the impacts of marine shipping in Canada’s coastal waters.

We believe an internationally respected, adaptive, science-based marine conservation framework, such as the International Marine Organization’s particularly sensitive sea area designation, is a good model to draw upon to develop protective measures for a marine area. Such a designation balances safe shipping activities and marine conservation, and ideally would support and complement other regional protective measures currently underway along the B.C. coast being led by the federal government, for example the Proactive Vessel Management Program, which is being co-led by the federal government and First Nations. We recommend a periodic review and re-evaluation to any such marine conservation framework to ensure it reflects the most recent science and research and allows for modifications or additional measures to protect vulnerable marine areas.

**Conclusion**

The Government of Alberta is firmly opposed to Bill C-48 in either its current or amended form. It creates more uncertainty to Canada’s oil industry at a time when we should be focusing efforts on supporting the industry.

Alberta has outlined in this submission the various factors impacting Canada’s market access in an attempt to help committee members understand the current state of the energy industry, and how this proposed legislation, although not impacting an existing oil export facility, has detrimental effects to future energy projects and our global competitiveness. It is troublesome that the federal government would voluntarily impede investment in Canada by limiting any opportunity to export our energy product to new markets.

In our opinion, Bill C-48 does little to build trust in Canada’s energy industry. Instead, this discriminatory piece of legislation sends a clear message to investors that Canada lacks confidence in its sustainably-produced crude oil and ability to safely transport it to market. In prohibiting the export of our oil, the federal government is saying that it does not value a strong economy, employment, and high standards of living for Canadians – worrisome, given that, according to a recent report by the Canadian Association of Petroleum Producers, capital investment in the oil and natural gas sector dropped drastically from $81 billion in 2014, to about $41 billion in 2018.

Without access to new international markets, Canada will continue to receive less value for our resources – the implications of which are already being felt by all Canadians, particularly Albertans. In light of the challenges Alberta faces to reach new markets, we have taken bold short-term steps to get more value for our resources by increasing crude by rail capacity. We have also taken steps to temporarily reduce the amount of oil in storage, which had been nearly twice the normal level and resulted in heavily discounted prices.
Over the long-term, the Government of Alberta will continue to strive to get more pipelines built. However, until that time, Alberta’s production limit and crude-by-rail policies will ensure that crude oil production levels are matched to what can be shipped using existing rail and pipe.

With adequate access to pipelines, to existing and options of shipping to new markets, Canada could be getting so much more out of our products than we do. The federal government must step up and do its part in resolving the market access issue for the long-term. Canada should not be putting in place new legislation that acts as a barrier and opens the doors to other energy jurisdictions that have no environmental standards of production and shipping like Canada.

We are proud of the environmental performance and innovation of our energy sector. We urge the federal government to show its confidence in Alberta and our product – the economic driver of this country – and withdraw Bill C-48.