

Integrated Area Response Planning in BC

Best Practices for Engaging Communities and Harmonizing Oil and Hazardous Materials Spill Planning and Response



Concerned citizens filled buckets with oil recovered from beaches during the 2015 oil spill in Santa Barbara, California. In the wake of that spill, the State enacted new legislation to enhance oil spill planning, preparedness, and response. (SB 414 – Oil Spill Response)

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Executive Summary

In the past several years, the Province of BC and the federal government have developed initiatives and published reports that contemplate changes or enhancements to the marine and land-based regimes for oil spill and hazardous materials preparedness, planning, and emergency response. Nuka Research and Planning Group, LLC (Nuka Research) prepared this report to inform local community participation in these processes.

This report emphasizes two themes as critically important to integrated area response planning: **harmonization** of planning, preparedness, and response activities and doctrine across jurisdictions; and **meaningful community engagement** as a core component of all area response planning activities.

HARMONIZED APPROACH

The concepts of harmonization and integration are common themes among best practice guides and international standards for oil spill contingency planning. Industry best practices guides emphasize the importance of integrating emergency preparedness and spill response plans.

The federal and provincial governments have offered two different approaches to proposed Area Response Planning (ARP) regimes for BC. While both initiatives offer the intent to coordinate across jurisdictions, there is no apparent mechanism to coordinate, beyond both levels of government inviting one another to participate in their respective consultation process. Differences between the type and source of spills included in each ARP regime may create gaps such that there are certain types of spills for which neither regime is proposing preparedness or response planning requirements.

Harmonization of area response planning will facilitate coordination among various levels of government by establishing a shared concept of governance for planning and response. A common approach to harmonized area response planning is to develop a shared plan that applies across jurisdictions. Joint planning creates the opportunity for coordination and collaboration during the planning process; it also presents opportunities to consider how various agencies and levels of government will come together during a response. Examples of joint planning approaches from the US and Australia are presented as potential models for Area Response Planning in BC.

Aspects of area response planning approaches in the US and worldwide that could be adapted as part of a harmonized approach to Area Response Planning in BC include:

- **Multi-jurisdictional governance model** which establishes a planning body with representation from all levels of government along with formal opportunities for industry and non-governmental stakeholders to participate in planning discussions and guide plan contents.
- **Delineation of roles and responsibilities** for planning and response, such that all levels of government understand their duties and responsibilities, and a shared understanding exists across jurisdictions.
- **Consistent planning boundaries** that are understood and recognized across jurisdictions and that align with other emergency and hazardous materials planning boundaries or districts.
- **One integrated area response plan** that addresses a broad range of spill types and applies consistent principles and expectations for spill preparedness and response.
- **An iterative planning process** that schedules regular updates and allows for ad-hoc changes or updates to area response plan contents.

MEANINGFUL ENGAGEMENT

Federal and provincial efforts to enhance oil spill preparedness and response capacity in British Columbia have been welcome, as local communities have expressed ongoing concerns about gaps in BC's marine and terrestrial spill preparedness and response regimes. The concept that local communities have a stake in oil spill preparedness and response is widely acknowledged by government and industry, and has been a facet of both federal and provincial initiatives.

Yet, most of the recent engagement activities across BC have involved the dissemination of technical and policy information from the federal and provincial agencies to communities. Communities and stakeholders have not been part of the strategic planning or leadership discussions, and the ambitious timelines for moving from proposal to fully

US Oil Pollution Act

“The Congress finds that...many people believe that complacency on the part of the industry and government personnel responsible for monitoring the operation of the Valdez terminal and vessel traffic in Prince William Sound was one of the contributing factors to the EXXON VALDEZ oil spill; one way to combat this complacency is to involve local citizens in the process of preparing, adopting, and revising oil spill contingency plans...**only when local citizens are involved in the process will the trust develop that is necessary to change the present system from confrontation to consensus.**” [emphasis added]

US PUBLIC LAW 106-580,
SECTION 5002.

implemented plans and policies create a perception that the opportunity for meaningful community input is limited or lost.

Conversely, the prospect of designing and implementing major regime changes is daunting, and the burden to both federal and provincial agencies in undertaking these initiatives is considerable. BC incorporates a vast geographic area, with hundreds of local government, First Nations, and stakeholder organizations with a potential interest in area response planning. A mechanism for streamlining input into the process from the broad base of community interests across the Province may facilitate the area response planning process and reduce the burden to lead agencies.

There are several workable models for community involvement in oil spill planning and response; the regional citizens advisory council approach used in the UK and US is explored as an option for community engagement in BC area response planning.

RECOMMENDATIONS

The analysis in this report can be distilled into two recommendations for integrating BC's area response planning initiatives:

1. Align area response planning boundaries within BC by designating geographic sub-regions within the province, and create a multi-jurisdictional governing body (inclusive of local and First Nations governments) to oversee area response planning within each geographic region.
2. Establish Regional Community Advisory Councils within each geographic region, based on the Alaska/Sullum Voe model, and provide them with a governance role in area response planning.

As BC contemplates spill response regime-building at multiple levels, it is important to allow sufficient time and space for meaningful collaboration and measured consideration. Planning is a process that works best when it is deliberate and informed. Examples from other jurisdictions represent multi-year, iterative efforts.

Plans work best when they have the buy-in and trust of the people with a stake in their implementation. The concurrence of provincial and federal area response planning processes creates the opportunity to foster this trust, but may require some fundamental changes to the proposed approaches.

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Introduction

Nuka Research and Planning Group, LLC (Nuka Research) prepared this report to inform submissions to Transport Canada's Area Response Planning Initiative pilot project for the Southern portion of British Columbia (BC), with consideration for other oil spill and hazardous materials planning projects that have been initiated or proposed for this region. The report recommends best practices for an integrated approach that bridges the current federal and provincial initiatives in such a way that local communities are actively and meaningfully engaged at all levels of spill preparedness and response.

Nuka Research developed this report based on our firsthand experience and knowledge as practitioners of oil spill contingency planning in Canada, the US, and Australia. Georgia Strait Alliance funded this study. This report focuses on best practice through the lens of community involvement and accountability.

Purpose

The purpose of this report is to recommend an approach for Integrated Area Response Planning that is consistent with international best practice and the stated objectives of the Government of Canada and Province of British Columbia, which include the following:

- Develop an integrated approach to oil and hazardous substance spill preparedness, planning and response that reflects the risks and conditions specific to Southern BC;
- Incorporate scientific information and local knowledge to inform oil spill contingency planning and decision-making;
- Ensure ongoing collaboration with local communities, First Nations, and all levels of government and industry;
- Maximize transparency and accountability; and
- Ensure highest possible level of protection for public health and safety and the environment.

Background

In the past several years, the Province of BC and the federal government have developed initiatives and published reports that contemplate changes or enhancements to the marine and land-based regimes for oil spill and hazardous materials

preparedness, planning, and emergency response (BC Ministry of Environment, 2016a, 2016b, 2014; Government of Canada, 2016).

On June 30, 2016, the BC Ministry of Environment closed a comment period on proposed changes to the land-based oil and hazardous materials spill response regime, which includes provisions for the development of Area Response Plans and Geographic Response Plans, among other core elements (BC Ministry of Environment, 2016a and 2016b). The federal government has also introduced a proposed regime for Area Response Planning for marine oil spills, with a risk assessment guidance document under public review, which coincides with the ongoing provincial initiative (Dillon Consulting, 2016; Government of Canada, 2016).

Harmonization and Engagement

The concurrence of federal and provincial area response planning initiatives creates a unique opportunity to step back and consider how both initiatives could be aligned with consideration for international best practice in integrated government contingency planning. For the purpose of this discussion, the term ‘community’ is intended to be broadly inclusive of local interests, including but not limited to local and First Nations governments, environmental non-government organizations (ENGOs), and other use groups such as fishing, recreation, or tourism.

The importance of local involvement in oil spill preparedness and response is generally recognized as an industry best practice (API, 2013; IPIECA/IOPG, 2015; IPIECA 2000). The importance of community involvement was emphasized by the Union of BC Municipalities (UBCM) through their passage of a resolution calling on provincial and federal governments to expand the scope of oil and hazardous substance response planning to include local governments, and to provide funding to build local capacity to participate in preparedness and response (UBCM, 2015).

Resourcing Local Governments for Oil and Hazardous and Noxious Substances Emergency Planning and Response

“THEREFORE BE IT RESOLVED that UBCM call on the provincial and federal governments to expand the scope of oil and hazardous and noxious substances (HNS) risk assessment and response planning to include all impacts and consequences on local communities and governments, and introduce additional funding for the resources and locally-specific capacity building required to ensure that local governments are in the best possible position to plan for and protect communities and the environment in the event of fires, explosions, spills and related incidents as a result of increasing transportation of oil and HNS;”

“AND BE IT FURTHER RESOLVED that UBCM and the Federation of Canadian Municipalities call upon the federal government to develop a comprehensive emergency response plan and procedure for hazardous and noxious substance spill related emergencies that includes due recognition of and compensation for the role of local government emergency response services.”

UBCM RESOLUTION A4, 2015

This report emphasizes two themes as critically important to integrated area response planning: **harmonization** of planning, preparedness, and response activities and doctrine across jurisdictions; and **meaningful community engagement** as a core component of all area response planning activities. Both are consistent with the principle of collaboration as described in the 2015 report to the Province, which recommended that a world-leading spill preparedness and response regime would “bring together federal, provincial, local, and First Nation governments with industry and public interest groups to work collaboratively, build trust, and foster transparency” (Nuka Research, 2015).

Harmonized Approach

Principles of Integrated Contingency Planning

The concepts of harmonization and integration are common themes among best practice guides and international standards for oil spill contingency planning. The International Maritime Organization’s “Manual on Oil Spill Risk Evaluation and Assessment of Response Preparedness” identifies several elements of effective contingency planning that rely upon a harmonized approach, including the integration of agencies and companies or organizations with a spill response role, and inclusiveness of all major spill response functions (IMO, 2010). The after-action report from the Deepwater Horizon well blowout emphasized the need for ongoing coordination mechanisms for cross-jurisdictional (local, regional, national) coordination before, during, and after a spill occurs (USCG, 2011).

Industry best practices guides also emphasize the importance of integrating emergency preparedness and spill response plans. A 2013 American Petroleum Institute guidance document for offshore oil and gas operators notes, “The emergency response plan shall be compatible and integrated with the disaster, fire, and/or emergency response plans of local, state, and federal agencies” (API, 2013).

A 2013 report to the Province on world-class spill preparedness described integrated planning across jurisdictional sectors as follows (Nuka Research, 2013):

- Agencies and organizations with key response roles understand their own plans and processes in the event of a spill.
- Plans are widely shared, discussed, and applied during drills, exercises, and real events to ensure clarity about roles and responsibilities (and to reduce duplication of effort).

- Regular inter-agency meetings are used to share information, review plans, and foster joint preparedness initiatives.

All of these principles apply to the current discussion on harmonizing spill planning, preparedness, and response in BC. Other key components to effective area response planning include frequent content reviews and updates as necessary, inherent flexibility to adjust to different types of incidents, and mechanisms to connect real-time information into response decision-making. The scope of information addressed in contingency plans must include responder health and safety, on- and off-site logistical support, waste management, wildlife response, and shoreline protection, assessment, and cleanup (Hollingsworth, 1991; IMO, 2010).

Another important area for harmonization and cooperation is in inventorying and assessing emergency response resources. Oil and hazardous materials response capacity may be spread across operators, response organizations, federal and provincial agencies, local first response agencies, and private contractors. The process of identifying and cataloguing these resources requires coordination across sectors. Inventories must be available to all entities with a potential response role, and resource inventories must be regularly updated (IMO, 2010; Crawford et al, 2005).

Differences in Proposed Federal and Provincial Area Response Planning Approaches

Two Area Response Planning (ARP) regimes have been proposed for BC. The federal and provincial governments have offered two different approaches, which are derived from the jurisdictional boundaries and legislative mandates of the Province of BC and the Government of Canada.

While both initiatives offer the intent to coordinate across jurisdictions, there is no apparent mechanism to coordinate, beyond both levels of government inviting one another to participate in their respective consultation process. Accordingly, no holistic perspective on marine and land-based spill planning is being advanced, and there are key differences between the two proposals that may create practical challenges to their integration. The provincial regime will create one or more Areas throughout BC to use as geographic planning boundaries; the federal regime has established one proposed Area – Southern

Federal Area Response Planning Initiative

“The Area Response Planning Initiative is a pilot project which seeks to identify where improvements can be made to further strengthen the current preparedness and response regime for ship-source oil spills and ensure that it remains responsive to changing demands and practices. Using a risk management framework, Area Response Plans will be developed that allow flexibility for regional differences and levels of risk.”

*FEDERAL AREA RESPONSE PLANNING INITIATIVE
INFORMATION PACKET FOR BRITISH COLUMBIA*

BC – as a pilot. The federal regime is government-led; the provincial regime industry-directed.

Provincial Land-Based Spill Preparedness & Response

“To develop the details of the proposed new requirements, the ministry will seek to align as much as possible with other regulators and agencies – both provincial and federal – that have authority in regulating spill prevention, preparedness, response, and recovery.”

*BC MINISTRY OF ENVIRONMENT INTENTIONS
PAPER #3*

Differences between the type and source of spills included in each ARP regime may create gaps such that there are certain types of spills for which neither regime is proposing preparedness or response planning requirements. For example, the federal ARP will evaluate spill response capacity based on an assessment of risks from ship-source and oil handling facility (OHF) transfer spills only. This overlooks the potential for spills from on-land storage, overland and subsea pipelines, and rail or truck cars that could discharge to rivers or coastal waters. On the provincial side, the proposed

industry-led Provincial Response Organization (PRO) will determine appropriate capacity for land-based spill response based on the regulated persons covered, representing land-based spill sources. There is no apparent process for reconciling the overall spill response capacity to account for the intersection between risks and impacts seaward and landward of the tide line.

Table 1 compares elements of each approach and highlights potential gaps or disconnects with respect to harmonization across all levels of government.

Table 1. Comparison of proposed federal and provincial area response planning approaches for BC

Components	Provincial Area Response Plans	Federal Area Response Plans	Potential Gaps and Disconnects
Planning Body	Industry-led (PRO) with advisory committee appointed by Province.	Federal government develops plans.	Neither approach provides governance role for local governments or First Nations.
Area Boundaries	Established by PRO to demonstrate capability and capacity.	Southern BC pilot area boundary established.	Federal and Provincial boundaries may not align; unclear whether boundaries will align with other local or regional designations (e.g. emergency planning regions, ecosystem management areas).

Components	Provincial Area Response Plans	Federal Area Response Plans	Potential Gaps and Disconnects
Spill materials covered	List of prescribed substances (oil and hazardous liquids) to be finalized in regulation.	Petroleum products only.	Marine spills of substances other than oil not covered by either regime; neither regime considers on-land or marine spills of hazardous solids.
Source of spills	Land-based spills from any source, which may or may not migrate to inland or marine waters.	Spills to water from ships or oil-handling facility transfer operations; other land-based spill sources that could travel to marine waters not included.	Unclear how regimes will interact for spills that migrate from marine waters to coastline or from inland sources to marine waters.
Risk Assessment	No process proposed.	Methodology proposed, based on modeled probabilities and consequences.	Data completeness and accuracy will influence results; unclear how models will address data gaps. Mechanism for stakeholder input into consequence assessment unclear. Connection between risk assessment outputs and area response planning inputs unclear.
Geographic Response Plans	Unclear how sites selected within Minister-designated areas. Plans developed by industry (PRO) with possible advisory committee input.	To be informed by Area Risk Assessment; development process not specified.	First Nations and local governments have passive role in provincial process, unclear role in federal process.
Timeline	Intentions paper published; Technical Working Groups June-December 2016; regime launch 2017.	Timeline unspecified; Southern BC pilot completion intended by early 2017.	Provincial process ahead of federal. Both timelines compressed.
Funding and Support for Local Response Capacity	PRO funding intended to support development of local response capacity; mechanism and level of funding not specified.	Mechanism not specified.	Provincial process has industry-led PRO conducting preparedness assessments and identifying gaps/capacity. Mechanism for local input into process unclear. Level of funding dependent on funding structure developed by PRO.

Approaches to Harmonization

Harmonization of area response planning will facilitate coordination among various levels of government by establishing a shared concept of governance for planning and response. A common approach to harmonized area response planning is to develop a shared plan that applies across jurisdictions. Joint planning creates the opportunity for coordination and collaboration during the planning process; it also presents opportunities to consider how various agencies and levels of government will come together during a response. Examples of joint planning approaches from the US and Australia are presented as potential models for Area Response Planning in BC.

US Area Contingency Planning Approach

Both provincial and federal ARP initiatives indicate that they have been modeled after US approaches on either side of the border (i.e. Alaska and Washington). Yet, there is a fundamental difference in approach in BC when compared to US neighbors – in the US, the Area Contingency Plans (equivalent to ARP) are developed and implemented by a multi-jurisdictional Area Committee. The Northwest Area Contingency Plan, for example, governs oil and hazardous substance spill preparedness and response for inland and marine spills across three states: Washington, Oregon, and Idaho. A governing body – the Northwest Area Committee – consists of representatives from federal, state, tribal, and local governments with responsibility for oil and hazardous materials planning and response across the region. The plan emphasizes the importance of a coordinated approach across federal, state, local, and tribal officials to “provide the best protection of the state’s public health and safety, natural resources, and private property.” (Northwest Area Committee, 2016).

The Northwest Area Committee meets no less than semiannually, and the meetings are open to the public. A Steering Committee composed of state, federal, and tribal representatives has primary responsibility for reviewing and updating the Area Contingency Plan (ACP), conducting outreach, making recommendations regarding

US Area Committees

“Area Committees represent the core element of oil spill response preparedness for a local [area].”

“While Area Committee membership is limited to government officials from federal, state, Tribal, and local agencies, the importance of plan holder (industry), oil spill response organization, and community NGO participation in Area Committee activities cannot be overemphasized.”

“Having industry and NGO representatives actively engaged in Area Committee discussions and workshops can greatly contribute to the development of a functional and effective ACP.”

“AREA COMMITTEES & IMPORTANCE OF LOCAL OIL SPILL PLANNING,” US COAST GUARD AREA CONTINGENCY PLANNING PROCESS JOB AID (2012)

planning and preparedness activities, coordinating task forces, and overseeing their outputs. Task forces are formed as needed for a prescribed timeframe to accomplish specific planning or preparedness activities.

Geographic Response Plan (GRP) Development Process in Northwest ACP

“Development of GRPs in the Northwest is a collaborative process. GRPs are developed through workshops and field work involving federal, state, and local oil spill emergency response experts, as well as representatives from tribes, local governments, industry, ports, environmental organizations, pilots and response contractors. Workshop participants identify resources, develop operational strategies, help prioritize the strategies, and pinpoint logistical support. It is important to involve local governments and local communities in the GRP development process. Field work is conducted to visit the selected sites, confirm the existence of the resource at risk, and further refine the operational strategies.”

NORTHWEST AREA CONTINGENCY PLAN, 2016

The Northwest ACP addresses multi-jurisdictional coordination of spill response within the three-state area. The ACP provides a system for establishing lead federal agency status for spills that may migrate from inland regions (US Environmental Protection Agency jurisdiction) to coastal waters (US Coast Guard jurisdiction) or vice-versa. The plan also provides a process for shared management of incidents that impact the waters or lands of more than one US state.

The Northwest ACP, like other US area plans, functions within the structure of the National Contingency Plan for oil and

hazardous substance spills and the National Response Framework for disaster and emergency response. The ACP includes a system for development of geographic response plans (GRPs) through a collaborative process

The Northwest ACP considers risks from oil and hazardous substance spills from marine traffic, facility sites (such as oil refineries and terminals), highways, pipelines, and rail corridors across the three-state region. New risks are regularly evaluated and inform changes or updates to the plan. The plan includes three levels of response scenarios based on federal regulatory requirements: a worst-case discharge for both inland and marine spills (in the case of marine spills, 35 million gallons/132,000 m³), a “maximum most probable” discharge (250,000 gallons/946 m³), and the “most probable” discharge (100 gallons/0.4 m³). (Northwest Area Committee, 2016)

Area Contingency Plans in the US are typically multi-state plans. One notable exception is Alaska, which has its own Area Plan (known as the Unified Plan for Oil and Hazardous Materials Response), which establishes general doctrine and response policies. Ten Subarea plans supplement the Unified Plan and provide more geographically specific

information. Alaska has a well-documented approach to developing geographic response plans, similar to the Washington approach (Mutter et al., 2003).

The Tables of Contents for the Northwest Area Plan, Alaska Unified Plan, and Prince William Sound Subarea Plan are provided in Appendix A as examples of the scope of information included in these documents.

Australian Approach to Oil Spill Contingency Plans

Outside of North America, there are other exemplary models for area response planning. For example, in Australia, which was cited as an example of world-leading national response planning in a study commissioned by the Province (Nuka Research, 2015), regional plans are also prepared at the state and local levels. In Western Australia, inter-related planning documents provide a state-level spill response framework. The Western Australia Department of Transport (DoT) publishes an Oil Spill Contingency Plan (OSCP), which works alongside the state all-hazard emergency plans.

Western Australia Oil Spill Contingency Plan Objectives

“Define the roles and responsibilities for responding to and recovering from marine oil pollution emergencies.”

“Outline the procedures for mobilising local, State, and National resources to support a marine oil pollution emergency.”

“Integrate with [other state emergency plans, supporting local plans, and industry plans].”

WESTERN AUSTRALIA OIL SPILL CONTINGENCY PLAN. DEPARTMENT OF TRANSPORT. 2014.

The development of OSCP follows technical guidance published by the Australian Maritime Safety Authority (AMSA), which provides a framework for the contingency planning process, the planning context, identification of risk scenarios, environmental risk assessment, determining a response strategy, contingency plan contents, and response capability assessment. The AMSA guideline is generic in that it applies across all sectors (operator and government); yet, it establishes clear expectations for oil spill preparedness and response (AMSA, 2015).

The emergency response structure presented in the Western Australia OSCP aligns with the emergency management organization in the state emergency plans, focusing on how national, state, local first responders, and industry would organize for various levels of spill response. Lead agency status is derived from statutory authorities and based on the spill source and location. The Western Australia OSCP is very concise; the main body of the plan is less than 40 pages in length; yet, it covers all of the major response functions. A few core concepts are presented, and these are carried through national, state, local, and industry plans throughout Australia. For example, national, state, local, and industry plans apply a common classification system to categorize incidents based on defined triggers such as number of jurisdictions involved, risks to

humans and the environment, and response resource requirements. A standard approach to selecting oil spill response scenarios based on operational or regional risks also applies across jurisdictions and to industry plans. The Western Australia OSCP is supported by a number of modularized sub-plans and toolkits that cover topics such as public information, oiled wildlife response, waste management, and response organization guidelines. The table of contents for the Western Australia OSCP in Appendix A lists these sub-plans (Department of Transport, 2014).

Key Characteristics

There are several aspects of area response planning approaches in the US and worldwide that could be adapted as part of an integrated approach to Area Response Planning in BC. These include:

- **Multi-jurisdictional governance model** similar to the US Area Committees, which establish a planning body with representation from all levels of government along with formal opportunities for industry and non-governmental stakeholders to participate in planning discussions and guide plan contents.
- **Delineation of roles and responsibilities** for planning and response, such that all levels of government understand their duties and responsibilities, and a shared understanding exists across jurisdictions.
- **Consistent planning boundaries** that are understood and recognized across jurisdictions and that align with other emergency and hazardous materials planning boundaries or districts.
- **One integrated area response plan** that addresses a broad range of spill types and applies consistent principles and expectations for spill preparedness and response.
- **An iterative planning process** that schedules regular updates and allows for ad-hoc changes or updates to area response plan contents.

The recommendations section of this report explores how the Province of BC and the Government of Canada might consider modifying their proposed area response planning approaches to incorporate these practices.

Meaningful Engagement

Principles of Engagement and Oversight

The concept that local communities have a stake in oil spill preparedness and response is widely acknowledged by government and industry. A 2015 report by the International Association of Oil and Gas Producers notes, “The involvement of stakeholders in the contingency planning process provides the foundation for successful decision-making” (IPIECA/IOGP, 2015). A contingency planning guidance document published by the global oil and gas association IPIECA identifies the following parties as having a role in developing spill response contingency plans: national government agencies; local government agencies; port authorities; coastal authorities; emergency services; other oil companies; contractors; environmental organizations; and local communities (IPIECA, 2000). Studies on community resilience show a clear link between community engagement in preparedness and response and the ability of a community to recover from an emergency or disaster (Ranous, 2012).

As noted in the Introduction section of this report, the term ‘community’ is intended to be broadly inclusive of local interests, including but not limited to local and First Nations governments, environmental non-government organizations (ENGOs), and other use groups. While there is general conceptual agreement that local and aboriginal governments and community stakeholders have a role in spill preparedness and response, in practice, there are challenges to approaching contingency planning and response as an inclusive process. During the Deepwater Horizon well blowout in the US, there were initial tensions between local, state and federal agencies because local

Stakeholder Engagement

“Stakeholder engagement is crucially different to stakeholder management; stakeholder engagement implies a willingness to listen; to discuss issues of interest to stakeholders of the organization; and, critically, the organization has to be prepared to consider changing what it aims to achieve and how it operates, as a result of stakeholder engagement.”

“STAKEHOLDER ENGAGEMENT: A ROADMAP TO MEANINGFUL ENGAGEMENT”, CRANFIELD SCHOOL OF MANAGEMENT, 2009

governments were accustomed to exercising broad public health and safety authorities during natural disasters, but did not have the same authorities for oil spills (USCG, 2011). The 2015 *Marathassa* oil spill in Vancouver exposed tensions between local and First Nation members of Unified Command, who had different perspectives on shoreline cleanup and human health risks than the Responsible Party (McPherson and DeCola, 2016).

More fundamentally, different parties may interpret the concept of “engagement” differently. Meaningful engagement of stakeholders in

decision-making has been characterized as interactive, inclusive, encouraging participation, and demonstrating a preparedness to change course based on stakeholder feedback. It is necessarily a two-way process, and this is distinguished from the less effective approach of stakeholder *management*, which focuses more on dissemination of information and less on inclusive decision-making (Jeffreys, 2009).

A 2012 workshop that focused on community involvement in oil spill response and restoration in the US Arctic resulted in several recommendations that may apply to BC as area response planning initiatives and related engagement efforts move forward. These included (NOAA/CRRC, 2012):

- Build local spill response capability and involve locals in natural resource damage assessment process;
- Share plans and educate local communities and agencies on spill issues;
- Incorporate local community and traditional knowledge (subsistence and ecological status) into tools and ensure community oversight in its uses;
- Expand public communication mechanisms during spill response and assessment; and
- Begin restoration planning now, involve locals in developing specific project ideas.

Challenges to Engagement under Proposed Federal and Provincial Initiatives

Federal and provincial efforts to enhance oil spill preparedness and response capacity in British Columbia have been welcome, as local communities have expressed ongoing concerns about gaps in BC's spill preparedness and response regime (Georgia Strait Alliance, 2015; UBCM, 2015). Yet, the concurrence of multiple engagement processes during 2016 and a condensed schedule of outreach events and comment deadlines are straining the capacity of First Nations, local governments, and stakeholder groups.

During recent weeks (June-July 2016), local governments, First Nations, and stakeholder groups have been faced with overlapping public comment periods for two sets of technical reports that present markedly different approaches to oil spill and hazardous materials response planning in BC. Local communities and stakeholder groups have been invited to participate through development of written comments, attendance at seminars and workshops, participation in technical working groups, direct meetings, and other forums (See Appendix B).

The large number of engagement initiatives suggests that the provincial and federal government, along with Western Canada Marine Response Corporation (WCMRC) seek meaningful engagement as they move forward with spill response preparedness and planning efforts. However, the concurrence and pace of these well-intentioned efforts

may actually undermine meaningful engagement. The reality for many local governments, First Nations, environmental and other stakeholder groups is that staff time and resources are a limiting factor. Even with funding available to some organizations through some engagement processes, meaningful participation may be precluded by short notice, compressed timelines, and competing priorities of day-to-day responsibilities. First Nations and local governments are accountable to both leadership and constituents, and adequately serving these interests under time constraints may be challenging.

Most of the recent community and stakeholder engagement activities have involved the dissemination of technical and policy information from the federal and provincial governments or industry response organization to communities, First Nations, ENGOs, and other stakeholders. Communities and stakeholders have not been part of the strategic planning or leadership discussions. For example, the federal Area Response Planning pilot project has a leadership Task Force made up of federal, provincial, and industry representatives only, with no representation of local government, First Nations, or other local stakeholders' perspectives. Even as the public review periods are ongoing or recently closed for both federal and provincial initiatives, the ambitious timelines for moving from proposal to fully implemented plans and policies create a perception that the opportunity for meaningful community input or is limited or lost.

Conversely, the prospect of designing and implementing major regime changes is daunting, and the burden to both federal and provincial agencies in undertaking these initiatives is considerable. BC incorporates a vast geographic area, and there are hundreds of local government, First Nations, and stakeholder organizations with a potential interest in area response planning. A mechanism for streamlining input into the process from the broad base of community interests across the province may facilitate the area response planning process and reduce the burden to lead agencies.

Approaches to Community Engagement

The mechanisms for including local communities in spill planning and response typically fall into one of these categories:

- Vessel-of-opportunity programs that create a role for local fishing or recreational vessels and their crews to participate in oil spill response through formal training and exercise programs and contractual arrangements with government or industry (Rustad, 2011; PWSRCAC, 2015; Nuka Research, 2015);
- Community spill response teams that consist of volunteers or local government employees trained and equipped to deploy spill response tactics, sometimes

linked to geographic response plans or protective booming strategies (Inslee, 2013; SOS Team, 2004; Nuka Research, 2004 and 2005; DeCola and House, 2013);

- Volunteer coordination plans or programs that create a process for enlisting and vetting volunteers in advance of oil spills or during the response (States/BC Task Force, 2008; NRT, 2012); and
- Community or citizen oversight groups that create a formal mechanism for local governments, aboriginal groups, and other stakeholders to provide input into industry and government oil spill plans and response arrangements (SOTEAG, 2013; Stephens, 1994; Devens, 2000; Nuka Research, 2015).

For the purpose of community engagement in area response planning, the community or citizen oversight approach provides a workable model for involving communities in the oversight and management of spill response planning.

Citizen or Community Advisory Committees

The Sullum Voe Oil Spill Advisory Committee is widely acknowledged as the first example of a formal mechanism for community oversight of oil and gas operations. The Sullum Voe Advisory Committee was established in the UK during the 1970s to conduct environmental monitoring, provide feedback on oil spill response plans, and participate in drills and exercises (SOTEAG, 2013). In the aftermath of the *Exxon Valdez* oil spill, the US congress passed legislation that mandated the existence of two Regional Citizens Advisory Councils (RCAC), modeled after the Sullum Voe approach (33 USC 2701, Sec 5002).

The Alaska RCACs have been singled out as a proven and established model for oil industry oversight and community engagement by providing a mechanism for communities, tribes, and interest groups to collaborate with government and industry (Stephens, 1994; Devens, 2000). The US law that created the RCACs contemplated additional councils in other parts of the country, and the after-action report from the Deepwater Horizon oil spill recommended an RCAC for the Gulf of Mexico region (USCG, 2011), but thus far, no additional councils have been formed.

Key Characteristics

Characteristics of the Alaska model that distinguish the approach include (Nuka Research, 2015):

- Member entities include representation from local governments, tribes, and non-governmental organizations representing environmental groups, fishing interest, recreational groups, and tourism.
- The oil industry provides direct funding.
- Each council's scope of operations are defined in their charter and the council's funding can only be used for activities that are consistent with the charter.
- The councils have a sub-regional focus, allowing for a reasonable scope of membership based on shared geography, resources, and risks.
- The councils' existence is compelled by a federal law that mandates their existence for as long as oil operations are underway.
- The US federal government, through the Coast Guard, certifies the councils and audits their activities.

Recommendations for an Integrated Approach in BC

Summary

This report considers the two oil spill response planning/policy initiatives that are currently undergoing public review in Southern BC: the Area Response Planning Initiative pilot project initiated by the Government of Canada, and the Land-Based Spill Preparedness regime proposed by the Province of BC through amendments to the *Environmental Management Act*. Public comment periods for these initiatives were concurrent, closing on June 30, 2016 for the province and July 15, 2016 for the federal government.

Nuka Research prepared this report for Georgia Strait Alliance to recommend a way forward to integrate the two initiatives such that the two area response planning approaches could be harmonized, while also enhancing opportunities for meaningful involvement beyond the lead agencies.

The recommendations in this report are consistent with the 2013 and 2015 reports that Nuka Research prepared for the BC Government, and also reflect our best professional judgment and firsthand experience as practitioners in the field. Unlike the two reports that the province commissioned, this paper presents a relatively focused analysis that can be distilled into two recommendations for integrating BC's area response planning initiatives:

1. Align area response planning boundaries within BC by designating geographic sub-regions within the province, and create a multi-jurisdictional governing body

(inclusive of local and First Nations governments) to oversee area response planning within each geographic region.

2. Establish Regional Community Advisory Councils within each geographic region, based on the Alaska/Sullum Voe model, and provide them with a governance role in area response planning.

While these recommendations focus on BC, both could be applied more broadly across Canada.

Area Response Planning Regions and Governance

Geographic Sub-regions

Given the expansive size of BC, it makes sense to divide the province into sub-regions. The proposed provincial regime would delegate this process to the PRO, while the federal regime has identified Southern BC as one sub-region, but not offered further sub-divisions. Neither approach is ideal.

There are a number of different approaches that have been used to separate BC into sub-regions for administrative, environmental and other planning and emergency response functions. Emergency Management BC (EMBC) is organized by region, and one logical starting point would be to align spill response preparedness and planning with the broader emergency management regime. These regions are familiar to local and regional emergency response agencies, and following these designations for spill response would create a reasonable alignment. It may make sense to combine some regions, or to consider further sub-divisions.



Area Response Plan Governance

While the federal and provincial initiatives have both offered an aspiration toward alignment, the reality is that separate governance structures will impede harmonization. There are also potential economies of scale to combining the federal and provincial initiatives into a single area response planning project.

The Area Committees that are active in Alaska and Washington are examples of how all levels of government come together in an inclusive planning process in the US. Recognizing that there are inherent differences between the two countries, such as jurisdictional authorities and regulatory regimes, there are surely elements of the US Area Committees that could be adapted to the BC context to build a multi-jurisdictional ARP governance structure for each sub-region.

This recommendation runs directly counter to the provincial proposal for an industry-led PRO; however, the PRO could still function as envisioned by the province as a point of coordination for spill response, while removing the planning functions and instead assigning these to a multi-jurisdictional governing body. As in the US model, PROs and other industry partners would still have an active role in the area response planning process.

Establishing ARP governing bodies that are analogous to Area Committees will take time. In the meantime, existing structures shaping both the provincial and federal initiatives should be widened to include, at minimum, local and First Nations government representation. This could be accomplished by adding new members to the federal task force and provincially, adding a Technical Working Group to address governance and accountability, with participation from local governments, First Nations, and stakeholder groups.

The formation of Regional Community Advisory Councils (RCAC), as discussed below, offers a long-term solution to the integration of community perspectives into the area response planning process. Ensuring that ARP meetings were open to the public would also allow community stakeholders additional opportunities to listen to and participate in discussions.

Regional Community Advisory Councils

A number of Lower Mainland municipalities are developing a joint proposal for a pilot project to create an RCAC for Burrard Inlet and the Lower Fraser River. This could provide a workable model for addressing the disconnects in community engagement around area response planning.

The formation of RCACs would provide an opportunity for communities and stakeholder groups to provide a consolidated voice in area response planning. Ultimately, were a pilot project to prove successful, the RCAC could also provide a streamlined mechanism for local input into other initiatives related to spill planning and response, examples of which are outlined in Appendix B.

Rather than expecting the ARP governance body to include representations from dozens of stakeholder groups, the RCAC could designate a limited number of representatives to sit on the governing body and represent member entities. First Nations and local governments that participate in an RCAC may still have direct roles in some planning and response activities, but for community members and other stakeholder groups, the RCAC would create a voice where none currently exists. The RCAC could also designate representatives to technical working groups and other planning activities, reducing the burden to individual member entities.

A functional RCAC would benefit member entities by allowing members to pool resources and expertise and avoid duplication of staff time, both for ongoing area response planning initiatives and future planning and response activities. RCACs also offer potential benefits to federal and provincial governments, by streamlining the process of gathering community input. Facilitating the ongoing participation of community groups provides important local knowledge to spill planners, and helps to fulfill the key objective of building public confidence in BC's spill regime.

The concept paper currently being drafted by the Lower Mainland municipalities includes more detail about how the terms of reference, organizational mandate, membership, funding, and operations of the pilot RCAC might be structured. As the RCAC pilot project concept is refined, it would be useful for the federal and provincial agencies leading the ARP initiatives to engage in a dialogue about how an RCAC could benefit and support an integrated planning approach.

Conclusion

This report recommends two major shifts to the proposed federal and provincial approaches to area response planning. The intent is not to disrupt momentum, but to offer an outside perspective, informed by direct experience, as BC contemplates regime-building at multiple levels.

While external forces may be creating a sense of urgency to completing these new initiatives, planning is first and foremost a process that works best when it is deliberate and informed. Appendix A to this report reprints the tables of contents from Area Response Plan equivalents from other jurisdictions. It is noteworthy that some of these (e.g. the Kodiak Subarea Contingency Plan, which was published in 1997 and updated most recently in 2014) represent a multi-year history of revision, update, and improvement. It is perfectly legitimate to create a framework that includes placeholders for technical content where extra time is needed.

In the wake of the *Exxon Valdez* oil spill, the US government was faced with a distrustful public who had lost faith in both the government and the industry. In crafting the current US oil spill planning and response regime, the Congress noted that, “only when local citizens are involved in the process will the trust develop that is necessary to change the present system from confrontation to consensus” (PL 106-580, Sec. 5002). Plans work best when they have the buy-in and trust of the people with a stake in their implementation. The concurrence of provincial and federal area response planning processes creates the opportunity to foster this trust, but may require some fundamental changes to the proposed approaches.

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Appendix A: Contents of Select Area Response Plans from Other Jurisdictions

Tables of contents from Area Response Plans are reprinted here as examples of the scope of information included in other area response plans.

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PRINCE WILLIAM SOUND SUBAREA CONTINGENCY PLAN

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This plan is also available online at the State of Alaska ADEC website:
www.dec.alaska.gov/spar/perp/plans/scp_pws.htm

Western Australia Oil Spill Contingency Plan

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Appendix B. Recent and Ongoing Community Engagement Activities in BC

The following table highlights some of the recent and ongoing initiatives related to oil spill and hazardous materials preparedness and response in Southern BC, as of early July 2016.

Ongoing and Planned Spill Preparedness and Response Initiatives	Lead	Timeline and Milestones for Community Engagement in BC (all dates 2016 unless otherwise noted)
Greater Vancouver Integrated Response Plan (GVIRP)	Coast Guard	May – Sept (9 exercises / workshops, multiple meetings)
Ministry of Environment (MoE) Land Based Spill Response Regime	BC MoE	Apr 20-21 (2-day session) Written responses due: June 30 Technical Working groups (by invitation): May – Sept Advisory committees (proposed, no timeline)
Area Response Planning Pilot and Risk Assessment (Southern BC)	Transport Canada / Coast Guard	ARA methodology published April 2016; technical appendices provided upon request on June 23 Written responses due: July 15 Engagement meetings (5 total in BC): May 24-June 21 Future workgroups: timeline/membership unclear Pilot project / sample plan for Southern BC complete March 2017.
Proposed Environmental Response Standards and Regulations	Transport Canada	Comments due: July 4
Geographic Response Plan development for Burrard Inlet	WCMRC	Initial 1-day workshop reportedly planned in Aug (not scheduled)
HNS Report and Regime development	Transport Canada	1 day workshop (May or June - pending)
Roundtable on Marine Safety and North Coast tanker moratorium	Transport Canada	July 5 or 8 – 4 hr session (invitation distributed June 22)
WCMRC 1,000-tonne exercise	WCMRC	June 27, 28
Ministerial Panel for Trans Mountain Expansion Project	Minister of Natural Resources	Roundtable and town hall meetings scheduled at different locations across BC July 19-29; August 9-11; August 16-18; August 23-24