

# **Presentation to the Standing Committee on Transport, Infrastructure and Communities**

***Regarding Bill C-23 An Act to amend the Canada Marine Act,  
the Canada Transportation Act, the Pilotage Act and  
other Acts in consequence***

**Tuesday, February 5, 2008**

**11:00 to 12:00 in Room 269 of the West Block Building**

## **Introduction**

My name is Mark Mattson. I am an environmental lawyer and the Waterkeeper & President for Lake Ontario Waterkeeper, a Canadian charity based in Toronto, Ontario. Our goal is to win back the public's rights to safely swim, drink and fish from every waterway around Lake Ontario. We also help to promote and support the growing Waterkeeper movement in Canada.

Lake Ontario Waterkeeper has studied port authorities and the Canada Marine Act. We have offered comments during previous port-related consultations, including those led by Mr. Roger Tasse and the Hon. David Crombie.

## **Importance of ports**

I come before the committee today to inform you that the issue of Port Authorities and harbour governance is one of the most controversial, high-stakes issues facing many Canadian communities. The clash between federal and municipal interests, competition for funding, disagreement over wise land use, and the dramatic deterioration of the nation's waterways are all signs that Canada needs a better system for managing its ports. In the view of our communities, this system must be environmentally and economically sustainable and responsive to local needs.

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Every port attracts a wide variety of users: shipping, industry, air, rail, recreational access, residential and commercial development, tourism, parks to name just a few. In Waterkeeper's experience, the Canada Marine Act limits stakeholders' abilities to work together in the best interests of the harbour. In most cases, the Canada Marine Act actually elevates shipping, air, and rail interests above all others, regardless of their contributions to the economy or the number of stakeholders they represent. As a result, there is entrenched conflict between the interest and activities of federal Port Authorities and local governments. All too often, conflict results in law suits or mediation efforts that are costly to citizens, impede progress, and institutionalize conflict between different waterfront agencies.

Most ports are located in urban areas, and for most Canadian cities, waterfront is everything. The waterfront is the heart and soul of the community, often the reason for a city's very existence. The Canada Marine Act must recognize this if it is to succeed; any failure to recognize the needs of the local communities will result only in further tension, funding crises, and litigation.

Waterkeeper respectfully submits that consultation with a broader variety of stakeholders in these port communities would provide the committee with the best possible perspective on the issue.

**Recommendation #1: Engage in thorough consultation with a variety of stakeholders in port communities.**

## **Restore a public interest mandate to Port Authorities**

Before the Canada Marine Act, Harbour Commissions had a public interest mandate. For close to a century, Commissions had the ability to work collaboratively with municipal governments and local residents to govern port activities.

With the enactment of the Canada Marine Act in 1999, port authority activities were limited to other matters of core federal jurisdiction such as shipping, navigation, transportation of passengers and goods and storage and other activities necessary to support port operations. This narrow focus was coupled with the requirement that a port be financially self-sufficient, and that it serve only the interests of its commercial users.

Section 5 of the Canada Marine Act defines, “user” as: “... a person that makes commercial use of, or provides services at, the port”. This definition envisions harbours only as transportation hubs, primarily for shipping and railways. It ignores the environmental, tourism, recreational, residential, and commercial importance of harbours. This definition remains unchanged in Bill C-23.

**Recommendation #2: The Canada Marine Act should ensure ports are managed first and foremost for the public interest.**

**Recommendation #3: The definition of “user” should be broadened to enumerate a realistic group of stakeholders.**

## **Restrict subsidies for Port Authorities**

As we have described, there is widespread tension between Port Authorities and municipalities. There are also funding issues confronting Canada’s cities. And so, the federal government should avoid giving capital investment subsidies to private port interests that in any way jeopardize funding for municipality-driven capital investments.

Waterkeeper could foresee federal capital investment funding to Port Authorities that do enhance the public interest (for example, elimination of the combined sewer outlets that pollute Toronto’s waterfront). For this reason, Waterkeeper proposes that Section 25(b)(ii) of the amended Canada Marine Act read, “is a contribution in respect of the capital costs of an infrastructure project that has been endorsed by the municipal coun-

ci.” Such an amendment facilitates collaboration and ensures that subsidies to Port Authorities reflect the needs and wishes of the local government. Without this qualifier, there is no assurance that the capital investment is for the public benefit and Section 25 amounts to nothing more than legislative approval for transferring public tax dollars to private interests.

**Recommendation #4: Amend Section 25(b)(ii) of the amended Canada Marine Act read, “is a contribution in respect of the capital costs of an infrastructure project that has been endorsed by the municipal council.”**

## Summary and Recommendations

In summary, I would like to say that we know and appreciate more today about the environmental and socio-economic value of clean and vibrant ports clean waterfronts than we did even ten years ago. Canadians know that we need to use wisely the limited waterfront areas we have, generate sustainable revenues for our cities, and eliminate toxins from our waterways. This knowledge is fueling a kind of "waterfront renaissance" in communities across the country.

Yet, with each day that passes, there are fewer individuals and fewer organizations left who remember precious places like the Great Lakes as they once were: clean, plentiful, and catering to diverse interests. One of the greatest threats to Canada’s waterways is this loss of memory. We see acceptance of a status quo that includes contaminated sediments, polluted beaches, fish consumption advisories, and decreasing access to our waterfronts. If the Canada Marine Act does not provide for the management of our ports as they should be - diverse, healthy centres - the nation’s waterfronts will never recover.

For these reasons, Lake Ontario Waterkeeper respectfully recommends the following:

**Recommendation #1: This Committee should engage in thorough consultation with a variety of stakeholders in port communities.**

**Recommendation #2: The Canada Marine Act should ensure ports are managed first and foremost for the public interest.**

**Recommendation #3: The definition of “user” should be broadened to enumerate a realistic group of stakeholders.**

**Recommendation #4: Section 25(b)(ii) of the amended Canada Marine Act should read, “is a contribution in respect of the capital costs of an infrastructure project that has been endorsed by the municipal council.”**