



## Save Passamaquoddy Bay

A 3-Nation Alliance

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Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE Room 1A  
Washington, DC 20426

eFiled on 2013 July 9

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001**

Dear Ms. Bose,

FERC has continued to process Downeast LNG's permit applications, even though Canada has firmly and on numerous occasions indicated to FERC and even to the US President, that LNG transits through Canadian waters to the proposed terminal are prohibited. The US Department of State has claimed a right of innocent passage through these Canadian waters, a right that enures only to parties to the United Nations Convention on the Law of the Sea (UNCLOS) — to which the US is not a party; thus, no US right of innocent passage exists.

Additional to the United States' false innocent-passage assertion, being overlooked is the history of dispute in this US-Canada boundary area, and its implications regarding the proposed Downeast LNG project. The US erred in its territorial claims of this region, contributing to eruption of the War of 1812, inspiring the construction of the St. Andrews Blockhouse and cannon defense against US privateering (US-sanctioned piracy) raids of the town — with the cannon aimed toward Maine, even to this very day.

On pages 3–4 of this comment is an op-ed that appeared in the 2013 July 06 Saint John, New Brunswick, *Telegraph Journal* newspaper entitled, "The non-battle that triggered Confederation." It tells of an unintended consequence: how armed aggression from civilians in the US against Canadian territory in Passamaquoddy Bay resulted in the confederation of Canada. The parallel to current US Government and Downeast LNG contempt for Canada's authority over its own territory is unmistakable.

Following "The non-battle that triggered Confederation," on page 5, is a recent political cartoon from *The Saint Croix Courier*, St. Stephen, New Brunswick, of a Canadian beaver igniting a "canon" (sic; cannon) fireworks directed at Downeast LNG. The referenced cannon resides at the St. Andrews Blockhouse National Historic Site (see the photograph following the cartoon). The cartoon appears to be the result of FERC Chair Wellinghoff's recent dismissive letter to Canada's Ambassador Doer regarding

Canada's sovereign authority to prohibit LNG ship transits through Head Harbour Passage and Canadian waters in Passamaquoddy Bay.

Downeast LNG is thumbing its nose directly in the face of St. Andrews, New Brunswick, Canada. The proposed terminal would literally place part of St. Andrews — ironically including the St. Andrews Blockhouse National Historic Site — within a US Sandia National Laboratories-defined LNG-ship Hazard Zone.

The US fraudulently claims authority to approve Downeast LNG ship transits that would place Canadian citizens, territory, and assets in physical and economic jeopardy, while simultaneously claiming that Canada has no equivalent authority.

The US Coast Guard is well aware of the anti-drug riot that occurred on 2006 July 21 on Grand Manan, New Brunswick. Island citizens, dissatisfied with the lack of anti-drug policing in the community, armed with baseball bats, knives, guns, a flare gun, and a can of gasoline descended upon a local drug dealer's home, beat the drug dealer and burned his residence to the ground. Islanders took a "creative" approach to solving a problem that was not being addressed to their liking. In a 2007 letter to FERC's Richard Hoffman, Coast Guard Captain of the Port Stephen Garrity questioned how civil disobedience in the Canadian waterway could be addressed<sup>1</sup> (see the accompanying PDF of the letter, **02\_Garrity2Hoffman.PDF**).

History of the Passamaquoddy Bay area provides instructive lessons, in which the US lost. By abusing Canada's sovereign authority and its citizens' safety, the Department of State, FERC, and the Coast Guard are demonstrating they have not learned from those lessons. History is being tempted to repeat.

It is in the United States' best interest to cease its improper processing of Downeast LNG's applications. At the very least, FERC must deny Downeast LNG's permits.

Very truly,

Robert Godfrey  
Researcher & Webmaster

CC: Alan Moore, Port Security Specialist, USCG Sector Northern New England  
Sen. Angus King  
Sen. Susan Collins  
Rep. Mike Michaud  
Rep. Chellie Pingree  
Rebecca Boucher, Esq.  
Service List

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<sup>1</sup> Letter from US Coast Guard Captain of the Port, Sector Northern New England, CAPT Stephen Garrity to FERC's Richard Hoffman, 2007 June 19, Calais LNG docket CP07-35 on 2007 July 6, Accession No. 20070706-0115, <http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=11392589>

## **The non-battle that triggered Confederation**

Author: Gough, Joseph

Publication info: Telegraph-Journal [Saint John, N.B] 06 July 2013: A.10.

The federal government is gearing up to celebrate the 150th anniversary of Confederation in 2017. Along the way, will anyone beat the drums and sound the bagpipes for the crucial non-battle at Campobello Island that helped bring Canada into being?

It might be hard to make a Heritage Minute from the 1866 Fenian Raid. The Irish American volunteers only got part way across the fast-moving and foggy waters between Eastport, Maine and Campobello, New Brunswick. Few shots were fired and no blood was spilled. In most Canadian history texts, the Campobello raid is lucky to get half a paragraph. Yet it was the greatest battle Canada never fought, becoming a catalyst for Confederation.

The latest in a string of militant Irish-American societies, the Fenians in the 1860s attracted many members with military expertise gained in the United States Civil War. They reckoned that harassing British North America (BNA), still partitioned into various provinces, would aid the struggle back in Ireland for independence from Great Britain.

A grandiose plan propelled their raid on Campobello Island, just off the easternmost point of Maine. According to *The Last Invasion of Canada* by historian Hereward Senior, the Fenians "hoped to seize and hold a bit of British territory that would become the headquarters of the Irish republic."

This territorial base would also give them legal "belligerent status." Fenian vessels could then prey on British shipping without running afoul of American neutrality laws. Without such status, they were pirates; with it, they were legitimate.

New Brunswick authorities suspected a raid was coming, the British intelligence system being aided by Fenian talkativity. One well-connected Fenian turned out to be a paid informer for the British Consul in New York. British authorities in turn told the American government about the projected Campobello campaign.

Militia units and volunteers on the New Brunswick border began gearing up for a possible fight. On Campobello itself the Owen family, explorers and chartmakers for the British Admiralty (who modestly named Owen Sound, Ontario after themselves), raised a local guard.

By mid-April 1866, an estimated 1,000 Fenians had gathered at Eastport and nearby towns along the border-defining St. Croix River. At the river's mouth, lightly populated Campobello lay only a nautical mile offshore from Eastport.

The hundreds of strangers carrying guns and knives, some holding military drills along the riverbank, spread alarm along the border. Fears increased when on April 14 an armed party of Fenians made it as far as Indian Island, N.B. A smuggling haven during the War of 1812, this tide-churned stand of trees and sand was not even halfway to Campobello. The group stole a Union Jack and withdrew.

The mayor of Calais, Maine had already offered his cross-border neighbours sympathy and assistance. Now some worried St. Stephen families took refuge there.

The Fenians ferried in more guns on the schooner Ocean Spray, which arrived at Eastport on April 17. That same day the 81-gun H.M.S. Duncan arrived from Halifax, joining other British vessels already on the scene.

American authorities themselves moved from monitoring to action. They dispatched a high-ranking general, George Meade, who on April 19 seized the weapons from the Ocean Spray. Gen. Meade warned the Fenians to obey neutrality laws.

Surrounded by forces of order, the Fenians gave it up and headed home - but with a few parting shots. On April 22 two boatloads from the Ocean Spray made another landing at Indian Island, burning down a Canada Customs warehouse and three stores. British sailors dispersed them after a small exchange of gunfire, the only shots fired during the whole venture.

The raid bore bitter fruit for the Fenians. They opposed Confederation, which had seemed uncertain. In New Brunswick, an anti-Confederation party had gained power in 1865, and opinions in Nova Scotia were sharply divided.

But after the Fenian alarm and commotion, New Brunswick voted in pro-Confederates led by Samuel Leonard Tilley. In Nova Scotia, premier Charles Tupper was now able to get the legislature to approve Confederation, which took place a little over a year later.

Quoting once more the late and distinguished Professor Senior, the Campobello venture had "far-reaching effects, as it induced New Brunswick and Nova Scotia to enter Confederation."

Though the Fenians were to make future raids, after 1867 they were fighting a larger entity. Opposing Confederation, they had helped to create it. And they further strengthened Canada by making it popular to volunteer for the militia.

May one hope that in the run-up to the big 2017 celebration, the key event at Campobello gets some attention?

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*Joseph Gough is a member of the Friars Bay Development Association at Campobello.*



From The Saint Croix Courier, St. Stephen, NB, Canada, 2013 July 02, pA4. Canada's national animal is the beaver, shown here igniting a "canon" (sic; cannon) fuse.



St. Andrews Blockhouse National Historic Site, St. Andrews, NB, looking southeastward. This historic site would fall within Downeast LNG ship Hazard Zone 3.

ORIGINAL

CP07-35-000

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FEDERAL ENERGY  
REGULATORY COMMISSIONFederal Energy Regulatory Commission  
Attn: Mr. Richard Hoffmann  
888 First Street  
Washington, DC 20426

JUN 19 2007

Dear Mr. Hoffmann:

The Coast Guard requires additional information in order to fully assess the security and safety of liquefied natural gas (LNG) vessels transiting to and from and mooring at the proposed Quoddy Bay and Downeast LNG facilities on the western shore of Passamaquoddy Bay in Washington County, Maine. In addition to meeting Coast Guard needs, I anticipate the Commission will find the described information to be essential to its decision-making process regarding both applications and siting proposals and will require such information prior to making a final decision on the applications.

For nearly two years the Coast Guard has worked closely with the Federal Energy Regulatory Commission on these two projects and during that time has greatly appreciated the willingness of your staff to work cooperatively in the review of required document submissions. The Coast Guard is well aware of the time guidelines your agency has put in place for the completion of governmental review and has worked diligently to keep those deadlines.

LNG vessels transiting to and from the proposed facilities will pass through the waters along and adjacent to the United States-Canada maritime boundary, including entry into Canadian waters while exercising the nonsuspendable right of innocent passage. The safety, security, and potential environmental impact of LNG vessels navigating these waters are of mutual interest to the United States and Canada. As such, the Department of State recently delivered a diplomatic note to Canadian officials urging their input on the maritime safety, security, and environmental issues involved. As you know, the diplomatic note followed earlier requests from the Commission to Canadian officials requesting similar input. To date, the Canadian agencies have not provided substantive input in response to the requests, creating an informational void regarding the review of those pertinent issues.

The Coast Guard believes that information on maritime safety, security, and environmental issues related to the described LNG vessel transits, including measures to address such issues, is essential to informing the Commission's siting decisions. Similarly, we are of the position that the Commission and Coast Guard need to consider trans-boundary impacts, which require a fuller understanding of the Canadian position than we have currently.

As the proponents of these projects, the applicants should be required to demonstrate that the proposed facilities will be sited where they can be served by LNG vessels in a manner that meets all safety, security, and environmental interests. While the Coast Guard will continue to work with the State Department to gain Canadian cooperation in this process, the applicants have a



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responsibility to obtain and provide the necessary information regarding their site selection to permit the required safety, security, and environmental reviews to be completed. Therefore, we would ask that the developers obtain and provide as soon as possible the following documents/information:

- The prospective Canadian LNG study or some other suitable governmental articulation of Canadian issues upon which the Ambassador's letter to FERC dated 14 February, 2007, was based. Such documentation will enable the Coast Guard to avoid having to construe by inference what those issues may include.
- Specific options to facilitate the safe and secure movement of LNG tankers through U.S. and Canadian waters should Canada remain committed to a policy of non-cooperation. Issues of particular interest are:
  - Identification of suitable boarding locations to conduct all U. S. Government pre-arrival safety and security vessel examinations.
  - Mechanisms to establish a formal-one-way vessel traffic scheme during LNG tanker movements, including route adjustments and the anticipated role of Vessel Traffic Service (VTS). Other security options such as the use of private security assets in Canada and U.S. Governmental ship rider strategies should also be studied as ways of reducing risk.
  - Methods to improve navigational safety, including upgrades to equipment (radar, closed circuit television (CCTV)), radio communications, VTS control, and pilot-suggested improvements to the existing bi-national aids to navigation system.
  - Possible locations for establishing safe refuge/anchorage areas, especially in the event of an emergency, suitable for LNG tankers.
  - Outlining in-transit and dockside emergency procedures, especially where trans-boundary or adverse Canadian impacts are anticipated, in the absence of any existing bilateral agreement or bi-national response plan.
  - Detailing how marine near-shore terrorist threats and civil disobedience incidents, especially those originating from Canada, would be addressed.
  - Identification of what additional security measures would be put in place at elevated MARSEC levels and whether coordination with Canada would be necessary to implement them.
  - Explanation of what Emergency Response Plans would be developed with Canada, including the activities that would be undertaken to (1) train and equip Canadian first responders, (2) enhance crisis communication procedures with Canada, and (3) develop protection strategies for the affected Canadian public and natural environment.

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- **Compilation of anticipated legal issues with regard to fishermen equipment loss, special rights of Passamaquoddy fishermen, and liability resulting from accidents, attack, use of force, or any other trans-boundary concerns expressed to date.**

**The position of the Passamaquoddy Tribe regarding its jurisdiction and role in incident response is not yet resolved.** The Tribe has hired legal counsel to review and work with the Coast Guard to address germane issues. While we are at the beginning of those negotiations, future discussions with the Tribe will take time and may raise additional issues not yet identified.

Requiring the applicant to respond to the issues identified above will allow the Coast Guard to provide more informed recommendations regarding the suitability of the waterways at and near the proposed facilities. Further, as a cooperative agency in your environmental impact statement, we believe all of the information requested must also be properly assessed even in the upcoming Draft Administrative Environment Impact Statement. At this point, we hold the view that the applicant has not complied with 18 CFR 157.21 (a) (2) (ii). Provision of the requested information will also help facilitate the assessment of the environmental impacts. Until the Coast Guard obtains the information requested above, we consider both applications incomplete and will not be able to finish and submit the Waterway Suitability Reports for either of the two projects.

Thank you in advance for your thoughtful review of these matters. Please feel free to contact me directly at (207) 741-5497 or by e-mail: [Stephen.P.Garrity@uscg.mil](mailto:Stephen.P.Garrity@uscg.mil) .

Very respectfully,



S. P. GARRITY  
Captain, U. S. Coast Guard  
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