



February 22, 2018

Marie-France Lafleur
Clerk of the Committee
Standing Committee on Transport, Infrastructure and Communities
Sixth Floor, 131 Queen Street
House of Commons
Ottawa, Ontario K1A 0A6
TRAN@parl.gc.ca

Dear Ms. Lafleur:

I am writing to you to provide information regarding questions raised during the meeting of the Standing Committee on Transport, Infrastructure and Communities on February 7, 2018, with respect to Bill C-64.

In response to testimony provided by Vice-Admiral (ret'd) Denis Rouleau and Mr. Patrick White, Executive Director of Project Naval Distinction, a number of questions were raised regarding the potential to designate and protect ocean war graves under the proposed legislation. As the lead agency for federal built heritage and archaeology, Parks Canada is pleased to provide additional information on this matter.

There is currently no specific federal process for the designation of ocean war graves. The Minister of Environment and Climate Change, responsible for Parks Canada, designates national historic sites on the recommendations of the Historic Sites and Monuments Board of Canada. Designation as a national historic site does not in itself provide legal protection, but is intended to raise awareness of and commemorate the site's historic significance.

Under the *Canada Shipping Act, 2001*, the Minister of Transport and the Minister responsible for Parks Canada have joint authority for the making of regulations for the protection and preservation of wreck that have heritage value. Bill C-64 would transfer these authorities to Section 131 of the new Act. As the lead agency for federal archaeology, Parks Canada intends to work with other federal organizations to examine options for the management of heritage wrecks under Canada's jurisdiction. The inclusion of military wrecks that are ocean war graves under future heritage wreck regulations would provide legal protection from unauthorized disturbance.

In addition to the wrecks of vessels and airplanes belonging to the Canadian Forces, Parks Canada has estimated that at least 50 military wrecks belonging to foreign governments have been located in Canadian waters, and perhaps another 100 remain undiscovered. Approximately 90% of military wrecks in Canadian waters are the property of foreign governments, including the United Kingdom, France, and the United States of America. In some cases, Parks Canada has been identified by a foreign government to act on its behalf in ensuring the appropriate management of these wrecks. An example is the Memorandum of Understanding between Canada and the United Kingdom concerning the management of the wrecks of HMS *Erebus* and HMS *Terror* in Nunavut. Under future heritage wreck regulations, Canada would be able to ensure these foreign military wrecks receive legal protection from unauthorized disturbance.

International maritime law protects the sovereign immunity of military vessels and relies on the authority of the State with jurisdiction over the territorial waters to protect these wrecks. Many countries have legislation in place to protect heritage wrecks, including all G8 countries other than Canada. In addition, some countries have specific legislation to protect wrecks of military vessels. These include the *Protection of Military Remains Act* in the United Kingdom and the *Sunken Military Craft Act* in the United States.

In 2001, 86 countries (including Canada) voted to support the language of the UNESCO *Convention on the Protection of the Underwater Cultural Heritage*. Member states agreed to cooperate and work towards the protection of underwater cultural heritage within their jurisdiction and the high seas. To date, there are 58 State Parties to the Convention, including France, Italy, Portugal and Spain. Before ratifying the Convention, Canada would need to demonstrate that adequate measures are in place to protect underwater cultural heritage, including heritage wreck.

Finally, Parks Canada is not aware of any military wrecks that currently pose a hazard to the environment or to navigation. Any operations required to address risks to navigation, the environment or public safety could be accommodated under future heritage wreck regulations.

We thank you for the opportunity for Parks Canada to provide additional information regarding these questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Montminy'.

Joëlle Montminy
Vice-President
Indigenous Affairs and Cultural Heritage
Parks Canada Agency