

MINISTRY OF NATURAL GAS DEVELOPMENT

BRIEFING NOTE FOR INFORMATION

- I PREPARED FOR:** Honourable Bill Bennett, Minister of Energy and Mines
- II ISSUE:** Minister Bennett's meeting with the Prince Rupert Port Authority (PRPA).
- III BACKGROUND:**

Purpose of Meeting

PRPA would like to provide a briefing of the Port Authority's responsibilities, challenges and plans for the Port of Prince Rupert, including how the Port fits into the Province's Jobs Plan and its strategy for LNG industry development.

Port of Prince Rupert

The Prince Rupert Port Authority (PRPA) is a federally regulated port that oversees port development in Prince Rupert and has a landlord-tenant relationship with port terminals handling containers, grain, coal and cruise passengers. CN is the sole rail service provider from Prince Rupert to destinations in Canada and the United States.

The Port of Prince Rupert has the deepest seaport in North America and is two days closer to Asian ports in travel time than Los Angeles. Because of its intermodal capability (ship to rail) it has the most efficient port/rail interface on the west coast of North America - a competitive advantage over the constrained port/rail/road interfaces at other ports on the west coast.

LNG Projects in the Prince Rupert Area

There are currently two proposed Liquefied Natural Gas (LNG) export facilities proposed for development in the PRPA:

- a. Pacific Northwest LNG project (Progress/PETRONAS) is proposed for Lelu Island; and,
- b. Prince Rupert LNG export Project (British Gas (BG) Group) is proposed for Ridley Island.

Both of these LNG projects are to be located on federal lands in the PRPA area and may include associated infrastructure on adjacent Provincial Crown land and in adjacent marine areas (e.g. pipelines, work camps, staging areas, terminals, jetties and roadways).

PRPA has awarded exclusive investigative use rights to each of these proponents. PRPA is planning to move into their "Project Development Agreement" phase, which would include leasing the lands. Both LNG projects are subject to ongoing environmental assessments, which are coordinated federal and provincial assessments, with the federal government taking the lead.

Outside of the PRPA boundaries, and located on Grassy Point, the province is working closely with:

- Nexen Inc., and joint venture partners INPEX, JGC and CNOOC on the North site and;
- the province continues to negotiate with a proponent on the South site.

The province has entered into Sole Proponent Agreements on the North site with Nexen Inc. which gives exclusive procedural rights to proponents for a period of three years.

Proponents are required to achieve two significant milestones during that period:

- Acquire a National Energy Board export license;
- Under Section 11 of the *Environmental Assessment Act*, receive an order outlining project scope and procedures prior to September 1, 2014; and,
- Before December 1, 2015, proponent is to have received Application Information Requirements for the designated area.

Given the scale and scope of planned developments, a coordinated approach around infrastructure development between industry, the municipalities, Port Authority, First Nations, the Province and Canada will be required.

Canada's Special Federal Representative on West Coast Energy Infrastructure, Douglas Eyford, has released his final report on how to bring aboriginal communities on board as partners in resource development. The report presents B.C.'s approach to working with First Nations as a model for Canada to follow.

IV DISCUSSION:

Federal Provincial Regulatory Initiative for LNG Projects in the PRPA:

s.13, s.17

The OGC, PRPA and Transport Canada have also agreed on pursuing Interim Regulatory Agreements (IRAs) with the two LNG facility proponents and two gas pipeline proponents which have submerged pipeline proposals in the marine port area (Spectra

and TransCanada) for the purposes of ensuring OGC cost-recovery for early pre-application engagement work with each proponent.

Provincial Industrial Land and Marine Use Planning – Prince Rupert area

MNGD is leading a provincial team, in partnership with the PRPA to develop an Industrial Land and Marine Use Plan to support medium to large LNG and non-LNG developments in the Prince Rupert area. The mapping and planning work will examine integrated rail, roads, pipelines, utility corridors, and water lots as well as expansion plans for existing industry and non-LNG commodities. The PRPA is working with the provincial team to share data and information to support this industrial land analysis.

Memorandum of Understanding (MOU): Ministry of Transportation and Infrastructure (MOTI) and PRPA

s.16, s.13

CONCLUSION:

The Province supports the continued development of the Port of Prince Rupert as a key gateway facilitating Asia-Pacific trade. The Province is committed to continuing to work closely with PRPA on LNG development.

The Province is investing \$15 million in the Ridley Island Road Rail Utility Corridor, which will provide key foundational infrastructure for future terminal developments.

s.17, s.13

BC is working closely with the PRPA and Canada to ensure First Nations are appropriately consulted and accommodated with respect to proposed projects in the PRPA. Coordinated approaches to addressing aboriginal claims are being pursued with the involvement of MARR and Transport Canada

LNG proponents have expressed interest in locating terminal facilities in the Prince Rupert area on PRPA lands (Lelu/Ridley Island) and on provincial crown lands at Grassy Point.

The Province will be engaging industrial proponents, including PRPA, in comprehensive land use planning for the Prince Rupert-Port Edward region.

Attachments: 1) Confidential Issues Note: Eyford Report;
2) Forging Partnerships Building Relationships (Report to Prime Minister by D. Eyford).

REVIEWED BY:
Brian Hansen, ADM ✓

APPROVED BY:
Ines Piccinino, A/DM ✓

ADVICE TO MINISTER

CONFIDENTIAL ISSUES NOTE

Ministry: Natural Gas Development
Updated: December 5, 2013

Minister Responsible: Hon. Rich Coleman

Eyford Report

ADVICE AND RECOMMENDED RESPONSE:

- We appreciate Mr. Eyford's work on this report and will take time to review it.
- The report confirms B.C.'s approach to working with Aboriginal people.
- The Province is continuing to work with First Nations to ensure they benefit from long-term investments and are partners in B.C.'s resource industry.

Oil and Gas

- We have a strong relationship with Aboriginal people, and we are engaged in an open dialogue with First Nations about oil and gas development.
- Aboriginal people have a crucial role in oil and gas development. We have several agreements with First Nations in Kitimat and along pipeline corridors and are seeking new agreements relating to new resource development.

KEY FACTS REGARDING THE ISSUE:

On December 5, Canada's Special Federal Representative on West Coast Energy Infrastructure, Douglas Eyford, will release his final report on how to bring aboriginal communities on board as partners in resource development. The report presents B.C.'s approach to working with First Nations as a model for Canada to follow.

The report is divided into four sections, and identifies that the following efforts are needed:

Building trust - establish constructive dialogue about energy development, demonstrate commitment to environmental sustainability, enhance understanding of and participation in pipeline and marine safety.

Fostering inclusion – create Aboriginal employment and business opportunities, establish collaborations among Aboriginal communities that allow for better outcomes, facilitate the financial participation of Aboriginal communities in energy projects.

Advancing reconciliation – refine Canada's current approach to consultation and engagement, explore mutually beneficial initiatives that support reconciliation, encourage Aboriginal communities to resolve shared territory issues.

s.13

The report includes 29 recommendations for the federal government. It highlights the following ways Canada should work with the Province and First Nations:

- Canada should participate with B.C. in planning initiatives such as interim treaty and reconciliation agreements
- Canada should work with B.C. and First Nations to ensure federal programming goes where it's needed

- A new Tripartite Working Group of B.C., Canada and First Nations political leaders should be established to oversee the implementation of the report's 29 recommendations

The report recommends the following related to energy projects:

- Canada should provide incentives to First Nations to aggregate on energy projects
- Canada should recommend loan guarantees to allow First Nations financial participation in energy projects

BACKGROUND

In March 2013, in response to the strong opposition from First Nations to Northern Gateway, the federal government appointed Doug Eyford to map out a strategy that would engage First Nations communities on resource development and environmental protection in Western Canada.

Communications Contact:		Melissa Peters	250 387-1373
Program Area Contact:		Simon Coley	250 952 0105
Minister's Office	Program Area ADM	ADM/Deputy	Comm. Dir
TM	SC	IP	NC (MARR)/ CA

Forging Partnerships Building Relationships

**Aboriginal Canadians and
Energy Development**

Report to the Prime Minister
By Douglas R. Eyford

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LETTER TO THE PRIME MINISTER

29 November 2013

Dear Prime Minister:

RE: Report on West Coast Energy Infrastructure

Enclosed for delivery is my final report, *Forging Partnerships, Building Relationships: Aboriginal Canadians and Energy Development*.

I am grateful for the opportunity to contribute to the discussion about Crown-Aboriginal relations in the context of the west coast energy infrastructure projects. This is an opportunity for Canada and Aboriginal communities in Alberta and British Columbia to constructively address and reconcile their respective interests.

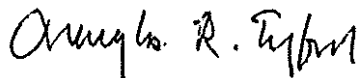
Key observations include:

- Canada and Aboriginal communities need to build effective relationships and this is best achieved through sustained engagement;
- Aboriginal communities view natural resource development as linked to a broader reconciliation agenda;
- Aboriginal communities will consider supporting natural resource development if it is undertaken in an environmentally sustainable manner; and
- these projects would contribute to improving the socio-economic conditions of Aboriginal communities.

Progress requires leadership, commitment, and action by governments, Aboriginal communities, and industry. I am optimistic that collaborative efforts by each of the parties can advance their respective interests.

I trust this report will be helpful in your government's deliberations.

Yours truly,



Douglas R. Eyford

Executive Summary

On 25 March 2013, I accepted an appointment as Canada's special federal representative on west coast energy infrastructure to identify approaches that could meet Canada's goals of expanding energy markets and increasing Aboriginal participation in the economy. I was asked to identify Aboriginal interests in and opportunities related to the development of west coast energy projects.

Energy represents 25% of Canada's total exports. At present, Canada depends almost entirely on the United States market for our energy exports. Global demand for oil and natural gas is increasing, and if Canada is to capitalize on this immediate opportunity, it would need to construct pipelines and terminals to deliver oil and natural gas to tidewater.

Aboriginal communities hold constitutionally protected rights. The law requires potential impacts on those rights to be taken into account in project development. The failure to do so may result in projects being delayed or not proceeding.

Over the past eight months, I met many representatives from Aboriginal communities, industry, and local and provincial governments, and heard their perspectives.

Aboriginal Canadians understand the value of the proposed energy projects to their communities. However, they emphasize that environmental sustainability and prevention of significant environmental harm are necessary conditions for their support; conditions that many believe will not be met. Aboriginal Canadians also expect long-term economic benefits for their communities and a meaningful role in project-related activities including environmental monitoring and protection.

Industry understands the necessity of working with Aboriginal communities to meet mutual interests. Project proponents described the substantive steps they are taking to address environmental concerns and include Aboriginal Canadians in employment and business opportunities. Industry views Canada as having a role in addressing matters that go beyond project-specific proposals and regulatory reviews, such as improving educational outcomes, preparing Aboriginal people to be job ready, and addressing unresolved Aboriginal rights and title claims in British Columbia.

The governments of Alberta and British Columbia both highlighted the need for Canada to collaborate with them on flexible and innovative approaches to address Aboriginal issues.

Three themes emerged during my engagement. Canada must take decisive steps to build trust with Aboriginal Canadians, to foster their inclusion into the economy, and to advance the reconciliation of Aboriginal people and non-Aboriginal people in Canadian society.

In the context of west coast energy projects, I have made recommendations in each of these areas.

Building Trust identifies the efforts needed to establish constructive dialogue about energy development, to demonstrate commitment to environmental sustainability, and to enhance understanding of and participation in pipeline and marine safety.

Fostering Inclusion proposes focused efforts to realize Aboriginal employment and business opportunities, to establish collaborations among Aboriginal communities that allow for better outcomes, and to facilitate the financial participation of Aboriginal communities in energy projects.

Advancing Reconciliation recommends targeted efforts to build effective relationships including refinements to Canada's current approach to consultation and engagement, to explore mutually beneficial initiatives that support reconciliation, and to encourage Aboriginal communities to resolve shared territory issues.

Taking Action recommends the establishment of a Crown-First Nations tripartite energy working group to create an open and sustained dialogue and action on energy projects. I have also identified a need for Canada to build its internal capacity and to adopt an integrated approach to address Aboriginal interests in relation to west coast energy projects.

This report comes at a critical juncture in the relationship between governments and Aboriginal Canadians, and also in the development of west coast energy infrastructure. Both are works in progress, with many unresolved issues. My recommendations serve as a challenge to the parties to work together more effectively and to take collaborative steps to realize the opportunities these projects present. Commitments from governments, Aboriginal leaders, and industry are required to translate these recommendations into concrete actions. Canada, as the senior level of government, needs to assert leadership to achieve these objectives.

Social and economic gaps between Aboriginal and other Canadians remain. Aboriginal participation in the proposed projects provides one opportunity to help close this gap. There has not been a constructive dialogue about energy projects. Aboriginal leaders are prepared to engage and Canada will need to address issues on their agenda. We are all presented with a choice: to maintain the status quo or embrace the opportunities and potential offered by a different path. The people I met have expressed an interest in working together to move forward which leads me to believe progress can be achieved.

Introduction

INTRODUCTION

On 25 March 2013, I accepted an appointment as Canada's special federal representative on west coast energy infrastructure to identify approaches to meet Canada's goals of expanding energy markets and increasing Aboriginal¹ participation in the economy.

My mandate identifies four areas of enquiry about several proposed oil and natural gas projects in Alberta and British Columbia. I have been asked to report on:

- how those projects would affect Aboriginal interests;
- Aboriginal interest in pipeline and marine safety initiatives;
- options to create employment and business opportunities for Aboriginal Canadians; and
- the environmental and socio-economic factors that may affect Aboriginal participation in the projects.

My mandate is attached at Appendix A.

I travelled across Alberta and British Columbia to meet representatives of Aboriginal communities and organizations, industry, and provincial and local governments. I met with over 80 groups. The energy infrastructure projects that were the subject of discussion include two proposed oil pipelines — Enbridge Inc.'s Northern Gateway Pipeline and the expansion of Kinder Morgan, Inc.'s existing Trans Mountain Pipeline — several proposed natural gas pipelines and related upstream developments, and the development of liquefied natural gas ("LNG") facilities in Kitimat and Prince Rupert. These proposed projects are referred to collectively throughout the report as the "Projects". A complete list is included as Appendix B.

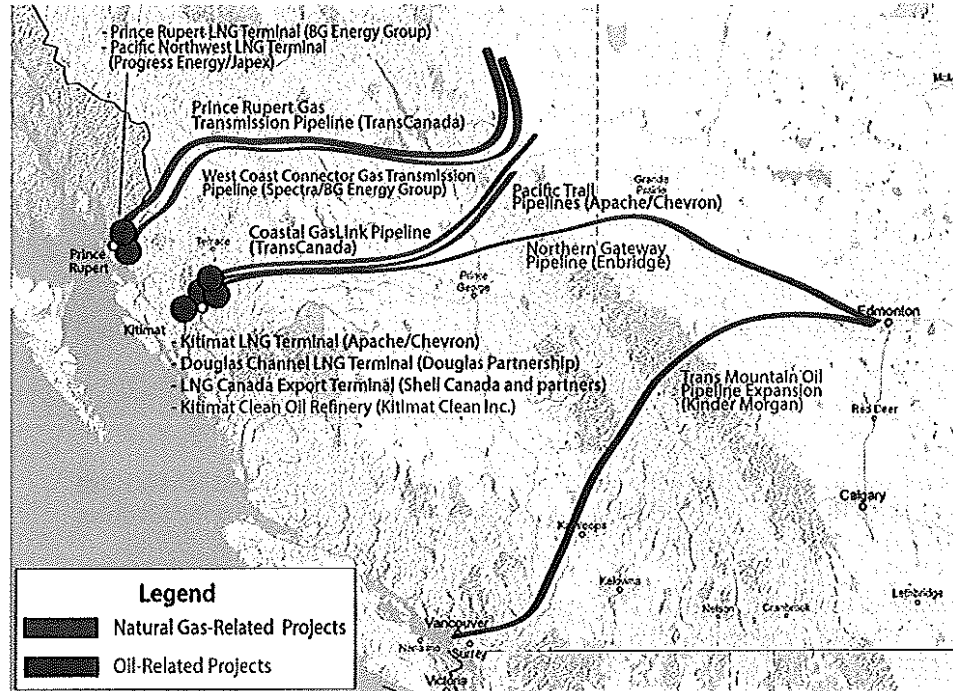
My discussions have not been part of Crown consultation for any of the Projects.

I have focused my attention on factors affecting Aboriginal participation in project development, and in this report outline collaborative steps that can be taken by Canada,² Aboriginal communities, the provinces of Alberta and British Columbia, and industry to address common interests and avoid conflict and confrontation.

Summarized following are key messages delivered by Aboriginal groups, the governments of Alberta and British Columbia, and industry.

¹ The term "Aboriginal" is used throughout this report to denote First Nations, Métis, and other Aboriginal people in Alberta and British Columbia.

² The Government of Canada is identified throughout this report as "Canada".



ENVIRONMENTAL CONSIDERATIONS

There is a range of views among Aboriginal groups about the Projects. Most Aboriginal representatives delivered a clear message that their communities understand the value and opportunities associated with economic development. However, they contend that developments must be environmentally sustainable and undertaken in a manner that acknowledges the constitutionally protected rights of Aboriginal peoples.

Some Aboriginal groups do not support the Projects because they consider the transportation of oil and natural gas by pipelines and tankers to be both intrusive and dangerous, and feel that industry and governments cannot guarantee there will never be an accident. Other Aboriginal groups accept the inevitability of resource development in their traditional territories, but insist that substantial efforts be made to manage environmental risks and to involve them in project planning and decision making.

Aboriginal communities argue that the legislative changes associated with Canada's *Responsible Resource Development* initiative³ have eroded environmental protection measures and were made to facilitate project development. At the same time, few Aboriginal groups were aware of Canada's appointment of a tanker safety expert panel to review ship-source oil spill preparedness and response. Similarly, recent initiatives to strengthen the regulatory framework for pipelines under federal jurisdiction have gone largely unnoticed.

Aboriginal representatives have expressed an interest in participating in partnership with Canada and industry to direct research and publish objective scientific information about pipeline and marine-related risks, the impact of spills on the terrestrial and marine environments, oil clean-up technologies, and the effect of vessel traffic on the marine environment and coastal communities.

³ See <http://actionplan.gc.ca/en/initiative/responsible-resource-development>.

Aboriginal groups and industry urge governments to engage in land and marine use planning on a regional basis to identify and manage the cumulative effects of industrialization, urbanization, and project development.

EMPLOYMENT, BUSINESS, AND FINANCIAL OPPORTUNITIES

"If poverty is the only lifestyle you know, it is very difficult to realize there is a way out. Any band member who is watching development and wealth generation in his territory without having an opportunity to be a part of it is going to grow resentful."

Ellis Ross, Chief Councillor, Haisla Nation, "Economic Opportunity Ends First Nation Culture of Dependence", *Vancouver Sun*, 20 November 2013.

Aboriginal groups are far from uniform and each has its own opportunities, challenges, and constraints. Many are integrated in regional economies. Others are not. However, all Aboriginal Canadians want to share in the wealth and prosperity of this country.

The Projects offer skills training, employment, business opportunities, and financial benefits. Aboriginal groups emphasize the importance of long-term employment and business opportunities for their members.

Industry has demonstrated that it is prepared to invest in Aboriginal communities to develop a capable and educated workforce and seeks a greater commitment from governments to achieve these goals.

Governments, industry, and Aboriginal groups agree there is a need to coordinate efforts to ensure the transformative opportunities offered by the Projects are not lost.

CROWN-ABORIGINAL RELATIONS

Aboriginal representatives contend that Canada has neglected relationship building with their communities and needs to better address Aboriginal interests. Recent engagement meetings between federal ministers, deputy ministers, and Aboriginal leaders in British Columbia were viewed positively, but those efforts must continue. Aboriginal communities remain cautious and require Canada to continue to demonstrate its commitment to improving the relationship.

Given the pace and breadth of developments in Alberta and British Columbia, and the corresponding consultation demands placed on Aboriginal communities, many are facing "process fatigue". They are also encountering challenges in terms of their capacity to participate in project assessments and reviews.

Industry understands, perhaps more directly than governments, that Projects may be placed at risk if Aboriginal and treaty rights are not addressed. Industry questions why Canada is not doing more to address unresolved Aboriginal rights claims in British Columbia, and why it does not engage with Aboriginal groups on project development in advance of or outside regulatory processes. Industry also seeks greater federal attention to the issue of overlapping territorial claims in British Columbia.

The governments of Alberta and British Columbia have observed that Canada could do more to collaboratively address Aboriginal issues in their respective provinces. Both provinces have a sustained, on-the-ground presence in Aboriginal communities and are able to demonstrate flexible and innovative approaches to managing Aboriginal and treaty rights. They perceive the federal system as comparatively leaden or indifferent and are working together, without Canada, on matters within federal jurisdiction.⁴

THEMES

The Projects provide Canada and Aboriginal communities in Alberta and British Columbia with an opportunity to re-set the relationship. However, the Projects are time-sensitive, and important opportunities will be missed if relations continue on their current course.

Ultimately, it is through negotiated settlements, with good faith and give and take on all sides, reinforced by judgments of this Court, that we will achieve... a basic purpose of s. 35(1) — "the reconciliation of the pre-existence of aboriginal societies with the sovereignty of the Crown". Let us face it, we are all here to stay.
Lamer C.J., *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010.

National Chief Shawn A-in-chut Atleo of the Assembly of First Nations has mapped a path forward for governments and Aboriginal groups in relation to economic development. In a recent speech to the Vancouver Board of Trade, he proposed three initiatives to build Crown-Aboriginal relationships and avoid lost opportunities:

- empower Aboriginal communities through capacity support, socio-economic measures, and access to capital;
- engage in environmental planning that incorporates Aboriginal knowledge and principles; and
- facilitate shared decision making that is inclusive and accountable.⁵

Mr. Atleo has identified a constructive framework for dialogue and action.

I have outlined three themes that help focus action: building trust, fostering inclusion, and advancing reconciliation. In the section entitled *Taking Action*, I identify steps that Canada should implement to address Aboriginal issues about the Projects. It is critical for Canada to become more involved and demonstrate leadership in its relations with Aboriginal groups, industry, and provincial governments.

⁴ Premiers Redford and Clark announced the appointment of an Alberta-British Columbia deputy ministers working group in July 2013. The working group is mandated to develop recommendations about energy exports and is reviewing issues relating to marine spill response, shipments of bitumen by rail, port infrastructure development, and the economic, environmental, and social impacts of pipeline and rail transportation. The working group is to complete its final report by 31 December 2013. Canada and British Columbia have recently established a joint working group to address LNG development. Canada and British Columbia are also working together on pipeline safety and spill response, and are consulting on marine safety issues.

⁵ *Resources, Risks and Responsibilities: A First Nations Perspective on Canada's Resource Agenda*, 27 September 2013.

THE ECONOMIC CONTEXT

Canada can no longer rely on the view that our neighbour to the south will always be a willing buyer of Canadian energy commodities. In addition, because we do not have access to diversified markets for our energy products, we cannot command the highest international prices. As a result, it is estimated by the Pacific Economic Cooperation Council that Canada loses \$28 billion in revenues from oil sales alone. The Standing Senate Committee on Energy, the Environment and Natural Resources, *Now or Never, Canada Must Act Urgently to Seize Its Place in the New Energy World Order*, 2012.

Canada is the fifth largest oil and natural gas producer in the world, with the third largest proven oil reserves. Energy exports are an important component of our economy, totalling \$110 billion in 2012, which represented approximately 6% of Canada's total gross domestic product and roughly 25% of total exports.⁶

International energy markets are shifting rapidly, and this has major consequences for Canada. While virtually all of our petroleum exports currently go to the United States (the "U.S.") — 99% of crude oil and 100% of natural gas — the U.S. is developing new domestic supplies of oil and natural gas that are anticipated to replace Canadian exports. Because of Canada's reliance on the U.S. market, and transportation bottlenecks in the delivery of oil and natural gas to that country, Canadian producers receive significantly less for their products than they would if they could access global markets. At the same time, global energy demand is expected to increase by a third by 2035, with developing countries accounting for 90% of that increase, led by China and India.⁷

These anticipated global trends mean declining U.S. demand for Canadian oil and natural gas and rapidly expanding opportunities for energy exports overseas, particularly in Asia.⁸

Canada's existing export market for natural gas will largely disappear over the next few years as the U.S. becomes a net exporter. Global demand for LNG is growing quickly, and world trade in LNG is projected to almost double by 2040.⁹ Multiple LNG export projects are being proposed on Canada's west coast that are at different stages of business planning and regulatory review. These projects are in competition with LNG projects from the U.S., Middle East, East Africa, and Australia. Worldwide, there are 12 LNG export plants under construction today and more are planned. While not all of these competing projects will proceed, it demonstrates the time-sensitive, competitive nature of the global LNG market.

In order to pursue export opportunities in emerging markets, pipelines and terminals will be needed to deliver its landlocked oil and natural gas resources to tidewater.

⁶ National Energy Board, *Energy Briefing Note, Canadian Energy Overview 2012*, <http://www.neb-one.gc.ca/clf-nsi/nrgynfmltr/nrgyprtr/nrgyrvw/cndnnrgyrvw2012/cndnnrgyrvw2012-eng.pdf>.

⁷ International Energy Agency, *World Energy Outlook 2013*.

⁸ Natural Resources Canada, *Average Prices for Crude Oil, Natural Gas and Petroleum Products*, 17 October 2013.

⁹ U.S. Energy Information Administration, *International Energy Outlook 2013*, http://www.eia.gov/forecasts/ieo/more_highlights.cfm.

Building Trust

BUILDING TRUST

"The fundamental objective of the modern law of aboriginal and treaty rights is the reconciliation of aboriginal peoples and non-aboriginal peoples and their respective claims, interests and ambitions. The management of these relationships takes place in the shadow of a long history of grievances and misunderstanding. The multitude of smaller grievances created by the indifference of some government officials to aboriginal people's concerns, and the lack of respect inherent in that indifference has been as destructive of the process of reconciliation as some of the larger and more explosive controversies."

Binnie, J., *Miksew Cree First Nation v. Canada (Minister of Canadian Heritage)*, [2005] 3 S.C.R. 388.

The Projects are being developed in the context of longstanding relationships between Aboriginal communities, governments, and non-Aboriginal Canadians. Although many efforts are underway to address the problems created by our history, progress is difficult to measure.

Relationships that prosper require a foundation of trust, built on constructive dialogue, understanding interests, and a commitment to find solutions.

Three steps are necessary to build trust between Canada and Aboriginal communities: Initiation of a more productive dialogue about energy development, a commitment to environmental sustainability, and action to implement the highest standards of pipeline and marine safety.

CONSTRUCTIVE DIALOGUE ON ENERGY

"With trust we can remove fear, we can create momentum, and we can generate hope. Building trust is never easy. It requires the best of all of us. It requires listening, creativity and understanding."

National Chief Shawn A-in-chut Atleo, remarks to the Vancouver Board of Trade, 27 September 2013.

Energy use and development have become topical political, environmental, and economic issues in Canada, particularly the extraction and transport of oil and natural gas. However, studies reveal that Canadians lack basic knowledge about energy resources

and associated environmental impacts.¹⁰ Concurrently, Canadians are sceptical about the information they obtain from stakeholders in the energy arena, including industry, governments, and environmental groups.¹¹ As a result, many observers believe that improving energy literacy should be a priority.

Energy Facts

- Canadians rely on natural gas and products made from crude oil to meet more than two-thirds of their energy needs every day;
- 94% of all Canadian transportation energy comes from petroleum products; and
- natural gas meets more than half of our residential energy needs and almost half of the energy needed to run our industries.

Source: Canadian Energy Petroleum Association

For Aboriginal groups in Alberta and British Columbia, energy information and awareness have become fundamentally important issues. Aboriginal leaders are being relied on to evaluate the risks and benefits of oil and natural gas extraction, transportation, and processing. Communities in the path of these developments require reliable and unbiased information to assess the socio-economic impacts of project development in their territories. The debate, however, has been positional and lacks objectivity. There is uncertainty in Aboriginal communities about who to trust and which sources of information are reliable. Television and print advertising is not advancing the discussion but appears to perpetuate divisions. Nor is it helpful that some in the media rely on a small group of commentators with narrow perspectives.

Constructive dialogue would be a better approach. Canada can assist by promoting forums where Aboriginal groups in Alberta and British Columbia can share knowledge, best practices, skills, experience, and capacity through community exchanges, workshops, and conferences. The objective is to inform Aboriginal communities so they can effectively engage in project reviews and development.

Recommendation

Canada should promote a principled dialogue about resource development with Aboriginal communities in Alberta and British Columbia. This can be accomplished, in conjunction with provincial and local governments and industry, by convening conferences, workshops, and community forums to improve knowledge about the energy sector and major projects.

"Because citizens are divorced from the realities of wealth creation and uninformed about the process of getting resources out of the ground, transforming them into something of value, and their transport to markets, it becomes easy to oppose major resource projects."

Jean-Sebastien Rioux, *The Energy Literacy Gap and Its Potential Consequences for Canada*, University of Calgary, The School of Public Policy, 27 February 2013.

¹⁰ Andre Turcotte, Michael C. Moore, and Jennifer Winter, "Energy Literacy in Canada", University of Calgary, *The School of Public Policy SPP Research Papers*, volume 5, Issue 32, October 2012.

¹¹ *Ibid.*

COMMITMENT TO ENVIRONMENTAL SUSTAINABILITY

Aboriginal representatives insist that environmental sustainability is a necessary precondition for energy development, regardless of the potential benefits that may be realized from the Projects. Aboriginal Canadians view themselves as connected to the environment and as its stewards; this is an integral aspect of their culture. The Projects, by their nature, create potential hazards in the terrestrial and marine environments.

Aboriginal groups have expressed concern about the cumulative effects of developments and their impact on the exercise of their Aboriginal and treaty rights. The term "cumulative effects" has been defined as the combined effects of past, present, and foreseeable human activities over time on the environment, economy, and society in a particular place.¹² Aboriginal groups expect governments to ensure the cumulative effects of developments in their territories are assessed and taken into account beyond a project-specific review. Further, project proponents have advised that Aboriginal concerns about cumulative effects are frustrating consultation efforts.

While the *Canadian Environmental Assessment Act, 2012* ("CEAA 2012") requires the consideration of cumulative environmental effects, in practice it is difficult to identify and assess cumulative effects in the environmental assessment of a single project. Cumulative effects are best addressed on a regional basis to account for the combined environmental impacts of proposed and existing developments.

The treatment of cumulative effects is an evolving legal issue in relation to the duty to consult. Aboriginal groups consulted on individual projects have increasingly expressed concern over aggregate adverse cumulative effects of developments on their asserted or established section 35 rights. The courts have held that only new adverse impacts trigger a duty to consult but that the cumulative effects of past events must be considered as "contextual evidence" to determine the seriousness of the potential impacts of the proposed development under consideration.

See *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, [2010] 2 S.C.R. 650.

Regional planning establishes desired environmental outcomes and identifies environmental thresholds to manage subsequent land and marine use decisions. It requires a collaborative effort among governments, Aboriginal communities, and other stakeholders. Regional plans may identify the need for stewardship activities to be undertaken by governments, Aboriginal groups, and industry. The government of British Columbia, in conjunction with Aboriginal communities, has engaged in regional planning on provincial Crown lands in strategic areas of the province. The government of Alberta also undertakes regional planning and incorporates consideration of cumulative effects on air, water, and biodiversity.

Canada is currently involved in collaborative regional planning approaches. One example is the 2012 Joint Canada-Alberta Implementation Plan for Oil Sands Monitoring, which was developed with input from industry. The purpose of this initiative is to gain a better understanding of the potential cumulative environmental effects related to the rapid expansion of the oil sands, to more rigorously monitor impacts on air, water, wildlife, and land quality, and to ensure environmentally sustainable future developments. Aboriginal communities are being engaged in the implementation of this plan.

¹² Government of Alberta, Department of Environment and Sustainable Resource Development, <http://environment.alberta.ca/0890.html>.

There are additional opportunities for Canada to collaboratively address regional planning objectives with Aboriginal communities and other stakeholders, particularly in areas of intense natural gas extraction, proposed pipeline routes, as well as the terrestrial and marine environments in and around Burrard Inlet, Douglas Channel, and Prince Rupert harbour.

Recommendations

Where federal jurisdiction is engaged, Canada should collaboratively participate in regional planning with provincial governments, Aboriginal communities, local governments, and other stakeholders to effectively assess cumulative effects and encourage sustainable development.

Canada should establish a joint initiative with Aboriginal groups for environmental stewardship and habitat enhancement to address concerns about cumulative effects of major resource projects.

UNDERSTANDING AND PARTICIPATING IN PIPELINE AND MARINE SAFETY SYSTEMS

Canada seeks to implement world class standards to safely transport oil and natural gas. Critics contend that an oil spill is inevitable and will cause irreparable harm. Lost in the debate is the recognition that no one wants a spill and all parties share the common objective of developing and implementing advanced technologies and systems to manage the risks of, and to respond effectively to accidents. Canada's resolve to implement world class standards will be closely watched by Aboriginal communities.

A recent Senate report provides a useful summary of Canada's pipeline and marine safety regulatory regimes.¹³

Several recent studies have reviewed pipeline and marine safety in Canada, notably:

- Transport Canada's Tanker Safety Expert Panel's initial report entitled *A Review of Canada's Ship-source Oil Spill Preparedness and Response Regime*;
- The Standing Senate Committee on Energy, the Environment and Natural Resources entitled *Moving Energy Safely: A Study of the Safe Transport of Hydrocarbons by Pipelines, Tankers and Railcars in Canada*; and
- Nuka Research and Planning Group, LLC's report for the Government of British Columbia entitled *West Coast Spill Response Study*.

¹³ Standing Senate Committee on Energy, the Environment and Natural Resources report entitled *Moving Energy Safely: A Study of the Safe Transport of Hydrocarbons by Pipelines, Tankers and Railcars in Canada*, August 2013.

Pipelines

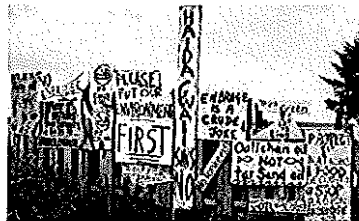
According to the Canadian Energy Pipeline Association, 97% of natural gas and crude oil that is produced in Canada is transported by transmission pipelines, and between 2002 and 2011, 99.9994% of that product was transported safely.¹⁴

Nevertheless, Canadians are expressing concerns about the potential effects of pipeline spills, particularly in light of heightened media attention to recent incidents.

Federal Measures to Strengthen Canada's Pipeline Safety Regime

Over the last two years, Canada has taken a number of steps to strengthen pipeline safety:

- a 50% increase in the number of inspections of oil and gas pipelines, and a doubling of the number of annual audits;
- amendments to the National Energy Board's *Onshore Pipeline Regulations* adding greater personal accountability within companies for existing and new safety systems and programs;
- new regulations to enable the National Energy Board to issue administrative monetary penalties for companies and individuals that violate the *National Energy Board Act*; and
- proposed legislation that will:
 - enshrine in law the polluter pays principle, stating that polluters will be held financially responsible for the costs and damages they cause,
 - require pipeline operators to maintain minimum financial capacity to respond to leaks, spills, and ruptures. For major crude oil pipelines, a minimum of \$1 billion will be expected,
 - ensure that pipeline operators are responsible for abandoned pipelines,
 - improve transparency by ensuring company's emergency and environmental plans are easily available to the public.



¹⁴ Canadian Energy Pipeline Association, Maintaining Safe Pipelines, <http://www.cepa.com/about-pipelines/maintaining-safe-pipelines>.

Aboriginal Participation

The Projects Impact a large number of Aboriginal communities and their asserted traditional territories (see Project descriptions in Appendix B).

Aboriginal communities may be the most geographically proximate to incidents requiring emergency response. Therefore, they want to be informed of and engaged in the safety systems that are in place, including spill response.

The challenge for governments, industry, and Aboriginal communities is integrating Aboriginal people into pipeline safety processes and plans given the differing jurisdictions of the federal and provincial governments, the varying stages of development for each of the proposed pipelines, and how project proponents implement regulatory requirements.

In Alberta, industry has created its own associations, such as Enform and Western Canadian Spill Services ("WCSS"), to support its members' safety management systems and oil spill preparedness and response support. Aboriginal communities are not an integral component of these organizations or their systems.

In British Columbia, WCSS provides its response services to existing companies in the northeast of the province. Whether WCSS provides response services to the proposed Northern Gateway Pipeline and the Trans Mountain expansion project will only be decided when the projects proponents know if their projects are proceeding. Both proponents propose to engage, and where possible integrate, Aboriginal communities in their emergency planning and spill response systems. Kinder Morgan, Inc. has collaborated with the First Nation Emergency Services Society ("FNESS") to jointly deliver a pilot training package on emergency management for Aboriginal groups in two locations along its pipeline corridor.

Aboriginal communities have the potential to contribute to geographic response planning and to augment a company's spill response capabilities, including as first responders, with the appropriate training and equipment. Therefore, industry and governments should work with Aboriginal groups to integrate their members in emergency response planning and to train and equip them for spill preparedness and response. Given the technical and organizational requirements of effective emergency response, the role of FNESS could be expanded to provide technical support and training to Aboriginal communities in emergency management.¹⁵

Aboriginal communities can further contribute to a company's pipeline safety management programs by providing on the ground "eyes and ears" monitoring services along a pipeline right of way.

¹⁵ FNESS provides Aboriginal communities with assistance on emergency planning and preparedness, fire safety, and wildfire protection planning.

Marine Transportation

Some commentators assert that marine oil spills are inevitable. However, statistics show a steep decline internationally in both the number and severity of marine spills over the last 20 years, even as the number and size of marine tankers have increased.¹⁶ Although the probability of a major spill is remote, the consequences of such a spill, should one occur, could be significant.

In British Columbia, oil tankers have loaded at the Westridge Marine Terminal in Burrard Inlet for 60 years without a tanker-based spill. Regulations to ensure the safe transport of product by tanker require that, among other things, only double-hulled tankers that have been inspected can access Westridge Marine Terminal, they must have local pilots on board, and have two tugs assisting them when laden, one of which is tethered.

Over 3,000 large vessels enter Port Metro Vancouver each year, of which 50 to 60 are oil tankers.¹⁷ If the Trans Mountain expansion project proceeds, oil tanker traffic could increase by up to 350 additional tankers per year. This represents a modest increment on existing vessel traffic into the Port, and a 50% increase in the number of oil tankers that transit the Strait of Juan de Fuca. Projected increases in vessel traffic on the north coast are significant. At present, no crude oil tankers call at northern British Columbia ports. If the Northern Gateway Pipeline proceeds, up to 250 oil tankers per year could visit Kitimat. The two proposed LNG terminals in Kitimat might together result in LNG carrier traffic of approximately 230 to 430 vessels per year.¹⁸ The Prince Rupert Port Authority estimates that large vessel traffic will increase from approximately 400 per year at present to over 1,100 per year by 2018, of which 200 could be LNG carriers.¹⁹

Federal Measures to Strengthen Canada's Tanker Safety System

In 2013, Canada announced, in addition to the Tanker Safety Expert Panel, a series of initiatives relating to increased oil tanker inspections, ship surveillance and monitoring, establishing an Incident Command System implemented by the Canadian Coast Guard that is integrated with private sector marine spill response systems, enhanced pilotage requirements, designation of additional public ports with enhanced marine traffic management, conducting research on the behaviour of bitumen in marine environments, enhanced navigational aids, and strengthening provisions of the *Canada Shipping Act*.

Aboriginal Participation

The marine transportation corridors leading to the Projects are adjacent to a large number of Aboriginal communities on the south and north coasts. These communities expect to be informed of marine safety systems and may want to participate in them, including oil spill preparedness planning and response. Aboriginal communities have considerable marine expertise and local knowledge, and have expressed an interest in marine environmental protection and response.

¹⁶ The total volume of oil released in spills of over 7 tonnes has declined from 3.2 million tonnes between 1970–1979 to around 200,000 tonnes between 2000–2009. Comparatively, in 2012, oil released in spills of over 7 tonnes was the lowest on record for a single year — 1,000 tonnes. The International Tanker Owners Pollution Federation Limited, *Worldwide Oil Tanker Spill Statistics 2012*, www.itopf.com.

¹⁷ Port Metro Vancouver, *Statistics Overview 2012*.

¹⁸ Nuka Research and Planning Group, LLC, *West Coast Spill Response Study, Volume 2: Vessel Traffic Analysis*, 2013, pp. 70–71.

¹⁹ Prince Rupert Port Authority, *Commercial Vessel Call Projections*, 2013.



Industry and Western Canadian Marine Response Corporation ("WCMRC"), the company responsible for oil spill response planning and preparedness, could facilitate the participation of Aboriginal groups in:

- the preparation of geographic response plans to identify critical marine resources that should be protected in the event of a spill, and required protection measures; and
- WCMRC's response regime by:
 - consulting with Aboriginal communities to determine their interests in participating in an expanded marine safety regime;
 - expanding Aboriginal participation in Fishers Oil Spill Emergency Team and as contracted resources;
 - identifying employment opportunities and the related training requirements for appropriate certification;
 - locating facilities for the staging of response equipment in Aboriginal communities;
 - training community members as first responders; and
 - training key communities in the ICS.

The *Pacific Pilotage Act* governs the use of pilots in Canadian coastal waters, and sets out the extensive training, experience, and testing required. The Pacific Pilotage Authority will need to recruit a significant number of pilots for marine traffic management over the next decade. That organization, in conjunction with Aboriginal organizations, should explore and develop opportunities for Aboriginal Canadians to train and qualify as pilots.²⁰

All of these opportunities have a unique applicability for Aboriginal communities on the north coast because of the relative lack of response capability and the potential development of energy projects in that region. There will likely be an expansion of tug assist capabilities, which may involve several tugs permanently stationed in Kitimat or Prince Rupert.

Given the large number of coastal Aboriginal communities, the technical and organizational requirements for effective oil spill response preparedness and response, and the intermittent nature of emergency response training and activities, a small Aboriginal-led technical unit could assist in the training of Aboriginal responders, coordinate community activities in the event of a spill, participate in the ICS, and act as a clearing house for information and collaboration with Aboriginal communities.

²⁰ In order to build up sea time, pilotage candidates must have a watch-keeping mate certification. Many Aboriginal fishers who have extensive training provided through Fisheries and Oceans Canada are only a few courses short of this certification.

Recommendations

Canada should coordinate and convene the participation of key stakeholders including Aboriginal groups, governments, industry, non-governmental organizations, and scientists, to advance pipeline and marine safety and strategies to mitigate potential impacts of oil spills on the terrestrial and marine environment.

Canada, in conjunction with industry and provincial governments, should support:

- a. Aboriginal participation in marine traffic management and emergency response planning;
- b. training and coordination of Aboriginal communities in terrestrial and marine monitoring and emergency response, using existing organizations where appropriate, such as FNESS and WCMRC;
- c. acquisition of appropriate equipment and infrastructure by Aboriginal communities for terrestrial and marine monitoring and emergency response; and
- d. Invest in technologies for oil spill clean-up.

Canada should ensure that marine preparedness and response plans are publicly available.



Fostering Inclusion

FOSTERING INCLUSION

Historically, Aboriginal Canadians have not benefited from natural resource developments in their traditional territories to the same degree as non-Aboriginal Canadians. The Projects provide an opportunity to do better, offering Aboriginal communities the chance to improve long-term economic outcomes and close the socio-economic gap. By having a real stake in regional economies, over time a "community of interests" will emerge among Aboriginal communities and their neighbours. Shared interests encourage constructive relationships.

To foster inclusion, Aboriginal employment and business opportunities must translate into real jobs and successful businesses. The likelihood of this outcome will increase if governments, Aboriginal communities, and industry work collaboratively to advance shared goals. Another strategy to foster participation is the provision of financial opportunities for Aboriginal communities and businesses.

ACHIEVING EMPLOYMENT AND BUSINESS OPPORTUNITIES

Employment Opportunities

Aboriginal Canadians constitute a comparatively young and growing component of the Canadian population.²¹ Further, many Aboriginal communities are in close proximity to the Projects thereby providing employment opportunities for their members. Nevertheless, many Aboriginal Canadians face chronic barriers to employment. Several studies identify the challenges affecting Aboriginal participation in the workforce.²²

The 2012 *Aboriginal Economic Benchmarking Report* identifies an education gap between Aboriginal and non-Aboriginal Canadians.²³ The high school completion rate for Aboriginal people is 56%, compared to 77% for non-Aboriginals. On-reserve high school completion rates are even lower at 40%. There is a clear linkage between education and employment

²¹ Based on the 2011 Census, 4.3% of the total Canadian population identifies as Aboriginal, compared to 2.8% in the 1996 Census. Forty-six percent of the Aboriginal population is under age 25, compared to 30% of the non-Aboriginal population.

²² Public Policy Forum, *Building Authentic Partnerships: Aboriginal Participation in Major Resource Development Opportunities*, 2012; The National Aboriginal Economic Development Board, *Increasing Aboriginal Participation in Major Resource Projects*, October 2012; The National Aboriginal Economic Development Board, *The Aboriginal Economic Benchmarking Report*, June 2012; and Senate Standing Committee on Aboriginal Peoples, *Sharing Canada's Prosperity — A Hand Up, Not a Handout*, March 2007.

²³ Failure to complete basic education is a barrier to employment for many Aboriginal Canadians. According to the 2006 Census, 34% of the Aboriginal population aged 25 to 64 did not have a high school diploma compared to 15% of the non-Aboriginal population of the same age group. Human Resources and Skills Development Canada, *Indicators of Well-Being in Canada*, 2011.

outcomes. In 2011, 81% of employed Aboriginal Canadians obtained at least a high school diploma.²⁴

Other factors that affect the ability of Aboriginal Canadians to take advantage of employment and business opportunities include:

- whether a community has leadership and vision that emphasizes the importance of education and skills development;
- community well-being and individual health;
- community support for economic development;
- proximity to urban areas and major transportation infrastructure;
- willingness to relocate; and
- availability of secondary and post-secondary education.

The Standing Senate Committee on Aboriginal Peoples confirmed these challenges when it observed that "...closing the education gap is one of the most important pre-conditions for successful, long-term economic and community development. Inadequate levels of education, combined with insufficient training and inadequate work experience, are key impediments to greater Aboriginal participation in the economy. In addition, because a great number of Aboriginal people have been involved in business for only one or two generations, there is still a lack of role models and mentors in this area."

Sharing Canada's Prosperity – A Hand Up, Not a Hand Out, March 2007.

Aboriginal Canadians desire long-term, well paid employment. They want careers, not short-term jobs. In order to achieve this objective, some Aboriginal Canadians who have little or no work experience will require pre-employment life skills education, including literacy and numeracy, in order to benefit from employment training.

The Projects offer Aboriginal communities an immediate opportunity to achieve their objectives in relation to training, employment, and business development. However, many employment opportunities require specific skills that take time to develop.

The scale of potential employment opportunities is unprecedented. The government of British Columbia estimates that if five LNG projects and associated pipelines proceed, 21,600 jobs will be needed at the peak of construction as well as a further 2,400 operational jobs.²⁵ Based on information from the Project proponents, the two oil pipeline projects will create up to 7,500 construction jobs and 200 operational jobs in Alberta and British Columbia. Construction of pipelines, terminals, and related infrastructure is scheduled to commence as early as 2014, and many Projects may proceed simultaneously. These are tight timelines; realizing opportunities will take careful planning and focused concerted actions by all parties.

Project proponents have demonstrated a willingness to work with Aboriginal communities and service delivery providers to implement training and employment initiatives. Proponents have shown they are capable of acknowledging and responding flexibly to the individual circumstances of Aboriginal communities. Nevertheless, Project proponents expressed frustration about the criteria for program funding and the nature of program delivery given their needs and Project timelines. Even experienced human resource professionals commented about having to navigate the "plethora of federal programs".

²⁴ Centre for the Study of Living Standards, *Aboriginal Labour Market Performance in Canada: 2007–2011, 2012.*

²⁵ B.C. Natural Gas Workforce Strategy and Action Plan, July 2013.

Canada's training and economic development programs have, in general, not met the needs of proponents in specific regions. The Strategic Partnerships Initiative has had some success in terms of addressing gaps in federal programs, targeting a limited number of sectors. However, it has insufficient funding to provide the training necessary to meet the employment opportunities associated with the Projects.

Current Programs and Providers for Aboriginal Education, Training, and Employment

Canada's *Federal Framework for Aboriginal Economic Development* was launched in 2009 with a focus on building strategic partnerships with Aboriginal groups, the private sector, and the provinces and territories in order to promote Aboriginal economic development. Canada has created many programs that support the framework. Although many programs exist, three have been identified by Aboriginal communities and industry as particularly useful:

The **Strategic Partnerships Initiative** identifies where market and demand opportunities exist in key sectors of the economy to overcome gaps in federal programming.

The **Skills and Partnership Fund** targets labour force development initiatives. It is set to expire in 2015 and all funding has been fully allocated.

The **Aboriginal Skills and Employment Training Strategy ("ASETS")** fosters partnerships with the private sector, provinces, and territories for skills development, and funds local service delivery organizations which design their own training and employment programs. All funding for ASETS has been allocated through to 2015.

Both Alberta and British Columbia have Aboriginal-targeted training programs that are funded from their respective Canada labour market agreements.

Many educational and training institutions prepare Aboriginal people for available job and business opportunities. In Alberta, the Northern Alberta Institute of Technology offers a number of programs directed specifically at Aboriginal students. In British Columbia, there are numerous examples of targeted educational and training programs for Aboriginals, including: the Jim Kassen Industry Training Centre at Northern Lights College in Fort St. John, and the Ch'nook Indigenous Business Education Program at the Sauder School of Business at the University of British Columbia.

There are 13 ASETS service delivery organizations in Alberta and 15 in British Columbia. They provide job-finding skills and training, wage subsidies to encourage employers to hire Aboriginal workers, financial subsidies to help individuals access employment or obtain skills, entrepreneurial skills development, supports to help with returning to school, and child care for parents in training.



To respond effectively to the issues raised by industry and Aboriginal communities, Canada should consider a collaborative approach based on regional strategic planning to ensure coordination of training efforts, efficiencies, and economies of scale. Regional plans are designed to identify:

- the range of opportunities available during the planning, construction, and operational phases for all Projects in that region;
- related indirect opportunities or ancillary services (e.g. nurses, teachers);
- the capacity and time-sensitive realities of both Aboriginal communities and industry; and
- the resources required to implement the plan.

British Columbia has commenced regional planning for LNG workforce development. The province, industry, and training providers have begun planning to meet the skills training requirements through the LNG workforce strategy and implementation committee. The Projects present an opportunity for Canada to leverage and build on these efforts.

Canada has undertaken strategic planning in partnership with Ontario, industry, and affected Aboriginal communities in the Ring of Fire.²⁶ Similarly, the Canadian Northern Economic Development Agency fosters growth and development in the three territories by delivering economic development programs, and by collaborating with and aligning the efforts of partners in northern and southern Canada to respond to economic challenges and opportunities in the north.²⁷ These strategic planning partnerships may be useful models to follow in Alberta and British Columbia.

Canada should use available information about Aboriginal labour market participation to link training and employment requirements to labour market demand for the oil and natural gas sector, and measure outcomes.

Implementing strategic regional plans will require capable, on the ground resources. Existing service delivery organizations that provide access to employment and business counselling services, community supports, and office infrastructure need to be incorporated into the implementation of a plan. An assessment will be necessary to determine what additional resources will be required to support service delivery providers. In addition, these organizations require assistance to increase capacity to expand and develop their presence in local Aboriginal communities.

²⁶ The Ring of Fire is the name given to a mineral rich area in northern Ontario.

²⁷ <http://www.cannor.gc.ca/index-eng.asp>.



Canada cannot do this alone. Aboriginal leaders and industry also have a role. Aboriginal leaders must become active partners in developing regional strategic plans, and encourage education and personal responsibility to create or build upon a culture of community success. Some communities are well on their way and could share their experiences and knowledge with others through information exchanges, mentoring, job shadowing, and other Aboriginal-to-Aboriginal initiatives. Project proponents should share best practices with each other to improve Aboriginal training and employment outcomes.

Business Opportunities

Successful economies stand on the shoulders of legitimate, culturally grounded institutions of self-government. Indigenous societies are diverse; each nation must equip itself with a governing structure, economic system, policies, and procedures that fit its own contemporary culture.

The Harvard Project on American Indian Economic Development Overview.

Significant business opportunities will be available during Project construction and operation.²⁸ There will also be indirect business opportunities as a result of increased economic activity and population growth.

Many Aboriginal Canadians have created successful businesses, including in the energy sector but barriers affect Aboriginal participation, including:

- limited access to capital;
- limited business and financial knowledge, entrepreneurial capacity, and business acumen;
- lack of relevant education, including advanced education and technical skills and certification of potential Aboriginal employees; and
- inadequate physical infrastructure.

Canada's Aboriginal business development programs were not designed to address the scale and scope of opportunities provided by the Projects.

²⁸ During the construction phase, direct procurement opportunities could include camp services, catering, clearing and brushing, heavy equipment operations, and habitat restoration. Once projects are operational, on-going service contracts include electrical and mechanical system maintenance, environmental monitoring, and spill response services.

Federal Support for Aboriginal Business Development

The Aboriginal Business Development Program supports Aboriginal entrepreneurs and Aboriginal community-owned businesses for a range of activities including business planning, start-up, acquisition, expansion, and marketing. The program provides capital for Aboriginal businesses which have difficulty obtaining funding from traditional sources, and is delivered through Aboriginal Financial Institutions ("AFIs"). Under this program, financing through the AFIs is limited to \$99,999 for Aboriginal individuals and incorporated businesses and up to \$250,000 for community owned businesses.

Regional strategic planning and better resourced service delivery organizations would also enhance Aboriginal capacity in business development.

Although Canada has an important role in ensuring that programs and services adequately support Aboriginal economic development, the success of businesses rests with Aboriginal entrepreneurs and business owners.

Canada could encourage and promote forums where Aboriginal groups can share knowledge, best practices, skills, experience, and capacity through community exchanges, workshops, and conferences. Mentoring, job shadowing, and the transfer of business knowledge among Aboriginal groups will be critical to entrepreneurial success.

Canada, Aboriginal business organizations, and industry should establish an annual recognition initiative to acknowledge successful or innovative Aboriginal business collaborations and partnerships.

Recommendations

Aboriginal leaders should engage in community-based strategic planning to:

- a. undertake existing community skills and training needs;
- b. encourage members to pursue training, education, employment, and business opportunities where they exist; and
- c. identify suitable business development and entrepreneurial opportunities.

Canada should sponsor and coordinate regional strategic planning with Aboriginal groups, industry, and local and provincial governments, educational institutions, and training providers, to ensure education, skills, and employment training are coordinated, flexible, and targeted to meet the needs of Aboriginal people and employers in areas impacted by the Projects.

Canada should target funding for Aboriginal education, pre-employment skills development, and skills training in a manner that is responsive to the needs and timelines identified in the regional strategic plans, and sufficiently flexible to address chronic barriers to employment.

Canada should collaborate with its partners to enhance access to employment and business counselling services, community supports, and office infrastructure, to support Aboriginal people and to implement regional strategic plans. This includes establishing direct relationships and accountability between regional service providers and neighbouring Aboriginal communities to support their members.

Canada, Aboriginal communities, and Industry should create a forum to share best practices about successful training, employment, and procurement initiatives to improve Aboriginal training and employment outcomes.

Canada should ensure that federal programs address the need for capital and other financial support for Aboriginal businesses participating in opportunities related to major projects.

COLLABORATIONS TO ACHIEVE BETTER OUTCOMES

Canada should encourage and be prepared to support regional or sectoral organizations that represent a number of Aboriginal communities to achieve defined objectives. The Pacific Trail Pipelines project is an example of Aboriginal communities working together to achieve collectively what none of them could have achieved on their own.

In Alberta, there are 45 *Indian Act* bands falling within three historic treaty associations (Treaties 6, 7, and 8). Each tribal association represents the collective political interests of the member communities when engaging governments and Industry.

There are 203 *Indian Act* bands in British Columbia (approximately one-third of the total in Canada) and, other than the Treaty 8 Tribal Association, there are no comparable historical associations. There are 21 tribal associations in British Columbia that represent Aboriginal collectives, providing their constituent communities and Canada with established structures that represent regional Aboriginal interests. In many instances, Aboriginal communities work together on a sectoral basis to achieve their goals in areas such as fisheries, marine use planning, emergency services, and employment training.

One hundred and sixty-six of the 203 bands in British Columbia have fewer than 500 people resident on reserve. A further benefit of aggregations is that small communities that would not otherwise have the financial means to acquire specialized expertise will benefit from the knowledge transfer and further develop their capacity.



Collaborations between Aboriginal groups do not diminish each community's autonomy, ability to pursue its own interests, and govern its affairs. There are examples of Aboriginal associations providing value for their members and Canada. For example, Fisheries and Oceans Canada has facilitated the creation of effective Aboriginal aggregations that deal with regional fisheries management issues and are funded through its Aboriginal Aquatic Resources and Ocean Management Program. The Assembly of First Nations and the First Nations Energy and Mining Council represent collective Aboriginal interests and have provided a conduit for Canada to engage on discrete and crosscutting issues.

Recommendation

Canada should facilitate and support tribal and sectoral associations to achieve defined objectives in areas such as marine and land use planning, capacity building, energy literacy, strategic planning, employment, and business opportunities.

ABORIGINAL FINANCIAL PARTICIPATION

Natural resource projects require significant upfront capital. Aboriginal communities face barriers in accessing financing to participate in large scale developments.

Reports suggest there is a role for governments to provide loan guarantees or other financing measures to enable Aboriginal communities to become equity owners in major projects.²⁹ Loan guarantees would provide Aboriginal groups with security that would enable them to borrow at lower than commercial interest rates, thereby making potential investments more feasible and profitable. Under this approach, governments would serve as a financial backstop should the borrower be unable to repay the loan. Loan guarantees have also been proposed to enable Aboriginal communities to acquire a non-equity economic interest, such as debt financing, thereby generating a regular revenue stream while avoiding many of the risks associated with equity ownership.

Aboriginal communities have not expressed an interest in obtaining a federal loan guarantee to obtain an equity interest in pipelines or LNG facilities. However, Canada has been approached by the First Nations Financial Management Board³⁰ to explore the concept of a First Nations entity acquiring an equity interest in major energy projects backed by a federal loan guarantee. Interest has also been expressed in using a similar approach to enable Aboriginal participation in major ancillary projects associated with oil and gas development, such as the development of renewable energy. In future Canada may be asked to consider such proposals. However, at the moment, the concept of equity participation facilitated by a federal loan guarantee remains a proposal without a project.

Industry is addressing the financial interests of Aboriginal groups without seeking Canada's involvement. For example, Northern Gateway Pipelines has offered potentially affected Aboriginal communities the opportunity to acquire an equity stake in its project as well as financing for those who want to purchase a share of the 10% offering but would

²⁹ Two examples of the reports that are making this recommendation include: *Building Authentic Partnerships: Aboriginal Participation in Major Resource Development Opportunities and Increasing Aboriginal Participation in Natural Resource Projects*.

³⁰ Established under the *First Nations Fiscal Management Act*, the First Nations Financial Management Board is an independent, non-profit institution through which First Nations may apply to obtain certification necessary to access lower cost borrowing to support economic and community development.

otherwise be unable to access the capital to invest in the project.³¹ Some Aboriginal groups have accepted this offer. Other proponents are proposing alternatives to equity participation, such as debt financing, to facilitate Aboriginal financial participation.

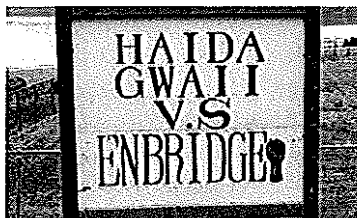
In addition to industry's efforts, the government of British Columbia is providing financial incentives for Aboriginal groups to participate in natural gas pipeline developments. For instance, the province provided funding to the First Nations Group Limited Partnership to acquire an economic interest in the Pacific Trail Pipelines project.³²

I also understand some Aboriginal representatives are meeting with foreign investors who may be interested in financing Aboriginal participation in project development.

Recommendations

Canada should continue to encourage industry and Aboriginal groups to develop flexible and innovative models to facilitate Aboriginal participation in economic development projects.

Canada should consider conditions for access to capital where an Aboriginal group or collective brings forward a proposal to obtain an economic interest in a project.



³¹ Northern Gateway Pipelines is structured as a limited partnership, with Enbridge owning a 50% stake, 10% being set aside for purchase by Aboriginal communities, and the remainder is owned by several other investors, including large energy companies such as Suncor, Cenovus and Nexen. "Enbridge Questions Northern Gateway pipeline critics over foreign funding", Canadian Press, October 8, 2012. Enbridge projects that the 10% equity offer will generate \$280 million in net income for Aboriginal communities over the next 30 years.

³² The First Nations Group Limited Partnership ("FNLP") is a special purpose partnership of 15 communities along the proposed Pacific Trail Pipelines route in northern British Columbia, formed (with seed funding from the province) to negotiate as a collective with the proponents. In February 2013, the FNLP, the proponents, and the province announced a benefits agreement that provides up to \$200 million in financial benefits over the life of the project, along with business and training opportunities. FNLP also agreed to roughly \$32 million from the province to leverage the benefits package from the proponent.

Advancing Reconciliation

ADVANCING RECONCILIATION

Progress on economic opportunities can be achieved through targeted efforts and effective relationships between Aboriginal Canadians and the Crown. In practice, this requires concrete action, not statements of intention.

Measures that advance reconciliation include refinements to Canada's approach to consultation and engagement, exploring mutually beneficial initiatives that support reconciliation, and encouraging Aboriginal communities to resolve shared territory issues.

CONSULTATION AND ENGAGEMENT

"The government's duty to consult with Aboriginal peoples and accommodate their interests is grounded in the honour of the Crown. The honour of the Crown is always at stake in its dealings with Aboriginal peoples... It is not a mere incantation, but rather a core precept that finds its application in concrete practices.

The historical roots of the principle of the honour of the Crown suggest that it must be understood generously in order to reflect the underlying realities from which it stems. In all its dealings with Aboriginal peoples, from the assertion of sovereignty to the resolution of claims and the implementation of treaties, the Crown must act honourably. Nothing less is required if we are to achieve 'the reconciliation of the pre-existence of Aboriginal societies with the sovereignty of the Crown'."

McLachlin, C.J., *Halda Nation v. British Columbia (Minister of Forests)*, [2004] 3 S.C.R. 511.

Aboriginal and treaty rights exist in Canada and have implications for the way in which governments, industry, and Aboriginal communities interact. Canada focuses on fulfilling its legal obligation to consult as the way to address Aboriginal interests in economic development. Canada needs to adopt a broader approach rather than strictly satisfying the legal duty if it hopes to obtain greater Aboriginal support for projects. A broad approach involves identifying and balancing competing claims, interests, and ambitions prior to the commencement of regulatory processes.



Section 35 Rights and the Legal Duty to Consult

Existing Aboriginal and treaty rights, including those contained in modern land claims agreements, are constitutionally “recognized and affirmed” in section 35 of the *Constitution Act, 1982*.³³ A series of Supreme Court of Canada decisions have outlined the nature and scope of Aboriginal rights. Aboriginal rights are site, fact, and group specific and relate to elements of the practices, customs, and traditions that are integral to the distinctive culture of a particular Aboriginal group.³⁴ Aboriginal title is a unique subset of Aboriginal rights, which the Supreme Court of Canada has defined as “a right to the land itself”. It is a right that, where proven, provides for the exclusive use of the land, including a right to choose the uses to which the land can be put. Amongst the types of Aboriginal rights protected by section 35, it is Aboriginal title that most closely resembles outright ownership of land in fee simple.

The duty to consult is grounded in the core precept of the honour of the Crown and the recognition of the unique relationship that exists between the Crown and Aboriginal Canadians. The Supreme Court of Canada has identified the duty as part of the reconciliation process mandated by section 35.

The duty to consult is engaged when the Crown contemplates conduct that may adversely impact potential or established Aboriginal or treaty rights.

Consultation, and where appropriate accommodation, about potential adverse impacts on claimed or established section 35 rights is required before federal decisions about natural resource development can be made. Canadian courts have clarified that strategic and high level government decisions can also engage the duty.³⁵ They have also encouraged early consultation.³⁶ The courts have confirmed that the duty to consult does not give an Aboriginal group a veto over potential Crown conduct.³⁷ Procedural aspects of the duty may be delegated by the Crown to third parties, including project proponents. However, ultimate responsibility for fulfilling the duty to consult remains with the Crown.

³³ Section 35(1) states: “the existing Aboriginal and treaty rights of the Aboriginal peoples of Canada are hereby recognized and affirmed.”

³⁴ *R. v. Van der Peet*, [1996] 2 S.C.R. 507, at para. 74.

³⁵ *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, [2010] 2 S.C.R. 650.

³⁶ *Ibid.* See also *Sambaa K'e Dene Band v. Duncan*, 2012 FC 204, and *Ross River Dena Council v. Government of Yukon*, 2012 YKCA 14.

³⁷ *Halda Nation v. British Columbia (Minister of Forests)*, [2004] 3 S.C.R. 511, at para. 45.

The United Nations Declaration on the Rights of Indigenous Peoples

Many Aboriginal leaders raised the United Nations Declaration on the Rights of Indigenous Peoples ("UNDRIP") in meetings to make the point that the declaration ought to inform the approach of governments in their relations with Aboriginal communities. UNDRIP is an aspirational document and was endorsed by Canada in 2010 in a statement which, among other things, indicated support for the principles set out in the declaration. Canada has stated that UNDRIP does not change Canadian law or represent customary international law. However, some Aboriginal leaders contend that the UNDRIP principle of "free, prior, and informed consent" requires governments and project proponents to obtain Aboriginal approval in advance of project development. The Supreme Court of Canada has established that good faith is required of both the Crown and Aboriginal communities during the process of consultation, furthermore the process does not give Aboriginal communities a veto over what can be done with land pending final proof of a claim (see *Halda Nation v. British Columbia (Minister of Forests)*, [2004] 3 S.C.R. 511). A recent decision commenting on UNDRIP is *Simon v. Canada (Attorney General)*, 2013 FC1117, where Scott, J. noted that while UNDRIP does not create any substantive rights, the court nonetheless favoured an interpretation that would embody its values.

Courts have provided general directions about the process of consultation, but have left a fair degree of discretion in the hands of the Crown to determine how the obligation ought to be discharged. The scope and content of the duty and how it is discharged are highly contextual. Ultimately, meeting the duty requires flexible processes that demonstrate a genuine effort to understand Aboriginal concerns, and where appropriate undertake efforts to address adverse impacts on potential or established Aboriginal or treaty rights. Courts have been clear that complex or difficult cases may require flexible processes, particularly where deeper consultation is required owing to the high level of complexity of the specific situation.³⁸ The overriding objective is to ensure the process followed maintains the honour of the Crown and advances the principle of reconciliation with respect to the interests at stake.³⁹

The concept of "engagement" is distinct from "consultation". The term consultation is based in the body of law dealing with Aboriginal and treaty rights and relates to the Crown's duty to consult whereas engagement refers to a more general concept of support and relationship-building between the parties. For resource development, while the Crown's strict obligation is to meet the duty to consult, in a practical sense, engagement by Canada with Aboriginal communities is a necessary condition for relationship-building and furthering the process of reconciling Aboriginal interests with those of Canadians as a whole.

³⁸ *Ibid.*, at para. 44.

³⁹ *Ibid.*, at para. 45.

Canada's Approach to Consultation

A 2007 cabinet directive⁴⁰ mandated Canada with implementing a "whole-of-government approach" to Aboriginal consultation for major resource projects. Canada seeks to fulfill its obligations in a coordinated manner that is integrated in environmental assessments and regulatory review processes. The applicable regulatory authority is responsible for coordinating consultation.

CEAA 2012 provides for environmental assessments by a responsible authority or a review panel.⁴¹ Canada relies, to the extent possible, on these regulatory processes and industry to discharge the Crown's consultation obligations on major projects. These panels and boards provide predictability and consistency of process for participants and industry.

CEAA 2012 focuses environmental assessments on major projects with the greatest potential for significant adverse environmental effects. It establishes new powers of enforcement of federal decisions, sets beginning to end timelines for federal environmental assessments, allows substitution or equivalency with the provinces (where provinces meet all federal requirements), and enables the results of a regional environmental study to, among other things, facilitate the consideration of cumulative effects in an environmental assessment.

While the integrated whole-of-government approach has been endorsed by the courts,⁴² Aboriginal communities have expressed concern about it. An unintended consequence is that the formality of environmental assessments inhibits Crown-Aboriginal dialogue. It is costly for Aboriginal communities to participate, the focus is often technical, and the process can be time consuming. Further, the joint panel review for the Northern Gateway Pipeline project demonstrates how regulatory processes can turn into adversarial proceedings damaging relations between the Crown and industry on one hand, and Aboriginal communities on the other.

One of the objectives of CEAA 2012 is to legislate timelines for environmental assessment processes. These timeframes have created challenges for Aboriginal groups, particularly those involved in consultations for multiple project developments. In addition, Aboriginal groups contend that the timelines have impacted their ability to participate fully in environmental assessments, creating unfair and inadequate Crown consultations.

Aboriginal people also feel that the limited scope of the issues that can be addressed in an environmental assessment process does not adequately consider the breadth of potential impacts to their section 35 rights, e.g., the inability to discuss cumulative effects beyond the context of a single project.

⁴⁰ The full title of the cabinet directive is *Cabinet Directive on Improving the Performance of the Regulatory System for Major Projects*.

⁴¹ Reviews are conducted by the National Energy Board for international and inter-provincial pipelines and transmission lines; the Canadian Nuclear Safety Commission for nuclear projects; and the Canadian Environmental Assessment Agency for all other projects.

⁴² *Taku River Tlingit First Nation v. British Columbia (Project Assessment Director)*, [2004] 3 S.C.R. 550; *Brokenhead Ojibway Nation v. Canada (Attorney General)*, 2009 FC 484 at para. 25; *Standing Buffalo Dakota First Nation v. Enbridge Pipeline Inc.*, 2009 FCA 308; *Fond du Lac Denesuline First Nation v. Canada (Attorney General)*, 2012 FCA 73; *Kallodeeche First Nation v. Canada (Attorney General)*, 2013 FC 458. However, this early positive support from the courts has been tempered by a caution in *Gilxaaka Nation v. The Minister of Transport, Infrastructure and Communities et al.*, 2012 FC 1336 that courts could subsequently intervene if they find that the Crown has failed ultimately to fulfill its overarching duty to consult with affected Aboriginal groups.

Aboriginal communities expect the Crown and project proponents to involve them at the earliest possible stage in project planning and decision making. Canada engages with project proponents in advance of environmental assessments. Canada relies procedurally on the consultation efforts of proponents, but does not directly consult with potentially affected Aboriginal groups until regulatory processes have begun. Canada takes an active role once a project description is filed with a regulator and the regulatory process starts, but for major projects that may be many months or years after a proponent has undertaken Aboriginal engagement and project planning efforts.

Industry accepts its role in Aboriginal consultations, but requires more clarity from Canada about the respective roles of industry and the federal Crown. In some instances, industry has expressed frustration, objecting to the scope of responsibilities it is expected to assume. For example, some proponents have identified overlapping territorial disputes as an issue best addressed by the Crown.

Canada's reliance on industry creates risk because companies have different cultures, experiences, and expertise in Aboriginal relations. Some project proponents are better than others at consulting with Aboriginal communities and addressing Aboriginal interests. There are compelling examples of projects being compromised prior to the commencement of an environmental assessment because Aboriginal communities were not effectively engaged at the outset. Governments have a vested interest to ensure that a proponent's consultation efforts and activities are effective.

Similarly, it may be necessary for the Crown to consider intervening in situations where, for instance, an Aboriginal group refuses to engage in good faith consultations.

Ultimately, the Crown must satisfy the duty to consult.

Refinements to Canada's Approach

In light of these issues, there are adjustments that Canada could consider to refine its approach. I believe there is a need for Canada to take on an earlier and more expansive role.

Canada can do this by focusing on relationship-building, engaging outside the consultation process, and addressing Aboriginal interests beyond project-specific issues.

Canada can also develop a policy framework clearly setting out the respective roles and responsibilities of Canada and industry with respect to Aboriginal consultations.

Canada should oversee industry's consultation efforts at an earlier stage in order to assess the progress being made. Where Canada determines that those efforts are lacking, it should be prepared to guide the project proponent in order to achieve a better outcome.

Recommendations

For major projects, Canada should develop a federal framework and timeframe for Crown engagement with Aboriginal groups. This framework will ensure that engagement is implemented in a consistent manner across all federal departments and agencies.

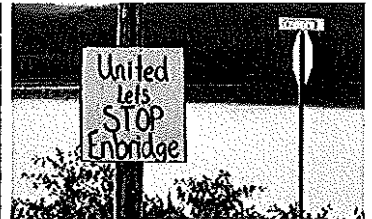
Canada should consider undertaking early engagement to address Aboriginal interests that may not be dealt with in a regulatory process.

Canada should define and articulate its view about the Crown's and industry's respective roles and responsibilities with respect to the duty to consult.

For major projects, Canada should advise or guide project proponents where Canada determines a proponent is not effectively discharging the procedural aspects of the duty to consult.

Canada should engage, and conduct consultations in addition to those in regulatory processes, as may be required, to address issues and facilitate resolutions in exceptional circumstances, including where:

- a. Aboriginal territorial disputes are intractable;
- b. despite reasonable efforts, industry is unable to meet Aboriginal expectations in relation to a matter under federal jurisdiction; or
- c. for other strategic reasons, Canada determines it is necessary to engage with a particular Aboriginal group.



RECONCILIATION INITIATIVES

Canadian courts have admonished the Crown and Aboriginal communities to reconcile their respective interests through a process of negotiation not litigation.

In Alberta, where there are historic treaties, the provincial government has described its approach to reconciliation in a recently revised consultation policy: "...Alberta will seek to reconcile First Nations' constitutionally protected rights with other societal interests with a view to substantially address adverse impacts to Treaty rights and traditional uses through a meaningful consultation process."⁴³

In British Columbia, where the majority of Aboriginal groups have not negotiated treaties, Crown reconciliation efforts have been primarily focused on the negotiation of comprehensive claims. Given the length of time it takes to conclude treaties, governments and Aboriginal groups recognize that interim steps towards reconciliation, as contemplated by treaty making, are required.

Over the last decade, the government of British Columbia and strategically-placed Aboriginal communities have transformed their relationships by establishing government-to-government frameworks through bilateral non-treaty agreements that address Aboriginal rights and respond to a range of resource development issues, including land and resource planning, decision making, and revenue sharing. British Columbia has been willing to try different approaches to reconciliation, and to adjust its approach to achieve mutually beneficial arrangements. The government of British Columbia and some Aboriginal groups are proposing that Canada replicate this model in areas of federal jurisdiction.

Until recently, Canada has focused its reconciliation efforts solely on negotiating comprehensive treaties, and has not pursued other approaches that could be seen as disincentives to treaty-making. Canada could meet its interests by negotiating reconciliation protocols with Aboriginal communities that establish government-to-government arrangements in areas of federal jurisdiction and decision making.

In the last two years, Canada has undertaken several initiatives intended to advance the reconciliation agenda, including:

- the Crown-First Nations Gathering in January 2012, and the follow-up meeting on January 11, 2013 between the Prime Minister and Assembly of First Nations Chiefs;
- the New Approach to Comprehensive Claims and Self-Government Negotiations;⁴⁴ and
- the Senior Oversight Committee on Comprehensive Claims.⁴⁵

⁴³ *The Government of Alberta's Policy on Consultation with First Nations on Land and Natural Resource Management*, 2013, <http://www.aboriginal.alberta.ca/documents/GoAPolicy-FNConsultation-2013.pdf>.

⁴⁴ The New Approach is focused on a recommitment to expediting treaty negotiations where there are prospects for reaching agreement and a recognition there may be other processes or agreements for recognition and reconciliation in addition to comprehensive treaties. See <http://www.aadnc-aandc.gc.ca/eng/1346437606032/1346437640078>.

⁴⁵ The Senior Oversight Committee is tasked with the reform of treaty negotiations policy to greater reflect the themes of reconciliation and recognition. See <http://www.aadnc-aandc.gc.ca/eng/1365801483477/1365801579040>.

These efforts are encouraging and have the potential to improve the relationship between Canada and Aboriginal groups. It is important to recognize that advancing Crown-Aboriginal relations cannot be done in isolation. When governments seek to advance their interests in issues such as energy infrastructure, they have to be prepared to address subjects on the agendas of Aboriginal communities. In British Columbia, there is an overriding Aboriginal interest in fish and Canada has been slow to address that issue both in and out of treaty. In the context of the overall relationship, Canada needs to demonstrate both interest and resolve to tackle difficult issues.

Coastal First Nations, who represent Aboriginal communities on the central coast of British Columbia, and Halda Nation have each made proposals to Canada to establish shared decision-making frameworks in federal areas of jurisdiction over fisheries and marine management. The proposals are different but both support the concept of establishing a government-to-government relationship where Aboriginal groups have direct input into federal decision making that could affect their Aboriginal rights.

Recommendations

Canada should take steps to negotiate non-treaty, government-to-government arrangements such as consultation protocols, incremental treaty measures, and reconciliation agreements with Aboriginal groups, independent of or in collaboration with British Columbia.

Canada should enter into negotiations to advance reconciliation measures in areas of federal jurisdiction and responsibility in response to proposals from Coastal First Nations and Halda Nation.

FACILITATING THE RESOLUTION OF SHARED TERRITORIES

Conflict over traditional territorial boundaries is a longstanding issue among Aboriginal communities. The preoccupation in Canadian law with defined geographical boundaries has perpetuated existing divisions among Aboriginal groups. It also creates winners and losers. Aboriginal communities that are in the path of developments are eligible for a range of benefits; those on the periphery are not.

The impact of overlapping claims should not be underestimated — the spectre of endless conflict among Aboriginal groups, including litigation, may influence final investment decisions. Industry is not equipped nor should it be expected to resolve competing claims, and looks to the Crown to facilitate resolution of these disputes. Ultimately, shared territory disputes are best resolved by Aboriginal communities, whether through negotiations or an acceptable dispute resolution process.

Aboriginal organizations in British Columbia have been trying to address overlapping claims for some time. More than fifteen years ago, the First Nations Summit adopted a protocol to deal with shared territory issues. As recently as 2013, the First Nations Summit declared overlapping territories a priority and directed a task group to develop principles, a process, and a dispute resolution mechanism. Although finding solutions to shared territory disputes is challenging, Aboriginal groups should take steps to resolve them.

Proposed developments in areas of overlapping claims may crystallize or escalate territorial disputes given the potential benefits at stake. In such instances, Aboriginal groups can either maintain the dispute or participate in approaches to seek a collaborative outcome.

If Aboriginal communities are unable or unwilling to resolve disputes, Canada may be compelled to intervene by undertaking strength of claim assessments to identify the scope and depth of consultation and potentially advise on the apportionment of benefits. The Crown's assessment may also have longer-term implications in other areas for those Aboriginal groups. However, collaborative approaches are preferred because they place solutions in the hands of the participants and do not require determinations of territorial boundaries or government intervention.

Recommendations

Canada should encourage and support Aboriginal initiatives that have the potential to address shared territory disputes including processes between Aboriginal groups and broader proposals from Aboriginal organizations.

In areas impacted by major projects, where territorial overlap disputes exist, Canada should undertake strength of claim assessments (in conjunction with provincial governments where appropriate) to advise on the required level of consultation and apportionment of benefits.

Canada should establish a federal policy framework and guidelines to address shared territory disputes in the context of major project developments in a consistent manner across all federal departments and agencies.



Taking Action

TAKING ACTION

In order to build on the momentum created by the initial engagement between Aboriginal leaders and senior federal officials, I recommend Canada take action to work with its partners and enhance its ability to work effectively.

CROWN-FIRST NATIONS TRIPARTITE ENERGY WORKING GROUP

This report encourages Canada to advance its interests in the Projects in collaboration with Aboriginal communities, local and provincial governments, and industry. Many of the recommendations contemplate Canada working in concert with these parties. However, it is apparent that each of the parties has been neither attentive nor effective in addressing the others' interests.

Representatives from the government of British Columbia and Aboriginal leaders have proposed that a Crown-First Nations tripartite energy working group be mobilized to advance energy-related issues. Canada and British Columbia would designate senior officials to coordinate each government's participation. Aboriginal representatives would alternate depending on a specific Project or regional focus.

Although the interests of each of the parties differ in many important respects, there is a broader shared interest that can bring the parties together. The working group would provide an effective venue for Canada to engage and coordinate with the other parties on the basis of this shared interest as it implements recommendations I have made in the following areas:

- promoting a principled and informed dialogue about resource development;
- participating in regional planning;
- facilitating environmental stewardship and habitat enhancement initiatives;
- advancing pipeline and marine safety strategies;
- supporting regional or sectoral collaborations among Aboriginal communities;
- encouraging flexible and innovative models to facilitate Aboriginal participation in economic development, including Aboriginal training, employment, and business opportunities; and
- where appropriate, pursuing reconciliation measures to address key areas of federal and provincial jurisdiction.

Operating principles for a Crown-First Nations tripartite energy working group, proposed for Canada's consideration, are outlined below:

- create a process to engage Canada, British Columbia, and Aboriginal communities on a government-to-government basis in a productive approach to reconciliation and effective relationship building in relation to the Projects;
- seek out interest-based solutions in relation to the Projects for the benefit of all parties, recognizing shared short-term and long-term interests;
- develop approaches to address legal requirements about Aboriginal and treaty rights;
- establish a framework to allow energy infrastructure projects and related interests and concerns to be considered through respectful and sustained dialogue. The framework will identify:
 - desired outcomes,
 - possible tools and approaches,
 - roles and responsibilities of the involved parties;
- be adequately resourced;
- participate in discussions that are open, transparent, and without prejudice;
- obtain and disseminate relevant information on a timely basis to Canada, British Columbia, and Aboriginal communities;
- identify local, regional, and national interests that can be addressed through the development of economic, social, and environmental stewardship initiatives;
- recognize and respect government-to-government relationships and responsibilities; and
- explore the varied options and possibilities to facilitate Aboriginal participation in energy development.

Canada and the government of Alberta should consider this or other collaborative approaches.

Recommendation

Canada, represented by senior officials, should participate in a working group with Aboriginal leaders and the government of British Columbia as a venue to advance open and practical dialogue about each party's issues and interests including the recommendations in this report.

INTERNAL FEDERAL INITIATIVES

Aboriginal groups, provincial governments, and industry want Canada to address their respective varied and at times competing interests through a coordinated approach.

Canada has responded to this concern for industry by creating the Major Projects Management Office, but has yet to find an effective approach to address Aboriginal interests. Although Canada has already implemented initiatives to address specific resource development issues (e.g., Transport Canada's Tanker Safety Expert Panel, the LNG working group with British Columbia, and engagement by Ministers and Deputy Ministers with Aboriginal communities in British Columbia), this approach has yet to effectively address the broad range of Aboriginal issues associated with these Projects in Alberta and British Columbia.

Canada therefore needs to strategically coordinate its activities at both the political and departmental level to address Aboriginal interests in relation to projects of national importance.

There is an opportunity to adopt a whole of government approach that is regionally-based and takes advantage of local federal officials who have developed relationships with Aboriginal groups.

It would also be useful, in my view, for federal officials to undertake cultural awareness training to enable more effective relationships with Aboriginal communities. Industry has adopted such training which promotes a greater awareness and understanding of Aboriginal culture, practices, and protocol.

Recommendations

Canada should designate one or more senior officials to implement the broad vision, take the lead, and be responsible for federal engagement with provincial government, Aboriginal groups, and industry, and to be accountable for outcomes.

Canada should build on the model it has developed with the Major Projects Management Office, and establish a sustained presence of senior officials on the ground in British Columbia with capacity to coordinate and enable Crown engagement and consultations with Aboriginal communities on key issues related to the development of energy infrastructure.

Canada should develop its internal capacity to engage effectively with Aboriginal groups and individuals by providing cultural awareness training for federal officials at all levels.



SUMMARY

Canada and Aboriginal communities are at a critical juncture in their relationship. The development of west coast energy infrastructure provides an opportunity to forge partnerships and build relationships.

There is a strong interest and real opportunity for Canada and Aboriginal Canadians to more effectively collaborate to address their respective interests. Three integral components to meet this objective are establishing trust, fostering inclusion, and advancing reconciliation. This will require practical steps and concrete action.

Although this report is being delivered to the Government of Canada, it is my hope that it will be viewed by interested parties as an objective assessment of the current environment, and that the proposed recommendations will be accepted as a constructive starting point.

APPENDIX A — MANDATE

MY MANDATE IS TO:

- communicate directly with Aboriginal communities, industry stakeholders, and provincial and local government authorities to gain a better understanding of issues and opportunities related to the development of west coast energy infrastructure, including factors that would affect Aboriginal interests in relation to this development;
- share information with Aboriginal communities on the federal pipeline and marine safety initiatives, including the review by the Tanker Safety Experts Panel, and identify factors and propose options to facilitate Aboriginal participation in new initiatives proposed to ensure world class marine and pipeline safety;
- identify factors affecting Aboriginal participation in employment and business opportunities arising from the development of west coast energy infrastructure and propose options to address and promote Aboriginal interests and to enable Aboriginal communities to create more business and employment opportunities; and
- identify factors affecting Aboriginal participation in addressing environmental and socio-economic issues in relation to the development of west coast energy infrastructure and propose options to increase that participation.

APPENDIX B — PROPOSED PROJECTS

Status of West Coast Energy Infrastructure Projects¹

OIL PROJECTS

NORTHERN GATEWAY PIPELINE / ENBRIDGE NORTHERN GATEWAY

Enbridge is proposing to construct and operate a 525,000 barrels per day petroleum export pipeline from Edmonton, Alberta to Kitimat, BC. The proposed project consists of a 1,170 km-long petroleum export pipeline, a condensate import pipeline, and a marine terminal. The project has an anticipated capital cost of \$6.5 billion, and is expected to generate 3,000 construction jobs, and provide 1,150 long-term jobs.

Aboriginal Interest: The proponent has engaged 70 Aboriginal groups

Planned In-Service Date: 2018

TRANS MOUNTAIN PIPELINE EXPANSION / KINDER MORGAN

Kinder Morgan is proposing a \$5.4 billion expansion of the Trans Mountain Pipeline system that would increase capacity from 300,000 barrels per day (b/d) to 890,000 b/d of crude oil and petroleum products from Alberta to Burnaby, BC. Approximately 30% of the existing Trans Mountain Pipeline was looped or twinned in 2008. The proposed expansion would twin the remainder of existing pipeline within the existing right-of-way, where possible, and add approximately 981 kms of new pipeline. The project would employ approximately 4,500 people during construction and 100 people once in operation.

Aboriginal Interest: 103 potentially-impacted Aboriginal groups identified

Planned In-Service Date: 2017

KITIMAT CLEAN REFINERY / KITIMAT CLEAN

Kitimat Clean has proposed the construction and development of an export-oriented 550,000 barrel per day petroleum refinery, approximately 25 km north of Kitimat, BC. Refined products would be shipped from a marine terminal located on the Douglas Channel, near Kitimat. The project would require an estimated \$18 billion capital investment and, once built, would be the largest petroleum refinery in Canada and western North America.

Aboriginal Interest: TBD

Planned In-Service Date: TBD

NATURAL GAS PROJECTS / PRINCE RUPERT

PACIFIC NORTHWEST LNG TERMINAL / PROGRESS ENERGY CANADA / JAPAN PETROLEUM EXPLORATION

Progress Energy Canada (a subsidiary of Petronas) and Japan Petroleum Exploration (Japex) are proposing to construct and operate a \$9–11 billion natural gas liquefaction project on Lelu Island within the Port of Prince Rupert. The proposed project is anticipated

¹ Information provided by project proponents, for example through project descriptions or regulatory documents.

to have an initial two train design of 12 million tonnes per annum (MTPA) with the potential to add a third train for up to 18 MTPA. The project would employ approximately 3,500 people at the peak of construction, and 200-300 people during operations. The proposed Prince Rupert Gas Transmission Pipeline would supply gas to the terminal.

Aboriginal Interest: 5 potentially-impacted Aboriginal groups identified
Planned In-Service Date: Late 2018

PRINCE RUPERT LNG TERMINAL / BG ENERGY GROUP

BG Energy Group is proposing to construct and operate an \$11-16 billion natural gas liquefaction project on Ridley Island within the Port of Prince Rupert. The proposed project is anticipated to have an initial two train design of 14 MTPA with the potential to add a third train for up to 21 MTPA. The project would provide approximately 9,000 person-years of employment for the construction of trains one and two, and an additional 3,500 person-years for train three. Once all three trains are in place, that facility would provide employment for approximately 250 employees. The proposed West Coast Connector Gas Transmission project would supply gas to the terminal.

Aboriginal Interest: 6 potentially-impacted Aboriginal groups identified
Planned In-Service Date: Early 2020

WEST COAST CONNECTOR GAS TRANSMISSION / SPECTRA AND BG GROUP

Spectra Energy and the BG Group are proposing to construct and operate a \$6-9 billion gas pipeline from northeastern British Columbia to the Prince Rupert LNG facility located in the Port of Prince Rupert (~900 km). The proposed project will consist of either one or two adjacent pipelines of 36" to 48" pipe with a capacity of up to 4.2 billion cubic feet per day (bcf/d). The proposed project would employ approximately 3,500 people during peak construction and 200 to 300 over a 30 year project lifespan.

Aboriginal Interest: Approximately 20 potentially-impacted Aboriginal groups identified
Planned In-Service Date: Late 2018

PRINCE RUPERT GAS TRANSMISSION PIPELINE / TRANSCANADA PIPELINES

TransCanada Pipelines is proposing to construct and operate a \$5 billion natural gas pipeline from northeast of Hudson's Hope, BC to the Pacific Northwest LNG facility in Prince Rupert (~750 km). The proposed project will consist of a 48" pipe with a capacity of up to 3.6 bcf/d. Anticipated employment associated with the pipeline is 4,400-5,500 person years during construction and 30-40 permanent jobs during operations.

Aboriginal Interest: 24 potentially-impacted Aboriginal groups identified
Planned In-Service Date: Late 2018

NATURAL GAS PROJECTS / KITIMAT

LNG CANADA TERMINAL / SHELL CANADA AND PARTNERS

Shell Canada and its partners (Korea Gas, Mitsubishi and PetroChina) are proposing to construct and operate a \$10-15 billion natural gas liquefaction project near Kitimat, BC. The proposed project is anticipated to have an initial two-train design of 12 MTPA with the potential to add 2 additional trains for up to 24 MTPA. The project would employ approximately 5,500 employees during peak construction and 200-400 employees after full build. The proposed Coastal GasLink Pipeline would supply gas to the terminal.

Aboriginal Interest: 9 potentially-impacted Aboriginal groups identified
Planned In-Service Date: 2019 (for initial design)

KITIMAT LNG TERMINAL / CHEVRON AND APACHE

Chevron and Apache are proposing to construct and operate a \$4.5 billion natural gas liquefaction project near Kitimat, BC. The proposed project is anticipated to have an initial plant capacity of 5 MTPA with the potential to expand capacity to 10 MTPA or more. The project would employ approximately 700 people during construction and 50 people once in operation. The proposed Pacific Trail Pipelines would supply gas to the terminal.
Aboriginal Interest: 1 potentially-impacted Aboriginal group identified
Planned In-Service Date: 2017

DOUGLAS CHANNEL LNG TERMINAL / BC LNG EXPORT CO-OP AND DOUGLAS CHANNEL ENERGY PARTNERSHIP

BC LNG Export Co-operative and Douglas Channel Energy Partnership are proposing to construct and operate a \$400 million barge-based natural gas liquefaction project near Kitimat, BC. The project is anticipated to have an initial capacity of 0.9 MTPA of natural gas with a total capacity of 1.8 MTPA.
Aboriginal Interest: 1 potentially-impacted Aboriginal group identified
Planned In-Service Date: Unknown

COASTAL GASLINK PIPELINE / TRANSCANADA PIPELINES

TransCanada Pipelines is proposing to construct and operate a \$4 billion pipeline to deliver natural gas from the area west of Dawson Creek, BC to the LNG Canada Project in Kitimat, BC (~650 km). The project will initially have the capacity to flow approximately 1.7 bcf/d of natural gas and could deliver up to approximately 5.0 bcf/day. The pipeline would provide 2,000 to 2,500 direct jobs during construction and 15–20 permanent positions once in operation.
Aboriginal Interest: 18 potentially-impacted Aboriginal groups identified
Planned In-Service Date: 2018

PACIFIC TRAIL PIPELINES / APACHE AND CHEVRON

Apache and Chevron are proposing to construct and operate a \$1.3 billion natural gas pipeline from Summit Lake, BC to Kitimat (~470 km). The project will consist of a 42" pipe with a capacity of up to 1.4 bcf/d.
Aboriginal Interest: 15 potentially-impacted Aboriginal groups identified
Planned In-Service Date: 2018

OTHER PROPOSED PROJECTS IN BRITISH COLUMBIA

PACIFIC NORTHERN GAS LOOPING PROJECT / PACIFIC NORTHERN GAS

Pacific Northern Gas is proposing a \$1.3 billion upgrade to its transmission pipeline capacity by looping (twinning) its existing natural gas transmission system between Summit Lake, BC and Kitimat, BC (~525 km). The pipeline would transport approximately 600 million cubic feet per day (mcf/d), and provide between 1,800 and 2,400 direct person years of work during construction.
Aboriginal Interest: 24 potentially-impacted Aboriginal groups identified
Planned In-Service Date: Late 2016

WOODFIBRE LNG TERMINAL / WOODFIBRE NATURAL GAS

Woodfibre Natural Gas Limited (WNGL) is proposing the development and operation of a LNG production, storage and marine carrier LNG transfer facility located on the previous Woodfibre Pulp and Paper Mill site in Squamish, BC. The proposed project is anticipated to have a capacity of 2.1 MTPA of LNG. The project would provide approximately 600 person years of direct employment during construction and 2,500 person years of employment during operations. Natural gas will be delivered to the Woodfibre site through the existing and expanded FortisBC pipeline.

Planned In-Service Date: 2017

WCC LNG PROJECT / EXXON / MOBIL / IMPERIAL OIL

Exxon/Mobil/Imperial Oil are proposing to construct and operate a natural gas liquefaction project in either Kitimat or Prince Rupert, BC. The project is anticipated to export up to 30 MTPA of LNG.

Planned In-Service Date: 2021

TRITON LNG / ALTAGAS AND IDEMITSU KOSAN

Triton LNG LP, an equal partnership between Canadian AltaGas Ltd. and Japanese Idemitsu Kosan Co., Ltd., is proposing a Floating Liquefaction Storage and Offloading (FLSO) vessel, with two liquefaction trains and storage capacity. It is anticipated that the FLSO vessel will have an annual production capacity of approximately up to 2.3 MTPA. The project site has not yet been selected, but locations have been identified in the vicinity of Kitimat and Prince Rupert, BC. Natural gas will be delivered to the site through the existing and expanded Pacific Northern Gas pipeline.

Planned In-Service Date: 2017

AURORA LNG / NEXEN ENERGY

Nexen Energy, a wholly-owned subsidiary of CNOOC Limited, has entered into an exclusive agreement with the Government of British Columbia to examine the viability of constructing a LNG plant and export terminal at Grassy Point near Prince Rupert, BC.

DISCOVERY LNG / QUICKSILVER RESOURCES CANADA

Quicksilver Resources is considering the development of a project involving the construction and operation of natural gas liquefaction, storage and on-loading facilities on the north side of Campbell River, BC.

Planned In-Service Date: 2019 (Phase I)

EAGLE MOUNTAIN WOODFIBRE GAS PIPELINE PROJECT / FORTISBC

FortisBC is planning a \$350 million upgrade to its natural gas pipeline running from Coquitlam to the Woodfibre Industrial site near Squamish, BC. The expansion includes the addition of an approximately 52 km long 20" diameter natural gas pipeline.

Anticipated employment during the construction phase is 500–650 person years.

Aboriginal Interest: 4 potentially-impacted Aboriginal groups identified

Planned In-Service Date: Late 2016

APPENDIX C — CONSOLIDATED LIST OF RECOMMENDATIONS

Canada should promote a principled dialogue about resource development with Aboriginal communities in Alberta and British Columbia. This can be accomplished, in conjunction with provincial and local governments and industry, by convening conferences, workshops, and community forums to improve knowledge about the energy sector and major projects.

Where federal jurisdiction is engaged, Canada should collaboratively participate in regional planning with provincial governments, Aboriginal communities, local governments, and other stakeholders to effectively assess cumulative effects and encourage sustainable development.

Canada should establish a joint initiative with Aboriginal groups for environmental stewardship and habitat enhancement to address concerns about cumulative effects of major resource projects.

Canada should coordinate and convene the participation of key stakeholders including Aboriginal groups, governments, industry, non-governmental organizations, and scientists, to advance pipeline and marine safety and strategies to mitigate potential impacts of oil spills on the terrestrial and marine environment.

Canada, in conjunction with industry and provincial governments, should support:

- a. Aboriginal participation in marine traffic management and emergency response planning;
- b. training and coordination of Aboriginal communities in terrestrial and marine monitoring and emergency response, using existing organizations where appropriate, such as FNESS and WCMRC;
- c. acquisition of appropriate equipment and infrastructure by Aboriginal communities for terrestrial and marine monitoring and emergency response; and
- d. Invest in technologies for oil spill clean-up.

Canada should ensure that marine preparedness and response plans are publicly available.

Aboriginal leaders should engage in community-based strategic planning to:

- a. undertake existing community skills and training needs;
- b. encourage members to pursue training, education, employment, and business opportunities where they exist; and
- c. identify suitable business development and entrepreneurial opportunities.

Canada should sponsor and coordinate regional strategic planning with Aboriginal groups, industry, and local and provincial governments, educational institutions, and training providers, to ensure education, skills, and employment training are coordinated, flexible, and targeted to meet the needs of Aboriginal people and employers in areas impacted by the Projects.

Canada should target funding for Aboriginal education, pre-employment skills development, and skills training in a manner that is responsive to the needs and timelines identified in the regional strategic plans, and sufficiently flexible to address chronic barriers to employment.

Canada should collaborate with its partners to enhance access to employment and business counselling services, community supports, and office infrastructure, to support Aboriginal people and to implement regional strategic plans. This includes establishing direct relationships and accountability between regional service providers and neighbouring Aboriginal communities to support their members.

Canada, Aboriginal communities, and industry should create a forum to share best practices about successful training, employment, and procurement initiatives to improve Aboriginal training and employment outcomes.

Canada should ensure that federal programs address the need for capital and other financial support for Aboriginal businesses participating in opportunities related to major projects.

Canada should facilitate and support tribal and sectoral associations to achieve defined objectives in areas such as marine and land use planning, capacity building, energy literacy, strategic planning, employment, and business opportunities.

Canada should continue to encourage industry and Aboriginal groups to develop flexible and innovative models to facilitate Aboriginal participation in economic development projects.

Canada should consider conditions for access to capital where an Aboriginal group or collective brings forward a proposal to obtain an economic interest in a Project.

For major projects, Canada should develop a federal framework and timeframe for Crown engagement with Aboriginal groups. This framework will ensure that engagement is implemented in a consistent manner across all federal departments and agencies.

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Canada should consider undertaking early engagement to address Aboriginal interests that may not be dealt with in a regulatory process.

Canada should define and articulate its view about the Crown's and industry's respective roles and responsibilities with respect to the duty to consult.

For major projects, Canada should advise or guide project proponents where Canada determines a proponent is not effectively discharging the procedural aspects of the duty to consult.

Canada should engage, and conduct consultations in addition to those in regulatory processes, as may be required, to address issues and facilitate resolutions in exceptional circumstances, including where:

- a. Aboriginal territorial disputes are intractable;
- b. despite reasonable efforts, industry is unable to meet Aboriginal expectations in relation to a matter under federal jurisdiction; or
- c. for other strategic reasons, Canada determines it is necessary to engage with a particular Aboriginal group.

Canada should take steps to negotiate non-treaty, government-to-government arrangements such as consultation protocols, incremental treaty measures, and reconciliation agreements with Aboriginal groups, independent of or in collaboration with British Columbia.

Canada should enter into negotiations to advance reconciliation measures in areas of federal jurisdiction and responsibility in response to proposals from Coastal First Nations and Haida Nation.

Canada should encourage and support Aboriginal initiatives that have the potential to address shared territory disputes including processes between Aboriginal groups and broader proposals from Aboriginal organizations.

In areas impacted by major projects, where territorial overlap disputes exist, Canada should undertake strength of claim assessments (in conjunction with provincial governments where appropriate) to advise on the required level of consultation and apportionment of benefits.

Canada should establish a federal policy framework and guidelines to address shared territory disputes in the context of major project developments in a consistent manner across all federal departments and agencies.

Canada, represented by senior officials, should participate in a working group with Aboriginal leaders and the government of British Columbia as a venue to advance open and practical dialogue about each party's issues and interests including the recommendations in this report.

Canada should designate one or more senior officials to implement the broad vision, take the lead, and be responsible for federal engagement with provincial government, Aboriginal groups, and industry, and to be accountable for outcomes.

Canada should build on the model it has developed with the Major Projects Management Office, and establish a sustained presence of senior officials on the ground in British Columbia with capacity to coordinate and enable Crown engagement and consultations with Aboriginal communities on key issues related to the development of energy infrastructure.

Canada should develop its internal capacity to engage effectively with Aboriginal groups and individuals by providing cultural awareness training for federal officials at all levels.

ACKNOWLEDGEMENTS

I wish to express my gratitude to the many Aboriginal communities I visited in Alberta and British Columbia. I was always warmly welcomed by community members who generously shared their time.

As well, I am grateful for the constructive advice and assistance provided by representatives of the Alberta and British Columbia governments and industry.

I also wish to acknowledge the contribution and assistance of Natural Resources Canada, the West Coast Energy Infrastructure Secr tariat, and Amanda Roelofsen, Ruby Porter, Ben Clermont, and Brian Martin.

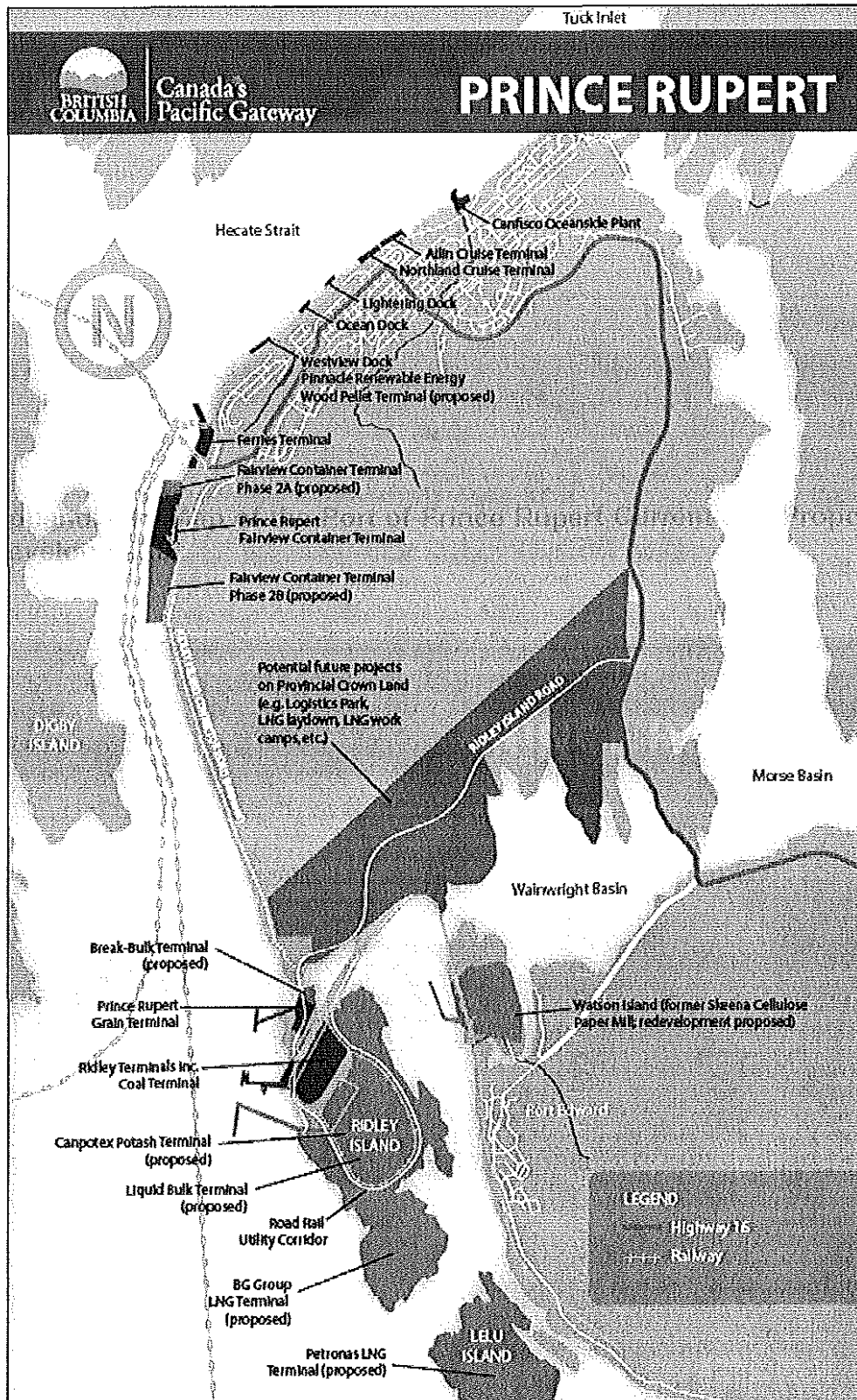
The opinions expressed are those of the authors and do not necessarily reflect the views of the Government of Canada.

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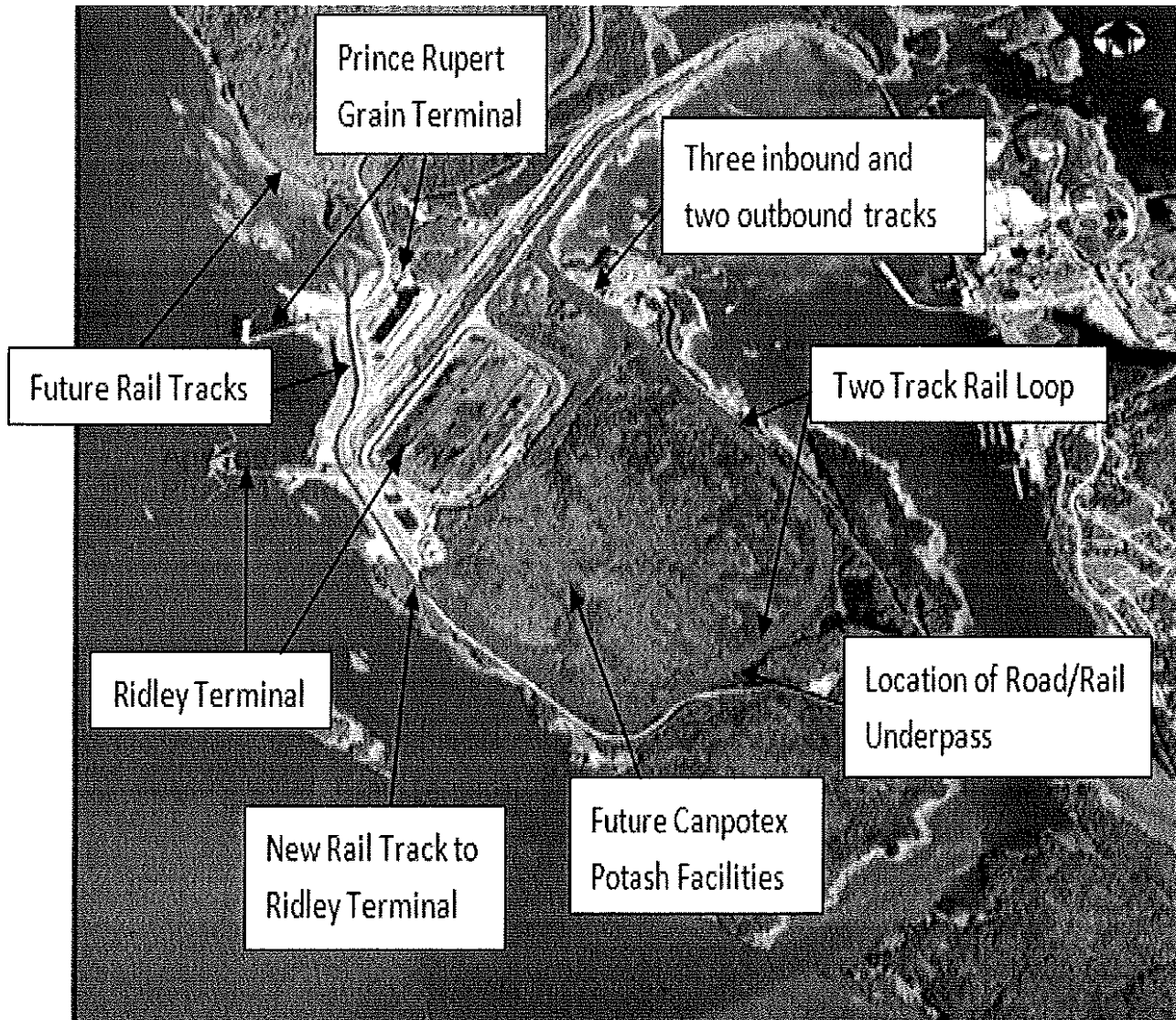
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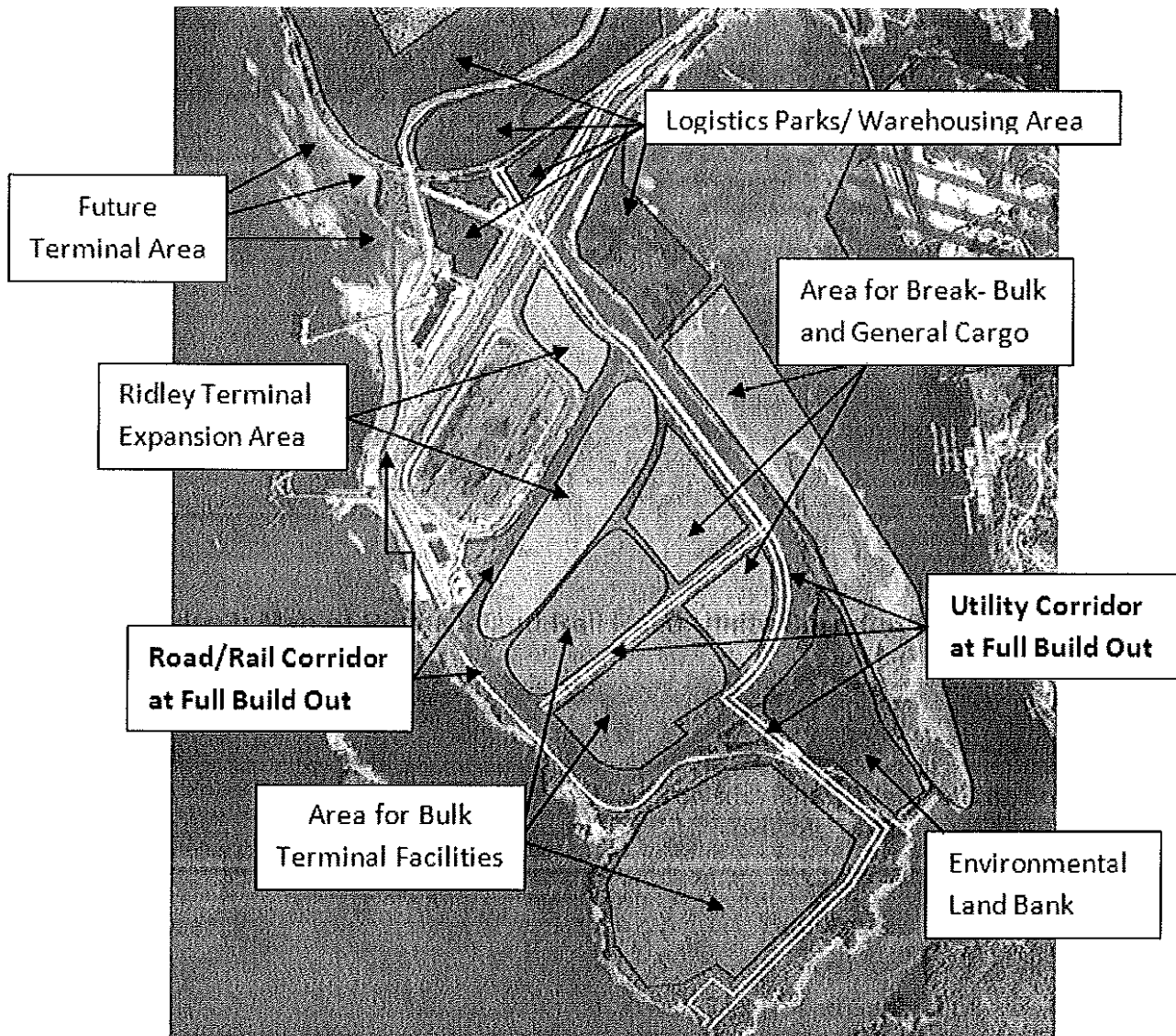
Appendix 1: Map of the Port of Prince Rupert Current and Proposed Developments



**Appendix 2: Map of the Ridley Island Rail Road Utility Corridor –
Phase 1 (RRUC1) Project**



Appendix 3: Map of Ridley Island Rail Road Utility Corridor (RRUC) at Full Build Out



MINISTRY OF ENERGY AND MINES

BRIEFING NOTE FOR INFORMATION

- I PREPARED FOR:** The Honorable Bill Bennett, Minister of Energy and Mines
- II ISSUE:** The Deputy Chief Gold Commissioner has issued coal licences for two of seven coal licence applications made by Dunlevy Energy Inc., located in the Dunlevy Valley West of Hudson's Hope.
- III BACKGROUND:**

Ten coal licence applications for the proposed Dunlevy project (the Project) were submitted from July 2008 to May 2010 by Dunlevy Energy Inc., a wholly owned subsidiary of Jameson Resources Limited, an Australian Securities Exchange listed company. The Project falls within Treaty 8 lands, approximately 36 km northwest of Hudson's Hope. The Treaty provides West Moberly First Nation and Halfway River First Nation the right to hunt, fish and trap. The Province commenced consultation with these First Nations in November 2009.

Significant wildlife and First Nations concerns in the Dunlevy Valley were raised during the Province's consultation and review of the coal licence applications and a concurrent Notice of Work (NOW) application. The Project is located within the range of the Graham herd of South Peace Northern Caribou (SPNC), with portions of the coal licence applications overlapping areas of high elevation winter range habitat (HEWR).

To support the recovery of SPNC, the Chief Gold Commissioner established coal land reserves (CLRs) in December 2012 over HEWR habitat which overlapped Dunlevy's coal licence applications. In January 2013, Dunlevy amended their coal licence applications to remove the overlap with the CLRs, thereby reducing the area of their coal licence applications (Applications) from approximately 26,657 hectares to 8,591 hectares, and reducing the number of applications from ten to seven.

The Province consulted with First Nations on the seven coal licence applications and the associated NOW application concurrently. The statutory decision maker for the coal licence applications is the Chief Gold Commissioner under the authority of the *Coal Act* and the statutory decision maker for the NOW application is the Inspector of Mines under the authority of the *Mines Act*. Additional consultation and review on the NOW will occur prior to a decision being made by the Inspector of Mines under the *Mines Act*.

IV DISCUSSION:

The decision to issue two of the seven licences was primarily informed by the Treaty rights and interests as expressed by Halfway River and West Moberly First Nations, the significant wildlife values associated with the Dunlevy Valley, the potential for impacts to caribou and Stone's sheep, and the proponent's desire to further explore the coal resource in the Dunlevy Valley as indicated in their Notice of Work application.

Considering the balance of interests, it did not seem reasonable that if all seven licences were issued, that the future potential impacts to treaty rights, wildlife, and other identified values could be reasonably mitigated, nor could adequate accommodation be made.

The issuance of the two licences where Dunlevy has expressed interest in further exploration activity has the potential to lead to impacts to both wildlife values and treaty rights; however, it seems reasonable that there are opportunities to mitigate any potential impacts, should further authorizations to explore for coal be issued.

V CONCLUSION:

s.13

s.13 Detailed written reasons for decision have been prepared and will be shared with Dunlevy, Halfway River First Nation, and West Moberly First Nation.

DRAFTED BY:

Mark Messmer A/ED
604 660-2814

APPROVED BY:

David Morel, ADM, MMRD
David Morel, A/DM, MEM

√
√

MINISTRY OF ENERGY AND MINES

BRIEFING NOTE FOR INFORMATION

I PREPARED FOR: Honourable Bill Bennett, Minister of Energy and Mines

II ISSUE: Proposed MSG Gravel Pit off Brentwood Road, Vernon

III BACKGROUND

Klayton Merton has applied to the South Central Regional Office for a *Mines Act* permit which would allow him to extract aggregate from his property located outside of Vernon within the North Okanagan Regional District (NORD). The property is within the Agricultural Land Reserve (ALR). He has been informed that he would have to follow our process by doing the following:

- Apply and obtain approval from the Agricultural Land Commission (ALC),
- Post notice in the local paper,
- Hold a public information meeting if warranted, and
- Obtain an Industrial Access Permit.

The owner proposes to disturb approximately 2.5 ha while removing a couple of knolls containing 54,000 cubic metres of aggregate over a five year period to level the area for a residential dwelling.

Initially, Merton applied to the Ministry of Transportation and Infrastructure (MOTI) for a residential access permit to build a road from the end of Brentwood Road to access the upper end of his property. MOTI informed our office that they had reports that the owner had over excavated beyond the road right of way while building his access road and was removing aggregate off the property. Consequently, a stop work order was issued by our office "to stop all aggregate extraction activities" until after he had obtained a *Mines Act* permit from our Ministry.

The owner complied and filed a Notice of Work (NoW) application with our Ministry and a Notice of Intent (NOI) with the ALC. Subsequent to receipt of the NOI, the ALC informed Merton that he had to submit to them an Application to Remove Soil.

Upon acceptance of the NOW by our office the applicant was informed that he had to post notice in the local paper. He posted notice in the local papers November 22, 2013 and November 24, 2013. Since posting in the paper our office has received 70 email/letters of concern from the public. Main concerns indicated by the public are listed below:

- BX Creek concerns (hiking, tourism, ecosystems)
- Dust and noise

../2

- Traffic
- Elementary school along truck access route
- Social concerns - property devaluation, etc.

IV DISCUSSION

The BX Creek which is known to be a fish bearing stream traverses the western boundary of the property and a hiking trail (a portion of the trail is on Mertion's property) exists beside the creek. The proposed pit development is above the creek and 100 m away at the closest point. A barrier strip of trees is proposed adjacent to the creek to minimize the effect of the operation.

Although the property is within the North Okanagan Regional District (NORD), the proposed access route off the property will intersect the Silver Star Road within the Vernon Municipal boundaries. Vernon has indicated concern that the increased truck traffic will possibly impact the traffic situation on the Silver Star Road, and have requested that a traffic impact study be required. It is not within our mandate to require a traffic impact study for a portion of the road beyond the Industrial Access Permit requirements. The proposed operation of 11,000 cubic metres per year is a fairly small operation and over a twelve month period would equate to 100 20-tonne truck loads per month or 4-5 loads per working day. Normally, there will be minimal aggregate removed during the winter months when the Silver Star Mountain Resort is in operation.

Concern raised regarding the elementary school could possibly be mitigated by restricting the haulage off the property during school opening and closing times.

A site inspection will be scheduled in the near future to assess the access road on the property to determine whether it meets the *Health, Safety and Reclamation Code for Mines in British Columbia* requirements.

It can be safely said that if the ALC issues approval for the project, a public information meeting will be a requirement to give the public the opportunity to be better informed and have their questions answered by the proponent prior to the issuance of a *Mines Act* permit.

V CONCLUSION

s.13

s.13 MEM will not consider continuation of our process until after approval of the Application by the ALC.

DRAFTED BY:

Allan Ludwig
250-371-3714

APPROVED BY:

Al Hoffman, CIM, H&S
David Morel, ADM, MMRD
David Morel, A/DM, MEM

✓
✓
✓

MINISTRY OF ENERGY AND MINES

BRIEFING NOTE FOR INFORMATION

I PREPARED FOR: Honourable Bill Bennett, Minister of Energy and Mines

II ISSUE: Meeting with the Minister of Finance regarding exploration tax incentive programs and Geoscience BC

III BACKGROUND:

The Association for Mineral Exploration British Columbia (AME BC) routinely makes policy recommendations to the Province on a range of areas. On October 11, 2013, AME BC provided a formal submission to the Select Standing Committee on Finance and Government Services outlining recommendations for British Columbia's 2014 Budget. The submission included the three recommendations detailed below:

- the Mining Exploration Tax Credit (METC),
- the B.C. Mining Flow-Through Share Tax Credit (BC MFTS), and
- stable funding for Geoscience BC.

IV DISCUSSION:

AMEBC Recommendation: Change the definition of qualifying expenses eligible under the Mining Exploration Tax Credit to include expenses incurred as a result of consultation with local communities and First Nations.

The METC is a refundable tax credit equal to 20 percent of eligible grassroots mineral exploration expenditures incurred after July 31, 1998, and before January 1, 2017. The 2007 provincial budget enhanced the METC to 30 percent for eligible exploration in Mountain Pine Beetle affected areas. Only expenses incurred for determining the existence, location, extent or quality of a mineral resource in BC are eligible under the METC program. This includes any direct costs associated with prospecting, carrying out geological surveys, drilling and trenching.

According to a study conducted by Ernst and Young on behalf of AME BC, consultation expenses can amount to over 20 percent of total exploration expenditures. s.13, s.17

s.17, s.13

AMEBC Recommendation: Extend the B.C. Mining Flow-Through Share Tax Credit to December 31, 2016 and consider making it permanent.

The British Columbia Mining Flow-Through Share Tax Credit provides a 20 percent tax credit to individuals who invest in flow-through shares offered by a corporation conducting mining exploration in BC. The program is currently set to expire December 31, 2013. AME BC recommends the Province extend this program until December 31, 2016 and consider making it permanent.

s.17

s.17

AMEBC Recommendation: Provide stable funding for Geoscience BC so that it can continue its successful industry-led program of applied geoscience.

Platform 2013 committed to working with Geoscience BC to establish long-term and predictable funding so that it can continue to foster oil, gas and mineral exploration and development in British Columbia. This commitment was included in the Minister of Forests, Lands and Natural Resource Operations' Mandate Letter, and responsibility is shared with the Ministry of Energy and Mines and the Ministry of Natural Gas Development. To date, Geoscience BC has received \$48.7 million in provincial grants (\$25 million in 2005, \$11.7 million in 2007/08 and \$12 million in 2011). This amounts to an average of \$6.1 million per year in government funding.

s.13

V CONCLUSION:

s.13

PREPARED BY:

Jon Kittmer, 250-952-0516
Sara Bose, 250-387-5491

REVIEWED BY:

Nathaniel Amann-Blake, ED✓
David Morel, ADM, MMRD ✓
Dave Nikolejsin, DM ✓

MINISTRY OF ENERGY AND MINES

BRIEFING NOTE FOR INFORMATION

I PREPARED FOR: Honourable Bill Bennett, Minister of Energy and Mines

II ISSUE: Environmental Assessment of the New Prosperity project

III BACKGROUND:

The New Prosperity project is a proposed open-pit copper-gold mine with a 20-year operating life and a production capacity of 70,000 tonnes per day. The estimated capital costs of this project are over \$1 billion. New Prosperity would employ approximately 700 people during construction and 550 people full time during operations.

Taseko Mines Limited received a provincial environmental assessment (EA) certificate for its Prosperity project in January 2010. This initial proposal was rejected by the federal government due to concerns about the project's significant adverse environmental effects. In 2012, Taseko submitted a revised Environmental Impact Statement for New Prosperity. Taseko has also submitted an application to the B.C. Environmental Assessment Office (EAO) for an amendment to the project's existing EA certificate.

Public hearings on the New Prosperity proposal were held from July 22 to August 23, 2013 as part of the federal panel review. Provincial agencies (Ministry of Energy and Mines, Ministry of Forests, Lands and Natural Resource Operations, and Ministry of Environment) participated in the federal review to share expertise and address areas of provincial management and regulatory responsibility.

The federal panel's report was released on October 31, 2013. The panel concluded that the project would result in several significant adverse environmental effects, the key ones being effects on water quality in Fish Lake; on fish and fish habitat in Fish Lake; on current use of lands and resources for traditional purposes by certain Aboriginal groups; and on the cultural heritage of these Aboriginal groups. The panel also concluded there would be a significant adverse cumulative effect on the South Chilcotin grizzly bear population unless mitigation measures were effectively implemented.

The Government of Canada has until March 2014 (i.e., 120 days from the release of the federal panel report) to decide if it should grant the necessary authorizations for the New Prosperity project to proceed.

IV DISCUSSION:

On November 29, 2013, Taseko filed a judicial review application with the Federal Court seeking a declaration that the following findings of the federal panel are invalid and should be quashed or set aside:

- the determination that Taseko underestimated the volume of tailing pore water seepage leaving the tailings storage facility;
- the decision to accept Natural Resources Canada's upper bound estimate as the expected seepage rate from the tailings storage facility; and
- the conclusion that the concentration of water quality variables in Fish Lake and Wasp Lake would likely be a significant adverse environmental effect.

In addition, Taseko is seeking a declaration that the panel "failed to observe principles of procedural fairness in its conduct of the public hearing process". Taseko has indicated that it will not pursue the judicial review if the New Prosperity project is approved by the federal government.

s.13

V CONCLUSION:

Taseko's revised New Prosperity proposal requires the approval of both the federal and the provincial governments to proceed. The federal panel report released on October 31, 2013 concludes that the project would result in several significant adverse environmental effects. This report will be used as part of the decision-making process for the federal government.

s.13

PREPARED BY:

Sara Bose
250-387-5491

REVIEWED BY:

Nathaniel Amann-Blake, ED ✓
David Morel, ADM ✓
David Nikolejsin, DM ✓

MINISTRY OF ENERGY AND MINES

BRIEFING NOTE FOR INFORMATION

I PREPARED FOR: Honourable Bill Bennett, Minister of Energy and Mines

II ISSUE: Meeting with Dr. John Meech, Professor of Mining Engineering and Director of CERM3, University of British Columbia

III BACKGROUND:

Dr. John A. Meech, P. Eng, Ph.D. is a Professor at the University of British Columbia's Norman B. Keevil Institute of Mining Engineering. He is also the Director of the Institute's Centre of Environmental Research in Minerals, Metals and Materials (CERM3). CERM3 was established in 2000 and consists of about 25 faculty and research support staff working together to understand and solve environmental problems caused by mining activity.

On August 3, 2013, Dr. Meech emailed Minister Bennett with ideas on how to improve the environmental assessment (EA) process for B.C. mining projects (attached). In his email, Dr. Meech is critical of federal funding provided to First Nations to enable engagement in the EA process for Taseko Mines Limited's New Prosperity mine. Dr. Meech is also critical of input provided by Ministry of Energy and Mines (MEM) staff during the federal panel review of the New Prosperity proposal. Dr. Meech presented to the federal panel, on sociopolitical issues on behalf of the Williams Lake and District Chamber of Commerce, and on technical-environmental aspects on behalf of the Share the Cariboo-Chilcotin Resources Society (attached).

In his email, Dr. Meech suggests that the name of the BC Environmental Assessment Agency should be changed to the "Sustainability Assessment Agency", and that provincial EA legislation should be amended so that technology and economics receive a fairer share of the focus. He also urges consideration on changing how projects are assessed so the process is faster and more effective.

IV DISCUSSION:

The federal panel's report was released on October 31, 2013. The federal panel concluded that the New Prosperity Project would result in several significant adverse environmental effects; the key ones being effects on water quality in Fish Lake (Teztan Biny), on fish and fish habitat in Fish Lake, on current use of lands and resources for traditional purposes by certain Aboriginal groups, and on their cultural heritage. The panel also concluded there would be a significant adverse cumulative effect on the South Chilcotin grizzly bear population, unless necessary cumulative effects mitigation measures are effectively implemented.

The panel's findings are based on information provided in writing and in panel hearings by the proponent, and on expert opinion provided by federal and provincial agencies, independent experts hired by the panel and experts hired by the First Nations and other interested parties.

With respect to the panel's conclusions on water quality, MEM staff provided input that there were uncertainties around the volume of seepage and that during future regulatory processes further investigative work would lead to a reduction in uncertainties. MEM did not provide information regarding the panel's conclusions of significant adverse effects related to fish and fish habitat, grizzly bears or First Nations interests.

In his email, Dr. Meech suggests that MEM staff who deal with "environmental aspects" should be "closer to the field". Less than 10 MEM staff involved in permitting are located in Victoria and over 40 staff are located in regional offices around the province. Permitting staff based in Victoria frequently travel to mine sites.

The panel made no suggestion as to whether the New Prosperity project should proceed; that decision will be made by the governments of Canada and British Columbia.

V CONCLUSION:

Dr. Meech will likely want to discuss his ideas on how the EA process for mine projects could be improved and may use the ongoing review of the New Prosperity mine proposal to illustrate issues with the current process.

VI RECOMMENDED RESPONSE:

- The BC Jobs Plan sets ambitious targets to responsibly grow the mining sector while ensuring health, safety and environmental protection.
- We have made steady progress in reducing duplication and overlap in the federal and provincial EA processes. To date, four proposed coal mines (Sukunka, Echo Hill, Carbon Creek and Arctos Anthracite) have been granted substitution. This means that the Province will undertake the EA of these projects.
- The Ministry of Energy and Mines is also committed to looking for ways to improve permitting processes and better integrate the EA and permitting processes for mine developments.
- The Ministry of Energy and Mines is reviewing operational policies, and processes with regard to geothermal energy and is considering a tenure disposition for a geothermal permit at Lakelse Lake, near Terrace.
- A resource assessment of the geothermal potential of the Clarke Lake gas field was recently published in the Bulletin of Canadian Petroleum Geology by Warren Walsh of the Ministry of Energy and Mines.

PREPARED BY:

Sara Bose
250-387-5491

Attachments - 2

REVIEWED BY:

Nathaniel Amann-Blake, ED ✓
David Morel, ADM ✓
Paul Wieringa, A/ADM, EAED ✓
David Nikolejsin, DM ✓

**MINISTRY OF ENERGY AND MINES
BRIEFING NOTE FOR INFORMATION**

I PREPARED FOR: Honourable Bill Bennett, Minister of Energy and Mines

II ISSUE: December 4, 2013 meeting with Mark Edwards, VP of Community and Government Relations, Teck Resources Limited to discuss the Elk Valley water quality plan and Province's review of electricity rates.

III BACKGROUND:

There are currently five operating coal mines in the Elk Valley in southeast British Columbia owned by Teck Coal Limited. These mines directly employ close to 3,700 people full time.

In order to sustain production and employment levels at its southeast B.C. mines, Teck will need to move into new areas as coal in previously permitted areas is depleted. These changes will need environmental assessments (EAs) in some cases and in most cases permits or permit amendments under the *Mines Act* and the *Environmental Management Act*.

s.13

Teck received an amendment to its EA certificate for Line Creek Operations on September 25, 2013 and subsequently received permit approvals for its Phase II project. The project includes two open pits, a waste rock dump, a seepage water collection system and a major water treatment plant. Water quality concerns including selenium, sulphate, nitrate, cadmium and calcite were considered in the EA and permitting.

Selenium management is a key environmental challenge in southeast B.C. Selenium is a naturally occurring element that, in small doses, is essential to biological function. In larger doses, selenium can be toxic and may bioaccumulate in food webs, where increases may harm birds and fish. The Elk River watershed, which is located downstream of Teck's five southeast B.C. coal mines, has significantly elevated levels of selenium, primarily due to run off from waste rock exposed to erosion from decades of open-pit coal mining.

Teck has highlighted three key issues in a recent letter to the Ministry, and previously provided three additional comments to the Industrial Electricity Policy Review (IEPR). In their October 10, 2013 letter, Teck expressed concerns about the extent of the deferral accounts; cost overruns at BC Hydro; and has asked for an improved revenue formula with long-term notional pricing and amended dividends to limit rate increases during periods of significant capital expenditures. In a previous submission to the IEPR, they highlighted the importance of a fair contribution policy, improvements to the

interconnection process, and their satisfaction with the current transmission service rate structure.

IV DISCUSSION:

In April 2013, the Minister of Environment issued an order under section 89 of the *Environmental Management Act* to Teck. The order requires the company to submit a plan to address selenium and other contaminants in the Elk Valley watershed.

The ministerial order will result in an Elk Valley Area-Based Management Plan to identify long-term concentration targets, considering: current contaminant concentrations; current and emerging economically achievable treatment technologies; sustained balance of environmental, economic and social costs and benefits; and current and emerging science regarding the effects of contaminants. The order defines specific environmental objectives and outcomes such as protection of aquatic ecosystems, protection of human health and protection of groundwater. The order also establishes a long-term selenium concentration target for Lake Koocanusa.

Prior to the ministerial order, Teck had initiated development of an Elk Valley Water Quality Plan, which involves the construction of six water treatment plants to remove selenium and other substances. Teck's initial strategy proposes more than \$600 million in investment over the next five years on treatment facilities and on water diversions, which prevent clean water from flowing through waste rock and picking up selenium and other substances. The first of the plants is the West Line Creek Water Treatment Facility, which is now under construction. This plant will use a biological water treatment process, which was the most sustainable and efficient approach identified in a pilot study reviewed by third-party experts, and is expected to be in operation by the second quarter of 2014.

Implementation of the Elk Valley Area Based Management Plan and Teck's Elk Valley Water Quality Plan will stabilize and reverse the trends of selenium in the Elk Valley watershed over time. The water treatment facilities and other investments will ensure the impacts of coal mining in the area are significantly reduced.

Government's 10 year plan on rates largely addresses Teck's rate concerns. About 80 percent of regulatory accounts are already part of rates and are being paid down. BC Hydro will hold a workshop to provide industrial customers with more information on its regulatory accounts. Starting in F2018, BC Hydro's net income will be linked to the Consumer Price Index; the dividend payment will be reduced starting in F2018 and over time be eliminated; and the 3rd Tier Water Rental Rate will be eliminated in F2018. Government has agreed to review industrial rate design, including contribution policy, while leaving the basic structure of the Transmission Service Rate intact. BC Hydro will begin reporting on and benchmarking transmission interconnection timelines by April 1, 2014.

V CONCLUSION:

The Province is working with Teck to protect water quality in the Elk Valley watershed and to move forward on permitting and environmental assessments.

PREPARED BY:

Sara Bose
250-387-5491

REVIEWED BY:

Nathaniel Amann-Blake, ED ✓
Paul Wieringa, ED (EAED) ✓
David Morel, ADM ✓
David Nikolejsin, DM ✓

MINISTRY OF ENERGY AND MINES

BRIEFING NOTE FOR INFORMATION

I PREPARED FOR: Honourable Bill Bennett, Minister of Energy and Mines

II ISSUE: British Columbia-Alberta Electricity Intertie.

III BACKGROUND:

As a result of the Alberta Electric System Operator's (AESO) approach to integrating Enbridge's new 300mega-watt (MW) Montana-Alberta Tie Line (MATL), there is a significant restriction of BC's electricity trade with Alberta, s.13

s.13

s.16

As well, BC Hydro is developing a tariff that would charge the AESO for the transmission capacity that it sets aside on the BC-Alberta Intertie. This path can be avoided by finding a mutually acceptable way that provides for a fair recognition of BC's contribution towards the benefit provided by the BC-Alberta Intertie.

IV DISCUSSION:

s.13, s.16

V CONCLUSION:

s.13, s.16

DRAFTED BY:
Guy Gensey
952-0283

APPROVED BY:
Karen Koncohrada, ED, CIB
Dave Nikolejsin, DM, MEM ✓

MINISTRY OF ENERGY AND MINES

BRIEFING NOTE FOR INFORMATION

I PREPARED FOR: Honourable Bill Bennett, Minister of Energy and Mines

II ISSUE: Site C Clean Energy Project.

III BACKGROUND:

The Site C Clean Energy Project (Project) is BC Hydro's proposed third dam and generating station on the Peace River. By using water already stored upstream in the Williston Reservoir, the Project would generate about 35 per cent of the electricity produced at the W.A.C. Bennett Dam, with only five per cent of the reservoir area.

BC Hydro intends to complete the Project by 2022, subject to the current approval and construction schedule, at a capital cost of \$7.9 billion. The Project would provide 1,100 megawatts of capacity and produce about 5,100 gigawatt-hours of electricity annually. This is about eight per cent of BC Hydro's current electricity needs, providing enough electricity to power more than 450,000 homes. The Project would create an estimated 7,000 person-years of direct construction employment, and up to 35,000 direct and indirect jobs through all stages of development and construction. It also would facilitate the integration of new clean and renewable projects, such as wind, run-of-river hydro and solar, by providing reliable backup to these intermittent resources.

A recommendation of BC Hydro's Integrated Resource Plan (IRP) is to continue to advance the proposed Site C project. The IRP is a 20-year plan that explains how BC Hydro will meet future growth and demand for electricity through investments in infrastructure, conservation and clean energy. After an upfront capital cost, Site C is among the lowest cost options to meet long-term (more than 100 years) electricity needs.

The environmental assessment (EA) of the Project is a joint process between the Canadian Environmental Assessment Agency and the British Columbia Environmental Assessment Office. The EA process, including a Joint Review Panel, is expected to be completed in early 2015.

IV DISCUSSION:

As the provincial and federal EA of the project is currently underway, it would not be prudent for government officials to publicly express opinions on the project.

V CONCLUSION:

Large hydro projects, such as Site C, have the ability to provide a reliable supply of both dependable capacity and energy without ongoing cost volatility.

DRAFTED BY:

Guy Gensey
952-0283

APPROVED BY:

Karen Koncohrada, ED, CIB
Dave Nikolejsin, DM, MEM ✓

MINISTRY OF ENERGY AND MINES

BRIEFING NOTE FOR INFORMATION

I PREPARED FOR: Honourable Bill Bennett, Minister of Energy and Mines

II ISSUE: New West Partnership (NWP).

III BACKGROUND:

The NWP is an economic partnership between British Columbia, Alberta and Saskatchewan establishing Canada's largest open market and creating a framework for ongoing cooperation to strengthen the western economy. On December 16, 2010, an Energy MOU under the NWP was signed by the Provinces' Energy Ministers establishing a collaborative framework to strengthen and expand the region's energy sector. Under this MOU, the Provinces undertake to work in collaboration to:

- exchange information on regulatory streamlining and process improvements;
- promote energy technology development and deployment in the energy sector;
- promote energy infrastructure of mutual interest;
- coordinate on strategies for increased market access and market diversification of energy goods;
- continue to work together to pursue a commercial arrangement for the adoption and implementation of the Petroleum Registry within British Columbia; and
- exchange information on energy efficiency and alternative energy and promote responsible energy development and use.

A Deputy Minister-level Steering Committee, assisted by a Secretariat, has been established to coordinate Energy MOU related work. The Steering Committee chairperson rotates annually between the Provinces. British Columbia assumed the chair position from Saskatchewan on December 16, 2013.

IV DISCUSSION:

British Columbia was the first province in Canada to require the oil and gas industry to publicly disclose the fluids they use for hydraulic fracturing in the province. As a result of discussions within the NWP, on December 31, 2012, Alberta joined British Columbia in requiring the disclosure of hydraulic fracturing fluids on FracFocus.ca.

V CONCLUSION:

The three provinces continue to collaborate on advocating for responsible regulation within the energy sector in the three Western provinces.

DRAFTED BY:

Guy Gensey
952-0283

APPROVED BY:

Karen Koncohrada, ED, CIB
Dave Nikolejsin, DM, MEM ✓

MINISTRY OF ENERGY AND MINES

BRIEFING NOTE FOR INFORMATION

I PREPARED FOR: Honourable Bill Bennett, Minister of Energy and Mines

II ISSUES: BC Hydro Electricity Rates, and Review of the British Columbia Utilities Commission.

III BACKGROUND:

BC Hydro Rates: On November 26, 2013, the Province announced a 10 year plan that will keep electricity rates as low as possible while BC Hydro makes investments in aging assets and new infrastructure to support British Columbia's growing population and economy. Under the plan, BC Hydro will complete all 50 recommendations from the 2011 Government review of BC Hydro by March 2014, including reducing operating costs by \$391 million, eliminating 650 net positions, and rescheduling \$800 million in capital additions prioritizing the most urgent expenditures. BC Hydro will continue to reduce overall costs. To allow BC Hydro to keep more cash for infrastructure investments, the Province will reduce costs to BC Hydro by reducing dividend payments to the Province over five years starting in fiscal 2018, eliminating the upper tier 3 water rental rates (saving BC Hydro \$50 million/year) and tying net income growth to the Consumer Price Index.

Government will set rate increases for the first two years of the 10 year plan at 9 per cent and 6 per cent. The British Columbia Utilities Commission (BCUC) will set increases for the following three years within caps of 4 per cent, 3.5 per cent and 3 per cent. In the final five years of the 10 year plan, rates will be set by the BCUC and actions by Government and BC Hydro will ensure increases will remain low and predictable.

British Columbia Utilities Commission Review: The Industrial Electricity Policy Review Task Force recommended reviewing the BCUC to evaluate resource needs and performance. Through the Core Review process, Government will initiate and independent review of the BCUC. The goal is to increase the effectiveness and efficiency of the BCUC and utility application review processes. After the review of the BCUC, BC Hydro rates can be set by the BCUC in the third year of the 10-year plan.

IV DISCUSSION:

BC Hydro Rates: The impact of rate increases on customers will be:

- For residential customers, a 9 per cent rate increase is about \$8 per month.
- For small commercial customers, a 9 per cent rate increase is about \$20 per month.
- For average industrial customers, a 9 per cent rate increase is about \$139,000 per month.

Capital Plan: BC Hydro's capital plan outlines the investments BC Hydro is making in the province's electrical system over a 10 year period. BC Hydro is forecasting capital expenditures, on average, of \$1.7 billion per year over the next 10 years. The capital will be used to refurbish, upgrade, expand and add to its system of dams and wires – the generation, transmission and distribution assets that create and deliver electricity to B.C.'s homes, businesses and industry.

V CONCLUSION:

Many of BC Hydro's facilities were built decades ago, in the 1960's, 70's and 80's. Today, the aging facilities are in need of reinvestment. Government and BC Hydro are working together to reduce cost pressures to keep rate increases as low as possible.

A Core Review of the BCUC will serve to reduce costs and increase efficiencies with the regulation of utilities.

DRAFTED BY:

Guy Gensey
952-0283

APPROVED BY:

Karen Koncohrada, ED, CIB
Dave Nikolejsin, DM, MEM ✓

MINISTRY OF ENERGY AND MINES

BRIEFING NOTE FOR INFORMATION

I PREPARED FOR: Honourable Bill Bennett, Minister of Energy and Mines

II ISSUE: First Nations Engagement, Revenue Sharing and the Standing Offer Program.

III BACKGROUND:

Standing Offer Program: As directed by the provincial government in its 2007 Energy Plan, BC Hydro launched the Standing Offer Program (SOP) in April 2008 to encourage the development of small-scale clean energy projects throughout British Columbia. The program is a process to purchase energy from permit-ready projects with a nameplate capacity not more than 15 megawatts.

Revenue Sharing with First Nations: The *Clean Energy Act* enabled the creation of a First Nation Clean Energy Business Fund (FNCEBF), with an initial appropriation of up to \$5 million. The purpose of the fund is to promote increased First Nation participation in the clean energy sector within their asserted traditional territories and treaty areas through agreements between the B.C. Government and eligible First Nations. Revenue sharing from clean energy projects is based on new, net, incremental revenues to government derived from water rentals, land rents and, eventually, wind participation rents. Since March 2013, three FNCEBF revenue sharing agreements have been signed.

IV DISCUSSION:

BC Hydro's Integrated Resource Plan (IRP), approved by the Province on November 26, 2013, introduces a Clean Energy Strategy to support the clean energy sector in British Columbia and promote clean energy opportunities for First Nations communities. This Strategy advances a number of actions over the next two years, including broadening opportunities through the SOP and Net Metering Program; and promoting First Nations participation in clean energy projects. The SOP annual target will increase from 50 gigawatt hours per year (GWh/year) to 150 GWh/year to enable more small-scale projects in communities, without unduly impacting electricity rates.

V CONCLUSION:

The FNCEBF provides capacity development funding to support First Nations to undertake activities such as feasibility, equity funding to qualifying First Nations to help acquire equity positions in clean energy projects and a share in the revenues from clean energy projects.

DRAFTED BY:

Guy Gensey
952-0283

APPROVED BY:

Karen Koncohrada, ED, CIB
Dave Nikolejsin, DM, MEM ✓

MINISTRY OF ENERGY AND MINES

BRIEFING NOTE FOR INFORMATION

- I PREPARED FOR:** Honourable Bill Bennett, Minister of Energy and Mines
- II ISSUE:** Transmission Upgrade Planning for Yellowhead Mining Harper Creek Copper Mine
- III BACKGROUND:**

Yellowhead Mining Inc. (Yellowhead), is a Vancouver-based company formed in 2005 to acquire, explore and, if feasible, develop the Harper Creek copper-silver-gold deposit. The proposed mine site is located in the North Thompson region near the communities of Vavenby and Clearwater.

At the 2011 Union of British Columbia Municipalities convention, the District of Clearwater requested that the Province direct BC Hydro to support the development of the Harper Creek mine. In April of 2011, in response to Yellowhead's official interconnection request for the mine, BC Hydro initiated planning work for transmission upgrades.

In December 2012, Yellowhead informed BC Hydro that they would not provide the next payment **s.13, s.17** toward the Identification Phase of the transmission upgrade project. BC Hydro required this payment to continue work (e.g. First Nations consultation, line routing investigation) to identify the preferred alternative for the project by mid-March 2013. BC Hydro advises that planning for North Thompson transmission upgrades is on hold until there is more certainty from Yellowhead around their load requirements.

On November 19, 2013, Yellowhead announced that it has entered into an agreement which will result in \$8 million (M) in project financing. This financing arrangement is subject to shareholder agreement which will be determined by a vote scheduled on December 30, 2013.

IV DISCUSSION

The North Thompson Valley is served by a 347-kilometre, single-circuit radial 138-kilovolt (kV) transmission line from Brocklehurst substation, near Kamloops, to the TransMountain pumping station north of Valemount. BC Hydro has sufficient capacity on this transmission line to meet the load growth in the area for the next 20 years. However, BC Hydro advises that system upgrades will be required to meet possible new load from Yellowhead's proposed mine and other development in the area. Specifically, Kinder Morgan has submitted a load increase request of 17 megawatts for the TransMountain pipeline expansion project. Canfor has indicated that load may increase for their mill in Vavenby, as has the Pinnacle Renewable Energy Group for a potential new pellet plant in Vavenby. However,

neither of these latter companies has submitted an official request. Transmission expansion in the region will also be required if McBride independent power producer (IPP) and Sorgent.e IPP projects proceed.

BC Hydro initiated a North Thompson Area planning study and other investigation work (Identification Phase) to look at solutions to meet the load requirements at the least cost to Yellowhead and ratepayers. Two alternatives were under consideration to accommodate Yellowhead's request:

- Alternative 1 - (One Hundred Mile House 230 kV Alternative) - Build a new 230 kV line between One Hundred Mile House and Clearwater (100 km), upgrade or build new 138 kV transmission line between Clearwater and Vavenby and add 230/138 kV transformation at Clearwater.
- Alternative 2 - (Mica Creek 230 kV Alternative) - Build a new 500/230 kV station midway on the 500 kV lines from Mica to Nicola, and build a new 230 kV line (75 km) from this new station to Vavenby.

BC Hydro has estimated that the cost of this project is between \$75M and \$300M.

BC Hydro believed the earliest possible in-service date for a new transmission line would be fall 2016. However, since the study has been put on hold, BC Hydro is no longer able to meet this target. This was communicated to Yellowhead.

In February 2013, Yellowhead requested that BC Hydro refund any funding unspent in the Identification Phase. BC Hydro has not been able to confirm with Yellowhead whether or when they will re-submit their interconnection request for the Harper Creek mine.

V CONCLUSIONS

As is the case for any potential large industrial customer, a transmission upgrade is triggered once financial commitments are in place.

To protect ratepayers from risk, to make this large investment in the system, BC Hydro must justify all expenditures to the British Columbia Utilities Commission. This would include showing evidence that the load is confirmed, new infrastructure is required, and proper process is being followed.

BC Hydro is prepared to continue with transmission planning should Yellowhead re-submit an interconnection request and provide the necessary funding.

Attachment: McBride to Kamloops map

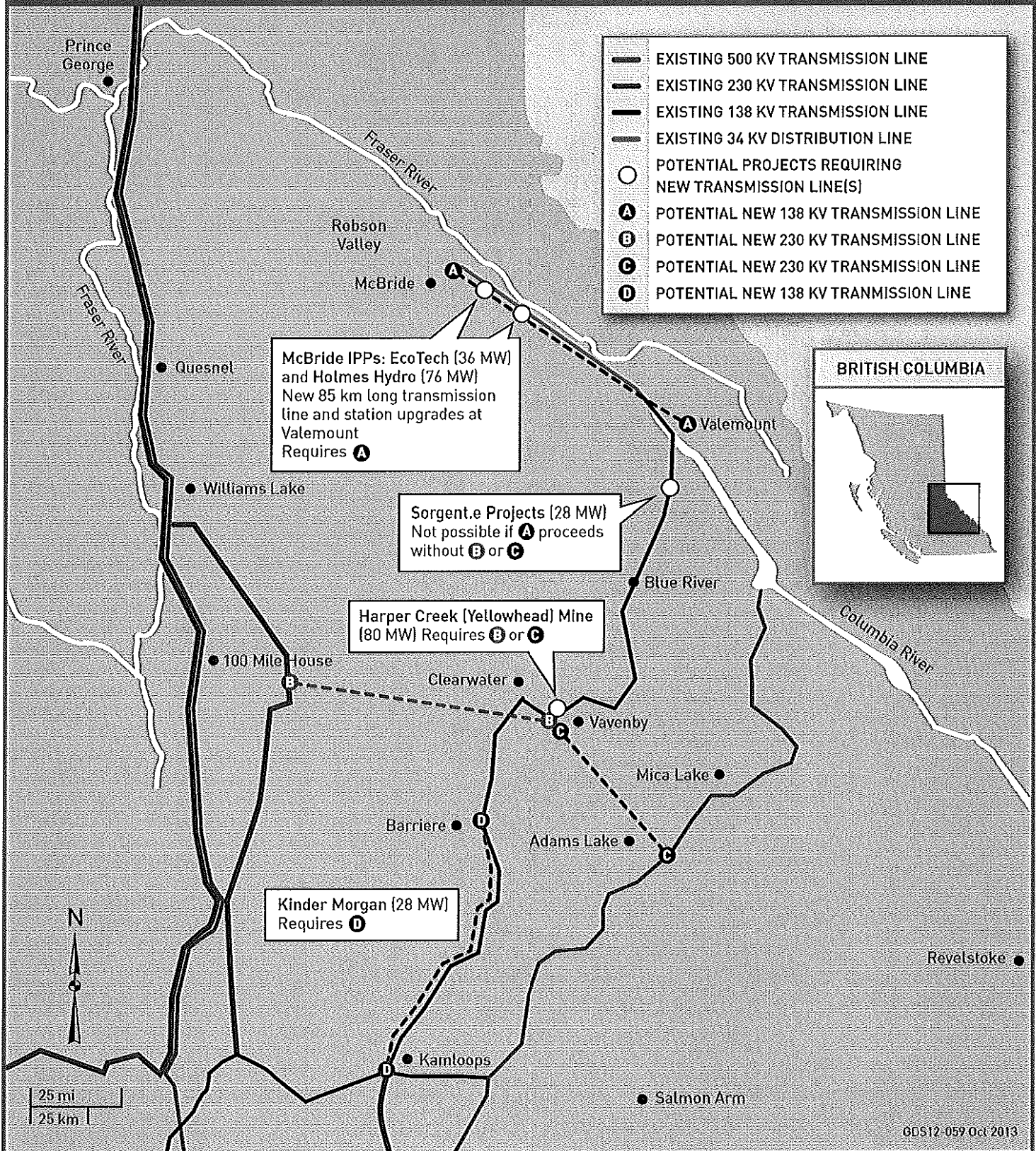
PREPARED BY:

Alan Barber, Policy Advisor, EAED
250-387-5093

REVIEWED BY:

Paul Wieringa, ED, EPR, EAED ✓
Les MacLaren, ADM, EAED ✓
Dave Nikolejsin, DM, MEM ✓

MCBRIDE TO KAMLOOPS



MINISTRY OF ENERGY AND MINES

BRIEFING NOTE FOR INFORMATION

- I PREPARED FOR:** Honourable Bill Bennett, Minister of Energy and Mines
- II ISSUE:** Meeting with Ms. Dawn Farrell, President and Chief Executive Officer (CEO) of TransAlta, to discuss energy policy priorities and opportunities for private sector electricity companies in British Columbia.

III BACKGROUND:

TransAlta is an Alberta-based electric utility with \$3 billion in annual revenue and \$9 billion in assets. TransAlta's generation portfolio includes approximately 10,000 megawatts (MW) of generating capacity from fossil fuel based generation (coal or natural gas), small hydro, wind and geothermal. In British Columbia, TransAlta's generation portfolio includes 98 MW of small hydro projects.

Ms. Dawn Farrell has been with TransAlta since 2009 and became CEO early in 2012. She was formerly an Executive Vice President at BC Hydro from 2003 to 2009 in charge of generation.

In 2009, TransAlta acquired Canadian Hydro Developers, which owned and ran three run-of-river facilities in British Columbia. It developed a fourth facility, and began to develop three others, which it sold last year to Sargent.e, another independent power producer. TransAlta's British Columbia facilities are: Akolkolex (10 MW), Pingston (45 MW; 50 percent ownership), Upper Mamquam (25 MW), and Bone Creek (18 MW). Its 20-year electricity purchase agreement (EPA) with BC Hydro for the Akolkolex project is set to expire in 2015.

In 2012, Ms. Farrell and TransAlta met with the Premier, the previous Minister of Energy, Mines and Natural Gas, and Ministry staff to discuss electricity supply for liquefied natural gas (LNG) projects.

s.13, s.17

s.13, s.17

s.13, s.17

IV DISCUSSION:

BC Hydro has not recommended any calls for power in its Integrated Resource Plan (IRP) approved by Government last month. The IRP demonstrates that BC Hydro has adequate energy supply to meet the initial electricity requirements of LNG facilities – about 3,000 gigawatt-hours a year – through to the 2021 fiscal year. BC Hydro will ensure contingency plans are in place to meet demand should current forecasts underestimate future needs. The technology choice for powering LNG projects rests with LNG proponents. Most proponents are favouring gas direct drives for liquefaction for reasons other than power price.

There is continued interest from the clean energy sector, First Nations and others in seeing additional clean energy resources brought online to serve LNG load. As per IRP recommended action #12, BC Hydro is committed to exploring clean or renewable energy supply options to acquire energy from clean power projects to meet LNG needs that exceed BC Hydro resources. Because LNG plants need a 24/7 supply of electricity, BC Hydro would need to supply LNG with electricity resources that provide sufficient capacity to meet demand at all points in time. Intermittent sources of supply, like wind and run-of-river hydro, must be supplemented by capacity rich resources. Therefore, BC Hydro will also explore cost effective natural gas options on the north coast to enhance transmission reliability and to help meet expected load.

V RECOMMENDED RESPONSE:

There is a careful balance in maintaining rate increases as low as possible while investing in the system to ensure a reliable, cost-effective energy supply.

Government is committed to working with the clean energy sector to ensure that there are opportunities for new developments in the Province, including the Clean Energy Strategy in the IRP focusing on smaller projects and First Nations' participation. The IRP also calls for BC Hydro to renew cost-effective EPAs.

A recommended action is to review the IRP in two years to ensure there is adequate lead time to respond to any changing market conditions that could drive the need for additional energy. At that time, Government should have more clarity on LNG final investment decisions, a certification decision on Site C, and the performance of the demand side management portfolio.

PREPARED BY:

Jack Buchanan, GRB
250-953-4635

REVIEWED BY:

Heather Johnstone, A/Dir, GRB ✓
Paul Wieringa, ED, EP ✓
Les MacLaren, ADM, EAED ✓
Dave Nikolejsin, DM, MEM ✓

MINISTRY OF ENERGY AND MINES
BRIEFING NOTE FOR INFORMATION

- I PREPARED FOR:** Honourable Bill Bennett, Minister of Energy and Mines
- II ISSUE:** Meeting with Dick Brown, President and Chief Executive Officer of Ferus Inc., and Sean Lalani, President of Ferus Natural Gas Fuels, regarding plans to build a liquefied natural gas (LNG) facility in the Lower Mainland

III BACKGROUND:

Ferus Inc. (Ferus) has requested a meeting to discuss Government's November 28, 2013 announcement of Direction 5 to the British Columbia Utilities Commission (BCUC) that, among other things, limits the BCUC's powers to require FortisBC Energy Inc. (FortisBC) to submit an application for a Certificate of Public Convenience (CPCN) to expand their Tilbury LNG liquefaction facility. Ferus states that it affects their investment decision to build liquefaction infrastructure in the Lower Mainland to serve the heavy-duty transportation market.

Ferus Natural Gas Fuels (Ferus NGF) and ENN Canada Corporation (ENN Canada) announced a joint venture on November 19, 2013 to construct, own and operate two LNG liquefaction facilities. The facilities are planned to be located in Edmonton, Alberta, and in Vancouver, British Columbia, and will service the on-road trucking market as well as the marine, rail, mining, and oil and gas sectors. Ferus NGF plans to invest \$50 million in the Vancouver facility. Ferus NGF currently does not have a site, nor the required permitting, but the announcement says Ferus plans to establish a location within six months of the announcement date and be operational by early 2016. Ferus NGF is responsible for the design, engineering, construction, operation, and marketing and sales of the facility. ENN Canada has committed to a significant amount of the LNG produced at the plant for its planned fuelling stations.

Ferus NGF is affiliated with Ferus based out of Calgary, Alberta. Ferus provides the energy industry with cryogenic products and services including delivery of liquid nitrogen and liquid carbon dioxide needed for oil and gas extraction in Western Canada. Ferus has eight cryogenic facilities in operation or under construction. Ferus NGF provides natural gas fuelling services under the Ferus corporate name. Ferus NGF has positioned themselves as a provider of LNG and compressed natural gas (CNG) fuelling services including production, transportation, storage and delivery.

Ferus NGF and Encana Corporation are constructing an LNG liquefaction facility in Grande Prairie, Alberta, expected to be operational in 2014. Ferus NGF states that the facility will supply LNG for drilling rigs, pressure pumping services, and heavy-duty highway and off-road trucks. Ferus NGF also announced in September 2013 that it is partnering in Eagle LNG Partners, a consortium dedicated to building out LNG infrastructure across the United States (U.S.). Ferus NGF is privately-held by The Energy & Minerals Group, a management company for private equity funds.

IV DISCUSSION:

Ferus has been vocal in their opposition to FortisBC entering into the natural gas for transportation market both in BCUC proceedings and as part of Government engagement for the Greenhouse Gas Reduction (Clean Energy) Regulation in 2012. Their general position has been that FortisBC's participation in CNG and LNG transportation markets creates an un-level playing field for non-regulated entities and it impacts non-regulated companies' ability to enter the CNG or LNG for transportation markets in British Columbia.

Ferus has expressed interest in building LNG liquefaction facilities in the province. Ferus considered s.13 British Columbia, as a potential alternative location for the facility that is now under construction in Grande Prairie. s.13

s.13 In addition to the potential s.13 facility, Ferus has suggested they intended to build two other LNG liquefaction facilities in British Columbia, but there has been no clear intent to do so until their recent announcement.

In confidence, FortisBC has shared the following information regarding their Tilbury expansion plans. s.13, s.17

s.13, s.17

s.13, s.17 The existing liquefaction capacity at Tilbury is 4.6 mmcf/d for which FortisBC has been supplying approximately 1 mmcf/d to the transportation market under Rate 16. The initial natural gas liquefaction capacity planned for the Ferus NGF facility is s.13, s.17

s.13, s.17

s.13, s.17 A key component will be the cost of producing LNG for a beginning market. Potential LNG customers, such as BC Ferries and trucking companies, are looking to a price discount in comparison with diesel fuel to overcome market barriers in adopting a new transportation fuel. If, as a result of FortisBC's effort to kick-start the market, the demand of LNG grows faster than FortisBC forecasts, there will be room in the market for additional liquefaction capacity. If s.13, s.17 the LNG market grows as FortisBC forecasts, there will be little need for other liquefaction facilities in the market through into the mid-2020's. However, if there are other LNG liquefaction facilities in the Province s.13, s.17

s.13, s.17

s.13, s.17

, it would likely affect FortisBC's decision on the liquefaction capacity s.13, s.17

s.13, s.17

s.13, s.17

Government support of FortisBC expansion plans is intended to kick-start the natural gas for transportation market for LNG in British Columbia which supports commitments in the Natural Gas Strategy and Liquefied Natural Gas Strategy. Any further LNG expansion beyond what is enabled by Direction 5 would be subject to BCUC oversight.

Potential LNG customers have commented to the Ministry of Energy and Mines that a regulated rate will protect the market from price volatility which could be a potential issue in an emerging LNG market where service providers are unregulated. FortisBC LNG charges under Rate 46, enabled by Direction 5, are based on the cost of LNG service plus a regulated return on FortisBC assets. The charges under Rate 46 are designed to ensure that LNG customers bear the costs of FortisBC LNG service and there is no cross-subsidization by core ratepayers.

V CONCLUSION:

The Government is supportive of FortisBC kick-starting the market for natural gas use in the Province. As a regulated utility it provides a stable and consistent price that reduces risks for market participants when investing in LNG vehicles and infrastructure. FortisBC's Rate 46 is based on the cost of LNG service and LNG customers will not be cross-subsidized by core ratepayers. In the near-term, FortisBC plans for expanding their Tilbury facility may prevent non-regulated businesses from investing in liquefaction assets. Longer-term, however, there should be opportunities for non-regulated businesses to participate in the LNG market alongside FortisBC.

DRAFTED BY:

Scott Cutler
250-952-0706

APPROVED BY:

Heather Johnstone, A/Dir, EAED ✓
Paul Wieringa, ED, EAED ✓
Les MacLaren, ADM, EAED ✓
Dave Nikolejsin, DM ✓

**MINISTRY OF ENERGY AND MINES
BRIEFING NOTE FOR INFORMATION**

- I PREPARED FOR:** Honourable Bill Bennett, Minister of Energy and Mines
- II ISSUE:** December 16, 2013 meeting with the Western Canada Biodiesel Association represented by Mr. Ian Thomson, President and Mr. Doug Hooper, Policy Advisor

III BACKGROUND:

In December 2012, the Alberta Biodiesel Association, the BC Biodiesel Association and biodiesel stakeholders in Saskatchewan and Manitoba incorporated the Western Canada Biodiesel Association (WCBA) with the goal of promoting sustainable biofuel production in Canada. According to the WCBA, biodiesel made in western Canadian production plants reduces greenhouse gas (GHG) emissions between 80% and 99% below those of diesel, depending upon feedstocks and production processes.

Biodiesel supplied in British Columbia is primarily manufactured in North Dakota and Washington State from canola grown in Canada. The biodiesel is a low carbon product primarily because of the sustainable agricultural practices of the growers, and generally has low carbon intensity in relation to other fuels. The Canadian Canola Growers Association met with the Minister on November 25, 2013, expressing support for the Renewable and Low Carbon Fuel Requirements Regulation (Regulation). The WCBA is also supportive of the Regulation and the efforts made to increase the use of renewable content in petroleum-based gasoline and diesel.

The WCBA is also expected to demonstrate support of the Pacific Coast Action Plan on Climate and Energy, announced on October 28, 2013, in which BC, California, Washington, and Oregon committed to adopting and maintaining low carbon fuel standards in each jurisdiction. BC and California are well ahead in terms of established low carbon fuel programs. Oregon's low carbon fuels program has only just started in January 2013. Washington has established a working group to recommend state action on including a low carbon fuels program by the end of 2013.

IV DISCUSSION:

The WCBA is concerned about the efforts made by petroleum companies to supply low carbon fuels under the Regulation. The Minister met with Imperial Oil Limited (IOL) on November 21, 2013,

^{s.13} The Ministry has made significant progress in the implementation of the Regulation, and many industry concerns have been addressed. The Regulation was amended effective July 1, 2013 to improve flexibility for the petroleum suppliers, and to provide additional means to achieve compliance, both to credit the use of renewable fuels and to introduce alternate mechanisms to create credits.

The WCBA is also expected to express concerns regarding the sustainability of some renewable feedstocks such as palm oil. Standards for addressing these concerns are beginning to emerge, but are not yet at a level that can address all concerns expressed by

stakeholders. The US Environmental Protection Agency has spent several years studying the palm industry in Malaysia and Indonesia, and Ministry staff will continue to monitor developments in the industry. Some palm oil based biofuels are being supplied in BC. Ministry staff review the lifecycle assessment of GHG emissions, on a regular basis, for all biofuels, including those made from canola and palm oil.

V CONCLUSION:

Ministry staff agree that there is legitimate concern regarding opportunities to comply after 2016, and are preparing a series of workshops with all stakeholders to discuss the issues and potential for all transportation energy sources. By the end of December, 2013 Ministry staff will present options to the Minister for addressing industry's concerns.

Participation by the WCBA in these discussions would be welcomed. The Minister may wish to acknowledge the support of WCBA for renewable and low carbon fuels in British Columbia.

DRAFTED BY:
Jennifer Davison, AEB
250-953-4631

APPROVED BY:
Dan Green, Exec. Director
Dave Nikolejson, DM ✓

✓

MINISTRY OF ENERGY AND MINES

BRIEFING NOTE FOR INFORMATION

- I PREPARED FOR:** Honourable Bill Bennett, Minister of Energy and Mines
- II ISSUE:** December 16, 2013 briefing with Minister Mary Polak and staff from the BC Environmental Assessment Office (EAO) regarding the application from Creek Power Inc. for an Environmental Assessment Certificate for the Narrows Inlet Hydro Project

III BACKGROUND:

Narrows Inlet Hydro Holding Corp. (NIHHC) has completed its requirements for an environmental assessment review of their Narrows Inlet Hydro Project (Project). The Project has been referred to Ministers Mary Polak and Bill Bennett for a decision within 45 days (by January 20, 2014) to issue NIHHC an Environmental Assessment Certificate (EAC).

The proposed Project Application accepted on August 21, 2012, consisted of five interrelated hydroelectric facilities (Chickwat Creek, CC Creek, SS Creek, Ramona Creek Upper and Ramona Creek Lower). The Project did not trigger a provincial *Environmental Assessment Act* review as it did not exceed the 50 megawatt (MW) threshold. However, NIHHC requested that the EAO designate the proposed Project as reviewable under section 7(3)(a) of the Act. The CC Creek and SS Creek facilities were subsequently removed from the Application on March 13, 2013. The current proposed Project is 33 MW in capacity.

The Project is located in the Tzoonie River valley and Narrows Inlet, approximately 50 km north of Sechelt. It is comprised of three hydroelectric facilities (a conventional run-of-river component and a hybrid component that involves both run-of-river and lake storage (Ramona Lake)); development of Ramona Lake for storage and flow regulation to supply Ramona Creek components; and associated transmission (an underground segment of 0.3 km on the east bank of Sechelt Inlet, 1.7 km of submarine cable crossing of Sechelt Inlet, and an overhead segment of 6.7 km interconnecting to an existing line). The three hydroelectric facilities located on the upper Ramona Creek, lower Ramona Creek and Chickwat Creek were awarded a 40-year Electricity Purchase Agreement in BC Hydro's 2008 Clean Power Call, with commissioning dates in early 2016, for Chickwat Creek, and in 2018 for the Ramona Creek facilities.

NIHHC is a private, locally owned company that is located in Gibsons, British Columbia. The main shareholders of NIHHC are Renewable Power Corporation and Altaqua Renewable Power Corporation, both engineering and construction firms with a history of run-of-river project development.

The proposed Project would be located fully within the asserted territory of the *shishálh* Nation (formerly Sechelt Indian Band). The *shishálh* Nation has recently been awarded \$500,000 equity funding through the First Nations Clean Energy Business Fund

and plan to invest in building the Narrows Inlet Hydro Project, in partnership with private investors and another First Nation.

IV DISCUSSION:

EAO staff attendees at the December 16, 2013 briefing will likely be Doug Caul, Garry Alexander, May Darling and Greg Leake.

s.13 The EAO has proposed 26 conditions that would mitigate potential impacts, should Ministers decide to issue an EAC. s.13

s.13 EAO concluded that the Crown has fulfilled its obligations to consult and accommodate First Nations. Specific details regarding the assessment process are included in the EAO's comprehensive briefing material.

Under the Concurrent Permitting Regulation, NIHC has applied for Concurrent Permitting of *Land Act* tenures and *Water Act* licences, which requires permitting agencies to issue decisions on authorizations within 60 days of the Ministers issuing an EAC.

Concerns with the proposed Project, as submitted in the Application in August 2012, were raised by technical reviewers early in the review process. These concerns were primarily focussed on potential impacts to wildlife, water quality and fish and fish habitat. On January 25, 2013, EAO acted on a request from NIHC to suspend the timeline for the environmental assessment review to address numerous concerns relating to fish and fish habitat, water quality and wildlife. On March 13, 2013, the Proponent removed two of the five proposed Project hydroelectric facilities (CC Creek and SS Creek) as mitigation to offset effects to fish and fish habitat, water quality and wildlife.

The estimated total capital investment is \$141 million. Construction is estimated to generate 360 to 390 person years of employment over four years with 75 full-time positions and three part-time positions. Two direct full-time jobs and total direct and indirect employment of 98 person years are expected over the 40 years of operation.

V RECOMMENDED RESPONSE:

s.13

PREPARED BY:

Heather Johnstone, A/Dir, GRB
250-952-0887

REVIEWED BY:

Paul Wieringa, ED, EP ✓
Les MacLaren, ADM, EAED ✓
Dave Nikolejsin, DM, MEM ✓

MINISTRY OF ENERGY AND MINES**BRIEFING NOTE FOR INFORMATION**

- I PREPARED FOR:** Honourable Bill Bennett, Minister of Energy and Mines
- II ISSUE:** Meeting with the Canadian Wind Energy Association: Robert Hornung (President), Jean François Nolet (Vice President, Policy and Government Affairs), and Nicholas Heap (British Columbia Regional Director); to discuss BC Hydro's Integrated Resource Plan, and the Clean Energy Strategy
- III BACKGROUND:**

The Canadian Wind Energy Association (CanWEA) is a non-profit trade association established in 1984 that promotes wind energy in Canada, including the creation of a suitable policy environment. Their members include wind energy owners, operators, manufacturers, project developers, consultants, and service providers, and other organizations and individuals interested in supporting Canada's wind energy industry.

CanWEA holds an annual trade conference designed to help CanWEA members and key stakeholders connect and engage on issues of importance to the wind energy industry. In October 2011, CanWEA released "WINDVISION 2025," which set an ambitious target of wind contributing 20 percent of the electricity supply in Canada by 2025.

Based on the need for substantial new supply to meet liquefied natural gas (LNG), mining and other industrial load growth, CanWEA estimates that wind energy in British Columbia could increase from the current 400 megawatts (MW) of installed capacity to up to 5,250 MW by the year 2025. This would represent approximately 17 percent of British Columbia's total demand for electricity based on a load forecast prepared for CanWEA.

There are currently three commercial wind farms in operation in Northeast BC: the 102 megawatt (MW) Bear Mountain Wind Project near Dawson Creek; the 144 MW Dokie Wind Farm near Chetwynd; and the 142 MW Quality Wind Project near Tumbler Ridge. Another five wind power projects were awarded electricity purchase agreements in 2010 through the BC Hydro Clean Power Call. These represent 36 percent of the energy obtained in the Clean Power Call. These projects are in various stages of environmental assessment, project design, and construction. They include the 99 MW Cape Scott Wind Farm on the northern tip of Vancouver Island, which is currently under construction.

British Columbia's wind resource potential is estimated to be 89,000 gigawatt-hours/year with an installed capacity of 31,000 MW.

IV DISCUSSION:

BC Hydro has not recommended any calls for power in its Integrated Resource Plan (IRP) approved by Government last month. The IRP demonstrates that BC Hydro has adequate energy supply to meet the initial electricity requirements of LNG facilities – about 3,000 gigawatt hours a year – through to the 2021 fiscal year. BC Hydro will

ensure contingency plans are in place to meet demand should current forecasts underestimate future needs. The technology choice for powering LNG projects rests with LNG proponents. Most proponents are favouring gas direct drives for liquefaction for reasons other than power price.

There is continued interest from the clean energy sector, First Nations and others in seeing additional clean energy resources brought online to serve LNG load. As per IRP recommended action #12, BC Hydro is committed to exploring clean or renewable energy supply options to acquire energy from clean power projects to meet LNG needs that exceed BC Hydro resources. Because LNG plants need a 24/7 supply of electricity, BC Hydro would need to supply LNG with electricity resources that provide sufficient capacity to meet demand at all points in time. Intermittent sources of supply, like wind and run-of-river hydro, must be supplemented by capacity rich resources. Therefore, BC Hydro will also explore cost effective natural gas options on the north coast to enhance transmission reliability and to help meet expected load.

Site C was identified as the most cost-effective, clean resource available to meet the need for both energy and dependable capacity in the following decade. BC Hydro will continue to advance the project through Phase 3. In Phase 4, the Province will determine whether Site C should proceed to construction.

s.13

s.13

Some clean energy stakeholders expressed that the IRP overestimates delivery of demand side management (DSM) savings. In fact, BC Hydro has achieved targeted DSM savings since 2009. While conservation and efficiency measures will continue to play a key role in meeting future demand, like energy acquisitions, BC Hydro will be moderating spending on DSM in the short-term when additional resources are not required.

V RECOMMENDED RESPONSE:

There is a careful balance in maintaining rate increases as low as possible while investing in the system to ensure a reliable, cost-effective energy supply.

Government is committed to working with the Clean Energy sector to ensure that there are opportunities for new developments in the Province, including the Clean Energy Strategy in the IRP focusing on smaller projects and First Nations.

A recommended action is to review the IRP in two years to ensure there is adequate lead time to respond to any changing market conditions that could drive the need for additional energy. At that time, Government should have more clarity on LNG final investment decisions, a certification decision on Site C, and the performance of the DSM portfolio.

PREPARED BY:

Heather Johnstone, A/Dir, GRB
250-952-0887

REVIEWED BY:

Paul Wieringa, ED, EP ✓
Les MacLaren, ADM, EAED ✓
Dave Nikolejsin, DM, MEM ✓

MINISTRY OF ENERGY AND MINES
BRIEFING NOTE FOR INFORMATION

I PREPARED FOR: Honourable Bill Bennett, Minister of Energy and Mines

II ISSUE: Introductory meeting with Mr. Ron Percival of Avro Wind Energy

III BACKGROUND:

Mr. Ron Percival would like to brief the Minister on EDF Energies Nouvelles (EDF EN) and their recent completion of a Protocol Agreement with West Moberly First Nation with regards to the development of over 500 megawatts (MW) of power in the Treaty 8 Territory in the Peace River region.

EDF EN is a publicly traded corporation with 50 percent of its equity capital held by state-owned electric utility Électricité de France, the second largest electric utility company in the world, generating 22 percent of the European Union's electricity, primarily from nuclear energy.

EDF EN operates in 13 countries in North America and Europe. Almost half of EDF EN's revenue comes from its wholly owned American subsidiary, EnXco, acquired in 2002. EDF EN primarily develops wind energy and solar photovoltaic projects, but also works with biogas, biomass, biofuels, and marine energy sectors. EDF EN has a gross installed capacity of over 4,100 MW and over 1,700 MW in additional gross capacity under construction.

EDF EN Canada Inc., incorporated in 2008, has over 1,300 MW of solar and wind projects installed, under construction or in late stages of development in Canada. It has three solar energy projects in Ontario with 72 MW total installed capacity. Hydro Quebec has contracted EDF EN Canada to build seven wind projects (by the end of 2015), with 1,000 MW total capacity. The 80 MW capacity Saint Robert Bellarmin wind project was the first of these to be commissioned on October 16, 2012.

Avro Wind Energy (Avro) initiated three wind energy projects in the South Peace River region: the proposed 70.5 MW Wartenbe Project and 250 MW Sundance Project in 2003, and the 400 MW Taylor Project in 2010. In 2012, EDF EN Canada Inc. acquired these projects from Avro and retained Avro to assist in the ongoing development of the projects. These are EDF EN Canada's first proposed projects in British Columbia. The Sundance and Taylor projects are in the pre-application phase of the BC Environmental Assessment (EA) Process. In February 2013, Orders were issued under section 11 of the *Environmental Assessment Act* regarding the proposed projects to establish the formal scope, procedures and methods concerning the proposed projects' EA. The Wartenbe Project was awarded an Environmental Assessment Certificate (EAC) in 2006. In 2011, the Wartenbe EAC was extended an additional five years to 2016.

IV DISCUSSION:

Mr. Percival, previously of EarthFirst Canada Inc. (EarthFirst), was responsible for the initial development of the Dokie Wind Project in the Chetwynd area. During the build out

phase, the company became insolvent, and the project was purchased and completed by Plutonic Power (now Alterra). Dokie is British Columbia's second industrial scale wind project supplying energy to BC Hydro's grid. EarthFirst bid the Sundance Project (and the Dokie Expansion Wind Project and the Wartenbe Wind Project) into the 2008 Clean Power Call. However, at that time EarthFirst was in receivership and therefore not awarded any Electricity Purchase Agreements (EPAs).

Minister Coleman initially met with Mr. Cahuzac, CEO of EDF EN, in late August 2012 in Europe. The August 2012 meeting, also attended by Mr. Cory Basil from EDF EN Canada, included a briefing on energy issues in British Columbia, and discussion about Liquefied Natural Gas (LNG) and wind energy opportunities. They have "been encouraged by the priority that the Minister is giving to the energy file in the Province." EDF EN Canada has the capacity to finance and develop major projects in Canada and they are actively investing in project development in the Province.

The Sundance, Taylor, and Wartenbe projects do not have EPAs with BC Hydro. EDF EN will be looking for acquisition opportunities into which to bid these clean energy projects. BC Hydro has not recommended any calls for power in its Integrated Resource Plan (IRP), approved by Government on November 26, 2013. EDF EN is seeking EA approval of its projects to be better prepared for future procurement opportunities.

BC Hydro has examined various options for supplying electricity to proposed mining and LNG developments, including wind power resources and new gas-driven electricity generation. The IRP demonstrates that BC Hydro has adequate energy supply to meet the initial electricity requirements of LNG facilities – about 3,000 gigawatt hours a year – through to the 2021 fiscal year. BC Hydro will ensure contingency plans are in place to meet demand should current forecasts underestimate future needs.

V RECOMMENDED RESPONSE:

There is a careful balance in ensuring a reliable cost-effective energy supply with maintaining rate increases as low as possible.

It is expected that the demand for electricity in the Province will increase by 40 percent over the next 20 years.

Government is committed to working with the Clean Energy sector to ensure that there are opportunities for new developments in the Province, including the Clean Energy Strategy focusing on smaller projects and First Nations.

A recommended action is to review the IRP in two years to ensure there is adequate lead time to respond to any changing market conditions that could drive the need for additional energy. At that time Government should have more clarity on LNG final investment decisions, certification of Site C, and the performance of the DSM portfolio.

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