

Page 001 to/à Page 002

Withheld pursuant to/removed as

s.12

Page 003 to/à Page 026

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s.14

**From:** [Bell, Danielle L GCPE:EX](#)  
**To:** [Frampton, Caelie ENV:EX](#)  
**Cc:** [Zadravec, Don GCPE:EX](#); [Plecas, Bobbi ENV:EX](#); [Harris, Megan A GCPE:EX](#); [GCPE Communications - Environment & Climate Change Strategy](#)  
**Subject:** UPDATED IN - Kinder Morgan  
**Date:** Wednesday, September 6, 2017 08:47:04  
**Attachments:** [IN Kinder Morgan TMX Sept 5.docx](#)

---

Good morning,

Please note the attached updated Kinder Morgan IN has been added to Sharepoint.  
Bobbi Plecas and AG have approved.

Thank you,  
Danielle

**DANIELLE BELL**

Public Affairs Officer, Ministry of Environment & Climate Change Strategy

**Direct Line:** 250-387-9630 | **Media Line:** 250-953-3834

Page 028 to/à Page 030

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s.13

**From:** [Brosz, Corinne M ENV:EX](#)  
**To:** [Heyman, George ENV:EX](#)  
**Cc:** [Frampton, Caelie ENV:EX](#)  
**Subject:** FW: MGH background for meeting with Minister LeBlanc Sept\_7  
**Date:** Wednesday, September 6, 2017 12:52:00  
**Attachments:** [Key Points for Minister Heyman meeting with Minister LeBlanc Sept 17.docx](#)  
[Attachment 2 - Salmon Farm Information Note Final Sep 1.docx](#)  
[Attachment 3 - ecological concerns fish farm.docx](#)  
[Attachment 1 - The Honourable Dominic LeBlanc - Bio.docx](#)

---

Hello Minister,

Attached are Minister LeBlanc Materials for tomorrow's meeting at 12:15. Also found on your sharepoint under [Day Binder](#)

Cheers,

Corinne Brosz

Administrative Assistant to the **Honourable George Heyman**  
Minister of Environment and Climate Change Strategy

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Page 037 to/à Page 043

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s.16;s.13

Page 044

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**From:** [Meggs, Geoff PREM:EX](#)  
**To:** [Heyman, George ENV:EX](#); [Eby, David AG:EX](#)  
**Cc:** [Howard, Stephen AG:EX](#); [Frampton, Caelie ENV:EX](#); [Lloyd, Evan GCPE:EX](#); [Winstanley, Lori PSSG:EX](#)  
**Subject:** Fwd: Public Notifications  
**Date:** Wednesday, September 6, 2017 17:42:57  
**Attachments:** [17 09 05 WMT Construction Notification F3.pdf](#)  
[ATT00001.htm](#)  
[170906 TMEP Construction Contractors Final.pdf](#)  
[ATT00002.htm](#)

---

Sent from my iPhone

Begin forwarded message:

**From:** "Reder, Mark" <[mark.reder@fleishman.ca](mailto:mark.reder@fleishman.ca)>  
**To:** "Meggs, Geoff PREM:EX" <[Geoff.Meggs@gov.bc.ca](mailto:Geoff.Meggs@gov.bc.ca)>  
**Subject:** Public Notifications

Geoff:

FYI. Two documents are attached for your information:

<!--[if !supportLists]--> <!--[endif]-->Press release announcing general contractors for the Expansion Project; and  
<!--[if !supportLists]--> <!--[endif]-->Related to anticipated permit approval from the Port of Vancouver, notification of Westridge Marine Terminal construction activities. The notification will go out by mail to residents in Burnaby and North Vancouver. The earliest these would likely be received would be Friday, but most likely early next week.

Please let me know if you have any questions.

Mark

604 318 4282

This email is intended only for the named addressee. It may contain information that is confidential/private, legally privileged, or copyright-protected, and you should handle it accordingly. If you are not the intended recipient, you do not have legal rights to retain, copy, or distribute this email or its contents, and should promptly delete the email and all electronic copies in your system; do not retain copies in any media. If you have received this email in error, please notify the sender promptly. Thank you.



**KINDER MORGAN  
CANADA LIMITED**

# CONSTRUCTION NOTICE

**WESTRIDGE MARINE TERMINAL  
BURNABY, BC**

September 2017

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Page 047 to/à Page 052

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**From:** [Frampton, Caelie ENV:EX](#)  
**To:** [Plecas, Bobbi ENV:EX](#)  
**Subject:** FW: Public Notifications  
**Date:** Wednesday, September 6, 2017 17:56:40  
**Attachments:** [17 09 05 WMT Construction Notification F3.pdf](#)  
[ATT00001.htm](#)  
[170906 TMEP Construction Contractors Final.pdf](#)  
[ATT00002.htm](#)

---

In case you haven't seen this yet.

Caelie

---

**From:** Meggs, Geoff PREM:EX  
**Sent:** Wednesday, September 6, 2017 5:43 PM  
**To:** Heyman, George PREM:EX; Eby, David AG:EX  
**Cc:** Howard, Stephen AG:EX; Frampton, Caelie PREM:EX; Lloyd, Evan GCPE:EX; Winstanley, Lori EMPR:EX  
**Subject:** Fwd: Public Notifications

Sent from my iPhone

Begin forwarded message:

**From:** "Reder, Mark" <[mark.reder@fleishman.ca](mailto:mark.reder@fleishman.ca)>  
**To:** "Meggs, Geoff PREM:EX" <[Geoff.Meggs@gov.bc.ca](mailto:Geoff.Meggs@gov.bc.ca)>  
**Subject:** Public Notifications

Geoff:

FYI. Two documents are attached for your information:

- Press release announcing general contractors for the Expansion Project; and
- Related to anticipated permit approval from the Port of Vancouver, notification of Westridge Marine Terminal construction activities. The notification will go out by mail to residents in Burnaby and North Vancouver. The earliest these would likely be received would be Friday, but most likely early next week.

Please let me know if you have any questions.

Mark

604 318 4282

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**From:** [Brosz, Corinne M ENV:EX](#)  
**To:** [Heyman, George ENV:EX](#); [Frampton, Caelie ENV:EX](#)  
**Subject:** FW: IN for MGH - Minister Heurtel Meeting Today at 4:30  
**Date:** Thursday, September 7, 2017 09:58:00  
**Attachments:** [311788 - Mtg IN for MGH - Minister Heurtel of Quebec.pdf](#)  
[image001.png](#)  
**Importance:** High

---

Hello Minister,

Attached is materials for your meeting with Minister Heurtel at 430 today. [Day Binder](#)  
Corinne

---

**From:** Hansen, Erin ENV:EX  
**Sent:** Thursday, September 7, 2017 9:30 AM  
**To:** Brosz, Corinne M ENV:EX  
**Cc:** Frampton, Caelie PREM:EX; Cameron, Tara D ENV:EX  
**Subject:** IN for MGH - Minister Heurtel Meeting Today at 4:30  
**Importance:** High

Hi Corinne.

Attached are the materials for the Minister meeting today at 4:30 pm with Minister Heurtel from Quebec.

Thanks,

Erin

---



**ERIN HANSEN**

A/Senior Executive Assistant to  
Bobbi Plecas, Deputy Minister  
Climate Change  
Ministry of Environment & Climate Change Strategy  
☎ 250-356-8794 | 📠 250- 953-3414 | ✉ [Erin.Hansen@gov.bc.ca](mailto:Erin.Hansen@gov.bc.ca)

**MINISTRY OF ENVIRONMENT AND  
CLIMATE CHANGE STRATEGY  
MEETING INFORMATION NOTE**

September 6, 2017  
File: 280-20  
CLIFF/tracking #: 311788

**PREPARED FOR:** Honourable George Heyman, Minister

**DATE AND TIME OF MEETING:** Thursday, September 7, 2017, 4:30-5pm

**ATTENDEES:** Minister Heurtel of Quebec, Gabriela Quiroz, Chief of Staff

**ISSUE(S):** Introduction between ministers and discussion of climate change topics

**BACKGROUND:**

The Quebec Minister of Sustainable Development, the Environment, and the Fight Against Climate Change, David Heurtel, will attend an in-person meeting in Vancouver with Minister George Heyman. The meeting will provide an initial opportunity for the Ministers to meet and provide a venue to discuss several climate change topics.

**DISCUSSION:**

Topics for discussion will focus on climate change, and are likely to include:

1. Current and past collaboration between Quebec and British Columbia (BC)  
Quebec and BC have been leaders on climate change in Canada, are both members of organizations designed to combat climate change (Under 2 MOU, Carbon Pricing Leadership Coalition, Western Climate Initiative Inc.), and have a history of collaboration on climate change initiatives. A continued partnership and collaboration on climate change issues between the two provinces has high potential for benefiting future efforts of both jurisdictions.
2. Status of CCME work  
Minister Heurtel served as the Chair of the CCME prior to British Columbia. This role is now held by Minister Heyman. A brief discussion on experiences and approaches to chairing the CCME may be useful in supporting progress on the Pan-Canadian Framework on Clean Growth and Climate Change.
3. Carbon pricing and the federal approach to pricing carbon pollution  
Quebec and BC were the first provinces to introduce a broad-based carbon price in Canada. Both provinces were instrumental in the establishment of the Western Climate Initiative and the emissions trading system used by Quebec, California and soon Ontario. A brief discussion on current provincial activity on carbon pricing and the federal approach to a carbon pricing backstop will explore perspectives on this issue.

4. Carbon Neutral Government

BC has had a carbon neutral government since 2010. Quebec is aware of the BC initiative and may be interested in providing their thoughts on the efficacy of the policy and opportunity to bring forward in Quebec or with the federal government. BC is also interested in the potential for exchanging offsets with Quebec to fulfil its carbon neutral government commitment.

5. Federal environmental assessment process review

Quebec has a large interest in the review of the federal environmental assessment process. BC is also considering a review of its environmental assessment process, and as the BC process largely mirrors the federal process, revelations stemming from the federal review may be instructive for BC.

6. Zero-emission vehicles (ZEVs)

BC and Quebec are members of the ZEV Alliance. BC is in the “on-ramp” stage (no targets set). Quebec has a new regulation regarding ZEVs and has set a target of 100,000 ZEVs on the road by 2020. A discussion on Quebec’s approach to ZEV regulation and target-setting may be of interest for future policy development in BC.

# of ZEVs

- BC had over 4,800 ZEVs on the road in February, 2017
- Quebec had 11,619 electric vehicles on the roads in August, 2016

Quebec Programs/Policies/Incentives

- Quebec adopted an Act to increase the number of ZEVs in October, 2016
- During summer 2017, Quebec tabled for public consultation two draft regulations pertaining to its ZEV standard implementation
- The ZEV standard will require automakers to meet a ZEV sales target set by the government
- The first requirements for vehicle manufacturers should begin in 2018
- In April 2017, Quebec announced spending of \$4.4 million to support the industrial cluster of electric and smart vehicles
- The Québec government is offering individuals, businesses, organization and Québec municipalities a rebate of up to \$8,000 on the purchase or lease of a new electric vehicle
- The Québec government has established a pilot project to promote the purchase of used electric vehicles, with a government rebate of up to \$4,000 for the purchase of an eligible used all-electric vehicle
- The Québec government is offering financial assistance for the purchase and installation of 240 home charging stations up to \$600

7. Pipeline projects

BC has been granted intervener status in the legal challenge launched against the Trans Mountain pipeline expansion project. Quebec is concerned about the near term environmental impact and long term greenhouse gas impact of the proposed Energy East pipeline. A discussion of pipeline projects will provide provincial perspectives on this and other planned pipeline projects in Canada.

8. International Climate Events- Climate Week in NYC, COP23 in Bonn  
Ministers may discuss possible attendance and priorities at various international climate events. BC has, for example, strongly supported expansion of carbon pricing globally and would be pleased to continue to collaborate with Quebec on such issues. It will be difficult for the Minister to attend Climate Week in New York City (September 18-24) as the house is sitting at that time, though the Minister is planning to attend COP23 in Bonn in November.

## **SUGGESTED RESPONSE:**

### 5. Federal Environmental Assessment Process Review

#### BCs position on the Federal Review

- B.C. is generally pleased with the direction outlined in the federal discussion paper, the review process in general, and the Canadian Environmental Assessment Agency's (CEAA) open engagement with the provinces.
- The Province's priorities with respect to the review continue to be:
  - Ensuring the flexibility, mechanisms and tools are in place in the federal legislation to enable the principle of one project; one assessment to be achieved;
  - Ensuring alignment with the federal government on the approach to enhancing engagement of Indigenous groups in environmental assessment (EA); and,
  - Seeking opportunities to increase the technical rigour and transparency of the EA process.
- With respect to the one project; one assessment principle, we believe the discussion paper is on the right track and we look forward to working with Canada on determining how to continue to apply other tools to environmental assessments in B.C.

\*\*\* It is also expected that Minister Heurtel may wish to present the main points of Quebec's modernized EA and authorization process. Below is some background on the modernization and some questions the minister could consider asking:

#### Modernization of the Quebec Environmental Quality Act

- Process initiated in January 2015
- Consultation on "green paper" starting June 2015
- First new provisions came into force March 2017, other provisions to come into force in 2018 and 2019

#### Principles of reform include:

- The public has quicker access to much more information, even though the Act will increase environmental protection.
- Businesses benefit from a streamlined, clearer and simpler authorization process
- Municipalities enjoy greater autonomy.

The Act covers authorizations for a range of project sizes, including those that would trigger an EA in BC – press materials indicate that the reforms related to streamlined authorizations are applicable to low-risk projects

Questions related to Quebec’s modernized EA process

- Are there any new provisions in the modernized act related to the conduct of joint EAs between Quebec and Canada, or between Quebec and one or more indigenous groups? If yes, how are the joint EAs to be conducted?
- What tools is Quebec planning to use to provide the public with quicker access to more information?

**Contact:**

*Susanna Laaksonen-Craig, ADM  
Climate Action Secretariat  
778 698-4833*

**Alternate Contact:**

*Tim Lesiuk, ED  
Climate Action Secretariat  
778 698-4083*

**Prepared by:**

*Elliott Bourgeault  
Climate Innovation  
778-698-4769*

<b>Reviewed by</b>	<b>Initials</b>	<b>Date</b>
DM	BP	September 6, 2017
EAO	SB	September 6, 2017
DMO	TC	September 6, 2017
ADM	SLC	September 6, 2017
Exec. Director	TL	September 6, 2017
Manager	BF	September 5, 2017
Author	EB	September 5, 2017

**From:** [Zacharias, Mark ENV:EX](#)  
**To:** [Plecas, Bobbi ENV:EX](#)  
**Date:** Thursday, September 7, 2017 16:34:43  
**Attachments:** s.14

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Page 060 to/à Page 061

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s.14;s.13

**From:** Lalari, Terry  
**To:** [Frampton, Caelie ENV:EX](#)  
**Subject:** Vancouver Fraser Port Authority has approved the project permit for the Kinder Morgan Westridge Marine Terminal Upgrade and Expansion Project  
**Date:** Friday, September 8, 2017 09:52:29  
**Attachments:** [image001.png](#)

---

Caelie,

After extensive review, the Vancouver Fraser Port Authority has made a decision to approve the permit application for Kinder Morgan Canada to upgrade and expand a portion of its existing Westridge Marine Terminal. The terminal is partially located on federal lands and waters managed by the port authority in Burnaby, British Columbia and therefore a project permit from the port authority is required.

As you are aware, the entire Trans Mountain Expansion Project, including the Westridge Marine Terminal upgrades, required a federal environmental assessment under the CEAA 2012 and the National Energy Board Act, which was undertaken by the National Energy Board. During the port authority's project and environmental review for the proposed Westridge Marine Terminal upgrades and expansion, the port authority relied on the consultation work done to date by the National Energy Board in their environmental assessment and on the Crown's joint federal-provincial consultations for the Trans Mountain Expansion Project. Kinder Morgan was required to submit their record of public consultation for our review.

In addition, as part of the port authority's project and environmental review, potentially-affected Indigenous groups were consulted and adjacent communities were provided opportunity to comment on construction-related activities (e.g., noise, dust, vehicle traffic, and proposed mitigations).

If you have any questions about the port authority's permitting process, please let me know.

For information about the approved Westridge Marine Terminal expansion and upgrade project permit, including construction activities, please visit Kinder Morgan's Trans Mountain Expansion Project website.

The Vancouver Fraser Port Authority is responsible for the stewardship of federal port lands in and around Vancouver. Like all Canada Port Authorities, our port authority is established by the Government of Canada pursuant to the [Canada Marine Act](#), and is accountable to the federal minister of transport. Our mandate is to facilitate Canada's trade objectives, ensuring goods are moved safely, while protecting the environment and considering local communities.

Thank-you,  
Terry

**Terry Lalari**  
Strategic Advisor, Government & Stakeholder Relations



**Vancouver Fraser Port Authority**  
100 The Pointe, 999 Canada Place  
Vancouver, B.C. Canada V6C 3T4

P: 604.665.9551 | CELL: 604.379.1659  
[portvancouver.com](http://portvancouver.com)

**From:** [Frampton, Caelie ENV:EX](#)  
**To:** [Plecas, Bobbi ENV:EX](#); [Heyman, George ENV:EX](#)  
**Subject:** FW: Vancouver Fraser Port Authority has approved the project permit for the Kinder Morgan Westridge Marine Terminal Upgrade and Expansion Project  
**Date:** Friday, September 8, 2017 10:18:44  
**Attachments:** [image001.png](#)

---

**From:** Lalari, Terry [mailto:Terry.Lalari@portvancouver.com]  
**Sent:** Friday, September 8, 2017 9:52 AM  
**To:** Frampton, Caelie PREM:EX  
**Subject:** Vancouver Fraser Port Authority has approved the project permit for the Kinder Morgan Westridge Marine Terminal Upgrade and Expansion Project  
Caelie,

After extensive review, the Vancouver Fraser Port Authority has made a decision to approve the permit application for Kinder Morgan Canada to upgrade and expand a portion of its existing Westridge Marine Terminal. The terminal is partially located on federal lands and waters managed by the port authority in Burnaby, British Columbia and therefore a project permit from the port authority is required.

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If you have any questions about the port authority's permitting process, please let me know. For information about the approved Westridge Marine Terminal expansion and upgrade project permit, including construction activities, please visit Kinder Morgan's Trans Mountain Expansion Project website.

The Vancouver Fraser Port Authority is responsible for the stewardship of federal port lands in and around Vancouver. Like all Canada Port Authorities, our port authority is established by the Government of Canada pursuant to the [Canada Marine Act](#), and is accountable to the federal minister of transport. Our mandate is to facilitate Canada's trade objectives, ensuring goods are moved safely, while protecting the environment and considering local communities.

Thank-you,

Terry

**Terry Lalari**

Strategic Advisor, Government & Stakeholder Relations



**Vancouver Fraser Port Authority**

100 The Pointe, 999 Canada Place

Vancouver, B.C. Canada V6C 3T4  
P: 604.665.9551 | CELL: 604.379.1659  
[portvancouver.com](http://portvancouver.com)

Page 066 to/à Page 103

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s.12;s.14

**From:** Sandgathe, Tracey L  
**To:** [Plecas, Bobbi ENV:EX](#)  
**Cc:** [Reid, Rebecca](#)  
**Subject:** Trans Mountain Pipeline Expansion Project: Westridge Marine Terminal - Fisheries Act Authorization  
**Date:** Friday, September 8, 2017 15:01:31  
**Attachments:** [2017-09-08 TMX WMT Fisheries Act Authorization.pdf](#)

---

Bobbi,

Further to your conversation with Rebecca Reid today, please find attached a copy of the Authorization issued this afternoon under Paragraph 35(2)(b) of the *Fisheries Act* for the construction of works, undertakings and activities associated with the expansion of the Westridge Marine Terminal.

Best regards,

**Tracey Sandgathe**, B.A., LL.B., LL.M.

Manager, Fisheries Protection Program

Ecosystem Management Branch

Fisheries and Oceans Canada / Government of Canada

[Tracey.Sandgathe@dfo-mpo.gc.ca](mailto:Tracey.Sandgathe@dfo-mpo.gc.ca)

Tel: (604) 666-0129 / Cell: (604) 220-3295

Programme de la protection des pêches

Direction des écosystèmes

Pêches et Océans Canada / Gouvernement du Canada

[Tracey.Sandgathe@dfo-mpo.gc.ca](mailto:Tracey.Sandgathe@dfo-mpo.gc.ca)

Tel: (604) 666-0129 / Cell: (604) 220-3295

Page 105 to/à Page 117

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Page 118 to/à Page 121

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s.14;s.13

Page 122

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s.14

**From:** [Frampton, Caelie ENV:EX](#)  
**To:** [Heyman, George ENV:EX](#); [Plecas, Bobbi ENV:EX](#)  
**Subject:** FW: s.22  
**Date:** Friday, September 15, 2017 09:33:13  
**Attachments:** [Proposed New BC regulations draft 2.docx](#)

---

-----Original Message-----

**From:** Aldyen Donnelly [<mailto:aldyen.donnelly@gmail.com>]  
**Sent:** Friday, September 15, 2017 9:32 AM  
**To:** Frampton, Caelie PREM:EX  
**Subject:** s.22

Caelie,

I attach my 2nd draft of the Brief. This draft only covers 2 of the three regulatory initiatives I recommend. I have significantly edited the sections I sent you yesterday afternoon and added the description of the 2nd regulation in this draft. I don't anticipate a need for any major edit of the new sections in the attached. But the edits in the sections you previously got from me are major. So it might be best to throw out yesterday's Brief and start with this one.

s.22

I plan to get you the final version of this Brief, including the Franchise Tax section, before the end of today. Then, as previously promised, I will get three, separate, more detailed briefs--one for each proposed regulation--to you on Monday. I think getting the more detailed briefs to you could/should save Ministry staff lots of reading time. But almost everything in those briefs will derive from the references/resources that I will identify in the more general, overview of all three proposed regs that will be final later today. So Ministry staff will have the option of doing their own reading, too.

While I think considering the Franchise Tax is just as important as the first two regulations outlined in the attached brief, it will definitely take more time and much more collaboration with other ministries than proceeding with the first two regulations should take. So maybe its OK to look at it separately from the first two. s.22  
s.22

Aldyen

--

Aldyen Donnelly  
WDA Consulting Inc.  
3932 West Broadway  
Vancouver Canada V6R 2C3  
(landline) 604.737.2040  
(mobile) 604.512.4635



# issue brief

date: September 15, 2017 to: Caelie Frampton, for Minister George Heyman  
By Email, <caelie.frampton@gov.bc.ca>

regarding: ***Recommended new regulatory/tax initiatives for British Columbia***

file # BCMO ECC1701 cc: David Eby. A.G.

Dear Minister Heyman,

In this Brief I summarize three new regulatory initiatives—one of which is tax-related—that I think the BC government should consider and possibly consider priorities for quick implementation. All three are initiatives that I would recommend in the absence of the Kinder Morgan TransMountain Pipeline Expansion project ("TMx") controversy. However, if these regulatory initiatives were to be seriously considered in BC—as I would hope—it would be best to introduce them, at least conceptually, sooner rather than later, so that they might be fully integrated in Kinder Morgan's BC investment decision-making process.

## The Proposed Regulatory Initiatives: Summary

The proposed initiatives, in order of priority, are:

1. **Greenhouse gas permitting requirements for critical BC Infrastructure.** A new GHG permitting regulation should require new and existing facility/project operators to apply for, maintain and comply with a BC GHG permit. This requirement would not apply exclusively to the TMx. It should apply to a list of critical existing and planned infrastructure projects including: all BC pipelines (transmission and distribution), power production and transmission capacity, natural gas processing and any major stationary industrial and port facilities that discharge more than 10,000 TCO<sub>2</sub>e/year (including GHGs discharged by mobile equipment based at or employed to service the facilities).

Typically, however, new emission permit-based operating and emission data reporting requirements are phased in on different schedules for new and existing facilities/sources. Usually, some existing sources are grandfathered (permits reflect pre-existing emission levels). Any new permit-based requirements to reduce emissions at existing sources are usually phased in over time frames long enough to minimize the impact of the new regulations on the market value of affected assets.

But new permitting requirements typically apply immediately to new projects, and operating and emission data reporting requirements can also be more stringent for new than for existing projects. In this context, it is possible that the first major BC infrastructure project to be subject to such a regulation would be the TMx.

2. **Prohibition against unauthorized releases to the receiving environment (including BC waters) of any load or fuel in transit or storage in BC.** In this regulation, shippers/originators of the commodity being transported (not the transport system operator) shall be liable for any environmental remediation costs and penalties arising from an unauthorized release of any substance to the BC environment, including BC coastal waters.

At this time, regulations designed to limit spills of commodities in transit or from storage facilities: (1) focus on hazardous waste disposal, or (2) identify transport system operators—trucking companies, rail operators, pipeline operators, marine vessel operators—as the responsible parties. There are many problems with these limited approaches to spill regulation. And when the transportation system in question falls under federal jurisdiction—as all pipelines that cross provincial or international boundaries do—a province does not have the power to impose performance standards and non-compliance penalties on the transport system operator unless the Government of Canada delegates that authority to the province.

Provinces do, however, have Constitutional authority to protect terrestrial and aquatic receiving environments within their boundaries. I perceive a regulation that prohibits unauthorized releases of any commodity (not just hazardous wastes), while it is in transit or storage in BC, which regulation names the commodity shipment originator—not the transit system operator—as the responsible person (the entity that is liable for rule infractions) is a potentially very powerful spill control mechanism that likely falls entirely within provincial powers as long as it applies to all forms of transport, not uniquely to oil pipelines.

3. **"Franchise" or "Gross Receipts" Tax.** At this time, corporations are subject to some form of "Franchise" or "Gross Receipts"-based tax in 30 US states. The purpose of the Franchise or Gross Receipts Tax is to ensure that multinational, publicly-traded and/or limited liability corporations that are located/incorporated outside the jurisdiction in question, or which otherwise have the capacity to legally offshore reportable profits, still make minimum financial contributions towards public infrastructure and services in the jurisdiction. The Franchise Tax must apply to select sectors, including but not limited to pipelines (both oil and gas). It cannot target individual corporations or projects.

Most US states employ the Franchise Tax to establish a minimum tax payment. It is not about increasing aggregate corporate tax revenues. The objective of the Franchise Tax, typically, is not to increase aggregate tax receipts paid by corporations in the taxing jurisdiction, but to introduce a mechanism that ensures large multi-national corporations make minimum annual contributions to provincial gross revenues. It is about shifting tax burden from small business to large multi-national operators, given a fixed corporate tax revenue target.

BC Franchise Tax liabilities can be in addition to corporate income tax costs (as in Pennsylvania or Louisiana) or in lieu of corporate income tax (as in Texas). The Franchise Tax can be revenue neutral for the BC government, but is usually designed to subtly shift tax burden from local small business taxpayers to larger multi-national operators. Most US states have found that in the absence of a Franchise Tax, large multi-nationals tend to make significantly smaller direct contributions, as a percent of corporate revenues generated within state boundaries, than small business. The Franchise Tax is typically not a mechanism governments employ to increase aggregate corporate tax costs. It is about shifting tax burden from small business to large multi-national operators, given a fixed corporate tax revenue target.

## Greenhouse Gas Permitting

The primary objective of this regulatory initiative is to ensure that BC's environmental permitting system is modified to more closely resemble—but not exactly replicate—established US environmental permitting

procedures. Generally, the US permitting and reporting standards require significantly more disclosure of operating data from permittees. US federal and state administrations have a long and continuing history of unfairly discriminating against select commodity and environmental certificate (allowances, offset credits, renewable energy credits, etc.) imports from Canada, basing the justification for that discrimination on the US-perceived deficiencies in Canadian (federal and provincial) environmental reporting rules.

An opportunity exists to phase in new BC permitting and reporting standards, with a focus on greenhouse gas ("GHG") emissions control, that might coincidentally be: (1) deemed "comparable" to US standards by any objective analyst, while (2) being much less administratively complex and costly to comply with than existing US rules, and, therefore, a potential source of competitive advantage for investors in BC.

Consistent with existing US methodology, BC could phase in the new permitting standards by requiring all new major GHG sources to apply for and comply with a GHG permit. Existing major GHG sources can be permitted to apply for GHG permits on a more extended schedule. Under this phase in strategy, the TMx would likely be one of the first projects required to apply for a BC GHG permit. But the regulation would not specifically or uniquely target the TMx.

I recommend that the design of the BC GHG permit be as close as possible—with a few key differences—to the GHG permit that Kinder Morgan would currently be required to secure if they were building this pipeline, storage and port infrastructure in Texas.

### ***Key History***

Currently, the US discriminates against numerous classes of commodity imports from Canada (and other nations of origin), based on the argument that Canadian (including provincial) environmental reporting requirements are deficient. The result, they argue, is that Canadian environmental performance claims cannot be verified to the US standard, and, therefore, cannot be trusted. At this time, Canadian exports that currently face some form of discrimination (direct or indirect tariffs or other import barriers) based on the US finding that Canadian environmental reporting/permitting regimes are deficient, or "not comparable" to US rules, include but are not limited to: finished gasoline, biofuels (including ethanol, biodiesel and wood pellets), electricity, forest products, GHG offset credits, renewable energy credits.

One example is finished gasoline. In 2006, President Bush finalized and approved amendments to the US Reformulated Fuel Standard ("RGF") and Renewable Fuel Standard ("RFS") which, effectively, capped Canadian finished gasoline exports into the US at roughly 1989-1991 levels. While justified as environmental protection measures, these amendments cause no incremental environmental benefits in either Canada or the US. These particular amendments focus on reporting standards for nitrous oxides ("NOx").

The resulting impact on Canadian finished gasoline exports to the US have been significant, to date. This has serious implications for the profitability of any new refinery that might be constructed in BC. The data reporting standards that can be embedded in the new BC GHG permits can potentially be used to try address this existing barrier to Canadian refinery exports of finished products to the US.



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Under the US RFS, US gasoline and diesel distributors are required to prove they are meeting minimum ethanol and biodiesel content targets. In the US, ethanol and biodiesel suppliers are authorized to issue Renewable Identification Numbers ("RINs"), along with their fuel, if/when they meet certain US EPA-dictated reporting requirements. Then, the gasoline and diesel distributors are required to retire RINs equal to their renewable fuel content mandates. RINs are tradable and bankable. The US EPA has ruled—largely due to "deficiencies in Canadian reporting rules" that Canadian ethanol and biodiesel suppliers are not authorized to issue RINs unless they waive sovereign immunity and agree that the US EPA has jurisdictional authority in their Canadian facilities as if those facilities were located on US soil.

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All other things being equal, Canada should be a major biodiesel exporter. And BC wood pellet producers should be in a position to generate reasonable profits from wood pellet exports to the US. But the US RIN rules are deemed, by many potential investors, to be a significant disincentive to invest in bioenergy production in Canada. This is not the only, but a primary reason Canadian biodiesel, ethanol and other bio-based energy production and exports to the US seem to have impenetrable volume ceilings, and why significant investment in bio-energy production capacity in Canada seems limited to US multi-national corporations whose Canadian production that is typically transfer-priced (priced at cost, resulting in limited corporate income taxes paid in Canada) and exported to affiliated US refineries.

Applying conceptually similar (but functionally different) arguments, most proposed US federal and the existing California Low Carbon Fuel Standard and CO<sub>2</sub> ("cap and trade") markets currently discriminate, at least to some

extent, against clean fuel and energy and CO2 offset credit imports from BC and the rest of Canada. By adopting more US-like GHG reporting standards, and embedding those standards in BC's new GHG permits, BC potentially creates a foundation from which we can combat the primary US rationale for continued discrimination against our cleaner energy exports.

### ***Permitting and Environmental Reporting***

BC does have a GHG reporting regulation, but facility-level GHG reporting and record-keeping obligations are not yet embedded in facility operating permits. When reporting and record-keeping requirements are embedded in permits, they typically become more stringent and a higher level of consistency and reliability in corporate reporting results.

The most obvious and consistent difference between US and Canadian (all provinces, not just BC) environmental reporting standards is that since roughly 1984, US federal and state regulators have (1) required US facility operators to report significant operating data—not just aggregate emissions estimates, and (2) also embedded record-keeping obligations into facility operating permits. A succession of US governments have repeatedly cited the discrepancy between the US and Canadian operating data reporting and record-keeping requirements as the rationale for discriminating against key product imports from Canada. To date, trade protectionism, rather than environmental protection, has been the primary driver of the US government decisions regarding which products/services to restrict or indirectly tax.

But the US claim that Canadian (including BC) environmental reporting standards are deficient—particularly in regard to operating data reporting requirements—is generally valid (with limited exceptions). And it is true that emission reporting under Canadian rules is less reliable than under most US rules. It is well past time to defend against this form of US trade protectionism by integrating superior, but more efficient, environmental reporting and record-keeping requirements into a new BC GHG permitting regime.

Have said that, it is also true, in this author's opinion, that US operating data reporting requirements are extreme and unnecessarily commercially invasive. So an opportunity exists for BC regulators to start with the US reporting model, but to pare it down to design a BC system that both meets a reasonable "US comparability" test while also being more efficient and less commercially invasive than the US rules. In this way, it might be possible to make the new BC GHG permitting system a source of competitive advantage, as opposed to trade sanction risk, for investors in BC.

### ***Constitutional Uncertainty***

If/when BC introduces GHG permitting, the possibility exists that the Government of Canada will declare that the Province does not have the authority to impose GHG permitting requirements on federal projects, including the TMx. In fact, it is possible that the Supreme Court of Canada might rule in favour of the Government of Canada, if the federal government was to make such a claim and it was subjected to court challenge.

But, since roughly 1949, the standard convention has been that federal projects, arms'-length agencies and Crown corporations have voluntarily complied with provincial regulations and paid provincial taxes, while provincially-controlled entities have voluntarily complied with federal regulations and paid federal taxes. And while the National Energy Board ("NEB") does have authority to permit projects that cross federal boundaries, the NEB does have a tradition of delegating environmental permitting for federal projects to the provinces. While the NEB does maintain an energy export permitting system, the NEB does not currently have the technical or administrative capacity to issue and enforce environmental permits.

It would be a departure from convention for the federal government to rule that BC cannot impose GHG permit on the TMx, as long as the permitting requirement applies to all comparable infrastructure, and all new projects are similarly obligated. More importantly, it might prove difficult for the federal government to oppose a GHG permit the primary purpose of which was to bring BC—if not Canadian—environmental standards into closer alignment with US practice and to protect Canadian commodity exports from new direct and indirect barriers.

### **Getting Started**

I estimate that a BC regulation that generally establishes GHG reporting and permit application guidance can be written in less than 20 pages. The easiest way to build US-comparable BC GHG reporting standards and operating permit requirements is to download relevant US regulatory and actual GHG permit examples, then cut and paste from those rules to craft more efficient BC versions. The key references, in the BC short-term context are:

1. **Subpart W of the US EPA's GHG Reporting rules**, which focus on "petroleum and natural gas systems " and can be found at <https://www.epa.gov/ghgreporting/resources-subpart-ghg-reporting> (and which must be read along with Subparts A and C).
2. **PSD Permits Issued by the US EPA in Texas**, which can be found at <https://yosemite.epa.gov/r6/Apermit.nsf/AirP#A>.

Existing US federal GHG permitting rules allow states to administer the GHG permits and permitting process. To date, most states have elected to take on that delegated authority. Some states have integrated GHG and related energy use reporting requirements into existing air permits that previously focused only on criteria pollutants. I recommend that BC rule developers focus on the Texas GHG permit database (as opposed to, say, California's GHG reporting procedures) for GHG permitting design ideas because:

- Texas has created discrete GHG permits, so it is easy to see the operating and emission data reporting requirements, as they relate discretely to GHGs, in the Texas set of permits. In other states, where the GHG requirements are mixed in with criteria pollutant reporting and record-keeping mandates, it is more difficult to see the logical links between operating and emission data in respect to GHGs.
- It is politically appealing to be able to describe any new BC GHG permitting requirements as comparable (in some, but not all regards) to those *already in place* in Texas.

Most of Texas' reporting and emission limits applicable to liquid fuel and gas pipelines tend to be included in more comprehensive permits that cover fully integrated fuel processing, transport and storage systems. So you won't find a single permit in the Texas EPA GHG permit database that perfectly translates into the model for GHG permitting for BC pipelines, or TMx specifically. But the BC GHG permit for the TMx can be built relatively easily by extracting and then modifying elements from some of the more complex GHG permits that cover more comprehensive oil and gas product supply chains in Texas. In a few days, I will send a supplemental Briefing note to show specific examples.

### **Prohibition Against Unauthorized Releases of Substances in Transit or Storage**

The primary objective of this regulatory initiative is to legally assign liability for any environmental damage resulting from spills occurring when commodities are in transit or storage in BC to the commodity owners/originators/shippers.

At this time, most regulations identify the transport system operators (e.g. Kinder Morgan, in the TM case) as the responsible persons or "obligated parties" if/when an environmentally damaging spill occurs. A most notable exception is how our regulations assign liability of the spilled substance is deemed "hazardous waste". In most Canadian provincial hazardous waste-targeting regulations, the originator of the waste is liable for its proper disposition until that waste is destroyed in an approved process.

I am recommending that we introduce, in BC, a regulation that assigns full responsibility for the safe transport of all commodities—not just hazardous waste—to *the originators of the shipments*—as long as those shipments are in transit or storage within BC boundaries (including BC coastal waters). This new regulation should not reclassify fuels and other commodities as "hazardous". It should simply prohibit and define

significant penalties for any unauthorized releases of substances to the environment if/when those releases can be proved to cause environmental damage.

Unauthorized releases should attract civil penalties even when it is not possible to prove negligence on the part of either the shipper/originator or the transport system operator. If negligence can be proved, supplemental, more costly, penalties should also apply. Because the regulation identifies shippers/originators as the obligated parties, this should not constitute a provincial attempt to regulate a federal project.

### ***Key History***

Over the last couple of decades, the incidence of environmentally damaging commodity spills from trucks, trains and pipelines at least seem to be increasing. Examples include but are not limited to the 2009 TM pipeline spill in Burnaby, which resulted in a long and acrimonious dispute between Kinder Morgan and the City of Burnaby over who was ultimately responsible and liable for clean-up costs.

Part of the apparent problem is aging transport infrastructure. Another contributing element is the tendency of commodity shippers/originators to continuously squeeze transport system operators to cut their costs.

The theory behind this recommendation is that if the shippers—as opposed to the transport system operators they hire—are liable for unauthorized commodity releases to the environment, there should be a dramatic change in the dynamic between the shippers and their transport agents. At a minimum, the companies that insure shipment originators (often large oil, gas and chemicals production companies, who typically have larger balance sheets than local transport system operators) would likely respond to this proposed liability assignment by requiring the shippers to become more involved in the responsible management and operation of their transportation agents and related storage facility managers.

### ***Constitutional Uncertainty***

Such a regulation should fall solidly under provincial powers to protect the environment as defined in our Constitution, if drafted carefully. Regulation drafters must be careful to focus on the shipments and prohibit unauthorized releases to the BC receiving environments, and to not differentiate the prohibition or penalties by mode of transport or transport system operator.

The Constitution also prevents provinces from taxing or regulating activities that occur outside their boundaries, in other provinces. It is not difficult to craft a new BC regulation that complies with this Constitutional restriction. But drafters will still need to be sensitive to this restriction, and careful not to breach it directly or indirectly, in the drafting process.

### ***Getting Started***

BC's Hazardous Waste Regulation includes 10 parts and is 29 pages long. Numerous guidance documents flow from it. But much of the regulation and the guidance speak to procedures for disposing of the waste, and standards for waste disposal facilities. No comparable sections would be required in a regulation that assigns liabilities for unauthorized commodity releases to shippers/originators.

I estimate that a BC regulation that establishes such a prohibition, including reporting requirements to support enforcement and links physical shipments to bonded originators, can be written in less than 10 pages. Supplemental guidance will be required to outline how ownership of spilled substances will be established when multiple owners' shipments are blended (as is often the case in pipelines).

The easiest way to start building this BC regulation is to review relevant sections of the BC Hazardous Waste Regulation and then look to US regulatory precedents for methods for identifying, registering and requiring bonds from shippers/originators.

The key potential sources of existing regulatory language that may be modified to largely construct this new regulation include:

3. **The BC Hazardous Waste Regulation, particularly Part 7** , which focuses on administration aspects of the law and can be found at [http://www.bclaws.ca/Recon/document/ID/freeside/63\\_88\\_02#part7](http://www.bclaws.ca/Recon/document/ID/freeside/63_88_02#part7).
4. **The US Renewable Fuel Standard, Final Rule (2)**, starting at section 80.146 (page 14895 of the US Federal Register, Volume 75, as at March 26, 2010) which can be found at <https://www.gpo.gov/fdsys/pkg/FR-2010-03-26/pdf/2010-3851.pdf>.

Of course, there is no relationship between the US RFS and oil spills in BC. But the US RFS outlines corporate agency/registration and bonding procedures with which foreign (including Canadian) biofuel suppliers must comply in order to qualify to issue US RINs. The foreign supplier obligations outlined in this US regulation are excessive and draconian. But a subset of the procedures for establishing and registering an agent inside the jurisdiction, posting bonds, etc. can be lifted from the "foreign supplier" parts of the US RFS regulation, simplified and potentially incorporated in the proposed BC regulation.

It is also important that BC regulators become actively familiar with the existing US RFS regulation, especially its treatment of foreign biofuel suppliers. So reviewing the US RFS regulation, and the sections that apply to foreign suppliers in particular, will likely serves multiple purposes.

## Franchise Tax

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s.13

**From:** [Brosz, Corinne M ENV:EX](#)  
**To:** [Heyman, George ENV:EX](#); [Frampton, Caelie ENV:EX](#)  
**Cc:** [Neilson, Kirsten ENV:EX](#)  
**Subject:** FW: Material - Four Craft Meeting -Sept 19  
**Date:** Tuesday, September 19, 2017 09:44:00  
**Attachments:** [101985 BN Union Meeting \(2\).docx](#)

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Hi Minister,

Attached is the Briefing Note from EMPR for the meeting today at 2:00 with the Four Craft Unions.

[Day Binder](#)

Cheers,

Corinne Brosz

Administrative Assistant to the **Honourable George Heyman**

Minister of Environment and Climate Change Strategy

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**From:** Hansen, Lucy EMPR:EX

**Sent:** Tuesday, September 19, 2017 9:37 AM

**To:** Brosz, Corinne M ENV:EX; Neilson, Kirsten ENV:EX; Johnstone, Susan LBR:EX

**Subject:** Material - Four Craft Meeting -Sept 19

Good Morning,

Here is the Material for today's pre-briefing and meeting..

Pre-Brief 1:45-2:00

Brief 2:00-3:00

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Susan who is coming down on behalf of Minister Bains.

Lucy

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Page 166

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s.3

Page 167 to/à Page 237

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