



## BRIEFING NOTE FOR INFORMATION

**DATE:** October 2, 2019

**PREPARED FOR:** Honourable Claire Trevena, Minister of Transportation and Infrastructure

**MEETING:** October 7, 2019 Meeting with Esquimalt Nation

**ISSUE:** Esquimalt Nation consultation plans regarding the E&N Rail Corridor proposed development by the Island Corridor Foundation

### SUMMARY:

- The Island Corridor Foundation (ICF) is a non-profit society and federally registered charity established for the purposes of owning and managing the Island Rail Corridor (formerly known as the E&N Rail Corridor) on Vancouver Island.
- The Southern Railway of Vancouver Island (SVI) is the rail operator for the ICF.
- The ministry recognizes the ICF as the current owner and managing body of the Island Rail Corridor and correspondingly that the ICF is responsible for meaningful consultation and engagement with Indigenous communities about the use and operation of the rail corridor.
- The roundtable in December 2018 was the beginning of the Province undertaking a process to determine if it will have a role in the future of Island Rail Corridor and what that role might look like.
- The ministry is committed to engaging with Esquimalt and other affected Nations directly to better understand their perspectives and views on the future of the rail corridor.

### BACKGROUND:

Following the December 10, 2018 roundtable, the ministry initiated a technical assessment to determine the full or “all in” cost of restoring passenger and freight rail service to Vancouver Island residents.

The Assessment will include the costs of replacing deteriorated rail and ties, the costs of bridge repairs and replacements and all ancillary costs from train cars to parking lots to ticket buying facilities. It will also assess the costs of commuter rail between West Shore and Victoria. In order to help expedite the Assessment, the Contractor is using the past work from 2010 and 2012, as well as making appropriate site visits to determine how conditions have changed since that time. In addition to refreshing the past work, the consultant will be tasked with assessing the risks of rockfall and the potential impacts of seismic events.

In May 2019, the engineering firm, WSP was identified as the successful consultant and proceeded to undertake the condition assessment. The Assessment is on track to be completed by December 2019. The results of the Assessment will be integrated into the South Island Multi-Modal Transportation Plan, specifically to inform the work around commuter rail service.

### PAST INTERACTIONS:

- On July 22, 2019 the Minister’s Office received a letter (**Appendix 1**) from the Esquimalt Nation expressing their concerns regarding the Island Rail Corridor and proposed development by the Island Corridor Foundation. The primary points raised were:
  - The ministry’s commitment to engage with the Esquimalt Nation; and,
  - ICF or SVI workers erecting signal lights on the corridor adjacent to the Esquimalt Indian Reserve#0.



- On October 1, 2019 the ministry received a response letter (**Appendix 2**) from the Esquimalt Nation with regards to the Condition Assessment. The primary points raised included the:
  - Provinces duty to consult;
  - Esquimalt Nation's position regarding impacts on aboriginal and treaty rights;
  - failure to establish a forum for meaningful consultation and accommodation; and;
  - notification requirements regarding work on the Island Rail Corridor through Reserve#0.

#### DISCUSSION:

The ministry maintains its commitment to engage with the Esquimalt Nation and sent a notification letter (**Appendix 3**) on September 9<sup>th</sup>, 2019 to advise the Esquimalt Nation that the condition assessment was underway. The letter was drafted in coordination with the ICF to ensure they remain the lead for Indigenous engagement regarding their infrastructure. The condition assessment included physical inspections of track infrastructure, WSP was able to complete this work without entering Esquimalt Nation reserve land or conducting any ground disturbance activities that would adversely impact the environment.

The ministry is unable to comment on the erection of signal lights on the corridor adjacent to the Esquimalt Indian Reserve#0 as we were not involved. The SVI as the operator of the Island Rail Corridor undertakes regular maintenance of the corridor which is outside of the Ministries' jurisdiction.

In the December 2018 roundtable the Premier and Minister committed to:

- The creation of a working group within the ministry and Premier's office to work with the ICF in developing a plan and keep everyone informed.
- The Province will also continue Nation to Nation discussions with Indigenous communities.

#### FINANCIAL IMPLICATIONS:

- None

Attachments:

Appendix 1 - E&N Rail Corridor – Proposed Development

Appendix 2 - Island Rail Corridor Condition Assessment (Esquimalt Response)

Appendix 3 - Island Rail Corridor Condition Assessment

#### PREPARED BY:

Janelle Staite, Deputy Director  
South Coast Region  
(250) 713-8763

#### REVIEWED BY:

Kevin Richter, Associate Deputy Minister  
Transportation and Infrastructure  
Nancy Bain, EFO  
Finance and Management Services Department

#### INITIALS

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NB



*Esquimalt Nation*  
1189 Kosapsum Crescent  
Victoria, BC, V9A 7K7

July 8, 2019

The Honourable Claire Trevena  
Minister of Transportation and Infrastructure  
Room 306, Parliament Buildings  
Victoria, BC V8V 1X4



Dear Minister:

**Re: E & N Rail Corridor – Proposed Development**

I am writing about a matter of considerable concern to the Esquimalt Nation. In December, 2018 we met with you, Premier Horgan and various municipal representatives to discuss proposed uses for the now-unused E&N Rail corridor.

At that time, the Premier committed his government to work through you to explore ways to use this corridor to resolve regional traffic problems. In that meeting and in subsequent statements, the Premier confirmed his commitment to consult with and accommodate First Nation interests and constitutionally protected aboriginal and treaty rights.

Since then the Esquimalt Nation has heard nothing further directly from your government. However, within the past two weeks we have observed workers from the Island Corridor Foundation erecting signal lights and an electronic box in the corridor adjacent to Esquimalt Indian Reserve #0. We were also advised by one of the workers that he had been informed that our Nation was in support of this new utilization of the corridor.

Minister, it is essential that you understand that until there has been a full and meaningful consultation with our Nation and until we address the legal issues that pertain to the very existence of this corridor as it passes through our reserve, not only do we not support any proposed uses of the corridor, we will be compelled to take whatever legal steps are necessary to protect our community and our rights.

This matter is of critical concern to our members.

We are therefore respectfully requesting an opportunity to meet with you and to clarify your government's intentions. We believe that such a discussion will also provide an opportunity to allow you to better understand the legal and political concerns that exist in dealing with this situation.



*Esquimalt Nation*  
1189 Kosapsum Crescent  
Victoria, BC, V9A 7K7

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We would appreciate hearing from you at your earliest convenience.

Yours truly,

Lead Councillor, Rob Thomas





September 9, 2019

MOTI File#: **16800**

Esquimalt First Nation  
1189 Kosapsum Crescent  
Victoria, BC V9A 7K7  
*Sent Via: Email*

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**Re: Island Rail Corridor Condition Assessment**

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Dear Chief and Council:

By way of this letter, the Ministry of Transportation & Infrastructure is informing the Esquimalt First Nation that it will be undertaking a condition assessment of the Island Rail Corridor (formerly known as the E&N Rail Corridor) this year. This assessment will build on past work by Province and the Island Corridor Foundation (ICF) by determining how conditions have changed, by refreshing past safety and technical work and by considering new works, such as assessing rockfall and seismic impacts. The condition assessment will allow the Ministry to have a full understanding of the current safety and technical requirements and the “all in” costs of restoring passenger and freight rail services to Vancouver Island. A map of the condition assessment area is attached (refer to Appendix 1) for your review.

The scope of the condition assessment focuses on updating the Baseline Condition Report, which has the following four main components:

- Bringing the Victoria to Courtenay line to the existing operating standards prior to the line becoming non-operational;
- Re-establishing the Parksville to Port Alberni line;
- Identifying requirements and costs for upgrades needed to support higher freight limits in portions of the corridor from 263 lb to 286 lb; and
- Identifying requirements and cost of infrastructure upgrades needed to allow for the operation of passenger rail.

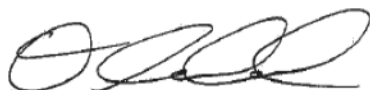
The scope of the assessment for the trackage (owned by the ICF) shall include, but may not be limited, to the following:

- Roadbed;
- Track geometry;
- Track substructure;
- Bridges, trestles, tunnels and culverts;
- Yard tracks, industrial sidings and spurs; and
- Grade crossings and pedestrian crossings.

As part of the Ministry's condition assessment, no ground disturbance that would adversely impact the environment, including vegetation and wildlife, amphibians/reptiles, birds, and bats, is anticipated with the work predominantly being a visual inspection. This engineering review is anticipated to be completed in December of 2019.

The Ministry recognizes the ICF as the owner of the Island Rail Corridor and correspondingly that the ICF is responsible for meaningful consultation and engagement with Indigenous communities about the future of the rail corridor. However, if you have any questions about the condition assessment at any time, please feel free to contact me directly by e-mail at [Oliver.Schwuchow@gov.bc.ca](mailto:Oliver.Schwuchow@gov.bc.ca) or by phone at 250-643-4317.

Best Regards,

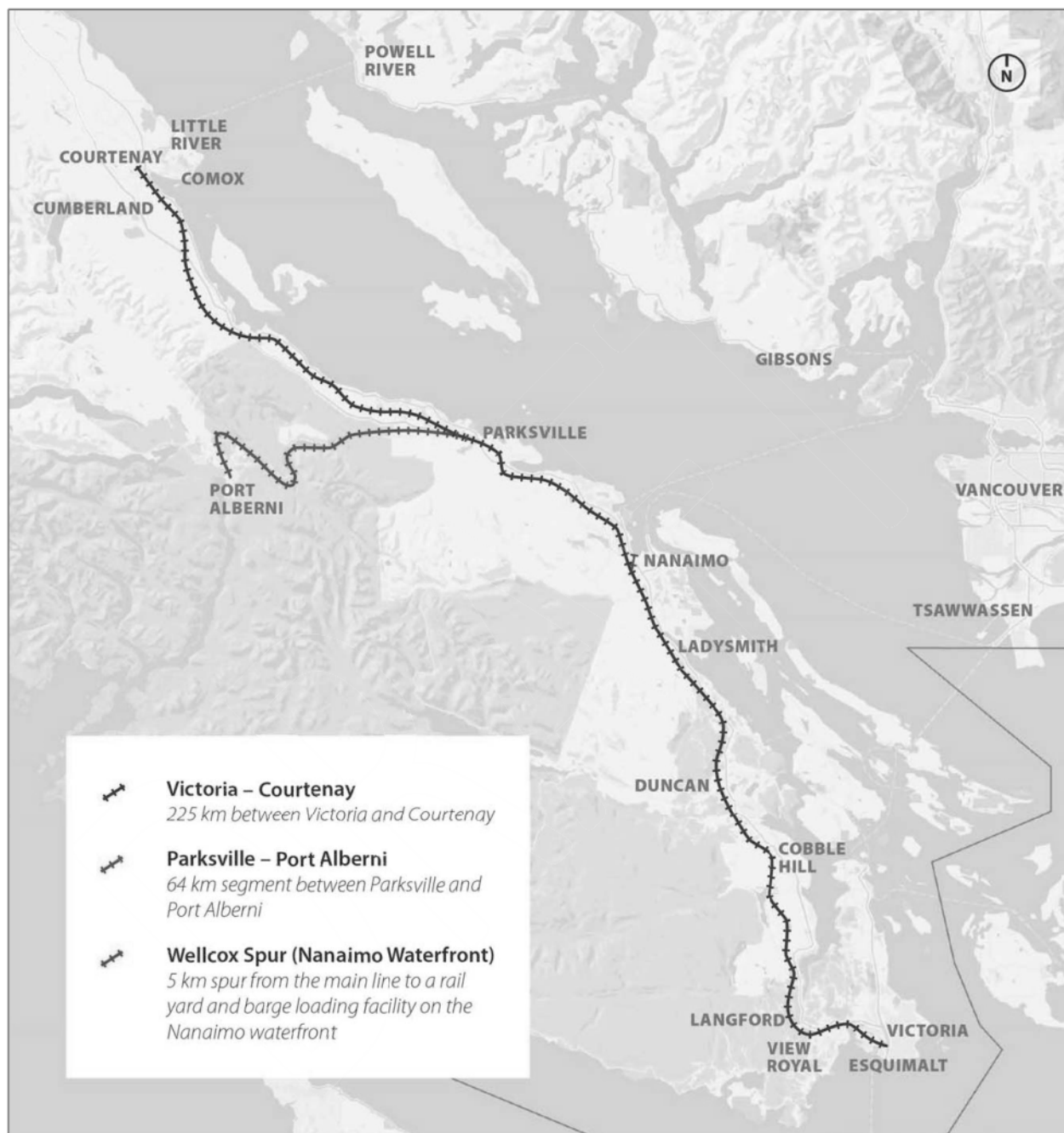


Oliver Schwuchow  
Regional Project Manager  
Ministry of Transportation and Infrastructure

## Appendix 1 – Project Location

CC: Island Corridor Foundation

## Appendix 1: Project Location





## ESQUIMALT NATION

1189 Kosapsum Drive  
Victoria, BC, V9A 7K7  
Phone: 250-381-7861  
Fax: 250-384-9309

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### VIA ELECTRONIC MAIL

September 30, 2019

Oliver Schwuchow  
Regional Project Manager  
South Coast Region  
Ministry of Transportation and Infrastructure  
310 – 1500 Woolridge Street  
Coquitlam, BC, V3K 0B8

Dear Mr. Schwuchow:

**Re: Island Rail Corridor Condition Assessment  
MOTI File No. 16800**

We received your letter of September 9, 2019 regarding the upcoming condition assessment of the Island Rail Corridor (the “Corridor”). You indicate that the condition assessment work is about to begin. However, we raised concerns with Minister Trevena in July 2019 that work appeared to already be taking place adjacent to Esquimalt Indian Reserve No. 0 without notice, consultation or dialogue with us. Our correspondence to Minister Trevena is attached for your information.

The construction and operation of the E&N Railway through our territory and IR No. 0 have had significant, negative impacts on Esquimalt Nation lands, resources, people and economy for over 120 years. We look forward to having a meeting with the Minister in the near future to discuss how the Island Corridor review and any decisions moving forward will proceed in a manner that respects our Indigenous rights and interests. In order to ensure this occurs from the outset of our discussions, we must correct and respond to some parts of your letter.

First, the statement that the Island Corridor Foundation (ICF) “is responsible for meaningful consultation and engagement with Indigenous communities about the future of the rail corridor” is not legally correct. That constitutional duty rests with the Crown and we expect the Provincial government to carry out and meet that duty. In a meeting with Premier John Horgan in December 2018, Mr. Horgan committed that the Province, through the Ministry of Transportation and Infrastructure, would carry out the duty of consultation and accommodation of our aboriginal and treaty rights.

Second, as you are aware the Corridor crosses over Esquimalt IR No. 0. It is our position that the E&N Railway within the Corridor is in trespass on IR No. 0 land because the taking of the

reserve land did not comply with the *Indian Act* or the *Railway Act*. Therefore, the future use of the Corridor through IR No. 0 will require not only meaningful consent and engagement with our Nation regarding impacts on our aboriginal and treaty rights, but legal authorization under the *Indian Act*.

Third, failure to establish a forum for meaningful consultation and accommodation of our aboriginal and treaty rights and authorization under the *Indian Act* will necessitate the Esquimalt Nation taking whatever action, including legal action, that it deems necessary to protect its rights and interests.

Finally, as the Corridor passes through public areas and the backyards of our people residing on IR No. 0, please provide approximately seven days' notice to our Executive Director, Katie Hooper of any work being undertaken on the Corridor through IR No. 0 in order that we may provide adequate notice to our residents. Katie can be reached at (250) 381-7861 Ext 114 or [Katie@esquimaltnation.ca](mailto:Katie@esquimaltnation.ca).

Yours truly,

ESQUIMALT NATION



Rob Thomas  
Lead Councillor

Encl.

cc: Minister Claire Trevena, Minister of Transportation and Infrastructure  
Katie Hooper, Esquimalt Nation, Executive Director  
Gary Yabsley, Ratcliff & Company LLP



## BRIEFING NOTE FOR INFORMATION

**DATE:** October 4, 2019

**PREPARED FOR:** Honourable Claire Trevena, Minister of Transportation and Infrastructure

**MEETING:** Minister Richard Mostyn, Yukon Ministry of Highways and Public Works/Public Service Commission on October 7, 2019

**ISSUE:** Electrification of the Alaska Highway

### SUMMARY:

- Our Ministry is very supportive of efforts to encourage the use of electric vehicles and thereby reducing Greenhouse gases.
- Highway 97, the Alaska Highway, north of Fort St John is predominantly under federal jurisdiction except for the arterial through Fort Nelson and Highway 77 to the Northwest Territories.
- We are certainly open to discussions that support efforts to expand the network for electric vehicle charging.
- Our Ministry is supportive of electrification of our highway system, we have installed twelve EV Charging Sites across provincial highways for \$1.9million.
- We are currently working on six more this year for a cost of \$2.03 million in fall 2019, with plans include six more sites in 2020
- Charging stations are focused at our provincially maintained rest areas along our numbered highways and prioritized based on traffic volumes, ease of instalment and gaps in electric charging networks such as between communities

### BACKGROUND:

MOTI does not maintain Highway 97 (the Alaska Highway), from Mile 83 (55km north of Fort St John) to the Yukon Border except for the arterial through Fort Nelson and Highway 77 to the Northwest Territories. This section of the highway is maintained by the federal government via Public Services Procurement Canada (PSPC)

### PAST INTERACTIONS:

- None on this topic.

### DISCUSSION:

There are currently privately operated EV Charging sites located in Fort St John and Watson Lake, which are approximately 900km apart. The range for new electric vehicles (battery only, no gas backup) ranges from about 100km to 400km, and these ranges are shortened by up to 40% in cold temperatures. To effectively serve electric vehicles on this route, numerous sites would need to be installed.



The northern most Ministry operated rest area on Highway 97 is located at Mile 80 is approximately 50km north of Fort St John has power and cell service; suitable for installation of an EV Charging Site, however, there are no EV Charging sites within range north of the rest area, therefore, it would not be independently effective.

The Ministry has no EV Charging Sites installed on the Alaska highway. Our Ministry is working on the installation of approximately 20 EV chargers throughout the province, with a focus on providing fast charging stations in remote areas between communities and on higher traffic corridors in ministry rest areas. Next year the focus is expanding the network to areas such as 100 Mile House, Quesnel, and Highway 16.

Due to historical administrative agreements, MOTI does own the Alaska Highway right-of-way and regularly issues permits via our Development Services to PSPC for works on the right of way – other than this there is no involvement with the maintenance or operation of this section of highway.

Should the Ministry choose to install EV Charging Stations on the federally maintained portion of the Alaska Highway, maintenance and operation of the sites would be challenging. There are significant distances where the Ministry does not operate any other infrastructure, therefore, regular maintenance or call-outs would be expensive.

The Ministry could consider a partnership with the PSPC to expand the EV Charging site network; however, our desire would be to have PSPC to operate and maintain the sites.

A fast charging station requires a power service of 25kw-50kw and a connection to cell service or internet to engage the charger. Current costs are approximately \$180,000 per site for appropriate sites with electricity and cellular service.

#### **FINANCIAL IMPLICATIONS:**

- None.

#### **Attachments:**

- Map of Current Ministry EV Charging Stations.
- Screenshot of Northern BC Charging Stations from "PlugShare"

#### **PREPARED BY:**

Katie Ward, District Manager  
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(250) 787-3238

#### **REVIEWED BY:**

Kevin Richter, Associate Deputy Minister  
Transportation & Infrastructure  
Nancy Bain, EFO  
Finance and Management Services Department

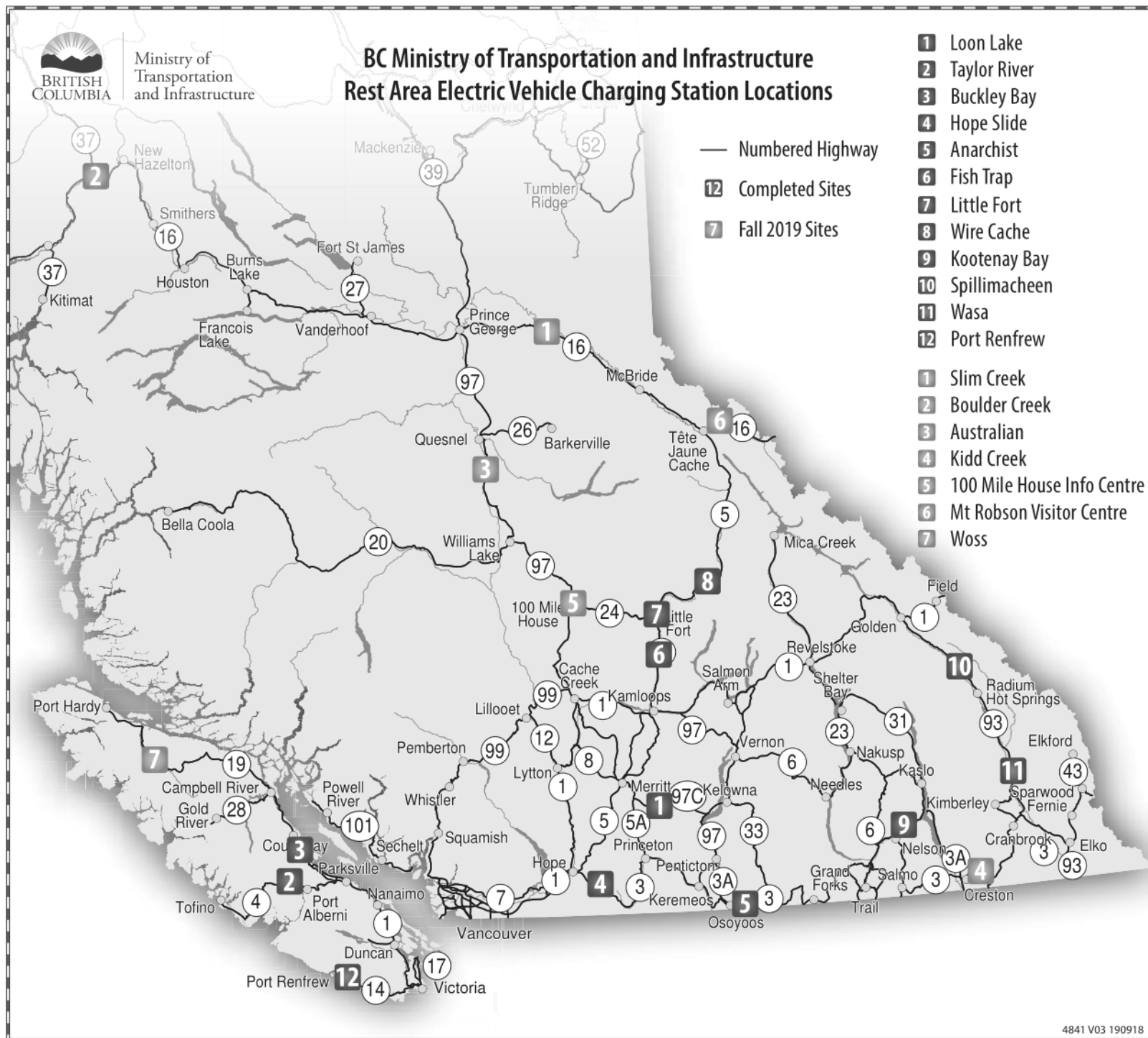
#### **INITIALS**

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Ministry of  
Transportation  
and Infrastructure

## BC Ministry of Transportation and Infrastructure Rest Area Electric Vehicle Charging Station Locations



4841 V03 190918



Page 13 of Page 3 of 8  
Page 13 of 89 TPA-2020-00071

## **Malahat Emergency Detour Route**

**ISSUE:** Highway 1 - Malahat Emergency Detour Route Planning Report Public Release

### **BACKGROUND:**

- In January 2019, MoTI announced it would explore potential emergency detour routes for the Malahat.
- A report was expected to be ready by spring 2019. The report is now in a Final Draft state and ready to share with the CRD and the public.
- Seven routes were generated for consideration which primarily used existing forestry resource roads and/or Capital Regional District (CRD) watershed maintenance roads.
- Five of the identified routes were screened out primarily due to the potential for significant detrimental impacts to the Greater Victoria drinking water supply catchment areas.
- Two short-listed options were advanced for a more detailed assessment (see attached maps).
  - Both options have high capital costs: Niagara Main is \$30M and Far West is \$175M;
  - Niagara Main offers the greatest travel time savings of both options.
  - Niagara Main crosses the Sooke Hills Regional Park and has environmental impacts.
  - Niagara Main bisects the CRD Japan Gulch water treatment facility compound.
  - Far West impacts more rural residents when the detour is implemented.
  - Far West includes a crossing of a watercourse that connects downstream to the Leech River watershed which is part of the drinking water supply catchment area.
- CRD Board have gone on record opposing any public detour roads through the Water Supply area or Sooke Hills Regional Park; which is problematic as it relates to the Niagara Main.
- The report noted that maintaining status quo, using the PMCR, could be continued in the future. Although this is not the shortest detour route, it does provide an alternative public road in the event of long closures and there would be no additional costs or impacts as the routes already exist.
- As the anticipated average annual number of long duration incidents is only 1.1 per year, which could also decrease as more improvements to Highway 1 are undertaken, the overall effective usage of an additional detour route alternative is somewhat low.
- Given the limited use, the high capital costs and significant environmental concerns; it is recommended that investment be focused on improvements to the existing Highway 1 corridor.
- The Parsons Report is in final draft state and CRD staff will be provided a chance to review and provide further input to the report prior to it being finalized and publicly release.

Prepared by:

Janelle Staite, P. Eng.  
Deputy Director, South Coast  
(250) 713-8763



## BRIEFING NOTE FOR INFORMATION

**DATE:** October 23, 2019

**PREPARED FOR:** Honourable Claire Trevena, Minister of Transportation and Infrastructure

**MEETING:** Kennedy Stewart, Mayor of Vancouver on October 28<sup>th</sup>, 2019

**ISSUE:**

1. Update on Broadway Extension to UBC
2. Alignment of Provincial and CoV Announcements
3. Look Ahead to Budget 2020
4. Post Federal Election Opportunities

### ISSUE 1: Update on Broadway Extension to UBC

### RECOMMENDED RESPONSE

- Transit projects remain key to meeting transportation needs across the province.
- Particularly in the growing Metro Vancouver region, projects which help reduce congestion and get people and goods moving faster, are critical to unlocking our economic growth, while making communities more affordable, accessible and clean.
- The Province is leading the project to extend the Millennium Line SkyTrain to Arbutus Street, which has been a long-time objective of Vancouver.
- The Province will continue to work with TransLink and Vancouver on the next phase of analysis to determine a preferred alignment from Arbutus Street to UBC.
- Any decision on provincial funding for a SkyTrain extension from Arbutus to UBC will depend on the findings of a detailed business case, which TransLink expects to prepare during 2021.
- The UBC extension would require federal funding - the Province will work with the region and with TransLink to advance this proposal to the Government of Canada
- The Province is also interested in hearing how the region plans to raise its share of capital and operating costs for this project.

### BACKGROUND

- In January 2019, Vancouver City Council endorsed SkyTrain extension from Arbutus Street to UBC based on the findings of a TransLink study.
- In February 2019, the Mayors' Council endorsed SkyTrain as the preferred technology for rapid transit between Arbutus Street (terminus of the Broadway Subway Project) and UBC, as the only technology that could accommodate long-term forecast ridership and future expansion.
- TransLink is using funding from Phase Two of its Investment Plan to advance to the next stage of project definition, including developing alternative concept designs, preliminary business case inputs, and public and stakeholder consultation. Findings are expected in Fall 2020.



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## BACKGROUND

- The 2019 Canadian federal election is scheduled to take place on October 21, 2019, to elect members of the House of Commons to the 43rd Canadian Parliament. The Governor General dissolved the 42nd Parliament on September 11, 2019, on the advice of Prime Minister, the traditional action that commences an election.

**FINANCIAL IMPLICATIONS:**

- None

**PREPARED BY:**

Sean Nacey  
Director, Metro Vancouver Major Projects

## REVIEWED BY:

Kevin Volk, Assistant Deputy Minister  
Major Projects, Infrastructure & Properties  
Nancy Bain, EFO  
Finance and Management Services

## INITIALS

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## BRIEFING NOTE FOR INFORMATION

**DATE:** October 24, 2019

**PREPARED FOR:** Honourable Claire Trevena, Minister of Transportation and Infrastructure

**MEETING:** Caucus Briefing

**ISSUE:** Current Status of Ride Hailing

### SUMMARY:

- We have been working towards meeting our commitments to enable ride hailing to enter BC this year
- Regulations deposited on July 8<sup>th</sup> went into effect on Sep 16<sup>th</sup>
- The Passenger Transportation Board (“Board”) on August 19<sup>th</sup> released policies on ride hailing relating to fleet size, operating boundaries, and rate structure
- The Board started receiving applications on Sep 3<sup>rd</sup> and to date has received 17 applications from prospective ride hail companies
- The Board is expected to make their first decisions on ride hail applications early to mid November

**BACKGROUND:**

On Sep 16<sup>th</sup>, regulations to support Bill 55, *The Passenger Transportation Amendment Act*, went into effect. These regulations are intended to modernize the passenger directed vehicle industry (taxi, limo, and ride hail) in BC by enabling ride hailing, streamlining requirements by reducing overlap between local government and the province, ensuring a high level of safety standards, and protecting accessibility.

In BC, Passenger directed vehicles must be approved for an operating license by an independent tribunal known as the Passenger Transportation Board. The Board is required by legislation to weigh application on 3 principles:

1. There is a public need for the service the applicant proposes to provide
2. The applicant is a fit and proper person to provide the service and is capable of providing that service, and
3. The application, if granted, would promote sound economic conditions in the passenger transportation business in British Columbia

On August 19<sup>th</sup>, the Board released ride hail policies that it intends to apply to decisions made on ride hail applications received. The policies addressed:

- No limitation on fleet size for the ride hail industry whereas the taxi industry has been historically limited to a certain amount of operating vehicles,
- Regional operating areas for the ride hail industry as opposed to the current model for the taxi industry which is generally municipality based boundaries, and

- A minimum rate structure for the ride hail industry whereas the taxi industry is required to charge customers a minimum rate plus time over distance rate structures (actual \$ amounts vary by region).

	TAXI	RIDE HAIL
Supply	No change, supply is limited by the Board	No limit, to be assessed once operations begin
Boundaries	No change, generally municipal based boundaries	Five broad regions established for the province.
Fares	No change, base rate plus time over distance rates applied	Base rate = taxi flag rate No coupons or discounts to lower rates below base rate No time over distance rates applied

As of September 3<sup>rd</sup>, the Board was able to begin receiving applications from prospective ride hail companies who wish to operate in BC. To date, the Board has been forwarded 17 applications for ride hail companies to operate around the province within the 5 newly created regions set out by the Board, with many of the applications for multiple regions. The Board has stated that they expect to be making their first decisions on applications early to mid November.

Region 1: Lower Mainland, Whistler  
• 12 applications

Region 2: Capital Regional District  
• 9 applications

Region 3: Vancouver Island, Excluding CRD  
• 10 applications

Region 4: Okanagan-Kootenay-Boundary-Cariboo  
• 10 applications

Region 5: North Central & Other Regions  
• 5 applications

On September 4<sup>th</sup>, the Vancouver Taxi Association (“VTA”) membership filed a petition with the Supreme Court of BC to have the Board policies undergo Juridical Review. The petition states that the VTA believes that the Board policies are patently unfair compared to the policies of the taxi industry, and is requesting that the Board be ordered to reconsider the policies. (Please see IBN 289491 for more information on this issue).

On Oct 2<sup>nd</sup>, the City of Vancouver passed bylaws associated to business licensing and congestion management as it relates to ride hail operations in the city. The City will be charging a \$100 per vehicle fee for ride hail operations as well as \$.30 for each pick up and drop off that occurs within the city’s metro core between 7am and 7pm. The intention with the \$.30 fee is to reduce impacts to transit, walking, and cycling, as well as attempt to limit increases in congestion that has been witnessed in other major cities in North America.

**DISCUSSION:**

The Board policies have been met with mixed reactions. The public and ride hail companies appear pleased by the policies as they are less restrictive than the taxi industry, but the taxi industry and many local government officials have raised concerns around an unlevel playing field for the taxi industry, that congestion may increase significantly in urban cores, and that accessible transportation options may decrease even with government's focus on improving accessibility due to potential of reduced service within the taxi industry.

TRAN and MAH have been chairing local government working groups since July, with a focus on sharing information, assessing pre implementation and post implementation issues with the regulations, and discussions on municipal business licenses and bylaws.

The working groups are as follows:

- Provincial working group made up of staff representation from Vancouver, Victoria, Richmond, Surrey, Kamloops, Kelowna, Prince George, and Fort St John
- 3 regional working groups
  - o Metro Vancouver
  - o Capital Regional District
  - o Okanagan Similkameen

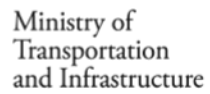
With Bill 55, local government lost ability to enact bylaws or requirements that contravened or conflicted with Board decision making. However, local government still retained the ability to issue business licenses and manage their streets and pick up/drop off locations through bylaws.<sup>5.13</sup>

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In late September, Translink presented to the Mayor's Council the IMBL concept applying to the passenger directed vehicle sector. The Council was generally supportive of the concept and asked staff to further explore this option.

After the City of Vancouver ride hail bylaws were adopted, many Metro Vancouver local government elected officials came out supporting a single license for the region, as opposed to individual licenses within each municipality. The City of Vancouver is also in support of a regional license, but instituted their own license structure until such time as a regional license is available.





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**FINANCIAL IMPLICATIONS:**

None.

Attachments:  
IBN 289491

**PREPARED BY:**

Steve Haywood, Executive Lead  
Taxi Modernization and Ride Hailing  
(604) 220-7176

## REVIEWED BY:

Nancy Bain, EFO  
Finance and Management Services Department

## INITIALS

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## BRIEFING NOTE FOR INFORMATION

This briefing note contains information that is subject to solicitor client privilege, common interest privilege or litigation privilege.

Disclosure of information in this BN may constitute an offence under an enactment, result in the waiver of privilege, prevent government from protecting the information from disclosure or result in a breach of an undertaking to the court.

**DATE:** October 23, 2019

**PREPARED FOR:** Honourable Claire Trevena, Minister of Transportation and Infrastructure

**ISSUE:** Judicial review of the Passenger Transportation Board's ("Board") Operational Policy for Transportation Network Services ("Policy")

### SUMMARY:

- On August 19, the Board made policy decisions related to Transportation Network Services and the operating boundaries, initial fleet size, and applied minimum rates
- In response, the Vancouver Taxi Association filed a judicial review petition to have the Board policies nullified or that the policies be reconsidered
- The judicial review petition will likely not be pursued until the Board has made a decision on applications currently before them
- s.13

### BACKGROUND:

- The Board is an independent administrative tribunal created by the *Passenger Transportation Act* ("PTA") to regulate the operation of commercial passenger vehicles in British Columbia.
- On August 19, 2019, after consulting with taxi companies, Uber and Lyft, the Board issued the Policy.
- On September 3, 2019, the Board began accepting applications for transportation network services authorizations ("TNSA"), a type of special authorization.
- On September 4, 2019, a group of lower mainland based taxi companies (the "Petitioners") filed a Petition seeking judicial review of the Board's Policy.
- On September 10, 2019, the Attorney General was served with petition pursuant to section 16 of the *Judicial Review Procedures Act*.
- On September 23, 2019, the Board (the "Respondent") filed its Response to Petition.

### DISCUSSION:

- The Board is an independent administrative tribunal.

- Administrative tribunals are created by legislation and are an extension of the executive branch of government.
- Administrative tribunals may only make decisions that are within their jurisdiction as prescribed by legislation.
- When a person is impacted by a specific decision made by an administrative tribunal, they may ask the court to “judicially review” the decision.
- At a judicial review, the British Columbia Supreme Court reviews the administrative tribunal’s decision. Depending on the tribunal, the nature of the decision and the issues the petitioner raises, the court will apply a different “standard of review”. Decisions can be reviewed on the basis of correctness (which is the least deferential standard) or reasonableness (a more deferential standard).
- For certain tribunals subject to the *Administrative Tribunals Act*, the very deferential standard of patent unreasonableness applies.

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#### NEXT STEPS – LEGAL ANALYSIS/OPINION:

s.13; s.14 The Petitioner alleges...

Page 24 of 89 to/à Page 27 of 89

Withheld pursuant to/removed as

s.13 ; s.14



## BRIEFING NOTE FOR INFORMATION

**DATE:** October 17, 2019

**PREPARED FOR:** Honourable Claire Trevena, Minister of Transportation and Infrastructure

**MEETING:** Michael Crawford, Container Trucking Commissioner (CTC); Oct 23, 2019

**ISSUE:** Progress update on implementing the Container Trucking Rate Review recommendations and other container trucking initiatives

### SUMMARY:

- **In October 2018, the Container Trucking Commissioner (CTC) made 12 recommendations to the Minister regarding container trucking rates and remuneration. In April 2019, MOTI committed to implementing 10 recommendations, 5 of which were committed to in fall 2019. CTC and MOTI each have responsibility for implementing some recommendations.**
- s.13
- s.13
- s.13
- **The final commitment from the April 2019 news release was for MOTI to consult with industry stakeholders around system efficiencies. MOTI is acting on this commitment by planning an industry forum to discuss container trucking efficiencies.**

### BACKGROUND:

In October 2018, the Container Trucking Commissioner (CTC) made 12 recommendations to the Minister in a Rates and Remuneration Review report. Some of the recommendations involved amendments to the Container Trucking Regulation and others were non-regulatory recommendations to be completed by either MOTI or the CTC. In April 2019, MOTI issued a news release committing to implement 10 of the 12 recommendations. Two recommendations (proposed \$50 short trip rate and \$50 dangerous goods rate) were not implemented and can be re-assessed during the next review period.

In June 2019, MOTI amended the Regulation to stipulate that any future rate changes be set by the CTC, effective July 1, 2019. The CTC implemented one rate recommendation on July 1, to establish a \$25 positioning move rate. As a result of the July 1 regulatory amendment, the CTC is responsible for implementation of four additional rate and remuneration recommendations by fall 2019. See Appendix 1 for a full list of the recommendations and their status.

The CTC is also responsible for issuing trucking licences and managing the supply of truck tags and drivers. The current licencing system has been in place since 2015 and involves regular renewal by the CTC of existing trucking licences for the approximately 85 companies in the Truck Licencing System



S.13

- None.

**PREPARED BY:**

REVIEWED BY:

INITIALS

SA

DG

NB

## Appendix 1

### BACKGROUNDER UPDATE – OCTOBER 2019

#### **Recommendations from the Container Trucking Commissioner's Report**

In May 2018, the Container Trucking Commissioner was asked to conduct a rate review to address concerns around fair remuneration in the industry. The Commissioner sought input from the industry, including companies, drivers and other industry stakeholders and made 12 recommendations in a report submitted to government in October 2018.

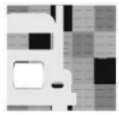
In April 2019, the Province released the report along with a backgrounder with a short summary on actions that were intended for the 10 recommendations that the Province accepted. The other two recommendations were indicated not to proceed at that time. The following table updates the backgrounder released in April 2019 with status as of October 2019.



Recommendation	April 2019 Commitment	October 2019 Status
1. Introduce a \$25.00 positioning movement rate to be paid in addition to each on- or off-dock trip rate payment.	When drivers and companies, through a facilitated discussion, come to a joint position on key definitions. The first meeting will take place by mid-May. The minister's expectation is that parties will submit a joint position by Sept. 1, 2019.	<b>Implemented:</b> After the news release commitment for September 2019, the public commitment date was moved to July 1, 2019. A new \$25 positioning rate was implemented by the Commissioner effective July 1, 2019. The Commissioner plans to assess the impacts of the \$25 positioning movement rate as part of his fall 2019 review of the industry's competitiveness.
2. Consider the introduction of phased increases to the hourly rate for independent operators (inclusive of benefits) to reflect increases in operating costs.	The minister's expectation is that this recommendation will be implemented by fall 2019.	<b>In Progress:</b> The Commissioner plans to conduct a review of the industry's competitiveness through a stakeholder consultation process and third-party analysis in fall 2019 before considering amendments to the hourly rates. s.13
3. Amend the zone definitions in the regulation and review the definitions during subsequent rate reviews.	The minister's expectation is that this recommendation will be implemented by fall 2019.	<b>In Progress:</b> The Commissioner plans to conduct a review of the industry's competitiveness through a stakeholder consultation process and third-party analysis in fall 2019 before considering amendments to the zone definitions. s.13

Recommendation	April 2019 Commitment	October 2019 Status
4. Increase rates for longer distance moves in the on-dock and off-dock rate tables to reflect independent operator costs.	The minister's expectation is that this recommendation will be implemented by fall 2019.	<b>In Progress:</b> The Commissioner plans to conduct a review of the industry's competitiveness through a stakeholder consultation process and third-party analysis in fall 2019 before considering increased rates for longer distance moves.s.13
5. Amend the fuel surcharge formula to account for an average monthly calculation of diesel prices in Vancouver.	The minister's expectation is that this recommendation will be implemented by fall 2019.	<b>In Progress:</b> The Commissioner has signalled intent to implement this recommendation in fall 2019. Implementation requires an Order to be authored by the Commissioner and published.
6. Amend the definition of container in the Container Trucking Regulation for clarity and consistency with the definition of container utilized by port terminals and the International Maritime Organization.	The minister's expectation is that this recommendation will be implemented by fall 2019.	<b>In Progress:</b> The Province holds responsibility for this recommendation and has begun research and consultation on options to implement this change. The intent is to implement this recommendation in fall 2019.
7. The container trucking commissioner conducts a government-directed remuneration review every two years.	The next rate review will commence no later than 2020.	<b>On Target – 2020:</b> The Commissioner is planning to complete the next rate review on schedule, under direction (to be issued) by the Minister.s.13

Recommendation	April 2019 Commitment	October 2019 Status
8. Review the impact of including the CN and CP intermodal terminals in the regulated on-dock rate table.	If jurisdictional matters are resolved, spring 2020.	<b>In Progress:</b> The Province holds responsibility for this recommendation, however, the path forward depends on future rate review decisions. The s.13
9. Amend the regulation in order to clearly capture those companies that are currently affiliated with licensees and are hauling containers from point to point within the Lower Mainland but are not paying the regulated off-dock rates.	The commissioner will provide the minister with advice on what enforcement measures the OBCCTC will take and whether the OBCCTC has sufficient resources to undertake that enforcement by winter 2020.	
10. Increase the budget of the Office of the BC Container Trucking Commissioner (OBCCTC).	The commissioner will provide the minister with advice on what enforcement measures the OBCCTC will take and whether the OBCCTC has sufficient resources to undertake that enforcement by winter 2020.	



## Appendix 2

### OBCCTC MEMO

Prepared for: Ministry of Transportation and Infrastructure  
Subject: Container Trucking Reform Activity

s.13

#### *Licencing 2020 (term of current licence expires June 30, 2020)*

- Call for licence applications from all interested parties (not only from existing licence holders)
- s.13
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- 

#### *CTC 2018 Rate Review/Recommendations*

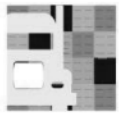
- s.13
- 
- Fall 2019 - CTC to amend fuel surcharge formula in Rate Order
- Fall 2019 - Government to amend definition of container in *Container Trucking Regulation* (the "Regulation")
- s.13

#### *CTC 2020 Rate Review*

- s.13 – Ministerial directed rate review

### **Government Decisions/Actions Required**

- s.13
- Fall 2019 - change to the definition of container in the *Regulation*
- s.13



- s.13

## **Background**

### *Truck Tag Policy*

s.13

### *Licensing 2020*

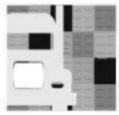
The Licence and the associated licensing process underpins the OBCCTC's mandate to enforce compliant licensee practices which include the requirement to tag trucks under the Licence, pay compliant rates and conform to the labour practice requirements under the Licence. Despite OBCCTC enforcement efforts and the conditions imposed upon licensees, non-compliant rate payment and labour practice activity remains prevalent across the licenced fleet.

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### *CTC 2018 Rate Review/Recommendations*

Government's response to the Commissioner's October 2018 rate recommendation report included a commitment to introduce the following by the fall of 2019:

- Consideration of phased increases to the hourly rate for independent operators to reflect increases in operating costs;
- Amendment of the trip rate zone definitions;
- An increase in the long distance on and off-dock trip rates;
- Amendment of the fuel surcharge formula; and



- A change to the definition of container in the *Regulation*.

Government's subsequent decision to repeal the regulated trip rates and have the Commissioner set rates by order has shifted the responsibility for some of these commitments to the Commissioner. Initial stakeholder feedback indicates that the July 2019 introduction of a \$25 Positioning Movement Rate ("PMR") may be having a negative impact on some independent operators as customers demand company driver/fleet-hourly rate services. If the PMR is negatively impacting independent operators, further rate increases this fall could potentially exacerbate the situation.

Greater clarity regarding the impact of the PMR is required before the Commissioner implements the rate increase recommendations noted above. Therefore, the Commissioner will be undertaking an analysis of the impact of the \$25 PMR on the industry. The results of the impact analysis will dictate decision to implement remainder of 2018 rate recommendations s.13

s.13

The commitments to amend the fuel surcharge formula and the definition of container in the *Regulation* should be met. With respect to the Commissioner's s.13

s.13

#### *OBCCTC Enforcement and Budget Implications*

The OBCCTC will need to increase its budget to support the office's enforcement and administrative capacity. The OBCCTC has hired two new auditors who have now been fully trained and has procured a new investigation team which is better placed to support the OBCCTC's investigation needs. The contracted Registrar position has been transitioned to a full-time employee position who is additionally supported by the Deputy Commissioner. The OBCCTC's communications activity will need to increase as the regulated fleet increases. Therefore, a communication officer position will be filled in order to provide greater support.

It is anticipated that the costs of the proposed reforms will continue to be fully supported on a cost recovery basis under the current Port/OBCCTC joint-program fee. s.13

s.13

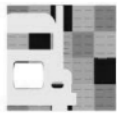
#### *CTC Rate Review*

As part of the CTC's fall 2019 analysis of the impact of the \$25 PMR on the industry, the Commissioner will be analysing the potential impact of s.13 s.13

s.13

Stakeholder input

from previous rate reviews and five years of OBCCTC enforcement activity and decision making have



demonstrated that much of the ongoing non-compliant activity<sup>s.13</sup>  
A recent submission from the Teamsters best summarizes the issue:

Before 1980, in an era of stability at the ports of Vancouver, Teamster drivers were paid an hourly wage. Port trucking ran smoothly without a single shutdown. This practice worked well until non-unionized companies began to undercut the unionized hourly system. Companies began to hire owner-operators to perform work on a "per move" basis as well as to consistently undercut rates of pay.

In 2014, the Provincial Government was asked by the Vancouver Port Authority to help implement rates of pay for owner-operators and drivers including a system that would protect these rates of pay that had been historically undercut. However, the government attempts to make changes have not resulted in success. Presently, we are faced with a broken system where drivers and owner-operators are struggling with high operating costs and long delays that cause decreases to revenue income and wages. This can only lead to further work stoppages and monetary losses for all parties involved.

The implementation of compensation based on an hourly rate is fundamental in reforming the compensation framework within the Container Trucking Act and Regulations. The Teamsters Union proposes that hourly rates would eliminate several secondary problems that have plagued the port industry. These problems being the following:

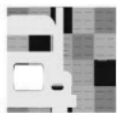
- a) Unfair compensation method that continues to destabilize the port trucking industry;
- b) Unpaid wait times;
- c) Inefficient dispatching; and
- d) Too many trucks working at and from Port Metro Vancouver.

The Commissioner has received initial support from<sup>s.13</sup> from Unifor, the Teamsters, the UTA, the BC Trucking Association and the Port of Vancouver. Therefore, the Commissioner's fall 2019, PMR analysis will be used to supplement existing stakeholder feedback and facilitate further consultation intended to reach a general consensus on the need and benefits of

<sup>s.13</sup> Once complete, it is anticipated that future rate reviews can for employees and independent operators.

#### Engagement Plan/Timelines

DATE RANGE	ANTICIPATED ACTION(S)
Sept. 2019	<ul style="list-style-type: none"><li>MOTI &amp; PoV Engagement</li><li>IAC meeting</li><li>Procure analytical services</li></ul>



DATE RANGE	ANTICIPATED ACTION(S)
Oct. 2019	<ul style="list-style-type: none"><li>• Licence and tag reform package released for consultation</li><li>• s.13</li><li>• Driver townhall meeting (further meetings planned)</li></ul>
Nov. 2019	<ul style="list-style-type: none"><li>• Definition of “container” amended</li><li>• s.13</li><li>• Fall 2019 rate change commitments - TBD</li></ul>
Dec. 2019	<ul style="list-style-type: none"><li>• Licence and tag reform package consultation closes</li></ul>
Winter 2020	<ul style="list-style-type: none"><li>• s.13</li></ul>
April 2020	<ul style="list-style-type: none"><li>• Licence and tag reform package released ○ Option: s.13 s.13</li><li>• Rate review closes – results announced</li><li>• s.13</li></ul>
June/July 2020	<ul style="list-style-type: none"><li>• Licences issued</li><li>• New/amended rates introduced</li></ul>
Winter 2020	<ul style="list-style-type: none"><li>• s.13</li></ul>





## BRIEFING NOTE FOR DECISION

**DATE:** September 17, 2019  
**PREPARED FOR:** Honourable Claire Trevena, Minister of Transportation and Infrastructure  
**ISSUE:** Enforcement strategy for illegal Transportation Network Service companies

### RECOMMENDED OPTION:

- **Pursue a hard enforcement strategy against illegal TNS drivers and companies starting September 16, 2019.**

### BACKGROUND:

- On September 16, 2019, the Passenger Transportation Regulations (the Regulations) came into force and provided the Registrar, Passenger Transportation (the Registrar) the authority to undertake enforcement activities against illegal Transportation Network Service (TNS) drivers and companies.
- Prior to September 16, the Registrar did not have the ability to take enforcement against TNS companies that connect unlicensed drivers to passengers. The Registrar was only able to engage in enforcement against illegal TNS drivers.
- Between June 2017 and August 2019, the Passenger Transportation Branch (the Branch) has issued 65 violation tickets (\$1,150 each) and 60 cease and desist orders to TNS drivers operating without a licence.
- Through its enforcement activities, the Registrar is aware of several illegal TNS companies (Longmao, Udi Kuaiche, Raccoon Go, Dingdang Carpool, GoKabu and AO Rideshare).

### DISCUSSION:

- When Bill 55, the *Passenger Transportation Amendment Act* (the Act), received Royal Assent in Nov 2018, it was made clear that illegal TNS operators would eventually be subject to increased offences of up to the \$100,000 per day. This amendment to the Act was well communicated and the operators of TNS companies are aware that what they are facilitating is not considered legal.
- In anticipation of the entry of TNS to British Columbia, the Passenger Transportation Branch has expanded its enforcement team from four to nine peace officers in order to increase its ability to enforce the Act and the Regulations.
- Under the Regulation, the Registrar will continue to issue \$1,150 violation tickets to illegally operating TNS drivers and has the ability to pursue court imposed penalties of up to \$100,000 per day for illegally operating TNS companies.
- Since July, the TNS Executive Lead and staff from the Passenger Transportation Branch have engaged with, and educated, existing and potential licensees, municipalities, and law enforcement agencies on the new Regulations and the consequences of non-compliance. A total of 13 in-person sessions have been hosted and webinar sessions are to be scheduled. This work is expected to continue into the fall.
- Branch staff have contacted the B.C. Prosecution Service and are working to identify the evidentiary requirements and training required to successfully pursue court ordered penalties of up to \$100,00 per day against illegal operating TNS companies.



• s.15

**FINANCIAL IMPLICATIONS:**

- The financial impact of enforcement is dependent on the number of drivers who continue to work for illegally operating TNS companies and the Branch's successful prosecution of illegal TNS companies in court.
- For drivers, the fine remains the same. Violation tickets issued to drivers for providing Transportation Network Services without a licence are \$1,150 (\$1000 fine plus a \$150 victim surcharge levy).
- For illegally operating TNS companies, the maximum fine is \$100,000 per day.

s.13; s.15



Ministry of  
Transportation  
and Infrastructure

s.13; s.15

# APPROVED / NOT APPROVED

Honourable Claire Trevena  
Minister of Transportation and Infrastructure

29<sup>th</sup> October 2019

Date

## PREPARED BY:

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Passenger Transportation Branch  
(604) 690-4358

## REVIEWED BY:

Michele Jaggi-Smith, Registrar and Executive Director,  
Passenger Transportation Branch

Deborah Bowman, Assistant Deputy Minister  
Transportation Policy and Programs

Nancy Bain, EFO

Finance and Management Services Department

## INITIALS

MJS

DB

NB

## **Information for Meeting with BCIB Board Chair – October 29<sup>th</sup>, 2019**

### **Status of Pattullo Bridge Replacement Project**

- Major work on the project is expected to begin in 2020
- s.13; s.17
- The Reference Concept estimate of labour requirements was provided to BCIB in April 2019 and in order to assist BCIB with workforce planning, TI Corp included a requirement in the RFP that Proponents provide an Interim Workforce Requirements Submittal.
- These submittals were also provided to BCIB in June 2019 when they were received from Proponents
- Once a successful contractor has been selected, the contractor will be required to provide BCIB with a labour forecast within 5 days of the contract effective date.

### **Status of Broadway Subway Project**

- Project work is expected to begin in September 2020
- s.13; s.17
- s.13; s.17 However, actual numbers will depend on the design and construction approach of the successful Proponent.
- The Reference Concept estimate of labour requirements was provided to BCIB in April 2019 and in order to assist BCIB with workforce planning, TI Corp included a requirement in the RFP that Proponents provide an Interim Workforce Requirements Submittal.
- s.13; s.17

- As with Pattullo, once a successful contractor has been selected, the contractor will be required to provide BCIB with a labour forecast within 5 days of the contract effective date.

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## BRIEFING NOTE FOR INFORMATION

**DATE:** October 17, 2019

**PREPARED FOR:** Honourable Claire Trevena, Minister of Transportation and Infrastructure

**MEETING:** Penticton Indian Band, Chief Chad Eneas

**ISSUE:** Identified in letter to Premier dated August 28, 2019

1. Kettle Valley Rail Corridor (KVR) returned to Penticton Indian Band (PIB) – short term and long-term financial permits.
2. Conditional Grant Agreement (CGA) – Accommodation of serving access to channel lands access
3. Keep PIB seeking complete payment for Skaha Hills Intersection
4. Return of Oxbow Channel Lands
- 5.

**Issue 1: Kettle Valley Rail Corridor (KVR) returned to PIB – short term and long-term financial permits.**

### SUMMARY:

- MOTI is committed to resolving outstanding road issues with your community
- These eight areas are integral to the support of our highway system
- 
- 
- MoTI regional staff will follow up to continue these important discussions

### BACKGROUND:

- KVR was expropriated from the PIB for the KVR/CPR in the early 1900.
- In 1985 the B.C. Supreme Court ordered the land returned to the PIB by the CPR as the railway was no longer used.
- To date the land still has not been returned to PIB.
- CPR and PIB are still working through the transfer.
- The process of the transfer identified 8 areas of encroachments;
  - Highway 97 includes encroachments, large fill slopes and drainage infrastructure.
  - West Bench Hill Road Hyslop Drive and Sage Mesa Drive, encroachments include fill slopes, a portion of the travelled surfaces and two bridge crossing the KVR.
- In 2010 MoTI initiated discussions with PIB to transfers these areas to MoTI.

Page 47 of 89

Withheld pursuant to/removed as

s.16





## ISSUE 2: Conditional Grant Agreement (CGA) – Accommodation of serving access to channel lands access

### SUMMARY:

- MOTI and PIB have been meeting on the CGA commitments.

s.16

### BACKGROUND

- In 1992, PIB made a claim against the Province, stating that an access road was promised in 1950 when the Okanagan River was straightened for flood control purposes.
- The Province acknowledged the claim and work began on a Conditional Grant Agreement (CGA). PIB and the Province signed the CGA in 1994 to establish:
  - (i) access to the reserve lands that lie between the Okanagan Channel Parkway and Penticton Airport for housing development
  - (ii) a public bicycle and pedestrian path along the west side of the Okanagan Channel Parkway within the reserve.
  - (iii) Condition has been met as a public bike and pedestrian path is along the top of the dyke.

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- The bridge was constructed in 2014.

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Ministry of  
Transportation  
and Infrastructure

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## ISSUE 4: Return of Oxbow Channel Lands

### SUMMARY:

- **MOTI is aware that the oxbows are unresolved issue between the Province and PIB.**
- **The original construction of the channel was completed through Ministry of Environment as a flood control measure of the Okanagan River.**
- **The oxbows were isolated due to the channel construction and not through highway construction.**
- **These lands are not MoTI lands.**
- **Further research should be completed to determine the ownership of these lands and which Ministry is in the best position to resolve.**

### BACKGROUND

- In 1950, the Province straightened the Okanagan River and constructed a flood control channel through the reserve.
- The high-water mark of the original Okanagan River channel (meandering) was the west boundary of PIB reserve land.
- s.16



## ISSUE 5: <sup>s.16</sup>

### SUMMARY:

- **MoTI provides reasonable capacity funds to communities to support through project consultation and tenure negotiations for highway right of ways through reserves.**

s.16

## BACKGROUND

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### PAST INTERACTIONS:

- April 2019 met with PIB to discuss MoTI funding the hydrogen train initiative.
- Premier meeting on July 25, 2019 – commitment made for MCT to meet with PIB to discuss the issues identified in BN

### FINANCIAL IMPLICATIONS:

- <sup>s.16; s.17</sup>





## BRIEFING NOTE FOR INFORMATION

**DATE:** October 17, 2019

**PREPARED FOR:** Honourable Claire Trevena, Minister of Transportation and Infrastructure

**MEETING:** Stswecem'c Xgat'tem (Canoe Creek Band) (SX), Chief Patrick Harry

**ISSUE:** Road Maintenance in the Stswecem'c Xgat'tem Territory

### SUMMARY:

- SX is located approximately 1.5 hours northwest of 100 Mile House with two main reserves and 4 smaller reserves
- Access to the SX community is by MoTI Meadow Lake and Dog Creek Roads, which are low volume gravel roads
- SX has raised the following concerns related to Maintenance: (1) Road Conditions; (2) Direct Awards for Maintenance Activities; (3) Compensation through sub-contracting work; and (4) Tenure on Meadow Lake and Dog Creek Roads

#### 1. Condition of Meadow Lake Road and Dog Creek Road

- SX has raised concerns on the current condition of Meadow Lake and Dog Creek Roads, which are low volume gravel roads
- Meadow Lake and Dog Creek Roads have been significantly impacted over the last several years due to wildfire, spring freshet and a heavy rainfall event in July 2019.
- Improvements would require a significant investment to raise the height of gravel roads and larger culverts. These works would be beyond the limited amount of resources within the Maintenance Agreement Qualified plan resources.
- Currently, there is no funding to complete the improvements for these roads to meet SX standards.
- Meadow Lake and Dog Creek Road are classified as 3C, which aligns with the definition of low volume school bus route roads.
- Dawson Road Maintenance (DRM) is meeting the maintenance contract requirements per the classification.

#### 2. Direct Awards

- Following legislation, the Maintenance Contracts were an open and transparent process and provided the opportunity for all bidder to submit a proposal.
- Dawson Road Maintenance (DRM) won the contract under a fair competitive process and the new contract started this past July.
- The new Maintenance Agreement includes subcontracting provisions and Designated First Nations Services language for additional works which could facilitate work delivery by SX.
- DRM has sub-contracted grading work to SX for Meadow Lake and Dog Creek Road.





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- The Transportation Act is clear that all construction work, which includes maintenance, is to be procured under a fair, competitive process, and we are unable to direct award construction type activities.
- MoTI is able to provide pre-construction work, such as clearing and brushing and fencing, as an accommodation to communities.
- MoTI staff are committed to continuing to facilitate discussions and partnership opportunities between you and DRM.

### 3. Compensation through sub-contracting work

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### 4. Meadow Lake and Dog Creek Roads tenure through reserves

- Meadow Lake and Dog Creek Roads are unresolved tenure through SX reserves and staff are currently in negotiations to resolve.

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## BACKGROUND:

- Stswecem'c Xgat'tem (SX) has two main communities, with four smaller reserves approximately an hour along gravel roads (Meadow Lake Road and Dog Creek Road) from Highway 97.
- SX community relies on the roads for food, school, employment and future economic development.
- SX requests a direct award for the improvements and maintenance; however, these works are directly related to construction activities and a direct award would be in contravention of the Transportation Act, where construction is to be a fair competitive process. This would also be not consistent with the current maintenance contract with DRM to complete these activities.
- SX had an opportunity during the last round of contracts to partner and bid on the maintenance contract.
- The routes in question are within Service Areas 16 & 17.
- SX has their own Development Corporation and have the ability to deliver maintenance and sub-contracting work.
- SX has raised concerns that hiring of their Development Corporation has been inconsistent to rely upon to build capacity of their equipment fleet.
- s.16
- The new maintenance contract for both Service Areas 16 & 17 were awarded to DRM on June 1, 2019 and July 1, 2019 respectively.
- The new Maintenance Agreement includes subcontracting provisions and Designated First Nations Services language for additional works which could facilitate work delivery by SX.

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- Meadow Lake and Dog Creek Roads have been significantly impacted over the last several years due to wildfire, spring freshet and a heavy rainfall event in July 2019.

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**DISCUSSION:**

Currently, there are numerous communities across the Province that have requested direct award of maintenance contract activities on provincial roads that are in the core traditional territory or direct link to their community (ie TNG, NNTC, St'at'imc, Secwepemc). Under the Transportation Act, MoTI is required to provide a fair competitive process when tendering works of this nature and this is the process which has been undertaken through for all of the new maintenance contracts.

Most communities without a larger partnership are not prepared to take on the full liability and bonding, which is required to undertake a direct maintenance contract.

MoTI and DRM will continue to work with communities, including SX to facilitate partnership, sub-contracting opportunities and building capacity. We could develop a plan to introduce training to the all Indigenous Communities on the bidding process and the work required, equipment etc. to be competitive in the next round of contracts.



## BRIEFING NOTE

### Briefing Premier Horgan on the South Island Multimodal Transportation Plan Location Premiers office

## Briefing Note

**What:** *Minister Trevena to brief Premier Horgan on the South Vancouver Island Multimodal Transportation Plan*

**Who:** Premier, Minister Trevena, DM Grant Main, ADM Kevin Richter, Deputy Director, Janelle Staite

### Executive Summary:

Work on the South Vancouver Island Multimodal Transportation Plan began in April 2019. The consultant has completed a major milestone, the “Transportation Snapshot” outlining the current and emerging issues as well as the opportunities in the region. The Plan is to be complete by spring 2020.

There are two related studies underway; a Malahat Detour Study and Island Corridor Railway condition assessment from Victoria to Courtenay including the costs of establishing commuter rail from Westshore to Esquimalt.

There is frustration regarding congestion resulting in public pressure for action to address transportation issues.

### Background:

The South Vancouver Island Multi-Modal Transportation Plan (referred to as the “Plan”) is a comprehensive assessment of the transportation challenges and possible solutions for the South Island. The Plan builds on the many previous transportation planning initiatives completed in the South Island and seeks to

## **BRIEFING NOTE**

### **Briefing Premier Horgan on the South Island Multimodal Transportation Plan Location Premiers office**

prioritize transportation system improvements across all modes of travel through the lens of updated provincial and regional priorities.

The planning is being done by Urban Systems Ltd. who were awarded the two-year \$950,000 contract in April 2019.

Work has begun on identifying and reviewing a wide range of opportunities to improve transportation. This includes new ideas as well as considering historical proposals such as a bridge from the Malahat to the peninsula and providing commuter rail on the Island rail corridor.

The consultant will analyze the many potential opportunities to determine which best address the identified needs in South Island. Overall strategies that best address regional needs will be developed consistent with the provincial mandates such as, CleanBC, affordable housing, and improved economic prosperity. The plan will seek to support the goals of the region which include, reduction of green house gas emissions, better integration of transportation networks and communities, safety and reliability and active transportation.

Traffic congestion and reliability in the Capital Regional District remains a top concern for residents and municipal governments in the CRD. The growing frustration is a major factor behind appeals to restore the E&N Rail Corridor for commuter train service and to establish a Malahat detour route. The Ministry has been criticized for undertaking another plan rather than taking action.

## **BRIEFING NOTE**

### **Briefing Premier Horgan on the South Island Multimodal Transportation Plan Location Premiers office**

Consultation is limited to First Nations and other specific stakeholders. Upcoming consultation includes:

- Malahat First Nation – Oct. 23<sup>rd</sup>
- Technical Advisory Group (representatives from each municipality, CRD, CVRD, BC Ferries and BC Transit)– Oct.29<sup>th</sup>
- Presentation to Victoria Regional Transit Commission – Nov 5<sup>th</sup>
- Presentation to CRD Transportation Committee – Nov 20<sup>th</sup>
- Presentation to the CVRD Board to be scheduled for late November

#### **Recommendations:**

- Continue work on the regional transportation plan to be delivered in the spring 2020.
- Beyond the overall strategies, the Plan should include reference to a sampling of specific projects to demonstrate it is an “action” plan.



## BRIEFING NOTE FOR INFORMATION

**DATE:** October 21, 2019  
**PREPARED FOR:** Honourable Claire Trevena, Minister of Transportation and Infrastructure  
**ISSUE:** Perimeter Seating Bus Enforcement

### SUMMARY:

**Perimeter Seating Bus changes and Passenger Transportation Branch enforcement of the industry.**

### BACKGROUND

- In October 2018, fines were quadrupled for perimeter seating buses (PSBs) and commercial vehicles that do not display valid decals showing they have passed a safety inspection. These fines are among the highest in Western Canada as they have increased from \$81 to \$318.
- Effective December 1, 2018, all PSB operators are required to obtain consent forms for every unaccompanied minor (under the age of 19). Also, effective April 1, 2019, all PSB operators must provide safety monitors anytime they transport an unaccompanied minor.
  - On March 20, 2019, an Industry Notice was posted on the Passenger Transportation Branch (PT Branch) website and sent by the Registrar of Passenger Transportation (the Registrar) by email to 79 PSB operators regarding these new requirements to ensure that minors are safe when riding on a party bus.
- To back up the new regulations, the PT Branch hired 6 additional enforcement officers this year (8 enforcement officers and 1 enforcement supervisor). The PT Branch, in cooperation with the Commercial Vehicle Safety Enforcement (CVSE) Branch, has dramatically ramped up enforcement of party buses in 2019.
- In March 2019, 33 vehicles were inspected in Cloverdale as part of a joint operation with CVSE, all of which were PSBs. 7 vehicles were ordered out of service, 25 vehicles with violations were found, and 1 vehicle passed the inspection. A total of 7 violation tickets were given out for offences ranging from the use of an electronic device to a defective vehicle.
- In April 2019, the PT Branch inspection campaign continued and included the first ever check on Vancouver Island. 14 vehicles were inspected, 4 were ordered out of service, 8 vehicles with violations were found, and 2 passed the inspections.
- In July 2019, the first check in over two years occurred in the Okanagan. 8 vehicles were inspected, and all 8 vehicles were found to have violations.
- On September 12, 2019, the PT Branch emailed approximately 408 industry contacts to advise of the new regulations soon coming into force. The Orders in Council outlining the regulatory changes were posted on the PT Branch's website in August 2019. PT Branch staff have also conducted educational sessions throughout the province for licensees, presenting on the new regulations to ensure licensee obligations are understood as well as answering any questions as needed.





- On September 16, 2019, new regulations came into force that allow the Registrar to issue driver violation tickets of up to \$5,000 for illegally operating a PSB, fines of up to \$100,000 per day for unlicensed companies illegally operating a PSB, and \$50,000 per day for licensed companies. Administrative penalties may also include the suspension or cancellation of a licence.
- *The Passenger Transportation Amendment Act* also allows the Registrar to conduct an audit or investigation to ensure compliance with the Act and the Passenger Transportation Regulation.
- The Passenger Transportation Board may also direct the Registrar to conduct an audit or investigation with respect to a licensee's terms and conditions. This includes investigating whether a licensee is a fit and proper person to provide a service, is operating within the specified fleet size and vehicle capacity, and is operating in compliance with the *Liquor Control and Licensing Act*.
- On October 7, 2019, an email was sent by the Registrar to 79 PSB operators advising of the new violation amounts and audit authority of the Registrar along with the March 20 Industry Notice attached as an additional reminder.

## DISCUSSION:

- On August 31, 2019, the Surrey RCMP Traffic Enforcement Team conducted a traffic stop with a Presidential Limousines' PSB. The bus was licensed for a maximum of 35 passengers but was found to have 40 intoxicated youth passengers on board, between 15 to 18 years-old. Officers also located open alcohol and did not allow the driver to continue operating the bus.
- Consequently, the driver was issued violation tickets by the RCMP for:
  - Failure to hold a municipal chauffeur's permit - \$109
  - Operating a vehicle with too many persons onboard - \$111
  - Liquor being present in the vehicle - \$230
- The bus operator during the August 31, 2019 incident was not a driver for the company and was instead doing a favor for the Licensee. There was no driver file, chauffeur's permit, driver's abstract or a signed company policy/safety plan that advises drivers of their responsibilities available for review. The driver did not check the passengers' identification, the Licensee had no safety monitors on board or scheduled for that day, and there were no signed consent forms for the minors on board. There were 40 confirmed passengers on board a vehicle licensed to hold 35 passengers.
- On September 22, 2019, Surrey RCMP stopped another vehicle operated by Presidential Limousines. The driver was in process of obtaining his Record Check Certificate, however one had not been issued yet. The driver had operated two or three times prior to this incident for the Licensee. The Licensee allowed the driver to operate their vehicle without a valid Record Check Certificate on file or displayed.
- The RCMP did not allow the driver to continue operating the bus and issued a violation ticket for failing to produce a chauffeur's permit (\$109). The RCMP arranged for taxis to bring the vehicle occupants home. The vehicle occupants were adults and no alcohol was found on the bus.



- On October 3, 2019, PT Branch staff, CVSE Carrier Safety Inspectors (CSIs), and Surrey RCMP met with Presidential Limousines and collected evidence to support the issuance of multiple violation tickets and administrative fines.
- Presidential Limousines has been advised of the gravity and seriousness of these two incidents and their responsibilities under the *Passenger Transportation Act* and Regulation, the *Motor Vehicle Act*, and *Liquor Control and Licensing Act*. Presidential Limousines will be issued:
  - *Motor Vehicle Act* Regulation tickets by a CSI the week of October 21, 2019 for:
    - Failure to maintain driver record - \$138
    - Failure to maintain records of violations - \$138
    - Failure to fill out a log at beginning of the day - \$138
  - *Passenger Transportation Act* tickets by a Passenger Transportation Enforcement Officer (PTEO) the week of October 21, 2019 for:
    - Failure to ensure compliance by drivers with requirements respecting records - \$575
    - Failure to issue Record Check Certificate to driver - \$288
  - Administrative fines by a PTEO for:
    - Exceeding carrying capacity limitations on a passenger transportation vehicle - \$250
    - Not adhering to filed rules - \$250
- On October 8, 2019, a follow-up inspection of 7 PSBs occurred at the Nordel Inspection Station in Delta. This inspection focused on 4 licensees that are all believed to be operating in a similar manner. All 7 vehicles were found to have mechanical violations.
  - 2 of the 7 vehicles were owned by Presidential Limousines. 1 of the vehicles was required to pass a Commercial Vehicle Inspection within 30 days of the check, and the other vehicle placed "Out of Service" for mechanical defects.
- On November 18, 2019, a compliance review of Presidential Limousines will occur. A CSI and PTEO will review their carrier records, safety plans, and record keeping practices. After the review, the CSI will develop an action plan to assist the company in complying with the National Safety Code and *Motor Vehicle Act* regulations. Based on the results of the compliance review, a complete audit of the company may be ordered, and additional fines or tickets may be recommended.
- On December 3 to 5, 2019, there will be a joint 3-day CVSE and PT Branch check of PSBs at the Nordel Inspection Station in Delta. Approximately 40 licensees will be contacted to attend the inspection. Presidential Limousines' vehicles that have not yet been inspected as well as any new vehicles they introduce into service will be ordered to attend that inspection.
- By the end of the year the PT Branch will have conducted more checks on PSBs in 2019 than were conducted in the previous three years combined.
  - 2016: one check in Delta: 24 vehicles inspected
  - 2017: one check in Burnaby: 27 vehicles inspected
  - 2018: one check in Burnaby: 26 vehicles inspected
  - 2019: four checks (Cloverdale, Vancouver Island, the Okanagan, and Delta) with 62 vehicles inspected
    - A fifth check is planned for December in Delta with approximately 40 licensees

## FINANCIAL IMPLICATIONS:



- There are no financial implications to the ministry. The value of tickets issued to Presidential Limousines by PT Branch staff is \$1,363 and by CVSE \$414. Surrey RCMP has issued the company tickets totalling approximately \$559. Costs to address mechanical defects on the vehicle are unknown.

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**INITIALS**

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## BRIEFING NOTE FOR INFORMATION

**DATE:** October 22, 2019

**PREPARED FOR:** Honourable Claire Trevena, Minister

**ISSUE:** Conclusion of Carrier Sekani Family Services contract for driver's education in the Highway 16 corridor

### SUMMARY:

- The ministry, along with the Ministry of Indigenous Relations and Reconciliation, has invested \$494,275 in Indigenous driver training with Carrier Sekani Family Services (October 2016 – present) and an earlier contract (December 2014 through March 2016).
- Ministry staff have been working with other ministries, and the federal government, to bring additional resources to Indigenous driver training – and to transition the training to organizations whose mandate better aligns with skills training and/or driver's education.

### BACKGROUND:

The province announced the Five-Point Transportation Action Plan for Highway 16 in December 2015. To date, \$8.1 million in provincial and federal funding has been committed or expended to expand safe transportation options in the corridor. The Action Plan was developed in response to the recommendations from the Missing Women Commission of Inquiry and the Highway of Tears Symposium.

An Indigenous drivers' education program, one of the five actions in the plan, was launched in early 2015, through a one-year direct award contract with Carrier Sekani Family Services (CSFS). In 2015, CSFS incurred cost overruns and an additional \$19,275 was paid. In 2016, the ministry, in partnership with the Ministry of Indigenous Relations and Reconciliation (MIRR), issued a Request for Proposals in 2016 for a contractor to deliver Indigenous driver education throughout the Highway 16 corridor between Prince George and Prince Rupert. Carrier Sekani Family Services (CSFS) submitted the successful bid and entered a contractual relationship (B below) in October 2016, to deliver Indigenous driver training along the Highway 16 corridor.

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Contract	Description	Amount	End Date
<b>A</b> Dec 2014 Nov 2016	Driver education, MOTI funded. Cost overruns, MOTI funded.	\$75,000 \$19,275	Mar 31, 2016 n/a
<b>B</b> Oct 2016  Jan 2018 Mar 2019	Driver education, MOTI and MIRR funded, \$75K each. Extended, MOTI (\$75K) and MIRR (\$175K). Extended to enable full utilization of budget (final extension allowed under MOTI RFP rules and contract language).	\$150,000  \$250,000 n/a	Dec 31, 2017  Mar 31, 2019 Dec 31, 2019, or budget fully expended
<b>TOTAL</b>		<b>\$494,275</b>	



## DISCUSSION:

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Ministry staff have been working with staff at the AEST, the Ministry of Social Development and Poverty Reduction (SDPR) and WEDC, to work with Indigenous communities to support Indigenous driver training. Collectively, these organizations bring a more comprehensive approach to driver training across the Highway 16 corridor and elsewhere. The partner ministries and the federal government are currently investing in Indigenous driver training projects within the Highway 16 corridor as follows:

- WEDC and SDPR are jointly funding (\$123,000 and \$53,544, respectively) the establishment of an Indigenous-owned and operated driver training school under the auspices of the Burns Lake Native Development Corporation; and
- AEST is investing \$360,000 in partnership with the Terrace-based All Nations Driving Academy to deliver driver training in remote Indigenous communities in the North Coast and Nechako regions.

With the most recent CSFS contract, more than 225 students from across the corridor have received training. MoTI staff are working with these partners to support Indigenous communities through the Highway 16 corridor. This work includes identifying students partially trained through the CSFS contract at the time of its lapsing. While it is difficult to determine exact numbers from the reporting that has occurred through the life of the contract, at least 60 individuals have received Class 4, 5 or 7 driver's licenses.

The ministry is working with CSFS to confirm final training and licensing numbers, which may be larger than those presented here to ensure a successful transition of these individuals to the new programs being delivered along the Highway 16 corridor.

**FINANCIAL IMPLICATIONS:** There is no funding identified within the ministry budget to support continued driver training and the proponent has fully utilized all funds previously made available.

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### INITIALS

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Page 69 of 89 to/à Page 71 of 89

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# BC Railway Company & BCR Properties Ltd. Real Estate Portfolio Overview

October 2019



# Current B.C. Rail Mandate

- **CN Revitalization Agreement**
- **Port Subdivision**
- **Holds key strategic land holdings and leases**
- **Real estate disposition - commercial mandate**
  - Nearly complete



# **Current Strategic Land Holdings**

- 1. BC Railway R-o-W**
- 2. Port Subdivision Railway**
- 3. Vancouver Wharves Marine Terminal**
- 4. Squamish Terminals**
- 5. Squamish Industrial Yard**
- 6. Prince George Industrial Lands**
- 7. Delta Farm Lands**
- 8. Arctos**
- 9. Takla Line**

# Surplus Property Dispositions

- BCRC Mandate (since 2004):
  - Retain ownership of strategic rail and port related lands
  - Dispose of all surplus (non-strategic) properties
  - Mandated that all property sales are done on a commercial basis to maximize financial returns to the Province

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Page 76 of 89

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# Remaining Surplus Real Estate Portfolio (Excluding Strategic Land Holdings)

- Remaining Surplus Lands – See attached... Table of Remaining Lands:
  - Industrial Leases
  - Vacant Linear Corridors
  - Vacant Lands

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Page 78 of 89 to/à Page 79 of 89

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## BRIEFING NOTE FOR DECISION

**DATE:** November 4, 2019

**PREPARED FOR:** Honourable Claire Trevena, Minister of Transportation and Infrastructure

**ISSUE:** Hwy 91/17 Upgrade Project Design-Build Agreement Scope Revision and Budget Increase

**RECOMMENDED OPTION:**

- **Approve submission to Treasury Board to:**
  - request increase to the gross Project budget by \$15 million from \$245.2 million to \$260.2 million
  - Increase the net provincial contribution within this budget by \$7.5 million from \$80 million to \$87.5 million and
  - proceed with Scenario 2 scope deferral.

**BACKGROUND:**

The 2016 Highway 91/17 Upgrade Project (Project) proposal was approved in 2016 with three key funding partners – the Province (through the Ministry), Infrastructure Canada (INFC) and the Vancouver Fraser Port Authority (VFPA). Under the VFPA funding agreement, VFPA and the Province share in Project cost overages 50/50.

The Project experienced approximately one year of approval delays from both the Province and VFPA through 2017 and 2018. During the delay period, the Project team undertook extensive field investigations and design reviews to mitigate cost risks where possible, including development of scope ladder options in the event Design-Build pricing was higher than expected. The Project team also engaged an independent third party to review the Project budget to confirm no issues prior to Design-Build procurement.

**DISCUSSION:**

The Design-Build procurement commenced in September 2018, with financial submissions in September 2019. 3 financial submissions were received and s.13; s.17

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**POLICY IMPLICATIONS:**

In summer 2018, prior to procurement commencement, determination was made that the Community Benefits Agreement (CBA) would not apply to the Project; Community Benefit objectives were incorporated into the Design-Build Agreement. The budget request has no impacts on the labour model.

**FINANCIAL IMPLICATIONS:**

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**OPTIONS:**

s.12; s.13



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**APPROVED / NOT APPROVED**

Honourable Claire Trevena  
Minister, Transportation and Infrastructure

Date \_\_\_\_\_

Attachments:

- Scope Scenario Plan Drawings – October 18, 9019
- Scope Scenario Summary Table – October 25, 2019

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## REVIEWED BY:

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## INITIALS

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Page 84 of 89 to/à Page 85 of 89

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Page 86 of 89 to/à Page 89 of 89

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