

## MEETING NOTE

**DATE:** October 3, 2022.

**PREPARED FOR:** Lori Halls, Deputy Minister, Land, Water and Resource Stewardship

**REGARDING:** Meeting with Sabrina Spencer, Vice President, Environment and Regulatory, British Columbia Council of Forest Industries regarding the status of Blueberry River (and how forestry is or is not showing up in those discussions), as well as the Ministry's plan for developing prospective shared decision-making frameworks for future land-use and resource decisions.

An introductory meeting with Linda Coady, President and CEO of the Council of Forest Industries is scheduled for October 14, 2022 with the Honourable Josie Osborne, Minister of Land, Water and Resource Stewardship (Cliff cross reference 28250). Note that Linda Coady may also be in attendance on October 7<sup>th</sup> therefore it may be an intro discussion with some sharing of background ahead of the minister meeting.

### INTRODUCTIONS:

Colin Ward, ADM  
David Muter, ADM  
Morgan Kennah, Executive Lead  
Brian Bawtinheimer, Executive Director

### SUMMARY:

#### COFI

- The British Columbia (BC) Council of Forest Industries (COFI) represents lumber, pulp and paper, and manufactured wood producers across the province. COFI advocates for the interests of its members and works with government, First Nations, communities, labour and other partners to promote a healthy, diversified, and sustainable forest industry that benefits people and families across BC.
- COFI members are typically the larger companies, whether they operate only in BC, Canada or multinational. Members may have forest tenure on Crown or private land, manufacturing facilities or both.
- Sabrina Spencer is Vice President, Environment and Regulatory Vice President, Environment and Regulatory, COFI since September 2021 (she previously practiced law at various law firms in BC).
- Sabrina was an original participant of the "Strategic Solutions Table" created with the PNG and forest sectors. She has kept in contact with Mike Hykaway and Morgan Kennah on the *Yahey v. BC* provincial response.
- Linda Coady is new to COFI, replacing Susan Yurkovich. Linda has a background in the forest (e.g., the formation of the Great Bear Rainforest) and PNG sectors.

### SHARED DECISION-MAKING FRAMEWORKS

- Section 7 of the Declaration on the Rights of Indigenous Peoples Act (Declaration Act) enables the Province and Indigenous governing bodies to enter into joint or consent-based decision-making agreements that recognize Indigenous decision-making within the provincial statutory decision-making framework.
- The Declaration Act provides mechanisms for joint decision-making and consent-based decision-making and ensures transparency and clarity in any joint decision-making or consent requirement processes. This will guarantee that businesses, project proponents, investors and others will know what is expected from the outset of the process.
- Any decision, whether by the Province alone or together with an Indigenous nation or Indigenous government, must be administratively fair and be able to withstand judicial review, if challenged.
- On August 2, 2022, the Government of British Columbia (BC) and the shíshálh Nation announced their intention to negotiate a joint decision-making agreement on private and commercial dock tenures issued under the Land Act within the shíshálh swiya (territory/birthplace/world).
- This agreement will be the first 'joint' shared decision-making approach under Section 7 (and the second Section 7 Agreement).
- The first Section 7 agreement under the Declaration Act was a consent-based model with the Tahltan Central Government on key decisions related to the Eskay Creek Revitalization Project.

#### STRATEGIC CONSIDERATION AND MESSAGES:

- LWRS recognizes that changes in forest policy and practices is rapidly changing in BC, and this includes new direction for old growth, and the impacts of climate change.
- LWRS welcomes regular communications with COFI to share ideas and information about LWRS priority work.
- LWRS will continue to work with Indigenous nations on various models that support strategic and collaborative management of lands and resources in BC. Such models include but are not limited to Modernized Land Use Plans and Indigenous Stewardship forums (the Environmental Stewardship Initiative and the Collaborative Stewardship Framework).
- Greater collaboration at the strategic level will reduce the focus on individual operational-level applications and projects.

#### PREPARED BY:

Monica Perry, Executive Director  
Land, Water and Resource Stewardship  
778-698-5756

#### REVIEWED BY:

	Initials	Date
DM		
ADM	CW	Oct. 3/22
Program Dir/Mgr.	MP	Oct 3, 2022

## MEETING NOTE

**DATE:** October 4, 2022

**PREPARED FOR:** Lori Halls, Deputy Minister, Ministry of Land, Water and Resource Stewardship

**REGARDING:** Meeting with Domenico Lannidinardo, Mosaic Forest Management, regarding Mosaic's climate initiative and forest land management

**INTRODUCTIONS:** Matt LeRoy, Executive Director, Strategic Land Use, Coast Area

### SUMMARY:

- Mosaic Forest Management, founded in 2018, provides forest and land management services for affiliated Timberwest and Island Timberlands, both long-term companies on Coastal British Columbia (BC).
- The company is owned by major Canadian pension funds (BC Investment Management Corporation and the Public Sector Pension Investment Board) and Brookfield Asset Management.
- Couverdon Real Estate is Mosaic's land development subsidiary.
- Mosaic is the province's largest private forest landowner, with the majority located on south-east Vancouver Island from the original Esquimalt and Nanaimo (E&N) railway land grant, with other areas on the southern mainland and Haida Gwaii.
- Mosaic has renewable-tenure Crown harvest rights to a further 700,000 m<sup>3</sup> on the Coast.
- Mosaic's private land is managed under the Private Managed Forest Land Act (PMFL), which is currently under public and stakeholder review.
- The first of the two phases of public engagement concluded in 2019. The top three themes of the 1,500 public responses include: the goals of PMFL do not result in sustainable forestry practices; key environmental/First Nation/community values are not protected; and there is a need to improve protection of old growth forests on private managed forest land.
- The lands managed by Mosaic on Vancouver Island are in the interface areas of major population centres and face pressures from multiple values.
- Concerns exist regarding impacts to water sustainability in drought-prone regions affecting communities, biodiversity management, species at risk present in drier ecosystem types such as the Coastal Douglas Fir, spiritual and recreational access, among others.
- Mosaic holds Tree Farm Licence (TFL) 47 which includes operating area in the Great Bear Rainforest as well as North Island Timber Supply Area including Quadra Island and portions of Vancouver Island. 'NAMGIS First Nation has expressed an interest in collaborative Integrated Resource Management Planning in TFL 47.
- The company has partnered with First Nation owned forestry companies but is challenged with finding operating areas due to First Nations interests including Treaty. Discussions are occurring with Ministry of Indigenous Relations and Reconciliation regarding these pressures.
- In March 2022, Mosaic announced it will defer logging of 40,000 hectares of old forest for 25 years through the BigCoast Forest Climate Initiative carbon credit program. A portion of the sale of the carbon credits from this initiative will fund the Pacific Salmon Foundation and the Indigenous Protected and Conserved Areas Innovation Program.

### STRATEGIC CONSIDERATION AND MESSAGES:

- Mosaic's public and private operations are certified, and the company takes a leadership role in public forest management, including with the BC Chief Forester's Leadership Team.
- Recreational groups and the public express dissatisfaction over Mosaic's gates and restricted roads which prevent access to Crown lands and waterbodies. However, some access agreements are being negotiated.

- Public review of PMFL has identified concerns regarding sustainable forestry practices and protection of values for First Nations, communities, and the environment.
- Mosaic has advocated for changes to log export restrictions and pricing, on the basis that the current process increases uncertainty in a business with a multi-decade investment horizon.
- Mosaic's recent carbon credit offsetting announcement is a great step towards protecting some of the most important old growth remnants on Vancouver Island.
- As a major land manager on the island, it's important for Mosaic and the Ministry of Land, Water and Resource Stewardship to strengthen relationships and information sharing opportunities to ensure that provincial and federal commitments and objectives for habitat stewardship, species-at-risk recovery/implementation plans, and old-growth management are understood and achieved across the land base.

**PREPARED BY:**

Pamela Silver  
Section Head - Resource Initiatives  
Strategic Land Use- Coast Area, West  
(250) 739-8343

**REVIEWED BY:**

	Initials	Date
DM		
ADM	DM	Oct 5, 2022
Program Dir/Mgr.	AM	Oct 4, 2022

## MEETING NOTE

**DATE:** October 11, 2022

**PREPARED FOR:** Lori Halls, Deputy Minister of Land, Water and Resource Stewardship

**REGARDING:** Meeting with David Kiemele, Linda Sams, and Vickie Savoie of Cermaq Canada Ltd., regarding Cermaq's Discovery Island and Transition Approach.

### INTRODUCTIONS:

**SUMMARY:** Cermaq Canada indicate that they wish to provide key updates that they have shared with Honourable Joyce Murray, Minister of Fisheries and Oceans Canada (DFO), and staff on their Discovery Islands decision approach and the broader 2025 transition planning. They have expressed that they also wish to discuss the Province's role in the transition process and the objectives they have with First Nation's Partners. Cermaq indicates they are taking what they consider a solution oriented and pro-active approach to the challenges facing the company and broader sector in BC.

Cermaq operates approximately 26 finfish aquaculture tenured sites in BC; the majority of which are in Clayoquot sound and surrounding areas. However approximately one third of their tenures are located within the Broughton Archipelago and Discovery Islands regions.

In June 2022, DFO announced that they would undertake engagement through the remainder of the year to determine whether the department would consider issuing licenses moving forward. The BC Salmon Farmers Association (BCSFA) recently wrote a letter to DFO expressing concern over a lack of responses from DFO to questions they submitted regarding the transition process. The letter emphasizes that there is a constrained timeline of engagement before a January 2023 DFO decision and expresses concern that the ability to respond in thoughtful and meaningful manner is compromised. Cermaq will likely wish to discuss this matter and their concerns.

Cermaq will likely wish to discuss their work with First Nations, and with Ahousaht First Nation, within whose territory they operate 14 sites. They have worked closely with the Ahousaht Nation to form an economic partnership operating under the Ahousaht Protocol Agreement and through the governance process of the Ahousaht Ha'wiih (Hereditary Chiefs) as represented by Maaqtusiis Hahoulthee Stewardship Society (MHSS). This is consistent with the provincial 2022 Salmon Aquaculture Policy. In Spring 2022, the two parties modernized and renewed this agreement for an additional five years. The new agreement focuses on reconciliation and wild salmon, area-based management, innovation, MHSS specific standards and broader environmental monitoring in recognition of changing ocean conditions, climate change and potential salmon farming impacts and opportunities. Cermaq likely sees this renewed agreement as a model that can achieve many of the desired outcomes of the federal 2025 Transition Plan. Therefore, they will likely wish to discuss this and seek provincial support for this type of approach in the transition planning.

Of note, DFO has recently approved expansion of three Cermaq Canada sites (Bawden Point, Millar Channel, and Dixon Bay) in Clayoquot Sound. It is likely Cermaq is looking to replace lost capacity in the Broughton/Discovery areas with increased density at existing sites. Cermaq is also piloting a semi-enclosed containment system at the Millar Channel farm within the territory. Cermaq has indicated to Ministry staff that while there are specific infrastructure requirements, the system is able to grow larger densities of fish while further minimizing sea-lice or pathogen interactions from wild salmon. Therefore, these actions may represent a larger strategy by Cermaq towards an area-based approach that reduces overall footprint of many sites into higher densities at fewer sites within regions that have explicit First Nations support.

## STRATEGIC CONSIDERATION AND MESSAGES:

- I thank you for your time to share information and perspectives around the Discovery islands engagement, the 2025 Transition Planning process, and your work with Nations.
- We are committed to working with all orders of government on an open-net pen salmon farm transition process that balances the protection of wild salmon, the environment, and the economy, and that meets our commitment to reconciliation with First Nations.
- Our government has been exceedingly clear about the need for a comprehensive federal support plan for First Nations and communities that rely on salmon aquaculture for their livelihoods, as well as for exploring innovative technology and economic opportunities for the industry in these regions.

### PREPARED BY:

Tyson Carswell  
Senior Policy Analyst  
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### REVIEWED BY:

	Initials	Date
ADM	JM	Oct 11, 2022
Program Dir/Mgr.	DT	Oct 11, 2022

## BRIEFING NOTE FOR INFORMATION

**DATE:** October 13, 2022  
**PREPARED FOR:** Lori Halls, Deputy Minister  
**ISSUE:** Initiating Engagement on Federal legislation regarding First Nations drinking water and source water protection

### BACKGROUND:

- Background provided in CLIFF # 28525 Re: Collaborative approaches to address source water protection mechanisms for access to safe drinking water on First Nations reserves (Attachments 1 and 2).
- In a letter dated July 29, 2022, Deputy Minister Lori Halls replied to Minister Hajdu on behalf of Minister Josie Osborne that the Ministry of Land, Water and Resource Stewardship (LWRS) would lead the discussions with federal counterparts on the development of federal regulations to ensure access to safe, clean and reliable drinking water and the effective treatment of wastewater on reserves on behalf of the province, supported by the Ministry of Indigenous Relations and Reconciliation (IRR) and the Ministry of Health (HLTH) Federal counterparts.

### DISCUSSION:

On July 29 Rebecca Blake, Acting Director of Legislation, Engagement and Regulations Directorate (water) emailed an initial invitation to an undisclosed list of recipients, followed by a second on October 10 to specific staff at MIRR, HLTH and LWRS (Attachment 3). Discussions will soon be scheduled, and funding opportunities explored further to inform advancement of this federal legislative imperative as well as the provincial Watershed Security Strategy and Fund and the upcoming provincial Source to Tap Strategy.

Indigenous Services Canada will seek to use existing forums, such as the Canadian Council of Ministers of the Environment's Water Management Committee, to which the Water Protection and Sustainability Branch is a member. In future discussions with federal counterparts, LWRS will inquire about the existing forums being engaged and if necessary, collaborate with federal colleagues to expand the list of forums and work on engagement efficiencies.

The First Nations Health Authority (FNHA) is likely to engage directly with the federal government on this initiative. LWRS staff in collaboration with HLTH will reach out to the regional Health Authorities (HAs) to discuss preferences for collaboration and engagement with federal counterparts. The HAs are anticipated to want to maintain their autonomy to engage with federal counterparts, but opportunity for LWRS to engage and collate responses from HAs will be explored further with them.

### INDIGENOUS PEOPLES:

In B.C. First Nations, ISC and the FNHA work in partnership to support the provision of safe drinking water for First Nation communities. HLTH collaborates with FNHA through the Drinking Water Leadership Council with the goal of aligning expectations for drinking water in First Nation communities with expectations for all communities across the province.

The FNHA is the health and wellness partner to over 200 diverse First Nations communities and citizens across BC. Dr. Daniele Behn-Smith works alongside Dr. Bonnie Henry, Provincial Health

Officer to provide independent advice and support to HLTH on Indigenous health issues. In support of the ministry's strategic agenda, Dr. Behn-Smith works in meaningful partnership with Indigenous collectives, communities, and organizations to advance wellness and disrupt colonial practices and policies.

Infrastructure funding is provided by ISC, First Nations operate and maintain water supply systems on reserves, and FNHA's Drinking Water Safety Program provides inspections, interpretation of drinking water quality results, training, public education, support for water monitoring, investigations of water-borne illnesses and reviews of plans for new or upgraded community water systems.

ISC is inviting the Assembly of First Nations, rights holders, and the Province and Territories to discuss options related to the development of source water protection. Aligned with Canada's efforts to advance reconciliation, the co-development of new proposed water legislation is intended to be reflective of First Nation interests. One of the key interests is the importance of source water and the need to take a watershed approach to protecting drinking water sources for all Canadians. This approach is well aligned with how the Province is co-developing the Watershed Security Strategy with Indigenous Peoples through in part, the Water Table as well as direct consultation.

#### NEXT STEPS:

- LWRS Water Protection and Sustainability Branch staff will take the lead in replying to Rebecca Blake with a positive intention to meet and coordinate the planning for an initial meeting with Federal counterparts including HLTH, Provincial Health Office (PHO) and IRR staff.
- As source water protection overlaps with the responsibilities and interests of other LWRS branches and provincial agencies such as Ministry of Forests and Ministry of Municipal Affairs, LWRS will also take the lead on identifying other provincial colleagues to be engaged.
- LWRS in collaboration with HLTH will engage with regional HAs on preferences for engagement.
- The BC Water Committee and the Assistant Deputy Minister Water Forum will support cross-agency communication and coordination of the Province's efforts to collaborate with federal counterparts on this initiative.

#### Attachment(s):

Attachment 1 28525 IN MJO\_Minister Hajdu\_Water and Waste Water Legislation\_Sept 21

Attachment 2 Backgrounder – Source Water Protection Discussions with Provinces and Territories

Attachment 3 Email: Engagement on source water protection to inform new drinking water legislation for First Nations

#### PREPARED BY:

Julia Berardinucci  
Director, Water Resources Stewardship  
Water Protection and Sustainability Branch  
778 698-4061

#### REVIEWED BY:

	Initials	Date
ADM	JM	Oct 14, 2022
Program Dir/Mgr.	TZ, GR, JE	Oct 13, 2022



**Attachment 3**

**From:** Blake, Rebecca <Rebecca.Blake@sac-isc.gc.ca>

**Sent:** July 29, 2022 11:05 AM

**Subject:** Engagement sur la protection des sources d'eau pour informer la nouvelle législation sur l'eau potable pour les Premières Nations / Engagement on source water protection to inform new drinking water legislation for First Nations

Good day,

As you may be aware, the Minister of Indigenous Services is reaching out to provincial and territorial Ministers of Indigenous and environmental portfolios to seek interest in discussions on source water protection to inform the development of new drinking water legislation for First Nations.

As part of our ongoing efforts on reconciliation, Canada is committed to making all reasonable efforts to develop and introduce new water and wastewater legislation, in consultation with First Nations, by December 31, 2022. As you may be aware, on December 22, 2021, the Federal Court and the Court of Queen's Bench of Manitoba jointly approved an agreement to settle class action litigation related to safe drinking water in First Nations communities.

Aligned with our country's efforts to advance reconciliation, the co-development of new proposed water legislation is intended to be reflective of First Nation interests. One of the key interests is the importance of source water and the need to take a watershed approach to protecting drinking water sources for all Canadians, irrespective of where they live in Canada.

In light of this historic Settlement Agreement, I invite you to discuss options related to the development of source water protection. Our conversations will inform the new proposed federal water legislation for First Nations that will apply on First Nations lands. This new legislation will replace the *Safe Drinking Water for First Nations Act* which was repealed in June 2022.

Respecting the inter-jurisdictional nature of source water protection issues, we are engaging all Provinces and Territories on this critical issue. To align with timing related to our engagement with First Nation partners, I would appreciate receiving confirmation of your interest by **August 5, 2022**.

I look forward to working with you on this critical issue. Our collaborative way forward, on issues such as source water protection, is intended to ensure the provision of clean, safe, and reliable drinking water supplies for all Canadians for generations to come.

Thank you kindly,  
Rebecca

Rebecca Blake  
Directrice par intérim | A/Director  
Direction de la loi, de la mobilisation et de la réglementation (l'eau) | Legislation, Engagement and Regulations Directorate (water)  
Direction générale des infrastructures communautaires | Community Infrastructure Branch



Secteur des opérations regionales | Regional Operations Sector  
Services aux Autochtones Canada | Indigenous Services Canada  
613-614-2013 | [Rebecca.Blake@sac-isc.gc.ca](mailto:Rebecca.Blake@sac-isc.gc.ca)

**From:** Blake, Rebecca <[Rebecca.Blake@sac-isc.gc.ca](mailto:Rebecca.Blake@sac-isc.gc.ca)>

**Sent:** October 7, 2022 2:07 PM

**To:** Belyea, Jeremy IRR:EX <[Jeremy.Belyea@gov.bc.ca](mailto:Jeremy.Belyea@gov.bc.ca)>; Cousins, Sabrina IRR:EX <[Sabrina.Cousins@gov.bc.ca](mailto:Sabrina.Cousins@gov.bc.ca)>; Filmer, Cam A IRR:EX <[Cam.Filmer@gov.bc.ca](mailto:Cam.Filmer@gov.bc.ca)>; Zimmerman, Ted LWRS:EX <[Ted.Zimmerman@gov.bc.ca](mailto:Ted.Zimmerman@gov.bc.ca)>; Moore, Sean LWRS:EX <[Sean.Moore@gov.bc.ca](mailto:Sean.Moore@gov.bc.ca)>; Berardinucci, Julia F LWRS:EX <[Julia.Berardinucci@gov.bc.ca](mailto:Julia.Berardinucci@gov.bc.ca)>; Russo, Geneen HLTH:EX <[Geneen.Russo@gov.bc.ca](mailto:Geneen.Russo@gov.bc.ca)>; Ospan, Aciemme HLTH:EX <[Aciemme.Ospan@gov.bc.ca](mailto:Aciemme.Ospan@gov.bc.ca)>; Fishwick, David HLTH:EX <[David.Fishwick@gov.bc.ca](mailto:David.Fishwick@gov.bc.ca)>

**Cc:** Piracha, Tariq <[Tariq.Piracha@sac-isc.gc.ca](mailto:Tariq.Piracha@sac-isc.gc.ca)>; Gobeil, Kathleen <[Kathleen.Gobeil@sac-isc.gc.ca](mailto:Kathleen.Gobeil@sac-isc.gc.ca)>

**Subject:** Source water discussions for new First Nations water legislation

Good afternoon all,

As you may be aware and aligned with attached correspondence, the Minister of Indigenous Services met with the Minister of Land, Water, and Resource Stewardship to discuss source water protection in relation to the development of new proposed First Nations water legislation. As a follow-up, we would like to meet to further discuss potential areas of mutual interest and opportunities in this space.

As way of context, on December 22, 2021, the Federal Court and the Court of Queen's Bench of Manitoba jointly approved an agreement to settle class action litigation related to safe drinking water in First Nations communities. As part of that agreement, Canada is committed to making all reasonable efforts to develop and introduce new proposed First Nations water legislation, in consultation with First Nations, by December 31, 2022.

Our co-development process with First Nations aims to help ensure that proposed new legislation is reflective of First Nations interests and one of the key interests we hear is the importance of clean source water.

Discussions with you could help us to better understand the current context of source water protection in your jurisdiction and help inform the development of new proposed federal water legislation that would apply on First Nations lands.

Please advise of your interest and availability, and we will set up a discussion.

Please don't hesitate to forward this email to other colleagues who may be interested.

Thank you kindly,  
Rebecca

## MEETING NOTE

**DATE:** September 21, 2022

**PREPARED FOR:** Honourable Josie Osborne, Minister of Land, Water and Resource Stewardship

**REGARDING:** Collaborative approaches to address source water protection mechanisms for access to safe drinking water on First Nations reserves

**INTRODUCTIONS:** Honourable Patty Hajdu, Minister of Indigenous Services

### SUMMARY:

- The Minister of Indigenous Services is conducting outreach to provincial and territorial ministers to discuss collaborative approaches to address source water protection and safe drinking water on First Nation reserves.
- While provinces and territories have regulations that support the provision of safe drinking water, there are no similar regulations for First Nations on reserve.
- The 2013 *Safe Drinking Water for First Nations Act* (the *Act*) enabled Canada to develop regulations to ensure access to safe, clean, and reliable drinking water and the effective treatment of wastewater on reserve.
  - Work on the development of regulations was paused in 2015 in response to First Nations' concerns with the *Act* and Canada's commitment to review laws and policies related to Indigenous Peoples.
- The Class Action Settlement Agreement on Safe Drinking Water for First Nations committed Canada to making all reasonable efforts to introduce legislation repealing the *Act*, which occurred on June 23, 2022.
  - Canada is committed to developing and introducing replacement legislation, in consultation with First Nations, by December 31, 2022.
- Indigenous Services Canada is engaging with First Nation governments and organizations to co-development proposed new water legislation.
- Canada is also engaging with provinces and territories to respect their jurisdictional responsibilities related to drinking water.
- The Ministry of Land, Water and Resource Stewardship (LWRS) has a key role to play in protecting drinking water in British Columbia (BC) by providing leadership and establishing interagency commitments across the natural resource sector on source water protection.

### STRATEGIC CONSIDERATION AND MESSAGES:

- Drinking water remains a cornerstone of public health and a priority for BC to ensure the wellbeing and safety of all people in the province.
- LWRS is leading the development of a Source to Tap Strategy to protect drinking water in partnership with Ministry of Health.
  - The Source to Tap Strategy will be critical to establish an integrated, multi-barrier approach and will cover, at a minimum, source protection, planning for emergency response, land use and risk mitigation; small water systems; clear monitoring and reporting; and treatment and distribution system infrastructure and financing.
- Drinking water is also central to the parallel development of the Watershed Security Strategy and Fund (WSSF), a key government priority and a mandate letter commitment for LWRS.
  - Engagement on the WSSF with First Nations indicated that drinking water protection is a priority for their communities and are looking to BC to facilitate connections with the Federal Government related to drinking water on reserves.
- BC is supportive of the creation of a proposed Canada Water Agency (CWA) and views it as an opportunity to reconfirm and improve the relationship between Canada and BC in meeting our shared responsibilities for water management.

- BC will look to the CWA to explore opportunities for alignment and resourcing as we develop our own water strategies.
- Reconciliation is central to this work and BC welcomes any opportunities to partner with the Federal Government and Indigenous governments
- BC is a signatory to the Mackenzie River Basin Board which has recently focused on strengthening governance with its Indigenous representatives. Ecosystem integrity, water security, and water quality have been brought forward by First Nations as critical priorities to be addressed by the Board

**PREPARED BY:**

Carys Pinches  
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Water Protection and Sustainability  
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**REVIEWED BY:**

	Initials	Date
DM	LH	Sept 16, 2022
ADM	JM	Sept 15, 2022
Program Dir/Mgr.	TZ	Sept 15, 2022

## Backgrounder – Source Water Protection Discussions with Provinces and Territories

Purpose: Minister of Indigenous Services outreach to Provincial and Territorial Ministers of Environment and Indigenous Reconciliation to discuss collaborative approaches to address source water protection mechanisms for access to safe drinking water on First Nations reserves.

Rationale: Provide a background summary ahead of Minister Patty Hajdu's outreach discussions with provincial and territorial ministers.

### Summary

- Ensuring lasting drinking water and wastewater infrastructure requires a modern and effective regulatory regime. While provinces and territories have regulations that support the provision of safe drinking water, there are no similar regulations for First Nations on reserve.
- The 2013 *Safe Drinking Water for First Nations Act* enabled Canada to develop regulations to ensure access to safe, clean and reliable drinking water and the effective treatment of wastewater on reserve. However, work on the development of regulations was paused in 2015 in response to First Nations' concerns with the Act and Canada's commitment to review laws and policies related to Indigenous Peoples.
- First Nation concerns with the 2013 Act included: lack of adequate, predictable and sustainable funding; non-recognition of Aboriginal water rights; potential infringements on Aboriginal and treaty rights; lack of proper protection of source water; and insufficient engagement.
- The court approved Class Action Settlement Agreement on Safe Drinking Water for First Nations commits Canada to making all reasonable efforts to introduce legislation repealing the 2013 *Safe Drinking Water for First Nations Act* by March 31, 2022 and to develop and introduce replacement legislation, in consultation with First Nations, by December 31, 2022. Through Budget 2022, the Government affirmed its commitment to repeal the 2013 Act and work with First Nations to develop replacement legislation.
- On June 23, 2022, the 2013 *Safe Drinking Water for First Nations Act* was repealed through the enactment of the *Budget Implementation Act, 2022, No. 1*. Indigenous Services Canada is engaging with First Nation governments and organizations to co-development proposed new water legislation.
- As source water protection is a key interest of First Nations and important in ensuring safe drinking water from source to tap, engagement with provinces and territories is critical to respecting provincial and territorial jurisdiction while advancing safe drinking water for all Canadians.
- Provincial and territorial views on the following will help shape the way forward:

- Opportunities (future or existing) to protect and/or remediate drinking water sources for human health and/or environmental protection that impact federal reserve lands.
- Opportunities (future or existing) to address First Nation transboundary water governance interests to protect and/or remediate drinking water sources for First Nations on reserve.
- Key priorities for provinces and territories related to source water to inform the identification of potential mutual areas of interest among all orders of government.
- Provincial and territorial views on potential legislative and/or regulatory gaps in relation to protecting drinking water sources for First Nations on reserve.

## Jones, Angela M WLRS:EX

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**From:** Mack, James LWRS:EX  
**Sent:** October 10, 2022 12:18 PM  
**To:** Halls, Lori D LWRS:EX  
**Cc:** Jones, Angela M LWRS:EX  
**Subject:** CLIFF # 28709 / Re: Federal Legislation on Safe Drinking Water for First Nations

s.22

We've only had the most preliminary of conversations.

In any case it will move quickly now - Angela you can task it out to me and Ted to do an info note update and a briefing. We'll bring appropriate staff

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**From:** Halls, Lori D LWRS:EX <Lori.D.Halls@gov.bc.ca>  
**Sent:** Monday, October 10, 2022 9:59:34 AM  
**To:** Mack, James LWRS:EX <James.Mack@gov.bc.ca>  
**Cc:** Jones, Angela M LWRS:EX <Angela.M.Jones@gov.bc.ca>  
**Subject:** Federal Legislation on Safe Drinking Water for First Nations

James

In our meeting with Minister Hajdu, she indicated that staff are working well together on the federal legislation re: safe drinking water for First Nations....given that the legislation will speak to provincial responsibilities re: source water.....I'd like to get a better sense of how the legislation is being developed....what if any opportunities there will be for federal \$s to address this issue, etc. Can you please let Angela and I know who to best brief me? I'd like 30 minutes or so before end of Oct. Thanks.

Lori Halls  
Deputy Minister  
Ministry of Land, Water and Resource Stewardship

## MEETING NOTE

**DATE:** October 21, 2022  
**PREPARED FOR:** Lori Halls, Deputy Minister; Ministry of Land, Water and Resource Stewardship  
**REGARDING:** Meeting with Skeena Resources Ltd regarding Eskay Creek Mine Revitalization  
**INTRODUCTIONS:** James Cuell, North Area Executive Director; Land Use Policy, Planning and Ecosystems Division

### SUMMARY:

- Skeena Resources Ltd (Skeena) is proposing to restart mining as an open pit at the past producing Eskay Creek underground mine, which operated from 1994 to 2008. The proposed new operation is called the Eskay Creek Revitalization Project (Eskay Creek), located in Tahltan territory in the Golden Triangle of Northwest British Columbia (B.C.).
- Skeena is a Canadian mining exploration and development firm whose main focus is Eskay Creek.
- The proposed open pit gold-silver mine would have an estimated total annual production of 2.5 million to 3 million tonnes over a 13 to 16 year mine life (construction to closure inclusive).
- On March 31, 2021, Skeena and the Tahltan Central Government (TCG) announced that they have entered into an investment agreement.
- TCG and B.C. signed the first consent-based decision-making agreement (Declaration on the Rights of Indigenous Peoples Act {DRIPA} Section 7) related to the Environmental Assessment (EA) for Eskay.
- Tahltan and B.C. community engagement on Eskay is to occur October 25-28 in Dease Lake, Iskut and Telegraph Creek.<sup>s.16</sup>
- The meeting between Skeena and Ministry of Land, Water and Resource Stewardship (LWRS) that was scheduled to occur at the Union of BC Municipalities convention in September was cancelled. The new meeting date is October 31, 2022.

### STRATEGIC CONSIDERATION AND MESSAGES:

s.13; s.16

- Acknowledge and support the efforts of Skeena, Tahltan and the Environmental Assessment Office towards a joint and coordinated community engagement plan that covers the course of the Eskay EA.

Attachment: EAO Project Summary Note – Eskay Creek Revitalization

#### PREPARED BY:

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#### REVIEWED BY:

	Initials	Date
ADM	DM	2022-10-25
Program Dir/Mgr.	JC	2022-10-21



**ENVIRONMENTAL ASSESSMENT OFFICE  
PROJECT SUMMARY NOTE**

**DATE: September 6, 2022**

**PROJECT: Eskay Creek Revitalization Project**

- Skeena is proposing to restart mining as an open pit at the past producing Eskay Creek underground mine, which operated from 1994 to 2008. The proposed new operation is called the Eskay Creek Revitalization Project (Eskay Creek).
- The proposed open pit gold-silver mine would have an estimated total annual production of 2.5 million to 3 million tonnes over a 13-to-16 year mine life (construction to closure inclusive).
- The project would use facilities and infrastructure from the existing Eskay Creek underground mine, use existing and new waste disposal locations, and construct new infrastructure including a mill.
- On March 31, 2021, Skeena and Tahltan Central Government announced that they have entered into an investment agreement.
- The Tahltan Central Government (Tahltan) and the Province of British Columbia (B.C.) signed the first consent-based decision-making agreement related to the environmental assessment (EAs) for Eskay Creek on June 6, 2022. was signed in June 2022.
- Eskay Creek has been designated as a reviewable project under the *Environmental Assessment Act* (2018) (the Act).

**STAGE IN B.C. EA: Early Engagement**

- Following a designation request from Tahltan Nation, the Chief Executive Assessment Officer (CEAO) designated the Eskay Creek Project as reviewable under Section 11 of the Act on July 30, 2021.
- The Early Engagement phase began July 30, 2021. A 30-day joint Public Comment Period on the IPD started on August 30, 2021, and two joint virtual open houses were held.
- The open house on September 16, 2021, had approximately 20 attendees from the public, located throughout B.C., Alaska and one from Saskatoon.
- On October 28, 2021, the Environmental Assessment Office (EAO) and the Agency issued the Joint Summary of Issues and Engagement (JSOIE).
- The Readiness Decision phase began on August 12, 2022, when the EAO accepted their Detailed Project Description (DPD). The EAO and Tahltan Readiness Decisions are anticipated to occur in mid-October.
- In preparation for the Process Planning phase, the first draft of the Eskay Creek hybrid Application Information Requirements (AIR) has undergone a review by technical advisors. A second review period on the AIR will occur during the Readiness Decision phase, likely in early-to-mid September. Although the Technical Advisory Committee is not yet officially formed, an initial Water Quality technical call has also been held by Skeena to present its preliminary water modelling plan.

**FEDERAL REVIEW:**

- The open pit mine application is expected to trigger a Federal Impact Assessment (IA). It is not possible for Skeena to seek an amendment to an existing federal IA decision.
- The EAO submitted a request to conduct a substituted environmental assessment on behalf of the federal government to the Agency on August 6, 2021. A federal decision is expected in September 2022.

#### **INDIGENOUS NATIONS AND OTHER GOVERNMENTS:**

- The mine site and waste rock storage facility are located with the traditional territory of Tahltan and the asserted traditional territory of Skii km Lax Ha. The transportation of concentrate on Highway 37 and 37A is located within the traditional territories of Nisga'a Nation and Gitanyow Nation.
- **Tahltan**
  - On November 5, 2021, the Joint Summary of Issues and Engagement identified Tahltan as a participating Indigenous nation for the Eskay Creek project.
  - The Province and Tahltan signed a Shared Prosperity Agreement in March 2020 and renewed June 2021, which sets out several interim strategies for advancing mining and exploration management, as well as a framework for negotiating a comprehensive reconciliation agreement.
  - The Ministries of Indigenous Relations and Reconciliation, EMLI, and the EAO negotiated a consent agreement with the Tahltan Nation related to the EA for Eskay Creek using Section 7 of the Act and Section 7(1)(b) of the *Declaration on the Rights of Indigenous Peoples Act*. The EAO, EMLI, and other provincial permitting agencies are working on coordinated regulatory processes with the Tahltan Central Government that will align with the consent agreement for Eskay Creek.
  - The EAO will be participating in Tahltan-led community engagement activities during the Readiness Decision phase, as required by the Section 7 agreement.
- **Nisga'a Lisims Government**
  - The Province is engaging Nisga'a Nation in accordance with Chapter 10 of the Nisga'a Final Agreement.
- **Gitanyow**
  - Gitanyow has elected not to engage in the provincial EA process and instead work directly with the proponent. Gitanyow has expressed an interest in piloting the Gitanyow Wilp Sustainability Assessment Process for the Eskay Creek project.
- **Tsetsault Skii Km Lax Ha (TSKLH)**
  - The Province is engaging with Skii km Lax Ha and providing notification at key milestones for Eskay Creek.
  - The EAO held a meeting with TSKLH on September 2, 2022 to discuss the Readiness Decision process.
- **Alaskan Tribes**
  - Seven Alaskan Tribes and the Southeastern Alaska Indigenous Transboundary Commission based on the proximity of the project to Alaska (approximately 20 kilometers). The Province will continue to provide notification at key milestones for Eskay Creek.
  - The EAO will engage the State of Alaska pursuant to the B.C.-Alaska Memorandum of Understanding and associated reciprocal procedures. Engagement and potential consultation with Alaskan Tribal Groups will follow evolving legal requirements and established best practices.
- **Metis Nation of British Columbia**
  - The granting of substitution by the Minister of Environment and Climate Change will require the Province to consult with Métis Nation of British Columbia (on behalf of the Government of Canada).

## KEY ISSUES AND STATUS OF RESOLUTION

Potential Technical Issue	Status of Resolution	Next Steps
<p>Key concerns raised during review of IPD:</p> <ul style="list-style-type: none"> <li>• Impacts to food security and social, cultural, economic, and environmental traditional practices and uses</li> <li>• Downstream concerns with salmon and hooligan [eulachon] fish populations</li> <li>• Avoidance of long-term treatment, and closure requirements</li> <li>• Potential impacts related to transportation of concentrate – trucking and shipping</li> </ul>	<p>The issues were responded to in the draft DPD and are being discussed further directly with reviewers and Indigenous nations.</p>	<p>The EAO will continue to facilitate meetings, review of memos, and other means to work towards resolution of these key concerns.</p>
<p>Coordination and alignment of multiple regulatory and decision-making process within the tight timelines targeted by the proponent (seeking decision on key authorizations by the end of 2024).</p>	<p>Working with the Impact Assessment Agency of Canada (the Agency) to seek to support a successful substitution request.</p> <p>Working with B.C. permitting agencies, Ministry of Energy, Mines and Low Carbon Innovation (EMLI), Ministry of Environment and Climate Change Strategy (ENV), Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD) and Tahltan to establish a regulatory coordination plan and supporting charter. The process will seek consensus throughout and allow for a consent indication prior to an EA decision.</p> <p>A full-day meeting was held with Skeena, Tahltan, EMLI, ENV, and the Environmental</p>	<p>The EAO is coordinating early engagement with the Agency and Tahltan. Additional meetings continue to be held with Skeena, EMLI, ENV to coordinate timelines with respect to the EA and permitting.</p>

	Assessment Office (EAO) on March 9, 2022, to understand Skeena's proposed timelines and to discuss best practices regarding effective and efficient regulatory reviews.	
Nisga'a Lisims Government (NLG) sent a letter to the EAO expressing concerns regarding increased truck and marine traffic. They state that a chapter 10, 8E/F assessment is required under the Treaty.	<p>The Agency and the EAO met with NLG and included text provided by NLG in the Joint Summary of Issues and Engagement. The scoping of the project is formalized in process planning.</p> <p>The EAO and the Agency have committed to upholding the requirements of the Nisga'a Final Agreement and continuing the ongoing conversation on this topic with NLG. The EAO has also encouraged Skeena to follow up with NLG.</p>	<p>A meeting to discuss in detail how best to meet the requirements of the Nisga'a Treaty, once Skeena's DPD and responses to the Joint Summary of Engagement has been received will be scheduled.</p> <p>s.13; s.16</p> <p>The EAO met with Nisga'a on August 12, 2022 to discuss Chapter 10 requirements, as well as the procedural aspects of the Section 7 agreement with Tahltan.</p>
Gitanyow Hereditary Chiefs (GHC) have requested that B.C. formally recognize its Wilp Sustainability Assessment Process (WSAP) and require it to be applied to projects in their territory.	<p>The EAO is coordinating with the Ministry of Indigenous Relations and Reconciliation (MIRR) on engagement with GCH to explore how the WSAP could potentially be applied to Eskay.</p> <p>The EAO and Agency presented during the June 28, 2022 Gitanyow Main Table. Gitanyow continues to opt out</p>	The EAO is working to schedule a meeting with GHC to discuss the WSAP and how it may be potentially applied to Eskay.

	of participating in the Eskay Creek project until the WSAP policy pieces are more finalized.	
Southeast Alaska Indigenous Transboundary Commission (SEITC) sent a letter to the EAO requesting to be a participating Indigenous nation and asserted S. 35 rights in B.C.	<p>The EAO is working with the Ministry of the Attorney General (MAG) and a B.C. interagency group on how to engage given the new assertions. The EAO is seeking more information from SEITC and is scheduling meetings to explore engagement approaches.</p> <p>EAO held a meeting with SEITC on July 8, 2022 to discuss its comments provided on the draft DPD, next steps in the EA, and upcoming EA timelines.</p>	The EAO met with SEITC on August 30, 2022, to discuss how its comments were addressed in the final DPD. SEITC informed the EAO they will be providing more information regarding the new assertions.

#### **SUMMARY OF OVERALL STATUS**

- The EAO is working with the Agency on the various planning aspects of the EA in accordance with the Canada-British Columbia Impact Assessment Cooperation Agreement.
- The EAO and Provincial permitting agencies are working closely with Tahltan Central Government on developing a coordinated regulatory process for the anticipated Eskay Creek assessment.
- Skeena Resources submitted its DPD in response to the JSOIE and informed by Tahltan's draft Application Information Requirements on August 10, 2022. The EAO accepted the DPD on August 12, 2022 to initiate the Readiness Decision phase. Anticipated date for Readiness Decision is early-to-mid October.

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## MEETING NOTE

**DATE:** October 25, 2022

**PREPARED FOR:** Lori Halls, Deputy Minister of Land, Water and Resource Stewardship

**REGARDING:** Meeting with Jill Atkey, CEO, BC Non-Profit Housing Association, regarding modernized land use planning

**INTRODUCTIONS:** Brian Bawtinheimer, Executive Director, Provincial Stewardship Strategies and Planning or  
David Muter, Assistant Deputy Minister, Land Use Policy, Planning and Ecosystems Division

### SUMMARY:

- The BC Non-Profit Housing Association (BCNPHA) was formed almost 30 years ago with the mission to strengthen British Columbia's (BC) non-profit housing sector through advocacy, education and support.
- Since then, BCNPHA has evolved, grown and made important contributions to the housing sector with an emphasis on increasing the amount and availability of low-cost housing solutions. Their vision is "a safe, secure and affordable home for all".
- Ministry of Lands, Water and Resource Stewardship (LWRS) leads on modernizing land use planning, which is the process of working in partnerships with First Nations and with the input of industry, organizations, local government, stakeholders and the public, to update public land direction to meet environmental, economic and reconciliation objectives.
- CEO Jill Atkey met Minister Osborne at September Union of British Columbia Municipalities meeting and requested an opportunity to explore how land use planning might connect with interests of BCNPHA.

### STRATEGIC CONSIDERATION AND MESSAGES:

- Most modernized land use planning projects are intended to update or modernize how public lands are used with strategic direction developed through provincial-Indigenous partnerships.
- Some projects will likely create significant shifts in natural resource economies but with the common theme of creating more stability and predictability for economic activities on the land base.
- LWRS is aware that changing economies can create uncertainty and economic challenges in resource dependent communities. Support mechanisms, such as government announcing \$185 million in community and worker support resulting from old growth deferrals, has been a component of how government will assist on transition pressures.
- For housing developments adjacent to natural waterways, many municipalities apply the Riparian Areas Protection Regulation (RAPR). RAPR provides practical guidance for development that balances the needs for conserving critical habitat (e.g., for salmon) as well as reducing flood risk. All municipalities are advised to incorporate riparian management.
- To further reduce risk to new housing developments, BC is updating the floodplain mapping which assists in determining appropriate housing locations.
- LWRS is very interested in sharing information with the BCNPHA on modernized land use planning and continuing to explore linkages between our initiatives.

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### REVIEWED BY:

	Initials	Date
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ADM – WFCPP	JM	Oct 31, 2022
Program Dir/Mgr.	BB	Oct 25 2022