

First Nations Regional Meeting—Major Gas Pipelines

Prince George Civic Centre

November 26, 2013

Meeting proceedings and summary of concerns

Disclaimer

This report summarizes a meeting held November 26th, 2013 in Prince George on the subject of proposed natural gas pipelines and facilities in the Environmental Assessment process. A number of First Nations and Provincial Government representatives attended. The contents of this summary are intended to reflect the broad range of questions and concerns raised by First Nations participants, and the discussions that occurred at the meeting. The comments captured here do not necessarily represent the views of each participating First Nation or of the Provincial government.

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Introduction

Meeting purpose

A number of natural gas pipeline and facilities projects that have been proposed for northern British Columbia have entered the Environmental Assessment (EA) process. First Nations engaged in EA processes across northern BC have been consistently raising questions relating to the projects. Many questions relate to the regulatory requirements of these projects, and to stewardship issues that apply across multiple First Nations communities and multiple natural gas projects.

In response, the Province organized regional technical workshops with northern First Nations, starting with a regional workshop in Prince George held November 26, 2013. Workshop invitees included First Nations represented on EA Working Groups, and provincial government staff from the Environmental Assessment Office (EAO), the Oil and Gas Commission (OGC), the Ministry of Forest, Lands, and Natural Resource Operations (MFLNRO), the Ministry of Aboriginal Relations and Reconciliation (MARR), and the Ministry of Natural Gas Development (MNGD).

The objectives of the first workshop were to provide:

- an overview of proposed natural gas projects (pipelines and facilities);
- an overview of the relevant regulatory processes and government initiatives related to the projects, how First Nations can participate in these processes, and how these processes consider known stewardship issues; and
- an opportunity for First Nations representatives to identify key issues of concern for further discussion.

Based on the questions raised by First Nations at the Prince George and other initial regional workshops, future workshops will be organized to provide information on specific topics of interest. The intent is to understand issues of interest to First Nations, and how these issues can be addressed in EA and OGC reviews, and inform provincial initiatives intended to respond to broader issues posed by the potential projects. Future workshop agendas will be developed collaboratively by the Province and First Nations.

Structure of this document

This document is intended to capture the key themes discussed at the meeting, and items for follow up. It provides a summary of meeting attendance and accompanies the presentations made by government representatives at the meeting, also circulated. The document is organized by themes rather than presenting a chronological summary. Each theme captures points made in an initial brainstorm of key concerns by First Nations participants; break-out groups discussions based on the brainstorm; and additional questions and discussion that occurred throughout the day often in response to presentations. Themes may overlap, so a comment included under one theme may apply elsewhere.

Attendance

Organization	Name
Carrier Sekani Tribal Council	Allen Edzerza, Karyn Sharp
Lake Babine Nation	Betty Patrick, Erica Austin, Joseph Gosnell Jr.
Lheidli T'enneh	Jackie Brown
Lheidli T'enneh	Elder Frank Frederick Sr. (meeting welcome).
Nadleh Whut'en First Nation	Larry Nooski
Nak'azdli First Nation	Adrienne Fitzpatrick, Angel Ransom
Saik'uz Band	Albert George
Skin Tyee	Adele Gooding
Stellat'en First Nation	David Luggi
Tl'azt'en Nation	Barry Duncan, Jessica Holmes, Simon John, Petrinia Monk, Ron Winser, Gord Sterritt (Upper Fraser Fisheries Conservation Alliance)
Wet'suwet'en First Nation	Nick Erickson
Yekooche First Nation	Allan Joseph, Art Erickson Sr, Dean Joseph, Partner Schielke, Rob Diaz
Environmental Assessment Office	Cory Waters, Nathan Braun, Audrey Roburn, Sara Wilson
Ministry of Aboriginal Relations and Reconciliation	Alex Gryzbowski, Jasmine Dadachanji, Katie Scott, Milt Wright, Sandra Lang, Ian Hollingshead
Ministry of Forests, Lands, and Natural Resource Operations	Gary Reay, Jeff Brown, Norm Bilodeau
Ministry of Forests, Lands, and Natural Resource Operations	Nicole Bilodeau (Facilitator)
Ministry of Natural Gas Development	Amy Avila
Oil and Gas Commission	James O'Hanley
Invited but not in attendance	Nee Tahi Buhn, Takla Lake, Tsay Keh Dene, Ts'il Kaz Koh (Burns Lake)

Presentations

EAO and OGC presentations (Please see pdf versions of the following presentations):

EAO LNG Workshop presentation_26Nov13 Prince George.pdf

- summary of natural gas projects in Environmental Assessment
- Environmental Assessment process

OGC EAO First Nations Workshop - Prince George.pdf

- OGC role in natural gas development
- typical pipeline construction and operations

ABA PCA Presentation EAO OGC Regional First Nations Workshops.pdf

- Area-Based Analysis and Pipeline Corridor Analysis tools

Summary of MARR Presentation

The Province is interested in reaching agreements with First Nations regarding these pipeline proposals. This is beyond the permitting and environmental assessment processes. The negotiated agreements are intended to secure FNs support for these projects, subject to regulatory processes and decisions, but do not replace project-specific consultations and accommodations.

Three key elements of an agreement are proposed:

1. Financial benefits
2. Stewardship
3. Skills and job training

Other elements may be discussed in these agreements. MARR would be interested in negotiating with First Nations either on a collective or individual basis; support First Nations exploring the option of collective negotiations.

There may still be stewardship concerns that go beyond the regulatory processes currently in place; would like to address these through the negotiations and agreements. These agreements would give First Nations certainty on what government is committing to, outside of the EA certificate and permit conditions that would be binding on the proponents. First step is framework agreement (includes initial funding to negotiate and hire people to negotiate), in place by February, 2014.

What stewardship elements may be beyond the EA process and permitting that may be of import?
Ideas:

1. Fish and wildlife enhancement
2. Ongoing monitoring of potential impacts and mitigation measures
3. Capacity to be lands officers within own nation's boundaries.

MARR would like to come to each Nation with an understanding of what might be involved in this process.

Themes arising during the workshop are:

1. Capacity and Funding / Regulatory Engagement
2. Consultation and Accommodation
3. Cultural Values
4. Cumulative Effects and Government Analysis Tools
5. Impacts on Wildlife and Fish Habitat
6. Other (capturing a range of issues)
7. Revenue Sharing
8. Strategic Engagement
9. Timeframes

There is a section for each theme, presented in alphabetical order. Each theme section includes comments made by First Nations participants (C); questions asked by First Nations participants (Q); responses provided by government representatives (R); concerns flagged during the initial brainstorm of concerns occurring in the morning; and the outcomes of break-out group discussions held in the afternoon.

1. Capacity and funding/engagement

Questions and discussion

C: There is a lack of capacity, funding and expertise in FNs to meet what is required in the EA process. Most First Nations are handling these EAs off the sides of our desks, and are under enormous pressure. We are inundated by requests: letters, meetings, funding proposals. How do we engage to meet these timelines? We don't want to miss the opportunity to intervene and say that we disagree.

Notes from break-out group discussions

- Inundated with applications—overwhelms our capacity to address that
- Need more funding to meet this challenge
- Don't have the "bodies"
- Needs to include "engagement" with proponent, government and First Nations not just capacity \$\$ (working together)
- Resources are too thin and stretched to many resource development areas not just LNG
- Difficult for First Nations to even hire "expertise" EAO and other funding not sufficient
- Deadlines are too restrictive (short)
- Forces First Nations to drop other priorities
- Too much input and info makes it too difficult to manage for First Nations (to engage with their community)
- Capacity should be reflective of revenue to government
- Continuity post-change in First Nations leadership is a challenge (transfer of info)

Options

- Have engagement and funding sooner to give First Nations more flexibility to adjust
- EAO to come to communities early (education to develop pool of capacity)
- Funding appropriate to demand e.g. expertise, negotiators, council
- Need all proponent parties as part of engagement and funding (i.e. not just pipeline company)
- Signing bonus
- Consider social impacts: education to proponent on community needs, communities need training for first responders, doctors/nurses, highway infrastructure.
- What emergency response systems are in place
- Capacity needs to reflect post-certificate process post construction and life of pipeline
- Skills training
- Own source revenue issue

Parking lot: Skills training

- Lots of young people, so want to train them to be prepared to be employed in the LNG industry

- Want use of local First Nations contractors by proponents

Brainstorm

- Reduce the paperwork flowing to First Nations offices
 - More visual/mapping
 - Electronic file transfers
- Having data sufficiency sessions on key topics during the pre-application period
- Structuring Working Groups to include more session on useful topics and a more meaningful role, starting from the scoping stage of assessment
- Adequate funding for EA process
- Ability for First Nations to effectively engage in technical activities greater resourcing for technical expertise.
- Funding to develop/support much needed capacity
- Money is biggest concern we get money to go meeting from company how pay people to meeting which is like you give money to Band for them to... (*remainder of note not legible to transcriber*)
- Adequate financial resources for meaningful participation and capacity for First Nations
- First Nations lack of capacity to participate in environment review

2. Consultation and Accommodation

Questions and Discussion

Q: What duty to consult has been delegated? What is your definition of consultation and accommodation?

C: A number of communities have been approached individually by the proponent, not Chief and Council. We are confused as to what is deemed official consultation and accommodation.

R: It is EAO's duty to consult as a representative of the Crown; the duty is ours not the proponent's. It is EAO's duty to

- Understand the project and its impacts on Aboriginal Interests (Aboriginal rights including title and Treaty rights.)
- Understand what consultation proponents have done, and what concerns have been voiced by First Nations communities to proponents
- Ensure consultation and accommodation occur and are adequate.

EAO delegates procedural aspects of consultation to proponents. Early in the EA process, proponents must develop an aboriginal consultation plan. Proponents are required to share the plan with First Nations before providing it to EAO. Proponents must tell EAO about any concerns about the plan raised by First Nations, and how these concerns are addressed.

Proponents are also required to submit a consultation report at least three times in the EA process: in Pre-Application, when the application is submitted, and in Application Review. At the Application Review stage there might be outstanding issues, which will be further considered by the Working Group or directly with the First Nation as appropriate. The consultation reports should be shared with First

Nations for feedback before being submitted to EAO. Proponents need to capture everything they have heard from the First Nations about issues raised, to the extent these concerns are not confidential, and describe what they are going to do about it.

The Environmental Assessment certificate includes conditions to address First Nations' concerns; in additional government might create requirements that transcend an application.

On the slide showing EA process (slide 9, **EAO LNG Workshop presentation_26Nov13 Prince George.pdf**), smaller arrows are set places in process where you would receive a letter. The two broader arrows capture areas of more continuous engagement; how this works is not fixed but depends on concerns and comments raised by each individual Nation.

Concerns respecting a specific project, should be directed to the project lead. If concerns apply to multiple projects, or you need help accessing the project leads, contact Cory Waters. (see slide 21, **EAO LNG Workshop presentation_26Nov13 Prince George.pdf**)

Where EAO sends information depends on whose contact information we have. The S.10 Order goes to First Nations we think could be impacted by a potential project; we ask for contact information for further correspondence on the project. In terms of the official definition of consultation and accommodation, because we want to get our response exactly right, EAO will follow up with the exact definition. The EAO is working through approvals on a guideline for proponents that explains what consultation and accommodation mean, which we will share.

Q: How does EAO direct proponents on what consult and accommodation is? In addition to S.11 and the process identified there, proponents are doing work on the ground, surveys, etc. and they don't need a certificate or permit to do the work. They are still causing destruction to land, CMTs, and other values. A lot of times they don't come and talk to people who actually know about these things. A number of subcontractors working for the main proponent out in the field doing work and they don't seem to have to report to anybody.

R: Exploratory work is permitted via OGC investigative use permits where required. You may have seen some permits from companies about to enter the formal EA process. Once a certificate approved, activity still can't take place until permitting is done.

See information on permitting of exploratory work in OGC presentation (**OGC EAO First Nations Workshop - Prince George.pdf**).

Q: Who receives the permit, the main proponent or the subcontractor? The main proponent needs to set the stage for subcontractors. Regardless of who gets the permit, how do you ensure consultation and accommodation gets met? One of the big concerns is DFO responsibilities, because one of pipelines goes across Babine river corridor, which is really critical among Carrier people. Why is DFO not involved in ensuring salmon is protected?

R: OGC is a single window regulator under provincial laws, but does not define federal involvement; DFO does its own work. DFO will be involved with any individual proposal that deals with fisheries and a fish stream, and is also involved in Environmental Assessment. Permits are issued to the proponent, not subcontractors, and in the upstream limited to companies that have tenure. OGC does not regulate

whether proponents are giving adequate direction to subcontractors, but the companies are held to the terms of their permits whether or not they subcontract. OGC does not delegate any of the required consultation to companies. DFO is also involved in these projects wherever they affect resources regulated under the federal *Fisheries Act*. This includes protection of salmon and their habitat.

Q: Does EAO have checklist for gathering information from First Nations that it will give to proponents and do they give them additional time to get the information if it is missing?

R: Checklist is AIR; sometimes Proponents will ask for more time if unforeseen issues arise within the 180 day review to give more time to obtain information.

Q: Can EAO prescribe accommodation measures within the EA review?

R: Yes, EAO can prescribe those. If they are applicable to the Proponent, EAO can assign the requirement to fulfill these to the Proponent via certificate conditions. If accommodation is outside of the purview of the Proponent, then the Province may have to take this on.

Q: How will EAO address the interests of First Nations on Schedule C? Nak'azdli is being consulted; neighbours are not, but the fish aren't limited by lines on a map.

R: EAO's Section 11 Order specifies the level of consultation being undertaken. Schedule B is deeper consultation; Schedule C is a lower level of consultation; EAO will meet with First Nations listed on Schedule C directly, but the Proponent is not required to meet with those First Nations. EAO does have to assess and consider impacts to those First Nations.

Q: How can the duty to consult be delegated to Companies? The duty rests with government.

R: The higher level duty to consult is with Crown. EAO delegates procedural aspects of the information gathering. EAO expects companies to report back on how and whether the concerns of First Nations are addressed.

Q: Is this meeting considered consultation?

R: There are different levels of consultation. The Courts have found that government does not clarify process very well, so this session is designed to clarify and to hear concerns and have a follow up. This is part of a consultation process, but it is too narrow to be enough to fulfill our entire duty to consult.

C: Regarding giving feedback in the EA process – we have been fairly unsatisfied on the incorporation of feedback and inclusion in the EA process (dAIR, s11 Order).

R: EAO runs the process and tries its best to include the feedback received, but also often has feedback pointing in several different directions. Sometimes it is a good idea to have one-on-one discussion of comments.

C: Aboriginal interests cover all five pillars, not just one; need to be involved in every single category.

Q: A question for OGC: are there best management practices that can be used from the Northeast?

R: EAO/OGC will request information from Treaty 8 First Nations that may help other First Nations engaging on these projects – perhaps related to engaging with companies.

Brainstorm

- OGC/EAO/FLNRO proactively engaging First Nations at the Investigative Use permit stage. If so, best practices.
- Define a process to involve First Nations right from the ‘get go’ not at an official EAO process.
- Aboriginal engagement and shared decisions in VC selection
- Early engagement of project(s) at the concept stage to build trust and relationship
- Ensuring all First Nations are engaged in EA process
- Effective EA process

3. Cultural Values

Q: If human remains are found during exploration or construction, what happens?

R: The Proponent must stop work and follow *Heritage Conservation Act* requirements (see Act: http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96187_01).

MARR provided the following information on the procedure:

http://www.for.gov.bc.ca/archaeology/policies/found_human_remains.htm

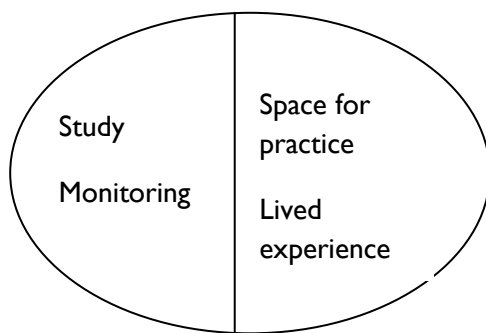
Some First Nations have made a requirement around this with companies, e.g. having a monitor on the ground during work.

Notes from break-out group discussion

- Sensitivity of information: how it is shared and interpreted: have been asked to identify areas and assign sensitivity scores, but doing so is a catch 22.
- Information loses context and meaning; holistic nature of information is broken down into parts
- Doesn't capture or take into account aboriginal land use (cycles, timeframes).
- Government looks at today's use only, e.g. trapline is only important if being used now. That's not how we look at it.
- Project goes through area of concentration of all key cultural values.
- Exploratory work has been going on without permits, and can cause harm to cultural sites/values.
- Issues with how proponents and subcontractors work with communities in gathering information, e.g. hiring cultural monitors without screening to verify that the monitors are well-informed.
- In choice of valued components, proponents have not consulted with communities, and feedback from First Nations does not get sufficient uptake.
- Timeframes don't always allow for adequate information to be gathered.
- Gathering information may involve several communities, which vary by season. Relies on elders who are knowledge holders, and it is very difficult to translate the language of the EA process (jargon, flow charts) for elders.
- Constant requirements to respond to applications and projects detract from First Nations' ability to practice cultural activities. First Nations are too busy quantifying their values for the purpose of

these processes and losing the cultural values in the meantime. The focus on book learning is relegating cultural practices to the weekend.

- Need revenue to be able to create opportunities and space to practice culture.
- Need hands-on skills building and training, mentoring.
- Also, how can proponents and others learn what specific cultural values really mean, by engaging in cultural practice? E.g. come out on the land, meet elders around the campfire.
- Create mutual understanding of First Nations culture so that it is not always First Nations quantifying and providing information to suit project/Crown needs. Strategies to develop mutual understanding of the land.
- Will help better communicate First Nations values outside of 'checklist' created by project information requests.



Brainstorm

- Strengthening requirements for integration of TLU/TK in AIRs that translate into meaningful TLU/TK in applications
- CMTs
- Cache pits
- Burial grounds remains, protocols for construction
- More fulsome and meaningful effects assessment on aboriginal rights and interests currently largely an afterthought in the AIRs we are reviewing and by extension the application we are likely to receive.

4. Cumulative effects and government analysis tools (e.g. Pipeline Corridor Analysis)

Questions and Discussion

R: Cumulative effects are required to be assessed for each project. The assessment is not just about 5 pipelines, but includes all projects within vicinity, described in the “projects inclusion list”. Each First Nation has an opportunity to provide information to EAO or directly to Proponent and will have opportunities to comment on/ critique anything which is missed, how it is assessed. Some projects have meetings specifically for wildlife / fish etc. and will include discussion of cumulative effects.

Province has started to develop an analysis tool called the Pipeline Corridor Analysis (PCA) to continue to refine, share, and discuss, looking at the entirety of the projects and what the Province knows about how projects would affect the landbase. Also, previous work done in the Northeast (Area-Based Analysis) has looked at cumulative impacts (see OGC presentation: **ABA PCA Presentation EAO OGC Regional First Nations Workshops**).

Q: Is this tool (the Pipeline Corridor Analysis) available on a disk or something?

R: Not yet as we're still reviewing internally for data accuracy. We agree to bring this back to First Nations early in the New Year.

Q: Any valued component has to have data to back it up. How do you accommodate TK that doesn't have a data set associated with it?

R: If have related data, or proxy value data, can do that (e.g. nesting under VC). If can't do either of those, we can't use this particular tool, but can look at it in a detailed sense by individual data collection and the EA and/or permitting process.

Q: We are concerned about water. How is it being addressed?

R: Tool is identifying stream crossings and riparian impacts, from proposed pipelines.

Q: But you don't have any data on groundwater?

R: We have some information on groundwater, but not across the Northeast. There was little data for the Liard basin. The Provincial government is developing a Northeast water strategy, which includes updating and upgrading provincial knowledge of groundwater.

Work that has been done in one area on groundwater-surface water interaction can inform work in new basins. OGC is developing a plan for baseline monitoring in the Northeast.

Q: There needs to be a groundwater database for the pipeline corridors as well. Salmon juveniles depend on upwellings in streams for thermal refuge and survival through winter months. Interruption of these upwelling sources through construction of a pipeline will have an impact on the salmon, and infringe on Aboriginal rights because of effects to the salmon resource.

R: The tool does not capture this issue. This kind of issue will likely be addressed at the site level rather than across the corridors.

Q: How are cumulative effects assessed; how are First Nations being inputted into these assessments and consideration?

Brainstorm

- Cumulative effects on those directly and indirectly affected

5. Impacts to wildlife and fish habitat

Questions and discussion

Q: With all these pipelines crossing over First Nations lands, how many times would they cross spawning grounds?

Q: Are pipeline EAs considering SARA listing?

R: Yes; Species at risk would come into Valued Component Analysis in EA.

Q: Do you (OGC) deal with other provincial or state governments in terms of how they deal with water; flaring, gas contamination of tapwater?

R: The OGC is a member of Interstate Oil and Gas Compact Commission, an organization involving federal, state and provincial oil and gas regulators from North America. That group is very active in sharing information related to oil and gas activities from a regulator perspective.

Notes from break-out group discussion

- Concern on impacts of groundwater- fish habitat and wildlife habitat
- Changes of wildlife routes and patterns due to right of ways/corridors
- Access opened to hunters from out of area, limiting access for locals (e.g. to trap lines)
- Corridors creating water streams; underground streams which will not come back
- Facilitation of First Nations assessments of species status
- Impacts of air quality due to compressor station burn off.

Brainstorm

- Impacts to water and Water Sustainability Act amendments (spring 2014)
- Water
- Species at risk
- It will affect all species of wildlife water beds.streams
- Easy access to hunter/public
- Spawning grounds for salmon, char, etc

6. Other

Questions and Discussion

Q: Are site visits a part of the EA process?

R: They should be. It's up to proponent to initiate these.

Q: Health and welfare are an issue for our Nation, with 4 doctors for 7000 people. Need crews to put in lines; need to consider how the influx of population affects infrastructure including health and education. Also need to think about lagoons for waste disposal. With more people need to deal with waste management.

R: Each of these items will be studied through the EA process and Proponents will have to track and respond to these concerns.

Q: Are there plans for exploration and gas extraction to move along the pipeline corridor?

R: There are other reserves that continues into plains of Alberta and Saskatchewan, as well as other undeveloped basins in BC, e.g. Bowser basin (coal bed methane), Nechako. OGC is not seeing any applications in those areas, and there are no plans in those areas that we know of in the foreseeable future.

Natural gas development depends on lots of factors, but the availability of gas in North America is greater than can be used. The technology that enables previously inaccessible areas to be tapped is leading to a surplus of gas in North America now.

Q: LNG is not an endless resource. Asia wants LNG for energy. We have to think about our own energy supply, about energy security.

R: That is one of the factors that the National Energy Board thinks about when considering whether to grant an export permit.

Notes from break-out group discussion (focused on infrastructure):

- Impacts of overpopulation close to communities
- Impacts on systems (health-violence, emergency response, drugs/alcohol use) → capacity?
- Infrastructure of highways because of overuse—maintenance
- Right of way or new roads (ROW) on a pipeline corridor → How affect First Nations rights (triplines)
- Federal funding not be affected by revenue-sharing= OSR (own source revenue)
- What to do with existing pipelines (and their expansion [PNG])

Brainstorm

- Who will roll in the \$ from the trees of the line?
- Exploratory work
- It will affect my grow-op and my Moonshining
- More input upon health and welfare
- Impacts to schools, sewage treatment; having enough with increased population
- Who will be in charge of keeping the line clear year round?
- First Nations rights already constrained, how going to ensure further impacts do not increase those constraints

7. Revenue sharing

Questions and discussion

Q: Framework agreement presentation reference to financial benefits – is this revenue sharing? We need more information at multiple levels.

C: EAO should get notes from the LNG summit held in Prince George in October hosted by CSTC. The Summit was representative of what was identified here, and more. Revenue-sharing was a main issue from the Summit. Beyond seasonal jobs and training, First Nations want to be part of the overall revenue-sharing of whatever project is completed. This is not to imply that any individual First Nation supports any of these projects, but we have to be realistic given the major financial backing and investment in these projects.

Notes from break-out group discussion

- Revenue sharing with First Nations should be on par with Municipal Governments
- First Nations need to be at the table to discuss revenue sharing with Province and proponent
- “nothing about us without us”
- First Nations must meet/discuss revenue with the “owner” of the LNG (Gas company vs pipeline)
- FNs are an absent stakeholder.
- Decisions are being made without us
- First Nations need to be recognized as a decision maker
- Premier made a ‘deal’ with Alberta without First Nations input
- Phony negotiations—tired of divide and conquer
- First Nations need to be engaged at the concept stage of projects and included in conversations between BC Government and proponents
- Revenue opportunities need to be more equitable
- Government is cutting funding and this is an opportunity to generate revenue and have a growing population to support
- Not anti-development, but support sustainable development as stewards of the renewable resources
- First Nations to be recognized as owners of the resource and revenue based on extraction rather than flow through \$ tied to revenue.

Brainstorm

- Revenue-sharing process—determining amounts etc.—consultation

8. Strategic Engagement

Questions and discussion

A Saik’uz First Nation representative provided EAO with a protocol for working with Saik’uz First Nation.

Q: Who is the “proponent”? Is it the pipeline company or is their clients? Their clients who own and sell the gas should be at the table too; where are they included in the process?

R: In the EA process, the proponent is the company that will own the pipe, as they have legal responsibility for the pipe.

Q: EAO and OGC have a protocol agreement, and OGC has agreements with First Nations in the Northeast (process, timeframes, resourcing). Will OGC have similar MOUs (*Memorandums of Understanding*) with First Nations across BC?

R: There are also Memorandums of Understanding with other government agencies. The one with EAO is very specifically about OGC participation in EA processes and vice versa. OGC has the opportunity to review conditions that might be applied, and EAO has the opportunity to review permits. The agreements in the Northeast are not MOUs. They are consultation process agreements. They don't change consultation requirements, but offer specifics e.g. response timelines, dispute resolution and capacity funding. These agreements came from government and industry wanting a more timely process, which they are willing to pay for. OGC can still do consultation without a consultation agreement, based on the rules the Courts have defined. It's up to government, First Nations and industry if they decide they want something different.

Q: EA process is lacking face to face consultation. When will the Minister be here to talk with First Nations about carving up their territories? We want the Minister to come speak to our community.

R: EAO Project Leads are delegated decision-makers up to the stage of Ministerial decision on a project. Similar to how EAs have happened elsewhere, and is done in federal panels, delegated decision makers receive information required to assess the project, and are responsible for going to communities and consulting, although the structure is different from a formal hearing. We would like to hear from you about how you would like to engage.

EAO will bring back to government the request to meet with Ministers, including the Premier.

Q: When Projects are under review, if a specific number / percentage of First Nations disapprove of the Project would it prevent it from proceeding?

A: There is no "number". EAO is responsible for providing final discussion and presentation of the assessment to Ministers for decision.

C: First Nations have decision making responsibility for the land, including shared decision making, shared revenue for works on the land. Link to G-to-G in the spirit of the New Relationship.

C: Land alienation needs to be addressed in a G-to-G process that includes Chiefs and Leadership in discussion. Needs to address compensation.

C: What do you mean by cumulative effects and other technical phrases? We need to negotiate what is meant by cumulative effects.

C: There is a level of mistrust about what is going on here – Premier has made these projects her campaign platform. There is a sense that some of these projects are already a done deal. Leadership should be coming from the Premier.

Q: Many FNs are in Treaty negotiations. How can this be captured within the Framework agreement processes?

R: Framework agreements are not meant to impact Treaty Negotiations; these are drafts tabled with Nations for further discussion.

Notes from break-out group discussions

· Government to government relation instead of government to Nation. Want to talk to Premier

- Early discussion/engagement between all First Nations leadership and industry leaders and government decision-makers.
- Premier needs to demonstrate leadership towards individual First Nations
- Compressed timelines by industry are difficult for First Nations to review and resource and meaningful consultation is not possible
- Strategic engagement revenue sharing

Brainstorm

- Having federal rules, regulation, legislation at having major gas owners engaged at all levels of negotiations
- Definition of a proponent
- How many First Nations directly affected
- Right of way = land alienation
- Lack of representation of decision makers in the process government to government
- This brings more pressure on Treaty re overlaps
- Getting decision-makers out into the field to talk to affected communities

9. Timeframes

Questions and discussion

Q: How can a project be predicted to complete the process within only a year, when others take much longer?

Q: Can government tell a proponent that the duty to consult can't be met because the timeline is too short?

R: There are a number of steps that must be completed in the pre-application stage, and timing depends on the proponent's readiness and how they work with individual First Nations, government agencies, and others. Once a project is in Application Review, there is a 180 day timeframe to complete the review. There is a large range in project EAO timeframes. Sometimes suspensions are issued because the proponent hasn't completed the necessary work to move forward in the EA process.

C: I would like to see where each project is in the EA process on a diagram, with clarity on where there are opportunities for First Nations to intervene and present challenges on the process. Some projects are already well underway and we missed a sensitive timeline. If at any point we miss intervening, First Nations can challenge EAs in court.

C: The timeline and amount of funding received is a concern for us. The future of our children is one of the most important things; we need to ensure that we people here today do things right. We are trying to hire people, whether negotiators or legal technical advice, to ensure that doing things properly and addressing the mandate from our people.

We the First Nations people should be telling the government and industry how many days we need to do this right. We need to have our people there monitoring and seeing that things are being done properly.

Q: Can FNs ask for more time to review these proposals?

R: This is a concern EAO has heard often. EAO can consider these requests on a case-by-case basis, but can only consider this within the window of legislated timeframes.

C: Would like EAO to follow up regarding timelines which are sufficient to allow proper consideration of the proposed projects by First Nations. ‘

Brainstorm

- Track/monitor where all pipeline projects are at under the EAO process. Important to keep First Nations up to date and involved.
- Timeline of project

Closing and Next Steps

Brief discussion of the day

C: The day was cluttered – there was limited time for discussion. It was too chopped up and picky on the time.

C: Not sure what will result from this session – tired of meetings and discussing the same thing. Want to move on to action; less talking.

C: As a next step, want to understand who is for and who is against, the different views and concerns of First Nations to collectively take action.

C: Bringing First Nations together is a good idea– it’s great to have break-out sessions and observe and capture some questions yourself.

Q: Good to have groups come together, but how does this affect policy and how does this make change? EA process is not friendly to First Nations. Concerned that will miss the opportunity for feedback at a critical point and it will be seen as agreement.

R: This kind of setting is designed to provide more cross dialogue between First Nations outside of Working Groups. Want to come back to First Nations to address common issues so that individual First Nations don’t have to re-visit these again on a project-specific basis. And yes, it is difficult to address your concerns if we don’t receive feedback.

The proposed natural gas pipelines could not be converted to oil pipelines. Pipeline engineering is not at all the same – moving oil on the kinds of slopes these gas pipelines are proposing is technically not feasible.

Next steps

The Canadian Energy Pipelines Association (CEPA) may be able to provide community information meetings. May be able to bring in technical experts to do those sessions.

C: First Nations would like to have a community presentation on fracking; something balanced about what is involved. Would also be interested in presentations on EA and pipelines.

Follow up commitments

- Distribute pdf map (EAO)
- Distribute powerpoint presentations (EAO)
- Follow up re definition of consultation and accommodation; distribute to group (EAO)
- Distribute notes from today's session (EAO)
- Distribute information on process for dealing with burial grounds (MARR –see weblink above)
- Explore potential for community presentations on pipelines and on fracking (EAO, OGC)
- Request information related to best practices in Northeast BC (EAO, OGC)
- Get a copy of notes from LNG Summit hosted by CSTC in Prince George in October (MARR).
- Develop future agendas collaboratively, by circulating draft agenda for review and input (EAO; meetings for late January-early February)
- Carry forward request from First Nations for Ministers and Premier to meet with communities to discuss proposed natural gas projects (EAO)
- Circulate diagram showing where each natural gas project is in EA process in relation to opportunities for First Nations to comment (EAO)
- BC to communicate FN concerns relating to own source revenue impacts posed by projects to federal government (MARR).