PROJECT AGREEMENT FOR THE CANPOTEX POTASH EXPORT TERMINAL AND THE RIDLEY ISLAND ROAD, RAIL AND UTILITY CORRIDOR PROJECT IN BRITISH COLUMBIA

PREAMBLE

WHEREAS the Government of Canada is committed to improving the federal environmental assessment (EA) and regulatory review processes for major resource projects to enable a more effective assessment and mitigation of potential environmental effects, while protecting the health and safety of Canadians and promoting innovation and competitiveness within the Canadian resource industry sectors;

AND WHEREAS the Government of Canada is committed to undertaking a process of early, effective and meaningful engagement and consultation with Canada's Aboriginal peoples concerning contemplated Crown conduct with respect to, among other things, major resource projects that may adversely affect established or potential Aboriginal and treaty rights under Section 35 of the *Constitution Act, 1982*;

AND WHEREAS the Government of Canada has created the Major Projects Management Office (MPMO) for the purpose of overseeing and tracking the federal review and Aboriginal engagement and consultation for major resource projects;

AND WHEREAS Canpotex Terminals Limited and the Prince Rupert Port Authority (the Proponents) have submitted a Project Description in support of their proposals to construct a potash export terminal and a road, rail and utility corridor on Ridley Island in the Port of Prince Rupert, British Columbia;

AND WHEREAS Fisheries and Oceans Canada (DFO), Transport Canada (TC), Environment Canada (EC) and the Prince Rupert Port Authority (PRPA) have regulatory and statutory duties in relation to the proposed project;

AND WHEREAS DFO, TC, EC and the PRPA have commenced a comprehensive study pursuant to the *Canadian Environmental Assessment Act* (CEAA);

AND WHEREAS nothing in this Project Agreement (the Agreement) fetters the powers, statutory authorities and functions of federal departments/agencies and their respective Ministers;

NOW THEREFORE the signatories (the Parties) to this Agreement commit to work together to facilitate an effective, accountable, transparent, timely and predictable federal review in relation to the proposed project and to contribute to fulfill the duty to consult with Aboriginal groups.

1.0 PURPOSE

This Agreement[1] describes the main activities of the federal review and outlines the key roles and responsibilities of the Parties. For further clarity, the Agreement shall be read together with the Annexes, which form part of this Agreement. The federal review includes EA, regulatory reviews and Aboriginal engagement and consultation activities.

2.0 PROJECT DESCRIPTION

Canpotex Terminals Limited's proposed project consists of the construction and operation of a new potash export terminal on Ridley Island in the port of Prince Rupert, BC. The project will be capable of exporting 13 million tonnes per year of potash at full build-out. The proposal consists of a deepwater marine wharf and access trestle, a 120,000 tonne potash storage shed with associated conveyor and dust collection systems, an automated railcar unloading and conveyor system and a settlement pond for storm water and wash down water.

The PRPA's Road, Rail and Utility Corridor proposal consists of an approximately 7.6 km rail loop, an approximately 3.4 km 69 kV powerline connecting Ridley Island and the Canpotex Terminal to the existing power transmission system and an access road with a rail overpass and underpass.

The combined project (the project) will be located on approximately 55 hectares of land and an approximately 13.5 hectare water lot. The federal land is managed by the Prince Rupert Port Authority.

3.0 ROLES AND RESPONSIBILITIES

Based on the information provided by the Proponents, the following federal departments and agencies have identified an interest in the Project, and will participate in the federal review as follows:

- DFO has regulatory and statutory responsibilities under the *Fisheries Act* and, pursuant to the CEAA, is a Responsible Authority (RA). DFO may be in possession of specialist or expert information or knowledge with respect to the Project and, on request, shall make available that information or knowledge to RAs;

- TC has regulatory and statutory responsibilities under the *Navigable Waters Protection Act* (NWPA) and, pursuant to the CEAA, is an RA. TC requires a Navigation Impact Assessment (NIA) to be completed as a component of the EA. To complete the NIA and make its EA decision, TC requires all the information described in the NWPA application form. In order to meet the timelines in this Agreement this information must be submitted no later than the time of submission of the Environmental Impact Statement (EIS). TC may be in possession of specialist or expert information or knowledge with respect to the Project and, on request, shall make available that information or knowledge to RAs;

[1] Elements of this Agreement (e.g. the scope of project, scope of assessment) may need adjustment in light of the Judgment of the Supreme Court of Canada in *MiningWatch v. Minister of Fisheries and Oceans*.

- EC has regulatory and statutory responsibilities under the *Canadian Environmental Protection Act, 1999* (CEPA, 1999) and, pursuant to the CEAA, is an RA. EC may be in possession of specialist or expert information or knowledge with respect to the Project and, on request, shall make available that information or knowledge to RAs*;*

- PRPA has regulatory and statutory responsibilities under the *Canada Marine Act* and, pursuant to section 3 of the Canada Port Authority Environmental Assessment Regulations, is a prescribed authority. The PRPA may be in possession of specialist or expert information or knowledge with respect to the Project and, on request, shall make available that information or knowledge to RAs. To the extent of their statutory responsibilities, the PRPA will be considered a Responsible Authority;

- Health Canada (HC) is a federal authority pursuant to the CEAA and may be in possession of specialist or expert information or knowledge with respect to the Project (expert FA) and, upon request, shall make available that information or knowledge to the RAs;

- Indian and Northern Affairs Canada (INAC) has advisory responsibilities to support the Government of Canada's Aboriginal engagement and consultation activities in relation to the Project;

- The Canadian Environmental Assessment Agency (CEA Agency) has administrative and advisory responsibilities pursuant to the CEAA in support of the EA. The CEA Agency will act as the EA Manager and the Crown Consultation Coordinator (CCC) for the EA in relation to the Project; and,

- The MPMO has administrative and advisory responsibilities under the *Cabinet Directive on Improving the Performance of the Regulatory System for Major Resource Projects* and the associated Memorandum of Understanding (MOU). The MPMO will provide oversight and advice throughout the entire federal review in relation to the Project to ensure adherence to the service standards and roles and responsibilities of all Parties.

For further information regarding the roles and responsibilities of the Parties, please see applicable Annexes.

4.0 FEDERAL REVIEW PROCESS

The proposed scope of the Project includes the construction, operation, modification and decommissioning of the following Project components and activities:

Onshore Facilities:

- Subject to further information to be provided by the Proponents, the approximately 7.6km rail loop/ access road corridor located on lands managed by PRPA;
- The operation of locomotives on the rail loop from the point of exiting and re-entering the Canadian National Railway mainline;
- The approximately 120,000 tonne capacity potash storage building;
- The approximately 6000 tph belt conveyor system and surge bin;
- The dust collection system;
- The storm/ washdown water collection and two stage settling pond treatment system;

- Subject to further information to be provided by the Proponents, the new approximately 3.4km 69 kV powerline; and,
- The use and operation of land disposal sites at the PRPA's disposal site on Ridley Island, related to the project.

Marine Facilities:

- The approximately 925m long berth access trestle;
- Dredging activities in relation to the, wharf structure, and any other project components;
- The marine wharf including access to the construction site;
- The marine outfall;
- The operation of vessels while berthing and berthed at the marine terminal and while within harbour limits of the PRPA; and,
- The loading, transportation, and disposal of dredged materials at an approved ocean disposal site.

Temporary Structures:

- On-site and off-site fabrication/construction sites and temporary on-site and off-site service facilities;
- Any barge facilities/ landings/ lay down areas related to this Project; and,
- Any new quarries developed by the Proponents for supplying materials for development of the railbed and terminal facilities.

Other:

- The construction related to fish habitat compensation;
- New and/or upgrades to access roads, service roads and bridges associated with the development of this Project; and,
- Any other ancillary components and activities associated with the project and located on PRPA lands and marine areas.

The RAs will work together with the expert FAs to jointly meet their responsibilities under the CEAA. The type of EA required is a comprehensive study.

Annex I shows a Gantt chart of the federal review process. Annex II shows the key milestones and service standards for the EA as well as Aboriginal engagement and consultation.

Through the EA process, RAs will confirm any regulatory decisions required in relation to the Project. If no regulatory decisions are required for a department or agency, it will end its participation in the EA as an RA, but may, upon request from an RA, continue to participate as an expert FA should it be in possession of specialist or expert information or knowledge with respect to the Project.

5.0 ABORIGINAL ENGAGEMENT AND CONSULTATION

The Parties are committed to a "Whole of Government" approach to Aboriginal engagement and consultation in the context of major resource projects to ensure that Aboriginal groups are sufficiently consulted, and where appropriate accommodated, when the Government of Canada contemplates actions that may adversely affect established or potential Aboriginal and treaty

rights. To the extent possible, and with the CEA Agency responsible for coordination, the Parties will work together toward a coordinated approach for Aboriginal engagement and consultation that is integrated with the EA phase of the federal review.

The Crown will take into account the consultation efforts of the proponent to meet its duty to consult.

The proposed Aboriginal engagement and consultation roles and responsibilities are identified in Annex III.

6.0 TIMELINES

Timelines identified in the Project Agreement represent the time taken by federal departments and agencies in carrying out their respective tasks for the federal review, and does not include time taken by participants who are not signatories to the Agreement. The target timelines for the federal review are detailed in the Gantt chart in Annex I, and are as follows:

a) Completion of the EA – 20.5 months from the posting of the revised Notice of Commencement on the Canadian Environmental Assessment Registry (CEARIS) to the posting of EA Course of Action decisions; and,
b) If appropriate, regulatory decisions pursuant to the *Fisheries Act, Navigable Waters Protection Act, Canada Marine Act* and *Canadian Environmental Protection Act* – 3 months from the EA course of action decisions posted on the CEARIS, assuming submission of all applications no later than the time of the submission of the EIS.

The above timelines have been established on the basis of a number of assumptions, such as activities of participants to the review that are not signatories to this Agreement. Should events unfold in a manner that is different from what has been assumed, the timelines will necessarily be different.

The MPMO Tracker will provide for transparent and publicly accessible monitoring of the progress of the federal review.

7.0 FOLLOW-UP AND MONITORING

The RAs have responsibilities under the CEAA in relation to ensuring the implementation of mitigation measures and the design and implementation of a follow-up program. The RAs will work with the expert FAs, the Proponent and the province, to satisfy those responsibilities. Expert FAs will provide any assistance requested by the RAs in ensuring the implementation of a mitigation measure or aspect of the follow-up program on which the expert FA and RAs have agreed.

8.0 ADMINISTRATION

Tracking Progress

The milestones, timelines and service standards set out in this Agreement, subject to any amendments, will provide the basis against which the MPMO will monitor the progress of the federal review and report on this progress in the MPMO Tracker.

The following are examples of situations where the MPMO may pause the timelines of the federal review:

a) the federal review is delayed at the request of the Proponents and/or another jurisdiction;
b) the CEA Agency and/or RAs have indicated that the Proponents are required to provide additional information necessary for the completion of the federal review, or that the information provided is insufficient;
c) the federal review cannot proceed as a result of circumstances related to Aboriginal engagement and consultation; or,
d) litigation or other court action prevents the completion or continuation of the federal review.

Issues Resolution

The Parties will use their best efforts to resolve any differences of opinion in the interpretation or application of this Agreement in an effective and timely manner.

Issues relating to the federal review for the Project will be resolved through direct discussions and collaboration between the involved Parties, supported by the MPMO.

Should issues remain outstanding, they will be referred to the appropriate senior level committee established through the MPMO Initiative.

Post-Project Evaluation

The Parties will participate in an informal evaluation of the effectiveness of the federal review in relation to the Project within 90 days of the completion of the regulatory review. The level of effort and format of the evaluation will be appropriate to the scale of the issues encountered.

Amendments

The Parties may recommend to the MPMO whether a change to the federal review or to the project warrants an amendment to the Agreement. Where there is agreement that an amendment is warranted, and where such amendment is considered significant, the MPMO, on behalf of the Parties, will provide the proposed amendment to the Major Projects Deputy Ministers for consideration.

Unless otherwise determined by the MPMO in collaboration with the Parties, amendment of the Agreement shall not cause the federal review to stop with respect to any Agreement-related activities that might be ongoing at the time when the need for amendment is identified.

9.0 PROJECT AGREEMENT

The Parties hereto have signed the Project Agreement, in counterpart, on the dates indicated below.

Original Signed by 2010-02-10
Cassie Doyle *Date*
Deputy Minister
Natural Resources Canada

Original Signed by 2010-02-15
Peter Sylvester *Date*
President
Canadian Environmental Assessment Agency

Original Signed by 2010-02-15
Claire Dansereau *Date*
Deputy Minister
Fisheries and Oceans Canada

Original Signed by 2010-02-15
Yaprak Baltacıoğlu *Date*
Deputy Minister
Transport Canada

Original Signed by 2010-02-12
Ian Shugart *Date*
Deputy Minister
Environment Canada

Original Signed by 2010-02-16
Michael Wernick *Date*
Deputy Minister
Indian and Northern Affairs Canada

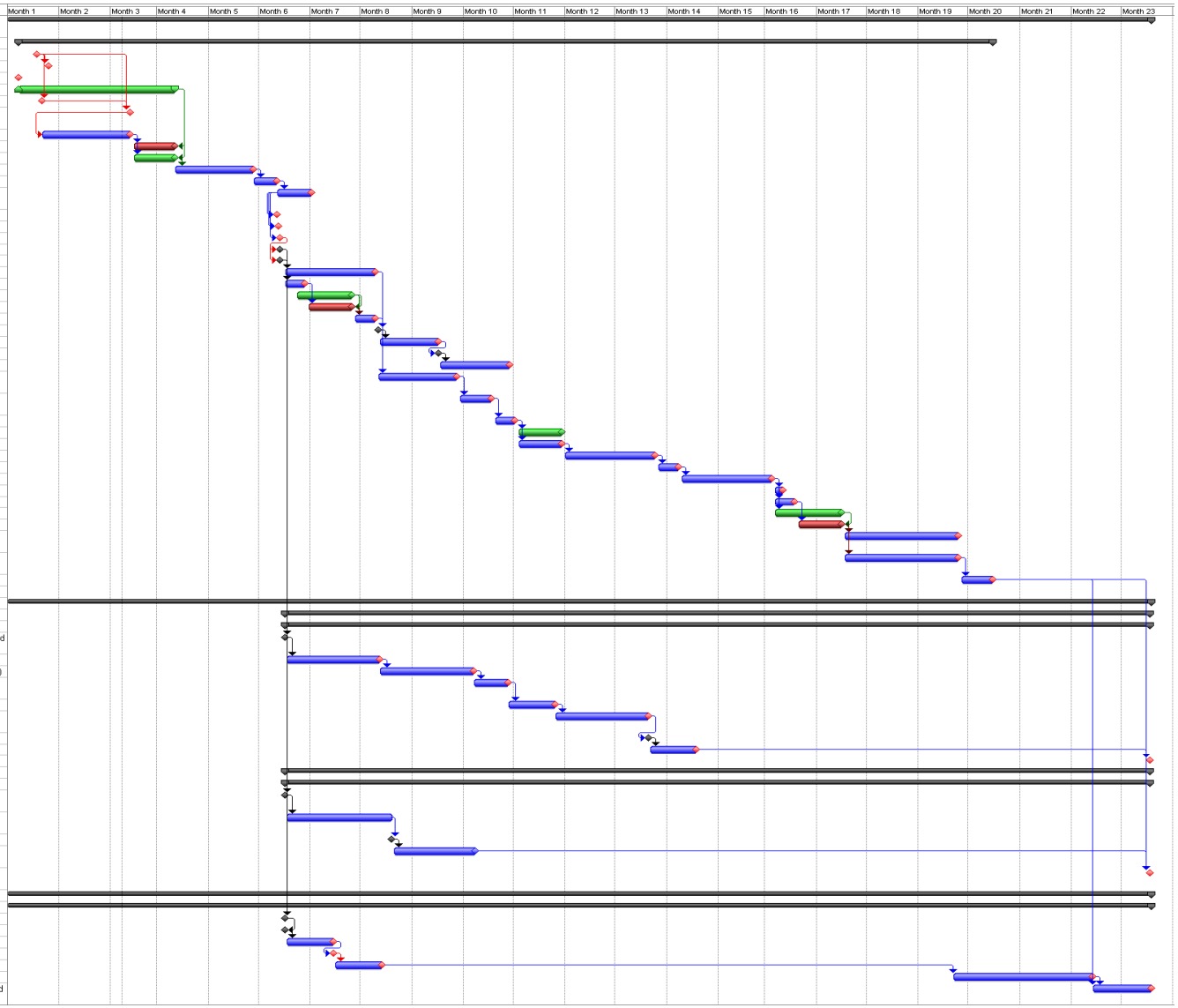
Annexes

Annex I	Gantt Chart: Target Timelines for the Federal Review of the Project
Annex II	Key Milestones and Service Standards for the Environmental Assessment and Aboriginal Engagement and Consultation
Annex III	Aboriginal Engagement and Consultation Approach Roles and Responsibilities
Annex IV	Fisheries and Oceans Canada: Roles, Responsibilities, Key Milestones and Service Standards
Annex V	Transport Canada: Roles, Responsibilities, Key Milestones and Service Standards
Annex VI	Environment Canada: Roles, Responsibilities, Key Milestones and Service Standards
Annex VII	Other Departments and Agencies: Roles and Responsibilities

Annex I

Gantt Chart: Target Timelines for the Federal Review of the Project

ID	Task Name
1	**Canpotex Potash Export Terminal / Ridley Island Rail, Road and Utility Corridor**
2	**Service Standards for EA and Aboriginal Consultation**
3	Post the revised NoC on the CEARIS
4	Notify Aboriginal Groups that a federal EA is required
5	Announce availability of Aboriginal participant funding (Phase 1)
6	Aboriginal engagement on the proposed scope
7	Award Aboriginal participant funding (Phase 1)
8	Announce availability of regular & Aboriginal participant funding (Phase 2)
9	Post the proposed scope on the CEARIS
10	Public comment period on the proposed scope and EA Track
11	Aboriginal engagement on proposed scope and EA Track
12	Finalize the proposed scope
13	Submit Track Report to the Minister of the Environment
14	Post Notice of the Minister of the Environment's EA Track Decision on the CEARIS
15	Post the final Scope on the CEARIS
16	Award regular & Aboriginal participant funding (Phase 2)
17	Provide the EIS Guidelines (Terms-of-Reference) to the Proponent
18	Submit the draft EIS
19	Submit Applications for Federal Permits and Regulatory Approvals
20	Federal review of the draft EIS
21	Notify public and Aboriginal groups of comment period on the draft EIS
22	Aboriginal engagement on the draft EIS
23	Public comment period on the draft EIS
24	Provide comments to the Proponent on the draft EIS
25	Submit the revised EIS
26	Provide comments to the Proponent on the revised EIS
27	Submit issues tracking table with response to comments on EIS
28	Federal review of issue tracking table concludes
29	Prepare draft Comprehensive Study Report (CSR) and circulate for federal review
30	Federal review of draft CSR and provision of comments to the CEA Agency
31	Prepare the revised CSR and circulate for federal review
32	Aboriginal engagement on revised CSR
33	Provide Federal comments on revised CSR
34	Submit final CSR to RAs and expert FAs
35	Approve the final CSR
36	Translate the final CSR
37	Submit the final CSR to the Minister of the Environment
38	Post the final CSR for public and Aboriginal comment on the CEARIS
39	Aboriginal Engagement on the final CSR
40	Public comment period on the final CSR
41	Post the Notice of the Minister of the Environment's EA Decision Statement on the CEARIS
42	Post the analysis of public and Aboriginal comments on the final CSR on CEARIS
43	Post the course of action decisions on the CEARIS
44	
45	**Regulatory Review**
46	**Transport Canada**
47	**NWPA**
48	Submission of NWPA application, including information required to process applications under the NWPA, for each proposed
49	Determination and comment on NWPA application(s)
50	Navigation Impact Assessment Process - On-site Inspection(s)
51	Notice to the Proponent to advertise pursuant to NWPA s. 9(3) (if required)
52	Deposit and Advertise
53	Address public and Aboriginal Comments regarding the Project's potential impact on navigation
54	Resubmission of NWPA application(s) (if required)
55	Final Application Review Process
56	Issue approval under NWPA (if appropriate)
57	**Fisheries and Oceans Canada**
58	**Fisheries Act**
59	Receipt of an application for a subsection 35(2) Fisheries Act authorization
60	Response regarding impacts to fish and fish habitat, and adequacy of information
61	Receipt of additional information from the Proponent
62	DFO response to the Proponent regarding receipt/review of the Fish Habitat Compensation Plan
63	Decision by DFO regarding issuance of subsection 35(2) Fisheries Act authorization
64	**Environment Canada**
65	**Disposal at Sea**
66	Disposal at Sea Sampling and Analysis Plan
67	Disposal at Sea Permit application is submitted
68	Disposal at Sea application review
69	Request for additional information
70	Review of additional information
71	Disposal at Sea Permit preparation and Regulatory Decision
72	Disposal at Sea Permit is published in the Canada Gazette and in the Canadian EnvironmentalProtection Act Environmental



Annex II

Key Milestones and Service Standards for the Environmental Assessment and Aboriginal Engagement and Consultation

Description/Activity	Lead	Support As Needed	Service Standard/ Completion Date
Post the Notice of Commencement (NoC) on the CEARIS	TC	RAs, CEA Agency	Completed - May 21, 2009
Post the revised NoC on the CEARIS	TC	RAs, CEA Agency	Completed – December 18, 2009
Notify Aboriginal groups that a federal EA is required	CEA Agency		Completed – June 2, 2009
Announce availability of Aboriginal participant funding (Phase 1)	CEA Agency		Completed - December 9, 2009
Aboriginal engagement on the proposed scope	CEA Agency	RAs, expert FAs	Completed - December 9, 2009
Award Aboriginal participant funding (Phase 1) and announce availability of regular and Aboriginal participant funding (Phase 2)	CEA Agency		Prior to the posting of the proposed scope
Post the proposed scope on the CEARIS	CEA Agency	RAs, expert FAs	Within 8 weeks from the posting of the revised NoC
Public comment period on the proposed scope and EA Track	CEA Agency	RAs, expert FAs	4 weeks, starting from the posting of the proposed scope
Aboriginal engagement on proposed scope and EA Track	CEA Agency, RAs	Expert FAs	Prior to public comment period on the proposed scope
Finalize the proposed scope	RAs	CEA Agency, expert FAs	Within 7 weeks from the end of the public comment period
Submit Track Report to the Minister of the Environment	RAs	CEA Agency, expert FAs	Within 2 weeks from finalizing the proposed scope
Post Notice of the Minister of the Environment's EA Track Decision on the CEARIS	CEA Agency		Within 3 weeks from the submission of the Track Report to the Minister
Post the Final Scope on the CEARIS	CEA Agency	RAs	Concurrent with the posting of the Minister's Track Decision
Award regular and Aboriginal participant funding (Phase 2)	CEA Agency		Concurrent with the posting of the Minister's Track

Description/Activity	Lead	Support As Needed	Service Standard/ Completion Date
			Decision
Provide the EIS Guidelines (Terms-of-Reference) to the Proponent	CEA Agency		Within 2 days from the posting of the Minister's Track Decision
Submit the draft EIS	Proponent		To be determined by the Proponent
Submit Applications for Federal Permits and Regulatory Approvals	Proponent		No later than the time of the submission of the EIS
Federal review of the draft EIS	CEA Agency, RAs	Expert FAs	Within 8 weeks from submission of the draft EIS
Notify public and Aboriginal groups of comment period on the draft EIS	CEA Agency		Within 2 weeks from submission of the draft EIS
Aboriginal engagement on the draft EIS	CEA Agency	RAs, expert FAs	5 weeks, starting within 1 weeks after notification of the comment period
Public comment period on the Draft EIS	CEA Agency	RAs, expert FAs	4 weeks, starting within 2 weeks after notification of the comment period
Provide comments to the Proponent on the draft EIS	CEA Agency	RAs, expert FAs	Within 2 weeks of closure of public comment period
Submit the revised EIS	Proponent		To be determined by the Proponent
Provide comments to the Proponent on the revised EIS	CEA Agency	RAs, expert FAs	Within 5 weeks from submission of the draft EIS
Submit issue tracking table with responses to comments	Proponent		To be determined by the Proponent
Federal review of issue tracking table concludes	RAs, CEA Agency	Expert FAs	Within 6 weeks from submission of issues tracking table
Prepare draft Comprehensive Study Report (CSR) and circulate for federal review	CEA Agency	RAs, expert FAs	Within 7 weeks from the Federal review of the draft EIS
Federal review of draft CSR and provision of comments to the CEA Agency	RAs	Expert FAs	Within 3 weeks from the circulation of the draft CSR
Prepare the revised CSR and circulate for federal review	CEA Agency	RAs, expert FAs	Within 2 weeks from the submission of comments on the draft CSR
Aboriginal engagement on the	CEA	Expert FAs	4 weeks, starting from the

Description/Activity	Lead	Support As Needed	Service Standard/ Completion Date
revised CSR	Agency, RAs		circulation of the revised CSR
Provide federal comments on revised CSR	RAs	Expert FAs	Concurrent with the public comment period
Submit final CSR to RAs and expert FAs	CEA Agency	RAs, expert FAs	Within 8 weeks from the close of the public comment period on the revised CSR
Approve the final CSR	RAs	CEA Agency, expert FAs	Within 2 weeks from receiving the final CSR
Translate the final CSR	CEA Agency, RAs		Within 8 weeks from the approval of the final CSR
Submit the final CSR to the Minister of the Environment	RAs	CEA Agency	Within 1 week from receiving the translated final CSR
Post the final CSR for public and Aboriginal comment on the CEARIS	CEA Agency		Within 2 weeks from receiving the translated final CSR
Aboriginal engagement on the final CSR	CEA Agency	RAs, expert FAs	6 weeks, starting from from receiving the translated final CSR
Public comment period on the final CSR	CEA Agency	RAs, expert FAs	4 weeks, starting from the posting of the final CSR
Post the Notice of the Minister of the Environment's EA Decision Statement on the CEARIS	CEA Agency		Within 10 weeks from the close of the comment period on the final CSR
Post the analysis of public and Aboriginal comments on the final CSR on the CEARIS	CEA Agency	RAs, expert FAs	Concurrent with the posting of the Notice of the Minister of the Environment's EA Decision Statement
Post the course of action decisions on the CEARIS	RAs	CEA Agency	Within 3 weeks from the Minister's EA Decision

Annex III

Aboriginal Engagement and Consultation Approach and Roles and Responsibilities

1.0 Context

The Government of Canada consults with Aboriginal people for reasons of good governance, sound policy development and decision-making as well as for legal reasons. Canada has statutory, contractual and common law obligations to consult with Aboriginal groups. The common law duty to consult with Aboriginal groups applies when the Crown contemplates actions that may adversely affect established or potential Aboriginal and treaty rights. These rights are recognized and affirmed in section 35 of the *Constitution Act, 1982*.

The Government of Canada will take a "Whole of Government" approach to Aboriginal consultation in the context of major resource projects to ensure that Aboriginal groups are sufficiently consulted, and where appropriate accommodated, when it contemplates actions that may adversely affect established or potential Aboriginal and treaty rights. This approach is mandated by both the *Cabinet Directive on Improving the Performance of the Regulatory System for Major Resource Projects* and the associated Memorandum of Understanding (MOU) (June, 2007). The *Directive* states that Parties will work together towards a coordinated approach for Aboriginal consultation that is integrated with the EA, to the extent possible. The approach for federal consultation of Aboriginal groups for major resource projects was created in accordance with *Aboriginal Consultation and Accommodation: Interim Guidelines for Federal Officials to Fulfill the Legal Duty to Consult* (INAC/Department of Justice; February 2008).

2.0 Identifying Aboriginal Groups

The CEA Agency, in conjunction with RAs and the MPMO, will identify Aboriginal groups for engagement, taking into account the work conducted by the proponent, and will determine the appropriate level of engagement and consultation for identified groups. Aboriginal groups engaged may change over time based on information received during the course of the assessment and information received from Aboriginal groups, as may the level of engagement and consultation activities undertaken by the Crown.

3.0 The Federal Crown Consultation Process

The "Whole of Government" approach for Aboriginal engagement and consultation activities will be implemented throughout the entire federal review. Best efforts will be made to ensure that the timeframe for engagement and consultation activities coincides with key milestones and processes. It is important to acknowledge that timeframes for engagement and consultation activities may diverge from pre-established federal review timeframes, based on consultation requirements. Should modifications to timeframes be required due to the consultation process, revisions will be discussed by all Parties. The Crown, when fulfilling its duty to consult, will take into account the proponent's consultation efforts.

Where accommodation is required, the Crown, coordinated by the CEA Agency, will monitor and determine whether identified mitigation measures reasonably address concerns regarding potential adverse impacts on established or potential Aboriginal and treaty rights. The Crown may also examine the role of third parties in addressing adverse impacts on established or potential Aboriginal and treaty rights. The Crown will work with Aboriginal groups and attempt to identify options or solutions that balance the interests of those Aboriginal groups with other societal interests.

4.0 Roles and Responsibilities of Parties

The CEA Agency will act as the CCC for the EA phase of the federal review in relation to the Project to satisfy the Crown's obligations. The role of the CCC is described below. Key Aboriginal engagement and consultation milestones are included in Annex II.

Roles and responsibilities of each Party are:

The CEA Agency will

- Act as the CCC for the federal review of the Project, coordinate and facilitate the Crown's engagement and consultation activities before and during the EA, and ensure a smooth transition to the regulatory review if required. As the CCC, the Agency will:
    - Identify and engage Aboriginal groups, in cooperation with RAs as appropriate;
    - Prepare an Aboriginal consultation work plan in collaboration with other Parties;
    - Ensure that consultation activities are integrated with the EA process to the extent possible, as part of the Crown's consultation efforts;
    - Ensure that a consultation process is in place for the regulatory review through the transfer of the CCC role to an RA;
    - Track and refer project specific issues raised by Aboriginal groups to the appropriate entities (e.g., RAs, Proponents, Province, etc.);
    - Track and refer non-project specific issues (e.g. land claims, treaty rights) to appropriate entities (e.g., INAC, Province, etc.);
    - Ensure that RAs consider project specific issues in the context of the federal review;
    - Facilitate multi-party consultation activities where necessary;
    - Manage the Crown and lead Crown consultation activities, together with RAs and FAs that are requested to participate;
    - Compile and update the Record of Crown Consultation Activities (housed at MPMO) conducted during the federal review, and then transfer responsibility for managing the Record to the MPMO at the end of the review;
    - Provide funding for consultation activities in support of the comprehensive study process through the Aboriginal Funding Envelope of the CEA Agency's Participant Funding Program;
    - Provide opportunities for Aboriginal groups to comment on the CSR;
    - Coordinate the evaluation of the scope, nature, and sufficiency of the Crown's consultation efforts, with input from the Department of Justice (DOJ), INAC and RAs;

- Lead the evaluation of the scope, nature, and sufficiency of the Crown's consultation efforts, with input from the Department of Justice (DOJ), INAC and RAs;
- Coordinate the response, with input from INAC and the RAs, on behalf of the Government of Canada, to Aboriginal groups on how concerns were addressed; and,
- Transfer the coordination responsibility for consultation activities to the RAs, as appropriate, immediately following the EA decision.

The Major Projects Management Office will:

- Provide oversight to ensure the overall consistency, accountability, and transparency of the Aboriginal Crown engagement and consultation effort, for the entire federal review;
- House and maintain the official Record of Crown Consultation Activities for the Project; and,
- Incorporate information relating to consultation activities into the MPMO Tracker.

Responsible Authorities will:

- Participate in coordinated consultation activities throughout the entire federal review (including pre-assessment, assessment, and post–assessment phases), as appropriate/ required;
- Represent the Crown alongside the CCC, the Proponents and other Parties to address Aboriginal issues, as appropriate/required;
- Contribute to the "Whole of Government" approach by participating in consultation activities in areas relevant/appropriate to their mandates and areas of statutory and policy responsibility;
- Report on engagement and consultation activities to the CEA Agency and the MPMO in accordance with the established records-management process;
- Provide input into the response to Aboriginal groups on how concerns were addressed; and,
- Support issues analysis work, where required;

Expert Federal Authorities will:

- Participate in any of the above activities upon request of the CCC and/or RAs, as appropriate.

The Department of Justice and Indian and Northern Affairs Canada (INAC) will:

- Provide legal services (DOJ), information and advice to the CEA Agency, MPMO and RAs as appropriate and required throughout the federal review; and,
- Assist in the evaluation of the scope, nature, and sufficiency of the Crown's consultation efforts.

Annex IV

Fisheries and Oceans Canada
Roles, Responsibilities, Key Milestones and Service Standards

EA

- Participate in meetings with other federal/provincial authorities, where appropriate;
- Review, comment on, and approve the EA work plan and Aboriginal consultation work plan;
- Review and comment on the EIS and participate in the analysis of comments on the EIS;
- Afford TC an opportunity to review proposed mitigation measures with respect to potential impact on navigation;
- Provide expert advice with respect to DFO's mandate, regulatory responsibilities and areas of interest, where appropriate;
- Engage and consult with affected or potentially affected Aboriginal groups, as appropriate;
- Review, comment on, and approve the scoping document, track report and the CSR;
- Take course of action decision following the Minister of the Environment's EA Decision Statement;
- Provide input into the design of a follow-up and monitoring program related to DFO's mandate, regulatory responsibilities and areas of interest, as required; and,
- Work with other RAs, expert FAs and the Proponents to ensure implementation of mitigation measures and the design and implementation of a follow-up program, and where appropriate, accommodation of adverse impacts on potential or established s. 35 rights, as required.

Regulatory

- Prepare regulatory work plan;
- Participate in meetings with other federal/provincial authorities as appropriate;
- Participate in public comment period, public notice and possible public consultations, as appropriate;
- Afford TC an opportunity to review any necessary compensation agreements with respect to TC's legislative mandate prior to the issuance of authorizations;
- Undertake any required activities related to DFO's mandate, regulatory responsibilities and areas of interest, including consulting with affected/potentially affected Aboriginal groups as appropriate, to support DFO's regulatory decisions; and,
- Conduct site visits to support regulatory decisions, as required.

Note: The following milestones represent the key activities associated with the regulatory process for the Project and are not intended to reflect the entire work plan schedule associated with this Project. Furthermore, these milestones may need to be adjusted as additional information is made available.

MILESTONE	ACTIVITIES/DESCRIPTION	LEAD	SERVICE STANDARD
Receipt of an application for a Subsection 35(2) *Fisheries Act* authorization(s)	DFO receives application from the Proponent for authorization of impacts to fish and fish habitat under Subsection 35(2) *Fisheries Act* complete with adequate plans, maps, reports and data to support the review. This may include a fish habitat compensation strategy/plan (FHCP) to support the *Fisheries Act* review.	Proponent	Dependent on timing of the submission of the application by the Proponent.
Response regarding impacts to fish and fish habitat, and adequacy of information	DFO reviews the application package (including proposed FHCP and associated estimate of financial security, if applicable) for adequacy, to support the *Fisheries Act* review and responds to Proponent, which may include a request for additional information. Provide TC with a copy of the draft FHCP and any potential comments for review with respect to navigational concerns.	DFO	Within 9 weeks of the receipt of a complete application, including an acceptable FHCP. If the FHCP is submitted at a different time from when the EIS is submitted, an additional 7 weeks will be required to review the FHCP. Within 4 weeks of receiving draft FHCP.
Receipt of additional information	DFO receives additional information from the Proponent.	Proponent	Dependent on timing of the submission of additional information by the Proponent – must be included in the EIS, at the latest.
Receipt of adequate information for EA	DFO determines if adequate information on fish and fish habitat, including FHCP, has been provided for the EA to make a conclusion on significance of adverse effects on	DFO	Adequate information on the FHCP, considered mitigation for the EA, must be provided during the EA

MILESTONE	ACTIVITIES/DESCRIPTION	LEAD	SERVICE STANDARD
	fish and fish habitat. DFO informs Proponent that additional information is adequate.		for inclusion in the EA report before the report can be completed. Within 7 weeks of receipt of adequate information.
Course of Action Decision under CEAA	DFO reaches EA course of action decisions under CEAA that will determine whether authorization may be issued. If course of action decision allows for proceeding with authorization, the subsequent activities and milestones will apply.	DFO	Within 3 weeks of the Minister of Environment's EA Decision Statement being posted on the CEARIS.
Decision regarding Issuance of Subsection 35(2) *Fisheries Act* authorization	If appropriate, DFO issues a *Fisheries Act* authorization to the Proponent for impacts to fish and fish habitat.	DFO	DFO issues the authorization 90 calendar days after DFO makes an appropriate EA course of action decision. Issuance will be contingent upon: 1. The receipt of an acceptable application, including a FHCP and proof of financial security. 2. The discharge of any legal Aboriginal consultation obligations associated with the authorization(s). 3. An EA Course of Action Decision under s. 37(1)(a) of the CEAA. Issuance of the

MILESTONE	ACTIVITIES/DESCRIPTION	LEAD	SERVICE STANDARD
			authorization may also consider the Proponent's timing needs for the authorization in that, should an authorization not be required until much later than the timeline above, DFO will issue it when it is appropriate.

Annex V

Transport Canada
Roles, Responsibilities, Key Milestones and Service Standards

EA

- Participate in meetings with other federal/provincial authorities, where appropriate;
- Review, comment on, and approve the EA work plan and Aboriginal consultation work plan;
- Review and comment on the EIS and participate in the analysis of comments on the EIS;
- Review the draft FHCP for potential impact on navigation and provide expert advice to DFO with respect to proposed mitigation measures;
- Provide expert advice with respect to TC's mandate, regulatory responsibilities and areas of interest, where appropriate;
- Engage and consult with affected or potentially affected Aboriginal groups, as appropriate;
- Review, comment on, and approve the scoping document, track report and the CSR;
- Take a course of action decision following the Minister of the Environment's EA Decision Statement;
- Provide input into the design of a follow-up and monitoring program related to TC's mandate, regulatory responsibilities and areas of interest, as required; and,
- Work with other RAs, expert FAs and the Proponents to ensure implementation of mitigation measures and the design and implementation of a follow-up program, and where appropriate, accommodation of adverse impacts on potential or established s. 35 rights, as required.

Regulatory

- Prepare regulatory work plan;
- Participate in meetings with other federal/provincial authorities as appropriate;
- Participate in public comment period, public notice and possible public consultations concerning navigation issues;
- Undertake any required activities related to TC's mandate, regulatory responsibilities and areas of interest, including consulting with affected/potentially affected Aboriginal groups as appropriate, to support TC's regulatory decisions;
- Review the draft fish habitat compensation plan/strategy (FHCP) if required for potential impact on navigation and provide expert advice to DFO with respect to proposed mitigation measures; and
- Conduct site visits to support its regulatory decisions, as required.

Note: The following milestones represent the key activities associated with the regulatory process for the Project and are not intended to reflect the entire work plan schedule associated with this Project. Furthermore, these milestones may need to be adjusted as additional information is made available.

MILESTONE	ACTIVITIES/DESCRIPTION	LEAD	SERVICE STANDARD
Liaise with the Proponent regarding potential works in regards to impacts on navigability	Liaise with the Proponent regarding proposed works that could potentially impact navigation and on potential alternatives and mitigation strategies to ensure that navigability is maintained.	TC	Ongoing
Submit NWPA application(s), including information required to process applications under the NWPA, for each proposed work	The Proponent provides TC with a completed application for each proposed work no later that the time of submission of the EIS.	Proponent	Determined by the Proponent
Determination and comment on NWPA application(s)	Review application package and information/plans for adequacy to support NWPA review. Request further information if required to proceed with application If required, review draft FHCP for potential impacts to navigation and provide comments to DFO with respect to the navigability of the watercourse and any concerns regarding potential mitigation measures with respect to navigation.	TC	8 weeks after application submission. Within 2 weeks of receiving the draft FHCP.
NIA process - on-site inspection(s)	Complete on-site NIA of the Project, site and waterway(s), subject to weather and time of year.	TC	Site inspection within 2 months of receipt of the completed application, then as necessary until completion of the public comment process.
Notice to the Proponent to	Provide the Proponent with advertisement package pursuant	TC	Within 3 weeks of completed initial

MILESTONE	ACTIVITIES/DESCRIPTION	LEAD	SERVICE STANDARD
advertise pursuant to the NWPA s. 9(3), if required	to NWPA s. 9(3).		on-site inspection and following the assessment of navigational issues arising from any changes to the Project due to EA issues.
Deposit and advertise, if required	Deposit "Final Plans" and other relevant information with Land Title Office or the government agent and advertise in one or more local papers and the Canada Gazette. Provide proof of deposit and advertising to TC.	Proponent	Advertisement process is to occur for a minimum of 30 +1 calendar days.
Consult with Aboriginal communities regarding navigational impacts, if required.	Seek information regarding navigational concerns from Aboriginal groups, if possible, through the federal environmental review process. Or, if not possible, through departmental Aboriginal consultation processes.	TC	To be completed within EA review period; however, consultation would be ongoing until duty has been met to the satisfaction of the Minister of Transport.

MILESTONE	ACTIVITIES/DESCRIPTION	LEAD	SERVICE STANDARD
Address public comments and issues raised by Aboriginal groups, regarding the Project's potential impact on navigation	Should TC receive concerns from the public regarding navigation, the Proponent and TC will work together to resolve concerns. Should TC receive concerns from Aboriginal groups regarding navigation, in response to the Aboriginal consultation process, TC shall work with the Proponent to mitigate concerns to the satisfaction of the Minister of Transport. Additional requirements might be deemed necessary by TC in regard to potential impacts on navigation posed by proposed works. TC will facilitate public comment process if required.	Proponent and TC TC TC	To be completed within 2 months of completion of advertisement process.
Resubmission of NWPA application(s), if required	Resubmission of NWPA application(s) where applicable and re-deposit and re-advertising of plans in one or more local papers and the Canada Gazette is required if substantial changes to proposed work(s) are required. Furthermore, DFO fish habitat compensation plans will have to be reviewed prior to issuing an approval.	Proponent	Determined by the Proponent, if required.
Final application review process	Perform a final review of all information on file, including technical information and public comments.	TC	4 weeks
Course of Action Decision under CEAA	TC reaches a course of action decision under CEAA.	TC	Within 3 weeks of the EA Decision Statement being posted on the CEAR.

MILESTONE	ACTIVITIES/DESCRIPTION	LEAD	SERVICE STANDARD
Make regulatory decision	Make regulatory decision under NWPA.	TC	Within 90 calendar days following EA Decision Statement being posted on the CEAR if NWPA application(s) submitted no later than the time of submission of the EIS. The regulatory decision will be contingent upon: 1. The discharge of any legal Aboriginal consultation obligations associated with the approval(s). 2. An EA course of action decision under [s. 20(1) OR s. 37(1)(a) of the CEAA 3. Mitigation of public concerns to the satisfaction of the Minister of Transport.

Annex VI
Environment Canada
Roles, Responsibilities, Key Milestones and Service Standards

EA

- Participate in meetings with other federal/provincial authorities, where appropriate;
- Review, comment on, and approve the EA work plan and Aboriginal consultation work plan;
- Review and comment on the EIS and participate in the analysis of comments on the EIS;
- Provide expert advice with respect to EC's mandate under, among other things, the CEPA, 1999, the *Canada Wildlife Act,* the *Species at Risk Act,* the *Migratory Birds Convention Act,* s. 36(3) of the *Fisheries Act*, the *Department of the Environment Act*, and the regulations made thereunder;
- Engage and consult with affected or potentially affected Aboriginal groups, as appropriate;
- Review, comment on, and approve the scoping document, track report and the CSR;
- Take a course of action decision following the Minister of the Environment's EA Decision Statement;
- Provide input into the design of a follow-up and monitoring program related to EC's mandate, regulatory responsibilities and areas of interest, as required; and,
- Work with other RAs, expert FAs and the Proponents to ensure implementation of mitigation measures and the design and implementation of a follow-up program, and where appropriate, accommodation of adverse impacts on potential or established s. 35 rights, as required.

Regulatory

- Prepare regulatory work plan;
- Participate in meetings with other federal/provincial authorities as appropriate;
- Participate in public comment period, public notice and possible public consultations, as appropriate;
- Undertake any required activities related to EC's mandate, regulatory responsibilities and areas of interest, including consulting with affected/potentially affected Aboriginal groups as appropriate, to support regulatory decisions; and,
- Conduct site visits to support EC's regulatory decisions, as required.

Note: The following milestones represent the key activities associated with the regulatory process for the Project and are not intended to reflect the entire work plan schedule associated with this Project. Furthermore, these milestones may need to be adjusted as additional information is made available.

MILESTONE	ACTIVITIES/DESCRIPTION	LEAD	SERVICE STANDARD
Disposal at Sea Sampling and	A sampling and analysis plan should be prepared and implemented as part of the	Proponent	Determined by Proponent

MILESTONE	ACTIVITIES/DESCRIPTION	LEAD	SERVICE STANDARD
Analysis Plan	environmental assessment. Proponent submits sampling and analysis plan to EC. EC reviews sampling and analysis plan and advises on adequacy.	EC	
Disposal at Sea Permit Application is submitted	Proponent publishes Notice of Intent in a newspaper of general circulation, consults with other users of the sea, and submits permit application.	Proponent	Determined by Proponent
Disposal at Sea Application Review	EC conducts a preliminary review of the permit application to ensure it is complete. EC distributes the application to the appropriate agencies for review.	EC	1 month from receipt of application
Request for additional information	If required, EC returns the permit application to the proponent with a description of the missing information.	EC	Following review of application
Review of additional information	EC reviews the information received from the Proponent. If necessary, EC will request additional information should the application still not be complete. EC will require up to a month to review the information provided in response to information requests.	EC	1 month from receipt of additional information
Disposal at Sea Permit Preparation and Regulatory Decision	Disposal at Sea permit terms and conditions are drafted. Permits contain conditions necessary for the protection of marine life, any legitimate uses of the sea or human life. EC makes decision on issuing permit.	EC	3 months after EA course of action decision
Disposal at Sea Permit is published in the Canada Gazette and in the *Canadian*	EC submits a copy of the permit and its conditions or the varied conditions to the *Canada Gazette* for publishing at least seven days in advance of the publishing date.	EC	40 calendar days following the regulatory decision

MILESTONE	ACTIVITIES/DESCRIPTION	LEAD	SERVICE STANDARD
***Environmental Protection Act* Environmental Registry**	*Canada Gazette* publishes the permit in Gazette Part 1: Notices and proposed regulations (http://canadagazetteducanada.gc.ca/partI/index-e.html) EC publishes the permit in the CEPA Environmental Registry: Permits (http://www.ec.gc.ca/CEPARegistry/permits/DisposalAtSea.cfm)		
Disposal at Sea Activities	The Proponent may begin disposal activities no sooner than 30 days following the *Canada Gazette* permit publication date and not before the start date published in the permit. A Disposal at Sea permit is valid for a particular date or dates or for a particular period that shall not exceed one year.	Proponent	No sooner than 30 days following the *Canada Gazette* permit publication date and not before the start date published in the permit.

Annex VII

Other Government Departments and Agencies
Roles and Responsibilities

PARTY	ROLES / RESPONSIBILITIES
CEA Agency	• Provide advice in regard to the CEAA; • Coordinate the federal input and federal Crown consultation activities for the EA in relation to the Project; • Coordinate intergovernmental cooperation including consultations with Aboriginal communities; • Work in cooperation with RAs, FAs and the Proponents to identify and evaluate tools such as MOUs with the Province and letters of agreement with the Proponents to ensure mitigation measures and follow-up programs are implemented; • Manage the CEARIS; • Make participant funding available and maintain funding program of the CEAA; • Prepare the scoping document, track report and CSR; and, • Coordinate the federal review of the scoping document, track report, EIS and CSR.
HC	Upon request from an RA, HC as an expert FA will perform and fulfill the following roles and responsibilities: • Review and submit comments on the EA work plan and Aboriginal consultation work plan; • Participate in federal project review committee meetings for provision of relevant expertise that is available; • Provide advice regarding the potential human health implications of the Project when requested by the RAs. Advice will be provided within timelines requested by an RA; and, • Provide support to the design and implementation of the follow-up program and/or mitigation measures that arise from expert FA recommendations made, and as agreed to with the RAs.
INAC	• Provide advice in regard to Aboriginal engagement and consultation.
MPMO	• Coordinate the development and approval of the Project Agreement; • House and maintain the official *Record of Crown Consultation Activities* for the Project; • Monitor and report on the progress of the Project through the federal review; • Take proactive steps to identify opportunities to streamline the federal review to meet government timelines and identify bottlenecks that could cause delay; and, • Incorporate information received from the CEA Agency, expert FA(s) RA(s), and the Proponents on the EA and regulatory milestones into the MPMO Tracker.