

**PROJECT AGREEMENT FOR THE NOVA GAS TRANSMISSION LTD.
GROUNDBIRCH PIPELINE PROJECT**

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 s.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 NOVA Gas Transmission Ltd. (the Proponent) has submitted an application for a Certificate of Public Convenience and Necessity (Certificate) pursuant to s.52 of the *National Energy Board Act* (NEBA) on April 30, 2009 for the Groundbirch Pipeline Project (the Project);

AND WHEREAS the National Energy Board (NEB), Transport Canada (TC), and Fisheries and Oceans Canada (DFO) may have regulatory and statutory duties in relation to the development proposal;

AND WHEREAS the NEB is a quasi-judicial administrative tribunal and nothing in this Agreement should be construed as permitting activities that will undermine the quasi-judicial function of the NEB process, including compliance with the principles of natural justice;

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

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

1.0 PURPOSE

This Agreement 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 process includes an EA of the

Project pursuant to the *Canadian Environmental Assessment Act* (CEAA), a public hearing process conducted by the NEB pursuant to the NEBA, regulatory review processes of responsible authorities (RAs), and Aboriginal engagement and consultation.

2.0 PROJECT DESCRIPTION

The development proposal consists of the construction and operation of 77 kilometres of natural gas pipeline and related facilities between the existing meter station on the TransCanada Alberta System to the vicinity of Dawson Creek, British Columbia, with approximately 69.5 kilometres of new Right-of-Way and a capacity of up to 46.9 million cubic meters-per-day.

The Project for the purposes of the federal review may be different from the development proposal, as described in section 4.0.

3.0 ROLES AND RESPONSIBILITIES

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

- The NEB has regulatory and statutory responsibilities under the NEBA, and, pursuant to the CEAA, is an RA and will conduct a hearing process as defined by the NEBA;
- TC may have regulatory and statutory responsibilities under the *Navigable Waters Protection Act* (NWPA) and the NEBA and, pursuant to the CEAA, is a likely RA. TC requires a Navigation Impact Assessment (NIA) to be completed in order for TC to make their CEAA determination. TC will participate within, and contribute to, the broader NEB-led EA to fulfill its EA obligations to the extent possible in relation to pipeline crossings of those watercourses for which the Project requires TC approvals;
- DFO may have regulatory and statutory responsibilities under the *Fisheries Act* and, pursuant to the CEAA, is a likely RA. DFO will participate within, and contribute to, the broader NEB-led EA to fulfill its EA obligations in relation to pipeline crossings of those watercourses for which the Project requires DFO authorizations;
- Natural Resources Canada (NRCan), Environment Canada (EC), and Health Canada (HC) are FAs pursuant to the CEAA and may be in possession of specialist or expert information with respect to the Project (expert FA) and, upon request, shall make available that information or knowledge to the RAs. Additionally, NRCan will manage the submission of the Certificate, if any, to the Minister of Natural Resources and Governor-in-Council;
- Indian and North Affairs Canada (INAC) has advisory responsibilities to support the Government of Canada's Aboriginal engagement and consultation activities 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. Additionally, the MPMO will provide selective intervention to help address identified challenges and, in collaboration with the Parties, will play an oversight role throughout the federal review in regard to Aboriginal engagement and consultation.

4.0 FEDERAL REVIEW PROCESS

The RAs will be responsible for each component of the scope of the Project that meets their own area of federal responsibility. A screening type EA will be conducted for the Project as determined by RAs and required pursuant to the CEAA.

As currently proposed, the scope of the Project for the NEB for the purposes of the EA includes the various components of the Project described by the Proponent in its April 30, 2009 Certificate application to the NEB plus the physical activities associated with construction, operation, maintenance and foreseeable changes, and where relevant, the abandonment, decommissioning and site rehabilitation relating to the entire Project.

DFO and TC have determined, based on their respective triggers under the CEAA that their scopes of the Project for the purposes of the EA will be:

- For DFO, any open cut contingency stream crossings in cases for which horizontal directionally drilled methods are determined not to be appropriate and certain isolated pipeline watercourse crossings that require authorization under s. 35(2) of the *Fisheries Act*;
- For TC, any watercourse crossings (pipeline crossings and bridges) of navigable waterways pursuant to the NEBA or the NWPA; and,
- The preliminary scope of the project includes all proposed mitigation measures, including fish habitat compensation plans.

These include all construction, operation, maintenance, modification, and decommissioning (including closure and reclamation) activities related to those Project components.

The NEB has released a Hearing Order detailing the hearing process that will be followed in relation to the Project. RAs and FAs will participate within the NEB hearing process to develop and obtain the information required to discharge their roles and responsibilities associated with the CEAA to the extent possible, by ensuring that relevant information with respect to their areas of responsibility and/or expertise is reflected in the official hearing record.

The NEB will issue an EA report shortly after the conclusion of the hearing process. RAs and FAs will provide comments on the draft NEB EA report with respect to their responsible areas of expertise, as appropriate and in accordance with the timeline for comments outlined in the

Hearing Order. Subject to the discretion of the NEB Hearing Panel, the NEB will release its Reasons for Decision (RFD) and the final EA report within 13 weeks of the close of the hearing record. RAs are working toward one EA report with concurrent respective CEAA determinations. If this is not possible for some reason, RAs will rely on the NEB EA report to the extent possible but may produce an appendix to the EA report if necessary. If concurrent respective CEAA determinations by RAs are not possible, RAs will provide their respective CEAA determinations and any EA appendix to the NEB within 2 weeks of receiving the requested additional information. The NEB will then complete the Project related entries on the Canadian Environmental Assessment Registry (CEAR). 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. Similarly, expert FAs will continue to review information provided by the Proponent, as it becomes available and as the Project evolves and changes, in order to confirm whether a regulatory approval may be required based on this updated and/or new information. In this case, an expert FA may become an RA and continue its participation in the EA on that basis.

5.0 ABORIGINAL ENGAGEMENT AND CONSULTATION

The Parties are committed to a “Whole of Government” approach to Aboriginal engagement and consultation. To the extent possible, the Government of Canada wishes to make the most effective use of resources by integrating the Aboriginal engagement and consultation process with the federal review for major resource projects. As such, the Government of Canada will rely upon the NEB hearing process to the extent possible to ensure that its obligations with regard to Aboriginal engagement and consultation are discharged with respect to the Project. The Crown will monitor and evaluate the NEB process for its ability to satisfy the Crown’s duty to consult to the extent possible throughout the federal review.

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

6.0 TIMELINES

The estimated timelines for the federal review of the Project, including the NEB hearing process (to be determined by the NEB pursuant to the NEBA) and the regulatory review process of other Parties, are detailed below and in the Gantt chart in Annex I, starting from the date of the Proponent’s submission of its NEB application. Pursuant to the NEBA, the NEB has sole discretion with respect to the timelines and process of the hearing. RAs and FAs commit to following the timeline for the NEB hearing. Estimated timelines include:

- a) Based on typical past NEB projects of this nature, an NEB Certificate decision may be released approximately 10 - 12 months from the Proponent's submission of its Project application;
- b) Recommendation by the Minister of NRCan to the Governor-in-Council in respect to the NEB Certificate if required - within 4 weeks of release of NEBA Reasons for Decision;
- c) CEAA EA determinations and course of action decisions by TC and DFO – concurrently with the final NEB EA report, assuming the timely submission of regulatory applications (TC requires a NIA to be completed in order for TC to make their CEAA EA determination), otherwise within 2 weeks of receiving the required additional information;
- d) If appropriate, issuance of NWPA and s.108(4) of the NEBA authorization – within 90 days of EA course of action decision;
- e) If appropriate, issuance of *Fisheries Act* s.35(2) authorizations within 90 days of EA course of action decision; and,
- f) Provision of *Species at Risk Act* (SARA) permit by EC within 60 days of receipt of an application. This is contingent upon the applicant submitting complete and proper documentation.

The estimated federal review timelines detailed above are based on target timeframes that have been established for activities to be undertaken by the Proponent that are required for the completion of the federal review, including the timely submission of documents and applications. Based on estimates of the federal review process, associated Proponent activities, and the discharge of the Crown's duty to consult, it is estimated that the federal review of the Project will be completed by July 2010.

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 will work with FAs, and the Proponent, to ensure that mitigation measures related to their areas of responsibility that were identified through the EA, and any conditions attached to licences and approvals, are effectively implemented, should one be deemed appropriate.

For those mitigation strategies within federal jurisdiction that were identified through the EA but that are not related to the RAs' regulatory responsibilities, the FAs will provide assistance to ensure the mitigation and follow-up strategies related to areas within their mandate are adhered to and effectively implemented by the Proponent.

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 NEB delays its process on its own motion;
- b) the NEB agrees to delay its process at the request of the Proponent, other interested parties or another jurisdiction;
- c) litigation or other court action prevents the completion or continuation of the federal review process; and,
- d) after the conclusion of the NEB process, information is outstanding for the purposes of an RA's EA and/or regulatory 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 federal review of the Project will be resolved through direct discussions and collaboration between the involved Parties, supported by the MPMO, as appropriate given the restrictions associated with the quasi-judicial nature of the NEB process.

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 process in relation to the Project within 90 days following the regulatory review. The level of effort and format of review 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.

9.0 PROJECT AGREEMENT

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

<u>Original signed by</u> Cassie Doyle Deputy Minister Natural Resources Canada	<u>15-10-09</u> Date
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<u>Original signed by</u> Gaétan Caron Chief Executive Officer National Energy Board	<u>20-10-09</u> Date
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<u>Original signed by</u> Claire Dansereau Deputy Minister Fisheries and Oceans Canada	<u>29-10-09</u> Date
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<u>Original signed by</u> Yaprak Baltacıoğlu Deputy Minister Transport Canada	<u>21-10-09</u> Date
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<u>Original signed by</u> Ian Shugart Deputy Minister Environment Canada	<u>03-11-09</u> Date
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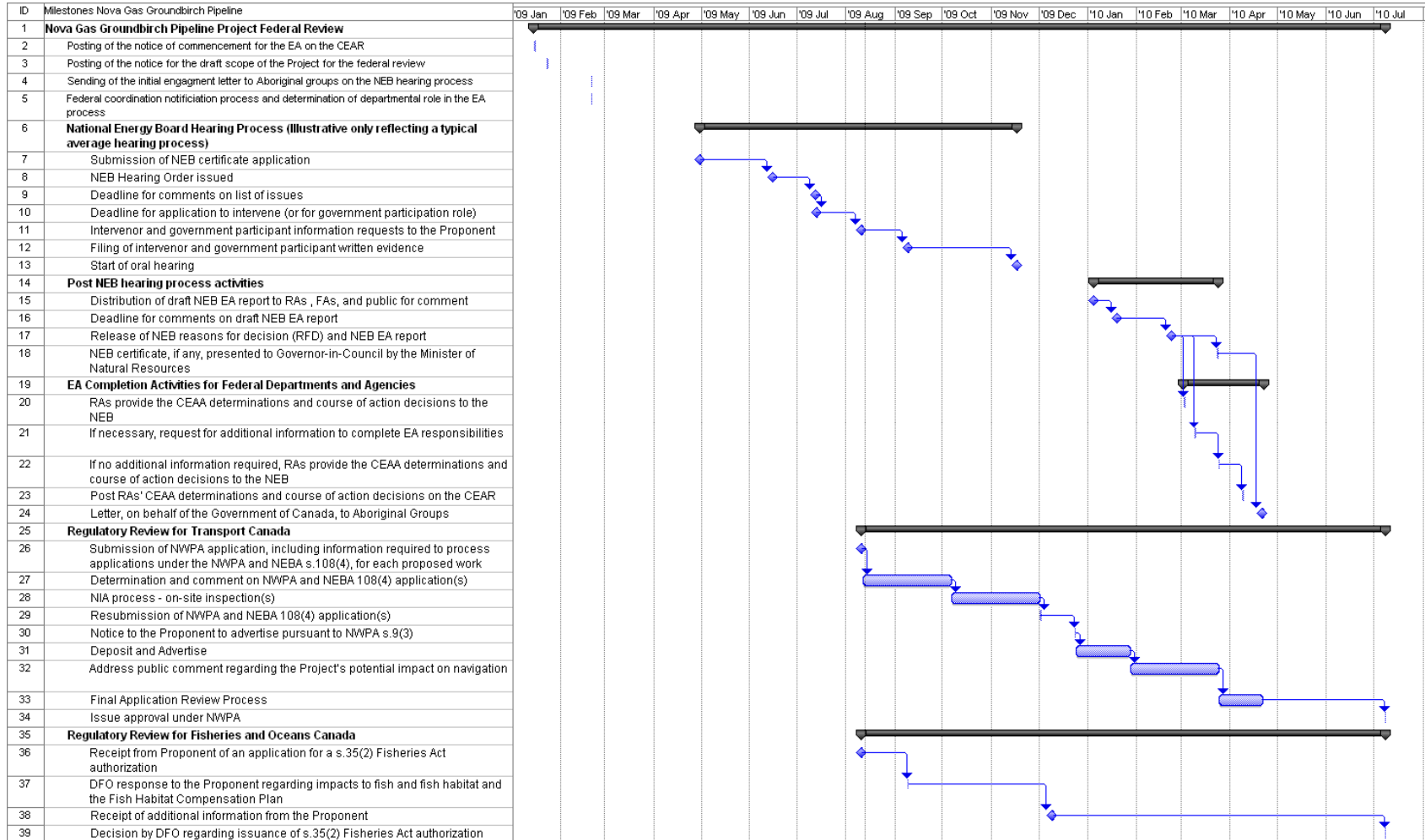
<u>Original signed by</u> Michael Wernick Deputy Minister Indian and Northern Affairs	<u>26-10-09</u> Date
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Annexes

- 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 and Roles and Responsibilities
- Annex IV Transport Canada: Roles, Responsibilities, Key Milestones and Service Standards
- Annex V Fisheries and Oceans Canada: Roles, Responsibilities, Key Milestones and Service Standards
- Annex VI Other Federal Departments and Agencies: Roles and Responsibilities

Annex I: Gantt Chart – Target Timelines for the Federal Review of the Project

Note: With respect to the NEB hearing process, the Chart below outlines some of the typical key procedural steps associated with an NEB hearing process and potential dates for those steps in relation to this Project. It is important to note that the dates presented here are neither official nor final and are included only to provide a rough timeline based on typical past NEB experience. The timelines are quite likely to change subject to the schedule set by the NEB Panel who will oversee the application. Further, timelines related to some procedural steps, such as the length of the oral hearing, are often dependent on the amount of third party involvement in the NEB hearing process. An official listing of procedural steps and associated timelines for the NEB hearing process as established by the NEB Panel overseeing the application is set out in the NEB Hearing Order issued on June 16, 2009.



Annex II

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

Note: The following milestones and service standards do not depict all steps within the NEB hearing process as detailed by the NEB Hearing Order.

Description/Activity	Lead	Support As Needed	Service Standard/ Completion Date
Posting of the notice of commencement for the EA on the CEAR	NEB	RAs & expert FAs	Completed January 15, 2009
Posting of the notice for the draft scope of the Project for the federal review	NEB	RAs & expert FAs	Completed January 23, 2009
Sending of initial engagement letter to Aboriginal groups on the NEB hearing process	NEB	MPMO, RAs, & expert FAs	Completed February 20, 2009
Federal coordination notification process and determination of departmental role in EA process	NEB	MPMO, RAs & expert FAs	In Progress
Submission of the NEB certificate application	Proponent		April 30, 2009
NEB Hearing Order issued	NEB		June 16, 2009
RAs and FAs submit additional information requests to the Proponent, if required	RAs & expert FAs		August 11, 2009
RAs and FAs submit written evidence, which may include preliminary evaluation of applicant's filed evidence with respect to RAs/FAs scope of involvement and/or expertise if appropriate	RAs & expert FAs		September 9, 2009
NEB oral hearing	NEB		Beginning November 17, 2009
Release of draft NEB EA report for public comment	NEB		At the discretion of the NEB Panel (typically within about 6 weeks of close of NEB hearing record)

Description/Activity	Lead	Support As Needed	Service Standard/ Completion Date
Submit comments on draft NEB EA report to the NEB in respect to scope of involvement and/or expertise	RAs & expert FAs	MPMO	Within 2 weeks of release of draft NEB EA report
Reasons for decision (RFD) and final NEB EA report issued by the NEB	NEB		Within 13 weeks of close of NEB hearing process
RAs provide the CEAA determinations and course of action decisions to the NEB	RAs	NEB & expert FAs	Within 1 week of NEB Reason for Decision and final NEB EA report
NEB certificate, if any, presented to Governor-in-Council by the Minister of Natural Resources	NRCan	MPMO	Within 4 weeks of the release of the NEB RFD
If necessary, request for additional information to complete EA responsibilities	RAs	MPMO	Within 2 weeks of release of NEB RFD and final NEB EA report
If no additional information required, RAs provide the CEAA determinations and course of action decisions to the NEB	RAs	NEB & expert FAs	If concurrent completion of the EA not possible, within 2 weeks of receiving the requested additional information
Post RAs' CEAA determinations and course of action decisions on the CEAR	NEB		Within 2 weeks of receiving other RAs' CEAA determinations and course of action decisions
Letter, on behalf of the Government of Canada, to Aboriginal groups	MPMO	NRCan	Within 4 weeks of any approval of NEB Certificate by Governor-in-Council

Annex III

Aboriginal Engagement and Consultation Approach and Roles and Responsibilities

1.0 Context

The Government of Canada will take a “Whole of Government” approach to Aboriginal engagement and consultation in the context of the Project. This approach is mandated by both the *Cabinet Directive on Improving the Performance of the Regulatory System for Major Natural Resource Projects* (the Directive) and its subsequent *Memorandum of Understanding for Improving the Regulatory Performance for Major Natural Resource Projects* (June, 2007). The Directive states that federal parties will work together towards a coordinated approach for Aboriginal engagement and consultation that is integrated with the EA and regulatory review process. Accordingly, this approach will work to ensure that Aboriginal groups are sufficiently consulted, and where appropriate accommodated, when actions that are contemplated by the Crown that may have adverse impacts on established or potential Aboriginal or treaty rights.

2.0 The Federal Crown Consultation Process for the Project

The Government of Canada will, to the extent possible, rely on the NEB process, including NEB hearing, to discharge any duty to consult for the proposed Project. Aboriginal groups that have project-related concerns should convey these concerns to the NEB, either orally or in writing, through the NEB hearing process. The RAs for the Project will likewise use the NEB process to respond to project-specific concerns that may arise in relation to their mandates, as a mechanism to address issues and concerns raised.

To help facilitate this process, the NEB, in collaboration with the RAs as appropriate, will be undertaking an engagement program with identified Aboriginal groups to: (1) outline the NEB process; and (2) clarify how Aboriginal groups can utilize this process to ensure that their views are heard and considered. Through these engagement efforts RAs will provide information to potentially affected Aboriginal groups regarding their specific regulatory mandates, as well as their scope of involvement in the EA and regulatory review process. Aboriginal groups identified by the Crown for engagement may change over time based on information received during the federal review and from feedback from Aboriginal groups, as may the level of engagement and consultation activities undertaken by the Crown.

The Crown – through the MPMO - will exercise an oversight role to assess the adequacy of the NEB process to fulfill the legal duty of the Crown to consult for this Project. If it is determined that the activities undertaken through the NEB process do not sufficiently satisfy the Crown’s legal duty to consult, the Crown will ensure that a process is put in place to satisfy this duty.

3.0 Roles and Responsibilities

Roles and responsibilities of each participating federal entity for the review of the Project are:

The NEB will:

- Conduct an engagement program with potentially impacted Aboriginal groups which will outline the NEB's hearing process and how groups can participate in that process;
- Conduct a public hearing process in respect of the application, including the following activities:
 - Ensure that the Proponent distributes the Hearing Order to potentially impacted Aboriginal groups;
 - Provide additional information, as necessary, to Aboriginal groups on how Aboriginal groups can participate in the hearing process; and,
 - Consider cultural practices, location and timing when planning the oral portion of the hearing.
- Refer to the MPMO issues raised by Aboriginal persons or groups that are outside of the NEB's mandate and which are raised in the context of NEB Aboriginal engagement activities as well as during the public hearing process.

The MPMO will:

- In collaboration with RAs and other federal departments and agencies, evaluate the adequacy of the NEB process to satisfy Crown consultation obligations, including the provision of oversight to ensure the overall consistency, accountability and transparency of the Crown consultation effort during the entire Project review:
 - Review all Aboriginal engagement materials forwarded by the NEB as a means to inform the Crown's review of the sufficiency of the NEB process to satisfy the Crown duty to consult;
 - Monitor the NEB's record of proceeding to identify issues raised by Aboriginal groups that fall outside the NEB's mandate which may require follow-up, and ensure these issues are referred to the appropriate organization; and,
 - In collaboration with federal departments and agencies, evaluate the adequacy of the NEB process to satisfy Crown consultation obligations and determine whether further Crown action is required outside the NEB process.
- House and maintain the official Record of Crown Consultation activities for the Project;
- Conduct early information gathering and communication with the Proponent, government departments, Aboriginal peoples and other stakeholders about engagement needs, activities and forthcoming Consultation responsibilities;
- Identify and track key regional or Consultation-relevant issues as early as possible;
- Incorporate information relating to Consultation activities into the MPMO Tracker; and,
- In collaboration with relevant federal departments and agencies, lead the development of the Crown Consultation Report for the Government of Canada

TC and DFO will:

- Participate in the NEB's hearing process and in coordinated consultation activities throughout the federal review process (including project development, pre-assessment, assessment, and post-assessment phases), as appropriate/required;
- In collaboration with other RAs, federal departments/agencies and the MPMO, monitor and evaluate the adequacy of the NEB process to satisfy Crown consultation obligations in respect of their legislative mandates;
- Track any Aboriginal concerns raised outside the NEB process in respect of their legislative mandates and address these issues, if required;
- Report to the NEB on consultation activities undertaken through the NEB hearing process and submit records to the MPMO in accordance with the established records-management process;
- When issues are raised by Aboriginal groups or persons outside the NEB process that are relevant to the NEB proceeding but outside the legislative mandate of DFO and TC, refer them to the NEB. If these issues are outside the mandates of the NEB, DFO and TC, refer them to the MPMO; and,
- Support issues analysis work, where required.

NRCan, HC and EC will:

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

The Department of Justice (DOJ) and INAC will:

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

Annex IV

Transport Canada Roles, Responsibilities, Key Milestones and Service Standards

EA

- Review and comment on the EA work plan;
- Review and comment on the Proponent's Certificate application;
- Participate in the NEB hearing process as a government participant to provide expert authority on navigation issues, as determined by TC, to ensure its EA responsibilities are met to the extent possible;
- Review draft fish habitat compensation plan(s) for potential impact on navigation and provide expert advice to DFO with respect to proposed mitigation measures;
- Review NEB draft EA screening report and submit comments during public comment period for the draft EA screening report ;
- Rely on the NEB final EA screening report to the extent possible, preparing additional information requests and further written analysis as required to fulfill any outstanding TC mandates and issues;
- Make EA determination pursuant to the CEAA and make course of action determination;
- Provide input into the follow-up and monitoring programs relative to TC's areas of regulatory responsibilities and areas of interest, as required; and,
- Work with other RAs and FAs to ensure implementation of mitigation measures, and where appropriate, accommodation of adverse impacts on potential or established s.35 rights, and those aspects of the follow-up program, related to TC's areas of regulatory responsibilities and areas of interest, as required.

Regulatory

- 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, including consulting with affected/potentially affected Aboriginal groups as appropriate, related to TC's regulatory responsibilities under the NWPA and s.108(4) of the NEBA as required supporting TC's regulatory decisions; and,
- Conduct site inspections 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
TC liaises with Project Proponent regarding potential works in regards to impacts on navigability	TC liaises with Project Proponent regarding proposed works that could potentially impact navigation and on potential alternatives and mitigation strategies to ensure that navigability is maintained.	TC	Ongoing
Submission of NWPA application, including information required to process applications under the NWPA and NEBA 108(4), for each proposed work	Proponent provides TC-NWPP with application for each proposed work and request for NWPA and NEBA 108(4) approval(s) complete with dimensioned plans, maps, reports, studies and data as outlined on the NWPA website. Review draft Fish Habitat Compensation Plans 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.	Proponent	Received September 4, 2009 Within 2 weeks of receiving draft Fish Habitat Compensation Plan
Determination and comment on NWPA and NEBA 108(4) application(s)	Review application package and information/plans for adequacy to support NWPA and s. 108(4) NEBA review. Requests further information if required, to proceed with application	TC	8 weeks after application submission
Navigation Impact Assessment Process - On-site Inspection(s)	Complete on-site Navigation Impact assessment of project, site and waterway(s), subject to weather and time of year.	TC	An initial 2 month inspection process, then ongoing until completion of public comment process

	prior to issuing an approval.		
Final Application Review Process	Perform a final review of all information on file, including technical information and public comments.	TC	4 weeks
Issue approval under NWPA and/or s. 108(4) under NEBA (if appropriate)	If appropriate, issue approvals under NWPA and/or s. 108(4) under NEBA	TC	Within 90 calendar days following EA Course of Action decision, if NWPA applications are submitted before or in conjunction with the EIS

Annex V

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

EA

- Review and comment on the EA work plan;
- Review and comment on the Proponent's Certificate application;
- Participate in the NEB hearing process as a government participant or Intervenor to provide expert authority with respect to DFO's mandate under the *Fisheries Act* and aquatic species under the *Species at Risk Act*, to ensure its EA responsibilities are met to the extent possible;
- Afford TC an opportunity to review proposed mitigation measures with respect to potential impact on navigation prior no later than the beginning of NEB oral hearing, if such information is available;
- Review NEB draft EA screening report and submit comments during public comment period for the draft EA screening report ;
- Rely on the NEB final EA screening report to the extent possible, preparing additional information requests and further written analysis as required to fulfill DFO's mandate;
- Make EA determination pursuant to the CEAA and make course of action determination;
- Provide input into the follow-up program, if a follow-up program is deemed necessary, and monitoring programs relative to DFO's areas of regulatory responsibilities and areas of interest under the Fisheries Act and aquatic species under the Species at Risk Act, as required; and,
- Work with other RAs, FAs and the proponent to ensure implementation of mitigation measures, and where appropriate, accommodation of adverse impacts on potential or established s.35 rights, and those aspects of the follow-up program, if a follow-up program is deemed necessary, related to DFO's areas of regulatory responsibilities and areas of interest under the Fisheries Act and aquatic species under the Species at Risk Act, as required.

Regulatory

- Participate in meetings with other federal/provincial authorities as appropriate;
- Prepare regulatory work plan;
- Afforded TC an opportunity to review any necessary compensation agreements with respect to TC's legislative mandate prior to the issuance of authorizations; and,
- Undertake any required activities related to DFO's mandate under the *Fisheries Act* and aquatic species under the *Species at Risk Act*, as required, to support DFO's regulatory decisions, including consulting with affected/potentially affected Aboriginal groups as appropriate.

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 from the Proponent of an application for a s.35(2) Fisheries Act authorization.	DFO receives application from the Proponent for authorization of impacts to fish and fish habitat under ss. 32 and 35(2) of the Fisheries Act complete with adequate plans, maps, reports and data to support the review. This may include a fish habitat compensation plan to support the Fisheries Act review.	Proponent	Dependent on timing of the submission of the application by the Proponent.
DFO response to the Proponent regarding impacts to fish and fish habitat and the fish habitat compensation plan.	DFO reviews the proposed fish habitat compensation plan and associated financial security, if applicable, for adequacy to support the Fisheries Act review. DFO requests further information, if required, to proceed with the review of the application (and EIS, if reviews are concurrent). Provide TC with a copy of the draft fish habitat compensation plan and any potential comments for review with respect to navigation concerns.	DFO	4 weeks from receipt of acceptable fish habitat compensation plan. Within 4 weeks of receiving draft fish habitat compensation plan.
Receipt of additional information from the Proponent.	DFO receives additional information from the Proponent.	Proponent	Dependent on timing of the submission of additional information by the Proponent.
Decision by DFO regarding issuance of s.35(2) Fisheries	If appropriate, DFO issues a <i>Fisheries Act</i> authorization to the Proponent for impacts to	DFO	DFO issues an authorization contingent on EA course of action decision under

<p>Act authorization.</p>	<p>fish and fish habitat.</p>	<p>paragraph 20(1)(a) of the CEEA.</p> <p>DFO issues the authorization 90 calendar days after receipt of an acceptable fish habitat compensation plan (including financial security) and the discharge of any legal Aboriginal consultation obligations associated with the authorization(s).</p> <p>Issuance of the authorization will also consider the Proponent's timing needs for the authorization in that, should the authorization not be required until much later than the timeline above, DFO will issue it when it is appropriate.</p>
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Annex VI

Other Federal Departments and Agencies Roles and Responsibilities

	ROLES / RESPONSIBILITIES
National Energy Board	<p><u>Joint EA and Regulatory</u></p> <ul style="list-style-type: none"> • Identify and coordinate RAs and FAs for the purposes of initiating and coordinating the EA process; • Prepare the EA Work Plan; • Conduct the NEB hearing process; • Prepare EA report; and, • Issue regulatory decision in regards to application • Post RA’s CEEA determinations on the CEAR <p><u>Post-EA Regulatory</u></p> <ul style="list-style-type: none"> • Monitor compliance with conditions imposed on Certificate if issued;

	ROLES / RESPONSIBILITIES
Environment Canada Natural Resources Canada	<ul style="list-style-type: none"> • Review and comment on the Proponent’s Certificate application and other documents as requested by the NEB and RAs; • Participate in the NEB hearing as government participants, Intervenors or by letter of comment or oral statement; • Review and submit comments on the draft NEB EA report; • Provide support to the review of the design and implementation of the follow-up program and/or mitigation measures that arise from FA recommendations made, and as agreed to, with the RAs; and, • EC issues SARA permit(s) as appropriate and if required.
Health Canada	<ul style="list-style-type: none"> • Provide advice regarding the potential human health implications of the Project when requested by RAs. Advice will be provided within the timelines requested by the RAs.
Indian and Northern Affairs Canada	<ul style="list-style-type: none"> • Provide advice in regard to Aboriginal engagement and consultation to support the Government of Canada in respect of the Project
Natural Resources Canada	<ul style="list-style-type: none"> • Prepare the Minister of Natural Resources regarding the Proponent’s application for a NEB Certificate if required

ROLES / RESPONSIBILITIES	
Major Projects Management Office	<ul style="list-style-type: none"> • Coordinate the development and approval of the Project Agreement; • Monitor and report on the progress of the Project through the EA and regulatory review; • Take proactive steps to identify opportunities to streamline the regulatory process to meet government timelines and identify bottlenecks that could cause delay; and • Incorporate information received from FAs, RAs, and the Proponent on the EA and regulatory milestones into the MPMO Tracker.