

**An Agreement on  
Environmental Monitoring of the  
Pacific NorthWest LNG Project**

**AMONG:**

**Her Majesty in right of Canada, as represented by the Minister of the Environment**

**(referred to as "Canada")**

**AND:**

**Her Majesty in right of British Columbia, as represented by the Minister of Natural  
Gas Development and Minister Responsible for Housing and Deputy Premier**

**(referred to as "British Columbia")**

**AND:**

**Lax Kw'alaams First Nation, as represented by the Mayor and Council**

**(referred to as "Lax Kw'alaams")**

**AND:**

**Metlakatla First Nation, as represented by the Chief and Council**

**(referred to as "Metlakatla")**

**(Collectively referred to as the "Parties")**

## Background

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Pacific NorthWest LNG Ltd. (PNW) is proposing a Liquefied Natural Gas (LNG) terminal and associated infrastructure (the Project) to be developed and operated within the asserted traditional territories of the Lax Kw'alaams and Metlakatla First Nations, collectively known as the Coast Tsimshian.

To ensure that the Coast Tsimshian have a central and ongoing role in the environmental and compliance monitoring of the Project, together with federal and provincial Regulatory Authorities, an approach was developed to coordinate the activities of the Parties to this Agreement (Coast Tsimshian First Nations and the Governments of B.C. and Canada).

This Agreement sets out the general principles, structure and roles and responsibilities with respect to the establishment of an Environmental Monitoring Committee (EMC) and a supporting Technical Committee. These Committees are forums for information sharing, collaboration amongst the Parties and coordination to the extent possible of the activities of two Environmental Monitors (Coast Tsimshian and Independent), and Regulatory Authorities on environmental monitoring and other compliance verification activities. The EMC also supports discussion of adaptive management measures and other remedial actions should mitigation measures be deemed ineffective.

The Parties intend this Agreement to facilitate broad access to the results of environmental monitoring activities through interpretation, explanation and dissemination to all interested First Nations and the public. The approach described in this Agreement is also intended to build a foundation for the establishment of a collaborative environmental and compliance monitoring structure for other potential major resource development projects within Coast Tsimshian Territories.

## **Definitions**

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**Compliance Monitoring**: means various forms of field and desk-based activities to inform whether PNW is adhering to regulatory requirements.

**Compliance Oversight**: means activities, including Compliance Monitoring and investigations when non-compliance is suspected, conducted by Regulatory Authorities to verify compliance with regulatory requirements.

**Coast Tsimshian**: refers to Lax Kw'alaams and Metlakatla First Nations.

**Enforcement**: means activities conducted by Regulatory Authorities to enforce regulatory requirements including, but not limited to, warnings, violation tickets, remedy orders, administrative penalties and stop work orders.

**Environmental Management Plan**: means any environmental plan, program, or protocol required by federal or provincial environmental assessments.

**Environmental Monitoring**: means various forms of field-based activities including but not limited to tissue, noise, vibration, light, air, water and soil sampling and other forms of data collection.

**Independent Environmental Monitor**: the monitor hired by Pacific NorthWest LNG Ltd. in accordance with the Environmental Assessment Certificate issued under the B.C. Environmental Assessment Act and the Environmental Assessment Decision Statement issued under the Canadian Environmental Assessment Act, 2012, or any provincial or federal regulatory instrument, and as reflected in this Agreement.

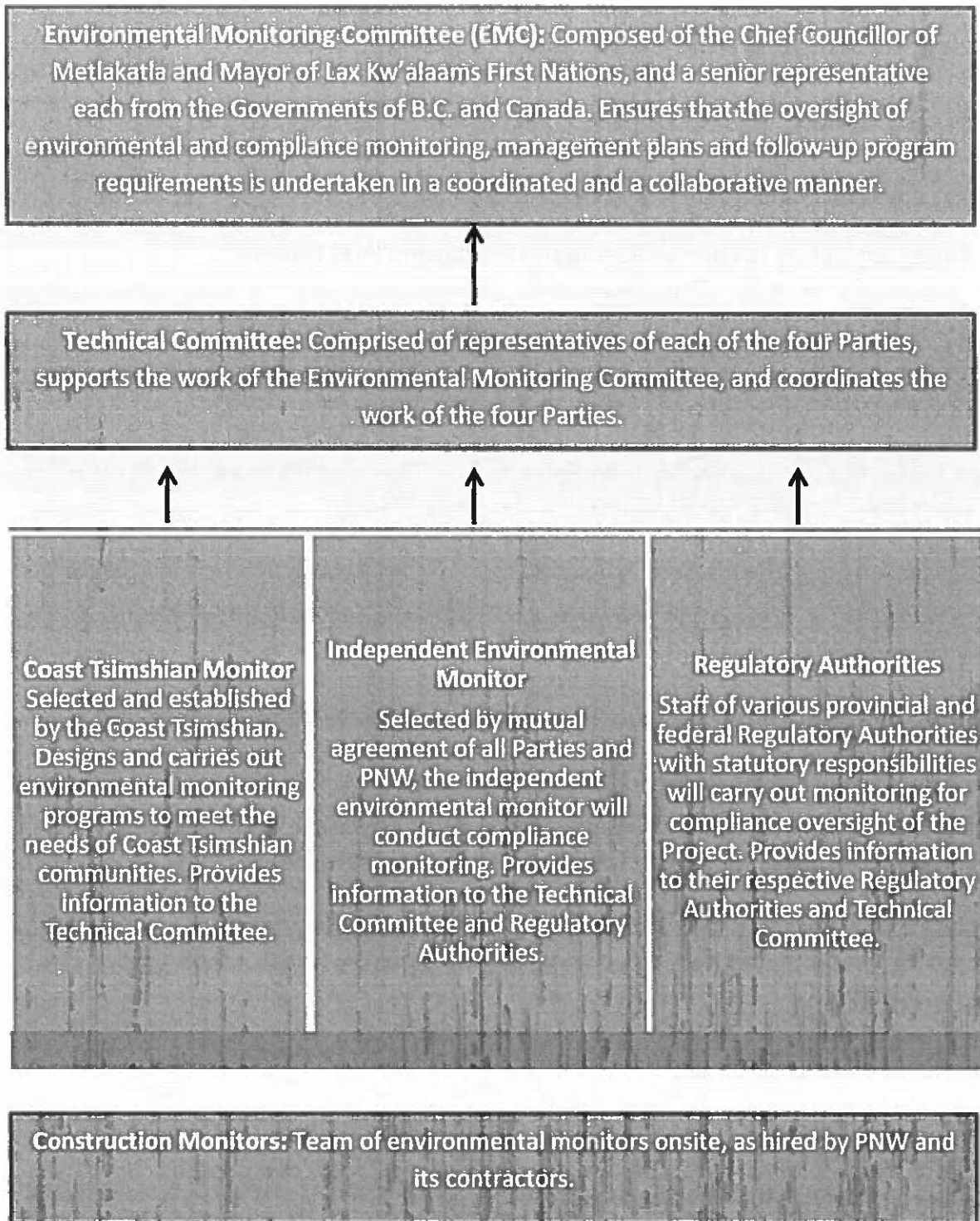
**Interested First Nations**: refers to Gitxaala, Kitsumkalum, Kitselas, Gitga'at, Wet'suwet'en, Takla Lake First Nation, Gitxsan, Gitanyow, Blueberry First Nation, Lake Babine, and Haida.

**Prince Rupert LNG Project Area**: means those lands and waters shown in Schedule 1

**Regulatory Authorities**: means provincial or federal bodies with statutory responsibilities for (i) compliance with all applicable environmental laws, or (ii) oversight or enforcement of the legal compliance of the Project.

## Structure

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## Environmental Monitoring Committee

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The Environmental Monitoring Committee (EMC) will consist of one senior representative each from the Metlakatla and Lax Kw'alaams First Nations, and one senior representative each from the Governments of British Columbia and Canada. The EMC will be co-chaired through a rotating Chair function. A federal secretariat will be established.

The purpose of the EMC will be to ensure that oversight of environmental and compliance monitoring, management plans and follow-up program requirements is undertaken in a coordinated and collaborative manner.

The EMC is supported by a coordinating Technical Committee and three general types of monitoring groups as shown in the preceding diagram. The EMC will also:

1. be the custodian of the overall Agreement;
2. receive recommendations from the Technical Committee, and be the decision-maker on matters and recommendations within the scope of the Agreement to be provided to PNW, appropriate Regulatory Authorities and the Parties as necessary;
3. in accordance with Section 12.1 of the September 27, 2016 Environmental Assessment Decision Statement issued by the Minister of Environment and Climate Change Canada, approve the appointment of any Independent Environmental Monitor (IEM) for the Project in conjunction with PNW.
4. provide recommendations to PNW and as necessary, Lax Kw'alaams and Metlakatla and the appropriate Regulatory Authority on PNW's environmental performance and any additional actions the Committee deems necessary;
5. oversee the development of understandings and agreements as necessary to ensure coordinated and effective monitoring work of the Coast Tsimshian Monitor; and
6. make information about environmental and compliance monitoring issues available to Interested First Nations, as well as the public.

Canada will share with the EMC and the Technical Committee, as appropriate, the results of consultation activities with Interested First Nations in relation to the Project.

The Parties will take this information into consideration in carrying out the mandate of the EMC.

The Parties have the responsibility to strive to reach consensus. Where consensus cannot be achieved, the Parties will seek to resolve the disagreement expeditiously and in good faith. Where the Parties are unable to resolve a disagreement, each Party may proceed with its decision-making process and the outstanding points of disagreement will be documented to form part of the official record included in the decision-making materials for each Party.

Each Party agrees to appoint its respective representatives as set out above, including the replacement of any such representatives, as required, with the goal that there will be no lapse of representation of any Party on the EMC.

Each Party agrees to adhere to the foregoing obligations and procedures in respect of the EMC.

### **Technical Committee**

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The Technical Committee, in support of the EMC, will coordinate and collaborate on environmental and compliance monitoring related to construction and operation of PNW.

The Technical Committee will consist of:

1. one representative each from Lax Kw'alaams and Metlakatla First Nations;
2. one representative each from the Canadian Environmental Assessment Agency, Department of Fisheries and Oceans, Environment and Climate Change Canada, Transport Canada, and the Prince Rupert Port Authority; and
3. one representative each from the B.C. Environmental Assessment Office, Ministry of Natural Gas Development, and Oil and Gas Commission.

Federal and provincial government representatives are responsible for providing advice to the Technical Committee within the scope of expertise of the organization they represent.

The Technical Committee will be co-chaired through a rotating Chair function. A federal secretariat will be established. The Technical Committee will meet quarterly and when required, more frequently at the request of the Chair. The Technical Committee will strive to reach consensus, but when there are dissenting views, all views will be presented to the EMC.

Where a Regulatory Authority is responsible for an environmental condition related to the scope of work of the Technical Committee, but is not a member of the Environmental Monitoring Committee, the Chair will advise the relevant Regulatory Authority in the event an issue arises, and where deemed necessary by all Parties, invite the Regulatory Authority to participate in a meeting of the Technical Committee.

The Technical Committee will undertake the following in support of the Environmental Monitoring Committee:

1. coordinated review of Environmental Management Plans and follow up programs that PNW will be required to develop and implement through EA decisions, and provision of advice and recommendations on these Management Plans and programs;
2. review of the results of monitoring undertaken by the IEM, the Coast Tsimshian Monitor and the Regulatory Authorities as required and more frequently during construction (likely monthly), and at least annually during operation;
3. monitoring of the effectiveness of PNW's implementation of environmental regulatory requirements, including compliance with federal or provincial permits, licenses, authorizations or other approvals;
4. coordination, to the extent possible, of the Environmental Monitoring and Compliance Oversight of PNW's environmental assessment and regulatory requirements;

5. sharing of information on Enforcement activities, in a manner and at a time that does not undermine or jeopardize effective Enforcement action;
6. encouragement of consistent data measurement, collection and presentation, including with respect to any related cumulative effects or Environmental Monitoring activities involving the Parties;
7. recommending to PNW, and providing advice to the appropriate Regulatory Authority and the Parties as necessary on PNW's environmental performance and any additional actions the Committee deems necessary, including early detection of potential issues;
8. collaboration on potential solutions to environmental problems that may be revealed in Environmental Monitoring and Compliance Oversight work;
9. provision of advice and recommendations to PNW or Regulatory Authorities on measures required for adaptive management or to address non-compliance, including a spectrum of measures up to and including orders to stop work;
10. establishment of technical sub-committees as needed to carry out Technical Committee functions;
11. development of policy and procedures for communication and information sharing among the Technical Committee, the Coast Tsimshian Monitor, the IEM and Regulatory Authorities; and
12. development of a mechanism through which other interested parties may review and provide feedback on the Technical Committee's activities.

Any advice, guidance or recommendations provided to PNW by the Technical Committee are intended to help PNW achieve or remain in compliance with legal requirements. This advice would not relieve PNW from its responsibility to comply with all applicable legal requirements, as determined by the relevant Regulatory Authority.



Each Party agrees to appoint its respective representatives as set out above, including the replacement of any such representatives as required, with the goal that there will be no lapse of representation of any Party on the Technical Committee.

Each Party agrees to adhere to the foregoing obligations and procedures in respect of the Technical Committee.

### **Coast Tsimshian Monitor**

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The Coast Tsimshian Monitor will have demonstrated experience in and knowledge of Environmental Monitoring, and will have neither a real nor perceived conflict of interest in the Project. The Monitor may be assisted by individuals with relevant knowledge and experience, including traditional Indigenous or local knowledge.

The Coast Tsimshian Monitor will be selected and established by the Metlakatla and Lax Kw'alaams First Nations, and will seek to meet Coast Tsimshian community needs related to issues of major concern arising from the construction, operation and decommissioning of the Project.

Specifically, the Coast Tsimshian Monitor may:

1. review Environmental Management Plans and design monitoring programs that will address issues of concern to the Coast Tsimshian;
2. conduct environmental monitoring as directed by the Coast Tsimshian Nations, coordinated through the Technical Committee to the extent possible;
3. conduct environmental Compliance Monitoring as directed by the Coast Tsimshian Nations and as coordinated with the Technical Committee;
4. provide data and information to the Technical Committee and appropriate Regulatory Authorities, with potential instances of non-compliance identified to the appropriate Regulatory Authority as soon as practicable, and to other members of the Technical Committee without delay;
5. monitor the effectiveness of PNW's implementation of mitigation measures and environmental assessment and regulatory requirements;

6. identify, and recommend to PNW and as necessary the Technical Committee and appropriate regulators, potential additional actions or mitigation measures that could respond to adverse environmental effects which may be observed and which may not be authorized or subject to a previous Environmental Assessment or other regulatory requirement; and
7. liaise with the Coast Tsimshian to provide information to community members, and ensure their concerns are reviewed and responded to by the appropriate Regulatory Authority.

The Parties will explore how the Coast Tsimshian Monitor will work alongside Regulatory Authorities and the Independent Environmental Monitor, and how enabling authorities under provincial and federal legislation may be obtained to facilitate coordinated environmental monitoring activities.

The Coast Tsimshian agree to appoint the Coast Tsimshian Monitor, including the replacement of the Coast Tsimshian Monitor, as required, with the goal that there be a Coast Tsimshian Monitor at all times during this Agreement.

The Coast Tsimshian agree to cause the Coast Tsimshian Monitor to adhere to the foregoing obligations and procedures.

### **Independent Environmental Monitor**

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The Independent Environmental Monitor (IEM) will be a qualified professional or professionals with demonstrated experience and knowledge of environmental monitoring.

In accordance with Section 12.1 of the September 27, 2016 Environmental Assessment Decision Statement issued by the Minister of Environment and Climate Change Canada, the EMC will approve the appointment of the IEM in collaboration with PNW, who will be responsible for retaining the IEM through construction, operation, modification and decommissioning of the Project. The IEM:

1. will prepare and submit reports on PNW's compliance with environmental assessment requirements to Regulatory Authorities and the Technical Committee;

2. will have the authority to stop work that does not comply with regulatory requirements; and
3. will fulfill the roles and responsibilities defined for them in the federal or provincial permits, authorizations, licenses, or other approvals or amendments.

The reports prepared by the IEM will not be reviewed or modified by PNW prior to submission to Regulatory Authorities and the Technical Committee. The Parties agree to act in good faith and make best efforts to reach consensus on the appointment of the IEM as set out above, including the replacement of the IEM as required with the goal that there be an IEM at all times during construction, operation or decommissioning of the Project by PNW.

### **Funding**

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Canada will provide secretariat support to the EMC and the Technical Committee.

Each Party agrees to act cooperatively and in good faith in order to conclude funding arrangements related to the implementation of this Agreement, which will be negotiated separately, including with PNW.

### **General Provisions**

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The Parties are committed to conducting the additional policy and operational work required to support the effective functioning of the EMC, the Technical Committee and the implementation of this Agreement.

This Agreement is made without prejudice to the positions taken by any party with respect to Coast Tsimshian aboriginal rights, including title, and does not, nor is it intended to, displace or derogate from any legal duty that the Government of Canada or the Government of British Columbia may have to Coast Tsimshian First Nations.

The Agreement shall take effect upon signing by all the Parties.

The Parties will review the effectiveness of the two Committees (EMC and Technical Committee) on an annual basis during the construction phase of the Project, and at least every three years thereafter. The Agreement will remain in effect until it is amended in writing by the Parties.

This Agreement may be amended at any time by agreement in writing of the Parties.

This Agreement will continue during construction, operations and potential closure and reclamation of PNW, unless all the Parties agree to amend or terminate the Agreement in writing in the meantime.

A Party may terminate its participation in this Agreement only after having:

- a) provided 90 days written notice of its intent to terminate; and
- b) attempted to resolve its concerns with the senior officials of the other Parties in an interest-based manner, which notice shall describe, in sufficient detail, the efforts made by that Party to resolve its concerns as set out in (a) above.

If PNW decides not to proceed with an LNG facility and related marine facilities in the Prince Rupert LNG Project Area, then this Agreement will terminate on the date that decision becomes publicly available.

The Parties agree to consider using this Agreement as a model for the establishment of a collaborative environmental and compliance monitoring framework for other potential LNG projects within Coast Tsimshian asserted traditional territories.

This Agreement does not, and will not be interpreted to, obstruct the activities of Regulatory Authorities or fetter Regulatory Authorities' abilities or obligations to take action within their mandate and in accordance with their statutory authorities to respond to environmental issues.

**Her Majesty in right of Canada, as represented by the Minister of the Environment**

<Original signed by>

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The Honourable Catherine McKenna

**JAN 17 2017**

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Date

**Her Majesty in right of British Columbia, as represented by the Minister of Natural Gas Development and Minister Responsible for Housing and Deputy Premier**

<Original signed by>

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The Honourable Rich Coleman

*Oct 13 / 2016*  
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Date:

**Lax Kw'alaams First Nation, as represented by the Mayor**

<Original signed by>

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John Helin

*Nov. 23, 2016*  
\_\_\_\_\_  
Date:

**Metlakatla First Nation, as represented by the Chief Councillor**






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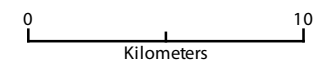
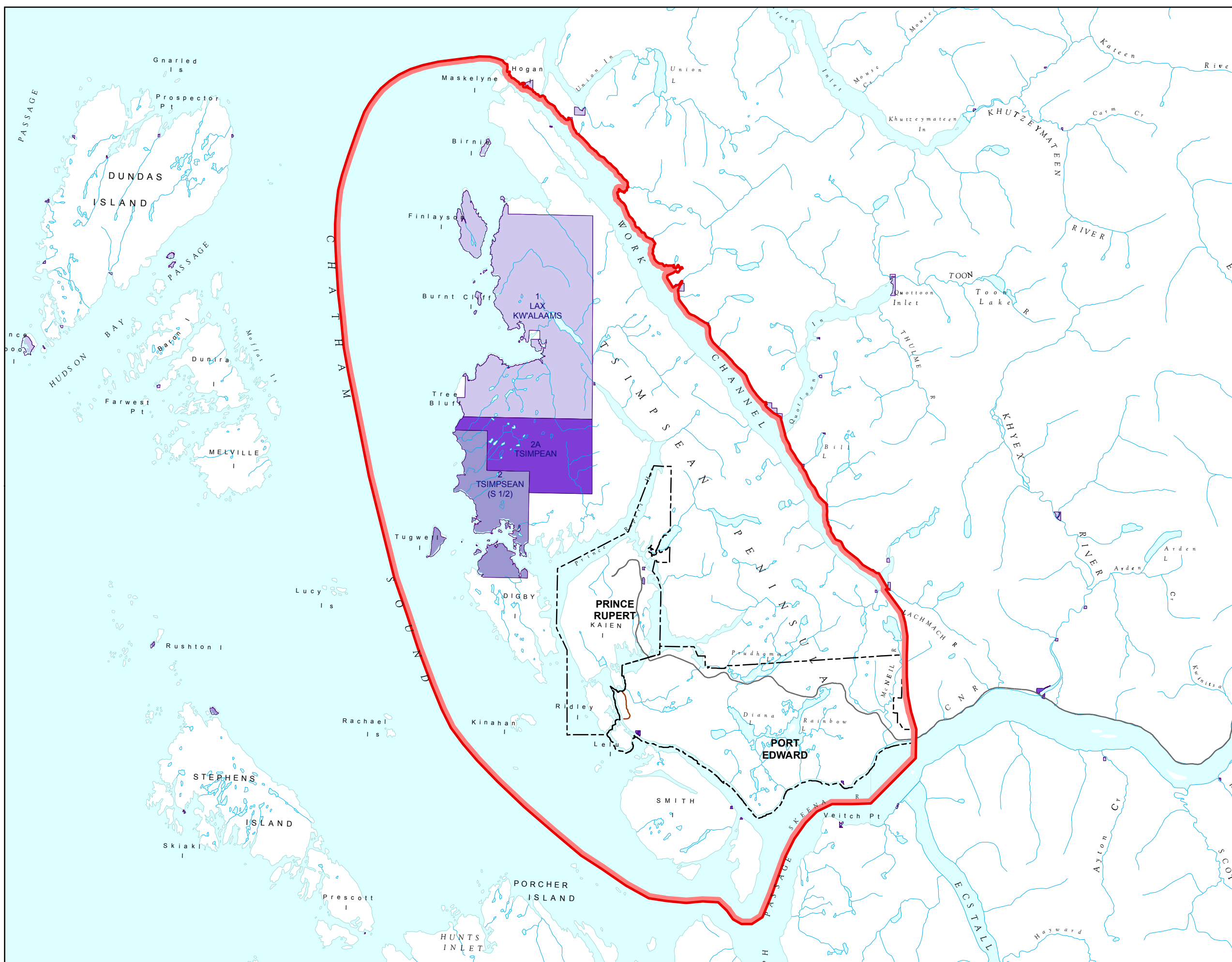
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Harold Leighton

*Oct. 13, 2016*  
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Date:

# Schedule 1

## Prince Rupert LNG Project Area

-  Prince Rupert LNG Project Area
-  Metakatla Indian Reserve
-  Lax Kw'alaams / Metakatla Indian Reserve
-  Lax Kw'alaams Indian Reserve
-  Kitselas / Kitsumkalum Indian Reserve



Produced by: GeoBC  
 Created by: Decision Support Section, sph  
 Coordinate System: NAD 1983 UTM Zone 9N



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