

TESA Environmental Committee Agreement for 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:

Gitga'at First Nation, as represented by the Chief and Council

(referred to as "Gitga'at")

AND:

Gitxaala First Nation, as represented by the Chief and Council

(referred to as "Gitxaala")

AND:

Kitselas First Nation, as represented by the Chief and Council

(referred to as "Kitselas")

AND:

Kitsumkalum First Nation, as represented by the Chief and Council

(referred to as "Kitsumkalum")

(Collectively referred to as the "Parties")

Background

Tsimshian First Nations currently collaborate on environmental matters through the Tsimshian Environmental Stewardship Authority (TESA). In recognition of the valuable work that the Tsimshian First Nations carry out together through TESA, this Agreement defines the terms of reference for Canada and British Columbia to collaborate through TESA or any working group identified by the Tsimshian First Nations to exchange information, discuss issues of common concern, and coordinate environmental activities to the extent possible to ensure that Tsimshian First Nations have a central and ongoing role in the environmental and compliance monitoring activities for Pacific NorthWest (PNW) Liquefied Natural Gas terminal and associated infrastructure (the Project). The approach described in this Agreement could also inform the establishment of a collaborative environmental process for other potential major resource development projects within Tsimshian Territories.

Definitions

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.

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.

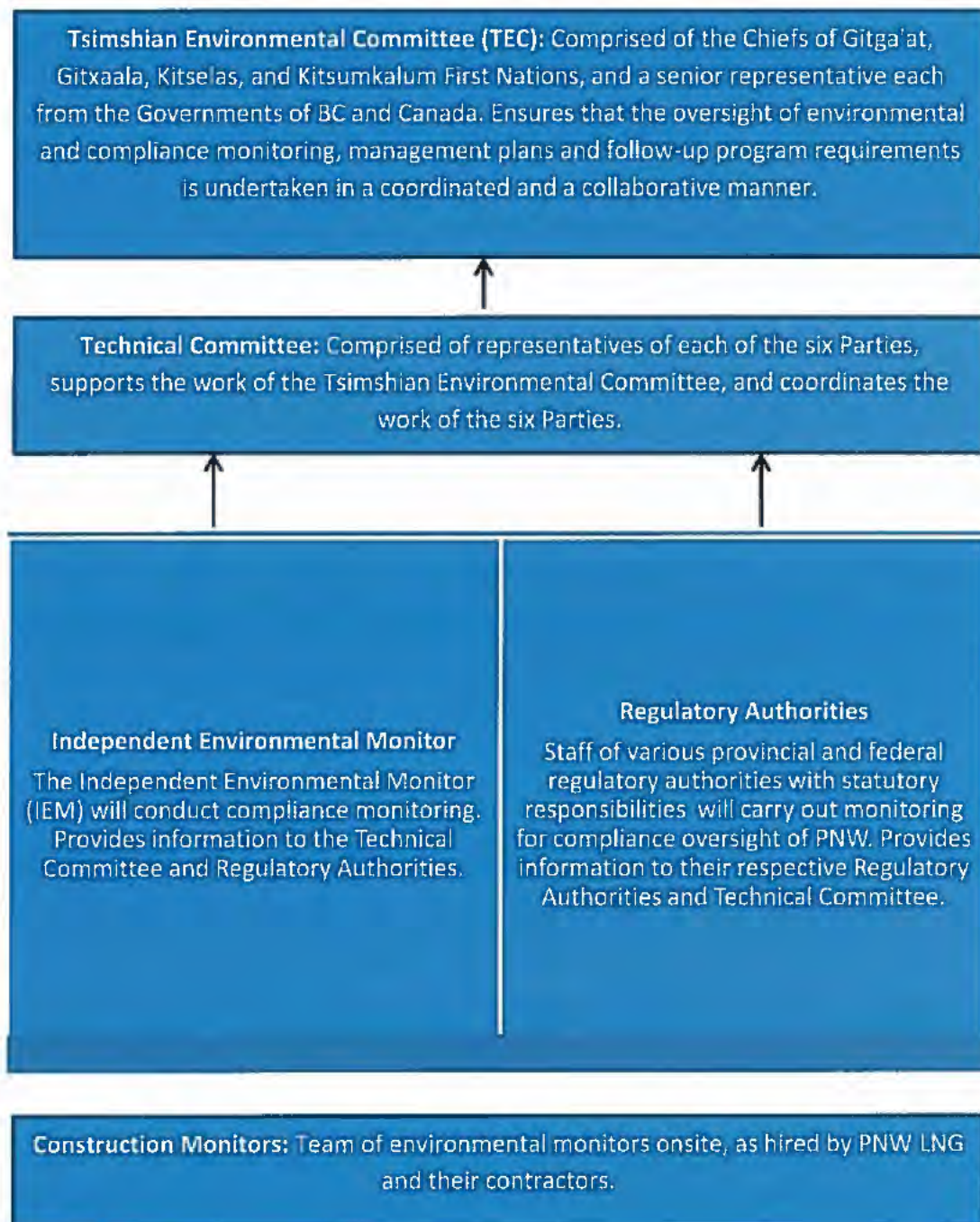
Independent Environmental Monitor: the monitor hired by Pacific NorthWest LNG Ltd. in accordance with the Environmental Assessment Certificate issued under the B.C. Environmental Assessment Act and the Environmental Assessment Decision Statement issued under the Canadian Environmental Assessment Act,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

Interested First Nations: means Blueberry, Gitanyow, Gitksan, Haida, Lake Babine, Metlakatla, Lax Kw'alaams, Takla Lake First Nation and Wet'suwet'en First Nations.

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.

Tsimshian First Nations: as pertaining to this Agreement means the Gitga'at, Gitxaala, Kitselas, and Kitsumkalum First Nations.

Structure



TESA Environmental Committee

The TESA Environmental Committee (TEC) will be comprised of one senior representative of each of the Gitga'at, Gitxaala, Kitselas, and Kitsumkalum First Nations, and one senior representative each from the Governments of British Columbia and Canada. The TEC will be co-chaired, with the Tsimshian First Nations Chair rotating among member First Nations, and the other chair from the Government of Canada. The TEC will meet quarterly during construction, and at least annually during operation of the PNW LNG Project, or more frequently at the request of a co-chair. A federal secretariat will be established.

The purpose of the TEC 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 TEC is supported by and gives direction to a coordinating Technical Committee, and gives advice to the Independent Environmental Monitor (IEM) and Regulatory Authorities as shown in the preceding diagram. The TEC 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. provide recommendations to PNW LNG and as necessary, TESA member Nations and the appropriate Regulatory Authority on PNW LNG's environmental performance and any additional actions the Committee deems necessary;
4. make information about environmental and compliance monitoring issues available to Interested First Nations, as well as the public.

The Parties have the responsibility to strive to reach consensus in the work of the Committees. 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 package for each Party.

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

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

Technical Committee

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

The Technical Committee will consist of:

1. one representative from each of the TEC member 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 from the Province who will coordinate the attendance or engagements by the BC Environmental Assessment Office and Oil and Gas Commission as necessary.

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

The Technical Committee will be co-chaired, with the TESA chair rotating among member Nations, and the other chair alternating between the Governments of BC and Canada. A federal secretariat will be established. The Technical Committee will meet quarterly and when required, more frequently at the request of a co-Chair. The Technical Committee will strive to reach consensus, but when there are dissenting views, all views will be presented to the TEC.

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 TEC, 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 TESA Environmental Committee:

1. coordinated review of Environmental Management Plans and follow up programs that PNW LNG 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 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. recommendations to PNW, and 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. establishment of technical sub-committees as needed to carry out Technical Committee functions;
10. development of policy and procedures for communication and information sharing among the Technical Committee, the IEM and Regulatory Authorities; and
11. development of a mechanism through which other Interested First Nations may review and provide feedback on the Technical Committee's activities.

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

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

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

Independent Environmental Monitor

The Parties agree that any Independent Environmental Monitor (IEM) appointed in relation to the Project will be a qualified professional or professionals with demonstrated experience and knowledge of environmental monitoring. Responsibility for the retention of an IEM by PNW is addressed in the British Columbia Environmental Assessment Certificate, and the federal Environmental Assessment decision statement.

The Tsimshian First Nations will provide advice through TEC on the selection criteria for any IEM appointed during construction, operation, modification or decommissioning of the project.

The Parties agree that the responsibilities of an IEM for the Project will include, at a minimum:

1. preparing and submitting reports on the compliance of PNW with environmental assessment requirements to Regulatory Authorities and the Technical Committee; and
2. the authority to stop work that does not comply with regulatory requirements.

The Parties also agree that reports prepared by an IEM will not be reviewed or modified by PNW prior to submission to Regulatory Authorities and the Technical Committee.

Funding

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

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

General Provisions

The Parties are committed to conducting the additional policy and operational work required to support the effective functioning of the TEC, 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 the aboriginal rights, including title, of any Tsimshian First Nation. It 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 any Tsimshian First Nation or any other Interested First Nations.

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

The Parties will review the effectiveness of the Agreement on an annual basis during the construction phase of the project, and at least every three years thereafter.

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

The Agreement will remain in effect until it is amended in writing by the Parties.

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.

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

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>

The Honourable Catherine McKenna

MAR 24 2017

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>

The Honourable Rich Coleman

Date:

R
April 6/2017

Gitga'at First Nation, as represented by the Chief Councillor

Arnold Clifton

Date:

Gitxaala First Nation, as represented by the Chief Councillor
<Original signed by>

Clifford White

Feb. 22, 2017

Date:

Kitselas First Nation, as represented by the Chief Councillor
<Original signed by>

Joe Bevan

Feb 28, 2017

Date:

Kitsumkalum First Nation, as represented by the Chief Councillor
<Original signed by>

Don Roberts

Feb. 23, 2017

Date: