

AGENDA: B.C./AK Bilateral Working Group

Wednesday, January 22, 2020; 10:30am – 12:00pm (PST); 9:30am – 11:00am (AKST)
#900-865 Hornby Street, Vancouver B.C.

Invitees:

British Columbia (B.C.):

- Deputy Minister of Environment and Climate Change Strategy, Mark Zacharias
- Assistant Deputy Minister Laurel Nash, Environmental Protection Division, ENV
- Assistant Deputy Minister Peter Robb, Mines, Competitiveness and Authorizations, EMPR
- Assistant Deputy Minister Nathaniel Amann-Blake, Mines Health, Safety and Enforcement, EMPR
- Jennifer Anthony, Director, Strategic Initiatives, EMPR
- Lisa Paquin, Director, Intergovernmental Relations, Strategic Policy Branch, ENV
- Robyn Roome, Regional Director, Environmental Protection Division, ENV
- Gabby Barwin, Policy Analyst, Policy and Competitiveness, EMPR
- Audrey Roburn, Senior Policy Advisor, Strategic Policy Branch, ENV

Alaska (AK):

- Commissioner Jason Brune, Department of Environmental Conservation
- Commissioner Corri Feige, Department of Natural Resources
- Commissioner Doug Vincent-Lang, Department of Fish and Game
- Deputy Commissioner Lynn Kent, Department of Environmental Conservation
- Deputy Commissioner, Brent Goodrum, Department of Natural Resources
- Deputy Commissioner, Ben Mulligan, Department of Fish and Game
- Peter Caltagirone, Special Assistant, Department of Natural Resources
- Kyle Moselle, Executive Director (Acting), Office of Project Management and Permitting, Department of Natural Resources
- Kate Kanouse, Regional Supervisor, Department of Fish and Game
- Terri Lomax, Section Manager, Alaska Monitoring and Assessment Program, Department of Environmental Conservation

SUMMARY:

1. Welcome and introduction of Bilateral Working Group (BWG) members and guests
2. Review and approval of agenda
 - Agenda approved by British Columbia (B.C.) and Alaska (AK).
3. Alaska Update

August 2019 meeting hosted by Senators Sullivan and Murkowski

- An update was provided on the August 2019 roundtable held by Senators Sullivan and Murkowski in Juneau, AK. Messaging focused on B.C. and AK's close working relationship regarding transboundary matters and collaborative efforts to find a solution for remediating the Tulsequah Chief Mine (Tulsequah). Round-table attendees were encouraged to hear about the Tulsequah updates and the relationship the Province and State have maintained since the Memorandum of Understanding and Cooperation was signed in 2015. The messaging was well-received and overall the meeting was positive.

- During the August meeting, the AK Commissioners shared their July 2019 op-ed in the Anchorage Daily News to demonstrate the cooperative relationship AK has with B.C.
- AK state representatives discussed with the Senators that it is much more effective to handle transboundary matters at the local, state-to-provincial level rather than elevating them to the national level.
- Senators Murkowski and Sullivan discussed Tribal members' concerns regarding legacy mines and the lack of action on clean-up. They also conveyed that the public feels there is a lack of action on the part of the Province. During the August roundtable, the AK Commissioners provided clear messaging that B.C. is actively working with AK on transboundary issues, including remediation of the legacy Tulsequah Chief Mine.
- AK Department of Natural Resources (DNR) staff are providing more frequent status updates to Alaska's Congressional Delegation (CODEL, including Senators Murkowski and Sullivan and Congressman Young) regarding transboundary coordination with BC. CODEL have also been advised that AK and B.C. have monthly meetings to proactively share information. Feedback received from CODEL was that it is helpful to receive briefing materials that are concise and informative.

Other updates

- AK Commissioners reiterated that the cleaning-up of Tulsequah will restore a lot of trust. It will also prevent transboundary matters from being elevated.
- AK believes that sharing concise and up-to-date briefing materials with the CODEL will ensure accurate information and both levels and better ensure that issues continue to be addressed between AK and B.C.
- While Tulsequah is a popular topic, it is important to highlight the positive reclamation work that's being done on sites like Johnny Mountain by Seabridge Gold.
- B.C. representatives suggested it may be beneficial for them to visit AK and attend community meetings to present provincial updates on transboundary matters and provide the opportunity for AK community members to ask questions. Provincial staff made a trip to Juneau in 2018 for public meetings and it seemed like the appropriate venue to address public concerns and answer questions about transboundary matters.
- AK articulated that the community outreach done by B.C. meant a lot to AK citizens that attended the community meetings in 2018. AK suggested that if B.C. does plan on coming out again, they should ensure there is something tangible to report out on. Another trip would be very valuable when the Tulsequah remediation plan is finalized.
- AK provided an update on LNG development in southeast AK, which is being driven by development in B.C. LNG could provide a cheaper and cleaner back-up to hydro

power; communities have been relying on diesel lately for back-up power because droughts in the region have affected hydro power generation. AK will keep B.C. informed of permit applications for such LNG projects in the transboundary region of Southeast Alaska.

4. B.C. Update

Tulsequah Chief

- B.C. received a high-level draft reclamation and remediation plan for the Tulsequah Chief site. Additional studies are required to build the plan out further. Next steps include an in-depth review, discussions with Taku River Tlingit First Nation, and discussions on what information the additional studies need to include. AK Commissioners asked questions regarding prioritization of the different elements at the site and associated timelines.
- AK asked whether AK contractors would be given the opportunity to bid on the Tulsequah work.
 - AK requested that B.C. encourage companies to partner with Alaskan communities to provide economic development opportunities.

Declaration Act

- The Declaration on the Rights of Indigenous Peoples Act (“Declaration Act”) was passed unanimously in November 2019 and is the first of its kind. The new legislation signals B.C.’s commitment to true and lasting reconciliation with Indigenous Peoples in B.C.
- B.C. ministries will be reviewing their respective Acts to harmonize with the Declaration Act legislation.
- B.C. provided an overview of the changes to the *Environmental Assessment Act* and indicated they aren’t just regarding resource development, but governance overall. A fundamental change includes early engagement with First Nations, which will make for smoother process at the end of the day. The new Act will allow for greater flexibility regarding which Indigenous groups enter into agreements; before the amendments, the focus was *Indian Act* bands. The new Act allows nations to continue to build their governance and economic certainty. Compliance and enforcement tools are also contemplated within the amendments and enhance the Province’s ability to have a process that allows for different stages of compliance (e.g. warnings, monetary penalties, etc.).
- **ACTION:** B.C. to provide AK with a copy of Bill 41, the Declaration Act.
- AK representatives asked whether AK Tribes can pursue standing under the Declaration Act.
 - B.C. representatives advised that there have been similar transboundary questions in the southeast regarding U.S.-based Tribe members’ right to hunt in B.C.

- The current approach is to work with Indigenous partners in B.C., as well as welcome other provinces and states to develop similar legislation.
- AK consultation processes differ from B.C.'s as consultation with Tribes is undertaken by federal agencies or under federal permitting processes, while AK carries out robust engagement with all publics equally.

Mines Act amendments

- *Mines Act* amendments are targeted for spring 2020. The budget increase supported the separation into two mining divisions: one responsible for authorizations, the Mines Competitiveness and Authorizations Division (MCAD) and the other responsible for oversight and enforcement, the Mines Health, Safety and Enforcement Division (MHSED). An Audit Unit was established within the MHSED. The first audit will be focused on Tailing Storage Facilities.
 - **ACTION:** B.C. to advise AK when audit findings are publicly released.
 - AK representatives articulated that when the public, ENGOs, and companies have concerns, they want to know there is high quality enforcement and understand what's being enforced going forward. If B.C. is giving teeth to new laws, it encourages investment and sets precedents for other mining jurisdictions.
 - The mandate to further develop B.C.'s regulatory framework for mining isn't intended to be just more regulatory layers; it's looking at what's going to be effective.
 - B.C. is still in the process of formalizing a Reclamation Security Policy. Stakeholders have often pointed to AK as a leader in bonding for mine sites.
 - DNR have found what works best for bonding is based on what's on the ground at the time, then step up during mine development to address long-term reclamation costs, such as water treatment in perpetuity. Alaska laws requires full bonding up front prior to disturbance. Certain allowable bonding instruments can be built up over time during operations, such as a trust fund for long-term care and maintenance obligations. As payments to the trust are made, the operator may request reductions in the amount covered by traditional bonding instruments such as letters of credit.
 - DNR described their approach of adding to bonding while the operations are in full production, while the project is economically strong. Although a large bond is typically required at the beginning, it can decrease over time if the operator completes concurrent reclamation or funds a long-term reclamation trust.
 - AK articulated that they've always seen this forum (i.e. BWG) as an opportunity for learning – opportunity to discuss emerging policy issues in the mining area. We can learn from our neighboring jurisdiction and benefit the citizens we represent.
5. B.C.-AK Transboundary Rivers Monitoring Program Update
- B.C. provided an overview of the status of the B.C./AK Transboundary Rivers sampling program, which was approved by the BWG in November 2017.

- The status report was jointly completed by staff from the Ministry of Environment and Climate Change Strategy and Alaska Department of Environmental Conservation.
- The objective of the sampling program was to collect and share seasonal aquatic information in the Taku, Stikine and Unuk watersheds, in order to characterize aquatic conditions.
- The status report overview included:
 - Study area;
 - Methods;
 - Results;
 - Water quality findings for each watershed that was included within the report (Taku, Stikine, Unuk); and
 - Conclusions and next steps.
- The final report is anticipated to be completed in fall 2020.
- B.C. representatives articulated that it was critical for readers to understand that the background water quality upstream of mine sites has exceedances from the natural environment, and that just because there are exceedances, doesn't mean they are from industrial impacts.
- The report was unanimously approved by BWG members with the understanding that minor edits would be made to clarify the above point.

6. Plans for next BWG meeting

- AK extended an invite to host B.C. staff in Alaska, for the next BWG meeting.
- Representatives from AK and B.C. will work together to coordinate the scheduling of the next BWG meeting and work with the respective staff to develop an agenda.
- Agenda to include updates on B.C.'s bonding and reclamation security policy, LNG projects that propose to cross from B.C. into AK, and a discussion on B.C. mines that have drainage going through the Yukon, to AK.

Action Items:

- B.C. to provide AK with a copy of Bill 41, the Declaration on the *Rights of Indigenous Peoples Act*
- B.C. to advise AK when audit findings are publicly released