



NATURAL RESOURCES CANADA - INVENTIVE BY NATURE

Major Projects Management Office Initiative

Expert Panel - National Energy Board Modernization
Briefing Binder



Natural Resources
Canada

Ressources naturelles
Canada

Canada

Major Resource Projects are an Important Driver of Economic Growth

Development of Canada's resource sectors depends on major projects

- Hundreds of major resource projects worth about \$700 billion in investment are currently underway in Canada or planned over the next 10 years
- Major Projects intrinsically complex – often trigger review processes and consultations by two levels of government and multiple federal departments
- A Major Project is a 'large' resource project (often based on production capacity) which is subject to the *Canadian Environmental Assessment Act, 2012 (CEAA 2012)*
 - Projects subject to CEAA 2012 are listed in regulation (e.g., Metal mines and mills above a stated threshold)
- Evolving context for relationship with Indigenous peoples – commitment to:
 - Renew nation-to-nation relations
 - Ensure the Crown fully executes consultation, accommodation and consent obligations in accordance with its constitutional and human rights obligations, including Indigenous and Treaty Rights and the UN Declaration on the Rights of Indigenous Peoples

Major Projects include the following types listed in Regulation:

- Mines
- Oil & Gas Production (excluding In Situ Oil Sands)
- Pipelines
- Hydro Dams
- Nuclear Facilities
- Electricity Transmission



Canada's Horizontal Approach to Manage and Oversee Major Projects

Government-wide Major Projects Management Office Initiative (MPMOi) created in 2007 to improve regulatory performance for major projects

- **Cabinet Directive** – publicly mandates key federal departments to work together to improve the regulatory review system and enable more effective mitigation of environmental, human health and social impacts
- **Major Projects Deputy Ministers' Committee** (chaired by NRCan Deputy Minister) provides overarching governance on projects and policies related to federal regulation of major resource development
- **MPMO Office** housed within NRCan, focuses on continuous improvements to the regulatory regime and provides a single window for project proponents and other stakeholders
- **Capacity investments** to provide key regulatory departments with additional resources to deliver timely and predictable reviews: in 2015-16, \$135 million over 5 years invested in MPMO Initiative

Mandate of MPMO Initiative

Policy Research and Leadership

Project Management

Key Objectives

- More predictable and timely reviews
- Reduce duplication for project reviews
- Strengthen environmental protection
- Enhance consultations with Aboriginal peoples

* MPMO mandate applies to projects south of the 60th parallel. The Northern Projects Management Office has a similar mandate for projects in the north.



Role of the Major Project Management Office

Canada's Major Project Management Office:

- Provides integrated lens to drive system-wide changes to the regulatory process for major projects
- Helps major project proponents navigate the complexities of the federal regulatory process
- Facilitates engagement with provinces and other stakeholders; provides hands on support for permitting issues; and, coordinates aspects of Aboriginal consultation

Since 2007, MPMO's **role has evolved** to include:

- The MPMO-West Office (2014) to advance deeper and earlier engagement with First Nations on West Coast energy infrastructure
- The role of Crown Consultation Coordinator (2014) for major pipelines, including Trans Mountain Expansion and Energy East

MPMO **partner departments** include:

- Canadian Environmental Assessment Agency
- Environment and Climate Change Canada
- Fisheries and Oceans Canada
- Indigenous and Northern Affairs Canada
- Transport Canada
- Canadian Nuclear Safety Commission
- National Energy Board (NEB)
- Department of Justice
- Health Canada
- Privy Council Office
- Northern Projects Management Office



Overview of Major Projects Initiative Portfolio

Since 2008:

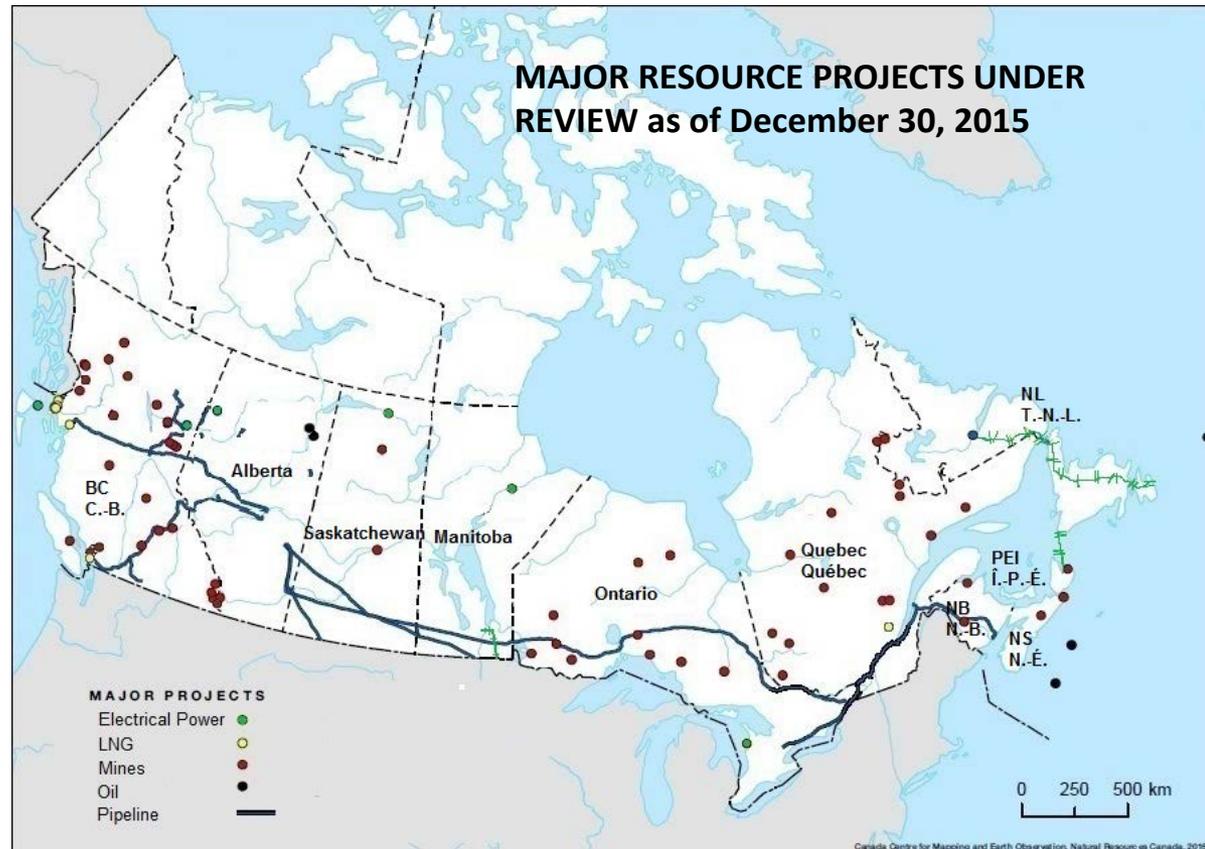
- 48 projects worth over \$140 billion approved, 26 under construction or in operation

September 2016 - overseeing 90 major project reviews

- 61% are minerals/metals projects
- 29% are energy projects
- 10% are liquefied natural gas projects

Major projects worth over \$309 billion in potential new investments

- LNG projects account for 44% or \$136.3 billion of total investment
- Pipeline projects account for 13% or 39.28 billion of total investment

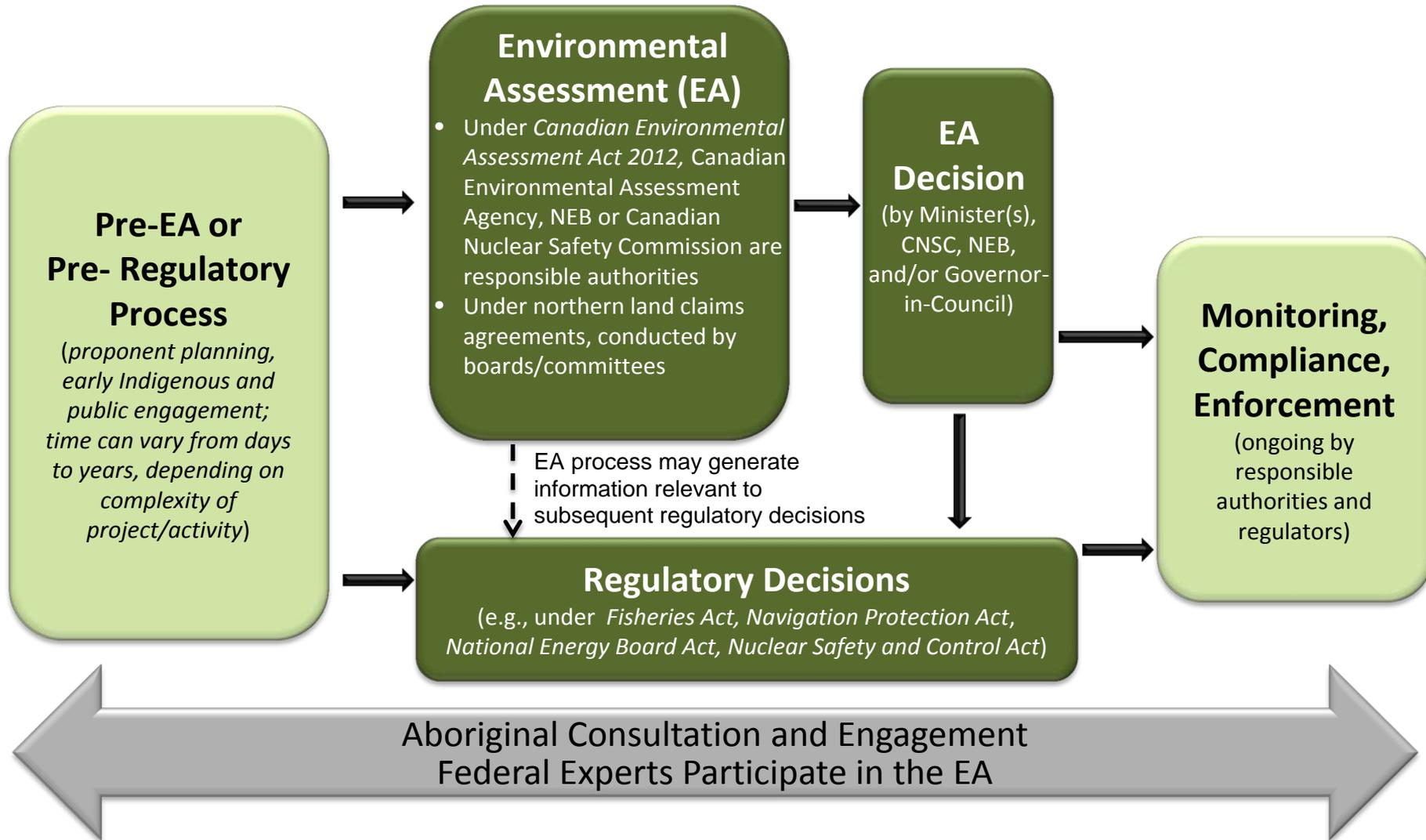


Significant projects in all regions

- 50% of all major projects are located in BC and Alberta, 17% in Ontario, 15% in Quebec and 13% in the Maritimes
- Oil Pipelines (AB-NB), (AB,BC), (AB-MB)
- Liquefied Natural Gas (BC, NS)



Overview of Federal Regulatory System



Indigenous Consultation

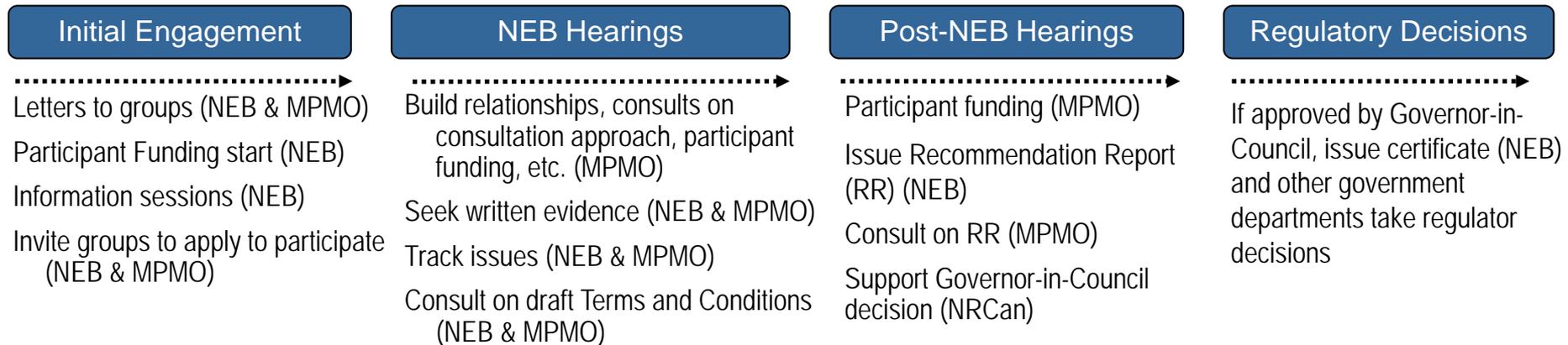
- Under Section 35 of *Constitution Act* the Crown has a duty to consult and, where appropriate, accommodate when the Crown is contemplating conduct that might adversely impact potential or established Aboriginal or treaty rights
- Most projects trigger the Crown's duty to consult - Government integrates consultation into the environmental assessment and regulatory review process, to the extent possible, as these processes are designed to identify and address potential impacts on Aboriginal rights and interests
- Measures to avoid or mitigate impacts from projects can also be used to accommodate impacts to Aboriginal or treaty rights
- Funding typically supports the participation of Indigenous groups in environmental assessments and reviews by the National Energy Board and Canadian Nuclear Safety Commission. Examples:
 - \$1,039,000 for 33 Indigenous groups for the Line 3 pipeline replacement program – engagement through the National Energy Board review, supplemented by consultation led by the Major Projects Management Office after the Board issued its report, to address project-related issues the Board does not have jurisdiction to address.
 - \$746,000 for 13 Indigenous groups for the Grassy Plains coal project – engagement through Canadian Environmental Assessment Agency review



Current Approach to Consultation for Major NEB Projects

- Crown relies on the NEB process to the extent possible to fulfill its duty to consult
- Crown Oversight role was established because some mitigation measures for project-related impacts are beyond the Board's jurisdiction to impose or beyond the proponent's ability to address
- MPMO works cooperatively and collaboratively with Indigenous groups; communicates about the project and how it may adversely impact constitutionally protected rights or treaty rights; responds to specific requests, addresses topic-specific issues related to the project, gathers input from potentially impacted groups; and identifies options to avoid, mitigate or accommodate outstanding issues or concerns

General Process for Integration of Indigenous Consultation with NEB Process



Additional measures taken on a case by case basis:

- Trans Mountain Expansion: Ministerial Panel
- Energy East: Additional NEB Panel members, 5 Regional Consultation Coordinators



Ministerial Mandates

Review of Environmental and Regulatory Processes

Immediately review Canada's environmental assessment processes to regain public trust and help get resources to market and introduce new, fair processes that will:

- Restore robust oversight and thorough environmental assessments of areas under federal jurisdiction, while also working with provinces and territories to avoid duplication
- Ensure that decisions are based on science, facts, and evidence, and serve the public's interest;
- Provide ways for Canadians to express their views and opportunities for experts to meaningfully participate; and,
- Require project advocates to choose the best technologies available to reduce environmental impacts.

Modernize the NEB to ensure that its composition reflects regional views and has sufficient expertise in fields such as environmental science, community development, and Indigenous traditional knowledge

Review the changes made in 2012 to the *Fisheries Act* and the *Navigable Waters Protection Act*, restore lost protections, and incorporate modern safeguards

Collaborate in EA review to ensure that environmental assessment legislation is amended to enhance the consultation, engagement and participatory capacity of Indigenous groups in reviewing and monitoring major resource development projects.

Support EA review to ensure that environmental assessment decisions are based on science, facts, and evidence

Minister
McKenna

Environment
Assessment Expert
Panel

Minister
Carr

NEB Modernization
Panel

Minister
LeBlanc

Minister
Garneau

Standing Committee on
Fisheries and Oceans

Standing Committee on
Transport, Infrastructure
and Communities

Minister
Bennett

Minister
Duncan

Final Reporting
Winter – Spring
2017



Coordination of Environmental and Regulatory Reviews

MPMO leading interdepartmental work to support coordination of reviews. Major Projects Deputy Ministers' Committee serves as governance body.

Interdepartmental Process Coordination

- Online engagement
- Public views
- Indigenous engagement
- Issues analysis and tracking

Subject Matter Connections*

- Transparency
- Considering science, facts and evidence
- Indigenous engagement and consultation in reviews and participation in monitoring
- Cooperation with other jurisdictions
- Compliance, monitoring and enforcement
- Regional Studies
- Public participation
- Timelines
- Decision making
- Overlap in consideration of effects (e.g. Fish, Navigation)

*These subjects may be of interest to more than one review or interdepartmentally for system-wide implementation implications for major projects.



ANNEX



Common Federal Regulatory Tools

Lead	Authorization	Purpose
Fisheries and Oceans Canada	Authorization under paragraph 35 (2)(b) of the <i>Fisheries Act</i>	Subsection 35(1) prohibits carrying out any work, undertaking or activity that results in serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery, unless otherwise authorized
Natural Resources Canada	Factory or magazine licence under subsection 7(1) of the <i>Explosives Act</i>	Required for usage and storage of explosives so they are used and stored in a safe and appropriate manner by proponents
National Energy Board	Certificate under section 54 of the <i>National Energy Board Act</i>	Governor-in-Council approval required for NEB to issue a certificate for interprovincial and international oil and gas pipelines over 40 km (including additions to existing pipeline systems under federal jurisdiction)
Transport Canada	Regulatory decision under <i>Navigation Protection Act</i>	Minister of Transport approval required prior to any work being constructed or placed in, on, over, under, through or across a navigable waterway that is listed in the Schedule. Governor-in-Council approval required for the depositing or throwing of materials that risk impacting navigation in navigable waters and the dewatering of navigable waters
Environment and Climate Change Canada	Regulatory decision under the <i>Metal Mining Effluent Regulations</i>	Intended to regulate the proposed use of bodies of water as a Tailings Impoundment Area and to assess the potential effects of mining effluent on the environment and fish and fish habitat . Governor-in-Council approval required for a regulatory amendment to list the water body on Schedule 2 of the <i>Metal Mining Effluent Regulations</i>
Environment and Climate Change Canada	Disposal at sea permit under <i>Canadian Environmental Protection Act</i>	Permit required to dispose of materials at sea or to load materials for that purpose
Canadian Nuclear Safety Commission	Licence under section 24 of the <i>Nuclear Safety and Control Act</i>	Licence required for the development, production and use of nuclear energy and the production, possession and use of nuclear substances



Federal Decision-making on Major Projects

Federal Authority	Report	Decision Making
Canadian Environmental Assessment Agency (mines, liquefied natural gas facilities, hydro dams)	Submitted to the Minister of Environment and Climate Change	<p>Minister of Environment and Climate Change makes decision if no significant environmental effects</p> <p>Governor-in-Council makes decision to determine whether significant environmental effects are justified</p>
National Energy Board (major pipeline projects)	Submitted to the Minister of Natural Resources	Minister of Natural Resources brings recommendation report to Governor-in-Council for decision. Governor-in-Council may direct the Board to issue the certificate, direct the Board to dismiss the application, or send back the report to the Board for reconsideration
Canadian Nuclear Safety Commission (uranium mines, nuclear facilities)	Submitted to the Commission	The Commission makes the final decision on whether a licence can be issued for a nuclear project
Various Departments and Agencies for federal permits	Permit documents are prepared by officials	Decision is delegated to officials by relevant Minister



Relevant Examples of Federal, Provincial and Shared Responsibilities

FEDERAL RESPONSIBILITY

Management of:

- Resources on federal Crown lands
- International and interprovincial pipelines
- International and designated interprovincial powerlines
- Nuclear facilities and activities and uranium mines
- Fish, fish habitat and aquatic species at risk
- Explosives manufacturing and storage
- Navigation and shipping
- Indigenous health

SHARED RESPONSIBILITY

- Environmental assessments
- Duty to consult Indigenous peoples when decisions impact on existing or potential rights
- Species at Risk
- Management of offshore oil and gas under Accords
- Environmental monitoring
- Health

PROVINCIAL RESPONSIBILITY

Management of:

- Resources on provincial Crown lands
- Oil and gas, mining operations
- Water quality/use
- Air quality
- Wildlife management
- Worker health and safety
- Explosives storage and use

