

# ENERGY POLICY BRIEFING

## OPINION CLEAN ENERGY

### When is 'clean' energy not clean?

**Mega-project disasters Site C and Muskrat Falls are not clean renewable energy projects, First Nations now in court arguing Site C permits illegal.**



**GREEN PARTY LEADER  
ELIZABETH MAY**

Across Canada, perched on each end of this country like book ends are two massive hydro projects. In British Columbia, Premier Christy Clark has announced her intention to get the unpopular Site C dam on the Peace River "past the point of no return." In Newfoundland and Labrador, the damming of the Lower Churchill at Muskrat Falls is farther along in construction, but has many similarities with Site C.

Both projects, a few years apart, had the same issues. Both are be-

ing opposed by the First Nations in their territories. Muskrat Falls faced road blocks and protests from the Pakua Shipi Innu from the Quebec Lower North Shore. In British Columbia, the West Moberly and Prophet River First Nations have launched court action to defend their territory. Both had environmental reviews that concluded there would be significant and irreversible environmental damage. Both environmental reviews expressed grave concerns that the project's economic viability seemed weak. Both environmental reviews recommended further hearings and study by provincial public utilities commissions. Both had political boosters and cheerleaders who ignored the call for any review of the unfounded and unsupported claims of feasibility.

Both claim to be "green." Neither are. Internationally, it is understood that to be clean, hydropower must be run of the river. Large scale megaproject dams cause permanent environmental destruction, often cause mercury contamination of the new water reservoirs and the fish within them. All are more expensive per kw hour, with longer lead times to come on stream than viable alternatives with real renewable energy. The State of California, for example,

wants to buy renewable energy, but specifically does not include large hydro in this category.

Now Muskrat Falls is coming under greater scrutiny. It is way over budget and even the CEO of the company responsible for the project calls it a "boondoggle." It is 30 per cent over budget and expected to cost over \$9-billion. Newfoundland and Labrador say the project is past the point of no return and therefore, having gotten \$4-billion from the previous Conservative government for the project, it needs more federal cash to finish it.

The decision in late July to grant the permits demanded by BC Hydro from the federal government was a body blow. While building the dam is a provincial project, it cannot proceed without a set of permits from the Minister of Fisheries under the Fisheries Act and from the Minister of Transport under the Navigable Waters Protection Act. Even though Bill C-45 (the fall 2012 omnibus budget bill) eviscerated the Navigable Waters Protection Act, removing over 98 per cent of Canada's internal waters, the Peace River remained one of the very few still listed.

The first round of permits were issued by the previous government in the midst of the

election campaign, in the last two weeks of September 2015.

The previous federal government met secretly in cabinet. Without regard to the evidence before them, the Harper Cabinet approved the project, finding its economic advantages outweighed the abuse of the environment and First Nations rights. Whatever advice the federal civil service provided the previous Cabinet is not only secret to the public, it was also not available to the new Cabinet of Justin Trudeau.

The efforts to ensure that the new government fully appreciated the imperative to revisit the previous government's decision were significant. Harry Swain, respected former Deputy Minister in the federal government and chair of the federal-provincial review panel, went public with his concerns. The Royal Society of Canada, Canada's premiere national scientific academy, wrote directly to the prime minister to urge that the new government live up to its commitment to make decisions based on evidence. Hundreds of scientists reached out directly to the new Liberal government to state clearly that there was not a scientific, evidence-based foundation for a decision to issue permits.

I am devastated that the new

government is perpetuating an outrageous decision of the Harper Cabinet. They have made an enormous error. The error was in characterizing giving permits to allow the dam to be built as a mere technicality based on the fact the Harper Cabinet had approved the dam. This was a new decision. This is now the Liberal government's decision. And even though Justin Trudeau has returned to cabinet government, this will not be understood as the independent decisions of Dominic LeBlanc and Marc Garneau. As much as I do believe Trudeau was sincere in his promise, this will be seen as Justin Trudeau personally making a mockery of his commitment to First Nations rights. As Grand Chief Stewart Philip said "It is a complete betrayal." Intentional or unintentional—it is a betrayal.

For Site C, it is now a race between justice and the bulldozers. Treaty 8 First Nations are in court next month arguing the permits from the previous government are illegal. Meanwhile, the new government has to decide whether to put Newfoundland and Labrador further in debt by throwing good money after bad to help complete the disastrous Muskrat Falls project. In approving mega-project disasters that will be over-budget, producing power at a cost no one will want to spend, while ignoring First Nations rights and the environment, at least, please, stopping claiming this is "clean, renewable energy." It is neither.

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## OPINION ENERGY CHOICES

### Trudeau Liberals face defining choices on energy: but they might not be the ones you think

**The government must first and foremost address policy gaps on climate, indigenous issues and cumulative effects.**



**MONICA GATTINGER**

Seasoned energy observers are watching the federal government closely this fall. The Trudeau Liberals have some mandate-defining choices to make on energy, not the least of which is whether they will give the green light to the Trans Mountain Pipeline expansion to carry crude oil from Alberta's oilsands to Burnaby and whether they will approve the Pacific North West liquefied natural gas (LNG) export project in northwestern British Columbia.

Some say these decisions will send a loud and clear signal to industry about whether the government supports hydrocarbon development in Canada—or, perhaps more importantly, whether it doesn't. While there's no question these decisions are pivotal and will likely have a material impact on Canada's future attractiveness for capital investment, in reality, it's more complicated than that.

The key choices the government faces on energy aren't *project* choices, they're *policy* choices. The fact that individual projects like Trans Mountain or Pacific North West LNG have become the litmus test for the government's stance on fossil fuel development, climate change, indigenous issues, and more, is proof positive that Canada is missing a clearly articulated policy framework for energy decision-making.

Policy gaps on climate, relationships with indigenous peoples, and cumulative effects, are the real defining choices the government needs to wrap its head around.

And it's not going to be easy. It's no secret that fossil fuel development has become increasingly contentious in Canada. Whether it's hydraulic fracturing ("fracking") for

shale gas in New Brunswick and Quebec, LNG projects in British Columbia, gas plants in Ontario, or pipelines—those poster children for anti-oilsands sentiment—opposition to fossil fuel development has become increasingly vocal, organized, polarized and strident.

Much opposition has been played out during or following the regulatory decision-making process for individual projects—think 'mob the mic' during the Northern Gateway Pipeline hearings, the City of Burnaby launching a legal challenge over the National Energy Board's jurisdiction or Indigenous communities blockading seismic testing for shale gas in New Brunswick.

The federal government will be launching reviews of the National Energy Board and the environmental assessment process this fall. But to think this is a problem in search of a regulatory solution isn't casting the net nearly wide enough.

There's no question regulatory processes can be improved, but strengthening the regulatory system is a *necessary but insufficient condition* when it comes to Canada's energy future.

Research undertaken by the University of Ottawa's Positive Energy

project underscores that opposition to energy development has many moving parts, only some of which are located at the regulatory and individual project levels. Many of them—arguably the most fundamental—are at the policy level. And they can't be addressed by regulators, decisions over individual projects or project proponents.

Take climate change. Canada made ambitious commitments in Paris last fall, but has yet to develop a credible plan for how it will reach those targets. Until Canada has a climate change plan, it's not clear how the Liberal government will incorporate upstream greenhouse gas emissions into its decision-making on pipelines—including TransMountain. Can the government really make climate change policy one pipeline at a time?

Now take indigenous communities. Many of the issues raised by indigenous people over energy development extend well beyond the remit of a single energy project or energy regulator. Clean drinking water, affordable housing, negotiation and implementation of modern treaties, education: these are crucial and important issues that Canada must attend to in the process of reconciliation, but

they cannot readily—if at all—be addressed in a decision-making process for an individual project.

Finally, take cumulative effects. Concerns over energy projects are often less about the project per se, and more about the collective impact of successive developments on the land, air and water. In the absence of policy mechanisms to address cumulative or regional effects, opposition understandably centres on holding the line on an individual project.

None of these issues will be resolved when the government releases its decisions on TransMountain, Pacific North West or any other project. They also won't be resolved by focusing on reforming regulatory processes alone.

The government must first and foremost address policy gaps on climate, indigenous issues and cumulative effects.

It is true the Trudeau government faces defining choices on energy—let's hope they focus on the right ones.

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