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Hydropower, Aboriginal Peoples and Environmental Assessment in Canada

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Resource Development

Drivers for Aboriginal Peoples Involvement

Drivers for Aboriginal Peoples Involvement in Resource Development



Involvement of Canada's Aboriginal Peoples in resource development has changed significantly over the last two decades.

Canada's Aboriginal Peoples maintain Aboriginal and/or Treaty rights which guarantee their continued use of the land for trapping, fishing, hunting and gathering rights.

In 2004 a landmark Supreme Court of Canada decision determined that the government had a **"duty to consult"** with Aboriginal communities when planning resource development projects.

In areas where they have or may have Aboriginal and/or Treaty rights.

The court decision also determined that **"accommodation"** was to occur when those rights may be infringed.

In most major resource developments in Canada is difficult to not to come to the conclusion that there will not be some type of infringement, through a deleterious effect on the environment

Along with the legal driver to work with Aboriginal peoples, resource development corporations began to work with First Nations for a variety of other reasons including:

- corporate social responsibility;
- avoiding political and legal challenges; and
- developing a workforce of people who reside in the region of the project, etc.

Impact and Benefit Agreements

1. First Nations and resource companies are making project/partnership agreements often referred to as “Impact and Benefit Agreements”.
2. Agreements outline the various benefits that will come to them via participation in the Project.
3. Agreements usually include a variety of economic opportunities along with certain social and environmental commitments.

Impact and Benefit Agreements

Economic Components

- Equity
- Revenue Sharing
- Access to Education and Training Opportunities and Funds
- Guaranteed minimum employment levels during Construction and Operations
- Contracts for Aboriginal Businesses that encourage entrepreneurship

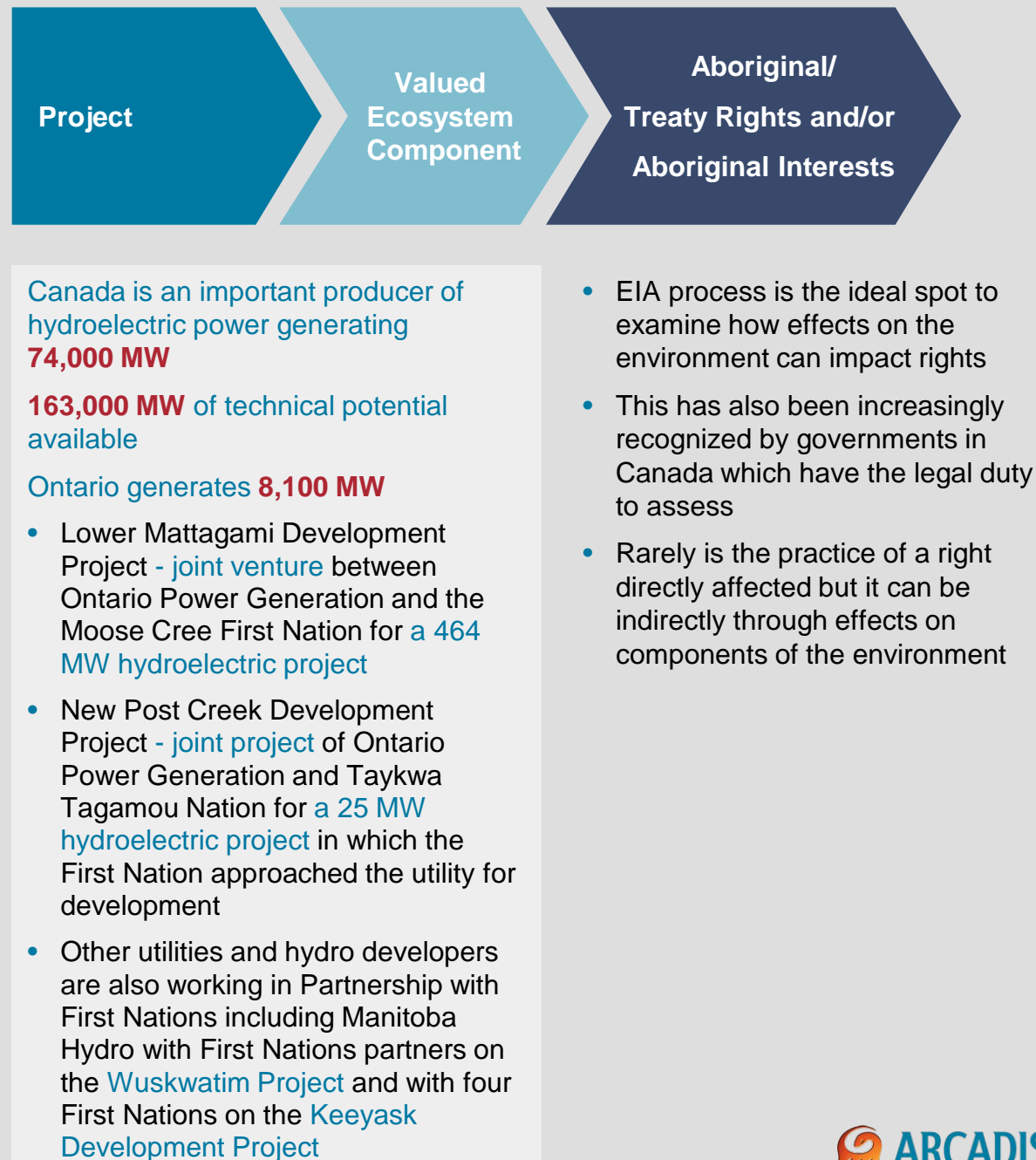
Environmental and Social Components

- Participation or Joint Participation in environmental assessment
- Giving equal weight to Aboriginal Traditional Knowledge and Western Science
- Contributions to Cultural / Traditional Lifestyle Programs
- Contributions to Environmental Restoration / Improvement Projects
- Commitments on the Identification, Protection and Collection of Heritage Resources
- Commitment to all identified environmental mitigation and enhancement measures identified during environmental assessments

Environmental Assessment

1. What level of consultation is appropriate?
2. How are levels of accommodation determined?

Environmental Assessments and Hydropower



Environmental Assessments and Hydropower

Common Concerns/Impacts



Potential impact on fisheries and access to fisheries with concerns with respect to:

- Mercury
- Fish habitat destruction
- Population loss
- Fish movement, etc.

Potential impact on furbearing animals that are harvested as a cultural and economic activity.

Potential impact on harvestable wildlife populations such as moose and waterfowl.

Potential impact on tangible archaeological/historical sites.

Potential impact on other sites/areas of cultural, spiritual, ecological or social significance.

Overall loss of area that is used to practice rights.

Challenges

1. History
2. Which Aboriginal Peoples?
3. Will Benefits be Sufficient?

History

Most hydropower projects are extremely challenging to implement.

5-10 years to develop prior to construction.

Many First Nations communities were negatively affected by hydro development that occurred throughout the 20th century.

In most communities there remain numerous individuals or groups of people with significant grievances.

Some individuals and some communities are reticent to support development and remain philosophically opposed.



Which Aboriginal Peoples?

In many/most parts of Canada the traditional territories of Aboriginal peoples overlap.

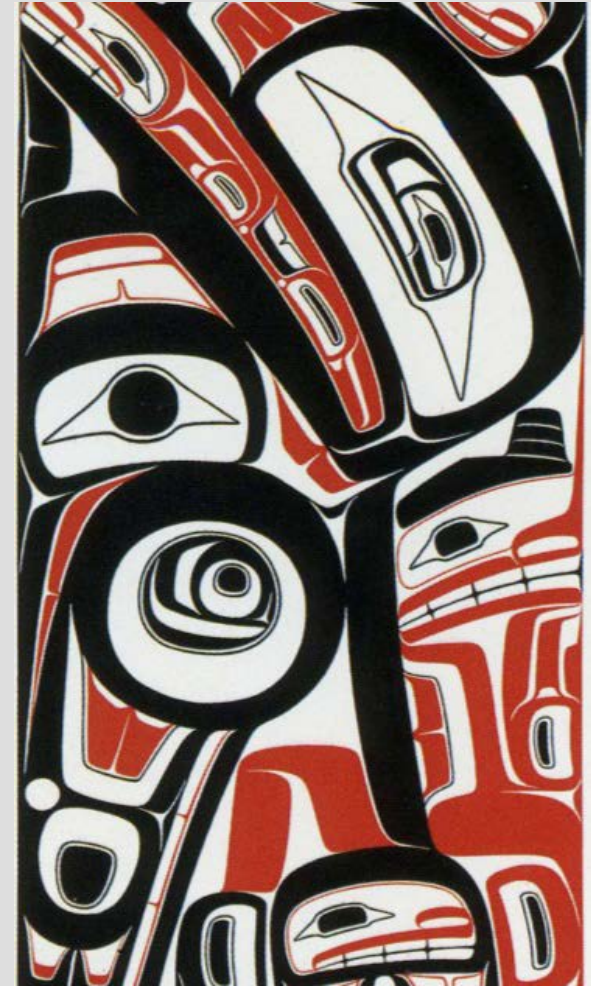
Some Aboriginal people have rights and interests that are more uncertain.

It is often not clear to resource development companies:

- Who needs to be consulted with?
- To what extent?
- Who needs to be accommodated?
- To what extent?

Government in Canada provide only some answers to these questions.

Often causes uncertainty for First Nations.



Will Benefits be Sufficient?

Canada is a large resource endowed country but there are **over 600 FNs in Canada**.

There isn't a billion dollar project in the traditional territory of every community.

Therefore the **opportunities are not as widespread** as one would think.

Some **First Nations have** expectations based on the experiences of seeing some of the largest resource development projects in Canada move forward.

Expectations about economic benefits may exceed the ability of a project to be economically viable and may lead to **challenging negotiations**.

Lessons Learnt

Lessons learnt



Lessons learnt



Opportunities

Hydropower, Aboriginal People and
Environmental Assessment in Canada

Opportunities

Hydropower, Aboriginal Peoples and Environmental Assessment in Canada

Some First Nations have demonstrated a confidence in developing hydro projects or supporting the development of hydro projects

Generally these projects occur in river basins that have **already been impacted or disturbed**.

It is unclear whether they would be supportive of large projects in pristine areas.

Hydro projects **generally have the advantage** of being in the traditional territory of only one, two or a few First Nations.

Long linear corridor projects such as transmission lines and pipelines in Canada are particularly challenged as they can cross the **territorial interests of tens of communities** not all of which will be supportive of development.

Your contact:

Phil Shantz

+ 1 (905) 764-9380

pshantz@senes.ca

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