

PEEJAY SECURE LANDFILL PROJECT

ASSESSMENT REPORT

With Respect to:

Review of the Application for an Environmental Assessment Certificate
Submitted by Doig River Environmental Limited Partnership
Pursuant to the British Columbia *Environmental Assessment Act*, SBC 2002, c. 43

August 21, 2008

Prepared by
Environmental Assessment Office



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List of Acronyms Used in This Report

BC	British Columbia
EAO	Environmental Assessment Office
EPD	Environmental Protection Division
ILMB	Integrated Land Management Bureau
MoE	Ministry of Environment

EXECUTIVE SUMMARY

Rationale for the Proposed Project

The proposed Peejay Secure Landfill Project (Project) was initiated by Doig River Environmental Limited Partnership (Proponent) in an effort to clean up the Doig River First Nation community's traditional land within the British Columbia (BC) territory of Treaty No. 8. Many areas of this land have been contaminated with oil and salt from upstream oil and gas exploration and development activities, including the large oil spill that contaminated 6 hectares of muskeg at West Peejay in 2002 and a smaller spill nearby in spring 2008.

The Proponent proposes to construct and operate a secure landfill at a site that is close enough to historic and ongoing contaminated areas that oil companies should be able to afford to accelerate their remediation efforts. Reduced transportation distances, and therefore costs, should allow companies with contaminated sites close to the proposed Project to remediate more sites within the same budget.

The "Petroleum Contaminants Community Research Project – Final Report" (Appendix G), which was prepared in 2004 for the Saulteau and West Moberly First Nations and Health Canada, evaluated the effects that industrial spills, and oil and salt from sumps, flare pits and well-drilling activities, can have on muskeg, surface water, groundwater and plants and animals using such sites in Treaty 8 territory. Like other BC Treaty 8 First Nations, the Doig River First Nation relies upon these resources to sustain their traditional way of life. Not only are the people of Doig River finding it difficult to practice their traditional ways on the land, but it is also difficult for the Elders to pass their traditions on to subsequent generations. The Doig River First Nation is very optimistic that should the proposed Project be built, their youth can be trained in environmental monitoring and site remediation and can play an active role in restoring their land – and the culture that it supports.

Description of the Proposed Project

The proposed Project is located in Treaty 8 territory in northeastern British Columbia, about 50 km north of the Doig River First Nation community, about 40 km northeast of the Blueberry River First Nations community and about 107 km north of Fort St. John (Figure 1).

This proposed Project will consist of the construction, operation, and closure of a secure landfill facility situated on a 32.5 hectare parcel at approximately km 23.5 on the Milligan Road (Petroleum Development Road 200). The proposed Project would be located on provincial Crown land, utilizing a 40-year renewable industrial land use tenure.

The primary wastes that would be accepted by this proposed Project are hydrocarbon- and salt-contaminated soil produced by upstream oil and gas industry operations. The average quantity of waste to be accepted by the Project is expected to be about 40,000 cubic metres per year; approximately 1.6 million cubic metres will be stored in the landfill over its anticipated 40-year lifespan.

Acceptance of residential or municipal waste at the proposed Project is not included in this proposal. Naturally occurring radioactive material will not be accepted by the Project and a monitoring system will be put in place to ensure that no such materials are accepted for disposal.

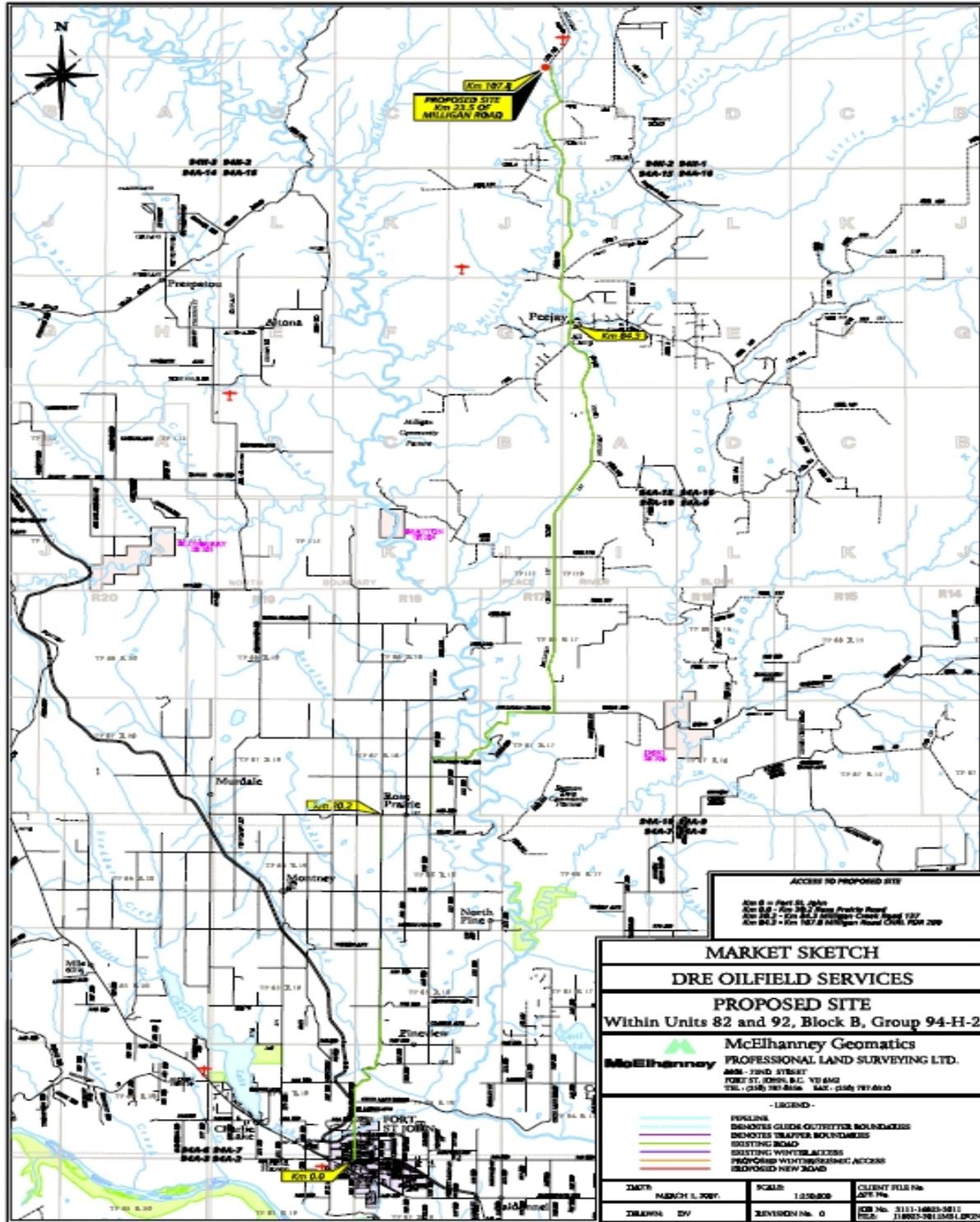


Figure 1: Location of the Proposed Peejay Secure Landfill

At the end of its anticipated 40-year lifespan, the proposed Project will be decommissioned and monitored for a minimum of 25 years.

A bond will be held in trust by the Ministry of Environment throughout the life of the proposed Project and for a minimum of 25 years after decommissioning to ensure that adequate financial resources will be available for the closure and monitoring process in the event of premature closure or failure of the Proponent to follow through on closure plans. After this period, and provided that monitoring has confirmed that the decommissioned landfill is not having any adverse effects on the environment, the bond will be released and the tenure restored to the provincial Crown.

The capital cost of this proposed Project is expected to be approximately four million dollars. The construction phase of the proposed Project will require approximately 12-16 personnel; a dedicated staff of two to three people will be required to operate the Project.

Background on the Environmental Assessment

On November 10, 2006, the Environmental Assessment Office (EAO) issued an Order under section 10(1)(c) of British Columbia's *Environmental Assessment Act* (Act), designating the proposed Project as reviewable and requiring the Proponent to obtain an Environmental Assessment Certificate (Certificate) before proceeding with the Project. The proposed Project was considered reviewable pursuant to the Reviewable Projects Regulation (BC Reg. 370/02) because it is an off-site facility for the long-term storage or secure landfilling of hazardous wastes.

A Working Group was established by the EAO to facilitate the environmental assessment of this Project. This group was composed of representatives of regional and provincial government, seven of the eight Treaty 8 First Nations in BC – Fort Nelson, Prophet River, Halfway River, Blueberry River, Doig River, Sauteau, and West Moberly First Nations (referred to hereafter in this report as "BC Treaty 8 First Nations") – and the Treaty 8 Tribal Association (Figure 2).

An Order under section 11 of the Act outlining the scope, procedures and methods to be applied in the environmental assessment of the Project was issued by the EAO on June 1, 2007, with input from BC Treaty 8 First Nations and the Treaty 8 Tribal Association. Under this Order, the assessment considered the potential effects of the proposed Project on environmental, social, economic, health and heritage values and its potential effects on First Nations' treaty rights and other interests, taking into account practical means of preventing or reducing to an acceptable level any potential adverse effects of the proposed Project.

Draft Terms of Reference for the application for an environmental assessment certificate (Application) were developed by the Proponent and reviewed, under the lead of the EAO, by the public, provincial agencies, regional government and BC Treaty 8 First Nations. The Application Terms of Reference were approved by the EAO on September 20, 2007.

On January 16, 2008, the delegated Project Assessment Manager amended the section 10 and 11 Orders to recognize that the Project would now be developed by Doig River Environmental Limited Partnership (Proponent).

On February 27, 2008, the delegated Project Assessment Manager issued a section 13 Order, amending the required timing for the submission by the Proponent of materials in support of a request for concurrent permitting. On April 28, 2008, the Proponent requested that applications for permits required under other provincial enactments to construct and operate the proposed Project be reviewed concurrently with the Application.

On February 14, 2008, the Proponent submitted an Application to the EAO for evaluation. The Application was evaluated against the approved Terms of Reference. Initially deemed to require further information to satisfy the approved Terms of Reference, the Application was resubmitted on May 8, 2008 with appropriate revisions and was accepted by the EAO on May 12, 2008.

The formal review of the Application was initiated on May 21, 2008, and was completed on August 22, 2008 with the referral of the Proponent's Application and this Assessment Report to the Minister of Environment and the Minister of Community Development (Ministers) for their review and decision.

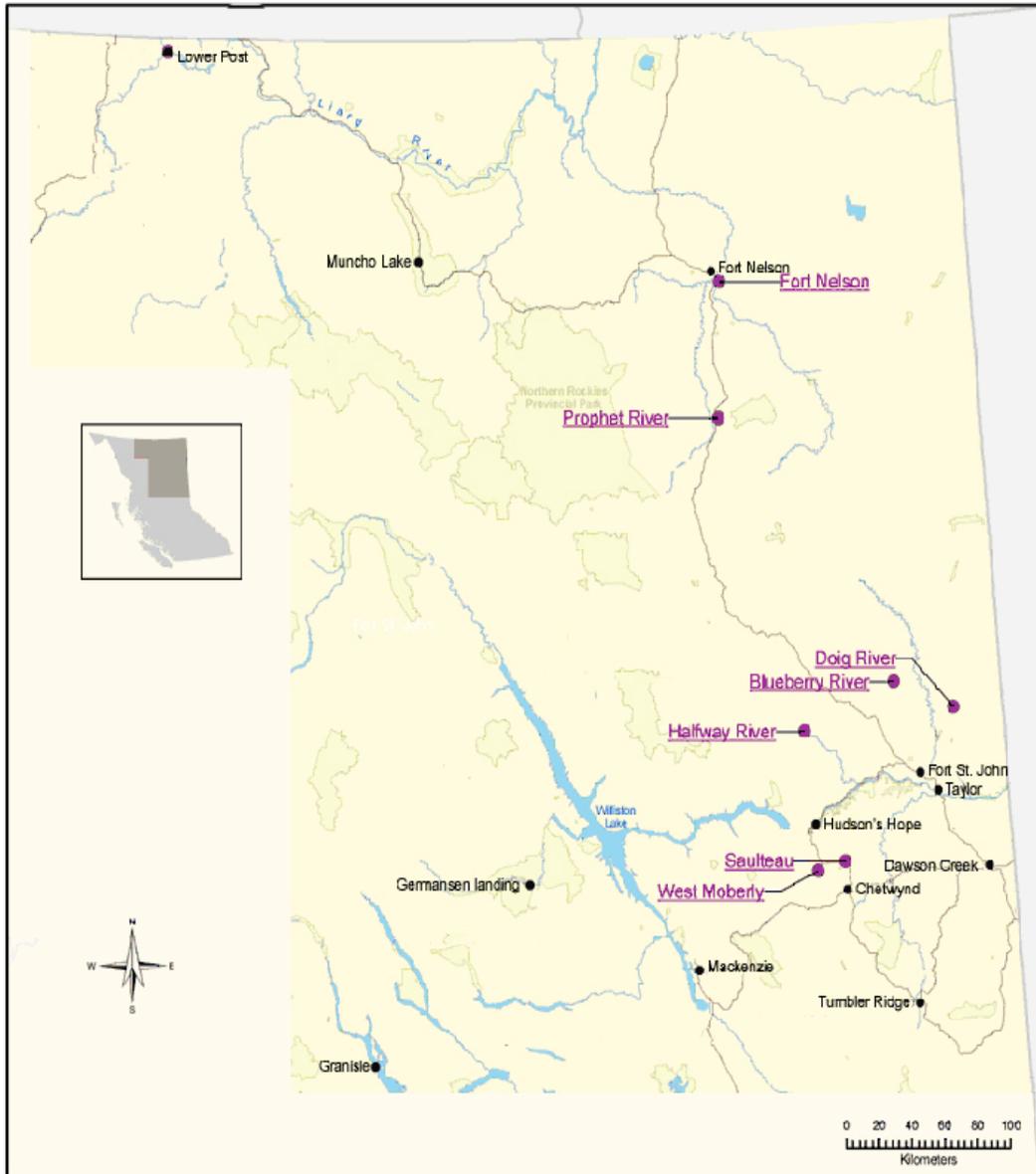


Figure 2: Treaty 8 First Nations participating in the review of the Application

Results of Consultation Programs

Proponent's Consultation with Treaty 8 First Nations

The Proponent stated in its Application that it developed a plan for consultation that was based on principles of communication, respect and tradition that govern all interactions between BC Treaty 8 First Nation communities.

The Proponent started project planning by consulting with Elders of the Doig River First Nation, so that their traditional knowledge of the land could be used in identifying acceptable potential sites for the proposed Project. Once the most appropriate site had been identified, the Proponent met with the Chiefs and Councils of individual BC Treaty 8 First Nations communities, the Land Managers for the communities and the Treaty 8 Tribal Association on a number of occasions to provide information on the proposed Project, to identify First Nations' concerns and to try to gain their support for the Project.

A record of pre-Application phase consultation activities was presented in the Application, including formal letters of support for the Project from the Fort Nelson, Doig River, Blueberry River and Sauteau First Nations. A record of consultation activities during the Application review phase is presented in Appendices C and D; copies of the original letters of support and more recent expressions of support from the Fort Nelson, Prophet River, Sauteau and Doig River First Nations are included in Appendix D.

The Proponent has committed to continuing to meet with BC Treaty 8 First Nations and the Treaty 8 Tribal Association to provide up-to-date information about the Project and the issues raised during the environmental assessment process. This consultation process and exchange of information is ongoing and is expected to continue throughout the life of the Project.

In May 2008, just prior to the start of the Application review phase, the Proponent met with First Nation representatives on the Working Group to respond to their initial questions about the Application.

The Proponent arranged for Elders of the Halfway River, Doig River, Blueberry River and West Moberly First Nations and for representatives of the Treaty 8 Tribal Association to gather for two days at Doig River in June 2008. Fort Nelson, Prophet River and Sauteau First Nations were also invited to the Elders Gathering, but were unable to attend. The purpose of the Gathering was to visit some contaminated sites in the proposed Project area, to discuss the proposed Project with each other and the Proponent, and to advise the EAO of their feelings about the proposed Project and the need to clean up the land in the wake of oilfield activities.

In addition to inspecting two sites contaminated by oil spills in 2002 and 2008, BC Treaty 8 First Nations Elders discussed issues such as site selection, Project design, fencing, wildlife, muskeg, leak prevention, monitoring and closure with the Proponent, its consultants and government representatives. The potential effects of the Project on their communities, traditional land use and treaty rights were also discussed.

As noted in the report on the BC Treaty 8 First Nations Elders Gathering prepared by the Proponent (Appendix C), the major issue of concern raised by BC Treaty 8 First Nations was not

so much the proposal to develop a secure landfill at Peejay, but the existing and ongoing contamination of their traditional land by upstream oil and gas activities.

Some of the BC Treaty 8 First Nations Elders' concerns and comments (taken directly from the Proponent's report on the Elders' Gathering at Doig River) are presented below.

Concern: Lack of effective response from government and industry to concerns of First Nations:

- *Government does not listen.*
- *Record number of referrals to deal with.*
- *Does it cost too much to clean the land up?*
- *Things are happening on our land, we are opening up our eyes.*
- *Industry is responsible to work with us, they get away with too many things.*
- *Industry is pushing us fast, they have no respect.*
- *Clean up all of the land not half way – all the way.*

Concern: Effects of oil spills on traditional land use:

- *How are we going to live?*
- *How do you measure environmental damage?*
- *Everything is changing fast.*
- *Something is wrong.*
- *We need clean land for health, to collect natural foods.*
- *It bothers me we can't use the land like before.*
- *I am very sad, in the past we drink good water, now we can't. Before we camp anywhere, now no trespassing signs, no hunting, poisonous gas – what can we do?*
- *"In front of our Eyes, our land destroyed."*

Concern: Importance of cleaning up traditional lands for future generations:

- *Youth need job opportunities to make a living.*
- *We need to change our behavior to have better relationship with each other.*
- *"We had hard time, the young people need to making living in the future, I encourage them to get educated." (Elder Marianne Mass)*
- *We need to create something for the younger generation.*

Concern: Support for the proposed Project:

- *Support Doig River leadership for cleaning up the land.*
- *Very good, Doig doing something.*
- *It's good to explain to Elders what you are going to do. Doig leaders are listening to Elders.*
- *Partnership with industry is good; they are listening.*
- *The future is cleaning up the land.*

The Proponent received positive letters from several of the BC Treaty 8 First Nations expressing their support for the proposed Project.

Provincial Consultation with Treaty 8 First Nations

The EAO initially contacted all eight signatory Treaty 8 First Nations in BC to discuss their involvement in the environmental assessment for the Project on December 29, 2006 and subsequently invited all eight First Nations and the Treaty 8 Tribal Association to participate in the Working Group that it was establishing for the review of this proposed Project. The eight First Nations and the Treaty 8 Tribal Association were also invited to review and comment on the draft section 11 Order and the draft Application Terms of Reference as well as to participate in the evaluation and review of the Application.

The Fort Nelson First Nation, Prophet River First Nation, Doig River First Nation, Blueberry River First Nations, Halfway River First Nation, Saulteau First Nations, and West Moberly First Nations (referred to in this report as BC Treaty 8 First Nations) and the Treaty 8 Tribal Association representatives participated in all phases of the Project's environmental assessment. Capacity funding to assist First Nations to participate in the review process was provided by the EAO.

The EAO offered on several occasions during the Application review stage to meet with Chiefs and Councils of the BC Treaty 8 First Nations in their communities to discuss any remaining concerns that they might have about the potential effects of the Project on their communities, traditional land use and treaty rights. Although one such meeting was held with the Doig River First Nation earlier in the review (on April 21, 2008), no other meetings were requested by BC Treaty 8 First Nations.

In response to concerns raised by BC Treaty 8 First Nations representatives on the Working Group, the EAO arranged for issues related to the effects of oil field activities and spills on the environment and traditional use of the land by community members to be discussed with representatives of the Ministry of Environment and the Oil and Gas Commission. The Oil and Gas Commission indicated that it would discuss these issues further with BC Treaty 8 First Nations during ongoing negotiations related to oil and gas resource development.

The EAO and provincial government representatives were invited to participate in the Elders' Feast and Tea Dance on June 16 and to listen to Elders talk about the proposed Project at their gathering at Doig River on June 17 (Appendix C contains the Proponent's summary of the Elders Gathering).

Key issues raised by BC Treaty 8 First Nations during the review included:

- Protection of groundwater and surface water quality;
- Nature of fencing proposed for the facility (keeping wildlife from entering the landfill);
- Long-term durability of the liner system;
- Source and types of waste to be stored in the secure landfill;
- Procedures for accepting and managing wastes;
- Decommissioning plans and security/bonding requirements; and
- Need for more effective, immediate procedures for responding to oil spills.

BC Treaty 8 First Nations and the Treaty 8 Tribal Association were also provided with an opportunity to review the draft Assessment Report and supporting materials prior to their referral to Ministers for decision. Saulteau First Nations advised the EAO that while it considered the environmental assessment process to have adequately identified and assessed potential significant environmental, economic, social, heritage and health effects of the proposed Project, it

also expected consultation with the Proponent to continue and for any significant issues that may arise during this ongoing consultation to be addressed.

As described in Section 12, the EAO is satisfied that all issues raised by BC Treaty 8 First Nations and the Treaty 8 Tribal Association during the review of the proposed Project have been considered in the Application review process and the documents generated as part of the review. Appendix A includes a summary of issues raised by BC Treaty 8 First Nations and the Treaty 8 Tribal Association during the Application review and how they were addressed.

Consultation with the Public

The Proponent initiated a consultation program in September, 2006 with the general public in the vicinity of Fort St. John and the residents of the immediate Project area, known as Peejay, to identify public interest in and issues associated with the proposed Project. The Proponent provided Project-related information through advertisements in the Alaska Highway News and through door-to-door visits with residents within 25 km of the proposed Project.

Public consultation during the pre-Application phase included an open house (attended by the Proponent and the EAO) held at Peejay Corners Open Camp on July 20, 2007, to present the proposed Project to the community and solicit community feedback on the draft Application Terms of Reference. Seven residents attended this open house; all expressed verbal support for the Project. The EAO provided a 30-day public review and comment period, extending from June 28, 2007 to July 28, 2007. No written comments were submitted during this period.

A 30-day public comment period was also provided during the Application review stage, from May 30, 2008 to June 29, 2008. During this period, a public open house was held on June 18, 2008 at the Doig River Community Cultural Centre and attended by the Proponent and the EAO. Four members of the public attended this open house; all expressed verbal support for the Project and concern about their observed damage to the landscape being caused by ongoing oil and gas activities. One public comment form was submitted during the June 18 open house; the concerns raised did not relate directly to the Project but rather to upstream oil and gas activities, and so were forwarded to the Oil and Gas Commission for consideration and response. No other written comments were submitted to the EAO by the public during this public comment period.

Throughout the process, the EAO utilized its electronic Project Information Centre (ePIC) to post relevant information, including Application Review meeting records and correspondence related to the proposed Project.

EAO is satisfied that all issues raised by the public during the review of the proposed Project have been considered in the Application review process and the documents generated as part of the review. Appendix A includes a summary of issues raised by the public during the Application review and how they were addressed.

Consultation with Government Agencies

The section 11 Order issued to the Proponent by the EAO required specific consultation procedures with federal, provincial and local government agencies to be followed both during pre-Application and Application review stages.

Although the Canadian Environmental Assessment Agency participated in the initial meeting of the Working Group, it determined early in the review that there were no triggers for a federal review of

the proposed Project under the *Canadian Environmental Assessment Act*. Some of the BC Treaty 8 First Nations subsequently asked if the federal Department of Indian and Northern Affairs should be involved in the review to address potential Treaty Land Entitlement issues; the Department of Indian and Northern Affairs responded that Treaty Land Entitlement issues did not trigger a federal environmental assessment and that this issue was best addressed in the ongoing claims negotiation process.

The Proponent used the Working Group established by the EAO as the primary vehicle for consultation with government agencies. The Proponent also arranged separate meetings with certain individual provincial agencies and the Peace River Regional District to identify and discuss their concerns as necessary during the pre-Application and Application review stages.

The Proponent also applied for concurrent review of its applications for a long-term provincial Crown Land Tenure, a Waste Management Authorization, and Variances under the Hazardous Waste Regulation with its Application; additional meetings were therefore held with regulatory staff to address issues related to these concurrent applications.

The key issues raised by agencies during the review of the Application were:

- Protection of groundwater and surface water quality;
- Protection of drinking water quality and management of domestic wastes at the site;
- Long-term durability of the liner system;
- Waste acceptance and management procedures;
- Prevention of the spread of noxious weeds;
- Provision of information about the Project to the public;
- Potential for short-term treatment of contaminated soil instead of landfilling; and
- Decommissioning plans and security requirements.

EAO is satisfied that all issues raised by government agencies during the review of the proposed Project have been considered in the Application review process and the documents generated as part of the review. Appendix A includes a summary of issues raised by the agencies during the Application review and how they were addressed.

Key Issues and Their Resolution (First Nations, Public, and Government Agencies)

- Protection of groundwater and surface water quality:
 - Triple liner system (1 layer of compacted clay; 2 engineered geosynthetic liners)
 - Leachate collection and treatment
 - Dedicated leak detection system
 - Groundwater monitoring network (upstream and downstream)
- Long-term durability of the liner system:
 - Indefinite; covering the liner materials with waste will protect them from deterioration caused by exposure to ultraviolet rays and the incorporation of a compacted clay layer in liner base and final cap will give the liner system “self-healing” properties
 - Liner system will be designed to meet or surpass minimum provincial standards
- Waste acceptance and management procedures:
 - All wastes screened before acceptance and tracked in landfill
 - No naturally occurring radioactive materials or municipal wastes to be accepted
 - All wastes originating from within BC Treaty 8 territory
- Prevention of the spread of noxious weeds:

- Trucks checked and steam-cleaned as necessary before leaving site
 - Incorporation of a wash pad into Project design
- Provision of information about the Project to the public:
 - Advertising; open houses; door-to-door distribution
- Potential for short-term treatment of contaminated soil instead of landfilling:
 - Proponent commitment to support ongoing research and implementation if or when feasible
- Decommissioning plans and security requirements:
 - Project will be capped after 40 years or when it reaches total capacity
 - Monitoring and bond will continue for next 25 years at a minimum
- Nature of fencing for the proposed facility:
 - Initial perimeter fence will be chain link game fence, topped with barbed wire
 - Second page wire fence will be added if necessary to stop wildlife from jumping over the perimeter fence
- Protection of aesthetics:
 - A treed buffer zone will be left between the secure landfill and the Milligan Road
 - Excavated topsoil will be stockpiled in a berm between the secure landfill and the Milligan Road
 - The access road to the secure landfill will be constructed in such a way as to minimize observation of the secure landfill from the Milligan Road
- Need for clarification of spill prevention, response and cleanup procedures:
 - OGC has agreed to address this with First Nations outside of environmental assessment process
- Need for more effective, immediate spill response procedures:
 - OGC has agreed to address this with First Nations outside of environmental assessment process

Review Conclusions

Based on:

- Information contained in the Application ;
- The Proponent's program of consultation with BC Treaty 8 First Nations, agencies and the public;
- Comments on the Project made by BC Treaty 8 First Nations and government agencies as members of the EAO's Working Group, and the Proponent's responses to these comments;
- Comments on the Project made the public (within the scope of the environmental assessment), and the Proponent's responses to these comments;
- Issues raised by BC Treaty 8 First Nations regarding potential impacts of the Project on treaty rights, traditional land use and communities, and the Proponent's responses to these issues, including letters of support for the Project from several BC Treaty 8 First Nations; and
- Commitments and mitigation measures identified in Appendix B to be undertaken by the Proponent during the construction, operation, and decommissioning of the Project,

the EAO is satisfied that:

- The environmental assessment process has adequately identified and addressed the potential significant adverse environmental, economic, social, heritage and health effects of the Project;
- Consultation with BC Treaty 8 First Nations, government agencies, and the public, and the distribution of information about the Project have been adequately carried out by the Proponent and EAO;
- Issues identified by BC Treaty 8 First Nations, local and provincial agencies and the public, which were within the scope of the environmental assessment, were adequately addressed by the Proponent and EAO during the review of the Application;
- The potential for adverse effects of the Project on treaty rights of BC Treaty 8 First Nations has been avoided, mitigated or otherwise accommodated to an appropriate level such that implementation of the Project will not prevent BC Treaty 8 First Nations from exercising their treaty rights;
- The provincial Crown has fulfilled its obligations for consultation and accommodation where required to BC Treaty 8 First Nations relating to the potential issuance of a Certificate for the Project; and
- Practical means have been identified to prevent or reduce to an acceptable level any potential significant adverse effects of the Project.
- There should be no significant adverse effects as a result of the construction, operation and decommissioning of this proposed Project.

The provincial Minister of Environment and the Minister of Community Development will consider this Assessment Report and other accompanying materials in making their decision on the issuance of a Certificate to the Proponent under the Act.

PART A. INTRODUCTION

1. Purpose of the Report

The purpose of this Assessment Report is to:

- Describe the proposed Project;
- Summarize the process that was used for the environmental assessment of the proposed Project;
- Report on the adequacy of the Proponent's distribution of information during the Application review;
- Summarize the issues considered during the review of the Application;
- Report on whether the potential significant environmental, economic, social, heritage and health effects of the proposed Project, including any potential effects on First Nation's treaty rights and other interests have been adequately identified and assessed in the Application and through the review process, and;
- Report on whether practical means have been identified to prevent or reduce to an acceptable level after mitigation any potential significant adverse effects resulting from the construction, operation or closure of the proposed Project.

A list of the issues raised by First Nations, government agencies and the public during the review of the Application is appended to this report in Appendix A (BC Treaty 8 First Nations, Agencies and Public Comments and Proponent Responses Tracking Table).

This Assessment Report, together with the Application and any supporting materials, will be submitted to the Ministers for their review and decision on whether or not to issue an environmental assessment certificate for the proposed Project.

2. Rationale for the Proposed Project

The proposed Peejay Secure Landfill Project (Project) was initiated by Doig River Environmental Limited Partnership (Proponent) in an effort to clean up the Doig River First Nation community's traditional land within the British Columbia (BC) territory of Treaty No. 8. Many areas of this land have been contaminated with oil and salt from upstream oil and gas exploration and development activities, including the large oil spill (200 cubic metres of oil and salt water) that contaminated 6 hectares of muskeg at West Peejay in 2002 and a smaller spill nearby in spring 2008.

Representatives of seven of the eight Treaty 8 First Nations in BC – Fort Nelson, Prophet River, Halfway River, Blueberry River, Doig River, Sauteau and West Moberly First Nations (BC Treaty 8 First Nations) – and the Treaty 8 Tribal Association participated in the review of the Project (Figure 2). Several of these representatives stated during the review of this Project that their communities believe that the spill responses of oil companies and regulatory agencies have not been effective in cleaning up and remediating the contaminated areas. The Proponent, a 100 percent First Nation-owned limited partnership, therefore proposes to construct and operate a secure landfill at a site that is close enough to historic and ongoing contaminated areas that oil companies should be able to afford to accelerate their remediation efforts. Reduced transportation distances, and therefore costs, should allow companies with contaminated sites close to the proposed Project to remediate more sites within the same budget.

Spills such as these, and oil and salt from sumps, flare pits and well drilling activities, have contaminated muskeg, surface water, groundwater and the plants and animals that the Doig River First Nation relies upon to sustain their traditional way of life. Not only are the people of Doig River finding it difficult to practice their traditional ways on the land, but it is also difficult for the Elders to pass their traditions on to their children. The Doig River First Nation is very optimistic that should the proposed Project be built, their youth will be trained in environmental monitoring and site remediation and will play an active role in restoring their land – and the culture that it supports.

3. Project Overview

3.1 Proponent Description

The Proponent is based in Fort St. John, British Columbia and is 70% owned by Two Rivers Development Corporation and 30% owned by Saven Holdings Ltd. Two Rivers Development Corporation is owned by the Doig River First Nation; Saven Holdings Ltd. is a private First Nations-owned company. The company was established with the mandate to develop short- and long-term solutions from a First Nations perspective to environmental issues associated with historical oil and gas operations in Treaty 8 territory in northeastern British Columbia. By working closely with BC Treaty 8 First Nation organizations and incorporating their traditional knowledge into all stages of the proposed Project, the Proponent seeks to create a positive impact on the environment, as well as the people and wildlife that rely on the natural resources.

3.2 Nature / Description of the Project

This Project will consist of the construction, operation, and closure of a secure landfill facility situated on a 32.5 hectare parcel at approximately km 23.5 on the Milligan Road and about 107 km north of Fort St. John (Figure 1). The proposed Project would be located on provincial Crown Land, utilizing a 40-year renewable industrial land use tenure. The primary wastes that will be accepted by this proposed Project are hydrocarbon- and salt-contaminated soil produced by upstream oil and gas industry operations. Acceptance of residential or municipal waste at the proposed Project is not included in this proposal. Naturally occurring radioactive material will not be accepted at this site.

Contaminated soil accepted at this proposed Project will be stored in a series of “blocks”, with each block made up of four “cells”. Each cell will be approximately 85 metres x 85 metres with a liner system consisting of three engineered impermeable barriers (one of clay and two of high density polyethylene), combined with leachate collection and leak detection systems. Upon completion of each block, a fifth cell will be developed on top of the four completed cells. Once the fifth cell is complete, the block will be closed with an engineered cover which will be designed to keep surface water from entering the landfill. The average quantity of waste projected to be accepted will be in the order of 40,000 cubic metres per year. The total quantity of waste to be accepted during the lifespan of this facility is projected to be a maximum of approximately 1.6 million cubic metres. At the end of its 40-year lifespan, the proposed Project will be decommissioned and monitored.

A bond will be held in trust by the Ministry of Environment throughout the life of the proposed Project and for a minimum of 25 years after decommissioning to ensure that adequate financial resources will be readily available for the closure and monitoring process in the event of premature

closure or failure of the Proponent to follow through on closure plans. After this period, and provided that monitoring has confirmed that the decommissioned landfill is not having any adverse effects on the environment, the bond will be released and the tenure will be restored to the provincial Crown.

The capital cost of this proposed Project is expected to be approximately four million dollars. The construction phase of the proposed Project will require approximately 12-16 personnel (equipment operators, site supervisor, labour and geotechnical engineering consultation).

The operations phase will require a dedicated staff of two to three people, including a scale operator, equipment operator and a landfill manager. The landfill manager will be responsible for ensuring that appropriate waste acceptance and sampling procedures are followed and recorded and that the proposed secure landfill is operated in full accordance with the operating procedures approved by the Ministry of Environment.

3.3 Scope of the Proposed Project

As defined in the section 11 Order, the scope of the proposed Project consists of the following on-site and off-site components and activities:

- A landfill, located in the area shown in Figure 1, and composed of four “blocks”, each consisting of four “cells” (each about 85m x 85m in size and capable of storing about 400,000 cubic metres of waste materials);
- A bottom liner system, leachate collection system and cover for each cell;
- Groundwater monitoring equipment;
- Fencing around the landfill site;
- Any on-site and off-site activities related to the Project, including the transportation, acceptance and handling of waste materials.

3.4 Benefits of the Proposed Project

The proposed Project site is strategically located on a major access road in the heart of the Peejay Oilfield (Figure 1). Studies such as the “Petroleum Contaminants Community Research Project – Final Report” (Appendix G), done for Health Canada and the Sauteau and West Moberly First Nations in 2004 have investigated the effects of oil and gas development activities on surface water, groundwater, soils and mosses of the muskeg landscape. The report concluded that many well sites, flare pits and sumps are contaminated sites and that the animals (moose, caribou, bear, deer, wolves, beaver, ducks, etc.,) that utilize these habitats, drinking the water and eating the soil and plants are ingesting these contaminants.

In addition to reported contamination of the landscape by upstream oil and gas development activities, there are frequent spills in the area, some of which are quite large. The 2002 West Peejay spill extends over an area of about six hectares; another spill that occurred in early 2008 affected a smaller area but was still significant.

By developing a secure landfill within a reasonable trucking distance of this busy oilfield, the Proponent expects that reduced transportation costs should enable oil companies to significantly increase the number of contaminated sites that are remediated annually in the area. This is

expected to result in the creation of additional jobs related to site remediation (potentially including four – eight waste transportation jobs, four – ten remediation jobs and one – two professional jobs per site being remediated).

Based on comments made by Elders and letters of support that the Proponent received, it appears that BC Treaty 8 First Nations regard the proposed Project as a positive step toward cleaning up the land in their traditional territory. After reviewing the Application and discussing it with the Proponent, several BC Treaty 8 First Nations provided a letter of support for the proposed Project. Elders from several of the BC Treaty 8 First Nations expressed their support for the Project:

- *“It bothers me we can’t use the land like before.”*
- *“The future is cleaning up the land.”*
- *“We need clean land for health, to collect natural foods.”*

The Elders were also optimistic that developing this Project would provide an avenue for their young people to get educated and get involved in remediation of their traditional lands. One of the Elders at the Gathering said:

- *“We need to create something for the younger generation.”*

3.5 Project Alternatives

At the very beginning of Project planning, the Proponent spoke with Elders and took them out on the land to have them help find and evaluate alternative sites for the secure landfill. Elders and members of the Doig River First Nation toured the site with the Proponent in August, 2006. The Proponent met with Chief and Council of the Doig River First Nation as well as with First Nation members. It was concluded that the selected site had no significant traditional or historic use.

Doig River First Nation members believe that there are very few alternatives to this proposed Project. They have been unsuccessful in attempts to have fencing erected around many of the contaminated sites in their traditional lands that they consider adequate to keep wildlife (moose, deer, caribou, wolves, beaver, etc.) away and are waiting for serious remediation efforts to take place on many others. In an attempt to be proactive, the Doig River First Nation’s company is proposing to develop a secure landfill that should make it cheaper and easier for industry to clean up the land.

3.6 Required Regulatory Approvals

A number of regulatory approvals are required for implementation of the proposed Project. The major authorizations, for which applications are being reviewed concurrently with the Proponent’s Application for an Environmental Assessment Certificate (Application), are:

- 40-year renewable land tenure from the Integrated Land Management Bureau (ILMB);
- Specific Exemptions related to the *Environmental Management Act*, using Part 9 - Specific Exemptions, Application for change in requirements Section 51 of the Hazardous Waste Regulation for the following exemptions from the Hazardous Waste Regulation, Division 6, 25(3) (b); Division 6, 26(3) (a), (b); Division 6, 27(1); Schedule 3 Item 7; Schedule 3 -List of Prohibited Waste; Schedule 4 Part 3; Division 6, 27(3)(b)(i); Division 6, 27(8)(b)(v); and

- Waste Discharge Permit under the *Environmental Management Act*.

Other authorizations that will be required for the proposed Project (but are not being reviewed concurrently) include:

- *Health Act* permit to construct and operate a septic disposal system; and
- Ministry of Forestry permit for site clearing to construct the proposed landfill.

4. Assessment Process

4.1 Provincial Environmental Assessment Process

The BC environmental assessment process consists of two stages: the pre-application stage and the application review stage. The pre-application stage includes determination of the need for an environmental assessment certificate, establishing the procedures for the assessment and identifying information requirements to be included in an Application.

If a proposed Project is determined to be reviewable under the Act and pursuant to the Reviewable Projects Regulation (BC Reg. 370/02), the Environmental Assessment Office (EAO) issues an Order under section 10 of the Act, stating that the Project must not proceed without an environmental assessment certificate. The proposed Project is considered reviewable, pursuant to Part 6 of the Reviewable Projects Regulation (BC Reg. 370/02), because it is an off-site facility for the long-term storage or secure landfilling of hazardous wastes.

Following the submission of a Project Description by the Proponent to the EAO, a section 11 Order was issued, outlining specific procedures for both stages of the assessment, including notification procedures, opportunities for government agencies, First Nations and the public to provide comments, and time limits for various steps in the assessment process. It also outlined the scope of the Project to be assessed.

A Working Group was established by the EAO to facilitate the review of this Project. This group was composed of representatives of regional and provincial government agencies, the BC Treaty 8 First Nations, and the Treaty 8 Tribal Association, as outlined below in Section 4.6.

An Order under section 11 of the Act was issued on June 1, 2007. This Order outlined specific procedures the Proponent had to follow in conducting both stages of the environmental assessment, particularly with respect to consulting with BC Treaty 8 First Nations, government agencies and the public. Under this Order, the Proponent was directed to consider the potential environmental, social, economic, health and heritage effects of the proposed Project, and its potential effects on BC Treaty 8 First Nations' Treaty rights and other interests, taking into account practical means of preventing or reducing to an acceptable level any potential adverse effects of the proposed Project. Consultation activities required with BC Treaty 8 First Nations, stakeholders and the public under the BC *Environmental Assessment Act* were outlined.

On January 16, 2008, the delegated Project Assessment Manager amended the section 10 and 11 Orders to recognize that the Project would now be developed by Doig River Environmental Limited Partnership (Proponent). On February 27, 2008, the delegated Project Assessment Manager issued a section 13 Order, amending the required timing, outlined in the section 11 Order, for the submission by the Proponent of materials in support of a request for concurrent permitting. On April 28, 2008, the Proponent requested that applications for permits required under other

provincial enactments to construct and operate the proposed Project be reviewed concurrently with the Application.

Draft Terms of Reference, responding to the information requirements identified during the pre-Application stage, were developed by the Proponent and submitted to the EAO on June 11, 2007 and then distributed for review by the public, provincial agencies, regional government and BC Treaty 8 First Nations. The Application Terms of Reference were finalized and approved by the EAO on September 20, 2007.

On February 14, 2008, the Proponent submitted an Application to the EAO for evaluation. The Application was evaluated against the approved Terms of Reference for the Application. Initially deemed to require further information to satisfy the approved Terms of Reference, the Application was later resubmitted with appropriate revisions and was accepted by the EAO on May 12, 2008.

Under the Act, a proponent may request that applications for provincial approvals under other statutes be processed concurrently with the environmental assessment review of a project. The Proponent submitted a request to have applications for provincial Crown Land tenure, Waste Discharge Authorization and Hazardous Waste Regulation Variances (as outlined in Section 3.6) reviewed concurrently with the Application.

The formal review of the Application was initiated on May 21, 2008 and was completed on August 22, 2008 with the referral of the Proponent's Application and this Assessment Report to the Minister of Environment and the Minister of Community Development (Ministers) for their review and decision.

4.2 Federal Assessment Process

Initially evaluated by the Canadian Environmental Assessment Agency, the proposed Project did not trigger a review under the *Canadian Environmental Assessment Act* and was not designated as reviewable by any federal agencies. BC Treaty 8 First Nations subsequently asked if the federal Department of Indian and Northern Affairs should be involved in the review to address potential Treaty Land Entitlement issues. The EAO forwarded this question to the federal Department of Indian and Northern Affairs, which responded that the proposed Project did not trigger a federal review and that Treaty Land Entitlement issues were best addressed in that separate, ongoing negotiation process.

4.3 Project Review Timelines

Table 1: Project Environmental Assessment Schedule

Date	Action or milestone
November 6, 2006	The Proponent submitted a Project Description to the EAO.
November 6, 2006	The Project Assessment Manager issued an Order under section 10(1)(c) of the Act, designating the Project as reviewable and requiring the Proponent to obtain an environmental assessment certificate before proceeding.
June 1, 2007	The Project Assessment Manager issued a section 11 Order stipulating the scope of the Project, the scope of the assessment and the procedures and methods for the review.
June 11, 2007	Proponent submitted draft Terms of Reference to the EAO for review by the advisory working group.
July 3 – August 3, 2007	Public comment period on Terms of Reference.
Sept. 20, 2007	Final Terms of Reference approved and issued by the EAO.
January 16, 2008	The Project Assessment Manager amended the section 10 and 11 Orders to recognize that the Project would now be developed by Doig River Environmental Limited Partnership (Proponent).
February 14, 2008	The Proponent submitted an Application for evaluation.
February 27, 2008	The Project Assessment Manager issued a section 13 Order, amending the required timing for the submission by the Proponent of materials in support of a request for concurrent review of provincial regulatory authorizations.
March 14, 2008	The EAO screened the Application, with advice from the Working Group, and determined that it did not meet the approved Terms of Reference requirements and that further information was required.
April 28, 2008	The Proponent requested concurrent review of regulatory authorizations.
May 8, 2008	The Proponent submitted a revised Application.
May 12, 2008	The EAO screened the Application, with advice from the Working Group, and accepted it for review.
May 21, 2008	Formal review of the Application was initiated.
May 30 - June 29, 2008	Public comment period for the review of the Application.
June 16 - 17, 2008	The Proponent arranged an Elders Gathering at Doig River First Nation community to view oilfield activities and spill sites and discuss the proposed Project.
June 18, 2008	Public Open House at Doig River First Nation Community/Cultural Centre.
August 22, 2008	Review completed; Assessment Report submitted to Ministers.

4.4 Scope of the Assessment

As outlined in the section 11 Order for the proposed Project, the scope of the assessment for the Project was to include consideration of:

- Potential adverse environmental, social, economic, health and/or heritage effects of the Project during its construction, operation and decommissioning/closure, and will take into account practical means to prevent or reduce to an acceptable level any such potential adverse effects; and
- Potential adverse effects of the Project during its construction, operation and decommissioning/closure on BC Treaty 8 First Nations' treaty rights and other interests and, where appropriate, ways to avoid or mitigate such potential adverse effects or otherwise accommodate BC Treaty 8 First Nations' concerns.

4.5 Study Area Boundaries

The study area for the socio-economic assessment encompassed PeeJay and surrounding oilfield areas, Fort St. John and surrounding areas and the BC Treaty 8 First Nations communities.

The study area for the hydrological and geotechnical assessment encompassed the proposed Project site and surrounding waterways, plus the regional shallow groundwater regime of the area.

The study area for potential archaeological impact was confined to the site perimeter and immediate surrounding area.

The study area for traditional use by the BC Treaty 8 First Nations' communities encompassed the site boundaries and all surrounding areas.

4.6 Project Working Group

The review process included the establishment by the EAO of the Peejay Secure Landfill Project Working Group in September 2006. This advisory group comprised representatives of the following BC Treaty 8 First Nations and provincial and local government agencies:

- Fort Nelson First Nation
- Prophet River First Nation
- Blueberry River First Nations
- Halfway River First Nation
- Doig River First Nation
- Saulteau First Nations
- West Moberly First Nations
- Treaty 8 Tribal Association



- Ministry of Environment
 - Environmental Protection Division
- Ministry of Agriculture and Lands
 - Integrated Land Management Bureau
 - Agriculture
- Ministry of Community Development
- Ministry of Energy, Mines & Petroleum Resources
- BC Oil and Gas Commission
- Northern Health
- Peace River Regional District

Working Groups are used by the EAO as the primary source of policy and technical expertise for considering issues identified during environmental assessments. The input of Working Group members informs the conclusions of the EAO regarding the sufficiency of the Proponent's plans, mitigation strategies and commitments to reduce or avoid potential significant adverse effects.

Working Group members were invited to participate in the following activities:

- Reviewing and commenting on the draft section 11 Order;
- Reviewing and commenting on the draft Application Terms of Reference;
- Evaluating the Application against the approved Application Terms of Reference;
- Reviewing and commenting on the Application; and
- Reviewing and commenting on the draft Assessment Report.

5. Consultation Process

5.1 Access to Documents

The EAO maintains an electronic Project Information Centre, available through its website (<http://www.eao.gov.bc.ca>), for the purpose of facilitating public access to information on projects under review throughout the province. The Application and other information related to the review of the Project (Appendix A) were posted on the website.

Copies of the Application were made available to the public at both the public library and the Proponent's office in Fort St. John and at an open house held during the Application review stage. Copies of the Application were also provided to the BC Treaty 8 First Nations and the Treaty 8 Tribal Association, as part of the Proponent's First Nations consultation program.

5.2 First Nations Consultation

The Proponent and the EAO undertook ongoing consultation efforts with BC Treaty 8 First Nations and the Treaty 8 Tribal Association throughout the pre-Application and Application review stages. The Proponent has committed to continuing efforts to engage BC Treaty 8 First Nations throughout the design, construction, and operational phases of Project development.

Section 12.3 of this Assessment Report describes the consultation programs undertaken by the Proponent and the EAO to date and presents a summary review and assessment of the following matters:

- The First Nations setting;
- The process of consultation undertaken by the Proponent under the direction of the EAO, and that undertaken by the EAO itself on behalf of the provincial Crown, both during the pre-Application and Application review stages;
- Key issues and concerns identified by BC Treaty 8 First Nations and the measures committed to by the Proponent to address these issues and concerns; and
- With regard to the overall consultation and review process, the EAO's conclusions as to the reasonableness of the consultation process in the circumstances, and the EAO's conclusion as to whether the provincial Crown's duties to consult have been adequately discharged.

The majority of the technical, Project-specific issues raised by BC Treaty 8 First Nations were also raised by agencies and are discussed elsewhere in this report. For the purpose of fully describing the consultation process undertaken with BC Treaty 8 First Nations, however, all issues raised by First Nations, regardless of whether they are raised elsewhere in this report, are presented in Section 12.

5.3 Government Agency Consultation

The section 11 Order issued to the Proponent by the EAO required specific consultation procedures with federal, provincial and local government agencies to be followed both during pre-Application and Application review stages.

Early in the review process, the Canadian Environmental Assessment Agency determined that there were no triggers under the *Canadian Environmental Assessment Act* for a federal review of the proposed Project. First Nations subsequently asked if the federal Department of Indian and Northern Affairs should be involved in the review to address potential Treaty Land Entitlement issues; the Department of Indian and Northern Affairs responded that Treaty Land Entitlement issues did not trigger a federal environmental assessment and that this issue was best addressed in the ongoing claims negotiation process.

The Proponent used the Working Group established by the EAO as the primary vehicle for consultation with agencies. The Proponent also arranged separate meetings with certain individual provincial agencies and the Peace River Regional District as necessary to identify and discuss their concerns throughout the pre-Application and Application review stages.

The Proponent also applied for concurrent review of its applications for a long-term provincial Crown Land tenure, a Waste Management Authorization, and Variances under the Hazardous Waste Regulation with its Application for an environmental assessment certificate; additional meetings and exchange of information therefore took place with regulatory staff to address issues related to these applications.

The key issues raised by agencies during the review of the Application were:

- Protection of groundwater and surface water quality for environmental and public health reasons);
- Long-term durability of the liner system;
- Waste acceptance and management procedures;
- Prevention of the spread of noxious weeds;

- Adequacy of plans for domestic waste management and disposal;
- Provision of information about the Project to the public;
- Potential for short-term treatment of contaminated soil instead of landfilling; and
- Decommissioning plans and security requirements.

Appendix A provides a summary of issues raised by government agencies during the Application review; Appendix E presents a record of the Proponent's consultation program with government agencies.

5.4 Public Consultation

The Proponent initiated a consultation program in September 2006 with the general public in the vicinity of Fort St. John and the residents of the immediate Project area, known as Peejay, to identify public interest in and issues associated with the proposed Project. The Proponent provided Project-related information through advertisements in the Alaska Highway News and through door-to-door visits with residents within 25 km of the proposed Project.

Public consultation during the pre-Application phase included an open house (attended by the Proponent and the EAO), advertised in advance in the Alaska Highway News and held at Peejay Corners Open Camp on July 20, 2007, to introduce the proposed Project to the community and solicit community feedback on the draft Application Terms of Reference. Seven residents attended this Open House; all expressed verbal support for the proposal. The EAO provided a 30-day public review and comment period, extending from June 28, 2007 to July 28, 2007. No written comments were submitted during this period.

A 30-day public comment period on the Application was also provided, from May 30, 2008 to June 29, 2008. During this period, a public open house was advertised in advance in the Alaska Highway News and held on June 18, 2008 at the Doig River Community Cultural Centre, with attendance by both the Proponent and the EAO. Four members of the public attended this open house; all expressed verbal support for the Project and concern about the damage to the landscape being caused by ongoing oil and gas activities. One public comment form was submitted during the June 18 open house; the concerns raised did not relate directly to the Project but rather to upstream oil and gas activities, and so were forwarded to the Oil and Gas Commission for consideration and response. No other written comments were submitted to the EAO during this public comment period.

Throughout the process, the EAO utilized its electronic Project Information Centre (ePIC) to post relevant information, including Application review stage meeting records and correspondence related to the Application.

EAO is satisfied that all issues raised by the public during the environmental assessment of the proposed Project have been considered in the Application review process and the documents generated as part of the review. Appendix A provides a summary of issues raised by the public during the Application review and how they were addressed; Appendix F presents a record of the Proponent's public consultation program.

PART B. ASSESSMENT OF PROJECT

6. Overview

6.1 Assessment Methodology

The assessment of the proposed Project by the Proponent identified interactions between each phase or component of the Project and the Project setting, predicted the nature of anticipated impacts and determined the significance of any potential adverse effects. The results were presented in the Proponent's Application.

The Application contained the following key information:

- Description of proposed Project facilities and activities;
- Identification of issues and study areas;
- Identification and description of the biophysical and human components of the proposed Project setting that may be affected by any component or phase of the Project;
- Description of potential effects resulting from interactions between the proposed Project and the Project setting; and
- Description of mitigation measures that will be undertaken to reduce, control or eliminate potential adverse effects.

The EAO, with the assistance of the Working Group, undertook an independent, comprehensive analysis of the information contained in the Application and all supporting documents, including:

- The Proponent's Application and supporting baseline studies, supplemental reports and appendices;
- The Proponent's public and First Nations consultation programs;
- Comments from BC Treaty 8 First Nations, government agencies and the public on the Application and the Project in general, and the Proponent's responses to these comments;
- Issues raised by First Nations regarding potential impacts of the Project on treaty rights and other interests, and the Proponent's responses to these issues; and
- Commitments and mitigation measures identified in the Application and during the review (Appendix B) to be undertaken by the Proponent during the construction, operation and/or decommissioning of the Project.

In reviewing the Application and related material, the EAO asked Working Group members to:

- Review Project plans;
- Identify any potential adverse effects from the proposed Project; and
- Assess whether proposed mitigation measures would be adequate to resolve the potential adverse effects.

6.2 Information Considered in Assessment

During the Application review stage, BC Treaty 8 First Nations, government agencies and the public were invited to review and comment on the Application, and ask questions of the Proponent about the proposed Project. All comments and corresponding Proponent responses were noted in the issues tracking table (Appendix A). BC Treaty 8 First Nations and government agency members of the Working Group were also invited to participate in an Elders Gathering at the Doig River Community. The Proponent's report on this Gathering is presented as Appendix C. A separate report on the Elders Gathering is being prepared by BC Treaty 8 First Nations; it is understood by the EAO that this will be submitted directly to Ministers upon completion.

7. Analysis of Potential Environmental Effects

The analysis of potential environmental effects was conducted for the following key components required as part of the Proponent's Application:

- Groundwater and Surface Water;
- Soils;
- Air quality; and
- Terrestrial environment and wildlife.

7.1 Groundwater and Surface Water Protection

7.1.1 Background

The study area for the assessment of potential Project effects on groundwater and surface water encompassed the proposed Project site and surrounding waterways, plus the shallow groundwater regime of the area.

7.1.2 Potential Effects

Project activities associated with construction, operation and post-closure activities were assessed for the following:

- Potential for leachate from the Project to contaminate groundwater systems in the vicinity of the Project site; and
- Potential for contaminated groundwater to affect downstream surface sources of drinking water.

7.1.3 Proposed Mitigation

The Proponent committed in the Application (described in detail in Section 3 of the Application and associated Environmental Management Plans) and/or the subsequent Application review stage to undertake mitigative measures to address potential adverse groundwater quality effects, including the following:

- Installation of an engineered triple liner system with a leak detection system;

- Implementation of a groundwater monitoring system, to ensure early detection of any changes to baseline conditions and corrective measures if required. Monitoring will be undertaken from wells located upgradient and downgradient of the Project site and operations;
- Implementation of a surface water management system to prevent surface water from entering the landfill;
- Implementation of a system for the monitoring, collection, treatment, and recirculation or appropriate disposal of leachate;
- Continuing the groundwater monitoring program for at least 25 years after decommissioning; and
- Maintenance of a security (bond) during the operations stage and for at least 25 years after decommissioning to ensure that the Project can be monitored and maintained as necessary.

7.1.4 Project Issues and Proponent's Responses

During the Application review, the public, government agencies and First Nations sought clarification on some of the information presented in the Application related to groundwater and surface water quality.

Northern Health, which is responsible for protection of groundwater quality under the *Drinking Water Protection Act*, indicated that the Proponent's proposals for groundwater protection and monitoring appeared to be adequate, but requested confirmation of this from the Ministry of Environment. The Ministry of Environment concluded that all issues related to groundwater quality should be adequately addressed by the Proponent's plans and commitments and the requirements of any permits that would need to be issued in order for the Project to be constructed and operated,

Issue: *Adequacy of Project plans to prevent groundwater contamination*

Ministry of Environment Response: The Ministry's Environmental Protection Division (EPD) determined that the leak prevention/leak detection system proposed for the Project has so far been a proven system in similar existing operating facilities. The EPD also confirmed that, as stated in the Proponent's siting investigation, "... the nearest drinking water well is 21 km away. Furthermore, no mapped aquifers exist in the vicinity of the site that could be deemed prospective future drinking water sources".

The EPD has indicated that the following requirements must be met with respect to groundwater monitoring under section 26 (2) of the Hazardous Waste Regulation:

(a) establishing a groundwater monitoring system with a sufficient number of wells, installed at appropriate locations (upgradient and downgradient) and depths to yield from the uppermost aquifer groundwater samples that

(i) represent the quality of groundwater that would not be affected by any leakage from a secure landfill facility, and

(ii) represent the quality of groundwater that would be affected by leachate, if any, from the secure landfill,

(b) ensuring the quality of groundwater monitoring data by

(i) casing sampling wells with appropriate materials to ensure the integrity of the boreholes,

- (ii) preventing contamination
 - (A) of any part of the well during construction, and
 - (B) from the surface during operation, and
- (iii) implementing procedures for
 - (A) decontamination of sampling equipment,
 - (B) sample collection,
 - (C) sample preservation and shipment,
 - (D) sample custody, and
 - (E) analytical procedures and quality assurance,

(c) selecting indicator parameters (e.g. specific conductance, pH, total organic carbon) and chemical constituents for analysis of groundwater that

- (i) provide a reliable indication of the quality of groundwater below the secure landfill from the perspective of human health hazards and environmental quality,
- (ii) reflect the physical and chemical characteristics of the waste in the secure landfill, and
- (iii) provide a reliable indication of movement of any contaminant with groundwater flow,

(d) sampling groundwater sufficiently often to provide data that is representative of varying groundwater flow conditions, but in any case no less frequently than once every 3 months,

(e) measuring the groundwater surface elevation each time the groundwater is sampled,

(f) measuring volumes, sampling and analyzing any leachate collected by the leachate collection system,

(g) ensuring detection of any liquid leaking into the space between the 2 liners, and

(h) reporting monitoring results at intervals specified by a director.

Issue: *Adequacy of Project plans to prevent surface water contamination*

Ministry of Environment Response: The EPD determined that due to site characteristics and Project design, surface water should not run onto the site. Any run-off from the site will be collected in a lined pit and tested. If it meets water quality criteria established by the Ministry of Environment (MoE) it will be pumped off; if not, it will be treated or disposed of as required by the MoE.

7.1.5 Potential Significant Effects After Mitigation

The EAO has determined that the Project is not likely to result in significant adverse effects on groundwater or surface water, based on an independent assessment of:

- The information provided by the Proponent in the Application and supporting material;
- Mitigation measures proposed and commitments made by the Proponent; and
- Relevant review comments on the Application by members of the Working Group with expertise on, legislated authority for, or understanding of the issues.

7.2 Soils

7.2.1.1 Background

The study area for the assessment of potential Project effects on soils encompassed the proposed Project site and surrounding waterways, plus the extent of (?) the regional shallow groundwater regime of the area.

7.2.2 Potential Effects

Over the expected lifespan of the Project, the entire site will be cleared of trees, organic topsoil and overburden clays to facilitate the construction of landfill cells and associated site works. Potential impacts associated with site clearing include loss of topsoil during construction activities due to admixing while stripping.

7.2.3 Proposed Mitigation

The Proponent committed in the Application to exercise care when clearing the site, including stripping topsoil and subsoil in distinct layers, and to save topsoil for subsequent use in capping and closing the landfill. Stockpiled topsoil will also be used to construct a berm near the Milligan Road to reduce the visual impact of the proposed Project.

7.2.4 Potential Significant Effects After Mitigation

The EAO has determined that the Project is not likely to result in significant adverse effects on soils, based on an independent assessment of:

- The information provided by the Proponent in the Application and supporting material;
- Mitigation measures proposed and commitments made by the Proponent; and
- Relevant review comments on the Application by members of the Working Group with expertise on, legislated authority for, or understanding of the issues.

7.3 Air quality

7.3.1 Background

The study area for the assessment of potential Project effects on air quality encompassed Peejay and surrounding oilfield areas, the municipality of Fort St. John and surrounding areas, and all BCTreaty 8 First Nation communities in northeastern BC.

7.3.2 Potential Effects

Emissions from diesel powered maintenance equipment operating intermittently at peak effort can contribute exhaust emissions into the air. Trucks delivering contaminated soil to the facility can also contribute exhaust emissions.

An operating Project of this nature does not create direct air emissions through process of chemicals or by-products. While it is possible that fugitive emissions related to contaminants in soil accepted for disposal at the Project could escape one or more of the landfill cells, the closest

residential property is approximately eight kilometres southeast of the proposed Project site; furthermore, industry experience has shown that public odour complaints or issues have not been significant.

7.3.3 Proposed Mitigation

Proposed mitigation measures include the use of modern and properly maintained construction equipment that is designed and affixed with modern emissions control standards.

Fugitive odour emissions will be monitored by on-site staff and through the use of monitors for the presence of hydrocarbons and oxygen content in ambient air. Any aberration noted would be investigated and rectified prior to continuation of operations.

7.3.4 Potential Significant Effects After Mitigation

The EAO has determined that the Project is not likely to result in significant adverse effects on air quality, based on an independent assessment of:

- The information provided by the Proponent in the Application and supporting material;
- Mitigation measures proposed and commitments made by the Proponent; and
- Relevant review comments on the Application by members of the Working Group with expertise on, legislated authority for, or understanding of the issues.

7.4 Terrestrial Environment and Wildlife

7.4.1 Background

The study area for the assessment of potential Project effects on terrestrial environment and wildlife encompassed Peejay and surrounding oilfield areas in northeastern BC.

A field investigation was carried out in August 2007 with Elders from the Doig River First Nation; observations were made of wildlife signs (e.g. tracks and scat) and the identification of potential suitable wildlife habitat for key species. Mammalian species observed during the investigation included red squirrel, snowshoe hare, moose and coyote. There was no observation of bear dens in the area nor was it believed to be an area that would be habituated by bears. The Elders concluded that there was no unique or culturally valuable animal life or vegetation in the area that could be potentially impacted by the Project.

7.4.2 Potential Effects

The potential for impacts to wildlife is expected to be minimal based on the relatively small footprint of the Project and pre-existing main access road that experiences significant traffic volumes on an intermittent basis.

The Proponent proposes that the Project site will be fenced with chain link fence topped with multiple strands of barbed wire in order to prevent wildlife from accessing the Project site and the materials contained within it. Potential impacts associated with fencing may include interruption of migratory paths, habitat loss or alteration and direct animal mortality.

Development of the Project is proposed to facilitate the clean up and remediation of land that has been contaminated by oilfield activities so that wildlife species will not be exposed to as much contamination as they are now. The intent is to bring the contaminated soils into a controlled environment to which wildlife does not have access, rather than the broader oilfields where wildlife have free access to areas believed to be contaminated. If this objective is achieved, the Project should have a beneficial effect on wildlife.

7.4.3 Proposed Mitigation

Mitigating factors with respect to the loss of habitat and potential interruption of animal movements include the fact that the Project site is located adjacent to large tracts of relatively undisturbed forested land that should continue to provide movement and habitat opportunities for native birds and wildlife. Based on the relatively small footprint of the Project in comparison to the area of undisturbed surrounding forest, it is anticipated that the Project should have a minimal effect on animal movements within traditional trapping areas.

The fencing system proposed for the Project site is an important factor in avoiding potential health effects on wildlife, especially species such as moose that are known to be attracted to the salt in contaminated soil. Moose is an important source of food for BC Treaty 8 First Nations, and the Proponent has committed to working with First Nations to ensure the fencing system is meeting the objective of keeping these species out of the Project site.

Mitigation of potential adverse effects associated with fencing will include selection of mesh sizing to prevent injury, entrapment and mortal injury to smaller native species. The Proponent has committed to considering a second row of perimeter fencing of alternate design as a deterrent to animals that possess significant abilities to jump over tall objects, if observations prove this to be necessary.

7.4.4 Potential Significant Effects After Mitigation

The EAO has determined that the Project is not likely to result in significant adverse effects on the terrestrial environment and wildlife, based on an independent assessment of:

- The information provided by the Proponent in the Application and supporting material;
- Mitigation measures proposed and commitments made by the Proponent; and
- Relevant review comments on the Application by members of the Working Group with expertise on, legislated authority for, or understanding of the issues.

8. Analysis of Potential Socio-Economic Effects

8.1 Background

The study area for the assessment of potential Project effects on socio-economic conditions encompassed Peejay and surrounding oilfield areas as well as the municipality of Fort St. John and all Treaty 8 First Nation communities in northeastern BC.

8.2 Potential Effects

The Project is expected to have a modest positive effect on the local and regional workforce and economy.

The construction phase of the Project will require approximately 12-16 personnel. The operations phase will require a dedicated staff of two to three people. Operations staff will include a scale operator, equipment operator and a landfill manager. Operation of the Project should also provide intermittent opportunities for businesses engaged in maintenance and repair of heavy equipment.

Projected capital costs of the Project are estimated at up to approximately four million dollars, with annual operating costs estimated to be \$500,000 to \$600,000.

Potential socio-economic effects of the proposed Project on BC Treaty 8 First Nations are addressed in Section 10.

8.3 Proposed Mitigation

The Proponent committed in the Application to using area residents whenever possible for the small workforce.

8.4 Potential Significant Effects After Mitigation

The EAO has determined that the Project is not likely to result in significant adverse effects on socio-economic conditions, based on an independent assessment of:

- The information provided by the Proponent in the Application and supporting material;
- Mitigation measures proposed and commitments made by the Proponent; and
- Relevant review comments on the Application by members of the Working Group with expertise on, legislated authority for, or understanding of the issues.

9. Analysis of Potential Effects on Land Use

9.1 Background

The study area for the assessment of potential Project effects on land use encompassed Peejay and surrounding oilfield areas, the municipality of Fort St. John and surrounding areas, and all Treaty 8 First Nation communities in northeastern BC.

The proposed Project will be developed on forested provincial Crown land. The region within which the Project will be located is used by BC Treaty 8 First Nation communities for traditional purposes of hunting, trapping, gathering and fishing. The land in the study area is used for a variety of purposes, such as ranching, forestry, hunting, and trapping –all of which are overlaid by oil and gas development activities.

9.2 Potential Effects

The proposed Project is not expected to have any adverse effects on land use. The site was selected with the help of Doig River First Nation Elders who determined that it was not a site that was valuable for traditional purposes of hunting, gathering, trapping or fishing. With Elders' feedback, the Proponent concluded that there appeared to be nothing unique about the vegetation or habitat of the proposed Project site.

Potential effects of the proposed Project on land use by BC Treaty 8 First Nations are addressed in Section 12.

9.3 Proposed Mitigation

Due to the background work done in selecting the proposed Project site, no potential adverse effects on land use were identified, and therefore no mitigation measures are required.

Issue: Landfilling versus Land Treatment/Soil Remediation

The Peace River Regional District (and other agencies) questioned the merits of developing a landfill, in which contaminated soil will be stored for the foreseeable future, instead of a facility for treating contaminated soil so that it can be returned to the natural environment.

Proponent Response:

The Proponent wishes to develop the proposed Project to support the Doig River First Nation's stated need to start cleaning up the land in its traditional territory. While the Proponent has stated it supports the principle of land treatment, it has also stated that land treatment is very difficult to achieve with current technology for heavy clay soils contaminated with oil and salt. The Proponent believes that the Project will assist the Doig River First Nation to meet its short- and long-term goals of cleaning up the land by bringing heavily contaminated soils to one central location where they can be stored safely. The Proponent also hopes that research and future technology developments will enable these soils to be reclaimed in the future and has committed to support and participate in such research (including setting aside an area of the proposed Project for such purposes). If future technological developments should allow for the economical and environmentally sound remediation of the soils stored within the Project, the Proponent has committed to consider such remediation at that time.

9.4 Potential Significant Effects After Mitigation

The EAO has determined that the Project is not likely to result in significant adverse effects on land use, based on an independent assessment of:

- The information provided by the Proponent in the Application and supporting material;
- Mitigation measures proposed and commitments made by the Proponent; and
- Relevant review comments on the Application by members of the Working Group with expertise on, legislated authority for, or understanding of the issues.

10. Analysis of Potential Heritage Effects

10.1 Archaeological Resources

10.1.1 Background

The study area for the assessment of potential Project effects on archaeological resources was specific to the area in the vicinity of the proposed Project. An archaeological assessment of the site, confirmed by the BC Archaeology Branch, found an absence of evidence of archaeological sites within the project boundary.

10.1.2 Potential Effects

Due to the observed lack of archaeological evidence and characteristics at the Project site, development of the Project is not expected to have any adverse effects on archaeological resources.

10.1.3 Proposed Mitigation

The Proponent has committed to cease work and notify the Doig River First Nation and the BC Archaeology Branch if any potential archaeological resources are identified during Project construction.

10.1.4 Potential Significant Effects After Mitigation

The EAO has determined that the Project is not likely to result in significant adverse effects on archaeological resources, based on an independent assessment of:

- The information provided by the Proponent in the Application and supporting material;
- Mitigation measures proposed and commitments made by the Proponent; and
- Relevant review comments on the Application by members of the Working Group with expertise on, legislated authority for, or understanding of the issues.

10.2 Aesthetics and Viewsheds

10.2.1 Background

The study area for the assessment of potential Project effects on aesthetics was specific to the area in the immediate vicinity of the proposed Project. The Project site is in a forested landscape adjacent to the Milligan Road. The 32.5 hectare site will have to be cleared in preparation for construction of the Project.

10.2.2 Potential Effects

Members of the Doig River First Nation expressed concern that clearing the site, which is located within their traditional territory, could lead to a significant visual impact for people travelling on the Milligan Road.

10.2.3 Mitigation Measures

To reduce the visual impact and improve aesthetics of the Project site, the Proponent has committed to incorporate a buffer zone into the overall Project design. The buffer will consist of approximately 30 metres of undisturbed, pre-existing trees adjacent to the Milligan Road. Topsoil and subsoil removed from the site will be stockpiled inside the treed buffer, parallel to the road, further reducing the visibility of the Project. The access road will be constructed in a manner so as to limit visibility of the site from the Milligan Road. Overall, the Proponent has committed that the Project will be engineered for construction in a way that should facilitate as unobtrusive a footprint as possible.

10.2.4 Potential Significant Effects after Mitigation

The EAO has determined that the Project is not likely to result in significant adverse effects on aesthetics or viewsheds, based on an independent assessment of:

- The information provided by the Proponent in the Application and supporting material;
- Mitigation measures proposed and commitments made by the Proponent; and
- Relevant review comments on the Application by members of the Working Group with expertise on, legislated authority for, or understanding of the issues.

11. Analysis of Potential Human Health Effects

11.1 Drinking Water

11.1.1 Background

The study area for the assessment of potential Project effects on health encompassed the proposed Project site and surrounding waterways, plus the extent of the regional shallow groundwater regime of the area.

Northern Health expressed concern that, if the Project were to adversely affect groundwater quality, it could affect downstream drinking water quality. Northern Health also expressed concern that adequate supplies of quality drinking water should be available to onsite workers.

11.1.2 Mitigation Measures

Northern Health indicated that the Proponent's plans for groundwater protection and monitoring appeared to be adequate, but requested confirmation of this from the MoE. The MoE's EPD concluded that all issues related to groundwater quality have been adequately addressed by the Proponent's plans and commitments (refer to section 7.1.4 for more detail).

Workers, truck drivers and visitors to the Project will be provided with bottled water for potable purposes. Bulk water (probably from the City of Fort St. John) will be supplied for use as grey water in sanitary facilities. Northern Health indicated that the Proponent will require a construction permit and operating permit for the water supply system, should an environmental assessment certificate and other required permits be granted for the Project.

11.2 Sewage Disposal

11.2.1 Potential Effects

The study area for the assessment of potential Project effects related to sewage disposal was specific to the area in the immediate vicinity of the proposed Project. Improper handling and disposal of sewage at the site could lead to health risks for workers or groundwater contamination.

11.2.2 Mitigation Measures

During construction, sanitary facilities at the Project site will consist of portable outhouses equipped with a self-contained fluid receptacle in numbers sufficient to sustain a mixed workforce of the volume required for construction activities. During operation, sanitary facilities will consist of a single indoor restroom draining to a self-contained storage tank. The portable outhouses and indoor restroom's storage tank will be emptied on an as required basis by vacuum truck. Waste will be transported to Fort St. John for disposal in the municipal waste water treatment facility. Northern Health indicated that under the *Health Act* Sewerage System Regulation, a permit is required for holding tank construction and operation.

11.3 Potential Significant Effects after Mitigation

The EAO has determined that the Project is not likely to result in significant adverse effects on human health, based on an independent assessment of:

- The information provided by the Proponent in the Application and supporting material;
- Mitigation measures proposed and commitments made by the Proponent; and
- Relevant review comments on the Application by members of the Working Group with expertise on, legislated authority for, or understanding of the issues.

PART C. ANALYSIS OF POTENTIAL EFFECTS ON FIRST NATIONS

12. Potential Effects on BC Treaty 8 First Nations

12.1 Scope of this Section

This section presents a summary review and assessment of the following:

- The First Nations setting;
- Key issues and concerns identified by those BC Treaty 8 First Nations participating in the review that have treaty rights in the area encompassed by the Project;
- The specific identification of treaty rights that may potentially be impacted by the Project, the degree of potential adverse effects on those rights, and the EAO's view as to where on the *Haida* spectrum the proper consultative procedure should be located;
- The process of consultation engaged in by the Proponent under the direction of the EAO, and by the EAO itself, on behalf of the Province, both preceding and during the review of the Application; and
- With regard to the overall consultation and accommodation process, the EAO's conclusion as to the reasonableness of the process in the circumstances and whether the provincial Crown's duties have been discharged.

For the purpose of describing the consultation process undertaken with First Nations, all issues raised by First Nations, regardless of whether they are raised elsewhere in this report, are presented in this section along with any associated accommodation and/or mitigation measures.

12.2 First Nations Setting

The proposed Project site is located in northeastern British Columbia, within the BC territory of Treaty No. 8. It is about 50 km north of the Doig River First Nation community, about 40 km northeast of the Blueberry River First Nations community and about 107 km north of Fort St. John (Figure 1).

Treaty No. 8 was negotiated by the federal Crown in 1899 with Cree, Beaver, Chipewyan and other Indians, in an area that encompassed northeastern British Columbia, northern Alberta, the northwest corner of Saskatchewan and part of the Northwest Territories. Seven of the original forty Treaty 8 First Nation communities are located in British Columbia (Fort Nelson First Nation, Prophet River First Nation, Doig River First Nation, Blueberry River First Nations, Halfway River First Nation, Sauteau First Nations and West Moberly First Nations). The McLeod Lake Indian Band adhered to Treaty No. 8 in 2000 in accordance with the McLeod Lake Indian Band Treaty No. 8 Adhesion and Settlement Agreement.

At the outset of the environmental assessment, the EAO invited all eight of the signatory Treaty 8 First Nations in BC to participate on the Working Group established for the review of this Project. The Fort Nelson First Nation, Prophet River First Nation, Doig River First Nation, Blueberry River First Nations, Halfway River First Nation, Sauteau First Nations and West Moberly First Nations (BC Treaty 8 First Nations), along with the Treaty 8 Tribal Association, accepted this invitation. The McLeod Lake Indian Band declined to participate in the environmental assessment of this Project, citing that its proposed location is outside of their traditional lands.

12.3 Consultation with BC Treaty 8 First Nations

12.3.1 Proponent's Consultation Program

The Proponent started project planning by consulting with Elders of the Doig River First Nation, so that their traditional knowledge of the land could be used in evaluating potential sites for the proposed Project. Once the most appropriate site had been selected, the Proponent met with the Chiefs and Councils of individual BC Treaty 8 First Nations, the Land Managers for the BC Treaty 8 First Nations and the Treaty 8 Tribal Association on a number of occasions to provide information on the proposed Project, to identify First Nations' concerns and to try to gain their support for the Project.

The section 11 Order issued by the EAO required the Proponent to undertake consultations with the BC Treaty 8 First Nations to identify and address any potential effects of the Project on their communities, traditional land use and treaty rights, and to report the outcome of these consultations to the EAO.

A record of pre-Application consultation activities was presented in the Application, including formal letters of support for the Project from the Fort Nelson, Doig River, Blueberry River and Sauteau First Nations. A record of the Proponent's consultation activities with BC Treaty 8 First Nations during the Application stage of review is presented in Appendices C and D. Copies of the original letters of support and more recent expressions of support from the Fort Nelson, Prophet River, and Doig River First Nations are included in Appendix D.

The Proponent has committed to continuing to meet with the BC Treaty 8 First Nations and the Treaty 8 Tribal Association to provide up-to-date information about the Project and the issues raised during the environmental assessment process. This consultation process and exchange of information is ongoing and is expected to continue throughout the life of the Project.

Just prior to the start of the Application review stage, the Proponent met with First Nation members of the Working Group in May 2008 to respond to their initial questions about the Application. The Proponent arranged for Elders of BC Treaty 8 First Nations and for representatives of the Treaty 8 Tribal Association to gather for two days at Doig River, visit several contaminated sites and discuss the proposed Project with each other and with government agency members of the Working Group in June 2008 (see Figure 3). Honorariums, meals and lodging were provided for all Elders attending the Gathering. Elders from the Halfway River, Doig River, Blueberry River and West Moberly First Nations participated in the Gathering, but Elders from Fort Nelson, Prophet River and Sauteau First Nations were unable to attend.

In addition to inspecting the two major Peejay spills, Elders discussed issues such as site selection, Project design, construction and operation, leak prevention, monitoring and closure with the Proponent and its consultants, as well as government agency representatives. Issues raised included potential impacts on surface hydrology and water quality, groundwater hydrology and quality, protection of wildlife, long-term durability of the liner system, decommissioning procedures, and bonding. The potential effects of the Project on their communities, traditional land use and treaty rights were also discussed.

"Get over our differences, work together, Protect our rights,
look after the environment and get shared resources"
- Treaty 8 Elders



Doig River Environmental

T8 Elders Gathering & Tea Dance

June 16 and 17, 2008

Location: Doig River Community Complex

Hosted by Doig River Environmental (DRE)

PURPOSE OF GATHERING:

Doig River Environmental's (DRE) Peejay Secure Landfill Project is planning a very innovative and ambitious program for consultation with Treaty 8 First Nation Elders.

OBJECTIVES:

- To seek guidance from Elders;
- To visit a contaminated site
- To address concerns on potential environmental impacts
- To answer questions about the environmental review processes;
- To provide opportunity for round-table discussions amongst Treaty 8 Elders, DRE representatives and government staff.

GOAL:

To identify and address the potential solution to the effects of Oil & Gas contamination on Treaty 8 territory, traditional land use and constitutional rights.

For more information contact:

Garry Oker Doig River Environmental - 250-262-6131

Tamara Dokkie Treaty 8 Environmental Assessment Coordinator- 250-785-0612

Figure 3: Poster announcing Elders Gathering at Doig River

As noted in the Report on the Elders Gathering prepared by the Proponent (Appendix C), the major issue of concern to BC Treaty 8 First Nations is not so much the proposal to develop a secure landfill at Peejay, but their observation of the existing and ongoing contamination of their traditional land by upstream oil and gas activities – and the limited remediation of contaminated sites that currently appears to be taking place in BC Treaty 8 territory.

BC Treaty 8 First Nations Elders that participated in the Elders Gathering at Doig River commented on a number of issues from their perspective, including:

- the damage that oil and gas activities have done to their traditional land;
- how difficult it is now to practice the old ways (and to pass on their culture and traditions to the next generation);
- how little government appears to be doing to regulate the oil industry;
- how important it is for their children to get an education, learn new skills and become leaders in cleaning up their traditional lands; and
- how good it is that Doig River First Nation and the Proponent have taken the initiative to develop a secure landfill so they can start cleaning up their traditional land themselves.

Some of the BC Treaty 8 First Nations Elders' comments (taken from the Proponent's report on the Elders' Gathering at Doig River) are presented in the sections that follow. A full report on the Elders Gathering by the Proponent is presented in Appendix C. A First Nations' perspective report on the Elders Gathering is also currently being prepared by representatives of the BC Treaty 8 First Nations and is expected to be submitted directly to Ministers upon completion.

12.3.2 Provincial Consultation Program

The EAO initially contacted the eight Treaty 8 signatory First Nations in northeastern British Columbia to discuss their involvement in the environmental assessment for the Project on December 29, 2006 and subsequently invited all eight First Nations and the Treaty 8 Tribal Association to participate in the Working Group that it was establishing for the review of this proposed Project. The McLeod Lake Indian Band declined to participate in the environmental assessment; the other seven BC Treaty 8 First Nations participated in all stages of the review.

As members of the Working Group, the BC Treaty 8 First Nations and the Treaty 8 Tribal Association were invited to review and comment on the draft section 11 Order and the draft Application Terms of Reference as well as to participate in the evaluation and review of the Proponent's Application.

BC Treaty 8 First Nations and the Treaty 8 Tribal Association were also invited to review and comment on the EAO's draft Assessment Report. Saulteau First Nations advised the EAO that while it considered the environmental assessment process to have adequately identified and assessed potential significant environmental, economic, social, heritage and health effects of the proposed Project, it also expected consultation with the Proponent to continue and for any significant issues that may arise during this ongoing consultation to be addressed.

The EAO and provincial agency representatives were invited to participate in the Elders Feast and Tea Dance on June 16 and to listen to Elders talk about the proposed Project at the Gathering on June 17.

The EAO offered on several occasions during the Application review stage to meet with Chiefs and Councils of the BC Treaty 8 First Nations in their communities to discuss any remaining concerns that they might have about the potential effects of the Project on their communities, traditional land use and treaty rights. Although one such meeting was held with the Doig River First Nation earlier in the review (on April 21, 2008), no other meetings were requested by BC Treaty 8 First Nations.

In response to concerns raised by BC Treaty 8 First Nations representatives on the Working Group, the EAO arranged for issues related to the effects of oil field activities and spills on the environment and traditional use of the land by community members to be discussed with representatives of the Ministry of Environment and the Oil and Gas Commission during meetings of the Working Group. The Oil and Gas Commission also indicated that it would discuss these issues in greater detail with BC Treaty 8 First Nations during ongoing negotiations related to oil resource development.

12.3.3 Capacity Funding for First Nations

The EAO offered some capacity funding to each participating BC Treaty 8 First Nation during the pre-Application stage of the review of this Project to assist them to participate in provincially-led activities related to the review process. Additional capacity funding was provided later to BC Treaty 8 First Nations to continue their participation in the review of the Project as a component of grants made by the EAO in January 2008 to the Treaty 8 Tribal Association (on behalf of the Fort Nelson, Prophet River, Halfway River, Doig River, West Moberly and Saulneau First Nations) and to the Blueberry River First Nations to aid them in participating in the review of a number of proposed projects currently under environmental assessment in Treaty 8 territory.

The Proponent provided funding to enable the Land Managers for the BC Treaty 8 First Nations to meet during the Application review stage to discuss the Project and the Application. The Proponent arranged an Elders Gathering at the Doig River First Nation community in June to discuss the Project among themselves, with the Proponent, and with provincial government agencies. The Proponent also provided funding to enable BC Treaty 8 First Nations Elders to attend the Gathering.

Appendix A includes a summary of issues raised by BC Treaty 8 First Nations during the environmental assessment; Appendices C and D present a record of the Proponent's program of consultation with BC Treaty 8 First Nations.

12.3.4 Adequacy of Consultation

The EAO recognizes that the rights of all BC Treaty 8 First Nations to hunt, fish and trap within Treaty 8 territory are protected under Treaty No. 8. Because the proposed Project could potentially have a long-term adverse effect on traditional land use, the EAO made a decision at the beginning of the environmental assessment process to use a consultative approach that was towards "deep consultation" (with respect to the *Haida* spectrum of consultation) with BC Treaty 8 First Nations in order to develop and implement measures to avoid or minimize (to an acceptable level) potential adverse impacts to their treaty rights.

In this regard, the EAO invited all BC Treaty 8 First Nations to:

- Participate on the Working Group established for the environmental assessment of this Project;

- Comment on the draft section 11 Order and draft Application Terms of Reference;
- Assist the EAO in evaluating the Application against the approved Terms of Reference;
- Comment on the Application during the formal review stage; and
- Comment on the draft Assessment Report.

A copy of the draft Assessment Report was provided to the Chief and Council of each BC Treaty 8 First Nation participating in the review of the Project with an invitation to submit comments to the EAO.

The EAO also asked Chief and Council of each BC Treaty 8 First Nation participating in the review of the Project if they would like the EAO to meet with them to discuss the potential effects of the proposed Project on their communities, traditional land use, and treaty rights. The Doig River First Nation had requested such a meeting earlier in the review process; none of the BC Treaty 8 First Nations asked for a meeting during the Application review stage. The EAO was invited to participate in the Elders Gathering held at the Doig River First Nation community in June 2008, however, in order to listen to the concerns of the Elders and to discuss the proposed Project and the environmental assessment process with the Elders.

The Proponent developed a plan for consultation that was based on principles of communication, respect and tradition that govern all interactions between BC Treaty 8 First Nation Communities.

To implement this program of consultation, the Proponent met with Chiefs and Councils of all BC Treaty 8 First Nations and maintained contact with them throughout the review of the Application. The Proponent met with BC Treaty 8 First Nations members of the Working Group as required to discuss their concerns. The Proponent arranged an Elders Gathering at Doig River to enable Elders of BC Treaty 8 First Nations to visit spill sites and observe oilfield activities, discuss the proposed Project with each other and the Proponent, and to advise the EAO of their views about the proposed Project and the need to clean up the land in the wake of oilfield activities.

BC Treaty 8 First Nations Elders that participated in the Elders Gathering at Doig River said:

“Support Doig River leadership for cleaning up the land.”

The Proponent obtained letters from some of the BC Treaty 8 First Nations expressing their support for the proposed Project. These expressions of support are summarized below and presented in their entirety in Appendix D. The EAO interprets these letters as confirming that the proposed Project should not have an adverse effect on the treaty rights of BC Treaty 8 First Nations and that in fact, any effects of the Project on treaty rights are expected, on balance, to be positive. The EAO also considers these letters to indicate that consultation efforts of the Proponent and the EAO with BC Treaty 8 First Nations have been properly and fully completed.

The EAO believes that all BC Treaty 8 First Nations had full and adequate opportunities to participate in the review of this Project, that they had capacity to review the Project, that they had opportunity to express their concerns about the potential effects of the Project, and that any concerns raised were seriously and satisfactorily addressed by the Proponent, government agencies and the EAO.

For these reasons, and given the Proponent’s commitment to ongoing consultation with BC Treaty 8 First Nations, the EAO believes that its responsibilities and those of the Proponent for consulting

with BC Treaty 8 First Nations during the environmental assessment of this Project were conducted in an honourable and complete manner.

12.5 Issues of Concern to BC Treaty 8 First Nations

BC Treaty 8 First Nations expressed concern about a number of issues during the review of the Application, including:

- Protection of groundwater and surface water quality;
- Protection of wildlife in the vicinity of the Project;
- Nature of fencing proposed for the Project;
- Long-term durability of the liner system;
- Waste source and types;
- Waste acceptance and management procedures;
- Decommissioning plans and security requirements; and
- Potential effects of oil field activities, including:
 - Need for clarification of spill prevention, response and cleanup procedures;
 - Need for more effective, immediate spill response procedures.

12.5.1 Oilfield Activities

This Project is located within Doig River First Nation traditional land, part of BC Treaty 8 Territory. It is also within a major oilfield that has been active for about 50 years. As the oilfield has developed, so too have the number of flare pits, sumps and spills – causing contamination of the land and affecting the way of life of BC Treaty 8 First Nations.

BC Treaty 8 Elders who participated in the Elders Gathering at Doig River said:

- *“I am very sad, in the past we drink good water, now we can’t. Before we camp anywhere, now no trespassing signs, no hunting, poisonous gas – what can we do?”*
- *“It bothers me we can’t use the land like before.”*
- *“Things are happening on our land, we are opening up our eyes.”*

Elders believe that the oil and gas industry is not being respectful of the land and that government should do more to prevent contamination and remediate currently contaminated sites.

BC Treaty 8 Elders who participated in the Gathering at Doig River said:

- *“In front of our Eyes, our land destroyed.”*
- *“Government does not listen.”*
- *“Record number of referrals to deal with.”*
- *“Does it cost too much to clean the land up?”*
- *“Clean up all of the land – not half way – all the way.”*
- *“Industry is responsible to work with us, they get away with too many things.”*
- *“Industry is pushing us fast, they have no respect.”*

12.5.2 Potential Effects on Traditional Land Use

Issue: *Use of the Land for Traditional Purposes*

Elders expressed concern about no longer being able to use their traditional lands for camping, hunting, gathering plants, etc. In addition to making them unhappy, they stated that the contaminated landscape makes it difficult (if not impossible) for them to pass on their traditional ways to younger generations.

The Proponent – and the Doig River First Nation – believes that the proposed Project will have a beneficial effect on land use in the area. By making it more economically attractive to oil companies to remediate contaminated sites (due to lower transportation distances and costs), the development of the Project is expected to facilitate an increased rate of site remediation in their traditional land and is fundamental to the Doig River First Nation community's stated desire to "clean up the land."

Proponent Response:

As stated in the Preface to the Application, creating a secure landfill was proposed to facilitate the cleanup of contaminated sites within BC Treaty 8 territory: "*The DRE landfill project aligns with the values of First Nations people and contributes to the goal of finding solutions to pressing and significant concerns over the environmental impacts of oil and gas development in northeast British Columbia. After the oil and gas resources have been fully developed, and the oil and gas companies have moved on, the BC Treaty 8 First Nations will be left with the aftermath of this development. Their interests lie in ensuring that their land is healed so that future generations can continue to exercise their Treaty rights as their ancestors did before them.*"

The Project site is located within the general traditional trapping area for the Doig River First Nation. No members, however, are known to trap or have registered trap lines at the proposed Project site. Camping was traditionally conducted closer to the creek located 450m south of the site. No outstanding concerns have been raised with respect to this Project's potential effects on traditional use of the land.

12.5.3 Potential Effects on Social Conditions

Development of the Project is expected to facilitate cleanup of land in the Doig River First Nation's traditional territory. In turn, this is expected to assist BC Treaty 8 First Nations in retaining their traditional lifestyle and activities.

Treaty 8 Elders have stated that they feel that what the Proponent is doing is inspirational and that taking the initiative to start cleaning up the land will help all BC Treaty 8 First Nations and that the Project can help to bring them closer together.

BC Treaty 8 Elders who participated in the Gathering at Doig River said:

- *"The future is cleaning up the land."*
- *"It's good to explain to Elders what you are going to do. Doig leaders are listening to Elders."*
- *"We need to change our behavior to have better relationship with each other."*

Garry Oker (Proponent representative and former Doig River First Nation Chief) said: *“We are hunters of the future by building this landfill project. We understand our relationship to the land and are now developing new skills to re-use the land in a new way. This is the perspective of Dreamers (Nachine). We are respecting traditions while shaping the future.”*

12.5.4 Potential Effects on Business Conditions

The construction of this Project in a remote location within a busy existing oil and gas field should result in substantial transportation cost savings per unit for oil and gas companies in the area. This cost savings should allow oil companies to complete cleanup of a substantially greater number of sites within a similar budget as compared to previous budget years. This anticipated increase in remediation activity could result in increased opportunity for spin-off business in the Peejay area, much of which could come to the Doig River First Nation, given its proximity to the landfill and its well-established business presence in oilfield activities.

BC Treaty 8 Elders that participated in the Gathering at Doig River said:

- *“Very good, Doig doing something.”*
- *“Partnership with Industry good, they are listening.”*

12.5.5 Potential Effects on Health Conditions

The Project will be located approximately 85km by road from the nearest First Nation community in an established oil and gas field adjacent to an existing road that experiences intermittent heavy traffic volume. Based on the remoteness of this location, it is deemed unlikely that this Project will have any adverse effects on the physical health of local First Nation communities.

Many of the Elders that visited the most recent (2008) Peejay spill site during the Elders Gathering in June 2008 noted experiencing headaches and nausea from fumes coming from the spill. Others have expressed strong concerns about the potential health impacts of using plants and animals that may have consumed contaminated vegetation, soil or water. By facilitating the cleanup of existing contaminated sites, the proposed Project is expected to reduce the incidence of these problems and should therefore have a very positive indirect effect on the health of individuals.

BC Treaty 8 Elders that participated in the Gathering at Doig River said:

- *“We need clean land for health, to collect natural foods.”*

12.5.6 Potential Effects on Economic Conditions

While this Project will create few direct jobs following construction, it is expected that the above-noted anticipated increase in remediation activities should create opportunities for First Nations' participation in spin-off business in the Peejay area. Elders are hopeful that the development of the Project will encourage young community members to become educated and trained in land remediation techniques so that they can participate in business opportunities associated with cleaning up the land.

BC Treaty 8 Elders that participated in the Gathering at Doig River said:

- *“We had hard time, the young people need to making living in the future, I encourage them to get educated.” (Elder Marianne Mass)*
- *“We need to create something for the younger generation.”*
- *“Youth need job opportunities to make a living.”*

12.5.7 Potential Effects on Treaty Rights

Treaty No. 8 provides the signatories with the right to carry out their “usual vocations” of hunting, fishing and trapping within the treaty area. In the section 11 Order issued for this Project, the EAO directed the Proponent to assess the potential adverse effects of the proposed Project on the First Nations’ Treaty rights.

The Proponent indicated in its Application that the proposed Project should protect Treaty 8 rights by enabling contaminants to be removed from lands and waters that might be used by Doig River First Nation members when exercising their Treaty 8 rights to hunt, gather and fish. The Proponent also indicated that use of the site for the purpose of developing this Project should not have an adverse effect on treaty rights because:

- The Project site was selected with the direct assistance of Elders of the Doig River First Nation and is located in an area that does not possess unique habitat and was not known to be used for traditional purposes of hunting, fishing or trapping by First Nations;
- The Project will be fenced to keep wildlife out, to protect them from injury or contamination; fencing the site should not adversely affect wildlife migrations because it has a relatively small footprint and is surrounded by a large area of similar habitat;
- The Project will be properly capped and monitored before the land is returned to the provincial Crown, with the goal that wildlife will once again be able to use the site freely; and
- There are no fish-bearing streams or navigable waters close to the site and the Project will have an industry-proven engineered triple liner system, with leachate collection and leak detection systems, to ensure that groundwater and surface water do not get contaminated.

12.5.8 Potential Significant Effects after Mitigation

Based on a thorough and independent assessment of:

- The information provided by the Proponent in the Application and supporting material, including the Proponent’s report on the Elders Gathering at Doig River;
- Mitigation measures proposed and commitments made by the Proponent;
- Relevant review comments on the Application by BC Treaty 8 First Nations; and
- Letters of support for the Project from some BC Treaty 8 First Nations,

the EAO has determined that the Project is not likely to result in significant adverse effects on traditional land use, treaty rights, or community, social, business, health or economic conditions of BC Treaty 8 First Nations.

PART D. FEDERAL REQUIREMENTS

The proposed Project did not trigger a review under the *Canadian Environmental Assessment Act* and was not designated as reviewable by any federal agencies. First Nations subsequently asked if the federal Department of Indian and Northern Affairs should be involved in the environmental assessment to address potential Treaty Land Entitlement issues. The EAO has pursued this issue with the Canadian Environmental Assessment Agency and the Department of Indian and Northern Affairs. The Department of Indian and Northern Affairs Canada responded that Treaty Land Entitlement issues do not trigger a federal environmental assessment and that such issues are best addressed in the ongoing claims negotiation process.

PART E. REGULATORY REQUIREMENTS

1. Hazardous Waste Regulation

The MoE's EPD has been evaluating the Proponent's applications for a *Waste Management Act* Authorization and Hazardous Waste Regulation variances concurrently with the review of the Application. MoE staff have confirmed that plans for the proposed Project appear to meet all the requirements of the Hazardous Waste Regulation and that if Ministers decide to issue an environmental assessment certificate for the Project, then the MoE should be ready to issue decisions on the regulatory authorizations soon after such a decision has been made.

The Hazardous Waste Regulation sets out minimum requirements or standards that must be met for all Hazardous Waste facilities, including:

- Minimum Siting Standards,
- Operational Requirements,
- Waste Information requirements,
- Waste Record requirements,
- Access Security requirements (example: fencing requirements),
- Prevention of Fire, explosion and accidental reactions,
- Spill protection and reporting,
- Contingency plan,
- Emergency system testing,
- Personnel Training, and
- Closure Plan.

The proposed Project also meets the additional minimum requirements/standards for secure landfills with respect to:

- A dual liner system (the landfill will actually have a triple liner system);
- Leachate detection, collection and removal system;
- Groundwater quality protection;
- Water control and discharge;
- Dust control;
- Closure standards; and
- Post-closure plan.

2. Provincial Crown Land Tenure

The ILMB has been evaluating the Proponent's application for a Long-Term (40-year) Tenure for provincial Crown land concurrently with the review of the Application.

ILMB staff have confirmed that plans for the proposed Project appear to meet all the requirements of the *Lands Act* and that if Ministers decide to issue an environmental assessment certificate for the Project, then the ILMB should be able to issue a decision on the long-term tenure application soon after such a decision has been made.

PART F. CONCLUSIONS

Based on:

- Information contained in the Application ;
- The Proponent's program and record of consultation with BC Treaty 8 First Nations, agencies and the public (including the Proponent's report on the Elders Gathering and its August 14 report on consultation with BC Treaty 8 First Nations), including its commitment to ongoing consultation with BC Treaty 8 First Nations;
- Comments on the Project made by BC Treaty 8 First Nations and government agencies as members of the EAO's Working Group, and the Proponent's responses to these comments;
- Comments on the Project made the public during the public comment period, and the Proponent's responses to these comments;
- Issues raised by BC Treaty 8 First Nations regarding potential impacts of the Project on treaty rights, traditional land use and communities, and the Proponent's responses to these issues; including letters of support for the Project from several BC Treaty 8 First Nations; and
- Commitments and mitigation measures identified in Appendix B to be undertaken by the Proponent during the construction, operation, and decommissioning of the Project,

the EAO is satisfied that:

- The environmental assessment process has adequately identified and assessed the potential significant adverse environmental, economic, social, heritage and health effects of the Project;
- Consultation with BC Treaty 8 First Nations, government agencies, and the public, and the distribution of information about the Project have been adequately carried out by the Proponent and that consultation with BC Treaty 8 First Nations will continue on an ongoing basis;
- Issues identified by BC Treaty 8 First Nations, government agencies and the public, which were within the scope of the environmental assessment, were adequately addressed by the Proponent during the review of the Application;
- Practical means have been identified to prevent or reduce to an acceptable level any potential adverse environmental, social, economic, health and/or heritage effects of the Project;
- The potential for adverse effects on treaty rights of BC Treaty 8 First Nations has been avoided, mitigated or otherwise accommodated to an appropriate level such that implementation of the Project should not prevent these BC Treaty 8 First Nations from exercising their treaty rights; and

- The provincial Crown has fulfilled its obligations for consultation and accommodation to BC Treaty 8 First Nations relating to the issuance of an Environmental Assessment Certificate for the Project.
- There should be no significant adverse effects as a result of the construction, operation and decommissioning of this proposed Project.

The provincial Minister of Environment and the Minister of Community Development will consider this Assessment Report and other accompanying materials in making their decision on the issuance of an environmental assessment certificate to the Proponent under the Act

