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Community Benefits Agreements for Mega-Energy Projects

Reservation Economic Summit, March 5, 2018

Social License to Operate: The on-going approval of a project within the communities impacted by that project.

Dynamic & non-permanent

Must be **EARNED** and **MAINTAINED**



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Dakota Access Pipeline Protest

1. Increased Empowerment of Tribal Communities related to energy projects.
2. Energy Developers have taken notice and are motivated to engage with Tribes.





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Community Benefits Agreement

An agreement signed by a Community (First Nation/Tribe) and a developer which outlines a range of community benefits the developer agrees to provides *in return for the community's support of the project.*

Benefits often include: workforce training for community members; local-hire provisions; and subcontracting set-asides or goals.



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Community Benefits Agreement

Benefits to Host Community

- Establish community development funds
- Promote training and hiring of community members
- Establish local supplier and subcontracting goals
- Encourage construction of new facilities and infrastructure

Benefits to Project Developer

- CBA Negotiation process can provide an impetus to disseminate project information to a community which is a precursor to gaining community support for a project.
- Increased community support reduces project risk to developers. Makes good business sense.



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Community Benefits Agreement

How can a Community mobilize for a CBA Negotiation

- Research project development proposals in their region and identify any that have the potential to offer benefits to the tribe.
- Organize a broad-based coalition of community interests
- Hold public meetings and share information on the proposed development
- Engage with the developer early on, have concrete objectives (the “asks”)



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Community Benefits Agreement

How a Developer can fail at Getting a Social License

- Fail to understand the local community and the local rules of the game
- Delay stakeholder engagement
- Fail to allocate sufficient time for relationship building
- Undermines it's own credibility by failing to give reliable information, or more commonly failing to deliver on promises made to the community
- Fails to respect or listen to the community
- Underestimates the time and effort required to get community support



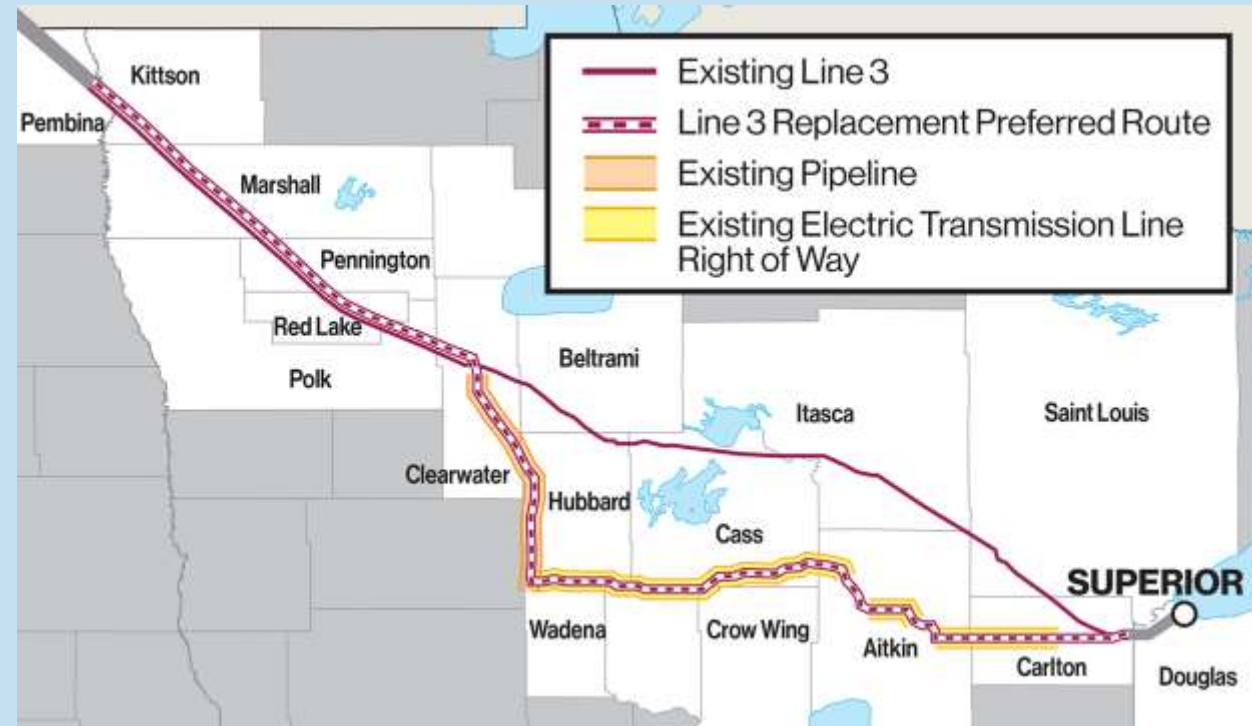
Learning from Canada

Increased focus on First Nation Support of Projects:

- Truth and Reconciliation Agreement with First Nations
- UN Declaration on the Rights of Indigenous Peoples

Enbridge Line #3 Project:

- Agreements with 77 First Nations in Place now
- **\$100M in Procurement and other Community Investment**





Partners Not Impediments

Lessons from the First Nations Limited Partnership

- The First Nations Limited Partnership (FNLPP) is a commercial entity comprising all the 16 First Nations whose territories are traversed by the Proposed Pacific Trail Pipeline (PTP), the pipeline component of the proposed Kitimat LNG project.



FNLP Agreement with PTPLP and British Columbia

- Over \$1 Billion in financial and other economic benefits could flow to the First Nations limited partners from agreements executed by FNLP with the PTP proponents and the Government of British Columbia in February 2013
- These agreements also ensure direct accountability by PTP proponents to the FNLP First Nations on matters related to environmental protection and construction safety
- PTP was the first, and remains the only, LNG-related natural gas pipeline project in British Columbia with 100% First Nations support

Key Lessons from the FNLP Experience

1. **First Nations should be viewed as potential commercial partners rather than as potential legal impediments**



- A business rather than a legal perspective
- Engagement rather than management

Value is determined by three factors:

- The size of the anticipated returns
- The date these returns will be received
- The risk that is taken to obtain these returns

2. **Early engagement with First Nations on a commercial basis can reduce project risks and create value for all parties**



- Industry and First Nations do not have to structure their engagement to fit within government-mandated consultation processes
- All elements of the project value chain should be involved in the engagement process

3. **First Nations and industry can benefit from engaging directly with each other**



Ruby Pipeline Project

Best Practices with Tribes:

1. **Confidential Mitigation Agreements** – financial and in-kind assistance to tribes to assist with cultural and environmental resource assessments.
2. **Project-related Tribal Employment**

