

B.C. FIRST NATIONS ENERGY & MINING COUNCIL

615-100 Park Royal South
West Vancouver, B.C. V7T 1A2
Tel: 604 921-4488; Fax: 604 921-4401
Email: BCFNemc@gmail.com

Via Email: Commission.Secretary@bcuc.com

June 10, 2009

Commission Secretary
BC Utilities Commission
Box 250, 900 Howe St.
Vancouver, B.C.
V6Z 2N3

Attention: Commission Secretary: Ms. Erica Hamilton

Dear Ms. Hamilton:

Re: BCFNemc Response to Staff Discussion Paper on Scoping

Attached hereto is the latest intervention from the BCFNemc respecting the s. 5 Transmission Inquiry. The submission includes our analysis and response to the BCUC staff discussion paper on scope and a copy of the New Relationship Document.

Please be advised that members of our team shall be attending the upcoming scoping workshop on June 18th as well as the conference on June 24, 2009. We reserve our right to amend this submission on scope at the June 24th conference and as the Inquiry progresses through its other dimensions.

Yours truly,

“Peter Dimitrov”
Barrister & Solicitor

BCUC INQUIRY INTO BC'S LONG TERM TRANSMISSION INFRASTRUCTURE BC FIRST NATIONS ENERGY & MINING COUNCIL INTERVENTION

Comments on Commission Staff Discussion Draft on Scope

Overview:

The BC First Nations Energy and Mining Council (BCFNEMC) has reviewed the Commission Staff Discussion Draft on Scope of the Inquiry, and provides the comments below on each of the major issues identified.

In general, the Discussion Draft usefully addresses, in the context of the Terms of Reference, various specific matters relating to the assessment of generation, demand, transmission requirements, and areas inappropriate for generation development. It does not specifically address scoping of initial scenarios; we believe that those require consideration and have provided comments accordingly. A number of our comments in these sections will be generic to all participants; some address particular First Nations concerns.

More importantly, however, in addition to the various "technical" issues raised, we submit that there is a second and very fundamental dimension to this Inquiry that must be fully addressed by the BCUC and other participants. First Nations political and legal interests and rights, and the obligations of government, BCUC, the utilities and others with respect to those, must be considered and specifically reflected in the Inquiry process and its outcomes. The concluding section of this paper addresses these issues for further discussion and attention of the Commission.

Scoping of Initial Scenarios;

The Discussion Draft on Scope does not yet address the need to move forward further at this time in scoping of relevant initial scenarios and related parameters to guide the September filing of information by BCH, BCTC and Fortis BC (the Utility Participants).

Based on the current schedule as set out in Order G-47-09, and as contemplated by BCH in its related BCH/BCTC consultation process with First Nations, consultations with and presentations by First Nations prior to and during the Commission's Regional Sessions will occur based solely on the information to be provided by Utility Participants in September, prior to the Utility Participants providing their submissions to the Commission on the issues. This process gives rise to concerns about the ability of First Nations to consult effectively on the issues before this Inquiry and to provide meaningful submissions to the Commission during its Regional Sessions.

As set out in our submission of April 25th, BCFNEMC is concerned that for meaningful consultation and accommodation to occur it is vital that complete disclosure of information and all submissions by Utility Participants occur prior to the commencement of regional hearings where we anticipate considerable involvement by First Nations. Information by itself, as currently contemplated to be provided by the Utility

Participants in September, will not assist First Nations or other participants to assess the relevant issues unless this information is provided in the context of agreed upon scenarios relevant to the Inquiry. Order G-47-09 indeed contemplates that "initial scenarios" will be prepared as part of the information to be submitted by the Utility Participants in September. However, the Commission Staff Discussion Draft on Scope does not yet address any definition of these "initial scenarios".

In assessing the scope for initial scenarios, BCFNEMC suggests that it would be useful to consider the following at the June 18 workshop:

- **Clarification of Inquiry "Determinations" on Utility Planning and Decision-making:** It would be helpful to clarify the range of potential "determinations" that might likely be made by the Commission as a result of the Inquiry and how they will influence utility planning and decision-making in the future. In this context, it is relevant to note the special nature of the Inquiry, its reliance of necessity on readily available information, and its mandate to "take a long term view of transmission development" that goes beyond current utility plans in a way that will assist, improve and direct future transmission infrastructure planning throughout BC. By way of example, what determinations might be made to direct long-term planning such that changes occur in future to near term decision-making as regards sequence of transmission development, scale ("pre-build capacity" options), areas to avoid, processes to use that will facilitate effective planning, involvement, consultation, accommodation and other desired outcomes? And given the inevitable uncertainties associated with the 30 year time frame for this process, what provisions are contemplated for future review and revisions, so that determinations do not become an obstacle rather than a guide to future decisions?
- **Integration of Generation, Demand and Transmission Requirements:** There is a need to define initial scenarios that integrate generation, demand and transmission assessment requirements in the context of agree-upon regions or "geographic areas", key time periods, major "drivers" relevant to this specific Inquiry's overall scope, and other major parameters.
- **BCTC Planning Model:** Guidance as to how BCTC's new long-term scenario planning model will assist the Inquiry and address initial scenarios.
- **Addressing Uncertainty in Planning Scenarios:** Guidance to define how uncertainties will be best addressed to assist the Commission when it looks out 30 years. There are a wide range of potential scenarios that might be raised regarding potential electricity demands and generation in different regions, the overall BC market and export markets over the 30-year planning period stipulated for the Inquiry.

Assessment of Generation

The Commission Staff Discussion Draft sets out the basic generation assessment elements that are in scope and out of scope, as provided for in the Terms of Reference.

BCFNE&MC notes the following for further discussion:

- **Resource Option Groupings:** How best to define the 'resource option groupings' relevant to the Inquiry, as well as related "geographic areas" and potential development timing considerations.
- **First Nation Perspectives on Lack of Grid-Access and Infringements Related to Development:** When assessing possible resource option groupings, consideration of First Nation perspectives and information requirements as to "need" and sustainability impacts of different generation scenarios – including First Nation concerns regarding lack of grid access and continued reliance on diesel generation, infringements related to transmission or generation developments, the extent to which transmission development is a precondition for certain new generation development, and other related considerations.
- **First Nation Perspectives on Priorities for New Generation Resources:** The degree to which new generation will be developed based on sustainable domestic supply requirements or longer-term growth or export considerations may significantly affect participant and BCUC submissions and decisions. The relative priority of these factors should be discussed.
- **Integration of Generation and Transmission Planning Considerations:** When assessing possible resource option groupings, consideration of the potential for impact on generation development of different transmission infrastructure development scenarios, and vice versa (potential for impact of different generation development scenarios different on transmission/sub-transmission and distribution infrastructure development, e.g., "spider-web" impact issues).

Assessment of Demand

The Commission Staff Discussion Draft sets out the basic demand assessment elements that are in scope and out of scope, as provided for in the Terms of Reference.

BCFNE&MC notes the following for further discussion:

- **Differences Between Demand Scenarios:** How best to define and describe a "manageable number of demand scenarios, which are meaningfully different from each other", including key added considerations not yet addressed in the Utility Participant plans and forecasts, reasonable scoping to address such added considerations, relevance of estimating demand forecasts for each year versus other options, relevant "geographic areas", etc.
- **Assessment and Priority of Demand Drivers:** How best to define scenarios "to group factors that may drive demand higher or lower in order to produce a viable number of options". In this regard, what is the appropriate consideration of general market factors (e.g., new technologies or pricing factors that may increase demand, new conservation initiatives or pricing factors that may decrease demand) BC region-specific factors (e.g., long-term outlook for major regional sectors such as forestry, mining and oil and gas), and export market factors.

- **Integration of Demand and Generation Scenarios:** How best to identify a limited number of relevant integrated demand and generation scenarios specifically driving long-term transmission infrastructure planning considerations, including the potential future market opportunities to export clean or renewable or low-carbon electricity that is surplus to BC requirements.
- **First Nation Perspectives on Lack of Grid-Access and Infringements Related to Development:** When assessing possible demand scenario option groupings, consideration of First Nation perspectives and information requirements as to “need” and sustainability impacts of different demand scenarios – including First Nation concerns regarding lack of grid access and continued reliance on diesel generation, infringements related to transmission or generation developments, the extent to which transmission development is a precondition for certain new generation development, and other related considerations.

Assessment of Transmission

The Commission Staff Discussion Draft sets out the basic transmission assessment elements that are in scope and out of scope, as provided for in the Terms of Reference.

BCFNE&MC notes the following for further discussion:

- **First Nation and Remote Community Perspectives on Lack of Grid-Access and Implications for Transmission Development:** The Draft Discussion Document notes one example of regionally significant lower voltage transmission where a line might be operated at a lower voltage initially even though a higher long-term voltage is expected to apply. It will be relevant to define other regionally significant long-term lower voltage transmission infrastructure proposals, including First Nation concerns regarding lack of grid access and continued reliance on diesel generation.
- **Consideration of Bulk-Transmission System as well as Regional Transmission Systems:** BCFNE&MC agree that the initial focus on the bulk transmission system should not prevent consideration of regionally significant transmission opportunities and options, irrespective of the voltage that such transmission might be operated at initially.
- **First Nation Perspectives on Priorities for New Transmission Resources:** It will be relevant to determine how much focus is to be given to capacity of interties with Alberta and the U.S., and the assessment of potential First Nation interests with regard to all direct and indirect implications of transmission developments to support the export of surplus electricity.

Areas Inappropriate for Generation Development

The Commission Staff Discussion Draft sets out the basic assessment elements that are in scope with regard to areas inappropriate for generation development, as provided for in the Terms of Reference.

BCFNE&MC notes the following for further discussion:

- **Consideration of Areas Inappropriate for Transmission Development:** Notwithstanding the Terms of Reference, in the case of transmission infrastructure developed to support new generation, it is not clear on what reasonable basis the Inquiry's scope does not also require consideration of areas inappropriate for transmission development.
- **Consideration of First Nation Land-Use Planning and Treaty Requirements:** In looking at areas where new development should be deferred or avoided based on "imminent government decisions", consideration must be given to ongoing Treaty studies and negotiations, and ongoing requirements to collaborate with First Nations on land use planning processes.

First Nation Issues

In addition to the aforementioned comments on scope we seek to make it clear that from the BC First Nations Energy & Mining Council perspective this Inquiry is not merely a technical exercise whereby the load serving entities BC Hydro, BCTC and Fortis gather information and generate computer model scenarios regarding such topics as generation, demand and transmission issues, where participants get to ask questions and make submissions, and where the BC Utilities Commission exercises its jurisdiction under the Terms of Reference to make "determinations."

Implicit within the scoping and Inquiry process are values, assumptions, legal and ethical principles, largely unconscious, that need to be clarified and culturally modified due to First Nations input along the way.

The BC First Nations Energy and Mining Council believes that in regards to the issue of scope this Inquiry is fundamentally about the land and waters that constitute the precious homelands of diverse First Nations.

Homelands for First Nations are not just empty spaces with resources for the taking. They are special places with boundaries, where people know each other and have a shared sense of community, identity, language and culture. Where there is a continual history since time immemorial of respectful relationship to the land and myriad species of life. Homelands where people have established means of self-government that clarify what is sanctioned and what is not, who has rights and responsibilities, a place where both a traditional and modern economy co-exist and complement each other. Homelands where First Nation peoples have collective aspirations for the continued protection and evolution as a First Nations society in all its unique dimensions.

Consequently this Inquiry ought not to be business as usual (BAU).

From a First Nations perspective business as usual is where the Crown, this Commission, the load serving entities and other participants continue to live and plan their existence in partial or substantial denial of

the fact that this territory named by some as British Columbia was never factually or legally a terra nullis – an empty land for the taking.

Business as usual for First Nations has been about outsiders, including the Crown and the corporate sector going onto First Nations territories without permission or consultation, so as to fulfill their aspirations to maximize rents for the Crown and profits for shareholders, while shifting negative impacts and costs to First Nations.

Business as usual has been a persistent policy of exclusion, non-participation, non-collaboration, a policy that imposes the values, goals, projects and laws of the larger dominant society on First Nations. Business as usual is where the dreams and laws of the modern world take precedence over the dreams and laws of First Nations, where Crown rights and title takes precedence over Aboriginal rights and title – rather than a respectful recognition and creative reconciliation.

Business as usual is the idea that British Columbia is a merely a political-economic space functioning under a centralized administrative power ruled by the primary idea that whoever has the political and fiscal power gets to run things as they wish, rather than the idea that this incredibly beautiful geography includes First Nations and settlers, that this place is a civilization in the making, a civilization whose fundamental basis is at minimum an ethical if not legal pact with First Nations, a pact whose function ought to be about inclusion, balance, complexity, respect, recognition and reconciliation.

The BC First Nations Energy and Mining Council believes therefore that it is within the Scope of this Inquiry to identify the largely unconscious values, assumptions, legal and ethical principles and intentions that drive the business as usual approach, so as to prevent them capturing this Inquiry, the technical scenarios of the load serving entities, and the determinations of the BCUC commission panel itself.

So if the Commission accepts the premise that this place is a civilization in the making, an inclusive civilization whose fundamental basis is at minimum an ethical –legal pact with First Nations, and that this Inquiry is a collaborative exercise where First Nations, the Crown and participating NGOs will together try to imagine ourselves differently, then it is submitted that it is within the scope of this Inquiry to identify components and processes that ought to form the basis of a principled, ethical understanding with First Nations as it relates to the energy sector issues that are the focus of this Inquiry.

In accepting this scoping role it would be wise for the Commission to open the door wide, to spend time in First Nation communities, to listen to First Nations peoples and their leaders speak about their concerns, their aspirations for their societies, their lands and waters, and about an ethical, more civilized relationship with the dominant society.

Furthermore it would be of value for the Commission, load serving entities and participating NGOs to be informed of how First Nations essentially see the legal landscape as it relates to Crown-First Nations' relationship.

After 150 years of denial, the BC government pushed by such legal cases as *Delgamuukw* has come around to recognizing that BC First Nations continue to enjoy aboriginal rights, title and treaty rights.

Aboriginal rights and title is a bundle of legal rights including but not limited to:

- * Title to the lands, waters and resources of First Nations territories
- * An inherent right to self-government
- * A right to receive economic benefits from development
- * A right to be consulted in a meaningful fashion, and,
- * A right to have First Nations rights, title and treaty rights accommodated by the Crown.

Since *Delgamuukw* there have been several court cases that have confirmed First Nations legal rights and that have defined the obligation of the Crown to meaningfully consult and adequately accommodate Aboriginal rights and title.

As a consequence of this legal landscape, British Columbia and the First Nations Leadership Council negotiated an historic agreement called the **New Relationship Document** (attached hereto). The New Relationship is based on the fundamental premise that we are all here to stay and that it is vital that Crown rights and title recognize and reconcile with the full dimensions of Aboriginal rights and title.

Consequently, **The New Relationship Document** formally states that the parties:

“... agree to a new government to government relationship based on respect, recognition and accommodation of aboriginal rights and title...and a commitment to reconciliation of Aboriginal and Crown titles and jurisdiction.”

The **New Relationship Document** and various court cases suggests a era for Crown – First Nations relations based on shared decision-making, shared management and shared economic benefits from lands and resources within British Columbia.

The BCFNemc believes that it is within the scope of this Inquiry for the Commission to take judicial notice of the **New Relationship Document** and its principles and together with First Nations to determine pathways and protocols whereby the New Relationship principles could be applied to the generation/transmission hydroelectric sector.

To make the aforementioned determinations we submit that it is within the scope of this Inquiry for the Commission to receive evidence and submissions respecting how collaborative decision making, collaborative management and sharing of economic benefits with First Nations work in other jurisdictions and how it might thereby take form within British Columbia's hydro-electric sector.

Furthermore, if judicial notice is given to the **New Relationship Document** then we believe that it is within the scope of this Inquiry for the Commission to receive evidence and submissions about such topics as First Nations' Traditional Use Areas (TUS) that may or may not be appropriate for development; for Protocols to protect First Nations' intellectual property rights respecting Traditional Ecological

Knowledge (TEK), for Impact Benefit Agreements to ensure negative impacts are mitigated and benefits realized.

If indeed the Commission takes judicial notice of the **New Relationship Document** than we also submit that it is within scope of this Inquiry for the Commission to clarify for First Nations how it will go about its judicial duty of weighing the evidence and submissions from First Nations as distinct from the evidence and submissions of others? It is also within scope to define the terms of such value laden words found within the Terms of Reference, terms such as "cost", "development", "net benefit from trade", "clean energy", etc.

With respect to the duties of the Commission towards First Nations the BCFNemc further believes that the Panel needs not only to take judicial notice of the **New Relationship Document**, but also the February 2009 British Columbia Court of Appeal decision of Kwikwetlem First Nation v. British Columbia Utilities Commission, 2009 BCCA 68 (CanLII).

While the facts of that case are not identical with this instance of an Inquiry, it is submitted that Kwikwetlem is sound authority for the proposition that the BCUC Panel in this Inquiry has the jurisdictional obligation and capacity to decide the constitutional question of whether the honor of the Crown has been maintained, and that the duty to meaningfully consult and accommodate First Nations interests has been met by the Crown in establishing this Inquiry, its Terms of Reference, the composition of its panel, the capacity resourcing to First Nations to participate in this Inquiry.

Indeed as Kwikwetlem states:

"The Crown's obligation to First Nations requires interactive consultation and, where necessary, accommodation, at every stage of Crown activity that has the potential to affect Aboriginal interests."

Furthermore:

"where a decision-maker is called upon to approve a Crown activity that gives rise to a duty to consult, the first task of a decision maker in assessing the adequacy of that duty, is to determine its scope and content in that particular case. Only when the scope of that duty to consult has been determined, can a decision-maker decide whether that duty has been fulfilled."

Indeed if judicial notice is taken of the **New Relationship Document** and Kwikwetlem we believe that it is the Commissions duty to determine the scope and content of the Crowns duty to consult in the instance of this Inquiry, and once it has determined that issue, to assess whether the Crowns duty has been fulfilled.

That is, we believe it ought to be within scope for the Panel to seek clarification from its political masters to such questions as why First Nations were not consulted at all in regard to the need for this Inquiry; its Terms of Reference; the composition of the decision-making Panel itself; the propriety of the sub-delegation of the duty to consult from the Crown to one of its agencies, BC Hydro; the adequacy of the timing for First Nations meaningful participation; the adequacy and timing of capacity resource funding flows to First Nations; the reasons why there is not a First Nations person on the Commission panel itself and whether that can be remedied?

Indeed, given Kwikwetlem and the **New Relationship Document**, we believe it is within scope for the Panel to clarify to First Nations what principles and mechanisms it will rely upon to fairly balance its jurisdictional authority vis a vis its perceptively competitive obligations to the Crown, to First Nations, to load serving entities and to NGO other participants.

Finally on the issue of scope we are informed that as of May 12, 2009 BC Hydro had designed a three phase 'parallel consultation' process with BC First Nations, the first phase consisting of nine regional consultation workshops scheduled to take place during the period of June 9th – July 17th , 2009.

This is to advise that the BC First Nations Energy & Mining Council intends to attend and participate on an informed basis in all of the Phase One (and subsequent phases) regional meetings and will require capacity funding to do so competently and in a manner that meets the legal requirement for meaningful consultation and accommodation.

With respect to capacity funding for the BC Hydro process, we are informed that as of May 12, 2009 funding for First Nations' participation in Phase One has been established by BC Hydro at \$500 per day, plus travel and per diem, and that allowance is made for two persons from each First Nation organization to attend the Phase One Regional Consultation workshops.

With respect to that level of funding we advise that while it facilitates First Nations to send representatives to attend BC Hydro workshops so as to listen to BC Hydro/BCTC presentations in no way does it provide them independent legal or technical capacity (or much time) to review, analyze and respond to BC Hydro/BCTC presentations in a manner that goes beyond the realm of mere consultation towards the inclusive circle of meaningful consultation and accommodation.

In view of this opinion, and in light of legal authority of Kwikwetlem, we submit that at minimum it is within the scope of the BC Utilities Commission to assess the adequacy of the BC Hydro/BCTC consultation process including its capacity funding for First Nations and to provide appropriate directions to BC Hydro/BCTC regarding these matters so that meaningful consultation and accommodation to First Nations interests will be fulfilled, and so that the BCFNemc can continue its outreach and assistance to BC First Nations, as well as its own participation.

Finally, take notice that this is our preliminary view on the issue of scope, that we plan to participate in the June 18th scoping workshop and take note of those proceedings, and we reserve our right to amend this submission on scope at the June 24th Conference and as this Inquiry unfolds into its other dimensions.

June 10 2009

The New Relationship

I. Statement of Vision

We are all here to stay. We agree to a new government-to-government relationship based on respect, recognition and accommodation of aboriginal title and rights. Our shared vision includes respect for our respective laws and responsibilities. Through this new relationship, we commit to reconciliation of Aboriginal and Crown titles and jurisdictions.

We agree to establish processes and institutions for shared decision-making about the land and resources and for revenue and benefit sharing, recognizing, as has been determined in court decisions, that the right to aboriginal title “in its full form”, including the inherent right for the community to make decisions as to the use of the land and therefore the right to have a political structure for making those decisions, is constitutionally guaranteed by Section 35. These inherent rights flow from First Nations’ historical and sacred relationship with their territories.

The historical Aboriginal-Crown relationship in British Columbia has given rise to the present socio-economic disparity between First Nations and other British Columbians. We agree to work together in this new relationship to achieve strong governments, social justice and economic self-sufficiency for First Nations which will be of benefit to all British Columbians and will lead to long-term economic viability.

II. Goals

Our shared vision includes a celebration of our diversity, and an appreciation of what we have in common. We recognize the vision of First Nations to achieve the following goals:

1. To restore, revitalize and strengthen First Nations and their communities and families to eliminate the gap in standards of living with other British Columbians, and substantially improve the circumstances of First Nations people in areas which include: education, children and families, and health, including restoration of habitats to achieve access to traditional foods and medicines;

2. To achieve First Nations self-determination through the exercise of their aboriginal title including realizing the economic component of aboriginal title, and exercising their jurisdiction over the use of the land and resources through their own structures;
3. To ensure that lands and resources are managed in accordance with First Nations laws, knowledge and values and that resource development is carried out in a sustainable manner including the primary responsibility of preserving healthy lands, resources and ecosystems for present and future generations; and
4. To revitalize and preserve First Nations cultures and languages and restore literacy and fluency in First Nation languages to ensure that no First Nation language becomes extinct.

The strategic vision of the Province for British Columbians is:

1. To make B.C. the best educated, most literate jurisdiction on the continent;
2. To lead the way in North America in healthy living and physical fitness;
3. To build the best system of support in Canada for persons with disabilities, special needs, children at risk and seniors;
4. To lead the world in sustainable environmental management, with the best air and water quality, and the best fisheries management, bar none; and
5. To create more jobs per capita than anywhere else in Canada.

This vision can only be achieved if First Nations citizens attain these goals. To achieve these strategic goals, we recognize that we must achieve First Nations economic self-sufficiency and make First Nations a strong economic partner in the province and the country through sustainable

land and resource development, through shared decision-making and shared benefits that support First Nations as distinct and healthy communities. All British Columbians will benefit from a richer understanding of First Nations culture and from economic, political and cultural partnerships with First Nations. We therefore agree to the following principles and action plan.

III. Principles to Guide the New Relationship

We will mutually develop processes and implement new institutions and structures to achieve the following:

- integrated intergovernmental structures and policies to promote co-operation, including practical and workable arrangements for land and resource decision-making and sustainable development;
- efficiencies in decision-making and institutional change;
- recognition of the need to preserve each First Nations' decision-making authority;
- financial capacity for First Nations and resourcing for the Province to develop new frameworks for shared land and resource decision-making and to engage in negotiations;
- mutually acceptable arrangements for sharing benefits, including resource revenue sharing; and
- dispute resolution processes which are mutually determined for resolving conflicts rather than adversarial approaches to resolving conflicts.

This vision statement to establish a new relationship has been written as a measure of good faith by

the parties to put into words our commitment to work together to explore these concepts and develop their full meaning.

IV. Action Plans

We agree to work together to manage change and take action on the following:

1. Develop new institutions or structures to negotiate Government-to-Government Agreements for shared decision-making regarding land use planning, management, tenuring and resource revenue and benefit sharing;
2. Identify institutional, legislative and policy changes to implement this vision and these action items;
3. Develop additional protocols or accords to further the implementation of the vision, as required from time to time;
4. Identify processes to ratify agreements;
5. Establish funding and distribution structures/institutions to support First Nations' capacity development and effective participation in the processes established through these action items;
6. Establish effective procedures for consultation and accommodation;
7. Appoint a joint working group to review Forest and Range Agreements and make recommendations to the parties on options for amending those agreements, in order to make them consistent with the Vision and Principles above;
8. Identify and develop new mechanisms on a priority basis for land and resource

protection, including interim agreements;

9. Develop impartial dispute resolution processes and work towards a decrease in conflicts leading to litigation; and
10. Create an evaluation process for monitoring and measuring the achievement of this vision and these action items.

V. Management Committee and Working Groups

The parties will establish a joint management committee of senior officials to:

- develop terms of reference, priorities, and timelines for the management committee and the working groups by May 31, 2005;
- identify current issues of substantial concern, and consider short and long term steps the parties could take to facilitate their resolution;
- jointly develop policy frameworks;
- establish joint working groups and provide direction, timelines and co-ordination to further the implementation of the action items;
- identify and allocate financial and technical resources for the work of the management committee and the working groups;
- make recommendations to the parties to address problems as they arise in the implementation of the vision; and
- engage the Government of Canada.