



ABORIGINAL PARTICIPATION IN MAJOR RESOURCE DEVELOPMENT



Aboriginal Affairs and
Northern Development Canada

Affaires autochtones et
Développement du Nord Canada

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1. INTRODUCTION

The purpose of this paper is to highlight background information on the opportunities and challenges associated with Aboriginal participation in major resource development. The focus is on major resource projects in energy (oil, gas and hydro) and mining sectors in Canada. Aspects covered include the value of natural resource wealth across the country as well as the importance of mining and energy sectors to the national economy; the importance of resource development to Aboriginal Canadians; the benefits that Aboriginal Canadians can bring to the private sector; and the roles various levels of government play. The intent is not to provide a comprehensive examination of the issue, but rather, a higher level survey of the subject.

Canada's resource sector is an asset that will increasingly contribute to the prosperity of all Canadians. Some \$500B is expected to be invested in over 500 major economic projects across Canada over the next 10 years, driven in part by demand from emerging economies.

-Budget 2012

This background information will inform a more detailed discussion of resource development and the potential benefits for Aboriginal communities, businesses and individuals.

2. MAJOR RESOURCE DEVELOPMENT 101

In 2010, natural resource wealth (including energy resources, mineral resources and timber) in Canada stood at \$1.16T or \$34,000 per capita, representing 15% of Canada's non-financial wealth¹. Canadian public and private organizations have reported that they intend to invest \$394.1B in construction and machinery and equipment in 2012, up 6.2% from investment in 2011, with 56.6% of the increase coming from higher investment intentions in the mining and oil and gas sector².

"Natural resource sectors underpin Canada's economy. Together, energy, mining and mineral processing, and forestry account for close to 10% of Canada's gross domestic product, and growing. In 2010, these sectors directly employed over 760,000 Canadians in communities throughout Canada, including remote and Aboriginal communities."

- The Honourable Joe Oliver,
Minister of Natural Resources,
Address to the Economic Club of
Canada, January 27, 2012

2.1 Energy

Since the rush of government funding for municipal projects during the recession has subsided, more infrastructure investment over the short term will be channeled

¹ Enviro Stats, Fall 2011; Statistics Canada, pg. 14

² The Daily, Statistics Canada, Wednesday, February 29, 2012. Accessed from <http://www.statcan.gc.ca/daily-quotidien/120229/dq120229a-eng.htm>

into the energy sector³. The sector already accounts for over 15% of total private business investment and of that flow, 40% goes to the oil sands, which have doubled their share in the past five years⁴. With a large number of upcoming projects in the oil sands, it is expected that cumulative capital expenditures could reach close to \$95B by 2015 and \$180B by the end of the decade; an investment that could double oil sands production, and generate roughly 300,000 new oil sands and pipelines jobs during that period, as well as an additional 400,000 jobs in the following decade⁵.

Canadian exports of crude oil totaled 2.130 million barrels per day in 2011, accounting for 15% of Canada's merchandise exports⁶. In terms of natural gas, Canada exports 8.9 billion cubic feet per day⁷.

Electricity generation in Canada amounted to 585 terawatt hours in 2009, and hydroelectricity represented 60.4% of total generation⁸. In 2010, Canada exported 43,763 thousand Megawatt hours (MW.h) of electricity (which is energy enough to power 2.2 million homes)⁹. Canadian gross electricity exports contributed \$2.0B in revenue to Canada¹⁰.

2.2 Mining

According to the Mining Association of Canada, Canada's mining industry intends to invest \$136B in projects over the next decade, with multiple billions being spent in British Columbia, Alberta, Saskatchewan, Ontario, Newfoundland and Labrador, Nunavut and the NWT¹¹.

Canada is a leading world producer of minerals and metals, with the mining industry accounting for 21% of the value of Canadian goods exported in 2010 at a total of \$84.5B¹². During that period, exports of aluminum, copper, gold, iron and steel, iron ore, nickel, silver, uranium, zinc, diamonds, potash and coal ranged from \$1.7B to \$15.1B each¹³. Canada's mining sector contributed approximately \$36B to Canada's gross domestic product (GDP) in 2010, including \$8B in mineral extraction and \$28B in mineral processing and manufacturing¹⁴. The sector employed 308,000 workers in mineral extraction and in associated smelting, fabrication and manufacturing areas¹⁵.

The top four provinces in terms of production value in 2010 were Ontario, Saskatchewan, BC and Quebec, and they also led in expenditures on mineral resource development¹⁷. Additionally, of the \$8.3B invested in mine complex

³ Energizing Infrastructure: Benjamin Tal and Avery Shenfeld; CIBC Economics, September 28, 2011, pg. 3

⁴ Energizing Infrastructure, pg. 3.

⁵ Ibid.

⁶ Canadian Association of Petroleum Producers. Accessed May 9, 2012 at <http://www.capp.ca/library/statistics/basic/Pages/default.aspx>

⁷ Ibid.

⁸ <http://www.nrcan.gc.ca/statistics-facts/energy/895> Accessed May 9, 2012.

⁹ National Energy Board – Energy Facts. Accessed at <http://www.neb-one.gc.ca/clf-nsi/nrgynfimt/nrgyrprt/nrgdmd/nrgytrdct2011/nrgtrdct-eng.html> on May 9, 2012.

¹⁰ Ibid.

¹¹ F&F 2011: Facts and Figures of the Canadian Mining Industry: The Mining Association of Canada, 2011, pg. 4.

¹² F&F 2011, pg. 81.

¹³ F&F 2011, pg. 4.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁷ Ibid, pg. 12.

development in Canada, spending in each of these provinces exceeded \$1B; such investments suggest that these provinces will remain vital to Canada's future mineral production¹⁸.

The mining industry has a deep footprint on the Canadian economy. As mining accounts for over half of Canada's rail-freight revenues and port tonnage, organizations such as CN and CP Rail, the Port of Montreal and the Port of Vancouver depend on it¹⁹. According to the Mining Association of Canada, in 2011, 3,215 Canadian firms provided technical, legal, financial, accounting, environmental and other expertise to the mining industry. Most of these suppliers were located in Ontario (1,286) and BC (945), followed by Alberta (519), Quebec (403), Saskatchewan (90) and Manitoba (65)²⁰.

3. ABORIGINAL PARTICIPATION: CURRENT CONTEXT

Increasingly, Aboriginal communities have pursued economic opportunities as participants, partners and proponents of often large and complex projects that have the potential to create sustainable business opportunities, a stable source of employment and income for members, and valuable streams of own source revenue. Many Aboriginal communities across the country are located near mining operations²¹, and with an estimate of one out of two current mining industry workers needing replacement in the next decade, the opportunities for Aboriginal Canadians to seize labour force opportunities are evident. (See Annex A for a number of maps detailing Aboriginal communities and their population in relation to mining activity across the country.) In addition, recent court decisions regarding the duty to consult have prompted provincial/territorial governments and private sector companies to more fully engage Aboriginal communities in the planning, development and implementation of natural resource projects.

Comprehensive land claims agreements (CLCAs) offer a further consideration as to the means by which Aboriginal communities can participate in resource development. Ownership of non-renewable resources in CLCAs varies by agreement and province. For example, mineral and subsurface rights in the James Bay and Northern Quebec Agreement and the North Eastern Quebec Agreement remain with the province. However, no minerals can be extracted from part of a settlement area without a negotiated compensation, and explorations activities in other settlement areas must be carried out without causing unreasonable conflict with wildlife harvesting activity.

In other CLCAs, the Aboriginal communities have title over the resources. The Nisga'a Final Agreement provides full ownership over mineral resources in Nisga'a lands and exclusive authority over leasing and royalty treatment. In contrast, the Labrador Inuit Agreement states that administration of subsurface resources shall be in accordance with provincial and federal jurisdiction, but there is a provision

¹⁸ F&F: 2011, pg. 12.

¹⁹ Ibid.

²⁰ Ibid, pgs. 12-13.

²¹ Ibid, pg. 5.

that entitles the Inuit to 25% ownership of any resources extracted.

3.1 Energy

As of 2009, over 1,600 Aboriginal people were employed in oil sands operations, marking an increase of more than 60% since 1998 (and not including construction-related or long-term contract employment)²². Approximately 10% of the oil sands workforce is Aboriginal and from 1998-2009, Aboriginal-owned companies secured \$3.7B worth of contracts from oil sands companies in the Wood Buffalo Region of northeastern Alberta (including \$810M in 2009 alone)²³.

In the hydro sector, BC Hydro is pursuing an Aboriginal Employment and Education Strategy and Aboriginal employees currently comprise approximately 2.2% of BC Hydro's total workforce²⁴. In 2011, BC Hydro also developed a strategy to promote Aboriginal procurement and business development, which resulted in \$19 million in contracts awarded to Aboriginal businesses, including a \$7.2 million to an aboriginal business for site preparation work and a contract for \$4.6 million for vegetation management services²⁵.

3.2 Mining

Mining is the largest private sector employer of Aboriginal people in Canada²⁶, with Aboriginal workers an estimated 7.5% of the mining workforce in 2006, up from 3.6% in 1996²⁷.

According to National Resources Canada (NRCan)'s 2009 study²⁸ of Aboriginal Participation in Mining, Aboriginal people have continued to be predominantly employed in the trades, transport, and equipment operators sector of mining, and in occupations unique to the primary industry. According to the study, the proportion of Aboriginal people in management remained relatively unchanged from 2001 to 2006. Still, as of 2006, Aboriginal people working in the sector had an average employment income of more than twice that of the average for total Aboriginal Canadians. However, the gap between the average annual income of Aboriginal people and non-Aboriginal people in mining widened in 2006, as Aboriginal Canadians earned approximately \$18,000 less than their non-Aboriginal counterparts, compared with a gap of approximately \$12,200 in 2001.

²² Facts About Aboriginal involvement in the oil sands. Government of Alberta. Accessed from [http://www.oilsands.alberta.ca/FactSheets/Aboriginal_involvement_in_the_oil_sands\(1\).pdf](http://www.oilsands.alberta.ca/FactSheets/Aboriginal_involvement_in_the_oil_sands(1).pdf) on April 26, 2012.

²³ Ibid.

²⁴ http://www.bchydro.com/about/accountability_reports/2011_gri/t2011_social_HR9.html Accessed May 9, 2012.

²⁵ Ibid.

²⁶ F&F 2011, pg. 71

²⁷ F&F 2011, pg. 56.

²⁸ <http://www.nrcan.gc.ca/sites/www.nrcan.gc.ca/minerals-metals/files/pdf/mms-smm/abor-auto/pdf/stats-09-eng.pdf>

4. INDUSTRY

4.1 Jobs and Growth

4.1.1 Energy

Job requirements in the energy sector are, and are predicted to continue to be, high. For example, according to a recent study on labour challenges in the Oil Sands by Deloitte, peak demand for labour requirements (especially in construction, operations and engineering) is forecasted for 52,000 workers in 2015²⁹. This requirement equals 55% of the total labour supply projected to be available in Alberta for the majority of required “core skills” over the same period – and even before taking into account growing demand that will come from other energy sub-sectors that depend on these same skill sets³⁰. Demand will also be high for workers in the oil and gas industry in Saskatchewan, with the Petroleum Human Resources Council of Canada predicting, under a growth scenario, net hiring of over 6,600 positions over the next decade, 62% of which will be due to new jobs as a result of growth in the provincial industry³¹.

There are also significant opportunities with natural gas projects in BC, particularly in the Northeastern part of the province. The substantial natural gas reserves in BC and a growing demand in Asia has led to a new “target market” for Canadian gas producers³². Consequently, the Northeastern region is expected to add new jobs at the rate of 1.7% annually between 2010 to 2020, and higher until 2015 (i.e. at 2.5% annually during that period)³³. Further, the region is expected to be in a situation where demand for workers exceeds supply from 2012 to 2015, and Aboriginal workers represent a potential labour source to meet the requirements³⁴.

A study commissioned by the Canadian Hydropower Association projects three scenarios for the growth of hydropower in Canada with opportunities for growth ranging from a “business as usual” scenario of 24 hydropower projects over the next 20 years, to a “mid-scenario” of 114 projects, and to an “optimistic” scenario of 158 projects³⁵. (“Projects” here refers to new-builds as well as restoration of existing sites, and the variation between the scenarios depends on the extent of government support for the industry coupled with increased environmental regulations on electricity generation).

Job estimates from the Canadian Hydropower Association study project up to 1,754,473 full time equivalent positions (or up to 87,724 full-time jobs that will last for 20 years) related to the construction and operation of hydroelectric plants (depending on factors such as the level of government support for hydroelectric

²⁹ Balancing the people equation: How enhanced collaboration can help solve labour challenged in the oil sands. Deloitte, 2012, pg. 2.

³⁰ Ibid.

³¹ The Decade Ahead: Labour Market Projections and Analysis for Saskatchewan’s Oil and Gas Industry to 2020, Petroleum Human Resources Council, May 2011, pg. 6.

³² The North Eastern British Columbia (NEBC) Energy-Mines Aboriginal Workforce Development Project, by North East Native Advancing Society, Encana Corporation, Shell Canada, May 1, 2012, pg. 6.

³³ Ibid, pg. 9.

³⁴ Ibid.

³⁵ Job Creation and Economic Development Opportunities in the Canadian Hydroelectric Market. HEC Montréal (2011) : http://www.canhydropower.org/hydro_e/pdf/HEC_report_for_CHA-DEC2011.pdf

power and the extent to which the electricity industry becomes regulated to meet carbon emissions targets).

4.1.2 Mining

According to the Mining Industry Human Resources Council (MiHR)'s 2011 Canadian Mining Industry Employment and Hiring Forecasts, human resources challenges are one of the most significant threats to the future competitiveness of the Canadian Mining Industry. Specific challenges include: the retirement of baby boomers; the difficulty in attracting and engaging younger workers; and an underrepresentation of diverse groups such as women and immigrants. According to the MiHR baseline scenario, by 2021, cumulative hiring forecasts are to be just over 112,000 mining workers, with needs largest in the prairies, followed by Quebec and Ontario³⁶.

While there are estimates that about 40% of the workforce in the mining industry will retire by 2014, because of the fact that today's mining industry relies on advanced technologies, much of the demand in this sector is for highly educated workers³⁷.

4.2 Corporate Social Responsibility

Where Aboriginal partnerships with the non-Aboriginal private sector are being developed, there is the potential for large mutual benefits. Aboriginal businesses can benefit from the investment capacity, experience and talent of the broader private sector. Non-Aboriginal companies increasingly see value in strengthening ties with Aboriginal peoples as partners, potential employees and/or customers across the Canadian economy.

Relations between industry and Aboriginal people and communities have evolved in recent years, with companies that undertake

According to the **MiHR**, the top occupations in terms of hiring requirements include:

- Production clerks;
- Heavy-equipment operators;
- Truck drivers;
- Underground production and development miners;
- Construction millwrights and industrial mechanics (except textile);
- Primary production managers;
- Welders and related machine operators;
- Heavy-duty equipment mechanics;
- Machine operators, mineral and metal processing; and
- Labourers in mineral and metal processing.

By 2021, hiring requirements for these positions will be almost 37,000 (just over one-third of total hiring needs).

Source: **Canadian Mining Industry Employment and Hiring Forecasts, 2011, Mining Industry Resources Council. Pg. 14**

According to the **Petroleum Human Resources Council of Canada**, the top 10 Oil Sands occupations (as of 2011) in terms of employment numbers are:

1. Steam-ticketed operators
2. Heavy equipment operators
3. Heavy-duty equipment mechanics
4. Facility operation and maintenance managers
5. Engineering managers
6. Petroleum engineers
7. Mechanical engineers
8. Primary production managers
9. Industrial electricians
10. Millwrights and machinists

Source: **The Decade Ahead: Oil Sands Labour market Outlook to 2021, Petroleum Human Resources Council of Canada, Petroleum Labour Market Information, Spring 2012.**

³⁶ Canadian Mining Industry Employment and Hiring Forecasts, 2011, Mining Industry Resources Council. Pg. 10

³⁷ F&F 2011, pg. 59.

major resource projects recognizing the need to not just consult and engage, but to utilize Aboriginal Canadians as partners and a workforce. Such companies are establishing Aboriginal Relations departments and Aboriginal Affairs policies and a focus on Corporate Social Responsibility (CSR). Suncor, for instance, has an Aboriginal Affairs policy that “acknowledge[s] and respect[s] the legal rights of First Nations under the *Indian Act*, The *Constitution Act*, 1982, and Treaties, where applicable, as well as the legal rights of the Métis people”; respects “the right of Aboriginal/indigenous communities to determine and act upon what is important to their constituents, and to operate according to their own value systems”; and provides “financial, technical and other types of support to promote self reliance in the communities”.

...mining companies will need to integrate risk-based corporate social responsibility (CSR) strategies and develop and track KPIs [Key Performance Indicators] with the same diligence they use to track production. Until CSR registers as a direct business risk, mining companies will struggle to minimize the probability and financial impacts of those risks.

- Deloitte report: *Tracking the trends 2012: The top 10 trends mining companies may face in the coming year*

Noront Resources has launched initiatives such as a First Nations Advisory Board made up of prominent Aboriginal business leaders (Jerry Asp and Roy Whitney), and has created “Mikawaa”, a Project Portal, developed for engagement of First Nation communities and Noront. The goal of this portal is to open a dialogue with the communities surrounding Noront’s projects in Northwestern Ontario’s Ring of Fire mineral region as well as the communities’ own concerns, issues, and goals.

5. GOVERNMENT INTERESTS

5.1 Provincial/Territorial

When major resource development projects occur on provincial Crown land, the province is generally responsible for licensing and permitting. However, provinces and territorial governments also have a key role in programming in areas related to Aboriginal economic development, such as education, labour skills development and health for Aboriginal people.

In Alberta, provincial government programming includes an Aboriginal Development Initiative, mandated to increase participation of Aboriginal communities and businesses in Alberta’s regional economic development. Saskatchewan has recently announced a Joint Task Force on Aboriginal Education and Employment that will consult throughout the province in an effort to identify practical, grass-roots solutions for eliminating the current gaps in education and employment outcomes for First Nations and Métis people in Saskatchewan.

Resource development also figures centrally in provincial plans, budgets and programs. In Quebec, the Plan Nord, that will be carried out over a period of 25 years, proposes to lead to over \$80B in investments during that time and create or

consolidate, on average, 20,000 jobs a year, equivalent to 500,000 man-years³⁸. The Plan Nord seeks to enhance living conditions in Aboriginal and local communities and measures are planned in the realms of education, manpower, housing, health and culture³⁹. In Ontario, the provincial government has prioritized the potential of the Ring of Fire (in terms of chromite, nickel and other minerals) to deliver jobs and growth in the province, through such actions as establishing a dedicated Ring of Fire Secretariat within the Ministry of Northern Development, Mines and Forestry (MNDMF). The provincial government's *Growth Plan for Northern Ontario: 2011* focuses economic development strategies on, among other priorities, the minerals sector and mining supply and services, and facilitating the entry of new participants and entrepreneurs, including Aboriginal businesses, into this sector and on the need to work with the federal government in these areas.

5.2 Federal

Federal jurisdiction in natural resources applies to the territories "north of 60", Aboriginal lands, and offshore frontier areas. The federal government maintains a strong role in the North, including provision of the majority of the funding of territorial governments. The federal government is also the manager of Crown land and resources in the Northwest Territories and Nunavut. For mineral development, the federal role includes the mineral tenure system that encourages mineral exploration by providing security of title to those who discover new deposits.

Federal powers in natural resources outside of these areas are primarily associated with the interprovincial and international movements of energy and certain natural resources.

Major resource development projects in and of themselves are substantial undertakings which require the participation of a substantial number of federal departments and agencies. Consequently, there are a number of federal interests with which proponents and other stakeholders must deal, and whose mandates could be better aligned. Adding the Aboriginal participation focus naturally implicates many of those already involved, but can potentially draw in additional federal players as well.

Some key federal players include:

Federal Regional Economic Development Agencies (RDAs) that deliver a number of programs and services to promote economic development programs in their respective regions.

³⁸ Plan Nord: Building Northern Québec Together: The Project of a Generation. Government of Québec, 2011, pg. 4.

³⁹ Plan Nord, pg. 11.

Natural Resources Canada (NRCan), the federal government's main source of natural resource-related economic and scientific knowledge and the **Major Projects Management Office** (MPMO) within that supports the regulatory review of major resource projects. (There is also the **Northern Projects Management Office** (NPMO), under the **Canadian Northern Economic Development Agency** (CanNor) that is responsible for major project management in the North). (See Annex B for a map of current MPMO initiatives.) NRCan is also committed to promoting Aboriginal participation in mining activities throughout Canada.

The **Canadian Environmental Assessment Agency** (CEAA) has the federal lead on the established environmental assessment (EA) processes and the review of proposed projects as required by the *Canadian Environmental Assessment Act*.

Aboriginal Affairs and Northern Development Canada (AANDC) has a substantial role to play in major projects in areas that include; treaty negotiations and land claims agreements; consultation and accommodation issues; the development of new mines and management of existing mines on First Nations reserves through the Indian Mining Regulations under the *Indian Act*; dealing with legislative and regulatory barriers to Aboriginal economic development; and programming that facilitates and enables Aboriginal communities and businesses to obtain the necessary major resource projects business readiness capacity. In the North, AANDC works in partnership with Northern and Aboriginal governments and people to govern the allocation of Crown lands to the private sector for oil and gas exploration; develop the regulatory environment; set and collect royalties; and approve benefit plans before development takes place in a given area.

Human Resources and Skills Development Canada (HRSDC) takes the lead in skills development programming.

The **National Energy Board** (NEB or Board) is Canada's federal energy regulator. The purpose of the NEB is to regulate pipelines, energy development and trade in the Canadian public interest.

Infrastructure Canada is a key federal funding partner, working with provinces, territories, municipalities, the private sector and non-profit organizations, along with other federal departments and agencies. Its investments address local and regional infrastructure needs, while advancing national priorities.

Responsible Resource Development is the federal government's plan to create jobs, growth and long-term prosperity by streamlining the review process for major projects. The plan includes the introduction of legislation that will advance a system-wide approach for improved federal reviews of major resource projects. It also proposes several program measures to **help build more consistent, accountable, meaningful and timely consultations with Aboriginal groups** in order to help reduce the potential for delays, legal risks and uncertainty .

The Plan will also **reduce the number of federal departments and agencies** responsible for environmental assessments from **40** down to **3** (CEAA, NEB and the Canadian Nuclear Safety Commission).

Transport Canada may also have regulatory and statutory duties in major projects, such as requiring that Navigation Impact Assessments be completed in proposed mining projects as components of an Environmental Assessment.

Health Canada has a role for Aboriginal communities that may not be able to effectively benefit from projects unless longstanding socioeconomic issues, such as substance abuse, are addressed.

5.3 The Crown Duty to Consult

The Crown has a duty to consult and, where appropriate, accommodate when the Crown contemplates conduct (e.g. permitting and licensing for resource projects) that might adversely impact potential or established Aboriginal or Treaty rights under Section 35 of the *Constitution Act, 1982*. Existing processes, such as environmental assessments and regulatory approvals, are used to the extent possible to fulfill the Crown duty to consult. A whole-of-government approach is used, where departments work together (and with the Province where appropriate) toward a coordinated approach for Aboriginal consultation that is integrated within the environmental assessment and regulatory approval phases of the review process. The Crown will also take into account the consultation efforts of the Province and the Proponent, to the extent possible, to meet the duty to consult. The courts have indicated that consultation must be meaningful and that the consultation process has to be reasonable.

AANDC supports the whole of government approach through **Guiding Principles and Directives, such as the *Updated Guidelines for Federal Officials to Fulfill the Duty to Consult*** that were released March 2011. Approved by Cabinet, the principles and directives will guide federal officials in their efforts to address the duty to consult.

AANDC is also negotiating cooperative arrangements with provinces and territories and Aboriginal groups to make consultation processes more efficient and coordinated:

- Mi'kmaq/Nova Scotia/Canada Consultation Terms of Reference, signed August 2010; and
- Finalizing arrangements with New Brunswick, Prince Edward Island and negotiating with Quebec.

The Department is also working with provinces/territories on establishing Memoranda of Understanding (under negotiation with Nova Scotia, Manitoba, Saskatchewan, Alberta and British Columbia). Such cooperative arrangements provide a clarification of roles and responsibilities for all parties involved. The mandate to lead a whole-of-government approach in the development of consultation protocols involving Canada rests with AANDC.

6. ABORIGINAL ISSUES

While major resource development projects present significant potential for Aboriginal communities, these communities are also often concerned with a number of issues surrounding resource development and their ability to benefit from it.

A key issue for communities, as well as for industry, is the **capacity** of communities to participate in development projects. For instance, despite the demand for workers, there are challenges on the supply side. The education gap between Aboriginal and non-Aboriginal Canadians remains high, training and skills development being pursued by Aboriginal Canadians is not as market-driven as it could be, and the on-reserve Aboriginal workforce has limited mobility. For example, according to Census 2006, approximately 41% (or 117,740) of the working-age (between 25-64 years of age) First Nation population reported having some form of post-secondary education, while 36% of the working-age Inuit population reported having some form of PSE, compared to 61% of the non-Aboriginal population. Generally speaking, Aboriginal Canadians are worse off than the average Canadian in terms of socio-economic outcomes, including education and health outcomes. Further, the outcomes are generally weaker on-reserve than in urban areas. According to Census 2006 statistics, the percentage of First Nations people on reserve with a high school diploma or above was 40.2% while it was 63.7% for urban Aboriginal people, and 78.4% for the urban, non-Aboriginal population. (See Annex C for a map of Well-Being in First Nations Communities across Canada.)

The mobility rate of First Nations people living on reserve also limits the ability of industry to draw on them to fill labour gaps off-reserve. According to Census 2006 statistics, the mobility rate (percentage who changed location from previous year) for First Nations people living on reserve was lowest among identity groups at 4.6%, as compared with First Nations living off-reserve in an urban setting at 10.6% and those living off-reserve in a rural setting at 9.6%. In comparison, the mobility rate for the non-Aboriginal population living in an urban setting was 5.8% and 5.7% for those in a rural location.

Some communities may also face deeper socio-economic and other challenges before they can take advantage of supplying the demand for more, and more highly-skilled, workers. For instance, Nishnawbe Aski Nation, which represents 43 First Nations including 8 of the Matawa-area First Nations in or near the Ring of Fire, has identified high proportions of suicide⁴⁰ and prescription drug abuse⁴¹ in its communities. Matawa First Nations have reported that almost 2000 people in their communities alone have an Opioid addiction⁴².

Business Development, including **access to capital** and other **regulatory** and **legislative impediments** due to outdated provisions in the *Indian Act* are also a concern. Because of these impediments, many Aboriginal entrepreneurs lack the

⁴⁰ <http://www.nan.on.ca/upload/documents/com-2010-05-10-nan-to-be-part-of-suicide-prevention-symposium.pdf> Accessed May 15, 2012

⁴¹ http://wawatavnews.ca/archive/all/2011/9/15/response-prescription-drug-abuse-minimal-nan_21848 Accessed May 15, 2012

⁴² "NAN Chiefs Call for Immediate Assistance As Region Braces For Major Health Catastrophe": Nishnawbe Aski Nation News Release, Thursday, February 16, 2012.

ability to utilize land in order to obtain a loan in order to start up a business or finance a project.

The ability to leverage resource development for positive impacts on **infrastructure** is also important. For example, discussions on transportation corridors are ongoing as part of the development of the Ring of Fire region in Northwestern Ontario. A number of mining companies with different claims have put in separate proposals for roads or a combination of all-weather roads and railways to transport the mined material. These potential corridors would benefit the surrounding First Nations, a number of which are fly-in only.

Other issues with which Aboriginal communities are concerned include:

- Lack of early and meaningful **engagement** with communities on the part of industry.
- Potential **environmental damage** to drinking water and food sources, including impacts on the traditional hunting and trapping practices of Aboriginal communities.
- Establishing meaningful and transparent **partnerships** with industry, including companies undertaking exploration activities, as well as with various levels of government.
- The ability to maximize the potential for benefits from **Impact Benefit Agreements** and to generate wealth from **Resource Revenue Sharing**.

Impact Benefit Agreements (IBAs)

IBAs are negotiated contracts between First Nations participants and mining companies. Though the terms of these contracts are private, it is understood that IBAs can cover a wide range of issues such as procurement and business development opportunities, employment and training benefits, infrastructure needs, and treatment of resource revenues. IBAs can also serve as a formal means of communication between First Nations communities and the private sector.

IBAs are often linked to environmental impact assessments and environmental management. IBAs do not trigger EAs and cannot replace statutory elements of EAs, but they can be used to augment or modify terms of EAs

Although there are exceptions, federal and provincial governments are rarely a party to IBAs, although in some cases federal departments and agencies (e.g. FedNor) provide funding to communities for IBA negotiation capacity and mining advisory services. Over 85% of the IBAs arranged over the last two decades are between Aboriginal groups and the private sector. The majority of the remaining cases include the Saskatchewan Government, which administers 13 Surface Lease Agreements that include provisions for land management, environmental protection, health and safety, human resource development, and socio-economic benefits on behalf of northern communities, including First Nations.

7. CASE STUDIES AND LESSONS LEARNED

7.1 Victor Diamond Mine

De Beers Canada owns and operates the Victor Diamond Mine, located in the traditional territory of the Mushkegowuk Cree in the James Bay lowlands of Ontario. The Victor mine underwent regulatory review between 2003 and 2005, and opened

in 2008. Between 2005 and 2009, Impact Benefit Agreements were signed between De Beers and four of the First Nations of the regional Mushkegowuk Council.

A case study⁴³ of the Victor Diamond Mine revealed a number of important points. For example, when engagement with First Nations began, De Beers struggled to develop a relationship of trust with communities and to explain the complex and highly technical process of constructing and operating a mine in a remote region. Similarly, First Nations struggled to maintain their traditional ways and social cohesion in the face of decades of industrial and regulatory encroachment, and were not fully prepared to participate in the process.

The example of the Victor Diamond Mine demonstrates a number of lessons learned, such as that First Nations' preparedness to engage proponents and participate in the regulatory process can play a pivotal role in:

- Securing and maintaining community support for a project;
- Ensuring meaningful First Nation participation in the decision-making process; and
- Effectively negotiating benefit agreements.

7.2 Trans Mountain Pipeline

In 2004, Kinder Morgan sought to expand the Trans Mountain pipeline, originally constructed in 1952 and 1953. The proposed expansion included the challenge of crossing a national and provincial park (Jasper National Park and Mount Robson Provincial Park) and the need to meet or exceed federal and provincial regulatory requirements, as well as the expectations of stakeholders and Aboriginal communities. A case study⁴⁴ of the expansion argues that, among other things, one of the unique aspects of Kinder Morgan's approach was a stakeholder engagement process that resulted in no interventions at the public hearing by non-governmental organizations .

For example, the route selection process included extensive consultation with Park officials; federal, provincial and municipal government and agency representatives; environmental non-government organizations; Aboriginal groups, landowners and other stakeholders (the initial pipeline system crossed 15 reserves and over 30 traditional territories (many overlapping each other), with issues specific to each region and community)⁴⁵.

According to the case study, one of the keys to success for Kinder Morgan was its initiation of a public consultation program early in the planning process to, among other things, engage Aboriginal communities, provide various communication channels to make information available to stakeholders and Aboriginal people and offer potential stakeholders the ability to participate in a manner appropriate to

⁴³ *Aboriginal Consultation and Regulatory Process Case Study: Victor Diamond Mine – Final Report*. Donna Cona for Natural Resources Canada, March 31, 2011

⁴⁴ *Planning and Permitting a 36" Diameter Pipeline Through a UNESCO World Heritage Site: Jasper National Park and Mount Robson Provincial Park, Canada*, by Jason K. Smith, TERA Environmental Consultants et al.

⁴⁵ *A Company's Perspective on Aboriginal Engagement. Kinder Morgan. Presentation, May 2008.*

their needs. Through the public consultation process, Kinder Morgan requested that stakeholders and Aboriginal participants review the EA report and provide feedback to Kinder Morgan prior to its submission to the NEB. Kinder Morgan also offered stakeholders, aboriginal groups, third-party technical experts and federal and provincial governments a 60-day review period of the EA prior to submittal to the NEB.

The Trans Mountain experience demonstrates that real engagement and transparency can ensure that delays are minimized, even in complex cases where multiple boundaries, jurisdictions and overlapping territories are in play.

7.3 Diavik Diamond Mine

The Diavik Diamond Mine in the Northwest Territories was built on a solid foundation of local and Aboriginal consultation that involved the use of innovative ways to contribute to local community capacity and enhanced transparency. Diavik committed to providing training, employment and business opportunities to residents of Northwest Territories and in 1999, formalized these commitments with local Aboriginal groups and the NWT under the Diavik Socio-Economic Monitoring Agreement (SEMA)⁴⁶. The Agreement committed to 66% northern employment and 40% Aboriginal employment for operations and, by the time the mine had been in operation for just under two years, Diavik and its major contractors had employed over 700 people with 70% northerners and nearly 40% Aboriginal, including a number of labourers, plant and heavy equipment operators, skilled tradespersons, technicians, engineers and administrative and managerial staff⁴⁷. The company implemented skills development programs, including a Workplace Learning Centre that supplied employees and contract staff (many of the workers came to Diavik with minimal literary and numeracy skills) with literacy, numeracy, academic and computer programs⁴⁸.

The objectives of the Learning Centre included enhancing and improving the literacy, numeracy and academic skills of employees; providing them with the tools and competencies necessary to improve their performance; academic assistance to apprentices and others involved in training and educational opportunities; training in computers and computer programs and access to computer-based training programs; and the encouragement to workers to become lifelong learners⁴⁹. The programs were tailored to meet the specific needs of individual learners while keeping in mind the company's objectives of acquiring essential job skills and achieving workplace safety and productivity goals⁵⁰. The model has been called an effective one with particular relevance and value for remote sites where the education levels and literacy rates of the local population may be below Canadian averages⁵¹.

⁴⁶ Diavik's Workplace Learning Centre: A Literacy Gem That is Creating Opportunities and Enhancing Workers' Lives. The Conference Board of Canada, December 2005, pg. 2.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Diavik's Workplace Learning Centre: A Literacy Gem That is Creating Opportunities and Enhancing Workers' Lives. The Conference Board of Canada, December 2005, pg. 4.

The Diavik approach underscores the benefits involved for both a company and Aboriginal communities when the company provides not only an enhancement to basic literacy skills but also additional training for higher-level development.

7.4 Pic River First Nation

The Pic River First Nation in Northwestern Ontario is the owner of a number of hydroelectric plants, including the Twin Falls hydro-electric plant, Umbata, on the White River system, and Wawatay, on the Black River⁵². The First Nation has also been awarded the development rights on two sites on the Kagiano River, a tributary of the Pic River system, approximately 50 kilometres west of Manitouwadge – the proposed High Falls and Manitou Falls are expected to be built and in operation within five years. Importantly, these stations are off-reserve but within the traditional territory of Pic River First Nation. The First Nation has noted that it would have been a more complicated process to finance these projects (the Twin Falls acquisition was made with the assistance of the Royal Bank, after the First Nation had started as a small minority partner in Wawatay) had they been on their 800-acre reserve. That is, it would have been problematic due to the unique federal land tenure system having a negative impact upon the ability for First Nations businesses to provide security for loans to finance such projects and investments.

Pic River First Nation's success in hydro demonstrates that it is possible for Aboriginal communities to finance complex projects; however, it also underscores the continued difficulty in doing so on-reserve due to antiquated provisions of the *Indian Act*.

8. NEXT STEPS

To further advance this work, AANDC has partnered with the Public Policy Forum to hold a series of region roundtables with a number of stakeholders in major resource development, including representatives of various provincial and federal departments, the non-Aboriginal private sector, and Aboriginal organizations.

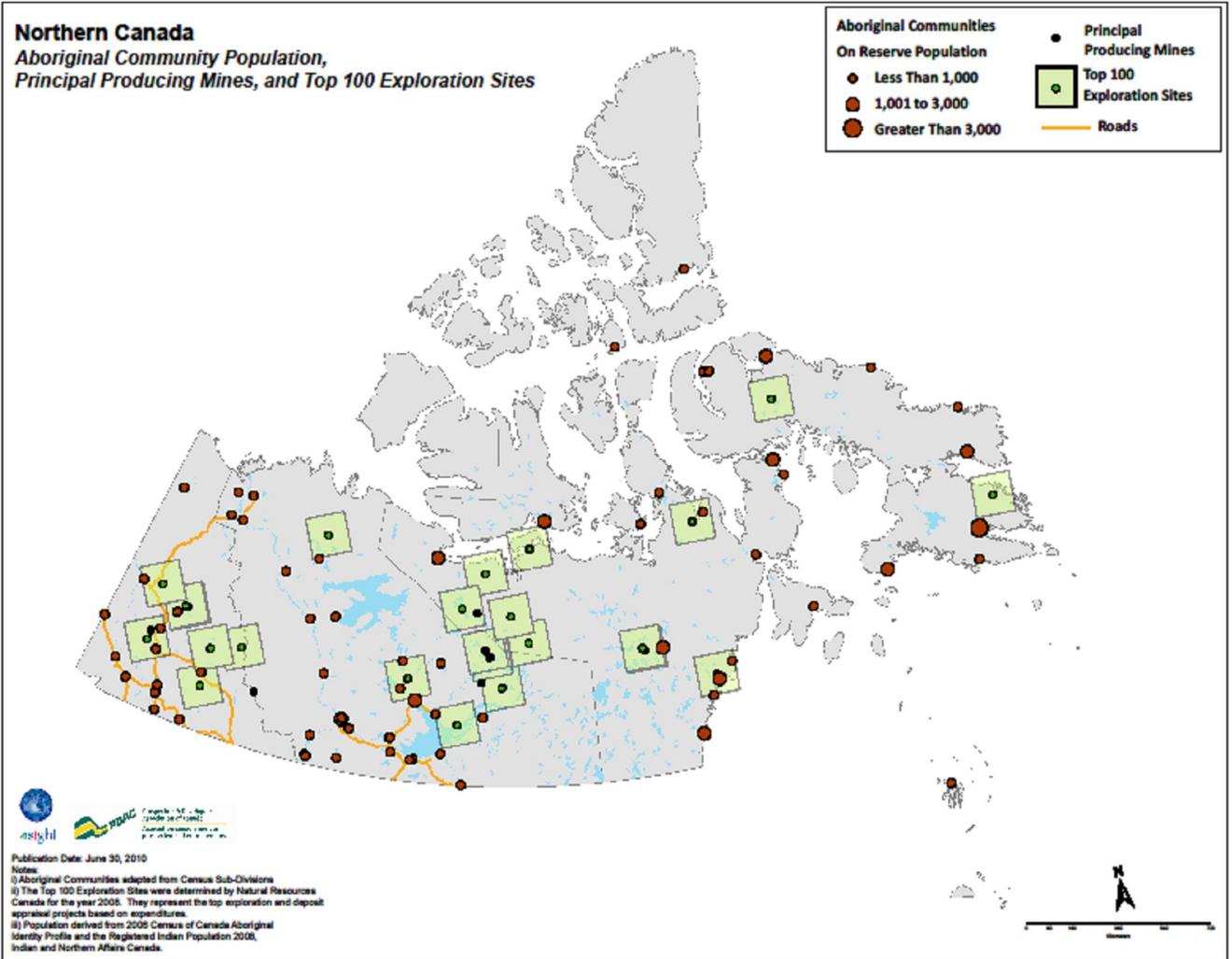
The first roundtable will be held May 22, 2012 in Ottawa and will consider the following questions:

- How do we define success in major resource development projects? What does success look like from the perspective of business, Aboriginal people, and other key stakeholders?
- What are the contextual issues impacting Aboriginal communities as they seek to participate and engage in major resource development projects?
- What are the major barriers to meaningful participation?
- What tools do businesses, Aboriginal people, governments and community organizations need to be able to engage effectively?

⁵² Information taken from "Pic River First Nation adds power to their energy mix" by Ian Ross, Northern Ontario Business, June 8, 2009.

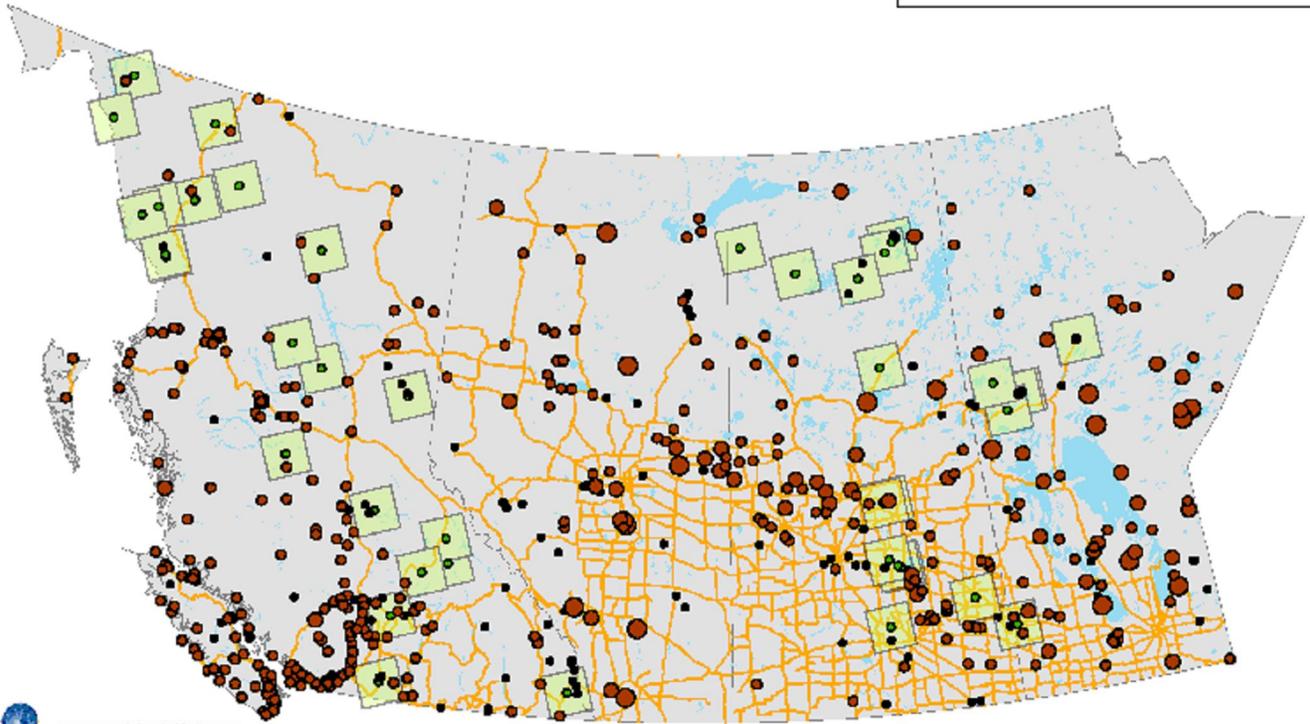
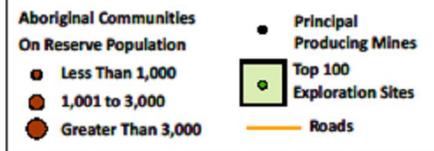
ANNEX A

Aboriginal Community Population, Principal Producing Mines and Top Exploration Sites



Accessed from <http://www.pdac.ca/aboriginal/information/map-project.aspx> March 15, 2012

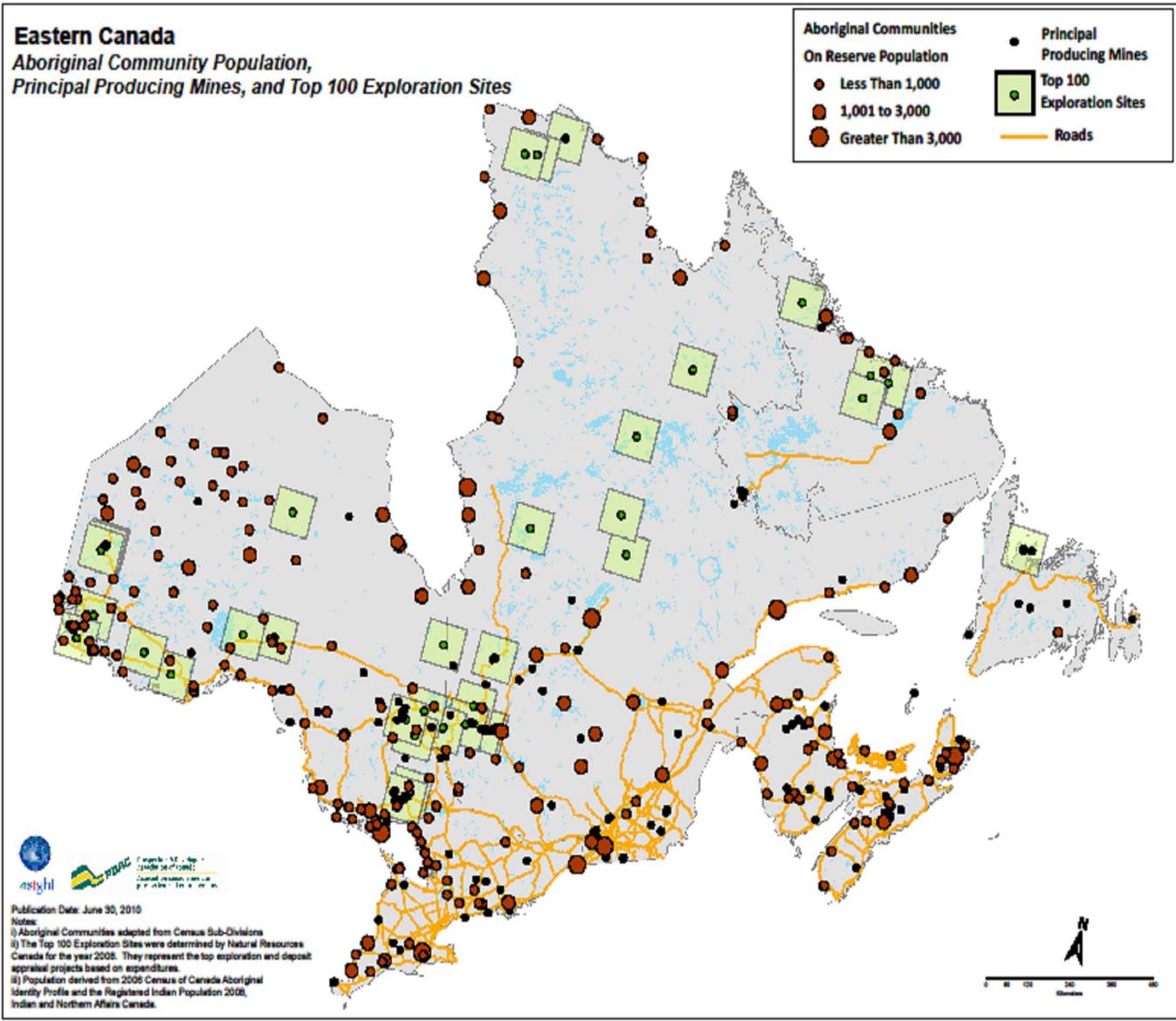
Western Canada
Aboriginal Community Population,
Principal Producing Mines, and Top 100 Exploration Sites



Publication Date: June 30, 2010
 Notes:
 i) Aboriginal Communities adapted from Census Sub-Divisions
 ii) The Top 100 Exploration Sites were determined by Natural Resources Canada for the year 2008. They represent the top exploration and deposit appraisal projects based on expenditures.
 iii) Population derived from 2005 Census of Canada Aboriginal Identity Profile and the Registered Indian Population 2006, Indian and Northern Affairs Canada.



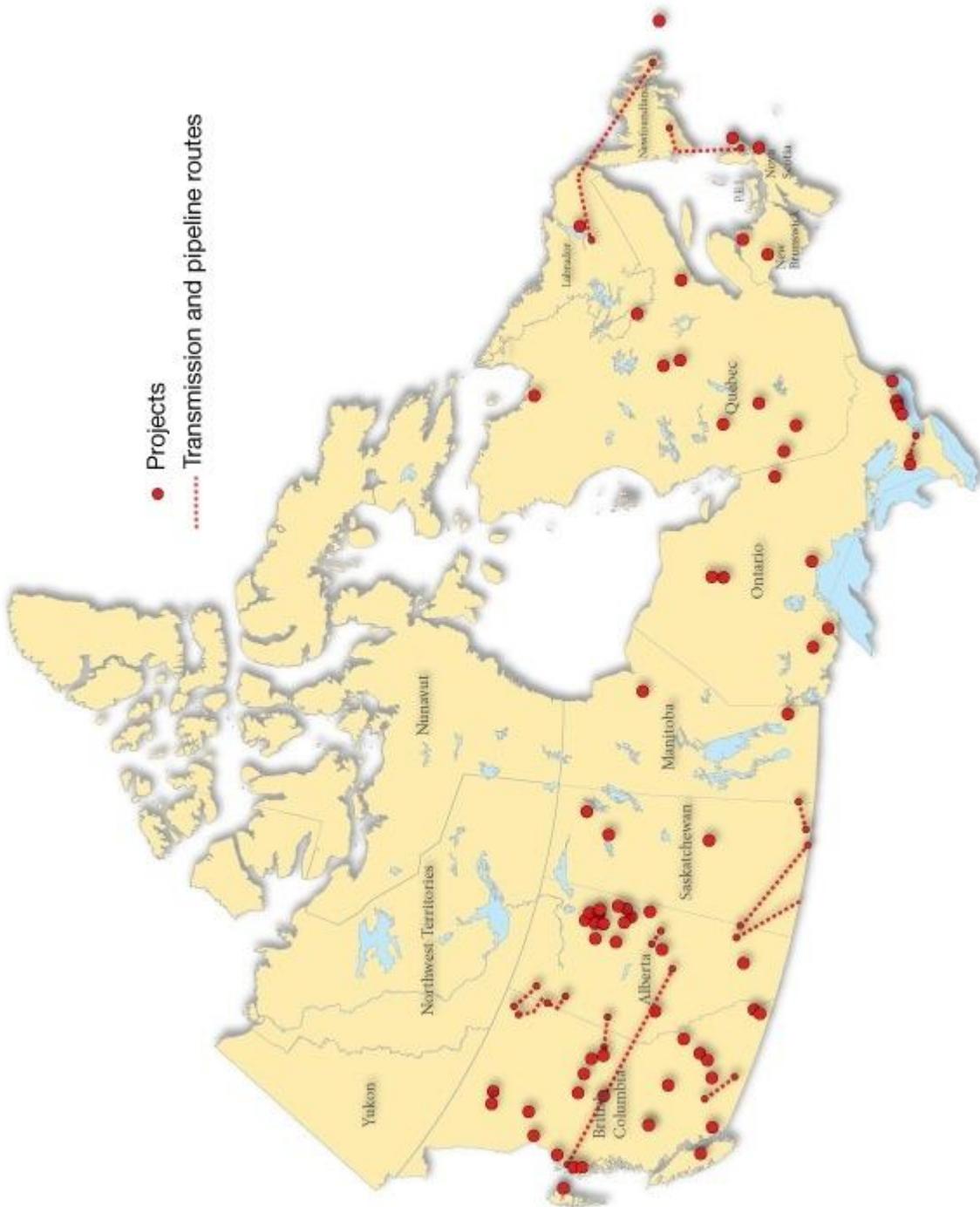
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ANNEX B

Major Projects Management Office: Current Initiatives



ANNEX C

Well-Being in First Nations Communities

