

# LNG CANADA BREAKS THE NATIONAL REGULATORY ROADBLOCK

*Gordon E. Kaiser\**

---

## INTRODUCTION

Just as world oil prices reached a four year high (as did the discount on Alberta oil) good news came from Vancouver. A joint venture of five international companies announced a \$40 billion investment in a liquefied natural gas project being built in Kitimat, British Columbia, the single largest private capital investment in Canadian history.<sup>1</sup>

## THE JOINT VENTURE

An impressive group of companies came together led by Shell Canada, Petro China, Malaysia's energy giant, Petronas, Japan's Mitsubishi Corporation and South Korea's Kogas. Shell owns 40 per cent, Petronas 25 per cent, PetroChina 15 per cent, Mitsubishi 15 per cent, and Korean Gas Corporation 5 per cent.

Each joint venture partner is responsible for bringing its natural gas supply and will individually offtake and market its LNG. TransCanada will build and operate the \$4.7 billion Coastal GasLink pipeline to connect the upstream gas supply to the LNG plant. The project will be constructed by a joint venture between Fluor Corporation of California and JGC Corporation of Japan, companies with extensive experience building LNG trains globally.<sup>2</sup>

## THE REGULATORY APPROVALS

Coming on the heels of the Trans Mountain mess, it is welcome to hear that this project has a forty-year export license in place and all major environmental permits including approvals from the National Energy Board, Department of Fisheries and Ocean, BC Hydro as well as 25 First Nations. At the announcement, Crystal Smith, chief councilor of the Haisla First Nations, stated "On behalf of our entire nation we extend our gratitude for the investment being made in Haisla territory."<sup>3</sup>

What a refreshing comment. Amazing how 5 foreign multinationals could come to terms with 25 Canadian First Nations. It turns out they gave the landowners a share of the project yielding significant benefits over the project life.

## THE GRAVEYARD

The new project comes on the heels not just of the Trans Mountain disaster, but also of the failures of Northern Gateway, Energy East, Pacific Northwest LNG and Aurora LNG. The difference is the strong support from 25 first Nations led by Haisla First Nation that thanked the Consortium for building the project on its lands and offering them a long-term revenue share.

---

\* Gordon Kaiser is an Arbitrator and Mediator practicing in Toronto and Washington DC. He is a former Vice Chair of the Ontario Energy Board.

<sup>1</sup> LNG Canada, Press Release, "LNG Canada Announces a Positive Final Investment Decision: First large-scale LNG export facility in Canada receives a green light" (1 October 2018), online: <<https://www.lngcanada.ca/wp-content/uploads/2018/10/LNG-Canada-Takes-FID-Media-Release-October-1-2018.pdf>>.

<sup>2</sup> *Ibid.*

<sup>3</sup> Levon Sevunts, "Ottawa, British Columbia and First Nations hail \$40B LNG investment", *Radio Canada International* (2 October 2018), online: <<http://www.rcinet.ca/en/2018/10/02/lng-canada-investment-ottawa-british-columbia-haisla-nation/>>.

This should signal some hope to Justice Frank Iacobucci as he addresses the mess in Trans Mountain after the Federal Court found the National Energy Board decision should be set aside.<sup>4</sup> There is no reason that the landowners should not have significant participation in these projects.

The long term demand for LNG to serve Asia and Europe is very promising. Demand increased 50 per cent last year alone. With any luck Canada is about to leave a decade of failed energy projects behind.■

## THE COMPETITIVE ADVANTAGE

The project has some unique competitive advantages. First it has access to low cost natural gas from British Columbia's vast resources. Second it enjoys a relatively short shipping distance to North Asia, which is about 50 per cent shorter than from the US Gulf of Mexico and avoids the Panama Canal. Kitimat is within 10 Shipping days of Tokyo and Shanghai compared to 24 days to Asia from the US Gulf Coast.<sup>5</sup>

The US Gulf Coast has another problem. US president Donald Trump decided to start a trade war with China and China in response slapped tariffs of 10 per cent on LNG leaving the Gulf Coast, a pleasant bonus for the Canadians.<sup>6</sup>

Asia is certainly the real target. The demand for natural gas is growing dramatically. This interestingly provides the project with a new environmental argument. This gas is being used in Asia to produce electricity. The gas fired facilities are replacing coal fired generation reducing carbon emissions by 50 per cent.<sup>7</sup>

## THE PATH TO THE FUTURE

The LNG Canada approval has sparked an interest in related projects in Canada. Chevron has its own Kitimat project that is ready to go as is Bear Head LNG on the Strait of Canso between Nova Scotia and Cape Breton. Then there is Goldsboro LNG on Nova Scotia's Eastern shore which has already secured a major German customer to buy half of Goldsboro's permitted output under a 20 year contract.

---

<sup>4</sup> John Paul Tasker, "Frank Iacobucci hailed as right pick to rescue 'failed' Trans Mountain process" *CBC News* (3 October 2018), online: < <https://www.cbc.ca/news/politics/tasker-trans-mountain-frank-iacobucci-indigenous-consultation-1.4849012>>.

<sup>5</sup> Geoffrey MorGan, "LNG Deal Signals Revival of Mega Projects" *National Post* (3 October 2018).

<sup>6</sup> Donna Borak, Katie Lobosco and Kevin Liptak, "Trump administration will impose tariffs on \$200 billion in Chinese goods" *CNN* (18 September 2018), online: <<https://www.cnn.com/2018/09/17/politics/us-china-tariff-trade-war/index.html>>.

<sup>7</sup> Canada, Department of Environment and Department of Health, *Regulations Limiting Carbon Dioxide Emissions from Natural Gas-fired Generation of Electricity*, vol 152, iss 7 (Ottawa: Government of Canada, 17 February 2018).