



2018 National Public Administration Case Competition

Getting to Implementation: The Politics of Pipelines



The IPAC Case Study Program
www.ipac.ca/CaseStudyProgram

2018 National Public Administration Case Competition

The Politics

“We will be guided by our party’s values,” BC NDP Premier Jordan Hahn announced at her party’s first provincial convention since assuming power from the incumbent Liberals. “We will be guided by common sense, and the values of British Columbians who feel that a ten-fold increase in tanker traffic along our coast will place our environment in peril; who believe that Pronteau Oil’s Plateau Pipeline is not in the best interests of our economy or our society; and, who believe that projects like this should be shelved by whatever means necessary.” Hahn’s speech was followed by a leadership review, during which she received the support of 95 percent of party delegates.

Support for the NDP government was considerably weaker outside the convention hall. The party had narrowly lost the provincial election six months earlier, by fewer than one thousand votes in over a dozen key ridings - many of them along the proposed Plateau Pipeline route. Hahn’s party managed to defeat the Liberal government on its first Throne Speech, however. And through deft political manoeuvring, the NDP retained power after the Lieutenant Governor afforded Hahn the chance to govern.

An alliance with the environmentalist Green Party was instrumental in this vein; with a combined forty-four (44) seats in the eighty-seven (87) seat legislature, the NDP (41) continues to rely heavily on Green (3) support to remain in power. Of all issues on the table, pipeline development could drive a wedge into the NDP-Green alliance. And all parties know it. In the non-aggression agreement signed by Hahn and Green Party leader James Ryan, the NDP agreed to “take every available immediate measure to halt the Plateau Pipeline expansion.” This language was softened somewhat in Hahn’s mandate letter to her new Environment Minister, stating the need to “employ every tool available to defend BC's interests in the face of the expansion of the Plateau Pipeline.”

Were the NDP to acquiesce to the building of the pipeline, or even be perceived as less than vociferous in its opposition, Ryan had made it clear he would withdraw support for the government and force another election.

Premier Hahn finds support from her national party counterpart, whose leader eyes votes among BC electors dissatisfied with the current Liberal government in Ottawa. The federal NDP leader has stated three pre-conditions must be met before he would approve any new energy projects in Canada: it must meet the principles of the UN Declaration on the Rights of Indigenous Peoples; help Canada meet its commitments under the Paris Agreement on climate change; and, create local economic opportunities. Pronteau Oil Company’s Plateau Pipeline Project (P3), he claims, does not meet these conditions.

Hahn faces significant pressure from the Premier of Alberta, however, who -- while sharing the NDP party affiliation with her BC counterpart -- is among the country's most vocal champions of pipeline development. Citing reports from Statistics Canada and the Conference Board of Canada, Alberta Premier Natalie Royal has been touting the direct and indirect GDP impact of P3 for BC. Premier Royal's collaboration with the Prime Minister on a cross-Canada pro-pipeline tour is gaining traction in the media and among moderate voters, including those in BC.

The Pipeline

Pronteau Oil's Plateau Pipeline Project (P3) would add a third component to an existing dual-line system, which runs roughly 1200 kilometres from Edmonton, Alberta to Burnaby, BC, along a 200-metre corridor. Line 1 was established in 1957, and was twinned in 1985. Adding a third line would roughly double the pipeline's capacity, from 500,000 to one million barrels of crude per day. Plateau Pipeline terminals serve tankers in the Salish Sea, which carry crude to markets along the US West Coast and Asia.

Last year, six months before the BC election, the federal government approved P3, and made it subject to a record number of conditions placed on the project by the National Energy Board (NEB).¹ Of those 175 conditions, one hundred (100) must be met before Pronteau can break ground on the expansion. Most of these conditions surround environmental concerns (protection of land and wildlife, and offsetting greenhouse gas emissions during construction), as well as mitigating potential effects on Indigenous communities.

While pledging to enforce these conditions on Pronteau, the Prime Minister also addressed the ongoing opposition to P3: "If the evidence presented to us had revealed a clear danger to the West coast, we would have said no," he said in a press conference. "But there was no such evidence. And we will not play politics on this issue. Our economy, and our children's future are too important to get caught up in local, regional, or national power plays."

At the same time it approved P3, the federal government also directed the NEB to dismiss a second pipeline application, the Great Bear Line, by one of Plateau's competitors. The federal government cited four key considerations in its approval of P3, and not Great Bear:

1. The *Consultation and Accommodation Report* by Natural Resources Canada (NRCan) had concluded that the federal consultation process was rigorous, lawful, and had appropriately engaged and accommodated Indigenous concerns and interests.
2. The NEB's *Plateau Pipeline Project Report* had outlined the Board's environmental assessment and recommendation of the project.
3. Environment and Climate Change Canada (ECCC) had produced detailed scenario-based assessments of the potential upstream greenhouse gas impact of P3 (*Plateau Pipeline Project: review of Related Upstream Greenhouse Gas Emissions Estimates*).

¹ The NEB is an independent federal regulator whose mandate includes, among other things, regulating pipelines. The NEB is guided by the public interest, with safety as its primary concern. For more information on the NEB, visit: www.neb-one.gc.ca.

4. The *Report from the Ministerial Panel for the Plateau Pipeline Project* had detailed the results of a Ministerial Panel's engagement with communities, including Indigenous communities.

The previous BC government was far from bullish on the Plateau Pipeline Project. Recently-ousted Liberal Premier, Claire Johnson, had placed strict conditions on her government's endorsement of new pipeline projects in the province, including a world-class oil spill prevention and response system; proper environmental reviews; First Nations consultations and participation; and, economic benefits to BC that reflect the burden of risk borne by the province. On the eve of the most recent BC election, Johnson announced that these conditions had finally been met, thanks largely to Pronteau's pledge to contribute \$2.5 billion over 20 years toward the province's Clean Futures program. The announcement convinced her Liberal counterpart, the Prime Minister, to join her on the hustings. Observers widely credit the Prime Minister's contribution to the campaign for saving the provincial government from defeat at the polls. It couldn't save the Liberals from defeat at the hands of the opposition, just months later.

The Balance

A Conference Board of Canada report predicts that BC government revenues from the Plateau Pipeline Project will reach \$6 billion over 20 years. Of this figure:

- \$2.2 billion will be from increased oil and gas investment;
- \$1.5 billion will be from higher netbacks;
- \$1 billion will be from project operations;
- \$500 million will be from increased government revenue from dividends;
- \$400 million will be from project development/construction; and,
- \$400 million will be from revenues associated with increased tanker traffic.

This figure does not take into account Pronteau's \$2.5 billion contribution to the Clean Futures program, nor the estimated \$25 million in additional municipal property taxes annually along the pipeline route (which is more than double the current amount collected by these municipalities). These property tax benefits are concentrated among communities adjacent to the proposed pipeline corridor. According to Pronteau, building and maintaining P3 would create 75 permanent jobs in BC (and 50 in Alberta). Short-term job estimates vary, but seem somewhere in the neighbourhood of 4,000 in BC alone; given the hot construction market in BC, it is not known how many of those jobs would involve local versus out-of-province labour.

Economic growth is essential to meeting the NDP government's revenue targets, which in turn support its spending priorities. Setbacks (if not failures) in hydroelectric and liquid natural gas development projects have placed increasing pressure on the government to find new growth drivers.

Critics have disputed Pronteau's economic projections, however, noting that even if many of the short-term benefits come to fruition, the long-term risks associated with the safety of the pipeline outweigh them. The economic impacts of a pipeline or tanker spill would be in the billions, for

instance. Indeed, any potential economic benefits must be balanced against the real and potential environmental effects, as well as the effects on First Nations and their lands.

Several First Nations communities received letters from the federal government just days before its approval of the pipeline, acknowledging aquifers that provide their residents with drinking water are “at risk for adverse effects” from a P3 leak. Chiefs from these First Nations are preparing a court challenge, disputing the federal government’s good faith in consulting with them without disclosing that information. On a broader level, pipeline opponents contend that, while the NEB allowed Pronteau to cross-examine oral evidence provided by First Nations, the same courtesy was not afforded First Nations in their examinations with Pronteau.

Premier Hahn has met with the leadership of ten First Nations along the proposed P3 route, and has committed to working with them to resolve outstanding issues. Some of these First Nations leaders claim Hahn has privately committed to support their efforts to stop the pipeline expansion. Hahn has yet to signal her intention publicly.

Meanwhile, BC’s largest environmental organizations are challenging the federal government’s decision on the grounds that it fails to comply with the *Species at Risk Act* in not protecting Salish sea killer whales. Others are also preparing to launch a similar challenge of BC’s environmental certificate. The NDP government has not confirmed whether it will defend the Liberals’ decision to greenlight P3; observers question whether any defense would be fully-supported by the government of the day.

On a national and global scale, pipeline opponents argue that upstream and downstream greenhouse gas effects of projects like P3 should be part of the review process. Taking those effects into account, they suggest that pipelines will not only raise greenhouse gas emissions through increased production in Alberta’s oil sands area, they will also fuel greater emissions in consuming nations such as the United States and Asia. Taken together, this approach is inconsistent with Canada’s climate commitments under the Paris Agreement.

Pipeline proponents are fond of pointing out that the P3 project is not an entirely new build. Rather, it increases the capacity of an existing set of lines. They also argue that pipelines are a substantially safer means of transporting crude than rail (the other alternative to taking oil to the West coast), and point to studies that indicate increased access to tidewater will not substantially increase oil sands output. On the contrary, pipelines will merely improve the price that Canadian producers receive on the global market.

Province-wide opinion polls suggest most British Columbians side with opponents of the pipeline. A majority of those polled consistently report believing that the pipeline’s environmental costs are not worth the economic benefits. Needless to say that this number was higher among NDP and Green supporters, and lower among Liberals.

The Ongoing Process

For its part, the BC government has publicly ruled out delaying construction permits for P3. Attorney General Edie Paul told a Burnaby reporter, “The Premier asked me to assess the legality of all policy tools at our disposal to prevent the building of this pipeline. We have concluded that the risks of lawsuit are too high. Were we to seek to delay the permit process, it could be seen as acting in bad faith. Even if we could defend our position, the funds required to cover court costs are better spent on government priorities.” As such, the BC government strategy appears to hinge on intervening in existing court cases launched by First Nations and environmental groups (more below).

The NEB is in the midst of detailed route hearings to determine the precise placement of P3 within the approved corridor. These hearings have already begun in Alberta, in front of overwhelmingly positive audiences. Opposition, even protests, are expected to develop as the NEB hearings make their way West over the next twelve months. Over 500 statements of opposition to the proposed detailed route have already been received, and Pronteau has asked for a dozen variations to the approved corridor.

As these hearings continue, Pronteau is in the process of negotiating community benefit agreements with local governments along the proposed route. To date, they have signed twenty-two (22) such agreements across Alberta and BC, totaling over \$10 million.

The City of Kamloops is the largest remaining community without a community benefit agreement, as its City Council remains deeply divided on the issue of supporting P3. The city’s mayor, three (3) of eight (8) city council members, the local business community, and both local (Liberal) MLAs have come out in favour of the Project, citing its economic benefits. According to Plateau’s estimates, P3 would result in:

- \$4 million in annual increased tax revenue to the City of Kamloops;
- \$500 million in construction spending; and
- a one-time \$750,000 signing bonus to the City, as part of the community benefit agreement.

An estimated 6,000 total full-time worker months of employment are anticipated during the construction period, amounting to a daily average of 300 workers over the 24-month construction period. Over two dozen Kamloops-area companies stand to benefit directly from supplying their products and services to Plateau during the construction period. This includes the hospitality, retail, automotive, health, and other sectors, that would gain up to \$50 million in workforce spending, which is particularly valuable outside peak tourism months.

Dissenting councillors join environmental groups, local governments, First Nations surrounding Kamloops in expressing concerns over P3’s real and potential environmental effects. The risks of environmental damage during construction and operations outweigh the benefits, in their minds. Siding with their allies on the West Coast, these Kamloops based groups also cite the real and potential effects of increased tanker traffic; congestion and noise could have a negative effect on

species such as killer whales, not to mention the catastrophic effects of an oil spill. Indigenous groups also deride the quality of the NEB's consultation process surrounding P3.

All are watching carefully as opponents elsewhere in the province take the federal government and Pronteau to court over the matter. In one case currently before the Federal Court of Appeal, the City of Burnaby and five First Nations are seeking the federal government's approval that P3 be overturned. The Alberta government applied for and received intervenor status, prompting the BC government to do the same. The court's decision, expected within six months, has the potential to send P3 back to the NEB, further delaying and potentially terminating the project altogether.

For its part, Pronteau is taking legal action against governments it views as standing in the way of the permit process. It has appealed to the NEB after failing to receive the permits it requires from the City of Vancouver, who claims that Pronteau's submissions were rejected due to their incompleteness. Just last weekend, RCMP arrested twenty-one First Nations and environmentalist protesters on mischief charges, after they blocked tanker traffic with a series of canoes outside the Port of Vancouver. The arrests occurred just days before Alberta Premier Royal's cross-Canada tour reaches Vancouver, next week.

Against this backdrop, the NEB plans to hold its detailed route hearing in Kamloops, in ninety days. Over forty individuals have registered to participate in the hearings, representing both sides of the debate.

The Case Challenge

Pipeline politics are as intense and complex at the local level, as they are at the provincial and national levels. These tensions have coalesced, prompting two opposition BC MLAs to request a meeting with the BC Minister responsible for Forests, Lands, Natural Resource Operations and Rural Development. Normally, the government would not take such a briefing request seriously, but it is very clear that these MLAs have significant support within their caucus, and it appears likely they have at least soft support within the Green's caucus as well. Reading between the lines, the governing NDP knows that this is an opportunity sway MLAs on both sides of the House to support the government, or more importantly potentially spark opposition within and outside the legislature should it get this wrong.

Both MLAs represent the Kamloops region, and both are from the opposition Liberal caucus. The first, Mr. Jesse Skowronek (Kamloops-South Thompson), is a political neophyte, having won the district by virtue of being the retiring incumbent's chief of staff. His family owns a hotel and three restaurants in the Kamloops area. The second, Ms. Daphne Ross, is also a newcomer to the legislature, having won Kamloops-North Thompson handily in 2017, thanks in large part to her experience as a two-term mayor of Kamloops. Both are known to be supporters of the pipeline.

The Minister has directed the Deputy Minister to strike a working group of ADMs to prepare a rush briefing for this meeting, including representatives from other ministries including energy, environment, economic development, municipal affairs, and Indigenous relations. As members of this working group representing various of these ministries, you are expected to develop a comprehensive briefing note and oral briefing, including options and recommendations for the Minister.

The DM has indicated to your working group that the briefing has two main purposes: to satisfy the briefing request of the MLAs; and, to provide the government with policy and implementation options regarding its pipeline policy in general using the Kamloops region as a test.

With respect to the MLA briefing, they have requested details on the BC government's plans for pipeline development around Kamloops and surrounding areas. Firstly, the MLAs seek clarity on the government's positions on economic development, environmental protection, and Indigenous engagement. Secondly, they want to know the various options for regional development and environmental protection in the area insofar as the provincial role. Thirdly, they want to know how local MLAs and key stakeholder groups will be involved in local pipeline development.

With regard to the second purpose, which will likely encompass the first, the Minister will want to know options for P3 pipeline implementation in other areas along the Plateau route should implementation show challenges in the Kamloops region. In other words, the minister wants to know how to proceed with implementation given the concerns raised by the two Liberal MLAs, as these will have implications for the government's plans elsewhere.

The oral briefing must be no longer than 20 minutes, supported by a PowerPoint deck. Contents of the briefing should include:

- Purpose / Objective of the Briefing (e.g., problem statement);
- Background (including status of government priorities and position on pipeline development);
- Key Considerations and Analysis (including risks to the government);
- Policy and Implementation Options;
- Recommendation(s); and,
- Key Communications Messages

Annex: Additional Resources

This case study is based on real events surrounding the Kinder Morgan Trans-Mountain Pipeline Expansion and the Enbridge Northern Gateway Pipeline, from 2016 to 2017. Background information may be gleaned from publicly-available information about those events.