

SOR/2017-47 March 24, 2017

FIRST NATIONS COMMERCIAL AND INDUSTRIAL DEVELOPMENT ACT

Muskowekwan First Nation Solution Potash Mining Regulations

P.C. 2017-258 March 24, 2017

Whereas the Muskowekwan First Nation has requested by resolution of its council that the Minister of Indian Affairs and Northern Development recommend to the Governor in Council the making of the annexed Regulations and, in accordance with paragraph 5(1)(a) of the *First Nations Commercial and Industrial Development Act* ([see footnote a](#)), the Minister has received that resolution;

Whereas the Muskowekwan First Nation is a First Nation within the meaning of the *First Nations Commercial and Industrial Development Act* ([see footnote b](#));

Whereas the intention of the annexed Regulations is to ensure that certain laws set out in Schedule 3 to these Regulations apply as federal law to the project, within the limits of federal constitutional authority;

Whereas the annexed Regulations specify provincial officials by whom, and provincial bodies by which, powers may be exercised or duties must be performed;

And whereas, in accordance with paragraph 5(1)(b) of the *First Nations Commercial and Industrial Development Act* ([see footnote c](#)) an agreement has been concluded between the Minister of Indian Affairs and Northern Development, the Province of Saskatchewan and the council of the Muskowekwan First Nation for the administration and enforcement of the Regulations by those provincial officials and bodies;

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of Indian Affairs and Northern Development, pursuant to section 3 ([see footnote d](#)) of the *First Nations Commercial and Industrial Development Act* ([see footnote e](#)), makes the annexed *Muskowekwan First Nation Solution Potash Mining Regulations*.

Muskowekwan First Nation Solution Potash Mining Regulations

Interpretation

Definitions

1 The following definitions apply in these Regulations.

incorporated laws means the statutes and regulations of Saskatchewan, or any portions of them, that are set out in Schedule 3, as amended from time to time and as adapted by sections 11 to 43. (*texte législatif incorporé*)

potash means all natural mineral salts of boron, calcium, lithium, magnesium, potassium, sodium, bromine, chlorine, fluorine, iodine, nitrogen, phosphorus and sulfur, and their compounds, occurring more than 60 m below the surface of the project lands. (*potasse*)

project means the exploration for potash and the development of potash located within the project lands and the construction, modification, operation, decommissioning, reclamation and abandonment of a solution potash mine on those project lands. (*projet*)

project lands means

- (a) Muskowekwan First Nation reserve lands that are set out in Schedule 1;
- (b) entitlement lands that are set out in Schedule 2 and that are added to the Muskowekwan First Nation Reserve under subsection 5(1) of the *Claim Settlements (Alberta and Saskatchewan) Implementation Act*; and
- (c) road allowances that are adjacent to any lands set out in Schedule 1 or 2 and that are set apart as reserve lands for the use and benefit of the Muskowekwan First Nation under the *Saskatchewan Treaty Land Entitlement Framework Agreement*. (*terres du projet*)

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Provincial Interpretation Act, 1995

- 2 The incorporated laws are to be interpreted in accordance with the Saskatchewan statute *The Interpretation Act, 1995*, S.S. 1995, c. I-11.2, as amended from time to time and, for that purpose, references to “enactment” in that Act are to be read to include the incorporated laws.

Other expressions

3 For greater certainty, the adaptations in sections 11 to 43 are to be interpreted to be part of the incorporated laws to which they apply.

Application of Laws

Incorporation by reference

4 Subject to section 5, the incorporated laws apply to the project.

Restriction — laws in force

5 (1) A provision of an incorporated law applies only if the provision of the law of Saskatchewan that it incorporates is in force.

Restriction — limits of authority

(2) For greater certainty, an incorporated law applies only to the extent that it is within the limits of federal constitutional authority.

Incorporation of procedural matters

6 (1) Unless otherwise provided and subject to any adaptations set out in sections 11 to 43, the following are to be carried out in accordance with the laws of Saskatchewan, whether or not those laws have been set out in Schedule 3:

- **(a)** the enforcement of incorporated laws;
 - **(b)** the prosecution of an offence, or any other proceedings, in relation to the contravention of an incorporated law;
 - **(c)** the review or appeal of an action or decision that is taken, or of a failure to take an action that could have been taken, under an incorporated law; and
 - **(d)** any requirements for notice or service in relation to an action that is to be taken under an incorporated law.
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- **Related powers**
 - **(2)** For the purposes of subsection (1), a person or body that has a power, duty or function under a law of Saskatchewan has the same power, duty or function in respect of any actions that are taken under that subsection.

Offences and penalties

7 (1) If contravention of a law of Saskatchewan that is incorporated in these Regulations is an offence under the laws of Saskatchewan, contravention of the incorporated law is also an offence and is subject to the same penalties as under the laws of Saskatchewan.

Violations and administrative monetary penalties

(2) If contravention of a law of Saskatchewan that is incorporated in these Regulations is a violation under the laws of Saskatchewan, contravention of the incorporated law is also a violation and is subject to the same administrative monetary penalties as under the laws of Saskatchewan.

Financial requirements under lease

8 If the incorporated laws require a cash deposit or other financial security to be given, those requirements do not displace, but instead apply in addition to, the requirements of any lease of the project lands in relation to cash deposits or other financial security.

Inapplicable Federal Regulations

Exclusion

9 The *Indian Reserve Waste Disposal Regulations* do not apply to the project.

Transitional Provision

Survival of rights

10 Any lease, permit, authorization, order or exemption – including any amendment to one – that is issued by a provincial official in relation to the project before the coming into force of these Regulations is considered to have been issued under these Regulations and to be valid for the purposes of these Regulations.

General Adaptations to Incorporated Laws

Statutes and regulations of Saskatchewan

11 Unless otherwise indicated, the statutes and regulations referred to in sections 16 to 43 are statutes and regulations of Saskatchewan.

Reference to Crown

12 For greater certainty, in the incorporated laws,

- **(a)** “Crown” does not include Her Majesty in right of Canada;
- **(b)** “Crown lands” or “Crown mineral lands” do not include the project lands; and
- **(c)** a “Crown disposition” does not include a disposition by Her Majesty in right of Canada.

Interpretation of incorporated laws

13 (1) Incorporated laws are to be read without reference to any of the following:

- **(a)** spent provisions and provisions making consequential amendments to other enactments that are not incorporated laws;
- **(b)** provisions appointing a person, providing for the remuneration of a person, or establishing or continuing a provincial body, program, fund or registry;
- **(c)** provisions relating to the internal management of a provincial body;
- **(d)** provisions requiring or authorizing monies to be paid from the General Revenue Fund of Saskatchewan or from other funds administered by Saskatchewan;
- **(e)** provisions authorizing the Lieutenant-Governor in Council, a Minister or a provincial body to make regulations of general application except to the extent required to make the regulations set out in Schedule 3;

- (f) provisions authorizing any person, provincial official or provincial body to expropriate any interest in lands; and
 - (g) provisions authorizing or imposing a tax or granting or authorizing a tax credit.
- **Interpretation of incorporated laws**
 - (2) Notwithstanding paragraph (1)(b),
 - (a) a person who is appointed to a position under a law of Saskatchewan incorporated by reference in these Regulations is considered to have been appointed to the same position for the purposes of these Regulations for as long as that person remains in that position under the law of Saskatchewan; and
 - (b) a provincial body, program, fund or registry that is established or continued under a law of Saskatchewan incorporated by reference in these Regulations is considered to have been established or continued for the purposes of these Regulations.

Specified person, official or body

(3) For greater certainty, a person, provincial official or provincial body that has a power, duty or function under a law of Saskatchewan incorporated by reference in these Regulations has the same power, duty or function under these Regulations, subject to the adaptations set out in sections 16 to 43.

Interpretation of incorporated laws

(4) For greater certainty, if a law of Saskatchewan is adapted by these Regulations, a reference to that law in an incorporated law, or in any notice, form, instrument or other document issued under an incorporated law, is to be read as a reference to that law as adapted by these Regulations.

Limitation on searches and inspections

14 A power to search or make inspections under an incorporated law, including the power to enter a place, does not include a power to enter or search, or to inspect anything in, a federal government office, without the consent of the person who is or appears to be in charge of that office.

Limitation on production of documents

15 A power to seize, remove or compel the production of documents under an incorporated law does not include a power to seize, remove or compel the production of a document in the possession of the federal government, without the consent of the person in possession of the document.

Adaptations to Incorporated Laws

The Electrical Inspection Act, 1993

Adaptation to subsections 19(2), 21(3), etc.

16 In subsections 19(2), 21(3), 23(1) and (2), paragraph 26(1)(b) and subsection 26(3) of *The Electrical Inspection Act, 1993*, a reference to “owner” is to be read as a reference to “occupant”.

The Environmental Assessment Act

Adaptation to paragraph 7.4(c), section 12, etc.

17 In paragraph 7.4(c), the portion of section 12 before paragraph (a), paragraph 15(2)(c) and the portion of subsection 23(1) after paragraph (b) of the *The Environmental Assessment Act*, a reference to “person” or “persons”, as the case may be, is to be read to include Her Majesty in right of Canada.

The Environmental Management and Protection Act, 2010

Adaptation to subsection 13(2)

18 In subsection 13(2) of the *The Environmental Management and Protection Act, 2010*, a reference to “owner” is to be read as a reference to Her Majesty in right of Canada and the Muskowekwan First Nation.

Adaptation to subsection 34(2)

19 (1) Subsection 34(2) of the Act is to be read as follows:

(2) If the minister is satisfied that any sewage works will adversely affect any land other than the project lands, the minister shall provide a written request to the permit holder requiring the permit holder to:

- **(a)** in respect of lands other than reserve lands,
 - **(i)** obtain from the registered owner of the other land an easement, in the prescribed form,
 - **(ii)** obtain from any other person having a registered interest in the land mentioned in subclause (i) a consent to the granting of the easement,
 - **(iii)** apply to the Registrar of Titles to register the easement against the titles to the affected lands; and
- **(b)** in respect of reserve lands situated outside the project lands, obtain an easement pursuant to the *Indian Act*.

Adaptation to subsection 34(4)

(2) In subsection 34(4) of the Act, the reference to “subsection (2)” is to be read as a reference to “clause (2)(a)”.

Adaptation to paragraph 50(1)(a)

20 Paragraph 50(1)(a) of the Act is to be read as follows:

- **(a)** on any land that is owned by another person or the Crown or on the project lands or any other Muskowekwan reserve lands; or

The Environmental Management and Protection (Saskatchewan Environmental Code Adoption) Regulations

Adaptation to paragraph 1-7(1)(a)

21 (1) In paragraph 1-7(1)(a) of Chapter B.1.1 of the appendix to the *The Environmental Management and Protection (Saskatchewan Environmental Code Adoption) Regulations*, a reference to “owner” is to be read as a reference to Her Majesty in right of Canada and the Muskowekwan First Nation.

Adaptation to paragraph 1-7(2)(a)

(2) In paragraph 1-7(2)(a) of Chapter B.1.1 of the appendix to the Regulations, a reference to “owner of adjacent land” is to be read as a reference to Her Majesty in right of Canada and the Muskowekwan First Nation.

Adaptation to paragraph 1-8(2)(a)

22 In paragraph 1-8(2)(a) of Part 1 of Chapter B.1.2 of the appendix to the Regulations, a reference to “owner” is to be read to include Her Majesty in right of Canada and the Muskowekwan First Nation.

Adaptation to paragraphs 3-2(a) and 3-3(b)

23 In paragraphs 3-2(a) and 3-3(b) of Part 3 of Chapter C.3.1 of the appendix to the Regulations, a reference to “landowner” is to be read to include Her Majesty in right of Canada and the Muskowekwan First Nation.

The Gas Inspection Act, 1993

Adaptation to paragraphs 11(1)(a), (b), etc.

24 In paragraphs 11(1)(a) and (b), the portion of subsection 11(2) before paragraph (a) and the portion of paragraph 25(1)(b) before subparagraph (i) of *The Gas Inspection Act, 1993*, a reference to “owner” is to be read as a reference to “occupant”.

Adaptation to subsection 25(3)

25 In subsection 25(3) of the Act, a reference to “owner” is to be read to include the occupant.

The Ground Water Regulations

Adaptation to subsection 26(1)

26 In subsection 26(1) of *The Ground Water Regulations*, a reference to “landowner” is to be read to include Her Majesty in right of Canada.

The Hazardous Substances and Waste Dangerous Goods Regulations

Adaptation to subparagraph 15(1)(b)(i)

27 In subparagraph 15(1)(b)(i) of the *The Hazardous Substances and Waste Dangerous Goods Regulations*, the reference to the “National Fire Code of Canada, 1990”, as revised, amended or substituted at the date of the coming into force of this subclause” is to be read as a reference to the “National Fire Code of Canada, 2010”, as amended from time to time”.

The Oil and Gas Conservation Act

Adaptation to subsection 17.041(2)

28 (1) In subsection 17.041(2) of *The Oil and Gas Conservation Act*, a reference to “owner” is to be read to include Her Majesty in Right of Canada.

Adaptation to subsection 17.041(6)

(2) The portion of subsection 17.041(6) of the Act before paragraph (a) is to be read as follows:

(6) A person who enters on or passes over any land pursuant to subsection (1) shall compensate Her Majesty in right of Canada, for the use and benefit of the Muskowekwan First Nation, or the occupant for:

The Oil and Gas Conservation Regulations, 2012

Adaptation to paragraph 2(bb)

29 In the definition *person* in paragraph 2(bb) of *The Oil and Gas Conservation Regulations, 2012*, a reference to “government” is to be read to exclude the Government of Canada.

Adaptation to subparagraphs 39(1)(b)(i) and (ii), etc.

30 In subparagraphs 39(1)(b)(i) and (ii) and paragraphs 53(1)(b) and 55(3)(e) of the Regulations, a reference to “owner” is to be read to include Her Majesty in right of Canada.

The Pipelines Regulations, 2000

Adaptation to paragraph 4(1)(g)

31 In paragraph 4(1)(g) of *The Pipelines Regulations, 2000*, a reference to “surface landowners” is to be read to include Her Majesty in right of Canada.

The Railway Act

Adaptation to paragraph 22.1(7)(b)

32 In paragraph 22.1(7)(b) of *The Railway Act*, a reference to “municipality” is to be read as a reference to the “Muskowekwan First Nation”.

Adaptation to subsection 22.2(1)

33 (1) Subsection 22.2(1) of the Act is to be read as follows:

22.2(1) In this section, *council* means the council of the Muskowekwan First Nation.

Adaptation to subsection 22.2(2)

(2) Subsection 22.2(2) of the Act is to be read as follows:

(2) If a railway company decides to make a written offer pursuant to clause 22.1(7)(b), the railway company shall send the written offer to the minister and the council.

Adaptation to paragraphs 22.2(6)(a) and (b)

(3) Paragraphs 22.2(6)(a) and (b) of the Act are to be read as follows:

- **(a)** the minister shall advise the council in writing; and
- **(b)** the council may accept the written offer.

Adaptation to subsection 44(3)

34 Subsection 44(3) of the Act is to be read as follows:

(3) Where a railway company causes damage to land as a result of any action taken pursuant to subsection (1), it is liable to Her Majesty in right of Canada, for the use and benefit of the Muskowekwan First Nation, for the amount of those damages.

The Saskatchewan Employment Act

Adaptation to paragraph 3-1(1)(t)

35 The definition *owner* in paragraph 3-1(1)(t) of the *The Saskatchewan Employment Act* is to be read as follows:

owner means:

- **(i)** any person to whom Her Majesty the Queen in Right of Canada has granted a right in relation to the project, and includes any continuation of that person resulting from one or more amalgamations or reorganizations and any successor to that person; and
- **(ii)** any delegate, assignee, partnership, agent, sub-lessor, receiver, mortgagee or person who acts for or on behalf of a person mentioned in subclause (i).

The Seismic Exploration Regulations, 1999

Adaptation to subsections 30(2), 34(3), etc.

36 In subsections 30(2), 34(3), 38(2) and 42(4) and paragraph 45(1)(b) of *The Seismic Exploration Regulations, 1999*, a reference to “owner” is to be read to include Her Majesty in right of Canada.

The Subsurface Mineral Conservation Regulations

Adaptation to portion of section 5

37 (1) The portion of section 5 of *The Subsurface Mineral Conservation Regulations* before paragraph (a) is to be read as follows:

5 Notwithstanding sections 112 and 113 of *The Oil and Gas Conservation Regulations, 2012*, any information with respect to the Prairie Evaporite that is required to be submitted for a well drilled pursuant to a well licence within the project lands remains confidential until the earlier of:

Adaptation to paragraph 5(b)

(2) Paragraph 5(b) of the Regulations is to be read as follows:

- **(b)** the expiry of the potash permit or lease issued for the purpose of the project.

The Uniform Building and Accessibility Standards Act

Adaptation to paragraph 2(1)(j.1)

38 (1) The definition *land surveyor* in paragraph 2(1)(j.1) of the *The Uniform Building and Accessibility Standards Act* is to be read as follows:

- **(j.1)** *land surveyor* means a Canada Lands Surveyor within the meaning of section 2 of the *Canada Lands Surveyors Act*;

Adaptation to paragraph 2(1)(k)

(2) The definition *local authority* in paragraph 2(1)(k) of the Act is to be read as follows:

local authority means:

- (i) a municipality;
- (ii) a regional park authority within the meaning of *The Regional Parks Act, 2013*;
- (iii) with respect to park land within the meaning of *The Parks Act*, the minister responsible for the administration of that Act; or
- (iv) the Muskowekwan First Nation;

Adaptation to subsection 21(3)

39 Subsection 21(3) of the Act is to be read without reference to “and may be added to the tax payable on the property and collected in the same manner as taxes on the property.”

The Uniform Building and Accessibility Standards Regulations

Adaptation to subsection 11(1)

40 Subsection 11(1) of *The Uniform Building and Accessibility Standards Regulations* is to be read without paragraph (c).

The Water Security Agency Act

Adaptation to subsection 82(4)

41 Subsection 82(4) of *The Water Security Agency Act* is to be read as follows:

(4) On receipt of the notice served pursuant to clause (1)(a), the rights and obligations arising out of this Division apply to and enure to the benefit of, and are binding on, any person who received the notice.

Adaptation to subsection 83(7)

42 Subsection 83(7) of the Act is to be read as follows:

(7) On service of the order in accordance with subsection (3), the terms and conditions of and the rights and obligations under the order that is the subject of the notice are binding on the person to whom the order was originally directed and any successor to that person.

The Waterworks and Sewage Works Regulations

Adaptation to section 72

43 In section 72 of the *The Waterworks and Sewage Works Regulations*, a reference to “clause 34(2)(a)” is to be read as a reference to “subclause 34(2)(a)(i)”.

Coming into Force

Registration

44 These Regulations come into force on the day on which they are registered.

SCHEDULE 1

(Section 1)

Project Lands

Those lands consisting of

(a) all surface lands within Muskowekwan Reserve No. 85, Province of Saskatchewan, depicted as Surface Zones 1 to 10 (inclusive) on Administrative Area Plan 104619 filed in the Canada Lands Surveys Records;

(b) all mines and minerals within Muskowekwan Reserve No. 85, Province of Saskatchewan, in Mines and Mineral Zones A1, A2, B, C, D1 and D2 on Administrative Area Plan 105459 filed in the Canada Lands Surveys Records; and

(c) surface parcels and mineral parcels of entitlement lands that are reserve lands within Muskowekwan Reserve No. 85, Province of Saskatchewan, described below.

TABLE

This table shows surface parcels and mineral parcels of entitlement lands that are reserve lands within Muskowekwan Reserve No. 85, Province of Saskatchewan.

No	Surface Parcel No	Mineral Parcel No	Quarter	Section	Township	Range	Meridian	IR No	OIC or MO Number
1	110911687	145231736	SE	19	26	14	2	85-59	2012-77
2	110855897	145231736	SE	19	26	14	2	85-59	2012-77
3	110911700	145231871	SW	19	26	14	2	85-59	2012-77
4	110855909	145231871	SW	19	26	14	2	85-59	2012-77
5	110911698	145231871	SW	19	26	14	2	85-59	2012-77
6	110856225	120580297	NW	29	26	14	2	85-39	2003-141
7	110911755	149554738	SW	29	26	14	2	85-39	2003-141
8	110856214	149554828	SW	29	26	14	2	85-39	2003-141
9	110856258	120580332	NW	30	26	14	2	85-37	2000-

										1150
10	110843771	164455904	SE	30	26	14	2	85-37	2000-1150	
11	110911766	164455915	SE	30	26	14	2	85-37	2000-1150	
12	110911777	164455892	SE	30	26	14	2	85-37	2000-1150	
13	110856247	120580354	SW	30	26	14	2	85-37	2000-1150	
14	110856292	114193357	NE	31	26	14	2	85-19	1998-638	
15	110856281	114193368	NW	31	26	14	2	85-19	1998-638	
16	110843782	120580309	SE	31	26	14	2	85-37	2000-1150	
17	110856270		SW	31	26	14	2	85-47	2003-698	
18	131758342	120580163	NE	32	26	14	2	85-12	1997-501	
19	131758353	120580163	NE	32	26	14	2	85-12	1997-501	
20	110856315	152755353	NW	32	26	14	2	85-39	2002-425	
21	110856304	120580174	SE	32	26	14	2	85-12	1997-501	
22	110843793	120580321	SW	32	26	14	2	85-39	2002-425	
23	110856359	164396548	NE	33	26	14	2	85-12	1997-501	
24	151127647		SE	5	27	14	2	85-46	2009-263	
25	114247931	114247942	SE	6	27	14	2	85-21	1998-638	
26	112972541	114229830	SW	6	27	14	2	85-21	1998-638	
27	112994095	152715179	NE	7	27	14	2	85-26	1998-637	
28	113002535	152715618	NE	17	27	14	2	85-10	1997-112	
29	112994398	152715180	SE	18	27	14	2	85-26	1998-637	
30	112994512	152716080	NE	21	27	14	2	85-15	1997-1923	
31	112994499	145609241	SW	21	27	14	2	85-51	2008-1628	
32	152310204	152372662	SE	23	27	14	2	85-1	1997-112	
33	152310204	152372662	SE	23	27	14	2	85-1	1996-98	
34	152310215	152372673	SW	23	27	14	2	85-1	1997-112	
35	164091539	164805756	NE	25	27	14	2	85-67	MO 2011-006	
36	164091551	164805600	NE	25	27	14	2	85-67	MO 2011-006	
37	112993296	114229829	NW	27	27	14	2	85-20	1998-638	
38	112993285		SW	27	27	14	2	85-62	2009-1241	

39	152310248	152372886	NE	28	27	14	2	85-15	1997-1923
40	152310226	152372886	NE	28	27	14	2	85-15	1997-1923
41	152310260	152372886	NE	28	27	14	2	85-15	1997-1923
42	152310237	152372886	NE	28	27	14	2	85-15	1997-1923
43	152310259	152372886	NE	28	27	14	2	85-15	1997-1923
44	152310271	152372886	NE	28	27	14	2	85-15	1997-1923
45	152310293	152372886	NE	28	27	14	2	85-15	1997-1923
46	152310282	152372886	NE	28	27	14	2	85-15	1997-1923
47	112993331	152372853	NW	28	27	14	2	85-2A	1997-112
48	112993319	152372897	SE	28	27	14	2	85-15	1997-1923
49	112993320	152372909	SW	28	27	14	2	85-8	1996-1696
50	112993386	152372921	NE	29	27	14	2	85-15	1997-1923
51	112993375	152372932	NW	29	27	14	2	85-15	1997-1923
52	112993353	152372943	SE	29	27	14	2	85-15	1997-1923
53	112993364	152372998	SW	29	27	14	2	85-10	1997-112
54	112993421	149554918	NE	30	27	14	2	85-48	2003-698
55	112993410	152381583	NW	30	27	14	2	85-10	1997-112
56	112993397	152381594	SE	30	27	14	2	85-10	1997-112
57	152310305	152381606	SW	30	27	14	2	85-10	1997-112
58	112993465	152373078	NE	31	27	14	2	85-10	1997-112
59	112993454	152373089	NW	31	27	14	2	85-10	1997-112
60	112993498	152373157	NW	32	27	14	2	85-10	1997-112
61	112993487	152373168	SW	32	27	14	2	85-10	1997-112
62	164091540	164805666	SE	36	27	14	2	85-67	MO 2011-006
63	164091528	164805767	SE	36	27	14	2	85-67	MO 2011-006
64	164091595	164805633	SE	36	27	14	2	85-67	MO 2011-

									006
65	112981710	152376677	NW	2	27A	14	2	85-17	1997-1923
66	112981754	152376688	NE	3	27A	14	2	85-17	1997-1923
67	112970325	152376699	NW	3	27A	14	2	85-17	1997-1923
68	112970336	152454203	NW	4	27A	14	2	85-27	1998-1535
69	112981776	152454214	SW	4	27A	14	2	85-12	1997-501
70	112981811	152454236	NE	5	27A	14	2	85-22	1998-637
71	112981798	152454270	SE	5	27A	14	2	85-24	1998-637
72	112981800	152454281	SW	5	27A	14	2	85-36	2000-1150
73	112970358	152454292	NE	6	27A	14	2	85-28	1999-346
74	112981844	114304609	NW	6	27A	14	2	85-40	2003-698
75	112981822	152454304	SE	6	27A	14	2	85-28	1999-346
76	112981833	149965127	SW	6	27A	14	2	85-40	2003-698
77	112970369	152454326	NE	7	27A	14	2	85-57	2009-831
78	112981877	114229841	NW	7	27A	14	2	85-21	1998-638
79	112981855	152454337	SE	7	27A	14	2	85-28	1999-346
80	112981866	114229852	SW	7	27A	14	2	85-21	1998-638
81	112973654	152598886	NE	8	27A	14	2	85-28	1999-346
82	113109814	152598875	NE	8	27A	14	2	85-28	1999-346
83	112981901	152598897	NW	8	27A	14	2	85-28	1999-346
84	112981888	152454371	SE	8	27A	14	2	85-28	1999-346
85	152376723	152376813	SW	9	27A	14	2	85-27	1998-1535
86	152376655	152376701	SE	10	27A	14	2	85-17	1997-1923
87	152376666	152376712	SE	10	27A	14	2	85-17	1997-1923
88	112971382	152143231	NW	11	28	14	2	85-31	1999-346
89	113002007	152143365	NW	14	28	14	2	85-31	1999-346
90	112990136	152143376	SW	14	28	14	2	85-31	1999-346
91	113002018	152143387	NE	15	28	14	2	85-31	1999-346
92	110292027	114145129	SW	10	26	15	2	85-21	1998-638
93	110292072	114145152	NW	11	26	15	2	85-21	1998-638
94	109980120	114193335	NE	15	26	15	2	85-21	1998-638
95		114193324	NE	15	26	15	2	85-21	1998-638

96	110292229	114193346	NW	15	26	15	2	85-21	1998-638
97	109933072	111421628	SE	15	26	15	2	85-58	2009-622
98	108648872	114145141	SW	15	26	15	2	85-21	1998-638
99	110292218	114145141	SW	15	26	15	2	85-21	1998-638
100	110241267	120851298	SE	24	26	15	2	85-59	2012-77
101	110241357	120933514	NE	26	26	15	2	85-29	1999-346
102	110241380		NE	27	26	15	2	85-52	2005-414
103	108648962		NW	27	26	15	2	85-52	2005-414
104	110241379		NW	27	26	15	2	85-52	2005-414
105	110241414	120850905	NE	28	26	15	2	85-3	1996-925
106	110241560	145369132	NE	33	26	15	2	85-3	1996-925
107		145369176	NE	33	26	15	2	85-3	1996-925
108	110241548	145369187	SE	33	26	15	2	85-3	1996-925
109	110241593	120851119	NE	34	26	15	2	85-5	1996-1696
110	108649020	165300386	NW	34	26	15	2	85-25	1998-1535
111	110341033	165300397	NW	34	26	15	2	85-25	1998-1535
112	110241627	120851377	NE	35	26	15	2	85-29	1999-0346
113	108649031	145369222	NW	35	26	15	2	85-60	2010-490
114	110341044	145369233	NW	35	26	15	2	85-60	2010-490
115		145369244	NW	35	26	15	2	85-60	2010-490
116	110241650	120851388	NE	36	26	15	2	85-33	1999-1134
117	110341055	152755364	NW	36	26	15	2	85-39	2002-425
118	110241638	120851366	SE	36	26	15	2	85-27	1998-1535
119	112986265	152397579	NE	20	27	15	2	85-30	1998-1535
120	112986232	152397580	SE	20	27	15	2	85-30	1998-1535
121	152414670	152397636	NW	21	27	15	2	85-34	2000-1150
122	112986287	152397647	SW	21	27	15	2	85-34	2000-1150
123	112973362	152397658	NE	22	27	15	2	85-4	1996-925
124	113109791	164805969	SE	22	27	15	2	85-4	1996-925

Except those school lands including mines and minerals shown as Lot 1 Plan 102664

C.L.S.R. 102208621 S.L.S.D. within SE-22-27-15-2

125	112971461	164805970	SE	22	27	15	2	85-4	1996-925
126	112986344	152397681	NE	23	27	15	2	85-11	1997-112
127	112986333	152397692	SE	23	27	15	2	85-11	1997-112
128	112973597	152397704	SW	23	27	15	2	85-4	1996-925

Except Mines and Minerals under Parcel A shown on Plan 62H04156 S.L.S.D. and Plan 64942 C.L.S.R. within SW-23-27-15-2

129	112986467	152397715	NE	26	27	15	2	85-9	1996-1696
130	112986456	152397726	NW	26	27	15	2	85-9	1996-1696
131	153155651	152397737	SE	26	27	15	2	85-9	1996-1696
132	112980405	152247911	NE	1	27A	15	2	85-38	2000-1150
133	112980393	152247922	NW	1	27A	15	2	85-38	2000-1150
134	112970189	152247933	SE	1	27A	15	2	85-29	1996-0346
135	112980382	152247955	SW	1	27A	15	2	85-41	2001-2328
136	135887439	135811537	NE	2	27A	15	2	85-5	1996-1696
137	135887383	135887394	NE	2	27A	15	2	85-61	2009-1761
138	112980427	152248002	NW	2	27A	15	2	85-25	1998-1535
139	112980461	152248024	NE	3	27A	15	2	85-25	1998-1535
140	112980450	114304654	NW	3	27A	15	2	85-42	2003-698
141	112980449	152248035	SE	3	27A	15	2	85-25	1998-1535
142	112970202	149965206	SW	3	27A	15	2	85-40	2003-698
143	112980483	152248057	NW	4	27A	15	2	85-7	1996-1696
144	112979256	152248327	NE	8	27A	15	2	85-32	1998-1716
145	112979245	165210487	NW	8	27A	15	2	85-32	1998-1716
146	113109577	165210498	NW	8	27A	15	2	85-32	1998-1716

147	152248259	152755342	SE	8	27A	15	2	85-44	2002-425
148	112979290	149965026	NE	9	27A	15	2	85-42	2003-698
149	113109601	165210588	NW	9	27A	15	2	85-35	1999-1675
150	112979289	165210599	NW	9	27A	15	2	85-35	1999-1675
151	112979278	152248068	SW	9	27A	15	2	85-7	1996-1696
152	152248394	152248406	NE	10	27A	15	2	85-5	1996-1696
153	112979324	152248439	NW	10	27A	15	2	85-16	1997-1923
154	164196344	152248417	SE	10	27A	15	2	85-5	1996-1696
155	164196355	152248417	SE	10	27A	15	2	85-5	1996-1696
156	152248451	152248417	SE	10	27A	15	2	85-5	1996-1696
157	152248428	152248440	SW	10	27A	15	2	85-16	1997-1923
158	164196388	152248440	SW	10	27A	15	2	85-16	1997-1923
159	152307682	165210612	NE	11	27A	15	2	85-38	2000-1150
160	152307671	165210623	NE	11	27A	15	2	85-38	2000-1150
161	152248495	152248507	NW	11	27A	15	2	85-5	1996-1696
162	112979335	149965059	SE	11	27A	15	2	85-40	2003-698
163	112979346	152248518	SW	11	27A	15	2	85-5	1996-1696
164	152248529	152248530	NE	12	27A	15	2	85-23	1999-785
165	112979380	154327136	NW	12	27A	15	2	85-54	2007-568
166	113109409	154327125	NW	12	27A	15	2	85-54	2007-568
167	112983981	152250803	NE	3	28	15	2	85-66	2010-280
168	112984207	152251062	NE	9	28	15	2	85-66	2010-280
169	112984184	152251084	SE	9	28	15	2	85-66	2010-280
170	112984195	152251095	SW	9	28	15	2	85-66	2010-280
171	112984230	152251107	NE	10	28	15	2	85-66	2010-280
172	112970594	152251118	NW	10	28	15	2	85-66	2010-280
173	112984229	152251130	SW	10	28	15	2	85-66	2010-280

174	147730002	147730013	NW	1	27	16	2	85-53	2006-262
175	153059395	153088511	NW	1	27	16	2	85-53	2006-262
176	153059407	153088522	NW	1	27	16	2	85-53	2006-262
177	147730024	147730035	NW	1	27	16	2	85-53	2006-262
178	153059429	153088544	NW	1	27	16	2	85-53	2006-262
179	153059418	153088533	NW	1	27	16	2	85-53	2006-262
180	147730046	147730057	NW	1	27	16	2	85-53	2006-262
181	112998527	153086665	SW	1	27	16	2	85-6	1996-1696
182	113108745	153086676	SW	1	27	16	2	85-6	1996-1696
183	113003031	152224770	SE	2	27	16	2	85-6	1996-1696
184	112998561	152224781	SW	2	27	16	2	85-6	1996-1696
185	113003053	152224860	NW	7	27	16	2	85-13	1997-112
186	112996154	152225074	NE	17	27	16	2	85-13	1997-112
187	112996143	152225085	NW	17	27	16	2	85-13	1997-112
188	112996121	152225096	SE	17	27	16	2	85-13	1997-112
189	112996132	152225108	SW	17	27	16	2	85-13	1997-112
190	112996165	165150143	SE	18	27	16	2	85-13	1997-112
191	113108790	165150154	SE	18	27	16	2	85-13	1997-112
192	152334862	165150200	NW	22	27	16	2	85-14	1997-1923
193	152334873	165150211	NW	22	27	16	2	85-14	1997-1923
194	164199527	165150211	NW	22	27	16	2	85-14	1997-1923
195	112996323	152225265	SE	22	27	16	2	85-14	1997-1923
196	112996334	152225287	SW	22	27	16	2	85-14	1997-1923
197	120472286	114247953	NE	23	27	16	2	85-18	1998-638
198	112996367	120472231	SE	23	27	16	2	85-18	1998-638
199	112996378	152225276	SW	23	27	16	2	85-14	1997-1923
200	112979953	165085678	NE	10	27A	16	2	85-6	1996-1696
201	112979942	165085689	SE	10	27A	16	2	85-6	1996-1696

202	112979997	152267340	NE	11	27A	16	2	85-6	1996-1696
203	112979986	152267351	NW	11	27A	16	2	85-6	1996-1696
204	112979964	165085724	SE	11	27A	16	2	85-6	1996-1696
205	113109465	165085746	SE	11	27A	16	2	85-6	1996-1696
206	113109454	165085735	SE	11	27A	16	2	85-6	1996-1696
207	112979975	152267373	SW	11	27A	16	2	85-6	1996-1696

SCHEDULE 2

(Section 1)

Entitlement Lands

TABLE

This table shows the Entitlement Lands. / Ce tableau présente les Terres dues en vertu d'un traité.

No	Quarter	Section	Township	Range	Meridian
1	NE	18	27	13	2
2	NW	18	27	13	2
3	NW	19	27	13	2
4	SE	19	27	13	2
5	SW	19	27	13	2
6	SW	30	27	13	2
7	NW	2	27	14	2
8	NE	3	27	14	2
9	NW	3	27	14	2
10	NE	4	27	14	2
11	NW	4	27	14	2
12	SE	4	27	14	2
13	NE	5	27	14	2
14	NW	5	27	14	2
15	NW	7	27	14	2
16	SE	7	27	14	2
17	SW	7	27	14	2
18	NE	8	27	14	2

19	NW	8	27	14	2
20	SE	8	27	14	2
21	SW	8	27	14	2
22	NE	9	27	14	2
23	NW	9	27	14	2
24	SE	9	27	14	2
25	SE	10	27	14	2
26	NW	14	27	14	2
27	SE	15	27	14	2
28	NE	16	27	14	2
29	NW	16	27	14	2
30	NW	17	27	14	2
31	SE	17	27	14	2
32	SW	17	27	14	2
33	NE	18	27	14	2
34	NW	18	27	14	2
35	SW	18	27	14	2
36	NE	19	27	14	2
37	NW	19	27	14	2
38	SE	19	27	14	2
39	SW	19	27	14	2
40	NE	20	27	14	2
41	NW	20	27	14	2
42	SE	20	27	14	2
43	SW	20	27	14	2
44	NW	21	27	14	2
45	SE	21	27	14	2
46	SE	22	27	14	2
47	SW	22	27	14	2
48	NE	24	27	14	2
49	NW	24	27	14	2
50	SW	25	27	14	2
51	NW	26	27	14	2
52	SE	26	27	14	2
53	SW	26	27	14	2
54	SE	31	27	14	2
55	SW	31	27	14	2
56	SE	32	27	14	2

57	NE	34	27	14	2
58	SE	34	27	14	2
59	SW	34	27	14	2
60	SW	20	27	15	2
61	NE	21	27	15	2
62	SE	21	27	15	2
63	NW	22	27	15	2
64	SW	22	27	15	2
65	NW	23	27	15	2
66	NE	25	27	15	2
67	NW	25	27	15	2
68	SE	25	27	15	2
69	SW	25	27	15	2
70	SW	26	27	15	2
71	NE	27	27	15	2
72	NW	27	27	15	2
73	SE	27	27	15	2
74	SW	27	27	15	2
75	NE	34	27	15	2
76	NW	34	27	15	2
77	SE	34	27	15	2
78	SW	34	27	15	2
79	SE	1	28	15	2
80	SW	1	28	15	2
81	SE	2	28	15	2
82	SW	2	28	15	2

SCHEDULE 3

(Section 1, subsection 6(1) and paragraph 13(1)(e))

Incorporated Laws

- *The Boiler and Pressure Vessel Act, 1999*, S.S. 1999, c. B-5.1
- *The Boiler and Pressure Vessel Regulations*, R.R.S. c. B-5.1 Reg. 1
- *The Electrical Code Regulations*, R.R.S. c. E-6.3 Reg. 16
- *The Electrical Inspection Act, 1993*, S.S. 1993, c. E-6.3
- *The Environmental Assessment Act*, S.S. 1979-80, c. E-10.1
- *The Environmental Management and Protection Act, 2010*, S.S. 2010, c. E-10.22, other than subsections 13(3) and (4) and Division 1 of Part VI

- *The Environmental Management and Protection (General) Regulations*, R.R.S. c. E-10.22 Reg. 1, other than Part V
- *The Environmental Management and Protection (Saskatchewan Environmental Code Adoption) Regulations*, R.R.S. c. E-10.22 Reg. 2
- *The Fire Safety Act*, S.S. 2015, c. F-15.11, other than section 34
- *The Gas Inspection Act*, 1993, S.S. 1993, c. G-3.2
- *The Ground Water Regulations*, Sask. Reg. 172/66
- *The Hazardous Substances and Waste Dangerous Goods Regulations*, R.R.S. c. E-10.2 Reg. 3
- *The Mineral Industry Environmental Protection Regulations, 1996*, R.R.S. c. E-10.2 Reg. 7
- *The Mineral Resources Act, 1985*, S.S. 1984-85-86, c. M-16.1, other than the definition *Crown mineral lands* in paragraph 2(1)(c)
- *The Mines Regulations, 2003*, R.R.S. c. O-1.1 Reg. 2
- *The Occupational Health and Safety Regulations, 1996*, R.R.S. c. O-1.1 Reg. 1
- *The Oil and Gas Conservation Act*, R.S.S. 1978, c. O-2, other than subsection 17.041(7)
- *The Oil and Gas Conservation Regulations, 2012*, R.R.S. 1978, c. O-2, Reg. 6
- *The Passenger and Freight Elevator Act*, R.S.S. 1978, c. P-4
- *The Pipelines Act, 1998*, S.S. 1998, c. P-12.1, other than subsections 13(1) and (2), sections 15 and 16
- *The Pipelines Regulations, 2000*, R.R.S. c. P-12.1 Reg. 1, other than section 24
- *The Railway Act*, S.S. 1989-90, c.R-1.2, other than paragraph 30(2)(a), section 41, subsections 42(1), (2), (4) and (5) and subsection 44(2)
- *The Saskatchewan Employment Act*, S.S. 2013, c. S-15.1, other than Parts II and V to VIII
- *The Seismic Exploration Regulations, 1999*, R.R.S. c. M-16.1 Reg. 2
- *The Subsurface Mineral Conservation Regulations*, R.R.S. c. M-16.1 Reg. 5
- *The Uniform Building and Accessibility Standards Act*, S.S. 1983-84, c. U-1.2
- *The Uniform Building and Accessibility Standards Regulations*, R.R.S. c. U-1.2 Reg. 5
- *The Water Security Agency Act*, S.S. 2005, c. W-8.1, other than sections 23 and 24, subsection 38(1), sections 39 to 42 and 64 to 66 and subsections 82(3) and (6) and 83(6), (8) and (9)
- *The Water Security Agency Regulations*, R.R.S. c. W-8.1 Reg. 1
- *The Waterworks and Sewage Works Regulations*, R.R.S. c. E-10.22 Reg. 3
- *The Workers' Compensation Act, 2013*, S.S. 2013, c. W-17.11, other than section 157 and subsection 159(1)

REGULATORY IMPACT ANALYSIS STATEMENT

(This statement is not part of the Regulations.)

Issues

The Muskowekwan First Nation submitted a proposal to Indigenous and Northern Affairs Canada requesting the creation of regulations under the authority of the *First Nations Commercial and Industrial Development Act* (“FNCIDA”) for a solution potash mine development on Muskowekwan First Nation reserve lands.

The Government of Canada does not have a regulatory regime specifically designed to regulate a potash mine on-reserve. The existing *Indian Mining Regulations* and *Indian Act* are insufficient to appropriately manage the complex and large-scale development and operation of a potash mine on reserve land. The Province of Saskatchewan has a comprehensive regulatory regime for potash mining, and although some provincial laws of general application will apply, essential elements of the provincial laws and regulations affecting potash mining will not apply on First Nation reserve lands.

Regulations made pursuant to FNCIDA are necessary to close the regulatory gap in areas such as environmental management and protection, gas inspection, hazardous substances and waste, dangerous goods, and uniform building and accessibility standards, among others. Without adopting a regulatory regime that is compatible with the regime that applies to potash mines off reserve lands, the developer, Encanto Potash Corporation, or any other developer will likely be discouraged from investing in this on-reserve economic opportunity due to the uncertainty of what regulatory regime, if any, will apply.

Background

First Nations Commercial and Industrial Development Act

Increasingly, First Nations across Canada are developing plans for complex commercial and industrial development projects on-reserve. A lack of adequate regulations for such development on-reserve land leads to regulatory uncertainty that can discourage investment in such large projects and hinder economic development. These projects have economic benefits such as employment and business opportunities for First Nation members, and create significant ongoing revenue for First Nation governments. Large scale industrial projects contribute to the economy of the surrounding region, providing employment opportunities and generating tax revenues that benefit all Canadians.

In 2006, FNCIDA came into force to facilitate economic development on-reserve by addressing regulatory gaps. FNCIDA enables the Government of Canada to create a regulatory regime for a specific project, on a specific piece of reserve land, by legislatively replicating or incorporating by reference relevant provincial laws. In practice, this means that projects under FNCIDA are required to meet standards that are substantially similar to those that apply in the rest of the province where the reserve is located. The use of FNCIDA removes legal uncertainty and risk, enhancing confidence for First Nation people, investors, developers and the public by ensuring that they are dealing with regulations and regulators that they know and understand.

FNCIDA requires that a tripartite agreement between the Muskowekwan First Nation, the Province of Saskatchewan and the Government of Canada be entered into prior to

the making of the Regulations. This tripartite agreement ensures that provincial officials can perform administrative, monitoring, compliance and enforcement activities with respect to the project on specified reserve lands that are used for the project. Provincial officials will perform these activities as they do for similar projects located off reserves.

Muskowekwan First Nation Solution Potash Mining Proposal

The Muskowekwan First Nation has requested that the federal government use FNCIDA to address the regulatory gap with respect to the development of a solution potash mine on its reserve. The proposal being pursued by the First Nation is a joint venture with Encanto Potash Corporation to mine potash located under Muskowekwan First Nation lands from the Prairie Evaporite Formation's Belle Plaine and Patience Lake potash reserves, using a solution mining technique. Solution mining extracts potash using wells and circulating fluids, instead of using shafts and conventional underground mining. The solution potash mine will produce potassium chloride — up to 2.8 million tonnes annually for over 50 years — for shipment via railcars for distribution. Once this project is under way, over 1 000 construction jobs could be generated during the expected three years of mine development, and approximately 500 permanent mining-related jobs will be created when the mine is fully operational.

The Muskowekwan First Nation is also pursuing a demonstration project to prove a new technology for selective potash mining. The technology uses a novel method of extracting potash with 80% less water consumption, no salt tailings left behind on the surface, and low capital and operating costs. The demonstration project will entail the extraction of 100 000 tonnes per year of potash, increasing to 500 000 tonnes per year if the technology is viable. The project will have a shortened construction period of less than a year and will use an existing exploration well. This demonstration project will generate several dozen full time jobs. Should the new technology be proven viable, it could represent a significant technological advance in potash mining.

Objectives

The primary goals of the Regulations are to

- ensure that impacts related to the environment, health and safety and other impacts common to potash mining are effectively managed;
- address legislative and regulatory barriers to economic development in First Nations communities; and
- provide certainty for investors, developers and the public while minimizing costs.

Description

The Regulations reproduce, with some minor adaptations, the regulatory regime of the Province of Saskatchewan applicable to solution potash mines located on provincial land. Key provisions contained in the Regulations relate to emergency responses, facility operations, containment, storage, transmission, and the treatment or disposal of any substance that arises from potash mining activity. The Regulations will only apply to

the “project” on Muskowekwan reserve lands, as “project” is defined in section 1 of the *Muskowekwan First Nation Solution Potash Mining Regulations*, and will not apply to other First Nations, other reserve lands or other federal lands. The Regulations and tripartite agreement are structured with enough flexibility to allow either the demonstration or larger-scale solution potash mining project, or both, to proceed.

To ensure the ongoing consistency of the regulatory environment for the Muskowekwan solution potash mine with the off-reserve environment, the incorporation of provincial laws are stipulated to be applicable “as amended from time to time.” As a result, the Regulations will evolve as the provincial law evolves. It is expected that amendments to the Regulations will be required only if the Province of Saskatchewan were to create an entirely new statute or regulation, or if relevant changes to the Province of Saskatchewan’s existing laws necessitate new adaptations to the Regulations.

The Regulations are the fourth regulatory proposal brought forward under FNCIDA. Together with a Canada–Saskatchewan–Muskowekwan First Nation tripartite agreement, they create a comprehensive regulatory regime for solution potash mining on the Muskowekwan First Nation reserve. The tripartite agreement was signed on January 27, 2016.

“One-for-One” Rule

The Government of Canada is committed to controlling any new administrative burden on business resulting from regulations.

The Regulations will only apply to the “project” on Muskowekwan reserve lands, as “project” is defined in section 1 of the *Muskowekwan First Nation Solution Potash Mining Regulations*.

The Regulations are enabling regulations and serve to facilitate commercial activity. They do not impose new burden on business as there currently is no potash mine operating on the reserve. The regulated proponent can choose whether or not to pursue the regulated activity and meet the associated requirements. As a result, the “One-for-One” Rule does not apply to this proposal.

Small business lens

The Government of Canada is committed to respecting the sensitivity of small businesses to the impacts of regulations.

The Regulations will only apply to the potash mining operations on the project lands, which will initiate business development opportunities, rather than impose new burdens or costs on existing small businesses. Existing small businesses could benefit from increased commercial activity associated with the project. As a result, the small business lens does not apply to this proposal.

Consultation

The parties primarily affected by the Regulations are the Muskowekwan First Nation; Muskowekwan Resources Limited (owned by the Muskowekwan First Nation) and its partner, Encanto Potash Corporation, as proponent in the development; the Province of Saskatchewan, which will administer and enforce the regulatory regime; the Government of Canada and the population of surrounding communities, including the rural municipalities of Touchwood, Kellross, Emerald and Mount Hope, the First Nation communities of Okanese and George Gordon, and the Lestock Métis community.

The Regulations, which are specific to the project, were made under FNCIDA at the request of the Muskowekwan First Nation and supported by a Band Council Resolution in July of 2012 and subsequently in May of 2016. Officials representing the Muskowekwan First Nation and the Province of Saskatchewan have collaborated throughout the drafting process and are parties to the tripartite agreement. Community members of the Muskowekwan First Nation have provided their strong support demonstrated by allocating the lands for the potash development via the *Indian Act* land designation voting process.

Support of the project from surrounding communities is also high due to the influx of economic opportunities associated with a project of this magnitude. During the construction phase of the project, it is estimated that in excess of one thousand job opportunities will be created, and the operational phase will generate hundreds of further employment opportunities. This influx of employment will also have positive effects on local economy, and will create new opportunities for entrepreneurial endeavours, and increases in local revenues.

When the project proposal was submitted to the federal government in December of 2012, a potash mine was considered a “designated project” under the *Canadian Environmental Assessment Act*, which triggered a federal environmental assessment process. In October of 2013, the Government of Canada amended the *Regulations Designating Physical Activities* to align them with the *Canadian Environmental Assessment Act*. As a result, the amended Regulations delisted potash mining as a designated activity requiring an environmental assessment. The Canadian Environmental Assessment Agency (CEAA) then terminated the environmental assessment process for the Muskowekwan potash mine project, and it was taken up by the provincial environmental assessment process.

However, before the CEAA terminated the environmental assessment process, the project proposal was posted on their website for comments. The comments received were generally positive; however, there were submissions made by two First Nation communities, one Métis group, and one environmental group.

The concerns that were raised through the CEAA environmental assessment process included potential effects of the project on quality and quantity of surface water and on water tables; salt stockpiles leaching into groundwater and being transferred by wind

and extreme weather; impacts on wildlife; potential greenhouse gas emissions; and impacts of flooding. There were also specific concerns from the Métis group relating to right of access and potential damage to a Métis historical site. This site, referred to as the Chicago Line or Little Chicago, is located within the project area and used for traditional purposes (foraging, hunting, and other cultural and traditional activities). Social and economic impacts relating to the potential for increased instances of intoxicant availability and criminal activity in conjunction with population increases, and transient population growth were also raised.

The rights-based comments raised by the First Nation and Métis groups are being addressed through Indigenous and Northern Affairs Canada's (INAC) dedicated consultation and accommodation process as they are not strictly related to the regulatory development for the mine, but more a result of the project itself, and the land use. The consultation and accommodation process makes certain that mitigation measures are in place to ensure that potential or existing Aboriginal or Treaty rights are not negatively impacted.

At the beginning of INAC's consultation and accommodation process in 2013, contact with Indigenous stakeholders provided introductions to INAC's role and process for engagement, and offered stakeholders the opportunity to apply to the Aboriginal Participation Fund — a fund whose purpose is to help defray potential costs associated with the engagement process, so that cost is not a deterrent to concerned rights holders participating. INAC has met with potentially affected Indigenous communities to discuss the project to date and these discussions will continue into the second draft of the project's provincial environmental assessment report submission, and as the project moves into the pre-development phase.

Prepublication

The Regulations were prepublished in the *Canada Gazette*, Part I, on June 25, 2016, and in the *First Nations Gazette*, Part I, on July 5, 2016, for their respective 30-day comment periods. No comments were received as a result of the *First Nations Gazette* comment period.

INAC received one comment from a citizen following prepublication in Part I of the *Canada Gazette* relating to sufficient notice of the Regulations, the applicability of the *First Nations Certainty of Land Title Act* with regards to the proposed potash mine project, and the requirements regarding an environmental assessment for the proposed project.

Key stakeholders — including the Muskowekwan Band Council and the Province of Saskatchewan — have been engaged throughout the regulatory development process since the project's inception in 2012.

Furthermore, the *First Nations Certainty of Land Title Act* is not applicable to this particular project because regulations designed to govern a potash mine do not change the tenure of land or involve land titles registration.

Finally, the Province of Saskatchewan is currently undertaking its environmental assessment of the potash project under the province's *Environmental Assessment Act*. Any potential adverse effects of the project must be mitigated before it is allowed to proceed. Also, because the project will be located entirely on reserve lands, which are federal lands subject to the *Indian Act*, INAC is required to authorize the project under the *Indian Mining Regulations*, the *Indian Act*, and the *Indian Reserve Disposal Regulations*. INAC is therefore required to evaluate the environmental effects of the project under section 67 of the *Indian Act*. Issues of an environmental nature that are raised in the federal assessment process will also be addressed through the provincial process.

Department officials responded directly to the stakeholder to provide clarification and information on the concerns that were raised. No changes were made to the Regulations based on the stakeholder's comments.

During the review period following prepublication, an inconsistency was identified between the project land description presented in the initial project proposal with the description filed in the Canada Lands Survey System. This resulted in the unintended omission of mineral interests in the land descriptions in Schedule 1, paragraph (b) of the draft Regulations that were prepublished. To correct this error, with stakeholder agreement, the Administrative Area Plan and the project lands description as identified in Schedule 1, paragraph (b) of the Regulations were amended to describe the areas of the new Administrative Area Plan and registration number of the Canada Lands Survey System. This amendment ensures that, as originally intended and consistent with stakeholder consultations and expectations, the Regulations will apply to all of the surface and subsurface lands identified as project lands for the mining operations.

Rationale

The Government of Canada does not have a regulatory regime specifically designed to regulate a potash mine on-reserve, and the existing *Indian Mining Regulations* are not adequate to appropriately manage the complex development and operation of a potash mine on-reserve.

Creating the Regulations contributes to the Government of Canada's strategic outcome of facilitating the sustainable use of First Nation community lands and resources. The Regulations allow for the adoption of a modern, robust regulatory regime to close the regulatory gap for the potash development that exists between federal and provincial lands. Filling this regulatory gap provides worker health and safety and environmental protection for the project lands and surrounding area.

The Regulations will also advance closing the economic gap for First Nations by providing both direct and indirect economic benefits to the Muskowekwan First Nation. Although the creation of these Regulations does not ensure the project will go ahead, without them the project could not go ahead. The Regulations level the playing field between the off-reserve and on-reserve regulatory environments, making the reserve

land more attractive for investment. The indirect benefits of the Regulations include resource revenue for the First Nation, increased employment and economic development opportunities for the First Nation and surrounding communities, and royalty revenues. These benefits are not quantified, as they are secondary benefits of the Regulations.

The regulatory approach of incorporating by reference the provincial regulatory regime for potash mining is significantly more cost-effective than creating a new federal regime to regulate the project. The province already has a well-established potash mining regulatory regime and expertise in this area, and fewer human resources and work hours will be required to incorporate by reference the provincial regime than to develop a whole new federal regulatory regime.

Provincial officials will administer and monitor much of the activity of the mining operations synonymous with standards and practices for potash mining off reserve land. As a result, the developer will not carry more administrative burden than what would be expected if the on-reserve project was located off reserve. Employing the existing provincial resources for the Muskowekwan potash mining project will generate secondary cost savings for the Government of Canada because the existing provincial infrastructure will be used to administer and monitor the facility for potash mining as it does on provincial lands.

Making these Regulations does not necessitate the project moving ahead; rather it enables the project to proceed on the Muskowekwan First Nation lands. Therefore, there will only be secondary costs and economic benefits for the Province of Saskatchewan once the mining project comes to fruition. The proposal is an enabling regulation; therefore, there are no direct costs to the federal government, Canadians or the industry at large. In addition, capital and operating costs of the actual solution potash mining operations have not been included as they will not be costs resulting from the creation of these Regulations.

The Regulations also benefit the Government of Saskatchewan by promoting increased investment in the province; and ensuring that potash mining on the Muskowekwan First Nation project lands will be subject to a regime that mirrors the regime that applies in the surrounding area, with an equivalent level of certainty for environmental protection and management measures. They also provide assurance to the general public that the potash development will be adequately regulated using industry-wide standards, addressing risks to citizens and to the environment.

This project could also illustrate to other industry leaders increased federal flexibility to encourage investment opportunities in First Nations communities through the effective intergovernmental regulatory cooperation under FNCIDA.

Implementation, enforcement and service standards

The primary reason for establishing the Regulations for the Muskowekwan First Nation solution potash mining lands is to enable a full range of comprehensive regulatory standards, including compliance and enforcement mechanisms. The Regulations include the following authorities to monitor compliance and to detect and penalize non-compliance:

- requirements for industry to obtain various licences and approvals, to keep records, make reports, and provide information on request;
- authority for government officials to inspect, investigate, search and seize, and to issue directives and orders; and
- ability to issue fines and other financial penalties for non-compliance and offences; and authority for government officials to make applications for various orders, if necessary.

Compliance and enforcement provisions, to a large degree, replicate provisions in the regulatory regime of the Province of Saskatchewan that apply to similar projects off-reserve.

To summarize, the *Muskowekwan First Nation Solution Potash Mining Regulations* replicate, with minor adaptations, the provincial regime, and give provincial officials the authority to administer, monitor and enforce the regulatory regime. The tripartite agreement between the Muskowekwan First Nation, the Province of Saskatchewan and the Government of Canada provides the conditions, under which provincial officials will administer, monitor and enforce activities.

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- [Footnote a](#)
S.C. 2005, c. 53
- [Footnote b](#)
S.C. 2005, c. 53
- [Footnote c](#)
S.C. 2005, c. 53

- [Footnote d](#)
S.C. 2012, c. 19, s. 63
- [Footnote e](#)
S.C. 2005, c. 53