Question Selection

For the purpose of this scholarship submission, I have selected the following question for discussion:

“Will the NTL likely increase or decrease the pollution being caused to the transboundary Alaska/BC rivers as a consequence of metals mining or other industry? In answering this question, consider the status of the Tulsequah Mine, as well as proposed mining and hydro projects that would rely upon the NTL.”

Discussion

The Northwest Transmission Line (NTL) is a 344-kilometre, 287-kilovolt Canadian transmission line running from Skeena Substation (near Terrace) to a new substation near Bob Quinn Lake.¹ It will provide an interconnection point for industrial development and clean power projects in northwest British Columbia, Canada, playing an important role in the economic development of the region.² While the implementation of the NTL offers economic benefits, such as, “promis(ing) to eventually make at least five big mines a reality,”³ and environmental benefits, including, “[p]rovid(ing) clean electricity so that new industrial developments in the region, like mines, won’t have to

² Id.
rely on fossil fuel for their electricity needs,”⁴ to the Canadian interests in the region, there are growing concerns in the United States; however, that Alaskan interests in the region – particularly those associated with transboundary rivers – will experience an increase in environmental impacts and costs, all while not sharing in any of the benefits of the NTL.

Such concerns have been empirically supported by the controversies surrounding the Tulsequah Chief Mine and the smelter at Trail, B.C. The presence of an additional five big mines in the region, as promised by the NTL, will undoubtedly increase pollution to the region’s transboundary rivers as a consequence of metals mining, and perpetuate the concerns of the Alaskan interests in the region.

To begin, we will focus on two existing controversies surrounding pollution to the transboundary rivers in the British Columbia/Alaska border region – one regarding the smelter at Trail, B.C, the other regarding the Tulsequah Chief Mine.

The smelter at Trail, B.C. controversy revolves around a privately owned smelting plant located in Trail, B.C., which is approximately seven miles from the U.S. and Canada border.⁵ A dispute emerged between American and Canadian interests in the transboundary region regarding property damage occurring within the United States caused by sulfur dioxide released by the smoke stacks at Trial smelter within Canada. The resolution, reached more than 80 years ago, became known as the Trail Smelter

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⁵ http://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1891&context=facpub.
Arbitration and is described as the “only decision of an international court or tribunal that deals specifically, and on the merits, with transfrontier pollution.” In the landmark decision, “(an) arbitral panel held Canada liable for property damage in the United States caused by the Trail smelter’s release of sulfur dioxide from its tall smoke-stacks.” Effectively, the arbitration set the standard that one country, and the activities it undertakes, can be liable for injuries caused in another country. The standard set by the arbitration had little impact on the pollution; however, as the smelter allegedly “(continued to dump) the equivalent of ‘a dump truck of slag’ into the Columbia River every hour for sixty years.”

Next, the Tulsequah Chief Mine, now owned by Chieftain Metals Inc., is located in British Columbia, approximately 65 kilometers northeast of Juneau, Alaska. According to Chieftain Metals, the mine was last operated from 1951 to 1957. Despite the Tulsequah Chief Mine being inactive for more than 50 years, transboundary interests in Alaska allege the mine has continued to pollute the Taku River watershed via acid mine drainage (AMD) for decades. In July 2009, then-Governor of Alaska Sarah Palin addressed the concerns surrounding the pollution drainage from the inactive Tulsequah Chief Mine in a letter to The Honorable Gordon Campbell, Premier of British

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7 http://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1891&context=facpub.
9 http://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1891&context=facpub.
11 Id.
Columbia. In her letter, Governor Palin references another letter prepared by Natural Resources Commissioner Tom Irwin. In his letter, Mr. Irwin writes that there must be means in excess of those currently in use by the Canadian interests for “remediating the Tulsequah Chief AMD drainage,” while also expressing Alaska’s readiness to establish a “close working relationship … (to) provide a firm foundation for collaboration between (the two) governments on how to remediate the Tulsequah Chief AMD discharge in as timely a manner as possible.” In Mr. Irwin’s letter he addresses that “Alaska’s involvement with the Tulsequah project stems from its concern to protect the valuable downstream fisheries resources and water quality in the Taku River,” which based on a 2004 study, contributes about $7.5 million to the region’s economy annually. Mr. Irwin goes on to acknowledge that recent tests confirm the toxicity of pollution discharge to the region’s Rainbow Trout, and that while Canadian agencies have issued a number of clean-up orders, the discharge from the mine has “continued largely, if not wholly, unabated.” Finally, Mr. Irwin addresses the fact that there was a redevelopment plan for the site proposed by a Canadian company that would have addressed AMD discharge issues; however, financial difficulties have made the solution no longer tenable. As part of the plan, the Canadian Company had purchased and mobilized, unassembled, an

14 Id.
15 Id.
16 Id.
17 Id.
18 Id.
19 Id.
Interim Water Treatment Plant (IWTP) to the Tulsequah site in late 2008 – although the mechanism was never put to use to combat the AMD discharges.\textsuperscript{20}

The perpetual transboundary pollution issues originating from these two inactive Canadian mines pose a real international nuisance, but they also foreshadow what could grow to be a much larger issue in the coming decades with the implementation of the NTL. With a less-than-stellar track record on such issues, the U.S. and Canadian governments have shown an inability to effectively deal with an issue such as the Tulsequah Chief Mine – which was a relatively tiny mine.\textsuperscript{21} This leaves each government, and the region, ill prepared to deal with the emergence of similar issues on a much larger scale, as promised by the NTL’s aim to “make at least five big mines a reality.”\textsuperscript{22} One of which is the planned Copper Fox Metals’ copper-gold-molybdenum-silver mine, proposed to be one the largest in the world processing more than 65,000 tonnes/day for 15 years.\textsuperscript{23} Naturally, such a large mine will have large discharges, which empirically, has led to large disputes – it doesn’t take a rocket scientist to draw that conclusion, and one simply needs to multiply by five to imagine the effects of five additional large mines. What isn’t as easy to make sense of, however, is the fact that due to budget constraints United States (Alaskan) representatives are no longer involved in the planning, commenting and examining processes for the mines. The result leaves all of the decisions regarding such mines located in Canada, to the Canadian interests, despite

\textsuperscript{21} http://thetyee.ca/News/2012/11/14/Alaska-BC-Mines.
\textsuperscript{22} Id.
\textsuperscript{23} Id.
the fact that there are great consequences felt by the United States’ interests. With only one party at the negotiation and decision-making table, it comes as no surprise that disputes arise. In the absence of a regional or international policy to allow all potentially-affected transboundary interests to proactively participate in all review, commenting and decision making processes pertaining to sources in transboundary regions – whether domestic or foreign – the presence of “at least five additional big mines” as promised by the NTL will continue to stress transboundary relations, and lead to an increase in pollution, and negative effects associated therewith, burdened on the Alaskan interests in the region. While the Canadian interests will benefit from the clean-hydro energy provided by the NTL, and the economic benefits associated therein, the Alaskan interests will only see an increase in pollution, and continued degradation of their rivers, as a result of the NTL project on the Canadian side of the border and the lack of any cooperative transboundary assessment policy.
REFERENCES


