

NEWS RELEASE



Establishing clear consultation guidelines, recognizing Indigenous property rights key to providing certainty for pipelines, resource projects

May 2, 2019
For immediate release

CALGARY—The federal government could provide greater certainty for major resource development projects—such as pipelines—by establishing clear consultation guidelines and recognizing Indigenous property rights, finds a new study released today by the Fraser Institute, an independent, non-partisan Canadian public policy think-tank.

“Uncertainty surrounding Indigenous consultations is the biggest impediment to resource development in the country right now, and unless a clear framework for what adequate consultation looks like is established, Canada will continue to lose out on investment,” said Jason Clemens, Fraser Institute executive vice-president.

The study, *Assessing the Duty to Consult*, was written by Malcolm Lavoie, assistant law professor at the University of Alberta. It finds that the duty to consult, which is a constitutional obligation, creates uncertainty because the specific requirements for consultation are determined on a case by case basis.

This uncertainty—not knowing what adequate consultation requires ahead of time—can significantly raise the cost of a project. And even though the duty to consult doesn’t formally amount to a veto right for groups opposed to resource development, this uncertainty can stop projects from moving forward all together.

(This dynamic is particularly troubling when some affected Indigenous groups support a project, such as a pipeline, while other Indigenous groups oppose it.)

In order to both respect Indigenous rights, and also provide greater certainty necessary for major resource development projects to move forward, the study suggests that the federal government work with Indigenous groups to establish clear consultation protocols and timelines.

Professor Lavoie also recommends that governments recognize well-defined Indigenous property rights and governance jurisdiction to provide even further clarity.

“It is possible to respect Indigenous rights and at the same time provide the level of certainty required for major resource projects to move forward in Canada,” said Lavoie.

“Governments, project proponents and First Nations would all benefit from greater clarity surrounding the consultation process.”

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