



Foreign Affairs and
International Trade Canada
125 Sussex Drive, Ottawa, Ontario K1A 0G2

Affaires étrangères et
Commerce international Canada

Our File
A-2008-00007 / EV

OCT 14 2010

Miss Clare Demerse
The Pembina Institute
130 Albert Street, Suite 910
Ottawa, Ontario
K1P 5G4

Dear Miss Demerse:

This is an interim response to your request, under the *Access to Information Act*, which was received in this institution on March 26, 2008, for the following:

“All documents (including briefing notes, memos and correspondence) prepared on the subject of Sec. 526 of the United States "Energy Independence and Security Act of 2007".

Date range: Dec 1, 2007 - March 19, 2008.”

Please find enclosed a copy of the documents relevant to your request.

Please note that some of the information contained in the documents has been severed pursuant to sections **19(1), 21(1)(a) and 15(1) - International** of the *Act*. A copy of the sections applied is enclosed for your reference.

You will also note that pages 28, 29, 30, 82, 83, 150, 151, 152, 185, 187 and 188 are currently under consultation with a foreign government. As a result, these records are being withheld in their entirety pursuant to section 15(1) of the *Act* pending consultations with the foreign government. Please note that a final response will be sent to you once we have completed our consultation process.

Boisvert, Charles -TNN

From: Viau, Hélène -NAR
Sent: February 7, 2008 11:19 AM
To: Tolland, Jason -WSHDC -EN; Connors, Paul -WSHDC -EN; Pringle, Gary -GDEE; Stephenson, Janet -GDEE; Sharp, Peter -GDEE; Mueller, David -GDEE; Hall, Charla -TNN; Calvert, Colleen -TNN; Annable, Aaron -NAL; Baldwin, Wendy -NAL; Beck, Brenda -BCF; Steuerman, David -NCP; Kostyrsky, Gregory -NCP; Preston, Tara -GDCC; Watson, Lynda -NCP; Kay, Jennifer -NAL; Reedy, Robert -TBI; Sheehan, Susan -TBI; EXTOTT (TNN); Fung, Bonnie -TNN; Christie, Keith -GDD; Tessier, Marc -GDEE; Callighen, Elaine -NGM; Calvert, Colleen -TNN; Gera, Sushma -GDC; Steuerman, David -NCP; Strom, Torsten -JLT; Gray, Kevin -JLT; Smith, Matthew -TBT; Connors, Paul -WSHDC -EN; Garbowitz, Sue -LNGLS -GR; Stewart, Duncan -WSHDC -EN; Boisvert, Charles -TNN; Cameron, Diane -TNN; Cooper, Michelle -GVWTO -TD; O'Donnell, Pamela -GDS; Tarasofsky, Richard -JLT; Preston, Tara -GDCC; Viau, Hélène -NAR; Bailey, Paul -GDE; Gillmore, Thomas -GDE; Hall, Charla -TNN; Ghomeshi, Nima -GDCC; Beaudoin, Anik -JLOB; Forsythe, Douglas -GDCC; Kostyrsky, Gregory -NCP; Langlois, Denis -JLOB; Sutton, Brendan -TBT; McDonald, Lynn -WSHDC -EC; Tolland, Jason -WSHDC -EN; McCormick, Rachel -GDS; Tessier, Marc -GDEE; Nicoloff, Olivier -PIP; Clement, Alison -PIP; Pelletier, Eric H. -NAL; Steuerman, David -NCP; Thomas, Jake -NCT; Strom, Torsten -JLT; Tarasofsky, Richard -JLT; Forsythe, Douglas -GDCC; Peterson, Brianna -GDCC; Kay, Jennifer -NAL; EXTOTT (GDEE)
Cc: Boehm, Peter M -NGM; Butler, Kim -NAD; Fountain Smith, Sarah -NAR; Heynen, Jeffrey -NAR; EXTOTT (TBI); EXTOTT (NAD); EXTOTT (NAR); MacIntyre, Jennifer -WSHDC -GR; O'Shea, Kevin -WSHDC -GR; Tolland, Jason -WSHDC -EN; Tooze, Sheila -WSHDC -EN; Stewart, Duncan -WSHDC -EN; Harper, Susan -WSHDC -EC; McDonald, Lynn -WSHDC -EC; Levy, Bruce -WSHDC -GR; Norton, Roy -WSHDC -WS; Richard, Nat -WSHDC -WS; Salvaggio, Pasquale -WSHDC -WS; Panday, Kris -WSHDC -WS; Maille, Beatrice -WSHDC -WS; Isaac, Howard -WSHDC -WS; Boudreau, Wendy -WSHDC -WS; Southey, Sally -WSHDC -WS -PA; Landry, Tristan -WSHDC -PA; Mahoney, Michelle -WSHDC -WS -PA; Sauvé, Jonathan -WSHDC -WS -PA; Lambo, Pam -WSHDC -WS -PA; Gera, Sushma -GDC; Pelletier, Eric H. -NAL; Campbell, Michelle -GDCC; Boomgaardt, Ray -JLT; DENVR (GR); DENVR (TD); CNGNY (EC); CNGNY (GR); BOSTN (TD); BOSTN (GR); ATNTA (GR); ATNTA (TD); Pappas, Christine -ATNTA -GR; Hastings, Leanne -ATNTA -AG; MIAMI (TD); DALAS (GR); DALAS (TD); Reedy, Reah -DALAS -GR; Wells, Henry -DALAS -GR; LNGLS (GR); LNGLS (TD); SEATL (GR); SEATL (TD); MNPLS (GR); MNPLS (TD); CHCGO (GR); CHCGO (TD); DTROT (GR); DTROT (TD); BFALO (TD); BFALO (GR); Kolundzic, Daniel -BFALO -GR; Matthias, Karen -ANCOR; Brueggemann, Rudy -ANCOR; Wessman, Joel -MNPLS -GR; Paterson, Doug -PHOEN -TD; Bofill, Maria -HSTON -TD; MIAMI (GR); MIAMI (TD); Barrett, Todd -TMS; Brason, Heather -MXICO -TD; Prigge, Annie -NAL; EXTOTT (PIP); Boisvert, Charles -TNN; 'rwhittaker@pco-bcp.gc.ca'; Reedy, Reah -DALAS -GR; Quealey, Patrick -GDCC; Carriere, Dany -TBI; Vincic, Alexander -TBT; Horton, Deanna -DMT; Oommen, Tom -TMA; Geithner, Su Yun -TMA; EXTOTT (NAL); EXTOTT (GDCC); EXTOTT (NGM); EXTOTT (GDD); EXTOTT (JLT); EXTOTT (TNN); EXTOTT (NCT); EXTOTT (NCP); EXTOTT (JLT)
Subject: EISA 2007 Section 526/Oil Sands implications: Cdn Strategy and Next Steps

Colleagues,

Further to recent US legislative developments at the federal and state level, notably the EISA2007 Section 526, which could negatively impact on the oil sands exports to the US, it is necessary to develop a Cdn position to communicate to targeted US officials and stakeholders. Given the increasing pressure on posts, especially WSHDC, to respond to ENGOs, US officials and the industry on this issue, as well as the ongoing Interagency Working Group on Alternative Fuels (charged with interpreting Section 526), NAR proposes the following next steps:

1. To draft a **letter** which could be sent to either DOE/Secretary Bodman or State/Secretary Rice with copy to appropriate officials, notably the Head of the Interagency Working Group, DOD/USAF/Bollingner, to officially express Cda's concerns with regard to section 526 and argue that oil sands products should not be targeted by this provision (along the lines of the messages that WSHDC/Connors conveyed to Bollinger - in red in the attached report below). NAR will work with WSHDC and the J, G, and T bureaux to compose a draft letter. Relevant partner departments will also be consulted.
2. To develop "a background brief and public key messages" on oil sands for the use of all posts in the US. NAL, in

consultation with NAR, is currently working on a draft that should be circulated in the next few days to the intra and interdepartmental community for comments prior to seeking PCO approval. We understand that posts need this material sooner than later, especially given the aggressive campaign against Cdn oil sands.

3. To develop a comprehensive oil sands **advocacy strategy** to focus on outreach to allies, influencers, legislators, etc. NAL is the lead in developing this strategy.

4. **NAR to convene an interdepartmental meeting**, in the week of February 18th, in preparation for the Energy Consultative Mechanism (ECM) meeting presently scheduled on 18MAR08 in Washington where the oil sands/US legislations will figure prominently on the agenda. A consolidated Cdn position with regard to the EISA2007 Section 526 and similar draft legislation will need to be developed and agreed before the ECM meeting. The ECM is an excellent forum to address emerging bilateral challenges or misunderstandings before they become trade, legal or political irritants. Therefore we will be seeking input regarding departments' concerns, analysis of the potential implications on Cdn interests and possible solutions. At this meeting, consideration will also be given to engaging provincial and other stakeholders.

5. **GDCC and WSHDC continued analysis** on the state of play in the US at the federal and state level, on the EISA and other future legislations and on their possible implications in Cda and on Cda-US relationship, will be essential throughout this process. These will inform both policy and advocacy efforts.

Hope that these proposed next steps are agreeable to all. We look forward working closely with all of you in the next few weeks on this issue.

Drafted: NAR/Viau
 Consulted: O/NGM, NAL/Kay, NAR/Heynen, WSHDC/Connors
 Approved: NAR/Fountain Smith

From: Connors, Paul -WSHDC -EN
Sent: February 4, 2008 5:26 PM
To: EXTOTT (NAR)
Cc: Fountain Smith, Sarah -NAR; Heynen, Jeffrey -NAR; Viau, Hélène -NAR; Butler, Kim -NAD; Boehm, Peter M -NGM; Stephenson, Janet -GDEE; Pringle, Gary -GDEE; Sharp, Peter -GDEE; Mueller, David -GDEE; Hall, Charla -TNN; Calvert, Colleen -TNN; Annable, Aaron -NAL; Baldwin, Wendy -NAL; Beck, Brenda -BCF; 'PKhanna@NRCan.gc.ca'; 'Colette.Kaminsky@pco-bcp.gc.ca'; 'gpeets@pco-bcp.gc.ca'; 'abordeleau@pco-bcp.gc.ca'; Steuerman, David -NCP; Quealey, Patrick -GDCC; Kostyrsky, Gregory -NCP; Preston, Tara -GDCC; Watson, Lynda -NCP; Kay, Jennifer -NAL; Carriere, Dany -TBI; Ready, Robert -TBI; Horton, Deanna -DMT; Sheehan, Susan -TBI; Tolland, Jason -WSHDC -EN; 'Stokoe, Peter'; 'Varangu, Kristi'; 'Gauvin, Claude'; EXTOTT (TBI); EXTOTT (NAD); 'SRiordon@NRCan.gc.ca'; 'Cliffe, Kevin'; 'Monaghan, Maureen'; Wilson, Michael -WSHDC -HOM/CDM; MacIntyre, Jennifer -WSHDC -GR; O'Shea, Kevin -WSHDC -GR; Tolland, Jason -WSHDC -EN; Tooze, Sheila -WSHDC -EN; Stewart, Duncan -WSHDC -EN; Harper, Susan -WSHDC -EC; McDonald, Lynn -WSHDC -EC; Levy, Bruce -WSHDC -GR; Norton, Roy -WSHDC -WS; Richard, Nat -WSHDC -WS; Salvaggio, Pasquale -WSHDC -WS; Panday, Kris -WSHDC -WS; Maille, Beatrice -WSHDC -WS; Isaac, Howard -WSHDC -WS; Boudreau, Wendy -WSHDC -WS; Southey, Sally -WSHDC -WS -PA; Landry, Tristan -WSHDC -PA; Mahoney, Michelle -WSHDC -WS -PA; Sauvé, Jonathan -WSHDC -WS -PA; Lambo, Pam -WSHDC -WS -PA; Gera, Sushma -GDC; Forsythe, Douglas -GDCC; Pelletier, Eric H. -NAL; Campbell, Michelle -GDCC; Peterson, Brianna -GDCC; Boomgaardt, Ray -JLT; DENVR (GR); DENVR (TD); 'Morris, Inta -DENVR -GR'; CNGNY (EC); CNGNY (GR); BOSTN (TD); BOSTN (GR); ATNTA (GR); ATNTA (TD); Pappas, Christine -ATNTA -GR; Hastings, Leanne -ATNTA -AG; MIAMI (TD); DALAS (GR); DALAS (TD); Reedy, Reah -DALAS -GR; Wells, Henry -DALAS -GR; LNGLS (GR); LNGLS (TD); SEATL (GR); SEATL (TD); MNPLS (GR); MNPLS (TD); CHCGO (GR); CHCGO (TD); 'Lynch, James -CHCGO -GR'; DTROT (GR); DTROT (TD); BFALO (TD); BFALO (GR); Kolundzic, Daniel -BFALO -GR; Matthias, Karen -ANCOR; Brueggemann, Rudy -ANCOR; Wessman, Joel -MNPLS -GR; Paterson, Doug -PHOEN -TD; 'Jane.keenan@ec.gc.ca'; Boffill, Maria -HSTON -TD; MIAMI (GR); MIAMI (TD); 'Labib, Hertsel'; Barrett, Todd -TMS; Brason, Heather -MXICO -TD; Manuge, Grant -MXICO -TD; Gerrits, Karra-Lee -MXICO -TD; 'John McCarthy'; 'MacDonald, Sheila'; 'Sevigny, David'; 'Collins, Jennifer'; 'Greene.James@fin.gc.ca'; 'Flack.Graham@fin.gc.ca'; EXTOTT (TNN); Fung, Bonnie -TNN; 'andre.bernier@bnet.pco-bcp.gc.ca'; Christie, Keith -GDD; Tessier, Marc -GDEE

Subject: EISA 2007 Section 526 US Government Procurement of Alternative Fuels

Summary:

Rep. Waxman is endeavouring to have Section 526 apply to commercially available fuels made in part from oil sands.

That said, such an interpretation is not assured. The interagency Working Group must assess and determine the implications in the weeks to come. Further, a determination excluding commercially available oil sands could arguably be subject to re-interpretation by another Administration, or subject to legal challenge. As such, the US Administration may prefer other options, such as an executive order or a legislative fix. Going forward, the US Administration will apprise the Embassy of developments.

Post would appreciate receiving Ottawa's views

Background: The December 2007 Energy Independence and Security Act (EISA2007) Section 526 is a provision for the [US Government] "Procurement and Acquisition of Alternative Fuels" (extract attached). Depending on how it is interpreted, the provision could potentially cover commercially available fuel on the market made in part from Canadian origin oil sands. If so, this would send a negative signal to oil sands expansion into the US market.

During the visit of Premier Ed Stelmach to Washington DC, 15-17JAN08, the US ENGO, the Natural Resources Defense Council (NRDC), protested the production of oil sands in Canada in front of the Embassy during the reception for the Alberta Premier. Simultaneously, NRDC encouraged press articles in Canada which claimed a broad interpretation of Section 526, which would have it apply to commercially available fuels made in part from oil sands. The NRDC actions were part of its campaign against "dirty fuel" from Canada. See report from LNGLS/Garbowitz.

The next step will be for the US Government Interagency Working Group on Alternative Fuels to assess and determine how Section 526 will be interpreted. This group is led at the DOD by the USAF. Its first step will be to go back to Congress to understand the Congressional intent of Section 526.

Post flagged the provision to the American Petroleum Institute (API: industry association of the oil majors), ExxonMobil, BP, Chevron, Marathon, Devon and Encana, to point out the potential implication to their imports from Canada. All advised Post that they had not read the provision as applying to commercially available fuels. API advised that the Canadian Association of Petroleum Producers (CAPP) had equally contacted API. (CAPP contacted Post as well). API has struck a working group to follow the provision through its interpretation. Post and AB Office will meet with the API group later this week.

Section 526 was sponsored by Rep. Henry Waxman (D-CA), the Chair of the House Oversight and Government Reform Committee. On 29JAN, Post followed up with the relevant staffers, to determine if Rep. Waxman's provision was intended to apply to commercially available fuels made in part from oil sands.

used the occasion of the meeting to address staffers' concerns on the environmental impacts of the oil sands. Questions were about the "boreal forest destruction" and about the "high cancer rate among natives in Fort Chipewa". Posts rebutted the claims.

On 04FEB, Post and AB Office met with DOD USAF Paul Bollinger, Head of the Interagency Working Group on Alternative Fuels, now charged with interpreting Section 526. The Working Group is in its assessment phase and is some time away from making any determinations. Post encouraged him to meet with the Democratic staffers on the House and Senate energy committees to learn that Section 526 was discussed in Democratic walk-throughs in the context of coals-to-liquids only, with oil sands never mentioned.

The next step for the WG will be a 20FEB meeting with a lifecycle expert to try to determine how lifecycle baselines could be incorporated, if at all.

During the course of the meeting, Post made the following points to Bollinger:

- Canada would not want to see Section 526 interpreted to cover commercially available fuels made from non-conventional oil.
- Section 526 references to US Government procurement of alternative fuels, not to US Government procurement of fuels. Therefore, commercially available fuels should not be covered by the provision.
- the Alternative Fuels US Government Procurement mandate originates in 2005 Energy Policy Act Section 369, which defines alternative fuels as US-origin fuels. The point of the provision reflects a strategic decision for the US military to rely on no foreign source (friendly or unfriendly) for its fuel. As such, Section 526 should equally be viewed as referring to US-origin alternative fuels.
- the oil sands are a new and vast source of petroleum for North America, which make a significant and increasing contribution to US energy security. This contribution has been lauded by President Bush and Secretary Bodman in their public comments. Secretary Bodman visited the oil sands to encourage their expansion. Therefore, for the US Government to decline to purchase oil sands would send a contradictory signal.
- oil sands derived oil does not come from Canada segregated from Canadian conventional oil, both heavy and light. It all comes mixed in the pipelines.
- oil sands is a component of fuel available on the US market. There is no fuel made only from oil sands that could be avoided. Avoiding any fuel made in part from oil sands would be highly problematic. For instance, the Upper Midwest receives almost all its oil from Canada.
- any such policy to include commercially available oil sands would reflect a lifecycle low carbon fuel standard for US Government procurement, which the Administration has opposed to date.
- any such policy should also apply to corn-based ethanol as well, or risk being discriminatory per trade obligations.
- any such policy may be in contravention of NAFTA Chapter Article 1007
- any such policy would see the US risk publicly being seen as preferring light sweet crude from unfriendly countries over heavy oil from friendly Canada.
- while the oil sands do have higher GHG emissions at the moment than conventional production, GHG emissions per unit of production have already fallen 40% since 1990, the Kyoto reference year (AB figure).
- Canada and Alberta are taking aggressive action to reduce emissions further. In 2007, both Canada and Alberta announced mandatory emissions reductions targets for large emitters, including oil sands producers.

There is not a benchmark for the lifecycle greenhouse gas emissions for conventional fuel production. If a broad lifecycle definition is taken it may be difficult to claim that heavy oil from the Middle East, for example, landed in the US has a significantly smaller GHG footprint than oil sands. The same could be true for biofuels, which despite being "renewable" have a significant GHG footprint when you factor in fertilizer production (natural gas or large potash mines) and the amount of fuel used on the typical farm.

Comments:

That said, the language may not be that simple to parse into a narrow interpretation. Rather, an executive order or a repeal through Congressional action may be necessary.

Post and the AB Office will continue to make interventions with the Administration and Congress along the lines of the above.

On a broader note, with the NRDC campaign now underway, US Posts will need to address the NRDC claims about the environmental impacts of oil sands operations. Per separate messages to Ottawa, lines need to be sent to US Posts.

Connors

Consulted: Tolland

<< File: 2007 Energy Sec. 526.doc >> << File: waxman to US DOD re sect 526.pdf >>

Minotti, Felicia -GGA

From: Connors, Paul -WSHDC -EN
Sent: January 22, 2008 10:21 AM
To: 'susan.e.carter@exxonmobil.com'
Subject: 2007 Energy Bill Section 526

Attachments: 2007 Energy Sec. 526.doc; G&M Section 526.wpd; E&E 18JAN08 Section 526.wpd



2007 Energy Sec.
526.doc (31 K...



G&M Section
526.wpd (17 KB)



E&E 18JAN08
ection 526.wpd (2.

Hi Susan

Per our discussion, attached is Section 526 of the 2007 energy bill regarding US Government procurement of alternative fuels. This provision seems to have flown under the radar, with most folks having thought that it referred back to the 2005 energy bill Section 369 which required the US Department of Defense to develop a program to procure US origin fuel derived from coal, tar sands and oil shale.

Initial information indicates that Section 526 was inserted into the 2007 bill by Rep. Henry Waxman (D-CA) at the urging of the US ENGO, the Natural Resources Defense Council. The NRDC opposes many non-conventional fuels, including Canadian oil sands.

A very broad reading of Section 526 would imply that the US government is now barred from purchasing any oil on the open market in the US produced from Canadian oil sands, given their higher GHG emissions during production as compared to conventional oil. Such an interpretation is being encouraged by the NRDC. Narrower readings would not lead to such a conclusion. Attached is a sample article with each interpretation.

The Government of Canada has followed up with the US Department of Energy. DOE has advised that it has not yet assessed Section 526 nor yet determined any implications to US federal fuels purchasing policies. The US Government will make this determination in the coming weeks.

The Government of Canada will follow the DOE assessment process. The Government of Canada will also make interventions on the Hill, as we see the debate on Section 526 as part of a larger debate by some to have the US consider either a tailpipe or a lifecycle low carbon fuel standard (Lieberman-Warner) for transportation fuels.

The oil sands are a new and vast source of petroleum for North America, which make a significant and increasing contribution to US energy security. Large-scale commercial production became significant only in the last decade. While the oil sands do have higher GHG emissions at the moment than conventional production, GHG emissions per unit of production have already fallen 40% since 1990, the Kyoto reference year. Canada and Alberta are taking aggressive action to reduce emissions further. In 2007, both Canada and Alberta announced mandatory emissions reductions targets for large emitters, including oil sands producers. A carbon capture and storage system is currently being assessed for the oil patch, including oil sands, in Western Canada.

As yours is a company involved in the production of oil sands in Canada, I wanted to bring this issue to your attention. I would encourage your firm to make its views known to DOE and the Hill. I would be most grateful for your company's views on the issue.

Best regards

Paul

Minotti, Felicia -GGA

From: Connors, Paul -WSHDC -EN
Sent: January 24, 2008 8:14 AM
To: Viau, H  l  ne -NAR; 'Stokoe, Peter'
Cc: Tolland, Jason -WSHDC -EN; 'Varangu, Kristi'; Heynen, Jeffrey -NAR
Subject: Section 526
Follow Up Flag: Follow up
Flag Status: Red

Hi H  l  ne and Peter

I received a call yesterday from PCO Annick Bordeleau covering for Gerry Peets wanting an update/next steps on the ref issue, which I provided. I directed her to H  l  ne as she also had questions on whether DFAIT was assessing whether the US Govt procurement policy if interpreted to apply to Cdn oil sands was trade compatible.

On next steps, there is an existing US Govt interagency Working Group on Alternative Fuels which will assess Section 526 and determine any implications to US federal fuel procurement policy. I have spoken with the DOE rep and will endeavour to speak with the DOD head next week. Its first step will be to speak to Congressional proponents to collect more details on their intent with Section 52. It will be several weeks if not months before there is an assessment of Section 526 by the Working Group. Post will remain in contact with the Working Group.

Next week, Post will call on key Democratic energy staffers, including the author of the provision on the House Oversight and Government Reform Committee. (Chair is Rep Henry Waxman D-CA).

Separately, Post contacted the American Petroleum Institute (CAPP equivalent/CAPP also contacted API) and the major oil companies importing bitumen from Canada (ExxonMobil, BP, Chevron, ConocoPhillips, Encana, Marathon). All advised that they did not focus on Section 526 as they did not see it as having the scope now being suggested by some ENGOs. The API has struck a working group to address the issue with Capitol Hill and the Administration's Working Group.

Given the tone of the media coverage in Canada, should you get further questions, I think the current NRCan lines still hold with the addition that it will be some time before there is a determination on the US side of any changes to its procurement policy.

I will do a longer report by the end of next week after my chats on the Hill and with the Admin.

Post would be grateful for Ottawa views.

best regards

Paul

Paul J. Connors
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Did you know?

Canada has over 2,000 troops in Afghanistan in support of the war on terrorism.

Trade with Canada supports over 7 million jobs in the US.
Canada is the largest export market for 36 states.

Canada is the largest energy supplier to the US:

2009/01/20

Minotti, Felicia -GGA

From: Kay, Jennifer -NAL
Sent: February 5, 2008 4:10 PM
To: Viau, Hélène -NAR; Ireland, Stephanie -NAL; Annable, Aaron -NAL; Prigge, Annie -NAL
Subject: RE: EISA 2007 Section 526 US Government Procurement of Alternative Fuels

Attachments: Alberta Oil Sands Key Messages draft 2 Jan16.doc; ENERGY ADVOCACY CAMPAIGN.doc

Thanks Hélène,

Following up on this, attached please find the oil sands key msgs we have been working on, and which we sent to OGDs (EC, NRCAN) in December as part of our consultation process. We sent these to WSHDC when they needed lines last month. I think we still need to work on these, tighten them up a bit etc. but I wanted you all to have a working copy to discuss tomorrow.

Also, we have an energy advocacy strategy, but not an oil sands one per se. I think this would be a good idea and am happy to be the pen (with input from all of you). Attaching that for info and discussion tomorrow as well.

Thanks!
Jennifer



Alberta Oil Sands
Key Messages...



ENERGY
CACY CAMPAIGN.d

From: Viau, Hélène -NAR
Sent: February 5, 2008 3:26 PM
To: Kay, Jennifer -NAL; Ireland, Stephanie -NAL; Annable, Aaron -NAL; Prigge, Annie -NAL
Subject: FW: EISA 2007 Section 526 US Government Procurement of Alternative Fuels

In case you haven't seen this already, I am forwarding it to you. You should read it before tomorrow's meeting on oil sands advocacy strategy.

Thanks.

Hélène

From: Connors, Paul -WSHDC -EN
Sent: February 4, 2008 5:26 PM
To: EXTOTT (NAR)
Cc: Fountain Smith, Sarah -NAR; Heynen, Jeffrey -NAR; Viau, Hélène -NAR; Butler, Kim -NAD; Boehm, Peter M -NGM; Stephenson, Janet -GDEE; Pringle, Gary -GDEE; Sharp, Peter -GDEE; Mueller, David -GDEE; Hall, Charia -TNN; Calvert, Colleen -TNN; Annable, Aaron -NAL; Baldwin, Wendy -NAL; Beck, Brenda -BCF; 'PKhanna@NRCAN.gc.ca'; 'Colette.Kaminsky@pco-bcp.gc.ca'; 'gpeets@pco-bcp.gc.ca'; 'abordeleau@pco-bcp.gc.ca'; Steuerman, David -NCP; Quealey, Patrick -GDCC; Kostyrsky, Gregory -NCP; Preston, Tara -GDCC; Watson, Lynda -NCP; Kay, Jennifer -NAL; Carriere, Dany -TBI; Reedy, Robert -TBI; Horton, Deanna -DMT; Sheehan, Susan -TBI; Tolland, Jason -WSHDC -EN; 'Stokoe, Peter'; 'Varangu, Kristi'; 'Gauvln, Claude'; EXTOTT (TBI); EXTOTT (NAD); 'SRiordon@NRCAN.gc.ca'; 'Cliffe, Kevin'; 'Monaghan, Maureen'; Wilson, Michael -WSHDC -HOM/CDM; MacIntyre, Jennifer -WSHDC -GR; O'Shea, Kevin -WSHDC -GR; Tolland, Jason -WSHDC -EN; Tooze, Sheila -WSHDC -EN; Stewart, Duncan -WSHDC -EN; Harper, Susan -WSHDC -EC; McDonald, Lynn -WSHDC -EC; Levy, Bruce -WSHDC -GR; Norton, Roy -WSHDC -WS; Richard, Nat -WSHDC -WS; Salvaggio, Pasquale -WSHDC -WS; Panday, Kris -WSHDC -WS; Mallie, Beatrice -WSHDC -WS; Isaac, Howard -WSHDC -WS; Boudreau, Wendy -WSHDC -WS; Southey, Sally -WSHDC -WS -PA; Landry, Tristan -WSHDC -PA; Mahoney, Michelle -WSHDC -WS -PA; Sauvé, Jonathan -WSHDC -WS -PA; Lambo, Pam -WSHDC -WS -PA; Gera, Sushma -GDC; Forsythe, Douglas -GDCC; Pelletier, Eric H. -NAL; Campbell, Michelle -GDCC; Peterson, Brianna -GDCC; Boomgaardt, Ray -JLT; DENVR (GR); DENVR (TD); 'Morris, Inta -DENVR -GR'; CNGNY (EC); CNGNY (GR); BOSTN (TD); BOSTN (GR); ATNTA (GR); ATNTA (TD); Pappas, Christine -ATNTA -GR; Hastings, Leanne -ATNTA -AG; MIAMI (TD); DALAS (GR); DALAS (TD); Reedy, Reah -DALAS -GR; Wells, Henry -DALAS -GR; LNGLS (GR); LNGLS (TD); SEATL (GR); SEATL (TD); MNPLS (GR); MNPLS (TD); CHCGO (GR); CHCGO (TD); 'Lynch, James -CHCGO -GR'; DTROT (GR); DTROT (TD); BFALO (TD); BFALO (GR); Kolundzic, Daniel -BFALO -GR; Matthias, Karen -ANCOR; Brueggemann, Rudy -ANCOR; Wessman, Joel -MNPLS -GR; Paterson, Doug -PHOEN -TD; 'jane.keenan@ec.gc.ca'; Bofil, Maria -HSTON -TD; MIAMI (GR); MIAMI (TD); 'Labib, Hertsel'; Barrett, Todd -TMS; Brason, Heather -MXICO -TD; Manuge, Grant -MXICO -TD; Gerrits, Karra-Lee -MXICO -TD; 'John McCarthy'; 'MacDonald, Sheila'; 'Sevigny, David'; 'Collins, Jennifer'; 'Greene.James@fin.gc.ca'; 'Flack.Graham@fin.gc.ca'; EXTOTT (TNN); Fung, Bonnie -TNN; 'andre.bemier@bnet.pco-bcp.gc.ca';

Minotti, Felicia -GGA

From: Fountain Smith, Sarah -NAR
Sent: February 6, 2008 9:36 AM
To: Viau, H  l  ne -NAR; Heynen, Jeffrey -NAR
Cc: Hernandez, Liliiana -NAR
Subject: RE: EISA 2007 Section 526 US Government Procurement of Alternative Fuels

Thanks -

I will need to get up to speed on this one I confess. Perhaps we can find some time to chat today after you've made your calls.

Sarah

From: Viau, H  l  ne -NAR
Sent: February 5, 2008 5:44 PM
To: Fountain Smith, Sarah -NAR; Heynen, Jeffrey -NAR
Subject: FW: EISA 2007 Section 526 US Government Procurement of Alternative Fuels

Sarah, Jeff,

I would like to bring to your attention this important report from WSHDC/Connors on post latest informal meetings on Section 526. The report is less optimistic than what we expected. WSHDC seeks Ottawa's guidance on how to formally approach State Department to convey our concerns and position with regard to this bill provision. A diplomatic note may be to formal as a first step. (?) We may want to consider a letter from WSHDC/HOM. Views?

I will have a phone discussion tomorrow morning at 9h00 with my counterpart in GDCC who is the lead in coordinating analysis on the implications of 526. GDCC wants to discuss this report as well as the holding of an interdepartmental meeting on this issue (I suggested them yesterday to hold earlier rather than later such a meeting since there is pressure from other departments to discuss a whole-of-government position and strategy on section 526)

I also shared this report with colleagues in NAL who I will meet tomorrow at 9h30 to discuss the information package on oil sands. This will be a close NAR/NAL meeting before convening a meeting with GDEE and others.

This issue will become a very hot one.

H  l  ne

From: Connors, Paul -WSHDC -EN
Sent: February 4, 2008 5:26 PM
To: EXTOTT (NAR)
Cc: Fountain Smith, Sarah -NAR; Heynen, Jeffrey -NAR; Viau, H  l  ne -NAR; Butler, Kim -NAD; Boehm, Peter M -NGM; Stephenson, Janet -GDEE; Pringle, Gary -GDEE; Sharp, Peter -GDEE; Mueller, David -GDEE; Hall, Charla -TNN; Calvert, Colleen -TNN; Annable, Aaron -NAL; Baldwin, Wendy -NAL; Beck, Brenda -BCF; 'PKhanna@NRCan.gc.ca'; 'Colette.Kaminsky@pco-bcp.gc.ca'; 'gpeets@pco-bcp.gc.ca'; 'abordeleau@pco-bcp.gc.ca'; Steuerman, David -NCP; Quealey, Patrick -GDCC; Kostyrsky, Gregory -NCP; Preston, Tara -GDCC; Watson, Lynda -NCP; Kay, Jennifer -NAL; Carriere, Dany -TBI; Reedy, Robert -TBI; Horton, Deanna -DMT; Sheehan, Susan -TBI; Tolland, Jason -WSHDC -EN; 'Stokoe, Peter'; 'Varangu, Kristi'; 'Gauvin, Claude'; EXTOTT (TBI); EXTOTT (NAD); 'SRlordon@NRCan.gc.ca'; 'Cliffe, Kevin'; 'Monaghan, Maureen'; Wilson, Michael -WSHDC -HOM/CDM; MacIntyre, Jennifer -WSHDC -GR; O'Shea, Kevin -WSHDC -GR; Tolland, Jason -WSHDC -EN; Tooze, Shella -WSHDC -EN; Stewart, Duncan -WSHDC -EN; Harper, Susan -WSHDC -EC; McDonald, Lynn -WSHDC -EC; Levy, Bruce -WSHDC -GR; Norton, Roy -WSHDC -WS; Richard, Nat -WSHDC -WS; Salvaggio, Pasquale -WSHDC -WS; Panday, Kris -WSHDC -WS; Maille, Beatrice -WSHDC -WS; Isaac, Howard -WSHDC -WS; Boudreau, Wendy -WSHDC -WS; Southey, Sally -WSHDC -WS -PA; Landry, Tristan -WSHDC -PA; Mahoney, Michelle -WSHDC -WS -PA; Sauv  , Jonathan -WSHDC -WS -PA; Lambo, Pam -WSHDC -WS -PA; Gera, Sushma -GDC; Forsythe, Douglas -GDCC; Pelletier, Eric H. -NAL; Campbell, Michelle -GDCC; Peterson, Brianna -GDCC; Boomgaardt, Ray -JLT; DENVR (GR); DENVR (TD); 'Morris, Inta -DENVR -GR'; CNGNY (EC); CNGNY (GR); BOSTN (TD); BOSTN (GR); ATNTA (GR); ATNTA (TD); Pappas, Christine -ATNTA -GR; Hastings, Leanne -ATNTA -AG; MIAMI (TD); DALAS (GR); DALAS (TD); Reedy, Reah -DALAS -GR; Wells, Henry -DALAS -GR; LNGLS (GR); LNGLS (TD); SEATL (GR); SEATL (TD); MNPLS (GR); MNPLS (TD); CHCGO (GR); CHCGO (TD); 'Lynch, James -CHCGO -GR'; DTROT (GR); DTROT (TD); BFALO (TD); BFALO (GR); Kolundzic, Daniel -BFALO -GR; Matthias, Karen -ANCOR; Brueggemann, Rudy -ANCOR; Wessman, Joel -MNPLS -GR; Paterson, Doug -PHOEN -TD; 'jane.keenan@ec.gc.ca'; Boffill, Maria -HSTON -TD; MIAMI (GR); MIAMI (TD); 'Labib, Hertsel'; Barrett, Todd -TMS; Brason, Heather -MXICO -TD; Manuge, Grant -MXICO -TD; Gerrits, Karra-Lee -MXICO -TD; 'John McCarthy'; 'MacDonald, Sheila'; 'Sevigny, David'; 'Collins, Jennifer';

Section 526 Non-Paper

Heavy oil derived from Canadian oil sands is not an alternative fuel

There is nothing alternative about the heavy oil extracted from oil sands. Oil sands production is commercial, and does not rely on Government incentives nor mandates.

There is nothing alternative about oil sands reserves:

Proved reserves include both conventional oil and oil sands reserves.

--Since 2003, 174 billion barrels of oil sands reserves have been recognized as proved reserves, including by the US Department of Energy's Energy Information Agency.

--The US Security & Exchange Commission (SEC) requires Canadian oil companies listed on US stock markets to book their reserves every 31 December. This booking includes their oil sands reserves.

For strategic reasons, the US Administration's Alternative Fuels program applies to US-origin alternative fuels. Canadian origin oil sands are not covered.

The US Government mandate to procure alternative fuels originates in the 2005 Energy Policy Act Section 369. P. 407 Section 369 (b) 1, *United States oil shale, tar sands, and other unconventional fuels are strategically important domestic resources that should be developed to reduce the growing dependence of the United States on politically and economically unstable sources of foreign oil imports.*

Section 526 if applied to US government procurement of commercially available fuels made in part from non conventional petroleum is likely in violation of NAFTA.

Under NAFTA Chapter 10 Government Procurement, the US Department of Defense (DOD) is a covered agency, and fuel procurement is not derogated; therefore DOD fuel procurement is subject to Chapter 10, and is open to Canadian sources.

DOD technical specifications must not create an unnecessary barrier to trade.

--Specifications excluding commercial fuel made in part from non-conventional petroleum having higher GHG emissions may be an unnecessary barrier to trade, and in violation of NAFTA.

--Exempting some fuel components with higher lifecycle GHG emissions (US origin corn-based ethanol) but not others (oil/oil sands derived) from any specifications may be discriminatory, and in violation of NAFTA.

Section 526 is unworkable if applied to US government procurement of commercially available fuels made in part from non-conventional petroleum.

Very little fuel in the US is made from 100% conventional petroleum.

Biofuels use is mandated in the US. Corn-based ethanol accounts for c. 5% of the content of US fuel. The mandate will increase to 15% by 2022, and the corn-based ethanol is projected to double to 9-10%.

Oil/oil sands-derived accounts for c. 5% of the content of US fuel.

On average, both corn-based ethanol and oil/oil-sands derived have higher GHG emissions than conventional light sweet crude.

Oil/oil sands-derived is not segregated from other oil. There is no oil/oil-sands derived pipeline from Canada. There are oil pipelines from Canada containing a mix of light and heavy oil, both conventional and oil sands-derived.

Effectively, the US Government could no longer procure fuel on the US market.

Instead, the US Government would to contract for a dedicated fuel source, in order to ensure 100% conventional petroleum content, at great additional cost and logistical challenge, presuming the latter is feasible.

Fuel from these few sources would then have to be moved by truck-tanker or rail-car to US Government facilities around the US, and possibly the world, given US military needs.

Such fuel would be significantly more expensive, and its delivery would be that much more tenuous. The operability of the US military in particular, could be compromised.

Minotti, Felicia -GGA

From: Strom, Torsten -JLT
Sent: February 8, 2008 5:13 PM
To: Tolland, Jason -WSHDC -EN; Gingras, Dominic -JLT; Gray, Kevin -JLT
Cc: Boomgaardt, Ray -JLT; Leroux, Eric -JLT; Sheehan, Susan -TBI; Viau, Hélène -NAR; Connors, Paul -WSHDC -EN
Subject: RE: EISA 2007 Section 526/Proposed AMB Letter + Non-Paper to DOD Sec Gates

That's fine, Jason.

Have a nice weekend

Torsten

From: Tolland, Jason -WSHDC -EN
Sent: February 8, 2008 5:00 PM
To: Gingras, Dominic -JLT; Gray, Kevin -JLT
Cc: Strom, Torsten -JLT; Boomgaardt, Ray -JLT; Leroux, Eric -JLT; Sheehan, Susan -TBI; Viau, Hélène -NAR; Connors, Paul -WSHDC -EN
Subject: RE: EISA 2007 Section 526/Proposed AMB Letter + Non-Paper to DOD Sec Gates

Guys,

Advocacy like this doesn't require specific JLT approval, as we're not asking for an opinion. The US government - read administration - is looking to us to provide support for their work to kill any interpretation of this section that would apply to Canadian oil sands. That is the purpose of this.

Paul was drafting something quickly for a reaction from Ottawa. We will not put forward the non-paper, and instead will include some language in the Ambassador's letter. That is, this procurement is covered by trade disciplines, it may create technical barriers to trade, but we hope that we can find a solution to ensure that the oil keeps a-flowing.

J

From: Gingras, Dominic -JLT
Sent: February 8, 2008 4:50 PM
To: Tolland, Jason -WSHDC -EN; Gray, Kevin -JLT; Connors, Paul -WSHDC -EN
Cc: Strom, Torsten -JLT; Boomgaardt, Ray -JLT; Leroux, Eric -JLT; Sheehan, Susan -TBI; Viau, Hélène -NAR
Subject: RE: EISA 2007 Section 526/Proposed AMB Letter + Non-Paper to DOD Sec Gates

Thanks Jason and Paul,

I understand your desire to hold off on requesting a legal opinion at this stage but at this point (having not even seen the legislation) of Chapter Ten of the NAFTA.
This issue does not appear at first glance to be black and white and it would require some analysis before we can comfortably make that assertion.

What do you propose we do?

Dominic B. Gingras

Counsel | Avocat

Trade Law Bureau | Direction générale du droit commercial international

Department of Justice | Ministère de la Justice

Foreign Affairs & International Trade Canada | Affaires étrangères et Commerce international
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Government of Canada | Gouvernement du Canada

From: Tolland, Jason -WSHDC -EN
Sent: February 8, 2008 4:46 PM
To: Gray, Kevin -JLT; Connors, Paul -WSHDC -EN; Gingras, Dominic -JLT
Cc: Strom, Torsten -JLT; Boomgaardt, Ray -JLT; Leroux, Eric -JLT; Sheehan, Susan -TBI; Viau, Héliène -NAR
Subject: RE: EISA 2007 Section 526/Proposed AMB Letter + Non-Paper to DOD Sec Gates

This remains advocacy at this stage. Thanks.

From: Gray, Kevin -JLT
Sent: February 8, 2008 4:45 PM
To: Connors, Paul -WSHDC -EN; Gingras, Dominic -JLT
Cc: Strom, Torsten -JLT; Boomgaardt, Ray -JLT; Leroux, Eric -JLT; Tolland, Jason -WSHDC -EN; Sheehan, Susan -TBI; Viau, Héliène -NAR
Subject: RE: EISA 2007 Section 526/Proposed AMB Letter + Non-Paper to DOD Sec Gates

Dear Paul,

Thanks very much for your message, informing us that you do not want JLT to prepare a legal opinion at this stage. Nevertheless, the Non-Paper should not make any references to the consistency with, or violations of, NAFTA without an analysis being done by JLT.

We would be pleased to discuss further on Monday if needed.

Have a nice weekend.

Kevin

Kevin R. Gray

Counsel/Avocat

Trade Law Bureau/Direction générale du droit commercial international (JLT)

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From: Connors, Paul -WSHDC -EN
Sent: February 8, 2008 4:15 PM
To: Gingras, Dominic -JLT; Gray, Kevin -JLT
Subject: RE: EISA 2007 Section 526/Proposed AMB Letter + Non-Paper to DOD Sec Gates

In response to your Email, see below.

Post is not looking for a legal opinion. If you wish to chat, please call on Monday.

From: Connors, Paul -WSHDC -EN
Sent: February 8, 2008 4:12 PM
To: Hall, Charla -TNN
Cc: Boomgaardt, Ray -JLT; Viau, Hélène -NAR; Sheehan, Susan -TBI; Tolland, Jason -WSHDC -EN
Subject: RE: EISA 2007 Section 526/Proposed AMB Letter + Non-Paper to DOD Sec Gates

Hi Charla

Thanks for your voice mail.

To be clear, Post is not asking JLT for a legal opinion on our proposed letter, which is something quite more involved than simply being comfortable with the proposed arguments, including trade policy arguments, proposed in my draft.

I suspect that HQ procedures may have changed, since I left Ottawa. I copied JLT and JLOB simply to give them a chance to comment. In the past they sometimes have. Ray in particular often has great insights.

Section 526 is a government procurement question, and in an earlier exchange TBI Sheehan has already given some good advice/the basis of my two NAFTA points in the non-paper.

So again, Post is not looking for a legal opinion from JLT. Post looks forward to the considered views of our trade policy folks, the geographics, the energy and environment folks, and the lawyers, the latter only if JLT wishes to comment.

Best regards

Paul

From: Connors, Paul -WSHDC -EN
Sent: February 8, 2008 10:57 AM
To: Viau, Hélène -NAR
Cc: Fountain Smith, Sarah -NAR; Heynen, Jeffrey -NAR; O'Shea, Kevin -WSHDC -GR; Tolland, Jason -WSHDC -EN; McDonald, Lynn -WSHDC -EC; Harper, Susan -WSHDC -EC; Maille, Beatrice -WSHDC -WS; Isaac, Howard -WSHDC -WS; Boudreau, Wendy -WSHDC -WS; Kay, Jennifer -NAL; Pelletier, Eric H. -NAL; Boomgaardt, Ray -JLT; Tarasofsky, Richard -JLT; Strom, Torsten -JLT; Beaudoin, Anik -JLOB; Langlois, Denis -JLOB; Sheehan, Susan -TBI; Ready, Robert -TBI; Carriere, Dany -TBI; Antypas, Gerasimos -TNN; Boisvert, Charles -TNN; Hall, Charla -TNN; Calvert, Colleen -TNN; Cameron, Diane -TNN; Gera, Sushma -GDC; Campbell, Michelle -GDCP; Quealey, Patrick -GDCP; Preston, Tara -GDCC; Ghomeshi, Nima -GDCP; Forsythe, Douglas -GDCP; McCormick, Rachel -GDS; Peterson, Brianna -GDCC; O'Donnell, Pamela -GDS; Pringle, Gary -GDEE; Sharp, Peter -GDEE; Tessier, Marc -GDEE; Kostyrsky, Gregory -NCP; Steuerman, David -NCP; Watson, Lynda -NCP; Thomas, Jake -NCT; 'Stokoe, Peter'; 'Varangu, Kristi'; 'Cliffe, Kevin'; 'Monaghan, Maureen'; Peets, Gerard; PCO
Subject: RE: EISA 2007 Section 526/Proposed AMB Letter + Non-Paper to DOD Sec Gates

Hélène and Colleagues

I have limited this Email to those divisions which commented on the first draft of our ref letter, presuming then that this reflects the implicated divisions.

Many thanks for all of your very helpful comments on the first draft of the ref letter. Attached is the second draft. Of note, the second draft is pithier (no non-paper/the letter drops much of the language presuming to interpret US legislation), and states the NAFTA argument in a more nuanced manner. Again, the US Administration has encouraged us to make this argument to help them to interpret Section 526 in a narrow manner.

Post would ask NAR or GDEE for one factoid check. In the draft letter, the 40% reduction in oil sands GHG intensity over 1990 is taken from AB government material. Does GOC agree with this factoid?

I would be grateful for any final substantive comments before end of day Friday.

Best regards

Paul

Minotti, Felicia -GGA

From: Tolland, Jason -WSHDC -EN
Sent: February 13, 2008 3:06 PM
To: Viau, H  l  ne -NAR
Cc: Heynen, Jeffrey -NAR; Connors, Paul -WSHDC -EN
Subject: RE: EISA 2007 Section 526/Proposed AMB Letter: Second Draft

Thanks. I plan on raising this with TPN as-well - he is coming here.

On a separate issue, Paul just advised me that the I/D on oil sands advocacy has been postponed. Is that correct? If so, what's the reason, and how long should we wait for lines (perhaps NAL is better placed to answer this, but I thought I'd ask you first)?

Thanks, Jason

From: Viau, H  l  ne -NAR
Sent: February 13, 2008 2:45 PM
To: Tolland, Jason -WSHDC -EN; Connors, Paul -WSHDC -EN
Cc: Heynen, Jeffrey -NAR
Subject: RE: EISA 2007 Section 526/Proposed AMB Letter: Second Draft

Jason, Paul,

I briefed Sarah and provided briefing material on this issue to NGM in preparation for the ADM conference call at 15:00. I understand that TPN/Robertson will attend the conference call. Hope that the issue will be quickly resolved.

H  l  ne

From: Tolland, Jason -WSHDC -EN
Sent: February 13, 2008 2:14 PM
To: Sheehan, Susan -TBI; Viau, H  l  ne -NAR
Cc: Heynen, Jeffrey -NAR; Isaac, Howard -WSHDC -WS; Kay, Jennifer -NAL; Boomgaardt, Ray -JLT; Gray, Kevin -JLT; Tarasofsky, Richard -JLT; Strom, Torsten -JLT; Ready, Robert -TBI; Carriere, Dany -TBI; Antypas, Gerasimos -TNN; Boisvert, Charles -TNN; Hall, Charla -TNN; Calvert, Colleen -TNN; Cameron, Diane -TNN; Pringle, Gary -GDEE; Sharp, Peter -GDEE; Tessier, Marc -GDEE; Kostyrsky, Gregory -NCP; Steuerman, David -NCP; Watson, Lynda -NCP; Thomas, Jake -NCT; 'Stokoe, Peter'; 'Varangu, Kristi'; 'Cliffe, Kevin'; 'Monaghan, Maureen'; 'Peets, Gerard: PCO'; Sacchetti, Vincent -TMS; Langlois, Marie-Jos  e -TMS; Lysons, Nathan -TMS; Connors, Paul -WSHDC -EN; O'Shea, Kevin -WSHDC -GR
Subject: RE: EISA 2007 Section 526/Proposed AMB Letter: Second Draft

Thanks for the comments, Susan.

We will look at the changes to the third-last paragraph to ensure that it is clear - it quite possibly is a problem of too many edits.

Before approaching the Ambassador, we would like you to understand that the approach suggested with respect to the deletion of all references to NAFTA runs counter to the

It presents a chicken-and-egg problem, where we do not refer to trade commitments (even on market access) because we do not wish to prejudge implementation, yet implementation (in the eyes of our US interlocutor) can be affected by our willingness to intervene with respect to such consistency (even, you will note in our draft, the mere possibility of inconsistency with NAFTA).

As well, we are somewhat surprised to see the deletion of the reference to energy trade being disciplined by NAFTA, which should be innocuous in itself. This reference is a simple recitation of the line that we use routinely in public documents dealing with the US-Canada energy relationship. I assume that TPN was made aware of this fact. Does this also suggest that we should modify standard advocacy documents on energy?

I look forward to any further and final comments by cob before we send this to the Ambassador's office for signature. Thanks all for your assistance.

Minotti, Felicia -GGA

From: Watson, Lynda -NCP
Sent: February 14, 2008 7:24 PM
To: Sheehan, Susan -TBI; Tolland, Jason -WSHDC -EN
Cc: Heynen, Jeffrey -NAR; Isaac, Howard -WSHDC -WS; Kay, Jennifer -NAL; Boomgaardt, Ray -JLT; Gray, Kevin -JLT; Tarasofsky, Richard -JLT; Strom, Torsten -JLT; Ready, Robert -TBI; Carriere, Dany -TBI; Antypas, Gerasimos -TNN; Boisvert, Charles -TNN; Hall, Charla -TNN; Calvert, Colleen -TNN; Cameron, Diane -TNN; Kostyrsky, Gregory -NCP; Steuerman, David -NCP; Thomas, Jake -NCT; Sacchetti, Vincent -TMS; Langlois, Marie-Josée -TMS; Lysons, Nathan -TMS; Connors, Paul -WSHDC -EN; O'Shea, Kevin -WSHDC -GR; Viau, Héliane -NAR; Shisko, Andrew -WSHDC -TD; Linteau, Jean-Philippe -WSHDC -TD
Subject: RE: EISA 2007 Section 526/Proposed AMB Letter: Second Draft

I would like to lend my voice to this discussion as well. I think the letter is moderate and well-balanced, including the references to NAFTA. In my view, there is an obvious probability that there will be a Chapter 10 (government procurement) argument, unless "national security" is used to justify this, and to not gently point this out in the letter is a lost opportunity..

To the point about waiting until the measure is implemented, evaluating its effect, and then deciding if a challenge is warranted -- the time to influence legislation is during the legislative cycle (now), and while the implementation may/may be benign, the risk that it will not be is sufficiently real to justify the rather mild references in the draft Ambassador's letter. Waiting until implementation is evaluated may strengthen our case in a challenge case, but by that time potentially huge damage could be done.

Besides which, I note: "the US Administration has encouraged us to make this argument to help them to interpret Section 526 in a narrow manner" -- this would not be the first time that USTR or some other part of the Administration has watched Congress wrestle with legislative language the Administration knows/knows is, or likely would be, contrary to obligations under trade agreements, helpless to have any moderating influence most of the time. It is true that the Administration relies upon other countries to point out these actual or potential inconsistencies with trade agreements, to open the door for the Administration to press its point ("see, even Canada says this runs contrary to...").

Again, we do not advocate empty threats of trade challenges -- but the letter's language is very conservative and moderate, and in our view provides the Administration with an opening, without threatening or committing to anything.

From: Sheehan, Susan -TBI
Sent: February 13, 2008 2:43 PM
To: Tolland, Jason -WSHDC -EN; Viau, Héliane -NAR
Cc: Heynen, Jeffrey -NAR; Isaac, Howard -WSHDC -WS; Kay, Jennifer -NAL; Boomgaardt, Ray -JLT; Gray, Kevin -JLT; Tarasofsky, Richard -JLT; Strom, Torsten -JLT; Ready, Robert -TBI; Carriere, Dany -TBI; Antypas, Gerasimos -TNN; Boisvert, Charles -TNN; Hall, Charla -TNN; Calvert, Colleen -TNN; Cameron, Diane -TNN; Pringle, Gary -GDEE; Sharp, Peter -GDEE; Tessler, Marc -GDEE; Kostyrsky, Gregory -NCP; Steuerman, David -NCP; Watson, Lynda -NCP; Thomas, Jake -NCT; 'Stokoe, Peter'; 'Varangu, Kristi'; 'Cliffe, Kevin'; 'Monaghan, Maureen'; 'Peets, Gerard'; 'PCO'; Sacchetti, Vincent -TMS; Langlois, Marie-Josée -TMS; Lysons, Nathan -TMS; Connors, Paul -WSHDC -EN; O'Shea, Kevin -WSHDC -GR
Subject: RE: EISA 2007 Section 526/Proposed AMB Letter: Second Draft

Jason,

In preparing our comments, we considered these points. With respect to this specific issue and the letter to Ambassador Gates, for the reasons mentioned in the e-mail, the conclusion is not to mention NAFTA or reference trade obligations. The focus of the letter is on the excellent case we are making regarding the likely unimplementability of this provision.

This was discussed with and approved by TPN.

Susan Sheehan
Deputy Director/Directrice adjointe
Investment Trade Policy Division/
Direction de la politique commerciale sur l'investissement (TBI)
Foreign Affairs and International Trade Canada
125 Sussex Drive

Ottawa, Ontario, Canada K1A 0G2
Phone (613) 944-2058, Fax (613) 944-0679
susan.sheehan@international.gc.ca

From: Tolland, Jason -WSHDC -EN
Sent: February 13, 2008 2:14 PM
To: Sheehan, Susan -TBI; Viau, H el ene -NAR
Cc: Heynen, Jeffrey -NAR; Isaac, Howard -WSHDC -WS; Kay, Jennifer -NAL; Boomgaardt, Ray -JLT; Gray, Kevin -JLT; Tarasofsky, Richard -JLT; Strom, Torsten -JLT; Ready, Robert -TBI; Carriere, Dany -TBI; Antypas, Gerasimos -TNN; Boisvert, Charles -TNN; Hall, Charla -TNN; Calvert, Colleen -TNN; Cameron, Diane -TNN; Pringle, Gary -GDEE; Sharp, Peter -GDEE; Tessier, Marc -GDEE; Kostyrsky, Gregory -NCP; Steuerman, David -NCP; Watson, Lynda -NCP; Thomas, Jake -NCT; 'Stokoe, Peter'; 'Varangu, Kristi'; 'Cliffe, Kevin'; 'Monaghan, Maureen'; 'Peets, Gerard: PCO'; Sacchetti, Vincent -TMS; Langlois, Marie-Jos ee -TMS; Lysons, Nathan -TMS; Connors, Paul -WSHDC -EN; O'Shea, Kevin -WSHDC -GR
Subject: RE: EISA 2007 Section 526/Proposed AMB Letter: Second Draft

Thanks for the comments, Susan.

We will look at the changes to the third-last paragraph to ensure that it is clear - it quite possibly is a problem of too many edits.

Before approaching the Ambassador, we would like you to understand that the approach suggested with respect to the deletion of all references to NAFTA runs counter

It presents a chicken-and-egg problem, where we do not refer to trade commitments (even on market access) because we do not wish to prejudge implementation, yet implementation (in the eyes of our US interlocutor) can be affected by our willingness to intervene with respect to such consistency (even, you will note in our draft, the mere possibility of inconsistency with NAFTA).

As well, we are somewhat surprised to see the deletion of the reference to energy trade being disciplined by NAFTA, which should be innocuous in itself. This reference is a simple recitation of the line that we use routinely in public documents dealing with the US-Canada energy relationship. I assume that TPN was made aware of this fact. Does this also suggest that we should modify standard advocacy documents on energy?

I look forward to any further and final comments by cob before we send this to the Ambassador's office for signature. Thanks all for your assistance.

Jason Tolland
Counsellor and Head of Section / Conseillier et Chef de section
Environment and Energy Section / section de l'environnement et de l' nergie
Embassy of Canada / Ambassade du Canada
501 Pennsylvania Avenue /
Washington D.C. 20001-2114
T (202) 682-7757 / M (202) 391-2442
F (202) 448-6506
jason.tolland@international.gc.ca

From: Sheehan, Susan -TBI
Sent: February 13, 2008 1:38 PM
To: Connors, Paul -WSHDC -EN; Viau, H el ene -NAR
Cc: Heynen, Jeffrey -NAR; Tolland, Jason -WSHDC -EN; Isaac, Howard -WSHDC -WS; Kay, Jennifer -NAL; Boomgaardt, Ray -JLT; Gray, Kevin -JLT; Tarasofsky, Richard -JLT; Strom, Torsten -JLT; Ready, Robert -TBI; Carriere, Dany -TBI; Antypas, Gerasimos -TNN; Boisvert, Charles -TNN; Hall, Charla -TNN; Calvert, Colleen -TNN; Cameron, Diane -TNN; Pringle, Gary -GDEE; Sharp, Peter -GDEE; Tessier, Marc -GDEE; Kostyrsky, Gregory -NCP; Steuerman, David -NCP; Watson, Lynda -NCP; Thomas, Jake -NCT; 'Stokoe, Peter'; 'Varangu, Kristi'; 'Cliffe, Kevin'; 'Monaghan, Maureen'; 'Peets, Gerard: PCO'; Sacchetti, Vincent -TMS; Langlois, Marie-Jos ee -TMS; Lysons, Nathan -TMS
Subject: RE: EISA 2007 Section 526/Proposed AMB Letter: Second Draft

<< File: AMB--Gates short WORD re EISA comments TBI 13 feb.doc >>

Minotti, Felicia -GGA

From: Connors, Paul -WSHDC -EN
Sent: February 19, 2008 9:43 AM
To: Tolland, Jason -WSHDC -EN
Subject: FW: FW: EISA 2007 Section 526/Proposed AMB Letter: Second Draft

Point 1, if intended for the letter, is simply nutty.

-----Original Message-----

From: Viau, H el ene -NAR
Sent: February 19, 2008 9:40 AM
To: Connors, Paul -WSHDC -EN
Subject: FW: FW: EISA 2007 Section 526/Proposed AMB Letter: Second Draft

FYI. Other comments from EC.

-----Original Message-----

From: Normand, Francois [NCR] [mailto:Francois.Normand@ec.gc.ca] On Behalf Of Ryan, Helen [NCR]
Sent: February 18, 2008 4:31 PM
To: Viau, H el ene -NAR
Cc: Keenan, Jane [NCR]; Ryan, Helen [NCR]
Subject: FW: FW: EISA 2007 Section 526/Proposed AMB Letter: Second Draft

H el ene,

We have read the proposed letter from Ambassador Wilson and would offer the following comments.

1. In terms of general implications, in our mind, the more pressure that can be mounted on the oil sands industry to install CCS, the better. In other words the strictly environmental perspective should support a "broader interpretation" of "alternative fuels" for purposes of Section 526.
2. That said, in making its arguments, the letter does make a number of key points but, in our opinion, they dispersed among a number of either irrelevant or much weaker points. These key points to us are
 - a) Canada is the leading supplier of imports of crude oil and refined petroleum products to the US and is likely to become even more important in that regard over the coming decades;
 - b) Canada is a relatively safe source of supply for the US;
 - c) a broad interpretation of alternative fuel would disadvantage much of the US's own domestic oil production.
3. A point not raised (directly) in the letter is that the whole world's (not just Canada's) oil production is growing increasingly more heavy so securing a purely light conventional crude oil supply will become increasingly difficult. As the provisions of Section 526 seem to contemplate an "all or nothing" test, a broad interpretation would be putting the US government in an increasingly difficult position to secure oil supplies.
4. On the brighter side (for our oil sands industry at present), the Section 526 seems to be applicable to fuel purchased by the US government and not to the US as a whole. However, the implementation of Section 526 with a broad interpretation of alternative fuels could set an important precedent for the rest of US crude oil and refined petroleum products.
5. We are not familiar with the intricacies of Chapter 10 of NAFTA so we feel unqualified to comment on the associated point made in the letter.

6. Info in second last paragraph is wrong. Canada has not (yet) introduced mandatory ghg targets. Also 40 percent improvements seem high. We thought it was closer to 20 percent.

Helen Ryan
Director
Oil, Gas and Alternative Energy

From: helene.viau@international.gc.ca [mailto:helene.viau@international.gc.ca]
Sent: February 13, 2008 12:50 PM
To: Keenan, Jane [NCR]
Cc: Paul.Connors@international.gc.ca
Subject: FW: EISA 2007 Section 526/Proposed AMB Letter: Second Draft

Jane,

Further to the conference call this morning, please find enclosed below the draft letter for Ambassador Wilson's signature. We would be grateful for EC's comments on the letter.

Best,

Hélène Viau

Senior Policy Analyst: Energy/ Analyste principale des politiques: Énergie US relations
Division (NAR)/ Direction des relations avec les États-Unis (NAR) Foreign Affairs and
International Trade Canada / Affaires étrangères et Commerce international Canada
125 Sussex Drive / 125 Promenade Sussex Ottawa, Ontario K1A 0G2
Tél.: 613-944-9440
Fax.: 613-943-2423
helene.viau@international.gc.ca <mailto:helene.viau@international.gc.ca>

From: Connors, Paul -WSHDC -EN
Sent: February 13, 2008 9:22 AM
To: Viau, Hélène -NAR
Cc: Heynen, Jeffrey -NAR; Tolland, Jason -WSHDC -EN; Isaac, Howard -WSHDC -WS; Kay, Jennifer -NAL; Boomgaardt, Ray -JLT; Gray, Kevin -JLT; Tarasofsky, Richard -JLT; Strom, Torsten -JLT; Sheehan, Susan -TBI; Ready, Robert -TBI; Carriere, Dany -TBI; Antypas, Gerasimos -TNN; Boisvert, Charles -TNN; Hall, Charla -TNN; Calvert, Colleen -TNN; Cameron, Diane -TNN; Pringle, Gary -GDEE; Sharp, Peter -GDEE; Tessier, Marc -GDEE; Kostyrsky, Gregory -NCP; Steuerman, David -NCP; Watson, Lynda -NCP; Thomas, Jake -NCT; 'Stokoe, Peter'; 'Varangu, Kristi'; 'Cliffe, Kevin'; 'Monaghan, Maureen'; 'Peets, Gerard: PCO'; Sacchetti, Vincent -TMS; Langlois, Marie-Josée -TMS; Lysons, Nathan -TMS

Subject: RE: EISA 2007 Section 526/Proposed AMB Letter: Second Draft

<<AMB--Gates short WORD.doc>>
Hélène and Colleagues

I have limited this Email to those divisions which commented on the first draft of our ref letter, presuming then that this reflects the implicated divisions.

Many thanks for all of your very helpful comments on the first draft of the ref letter. Attached is the second draft. Of note, the second draft is pithier (no non-paper/the letter drops much of the language presuming to interpret US legislation), and states the NAFTA argument in a more nuanced manner. Again, the US Administration has encouraged us to make this argument to help them to interpret Section 526 in a narrow manner.

Post would ask NAR or GDEE for one factoid check. In the draft letter, the 40% reduction

Minotti, Felicia -GGA

From: Connors, Paul -WSHDC -EN
Sent: February 25, 2008 1:57 PM
To: EXTOTT (GGA)
Cc: Fountain Smith, Sarah -GGA; Heynen, Jeffrey -GGA; Viau, H el ene -NAR; Butler, Kim -GGD; Boehm, Peter M -NGM; Stephenson, Janet -GDEE; Pringle, Gary -MDEE; Sharp, Peter -MDEE; Mueller, David -MDEE; Hall, Charla -TNN; Calvert, Colleen -TNN; Annable, Aaron -GGC; Baldwin, Wendy -NAL; 'PKhanna@NRCan.gc.ca'; 'Colette.Kaminsky@pco-bcp.gc.ca'; 'gpeets@pco-bcp.gc.ca'; 'abordeleau@pco-bcp.gc.ca'; Steuerman, David -GNB; Quealey, Patrick -MIO; Kostyrsky, Gregory -MHS; Preston, Tara -MER; Watson, Lynda -GNB; Kay, Jennifer -GGC; Carriere, Dany -TBI; Ready, Robert -TBI; Horton, Deanna -DMT; Sheehan, Susan -TBI; Tolland, Jason -WSHDC -EN; 'Stokoe, Peter'; 'Varangu, Kristi'; 'Gauvin, Claude'; EXTOTT (TBI); EXTOTT (GGD); 'SRiordon@NRCan.gc.ca'; 'Cliffe, Kevin'; 'Monaghan, Maureen'; Wilson, Michael -WSHDC -HOM/CDM; MacIntyre, Jennifer -WSHDC -GR; O'Shea, Kevin -WSHDC -GR; Tolland, Jason -WSHDC -EN; Tooze, Sheila -WSHDC -EN; Stewart, Duncan -WSHDC -EN; Harper, Susan -WSHDC -TD; Levy, Bruce -WSHDC -GR; Norton, Roy -WSHDC -WS; Richard, Nat -WSHDC -WS; Salvaggio, Pasquale -WSHDC -WS; Panday, Kris -WSHDC -WS; Isaac, Howard -WSHDC -WS; Boudreau, Wendy -WSHDC -WS; Southey, Sally -WSHDC -WS -PA; Landry, Tristan -WSHDC -PA; Mahoney, Michelle -WSHDC -WS -PA; Sauv e, Jonathan -WSHDC -WS -PA; Lambo, Pam -WSHDC -WS -PA; Gera, Sushma -MDC; Forsythe, Douglas -MDCP; Pelletier, Eric H. -GGC -GIF; Campbell, Michelle -MDCP; Peterson, Brianna -MFM; Boomgaardt, Ray -JLT; DENVR (GR); DENVR (TD); 'Morris, Inta -DENVR -GR'; CNGNY (EC); CNGNY (GR); BOSTN (TD); BOSTN (GR); ATNTA (GR); ATNTA (TD); Pappas, Christine -ATNTA -GR; Ecie, Leanne -ATNTA -AG; MIAMI (TD); DALAS (GR); DALAS (TD); Reedy, Reah -DALAS -GR; Wells, Henry -DALAS -GR; LNGLS (GR); LNGLS (TD); SEATL (GR); SEATL (TD); MNPLS (GR); MNPLS (TD); CHCGO (GR); CHCGO (TD); Evans, Susan -CHCGO -GR; DTROT (GR); DTROT (TD); BFALO (TD); BFALO (GR); Kolundzic, Daniel -BFALO -GR; Matthias, Karen -ANCOR; Brueggemann, Rudy -ANCOR; Wessman, Joel -MNPLS -GR; Paterson, Doug -PHOEN -TD; 'jane.keenan@ec.gc.ca'; Bofill, Maria -HSTON -TD; MIAMI (GR); MIAMI (TD); 'Labib, Hertsel'; Brason, Heather -MXICO -TD; Manuge, Grant -MXICO -TD; Gerrits, Karra-Lee -MXICO -TD; 'John McCarthy'; 'MacDonald, Sheila'; 'Sevigny, David'; 'Collins, Jennifer'; 'Greene.James@fin.gc.ca'; 'Flack.Graham@fin.gc.ca'; EXTOTT (TNN); Fung, Bonnie -TNN; 'andre.bernier@bnet.pco-bcp.gc.ca'; Christie, Keith -MFM; Tessier, Marc -MDEE; Saint-Jacques, Guy -WSHDC -DHOM; Mondy, Yannick -WSHDC -TD; Sutton, Brendan -WSHDC -TD

Subject: 25FEB08 UPDATE on EISA 2007 Section 526 US Government Procurement of Alternative Fuels

Summary: Two strategies are proceeding which would ensure that Section 526 does not apply to petroleum derived in part from oil sands. First, the Administration is proceeding with a definition of conventional fuel which would include oil sands-derived fuel as conventional fuel, not as an alternative fuel, for purposes of Section 526. Second, some in Congress for two distinct reasons (to protect biofuels and to ensure no limitations on US military operability) may try to repeal Section 526 in the coming months. The Embassy and the Alberta Office will continue to speak with Administration and with Congress in the coming weeks, until the issue is resolved.

US Administration: The Embassy spoke today with the USAF Chair of the US Government Interagency Working Group charged with assessing and determining the implications of Section 526. The Group met last week to consider the US Administration's response to Section 526.

Congress: Post and the Alberta Office have identified from our information calls on the Hill that Section 526 has caused a backlash among two groups on Capitol Hill.

Pro-biofuels Members: As written, Section 526 appears to capture US biofuels/corn-based ethanol. As such, Rep. Waxman endeavoured to remove biofuels from consideration in his subsequent letter to Secretary Gates ("excluding fuels derived from biomass".) However, the Administration continues to tell Congress that biofuels are not derogated in Section 526, and the Administration is assessing how biofuels factor into Section 526. Concerned pro-biofuels members want to see Section 526 neutralized so that there are no negative implications to US biofuels developments.

Security-comes-first Members: The security constituency is very strong in Congress and its members are concerned that Section 526 may impede operability of the US armed services and are reacting from an "olive trumps green" perspective.

Some members from the above two groups may try for a legislative solution, to strike 526, by adding such a provision in a bill pending before Congress, likely Defense appropriations.

The Embassy and the Alberta office will continue to raise our respective concerns in the coming weeks, until the issue is resolved.

Connors

Minotti, Felicia -GGA

From: Annable, Aaron -NAL
Sent: February 28, 2008 3:10 PM
To: Robinson, Jodi -TNN; Ready, Robert -TBI
Cc: Viau, H el ene -NAR; Connors, Paul -WSHDC -EN; Sheehan, Susan -TBI; MacKay, Vernon -TBI
Subject: RE: Govt of Canada Letter on Section 526
Importance: High

Jodi, Rob,

WSHDC has received a media request from Greenwire on the letter from Ambassador Wilson to Sec Gates on EISA2007, with the following questions:

1. Has the Cdn govt received a response from the US about how the law will be interpreted?
2. Has there been communication with other govt branches - besides those addressed or cc'd in the letter? ie - USTR

Proposed answers:

- The U.S. Government has advised Canada that it has not yet assessed nor determined if there are any implications to U.S. federal fuel procurement practices arising from the US EISA2007.
- Canada is working cooperatively with U.S. officials from a number of departments and agencies to ensure that our interests and concerns on this issue are taken into account.

Can you please let me know asap if you have any comments? Reporter is looking for an answer today and I will need to clear this through CMR as well.

Thanks,
Aaron
944-6905

From: Annable, Aaron -NAL
Sent: February 28, 2008 2:43 PM
To: Connors, Paul -WSHDC -EN; Viau, H el ene -NAR
Cc: Tolland, Jason -WSHDC -EN
Subject: RE: Govt of Canada Letter on Section 526
Importance: High

Paul and H el ene,

What do you think of the following response? Please let me know and I will try to get it approved asap.

- The U.S. Government has advised Canada that it has not yet assessed nor determined if there are any implications to U.S. federal fuel procurement practices arising from the US EISA2007.
- While there have been no other official communications with U.S. Government branches, Canada is working cooperatively with U.S. officials to ensure that our interests and concerns on this issue are taken into account.

From: Connors, Paul -WSHDC -EN
Sent: February 28, 2008 2:34 PM
To: Lambo, Pam -WSHDC -WS -PA; Annable, Aaron -NAL; Mahoney, Michelle -WSHDC -WS -PA
Cc: Landry, Tristan -WSHDC -PA; Kay, Jennifer -NAL; Viau, H el ene -NAR; Tolland, Jason -WSHDC -EN
Subject: RE: Govt of Canada Letter on Section 526

Colleagues

Minotti, Felicia -GGA

From: Connors, Paul -WSHDC -EN
Sent: March 1, 2008 12:42 PM
To: Annable, Aaron -GGC
Cc: De Silva, Gitane -HFXO; Landry, Tristan -WSHDC -PA; Butler, Kim -GGD; Burchett, Ian -BCD; Noffle, Valerie -CMR; Tolland, Jason -WSHDC -EN
Subject: RE: US Media request: WSHDC letter on proposed US energy legislation

Aaron

Lines look good.

See three suggested changes in CAPS.

The second change combines and shortens two bullets.
We should be pithy in describing the US.

For the third change, as EC keeps reminding everyone, Canada did not bring in mandatory GHG measures in 2007; rather we announced our intent to bring them in. Nothing is yet in place.

Best regards

Paul

-----Original Message-----

From: De Silva, Gitane -NAL
Sent: March 1, 2008 12:25 PM
To: Landry, Tristan -WSHDC -PA; Annable, Aaron -NAL; Butler, Kim -NAD; Burchett, Ian -BCM; Noffle, Valerie -CMR; Connors, Paul -WSHDC -EN
Subject: Re: US Media request: WSHDC letter on proposed US energy legislation

Paul - Grateful your views.

T - Can you or someone check with Amb to see if the letter is okay to release?

----- Original Message -----

From: Landry, Tristan -WSHDC -PA
To: De Silva, Gitane -NAL; Annable, Aaron -NAL; Butler, Kim -NAD; Burchett, Ian -BCM
Sent: Sat Mar 01 12:18:07 2008
Subject: Re: US Media request: WSHDC letter on proposed US energy legislation

I would consult Paul Connors, as he is the policy lead at the Embassy.

On the letter, it's already in the public domain. I know of two US journalists who have copies.

T.

Tristan-E. Landry
Media Relations / Relations avec les medias Canadian Embassy / Ambassade du Canada
Washington DC

----- Original Message -----

From: De Silva, Gitane -NAL
To: Annable, Aaron -NAL; Butler, Kim -NAD; Burchett, Ian -BCM; Landry, Tristan -WSHDC -PA
Sent: Sat Mar 01 12:10:26 2008
Subject: Fw: US Media request: WSHDC letter on proposed US energy legislation

Aaron,

Thanks for your quick work on this.

Kim/Ian/Tristan,

These are drawn from the Amb's letter and our general lines on GHGs. Grateful your views on substance, as well as next steps.

Should we release the letter from the Amb to Gates?

Do we need to consult Paul Connors or PIP?

Gitane

----- Original Message -----

From: Annable, Aaron -NAL

To: De Silva, Gitane -NAL

Sent: Sat Mar 01 12:05:33 2008

Subject: RE: US Media request: WSHDC letter on proposed US energy legislation

I would propose the following, taken mostly from the letter as well as from the general oil sands lines we have been working on.

Please let me know if this is acceptable or if it is too expansive.

thanks

- Section 526 of the December 2007 U.S. Energy Independence and Security Act on alternative fuels procurement and acquisition targets alternative fuels whose production emits more greenhouse gases than the conventional production of fuel.
- Canada WOULD NOT WANT TO SEE SECTION 526 interpreted to include oil sands AS ALTERNATIVE FUEL. Canada does not consider oil extracted from oil sands as alternative fuel. Oil produced from the oil sands, like oil produced from other sources, is processed in conventional facilities and production is commercial.
- There is little fuel on the U.S. market that is 100% petroleum extracted only by conventional methodology. Oil-sands-derived petroleum represents approximately 5% of U.S. supply and is not segregated from other petroleum.
- Canada has conveyed its views to several counterparts in the U.S. Government engaged in the interpretation of section 526.
- The U.S. GOVERNMENT is currently assessing Section 526. Questions about how the U.S. Government will interpret section 526 should be directed to the U.S. Government.
- The Government of Canada has ANNOUNCED ITS INTENT TO BRING IN mandatory greenhouse gas emissions reduction targets for industry, including oil sands facilities. Our combined initiatives - including industrial targets - will reduce Canada's greenhouse gas emissions by 20% by 2020 and 60% to 70% by 2050, relative to 2006 emissions levels.
- The Government of Canada will continue to work with the Province of Alberta and the oil sands industry to further reduce greenhouse gas emissions from oil sands derived fuels.
- Canada and the United States have an extensive, integrated energy relationship, disciplined by the North American Free Trade Agreement (NAFTA).
- Canada is by far the largest, as well as the safest and most secure, source of U.S. energy imports - of electricity, natural gas, uranium and oil.

-----Original Message-----

From: De Silva, Gitane -NAL

Sent: March 1, 2008 11:17 AM

To: Annable, Aaron -NAL; Landry, Tristan -WSHDC -PA

Cc: Boehm, Peter M -NGM; Fountain Smith, Sarah -NAR; Burchett, Ian -BCM; Butler, Kim -NAD; Heynen, Jeffrey -NAR; Baldwin, Wendy -NAL; Noftle, Valerie -CMR

**THE US ENERGY INDEPENDENCE AND SECURITY ACT - SECTION 526
AND CANADIAN OIL SANDS**

ISSUE

Section 526 of the December 2007 US *Energy Independence and Security Act* (EISA2007) on alternative fuels procurement and acquisition targets alternative fuels whose production emits more greenhouse gases than the conventional production of fuel. Canada has concerns that this could be interpreted to include oil sands. Therefore, the US Government, mainly Department of Defence (DoD), could be prevented from purchasing fuel derived from oil sands.

BACKGROUND

- Section 526 is not an Administration measure. Section 526 was inserted into EISA 2007 by Rep. Henry Waxman (D-CA), who pitched the provision to his Democratic colleagues as an anti-coals-to-liquid measure, without mentioning oil sands. However, he now advocates interpreting Section 526 to cover oil sands.
- The US Government has advised Canada that it has not yet assessed nor determined if there are any implications to US federal fuel procurement practices arising from the US EISA2007.
- If section 526 is broadly interpreted, as suggested by some Canadian media and active environmental non-governmental organizations (ENGOS), it could target oil sands products. Basically it is a question of: 1) definition of "alternative fuels" that could be any petroleum fuel made in part from other than conventional petroleum, and; 2) the scope of the US Government procurement that could cover all US Government fuel procurement.
- The US Interagency Working Group on Alternative Fuels, chaired by DoD US Air Force, is assessing Section 526 to agree on definitions and determine any implications to US federal fuel procurement policy. It will take months before it concludes its work and answer to the two above-mentioned questions.

CANADIAN POSITION

- Canada has already conveyed informally and officially, through diplomatic channels at all levels, its concerns to the US Administration. Ambassador Wilson sent a letter to DoD Secretary Gates, with copy to State Secretary Rice and Department of Energy (DoE) Secretary Bodman on February 22, 2008, indicating that Canada would "not want to see Section 526 interpreted to cover commercially available fuels made in part from non-conventional petroleum."

- The letter also reminded that Canada is the largest, most secure and reliable supplier of oil to the United States and highlighted the possible negative impacts of a broad interpretation of section 526 on the integrated Canada-US energy relationship.

US POSITION

- A range of senior US officials from State Department, DoD, DoE, and the White House National Security Council indicated to Canadian officials that the US Administration, at the highest level, shares Canada's views. They advised that they will take action to ensure that section 526 does not apply to commercial fuel made in part from oil sands.
- There are two strategies moving forward:
 - 1) On March 3, the US Administration has proposed a definition of conventional fuel that would include oil sands-derived fuel as conventional fuel not as alternative fuel which is targeted by section 526.
 - 2) Congressional opponents may try to repeal section 526, notably because it is concerned that section 526 may impede operability of the US forces, and may apply negatively to biofuels.
- US senior officials, including the chair of the US Interagency Working Group on Alternative Fuels, committed to maintain transparency with Canada and to work closely with Canadian officials.
- The US Administration appreciates that Canadian oil sands are key to US energy security, as recognized by President Bush himself, and help diversifying US energy sources away from volatile regions.
- Canada and the US have committed to join their advocacy efforts in highlighting Canada's crucial contribution to US national energy security; managing perceptions of the environmental risks of oil sands development; rectifying factual errors and exaggerated reports; and stressing the technological progress.

OTHER STATE LEVEL "GREEN PROTECTIONISM" INITIATIVES

- While the US Federal Energy Bill, section 526, is unlikely to target Canadian oil sands imports, other state and regional level initiatives and legislation may do so. There is an increasing "green protectionism" trend in the US.
- California is the most prominent state in this regard and policies developed there influence policies adopted by other jurisdictions. For example, 14 states and Quebec have announced their intention to adopt California's vehicle greenhouse

gas emissions standards if California receives the necessary waiver from the US Environmental Protection Agency.

- In addition, regionally, there are three major climate change initiatives: the Midwestern Greenhouse Gas Accord (MGGA), the Western Climate Initiative (WCI), and the Northeastern Regional Greenhouse Gas Initiative (RGGI). All three aim to put regional emissions trading schemes in place and the MGGA and WCI support the development of a low carbon fuel standard.

Drafted: NAR/Viau, 944-9440

Consulted: NAR/Heynen, WSHDC/Connors, NCP/ Kostyrsky, GDCC/Preston, GDEE/Stephenson

Approved: NAD

Minotti, Felicia -GGA

From: Connors, Paul -WSHDC -EN
Sent: March 18, 2008 4:24 PM
To: EXTOTT (GGA)
Cc: Fountain Smith, Sarah -GGA; Heynen, Jeffrey -GGA; Viau, Hélène -NAR; Butler, Kim -GGD; Boehm, Peter M -NGM; Stephenson, Janet -GDEE; Pringle, Gary -MDEE; Sharp, Peter -MDEE; Mueller, David -MDEE; Hall, Charla -TNN; Calvert, Colleen -TNN; Annable, Aaron -GGC; Baldwin, Wendy -NAL; 'PKhanna@NRCan.gc.ca'; 'Colette.Kaminsky@pco-bcp.gc.ca'; 'gpeets@pco-bcp.gc.ca'; 'abordeleau@pco-bcp.gc.ca'; Steuerman, David -GNB; Quealey, Patrick -MIO; Kostyrsky, Gregory -MHS; Preston, Tara -MER; Watson, Lynda -GNB; Kay, Jennifer -GGC; Carriere, Dany -TBI; Ready, Robert -TBI; Horton, Deanna -DMT; Sheehan, Susan -TBI; Tolland, Jason -WSHDC -EN; 'Stokoe, Peter'; 'Varangu, Kristi'; 'Gauvin, Claude'; EXTOTT (TBI); EXTOTT (GGD); 'SRiordon@NRCan.gc.ca'; 'Cliffe, Kevin'; 'Monaghan, Maureen'; Wilson, Michael -WSHDC -HOM/CDM; MacIntyre, Jennifer -WSHDC -GR; O'Shea, Kevin -WSHDC -GR; Tolland, Jason -WSHDC -EN; Tooze, Sheila -WSHDC -EN; Stewart, Duncan -WSHDC -EN; Harper, Susan -WSHDC -TD; Levy, Bruce -WSHDC -GR; Norton, Roy -WSHDC -WS; Richard, Nat -WSHDC -WS; Salvaggio, Pasquale -WSHDC -WS; Panday, Kris -WSHDC -WS; Isaac, Howard -WSHDC -WS; Boudreau, Wendy -WSHDC -WS; Southey, Sally -WSHDC -WS -PA; Landry, Tristan -WSHDC -PA; Mahoney, Michelle -WSHDC -WS -PA; Sauvé, Jonathan -WSHDC -WS -PA; Lambo, Pam -WSHDC -WS -PA; Gera, Sushma -MDC; Forsythe, Douglas -MDCP; Pelletier, Eric H. -GGC -GIF; Campbell, Michelle -MDCP; Peterson, Brianna -MFM; Boomgaardt, Ray -JLT; DENVR (GR); DENVR (TD); Pence, Stanley -DENVR -TD; Cafon, Jamie -DENVR -GR; CNGNY (EC); CNGNY (GR); BOSTN (TD); BOSTN (GR); ATNTA (GR); ATNTA (TD); Pappas, Christine -ATNTA -GR; Ecie, Leanne -ATNTA -AG; MIAMI (TD); DALAS (GR); DALAS (TD); Reedy, Reah -DALAS -GR; Wells, Henry -DALAS -GR; LNGLS (GR); LNGLS (TD); SEATL (GR); SEATL (TD); MNPLS (GR); MNPLS (TD); CHCGO (GR); CHCGO (TD); Evans, Susan -CHCGO -GR; DTROT (GR); DTROT (TD); BFALO (TD); BFALO (GR); Kolundzic, Daniel -BFALO -GR; Matthias, Karen -ANCOR; Brueggemann, Rudy -ANCOR; Wessman, Joel -MNPLS -GR; Paterson, Doug -PHOEN -TD; 'jane.keenan@ec.gc.ca'; Bofill, Maria -HSTON -TD; MIAMI (GR); MIAMI (TD); 'Labib, Hertsel'; Brason, Heather -MXICO -TD; Manuge, Grant -MXICO -TD; Gerrits, Karra-Lee -MXICO -TD; 'John McCarthy'; 'MacDonald, Sheila'; 'Sevigny, David'; 'Collins, Jennifer'; 'Greene.James@fin.gc.ca'; 'Flack.Graham@fin.gc.ca'; EXTOTT (TNN); Fung, Bonnie -TNN; 'andre.bernier@bnet.pco-bcp.gc.ca'; Christie, Keith -MFM; Tessier, Marc -MDEE; Saint-Jacques, Guy -WSHDC -DHOM; Mondy, Yannick -WSHDC -TD; Sutton, Brendan -WSHDC -TD; Gilker, Naomi -GFA; Lysons, Nathan -TMS; Beck, Stefanie -AED; Horton, Deanna -DMT; Burchett, Ian -BCD
Subject: Rep. Waxman Backs Down on Sec. 526
Attachments: Letter from Waxman to Bingaman on Sec. 526.pdf

Summary: In the attached 17MAR08 letter to Senator Bingaman, Chair of the Senate Energy and Natural Resources Committee,

While Canada appears to have won this battle, oil sands will continue to be challenged in the US marketplace by some, given their higher environmental footprint. Going forward, ongoing advocacy in the United States will be critical.

Report: Post spoke with several key interlocutors today to understand the context of the attached second letter from House Government Oversight and Reform Committee Chair Rep. Henry Waxman (D-CA).

Senate Energy Committee/Democratic Staff:

2009/01/14

Post also reiterated actions taken to date by Canada and Alberta to reduce GHG emissions from oil sands operations and pending new regulations.

House Government Oversight and Reform Committee Democratic Staff:

Post asked if Section 526 could apply in the Upper Midwest if any individual batch of fuel was majority derived from oil sands, presuming that this could be determined.

Post asked staffer to quantify the terms "incidental amounts" and "predominantly produced from an unconventional fuel source".

recognition of the role that Canadian oil, including oil sands, played to meeting US oil needs. Post also reiterated actions taken to date by Canada and Alberta to reduce GHG emissions from oil sands operations and pending new regulations.

USAF/Head of the US Interagency Alternative Fuels Committee: Post spoke with the USAF on the new Waxman letter.

Comment: With the second Waxman letter, the GOC concern appears to have been alleviated that Section 526 would be applied to commercially available fuels. The GOC letter and attendant media coverage, as well as Post's interventions outlining the role of oil/oil sands in the US market, their economic and energy security benefits, and Canada's and Alberta's efforts to reduce oil sands GHG emissions all appear to have played a key role in motivating moderate Democrats to ensure that a broad interpretation of Section 526 did not occur.

That said, while the battle on Section 526 appears to have been won, oil sands can expect to be challenged on an ongoing basis in the US market. The ENGO campaign against "dirty fuel" from Canada continues. Going forward, ongoing advocacy in the US will be critical.

Connors

2009/01/14