Twitter Thread by Benjamin Thibault



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Alberta's multi-billion $ public investment in KXL takes another step toward a write-off. It leaves me wondering: what role did an erroneous understanding of "indemnification of political risk" play in getting us here? #ableg

> I am deeply concerned by reports that the incoming administration of President-elect Joe Biden may repeal the Presidential permit for the Keystone XL border crossing next week.
>
> My full statement: pic.twitter.com/vZjun1IdMH
>
> — Jason Kenney (@jkenney) January 18, 2021

There is a logic to public investment to indemnify a project against political risk in some situations: where the government making the investment has some control or influence over that risk.

It serves the same function as a change in law provision in a contract with government: the government accepts the losses of the prospective policy change that creates the risk. The losses are allocated to the party who can best avoid them.

The federal government's TMX investment is one example. The major impediments apparent were largely under Ottawa's control: adequate environmental assessment and adequate FN consultation.

By making the investment, Ottawa either carries out the necessary actions to allow TMX to proceed, or suffers the losses of failing to do so.

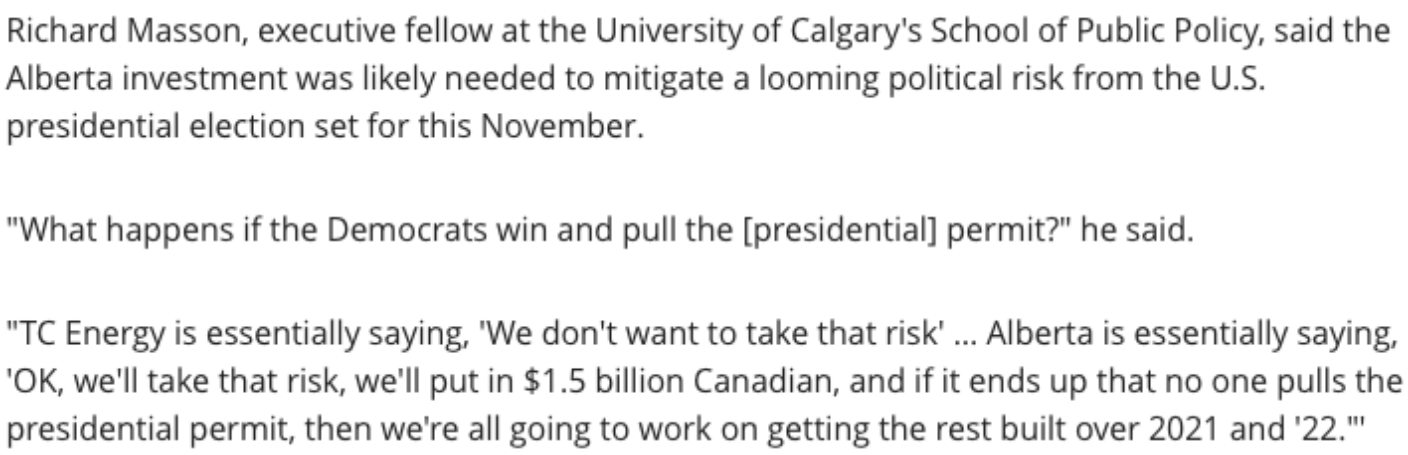
But this concept is wholly inapplicable to the Alberta government's investment in KXL: Alberta wields little-to-no control or influence over the U.S. executive discretion to grant or rescind its permit.

(Despite the Alberta government's expensive lobbying plan to gain influence https://t.co/5UI0o06I2b)

> How it started | How it\u2019s going pic.twitter.com/EBhQUMKAk8
>
> — Blake Shaffer \U0001f4ca (@bcshaffer) January 18, 2021

So, did a misunderstanding of the valid concept of indemnifying political risk lead #ableg to an enormous waste of public resources?

Richard Masson from @UCalgary's @policy_school suggested that this was the Premier's rationale. https://t.co/dBQtfURQV1



Richard Masson, executive fellow at the University of Calgary's School of Public Policy, said the Alberta investment was likely needed to mitigate a looming political risk from the U.S. presidential election set for this November.

"What happens if the Democrats win and pull the [presidential] permit?" he said.

"TC Energy is essentially saying, 'We don't want to take that risk' ... Alberta is essentially saying, 'OK, we'll take that risk, we'll put in $1.5 billion Canadian, and if it ends up that no one pulls the presidential permit, then we're all going to work on getting the rest built over 2021 and '22.'"

Of course, a government is welcome to indemnify against political risk that it has no control over, and no special inside knowledge about the outcome. But this is not a smart investment.

For the Premier's part, he seems to believe that he could actually influence the U.S. executive's decision, thus justifying the assumption of that political risk. https://t.co/KvfgLfPCUz

"We entered into this, eyes wide open, recognizing that there was of course a political risk," said Kenney on Wednesday.

He is now deploying a three-part strategy to save the pipeline project if Biden should win the November election: organize allies; threaten legal action; and create "facts on the ground."

Kenney is appealing for help from pro-pipeline American governors as well as from American unionized workers building the pipeline.

He's already promising "to use every legal means at our disposal to protect our fiscal and economic interests."

And "creating facts on the ground" is another way of saying he wants to get as much of the pipeline constructed between now and the November election.

"I cannot imagine that a U.S. president eight months from now, nine months from now, would require that thousands of miles of pipe be pulled out of the ground by the union workers who are now employed creating that project," says Kenney.

He's probably also hoping that what sounds like a firm election promise today will prove to be more elastic tomorrow once Biden sees how much money and jobs the pipeline will mean to the U.S.

But that seems like a remarkably naive position to be taken by a shrewd political mastermind like the Premier.

He also referenced a "political risk" that has no connection to KXL at all: the risk that Ottawa would pull the plug on its own project. https://t.co/l67Tay8ysq

Kenney has long attacked Trudeau as being anti-pipeline, anti-oil, and anti-Alberta. Just last month, Kenney said he was forced to invest $1.5 billion to kick-start the risky Keystone XL pipeline expansion to the U.S. because he didn't trust Trudeau to finish the government-owned Trans Mountain pipeline project to the West Coast.

"I was not prepared to put all of our eggs in the basket of the Justin Trudeau-owned pipeline," said Kenney, adding that his investment of public money in Keystone "was an essential hedge against that political risk."

This feels more like the actual animus for someone who viscerally despises the Prime Minister. Unfortunately, political rivalry with Ottawa does not make a huge bet on Washington's decision any smarter.