



File: 292-30/OGC2022-006

November 7, 2022

VIA ELECTRONIC MAIL:

Re: Request for Access to Records – Response
Freedom of Information and Protection of Privacy Act (FOIPPA)

I am writing further to your request received by the BC Oil and Gas Commission (Commission) for: ***“Any record prepared for Minister Mary Polak between June 20, 2014, and October 31, 2014, related to the Coastal GasLink project, including but not limited to briefing notes, recommendations, memos and analysis.”***

Some information has been withheld pursuant to the following section(s): 13 [Policy advice or recommendations]; 14 [Legal advice]; 15 [Disclosure harmful to law enforcement]; 16 [Disclosure harmful to intergovernmental relations or negotiations]; 17 [Disclosure harmful to the financial or economic interests of a public body]; and 22 [Disclosure harmful to personal privacy]. A complete copy of FOIPPA can be accessed online at:

[Table of Contents - Freedom of Information and Protection of Privacy Act \(gov.bc.ca\)](http://www.gov.bc.ca)

Please note, a copy of these records will be published on the Commission’s website within 72 hours after release. To find out more about proactive disclosure of requests, please access the BCOGC website: [Freedom of Information | BC Oil and Gas Commission \(bcogc.ca\)](http://www.bcogc.ca)

Your file is now closed.

Pursuant to section 52 of the FOIPPA, you may ask the Office of the Information and Privacy Commissioner (OIPC) to review any decision, act, or failure to act with regard to your request under FOIPPA.

Please note that you have 30 business days to file your review with the OIPC. In order to request a review please write to:

Information and Privacy Commissioner
PO Box 9038 Stn Prov Govt
4th Floor, 947 Fort Street
Victoria BC V8W 9A4
Phone: 250.387.5629 Fax: 250.387.1696
Email: info@oipc.bc.ca

If you request a review, please provide the OIPC with a copy of your original request, a copy of the Commission's response, and the reasons or grounds upon which you are requesting the review. Further information on the complaint and review process can be found on the OIPC website: [Office of the Information and Privacy Commissioner for B.C. | Home \(oipc.bc.ca\)](http://oipc.bc.ca) If you have any questions regarding your request or require any further clarification, please write FOIIntake@bcogc.ca.

Sincerely,

D. Keough

BC Oil and Gas Commission

Enclosure

Pages: 1-48
s13, s14, s16

From: Avila, Amy
Sent: Thursday, September 25, 2014 7:12 PM
To: Steynen, Marc; O'Hanley, James G
Subject: FW: OW submissions on CGL to BC EAO SharePoint Site documents

Importance: High

Hi Marc

Are you able to download these? I don't seem to have access...James I will have a look at these documents before our meeting next week. There are three submissions

They are:

- 1) EAO Process report for Coastal GasLink pipeline application 2014
- 2) Morice Fish Aquatic Hab review 2013 Final
- 3) Wet'suwet'en Title and Rights report to EAO for Coastal GasLink Application



Amy Avila
Director, Major Projects
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s17



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From: Waters, Cory EAO:EX [mailto:Cory.Waters@gov.bc.ca]
Sent: September 25, 2014 3:25 PM
To: Chan, Debbie JAG:EX; Trowbridge, Aaron ABR:EX; Robertson, Linda G ABR:EX; Scott, Katie P ABR:EX; O'Donoghue, Eamon G FLNR:EX; Pesklevits, Anthony FLNR:EX; Hanna, Lisa I FLNR:EX; Roburn, Audrey EAO:EX; Cousins, Autumn EAO:EX; Avila, Amy; Steynen, Marc
Cc: Doug Konkin s22; Shepard, Michael EAO:EX; Payne, Lisa EAO:EX; Balcaen, Trish L EAO:EX; Nash, Laurel ABR:EX
Subject: OW submissions on CGL to BC EAO SharePoint Site documents
Importance: High

Hi extended government OW team,

OW have provided EAO three documents relating to CGL, all of which I thought would be of interest to each of you. These are listed below, and currently available on a sharepoint site for a time limited period (which I have highlighted below).

I encourage everyone to go to the sharepoint and download versions for your own use. I understand the sharepoint will be live for 14 days (so, countdown now is at about 12 days to go). This will save attempts to email the large documents later.

Aaron – we'd benefit from your review of sections of the Rights and Title paper for any implications for SOC.

Audrey – can you please upload the Right and Title paper for the LNG SOC site for future reference?

We will be considering these materials for the final iteration of our Assessment Report scheduled for referral to Ministers on October 8.

We are seeking confirmation from OW that their intention is that this package be presented in its entirety to Ministers in the referral package (as they referred specifically to our October 3 deadline). And we will extend an offer to meet in advance of our October 8 deadline, in the event they would like to discuss the materials.

Cory

From: Shepard, Michael EAO:EX
Sent: Wednesday, September 24, 2014 5:24 PM
To: Waters, Cory EAO:EX
Subject: Fwd: BC EAO SharePoint Site documents

Sent from my iPhone

Begin forwarded message:

From: "Ferbey, Stasia EAO:EX" <Stasia.Ferbey@gov.bc.ca>
Date: September 24, 2014 at 3:17:14 PM PDT
To: "Shepard, Michael EAO:EX" <Michael.Shepard@gov.bc.ca>, "Payne, Lisa EAO:EX" <Lisa.Payne@gov.bc.ca>
Subject: FW: BC EAO SharePoint Site documents

Hi Mike and Lisa,

Please see the message from Mike Ridsdale below.

Access the documents through the following link
<https://spc-eao.gov.bc.ca/temp/SitePages/Home.aspx>

Stasia

From: Mike Ridsdale [<mailto:mike.ridsdale@wetsuweten.com>]
Sent: Wednesday, September 24, 2014 3:18 PM
To: Ferbey, Stasia EAO:EX
Cc: david.dewit@wetsuweten.com
Subject: RE: BC EAO SharePoint Site documents

Hi Stasia,

On behalf of the Office of the Wet'suwet'en for the Wet'suwet'en Hereditary Chiefs, I have completed downloading the three documents onto the SharePoint Site.

They are:

- 1) EAO Process report for Coastal GasLink pipeline application 2014
- 2) Morice Fish Aquatic Hab review 2013 Final
- 3) Wet'suwet'en Title and Rights report to EAO for Coastal GasLink Application

Submitted this day of: 24September 2014

Missiyh,

Mike Ridsdale
EA Coordinator
Office of the Wet'suwet'en
Smithers, BC.
(250) 847-3630

From: Ferbey, Stasia EAO:EX [<mailto:Stasia.Ferbey@gov.bc.ca>]
Sent: Tuesday, September 23, 2014 4:10 PM
To: 'Mike Ridsdale'
Cc: Shepard, Michael EAO:EX
Subject: RE: For Working Group Review - Revised Draft Materials for proposed Coastal GasLink Project

Hello Mike,

Sorry for the delay on my end. I have been working with our IT group to get a SharePoint link set up for you. You can upload your documents at the following link.

<https://spc-eao.gov.bc.ca/temp/SitePages/Home.aspx>

ID: BCEID s15
Password

If you are not familiar with SharePoint, once you are logged in on the site, click on the Wet'suwet'en Documents folder. On the menu bar along the top, left-hand side, of the SharePoint screen you will see an "upload document" button. Click on that and from there you can upload your documents. If you have any issues accessing the site or uploading your documents please email or call me.

Have a great day.

Sincerely,

Stasia

Stasia Ferbey
Administrative Assistant
Environmental Assessment Office
4th Floor, 836 Yates Street
Victoria BC V8W 1L8
Ph: 250-387-1409
Email: Stasia.Ferbey@gov.bc.ca

From: Mike Ridsdale [<mailto:mike.ridsdale@wetsuweten.com>]
Sent: Monday, September 22, 2014 2:56 PM
To: Ferbey, Stasia EAO:EX
Subject: RE: For Working Group Review - Revised Draft Materials for proposed Coastal GasLink Project

Hi Stasia,

In regards to Coastal GasLink EA Application for project review by the Ministers. On behalf of the Office of the Wet'suwet'en for the Wet'suwet'en Hereditary Chiefs.

I have a Wet'suwet'en Title and Rights report for Coastal GasLink EA Application, and an additional Wet'suwet'en Morice Fish & Aquatic Habitat review 2013 report.

Both are quite large files, is there an FTP site that I may download to for BC EAO before the October 3, 2014 deadline??

Mike Ridsdale
EA Coordinator
Office of the Wet'suwet'en
Smithers, BC.
(250) 847-3630

From: Ferbey, Stasia EAO:EX [<mailto:Stasia.Ferbey@gov.bc.ca>]
Sent: Friday, September 12, 2014 1:09 PM
To: Shepard, Michael EAO:EX; Payne, Lisa EAO:EX
Cc: Ferbey, Stasia EAO:EX
Subject: For Working Group Review - Revised Draft Materials for proposed Coastal GasLink Project

To: Working Group members of the proposed Coastal GasLink Project (and Schedule C First Nations)

As per my last email to you of August 14th, the Environmental Assessment Office has been working on the draft referral materials for the Ministers' decision on the Coastal GasLink (CGL) Environmental Assessment Certificate. Much of that work has been to incorporate comments received from you during the environmental assessment process.

We appreciate all comments received on our first draft of referral materials and we are now providing revised draft referral materials (Conditions, Certified Project Description, complete draft Assessment Report, and issues tracking table) for your review. Working Group members will be given two weeks to review and provide comments to EAO. We look forward to receiving any additional comments you have on or before **Friday, September 26**. Unfortunately, we cannot accept late comments, as we will need sufficient time to consider all of your comments. We are intending to refer the decision materials to Ministers on or before October 8th.

As per the Section 11 Order, First Nations have an opportunity to prepare separate submissions to Ministers. If First Nations choose to submit materials, we will need to receive those on or before **October 3**.

All materials have been loaded to the EAO Project Sharepoint [site](#), and also to a separate FTP site below if you are unable to access the Sharepoint site. If you have difficulty accessing the materials, please let either myself or Stasia Ferbey know, by email at stasia.ferbey@gov.bc.ca or at 250-387-1409.

SharePoint Site Log in information:

<https://spc-eao.gov.bc.ca/projects/392/SitePages/Home.aspx>

ID: BCEID s15

Password

FTP Site Links

CGL Draft Assessment Report for Working Group Review -

<http://www.env.gov.bc.ca/perl/soft/dl.pl/20140912124303-14-gp-d9af4942-13f2-4999-8769-bb24cb31?simple=y>

Draft Part C September 12, 2014 - <http://www.env.gov.bc.ca/perl/soft/dl.pl/20140912125606-14-gp-25c9c4e5-0755-4169-bf18-748f6b52?simple=y>

Coastal GasLink WG Issues Tracking Table - <http://www.env.gov.bc.ca/perl/soft/dl.pl/20140912121332-14-gp-809e3596-408d-4293-94b4-a291e665?simple=y>

Draft Table of Conditions - <http://www.env.gov.bc.ca/perl/soft/dl.pl/20140912121417-14-gp-7bd55e51-66d5-40f3-b074-7b35e1ca?simple=y>

Draft Certified Project Description - <http://www.env.gov.bc.ca/perl/soft/dl.pl/20140912121509-14-gp-97ceb04a-d8d2-4c0f-8d8c-97618f94?simple=y>

Draft Certified Project Description Maps - <http://www.env.gov.bc.ca/perl/soft/dl.pl/20140912121556-14-gp-11ce410f-1060-4ce7-a094-128dd138?simple=y>

If you have any questions about the revised schedule or the draft materials for this project, please feel free to give me a call to discuss.

Michael Shepard
Project Assessment Manager
Environmental Assessment Office
Michael.Shepard@gov.bc.ca
1-250-387-8745

From: O'Hanley, James G
Sent: Monday, October 27, 2014 10:10 AM
To: Currie, Graham; Ollenberger, Lance J; Paulson, Ken
Cc: Jeakins, Paul; St. Jean, Roger; Clay, Alan; Friedrich, Hardy; Gregory, Sara
Subject: RE: CGL -- Next Steps One-Pager
Attachments: FS_CGL_Decision_Next Steps_24Oct14k_v4clean.docx

Some minor edits included in the attached.



James O'Hanley

Deputy Commissioner, Resource Stewardship &
Major Projects
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From: Currie, Graham
Sent: October-27-14 9:37 AM
To: Ollenberger, Lance J; Paulson, Ken; O'Hanley, James G
Cc: Jeakins, Paul; St. Jean, Roger; Clay, Alan; Friedrich, Hardy; Gregory, Sara
Subject: RE: CGL -- Next Steps One-Pager

Ok – made a number of small edits throughout and incorporated Sara, James and Lance’s edits in this version (tracked and clean copy here). Recognize this will likely become a public and web-posted document, so I’m trying to keep that lens on it.

Thanks,
Graham



Graham Currie

Executive Director Corporate Affairs
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From: Ollenberger, Lance J
Sent: October-27-14 9:08 AM
To: Paulson, Ken; Currie, Graham; O'Hanley, James G
Cc: Jeakins, Paul; St. Jean, Roger; Clay, Alan; Friedrich, Hardy; Gregory, Sara
Subject: RE: CGL -- Next Steps One-Pager

Haven't seen the rest of this document, but yes this is correct. [Modified slightly as below.](#)



Lance Ollenberger
Deputy Commissioner - Compliance Operations
Lance.Ollenberger@bcogc.ca

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From: Paulson, Ken
Sent: October-27-14 8:49 AM
To: Currie, Graham; O'Hanley, James G
Cc: Jeakins, Paul; St. Jean, Roger; Clay, Alan; Friedrich, Hardy; Gregory, Sara; Ollenberger, Lance J
Subject: RE: CGL -- Next Steps One-Pager

One more piece – Lance can confirm:

Through a delegation agreement, the Commission has a number of compliance and enforcement staff who are authorized to conduct inspections on behalf of the EAO. [Additionally, the Commission and the EAO conduct joint inspections on Certified projects.](#) This provides a common and consistent C&E presence for projects such as CoastalGasLink.



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Chief Operating Officer
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From: Paulson, Ken
Sent: October-26-14 8:27 PM
To: Currie, Graham; O'Hanley, James G

Cc: Jeakins, Paul; St. Jean, Roger; Clay, Alan; Friedrich, Hardy; Gregory, Sara
Subject: RE: CGL -- Next Steps One-Pager
Importance: High

s14

My first cut attached.

Will need some common language review Graham.....

From: Currie, Graham
Sent: October 24, 2014 8:54 PM
To: O'Hanley, James G; Paulson, Ken
Cc: Jeakins, Paul; St. Jean, Roger; Clay, Alan; Friedrich, Hardy
Subject: RE: CGL -- Next Steps One-Pager

Here is a suitable starting point (thanks Hardy) – this fact sheet on our website: <http://www.bcogc.ca/node/11460/download>, along with this poster on our website: <http://www.bcogc.ca/node/11135/download> plus the attached (old) Estimates note.

Graham



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From: Currie, Graham
Sent: 24 October, 2014 5:05 PM
To: O'Hanley, James G; Paulson, Ken
Cc: Jeakins, Paul; St. Jean, Roger; Clay, Alan; Friedrich, Hardy
Subject: Fw: CGL -- Next Steps One-Pager

Further to my last email... if this is helpful in pulling our process info together - comes from EAO.

Thanks,

Graham

Sent from my BlackBerry 10 smartphone on the TELUS network.

From: Vinette, Nicole EAO:EX <Nicole.Vinette@gov.bc.ca>
Sent: Friday, October 24, 2014 4:48 PM
To: Currie, Graham; Shepard, Michael EAO:EX
Cc: Leake, Greg EAO:EX; Balcaen, Trish L EAO:EX; Waters, Cory EAO:EX
Subject: RE: CGL -- Next Steps One-Pager

Hi everyone,

Following up on Greg's e-mail below re: the need for a one-pager describing next steps for CGL, I've put together the attached rough draft outline with a proposed structure and major topics. Since we're aiming at having this document complete by mid-day on Monday, I thought this might help guide your thinking in terms of the info you might be able to provide. If you have other suggestions or ideas for different topics/categories, please just let me know.

In the meantime, have a wonderful weekend, and I'll be in touch again bright and early again on Monday to talk in more detail about how to incorporate your info!

~Nicole

Nicole Vinette
Manager - Communications & Stakeholder Engagement
Environmental Assessment Office
(250) 356-5311
Nicole.Vinette@gov.bc.ca

From: Leake, Greg EAO:EX [<mailto:Greg.Leake@gov.bc.ca>]
Sent: October-24-14 3:56 PM
To: Currie, Graham
Cc: Vinette, Nicole EAO:EX
Subject: FW: CGL -- Next Steps One-Pager

Graham:

I think that Doug Caul is reaching out to Paul J., but we could use some help from your folks on this on Monday.

Nicole Vinette will be in contact on Monday – is there someone other than you who you would like her to talk with?

G.

From: Leake, Greg EAO:EX
Sent: Friday, October 24, 2014 3:42 PM
To: Balcaen, Trish L EAO:EX; Waters, Cory EAO:EX; Shepard, Michael EAO:EX
Cc: Caul, Doug D EAO:EX; Carr, Michelle EAO:EX; Vinette, Nicole EAO:EX
Subject: CGL -- Next Steps One-Pager

All:

The MO – acting on direction from the centre – has asked for a one-pager on “Monday” (designed for public consumption – so not a briefing note) outlining the next steps for the CGL project. I'm assuming that would include:

- Permitting
- Pre-construction conditions
- Final investment decision (?)

I don't know what else.

Nicole will need help from someone on the project team (Mike?) to put a draft together for review around mid-day on Monday.

G.

Greg Leake
Director
Client Communications & Engagement
BC Environmental Assessment Office
(250) 387-2470

Pages: 59-61
s13, s16

From: O'Hanley, James G
Sent: Monday, October 27, 2014 8:51 AM
To: Paulson, Ken; Currie, Graham
Cc: Jeakins, Paul; St. Jean, Roger; Clay, Alan; Friedrich, Hardy; Gregory, Sara
Subject: RE: CGL -- Next Steps One-Pager
Attachments: FS_CGL_Decision_Next Steps_24Oct14kp.docx

I have included my suggested edits and additions within the attached.



James O'Hanley

Deputy Commissioner, Resource Stewardship &
Major Projects
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From: Paulson, Ken
Sent: October-26-14 8:27 PM
To: Currie, Graham; O'Hanley, James G
Cc: Jeakins, Paul; St. Jean, Roger; Clay, Alan; Friedrich, Hardy; Gregory, Sara
Subject: RE: CGL -- Next Steps One-Pager
Importance: High

s14

My first cut attached.

Will need some common language review Graham.....

From: Currie, Graham
Sent: October 24, 2014 8:54 PM
To: O'Hanley, James G; Paulson, Ken
Cc: Jeakins, Paul; St. Jean, Roger; Clay, Alan; Friedrich, Hardy
Subject: RE: CGL -- Next Steps One-Pager

Here is a suitable starting point (thanks Hardy) – this fact sheet on our website: <http://www.bcogc.ca/node/11460/download>, along with this poster on our website: <http://www.bcogc.ca/node/11135/download> plus the attached (old) Estimates note.

Graham

Pages: 63-66
s13, s16

From: Waters, Cory EAO:EX <Cory.Waters@gov.bc.ca>
Sent: Thursday, October 23, 2014 4:31 PM
To: Avila, Amy; O'Hanley, James G; Pokorny, Peter
Subject: FW: Key Message for MJR re: EA of LNG Projects
Attachments: Draft Key Messages LNG 23Oct14.docx

OGC colleagues, forwarding the email sent earlier today to MARR with proposed key messages for consideration and use, if/as needed.

Share as you wish internally as well.

From: Waters, Cory EAO:EX
Sent: Thursday, October 23, 2014 3:24 PM s22
To: Mayhew, Neilane ABR:EX; Nash, Laurel ABR:EX; Doug Konkin Leece, Robert ABR:EX;
Sheldrake, Jeff ABR:EX; Robertson, Linda G ABR:EX; Scott, Katie P ABR:EX; Puggioni, Giovanni ABR:EX
Cc: Coley, Simon J JAG:EX; Chan, Debbie JAG:EX; Black, Becky JAG:EX; Carr, Michelle EAO:EX; Balcaen, Trish L EAO:EX;
Bailey, Scott EAO:EX; Leake, Greg EAO:EX
Subject: FW: Key Message for MJR re: EA of LNG Projects

MARR colleagues,

Further to an internal OW meeting earlier this week, I had promised to assemble key messages that can be drawn on relating to LNG projects and the decisions that are imminent, as EA projects have or will be referred to Ministers for decision through November 12.

Below are bullets that were provided to MARR GCPE today for consideration in Minister Rustad's meeting scheduled tomorrow morning with several LNG-related Chiefs in Vancouver.

Attached please find more detailed messaging (that has benefited from JAG review) which I provide in the event these assist MARR in discussions you may be having, particularly in the near term. If you find these useful, please feel free to distribute to negotiating teams including other Chief Negotiators. The messages speak to the linkages between our consultations, title and MARR-led negotiations; to the concerns we've heard, how they have led to proposed conditions, and ongoing proponent commitments. At end also is a Unistoten-related item.

Cory

From: Leake, Greg EAO:EX
Sent: Thursday, October 23, 2014 2:57 PM
To: Waters, Cory EAO:EX
Subject: FW: Key Message for MJR re: EA of LNG Projects

From: Leake, Greg EAO:EX
Sent: Thursday, October 23, 2014 1:54 PM
To: Leslie, Lisa GCPE:EX
Cc: Crebo, David GCPE:EX; Gordon, Matt GCPE:EX
Subject: Key Message for MJR re: EA of LNG Projects

Lisa:

As promised:

- We are coming to conclusion on a number of environmental assessments for proposed LNG projects – three pipelines and one facility.
- In fact, I understand that an announcement of the decision on the Coastal GasLink Pipeline project is imminent.
- BC is consulting toward the deeper end of the *Haida* consultation spectrum through our environmental assessments. This applies to all the Aboriginal groups who have been assessed as potentially having strong Aboriginal title claims overlapping proposed projects.
- I understand that the timelines have been tight, particularly considering multiple projects being reviewed within BC's legislated environmental assessment timelines.
- But I want to assure you that if they receive environmental assessment approval, the hard work by First Nations will have shaped these projects in meaningful and substantive ways.
- Meaningful consultation will continue at the permitting level, if environmental assessment certificates are issued.

Greg Leake
Director
Client Communications & Engagement
BC Environmental Assessment Office
(250) 387-2470

Pages: 60-72
s13, s16

From: Curry, Sean
Sent: Wednesday, October 8, 2014 9:13 AM
To: Porter, Charles; O'Hanley, James G; Pokorny, Peter; Swan, Trevor
Subject: FW: Letter dated October 7, 2014 from EAO
Attachments: 104574_EAO_Response to 2014 Sept 22.pdf; 09-22-2014 Ltr to Ministers re LNG Pipelines Affecting BRFN.PDF

EAO's response to BRFN's letter of sept 22; which was sent by Charles.

I will be calling in to the EAO/BRFN meeting on Thursday to hear their concerns about the MNGD/OGC forecasting work, and answer any high level questions.

Sean



Sean Curry, RPF
Director, Resource Development
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From: Waters, Cory EAO:EX [<mailto:Cory.Waters@gov.bc.ca>]
Sent: Tuesday, October 7, 2014 3:36 PM
To: Simon Coley; Avila, Amy; Recknell, Geoff ABR:EX; Banford, Alexandra R ABR:EX; Thoroughgood, Garth A MNGD:EX; Austin, Matt MNGD:EX; Graham, Roger ABR:EX
Cc: Curry, Sean
Subject: FW: Letter dated October 7, 2014 from EAO

This response to Blueberry River is in lieu of Minister's response to their incoming Sept 22 letter, also attached. We've offered to have Sean Curry attend from EAO to speak to the upstream forecast modelling work, but are waiting to confirm he is able to join.

s13

Please note that we are meeting BRFN on Oct 9, and I will be in BRFN to attend.

From: Spiteri, Bailey EAO:EX

Sent: Tuesday, October 7, 2014 3:21 PM

To: 'myahey@blueberryfn.ca'

Cc: 'npyle@blueberryfn.ca'; 'wyahey@blueberryfn.ca'; 'bandadmin@blueberryfn.ca'; Minister, ENV ENV:EX; Piccinino, Ines MNGD:EX; O'Hanley, James G OGC:IN; XT:Giroday, Lesley Ratcliff & Co. EAO:IN; 'ehume@ratcliff.com'; Recknell, Geoff ABR:EX; 'robert_kendel@transcanada.com'; 'eric_mohun@transcanada.com'; Braun, Nathan EAO:EX; Shepard, Michael EAO:EX; Waters, Cory EAO:EX; Spiteri, Bailey EAO:EX

Subject: Letter dated October 7, 2014 from EAO

Good afternoon,

Please see attached letter dated October 7, 2014, signed by Cory Waters, EAO.

Thank you,

Bailey Spiteri

Administrative Assistant | Environmental Assessment Office

4th floor – 836 Yates St, Victoria, BC V8W 1L8

Ph: (250) 387-7983 | Fax: (250) 356-6448 | Email: Bailey.Spiteri@gov.bc.ca

 Please consider the environment before printing this message.

Ref: 104574

October 7, 2014

SENT VIA EMAIL

Chief Marvin Yahey
Blueberry River First Nations
PO Box 3009
Buick Creek BC V0C 2R0
myahey@blueberryfn.ca

Dear Chief Yahey:

Thank you for your letter of September 22, 2014, addressed to the Honourable Mary Polak, Minister of Environment, and the Honourable Rich Coleman, Minister of Natural Gas Development, regarding your concerns with the proposed Coastal GasLink (CGL) Project, the proposed Westcoast Connector Gas Transmission (WCGT) Project, and the proposed Prince Rupert Gas Transmission (PRGT) Project (proposed Projects). Your letter has been directed to me for response. I also look forward to the meeting scheduled between Blueberry River First Nations (BRFN) and Environmental Assessment Office (EAO) on October 9, 2014.

EAO acknowledges that BRFN believes the consultation on each of the proposed Projects has been inadequate and that the environmental assessments (EA) for each of the proposed Projects have not dealt with BRFN's outstanding concerns. BRFN asserts that most of its concerns have gone unaddressed and does not believe that participation in the Working Group meetings hosted by EAO were effective, given the size and format of the meetings. Although BRFN may not have been satisfied with the responses to your comments and concerns raised, EAO has sought to understand all of the key concerns and issues raised through many venues and forums during the EAs, from issues raised during Working Group meetings (CGL and WCGT), through tracking table comments and Proponent responses, and through comments received on draft referral materials presented to the Working Group for review (CGL and WCGT).

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Having said this, I acknowledge your continued concerns, as well as your October 3, 2014 letter and instructions regarding the separate submission to Ministers from BRFN. Your concerns will be reflected in the Assessment Reports on these proposed Projects, and all correspondence will be included in the EA referral package to Ministers, as per your request (including your September 22, 2014 and September 29, 2014 letters).

I wish to assure you EAO seriously considers all input received from Aboriginal Groups during consultation. Consultation is not undertaken to allow BRFN or any Aboriginal Group the opportunity “to blow off steam”. Meaningful opportunities were provided to BRFN during the EAs. In addition to comprehensive technical discussions during Working Group meetings for all three proposed Projects, EAO consistently offered to meet with BRFN, and did so on multiple occasions. You note that there have mainly been two avenues for input to the EAs – comment on documents and Working Group participation. However, a substantive and meaningful avenue is not included in your letter – direct consultation between Aboriginal Groups and proposed Project Proponents. EAO formally delegates procedural aspects of consultation to each Proponent through our section 11 Order, and requires Proponents to report on progress throughout the EA process, being inclusive of concerns raised by Aboriginal Groups and how these are addressed. EAO has also considered and incorporated project-specific Traditional Land Use (TLU) data into the CGL environmental assessment, above and beyond what was provided in the Proponent’s EA Application, as we will do on the other projects, should separate TLU information be provided to us.

As you know, BRFN was added to Schedule B for CGL in February 2014 having been invited to be a member of the Working Group on that proposed Project since the Working Group’s inception in May 2013. BRFN accepted that invitation in September 2013. BRFN has been on Schedule B for WCGT since the original issuance of the section 11 Order.

You express concern about cumulative effects in BRFN territory from industrial and development activities, in particular from oil and gas activities in the Montney Play. You express concern that that the Province has not dealt with cumulative effects within Treaty 8 territory nor to BRFN territory in particular, and that the assessment of the impacts on Treaty Rights by EAO has been inappropriately narrow. It is the view of EAO that cumulative effects assessment on each of these proposed Projects has been undertaken as required. EAO’s assessment seeks to understand how any residual effects of a proposed project may cumulate with other past, present and reasonably foreseeable projects and activities within a broader regional study area. These regional study areas are determined based on the geographic extent of the potential effects on the value. This, in turn, informs EAO’s assessment of the potential impacts to Treaty Rights. EAO’s approach to cumulative effects assessment is consistent with the federal approach, as well as the approach taken in other jurisdictions.

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You express concerns relating to effects resulting from induced upstream oil and gas activity, and your letter dated September 29, 2014 notes concerns for the upstream modelling forecast provided to BRFN and other Aboriginal Groups by EAO. I will forward your concerns with respect to the modelling forecast to the BC Oil and Gas Commission and the Ministry of Natural Gas Development for consideration. It is my understanding that this particular topic is also being considered for ongoing context and engagement in northeast BC, as a potential project within the Ecosystem Stewardship Initiative.

With respect to BRFN being on Schedule C for PRGT, EAO met with BRFN on July 3, 2014 in Vancouver and during this meeting included some discussion regarding BRFN's ongoing concerns with the depth of consultation on the PRGT project. EAO again described at this meeting the historical and current use information required from BRFN to inform EAO of the necessary depth of consultation relating to this, and all of the Liquefied Natural Gas (LNG)-related pipeline projects, in the same fashion that led to EAO adding BRFN to Schedule B for the CGL Project. This approach is consistent with the consultation approach taken broadly by the Province with BRFN, as described by Geoff Recknell, Director North Region with Ministry of Aboriginal Relations and Reconciliation in his letter to you dated May 26, 2014. EAO has not received any historic use information relating to PRGT that would inform such consideration from BRFN. EAO will be providing draft referral materials for PRGT to Aboriginal Groups on Schedule C, including BRFN, and we look forward to receiving your views.

I look forward to meeting with you on October 9, 2014, and to the ongoing participation by BRFN in the consideration of the two remaining LNG-related pipeline projects.

Yours truly,



Cory Waters
First Nations Lead, LNG Projects

cc: Norma Pyle, Councillor
Blueberry River First Nations

Wayne Yahey, Councillor
Blueberry River First Nations

Cici Sterritt, Band Administrator
Blueberry River First Nations

.../4

Honourable Mary Polak, Minister
Ministry of Environment

Ines Piccinino, Assistant Deputy Minister
Ministry of Natural Gas Development

James O'Hanley, Deputy Commissioner
BC Oil and Gas Commission

Lesley Giroday
Ratcliffe and Company

Geoff Recknell, Regional Director
Ministry of Aboriginal Relations and Reconciliation

Rob Kendel, Coastal GasLink Pipeline
TransCanada Pipelines Ltd.

Eric Mohun, Project Engagement Lead
TransCanada Pipeline Ltd.

Nathan Braun, Project Assessment Manager
Environmental Assessment Office

Michael Shepard, Project Assessment Manager
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September 22, 2014

Rich Coleman
Minister of Natural Gas Development
PO Box 9052
STN PROV GOVT
Victoria, BC V8W 9E2

Via email: MNGD.minister@gov.bc.ca

Mary Polak
Minister of Environment
PO BOX 9047
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Via email: ENV.Minister@gov.bc.ca

Dear Ministers:

Re: LNG Pipelines Affecting Blueberry River First Nations

This letter concerns several liquid natural gas (“LNG”) pipeline projects which are in the BC environmental assessment (“EA”) process and which if approved and constructed will adversely affect Blueberry River First Nations’ (“BRFN”) territory and treaty rights. These projects are the Coastal GasLink (“CGL”), Westcoast Connector (“WCGT”) and Prince Rupert Gas Transmission (“PRGT”) pipelines (collectively, the “LNG Pipelines”).

The LNG Pipelines will traverse BRFN territory and affect the lands, waters and resources of our territory. As a result, they will also affect the ability of BRFN’s members to practice their treaty rights which are the subject of the solemn promises of the Crown set out in Treaty 8. Under Treaty 8, BRFN has been promised the rights to hunt, trap, fish and practice our traditional mode of life.¹

These LNG Pipelines will also result in added effects to those significant cumulative effects which already adversely affect our territory, our resources and our treaty rights, due to the extensive development of the core and other areas of our territory by Crown-authorized industrial and other development activities. As examples of the impact of existing development, a 2012 study concluded that, as of 2011, 66% of the land in the core of our territory was disturbed, and the existing linear disturbance density of 1.58 km/km² was so significant that

¹ *Report of Commissioners for Treaty No. 8; West Moberly First Nations v. British Columbia (Chief Inspector of Mines)*, 2011 BCCA 247 at paras 130, 137, leave to appeal refused 2012 CanLII 8361 (SCC) [*West Moberly*].

traditional wildlife species could cease to be viable.² A video illustrating the cumulative effects of oil and gas development (5,786 active wells, 2,699 inactive wells and supporting infrastructure) in part of our territory can be found online at:

<https://www.youtube.com/watch?v=Eezk-MOOzwo>.

The LNG Pipelines are only one part of a much broader picture of further development currently proposed for our territory. BRFN is currently dealing with Crown referrals regarding the three pipelines in the provincial EA process, three in (or soon to be in) the federal National Energy Board process, and one major and numerous smaller pipelines being authorized by the Oil & Gas Commission. Of course, the operation of these pipelines will result in very significant induced development by way of the infrastructure required to procure the gas to feed into them. Almost all of the development induced by these pipelines will be in the Montney (shale gas) Play, which sits directly under BRFN's territory. In short, our territory has been hammered by development to date, and will be hammered again by what is proposed.

Despite this, the Provincial Crown has failed to deal with the cumulative effects burden on BRFN territory which is resulting from development, and the resultant adverse effects on BRFN treaty rights. The EA processes for the LNG Pipelines are further compounding this situation by failing to effectively assess or address cumulative effects.

The failure of the Crown to undertake an effective assessment of cumulative effects leads to decisions made in a vacuum which fail to recognize that impacts on our treaty rights "depend on what happened in the past and what will likely happen in the future."³ This neglect of cumulative impacts in our territory in conjunction with rapidly increasing industrial development risks leaving BRFN "with an empty shell of a treaty promise."⁴ The honour of the Crown demands that Treaty 8 be given a broad, purposive interpretation, and that the Crown undertake consultation in a way "that pursues the purpose behind the promise."⁵ In light of existing cumulative effects in BRFN territory, only consultation that considers the cumulative impacts of existing and future development can ensure BRFN members will be able to meaningfully practice their treaty rights. Courts have recognized that when a Nation's territory becomes increasingly developed, the scope of consultation and accommodation broadens, even for individual referrals.⁶ As a result of the levels of pre-existing development in BRFN territory, consultation with BRFN must consider cumulative impacts of development on BRFN or we will be left with an empty shell for the promises made to us under Treaty 8.

The EA processes for the LNG pipelines have not dealt with BRFN's concerns (including with respect to cumulative effects, among numerous other issues) and do not constitute meaningful consultation on, and the accommodation as necessary of, BRFN's constitutionality-protected treaty rights. This is of grave concern to the BRFN leadership, particularly as the LNG Pipelines could receive their EA certificates from the Province in the next few months.

² MSES, "Effects of Industrial Disturbance on the Traditional Resources of the Blueberry River First Nation" (August 2012).

³ *West Moberly*, at para 237.

⁴ *R v. Marshall*, [1999] 3 SCR 456, at para 52.

⁵ *Manitoba Metis Federation Inc. v. Canada (Attorney General)*, 2013 SCC 14, [2013] 1 SCR 623 at para. 80,

⁶ *Dene Tha' First Nation v. British Columbia (Minister of Energy and Mines)*, 2013 BCSC 977, at para 129.

As set out in the relevant caselaw, consultation is talking together to reach “mutual understanding”⁷. Meaningful consultation requires more than the opportunity to “blow off steam”⁸. Rather, the Crown must ensure that the comments of the First Nation are “demonstrably integrated into the proposed plan of action”⁹. The honour of the Crown requires no less in meeting constitutional obligations to First Nations.

In the LNG Pipeline EA processes, BRFN has been provided with no more than opportunities to blow off steam. There have been mainly two avenues for input to these EAs: Through comment on various documents (e.g., draft Application Information Requirements, proponents’ applications for EA certificates (“Applications”), draft Assessment Reports), and in Working Group (“WG”) meetings. Neither avenue has provided for meaningful consultation.

The extensive comments we have provided on various documents have gone largely unaddressed. For example: During Application review for the CGL pipeline, BRFN identified 158 concerns with the Application; however, the proponent provided only a handful of sufficient responses and failed to address the vast majority of BRFN’s concerns. In Application review for the WCGT pipeline, BRFN identified 98 concerns and only eight of these were addressed, and the remaining 90 comments were either not addressed (54 comments) or were only partially addressed (36 comments).

With respect to WG meetings, BRFN has been clear that our participation in these meetings would not constitute consultation with us due to the ineffective structure of the meetings. Examples of problems with WG meetings include the following: Agendas for the WG meetings were set unilaterally by the EAO; no opportunity for meaningful dialogue on unresolved issues was facilitated nor was it possible, given the number of First Nations and other WG members present; and the meetings were rushed and dominated by presentations from the LNG Pipelines proponents, which largely consisted of defences of the projects, their Applications and their responses to some of the concerns that had been raised. While BRFN’s technical representatives attended these meetings on our behalf, it was only to ensure BRFN’s concerns were articulated to the extent possible, and to gather further information regarding what was proposed in our territory. However, as we anticipated, no meaningful opportunities for consultation were provided at these meetings due to the concerns noted here, among others.

Examples of BRFN’s outstanding concerns with the LNG Pipelines EAs include the following, among numerous others:

- a failure to adopt an appropriate cumulative effects assessment (“CEA”) program and continued reliance by the EAO on their highly criticized project-based approach which does not enable any effective assessment of the cumulative effects on BRFN’s treaty rights, including a total lack of response from the EAO or the proponent to a comprehensive critique (provided by a leading expert in the field) of the EAO’s approach to CEA submitted by BRFN on the WCGT project;

⁷ *Haida Nation v. BC (Minister of Forests)*, 2004 SCC 73, at para 43.

⁸ *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)*, 2005 SCC 69, at para 54.

⁹ *Halfway River First Nation v. BC (Ministry of Forests)*, 1999 BCCA 470, at para 160.

- the mischaracterization of impacts on BRFN because no BRFN project-specific TLU data has been integrated into the EAs and/or because proponents have simply identified substantially the same effects for all First Nations across the hundreds of kilometres their projects affect in an apparent “cut and paste” approach to impacts that is non-specific and unacceptable;
- the failure to assess a large portion of project impacts because information on ancillary components (e.g., access roads, bridges, construction camps, etc.) has not been provided;
- no consideration of First Nation specific social, economic and cultural impacts, despite the well-documented disproportionate burden of industrial development on First Nation communities;
- no consideration in the EA processes or in any other process of the very significant induced development that will result in BRFN’s territory;
- undertaking a wholly inadequate effects assessment due to the adoption of a “project-wide” approach, with the result that impacts on environmental attributes (e.g., wildlife) in BRFN territory, and on which our treaty rights depend, are not considered;
- misinterpreting and mischaracterizing BRFN’s treaty rights as limited to the written text of Treaty 8, therefore failing to incorporate the oral context of Treaty 8, which is contrary to law¹⁰; and
- utilizing impact assessment thresholds which were developed unilaterally by proponents without BRFN’s input, with the result that determinations of project effects on environmental attributes don’t consider impacts to BRFN rights and interests, which is wholly inappropriate given that these effects are relied on by the EAO as a proxy to assess impacts on BRFN.

With respect to the PRGT project, BRFN wrote to the EAO by letter dated June 27, 2014, requesting that we be moved from Schedule C to Schedule B of the project’s section 11 order, for the purposes of participation and recognition in the EA, and that full consideration be given to impacts from the project as it affects our territory and treaty rights. To date, we have had no response to this letter.

For all of the above-noted reasons, BRFN has grave concerns regarding the LNG Pipelines, the EAs associated with them and the impacts to our rights associated with them. Our concerns have not been, and are not being addressed in the EAs. The Crown’s legal obligations to meaningfully consult with us respecting the LNG Pipelines, and to accommodate our interests, have not been discharged. BRFN calls on you, as the Ministers responsible for approving the LNG Pipelines, to immediately address this situation by: 1) halting the LNG Pipelines EAs; 2) delaying pending EA decisions on the LNG Pipelines; and 3) engaging in meaningful consultation directly with BRFN concerning the impacts to our treaty rights that these projects represent, consistent with the honour of the Crown. This consultation must include joint work designing and implementing

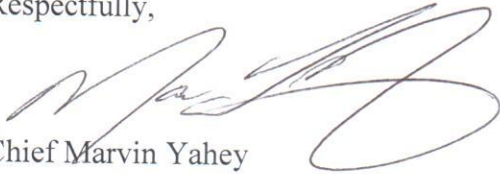
¹⁰ *R v. Badger*, [1996] 1 SCR 771, at paras. 52, 55.

an effective CEA process focused on BRFN territory and rights, based on a methodology we agree on, and which will inform all development decisions relating to our territory and rights.

As the responsible Ministers, you have a constitutional duty to assess the adequacy of the Crown's consultation and accommodation efforts and determine whether the Crown's legal duties have been discharged, before a project is approved, and the authority and obligation to deny an EA certificate if these obligations have not been met. It is BRFN's strong view that just such an assessment is now required with respect to the LNG Pipelines, taking into account our views on the EA process and the Crown's consultation to this juncture.

Given pending approvals, we look forward to your prompt response.

Respectfully,



Chief Marvin Yahey
Blueberry River First Nations

cc: Michael Shepard, EAO (via email Michael.Shepard@gov.bc.ca)
Nathan Braun, EAO (via email Nathan.Braun@gov.bc.ca)

From: O'Hanley, James G
Sent: Monday, October 6, 2014 10:21 AM
To: Paulson, Ken
Subject: RE: Not for Circulation
Attachments: draft CGL RnR Oct_3_clean for reviewkp.docx

Have included my comments/edits in the attached.



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From: Paulson, Ken
Sent: October-06-14 9:59 AM
To: O'Hanley, James G
Subject: Not for Circulation

Your review and comments please – need this today



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