



Keepers of the Water · Keepers of the Athabasca OUR POSITION ON: THE ENBRIDGE NORTHERN GATEWAY PIPELINE

As Keepers of the Water, we believe our present Conservative Government in Ottawa is putting oil industry profits ahead of the social, economic and environmental well-being of Canadians. It is being done in such a way as to erode our democratic rights in the process. Based on a recent open letter by Federal Minister Joe Oliver¹, of Natural Resources Canada, we may end up with changes to the Canadian Environmental Assessment Act (CEAA)² that censor opportunities for participation in the Environmental Assessment (EA) process by Canadians who have priorities that differ from those of our government.

Almost all of Canada's current oil exports go to the United States. Nonetheless, the Enbridge Northern Gateway Pipeline proposal³ would connect Edmonton, AB with the BC coastal community, Kitimat, linking the oilsands with a seaport that would significantly increase oil shipments to Asia, filling 225 oil tankers per year on the northern coast of British Columbia.

Canada's Environmental Assessment Act (CEAA) is an Act of Parliament, which sets out a process that is followed by an appointed hearing body, free of political interference. With the Enbridge Northern Gateway Pipeline proposal, the question of national interest is weighed by the National Energy Board (NEB), an independent economic regulatory agency, appointed by the Government of Canada⁴. The resulting decision will then go before Prime Minister Stephen Harper's Cabinet. Normally the political process takes as long as is needed to facilitate true public discussion, and to allow time for the review of technical documents. Timelines are built into the process; these timelines, however, are generally flexible enough to accommodate the specific complexities of any matter under review.

Enbridge's proposed Northern Gateway Pipeline will cross through several jurisdictions including two provinces, federal lands, and First Nation land claims. It will traverse forests and rivers where vibrant wildlife and fisheries exist. Once the bitumen is loaded at Kitimat into ocean-going tankers bound for markets in Asia or elsewhere, the tankers must navigate the narrow confines of BC's rugged west coast. This jagged coastline is well known as a graveyard for ships due to the shallow waters and the frequency of fog and other bad weather. The Northern Gateway Pipeline proposal is complex and complicated, both from a jurisdictional and an implementation point of view.

In the reference of Federal Minister Joe Oliver's open letter concerning environmentalist groups with 'radical' agendas, exploiting 'loopholes' and 'hijacking' the regulatory process during EA Assessments with for-

eign money, Minister Oliver does seem to be speaking without knowledge of the point and purpose of the EA process. As stated earlier, the EA is designed to allow for the democratic right of citizens and the constitutional right of First Nations to be heard concerning large projects, such as an inter-provincial oil pipeline and tanker terminal to haul heavy crude.

Non-Canadian interests provide a small voice in the pipeline proposal at this point. The pipeline is full of risks for British Columbians as it would cross thousands of salmon-bearing rivers and streams, and have to navigate the treacherous fjords of the Great Bear Rainforest. In a poll released on January 9, 2012 by BC environmental groups, the vast majority, 75% of British Columbians, say they are worried about foreign investment in Canadian natural resources, while only a small minority, 15% are concerned about funding provided by US charitable foundations to Canadian environmental groups⁵.

The Northern Gateway Pipeline proposal has also met with strong opposition from First Nations throughout BC. The Fraser Declaration, originally signed by 60 BC First Nations, has now been endorsed by over 130 BC, AB, and NWT First Nations. On January 27, 2012, Keepers of the Athabasca and several First Nations from Alberta and the Northwest Territories, including Grand Chief Allan Adam, on behalf of Treaty Eight⁶, signed the Declaration in Edmonton, Alberta. Dene National Chief Bill Erasmus put it plainly when he spoke about the interconnectedness of water, and of how the water in the Arctic Ocean Drainage Basin flows north where people still obtain their drinking water directly from the streams and rivers.

On December 1st of 2010, in an effort to protect the Pacific coast and the watersheds that we all depend on, First Nations from the north coast, the south coast, and the Interior of BC gathered together to declare in solidarity, under Indigenous Law, that the tar sands oil tankers and pipelines are now banned, with this ban stretching across the entire land mass of British Columbia, and in an unbroken swath along BC's coast, from the US border to the Arctic Ocean.

More than 130 First Nations governments in Western Canada have declared they do not support the Enbridge Northern Gateway Pipeline, nor will they support other such projects anywhere in traditional territories⁶. This is an unprecedented, unified opposition and a matter of law. The Yinka Dene Alliance⁷, the Save the Fraser Declaration⁸, and the Coastal First Nation Declaration⁹ are an exercise of constitutionally-protected Aboriginal Title over the lands and waters of their territories. Therefore they are arguably protected under international law - not only through the UN Declaration on the Rights of Indigenous Peoples¹⁰, but by other Canadian agreements, such as the American Declaration on the Rights and Duties of Man¹¹, and legal decisions interpreting them¹².

After US President Barack Obama made the decision to reassess the Keystone XL Pipeline, our Canadian government has been very keen to move ahead with the Chinese-backed Enbridge Northern Gateway Pipeline¹³. The creation of pipelines is essential to expand oilsands production, and profits, before stricter environmental laws are developed by a change of government and the implementation of carbon offsets and carbon taxes.

Rather than promoting runaway development, there should be protection and thoughtful management of non-renewable resources in Canada. Due to an oil-inspired rise of the Canadian dollar, hundreds of thousands of well-paying manufacturing jobs have left the country, over 600,000 in Ontario alone, as manufacturing companies found they could no longer compete in a global market. Canada needs more focus on protecting existing jobs and laying the groundwork for a low-carbon economy.

With over 4500 public delegates signed up to speak during the Environmental Assessment of the Northern Gateway Pipeline, experts don't expect to reach a conclusion until late in 2013. As much as the oil companies

and our Canadian, British Columbia, and Alberta governments would like to rush through the regulatory process, expecting a positive decision, there is much to consider. In the EA, a neutral process free of bias may be hard to come by if it is not allowed the time and freedom from governmental pressure to consider the different viewpoints, including those of Aboriginal communities, and to review the evidence to make an objective decision based on facts.

An eroded EA process that limits public participation and re-weights environmental, economic and social considerations may end up costing the government, the people of our great nation, and industry more in the long run. Not addressing constitutional rights and public concerns could result in increased delays due to conflict and lawsuits. A loss of natural life support systems and other ecosystem failures will cost us all.

Done correctly, an EA can be an effective long-term planning tool to assist the government in making decisions that recognize environmental and societal values, and to prioritize the development of resources within ecological limits. As a central part of environmental decision-making, an EA can, and should, be a process that helps develop a positive relationship between the Crown and Aboriginal groups, one that recognizes their right to make decisions about what takes place on their traditional lands. The erosion of environmental protection, and the CEAA regulatory process, will result in costly delays and greater uncertainty for all Canadians¹².

- ¹ Oliver, J. (2012, January 9). An open letter from the Honourable Joe Oliver, Minister of Natural Resources, on Canada's commitment to diversify our energy markets and the need to further streamline the regulatory process in order to advance Canada's national economic interest. Natural Resources Canada. Retrieved from <http://www.nrcan.gc.ca/media-room/news-release/2012/1/3520>
 - ² Canadian Environmental Assessment Act (the Act) and regulations. Canadian Environmental Assessment Agency (CEAA). Retrieved from <http://www.ceaa.gc.ca/default.asp?lang=En&n=F11DF725-1>
 - ³ Enbridge Northern Gateway Pipeline proposal. (2012). Enbridge Northern Gateway Pipelines. Retrieved from <http://www.northerngateway.ca/>
 - ⁴ National Energy Board of Canada (2011). Retrieved from <http://www.neb-one.gc.ca/clf-nsi/rthnb/whwrn-drgvrnnc/cndntnlnrgrgltr-eng.html>
 - ⁵ Foreign Funding Poll: British Columbians worried about foreign investment in Canadian resources, not philanthropic support for environmental groups. (2012, January 9) [Media release]. West Coast Environmental Law. Retrieved from <http://tiny.cc/b9a8w>
 - ⁶ Harden-Donahue, A. (2012, January 31). Alberta and N.W.T. First Nations sign Fraser Declaration against Enbridge and Kinder Morgan pipelines [Web log]. Rabble.ca. Retrieved from <http://tiny.cc/usvj4>
 - ⁷ Yinka Dene Alliance. (2012). Retrieved from <http://yinkadene.ca/>
 - ⁸ Save the Fraser Declaration. (2012, December 2). Save the Fraser: Gathering of Nations. Retrieved from <http://savethefraser.ca/>.
 - ⁹ Declaration. (2010, March 23). Coastal First Nations: Great Bear Initiative. Retrieved from <http://www.coastal-firstnations.ca/about/declaration>
 - ¹⁰ United Nations Declaration on the Rights of Indigenous Peoples. (2007, September 13). UN Permanent Forum on Indigenous Issues (UNPFII). Retrieved from <http://www.un.org/esa/socdev/unpfii/en/declaration.html>
 - ¹¹ This Declaration is an international declaration. American Declaration of the Rights and Duties of Man (1998, June 2). Organization of American States. Retrieved from <http://www.oas.org/juridico/english/ga-res98/eres1591.htm>
 - ¹² An open letter to Marie-France Renaud: Clerk, Standing Committee on Environment and Sustainable Development, House of Commons. Seven Year Statutory Review of the Canadian Environmental Assessment Act. (2011, November 28). West Coast Environmental Law. Retrieved from <http://tiny.cc/5jmv1>
 - ¹³ Roland, R. (2012, February 2). PetroChina looks to Kitimat as it spends \$1 billion for Shell shale gas in north-eastern BC [Editorial]. Northwest Coast Energy News. Retrieved from <http://tiny.cc/t7798>
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