



Squamish Nation Go to Court to Challenge the BC Government's Decision to Approve the Kinder Morgan Project

FOR IMMEDIATE RELEASE
April 20, 2017

North Vancouver, BC – The Province approved the Kinder Morgan project and the Squamish Nation is now taking them to court.

The Squamish Nation has filed an application for judicial review in British Columbia Supreme Court challenging the Province of British Columbia's decision to approve the Kinder Morgan heavy oil project. The Nation is asking the Court to quash or set aside the Environmental Assessment Certificate that the Province issued for the Project on January 10, 2017 based on the failure to consult the Nation.

This follows closely on the heels of the Nation's application challenging the federal government's approval of the same Kinder Morgan project, which a number of other First Nations, municipalities and environmental NGOs have also challenged.

The Province and Squamish Nation shared similar concerns regarding Kinder Morgan's Project application submitted to the National Energy Board (NEB), including the insufficient information concerning terminal safety, emergency response and the fate and behavior of diluted bitumen in marine waters.

In the NEB process, the Province stated in its final submission that it cannot support the approval of Kinder Morgan's application because Kinder Morgan did not file sufficient evidence to enable the Province to conclude that it would have world-class marine and terrestrial spill prevention and response capacity (Conditions 3 and 4 of the Province's Five Conditions to support heavy oil pipeline projects). The NEB did not compel Kinder Morgan to provide the information the Province asked for and therefore the information gaps were not addressed when the recommendation to approve the Project was made to the federal decision maker.

“The Province approved a heavy oil pipeline Project without having information on key issues like emergency response plans, spill response capacity and whether diluted bitumen will sink. This is not protecting the Squamish Nation's interests, and is not even in keeping with the Province's own conditions for supporting heavy oil pipeline projects”, said Chief Ian Campbell, spokesperson for the Squamish Nation.

Despite not having these issues addressed by Kinder Morgan, the Province later took a different position and approved the Project.

“The Province changed its position on the Project without discussing this with us. It did a complete 360 degree turn. We strongly believe that the Province has a legal duty to consult us on what new information became available to make it change its position and whether this new information addresses our concerns with the Project. We heard nothing from them”, said Chief Ian Campbell.



From the Squamish Nation's perspective, not only did the provincial government fail to provide full and proper information to the Squamish Nation on how it assessed the Nation's Aboriginal rights and title interests, it failed to address the information gaps both the Province and the Squamish Nation raised in the NEB process.

"The NEB made recommendations based on uncertain information and both the federal and provincial governments based their decision to approve the Project on this uncertain information. How is the Squamish Nation to understand the risks and impacts to the Nation without full and proper information? This is unacceptable to us", said Chief Ian Campbell.

It wasn't until the end of the NEB process that the Province was told it had to consult with the First Nation's on the Project and issue a provincial Environmental Assessment Certificate.

The federal and provincial governments had entered into an Equivalency Agreement regarding the environmental assessment of big oil projects in BC where the NEB would conduct the environmental assessment in place of the provincial government - effectively permitting the federal government to make decisions that are normally under provincial jurisdiction.

First Nations in northern BC had challenged in court the federal decision to approve the Enbridge Northern Gateway oil project, including that the Province also had a legal duty to consult First Nations on the Project and to issue its own environmental assessment certificate. The First Nations won that court challenge and the project will not be developed.

The Province could have terminated the Equivalency Agreement and conducted a full provincial environmental assessment process for the Kinder Morgan project. It decided not to terminate the Equivalency Agreement and did so without consulting the Squamish Nation, and other affected First Nations, as required by the court decision.

"Rather than terminate the Equivalency Agreement and conduct a full provincial environmental assessment process, the Province merely relied on the NEB process as its environmental assessment of the Project. It ultimately approved the Project based on a flawed federal process and report. This was the opportunity to address the deficiencies in that flawed process", explained Chief Campbell.

The Trans Mountain Expansion Project is a proposal made by Kinder Morgan to expand the existing Trans Mountain pipeline from Edmonton, Alberta to Burnaby, BC from a capacity of 300,000 barrels per day to 890,000 barrels per day of crude petroleum and refined products. The Project will result in new and expanded infrastructure within BC, and an increase in tanker traffic calling at the Westridge Marine Terminal in Burrard Inlet from 5 to 34 tankers per month.

For more information contact:

Chief Ian Campbell
604-785-9291

