

OUR LAND IS OUR FUTURE

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

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August 9, 2018

The Honourable John Horgan
Premier, Province of British Columbia
PO Box 9041, STN PROV GOVT
Victoria, BC V8W 9E1
Via facsimile: (250) 387-0087

The Honourable George Heyman
Minister of Environment and Climate Change
Strategy
PO Box 9047, STN PROV GOVT

Rm 112, Parliament Buildings
Victoria, BC V8W 9E2
Via facsimile: (250) 387-1356

The Honourable Michelle Mungall
Minister of Energy, Mines and Petroleum
Resources
PO Box 9060, STN PROV GOVT
Victoria, BC V8W 9E2
Via facsimile: (250) 953-0900

OPEN LETTER: Kinder Morgan Canada Authorization Requests

Dear Premier Horgan, Minister Heyman, and Minister Mungall:

We are writing to you regarding a recent letter that was sent to the Neskonlith Indian Band from Ian Anderson, President of Kinder Morgan Canada (enclosed). This letter, which provides detail on the transfer of control of the Trans Mountain pipeline from Kinder Morgan to the Government of Canada, makes mention of the fact that Kinder Morgan will soon request specific authorizations from the Government of British Columbia to resume construction. We urge you to continue to stand with the First Nations and British Columbians who are justly opposed to this pipeline, and to deny all authorization requests sent to the Province from Kinder Morgan.

This letter, written under the guise of “consent,” does not request the consent of the Neskonlith Indian Band to build a dangerous pipeline through collectively-held Secwépemcul'ecw territory. Not a single question appears in this letter. Rather, Anderson *tells* Neskonlith that this is what Kinder Morgan is going to do: request the consent of the Government of British Columbia for the appropriate licenses and permits, as required. This indicates that Kinder Morgan has been and will continue to perform only the bare minimum of their legal obligations, with blatant disregard toward the laws, protocols and sovereignty of

First Nations. In addition, the language, structure, and tone of this letter suggests that it was not personally sent to Neskonlith, but is a form letter that may have been sent to multiple First Nations.

This letter fails to recognize and respect the governance structure under which the Neskonlith Indian Band operates. The proper holders of Title and Rights are determined according to Indigenous law. Under Secwépemc law, the Secwépemc people, including members of the Neskonlith Indian Band, collectively hold Aboriginal Title and Rights regarding Secwépemcul'ecw territory. Kinder Morgan Canada, through the distribution of these letters by individual band council, is attempting to divide and conquer Aboriginal Title and Rights within Secwépemcul'ecw territory while ignoring the voices and input of the proper titleholders—the Secwépemc people, collectively.

Anderson states that Kinder Morgan is “working with the government of British Columbia to obtain this consent.” This further indicates that they do not fully understand what the concept of “consent” means, nor do they care. Consent cannot be obtained through coercion, erosion, force, or bribery; however, despite the fact that Neskonlith has repeatedly made their opposition to this pipeline clear, they are still receiving correspondence such as this that indicates one message and one message only: the Trans Mountain pipeline will be built, and it doesn’t matter if a First Nation says “no” now—they will be forced to say “yes” eventually, or they will just have to accept it.

This is not consent. Consent, according to the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration), which your government has committed to fully implement, must be free, prior and informed. Approving Kinder Morgan Canada’s authorization requests and ignoring these coercive tactics would be in direct violation of several articles of the UN Declaration, namely:

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources;
2. States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their **free and informed consent prior to the approval of any project** affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
3. States shall provide effective mechanisms for just and fair redress to such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

By UBCIC Resolution 2011-54, the UBCIC Chiefs Council calls upon the BC Government to respect the laws and authority of First Nations, and to protect the environment, fisheries, and the health and safety of all BC communities, by opposing and rejecting the Kinder Morgan Trans Mountain pipeline and tanker expansion.

We urge you to deny all authorization requests from Kinder Morgan Canada to build the Trans Mountain pipeline. We request that you continue to stand with all First Nations who have voiced opposition to this

pipeline and are now targets of the coercive, forceful tactics that Kinder Morgan and the Government of Canada are employing to wrongfully obtain consent to build this environmentally dangerous, economically unstable project.

Please do not fall victim to these dangerous tactics. For the future of our waters, our lands, our Nations, and our planet, please stand by your commitment to stop the Trans Mountain pipeline and demonstrate to the Government of Canada what true consent is.

On behalf of the UNION OF BC INDIAN CHIEFS



Grand Chief Stewart Phillip
President



Chief Robert Chamberlin
Vice-President



Kukpi7 Judy Wilson
Secretary-Treasurer

CC: Neskonlith Indian Band

Encl: Letter from Ian Anderson to the Neskonlith Indian Band "Re: Trans Mountain Pipeline"

UBCIC Resolution 2011-54 "Support for the Save the Fraser Declaration, the Coastal First Nations Tanker Ban, and the Indigenous laws Banning Crude Oil Pipeline and Tanker Shipments through British Columbia"

July 26, 2018

Neskonlith Indian Band
PO Box 318
Chase, BC V0E 1M0

Attention: Chief Judy Wilson and Council

RE: Trans Mountain Pipeline

Dear Chief Wilson:

I am writing to provide you with additional details in relation to the transaction between the Government of Canada and Kinder Morgan announced on May 29, 2018 with respect to the Trans Mountain pipeline (the Transaction).

Kinder Morgan and the Government of Canada have been working to put in place all of the necessary arrangements to move forward with closing of the Transaction sometime later this year. As you may be aware, the Government of Canada is not acquiring the Trans Mountain pipeline assets directly. Rather, Canada is acquiring ownership of the Trans Mountain legal entities that own and operate the pipeline. These entities will remain the same following completion of the Transaction. The existing management structure will also remain in place. Trans Mountain will continue to be bound by all of its existing contractual and regulatory commitments and have the financial backing necessary to meet all of its obligations. Trans Mountain will continue to honour all of its commitments to Indigenous groups.

The Transaction will nevertheless result in a change of control of the Trans Mountain entities. As a result, we are required to request the consent of the Government of British Columbia in regard to a number of provincial authorizations, including the following authorizations that relate to activities within the traditional territory of the Neskonlith Indian Band:

- Land Title Act Form C Application dated March 10, 2009 - SRW no. 344121 (Registered under no. LB0285754) - Finn Creek Pump Station KP612.5
- Land Title Act Form C Application March 17, 2010 - SRW No. 705991 (Registered under no. BB045091) - Hargreaves scraper trap KP468
- Park Use Permit No. 101823 (Blue River Black Spruce Park)
- Park Use Permit No. 102621 (Mount Robson Park)

Trans Mountain Expansion Project

✉ **Email:** info@transmountain.com | ☎ **Phone:** 1.866.514.6700 | 🌐 **Website:** www.transmountain.com

There will be no impact or change to the activities conducted under any of the above authorizations. We are currently working with the government of British Columbia to obtain this consent.

We would be pleased to discuss the Transaction with you further, and provide any additional information that you require in this regard. You may contact Regan Schlecker at regan_schlecker@kindermorgan.com.

Yours truly,



Ian Anderson
President
Kinder Morgan Canada

cc: Nicole Schabus
Bonnie Leonard, Tribal Director - Shuswap Nation Tribal Council

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UNION OF B.C. INDIAN CHIEFS
CHIEFS COUNCIL
NOVEMBER 22ND – NOVEMBER 23RD, 2011
VANCOUVER, B.C.

Resolution no. 2011-54

RE: Support for the Save the Fraser Declaration, the Coastal First Nations Tanker Ban, and the Indigenous laws Banning Crude Oil Pipeline and Tanker Shipments through British Columbia

WHEREAS the Enbridge Northern Gateway Pipeline and tankers project, and the Kinder-Morgan Trans-Mountain oil pipeline and tanker expansion will expose Indigenous and non-Indigenous communities from the Pacific Coast across to Alberta to the risk of pipeline and supertanker oil spills;

WHEREAS both of these pipeline and tanker projects pose an unacceptable risk to the health, safety and livelihoods of First Nations throughout British Columbia, and will contribute to the negative environmental and health impacts experienced by Indigenous peoples downstream of the tar sands, and of all peoples throughout the world as a result of accelerating global climate change;

WHEREAS First Nations continue to exercise our laws and jurisdiction to protect our lands, our waters, our coasts and our rivers, as we have done for thousands of years and both the Save the Fraser Declaration and the Coastal First Nations Tanker Ban are grounded in our laws;

WHEREAS the UBCIC Chiefs Council passed Resolution 2010-11 to oppose the Enbridge Northern Gateway Pipeline Project.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council endorse the Coastal First Nations Tanker Ban and Save the Fraser Declaration that prohibit the transportation of tar sands crude oil by pipeline and tanker on the north coast, the south coast, and through the Fraser River watershed;

THEREFORE BE IT FINALLY RESOLVED that the UBCIC Chiefs Council urge the governments of Canada and British Columbia to respect the laws and authority of First Nations, and to protect the environment, fisheries, and the health and safety of all BC communities, by opposing and rejecting the proposed Enbridge Northern Gateway Pipelines and the Kinder-Morgan Trans Mountain pipeline and tanker expansion.

Moved: Bev Ketlo, Nadleh Whut'en (Proxy)
Seconded: Chief John Jones, Old Massett First Nation
Disposition: Carried
Date: November 23rd, 2011

November 23, 2011

2011-54
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