

Lax Kw'alaams Band
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SENT VIA EMAIL

April 30, 2021

Ms. Marija Tresoglavic
Acting Commission Secretary
British Columbia Utilities Commission
Suite 410 - 900 Howe Street
Vancouver, BC V6Z 2N3

Re: Pacific Northern Gas Ltd. Application for a Certificate of Public Convenience and Necessity for the Salvus to Galloway Gas Line Upgrade Project

Dear Ms. Tresoglavic:

We write in respect of the above-mentioned Application, in which we have learned that final argument has been filed and a decision is pending.

The British Columbia Utilities Commission (“the Commission”) is an agent of the Crown and has a duty to ensure that appropriate consultation with the affected aboriginal nations has been adequately completed in respect of an application.

We wish to advise you on behalf of the Lax Kw'alaams Band that such consultation has not occurred in respect of the Salvus to Galloway Gas Line Upgrade Project. This project involves a great deal of physical construction and impacts along the pipeline right of way in critical areas of our traditional territory.

We do not believe that the Commission has ever considered the degree of consultation with our Band, and has made no reasonable effort to verify the statements of the proponent or to gather that evidence directly.

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We have recently been advised by the BC Oil and Gas Commission in respect of their permitting process for this project that the OGC does not consider itself to have any authority to assess or regulate the amount of damage and impacts within the pipeline right of way (which is where the majority of the impacts will occur), and that any duty of consultation that arises from those impacts falls on another Crown agency. They have not specified that agency, but we believe the only other permitting authority with the power to consider that damage and therefore the potential duties in relation to consultation is your Commission. At the very least, we understand you have the obligation to consider the adequacy of consultation that has occurred.

We have also just learned that in their application the proponent assured the Commission that “there are no substantive issues or concerns related to engagement with indigenous communities”¹ and assured the Commission that it would keep the Commission updated as to any arising concerns. We do not believe that has occurred. Lax Kw’alaams has raised serious concerns on this project since October, 2020 and has been active in attempting to address concerns at the OGC, without success. Only lately have we learned that cannot be effective. Please be advised that it appears that PNG has not been accurate with the Commission in respect of the status of consultation with Lax Kw’alaams.

We ask that you postpone any decision on the merits on this application until you have further investigated the failure of consultation with Lax Kw’alaams and PNG’s failure to keep you advised.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Neegann Aaswaakshin'.

Neegann Aaswaakshin, JD
Director of Lands, Resources and Stewardship

Cc: Mayor Gary Reece, Lax Kw’alaams Band
Greg McDade, Senior Legal Counsel (Lax Kw’alaams)

¹ BCUC IR1 page 27.