

OUR NATION THEIR INTEREST

THE CASE AGAINST THE NORTHERN GATEWAY PIPELINE



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Our Nation, Their Interest: The Case Against the Northern Gateway Pipeline

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INTRODUCTION

Canada's New Year started with a bang in 2012. The federal government and oil lobby launched an aggressive offensive to try to convince Canadians that the proposed Gateway tar sands pipeline and tanker project across Northern B.C. is in the "national interest," while smearing those opposed to it - including citizens, environmental groups and First Nations.

They have it right on one level: the decision whether or not to build Northern Gateway is of national interest. All Canadians will be impacted by it, and deserve to understand what is at stake. At the core, emerging are two diverging visions for the future of our country. One is based on the rapid expansion of fossil fuel production like tar sands, enshrining Canada's position as a petro-state at the expense of our forests, oceans and rivers and the future of our planet. The other is based on a transition away from oil, gas and coal to clean energy sources that don't pollute and create jobs across the country, making sure Canada does its share to prevent catastrophic climate change.

So, when the argument is made that this project is in the "national interest," it depends on what kind of nation we want, and whose interests that nation serves.

What is the project? Enbridge is seeking permission to build two 1,170 kilometre pipelines running between the tar sands deposits in northern Alberta to Kitimat, B.C. on the coast. One pipeline would carry 525,000 barrels per day of diluted bitumen to the coast for transport to Asia via supertankers, and the other pipeline would carry condensate, a substance used to dilute the thick bitumen for easier transport, from the coast to the tar sands.

The project is premised on a rapid increase of the amount of tar sands oil being produced. The impacts of it would span from the tar sands region, which would deal with more habitat destruction, toxic tailings and air pollution, across pristine boreal forests and nearly 800 rivers and streams, to the coast. It would put at risk the

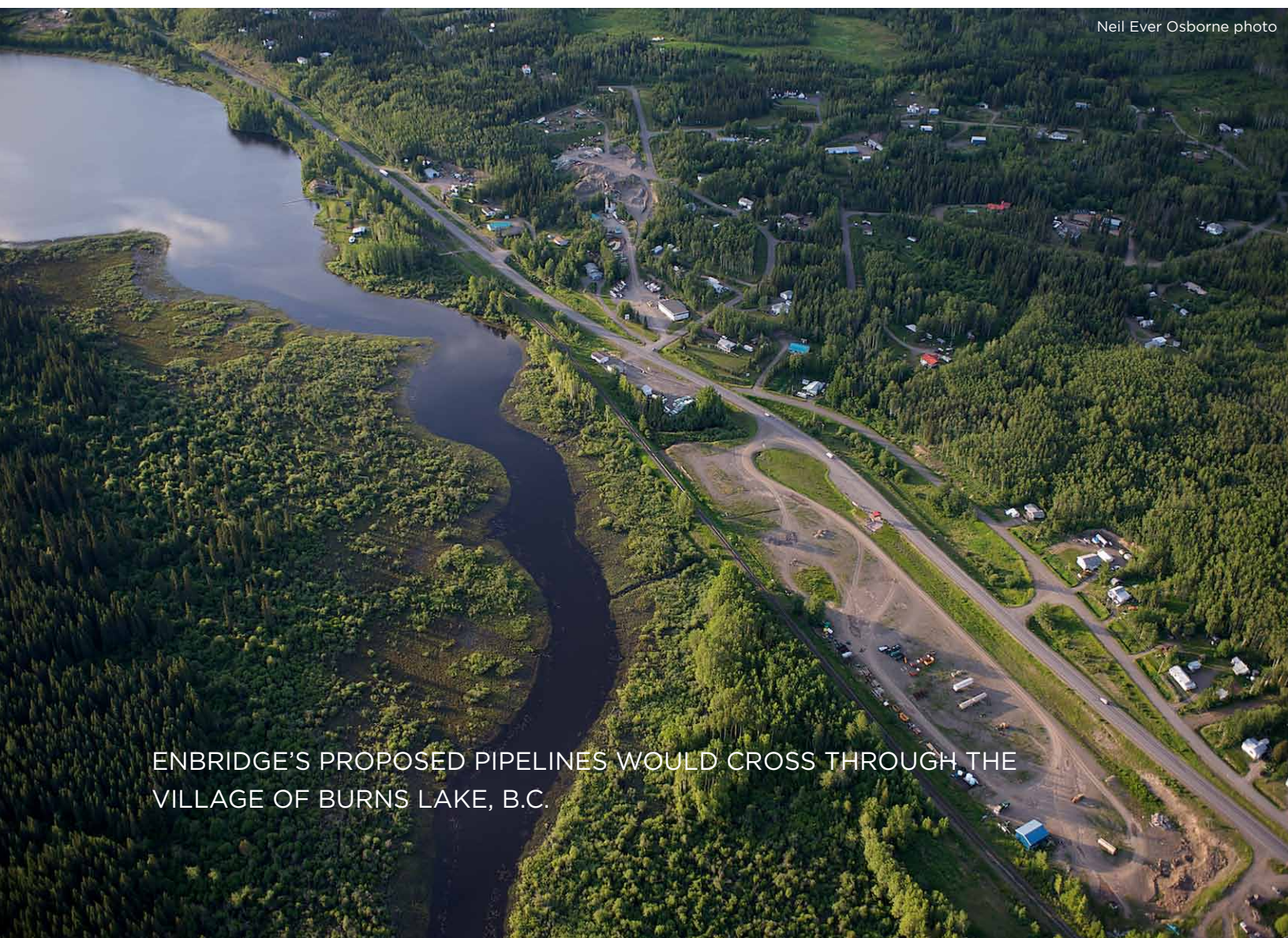


Andrew Wright

survival of the threatened woodland caribou, the spawning grounds of all five species of wild salmon, and a unique and diverse marine ecosystem. The tankers would travel through the Great Bear Rainforest, where a spill would harm the iconic Spirit Bear, the animal that inspired one of the 2010 Olympic mascots.

The supporters of the pipeline and tanker project – the oil industry and the federal government – are on a mission to convince Canadians that all of these risks don't matter in the face of the economic benefits of the project. They are also setting up a dangerous narrative whereby the opponents of the project, which includes dozens of First Nations communities that would be impacted by it, are depicted as acting against the “national interest.”

Yet, a closer look shows that this project is really in the interest of the international oil industry and not the Canadian public. Canadians, and northern B.C. residents in particular, would bear the brunt of the damage and costs just so the oil industry can expand the tar sands even more, when science is telling us it must shrink. This report looks at why the proposed Northern Gateway project is not in our “national interest.”



ENBRIDGE'S PROPOSED PIPELINES WOULD CROSS THROUGH THE VILLAGE OF BURNS LAKE, B.C.



Proposed Northern Gateway Pipeline and Tanker Route

THE BASICS

Canada's northwest coast is a place of magic – home to the iconic spirit bear, orca, humpback and fin whales, salmon, herring, shellfish – it is teeming with life. The Great Bear Rainforest is the largest coastal temperate rainforest on the planet. It stretches along British Columbia's coast north of Vancouver Island, and is the traditional territory of First Nations who have lived in this ecosystem for thousands of years. A spectacular forest wilderness with many pristine valleys, the Great Bear Rainforest is known as 'Canada's Amazon' for its dense web of natural life.

The two Northern Gateway pipelines would cross nearly 800 streams and rivers, including the wild salmon Fraser and Skeena watersheds. The pipelines would also cross mountain ranges and earthquake-prone landscapes before hitting the fragile ecosystems of the west coast. All pipelines create a risk of oil spills. Between 1999 and 2010, there were 804 spills across all of Enbridge's operations that released over 160,000 barrels of oil and gas.¹ In July 2010, Enbridge's Lakehead pipeline ruptured near Battle Creek, Michigan, spilling an estimated 4 million litres of crude oil into the Kalamazoo River, one of the largest oil spills in the US Midwest's history.² A spill in the forests and rivers the pipelines would cross would be devastating.

Enbridge's project would introduce oil supertankers to the Great Bear Sea for the first time ever. The tankers would need to navigate the fourth most dangerous body of water in the world, a region prone to hurricane force winds and some of the largest recorded waves in history.³

Tankers, each carrying eight times more oil than spilled in the Exxon Valdez disaster, would have to navigate through confined channels rife with rocky shoals and unmarked hazards, and complete 90 degree turns into narrow passages. A large marine oil spill on B.C.'s North Coast would devastate the marine ecosystem that supports a vibrant coastal way of life for thousands of people.

Due to the incredible risks to wild salmon, coastal ecosystems, and existing jobs and livelihoods, opposition to Enbridge's Northern Gateway pipeline and tanker project is strong in British Columbia. 80 per cent of British Columbians oppose the introduction of oil tankers to the North Coast.⁴ Municipalities have passed resolutions province-wide and individually against Enbridge's project.⁵

While this issue burst onto the national stage in early 2012, it had been building in British Columbia for years.



Brian Huntington photo

TIMELINE: TANKER AND PIPELINE CONCERN

1977-8	West Coast Oil Ports Inquiry held to examine proposal for a supertanker port at Kitimat and pipeline to Alberta. Project eventually withdrawn.
2004	The Federal Review on Offshore Oil and Gas (Priddle Process) hear from over 3,000 people who would be affected by oil development and tankers. More than 70 per cent of the submissions called for protecting the coast from offshore oil and gas and oil tankers.
2005-2006	Enbridge first proposed project. Lawsuit was pending from Carrier-Sekani Tribal Council.
Nov 2008	Enbridge re-announces intention to proceed with project.
June 2009	Wet'suwet'en host All Nations Energy Forum bringing together First Nations and others from across pipeline and tanker route in Moricetown, B.C.
Jan 2010	Government appoints National Energy Board (NEB) panel to conduct review of the project. Over 2,000 comments were submitted to the NEB on the terms of reference for this assessment.
March 2010	Nine Coastal First Nations declare ban on oil tankers through their territorial waters.
May 27, 2010	Enbridge filed its formal application to the National Energy Board.
Sept 2010	Union of B.C. Municipalities passes resolution calling for a tanker ban on the coast and opposing Enbridge.
October 2010	St'át'imc Nation, downriver from Enbridge's proposed pipeline, makes a declaration against the Enbridge pipeline affecting the waters they rely on.
Nov 2010	Skeena-Bulkley Valley NDP MP Nathan Cullen put forward motion in support of a legislated tanker ban for Canada's Pacific North coast that is passed by a majority with the support of all Opposition Parties.

Dec 2010	Save the Fraser Declaration banning oil sands pipelines in their territories signed by 61 First Nations in the Fraser watershed and affected Nations beyond. The Yinka Dene Alliance legally serves the declaration on Enbridge's CEO.
Dec 2010	Liberal MP Joyce Murray puts forward Private Members' Bill for a legislated tanker ban for B.C.'s north coast.
May 2011	<p>The Yinka Dene Alliance sent large delegation to Enbridge AGM and to meet with Board of Directors of Enbridge to tell them directly that the pipeline project is banned from their territories.</p> <p>First Nations in Alberta, Manitoba and BC joined in the Calgary Statement of Solidarity, declaring no pipelines can be built without First Nations consent.</p> <p>Rally organized disputing Enbridge's sponsorship of the Northern Municipal Leaders Conference. Over 250 people raise their hand when Haisla Gerald Amos asks who will stand with him in front of Enbridge's bulldozers if it comes to that.</p>
July 2011	The Dene Nation, representing much of the NWT and northern Alberta downriver of the pipeline and the tar sands, passes a resolution against the Enbridge Northern Gateway Pipeline.
Oct 2011	Deadline to register to give an oral statement at the JRP community hearings - over 4,000 people registered.
Dec 2011	Additional First Nations sign the Save the Fraser Declaration on the one-year anniversary.
Jan 2012	<p>Enbridge Joint Panel Review hearings begin.</p> <p>Natural Resources Minister Joe Oliver publishes open letter claiming "environmental and other radical groups...threaten to hijack our regulatory system to achieve their radical ideological agenda." Federal document released that labels First Nations and environmental groups as "adversaries."</p> <p>Over 40 additional First Nations from Alberta and the Northwest Territories who are affected by the project sign the Save the Fraser Declaration at a ceremony in Edmonton.</p>
Feb 2012	<p>Gitga'at host Rally in Prince Rupert that attracts 2,000 people opposing oil tankers.</p> <p>Several municipalities pass resolutions against the introduction of oil tankers, including Smithers, Terrace, Prince Rupert and the Skeena-Queen Charlotte Regional District.</p>

NORTHERN GATEWAY = TAR SANDS EXPANSION

As part of the regulatory process, Enbridge must prove the “need” for the project. In documents filed with the National Energy Board (NEB), Enbridge made its case that the project is needed using a projection of tar sands production that represents a radical expansion of the industry over the next 20 years. Enbridge’s plan assumes a tripling of tar sands production between 2010 and 2035 to nearly 6 million barrels each day,⁶ a scenario that would imply an utter failure to meet Canada’s climate targets.

The reason that Enbridge needs to use such a massive growth estimate is because, without a massive expansion of the industry, Northern Gateway simply isn’t needed. There’s more than enough pipeline capacity now, and enough to handle a 50 per cent expansion of tar sands production over the next decade.⁷ The extra capacity to carry oil that Northern Gateway would provide if built is only needed if Canada is on a path to triple production of tar sands, and not needed under more moderate expansion scenarios, let alone for scenarios where Canada instead transitions to clean energy, as scientists tell us we must.

By carrying 525,000 barrels of diluted bitumen each day, the proposed pipeline would directly enable the expansion of tar sands production by at least 367,500 barrels per day, representing a 28 per cent increase over 2008 levels.⁸ This extra tar sands development would mean:

- » **Water:** An additional 200 million barrels of water used for tar sands processing each year, equivalent to the water used by a city of 250,000 people each year.⁹
- » **Land Destruction:** Each year, an area of land equivalent to 2,148 football fields would be impacted by tar sands development, for a total of 460 square kilometers over the life of the project.¹⁰ According to Environment Canada, the threatened woodland caribou are already at risk of extirpation from the region as a result of industrial development.¹¹ The added tar sands development that would result from the pipeline would take a toll on species at risk like caribou and whooping crane, as well as other birds and wildlife already coping with pressure from habitat destruction.^{12,13,14}
- » **Toxic Tailings:** An additional 25 million barrels of toxic tailings would be produced each year¹⁵ (enough to fill the Rogers Centre two and a half times). The tailings are stored in vast lakes that are already leaking at a rate of 11 million litres each day.¹⁶ The tailings include dangerous chemicals like naphthenic acids, polycyclic aromatic hydrocarbons, phenolic compounds, ammonia, mercury and other trace metals. To date, there is no safe disposal plan for the tailings that already exist, and there’s evidence that toxic chemicals are polluting water downstream from tar sands.¹⁷



THE NORTHERN GATEWAY PIPELINE WOULD CARRY APPROXIMATELY 100 MILLION TONNES OF GLOBAL WARMING POLLUTION EACH YEAR, AND ALLOW TAR SANDS EXPANSION.

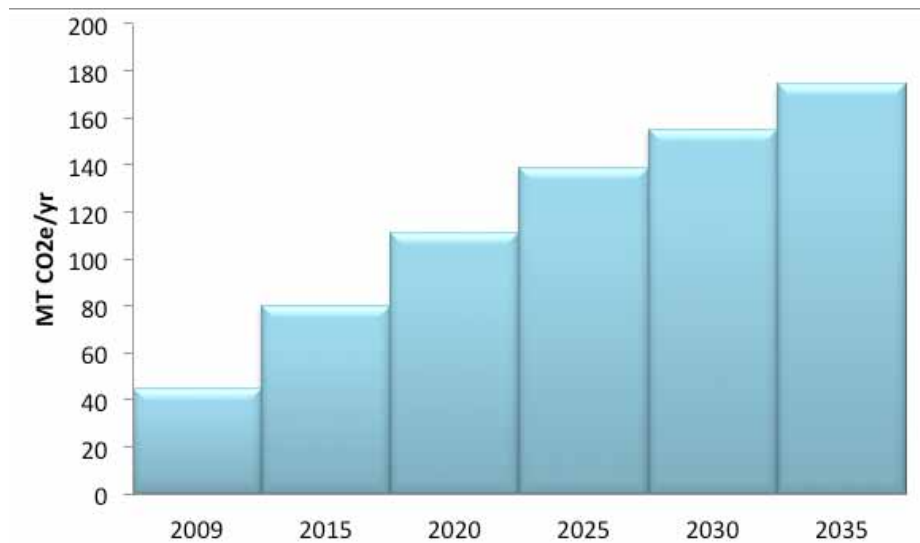


Figure 1: Estimated greenhouse gas emissions from tar sands growth estimates

This exploding amount of carbon pollution from the tar sands is inconsistent with Canada doing its fair share to tackle global warming. The Government of Canada has set a goal of reducing emissions to 17 per cent below 2006 levels by 2020, yet currently has no credible plan in place to get there.²⁴ The rate of tar sands growth that Enbridge is banking on would mean that the tar sands' share of national emissions would rise from 7 per cent in 2009 to 18 per cent by 2020.²⁵ This means that, as the oil industry squeezed the rest of the country into a smaller and smaller share of the carbon budget, the burden for reaching the federal government's stated goal would fall largely on other sectors of the Canadian economy.

However, from a science-based perspective, developed countries like Canada need to do much more if the world is to avoid catastrophic climate change. If Canada were to do what science says is needed, and allow tar sands to grow as planned, the tar sands sector would account for over 30 per cent of the country's carbon budget in 2020.²⁶

Locking In: The Wrong Path

The International Energy Agency (IEA) recently flagged concerns that new fossil fuel infrastructure, like Northern Gateway, built over the next five years risks making it impossible to prevent catastrophic levels of climate change.²⁷ According to the IEA, if we are to limit global warming to 2 degrees, the amount scientists believe is needed to avert the more dangerous impacts of climate change, the world already has nearly all the coal, oil and gas infrastructure in place (eg. pipelines) that it can handle.²⁸ Without policies in place to begin to dramatically shift our energy systems from oil, gas and coal to clean energy, the world is on track for 6 degrees of warming. A

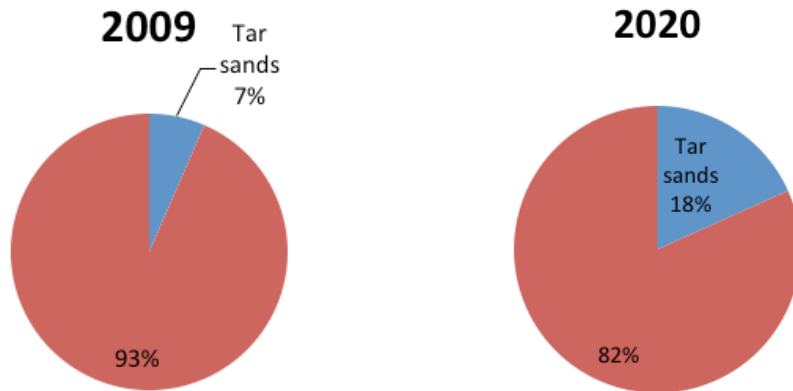


Figure 2. Tar Sands Share of National Emissions

rapid expansion of the tar sands and associated infrastructure like Northern Gateway fits within an energy pathway that is headed toward catastrophic levels of climate change.

An MIT study looked at the demand for tar sands oil under different global scenarios for action on climate change.²⁹ It found that the type of unfettered growth anticipated by Enbridge and the federal government only makes economic sense in a world that has utterly failed to act to curb global warming. According to the study, if countries put in place measures to cap carbon pollution, oil demand would drop significantly and tar sands expansion is not economically viable.

This might sound like wishful academic thinking given the state of global climate negotiations. But, it's important to understand that tar sands expansion only makes sense in a world tracking to climate catastrophe for two reasons. First, as the impacts of climate change are made real, there will at some point be a breakthrough in the current impasse at the global talks. Canada is banking its economic future on an industry that becomes obsolete when meaningful action is taken to cut carbon pollution. Second, it means that the federal government's desire to see tar sands expand and Northern Gateway built is based on a world view that has us headed toward a dangerous scenario of global warming. Yet 65 per cent of Canadians want government to act on climate change.³⁰ Clearly, the pro-tar sands cheerleading coming from our federal government is out of step with what Canadians want, and what our children need if they are to have the same security that their parents took for granted.



“AS EACH YEAR PASSES WITHOUT CLEAR SIGNALS TO DRIVE INVESTMENT IN CLEAN ENERGY, THE ‘LOCK-IN’ OF HIGH-CARBON INFRASTRUCTURE IS MAKING IT HARDER AND MORE EXPENSIVE TO MEET OUR ENERGY SECURITY AND CLIMATE GOALS,”

- Fatih Birol, Chief Economist, International Energy Agency³²

FUNNY MATH: THE ECONOMICS OF NORTHERN GATEWAY

Jobs

British Columbia's coast is more than a rich, ecologically-important stretch of land and ocean home to a diverse range of animals, really big trees, and a favourite stomping ground for nature lovers around the world. It's also a big employer.

According to the B.C. government, the seafood industry and ocean-based tourism together create 45,000 jobs. These are 45,000 jobs that depend on a clean and healthy ocean ecosystem.³³

ACCORDING TO
ENBRIDGE'S OWN
NUMBERS, 200 JOBS
WOULD BE AT RISK IN
THE REGION FOR EVERY
ONE JOB CREATED BY
THE PROJECT.

An oil spill could ruin this coastal economy. The states affected by BP's Deepwater Horizon disaster in 2010 know this only too well. One study estimated that the Gulf Coast would lose up to \$23 billion in tourism revenue as a result of the oil spill.³⁴ The herring have never returned to Prince William Sound since the Exxon Valdez oil spill, eliminating an entire fishery.

In return for jeopardizing this established source of good jobs, Enbridge is offering local citizens 217 long-term jobs, 104 operating the pipeline and 113 in associated marine services.³⁵ That means that according to Enbridge's own numbers, 200 jobs would be at risk in the region for every one job created by the project.

And that doesn't even take into account the risks along the proposed pipeline route. Enbridge's proposed project has over 1,000 stream and river crossings, several within the Fraser and Skeena watersheds. The Skeena wild salmon economy has been estimated to be worth over \$110 million a year.³⁶ Major oil spills within rich wild salmon watersheds would put existing economies and livelihoods at risk.

Enbridge predicts that 2,000-3,000 people would be employed during peak construction.³⁷ Those are temporary jobs that would last for the duration of the estimated 3 years construction phase. It sounds like a lot, but that's roughly equivalent to the number of construction jobs stemming from a proposed new offshore wind farm near Hamilton, Ontario.³⁸ And, those jobs are a flash in the pan. In contrast, the impacts of an oil spill would last decades, putting the jobs that exist today that rely on a healthy coast and watersheds at risk for an indefinite period.

“THE NICHE FOR THE OIL SANDS INDUSTRY SEEMS FAIRLY NARROW AND MOSTLY INVOLVES HOPING THAT CLIMATE POLICY WILL FAIL.”
- MIT³¹

The job math clearly doesn't add up in favour of the project for people living in northern B.C. But the federal government and Enbridge have been hard at work trying to convince Canadians that building the pipeline and tanker project is in the "national interest." Yet, according to Enbridge's own estimates, only 1,150 long-term jobs would be created across the country as a result of the project.³⁹ That works out to roughly 100 jobs per province.

"FOR HUNDREDS OF YEARS, THE FISHERIES HAVE BEEN VITAL TO OUR COMMUNITIES' ECONOMIES AND OUR WAY OF LIFE AS COASTAL PEOPLE, AND WE'RE NOT WILLING TO PUT THAT AT RISK. THE COMMERCIAL FISHING INDUSTRY IS THE LARGEST PRIVATE SECTOR EMPLOYER ON THE CENTRAL AND NORTH COAST, AND A HANDFUL OF OIL JOBS WON'T REPLACE THE IMPORTANCE OF THE FISHERY."

- Joy Thorkelson, United Fisherman's and Allied Workers' Union⁴⁰



"THE ENBRIDGE PROJECT THREATENS OUR ECONOMY AND OPPORTUNITIES FOR FUTURE GENERATIONS."

- Kris Olsen, Councillor, Village of Queen Charlotte⁴²

Over a Barrel

Enbridge, in documents filed with the National Energy Board (NEB), presents estimates of the economic impacts of the pipeline and tanker project, including a \$270 billion contribution to Canada's GDP over the 30-year life of the project. Ninety per cent of this benefit is based on a projected \$2-3 increase in the price oil companies would fetch for each barrel of tar sands oil as a result of the expanded market access.⁴³

Yet, according to an analysis performed by Robyn Allan, economist and former CEO of the Insurance Corporation of B.C. (ICBC), Enbridge's claims are highly flawed because the impact of higher oil prices on the Canadian economy are not fully taken into account. Allan calculated that in just one year, oil companies would make an extra \$2.9 billion as a result of the higher price of tar sands oil per barrel, but that would come at the expense of \$2.3 billion lost from elsewhere in the Canadian economy.⁴⁴ Refineries, paying higher prices for oil triggered by Northern Gateway, would pass on those higher costs to consumers. The transfer of higher oil prices to Canadian consumers and non-oil producing businesses would continue every year of the project's life.

The analysis found many flaws with Enbridge's economic estimates, and concluded that: "Northern Gateway represents an inflationary price shock which will have a negative and prolonged impact on the Canadian economy by reducing output, employment, labour income and government revenues".

Going Dutch

Northern Gateway is based on a plan to rapidly expand the production, and export, of tar sands oil. This has big consequences for Canada's economy, and not all of them are positive. Already, parts of Canada are being affected by "Dutch Disease" – a term coined in the 1970s to describe the hollowing out of manufacturing in the Netherlands following the discovery of a large natural gas field that drove up the country's currency, pricing its manufacturing products out of international markets.

The recent rise of the Canadian dollar cannot be entirely linked to oil prices because the weakness of the U.S. dollar has also played a role. However, a recent study from the University of Ottawa that examines the impact of resource exports (e.g. oil) on the dollar and manufacturing jobs finds that Dutch Disease has a big impact in Canada. It estimates that almost 40 per cent of manufacturing job loss in Canada due to rising currency has been a result of Dutch Disease stemming from growing oil exports.⁴⁵ This translates into 196,000-220,000 families that have been affected by job loss related to Dutch Disease.

This may be all well and good if those jobs lost were replaced by jobs in the tar sands sector. But, Canada's geography presents a unique challenge in dealing with the impacts of Dutch Disease.⁴⁶ While Alberta reaps the majority of the job benefits of tar sands development, it's Ontario and Quebec that feel the pain of jobs lost in the

manufacturing sector. Seventy-five per cent of Canada's manufacturing industry is located in these two provinces.⁴⁷ Between 2004 and 2008, Quebec and Ontario lost 86,700 and 198,600 manufacturing jobs respectively.⁴⁸ B.C., New Brunswick and Nova Scotia also lost a combined 35,000 jobs.⁴⁹

In addition, the oil and gas industry is one of the most capital intensive sectors in the world. While jobs increase in construction with expansion projects, there are relatively few in day-to-day operations. In 2008, 56,283 workers were employed in all oil and gas extraction, a further 17,904 were employed in petroleum and coal product manufacturing, and 43,824 employed in support activities for mining and oil and gas extraction.⁵⁰ This total of 118,011 represents 0.8 per cent of total Canadian employment. In addition, in a study for the Alberta Federation of Labour, it is estimated that for every 400,000 barrels of raw bitumen Canada exports, economists calculate that the nation sends approximately 18,000 upgrading and refining jobs abroad and reduces Canada's GDP by 0.2 per cent. Enbridge's Northern Gateway promises to ship raw bitumen overseas.⁵¹

Yet, despite the surge of tar sands activity and decline in manufacturing, manufacturing still contributes four times the value to Canada's GDP than the oil and gas sector does.⁵² Decisions about the pace and scale of tar sands development need to take into account the pros and cons for all regions of the country. Instead, the federal government is in a mad dash to get new pipelines built to ship more tar sands oil outside the country with no consideration of the impact on jobs in other sectors, and no plan to deal with it.

Northern Gateway would put 200 jobs at risk in B.C. for every job it created, further entrench Dutch Disease and the accompanying job loss in central Canada and the basis of claims that it would add significantly to Canada's GDP is shaky. The project isn't in the economic interests of people living in the region, nor the rest of Canada. Who benefits then? The oil companies.

“RIGHT NOW 95 PER CENT OF THE OIL IS IN ALBERTA BUT 75 PER CENT OF THE MANUFACTURING JOBS ARE IN ONTARIO AND QUEBEC,” SHE SAYS. “IF YOU HAVE A POLICY THAT DELIBERATELY SUPPORTS ALBERTA AT THE EXPENSE OF EASTERN CANADA, THEN YOU'RE STRETCHING THE NATIONAL FABRIC.”

- Robyn Allan, Economist⁵³

COSTLY CLEAN-UP

An oil spill on Canada's northwest coast would impact us all. When oil spills, it's nearly impossible to clean-up. Typically only 10 to 15 per cent of spilled oil can be recovered, even in ideal weather conditions, with well-equipped crews onsite. 23 years later, oil is still found on the beaches in Prince William Sound thanks to the Exxon Valdez. Enbridge's proposed project area is also extremely remote and severe weather is the norm, which are inhibiting factors in successful response. Furthermore, the Canadian Coast Guard, the lead government agency responsible for responding to an oil spill, is not adequately prepared to deal with oil spills.⁵⁴

**"CAN WE PROMISE
THERE WILL NEVER
BE AN ACCIDENT? NO.
NOBODY CAN."**

- Chief Executive Officer Pat Daniel, Enbridge Inc.⁴¹

You'd think that since Enbridge is a multi-national oil corporation they'd have to chip in a few bucks to fund oil spill response. Not so. When it comes to tankers Enbridge has no liability or responsibility whatsoever.⁵⁵ Should an oil spill from a tanker occur, Enbridge is absolved from all risk and could happily watch from the shoreline.

It is the ship owner, most likely a company from Asia, who would be responsible for the first \$140 million in clean-up and compensation costs. After that, Canadian taxpayers would be on the hook. They could access approximately \$1.3 billion dollars from international funds, but once that money is exhausted, the rest will come from general revenue, i.e. tax dollars. \$1.3 billion sounds like a lot, but lower estimates for Exxon were \$3.5 billion. Some estimates are as high as \$9 billion. That's at least \$2 billion dollars that would come from Canada for one spill. \$2 billion from our pockets for oil we aren't even using.

A JUST AND DEMOCRATIC PROCESS?

Trampling First Nations rights

Enbridge's Northern Gateway project has received significant opposition from First Nations who would be most impacted in the event of a spill. The Union of BC Indian Chiefs and the First Nations Summit, BC-wide organizations whose memberships represent the overwhelming majority of BC First Nations, both passed resolutions opposing the Enbridge pipeline and tankers project at their Chiefs' assemblies. In March 2010, nine Coastal First Nations declared a ban on oil tanker traffic through their traditional lands and waters.⁵⁶ In December 2010, 61 First Nations in the Fraser watershed, from the Northern Interior to the South Coast, signed the Save the Fraser Declaration banning oil pipelines in their territories.⁵⁷ Over 40 other nations signed

on to the declaration in December 2011 and January 2012 helping build a “wall” of opposition.⁵⁸ These declarations are based on First Nations Rights and Title, protected in Canada’s Constitution. Through these declarations, First Nations whose territories make up more than 50 per cent of the combined pipeline and tanker route have stated their resolute opposition to this project, and banned oil tankers and pipelines using their Indigenous laws and authority, recognized under Canadian and international law.

Despite this degree of First Nations opposition, Prime Minister Harper and other members of the federal government have been promoting the pipeline before the regulatory process has even come to a decision. The Prime Minister has vowed to see Northern Gateway proceed.⁵⁹

Yet the federal government is bound by the Constitution to uphold Aboriginal rights, and with this comes a requirement to consult and accommodate First Nations. Several First Nations have expressed concern that the existing regulatory process does not adequately respect First Nations Rights and Title, and despite this, the federal government is moving to weaken the process rather than strengthening. A failure on the part of the Crown to meet its obligations regarding First Nations impacts Canada’s reputation abroad and risks lengthy legal battles. Former Environment Minister Jim Prentice, as well as legal experts, has highlighted that the future of big projects like Northern Gateway hinges on more than just regulatory approvals and that First Nations support is essential.⁶⁰

“ONE OF THE GREAT PUBLIC POLICY FAILURES IN CANADIAN HISTORY WAS THE FAILURE TO ACTUALLY EXECUTE LAND CLAIM TREATIES AND, IN A SENSE, TITLEMENT, IN BRITISH COLUMBIA OVER OF COURSE OF THE LAST 150 YEARS...AND SO THE REALITY ON THE GROUND IS THAT THE CONSTITUTIONAL AND LEGAL POSITION OF THE FIRST NATIONS IS VERY STRONG.”

- Jim Prentice, Vice-Chairman, CIBC⁶¹



Nikki Skuce photo

WET’SUWET’EN HEREDITARY CHIEF NAMOX SPEAKING AT RALLY IN PRINCE RUPERT, MAY 2011.

Undermining The Democratic Process

Enbridge filed its formal application to the National Energy Board on May 27, 2010, triggering a public regulatory review process led by a Joint Review Panel (JRP), consisting of the National Energy Board (NEB) and the Canadian Environmental Assessment Agency (CEAA). The JRP has been criticized for its lack of transparency, its legal inability to address and accommodate First Nations Rights and Title, its failure to respect First Nations decision-making authority, and the narrow scope of issues being addressed.

The JRP panel includes only three members - none of whom are from British Columbia - who will determine the extent to which the project meets the public interest. If Cabinet approves the NEB's positive decision, the NEB can then issue a certificate approving the project. Other federal authorities can then issue their own permits as required, and the provinces can consider whether to issue the permits needed under their jurisdiction.

When the hearings are done, they will make an assessment based on whether or not the proposed project is in the public interest. Their recommendation will be forwarded to the Minister of Natural Resources who eventually signs-off on the decision. The Minister and Cabinet must accept a negative decision but can overturn a positive one or decrease the number of conditions recommended.

The JRP has over 200 registered intervenors, which is the highest level of engagement that allows participants to ask clarifying questions to Enbridge on their application, produce their own evidence, cross-examine evidence at the formal hearings, put forward legal motions, and give final arguments. Over 4,000 people registered to make oral statements at the hearings, for up to 10 minutes each. These will take place in 23 communities, mostly in B.C., and are scheduled to begin in April 2012 across the pipeline and tanker route.

The Panel has estimated that they will have their final recommendation on whether or not the Enbridge project is in the national interest by the end of 2013. The Federal government has criticized the timeline as unnecessary delays and the process as being "hijacked by radicals"⁶². They have repeatedly given indications that they are going to revise the Environmental Assessment process to help speed up approvals, including Prime Minister Harper's high-level speech at the World Economic Forum



in Davos where he stated that “we will soon take action to ensure that major energy and mining projects are not subject to unnecessary regulatory delays – that is, delay merely for the sake of delay.”⁶³

Smearing Opponents

The day before the opening of JRP hearings on Northern Gateway, federal Natural Resources Minister issued an unprecedented open letter attacking opponents of the project as “radical groups” who use “jet setting celebrities” to promote a “radical ideological agenda.”⁶⁴ Later that month, documents obtained under access to information laws revealed that the federal government considers First Nations and environmental groups as “adversaries” when it comes to lobbying on behalf of the tar sands, whereas the oil industry and even the supposedly independent NEB were listed as “allies.”⁶⁵ In the next month, the federal government unveiled its new anti-terrorism strategy that lists environmentalism alongside white supremacy as a possible source of extremism.⁶⁶ Federal ministers have repeatedly questioned the motivations of those that do not agree with them about the pipeline, suggesting that competing foreign economic interests are really behind environmental concerns.⁶⁷

In sum, the federal government has engaged in a multi-faceted strategy to attack opponents of the pipeline, a stark reversal of Canadian political culture that once reflected the tolerance of its people.

CONCLUSION

While the oil industry, Alberta government, and federal government allege that the Northern Gateway pipeline is in the “national interest,” this report has shown that the project is really only in the interests of a narrow group of international oil companies.

At risk are entire cultures, from those already suffering from the impacts of tar sands activity in Northern Alberta, to those along the watersheds the pipeline route proposes to cross, and also those along the B.C. coastline where oil tankers would be introduced. At risk are our international ecological treasures like the Great Bear Rainforest and wild salmon Skeena and Fraser watersheds. At risk are jobs not only in those areas but also across the country as Canada develops a case of Dutch Disease due to our high-flying petro-dollar. And, at risk are our children who desperately need their parents to take responsibility for carbon emissions and shift Canada instead towards the abundant renewable energy resources this county is blessed with.

So, next time somebody alleges that the Northern Gateway pipeline is in the “national interest,” ask them who benefits and who loses, and more importantly, why aren’t we pursuing other projects that we can all agree are more in the interest of not only citizens across Canada, but also the future citizens of Canada.

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