

Kinder Morgan underestimating environmental, health risks of pipeline expansion - report

By PETER O'NEIL and Kelly Sinoski, Vancouver Sun May 27, 2015

Tsleil-Waututh Nation releases their assessment of the Kinder Morgan project in North Vancouver. Report says Kinder Morgan underestimating environmental and health risks of pipeline expansion

A small First Nation's environmental assessment of Kinder Morgan Canada's \$5.4-billion oilsands pipeline expansion could "delay or derail" the megaproject, according to a legal analysis of the report.

The scathing 90-page assessment, released Tuesday by the 570-member Tsleil-Waututh First Nation of North Vancouver, includes separate scientific research that says Kinder Morgan has underestimated the environmental and public health risks of major and minor oil spills in Burrard Inlet.

"The assessment lays out the profound impacts of the project on Tsleil-Waututh title and rights, thus setting the stage for litigation that could delay or derail" the expansion, according to the two-page analysis of the report by six law professors, including the University of B.C.'s Gordon Christie.

The report concludes the company's plan to triple the capacity of its pipeline system from Edmonton to Burnaby is contrary to the interests of the Tsleil-Waututh First Nation and should be opposed by its chief and council.

"All experts concluded in their reports that the (company's) environmental assessment is inadequate and should not be relied upon to assess the potential effects of the proposal," according to the full report.

Kinder Morgan Canada's plan "has the potential to affect the Tsleil-Waututh community profoundly."

The Tsleil-Waututh reserve is in North Vancouver less than two kilometres across Burrard Inlet from the Kinder Morgan Canada's Westridge oil tanker terminal.

Kinder Morgan Canada is seeking National Energy Board approval to increase the capacity of its Trans Mountain Pipeline to 890,000 barrels a day from 300,000. The federal cabinet will make the final decision.

On Tuesday, the Tseil-Waututh drew about 100 people to the shores of the Burrard Inlet to bless the report with a traditional song and dance before the Tseil-Waututh announced it would not approve the pipeline expansion on its sacred land.

Rueben George, a grandson of Chief Dan George and a member of the Sacred Trust Initiative, said Tuesday his Tsleil-Waututh ancestors had long lived off the water and the land and had striven to protect and look after it. The water provided much of the food for his people for generations, he said, and the First Nation has been attempting in recent years to restore it by boosting salmon stocks and improving the ecosystem.

The proposed pipeline, he said, is "hindering our efforts."

"These tankers and pipelines and the port behind us. ... What they're doing is not good," George said. "It goes against our laws on our land and water. That's why we're saying No. We're not going to allow this to happen."

Ali Hounsell, spokesman for the Trans Mountain expansion project, said in an email that Trans Mountain will review the report and fully respond through the process, Hounsell said.

Hounsell said Kinder Morgan "deeply respects aboriginal rights and title and we acknowledge the Crown's responsibility to consult with representatives of First Nations." The company has consulted with about 133 First Nations along the pipeline route.

"Since our project was announced, Trans Mountain has attempted to have multiple discussions with the Tseil-Waututh First Nation and with the release of this new report, we once again invite the Tseil-Waututh First Nation to come to the table," Hounsell said.

George argues the Canadian government is allied with the pipeline companies and the people have to stand together.

"You can't put a price on the sacred. You can't put a price on our children. You can't put a price on who we are. This is for our future generation."

If the project goes ahead, the number of oil tankers loading in Burrard Inlet would increase to 34 a month, from five.

The six law professors said the 90-page report from the First Nation is "pioneering" in its scope and "legally significant."

The assessment is particularly relevant for Kinder Morgan Canada, a subsidiary of the Texas-based energy infrastructure giant, given the landmark 2014 Supreme Court of Canada *Tsilhqot'in* ruling that expanded the scope of aboriginal rights and title to land, they argue.

It was signed by Christie, director of the UBC's Indigenous Legal Studies Program; Sakej Youngblood Henderson, research director of the University of Saskatchewan's Native Law Centre of Canada; Andree Boisselle, assistant professor at Osgoode Hall Law School; and Nicole Schabus, Janna Promislow, and Charis Kamphuis, all with the law faculty at Thompson Rivers University in Kamloops.

The full Tsleil-Waututh report assessed the project based on the objectives of its 2009 Marine Stewardship Project for Burrard Inlet, and relied on five reports it commissioned — some which were made public earlier this month — to consider the risks.

Simon Fraser University's Thomas Gunton and Sean Broadbent conducted an oil spill risk assessment. Jerry Galt of Edmonds, Wash.-based Genwest Systems did an oil spill trajectory analysis. Dr. Jeffrey Short of Alaska-based JWS Consulting looked at the "behaviour, fate, and consequences" of spilled diluted bitumen. Seldovia, Alaska-based Nuka Research did a study the "gap and capacity analysis" of the oil spill response regime in the area. Levelton Consultants of Richmond, assessed the risks to air quality in the residential area around Burrard Inlet.

The report, noting the seven-fold increase in oil tanker traffic if the project proceeds, said it necessarily increases the likelihood of spills both large and small.

"Because spilled oil cannot be cleaned up completely, the consequences are dire for sensitive sites, habitat, and species, and for the Tsleil-Waututh subsistence economy, cultural activities, and contemporary economy," declares the executive summary.

It pointed to the 2007 spill at the Westridge terminal that dumped 600 barrels of oil into Burrard Inlet, as well as last month's spill involving the MV Marathassa that spilled 16 barrels of bunker fuel into English Bay.

"The Tsleil-Waututh cannot accept the increased risks, effects, and consequences of even another small incident like the 2007 Westridge or 2015 MV Marathassa oil spills, let alone a worst-case spill."