OUR LAND IS OUR FUTURE

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First Nations Leadership
Via email only

Open Letter: Investment in the TMX Poses Significant Financial Risks for First Nations

Dear First Nations Leadership:

It has been widely reported that a number of First Nations leaders are involved in talks with the federal government to invest in the Trans Mountain pipeline (TMX). The Union of BC Indian Chiefs (UBCIC) are concerned that the government may not be providing a full and accurate account of the financial future of the project. Before you make the decision to invest or not, here are some crucial and significant points that you should know.

The pipeline is not as profitable as some people want you to believe. Last November Finance Minister Bill Morneau told reporters that "since acquisition, the Trans Mountain entities have earned $70 million" if you annualize that figure the pipeline should make around $200 million a year. However, that figure is before Interest, Taxes, Depreciation and Amortization (EBITDA) and once you include interest payments, based on figures disclosed by Canada Development Investment Corporation (CDEV), which total around $240 million a year, you will quickly see that the existing pipeline is not a profit maker.

Construction costs have increased by 72% before they have even gotten a shovel in the ground and are likely to still go up. The original cost estimate in Kinder Morgan's application was $5.4 billion. In 2015, the cost increased to $6.8 billion; in 2017 it increased to $7.4 billion; and in 2018 it was $9.3 billion. An independent analysis estimates the total cost at around $15 billion.

The Parliamentary Budget Officer calculated that a 10 per cent increase in construction costs (based on $9.3B) would reduce the Net Present Value (NPV) of the TMX by $453 million to $1,128 million. Similarly, a one-year delay would reduce the NPV of the TMX by $693 million to $888 million. Clearly, there is a very real chance that cost overruns and delays will continue to seriously threaten the financial viability of the project.

It is not clear that a market exists in Asia for the oil shipped by the Trans Mountain pipeline. We have been told over and over again that this pipeline is about getting Canadian oil to Asia where it will get a better price than in the US. If that is true, how is it that little oil from the existing Trans Mountain pipeline has been shipped to Asian markets? Over the five year period between 2013 and early 2018 just 15 tankers left Trans Mountain Westridge dock headed for ports in Asia while 161 tankers left Westridge headed for American ports.

The reason for this could be because the oil produced in the oil sands is heavy crude and there is very limited capacity in Asian refineries for that form of oil. Mexican Mayan Crude, another form of heavy oil, has tidewater access to the Pacific but continues to sell in the US because it can get a higher price than in Asia. Furthermore, most of the demand forecasted in China has been met by other sources of cheaper, lighter crude that are geographically closer and cheaper to transport.

The customers for the pipeline may not be as committed as you have been led to believe. It is true 13 shippers (or customers) have signed take-or-pay contracts for Trans Mountain. However, these shippers will have the opportunity to cancel their contracts after Trans Mountain provides an updated cost estimate within 60 days of the issuing of a certificate of public convenience and necessity, should the project be approved.

In May 2018, Statoil ASA, Nexen Energy and Canadian Oil Sands Ltd. exercised the right to terminate their contracts, and Kinder Morgan replaced them with other shippers. As the cost of construction continues to increase (currently $9.3B and counting), the cost to use the pipeline also increases, potentially leading some shippers to opt out.

Furthermore, the current contracts are for 15 or 20 years (therefore the tolls are not calculated to pay off the whole pipeline). There is no guarantee that future customers will want to pay the cost of the pipeline.

The economics of oil are changing as governments and corporations wake up to the reality of climate change. Oil economics have fundamentally changed since the project was proposed in 2013, with new regulations and technology squeezing the economic viability of oil sands. We have seen world leaders, including the Canadian government, commit to huge reductions in climate pollution by 2050. In a world where demand for oil has peaked and is declining, the oil sands, which has higher costs and higher carbon emissions than other sources of oil, will be some of the first oil fields to be shut down. That is likely one of the reasons that oil giants like Shell, Cononco-Phillips, and Statoil have sold off their oil sands holdings. All of this means you could become the owners of a stranded asset before it is paid off.

Opposition from other First Nations and lawsuits are almost certain to continue to cause delays and cost overruns. If the Trudeau cabinet reissues federal permits for the pipeline, new legal challenges will likely follow. We would remind you that it would only take opposition from a single Nation to cause significant delays and further cost overruns.

The federal government cannot act as both owner of the pipeline and as the representative of the Crown. This clear conflict of interest casts a long shadow over the consultation process.

This fact is underlined by multiple statements from government ministers, like the one below from Bill Morneau, that make it clear that a decision to move forward with the pipeline was made before the current round of consultations even began:

"We need to make sure that the Trans Mountain expansion project moves forward in a way that ensures we get the benefits to our economy that we want to get, but we need to do it in consideration of the decision of the court. We need to look at the approach to consulting with indigenous Canadians." - Finance Minister Bill Morneau Sep 11, 2018

The pipeline and tanker project will affect the lands, rights, and resources of Indigenous Nations that the Canadian government has committed to protect but has so far imperiled instead. Along the proposed route, there are at least 400 unresolved specific claims – a vast number of historical losses yet to be redressed by the federal government. This does not include specific claims that could arise as a direct result of the pipeline expansion. In addition to these specific claims, the entire corridor from B.C. border to Burnaby is comprised of Indigenous Territories.

There are good reasons why Kinder Morgan chose to walk away from this project and you should carefully consider them before investing your Nation's money. You should take a hard look at both the short-term profitability and long-term viability of this project. We believe that the government has clearly overstated both and their decision to invest in this project was clouded by their short-term political needs. We urge you not to make the same mistake and to carefully consider the enormous environmental, social, legal, and political ramifications before committing to this project.

Finally, we will remind you that the members of our Nations are collectively the Proper Title Holders. Decisions of this scale and import are not ours to make alone, we must have consent from our members before making a critical decision on investment.

On behalf of the UNION OF BC INDIAN CHIEFS

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