

Honourable Tamara Davidson
Minister of Environment and Parks
ENV.Minister@gov.bc.ca

Alex MacLennan
Chief Executive Assessment Officer
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Dear Minister Davidson and Mr. MacLennan,

RE: Greater transparency and public participation needed in upcoming substantial start determination for the Prince Rupert Gas Transmission pipeline

We are writing as individuals, Gitxsan Huwilp members, First Nation governments, non-profit organizations, and businesses to seek greater transparency and accountability regarding the impending substantial start determination for the Prince Rupert Gas Transmission pipeline (the “PRGT Pipeline”).

The PRGT Pipeline is a fracked gas pipeline that is approved to traverse northern BC, crossing more than a thousand waterways, impacting many Indigenous territories, significantly affecting local communities and the ecosystems on which they rely, and making British Columbia’s climate targets much more difficult to achieve. It will allow fracking to expand in northeastern BC, which has serious environmental, climate, and health impacts, and will supply gas to an LNG export facility on the west coast, with massive greenhouse gas emissions when it is eventually burned.

This substantial start determination is effectively the final opportunity for the Minister to decide whether this project should proceed under its current environmental assessment certificate — despite ten years of delays, insufficient environmental impact research and data, changes to the project, and minimal work completed on the ground. If the Minister decides that this project is not substantially started and the proponent wants to continue to build the PRGT Pipeline, the proponent would have to complete a new environmental assessment to determine whether the project is still in the best interests of British Columbians.

Much has changed since the Pipeline was assessed and approved 10 years ago, from the increased impacts of climate change on Northern BC, significant opposition to the PRGT Pipeline from several Indigenous nations, leaders, organizations and youth,¹ to the termination of the LNG export facility that the Pipeline was intended to supply.² As such, this is a significant decision that requires transparency and public participation to give a meaningful opportunity for the public to put important and relevant information before the Minister.

Given the nature of the PRGT Pipeline and its impact, the high degree of public concern, and the lack of transparency in the regulatory process to-date, we ask that:

¹ Union of British Columbia Indian Chiefs, 56th General Assembly, September 24-26, 2024, *Resolution no. 2024-45*, [online](#).

² Petronas, “PETRONAS and Partners Will Not Proceed with Pacific Northwest LNG Project” (26 July 2017), [online](#).

1. The Chief Executive Assessment Officer (“CEAO”) of the EAO conduct a public comment period to allow for the public to review and provide comment on the substantial start application for the PRGT Pipeline;
2. The EAO confirm that, in the time between November 25, 2024 and the substantial start determination, the proponent will not be allowed to continue with construction activities while the Minister determines whether the EA Certificate has expired; and
3. The Minister of Environment and Climate Change Strategy (the “Minister”), rather than the CEAO, make the substantial start determination regarding the PRGT Pipeline.

Background

The PRGT Pipeline is a fracked gas pipeline that has been approved to be built from Hudson’s Hope in northeast BC to Lelu Island, south of Prince Rupert, running a length of up to 900 km.³ After an environmental assessment for the PRGT Pipeline in 2014, the EAO determined that the pipeline would have significant adverse effects on greenhouse gas emissions and woodland caribou. Despite this, the PRGT Pipeline was granted an environmental assessment certificate (“EA Certificate”), which had an expiry date of November 25, 2019. Construction of the Project did not start between 2014 and 2019 and a one-time extension was granted in 2019, which extended the expiry date to November 25, 2024.

The proponent started construction on the Project on August 24, 2024 — nearly 10 years after it was approved and just three months before the EA Certificate expires. As of November 25, the proponent will only have completed a very small amount of construction on the 900 km pipeline; it has partially cleared 42 km of the pipeline right of way in one of the seven pipeline sections. This represents minimal work on less than 5% of the pipeline’s approved length. The proponent is also currently seeking to change the route at the start and the end of the pipeline. In other words, the proponent is asking the Minister to find that it has substantially started a project that currently has no viable and approved starting point or endpoint-

The substantial start determination

The proponent has recently applied to the EAO for a “substantial start” determination. This asks the Minister to decide whether the proponent has completed enough construction on the PRGT Pipeline as of November 25, 2024 for the project to be considered substantially started.

If the Minister determines that not enough construction has been completed by November 25, 2024 to substantially start the Pipeline, the EA Certificate will expire and the proponent will have to undertake a new environmental assessment if it wants to proceed. If the Minister concludes that the Pipeline has been substantially started by this deadline, then the EA Certificate will be made permanent for the life of the Pipeline.

The EAO’s *Substantial Start Determination Policy* guides the substantial start determination.⁴ The policy quotes the BC Court of Appeal in explaining that the purpose of an EA Certificate deadline is to recognize that:

³ BC Environmental Assessment Office, *Assessment Report for the PRGT Project* (November 2014), [online](#).

⁴ BC Environmental Assessment Office, *Substantial Start Determination Policy* (15 June 2021), [online](#).

“the perceived impact of a proposed project may change over time, not only due to changes in public attitudes, but also due to increasing knowledge of the harm caused by certain types of development. Further, the character of a development site may change substantially over time. Finally, advances in technology may result in more effective mitigation measures becoming available. It would be unwise to allow long-delayed projects to proceed based on reports and conditions that have become outdated.”⁵

In making the decision, the Minister must primarily consider the physical activities that have occurred to start construction on the project compared to the project as it was proposed to be constructed in the EA Certificate.⁶

Under the *Environmental Assessment Act, 2018*, the EAO is required to seek consensus with participating Indigenous Nations in making the substantial start determination. The CEAO also has discretion under the Act to require a public comment period for a substantial start determination.

A public comment period is necessary and appropriate

In making the substantial start determination, the Minister must consult with First Nations whose interests may be affected by the substantial start determination. We understand that this consultation is ongoing.

In addition to giving significant weight to the views of Indigenous titleholders, the Minister should also allow for a public comment period for the substantial start determination. Public review and input are relevant to the Minister’s determination because the proponent will have to show that the small amount of construction completed along the PRGT Pipeline route is a “substantial start” to the pipeline. Given the size and nature of the PRGT Pipeline, the Minister’s decision will have a significant impact on the public, particularly those who live along the proposed pipeline route. Members of the public should be able to provide information regarding the claims made by the proponent regarding what has been constructed and what still needs to be done.

Further, the PRGT Pipeline is exactly the type of “long-delayed project” that the Court of Appeal warned about allowing to proceed on outdated reports and conditions. Preventing such projects is the reason why EA Certificates have expiry dates and require a substantial start determination. Much has changed since the pipeline underwent an environmental assessment in 2014. For example:

- The climate crisis has accelerated, BC has set more ambitious climate targets, and the International Energy Agency and others have concluded that no new fossil fuel infrastructure can be built if we want to meet our climate goals;⁷

⁵ *Glacier Resorts Ltd. v. British Columbia (Minister of Environment)*, 2019 BCCA 289 (“*Glacier Resorts*”) at para 52.

⁶ *Glacier Resorts* at para 49.

⁷ International Energy Agency, *Net Zero by 2050* (2021), [online](#); International Institute for Sustainable Development, *Why Liquefied Natural Gas Expansion in Canada is Not Worth the Risk* (June 2024), [online](#); Pembina Institute, *Squaring the Circle: Reconciling LNG Expansion with B.C.’s Climate Goals* (May 2023), [online](#).

- The transition from fossil fuels to renewable energy is well underway around the world, gas has been debunked as a “transition fuel”, and forecasts show a decline in LNG demand that will lower expected returns for BC gas;⁸
- Northern BC has experienced the impacts of climate change, including the increasing vulnerability of salmon populations in the Skeena and Nass watersheds from warming water, worsening drought conditions, and increasing severity of wildfires and extreme weather events;⁹
- Northern BC has experienced the impacts of construction of a similar pipeline, Coastal Gaslink, which resulted in almost \$1.4 million in fines to the proponent TC Energy for breaching environmental assessment certificate conditions.¹⁰ Further, the police response to Indigenous land defenders during the construction of Coastal Gaslink resulted in human rights violations;¹¹
- The BC government has made commitments in law to implement the *United Nations Declaration on the Rights of Indigenous People* through the enactment of the *Declaration on the Rights of Indigenous Peoples Act*; and
- There is no viable LNG project proposed for Lelu Island, where the PRGT Pipeline is approved to be built. In August and September 2024, the proponent applied for two amendments to change the starting point and the end point of the PRGT Pipeline, which were not assessed as part of the initial environmental assessment. These amendments have not yet been approved.

Given the increasing knowledge of the harm caused by fossil fuel development, changes in public attitudes to fossil fuel infrastructure, and changes to the understanding of impacts of pipeline development and climate change in northern BC, public input on the substantial start application for the PRGT Pipeline is necessary and appropriate. The information on which the EA Certificate was granted in 2014 is now outdated, much of which was already insufficient in relation to impacts to the exercise of inherent Indigenous Rights. Therefore, information from the public — particularly those along the pipeline route — about the conditions and perspectives that have changed in the last 10 years is relevant to the Minister’s determination.

The EAO should ensure transparency in the decision-making process by having a public comment period and confirming that construction will not be allowed while the Minister makes the substantial start determination

A key purpose of the EAO is to carry out its responsibilities under the *EAA* in a thorough, timely, transparent and impartial way, facilitating meaningful public participation, and using the best available science, Indigenous knowledge and local knowledge in decision making under the *EAA*.¹²

⁸ See, e.g., Maeve O’Connor, *Turning Tides: The economic risks of B.C.’s LNG expansion in a changing energy market* (31 Oct 2024), [online](#); Clean Energy Canada, *An Uncertain Future* (25 March 2024), [online](#); Robert W. Howarth, “The greenhouse gas footprint of liquefied natural gas (LNG) exported from the United States” (3 Oct 2024), *Energy Science and Engineering*, [online](#).

⁹ Government of British Columbia, “Adapting forest and range management to climate change in the Skeena Region” (2019), [online](#).

¹⁰ Matt Simmons. “Coastal GasLink pipeline hit with \$590,000 fine – its biggest one yet” (12 Sept 2024) *The Narwhal*, [online](#).

¹¹ Amnesty International, *Criminalization, intimidation, and harassment of Wet’suwet’en Land Defenders* (2023), [online](#).

¹² *Environmental Assessment Act*, SBC 2018, c 51, s 2(2).

So far, information about the start of construction of the pipeline from BC regulators has not been transparent, reminiscent of its actions in 2014. For example, in 2022, the BC Energy Regulator (“BCER”) set permit conditions to require a cumulative effects assessment of the PRGT Pipeline prior to construction start, which could have helped update the now decade-old environmental assessment. In February 2024, the proponent gave notice of construction start, triggering the cumulative effects assessment condition. However, the BCER quietly split a key pipeline permit and allowed construction to start on a small subsection of the PRGT pipeline on Nisga’a Lands without an updated cumulative effects assessment. The BCER told other affected First Nations that this was just an “administrative amendment”.¹³ The BCER only published the amended permit several months after making the decision, which prevented local, affected landowners and members of the public from learning about this decision until a few weeks before construction was about to start. This decision is now subject to a judicial review.

While the EAO cannot undo the BCER’s actions, it can be transparent and supportive of public participation in its own decision-making, which will help to restore public confidence in our regulators. It can do this by opening a public comment period and confirming that, in the time between November 25, 2024 and the substantial start determination, the proponent will not be allowed to continue with construction activities while the Minister determines whether the EA Certificate has expired.

Given that the EAO has said that the Minister will not be making the substantial start determination until spring 2025, the EAO or Minister must confirm that construction on the PRGT Pipeline will not be allowed to continue from November 25, 2024 until the substantial start determination is made. If the Minister determines that the PRGT Pipeline has not been substantially started, then the EA Certificate expires as of November 25, 2024 and any construction after that date would not have been permitted by the EA Certificate.

The Minister, not the CEAO, should make the substantial start determination

Under BC’s *Substantially Started Determination Policy*, either the Minister or the CEAO can make a substantial start determination. Usually, the CEAO makes the decision. However, many of these decisions are relatively simple and uncontroversial (e.g., determining that a project is substantially started when it is already operational).

In contrast, the PRGT Pipeline is far below the threshold of being substantially started. Construction on the PRGT Pipeline has only just started and only a very small amount of work has occurred: the partial clearing of 42 km of right of way on a 900 km pipeline route. Giving a greenlight to this project will significantly lower the threshold for future substantial start determinations and undermine the purpose of having environmental assessment certificate expiry dates.

Also, as noted above in relation to the need for public input on the determination, there have been several developments since the PRGT Pipeline was approved 10 years ago that raise serious questions around whether the pipeline should undergo a new environmental assessment if the proponent wants to proceed. These developments, and the risk that the PRGT Pipeline will exacerbate ongoing climate, ecological, and social issues, add to the complexity of this determination.

As such, it is important that the Minister—who is publicly accountable to British Columbians—should make this decision.

¹³ Letter dated 9 Feb 2024 from BCER to Gitanyow Hereditary Chiefs, [online](#).

Conclusion

The determination whether the PRGT Pipeline has been substantially started involves a number of challenging considerations and will have significant implications for Northern BC and beyond. The determination would be enhanced by greater transparency and public input. We look forward to participating in this process.

Sincerely,

Skeena Watershed Conservation Coalition

Sven Biggs - Oil and Gas Program Director, Stand.earth

Greg Knox & Julia Hill - Director & Assistant Director, Skeena Wild Conservation Trust

Jim Allen owner/operator - Kispiox Fishing Company Ltd

Velma Sutherland - Sik-E-Dakh (Glen Vowell) First Nations Chief and Council

Joy Allen - Rancher, trapline owner, grazing lease owner

Kaleigh Allen - Owner/Manager, Bear Claw Lodge

Martin Wehren - Owner/Operator, Skeena Heliskiing

Tracey Saxby - Director of Campaigns and Communications, My Sea to Sky

Simogyet Gwininitxw-Yvonne Lattie- Wilp Gwininitxw Lax Gibu (Wolf Clan) - Hereditary Chief, Gitxsan

David & Kathy Larson - Owners - Poplar Park Farm

Harriet D. Hall - RMT, Rivers Massage Therapy

Chrystal Lattie, Hanak'm galii aks - Gitxsan Nation

Sharon Priest-Nagata - Owner and Manager Nagata Family Farm

Kesia Nagata - Local Resident

Tim Butement - Owner and Operator Harbour Renewables

Laurie Gallant- Farmer, Bulkley Canyon Ranch & MASH

Dr Warren Bell - Rural Preceptor, University of BC

Kate Turner - National Coordinator, Decolonial Society

Gareth Gransauil - Co-Executive Director, re•generation

France-Isabelle Langlois - Executive Director, Amnistie internationale Canada francophone

Pat Moss - Executive Director, Northwest Institute for Bioregional Research

Jennifer Loring-Zyp - Ankhla, Wilp Gwininitxw

Daniel Horen Greenford - Postdoctoral researcher in climate economics & policy, Concordia University

Wayne Nagata - Local Resident, Kispiox Valley

Joy Kennedy - Convenor, Canadian Interfaith Fast For the Climate

Simogyet Wiis Tiis/ Wii Minoosik - LaxSeel(Frog Clan)Hereditary Chief, Gitxsan Nation

Friends of Wild Salmon

Brian Pritchard - landowner, Kispiox Valley

Carol Pritchard - landowner, Kispiox Valley

Chicago Creek Community Environmental Enhancement Society
Hereditary Chief Na'Moks - Tsayu Clan, Wet'suwet'en Nation
Chelsey Geralda Armstrong - Assistant Professor, Indigenous Studies, Simon Fraser University
David Suzuki Foundation
Brian Dahl & Ricki Kneifel - Owner of Goddess Country Homestead - Upper Skeena
Shari Saxon, Land Owner - Kispiox Valley
Anissa Watson, Instructor/Advocate for Women and Youth Safety, Wenlido W.E.S.T
Shannon McPhail, Proprietor - DVS Productions, Upper Skeena
Alexandra R. Golt, M.Sc., Sessional Instructor - University of Northern BC
Isabel Siu-Zmuidzinas, Climate Campaigner, Wilderness Committee.
Linda Thyer, MD
Doctors for Planetary Health - West Coast
Maura Brown, MD, FRCPC
JT Cornelis - Associate Professor - Soil Science, Faculty of Land and Food Systems - UBC
Emiko Newman, BC Climate Emergency Campaign coordinator, Climate Emergency Unit
Juan Vargas Alba, Prairie Organizer, Climate Emergency Unit
Erin Blondeau, Director of Communications, Climate Emergency Unit
Doug Hamilton-Evans, Project/Campaign Manager, Climate Emergency Unit
Dr. Stephanie von Dehn, MD
Elza Kephart, Organiser, RBC Off Screen
Dr Margaret McGregor, Clinical Associate professor, UBC Department of Family Practice
Susan Burgess MA. MD. CCFP(PC). FCFP, Clinical Associate Professor, Dept of Family and Community
Medicine, Dept of Palliative Medicine - UBC
Tyler Larson, Owner - Tyler's Christmas Tree Farm
Clint Larson & Julia Kokelj, Guide Outfitter - Kispiox Valley Outfitters
Ruth McAfee - bookkeeper; business owner/operator; property owner
James McAfee - addictions counsellor; business owner/operator; property owner
Kai Nagata, Communications Director, Dogwood
Nikki Skuce, Director, Northern Confluence Initiative - Smithers
Dr. Rashmi Chadha, (MBChB MScCH - Addiction Medicine Consultant
Stefan Grzybowski, MD
Jared Blustein, Executive Director, Calgary Climate Hub
Dr. Janet Ray MD
Change Course
Canadian Association of Physicians for the Environment (CAPE)
Dr Francis Vala
Sara Pittman - Upper Skeena
Paul & Carol Huel, landowner/ceramic artist - Kispiox Valley
Marianne Rev, MD, CCFP, FCFP
Paeta Lehn, MD, CCFP-EM
Jens Wieting, Senior Policy and Science Advisor, Sierra Club BC
Natasha Kuperman, MREI, Seed the North, Inc. - Upper Skeena
Adam Katz, PhD., Instructor at Coast Mountain College
Jennifer Bulleid, Gitxsan Nation

Angela Spickard, MSc, Research Manager, Historical-Ecological Research Lab - SFU
Faro Sullivan & Erin Renwick, Parents4Climate, Victoria
Kate Lawes, Owner/Manager, Tree of Life Nature Play school - Victoria
Robert Hart, MSW - Terrace
Aaron Hill, Executive Director - Watershed Watch Salmon Society
Dr. Nicholas J. Reo, Associate Professor and Canada Excellence Research Chair, Department of Indigenous Studies - Simon Fraser University
Susan Ellard, MD
Beverley Anderson, Miin Sigitimhanak - Wilps' 'Wii Gyet
Jim Pojar, Senior Ecologist - Smithers
Carol Seychuk, Executive Director - Northern Society for Domestic Peace
Curtis Martin, Canada Shipping Campaigner - Say No to LNG Campaign
Leslie Barnwell - visual artist, home owner, Kispiox Valley
John Stephens - retired, home owner, Kispiox Valley
Grace Vickers - local resident, Student in political science and Indigenous studies - Western University
Derek Ingram, Owner/Operator – Underhill Regenerative Poultry Farm
Alana Wadley, Rancher - Kispiox Valley
Simoogit 'Wii K'aax, Dorothy Smith Lattie - Gitxsan Nation
Lennis Combs, Owner/CEO, Torchlight Enterprises
Jason Koldewijn, Principal, Dissident Development
Phoenix Apperloo, Gitxsan - Wilps Gwiiyeehl, Gitxsan Nation
Taylor Wale, Gitxsan - Wilps xGwoimtx, Gitxsan Nation
Adriana Jackson, Gitxsan Lax Gibuu Youth
Shaylynn Sampson, Gitxsan Lax Gibuu Youth
Amanda Cook, Two-Mile landowner
CodeBlue BC
Janna Wale, Msc - Sustainability, BC Achievement Award Winner 2024,, Gitxsan Youth
Beverley Combs, Business Owner, Kispiox Valley
Tim Combs, Contractor/Landowner - Kispiox Valley

Cc Premier David Eby (premier@gov.bc.ca); Kelly Wintemute (kelly.wintemute@gov.bc.ca); Tanner May-Poole (tanner.maypoole@gov.bc.ca)