



File: 30050-25/CGLP-18

Reference: 356059

February 19, 2020

SENT VIA EMAIL

Freda Huson
Spokesperson, Dark House
620 CN Station Road
Smithers BC, V0J 2N1
tsewedielh@gmail.com

Dear Howilkat, Freda Huson and Dark House Chiefs:

Thank you for your letters of December 17 and December 20, 2019, and on February 10, 2020, reaffirming Dark House's interests and reiterating your concerns in relation to Coastal GasLink Pipeline Project's potential impacts on the Unist'ot'en Healing Centre. Thank you also for meeting with me on December 9, 2019, and discussing with me your concerns related to the Healing Centre.

The Environmental Assessment Office (EAO) has carefully reviewed the concerns you provided in your December letters, as well as the comments you provided to Coastal GasLink Pipeline Ltd. (CGL) on November 7, 2019, and reiterated in your recent correspondence on February 10, 2020. The EAO has also reviewed CGL's responses of November 19, 2019, to those concerns.

In this letter, I would like to provide an overview of how Dark House's comments have informed our review of the the second Condition 1 Report (COR2) that was submitted by CGL on November 25, 2019, in relation to Environmental Assessment Certificate (EAC) #E14-03. This letter describes a 30-day period provided to CGL to update the COR2 with additional information, including any information that Dark House may choose to provide to CGL. We also note that many of Dark House's recent comments were previously provided to the EAO in Chief Knedebeas' letter of June 17, 2019, to which the EAO provided a response on August 20, 2019.

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Under EAC condition #1, CGL was required to submit to the EAO for approval *“a report that either verifies that the effects assessment conclusions reached in the Application are consistent with the information in the technical data reports (TDR) or update those effects assessment conclusions based on the new information contained in the TDRs, including any additional mitigation relevant to the Area.”*

After considering all of the information received during the review of COR2, the EAO will not be approving the COR2 at this time and has identified specific aspects of the COR2 that will need to be updated or addressed in order to fulfil the requirements of Condition 1. The revisions or requests for more information required of CGL are described below.

Concerns Requiring CGL updates and revision

The EAO acknowledges the importance of the Healing Centre in supporting Dark House’s continued use of land and resources and activities in the area, as well as its social, health and heritage value. We appreciate the information you shared with the EAO at the December 9th meeting and subsequent correspondences to the EAO regarding the Healing Centre.

The EAO is of the view that it would be beneficial for CGL to be provided that additional information so that CGL could also better understand the potential project impacts on the activities associated with the Healing Centre. The development of effective mitigation for protecting the objectives of the Healing Centre is best done with meaningful engagement between Dark House and CGL. The EAO has directed CGL to re-submit an updated COR2 that either verifies that the effects assessment conclusions are consistent with those reached in the Environmental Assessment Application, or provides updates to those effects assessment conclusions based on the updated information. This includes specifying any additional mitigation relevant to the Morice River Technical Boundary Area.

Additionally, the EAO has requested CGL to make efforts to gather and consider additional information in relation to activities associated with the Healing Centre, including information from Dark House, and to then augment COR2 with the information received. The EAO has indicated to CGL that some of this information may be confidentially held by Indigenous nations and each Nation will need to decide whether and how to share that information. EAO requested that CGL approach gathering this information and the results respectfully and to present it appropriately where possible. Where CGL indicates that gathering or presenting certain information was not possible, EAO has indicated that CGL should indicate what opportunities CGL provided Indigenous nations to provide such information, and the efforts CGL undertook to gather and present that information respectfully and appropriately.

CGL is also required to provide additional information on how Aboriginal Traditional Knowledge (ATK) was gathered and incorporated into the COR2. This includes how ATK was sought and applied in the Morice River Technical Boundary Area.

On January 28, 2020, CGL provided two memos (see attached) - a memo produced by Jacobs titled the *Assessment of Updated Traditional Land Use (TLU) Baseline Conditions in the Morice River Technical Boundary* (Jacobs Memo), and a memo

produced by Stantec primarily regarding the biophysical valued components, titled *Coastal GasLink Pipeline Project Environmental Assessment Certificate (EAC #E14-03) Condition #1* (Stantec Memo).

The memos are attached to this letter, and the EAO requests that Dark House provides feedback and comments to CGL on the memos, as well as any additional information Dark House feels that CGL should consider. Please provide feedback and comments directly to CGL within the next 30 days from the date you receive this letter.

The EAO strongly encourages Dark House to work with CGL to respond to your concerns. The EAO have provided CGL 30 days to conduct the additional engagement and analysis. CGL must track all engagement efforts, any feedback received and how it was addressed, incorporated or otherwise considered. The EAO will consider CGL's engagement efforts with Dark House, other Indigenous groups and interested parties, along with supplemental information obtained during this time period.

Following this 30 day period, CGL may update and resubmit COR2 to the EAO for our approval. The EAO will consider all the information available at the time, including the updated report, all appendices, CGL's engagement record and any additional information provided by Dark House or other Indigenous groups, and may proceed to decision shortly thereafter.

Other Concerns – Fieldwork Methodology and Other Valued Components

Dark House indicated concerns regarding CGL's 2019 Environmental Fieldwork Methodology:

Aboriginal Traditional Knowledge (ATK) Information Gathering

On November 26, 2019, the EAO shared with Dark House CGL's summary of engagement with Dark House and the tracking table providing responses to Dark House comments of November 7, 2017. After reviewing your comments and CGL's responses, including the supplemental information, the EAO asked CGL to provide additional information on ATK information gathering, including records of communication soliciting information and invitation of Indigenous participation in field programs.

Fish Sampling

Coastal GasLink's TDR for fish and fish habitat states that there are eight stream crossings that are required to be assessed for this VC. CGL used historical data to assess fish and fish habitat for streams that, due to depth of water and water velocity, would present a risk to workers. CGL stated that fish sampling was not required in the reduced Morice River Technical Area as there was sufficient historical fish presence/use data for six of the watercourses, insufficient flow to allow sampling in one watercourse (dry), and one watercourse was confirmed as a non-classified drainage (not fish-bearing). The EAO is satisfied that Coastal GasLink's assessment is consistent with the AIR (2013) Table 3-1: Standards and Guidelines for the Aquatic Environment VC, consistent with Practitioners Guide to the Risk Management Framework for DFO Habitat Management Staff (DFO 2013). No other standards or guidelines for fish and fish habitat baseline data collection were specified in the AIR.

Field Programs

The EAO understands that CGL initially notified Dark House on the field programs to gather baseline data within the Morice River Technical Boundary Area approximately three weeks in advance of the scheduled field work. CGL followed up requesting a reply but received no response from Dark House. The EAO is satisfied that reasonable advance notice was provided.

The EAO assessed COR #2 and found the following:

Archaeology and Heritage Resources

In accordance with condition #26 of the EAC, CGL has the obligation to follow their Heritage Resource Discovery Contingency Plan and the Traditional Land Use Sites Discovery Contingency Plan, addressing "chance finds" of archaeological resources while work is under way. The EAO is aware that CGL invited the Office of the Wet'suwet'en to participate in the archaeological impact assessment (AIA) fieldwork.

CGL reported in July 2019 a potential non-compliance in relation to not completing some pre-clearing AIA work as required under an BC Oil and Gas Commission (OGC) authorized permit. In the OGC's September 16, 2019 letter to Office of the Wet'suwet'en, copied to the EAO, the OGC informed they were satisfied that the CGL completed the AIA work to the required standards, prior to commencing construction activities and was in compliance with the permit conditions in following the chance find of artefacts protocol.

In reference to the comment regarding a previously unidentified archaeological site on the Shea Road (Multi-Use Site 9A), the EAO acknowledges that the matter is currently under judicial review.

Architectural Sites

The EAO encourages Dark House to provide information on the traditional pit house structure and to work directly with CGL to address concerns and develop commonly agreed mitigation measures to protect sites and structures of interest important to Dark House. The EAO has directed CGL to make efforts to gather and consider additional information in relation to activities associated with the Healing Centre.

Economy

The EAO acknowledges the important role the Healing Center has in Dark House's long-term vision for the Talbits Kwa Yintah and encourages Dark House to work together with CGL to develop specific and detailed mitigation measures to address potential project impacts on the economic aspects captured in this vision.

As mentioned above, the EAO requested that CGL make efforts to engage directly with Dark House to better understand the potential project impacts on the Healing Centre. It is important that Dark House engages with Coastal GasLink in discussing specific issues of concern and find solutions to mitigate CGL's impacts on Dark House's economic benefits derived from the operations of the Healing Centre.

Domestic Water Supply

CGL's existing mitigation measures detailed in the EAC Application and management plans include trenchless crossing method, acquiring applicable federal and provincial authorizations for in-stream activities, following water quality monitoring plans and contingency plans. Although these may be adequate to address Dark House's concern about potential CGL impacts to the Healing Centre operations, the EAO has directed CGL to seek any additional information on impacts on the Healing Centre.

In summary, the EAO has found that COR2 is consistent with many of the requirements of Condition #1 and the directions provided with the approval of COR1 regarding the obligation of completing field validation data collection in the remainder of the Morice River Technical Boundary Area. The EAO agrees that it would be beneficial for CGL to better understand and appropriately address the potential project impacts on the Healing Centre. To that end, the EAO has requested CGL to further engage with Dark House on these issues. The EAO strongly encourages open and constructive dialogue between CGL and Dark House.

The EAO is committed to continue to work with Dark House and CGL, and appreciates the opportunity to respond to concerns and input from Dark House leadership and representatives in order to support EAO's informed decision making on this matter.

If you have any questions about this letter, please contact me at Bernard.Achampong@gov.bc.ca or 250 419-8864, or Nathan Braun at Nathan.Braun@gov.bc.ca or 778-698-9280.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Bernard', with a long horizontal flourish extending to the right.

Bernard Achampong
Executive Project Director

Attachments (2)

cc: Kate Gunn
First Peoples Law Corporation
kgunn@firstpeopleslaw.com