



200 - 2006 West 10th Avenue
Vancouver, BC V6J 2B3
www.wcel.org

tel: 604.684.7378
fax: 604.684.1312
toll free: 1.800.330.WCEL (in BC)
email: admin@wcel.org

FOR IMMEDIATE RELEASE

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Coastal First Nations tanker ban creates new legal risks and uncertainty for Enbridge Northern Gateway project say environmental lawyers in commentary released today

Vancouver/Coast Salish Territory. Several First Nations peoples on the Central and North Pacific Coast and Haida Gwaii issued a Declaration this week banning Tar Sands crude oil tankers from their territories, citing the potentially devastating risk of oil spills associated with the proposed Enbridge Northern Gateway Pipeline project and related tanker traffic for the environment, culture and communities. A legal commentary about the Declaration released today by West Coast Environmental Law concludes that the Declaration significantly increases legal risks and uncertainty facing the Enbridge project.

“The signatories to the Declaration exercised their ancestral laws, rights and responsibilities to protect the lands and waters of their territories by banning Tar Sands crude oil tankers,” said Jessica Clogg, Executive Director & Senior Counsel, West Coast Environmental Law. “These nations can now take steps to enforce the Declaration under their own laws, through the Canadian courts, or through legal action at the international level. The result is highly volatile legal situation and a high probability of litigation by one or more First Nations that could delay or potentially derail the Enbridge Northern Gateway Pipeline project.”

The West Coast Environmental Law commentary notes that a decision by the federal government to disregard the Coastal First Nations Declaration and give oil tankers the green light would infringe Coastal First Nations’ constitutionally-protected Aboriginal Title and Rights, and Canada’s international law commitments. The lawyers conclude that due to the large number of impacted nations; the strength of their opposition; the ongoing nature of the Crown’s constitutional duties to First Nations; and, the complex web of government decisions that these duties apply to for a project of this scale the Enbridge Northern Gateway Pipelines project faces ongoing legal risks and uncertainty that will not be fully mitigated by the government’s proposed review process.

“Many First Nations have voiced well-substantiated concerns that the federal government’s proposed review process fails to meet the Crown’s constitutional duties to them. Those duties are ongoing, so Enbridge’s proposed project will be exposed to legal risks for years to come,” said Josh Paterson, Staff Counsel, West Coast Environmental Law. “The government’s review process for the Enbridge project does not accommodate First Nations governance and decision-making rights, which are inherent to their Aboriginal Title. A decision to approve the project in spite of the Coastal First Nations’ declaration could be expected to result in a legal challenge.”

The Coastal First Nations issuing the March 23rd Declaration are joined in their opposition to the Enbridge Northern Gateway Pipeline project by more than 150 other First Nations, conservation groups, businesses and prominent Canadians: see pipeupagainstenbridge.ca .

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For more information:

Jessica Clogg, Executive Director & Senior Counsel, West Coast Environmental Law: 604.601.2501
Josh Paterson, Staff Counsel, West Coast Environmental Law: 778-829-8973

West Coast Environmental Law Legal Comment on Coastal First Nations Declaration: www.wcel.org