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November 23, 2012

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**Delivered by E-file**

Joint Review Panel  
444 Seventh Ave. SW  
Calgary, AB T2P 0X8

File No. 1023-005

Attention: Sheri Young  
Secretary to Joint Review Panel

Dear Sirs/Mesdames:

**Re: Motion filed by Gitxaala Nation regarding admission of historical documents**

On behalf of the Gitxaala Nation, we write in reply to the responses of the Department of Justice, the Métis Nation of British Columbia, and Northern Gateway Pipelines Limited Partnership (“NGP”) to Gitxaala’s Motion to admit various historical documents (the “Historical Documents”).

On behalf of the Federal Government Participants, the Department of Justice has not taken a position with regards to the relief sought by Gitxaala. The Métis Nation has advised the JRP that it supports the admission of the Historical Documents. NGP similarly does not oppose the admission of the Historical Documents subject to various comments.

First, NGP has created a revised description of the Historical Documents which is attached as Appendix A to its response. Gitxaala does not have any objection to the use of this document and believes it would be of assistance to the Panel in identifying the Historical Documents.

Second, NGP has raised concerns about the lack of custodial information for the documents described by Gitxaala as “Final Report - Bella Coola Agency: Minutes of Decision”, and “Kitlathla (Kitkatla) Tribe Minutes of Decision - Bella Coola Agency”. These documents are described by NGP as pages 3-4 of 17 and 5-6 of 17 of Exhibit No. D72-13-01 (the “Bella Coola Agency Documents”).

In response to these concerns, Gitxaala attaches an affidavit sworn by Megan McConnell, an articling student at Janes Freedman Kyle Law Corporation, describing the steps she took to confirm the custodial information for the Bella Coola Agency Documents. Ms. McConnell confirms that the Bella Coola Agency Documents are photocopies of pages from the Report of the Royal Commission on Indian Affairs for the Province of British Columbia, Volume 1, a copy of which is in the custody of Library and Archives Canada.

Gitxaala wishes to clarify that pages 4 and 6 of Exhibit No. D72-13-01 are photocopies of the original Report held in the custody of Library and Archives Canada. Pages 3 and 5 are reproductions of these pages. Gitxaala only seeks to have pages 4 and 6 of Exhibit No. D72-13-01 admitted as historical documents.

Third, NGP has expressed concern regarding to the quality and legibility of some of the other Historical Documents. We confirm that the quality of the Historical Documents is similar if not identical to the quality of the copies received by Gitxaala from Public Archives Canada. As a result, the quality of the copies is beyond the control of Gitxaala.

With respect to the weight to be attributed to the Historical Documents, Gitxaala agrees that the issue of weight will be subject to further submissions and argument and that it is not necessary for the JRP to determine the issue of weight in admitting the Historical Documents.

Yours truly,

Janes Freedman Kyle Law Corporation

Per:

  
for  
Rosanne M. Kyle  
RMK/vcm

Enclosure

Affidavit of Megan McConnell d. November 22, 2012

**AFFIDAVIT FOR INTERVENORS**

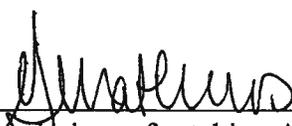
**IN THE MATTER OF  
ENBRIDGE NORTHERN GATEWAY PROJECT JOINT REVIEW PANEL  
OH-4-2011  
NORTHERN GATEWAY PIPELINES INC.  
ENBRIDGE NORTHERN GATEWAY PROJECT**

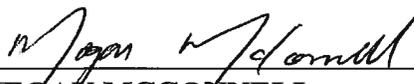
**AFFIDAVIT OF MEGAN MCCONNELL**

I, Megan McConnell, of Vancouver, in the Province of British Columbia, MAKE OATH AND SAY AS FOLLOWS:

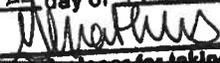
1. I am an articulated student at Janes Freedman Kyle Law Corporation, counsel for Gitxaala Nation in the Enbridge Northern Gateway Project hearing OH-4-2011.
2. Attached and marked as Exhibit "A" to this my Affidavit is a copy of an online search I conducted through Library and Archives Canada confirming that the Report of the Royal Commission on Indian Affairs for the Province of British Columbia (the "Report") is in the custody of Library and Archives Canada.
3. I confirm that I attended at the Vancouver Courthouse Library to view an identical version of the Report and further confirm that pages 265 and 266 of the Report are identical to pages 4 and 6 of 17 from Exhibit No. D72-13-01. Attached and marked as Exhibit "B" to this my Affidavit is an excerpt including the cover page and pages 265 and 266 of the Report.

SWORN before me at the City of Vancouver, in the Province of British Columbia, this 22<sup>nd</sup> day of November, 2012

  
 \_\_\_\_\_  
 A Commissioner for taking Affidavits  
 for British Columbia

  
 \_\_\_\_\_  
**MEGAN MCCONNELL**

**Virginia C. Mathers**  
 Barrister & Solicitor  
 340 - 1122 Mainland Street  
 Vancouver, BC V6B 5L1  
 (604) 687-0549

This is Exhibit A referred to in  
 the affidavit of Megan McConnell  
 sworn before me at Vancouver, B.C. Canada  
 this 22 day of November 2012  
  
 A Commissioner for taking Affidavits  
 for British Columbia

[Home](#) > [Search](#) > Archives Search

## Search

## Archives Search

**Warning: Descriptive record is in process. These materials may not yet be available for consultation.**

[Next 9](#)

## Description found in Archives

<b>Title</b>	Royal Commission on Indian Affairs for the Province of British Columbia [textual record].	<a href="#">Email this</a> <a href="#">Link to this</a> <a href="#">Copies and Reproductions</a>
<b>Series</b> consists of	<a href="#">2 lower level description(s)</a>	
<b>Arrangement structure</b>	 <a href="#">Show Arrangement Structure</a>	
<b>Series</b> part of	<a href="#">Indian and Inuit Affairs Program sous-fonds [multiple media] (R216)</a>	
<b>Bilingual equivalent</b>	<a href="#">Commission royale d'enquête sur les Affaires indiennes pour la Colombie-Britannique [document textuel]</a>	
<b>Date(s)</b>	1858-1930	

to be added for the use of such Indians. And they may set aside land for any Band of Indians for whom land has not already been reserved. (2) The Province shall take all such steps as are necessary to legally reserve the additional lands which the Commissioners shall apportion to any body of Indians in pursuance of the powers above set out. (3) The lands which the Commissioners shall determine are not necessary for the use of the Indians shall be subdivided and sold by the Province at public auction. (4) The net proceeds of all such sales shall be divided equally between the Province and the Dominion, and all moneys received by the Dominion under this clause shall be held or used by the Dominion for the benefit of the Indians of British Columbia. (5) All expenses in connection with the commission shall be shared by the Province and Dominion in equal proportions. (6) The lands comprised in the Reserves as finally fixed by the Commissioners aforesaid shall be conveyed by the Province to the Dominion with full power to the Dominion to deal with the said lands in such manner as they may deem best suited for the purposes of the Indians, including a right to sell the said lands and fund or use the proceeds for the benefit of the Indians, subject only to a condition that in the event of any Indian tribe or band in British Columbia at some future time becoming extinct, then any lands within the territorial boundaries of the Province which have been conveyed to the Dominion as aforesaid for such tribe or band, and not sold or disposed of as hereinbefore mentioned, or any unexpended funds being the proceeds of any Indian Reserve in the Province of British Columbia, shall be conveyed or repaid to the Province. (7) Until the final report of the commission is made, the Province shall withhold from preemption or sale any lands over which they have a disposing power and which have been heretofore applied for by the Dominion as additional Indian Reserves or which may during the sitting of the commission, be specified by the Commissioners as lands which should be reserved for Indians. If during the period prior to the Commissioners making their final report it shall be ascertained by either Government that any lands being part of an Indian Reserve are required for right-of-way or other railway purposes, or for any Dominion or Provincial or Municipal Public Work or purpose, the matter shall be referred to the Commissioners who shall thereupon dispose of the question by an Interim Report, and each Government shall thereupon do everything necessary to carry the recommendations of the Commissioners into effect. The Commissioners appointed by the federal government were: Edward Ludlow Wetmore, Chairman; Nathaniel W. White and James Andrew Joseph McKenna, Commissioners. James Pearson Shaw and Day Hort Macdowell were appointed Commissioners by the government of British Columbia. In 1914, Wetmore resigned and White became Chairman. Further, Saumarez Carmichael was appointed Commissioner in place of White (Order in Council, P.C. 1059, 17 April 1914 and Order in Council, P.C. 923, 3 April 1914). The secretary was J.G.H. Bergeron, who resigned on 1 May 1915 and was replaced by C.H. Gibbons.

Between 1875-1908, most of the Indian reserves in the Province of British Columbia were laid out. During the process, the Government of Canada insisted that adequate lands be set aside for the benefit and use of the aboriginal peoples. But, the Province of British Columbia wanted a reduction in the size of the reserves and insisted on a reversionary right by which it would become the owner of any native lands that were given up.

After lengthy negotiations, on 24 September 1912, an agreement was reached between the Government of Canada, represented by J.A.J. McKenna, and the Government of British Columbia, represented by Premier Richard McBride, which was intended to resolve the dispute between the two governments. The McKenna-McBride agreement not only provided for the establishment of a royal commission to adjust the size of Indian reserves, but the Province of British Columbia agreed to give up its claim to a reversionary interest, except in the

This is Exhibit B referred to in  
the affidavit of Meagan McConnel  
sworn before me at Vancouver, BC  
this 22 day of November 2012  
[Signature]  
A Commissioner for taking Affidavits  
for British Columbia

REPORT  
OF THE  
ROYAL COMMISSION ON INDIAN AFFAIRS  
FOR THE PROVINCE OF  
BRITISH COLUMBIA

VOLUME 1

PLEASE NOTE THAT THIS VOLUME WAS COPIED FROM THE MICROFICHE  
VERSION, AND IS THE BEST QUALITY AVAILABLE. TO VIEW THE MICRO-  
FICHE COPY, ASK AT THE REFERENCE DESK.

**REPORT**  
OF THE  
**ROYAL COMMISSION ON INDIAN AFFAIRS**  
**FOR THE PROVINCE OF**  
**BRITISH COLUMBIA**

PRINTED BY ORDER



VICTORIA, BRITISH COLUMBIA

PRINTED BY THE ACME PRESS, LIMITED, 1916

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(Twenty (20) by Eighty (80) chains), on Plover Point and Bay, on the North-east side of Gill Island, location marked "13" on blueprint, for Timber Supply, it was

ORDERED: That there be allowed under this Application and established and constituted a Reserve for the use and benefit of the applicant Kitkahta (Hartly Bay) Tribe, a certain tract or parcel of land containing an area of One Hundred and Sixty (160) acres, more or less, as described in the Application, subject to survey, as per sketch plan of Ashdown H. Green, B.C.L.S., numbered in accordance herewith and filed in duplicate with the Governments of Canada and British Columbia.

The Commission having under consideration Bella Coola Agency Application No. 97, of the Kitkahta (Hartly Bay) Tribe, for a certain tract or parcel of land containing an area of Five (5) acres, more or less, at Kun-hun-oan, inside a small bay on the West side of Gill Island, location marked "15" on blueprint, for use as a Fishing Station, it was

ORDERED: That there be allowed under this Application and established and constituted a Reserve for the use and benefit of the applicant Kitkahta (Hartly Bay) Tribe, a certain tract or parcel of land containing an area of Five (5) acres, more or less, as described in the Application, subject to survey, as per sketch plan of Ashdown H. Green, B.C.L.S., numbered in accordance herewith and filed in duplicate with the Governments of Canada and British Columbia.

The Commission having under consideration Bella Coola Agency Application No. 99, of the Kitkahta (Hartly Bay) Tribe, for large Gander Island, in Queen Charlotte Sound, containing an area of Three Hundred (300) acres, more or less, for use as a Fishing Station, Garden Plot, Camping Place and Sealing Base, it was

ORDERED: That there be allowed under this Application and established and constituted a Reserve for the use and benefit of the Kitkahta, Kitlope, Kitimat and Kitasoo Tribes or Bands (in common) Large Gander Island of the Gander Island Group, containing an area of Three Hundred (300) acres, more or less, subject to survey, as per sketch plan of Ashdown H. Green, B.C.L.S., numbered in accordance herewith and filed in duplicate with the Governments of Canada and British Columbia.

Victoria, B.C., May 17th, 1916.

CERTIFIED CORRECT,

C. H. GIBBONS, *Secretary.*

#### Bella Coola Agency—Kitlathla (Kitkatla) Tribe

ORDERED: That the Indian Reserves of the Kitlathla (Kitkatla) Tribe, described in the Official Schedule of Indian Reserves, 1913, be CONFIRMED as now fixed and determined and shewn on the Official Plans of Survey, viz.:

- "No. 1—Dolphin Island—Coast District, between Hecate Strait and Ogden Channel, 3848.00 acres;
- "No. 2—Grassy Islet—Coast District, one mile North of Dolphin Island, 1.10 acres;
- "No. 3—Kumowadah—Coast District, at the head of Lowe Inlet, Grenville Channel, 184.00 acres;
- "No. 4—Sand Island—Coast District, one mile North of Reserve No. 1, 5.00 acres;
- "No. 5—Klapthlon—Coast District, one mile North-west of Calvert Point, Grenville Channel, 112.00 acres;
- "No. 5A—Klapthlon—Coast District, an addition to Reserve No. 5, on the West, 126.00 acres;
- "No. 6—Pa-aat—Coast District, on the Eastern shore of Pitt Island, two miles south of False Stuart Anchorage, 15.00 acres;
- "No. 7—Tsimtack—Coast District, on Pitt Island, on the Western shore of Union Passage, 27.00 acres;
- "No. 8—Toowartz—Coast District, on the Southern shore of Pitt Island, 52.00 acres;
- "No. 9—Citeyats—Coast District, on the southern extremity of Pitt Island, two miles north of Steep Point, 36.50 acres;
- "No. 10—Kitlawaco—Coast District, on the Eastern shore of Banks Island, 2½ miles south of Gale Point, 6.00 acres;
- "No. 11—Keccha—Coast District, on the Eastern shore of Banks Island, one mile north of Gale Point, 4.00 acres;
- "No. 12—Keoryet—Coast District, on the Eastern shore of Banks Island, four miles north of Gale Point, 13.50 acres;
- "No. 13—Clowel—Coast District, on the Western shore of Pitt Island and Southern shore of Minktrap Cove, 15.00 acres;
- "No. 14—Sheganny—Coast District, on the West coast of Pitt Island, at the head of Minktrap Cove, 27.00 acres;
- "No. 15—Tsimlairen—Coast District, on the West coast of Pitt Island, east of Anger Island, 39.50 acres;
- "No. 16—Keswar—Coast District, on the West coast of McCauley Island, three miles South of Hankin Point, 12.50 acres;
- "No. 17—Keyarka—Coast District, on the North-eastern shore of Banks Island, two miles East of End Hill, 21.00 acres;
- "No. 18—Kul—Coast District, on the Southern shore of Bonilla Island, Hecate Strait, 95.00 acres."

Victoria, B.C., September 26th, 1913.

CERTIFIED CORRECT,

C. H. GIBBONS, *Secretary.*

The Commission having under consideration Bella Coola Agency Application No. 77, of the Kitlathla or Kitkatla Tribe or Band, for a certain tract or parcel