



LAKE COWICHAN FIRST NATION
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1.1 Climate Change Issues, Impacts and Consultation:

(a) Consultation

The Crown's consultation obligation to a First Nation, as prescribed by the courts, is a process and an iterative process. That process is supposed to be discussed between the parties first and laid out between the parties. The Crown's response does not indicate a willingness on the Crown's part to establish a process, much less an iterative one. These failures will not address the Crown's expressed desire to restore faith in the process, and in fact will result in a failure of the Crown in its consultation obligations to the Lake Cowichan First Nation.

Further, the intent of the Crown's consultation has been limited to the 'upstream' effects and will not review the downstream effects. The courts have further identified that although the Crown may layout the parameters of the scope of a project review, the Crown must cast that net broadly so as to ensure that First Nations consultation can be fulsome. The fact the Crown is not reviewing the downstream effects of this project and this project cumulatively with the many Liquid Natural Gas projects the Province of BC is advocating, will not address the full scope of greenhouse gas emissions impacts on the First Nation.

(b) Issues of Particular Concern to Coastal Nations

Lake Cowichan is a coastal First Nation, our Reserves, locations and their diminutive size, being 1/10th the size allotted the rest of First Nations across Canada was justified by the Crown as sufficient as we were an ocean-going peoples. Our Reserves based around our village on the Lake Cowichan will be affected by several issues. Our lake is the reservoir for the whole valley, it is also a critical reservoir for the Cowichan River, which is a designated Heritage River and critical for fish.

This last year, 2015 saw little snow pack on the mountains surrounding the lake, we had algal blooms in early spring on the lake resulting in a boil water advisory; and fish having to be captured and trucked up the Cowichan River to the lake.



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Environment Canada – the Crown - has been asking First Nations for years what we are going to do when our fish are no longer coming here, when our plants and trees change to a new climate. Yet they have provided no funding to assist us in studying that eventuality. Furthermore, the fact that a department of the Crown has been engaging First Nations for well over 10 years is a clear indicator that the Crown had knowledge of climate change and its potential impacts on Aboriginal Interests.

(c) Species at Risk:

One of the primary victims of climate change will be species on the ‘at risk’ schedule, how will the Crown address these matters?

Our lands the Cedar/Hemlock zone, the adjacent Coastal Douglas Fir (CDF) zone is considered one of the rarest ecosystems in Canada. Climate Change study suggests that the CDF zone will increase, but at what cost? Climate studies only appear to reflect on the financial viability of the Douglas Fir and not on what it will extirpate. We can tell you what the CDF zone will extirpate, it will invade areas that we have relied on for millennia. This will have devastating effects on the animals, plants and trees we rely on for our cultural and traditional practices.

The anticipation that the CDF zone will increase and that would be a good thing, is the same kind of logic that allowed it to become threatened due to urban development. And it will be the same logic that allows our resources become threatened in our specific traditional territory.

(d) Insects and Reptiles:

Climate change will encourage a great many new species to move further north than would’ve previously. Currently killer bees and zika virus carrying mosquitos are not considered a threat to our area. However, that could easily change given climate change and our people’s health is already compromised by the pollutants and the current loss of access to our traditional diets due to pollution, private land holdings and greater urban development than most of the rest of the Province of BC.

Poisonous reptiles are also being discussed as potential migrants to the north.



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(e) Fish:

Every commercial salmon licence has Albacore Tuna on its Schedule 2 species without any limitations on catch. Our salmon are not returning in the same manner they used to, frankly we consider this a failure of the federal Crown on many accounts, not the least of which is the failure to act on Climate Change, when one of your own departments, Environment Canada, was researching the associated issues for years.

1.2 Conclusion

Woodfibre marine shipping will have impacts on the Lake Cowichan Aboriginal title, rights and interests. This is more so when combined with the high potential for increased marine traffic proposed with two coal terminals, other LNG facilities, increased container shipping and the largest contributor, Trans Mountain Expansion Terminal. The Crown has failed to engage the First Nation, much less consider these impacts on the Lake Cowichan First Nation. Although, the courts have identified that the Crown may set the scope of a review, the courts have also identified that the scope must be cast broadly to capture the fulsomeness of impacts on affected First Nations interests.

The Crown has had knowledge of potential climate change impacts to First Nations for well over 10 years, as evidenced by its own department, Environment Canada's inquiries with First Nations as to how aboriginal people will adapt to climate change. Climate Change will have devastating effects on Lake Cowichan and the Crown has an obligation to investigate those issues, especially in light of all the projects the Crown is promoting that will add to these impacts.

The above issues clearly identify that the Crown has failed to discharge its solemn duty of meaningful consultation with the Lake Cowichan First Nation.