

EAO's Summary Evaluation Report for an Extension of an Environmental Assessment Certificate

*Westcoast Connector Gas Transmission
EA Certificate #E14-05*

Requested by:
Westcoast Connector Gas Transmission Ltd.

April 25, 2019

Pursuant to section 18 (2) of the Environmental Assessment Act, S.B.C. 2002, c.43 (Act)

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ACRONYM AND DEFINITION LIST

Aboriginal Interests	Aboriginal rights and title, including treaty rights	UNDRIP	<i>United Nations Declaration on the Rights of Indigenous Peoples</i>
Act	<i>Environmental Assessment Act</i>	WCGT	Westcoast Connector Gas Transmission Project
BC	British Columbia	WG	Advisory Working Group
CPD	Certified Project Description		
EA	Environmental Assessment		
EA Application	Application for an Environmental Assessment Certificate (2014)		
EA Report	The EAO's Assessment Report (2014)		
EAC	Environmental Assessment Certificate		
EAO	The Environmental Assessment Office		
Enbridge	Westcoast Connector Gas Transmission Ltd.- subsidiary of Enbridge Inc.		
ePIC	EAO electronic Project Information Centre		
Extension Application	Application to request a one-time five-year extension of the EAC #E14-05 for WCGT		
Extension Report	EAO's Summary Evaluation Report for an Extension of an EAC		
TOC	Table of Conditions		
TT	Tracking Table		

1.0 OVERVIEW OF REQUESTED EXTENSION

On November 25, 2014, the Minister of Environment and the Minister of Natural Gas Development issued Westcoast Connector Gas Transmission Ltd., now a wholly-owned subsidiary of Enbridge Inc. (Enbridge), the Environmental Assessment Certificate #E14-05 (EAC) for the Westcoast Connector Gas Transmission Project (WCGT). Documentation relating to the Environmental Assessment (EA) of the WCGT, the EAC, Certified Project Description (CPD), and Table of Conditions (TOC) are on the Environmental Assessment Office's (EAO) electronic Project Information Centre (ePIC) at <https://projects.eao.gov.bc.ca/p/westcoast-connector-gas-transmission/docs?folder=124>

Section 18(2) of the *Environmental Assessment Act* (Act) allows for the holder of an EAC to apply for a one-time five-year extension of the deadline specified in the EAC for substantially starting the project. On August 29, 2018, Enbridge submitted an application to the EAO under Section 18(2) of the Act requesting a five-year extension of the November 25, 2019 deadline specified in the EAC (Extension Application¹). In the Extension Application, Enbridge describes historical circumstances that delayed post certification actions towards constructing and operating WCGT and that additional time is needed to secure a final investment decision.

2.0 PROJECT DESCRIPTION

WCGT would involve the construction and operation of two sweet natural gas transmission pipelines from the Cypress Area in northeast British Columbia (BC), approximately 100 kilometres northwest of Fort St. John, to Ridley Island, near Prince Rupert (Figure 1- Project Overview Map). Additional project infrastructure includes up to five compressor stations, meter stations, a material offloading facility, communication towers, and ancillary facilities, as described in the Project Description of the EA Application.

Enbridge's plans are to develop a single pipeline in a first phase. The development of the second pipeline would depend on the economic circumstances of the markets. The second pipeline would require further permitting and would be installed in the same pipeline corridor that was assessed in the EA Application and identified in the CPD.

¹ <https://projects.eao.gov.bc.ca/p/westcoast-connector-gas-transmission/docs?folder=150>

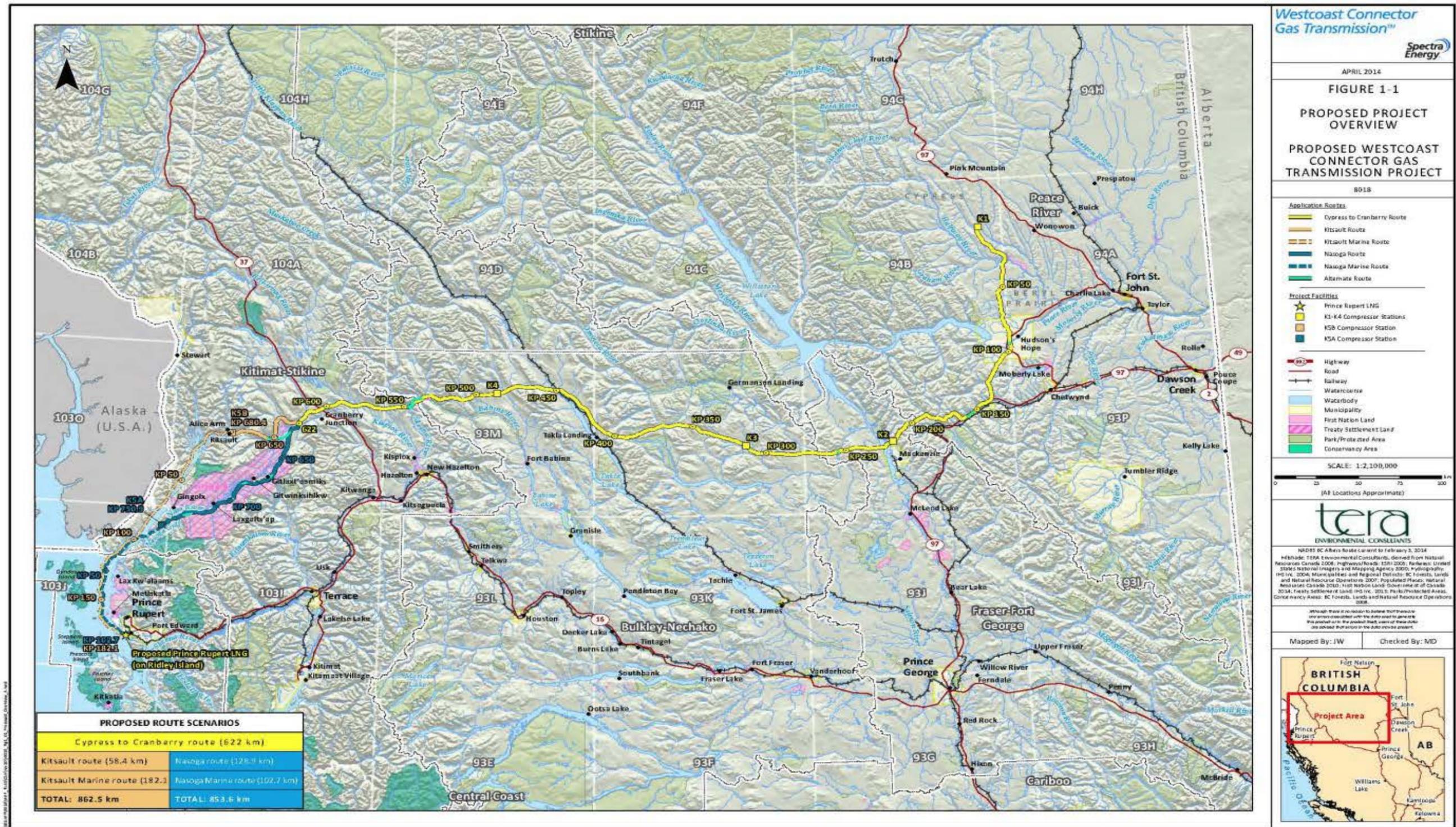


Figure 1: Project Overview Map

3.0 THE EXTENSION APPLICATION REVIEW

On September 24, 2018, the EAO accepted the Extension Application for review. The EAO established an advisory working group (WG) based on membership from the original EA, consisting of approximately 180 representatives of federal, provincial, local governments, and Indigenous groups identified in Schedule B of the Section 11 Order². The WG was established to provide technical advice on the review of the Extension Application. The EAO distributed the Extension Application to the WG and provided a 60-day review and comment period from October 8 to December 7, 2018. Indigenous groups listed in Schedule C of the Section 11 Order (that is at the lower end of the consultation spectrum) were also notified of the receipt of the Extension Application and invited to further discussions.

Submissions on the Extension Application were received from Gitxsan, Metlakatla First Nation, Gitxaala Nation, Blueberry River First Nation, Halfway River First Nations, Northern Health and Environment and Climate Change Canada. Key issues received on the Extension Application are identified in section 5 of this Extension Report. Detailed WG comments and Enbridge's responses are included in the "WCGT Enbridge Responses Tracking Table". The EAO also provided separate responses to WG comments determined to be related to process or requiring a government response. These responses are captured in the "WCGT EAO Responses Tracking Table." All tracking tables (TTs) are available on the EAO's website³. The EAO reviewed and shared the EAO's and Enbridge's TTs with the WG. No comments were received from the WG in response to the EAO's invitation to discuss responses provided.

The EAO provided a draft of the Extension Report to the WG for review. Comments were received from Metlakatla First Nation, Halfway River First Nation, and Gitxsan. Key comments are discussed in section 5 of this Extension Report.

To inform the Executive Director's decision on whether to extend the Certificate, the EAO considered whether there have been any material and specific changes in circumstances that have occurred since the original EA that could affect the conclusions reached in the EA, and whether revisions to the EAC, CPD or TOC would be recommended to address these changes.

4.0 REGULATORY CONTEXT AND REQUIREMENTS

The primary regulator for construction and operation of natural gas pipelines in BC is the Oil and Gas Commission pursuant to the *Oil and Gas Activities Act*. Regulatory agencies for many of the required authorizations participated in the EA as members of the WG.

Various licenses, permits, or approvals would be required for field programs, construction, and

² A comprehensive list of the WG members can be found in Appendix 1 of the EAO'S Assessment Report:

<https://projects.eao.gov.bc.ca/p/westcoast-connector-gas-transmission/docs?folder=125>

³ <https://projects.eao.gov.bc.ca/p/westcoast-connector-gas-transmission/docs?folder=150>

operations of WCGT under federal, provincial and local jurisdiction. A comprehensive list of regulatory authorities and authorizations required for the construction and operation of WCGT are included in the EA Report, Table 2-6: Authorizations that may be required for Project planning, construction and operations⁴.

5.0 SUMMARY OF ISSUES

5.1 Aboriginal Rights and Title (Aboriginal Interests)

Metlakatla First Nation, Gitxaala, and Blueberry River First Nation raised concerns related to the cumulative effects from multiple proposed projects and the resulting impacts to Aboriginal Interests (Aboriginal rights and title, including treaty rights).

The EA required an assessment of the potential adverse effects of WCGT, including cumulative effects, and the development of meaningful mitigation measures, including ways to avoid, minimize or otherwise manage any such potential adverse effects. The EAO consulted Indigenous groups during the EA with respect to cumulative effects and the potential impacts of WCGT to Aboriginal Interests; a summary is contained in section 18.1 of the EA Report. The TOC includes legally binding conditions to mitigate impacts to Aboriginal Interests as well as to address concerns raised during the EA.⁵

During the review of the Extension Report, Metlakatla First Nation reiterated concerns related to cumulative effects due to industrial developments that occurred on the land base since the issuance of the EAC for WCGT.

The EAO responded it was satisfied that a decision on the extension request for WCGT would not change the current state of impacts resulting from industrial developments and that there are adequate conditions in place to ensure that cumulative effects are properly assessed and addressed prior to construction. The EAO noted that a potential extension of WCGT's certificate would not authorize the holder of the certificate to start construction and that, prior to applying for construction permits and authorizations, the certificate holder would be required to develop a series of environmental management plans in consultation with appropriate government agencies and First Nations, including Metlakatla First Nation (EAC Condition# 35, 37, 38 and 39). Those plans would need to take into consideration changes to the baseline data that occurred since the issuance of the certificate.

In consideration of the above noted issues and the additional issues that were raised during the

⁴ <https://projects.eao.gov.bc.ca/p/westcoast-connector-gas-transmission/docs?folder=125> (pages 32 to 34)

⁵ Continued access to harvest medicinal and food source plants, traditional use activities and trap lines (Condition# 22); Information sharing on the future regulatory requirements, construction and operations activities (Condition# 1, 13, 22, 23, 29, 35); Opportunities to participate in construction monitoring (Condition# 39); and Continued consultation obligations (Condition# 16, 23, 29, 33, 35, 37, 38, 39).

review of the Extension Application, the EAO is satisfied that despite changes to the physical environment, a potential approval of the extension request would not have consequences to the Indigenous groups' exercise of their Aboriginal Interests and treaty rights that has not otherwise been considered and appropriately addressed during the original EA and the TOC. The EAO notes that continued concerns related to cumulative effects will be considered and discussed as part of the continued Crown consultation obligations related to the requirements of the EAC and of subsequent permitting.

5.2 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

Gitxsan raised a concern regarding BC's commitment to UNDRIP and calls to action of the Truth and Reconciliation Committee. Gitxaala raised concerns related to the anticipated legislative changes impacting the EA process.

The Province is committed to advancing reconciliation with Indigenous peoples and adopting and implementing UNDRIP and the Calls to Action of the Truth and Reconciliation Commission. The EAO approached the review of the Extension Application consistent with the Province's commitments.

5.3 Environmental Effects

The WG raised concerns related to (see comments and responses TTs published on the EAO's website⁶): environmental effects (GHGs, baseline data; disposal at sea; and species at risk, including caribou), and socio-economic concerns (change in economic circumstances and changes relating assessing social and health impacts). These concerns are noted and addressed in sections 5, 6, 7 and 9 of the EA Report. In addition, the EAO notes that the EAC conditions 16 and 17 (Caribou Mitigation and Monitoring Plan) provide for considering any new information, mitigation and adaptive management related to the caribou in the development of the Caribou Mitigation and Monitoring Plan, prior to construction. Similarly, condition 19 (Wildlife and Wildlife Habitat Management Plan), requires considering new information, mitigation and adaptive management in the development of the Wildlife and Wildlife Habitat Management Plan, prior to commencement of construction.

During review of the Extension Report, Gitxsan indicated they disagreed with the conclusion that their issues were adequately and reasonably addressed during the EA consultation.

The EAO committed to providing these continued concerns in the Extension Report for review by the decision maker on the Extension Application. However, the EAO continues to be satisfied that the issues currently raised by Gitxsan were also referenced in the EA Report and considered by the Ministers' in their decision to issue the EAC. In their "Reasons for Ministers' Decision"⁷ the Ministers' concluded that the Province fulfilled its obligations for consultation

⁶ <https://projects.eao.gov.bc.ca/p/westcoast-connector-gas-transmission/docs?folder=150>

⁷ <https://projects.eao.gov.bc.ca/p/westcoast-connector-gas-transmission/docs?folder=127>

and accommodation to Aboriginal Groups.

In consideration of these issues, the EAO is satisfied that despite any changes to the physical environment, a potential approval of the extension request would not have consequences that have not otherwise been considered and appropriately addressed during the original EA and the TOC. Changes to the physical environment will be required to be reviewed and considered during the development of the environmental management plans associated with the EAC conditions, prior to construction.

5.4 Health Effects

Northern Health indicated that there has been new guidance developed for assessing and addressing social and health impacts since issuance of the EAC. Northern Health recommended that Enbridge consider this guidance in plan development. As a result, Enbridge committed to developing a Health and Medical Services Plan as a component of the Social and Economic Effects Management Plan (EAC condition 33) as well as updating the Human Health Risk Assessment to incorporate the new guidance.

In consideration of the issues raised and commitments made by Enbridge, the EAO is satisfied that a potential approval of the extension request would not have consequences that have not otherwise been considered and appropriately addressed during the Extension Application.

6.0 CONCLUSIONS

Based on:

- Information contained in Enbridge's Extension Application;
- Enbridge's consultation record with Indigenous groups prior to submission of the Extension Application; and
- Enbridge's responses to comments and concerns from the WG and the EAO.

And given:

- The EAO conclusion that issues raised by the WG and Indigenous groups were adequately and reasonably addressed and are not material and specific changes in circumstances that have occurred since the original EA that could affect the conclusions reached in the EA, and that revisions to the EAC, CPD or TOC would not be required.

The EAO is satisfied that:

- Despite changed circumstances, an approval of the extension request would not constitute a material change with consequences to Indigenous groups exercise of their Aboriginal Interests and treaty rights that has not otherwise been considered and appropriately addressed during the original EA and the TOC; and

- The Crown's duty to consult and appropriately accommodate potential impacts of the proposed extension on Aboriginal rights and title have been adequately fulfilled.

The EAO recommends that the Executive Director issue an Order under Section 18(4) of the Act to extend the EAC for WCGT for five years, noting that all other requirements arising from the original assessment remain in effect for the duration of the lifecycle of WCGT.