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 Ann Wilson, CHRP, ICCRC R421415  
 (Formerly Citizenship Judge)  
 ann@wilsonimmigration.com

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### B.C. GOVERNMENT FAILED TO PROPERLY CONSULT FIRST NATIONS ON NORTHERN GATEWAY PIPELINE, COURT RULES

Gitga'at celebrating 'huge victory' after court rules province failed in duty to consult

The B.C. Supreme court has ruled that the province "has breached the honour of the Crown by failing to consult" with the Gitga'at and other Coastal First Nations on the Enbridge Northern Gateway pipeline.

The court challenge — one of many on the controversial proposed pipeline — stemmed from the B.C. government's agreement with Ottawa to hold a single environmental assessment process, under the National Energy Board, rather than parallel federal and provincial reviews.

In 2014, the federal government approved the controversial pipeline that would bring heavy Alberta oil to B.C.'s north coast, for international shipment by tanker.

But First Nations opponents of the pipeline argued the province wasn't living up to its own duty to consult with them, and today, the court found in their favour.

"This is a huge victory that affirms the provincial government's duty to consult with and accommodate First Nations and to exercise its decision-making power on major projects," said Arnold Clifton, Chief Councillor of the Gitga'at First Nation, in a statement.

Though the governing B.C. Liberals had agreed to the streamlined process — and even trumpeted it as something that would reduce "byzantine bureaucratic practices" and help create jobs, the province had also formally opposed the pipeline.

The B.C. government was an intervener in the National Energy Board's joint review process, speaking against the proposal, because it didn't meet the five conditions set out by B.C. for any heavy oil pipeline.

The chief problem, said the government, was there wouldn't be "world-class spill response capability" in place, despite the company's claims, according to the judgment.

Art Sterritt, a Gitga'at member and vocal opponent of the pipeline, said the B.C. government was "playing a bit of politics" by handing over its power at the environmental assessment stage, then opposing the project.

"They were saying [to the federal government] yeah, we're opposed, but you go ahead and make your decision, we'll live with it," said Sterritt.

Sterritt said the court ruling means the B.C. government would have to start from scratch on consulting with affected First Nations for its own review.

"You're talking about a whole new review process here," said Sterritt. "I'm not sure that Northern Gateway or anyone else would have the appetite for that."

But B.C. Attorney General Suzanne Anton said the judgment won't require restarting the pipeline approval process.

"What the court has said is we can rely on the process that was in front of the National Energy Board, but we do need to make our own independent provincial decision based on our own provincial legislation," she said.

Anton said the province hasn't yet decided on whether to appeal, and she is committed to fully consulting with First Nations.

However, Northern Gateway says the federal decision stands, and it's still working to meet the 209 conditions set out by the NEB, along with the B.C. government's conditions.

"Approval of the project falls within federal jurisdiction and this decision from the B.C. Supreme Court does not change that approval or the project's environmental assessment," said Ivan Giesbrecht, communication manager for Northern Gateway, in a statement.

"Northern Gateway and the project proponents, including Aboriginal Equity Partners, remain committed to this essential Canadian infrastructure."

Ottawa's role in the fate of the project has also been in question following Justin Trudeau's Liberal win in October.

Trudeau has called for a moratorium on crude oil tanker traffic on B.C.'s north coast, which would block the main reason for the pipeline — to ship oil via tanker from Kitimat to

Asian markets and elsewhere. Northern Gateway has been undeterred by that plan, however. B.C. Justice Minister Suzanne Anton has not yet commented on the court ruling.

### OIL AND GAS PAYMENTS 'COMPENSATION, NOT REVENUE,' LEASEHOLDERS SAY

Public accounts committee hears from leaseholders on so-called 'cowboy welfare'

Alberta grazing associations are pushing back against a finding that some members received "substantial" financial benefits from the program some have nicknamed "cowboy welfare."

On Thursday, representatives from the Northern Alberta Grazing Association and the Alberta Grazing Leaseholders Association appeared before MLAs on the Public Accounts Committee to respond to the auditor general's July 2015 report.

Auditor General Merwan Saher found that some people who lease land to graze cattle paid the province relatively little in rent, compared to compensation they received

from oil and gas companies to use that land for resource extraction. MLAs were told compensation payments are an appropriate way to mitigate the inconvenience, loss of use and other adverse effects of resource activity on cattle grazing land.

Barbara Gauthier from the Northern Alberta Grazing Association says the suggestion leaseholders receive a personal financial benefit is a "misconception."

"The money received from industry is compensation for damage and loss of usage to improvements that were developed by the leaseholder," she told the committee.

"Very few of these grazing leases collect large amounts of compensation. It's not revenue. It's compensation for damages."

The auditor general noted a bill was passed in 1999 that would have allowed the province to collect those compensation payments. Bill 31 would have brought Alberta's system closer to the systems in B.C. and Saskatchewan. The bill was never proclaimed so it didn't become law.

The rental rate formula was set in the 1960s. Amounts have been

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frozen since 1994. The report looked at 54 leases that cover 10 per cent of all grazing land in Alberta.

The leaseholders paid the province \$326,000 in rental fees while receiving \$2.7 million more in compensation from oil and gas companies.

"If those amounts were consistent throughout the province, Albertans would be forgoing over \$25 million in access fees currently paid to leaseholders," the auditor general report states.

However, Larry Sears from the Alberta Grazing Leaseholders Association told the committee the payments should not go to the province as it doesn't suffer the effects of oil and gas development.

"It would be difficult for the province to argue that they are directly affected by noise, dust, gates left open, moving cattle, loss of use or nuisance because the province does not experience these impacts."

Environment and Parks is the ministry responsible for managing grazing leases. Officials told the committee they are working on a "very aggressive plan" to address the auditor general's concerns.

The department is working on new objectives and setting new lease rates.

However, the department does not know how much leaseholders receive in payments from oil and gas companies. The auditor general found that Environment and Parks does not have the legal ability to collect that information.

Bill Newton from the Alberta Grazing Leaseholders Association said that while the department doesn't know, the province does.

"The department of energy knows

where every well site is," he told the committee. "This information is available. It can be extracted with a bit of effort from the land status system we have in the province."

Last month, an independent review by the University of Alberta Land Institute found Alberta could gain as much as \$45 million a year by changing the grazing lease program.

The province currently receives about \$4 million in grazing lease payments.

### ALL-NATIVE BASKETBALL CHAMPS CRY FOUL OVER LNG SPONSORS

Reigning champs fear they could be kicked out of tournament for public anti-LNG stance

A champion Haida sports team is crying foul over liquefied natural gas (LNG) sponsorship of the All Native Basketball Tournament. And the Skidegate Saints fear they'll be turfed from play for pushing their anti-LNG message.

But it's a risk Saint's point guard Desi Collinson is willing to take.

"[LNG sponsorship] is tarnishing our sacred tournament," said Desi Collinson, a frequent tournament MVP and co-captain of the reigning four-time champion Saints.

Collinson says his team considered pulling out of the tournament entirely. But the defending champions decided to compete after consulting Haida elders.

"We're gonna make it more than a basketball tournament and spread information and educate people," Collinson said.

Off the court, the Saints plan to wear anti-LNG T-shirts and hand out anti-LNG pamphlets and buttons to

the hundreds of indigenous players from coastal B.C. and Alaska and the thousands of fans in the stands.

But tournament organizers say they'll stop that full court press.

"No one's going to be doing that kind of stuff here," countered Peter Haugen, board president for the All Native Basketball Tournament. "Someone can do whatever they want outside the building but inside the gymnasium and the arena ... we've always stopped it. We're a basketball tournament, right? We're not a political venue."

"So many teams and First Nations are against these [LNG] companies and tankers coming through our waters," says Collinson. "It takes certain people to stand up and say no,"

This year more than half the tournament's top sponsors are LNG companies, proposing major liquefied natural gas projects while investing in gas fracking in northern B.C.

Some coastal First Nations are partners in LNG development or have signed benefit agreements. But B.C.'s LNG plans have also sparked opposition over concerns about upstream gas fracking and the construction of LNG facilities in sensitive coastal habitats.

"I'm concerned about how these mega -projects come in to our beautiful, pristine coast. It's gonna be a takeover. I 'm concerned about the coast, about my home," said Collinson. "LNG is gonna take away from our culture: how we eat, how we harvest on the ocean."

"They don't have to worry about the bloody politics"

"All these chiefs and people elected to band council have to deal politics

their whole year," said Haugen. "This is one week where they don't have to worry about the bloody politics and just enjoy the games."

Collinson disagreed, stating the tournament started as a way to get around the ban on potlatches.

"The tournament was created basically on politics," he said "We came together to share culture and friendship."

Haugen also points out that while the Haida team may oppose LNG, the tournament is taking place on Tsimshian territory, where chiefs have approved LNG projects.

"They can say what they want on Haida territory, but this is Tsimshian territory. The Tsimshian have all signed on to LNG."

A spokesman for Pacific NorthWest LNG says his company was invited by the organizers of the Prince Rupert tournament to continue a sponsorship they've maintained since 2013.

"This year, Pacific NorthWest LNG requested that our corporate branding not be displayed on any materials associated with the tournament — despite our contribution," said company spokesman Spencer Sproule.

"We wanted the Prince Rupert All Native Basketball Tournament to be about the players, coaches and families that look forward to this tournament every year and not on the opinions of some regarding our project."

Haugen says no decisions have been made about how to deal with the Saints' political plans.

The tournament starts Sunday in Prince Rupert, B.C.

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