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### CAN KILLER WHALES STRIKE A BLOW AGAINST CANADA'S OIL SANDS?

Is it possible that killer whales could cut into the long-term growth of Canada's oil sands? Environmental groups are suing the Canadian government over its recent approval of Kinder Morgan's Trans Mountain Pipeline expansion, a crucial project that could allow for the growth of oil sands production. The Trans Mountain Pipeline already runs from Alberta to the coast of British Columbia. Kinder Morgan wants to build a twin line that runs parallel to the existing one, which would triple the system's capacity to nearly 900,000 barrels per day. Prime Minister Justin Trudeau gave the greenlight to the Trans Mountain expansion late last month, knowing that doing so would rile up opposition from First Nations and environmental groups. In the same announcement, he rejected the Northern Gateway Pipeline, a more controversial project that would have run through sensitive rain forest. But the Trans Mountain expansion, even with the support at the highest levels of the Canadian

government, still faces obstacles. Ecojustice, an environmental outfit, is suing because the federal government's decision will impact killer whales in the shipping lanes where oil tankers will dock to load up on oil coming through the pipeline. "The ones that we are concerned about are the Southern Resident killer whales," Dyna Tuytel, a lawyer with Ecojustice, told Bloomberg. The Trans Mountain expansion will result in "seven times more tankers, which contribute to noise and interferes with hunting and communication." The tankers would also threaten salmon populations, which the whales feed on. A spokesperson for the pipeline, however, says that the extra tanker traffic represents just 7 percent of the volume of commercial vessels moving through the area, so will have a minimal impact on the whales. In addition to the lawsuit, environmental groups and First Nations have vowed to protest the project, hoping to turn it into a national flashpoint in the style of the Keystone XL and Dakota Access protests. Prime Minister Justin Trudeau acknowledged that his decision to support the project would spark protest, but he sounded undeterred in a recent visit to British

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Columbia. "That's fine," he said. "People are more than willing to express their opinions, to campaign against me, and to support politicians who will agree with them, and not agree with me. That's fine. This is all part of our democratic process." The Trans Mountain Expansion will be a crucial conduit for Alberta's oil sands producers, an industry that is having trouble building long distance pipelines to get their product to export markets. A shortage of pipeline forces Canadian oil to trade at a discount to WTI (as does its quality), which means pipeline problems are cutting into upstream revenue. Ultimately, the lack of pipeline capacity could cut into long-term production targets. According to the Canadian Association of Petroleum Producers, Canada's pipeline system can handle 4 million barrels of oil per day (mb/d), but in 2015, the system was nearly full, running 3.981 mb/d. That highlights the importance of the Trans Mountain expansion not just to Kinder Morgan, but also to Canada's entire oil sands industry.

### ON ENDANGERED WHALES

Fisheries minister concedes government's approval of Trans Mountain pipeline a complicating factor. The federal government is seeking a way to regulate underwater shipping noise as part of its plan to protect an endangered group of killer whales from increased oil tanker traffic off Vancouver. The news comes as environmental groups are poised to file a new lawsuit challenging the Liberal cabinet's approval of Kinder Morgan's Trans Mountain pipeline expansion, alleging the government failed to mitigate the project's impact on the iconic southern resident killer whales. Fisheries Minister Dominic LeBlanc told The Canadian Press he has been working with Transport Minister Marc Garneau on a revamped recovery plan for the approximately 80 remaining whales that spend about half their lives in the busy Salish Sea. "Certain ships emit more noise than others, certain kinds of propellers and other things in the water are noisier than others," said LeBlanc. "There is an engineering and a scientific way that the noise can be limited by regulation. We would hope to get to a circumstance

### OTTAWA TRYING TO LIMIT IMPACT OF TANKER TRAFFIC NOISE

where there would be no net increase in the noise — in spite of the potentially increased tanker traffic.

"We don't yet have what the final answer looks like." LeBlanc acknowledged that the fate of the emblematic British Columbia marine mammals, formally listed as endangered since 2005, has been further complicated by the Liberal government's approval late last month of an expanded Trans Mountain oil pipeline. Under the plan, about 34 tankers a month will move diluted bitumen from the pipeline terminal in Burnaby, B.C., through Burrard Inlet and into Juan de Fuca Strait, up from about five a month currently making the passage. Shipping noise interferes with the ability of killer whales to track prey and communicate with one another in the hunt, and is considered one of several key stressors on the population, along with declining chinook salmon stocks and environmental pollutants. "I'm not minimizing it, and we're prepared to deal with it," LeBlanc said.

"But it is a tiny fraction of the total marine traffic that has existed for a long time and that is on an increase because of other international, global economic factors — separate and apart from the pipeline." Transport Minister Marc Garneau said in an email the government "will also be looking to work with our U.S. neighbour on a joint noise mitigation approach." In addition, given that the highest vessel traffic is from ferries, we will be also be working with BC Ferries on possible approaches that will help us achieve our objectives. Three environmental groups sought a judicial review in June of the National Energy Board's

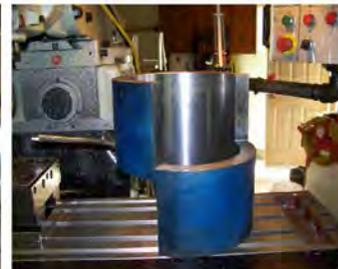
approval of the pipeline, arguing the regulator failed in its duty to consider the Species At Risk Act as it applied to the project's impact on the killer whales' habitat. That court case remains on hold, but could be superseded later today when the same groups file suit against the federal cabinet's decision to approve.

"If you can't mitigate effects on an endangered population, your project cannot proceed. So we're saying that this is unlawful," Misty MacDuffee, a biologist with the Raincoast Conservation Foundation, said in an interview. "They've just arbitrarily decided not to adhere to federal legislation." Raincoast, Living Oceans and Ecojustice were all part of the original June lawsuit against the National Energy Board process and will now challenge the Liberal government. MacDuffee said she welcomes the government's stated commitment to the whales' recovery but is skeptical of Liberal promises to regulate shipping noise for international oil tankers. "I'm really curious on how — within the next year or two — they're going to mitigate," she said. "Because mitigation means refitting and redesigning vessels." As part of a draft recovery plan for the southern resident killer whales released in June and a subsequent \$1.5-billion oceans protection program announced in November, the government earmarked \$340 million over five years for whale protections, including improved monitoring so ships can be immediately alerted and directed away from whale pods. LeBlanc said he and Garneau would be coming back to cabinet "with precise regulatory elements that will ensure that we have mitigated

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the effect of the noise, and things like access to prey — chinook management — and (ensure) land-based pollutants that contaminate certain bodies of water in which these whales are resident are reduced and or eliminated. "Fisheries will release its amended recovery plan in January — updated after the draft plan received some 11,000 public comments, many of which LeBlanc described as "very precise and, we think, rather compelling suggestions of ways to reduce the factors that have put such a stress on this population." Regulatory changes under the Canada Shipping Act will come later in

the spring following consultations with the shipping industry, he said.



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