EAO Environmental Assessment Office

INSPECTION RECORD

Project Name:	Coastal GasLink	**Inspection Report Status:**	FINAL - **SUPPLIMENTARY, SPECIFIC TO EAC CONDITION 15**
EA Certificate #:	E14-03	**Inspection No(s):**	FY18/19-57
Certificate Status:	Certified	**Site Inspection Date(s):**	2019-01-29to 2019-01-29
Region:	Omineca	**Office:**	Victoria
Trigger:	Complaint	**Inspector Name(s):**	Chris Parks, Director, Compliance and Enforcement
Sector:	Energy	**UTM:**	9U 591502 6008707
Location Description:	The Coastal GasLink Project is a an approximately 650 km long natural gas pipeline connecting facilities in the vicinity of Groundbirch (40 km west of Dawson Creek) in northeast BC to the proposed LNG Canada facility near Kitimat. The Project is currently in the construction phase. The onsite component of this inspection focused on work within "Section 7" of the Project, southwest of Houston BC, including the Camp 9A location (also known as Multi Use Area 9A and 9B) located at UTM 9U 591502 6008707.		
Inspection Summary:	EAO Compliance and Enforcement (C&E) received complaints on January 25 of 2019 regarding the Coastal Gas Link Project (Project). Additional complaints relating to the same issues were received from additional complainants in the subsequent days. The Complainants alleged that works conducted by Coastal Gas Link Pipeline Limited (CGL) were not compliant with the requirements of the environmental assessment certificate (EAC) (Appendix A) issued for the Project, including conditions attached to Schedule B of the EAC (Appendix B). In response to the complaints, EAO Director, Compliance and Enforcement Chris Parks (C&E Parks) conducted a site inspection of project works at the Camp 9A location on January 29, 2019. Officers from the Conservation Officer Service and the Oil and Gas Commission also attended pursuant to their authorities. A representative from the Unist'ot'en also attended the inspection. After the site inspection C&E Parks reviewed photographs and notes from the site inspection, and information received from CGL and the complainants. C&E Parks provided CGL an opportunity to respond (OTR) to the preliminary findings of this inspection record on Monday, February 4th, 2019, requesting a response by Monday February 11, 2019. On Friday, February 8th 2019, CGL requested an extension of the response deadline for the inspection record. C&E Parks responded that an extension would be provided with respect to a response to a preliminary determination of noncompliance with EAC Condition 15 until end of day Friday February 15th, however the response regarding the other requirements identified in the OTR inspection record were due as requested (Appendix C). C&E Parks finalized the inspection, apart from Condition 15, on February 20, 2019 (Appendix D).		

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	With respect to EAC Condition 15, CGL provided a response to the OTR inspection record on Monday, February 11, 2019 (Appendix E). After review of observations and information obtained during the site inspection, subsequent review of materials and information, and consideration of the submission provided by CGL in response to the OTR inspection record, the following compliance determinations have been made. NOT COMPLIANT with Condition 15 of the Table of Conditions, with respect to avoiding prohibiting access for Aboriginal groups and non-aboriginal trap line holders. Please see the following Requirement, Findings, and Actions Required by Certificate Holder sections of this inspection record for additional information regarding this determination. See also Regulatory Considerations.
Activity:	On Site and Office Review
Certificate Holder's Name:	Coastal GasLink Pipeline Ltd.
Certificate Holder's Contact(s):	Kim Ogilvie, Manager, Canadian Environmental Planning and Permitting, TransCanada
In attendance:	Conservation Officer Service The BC Oil and Gas Commission Coastal Gas Link staff Observer from Unist'ot'en
Mailing Address:	450 1sr Street S.W. Calgary, AB T2P 5H1
Phone No:	403-920-7900
Contact Email:	kim_ogilvie@transcanada.com

Requirement Description	**Condition 15 of the Table of Conditions states** that the Holder must "avoid prohibiting access for Aboriginal groups and non-aboriginal trap line holders" (see Appendix B for compete wording of Condition 15).
Findings	C&E Parks reviewed information submitted to EAO by complainants. That information states that on January 24, 2019, an aboriginal group member was prohibited from accessing trap lines located past the Camp 9A location on the Shea Creek FSR. Video evidence was provided of this event. The complainants also assert that aboriginal group members have been denied access to trap lines between January 23 and January 30. Based on the evidence provided by the complainant, CGL appeared to prohibit the access of an Aboriginal Group member for the purposes of trapping on at least one occasion. Video evidence submitted by the complainant documented the individuals attempting to access areas past the security checkpoint on the Shea FSR and being turned away by security staff with an Injunction referenced as the rationale for denying access (Appendix F).

	In their response to a preliminary finding of noncompliance with the requirement, CGL provided a letter (Appendix E) and additional evidence detailing the events identified in the January 24, 2019 video provided to C&E Parks by the complainant, and detailing mitigations implemented by CGL to facilitate access by Aboriginal groups and non-aboriginal trap line holders. In this context C&E Parks interprets "prohibited" to mean "forbidden by authority". A delay for the purposes of safety, is reasonable and not interpreted to be a prohibition, recognizing that active worksites can pose a risk to a person's safety. The existence of alternate access (such as via snowmobile or snowshoe), and the implementation of mitigations (such as a sled unloading ramp and plowed parking areas) to facilitate the use of alternate access further mitigate for the possibility of prohibition of access. Review of the video evidence (one video) provided by the complainant and CGL (two videos) regarding the January 24 incident shows the following regarding the January 24th interaction between CGL staff and Aboriginal group members regarding attempted access: • The attempted access point was on the Shae FSR, at the CGL security checkpoint located Northeast of the Camp 9A location at approximately KM 13. • Communications between all parties in the videos supplied as evidence appeared to be respectful. • The Aboriginal group members clearly state that they were engaged in trapping activity (on their way to check their traps further up the Shea FSR); • The purpose stated by CGL staff for stopping the Aboriginal group members from accessing the Shea FSR past the checkpoint was the presence of the Injunction; • CGL staff identify that the area was an active worksite, however do not identify that access would be delayed for safety purposes only, and that access would be provided later, and approximately what time that would be; and • CGL staff do not identify to Aboriginal group members that alternate access measures are available. It is not clear whether the alternate access mitigations noted by CGL (Appendix E) were implemented on January 24, 2019. C&E Parks does not know the extent to which the Shea FSR was plowed beyond the Camp 9A location on that date, and consequently whether access via snowmobile was possible in a manner consistent with the Forest Service Road Use Regulation, which prohibits the use of snowmobiles on a plowed FSR (see Regulatory Considerations section of this record for additional information). On January 29th C&E Parks observed a Wet'suwet'en Fisheries vehicle pass the security check point at Camp 9A, and later observed that vehicle on the Shea FSR west of Camp 9A. A vehicle previously observed at the Unist'ot'en Healing Centre and Camp was also observed passing through the Camp 9A location and later observed that vehicle on the Shea FSR west of Camp 9A. On that day, the Shae FSR was plowed to approximately km 19.

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	On January 29th C&E Parks also noted that the Camp 9A work area is located within an area with recent cutblocks to the south and west, accessible via snowmobile given terrain, snow conditions and lack of emergent vegetation. C&E Parks noted snowmobile tracks bypassing the Camp 9A location to the south during the inspection, and that parking was available off the Shea FSR approximately 100m northeast of the Camp 9A security checkpoint at that time. After consideration of the evidence provided by the complainant and CGL, C&E Parks has determined that, on January 24th, 2019, access for Aboriginal group members attempting to access the Shea FSR for the purposes of trapping was prohibited. C&E Parks notes that on January 24, 2019, CGL staff perceived potential risk to individuals at the perimeter of the work area, and potential risk to Project workers. This perception of risk likely heightened tension and may have impeded effective communication during interactions between CGL staff and Aboriginal groups.
Compliance	Out on January 24, 2019, with respect to the requirement to avoid prohibiting access for Aboriginal trap line holders – Advisory issued

Actions Required by Holder & Additional Comments:	
CGL is ADVISED that it was not compliant with Condition 15 on January 24, 2019, with respect to the requirement to avoid prohibiting access to Aboriginal groups for the purposes of trapping. C&E Parks notes that CGL was compliant with this requirement based on observations made during the site inspection on January 28, 2019. **SEE REGULATORY CONSIDERATIONS SECTION FOR ADDITIONAL INFORMATION.**	
Inspection Conducted by:  Chris Parks, Director, Compliance and Enforcement	**Date Signed: March 18, 2019**
Enclosure(s) to Proponent(s) & Description:	
Appendix A: EAC#E14-03 Appendix B: Schedule B to EAC#E14-03, Table of Conditions Appendix C: EAO response to CGL regarding OTR extension request Appendix D: EAO Inspection record finalized February 20, 2019 Appendix E: CGL response to OTR Inspection record regarding Condition 15 Appendix F: Injunction	
Regulatory Consideration:	
In the February 11, 2019 response to the preliminary finding of noncompliance with Condition 15, CGL noted additional considerations that were of concern to CGL staff that had occurred before and on January 24, 2019. These considerations	

are relevant in that they likely contributed to the tension of the interactions between CGL staff and Aboriginal group members.

C&E Parks notes that there are important considerations that CGL should take into account to ensure ongoing compliance with the requirement to avoid prohibiting access for Aboriginal groups and non-aboriginal trap line holders.

1. CGL should seek to understand the access needs of Aboriginal groups and non-aboriginal trap line holders and work with these groups to facilitate access.
2. It is reasonable to delay access for the purposes of safety, however CGL should clearly communicate to Aboriginal groups and non-aboriginal trap line holders that access is delayed only, and that access through the work area will be provided as soon as it is safe to do so.
3. CGL should consider that traps must be checked on a basis pursuant to the Trapping Regulations under the *Wildlife Act*, and that there are other commercial and non-commercial reasons to check traps on a frequent basis.
4. Trapping is frequently conducted via snowmobile in BC, with aboriginal and non-aboriginal trappers utilizing unplowed FSRs to access their traps. This is consistent with C&E Parks observations and conduct on other inspections involving winter construction activity and adverse effects to trapline access. Pursuant to the Forest Service Road Use Regulation, a person must not operate a snowmobile on a forest service road if it appears that the road has been snowploughed, or that the road is otherwise fit for travel by motor vehicles other than snowmobiles. This means that if CGL has plowed an FSR, and terrain or other considerations otherwise impede access to traps (i.e. the FSR route is the only reasonable access route), CGL must make provisions for the use of the plowed FSR such that Aboriginal groups and non-aboriginal trap line holders may access trapping areas.

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