

<b>Project Name</b>	Coastal GasLink Project	<b>Inspection Status</b>	Final
<b>EA Certificate #</b>	E14-03	<b>Inspection No.</b>	IR2021-008
<b>Project Status</b>	Certified	<b>Inspection Start</b>	2021-03-11
<b>Sector</b>	Energy	<b>UTM</b>	9U 614438.00 E, 6005813.00 N and 9U 608454.00 E, 6006629.00 N
<b>Trigger</b>	Complaint	<b>Inspection Type</b>	Field and Administrative
<b>Project Description</b>	The Coastal GasLink Project (Project) is an approximately 650-kilometre natural gas pipeline, currently under construction.		
<b>Location Description</b>	This inspection is specific to events that occurred at two locations near the Morice West Forest Service Road (FSR). <ul style="list-style-type: none"> <li>Pre-existing public spur road running south of the Morice River FSR at approximately KM 56.5 (Site 1)</li> <li>Pre-existing public spur road running south of the Morice River FSR at approximately KM 63 (Site 2).</li> </ul>		
<b>Inspection Summary</b>	<p>On March 11, 2021 Chris Parks, Environmental Assessment Office (EAO) Director of Compliance and Enforcement (C&amp;E) initiated an inspection of the Project against the requirements of Environmental Assessment Certificate (EAC) #E14-03 (Schedule B, Table of Conditions included in this record as Appendix 1).</p> <p>The Project was in Construction at the time of inspection.</p> <p>After review of observations and information obtained during the inspection, the following compliance determinations have been made:</p> <ol style="list-style-type: none"> <li>NOT COMPLIANT with Condition 1 of Schedule B, with respect to failing to provide Aboriginal group members access to existing roadways.</li> <li>NOT COMPLIANT with Condition 15 of Schedule B, with respect to failing to maintain access to traditional land use areas, and to maintain existing access for Aboriginal group members.</li> </ol> <p>These determinations are specific to the Site 2/580 Road/Martin FSR as detailed in this record. The findings for the Site 1/590 Road are NOT DETERMINED for conditions 1 and 15, as detailed in this record. Additional detail regarding these findings may be found in the sections below.</p> <p>The compliance determinations in this report reflect the findings from the inspection dates noted above. These determinations can change at any time upon information gathered through future inspections or if new information is obtained by EAO C&amp;E.</p>		
<b>In Attendance</b>	None		
<b>Certificate Holder</b>	Coastal GasLink Pipeline Limited		
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## INSPECTION DETAILS

### Requirement 1: Condition 1 of Schedule B

*For the Morice River Technical Boundary Area between UTM Zone 9U East 611335 North 6003957 and UTM Zone 9U East 577769 North 6000758 (Area), the Holder must provide EAO with:*

- *TDRs based on field data collected in a manner consistent with the methodology captured in the AIR for EAO's information; and*
- *a report that either verifies that the effects assessment conclusions reached in the Application are consistent with the information in the TDRs, or updates those effects assessment conclusions based on the new information contained in the TDRs, including any additional mitigation relevant to the Area.*

*The Holder must share the TDRs and the report with RRA's and Aboriginal Groups that assert territory within the Area.*

*In order to allow for 60 days review and comment, the Holder must provide the report to EAO no less than 90 days prior to the Holder's planned date to commence Construction in the Area. The Holder must not start Construction in the Area until the report has been approved by EAO. The Holder must implement the mitigation described in the approved report unless otherwise authorized by the RRA.*

The Condition 1 Report (Appendix 2) required by Condition 1 specifies mitigation was developed and included in Project requirements via the Condition 1 process (Appendix D. Coastal GasLink Response to Land Use and Occupancy Study (LUOS) Mitigation Recommendations). That mitigation includes the following measure\*:

- Providing access to existing roadways in a respectful manner while ensuring safety of all parties in the area.

Condition 1 states that the Holder must implement the mitigations described in the approved report.

\*In response to a concern raised by CGL during the opportunity to respond process regarding completeness of the requirements statement, the following text has been included here (see Appendix 13 for additional context):

*Coastal GasLink has appreciated the regular communication with Dark House and its representatives on a nearly weekly basis since March 2020, and Coastal GasLink will seek ongoing regular engagement with Dark House at a frequency to be determined in coordination with Dark House (through a communication protocol). Coastal GasLink proposes that this regular communication enables the exchange of advance notification of Healing Centre programming activities and Project construction activities and how to manage these activities to reduce potential effects.*

### Findings:

On March 9, 2021 EAO C&E received information alleging that Aboriginal group members had interactions with Coastal GasLink (CGL) security personnel at two locations off the Morice West FSR at approximately 12 pm and 12:30 pm on Saturday, March 6, 2021. These locations were at or near the intersection of the FSR and spur roads at approximately KM 56.5 (UTM 9U 614438.00 E, 6005813.00 N) (Site 1, also known as the "590 Road") (Figure 1) and KM 63 (UTM 9U 608454.00 m E, 6006629.00 N) (Site 2, also known as the "580 Rod" and Martin FSR) (Figure 2) of the FSR.

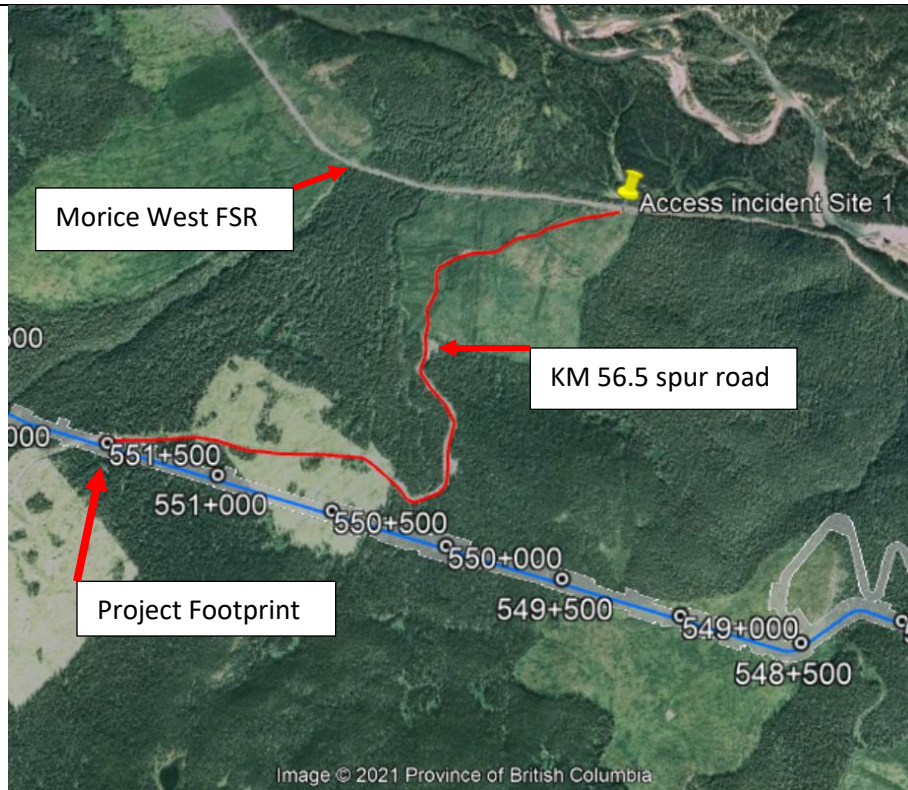


Figure 1: Site 1 location. Distance from incident location to Project footprint is approximately 3.6 kilometres.

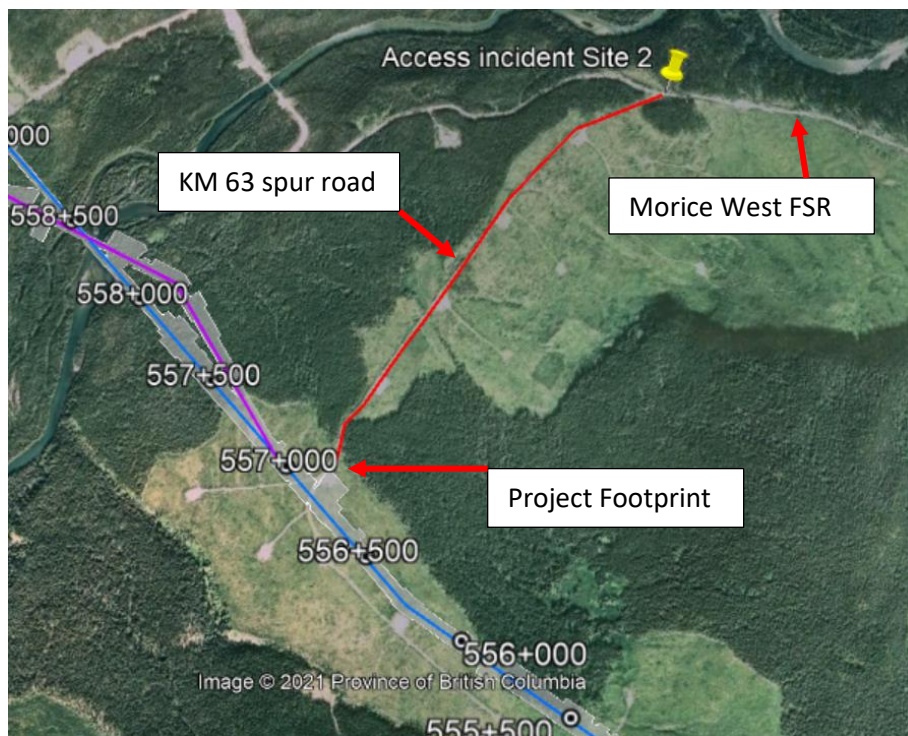


Figure 2: Site 2 location. Distance from incident location to Project footprint is approximately 2.3 kilometres.

A representative of the Office of the Hereditary Chiefs of the Wet'suwet'en and a Wet'suwet'en person provided C&E Parks with two incident reports and links to video recordings of the interactions. The incident reports are presented in Appendices 3 and 4, and links to video evidence are provided in Appendix 5 (Note Appendix 5 contains material that will not be made public for privacy reasons).

The incident reports and video evidence document that on March 6, 2021 a Wet'suwet'en person attempted to access the KM 56.5 and KM 63 spur roads by truck. CGL security staff were parked on the spur roads at Site 1 and Site 2, at or near the intersection with the FSR, limiting travel on the spur roads to CGL project personnel only. When attempting access through Sites 1 and 2, CGL security staff stated that the Wet'suwet'en person could not proceed further, noted that there were active work zones ahead, stated that COVID 19 restrictions pursuant to orders issued by the Public Health Officer to CGL constrained the security staff's ability to allow the Wet'suwet'en person to proceed past the sites, and at one site referenced an injunction that restricts certain peoples' activities pursuant to that injunction. CGL security staff also offered to provide contact information for the Wet'suwet'en person to call CGL and organize an appointment to arrange future access.

It is reasonable to delay access for the purposes of safety, however, a delay of access at or through an active worksite must be specific to the active worksite. The evidence presented by the Office of the Hereditary Chiefs of the Wet'suwet'en and the Wet'suwet'en person appears to demonstrate that access was prohibited at locations that were a significant distance from the right-of-way and active work areas. Sites 1 and 2 are approximately 3.6 and 2.3 kilometres from the right of way and active work areas, respectively. Both the KM 56.5 and KM 63 spur roads are access roads that pre-date Project construction.

See also the findings for Condition 15 and the Regulatory Considerations section of this record.

**Update: April 13, 2021 OTR, V2**

On March 16, 2021 C&E Parks provided this inspection record to CGL for their opportunity to respond (OTR) to the preliminary findings presented in the record. On March 22, 2021 CGL provided a response (Appendix 10). That response noted that CGL restricted access at the locations because the complainants could not use the roads in question without entering the active worksite to turn around at the top of the road, and that entering the active worksite would be unsafe.

Pull outs or other areas are available to turn trucks in order to facilitate the use of these roads by construction vehicles are typically in-place on plowed access roads, consistent with C&E Parks experience on inspections of the Project, including under winter conditions. In addition, C&E Parks reviewed helicopter overflight video footage of the Project from February and March of 2021 (note that the footage is dated by month only) provided by CGL. The video footage shows pull outs and other opportunities where turn around areas are available, not within active worksites, and these areas can be used for trucks to clear the road to provide access in the event of an emergency. FSRs and road permit roads used by the Project are radio controlled using publicly available radio frequencies (Resource Road frequencies) in order to facilitate road traffic and emergency response. The complainants report that they had a radio with these frequencies, which is corroborated by the video evidence presented in Appendix 5. Note also that the "March" video footage shows that access on the KM 63 access road continues beyond the right-of-way. See Figures 3 through 8.

Maintenance of a public road (FSR or road permit road) does not confer exclusive use of the road by the regulated party. See Regulatory Considerations section of this report regarding requirements under the *Forest and Range Practices Act*.



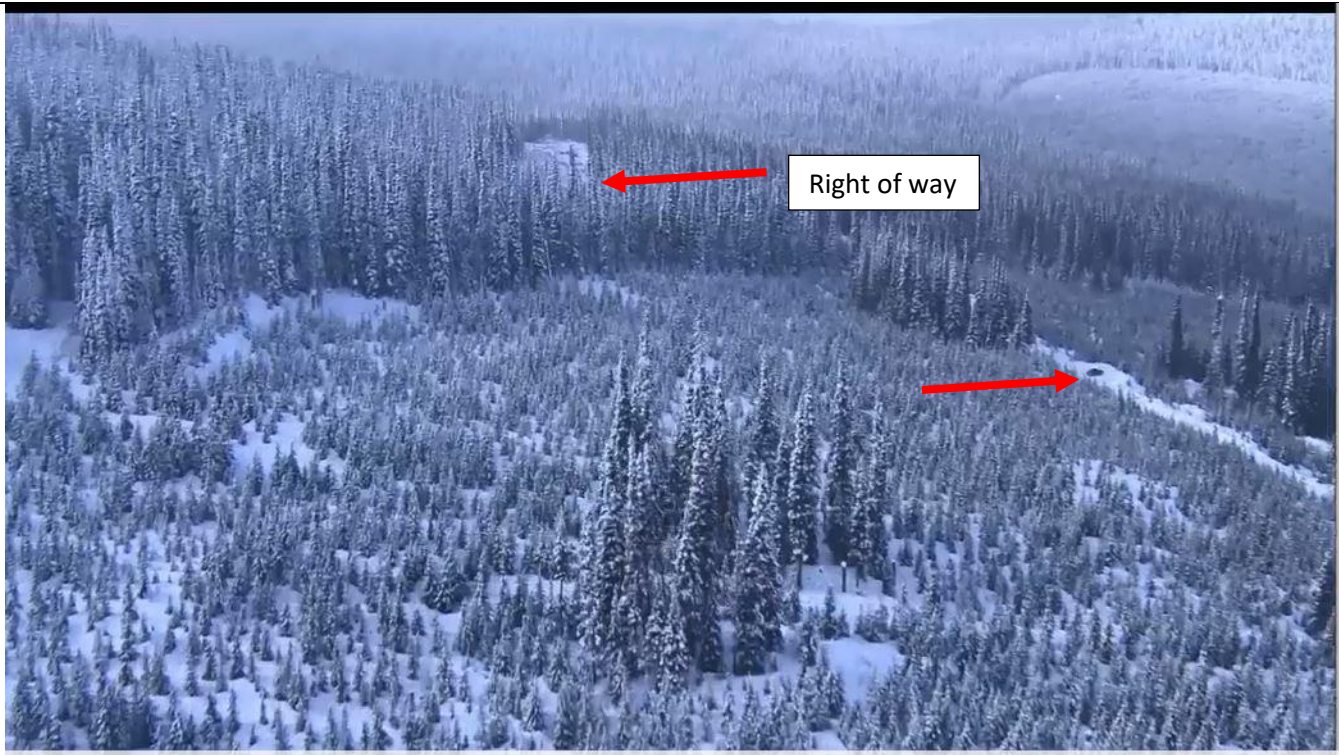


Figure 3: View of Site 1 access road from CGL supplied aerial footage, showing pull out and parked truck, at approximately 700 m from right-of-way, February 2021.

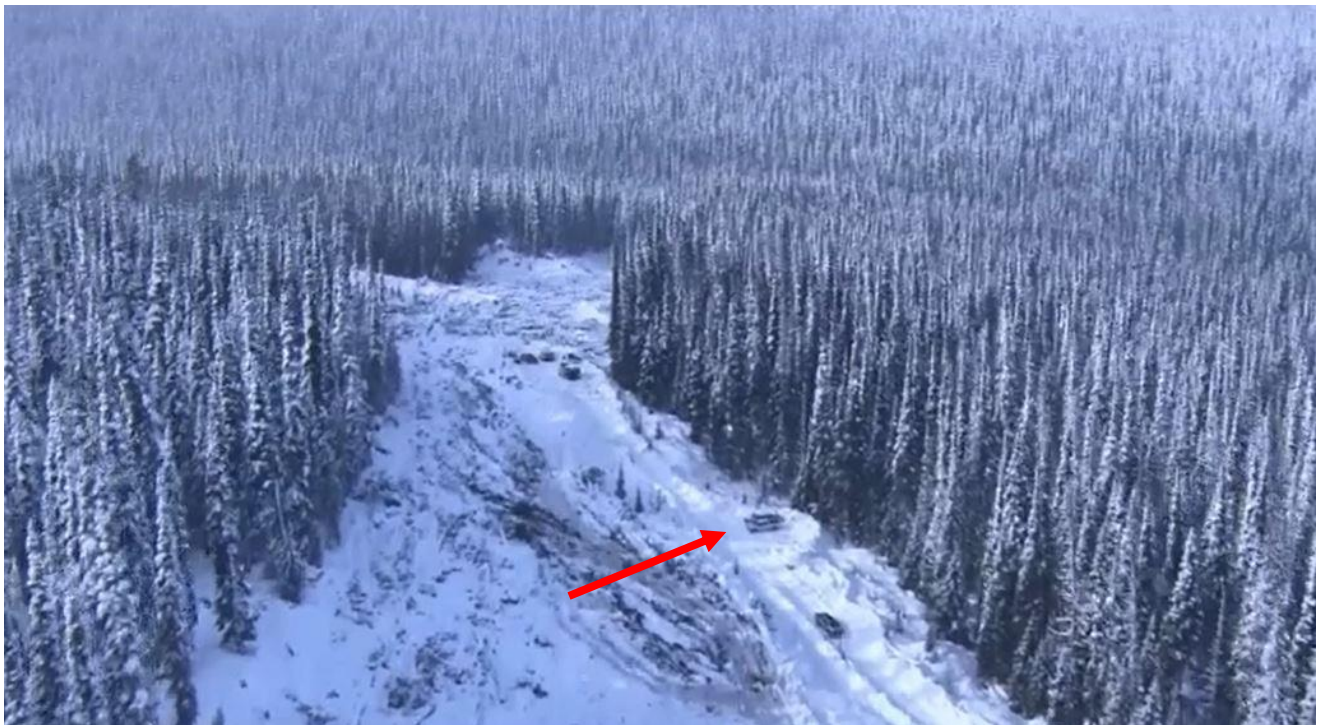


Figure 4: View of Site 1 access road from CGL supplied aerial footage, showing pull out and parked truck, at approximately 700 m from right-of-way, February 2021.





Figure 5: Site 1 access road, showing pull out identified in February 2021 image (Figure 3), March 2021 (CGL).



Figure 6: Site 1 access road, showing turn around area at right-of-way, March 2021 (CGL).



Figure 6: Site 2 access road, showing access through and beyond right of way, and turn around areas, March 2021 (CGL).

**Update: May 24, 2021 FINAL**

In response to OTR V2, CGL provided C&E Parks a response on April 16, 2021 (Appendix 11). In order to verify inspection information and gather on-site observations, C&E Parks subsequently attended the Site 1 and Site 2 access roads between April 29 and May 1, 2021.

**April 16, 2021 response from CGL**

In the April 16, 2021 OTR V2 response, CGL notes that, from their perspective, complainant access to the roads was delayed for safety reasons, that CGL and its contractors have a responsibility to maintain safety at active worksites, and that the roads in question were active worksites at the time.

The key consideration in determining compliance with *Environmental Assessment Act* (the Act) access requirements is whether the roads were active worksites on March 6, 2021. CGL has not demonstrated that they have authorization to prevent access for Indigenous persons or the public to public roads at locations that are not active worksites. The *Workers Compensation Act* defines “workplace” and provides guidance and interpretation with respect to resource roads (<https://www.worksafebc.com/en/law-policy/occupational-health-safety/searchable-ohs-regulation/ohs-guidelines/guidelines-part-01>, hyperlink not active in this record). The guidance notes that only the portions of the resource road where workers are present and work is underway is considered a worksite. The use of a forest road for access to a worksite does not confer worksite status on that entire resource road.

The April 16 response includes a “Mainline Clearing Inspection Report”, (included in Appendix 11, personal information redacted). That report notes the areas where active work was occurring on the Project right-of-way and the Site 1 (noted as the 590 Rd) and Site 2 (noted as 580 Rd, and Martin Road) roads. The response states that



only a single lane path was plowed on both roads to access the worksite, and that no turnout or turnaround was available between the Morice West FSR and the active worksite on both roads.

**Site 1/590 Road:** Right-of-way works are noted to be more than 200 metres from the intersection of the right-of-way and the Site 1/590 Road. The road intersects the right-of-way at approximately KP551+500, and works are noted to be occurring at KP551+300, and between 552+300 and 553+800. The report also notes that a grader was conducting grading of the access road, and that workers completed falling of snags and danger trees. The specific location or locations where the faller removed danger trees would be considered active work areas for the duration that the activity was underway, and it is reasonable and compliant with requirements under the Act to delay access at a location where danger trees are being felled. However, that delay should be at the portion of the road that is an active worksite, and for the duration that work is underway. With regard to the grader operating on the road, in consideration of the length of the access road and the range of CGL and contractor traffic identified in the inspection report, on the balance of probability it is likely that turnouts or other areas where vehicles could pass or turn around without entering an active work area were present on the Site 1/590 Road on March 6, 2021.

**Site 2/580 Road (Martin Road):** The road intersects the right-of-way at approximately KP556+850. The Mainline Clearing Inspection Report (Appendix 11) notes active work on the right of way west of KP 556+900. The report also notes that a medic and morooka (tracked vehicle) are staged at the Martin Road laydown. See Figures 9-11 noting arrangement of project tenure with access road and turn location. No active work areas are reported on the Site 2/580 road that would impact the use of this road by the complainant on March 6, 2021.

#### **Site Inspection April 29-May1 2021**

C&E Parks attended the locations discussed in this report on April 29, 2021 via helicopter overflight, April 30 and May 1, 2021 by truck and UTV and confirmed that both the Site 1 (56.5 km, R06460 6) and Site 2 (63 km, R0523357) roads provide multiple locations for turn outs between the intersection of the roads and the Morice West FSR that would allow persons to turn around without entering the Project footprint or active work areas. See Figures 8 through 13. Both roads extend beyond the Project footprint (note Site 1/590 road not brushed out beyond Project footprint). Note that Figure 6 in the OTR V2 version of this report indicated a potential turn out location on the Site 1/ 590 Road, which C&E Parks attended on May 1, 2021 and confirmed that specific location does NOT provide space for a turn around. As a result, the original Figure 6 has been removed from this final version of the inspection record.





Figure 8: Site 2 access road, showing location where turn out and turn around can occur between intersection of Morice West FSR and Project tenure (C&E Parks).



Figure 9: Site 2 access road. Circled area is outside Project tenure and provides turn around opportunity without entering tenure or active worksite (C&E Parks).





Figure 10: Site 2 access road, showing same location in Figure 9 where turn out and turn around can occur between intersection of Morice West FSR and Project tenure. Circled area is outside Project tenure (Google Earth/CGL).



Figure 11: Site 2 access road, showing approximate areas of active work (red circles) reported on March 6, 2021 (Appendix 11) in relation to turn around location (C&E Parks).





Figure 12: Site 1 access road, showing location where turn out and turn around can occur between intersection of Morice West FSR and Project tenure (C&E Parks).



Figure 13: Site 1 access road, showing location where turn out and turn around can occur between intersection of Morice West FSR and Project tenure (C&E Parks).



CGL is required to provide Aboriginal group members access to existing roadways in a respectful manner while ensuring safety of all parties in the area. The observations noted above provide evidence of non-compliance with Condition 1 of Schedule B. See also the Regulatory Considerations section of this record.

**Update July 28, 2021 in response to OTR V3**

C&E Parks provided CGL a third opportunity to respond to this inspection record on June 7, 2021, and CGL provided a response on June 9, 2021 (Appendix 13). In that response CGL raises issues and concerns which are noted and responded to below:

**Inspection Process and Requirement Concerns**

1. **CGL disagrees with the findings of the inspection, and requests that all three responses be publicly posted with the final version of the inspection record.** Noted. All three OTR responses are appended to this record and will be publicly posted, consistent with C&E practice and as requested.
2. **C&E Parks has not or may have not conducted the file in a procedurally fair manner because all evidence considered in the decision may have not been provided to CGL.** All evidence has been provided to CGL via the three opportunities afforded to CGL to respond to this record, and is appended to this record. No additional evidence has been used in reaching the determinations documented in this record.
3. **The complainant is an opponent of the project, and C&E Parks relied on information from the complainant.** The identity of the complainant is not relevant to the compliance determinations, other than that the complainant is a Wet'suwet'en person, as the requirements noted in this record are specific to indigenous persons. The views of the complainant with regard to the project are not relevant to and have not informed the compliance determinations in this record.
4. **Requirement 1 is not a regulatory requirement of the Project, and the requirement has been presented in a misleading manner.** Condition 1 of EAC E14-01 states "the Holder must implement the mitigation described in the approved report unless otherwise authorized by the RRA". The "approved report" refers to the report(s) provided to EAO in response to the requirements of Condition 1. That report was approved by EAO on August 6, 2020 (Appendix 14). That approval letter states "The EAO notes that CGL is required to implement the existing EAC conditions and additional commitments referenced in COR2 and this letter unless otherwise authorized by an RRA".

The "Condition One Report #2 July 17, 2020" (COR2 report, Appendix 2) includes Requirement 1, in this record, as a mitigation commitment in the table included in Appendix D to the COR2 report. However, CGL notes that the commitment was not included in a summary list of commitments in that report and that therefore this is not a regulatory requirement. Appendix D of COR2 notes, with respect to the commitment summary list:

*Commitments noted in the table above are listed below. There may be slight variations in wording to improve the ability to track or measure the commitments. Coastal GasLink refers only to Dark House in these commitments however it recognizes that in certain circumstances it would be appropriate to include Grizzly House and/or Unist'ot'en Healing Centre.*

The report does not state that the summary list is intended to be the definitive list of those mitigations CGL considers necessary to implement, rather a summary of the mitigations noted in the table. Further, whether the mitigation is included within the table or a summary statement, it is a mitigation that is included in the report in response to the concern raised in the COR2 process. The mitigation in question is

a commitment referenced in the COR2 report, and is required to be implemented as noted in Condition 1 and as per EAO's August 6, 2020 approval of the COR2 report.

CGL also notes that the citation of Requirement 1 in this inspection record is incomplete and, in their opinion, misleading. C&E Parks notes this concern and assures CGL that it was not his intent to mislead. The intent was to provide the mitigation commitment statement, as the remainder of the table entry is a separate paragraph and provides a statement of appreciation, and a proposal for ongoing regular communication. However, in response to CGL's concern, the full response in the COR2 report is now included in the requirement statement in this record.

5. **The findings of the inspection record are such that third parties must be granted immediate, unannounced access to active work areas. This concern is clearly not consistent with the inspection findings, and in no way do the findings of this inspection record support this concern. Where active work is underway, CGL has the responsibility to ensure the safety of all parties in the area and access can clearly be delayed until it is safe for Indigenous individuals or others to travel the road, consistent with the requirements of Conditions 1 and 15, as documented in this inspection record.** CGL has not provided evidence that the roads in question, both pre-existing public roads, were active work areas at the time the complainant was denied access, with the exception of a portion of March 6, 2021 on the Site 1/590 Road during which danger tree falling was underway, and where access delay until this work was complete would be expected. In the absence of information documenting that a safety issue existed, and in consideration of the information and analysis provided in this inspection record, C&E Parks has concluded that on the balance of probability CGL was not compliant with Conditions 1 and 15 at the time the events documented in this record occurred. Note that the conclusion specific to the Site 1/590 road has been changed to "NOT DETERMINED" given that portion of this road appears to have been an active worksite on the date in question (as per evidence contained in Appendix 11), however it is not known whether this work was occurring at the time the complainant attempted to access the road.

#### **Concerns Regarding Evidence Considered and Resulting Compliance Determinations**

CGL maintains that they have provided evidence that it was not safe for the complainant to access the roads in question on March 6, 2021, and that the evidence relied upon by C&E Parks was irrelevant or erroneous. These concerns and C&E Parks' responses are noted below:

1. **Both roads were plowed in such a manner as to allow single lane traffic only for the entire length of the roads, that no pull outs were available for the length of both roads, and that the complainant would have had no opportunity to clear the road for oncoming traffic or turn around without entering an active worksite.** CGL has not provided evidence that there was a safety rationale for restricting access to existing public roads on the date in question, and has provide evidence that indicates the contrary, as documented in this inspection record. This is not the rationale provided to the complainant by CGL security on March 6 when denying access. If such a condition existed, it is reasonable to believe that the security personnel controlling access to these public roads would have been aware of this and provided this as the rationale to restrict access. The rationale provided to the complainant by security on March 6 was the existence of the COVID orders, the presence of an injunction, and the presence of an active work area (see point 2 below), as documented in Appendix 5. Further, CGL provided C&E Parks with the Mainline Clearing Inspection Record presented in Appendix 11. That record includes a section on "Safety" which discusses safety considerations on that date for both roads in question, and notes safety briefings and discussions regarding various safety concerns. The only safety concern referenced regarding the roads is that the roads are "slippery". It is reasonable to believe that if the single lane conditions with no pull outs existed as communicated by CGL, which would, according to CGL, have represented a significant

safety concern to anyone traveling the roads (including CGL personnel and contractors), that these conditions would be highlighted in the safety section of this report.

2. **The entirety of both roads were active worksites on the date in question, such that CGL was required to restrict access to these roads in their entirety to maintain the safety of workers and others.** This concern is addressed in this inspection record. There is no evidence that the Site 2/580/Martin Road was an active worksite at any time or location on March 6, 2021. The Mainline Clearing Inspection Record presented in Appendix 11 documents activities on the right of way and access roads on the date in question, and does not document any work on the Site 2/580/Martin Road on that day. That record does document that there was a grader working on the Site 1/590 Road on the date in question, and that a faller completed danger tree/snag removal on that road. At the time and location these activities were underway on this road, access restrictions would be consistent with the requirements of Conditions 1 and 15. The security staff controlling access to this road do not reference this activity, however it is possible that these works may have been underway at the time the complainant attempted to access the road. Consequently, the compliance determinations are “out” for the Site 2/580/Martin Road, and “not determined” for the Site 1/590 road.
3. **That access was delayed for safety purposes, not prevented, and that the complainant demanded immediate access.** On the balance of probability, C&E Parks has concluded that the complainant could have safely accessed the public roads in question, as documented in this record. Therefore access was not delayed for safety purposes. Video evidence in Appendix 5 also shows that at the Site 2/580 road the complainant requested that security call (via sat phone or radio) and arrange access for her, which security declined to do. The complainant also requested what safety rationale existed such that access was restricted. In response, CGL security did not identify that the roads were unsafe, and stated that the rationale to restrict her access was the COVID 19 health orders issued by the Public Health Officer and in place at the time the incident occurred.
4. **CGL is required to maintain a safe work environment for workers, the public, and indigenous persons.** This legal requirement is not disputed by the findings of this inspection.
5. **The aerial screenshots and other photos in this record are misleading as they do not represent the conditions on March 6, 2021.** The figures provided in this inspection record are intended to demonstrate both the Project practice of utilizing and the availability of locations to provide pull outs and the locations of turn areas that are not in active worksites. The figures are clearly identified as not being taken on the date of the incidents (note that CGL only provided the date of the aerial video from which the screenshots are taken in the June 9, 2021 submission). These figures assist with demonstrating typical conditions on the access roads in question (both before and after the incidents discussed in this record), including areas where traffic can pass or turn, as is expected to maintain safe access for workers and others in a construction environment.
6. **C&E Parks improperly relies on experience (not enumerated) when considering whether, on the balance of probability, the Holder would provide pull outs or other areas where vehicles could pass each other on the access roads in question, and that this experience is irrelevant to the matter.** The statement in the record was made because past experience in similar environments has confirmed for C&E Parks that it is unusual for an operator to not provide opportunities for vehicles to pass or these opportunities to not otherwise exist on natural resource development access roads such as the roads discussed in this record. With respect to enumerating experience, C&E Parks has approximately 21 years of field experience working for industry and as a regulator on natural resource development projects throughout BC, including but not limited to pipelines, transmission lines, hydroelectric developments, windpower projects, and mines. This experience includes travelling access roads in all weather conditions and all



seasons, and includes the observation that opportunities are typically provided for vehicles to safely pass one another or clear the road to allow vehicles to pass.

7. **Neither road would have been accessible to normal passenger vehicles in the absence of CGL plowing these roads.** Maintenance of a public road does not mean CGL is the sole user of that public road. Similarly, if CGL had repaired the running surface, constructed a bridge, or repaired a culvert on pre-existing public access, the access management requirements of Conditions 1 and 15 would still apply.
8. **Figures presented in the report showing the availability of pull outs and turn around areas in February and March 2021 are not relevant to the compliance determinations, and that heavy snow required or resulted in single lane plowing on both access roads.** The figures presented in the report show that where observations are available for the access roads in question in February and March (when the roads have been plowed), pull out and turn areas were present. In the absence of any other information, and in consideration of the other information documented in this record, on the balance of probability the conditions on March 6, 2021 were similar to those documented in the video evidence.
9. **The inspection record retroactively questions a safety decision made by a field crew.** CGL has not provided evidence that a safety decision was made by a field crew to not provide pull out, passing, or turn around areas, other than an unsupported statement that this is the case. The lack of pull out areas would represent a hazard, as referenced by CGL when discussing the complainant's access request in the submissions provided in response to this record, and that safety concern would on the balance of probability have been documented in the Mainline Clearing Inspection Record (Appendix 11), along with the other safety concerns and considerations discussed in that report. If safety concerns specific to the access roads were the rationale for limiting the complainants' access to the public roads, the individuals responsible for controlling the access would have been aware of this and provided this rationale. The responsibility of CGL to maintain safety on access roads in and in some cases adjacent to active work areas is not disputed by the findings of this inspection.
10. **That no pull outs or turn arounds existed such that the complainant could not have accessed the roads in question without impacting CGL traffic use of the roads or turn around on the roads without entering the active work area.** Addressed in this inspection record.
11. **That the complainant's access was not permanently prevented, but delayed for safety reasons.** A delay of access for safety reasons is reasonable and expected in the presence of a real safety concern. However, the evidence video provided by the complainant (Appendix 5) demonstrates that the rationale was not safety relating to the road, but the COVID 19 health orders (which regulate CGL, not Indigenous persons), the presence of an injunction, and an active work area at some undefined location. The Mainline Clearing Inspection Report (Appendix 11) establishes that, with the exception of danger tree clearing for a portion of the day (during which access restrictions would be compliant with the requirements) on the Site 1/590 Road and grader operations on that road at some period, the active work was on the right-of-way, a minimum of 150 metres from the intersection of the roads from the right-of-way. That report documents safety concerns and topics discussed by the crew. No safety concerns or special management practices are noted with respect to the roads. In the absence of an actual safety concern, access to existing roads for Indigenous persons is required to be maintained, as discussed in this record.

As a result, and on the balance of probability, C&E Parks has determined that CGL was not compliant with conditions 1 and 15 on March 6, 2021, as documented in this record.

**Compliance Determination:** Out – failure to provide access to existing roadways on the Site 2/580/Martin Road – Warning issued

**Requirement 2: Condition 15 of Schedule B**

*The Holder must develop and implement an Access Control Management Plan to meet the objectives stated in the Application Appendix 2-A, Appendix D.3:*

*Please see Appendix 1 for the full wording of Condition 15.*

**Access Control Management Plan (Appendix 6)**

**Section 2.2 Construction Phase**

Coastal GasLink will maintain access to trails, traditional land use areas, recreation sites, and trapline or guide outfitting tenures during pipeline construction.

**Section 4.4.1 Existing Access**

Maintain existing access routes for Aboriginal groups, trappers, guide outfitters and recreational user groups that have been identified to Coastal GasLink, where safe.

**Findings:**

Please see findings for Condition 1 above regarding the details of access management incidents from March 6, 2021. The information provided to C&E Parks by the Office of the Hereditary Chiefs of the Wet'suwet'en and the Wet'suwet'en person indicates that access was not maintained to traditional land use areas, and that existing access routes for Aboriginal groups were not maintained.

In response to OTR V2, CGL provided C&E Parks a response on April 16, 2021 (Appendix 11). In that response, CGL noted that there are no traditional land use sites identified in the areas accessed by the Site 1 and Site 2 roads, and that the complainant stated the purpose of the attempted access was to monitor CGL construction activities.

C&E Parks notes that the complainant identified herself by name and role as a supporting hereditary chief of the territory, and stated the purpose was cultural monitoring of the territory pursuant to her responsibilities under the Wet'suwet'en hereditary governance system. Bearing in mind this stated activity, C&E Parks considers that, on the balance of probability, cultural monitoring of activity within a territory to be consistent with and a component of traditional use.

The April 16, 2021 response notes that under the conditions present on March 6, 2021 (under snow, single lane plowed) the roads in question should not be considered existing access routes. Both access roads predate the Project, were previously available and accessible by a range of travel modes, and are consequently considered "existing access routes".

Coastal GasLink is required to maintain access to trails and traditional land use areas and maintain existing access routes for Aboriginal groups and others where safe. The observations from Requirements 1 and 2 above provide evidence of non-compliance with Condition 15 of Schedule B.

**Compliance Determination:** Out – failure to provide access to existing roadways on the Site 2/580/Martin Road – Warning issued – Warning issued

**Actions Required by Certificate Holder & Additional Comments**

None at this time

**Enforcement Summary**

**COASTAL GASLINK PIPELINE LTD. IS WARNED THAT THE PROJECT WAS NOT COMPLIANT WITH CONDITIONS 1 AND 15 OF SCHEDULE B OF EAC# E14-03 ON MARCH 6, 2021, AS DOCUMENTED IN THIS RECORD.**

**EAO C&E MAY INSPECT TO DETERMINE IF THE COASTAL GASLINK PROJECT HAS BEEN BROUGHT BACK INTO COMPLIANCE WITH THESE REQUIREMENTS. CONTINUED NON-COMPLIANCE WITH THESE REQUIREMENTS MAY RESULT IN ADDITIONAL ENFORCEMENT UNDER THE *ENVIRONMENTAL ASSESSMENT ACT*. SEE REGULATORY CONSIDERATIONS SECTION FOR ADDITIONAL INFORMATION.**

### **Regulatory Considerations**

CGL can delay the access of individuals at active worksites for the purposes of the safety of those individuals and CGL workers. CGL must clearly communicate that access is delayed only, what the approximate time period of the delay will be, and that access through the work area will be provided as soon as it is safe to do so. The period of delay must be specific to and in accordance with the reason for the delay. The access restrictions must be specific to the active worksite.

C&E Parks reviewed two Orders issued by the Provincial Health Officer on January 12, 2021 specific to Industrial Projects Restart and Resource Sector Worksites and Industrial Camps in the region of The Northern Health Authority. These Orders regulate CGL staff and contractors, and do not provide Coastal GasLink with the authority to restrict the access of Wet'suwet'en people to areas that are not Project worksites. These Orders are attached to this record as Appendices 7 and 8.

See also EAO C&E inspection record FY18/19-57, specific to Aboriginal group access to Project areas (Appendix 9).

#### **Update: April 13, 2021 OTRV2**

Note that the roads noted in this inspection record are public roads, see Appendix 12. The 56.5 km (Site 1) road identified in this record is designated RO6460-6, and the 60.5 km road (Site 2) is designated RO52350-7.

C&E Parks understands that any access restriction on these roads would require (in addition to compliance with requirements under the Act) a permit or authorization from the Ministry of Forests, Lands, and Natural Resource Operations and Rural Development (FLNRORD) under the *Forest and Range Practices Act*. FLNRORD reports that no authorization has been granted to CGL for this purpose. The BC Oil and Gas Commission (OGC) also, under certain circumstances, regulates access on forest service roads or road permit roads under the *Forest Act*. The OGC reports that no permit or authorization has been provided to CGL to restrict access on the roads noted in this record.

#### **Update: FINAL**

CGL can restrict access to existing roads, trails, and travel ways at active work areas, for the purposes of safety. If CGL deems that safety considerations require restriction of access on public roads outside of active work areas, permits or other authorizations can be applied for under the *Forest Act* or *Forest and Range Practices Act* through FLNRORD or the OGC pursuant to those agencies' authorities.

In some instances it may be necessary for CGL security to situate access control at locations that are outside of active work areas because location do not exist for persons using existing public roads to turn around (in the case where access does not progress beyond the active worksite), however, these locations should be as close as practicable to the active work site.


C&E Parks acknowledges CGL's statements in Appendix 11 regarding the intention and objective of protecting the health and safety of everyone involved in this matter, that CGL has expressed regret for any miscommunication



that may have occurred on March 6, 2021, and that CGL has reached out to the complainant in order to avoid a similar situation from reoccurring.

**This inspection record does not conclude or otherwise communicate that CGL must provide unfettered access to active worksites. CGL has the responsibility to maintain the safety of the public and others at active worksites by appropriately controlling access at active worksites.**

**Inspection Conducted by**

  Chris Parks Director, Compliance & Enforcement	<b>Date Sent to Certificate Holder for Opportunity to Respond</b>  <b>2021-03-16 OTR V1</b>  <b>2021-04-14 OTR V2</b>  <b>2021-06-07 OTR V3</b>
	<b>Date Finalized</b>  <b>2021-07-28</b>

**Appendices**

Appendix 1: Schedule B to Environmental Assessment Certificate # E14-03  
 Appendix 2: Condition One Report #2 July 17, 2020  
 Appendix 3: Incident Report KM 56.5  
 Appendix 4: Incident Report KM 63  
 Appendix 5: Video evidence  
 Appendix 6: Access Control Management Plan  
 Appendix 7: Order of the Provincial Health Officer – Industrial Projects Restart  
 Appendix 8: Order of the Provincial Health Officer - Resource Sector Worksites and Industrial Camps in the Region of The Northern Health Authority  
 Appendix 9: Inspection Record IR 18/19-57  
 Appendix 10: March 22, 2021 CGL response to OTR V1  
 Appendix 11: April 16, 2021 CGL response to OTR V2  
 Appendix 12: Forest road status map  
 Appendix 13: June 9, 2021 CGL response to OTR V3  
 Appendix 14: EAO COR2 Approval Letter

**Environmental Assessment Office - Compliance & Enforcement Branch**

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