



Reasons for Determination of the Chief Executive Assessment Officer

IN THE MATTER OF A SUBSTANTIALLY STARTED DETERMINATION
UNDER SECTION 31 OF THE *ENVIRONMENTAL ASSESSMENT ACT*
(2018) PRINCE RUPERT GAS TRANSMISSION (PRGT)

JUNE 5, 2025



EAO

Environmental
Assessment Office



1.0 THE DETERMINATION

On June 5, 2025, pursuant to Section 31 of the *Environmental Assessment Act*, 2018 (the Act), I, the Chief Executive Assessment Officer of the Environmental Assessment Office (EAO), determined that Prince Rupert Gas Transmission (PRGT or the Project) was substantially started on the deadline in Environmental Assessment Certificate #E14-06 (the Certificate). These are my reasons for that determination.

2.0 NATURE AND SCOPE OF THE DECISION

This determination is regarding whether PRGT, being developed by Prince Rupert Gas Transmission Ltd. (PRGT Ltd. or the Holder), was, in my reasonable opinion, substantially started as of the deadline set out in the Certificate, namely November 25, 2024.

Every Environmental Assessment Certificate (EAC) has a deadline by which a project must be substantially started in the reasonable opinion of the Minister of Environment and Parks or their delegate. The Minister has delegated to me the power to determine whether the Project has been substantially started. My options are to determine that the Project has been substantially started or not. If the project has been substantially started, then the EAC, including any conditions, remains in effect for the life of the Project, subject to the provisions of the Act. If the Project has not been substantially started by the deadline set out in the EAC, then the EAC would terminate pursuant to Section 31(6) of the Act.

The requirement that a project be substantially started by the deadline specified in the EAC is intended to balance economic development, reconciliation with Indigenous peoples and environmental protection purposes of the Act. A project that has been substantially started is more likely to proceed in the near future, which means that the assessment conducted in respect of it, and the limitations and conditions placed on it through its EAC, remain timely. By contrast, a project that has not been substantially started is less likely to be completed in the near future such that the assessment and EAC could become outdated. In that case, the project would be required to go through a new assessment.¹

In the sections that follow, I discuss both the matters set out in the EAO's [Substantial Start Determination Policy](#), as well as the specific concerns raised by other parties during the EAO's assessment of this determination.

3.0 BACKGROUND

PRGT is a natural gas transmission pipeline project that with a route spanning northern British Columbia. On November 25, 2014, the Minister of Environment and the Minister of Natural Gas Development issued the Certificate to PRGT Ltd. PRGT was certified under the *Environmental Assessment Act*, 2002 (2002 Act), which provided that an EAC must specify a deadline, at least three years and not more than five years after the issue date of the EAC, by which time the holder of the EAC, in the reasonable opinion of the Minister, must have substantially started the Project. Section 18 of the 2002 Act allowed EAC holders to apply for one 5-year extension to the EAC. PRGT Ltd. received this extension to the Certificate on April 25, 2019, moving the substantially started deadline to November 25, 2024.

On November 19, 2024, PRGT Ltd. wrote to the EAO requesting a substantially started determination. The submission included a report titled [Substantially Started Determination Application - Prince Rupert Gas Transmission Project](#) (the Request), which outlined the status of the work completed by PRGT Ltd. to advance PRGT.

A detailed assessment process was undertaken by the EAO. In addition, the First Nations potentially impacted by this determination had an opportunity to provide their views on whether PRGT has substantially started.

¹ Reasons for Determination of the Chief Executive Assessment Officer regarding a Substantially Started Determination respecting the Kerr-Sulphurets-Mitchell Project, July 25, 2024 ("KSM Reasons"): https://projects.eao.gov.bc.ca/api/public/document/66a2be49fc95710022aa0ce5/download/KSM%20SSD_Reasons_CEO.pdf

On November 22, 2024, the EAO provided PRGT Ltd.'s Request to 18 First Nations² and 13 Gitksan Wilps (nine of whom are represented by the Gitksan Development Corporation) and invited them to provide information that was relevant to the substantial start decision, as well as their views on whether the Project has substantially started. The EAO also notified an additional six First Nations and 16 Gitksan Wilps whose territory is within close proximity of the PRGT pipeline route.

Nisga'a Nation submitted a letter of support of the Request. Kitselas First Nation submitted a neutral response that is pending on the decision of the Marine Amendment decision³. Gitanyow Hereditary Chiefs, Kitsumkalum First Nation, Gitksan Wilp Luutkudziiwus (C. Wright) and Gitksan Wilps 'Wii K'aax submitted letters in which they took the position that the Project was not substantially started. Gitxaala Nation, Gitksan Development Corporation, on behalf of nine Wilps, and Tsetsaut Skii km Lax Ha each responded to the EAO regarding the Project, including sharing of additional information, but did not state a position on whether the Project was substantially started. No other responses or information regarding the status of the Project were provided by First Nations or Gitksan Wilps to the EAO.

Approximately 32 members of the public submitted comments and concerns regarding PRGT and the substantial start determination. In addition, Dogwood B.C. ran two campaigns regarding the substantial start determination. Ecojustice and Gitksan Watershed Authorities, two non-profit organizations, each submitted letters regarding the PRGT substantial start decision. The majority of communication received by the EAO from the public took the position that the Project had not substantially started.

On March 11, 2025, the EAO shared the draft version of [*The EAO's Analysis of a Substantially Started Determination Request: Prince Rupert Gas Transmission Pipeline \(PRGT\) Project*](#) (the Report), as well as the EAO Compliance and Enforcement Team's Substantial Start Field Evaluation, to PRGT Ltd., as well as the First Nations and Gitksan Wilps. All were asked to review the Report for accuracy and to provide additional information if available, including providing confirmation that their views on the determination were adequately reflected in the Report. The EAO updated the Report based on responses received.

I acknowledge that concerns expressed by First Nations, some of the Gitksan Wilps, and the public about the following issues:

- The fact that two amendment applications are currently under review;
- Greenhouse gas emissions of natural gas-related projects;
- Whether or not construction started in Nisga'a Land;
- Whether or not all required permits are in place; and
- Whether or not Ksi Lisims LNG will be granted an EAC.

Regarding the issue of the two amendment applications, though I recognize that this provides some uncertainty regarding the final route of the Project, the significant investment in, and pursuit of, the amendments indicate to me that PRGT Ltd. continues to invest in the Project and is committed to the Project being completed. As for concerns regarding greenhouse gas emissions, this matter is not relevant to the substantial start determination. I have also considered the position concerning construction on Nisga'a land and its implications, however, in my view, beginning construction on Nisga'a land is a reasonable place to begin a project in which Nisga'a are a majority shareholder. With respect to permits, not all permits are required to be obtained prior to project construction, however, in this case PRGT Ltd. has invested significant

² Halfway River First Nation, West Moberly First Nations, Sauteau First Nation, McLeod Lake Indian Band, Doig River First Nation, Nak'azdli Band, Takla Lake First Nation, Tl'azt'en Nation, Lake Babine First Nation, Yekooche First Nation, Lax Kw'alaams Band, Metlakatla First Nation, Binche Whut'en First Nation, Nisga'a Nation, Kitselas First Nation, Gitxaala Nation, Gitanyow Hereditary Chiefs, Kitsumkalum First Nation.

³ PRGT's Marine Amendment proposes to include an option to reroute and shorten the distance of the pipeline to terminate at the proposed Ksi Lisims LNG Facility, rather than terminate on Lelu Island, near Port Edward, and therefore traverses less Indigenous territories.

time to obtain the permits it requires for the construction that was completed prior to November 25, 2024, as well as to obtain additional permits and extensions to permits applicable to other sections of the pipeline such as those required by the BC Energy Regulator (BCER). Lastly, regarding whether Ksi Lisims LNG will be granted an EAC, I do not see it as relevant to the question of whether the Project has been substantially started. Of course, whether or not Ksi Lisims LNG will be granted an EAC will be decided by ministers at a later date.

The Report, the Substantial Start Field Evaluation Report, and letters submitted regarding the substantial start determination, were provided by the EAO for my consideration. I took information and comments shared by all First Nations, Gitksan Wilps and other parties into consideration in my decision. I appreciate the time and effort shown by all whom have submitted correspondence.

4.0 GENERAL CONSIDERATIONS FOR SUBSTANTIALLY STARTED DETERMINATIONS

The EAO's [*Substantial Start Determination Policy*](#) is available online. The term "substantially started" is not defined in the Act, although the courts have provided guidance on its meaning. Ultimately the determination is made on a case-by-case basis considering all relevant facts. Overall, the EAO considered the following in its analysis for a substantial start determination:

- Based on the definition of "project" in the Act, the substantial start determination should address "primarily physical activities affecting the land environmentally, as contrasted with bureaucratic activities, for example, which do not";⁴
- "The decision-maker should focus less on the permits which have been granted and the money expended, and more on what has taken place physically at the site";⁵
- "Temporary structures at the site, if they will soon be removed followed by remediation, are less important to consider than structures which will be in place for the duration of the project";⁶
- To have been substantially started, the project needs to be started "in its essentials in a real and tangible way";⁷ and
- To be considered as part of the substantial start determination, work must have occurred after the Certificate was issued and before the expiry date in the Certificate.

What has taken place physically on the site is a primary consideration, although there is latitude to consider other factors as well. As set out in the EAO's policy, key considerations include:

- What time, effort, and resources have been invested to physically develop one or more main project elements?
- How have the activities undertaken to date contributed to the development of the overall project? For example, are the activities in relation to a significant or important step, or are they ancillary, secondary, or temporary?
- Is the activity or component identified in the Certified Project Description (CPD - Schedule A to the Certificate) as part of the project?
- Did the activity occur after the Certificate was issued and before its expiry (i.e., between November 25, 2014, and November 25, 2024, for PRGT)?

⁴ *Taku River Tlingit First Nation v. British Columbia (Minister of Environment)*, 2014 BCSC 1278 ("Taku") at para. 34.

⁵ *Ibid.*

⁶ *Ibid* at para. 35.

⁷ *Ibid* at para. 37.

These factors are indicators that a project been substantially started, bearing in mind that the fundamental policy underlying the substantial start determination, as discussed in the Glacier Resorts court case⁸, is determining whether the holder has clear intent to advance the project in the near future, which (as indicated in Section 2.0 above) means that the assessment conducted in respect of it, and the limitations and conditions placed on it through its EAC, remain timely.

5.0 APPLICATION OF CONSIDERATIONS

With respect to the matters relevant to my determination, I have considered the following factors.

5.1. Physical Works Undertaken

As noted above, case law⁹ provides guidance that the physical development of PRGT following the issuance of the Certificate on November 25, 2014, should be a primary consideration in my determination, with a focus on permanent structures and things covered by the Project's CPD.

As described in the Report, the following physical components of PRGT have been built between August and November 2024 (Year 1 of Construction), and are listed in the Project's CPD:

- Clearing of 42 kilometres (km) of the pipeline right-of-way (ROW);
- Sga Sgin'ist Lodge was constructed and operational during the pipeline ROW construction activities;
- Installation of nine permanent bridges and construction, upgrading and/or maintaining of approximately 47 km of access roads to access the ROW and Sga Sgin'ist Lodge, including 1.9 km of new access road and 17 km of major road upgrades;
 - Out of the 2,695 km of roads currently projected as the total net length of access roads for the entirety of the proposed pipeline, 19 km would be considered new roads and 85 km would require major upgrades; and
- Storage areas, laydown yards and borrow sites have been cleared, maintained and developed, which are categorized as ancillary components in the CPD.

5.2. Other Factors Considered

Although directed by the courts to focus more on physical factors and less on other matters such as permits granted and money expended, I am given latitude to consider other factors relevant to whether the Holder has started the project "in its essentials in a real and tangible way" (*Taku*, at para. 37).

While not giving them as much weight as the physical work that has been carried out, I have also taken the following factors into consideration:

- PRGT Ltd. reported that between 2013 and November 2024 approximately \$584 million has been spent to advance the Project, including approximately \$70 million being invested during Year 1 of Construction, which I consider evidence of PRGT Ltd.'s intention to advance the Project in the near term;
- During Year 1 Construction, 110,700 person-hours of work by more than 368 construction personnel have been carried out to complete PRGT Ltd.'s Year 1 Construction Program;

⁸ *Glacier Resorts Ltd. v. British Columbia (Minister of Environment)*, 2019 BCCA 289; *Taku*.

⁹ *Ibid.*

- Between June and September 2024 approximately \$2.2 million was directed towards First Nations and local contractors;
- PRGT Ltd. has negotiated and signed 15 out of 20 Project Agreements between First Nations, with the remaining five Project Agreements entering negotiations. Negotiating and concluding these agreements required substantial effort by the Holder and securing these agreements is a critical step in a project's development, particularly in the case of linear projects within British Columbia;
- Since 2013 over \$25.9 million was spent on First Nation Project Agreement payments and approximately \$14.5 million in capacity and technical support funding has been provided to First Nations;
- PRGT Ltd. has undertaken over 20,000 engagements with First Nations between 2012 and 2023;
- PRGT Ltd. currently has two amendment applications being assessed by the EAO, including one to allow the pipeline to terminate at the proposed Ksi Lisims LNG project;
- Work has been completed on preconstruction surveys, field programs, geotechnical investigations, drilling, and engineering studies; and
- PRGT Ltd. has received 11 key construction related permits from the BCER (compressor station facility and pipeline permits) and an additional 37 ancillary federal and provincial permits. Seven of the permits were set to expire on Nov. 25, 2024, however, the BCER confirmed with the EAO all seven of them have been extended until November 25, 2025, or when the Certificate expires, whichever occurs first.

The above considerations indicate a strong intention to advance the project in the near term.

6.0 OVERALL DETERMINATION AND CONCLUSION

I am satisfied with the level of consultation and engagement that the EAO conducted with First Nations and PRGT Ltd. during the evaluation of the Request, including how the EAO assessed the factors described in the sections above in the Report.

Though there was feedback received expressing opposition to the Project, this is not the issue before me. Similarly, the determination at hand is not whether the Project is in the public interest; that decision was made when the Certificate was granted.

Regarding the physical components, PRGT's CPD includes several permanent Project components related to actual pipeline construction and operations. No physical work on these components has begun. I acknowledge that some parties have indicated that this suggests that the Project has not been substantially started, as the work that has been completed is of a temporary nature; as I note above, both the EAO's policy and case law emphasizes the importance of permanent works in considering whether a project is substantially started. However, I believe the physical work that has been completed does support a conclusion that PRGT has substantially started. In particular, the work that has been completed, including the physical development of the pipeline ROW, as described above, has significantly advanced the Project toward construction of the permanent components. This is consistent with ordinary pipeline development, which is conducted in planned phases. Therefore, in consideration of a project of this type, my determination is guided by what could reasonably be expected to have been constructed based on the order in which the project would ordinarily be developed.

I have also considered information relevant to whether PRGT Ltd. has demonstrated an intention to advance the Project in the near term. This is because, while it is clear that physical activities are a primary consideration in a substantial start decision, other matters may be relevant as well, particularly in considering whether the Holder is showing "a strong interest...in advancing [its] Project" (see KSM Reasons at p.4). These matters are set out above in Section 5.2, including

the recent significant investment in non-physical aspects and the fact that PRGT Ltd. is seeking amendments to the Certificate for the purpose of serving a project (Ksi Lisims LNG).

Having considered the Report, the submissions provided by First Nations, the public and PRGT Ltd., and the factors set out in the EAO's Substantial Start Determination Policy, including those regarding physical development and additional relevant factors, including the Holder's intent to advance the project, I have determined that PRGT is substantially started.



Alex MacLennan
Chief Executive Assessment Officer
Environmental Assessment Office

Signed this 5th day of June 2025.