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August 5, 2009

Douglas Hengel
Deputy Assistant Secretary, Energy, Sanctions and Commodities

J. Brian Duggan
Energy Officer
Bureau of Economic, Energy, and Business Affairs

U.S. Department of State
2201 C Street NW
Washington, DC 20520

Re: Asia not a significant short-term option for Alberta's tar sands

Dear Mr. Hengel and Mr. Duggan,

We are writing you regarding your department's engagement in the inter-agency review process for the Department of State's final approval of the proposed Enbridge Alberta Clipper tar sands pipeline from Canada. We urge you to request that a final decision regarding this proposed tar sands pipeline be delayed until after the federal government has passed climate change legislation and the international climate change negotiations in Copenhagen have concluded.

Currently, the Department of State (DOS) is proceeding with permitting the proposed Enbridge Alberta Clipper tar sands pipeline ("Clipper") without due consideration of the global warming, environmental and economic implications in both the United States and Canada associated with locking into this infrastructure. Entreaties to DOS to delay final approval have, to date, proven unsuccessful.

The Final EIS for the project claims that if the DOS does not approve Clipper, significant quantities of Alberta's tar sands oil would likely be diverted to Asia via pipelines to Canada's west coast, resulting in a 'carbon leakage' to other jurisdictions and no net reductions in global emissions.

That argument presumes, however, that new and significant pipeline capacity to the west coast of Canada is essentially ready in waiting. Indeed, this is the impression often created by various spokespeople representing the Canadian Association of Petroleum Producers, individual tar sands producers, the Alberta government, and the Canadian government, when responding to the

threat of proposed US policies in any way restrictive to the tar sands (e.g. border carbon adjustments, low carbon fuel standards).

The 'ready in waiting' presumption, however, is shaky at best. In reality, there is no magic switch to flick – the tar sands' 'Asian alternative' faces major, and largely understated obstacles.

These obstacles can be best understood by splitting Canadian west coast tar sands export options into two categories: (1) those created by a *new* northern pipeline; and (2) those created by an expansion of the *existing* southern pipeline to Vancouver, BC.

Obstacles to a new northern pipeline

There are three companies proposing a new northern pipeline to Asia and California via Canada's west coast: Enbridge Inc., Kinder Morgan, and CN Rail (via a "pipeline on rail"). None of the companies has yet filed a regulatory application for their version of the project. Enbridge is the only company that has moved their proposal beyond basic engineering and feasibility studies, and expects that the *earliest* construction date possible for their project is 2012 or 2013.ⁱ

Enbridge is currently facing growing opposition to its project from several western Canadian First Nations, who have unequivocally rejected a northern oil pipeline in any form.ⁱⁱ These First Nations occupy a unique legal environment created by never having ceded their lands or signed treaties. Successive legal victories by these and other First Nations have granted them a degree of influence over pipelines and other resource development that is unique in Southern Canada and the US.ⁱⁱⁱ Indeed, in 2007 a First Nation lawsuit factored into Enbridge's decision to temporarily shelve their project.

Equally opposed to a northern oil pipeline are 72% of British Columbians, by way of their longstanding opposition to the consequent oil tankers.^{iv} This public opposition is matched by political support from two of Canada's three major parties: the NDP, and the Liberals, for a legislated ban on Pacific north coast oil tanker traffic.^v

A further obstacle to a northern pipeline is a growing demand for a full public inquiry to evaluate Enbridge's project, rather than through the normal National Energy Board (NEB) process (which has received an unprecedented 2000 submissions of concern on the terms of reference of the project alone). The inquiry would re-activate an investigation conducted in the 1970s into the pros and cons of a west coast oil port.^{vi} If a public inquiry is held, Enbridge's project would be subjected both to further delays and to an increased probability that the reviewing body recommend the project not proceed.

The opposition mounting against Enbridge's project is born of concerns that are largely independent of the identity of the proponent. Therefore, equivalent opposition to Kinder Morgan's and CN's more conceptual proposals, if advanced, are a near certainty.

Obstacles to expansion of the existing southern pipeline

Currently, only 300,000 barrels per day of tar sands production flows from Alberta west. This volume is transported by Kinder Morgan's Trans Mountain pipeline system to Burnaby, BC. Only 10 per cent of this oil is presently shipped to Asian markets.

Kinder Morgan's southern system can be incrementally expanded to accommodate 700,000 barrels per day.^{vii} However, these expansions have not been formally proposed, and the Asian market for tar sands would need to be significantly more developed before any large expansions to that continent were put in place. A decision regarding whether *any* increments of an expanded Trans Mountain pipeline capacity can be put in place is at least two years away.

Pricing obstacles

The potential for tar sands products to be distributed to Asian markets is dependent upon achieving a satisfactory price for these products relative to the U.S. market. Given the higher transportation costs of reaching Asian markets (which reduces net price to market), a number of tar sands companies have expressed scepticism about the prospects of exporting tar sands products to Asia, including Devon Energy, Canadian Oil Sands Trust (the largest shareholder in Syncrude, the largest tar sands producer), and Husky Energy.

Canadian policy obstacles

If implemented, a Conservative platform promise in the party's 2008 election platform would *"prevent any company from exporting raw bitumen (unprocessed oil from the tar sands) outside of Canada for upgrading in order to take advantage of lower pollution or greenhouse gas emissions standards elsewhere."*^{viii}

Therefore, unless Asian countries are matching Canada's GHG standards, which don't yet exist...but presumably *will* exist and will be similar to the U.S., this would limit bitumen exports to markets with comparable standards: e.g. the U.S.

Summary

Given these significant obstacles to expanding Asian tar sands exports via Canada's west coast, it is much less likely than commonly believed that decisions that delay or limit tar sands imports to the U.S. will immediately, or significantly lead to 'carbon leakage' to Asia.

Frankly, we believe that much of the oil industry's discussions regarding the prospects of exporting tar sands products to Asia are simply a sabre rattling tactic to enhance lobbying efforts in the U.S. against policy measures that would impact the market for current tar sands products.

We believe that approval of Clipper will further entrench U.S. reliance on carbon intensive oil from the tar sands, will enable expanded tar sands production in Canada (our fastest growing source of heat-trapping gas emissions), and will require new or retrofitted refineries in the U.S.

As such, this decision carries significant implications regarding greenhouse gas pollution and global warming that cannot be duly considered in the absence of clear U.S. climate change policy and an understanding of an international climate treaty that will emerge from Copenhagen.

We reiterate that a delay of approval for the Alberta Clipper pipeline until such time as the Copenhagen negotiations are complete will not lead to immediate, nor likely significant carbon leakage to Asia. In addition, we encourage the U.S to evaluate all of the environmental impacts the Clipper would create from the tar sands extraction process to its end use,

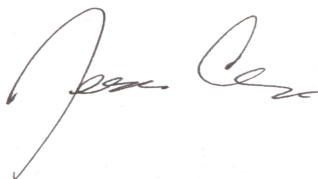
Signed,



Will Horter, Executive Director
Dogwood Initiative



Merran Smith, Climate Director
Forest Ethics



Jessica Clogg, Senior Counsel
West Coast Environmental Law Association



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ⁱ E.g. <http://www.northerngateway.ca/public-review/timeline> - accessed July 29th 2009

ⁱⁱ See Appendix A for a timeline of First Nations opposition since Enbridge reactivated their project in 2008.

ⁱⁱⁱ This influence over Enbridge's project was described in detail in an April 2009 briefing to Enbridge investors, the transcript of which is available here:

<http://www.ceres.org/Document.Doc?id=450>

^{iv} As determined by a 2008 Synovate poll. This result follows on previous polling that consistently shows that three quarters of British Columbians support a ban on oil tankers through Canada's Pacific north coast, effectively prohibiting any version of a northern oil sands pipeline.

^v The federal NDP have long supported such a ban. During the 2008 federal election, the Liberal party committed to "[formalizing] the offshore moratorium on crude oil supertanker traffic through Dixon Entrance, Hecate Strait, and Queen Charlotte Sound", the waterways required for a northern Asian alternative. The Liberal Party is also the party of the historic 1972 moratorium on oil tanker traffic through those same waters, a measure which though contested, is argued by many to remain relevant and applicable.

^{vi} The 1979 West Coast Oil Ports inquiry was led by the late Dr. Andrew Thompson. The proponent at the time withdrew their project before the inquiry could be completed.

^{vii} Kinder Morgan Trans Mountain Expansion (TMX) Proposal brochure – Summer 2008

^{viii} "*Prohibiting the Export of Raw Bitumen to Higher Polluting Jurisdictions*"
<http://www.conservative.ca/media/20081007-Platform-e.pdf>