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Northern Gateway Asks to Extend the Expiring Federal Approval for its Oil Pipeline and Tanker Project:

A Backgrounder for Engaging in the Public Comment Period

The federal approval of Enbridge’s Northern Gateway pipelines and tankers proposal is on track to expire at the end of 2016. To keep its project alive, Northern Gateway has requested a 3-year extension. First Nations, municipalities, organizations and citizens have until **June 27, 2016** to comment on Northern Gateway’s extension request and influence the fate of this controversial pipeline and tanker project.

Context: Northern Gateway will miss its federal deadlines and is asking for three more years

In June 2014, the National Energy Board (NEB) issued certificates conditionally approving Enbridge’s Northern Gateway pipelines and tankers proposal. The certificates are set to expire on December 31, 2016, if construction on the project has not commenced. Northern Gateway has been legally unable to begin construction because it has failed to meet conditions in the certificates that require Northern Gateway to secure supply contracts with companies willing to ship bitumen and condensate in the proposed pipelines. The failure to obtain supply contracts means Northern Gateway’s federal approval is on track to expire at the end of 2016. Consequently, Northern Gateway has requested a 3-year extension, asking that the expiry date of its certificates be changed to December 31, 2019.ⁱ

Northern Gateway has identified “legal and commercial uncertainties” as the basis for why it has been unable to obtain any supply contracts, pointing to factors such as the federal government’s commitment to an oil tanker moratorium on BC’s north coast, as well as the multitude of ongoing legal challenges to Northern Gateway’s approval from eight First Nations, four environmental groups and a labour union. Northern Gateway has also cited the need for more time to engage with First Nations, however the First Nations of the Yinka Dene Alliance and Coastal First Nations have issued press releases dismissing this claim and opposing the extension request.ⁱⁱ

Northern Gateway’s request for another try to seek social license for its controversial project is being called “magical thinking” given the long-standing, deep, widespread and documented opposition from British Columbians of all walks of life. In the words of Gerald Amos, Chair of Friends of Wild Salmon: “For the past several years the people of northwest BC have spoken loud and clear – we don’t want your pipeline now, and we won’t want it three years from now either.”ⁱⁱⁱ

The NEB is seeking public comment on Northern Gateway’s extension request

The NEB is asking for public comments until **June 27, 2016**, on Northern Gateway’s 3-year extension request, before it makes a decision.^{iv}

The NEB is asking for input on what issues and information it should consider in deciding Northern Gateway's extension request, specifically:

- comments on Northern Gateway's reasons for making the extension request;
- other issues that the NEB should consider;
- whether additional information should be required.

The NEB is encouraging interested parties to provide any information that they recommend the NEB consider in deciding Northern Gateway's request.

Cabinet will have the final say

If the NEB decides in favour of Northern Gateway's request, the federal Cabinet will have the final say about whether to approve or deny the extension. Therefore, comments to the NEB may also inform a final decision from Cabinet on whether or not to grant the extension.

The comment period is an opportunity to be heard, and to seek accountability on the oil tanker ban

The public comment period is an opportunity to influence a "live or die" decision for Northern Gateway. It is also an opportunity to hold the federal government to account by requiring that the NEB, and if necessary the federal Cabinet, confront the inconsistency between an extension for Northern Gateway and the federal government's commitment to formalize an oil tanker ban on BC's north coast.

In November 2015, following years of widespread opposition to Northern Gateway from First Nations, northerners, municipalities, organizations and citizens throughout BC and Canada, Prime Minister Trudeau issued Ministerial Mandate Letters directing Minister Marc Garneau and Minister Hunter Tootoo to "formalize the moratorium on crude oil tanker traffic on British Columbia's North Coast, including the Dixon Entrance, Hecate Strait, and Queen Charlotte Sound."^v Implementation of the Prime Minister's direction, if it is to have any meaning, would prevent Northern Gateway from proceeding because the proposal hinges on introducing extensive crude oil tanker traffic to BC's north coast.^{vi}

Acting consistently with the Prime Minister's formal direction to implement a crude oil tanker ban on BC's north coast would call for denying Northern Gateway's request to extend its approval by three years. The federal government would put itself in the position of making contradictory regulatory decisions if the NEB and Cabinet were to grant Northern Gateway an extension, only for the federal government to prevent the proposal from proceeding soon afterward by formalizing an oil tanker ban. Thus the Prime Minister's direction to formalize a Pacific north coast oil tanker ban, and strong support for the ban from First Nations, municipalities, organizations and citizens, is an important factor that the NEB, and if necessary Cabinet, should be encouraged to consider in deciding Northern Gateway's extension request.

How to Submit a Comment

Comments may be submitted directly to the NEB in one of three ways:

- 1) By mail to: Secretary to the Board
National Energy Board
517 Tenth Avenue S.W.
Calgary, Alberta T2R 0A8
- 2) By fax to: 403-292-5503 or toll free fax to: 1-877-288-8803
- 3) By E-filing: Go to www.neb-one.gc.ca and follow the link to E-File. (Note that E-Filing also requires a hard-copy of the letter to be mailed to the NEB).

E-mails and form letters will not be accepted. The deadline for submissions to the NEB is **June 27, 2016**.

Examples of submissions can be viewed online here: <https://docs.neb-one.gc.ca/ll-eng/llisapi.dll?func=ll&objId=2982078&objAction=browse&viewType=1>.

ⁱ Northern Gateway's extension request is available online here: <https://docs.neb-one.gc.ca/ll-eng/llisapi.dll/fetch/2000/90464/90552/384192/620327/2982078/2955233/A76761->

[1_NGP_AEP_Condition_2_Request_for_Extension_of_the_Sunset_Clause_-_A4Z8G9.pdf?nodeid=2954740&vernum=-2](https://docs.neb-one.gc.ca/ll-eng/llisapi.dll/fetch/2000/90464/90552/384192/620327/2982078/2955233/A76761-1_NGP_AEP_Condition_2_Request_for_Extension_of_the_Sunset_Clause_-_A4Z8G9.pdf?nodeid=2954740&vernum=-2)

ⁱⁱ The press release of the Yinka Dene Alliance is available online here: <http://www.marketwired.com/press-release/bc-first-nations-enbridge-extra-time-will-not-save-failed-northern-gateway-pipeline-2124375.htm>.

The press release of Coastal First Nations is available online here: <http://www.coastalfirstnations.ca/news-release/may-6-2016-513pm>.

ⁱⁱⁱ The press release of Friends of Wild Salmon is available online here:

http://friendsofwildsalmon.ca/news/article/enbridges_extension_request_outrageous_given_lack_of_support_across_nw_bc

^{iv} The National Energy Board's request for public comment is available online here: <https://docs.neb-one.gc.ca/ll-eng/llisapi.dll/fetch/2000/90464/90552/384192/620327/2398286/2982478/A77137->

[1_Enbridge_Northern_Gateway_Project_-_Sunset_Clause_Extension_Request_for_Certificates_OC-060_and_OC-061_-_A5COU9.pdf?nodeid=2981925&vernum=-2](https://docs.neb-one.gc.ca/ll-eng/llisapi.dll/fetch/2000/90464/90552/384192/620327/2398286/2982478/A77137-1_Enbridge_Northern_Gateway_Project_-_Sunset_Clause_Extension_Request_for_Certificates_OC-060_and_OC-061_-_A5COU9.pdf?nodeid=2981925&vernum=-2)

^v Ministerial Mandate Letter (November 2015), Honourable Hunter Tootoo, online: <http://pm.gc.ca/eng/minister-fisheries-oceans-and-canadian-coast-guard-mandate-letter>

^{vi} West Coast Environmental Law has produced a Frequently Asked Questions document about the oil tanker ban, which is a resource that may help in preparing a submission:

<http://wcel.org/sites/default/files/publications/KeepingOurCoastClean.pdf>