

Post-mortem of the joint panel report for the Northern Gateway Pipeline: A comparison of voices

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Background

The **Northern Gateway Pipeline (NGP)** is a project that will potentially extend 1,177 kilometers of pipeline from Central Alberta to the Coast of British Columbia to then ship the bitumen to Asia via tankers.

In 2006 the Minister of the Environment established a **Joint Review Panel (JRP)** allowing interested parties to participate in the process; this included many **First Nation Communities (FNC)**. Enbridge (the proponent) developed a route that uses previously disturbed land along 70% of the pipeline path.

Enbridge recognized 84 FNC as potentially affected by the proposed pipeline. Of the recognized FNCs, 26 communities signed on as equity partners. These partners receive an equity stake in the pipeline, giving returns that are estimated at minimum to be approximately \$70,000 per year, after their loan payments and interest are paid back to Enbridge.⁽¹⁾

Official Community Position of First Nation Community Throughout Panel Review Process of Case Study Communities				
	Haisla Nation	Driftpile Cree Nation	Swan River First Nation	Alexander First Nation
Before	OPPOSED	OPPOSED	OPPOSED	OPPOSED
During	OPPOSED	OPPOSED	OPPOSED	SUPPORTIVE
After	OPPOSED	OPPOSED	OPPOSED	SUPPORTIVE

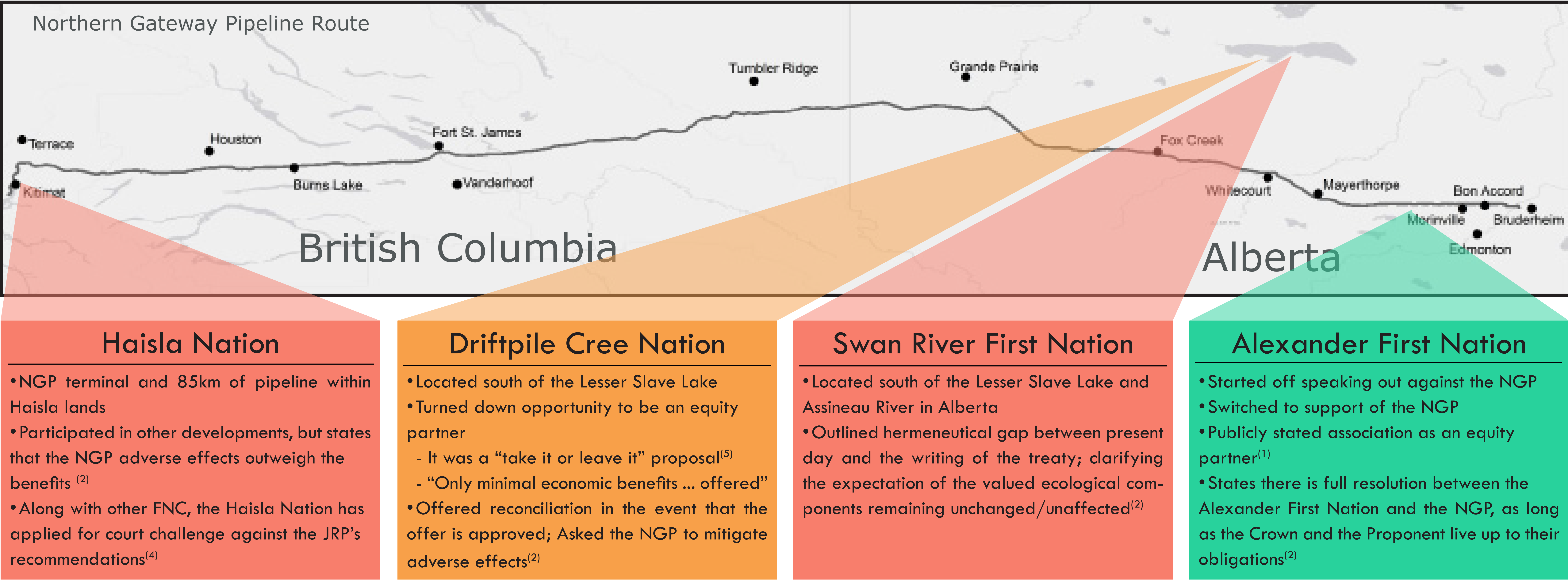
Issue and Method

ISSUE: Much of the media focus has been on the negative opinions regarding the NGP, this has lead to the incorrect perception that all FNC share the same viewpoint. The NGP project has polarized opinions within the FNC, with some communities applying for court challenges to overturn the JRP decision, while other FNC have signed on as equity partners with the proponent.

The **Canadian Environmental Assessment Act (CEAA)** requires consultation with FNC via Duty to Consult⁽⁷⁾; but CEAA 2012 changed regulations, allowing authorization of the National Energy Board to oversee and administer JRPs. This change has caused frustration in many FNC.

The JRP approved the project with 209 conditions; ranging from construction regulations to timing of emergency planning once operating. Conditions are subject to approval/changes of the Crown.⁽⁶⁾ There are many different views of the NGP within the FNC, despite the proportion of negative media.

METHOD: To review the process and analyze the consistencies and variations of the opinions of the FNC, newspaper articles and regulatory documents (applications for intervenor status, written evidence and final arguments of FNC) were compiled and compared for similarities and contrasts. Four FNC were chosen as case studies based on: ensuring a range of pro and con opinions, that the FNC obtained intervenor status, and their voices were reported in the media.



“The job isn’t over... Far from it. Should the project receive approval, Northern Gateway will undertake an extensive pre-construction engagement program to meet the conditions outline by the JRP.” -Community Relations Team NGP

Conclusion/Discussion

- Ten court challenges against the JRP decision to approve the NGP
- Few FNC equity partners announced their association with the program
- Changes to CEAA 2012 caused complications in the expectations of procedure of the JRP
- Some FNC felt that the Crown’s Duty to Consult was carried out in an “illegal”⁽³⁾ manner
- The significance of some traditional ecological knowledge was not weighted properly in the original EIA report according to the JRP, but few mitigative options/conditions were introduced in the JRP report

Furthur Research Questions Raised

1. How many of the FNC were satisfied by the mitigation measures proposed by both the proponent and the JRP?
2. Does the consultation process address issues in a culturally appropriate manner for both citizens and FNC?
3. Did the Crown properly fulfill the obligation of Duty to Consult?

“If you’re going to put together a consultation process, then the First Nations and Crown should sit down together and design that process.” -Ellis Ross, Haisla Nation Chief

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