

BREAKING NEWS: Burnaby wins ruling against Kinder Morgan

City of Burnaby wins key ruling with National Energy Board against Kinder Morgan and its proposed \$5.4 billion oil sands pipeline.

Vancouver Observer Mychaylo Prystupa Sep 25th, 2014

In what's considered a huge win for the City of Burnaby's legal battle to stop the Kinder Morgan Trans Mountain pipeline expansion, the National Energy Board struck down the company's application to forbid Burnaby city staff from blocking the pipeline company's test drilling on Burnaby Mountain.

“Kinder Morgan is this arrogant company who assumed they could just go in and take direct action [to remove trees], based on their legal interpretation,” said Burnaby's lawyer, Gregory McDade, Q.C. Thursday evening.

"They thumbed their nose at the law."

"It turns out they were wrong," added the lawyer.

The NEB's [federal decision](#) made public Thursday afternoon means Kinder Morgan will not proceed with its pipeline test drilling work in a protected forest area of Burnaby Mountain, until the company returns with a much larger legal offensive, with thorny constitutional implications.

Such a legal battle could have huge ripples for pipeline projects across Canada - deciding if local city governments -- and not just the federal Harper government -- can have a say in oil pipeline approvals, said McDade.

Burnaby's Mayor: pipeline can be stopped

Burnaby's Mayor Dennis Corrigan makes no bones about his opposition to the oil sands pipeline expansion.

“Yes. I’m opposed to it.”

“Ultimately, this is about making money for big oil companies in the Tar Sands,” he said last week.

The Mayor maintains the City of Burnaby's legal battle has the potential to actually stop the project.

"I think it does. The legal fight that we're waging is one that hasn't been done on as a sophisticated of a level. While we are still in a 'David and Goliath' relationship, obviously the power of the federal government and this multinational American company are massive," said Corrigan.

"We are [still] a city that has its own assets and own capacity... That's more muscle than what's been applied in these kinds of battles that has occurred in the past," added the Mayor.

Kinder Morgan will not proceed with tree removals

In response to the decision, a Canadian spokesperson for the Texas-based energy giant said:

"In its decision today the NEB has dismissed this motion. We are currently reviewing the full decision and considering next steps."

"We have no intention of resuming invasive work in Burnaby Mountain Conservation Area," wrote Lizette Parsons Bell, lead Stakeholder Engagement, Trans Mountain Expansion Project.

In early September, against the wishes of the City of Burnaby, Kinder Morgan workers started chainsawing down trees in the city's conservation area on Burnaby Mountain.

The city filed a temporary injunction to stop the company, but lost in a B.C. Supreme Court ruling last week. However, Thursday's NEB decision means that court decision is moot, said McDade.

"For now, the Conservation Area is safe," said McDade.

According to the ruling, however, the company still has the legal right -- as stated under paragraph 73(a) of the NEB Act -- to "enter into and on the subject lands and complete the surveys and examinations." The NEB said if there was a further motion for an order against Burnaby and file a Notice of Constitutional Question, the Board would hear the matter on an expedited basis.