



VIA EMAIL

January 10, 2020

Attn: RCMP Commissioner Brenda Lucki
RCMP Deputy Commissioner Jennifer Strachan

Hon. Bill Blair, Minister of Public Safety and Emergency Preparedness,
Government of Canada

Hon. Carolyn Bennett, Minister of Crown-Indigenous Relations,
Government of Canada

Hon. Mike Farnworth, Minister of Public Safety and Solicitor General,
Province of British Columbia

Hon. Scott Fraser, Minister of Indigenous Relations and Reconciliation,
Province of British Columbia

David Pfeiffer, President, Coastal GasLink

Tiffany Murray, Indigenous Relations, Coastal GasLink

Dear Commissioner Lucki, Deputy Commissioner Strachan, Minister Blair, Minister Bennett, Minister Farnworth, Minister Fraser, Mr. Pfeiffer, and Ms. Murray,

Re: Interlocutory Injunction Granted to Coastal GasLink

We, the British Columbia Civil Liberties Association (“BCCLA”), write regarding the interlocutory injunction granted to Coastal GasLink on December 31, 2019 in connection with the use of Wet’suwet’en territories, and concerns about potential imminent escalation of the use of force by the Royal Canadian Mounted Police (“RCMP”).

The BCCLA urges Coastal Gaslink and the RCMP not to enforce the injunction order at this time, to allow for a peaceful resolution between the Wet'suwet'en, Coastal GasLink, and the provincial and federal governments.

The Wet'suwet'en assert continuous jurisdiction and unextinguished rights and land title. The Supreme Court of Canada recognized that constitutionally-protected Aboriginal title includes the right to use, enjoy, benefit from, occupy and pro-actively manage the land (*Delgamuukw v. British Columbia*, [1997] 3 SCR 1010; *Tsilhqot'in Nation v. British Columbia*, [2014] 2 SCR 256). Indigenous Rights and Title requires the Crown and industry to obtain consent to use the land, and to do otherwise would infringe on that constitutionally-protected right.

We remind the RCMP that the Constitution is the ultimate law that they are charged to uphold. As agents of the Crown, the RCMP must respect the constitutionally-protected rights of Indigenous peoples.

Furthermore, the British Columbia legislature passed the *Declaration of the Rights of Indigenous Peoples Act* [SBC 2019] C 44, in November 2019, to affirm the United Nations Declaration on the Rights of Indigenous Peoples ("UNDRIP") as well as ensure the consistency of provincial laws with UNDRIP. In December 2019, the United Nations Committee on the Elimination of Racial Discrimination ["CERD"] called upon Canada to "immediately halt the construction and suspend all permits and approvals for the construction of the Coastal GasLink pipeline in the traditional and unceded lands and territories of the Wet'suwet'en people, until they grant their free, prior, and informed consent, following the full and adequate discharge of the duty to consult." (U.N. CERD, *Prevention of Racial Discrimination, Including Early Warning and Urgent Procedure*, 100th Sess.,1, (25 November-13 December 2019).

We further remind the RCMP that they have a responsibility to ensure public safety, including the safety of Wet'suwet'en people and their invited guests. We are highly concerned about the excessive level of force, including lethal force, which the RCMP discussed and planned for its raid of Gidimt'en checkpoint in January 2019, as recently revealed by investigative reporting. The BCCLA stresses that lethal force is an absolutely unacceptable and abhorrent response to the current peaceful exercise of Wet'suwet'en

law (Anuk 'nu'at'en). We urge that the RCMP “act with integrity, fairness and impartiality, and do not compromise or abuse their authority, power or position,” as they work towards a peaceful resolution of this issue (RCMP, SOR/2014-281). De-escalation, transparency, accountability, and communication with the Wet'suwet'en Nation and their representatives is critical.

In addition, the BCCLA strongly urges the RCMP to refrain from instituting exclusion zones that prohibit the public, invited guests of the Wet'suwet'en, and media from accessing Wet'suwet'en territories. Freedom of the press is enshrined in the *Canadian Charter of Rights and Freedoms*, 1982. Police-enforced media and public exclusion zones violate the *Charter* by seriously impeding freedom of expression. The BCCLA recognizes that Wet'suwet'en law (Anuk 'nu'at'en) and Title includes the right of Wet'suwet'en to control access to and exclusion from their territory.

In our view, the injunction should not be enforced at this time. The Crown, the RCMP, and Coastal GasLink must prioritize peaceful resolution with the Wet'suwet'en. Any such resolution must respect the Wet'suwet'en's constitutionally-protected Aboriginal title, UNDRIP, and the goal of genuine and meaningful respect and reconciliation between the Crown and Indigenous governments. The credibility of the provincial and federal governments as rights-respecting bodies—not to mention Canada's international reputation—depend on it.

Sincerely,



Maggie Knight

Acting Executive Director



Carly Teillet

Community Lawyer

CC: Office of the Wet'suwet'en Hereditary Chiefs
Hon. Doug Donaldson, Minister of Forests, Lands, Natural Resource Operations and Rural Development, Province of British Columbia
Hon. Michelle Mungall, Minister of Energy, Mines and Petroleum Resources, Province of British Columbia