

## **PREAMBLE**

The following resolution will show

- that First Nations have a constitutional right to legally protect their traditional lands and waters from proposed oil pipelines and tankers which threaten their traditional food sources and cultures,
- that exporting massive amounts of tarsands oil is contrary to the Unitarian Seventh Principle,
- that we can act to publicly express our concern, when people, and their environments, are treated disrespectfully.

## **A Resolution on Proposed Oil Pipelines in BC**

**A. WHEREAS**, the Unitarian Church of Vancouver, as a member of the Canadian Unitarian Council (CUC), adheres to the CUC's Seven Principles, the first of which states "We affirm and promote the inherent worth and dignity of every person", and the seventh of which calls on us to "respect the interdependent web of all existence of which we are a part", and in addition, our church's mission statement calls on us to promote "social justice" and "environmental sustainability"; and

**B. WHEREAS**, the United Nations Declaration on the Rights of Indigenous Peoples, signed by the Government of Canada, promotes "free, informed, and prior consent" by indigenous peoples before intrusion on their traditional territories<sup>1</sup>; and

**C. WHEREAS**, over one hundred First Nations in B.C., Alberta, and the North West Territories have signed the "Save the Fraser Declaration" which states:

"...Therefore, in upholding our ancestral laws, Title, Rights and responsibilities, we declare:

**"We will not allow the proposed Enbridge Northern Gateway Pipelines, or similar Tar Sands projects, to cross our lands, territories, and watersheds, or the ocean migration routes of Fraser River salmon...."**<sup>2</sup>; and

**D. WHEREAS**, "The Nuxalk are the second First Nation to pull out of the pipeline review process in recent months...

"Despite our serious concern about this process, including the lack of any decision-making role for First Nations, we entered the process in good faith," says Andy (Andrew Andy, the elected Chief of the Nuxalk Nation)...

"How can we participate in a process driven by a government that has labeled us 'socially dysfunctional'?" says Charlie Nelson, a Hereditary Chief of the Nuxalk Nation, referring to recent controversial statements by Natural Resources Minister Joe Oliver. "Where is the honour in the Crown stating that it's prepared to violate our constitutionally-protected Title and Rights before the work of gathering information on the scope of infringement is even done?"<sup>3</sup>; and

**E. WHEREAS**, a potential disaster worse than a major oil spill, would be the successful shipment and use of increasing volumes of tarsands oil, and all the resulting carbon dioxide being spilled into the atmosphere; and

**F. WHEREAS**, due to the disastrous impacts of climate change, Canada's present volume of production and consumption of fossil fuels is unethical, and contrary to our Seventh Principle; and

**G. WHEREAS**, "Averting the worst consequences of human-induced climate change is a 'great moral issue' on a par with slavery, according to the leading NASA climate scientist Prof. Jim Hansen." <sup>4</sup>

### **THEREFORE BE IT RESOLVED**

**1. THAT** the Unitarian Church of Vancouver, is in solidarity with those First Nations who have signed the "Save the Fraser Declaration" <sup>5</sup> and that we, the members of the Unitarian Church of Vancouver, declare our support for the "Save the Fraser Declaration", the UN "Declaration on the Rights of Indigenous Peoples" (Articles 19 and 32) <sup>6</sup>, and the constitutional rights of First Nations (Constitution Act of 1982, Section 35) <sup>7</sup> ; **and**

**2. THAT** we oppose the proposed Enbridge Northern Gateway pipeline to Kitimat, BC, and the proposed expansion of the existing Kinder-Morgan<sup>8</sup> pipeline to Burnaby, BC; **and**

**3. THAT** we encourage our members holding financial instruments containing Enbridge or Kinder-Morgan stock, to divest or cancel those financial instruments after Dec. 31, 2012 if attempts by stockholders to rescind the Enbridge Northern Gateway application<sup>9</sup>, or the Kinder-Morgan expansion application, are unsuccessful; **and**

**4. THAT** we encourage our church president, with the help of the Unitarian Church of Vancouver Environment and Social Justice Committees, to communicate this resolution to elected officials, selected First Nations and journalists, as well as selected financial, environmental, social justice, and faith groups in Canada.

(Written by Karl Perrin, Chair, UCV Environment Committee  
Discussed, amended and approved unanimously at meetings of the UCV Environment Committee on April 8 and May 13, 2012; to be forwarded to the UCV Board of Trustees for consideration by the congregation at the UCV Extraordinary General Meeting on June 10, 2012.

## End Notes:

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<sup>1</sup> **UN Declaration on the Rights of Indigenous Peoples, Article 19,**  
“States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.”

<sup>2</sup> **References:**

<http://www.marketwire.com/press-release/first-nations-alberta-nwt-sign-save-fraser-declaration-opposing-proposed-enbridge-pipeline-1611910.htm>  
<http://savethefraser.ca/>

<sup>3</sup> **Source:** Nuxalk Nation

<http://www.marketwire.com/press-release/-1641034.htm>

<sup>4</sup> **Source:** Guardian, April 6, 2012, article by Severin Carrell.

<http://www.guardian.co.uk/environment/2012/apr/06/nasa-scientist-climate-change>

<sup>5</sup> **“Save the Fraser Declaration”**

(Following is the text only of the Save the Fraser Declaration. For formatting, graphs, appropriate fonts, and signatures, please see the original at <http://www.savethefraser.ca/> )

“WE THE UNDERSIGNED INDIGENOUS NATIONS OF THE FRASER RIVER WATERSHED DECLARE:

“We have inhabited and governed our territories within the Fraser watershed, according to our laws and traditions, since time immemorial. Our relationship with the watershed is ancient and profound, and our inherent Title and Rights and legal authority over these lands and waters have never been relinquished through treaty or war.

“Water is life, for our peoples and for all living things that depend on it. The Fraser River and its tributaries are our lifeline.

“A threat to the Fraser and its headwaters is a threat to all who depend on its health. We will not allow our fish, animals, plants, people and ways of life to be placed at risk.

“We have come together to defend these lands and waters from a grave threat: the Enbridge Northern Gateway Pipelines project. This project which would link the Tar Sands to Asia through our territories and the headwaters of this great river, and the federal process to approve it,

violate our laws, traditions, values and our inherent rights as Indigenous Peoples under international law. We are united to exercise our inherent Title, Rights, and responsibility to ourselves, our ancestors, our descendants and to the people of the world, to defend these lands and waters. Our laws require that we do this.

**"Therefore, in upholding our ancestral laws, Title, Rights and responsibilities, we declare:**

**"We will not allow the proposed Enbridge Northern Gateway Pipelines, or similar Tar Sands projects, to cross our lands, territories and watersheds, or the ocean migration routes of Fraser River salmon.**

"We are adamant and resolved in this declaration, made according to our Indigenous laws and authority. We call on all who would place our lands and waters at risk – we have suffered enough, we will protect our watersheds, and we will not tolerate this great threat to us all and to all future generations.

"Declared at T'exelc (Williams Lake), Secwepemc Territory, and Vancouver, Coast Salish Territories, and affirmed by the following":  
(signatures on original document)

## <sup>6</sup> **UN Declaration on the Rights of Indigenous Peoples**

### **Article 19:**

"States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions **in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.**"

### **Article 32**

"1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions **in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.** (bold emphasis added)

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social,

cultural or spiritual impact.”

<sup>7</sup> **wikipedia commentary on The Constitution Act, 1982:** from [http://en.wikipedia.org/wiki/Section\\_Thirty-five\\_of\\_the\\_Constitution\\_Act,\\_1982](http://en.wikipedia.org/wiki/Section_Thirty-five_of_the_Constitution_Act,_1982)

“35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

(2) In this Act, "Aboriginal Peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

(3) For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.

(4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.”

#### “Aboriginal rights

“Aboriginal rights refer to the activities, practice, and traditions of the aboriginal peoples in Canada that are integral to the distinctive culture of aboriginal peoples.

“The word "existing" in section 35(1) has created the need for the Supreme Court to define what Aboriginal rights "exist". The Supreme Court ruled in [R. v. Sparrow](#) that, before 1982 (when section 35 came into effect), Aboriginal rights existed by virtue of the [common law](#). Common law could be changed by legislation. Therefore, before 1982, the federal Parliament could extinguish Aboriginal rights, whereas now it can no longer extinguish any rights that still existed in 1982. [Extinguishment](#) of rights can only occur through an act that showed "clear and plain intention" on the government to deny those rights.

“In [Sparrow](#), the Court also held the words "recognized and affirmed" incorporate the government's [fiduciary](#) duty to the Aboriginal peoples which requires them to exercise restraint when applying their powers in interference with aboriginal rights. This further suggests that aboriginal rights are not absolute and can be encroached upon given sufficient reason. After the [Sparrow](#) case, provincial legislation can only limit aboriginal rights if it has given them appropriate priority.

“However, in the [Sparrow](#) case, the court did not have to address what was in fact an Aboriginal right for the purposes of s.35(1) since neither side disputed that the [Musqueam](#) had an Aboriginal right to fish for food. This was developed in [R. v. Van der Peet](#) where Chief Justice Lamer's majority decided that to be considered an aboriginal right, a practice must have been integral to the distinctive nature of the culture prior to contact by Europeans.”

<sup>8</sup> **Kinder-Morgan Reference:**

[http://www.kindermorgan.com/investor/presentations/2011\\_Analysts\\_Conf\\_05\\_KM\\_Canada.pdf](http://www.kindermorgan.com/investor/presentations/2011_Analysts_Conf_05_KM_Canada.pdf)

- <sup>9</sup> **Inhance (Funds) News/Vancity Investment Management**, Feb., 2012:  
“...As shareholders we have actively engaged Enbridge on environmental, social and governance issues. We work with other shareholders and continue to hold regular meetings with the company to raise concerns regarding: oil tanker safety, human rights impacts, adequacy of consultation, disclosure of financial risks and potential environmental damage. **In light of the potential risks, we have requested that the company reconsider the feasibility of proceeding with the Northern Gateway project.** (Emphasis added.) In 2012 we joined with two other major shareholders and filed a resolution calling on the Enbridge Board of Directors to assess the risks associated with First Nations’ opposition to the project and in the event that the project continues, detail how the company intends to mitigate the operational, reputational, and legal risks of such opposition. We are calling on all shareholders to support this resolution.”