

Not Over Till It's Over

TransMountain Pipeline Suspended, But Resistance Must Continue

Jeff Shantz

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Canada's Federal Court of Appeal ruled in August against the government, effectively suspending the Trans-Mountain expansion (TMEX) project, a proposed twinning of a bitumen pipeline, parallel to the first, from the Alberta tar sands to an oil refinery in Burnaby, Metro Vancouver.

The TMEX has long been opposed by a diversity of Indigenous communities, environmentalists, and anarchist activists. Recently, the Canadian government nationalized the Trans Mountain pipeline to assure the expansion would be built, putting up 4.5 billion Canadian dollars (\$3.5 billion) to purchase the project from Texas oil giant, Kinder Morgan.



However, the court ruled that the government had not properly consulted with First Nations along the route and had not done proper environmental assessments of impacts on marine life in the waters off Vancouver.

While the immediate impact is to throw the future of TMEX into question, it is by no means a certainty that the ruling ends the pipeline dreams of government and tar sands investors. For one thing, the government can always set about doing improved consultations to the satisfaction of the courts.

Second, government can improve its environmental review, a process gutted by the previous government, Prime Minister Stephen Harper's petro-statist Conservative Party. The government can also appeal the decision, a path it has already said it is giving serious consideration.

Resistance is still essential. To highlight the fact that the court decision does not stop tar sands developments, only days after the ruling Suncor opened a new \$17 billion tar sands project.

Government Threats

One threat is that the federal government will redouble its efforts to pressure and coerce Indigenous communities to give consent or to show a level of consultation agreeable to the courts. This pressure could be applied on political levels (negotiations opened on other issues of concern to communities, like education, for example) and economic levels (more funding promises, etc.).

Many communities, including some that agreed to the pipeline, are dealing with dire economic conditions of poverty and lack of essential resources as the ongoing outcomes of colonialism today. The Canadian government may simply make "an offer that you can't refuse" (in the words of another famous gangster).

During a rally at Burrard Inlet, near Vancouver, the day of the court decision which came as a surprise to almost everyone, one Indigenous leader said that the decision means that the government needs to go back to the drawing board and start the process again. He did not say it is over and done with. He said start the process again (suggesting it could get consent under a new approach).

Another threat, one that has gained less attention at this point, but which is a very real, even likely one, is that the route of the pipeline will be changed to avoid oppositional communities along the current route (including the Tsleil-Waututh, Musqueam, Squamish, and Kwantlen) to get the bitumen to tidewater.

Under this approach the government will piece together a perhaps more circuitous route through consenting communities to get the product to export markets. This option would include a new refinery project as well.

In an interview with CBC News the day of the court decision, the formal leader of one First Nation said that some of the nations that reached agreement on the Trans-Mountain twinning and want the pipeline built are already talking about changing the route, circumventing the ecologically sensitive Burrard.

In addition, the Enbridge Line 3 tar sands pipeline that heads east from Alberta and possible new routes, remain threats. The oil companies and their government protectors have options.

Pipelines are only one means of transporting bitumen from the tar sands. Rail transport is already used and the amount shipped by train can be increased while the wait for pipelines goes on.

Divide and Conquer Again

One tactic used by the government will be to pit Indigenous communities against each other while splitting environmentalists and provoking Indigenous communities and environmentalists into fighting each other.

Part of this could include the use of state security (RCMP, Canadian Security and Intelligence Service, CSIS) to target and label certain Indigenous groups and environmentalists as extremists, radicals, even terrorists, in efforts to discredit them publicly, pose them as a material, even existential threat to Indigenous communities, their safety, security, well being, prosperity, and autonomy.

Documents obtained through Freedom of Information requests demonstrate that the security establishment has already identified Indigenous land defenders and some radical environmentalists for policing and criminalization as terrorists, as threats to be marginalized and contained.

The court decision could be an obstacle to the capacity of the Canadian state to pursue a unilateral course on development issues. But it can be overcome if the state is able to break Indigenous solidarity and if it is able to create serious rifts and splits within and between communities.

Modes of Opposition

A key distinction between some of the pipeline opposition and others is the fundamental assertion of Indigenous sovereignty. For resistance like the Camp Cloud defenders, and the Tiny House Warriors, among others, the central issue is sovereignty, the assertion of Indigenous self-determination and title to the land.

For reformist and NGO environmentalists, the issue is posed more as environmental protection or climate defense, or simply stopping the pipeline or ending tar sands development; all important. For these environmentalists, action is oriented toward appeals to the state to stop the projects and the focus is on the state as the legitimate center of decision making. Lobbying, petitions, and symbolic protests and arrests, as well as legal actions on specific, limited issues are privileged.

For the reformist environmentalists, Indigenous sovereignty is an abstract addendum or a strategic or tactical matter. It is not fundamental and transformational.

For the reformist groups, the legal decision means a victory. It is something that is cause for celebration itself because the immediate project of concern, shorn of the other fundamental matters, has been halted. Indeed, on the Sunday after the decision, a planned day of action against TMEX was turned into a celebration at a neutral site.

I interviewed one anarchist activist proponent of direct action arrested opposing TMEX at the Kinder Morgan gates in Vancouver on September 6. They spoke of the limitations of the reformist environmentalists and their orientation:

“They (NGOs) are too comfortable and embedded with the consultative process. They don’t feel the urgency of the state pressure on them in the same way; it’s as if the sovereignty struggle is an add-on to their environmental argument, and they still center decision making in the state and discount how corporately controlled the state’s regulatory regime really has been, and will continue...So, they are stuck in petition mode. Now, they say they have won even though we have evidence that work continues.”

For anarchists, it is important to act in solidarity in defense of aboriginal title rights. It is important not to lower focus to the level of symbolic action or statist appeals or to believe that an issue is resolved because of a momentary decision of the state or one of its legal apparatuses.

I asked the anarchist I interviewed what role they think anarchists should play in light of the court ruling. In their words:

“It’s crucial to keep the focus on the land and water. They should sharply judge tactics on their effectiveness—direct action slowing down work, along with the solidarity importance in reinforcing aboriginal title rights.”

The pipeline and the terminal in Burnaby are situated on unceded Indigenous territories. The lands were never surrendered, sold, or relinquished to the Crown (occupying government). They also emphasize the continued urgency of resistance: “We’re fucked if we relax too much right now”

There remains a need to decommission sections of the pipeline already built or being built, simply because the government will look to secure consent through stepped up economic and political measures or to reroute the line. The court decision has, if anything, bought some time to be as strategic about that as possible and to be especially careful in the choice of tactics.

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