

Confidential Issues Note - ADVICE TO MINISTER

<p>CONFIDENTIAL GCPE-MEMPR ISSUE NOTE</p> <p>Ministry of Energy, Mines and Petroleum Resources Date: December 14, 2018 - UPDATE Minister Responsible: Hon. Michelle Mungall</p>	<p>Unist'ot'en Action Camp</p>
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RECOMMENDED RESPONSE:

s.13; s.16

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s.13; s.16

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s.13; s.16

KEY FACTS REGARDING THE ISSUE:

On Dec. 14, 2018, the Supreme Court of British Columbia granted Coastal GasLink an interim injunction against members of the Unist'ot'en camp where a gate is restricting access across a bridge.

The interlocutory injunction application was adjourned to not later than May 1, 2019 to permit the defendant Wetsoweten to respond to the application materials (filing deadline not later than January 31, 2019). There is, however, an interim injunction ordered pending the outcome of the interlocutory injunction application requiring removal of the blockade within 72 hours which will remain in place until reasons for judgment are issued on the interlocutory injunction application. There is also an enforcement order now in place providing direction to the RCMP to enforce the terms of the injunction.

Justice Church considered the RJR McDonald test – (i) there is a fair question to be tried; (ii) irreparable harm, whether there is evidence of irreparable harm to the plaintiffs given the logistical complexity and the construction schedule and the joint venture agreements, which would cost money irrevocably, also would result in losses to subcontractors. The plaintiffs magnitude of harm would be significant and no means of recovery, (iii) balance of convenience is heavily weighted in favour of granting an interim injunction, the plaintiff has all necessary permits, and there would be economic harm to the plaintiff, and there would be minimal impact to the defendants by the construction work in the short term (camp and forestry harvest)

On Nov. 26, 2018, Coastal GasLink filed for a court injunction against the Unist'ot'en camp. Notice was also served to the two key Unist'ot'en members of the camp.

On Nov. 20, 2018 six individuals including representatives from TransCanada and its contractors approached the Unist'ot'en camp area to request access. The TransCanada

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group were stopped at the Unist'ot'en-erected gate at the end of the Morice Bridge, where members of the Unist'ot'en camp declined the group's request.

Following the interaction with the Unist'ot'en camp, TransCanada filed a complaint with the RCMP. TransCanada provided the RCMP with its video footage of its interaction with the Unist'ot'en camp.

On Nov. 21, 2018 TransCanada informed the Province it plans to file a formal complaint regarding the blockade with the Ministry of Forests, Land, Natural Resource Operations and Rural Development (FLNR). This is the second complaint registered by the company.

Background:

- s.16
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- The Unist'ot'en camp is located at kilometer 66 of the Morice West Forest Service Road (FSR) near the Morice River. The camp is on Provincial Crown land and includes an increasing number of buildings and at least two separate gates on the Morice River bridge.
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- Current pipeline proposals affected by the camp include Chevron's Pacific Trail Pipeline (PTP) and TransCanada's Coastal GasLink (CGL). CGL is connected to the LNG

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Canada export terminal project in Kitimat; PTP remains an active project and is connected to Chevron's proposed Kitimat LNG facility.

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s.13; s.16

- **Media:** There is active coverage of the camp through outlets like Discourse and the Georgia Straight. The camp's image in the media has changed over time from a place of direct action to a place of culture and healing, with media coverage on the healing centre by the First Nations Health Authority.

Wet'suwet'en governance and hereditary leaders:

s.13; s.16

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