

B.C. takes pipeline obstructionism to new level

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NDP-Green regime thumbing its nose at federal power, says **Kenneth Green**.

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British Columbia has thrown yet another shoe in the gears of Canadian provincial comity with a declaration that B.C. will create a new provincial regulatory process for pipeline approval, and will restrict how much bitumen can be moved through pipelines into B.C.

Premier John Horgan has also announced an "independent scientific panel" to evaluate B.C.'s ability to deal with potential spills, potentially tacking on another two-year delay for the Kinder Morgan Trans Mountain expansion pipeline. Apparently, in the eyes of the B.C. government, the National Energy Board, which has overseen pipeline operations and cleanups for 28 years, is not up to the task.

Premier Rachel Notley immediately called the proposed actions illegal, unconstitutional and mere "political theatre."

Horgan's response? Basically, we'll see you in court. Notley also recently cancelled negotiations of a planned purchase of electricity from B.C., and removed B.C. wine imports in Alberta. There are three ways to

look at B.C.'s actions: a) as a partial rejection of federal control over transportation infrastructure; b) as paralysis-by-analysis that can drag out the "review" process long enough to cause investor flight; and c) as a repudiation of the Notley/Trudeau plan to buy "social licence" for pipelines with an aggressive show of climate-policy implementation.

In the first instance, B.C.'s action is clearly a challenge to federal jurisdiction over transportation. But as law professor Dwight Newman observes, Canada's Constitution is crystal clear on this point, putting interprovincial transportation in the exclusive domain of the federal government.

Newman makes a powerful argument that, absent the constitutional principles that give Ottawa control over interprovincial transportation of all sorts, there "very possibly would have been no national railways, and no Canada to speak of."

In the second case, B.C.'s actions can be seen as a tactic to slow the proposed Trans Mountain expansion,

increase its cost and uncertainty, and potentially change the economics of the project. We have seen this play out before, when Trans Canada cancelled its plans for the Energy East and Eastern Mainline pipeline projects due to additional red tape announced by the Trudeau government. Also last month, Kinder Morgan reiterated that if the Trans Mountain project continues to face "unreasonable regulatory risk" it may not proceed with building the pipeline. It's a well-known tactic of energy obstructionists: if you can't block oilsands production, blockade paths to markets.

Finally, the B.C. government's action is a hard slap at Notley's plans to essentially buy off pipeline opponents with an explosion of climate change policies, which include banning coal-power generation, escalating carbon taxes, hard caps on carbon-emission reductions, additional limits on air emissions from the oil and gas sector, and more spending on every "green dream" on the wish-list of pipeline opponents. Money will flow to more electric car subsidies, renewable energy mandates and subsidies, even a new agency specifically focused on energy efficiency programs.

And what has she purchased for Albertans with this massive increase in tax-and-spend governance? Federal approval of two pipelines, with almost zero buy-in from opponents, including B.C.'s NDP government. The only question is how long will Notley continue to try and buy the un-buyable?

With its latest moves, B.C.'s NDP government has shown it does not respect federal authority and demonstrated a blatant disregard for the economic well-being of Albertans (while gladly using the gasoline and aviation fuel Alberta sells). B.C. is treating Alberta like a trading partner to be blockaded on a whim.

B.C. is already the lowest-ranked Canadian jurisdiction for investment in oil and gas in the Fraser Institute's annual survey of upstream oil and gas executives. Now, in addition to likely cementing its back-of-the-pack status for investment, B.C.'s government has badly weakened inter-provincial relations, challenged federal regulatory authority, and revealed that the concept of public approval is nothing but a pipe dream.

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