

Native suit might delay pipeline

Say Ottawa did not consult with them over the Enbridge's Gateway project

BY DAVID EISNER, CALGARY

A group of first nations along Enbridge Inc.'s proposed \$4-billion Gateway oil sands pipeline are suing the federal government, accusing Environment Minister Rona Ambrose of failing to consult with aboriginals regarding a three-person joint review panel to evaluate the project.

The lawsuit likely means a delay for Enbridge, a significant issue that comes on top of the fact that the

pipeline company still hasn't signed long-term shipping contracts for the 1,150-kilometre connection between Edmonton and the coast of British Columbia to export oil sands to China. Gateway is the key part of Enbridge's growth strategy.

The Carrier Sekani Tribal Council, representing 5,000 people in seven first nations covering about one-third of the Gateway route, planned to file its notice of application in federal court in Vancouver

by this morning.

The federal government announced the joint review panel in late September. The Carrier Sekani had asked Ottawa several times this year to be involved in the talks that led to a panel decision, but was ignored, they claim, arguing in the lawsuit that the project would have "profound impacts upon [Carrier Sekani's] aboriginal interests."

"The Minister has failed to meet her constitutional obligation to consult with the [Carrier Sekani], the lawsuit says.

The lawsuit directly echoes action taken against the proposed Mackenzie Valley natural gas pipeline in 2004, which had been set to

be in service in 2009, a date that now stands at late 2011, because of the legal action and various other delays.

The Dehcho First Nations, whose land covers more than a third of the Mackenzie route, filed two lawsuits against the federal government, complaining they had been unfairly excluded from the joint review panel process for Mackenzie. In July 2005, Ottawa settled the legal action for \$31.5-million.

Greg McDade, managing partner of Ratcliff & Co. LLP of Vancouver, is counsel to the Carrier Sekani and acted on behalf of the Dehcho as well.

The three-member joint review

panel, of which at least two members will be from the National Energy Board, was created by Ottawa to co-ordinate the activities of the NEB and the required environmental assessment by several government departments under the Canadian Environmental Assessment Act.

In the notice of the joint review panel's creation, the federal government said the group's duties included involving aboriginal people in the process. Ottawa added that it planned "a separate and more detailed communication, independent of the joint review panel" in regards to aboriginal Crown consultation.