

Treaty 8 First Nations and PVLA actions against Site C dismissed from two levels of court; PVLA speaks out

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FORT ST. JOHN – Two courts dismissed efforts to stall BC Hydro’s Site C project on August 28; injunctions brought against the proposed dam by two Treaty 8 First Nations were quelled in BC Supreme Court, while two judicial reviews of the environmental assessment process for the project was dismissed at the Federal court level.

Federal judge Michael Manson wrote in his decision that Prophet River and West Moberly First Nations were each given extensive consultation and monetary compensation during the environmental review process; both government and BC Hydro granted the two Treaty 8 First Nations’ ample opportunity to conduct their own studies and contribute to the review, he observed.

Manson concluded in his written statement that the consultation process which BC Hydro engaged in with West Moberly and Prophet River First Nations were “extensive and conducted in good faith”.

At the BC Supreme Court level, while the First Nations’ injunctions were dismissed, West Moberly First Nations Chief Roland Willson saw a small victory in BC Hydro’s stated commitment, in court, to postpone clearing work in old-growth forest areas of the Moberly River valley until after the court case is decided.

The Moberly River valley contains pristine eagle and other wildlife habitats; West Moberly First Nations also see commercial development of land in that area as a threat to their traditional way of life.

In a media release, Willson said: “We went to court to protect our old growth trees, eagle nests, beaver dams and our traditional way of life. As a result, BC Hydro will not be destroying the forests or removing eagle nests and beaver dams in the Moberly River valley. We asked for those areas to be protected”.

Lynette Tsakoza, Chief of the Prophet River First Nations, also spoke out positively about BC Hydro's—temporary—commitment.

"It is clear recognition of the unique ecological significance of the valley," she said.

"We are looking forward to having our day in court to address the legality of the construction permits—an issue that the Court today acknowledged is a 'serious issue' to be heard."

In an email to Northeast News, BC Hydro representative David Conway confirmed: "During the Court proceedings, BC Hydro did commit to change its construction plans to delay construction activities in the Moberly Valley until the outcome of the judicial review of the provincial permits is known. The judicial review hearing is expected to take place this fall. In dismissing the injunction today, the judge noted BC Hydro's commitment.

"We won't be providing further comment at this time as the hearing on the issuance of provincial permits has yet to take place."

In an issued statement about the Federal court's decision to dismiss their request for a judicial review of the environmental assessment of the proposed dam, PVLA points out seemingly unconcealed "secrecy" which was noted during the Federal judicial decision-making process, such as the following quote from the court's finding: "the privacy and arguably lack of transparency surrounding the GIC [Governor in Council]'s decision is not ideal".

PVLA still maintains that adequate financial justification and need for the power generated by Site C has not been established.

"PVLA is disappointed by the decision, and remains concerned that the decision makers that Canadian law tasks with the enormous decision to flood a river valley at tremendous and irreversible environmental and economic cost have ignored the fundamental findings of the only independent panel that has been allowed to review this project: that the need for the Project has not been established and that the Project is not justified," PVLA's release states.

"Site C is by no means a done deal. This is only the start of a 10 year project. PVLA will review it[s] options and redouble its efforts to halt construction of Site C for 2 years. This will allow time for further open, independent and expert review of Site C and pursuit of other much less costly, much more environmentally friendly renewable

energy alternatives,” Ken Boon, PVLA president, states in the release.

Judicial reviews of the Site C provincial construction permits are scheduled for November.

Stacy Thomas

news@northeastnews.ca