

**NATIONAL ENERGY BOARD
OFFICE NATIONAL DE L'ÉNERGIE**



**Hearing Order OH-001-2014
Ordonnance d'audience OH-001-2014**

**Trans Mountain Pipeline ULC
Trans Mountain Expansion Project**

**Trans Mountain Pipeline ULC
Projet d'agrandissement du réseau de Trans Mountain**

VOLUME 18

**Hearing held at
L'audience tenue à**

**Hotel 540
540 Victoria Street
Kamloops, British Columbia**

**November 20, 2014
Le 20 novembre 2014**

**International Reporting Inc.
Ottawa, Ontario
(613) 748-6043**

Canada

© Her Majesty the Queen in Right of Canada 2014
as represented by the National Energy Board

This publication is the recorded verbatim transcript
and, as such, is taped and transcribed in either of the
official languages, depending on the languages
spoken by the participant at the public hearing.

Printed in Canada

© Sa Majesté du Chef du Canada 2014
représentée par l'Office national de l'énergie

Cette publication est un compte rendu textuel des
délibérations et, en tant que tel, est enregistrée et
transcrite dans l'une ou l'autre des deux langues
officielles, compte tenu de la langue utilisée par le
participant à l'audience publique.

Imprimé au Canada

HEARING ORDER/ORDONNANCE D'AUDIENCE
OH-001-2014

IN THE MATTER OF Trans Mountain Pipeline ULC
Application for the Trans Mountain Expansion Project

HEARING LOCATION/LIEU DE L'AUDIENCE

Hearing held in Kamloops (British Columbia), Thursday, November 20, 2014
Audience tenue à Kamloops (Colombie-Britannique), jeudi, le 20 novembre 2014

BOARD PANEL/COMITÉ D'AUDIENCE DE L'OFFICE

D. Hamilton	Chairman/Président
P. Davies	Member/Membre
A. Scott	Member/Membre

ORAL PRESENTATIONS/REPRÉSENTATIONS ORALES

Lheidli T'enneh First Nation

Chief Dominic Frederick

Mr. Karl Sturmanis

Mr. Keith Henry

Upper Nicola Band

Chief Harvey McLeod

Elder Mary Archachan

Mr. Fred (Scotty) Holmes

Mr. Lou Paul

Councillor George Saddleman

Ms. Crystal Reeves (counsel)

Ms. Brenda Gaertner (counsel)

TABLE OF CONTENTS/TABLE DES MATIÈRES

(i)

Description	Paragraph No./No. de paragraphe
Opening remarks by the Chairman	8493
<u>Lheidli T'enneh First Nation</u>	
Chief Dominic Frederick	
Mr. Karl Sturmanis	
Keith Henry (counsel or representative)	
- Oral presentation by Mr. Keith Henry	8514
- Oral presentation by Mr. Karl Sturmanis	8581
- Oral presentation by Chief Dominic Frederick	8624
Opening remarks by the Chairman	8769
<u>Upper Nicola Band</u>	
Chief Harvey McLeod	
Elder Mary Archachan	
Mr. Fred (Scotty) Holmes	
Mr. Lou Paul	
Councillor George Saddleman	
- Opening remarks by Chief Harvey McLeod	8784
- Introduction by Ms. Reeves	8792
- Oral presentation by Elder Mary Archachan	8808
- Oral presentation by Mr. Lou Paul	8880
- Oral presentation by Councillor George Saddleman	8912
- Oral presentation by Mr. Fred Holmes	8966

LIST OF EXHIBITS/LISTE DES PIÈCES

(i)

No.	Description	Paragraph No./No. de paragraphe
------------	--------------------	--

UNDERTAKINGS/ENGAGEMENTS

No.	Description	Paragraph No./No. de paragraphe
-----	-------------	---------------------------------

**Simpcw First Nation - Oral presentation
Presentation by Councillor Fred Fortier**

--- Upon commencing at 9:04 a.m./L'audience débute à 9h04

8493. **THE CHAIRMAN:** I understand -- good morning, Chief Frederick. I understand that you were going to start with a drum song. Am I correct?

8494. **CHIEF DOMINIC FREDERICK:** Yes.

8495. **MR. KEITH HENRY:** Can I provide some background to the song?

8496. **THE CHAIRMAN:** By all means.

8497. **MR. KEITH HENRY:** Good morning.

8498. So the song is called Morris Kwah's Lament. This song should not be sung within the church due to its content. The song originates as a Lheidli song. Morris Kwah wrote the song when his wife left him and went back to her home in Fort St. James; otherwise known as Naxaxalhts'i. The song follows the travels along the rivers to each of the nations where he cries for his loss and says goodbye to the woman.

8499. Thank you. You can begin.

(Opening song)

8500. **THE CHAIRMAN:** Thank you, and thank you for sharing that song with us.

8501. And we'd like to welcome you to the oral traditional evidence phase of the National Energy Board's hearing regarding the Trans Mountain's Expansion Project.

8502. My name is David Hamilton. I am the Chair of the Panel. With me is Alison Scott on my left, and on my right, Phil Davies.

8503. We will sit from 9:00 to 12:00 today and we'll take breaks as appropriate throughout your presentation. You just please feel free to ask for a break or we'll recognize that when we need to.

8504. And if you feel at the end of your time with us today that it isn't sufficient for you to file all the oral traditional evidence that you would like to

**Simpcw First Nation - Oral presentation
Presentation by Councillor Fred Fortier**

have filed, please feel free to ask for another means of filing any further additional oral traditional evidence by electronic means, such as a video or some other method.

8505. The Board understands the Lheidli T'enneh have an oral tradition for sharing knowledge from generation to generation and this information cannot always be adequately shared in writing. Sharing your traditional knowledge and stories about the use of your traditional territory is of value to us.

8506. If you wish to share any concerns about the impacts the proposed project may have on you and your community, and how any impacts can be eliminated or reduced, that would also be helpful to us. This is the type of information we're here to listen to, and we will use this information we gather today, along with all the other available information in considering the possible effects of the proposed project. We appreciate that you have chosen to be with us today.

8507. Before providing your oral traditional evidence, presenters will be asked to swear or affirm that the information they're presenting is accurate and truthful, to the best of their knowledge and belief. With that, and before we start Lheidli T'enneh's presentation, I'd offer the proponent, Trans Mountain, to introduce themselves to the hearing.

8508. **MS. OLENIUK:** Good morning to the Panel and good morning to the representatives from Lheidli T'enneh.

8509. My name is Terri-Lee Oleniuk, and I'm legal counsel to Trans Mountain as well as my colleague to my right, Heather Weberg. To my left is Annie Korver, and she's a member of Trans Mountain's Aboriginal Engagement Team. Good morning.

8510. **THE CHAIRMAN:** And with that, perhaps Ms. Comte, if you could have the representatives sworn or affirmed. Thank you.

KARL STURMANIS: Affirmed

DOMINIC FREDERICK: Affirmed

KEITH HENRY: Affirmed

8511. **THE CHAIRMAN:** With that, Chief Frederick, we're ready to

Lheidli T'enneh First Nation - Oral presentation
Presentation by Mr. Keith Henry

proceed and then perhaps you could maybe indicate if you're prepared to take questions either orally or in writing or both at the end of your presentation.

8512. So with that, Chief Frederick, I'm looking forward to hearing from you.

8513. **CHIEF DOMINIC FREDERICK:** Thank you. First, we'd like to begin with Keith's acknowledgement.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR MR. KEITH HENRY:

8514. **MR. KEITH HENRY:** Good morning. I'd like to take this time to acknowledge that we are here today as guests on Secwepemc territory and thank them for hosting us today. I'd like to also thank each -- the NEB Panel for the opportunity to hear Lheidli T'enneh's story of occupation and use of the land where the proposed project is.

8515. I'd like to introduce to my left, Chief Dominic Frederick, and to his left, Karl Sturmanis as well as myself. We are here today as the presentation team on behalf of Lheidli T'enneh.

8516. We've come as a group of three. We do not have our legal counsel here today, nor do we have any Elders or other community members here. Today we will present information to the Panel about Lheidli T'enneh rights and interests and how they will be affected.

8517. I will first present an overview of the history of Lheidli T'enneh and significant historic events leading up to the present-day continuation of the Lheidli T'enneh fishery and the potential threat that is posed by the Trans Mountain Expansion Project and the existing Trans Mountain pipeline.

8518. I will then ask Karl Sturmanis to lead Chief Frederick, after a break, through a series of questions and responses to hear first-hand accounts of Lheidli T'enneh cultural practices and Chief Frederick's efforts to protect cultural values and further Lheidli T'enneh interests to become fully -- to become a fully self-reliant nation.

8519. The Lheidli T'enneh do not consider the current NEB process as appropriate or adequate as a means to engage in meaningful consultation and

Lheidli T'enneh First Nation - Oral presentation
Presentation by Mr. Keith Henry

accommodation regarding its rights and title.

--- (A short pause/Courte pause)

8520. **MR. KEITH HENRY:** At any time, if a Panel Member or member of the team for Kinder Morgan would like to ask us questions, we'd be willing to entertain the question, although we may need to answer it in writing afterwards.

--- (A short pause/Courte pause)

8521. **THE CHAIRMAN:** Just proceed. Yeah.

8522. **MR. KEITH HENRY:** Okay, moving forward, moving to Slide 2.

8523. I'd like to introduce by talking about the declaration of Lheidli T'enneh. We are Lheidli T'enneh, the people from where the two rivers flow together. Like the rivers, we aspire to move ahead as an organized, highly motivated, determined and self-reliant nation. We are proud, united people whose purpose is to ensure a future that will provide a better quality of life while flourishing with our environment.

8524. Our traditions and cultural beliefs are the driving force of our success and destiny. The name Lheidli T'enneh translates as "people from where the rivers flow together". The rivers spoken of are the Nechako, which means river with strong undercurrents, and the Letatko (ph), the big mouth river. These rivers are also known as the Nechako and the Fraser River.

8525. We were often called the Tano-tenne, which means people a little to the north. We travel throughout our territory, a territory that was once separated into Kaos. Each Kao was the responsibility of an extended family. We hunted and gathered through our traditional territory.

8526. We traded with neighbouring communities. There were no permanent settlements as we think of them today. Instead, there were seasonal villages and camps along the lakes and the rivers throughout our territory.

8527. Lheidli, the site of present-day Prince George, was one of these villages. It is clear to us that our ancestors occupied and used all of that we know now as our traditional territory. This is still true to this day.

Lheidli T'enneh First Nation - Oral presentation
Presentation by Mr. Keith Henry

8528. Our traditional territory falls within the regions covered by the federal government's Caribou and Nechako development regions and within the regional districts of Fraser/Fort George, Caribou and the Bulkley Valley. The territory stretches over 4.3 million hectares from the Rocky Mountains to the interior plateau of B.C., including the city of Prince George.
8529. The Lheidli T'enneh Reserve Number 1, Tsunket (ph), is located where the Fraser and the Chilacko Rivers meet in downtown Prince George. This is where the neighbourhood and parks now reside on this site. There is a traditional burial ground, the cemetery, located at this site as well.
8530. The history of Lheidli T'enneh people is an important part of the history of the city of Prince George and the entire region. Lithic evidence supports the conclusion that indigenous people occupied the area between 7,500 and 9,000 years ago. There were two digs in the last 40 years that uncovered artefacts that have been scientifically dated.
8531. The government system in the past was originally conducted by extended family heads, but by the time of European contact was through the batelats (ph). This community-involved process provided for participatory decision-making. It was also utilized for specific purposes such as coming of age, marriage, death, sharing of wealth and food.
8532. There are several clans and sub-clans, and each had a male and female head person. The Lheidli T'enneh clans were and are the frog, grouse, beaver and bear. There was also a medicine man who was held in high standing within the community. This person dealt with the physical, mental and emotional and spiritual wellbeing of community members.
8533. The roles in the community centered on the gathering, preparation and storage of caribou, salmon, berries, plants and medicines. Each member had a role and responsibility, the lives of all the community members depending on it.
8534. Oral history was the means of transferring knowledge. The use of legends was very important to express past occurrences and to pass on information. I'll now go through a following list of items dated to specific years that talks to some of these items that were passed on and are of the history. While it's not an inclusive list, these are some of the things that we've made special note to present to you today.

Lheidli T'enneh First Nation - Oral presentation
Presentation by Mr. Keith Henry

8535. In 1793, Alexander McKenzie travels through Lheidli T'enneh territory and follows the ancient grease trail. The first contact with Lheidli T'enneh was probably at Fort George Canyon, which is south of Prince George.
8536. In 1807, Simon Fraser establishes an advance camp at Lheidli T'enneh to explore Fraser River -- the Fraser River to the ocean. In 1808, for the next 50 years, the fur trade would be dependent upon the Indians to supply labour for building and hauling but, more importantly, for dried salmon for food purposes. This comprised the fur trader's ability to only exchange trade goods for furs, forcing them to supply credit and, at times, cash purchases.
8537. In 1836, a smallpox epidemic broke out in northern British Columbia. In 1839, a census was taken of Lheidli village. There were 75 men, 50 women, 62 children, for a total of 187 community members in this village.
8538. Eighteen fifty (1850), there was a measles epidemic. Eighteen sixty-one (1861), colonial policy for the establishment of reserve lands. Ten years later, in 1871, Indians are not allowed to fish commercially. In 1872, smallpox epidemic broke out in B.C. In 1888, the Federal Policy creates Indian Food Fishery, but Indians are still not allowed to fish commercially.
8539. In 1888, there was also a smallpox epidemic. In 1892, O'Reilly, a surveyor, surveys the Fort George Indian Reserves. In 1897, Indian fishing devices were destroyed by federal officials.
8540. In 1911, there's a controversial sale of Indian Reserve Number 1. This sale is currently a specific claim in the Federal Specific Claims Resolution Process. The Band was not paid the market value of the land. There are questions in regards to why two other offers were rejected by the federal government.
8541. There is also an issue of the Grand Trunk Pacific Railway only requiring 18 acres of land to build their rail lines and station. The remainder of the 1,466 acres were sold the next year for over \$1 million.
8542. Nineteen thirteen (1913), on September 7th the remaining members of the Lheidli village were forced from the sites against their will. They were removed from their homes, and their homes were burnt to the ground.
8543. As well, in 1913, as part of the sale of Lheidli T'enneh village,

Lheidli T'enneh First Nation - Oral presentation
Presentation by Mr. Keith Henry

contractors constructed approximately 20 new houses and St. Pius X church at Indian Reserve Number 2, as well as houses at Indian Reserve Number 3, Clesbaoneecheck. While the new homes looked nice, they were constructed from poorly seasoned lumber that continued to shrink, making the houses drafty, cold and unsuitable for the winters in the area.

8544. In 1918, the Spanish flu kills many Indians in B.C. In 1920, B.C. Indian population reaches the lowest point on record. Nineteen twenty-two (1922), the Lejac Residential School was established at Fraser Lake. This residential school closed in 1976. Many of the Lheidli T'enneh were forced to attend this school.
8545. In 1951, the *Indian Act* was revised repealing prohibition from First Nations to pursue land claims and the potlatch. In 1953, the Trans Mountain pipeline completed construction, enabling oil to be transported from Edmonton to Vancouver at a cost of 93 million.
8546. In 2002, Memorandums of Understanding on cooperation and communication were signed with the City of Prince George and the Regional District of Fraser Fort George, along with Lheidli T'enneh. In 2010, the Fraser River Bridge archaeological dig finds an extensive collection of lithic items covering many thousands of years of occupation, and some of the lithic items were dated to 7,500 years ago.
8547. In 2013, the Band is the host of the 37th annual B.C. Elders gathering, which is a provincial gathering for Elders in the province. This next year, in 2015, the Canada Winter Games will be coming to the city of Prince George and, for the first time in history, an official host First Nation has been named, and that will be Lheidli T'enneh.
8548. The Lheidli T'enneh have made several significant decisions with regards to self-government. We were the first in the province to enter into treaty negotiations and, in 2001, we were the first Aboriginal community in B.C. to successfully ratify their land code.
8549. As a signatory to the *First Nations Land Management Act*, Lheidli T'enneh have opted to take over the management and control of their land and resources, coming out from under the land and resources section of the *Indian Act*. This includes the protection and management of the reserve land environment.

Lheidli T'enneh First Nation - Oral presentation
Presentation by Mr. Keith Henry

8550. In 2007, the nation also drafted the Constitution of Lheigli T'ennenh, which was later ratified at the community level and serves as a governing document for the nation. We are currently undertaking the government's review, which will include amending governing codes and will include a Constitutional review as well as working with the community to undertake the drafting of a custom election code.
8551. Treaty negotiations are ongoing and the nation is currently at Stage 5 of the British Columbia treaty process. There will be a second ratification vote expected to occur in 2015. Lheidli T'enneh asserts their rights and title to the traditional territory that was submitted to the B.C. Treaty Commission and accepted in 1993.
8552. I'd like to provide a bit of information on the terms of our fisheries program. The Lheidli T'enneh includes the entire Upper Fraser River watershed and portions of the Nechako and Peace watersheds. Those areas provide habitat for numerous stocks of resident species, including salmon.
8553. The Lheidli T'enneh have a long-standing history as stewards of these aquatic resources. The fisheries program works defer to the fisheries-related interests of the community and does so both independently and in conjunction with the provincial and federal fishing agencies. Some of the key recent and current initiatives include managing and monitoring the community's food, social and ceremonial harvest of salmon, enumerating spawning Chinook in several key tributary streams to the Upper Fraser River, developing and implementing a rebuilding plan for the sockeye population, research and monitoring of the Upper Fraser's white sturgeon population, and inventorying, monitoring, fisheries and developing management strategies for central interior burbot populations.
8554. As you can see, there's our traditional territory, 4.3 million hectares on the map. And if you look really closely, you'll see the Fraser River, which is the main stem and its tributaries have been a primary source of food from the earliest times and the salmon fishery is regarded as a core value of the Lheidli T'enneh culture, approximately 375 kilometres of the Fraser River within the Lheidli T'enneh territory.
8555. The Fraser is regarded as one of the greatest, if not the greatest, salmon-producing rivers in the world. The Lheidli T'enneh have been stewards of the Upper Fraser for countless generations and are continuing in that role

Lheidli T'enneh First Nation - Oral presentation
Presentation by Mr. Keith Henry

today. If you have a closer look at the map, you see on this map it indicates that there are 27 major watersheds within the traditional territory.

8556. The Lheidli T'enneh traveled extensively throughout their territory prior to the immigration of settlers beginning in the early 1800s. The Lheidli T'enneh village at the mouth of the Nechako was likely built up and increased in capacity with the arrival of Simon Fraser in 1807 and subsequent Hudson Bay post operations from 1820 to 1915.
8557. Here's a picture that shows the village of Fort George in 1910 that's part of the 1,366-acre reservation purchased by the Grand Trunk Pacific Development Company and then was burned down in 1913 to make way for the new city of the north.
8558. The Lheidli T'enneh village was established during the 1800s and early 1900s until government officials asserted pressure on Lheidli T'enneh leadership to relocate to make way for the Grand Trunk Pacific Railway.
8559. Through recent photos taken looking out east and north from IR number 1, the old cemetery, bears witness to the sources of the railroad push. If you look closely at this picture, you'll see that there is a CN train -- railway train in the background. The modern highway, railways, bridges and plumes of vapour from local pulp mills reflect the large-scale changes in resource extraction and population growth experience since the early 1980s.
8560. The next slide shows this, again taken from IR number 1. It shows the industry. This next slide shows Fort George Indian Reserve number 1. The modern-day settler town of Prince George was founded on this land. It saw the forced displacement of Lheidli T'enneh. These were the parcels of land that were sold off, as shown in the picture.
8561. This next picture shows the community of Lheidli T'enneh that was moved upstream 15 miles on the Fraser River and which has been designated by the federal government as Indian Reserve number 2.
8562. The village relocation was deemed necessary by the federal government of the day in order to facilitate construction of the Grand Trunk Pacific Railway across the Fraser River due to the confluence within the Chalk River. Construction was completed in 1914. As you can see from this slide, here we are. We're overlooking the Fraser River, looking to the east. And this is the

Lheidli T'enneh First Nation - Oral presentation
Presentation by Mr. Keith Henry

exact location where the railway was built.

8563. Over the years, Lheidli T'enneh provided assistance to settlers by supplying valuable food through winter and assisting in travel on rivers and trails. This picture shows a number of Lheidli members in the dugout canoe. They're helping a surveyor on the Penny area, which is the eastern part of the territory.
8564. This next picture shows two Lheidli T'enneh members, Alec Paul Sr. on the left side. Alec served in the Canadian Army in World War II. On the right side, Steven Jael was a well-respected knowledge holder from the community. Both are now deceased.
8565. I'd like to share with you some photos as well as talk about our fish camp from this past summer that Lheidli T'enneh Elders, youth and community members participated in. This fish camp was taken -- was held in a traditional fishing site in the territory. This picture shows activity of setting the net by two community members.
8566. And the next picture will show the community members bringing in salmon. As you can see in the boat, there's a bucket full of salmon by the individual on the right. The individual on the right is Alec Paul Jr., son to Alec Paul Sr.
8567. This next photo shows an Elder and a community member -- community staff person getting ready to prepare the salmon. Elder Veronica Seymour takes the salmon and starts filleting it. Elder Edith Frederick also assisting in the process.
8568. Part of this fish camp involved Elders, youth and community members helping to build a newly constructed smokehouse, a community smokehouse where community members can come and bring their salmon and smoke them.
8569. Of special note is that Lheidli T'enneh youth are learning the traditional preparing of the salmon from the Elders. As you can see here -- it's a little bit hard to see with the lighting I think, but -- can we maybe have the lights turned down?

--- (A short pause/Courte pause)

8570. **MR. KEITH HENRY:** Much better. Thank you.

Lheidli T'enneh First Nation - Oral presentation
Presentation by Mr. Keith Henry

8571. So we have two photos here. On the left side are a number of youth. They're preparing the salmon and putting it on the drying stick. On the right side, you'll see a number of salmon hanging there drying and in the process of being smoked.
8572. Again, in this picture a little bit different perspective. Looking in, we have an Elder in there preparing the salmon and hanging the salmon, but also we have a number of youth in the picture there as well and they're taking it all in.
8573. At the end of the fish camp -- at the end of the three-day fish camp, this is what happened at the end. The fruits of labour were shared with the community members and community gathered for a potlatch.
8574. Today, I also bring for the Panel Members and anyone else that might be interested to test and try a sample of salmon that was prepared within this fish camp. We have canned salmon and I also have a small cooler with some other smoked salmon as well, and I'd be happy to share that with you at the break.
8575. So that brings me to the next part of our presentation, and I'd like to introduce Karl Sturmanis, who will now lead Chief Frederick through the next portion of our presentation.
8576. First, Karl will talk about his experiences in the area of concern for Lheidli T'enneh with the Trans Mountain Expansion Project. Thank you.
8577. **THE CHAIRMAN:** Just when you want to take a break just indicate to us, Mr. Sturmanis. Thank you.
8578. **MR. KARL STURMANIS:** I was just going to ask if anyone else felt they want to take a break, just to be courteous.
8579. **THE CHAIRMAN:** I'll leave that to you to make our choice for us. How does that sound?
8580. **MR. KARL STURMANIS:** I'm fine to go. Okay.

Lheidli T'enneh First Nation - Oral presentation
Presentation by Mr. Karl Sturmanis

--- ORAL PRESENTATION BY/REPRÉSENTATION PAR MR. KARL STURMANIS:

8581. **MR. KARL STURMANIS:** I've been asked to work for Lheidli T'enneh for over the last year to help assist the Lheidli T'enneh First Nation in doing the environmental review of the project. And in that regard -- and is my voice level all right because I know I'm not actually a very loud speaking person, so technology helps here.
8582. I was asked to help over the last year to do environmental assessment work with Lheidli T'enneh and, as part of that, was a Traditional Use Study that is a requirement of the -- I guess in the old days it was more the Environmental Assessment Office would lead that or the Canadian Environmental Assessment, and I believe NEB is taking that role on to -- that requirement is still part of the process.
8583. So in 2013, as part of the Traditional Use Study, the Lheidli T'enneh conducted a field tour of the 140 kilometres of the Trans Mountain pipeline route to learn more about its design and operation. The field tour also looked at the condition of the 60 year old pipeline.
8584. During the tour, concern was expressed about the potential impacts that a spill or leak would have on the wildlife and the watercourses, particularly the Fraser main stem and major salmon-bearing tributaries. The concern was based largely on the close proximity of the pipeline to watercourses and the many river crossings found within the pipeline route.
8585. Further research revealed that the existing pipeline has experienced leaks and spills and it appears that, despite the efforts and use of safety technology to detect pipe defects or leaks and spills, that technology is not always effective and that, in fact, we still have leaks and spills that can occur, as was witnessed in the summer of 2013 around the Merritt area and in very close proximity time-wise on the Coquihalla section.
8586. A major concern is the remote and challenging terrain of the Upper Fraser, and there will be some subsequent slides that will show that more clearly. And because of the remote and challenging nature of the terrain, it could potentially result in significant harm, we believe, to the fish that the Lheidli T'enneh rely on for food should a spill occur in that area.

Lheidli T'enneh First Nation - Oral presentation
Presentation by Mr. Karl Sturmanis

8587. Now, despite Lheidli T'enneh efforts to engage in a cooperative approach to learn more and improve the safe operation of the Trans Mountain pipeline and expansion, there has, in our view, been minimal and almost non-existent support from Kinder Morgan and the National Energy Board, respectively.
8588. Next slide, please.
8589. So in 2013, the traditional use group, there was a number of people from Lheidli T'enneh, community knowledge holders and myself and another staff person that toured the pipeline route for a five-day period. And our field tour started from an area east of Moose Lake, which is in the slide that you see now, and extended to an area -- and you can go to the next slide -- area to the east of Moose Lake, Mount Robson area, Hargreaves, as well as the entire route -- and that's Mount Robson there.
8590. If people are at all -- well, if you live in Alberta or B.C. you'll recognize that as an iconic mountain, the highest in the Canadian Rockies, and it's -- you can get -- if you take a picture from the pipeline route, you -- we've got other photos that very picturesque area. That very challenging -- again, I would emphasize, very remote from any launch points for safety crew spill response, you know, as Jasper and Blue River a long distance away from this part of the world.
8591. We travelled down -- and further slides, please.
8592. This is where -- the salmon cannot go any further than an area called Overlander Falls. And again, if you travel the route from B.C. to Jasper National Park, this is one of the tourist stopover places. It's -- you can see the canyon nature of the river there. High velocity water, difficult access.
8593. And then if you can go further, please.
8594. So the focus area -- this is an overview. The focus is in -- the white kind of squiggly line through the mountains, I believe, is the provincial border. The focus area, that red line, is the highway pipeline. It basically matches. They're red and yellow. They're almost -- they're not really easily discernible, but if you follow the red, which is the highway, the Yellowhead Highway, and then makes a left turn down towards Valemound and the Kootenay area, Tete Jaune Cache you can see as an identifier, the area -- that's Rearguard.

Lheidli T'enneh First Nation - Oral presentation
Presentation by Mr. Karl Sturmanis

8595. And again, it's unfortunate, the colouration of the wording. In red, I think Hargreaves and Rearguard Pump Station would be identified there. They're all really close to that junction.
8596. So next slide, please.
8597. That's actually Rearguard Falls. Salmon do pass up there. As I said, Overlander is the natural barrier. Of particular concern is a double crossing at Rearguard, and this slide -- sorry; that's fine. You can go to the next one. This is why we put that slide in.
8598. This was an anomaly that we saw during the 2013 tour. It's just by the Albreda Pump Station on the southern part of the Lheidli T'enneh territory. This is simply to demonstrate that there is ongoing activity to maintain and deal with detections of anomalies and deal with potential, you know, prevention of leaks.
8599. So these are open digs that Kinder Morgan actually addresses. They have a regular maintenance program, and this is part of it and if there is any issues, then they would do this kind of procedure.
8600. Next slide, please.
8601. So this takes to Rearguard and our concern about that there might be some issues in the Rearguard area. Now, there's double crossing here that's proposed, and our best -- our most up-to-date understanding is that the initial proposal was to twin track; the new expansion pipeline proposal would actually parallel very closely the crossings at Rearguard.
8602. Now, a recent correspondence to us is that Kinder Morgan may be entertaining some other options, but we're in a stage of communication to get clarification and a better common understanding of what really is being proposed.
8603. We have flagged this area as an issue area, a very central issue area, with Kinder Morgan because of the things that I mentioned earlier; the remote nature and the high consequence impact that it would have to salmon.
8604. There are very few access points for spill response to address something that may happen in this particular area or -- not just this area, but this is -- it kind of symbolizes it. And I don't want to bog down into the engineering aspects or the fisheries technical aspects, but suffice to say that I think there's a

Lheidli T'enneh First Nation - Oral presentation
Presentation by Mr. Karl Sturmanis

real question mark about the thinking behind placement of pipelines in high -- and I believe this would be a high consequence area, in our view.

8605. So move to the next slide, please.

8606. And I can -- if I could be permitted, I might have my colleague, Keith Henry, speak to this a little bit, too. It's a very brief video clip, and I hope it works, of Rearguard.

8607. **MR. KEITH HENRY:** Thanks, Karl.

8608. Yeah, so this video clip is a short 30-second video, and we were visiting the area this past summer; I think it was May 29th, to be exact. And so we stopped in at the Rearguard pump station and Chief and Council and technical staff attended the visit. And we looked at the two different locations at Rearguard. And so this is the northwest side that we took a video of.

8609. We also visited the northeast side of the crossing, which we'll show in the following picture, but we'll proceed with the video.

8610. And this will give you, hopefully, a better understanding of this area of concern.

(VIDEO PRESENTATION/PRÉSENTATION VIDÉO)

8611. **THE CHAIRMAN:** Mr. Henry, just for clarity, that is Rearguard Crossing, is that? Am I right; is that the crossing?

8612. Thanks. Just for -- make sure that we understood that. Thank you.

8613. **MR. KARL STURMANIS:** Yes, that is where the existing built in '53 pipeline was, and it was an initial proposal brought forward by Kinder Morgan at that -- at both ends -- both sides of Rearguard pump station. As I said, there is a subsequent -- another option being looked at.

8614. And maybe if we can look at the next slide.

8615. I guess this is just sort of to bear witness, proof that people were there. We were part of a -- Keith, the Chief, myself and others visited that site. And Councillors from Lheidli T'enneh and staff, and that was just a few months ago

Lheidli T'enneh First Nation - Oral presentation
Presentation by Mr. Karl Sturmanis

that we visited the site.

8616. So we would ask, actually, to take a short break at this point because we'd like to go into another section of discussion with -- where I lead Chief Frederick in asking him about his personal experience with Lheidli T'enneh fisheries and culture aspects of the Lheidli T'enneh.

8617. **THE CHAIRMAN:** That's fine. Will 15 minutes be sufficient for you?

8618. Okay. We'll come back at about quarter after 10:00.

--- Upon recessing at 9:58 a.m./L'audience est suspendue à 09h58

--- Upon resuming at 10:22 a.m./L'audience est reprise à 10h22

DOMINIC FREDERICK: Resumed

KARL STURMANIS: Resumed

KEITH HENRY: Resumed

8619. **THE CHAIRMAN:** We may be a little bit longer than -- the break than we had anticipated, but as you indicated earlier in your presentation that you were going to share some salmon with us. And I'll just acknowledge that we did receive it at the break, and we appreciate it, and it was extremely enjoyable. Thank you for that offering.

8620. **MR. KARL STURMANIS:** Thank you. I hope people enjoyed the salmon, and I see some smiles, and we did a little survey and people liked the white salmon, I believe. And I'll pass that along to somebody who predicted that the white salmon would taste quite good.

8621. So I wanted to proceed with Chief Frederick. I believe this is really important for the National Energy Board Panel and Kinder Morgan to hear, at a personal level, the involvement of Chief Frederick over decades of work that he's been involved in, and in those years he's also gained understanding and knowledge and been very intimately involved with the Lheidli T'enneh development of the whole community. So I thought it would be a very good opportunity to lead through that.

8622. So the format would be in a -- that I would be asking Chief Frederick

Lheidli T'enneh First Nation - Oral presentation
Presentation by Chief Dominic Frederick

on some points and he'd provide a response and we'd move through some topic areas that way.

8623. So -- and I believe we also -- just on a technical issue -- we'll try to provide the appropriate slides in the timing. We don't have that many, but I'll work with Danielle there to -- I think we have the right one now there to start with.

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR CHIEF
DOMINIC FREDERICK:**

8624. **MR. KARL STURMANIS:** Chief Frederick, we have a map of the traditional territory there, and do you recognize this as the traditional territory?

8625. **CHIEF DOMINIC FREDERICK:** Yes, I do. The map that you're viewing now is a pre-existing map that's been updated through the years from 1970 until the submission to the Treaty process in 1994.

8626. The map was -- has been worked on, and has been worked on by the Elders and our Elders, and some of the Elders that are deceased now, and I believe all of them not, but pretty much all of them have deceased.

8627. I'll just run through a number of names and I'll give you some names of Elders that have been part of this and part of working through the territories and helped putting the map together. Alan Seymour, Sr. (ph), Alex Paul, Sr., Fred Price, Steven Jael, Sr., August Kwah, Phyllis Kwah, Theresa Frederick, Margaret Gagnon, Mary Price, Art Gracey (ph), Steven Kwah, Patrick John, Josephine Paul, Peter John, Ron Seymour, Alan Seymour (ph), Jr., Mary Gouchie, Dominic Frederick, Sr., Walter Jael, Donald Jael, Harvey Kwah (ph), and many more that are not listed on this list in regards to help put the map together and to create the land base of Lheidli T'enneh.

8628. **MR. KARL STURMANIS:** Thank you.

8629. So how is this map boundary used today?

8630. **CHIEF DOMINIC FREDERICK:** It forms the basis of how referrals are directed to Lheidli T'enneh for the purpose of initiating consultation; anything that is expected to have a potential impact on our interests within the area of that boundary is referred to us.

Lheidli T'enneh First Nation - Oral presentation
Presentation by Chief Dominic Frederick

8631. **MR. KARL STURMANIS:** And what does the traditional territory boundary mean to you and to community members?
8632. **CHIEF DOMINIC FREDERICK:** It is an area which we can hunt and fish, gather berries and medicinal plants, and to exercise our rights in the area we are responsible for stewarding, so that we will always produce for and support our people, so that our rights and our way of life that is attached to those rights will always have meaning.
8633. **MR. KARL STURMANIS:** And how do the governments recognize your rights within that area?
8634. **CHIEF DOMINIC FREDERICK:** We hunt and fish throughout our area within ---
8635. **MR. KARL STURMANIS:** Without.
8636. **CHIEF DOMINIC FREDERICK:** Without. Without our area without being challenged or charged by enforcement agencies.
8637. **MR. KARL STURMANIS:** And what species do you harvest for food?
8638. **CHIEF DOMINIC FREDERICK:** We hunt a number of species; moose, deer, elk, caribou. Now, we don't take any caribou because they're a species of risk, so the caribou is one that we -- part of our diet has been changed from that. But there are others. There is bear and goat, and anything that the land produces.
8639. **MR. KARL STURMANIS:** And are there seasons when you hunt, when you can hunt?
8640. **CHIEF DOMINIC FREDERICK:** Basically, we hunt -- some of us have hunted year-round only when we need the meat to support our families and -- except for the springtime and when the moose are producing and having calves and that, then we do not hunt then.
8641. **MR. KARL STURMANIS:** And are there limits on your harvest?

Lheidli T'enneh First Nation - Oral presentation
Presentation by Chief Dominic Frederick

8642. **CHIEF DOMINIC FREDERICK:** There are no limits on our harvest.
8643. **MR. KARL STURMANIS:** Okay. And what species of salmon do you harvest?
8644. **CHIEF DOMINIC FREDERICK:** We have chinook and sockeye in the area.
8645. **MR. KARL STURMANIS:** Okay. And where do you harvest the salmon?
8646. **CHIEF DOMINIC FREDERICK:** Most of the -- no, not most, but all of the fish that we do get for our community is harvested from the Fraser -- Fraser River.
8647. **MR. KARL STURMANIS:** And historically?
8648. **CHIEF DOMINIC FREDERICK:** Historically we've fished -- we have many runs that come through our territory, and historically we've fished all the runs that did come through our territory. And just recently, in the past decade, we've not fished the early Stuart, and also the Bowron Run to -- just to build up the stocks in them areas. And we honour the closure on the early Stuart for the northern tribes up in the Stuart area.
8649. **MR. KARL STURMANIS:** So Danielle, we'd like to go to a new slide.
8650. So Chief Frederick, are you subject to any limits, in terms of what your community can harvest for salmon?
8651. **CHIEF DOMINIC FREDERICK:** We manage our own salmon fishery. In some years, we limit the time and location of our fishery to avoid stocks that are a conservation concern. DFO issues a licence to our community, but we don't really need that.
8652. **MR. KARL STURMANIS:** So this fisheries licence, it states Lheidli is allowed to harvest 9,000 Sockeye. How many Sockeye did you harvest in 2014?

Lheidli T'enneh First Nation - Oral presentation
Presentation by Chief Dominic Frederick

8653. **CHIEF DOMINIC FREDERICK:** In 2014, we harvested 12,960 Sockeye. We also harvested 427 Chinook. And that, we keep track of our -- we monitor our catches in regards to the fish that comes out of the river and so that we can provide information to other tribes in regards to the amount of fish that we've taken from the river. And we have a monitor person that takes care of that from the community.
8654. **MR. KARL STURMANIS:** And that monitor person provides data to Fisheries and Oceans?
8655. **CHIEF DOMINIC FREDERICK:** Yes, he does.
8656. **MR. KARL STURMANIS:** And does DFO -- doesn't attempt to restrict your catch within the licence number?
8657. **CHIEF DOMINIC FREDERICK:** No. They do not restrict what we do catch. I think, you know, just a little -- sort of a background in regards to some of the stuff that we are dealing with and in terms of our own treaty and how to manage the fishing through the treaty process is that we have one of the most comprehensive plans for fisheries in regards to salmon fishery within the Upper Fraser, which also includes commercial fisheries.
8658. **MR. KARL STURMANIS:** And do the Lheidli T'enneh community members fish for other species?
8659. **CHIEF DOMINIC FREDERICK:** Yes, we do. We do have a number of other community members that rely on groundfish such as Dolly Varden, burbot and trout, rainbow trout and some other groundfish that is used for the fisheries itself, which are used for bait.
8660. **MR. KARL STURMANIS:** So are there portions of the territory used more than others by your members?
8661. **CHIEF DOMINIC FREDERICK:** Yes, some areas are remote and distant, cost more to get to and use. Other areas are used more or less frequently because of what we use them for. Our population is rebuilding from very low numbers, growing at about 4 percent per year. Use of our territory and the resources it supports will increase.
8662. **MR. KARL STURMANIS:** Are there portions of the traditional

Lheidli T'enneh First Nation - Oral presentation
Presentation by Chief Dominic Frederick

territory you can't use?

8663. **CHIEF DOMINIC FREDERICK:** No, subject to safety. Can't hunt in town, of course, but ---

8664. **MR. KARL STURMANIS:** And in private land?

8665. **CHIEF DOMINIC FREDERICK:** We do get permission to hunt in private lands in -- through -- going through the proper channels and through conservation.

8666. **MR. KARL STURMANIS:** So Danielle, we'd like to switch to another slide.

8667. So Chief Frederick, the slide -- the map shown on the slide, this is the Kinder Morgan expansion proposal within the Lheidli T'enneh territory. Is that right?

8668. **CHIEF DOMINIC FREDERICK:** Yes.

8669. **MR. KARL STURMANIS:** So how does this project and expansion affect your interests?

8670. **CHIEF DOMINIC FREDERICK:** It occupies an important valley bottom lands, eliminates it from our use, removes habitats for animals. Construction has and will disturb more land and the fish and wildlife habitat means more alienation of our territory. The largest concern for Lheidli T'enneh is the risk of producing or produced a spilling and get -- and the spill getting into the Fraser River.

8671. **MR. KARL STURMANIS:** And what is that risk?

8672. **CHIEF DOMINIC FREDERICK:** The risk is the way of life. And the way of life is what we just talked about and talked about the fisheries and the fish within that main channel, which supports many other tributaries and many other fisheries that we have worked on, including ones over by Valemount which we've been working on for such a long time and managing that fishery through a fisheries program from DFO, Department of Fisheries and Ocean, which is Swift Creek.

Lheidli T'enneh First Nation - Oral presentation
Presentation by Chief Dominic Frederick

8673. We also have been doing work on the Holmes River and we've done a lot of work on the Holmes River in counting fish and making sure that the spawning salmon are in good shape when they get back and they return back to the ocean. And there's many creeks -- we can go all the way down the land in terms of creeks and rivers all the way from Valemount all the way down to -- through our territories to White's Landing between Prince George and Quesnel.
8674. **MR. KARL STURMANIS:** So how far downstream would be affected by a spill of oil product in the river?
8675. **CHIEF DOMINIC FREDERICK:** Well, I think, to us, a spill would not only impact the Lheidli in a big way, but it would impact many other Bands and many other Bands that depend on the runs that come from the north downstream.
8676. And I think it goes without saying that a decimation of fish will probably take many, many years to restore if we lose that resource because the life cycle of the salmon is every four years. And every four years, and going to probably four life cycles. So you're looking at probably 16 years of one life cycle for the salmon to return.
8677. And just to let you know that the fish that you ate was caught this year, and that's going without saying that we will keep eating the fish until it is unsafe for us in regards to the spill at the Polley Lake.
8678. And we knew, we knew and we -- there's many of our people that are experienced in fisheries and taking the fisheries program and we understand the life cycle of fish and the salmon and other life cycles of fish, groundfish that come through our territory that we've been managing for many years.
8679. And I think that, you know, we understand that, you know, we've -- if we keep eating it and sooner or later, it is going to be contaminated. But we're going to keep eating it and we're going to be keeping fishing it until we know that it's -- it is contaminated.
8680. But the spill -- in terms of the spill, if there is a spill in the Upper Fraser here and the head waters of the watershed and within our territory, it will devastate many, many, many millions of fish and many spawning grounds, you know, because they travel this route. They travel the Fraser to get to their -- whether they're going up the McGregor or going up the Willow or going up

Lheidli T'enneh First Nation - Oral presentation
Presentation by Chief Dominic Frederick

another watershed within this Fraser River. They will all be affected.

8681. **MR. KARL STURMANIS:** Thank you.

8682. Chief Frederick, have you discussed or staff have discussed these concerns with Kinder Morgan personnel during engagements with them?

8683. **CHIEF DOMINIC FREDERICK:** Yes, we have submitted an interest in a new study that outlined our interest in the area and our concerns. We requested that the Kinder Morgan undertake additional studies to refine our understanding to a specific fishery and fishing resources in the Upper Fraser Lake, like endangered white sturgeon, so we could better understand what may be at risk from a spill. And we've requested that they provide information about spill modelling of the five products that have intent to transport, so that we can better understand and consider the risk the project poses to our interests and rights.

8684. And I guess I'll just put a little thing in there in regards to endangered white sturgeon.

8685. I was one of the persons that did the first study on white sturgeon on the Upper Fraser. We did not complete the project because of resources that we needed to go all the way up, in terms of the headwaters and the different tributaries such as Goat River and we only had enough resources to complete to Goat River. Otherwise we would have completed it all in regards to whether there was more white sturgeon.

8686. But we were catching white sturgeon all the way up to Goat River. So white sturgeon is an endangered species. So the loss of that would have been a loss of an historic animal that we depended on. We were allowed to catch white sturgeon, but we were only allowed so many a year.

8687. A lot of our Elders that have passed on have depended on white sturgeon, and the new generation now, we're sort of holding back, you know, and just letting that species grow.

8688. **MR. KARL STURMANIS:** Chief Frederick, has Kinder Morgan committed to undertaking these fishery studies and provided the spill modelling information?

Lheidli T'enneh First Nation - Oral presentation
Presentation by Chief Dominic Frederick

8689. **CHIEF DOMINIC FREDERICK:** No, they indicated that they have enough fisheries information and they've yet to provide the specific spill modelling information we've requested. We were directed to some information within the dependences of -- to the ---
8690. **MR. KARL STURMANIS:** To the Environmental Impact Statement?
8691. **CHIEF DOMINIC FREDERICK:** Yeah, the Environmental Impact Statement, yeah.
8692. **MR. KARL STURMANIS:** There's all these acronyms, EIS everyone. It's -- you get bogged down in acronyms.
8693. So do you believe the risk to the Lheidli T'enneh to be serious?
8694. **CHIEF DOMINIC FREDERICK:** Yes, we do. After getting an understanding of the state of the pipeline infrastructure, in the Rearguard area and the spill response capacity in the area, given our knowledge of the river we believe any spill would essentially have little or no chance of being contained and would move downstream unimpeded, and depending on the density of the product, persist indefinitely whatever -- wherever it settled.
8695. **MR. KARL STURMANIS:** And do you have concerns with the expansion route?
8696. **CHIEF DOMINIC FREDERICK:** Yes. We specifically objected to the regional plans to increase the number of open cut crossings off the Fraser in the Rearguard area, and requested that they remove the existing open cut crossing. We recommended they explore additional drill options, crossing sites and on our located -- another acronym.
8697. **MR. KARL STURMANIS:** The right-of-way?
8698. **CHIEF DOMINIC FREDERICK:** Right-of-way on the south side of the river -- sorry -- and on or move the Rearguard compressor station to avoid the new crossing; requested that they place valves on either side of the river crossing. Kinder Morgan indicated that these approaches will unlikely do -- unlikely come to be because of cost.

Lheidli T'enneh First Nation - Oral presentation
Presentation by Chief Dominic Frederick

8699. **MR. KARL STURMANIS:** Has Kinder Morgan adjusted the project in manners that align with your interests?
8700. **CHIEF DOMINIC FREDERICK:** We believe that they have -- they haven't met with -- sorry. We haven't met with them for -- to discuss these -- this issue recently.
8701. **MR. KARL STURMANIS:** I guess as a final question, I'm going to direct to both Keith and Chief Frederick. I'd like them to perhaps comment or characterize the Lheidli T'enneh engagement in terms of consultation with Kinder Morgan and National Energy Board.
8702. **MR. KEITH HENRY:** Yes, Karl, I guess when it comes to the engagement between Kinder Morgan and Lheidli T'enneh, my perspective is that up to this point, it hasn't been very respectful. And my reason for this is just -- is because of the way we've been dealt with in terms of the meetings, the discussions, the engagement.
8703. My sense is that they're not taking Lheidli T'enneh seriously when it comes to the accommodation, the consultation, engagement, and our concerns.
8704. At a more recent meeting, in fact, one of our last meetings that we've had directly with Kinder Morgan representatives -- in previous meetings I've requested specifically information on notes, meeting minutes, that they be accurate and that they be shared directly with myself and other staff of Lheidli T'enneh, including leadership, and have a transparent, open, mutually beneficial type of meeting notes that benefits both parties, so that we're all on the same page and we know what is actually being discussed. And at this point, it's a one-sided street -- one-way street.
8705. After our most recent meeting back in September, some of the action items were sent back to me, but we had asked for four specific items and these are action items that we've had no follow-up with; the first one being addressing the previous work for the anchor loop that was done back in 2007 where Lheidli T'enneh was not consulted.
8706. The second one; further information specific to the direct procurement and contracting opportunities that relate directly to the joint venture partnerships for Lheidli T'enneh.

Lheidli T'enneh First Nation - Oral presentation
Presentation by Chief Dominic Frederick

8707. The third one; responding to the term sheet that we'd been working with since the beginning of the year, but also a meaning and respectful approach and effort on Kinder Morgan's behalf. And, also, as a previous follow-up item from an earlier meeting, almost one year to the day, was a meeting directly with President of Kinder Morgan Canada, Ian Anderson, with Chief Dominic Frederick.
8708. These are some examples of some action items that we feel are important to discuss, but have been ignored by Kinder Morgan.
8709. Some other requests that we've put forward specifically was to be more involved in the environmental studies that have been happening in the territory, and specifically for the Trans Mountain expansion project, archaeological work, fisheries work. We've been given small piece works for members to participate in these studies, but we have the ability to do these ourselves.
8710. As Karl mentioned previously in his presentation, Rearguards follows a specific area of concern for Lheidli T'enneh. We've received information that there's been potential reconfiguration for the pipeline design in that specific location but have yet to have further dialogue with Kinder Morgan on this.
8711. I think I'll stop there with my comments in terms of the engagement and let Chief Frederick take over, if he has any comments.
8712. **CHIEF DOMINIC FREDERICK:** Thank you.
8713. Our dealings and our talks with Kinder Morgan officials, there was enthusiasm on both sides to start negotiations and talks of how we can work together and agree and disagree in regards to where we were going to go with the Trans Mountain project.
8714. At the last meeting that we had with Kinder Morgan officials, we felt that we were being disrespected by officials from Kinder Morgan in regards to continually impress upon us that this is all we can do for you using the tactic from the Indian Affairs policies in regards to, "Sorry, we can't give you any more and we cannot deal with you any more".
8715. So with that respect, I had asked Kinder Morgan to leave. We cut the meeting at that point and we told officials from Kinder Morgan to leave our office

Lheidli T'enneh First Nation - Oral presentation
Presentation by Chief Dominic Frederick

because we felt that they were being disrespectful, not only to me and to my colleagues from Lheidli T'enneh. And we have not met with them since. And that is all I'm going to say in regards to that portion of it.

8716. But what I want to do now is I want to talk to you. I want to tell you my experience as a Lheidli person. I was born and raised Lheidli T'enneh. I am a full-blooded Carrier Indian. I have no mixed blood within myself in terms of my -- our family, the Frederick family.

8717. I was raised on the trap line. We were raised to learn to provide for ourselves and to learn to live off the land, which we did. Then we moved back to the original reserve, which is now called IR Number 2, Fort George at that time, at the Shelley Town site -- across from the Shelley Town site.

8718. I grew up there at Shelley. I worked in the wood industry for many years and, later on, started working with fisheries. I saw an opportunity in fisheries, so I took a fisheries program and continued on to a biological program with fisheries.

8719. I worked 25 years in the fisheries industry within our nation. I had worked in many areas and many different territories in fisheries. I also worked for the Department of Fisheries and Oceans and the Ministry of Environment.

8720. I had an opportunity also to work for our community where they had hired me to conduct a DNA survey. They couldn't find anyone else, so they sought me out to do the project for them, which consisted of seven students from the community and bring them out into the territory. They chose me because I know the territory quite well and I knew where all the fish were and I knew where all the spawning areas were in regards to the salmon.

8721. We traveled to four different areas. The first area was in the White's Landing area between Quesnell and Lheidli, which is close to the boundary area down there. We did some work DNA studies and that consisted of a live catch return, which meant that we used gill nets to catch Chinook salmon, take DNAs and return them back to the waters. But we had to make sure that they were safe before they returned -- we returned them.

8722. During that time, we also -- we worked from downstream all the way upstream and we worked all the way up to the Valemount area and the Holmes Creek area where we've taken live samples of -- and DNA samples from Chinook

Lheidli T'enneh First Nation - Oral presentation
Presentation by Chief Dominic Frederick

salmon just so that we know that the numbers are going to be okay and to continue to manage those species.

8723. We moved -- from there, we moved into the Swift Creek area in Valemount and did a live catch there also. We also did a live count in regards to the amount of salmon that was in that area.
8724. We used the same students also to go across the mountains into the Herrick area, where we did two ella strings in the Herrick area to cover off more DNA samples.
8725. It took us a month to do the project. And within that month, the knowledge of our young people and our students that they gained through me bringing them out and showing them the resource that belongs to them in the territory and how to manage that resource is continued today.
8726. And with that, I'd like to thank you for listening to me. Thank you.
8727. **MR. KARL STURMANIS:** Thank you, Chief Frederick.
8728. I wanted to request, Danielle, maybe if you could -- we had -- the very last slides, actually, we never got to spawning areas. We just wanted to provide a visual that pertains to Chief Frederick's experience.
8729. And then if you could go further. That speaks to the specific work that ---
8730. **CHIEF DOMINIC FREDERICK:** This is the sturgeon study that I was involved in, and as you can see there, I was much younger and more wild-looking, long hair and everything.
8731. Those are younger sturgeon; they're probably about five years old, maybe 10 years old, between there. And what we've done there is we've -- all the sturgeon that we have caught through barbless hooks, because we return them after we catch them, and we also measure them, we take a sample, DNA sample from one of their fins, and we also inject to them a tracking device for further studies. And if we do catch them again, then we scan them and then we record them, and then we return them back to the waters.
8732. **MR. KARL STURMANIS:** Thank you.

Lheidli T'enneh First Nation - Oral presentation
Presentation by Chief Dominic Frederick

8733. That gives you a glimpse into the specifics, and it would be ideal if we could have taken the panel to the Upper Fraser because I think you'd have a much more real appreciation of what Chief Frederick spoke about.
8734. And, Keith, I'll leave it to you for introducing the final slide and song.
8735. **MR. KEITH HENRY:** Thanks, Karl and Chief Frederick.
8736. So to end the presentation, we'll proceed with a song. But one thing I forgot to mention at the beginning in regards to the songs that we have presented here today. They're performed by the Lheidli T'enneh Drum Group called Khast'an Drum Group. And Khast'an means fireweed. And these audio files are recorded in conjunction with the Prince George Symphony Orchestra, so you may have heard some orchestra-type instruments in the initial song.
8737. And if you look closely at our logo you'll see that it's an eagle, but if you look even closer you'll see that there's two salmon in the chest area of the eagle, one on the left side, one on the right side. And if you even look closer at those salmon you'll see that one of them is carrying eggs, salmon eggs, and it's really showing the significance of the salmon.
8738. And this next song, it's called The Caribou Love Song, and it's about man losing his spirit from a broken heart. And the reason why I chose this song is if the salmon are lost it will definitely -- and if they're impacted through a spill of the proposed project or the existing line, Lheidli T'enneh will have a broken heart, and I think it's an appropriate song to end with.
8739. So I thank, again, Chief Frederick for sharing his stories, Karl Sturmanis, but also the NEB panel and Kinder Morgan representatives, and also those that are in the audience.
8740. **THE CHAIRMAN:** I wonder if out of respect for the song, if you would entertain the question part of it, and then we can get to the end and we'd like to finish with a song in case there's -- just out of respect for the placing of the song at the right time, that's what I'm just trying out of respect for you.
8741. **MR. KEITH HENRY:** Sure.
8742. **THE CHAIRMAN:** Sorry, my fault.

Lheidli T'enneh First Nation - Oral presentation
Presentation by Chief Dominic Frederick

8743. **MR. KEITH HENRY:** Yes, sorry, yes we can take some time before the song, and if there's any questions that would like to be asked we can -- again, if we can't answer them today we will definitely follow up with an answer.
8744. **THE CHAIRMAN:** With that, then I'll offer that opportunity for questions or clarification from Trans Mountain first, or any other intervenor.
8745. **MS. OLENIUK:** Thank you, Mr. Chair.
8746. Trans Mountain has no questions for the panel, but we would like to thank the Lheidli T'enneh for their presentation today, and also for the salmon that you shared with us. So thank you for that.
8747. **THE CHAIRMAN:** I just have maybe just some questions to get my sense and some clarification.
8748. You talk about, and Keith talked about it in his chronological events of -- from, you know, from 1793 reading right through up to 2015, and part of that was there was an MoU Cooperation and Understanding Agreement with Prince George; you talked about that. And then I think it was -- you also talked about the management and control of their resources and of land management; I understand there was some agreement with that, if I'm capturing your words properly.
8749. And, I think, Chief Frederick, you talked about the comprehensive plan you have with the Upper Fraser, and a large number of management tools, if I could use those words, that you use.
8750. Is there any sort of, in those agreements, management of the resources, the -- and the authority and access to those use of your traditional territory? Is there anything encompassed in those kind -- those agreements, or am I missing the effect of those agreements? I know you're trying to manage your resources.
8751. **CHIEF DOMINIC FREDERICK:** Well, any agreements that always has to do with the resources, whether it's mining, oil and gas, forestry, we always include a comprehensive agreement that would include the protection of the species, of the river, of the land, and so on and so forth.
8752. **THE CHAIRMAN:** Thank you for that clarification.

Lheidli T'enneh First Nation - Oral presentation
Presentation by Chief Dominic Frederick

8753. And just a small follow-up. And Mr. Sturmanis, you had indicated when you were walking -- in the presentation you were walking the route, am I to understand, and you came across the anomaly, as you called it, and which was probably an integrity dig, if -- you may have indicated that.
8754. And I'm just wondering if there's a notification process? Would you have been aware as a First Nation on that happening, or is that anything that you would normally be involved in if that was to happen on your -- within your territory?
8755. **MR. KARL STURMANIS:** Sorry; I needed to confer because things are changing as we speak.
8756. My past experience -- and it's been the last year, year and a half working with Lheidli T'enneh -- in fact we were not being made aware that that particular one you saw close to Albreda Pump Station, we weren't aware of. We just very recently, and I'd say that's in the last couple of months, did receive some referrals in terms of anomaly work.
8757. They were problematic in my mind because they gave a couple of days to respond and they didn't -- it didn't feel like a very proactive approach to say -- well, there's some -- and I'm not a fisheries biologist but we have had our fisheries staff person look at it. And the reality is that there should be a much more proactive approach on a referral like that to ensure the integrity and safety of fish within some of the anomaly work that was done in -- and it was north of Albreda, I believe, between Valemount and Albreda, the two recent referrals. I see head nodding there, so someone from Kinder Morgan is aware of that.
8758. So it was basically non-existent from -- process-wise before, to my best ability, and we've actually pushed both National Energy Board and it is a concern for us with National Energy Board, their process, in ensuring that they inform the company to actually make the process work more proactively. And that's been -- I put a lot of effort to just have some basic due diligence and process take place, which we feel may be improving somewhat now, but it certainly wasn't my experience a year ago or earlier.
8759. And I'll pass it to Keith for other specifics. He may have received some even more recent or ---
8760. **THE CHAIRMAN:** And also, I just -- I don't want you to feel

Lheidli T'enneh First Nation - Oral presentation
Presentation by Chief Dominic Frederick

pressure that you have to answer today. If you'd rather take some of it and provide it in writing, that's fine as well. I don't want to feel that you have to answer completely today, and an opportunity in writing is also good as well.

8761. **MR. KEITH HENRY:** Okay, I'll provide an answer in writing. No, I'm just kidding.

8762. Just to follow up to what Karl said and to maybe go further in terms of trying to answer your question, Mr. Chairman, in terms of the anomaly digs, no, we don't receive referrals specifically for them. We have, although, received a couple referrals earlier this fall, late summer. And as Karl mentioned, the response time is very minimal.

8763. And this -- these particular referrals had come directly from the B.C. Oil and Gas Commission and they were specific to anomaly investigations at Canoe River and Camp Creek.

8764. And you know, we had questioned both Kinder Morgan reps at a deployment exercise back in the beginning of October, but also the B.C. Oil and Gas Commission, and they're not obligated to provide any referrals and the existing format is from the information from what we've received. And that the only time that we'll receive a referral about an anomaly dig is when it is going to impact the river or a stream.

8765. And our last two referrals were the Camp Creek and Canoe River, and those have now been terminated by the B.C. Oil and Gas Commission to proceed with that work.

8766. **THE CHAIRMAN:** Okay, and thank you for that. That concludes the Board's questions.

8767. And with that, I'd like to acknowledge each of you for being here and your presentations today. I can assure you that what you've shared today and what will also be filed on the record as we proceed through this, we will consider everything that we've heard and whether, as we take that into consideration, whether we decide to approve, or not -- or to recommend approval, or not, of this -- with that project.

8768. So with that, I think we will be adjourned until 1:30 when we will hear

from the Upper Nicola Band, but we would like to conclude with your song.

(Closing song)

--- Upon recessing at 11:15 a.m. /L'audience est suspendue à 11h15

--- Upon resuming at 1:38 p.m./L'audience est reprise à 13h38

8769. **THE CHAIRMAN:** I acknowledge and welcome you and I acknowledge that we are on the Secwepemc Territory, and I would like to thank you for your opening prayer from Hereditary Chief N'kwala, from the drummers, and we appreciate that and we acknowledge that.

8770. We welcome you to the oral traditional evidence phase of the National Energy Board's hearing regarding the Trans Mountain Expansion Project.

8771. My name is David Hamilton, I am the Chair of the Panel, and with me is Alison Scott and Phil Davies, and I welcome you to this hearing room and also to those who are listening on our webcast.

8772. Just in case there's a need -- I think it's important for safety, if there's a need for an evacuation the executive -- the executive, I apologize -- the exits are clearly marked where you came in today.

8773. We plan to sit until 4:30 this afternoon and we will take breaks as appropriate throughout the afternoon to accommodate everyone. And if you feel at the end of the session there hasn't been enough time to file all -- to make all -- present all your oral traditional evidence, feel free to ask for -- to file additional oral traditional evidence either by electronic means such as a video or any other method of your own choosing.

8774. The Board understands that you have oral tradition for sharing knowledge from generation to generation, and this information cannot always be provided -- cannot always be adequately shared in writing. Sharing your traditional knowledge and stories about the use of your traditional territory is of value to us.

8775. If you wish to share any concerns about the impacts the proposed project may have on you, on your community, and how any impacts can be eliminated or reduced, that would be also helpful to us.

Upper Nicola Band - Oral presentation
Chief Harvey McLeod

8776. This is the type of information we're here to listen to and we will use this information we gather today, along with all the other information -- available information that we will gather today considering the possible effects and the proposed projects. We appreciate that you've chosen to be with us today.
8777. Prior to providing your oral traditional evidence presenters will be asked to swear or affirm that the information they are presenting is accurate and truthful to the best of your knowledge and belief.
8778. With that I believe we're ready to get underway, and I think I would like to request that the Proponent, Trans Mountain, to introduce themselves to the -- to everyone.
8779. **MS. OLENIUK:** Thank you, Mr. Chair. Good afternoon to the Board and good afternoon to the representatives from Upper Nicola Band.
8780. My name is Terri-Lee Oleniuk and I'm counsel to Trans Mountain, along with my colleague to my right, Heather Weberg, and to my left is Annie Korver, and she's a member of Trans Mountain's Aboriginal Engagement Team.
8781. **THE CHAIRMAN:** Thank you.
8782. With that, Ms. Comte perhaps if -- I understand Chief McLeod would like to say a few words before we affirm to witness, by all means.
8783. Welcome Chief McLeod, the floor is yours.
8784. **CHIEF HARVEY McLEOD:** Way̓. Harvey McLeod, yilmíx^wm, Upper Nicola Band. People of Quilchena and Spaxomin members of the Okanagan Nation.
8785. I'd like to start off by acknowledging Chief Shane Gottfriedson to Kamloops and the communities of the Secwepemc Nation. We thank them for allowing us to be here today to share with you, to show you reasons why we have connection to our home.
8786. I'd like to acknowledge our panel and also acknowledge the people that came from home, our Elders, our leaders, and more importantly, our youth. It's important that our youth be here to see and participate and to witness the laws,

Upper Nicola Band - Oral presentation
Chief Harvey McLeod

the legends, and the way we do business at home because it's for them we do this, and their children, and their grandchildren.

8787. We've spent many hours, many days, many months preparing for this day and you will hear the stories, you will hear the reason why we're here. We're not here by accident. We were given roles and responsibilities and why we've come from the Nicola, why were made people of Upper Nicola, why we were made people of the Okanagan, Syilx.

8788. We've endured many things through my lifetime, my parent's lifetime, my grandparent's lifetime, and my great grandparent's lifetime. And we want to ensure that from today forward their lives are a little different, less hard, more involved, more connected to the land.

8789. I thank you for your time. I thank you for listening and I really hope when you leave here this afternoon you have a little better understanding of who we are and why the work that you want to do is so important for us who live there.

8790. All of us that are here today, born and raised, (speaking native language). Some of us in this room today born and raised on the shores of Nicola Lake, and every one of us have memories, stories of growing up, listening to grandparents, listening to the teachings that were passed down to us.

8791. So I thank you. I thank the community. I thank our Elders. I thank our youth for being here today. With that, I will pass it over to Shirley -- Crystal.

8792. **MS. REEVES:** Good afternoon to the Panel and to Trans Mountain.

8793. My name is Crystal Reeves and I am legal counsel for Upper Nicola, and along with me is Brenda Gaertner, also senior legal counsel for Upper Nicola. Before we turn the panel over to the Panel, just a few opening comments we would like to make on behalf of Upper Nicola.

8794. The four cultural speakers that are here today, Mary Archachan, Scotty Holmes, Lou Paul and George Saddelman will provide evidence of some of their concerns as well as share some information about Upper Nicola history, Okanagan title and rights, their own laws which govern their relationship to the land, to one another and to others.

Upper Nicola Band - Oral presentation
Introduction by Ms. Reeves

8795. Obviously, given the short amount of time today that has been provided to them, you will only get a small snapshot of the knowledge that they hold and of the potential concerns that they have with this project.
8796. There's also a few other things that we'd like to put on the record. Although Upper Nicola welcomes the opportunity to provide evidence to the Panel and other intervenors, they are increasingly concerned about the hearing process. One of their concerns is the location of today's hearing.
8797. Given that the presentation of their evidence is being held outside of their community, it will be difficult for the Panel and for Trans Mountain and for others to truly grasp their relationship to the lands and waters and all that's within them. Upper Nicola is of the view that the NEB to gain a true understanding of their relationship to the land and to understand why they are concerned about this project, the Panel would need to hear this evidence on Upper Nicola's area of Okanagan territory.
8798. Therefore we encourage the Panel to arrange a site visit with Upper Nicola so you can get that understanding.
8799. A second concern is the timing of the oral traditional evidence. Upper Nicola has raised this with the Panel before. We are currently in the middle of gathering information about this project and what it will mean for their title and rights and for them and their territory.
8800. Not all Trans Mountain's evidence has been filed nor has the evidence of Upper Nicola and other intervenors been filed. Therefore, we think that the appropriate timing for oral traditional evidence and for them to discuss the impacts of this project would be preferable at the end of the hearing process rather than midstream.
8801. Finally, for the record, Upper Nicola wants to be clear that they do not believe that the National Energy Board process, including these hearings, is an appropriate method for Canada to discharge its duty to consult with Upper Nicola. Canada must consult with Upper Nicola on a nation-to-nation basis and they cannot rely on a regulatory process to fulfill their constitutional obligations.
8802. In ending my comments before turning it over to the panel, the

Upper Nicola Band - Oral presentation
Presentation by Elder Mary Archachan

witnesses have agreed to answer questions if there is a point of clarification that is needed, but for other questions, they would prefer to provide written answers and have the questions directed at them in the form of an information request.

8803. So with that, I turn it over to the panel and they will introduce themselves.

8804. Thank you.

8805. **THE CHAIRMAN:** Perhaps then we'll have the panel affirmed and then we'll be ready to go. Thank you, Ms. Reeves, for your opening comments.

FRED HOLMES: Affirmed

GEORGE SADDLEMAN: Affirmed

MARY ARCHACHAN: Affirmed

LOU PAUL: Affirmed

8806. **THE CHAIRMAN:** That's the best affirmation I've heard.

--- (Laughter/Rires)

8807. **THE CHAIRMAN:** Ms. Reeves, we're ready to proceed. Thank you.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR ELDER MARY ARCHACHAN:

8808. **ELDER MARY ARCHACHAN (through interpreter):** I was born and raised there and my name is Kwanneuh because of it. My grandmother and grandparents and the Elders of the community raised me to know the difference between right and wrong so that we will treat the land with respect and we are, will be and continue to be the stewards of the land.

8809. We came from the far corners of the globe and there's four seasons to the year. And with that, we live with the four seasons. We try and respect each other as people and human beings even though the complexities in which we live and the world in which we -- and the environment which we try and protect is still under constant barrage from economic development.

8810. I was disciplined in my growing years by my grandparents and Elders

Upper Nicola Band - Oral presentation
Presentation by Elder Mary Archachan

- that we were taught the difference of the four seasons and where we came from and how we aspired to living on the land and make sure that they -- the land is kept in its everyday state, which we recognize and use and without the evolution of pipelines, roads and all the other manmade structures that created a whole lot of losses to us as Indian people.
8811. With the four seasons that evolve upon us and every turn of the season, we acknowledge the turn of the season for food gathering and visitation among each other as peoples and visiting the land and living off the land and watching the land turn in its own way so that we can change our ways to the way the land turns, whether it's hot or cold. We try and live within that environment and not to change anything.
8812. Our food gathering comes from the land and the four seasons and every season, there's a different food that we wait for and eat and then gather and preserve so that we can survive through the winters and the summers. And we all want to maintain that lifestyle, even in this -- today's environment.
8813. **MR. LOU PAUL:** And like she says, the roads and fences where the animals go and the developments that cut into the areas in each season, each direction is important to us.
8814. I'm going to sort of expand a bit on what she said earlier and perhaps try and reiterate the importance of what she's saying without withholding anything that she has said.
8815. And because our language is so complex in so many ways, it may not be fully translated in your language, into your language. We hope that you'll give us the time, that you'll understand that, and we will try and convey to you the best of how Elder Mary feels and transcribe what is written and what the report says and stuff.
8816. Because for her age, it is difficult for her to follow and to interpret a lot of this into today's language. Even though the laws and the -- of society, we have laws among ourselves as Indian people. We have our relatives that we live with. We have our relations of the land. We have places of which we travel over this territory in which we claim title to. The title is -- does come under title and rights, which will be given by Scotty later.
8817. But in Mary's example, for example, in the south, there's berry-

Upper Nicola Band - Oral presentation
Presentation by Elder Mary Archachan

picking and certain game to eat throughout the winter and fall, spring, different things when the weather changes, different animals and birds come and go. It is important to know that the cycle and all its habits, and this is what our Elders taught us and this is what she's conveying to you through myself.

8818. And I have been fluent in the language because I was raised by my grandmother and Mary was one of the aunties of the time. And I've always respected her for that.
8819. In Mary's words, it's not just her as an Elder but all the people that's affected with this pipeline, up and down the pipeline from the beginning to the finish.
8820. There's always that apprehension that there will be blowouts, leaks and so on. And always those leaks always seem to -- as I well know being a pipeliner myself -- that leaks always run downhill, underground and quite often wind up in the streams. And those leaks are never noticed and this is her apprehension. They're never noticed without anything said any way of signalling a leak, detecting a leak. This is her fear. That what goes underground we can't see.
8821. And with that, if the leaks do happen, and which they do and because steel is steel regardless of what, it will deteriorate over the years. And we have to -- we have to know what the lifespan is of your pipeline. Our people want to know the extent of time, the shelf life, so to speak, of your pipeline and the directions that you will take and the checks of how you intend to maintain it and make sure that there are, if any spills, a lot of technology in place to avoid spills that will wind up in our water.
8822. Our waters are our most important resource. One of the vital things of our life, and as you well know, it's not -- it's a non-renewable resource. We just can't keep turning the tap on and expect clean water to come out because sooner or later that oil's going to wind up coming out your taps.
8823. These are her words and mine.
8824. **ELDER MARY ARCHACHAN (through interpreter):** We're going to be the recipient of your oil spills. We're going to be the recipient of your trashing our land and when you -- as it was said earlier at a meeting, when you cut across our land you cut across our heart and you take the heart right out of us, as

Upper Nicola Band - Oral presentation
Presentation by Elder Mary Archachan

Indian people. You take away again something else that belonged to us, that was so precious and so dear. Like you hold your grandchildren, we hold our grandchildren. You mentor your families, we discipline our children.

8825. We try and keep the water clean so that all fish that come up that stream are edible and we can replenish our bodies and our food stuff, stores, from that fish that is coming out of clean water.
8826. **MR. LOU PAUL:** She's not suggesting for a minute that this is going to immediately happen, but I guess this is why she says there must be -- there must be a shelf life for this pipeline because there certainly has been some spills evidenced in the past of the pipeline that does travel through our tribal territory.
8827. **ELDER MARY ARCHACHAN (through interpreter):** My children have shown me where this pipeline goes and how it does cross streams, and it does nothing for me to sleep idly without saying this, that it does cause me a lot of concern.
8828. With the old pipeline, especially the old one and the new one that's up and coming, what's our -- what are the -- what assurances can you give me that's going to assure the safety of my people and the source of clean water and fish that's going to be edible in the next 100 years? What assurances have we got? When society itself is in it for profit, they come across our land for profit.
8829. Kinder Morgan has no idea of food gathering. When we're out there in the dead of winter or in the heat of the summer, they've come and gone.
8830. **ELDER MARY ARCHACHAN:** Are we done?
8831. **MR. LOU PAUL:** She sees your map that's up on the wall there and it's all fine and dandy; she says that we can see where it goes, but what does it show as far as any damages in the past? Are there any records of any damages, blowouts, leaks, repairs to the pipeline?
8832. **ELDER MARY ARCHACHAN:** It still crosses our creeks, our rivers and in a -- from our area, you know ---
8833. **ELDER MARY ARCHACHAN (through interpreter):** I've seen some of the oil spills from the U.S. and where they've shown it on the news, and it's very disheartening to see the animals that are -- that are the -- on the receiving

Upper Nicola Band - Oral presentation
Presentation by Elder Mary Archachan

end of the oil.

8834. And we've seen other blowouts happen where it's struck by an excavator in the more urban areas, where accidents have happened.
8835. **MR. LOU PAUL:** It still doesn't give her any assurance, nor myself, that there's certainly any -- anything put in place to -- that's going to assure that if there's a blowout, a leak or anything, that it doesn't leak down, eventually go down the creeks, into the lakes, into the mainstreams and it's going to wind up in the ocean.
8836. That's her words. Shateitque means ocean. And that's the big water which feeds everyone. And that's the common water that we share with the rest of the world. And the rest of the world, in her mind, seems bent on polluting it.
8837. **ELDER MARY ARCHACHAN (through interpreter):** I now have a vision of what my grandfather taught me. And he spoke of the spider making its web. And now the country is criss-crossed with the spider's web.
8838. **MR. LOU PAUL:** And now she sees your drawing up on the wall and she recognizes now what her grandfather told her, that the day will come that there will be just like a spider's web over the world. And that is transpiring on a daily basis from oil companies and people that have interest of bettering their servicing and self-serving interests.
8839. **ELDER MARY ARCHACHAN (through interpreter):** We're simply people of the land. We asked on numerous occasions that special care be taken with our land. We asked, short of begging, for our participation. And above all, no one asked for our permission. And now you must get our permission to cross our land. We cannot let you categorically point in that direction and strike off as though we weren't even there.
8840. **MR. LOU PAUL:** And echoing some of the things that Mary has said, now we have certain things as legal teams for ourselves that do our speaking for us and do our fighting for us so we won't hurt each other. Our legal eagles will do all the talking, our legal counsel.
8841. It apprises us of many things. That way, there's less stress on people like myself and Mary because Mary is the one that's near and dear to all of us. When she openly made her comment towards you, it came from her heart. I

Upper Nicola Band - Oral presentation
Presentation by Elder Mary Archachan

won't lie to you. And that's all she's asking from you.

8842. And presumably, she's referring to you as the government and as the National Energy Board and to you as people. You all have children and grandchildren. When you get home tonight, look at them. Look what you're offering them. Look at the pollution and look at that spider web that Mary described from her grandfather that the world is becoming enveloped in.
8843. And we're choking the life right out of Mother Earth. We're sucking the life right out of the land. We're sucking everything that's good out of the land and anything that stands in our way is to be steamrolled into submission.
8844. And those are the concerns of my Elders. As a former Band Chief, I echo those concerns. I reiterate some of them.
8845. **ELDER MARY ARCHACHAN:** That's all that I really think about because how -- what it's going to be like in the next, you know, 50 years, 100 years from now. I'm 83 years old, so I never thought I would see how much change it would be (speaking native language).
8846. When I was just a young girl and starting to see about a lot of things out there, and it makes it sort of really think about what is it going to be like in the next while, you know, with the grandchildren, great-grandchildren, you know. It's so much, you know, with water, power, everything.
8847. Now, I own an RV area where people come in and stay for a while, but the thing is when they move from the town or city or wherever their home was, then they expect power right now, water right now.
8848. **ELDER MARY ARCHACHAN (through interpreter):** You want fresh water right away when you turn the tap on. And you expect, because you left the big city to come out here and relax on my land in Nicola Lake, that you can do the same out here. You transport your problems with you. You bring your problems and your social ills with you. You just bring them to my doorstep.
8849. **MR. LOU PAUL:** The water system quit and her son went to get her a glass of water, so to speak, and there was nothing. He turned the tap on and there was no water. And her son says, "Well, where are we going to get the water?" And she says, "You live right beside the lake, look out the window. Here's a bucket; go get some." And he didn't know what the hell it was for.

Upper Nicola Band - Oral presentation
Presentation by Elder Mary Archachan

8850. We've lost track. We've lost track of who we are, how we acquire certain things and the luxuries of life in which we enjoy. We tend to take them for granted when we get under the shower every morning. We suck more of the life out of earth.
8851. **ELDER MARY ARCHACHAN (through interpreter):** My son bought a horse in the U.S. and brought it home and tied it out in our yard, and figuring that this horse knew, because the lake is there, he would know where to get water. Even our animals are the recipients now of the inability to recognize when there's water, you drink it.
8852. But maybe even then, maybe now as we look and as we speak, maybe even that horse knew something we didn't. Our water is becoming polluted, but he wants water out of the tap. Put water in a bucket out of the tap and that horse will drink it. We've all evolved. That horse doesn't even know to go to the lake and drink anymore either.
8853. **ELDER MARY ARCHACHAN:** It was right there.
8854. **ELDER MARY ARCHACHAN (through interpreter):** I have been, am now and always will be afraid and apprehensive of this pipeline. There's nothing that anyone can do or say that will give me confidence that what we're putting under the ground today is going to benefit me and/or all the people for the next given hundred years perhaps. Again, we go back to the shelf life, the expiry date of that pipeline or things related to it.
8855. I hope you have grasped some of the things I have said through my translator, some of my feelings as one human being to another and as an Elder in my country. I can only hang onto this land with a certain amount of time as we too have a shelf life. We too have an expiry date. Everybody in this room does. We're not immune from it.
8856. **MR. LOU PAUL:** We can only live by it and when that final day comes, we only can hope that you can, in good conscience, sit there and remember this conversation you had with this little old lady who tried to humour you in her own innocent way and which she taught everybody in this room something, the ability to laugh.
8857. She's teaching all of us here. Look at yourselves when you get up

Upper Nicola Band - Oral presentation
Presentation by Elder Mary Archachan

tomorrow, when you're shaving, and you've got your glasses off, Mr. Davies, and you're shaving. Think of what she said.

8858. We should all learn from that, but I'm only her translator, humbly.

8859. **ELDER MARY ARCHACHAN (through interpreter):**

Everything that we put in the ground to grow, we always say is good for us and we hope that -- that things that we know that are good for us will continue to grow in the places where we know them to grow such as along the corridor of this pipeline.

8860. We can only hope that anybody who is doing the construction in their infinite wisdom will understand the needs of the people of this land of which we have and -- over a number of times asked for and got nothing from it in the way -- once the pipeline was under the ground.

8861. In my younger years, which you recalled, that there were promises made of which nothing were kept, and here we are in 2014 back to the same watering hole, and we ask all the same things again, for good water to drink. And we are faced with the same problems, of which 1954, the pipeline was put in there, and it's still there. It's still producing.

8862. Some of the plants have come back over the right-of-way. A lot of them have been harvested and will never come back.

8863. **ELDER MARY ARCHACHAN:** I know some of the things we get off the plants that grow there, we use it for teas, for medicines and then even we get the pitch early spring off of some of the certain trees, you know, and we use that pitch for making -- use it for medicine, you know, and pitch is very powerful, powerful medicine.

8864. We use it for if we makes some kind of an ointment and get it done and you got pitch in it, you put it on something, and it'll draw all the things that are affecting you in some way. So you'll start healing once it comes out.

8865. I did that with my son's arm and there was such bruises like that on his shoulder and it -- when I took that pitch off, I looked at it and he said, "You're making my arm -- it's all black". I said, "Well, it's drawing all the bad stuff out of there". I said, "That's what's making it hurt all the time, and achy all the time".

Upper Nicola Band - Oral presentation
Presentation by Elder Mary Archachan

8866. And then pretty soon that black bruise, like, all cleared up and he never had an aching arm again. It was gone, so it you really want to -- careful how to go and get that pitch, but you just can't go around and buy stuff. Then we do teach us how to get -- make offerings according to the Elders that teach us how to use some of the medicines, like you will -- how you make offering is you make some little things like sage and tobacco and other things and you put it there and talk to that medicine where you're going to pick it.
8867. If it's pitch, if it's other, and then pick it, then you use it and it's more effective than anything else. It's not like going somewhere and just buy it. It makes a difference when you do offering and you talk to it and the same thing with the trees, you do cleansing with yourself with the rosebushes when the -- some other (speaking in native language), that too is the rosebush and the (speaking in native language) you can use. (Speaking in native language). That's how you do it.
8868. **MR. LOU PAUL:** You get a lot of this medicine from the land that we -- she says that I, as an Elder, and other Elders have prescribed to their families much like you would go down and talk to your pharmacist. After a visit with your doctor, you hand your pharmacist your prescription, he fills it and that's all she does is go to the land and talk to the land. It prescribes the medicine that she needs to fix aches, pains and sores and that's pretty much how simple it is with ourselves. (Speaking in native language)
8869. **MS. MARY ARCHACHAN (through interpreter):** I would like you to take my words and implement them into your reports and remember me as a person that was a very simple human being. I come before you, the Board, and asked for your indulgence and your time of my translator. I have given freely of my time to everyone here and freely of my information and that I don't normally share with a lot of the community.
8870. That because of my age and our age, as we all go into our golden years, we all aspire to good health. We wish everyone good health.
8871. **MR. LOU PAUL:** And she wishes you good health to the Board, and she wishes everyone here who has heard her words good health. And we hope that -- she hopes that she has been able to contribute but a small amount to this Kinder Morgan project.

Upper Nicola Band - Oral presentation
Presentation by Mr. Lou Paul

8872. She says I may have taught something to you and perhaps, like some other children, not. So she parts in her own way with a bit of humour and hopes that you will take that back with you. And she's put a smile on your face, at least in her ending. Thank you very much.

8873. She says I've stopped lying now.

--- (Laughter/Rires)

8874. **THE CHAIRMAN:** I might remember this day for a very long time to come.

8875. I wondered would you like a short break now or are you quite happy to continue? I'm in your hands if you feel a break is necessary.

8876. Okay, we'll take a short 5-minute break and refresh.

--- Upon recessing at 2:40 p.m./L'audience est suspendue à 14h40

--- Upon resuming at 2:53 p.m./L'audience est reprise à 14h53

8877. **THE CHAIRMAN:** I think Lou is ready to start. So I'm not going to dispute his right to get us going. So we're ready to start again.

8878. Thank you, everyone.

8879. **MR. LOU PAUL:** Thank you everybody for that short break. Mary thanks to you as well.

--- ORAL PRESENTATION BY/PRESENTATION ORALE PAR MR. LOU PAUL:

8880. **MR. LOU PAUL:** We are going to cover off some of the areas on the mechanical side of things, being as I had worked on pipelines and been First Nations coordinator on the Southern Crossing pipeline. I worked for BC Gas at that time in 2000. And I do wonder, in our own discussions here and with Mary, she has kind of taken some of the edge off of some of our discussions earlier.

8881. And I do thank her for that because certainly we don't want to shoot the messengers and certainly we want to be as cooperative, like Mary, as the next

Upper Nicola Band - Oral presentation
Presentation by Mr. Lou Paul

- person. And by all means let's keep the smiles on our faces, you know.
8882. And when I was Band Chief, I always went home, took my jacket off and my wife says, "Well, I guess it's time to patch up the holes in your back again. Take that bull's-eye off your back". But that were the injuries of politics.
8883. But nevertheless, getting back to the order of business here today, and again, the traditional use study maps and stuff like that do serve well in identifying just the general proximity of where the pipeline is.
8884. In the principles and protection and the stewardship and something that we call (speaking in native language), what you're doing here today, in short, is what the Chief said, you're passing this down to your grandchildren and the next generations.
8885. And I can only hear the echoes of pain and dismay of some of our Elders past, including my grandmother, who raised me. And I often question how well she did. But through life itself, we learn.
8886. I went on through life to learn what temhula (ph) really means in the complexities and the way -- when I said when you cut across our land, you cut across our hearts, I did not expect to see that in writing, but I do thank and -- from the bottom of my heart, to people that had the quickness of thought and heart to put that down in writing because it really did, it meant a whole lot to me and it still does. And I speak for Mary as well.
8887. I speak from the future and I speak from that past. And somewhere in between, we have to try and tie this together, where we can all one day say that we are proud to hand something down to the people that are coming up behind us.
8888. But let's not forget, like Remembrance Day and Veterans' Day, the people that went before us. We have always given November 11th a special day in our lives and it's always been a special day for me. But for this time, it is a memorable occasion for us. We're the simple people of the land. Like I said, tmix^wlax^w, the land belongs to us. We were here before contact and we shared willing with everyone and we just asked that we be treated with respect.
8889. We ask that you respect our wishes. We ask that you respect the words that we are passing on to you today. And I have taken the staff of our Elders and past leaders and put it beside me so that I too will not lie to you. I

Upper Nicola Band - Oral presentation
Presentation by Mr. Lou Paul

have no reason to lie.

8890. I like to work hand in hand with Mary and the other Elders as we age, and as we recognize our land. But above all we fought for this in December 1997 under Delgamuukw, and then arose from their title and rights of which my learned friend to my right will be giving more information on. Mine is more to sit here and be seconder to what Mary says and to try and translate what she says in the best way possible that we can all understand what our true feelings are.

8891. And I do appreciate Kinder Morgan's appointment of a First Nations person, regardless of their age, on their team to my right. I would like to give that recognition. She's not too young. It's the youth that we have to hand that torch to one day, and that's the type of things that people like me and you tend to forget. We think that we're wise beyond our years when our grandchildren are coming up behind us and picking up the aftermath of some of the damages we have done. Make no mistake about it, we have done a lot of damage, and it's now time for damage control.

8892. The stewardship of this land has always been there and always will be. We can only hand that down from one generation to the next and we can only contribute to it to the best of our ability, of what knowledge we can glean from technology, from other people and our learned legal staff.

8893. I was there in 1954 -- I was born in 1944 and I was there in about '54 or '55 when this pipeline was being constructed, and I remember the devastation which it caused. My grandmother and I, we went up there and we were up there on a hunting trip. And I remember my grandfather asking for a job and they wouldn't give him a job. They said, "The boy there, he could come pack water with his horse and bring water to the men", and he says "No, he's under my guidance." So we went on our way and we just went hunting. That was the extent of our connection.

8894. And then we came back later in the year and saw how it progressed, and how the aftermath, the destruction of the land, of the clearing, and the logging, and the digging, the opening of the right-of-way, the digging of the ditches, the laying of the pipe, backfilling. And there was little or no consideration given in those times about restoration, as we would definitely be very mindful of it today.

8895. I worked on pipelines quite a number of years in some of the more

Upper Nicola Band - Oral presentation
Presentation by Mr. Lou Paul

larger pipelines, and I'm not going to go into detail as to who, and where, and why. But I know what pipelines can and cannot do. Because of the opposition to this pipeline, I certainly cannot give my personal approval to it.

8896. But in principle, I know about the safety programs which are in place, and some of them are at a shortfall of which we have no detection services for leaks, nothing that are truly in place that's going to detect oil when it starts leaking and running down the ditches and then running into the streams and eroding the streams under the pipe, and washing. And the only time you're going to see that is when you see a slick on your creek that's running outside your beautiful real estate and when the salmon starts dying down the Fraser, down the tributaries going right into the ocean. And that's what we say (speaking in native language). It makes its way right to the ocean.

8897. My grandmother used to say, "Do not urinate in the creek because your brother might be drinking it downstream." We did not. We had the most profound respect for our resources and our country. And to that end, other people have chosen, for profit, to lay waste to that stewardship.

8898. But we're not only protecting our interests. As well, there are a lot of projects that Upper Nicola has not been ever compensated for. I have seen nothing in the way of compensatory obligations towards, I don't think, any of the Bands. But in that time, they were like thieves in the night. They took and they ran, and they prosper from it to this very day, of which Mary was the recipient of that at some point in her time of life because she lives right there. She sees what goes on even when it's over the hill. She travels this. Her sons bring word back to her, "This is what's happening. I see repair trucks up there. I see excavators. What are they doing? Probably repairing a leak of some kind."

8899. But we are also protecting other people's interests, protecting and stewarding the lands and the resources, the Upper Nicola People. We have alliances with the Okanagan People down south. We have agreements, memorandums of understanding, letters of understanding, among our own people, of which my children from my first wife, who is Shuswap, is right from this land here. I'm visitors on their land.

8900. There is that commonality in protecting the environment, and our laws and principles do that and there can be the unity in principles among our people so that we can hopefully one day -- I may be out of sorts here, but I see this as a hell of a struggle of our people, trying to hold this thing back, this sea, or wall of

Upper Nicola Band - Oral presentation
Presentation by Mr. Lou Paul

- water, and it's going to happen one day, just like the erosion of the lands that have been disturbed by man over years, the erosion of it winding up in our drinking water downstream. There is always, no matter where you are, how you perceive this, there is always things that are impacted downstream. As we have a large cattle ranch right above it that impacts the water that we drink to this very day.
8901. But with that being said, on behalf of Mary, myself, and all my people, I'm only one voice, but I see my people here to support something. I'm putting their words forward and their wishes, and I hope to Christ I'm not making any mistakes. As my grandmother would say to me (speaking in native language), "You lie to the white man; you lie to other people, I'm sure you're going to feel a switch on your bum."
8902. I wish we were all raised in that environment, but now we call it torture. We have that 1-800 number we all call as soon as we even discipline our children, and that's what's lacking in this life is discipline.
8903. And when I look to my right here and I feel Mary's arm, I see the years of discipline that she was given and the years of discipline that I was given to sit here and to carry her words forward to you in interpreting her words and hope in your own wisdom that you will understand what she and I are saying.
8904. **ELDER MARY ARCHACHAN:** (Speaking native language).
8905. **MR. LOU PAUL:** Way' kin way'. I'm finished.
8906. **ELDER MARY ARCHACHAN:** (Speaking native language.) I'll tell it to you in English. My oldest son seen a porcupine up on a tree. He didn't know it was a porcupine though because he come in and ask me, "Is this -- come on, come on, come and look, see what is over here." So I went over there. I looked and there I was looking at it. Gee, that's a porcupine, I thought. And he was sitting there, looking at it, and he said, "But myself, I never seen a porcupine climbs a tree. I never saw it climb a tree." You know, and here was a porcupine on a tree, holding on a limb. It was windy and it was a fruit tree -- fruit tree, apple, and he was singing and praying before it grabbed that apple. Then he come down, that porcupine.
8907. So it just shows you, you know, how much and how animals do things like that, and the porcupine, you know -- and I told my son what it was and he

**Upper Nicola Band - Oral presentation
Presentation by Councillor George Saddleman**

keeps thinking about it after. (Native word). He was singing and I said, "Yeah." "Yeah, but," he said, "I never thought they'd climb the tree either." I seen it before go down there by the creek, you know, before it drank, it did that, you know, drink water and sit there and the porcupine would do that, sing and like praying before he'll have his water. But it was a surprise to me when he could climb the tree and get the fruit off the tree. That's one experience.

8908. So not only porcupine I think does that. I think probably all different animals, you know, do all those -- some of those things before -- before the food or whatever they do, things like that and the water.

8909. **COUNCILLOR GEORGE SADDLEMAN:** (Speaking native language.)

8910. **ELDER MARY ARCHACHAN:** Yeah. Yeah. That's how we all should be, same as the animals.

8911. That's all I have to tell you, one experience, and some other experiences, you know. There's lots of experiences I've had -- seen while I was growing up and things that I do out there, but it would be do much. I'll be sitting here all day and all night explaining some of the things. So okay, that's right.

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR
COUNCILLOR GEORGE SADDLEMAN:**

8912. **COUNCILLOR GEORGE SADDLEMAN:** My Indian name is -- or Wheeooo, I should say. I got it corrected a few years ago. I received my Indian name unceremoniously in 1958. A couple of gentlemen living up in Chapman country, George and Dave Revere, asked me if I had an Indian name. I said no. Well, they said, "Well, we're going to give you one tonight in the bunkhouse." I had to sit and listen to the old people talk about whatever. So I've been known as Wheeooo since 1958 thereabouts.

8913. I'm the son of the late Joe Pete Saddleman; mother Josie; grandson Late George Pete Saddleman; Susan, the grandmother I've never seen. Mother's side, Grandpa, Late Dave Saul and Cecilia Saul who I've never seen.

8914. I have one sister Charlotte here, brother-in-law Ron. Got a good wife at home. Darlene's her name, daughter of Walker and the Late Mildred McCrae. We have four sons and we have 10 grandchildren.

Upper Nicola Band - Oral presentation
Presentation by Councillor George Saddleman

8915. So I brought along a picture, '54, a picture of my grandpa, myself, my Aunt Gloria, Aunt Mary Anne, my sister Charlotte, Harvey, cousin Jerry, cousin Reg. So that's from that time when the first oil went through.
8916. One of the things I guess probably over the times, we're always looking for ways to sustain our culture. We have been bombarded so many ways, so many ways; old people telling me their stories about gsepi (ph) times long ago. This is what we used to do on the land. We used to be able to go there and do this and do that.
8917. I had an opportunity, September 24th of this year, to go with Kinder Morgan representatives and our Kinder Morgan team. I went up to that pump station by Stump Lake. Probably that's the first time I've been there for a long time.
8918. The reason I don't go there because the gate is locked and that's the TUS study map indicates at the north end of Nicola Lake. You must qualify this map. It's our map. I don't want to give any credit to Kinder Morgan because they haven't showed us their map other than probably the onsite where the pump station is.
8919. I was there that day sharing a story because right where that pump station sits, that's part of our -- one of our hunting areas. All the families from Quilchena, Spaxomin, mostly Quilchena, I said, "That's where my grandpa hunted. This is where we went with Grandpa when we went to get wood." But you go there today, there's a padlock on the door -- on the gate.
8920. I asked the question "Well who do I see to get a key". Nobody from Kinder Morgan owned up to say well you can come and see me and I can let you in and you can do -- exercise your right to do whatever it is you do up there.
8921. I said, "Yes we hunted up there, we gathered things". I even anticipated the day I made a little offering. My grandpa has -- our family has crab-apple trees so I brought up a bag of crab-apples and I ask that we do a little ceremony, offering not only to grandpa but other ancestors from our community that are there.
8922. And I talked about a couple -- a little bit of the resources, just within a few feet of where we were. Made the tobacco offering, sang my song and left the

Upper Nicola Band - Oral presentation
Presentation by Councillor George Saddleman

crab-apples behind for grandpa and all our other relatives.

8923. So it has a big impact on all our families. I'm showing it now because as I was growing up the old timers told us young people all the things that were going wrong.
8924. We've inherited a big responsibility on behalf of our people. Certainly the one thing that we've inherited is certainly the temulek (ph). At the area where we are responsible to look after, to ensure that things go right with all the flora and fauna on that land.
8925. If we know the language, Syilx language, we know the oral stories and the ceremonies, that's where we get our direction from. So we've been working hard to ensure that the Syilx language is with us. We certainly share and like the oral stories a lot of the people have provided.
8926. For the short timeframe for this project, we've only had -- only had 20 people. A question was asked of me earlier "How many is your population?" Well I think it's about 400 -- 940 plus. About 60/40 living on -- on and off, as it's described.
8927. So when we look at the Syilx, there's a lot of knowledge, wisdom and stories, everything handed down.
8928. I went to Okanagan Centre which is our cultural centre for the Syilx people. Trying to come to some understanding dealing with the tém:éxw, that's everything on the land. Because if you know one cultural knowledge from the past, just one, that's beginning to rebuild that tém:éxw protocol. The pin, tém:éxw understanding. There's some of us have a lot of strands and some of us don't. So it's our responsibility to bring all those knowledge strands back, rebuild that tém:éxw.
8929. So you can imagine what happened to us from 1927 to 1952. We were made criminals in our own Reservation. We couldn't go and do the things that we're supposed to enjoy. So we've been oppressed people for -- from my understanding.
8930. So when things like this come along, our people haven't the capacity or resources but certainly the knowledge about the things that goes on. How can we sustain ourselves as a people, as a culture when we're not allowed access to

Upper Nicola Band - Oral presentation
Presentation by Councillor George Saddleman

practice our hunting and fishing and food gathering and all those things.

8931. The way I've learned, what I know today, that mom and dads were too busy raising a family so information I received was from grannies and grandpas, great aunts and uncles. We were all related somehow or other and they'd share that story.
8932. I was looking back on my old records trying to say what can I say. Eight-hundred-fifty (850) people plus I've spoken to since 1973, providing me with some information.
8933. Significance of April 1973 is when I came home to visit my grandpa, have supper with him on a Thursday night. We talked about a lot of family matters, et cetera, because I was in Kamloops here, articling for my CGA. That was my goal in life. And I was getting ready to go home or come back to Kamloops and grandpa said there's one more thing I want to tell you.
8934. I said "What is it grandpa". "Oh we had a Band meeting last week". "Oh really, oh what did you talk about". "Oh we talked about this and talked about, you know, all kinds of Band issues and we had a Band council election as well".
8935. "Oh. Well who got in, who's the Chief, so-and-so, who's the council and everything" and then -- and then he said "And you", pointing at me he said "You".
8936. Us old fellows -- he said "Us old fellows are getting tired, now it's your turn to pick up and start doing the work on behalf of the people. You know how to read, you know how to write, you know how to add and subtract, that's good enough for us old fellows. We'll go to a band meeting two, three times with you and then after that you're on your own".
8937. So that's what I've been doing. I got traditional instructions from my grandpa and old timers of the day, to do the work that I'm doing now.
8938. Because we have Xepxaptek (ph) stories and oral stories that tells us, as a people we have a responsibility. You might work for the people one minute, one hour, one day, one week, one month, one year or a lifetime. So those are the kind of things that we work under. Trying to make sure that people are sustained into the future.

Upper Nicola Band - Oral presentation
Presentation by Councillor George Saddleman

8939. So when I look at this kind of work, as I provided some of my knowledge that I have of hunting and fishing in that area, all the information that just the 20 people that we talk to that were interviewed, you can see on the right-of-way or the buffer zones that we identified from our point of view, how it criss-crossed, how much impact it is having on our people and that's just 20. What about the other people?
8940. So when we talk about working together, we talk about the tém:éxw.
8941. Back in November 2010, I was called to facilitate a meeting down in Penticton, work with the Elders and knowledge keepers and languages speakers. One of the things that they said, there is a protocol amongst all the Interior Salish people; we must give rise to that. That's our governance. So I've been personally working on that for three-four years now, slowly getting work done.
8942. So there's a lot of protocols within our culture at the high level and certainly at the lower level. We have the hunting and the fishing. It was described a little bit by Mary today. We have inter-tribal arrangements. We talk about the social ceremonies.
8943. It was described that as a people, we met once a year and this is the time we're doing it now, this new moon coming up. We're set to give thanks. There is a Four Food Chief Ceremony happening in Penticton November 26th just to acknowledge that. So that's bringing back some of our culture to sustain us as a people, to remind us the Four Food Chiefs gave us some instructions. That's the black bear, king salmon, bitter root and the Saskatoon.
8944. We have lots of understanding there, so just as a people, to bring those things back, to show us how we need to manage the land through the language, the stories and the ceremonies.
8945. I much appreciated how we started out here today. We'd certainly like to thank the young people because I was young -- I was 6 years old at the time -- the young people that said the prayer, did the song, and the people that supported them. That's the kind of thing that makes me feel good here.
8946. There's a whole host of things that to get information to provide to Kinder Morgan, to show the full impact of the kind of things that we're doing, they are doing. We certainly need the biologists. We certainly need the

Upper Nicola Band - Oral presentation
Presentation by Councillor George Saddleman

archaeologists. We need the hydrologists, especially the hydrologists, show how the water comes and goes in the spring and the rainfall and all that sort of stuff, the long-term environmental impacts, the consequences of the kind of things that we are doing with this pipeline. I'm none of those people, but they are there.

8947. I always tell people when I come to the mic that certainly I got a bachelor's in common sense. I'm working on my master's of common sense, which this is part of the course, on-the-job training now.

--- (Laughter/Rires)

8948. **COUNCILLOR GEORGE SADDLEMAN:** So when I get old as Mary, maybe I'll be a doctor of common sense.

--- (Laughter/Rires)

8949. **COUNCILLOR GEORGE SADDLEMAN:** Those are the kind of things that I think about.

8950. So I'm relying on our experts to make sure that they provide us with the data and information that is required to make an informed decision, whether we say why or whether we say loot, yes or no. We have to have that informed decision.

8951. I guess the other thing that compels me to do things is also I read a lot. The Convention on biodiversity, it's been told that certainly that's an international document, but certainly we're getting a lot of support on the international field. When I look at that document, I always look at Section or Article 8(j), Article 8(j) and Article 10(c). That document has certainly been supported by Canada. They've signed on even though it's a little bit late in the process, but they did sign on. Now we have policies that we have to work with, that process.

8952. It's been described that we're being handled on a domestic basis. So international field, don't bother Canada because we're already doing weird and wonderful things for our people, our Native people, Aboriginal people.

8953. But I read a report done by the past president of Royal Bank of Canada before he resigned. He put in a good report telling the people what should be done to put the gaps together. And we've been working at the gaps because I think back in 1923, when the provinces and Canada were meeting and they were

Upper Nicola Band - Oral presentation
Presentation by Councillor George Saddleman

-- "Those damn Indians are costing us too much money; we better do something about them." So in 1927, they put a stop to that. They put in a law that we couldn't talk about title and rights. We couldn't do -- we couldn't move from one community to another. We couldn't even talk to a lawyer.

8954. If two Indians were standing there talking together and they were overheard talking about their culture, some studious taxpayer would report us to the constable and we'd get summarily charged 10 bucks or a weekend in jail or something like that.
8955. So those are the kind of things that I bring along when I'm sitting here providing my experience and wisdom of what's going on because I read these things.
8956. So the kind of things that I like to see -- and we're not getting the satisfaction out of this process -- there's a lot of information there, a lot more that could put a solid story behind who we are. Probably Kinder Morgan is in the same boat too. They got so much information that they can't afford to get all the information. That's why it's not provided. I'm not too sure. That's a problem that needs to be dealt with.
8957. So when we move forward, we have instructions to our different protocols that we certainly have to adhere to as a people. When we look at the mandate -- and I'm still not too sure of the mandate of our good friend Mr. Whiteside, the Major Project Management Office. We met with him. There wasn't any -- much satisfaction there. He said, "Well, if you're going to do any kind of consulting, we're to talk to the Board." But I don't think so.
8958. So I instructed our experts and legal counsel maybe to sit down, let's have another chat with this Major Project Management Office. I guess the scope here is too narrow, too narrow for us to make an informed decision. Is it going to be inside the process or does it have to be outside? Very big principle question.
8959. So those are the kind of things that I wanted to make sure that we're looking for the cultural sustainability of our people. Certainly the stewardship needs to be -- we need that capacity to ensure that the habitat of the animals, all the four-legged, the winged, all those need to be looked after. So the impacts need further examination. With the amount of time that we have, we can only write so much at a time.

Upper Nicola Band - Oral presentation
Presentation by Mr. Fred Holmes

8960. So what kind of mitigation have we got in place? I'm not too sure if we understand that yet. So that has to be planned for. As you indicated, there's probably going to be an opportunity maybe to provide more information, but we might be in a position to do that, but it's a matter of capacity and resources to gather all that more information.

8961. And I guess probably Kinder Morgan's case probably a little more forthright about the information that we require to make that informed decision.

8962. Pretty scarce on the product that was going to go through. Now I understand there's four products but then people are saying well there's more products. So I'm -- so it's all hearsay. But we need something written down saying we're going to put through this kind of product and this is how we're going to handle it, et cetera.

8963. I know when on the site to this matter of response time, 10 minutes, half hour, or whatever. So there's a number of things that we need to understand.

8964. So right now I'd just like to end my oral presentation at this time, provide Scotty with some time so that we all participate in an equitable manner at this table.

8965. Way kin way.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR MR. FRED HOLMES:

8966. **MR. FRED HOLMES:** Good afternoon. And I hope everybody's still awake because the interesting part is here now.

--- (Laughter/Rires)

8967. **MR. FRED HOLMES:** I just came from the casino here this morning and I lost all my money. So Kinder Morgan is going to have to cough up
--

--- (Laughter/Rires)

8968. **MR. FRED HOLMES:** -- some of that billions that they've made

Upper Nicola Band - Oral presentation
Presentation by Mr. Fred Holmes

over the years.

8969. But anyways, on behalf of our people, not only the Quilchena people but the Scw'exmx and the T'kapmu people that are surrounding our territories, we share the same common interests. We may do practices in different ways but one thing we're certain of is that our people have always governed themselves since time immemorial.

8970. And so that's basically what my area is going to be around so that we can draw some attention to Kinder Morgan's impacts.

8971. It was fortunate for us to have Mary with us today and Lou and George to speak on the practices that are happening on the ground the same way as Kinder Morgan is practicing what is happening on the ground by the installation of their oil.

8972. What we need to also understand is some of the legal histories of how this whole process started back in '47 or thereabouts when the thought there was inception by oil companies from the United States and Canada and how it became actually a pipeline in '53.

8973. And I think what you've also heard was some of the impacts of our practices, our tradition, values or whatever but more so through the title and right issues.

8974. So today we're even still in that same era of ignorance to First Nation or Aboriginal title. And of course Kinder Morgan and other major companies around the country have experienced the adversarial impacts because of court cases that are happening on an ongoing basis.

8975. So title and rights to us is that practice on land. So what Mary was talking about or Lou or George was talking about is that title. What you seen on the map, the short version of it is the actual connection that was spoken of and then actually there was action on that. That action, that practice and that stories are coming down from our ancient history is our ancient law.

8976. So here we are today we're talking about consultation in some fashion, which is something that we don't agree with at this particular moment because I think it was said earlier that consultation for First Nation governments is with the government at that level.

Upper Nicola Band - Oral presentation
Presentation by Mr. Fred Holmes

8977. So what we're doing right now we're going through what we think is the administrative law of things. And what we're talking about in title and rights is the constitution of law. And what we're also trying to make aware that we had a constitutional law way before the existing constitutional law of the 1800s or in the late 1980s as well.
8978. So what we're saying is that that particular title and that law has been impacted since the contact of settlers in this area.
8979. That particular area we're talking about right now, even though it shows in the small corridor, there's a lot of -- there's a lot more to that corridor than I think that seems to be willing to discuss it at some level. Government is who we need to talk to.
8980. And yes, I appreciate the fact that they've used their opportunity to have an Energy Board to do the hearings for that, although we don't totally agree to that. But anyways, the fact of the matter today just reminds us of the ignoring -- ignorance of our title.
8981. What Mary, George and Lou spoke of is the right to practice that title the same way as anyone else that has a mortgage or a fee simple document. Although fee simple again is just an administrative tool where we're talking about something that isn't. It's more than an administrative tool, it's our law. It's our right to practice that law in the manner that was spoken of by the previous speakers.
8982. And some of the things that you'll probably will be hearing again is that impact but more in a written form because we just don't have the time at this particular process to do that. So we see that as a definite rationale for us to say no to this project.
8983. I don't think there's any money in the world or any job creation or -- that would make us change our mind because of the hurt that has been demonstrated not only by this pipeline but by other economic projects that have transpired over the time.
8984. So what we're saying at the same time is government has been over -- since its existence, has used their laws to put our title on hold, and we can't do that because, as you have heard before, we've got generations of people that are

Upper Nicola Band - Oral presentation
Presentation by Mr. Fred Holmes

still coming after us that we need to ensure that they have the enjoyments that we enjoy today.

8985. So I know that there's some discrepancy in terms of the cumulative effects that this may have and we don't want to speak to that or that seems to be the thinking that goes on. But when we think about the impacts on the title and right, government has allowed projects such as Trans Mountain and others, forestry practices, through their laws. So they use, for example, the *Forestry Act* or the -- what now it's called the *Sustainability Water Act*, to ignore that title.

8986. Those are just minimal examples of how those laws are trying to put our title on hold. And without getting into a whole long other story, you know, we just can't tolerate that anymore. That's not acceptable.

8987. And so I think that what is now in order for us to even consider thought of some fashion of movement in this particular project, we have to also seriously consider that cumulative effect that that happened already.

8988. One of the things that demonstrates that is that pipeline that exists today through the territories that we are responsible for to protect and to look after and to ensure our spiritual ancestors are still with us in favour of what we're trying to do.

8989. We -- for example, the biggest major impact that's visible is the accessibility. You know, that particular -- in the area, the map that you've just seen, that small area, I mean, you've got not only cattle going through that, you've got snowmobiles, you've got ATVs of all kinds, you've got spur roads that are coming off that, you've got hunters in there that come in there on a big scale. And those hunters are coming from Burnaby, coming from Vancouver, they're coming from the States, and they're camping around all over the place in that area.

8990. And so it's not to use Trans Mountain as the sole impacter of it, there are others. The logging that has gone in there now, that does happen, so we take those minimal examples and it impacts the major watershed of that particular area.

8991. Some of the discussions or some of the information that is provided this morning was on the surface. And some of it was even mentioned in terms of the underground. One of the things that we've noticed quite -- that has been

Upper Nicola Band - Oral presentation
Presentation by Mr. Fred Holmes

impacted hugely is the aquifers, the groundwaters. And yes, we don't see no oil slick or anything in it, but when it has happened it has changed some of the off flows that feed the Nicola Lake or the Stump Lake or the other lakes that are along that corridor or below that corridor.

8992. Above the corridor, we also notice that some of the watershed impacts are the wetlands. And again, this is not the sole impact of Trans Mountain pipelines, but they do contribute to that in a large scale because of the easy access, availability.
8993. I know we have neighbours that maybe sometimes we don't agree with, but in some instances, that we have to say that in terms of -- in the benefit of stewardship, ranchers such as Douglas Lake Ranch or somebody at Stump Lake or Frolek Ranch or Giusachan Ranch, which are within that corridor of the pipeline, they have to lock their gates so that they can try to minimize the impacts of that access.
8994. So when you think about access, it's not only people access but it's what comes from that; the garbage that they bring in and they just think it's a free dump area. They think that's a free-for-all party house in those areas.
8995. So again, those are impacts that affect what you heard the Elder talk about, the medicines, the plants, the animals, the water, the environment, the air. So all of those are major contributors to the impacts that we see that come from a project or projects.
8996. So what we are now looking for is better consideration of how we deal with that title, which is ours. We're -- as we continue to say, and we can argue quite easily if we need to, that the Trans Mountain pipeline has been illegally taken away from the people, the First Nation people, the Aboriginal people.
8997. So we're talking about -- there's a lot of things to talk about, I should say, that have to appropriately addressed, and this process isn't going to do that. And so I guess when we're finally coming down to the end of this particular process, we also have to remind ourselves of if this continues without our consent, we're all going to have to face some consequence down the road. The generations that are yet to come are going to face it worse than we are.
8998. And I think we can demonstrate that quite easily and if you look at the global picture, and I know maybe some people may not think it's a major issue,

Upper Nicola Band - Oral presentation
Presentation by Mr. Fred Holmes

- but climate change is happening and we're experiencing the devastation of those impacts that we greedily are selfishly put the name of a project in front first.
8999. So we just want to make sure that there's some caution out there that we have to pay attention to.
9000. Thank you.
9001. **MR. LOU PAUL:** I'd like to thank Scotty and George for their words of wisdom and learned years of the many lessons we've learned from the impacts of many things going across our land.
9002. Somewhere I read in here, and Scotty and I, we had this discussion at one point or another, that very simply states -- I can only tell you this in our language and I address this to my people who sit behind me as well.
9003. (Speaking in native language).
9004. When will we be asked back to the table to discuss in more equitable terms of which we ask the government to address our title and rights? And as Scotty says, "This is not the table and the time for us to give our signatures to what is being done here today, to become signatory to what Kinder Morgan is proposing."
9005. We have seen the damages of the past, and we have learned from the past and we must learn from the past, because if we don't learn from the past, we're sure going to go to hell in a hand basket tomorrow. And we're all going to arrive there together, not just me. We're all going to be there.
9006. When that day comes, I'm going to be damn scared to hand whatever I have down to my grandchildren and my relatives, when I'm no longer here and when Mary is no longer here to speak on behalf of our People in our language.
9007. (Speaking in native language). There is strength in our numbers. There is strength in our words and strength in our language. And if anybody -- there was any doubt in anybody's mind about the strength in our language, the sanctity of it in itself, is held most sacred by our own People and those that understand the language. And we can sit back and we can still have laughter.
9008. This meeting, in no way, is a concession on our part to the project of

Upper Nicola Band - Oral presentation
Presentation by Mr. Fred Holmes

Kinder Morgan.

9009. (Speaking in native language).

9010. **ELDER MARY ARCHACHAN:** (Speaking in native language).

9011. **MR. LOU PAUL:** (Speaking in native language).

9012. I thank everybody here, the Chair, Mr. Davies, Hamilton and Scott.
We do thank you for your time, your understanding, your humour, your laughter,
and your smiles that you have shared with us.

9013. Thank you for taking the time. I don't wish to throw dust at anyone
here but hopefully you have a better understanding of where Upper Nicola stands
to this day on these issues. These are the words that have been brought forward
from our People by ourselves. We have been instructed by our People to convey
their feelings. I'm not here to convey my personal opinion of feelings. I am
conveying the personal opinion and feelings of my People and in both languages;
in English and in Syilx.

9014. And for those who don't understand Syilx, I feel sorry for those who
don't understand it, truly. It has a great deal of meaning and depth. And now, I
realize what my grandmother was teaching me, and I thank God that I held onto
it, because it has served me and my People well.

9015. (Speaking in native language).

9016. **THE CHAIRMAN:** Scotty, by all means.

9017. **MR. FRED HOLMES:** Don't cut me off yet.

--- (Laughter/Rires)

9018. **MR. FRED HOLMES:** I'm just getting warmed up.

9019. I just wanted to maybe help close this off with some deep thought in
terms of what we say I have said and continue to present it at future times and
compare this to what was said of the pipeline when it originally was put in by
Trans Mountain back in the day.

Upper Nicola Band - Oral presentation
Presentation by Mr. Fred Holmes

9020. Here's what was said by the non-native bureaucrats and the supporters of the Trans Mountain thing.

9021. It says:

"Those who have watched its builders in the conquest of nature, space, time and numerous obstacles, consider Trans Mountain a solemn example of industrial vision, engineering skill and business resourcefulness." (As read)

9022. Think about it. What that says to me and our People, first of all, there's no title and rights to Indian People. Secondly, it says money over matter which is, when you say they conquered nature, space and time, to us, you've just hurt our mother.

9023. Now think about that when you consider your other information. Maybe that's something that you will have to go back to. I can't remember the book that was written, but it was on the Trans Mountain -- first Trans Mountain project, written by -- I can't remember. I think, but we'll get you the book if you need it.

9024. But that to me was an insult and today, this process continues to be that. So we have to do something about it. How do we do it? That's the question.

9025. Thank you.

9026. **THE CHAIRMAN:** I'll offer one more time, Ms. Gaertner, just to make sure. We're all happy to -- we're fine. Lou is saying yes.

9027. If I get a nod from Mary, then I know I am definitely okay --

--- (Laughter/Rires)

9028. **THE CHAIRMAN:** -- to wrap things up.

9029. As you indicated, Ms. Reeves, at the beginning, you would be interested in entertaining any questions of clarification and so I'll offer that to Trans Mountain and any other intervenors, perhaps Ms. Oleniuk first.

Upper Nicola Band - Oral presentation
Presentation by Mr. Fred Holmes

9030. **MS. OLENIUK:** Thank you, Mr. Chair.
9031. We have no questions for the witnesses. But on behalf of Trans Mountain, I would like to thank Upper Nicola for your presentation today. Thank you.
9032. **THE CHAIRMAN:** I was going to ask Scotty where that came from because I was interested in where that came from, but it's fine if you don't know the reference or where it is. I was going to ask you where you were getting that reference from.
9033. It's not a big -- Ms. Gaertner?
9034. **MS. GAERTNER:** We do have the book and we can provide the details of its name and its author for you for sure.
9035. **THE CHAIRMAN:** I would appreciate that, thank you.
9036. I just -- Lou and Mary, George and Scotty, and I acknowledge Chief McLeod as well, the complexity of language is difficult for -- I don't speak your language. I don't speak a number of other languages that I hear or that I've been hearing in this hearing, but I appreciate what you have brought to us today in the use of your language and how you've explained it to us.
9037. Yutum hutshlu (ph), if I am pronouncing it properly, was a meaning that was up there and again brought a new meaning to me as an understanding of the importance of language and of your culture and traditions. And I appreciate that and I appreciate the deep and --how deep and complex it is, but I want to acknowledge you've brought an understanding of that to us today and I want to acknowledge that.
9038. And Mary, your definition of a spider's web is also a -- I want to acknowledge that as an insight for me who doesn't speak your language, and as you try to tell us your story.
9039. So with that, I would like to again acknowledge you for your voices today that you have brought to this hearing and what you have shared too with us from the heart and from in your laughter as well, and we appreciate -- along with my colleagues, Alison and Phil, we appreciate that today.

Upper Nicola Band - Oral presentation
Presentation by Mr. Fred Holmes

9040. And I do want to assure you that we will consider all what we have heard today and what we will continue to hear in the process as we decide whether or not to recommend approval of this project.

9041. And with that, we are adjourned. We will reconvene at 9:00 a.m. on Monday, November the 24th in Victoria to hear from the Tsartlip First Nation.

9042. So I would offer, if you wish to close with a prayer or -- and perhaps I would recognize then Chief McLeod.

(Closing prayer)

--- Upon adjourning at 4:13 p.m./L'audience est ajournée à 16h13