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 19

Hearing held at
L'audience tenue à

Victoria Conference Centre
720 Douglas Street
Victoria, British Columbia

November 24, 2014
Le 24 novembre 2014

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

Canada

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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

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représentée par l'Office national de l'énergie

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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 Victoria (British Columbia), Monday, November 24, 2014
Audience tenue à Victoria (Colombie-Britannique), lundi, le 24 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

Tsartlip First Nation
Chief Don Tom
Elder John Elliott
Elder Simon Smith, Sr.
Elder Tom Sampson
Mr. Gord Elliott
Mr. Eamon Murphy (counsel)
Mr. Alan Hanna (counsel)

Joni Olsen
Ms. Joni Olsen

T'Sou-ke Nation
Chief Gordon Planes
Ms. Georgia Pears (counsel)

Monday, November 17, 2014 - Volume 15

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--- Upon commencing at 9:09 a.m./L'audience débute à 9h09

(Opening song and prayer)

9043. **THE CHAIRMAN:** Good morning, and I acknowledge that this hearing is being held on the land of the Coast Salish people. And I thank you for welcoming us with the song and with the prayer.

9044. I'd like to welcome everyone to the oral traditional evidence phase of the National Energy Board's hearing regarding Trans Mountain's Expansion Project.

9045. My name is David Hamilton. I am the Chair of the Panel. And with me on my left is Alison Scott and, on my right, Phil Davies. We want to welcome everyone who is here today both in the hearing room and those who are listening through our webcast.

9046. And before we get started, I think it's important if there's a need for an evacuation, the emergency exits are clearly marked for those that -- if we need to leave the building.

9047. In addition to the Panel, we have a number of staff in the room to answer any process-related questions that you may have. You will be able to recognize them by the brass name tags that they're wearing.

9048. We will sit this morning from 9:00 until noon, and we'll take breaks as appropriate that you require or the Panel may require to take a break. If you find there is not sufficient time at the end of the session to have presented all the oral evidence that you wish to, please feel free to make a request to file additional oral traditional evidence by electronic means such as a video or some other method of your choosing.

9049. The Board understands that the Tsartlip First Nation have an oral tradition for sharing knowledge from generation to generation, and this information cannot always be adequately shared in writing. The Board recommends that those providing oral traditional evidence focus on their communities' interests and rights. These hearings are to hear evidence that will be filed subsequently in writing, including technical and scientific informations, opinions or views, advice to the Board on whether to recommend approval of the project, or the terms and conditions that should be imposed, or questions to the

Board or other participants.

9050. Sharing your traditional knowledge and stories with -- about the use of your traditional territory is of value to us. 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 be also 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 information in considering the possible effects of the proposed project. We appreciate that you have chosen to be here today.

9051. Given the nature of oral traditional evidence, it may not be appropriate to answer any questions about their evidence from other intervenors, Trans Mountain, or the Board in writing. As a result, witnesses can choose whether they will answer questions orally or in writing.

9052. With that, I believe we are ready to get underway. Before I call on the Tsartlip to present their oral traditional evidence, perhaps I'd like to have the representatives of the Proponent, Trans Mountain, to introduce themselves.

9053. Ms. Oleniuk.

9054. **MS. OLENIUK:** Thank you, Mr. Chair.

9055. Good morning to the Panel and good morning to the representatives from Tsartlip First Nation.

9056. My name is Terri-Lee Oleniuk, and I'm legal counsel to Trans Mountain along with my colleague to my left, Heather Weberg. To my right is Annie Korver, and she's a member of Trans Mountain's Aboriginal Engagement Team. Good morning.

9057. **THE CHAIRMAN:** Thank you, Ms. Oleniuk.

9058. And I'd also offer any other intervenors if there's any preliminary matters they would like to raise this morning.

9059. And for the record, if you could indicate who you are and who you're representing. Thank you.

9060. **MR. WHITESIDE:** Thank you, Mr. Chair.

9061. My name is Joseph Whiteside. I am a senior policy advisor with the Major Projects Management Office of Natural Resources Canada; we are an intervenor in this process.

9062. Our approach during these hearings this week -- and I will be here throughout the week to hear the presentations -- is that we will be posing no questions during the formal hearing process. Natural Resources Canada and other federal departments may avail themselves of the information request process to pose questions of clarification and information at the appropriate time.

9063. I am honoured to be on the territory of the Coast Salish people, and particularly those communities on the south end of Vancouver Island.

9064. Thank you, Mr. Chairman.

9065. **THE CHAIRMAN:** Thank you, Mr. Whiteside.

9066. I see no other intervenors or any preliminary matters.

9067. And before providing oral traditional evidence, presenters will be asked to swear or affirm that the information they are presenting is accurate, and truthfully, to the best of their knowledge and belief.

9068. With that, perhaps Ms. Butler we could have the representatives sworn or affirmed.

9069. Thank you.

DON TOM: Affirmed
SIMON SMITH, SR.: Affirmed
TOM SAMPSON: Affirmed
JOHN ELLIOTT: Affirmed
GORD ELLIOTT: Affirmed

9070. **THE CHAIRMAN:** With that, Chief Tom or Mr. Murphy or Mr. Hanna, wish to start off your testimony today. Thank you.

9071. **MR. MURPHY:** Good morning, Mr. Chair, Panel Members, Esteemed Elders, Chief, Counsellor, Members of Tsartlip.

9072. My name is Eamon Murphy. I'm legal counsel to Tsartlip First Nation. With me is Alan Hanna. He is an articled student with my firm.

9073. I'd like to start by acknowledging that we're on Coast Salish territory, and I'd just like to make a couple of points by way of overview before the witness panel begins.

9074. The first thing is to thank the Panel for changing the dates of the Aboriginal oral evidence. You may recall that Tsartlip brought a motion early in the summer asking that the dates be changed because it interfered with their fishing season, and they greatly appreciate that accommodation.

9075. The second thing is, and to your point, Mr. Chair about questions. The witnesses would prefer that any in-depth questions be made by way of IRs and that they can make points of clarification here today if there is something that's not clear about the evidence, but otherwise, we'd prefer that the questions be made in writing.

9076. The third overview point is regarding the exhibits. You'll see that we've got on an easel just behind the panel, a large map. On Friday afternoon we filed seven exhibits as visual aids for Tsartlip. What you have there is a combination of Exhibit 7 and 5.

9077. Now, the exhibits we filed, they're quite small and difficult to read when you look at them on a computer, and so we've got Exhibit 7, which is the SENĆOŦEN place names, and it has a whole host of place names through the Gulf Islands and San Juan Islands. And unfortunately, it's very difficult to read on the computer version, so we've got that up there. And then Exhibit 5 is the proposed tanker routes, and that is by way of overlay.

9078. We've got a larger version for both Trans Mountain and for the Panel so that you can more easily refer to those place names when you're looking or reviewing Tsartlip's evidence.

9079. The second thing we have is; I'll just point this out, it will be referred to a couple of times by the witnesses. It's the Douglas Treaty. It's at Exhibit 3. And I just -- in order to understand the evidence that's about to be given, I note

that this is a Treaty that was entered into by the ancestors of the witnesses that are here today, and it provides, among other things, the right to fish as formerly, which is a right protected by the *Constitution Act of Canada*.

9080. So I'd like to briefly introduce the witnesses and just give a couple of sentences about what I anticipate they'll speak to today.

9081. First, we're going to hear from Elder Tom Sampson. He has been a witness in court proceedings providing evidence about the content, the scope of Tsartlip's rights. He is a respected Elder, and I anticipate he will talk about the rights of the Tsartlip, the oral traditions, and touch upon the Douglas Treaty and what it means to Tsartlip people.

9082. He will be followed by Elder Simon Smith, Sr. Elder Simon is -- traditionally within the community he is a gravedigger. It is a role that is passed on from family member to family member, and in his role as gravedigger he has had much interaction and exposure to middens, archaeological sites, gravesites, throughout the islands and he'll be able to speak to the importance of those sites and the potential impacts of the project and increased marine traffic on those sites.

9083. Then we're going to hear from Elder John Elliott. He is a teacher; he teaches at the tribal school that is on Tsartlip Reserve. He teaches middle and high school. He has co-authored two publications; one is called *Reef Net Technology of the Saltwater People*; it's from 1994, and *The Saanich Year* from 1993. *The Saanich Year* is in evidence as one of the exhibits.

9084. He will be speaking about oral traditions and the stories of the Tsartlip people, the lens through which Tsartlip views the world, how they are connected to the natural environment; and in sort of a holistic sense, the belief system of the WSÁNEĆ people.

9085. After Elder John Elliott, we'll have Chief Don Tom. He's going to speak about his role in the community as elected Chief. He'll speak about what his members are saying to him about the project. He will touch upon, to some extent, the Douglas Treaty and his role in upholding the Treaty.

9086. And finally we'll hear from elected Councillor Gord Elliott and Mr. Elliott will also speak about his role as an elected Councillor, what he hears from his members about the project. He will speak a bit about the place names, the

areas in the U.S. San Juan Islands and although the international border has created access issues for those sites, how those sites are still and continue to be important Tsartlip members.

9087. And so with that I'll turn things over to Tom Sampson.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR ELDER TOM SAMPSON:

9088. **ELDER TOM SAMPSON:** Good morning.

9089. I guess to start out with I have to introduce myself. I am Tessla (ph). The name comes from my great grandfather. His name came from a place called Melarush Melahat; that was his uncle. And the five brothers that -- who I am a descendent of, have always lived in the Saanich Inlet; have always lived in this land and this island called Vancouver Island now.

9090. We have a long history about who we are and what we've -- how we've always related to the map that's shown up there. As you know, we've always had to determine things by how we experience our relationship with the land.

9091. Our relationship with the land is one of the most critical important things because it's not just a relationship, it's a covenant; a covenant in which we agree with the land and with the water and the air, and everything that is, that this relationship must be maintained and retained for all time. That is a gift that was given to us not only from the Creator, but from our ancestors and that word is called Skamis (ph). It means here are your gifts from your ancestors, look after it.

9092. I want to say that as a Coast Salish person (speaking in native language) we are the people -- the first humans that have occupied this land. Eventually we called -- we were astyungo wengo (ph) and then we were called many things after that. And for the record, we have been called subhuman; we have been called savage. We have been called a noble savage and eventually, through Columbus, we were described as Indians, and now Natives.

9093. We've been called many things and society has allowed that to happen because of their lack of knowledge of where they are and where they come from, but we have always known who we are. We've always known the official language of our people.

9094. The official language of our people is called SENĆOŦEN. It is not French. It is not English. And that's why I have difficulty in this hearing is that at the end of the day and the National Energy Board finishes its hearings, it will analyze and decide, determine in a foreign language that I don't understand; French and English, that is not our official language.

9095. At the time of the signing of our treaties, our official language was SENĆOŦEN, not French nor English. But we agreed at some point that we would understand both languages, the English and SENĆOŦEN as being the first languages; the first language of our people being SENĆOŦEN and the second language being English. So everything that we say here at this table, I have concern with it because it will be analyzed and determined by a foreign language, not our language.

9096. So I have difficulty with that because in order for us to explain even the process that we're in, it is not legal from the point of view of our language. When we come into a gathering to do business, not only with ourselves but other tribes, there was a process and a ceremony that acknowledged the exact purpose of why we're here. That has not been. That has not taken place.

9097. We have showing symbols this morning of what it might be or what it could be, but if we were to do it formally, it would be different. I want the Energy Board to know that these are the things that concern me that, first of all, that our language is not considered as an official language and yet I'm expected to speak to that language.

9098. I speak both SENĆOŦEN and Halkomelem, which covers the entire Coast Salish territory both in Canada, British Columbia as well as in Washington State, making up 55 tribes in British Columbia and 30 tribes in the United States that are all Coast Salish.

9099. I say that because I think you need to realize that it's not just about Tsartlip; it's about all of those tribes that have lived at the edge of the ocean, called Sayesoatelew (ph). Those people who live at the edge of the water; that's who we are and that's what we know. That's all we've ever known.

9100. We are not from the Prairies. We are not from Northern Canada. We are on the ocean. We live -- always lived here.

9101. This language that I'm using doesn't provide that kind of information. That's why I'm saying we need to be able to address the issues that concern us regarding the Kinder Morgan thing. We need to be able to tell you it's not just about the pipeline. It's about our education system. It's about a way of life, our economics, our social behaviour with each other; all of these are connected. They are not separate.

9102. I wanted you to know that before I start the other issues of why we can't agree with or have difficulty with the proposed transporting of oil through our territory, through our waters because these waters are Treaty waters. They're not ordinary waters.

9103. On both sides of the border, the Americans have a Treaty and so do we, and that issue has to be addressed in a way in which we can interpret it through SENĆOŦEN, the language that we know. It's difficult to do it in English because it's not the same.

9104. The reason I am saying that is that I think we need to clearly prepare ourself for this hearing. When I looked at the terms of reference for here and I said -- and I seen what they're talking about, we have had difficulty over the last century with the Douglas Treaty that we have because we continuously have the English language and the French language invading our system of language and communication, and that is not proper.

9105. I've had an opportunity to the Energy Board to take a look at what English really means. English up at the year 2013 was not recognized and still isn't recognized as a formal language in terms of global language. French people, the Prime Minister of Canada -- former Prime Minister who passed away, Pierre Trudeau, talked about the French language, and this is what he said.

9106. He said that in Quebec, who was declaring sovereignty, wanted to have their own language and everything. The Prime Minister said that people who speak in Quebec are not French people, they are not speaking accurate absolute French, and he called it a "bastard language". That's the Prime Minister of Canada. It was in the newspaper, so I'm not telling you anything that shouldn't be said.

9107. So these are the difficulties we have with both the English and the French, that we need to clearly define what this land means to us, not only the land, the water, the air, but in terms of how has it affected our educational system,

how has it affected our social structure, our social lives, and how we've become from sub-human to people sitting at this table.

9108. They try to tell you, this is who we are and this is what we stand and what we believe in. We cannot do this. It's difficult to do it in the English language and we need time, a lot of time, to prepare a documentation that would clearly define what not only the indigenous Aboriginal right means, but exactly what the treaty right provided for us.

9109. In terms of Aboriginal rights, that has never been dealt with. There's still a lot of people studying it because they don't know because they've never asked us. True, we have some colleges, universities, tribal schools, public schools trying to understand, but they've never had to live the language that they're trying to learn. It is us that have to live the language.

9110. The language we speak about is like a picture. Many times, our Elders have said that. If you can't see your language, then you don't know what you're talking about. That's what they tell me and that's what I've heard over the 79 years that I've been alive.

9111. In terms of the treaty right, that's unfinished business. Our treaty clearly points out that we are to be people that would live on the land that was determined and settled, and the treaty did not give us land. The treaty recognized the newcomers who came to this land; it didn't give us anything.

9112. What we did was acknowledged the presence of the non-Indian and the new colonial people that came to this country. We acknowledged who they were. We didn't give them land. But according to the treaty and the way it was written up by the English, they wrote it up as if we had surrendered. We did not do that. In fact, it says that in our treaty, that we are allowed to live as formerly as before at our enclosed field and village sites. That is unfinished business.

9113. So when we look at this pipeline, we look at the pipeline, we look at the transportation of oil through our territory, we see it as a total infringement on not only the Aboriginal right and indigenous right, but also our treaty right. And we take great offence to having it being analyzed and described in English or French because that is not our language.

9114. The first language is SENĆOŦEN and Hul'q'umi'num. Those are the languages that we know.

9115. So I have, Mr. Chairman, a great difficulty with the meeting that we're having this morning because two hours, four hours, one day to tell you about who we are, to tell you how important every ceremony and the covenants and the relationships we have with the land, there's -- that kind of time is not available to us today.

9116. We're trying to cram everything into a few hours with a short break maybe at lunch time. I don't know. But I see that as being totally unreasonable and unacceptable for us to agree on something that someone else is going to analyze.

9117. Court precedent, we don't agree with that because the language used in the Court system, whether it's Provincial Court or the Supreme Court of Canada, it's English and French that they use to determine what an Aboriginal or indigenous right is.

9118. We can't -- we don't agree with that. It's not right. It's not even a human right, let alone a treaty right. It totally infringes and invades the rights of who we are, and that is unacceptable to any human being in the world, and we have that right to be heard in our language.

9119. (Speaking in native language). I've spoken our language to let you know that we have words that say what we are and what we believe in. And I'm talking to the people that are not here and for the people that are not here, because if we don't speak on their behalf -- I'm speaking on behalf of my great-grandfather and great-grandmothers. I'm speaking on behalf of my children, my grandchildren, my great-grandchildren, and those children yet -- that have not yet been born because if we don't speak on their behalf, just like the salmon, just like the killer whale, just like the seal, the mountain lion, the wolf, nobody speaks on their behalf.

9120. Well, I'm here to speak on behalf of my family and our children and the children to come, and those things that we've always had a relationship with, a covenant; a sacred covenant, by the way. The song of the mountain lion, the song of the wolf, the song of the killer whale, we sing them every winter. Every winter we sing these songs.

9121. We come together so that we -- our children won't forget who they are and they won't get confused by the language that we are using today 'cause when

we say ceremony, it's a simple word to say, but when we say it's och'ten (ph), it becomes different. Totally different.

9122. So I want the Energy Board to know that I'm not happy, I'm not satisfied with the process that's set up. And I'm not -- very concerned that the French language and the English language will determine who I am and who we are and what we stand for and the concern that we have in terms of the proposed tanker route.

9123. We've been briefed on it and we've been aware of it for a long time. We've addressed our concern before. Many times we've addressed this concern, but nobody listens to us.

9124. I've been told that this is an exercise in -- a futile exercise that's not going anywhere because it's already been predetermined. The only purpose of this meeting is for the government and the corporations to determine where the hot spots are. That's what I'm told. And this is -- maybe this is one of the hot spots that they're going to have to deal with because I think as we put governments and corporations on notice about how we want to look after ourself, how we want to look after the land, they see it, society sees it, "Oh, those Indians are at it again. Let them blow off their steam and they'll go to sleep if we pay them a few dollars. Give them some money, they'll keep quiet." That's how we've always been treated. I'm aware of that.

9125. I sat on the Constitutional table for the Status Indians of Canada for seven years. I sat on our Treaty Rights Commission, our table. I sat on our Band Council for over 20 years. I chaired the Treaty Council, our Band -- our Tribal Council for 22 years. And every experience I've ever had has been like this. "Let's meet with those Indians and see where they're at and then we'll go ahead and do what we want." That's what we see.

9126. We have had extreme difficulty in trying to trust governments and corporations. Extreme difficulty, especially in this case because we see a relationship being totally destroyed. Not our relationship between humans, but our relationship with the ocean 'cause that's where our power and strength comes from, our relationship with the land. We see that being destroyed.

9127. I could go on and on, Mr. Chairman, about my concern about this process because I have extreme difficulty in accepting the fact that French and English language will be determined -- will determine the future of who I am and

who we are at this table.

9128. I have extremely difficulty with having the Energy Board turn this over to somebody who is going to look at it, analyze it and say, "We consulted and it's the same old, same old story; they always object to something."

9129. Well, let's see about that. We know that there have been many movements in this country, North America, whether it's the Civil Rights Movement in the United States or whether it's the Idle No More Movement in Canada. We've seen the consequences of those movements.

9130. The only hope I have for this Energy Board is that you will clearly make it known to those who have heard us this morning that this is not an ordinary meeting; it's about our relationship with the land and the water and everything that is. That's what this -- that's how I see this gathering, this meeting this morning.

9131. It's not going to be easy, I can promise you that. There are people in Burnaby Mountain fighting tooth and nail to what they believe in. They're prepared to sacrifice.

9132. We're the same way, but we have much more to lose because we are the original residents of this country and this land. There was nobody before us, so we know what's at stake.

9133. We're not a piece of real estate. We are not some commodity that can be traded off by the corporate world. We're not that. We're human, and we know what to do with our humanness (sic) and we're going to look after it.

9134. So I want to thank the Energy Board for listening to me this morning knowing that I can't agree with your process because of the English and French official languages. They literally said, when I spoke a few moments ago in our language, that is not official. It's unofficial. It doesn't mean anything.

9135. I can't accept that, and I don't see how the Energy Board can overlook that. I don't see how you can do that, if you ever do it, or if you even consider what we're saying this morning.

9136. I'm not against progress. I'm not against people being rich. I'm not against social development, social rights of people that are coming into this

country. There are people coming from all over the world, coming to this country so they can find peace and quiet and live and say something without being killed.

9137. So I want to thank the Energy Board for listening to me this morning because I'm not happy with the process. It's disappointing that we would -- after all these years, 500 years of being together, and we haven't learned to live together yet.

9138. But that should tell you something. We're still here. We're not going away. After all this time, whether it's religion, social structures, it doesn't matter, we will always be here. We're not going away 'cause this is where were born and this is where we'll die.

9139. So thank you for listening to me this morning. And I don't know if there -- if -- if this process will benefit other tribes. Maybe some people are looking at it is an opportunity to share in the oil that will be going through George's Strait, Puget Sound, Juan de Fuca. Maybe there are some tribes that are willing to cut a deal, but not me 'cause it's more than just about making money 'cause if that ocean dies, I will die with it; that's how important it is to me.

9140. (Speaking in native language). The words I've used are not mine. The words that I heard from our ancestors and from my grandparents, great-grandparents, that's where these words come from. I didn't invent them. They've always been here and they always will be here. It's not going to go away.

9141. So I want to thank you for listening to me this morning. HÍSW̱ḴE.

9142. **MR. MURPHY:** We'll turn the floor over to Elder Simon Smith, Sr.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR ELDER SIMON SMITH, SR.:

9143. **ELDER SIMON SMITH, SR.:** My name is Let'tuum (ph). My given name to me by Department of Indian Affairs is Simon Smith, Sr.

9144. I'm not happy with the name. I'd sooner use my traditional name, Let'tuum (ph).

9145. It says here that I had to talk about how I got the name. First of all, I

have to sort of -- I guess I'm having a hard time right now because I have to -- I'm going against what we -- how we believe and what we have to say.

9146. This language that I'm using, it was not language from my grandfather. My grandfather was a hereditary Chief, Ufjasel (ph). (Speaking in native language).

9147. Thank you to the Energy Board. I have -- you know, before -- whenever I go to a meeting talking about who we are, my wife always tells me, "Tell them who we are. Tell them that this is not Vancouver Island. This is our island. This is Indian Island. We've never given this island up."

9148. She says, "It's time you got up and told them that they just came here and they took it over, making us sign a Treaty which they never lived up to."

9149. And as I said before, there are still some of our people that are not here today that still do the fishing. And if there's one spill out in that where the tankers are going to come through, that's going to destroy their livelihood.

9150. And they want to make a living by fishing. They don't want to give a handout -- get a handout.

9151. And also, one of the other roles that I have is an archaeology field worker. You know that those -- when the -- I don't know how many of those tankers are going to come through the route that they're going to go. And I know that none of you ever go out there and look at those islands.

9152. Just with the everyday traffic out there, there's a lot of erosion. And some of those are midden sites and gravesites that are eroding into the water.

9153. Do any of you care about what's going on? We do 'cause that's our ancestors.

9154. And I say this quite loudly because it hurts here when my son and I get called to go somewhere to remove a grave. We don't want to do it, but because somebody's going to get more money or whatever, we have to go and remove them.

9155. As one of our Chiefs -- I don't know if he's here today -- he always says, "Where's the rest in peace for our people?" There's no more rest in peace for

our people. We're always going out there and removing our ancestors and disturbing them.

9156. My wife says, "You know why Malahat's the way it is? Because nobody respects that mountain." They're going to fix it up so the guys can probably do 200 miles an hour through there. And it's because our ancestors are mad because they went and destroyed their sacred mountain.

9157. So this is what's going to happen here. And I was -- talk about some of the things I seen happen since I've been doing this archaeology. You look at Coates Cove. We done two years of work out there and a guy come along and says, "I can't give you guys any more money."

9158. And I told him, "Well, our work's not done." He said, "Well, I can't give any more money."

9159. So we went out there for a month -- a month on our own out of -- digging our own pockets. We wanted to satisfy our Elders, all the guys that worked out there, and we didn't get finished because we ran out of money too.

9160. You know just last year a young girl got killed out there and that's what we were worrying about. We told them something was going to happen because our ancestors were unhappy. Bear Mountain, that guy blew up that sacred cave. Where is he today?

9161. And I really hope that one day somebody's going to listen to us and our concerns, and talk to us. Like my relative says, come and talk to us in our language and we'll speak to you, tell you how it is, and then when we see an agreement along with our language, the English language, and the French language, maybe we can come to an agreement.

9162. Just like our Treaty. Our Treaty was written by somebody else. You know, and I think if we had a handwriting expert determine all those Xs maybe we'll find out that it was all one person that signed it.

9163. Thank you.

9164. **MR. MURPHY:** Elder Simon, can you speak briefly about middens and what -- the areas you're aware there are middens and whether they are along this route?

9165. **ELDER SIMON SMITH, SR.:** Yeah. Along this route there's about -- well, there's quite a few. But I know of about three, three areas where there are middens and they're exposed right now. And each time the wake from either a freighter or boat, whatever, hits those, it's causing erosion. And we went there about two months ago; Parks Canada asked us to go out and have a look at them. And, you know, it's one of those things; some people say I wish we had the money to do something.

9166. But, you know -- and I don't like to point out these places because parks, B.C. Parks thought they were doing us a favour by fencing off this area which we told them that was a sacred site. Two days later they phoned me and said, "You were right, somebody went and dug it all up." And I told him, "You guys shouldn't have never done that, because you guys can't be there all the time to watch it."

9167. So with all this addition to these tankers going through there, those middens are going to be really exposed. They're going to be washed down into the salt shuck. There are already places there were the midden has washed out already. And as I say, those are sacred place for our people because there are a lot of things in there, in the midden, when we talk about middens. And I always think about -- we don't point them out because we've always say -- you know, everybody uses the term grave robbers. They go in there and take whatever is in there and they probably sell it, like at the swap and shop. I seen one guy have a whole big table full of artefacts.

9168. But that's why, the other reason, that I'm opposed to this more traffic going through this route here, is because we -- there's middens out there and our ancestors are in there. People don't care, but we do. Some of us feel real bad when we see something like that happen. Some people don't care, but we do. We have a feeling for our ancestors that are gone.

9169. **MR. MURPHY:** Other than the middens, are there burial sites that are potentially exposed as well along the route through these islands?

9170. **ELDER SIMON SMITH, SR.:** Yes, they are. As I said earlier there's some of them -- some of it has been washed out onto the beaches already and you know, over there, because we know that this is happening. But we're like everybody else, you know, where some of us don't have the money to go out there and do the proper thing and -- by reburying them.

9171. **MR. MURPHY:** Can you speak briefly about water; is water part of any rituals?

9172. **ELDER SIMON SMITH, SR.:** Pardon?

9173. **MR. MURPHY:** Can you speak briefly about the water; is the water part of any rituals?

9174. **ELDER SIMON SMITH, SR.:** I guess when you talk about water we talk about life. If you didn't have water, you know, your life wouldn't last very long. And also with water we get our food from the water, and once that's contaminated so is our food contaminated.

9175. I talk about this because my late father was a fisherman. He fished through all this area. He dug clams, picked seaweed, picked oysters, and I know because I was there with him. I don't just talk about it, I was there.

9176. **MR. MURPHY:** Before we begin with the next witness I wonder if we could take a short break?

9177. **THE CHAIRMAN:** By all means. We'll take 15 minutes and come back at 25 after 10:00.

9178. Thank you.

--- Upon recessing at 10:09 a.m./L'audience est suspendue à 10h09
--- Upon resuming at 10:27 p.m./L'audience est reprise à 10h27

9179. **THE CHAIRMAN:** Welcome back. I appreciate the break.

9180. Mr. Murphy, I'm ready to proceed when you are. Thank you.

DON TOM: Resumed
JOHN ELLIOTT: Resumed
SIMON SMITH, SR.: Resumed
TOM SAMPSON: Resumed
GORD ELLIOTT: Resumed

9181. **MR. MURPHY:** Thank you, Mr. Chair.

9182. The next speaker is Elder John Elliott. And when you're going back and reviewing his testimony, his presentation, later I'd ask that you also refer to the Affidavit that was filed as part of the Tsartlip's Notice of Motion to change the hearing dates because there's a lot of very relevant information in there and that was filing number, for the record, A3W559.

9183. Thank you.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR ELDER JOHN ELLIOTT:

9184. **ELDER JOHN ELLIOTT:** (Speaking in native language).

9185. Just an acknowledgement of the Elders that are -- have just spoken; an acknowledgement of the Tsartlip Council for asking me to come and share a few words with you today and be here present at this hearing.

9186. My name is STOLȻEŁ, the Saanich name is STOLȻEŁ, and I received that from my late father, Dave Elliott. And there was much -- I remember there was much discussion about names because of our big family. And you know, he said I could take some of the other traditional names, "But a lot of the family members are using it," he said, "and I don't want to offend any of them. We need to keep our family together," he said.

9187. So when it came time, he showed me a list of names, and I liked the one called STOLȻEŁ, what he was going to give to one of us, and I said, "I think I'll take that one, Dad." And I said, "Because we have family over there and there was," I said, "no land we had over there." And STOLȻEŁ was two days over in San Juan Island across the border a little ways and -- because that old aunt kind of favoured me and she always kind of spoiled me when she came around. And she was a very strict lady; a very strict lady, and I was kind of spoiled by her. So I'd kind of like to be -- take care of that name of our relatives that are still living there. So I said that's good.

9188. And when it came time, we did eventually take one of our ancestral names which I gave to my son beside me here, Kulothmukum (ph), because it was being used at the time, and that was given to my late father by the original Kulothmukum (ph) that lived in W̱SIḴEM down in what's known as Pat Bay

Reserve now, when he was a small boy and visiting his great-grandfather there. And the old man's name was Kulothmukum (ph), and he sat my Dad beside him and he said, "You're going to be the next Kulothmukum, he told my father. So when time came about, I gave that to my son so that we could have it in the family still, and gathered all the Elders around and we did that.

9189. But I wear my name proudly. It's a place name. And I think my father was being very progressive in the day in doing such a thing. He took some of the place names from our homeland and territory and he named some of my brothers and sisters, along with myself, after those places, mine being STOLQEŁ. And if you interpret that name it means out in the edge of the territory loaded with your possessions -- with all your possessions, you're STOLQEŁ, and you're TOL, it's from those words. TOL means out at sea.

9190. So I wear that name proudly because our families have fished there and visited there and paddled there and fished and hunted and been together with other family there. We still have some relatives alive out there at STOLQEŁ, in the far end of STOLQEŁ in the -- at the island there called PḰÁYELWEŁ. It means place of ancient wood.

9191. So I'm looking after that name because my father asked me to look after it. He said, "Look after this name and pass it along when you're done with it. Pass it to one of your kids or grandkids, if you like, and if you want to change it a little bit that's okay, you can do that, it's your name, STOLQEŁ." He says, "Because that island belongs to us; that's our place. That's part of our home, it's part of our family's home out there. And they didn't -- we didn't sell it. We didn't sell that place. Nobody ever asked us if they could have that place. It's been ours for a long, long time, where our families have lived."

9192. So that's why I'm called STOLQEŁ, and when I'm done I'll pass it along to one of my daughters or one of my sons or grandchildren, and maybe change it a little bit but I want them to know the value that we put on that; that we're taking care of a name such as that so that it doesn't get lost. My late father said, "Some of those names are getting lost; we don't want to lose them. We have to bring them into the generations." And so they're being used over and over and that responsibility is given to that person who is going to wear it.

9193. I'm happy to be here today to be asked to be sharing some of this information with you. I thank the leadership here and the Tsartlip for asking me to come along to speak with you today.

9194. You know, when I wake up in the morning and I'm happy to be still here in this world, and I start to acknowledge the day, and I think of the things -- the teachings that the Elders have taught me, how to acknowledge the day with prayer words; the light of the day, the winds that blow by their names, what they represent, their human names; acknowledge all the mountains that are around us because it was a great work that was put here by the Great Spirit. When he walked the land with our people, our ancestors called him XÁLS, the Creator of all things.

9195. My late uncle, Kla'ten (ph), late uncle Gabe Bartleman, he said to me before he passed, he said, "Don't forget to acknowledge those mountains around here when you're saying your morning prayer because that's a great work by the Great Spirit when he was here." Because our story tells -- our history tells us that when he came here and arrived by canoe one day over there in Tsawout on Nesesou (ph) on the shore there.

9196. And he got out of the canoe and he walked up on the shore there when there was lots of, what we call kwentalis (ph), they're shiny black stones on the beach there. And he picked up one, XÁLS picked up one of those stones, (speaking in native language).

9197. He threw it inland and nothing happened to it, to the first stone. And he reached down and picked up another, the same shiny black smooth stone, and threw it again, threw it inland. And the second one that he threw grew into a mountain there that is there still today. That mountain we call Thala'muchk (ph) today. That's the Mountain that Grew.

9198. XÁLS had a basket on his arm and he picked up several of those kwentalis (ph) before they left and walked up to the mountain that he created and he brought the people with him, and he filled his basket with those, several of those stones and he walked up to that mountain.

9199. There is a rock face facing east where they went; it's like a ledge there. He took those stones from his basket and he tossed them around from up there and made those other mountains that are still there today.

9200. (Speaking in native language). All the mountains that are still there today.

9201. And so that stone became sacred to our people at that time. We call it kwentalis (ph) stone. It's a ceremonial thing; something that we believe in. It's part of our belief system.

9202. That's what some of the Elders said to me, and I believe their word. I believe their teachings.

9203. I worked with several Elders from the W̱SÁNEĆ, my sister, Corsenia (ph), and myself were asked to sit and record the Elders 35 years ago. And there were 18 fluent speaking Elders at that time working together to make that map that has been presented here of all the names in our language, of all those places. I could name a few. (Speaking in native language)

9204. There's more. Many, many more. But I'll use those as examples today. Those are named on the map in our language, and they're important places to our people, because when the Creator finished making the mountains and he grabbed some of our people -- he grabbed them and threw them out in the ocean.

9205. And as he threw them out there -- the Elders told us, "This is our history." As he threw them out there, one by one, he said, (speaking in native language). As he tossed some of our own ancestors out there and they became those islands.

9206. (Speaking in native language). He made them different. He made them to be those islands that are still there today, how they're all laid out there as you can see them on the map there. That's how they came to be.

9207. And when he threw the last one out and he turned to the people remaining there on the top of the mountain on that ledge facing east and he said to them, (speaking in native language). He said, "And you will look after your relatives of the deep."

9208. So our word for island is claklaches (ph). That means island, all right. But the inner meaning of that is relative of the deep because of that origin of those places.

9209. I believe that. The Elders taught us that. And they were taught by their Elders, and those Elders were taught by their Elders.

9210. (Speaking in native language). That what was given to us from one

generation to the next until we arrive down to today, and we're still teaching it.

9211. And I became a teacher after spending many, many years with my Elders and learning and understanding what it is to be W̱SÁNEĆ. For when we throw away that belief, then we're no longer W̱SÁNEĆ. We lost our way. We lost the truth of who we are.

9212. Our Elder said this morning, his words, that we have a sacred communion with the land and all the living things out there and around us. And this story I'm telling you is why, because when XÁLS spoke to our people, our ancestors, and said (speaking in native language). He says, "And you will look after your relatives of the deep," and that became a law. That became a law. You must look after your relatives of the deep.

9213. And that is skelitz (ph) in our language. A skelitz (ph) is a law; a skelitz (ph) is a belief. They are not different from one another in our world.

9214. But you believe how we must look after this place, our homeland. (Speaking in native language) Our whole homeland.

9215. (Speaking in native language). Our homeland.

9216. Our ancestors fought for this right to look after this place. When the treaty Took place -- what they call the Douglas Treaty took place back in 1852, they were looking after this place. They didn't want to see it get destroyed, a beautiful place. A beautiful place to live gifted to us by the Great Spirit.

9217. And there was a threat on some of our family and relatives from other there near Picaltz (ph) where they were falling some trees, and our leadership heard about it. And in Picaltz (ph), we were already upset about that because one of our young boys was shot in Douglas's Field near Victoria. And he was just -- he was walking along a trail, an old trail from Seelaquith (ph), or what they call Oak Bay today.

9218. Walking along there and passed through a fence and walked through the field and they shot him; 17-year-old boy, and they killed him.

9219. He didn't know there was such thing as private property or fenced land where you can't walk because nobody asked to set up a fence anywhere along the place or across the trail. So the ancestors are already upset about that when they

heard that our relatives over there in Telichcha were being disturbed by someone cutting their trees over there.

9220. So there was a big discussion about that and they went over there to -- they sent four canoe loads of warriors over there. They were looking after their relatives 'cause there was only a few that were there.

9221. And they made it known that day that either you're going to stop your logging or the W̱SÁNEĆ people are going to come in to Victoria and wipe it out and burn it down. That was the threat. So it was at a state of war then with what was called Fort Victoria.

9222. These are the words of my Elders that I'm telling you they told me, and they were told by their Elders, just like how I told you about the -- how the islands came to be. These are true words that gets passed along in our history of being Saanich.

9223. Some of my relatives from the past, my grandfather, Tsewetsut (ph), grandmother, Colethemia (ph), my grandmother Sosasuwut (ph), my great-grandparents (speaking in native language), part of our family that were alive those days. (Speaking in native language). Part of our family I'm talking about that go back, right back to the 1700s.

9224. And they pass along the history from one generation to the next and our beliefs and our values, the history about our land and how we should look after it because it's HESKEALS (ph), a belief, HESKEALS (ph), a law.

9225. I became a teacher at our school because I believe that our children need to know and understand what it means to be Saanich. (Speaking in native language). Just like the Elder was saying today, speak the language, just the language alone. Just be who we're meant to be.

9226. I see the path that the -- I see marked on the map in front of us where the route of those ships will be travelling through our homeland and territory, and that concerns me. That's why I agreed to come.

9227. I'd rather be in my class teaching my kids than be here. It's just an annoyance to me to be here, but I'm here because it's important that I say what we have to say. I'd rather be with the kids in our school giving them life.

9228. All of those beautiful islands and bays and inlets. (Speaking in native language). All of our clam beds, oyster beds, our octopus beds, all of those are sacred to us because of our belief. It's a belief that we have about how they came to be whether it's clams, mussels, oysters, fishes, of all the species of fish that travel through our territory. It's our belief.

9229. (Speaking in native language) It's the Elders' words. That's what they said.

9230. They were people long ago before they became fish. They found a good people, a good, hard-working people that didn't have an enemy anywhere, had no enemies. They worked well with everyone and XÁLS appeared to them and said: "The way you are living is good. You have no enemies and you work hard. So I'm going to keep you that way."

9231. And he changed them into SĆA/AANEW̱, all the SĆA/AANEW̱, all the fishes and salmon. And he sent them out to sea.

9232. (Speaking in native language) They all worked together. He sent them out to sea as families, the spring salmon, the Sockeye salmon, humpback salmon. (Speaking in native language). All the salmon, they go out to sea as a family and they return as a family back to their home.

9233. That's a belief that we have as a people. I believe that that route that's planned there on the map is going to affect the life of our belief system, of our laws. It's going to affect us as a people.

9234. Our Elders respected the laws that were given. So each year, in the late summer or the late spring (speaking in native language), the ironwood tree blossoms. I think it's called ocean spray today. It blossoms a beautiful blossom and plume, kind of a beige-coloured plume, and there's a beautiful scented aroma throughout Saanich.

9235. You have to be in awe of it when you look at it because it's so pretty, and the smell of it means Saanich summer. It's a marker on our natural calendar for our people. When that took place, it meant that now the salmon are starting to travel within our homeland territory. They're within our reach. (Speaking in native language).

9236. And then it means that it's time to get ready to go and move, be out

there in our homeland and territory. And when we were living in our natural state of life, ATHITHA (ph) was sent out to paddle out to the edge of territory to SMAKWACH (ph), which is called Point Roberts today, by himself paddled as a prayer for the people at that time, paddling on his way, and each stroke of his paddling was like a prayer for the people.

9237. He never had anything to eat. QUECHESH (ph), he was giving up food, giving up water until he reached to a place called (speaking in native language) which is now called Main Island where there's a beautiful spring water there where he would stop and have a drink and a rest. That was his first full day.

9238. Early in the morning, he'd drink water and travel on continuing his effort to finish his prayer work for the people to begin their fishing season and he paddled until he reached SMAKWACH (ph) which is now called Point Roberts. At the edge of the territory, he stood in his canoe and he faced all of those (native word), the islands there, and he spoke to them as people.

9239. (Speaking in native language) "You should – your relatives will be here soon", he would say. "You should look after them like you were told. You look after them like you were told and they will look after you the way they were told by the Great Spirit".

9240. That's a belief. That's a way of life for our people, what an island is, where our food is gathered, where our families are gathered, where our history is told, where education takes place, how to live in this country and the way it was meant to be.

9241. And he would pray to the salmon, SĆAA,NEW̱, that spirit of all fishes, and they would say, "Take pity on us and feed us once more and we will respect you like we always have". That was a prayer for the people.

9242. When he was done that, he paddled back home two more days, stopping at the drinking place to get water, then paddled back home, back to the village, where he would gather the people and say, "I have done my best for you. I have opened your fishing season. You can go and get ready to go. I've opened a way for you."

9243. Look after our homeland. (Speaking in native language). Look after it. Take care of it. That's a belief for us; it's a law. When it's taken away from us, it's no different than throwing away your crucifix or your pages of your Bible

and throw it in a -- throwing it down in a bush or in a ditch. It's the same -- same thing for us. The Bible that you swear on in your courts, it's like taking that and throwing it out.

9244. Our right, our religious belief connects us to the land, to the salmon. (Speaking in native language). Our prayer words for all those fish were given to us to look after that resource so that there will always be some for the future.

9245. When we hunt a deer, it reminds us of how it came to be. How it came to be; there was a law, and there was a young man out in ŁÁU,WELN̲EW̲, out in what's called Fulford Harbour in Salt Spring Island.

9246. A young man was changed because he had the intent to kill XÁLS. He said, "XÁLS is not going to change me. He comes here or I'm going to kill him. I'm going to cut his throat with this knife and I'll shoot him with this arrow," he said. And he got changed; XÁLS came regardless of what SMÍEŦ was thinking. His name was SMÍEŦ.

9247. And he said, "(Speaking in native language). What are you making this morning here SMÍEŦ?" He says, "I'm making an arrow. I'm going to kill XÁLS. He's not going to change me." "I'm going to cut his throat with this knife, this mussel-shell knife," he said, "He's not going to be changing me."

9248. XÁLS changed him anyway, that day. He said, "SMÍEŦ, it's wrong to have the intent to kill in your heart. It's wrong to have the intent to kill or hurt anyone, or even think like that." So the next thing, he changed him that day.

9249. He says, "From now on, you'll be the hunted one. You'll be the hunted one and you will provide the food for the people." And he gave him big ears to listen because he's going to be listening for the rest of all time as the hunted one.

9250. SMÍEŦ was being raised by his grandparents. And his grandparents wanted to give him teachings and values. He said, "I already heard that. You told me that already." Just like a teenager, any other teenager. Even though that day, "You already told me that." Didn't want to hear his grandpa, his grandma's teachings. So the Creator said, "You know, you should value those teachings that you're being given how to live in life so I'm going to give you nice big ears to listen with."

9251. So that's a belief. That's a law by our people that it's wrong to have the intent to kill just for the sake of killing. Our people, sure they hunt deer, sure, we all hunt deer. We love to hunt deer. But it's a prayer when we hunt deer.

9252. We think about hunting that deer and we call him grandson in our language. (Speaking in native language). "Cross my path today. Feed my family." And every part of that is used. And it's all a prayer because it's a belief; it's a law for us. Not just for the sake of killing.

9253. I believe that this tanker traffic that you're proposing to come through our homeland, our basin inlets, our shores will be destroyed. They not, might not be destroyed; they will be destroyed because there's going to be an accident. You can't prepare it. It will be destroyed sooner or later.

9254. When there's 400 tankers running through the same path, you can't tell me that there's not going to be an accident one of these days. There will be. And that's why we're here, to have you understand where we come from, who we are, what that means to us. We want to be in communication and community with the land, like we always have been and were meant to be. We don't want to give it up because it gives up -- we're giving up our identity when we put that aside.

9255. It's our right to believe that. It's our right to (speaking in native language), to speak in our language. It's our right to believe what our language says and our ancestors have told from one generation to the next. That is important to do. We're not about to change it for an oil company or for another billionaire to make another billion.

9256. Unschwist (ph) in our language, it's an important little term. Like, where you paddle for your survival to feed your family, unschwist (ph) and all of that where we paddle. Our families paddle, whether they're going out to dig clams, hunt, pick berries, gather seagull eggs, set our reef nets, troll deep fish, whatever we want to do, that's part of our right. That's part of unschwist (ph).

9257. We talk about all those things in the Saanich calendar year, the activities that our people -- it's been given as evidence. That's important to the us, the activities throughout our Saanich calendar year.

9258. We have four moons named after the salmon runs in our Saanich calendar yearbook. It tells us all about what's going to be happening. Our people are going out there to look after their families, teach teachings, teach how to look

after this homeland and leave some behind, leave it in better shape for the generations to come. That's the value of it and understanding it that way.

9259. It's when you speak to the salmon. We talk about the ŚW̱SELÁWE, the HENNEN, the sockeye salmon or the humpback salmon. It's just the species' name. But if you're speaking directly to it in our way, you use a special prayer word for it when you catch it and you thank it. And when you prepare it, you thank it. And when you eat it, you thank it again. May I ask to give medicine to you? (Speaking in native language). Medicine me, medicine my family. Give us your oil and medicine us with it.

9260. It's all a prayer to us. So you're interrupting our church. You're interrupting our service with passing all those ships through our church and homeland. If we don't believe that any more, we're no longer Saanich. Those words were laid down by the Great Spirit himself, how we should look after this homeland and territory.

9261. Our families traditionally fished in all the bays facing south and at our SWÁLET, which is a family fishing location, and we're connected to those locations by our NAHEMIT (ph), which is the oldest family name that your family can connect to, and it gives you right to those places, your SWÁLET, your fishing locations. Because the salmon run into the bay, they run into the bay and then they run out when the tide is running.

9262. On their way out, we set our reef net and it creates a false floor and they sort of rise up. In between our reef net boats is a big bag of a net, and they go right into that net. That way was given to us by the Great Spirit. It's a belief of ours, how it can to be, the SWÁLET, the reef net and reef net fishery. It's a belief.

9263. When a young man came to one of our young ladies of Saanich down there in CHEKTANAM (ph) -- it's called Blaine today, Washington. And one of our beautiful Saanich young ladies was -- met a young man on a beach and they became fond of one another, and he asked her to go stay with him, run away with him and stay with him.

9264. And she said, "No, you have to come to my family. You have to speak to my family if you want me to go and be with you. Do it the right way. QUESA (ph). You have to do it the right way.

9265. So the young man came and made a formal proposal in front of the house of the young lady and was accepted into the family way back. When they stayed with them, the father said, "You have to stay with me for a year at least before you take my daughter away".

9266. He was a human spirit of the salmon. Sounds strange in this world today. Sounds pretty strange because in the western educational places, they say that's a myth. It's not a myth to us; it's history. It's history, the way we know it to be.

9267. Before he left, he said, "I want to give you a gift for your people, but I'll need some SWÁLET". He said, "I'll need some SWÁLET to make this gift for you". And it grows in the forest.

9268. So many people went out and brought different kinds of branches and medicines from the bush until someone brought the long young branches of the willow tree, and he took the bark off and showed them how to make twine with it, and he made a net with that twine. The first SWÁLET, the first of the reef nets that were made.

9269. That was a gift that was given to our ancestors. We could throw it aside and leave it alone and forget it forever, but we'll never be Saanich again when we do that. That's a belief of ours, how that came to be.

9270. The SWÁLET is a sacred thing. It pulls our families together. It keeps our families strong. Everybody has to work to make that SWÁLET. It builds a strong community and we connect to those places out in those islands, out in (speaking in native language).

9271. We're connected to all of that when that's in place and we're practising our belief, our religion, you call it today, because that's ours. That SWÁLET, that clam bed, that oyster bed, that's a page in our Bible. That's a page in our Bible. We don't want it destroyed with stinky oil. It's not that important to us. We can live without it, and I think the world has to find a better place, a better way to do things, a cleaner way than depending on oil to do this.

9272. When the first people came to our homeland, it was a pure beautiful place full of old growth trees standing everywhere. Our people didn't have to fall a tree. We only took the windfalls and used them. But if there was such a great need that they had to use a tree, a live tree, there was a great apology that was

made because it reverts back to a law, another law of how we should be kind to one another.

9273. It's KLELNUK (ph). And if you interpret that word, it means the bad people that were put away, the ones that were unkind, so that we could have kind ways in our life. And they were changed because they were being mean and unkind and left us a value to say that we must be kind in our ways and our life to one another. And they were made to be the ones that are going to be protecting the people now.

9274. And our dwellings are made even today of those trees. They protect us. They give us our canoes, they give us all our things we need.

9275. I believe those stories. I believe that history. I believe what the Elders spoke about tonight -- today, their words, their values that they -- we have a connection to those bays, those inlets.

9276. When we go digging clams in our language, we call them CAHAELTS (ph). CAHAELTS (ph). It means caused by a Creator if you interpret that word, CAHAELTS (ph).

9277. It comes from XÁLS himself when he changed some of our people to be those clams. We've got stories about them, how they got changed and why they were changed and they didn't want to be changed. They were hiding down in the beach. They hoped that XÁLS would pass and they wouldn't be changed. And XÁLS came to them and he asked them, "Why are you hiding there?"

9278. (Speaking in native language) "How come you're hiding down in there? "Well, we don't want to be changed," he said.

9279. Well, XÁLS said, "Don't you think if XÁLS is going to change you, it's going to be for the good of all?" Yeah, the way it is. So they were changed.

9280. (Speaking in native language)é All those different shellfish that are there. SCQW'A'AT is a butter clam, and it's a question in our language, "Why do you go there?" s'ckley (ph) means littleneck in our language, and it means for hunger. And te'slam (ph) is the cockle clam that lives in the shallow, west part of the water. Te'slam (ph) means enough of the little ones.

9281. Meskelkum (ph), he was trying to get away and run away. That's why

he stuck on the rocks the way he is today. Walketlz (ph), digging clams means caused by the Creator.

9282. It's just about impossible to disconnect us from all of that in all of our activities and how we live on the land and throughout our life and, throughout our Saanich calendar year, we're involved in, one way or another, giving thanks, acknowledging, feeding and passing along those histories to the young people so they know who they are and what it is -- what it means to be W̱SÁNEĆ.

9283. There is lots of those stories. We're going to probably need a couple of more days to tell more of it.

9284. When my father was a boy and he was travelling out to STOLQEL where my name comes from to visit his grand-aunt and -- or visit his auntie and them out there and the relatives out there. And he was travelling with his Mum and his other aunt.

9285. And they have to travel in nighttime in order to catch the tide that's going across the normal way, because normally the tide runs north and south. But at a certain time when the outgoing tide is meeting the incoming tide and then they meet together for a while and they go across the islands and then you can travel eastward by the tide. They had to travel at night. My father was pretty young.

9286. In order to catch that crossways tide traveling out to STOLQEL, they had to leave in the dark in the summer night to go visit their relatives.

9287. My Dad said it was really boring as a little boy 'cause there was no talking. You're not allowed to talk out there at night when you're in the water, and all he could hear was the sound of the paddles and the bubbling of the water behind the canoe.

9288. And he went to his Mum, my grandma, Cecilia, and said, "I'm tired." (Speaking in native language)

9289. She said, "Well, that's okay. Good. Go up on top of the blankets there and have a sleep."

9290. So he climbed up on top of the blankets and he laid there, and he could just hear the paddles paddling and the water bubbling behind, travelling over to

see the family over there in STOLȻEL that they loved so much.

9291. And he said he looked up at the stars and they were passing over as they travelled along, and that's how he went to sleep. He said, "I felt totally secure travelling with my Mum and with my auntie, and I fell asleep on top of those blankets. I felt at peace," he said, "and went to sleep."

9292. And so he says, “That's why I call myself PENÁĆ”; PENÁĆ means travelling fair wind, fair tide. That's what it means to be Saanich, to be able to be at home in a place like that on the water, enjoying the beauty of the place that was given to us by the Great Spirit himself.

9293. It wasn’t our people that gave us our language and our beliefs. It was XÁLS himself that gave us that, and it's a human right. I understand it to be here in this place called Canada that we have a human right, too. (Speaking in native language) to believe, (speaking in native language) to have a belief of our way.

9294. That's going to affect our belief. That's going to destroy our connection to those clams, those oyster beds, those octopus beds, our seaweeds that we use for medicine. It will destroy it. Not when; it will. It will.

9295. That's why we're here and that's why I agreed to come today, to speak about what we believe, what we know, what we understand, what we value as a people.

9296. (Speaking in native language). All of our homeland.

9297. (Speaking in native language). Talking about our burial places; we value them still. Just because it's a long time doesn't mean it doesn't matter anymore. To us, it still matters. It still matters.

9298. If it's a burial ground, leave it alone. We don't want anybody digging in it. We don't want any oil washed up on it. There's been so much destruction to our homeland and our belief system by the modern way of life without regard for our right, our religious right and our belief.

9299. Canada always goes out to the world talking about what a beautiful country this is. We haven't come to know that beautiful Canada yet 'cause our right hasn't been respected so far. Not yet.

9300. My auntie that they were going out to see out there Cetolkwith (ph), talking to me about with my father, she was a very strong lady. It's called eshawa (ph) in our language. She could see spiritual things other people cannot see. She could look into the past and she could look into the future, and she can see where you've been and how your life has been affected by certain things, and that was her job which was given to her by way of birth.

9301. She had the ability in my Dad's generation to speak to the whales, the killer whales. ŚW̱ǴÁLECƏN. ŚW̱ǴÁLECƏN means "mind that left the earth"; mind that left the earth.

9302. As one of our young ladies became part of them and in return gave our families the ability to speak to those whales and they will understand. In my Dad's generation, our uncles out there, our auntie, they call -- Auntie Mary French, we called her. Her name was Tisquot (ph), Staanich name.

9303. When her boys became teenagers, she put them on her canoe and she paddled out between STOLȻEŁ within this part of the land in the middle, then she called up the whales. She called them up and she spoke to them, and they gathered all around her. She brought some fish for them, she spoke to them. She said, "I want you to know my sons. Look after them when they're out here. These are my sons, look after them." And she fed them and they went down.

9304. That's the connection that we have with those. And do you think that those ships are not going to destroy their world? They're sound-based people, we call them. They call them -- we look at them as people. Their whole life is about sound. All those ships are going to ruin it for them. They won't even want to live here. How can they? They'll hardly hear each other down there.

9305. I hope that you're hearing my words and what it means to us, to our families. We haven't lost those words, haven't lost the important connections. I believe that more ships, more destruction, more disruption, more interruption, more of the same that our people have been living with for the last 150 years.

9306. (Speaking in native language). I believe those words of the Elders. I believe it. In my heart I believe it. (Speaking in native language). That's why we'll get our school to teach our young children (speaking in native language) to speak one another in their language, to teach them about the values that we hold as a people. We're still Saanich. That is our homeland (speaking in native language) the Elder spoke about this morning.

9307. They will interrupt our right; our religious right, our human right. They will interrupt our value system one way or another. When that spill happens it'll be in every inlet, every clam mouth. Every duck feather will be -- what's left of them will be destroyed even further. We don't want to see that day and that's why we're here today to speak.

9308. HÍSW̱K̲E.

9309. **MR. MURPHY:** Thank you.

9310. If I could turn the floor over to Chief Don Tom now, please.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR CHIEF DON TOM:

9311. **CHIEF DON TOM:** (Speaking in native language).

9312. My respected Elders, family, friends, my family name is Kwul'thut'stun. I come from W̱JOŁEŁP in SEN,NI,NES. My late grandparents are late Charlie Tom and late Nora Tom.

9313. I am the Chief -- elected Chief of W̱JOŁEŁP. It's important, I've always been told, to say where you're from. It tells where you belong to, the things you belong to. In Tsartlip, we have direct interests in our resources within our traditional territory. Those interests are to be protected and preserved with the agreement that we had, what we call our Douglas Treaty. It has been affirmed by the Crown, recognized by the courts. Our rights are alive today. I like to refer to them as our way of life. It was apparent to James Douglas when he came to this territory that we occupied these lands and waters. Nothing has changed since then.

9314. We wanted to become -- be intervenors here. We have great concern for the environmental impact should this proposed pipeline be approved. We have great concern for the type of oil that will be shipped through our territories, the diluted bitumen. That is not the cleanest type of oil; it comes from tar sands.

9315. I have concerns in looking at your reports of the percentage should there be an oil spill. I think those are based on perfect conditions; that they happen in the daytime, that there is no wind, that there is no current.

Unfortunately, we live on the West Coast and that just simply isn't true. We just had the remnants of a cyclone come through here, and so there's potential -- serious potential for a spill.

9316. When you increase the frequency of tanker traffic through our respective territory, you increase the frequency of a potential spill, of mechanical error, of human error. We look at Hartley Bay, the *Queen of the North*. They had two people on the bridge at the time and yet they still ran ashore and that is now -- have sunk in Hartley Bay. So we have serious concern for human error in what some might call world-class tanker safety with the inclusion of a pilot now. There were two people on the bridge of the *Queen of the North*. So we have grave concerns for the potential of a spill.

9317. We look at recently the runaway tanker by Haida Gwaii; mechanical error. A ship floating at sea. Our currents are swift around here. If there was to be a spill anywhere in around our territory it would spread. It would have potential for disaster. So we have grave concerns for this proposed pipeline, how we feel in engaging the community should this be approved once -- if the pipelines are all built and you're pumping out the oil out of Burnaby. Once the oil leaves the shore, who assumes all the risk? We assume a great portion of that risk. When you have increase in the tankers of 40 a month or more going through our respective territory that is cause of concern for us.

9318. My role as Chief is to engage with our community. It is to go and meet with our Elders. It is to go and hear what other people's thoughts are, whether it's Kinder Morgan Pipeline, whether it's Bear Mountain. It is my job and role as Chief, as well as my fellow Council, to go and engage with the community, to get their consent, get a mandate from them, because our Douglas Treaty was signed by the heads of our families. They were not signed by *Indian Act* Chief and Council.

9319. So anytime there is -- anytime there may be a breach or there may be a direct infringement upon our Douglas Treaty, we have to go engage with our community. Our community is very concerned. I have not heard anyone in support of any tanker traffic going through our territories.

9320. You look at the ecological risks. The Saanich -- WSÁNEĆ, we went to Court for fighting and protecting our Douglas Treaty rights, which is called the *Saanichton Bay Marina* case. It was the thinking of someone that the eel grass did not matter, that you could take out the eel grass and the ecological systems

and the water and the fish and everything would survive if you just took out the eel grass. It was no big deal.

9321. With the *Saanichton Bay Marina* case, we've shown and proven that if you take out one thing from our system, the ecological system, it affects everything. And we have those same concerns should there be a spill, should there be any sort of -- even if you catch the ferry and you look at the tankers that go by already, you see the churn-up on the ocean floor. It's all black when they drive through or go through.

9322. So we have some serious concerns. I believe that what we've proven in Court in protecting our environment, in protecting our ecological systems, those have been tested and we've proven those already. They have been recognized by the Supreme Court of Canada.

9323. And we also -- and whether we're fishing within or outside of our territory, again we've gone to Court. The *Bartleman* case is that we can -- our Douglas Treaty rights go with us outside of our territory. So we're not just limited to the lines of where our territories are because we're intermingled. We come from different places. I come from Chemainus.

9324. And I'm very grateful for our Elders to be here today to speak upon our issues. It's always been said that we're spiritual people first; everything else falls into place after that. Some might call it holistic.

9325. But you've heard from our Elders today that the stories that have been shared, they're not just bedtime stories. It is how we were created. It is what we believe. It is the gifts from XÁLS. He was so generous to give us SMÍET, to give us clams, to give us fish. It is our way of life that we're protecting to honour the gifts that were given to us.

9326. Our Elders in our community, they're the people that look after us. They're the people that watch out for us. They're the ones who give us the guidance as we go on throughout our life. They hold important roles within their family or traditional governance structure because we're not limited to the *Indian Act* structure.

9327. The Douglas Treaty recognized our way of life. It recognized that we fished through these territories. It recognized that we hunted through these territories. Our rights were established prior to James Douglas. It was with the

Creator. It was a way of life, but when James Douglas came, he recognized that we occupied these lands and these territories and that we did hunt and fish.

9328. And the Douglas Treaty protects and preserves our right to hunt and fish as we formerly did, that our resources are to remain protected and preserved not only for myself, but for future generations. That is what we know. That is what we believe.

9329. So we're here today to ensure the protection of our resources that we have direct interests in. Our people have a right to go out and make a living. Like one of them -- like our Elder said, they don't want a handout. They want to go out and make a living. They want to go out and fish. They want to go out and dig clams. It's our way of life.

9330. Through our Douglas Treaty, I believe there would be direct infringements upon our right. The tanker traffic -- areas that we traditionally and still do today fish -- it's our job, as our Elder Tesslak, Tom Sampson, said, to speak and to protect the whales that go through there -- their migration. There's fewer and fewer orca whales that are coming back.

9331. So if there were to be an increase in the frequency of tanker traffic, that would infringe upon our right to fish through there. It is to remain to be protected and preserved and that we can fish as we formerly have done. It doesn't say that we'll move out of the way for tanker traffic. It says that we can hunt and fish as we formerly did.

9332. And I just want to bring note, our history isn't a good one. Our history, we were sent to residential schools. Our lands were occupied. My mom went to residential school. They had no choice in that. And you look at through the generations and generations, things are being imposed upon us.

9333. We are not subjects of Canada. We are not Canada's Indians. We are our own sovereign people. We are WSÁNEĆ. We have our own belief system. I am here today on behalf of the community to protect that as well as all of our Elders here today.

9334. About three years ago, there was a ceremony at a longhouse about 20 minutes from here renaming the sea here the Salish Sea. It is in recognition that the Salish people used those waters, that we still do today.

9335. Our Lieutenant-Governor was there. He was the one that led the ceremony. It is recognized by not only B.C., but by Canada renaming it the Salish Sea. There should be no more evidence than that that we are using those territories. We are using those waters.

9336. And it's been said over and over in our community, "Our relationship is with the Crown". Our relationship is with the Crown because our agreement is with the Crown. The Crown in Canada has a fiduciary responsibility to consult with us on an ongoing basis -- not just a one-timer; on an ongoing basis.

9337. And I'm disappointed to see that there's only one representative of Canada here. I was hoping that there'd be someone from Department of Fisheries and Oceans, Transport Canada. All these people -- there's many people missing from this who should be here, who should be a part of this.

9338. And again, that Canada and the Crown has a fiduciary responsibility and it limits our ability here at the National Energy Board and the oral testimony because Canada, by their own laws, has to come to us, has to come to the community to speak with the heads of the families, not just the Chief and Council, because again, our Douglas Treaty was signed by the heads of our family, not an *Indian Act* Chief and Council.

9339. So the Crown in Canada has a fiduciary responsibility and we will be waiting for their phone call. We will be waiting for a meeting time to set up.

9340. But I'd like to thank all of our community members, our Saanich community, all the people that came to support us here today. Your presence means a lot to us. It provides great strength. So I thank each and every one of you for coming today because it's important.

9341. This is important. Our homeland is important. The protection and preservation of how we traditionally hunted and fished is to be protected based on our Douglas Treaty. If there's a direct infringement, Canada has to say why. And I'm here to say that there will be a direct infringement, not only on the waters, on our beaches, our shoreline is being washed away by BC Ferries through Active Pass.

9342. There are many concerns we have. In the three-hour time period, I agree with my Elders, it just doesn't do use justice to tell us the kind of people we are, the concerns we have.

9343. And I failed to mention I do appreciate the Board changing the hearing time so that it didn't interfere with our fishing time and the time that our community prepares our fish.

9344. And I want to say it's not the amount of fish that we get that we smoke, it's to say that it's always there to be for us and for future generations. Based on the Douglas Treaty, it's to be there, preserved and protected. Not how many fish or how many times we eat fish throughout the year; that's an insult. That's an insult.

9345. It's questioning how much, based on the *Indian Act*, "How Indian are you? How much fish do you eat? What percentage of your diet is fish?" My point being is that it's to be protected, not based on the amount of fish we have, but it's to be protected and preserved for our people because we have a spiritual connection, a relationship to everything that we consume, the lands that we have.

9346. In Coast Salish, it's not so much their culture is secret, but we keep it sacred. It's for us. And we're here to -- I'm here today to share those and share the concerns that I have.

9347. HÍSW̱K̲E.

9348. **MR. MURPHY:** Mr. Chair, I note the time; it's 7 minutes to 12:00. Would you like to continue or should we break for lunch?

9349. **THE CHAIRMAN:** I think we are prepared to continue. If it goes past, that's fine.

9350. Thank you.

9351. **MR. MURPHY:** Thank you.

9352. The next speaker for Tsartlip is Gord Elliott.

9353. **THE CHAIRMAN:** Thank you.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR MR. GORD ELLIOTT:

9354. **MR. GORD ELLIOTT:** My name is Gord Elliott. I'm a councillor for W̱JOŁEŁP, Tsartlip First Nation; it's an elected position.

9355. Basically, I have several things that I want to speak about today and some concerns, but also some concerns that have come forward from community members, concerns regarding the amount of traffic, the increased traffic, concerns about possible spills, and concerns just basically about coming into our territory and what kind of process is taking place in acknowledging our territory.

9356. So firstly, I'll just -- I'd like to thank the ones that spoke before me today. You can hear stories today about our history and about our relationship to the land and about how far back it goes. It goes back to the beginning of time.

9357. Most ancient cultures in this world have stories about the beginnings, and ours is no different. These stories basically create our laws, they create hope for our children, they guide our people, and they protect our -- they're there to protect our homeland.

9358. I mention my name. My traditional name is CWOLOTHLEMKEN. I was passed down that name 19 years ago traditionally in the longhouse. And when I was passed that name, reef net locations were passed down to me at that time. Those locations are scattered out throughout those islands out there.

9359. Recently, in the past five years, as laws have changed, acknowledgement of our rights have come forward. This has become more important to us as a people. We've been working along with the Lummi Tribe of Washington and we've been working with them in reef net fishing. Last year, we did a test reef net fishery and it is our intention that we are going to carry this on every year.

9360. You've heard my father speak about the importance of the swell about the reef net and how it is important to our people in bringing our people together. It is in its infancy again, but it is something that brings hope for our children and provides a positive future for our people.

9361. This summer, we are going to be doing a reef net fishery in Mitchell Bay, which is on San Juan Island. And we're going to be doing that along with

the Lummi Tribe, with our relatives from there.

9362. The reason I speak about this is because the possibilities of an accident and increased traffic infringing on our rights and on the environment could be devastating; it could take away our hopes of bringing this back.

9363. They outlawed this beautiful reef net. The reef net fishery is the oldest net fishery on the planet. All net fisheries evolved from the reef net fishery. When we do our reef net fishery this summer at San Juan Island, there's a park there and it's a homeland, it's a -- it was a village site at one time and the government, I guess, of United States, they turned that into a park and I think they called it British Pike, but we're going to rename it this summer. And we've already spoken to the lady who's in charge of the park there and they're very excited about it.

9364. And I guess I just want to say that because I just want you to realize that this is our homeland that we're talking about today and that this relationship with this land goes back to the beginning of time; that these laws go back to the beginning of time.

9365. This is what's taught in our schools. This is what we teach our children. I brought my son here today so he could witness this because he's probably going to be up here speaking about this one day. He's going to be defending our territory, protecting it, looking after it like we've been charged to do by the Creator himself. There should be no higher law than that. What could be more important than protecting our environment?

9366. You know, I think that -- when I look at our Elders that sit here today, there's a lot of pride. I have a lot of pride, but, you know, we've been involved in process for such a long time, a process that have -- processes that have been imposed on us like the consultation process. This is a process where the government's legal duty to consult with us regarding for proponents that want to develop in our territory. And I have to tell you that we don't have very much confidence in any kind of process that's been imposed on us.

9367. I'm going to give you a small example. This is just one example. This is one of the most recent examples of a process to consult with our people.

9368. About three years ago, we got a fax in our -- at our office, administration office, and said that they're going to -- they want to approve a

building permit for Grace Island, which is a small island off of Saltspring Island in our -- this is part of our territory. This little island housed or is a burial ground for our ancestors, especially for our Chiefs, for our champions. That's what these little islands were used for, the small little island. It was a special place for our Chiefs, where we can bury our Chiefs.

9369. Of course, we said no, we don't want to -- we don't agree with this. So as part of the process, they have to come and meet with us. So they come and meet with us and they basically tell us that you have to remove your -- you have to remove them, rebury them somewhere else.

9370. We say no. We don't agree with this. How can we agree with this? It turns out that the construction gets approved. This is just one little story, and we're still fighting that one today.

9371. So I know it's difficult for our community. We're not -- we don't have a lot of resources at our expense to be able to sit here. This costs money to sit here. It costs money for us. And there doesn't seem like there's much hope that anybody's going to listen to us because we have sat across tables many times trying to defend our territory, and it's always fallen on deaf ears. I'm sorry to say it has.

9372. You know, there's a human factor that is missing here about this life, you know, and I implore each and every one of you, you know, to listen to the words that were said here today. You know, take very seriously what has been said. Think about the possible implications.

9373. That's -- you don't have an easy job, I know you don't, but it is a very serious one. It is a very serious job, and the implications of what's being proposed could be drastic to a people's way of life.

9374. Our people have defended this territory. It's our duty. It's our duty by the Creator himself. We have to sit here. We have to come here and try to protect our territory. That's why they're here today. That's why they're speaking to you, our Elders.

9375. Even though through all of these different kinds of processes that we've been through that have failed to acknowledge our right, our birthrights given down, passed down since the beginning of time, sitting through these different kind of processes that have failed us, failed to protect our rights since the

beginning of time, they still come here.

9376. We still come here because it our duty, our responsibility. It is a huge responsibility put on us by the Creator himself.

9377. This past summer, we did a reef net fishery and it was such an enlightening experience. And I think about our ancestors and how they were because it was not an easy process. It was very difficult. We did it on canoes. We paddled out there. Even though we had hand gadgets to tell us which way the current was flowing, what the tide was doing, it still wasn't enough.

9378. Our ancestors were -- they were scientists of nature, they were scientists of the environment. They understood things that we don't understand and that even the handheld gadgets that we have today don't understand. And when we placed our net down, it was supposed to be following the -- open to the current, and that current changed suddenly. Our people are so close to the environment. And when I hear history, when I hear our history, it's no wonder that they understood it.

9379. I guess that's about all I have to say to you folks today. I know, again, I just -- you know, I hope you can hear what's been said here today because it's very important.

9380. You heard about the whales and how this might affect them. You heard about the salmon. You know, I think the salmon, they didn't run inside this year and nobody really understands why. Nobody really understands why they didn't come inside the islands, they followed the outer strait. I think some of these things need to be looked into what happened out there.

9381. I want to thank the community for coming out to support today. It's very -- it's a very powerful day and I hope that when you go back and you take your recommendations forward that our concerns are going to be heard. HÍSW̱K̲E.

9382. **MR. MURPHY:** If I could just ask you to address one issue, the book that's entered as Tsartlip's Exhibit 1 here, it's the book by your grandfather, "Saltwater People". Can you let the Panel know who are the Saltwater People and where does that name come from?

9383. **MR. GORD ELLIOTT:** *Saltwater People* was a book written by my

grandfather, PENÁĆ, Dave Elliott, and it is named *Saltwater People* because that is -- basically was our main resource. We acquired abundance of our food in the saltwater through the netting and the saltwater that he's referring to is in our territory that you see there. It's our river.

9384. **MR. MURPHY:** Thank you.

9385. I note that it's nearly 12:15. I just had a couple of points of reference for the Panel if I could. A number of the terms that were referenced today by the witnesses, particularly John Elliott, can be found in what was entered as "Exhibit 1: The Saltwater People"; there are a number of SENĆOŦEN terms in there.

9386. Also in Exhibit 2, which is the Saanich year, there are a number of SENĆOŦEN terms. They can also be found on the large map that's on the easel, the SENĆOŦEN place names and Gord Elliott just referred to that as well. I wonder if I could enter that as the next exhibit actually. I do have copies of the larger map and it's just a reproduction of the smaller version that's in the exhibits that were filed on Friday.

9387. **THE CHAIRMAN:** That's fine, and we accept that as an exhibit. Just for the record, I think we have an exhibit number just to ensure that our record is complete. If we don't, it's no problem. We recognize it as an exhibit. I don't expect Trans Mountain to have any concern with that.

9388. **MS. OLENIUK:** We don't, Mr. Chair. That's fine by us.

9389. **THE CHAIRMAN:** Thank you. It is so entered.

9390. **MR. MURPHY:** And finally, Mr. Smith was speaking about gravesites throughout the Tsartlip area. Some of those sites are referenced in the Exhibit 1, "Saltwater People."

9391. Thank you.

9392. **THE CHAIRMAN:** I understand that completes your presentation to us today?

9393. **MR. MURPHY:** Within the time constraints, we've tried to present as much information as possible. As you've heard, there's a lot more to be said, but we've done what we can in the three hours.

9394. **THE CHAIRMAN:** And you indicated that you would be prepared to take questions of clarification from Trans Mountain, any intervenors that may wish to or the Board itself.

9395. So I'll offer that first to Trans Mountain if they have any questions of clarification at this time.

9396. **MS. OLENIUK:** Thank you, Mr. Chair.

9397. On behalf of Trans Mountain I want to thank the representatives of Tsartlip for their presentation today and we have no questions at this time.

9398. **THE CHAIRMAN:** Thank you.

9399. And I don't see any intervenors who are coming forward. Give me a second.

--- (A short pause/Courte pause)

9400. **THE CHAIRMAN:** We have no -- the Panel have no questions of clarification and I'd like to acknowledge the Elders; Elder Smith, Elder Sampson, Elder Elliott, Chief Tom, and Councillor Elliott for -- I understand the hardship and the significance you've placed on being here today, and I want to assure Elder Sampson and others that we have heard your words of concern about communicating in a language other than your own; it's not lost on us.

9401. In a previous life, I lived in the Northwest Territories of Canada. I worked in an environment that we had 11 official languages. All the languages were official. So I understand your concern and have heard and I want to assure you, the Panel have heard your concerns on the language.

9402. And also, I would invite you if you feel you would have wished more evidence and I heard Elder Elliott you indicate, time isn't -- three hours isn't sufficient and invite you to find any other means to file or meet with to provide any of your oral traditional evidence, and I invite you to consider that and we would be receptive to receiving that in due course.

9403. I thank you, Elder Elliott, for bringing a new sense of the environment to me as I live in Sydney and I have -- didn't understand some of the smells that I

felt and smells that I took in, but your explanation of the aroma from the blossoms is a new sense for me of the environment that I am lucky enough to live in and I thank you for that.

9404. I appreciate your skelitz (ph) and your law and your beliefs and your esquala (ph) for sharing what you have done with us and therefore, I'd like to acknowledge you for bringing the voices of your ancestors, your present voices, and speaking for your future generations.

9405. So I acknowledge that; the Panel acknowledges and we thank you for bringing that to us today.

9406. And I'd like to assure you that the three of us who are tasked with considering all the evidence, all the information, all the voices that we hear have nowhere reached any predetermination on this application at all. That still is in front of us. We will continue to hear and receive additional information as we move forward. And then at that point, we will decide whether we will recommend approval or not of this application.

9407. So with that, I'd like to acknowledge you again, and for those that have come to support you as well, Chief, I acknowledge their presence here today.

9408. And I understand that you may wish to close with a song, if I am correct and we'll offer that to you. And with that, we are adjourned and we will reconvene at 1:30 to hear from Ms. Joni Olsen.

--- Upon recessing at 12:16 a.m./L'audience est suspendue à 12h16
--- Upon resuming at 1:29 p.m./L'audience est reprise à 13h29

9409. **THE CHAIRMAN:** Good afternoon. I would like to acknowledge that this hearing is being held on the land of the Coast Salish people. I welcome you here today to the oral traditional evidence phase of the National Energy Board's hearing regarding the Trans Mountain Expansion Project.

9410. My name is David Hamilton; I am the Chair of the Panel, and with me is, on my left is Alison Scott and on my right is Phil Davies. We want to welcome everyone who is here today both in the hearing room and who is listening through our Webcast.

9411. We will sit until 4:30 today and we will be hearing from Miss Olsen followed by the T'Sou-ke First Nation and we'll go through this afternoon in that order.

9412. The Board understands that you have, Ms. Olsen, oral traditional evidence, oral tradition for sharing knowledge from generation to generation and this information cannot always be adequately shared in writing.

9413. The Board recommends that those providing oral traditional evidence focus on their community's interests and rights. These hearings are not to hear evidence that will be filed subsequently in writing, including technical and scientific information, opinions or views, advice to the Board on whether to recommend approval of the project or the terms and conditions that should be imposed, or questions to the Board or other participants.

9414. Sharing your traditional knowledge and stories about your use of the traditional territory is of value to us. 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 be helpful to us.

9415. 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.

9416. And before providing 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 their knowledge and belief.

9417. Before we ask you for your presentation, Ms. Olsen, I'd like to ask the representatives of the Proponent, Trans Mountain, to introduce themselves.

9418. Ms. Oleniuk, please.

9419. **MS. OLENIUK:** Thank you, Mr. Chair.

9420. Good afternoon to the panel and good afternoon to you as well, Ms. Olsen.

9421. My name is Terri-Lee Oleniuk and I'm counsel to Trans Mountain along with my colleague to my left, Heather Weberg, and to my right is Annie Korver, and she's a member of Trans Mountain's Aboriginal Engagement Team.

9422. **THE CHAIRMAN:** And given that the nature of oral traditional evidence it may not be appropriate to answer any questions about evidence from other intervenors, the Board, or Trans Mountain in writing. As a result, witnesses can choose either to answer questions orally or in writing.

9423. So with that, perhaps Ms. Butler you could affirm the -- Ms. Olsen. Thank you.

JONI OLSEN: Affirmed

9424. **THE CHAIRMAN:** Thank you.

9425. With that, Ms. Olsen, we are ready for your -- to hear from you. Thank you.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR MS. JONI OLSEN:

9426. **MS. OLSEN:** Thank you.

9427. I first wanted to acknowledge my Elders and my community members and peers who have just sat before you this morning, and the words that they gave you will be fairly similar to what I put forward this afternoon.

9428. I'm just going to read through -- probably won't take me very long.

9429. Hello, my name is Tsusutia. My Uncle John this morning this morning actually spoke of my Aboriginal name. My English name is Joni Olsen and I currently and have always lived on the Tsartlip First Nation in the Saanich territory on the peninsula just north of Victoria.

9430. I am one of literally thousands of descendants stemming from our great-great-great-great grandmother. Her son, Cwolawxwenthut and his son, Cwolothlemken had six children, two of whom are my great grandmothers, Munawthlot and Zeeqot.

9431. These are my ancestors that have fought hard to provide wealth, knowledge, and security for their families. My family were, amongst a lot of other things, but we're warriors, harvesters, and reef net fishermen and women, and this is why I am here today.

9432. Personally, I am a mother of three, I am a small business owner, and I'm elected council in Tsartlip First Nation and serving my seventh year. I have sat through numbers of meetings regarding the Kinder Morgan pipeline and what that means to me as an individual and my community and the rest of my family.

9433. I have also spent the last six months of my life trying to prepare myself for this moment in time. I do not have thousands of dollars to hire a lawyer, and for the most part with -- things that I would like to say are muted within the Terms of Reference, so then this should be pretty short.

9434. This project affects my rights not just as a person interested in preserving our environment but because I am a direct descendant of the people who entered into the Douglas Peace Treaty. My father has used the Treaty and the rights of the Treaty outlined to the court to protect his hunting rights in the *Morris and Olsen v. The Crown*, and won that case recognizing his right to hunt as formerly.

9435. This project directly goes through my family's ancestral fishing grounds that range from, and are not limited to, the Finlayson Arm in Brentwood Bay, to Main Island, east to the mouth of the Fraser River, south to Friday Harbour, and back west to Mitchell Bay on San Juan Island.

9436. I believe when you map these sites out, the oil tankers that are prepared to deliver Kinder Morgan's pipeline product directly travel over and pass my family's schwangan (ph), right directly through our way of life. Many people will think that this is ridiculous as the last hundred years we have not used these routes as way of travel or economy, but as of the last year we have helped build a traditional reef net and next year plan on setting it in Mitchell Bay with our relatives from Lummi and on the other side of the international border.

9437. The Douglas Treaty was a Treaty of peace, not a sale of land. My uncle, Gabriel Bartleman, told and recorded the story many years ago and captured the true intent behind the events that took place that February 11th, 1852. Uncle John told this -- a bit of this story this morning. I want to talk a little bit more of what happened around that day.

9438. There on the peninsula, there was recorded approximately one colonist to more than every 10 Indians. My people outnumbered the settlers' population and very much were populating the peninsula, surrounding islands, and most of Vancouver Island, having numbers reaching over 30,000.

9439. James Douglas expressed his opinion in a letter dated December 22nd, 1850 in correspondence to Archibald Barkley, Esquire after hearing that the Cowichan and Saanich were talking about attacking the colony. He expressed concern that even though it had not happened in that particular event, that it could easily turn into a Cayuse war situation that had just happened in Oregon. James Douglas states that he is decidedly opposed to the Indian wars as desperate remedies which should never be resorted to until all other means of settlement have been tried.

9440. The Saanich people were known as relentless warriors and when word came home that one of our young men was shot it stirred an unrest in our community. Many of our warriors dressed in regalia and headed out on a canoe to confront Douglas's men, whom were harvesting trees in Cordova Bay, to demand they leave the area. Douglas then called our people to the top of Mount Doug, known as Pkols.

9441. It is Douglas's fear of conflict that drove him to make agreements with my people. There is no way at this time in history that my people, strong Saanich warriors, would have signed an agreement to sell our land. We went to Pkols that day to accept an apology and an agreement of peace, one where we could live as we always have on our land.

9442. Today, I believe this is a recognition of land ownership and this is why Douglas's word and his promise is part of my presentation. So you see, my people have an acknowledged right to the bitumen's transportation route.

9443. My grandparents' and parents' generations rights were undermined and torn away, which prevented the use of this land and water to the extent that they would have -- that they didn't get to use it. Even though they were suppressed and abused in the system, my generation is preparing to reactivate our land ownership and acknowledge ancestral rights only now to have the company of hundreds of gigantic oil tankers to compete with.

9444. Kinder Morgan came to my community to do information sessions,

and during their presentation stated the chance of risk for a spill is one in every 127 years. This to me is 100 percent chance.

9445. A hundred and sixty-six (166) years it's been since Douglas made a promise to my people and we still suffer the injustice. One time for a spill of that size would completely eliminate our way of life and any chance that my descendants might have to practice their rights that their grandfather has fought and won for them in the Federal Court of Canada. These rights I will fight for too.

9446. So the question was, how could this impact communities' interests and rights? Well, the process has already impacted our rights by subjecting us to an undermined process that does not put Canada at our table. Where is Transport Canada?

9447. This process is a violation of our right's limiting us to what we are to say and it is a violation of a human right in general and you answered this after Tsartlip was done this morning because my question was, and I will ask it in due time, but what -- does it matter what we say? To convince -- what would you say to convince a board of highly-educated individuals that this plan is not okay when you feel, as an individual, that it's so obvious?

9448. What I feel like is missing in Canada right now is political will to do the right thing.

9449. Thank you.

9450. **THE CHAIRMAN:** Thank you, Ms. Olsen.

9451. And I'll offer it to Trans Mountain. Do you have any questions, clarification or -- thank you.

9452. **MS. OLENIUK:** Thank you, Mr. Chair. We have no questions for Ms. Olsen, but on behalf of Trans Mountain, I'd like to thank you for your presentation.

9453. **THE CHAIRMAN:** The Panel don't have any questions either, Ms. Olsen, at this time. Thank you for taking the time to be with us today and for the -- your moment in time and I acknowledge that and your presence here today, and

I can assure you that as we move forward in hearing this application, we will take into consideration everything that we hear and we will hear as we consider whether to recommend approval or not of this project.

9454. With that, again, I acknowledge you and thank you for your attendance today.

9455. We'll take a short break and we will reconvene with the T'Sou-ke First Nation.

9456. Thank you.

--- Upon recessing at 1:53 p.m./L'audience est suspendue à 13h53
--- Upon resuming at 2:07 p.m./L'audience est reprise à 14h07

9457. **THE CHAIRMAN:** Good afternoon again and welcome back to the oral traditional evidence phase of the National Energy Board's hearing regarding the Trans Mountain Expansion Project.

9458. And just for the record, to introduce myself, my name is David Hamilton. I'm the Chair of the Panel and with me is Alison Scott, another member of the Panel, and Phil Davies to my right.

9459. We'll sit until 4:30 today and take breaks as appropriate throughout the afternoon to hear your presentation from the T'Sou-ke First Nation.

9460. I'd like, just for the record, for Trans Mountain to -- the proponent to introduce themselves this afternoon.

9461. Thank you.

9462. **MS. OLENIUK:** Thank you, Mr. Chair. Good afternoon to the Board and good afternoon to the representatives from T'Sou-ke. My name is Terri-Lee Oleniuk and I'm legal counsel to Trans Mountain along with my colleague to my left Heather Weberg, and to my right is Annie Korver and she's a member of Trans Mountain's Aboriginal Engagement Team. Good afternoon.

9463. **THE CHAIRMAN:** Thank you.

9464. And with that we would ask that the Chief and representatives be affirmed for this afternoon. Thank you.

9465. **MS. PEARS:** Just before we do the affirming, T'Sou-ke Nation would like to perform a prayer to bless the proceedings today.

9466. But first of all, I'd just like to introduce myself. My name's Georgia Pears. I'm counsel to T'Sou-ke Nation and sitting two seats to my right is our speaker today; it's Chief Gordon Planes, and directly to my right is Allan Planes and he's a Councillor for T'Sou-ke Nation and he will not be speaking today. So he does not need to be affirmed.

9467. So ---

9468. **THE CHAIRMAN:** Sorry, with that we'd be quite happy -- we'd be pleased to receive a prayer and song. Thank you.

9469. **MS. PEARS:** I'd like to invite Shirley Alphonse to join us to perform the prayer.

(Opening prayer)

9470. **MS. PEARS:** Thank you, Shirley. Hy'ch kas.

9471. T'Sou-ke is here today because they're intervening in this process because they're deeply concerned that this project has potential to significantly impact their title, rights, interests, their wellbeing as a community, and future generations.

9472. This testimony will give some insight into T'Sou-ke's origin, history, laws, protocols, culture, sacred responsibilities, and decision-making authority of this nation, which is actively exercising their Aboriginal title rights and interests in the territory and is working hard as stewards of their lands and waters.

9473. These are great concepts, of course, and not easily covered in a brief three-hour hearing, but Chief Planes will do his best. Perhaps before he's affirmed, I'll just give a brief biography of Chief Planes.

9474. Gordon's traditional name is Hya quatcha, and he's named after his

great-grandfather from Scia'new, the Salmon People. He's been elected as Chief for the last seven years and he previously held the position of Back Country Operations Manager for the West Coast Trail for Parks Canada.

9475. He is a Coast Salish artist, carver, traditional singer, and one of the captains of T'Sou-ke's traditional dugout canoes. He's previously taken on an assignment on language revitalization with the T'Sou-ke Nation.

9476. Gordon and his wife Marcella presently reside in the village of Siaosun overlooking the Northern Straits. They have six children and five grandchildren and he's actively working closely with the community in renewable energy, food security, cultural renaissance, and economic development.

9477. So with that, I think Chief Gordon Planes is probably ready to be affirmed.

CHIEF GORDON PLANES: Affirmed

9478. **MS. PEARS:** Just before he gets started, I'll just say that Chief Planes is -- if he's comfortable, he's willing to answer any questions of a clarifying nature; however, for any more substantial questions, we ask that they go through the formal information request process.

9479. **THE CHAIRMAN:** Thank you for that. And I apologize since we didn't -- I didn't mean -- for some reason, I thought we were starting at 1:30, I got my -- so on. Happy to -- we'll be happy to go on for the required to 5:00, if necessary, to allow sufficient time for this afternoon.

9480. With that, Chief Planes, welcome and ---

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR CHIEF GORDON PLANES:

9481. **CHIEF GORDON PLANES:** Hy'ch kas.

9482. Before I begin, I'd like to open up with a song, a Coast Salish song with the Smuqw'a'.

(Native song)

9483. **CHIEF GORDON PLANES:** O'siem. Everybody can hear me loud?

9484. Well, to begin, I need to acknowledge my relatives from Songhees. I have relatives from Songhees. My great-grandfather's name was William Roberts; he was Chief here at one time. I used to come here when I was a little boy, and my grandmother lived here and it's great to be part of one of my homes. We have lots of them.

9485. I want to, again, tell everyone who I am; Chief Gordon Planes. My traditional name is Hya quatcha. It was given to me in the longhouse in Esquimalt right beside Songhees. It's named after a Hereditary Chief from Scia'new, the Salmon People.

9486. I want to talk a little bit about the song I just sang. It's the Smuqw'a', the heron. We call it the watchman.

9487. And the watchman is someone that looks after our villages at night when we're sleeping. And when someone comes close to the village, it lifts up its wings and its claws and it tells us someone's coming. It's like our own little alarm system. But we had the animals as our alarm system.

9488. I want to start off with my testimony by stating some issues that our nation has in the progress we are engaged in today.

9489. As we told you with the song of the Smuqw'a', T'Sou-ke Nation has used and occupied our lands and waters since time immemorial. We are the original and continued stewards of our territory, so we suggest that you should be treating us as such throughout this review of this project. We were here long before you and certainly long before Kinder Morgan, a United States company.

9490. As sovereigns of our territory, we take great issue with the Crown's lack of involvement in this process. The Crown appears to be attempting to discharge its constitutional duties to our nation through the NEB process. We are a government and we should be engaging in government-to-government discussions with the Crown with regards to this major project, but the Crown has not approached us at all to engage in consultation and the NEB is not treating us as a jurisdiction in this process. We feel this is a disrespect to our nation and it is in direct violation of the Crown's constitutional right -- constitutional duties to us.

9491. Furthermore, the NEB is a quasi-judicial body and, as such, is not an appropriate place for the Crown to be discharging its duty. The goal of consultation is to reconcile the assumed sovereignty of the Canadian government with the pre-existing sovereignty of First Nations.

9492. This NEB process does not in any way fulfill that goal. In that same vein, T'Sou-ke was not consulted in the design of this process. It was constructed unilaterally without any of our input.

9493. T'Sou-ke is also greatly concerned about the amount of funding being provided by the NEB to engage in this process. The amount T'Sou-ke has been guaranteed by the participating funding program will only cover the smallest fraction of the total cost it will take to meaningfully participate.

9494. This is a complicated project and a complicated process. In order to properly participate in review, we need legal advice, expert studies and an incredible amount of our own limited community personnel and resources. We are here today using community funds that were supposed to be allocated for other purposes to participate in this process for the approval of the multi-billion dollar corporation's multi-billion dollar project.

9495. We are also deeply troubled by both the NEB and Kinder Morgan's definition of the project. We wonder why the shipping route is not designated project being reviewed.

9496. We don't see the oil pipeline as ending at the terminal. The oil pipeline continues along the water and across our territory, just through a different vessel. We do not see the distinction between land and water. We are very troubled by your and by Kinder Morgan's characterization of the project and we feel you are failing in a fundamental way to properly review the project.

9497. Finally, we are very concerned about the timing you have designed for delivery of our oral traditional evidence. It raised many questions and concerns. We are appearing without Trans Mountain having filed its own evidence.

9498. In sum, you have created, without our input, a process that is highly prejudicial to us. We know many other nations have brought this to your attention and we hope you are actually and honestly taking it into consideration.

9499. Having made all those points, I will now launch into the meat of our

testimony today. We don't have a lot of time, and there is a lot of other nations that can tell you that. And as George has said, we will do our best.

9500. I would like to start off with a presentation, a PowerPoint that I have. And this pointer, I take it every time I hit it goes forward. Is that correct?

9501. **THE CHAIRMAN:** No, unfortunately, we have -- just give -- that's perfect. Give them one of these, and that's a laser pointer. So you may want to point out anything on the map.

9502. There we go. Thank you.

9503. **CHIEF GORDON PLANES:** Okay, that's good. Okay. We'll start with the first one coming up. We got it. Slides, perfect.

9504. Okay, the petroglyphs. T'Sou-ke has used and occupied the lands and waters since time immemorial. As you can see in these petroglyphs, they're very old. As you can see, what we have here is the salmon and the seal, and these are right in amongst the specific village sites within our nation right along the northern straits.

9505. We have highly revered the salmon because it always came home to us every year to feed our people, especially crucial in the winter months, and the seal is very important to us because of the clothing and the food. And it's a shame today we can't eat the meat because of the mercury poisoning within the seals.

9506. We always think about -- when you look at these petroglyphs, you've always got to think of how old they are. You've got to think about future generations that see these because our ancestors, when they put this up, they always looked seven generations ahead. So what you're looking at is something that was done hundreds of years ago, but, at the same time, they are looking ahead 100 years, something that we don't do today. We don't do it enough.

9507. So here we got after first contact. These are our relatives, my ancestors.

9508. As you can see, we didn't need much to survive and you can see it because, back then, we didn't even need shoes. We were rich because of the resources that we had within our territory. And just a little story I'd like to talk about this is when the first settlers came to our territory, our ancestors would walk

straight into their homes and sit down and gather with them. And the first settlers, you know, didn't understand that.

9509. Well, I think there was a cross-cultural thing going on right back then is that we all relied on survival so we all lived in the same house and we all depended on each other for survival, only taking what we needed. And when you look at our territory, I think the first settlers seen something different. They just seen a place where they could extract resources.

9510. What we had in our territory is the mountains that were our gardens. Our Blue Camas potato was grown up there, and it's really hard to describe that to first settlers because we used to burn those mountains. And we were stopped being allowed to burn those mountains because they thought we were doing something wrong, but later on, you find out that that was the best thing we could have done to the environment and that's something that we knew was right and now there's a lot of complications about that today.

9511. And then we had on -- after first contact, we signed the Douglas Treaty in 1850. And at that signing of the Douglas Treaty, our territory stretched across a good portion within our territory overlapping with the whale hunters up to the northwest and on the southeast with our neighbours and SIA-NEW, the salmon people, and Lower Elwha over in Port Angeles.

9512. And when we signed this treaty, it was a treaty of working together, a treaty that we would make decisions that would look at how we manage the resources within our traditional territory. And the Crown did not honour this treaty as of today.

9513. As you can see from this map, if you look on the inlet of the -- there's the harbour and the basin going in to T'Sou-ke and there's two small Indian reserves. They both equal 67 hectares of land.

9514. At one time, our traditional territory was in the thousands of hectares, stretching out 30 to 40 kilometres. Now, the reason this is important for you to see is because, back in the day, the government found that we spent more of our time on the water than we did on land. So they found that it -- you know, why should we give them a whole bunch of land.

9515. Well, as you can see, that's what exactly happened. They put us on two small Indian reserves when we had about 10 villages; we have 2. A lot of the

time was spent out on the water right off Northern Straits. They call it the Juan de Fuca Straits today. And our dependency on that resource is still true to today. It's so important to have that resource right in front of where we are, but again, we're working on making sure there's a resource for our children not born yet a hundred years from now. And I think that's something that's very important to our people, and I believe it's very important to all First Nations people.

9516. And with that, all I can say is I'm hoping that one day that through a modern-day treaty that we have with the federal and provincial government, that we can bring back those village sites that were rightfully ours to be able to secure a life for our future generation.

9517. This ain't working for me.

9518. **THE CHAIRMAN:** Want to go to the next slide?

9519. **CHIEF GORDON PLANES:** Perfect.

9520. So as you can see, our traditional territory, it stems out all the way out towards Cowichan. It goes out towards the whale hunters and Pacheedat and Port Renfrew, and over towards the Macah that is out on the point to Washington State out in Neah Bay and down towards Jamestown in Lower Elwha in Prince or Port Angeles, and our overlap is pretty close with Scia-New, the Salmon People. But as you can see, our territory stretches right across the strait. There wasn't a border back then saying we can only go halfway.

9521. We've never had any problem before crossing the border, especially with our traditional dugouts, canoes. As you can see with our territory here and the route, when you think about our tradition and our culture is -- when you look down on the bottom of our territory, Port Angeles is on the other side, and when we travelled to Port Angeles we went the opposite way. The reason being, we took advantage of the wind and the tide to get us down to Port Angeles down to Lower Elwha, something of the elements that were very important to our people. We did not have fossil fuels back then and so we had to rely heavily on what the elements had.

9522. And in saying that today, we have very close kinship ties with our relatives in the United States of America. So much so is what Pacheedat, the children of the sea foam out of the Port Renfrew area on the top of the map to the northwest, my great-grandmother came from there, Shiashdida (ph). And Lower

Elwha, my great-great aunt married Charlie Hopeye (ph) from the tribe and they had three children. And this is something that happened in the last course of a hundred years, and those family kinship ties that I'm talking about is just in my family. I'm just talking about my own family. I can't talk about the rest of all our people within T'Sou-ke Nation.

9523. So our family ties run far and our territory stems across the American side where they put a border in, and we're -- and we've always looked at that Northern Straits as a very important part of who we are as T'Sou-ke people. We speak the Northern Straits SENĆOŦEN language. And that dialect comes from -- it differs slightly from the Saanich people, and the reason being is our connection with our relatives across the way.

9524. And that shows Northern Straits itself had its own definition, its own people, and those people lived on both sides of the water, and that is why that full water going across the whole thing is our territory. We see no difference from land and water.

9525. Here you got the mouth of Big River, and this is just looking right over the Sooke Harbour. And that island you see there to the right is Secretary Island, which is a part of the village of Tsawwassen, meaning east wind mouth, and this is where that island plays a part of who we are. It's a village that -- that island made east wind mouth. It was owned by one of our chiefs. It was a fishing station and now it's a part of a park, which at one time we owned, but over time it was taken away from us.

9526. And I need to reflect a little bit on that because I have a story my dad told me.

9527. Back in the day, right off the Village of Siaosun where I live, we had fish traps and Hudson Bay Company out of Victoria here, they were buying a lot of fish from the Natives back then -- and we're very successful fisherman -- and so much so they built an outpost right at the mouth of the inlet going into Sooke. And they called the company Point, and that's where Hudson Bay put an outpost there to buy salmon from the Natives.

9528. And what we talk about today is resource extraction and how it unfolds in this process, but what I'm trying to pinpoint here is what happened to us in first contact, and that is the government of the day came to our people and said, "You can't use the fish farm anymore. You guys are catching too many fish

and you're making too much money, so we can't do that anymore." So we were without any way of stopping it in our part. We had to take down the fish trap that we had there forever, right in front of where I live today.

9529. We took down the fish trap, put it aside, and a few days later all the white settlers came and put the fish trap back up. And that was the government of the day back in around the middle of the 1800s. And with that, even signing a treaty, it gives you an example of what we went through in the beginning when the first settlers came.

9530. And it's almost like what's happening way back when, it feels like the same thing is happening now in regards to, how can I say this, not being able to have a real voice, a real chance to explain ourselves. It's just -- it's a hard process for us to understand as T'Sou-ke people. It's hard for us to wrap our heads around this process because of the complexity of it, but also, at the same time, understanding that, why would we risk an environment -- why would we risk something so beautiful as what we have here?

9531. And I think that's the hard part. Out of all this process here today, the hard part is you look at the beautiful places where we live, and why would we compromise a beautiful place like this?

9532. Now, the picture that looks in the dark setting is right off the front of my house, off Siaosun. Siaosun in our language means the sounds the pebbles make when they're being washed up on our shores and that sound I hear in the morning when I get up of the rocks sweeping down on the beach.

9533. And those words that come to us when we're growing up is a way for us to identify and also to be able to take care of the environment, be able to take care of the food source and to be able to make sure there's going to be something there for tomorrow.

9534. And if you look over on this one, this is right off in front of my house overlooking the American side out towards Pillar Point. And these are the places where our people, still today, paddle our canoes and travel different villages.

9535. And we always relied on the salmon. I think all the tribes in B.C. rely on the salmon. At one time, there was 3,000 longhouses and 10,000 canoes along this coast, and now there's a handful of canoes that are on this coast.

9536. But we all relied on the salmon, the salmon that always came back to us. And without the salmon, we're going to lose our identity and our culture and our old way of life, something that is so important to us because if we lose our culture, we're going to lose the way of taking care of Mother Earth.

9537. And I think that goes without saying after that happens, then we're going to lose the resources. All those resources are going to be gone.

9538. When you look at the aquatic, you look like right outside our front door. When the tide is out, the table is set. All of these foods that are so crucial to us, they're sitting right out our front door, and how can we assure that those resources will be there for future generations?

9539. We have the sea urchin, the oysters, the clams, the gooseneck barnacles, mussels and yes, abalone. We ate lots and lots of abalone, but today they've put a moratorium and stopped the -- any harvesting of abalone. We have a lot of abalone in our territory.

9540. Now, when we see people coming out and diving right in front of the village or somewhere close by, we report it because we don't want anyone coming in and taking that resource. We monitor our attritional territory quite well. We have our own fishermen fishing right off T'sou-ke.

9541. .

9542. They -- my brother John, he puts out -- actually, he's going to go fishing next week. He fishes for dogfish in the winter months and he puts out five miles of gear. And after he puts it out, he goes to the other end and picks it up. I mean, he leaves at 7:00 in the morning, he's back by 3 o'clock in the afternoon. And at one time, you -- at this time of year, you'd probably be jigging for cod or other resources by catch but, as you know, the population has gone down.

9543. There is a lot of dogfish. If anyone knows anything about fishing, probably glad to get rid of dogfish. But it's a way that our people stay fishing during the winter months. And then the resources of shrimp, prawns, we have a lot of divers in our community that's able to go out and get these foods for our people.

9544. And one of those places that are very near and very dear to us, the same as Chianno (ph) and Beecher Bay and the same as Songese (ph) and Esquimalt, and that place would be Race Rocks. Race Rocks is a very important place for resources and, after meeting with the Makah, they mentioned that it is

one of the places that would be a high risk of having a spill. And that's right beside where we live, and that is a concern. That is a very big concern.

9545. Am I doing that?

9546. How's that? Is that good? Everybody hear me? Okay.

9547. So what did I want to talk to you about? Race Rocks and the places that we need for future generations is -- if that is a high-risk area, I don't see a lot of work being done on areas that are high risk. And the timing is not right for these hearings because I think there's a lot of work that has to be done here.

9548. It was back in, I believe, 2006 that there was winds on the straits -- Northern Straits, call it, the Straits of Juan de Fuca. They were upwards of 100 miles an hour, and I think everyone might remember that. It was a bad storm. Knocked out power in T'Sou-ke for three days. That is a concern, especially if you times these ships by six. And I don't know if there was enough work being done on this.

9549. Yeah, I remember a couple of years back on the straits, there was a luxury liner coming down and it was going quite fast. It was coming in. You know, we get a lot of luxury liners coming down here every year. And all of a sudden, the wheel turned hard over and it went way on its side and listed. And it was just an accident. It just happened like that.

9550. And I'm just wondering, if that accident happened, it could actually hit a tanker. So these things happen and I -- you know, like, I'm just -- you know I'm always curious. I'm sure a lot of other people must be curious, too, as to what can happen accidentally and say that there'll never be a spill forever.

9551. You can't say that. You cannot say those words, "There can never be a spill forever" or "There won't be a spill" because nobody can guarantee that.

9552. So my only ---

9553. **THE CHAIRMAN:** I think we'll take a short break until we get this rectified because I -- it's very disruptive for you and it is for us as well to hear those sounds. So I think we'll take a break for 10 minutes until we get the ---

9554. **CHIEF GORDON PLANES:** Okay.

9555. **THE CHAIRMAN:** --- system fixed.

--- Upon recessing at 2:53 p.m./L'audience est suspendue à 14h53
--- Upon resuming at 3:09 p.m./L'audience est reprise à 15h09

9556. **CHIEF GORDON PLANES:** Does it work? Perfect.

9557. We're at it again then. This is good. Good afternoon, everybody. You have a coffee? Tim Hortons? We had coffee before we got here. It was important. Lot of work to be done.

9558. I'm looking forward to this afternoon. Looking forward to eating a lot of salmon tonight, something that we need to make sure that in 100 years from now we're eating salmon, and maybe that's part of the reason why I'm up here speaking today, is in regard to the resources that are very important to us.

9559. I probably said this three times, but I just need to keep saying it, what is the price of our resources in our traditional territory, not only in our territory, but in B.C. alone, that are so dependent on a resources that is -- how can I say it? When people come to this country and when they come to this coast they identify the west coast with salmon.

9560. And before I follow through with things I was saying earlier, I just want to go back and talk a little bit about salmon. When we had the fish trap, we put one up in my day when my dad Thomas and my uncle Jim Cooper Wansia was Chief.

9561. They put up a fish trap right in front of the village of Siaosun with Department of Fisheries and Oceans, and we put out the trap for one day and what came out of that trap in one day, 2,000 sockeye. In one day. And we let all those sockeye go and only kept what we needed, but we also tagged.

9562. And then we put it out another time and caught hundreds and hundreds of spring salmon, so much so that all the seals were trying to get in to eat them. I don't blame them one little bit. And we tagged a bunch with DFO and we brought some home to the village, and we let all the rest of them go.

9563. But when it comes to the resources in our traditional territory, you can't have somebody come and say, we know what's out there, because I don't

think it works that way. I think we tried to do that, but I don't think it's possible.

9564. But our fish trap really taught us a lot. It taught us that there is a lot more salmon out there than you think there is. And unless you're a fish and you can talk like a fish, you're not going to really understand it.

9565. I also need to talk a little bit about the salmon and a legal standpoint, which is really important. You see we are, through the Douglas Treaty, allowed to hunt and fish "as formerly", and through a legal standpoint for our people, with the Douglas Treaty, if we can prove that we hunt at a certain place and use that land and the water, then that land is rightfully our because we used it and we could prove it. And we have a lot of places in our territory we can prove that.

9566. So I say to everyone in this room when you look at the rivers and the places where we had our resources of the salmon coming back to the river and how we fished, we took it out of the mouth of the river where we live and up on a Cleyilin (ph) spring salmon place, what they call the Potholes today.

9567. Granny said it's the place where the spring salmon give themselves back to Mother Earth, and I think with that statement alone those places up there in the park, it's a CRD park, but you see those places belong to us because we always took care of them.

9568. In a legal context, those are ours. Those places where we fished at the mouth of the river are ours. Those places where we had the fish trap was ours; those places out in the middle of the straits of Northern Straits is ours. So much so our people back in the day actually signed an American Treaty because they knew it was ours.

9569. They problem we have today is that small tribes like ours, we're only 250 strong. We were much more before, but we are decimated through illness of smallpox and other things, and it took us a long time to get back to where we are today. To bring us back where we can sit at a table and talk like this.

9570. I think it was different in my dad's time and my dad's dad's time. So now I'm just saying this, we do have a rightful say of what happens on Northern Straits. We have that right because our forefathers, our ancestors, the ones that always fished it and the ones that took care of it gave us the responsibility to be stewards, to make sure that those resources will be there for future generations, and that's why I say that is ours.

9571. But in saying that in a Coast Salish context, you can't take it with you when you die. All we can do is manage it so that future generations can manage it when we're gone, and that's the way the Coast Salish people are. It's very important.

9572. And also, I want to just add with something else to that about water and how sacred it is to our people. If you ever want to know the size of a traditional territory you've got to look at the water, because Sooke Lake is the heart of our traditional territory. It feeds the whole of Victoria and surrounding communities for water.

9573. Well, where all that water flows from the Sooke Lake within our territory, where it flows and where it ends up is our border of our traditional territory. So right above Sooke Lake you have Weeks Lake. It's Jordon Meadows, it flows all the way down into Jordon River and that's about 30 kilometres to the northwest of Sooke, and that's the village of Sthunthunup, meaning Old Home, or Homestead. There's a lot of halibut out front there. There used to be a pink run, but the dam went up and then they put a copper mine in there and they just totally destroyed the salmon and we did not have a say back then on that kind of resource because they wouldn't give us the say.

9574. But I can say to this day that that water that flows from Weeks Lake to Sooke Lake, all of those Smokehouse Lakes in our area, that's how you determine our traditional territory, and when that water flows down into the ocean it is a part of who we are. So if it's saltwater or freshwater it is all -- to us it's both the same.

9575. And to know who we are it will take a long time to explain it. I need more till 4:30. I need till about midnight tonight. I don't think you guys want to sit here till midnight so -- I think that's what I -- also another thing I needed to say is this process is too short.

9576. We need a lot of time to really think. Because actually you go back and when you go home there's a lot of stuff that will come up that's important to us.

9577. But in saying this, the heart of our traditional territory is what made us strong and water is very important to our people, to the Smokehouse Lakes. And the lakes in our territory are called smokehouse lakes because that's the place where we smoke the deer meat after our hunt and brought it back for winter

storage. And the Sooke Lake is the -- one of our major number one smokehouse lakes.

9578. And I just wanted to give you a little bit of history about our territory because I think it's really important to understand who we are because of our identity of T'Sou-ke people using the resources on the ocean and being able to cross that ocean straight off my house and go to the other side to hunt deer and elk until somebody put up a border and said we can't do it anymore. But if that wasn't the case, we'd still be over there, our villages would still be there. And we're working on that. We've got a long ways to go, but we're working on that.

9579. I'm almost done here. I just want to talk a little about -- this is right in front of the village. And of all the food that we have in our territory, these are the kind of foods that always kept our people alive. And I don't know if a lot of people know about our foods on the water, but they're very important to our culture. And I think if there was ever a disaster in our traditional territory, I think everyone will be going back to those same kind of foods.

9580. And we're just worried because this is right on the open ocean. These are what's collected all the way from Sheringham Point, or should I say back to Sthunthunup and Jordan River, all the way out to Race Rocks.

9581. And those are the kind of things that we are concerned about. Those could be lost forever. And gooseneck barnacles, sea eggs, mussels, stick shoes, geoduck, clam digging, all of that is very important. And how do we ensure -- again, how do we ensure that we can keep that? How can we do it?

9582. So with us, if you look at this picture, right on the left, that's my canoe, called the *Syusung Warrior*. We launched it right at the Bay of Syusung, right off where I live. And I jumped in it with four -- three other people, there was only enough for four, 17-and-a-half feet long, and I paddled it on -- I went on a journey for 11 days and paddled it all the way down the Puget Sound right to Seattle and back up to Lummi. And it was on its maiden voyage that I did this.

9583. I brought a couple of youth with us on the journey and the Creator was with us all the way because I was in the smallest canoe out of the whole works on tribal journeys. The picture on the right is of the canoes coming in and having protocol right in our village, right off the big river, right where our band office and all our people, we stand off and then all the canoes come in and ask protocol to come and stay the night, share a meal, sing some songs. And then we travel

with them to the next village.

9584. And that is very important to us. It's a way of knowing that the future generations will be able to share in the same tradition and the protocol and the customs. And again, will this be the same if something was to happen in our territory, such as a spill.

9585. And now, we're coming close to the end of my presentation. Lately -- I think it was about five years ago, we did a demonstration project of 75 kilowatts, 400 panels. And it's a demonstration project that has a light footprint on Mother Earth. One of them being that it is a secluded village where our fisheries building is just totally dependant on solar panels. This one here, where I'm standing, these panels go directly to the B.C. Hydro grid and they actually pay us money for these panels.

9586. And we also have an electric car that's powered by solar panels. And then we have -- then we have our band administration building that has net zero, and that is is that they pay us during the summer months and we pay them back in the winter months and at the end of the year it doesn't cost us nothing for hydro.

9587. These are demonstration projects. We did these kind of projects not for gaining revenue stream into our community. It's a demonstration. And that demonstration is that the light footprint on what we, as Canadians and British Columbians, can do to start making change that would be beneficial for our children 100 years from now.

9588. Now, as stewards, we have a responsibility today, like our ancestors did 100 years ago or 1,000 years ago, and we're trying to keep with that. And that's why we're here today to speak on behalf of the Kinder Morgan application, is to say that what is the price that we have to pay if there was a spill?

9589. And I don't know if anybody can answer that question because if you do, you're either God or somebody that's a good mind reader, somebody that knows the future, because I don't think anybody can answer that question in this room. I don't think there's anybody. And I don't think there's anybody in this room that can tell me for a fact that there will never be a spill. I mean, I need somebody to tell me that and I haven't met a person yet that told me that. And that's the problem we have; it's a big problem.

9590. But in closing, before I say Hy'ch kas, I just want to say again, we live

on a village along the open ocean. We live on a village located at the mouth of the river. It's very hard to find -- it ain't very hard to find First Nations, they're always at the mouth of a river. Ours was dependent on ocean resource. That is why where I live today, we live right on the waterfront on Northern Straits. And in the day of contact, we spent all our time on the water because we treated the water the same as land.

9591. Again, I'd like to say is that at a time when there is 10,000 canoes and 3,000 longhouses on this coast, you can imagine how many canoes would have been out on the water and at a time where, in the last 100 years, those canoes slowly faded away because it wasn't the fault of the First Nation, it was the fault of the government trying to get rid of our culture. And now it has come back. And we don't have 10,000 canoes along the coast now. We might have 100, maybe 200 canoes.

9592. I went to a tribal journey down the United States, there was about 100. I think it averages that when we go on a journey. But again, we're trying to make our culture stronger and keep those teachings of building canoes, specifically traditional cedar dugout canoes. They're a huge part of who we are.

9593. So in closing, I want to leave it at that and just to know that that water in front of my house overlooking Northern Straits is the same as the mountains up in the smokehouse lakes. And the only way that I can say this right is if I had everyone here out on a boat right on Northern Straits sitting there looking at it. And then you could understand who we are as T'Sou-ke people.

9594. But I can only share so much with you today on that. And I hope when you get a chance, you could go out off our village or come out with us in the middle of the Straits and then you'll know what we mean of who we are, because the way our Elders and our ancestors did things was not by sitting at these meetings and talking. Our place of learning and our place of doing is in the environment because that's where we can take full responsibility of the things we do in this life, right now today. We will be more responsible for the environment if we're in the environment.

9595. So I'll leave it at that. I'd like to thank you for the time for me to stay here and say a few words today, and everyone in this room. That was a part of the prayer, Shirley. Thank you for grounding us, and we'll leave it at that. HÍSW̱ḴE.

9596. **THE CHAIRMAN:** I'll offer -- I think you indicated that you're

prepared to take questions of clarification, was I right, and then anything substantive would be in writing?

9597. Okay. Then perhaps I'll offer it to Trans Mountain, Ms. Olenuik, to begin with.

9598. **MS. OLENIUK:** Thank you, Chair.

9599. We have no questions, but Chief Planes, I'd like to thank you for your presentation. Thank you.

9600. **THE CHAIRMAN:** If I may, and I hope it isn't a -- if you think it's a written question, you can respond to me.

9601. I'm just trying to get the relationship with your territory at Race Rocks. And you indicated, you know, that your involvement with Race Rocks, it's in your territory.

9602. Do you have any -- I wouldn't say your traditional rights. I have to be careful with that word, of course. Traditionally do you use Race Rocks, what is your relationship with Race Rocks, and have access to it and that type of thing within your traditional territory and for any of your fishing rights in that area?

9603. **CHIEF GORDON PLANES:** We can answer that in writing. It would be better because, you know why, when I talked to you earlier, I talked about family kinship ties. My mother is from SCIA-NEW, the Salmon People. My name is HYA QUATCHA, named after hereditary Chief of SCIA-NEW from Beecher Bay. That's right at Race Rocks.

9604. But that resource was shared with the Coast Salish people, and for me to answer that question that would be in disrespect because I would need to go and talk to my Elders as well. And there's a lot -- I mean, there's too much information for me to actually be able to put on the table to answer that question and it would probably take too long. How's that?

9605. **THE CHAIRMAN:** That's perfectly fine.

9606. And I acknowledge also when -- we've heard from the Lummi. You talk about them. And we heard about in Chilliwack -- was it Chilliwack that they were -- the four American tribes appeared in front of us. And so we heard their

relationship and kinmanship and there are no borders with the waters with your people. So we had their side of your relationship with the Coast Salish people. So it was kind of coming -- the waters are coming round for us in this hearing, so I acknowledge that because you talked about them as well in the things you did.

9607. So I'd like to thank you on behalf of the Board and my colleagues today for your voice bringing the -- sharing the stories and traditions that you have shared with us. And we acknowledge that. And I think we acknowledge the people you have brought with you.

9608. I think you referenced you father and uncle, if I'm correct, and I acknowledge them sitting in the -- oh, I see the likeness, so I acknowledge them and for being here today.

9609. And so with that, I just wanted to assure you we will consider what you have said and what all the other information that is still to come to us on this important application and that, once we have all that information, we will be considering it whether we will recommend approval or not of this project going forward.

9610. So with that, again, I thank you for coming today.

9611. Yes, Ms. Pears? I understand ---

9612. **MS. PEARS:** Just before we finish up, I think we'd mentioned at the beginning that we'd like to close these proceedings with prayer. And I'll let you -- sorry. I'll let you finish your sentence and then I'll just say a couple of words before we begin the prayer, if that's all right.

9613. **THE CHAIRMAN:** Yeah, I was aware and I was going to acknowledge that to be the last thing because I'm used to having the prayer last, so I appreciate that as well.

9614. So with that, we're adjourned until 9:00 a.m. tomorrow morning when we will be hearing from Mr. Adam Olsen in this room. So with that, we're adjourned, and we look for the prayer now from ---

9615. **MS. PEARS:** I also just quickly want to remind everybody that what we've heard today really is only to provide a lens through which you're to hear all of the evidence and the studies that's to come, and it's a context, a context -- the

context which is this is a nation that is defined by their sovereignty and stewardship over their territory, which is inclusive of both the land and the water.

9616. So with that, thank you all for being here today and thank you for your support to all the members and the supporters in the audience. Thank you.

(Closing prayer)

--- Upon adjourning at 3:34 p.m./L'audience est ajournée à 15h34