JOINT REVIEW PANEL FOR THE ENBRIDGE NORTHERN GATEWAY PROJECT
COMMISSION D'EXAMEN CONJOINT DU PROJET ENBRIDGE NORTHERN GATEWAY

ENBRIDGE NORTHERN GATEWAY PROJECT
PROJET ENBRIDGE NORTHERN GATEWAY

Proposed by / Proposé par:

Northern Gateway Pipelines Limited Partnership

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PANEL SESSIONS
SÉANCES

IN THE MATTER OF an application filed by the Northern Gateway Pipelines Limited Partnership for a Certificate of Public Convenience and Necessity pursuant to section 52 of the *National Energy Board Act*, for authorization to construct and operate the Enbridge Northern Gateway Project.

PANEL SESSIONS LOCATION/LIEU DES SÉANCES

Sessions held in Prince George (British Columbia), Wednesday, September 8, 2010
Séances tenues à Prince George (Colombie-Britannique), Mercredi, le 8 septembre 2010

JOINT REVIEW PANEL/LA COMMISSION D'EXAMEN CONJOINT

S. Leggett	Chairperson/Présidente
K. Bateman	Member/Membre
H. Matthews	Member/Membre

PRESENTATIONS/PRÉSENTATIONS

McLeod Lake Indian Band
- Chief Alec Chingee

Living Oceans Society, Raincoast Conservation Foundation and ForestEthics
- Mr. Timothy Leadem

Office of the Wet'suwet'en
- Chief Namoks
- Mr. Mike Ridsdale

Mr. Gregory Brown

B.C. Wildlife Federation
- Mr. Wayne Salewski

Alexander First Nation
- Chief Allan Paul

Kitselas First Nation
- Mr. Chris Knight
- Mr. Wilfred McKenzie
- Mr. Terry Collins

Gitxsan Hereditary Chiefs Office
- Hereditary Chief Cliff Sampare

Ms. Hillary Crowley

Mr. Doug Beckett

Ms. Catharine Kendall

Ms. Mary MacDonald

Mr. Cecil Lee Kelley

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--- Upon commencing at 9:03 a.m./L'audience débute à 9h03

2689. **THE CHAIRPERSON:** Thank you very much. The Panel and Secretariat staff are honoured to be here in the traditional territory of the Lheidli T'enneh and in the City of Prince George.

2690. We have a large room right now for those of us who are here this morning but we're understanding that we're going to have some other people joining us this afternoon. So if I can encourage you to move forward so that we all don't look like we're shooting down a bowling alley, so that we can have a better conversation together, I'd encourage you to do that.

2691. My name is Sheila Leggett and I'm the Chair of the Joint Review Panel which was established by the Minister of the Environment and the National Energy Board to consider the Enbridge Northern Gateway Project which was filed by Northern Gateway Pipelines Limited Partnership.

2692. And at this point, as we get under way, I'd ask if you'd just take a moment to turn off your cell phones and your pagers and Blackberries and all other electronic gadgets that make noises as we're trying to talk. Also, we are up on our English webcast. Are we up on our French webcast as well? Perfect. So we're in business with our webcast as well.

2693. So as we get under way, I thought that the best approach would be to just take a brief moment and to have us introduce ourselves to you -- the three Panel Members -- and so I'll start off with on my right, Mr. Kenneth Bateman.

2694. **MEMBER BATEMAN:** Good morning. Thank you.

2695. It's a pleasure to be here in the Lheidli T'enneh traditional territory, as well as in the City of Prince George.

2696. Just by way of introduction, my background is in the energy field, also in the environmental and regulatory sectors, both as an energy lawyer and also as a senior executive. I have been involved in the past in a number of sustainable energy products, particularly in the area of wind farms and bio-waste facilities.

2697. Thank you.

2698. **THE CHAIRPERSON:** Thanks, Kenneth.

2699. And to my left is Mr. Hans Matthews.

2700. **MEMBER MATTHEWS:** Thanks, Sheila.

2701. Good morning, everyone. Thanks to the Lheidli T'enneh for having us here today, and the city.

2702. Just by way of introduction, I'm Anishinaabe from the Wahnapitae First Nation. I'm from the Loon Clan. I have been working with my community and other communities in Canada for the past 20 years in resource development and I'm also a geologist by trade, and I look forward to hearing everyone's comments today and sharing your views on this project.

2703. Thank you.

2704. **THE CHAIRPERSON:** Thanks, Hans.

2705. By way of background, my training is in environmental science. I worked the bulk of my career as an environmental consultant and I worked for a broad variety of stakeholders on a broad variety of issues.

2706. My technical specialty is in the areas of soil chemistry and terrestrial ecology. Before I joined the National Energy Board, I was a Board Member of an Alberta-based board, the Natural Resources Conservation Board.

2707. One of my roles as the Chair of the Panel is to ensure that this session unfolds in an efficient and respectful manner, and the Panel looks forward to everybody's cooperation in this way for all of us to show respect and courtesy to each other,.

2708. And you will quickly find out that what the Panel wants to do is really hear from the presenters who are in front of us at any point when we've called someone, and especially in a room like this with mile-high ceilings, any noise is going to be disruptive. So I would ask for everyone's cooperation in just being quiet so that we can all hear.

2709. If at any point you're having trouble hearing at the back of the room or anything like that, just raise your hand and I'll see it and we'll do something to see if we can get the sound adjusted.

2710. Before we go further, I just wanted to point out that the emergency exits are behind us in the -- as you came in. And the washrooms, you go out those doors and you turn to the right.

2711. If you're here and you've got a camera and you're just here on a personal

basis, we would still ask you if you would go over to these cordoned areas to take your pictures. It just allows us to make sure that we're not disrupting the entire room as people are getting up to take pictures.

2712. On May 27th, 2010, Northern Gateway Pipelines Limited Partnership applied to the Board for a Certificate of Public Convenience and Necessity pursuant to section 52 of the *National Energy Board Act* for authorization to construct and operate the Enbridge Northern Gateway Project.

2713. That project would include two 1,172-kilometre pipelines between Bruderheim, Alberta and a new marine terminal at Kitimat, British Columbia.

2714. In addition to review under the *National Energy Board Act*, the Application requires an environmental assessment pursuant to the *Canadian Environmental Assessment Act*.

2715. As part of the process of creating this Joint Review Panel, terms of reference were drafted to provide guidance. Those terms of reference required the Panel to issue a Hearing Order, conduct information sessions on the process and to conduct these Panel sessions on certain topics.

2716. In response to comments from the public, we decided it would be appropriate and useful to hold the Panel sessions before we proceeded to issue a Hearing Order.

2717. As a result, on July 5th, 2010, the Panel issued a Procedural Direction that established the process for interested people or groups to provide input and comment on the three topics that are listed on the screen to my right-hand side.

2718. So those three topics are any comments on the Draft List of Issues which we have put out, any additional information that you believe Enbridge should be required to file, as well as any comments you want the Panel to take into account in terms of potential locations for oral hearings. And so that's what we're here today to hear about; it's your comments on those three topics.

2719. I understand that the Secretariat were able to get in touch with most, if not all, of the parties who are registered to speak with us today, and so they've also informed you that these are the three issues that we're seeking your comments on today.

2720. We know that many of you would like to tell us your thoughts about the proposed project and I want to assure you that you'll have many opportunities to do this in the future. However, before we begin to hear views about the project, there are

some initial steps that need to be completed and we're here today to complete one of those initial steps, and that's to gather your input on the three topics that are outlined.

2721. The information that you provide us on these topics will help us establish an appropriate scope of review and process, taking into consideration all the views we've heard.

2722. As you know, this is the last of our three Panel sessions. We held a session in Whitecourt, another in Kitimat and now we're here in Prince George, and at some point after we've completed these three Panel sessions, we will be issuing a Hearing Order.

2723. It will be where you will find out what the assessment process steps are and it will also be where you can find out the many ways that you can be involved in the future.

2724. To help you determine how best to participate in the future assessment process for this project, the Canadian Environmental Assessment Agency has designated Ms. Collette Spagnuolo to assist you. Her job as your process adviser is to ensure that you have all the process information you need to participate meaningfully in this assessment.

2725. Now, unfortunately Ms. Spagnuolo was not available to be with us this week. However, at the registration desk as you came into this room, there should be a sign-up sheet there with her name across the top of it and I would encourage everybody who wants to follow up with her to please put down your names and contact information on that sheet and she will make sure that she follows up with you after this week.

2726. I would also like to share with you that we have a number of National Energy Board or Secretariat staff in the audience, both from the National Energy Board and the Canadian Environmental Assessment Agency. These are people who work with us as the Panel to create and deliver a process where all viewpoints can be heard.

2727. In addition to helping the Panel, they're here to answer any Panel-related questions that you have. Now, many of them aren't in the room at this point; so I won't ask everybody to identify themselves, but you will be able to recognize all the staff because they've got name badges on their lapels.

2728. So that's how you will be able to recognize them. And you would have had the opportunity to meet many of them as you signed in this morning at the registration desk.

2729. So we're fortunate to have a number of people with us today and they are Ms. Louise Niro, Mr. Nelson Peters, Mr. Alex Ross, Ms. Carole Gagné, Ms. Ruth Mills, Ms. Shawnna Cox, Ms. Carolyn Dunn, Mr. Jamie Kereliuk, Ms. Annie Roy, Mr. Paul Lackhoff, Ms. Jessica Fung, who are our Secretariat staff.

2730. As well, as you can see with the room -- the little enclosure off to our left-hand side as well as our sound -- that we have other people who are also here with us to make sure that everything is able to be heard across Canada.

2731. So these proceedings are being webcast in both French and English across Canada. And in order to accomplish, that we have three translators who will be sharing off back and forth in the booth behind us and they are Ms. Christine Renaud, Ms. Suzanne Hord (ph) and Mr. Jean-Pierre Beckat

2732. As well, none of us would be able to hear each other think and talk if we didn't have our sound technician, Mr. Darren Neufeld, and our court reporter, Mr. Dale Waterman, makes sure that we all have an accurate transcript of what we've been able to talk about.

2733. Now, in order for Mr. Waterman to be able to do his job, we all need to be conscious of slowing down and speaking carefully so that he's able to get an accurate transcript. So I would ask for your cooperation in that aspect of it. The transcripts will be posted on the public registry on the Panel's website.

2734. All participants who have registered to provide their comments today are listed in the daily schedule and it's posted, I think, at the back of the room and it's also at the registration table.

2735. So we'll call the participants to present in the order according to the list that we've got compiled at this point. If you are not present when your name is called, you will be called again at the end of your scheduled session; so for example, in the morning, the afternoon, or the evening.

2736. If you're here today and you want to talk with the Panel and present your comments but you haven't registered, I would ask you to please do that this morning. It would be very helpful from an efficiency planning perspective and the Panel will do all we can to accommodate everybody who wants to speak, but in order to do that we need you to register at the back of the room at the registration desk.

2737. We begin sitting this morning. The Panel then will sit this afternoon at two o'clock and again this evening at seven o'clock. We will take breaks as required and do our best to make sure that we allow adequate time to hear from all those who

have registered to speak with us.

2738. You will notice that the Panel members are going to take turns in welcoming the participants who have come to speak with us and so we'll just alternate between the three of us. It could be that after your presentation the Panel has some questions of clarification and that's all they will be, to make sure that we've understood what you have come here to tell us today.

2739. To allow us to hear from as many participants as possible, we would ask you to keep your presentation to about the 30-minute time period that we talked about in the Procedural Direction. If you have provided us with written comments, there's no need to repeat or to summarize those comments. The Panel will be taking into consideration all the written and the oral information that we receive.

2740. As well, if somebody else has already presented the same views as you had intended to present, there's no need to repeat that information. Rather, you could just indicate that you're in support of the other person's views.

2741. If you have written material that you want to give to us to supplement your oral comments, please make sure that you provide it to one of the Secretariat members at the back of the room or at the registration desk after your presentation and we'll make sure that you know how to get that material posted on the registry site so it will be available to everyone.

2742. This project has attracted a lot of opposition and support; so in other words, much attention. As a Panel, we want to ensure that we understand all positions. So our purpose today is to hear your input on the processes being established and we look forward to hearing your comments on the three specific topics that are identified on the screen.

2743. So with that, I've said more than enough and it's time for me to keep quiet and for us to proceed and listen to you this morning.

2744. So I would first ask Mr. Alec Chingee and Mr. Vern Solonas to come forward.

2745. Good morning and welcome. You don't look like two people. So if we could get you to identify yourself and if you wouldn't mind, while you're doing that, would you mind just spelling your first and last name for the record?

2746. **CHIEF ALEC CHINGEE:** There's been some changes. After I registered, Vern Solonas was supposed to come in and sit with me but upper

management decided to oppose that there and they also had asked a person from the Council to come and sit with me. And I looked in the room there this morning and it looks like she's not around. So maybe she may never show up there, but I'll give you my views and my views are just -- I don't have anything written in front of me because I was expecting this person to do most of it.

2747. First of all, I ---

2748. **THE CHAIRPERSON:** Sorry to interrupt you, but could you -- would you mind just spelling your name for the record, just so we're clear?

2749. **CHIEF ALEC CHINGEE:** Okay. My name's Alec Chingee. It's A-L-E-C, C-H-I-N-G-E-E.

2750. **THE CHAIRPERSON:** Thank you very much.

--- ORAL PRESENTATION BY CHIEF ALEC CHINGEE:

2751. **CHIEF ALEC CHINGEE:** My name's Alec Chingee, and I work for the McLeod Lake Indian Band. My job title there is Land Referral Manager and with land referral I do all of the consultation with industry, governments and all the projects that's within our traditional territory, whether it's mining or whether it's oil and gas, or whether it's just logging, forestry, that type of thing.

2752. Enbridge Gateway, I guess, has been on the radar for some time now since probably about 2004, maybe somewhere around there. Anyways, I was expecting to just do a really short little introduction but it seems like I can't seem to do that. So I'm just going to try my best and try to tell you who we are and where we're at.

2753. First of all, I'd like to thank the Lheidli T'enneh Nation for doing business on their traditional territory.

2754. We are probably about an hour and a half north of Prince George, called McLeod Lake. There's a little community there where the Sekani people of the McLeod Lake Indian Band resides.

2755. Our traditional territory is basically the same as the Treaty 8 Boundary but instead of going the same direction as the Treaty 8 boundary, we decided to cut it off at the headwaters of Eklund Creek and go down towards Williston Lake and then use the middle of the Peace Arm all the way to the Alberta border; and going down south to the Pacific and Arctic water divide there, and then you head west to Arctic Lake and then back to Summit Lake. And that should entail our traditional lands.

2756. Having said that, we have joined Treaty 8, or we adhered to Treaty 8 in 2000, April of 2000. Since that time, we were always looking to sustain ourselves and the only way we could sustain ourselves is through businesses that we create, whether it's logging in the logging industry, or whether it's in the construction industry.

2757. We also even acquired a Summit pipeline and services which the McLeod Lake Indian Band owns 80 percent. Because of these huge projects that's always on the horizon there, maybe we can try to tap into these things just to get some work, type thing.

2758. Those are the three main ones and we are looking at doing other things so that we can diversify a little bit there. We don't have to put everything in one basket.

2759. We tried to sustain ourselves just by working in the businesses, and businesses and oil and gas, you know, constructing roads, building leases, those types of things. We are also looking at maybe getting into the milling industry but that's still further down the road there. We want to do it just one little piece at a time. And there are a few things here that kind of caught our attention.

2760. One of it is the impacts that if Enbridge was to go their -- the impacts on the wildlife through a corridor that hasn't been basically touched or anything. You know, it's going to open up a whole area of hunting for other people to go and hunt animals that we, the McLeod Lake Indian Band or the Sekani people, do rely on and sometimes it's a good thing and other times it's not a good thing.

2761. You're going to get more hunting in different areas and then also you're going to open up areas for fishing, and I guess trapping too would probably be the same thing.

2762. When I say impacts that are there that -- then I'm saying that other people are going to be hunting the same animals that we exist on, which is huge to us if we have to rely on these animals and we need to feed ourselves through these types of animals.

2763. And also there was three things that we think that are kind of important issues. Number one is just lately there was talk about marketing the electric car and with that -- does that really mean that there is a need for a pipeline to go from A to B in anybody's lands?

2764. And trying to get some economics out of it there will probably be just the working part of it; the construction part of it is just a small little piece of the pie. It's not a bigger picture type thing. And if the electric car was going to come in and take

over, then what does that mean for the other energy such as gas, oil, that type of thing?

2765. And the other one there is -- the number two issue would probably be the disasters that are happening right now. The disaster of the Pine River that happened in 2000 -- 2001 maybe, somewhere in there. It happened just going from, I guess, past -- it's on the Pine River anyways at the second checkerboard.

2766. I don't know exactly know what location that is, but it's north of -- north of Asuweda (ph) Lake by about 10 or 15 minutes north from there. To this day, I think that remnants of the oil spill is still in the water and I don't know if the fish or the water is even safe to drink or to use yet.

2767. And then of course there's the disasters in the Gulf -- you know, huge big disaster there. And then lately Enbridge had their own problems in Michigan with the lines breaking and I don't know if -- what kind of impacts those are but those are the things that kind of click something in our minds to think, is this a good idea or not?

2768. And the third issue there I can't recall off the top of my head what it was but I will send you the guys the three in a letter form.

2769. That's about all I can think of right now. Thank you. You guys have any questions?

2770. **THE CHAIRPERSON:** Thank you. Your comments were very clear and we have no questions of clarification. We want to thank you very much for taking the time to come and speak with us today.

2771. **MR. CHINGEE:** Thank you.

2772. **THE CHAIRPERSON:** Thank you.

2773. Mr. Timothy Leadem? Leadem, I'm sorry. Thank you.

2774. **MEMBER BATEMAN:** Mr. Leadem, thank you for attending today. I understand that you are speaking as counsel on behalf of Ecojustice. Is that correct?

2775. **MR. LEADEM:** I'm not speaking on behalf of Ecojustice. I'm a lawyer with Ecojustice.

2776. **MEMBER BATEMAN:** All right. Welcome. Please begin by stating your name and spelling.

--- ORAL PRESENTATION BY MR. TIMOTHY LEADEM:

2777. **MR. LEADEM:** Certainly. Excuse me.

2778. Good morning, Panel. My name is Leadem, L-E-A-D-E-M, initial T.

2779. I am legal counsel with Ecojustice located in Vancouver and I represent three groups here before you. I represent the Living Oceans Society; it promotes healthy oceans and healthy communities along the coastline of British Columbia.

2780. I also represent the Raincoast Conservation Foundation. This is a group of conservationists and scientists located in British Columbia with a goal of preserving the marine biodiversity. They use science in order to further their goals.

2781. And I also represent a group called ForestEthics. They are a group that protects endangered forest primarily but they also support communities insurable to protect their way of life.

2782. I want to begin by acknowledging that we are in the traditional lands of the Lheidli T'enneh and that I thank them for my being here.

2783. We have filed written submissions and will file further written submissions. My remarks today are supplemental to those written submissions, in addition to them. I will speak and address all three topics that are before the Panel.

2784. I will begin by identifying two lists -- or a list of two issues which have not yet been identified as issues that the Panel ought to concern itself with. I will then turn to additional information which my clients say Northern Gateway should be required to file before a Hearing Order can be issued and finally I will have some brief remarks with respect to the venue or the location for the actual hearings should a Hearing Order be issued.

2785. My submissions to you are going to be mostly by way of legal argument. I apologize to those in the room who may not be well versed legally but I am a member of the profession and that is how I perceive this project; along legal grounds.

2786. **MEMBER BATEMAN:** Thank you for providing that initial introduction. If I could remind you, as you represent three different groups, that the deadline for filing written submissions is today.

2787. **MR. LEADEM:** Yes, I understand.

2788. **MEMBER BATEMAN:** Thank you; please proceed.

2789. **MR. LEADEM:** I want to emphasize one issue that is primarily the issue that should guide the Panel in its deliberations and that is the concept of sustainability.

2790. Sustainability is often defined in different ways, but the way I would define it takes into consideration the life cycles. It takes into consideration downstream and upstream benefits and effects. It also would take into consideration various equities such as intergenerational equity and intra-generational equity.

2791. Ultimately, this Panel must answer this question: How will this project contribute or detract from long-term environmental, social, cultural and economic sustainability? I'm going to develop why sustainability is such a key concept for the Panel's consideration.

2792. It's recognized in Canada that sustainability is a core principle of environmental assessment; perhaps the key and most important element. Section 5 of the *Federal Sustainability Act* provides:

> *"Canada accepts the basic principle that sustainable development is based on an ecologically efficient use of natural, social and economic resources and acknowledges the need to integrate environmental, economic and social factors in the making of all decisions by government."* (As read)

2793. The *Canadian Environmental Assessment Act*, in the preamble provides that:

> *"Canada seeks to achieve sustainable development by conserving and enhancing environmental quality and by encouraging and promoting economic development that conserves and enhances environmental quality."* (As read)

2794. It also provides that environmental assessment provides an effective means of integrating environmental factors into planning and decision making processes in a matter that promotes sustainable development.

2795. The *Canadian Environmental Assessment Act* provides a definition for sustainable development. It means development that meets the needs of the present without compromising the ability of the future generations to meet their own needs.

2796. Now, this Panel was constituted under section 41 of the *Canadian Environmental Assessment Act* which incorporates section 16 of the Act. No doubt

the Panel is well familiar with section 16 and with its Terms of Agreement that cause it come into being.

2797. Section 16 of the *Canadian Environmental Assessment Act*, to summarize, basically says that there has to be an established need for the project; there has to be an established purpose for the project, and alternative means to the project must also be examined.

2798. The Proponent has made application under section 52 of the *National Energy Board Act* for a certificate and under the provisions of that particular statute the Proponent must show the existence of markets and the economic feasibility of its project.

2799. Moreover, by a course of conduct and by public announcements this Panel has raised a reasonable expectation amongst all the participants that sustainable development would be one of the issues to be raised.

2800. There were meetings held prior to the project application and various indigenous groups raised concerns about the lack of consideration of the impacts of induced upstream oil sands extraction. For example, the Haisla Nation and the Kitimaat Village Council said this:

> *"In order to properly assess cumulative effects of the proposed project, the project description needs to reflect the reality of the proposed operation. The pipeline is not a standalone operation; it cannot exist without supply from the tar sands mining operations. The pipeline is an extension of the tar sands that will expand tar sands mining operations and thereby result in additional environmental effects from the mining operations which must be considered as part of the review."* (As read)

2801. Now, in response to some of those concerns the Canadian Environmental Assessment Agency stated:

> *"The project proposed by the Proponent includes a pipeline and marine terminal. This is the project which will be evaluated by the Joint Review Panel. Oil sands projects are separate projects proposed by other Proponents. However, the JRP may consider other potential cumulative effects as they relate to the proposed project. Separate projects or existing infrastructure may be relevant to the cumulative effects assessment of the project."* (As read)

2802. And in response to some similar concerns raised by the Gitga'at First Nation the Agency responded in part:

> *"The JRP must, however, consider environmental effects from existing and proposed oil sands mines that are likely to act cumulatively with the environmental effects of the proposed project pursuant to Section 16(1) of the Canadian Environmental Assessment Act."* (As read)

2803. The Agency went on to say that the JRP will provide Aboriginal groups and the public the opportunity to make known their views on this issue that should be considered by the JRP.

2804. So we are here to make those concerns known to you. Expansion of oil sands is integral to the operation of the project. The application provides, in part, that this project, only this project according to the application, can provide the high capacity access that is required to supply the very large and expanding feedstock markets of Northeast Asia, in addition to the potential for serving new United States west coast markets.

2805. So expansion of oil sands production and construction of this project are integral, one to each other.

2806. I talked about upstream benefits, the expansion of tar sands, also there are detriment effects. The Proponent has said that they are going to ship this oil to Asian markets. The downstream effects must also be viewed in the concept of sustainability; is this project sustainable?

2807. And in that regard I refer to the greenhouse gas emissions targets that are set by a number of governments, Alberta, British Columbia, Canada all have targets to reduce greenhouse gas emissions. Now, obviously there is going to be a large amount of greenhouse gas that will be released as part of the construction of this project, as part of the expansion of the tar sands, as part of tanker traffic down the coast.

2808. It may interest the Panel to know that the markets that the Proponent is proposing to sell also have greenhouse gas emission targets. China has greenhouse gas emission targets.

2809. So the project cannot only be conceived of as a standalone pipeline. It must be perceived as having effects upstream from the pipeline as well as downstream and those effects must be examined because the global context of this, all Canadians want to know how they are contributing or not to climate change. And this

project is going to have an effect upon climate change, and that material and that issue ought to be front and centre before this Panel.

2810. I want to talk about intergenerational equity. The definition of sustainable development talks about future -- the future for Canadians. This Panel must be concerned about those equities. We're dealing with a finite resource here.

2811. Even though people would have you believe that the tar sands of Alberta are limitless in scope and provide a lot of oil opportunities for expanding markets, they are finite and they will have an effect on future generations. They will also have an effect upon future generations in the concept of climate change. Those issues must be front and centre before this Panel.

2812. I want to talk about intra-generational equity. Now, intra-generational equity is the equity between peoples. This pipeline is going to be built in the traditional lands of many First Nations communities. They have a way of life that is different from those that live in the city. In many ways they're much more attuned to the environment than we are.

2813. The people that will bear the risks of this pipeline and any problems that may emanate from the pipeline are primarily indigenous peoples. Intra-generational equity says that their concerns must be taken into account before this pipeline can be built.

2814. The people of the North, not just the indigenous people but the people of the North also bear a fair amount of risk associated with this project. Some of them may say to you that they look forward to construction, to jobs, but what is being promised here, what is being promoted here, is basically a boom/bust economy.

2815. Sure, there will be jobs available while the pipeline gets built, there will be infrastructure jobs, but after the pipeline gets built those jobs will disappear and then the people of the north are left with the potential for an environmental disaster and they also are left with some problems that they will have to deal with.

2816. Those intragenerational equities must be examined by this Panel. So I would have this Panel answer the following questions or address the following issues to be added to the issues that are presently before it.

2817. How would this project contribute to or detract from long-term environmental, social, cultural and economic sustainability? Specifically, what are the potential impacts of the upstream and downstream activities induced by the project, including the oil sands supply to the project, the offshore transportation of the oil and the end use of the oil?

2818. What are the potential impacts of the project, including the life cycle impacts, of a transported oil on regional, national and global greenhouse gas emission reduction objectives? What are the potential impacts of the project on intergenerational equity with respect to the use of a finite, non-renewable energy resource?

2819. What are the potential impacts of the project on intragenerational equity, particularly with respect to low income, disadvantaged and indigenous individuals and communities? That's the first big issue that we say is lacking.

2820. The second issue -- and this was raised more by current events than anything else. The second issue is this, that we say the Panel ought to address. What are the financial risks to the Proponent, to the ship owners, to the insurers and to governments for any potential clean-up, restoration and compensation for marine oil spill?

2821. Now, those costs can be extraordinarily high. We know, for example, that with respect to the Exxon Valdez disaster of some decades ago that the costs for fines, penalties and compensation were as high as $7 billion -- U.S. dollars.

2822. Recently all of us were -- our attention was focused upon the Gulf of Mexico where the BP blowout and the oil spill occurred. It's estimated now to go as high as $33 billion. Now, if there's an oil spill -- well, maybe I should say this. When there's an oil spill along the coast of British Columbia, who's going to pay for those attendant costs? Who's going to compensate the businesses in Tofino or Ucluelet, which are highly dependent upon the tourism industry, when the oil comes floating onto their beaches?

2823. These costs raise serious questions as to the ability of the Proponent and the insurers to cover the full costs of a marine oil spill, and that issue must be front and centre before this Panel.

2824. Those are the two additional issues that we say ought to be raised. Now, with respect to your second point, the additional information, obviously flowing from my points with regard to the issues that need to be addressed, then with regard to sustainability there must be further information filed.

2825. I read some of the material; I can't acknowledge that I've read the complete Application of the Proponent but I read many of the information -- much of the information contained, and I found that sustainability is canvassed in Section 1.4 of the Application, and I say to you unequivocally that that discussion is inadequate. It does not deal with all the factors that I have just discussed: upstream and

downstream benefits. It deals with mitigation. It's basically a way of looking at environmental assessment that has long since gone from Canada.

2826. In effect, the Applicant says, yes, there will be environmental effects and environmental degradation but we'll be able to trade it off in some fashion. That's not how sustainability functions.

2827. Sustainability functions by looking at not just trade-offs but looking at the long-term effects of the project upon people and at the socio- and economic bases for the project; not just the construction of the project but also the long-term socio-economic effects upon indigenous peoples and northern peoples. It's not just a question of mitigation.

2828. Recently the Mackenzie gas line project reported out. Now, it may interest the Panel to know that they had retained a specialist in the area of sustainability. Dr. Robert Gibson, well-known Canadian professor, was retained by the Mackenzie Gas Line Project Panel, by the JRP that heard that project, and reported out to them with respect to sustainability.

2829. He established a very interesting and very helpful framework for how the Panel could grapple with the serious environmental problems that it faced, and you're facing no less serious questions before you. He framed it this way:

> *"How the purpose of the project can be understood from the perspective of the local, regional and national interest in progress towards sustainability; whether and to what extent the project is needed; which effects are likely to be or might be most significant, given sustainability objectives where important opportunities or perils have been missed and how current proposals and preparations need to be improved to ensure appropriate enhancements and mitigations; what trade-offs may be acceptable or unacceptable; whether the project as proposed is the best option in light of other alternatives, including alternative means of carrying out the project; whether and under what terms and conditions the project ought to be approved."* (As read)

2830. Now, going with the second issue, additional information is likewise required with respect to the filing of information related to financial vulnerability. The Applicant does not provide any estimates of potential costs for clean-up, restoration and compensation resulting from a marine spill.

2831. Sections 5.8 and 5.9 of Volume 8C of the Application discuss financial responsibility for a spill response but they don't go far enough. They don't go to

specify the limits.

2832. Now, the Application does say that certainly limits are to be expected from insurers and international and national compensation funds, and those limits are far below the costs that have been experienced in other marine spill events such as Exxon Valdez.

2833. Therefore, we say that in order to assess the financial vulnerability of the Proponent, the ship owners, the insurers, the underwriters, the government and eventually taxpayers, the Proponent must be required to provide this information:

2834. (a) potential costs for clean-up, restoration, compensation, fines and penalties for various marine oil spill scenarios, including a worst-case scenario;

2835. (b) a description of how the costs would be distributed amongst the various parties for each of the scenarios; and

2836. (c) an analysis of the financial vulnerability of each of the parties and the likelihood that costs would be ultimately borne by governments and taxpayers.

2837. I, being a taxpayer, do not want to pay for marine oil spill cleanup.

2838. There are other specific Requests For Information which will be detailed in our written submission. I won't go through them here. It will have been filed on time, in fact, if it's not filed already. I believe that it may have been filed in Calgary yesterday.

2839. I won't go through the other detailed Request For Information, but the one detailed Request For Information which concerns people in British Columbia is stream crossings. Particularly people up north are concerned about stream crossings.

2840. In late July, this Panel received a letter -- I found this on the public registry and I'm sorry I can't recall the exact date; I think it was July 23 or 24, something to that effect -- it was a letter sent to the Panel through counsel for the Proponent. I believe it was from Mr. Neufeld.

2841. Basically it said the application was complete. It was filed in May and the application was complete. I think there was one proviso that there was a further socio-economic study that was going to be filed after that fact, but basically the representation from the Proponent was it's completed.

2842. Less than a month later, the Proponent filed with this Panel, detailed reports with respect to horizontal drilling -- horizontal directional drilling. Now

that's a methodology for stream crossing. And the reason stream crossings are important is because we have a lot of fish-bearing streams in British Columbia and the fish industry is a thriving industry; the fishing industry in the Skeena is a thriving industry.

2843. So 10 additional horizontal directional drilling reports were received. That leads me to question how many more reports are we going to receive -- be received before we actually do receive a final report?

2844. The pipeline identifies 773 watercourses that will be crossed during the length of the pipeline. Six hundred and sixty nine (669) of them are fish-bearing.

2845. Now, the application alleges that 690 of these crossings of the 773 do not have significant environmental engineering or constructability issues and that leaves 83 crossings with significant issues. So all told the application identifies trenchless crossing methods for 33 of the 83 sites and then the application states that the crossing methods for all of the review sites will be identified during detailed engineering.

2846. What does that mean? Does that mean that as a participant that we go into this hearing process, should one be called, without knowing the case to be met? Without knowing what -- how the streams are going to be proposed to be crossed?

2847. Now it's commonplace that a lot of information unfolds during the technical review; during the actual hearing itself. But we say that an issue of this magnitude, how these streams ought to be crossed and how the Proponent proposes to deal with the environmental engineering problems that would come with the crossing have got to be identified up front and not somewhere down the line.

2848. And it's not sufficient to say we'll leave that to DFO -- to Department of Fisheries and Oceans -- under Section 35 to deal with. That's why you're here. You're here to deal with those issues.

2849. Now, with respect to the locations for the oral hearings, I just have some very brief remarks. The basic position of my clients is that all persons who may potentially be impacted by the construction and operation of the pipeline or by the marine transportation should be able to access a hearing within a reasonable travel distance.

2850. We also acknowledge that it may be appropriate to hold hearings within certain First Nations communities at the invitation and at the request of the First Nation community. We would support such requests and think that it would be important for the Panel to actually go and meet with the indigenous peoples of this

province in their communities and you'll get a good feeling in the sense of how those communities may be impacted by this project.

2851. Now, in conclusion, Panel Members, it is my submission that there are significant issues that have been omitted from -- and there are significant gaps missing from the information presented in the application. These issues and the gaps must be addressed before the Panel issues a Hearing Order.

2852. To be clear, this coalition submits that any hearing order that may be issued before these significant gaps are addressed would be premature. All of the participants must have the ability to understand the issues that are to be raised and the general nature of the evidence that would be submitted in any future hearing.

2853. The omission of key issues means that issues of importance to the coalition, to my clients and to others, would not be considered and the Panel would be unable to fulfill its mandate to determine if the project is in the public interest.

2854. The omission of significant information from the application means that the Panel, my clients as participants in this process, and other participants are unable to fulfill their mandate to carefully consider in a precautionary and careful manner the impacts of this project.

2855. Those are my respectful submissions.

2856. **MEMBER BATEMAN:** Mr. Leadem, the Panel has no questions. Thank you for presenting the views on behalf of Living Oceans Society, the Raincoast Conservation Foundation and ForestEthics.

2857. The Panel will also review the written submissions that you have referred to in making its assessment. Thank you.

2858. **MR. LEADEM:** Thank you, Mr. Bateman.

2859. **THE CHAIRPERSON:** Chief -- excuse me -- Chief John Ridsdale and Mr. Mike Ridsdale?

2860. **MEMBER MATTHEWS:** Good morning and welcome again. Could you please -- Chief Ridsdale, could you please state your name and spell your name for the record?

2861. **THE CHAIRPERSON:** If you could just press the white button everyone, thank you.

2862. **CHIEF NAMOKS:** (Off mic) and my English name is John Ridsdale. R-I-D-S-D-A-L-E.

2863. Today I prefer to be referred to as Chief Namoks.

2864. **MR. MIKE RIDSDALE:** My name is Mike Ridsdale, M-I-K-E R-I-D-S-D-A-L-E. I'm the Environmental Assessment Coordinator for the office of Wet'suwet'en.

--- ORAL PRESENTATION BY THE OFFICE OF THE WET'SUWET'EN:

2865. **CHIEF NAMOKS:** First off, I would like to thank the Lheidli T'enneh for allowing us on their territory and protocol shows that they should be speaking first; so I also want to thank them for allowing us to speak.

2866. I'd like to start off with -- in the face of the Crown's refusal to adequately negotiate an EA participation agreement and consultation agreement, we need to inform the JRP of our concerns and our position as a matter of respect for our people, our pre-existing sovereignty and our Aboriginal title and rights and in order to address the project's impacts thereon.

2867. First off I'd like to start off with a question -- identification of people that are here.

2868. I'd like to know who is here from Enbridge Northern Gateway Project, I'd like to know who is here working for Enbridge, I'd like to know who is here from National Energy Board, as well as who is here from the Canadian Environmental Assessment Authority. And I do that so that we -- we need to know who we're addressing at this meeting.

2869. Each time we come to these meetings, we get a different group of people. As Wet'suwet'en people, we know who we are. We carry our names for thousands of years. So we need to know who we're dealing with. The people need to know who they're addressing. So if I could get those people to identify themselves, please.

2870. **THE CHAIRPERSON:** Chief Namoks, I did identify all the Secretariat staff who are with us at the beginning of the meeting. As for who's here from Enbridge and other parties, this is a public meeting and so everybody is allowed to participate.

2871. Is there -- Enbridge, do you want to identify people who are here?

2872. Mr. Neufeld, do you want to come forward and ---

2873. **MR. NEUFELD:** Thanks, Madam Chair.

2874. At the front table you'll see Mr. Art Meyer, Mr. Ken MacDonald and Mr. John Carruthers. Is that sufficient?

2875. **CHIEF NAMOKS:** Yes, it is. Thank you.

2876. **MEMBER MATTHEWS:** And I think my colleague announced the Secretariat. We're still the same gang as in Kitimat and Whitecourt and of course we're still the same gang. So hopefully that helps you out, okay.

2877. **CHIEF NAMOKS:** Thank you.

2878. **MEMBER MATTHEWS:** Thank you.

2879. **CHIEF NAMOKS:** It's just for clarification on who we're addressing.

2880. **MEMBER MATTHEWS:** Okay.

2881. **CHIEF NAMOKS:** So the proposed 1,170-kilometre-long Enbridge Northern Gateway Pipeline Project would stretch from the Alberta tar sands to a marine terminal in Kitimat and would travel through Wet'suwet'en territory which contains the headwaters of the Skeena and the Fraser Rivers. Both have large salmon runs.

2882. Regulators are not respecting our people's right and responsibility to protect our ancestral territories. Northern Gateway is a major project with significant risks, yet the federal government is advancing a decision-making process for Northern Gateway without any meaningful provision for recognising, affirming and accommodating Aboriginal rights and title. This is not acceptable.

2883. By Wet'suwet'en law, which Canada is constitutionally bound to respect, our Hereditary Chiefs are the territorial stewards by virtue of the hereditary name they hold. They are the caretakers of their territories. It is the responsibility of a Chief to ensure that the territory is managed in a responsible manner so that it will always sustain itself and the people. This is an ancient concept that is now currently called social an ecosystem resilience.

2884. I'd like to speak on Aboriginal title. Aboriginal title includes the right to exclusive use and occupation of land and the right to choose to what uses that land can be put and that is from *Delgamuukw*, the stairway court case.

2885. By our own laws, by Canadian law and by international human rights law, land subject to Wet'suwet'en title is ours to do with as we see fit according to our laws, traditions and way of life. We simply cannot be fully Wet'suwet'en without our land and the right to decide if and how our land will be used.

2886. The Crown's total disregard for our prior right to decide implies an unlawful and unjust unwillingness to yield to us the space we need to renew ourselves, to continue to be who we are and to pass on our unique and precious way of life to future generations.

2887. The Wet'suwet'en people have a strong case of title of which the Crown is amply aware. Through *Delgamuukw* and subsequent Wet'suwet'en/Crown interactions, this requires the Crown to deal more seriously and respectfully with the Office of Wet'suwet'en who speak for the Wet'suwet'en Hereditary Chiefs or the Wet'suwet'en Nation when consulting about projects with potentially serious impacts on Wet'suwet'en title and rights.

2888. By virtue of our existing Aboriginal title, the Wet'suwet'en are exclusively entitled to make the decisions as to how Wet'suwet'en lands, waters and resources are used, to have our exclusive right to decide respected through consultation when the Crown is proposing to act in a way adverse to Wet'suwet'en title.

2889. The Wet'suwet'en position, including the history of Wet'suwet'en Crown relations, is unique among northern neighbours who are potentially affected by Enbridge and other projects.

2890. I'd like to make a few comments on law relating to consultation and accommodation. Because our Aboriginal title includes the right to exclusive use and occupation of land, the Crown has a duty to reflect our Aboriginal title interest in the land when making decisions that may infringe on our title. Once again from the *Delgamuukw* stairway court case.

2891. If you are more than minimally impairing, for example, our ability to exercise our Aboriginal rights in the area in question, then you are infringing Wet'suwet'en title. As the Supreme Court of Canada made clear in its decision in *Delgamuukw* stairway, Crown justification for such interference with title requires the consent of the Wet'suwet'en Nation.

2892. The importance of that right to the Wet'suwet'en chiefs is very high. Our ability to maintain our social, cultural and political distinctiveness depends on the extent to which our Hereditary Chiefs govern over our territories in accordance to our

traditions.

2893. **MR. MIKE RIDSDALE:** I'd like to now speak on unacceptable consultation. The Crown's proposed approach to consultation on an Enbridge project was unilaterally developed without First Nations involvement. The courts have held that the first step in consultation process is to discuss the process itself.

2894. While the Crown has requested First Nations comments on the Draft Terms of Reference for the JRP, to date the Crown has not been prepared to negotiate changes to its overall framework for the First Nations consultation.

2895. In particular, there has been no meaningful consultation on the preliminary question of the appropriate role of the JRP, if any. In meetings the Crown's constitutional duties includes its overarching duty to advance a reconciliation of pre-existing Wet'suwet'en sovereignty, occupation and use of the land with its asserted sovereignty. On indirect consultation the Crown's proposed approach treats First Nations consultation as an afterthought to standard public participation requirements.

2896. CEAA and the National Energy Board had a statutory obligation regarding public participation in the JRP process. However, the JRP process engages First Nations only after indirectly, as a subset of the public.

2897. The only distinct First Nations consultation offered is late in the day after the environmental assessment report has been completed and only then on the residual of the issues that have not been addressed by the JRP or the Proponent. This is not consistent with the Crown's duties as outlined by the courts.

2898. The JRP has no mandate to conduct First Nations consultation or fully assess potential impacts on Aboriginal title and rights. Before federal authorities can issue approvals for the Enbridge pipeline, Canadian Environmental Assessment Agency must conduct an environmental assessment.

2899. However, the CEA Act limits this assessment to impacts on current First Nations land uses and cultural heritage, not the full scope of potential affected Aboriginal rights, including title.

2900. The JRP has no mandate, for example, to assess impacts on jurisdictional aspects of Aboriginal title and governance rights, including the right to decide the uses as to which the land or water will be put, or indeed impacts on any future uses of land or water grounded in Aboriginal title and rights.

2901. While the JRP also has the power under the *National Energy Board Act* to consider the public interest and any other relevant factors in deciding whether a

Certificate of Public Convenience and Necessity should be issued, to approve the pipeline impacts on Aboriginal title and rights are not among the considerations explicitly listed in the *National Energy Board Act* which focuses on more narrow financial and economic considerations.

2902. The courts have held that there is a duty to focus on the relevant issues in consultation with First Nations. The JRP does not have that mandate to do so with respect to Aboriginal title and rights. Wet'suwet'en territories are deeply -- are directly in the path of the proposed pipeline and our issues are being categorized with those that are secondarily affected and not directly.

2903. If decisions are being made on pre-assessment work done to date, the JRP has to realize that the work was done with other First Nations involvement and not with Wet'suwet'en nation; therefore, understanding of the region's utilization wasn't considered from the perspective of territorial ownership and use.

2904. How can you know the spiritual cultural uses of the territories by our clans without talking to our people? How is that possible?

2905. **CHIEF NAMOKS:** I'd like to pick up again on this portion -- "beyond irreparable harm." The word "irreparable harm" is defined as follows:

> *"... where a permanent loss of natural resources will be the result when challenge activity is not enjoyed. This is an example of harm that cannot be quantified in monetary terms. The Supreme Court of Canada specifically cited the permanent loss of natural resources as being irreparable. 'Irreparable' refers to the nature of harm suffered and rather than its magnitude; it is harm which either cannot be quantified in monetary terms or which cannot be cured usually because one party cannot collect damages from the other. Example is where one party will suffer permanent marked loss or irreparable damage to its business reputation or where a permanent loss of natural resources will be the result when a challenge activity is not enjoyed."*

2906. That came from *McMillan-Bloedel v. Mullen* in 1985.

2907. Comment -- once the trees are cut and the under story destroyed, they cannot be restored to the original conditions. In the words of J.A. Seaton, if logging proceeds and it turns out that the Indians have the right to the area with trees standing, it will no longer be possible to give them that right. The area will have been logged.

2908. Courts will not be able to do justice in the circumstances. That is the sort

of result that the courts have attempted to prevent by granting injunctions. This is exactly the issue here. If the pipeline is allowed to proceed with its plans, clear-cutting an area directly through Wet'suwet'en territory.

2909. This is not just about the trees. It's about the unique relationship that we have with the territory. It will irrevocably destroy the ability of the Wet'suwet'en to continue our traditional relationship to the land and this constitutes irreparable harm.

2910. I'd like to make a closing statement to title. In the face of continued reduction of any area within our territory which could be used and on Wet'suwet'en Nation and the house members could exercise Aboriginal title, it is significant to consider what Diamond Jenness was told in 1943.

2911. In his book, it stated:

> *"We know what the animals do, what are the needs of the beaver, the bear, the salmon, and other creatures because long ago men married them and acquired their knowledge from their animal wives. Today the priests say we live a lie but we know better. The white man has only been here a short time in this country and knows very little about the animals. We have lived here thousands of years and were taught long ago by the animals themselves.*
>
> *The white man writes everything down in a book so that it will not be forgotten but our ancestors married the animals, learned their ways and passed on the knowledge from one generation to the other."*

2912. Today the Wet'suwet'en world view remains intimately connected to the land and to the animals and the fish and plants that live on the land. The Wet'suwet'en continue to pass on the knowledge gained from their marriage to the animals and continue in our Kungax.

2913. The Kungax is our song that explains our crests. Our crests come from the animals. We have the Small Frog Clan which is Laksilyu; the Big Frog Clan, the Gilseyhu; the Bear Wolf Clan, which are the Gitdumden. We have the Beaver Clan which are the Tsayu; and we have the Fireweed Clan which is the Laksamshu.

2914. **MR. MIKE RIDSDALE:** I have a request on the strength of claim. We asked the National Energy Board and the Canadian Environmental Assessment Agency to ensure the strength of claim was being done on the Wet'suwet'en. And this was according to a meeting that we had held in March 11th of 2009.

2915. It is very important for the strength of claim to be tabled up front and ensure its accuracy. The strength of claim is critical to how we proceed here. It is vital that the office of the Wet'suwet'en staff receive this information from you. The *Delgamuukw /Gisdaywa* case is very clear on our strength of claim.

2916. The provincial and the federal government has had this information before them since 1997 to current.

2917. On the question of the process, I have the Canadian Environmental Assessment Agency -- process fails to effectively answer the question of "if a project should proceed," focusing instead on how a project should be built.

2918. Such strategic questions include whether Canada's energy policy should restrict the expansion of the tar sands and related infrastructure like the Enbridge Gateway Pipeline given Canada's international commitments to reduce greenhouse gas emissions and the impact of global warming on First Nations' ability to exercise their Aboriginal title and rights.

2919. On the Crown's proposed approach, it involves inappropriate delegation to the Application and Proponent. In *Haida Nation*, the Supreme Court of Canada held that the honour of the Crown cannot be delegated to third parties. While the Crown may delegate procedural aspects of consultation to industry proponents seeking a particular development, the ultimate legal responsibility for consultation, accommodation rests with the Crown.

2920. However, policy documents from the National Energy Board indicate that it relies almost exclusively on the company who is planning the project to consult with the First Nation. The company is then expected to provide evidence of its engagement of First Nations to the National Energy Board or the Joint Review Panel who then assess the consultation accommodation efforts of the company in its recommendations and decisions.

2921. This approach is echoed in the Approach to Crown Consultation for the Northern Gateway Project document.

2922. The implication is that the Proponent has a principal substantive obligation of consultation with the Crown merely dealing with the residue or any outstanding issues. This seems directly at odds with the honour of the Crown and the direction of the Supreme Court of Canada in *Haida Nation.*

2923. **CHIEF NAMOKS:** I'd like to address the number 3 topic, the comments on locations.

2924. The Wet'suwet'en territory is 22,000 square kilometres so we'd like to have a minimum of three on our territories. One would be an option for Burns Lake; another would be Smithers, and our final one would be Moricetown for covering both ends of the territory and one of the largest non-native communities that we have on our territories.

2925. In my closing statement, I'd like to state that Wet'suwet'en peoples' continuous occupation, use and enjoyment throughout Wet'suwet'en territory and our way of life are at stake. It is Northern Gateway that wants to embark on a course of action not previously open to them. They have no prior occupation, no strength of claim, no right to our territory. They cannot take away our hereditary lands, spoil our foods, and kill our people.

2926. According to our laws, principles and values, this project does not meet our criteria and will not proceed.

2927. Massihy (ph).

2928. **MR. MIKE RIDSDALE:** Massihy (ph).

2929. **MEMBER BATEMAN:** Thank you very much, Chief Namoks and Mr. Ridsdale.

2930. Just a point of clarification -- the case that you refer to, *McMillan-Bloedel 1985*, what was that case again?

2931. **MR. MIKE RIDSDALE:** That case was basically to do with the logging rights that occurred, whether or not the First Nations had the Aboriginal title and rights to have ownership of that land. And it was made clear that in there that if they did do any logging at that point in time then the Aboriginal right would be lost.

2932. **MEMBER BATEMAN:** And then one final question -- the strength of claim. You refer to a 1997 document. Was that *Delgamuukw*?

2933. **MR. MIKE RIDSDALE:** Yes, that was the Supreme Court case of the *Delgamuukw /Gisdaywa* court case and in there again it shows that the Wet'suwet'en have a strong strength of claim over their entirety of their territory.

2934. **MEMBER BATEMAN:** And then the final question, so we're invited to your territory to Burns Lake, Smithers, and sorry, what was the third community?

2935. **MR. MIKE RIDSDALE:** Moricetown.

2936. **MEMBER BATEMAN:** Moricetown, okay. Thanks. Thanks for your comments. I don't know if my colleagues have any points of clarification.

2937. Okay, thanks again for coming out.

2938. **THE CHAIRPERSON**: Mr. Greg Brown?

2939. Welcome, Mr. Brown. If you could spell your name for the record and then go ahead and give us your comments on the three topics that we're here to gather your input on today.

2940. Thank you.

--- ORAL PRESENTATION BY MR. GREGORY BROWN:

2941. **MR. BROWN:** My name is Gregory, G-R-E-G-O-R-Y B-R-O-W-N. And a correction on my town of residence. I do live in Smithers and I actually grew up in Kitimat and you may have seen my -- I was in Kitimat last week as an observer and I decided to come and speak in Prince George because I thought there were some more things that needed to be said.

2942. I'd like to recognize the traditional territory of the Lheidli T'enneh, the First Nations on which we meet. And I also share the interests of many of my northern neighbours in terms of water quality, salmon habitat, respecting First Nations title and rights, keeping B.C.'s coasts free from oil spills and building healthy communities.

2943. Today I'll focus on topic 2 which is open for comments, specifically focusing on the issues of broader Canadian energy policies and climate change policy, which are currently not listed in the list of issues being considered by the Panel.

2944. We heard from Mr. Leadem that this pipeline and tanker project is an extension of the Alberta oil sands. It will facilitate an approximately 30 percent production in oil sands production.

2945. And so I would like to take Mr. Leadem's argument one step further and what got me thinking about my argument today is a comment that was made to me in person from the VP from an oil company in Alberta, and he said to me when I discussed, you know, my concerns in northern B.C. about this pipeline -- he said, "Oh, we really like the idea of this pipeline."

2946. And I asked him, "What do you mean the idea of this pipeline? Don't you like the -- like just don't you want to see it built?" And he said to me, "Well, we like to go to Washington and roll out the big map of North America and point a big arrow to Asia, and while we meet with U.S. law makers. As you know, U.S. law makers are making legislation right now on climate change and cap-and-trade legislation at the federal level."

2947. And so as I interpreted his comments is that this pipeline is being used as sort of a lobbying tactic by oil companies in the game of climate change legislation and policy making in North America.

2948. So a bit more context. Northern Gateway Project will facilitate the oil sands production from -- by approximately half a million barrels, depending on if it's diluted bitumen or if it's synthetic -- sweet synthetic crude. So the current production is about 1.1 million barrels per day.

2949. Current capacity is 1.4 million barrels a day. It's estimated that production could reach 2.7 million barrels a day by 2015. And we do know the average greenhouse gas emissions per barrel of oil is higher for unconventional crude oil -- oil sands oil versus conventional oil -- and it's estimated to be 3.2 to 4.5 times more intensive per barrel as conventional oil.

2950. In the Canadian context the Alberta oil sands are responsible for about 5 percent of Canada's emissions.

2951. What we do know is that with a 30 percent production, using the projects that are currently on the books for oil sands expansions, if you take their mode of extracting down to the ground, both mining and in situ, is that this project will see about a 6.5 million barrels per day increase in greenhouse gas emissions as a result of filling this pipeline full of oil.

2952. In the Canadian context the Canadian government is, you know -- has committed -- our government has committed to reducing greenhouse gases emissions by 17 percent below 2005 levels by 2020. Unfortunately, this target is not set in legislation and to date the federal government has not published a plan to achieve it.

2953. So if emissions do rise as projected under the Environment Canada's -- as is the usual case in Canada, greenhouse gas emissions in Canada will reach 28 percent above 2005 levels by 2020, with oil sands expansion accounting for nearly half the projected increase.

2954. So back to the comment I made, the story I told about the VP from the oil sands company. In the submission for this project, in Volume 2 section 1.61 I found

this in the conclusion on the project need and public interest, Enbridge reports. First it says:

> *"Canada currently depends on a single market for exports of its crude oil. Demand for crude oil in the United States appears to have peaked and expected to steadily decline."*

2955. So I as a Canadian can say, yeah, it would be great to have, you know, markets -- additional markets to get best bang for our one-time resource, this non-renewable resource we have one chance to get out of the ground. I can agree with that. But it goes on to say:

> *"There's a further risk of future measures being implemented at the federal and state levels in the United States which could adversely affect Canadian oil sand products accessing that market."*

2956. Enbridge does not explain what future measures they're talking about but I understand those future measures are things like low-carbon fuel standards considered by states, like such states as the State of California, and cap-and-trade legislation and the resulting border tariffs at a federal level.

2957. So while the U.S. is getting serious about climate change, the Alberta and Canadian governments are dragging their feet. They're playing a wait-and-see approach and not taking concrete action on climate change. As a result, the Northern Gateway Pipeline would facilitate the dodging of the climate change bullet for Canadian oil companies.

2958. Instead of finding solutions for lowering the carbon intensity of oil sands productions, which are out there, the oil sand industry is trying to find markets that are less discerning in terms of the carbon intensity of their product.

2959. And I would argue that this is a dynamic that is not in the Canadian public interest. Climate change is a real challenge. All societies equally need to figure out how to transition to lower carbon economies, whether they are developed nations or undeveloped nations; whether they are energy importers or energy exporters.

2960. As Canadians, we should be stepping up to the challenge. I'd ask that the Panel consider the implications that this oil sands export pipeline will have on policy action on climate change by our provincial and federal governments.

2961. I also understand that in considering this Application the Panel is asked to determine what is the Canadian public's interest, and I have read previous deliberations and decisions made by NEB panels, and it seems to me that those panels

make what is in the broader Canadian public interest through a narrow lens of what will make markets work more efficiently, with the assumption that more efficient markets is good for the Canadian economy.

2962. It also says -- in your NEB publication it says:

> *"Public interest is inclusive of all Canadians and refers to a balance of economic, environmental and social issues, that changes in society's values and preferences evolve over time. The Board weighs the relevant impacts of these interests when making its decisions."*

2963. So I'd like to highlight the words "evolve over time" and I think in the 21st century Canadians are becoming more and more aware of the impacts of climate change on our economies, on our ecosystems and our societies, as well as the role that Canadians play at the international level in negotiations.

2964. So while 6.5 tonnes -- megatonnes associated annually -- associated with filling this pipeline full of oil is approximately about 1 percent of Canada's current greenhouse gas emissions, just under 1 percent, I request that the Panel consider the climate change implications of the oil sands productions in the deliberations and include it on the list of issues considered; first, on the implications of Canadians' ambitions for transitioning into a lower carbon economy and reaching our stated goals of 17 percent below 2005 by 2020; and second, more on the more oblique level -- I mean on the political level.

2965. If it is true that oil companies are using the idea of this pipeline in lobbying U.S. law makers to balance the interest of sort of energy security for North America versus climate change policy, I think it would be unfortunate as a Canadian to be a part of a -- and to watch that happen, to see this project used as sort of a political tool to prevent meaningful action on climate change at North American level.

2966. Thanks for your time and good luck in your deliberations.

2967. **MEMBER BATEMAN:** I do have one question.

2968. Did I understand correctly that your view and comments relate to a perception that the assessment of public interest seems to focus primarily on economic efficiency?

2969. **MR. BROWN:** That's my personal understanding of deliberations about,

you know, what is in Canada's public interest and it's -- you know -- yeah, previous decisions seem to have narrowed in in stating that a pipeline would increase the efficiency of a market and therefore it would be good for Canadian public.

2970. **MEMBER BATEMAN:** Okay, thank you. That's helpful.

2971. **THE CHAIRPERSON:** Thank you very much for taking the time to come and present us with your comments, Mr. Brown.

2972. **MR. BROWN:** Thank you.

2973. **THE CHAIRPERSON:** I understand that we have Mr. Wayne Salewski from B.C. Wildlife Federation here.

2974. **MEMBER BATEMAN:** Good morning, Mr. Salewski. Welcome and thank you for taking the time to attend. Would you please begin by stating your name, with its spelling, for the record?

2975. **MR. SALEWSKI:** My name is Wayne Salewski, spelt W-A-Y-N-E, and my middle name is Gordon, my last name is spelled S-A-L-E-W-S-K-I and although it sounds like Sulewski, Dad said Salewski.

2976. **THE CHAIRPERSON:** Please accept our apologies for mispronouncing your name, Mr. Salewski.

2977. **MR. SALEWSKI:** No issue. It's a lifelong -- it makes no difference to me.

2978. **MEMBER BATEMAN:** Thank you. You're here to comment with respect to the three issues that we have here on the screen?

--- ORAL PRESENTATION BY MR. WAYNE SALEWSKI:

2979. **MR. SALEWSKI:** Absolutely.

2980. I represent the B.C. Wildlife Federation. We're a 39,000 member outdoor conservation and hunting organization and we represent these issues to government. I'm also the regional president of 7A and the chair of the Enbridge file on behalf of the B.C. Wildlife Federation.

2981. We have submitted our comments in writing and uploaded them yesterday and are there for viewing. We'd just like to put our face forward, understand who we are in a more personal sort of a way and make short comments on our concerns.

2982. We have concerns about the ability to move this oil across this province and up and down our coastline and want to state that we will not accept one spill or accidents that damages the heritage for our children. We've all seen how quickly these events change our environment and it's simply not acceptable.

2983. This pipeline's location is very different than anywhere else in the world and this environment will challenge cleanup like never before. Winters are severe in this country; it's not unusual to be 40 below, 50 below and even in my short lifetime I have seen longer periods of 50 below.

2984. Snowfall and temperatures will hamper cleanups like we've never experienced before and we're concerned that this is a fact and that this is going to compromise our environment and just simply needs to be acknowledged.

2985. When we listen to the explanations that recent breakages are a result of old pipes and old technologies, you have to pause to ponder that this proposal will at one time be old and the technology will be out of date and then what are we going to do?

2986. We seem to have entered an era of acceptance that this is a reality and yet we don't seem to shut the system down before these breaks happen. What are we going to do at that point? Is this -- are we talking about a 29 year life for this pipeline and that's where we should be capping it? I think we need to address that situation.

2987. And then to quickly summarize -- and it is a short presentation -- we look forward to this proposal and to this examination and we believe that the collective concerns of this room and this province must be listened to.

2988. I'm very proud to be a British Columbian, I'm very proud of the environment that we have, I'm very proud of the heritage that we have in his province and I don't think anything less than the top hand -- a top kind of a business attitude in this province is acceptable and I hope that this Panel understands that need.

2989. British Columbia is special; it is one of the most beautiful places in the world and I look forward to you guys helping us to ensure that it is protected.

2990. And that's all I have to say.

2991. **MEMBER MATTHEWS:** Thank you, Mr. Salewski.

2992. Mr. Salewski, I'm sorry if I missed your introduction. The views which you presented, which are clear, are they your views as a member of the B.C. Wildlife Federation or you'd been asked to attend and present the views of the Federation

today?

2993. **MR. SALEWSKI:** I am presenting the views of the Federation. I'm the appointed chair for the B.C. Wildlife Federation on the Enbridge file. We have a group of individuals across the ribbon of the proposed pipeline that represent their membership, their clubs. I bring those forward as the chair of that process.

2994. **MEMBER MATTHEWS:** Thank you for that clarification and thank you to the B.C. Wildlife Federation.

2995. **MR. SALEWSKI:** Right. Thank you.

2996. **THE CHAIRPERSON:** Chief Allan Paul?

2997. **CHIEF ALLAN PAUL:** Good morning.

2998. **MEMBER MATTHEWS:** Good morning, Chief Paul.

2999. **CHIEF ALLAN PAUL:** Good morning. How are you?

3000. **MEMBER MATTHEWS:** How are you doing? I'm glad you could come to Prince George. For the record, could you please state your name and spell your name for the court?

3001. **CHIEF ALLAN PAUL:** My name is Allan Paul, A-L-L-A-N P-A-U-L and I'm from the Alexander First Nation in the most beautiful country in Alberta.

3002. **MEMBER MATTHEWS:** Okay. Are you here speaking on half of the Confederacy of Treaty 6 or?

3003. **CHIEF ALLAN PAUL:** I'm here to speak on Alexander First Nation ---

3004. **MEMBER MATTHEWS:** Okay.

3005. **CHIEF ALLAN PAUL:** --- with some references from Confederacy ---

3006. **MEMBER MATTHEWS:** Okay.

3007. **CHIEF ALLAN PAUL:** --- as the First Nations within Treaty 6 Territory.

3008. **MEMBER MATTHEWS:** Okay. So please go ahead and help us answer those questions. Thanks.

--- ORAL PRESENTATION BY CHIEF ALLAN PAUL:

3009. **CHIEF ALLAN PAUL:** I want to say first of all that I want to acknowledge the Creator for giving me another day to be here and the Creator give us such a beautiful land and beautiful people and a beautiful place to live.

3010. I hope you don't throw me out today. You know, sometimes I have a hard time making friends in government and industry. Sometimes I say things sometimes that might offend people because of certain beliefs that I have and one of those beliefs that I have is in our Creator and our land and our people, and especially our rights that we have as First Nation people in this country.

3011. I want to start off, Madam Chair, that it's good to see you again and the Panel. I couldn't make it in Whitecourt although I sat in the back and tried to listen to what's to be expected in this forum. I know that if I didn't come make a presentation, you know, with the lawyers and the Crown might say that I didn't attend some of these and so these are the issues I'm going to be talking about in future hearings.

3012. So I just wanted to make that point clear, that I'm here to speak on behalf of the Alexander First Nation but I also want to acknowledge the Proponents of the project that are here. You know, it's good to hear that they're following the hearings very closely and listening to the many concerns that First Nations people and the people in all areas of both provinces, it's good to see the Proponent here.

3013. My name is Chief Allan Paul. I'm the elected Chief of the Alexander First Nation, the AFN, an Indian Band under the *Indian Act*. The members of the AFN are all Indians within the meaning of Section 9.1.24 of the *Constitution Act* [1867], the *Constitution Act* [1930], and the *Constitution Act* [1982] and are Treaty Indians under Treaty Number 6 and Aboriginal Peoples within the meaning of the *Constitution Act* [1982] notably Section 35 thereof and are Indigenous Peoples as that term is used in the United Nations Declaration on the Rights of Indigenous Peoples.

3014. The AFN possesses constitutionally protected treaty rights and Aboriginal rights and title, including the jurisdiction and authority over its traditional territory, which territories are directly affected by the application presently before this Panel.

3015. The land interest derived from these rights of the AFN can be broken down into three categories. These categories are: One, the Alexander Reserve Number 134, Alexander Reserve 134A and Alexander Reserve 134B, collectively referred to as the reserve lands.

3016. Lands held in trust by the AFN council members on behalf of the AFN, as

well as lands identified for potential purchase by the AFN pursuant to the Alexander First Nation Treaty Land Entitlement Settlement Agreement for the purpose of being declared reserve land pursuant to the Federal Government's Addition to Reserve Policy at some time in the future, also known as the AFN Treaty Land Entitlement Lands or TLE Lands.

3017. And number three; the AFN lands, traditional lands, where the AFN exercises its Aboriginal rights, including but not limited to hunting, fishing, trapping, plant harvesting and the cultivation of medicinal herbs and roots, ceremonial practice, use and preservation of sacred sites and access to clean water for consumption and other uses.

3018. Madam Chair, if I can have some water, please. Sometimes it gets a little bit misty in here and I just want to clear my throat.

3019. **THE CHAIRPERSON:** Take your time, Chief Paul.

3020. **CHIEF ALLAN PAUL:** It is clear that this project will directly impact and infringe the Aboriginal and treaty rights of the AFN as the project is proposed to traverse over all three interests of the Alexander First Nation.

3021. Therefore, it is critical that all issues relating to AFN's rights and lands are addressed and resolved first before any form of approval is granted with respect to this application.

3022. My comments today are provided on behalf of the Alexander First Nation but they are also endorsed and supported by the Grand Chiefs of the Confederacy of Treaty 6 Nations as I've been directed by the Grand Chief to speak on behalf of the Confederacy as well.

3023. The AFN and Confederacy of Treaty 6 Nations are not opponents of economic development but we require that due consideration accommodation of impacts on our constitutionally protected rights is a minimum standard for the approvals granted in our traditional territory. We take potential impacts to our traditional territory very seriously.

3024. Today we have been invited by the Panel to comment on this Draft List of Issues, as well as the additional information that Northern Gateway should be required to file with the Panel. We submit that there are three additional issues that need to be added to the scope of this review to ensure that a fair and just recommendation can be made with respect to the application.

3025. These issues are the role -- one, the role of government authorities and

application review and approval; two, Canada's duty to consult; and three, sustainability, including environmental, social, cultural and economic dimensions.

3026. The first item, the role of government authorities, is an issue that must be addressed because of the lack of transparency as to how the inherent conflict of authorities between the various government departments will be reconciled for the rendering of a complete and final decision on the project.

3027. Although the JRP agreement recognizes that the National Energy Board, Fisheries and Oceans Canada, Transport Canada and Indian and Northern Affairs Canada are all responsible authorities under the *Canadian Environmental Assessment Act* and the Canadian Transportation Agency, Environment Canada and Natural Resources Canada may be responsible authorities, it is only the Minister of the Environment and the National Energy Board who are party to the agreement which defines this process.

3028. This raises the question as to the weight and significance of this Panel's decision on the other departments on what discretion these other departments have in granting approvals of portions of this Application without the consultation and consent of the affected parties and disclosure to the general public.

3029. Clearly, the role of government authorities is an issue that must be addressed -- alternatively that this matter has already been addressed internally. The Panel should issue notice of the resolution that has been reached regarding this issue so that all interested parties know the full implication and effects of this JRP process.

3030. With respect to the Panel's identified issue of potential impacts of the proposed project the sub-categories of Aboriginal interest, commercial interest and landowners and land use are listed. This listing is inadequate and the items in it are simply too vague.

3031. Firstly, there's the sub-category of Aboriginal interest; what is the Panel's intention here? As previously outlined, the AFN has three distinctively different interests with its reserve and TLE lands placing obligations on Canada that so significantly go beyond the duty to consult.

3032. In a note made at page 42 of the Government of Canada's Aboriginal Consultation and Accommodation and Term Guidelines for federal officers to fulfill their legal duty to consult, February 2008, it was stated:

> *"For a proposed project activity located on reserve or affecting a reserve the Crown obligation extends beyond the duty to consult and it is recommended that legal counsel be consulted."*

3033. Due to the lack of explanation of the role of the Panel with respect to what are government authorities it appears that the submissions made by the Applicant and this Panel's review are not intended to include the impact on the AFN, Alexander's Reserve and TLE land interest.

3034. In fact, the Applicant specifically acknowledges -- and I quote from page 1 to your Volume 5b of the Applicant's application: "*Aboriginal consultation and ATK work for ESAs are separate activities*".

3035. Thus, immediate clarification is needed because at present the Department of Indian Affairs Canada has taken no steps to contact the AFN regarding this project or the implications that the project may have on Alexander Reserve land and the TLE lands.

3036. With respect to AFN's traditional land interest the obligations of Canada to communicate impacts to the AFN of projects proposed within our traditional territory is the very minimum standard for consultation, as stated by the Supreme Court of Canada in its seminal 2005 decision *Mikisew Cree First Nation v. Canada*.

> *"The Crown is nevertheless under an obligation to inform itself of the impact its project will have on the exercise by the Nation of their hunting and trapping rights, and to communicate its findings to the Nation. The Crown must then attempt to deal with the Nation in good faith, and with the intention of substantially addressing the Nation's concerns."* (As read)

3037. At present the application submitted to the Panel does not contain any documentation demonstrating that any, let alone adequate, consultation has been undertaken by Canada according to their legal duty.

3038. The AFN and Confederacy of Treaty 6 Nations advise the Panel that they have not been contacted by Canada at all in relation to this Application or the implications that it may have on our Aboriginal interests.

3039. With respect to traditional land interests Canada has a legal duty to consult with Aboriginal peoples, a duty that obligates Canada to inform First Nations people about the impacts the project and their traditional territory may have on their constitutionally protected rights.

3040. The Canadian Environmental Assessment Agency indicated to the AFN by way of letter dated February 9, 2009, that:

"The Government of Canada will take whole of government approach to Aboriginal consultation."

3041. However, there's no acknowledgement of this relationship within the JRP agreement and there is no indication in the current Draft List of Issues as to whether or not the Panel is intending to facilitate the fulfillment of this duty on the part of the federal government or address the issue of scope and fulfillment of the duty as per the NEB's obligations.

3042. To the grave concern of the AFN and Confederacy of Treaty 6 Nations Canada has been entirely absent from this application process in its preliminary stages. Without this information from Canada, how does the Panel know that -- and its decision won't impact our rights? Without this information how does the Panel know the AFN or any of the Treaty 6 nations have been properly informed of the impacts the project will have on our rights?

3043. At a minimum the Panel needs to clearly articulate its position by clearly explaining what is included within the sub-issue of Aboriginal interest and whether or not it is assuming the responsibility of fulfilling Canada's legal duty to consult with First Nations.

3044. Regardless of how the Panel chooses to acknowledge the duty to consult and apportion accountability for it the constitutionally enshrined rights of the AFN and other First Nations and the inadequacy of consultation undertaken by Canada must be given serious consideration and the inherent gaps that this creates in the application must be rectified to ensure a fair hearing process.

3045. Anything less will result in a Panel potentially affecting impacting, offending or facilitating the abrogation of our constitutionally protected Aboriginal and Treaty rights.

3046. Therefore, it is the position of the AFN and Confederacy of Treaty 6 Nations that the issue of Canada's duty to consult must be added to the Draft List of Issues to be considered by this Panel.

3047. Lastly, there is an issue of sustainability. The Joint Review Panel for the Mackenzie Gas Project explicitly recognized the significance of the contribution of their project to sustainability and the AFN and the Confederacy of Treaty 6 Nations believe that the same recognition and analysis should be present in the review of this project.

3048. More specifically, as outlined in the submission of equal justice, a legal counsel for the Living Oceans Society, the Raincoast Conservation Foundation and

ForestEthics, the four elements of environmental, social, cultural and economic sustainability need to be addressed in this application submitted before this Panel in order to fully evaluate the implications of this project.

3049. In light of these additional issues which are role of government authorities, Canada's duty to consult and sustainability, the Applicant must provide such additional information as is necessary so that the Panel can adequately evaluate these issues.

3050. This information must include the particulars of current and anticipated regulatory processes and procedures with other government departments and appropriate socio-economic, cultural and scientific research and information essential to provide context for a multi-faceted sustainability analysis by this Panel.

3051. Madam Chair, I want to thank you for that and, again, that's my remarks to your Panel.

3052. I have no submission on the location for the oral hearings. I'm hoping that you will at least maybe consider having a hearing in one of the native First Nations communities and, if there's any questions -- I don't know if I'm prepared to answer any questions because you might ask too many questions and I might not be able to answer them all.

3053. **MEMBER MATTHEWS:** Thank you, Chief Paul.

3054. It's one question; you made references to the Treaty Land Entitlement Agreement, yes?

3055. **CHIEF ALLAN PAUL:** Yes.

3056. MEMBER MATTHEWS: That's a public document?

3057. **CHIEF ALLAN PAUL:** Yes, it's a public document and it's about a 10-year agreement.

3058. **MEMBER MATTHEWS:** Okay, thank you.

3059. THE CHAIRPERSON: Thank you very much, Chief Paul, for coming to present your comments to us.

3060. **CHIEF ALLAN PAUL:** Thank you very much and enjoy the day.

3061. **THE CHAIRPERSON:** Thank you.

3062. As I understand it, that brings us to the end of the list of people who were wanting to speak with the Panel this morning on these three topics, so we will adjourn now and we will begin again at two o'clock this afternoon.

3063. Thank you everyone.

--- Upon recessing at 10:55 a.m./L'audience est suspendue à 10h55
--- Upon resuming at 2:04 p.m./L'audience est reprise à 14h04

3064. **THE CHAIRPERSON:** Thank you very much, everyone, and welcome back. We're ready to proceed with the people who have registered for this afternoon and the first people we have on the list are Mr. Chris Knight and Mr. Wilfred McKenzie.

3065. Welcome. Get yourselves settled and if we could just get your names for the record, and if you wouldn't mind just spelling your last names, that would be much appreciated.

3066. **MR. KNIGHT:** My name is Chris Knight, K-N-I-G-H-T, and I serve as a policy adviser to the Kitselas First Nation.

3067. **MR. McKENZIE:** Fred McKenzie. I'm a field supervisor for the Kitselas First Nation -- M-c-K-E-N-Z-I-E.

3068. **MR. COLLINS:** And I'm Terry Collins, C-O-L-L-I-N-S, Terry with a "y", and I'm a resource technician for Kitselas First Nation.

3069. **THE CHAIRPERSON:** Well, thanks very much, and the Panel welcomes hearing your comments on the three topics that are identified on the screen. Thank you.

--- ORAL PRESENTATION FOR THE KITSELAS FIRST NATION:

3070. **MR. McKENZIE:** Thank you, Madam Chair.

3071. Before we begin we'd like to thank Lheidli T’enneh people, the Lheidli T’enneh Nation, for extending the courtesy of and the privilege of allowing us to come into the traditional territory to make this presentation to the Joint Review Panel. We would also like to acknowledge the Carrier Sekani Tribal Council and its member nations who are headquartered here in Prince George.

3072. We'd like to address the questions framed as the subject matter for the hearings today but before we get into the specifics of the three questions, we felt it would be important to provide you with what we believe is important context for these particular comments and we want to talk to you a little bit about the Kitselas First Nation and its territory, and to do that I'm going to ask Terry Collins if he'll speak to the Panel.

3073. **MR. COLLINS:** The Kitselas First Nation is a community of approximately 600 located principally in two communities east and south of the city of Terrace. Kitselas traditional territory includes the watersheds of the Skeena and Kitimat Rivers from Lorne Creek in the east to the estuary of the Skeena and Kitimat Rivers.

3074. The Kitselas traditional territory will be impacted by about 110 kilometres of the proposed twin pipeline. This represents perhaps 9 to 10 percent of the linear impact of the entire proposed British Columbia section of the pipeline. Not only is that significant in itself but the territory that is proposed to be crossed consists of remote and rich wildlife habitats, important salmonic spawning rivers and technically complex geology.

3075. In addition to our terrestrial territory, Kitselas has used the sea resources offshore of Kitimat as well as the oceans at the mouth of the Skeena River as an integral part of our economy.

3076. The Kitselas First Nation is organized into four hereditary clans: the Gispudwada, the Killerwhale; Laxgiboo, the Wolf; Laxsgiik, the Eagle; and Ganhada, the Raven Clan. These are historical societal methods of organization, the contemporary application of which is very limited.

3077. In the past, each clan owned and controlled resource use on the clan's territory. At present, however, the elected Kitselas First Nation Council exercises jurisdiction over the Kitselas Reserve land base and also performs an intergovernmental function for the entire traditional territory with the authority to enter in a full range of agreements with government, the private sector and non-government organizations.

3078. The clan system referred to above is maintained as a cultural symbol by an Elders group, the Kitselas Elders, which participates in community decision-making to a variety of advisory bodies and maintains the cultural subsistence of feasts and festivities.

3079. The Kitselas have a defined traditional territory which reflects the area over which they exercise stewardship jurisdiction. It is bounded on the south by the

Haisla territory, approximately eight kilometres upstream from the mouth of the Kitimat River, and on the east by Lorne Creek.

3080. In addition to this traditional territory, Kitselas has traditional harvest areas in the North Coast and the Lower Skeena River and Skeena estuary and in the Nass watershed. These areas fall within the jurisdictional boundaries of other First Nations but are well known as Kitselas sites.

3081. Kitselas has two principal residential communities described above, an historical community primarily used at present for recreational and residential purposes. The Kitselas First Nation has a land and resource stewardship policy that took effect as of January 1st, 2006. It is predicated on Kitselas Aboriginal rights and titles and it offers collaborative working relationships with others in their traditional territory.

3082. It describes Kitselas First Nation community objectives and it sets out both general principles and more specific policies for land, water, and resource development and use. Information from this policy document is reflected in the following sections on the traditional occupation and use of the project area.

3083. The proposed project enters Kitselas territory at approximately KP 1150, which is located at the Wedeene River Valley, and leaves again at approximately KP 1077, which is the confluence of the Clore and Bernie Rivers. Kitselas stewardship jurisdiction was historically centred on the Kitselas Canyon; one of the longest continuously occupied sites in northwest North America.

3084. Some remnants and residuum discovered through archaeological research at Kitselas Canyon date back 10,000 years. The Kitselas have used their territory and traditional harvest areas as an economic base for food harvesting, material harvesting and recreation.

3085. Kitselas controlled trade on the Skeena River and collected tariffs and royalties on the transport of goods until the construction of the Grand Trunk Railway.

3086. Historic use of the forest includes obtaining materials for construction of canoes, longhouses, totem poles, wood crafting, basketry, cooking utensils and clothing. A wide range of forest plants and berries were also gathered, mainly for medicine and food purposes.

3087. The Upper Kitimat River from the Wedeene River to the head waters has long been used by Kitselas for trapping, hunting, fishing and gathering of various foods. Trappers use their trap lines each year from early September until the end of February and use the area for spring beaver trapping from March to May. Game was

harvested by designated harvesters and was distributed to the community.

3088. The next is the current occupation and use of the projected area for traditional and contemporary purposes. Today, Kitselas people continue to hunt, fish, trap and gather various foods and plants in the project area. Activities are primarily carried out by those with trap line areas.

3089. However, the food is often distributed to Elders and others in the Kitselas community. These activities occur within the general Lower Kitimat, Upper Kitimat and Clore River areas.

3090. Kitselas members fish the Upper Kitimat and its tributaries usually from spring into late fall. The fish are harvested as a supplement to other harvest activities, including hunting and trapping in the Upper Kitimat area. Food fishing also occurs in the Clore River Valley for the length of the valley downstream of the proposed project.

3091. Kitselas members hunt ungulates in the Upper Kitimat and it tributaries. The harvested animals are distributed to Kitselas Elders. Hunting for mountain goat is limited to certain areas and usually occurs between July and February.

3092. Bears are harvested in the spring months and then in September to November and harvested animals are distributed to other band members. Ungulate and bear harvesting also occur in the Lower Kitimat and parts of the Big and Little Wedeene Valleys, as well as in the Clore Valley portion of the proposed project area.

3093. Game birds are usually harvested from September to the end of November. Upland birds are usually taken along roads, road right-of-ways, and migratory bird harvesting occurs in the same areas frequented by water animals.

3094. Trapping of fur-bearing animals provides both a source of food and forms part of the First Nations economy. Several Kitselas members actively trap the Kitimat River and its tributaries -- trap on the Kitimat River and its tributaries are the main harvest area, with four distinct trapping areas in the Upper Kitimat area.

3095. There are trap line cabins in the valley at Chist Creek, Bolton Creek, North Kitimat River, and Upper Kitimat River. Most of the harvest for fur-bearing animals takes places within 200 metres of roads, in treed areas bordering rivers and streams.

3096. Gathering of forest plants and berries usually runs from June to October in the Upper Kitimat and tributary valleys, usually in lower elevations adjacent to wooded areas. In addition to these uses, this area forms part of the informal charted

area for the Kitselas forest licences. Kitselas operates a successful land management and forest harvesting business that has harvested 400,000 cubic metres of timber over the last five years.

3097. **MR. KNIGHT:** Thanks, Terry.

3098. Terry mentioned the Kitselas Land Resource Stewardship Policy. It was developed and published in 2006 and it's an important reference for us because it provides the mandate under which Terry and Fred and myself appear before you today with the Panel.

3099. The policy provides guidelines for both government, industry and others in terms of lands and resource matters within the Kitselas traditional territory. It deals with a range of topics, including land resource planning, statutory decision-making, but deals specifically, in a detailed fashion, with matters related to development assessment.

3100. In terms of development assessment, the Kitselas First Nation takes a two lens perspective; first lens is: is the proposed project or use of lands and resources a good land use decision? Is it a sane land use decision? Does it mitigate the negative or deleterious impacts on lands and resources in the minimum manner possible?

3101. The second lens or the second perspective of analysis is: does the proposed project provide commensurate benefits, benefits commensurate to the community and the region with the impact that it will bring with it?

3102. And it's on the basis of these two parallel analyses that recommendations are made from the resource department to the elected Council in respect of a basis for their decision as to whether or not to support or oppose a project -- a proposed project and, if supported, under what terms and conditions?

3103. Now, in order to effectively implement this policy and bring it to bear with respect to projects such as the one that we're considering -- that the JRP is considering, resources are key to effective policy implementation.

3104. And as you will have heard from a number of First Nation representatives, First Nations are generally resourced for activities on the Reserve land base, fundamentally through their relationship with the federal government.

3105. They are not resourced independently except through proposal-driven mechanisms to deal with land and resource issues throughout the balance of the traditional territory.

3106. It creates a serious imbalance and a disadvantage for First Nations in terms of participating in major project reviews such as this, and specifically for the Kitselas First Nation in terms of implementing their land and resource stewardship policy.

3107. Now, if these analyses are not complete, then under the mandate provided to the resource department then there's no basis for support, leaving the elected Council members with no alternative but to oppose a proposed project.

3108. This is the case with respect to this particular project and it probably brings us to the first issue of a process nature which needs to be addressed and needs to be brought to the Panel's attention.

3109. For Kitselas, in terms of participation in this particular project review, existing resources have been exhausted. So this may in fact be the last opportunity that Kitselas has for participation in this process.

3110. Kitselas had budgeted allocations for participation in the project which -- obviously which budgets had to be revised, given the extent of the application and the implications and additional steps in the process that have come out since the initial project was conceived.

3111. Unfortunately, the resources available to Kitselas fall significantly short of those required to do due diligence in terms of this project, which leaves us with an issue to place in front of the Panel, which is essentially the challenge of Kitselas continued participation without adequate resources to participate.

3112. Kitselas will not use resources from education or health in order to respond to or react to the project which is proposed by others to take place within the Kitselas traditional territory.

3113. We'd like to talk to you now about Kitselas perspectives in terms of areas of deficiency with respect to the application that is before you and in terms of the terrestrial deficiencies -- information deficiencies. I'll turn it over to Fred.

3114. **MR. McKENZIE:** Yes, there's some additional information that the Applicant should be required to file.

3115. Kitselas has a view of the baseline information upon which the application was prepared. Kitselas performed a similar exercise in respect to the Pacific Trails Pipeline environmental impact statement. The means proposed for both projects are similar in terms of the impact to the areas.

3116. Generally, I have information to prepare, application in terms of wildlife,

fisheries transability, which we believe are inadequate, inaccurate and out of date. So the following studies Kitselas has proposed to be undertaken in our traditional territory and initial studies will be in effect on a detailed route selection, construction approaches, construction timing.

3117. All the studies that are about to be listed, we would like to be involved in conjunction with the Kitselas First Nation. One would be the up-to-date grizzly bear study. The study area we're recommending is the Kitimat Valley from the Wedeene River to the corridor of Trapline Creek, Williams Creek to the BC Hydro Skeena Substation adjacent to the Kitimat-Terrace Regional Airport and we're seeing appropriate denning studies, springtime movement, feeding patterns, autumn feeding and hibernation, population studies.

3118. And also for mountain goat, the study area we were looking at would be the exact same as for grizzly bear but a lot higher in elevation because we're dealing with mountain goats here and we're dealing with winter range studies, and very important, the birthing and kidding areas.

3119. And for the ungulates, we're looking at the same study area, again, as the ones just above. This one is for a winter range study, calving areas, and population study.

3120. And for salmon, trout, the study area we're looking at is the Kitimat Valley from the Wedeene River to the Clore River, Trapline Creek, Williams Creek and the BC Hydro Skeena Substation adjacent to the Terrace-Kitimat Regional Airport which would include fish habitat, population studies, spawning and rearing areas.

3121. And Kitselas also has great concern with regards to the crane stability within the proposed route. So the study area that we really want to focus on is the upper Kitimat River area which is very steep terrain and we want to look at the Clore River, Trapline Creek area, Williams Creek and we'll be looking at their potential for erosion, slope stability and impacts on groundwater movement, which also play a big part in spawning fish, and potential for riverbed shifting.

3122. And for construction facilities, additional information is required with respect to the size and location of these camps that they're proposing to put in and the construction lay-down areas, particularly addressing concerns about increasing hunting pressure and the effects on local fish and wildlife populations and the environmental concerns with respect to waste management.

3123. And another one is access. Kitselas First Nation is very concerned with this proposed pipe going in. It's going to create additional access that is not currently

-- that people don't have access to now. One of them is the Clore Canyon area, very highly important area. Once you leave the Clore Canyon area, there's no access into the Burnie and then there would be trapping. We need to organize meetings with the trappers within the Kitselas traditional territory, gather information, discuss project impacts with specific focus on access issue, loss of habitat.

3124. And also another one is hydrology. Kitselas needs additional information that provide an independent review of the project, effects of groundwater patterns and their impacts on the spawning systems within the Kitimat and its tributaries.

3125. And additional Aboriginal traditional knowledge studies confirm that the proposed hydro right-of-ways and roads at Williams Creek connecting with the Skeena substation are not included as part of the application, which we came across in a very later stage in the process. We didn't know there was going to be a natural transmission line powering there to the Clore and so, yeah, that's ---

3126. **MR. KNIGHT:** Thanks. Thanks, Fred.

3127. Kitselas has had some opportunity, although limited, to assess the adequacy of information with respect to potential marine impacts but we are very supportive of the work that's been done and the analysis that's been done by the Coastal First Nations Great Bear Initiative in terms of the completeness and adequacy of information with respect to potential impacts in the marine environment.

3128. Specifically, we point to the fact and endorse their analysis that the TERMPOL is incomplete. The technical TERMPOL studies are not included in the application, that there is an incomplete risk assessment, that there is an incomplete oil spill response plan, that there is an inadequate oil spill response plan in that it is an OSRP concept plan only.

3129. We share concern. I think that has been voiced and will be voiced by a number of concerned individuals, communities and First Nations that there is a lack in the application of emergency response plans and contingency plans.

3130. Incomplete incident prevention response studies and absence of cumulative effects of marine transport in terms of that assessment has been included in the marine transport risk assessment.

3131. So, in summary, Madam Chair and Panellists, Kitselas believes that the application is not complete and we urge the Panel not to accept the application as complete until the additional work that Kitselas and others have identified has been completed and a full assessment of the potential impacts of this project can be undertaken.

3132. We also urge the Panel to urge the Crown to clarify -- be clear about how they will discharge their obligation to consult with First Nations who are potentially affected by this particular project.

3133. Thank you very much for the opportunity to appear before you. We hope that this is not the last opportunity that the Kitselas will have to participate in the project review but unfortunately our mandate is our mandate and we will do the due diligence that is enabled by the availability of resources.

3134. Any questions?

3135. **MEMBER MATTHEWS:** Okay. Thanks for your presentation. You referred to a 2006 policy?

3136. **MR. KNIGHT:** Yeah.

3137. **MEMBER MATTHEWS:** Is this a public document?

3138. **MR. KNIGHT:** Yes, it is.

3139. **MEMBER MATTHEWS:** Okay. And is it -- it relates strictly to the reserve; land-base or is it territorial-wide?

3140. **MR. KNIGHT:** It relates to the entire traditional territory.

3141. **MEMBER MATTHEWS:** Okay, thanks.

3142. **MR. KNIGHT:** We'd be happy to provide the Panel with a copy of it.

3143. **THE CHAIRPERSON:** The deadline is today with the filing of any written materials to go along with this. So you might want to ---

3144. **MR. KNIGHT:** I'll email it to ---

3145. **THE CHAIRPERSON:** There we go.

3146. **MR. KNIGHT:** I'll email it.

3147. **THE CHAIRPERSON:** Thank you very much. The Panel has no further questions of clarification. We just want to thank you very much for taking the time to formulate your remarks and to come and chat with us about it. Thank you.

3148. **MR. KNIGHT:** Okay.

3149. **THE CHAIRPERSON:** I was slightly remiss in getting underway this afternoon and didn't ask people if you've come today and you haven't registered but you want to talk to the Panel about the topics that we're here to talk about today and tomorrow, I would ask you to go to the back and register at the desk so that we can have your names available for planning purposes.

3150. So with that call, I'll just continue on with the list that we've got in front of us this afternoon and the next person we've got is Chief Larry Nooski?

--- (No response/Aucune response)

3151. **THE CHAIRPERSON:** Okay. We'll come back and see if he comes later on.

3152. Hereditary Chief Cliff Sampare and Mr. Gordon Sebastian?

3153. **HEREDITARY CHIEF CLIFF SAMPARE:** --- escorted out by the people outside.

3154. **MEMBER BATEMAN:** It's Mr. Sebastian; is that correct?

3155. **HEREDITARY CHIEF CLIFF SAMPARE:** No, I'm Hereditary Chief Cliff Sampare.

3156. **MEMBER BATEMAN:** Okay, Mr. Sampare. Please take a seat and before you begin, if you would, state your name and its spelling for the record.

--- ORAL PRESENTATION BY HEREDITARY CHIEF CLIFF SAMPARE:

3157. **HEREDITARY CHIEF CLIFF SAMPARE:** Thank you.

3158. First of all, I'd like to thank the Carrier Sekani Tribal Council and respective Nation to be on their territory. As Mr. Matthews might know, our protocol is that the first thing we do in business is respecting another person's territory.

3159. My. Name is Cliff Sampare, Hereditary Chief Oo'Yee. I come from the Gitxsan Nation. I do have my Executive Director who was supposed to be sitting here with me but he got called away for another very urgent matter; so I'll be here by myself.

3160. I thank you for giving me the time.

3161. **MEMBER BATEMAN:** We are pleased to have you here.

3162. **HEREDITARY CHIEF CLIFF SAMPARE:** I'll try to be very brief. I'll try not to duplicate what I've heard this morning for your record. I missed a lot of areas which have been repeatedly said.

3163. And I just wanted to let you know that the Gitxsan Nation, we are composed of 33,000 square kilometres of territory. It consists of five or six reserves which we don't recognize, because those reserves consist of seven square kilometres in total. But we are very maternal in our governance and we go on the territorial system of the Gitxsan Hereditary Chiefs Office.

3164. I'd like to state to yourself that we, the Gitxsan, are a regulatory body. As well, the Gitxsan territory of 33,000 square kilometres is divided into nine watersheds. And of these nine watersheds, four will be impacted by -- if there should be any mishaps or the pipe burst of their proposed pipeline.

3165. Each of the nine watersheds has a group of decision makers known as Hereditary Chiefs, and we want to make it very sure we don't go by elected system but hereditary systems. The Gitxsan -- we, the Gitxsan, protect and sustain their watershed habitats through Gitxsan laws which we call Ayook. And the Gitxsan have reconciled Gitxsan interests with legislative objectives through the Gitxsan policies which we have developed though water, forestry, mining, wildlife, et cetera.

3166. We have successfully used our policy with other intergovernment agencies, when it involves habitat, when it involves corridors to be protected areas, our ungulates.

3167. We make it known to the governments without our policies it'd be not acceptable to be used within our territory and make it known that it was the Gitxsan that were the ones that were successful with the *Delgamuukw* Supreme Court decision in Canada. We are the authors if it and we are practising it where it recognizes Aboriginal rights and title.

3168. Not only that, we'd like it to be known to you people that in 2002, after the *Delgamuukw* Supreme Court decision, the case came about again about recognition and the B.C. Supreme Court of B.C. for the governments and all agencies to recognize our Aboriginal rights and title, and that a consultation and accommodation process be in place and this has happened on our Gitxsan territory as we speak.

3169. Any development within our 33,000 square kilometres of territory has to

be recognized, consulted with the Hereditary Chief that owns that territory. We have a concern about your environmental assessment. It has not been done at a community level. It's done by the Enbridge employees. We found it more better when the communities involved are the ones that have hired environmental assessment people and work for that community and report to that community and get information from that community.

3170. As our other colleagues have said before me, we have been here for 10,000 years. We're not going away. We're going to be here for another 10,000. As we go on a maternal system and what we mean by maternal system is we go on our mother's side of the birthright and that's how we establish our house system, our clan system. It's all maternal.

3171. Not only the Gitxsan have a population of between eight and 9,000, but we have inter-relationships with other First Nations outside our area through inter-marriages and that is why you see so much overlap when we do our land claims right, which neither party is correct but they're both right in owning that territory.

3172. We have family members in McLeod Lake, Kitimat -- all the people that spoke this morning, even though they are not recognized as Gitxsan. But on the maternal side they are recognized as Gitxsan.

3173. As my colleague, Chief Namoks, stated this morning, with Gwichan law it is also a Gitxsan law, you know, where Canada is constitutionally bound to respect our Hereditary Chiefs, that's through our *Delgamuukw*. And what we mean by this -- and I don't see it happening here; there has to be a consultation, accommodation process in place with First Nations.

3174. On your reports, we see three communities being affected and nothing about First Nations. We need to see a change in that and yet 33 First Nations who are affected by this project. That's something we find very biased.

3175. In viewing the pipeline which will be two, it stated a clause in there -- a right-of-way. This is an area that I really like clarified by this Panel. What do they mean by a right-of-way? Is it the same policy that derived from the Highways Department or is it the same clause that derived from the CNR or any railway track when they say right-of-way?

3176. The reason I'm asking this, once there is a right-of-way in place, the First Nations have no jurisdictions whatsoever on any development or what goes on that right-of-way.

3177. I have a concern of who is sitting on the table and discussing the right-of-

way. Is it going to be a two-part agreement -- two-party agreement again, or will it include the First Nations, which I see has to happen?

3178. Reasons for this are the CNR in our territory. They've taken the best part of our reserve lands and only recognize reserve lands as a right-of-way but we're making it known to the governments it is not reserve lands that we call a right-of-way. It is the traditional territory that has to be included under right-of-way.

3179. It has to be endorsed as a hereditary right-of-way, not reserve. For the simple reason I told you from the eight villages that live on Gitxsan territory, we have eight reserves that comprise of seven square kilometres total, compared to 33,000 square kilometres of traditional territory.

3180. Another reason for this right-of-way, we have a concern -- Draft List of Issues -- is once this right-of-way is in place it's the taxation component of it. Where are we on this? It has not been mentioned about the taxation. Is the Taxation Commission going to be involved, or who's going to benefit from this?

3181. It can't be the same scenario that has been going on where a non-reserve town gained all the benefits and not the First Nations because they're on a federal Crown land. Again, this is why I emphasize traditional hereditary system has to be used on all First Nations, not reserves.

3182. I received a message from John Carruthers -- I believe he is the president -- a written bulletin of a $5.5 billion investment in the north and the economic benefits. I've heard what was said outside during lunch and some of the speakers hit it right on. Who is getting the benefits?

3183. I've talked to the president. I believe it was John himself. What benefits does B.C. residents in the North will get from this pipeline if it's successfully installed?

3184. I also got from your email -- from Northern Gateway Project, 40 pages of documents on a Joint Review Panel. I don't know why we need 40 pages to be given half an hour. Of those 40 pages, it's sad to see 15 pages full -- or 15 pages of names of bureaucrats, list of additional persons to be served with procedural directions.

3185. I have a concern of what is being dished out on this because it does not have one First Nation on that list. Why is that? There's no involvement, again.

3186. I know in B.C. three communities are impacted but 33 reserves are also impacted; so it's the First Nations that will be affected by this pipeline. My Elders told me to emphasize we are riparian people. We live on fish; we live on the land;

and all these animals in the air, they migrate. Even though we're not close to the pipeline, migration will take this disease to our territory.

3187. The Skeena River starts in the Gitxsan territory at the Sustat region; not just the Skeena River but the Babine River also flows through our territory; the Buckley River, that goes through the Carrier Sekani and Wet'suwet'en people; and all the streams that derive, that go into the Skeena.

3188. We trade with our people; we trade with our door people. We still do the trading with them, and a lot of that is seafood because we do not have seafood in our territories. So we trade with them with our berries and we have a concern of the location of your proposed pipeline, right in the heart of British Columbia.

3189. I really want to reiterate that we do not operate as a band council. We operate through the funding that we receive from agencies such as Enbridge, but we never got anything from Enbridge yet, but from other political entities in the province.

3190. Again, I really want to say that a consultation process has to be in place. It's something very simple. A consultation process has to be in place, regardless of where the First Nation is from, because our Ayook, meaning our law, will always be the same and that's through our Hereditary Chiefs, our traditional law governance system, our territory, our fishing sites and our hunting. This system is not democratic.

3191. With this, I thank you for your time. I have taken off what was said earlier this morning and I'll just be very precise -- and any questions?

3192. **MEMBER BATEMAN:** Thank you, Mr. Sampare. The Panel has no questions for clarification. We appreciate your participation.

3193. **HEREDITARY CHIEF CLIFF SAMPARE:** I think I'm missing something but I can mail it, right? Okay, thank you.

3194. **THE CHAIRPERSON:** Mr. Clayton Thomas-Muller...?

--- (No response/Aucune réponse)

3195. **THE CHAIRPERSON:** Vice Tribal Chief Terry Teegee...?

--- (No response/Aucune réponse)

3196. **THE CHAIRPERSON:** Mr. Doug Beckett...?

--- (No response/Aucune réponse)

3197. **THE CHAIRPERSON:** Ms. Hillary Crowley...? Thank you.

3198. **MEMBER MATTHEWS:** Okay. Good afternoon.

3199. **MS. CROWLEY:** Good afternoon.

3200. **MEMBER MATTHEWS:** For the record, please, could you state your name and spell your last name?

3201. **MS. CROWLEY:** Hillary Crowley, C-R-O-W-L-E-Y.

3202. **MEMBER MATTHEWS**: Okay. Thank you, Ms. Crowley. Please share your comments on those three questions with us.

3203. **MS. CROWLEY:** Sure.

3204. **MEMBER MATTHEWS**: Thanks.

--- ORAL PRESENTATION BY MS. HILLARY CROWLEY:

3205. **MS. CROWLEY:** I just have a few extra issues that I think the Panel should be considering in this review and the most important one is cumulative effects on climate change.

3206. And I'm very concerned that the tar sands development doesn't seem to be within the scope of the Panel review but this makes no sense seeing the pipeline will be carrying oil from the tar sands. And if the pipeline is approved, it would necessitate increased production -- not necessitate, but facilitate increased production of the tar sands to be exported to China and Asia.

3207. And this in turn would facilitate increased burning of high carbon fossil fuels in China and the Asian countries. So these are all cumulative impacts of the existence of the pipeline that would be transporting this oil from the tar sands to Asia.

3208. Another issue is at the moment the United States is bringing forth some different laws to try and increase their environmental standards and it's an opportunity for Canada to do the same. But instead of this, we seem to be facilitating things like this pipeline to find alternative markets that don't have those high environmental standards.

3209. So I guess the issue would be the pipeline allows Canada to not clean its act environmentally, which many of us think is an important issue.

3210. So as I said, I believe that the scope must include the effects on the tar sands development. And it just doesn't make any sense for the pipeline to be considered in isolation of both the tar sands and the oil tankers because without either of those, the pipeline would not exist.

3211. The effect on water safety is an issue, and not only the quality of the water but the volume of the water. This will affect not only the Fraser watershed and the Skeena watershed, affecting our part of British Columbia, but it also will affect the Arctic watershed where the pipeline crosses the Crooked River at Bear Lake, which is close to where I live.

3212. And this watershed flows north to the Arctic. So any potential spill there would affect the Arctic watershed as well as the known effects on the Fraser and the Pacific watersheds.

3213. The other issue which I believe many of the First Nations speakers will have brought forth but I understand that several of them have actually boycotted this hearing; so I do want to say that all the coastal First Nations and many others along the route have said "no" to this project. So why is it even being considered?

3214. And I believe it's an abuse of the treaty negotiations process and I think this is an issue. I was unable to be here this morning, so I'm not sure. Maybe many First Nations people have spoken more eloquently than I can. But if they haven't, it must be an issue to be considered.

3215. And my last issue, the impact should include the effect on the direction of economic development. We're putting a lot of effort into facilitating the oil and gas industry and giving it a lot of support at different levels of government, but renewable energy projects need that same level. And with all this time and effort, research and development going into the oil and gas industry, it's negating any support that the renewable energy industry should have.

3216. There should be much more initiative along those lines which could therefore allow economic development in our area rather than all the economic development being -- the emphasis being put on the oil and gas industry.

3217. The additional information that Northern Gateway should be required to file, I believe they should be required to file the effects this pipeline would have on the tar sands development and therefore Canada's carbon footprint. Canada has

pledged to reduce its carbon emissions in a worldwide stage and this is just going in the opposite direction.

3218. And for locations of the oral hearings, obviously Prince George; it's close to many communities, but I would think that all the communities along the pipeline should also have the opportunity to have hearings. I doubt if anybody from Bear Lake is coming here or even is aware of this process. So there's many other communities which deserve to have a location in their area.

3219. Thank you.

3220. **MEMBER MATTHEWS:** Okay. Thank you, Ms. Crowley.

3221. Did you say Bell Lake?

3222. **MS. CROWLEY:** Bear, B-E-A-R.

3223. **MEMBER MATTHEWS:** Oh, Bear. Okay. And I just want to -- for those who missed my colleague's introduction this morning, this is only -- this process that we're engaged in right now is to give us information on -- we need to get your input on whether or not to proceed with the review of the application.

3224. So this is really helpful for us to get this information. And once we issue a Hearing Order, there will be many more meetings. So we will make it to Bear Lake, okay?

3225. **MS. CROWLEY:** Okay. Thank you. Could you just clarify for me -- this might be the end of it if ---

3226. **MEMBER MATTHEWS:** Pardon?

3227. **MS. CROWLEY:** I just didn't quite understand what you said then. You said that these hearings right now are just to see whether you would go along with the rest of the environmental review? Is that right?

3228. **MEMBER MATTHEWS:** No, these are only to answer the three questions on ---

3229. **MS. CROWLEY:** Right.

3230. **MEMBER MATTHEWS:** --- to help us. Before we commence our review on the application we need input from the public ---

3231. **MS. CROWLEY:** Right.

3232. **MEMBER MATTHEWS:** --- on what's missing from the application and how we should proceed. And then once we do issue a Hearing Order, where should we have the sessions? So there will be many more opportunities for people to participate. Okay?

3233. **MS. CROWLEY:** Okay.

3234. **MEMBER MATTHEWS:** Thank you.

3235. **MS. CROWLEY:** Thank you.

3236. **MEMBER MATTHEWS:** Any other questions or comments? Okay.

3237. **THE CHAIRPERSON:** Chief Nooski...?

--- (No response/Aucune réponse)

3238. **THE CHAIRPERSON:** Mr. Clayton Thomas-Muller...?

--- (No response/Aucune réponse)

3239. **THE CHAIRPERSON:** Vice Tribal Chief Terry Teegee...?

3240. Please come forward and thank you very much.

3241. **MS. TEEGEE:** Good afternoon.

3242. **THE CHAIRPERSON:** Good afternoon.

3243. **MS. TEEGEE:** I'm here on behalf of Vice Tribal Chief Terry Teegee. He just -- I just texted him letting him know that you announced him and he said "Can you tell them we are officially boycotting the process?"

3244. So CSTC is making that announcement. Thank you.

3245. **THE CHAIRPERSON:** We respect his wishes and thank you for letting us know.

3246. That brings us to the end of the parties who had registered to speak with us this afternoon. There are three parties who were listed to speak with us this evening

and I don't know if any of them would find it more convenient if they spoke today or not; so I'll just call those names and then we'll go from there.

3247. Ms. Catharine Kendall...?

--- (No response/Aucune réponse)

3248. **THE CHAIRPERSON:** Chief Fred Sam...?

--- (No response/Aucune réponse)

3249. **THE CHAIRPERSON:** Chief Jackie Thomas...?

--- (No response/Aucune réponse)

3250. **THE CHAIRPERSON:** Yes, sir?

3251. **MR. BECKETT:** My name is Beckett and I ---

3252. **THE CHAIRPERSON:** I'm sorry. I'm sorry I missed you. Thanks very much for identifying yourself, sir.

3253. So yes, please come forward, Mr. Beckett. Sorry about that.

3254. **MR. BECKETT:** No, I was not in earshot for a bit there.

3255. **THE CHAIRPERSON:** If you could spell your name for the record and then proceed to give us your comments on the three topics that we're seeking information on today, that would be much appreciated.

3256. Thank you.

--- ORAL PRESENTATION BY MR. DOUG BECKETT:

3257. **MR. BECKETT:** My name is Doug Beckett; D-O-U-G, B-E-C-K-E-T-T.

3258. It is clear the Proponent's proposal needs to be rejected. The damage, the negative consequences, and the risks are too great.

3259. If the project's Proponent and the review Panel decide to proceed beyond these hearings, it is necessary that the assessment -- that an assessment is made of the likelihood and risk of landslides occurring. Such assessment must be made along the entire route and of the adjacent lands to the route. The imagery utilized for such

assessment must be publicly available so others can evaluate the thoroughness of the Proponent's assessment.

3260. The imagery utilized must include, at a minimum, one metre bare earth LIDAR. This imagery for the entire route and adjacent lands must be publicly available. The proposed route passes through amazing and breathtaking terrain; terrain that is varied and extreme, with many areas along the spectacular route being prone to potential landslides; landslides that could damage a pipeline.

3261. Along with climate change we are observing the thawing of permafrost and changes in precipitation patterns resulting in a greater number of landslides than has historically been observed. Any pipeline must have built-in safeguards to safeguard all values and ecosystems from damage.

3262. When the pipeline spills -- when, that is -- its contents, due to a landslide, I suspect today's safeguard technology is not yet advanced enough to adequately safeguard all values and ecosystems. It is clear the value of our healthy ecosystems is far greater than any benefit the Proponent's proposal can provide.

3263. Thank you for listening to me.

3264. **MEMBER MATTHEWS:** I didn't get the acronym for the imagery that you were -- what's that called again?

3265. **MR. BECKETT:** LIDAR. L-I-D-A-R. And it can be done from satellites, though in this case it would have to be airplane flown and it sends down beams and those beams reflect back. They measure where the canopy is not too dense. The lowest bounced beams are reflected from the ground and give an imagery of the ground.

3266. The other beams are reflected from vegetation that's at -- close to ground level to the tops of the trees and is used in forestry for example, to help do inventories of the forest. NASA is currently using LIDAR in combination with a couple of other imageries to get a measure of the carbon of forest that exists worldwide.

3267. It's a fairly new technology and it's important that you have bare earth imagery, the ground level imagery, and with that you can fairly clearly depict landslide patterns. And I know of one example that happened recently where LIDAR identified a kilometre-long landslide that had occurred and a Proponent was requesting to do a development right in the middle of this landslide.

3268. And the Proponent did extensive review or supposedly did extensive review using other forms of imagery which might be able to depict risk areas that the

LIDAR can't depict. So I would push that more than just LIDAR is used but LIDAR, at a minimum, has to be used and at a resolution of at least one metre, if not more refined than that.

3269. **MEMBER MATTHEWS:** Okay, thanks. Thanks for helping me out with that.

3270. Thanks.

3271. **THE CHAIRPERSON:** Thank you very much for your comments, Mr. Beckett, and for taking the time to be here with us today.

3272. **MR. BECKETT:** You're welcome.

3273. **THE CHAIRPERSON:** Well, thank you everyone. This brings us to the end of the list of parties who were wanting to talk with the Panel on these topics this afternoon.

3274. So we will adjourn now and we will reconvene at seven o'clock this evening.

3275. Thank you.

--- Upon recessing at 3:08 p.m./L'audience est suspendue à 15h08
--- Upon resuming at 7:00 p.m./L'audience est reprise à 19h00

3276. **THE CHAIRPERSON:** Good evening everyone and welcome back to those of us who have been here during the day. If I could get everyone to take your seats, we'll get under way.

3277. Thank you everyone.

3278. As I said, welcome. My name is Sheila Leggett and to my right is Kenneth Bateman. To my left is Hans Matthews and we have -- for those of you who haven't been here earlier today, we have been collecting input on the topics that we have identified on the screen, off to the right, and are going to continue doing that with the parties who have registered to speak with us this evening.

3279. We had a couple of people who have signed up just earlier this evening, and so welcome to you, and I won't go through all the opening comments that we've made during the day, but it's important for you to know that we are really interested in hearing your comments on the three topics that are on the screen and we just look

forward to getting going on that aspect of it.

3280. I think most people will have had the chance to speak with the Secretariat staff to have a feeling for the process that we're following and I think without any further ado we'll just get going.

3281. So I would ask if Ms. Catharine Kendall was here and ready to come forward. Do you want to bring your kids with you?

3282. Just come on forward and sit right at this table. Thanks very much.

3283. **MEMBER BATEMAN:** Ms. Kendall, thank you for coming today to present your views. Would you take a moment and state your name and spelling for the record?

3284. **MS. KENDALL:** Absolutely. My name is Catharine M. Kendall, C-A-T-H-A-R-I-N-E; Kendall, K-E-N-D-A-L-L.

3285. **MEMBER BATEMAN:** Thank you, and feel free to begin with your presentation when you're ready.

--- ORAL PRESENTATION BY MS. CATHARINE KENDALL:

3286. **MS. KENDALL:** Okay, I just guess one of the pieces I was missing, if this is how it's been summarized -- there was a piece about gaps. That was something that I wanted to address as well so -- but I'll move along. *Hadï*, welcome, which is also hello in Carrier. I would first like to acknowledge the Lheidli T'enneh territory here that we are actually meeting on.

3287. I'm here on behalf of the Regional Community Advisory Board, first off, and I would like to just give you a rundown on that representation.

3288. First of all, the Community Advisory Board's focus is to gather information to build meaningful networks; to receive and share information from other Community Advisory Boards; gain a broader perspective on the project, given the diversity of social, economic, environmental and cultural issues along the proposed pipeline route; and understanding the potential benefits and the potential impacts of this project.

3289. So I'm just going to give you an idea of what that Community Advisory Board regionally looks like. So there's a B.C. North Coastal in Kitimat with approximately 18 members; B.C. Northwest in Smithers with approximately 16 members; B.C. North Central in Prince George, of which I am a member -- there are

33 members in total; Peace Country in Grande Prairie with 24 members; and the Alberta North Central in Edmonton with 21 members. And the CAB central focus is to -- for the members to basically stay neutral, if possible, and within this process this can be a huge challenge.

3290. So overall there are approximately 111 members regionally. Thirty-six (36) percent of those identify as Aboriginal, 25 percent of them apparently are local government, 17 percent economic development, and 23 represent various organizations: businesses, community services, environmental organizations, the general public, tourism guides, hunters, trappers, marine use, recreational users, as well as training and educational.

3291. And so it is hoped that this community advisory process will continue on if this application is actually accepted.

3292. Do you have any questions?

3293. So I would just like to actually add to the Community Advisory Board pieces and go on with some of the perspectives that I've had and some of the pieces that may or may not be addressed at the Community Advisory Board level.

3294. And so although there has been Aboriginal involvement and participation in the Community Advisory Board process, we had been informed by Enbridge that there is a completely separate Aboriginal review process and that we will be provided an update by Enbridge, to date but there has been no update so far, except with this application that we have in front of us now.

3295. There have been no discussions or no open dialogue, although that seems to be a very important component for most members. So I would like to just bring that to your attention.

3296. So the first question on the list for the need for the proposed project, is there actually a need for the proposed project? So I've been through an extensive amount of the application and I realize it's volumes and volumes; it's quite extensive. I'm not sure you've actually read it from back to front but it's huge.

3297. So Enbridge shares that this project will diversify markets for oil production, encourage innovation in Canadian energy sector, will drive the Canadian economy and, to do so, this transportation infrastructure is actually essential for those components to come to place, and so it is essential for Canadians to enjoy and continue to afford sustainable economic and environmental progress.

3298. So I guess we all have to come to the conclusion whether or not that's true

and how will Canada decide, or the National Energy Board? So that's hopefully by measuring economic feasibility, weighing spill incident potentials and community, environmental and social impacts. So within this application, potential impacts have been listed and mitigation measures have certainly been provided in those volumes and they're quite extensive.

3299. So it is much easier to write on paper all of the details and science-based data to acknowledge and support the precautionary principles, or principle, but accidents do happen and usually through human error or unforeseen circumstances that we may not be able to predict. So there's no way to document these uncertain scenarios or truly prepare for the risks involved.

3300. I like within one of the actual perspectives in the volumes that has been documented, that the Aboriginal traditional knowledge example within the appendices that shares the wisdom of cumulative impacts when a particular traditional berry-picking area has been devastated or destroyed.

3301. The negative effects are not only widespread for a variety of wildlife but also for the Aboriginal people who relied on them as a food source, creating cultural shifts. Generational changes of story-telling and retelling must also adapt; one example that creates a lot of long-term change in the lives of people and wildlife.

3302. On that note, I had brought with me a small -- I'm just going to grab it. Maybe because I have children, I felt show and tell was necessary.

3303. But this little guy is an American white pelican and I live close to a lake where there are 16 American white pelicans and in B.C. they're red-listed, and what I'm reading now in the Maclean's magazine and in the newspapers is that these 16 may not make it back here because their migration route falls through the Gulf of Mexico.

3304. And so those are the types of cumulative impacts that aren't predictable and I want to make note of that as well, and I think that it's important somehow that we aren't able to turn a blind eye to those kinds of pieces that we actually can obviously see or predict or write in paper.

3305. So the gaps was another portion that I wanted to acknowledge and within Volume 4, Public Consultation Table M1 -- I believe this might have been brought forward by a CAB member, I'm not particularly sure; it could be a member of the public.

3306. But it mentioned that there's a need for policies about long-term national energy strategy, oil sands development, global warming, climate change, exporting

oil, selling to China, contributing to increased vehicle use and new regulation for exporting and importing oil. The response from Enbridge was Canada's policies relating to national energy strategy, global warming and climate change are beyond the scope of this application.

3307. This concerns me, and is this true, and are we missing something here? I see this as a huge gap of information that we need to have included and incorporated.

3308. So along with providing gaps and so on, I think solutions are also necessary and certainly in the community development work I work with, that when people come to me with a particular problem I also would like to hear a solution that they might have, and most people do. They already have the answers.

3309. So there's an independent U.K. report from October 2006, known as the "Stern Review" by a gentleman by the name of Nicholas Stern, Chair of the Grantham Research Institute on Climate Change and the Environment. It's a review of the most current economic impacts of human-induced climate change. It is also referred to as the social -- these aspects are also referred to as the social cost of carbon.

3310. This concept is now being used in the law, in the court of law, recognizing the adaptation processes for climate change for humans. I have two examples.

3311. The *Centre for Biodiversity v. the U.S. National Highway Traffic Safety* in the U.S. Court of Appeals in 2008 there was a legal push to regulate light truck vehicle emissions to remove smog, air quality, greenhouse gases and emissions and to begin the climate change adaptation process. It was passed.

3312. The other example that I have is here in B.C. The process is just beginning through the Fraser Basin Council where water and air quality adaptation measures will be taken across the province in B.C. this year.

3313. This Enbridge application process needs to be taken into careful consideration, the adaptation processes for air and water quality nationally and internationally, the oil market and end product use -- recognizing these oil product and end product uses.

3314. I understand that the National Energy Board already has raised red flags of concern regarding the use of water for oil sands expansion in Alberta, specifically, the limited supplies of the Athabasca River and the water. This information needs to be assessed within this application as well.

3315. In regards to the oral hearings, the locations for the oral hearings need to

be in small and large cities, rural communities and Aboriginal communities, coastal and inland communities and need to be available for comment nationally. A broad educational campaign needs to be provided to the Canadian general public about what a project of this magnitude really entails and its potential outcomes, positive and negative.

3316. So we've seen how small technical miscalculations can create huge disastrous and technical huge disasters. So too can small technical policy changes can create huge global benefits.

3317. Thank you.

3318. **MEMBER BATEMAN:** Miss Kendall, thank you for attending. The Panel has no questions. We appreciate your input.

3319. **MS. KENDALL:** Thank you.

3320. **THE CHAIRPERSON:** Chief Fred Sam?

--- (No response/Aucune response)

3321. **THE CHAIRPERSON:** Chief Jackie Thomas?

--- (No response/Aucune response)

3322. **THE CHAIRPERSON:** Ms. Mary MacDonald?

3323. Welcome, Ms. MacDonald. That's okay.

3324. **MS. MacDONALD:** Okay. Thank you.

3325. **THE CHAIRPERSON:** Welcome. And if you could just begin by spelling your name for the record?

3326. **MS. MacDONALD:** Yes. It is Mary MacDonald. My last name is spelled M-a-c capital D-O-N-A-L-D. First name M-A-R-Y.

3327. **THE CHAIRPERSON:** Thanks very much.

3328. If you could go ahead and provide us your comments on the topics that would be much appreciated.

--- ORAL PRESENTATION BYMS. MARY MacDONALD:

3329. **MS. MacDONALD:** Okay. I am a resident of Prince George. I've lived here for over 10 years and I grew up in nearby Vanderhoof, which is a small town approximately 100 kilometres west of here and in close proximity to some of the rivers that would be crossed.

3330. These comments that I'm making tonight are in addition to written submissions that I have already submitted to the Panel and I'm not going to reiterate what I've already submitted. These are additional comments I have, and so I have several further points I would like to make.

3331. I am concerned that the Draft List of Issues overlooks some significant social, economic, cultural and environmental issues that arise as a result of this pipeline proposal. I am concerned about the broader policy considerations that arise for all Canadians as a result of this pipeline should it be approved and the Draft List of Issues does not go far enough to adequately address these broader issues.

3332. I am very concerned about the ongoing development of the oil sands or tar sands that would necessarily result and the issues that arise in that context. I have heard representatives of the Proponent say we all use oil but we have reached the point where we need to shift away from fossil fuels as much as we can and, I think, as quickly as we can.

3333. The issue then that arises is whether it makes sense to build this pipeline and develop overseas market for Canadian oil sands oil when it is gaining increasing recognition at the global level that we have to reduce carbon emissions and the oil sands are known to be far and away Canada's greatest source of carbon emissions.

3334. Another issue that needs to be addressed is how does this pipeline project reconcile with Canada's international commitments relating to climate change, reducing carbon emissions and environmental and social health issues, and in this respect I would like to point out the number of recent studies that particularly look at some of the devastating environmental effects of some of the oil sands pollution that is being generated and that that needs to be also looked at in that context.

3335. In this regard, the pipeline project needs to be viewed and considered in the broader context of continuing and very likely increasing oil sands extraction on the one end and on the other end allowing oil tanker traffic to travel through northern British Columbian coastal waters for the first time ever to overseas destinations.

3336. Yet another issue that has not been included in this draft list is that the environmental impact on a global level from this oil that will be transported to foreign

markets. If this oil originates from a Canadian source, we need to be able to measure and account for these heightened global carbon emissions. This is an issue that needs to be considered when considering this project.

3337. The cumulative impacts of other energy and resource development projects also needs to be considered; to what extent will further impacts result or be enabled by this pipeline project? These impacts of course include the need for oil tanker shipping on the North Coast.

3338. What will be the cumulative potential impacts environmentally, culturally and socio-economically of these associated projects? In addition, the Mackenzie Valley Gas Pipeline Review process looked at sustainability criteria which should also be incorporated by this particular review process in my view.

3339. Some of the particular issues in that regard that were incorporated into that review process were cumulative impacts on biophysical environment and human environment, socio-ecological system integrity, livelihood sufficiency and opportunity, intra- and intergenerational equity, resource maintenance and efficiency, socio-ecological civility, democratic governance, precaution and adaptation.

3340. Liability issues have also not been addressed in this Draft List of Issues. These liability issues include identification of who exactly would be responsible for any oil spill whether inland, in our watersheds or in the coastal context, including both the territorial seas and the high seas when the oil tankers are travelling through.

3341. And then associated with that are the compensatory issues; can any level of compensation remedy the damage that can be perpetuated in the marine or water environment by an oil spill?

3342. I also have some concerns about this Draft List of Issues and hearing process more generally which relates specifically to First Nations and I would like to address these also.

3343. I am concerned that this process does not go far enough to address the First Nations issues and concerns. I would like to mention that just today outside this building there was a rally that was attended by a significant number of people likely numbering between 300 and 400 people. It took place on the downtown streets of Prince George and ended here outside the doors of the Prince George Civic Centre, right outside the JRP hearing.

3344. At this rally, a number of First Nations leaders from across British Columbia and from further afield spoke, addressing their concerns about this project and about the review process. I understand that this Joint Review Panel was created

without First Nations in the impacted territories having any choice over the particular process. The Federal Government, as I understand, unilaterally established this review process which is seen as inadequate by many First Nations.

3345. The process does not approach First Nations as decision-makers in their territories nor does it address First Nations right to govern, manage, and make decisions in their territories.

3346. Much of this territory that would be crossed by this pipeline is unceded territory and the First Nations have never given up their rights in these territories that not only exist in their own right but are also acknowledged and formally protected by the Canadian constitution and repeated Supreme Court of Canada decisions.

3347. According to principles of international law, First Nations need to give free prior and informed consent from -- before projects can be approved in their territories. The Carrier Sekani, Wet'suet'en, Haisla, Gitga'at First Nations among others have expressed their opposition to this project and have given no such consent.

3348. With respect to the Joint Review Panel's Draft List of Issues, my specific concern is that there is lacking here a mandate to conduct First Nations consultation or to fully assess the impacts on Aboriginal rights and title. There is no other such process for this particular project; therefore, the whole concept of First Nations consultation appears to be merely an afterthought to this process.

3349. So with respect to the locations of the hearings, it is my view that these hearings, including the preliminary hearings, should be held throughout Northern B.C. in smaller communities and in First Nations communities. And having said that, I need to add the caveat that that should -- I mean, the First Nations people need to be involved in how that is constructed and put together.

3350. The hearings in the Lower Mainland and Vancouver Island -- sorry, there should also be hearings in the Lower Mainland and Vancouver Island which is where the majority of coastal British Columbians live and coastal British Columbians will be very much impacted by this project.

3351. Also, it is my view that the hearings should be along the whole of the potentially affected watersheds of the Skeena, the Fraser, and the Mackenzie Rivers. People all along those routes would be potentially impacted by an oil spill.

3352. And those are my submissions. Thank you.

3353. **THE CHAIRPERSON:** Thank you very much. Your presentation was

very clear. No questions of clarification, and we want to thank you very much for taking the time to come and present to us.

3354. **MS. MacDONALD:** Thank you.

3355. **THE CHAIRPERSON:** Mr. Cecil Kelley?

3356. **MEMBER MATTHEWS:** Good evening, Mr. Kelley. How are you?

3357. Okay, for the record could you please state your name and spell your name for the court reporter?

3358. **MR. KELLEY:** It's Cecil Lee Kelley; C-E-C-I-L, L-E-E, K-E-L-L-E-Y.

3359. **MEMBER MATTHEWS:** Okay. Please go ahead and answer.

--- ORAL PRESENTATION BY MR. CECIL LEE KELLEY:

3360. **MR. KELLEY:** Yes, I welcome you here to Prince George and thank the Lheidli T'enneh Nation for allowing us to have this hearing or this discussion.

3361. I'm sorry that I didn't present the written submission but one will be forthcoming and unfortunately I am going to have to wing it because I just took time off of work just to come here to participate in this.

3362. One of my questions on some of the Draft List of Issues is that nothing in that Draft Issue has indicated that this company, in the project, has taken into consideration the Y to Y, or the Yukon to Yellowstone Park corridor.

3363. This corridor provides a contiguous corridor for the wildlife that's unfragmented so that will continue to provide a strong gene pool for our wildlife. What Enron [sic] plans to do is to cut a hole right through it, right through the centre of it -- cut the heart out of it.

3364. One of the other issues that I don't see that's listed in this is the issue -- and they're connected like everything else that we did not suspect was connected. The whole planet is connected. The issue connected to the Y to Y is the subterranean aquifers that we have in this area.

3365. And one of the most important things in the area that Enron [sic] wants to go through is the Lheidli T'enneh sacred mountain, Ice Mountain. They're going to cut right through this. They have -- their stories of it is that Ice Mountain will save them from the famine in the futures.

3366. What if some of the worst scenarios that our best scientists say is true? You know, all this real estate that's on the beach front is going to be gone. You know, like this area is going to provide food for the rest of the world. It will be uncontaminated.

3367. Some of the best water on the planet is under us. Where Ice Mountain is, there is a waterfall that comes out of the top of the mountain that's being fed by the aquifers that's being filtered through this limestone.

3368. Just over the ridge from that is a mountain called Fang Mountain where you can go in and you drop down hundreds and hundreds of feet before you hit the bottom. Do you think that Arkansas -- I think it's Arkansas where Carlsbad Cavern is -- would allow Enron [sic] to put a pipeline over the top of them? Do you think that the trail on Vancouver Island would allow Enron [sic] to follow it along the ridge and put a pipeline there? No.

3369. What's happening here at Fang Ridge, at Fang Mountain is that those caves that are underground go all the way to Quesnel -- the most, the largest underground cave in the world. And if anything happens on that pipeline we have -- what is it? Sixty -- 600,000 or 600,000 gallons a day going one direction; 190,000 gallons of stuff going the other direction.

3370. Now, the worst case scenario in the Gulf of Mexico was -- how many days was that flowing? All the oil that has been spilled for 10 years on the ocean could be poured down that cave and nobody will ever see it. But it will poison the aquifers that we have, some of the largest concentrations of fresh water left on the planet, right here.

3371. So having said that, the local -- the locations for the oral hearings should be made in as many areas around this pipeline as possible to allow those First Nations and allow those people who are working for a living who have to live here when Enron [sic] pulls out, to have some contribution and some say to what is going on.

3372. Nothing, nothing in this report has indicated to me that this Northern Gateway process, the Northern Gateway project has found out what value of water that is underground. Everybody is concerned about the Amazon. The Amazon is based on just centimetres of soil. The soil what they're cutting through is like feet and feet deep.

3373. The duff, the organic material that is there is so deep that if you don't put your fire out, it burns for years. That will absorb all of that hydrocarbons that is spilled if there is a spill and it will poison everything.

3374. How many watersheds does this go through? There is a potential for this to go and spill and spoil the Arctic. The Skeena, the Sekine, the watersheds going between Alaska and B.C., the Pacific watershed, the Columbia watershed, and the possibilities of it backing up, you know, at the source and flooding and polluting the watersheds that are going across the border into the States.

3375. This is a disaster that is just waiting to happen. No amount of money that they are going to make will pay for the environmental damage that will occur with one mistake.

3376. As a carpenter, when I build a scaffold, I have to build it four times stronger than it's allowed to carry. Are they going to do that with this pipeline?

3377. I can go on for hours but I will leave it at that.

3378. **MEMBER MATTHEWS:** Okay. Well, thanks a lot, Mr. Kelley, for your input.

3379. **MR. KELLEY:** Thank you.

3380. **MEMBER MATTHEWS:** And any other questions? Okay, thank you.

3381. **THE CHAIRPERSON:** Just to make sure that we're not leaving out parties who had registered, I just will call again to see if Chief Fred Sam is here, as well as Chief Jackie Thomas.

--- (No response/Aucune réponse)

3382. **THE CHAIRPERSON:** Well, thank you very much everyone for coming back this evening to sit again and for those of you who joined us this evening, the Panel very much appreciates the time that everybody is providing and the comments that you're providing to us.

3383. With that, we'll adjourn for tonight and we'll start again at nine o'clock tomorrow morning.

3384. Thank you.

--- Upon adjourning at 7:30 p.m./L'audience est ajournée à 19h30