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Order of Appearances

Northern Gateway Panel 4

Aboriginal Engagement and Public Consultation

Ms. Janet Holder

Mr. Paul Anderson

Mr. John Carruthers

Mr. Ray Doering Mr. Jeffrey Green Ms. Michele Perret
Ms. Catherine Pennington Ms. Jan Whitney

Examination by Ms. Cheryl Brown for Douglas Channel Watch 29991
Examination by Member Hans Matthews of the Joint Review Panel 30349
Examination by Member Kenneth Bateman of the Joint Review Panel 30547
Examination by Chairperson Sheila Leggett of the Joint Review Panel 30843
Examination by Mr. Asad Chaudhary for the Joint Review Panel 30981

Enbridge Northern Gateway Panel 5

Shipping and Navigation

Mr. John Carruthers Mr. Jerry Aspland Mr. Jens Bay
Mr. Audun Brandsaeter Mr. David Fissel Mr. Al Flotre
Mr. Keith Michel Mr. Steven Scalzo Mr. Thomas Wood
Mr. Michael Cowdell Mr. Henrik Kofoed-Hansen

Introduction by Mr. Douglas Crowther for Northern Gateway Pipelines 31043
Examination by Mr. Chris Tollefson for BC Nature & Nature Canada 31278

Examination by Ms. Cheryl Brown for Douglas Channel Watch 29991

Bullying and intimidation

Ms. Brown asked for an explanation of what was meant by Northern Gateway (NGP) that stakeholders do not wish to attend meetings and are fearful of expressing support or even a neutral stance towards the project. [B83-26, Adobe 9] She proposed that “a full spectrum of conversation, both negative and positive, is beneficial.” Ms. Michele Perret said that some meetings had protesters, there was some intimidation, and “so the team tried to find other ways of engaging those stakeholders.” 29991

Ms. Brown read this quote, ““The intent of the (Northern Gateway) Alliance is not to ‘divide and conquer’. [But] is meant to provide a safe environment, [able to] raise questions and concerns and receive information. [...] ...without fear of intimidation.” [Adobe 33] She asked how that promotes dialogue. Ms. Janet Holder said that at the Alliance as with the Community Advisory Boards (CABs), people do not have to state a position. 30003

Community Advisory Boards and the Northern Gateway Alliance

Ms. Brown asked if the Alliance was part of the initial consultation process. Ms. Perret said it was launched in May 2009 by Colin Kinsley, former Mayor of Prince Rupert. The group has now grown beyond 2000 people. Mr. Kinsley is paid by NGP which also covers administrative expenses. NGP will not divulge its budget. 30021

Ms. Holder said that the Alliance is about supporting the regulatory process, whereas CABs were driven by members and reflects their interests. Ms. Brown asked how the CAB operates, how decision making is done. Ms. Perret answered her questions, but also directed her to [Exhibit B22-10](#). The discussion about CABs is in the transcript. 30055

Ms. Brown wondered where on an “arm’s length spectrum,” the CABs are from NGP. [Exhibit B83-26, Adobe 27] Ms. Perret described them as quite independent. They discussed how CABs might change if the project is approved – Ms. Perret said the members would determine that. Mr. Carruthers said, “It’s ... NGP’s expectation that we would have to continue to fund the CAB.” 30118

Ms. Brown asked what “meaningful” means in the phrase “meaningful consultation.” Ms. Holder asked if NGP had used the word in evidence. Ms. Brown referred her to Adobe 27, “...the CAB process demonstrates NGP’s commitment to meaningful consultation.” Ms. Perret quoted [Exhibit B37-7, Adobe 44] and an explanation including providing information, addressing issues of concern, and “avoiding, reducing or mitigating, wherever reasonable and feasible, potential adverse effects of the Project.” 30138

Ms. Brown said there was criticism at the start of CABs that they were not at sufficient arms-length from NGP, and as a result some groups did not engage. Ms. Perret, Ms. Holder, and Mr. Carruthers all contributed to a discussion about the CABs, as well as NGP’s other consultation programs. 30158-30196

Quantitative risk analysis working group

Ms. Brown asked about the current status of the quantitative risk analysis (QRA) working group which was convened to select the expert to do the QRA. The QRA “estimated the probability of incidents and spills associated with marine transportation and marine terminal operations for the Project.” [Exhibit B22-2, Adobe 23]. Ms. Perret said “That study was part of the TERMPOL study. ... The TERMPOL study was filed, so the QRA was done.” “But there still is a Coastal CAB, the Kitimat CAB.” Mr. Carruthers explained more about the background of the QRA, that the working group selected Det Norske Veritas (DNV) to do the study. 30198

Government agencies at CABs

Ms. Brown said, “Agencies such as Transport Canada are often at CAB meetings....Are they a member of the CAB?” Ms. Perret: “No.” Ms. Brown: “They’re there as observers and they’re there to answer questions; is that correct?” Ms. Perret said, “There is an exchange of information, ... they will answer questions as appropriate.” Ms. Holder said, “We have a lot of different ways that we correspond and exchange information with government agencies. We do not rely on the CABs.” 30289

Ms. Brown expressed a concern that NGP does not have a direct responsibility for shipping and the marine aspects of the project, hence a marine CAB will have a different influence or effect than do the pipeline CABs. 30312

Most up-to-date commitments table

Ms. Browns said, “I had trouble following the threads within all the documentation of what was out there for public engagement within all these areas, and I’m wondering if an undertaking can be done to pull all those threads together to get a full picture of it.” Ms. Estep said that the current commitments table is in JRP 15 [Exhibit B165-3]. 30318

Examination by Member Hans Matthews of the Joint Review Panel

30349

Member Matthews said his questions related to “the Community Investment Fund, the Aboriginal employment targets, Aboriginal procurement, business development in the Aboriginal community, education training and employment strategy, and some just general philosophical questions and a little bit on protocol agreements.”

Community Investment Fund

Noting that NGP plans to allocate 1% of pre-tax profit to the Community Investment Fund, Member Matthews asked how will NGP ensure success in “meeting the needs and enhancing the quality of life of communities ... which [is] the purpose of the fund. Mr Carruthers replied that they intended to involve the communities in those decisions. Member Matthews asked if they see increasing the fund from 1%. Mr. Carruthers said that 1% is “indicative of best practices,” and Ms. Holder said there will be other means with which they can participate in the communities. 30351

Member Matthews asked if this would be a trust or operate like a trust. Mr. Carruthers said it’s possible if “some of the funds weren't going to be spent on a current basis,” but “I’m not sure if the trust is the most effective way to do that.”

Member Matthews: “How do they get access to these funds?” Mr. Carruthers: “We can look at other funds.” A key question will be, “How do you distribute it across the right-of-way and on the marine transportation corridor? ... Getting a fair allocation process.”

Aboriginal employment target

Member Matthews said, NGP has indicated a minimum target of 15% for Aboriginal employment. When will that happen? Ms. Holder said, “Once the crews are in place and operating, which would be the first year of construction. ... That's ... what we're asking our contractors to commit to, and ... the discussion we're having with the unions.” 30385

Member Matthews: “How realistic is it to attract the cooperation and interest of communities to secure employment with NGP?” Ms. Holder: “[With] Northern Clipper ... we had close to 22% participation by Aboriginal groups. We do believe it's doable.”
Member Matthews: “It's great to hear that there is a light at the end of the tunnel.”

Member Matthews asked, if you exceed the 15%, will funding be cut on those programs? Ms. Holder replied that if they get 20% or 25%, “we'd be excited and ecstatic about that. We are not going to stop at any sort of level.” Ms. Catherine Pennington spoke of the value of education and skills training: “the lions’ share of our ... planning in community education to date has been ... essential skills that lead to employment outcomes.” 30398

Member Matthews asked, by 2025 how many Aboriginal employees will be in executive or senior management of NGP. Ms. Holder said that in the Prince George office, “our most senior group, we’re at 50% Aboriginal. ... we would want to maintain that, at least.” 30419

Aboriginal procurement

Member Matthews asked if the \$300 million target for Aboriginal procurement includes subcontracts, and will contracts be subdivided into smaller units to meet the target. Mr. Ray Doering said they will be piecing out construction elements of the project “to maximize” the opportunities for Aboriginal businesses. He and Ms. Pennington described some of the possibilities. Member Matthews asked about the relationship between the Aboriginal community and the unions. Ms. Pennington said it varies, without being specific. Member Matthews asked if NGP will help Aboriginal businesses “pre-qualify for bidding on work.” Ms. Pennington said, “The short answer is yes.” He asked about the contractor readiness program. Ms. Pennington said these “boot camps or seminars came from direct request from community to ... learn about ... the safety requirements, the insurance, the pre-qualification process.” 30422

Member Matthews asked about Trade Winds To Success, an Alberta program which Ms. Pennington said is yet to be determined in BC. He asked what types of businesses were interested in pre-qualifying, to which he received a not-very-specific reply. 30444

Education and training

Member Matthews said NGP has put aside \$3 million for education and training. He asked, if there’s a success with that amount, does NGP see increasing it? Ms. Holder said they set that \$3 million target. If there’s a need for more, “we could do more.” Member Matthews asked who would be matching contributors for funding. Ms. Pennington said “The way we’ve designed the Community Education Program is in full alignment with already existing programs ... federally and provincially.” She said they incorporate existing services into the program, and enhance programming “which can be financial. It can also be the human side. ... We’ve had commitments from some union organizations.” She mentioned one project which was able to attract around \$400,000 from “an individual matching fund.” 30464

Member Matthews discussed Aboriginal participation and community colleges and universities. Without being specific, Ms. Pennington said that they were engaged, and some have become partners. He asked how they would monitor and track results. Ms. Pennington broke that up into two pieces. First, the community education/skills development piece, which she suggested might be tracked by the federal government as part of its own programs, and NGP will take the community’s lead on monitoring and follow-up. Second, with programs that NGP will fund directly, they’ll do their own monitoring. Ms. Holder said they would need their own logistics group “to keep ahead of everything that we are doing.” 30497

Member Matthews asked which best described NGP’s objectives from engagement with Aboriginal communities: a) increase support and participation in the project, or b) to increase NGP participation and to partner with Aboriginal communities to complement and support community goals. Ms. Holder: “There’s some part of (a) ... but it’s definitely ... (b).” Member Matthews: Does that also apply to non-Aboriginal communities? Ms. Holder: “Yes.” 30512

Protocol agreements

Member Matthews said the early evidence, ca 2005, showed that NGP established or negotiated formal protocol agreements. How many are still in place, he asked. Ms. Holder said these are often referred to as memoranda of understanding or MOUs. There are probably nine active in Alberta and BC. Member Matthews: “For those communities who do not sign on in the new MOU under the Aboriginal Economic Benefits Package, is there a chance that these older type of MOUs or protocol agreements can be revived?” Mr. Carruthers reply was rather difficult. Member Matthews followed it with a speculative question about follow-up MOUs that would serve “as umbrella agreements for the purpose of monitoring all of these initiatives: the procurement, the employment, training, business development, ongoing ATK and consultation programs.” Mr. Carruthers did not agree, he was “not sure you’d want it by community necessarily, [and he] would have seen a different program.” This is best read in the transcript. 30525

Member Matthews ended with, “awesome answers.”

Examination by Member Kenneth Bateman of the Joint Review Panel 30547

Follow up questions from Member Matthews

Member Bateman asked if the \$1 million spend on skills development has all been directly with respect to the Project. Ms. Pennington said “Yes.” Member Bateman: Of the 2000 resumes received, how many applicants would be qualified for employment?” Ms. Pennington did not answer the question. He asked about the 50% of staff in the Prince George office who were in a management or senior management role: how do you define these terms? Ms. Holder replied, “Anybody sort of manager and up.” What is 50% in numbers? Ms. Holder: “We have six individuals working full-time in the Prince George office.” Member Bateman asked if there was succession planning in place, to which Ms. Holder replied it was. 30548

NGP role in strengthening the family

Regarding the community investment programs and skills development, Member Bateman said that successful schools, communities, programs, “at their root, are an extension of successful families. ... The family really is the important institution. ... Does NGP see that it has a role in strengthening the family?” Ms. Holder replied, “Very much so.” She said they moved the head office to Prince George “because we needed to be part of that community in the north.” Ms. Pennington said, “A lot of the community investment dollars that have been spent to date, ... do support families. ... We support the food banks. ... We’ve been ... adopting families at Christmas time.” Later, she said, “The raging social worker in me heard family and I’m just really excited to say one more thing.” 30563

Spin-off benefits for Aboriginal communities

Member Bateman said that in the last week, NGP witnesses spoke about spin-off benefits for Aboriginal communities. He would like to better understand some of those statements. First, I heard that the spin-off benefits were expected to be well in excess of

\$1 billion. What is the actual spin-off benefit amount that's been calculated by Northern Gateway? [Much of this repeats or builds on information discussed in [Volume 152](#), beginning at para 26822]. Today's discussion should be followed in detail from para 30583

Member Bateman asked for more information about indirect effects and consequent opportunities for Aboriginal people, which is an undertaking (U-75). He also asked about how that messaging is being carried out to Aboriginal communities. A number of witnesses contributed to the reply. The discussion begins at 30600.

Aboriginal groups who do engage and who do not engage

Member Bateman asked, "What attributes of engagement ... led to successfully establishing collaborative relationships with some of the Aboriginal groups?" Phrases that appear in the replies are "we have provided funding," "saw equity as a way to align our interests," and "we would finance their participation." Detail at 30619.

Member Bateman said there are other Aboriginal groups who are not engaged or who have withdrawn from NGP and the project. "What are the stumbling blocks to ... working together?" Ms. Holder said, "We are currently working on a revised strategy around Aboriginal engagement. I think primarily it goes to senior meetings with senior executives from Gateway... with one-on-one Chief meetings." "Some communities ... keep telling us, 'No, we don't want to talk to you'. We have never taken that no as a real no. ... There's probably some communities that have now said, 'What don't you understand about no?'" 30640

Mr. Carruthers put up evidence filed by the Carrier Sekani in which Tribal Chief David Luggi spoke about Aboriginal groups believing that "they're better off doing one-off deals" than negotiating in good faith for a land claim settlement agreement, so the incentive is there for consultation with the Province of B.C. to become characterised by "fake negotiations, keep getting extensions." [[Exhibit D48-3-6](#)]. With respect to NGP and an approval following the JRP process, that "Once people understand that the Project can go ahead, their approach may change in terms of then seeking out how to be world-class rather than stopping the Project."

Aboriginal information not incorporated into the Project

[Note: Member Bateman's next two questions are significant ones, and the answers to them should be read in [the transcript](#), beginning at para 30673 to 30694, and continuing 30695 to 30713. A summary here will not accurately reflect what was said for the record, and risks misrepresenting the witness.]

Member Bateman said, "We heard last week from Aboriginal groups that their ATK studies, their oral ... or their written evidence had not been incorporated into the Project. ... NGP's reply ... was that the information has, in fact, already been incorporated into Northern Gateway's general analysis. Why do you think that there has been a disconnect between the understanding of Aboriginal groups and that of Northern Gateway?" The NGP witnesses replies begin with Mr. Carruthers: "People don't quite understand the

process, ... they believe that, once a Joint Review Panel decision is made, that there's no more checks and balances." 30673-30694

Member Bateman next said, "I was struck when I heard the Gitxaala and the Haida identify their evidence ... and seeking to understand where that had been taken into account. ... Where on the record does it set out and demonstrate that the information that had been put forward, at least by these two groups, had been incorporated?" Again, the replies should be read in the transcript. 30695-30713

Cultural fluency

Member Bateman said he wanted to talk about cultural fluency, specifically, "what type of internal training occurs at Northern Gateway of its ... executives" to develop "cultural fluency" which he described as including "a thorough understanding of Aboriginal people culture, ... how there may be differences in perceptions, how trust is built, how communication occurs?" Ms. Holder, Mr. Carruthers, Ms. Whitney described their own experiences with training and in their relationships with First Nations. 30715-30735

Member Bateman said, "To create overall success in your employment programs in relation to the recruitment, retention and advancement of Aboriginal employees, to what extent are there cultural differences and how will you take these into consideration? To help the witnesses with the question, he added, "Perhaps as an example to give you, a touch point, language could be an issue. Perception of time could be an issue. There are others that are just simply a part of a cultural perspective." The replies of the witnesses continue in the transcript but generally are not very responsive to Member Bateman's request. 30736-30751

Retention rate for Aboriginal employment

Member Bateman referred to the claim "that Enbridge has had a success factor in excess of 15% of the workforce being of an Aboriginal background." He asked about the retention rate, separating executives from the "labour roles." This became an undertaking, "To provide information on the retention percentage of Aboriginal employees who work for Enbridge Northern Gateway." (U-76) 30753

Member Bateman asked what NGP would do if the 15% target for Aboriginal employment is not met. Ms. Holder said "the strategy is to get the highest percentage we can." 30779

Equity program

He asked about the equity program and the statement "that equity offers to the coastal Aboriginal groups have not been finalized." Ms. Holder said they had seen the equity package but NGP "had not finalized it ... to the same extent we did with terrestrial. ... Likely we'll do something similar we did to the last equity offering to the terrestrial. ... We would have two signups, an early signup and a second signup. That has not been finalized." Member Bateman asked about the timing. Ms. Holder said, after the hearing, and it will be "driven by their interest, not just by us saying when." 30785

Member Bateman asked a detailed set of questions about the equity participation program that has already occurred. “What is the reason for offering equity participation to Aboriginal groups?” Mr. Carruthers: “We were trying to build a foundation mechanism for the long-term to align our interests.” Member Bateman: “What was the criterion?” Mr. Carruthers: It was outlined in [Exhibit B24-2](#), Adobe 42. He confirmed Member Bateman’s statement that “there is no further criterion than being in a physical proximity, having an interest.” 30792

Member Bateman posed very specific questions with respect to the dates of equity offers and deadlines for acceptance. Best followed in the transcript. 30808.

Member Bateman asked, “What impact does NGP anticipate its equity participation program will have on its short-term and its long-term relationship with all Aboriginal groups? Mr. Carruthers replied, “For all of those who are participants, there will be a very good impact for both the short and long-term. There will be annual cash ... that’ll extend for 30 years.” For those who are not equity participants, there are “opportunities that we have with respect to employment and procurement and other opportunities. ... There will be communities that probably wish they would have become equity partners.” Member Bateman: How many communities will not be participating? Mr. Carruthers: In Alberta, 15 participated of 18 offered; in BC, 11 accepted, 11 not accepted. Member Bateman: “Have any ... asked that the offer be reinstated?” Ms. Holder: Not from those who have no equity package. 30822

Examination by Chairperson Sheila Leggett of the Joint Review Panel

30843

Skills development investment and measuring success

Referring to more than 1 million dollars invested in skills development since 2006, The Chairperson asked Ms. Pennington for her perspective on the “value that’s been created...[or how NGP] perceives this investment to have been received and how that’s guided... future decisions about investments in skills and training”. Ms. Pennington’s response spoke about the need to have mechanisms to work with communities as partners. She also spoke about the importance of listening to the communities- both Aboriginal and non-Aboriginal- and having a “simple straight forward process that would take into account the unique and individual needs of communities”, adding comments about focusing on youth, trades and technology and business development. Ms. Holder added similar comments, while Ms. Pennington further stated that until working for NGP she had “yet to work with... a company that was willing to make a significant capital investment before approval” and she thought that spoke to NGP’s “commitment to enhancing workforce and being responsive. 30853

The Chairperson took her question around skills development further, in seeking to understand if there are “metrics in place that allow you to measure if you’re getting the outcomes that you’re looking for out of your investments”. Ms. Pennington gave examples of the numbers of people who had been impacted by various NGP programs and stated that they keep such information on file. The Chairperson asked further about NGP’s ways of measuring the success of their efforts to meeting the “tremendous

workforce requirements” for BC and Alberta. Ms. Pennington spoke about working with communities and community plans, as well as contractors. Mr. Carruthers added “there is a thorough forecasting process...in terms of what’s the required workforce for the anticipated activity going forward.” Similar comments were added by the Panel. 30865-30883

The Chairperson then asked Mr. Carruthers “how do you know that you have the right amount of money invested in skills and training program that will allow you to be able to have the workforce that you’re needing to rely on should the project be approved?” Further comments were made by various members of the panel were consistent with those provided to The Chairperson’s previous questions on measuring success. 30885

Ms. Pennington was then asked by The Chairperson about NGP’s experience working with northern colleges and universities, inquiring what is working, and what isn’t. Ms. Pennington spoke about shared interests in education and employment outcomes, and linking employers from “the pipeline and construction sector, to the local colleges who can then design programs that will meet their needs”. She added that sharing information with local trainers and engaging communities has worked well. Ms. Pennington spoke about the opportunity to engage more coastal communities who “have a real interest in getting back on the water, working in jobs that are related to marine services”. The Chairperson sought clarification from there, asking if there are “stumbling blocks to the existing opportunities that you have now”. Ms. Pennington’s replied that there were challenges working with some colleges who weren’t comfortable working with NGP and industry partners because of local Aboriginal groups opposing the project. She indicated that they have dealt with the challenges in a “really honest and forthright way.” 30907-30919

Allocation of community funds

The Chairperson asked Mr. Carruthers about his earlier comments around allocation of community funds throughout the right-of-way and marine corridor areas. Mr. Carruthers indicated that those plans are not fully developed, but spoke about his vision to have fair allocation to those that “might have an interest in it.” He mentioned setting up “some forum for allocation so that it’s balanced”. Similar discussion ensued between the two around allocating funds and ensuring local community interests were considered. 30921-30926

Collaborating with industry, government, environmentalists & Aboriginal groups

The Chairperson then asked Mr. Carruthers about PNCIMA and the Fisheries Liaison Committee and why industry was not as involved in that collaboration. Mr. Carruthers responded that he thinks there is a more natural partnership between environmental organizations and Aboriginal communities which is less welcome of tankers. He spoke about the importance of balancing that out with a stronger industry component. When asked if he saw “any synergies going forward between PNCIMA and... NGP’s proposed Fishery Liaison Committee”, Mr. Carruthers spoke about “world class” marine planning and response and collaboration with the Province of BC. The Chairperson asked him where he saw that collaborative initiative fitting in, and he indicated that he felt the

Province of BC should host “a more coordinated effort” with the federal government, NGP, and industry. 30928-30945

The Chairperson asked about “consultation fatigue”, referring to the context on the west coast with the established PNCIMA, proposed Fisheries Liaison Committee (which Mr. Carruthers spoke about as being “targeted”), and his above mentioned “world-class” program, asking if he has “a vision for how this might come together collaboratively so that everybody’s not running to four meetings each week on a different topic”. Mr. Carruthers indicated his vision of the “Province of BC hosting it and setting a timeframe and getting the right people together to say let’s define world-class”. He talked about the need to have a focused, targeted discussion and that information was not lacking, but a constructive way to discuss it. He referred to the principles of the CAB as they type he sees as useful. 30946-30951

What have you learned from the process so far?

The Chairperson’s final question was directed at Mr. Carruthers and Ms. Holder, asking what they had learned from the consultation and engagement process to date. Ms. Holder said she felt that they learned that they “probably didn’t define stakeholder broad enough”, that although they had great success over the year educating communities along the right-of-way, they did not have the same level of engagement with the rest of BC, Alberta and Canada. She felt they should have “stepped up the educational process... to help people understand ... the company, who we are—what we are as a project and what we really are bringing to the table.” Given that lesson, The Chairperson inquired if they will be bringing forward anything else. Ms. Holder indicated that they were “finalizing a... further education or outreach program” and plan to spend at least another 5 to 7 million dollars over the next year to “very aggressively... help people understand how they can join in this conversation, how they can better understand the project”. Speaking to the lessons he had learned, Mr. Carruthers indicated that he had been surprised about “the amount of disagreement we had on what I would call scientific issues or factual based”, providing the example of the tanker moratorium on the west coast. He mentioned the Scientific Advisory Committee as being a way to “address some of those issues...[and] give people confidence”, and added he found it interesting that they had to face other issues such as the oil sands, and unsettled land claims. When asked about further steps in light of those lessons, Mr. Carruthers spoke about ensuring “a framework for continued engagement and future decision making”, and creating a “monitoring and independent audit so that people could have confidence in the ... work being done” 30953-30973

Examination by Mr. Asad Chaudhary for the Joint Review Panel 30981

Mr. Chaudhary introduced himself as counsel for the JRP and introduced Dr. Shawn Marr and Ms. Katie Emond, socioeconomic specialists from the JRP Secretariat. Mr. Chaudhary began his questioning by inquiring about the weekly reports NGP receives from their construction liaison around Aboriginal benefits, asking if there were “any other reports or indicators that would help determine how... [NGP] is doing in meeting its procurement and hiring commitments”. Ms. Holder answered that they “don’t have anything specific at this point in time” because they are “not into that phase”. She

indicated their intention to switch the focus to tracking initiatives and establish key performance indicators once they are finished with the regulatory process. 30981-30988

Aboriginal engagement and reengagement

Mr. Chaudhary asked about a potential route revision to avoid proposed reserve lands north of Burns Lake area. Mr. Paul Anderson responded that they do not intend to revise the current route. Questioning then moved towards Aboriginal traditional knowledge studies and whether agreements with Aboriginal groups allow for future identification of traditional land use sites. Mr. Jeffrey Green indicated that the agreements were for the traditional land use studies only, and that doing centerline surveys would be part of future agreements. Mr. Chaudhary then asked if future agreements with Aboriginal groups would be needed and Mr. Anderson confirmed that they see that as part of the “ongoing relationship development with those communities”. Mr. Chaudhary asked about anticipated difficulty with this and Mr. Anderson indicated they do not foresee issues with the communities they already have engagement with, but that there may be challenges with the groups they have difficulty engaging with in the first place. He added that he believes they will “be able to get 100 percent of the route covered through—with the centreline surveys from an Aboriginal traditional use perspective”. Mr. Chaudhary asked about the expected amount of time for this process. Mr. Anderson indicated they expect to have it complete in the next two to three years. 30992-31008

Introduction by Mr. Douglas Crowther for Northern Gateway Pipelines 31043

Mr. Crowther introduced the Shipping and Navigation Witness Panel members and gave their corporate affiliations. The witnesses were sworn in, affirmed or reaffirmed if they had previously been sworn in. Mr. Crowther then described and confirmed with each of them their roles and areas of expertise, evidence for which they are responsible, and their curricula vitae. He referred to information listed in various documents in evidence, which can be identified in the transcript. A useful introduction to the witnesses and the areas of responsibility for this panel is at [Exhibit B210-6](#), Adobe 17 to 19.

Examination by Mr. Chris Tollefson for BC Nature & Nature Canada 31260

Mr. Chris Tollefson raised a preliminary matter, filing a motion calling upon the federal government to make submissions as to how the newly filed evidence on that day meets the test from the Hearing Order OH-4-20, Section 4, given that it is late evidence. In response, Ms. Dana Anderson responded that their letter was simply for the Panel’s information, not to be filed as written evidence. As a result, Mr. Tollefson withdrew his motion. 31260

Incident Frequency Data from the Quantitative Risk Analysis and under-reporting

Mr. Tollefson commenced with questions for Mr. Audun Brandsaeter around incident frequency data from the Lloyd’s Registry (LRFP). Their dialogue established the parameters for the incident frequency data types that were extracted for the Quantitative Risk Analysis, ([Exhibit B23-34](#)). Mr. Tollefson asked if Mr. Brandsaeter would agree

that there is “an increasing recognition of the under-reporting of marine casualty data in various databases around the world”, to which Mr. Brandsaeter did not agree, stating that there has been underreporting for a long time, but that the quality of reporting has improved. Mr. Tollefson asked if Mr. Brandsaeter was aware at the time of writing the QRA, that some research had suggested that the Lloyd’s Registry was reporting “only 20 percent of the total casualties”, to which Mr. Brandsaeter stated he was indeed aware, though noted the under-reporting of incidents involving hydrocarbon spills was lower. 31278-31309

Mr. Tollefson brought up AQ74-A at Tab 1, Psarros et al., (2010) “Under-reporting of maritime accidents,” and established that the article was peer-reviewed by two of Mr. Brandsaeter’s colleagues. He asked questions related to the study and established the study’s findings “that for 70 percent of the incidents”, LRFP had no record. Referring to Psarros et al at Tab 2, Mr. Tollefson then walked Mr. Brandsaeter through a follow up paper to that, AQ74-B, Hassel et al., “Under-reporting of maritime accidents to vessel accident databases”. at Tab 1, which also found under-reporting in marine incidents, to which Mr. Brandsaeter agreed as being consistent with the first study. Referring to Hassel et al, Adobe page 2 of the same document, Mr. Tollefson then asked Mr. Brandsaeter if he agreed with a statement within it: “*databases on maritime casualties are perforated with inaccuracies or missing data*”. Mr. Brandsaeter said he didn’t agree “with that characterization” but that they were well aware of the under-reporting and incomplete databases and that they know they are imperfect. 31310-31424

Mr. Tollefson then asked Mr. Brandsaeter if he agreed with the following statement from the abstract of Hassel et al: “*The considerable scope of underreporting uncovered in the study, indicates that users of statistical vessel accident data should assume a certain degree of underreporting and adjust their analysis accordingly...*” Mr. Brandsaeter indicated that he did agree with the statement, and that “there are several ways to cope with underreporting”. He indicated that reporting of oil spills is much more reliable. Mr. Tollefson then had Mr. Brandsaeter agree that the problem of underreporting was not mentioned anywhere in the QRA, and that no adjustments to the data had been made to reflect underreporting. Mr. Brandsaeter added similar comments to those above. 31428-31441

No correlation between seriousness and underreporting of accidents

Mr. Tollefson returned to Psarros et al to put attention on an observation reported there: “It indicates that the seriousness of an accident does not significantly affect the likelihood of being simultaneously reported in both databases.” The authors are saying that in terms of underreporting, there is no correlation between seriousness and underreporting. 31442