

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



**Hearing Order OH-002-2016  
Ordonnance d'audience OH-002-2016**

**Energy East Pipeline Ltd. and TransCanada PipeLines Limited  
Energy East Project and Asset Transfer, and Eastern Mainline Project**

**Oléoduc Énergie Est Ltée et TransCanada PipeLines Limited  
Projet Énergie Est et cession d'actifs et projet du réseau principal Est**

**VOLUME 11**

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

**Hilton Saint John  
1 Market Square  
Saint John, New Brunswick**

**August 8, 2016  
Le 8 août 2016**

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

**Canada**

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

Printed in Canada

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représentée par l'Office national de l'énergie

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participant à l'audience publique.

Imprimé au Canada

**HEARING ORDER/ORDONNANCE D'AUDIENCE**  
**OH-002-2016**

**IN THE MATTER OF Energy East Pipeline Ltd. and TransCanada PipeLines Limited**  
**Energy East Project and Asset Transfer, and Eastern Mainline Project**

**HEARING LOCATION/LIEU DE L'AUDIENCE**

Hearing held in Saint John, New Brunswick, Monday, August 8, 2016  
Audience tenue à Saint John (Nouveau-Brunswick), lundi, le 8 août 2016

**BOARD PANEL/COMITÉ D'AUDIENCE DE L'OFFICE**

R. George	Chairman/Président
L. Mercier	Member/Membre
J. Gauthier	Member/Membre

## **APPEARANCES/COMPARUTIONS**

### **Applicant/Demandeur**

Energy East Pipeline Ltd. (EEPL) and Transcanada PipeLines Limited (TCPL)

- Mr. C. Kemm Yates
- Ms. Elizabeth Swanson
- Mr. Dufferin Harper
- Ms. Anne Drost

### **Intervenors/Intervenants**

Nature Canada

- Ms. Lisa Mitchell
- Mr. Adam Bond

Sierra Club Canada Foundation

- Ms. Gretchen Fitzgerald
- Ms. Emma Hebb

Dr. Paula Tippet

Mr. Garry Prosser

Nature NB

- Ms. Sabine Dietz
- Ms. Vanessa Roy-McDougall
- Ms. Lisa Mitchell

Metal Working Association of New Brunswick (SPARK) and  
Canadian Manufacturers and Exporters - NB Division (CME)

- Mr. Joel Richardson
- Mr. Terry Malley
- Mr. John Bourque
- Mr. Wayne Guitard

New Brunswick Aboriginal Peoples Council Local 10

- Ms. Sharon Flatt
- Ms. Sheila Croteau

Ecology Action Centre

- Mr. Stephen Thomas

### **National Energy Board/Office national de l'énergie**

- Mr. Mark Watton

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--- Upon commencing at 9:01 a.m./L'audience débute à 9h01

3832.               **THE CHAIRMAN:** Ladies and gentlemen, welcome to Saint John. These are the first panel sessions for the National Energy Board's hearings of the Energy East and Eastern Mainline Applications.

3833.               My name is Roland Georges and I am the Chair of this Panel. My fellow Panel Members are, to my right, Madame Lyne Mercier and, to my left, Monsieur Jacques Gauthier.

3834.               Before starting, I would like to note the emergency exits which are located at the back of the room. In the unlikely event of an emergency or an alarm, please exit the room and the hotel through the closest marked exits in an orderly fashion, and gather in the adjacent parking lot. Once there, please verify that everyone from your group is accounted for.

3835.               We intend to sit from 9:00 a.m. until 4:30 p.m. today. We plan to break for lunch around noon for one hour. We will take a short break about halfway through during each morning and afternoon sitting.

3836.               We request that everyone in attendance turn off or mute your mobile phones for the duration of the session as they can be disruptive.

3837.               These sessions are being webcast on the NEB website in English and French. Simultaneous interpretation is available throughout the sessions, and you may pick up a device at the back of the room to listen in the language of your choice. Intervenors have the right to participate in whichever official language they choose. Daily transcripts will be prepared and made available through the Board's website.

3838.               These panels are meant to be a first more informal opportunity for intervenors and Applicants to exchange information. The main goals are for intervenors to express their main areas of concerns about the project; to have the ability to ask some high level questions of the Applicants to better understand the applications and help intervenors prepare future submissions; and to tell us your views about the future hearing process steps and how they may best suit your participation goals.

3839.               While we have already held a process survey, your views may help this Panel finalize or refine future process steps that still have details to be

determined.

3840. Board staff will see to it that each presenting intervenor is sworn in or affirmed prior to our -- your presentation. When called by our counsel, Mark Watton, intervenors will be asked to come to the microphone. Each intervenor has 20 minutes to share their views and to ask questions. We encourage you to use your time efficiently.

3841. When our Board counsel asks you to proceed, the light will turn green and your time will start running. It will turn yellow to warn you when you have five minutes remaining. At this point, you should wrap up your comments or questions.

3842. We have set this time limit to be fair to all intervenors in an effort to allow them all an equal amount of time. Please be mindful that if you plan on asking questions to the Applicants, your 20 minutes must include sufficient time for responses.

3843. Detailed evidence supporting your position and detailed questions on the applications are not expected from intervenors at this time. There are opportunities later in the process to file detailed written evidence and to ask detailed in-depth questions to the Applicants or to other intervenors.

3844. In the spirit of this more informal setting for information exchange, I would ask the Applicant witnesses to be responsive and efficient.

3845. There may be instances where an undertaking to provide a future response may be a more suitable avenue of responding to a question. In the interest of time and accuracy, please do so as circumstances warrant.

3846. Intervenors already in attendance should confirm and register their presence with the Board staff if they have not already done so. Any general question can be brought to one of our process advisors at the registration desk.

3847. If you have any concerns about security, please contact our Security Advisor Adam Hutchings.

3848. Other Board staff are identifiable by their nametags, including our Hearing Manager Erin Dutcher, and our Regulatory Officer Carrie Randall.

## Preliminary matters

3849. Our Communications Officer Sarah Kiley is here to assist members of the media who are present. I would ask that media cameras remain in the designated area throughout today's proceedings.
3850. It is very important to the Board that we provide a safe and respectful environment for everyone attending these hearings. The public is welcome to observe and listen quietly and respectfully.
3851. The orderly conduct of these sessions will allow us to hear from all those scheduled to participate while allowing other persons or media to observe or listen to the live broadcast.
3852. As a first matter of business, our counsel will ask if there are any preliminary matters. If you have such a matter, please come to the microphone and state your name and the matter you wish to raise. Following preliminary matters, and if, the Applicant will be invited -- sworn or affirmed first and then invited to make a brief introductory presentation.
3853. After this opening presentation, our counsel will start calling intervenors one by one in the order in which they appear on the schedule, which was established based on your registration for these sessions. The schedule is available at the back of the room. Please refer to it and be prepared to appear when called.
3854. Ms. Randall?
3855. **MR. WATTON:** I have a couple of preliminary matters, Mr. Chair, I just wanted to raise before you proceed.
3856. **THE CHAIRMAN:** Thank you.
3857. **MR. WATTON:** I won't take long; it should only take a minute or two.
3858. Just to advise the parties in the room and everyone else here as well, there was -- there were a number of late applications to participate that were submitted last week, one of which was from New Brunswick.
3859. I understand that the Panel has ruled to accept Pabineau First Nation. I think the ruling was -- you decided that on Friday. But it's not up on our website

yet, so I thought for those in the room who are interested because I know Pabineau is due to attend later this week. So that application was granted and reasons will follow on the website soon.

3860. With each of these changes, we try to update the schedule. At the back of the room there's a document and we'll update it as required. So the latest one is dated August 5<sup>th</sup> in case you have an older one.

3861. And just an issue that we discussed with counsel with the first intervenor and the Applicant which may come up again during the week I thought I would raise as well, which is most intervenors are present here and will be sworn.

3862. As you mentioned in your opening statement, we don't anticipate much detailed evidence and it is a bit of an informal setting. But just a reminder for those intervenors who are only represented by counsel that if any of the information in their presentation is evidence on which they do wish to rely in the future that they should make sure that the evidence is submitted at a future step in the hearing so that it does appear properly on the record. I'm not sure that this issue will arise but I just thought I would flag it in case it's of concern.

3863. And the final point is -- final issue we have, we received a written request on Friday from a local commenter, the Red Head/Anthony's Cove Preservation Association, who were granted commenter status. They applied on August 5<sup>th</sup> to have their status changed to intervenor. I understand that the Panel had an opportunity over the weekend to review and that you may have a decision on that?

3864. **THE CHAIRMAN:** That's correct, Mr. Watton. We approved the application.

3865. **MR. WATTON:** And the written decision on that will appear on our website as soon as it's available.

3866. And that's all that I have so without further ado?

3867. **MR. YATES:** Mr. Chairman, maybe this is a bit of further ado but I just wanted to speak for a moment to Mr. Watton's second preliminary matter about the status of evidence and representation. So with your indulgence I'd like to speak to it if ---

3868. **THE CHAIRMAN:** Please proceed.

3869. **MR. YATES:** I'm representing Energy East and TransCanada.

3870. The issue that Mr. Watton raised has been discussed amongst him and me and Ms. Mitchell for Nature Canada and it is a matter that relates to evidence and the issue being that the Board must make a decision on the basis of the evidence that it hears. That evidence comes from parties who have been given standing in the proceeding, and that evidence comes from witnesses who are sworn or affirmed and are subject to cross-examination.

3871. Evidence doesn't come from lawyers. In fact, the codes of professional conduct of the Law Societies preclude lawyers from being witnesses and counsel in the same case. So counsel represent their clients through cross-examination and argument on the evidence that is heard.

3872. So where I understand we've gotten to is that Ms. Mitchell is going to be making some comments that indicate her client's position in response to the Board's request to identify issues of interest, but those comments are to be made by her in her capacity as counsel and they don't become evidence on the record unless and until they are adopted at some later point in the process by her client.

3873. I just wanted to make the Applicant's position clear on that particular issue.

3874. **THE CHAIRMAN:** Thank you, Mr. Yates, we understand that.

3875. Are there any other counsel in the room that would have any comments on this particular issue? I don't see any.

3876. **MR. WATTON:** Okay, we'll just note it under advisement. If the issue arises for future discussion then anyone can feel free obviously to raise it as a procedural matter at the time.

**DONOVAN CASE: Sworn/Assermenté**

**STÉPHANE GRENON: Sworn/Assermenté**

**CHRISTIAN MATOSSIAN: Sworn/Assermenté**

**JOHN VAN DER PUT: Sworn/Assermenté**

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Introduction by Mr. Yates**

**ALBERT LEES: Sworn/Assermenté**

**CARLOS PARDO: Sworn/Assermenté**

**DEREK SIEGEL: Sworn/Assermenté**

**ANDREW CARSON: Sworn/Assermenté**

3877.           **MR. YATES:** Good morning, Mr. Chairman and Members. I am going to introduce the Panel and once that is done, they will be presenting the opening presentation that was circulated at the end of last week and Mr. Van der Put will be giving in that presentation.

3878.           Before I do that, I should say that I indicated that I represent the Applicants in this case. With me is Ms. Elizabeth Swanson, who is Associate General Counsel, Energy East Law for TransCanada PipeLines Limited; Mr. Dufferin Harper; and Ms. Anne Drost, spelled D-R-O-S-T. And you may hear from them as well as from me.

3879.           Energy East is presenting a panel of eight witnesses. These witnesses were identified in the letter that was sent to the Board on August the 3<sup>rd</sup>. The witnesses were selected in part because they have expertise in some of the regional issues that were identified through the engagement process that Energy East has conducted to this point.

3880.           So in the middle of the panel is Mr. John Van der Put, who is Vice President - Stakeholder, Safety and Emergency Response for Energy East. He is the lead on the panel. He will be the primary witness on the positions of the Applicants and he will manage the responses of others in an effort to achieve -- in an effort to be responsive and efficient in the responses to the questions given the time constraints that are involved in this process.

3881.           To his right is Mr. Christian Matossian, who is Manager of Indigenous Relations for the Energy East Pipeline Project. And he's here to speak to matters relating to Indigenous relations.

3882.           To Mr. Van der Put's left is Mr. Albert Lees, who is Senior Principal of Stantec Consulting Ltd. He's the Project Manager for the Environmental and Socio-Economic Impact Study. And I'll note in passing that that impact study is -- comprises 13 volumes of the Application as well as numerous appendices. So Mr. Lees can speak to the ESA at a high level, but obviously cannot speak in detail to that volume of material. So this is where there may be instances of detailed questions going to the 2017 process.

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3883. Two down from Mr. Lees is Mr. Derek Siegel. He is the Manager of Facilities for Energy East and he will speak to pipeline and other facilities, particularly to matters of design.
3884. Between Mr. Lees and Mr. Siegel is Mr. Carlos Pardo. He is Project Manager for the Energy East Canaport Marine Terminal. He's in charge of design, construction, operations, and marine shipping activities. And he has led the design of the terminal as well as the TERMPOL studies, including marine traffic surveys and marine shipping risks analysis and trajectory modelling that was subsequently used by Stantec in the Ecological and Human Health Risk Assessment. And he's here to speak to marine matters.
3885. Two to Mr. Van der Put's right is Mr. Stéphane Grenon, who is the Principal of Triox Environmental Emergencies Inc. His responsibility is for overall emergency response planning. And Triox is involved in all aspects of the development of the emergency response plans, including site-specific, strategic, and tactical planning.
3886. And at the far end of the witness table from me, closest to the Board, is Captain Donovan Case. He's a General Manager of ALERT Inc. ALERT is the Atlantic Environmental Response Team. It's the Transport Canada certified response organization for the Bay of Fundy geographical area of response. And tankers and other vessels are required by the *Canada Shipping Act* to have an arrangement with the Transport Canada certified response organization. So ALERT responds to on-water oil spills and Captain Case is here to respond to questions on the marine emergency response.
3887. And finally, closest to me is Mr. Andrew Carson, who is Director of Public Affairs of Irving Oil and he's here to speak to matters relating to Irving Oil.
3888. And panel having been sworn, I think that takes us to the opening presentation, which will be provided by Mr. Van der Put.
3889. **THE CHAIRMAN:** Thank you.

**--- OPENING PRESENTATION BY/REPRÉSENTATION D'OUVERTURE PAR  
MR. VAN DER PUT:**

**EEPL and TCPL Panel**  
**Opening presentation by Mr. Van der Put**

3890.               **MR. VAN DER PUT:** Thank you, Mr. Yates.
3891.               On behalf of Energy East and our Marine Terminal joint venture partner Irving Oil, I'd like to thank the National Energy Board for hosting this community panel session and for facilitating this opportunity to have an open dialogue about the Energy East Project.
3892.               I'd also like to thank all of the intervenors who are here today, as well as those who will join us in the coming days, for taking the time to participate in this process.
3893.               And I'd especially like to thank the community of Saint John for hosting us in your beautiful city.
3894.               In this presentation I'll begin by providing you a general understanding of the Energy East Project and its major elements. Then I'll briefly talk about the project proponents, Energy East and Irving Oil. But I'll spend most of my time discussing the issues that we identified that were the most important ones to stakeholders in this region and talk about how we've addressed many of those issues and concerns through our project design. I'll conclude by discussing some of the benefits of the project for the region.
3895.               Next slide, please.
3896.               This \$15.7 billion, 100-percent-privately-financed project will span a total of 4,500 kilometres from Alberta to Saint John. A unique feature of this pipeline is that 3,000 kilometres of it from the Alberta-Saskatchewan border to Eastern Ontario is an existing natural gas pipeline that will be repurposed to transport crude oil and thus significantly reduce environmental impact compared to building a completely new pipeline.
3897.               Along the route there will be a total of 71 pump stations, three tank terminals, and one marine terminal here in Saint John.
3898.               If we look at the map on the slide starting in the west, we see that oil will enter the pipeline at two points, here in Hardisty, Alberta and here in Moosomin in Eastern Saskatchewan.
3899.               Moving to the east, Energy East will deliver crude oil to two refineries



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in Quebec, in Montreal, near Quebec City, and also to the Irving refinery here in Saint John.

3900.                These three refineries have a total capacity to process about 700,000 barrels per day. The average capacity of the 42-inch pipeline will be 1.1 million barrels per day.
3901.                The marine terminal in Saint John will allow for a portion of the crude transported on Energy East to be exported to markets such as Europe, India, the U.S. East Coast, and the U.S. Gulf Coast.
3902.                This pipeline will transport all types of crude produced in Western Canada, both light and heavy, produced from conventional reservoirs and from the oil sands. And if the project is approved by the federal cabinet in late 2018, construction should begin, once pre-construction conditions have been satisfied, for an anticipated in-service date in late 2021.
3903.                Next slide, please.
3904.                So why we propose the Energy East Project? Well, one reason is that there's currently no way, other than by rail, for crude produced in Western Canada to reach tidewater in Atlantic Canada. And further to that, the National Energy Board's recent report called "Canada's Energy Future 2016" described a constrained oil pipeline capacity scenario where by 2040 the requirement for rail transportation would be about 1.2 million barrels per day.
3905.                It's because of this critical market need for new crude oil transportation capacity that TransCanada developed the idea for Energy East. Energy East is the safest and most environmentally responsible way to get western Canadian crude oil to eastern Canadian and export markets.
3906.                This is supported by a 2015 Fraser Institute study which concluded that pipelines are four-and-a-half times safer than rail for crude oil transportation.
3907.                In 2015, the refineries in Quebec and Atlantic Canada imported an average of 566,000 barrels of oil a day from countries such as the United States, Saudi Arabia, and Nigeria. At last year's average oil prices, it's \$35 million per day leaving the Canadian economy that would be staying home if that foreign-source crude were replaced with Canadian oil.

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3908. Energy East will also greatly improve access for Canadian crude oil to new west export markets. As this slide shows, there's significant demand for crude oil in Europe, in Asia, and parts of the United States such as the East Coast and Gulf Coast. And refineries in those regions are very keen to have greater access to Canadian crude oil.
3909. As we'll see later on, there's also significant economic benefit for provinces across the country, including numerous jobs and tax revenues for Canada and New Brunswick. And this is according to the Conference Board of Canada, which is the foremost independent, not-for-profit research organization in Canada.
3910. Next slide, please.
3911. In New Brunswick, the project will consist of 417 kilometres of new underground pipeline from the north of Edmundston to our tank terminal in Saint John, and that's the purple line that you can see on the map. There will be five pump stations in the province, about every 75 kilometres. Those are the yellow dots that you see along the pipeline route with their names followed by the letters PS.
3912. Each station will have four to six pump units driven by electric motors. Some stations will include traps to launch and receive inline inspection tools that are used to periodically inspect the condition of the pipe so that we make sure that it will be safe throughout its operating life.
3913. There will be 57 pipeline valves placed strategically along the pipeline route in New Brunswick that can be used to isolate sections of the pipeline in the very unlikely event of a leak to protect drinking water sources, watersheds, and other environmentally sensitive areas.
3914. The pump stations and valves will be remotely monitored and controlled 24 hours a day, 7 days a week, from the TransCanada operations control centre in Calgary.
3915. The Saint John tank terminal will be a storage facility at the terminus of the Energy East Pipeline. This facility will be linked to the Canaport Energy East Marine Terminal and to the Irving Oil Refinery.
3916. Next slide, please.

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3917. The proposed Saint John Marine Terminal Complex will consist of a tank terminal right here, as well as a marine terminal right here. It will be located at the end of the Energy East Pipeline, approximately seven kilometres to the southeast of the City of Saint John. The complex will be adjacent to Irving Oil's existing Canaport marine and tank facilities, which have been in operation for over 45 years.
3918. The tank terminal receives oil from the Energy East Pipeline for delivery either to the Canaport Energy East Marine Terminal or to the Irving Oil refinery. To facilitate deliveries to the refinery, the Energy East tank terminal will include measurement facilities and a connection to the adjacent Irving Oil Canaport tank terminal, which will then transfer the oil to the refinery.
3919. The tank terminal will include 22 oil storage tanks with an oil storage capacity of approximately 600,000 barrels each. The tanks will have a diameter of 79 metres and will be 21 metres high. The tanks will be installed with external floating roofs. This is a very important safety and environmental component of the design which significantly reduces the release of oil vapours into the atmosphere.
3920. Floating roofs are continually in contact with the oil surface, eliminating the majority of the space between the roof and the oil where vapours could accumulate. The floating roofs are equipped with a double seal system to further reduce the release of vapours into the atmosphere.
3921. Marine loading pumps at the tank terminal will transport the oil from the storage tanks to the Canaport Energy East Marine Terminal for delivery on to crude oil carrier tankers. The marine terminal is designed to be a fixed-berth terminal with the ability to dock and load up to two oil tankers simultaneously.
3922. The first berth will be capable of receiving from up to Aframax, which have a capacity of 700,000 barrels, up to very large crude carrier class tankers which have a capacity of 2.2 million barrels; whereas the second berth would be capable of receiving Aframax and Suezmax-class tankers. They have a capacity of 1 million barrels.
3923. There will be a 650-metre trestle that will connect the foreshore area to the berths supporting oil loading, piping, cable trays, equipment, and a roadway to provide access to and from the shore. Vapours coming out of the tankers during

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loading will be collected and directed to shore to be incinerated by vapour combustion units.

3924.           The marine terminal will be designed to accommodate the tides in the Bay of Fundy and Saint John harbour that are, as you know, some of the highest tidal ranges in the world. About 281 tankers per year are anticipated to call at the Canaport Energy East Marine Terminal annually. This equates to less than one tanker per day.
3925.           Next slide, please.
3926.           Having described what the project is, I will now turn to the companies that are proposing to make it a reality.
3927.           Energy East will be 100 percent owned by TransCanada. With more than 65 years' experience, TransCanada is a leader in the responsible development and reliable operation of North American energy infrastructure, including natural gas and liquids pipelines, power generation, and gas storage facilities.
3928.           TransCanada operates a network of natural gas pipelines that extends more than 90,000 kilometres, tapping into virtually all major gas supply basins in North America. It is also the continent's leading provider of gas storage and related services with 664 billion cubic feet of storage capacity, and together, these facilities supply about a quarter of North America's natural gas demand.
3929.           A large independent power producer, TransCanada currently owns or has interests in over 10,500 megawatts of power generation in Canada and the United States, and over one-third of that comes from emissionless sources like solar, wind, hydro, and nuclear. And TransCanada has also been developer and operator of one of North America's leading liquids pipeline systems that extends over 4,300 kilometres, connecting growing continental oil supplies to key markets and refineries.
3930.           Since it went into service in 2010, TransCanada's Keystone Oil Pipeline has safely delivered over 1.2 million barrels of crude oil to markets in the Midwest and Gulf Coast regions of the U.S.
3931.           And beyond all the numbers, TransCanada is a values-driven organization. Our values guide how we work, how we treat one another, and we've operated at -- how we've operated at TransCanada every single day for

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more than 65 years. Our values specifically are integrity, responsibility, collaboration, and innovation, but we summarize it as simply doing what's right.

3932.               Next slide, please.

3933.               The Canaport Energy East Marine Terminal will be jointly owned by Energy East and Irving Oil. As you probably know, Irving Oil was founded in 1924. It's a privately-owned regional refining and marketing company with a history of long-term partnerships and relationships. Irving Oil operates Canada's largest refinery here in Saint John, which has reached production rates in excess of 320,000 barrels per day. And with over 900 fuelling locations, operations from a network of distribution terminals, and a delivery fleet of tractor trailers, Irving Oil serves wholesale, commercial, and retail customers in Atlantic Canada, Quebec, and New England.

3934.               And similar to TransCanada, safety is a way of life for Irving Oil. Irving Oil has a strong and proven track record of excellence in marine safety and has been moving crude oil and finished product through the Bay of Fundy in a safe and responsible manner for the last half century.

3935.               Next slide, please.

3936.               We have been talking to stakeholders here in New Brunswick about the Energy East Project since we officially announced the project exactly three years ago. What we've done and will continue to do is not only to provide information, but to obtain input that would help us develop the best possible project.

3937.               We have engaged with a total of 21 Indigenous communities and organizations in both New Brunswick and Nova Scotia, and we currently have communications and engagement funding agreements in the process of being implemented with many of those communities. This funding will help those communities marshal the resources they need to engage with us effectively.

3938.               We are also very pleased to have traditional knowledge or TK studies underway with 14 participating communities and organizations. And this invaluable work provides us a much deeper understanding of culturally significant resources as we continue to develop our project.

3939.               And we've also had over 460 meetings with a total of 45 non-

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Indigenous communities in New Brunswick and Nova Scotia, and we've engaged with a total of 291 landowners along the proposed pipeline route in New Brunswick. And key tools that we used for that engagement were a total of 19 open houses and three safety and emergency response information days where we welcomed well over 3,000 guests who wanted to talk to us about the project.

3940.                   Next slide, please.

3941.                   Another thing we did to help us design the safest and most environmentally-responsible project possible was to hire objective third-party experts, including Stantec, to conduct a rigorous, science-based environmental and socio-economic assessment of our project.

3942.                   The development of the Energy East ESA involved approximately 450 scientists and specialists completing environmental fieldwork and roughly another 700 employed in the analysis and preparation of the ESA, including wildlife biologists, atmospheric scientists, archaeologists, and fisheries scientists, to name only a few. These professionals have participated in over 900 field studies across the country.

3943.                   This ESA looked at the environmental and economic effects of constructing and operating the pipeline, pump stations, and terminals. It also looked at the effects of marine shipping, which is associated with, but not part of the scope of the Energy East Project. Where available, issues and concerns by Aboriginal groups and stakeholders were considered during the development of the ESA. Now, ongoing engagement will be used in the development of the mitigation measures that are recommended by Stantec.

3944.                   In New Brunswick alone, 23 separate field studies were completed with the assistance of 24 Indigenous participants and nine local sub-consultants. The essay is so substantial it makes up volumes 14 to 25 of the consolidated application. And it concluded that there were no significant adverse effects on any of the valued environmental components assessed within New Brunswick.

3945.                   Next slide, please.

3946.                   Through scientific study and by listening to Indigenous communities and stakeholders through our extensive engagement, we learned that the issues identified on this slide are some of the issues that are of greatest importance and interest in this region. Of course, we'll continue to listen and learn from you as

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we move forward in refining the details of our project.

3947.           A broad category of concerns are those related to safety and the environment. Examples of these are the potential effects of a spill in the Bay of Fundy, however unlikely that may be, and the protection of lakes, rivers and watersheds. A second category is that of consultation and engagement with both Indigenous and non-Indigenous communities. And the last category relates to the fact that there will be significant benefits in New Brunswick as a result of this project but people, including the city of Saint John, want to ensure that they have the opportunity to access a share of those benefits.
3948.           Next slide, please.
3949.           We understand the importance of safeguarding the Bay of Fundy and we listened to your community's concern about marine traffic in the Bay. And here's some examples of what we did to address those concerns.
3950.           Energy East has completed what's -- I call -- what are called TERMPOL studies that are intended to ensure marine shipping safety. These studies have been presented to a committee composed of members from Transport Canada, the Saint John Port Authority and the Department of Fisheries and Oceans.
3951.           A full mission bridge simulation was performed at the Marine Institute of Technology and Graduate Studies in Maryland. This is a real time ship maneuvering simulation that incorporates mathematical models of ships, as well as specific site design and met ocean conditions and hydrodynamic interactions. Several berthing approach runs were simulated for all project vessel sizes validating the proposed terminal location and berth orientation, as well as providing a preliminary indication of the number and capacity of tug boats that would be required.
3952.           Through consultation with the Atlantic Coast Pilots and the Port Authorities, Energy East has confirmed the suitability of the marine terminal location for the management of safe berthing and vessel transit operations.
3953.           Marine traffic was analyzed for the last 14 years based on vessel calls to Vessel Traffic Service. The analysis concluded that the increase in vessel traffic related to the Energy East Project coincides closely with the kind of levels that we're seeing in the Bay of Fundy during the 2002 and 2003 timeframe.

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3954. An anchorage study using historical port information was performed taking into account the number of vessels that can reach operational limits during severe weather events. The study concluded that with application of port regulations no new anchorage areas are required.
3955. Engineering studies were conducted, including a marine view technical investigation, which resulted in a shorter trestle length as well as a new berth orientation.
3956. We also conducted a noise assessment to determine potential effects on marine mammals. And this information will be critical for determining optimal noise mitigation measures. It's not expected that right whale monitoring will be needed during construction. However, there is potential for other marine mammals in the vicinity of the proposed marine terminal and mitigation, including monitoring, will be included in the applicable environmental protection plan.
3957. A Notice to Mariners on speed restriction during the summer months through critical habitat of the right whale was implemented in 2015 by the federal government. Although Energy East doesn't own or control the crude tankers directly, we do plan to ensure that all tankers calling at the marine terminal will be advised of that Notice to Mariners through our tanker vetting and safety process.
3958. Next slide, please.
3959. Because Energy East will design safety into every aspect of the project, it's very unlikely that an accident or a malfunction would occur. That said, we all recognize that zero-risk does not exist. So we need to be prepared and to respond to an emergency anywhere along the pipe -- entire pipeline project, and we need to plan for the worst case scenario however unlikely. And this worst case scenario approach allows us to plan and adopt the most stringent preventive and reactive procedures possible.
3960. Energy East will be fully accountable for all aspects and responsible for all the cost of emergency preparedness and response, including all remediation, restoration activities and all associated damages.
3961. Energy East has committed to complete its Emergency Response Plan by mid to late 2018 in alignment with the Regulatory Review Process, ensuring



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- that plans are in place for all aspects of the project well before in-service of the pipeline. This ERP will be developed and continually -- continuously updated in close collaboration with all local first responders and other emergency services groups, such as the Fire Marshalls here in New Brunswick. And we're committed to a comprehensive training and validation program for our field personnel to ensure that we're prepared to respond to any emergency.
3962.           Energy East will respond immediately in the event of an emergency. This will begin with the shutdown of the pipeline and facility, activation of protective systems at pump stations and terminals, and full activation of the Incident Command System.
3963.           Continuous improvement is achieved by practising our skills. In 2015 alone, TransCanada conducted a total of 125 emergency response exercises, including tabletops and field exercises up to and including full corporate-wide mock exercises involving local first responders.
3964.           Next slide, please.
3965.           We also heard concerns about the locations and impacts of the marine and tank terminals through the many consultation sessions we've held, including through the Red Head/Anthony's Cove Community Liaison Committee. That Committee, the first on the project, was started in 2014 and has since held nine meetings. The Committee includes members of industry, provincial and municipal governments, emergency response, environmental organizations, as well as residents.
3966.           Through these ongoing consultations, here are some of the things we've done so far as part of the project. Through additional engineering review we've reduced the footprint of the Saint John tank terminal by over 15 hectares, and the marine trestle has been shortened by about 600 metres. Additionally, the berths have been rotated 10 degrees to better accommodate met ocean conditions in the Bay of Fundy.
3967.           These changes reduce the environmental impact of the facilities by decreasing the excavation that will be required for the tank terminal, as well as reducing the amount of dredging that we'll need to do to build the marine terminal.
3968.           We have also committed to direct construction and operation's traffic

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to Bayside Drive away from residents on Red Head Road and Anthony's Cove Road.

3969.           Energy East has completed comprehensive air quality modeling that indicates that air quality after installation of the tank and marine terminal will meet all applicable regulatory criteria.
3970.           That notwithstanding, because we recognize that area residents are concerned about the air quality, Energy East will commit to implement a post-construction Air Quality Monitoring Program for a specified period of time to demonstrate that the actual emissions will be well below air quality criteria. And to do this, we will determine the baseline for pre-construction air quality and then we'll monitor -- after the terminal is in operation at the location where the highest contamination levels were predicted -- in order to validate the model's conclusion that air quality levels will be well within the acceptable criteria. We will also monitor air quality levels at two or three sites in the community.
3971.           Next slide, please.
3972.           Through our consultation work, we received a lot of questions about the economic opportunities for the project, and here are some examples of those opportunities. We firmly believe and are committed to maximizing the benefits of Energy East for New Brunswick's Indigenous communities.
3973.           An example of this is training, employment and contracting on our Environmental and Archeological Field Study Participation Program. In 2015, we achieved 45 percent Indigenous participation in our field team consisting of environmental and archeological field technicians, monitors, as well as an Indigenous archeologist. These individuals received extensive pre-employment training and many went on to further professional technical study over this past winter.
3974.           Energy East environmental consultant Stantec has sub-contracted Indigenous environmental services firm Green Eagle for a third year in 2016, and both companies have learned a great deal from each other and have benefitted from the relationship.
3975.           And this season, with the same commitment to building long-term capacity, Energy East's field program team will be majority Indigenous with the aim of developing a core group of Indigenous leaders to run full Indigenous crews

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in future seasons when archeological field studies may ramp up.

3976. Energy East continues to work with New Brunswick Indigenous communities, the province, as well as the Joint Economic Development Initiative on Indigenous training and employment, contracting readiness and other means of delivering on Energy East's commitment to maximizing project benefits for Indigenous communities.
3977. We've also engaged with local unions and signed a memorandum of understanding with national unions to maximize opportunities for the local workforce.
3978. There are 359 suppliers in New Brunswick who have demonstrated an interest on working on Energy East by registering on our vendor portal.
3979. And we've yet to put a shovel in the ground but we've already spent over \$42 million here in New Brunswick developing the project. And this has paid for things like environmental studies, land surveying, translation services, and geotechnical surveys just to name a few.
3980. Next slide, please.
3981. In order to get a sense of the overall economic benefits we could expect to come from the Energy East Project we turn to the Conference Board of Canada.
3982. The Conference Board of Canada's report, which is in our NEB application, indicates that the Energy East Project will create the following benefits in New Brunswick alone: 3,771 jobs annually both direct and indirect during the development and construction phase of the project with peak construction job levels of over 10,000. This is equivalent to about 36 percent of all construction employment in New Brunswick that took place in 2013.
3983. Two hundred and sixty-one (261) jobs annually direct and indirect during the first 20 years of operations. Over \$853 million in tax revenues for provincial and federal governments, and a gross domestic product impact of over \$6.5 billion.
3984. The project facilities will be responsible for a significant amount of property taxes to benefit New Brunswick's communities, amounting to an

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estimated \$14 million each year once the pipeline system is in operation.

3985.           The property taxes for the City of Saint John alone are estimated at close to \$7 million per year.
3986.           It's also important to note that one quarter of the project capital spending occurs here in New Brunswick.
3987.           Last side, please.
3988.           In summary, I'd like to reiterate our belief that Energy East is the safest and most environmentally responsible way to transport crude oil from west to east across the country.
3989.           We're committed to delivering this oil safely, responsibly, and reliably, and our goal is to have zero incidents.
3990.           Energy East will transport the equivalent of over 1,500 rail cars each day and provide Eastern Canada's refineries the opportunity to displace the foreign sourced crude they currently import to meet their needs, and this will have a significant impact on improving overall safety and economic benefit for this country through a more favourable balance of trade.
3991.           We've engaged extensively with communities along the pipeline route since this project was announced exactly three years ago, and we'll continue to actively and openly engage with communities and Indigenous groups.
3992.           Over 700 pipeline route changes have already been made since that time as a result of what we've heard throughout this engagement.
3993.           In sum, we submit that moving forward with the Energy East Project is in the best interests of the country, of the Province of New Brunswick, and the City of Saint John.
3994.           And I'd like to thank you for your attention, and my colleagues and I look forward to our discussions with you over the coming days.
3995.           **THE CHAIRMAN:** Thank you, Mr. Van der Put.

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3996. Mr. Watton?

3997. **MR. WATTON:** Our first intervenor for this morning is Nature Canada. So if we could call up on our representatives from Nature Canada to come and introduce themselves please? Thank you.

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR NATURE CANADA:**

3998. **MS. MITCHELL:** Good morning, Mr. Chair, Panel Members, representatives of the Applicant.

3999. Thank you on behalf of Nature Canada for the opportunity to present to you today. My name is Lisa Mitchell. I'm the staff lawyer with East Coast Environmental Law, a non-profit public interest law organizations based in Halifax. And we're acting as the authorized representative of Nature Canada.

4000. I have with me today Adam Bond, an articling student with Nature Canada based in Ottawa.

4001. Nature Canada is Canada's oldest national nature conservation charity, representing a network of over 45,000 members and supporters. There are nature organizations associated with Nature Canada in every province of Canada, including Nature NB who will be presenting to you later today.

4002. Our focus this morning will be on identifying seven main areas of concern that we expect to highlight throughout the National Energy Board process, and asking three key high-level questions of the Applicant.

4003. Before we turn to the concerns and questions we'd like to begin with a comment on the future hearing process plan for 2017. We have reviewed the hearing order and the Applicant's comments on the 2017 process and we've identified three areas of comment; the second stream review process, the technical conference, and oral cross-examination.

4004. In the interest of time today we will submit our comments on the second stream review process and the role of the technical conference in writing at a later date. Our focus this morning will be on the role of cross-examination.

4005. It is our opinion that oral cross-examination plays a critical role in the

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rigorous evaluation of all evidence. We were very relieved to see the Board include final oral argument and oral cross-examination in the Energy East hearing process.

4006. We note that the hearing order and the Applicant's comments refer to "limited" cross-examination.
4007. Although the Board has not yet detailed these limits, suggestions made by the Applicant in their written comments on the 2017 process raise some concerns for us.
4008. The Applicants submit in their comments that it would be "efficient and effective" to limit the intervenors' cross-examination of the Applicant to the key issues of interest identified by the Board. But in the interest of "procedural fairness", the Applicants' cross-examination of the intervenors should not be limited.
4009. Nature Canada opposes the suggestion by the Applicants. In our opinion, such an inequitable distribution of procedural entitlements will place significant and unfair constraints on the ability of intervenors to test the quality of the Applicants' evidence.
4010. We recognize that the Board is faced with legislated time limits. However, in our opinion, the Board is clearly qualified to manage cross-examination in a reasonable way and manage the proceedings to ensure that those time limits are respected.
4011. The procedural integrity of the pipeline project review process is crucial, and the number of intervenors is indicative of the public interest in these proceedings. If there are to be any limitations placed on cross-examination during the proceeding we respectfully submit that the limitations be equitable to all parties.
4012. I'd like to move on now to our seven main areas of concern.
4013. First of all, Nature Canada takes no position in support of or against the Energy East Pipeline Project. Our goal throughout the National Energy Board process is to provide pertinent information to the Board and to ensure that the Applicant's application and evidence is accurate and sufficient to minimize risks to wildlife and habitat. Nature Canada will focus on issues that are specific to the

Bay of Fundy.

4014.               Based on our review of the application to this point we have identified these seven main areas of concern. These areas of concern revolve around the risks associated with increased tanker traffic, oil spills, and cumulative effects in the Bay of Fundy.
4015.               As mentioned, the Bay of Fundy experiences the highest tides on the planet and it is subject to significant and unpredictable weather events including dense fog.
4016.               These factors will create a challenging environment if an accident or malfunction occurs and oil is ultimately released into the marine environment.
4017.               The Bay of Fundy is one of North America's seven natural wonders, sharing this title with Niagara Falls, the Grand Canyon, and the Everglades for example.
4018.               The tides in the Bay of Fundy support a unique marine ecosystem, bringing deep ocean water and rich nutrients into the bay and creating ideal feeding conditions for marine mammals, fish, and bird species.
4019.               The Bay of Fundy serves as an invaluable birthing and nursery area for many whales, including the endangered North Atlantic right whale.
4020.               The Bay of Fundy is visited by a variety of migratory birds, especially shore birds who patrol the large intertidal areas at low tide for the abundant crustaceans and other food sources that are in the sediment.
4021.               There is much that we, many of us, do not know or understand about the Bay of Fundy ecosystem. But what we do know causes us to take a very considered and cautious approach to increasing any potential risk of oil release into this environment.
4022.               The Energy East Project intends to increase storage of crude oil by, I believe, 13.2 million barrels and increase large oil tanker traffic in the Bay of Fundy by approximately 281 vessels annually.
4023.               Given those increased risks to the health of the Bay of Fundy ecosystem, we wish to share with you the following list of seven concerns:

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4024.               Number one, the increased risk of oil spills from the Canaport Energy's Marine Terminal and the VLCC Aframax and Suezmax oil tankers.
4025.               Number two, the capacity of the Applicant to respond to and clean up oil spills when they occur.
4026.               Number three, the Applicant's knowledge of the behavior and fate of different types of oil spilt, if spilled.
4027.               Number four, the impacts of an oil spill on Bay of Fundy wildlife and habitat.
4028.               Number five, the impacts of increased tanker traffic on marine mammals and migratory bird and, in particular, species at risk.
4029.               Number six, the cumulative impact of oil spills and other anthropogenic stresses on the Bay of Fundy ecosystem over the full life of the project.
4030.               Number seven, the effectiveness of adaptive management techniques that may be used to respond to environmental change.
4031.               I'd like to close now with the three high-level questions which we provided in writing in advance of the session today. I will say that following consultation with one of our experts, and to avoid repetition with other intervenors' questions, we've made a slight modification to the first question which we submitted; the question still focuses on oil spill response times.
4032.               I'll just list the three questions and then turn it over to the Applicant to provide them time to respond to the questions.
4033.               The first question: what steps has the Applicant taken to gather information on the oil spill response times at other facilities around the world, and does the Applicant have information to share on their own response times to marine oil spills from terminals or tankers?
4034.               Question number two: the exceptionally challenging conditions in the Bay of Fundy will hinder oil spill response efforts. How do the Applicants intend to respond to a worst-case-scenario tanker oil spill in adverse weather conditions?



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4035. Question number three: what research have the Applicants conducted, commissioned, or relied on to develop oil spill response measures for different oil types in the Bay of Fundy?
4036. Would you like me to repeat any of those questions?
4037. **MR. VAN DER PUT:** No, I think we have the questions.
4038. **MS. MITCHELL:** We appreciate your time today. We look forward to the Applicants' responses to our questions.
4039. **THE CHAIRMAN:** Thank you.
4040. **MR. VAN DER PUT:** Thank you very much.
4041. To begin with, I want to highlight that Energy Eat will have an operating agreement with TransCanada to operate the pipeline system. And I'm very proud of the fact that TransCanada's capability and performance in terms of emergency response is world-leading. I would like to highlight just a few examples which point to that capability and performance.
4042. First of all, in terms of detection of any leaks, TransCanada exceeds the standards, the Z662 NXE Standard, in that TransCanada has actually two independent, computerized pipeline monitoring models. The models breakdown the system into small segments to be able to provide a high level of sensitivity in terms of leak detection.
4043. TransCanada also periodically tests the effectiveness of its leak-detection systems through controlled tests where crude oil is withdrawn from the pipeline system to test the effectiveness of the leak-detection systems. And what those tests have demonstrated is that our systems are actually more sensitive than the typical standards.
4044. Just as an example, a standard would be for a sensitivity threshold of 1.5 to 2 percent of flow within a two-hour period. Our tests have shown the ability to detect down to one percent of flow within that same period.
4045. When it comes to response times, in terms of TransCanada's performance, TransCanada adheres to what are called the CEPA Guidelines.

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CEPA is the Canadian Energy Pipelines Association. These are guideline for response times to emergencies. They are actually more stringent than the applicable response guidelines that would be enacted in the U.S., which are based on United States Coast Guards.

4046. We treat those response times as maximums and position our personnel -- our field personnel and our response equipment in order to be able to beat those maximum response times.
4047. And to give you some perspective, we have a guideline to be able to respond to anywhere along the pipeline system, have a field personnel on site within three hours, and have equipment on site within six hours. And we do site-specific planning to allow us to be able to come well within those criteria.
4048. The last area, in terms of actual intervention and restoration, TransCanada conducted over 125 emergency response exercises last year, in 2015, several of those which included deployment of equipment and practicing deployment of the equipment. TransCanada also contracts with world-class experts in oil spill response, experts such as Eastern Canada Response Corporation and ALERT, here in the Bay of Fundy.
4049. Now, specifically with regards to taking into consideration environmental conditions and weather, because that is the most critical element in terms of effective response, I would like to ask my colleague, Mr. Grenon, to outline some of the measures that we take in our site-specific emergency response planning to take those factors into consideration.
4050. Mr. Grenon?
4051. **MR. GRENON:** Thank you.
4052. As my colleague, John, mentioned, we are developing site-specific emergency plans for all locations along the pipeline including the marine terminal. These plans, what we are doing, we are developing them in close collaboration with the local communities. So first responders are involved in the planning process throughout the process, from start to the end.
4053. To address the question of conditions, first of all, these plans will include the identification -- the pre-identification of site-specific locations where we would deploy equipment. So we are looking in advance for any waterway,

- either small waterway, a stream, a large river. We are looking in advance where the equipment could be deployed. So we are looking at specific access conditions under all conditions. So -- and these conditions are mainly weather conditions so we're looking for winter period; we're looking for high-flow season, which is mainly springtime; and we're also looking for low-flow conditions during summer or beginning of the fall.
4054. We are -- first of all, we are looking at these sites -- identifying these sites to protect highly-sensitive receptors that we have identified in the environmental and social impact assessment. We look at satellite imagery, to begin with, to identify where we could locate our equipment considering the access factor and considering various factors such as current, speed of the current in the rivers, and so on to make sure that our strategies and tactics are adapted for each site and that we are very effective in deploying the equipment.
4055. Once we did the desktop study, what we're doing is we're going on site. So we're doing field validation of all of these specific locations and we invite -- for these field validations we invite local first responders and communities to come with us. And so we have a look together at the proposed strategy. We're looking at the factors that might interfere with that strategy and we identify corrective action to make sure that -- or control points -- what we call "control points" will be effective in containing the oil.
4056. We will also, throughout the process, identify strategic locations where equipment, response equipment, and personnel will be located to make sure that we meet those response guidelines, the CEPA guidelines, as a minimum. And in many cases, because of site-specific planning and working with the communities, we will have a response time that will be quicker than the CEPA guidelines. And we will adapt them to the specific location.
4057. Also what's very important to mention, is all of these locations that we're going to identify, we're going to train our people. We're going to train the first responders and we are going to exercise at these locations to deploy the equipment rapidly and effectively. And we are very confident that this will enable us to be very efficient in case of an event.
4058. The idea of that site-specific plan is that if something happens, we are taking away the human factor. Everybody will know what to do in case of an event; they will not have to think about, "Where should we go with our response equipment?" All of that will be pre-determined. People will be trained and they

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will have exercises at those locations so they will know exactly what to do. And this should make the response process very smooth.

4059. **MR. VAN DER PUT:** Thank you, Mr. Grenon.

4060. With regards to your last question on research, I'd like to touch on a couple of elements. First would be the research that we did specifically with regards to the behaviour characteristics of different types of crude, but also specifically with regards to conditions in the Bay of Fundy and the fate of a potential oil spill.

4061. For that I'd like to call on Mr. Albert Lees, who is the author of the Environmental and Socio-Economic Assessment, which included both of those types of research, both looking at the fate and behaviour of the type of crude, but also the -- Stantec conducted what's called an Ecological and Human Health Risk Assessment where they looked at the potential for different types of scenarios.

4062. That is invaluable information to adapt site-specific emergency response plans. And so lastly I'll call on Captain Case to provide some perspective in terms of how we used some of that information to adapt emergency response planning.

4063. Mr. Lees?

4064. **MR. LEES:** Thank you, Mr. Van der Put.

4065. Stantec consulted with a number of many scientific studies to evaluate the fate and behaviour of oil in a marine environment, and those included the Royal Society of Canada, Natural Resources Canada, and also Environment Canada, to just mention a few.

4066. As Mr. Van der Put indicated, we actually completed an ecological and human health risk assessment that involved the use of two modelling scenarios, one a stochastic modelling, which evaluated oil spills up to -- potential oil spills up to over 37,000 cubic metres. That stochastic modelling provides information on the surface movement of the oil, where it's going to go once it's spilled and how much oiling will occur as a result of that.

4067. And we also completed a deterministic modeling of three accident scenarios in the Bay of Fundy. That was a grounding in the Saint John Harbour, a

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grounding off of Gran Manan, and a collision in the outer part of the shipping lanes.

4068. That information that we completed was done with no plans for emergency response. It was actually the worst case of where the oil would go without actually applying any kind of corrective actions. And that information is all documented in Volume 24 of our Environmental and Socio-Economic Assessment.

4069. We also, as part of that process, did some lab analysis of artificial weathering of the oil. And that was done over a four-day period to help validate the model results that came out of the stochastic modelling.

4070. **MR. VAN DER PUT:** Thank you, Mr. Lees.

4071. Lastly, Captain Case in terms of the adapting response plans based on that knowledge.

4072. **CAPT. CASE:** Thank you, Mr. Van der Put.

4073. ALERT provides on-water oil spill response services in the Bay of Fundy currently. The way we use the information that has been modelled is to form an effective response plan based on the locations where the likely events would occur and also to ensure that we have the capacity to be able to respond to these types of spills as well.

4074. The types of oil are really very similar in nature to the conventional crudes, of course, that are already being handled within the area. Equipment-wise, we carry a wide enough array of response equipment to be able to respond to all of the different types of oil which are being carried in the Bay of Fundy.

4075. Our response plan is based on the response standards contained within the *Canada Shipping Act*, which would require ALERT to be deploying assets within six hours of notification of a spill event occurring, and to have mobilized the maximum effort within 72 hours of an event occurring.

4076. There's a 10,000 tonne resident capacity of course in the Bay of Fundy, which is maintained by ALERT. And in addition to this, we have a mutual-aid agreement with Eastern Canada Response Corporation for another 7,500 tonnes of response capability. So effectively 17,500 tonnes of response

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capacity can be brought to bear within this particular response area in the Bay of Fundy.

4077.           You referred to the weather in your comments there as well. And typically what happens in response is that a portion of your response capability is going to be dedicated to unsheltered areas. Another portion will be dedicated to sheltered areas. And an additional portion will be dedicated to shoreline areas. It would be entirely reasonable to assume that regardless of the weather, that we would be able to respond in capacity within one or more of those areas simultaneously. And on the finer days, of course, it would be simultaneous on all three.

4078.           So we do believe we have the capacity to continue response regardless of the weather conditions. And there is a very good network available in the Bay of Fundy for weather forecasting to be able to see events like that coming and to be able to respond more effectively knowing what the weather limitations might be over a given period of time.

4079.           **MR. VAN DER PUT:** Thank you Captain Case.

4080.           And just to conclude our response, I will mention that since Energy East is responsible for the Marine Terminal, we do have immediate response capability at the terminal with 50 cubic metres, which is equivalent of a 300-barrel capacity. And that's as per the *Canada Shipping Act*.

4081.           And then lastly, just to provide you some application references. For some of the information that I provided in terms of leak detection, you can find that in Volume 7, section 4. And with regards to emergency response, you can find that in Volume 7 in section 6.

4082.           And that concludes our response.

4083.           **THE CHAIRMAN:** Thank you, Panel.

4084.           Thank you, Ms. Mitchell. We appreciate you sharing your concerns with us, your questions, and your process comments, and look forward to your written ones. Thank you.

4085.           Mr. Watton?

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4086. **MR. WATTON:** I understand we have a slight deviation from the order as printed. And the next intervenor who is up and ready is going to be the Sierra Club Canada Foundation.

4087. If you prefer to use the microphone at the table feel free to stay seated; you don't need to use the podium. And you've been both sworn or affirmed on the way in when you registered; is that correct? Okay, thank you.

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR SIERRA CLUB CANADA FOUNDATION:**

4088. **MS. FITZGERALD:** Hello, my name is Gretchen Fitzgerald. I'm the national program director of Sierra Club Canada Foundation and very pleased to be here on the first day of the hearings, public hearings for the Energy East Pipeline.

4089. Our presentation today consists of an introduction of ourselves and our roles in Sierra Club, and then we'll talk about how the project will impact us and our goals as an organization, provide some comments on the process as we understand it right now, and give some -- our final overall recommendation about the project. And then we'll have some questions for the Applicant and its representatives.

4090. So first off, my name is Gretchen Fitzgerald, as I said, and I'm pleased to be the National Program Director of Sierra Club Canada Foundation. We are a national grass-roots organization with chapters across this country, and we're committed to tackling climate change, encouraging health and well-being of communities, sustainable development, and protecting wildlife and nature and natural spaces.

4091. And I'll have Emma talk about the vision.

4092. **MS. HEBB:** Hi. My name is Emma Hebb. I'm the Chair of the Atlantic Canada chapter of the Sierra Club Canada Foundation. I have a background in environmental science and have worked with stakeholders in Atlantic Canada since graduating. And I live right here in Saint John, New Brunswick.

4093. The vision of the Atlantic Canada chapter is for an Atlantic Canada

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- that's made up of dynamic communities, thriving ecosystems, and a prosperous economy that is powered entirely by renewable energy. And so because of that, this project will have a great impact on our chapter's efforts to seek policy and economic developments that actually reduce greenhouse gas emissions and enhance a shift to renewable energy.
4094.               We do not believe that this is the best thing for the public interest because it entails an investment in fossil fuel infrastructure at a time when all good science tells us that we need to be switching away from these fossil fuel resources as soon as possible. We believe that this project diverts critical societal resources away from sustainable jobs in energy efficiency and in renewable energy.
4095.               **MS. FITZGERALD:** And now I'd like maybe please to comment on some process-related issues.
4096.               First off, we would like to say we are very grateful to have an opportunity to present here as Sierra Club Canada Foundation. The Panel graciously has granted Sierra Club Canada Foundation opportunity to present here and in Montreal and also in Ontario, so we are very pleased and grateful for those opportunities as a grass-roots organization with representation across the country.
4097.               We were disappointed to read, unfortunately, ruling number 20. We would like the Panel to consider making accommodation for requests from Indigenous groups in New Brunswick for more time to present and to participate as completely as other groups like ourselves are privileged to do.
4098.               We believe the scope of this environmental assessment should include an impact of tanker traffic on the eastern seaboard, as it is likely to represent a threat to ecosystems along that route.
4099.               We are concerned that unfortunately, here in New Brunswick, literacy rates are actually quite low in the population, and this is a highly technical process with lots of written documents. We would like to ask the Panel and also the Applicant, in its communications, to specifically address low literacy rates in this province.
4100.               Overall, we would think this process would be more complete if upstream and downstream greenhouse gas emissions associated with this project were incorporated. We would also, as a regional organization, have appreciated



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opportunities for public hearings and sessions, such as this one, to be held in Nova Scotia.

4101. At the very large scale, we believe a strategic environmental assessment for pipelines in general could have been conducted, rather than project-specific ones, in order for Canadians to assess bigger questions associated with energy alternatives that fit into our ambitions for tackling climate change and our ambitions for green jobs, rather than project-specific projects such as this one.
4102. So that concludes my comments on process-related issues. And now we'll move on to our questions.
4103. **MS. HEBB:** Our first question is, is there any indication or agreement that rail traffic or tanker traffic from oil imports will be reduced to this -- due to this project? There's been a lot of talk about how it could, but we were wondering if there is -- has been any firm indication or agreement to that extent?
4104. **MR. VAN DER PUT:** With regards to rail traffic, it's clear that pipelines are not only the safest way to transport crude oil, but also significantly cheaper than rail. Rail costs about twice as much, and as well, pipelines are the most environmentally benign, in terms of the lowest greenhouse gas emissions as compared to rail.
4105. So as shippers have the opportunity through the construction of the Energy East Pipeline to access eastern Canada's refineries with a new pipeline, it would be to their advantage to use that transportation method rather -- to use pipelines as opposed to rail to access crude oil.
4106. With regards to tanker shipments, certainly with regards to the marine terminal, the Canaport Energy East Marine Terminal that is proposed as part of the scope of this project -- or excuse me, with regards to the -- to supplying the Irving Oil refinery, again, today the Irving Oil refinery does have the opportunity to bring in western Canadian crude via rail. The pipeline would allow the Irving Oil refinery to have access to crude oil from western Canada via pipeline, which, it obviously could choose as well to access that crude via pipeline as opposed to continuing to bring in crude oil via tanker ship from other parts of the world.
4107. And you know, with regards to their plans, I -- with regards to that, that's clearly up to them. But what the project facilitates is their opportunity to source more crude oil from western Canada as opposed to -- by pipeline, safely,

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economically, and in -- with low environmental impact, as opposed to having to rely on tanker shipments to obtain that crude oil from overseas.

4108.           **MS. HEBB:** Based on the detailed mapping, it seems the pipeline will be skirting or traversing the New Brunswick watersheds that are protected by the Designation Order.

4109.           How do you intend to meet the requirements for restricted activities in those areas, particularly during construction? And will you be requesting special consideration from the New Brunswick Department of Environment and local government for the pipeline construction and operation? And do you have any plans to mitigate the impacts on those protected watersheds which provide New Brunswickers with drinking water?

4110.           **MR. VAN DER PUT:** Your question specifically goes to construction planning. We have -- we've selected our route carefully, balancing a number of different factors and including, you know, the issue of proximity to watersheds.

4111.           Now, with regards to construction planning, I would like to turn to Mr. Siegel to provide -- to expand on exactly what our plans are with regards to them.

4112.           **MR. SIEGEL:** Thank you, Mr. Van der Put. So pipeline routing involves a multi-disciplinary team approach. It's a balance of many things, including land uses, environmental issues, community relations, Indigenous relations inputs, construction, and engineering.

4113.           So when we're identifying a route, we want to go out and identify all the different issues that are there and ensure that we have a safe passage through all of those issues and that we balance everything. And there are numerous watercourse crossings and there's numerous water zones that we're going to be going through and crossing, and we have to make sure that we analyze those when we're planning our construction and our design.

4114.           You know, we're crossing the entire country. There's many different watercourses that we're going to be passing through and watersheds, and we want to make sure that we're identifying those, identifying the issues, and coming up with adequate construction plans that minimizes any risks to those areas.

4115.           **MR. VAN DER PUT:** Thank you, Mr. Siegel.

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4116.           **MS. HEBB:** Finally from me, based on your estimated response time do you have an estimate of how many barrels of oil would be spilled if there was a leak along your New Brunswick section of your pipeline?
4117.           **MR. VAN DER PUT:** I'd actually like to begin answering that question by pointing out that the key, you know, is to design our system so that there are no leaks in the first place. And I'd like to spend just a little bit of time in terms of addressing some of the measures that we take to achieve an objective of having no leaks.
4118.           First of all, during when we design and construct a pipeline for example we inspect 100 percent of all of the welds on the pipeline using x-ray or ultrasonic technology. We wrap the pipe with an anti-corrosion external coating that has been proven very, very effective; it's an epoxy-based coating that we started using in the 1980s.
4119.           We test the integrity of the pipe through a procedure called "hydrostatic testing", where we fill the pipe with water and we pressure it up to 125 percent of its maximum allowable operating pressure to make sure that the pipeline is safe.
4120.           At major water crossings, as another example, we very often use heavy wall pipe. In the case of horizontal directional drilling where we're passing tens of meters under the bottom of a riverbed the pipe wall will be twice as thick as it would be typically.
4121.           In terms of operating the pipeline, again to prevent corrosion we use a technique called "cathodic protection". We do aerial surveillance where we fly over the right-of-way. Once every two weeks we do ground patrols to make sure that everything is in good shape. We do 24-hour surveillance on the pipeline using information from thousands of sensors all along the pipeline at every pump station, every valve. That sends information back to the operations control centre every five seconds so we know continuously the condition of the pipeline.
4122.           And we also run through the pipeline periodically in-line inspection tools which we also call "smart pigs" whose technology allows us to detect anywhere through the pipe wall any kind of fissure. It can detect fissures as small as the width of a hair.

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4123.               So those are all measures that we take in order to be able to first of all prevent a leak from ever happening in the first place.

4124.               Now, what we have done as well is to strategically position shut-off valves all along the pipeline route, as I mentioned in my introductory presentation, to be able to close off segments of the pipeline in the event of an anomaly, of a problem in order to be able to limit the impacts. We've done extensive multistep modelling to determine where the best location would be for those valves to be located.

4125.               Now, as part of that assessment -- and it is in the application, and I'll give my colleagues a chance to look up the reference for that information so that when I complete my response we can provide that to you. But that information basically is looking at every 10 to 20 meters along the pipeline route simulating a worst-case scenario, which would be essentially a full rupture of the pipeline -- something that has never happened -- but is something that we do in order to allow us, as I said, to strategically position those shut-off valves. And it's also invaluable information in terms of emergency response.

4126.               So there is information in there with regards to volumes from those worst-case scenarios but there's no precise answer to your question as far as how much because it all depends on where the pipeline is, the terrain features in that particular area, whether the hole is on top of the pipe or is on the bottom of the pipe, whether the pipe is going uphill or downhill at that moment.

4127.               All of those things will dictate, you know, just how much volume we could be talking about but the natural terrain features act as natural barriers to prevent all of the oil that would be contained in a particular section of pipe from coming out. But those are very, very precise calculations that were done as part of this analysis, again which was critical to inform strategic positioning of the shut-off valves to protect the system to the maximum, and also to inform our emergency response planning.

4128.               I'll just check with my colleagues to see if we have -- and go ahead, Mr. Siegel.

4129.               **MR. SIEGEL:** You can read more about those sections in Volume 4 of our application section 2.11.1 and also in Volume 4, Appendix 4-13.

4130.               **MR. VAN DER PUT:** Thank you, Mr. Siegel.

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4131.           **MS. FITZGERALD:** Our clock is running down so I just have one final question.
4132.           The National Academy of Sciences has shown that spills from pipelines carrying tar sands oil are different, they behave differently, so standard emergency response isn't going to be adequate. And they represent a greater risk to ecosystems, and they specifically recommend incorporation of that risk in risk assessments for projects.
4133.           What has the Applicant done to incorporate that recommendation of greater risk of damage to ecosystems caused by a spill?
4134.           **MR. VAN DER PUT:** As Mr. Lees mentioned earlier, we have in the context of the Energy East Project done considerable research of all of the available literature. And, you know, there are a number of reports that have been produced over the past several years looking specifically at the fate and behaviour of diluted bitumen.
4135.           I will mention a couple of things. One is the Energy East pipeline will transport all types of crude oil coming from Western Canada, so synthetic crude oil which is a light oil, conventional light oil, conventional heavy, as well as the diluted bitumen which is a heavy oil.
4136.           Fundamentally -- and I'll ask Mr. Lees to go back to some of the research that has been done as part of the ESA. But fundamentally what we find is that much more critical than the characteristics of the crude in terms of emergency response are the conditions when that emergency happens, conditions in terms of the environment, where that emergency is taking place, as well as the conditions, the weather conditions at the time that the emergency is taking place. That's a key conclusion of another report that was produced in late last year, which is a report by the Royal Society of Canada.
4137.           But just to conclude our response, I'll ask Mr. Lees to complement.
4138.           **MR. LEES:** Thank you, Mr. Van der Put.
4139.           So the results of the Royal Academy of Science -- sorry, the Royal Canadian Society -- show that the behaviour of oil, the type of oil does affect the behaviour but the amount of time taken to respond is what really affects the

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ultimate fate of that; of the oil and its effect on the environment.

4140.           The work that we did with the EHHRA with respect to our oil pipes -- we looked at three different types, and one of those was Western Canada Select which is a diluted bitumen. The results of that study showed that the oil did not behave any differently than other oils. It was slightly heavier but it still floated on the surface.

4141.           And so again, it goes back to the ability to be able to respond quickly, to be able to clean that up. And all oils will sink in the presence of turbulence and they'll come to the surface again. But all oils will also sink if they come in contact with sediments.

4142.           So we're quite confident that the findings that we have out of our EHHRA help inform the behaviour of oil that can be used in the emergency response process.

4143.           **MR. VAN DER PUT:** And the last thing I will just add to that to complete our answer is that our -- just given the fact that Mr. Lees just underlined, all types of oil could potentially sink under the right conditions. So for that reason, our emergency response planning does include the capability and the techniques to be able to recover sunken oil, and that is included in our application as well.

4144.           **THE CHAIRMAN:** Thank you, Panel.

4145.           Thank you, Ms. Fitzgerald and Ms. Hebb.

4146.           Ms. Fitzgerald, I'd like to encourage you to talk with Board counsel, Mr. Mark Watton, regarding Rule 20. He's available for any discussion you'd like on that matter.

4147.           **MS. FITZGERALD:** Thank you very much. I appreciate it.

4148.           **THE CHAIRMAN:** Thank you.

4149.           Well, at this time we'll take a 20-minute break and we'll return about five to 11:00.

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---Upon recessing at 9:37 a.m./L'audience est suspendue à 9h37

---Upon resuming at 9:56 p.m./L'audience est reprise à 9h56

**DONOVAN CASE: Resumed/Sous le même serment**

**STÉPHANE GRENON: Resumed/Sous le même serment**

**CHRISTIAN MATOSSIAN: Resumed/Sous le même serment**

**JOHN VAN DER PUT: Resumed/Sous le même serment**

**ALBERT LEES: Resumed/Sous le même serment**

**CARLOS PARDO: Resumed/Sous le même serment**

**DEREK SIEGEL: Resumed/Sous le même serment**

**ANDREW CARSON: Resumed/Sous le même serment**

4150. **THE CHAIRMAN:** Mr. Watton?

4151. **MR. WATTON:** I believe our next intervenor is Dr. Paula Tippet.

4152. No, you'll want to come to that way, yeah. There you go.

4153. And if I could just confirm, Dr. Tippet, that you already were sworn or affirmed on the way in when you registered?

4154. **DR. TIPPETT:** Pardon me?

4155. **MR. WATTON:** That you were sworn or affirmed when you registered on the way in?

4156. **DR. TIPPETT:** Yes.

4157. **MR. WATTON:** Okay, thank you.

4158. **THE CHAIRMAN:** Good morning. Could you just press that button?

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR DR. PAULA TIPPETT:**

4159. **DR. TIPPETT:** Oh, okay.

4160. In my presentation this morning, I have tried to follow the Panel Procedural Directives, including the 4A and the 5A. And I was going to begin by

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introducing myself, then explain my interest, state my views on whether the project is in the public interest and why, my concerns with the process, and then an overview of some issues that I plan to address in the hearings later. And I had planned to address some short questions to the Applicants, but I contacted an expert yesterday and he gave me some answers. So I think I'll leave them out. And that will give me more time for my conclusion so I meet the cut-off. Okay.

4161. My name is Dr. Paula Tippet. I believe the reason I may have been chosen by the NEB to be an intervenor when so many others in Canada who applied weren't, was because I have a BSC from McGill, an MD from Dalhousie, and a Master's of Public Health degree from the University of Illinois, and practised family medicine for nearly 30 years in east Saint John, which includes the areas of Red Head and Anthony's Cove, the proposed terminus of the pipeline tank farm and terminal.
4162. I was involved with efforts to reduce the Saint John air pollution that affected the health of my patients for many years. In 1990, I was an intervenor on behalf of the Concerned Citizens of Saint John before the National Energy Board, opposing the proposal by NB Power to increase summer power exports to the United States. This was at a time when fossil-fuel-related air pollutants in Saint John from the NB Power oil fired power plants were causing health and quality of life problems for the people of Saint John and especially for my patients.
4163. I am directly affected by the proposed pipeline, living in an area near the city's eastern water supply, the protected watershed areas, which would be surrounded on two sides by the proposed Energy East Pipeline. This pipeline would travel for miles through swampy areas with many lakes and streams that surround the city's water supply.
4164. I'm concerned about the effects on our water, especially in light of the recent 250,000 litre oil pipeline spill in Saskatchewan that knocked out the drinking water for Prince Albert, Milford, and North Battleford, and smaller communities and Indian reserves along the North Saskatchewan River.
4165. This pipeline accident also brought to my attention that my rustic cottage near the head Belleisle Bay would also be at risk from the Energy East Pipeline if it spilled into Belleisle Bay.
4166. Like all City of Saint John residents, I would also be adversely affected by the air pollution from the proposed project. As a doctor trained in



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- public health, I am concerned about the potential consequences of leaks, spills, and other accidents likely to occur with so many hazardous substances with different properties located in the same area of the city. I'd like to present my concerns for our health and safety to the Panel.
4167. I'm concerned that this project is not in the public interest because number one, over the past few years I've been reading scientific reports about emissions from the oil and gas industry and fossil fuels in general, including reports from the Intergovernmental Panel on Climate Change scientists. I've come to the conclusion that our actions over the next four years will mean the difference between health and prosperity and disaster for all of us. We must replace fossil fuels with renewable energy now and rebuild and reorganize our communities to withstand the climate changes that are already occurring.
4168. Under Procedural Directive 5, we are to discuss our views on the hearing process. I understand that the upstream and downstream effects of this project on climate change have been shifted to a third process stream conducted by Environment and Climate Change Canada, which we may or may not be able to make representation to. Because we are not discussing the upstream and downstream effects of this project on climate change in these hearings, including the likelihood that the expansion of the tar sands oil development facilitated by this project would tip the world over the 1.5 degrees Celsius causing irreversible climate disaster, it is my opinion that some of the information you will be given in these hearings may be incorrect. And the decisions you make based on this incorrect information will be faulty as well.
4169. I say this because we learned in our public health courses that everything designed and built by engineers depends on measurements in nature, maximum wind speed, once-in-a-100-year floods, et cetera. All these things have changed here in Saint John with climate change.
4170. Our coastal storms and coastal erosion have become more severe here. The survival of the site chosen for the terminal tank farm itself in Anthony's Cove near Red Head may be threatened by the severe climate change that will be caused by upstream and downstream emission effects of the Energy East Project itself.
4171. Climate change has already affected the area. Nearly all the houses on the ocean side along the section of the Red Head Road between the Rocky Corner and Ocean Drive near Anthony's Cove have already been lost to the accelerated

erosion.

4172.           The infrastructure at Mispick Park just beyond the proposed terminal site, has been destroyed by storms twice over the last few years. Severe storms and even a hurricane in New Brunswick in recent years have knocked down trees, washed out roads and bridges, repeatedly flooded parts of the city. Our governments already seem unable to cope with climate change damage.
4173.           They closed the Mispick Park this summer instead of repairing it, although they're now planning to make repairs and have it open by the fall. They were unable to prevent houses on both the east and west sides of the city from being lost to the accelerated coastal erosion, and they reduced to one lane the road on the west side that partly fell into the sea during a storm last winter. The provincial government delayed restoration of roads and bridges in other areas of the province destroyed by severe rain storms.
4174.           Now, that was my first concern. And the second one is the proposed pipeline route risks the drinking water of thousands of New Brunswickers and the survival of many of our birds, fish, animals, even insects like dragonflies and butterflies. Water is essential for all life.
4175.           I plan to assist the Panel in these hearings first by giving a broad overview of health research about fossil fuel emission health effects, particularly in relation to people of the Saint John area. I have experience in this area concerning my representations on air pollution and on internet.
4176.           And our emission -- recent emission's research of particular relevance to the proposed Energy's Pipeline tank farm and rain terminal and the evidence report, I hope to use this and other material collected together with my knowledge of the health problems of the people in the area, my background in public health with the emphasis on environmental and occupational health sciences and additional expert assistance to critique inadequacies of the application, including the Environmental and Human Health Risk Assessments in the hearings and proceedings to follow this introductory panel session.
4177.           In the 1970s when I studied public health in Chicago, it was obvious that air pollution affected people's health. Medical people had noted that asthma in children was becoming more severe. We were fortunate at that time to have Dr. Joel Schwartz who taught us toxicology and Dr. Alice Whittemore to present her recent ground-breaking research. She covered several blackboards very

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quickly with formulas and numbers like an episode of the TV show Big Bang Theory. Her new research ways helped to show that air pollution caused severe asthma attacks in children, resulting in increased hospitalizations for asthma.

4178. In the early 1980s, I assisted the Conservation Council of New Brunswick to conduct a number of ---

4179. **THE CHAIRMAN:** Excuse me, Ms. Tippet, our translators are having trouble following you; you're speaking very, very quickly. If you could just slow down a bit.

4180. **DR. TIPPETT:** Yes.

--- (Laughter/Rires)

4181. **DR. TIPPETT:** In the early 1980s, I assisted the Conservation Council of New Brunswick to conduct a number of studies on summer air pollution health and quality of life effects in Saint John. We found the percentage of children in east Saint John with asthma was six percent, twice as high as the three percent rate we expected. The increasing asthma rate was later confirmed in a survey.

4182. Teachers at the elementary schools in East Saint John became concerned by the increasing numbers of children in their classes requiring to keep -- required to keep asthma inhalers at their desk.

4183. This led members of the local home and school associations to establish the Clean Air Coalition to reduce Saint John air pollution. I believe Gordon Dalzell will be speaking on behalf of the Clean Air Coalition.

4184. Dr. Robert Beveridge and Dr. James Ducharme carried out studies at the Saint John Regional Hospital which showed increasing hospital emergency department visits and the increasing hospital admissions associated with increasing levels of pollutants in the Saint John air.

4185. Dr. Beveridge and others also noted excess deaths from respiratory causes in Saint John compared to Fredericton and Moncton, the other two cities in New Brunswick -- excess deaths from respiratory causes in Saint John compared to New Brunswick as a whole and excess deaths from respiratory causes in Saint John compared to Canada as a whole.

4186.           Although he made a move to Ontario, Dr. Beveridge along with others continued to study the health effects of air pollution on people in Canadian cities. In their studies they sometime still used data from the Saint John Regional Hospital. They and others have determined that air pollution causes or worsens many medical conditions, especially heart and lung diseases and cancer and causes many deaths.
4187.           They have also calculated the health cost and financial losses to us as a result of air pollution. Much of this air pollution is caused by fossil fuels, making them, transporting them, storing them and burning them.
4188.           About 10 years ago, I presented research done in Europe at our family medicine rounds at the Saint John Regional Hospital, showing how components of fossil fuel emissions affected children's immune systems. Since then, American researchers have found that asthma itself in both children and adults is caused by components of fossil fuel related air pollution.
4189.           Recent large studies have focused on fine particulates, particulate matter with diameter less than or equal to 2.5 microns or PM<sub>2.5</sub>. Researchers are now able to calculate the number of excess deaths in the population for each 10 microgram per cubic centimetre -- for cubic metre increase in PM 2.5.
4190.           A recent study of the people of New England over 65 years of age shows excess deaths even at levels of particulate air pollution considered safe by the EPA and the New Brunswick and Canadian governments. In fact, because of the cancer-causing substances in fossil fuel derived particulates, there's probably no safe level of fossil fuel derived fine particulates. So zero is the number you want.
4191.           New developments for detection and measurement of hazardous air pollutants as well as other advanced technologies and new techniques enabled the BEE-TEX study in February 2015. This study showed unexpectedly high levels of benzene and other air toxics coming from oil and gas pipelines in the Houston ship channel area of Texas. Emissions data from pipelines in Houston carrying bitumen and heavy crude oil should be relevant for predicting emissions from the proposed Energy East pipelines in Saint John.
4192.           A preview of the study was published by Nature online May 25<sup>th</sup>, 2016. This study measured the secondary organic aerosols in the air over the

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- Canadian oil sands and suggests that the production of them more viscous crude oils could be a large source of secondary organic aerosols in many production and refining regions worldwide, and that such production should be considered when assessing the environmental impacts of current and planned bitumen and heavy oil extraction projects globally.
4193.               Secondary organic aerosol formation is an important component of atmosphere particulate matter that affects air quality and climate, and would affect Saint John if tar sands oil and other heavy oils are transferred to Saint John via the Energy East pipeline for processing. The EPA and others have measured fugitive emissions from oil and gas tank farms and noted the actual emissions to be higher than were predicted or estimated by the industry.
4194.               Now, I'm leaving out my questions on the -- on the emissions and I was just going to summarize some of my other concerns. Okay.
4195.               A few years ago when citizens of Saint John were developing Plan Saint John, PlanSJ, the municipal plan to guide the city for the next 25 years, they were virtually unanimous that there was to be no more dirty industry for Saint John. Saint John will be a green city with clean sustainable industries, industries for the future that will contribute to a high quality of life. Saint John would develop more housing and shops in its downtown core and make the city more walkable and livable, a magnet for newcomers.
4196.               They wanted to reduce the city's ecological footprint, conserve energy, reduce energy use and stop climate change. They wanted residential neighborhoods that were healthy, unique and inclusive providing a diverse range of housing and enabling people of any income level to live in a neighborhood of their choosing where neighbours take care of each other and they're proud of their community. Neighbourhoods just like Red Head and Anthony's Cove. They wanted to protect Saint John's leisure and recreational activities, natural beauty, views and magnificent beaches like those in Red Head and Anthony's Cove.
4197.               How could the prize-winning dream of a clean green city turn into this nightmare of a dirty old pipeline with 22 giant oil tanks in the middle of a residential neighborhood? Only the Panel can save the dreams of the people of Saint John, and perhaps the future of the world.
4198.               That's the end of my remarks. Thank you.

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4199.           **THE CHAIRMAN:** Thank you very much, Dr. Tippet.

4200.           Mr. Yates?

4201.           **MR. YATES:** Thank you, Mr. Chairman. I'd just offer the observation that Dr. Tippet made reference to a number of studies in conveying to you the issues that she was concerned with.

4202.           **THE CHAIRMAN:** Sorry, sir, we can hardly ---

4203.           **MR. YATES:** I'm not sure why this red light keeps going on and off here, but ---

4204.           What I was trying to say was that Dr. Tippet had made reference to a number of studies in conveying to you the issues which are of concern to her, and the observation I would make is that for the results of those studies or the studies themselves to be considered in your deliberations and the process, that they would have to be made part of the 2017 evidentiary process.

4205.           **THE CHAIRMAN:** Thank you, Mr. Yates. We take note of your comments.

4206.           Mr. Watton?

4207.           **MR. WATTON:** Our final presenter for this morning is intervenor Mr. Gary Prosser.

4208.           Mr. Prosser, if I could just confirm that you were either sworn or affirmed on the way in when you registered? Thank you very much.

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR MR. GARRY PROSSER:**

4209.           **MR. PROSSER:** Good morning. My name is Gary Prosser. I live in the host community known as Anthony's Cove. This project will be across the street from my home.

4210.           Before I start I'd like to do a point of clarification. The map on the screen that we've been forced to look at all morning -- it's showing the tank

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terminal to our right of the marine terminal. But yet when the introductory remarks were made, and based on the information I have, that tank farm would be according to the map above the marine terminal and closer to Anthony's Cove Road. So if I'm correct in what I'm saying I'd like to have that map removed before the end of the day and a correct map shown. If I'm wrong, I will apologize.

4211. Now, something that has just come up that is of particular concern to me is any new lateral pipelines that might have to be installed. They have to be registered. My understanding is the pipeline is coming directly to the tank farm and from there a lateral to Canaport, and then Canaport would have their line going to the refinery.
4212. I'd like to know if this is going to be the existing line that's there now? And the reason I ask that, Irving's existing line runs through my property. If it's going to be a new line that would have to be registered. And I will say up front, with the Irvings and their group of companies I've had no problem whatsoever. They're part of the community and they understand it's important.
4213. My questions today are leading more to the tank farm and mitigation that's going to be employed. What I'd like to do is -- I believe you have my comments and questions -- I'd like to read into the record my three pages of comments. And then as time might permit, if TransCanada would like to address any of my questions that would be fine.
4214. But it would be unrealistic that you could answer all of them adequately so I would ask TransCanada if they would put all of the answers to my questions in writing and submit that to me by September 30<sup>th</sup> and a copy given to the Energy Board to form part of this process.
4215. **MR. WATTON:** If I could just interject for a moment? Again, I'll leave it to you to pose whichever questions you wish to pose in your time today. There are future steps in the hearing process for written questions to be asked of evidence so this may apply to other intervenors as well who aren't able to ask all the questions they wish to today. There will be more formal opportunities to do that in writing, and I believe that's explained in the hearing order.
4216. So I think the questions you don't get to today or that they may not be able to address today I would suggest would be better dealt with in that process.

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4217.           **MR. PROSSER:** I understand clearly the point that you're making. I consider today to be Discovery. You'll find out in my presentation in a moment due to lack of disclosure I need some answers so I can prepare for future sessions with this Panel. So I do understand what you're saying but if you could appreciate my point of view as well.
4218.           My request to the National Energy Board -- if you approve this project it should be done with the term and condition that the tank farm be moved away from all homes in Red Head. This can be done on the eastern end past Hewitt Road on Bayside Drive, and would remove much of the opposition to this project.
4219.           Further, it would reduce their overall cost due to the mitigation they will need to employ having these tanks adjacent to homes.
4220.           The excuse we're told that TransCanada has stated, "This is the land we were given." It appears TransCanada has made a financial decision without fully exploring alternatives that would be more socially acceptable.
4221.           Local resident concerns have been echoed by Canaport LNG in the media on April 28<sup>th</sup> of this year in part stating matters of safety, security, and contingency planning during construction and operation of the project including emergency response planning and third-party damage protection are primary concerns.
4222.           TransCanada has displayed a total lack of regard and concern for local residents by placing the tank farm so close to our homes. This project, I'm told, is worth billions of dollars, and to allow intervenors 10 minutes to do a presentation presents a breach of the duty of fairness. This is our only opportunity to ask questions and get detailed answers so we can properly prepare for future hearings.
4223.           While you're tasked to make a decision in the best interest of Canada, my question to you is what price do I have to pay? My quality of life, enjoyment of property, health and safety, property values, and sense of community will be dramatically affected by this project.
4224.           TransCanada has been told that should they proceed with the tank farm I do not want to live in this area. Further, they were told "Don't buy me out, replace what I have; a home for a home." If a labour camp is to be implemented this will negate any positive impact to our host city and businesses in and around the surrounding area.



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4225. My need to register as an intervenor is a direct result of a lack of disclosure by TransCanada. Their open houses and private one-on-one meetings served only to satisfy the Energy Board that residents were given every opportunity for questions and answers.
4226. TransCanada did not provide any answers at the three open houses that I attended nor at the private meeting they requested in my home. TransCanada has spent thousands of dollars to meet with residents one-on-one instead of hosting a community meeting. This is their effort to not providing disclosure but giving the appearance the community is involved in their project.
4227. You'll find the same opinion from most if not all of the residents on Anthony's Cove Road and our general area.
4228. At the open houses and in my home they could or would not disclose the exact location of their tank farm. At an open house dedicated to emergency response I asked to see their emergency response plan for Anthony's Cove and was told, "We're still working on it."
4229. What was the purpose of this open house if they couldn't or wouldn't answer that basic question and premise of this open house?
4230. The Energy Board should demand that TransCanada hold a community meeting for Anthony's Cove Road homeowners plus affected homeowners on Red Head Road.
4231. Media coverage has been very biased. They have provided very little coverage to those that have concerns on this project. Groups and government, all three levels, have been covered in depth and all have a financial interest in this project proceeding.
4232. For the record, I asked that TransCanada declare Anthony's Cove as a host community and they refused. I asked that TransCanada host a meeting for Anthony's Cove and they refused. I asked that TransCanada agree to meet with about seven homeowners on Anthony's Cove Road to deal with the tank farm and they refused.
4233. April 18, 2014, I emailed Pamela McKay, TransCanada's Community Relations person, with a number of questions and concerns. I also mentioned they

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- should form a liaison committee and I would like to become a member. Three days later, April 21, 2014, her reply in part stated, "I will get back in touch with you in the next few weeks to follow up on your request." No response has been received to this day.
4234. June 20th, 2014, Pamela called to advise, "It looks like they'll be proceeding with the liaison committee." I again asked to be on that committee as well as Gordon Dalzell.
4235. June 24th, 2014, at a meeting in my home with Pamela, the project manager, I was told, of TransCanada and an Irving Oil representative, Pamela again reconfirmed their intent to proceed with the liaison committee and I again stated my desire to be on that committee along with Gordon Dalzell. I was never asked to serve and Gordon Dalzell has asked a number of times to be on the liaison committee and he has not been asked.
4236. The project manager, in my home, when asked why the tank farm couldn't be located off Bayside Drive where there's no homes, his reply was, "That's all wetlands." Hard to understand his comment when we have gravel pits in this area, it was the proposed location of our new Irving Oil refinery, and it is the extension of Bayside Drive running through this area as well. It shows either arrogance on his part or of a lack of investigating other locations.
4237. At an open house after the liaison committee was formed, I again mentioned to Pamela that I wanted to be on this committee. No reply was ever received. I did not ask for a meeting in my home. It was done at their -- TransCanada's -- request. My concerns presented at this meeting have never been responded to.
4238. The liaison committee was formed, and to this date, I do not know who was on this committee or the procedure to contact them with a question. I've never received a copy of their minutes and told they are approved months after a meeting date. No guests are allowed at their meetings. We've had people escorted out. Due to Pamela McKay's and their project manager's condescending attitude, neither are welcome back on my property.
4239. Based on TransCanada's lack of cooperation and disclosure, I have a great concern on how they will deal with our issues for construction and operation. The media reports in March 2015, the National Energy Board was investigating new concerns on their pipeline safety practices. Further, media

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reports that in part, stated in 2012:

*"Other safety concerns were brought forward. The National Energy Board investigated and in their audited findings, highlighted some lapses in four of the nine areas that were examined." (As read)*

4240. I have no comfort level with TransCanada. The Irvings, I'll say it once again, I've had -- always had very best cooperation and I -- and any reason I'm standing here today has got no bearing on the Irvings. It's totally TransCanada, and I have some grave concerns.

4241. That concludes my comments. If there's time remaining and if TransCanada would like to try and answer a few of those for me, I'll turn it over.

4242. **THE CHAIRMAN:** Thank you, Mr. Prosser.

4243. I see that there is some time remaining, if TransCanada could answer some of those questions?

4244. **MR. VAN DER PUT:** Mr. Prosser, did you want to -- I don't have the questions in front of me right now. Did you want to just start down your list or ---

4245. **MR. PROSSER:** I can give you a copy of the questions now. I can email you a copy. They were submitted and I'm disappointed you don't have them here today, but that's fine. The purpose today was not to try and have you answer them, so I --when I'm done here, I can certainly give you a copy.

4246. **MR. VAN DER PUT:** We do have a copy. I just didn't happen to have them in front of me. I expected that you would pose the questions that you wanted us to answer, so I'm happy to answer your questions.

4247. **MR. WATTON:** If I could just interject for a moment, Mr. Prosser. It's just a matter of we would have to have the questions on the record at some stage or other, and so if you want to use the time to ask some of them, that's entirely up to you.

4248. The submission of written questions for written response will happen at a later stage in the hearing, but if you'd like to use this opportunity in the time

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that you have to ask some of the ones you've prepared -- we just need it on the record so that all of the other parties who are part of the process can be aware of the questions being asked and the answers being provided.

4249.           **MR. PROSSER:** Thank you. So just what I'll ask, once again -- you have my questions. Would you be willing to answer those in writing and sent to me?

4250.           **MR. VAN DER PUT:** I believe that ---

4251.           **MR. YATES:** Excuse me, Mr. Chairman, I think the response to that question was already provided by Mr. Watton, that the -- these are detailed questions that are a very valid -- entirely valid part of the detail process, but I would observe that they're not the kinds of questions that are needed to understand the navigation of the application.

4252.           **MR. PROSSER:** That having been said, is that this hearing is not providing what I'm looking for and the Energy Board should be looking for. There are future hearings. There are questions. We're going to be getting funding. We need to know the answers before we appear at the next hearing and to say that my questions have been answered, I don't think that that's entirely correct. So I think I know where we're standing. My opinion hasn't changed, and I'll conclude. Thank you.

4253.           **THE CHAIRMAN:** Thank you.

4254.           **MR. WATTON:** If I could interject again with a matter of clarification that you may find helpful for other intervenors, the written information requests, the written questions to the proponent, do occur in the hearing order prior to the intervenors' submission of their evidence. So it's presumed in the order of the proceedings that people will have the opportunity to answer questions, to receive responses to those questions prior to their submissions.

4255.           And if you'll check the hearing order, actually, the first round of information requests is scheduled for January of 2017 and the date for responses would be March -- sorry, February 13th, I believe -- February 7th, and then the submission of evidence is not until April 25th.

4256.           So I'm hoping that that will at least provide you some comfort, in

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terms of your ability to ask questions, receive responses, consider those responses in the preparation of your group's evidence.

4257.           **THE CHAIRMAN:** Thank you, Mr. Watton.

4258.           **MR. VAN DER PUT:** Mr. Chairman, if I might, there were a couple of points that Mr. Prosser raised in his comments that I'd like to respond to very, very briefly, if I could?

4259.           **THE CHAIRMAN:** Briefly, certainly.

4260.           **MR. VAN DER PUT:** One is, Mr. Prosser talked about the pipeline between the tank terminal and Irving's oil storage facility. That pipeline is, in fact, part of the Energy East Project scope; however, the pipeline leading from the Irving Oil storage facility to their refinery is not part of the scope. That was one item I just wanted to clarify.

4261.           Second item, Mr. Prosser made allusion to a National Energy Board audit of TransCanada's Integrity Management Program in 2012. I just wanted to highlight that the findings of that audit were that there were -- importantly were that there were no immediate threats to public safety and the environment stemming from the allegations that sparked the advancement of that audit.

4262.           And then secondly, the findings of the audit were that TransCanada's processes had identified the majority and most significant of its hazards and risks. That was the second thing.

4263.           And then the last thing that I did want to indicate is that as part of Energy East's extensive stakeholder consultation process, Mr. Prosser alluded to many occasions where we have had an opportunity to provide him information both at open houses as well as one-on-one meetings with him. And we remain very willing to continue to have those discussions with him and could use those opportunities to help him with some of his questions that he has.

4264.           **THE CHAIRMAN:** Thank you, Mr. Van der Put.

4265.           As you know, the Board does consider very important engagement and communication with directly affected individuals so I'm glad to hear that you will continue along that road.

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4266. Mr. Yates?

4267. **MR. YATES:** Yes, Mr. Chairman.

4268. Mr. Prosser began his presentation today with a request that the map be removed, the map be taken down because in his view it doesn't accurately depict the relative location of the marine terminal and the tank terminal.

4269. And the position of the Applicants on that would be that it would not be appropriate to take the map down. The map is on a very large scale, as you can see, and it does not attempt to show the relative positions of the tank terminal and the marine terminal. Those are shown accurately in the presentation, at slide 5 of the presentation, which is an aerial photograph of the Saint John area including the marine terminal -- excuse me -- and the tank terminal. And that is the evidence of the Applicants as to the location of those two terminals.

4270. **THE CHAIRMAN:** Thank you, Mr. Yates, for clarifying where the correct information occurs in the presentation.

4271. I see it's 11:35 at the moment, and unless there's -- just one moment.

4272. Just to confirm, that was in the presentation page 5?

4273. **MR. YATES:** Slide number 5.

4274. **THE CHAIRMAN:** Slide number 5. Thank you very much.

4275. At this time we'll break for lunch, and we will return at 1:00 p.m.

--- Upon recessing at 11:37 a.m./L'audience est suspendue à 11h37

--- Upon resuming at 1:02 p.m./L'audience est reprise à 13h02

4276. **THE CHAIRMAN:** Welcome back everyone to the afternoon session here in Saint John.

4277. Are there any preliminary matters?

4278. **MR. WATTON:** I have just one. We've had a discussion in light of the schedule. You were going to propose that the Panel perhaps convene tomorrow and Tuesday.

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4279. **MS. DUTCHER:** And Wednesday.

4280. **MR. WATTON:** Sorry, tomorrow and Wednesday starting at 8:30 instead of 9:00 just in the interest of time because we do have a growing list for Wednesday and just to make sure that we get to fit everybody in.

4281. **THE CHAIRMAN:** Sorry, that's because of the additional people that want to be heard?

4282. **MR. WATTON:** There's a longer list of presenters for both Tuesday and Wednesday than we have for today so we thought we would just let everyone know that we're going to plan to convene tomorrow at 8:30.

4283. **THE CHAIRMAN:** Okay, we'll do that. So tomorrow and Wednesday we'll start the hearings at 8:30 in the morning. And I would ask our regulatory officer if possible to contact by email or by whatever contact information in case somebody that is expecting to be here at 9:00 tomorrow morning is aware that we're starting at 8:30.

**DONOVAN CASE: Resumed/Sous le même serment**

**STÉPHANE GRENON: Resumed/Sous le même serment**

**CHRISTIAN MATOSSIAN: Resumed/Sous le même serment**

**JOHN VAN DER PUT: Resumed/Sous le même serment**

**ALBERT LEES: Resumed/Sous le même serment**

**CARLOS PARDO: Resumed/Sous le même serment**

**DEREK SIEGEL: Resumed/Sous le même serment**

**ANDREW CARSON: Resumed/Sous le même serment**

4284. **MR. WATTON:** So I believe our first intervenor for this afternoon is Nature New Brunswick.

4285. And, Ms. Dietz, if I could just confirm that you have either sworn or affirmed on your way in when you registered?

4286. **MS. DIETZ:** Sorry?

4287. **MR. WATTON:** You were sworn or -- okay, thank you.

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4288.               **THE CHAIRMAN:** If you could press your button.

4289.               **MS. DIETZ :** Okay, you're not quite as modern as our town councils were; it happens automatically.

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR NATURE NB:**

4290.               **MS. DIETZ:** My name is Sabine Dietz; I'm Co-President of Nature New Brunswick. And I'd like to introduce Vanessa Roy-McDougall, our Executive Director, who will give the presentation this afternoon to you. And Lisa Mitchell, our legal counsel.

4291.               Okay, Vanessa?

4292.               **MS. ROY-McDOUGALL:** Good morning, Panel, representatives of the Applicant. My name is Vanessa Roy-McDougall and I'm the Executive Director of Nature NB.

4293.               I'm here today to share our organization's concerns around the risk to wildlife species and their habitat as a result of the Energy East pipeline.

4294.               Nature NB takes no position in support or against the project. Our focus will be providing pertinent information to the Board and ensuring the Proponent's application and evidence is accurate and sufficient to minimize risk to wildlife and its habitat.

4295.               Nature NB is a provincial charitable organization whose mandate is to celebrate, conserve, and protect New Brunswick's natural heritage through education, networking, and collaboration.

4296.               Founded in 1972 as the New Brunswick Federation of Naturalists, the organization is presently comprised of a dozen naturalists clubs and hundreds of members across the province. Our network of supporters include scientists and expert naturalists who provide us with expertise and support in our mission. Our focus is on encouraging a better understanding of the natural environment and awakening concern of our natural province's natural heritage.

4297.               Nature NB recognizes the importance of action to preserve and maintain our natural heritage.



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4298.           **THE CHAIRMAN:** I'm sorry, our translators are really having a lot of trouble keeping up with you. If you could just slow it down a bit?
4299.           **MS. ROY-McDOUGALL:** Sorry.
4300.           Nature NB recognizes the importance of actions to preserve and maintain that natural heritage. We achieve both through various programs for youth and adults and through our conservation programs, including our species at risk program which has been monitoring piping plover for over 25 years.
4301.           Before I highlight Nature NB's main areas of concerns I would like to voice our support for Nature Canada's concern regarding the 2017 hearing process. Specifically, Nature NB is opposed to the disproportionate limits on oral cross-examination.
4302.           I would like now to briefly voice our main areas of concern regarding this project. Nature NB will focus on issues specific to the migratory birds and others species at risk and their habitat that will be affected by this project.
4303.           The Saint John area and the Bay of Fundy are of critical importance for the Atlantic flyway which is used by migratory birds year round, but especially in the spring and the fall as they travel between their breeding and overing winter grounds.
4304.           More than 200 species and millions of individual birds use this flyway and many of them use of the Bay of Fundy as an important feeding ground in order to rest and refuel during this long journey.
4305.           While the entire Bay of Fundy is critical for sea and songbird migration, several key areas have been scientifically identified as important bird areas, also known as "IBAs" through an international and national initiative by Birdlife International in partnership with Bird Studies Canada.
4306.           These sites were not only designated because of the critical habitat and food that they provide but also host a significant proportion of certain species' global populations.
4307.           The mouth of the Bay of Fundy acts as a giant funnel for flocks of water fowl and other sea birds following the Atlantic Coast moving north in early

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- spring to northern nesting areas. The majority of the estimated eastern North American population of black and surf scoters have been recorded at the Point Lepreau/Maces Bay IBA during their annual migration, as well as a significant number of other water birds.
4308.           The Machias Seas Island IBA south of Grand Manan is a major nesting site in summer for eider ducks, Leach's storm petrels, Atlantic puffins, razorbills, murres, and terns.
4309.           From June to October the Bay of Fundy is visited by tens of thousands of great and sooty shearwaters and Wilson storm petrels, which travel from the other side of the equator during their winter to avail themselves of the abundant food available in the tidal upwellings in the lower portions of the Bay.
4310.           Nearly 30 species of shorebirds migrate through the Bay in late summer and early fall, and annually the Bay of Fundy supports between 1.1 and 2.2 million migrant semipalmated sandpipers, at least 70 percent of the world's population of this species during their southward migration.
4311.           During the winter a significant portion of the world's razorbill, a puffin relative, comes to the Bay to take advantage of rich feeding opportunities. And the majority of Canada's wintering purple sandpiper migrate here to forage in the extensive intertidal zone kept frost-free by the constant changing of the mighty Fundy tides.
4312.           This high density of species in a small area in all four seasons significantly increases the risk to migrating bird populations as a whole in the event of a spill. Given the number of birds and species at risk, such as the northern right whale that frequent the area, Nature NB is concerned about how the increased tanker traffic and the large amount of oil in storage will lead to an increased risk of oil spills in the area which would be devastating to the birds and marine species and their critical habitat, and in some cases devastating to a large percentage of the global population of a species if it coincides with migration.
4313.           Based on our review of the application to this point, Nature NB has seven main areas of concern. Number one, the ability to respond to and clean up oil spills in the Bay of Fundy. Number two, the risk of oil spills from the Canaport Terminal and oil tankers in the Bay of Fundy. Number three, the behaviour and fate of different oil types if spilled into the Bay of Fundy. Number four, the impact of oil spill in the Bay of Fundy on wildlife and habitat.

4314. Five, the impact of increased tanker traffic in the Bay of Fundy on marine mammals and migratory birds, particularly species at risk. Six, the cumulative impacts of oil spills and other anthropogenic stresses on the Bay of Fundy ecosystems over the life of the project. And seven, the adaptive management techniques to respond to environmental changes.
4315. Now I will conclude my presentation with the four high-level questions that Nature NB submitted in advance of this Panel's sessions. I will pause after each of those questions to allow the Applicant to respond.
4316. The first question is how do the proponents intend to ensure protection of species and their habitat if an oil spill occurs?
4317. **MR. VAN DER PUT:** The principal way that Energy East will ensure protection of species and their habitat is by ensuring that there isn't a spill in the first place. Now the way TransCanada designs, builds, operates and maintains its pipelines and facilities, as a result of that the reality is that spills are an extremely rare occurrence. There's a statistic that's demonstrative in the ---
4318. **MS. MITCHELL:** Excuse me, sorry. I'm sorry to interrupt, I was just wondering if you could focus on the question as opposed to the fact that there would never be a spill.
4319. **MR. VAN DER PUT:** I will get to that.
4320. **MS. MITCHELL:** Okay, it's just that she has a very limited amount of time and has four questions that she'd like to ask.
4321. **MR. VAN DER PUT:** I will get to that very quickly; we will answer all of your questions.
4322. I just wanted to mention there's a demonstrative statistic for the Canadian Energy Pipeline Association for large transmission oil and gas pipelines in Canada. Now the reality is that the occurrence of spills of greater than 50 barrels on any one kilometre along a pipeline is like one in 20,000 years.
4323. Now having said that, the question as you mention is if -- in the unlikely event that an oil spill occurs, two things. First, is to take stock of and understand the -- and not only the species but its habitat, and for that I'm going to

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turn to Mr. Lees in terms of the assessment that was done in the ESA. And then secondly, is to take that into -- that information into consideration in emergency response planning so that that protection of level of protection can be achieved in the event -- in the unlikely event of an incident, and for that I'll go to Mr. Grenon.

4324.               So Mr. Lees, please.

4325.               **MR. LEES:** Thank you, Mr. Van der Put.

4326.               There's -- I see two components of your -- of your question 1. One is related to spills on land and affecting potential wildlife and wildlife habitat in species at risk. And the other one is associated with spills -- potential spills in the ---

4327.               **THE CHAIRMAN:** Excuse me, Mr. Lees, could you speak directly into the microphone.

4328.               **MR. LEES:** Sorry, it went off on me again, sorry.

4329.               **THE CHAIRMAN:** Thank you.

4330.               **MR. LEES:** I'll keep my hand of it.

4331.               So there's two aspects to your question, one is the terrestrial environment and how -- how that would -- how we gather information and how that information is used in emergency response planning. And the second is the work that we've done on the Bay of Fundy with respect to hypothetical spills as a result of increased marine shipping.

4332.               The first, we completed an environmental assessment that covered effects on wildlife and wildlife habitat. That information and the mitigation measures that came out of that assessment are captured in the environmental protection plans on environmental alignment sheets, and those are identified as sensitive areas. And that information can be used in the environmental -- in the emergency response process.

4333.               In the Bay of Fundy we completed a ecological and human health risk assessment that involved two aspects, the stochastic modeling as well as the deterministic modeling. And the stochastic modeling allows us to predict where oil will go in the unlikely event of a spill, and that information can be used in the

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emergency response planning for a spill as a result of shipping.

4334.           **MR. VAN DER PUT:** Thank you, Mr. Lees, and Mr. Grenon ---

4335.           **MS. DIETZ:** Excuse me, just a moment, because it reflects on what Mr. Lees just said. I think our question was in terms of -- in the Bay of Fundy I was more -- we were more interested in what kind of bird work you've done. And from our understanding with all of 25 years or 20 years of research that has gone on in the Bay of Fundy we still don't have a clear picture of the species, the number of species and the kinds of species that frequent the Bay at any given time of the year.

4336.           So would you say that you're pretty comfortable that you know it, while our scientists in New Brunswick and Nova Scotia don't really quite understand the Bay yet?

4337.           **MR. LEES:** Our assessment was focused on the habitat or waterfowl species rather than the -- rather than in the individual species. So protecting the habitat and identifying where those habitats are helps us understand if there's an event of a oil spill where that oil would go and how that would affect bird habitat.

4338.           **MR. VAN DER PUT:** Thank you, Mr. Lees.

4339.           Monsieur Grenon, in terms of emergency response planning.

4340.           **MR. GRENON:** Thank you, Mr. Van der Put.

4341.           On the emergency response side what we are doing while we're going to develop the Emergency Response Plan for -- along the pipeline, at the marine terminal, we're going to use the information collected by our environmental colleagues to -- and also from traditional knowledge studies with the Aboriginal group to draft what we call "Sensitivity Maps" all along the pipeline.

4342.           So basically those maps will show exact location of those critical habitats and where we find sensitivities such as marshes, water intakes, et cetera. We're going to use that information; we're going to validate that with the local first responders because our plan will be developed in close collaboration with local first responders. So we will have a local input to validate that information to make sure that we catch all the sensitivities that are in a specific area.

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4343. For the -- along the pipeline we're going to use mainly our information from our colleagues for the Bay of Fundy. Environment Canada has a lot of information; they have prepared sensitivity maps for the Bay of Fundy and we will use that information as well when we plan for the Bay of Fundy area. And with our colleagues from Alert, they're already using that information to build emergency response plans for the Bay of Fundy.

4344. What those sensitivity maps allow us to do is to develop specific response tactics to protect those sensitivities. So once we have that information we can go back and look at the response strategies and tactics that we can use to protect those areas to make sure that wildlife and that critical habitat is protected during an emergency.

4345. The other component of our Emergency Response Plan that is of interest for wildlife is that we're going to have a specific Wildlife Protection Plan that will be prepared for all areas along the pipeline. And that plan will be done in collaboration with specialists -- specialized firm for wildlife protection, but also from -- with ecological organization. And that plan will look at components such as hazing, protecting, making sure that no wildlife comes in contact with oil if there was a spill, looking at recovery of oiled wildlife if there's any, and looking also at the rehabilitation of those individual that would be capture and eventually cleaned up and recover.

4346. And all of this will be included in our Training and Exercise Plan as well. So all those aspects we're going to train our emergency responders and the local responders as well on those components, and we're going to exercise those critical aspects in our exercise.

4347. **MS. ROY-McDOUGALL:** Okay, I'm going to go on to my next question since I have three more. And keeping in mind that I have six minutes left.

4348. The next question is what measures will the Proponent implement to minimize the impact of increased tanker traffic on marine mammals and migratory birds? So I'm specifically talking about the Bay of Fundy and not necessarily the terrestrial pipeline.

4349. **MR. VAN DER PUT:** While the scope of Energy East does not include the operation of the vessels -- vessels are owned and operated by third parties -- the scope of the Environmental and Socioeconomic Assessment did look

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at effects of the -- of ship traffic, and so I'll ask Mr. Lees to speak to this specific aspect of it.

4350. **MR. LEES:** Thank you, Mr. Van der Put.

4351. The effects on marine mammals and marine birds was assessed as part of the marine shipping. For marine mammals -- the primary method of protecting marine mammals is for the vessels that are associated with the project to follow the designated shipping lanes. And those shipping lanes were moved in 2003 to avoid the critical habitat for high concentration areas of the right whale.

4352. As well, the mitigation we propose is for tankers to follow the Notice to Mariners that's been issued by Transport Canada for the shipping lanes. And that includes a speed reduction between June and December of each year and to post a lookout. And that speed reduction is from whatever speed they're going to down to 10 knots. And if they get within 450 metres of a whale, they need to slow to seven knots.

4353. From a marine bird perspective, the shipping lanes pretty much avoid all the IBAs, but we've included additional mitigation to deal with the effects of lighting on the ships and for those ships to have lighting that's only absolutely necessary for safe navigation.

4354. **MS. ROY-McDOUGALL:** Thank you. My third question is, what research have the Proponents conducted, commissioned, or relied on to assess the cumulative impacts of oil spills on ecosystems in the Bay of Fundy?

4355. **MR. VAN DER PUT:** Mr. Lees, please?

4356. **MR. LEES:** Thank you, Mr. Van der Put.

4357. So a cumulative effects assessment -- we wouldn't do a cumulative effects assessment on an oil spill because it's a highly unlikely event. And to do a cumulative effects assessment you need to have a past project to consider plus future projects. So the cumulative effects -- the assessment of oil spills on the marine ecosystem is really what was done as part of the EHHRA and you wouldn't do a cumulative effects assessment when you do the assessment of the actual oil spill itself.

4358. **MS. ROY-McDOUGALL:** Okay. My final question is, how will the

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Proponents maintain awareness and modify plans and operations to respond to long-term trends and occasional sudden changes in the location and abundance of wildlife?

4359.           **MR. VAN DER PUT:** Mr. Lees again. I believe that's part of the environmental protection plan, if I'm not mistaken.

4360.           **MR. LEES:** Thank you.

4361.           The environmental protection plans provide a way of identifying where there are key resources. But part of the operating processes that would be followed would be to rely on updates from either special interest groups or from regulatory agencies that would provide new information on species distribution or abundance.

4362.           So it's really a consultation process understanding what changes are occurring if species change their status from abundant to threatened. For example, is there a need to change the way the pipeline is being operated or the way the marine terminal is being operated?

4363.           **MS. ROY-McDOUGALL:** Thank you for your time and we look forward to -- well, we heard your responses. Thank you.

4364.           **THE CHAIRMAN:** I'd like to thank Nature NB's contribution here today.

4365.           Mr. Watton?

4366.           **MR. WATTON:** Just a small point. Folks, you may note that there's a slight change in how the microphones work this afternoon. We had some problem with people getting cut off earlier. So it's now possible for more than one microphone to be activated at once. But if you're finished speaking or finished your intervention, please turn it off. It kind of avoids the echo that you might hear from the speaker. So if you see one of us waving or pointing at your microphone, it's probably because the light is on when you may want to turn it off. Thank you.

4367.           Next up we have two intervenors, the Metal Working Association of New Brunswick and the Canadian Manufacturers and Exporters New Brunswick



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Division. And I understand that Mr. Joel Richardson is here on behalf of both of those organizations who both have standing as intervenors in the proceeding. And maybe in your introductory remarks you may want to describe how you intend to split your presentation between one organization and the other, if you could. Thanks.

4368. And can I confirm that you were sworn or affirmed on the way in?

4369. **MR. RICHARDSON:** Yes, I was.

4370. **MR. WATTON:** Okay, thank you.

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR METAL  
WORKING ASSOCIATION OF NEW BRUNSWICK (SPARK) AND CANADIAN  
MANUFACTURERS AND EXPORTERS NEW BRUNSWICK DIVISION (CME):**

4371. **MR. RICHARDSON:** Thank you.

4372. I do have a slide presentation as well. If the staff could pull that up that would be great. I'm going to be utilizing some visual aids this afternoon if you don't mind.

4373. **THE CHAIRMAN:** Sorry, has that been given to ---

4374. **MR. RICHARDSON:** It has been filed, yes.

4375. **THE CHAIRMAN:** Thank you.

4376. **MR. RICHARDSON:** Would it be possible for me to use the podium?

4377. **THE CHAIRMAN:** Yeah.

4378. **MR. RICHARDSON:** Thank you. And am I able to advance the slides here on my own? No? Okay. So I'll just give you a signal perhaps to yourself, if you don't mind. Thank you.

4379. My name is Joel Richardson. I'm the Vice President of the Canadian Manufacturers and Exporters New Brunswick and Prince Edward Island Division. I represent the manufacturing and exporting community here in the Province of

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New Brunswick and also in Prince Edward Island.

4380. I also represent the Metal Working Association of New Brunswick, which is known as “SPARK”. We’ve recently gone through a rebranding. And I represent the manufacturing firms that specialize in metal fabrication, welding shops, custom metal work around the province.

4381. I’m joined today by representation here supporting me, three of our provincial business owners. Mr. Terry Malley is president and CEO of Malley Industries in Dieppe. Here in New Brunswick he’s also the current chair for New Brunswick and Prince Edward Island for the Canadian Manufacturers and Exporters. Terry’s just sitting behind me.

4382. Mr. John Bourque. John is the president of Bourque Industrial Limited here in Saint John and is the past president of SPARK, the Metal Working Association of New Brunswick.

4383. And Mr. Wayne Guitard is the general manager of TRC Manufacturing Group.

4384. All three gentlemen are sitting here at the table. All three are significant employers here in the Province of New Brunswick and are very active with both CME and SPARK.

4385. To your question, I guess, to clarify, I did apply; we are two separate and distinct organizations. However, I thought for the purposes of today for efficiency I could blend my two presentations together. I know that you’ve been very tight on time so I’ve done that. And that will save another full presentation and allow the individual behind me to come up a little sooner if that’s okay with Mr. Chair and his Committee.

4386. **THE CHAIRMAN:** It is. Sorry, if you could just put your mic back on.

4387. **MR. RICHARDSON:** Thank you. I appreciate it. Okay.

4388. If we could just advance the slide, please? Thank you.

4389. My presentation today is going to form five very distinct sections. The first section that I would like to address today is just simply to offer our thanks for

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- this opportunity. This is quite frankly in this region what I would consider to be a once-in-a-lifetime opportunity and certainly we owe some thanks to a variety of different groups.
4390.                Secondly, I want to share with you why we believe manufacturing matters here in New Brunswick.
4391.                Thirdly, who we are as the two organizations, both CME and SPARK, and why we care very deeply about this project.
4392.                Fourthly, why we support Energy East. We've been very clear and unequivocal that we are very supportive of this project and I'm going to outline for you today why in fact we do support the project very specifically.
4393.                And lastly, like all intervenors and most commentators that have questions for yourselves as the National Energy Board, I also have just one or two questions. They were not submitted in advance, but I actually don't expect a response today. It's more a prompting and a positive approach going forward. Okay?
4394.                So just simply to move forward to the different groups that I'd like to offer some thanks to, I think the Government of Canada has certainly ensured the review process, in our mind, has been very open and we also appreciate that the Minister of Natural Resources, Minister Carr, enhanced the process earlier this year to move things to allow anybody to step up.
4395.                Secondly, I wanted to, on behalf of our organizations, thank the NEB for being inclusive and being exceptionally responsive. My personal experience with the staff has been phenomenal. I have sent emails quite late, in the middle of the night and early in the morning, and your staff has responded very, very rapidly to which I'm greatly appreciative, particularly during vacation seasons here in the province and the rest of the country.
4396.                To TransCanada, who has developed a state-of-the-art project in our mind and is proposing a significant investment across the country, and also for engaging all Canadians and seeking our input, we are very appreciative.
4397.                In our mind, that has already been demonstrated by TransCanada's willingness to listen from the stakeholders by making over 700 route changes to date since filing in October 2014.

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4398. Fourthly, the Government of New Brunswick for keeping our province in the forefront as a national partner and as a significant stakeholder in this project. The current premier and his government and the past premier and his government, was very supportive of the project and we appreciate that New Brunswick is kept front and centre on this project.
4399. And lastly, all intervening parties, whether you're a commentator or an intervenor. We do believe it is very important to share ideas and opinions on this, whether for or against. That's what we believe helps make a better project at the end of the day. So we appreciate that.
4400. I'm going to talk now about why manufacturing matters and first I want to talk a little bit about why manufacturing matters in Canada.
4401. Manufacturing in Canada is a \$620 billion industry. It's 11 percent of our total GDP in the country. That's actually gone down from a number of years ago. It employs about 1.7 million employees directly, 2.2 million in 2004. You can see where this is going. We represent the largest payroll of any business sector in the country and two-thirds of all of Canada's goods and services are exports.
4402. Eighty (80) percent of private sector research and development comes out of the manufacturing sector, and 85 percent of patents that are commercialized in Canada are from the manufacturing sector. Every \$1 in output in Canada generates approximately \$3.50 in total economic activity. That's a tremendous return on investment into our communities.
4403. The business of providing customer solutions combining the production of goods, new technologies, and services is what the manufacturing community is all about.
4404. In New Brunswick, however, we are, in fact, a \$10.8 billion export sales industry in this province. It represents 11 percent of our total GDP, brings in significant taxes to government to pay for services. We directly employ New Brunswick companies, 30,000 people, in the manufacturing sector in this province. That is down from 42,000 people in 2004.
4405. There are 857 manufacturing businesses in New Brunswick that have employees. Sole proprietorships with no employees wouldn't be included in that.

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4406.            Nearly 500 of the companies in New Brunswick employ less than 10 people. We're talking about a lot of small and medium-sized companies here in the province. Only four percent of the companies have more than 100 employees, so it's a very small percentage of large businesses in New Brunswick. Every county in the province has manufacturing employees and has manufacturing companies, and thousands of families depend on manufacturing every day to help them cover their daily expenses.
4407.            Next slide.
4408.            This just gives you a little bit of a breakdown of the manufacturing sector in New Brunswick. You can see by the orange slice of the pie that the forest products industry is -- sector is significant. Two hundred and forty-two (242) companies in New Brunswick benefit from the forestry products company, represents about 28 percent. Food and beverage is about 173 companies, or 20 percent. And then it goes down from there.
4409.            In the metal manufacturing side, which were represented through SPARK, we have approximately 100 companies and it's about 12 percent. The bulk of the others are below 40 percent right across the board, from machinery to equipment to other customized manufactured goods.
4410.            In terms of employee size, as I mentioned, we do have a lot of small and medium-sized companies in New Brunswick that employ a lot of people, and that's a very, very important consideration when we talk about a project like Energy East and the potential impact it could have on a lot of families in this province.
4411.            The next slide will show you just the distribution of all those manufacturing companies in New Brunswick by county, if you could just flip forward? Thank you.
4412.            You'll notice I've drawn in the proposed Energy East Pipeline here in yellow. The proposed Energy East Pipeline is literally surrounded across the province in every jurisdiction by manufacturing companies and their employees that work hard every day to bring professional products and services to the region. So we believe that the proposed project is in good hands right up and down that corridor through all the companies that could service it.

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4413.               Next, I'm going to talk briefly about who we are and more importantly, why we care. SPARK is the Metal Working Association of New Brunswick, as I mentioned. We develop and design and supply custom solutions right across the country, and quite frankly, around the world. We greatly appreciate the opportunity to make representation here today.
4414.               New Brunswick and our metal working companies, we believe, are truly the foundation of the province's provincial industrial sector. This sector is a key part of the provincial economy and collectively, those metal working firms that are represented through SPARK generate approximately a billion dollars a year and employ approximately 6,000 individual workers in the trades and other skilled and unskilled trades.
4415.               Collectively, SPARK views the Energy East Project as a very, very significant opportunity that has been offered by TransCanada and its affiliates. Our collective expertise and services in engineering, procurement, construction, and industrial fabrication solutions and equipment supply, we believe, could definitely satisfy the project and help develop a top-quality project.
4416.               However, the industry in New Brunswick on the metal working side has definitely been hit very hard in recent years; the U.S. markets coming down after 2008, domestic projects that have pulled back. We really believe that the Energy East Project is critical to bringing our industries around and helping them move forward in the supply chain to create jobs and keep them here at home.
4417.               Next, with the Canadian manufacturers and exporters, our manufacturing exporting companies actually represent about 90 percent of our total provincial trade output. And as I mentioned, we employ approximately 30,000 people.
4418.               The decade decline in manufacturing, however, has really been more severe in New Brunswick than in the rest of Atlantic Canada due to the region's greater reliance on very -- two very hard-hit industries here: forest and seafood products. Energy East is viewed by the manufacturing industry as a tremendous opportunity for companies, not just to supply goods, equipment, and expertise, but to also bring stable and long-term economic prosperity to Atlantic Canada and our province. The Energy East Project will create much-needed New Brunswick jobs in the short, medium, and long term over the life of the project. That's why we support Energy East.

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4419. I'd like to talk a little bit about why we actually support the project. We believe we have the expertise and experience to supply Energy East. The companies that I represent through SPARK and CME have been supplying projects and developing companies and creating manufactured goods for many, many years. We actually supply the world in things like heavy equipment, pipe grapples, buckets. We've managed large construction projects. We've supplied world-class engineering and gas, all throughout the world and throughout North America.
4420. Next slide.
4421. One of our companies in the River Valley are mentioned to me the other day that they actually have supplied custom-built transport truck trailers for every major exploration and maintenance of oil and gas company in Western Canada. Those have been built right here in New Brunswick by New Brunswickers. We've designed, engineered, and fabricated custom marine terminal equipment, which obviously would be very helpful here in the Saint John area.
4422. In New Brunswick, our companies have a saying: "We can design, build, and service anything. If you can dream it, we can build it." Our skilled trades' employees are second to none and produce world-class, custom, made in New Brunswick solutions for projects just like this.
4423. In fact, if we look at other infrastructure projects -- if you could move to the next slide, please -- these are projects that we've worked on and our affiliates have worked on that are very similar, actually, to Energy East: the Route 2 Trans-Canada Highway twinning, which was completed over a 20-year timeline in New Brunswick; the Maritimes Northeastern Pipeline, which involved up to 300 trucks that were delivering and moving material; the Mactaquac Dam Project; Port of Belledune upgrades; the Confederation Bridge; the Moncton International Airport runway and terminal expansion; and the newly-announced Port Saint John modernization project.
4424. In fact, if you look at all of those projects, they were all needed to get our goods to market safely and efficiently while creating new local employment opportunities here in our province.
4425. Energy East would also be a way to transport goods to market. It would link western Canadian product with eastern Canadian refineries and take

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that product to international markets and the east coast. In fact, we understand that the union of New Brunswick municipalities has also passed a resolution supporting Energy East. Fifty-nine (59) towns and villages felt very strongly that job creation opportunities for this project would help create a sustainable province to stem the control of outmigration of our young people. Those are the very young people that we hope to get into skilled trades and trades to work with our companies over the next number of years.

4426. CME and SPARK believes it's very important that communities are informed in a transparent manner and we are confident that TransCanada has built an unprecedented engagement process.

4427. In fact, CME is also engaging in a national consultation on the future of manufacturing and exporting, which includes new research on the critical links between technology, services, natural resources, and the manufacturing sector. The initiative is called Industry 2030, and we will create a national manufacturing strategy which will outline a plan to double manufacturing output and value added exports by -- exports by 2030.

4428. Natural resource development, extraction, and upgrading are an absolutely critical component to helping us reach those targets. We have long been a supporter of responsible resource development and extraction, value-added upgrading in the country and in the province.

4429. Over the last decade we have advocated for the expansion of Canada's pipeline network to move oil and gas from extraction point to its customer base, be that in Canada or elsewhere in the world. We must manufacture our future and become a have province again in New Brunswick.

4430. It's important to note that Energy East is actually aligned to two major federal and provincial growth strategies. Both the Canadian Trade and Export Strategy and the recently announced Atlantic Growth Strategy all point to the need for growing our export development and supporting Canadian business to help attract foreign investment while creating jobs here for our people and attracting immigrants so that we have work for them when they come. We believe Energy East, as a major project, is needed by New Brunswick.

4431. But it is important to look a little bit at our trade story here in New Brunswick. If you look back a few years, at 1850, we have a long history, as I mentioned, in natural resources. At that time, we were 73,440 square kilometres;



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today we're 73,440 square kilometres. In 1850, we were over 95 percent forested; today we're over 80 percent forested.

4432. Our total population in 1850 in New Brunswick was 200,000 people; our total population today is 752,000 people. Our exports then were timber, ships, and fish; our exports today are timber, fish, energy, minerals, paper, metal-works, machinery, food, IT, engineering, et cetera. Our workforce in 1850 was actually 90 percent goods-producing and only 10 percent services. The opposite is true today; our manufacturing sector has declined to 22 percent on the goods-producing side and 78 percent services-industry jobs.
4433. After Confederation in 1867, New Brunswick workers left declining port and timber towns to find work in the United States. Today our workers are returning home from Western Canada and other places in the world.
4434. If you look at the unemployment numbers on the next slide, here's some startling statistics I need to share with you that I just updated as of yesterday. It's a well-known fact that unemployment in New Brunswick is soaring, at over 20 percent in some regions. There are today almost 40,000 people with no job in New Brunswick. There are 13,000 unemployed New Brunswick workers from simply the goods-producing sector, from manufacturing, construction, forestry, mining, oil and gas, and other types of hands-on work that would go to work tomorrow for a project.
4435. Housing starts are the lowest they've been in 20 years; they are now below 1995 levels in New Brunswick. Manufacturing output is 10 percent below 2004; employment is 25 percent below; and the number of plants in New Brunswick is down 30 percent.
4436. Next slide, please.
4437. Year-to-date export sales as of the end of July are down 20.4 percent in New Brunswick.
4438. The average age of our residents is now 44, from 24 in 1973, which has pushed our healthcare costs beyond control. Our New Brunswick youth have a much higher unemployment rate at 17.5 percent than youth across the country at 14.3. And as we all know, provincial government program expenditures are rapidly outpacing revenue.

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4439. We believe that the approval of Energy East will help create new direct and indirect jobs for thousands of unemployed people in New Brunswick; will help generate spending pm equipment made in New Brunswick; will help generate spending on engineering, design, and construction from New Brunswick; will generate tax revenue to help us cover healthcare, education, and social services in New Brunswick; most importantly, will help families in New Brunswick; and lastly, will help us expand our workforce skills to be exported globally.
4440. We believe Energy East is in the best public interest. Our companies believe that when it comes to economic and social development we have to ensure that any project, whether it's large or small, must be done in a balanced, safe, reliable, and environmentally responsible manner.
4441. The manufacturing sector is one of the most trained, certified, inspected, regulated, and safety-conscious industries. Every day our professional employees do their best to meet and exceed standards.
4442. We believe Energy East can be developed with positive implications for our employers, their employees, their future employees, and for the communities that we choose to operate our businesses in. As the current provincial government and past governments have pointed out, New Brunswick was built on developing natural resources and energy projects in a very responsible way.
4443. The two questions I have for you today are these -- and they may be a bit rhetorical because I know that you're just in the start of your long process. But we are asking for the NEB's support of Energy East. We are also asking for the Government of Canada's approval of Energy East.
4444. I want to thank you very much for your attention today and for providing us with this opportunity. Thanks so much.
4445. **THE CHAIRMAN:** Thank you for your presentation.
4446. **MR. RICHARDSON:** Thank you so much. Appreciate it.
4447. **MR. WATTON:** Okay, I believe we have a slight change in order. Did -- the next presenter is the New Brunswick Aboriginal Peoples Council,

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Local 10, Ms. Sheila Croteau on their behalf -- and Ms. Sharon Flatt. I apologize.

4448. Thank you. And if I could just confirm that you were either sworn or affirmed when you registered on arrival?

4449. **MS. FLATT:** Absolutely.

4450. **MR. WATTON:** Okay, thank you very much. Please go ahead.

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR NEW  
BRUNSWICK ABORIGINAL PEOPLES COUNCIL LOCAL 10 :**

4451. **MS. FLATT:** Okay. Hello, everyone. Thank you so much for listening to us today. My name is Sharon Flatt and I'm here to help be an agent and resource person with Sheila Croteau, former Chief of the Local 10 Aboriginal Peoples Council out of Saint John.

4452. In our presentation today, we're going to just bring up some main topics of concern. As is requested in this panel review, we're not going to go into any depth and we do plan to submit much deeper interventions at a further time. As well, we want to bring up some -- what is considered main traditional cultural concerns in regards to the Aboriginal peoples that we believe that the National Energy Board does need to be aware of for the context in these hearings from this point onwards.

4453. I'm going to start with this context right off the bat regarding cultural differences and who speaks for who. In the Aboriginal context it's very unusual to be asking people to speak for groups. Aboriginal people tend to speak for themselves in circles and so these hearings present a very difficult challenge from the beginning for the Aboriginal peoples.

4454. And I'll pass it over to Sheila for introducing herself.

4455. **MS. CROTEAU:** Good afternoon. My name is Sheila Croteau and I represent the off-reserve Aboriginals. I'm the Vice-Chief of the New Brunswick Aboriginal Peoples Council and a grandmother.

4456. **MS. FLATT:** Who do you speak for?

4457. **MS. CROTEAU:** And I speak for the Aboriginal people and the land

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that you want to put the pipeline through. Thank you.

4458.           **MS. FLATT:** Now, regarding the traditional people in the Saint John area, there's a bit of a who's who here and I would just like to know if you are aware of the Aboriginal community in Saint John, if you have attempted to dialogue with the Aboriginal peoples, and, if so, when that dialogue will begin. And indeed we are talking about several tribes of people traditionally.

4459.           Sheila will just quickly give you a history -- a brief history of who's who and what's going on from the history in Saint John.

4460.           **MS. CROTEAU:** Hi. We have the Passamaquoddy, Penobscot, Maliseet and Mi'kmaq. And we also have Cree and other Aboriginal off-reserve people living here in Saint John who represent New Brunswick.

4461.           **MS. FLATT:** How long have they been here?

4462.           **MS. CROTEAU:** They've been here since the beginning of time. They were the first people. They were the People of the Dawn.

4463.           **MS. FLATT:** Okay. So the context that we are working under here when it comes to tradition in this time, we consider ourselves all Treaty people. There were Peace and Friendship Treaties signed in the New Brunswick area. And these treaties are what we are working under now in the tradition that we are at at this point in time.

4464.           One of the main important things to understand with the Peace and Friendship Treaties, which are unique and only in this part of the land, is that the land itself was never ceded. There aren't land claims; we're not dealing with issues that you would see arise down in the States and in other parts where there were treaties signed and the land given over. That actually never happened in this area. What were signed were the Peace and Friendship Treaties.

4465.           These treaties basically have the two peoples -- the settlers and the Indigenous people -- living parallel lives, respecting each other. And I'm going to get Sheila to just talk a little bit further on that.

4466.           **MS. CROTEAU:** It's the story of the wampum belt and the Peace and Friendship Treaty, the story of two canoes paddling side by side, share resources in respect of their culture and the rights for the land.

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4467.           **MS. FLATT:** And so that's basically what your wampum belt will say. It's well-known now, lots of education going out there to all the government people on what the Peace and Friendship Treaties are about and the context traditionally, which we're working in.
4468.           And so again to repeat, all people are Treaty people. And when we are talking about tradition now, we are all implicated.
4469.           And I'm going to just move right on into this other area of concern in regards to the consultations.
4470.           The traditional governments and people of this land have not been consulted properly. We do understand the *Indian Act*, which we consider apartheid in Canada, has chiefs and leaders that are put in by the governing apartheid system rulers under the *Indian Act*. We do not consider that legitimate government. And when consultations are going on and happening, we expect the traditional governments to be consulted properly.
4471.           And again, that brings me back up to the dialogue, if it is being attempted in the Saint John area, of the traditional people. And we would like to know timeline-wise when you will start that dialogue in Saint John.
4472.           Okay, back to another tradition that weighs heavily on these hearings. There's a story -- there's actually two stories that in the tradition, the Aboriginal tradition, which we will happily submit as evidence later on but we're just -- a brief synopsis here.
4473.           There's the story of the seven fires. We're in the time of the Seventh Fire. There's also a story of the multi-headed snake. It's a prophecy. It's well-known down in the States, a little less known here. But the prophecy of the multi-headed snake is that there will become a time when the snake will go across the country and it is up to the peoples, the traditional peoples, to take the head off the snake. But it's a multi-headed snake and so traditionally it is believed by the people that understand this prophecy that this pipeline is one of the heads of the snake.
4474.           The Seventh Fire prophecy, which Sheila will just give you a little synopsis now, is also quite key when we're looking at the context that the Aboriginal people are participating in.

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4475.           **MS. CROTEAU:** Okay, sorry. I didn't mean to be disrespectful.

4476.           Okay, the time of the Seventh Fire -- this is the period of the Seventh Fire. This is the time where it's measured by fire. And the fire has to choose between material or spiritual. And right now we are at a point in time where we need to choose whether to follow the material way or the spiritual way.

4477.           **MS. FLATT:** And just to follow up on that, I'll just give you a little bit more idea of sort of the heart of this tradition. This Seventh Fire -- and time has been measured with the fires throughout the ages. So this is the time of the Seventh and we're hoping to make it to the Eighth.

*"[It's] the time that the light-skinned race will be given a choice between two roads. If they choose the right road, then the Seventh Fire will light the Eighth and final Fire, an eternal fire of peace, love, brotherhood and sisterhood. If the light-skinned race makes the wrong choice of the roads, then the destruction which they brought with them in coming to this country will come back at them and cause much suffering and death to all the Earth's people."*

4478.           Okay. Moving on to another one of our traditional ways of life. It's regarding the spirituality of the Aboriginal peoples' water. And the land is sacred to the Aboriginal peoples. It is an anchor for the spiritual traditions of many Indigenous people from the beginning of time asking Aboriginal people to make choices in -- the type of choices that they're being asked to make is extremely difficult because we're talking about sacred spiritual elements here that are the foundations of spirituality. And I'm just going to get Sheila to quickly speak to that.

4479.           **MS. CROTEAU:** Water is life and to us, everybody needs water to sustain their life. Water gives food for the fish and the animals that are here and the earth needs water for all the greenery. So I'm hoping when you make your decision or if you make a decision, that you will consider that water is life and everybody needs it. Not just some people but everybody needs water.

4480.           Thanks, dear.

4481.           **MS. FLATT:** You can introduce the child right now.

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4482.           **MS. CROTEAU:** Oh, this is my grandson. Kal, say hi.
4483.           **MS. FLATT:** Okay. So the final issue of concern in regards to the stuff we're going to be presenting here is in regards to climate change and the traditional way of life of the Aboriginal people.
4484.           We'd like to refer you to the United Nations who have done a lot of work in regards to climate change in the traditional way of life and how it can be affected. It is not lost to ourselves or to a lot of people that are making these presentations -- okay -- that the pipeline and the accompanying tar sands expansion will be directly implicated in climate change science as a cause of climate change. That is not something that the Aboriginal people are -- Sheila and myself are able to disconnect.
4485.           And so when it comes to traditional ways of life climate change, tar sands expansion are implicated all together.
4486.           I would also like to refer you to the environmental assessments in the United States for the Keystone Project. There were a lot of studies done with Aboriginal people and their traditional ways there as well. Nothing has changed and nothing is different, and there were some decisions made there in that regard that referred to this very issue.
4487.           So basically considering a project such as this in the first place seems quite immoral to us in that regard.
4488.           So there are a couple of other questions that we would just like read out for the record here to TransCanada as well. We would like to know if the TransCanada has consulted with the Saint John Aboriginal community, and that community as was stated by Sheila, all those people? You can go ahead if you want to talk.
4489.           **MR. VAN DER PUT:** Yes, thank you. Mr. Matossian will respond to the question.
4490.           **MR. MATOSSIAN:** Thank you. And thank you for sharing. We've listened and heard the cultural and historical perspectives provided and thank you for sharing those.

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4491. I just wanted to speak particularly to the objectives of our Aboriginal engagement program. These are listed in section 2, of Volume 10 of the application. Which are essentially to be as broad as possible in how we share information about this project with Aboriginal communities and rights holders, and how we seek to identify issues and concerns associated with the project and to discuss how we may avoid or mitigate effects, potential effects of this project on traditional rights.
4492. As outlined in again section 2 of Volume 10, we engage directly with rights bearing communities unless we're delegated to engage through a representative organization. In New Brunswick we are engaging directly with all 15 First Nations, and have been directed in the case of the Mi'kmaq to engage via the MTI with the exception of Elsipogtog.
4493. This engagement is not exclusive to on-reserve members, this is open to off-reserve members as well. And in fact, in engagements that I have participated in there have been off-reserve members involved and who have either heard information about the project or posed questions or expressed concerns.
4494. The NBAPC -- Energy East has been engaging with the NBAPC since 2013. And the members of the NBAPC, some members of the NBAPC, have likely been participating either in the engagement programs that have been built in collaboration with elected chiefs and councils of those communities, and also may have participated in community engagement activities broadly and that are open to the public across the province.
4495. So I would say that in fact some of our engagement with off-reserve members, and included in there are elders and traditional leaders who have participated in this, has already started. We are of course in an ongoing engagement process and we have asked and spoken to some communities -- not all yet but some communities -- about, you know, trying to ensure that this process is inclusive of all groups within communities, including elders, women, and other groups.
4496. And that the nature of our engagement program is really different for each community. We do rely on communities to tell us how they would like engagement to unfold, and we respect their guidance in that regard.
4497. Thank you.



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4498.           **MS. FLATT:** Thank you. Thank you so much. In that regard we would appreciate public meeting in Saint John to consult with the Aboriginal peoples and all our relations.
4499.           Okay, so we're just going to close now so you can just do your final statement, yeah.
4500.           **MS. CROTEAU:** On behalf of myself I'd like to thank you for your understanding, and respect for the safety of the land and for all the people here. Thank you.
4501.           **MS. FLATT:** Thank you.
4502.           **THE CHAIRMAN:** Thank you, Ms. Flatt and Ms. Croteau.
4503.           I would like to remind you of our Ruling No. 20. And if you're interested we have -- oh sorry, I'll try and do what I've asked people to do; speak directly into the mic.
4504.           We sent letters to Aboriginal groups regarding the New Brunswick panel sessions and oral traditional evidence, and in January we intend to come back to New Brunswick. So if there is interest by your community to come and speak to us again on oral traditional evidence we are -- we would -- as intervenors that's an extra step besides all the other steps that we have in our process here right up to 2017. That's an additional step that you may want to prevail yourself of.
4505.           **MS. FLATT:** Thank you.
4506.           **MS. CROTEAU:** Thanks.
4507.           **THE CHAIRMAN:** Mr. Watton.
4508.           **MR. WATTON:** I know that earlier this morning we said we would take both a break in the morning and a break in the afternoon, but in light of the fact that we only do have one presenter left I thought, unless anyone objects, we would proceed with that so we can perhaps wrap a little bit earlier today.
4509.           And our last presenter for this afternoon is the intervenor the Ecology

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Action Centre, and I believe it's Mr. Stephen Thomas on behalf of the organization.

4510. Can I just confirm that you did have a chance to be sworn or affirmed on the way in when you registered?

4511. **MR. THOMAS:** Yes, I was.

4512. **THE CHAIRMAN:** Thank you. Please go ahead.

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR ECOLOGY ACTION CENTRE:**

4513. **MR. THOMAS:** All right. Is this close enough to the microphone here? Great.

4514. So again I'm Stephen Thomas. I'm the Campaign Coordinator, the Energy Campaign Coordinator with the Ecology Action Centre out of Nova Scotia.

4515. I'm grateful to be here today as a guest on unceded Wolastoq territory and the traditional meeting place of the Passamaquoddy, Mi'kmaq and other Nations. I'm grateful for the presentation of knowledge sharing that Sheila was just able to share with us too.

4516. Since 1971 the Ecology Action Centre, who I'm here presenting, has been working to build a healthier more sustainable Nova Scotia and Atlantic Canada. Today the EAC is Atlantic Canada's largest environmental advocacy organization with over 5,000 members, 500 volunteers, 45 staff, and 7 action areas including the one that I'm presenting from, the Energy Action team.

4517. The EAC works closely with social and natural scientists to use detailed policy analysis and encourage a society that respects and protects nature, and provides environmentally and economically sustainable solutions for its economies and its citizens.

4518. The EAC plans to provide comment and questions here today based on our research, our analysis, and partnerships with concerned organizations and industries here in Nova Scotia and Atlantic Canada. In particular, our content is informed with the guidance gained during a weeklong tour of the Bay of Fundy

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coasts in Nova Scotia in June of 2016.

4519.                These events included stops in Halifax, Wolfville, Digby, and Yarmouth. And many of the individuals from those communities consider themselves directly affected in this process although I, myself, do not.
4520.                To this end, my remarks will also include information presented to me on behalf of the Bay of Fundy Inshore Fishermen's Association later in my presentation.
4521.                I've numbered each of my six questions and addressed them to the Chair to address to the Board and Proponents unless otherwise stated, and intend to ask them as a group and open for response after I finish. The exact content of my questions vary slightly from the written requests -- or the written questions, rather, that I've provided to the Board and I'm happy to provide the final version if it's requested.
4522.                So my first question is, can the Proponent confirm the capacity, class, and specification of the oil transport tankers that are intended to be used to further transport the diluted bitumen in particular, from the Irving facility that has been sourced from the Energy East Pipeline?
4523.                Earlier today we heard a variety of types of tankers will be employed, including the VLCC class with a capacity of up to 2.2 million barrels, so specifically, I'm asking about the specifications with regard to the manoeuvrability and full staff specification of this class of tanker.
4524.                My second question: Can the Proponent confirm what specific spill response can be expected if a major spill occurs during the transportation along the Energy East Pipeline route, processing and transportation within the Irving export terminal and holding facilities, or loading onto waiting super tankers for further transportation?
4525.                Specifically, can the Proponent confirm the time it would take to dispatch a response and fully contain a major near shore, onshore, or offshore spill in the Bay of Fundy and Gulf of Maine? Further, can the Proponent confirm the amount of time it would take to fully remediate a major spill event near shore, onshore, or offshore in the Bay of Fundy or Gulf of Maine?
4526.                For clarity here today and for time's sake, I understand that the

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Proponent has already shared their planned spill prevention measures and the safety measures there within during today's panel session, and I would appreciate that my question is specifically in regard to the response in the event of a spill event.

4527.           My third question: Can the Proponent and Board please clarify the jurisdiction and responsibility of response for the below accident and spill events; that is, a major spill at or near the Irving holding facility and export terminal in Saint John and Red Head, New Brunswick?
4528.           It is the major spill or diluted bitumen -- of diluted bitumen during transportation to and loading of awaiting tankers in the Bay of Fundy. And again, the responsibility and jurisdiction for a major accident, spill event, or strike associated with the transportation of diluted bitumen aboard tankers in the Bay of Fundy or Gulf of Maine that was sourced from the Energy East Pipeline and Irving export terminal?
4529.           My fourth question: Can the proponent confirm that the below sectors, industries, and constituencies in Nova Scotia and New Brunswick be compensated in full for the damages claimed in the event of a spill event, strike event, or other accident; that is, all affected fisheries and fishery-dependent industries in the Bay of Fundy and Gulf of Maine; all affected tourism industries, especially those based on the Bay of Fundy or its coastline -- as you can imagine -- whale watching and small guided tours and so on; and all affected coastal residences cleanup, human health, and property value claims related to a spill event, strike event, or other accident? Again, looking for the specific compensation there.
4530.           My fifth question: The Ecology Action Centre's motion request for a panel session to be held in Nova Scotia was denied by a decision by the Board on July 27th, 2016, and here today I'm wondering if the Chair, the Board, and the Proponent can confirm the intent to hold a panel hearing and public consultation in the province of Nova Scotia to ensure that Nova Scotian voices are heard in regard to the risk of this pipeline project and associated loading of tankers and tanker traffic?
4531.           My sixth and final pointed question here is: Can the Proponent and Board confirm the consultation that has taken place to date with Mi'kmaq communities in Nova Scotia regarding the tanker traffic and risk profile of the Energy East Pipeline Project to the Bay of Fundy and the coasts of Mi'kmaq

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territory in Nova Scotia?

4532.                These conclude my pointed questions. However, as noted, in addition to the questions and comments presented by the Ecology Action Centre, comments and concerns are presented to me from a key expert in our analysis, Colin Sproule, the spokesperson for the Bay of Fundy Inshore Fishermen's Association, who represents over 1,000 members in Nova Scotia and is the largest fisher's association in Nova Scotia, has asked me to provide the below comments on behalf of the association.
4533.                They are as follows and in their voice, if you can imagine:
4534.                The high level concerns -- the Bay of Fundy Inshore Fisherman's Association are a long-standing stakeholder in the Bay of Fundy and are concerned about the proposed Energy East Pipeline and about the review being undertaken by TransCanada, Irving, and the National Energy Board. We have never been consulted by the Proponent about this project or the associated tanker traffic through the Bay of Fundy, and take issue with this fact. We hold valuable generational knowledge that should be utilized in regulatory decision making, especially regarding the sustainability of the Bay of Fundy.
4535.                The Bay of Fundy contributes significantly to the food security of Canada with its massive bounty of sustainably harvested seafood each year. In 2015 alone, nearly \$1 billion of seafood was harvested from the Bay of Fundy. This proposed project would endanger that security and endanger the viability of a multi-billion dollar fishing industry that depends on that bounty.
4536.                Canada has recently signed a United Nations Treaty to uphold the historical rights of small-scale fishers like the members of the Bay of Fundy Inshore Fishermen's Association. This treaty is intended to prevent and -- the displacement of traditional fishers from their rightful fishing territories by large scale industry as is being proposed for this project.
4537.                We have come to a point in time where many industries wish to operate in the Bay of Fundy. This industrialization of the Bay of Fundy can be undertaken -- cannot be undertaken with total disregard for the life within it. The members of the Bay of Fundy Inshore Fishermen's Association see ourselves as stewards of the seas on which we spend our lives.
4538.                The Bay of Fundy is one of the most diverse ecosystems of the world,

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truly a marvel of nature. The prospect of a post-Panamax super tanker filled with Alberta tar sands, running aground in the shallow and treacherous waters of the Bay of Fundy is an absolute worst-case scenario in the eyes of our membership and this would undoubtedly be the end of our way of life. We know the Bay of Fundy and it is not a safe reasonable place to navigate a ship of that size with such a dangerous cargo in such extreme tides.

4539.           There are two more sections of his remarks here. There is one regarding gear loss. A massive increase in tanker traffic that is proposed will have a significant impact on lobster fisheries in particular in the Bay of Fundy, who need to make their living in an -- in the approaches of the Saint John harbour in the Canaport area. They already suffer from uncompensated gear loss in the Bay of Fundy every year due to oil tankers not avoiding the fishing activities as is required by Maritime law. This increased gear loss could lead to increased entanglements of marine mammals with the loss of this fishing gear, including the critically endangered North Atlantic right whale.
4540.           Regarding the spill cleanup and risks, the Bay of Fundy Inshore Fishermen's Association questions that the methods proposed by the proponent could ever be employed to effectively clean up a bitumen spill in such enormous -- of such enormous size from the sea floor or the surface of the sea in the Bay of Fundy. We point out the important fact that a surface oil spill in the Bay of Fundy would spread faster than almost anywhere else on earth and enter its critically important estuaries in a very short period of time.
4541.           As you know, the flow through a single tidal cycle in the Bay of Fundy is greater than all of the world's rivers combined and it would take any spill and contaminant with it. A key concern is that the pristine reputation of the Bay of Fundy would be tainted forever by an oil spill, rendering any remaining harvestable seafood valueless.
4542.           This -- that concluded the remarks from the Bay of Fundy Inshore Fishermen's Association. Thank you for your flexibility in my being able to present those as well as part of my remarks, and this concludes the remarks presented by both myself and the Association.
4543.           And this concludes the time that I intend to use for questions and commenting during this panel session. I'm open to hearing answers and responses from the Board, the Chair, and the Proponents, and I'm happy to answer further questions and have further discussion on this topic as the process moves along.

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Thank you for your time.

4544.           **MR. WATTON:** If I could just raise a quick point before turning it over to the Proponent?
4545.           You raised, what I believe, were two questions which you addressed to the Board, and I would just remind you that the Board is not here to answer questions during the panel sessions. That being said, I know that one of them was a question, a legal question of jurisdiction with respect to tankers. And if the proponents would -- if you wish to speak to that issue, you may, but the Board will not speak to that issue. It's a legal question that's now before us.
4546.           The second one on the issue of the motion, you will recall, we did -- the Board did issue a decision on 27 July. If you wish to request a review or appeal of a Board decision, I would refer you to section 21 of the NEB Act. You could file such a request in writing; you could choose to do so. But it's not something that I think the panel would be able to address directly orally today.
4547.           **MR. THOMAS:** Great, thanks for the clarification in that regard. Specifically, when speaking of the jurisdiction of responsibility for spill response, if the Proponent could answer that, I'd appreciate it.
4548.           And in the finer points of my wording there, I was asking for clarity or confirmation on the intent to hold a panel hearing and public consultation. I understand the Board perhaps can't answer that today. I do intend to file a written submission and I can handle that later if the Proponent ---
4549.           **MR. WATTON:** The Board did answer that request in a letter of July 27<sup>th</sup>, which is a ruling in Decision No. 16. Now, as I said, if you wish to appeal a ruling of the Board you may do so and I'd refer you to section 21 of the Act. But they have already answered your Notice of Motion in the ruling that was issued on July 27<sup>th</sup>.
4550.           **MR. THOMAS:** I understand that's true for the panel sessions as is being held today. My further note is here on the public consultations taking place.
4551.           Thank you for the clarification and onto the Proponent, I guess.
4552.           **THE CHAIRMAN:** Mr. Yates?

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4553.           **MR. YATES:** A couple of things, Mr. Chairman, which I'll raise before the panel responds to some of the questions.
4554.           I would take the position that the panel will not respond to the question about the panel session in Nova Scotia for the reasons articulated by Mr. Watton.
4555.           Secondly, the jurisdictional question is a question of law and the panel will not be responding to that either.
4556.           I had, though, a question for clarification because what started as a submission from the Ecology Action Centre and morphed into several comments, made purportedly on behalf of the Bay of Fundy Inshore Fishery Association (sic). My question is whether the Bay of Fundy Inshore Fishery Association (sic) is, in fact, an intervenor in this proceeding.
4557.           **MR. THOMAS:** I'm happy to answer that. They are not an intervenor as part of this process, not yet.
4558.           **MR. YATES:** And in that regard then, Mr. Chairman, I submit that all of this submission on behalf of the Bay of Fundy Inshore Fishery Association (sic) cannot form part of the record of this proceeding since they are not an intervenor and they are not entitled to make a presentation here, leaving aside entirely the question of whether the Ecology Action Centre would have any entitlement to make a submission on behalf of the Bay of Fundy Inshore Fishery Association (sic).
- (A short pause/Courte pause)
4559.           **THE CHAIRMAN:** Mr. Thomas, any submissions by the Ecology Action Centre here will be considered, but we cannot accept without -- there are many other ways of doing it, but that fisheries organization that you were talking about is not an intervenor and this is a process for intervenors. So we'll have to agree with the TransCanada counsel that that cannot stand here.
4560.           I notice we're out of time but you did ask certain questions from the perspective of Ecology Action Centre. So I would ask the panel to answer -- or if you want to prioritize which ones that you want -- in the next five minutes or so -- that you want the panel to answer, please prioritize them. Or the panel can answer those that they can answer quickly within the extra time here.



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4561.           **MR. WATTON:** If I could just interject. Carrie just corrected me. There actually are about eight minutes left on the timer, so as far as time ---
4562.           **THE CHAIRMAN:** Sorry, how much time? Sorry, I was just going by the -- I misinformed you here. We have a bit more time.
4563.           **MR. VAN DER PUT:** Thank you, Mr. Chair. I'll proceed to address the questions that our panel is in the position to answer. We'll do so succinctly.
4564.           The first question pertained to the capacity class and specification of oil transport tankers. There was a couple of things in the question. There was an assumption of transportation of diluted bitumen. Those tankers could be transporting any type of oil, including light oil, for example, to the eastern U.S. seaboard or to Europe.
4565.           The other thing is that vessels are not part of the scope of the Energy East Project. That scope stops at the Marine Terminal. Nonetheless, to be helpful in terms of your question -- and it particularly goes to the issue of specification -- I will ask Mr. Pardo not only to confirm the types of vessels, but also to very succinctly describe the vetting procedures which go to vessel specifications and ensure the safe loading of tankers at the berth.
4566.           Mr. Pardo?
4567.           **MR. PARDO:** Thank you, Mr. Van der Put.
4568.           I would like to start with mentioning some mitigation measures that all class tankers coming to Energy East's Canaport Marine Terminal are going to have.
4569.           **MR. THOMAS:** Pardon me. I appreciate your willingness to share that but that wasn't part of my question. In the interest of time, I'm specifically looking for the specifications regarding the manoeuvrability of the VLCC class tankers and the full-stop specifications.
4570.           **MR. PARDO:** Okay.
4571.           **MR. YATES:** Mr. Chairman, the question was, can they confirm the capacity class and specifications of the tankers. That's the question.

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4572.           **THE CHAIRMAN:** Can you answer the question asked by Mr. Thomas?
4573.           **MR. PARDO:** So there are three classes of vessels that are going to come to Canaport Martine Terminal. The first one is Aframax vessels with a capacity of 700,000 barrels. The second one is Suezmax vessels with a capacity of 1.1 million barrels. And the third one is Very Large Crude Carriers, or VLCCs, with a capacity of 2.2.
4574.           All of them are going to have double hulls, segregated ballasts, and inner gas systems prior to coming to the port.
4575.           They are going to have also a pilot that is required to bring the vessel to the berth. And obviously answering the question, the speed and the stop speed would depend on the dead-weight tonnage of the vessel and the physical speed of the vessel. But the Canaport Marine Terminal would have tugboats to help in the berth manoeuvres.
4576.           **MR. VAN DER PUT:** Just moving on, the next question pertained to the time that it would take to dispatch a response and fully contain spills both near shore, on shore, off shore. In that regard, I would like to ask Mr. Grenon to focus specifically on terrestrial spills in terms of response times, and then I'll ask Capt. Donovan to speak to a spill in the Bay of Fundy.
4577.           **MR. THOMAS:** I've been asked to prioritize the answers. If it matters to the Proponent, I'm most interested in near-shore and off-shore responses. Thank you.
4578.           **MR. VAN DER PUT:** Mr. Grenon?
4579.           **MR. GRENON:** Thank you. The emergency response plan for the pipeline will have a number of tactics and strategies identified, water-based tactics for the pipeline and land-based tactics as well. Mainly, the objective will be to contain and recover the oil rapidly.
4580.           On the pipeline side if we look at the pipeline side, the response time will be immediate based on the CEPA guidelines. So upon detection of a leak, there will be immediate action by the oil control centre to shut down the pipeline. Then we will initiate at the same time the mobilization of emergency response team which starts with the mobilization of a response centre that will get in touch

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- with local first responders upon the detection of a leak. And the maximum time allowed for that will be one hour. And then we have three hours for the first person to arrive on site -- again, this is a maximum time -- and six hours for the first equipment to arrive on site for a pipeline spill.
4581.               And in many cases, our site-specific planning in most waterways -- and we're going site-specific planning for all waterways, streams and so on -- we will plan to meet those guidelines at a minimum, and in many cases we expect to beat those guidelines.
4582.               For the marine terminal there will be on-water response capacity in case of an incident at the marine terminal, which will consist of a response vessel and booms to contain the oil. Again, the objective will be to contain the oil as quick as possible and to start recovery.
4583.               As per the *Canadian Shipping Act*, we're going to have a response capacity of 50 cubic metres on-site. And again, the response to any incident at the marine terminal will be immediate; it will be a manned facility with people at the location that will be able to start responding as soon as an incident is detected during loading or -- and so on.
4584.               And for all of this, sir, what I would like to add before we go to Mr. Case, all of this will -- our emergency response team will train for that and they will exercise those -- that type of scenarios as well.
4585.               **CAPT. CASE:** Thanks, Mr. Grenon.
4586.               In regards to the marine response capabilities, the response organizations in Canada are governed by the Response Organization Standards as issued by Transport Canada. So in the matter of an offshore spill occurring where a response organization is activated, we would have our initial response mounted within six hours and this grows of course depending on the level of equipment that's required to be deployed to effect the containment and begin the response.
4587.               In the event of it occurring outside of a geographical area response, the Response Organization Standards also refer to the additional time that is taken to travel to a location which would be outside of a primary area of response, which would be perhaps what you refer to in your reference to the Gulf of Maine.
4588.               Thank you.

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4589. **MR. VAN DER PUT:** Thank you, Captain Case.

4590. Now there was also a question with regards to the time to remediate, and Mr. Grenon is a specialist in that field. I'll ask him to respond to the question.

4591. **MR. GRENON:** Thank you.

4592. Also as part of the Emergency Response Plan we're going to plan for a clean-up and recovery of the oil. We're going to have a shoreline cleanup techniques identified in advance based on shoreline time.

4593. To go back to your question for cleanup time depending on the scenario, I mean it's really difficult to provide a time estimate since any situation will be different based on the volume that will be released, the location -- the exact location of that incident, the weather condition at the time, and also the environmental sensitivities that will be present at the time of the incident.

4594. So we cannot really provide a firm estimate on how much time it will take to clean it; really there's multiple factors. We don't have much time to go in detail, but there's multiple factors here that comes into play to describe -- to provide a better description.

4595. **MR. VAN DER PUT:** The fourth question that we can respond to ---

4596. **MR. THOMAS:** I ---

4597. **MR. VAN DER PUT:** Sorry.

4598. **MR. THOMAS:** I do apologize for interrupting out of turn again. But again in the interest of these last 30 seconds, if we could skip just to the sixth question regarding the consultation that's happened to date within the Mi'kmaq Nation of Nova Scotia, I'd appreciate it.

4599. Thank you.

4600. **MR. VAN DER PUT:** Certainly. Mr. Matossian, please.

4601. **MR. MATOSSIAN:** I believe you just asked if we could skip that

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question or you would like to address that question?

4602.           **MR. THOMAS:** Sorry, skip the others and address that question with  
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4603.           **MR. MATOSSIAN:** Thank you.

4604.           **MR. THOMAS:** --- the short amount of time we have left.

4605.           Thank you.

4606.           **MR. MATOSSIAN:** Sorry. Thank you, sir, for having to clarify that  
and thank you for your question.

4607.           The question was to describe engagement to date with Nova Scotia  
Aboriginal communities. We initially initiated engagement with Nova Scotia for  
Nova Scotia communities and the KMK in June 2014, and we have subsequently  
continued to engage with those four communities, but have also been sort of  
directed to engage through the Mi'kmaq rights initiative for KMK to speak more  
broadly to the Aboriginal interest of Nova Scotia.

4608.           We've had various meetings. In addition to these meetings -- which  
I'll describe in a second -- we, you know, we continue to share actively project  
information electronically and in print with the KMK. We've held a couple of  
meetings with various subcommittees of the KMK, the planning committee and  
the benefits subcommittee.

4609.           In November of 2015 we had a presentation -- a full project  
presentation on the marine aspects as well as environment and the entire project  
scope after the Cacouna amendment in November 2015 to all -- I believe all the  
Chiefs were present of the Nova Scotia communities.

4610.           And since then we've been following the Mi'kmaq Ecological  
Knowledge Study protocol and we're currently engaged in discussions about the  
scope of traditional marine use study, which we would be seeking the broad  
participation of Aboriginal communities from Nova Scotia. We are currently  
working with the Confederacy of Mainland Mi'kmaq on the specifics of that.

4611.           And we continue to, you know, as I mentioned in the objectives of our  
program to continue to share information actively to respond to issues and

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concerns and questions about issues and concerns and to discuss how to avoid or mitigate potential project effects. The information that, you know, would provide a more comprehensive explanation of the engagement history is in Volume 10, Appendices 10 to -- 10.1 to 10.152. And within there, there would be specific section on the Nova Scotia community engagement history.

4612. Thank you.

4613. **THE CHAIRMAN:** Thank you, Mr. Thomas.

4614. I'd like to thank once again all participants today for your contributions on this first Panel session of the Energy East Eastern Mainline Applications.

4615. I'd also like to remind the intervenors for tomorrow's session that we will be starting at 8:30 a.m.

4616. Mr. Watton, are there any ---

4617. **MR. WATTON:** Yeah, I believe just before we wrap it up -- he got to his feet before I got to the microphone. I think Mr. Yates had an issue he wanted to raise tomorrow morning.

4618. **MR. YATES:** Yes, Mr. Chairman, and it's -- I'm raising this in what I hope is seen to be an effort to be helpful in the context of what the Board is seeking to achieve here, which is identification of issues of concern and the facilitation of participation in the more detailed aspects of the process in 2017.

4619. And what I wanted to speak to is that there were some questions which were put to the Panel on the record which may have -- some specific aspects of some questions may not have received a direct response. And what we also know is that there will be a transcript made of today. And what I'm seeking then is your leave to review the transcript with the witnesses to determine if they are instances of non-response, and if so, to have the witnesses provide a brief response to those questions if any are identified at the beginning of tomorrow.

4620. **THE CHAIRMAN:** That is satisfactory. Also one of the intents here was high-level questions to the Panel, and I recognize that some of the questions were extremely detailed and might be more appropriately asked and answered at some following process steps, so we're quite aware of that and -- anyways, I'll

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leave that in your hands.

4621.           **MR. YATES:** Understood, Mr. Chairman.

4622.           **THE CHAIRMAN:** Mr. Watton, anything else?

4623.           **MR. WATTON:** No, I think that's everything.

4624.           So I guess we'll reconvene tomorrow at 8:30. Thank you, everybody.

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