

**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 13

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

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

**August 10, 2016
Le 10 août 2016**

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

Canada

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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, Wednesday, August 10, 2016
Audience tenue à Saint John (Nouveau-Brunswick), mercredi, le 10 août 2016

BOARD PANEL/COMITÉ D'AUDIENCE DE L'OFFICE

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

APPEARANCES/COMPARUTIONS

(i)

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

Mi'gmawe'l Tplu'taqnn Incorporated
Chief George Ginnish

Eel Ground First Nation
Chief George Ginnish

Indian Island First Nation
Mr. Jesse Simon

Fort Folly First Nation
Chief Rebecca Knockwood

Mr. Blake Palmer

Buctouche First Nation
Chief Ann Mary Steele

Port Saint John
Mr. Jim Quinn
Mr. Chris Hall
Mr. Christopher Stewart

Metepenagiag Mi'kmaq Nation
Chief Bill Ward

Elsipogtog First Nation
Mr. Kenneth Francis
Mr. Bruce McIvor

Eel River Bar First Nation
Elder Gordon Labillois

Esgenoôpetitj (Burnt Church) First Nation
Chief Alvery Paul

APPEARANCES/COMPARUTIONS

(ii)

Intervenors/Intervenants

Citizens' Coalition for Clean Air
Mr. Gordon Dalzell

J.D. Irving, Limited and Affiliates
Mr. David Saucy
Mr. John Pappas

Fundy North Fishermen's Association
Ms. Maria Recchia

Mr. Rick Verge

Fundy Regional Service Commission
Mr. Marc MacLeod

National Energy Board/Office national de l'énergie
- Mr. Mark Watton

ERRATA

(i)

Monday, August 8, 2016 - Volume 11

Paragraph No.:

Should read:

4164:

“...drinking water for Prince Albert, Milford, and North Battleford...”

“...drinking water for Prince Albert, Melfort, and North Battleford...”

4175:

“...my representations on air pollution and on internet.”

“...my representations on air pollution and to various groups.”

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 will mention recent emissions’ research of particular relevance to the proposed Energy’s Pipeline tank farm and marine terminal and the Applicant’s report,...”

4177:

“...to have Dr. Joel Schwartz who taught us toxicology and Dr. Alice Whittemore to present...”

“...to have Dr. Joel Schwartz who taught us toxicology bring Dr. Alice Whittemore to present...”

4177:

“Her new research ways helped to show that...”

“Her new research methods were able to show that...”

4186:

“Although he made a move to Ontario...”

Although he later moved to Ontario...”

4192:

“A preview of the study was published...”

“A preview of a study was published...”

4192:

“...that the production of them more viscous...”

“...that the production of the more viscous...”

4197:

“...of a dirty old pipeline...”

“...of a dirty oil pipeline...”

ERRATA

(ii)

Tuesday, August 9, 2016 - Volume 12

Paragraph No.:

Should read:

4954:

“...for the private contractors that would be...”

“...for the prime contractors that would be..”

5152:

“...during the joint technical investigation.”

“...during the geotechnical investigation.”

5205:

“...the specific material data sheet pertaining...”

“...the material safety data sheet
pertaining...”

5213:

MR. LEES: Just so...

MR. VAN DER PUT: Just so...

5395:

“We also have performed a formation
breach simulation.”

“We also have performed full mission
bridge simulation.”

5396:

“...that we can safely bear LNG carriers...”

“...that we can safely berth LNG carriers...”

5455:

“...outlook from the International Energy
Association in Paris...”

“...outlook from the International Energy
Agency in Paris...”

5519:

“...as we heard from Sheila from Local 7
of the Saint John’s Chapter of the New
Brunswick Aboriginal Peoples Council.”

“...as we heard from Sheila from Local 10 of
the Saint John’s Zone 5 of the New
Brunswick Aboriginal Peoples Council.”

5544:

“We’ve made investments into the joint
economic developments labour market
studies,...”

“We’ve made investments into the Joint
Economic Development Initiative’s
labour market studies,...”

ERRATA

(iii)

Tuesday, August 9, 2016 - Volume 12

Paragraph No.:

Should read:

5549:

“...have typically involved camps clearing, medical and security.”

“...have typically involved camps, clearing, medical and security.”

5771:

“...performed two formation breach simulations...”

“...performed two full mission bridge simulations...”

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UNDERTAKINGS/ENGAGEMENTS

(i)

No.	Description	Paragraph No./No. de paragraphe
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--- Upon commencing at 8:30 a.m./L'audience débute à 8h30

5793. **THE CHAIRMAN:** Ladies and gentlemen, welcome to Saint John. Today continues the sessions of the National Energy Board's hearing of the Energy East and Eastern Mainline Applications.

5794. My name is Roland George and I am the Chair of the Panel. My fellow Panel members are, to my right, Ms. Lyne Mercier and, to my left, M. Jacques Gauthier.

5795. 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 outside. Once there, please verify that everyone from your group is accounted for.

5796. We intend to sit today from 8:30 a.m. until 4:30 p.m. We plan to break for lunch around noon for one hour. We'll take a short break about halfway during the morning and afternoon sittings.

5797. We request that everyone in attendance turn off or mute your mobile phones for the duration of this session as they can be disruptive.

5798. These sessions are being webcast on the NEB's website in English and French. Simultaneous interpretation is available throughout the sessions and you may pick up the 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.

5799. Daily transcripts will be prepared and made available through the Board's website.

5800. These panel sessions 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 concern about the projects, to have the ability to ask high-level questions of the Applicants to better understand the applications, and help intervenors prepare future submissions, and finally, to tell us your views about the future hearing steps and how they best suit your participation goals.

**Opening remarks
Chairman**

5801. 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.
5802. Board staff will see to it that each presenting intervenor is sworn in or affirmed prior to your presentation.
5803. 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.
5804. 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. We have set this time limit to be fair to all intervenors in an effort to allow them all an equal amount of time.
5805. Please be mindful that if you plan on asking questions to the Applicants, your 20 minutes must include sufficient time for responses.
5806. 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.
5807. In the spirit of this more informal setting for information exchange, I would ask the Applicant witnesses to be responsive and efficient with their answers. 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.
5808. Intervenors already in attendance should confirm and register their presence with 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.
5809. If you have any concerns about security, please contact our Security Advisor Adam Hutchings.
5810. Other Board staff present are identifiable by their nametags, including our Hearing Manager Erin Dutcher and our Regulatory Officer Carrie Randall.

5811. 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. It is very important to the Board that we provide a safe and respectable environment for everyone attending these hearings.
5812. The public is welcome to observe and listen quietly and respectfully. The orderly conduct of these sessions will allow us to hear from all scheduled to participate while allowing other persons or media to observe or listen to the live broadcast.
5813. 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.
5814. Following these preliminary matters, 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 to be prepared to appear when called.
5815. As one preliminary matter, on August 21st of last year, the Board granted standing to the Assembly of First Nations' Chiefs of New Brunswick, the AFNCNB. The Board received a letter from Mi'gmawe'l Tplu'taqnn, or MTI, on August 4th, 2016 requesting that they be able to replace the AFNCNB due to a change in organization.
5816. In response, the Board sent a letter yesterday asking further information of MTI and written confirmation from the AFNCNB that it had agreed to relinquish its rights in the proceeding in favour of the new organization MTI. The Board received letters yesterday from the AFNCNB and MTI confirming this to be the case.
5817. The Board considered the matter this morning and has decided to grant the request of MTI. As a result, Chief George Ginnish, who has been scheduled today to appear on behalf of the intervenor AFNCNB, will now instead be appearing on behalf of MTI.

Mi'gmawe'l Tplu'taqnn Incorporated
Oral presentation and Q&A session

5818. The Board will make the necessary updates to the list of participants to reflect this decision in due course.

5819. Also, at the end of the day the Applicant will be making some summary comments for these sessions here in Saint John.

5820. Mr. Watton, are there any preliminary matters?

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

5821. **MR. WATTON:** I'm not aware of any in advance but anyone? I don't see anyone rising in the room, so I think we're ready to start with the intervenors.

5822. And the first intervenor is, as you mentioned previously, the Assembly of First Nations' Chiefs of New Brunswick, which has now been replaced by MTI. So I call upon MTI's personnel to come forward. Thanks.

5823. And I understand Chief Ginnish has not yet been sworn, but has chosen to be sworn here in front of the Panel, and we'll do so.

GEORGE GINNISH: Sworn, Assermenté

5824. **MR. WATTON:** Please proceed.

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR
MI'GMAWE'L TPLU'TAQNN INCORPORATED:**

5825. **CHIEF GINNISH:** *Weli eksitpu'k.* Good morning.

5826. My name is Chief George H. Ginnish. I am the co-chair for the Mi'gmawe'l Tplu'taqnn, and I'm the Chief of the Eel Ground First Nation, Natoaganeg, on the Miramichi in New Brunswick.

Mi'gmawe'l Tplu'taqnn Incorporated
Oral presentation and Q&A session

5827. I'll be speaking first on behalf of our organization and then on behalf of my First Nation.
5828. I want to start by welcoming you to the unceded lands and the territory of the Mi'kmaq, lands which we share with our brothers and sisters the Maliseet.
5829. I thank the NEB Panel for the opportunity to make this presentation and to bring to your attention issues facing the Mi'kmaq with respect to the Energy East Project.
5830. Mi'gmawe'l Tplu'taqnn was formed in 2015. Its members are the nine Mi'kmaq communities located in what is now called New Brunswick.
5831. The name of the organization cannot be directly translated but it means something akin to Mi'kmaq people's laws. It has to do with how we govern ourselves as an Indigenous people.
5832. We are working with eight of our member communities to support them on matters related to Energy East.
5833. You heard yesterday from Chief David Peter-Paul from Pabineau, and today you will hear from representatives of the seven other communities we are working with on this matter as well as our Mi'kmaq brothers and sisters from Elsipogtog.
5834. MTI has a mandate to promote and support the Aboriginal and treaty rights of its member First Nations which includes ensuring that our Mi'kmaq rights are recognized, affirmed, and protected.
5835. We the Mi'kmaq are the Indigenous people of New Brunswick, and since time immemorial we have occupied our traditional lands known as *megumaagee*. Our Mi'kmaq traditional lands are located throughout the province of New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland, and extend into Quebec and Maine.
5836. We have lived and relied on our lands, waters, and resources for our way of life as they have provided us with food, shelter, and all aspects of our daily lives. Our relationship with the land, waters, and resources is the foundation of our identity as First Nations people.

Mi'gmawe'l Tplu'taqnn Incorporated
Oral presentation and Q&A session

5837. In the 18th century on a nation-to-nation basis the Mi'kmaq along with the Maliseet entered into peace and friendship treaties with the British Crown. There was no single treaty event; there were a series of peace and friendship treaties entered into between 1725 and 1779. These treaties form a covenant chain. The covenant chain is unbroken and the treaty relationship with the Crown is ongoing.
5838. It is important for the NEB to note that unlike other treaties signed by other Indigenous peoples throughout Canada, our peace and friendship treaties did not surrender our Aboriginal title to our lands. In fact, our treaties recognized and protected our Aboriginal rights, including our Aboriginal title and the rights flowing from the treaties and they have been upheld by the Supreme Court of Canada.
5839. Under the terms of our treaties, our Aboriginal title lands could not be settled without the consent and compensation to the Mi'kmaq. In most cases this has not occurred, and much of New Brunswick remains subject to our unceded Aboriginal title.
5840. The Energy East pipeline will cross through our unceded Mi'kmaq traditional lands, which we hold Aboriginal title to; thus the project will require our consent.
5841. In addition, our treaties protect our right to hunt, to fish, and to gather for food, social and ceremonial purposes, and for commercial purposes in order to earn a livelihood.
5842. Our communities are deeply concerned about the Energy East Project. Our people continue to exercise our Aboriginal and treaty rights throughout the land and waters and will be affected by the pipeline.
5843. The Mi'kmaq have hunted, fished, and lived throughout all of the areas along the pipeline route including the Restigouche, the Matapedia, the Kedgwick, the Miramichi, and the Saint John River watersheds.
5844. You will hear today from our leadership about concerns they have about the impact of the pipeline. Broadly speaking, these concerns include impacts on watershed and water crossings. The pipeline will cross 363 water crossings, watercourses in New Brunswick alone.

Mi'gmawe'l Tplu'taqnn Incorporated
Oral presentation and Q&A session

5845. Our streams and rivers are not only an important source of food and sustenance; they have provided the transportation corridors by which we access our territory since time immemorial. They are the backbone of our territory and the lifeblood of our culture.
5846. The impact of spills in the watercourses would be devastating on our people's way of life.
5847. Impacts on wildlife and plants including species which we rely on for our Aboriginal treaty rights to hunt, fish, harvest for foods, social and ceremonial purposes, and commercial purposes but also species at risk and other species. All of these species are interconnected and we cannot look at the impact on any one in isolation.
5848. Impacts of the marine terminal and increased tanker traffic. The Mi'kmaq along with the Maliseet and the Passamaquoddy have used the waters of the Bay of Fundy since time immemorial.
5849. The pollution from refinery impacts our lands, our waters. And the tanker traffic will increase three-fold, significantly increasing the impacts on marine species as well as the risk of a spill in the Bay.
5850. Climate change impacts. Associated with the extraction and burning of fossil fuels from the oil and the pipeline this will impact both our coastal communities as well as significant amounts of rights based activities that take place in coastal areas.
5851. I think it's important to point out that as First Peoples we have a special relationship with the Crown. And unfortunately, our story, our history is not well known mainstream. And so for a country that is going to celebrate 150 years next year, Canada is largely ignorant of the relationship that we have with the Crown and the rights that we hold as Mi'kmaq in our traditional territories.
5852. Our ancestors were very forward thinking when they signed peace and friendship treaties. They were thinking of us when they did that. And any matters that would impact our rights or our traditional territories we have to consider the impact that any projects will have on our next seven generations; it's our duty to our ancestors.

Mi'gmawe'l Tplu'taqnn Incorporated
Oral presentation and Q&A session

5853. Unless all of these concerns can be meaningfully addressed, we cannot and will not consent to the pipeline in our territory.

5854. Those are my comments. And I have one question that I would like to pose.

5855. **THE CHAIRMAN:** Please.

5856. **CHIEF GINNISH:** We the Mi'kmaq have Aboriginal title to the lands located throughout the province of New Brunswick, and the pipeline will cross through our traditional lands and waters. We also have existing Aboriginal treaty rights, which we continue to undertake throughout the lands and waters located throughout the province of New Brunswick.

5857. However, the Applicant, in their consolidated application, volume 10, figure 2.1, identify the Applicant's approach to identifying affected Aboriginal groups based on their proximate location to the pipeline. The approach seems contrary to the fact that Mi'kmaq have Aboriginal title and exercise their Aboriginal title and treaty rights throughout New Brunswick.

5858. As regardless how close or how far our reserve communities are located to the pipeline, the fact remains that the pipeline will cross our Aboriginal title lands and affect how and where we exercise our rights.

5859. Could the Applicant identify whether existing Mi'kmaq Aboriginal title and Aboriginal and treaty rights have been considered by the Applicant when they determined their potentially interested Aboriginal groups, figure 2.1, and if so, how? Thank you.

5860. **MR. VAN DER PUT:** Chief Ginnish, thank you very much for your welcome on your traditional lands. I will ask Mr. Matossian to respond to your question.

5861. **MR. MATOSSIAN:** Thank you, Chief Ginnish.

5862. I just want to say, one of the things I really value about my job is what I learn about history and culture in almost every single interaction that I have with community members, and I do appreciate that, and I think it's beneficial to the rest of our team to hear those lessons and teachings. So thank you for sharing those.

Mi'gmawe'l Tplu'taqnn Incorporated
Oral presentation and Q&A session

5863. With respect to our -- what's in section 2 is our methodology for initial determination, and as you mentioned, we had three categories of affected First Nations communities, First Nations and Métis communities and organizations. But I think what's important to note is that now in practice, we are operating with your communities, with MTI, on the basis of traditional territory, so the territorial scope of the traditional land and resource use studies that, you know, we're working with you to complete, are on the basis of the full scope of asserted traditional territory and of Mi'kmaq Aboriginal rights.

5864. Likewise with, you know, with our engagement program, we are not exclusively looking at proximity of the right-of-way and facilities to reserves. We are looking at holistically your traditional territories, all land and resource use, both terrestrial and marine. And I -- you know, this is the objective of our program, which is to share the information of -- about this project as completely as we can.

5865. And we still have work to do on that with your communities to identify any concerns related to the potential effects that the project may have on Aboriginal rights, again, with that full scope of the territory, and to work together on best avoiding effects, you know, particularly around the areas that you've mentioned of primary concern; waterways, watersheds, you know, increased traffic in the Bay of Fundy, and all of the, you know, the resources within the Bay of Fundy and how we can safeguard those, you know, larger climate change implications, and of course, you know, the impacts on wildlife and plants as well.

5866. So that's the objective. We're -- I think we're heading well down that direction and by all means, if we're not doing anything well in that regard, then, you know, please let us know, because we're always happy to adapt and rely on your guidance on how we should be better at engaging in that regard.

5867. **CHIEF GINNISH:** We have no further questions at this time.

5868. **THE CHAIRMAN:** Thank you. Do you have any other comments for -- related to MTI or process suggestions to the Board?

5869. **CHIEF GINNISH:** Not at this time.

5870. **THE CHAIRMAN:** Are you now going to speak for the Eel Ground First Nation?

**Eel Ground First Nation
Oral presentation and Q&A session**

5871. **CHIEF GINNISH:** Yeah. Yes, I am.

5872. **THE CHAIRMAN:** Thank you.

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR THE EEL
GROUND FIRST NATION:**

5873. **CHIEF GINNISH:** Again, Chief Ginnish, for the record. I have served as Chief of my community, Natoaganeg, for 20 years, for the past 20 years, and prior to that, I had served as council member.

5874. Eel Ground First Nation is located on the Miramichi River in northern New Brunswick, close to the junction of the northwest and southwest Miramichi Rivers. Our community has reserves on three branches of the Miramichi.

5875. It's important to remember that the reserve system is a product of colonialism and our people continue to exercise their Aboriginal treaty rights throughout our territory, as described earlier. The Proponent cannot simply assume that because our reserves are not located within a certain distance of our pipeline that this means our people are not affected.

5876. Our people have lived throughout the Miramichi River systems and relied on it for physical, spiritual, cultural sustenance and their livelihood since time immemorial. While all species are important to our people, (*Mi'kmaq word*)) or salmon has a particular significance to the Mi'kmaq and the people of Natoaganeg. Salmon is not only a staple of our diet, but it is intimately tied to the cultural and spiritual practices of the Mi'kmaq.

5877. Miramichi is one of the greatest salmon rivers, let alone New Brunswick, but in Canada and the world. Despite significant conservation efforts, our salmon population is under significant pressure with record low returns in recent years.

5878. Our community has been reduced to a small food, social, and ceremonial fishery, which we are under constant pressure to suspend. The salmon are already under significant pressure from forestry activity, climate change, and a number of other causes. Salmon is a cold-water species. High temperatures have resulted in the closure of several salmon pools this summer.

Eel Ground First Nation
Oral presentation and Q&A session

5879. The Energy East Pipeline will cross the Cains and southwest Miramichi Rivers and will impact the entire Miramichi watershed. The impact of an oil spill on this already fragile ecosystem would be devastating. It would have major impact on salmon and our life, our lives, our sustenance. We also rely on other species in the river, including American eel and sturgeon, and both of these species are now considered at risk. If we lost these species due to impacts caused by the pipeline, it would be a devastating cultural loss to our First Nation.
5880. Our community is very dependent on fish and game for sustenance for the health benefits and due to the very real poverty that exists in our communities. We have attempted to negotiate access to other food fish and have largely been unsuccessful, with the exception of a small amount of striped bass.
5881. So without partnerships with, like, Canada Feed the Children, that work in our school systems, hunger would be a real daily experience for many of our people.
5882. We've had the opportunity to do a study a few years ago with the University of Montreal about the impact of the loss of traditional diet. And it's no secret how modern diet impacts our people, heart disease, diabetes. Those are realities of our daily lives as well. So it's important that we protect and conserve our traditional resources for our people.
5883. So my question to the Proponent would be, in 2014 the Provincial Government of New Brunswick increased the total allowable cut for forestry by 21 percent. This increase in forestry harvesting included the reduction of the size of riparian buffer zones along the waterways, which impact the temperatures of various rivers. This in turn placed the salmon at increased risk as the high water temperatures directly affects their survival and their mortality rates.
5884. Could the Applicant explain whether this occurrence and the vulnerability of the salmon has been considered by the Board in their approach to the construction of the pipeline when it crosses various waterways?
5885. **MR. VAN DER PUT:** It's very important, when we look at a project like Energy East, to apply our 65 years of experience, TransCanada's 65 years of experience in building safe pipelines, to ensure that when we construct a pipeline that we are mindful of any potential impacts.
5886. I would like for Mr. Albert Lees, who is the author of our

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environmental and socio-economic assessment, in terms of looking at that specific valued environmental component, to describe some of the aspects that we looked at and in particular the mitigation measures that are recommended to ensure that we protect the species.

5887. Mr. Lees?

5888. **MR. LEES:** Thank you.

5889. As part of the environmental assessment that was completed by Stantec, we looked at the value component that we call “fish and fish habitat”. And those assessments that we did on all the watercourses that you’ve mentioned, but particularly the southwest Miramichi, we looked at quantifying habitat conditions both upstream of the proposed crossing site and downstream of the proposed crossing sites. We looked 100 metres upstream, 300 metres downstream, and depending on the size of the watercourse we could go farther downstream.

5890. So that habitat assessment included documentation of the various habitat features that are found within the watercourse as well at the riparian vegetation. And then we looked at what would be the potential effects of the crossing on fish and fish habitat. And based on that assessment, we made recommendations to Energy East to the actual timing of the crossing and the method of crossing. And if I remember correctly, the southwest Miramichi is a directional drilling. Yes, it is.

5891. And then other crossing methods for most of the crossing methods associated with the pipeline project, are generally undertaken as an isolated crossing. And when we talk about an isolated crossing, that means the flow is isolated during the actual pipeline construction. And the flow is maintained by either pumping around the site or through a flume that allows the water to go through and then the pipe is installed.

5892. Our recommendations for mitigation measures after the pipe is installed include specific stream bank reclamation that includes things like the use of bioengineering, planting, and ensuring that the right-of-way is seeded immediately following the completion of construction to ensure that vegetation is established to control any potential sediment coming down the pipeline right away. And during poor weather events, part of the construction mitigation also includes maintaining a riparian buffer. Generally that riparian buffer is from high

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watermark to 30 metres back.

5893. There is still the need to cross the watercourse, depending on the size, with vehicles. And so we also make recommendations on the method of vehicle crossing. So that's either a portable bridge -- generally it's a portable bridge, but on smaller streams it might be actually installation of a culvert.

5894. Those access points across the stream have sediment and erosion control features associated with those as well, so use of sediment fence and then ensuring that during construction the sediment fence is maintained throughout construction.

5895. All of the assessments that we have done and our proposed mitigation measures are captured in the environmental protection plans. Those environmental protection plans are found in Volume 21 of the application. And there's separate environmental protection plans for the new pipeline for the pump stations for the tank terminal.

5896. **CHIEF GINNISH:** Could I specifically ask if the 21 percent forestry increase was considered?

5897. **MR. VAN DER PUT:** Mr. Lees?

5898. **MR. LEES:** Not specifically as part of the assessment. We looked at what was happening at the actual pipeline crossing location.

5899. **CHIEF GINNISH:** The reason I ask is that living on the river and realizing the impact that any effort can impact the salmon, and the fact that the main northwest has not reached spawning requirements in a number of years, we're very concerned that any work done that could potentially impact our source of sustenance wouldn't have to be only done to industry standard, but it would have to seriously exceed industry standard to give us any level of comfort.

5900. It's like I said, the salmon are central to our being and to lose them would be massively devastating. And we want to clearly make that point and make sure that the Board understands that.

5901. So I thank you and I have no further questions at this point.

5902. **THE CHAIRMAN:** Thank you.

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5903. **MR. VAN DER PUT:** Chief Ginnish, if I can just add one comment with regards to the crossing method that was described. Horizontal directional drilling, it's actually a method where we drill completed under the river. And actually the entry and exit points for that drill are well away from the shoreline, typically several hundred metres away from the shoreline. So it's a method in that, you know, particular case that doesn't impact the waterway at all.
5904. Mr. Matossian, did you want to add something as well?
5905. **MR. MATOSSIAN:** Sure. And you know, while we've hopefully answered your question we may not have addressed your concern. And I just wanted to say a couple of things about some things we have done and some things that we would like to do.
5906. And one is, during the ESA we've obviously conducted a considerable amount of field work, so doing inventories of fish species or different species and habitat. And in that process, there were, you know -- there was a lot of First Nation involvement in those field studies and it's -- and particularly last year that was even more so. So that was in the vegetation studies, the wildlife studies, the aquatic studies, and wetland studies.
5907. And some of the species that you mentioned in terms of the American eagle, et cetera, those were definitely investigated and, you know, there was certainly some focus in there from our Aboriginal study participants.
5908. In terms of archeology as well, we've, you know, had a significant level of involvement in the archaeological studies with Mi'kmaq monitor on that crew to ensure that when we are doing these investigations, we're capturing the Aboriginal interests.
5909. And sir, we haven't gotten in some cases with your communities to the level of detail of specific water crossings yet, but we certainly listened to and heard in meetings at the beginning of July with the MTI staff that we'd like to focus on the Cains and the southwest branch of the Miramichi.
5910. And what we would, you know, typically do there is have a look at the detailed design for the water crossing, which in those two is a proposed horizontal directional drill; look at really the specifics of the design; try to get some comfort around the rationale that went into the design, the particulars of the design; also

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talk about, you know, how we monitor that crossing or the pipeline, when it goes into operation; what the environmental protection plan measures -- are the proposed measures. You know, talk about those in detail with you, try to get an understanding whether there is anything additional that we might need to consider in those. Also look at -- you know, so those are the sort of preventative sides in the mitigation sides.

5911. And then in the unlikely event that something happens, we'd also want to be engaging with you around, you know, how we rapidly respond to an incident so that at the end of the day, we have a solid understanding of how we design to prevent anything happening and how, if anything does happen, we are able to respond in a way that minimizes any damages.

5912. So these are, you know, as I mentioned, the sort of drilldown. These are the things that we will be discussing at great detail with you in the coming weeks and months.

5913. **CHIEF GINNISH:** Yeah. We do appreciate that, Christian, but I think salmon are our key concern, not the process by which the pipe is laid. The salmon.

5914. So I thank you very much and we have no further questions.

5915. **THE CHAIRMAN:** Thank you. And we've heard you that salmon is one of your key concerns, and we will take that into consideration.

5916. Thank you for coming to talk with us today. This is exactly what we were hoping for, is to hear the key concerns from -- and I apologize for mispronouncing it, from the Mi'gmawe'l Tplu'taqnn -- you can correct me on the pronunciation -- and also from your First Nation.

5917. Thank you.

5918. **MR. WATTON:** And our next intervenor is the Indian Island First Nation.

JESSE SIMON: Sworn, Assermenté

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**--- ORAL PRESENTATION/REPRÉSENTATION ORALE PAR INDIAN ISLAND
FIRST NATION:**

5919. **MR. SIMON:** Good morning. (Speaking in native language).
5920. My name is Jesse John Simon. My dad's name was Jesse John Simon and my grandfather's name was William John Simon.
5921. And the reason why I state that is the men before me contributed a lot to the history that's been put forth that you're all witnessing right now. And I may not be able to do what my father and my grandfather did, but I want to stand here to ensure that my son can talk about me the same way.
5922. I am the Executive Director of Mi'gmawe'l Tplu'taqnn. I'm here today to speak on behalf of Chief Ken Barlow of Indian Island because he was unable to make it today due to a tragedy in his community, which I will mention at the very end. So he sends his regrets, but I'll be -- he asked me to speak on his behalf and on behalf of Indian Island.
5923. I welcome you all, everybody here, to the unceded lands of the territory of the Mi'kmaq. "Unceded" means not given away, not traded, not loaned out, right? It means living together, knowing that my ancestors did back then, that this is something that we can all benefit from; not a corporation, not a majority of society but all.
5924. "Unceded" means it hasn't been given up in any way, shape or form.
5925. Mi'kmaq territory was historically divided into seven districts. You are in District 6, which is known as Sigenigteoag District. The base is the name of Signigtog and our district stretches from the Kouchibouguac in the Northumberland Strait in the north, to the Bay of Fundy into the south, and what is now known as Nova Scotia in the east. And for those of you who don't know that there was a Mi'kmaq community in Saint John itself.
5926. I wish the map actually could focus on New Brunswick rather than whole Canada considering we're just talking about New Brunswick today but I'm just hoping that's an oversight.
5927. I want to thank the NEB for the opportunity to make this presentation to bring your attention to the issues facing the Mi'kmaq in respect to Husky

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- Energy. Oops, I mean, Husky Energy was -- they leaked about 250,000 litres.
5928. This is Energy East, which is more -- safer than Husky, right? Look at John for giving me the evil eye.
5929. Chief Ken has served his community as Chief for the last nine years and prior to that he was a councillor for 17 years. As a councillor, even though he maintains his duties in government, he hunted, still fished, he still cut wood, as a means of living.
5930. He was recently awarded the Order of New Brunswick for his work in preserving Mi'kmaq culture and economic development.
5931. I'm from the sister community of Elsipogtog, just up the river. So I'll do my best to speak on the community's behalf.
5932. Indian Island is located on the coastline of Richibucto Bay near the mouth of the Richibucto River in eastern New Brunswick. I know that you can only see a little bit of New Brunswick up there, but we could figure out where it is.
5933. It's a sacred site that they still practise dancing and ceremony that has been performed thousands of years. However, its location shouldn't be determined on where they are because we've lived all throughout New Brunswick.
5934. It's the colonial system that set up this reserve system because in the summer we would fished in the rivers and in the winter we would hunt near the woods and we'd travel like that all throughout New Brunswick.
5935. But even though we've been reduced to these reserves, we continue to exercise our treaty rights all across New Brunswick.
5936. Enbridge cannot simply assume that because our reserves are not located within a certain distance of the pipeline, it means we're not affected -- sorry, no, Enbridge spilled 230 litres of gas.
5937. This is Energy East; sorry, Energy East cannot assume because our reserves are not located within distance of the pipeline, they won't be affected.

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5938. The community is particularly concerned about the impacts of climate change but I'll call it like it is, global warming. We haven't used that term for a while because it's not politically correct, right?
5939. Due to increasing sea levels and the storm surges, the community of Indian Island had to build these huge walls that once overlooked the water and the sunset are now -- they're looking at a wall. It's to protect them from the climate change impacts; the rising sea levels and, at one point, they really had to up all the houses, dig ditches, and everything else just to avoid those kinds of impacts.
5940. However, that's only a temporary solution. If sea levels continue to rise, the community may eventually have to relocate and the sacred site itself will be lost at sea. This is an understatement, but it will be a catastrophic loss.
5941. As such, Indian Island is deeply concerned about the impact of the extraction and burning of fossil fuels that will be transported by the Energy East pipeline, and that to an extension will have an effect on their community.
5942. The community itself, as small as Indian Island is, has managed to work on a wind energy project to make themselves less reliant on fossil fuels and should set an example to all of us across Canada that we don't have to rely on fossil fuels.
5943. Chief Ken has done a lot to preserve his cultural preservation. His community has a number of artisans. They are concerned about how the pipeline will affect black ash, birch, and other species they rely on to make traditional art, including porcupine quill boxes, ash baskets that are a hot commodity if you know where to find them if you can find them.
5944. These particular species are already becoming harder to find, and clearing the land to make way for a pipeline will impact its abundance, which is growing smaller and smaller.
5945. And while the pipeline does not appear directly across the Richibucto Watershed, it crosses adjoining watershed, all of which are part of our territory. Because an impact on one watershed has an impact on all.
5946. Our people have traveled to Richibucto into the watersheds to hunt, fish, and gather, and historically they would portage from the Richibucto into what is now known as the Salmon River, from there into Grand Lake to access the

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lower Saint John River.

5947. The lower Saint John River remains an important part of our territory today, and we are concerned about the impacts that spills would have on that particular river system.

5948. Unless Indian Island's concerns are meaningfully addressed, they cannot consent to this project in their territory. And it's come across with both industry, the province, and the feds and I'll get back to the tragedy that happened in Indian Island. To be continually marginalized, isolated, seen as a footnote, an after-the-fact, this has reverberations from the leadership down to the population.

5949. So the tragedy that happened in Indian Island unfortunately is not an isolated one. There was a suicide there of an 18-year-old who did not see the benefits of living beyond being 18 years old. But that's the result of isolation, marginalization, being considered a footnote, not being recognized, treaties being set on the wayside. And for what? Profits? Revenue-generating? A few jobs? Yet, we sit on the sidelines and not entirely think about what it is that we've done to the original inhabitants of this land.

5950. So I guess if I was to pose a question it would be to the NEB. In the NEB letter of August 2015, the National Energy Board identified that:

"Oral traditional evidence that is provided in the hearing process must be within an overly narrow scope and cannot address technical or scientific information, cannot provide opinions and/or views about the project, and cannot have opinions about the projects [amongst other things]." (As read)

5951. This was a letter of August 2015.

5952. I would ask that the National Energy Board take note that this narrow restriction on what our elders and resource users can provide by way of oral traditional evidence is potentially procedurally unfair and does not, in fact, accommodate or respect the cultural transmission of our traditional knowledge.

5953. As well, the opinions of our elders with respect to the project is a relevant factor that has been given proper consideration by the highest courts in the land, right? Underlined by the *Tsilhqot'in Decision*, which we are all familiar with by now.

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“...and by the panel that such testimony will provide further insight into how the project may be affecting constitutionally protected Aboriginal and treaty rights.” (As read)

5954. Now, the last line, it's extremely important, "...constitutionally protected Aboriginal and treaty rights." It's not something just written on paper; it's not something that is conceptually unrecognizable. It's recognized by the highest courts in the land.
5955. Now, the province needs to wrap their head around this because we've had our battles with them. The feds need to do it and so does industry. We've seen where all levels of government industry has kind of tried to bypass this. The result of it was SWN and the whole protest on October 13th, 2015, right?
5956. So let me make this clear, that this has been given proper consideration by the highest courts in the land.
5957. So could the NEB clarify that at some point and give me just an answer on why is it so narrow, the scope, and cannot address technical or scientific information? Or can I ask somebody else that will give me an answer?
5958. **THE CHAIRMAN:** Well, we're not in the habit of answering questions. We're here to listen. But I take your point that we probably have a different understanding of OTE
5959. So I can ask our specialist to maybe contact you to gain a greater understanding. Maybe it's a miscommunication on how we see it because we're quite open to oral traditional evidence. And if you're talking about scientific information which is based on your oral traditionals and TLUs and things like that, we might be talking at cross-purposes.
5960. So I'd like to clarify that. So I will ask our specialist if you could take note, Erin, to communicate with Mr. John Simon?
5961. **THE REGULATORY OFFICER:** Jesse.
5962. **THE CHAIRMAN:** Jesse John Simon. Okay, thank you. And we've taken note of that because this has occurred a few times. We thought we

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were communicating it properly, but if we're not, it's now a good time to maybe -- no, not maybe -- to clarify that.

5963. Is there anything else that you would like to communicate?

5964. **MR. SIMON:** I guess not.

5965. **THE CHAIRMAN:** Well, thank you very much.

5966. **MR. WATTON:** And our next intervenor is the Fort Folly First Nation.

CHIEF KNOCKWOOD: Sworn, Assermentée

--- ORAL PRESENTATION/PRÉSENTATION ORALE PAR FORT FOLLY FIRST NATION:

5967. (Speaking a Native language.) Good morning. My name is Chief Rebecca Knockwood and I'm from Amlamkuk which is Fort Folly First Nation. I welcome you to the unceded lands and territories of the Mi'kmaq, lands which we share with our brothers and sisters the Maliseet.

5968. I thank the National Energy Board Panel for the opportunity to make this presentation and to bring your attention to the issues facing the Mi'kmaq with respect to the Energy East Project.

5969. I have served as chief of my community since 2013. Prior to that, I serve on council 10 years. Along with Chief Ginnish, I serve as co-chair of the Mi'gmawe'l Tplu'taqnn.

5970. I have listened to the previous presentations on behalf of Mi'gmawe'l Tplu'taqnn and its member communities. I support these comments as they apply to my community as well.

5971. Fort Folly First Nations present-day reserve is located near Memramcook River, which joins the Petitcodiac River which empties into the Bay of Fundy.

5972. Our community has been forcibly relocated more than once. Our original reserve was in Beaumont on the banks of the Petitcodiac River itself.

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5973. The reserve system is a product of colonialism, and our people continue to exercise their Aboriginal and treaty rights throughout our territory.
5974. Mi'kmaq territory was historically divided into six districts. Fort Folly is located in District 6, Signitog, which stretches from the Northumberland Strait to the Bay of Fundy and into Nova Scotia.
5975. Our people have used and occupied the Petitcodiac, the Lower Saint John River, and the Bay of Fundy since time immemorial.
5976. The name of the Petitcodiac comes from a Mi'kmaq word meaning "river that bends like a bow". And there is a historic portage route from the Petitcodiac River into the Kennebecasis River, which is also a Mi'kmaq word meaning "little long bay place", which is tributary to the Saint John.
5977. Another portage route took us from Petitcodiac to the Washademoak River, known as the Canaan River. From this river they could reach Washademoak Lake and then canoe to the Saint John River and then onto other parts of New Brunswick and Quebec.
5978. My community continues to have close ties with the Mi'kmaq of Nova Scotia and on the other side of the Bay of Fundy. We are members of the Mi'kmaq Conservation Group, or the MCG, which includes five other Mi'kmaq communities in Nova Scotia around the Bay of Fundy.
5979. Our community continues to fish in the Bay of Fundy. We have a number of commercial licences in the Bay of Fundy. Pollution from the refinery and tanker traffic are already serious concerns, and we are deeply concerned about the potential impact of the marine terminal and the increased traffic on our fisheries.
5980. One of the things that I have been dealing with because my community fishes out of Bay of Fundy is the turbines that have been placed in the Bay of Fundy, and it's going to start to impact my fisheries there.
5981. Like other communities, we are historically reliant on salmon. Our beloved Petitcodiac with its muddy waters was a lifeblood of our traditional territory and essential to sustaining the salmon of the inner bay. However, the inner Bay of Fundy of salmon is now a species at risk and the outer Bay of Fundy

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salmon is in the listing process.

5982. My community Amlamkuk has been working closely with all levels of government, scientists, industry, and conservation groups on habitat restoration and other efforts aimed at the recovery of the salmon population. While we are hopeful, we currently are not able to exercise our Aboriginal and treaty rights with respect to the salmon.

5983. The pipeline will travel through the Kennebecasis and Saint John watersheds. A spill in the waters of the Kennebecasis, the Saint John, or the Bay of Fundy itself would be devastating to the recovery of the salmon and the 15-plus years that my community has been working to restore the inner Bay of Fundy salmon would have been for nothing.

5984. We also have sea cages in the Bay of Fundy, which we're rearing inner Bay of Fundy salmon from fry to adults to release to the tributaries; the Saint John River, the Petitcodiac River, the Little Salmon River.

5985. In addition to this, we are concerned that a spill in the Matapedia, Restigouche, or the Miramichi watersheds will leave our brothers and sisters to the north in the same position as us, unable to enjoy their historic and cultural relationships with the salmon.

5986. In saying this, my daughter recently returned home back to Fort Folly as she was living in Prince Albert, Saskatchewan. As you know, there was recently a spill there and that had affected First Nations. She's a teacher out there; she had to come back home. She was speaking to her husband last night who works for Corrections Canada in Prince Albert and he told her the water conservation is over but the water is still oily and undrinkable.

5987. And I just wanted to mention that we do not do this for now but we do it for seven generations.

5988. Unless my community's concerns are meaningfully addressed I cannot consent to this project in our territory.

5989. Thank you.

5990. I have a question as well.

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5991. **THE CHAIRMAN:** Certainly, go ahead.
5992. **CHIEF KNOCKWOOD:** The Energy East pipeline will involve a substantial increase in the amount of tanker traffic occurring in the Bay of Fundy by 281 tankers. These tankers will include 70 tankers carrying 7,000 barrels of oil, 175 tankers carrying 1 million barrels of oil, and 36 tankers carrying 2.2 million barrels of oil.
5993. This will increase the tanker traffic by 5.4 tankers per week. This will increase the amount of annual oil tanker traffic in the Bay of Fundy from 64 percent to 85 percent. This increase in tanker traffic is a substantial increase and risk to potential tanker accidents occurring in the Bay of Fundy.
5994. As the Bay of Fundy embodies a unique ecosystem and is the area that which Fort Folly undertakes its commercial fishing activities, I would ask the Applicant if they have considered the substantial risk that the tanker traffic increase will have for Fort Folly and our commercial fisheries operations. And may I add as well, look at the Titanic they said was unsinkable.
5995. **MR. VAN DER PUT:** The tanker traffic that would be associated with the Energy East Project would be about less than one ship per day.
5996. The important thing with regards to the tankers is ensuring the safety. Energy East will impose a very stringent vetting procedure on any vessel that will be berthing at the Energy East -- the Canaport Energy East Marine Terminal.
5997. I'd like for Mr. Pardo to describe some of the elements of that vetting procedure because I think it's extremely important in terms of ensuring the safety of those tankers.
5998. Mr. Pardo?
5999. **MR. PARDO:** Thank you. The vetting procedure is composed of two steps. The first step is going to be performed by our shippers looking at chartering those vessels, and then there's a nomination process in which they let us know which tankers they are proposing to bring.
6000. So we go to the second step of the vetting process, which is an Energy East process based on International Maritime Organization Oil Companies Marine Forum, OCIMF. It's called Tanker Acceptance Program.

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6001. And what we look at those tankers is what they have done since construction and the compatibility of the tanker with the design of the marine terminal. So we look at features on the tankers like double hull. So there is two shells in the tanker and the ballast is in the -- ballast water is in the inner and outer shell.
6002. We look at the inner gas systems that protect the cargo for a potential for explosion. We look at navigational aids that the tanker has like navigational charts included in the tanker.
6003. But we also have mitigation measures in the Bay of Fundy. So those mitigation measures consist of the use of pilots who are very experienced marine captains familiar with the Bay, so tankers will have a pilot by regulation. And the usage of tugboats to help in the berthing of these tankers when they arrive to the marine terminal.
6004. As well as it's mandatory for these tankers to follow the traffic separation scheme in place, so there is an inbound and an outbound line for these tankers to follow.
6005. So all those factors are considered in our evaluation and the final decision to bring a tanker to the terminal.
6006. **MR. VAN DER PUT:** And ultimately if tankers are not able to pass those very stringent vetting procedures then fundamentally they won't be allowed to berth at the Canaport Energy East Marine Terminal.
6007. **CHIEF KNOCKWOOD:** Well, and that's well good enough said you considered all this. But have you considered the impacts on my First Nation community for the commercial fisheries, as well as those sea cages that our out there off the Grand Manan?
6008. **MR. VAN DER PUT:** We very definitely have looked at effects on commercial fisheries. I would like for Mr. Lees to specifically address that question.
6009. **CHIEF KNOCKWOOD:** Okay, but before he starts, I'm talking about my community, Fort Folly specifically.

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6010. **MR. VAN DER PUT:** Mr. Matossian will address the engagement that we've had specifically with your community.
6011. **MR. MATOSSIAN:** Thank you, Chief Knockwood.
6012. I will speak to the -- how the assessment looked at commercial fisheries in general, including Aboriginal fisheries, but you know, certainly the work that we have ongoing with, you know, your communities and MTI and the traditional land and resource use study should give us information about your, you know, food, social, and ceremonial fisheries and commercial fisheries, and which we would hopefully then employ back into input into the project decision making.
6013. I also want to just highlight that, you know, the objective of our engagement program that, you know, we're in the middle of with you and still have quite a bit to do, is to -- when you mention "meaningfully address concerns" is to explain, you know, the project and its complexities -- it's a hell of a lot of information in our filing -- is to sit down and although we're sitting across the table from each other right now, it's to sit down, to go through the details, to talk about what we've proposed, to talk about what we've proposed from preventative design, from monitoring, from emergency response, and to see where we end up with your concern after that and see if we need any further conversation.
6014. **CHIEF KNOCKWOOD:** Okay, but you haven't specifically came to my First Nation to talk in regards to my commercial fisheries in the Bay of Fundy.
6015. **MR. MATOSSIAN:** Correct.
6016. **MR. VAN DER PUT:** Mr. Lees, could you please address that we've assessed potential impacts to commercial fisheries.
6017. **MR. LEES:** Thank you.
6018. As part of the ESA, we looked at the effect of increased marine shipping on commercial Aboriginal fisheries in the Bay of Fundy. Part of that assessment focused on the actual increase in the number of vessels relative to the current traffic going through the Bay of Fundy, and we found that the effects on commercial fisheries would not be significantly impacted. That's from the perspective of increased shipping.
6019. The primary reason for that is that the tankers coming into the

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Canaport Energy East Marine Terminal have to follow the existing shipping lanes that take -- that are described for the lower Bay of Fundy, so vessels coming in have to follow those shipping lanes. And then once they get to the pilot boarding station, they are under reduced speed and they have tug support to limit the speed of which they approach the actual terminal itself.

6020. We also, as part of the assessment, completed an assessment of spills related to increased shipping. That's in Volume 24 of the application and that's the Ecological and Human Health Risk Assessment. And that looked at the potential effects of a spill from a tanker within the Bay of Fundy. We looked at three different scenarios there. They were a groundings, a collision, and a power grounding.

6021. **CHIEF KNOCKWOOD:** Okay, that just seems improbable. From what I know, that's just improbable for sure.

6022. **MR. VAN DER PUT:** Bottom line is that we are committed to continuing our consultation engagement to -- not only with MTI, but very well into continued discussions with Fort Folly First Nation with regards to this and other issues.

6023. **CHIEF KNOCKWOOD:** Well, all -- and that's all.

6024. **THE CHAIRMAN:** Thank you.

6025. **MR. WATTON:** Our next intervenor is Mr. Blake Palmer. Mr. Palmer, if you could please confirm that you have either been affirmed or sworn when you came and registered this morning?

6026. **MR. PALMER:** Yes.

6027. **MR. WATTON:** And please turn on the red button on your microphone so you can start.

6028. **MR. PALMER:** Pardon me?

6029. **MR. WATTON:** Please ---

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6030. **MR. PALMER:** Can everyone hear me now?

6031. **MR. WATTON:** Yes. If you could just affirm that you were sworn in when you arrived this morning?

6032. **MR. PALMER:** Yes.

6033. **MR. WATTON:** Thank you.

6034. **MR. PALMER:** Okay.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR MR. BLAKE PALMER :

6035. **MR. PALMER:** Good morning. Could we have the photo of my property here? Do you have that? Could that be turned so that it's this way? Can you turn that the other way or no? I'm just -- you can see my property line there.

6036. **MR. WATTON:** It's going to take a minute but I think she's able to do it if you'll bear with us for just a moment.

6037. **MR. PALMER:** The other way round. It's -- that's the Latimer Lake Road, which ---

6038. **THE REGULATORY OFFICER:** There might be a little pointer up here, so -- because you can just press it and it'll ---

6039. **MR. PALMER:** That's better. That's great. You can see my property over -- it's marked over here.

6040. Good morning. My name is Blake Palmer. I reside at 260 Latimer Lake Road, East Saint John, where we own a 100-acre woodlot. I'm also a member of the Southern New Brunswick Private Woodlot Owners.

6041. For or against the pipeline project? I have over 40 years' experience in the golf course industry, both in construction and maintenance; have worked with Department of the Environment on EIA projects. The last golf course that I worked on was West Hills, north of Fredericton in 2012. I have also played golf courses in Alberta, where the pipeline was buried underneath the fairways, but that was back in the eighties and times have changed.

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6042. My questions I submitted to the National Energy Board: What impact is the pipeline going to have on me as a private property owner? How will the pipeline be constructed and what safety measures will be taken? How will the pipeline be handled with the natural elevation of the land?

6043. Some of my comments to these questions: The pipeline is approximately one kilometre from my property line. I was advised that the service road for the pipeline is approximately 66 feet wide. The elevation at the back of my property is 295 feet or 90 metres. Personally, I would have preferred the Clover Valley route where the elevation is much lower and less of an impact on the environment. I can only assume that the current pipeline route was based on the availability of Crown land located between my property and Flamingo Lake.

6044. To reduce the effects of a major oil spill, I would look at developing safety nets of some kind, like a retention pond, especially to protect these environmental sensitive areas.

6045. Another question: Wildlife and local residents -- the wooded and wetland area has also produced an abundance of moose and deer over the years. Hunting in the fall during the moose season provided some of the local residents with a supply of food for the winter months. Wildlife and local residents -- you can see -- if I can picture Buck Lake -- that's to the -- up in the right hand corner which is also the home to the loons and the cranes which feed and nest in this area and are considered endangered species.

6046. The other question I had, what will the pipeline do to reduce public access to my property as currently I have problems with ATVs, snowmobilers, recreational vehicles on my property? If a service road is developed to accommodate the pipeline, the traffic will be out of control.

6047. Respectfully submitted, Blake Palmer.

6048. Is there any questions or ---

6049. **MR. VAN DER PUT:** Mr. Palmer, thank you. We have your questions. Would you like for us to begin to respond to them?

6050. **MR. PALMER:** Pardon me?

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6051. **MR. VAN DER PUT:** We have your questions and we can respond to them.
6052. **MR. PALMER:** Okay.
6053. **MR. VAN DER PUT:** All right.
6054. So I think the place to start is actually what's most important. You asked a question with regards to how pipelines are constructed. And the key thing is to construct them to ensure that they're safe.
6055. So in regards to that, TransCanada, which will build the pipeline for Energy East, builds safety into every aspect of the lifecycle of the pipeline, beginning with design and construction.
6056. And just a few examples of how we accomplish that. We inspect 100 percent of all of the welds on the pipeline. We wrap the pipeline with an anti-corrosion coating to protect it against any possible corrosion. We do what's called a hydrostatic testing where we fill the pipeline with water, pressure it up to 25 percent over the maximum allowable operating pressure to make sure that there are no leaks. And a method that we use at water crossings in particular and other road crossings, that sort of thing, is we use a thicker pipe in those areas.
6057. When the pipeline goes into operation, again there's things we do to protect against corrosion, which is called cathodic protection. It's the same technique that protects the Eiffel Tower, for example. And it uses cathodic protection as well.
6058. We do aerial surveillance of our pipeline right-of-way. Once every two weeks we do ground patrols to make sure that everything is in good condition.
6059. We run periodically what are called "inline inspection tools" through the pipeline to make sure that there aren't any anomalies. And those tools can detect little fissures as thin as the width of a hair, so very, very highly sensitive. And the condition of our pipeline is monitored 24 hours a day from our oil control centre in Calgary through the data that we receive from thousands of sensors that are installed all along the pipeline, at each of our pump stations, each of our valves, shut-off valves, send that information every five seconds to the oil control

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centre so we can see on an ongoing basis the condition of the pipeline.

6060. So those are some of the elements that go into building and operating a pipeline to keep it safe.

6061. Now, one of the things that you talked about is the access to the right-of-way. And there very definitely are -- one of the things to keep in mind is that the right-of-way -- all that Energy East is going to be doing is getting access to the right-of-way, an easement. The right-of-way still belongs to the owners, to the landowner. So we need to work with the landowner in terms of identifying ways to restrict access.

6062. I'd like to turn to Mr. Siegel just to describe some of the, you know, methods that can be used to do that since that's one of the specific points that you raised.

6063. But again, I think you mentioned yourself your property is at a distance of one kilometre away from the pipeline right-of-way. But Mr. Siegel, in general in terms of how we restrict access to right-of-way and working together with landowners?

6064. **MR. SIEGEL:** Sure. Thank you.

6065. So we want to work with the landowners and understand their concerns with the issues and the areas that we're going to be working in.

6066. So we do a consultation and we go out and we talk to you and we find out exactly where your property is in relation to our right-of-way. And as you mentioned, we're about a kilometre away and separated by an area of forest.

6067. But we understand that you have concerns about access and there's a number of things that we can do about that. We'll primarily be accessing our right-of-way down our right-of-way off of other public roads. And we don't want to open up new access roads if we don't have to. But if we do, we want to ensure that they don't impact other landowners in the area. So if we had to open up a temporary access road, we would end up closing it off at the end of construction, if that was required at all. So I'm not too familiar with access plans for your area because we haven't got into our detailed design stage yet.

6068. But if we had to do other things to block access to your parcel, we

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- could ask the contractor to place down some natural barriers. There might be some rock from the construction leftover that we could place across a potential access point. We could lay down some of the unmerchantable timber to create -- to present a natural barrier to access. And we can also help out with signage and gates and things like that.
6069. **MR. PALMER:** Like, all this wetland is considered as regulated wetland by the Province of New Brunswick.
6070. My only concern, when they first looked at it they were talking about bringing the pipeline through the Clover Valley route, which would be the other side of Beaver Lake onto the old Black River Road. Now that's almost --I don't know how many feet above sea level. But you're at the highest point out there where the pipeline is proposed right now and that's my concern. If you ever have a spill you're going to have major problems.
6071. **MR. VAN DER PUT:** With regards to emergency response planning -- so all of the steps that I described, of course, are designed to prevent a spill from occurring, a very unlikely occurrence. But one of the things that we do is we do site-specific emergency response planning; understand the terrain features; do some modelling in terms of if there is a breach where is the oil going to go, how do we adapt our tactics to be able to respond in a very timely fashion; get the equipment there, you know, in time to be able to respond.
6072. **MR. PALMER:** Okay.
6073. **MR. VAN DER PUT:** Mr. Palmer, you also asked a question with regards to effects on wildlife. Did you want us to address that specific question?
6074. **MR. PALMER:** Well, it's been an area over the years for -- it's really for -- as far as moose and deer goes, it's an ideal spot. I can't give you the count. DNR would have how many moose were taken out of there over the years. But the local residents -- and you go back years ago when times were -- the economy was hard, that was really their local supply of food for the winter for some of the families now. But I would imagine once the pipeline goes through, with the increase in traffic I would say the moose in that area would pretty well ---
6075. **MR. VAN DER PUT:** So the way I would respond to your question, Stantec in conducting its environmental and socio-economic assessment did extensive field studies to assess, you know, the presence of wildlife and to make

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an assessment based on those field studies in terms of potential impacts, and then propose mitigation measures. If you'd like, I could ask Mr. Lees to briefly describe some of the specific work that was done looking at that aspect?

6076. Go ahead, Mr. Lees.

6077. **MR. LEES:** Thank you.

6078. So as part of the environmental assessment, we completed an assessment of wildlife and wildlife habitat and we looked at what are the effects of the project on the actual loss of habitat itself, change in habitat. We looked at the change in distribution of species as a result.

6079. We also looked at the risk to additional mortality as a result of constructing the pipeline and operating the pipeline and whether there was a change -- as a result of the pipeline, a change in connectivity between habitat types on both sides of the pipeline. So we conducted a number of different studies.

6080. We looked at migratory birds surveys. We did ungulates surveys in the winter. We also did habitat assessments, and at the end, we determined that the effects of the project with the application's specific mitigation measures -- and those measures are captured in the environmental protection plans -- and some of those measures include things like only using the amount of right-of-way that's absolutely necessary to construct, specific measures to cross wetlands, timing of construction to avoid critical periods.

6081. All that information, as I said, is captured on the environmental alignment sheets, the environmental protection plans.

6082. With the application of those mitigation measures, we determined there would be no significant adverse effects on wildlife and wildlife habitat. We also looked at species at risk that might actually occur in the area. But with the application of the actual mitigation measures, we feel that the pipeline project would not have an adverse effect on wildlife or on wildlife habitat.

6083. Some of the mitigation measures also include the development of access control measures as well to prevent unauthorized use of the land. And with immediate reclamation following the construction, that will -- it will help stabilize the surface and then as the pipeline develops over the operating period,

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that vegetation on the edges of the right-of-way will actually start to grow back and you'll end up with a early cereal stage of vegetation that provides browse for moose and deer, and it also helps to screen the right-of-way from a long line of sight.

6084. **MR. VAN DER PUT:** So that gives you a broad overview, Mr. Palmer, but we'd be happy to meet with you and provide you with more detail. And what would be particularly of interest to us is getting your input.

6085. **MR. PALMER:** Just to leave you with one comment -- and you'll probably run into this across the country. Most golf courses today, like, for pollinators, for beekeepers, we promote promotion for butterflies. We're connected with the Audubon Cooperative Sanctuary Program. It takes 10 years for a golf course to become certified. That's been my background, pretty well, so I thank you for your time and ---

6086. **MR. VAN DER PUT:** Okay.

6087. **THE CHAIRMAN:** Thank you, Mr. Palmer.

6088. We'll take a 20-minute break at this time, so we'll be back here at 10:20.

--- Upon recessing at 10:00 a.m./L'audience est suspendue à 10h00

--- Upon resuming at 10:24 a.m./L'audience est reprise à 10h24

6089. **THE CHAIRMAN:** Welcome back.

6090. Mr. Watton?

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

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6091. **MR. WATTON:** Our first intervenor after the break is going to be the Buctouche First Nation.

6092. I'd also add -- I know we've had -- on a couple of occasions people have asked if we could zoom in the map on New Brunswick because the current screen shows the entirety of the pipeline route. We do have from the Proponent's opening presentation on Day 1, a map on slide 4, which shows New Brunswick in greater detail.

6093. So if at any point in time, just as a visual aid, any of the presenters want to have a more focused zoom in on New Brunswick on the screen, we can ask the Regulatory Officer to call that image up, in case that's of any assistance to people.

6094. But yeah, without further ado, if I could call on the Buctouche First Nation, please.

ANN MARY STEELE: Sworn, Assermentée

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR
BUCTOUCHE FIRST NATION:**

6095. **CHIEF STEELE:** Good morning. My name is Chief Ann Mary Steele, Buctouche First Nation, which is located in Bouctouche. I welcome you to the unceded lands and territory of the Mi'kmaq, lands which we share with our brothers and sisters, the Maliseets. I thank the NEB Panel for the opportunity to make this presentation and to bring to your attention the issues facing the Mi'kmaq with respect to the Energy East Project.

6096. I have served as chief of my community since 2006. I have listened to the previous presentations on behalf of the Mi'gmawel Tplu'taqnn and its member communities. I support those comments as they apply to my community as well.

6097. Buctouche First Nation's present day reserve is located on the Bouctouche River, which empties into the Northumberland Strait. The river's name means "Little Fire" in Mi'kmaq. The reserve system is a product of colonialism and our people continue to exercise their Aboriginal and treaty rights throughout our territories. The Proponent cannot simply assume that because our reserve is not located within a certain distance of their pipeline, that this means our people are not affected.

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6098. Mi'kmaq territory was historically divided into seven districts. Buctouche is located in District 6, Signitog, which stretches from the Northumberland Strait to the Bay of Fundy and into Nova Scotia.
6099. While the pipeline does not appear to directly cross the Bouctouche watershed, it crosses adjoining watersheds, which -- all of which form part of our territory. An impact in one watershed will affect others.
6100. Our people travel from Bouctouche into other watersheds to hunt, fish, and gather. Historically, we would portage from the Richibucto into what is now known as the Salmon River and from there, into Grand Lake to access the lower Saint John River. The lower Saint John River remains an important part of our territory today and we are concerned about the impacts that spills would have on that river system. They would also travel from the Shediac or Scoudouc Rivers into the Petitcodiac Memramcook River system and into the Bay of Fundy.
6101. We are concerned about the impacts that the pipeline will have on various plants and wildlife species we rely on for food and medicine, including deer and moose, migratory birds, and various medicinal plants. Unless my community's concerns are meaningfully addressed, I cannot consent to this project in our territory. Thank you. (*Native word*). And I have no questions at this time.
6102. **THE CHAIRMAN:** Do you have any more comments to provide us today?
6103. **CHIEF STEELE:** Not today.
6104. **THE CHAIRMAN:** Well, thank you very much. We've taken note of your comments. Thank you.
6105. **CHIEF STEELE:** Thank you.
6106. **MR. WATTON:** And I'd like to call up on our next intervenor, the Port of Saint John.
6107. And Mr. Quinn, if I could just confirm that you had a chance to either be sworn or affirmed on your way in when you registered today?

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6108. **MR. QUINN:** Yes, I had that opportunity.

6109. **MR. WATTON:** Thank you. Please proceed.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR PORT SAINT JOHN :

6110. **MR. QUINN:** Thank you. Good morning, Panel members, Chiefs, distinguished guests, ladies and gentlemen.

6111. My name is Jim Quinn and I've been the President and Chief Executive Officer of Port Saint John for the past six years. And prior to this, my career included sailing on coastguard vessels and oil tankers in and out of the ports of Saint John and Halifax, followed by 29 years in the federal government in Ottawa and three years in Sarnia, Ontario.

6112. Most of my career is with the Canadian Coastguard where I held various positions, including regional director of the central and arctic region, director general responsible for the rescue safety and environmental response programs, and other senior positions in government.

6113. Today I'm here to talk with you about Port Saint John and our role in the Energy East Project that you're deliberating on today.

6114. And accompanying me today are Captain Chris Hall, our Vice President of Operations and our Harbour Master, as well as Mr. Chris Stewart, our legal counsel.

6115. So go to the next slide, please?

6116. I just want to briefly talk about what a port authority is and what do we do.

6117. So Saint John is one of 18 port authorities in Canada and we are the third largest port authority in Canada by volume. We're critical to Canada's marine infrastructure and we're governed by the *Canada Marine Act*. Each of the CTAs has individual letters patent and while there are similarities between the 18 ports letters patent, there are also unique elements to each port. And this document is essentially our rules book.

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6118. Among the numerous activities in our letters patent, are our responsibilities associated with safety, security, and environmental protection, as well as provision of the infrastructure and the requirements to be financially viable. We also have responsibilities through our harbour master for all of the operations that take place in that area.
6119. Could I have the next slide, please?
6120. So the jurisdictional waters of our port -- it's quite a large area as you can see from the chart here. It goes from Green Head Island -- Green Head just up to the north down to Cape Spencer, south across to Musquash. So it's a large area. And within those jurisdictional waters we're responsible for the things that I mentioned as well as the operations.
6121. When it comes to things such as vessel movements and whatnot, the ultimate responsibility for the management of vessel movements resides with our harbour master. And that power is used when there are areas of concern or dispute about vessel movements. So the harbour master has a very important role within that jurisdiction.
6122. So go to the next slide, please?
6123. So how do we work with Proponents on major projects? So we need to understand the intention of the project. We need to understand the safety, security, and environmental impacts of the project. We have to have a level of certainty that the project has the right process established from the beginning and that all procedures are followed with respect to safety, security, and environment, and are consistent with the port operating procedure regulations. We have to understand the intended use of existing and proposed infrastructure, and we need to understand the impacts projects will have on the other operations that exist in the port's jurisdiction.
6124. Our Act empowers us to put in place fair and reasonable tariffs that allow us to operate and do the things we must do as a responsibility and accountable port authority.
6125. In December of 2015, our Board approved are giving notice that we'd be extending our existing tariff on cargos transiting our jurisdictional waters so that we can not only be financially self-sustaining in managing port assets, but also in improving safety, security, and monitoring of activities that take place

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throughout the jurisdictional waters of the port.

6126. With respect to the proposed marine terminal, we need to be included in the modelling, the simulation of the operation, and the tabletop exercises that bring a multi-agency approach to safety, security, and environmental protection. And I'm pleased to report that to date that that has been in fact the case.
6127. Before commencing any operations, the Proponent will be required to receive an authorization to operate from Port Saint John as mandated by the Port Authority's operation regulations. Such authorization will only be given if the Proponent is in compliance with the recommendations of Transport Canada's Terminal Review Committee -- in which Port Saint John is a member along with other government entities -- and any other requirements that the Port of Saint John may need to put in place with respect to that operation. For the marine terminal component of the Energy East Project, we've been working with the Proponents to ensure this process is being followed.
6128. Just speaking briefly on the history of operations in the port, you know, we have a history of excellence and safe and safe and efficient operations for generations at our port. We have a high level of cooperation and ongoing communications amongst industry, government agencies, and other stakeholders, and we have confidence that this tradition of operational excellence will continue with this project.
6129. The experience and knowledge of the Proponent's as well as that which resides throughout various interests in the port, is second to none and gives us the confidence to be in that position that I've just stated.
6130. And as such, our Port Authority supports the Energy East Project and has confidence that this regulatory process will mandate appropriate controls, best practices, and clear oversight.
6131. So that's the end of the commentary part and I do have three questions. So I'll pose those questions. The first two are sequential.
6132. And it's what discussions have you had with the various government agencies operating at Port Saint John, be it DFO/Coastguard, Transport Canada, Environment Canada regarding the project? And secondly, do you feel the various government agencies operating at Port Saint John have sufficient resources, including human resources, equipment and facilities, to carry out their

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individual mandates with respect to the implementation and ongoing operations associated with the project?

6133. **MR. VAN DER PUT:** The government agencies, organizations that you mentioned are involved in the TERMPOL review process, as is the Port of Saint John and we're very pleased about that.
6134. I'd like to ask Mr. Pardo, who's been involved in that process from our perspective to comment on some of that interaction.
6135. **MR. PARDO:** Thank you.
6136. We have been in contact with the government agencies as part of the TERMPOL process and also outside of the TERMPOL process in meetings related to the three aspects that you have mentioned -- safety, security, and environment. We do believe that there is enough resources to respond to this project and we appreciate the answer that we have had and the support to date.
6137. **MR. QUINN:** Okay, thank you.
6138. The third question, and last question, is how would you suggest the standard and the sufficiency of resources of these agencies be reviewed and assessed on an ongoing basis after the construction of the project is completed and in fact operational?
6139. **MR. VAN DER PUT:** I'll ask Mr. Pardo to respond to that as well.
6140. **MR. PARDO:** Yeah, I would like to answer in the three areas that you mentioned because I think they are the most important to make sure this project is successful.
6141. So on the safety side, I believe the TERMPOL process has been very complete. Out of the 21 studies that TERMPOL proposes, 18 were applicable to the terminal. And they have been completed, commented, and are currently with the committee.
6142. On the security side, we do have a plan to develop a marine facility security plan that will be filed again with Transport Canada prior to operation.

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6143. And on the environmental side, we have developed a mitigation plan, environmental protection plan with mitigation measures during any phase of the project, construction and operation.
6144. So in this regard, we are, I guess, very advanced in that process and waiting for the TERMPOL committee to provide comments.
6145. **MR. QUINN:** Okay, great. Well, thank you and thank you for giving us the opportunity to present.
6146. **THE CHAIRMAN:** Thank you, Mr. Quinn.
6147. Mr. Watton?
6148. **MR. WATTON:** Before we call the next intervenor, I would just note for the benefit of the other intervenors who are in the room that we appear to be running a little ahead of schedule this morning. So after this intervenor, we may start calling on the ones that had been scheduled for the afternoon to try to get one or two in this morning in the interest of time.
6149. So if that poses a logistical challenge for you, please just speak with the process advisor at the front of the room. But we'll call the intervenors in order afterwards because I think we'll fit in at least one more this morning, if not two.
6150. And on that note, our next intervenor is the Metepenagiag Mi'kmaq Nation. And I hope I've pronounced that close to correctly.

BILL WARD: Sworn, Assermenté

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR
METEPENAGIAG MI'KMAQ NATION:**

6151. **CHIEF WARD:** Good morning everyone. My name is Chief Bill Ward. I'm the Chief of the Metepenagiag Mi'kmaq Nation.
6152. As my colleagues did before, I want to welcome you to the unceded lands and territory of the Mi'kmaq, lands that we share with our brothers and sisters the Maliseet.

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6153. Again, I'd like to thank the NEB Panel for the opportunity to make this presentation to bring forth our issues that face the Mi'kmaq in respect to the Energy East pipeline.
6154. I have served as the Chief of my community since last year; recently I was elected. Prior to this I served on council as the Director of Fisheries.
6155. I have listened to the previous presentations on behalf of MTI and its member communities. I support these comments as they apply to my community as well.
6156. Metepenagiag First Nation is located on the Miramichi River in northern New Brunswick. Our community is the highest point that the tidal waters reach on the river. We have other smaller pieces of the reserves that are on other locations of the river.
6157. However, just a reminder it's important to remember that the reserve system is a product of colonialism and our people continue to exercise their Aboriginal and treaty rights throughout the territory.
6158. The Proponent cannot simply assume that because our reserves are not located within a certain distance of the pipeline that this means our people are not affected.
6159. In addition to this, I would like to state that it is not on the Proponent to interpret the severity of the impacts on our people as our cultures differ. Things that may seem relatively minor to the Proponent may have significant cultural impact on our people.
6160. Just a little history on Metepenagiag. We are the oldest continuously occupied community in New Brunswick. The artefacts found at the archaeological sites the Augustine Mound and the Oxbow Site demonstrate that Metepenagiag has been continuously inhabited by the Mi'kmaq for over 3,000 years. To put that into some -- to contrast that, New Brunswick, the Colony of New Brunswick was recognized in 1784. That's just a mere 232 years ago.
6161. In addition to this, Metepenagiag was a hub of the trade routes and settlements that stretched the entirety of New Brunswick. Artefacts were found as far west as the Ohio River Valley so that gives testament to how long and how far reaching our territories really are.

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6162. Our people have lived throughout the Miramichi River system and relied on it for their physical, spiritual, and cultural sustenance and their livelihood since time immemorial.
6163. We have never surrendered our title to these lands, and our sacred treaties protect our rights to hunt, fish, and gather throughout the entire territory.
6164. Because our community is at the head of the tide it is an important location for fish species such as salmon, sturgeon, gaspereau, eel, striped bass that seasonally move up the estuaries in large numbers. If we lost even one of these species due to the impacts caused by the pipeline it would be a devastating cultural loss.
6165. In addition, the islands hold importance to us, historic importance to our people because this is where we used to process sturgeon.
6166. Despite significant conservation efforts our salmon population is under significant pressure. With record low returns in recent years our community continues to rely on the salmon nets that we place in the river in front of our community for food, social, and ceremonial purposes.
6167. The Energy East pipeline will cross the Cains and Southwest Miramichi Rivers. It will impact the entire Miramichi watershed. The impact of an oil spill on this already fragile ecosystem could be devastating.
6168. Unless my community's concerns are meaningfully addressed, I cannot consent to this project in our territory.
6169. I do have one question. I heard Mr. -- I can't say your -- Kistin (ph)? In response to Chief Ginnish's question about the effects on salmon, you said that First Nations were involved in relevant environmental studies.
6170. My question to you is how many Mi'kmaq were specifically involved in that?
6171. **MR. VAN DER PUT:** Mr. Matossian, please?
6172. **MR. MATOSSIAN:** Yeah, I'd probably need to shuffle through some papers to give you an exact response, unless Stantec can. But from my

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recollection there was a member from Elsipogtog involved in the field studies in 2014 and 2015, and potentially in 2015 there might have been two.

6173. But I'd be happy to -- you know, I'd need to confirm those numbers and get them back to you. That's specifically on the environmental side.
6174. On the archaeological there were more Mi'kmaq participants in those studies. But I can actually -- you know, in addition to maybe me looking around I can put to where that information can be found in the assessment.
6175. **CHIEF WARD:** So you only -- to your recollection only one from one community?
6176. **MR. MATOSSIAN:** Well, so yeah let's -- the numbers don't sound so great in isolation but, you know, in terms of the percentages of those crews the way we certainly have hired is that the field crew positions are merit based. So they'll go to the best qualified individual regardless of whether Mi'kmaq or Maliseet.
6177. And then in the archaeological work we do and are sensitive to the need for representation from both Mi'kmaq and Maliseet communities on archaeology so, you know, we factor in merit there to get a qualified pool of monitor candidates. But then we will certainly balance the representation.
6178. **CHIEF WARD:** Okay. I just want to state that each community has different fishing practices and that only one from one community wouldn't really grasp the entirety of how we practise fishing.
6179. **MR. MATOSSIAN:** I fully appreciate that.
6180. What I can do is two-fold. I'll just point to in the application Volume 10 section 5, there will be some information there as to who has participated in those studies.
6181. But that's the only source of where we will hopefully get a better understanding of fishing practices, food, social and ceremonial. So the ongoing work that's underway now on traditional land and resource use studies would obviously include fishing, and the scope of that is a full scope of traditional territory land and marine.

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6182. So it's our hope that we will get a very fulsome understanding of what that looks like, and then of course how that interacts with the project and what we need to do to minimize or avoid effects on that use and those resources.

6183. **CHIEF WARD:** Okay, that's archaeological, that's historic. But we're talking about current modern day practices in the environment so two different areas, I guess.

6184. **MR. MATOSSIAN:** Of course. So just to clarify, the traditional land and resource use study which again includes marine aspects looks at current and -- you know, looks at current use as well. So this information will emerge from the study and we will of course, you know, look at it together and address concerns associated with that use and potential project impacts in a meaningful way.

6185. **CHIEF WARD:** Thank you.

6186. That's all, thank you. Thank you.

6187. **THE CHAIRMAN:** Thank you, Chief Ward.

6188. **MR. WATTON:** And our next intervenor is the Elsipogtog First Nation.

6189. And I understand as well -- this is just for the benefit of the folks in the translators' booth and the court transcriber -- that they will open their presentation in their traditional language and then repeat in English.

6190. So I just thought I would give an advanced warning to the transcribers and translators to that. Thank you.

KENNETH FRANCIS: Sworn, Assermenté

BRUCE McIVOR: Sworn, Assermenté

**--- ORAL PRESENTATION/REPRÉSENTATION ORALE PAR THE
ELSIPOGTOG FIRST NATION:**

6191. **MR. FRANCIS:** Good morning. I'm glad to be here.

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6192. My name is Kenneth Francis. First off, I want to just clarify that the gentleman sitting to my left is Bruce McIvor. He is our solicitor.
6193. I am from Elsipogtog, and I am a part of an organization, a delegation, which is under the umbrella of Gopit Lodge. We look after all consultation, meaningful consultation and any dialogue that any organization, proponent or government may wish to introduce into our territory.
6194. Chief Arren Sock, he was supposed to be here but he also sends regrets because he had to attend the funeral of a young lady yesterday. Quite emotional because she had connections to both our reserves.
6195. But believe you me, he says he is behind all the work that Gopit Lodge is doing.
6196. (*Speaking in Mikmaq.*)
6197. The short translation of that is 40 years ago, I was here making an application for a licence to do a cable TV. Before the presentation was over, I was asked to speak Mi'kmaq, and I did. Willingly at that time, because I felt that I was asking for something from somebody else, I spoke English.
6198. But now it hurts me to have to speak English, in a foreign language to me, while I am defending something that is very, very important and very dear to our souls as Mi'kmaq People. It pains me because I had, at that application, made an effort to get the Cable TV and introduce Mi'kmaq, and I was hoping that within 40 years we would be negotiating in my own language.
6199. Basically, that's what I said.
6200. So grant me the leniency because I have to speak in your own language and I have to ask that same leniency from the Creator to have to deal with such important stuff and use a foreign language.
6201. There have been many things that have been talked about; figures, numbers, and I shall not go back and repeat those. I will tell you a little story instead.
6202. When I was five years old, I went down to the shore of my village, got on a boat, and I pushed it out so I could stay on the boat and watch the water,

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- early spring. I looked in the water and I was just flabbergasted and totally amazed because I was experiencing almost an epiphany. I could feel the Creator. I could see the Creator in the water, the kind-heartedness that he had, because I could look way over there, all the way down the river, and it was all my playground. Mine to use and swim in during the summertime. And skating on it in the wintertime.
6203. All my activities as a child were spent down by that river. And to top it all off, that is how my dad fed us.
6204. Okay, I just wanted to say the appreciation that I have for water and the appreciation that I have for the woods as well. I am doing maple sugar in the spring.
6205. And there's a gopit that is building a dam just low -- just below my bridge and he keeps building a dam higher and higher, and so my bridge is in danger. I went to tell my wife, I said, "I went to talk to that beaver and I told him to stop, at least stop before it reaches -- before that water reaches my bridge, because he will pull it away." And I happened to be talking in English.
6206. My wife says, "Well, did you talk in English to it?"
6207. I said, "Yeah."
6208. And he said, "He'll never understand that. He'll never understand that. Go back and talk to him in Mi'kmaq." And I did. I have yet to wait for the results.
6209. People have asked me and urged me to kill it. I can't. I won't. We're fighting for the same thing. We're fighting for our survival, because let me tell you this. That pipeline coming through is an attack on our territory. It's a total attack on our humanness. It's a total attack on people.
6210. You are invading our homes. We cannot stand by. We will not. We cannot give you consent without a very more direct respectful dealings. Thank you.
6211. **MR. McIVOR:** Board Members, Dr. Bruce McIvor, legal counsel for Elsipogtog, honoured to make submissions today on their behalf and to be in Mi'kmaq territory.

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6212. Kenneth asked me to pick up on the legal basis of some of the comments that he made today. So that's what I'm going to do here in the limited time.
6213. I wanted to start first on the issue of the Board's mandate because of course that's very important.
6214. And we have clarification from the Federal Court of Appeal on the recent *Enbridge Decision* on this issues. And of course to sum it up, we see the Board's mandate here to largely be receive, consider, and report.
6215. Elsipogtog expects a direct relationship with the Crown and the Board of course has a limited but important mandate and cannot fulfil completely the Crown's obligations. And we think it's important that that's reflected ultimately in the Board's report because you have heard today, yesterday, and as these hearings go on, the serious concerns raised by Indigenous peoples. And the Board will not be able to address them. That will require a nation-to-nation process with the Crown.
6216. Now secondly, I want to speak to one of the most important issues, and you've heard this much more eloquently than you'll hear it from me from both Kenneth and the Indigenous leaders who have preceded us.
6217. While traditional uses, practices, and harvesting rights are important, that is not the sum total of what this is about, what the pipeline is about for Elsipogtog and for the Mi'kmaq in general. This is about their unceded Aboriginal title.
6218. Now, part of entering into consultation with the Crown is giving notice and we have a map if our map could come up. You've heard more than once today about Signigtog. If you could enlarge it a bit, District 6, part of Mi'kmaq territory. There's a rough map showing it.
6219. What's important is that Elsipogtog on behalf of itself and on behalf of the entire Mi'kmaq Nation on April 22nd, 2016 gave formal notice to the province of its intent to file an Aboriginal title claim for District 6. And the proposed pipeline, as you'll see, goes down through the western part of District 6.
6220. As part of the causes of action, they include infringement of Mi'kmaq

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Aboriginal title, breach of the Crown's fiduciary duty to Elsipogtog and the Mi'kmaq, trespass, and nuisance.

6221. Now, this is important because, as I say, it's a lot more than harvesting rights, traditional practices. This is about Aboriginal title. And I know the Board's heard this before and they'll hear it a lot more as we go along, but Aboriginal title has two main components. That's the right to benefit from the land because it's their land, and the right to decide how those lands will be used or will not be used. And consultation with the Crown on a nation-to-nation basis needs to take place on that basis.

6222. A few words on this consultations process. It's important to keep in mind that consultation is not addition. It's not adding up the number of times Trans Canada buys coffee for Indigenous people. It's not adding up the number of capacity dollars they provide. That's not what consultation is about. Consultation is upholding the honour of the Crown in doing what is necessary.

6223. And our submissions are, since the *Tsilhqot'in Decision* in 2014, since the federal government's full adoption of the United Nation Declaration on the Rights of indigenous people, including FPIC, Free and Prior Informed Consent, we are into a consent-based world now.

6224. It's important to keep in mind we're not saying veto. Veto and consent are different things.

6225. I'll talk a little bit about consent and then wrap up.

6226. Consent is something that the Crown needs to actively seek from Elsipogtog and the Mi'kmaq Nation. They must enter into a process intended to see if it's possible to get their consent. Only this will address Elsipogtog and Mi'kmaq's interest, including their Aboriginal title. Only this will maintain the honour of the Crown. And most importantly, only a consent-based process will effect reconciliation.

6227. So we say now we're putting the Crown on notice. Elsipogtog expects a consent-based process. They invite the Crown to partake now, not to wait until the end of this process that's before the Board because the time limits under the statutes then come into play. So they're invited to partake in a consent-based process with Elsipogtog now.

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6228. Those are our submissions.

6229. I do want to make one comment. The Board invited comments on the procedural aspects. My experience has been, across the country, is that administrative tribunals do, where possible, try to group the Indigenous presentations together to respect the continuity of their presentations. And with respect, I would urge the Board to consider that process going forward. Thank you for your time.

6230. **THE CHAIRMAN:** Thank you, Mr. McIvor and thank you Mr. Francis.

6231. **MR. WATTON:** Thank you. And if I understand correctly, we're going to move next to the Eel River Bar First Nation as our next intervenor.

--- (A short pause/Courte pause)

GORDON LABILLOIS: Sworn, Assermenté

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR EEL RIVER BAR FIRST NATION:

6232. **ELDER LABILLOIS:** My name is Gordon Labillois. I'm from Uppi'Ganjig Eel River Bar, which sits on the shore of the Bay Chaleur up in northern New Brunswick.

6233. I'm here today to represent Chief Martin who is not available today, and I offer his apologies; he's got other commitments.

6234. First and foremost, I want to thank the Creator for allowing me to be here today, for giving me one more day of life. And to thank him for the -- I also thank him for the gifts from our Mother the Earth that have sustained our people since time immemorial.

6235. I think we might as well try to start for some orientation at the beginning, and I'm grateful for this opportunity to disseminate a little bit of knowledge and understanding of who we are as a Mi'kmaq people.

6236. You know, our creation story tells us that our people have always been

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- in this territory. The word “Lnu” which describes our First Nation people it says it’s “we are from the land”, so I think that speaks about our connection to the land and to the resources.
6237. I welcome you to the unceded lands and territory of the Mi’kmaq, lands which we share with our brothers and sisters the Maliseet and the Passamaquoddy.
6238. My family is the Labillois family at Eel River -- and I just wanted to give you a little appreciation of the lands we inhabit. Not only is our base at Eel River Bar but the Labillois consists of seven children which inhabit both Eel River Bar, Listuguj. And I have an extended family of about 70 people that reside in the greater Fredericton area; they migrated from our community in 1970. They enjoy the fruits of the land in their territory by taking game and fish to sustain themselves also.
6239. Eel River Bar, Uppi’Ganjig, is in the heart of the Gespegiag Nation, the seventh district of the Mi’kmaq Nation. We’re located where some of the world-class salmon rivers are -- the mouth of the Restigouche across the Bay, and the Grand (inaudible) River. And if you go down to Gaspé it’s the -- farther down to Gaspé it’s the Gaspé River, and a couple of other significant rivers along the Miramichi drainage.
6240. Our territory extends all the way from Kouchibouguac right to the St. Lawrence and encompasses all of the Gaspé.
6241. Our sister tribes up in Gaspé have launched a statement of claim for our territory, which extends again all the way from Kouchibouguac to the St. Lawrence primary -- that’s the primary claim. A secondary claim extends all the way to Lévis, Quebec and it encompasses two thirds of northern New Brunswick.
6242. I have served in our community for 39 years as an elected member of council. Chief Martin, one of the longest sitting chiefs in Canada, has represented our Chief for 37 years.
6243. I have listened to the previous presentations on behalf of MTI and its member communities. I support those comments as they apply to my community as well.
6244. The location of Eel River Bar is at the mouth of the world-renowned

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Restigouche River. Just across the bay in 1534, Jacques Cartier sailed into the bay, and it was the beginning of a rocky road relationship with the newcomer to our land. As our people went out to trade furs they got shot on by cannon.

6245. Our people have been in our territory for a long time. To put things into context, you know, there's archaeological evidence adjacent to our community that our people have been here for 4,400 years. You put that in context of, you know, we use a milestone of today we're 2016 year since Christ so that puts things in perspective.
6246. But there's also evidence in this province that our people have been here for some 15,000 years.
6247. When the Creator put us in our territory he made the fruits of the land and the sea available so that we could sustain ourself from the medicines, from the fish, from the game, from the waterfowl.
6248. Our community Eel River Bar -- to give you some appreciation of the magnitude of the small properties that we have, Eel River Bar set aside in 1807, 220 acres. And the planning document that set out the Eel River Bar was encircled in a planning map by the government; swampy terrain good for Indian reservation.
6249. An assessment was done by the Government of Canada in 1938. The assessment said no poor piece of property could be found to house an Indian reserve, if a dollar was paid for this land it was too much. In my travels across the country I have never seen anything like it, was the assessment.
6250. But again, from the assessment probably is a non-Native's assessment of the land because even though our land is low wet and flat and subject to sea level rising, the Eel River, a very small river adjacent to our community, was the lifeline of our community. We had not only a summer crop of clams, we had a winter crop of fish that sustained our communities along with the salmon and other species that were available.
6251. But lo and behold, in 1963 the Eel River was dammed to create an industrial water supply for the town of Dalhousie and our people paid a significant price as the alienation of its -- of the resources that they traditionally relied on for the benefit of industry in the town of Dalhousie.

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6252. I also want to share with you in the early 1700s the district chief for our territory was asked by government, "What territory are you responsible for?"
6253. Being the 7 District his response was, "I'm responsible for all the lands where the waters commence flowing in an easterly direction in New Brunswick, the high point in New Brunswick, so all the waters that flow into the Baie-des-Chaleurs, in the Miramichi Bay," was his response.
6254. So if you'll follow those tributaries up the drainage of the Restigouche River, you'll find that the Kouchibouguac River flows into western New Brunswick. The Miramichi River flows almost to Fredericton in the centre of New Brunswick. The Matapedia in -- the Matapedia Rivers flow through the Gaspé.
6255. As a coastal First Nation, we are at risk from flooding due to rising sea levels and increased storm surges. The Eel River Bar has spent over \$10 million to put a sea wall in place to protect the community from washing out into the bay. As such, the Eel River Bar is deeply concerned about the impacts that the extraction and burning of fossil fuels that will be transported to -- by the Energy East Project will have on climate change and by extension, to our community.
6256. Our community has a number of hunters and fishermen whom we rely on to help feed -- to feed their families in our community. They hunt for a number of animals, including moose, deer, and take fish from the Baie-des-Chaleurs. We have about a \$5 million investment in the commercial fishery. We have 40 jobs that are attached to that commercial fishery. We have a food distribution system that our fishermen fish and distribute to our community, which ensures that every member of our community enjoys the fish of lobster and salmon that are taken from the Baie-des-Chaleurs, and our hunters provide us with game.
6257. My mom, a former chief of our community, a lady who was extended the honour of the Order of New Brunswick and the Order of Canada, a lady whose picture was utilized in the recruiting program by the Canadian government, the Canada Armed Forces during the Second World War, who was in the Air Force, had said on the Baie-des-Chaleurs, and she -- said at our house, and she always conveyed to our -- her kids about the bay -- she said, "That is your grocery store."
6258. Well, if the Baie-des-Chaleurs was our grocery store for the -- was the

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fish department of our grocery store, our lands -- our forest lands were the meat department of our grocery store.

6259. The decline in northern New Brunswick has been particularly catastrophic and our hunters are having to go farther afield to find deer. Some of our community members and members of my family hunt in and around the areas the pipeline will be crossing.
6260. We have no deer left in northern New Brunswick so our hunters are going up to the Plaster Rock in the western part of our province, some 150 kilometres from our community. We have heard that pipelines can impact the movement of animal populations like deer. We are concerned how the pipeline may inhibit the recovery of the deer population or lead to its further decline.
6261. My friends have already spoken to the cultural importance of salmon. Well, in our area, there's world-class rivers, both in New Brunswick and Gaspé, and we are not Mi'kmaq because we eat bologna or we eat potatoes. Our DNA makeup consists of resources that are taken from the waters and from the land, wild animals that are -- that sustain us that were given to us by the Creator when he put us in this territory.
6262. The salmon are already under significant pressure from forest activity and climate change. The salmon is a cold-water species. High temperatures have resulted in the closure of several salmon pools over the past number of years.
6263. The Energy East Pipeline will cross the Restigouche -- not only the Restigouche drainage, but the St. Lawrence drainage and other drainage. It will not only cross but will straddle the St. Lawrence drainage. The impact of an oil spill on this already fragile ecosystem could be devastating, especially under winter conditions whenever the Baie-des-Chaleurs freezes to three and four feet of ice.
6264. I want you to get an appreciation of the spectator status that our people had in our own territory, in our own land for in excess of 100 years when they -- the federal government transferred the management rights of the resources in the province to -- in New Brunswick. Our people were deprived of taking fish and game to sustain their people.
6265. As a young man, I'd observe boatloads of salmon coming in from the Baie-des-Chaleurs and our people weren't allowed to take one. We weren't -- our

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people were prosecuted for hunting deer to try to feed their families. Try to comprehend how not only a man, but how a woman would feel when she can't feed her children.

6266. When we went to court, we weren't allowed a legal counsel in court, but they would tell you that if you are -- our people's defence, we were hungry. "Well, if you're hungry," they would say, "why didn't you go see the Indian agent?"
6267. Eel River Bar has experienced firsthand, you know, some of the social economic deprivation that goes along with creating a resource for industrial development. Our people were deprived since 1963 with the damming of the Eel River for resources that were available to sustain our community. So we know -- full know well what goes along with not having access to those resources.
6268. As a community leader, as the elder for the MTI, I take on the responsibility of not only speaking on behalf of my community, but I take the liberty to speak on behalf of some of our ancestors who went to meet their Creator and they never had the opportunity to enjoy the -- some of the significant wealth in our homeland as boatloads of fish came to our shore and truckloads of lumber and minerals went up and down our highways.
6269. It's only recently -- it's only been 50 years since our people have been given some consideration to -- in the validation of our treaties in the courts, that we now have a say. And I think our people will hold government, industry, yeah, to a higher level of responsibility, I guess, in relation to these -- into the development of our -- of resources that are in our traditional territory.
6270. The cumulative effects of industrial development, you know, at Eel River, it's hard for me to comprehend and to sit here. I have a beautiful home overlooking the bay and it's hard for me to think that I'm not -- that maybe my daughter is not going to be able to live out her years in my home because of sea level rising, which is a world -- which is a global problem. But if you broke it down to project upon project -- because just like you say, how does a mouse eat a bag of potatoes or a bag of nuts? Well, it's one bite at a time. So every project that has an impact on us -- on global warming -- has got to be looked at.
6271. You know, in the 1700s, our people signed the Peace and Friendship Treaties. You hear one of our elders saying, "You know, since those treaties were signed, there's been no peace for our people, and we're still looking for our friends

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- yet." I'm hoping that some of our friends are in this room today and that you give the due consideration to our people that's deserved.
6272. In a time of where reconciliation in this country has been a big part of the healing that has to take place with First Nation people, I raise the question of -- you know, reconciliation is a movement today that has been kick-started by creating an awareness and knowledge, thus provoke the Government of Canada to start addressing some of the injustices that have been done, have been levied upon our people by governments and religious institutions over the years.
6273. My question is, with the potential and real impacts of this project on our treaty rights and our way of life, is this project consistent with the Canadian government's mandate that's been given to its departments, that Trudeau has given to his departments? He said no relationship is no important than the relationship with First Nations people.
6274. You know, I don't want to be harsh on the project, but we all know that this is dirty oil. This is a project that -- you know, the immense wealth in the world commandeered by a very small percentage of people and the average person in the Province of New Brunswick I don't think are going to be the major benefactors of this project.
6275. In closing, I have a comment to pose to the NEB Panel. Given the fact that NEB must consider the issues of climate change as part of their review of the project, and considering that the project will be a contributor to greenhouses gases, contributing to climate change specifically through the transmission operation of the project and through the eventual burning of crude oil, how will NEB reconcile this responsibility with their assessment of the pipeline project?
6276. Thank you.
6277. **THE CHAIRMAN:** Thank you, Elder Labillois.
6278. Mr. Watton, do we have time for another one this morning?
6279. **MR. WATTON:** Yes. And I believe that the representative of Burnt Church are ready to appear this morning as well. So we'll do Burnt Church and then I would suggest perhaps we conclude for the morning and take the break after this intervenor and we'll pick up with the Citizens' Coalition for Clean Air when we return after lunch.

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6280. I understand you're going to affirm by way of a traditional prayer? So please proceed.

CHIEF PAUL: Sworn, Assermenté

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR
ESGENOÔPETITJ FIRST NATION:**

6281. *(Prayer in Mi'kmaq.)*

6282. Good morning. My name is Chief Alvery Paul. I am Chief of Esgenoôpetitj First Nation. I welcome you to the traditional land in the territory of Mi'kmaq, land which we share with our brothers and sisters of Maliseet.

6283. Thank you the NEB, National Energy Board, Panel for the opportunity to make this presentation and bring us to your attention issues facing to the Mi'kmaq with respect to the Energy East Pipe.

6284. And I want to thank all the chiefs that are here and the counsel that's here and representatives of every First Nations.

6285. I have served as a chief in my community for four years. I have spent many, many years as a councilman. I have listened to our previous presentations on behalf of the Mi'gmawé'l Tplu'taqnn and the member communities. I support those comments as they apply to my community as well.

6286. Esgenoôpetitj First Nation is located in Miramichi Bay where the Miramichi River joins the sea. Our primary reserve is near Brunt Church, but we have other reserves. We have Tabusintac First Nations where it's connected with the rivers on that area and the Pokemouche area, Pokemouche River.

6287. In Tabusintac we have about 5,000 acres of land and in Pokemouche we've got about half, about 434 acres. That's why I am very, very protective of our reserve, of any reserve as well.

6288. Esgenoôpetitj First Nation, however, is an important -- it's important to remember that the reserve system is a product of colonialism and our people continue to exercise their Aboriginal and treaty rights throughout our territory.

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6289. The Proponent cannot simply assume that because our reserves are not located within a certain distance of their pipeline that this means our people are not affected. We are very, very affected. Once you talk about the territorial, original treaties, this is us. This is our First Nations that you step on, on our land.
6290. Mi'kmaq Territory was historically divided into seven district. Esgenoôpetitj is located in District 7, Kespékewaq, which includes northern New Brunswick, including Miramichi River and the Gaspé Peninsula in Quebec.
6291. Because of our location, we rely particularly on our fisheries to sustain our community, and depend on health and both off the Miramichi River and the Gulf of Saint Lawrence where we're very concerned about how a spill might affect the health of the Gulf of Saint Lawrence and our fisheries.
6292. You know, I listened to the history of all the First Nations and I believe quite a lot what they accomplish, what they bring up. To your history, to your knowledge, I don't know how much you see our reserve, our First Nations, our historical, where we come from, what we have accomplished. But I would not let my people fall down. I would rather have them walk straight, be proud of who we are. And that's what we are, a very proud First Nation people.
6293. For most of my life, I've seen my father fought in the war, World War II, and he never knew he would accomplish to fight something like that to come back home to fight this God -- big snake that's going around across Canada. A silver snake they call it.
6294. And it's going to impact quite a lot of stuff if everything happens. You know, it's going to affect our fisheries. It's going to affect our medicine that's been growing where we pick up, where we heal ourselves. That's the tradition that we live on, and it's a tradition that helps our healing from the youth, from the elders, from us, from where we are.
6295. For most of my life, I have seen my Elders harvest lobsters, rock crab, salmon, and other marine sources. I have seen my Elders take these resources and preserve them for our food for winter.
6296. And when they leave, they leave to other First Nations to go see their friends, and they bring their bottles with them. They get -- they get their lobsters bottled; they got their salmon bottled; they got their moose meat bottled. Everything is preserved and they always come back home with another something

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to share to the families.

6297. I know that the marine sources are the most important things for the survival of our community. This is our way of life. We must ensure our marine sources are not put at risk.

6298. As a coastal First Nation, we are at risk of flooding due to rising sea levels and increased storm surges; as such, Esgenoôpetitj is deeply concerned about the impact of the extract and burning of the fossil fuels that will be transported by Energy East Project -- will have a climate change by the extension of their communities.

6299. Unless my community concerns are meaningfully addressed, I cannot consist this project in our Territory.

6300. In closing, I would like to ask the following question. Mr. Panel -- I would like to bring my question to the following questions here?

6301. **THE CHAIRMAN:** Certainly, except when I press my button, that's why I was just -- I cut off your mic. So if you could put your mic on.

6302. I just mentioned about cutting things off and you cut me off.

--- (Laughter/Rires)

6303. **CHIEF PAUL:** The Mi'kmaq hold Aboriginal title to the lands located through New Brunswick and have recognized Aboriginal and Treaty rights, which we continue to exercise throughout the lands and waters of New Brunswick.

6304. The exercise of our rights are not limited to the boundaries of our reserve, communities but occurs throughout the province, including the lands where the pipelines will be located. The construction of the pipeline will require the clearcutting of the forest and vegetation that are located 90 feet to 130 feet on either side of the proposed pipeline location, to the length of 158 kilometres to the Crown land and total destruction of over 3,500 acres of land.

6305. These activities will destroy wildlife habitat areas, affect our rivers, waterways and will result in the loss -- after considering our Mi'kmaq Aboriginal and Treaty rights in the clearcutting of the land and crossing the waterways, as

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required as the lay of the pipeline.

6306. And if so, how?

6307. Thank you. *Wela'lin.*

6308. **THE CHAIRMAN:** Thank you. I believe a question was posed.

6309. **MR. VAN DER PUT:** Before I begin the response, I would like to emphasize that the initial process that we used to identify interested First Nations and Indigenous associations, notwithstanding, our process has been very inclusive. And we are very interested in the views of not only Burnt Church but also the Association, the MTI Association and have certainly been engaging in that regard, specifically with regard -- you mentioned clearcutting.

6310. I did want to provide some precision with regard to the width of the pipeline right-of-way that needs to be kept clear from a safety standpoint in order to be able to ensure that the pipeline right-of-way is in good condition.

6311. For that, I would like to call on Mr. Siegel to provide precision in that regard.

6312. **MR. SIEGEL:** Thank you.

6313. So when we're doing our pipeline construction, we need to create a safe area for the people to work and to ensure that we're following all of the environmental considerations along the right of way.

6314. So when we clear for the right-of-way construction, we clear about 32 metres to about 50 metres and we take additional areas for temporary workspace to temporarily store the trees, if it's a forested area, or to add some additional workspace at river crossings or road crossings, and that's all to ensure safety of the workers.

6315. And then once we're done construction and we do all of our reclamation, as Mr. Van Der Put was mentioning, we would reduce the width of the right-of-way to our permanent right-of-way status, which would be about 20 metres in width.

6316. **MR. VAN DER PUT:** Thanks, Mr. Siegel. I would like to ask Mr.

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Matossian to complement our response.

6317. **MR. MATOSSIAN:** Yes, a couple of things to say and maybe to address your specific question and to address some questions that were mentioned by your fellow leaders.

6318. If in a right-of-way there we identify, through our engagement with you or through traditional land and resource use studies, any sensitive areas, we can certainly bring the right-of-way down to a tighter path.

6319. So you know, just to let you know that we will be working with that information when it comes to us.

6320. So just kind of in closing, you know, I certainly want to say on behalf of my colleagues here that -- I know it was mentioned, we're very sorry for the passing of one of your community members. So with respect, I wanted to pass on our sympathies.

6321. Just regarding the scope of engagement, I just want to reiterate that in the filing we had -- in section 2.2 of Volume 10, there's a section on our initial determination. And that was a system we put in place to try to determine the level of engagement for the hundreds of First Nations and Métis communities that we're engaging with, along this Project.

6322. And that was based on a desktop study and the information that we had at the time. And there's three bullets in section 2.2 that talk about -- it does talk about reserve proximity, but it also refers to land claims and traditional territory.

6323. And so since that initial determination, through our engagement, we have additional information and now we are operating. And so the two things I want to underscore is that we are operating in our -- the scope of our engagement with all the Mi'kmaq communities is on the basis of the full traditional territory and as is our work with you on traditional knowledge.

6324. And it is important to also mention that we're treating Mi'kmaq and Maliseet communities on an equal basis because of the territorial stretches of both Mi'kmaq and Maliseet.

6325. And then, you know, finally what -- that's fine for us to set the

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parameters but what's the point? And the point is for us to identify and meaningfully address concerns that we had identified in the interaction of your rights and this project.

6326. And we are going to be judged on that from a legal basis. We are going to be judged on that from a regulatory basis but perhaps more importantly and something that's going to endure longer is we're going to be judged on that on a relationship basis. And we are going to be judged not on our conversations and how many we have, we're going to be judged on our actions and how we respond to those concerns.
6327. So you know there's perhaps some examples to date of how we responded, but there's certainly more to come, so all I can say is stay tuned.
6328. **CHIEF PAUL:** Okay. First, I wanted to ask this gentleman here, when I was asking has the Applicant considered our Mi'kmaq Aboriginal Territories, clearcutting and all that. But when all this thing was going on, like, was there anybody doing any territorial knowledge from around for plans or anything? Like, what we also have, medicines and see how far we are from there.
6329. Do you accept that Mi'kmaq consent is necessary?
6330. **MR. VAN DER PUT:** I'll ask Mr. Matossian to address both questions, first of all with regards to the taking stock of traditional resources in terms of the planning, and then secondly with regards to your question about consent.
6331. **MR. MATOSSIAN:** Thank you, Mr. Van der Put, and thank you, Chief Paul, for the questions.
6332. With respect to the first, I would say there's a two-sided answer to that. One is the environmental and socio-economic assessment did factor in and make assumptions about traditional land and resource use. And I'll point over to my colleague to just provide a bit more detail.
6333. But the second part of the question is that as you likely know, we have entered into an agreement with your communities through MTI to provide support and collaborate on the completion of a traditional land and resource use study. And that is currently underway. So the assessments that we made and the mitigation measures that we proposed are to be complemented by this

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information. And of course the timing of receipt of that information is not a reflection of its difference in important, of course. It will be factor in in how we design and avoid and mitigate around effects.

6334. Maybe Mr. Lees can just offer some more detail.

6335. **MR. LEES:** Thank you.

6336. When we were conducting our wildlife vegetation and fisheries studies, we recognized that traditional use occurs on the landscape through which the project is going through. And in development of our environmental protection plans we took that into consideration. But we are very much looking forward to getting the results of the traditional studies that are ongoing. And that information will be incorporated into the environmental protection plans that we have for the project.

6337. And the most important plan, of course, is the pipeline environmental protection plan. Those specific features that we've identified have been mapped and put on the alignment sheets. But those environmental protection plans are living documents. So as the consultation continues and other information is brought forward, there's an opportunity to bring that forward to help refine those plans to ensure that the project doesn't have any adverse effect on the traditional activities.

6338. **MR. VAN DER PUT:** We'll conclude our response addressing your specific question with regards to consent.

6339. **MR. MATOSSIAN:** So I should underscore certainly that Energy East respects the legal and constitutional rights of Aboriginal communities, and that we are operating under the current Canadian law with respect to how we are governing our engagement with Aboriginal people and will continue to do so.

6340. And I think it's probably best said in the words that Chief David Peter-Paul said yesterday, and we're in align with that, is that, you know, Energy East will strive to reach consent with First Nations and also seek to avoid and mitigate any potential effects that the project has on the community. And that's how we will continue to operate.

6341. **CHIEF PAUL:** I'm out of time, anyway.

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6342. **THE CHAIRMAN:** Okay. I use my button here sparingly because I don't like to simply cut off people's mics. I seem to have that power here.

6343. So I appreciate you coming to talk with us and for your questions. And we're looking forward to your continued participation in our processes here. Thank you.

6344. At this time we'll take our lunch and we'll be back here at 1:00 p.m. Thank you.

--- Upon recessing at 11:56 a.m./L'audience est suspendue à 11h56

--- Upon resuming at 1:03 p.m./L'audience est reprise à 13h03

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

6345. **THE CHAIRMAN:** Welcome back, everyone.

6346. Mr. Watton, please?

6347. **MR. WATTON:** This afternoon's first intervenor appearing is the Citizens' Coalition for Clean Air.

6348. And Mr. Dalzell, if I could just have you confirm that you had an opportunity to either be sworn or affirmed upon arrival?

6349. **MR. DALZELL:** Yes, I have.

6350. **MR. WATTON:** Thank you. Then please proceed when you're ready.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR CITIZENS' COALITION FOR CLEAN AIR:

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6351. **MR. DALZELL:** Okay. My name is Gordon Dalzell and I am the chairperson of the Citizens' Coalition for Clean Air.
6352. Before I begin my remarks, I want to thank the Panel for giving us and the other intervenors the chance to speak to you about the issues regarding this project, under your review, that are important to us.
6353. I'd also like to thank the Applicants for making their representatives available to us to answer these questions and to participate.
6354. Our environmental group welcomes and values the opportunity to participate in this public review process.
6355. I will now just speak briefly, just a little history of the mandate of the Citizens' Coalition for Clean Air.
6356. Currently it's a small not-for-profit environmental public interest group established in 1995. We are registered as a member of the New Brunswick Environmental Network.
6357. Since our inception, we have worked to improve air quality in the City of Saint John and the region and more particularly in east Saint John where the Applicants' proposed tank farm and marine terminal will be located.
6358. Our ultimate goal is to protect the health and citizens of Saint John from the adverse impacts of air pollution. Our efforts over the years to improve air quality in Saint John included in participating at various environmental impact assessments, air quality certificates of approval, various federal and provincial working groups and regulatory reviews on issues around air quality, as well as promoting and working with others in the community towards clean air legislation and to reduce allowable limits of pollution, et cetera.
6359. Now, our involvement also has included participation on various environmental liaison community groups. For example, the Canaport LNG is -- one of its regulatory conditions actually included the Citizens' Coalition for Clean Air in one of the conditions at the time. And we have participated in that and other ones, the Coleson Cove. I was a past member of the Irving Oil Refinery Liaison Committee.

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6360. Now ,as I mentioned -- okay, in general, given our group's mandate, it's obvious that our main concern with this project is how it will worsen and degrade the current air quality in an already heavily polluted airshed and in turn will result in detrimental impacts and increase in air pollution. Particularly the BOCs and benzene, as well as the secondary pollutant, ground-level ozone, as we know, from VOCs, nitrogen oxide, and sunlight -- is that secondary pollutant which is the concern and is a factor here in this region.
6361. For example, in -- this is one of the three areas in Canada where ground-level ozone levels have been elevated. And when you look at the Canada-wide standards for ground-level ozone, 63 parts per billion, the Saint John has been up there 4,750 parts per billion. So this is another aspect. Certainly ground-level ozone is not created by just our own industries. It is contributing from long-range transport from other sources. But our own industries ---
6362. **THE CHAIRMAN:** Mr. Dalzell, we have simultaneous interpretation and it's just a tad fast.
6363. **MR. DALZELL:** Yes, thank you for the reminder.
6364. So we know that local industries do contribute and will continue to contribute to the VOC levels and the secondary pollution, ground-level ozone.
6365. Now, this particular area does have challenging characteristics for its airshed, as mentioned, long-range transport. We have inversion levels, low cloud cover. We have geographic conditions, atmosphere conditions. All these present challenges in this area in respect to air pollution, along with the concentration of large industrial sources that are in the radius within five and six kilometres of the proposed marine terminal and tank farm.
6366. So this adds a great challenge to us and this is why we want to see some rigorous steps taken to ensure that VOC levels and other pollutants are not going to add additional stress to this airshed. Okay.
6367. I think at this point I think it's so important -- I think we'll just now spend a moment on the question of benzene and the VOCs.
6368. I'll just make a little preamble statement. We did submit our questions earlier and I think I'll go right into the questions after I give just a brief preamble on this area about benzene and VOCs in east Saint John.

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6369. Now, benzene is an extremely powerful human carcinogen. Our New Brunswick Government states:

"Benzene is recognized as cancer-causing by the World Health Organization and the United States Environmental Protection Agency."

6370. That information comes from the 2013 Air Quality Monitoring Report, which is online.

6371. Now, East Saint John and the Red head residents already face levels of benzene and other VOCs in the air that exceed air quality standards for human health. Within the nine-kilometre radius of Red Head, there is already 11 million barrels of crude oil in large tank farms at the Irving Crude Terminal as well as the Irving Oil Refinery. Cumulative impact by adding another 13.2 million barrels of bitumen and crude oil in heated tanks will add to the existing benzene, VOC level load that is currently -- and we believe this is currently unacceptable risk to the residents.

6372. Now, New Brunswick has released over the year air quality and monitoring reports, the results showing that East Saint John -- the location of the proposed tank farm and marine terminal, already has air levels of benzene that exceed acceptable air quality criteria of 0.14 parts per billion benzene health protection limits that were established by the Province of Ontario.

6373. New Brunswick and Canada does not have air quality standards for benzene. However, the Province of New Brunswick have adopted the Ontario standard, which is much more rigorous than what the Proponent has used. The Proponent uses the Alberta standard.

6374. And I'll lead right into my question very specifically on this matter, which we have given you prior.

6375. Okay. When will the Applicant be submitting a revised application? That's Volume 17: the Biophysical Socio-Economic Effects Assessment, New Brunswick, Part A, Section 2, the Atmospheric Environment that addresses the significance of the impacts of the tank and marine terminal on the atmospheric environment using the Ontario air quality criteria endorsed by New Brunswick Government for ground-level ozone of 0.45 micrograms per cubic metre rather

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than the less strict ambient air quality objective of 3 micrograms per cubic metre that is presently used in the application. That's question 1.

6376. **MR. VAN DER PUT:** Mr. Dalzell, before addressing your specific question, I did want to mention that we've really benefited over the past three years from our engagement with you on this and other issues.
6377. We recognize through our engagement that air quality is of significant concern to the neighbours and that's particularly why -- and I just wanted to make sure there was awareness of this -- we have committed to doing post-construction air quality monitoring to demonstrate through that post-construction monitoring that the actual emissions from these facilities will be very close to, and not significantly different than baseline and well below the criteria.
6378. Now you've asked a question specifically with regards to the applicable criteria. I'll ask Mr. Lees who is the author of the Environmental Socio-Economic Assessment, of which that assessment is part, to explain the methodology that was used.
6379. **MR. DALZELL:** Thank you.
6380. **MR. LEES:** Thank you.
6381. First of all, I would like to acknowledge the fact that the Province of New Brunswick has not established a benzene standard. They've done a comparison of existing benzene levels against the Ontario value, but they also did a comparison against the Swedish value.
6382. For the purpose of the EA we need to establish a criteria that we can -- sorry, for the purpose of the EA we need to establish a value that is appropriate for a determination of significance.
6383. So on the air quality assessment component of the EA we looked at air quality criteria that were available within each province for which the tank terminals actually exist. So that's Alberta, Saskatchewan -- at the time when we initially did this, Quebec -- and also New Brunswick.
6384. As New Brunswick did not have a benzene criteria we adopted the Alberta annual standard.

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6385. **MR. DALZELL:** Right.

6386. **MR. LEES:** For the health assessment, in relation to benzene we acknowledge the fact that benzene is a carcinogenic substance, it's a high risk for cancer. And our approach to the health assessment was to follow the guidelines of Health Canada. Health Canada guidelines have established a toxicity value for benzene and a target incremental increase in risk, which works out to a target of a long-term -- that's an annual concentration of 3 micrograms per cubic metre.

6387. Energy East completed the air quality assessment, the human health assessment, and determined that for air emissions there was no significant adverse effect, as well as for health emissions. The maximum long-term project contribution to benzene in the areas where people live -- and that would be the sensitive receptor locations -- is less than 2 percent relative to existing levels.

6388. **MR. DALZELL:** Thank you.

6389. **MR. LEES:** Thank you.

6390. **MR. DALZELL:** Okay, thank you.

6391. Question 2, the Biophysical and Socio-Economic Effects Assessment New Brunswick, Part A, Section 2, the Applicant discusses the use of best available technology economically achievable when practical to mitigate the impacts of the project on the atmospheric environment of Saint John.

6392. Why did the Applicant choose best available technology economically achievable as its default mitigation strategy rather than technology that would deliver the lowest achievable emission rate for this project?

6393. **MR. VAN DER PUT:** First of all, I'd like to just point out best available technology economically achievable isn't a default for Energy East for TransCanada. This was part again of the Environmental Socio-Economic Assessment that Stantec did.

6394. What I'd like to do, specifically to your question with regards to the criteria that we use, I'd like to ask Mr. Pardo to specify what drives that.

6395. **MR. DALZELL:** Thank you.

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6396. **MR. PARDO:** The process that we follow to determine that first of all is to comply with the applicable regulations. Second, to demonstrate that emissions and our capabilities are controlled by the proposed technology. Third, to make sure technology is proven. And the fourth aspect is to consider all factors with respect to other technologies, like for instance increase in height, increase in noise. So at the end of the day that drives the decision.

6397. **MR. DALZELL:** M'hm. Well, okay, we would like to see more rigorous and more aggressive vapour recovery systems and emission recovery models used, however, thank you for the answer.

6398. Now, can the Applicant briefly clarify what you mean by "economically achievable"? Because it seems to me that when you look at the economic achievable level it's whatever is financially in the interest of the Applicant financially to go ahead and put in the various technologies as opposed to what's the right thing to do to protect people, human beings, who live and deserve to be protected.

6399. I wonder if you could clarify "economically achievable" and "when practical".

6400. **MR. VAN DER PUT:** I'll ask Mr. Pardo to elaborate. But again, I re-emphasize it's not economically achievable that drives the decisions in terms of what design to use.

6401. **MR. DALZELL:** All right.

6402. **MR. PARDO:** Yes. So the analysis from the design point of view is to first of all meet the regulatory criteria, as I explained.

6403. **MR. DALZELL:** M'hm.

6404. **MR. PARDO:** And second, meet also the application of the codes, like, Canadian Standard Association, Z662.

6405. **MR. DALZELL:** Okay.

6406. Okay, in interest of time we'll move on to number three. Why is the Applicant proposing to use vapour combustion units or flaring at its new marine terminal when a closed loop gas recovery system that does not rely on flaring is

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used at the existing Irving Marine Terminal in East Saint John?

6407. I should point out that that particular terminal uses a more advanced type of vapour recovery system, which we have publicly acknowledged and thanked Irving Oil for that because they do not use flaring at that particular facility.
6408. So we would like to see you look at that model that's just down the road three kilometres from this proposed facility. Would you -- could you explain that? Thank you.
6409. **MR. VAN DER PUT:** Mr. Pardo is responsible for the design of the marine terminal so I'll ask him to speak to that question.
6410. **MR. DALZELL:** Thank you.
6411. **MR. PARDO:** Thank you.
6412. We have been in contact with several vendors in the U.S.
6413. **MR. DALZELL:** Right.
6414. **MR. PARDO:** In particular for those two technologies, in our evaluation the performance of the technology is equivalent so the degree of conversion achieved by the two is in the same range. We do propose vapour combustion units or thermal oxidizers because of the simplicity to operate and the reliability of those units to be all the time in operation.
6415. **MR. DALZELL:** M'hm. I'm disappointed to hear that perhaps that system could not be used.
6416. Now, finally there's one area -- I know the time is very close here. Another part of the health impact that we have identified in fact has been identified over the years through --it's called the "psychosocial health effects".
6417. Now we heard from other intervenors the very compelling human stories of worry, fear, anxiety, sleeplessness, stress. We do acknowledge that TransCanada has acknowledged somewhat of this under what we call "anxiety" but we believe that this is an area that really does need a lot more study and review.

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6418. It is carefully researched in the public health risk assessment that was done in 1999 for the Irving Oil refinery upgrade. There is a section in there, page 144 to 146, that deals with this. I believe this is application right across the country because so many residents and people of Canada are worried, and stressed, and fearful and concerned about this project. And we believe if they have any existing emotional or mental health or physical conditions, it's going to worsen them. It's going to stress them, and in fact, it's going to make them sick, and in some cases, it could have very serious consequences to their health.
6419. So we would ask the Proponent that you did hit upon this in part of that section, but you just went into the anxiety. We would ask that you give this a really careful review and hopefully the Panel will welcome this type of analysis and this type of impact, which really hasn't been talked too much.
6420. It did come up with the National Energy Board a number of years ago in the environmental impact assessment for the Brunswick Pipeline. It's mentioned in there and also it was -- it's been mentioned, as I mentioned, in this public health risk assessment. So we would ask the Proponent, will you take a look at this and you may want to have to do a survey of people. I don't know, but will you take a look at it and research it, because it has implications, not just for people living around the tank farm, but perhaps right across the country. Just, if we could have an answer, thank you.
6421. **MR. VAN DER PUT:** Since your question related back to -- again, to some of the work of Stantec, around human health, you know, that part of the environmental socio-economic assessment ---
6422. **MR. DALZELL:** M'hm.
6423. **MR. VAN DER PUT:** --- I'll just ask them to expand a little bit in terms of that analysis.
6424. **MR. DALZELL:** Yes.
6425. **MR. VAN DER PUT:** And then I'd like to conclude that -- their response.
6426. **MR. DALZELL:** M'hm.
6427. **MR. LEES:** Thank you. So we completed -- various value

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components related to human health were assessed as part of the ESA; for example, effects on social and cultural well-being and human health.

6428. And we said with the implementation of the mitigation measures, there would be no significant adverse effect. That being said, to address some of those concerns, ongoing engagement programs and consultation through Energy East will strive to identify those issues and resolve those issues.

6429. **MR. DALZELL:** M'hm.

6430. **MR. VAN DER PUT:** And just to complete the response, what I did want to emphasize is that TransCanada has built and operated and currently operates infrastructure -- energy infrastructure throughout North America. Wherever we have that infrastructure, we recognize that we're a neighbour and we need to be and want to be a good neighbour.

6431. **MR. DALZELL:** Yes.

6432. **MR. VAN DER PUT:** And part of that is talking to our neighbours, so when we go about constructing the tank terminal, the marine terminal, the local management that's involved in that construction -- and it goes on into ongoing operations --- will be available to our neighbours to have discussions with them on an ongoing basis with regards to their issues in seeking to help them to address their issues.

6433. That's something that's of significant value to us and that we always do when we build a project.

6434. **MR. DALZELL:** Okay. Would it be possible to make a one-minute response to that? The time is up, but they have 20 seconds.

6435. **THE CHAIRMAN:** The time limits were set to be fair to everyone, so you are an intervenor. There are many process steps to come and certainly we would ask you to ask them at those -- at that stage.

6436. **MR. DALZELL:** Thank you.

6437. **MR. WATTON:** I would now call upon the representatives for J.D. Irving Limited and Affiliates to come forward as the next intervenor.

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6438. I see you're correcting your nameplate, so I'll refrain from calling you by name to ask if you've been affirmed or sworn and maybe ask that you read your name off in the record, lest I make a second mistake.

6439. **MR. SAUCY:** Yes, I've been affirmed. My name is David Saucy.

6440. **MR. PAPPAS:** And John Pappas.

6441. **MR. WATTON:** Thank you.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR J.D. IRVING, LIMITED AND AFFILIATES:

6442. **MR. SAUCY:** Okay, good afternoon. My name is David Saucy. I'm the Vice President of the Construction & Equipment Division for J.D. Irving, Limited. And with me here today is my colleague, John Pappas, who's Corporate Counsel for J.D. Irving.

6443. We would like to thank the Panel Chair, Panel members, and Board staff for allowing us the opportunity to speak at this Panel session here today.

6444. We are here in support of the Energy East Project. Our presentation today will address two main themes: firstly, that the environmental issues are fully understood and properly managed by the Applicant and all stakeholders, and secondly, the positive economic benefits that we believe Energy East will generate in New Brunswick.

6445. Founded in 1882, J.D. Irving is a private company with operations throughout Canada and the United States. Here at home, J.D. Irving and its affiliates have facilities in 30 communities across all regions of New Brunswick. We operate a wide range of businesses in diverse industries, including agriculture, construction and equipment, consumer products, hydro energy, forestry and forestry products, retail and distribution, manufacturing, and transportation and logistics.

6446. Our New Brunswick operations support approximately 7,500 direct and 15,000 direct and indirect jobs and account for approximately 1 out of every 22 jobs in the province.

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6447. At J.D. Irving, our growth is driven by a set of consistent fundamental values: uncompromising quality in our products and committed service to our valued customers, an unwavering focus on continuous improvement and innovation, and a responsibility to make a positive difference in our communities where we are proud to live and work, as well as to the health of the land, air, and water that sustain the world around us.
6448. J.D. Irving is directly affected by the proposed Energy East Project. The New Brunswick section of the project comprises 412 kilometres of new pipeline. Approximately 40 percent of the -- 46 percent of the proposed Energy East route in New Brunswick will cross land owned by J.D. Irving or managed by our company under a long-term forest management agreement with the Province of New Brunswick. Our property consists primarily of carefully managed forestry lands. In New Brunswick, we own about 750 hectares and manage slightly more than a million hectares of Crown land.
6449. We are focused on professional land management and responsible stewardship. Our woodland operations are guided by a hundred-year management plan that preserves the environmental and ecological integrity of our land, air, water, and wildlife. All our operations are regularly audited according to ISO 14000 environmental standards and certified under the SFI, Sustainable Forestry Initiative certification.
6450. Oh, sorry, it's 750,000 hectares is land that we own and we manage slightly more than a million hectares. I apologize for that.
6451. Our businesses begin with the forest. We understand environmental stewardship. Every year, our Canadian woodlands are audited under the Sustainable Forestry Initiative's demanding criteria for environmental, social, and economic health. Our sustainable forestry operations have been nationally and internationally recognized for research, habitat conservation, and watercourse protection.
6452. While recognizing that pipelines may be the safest way to transport oil over long distances, it is essential to our business that the Applicants use best practices during the development and operational phases of Energy East to protect our lands and the environment.
6453. The Applicant's current process of anticipating, avoiding, and mitigating potential environmental impacts of the pipeline on New Brunswick's

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forests, our watercourses, and waterways, are of utmost importance. Energy East's environmental socio-economic assessment and their environmental protection plan must continue to include rigorous mitigation measures and contingency plans for development in operational activities. The Applicants will need to continue their commitment to engage all New Brunswick stakeholders and commit -- and -- sorry, in completing their environmental protection plan.

6454. Being a large independent operator and landowner, we understand the rigorous environmental regulations and standards that are in place at the provincial and federal levels. Based on preliminary discussions with the Applicant and review of available data, we can attest that they are fully aware and engaged in making sure that Energy East meets the highest standards of environmental stewardship.
6455. It is also worth noting that Energy East is not the first pipeline in New Brunswick. Over 15 years ago, the Maritimes and Northeast Pipeline was installed in this province. As a major landowner, our company was heavily involved in the planning and consultation phases of the project.
6456. We have significant hands-on experience working with a pipeline crossing our managed land and working with a pipeline operator that demonstrated diligence in constructing and operating a working gas pipeline in a manner that places both safety and environmental protection at the forefront. We are confident that Energy East and TransCanada will perform in a similar manner.
6457. In our view, this investment in national energy infrastructure is not only important for the Canadian economy; it is critical for New Brunswick.
6458. While the recent provincial investments in the forestry industry helped, the total capital investments in our province remain significantly behind levels we enjoyed over the past decade. Large capital investment projects are needed to sustain New Brunswick business and keep and bring our skilled workforce home. Energy East is also much needed for our construction industry.
6459. J.D. Irving and other New Brunswick businesses see the potential for great economic benefit to our province as a result of Energy East. Based on the 2014 reports of Jupia Consultants and the Conference Board of Canada, there will be considerable economic and fiscal benefits during the development and the operational phases of the project.

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6460. The direct effects of construction associated with the New Brunswick portion of the pipeline are projected to be in excess of \$2 billion and are expected to generate about 3,700 full-time direct and indirect jobs every year during the development phase and about 260 jobs annually during the operational phase.
6461. Also, the Conference Board of Canada estimates that the peak of construction is expected to support 6,300 jobs in New Brunswick. To put it in perspective, this is equivalent to about 25 percent of New Brunswick's 2015 total construction employment.
6462. The extent of this opportunity to the New Brunswick workforce and our economy cannot be overstated.
6463. We also know the positive impact that a major project can have on our communities and for the workers of New Brunswick.
6464. As an example, J.D. Irving recently completed a \$200 million upgrade to its Saint John pulp mill. While small in comparison to the spend for Energy East, our capital investment delivered \$90 million of work to a 166 New Brunswick business, the majority of which were small local firms that employ less than 20 workers.
6465. An infrastructure investment the size of Energy East will have incredible direct and indirect benefits to both small and large New Brunswick businesses, our workers, and our communities.
6466. We also live and work in rural communities in New Brunswick that will be directly impacted by Energy East. Towns such as Saint-Léonard and Juniper and Chipman are located along the proposed right-of-way. We understand the fiscal pressures that these communities face every day and Energy East will provide a significant economic boost to these and other rural communities in New Brunswick.
6467. At J.D. Irving, we spend considerable efforts in fostering a skilled workforce in New Brunswick. We partner with several Atlantic Canadian universities and colleges, including New Brunswick Community College, of which there are over 1,150 graduates who are employed by J.D. Irving; the University of New Brunswick, over 650 graduates employed; and Université de Moncton, over 160 graduates employed.

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6468. Every year we welcome over 700 students, including internships, summer, co-op, and work-term positions across our entire organization. Energy East represents a unique and a once-in-a-lifetime opportunity for the young men and women of our province to showcase their talent and skills.
6469. As stated by Eddy Campbell, President and Vice-Chancellor of the University of New Brunswick:
- “New Brunswick’s future is tied to the opportunities available to its young people.”*
6470. The sustainability and future of our New Brunswick workforce requires access to projects like Energy East to maintain engagement in the province. We have a significant skilled workforce here in the province and the capability to play a major role in supporting the pipeline project with New Brunswick businesses and New Brunswick workers.
6471. This project should afford the opportunity to demonstrate New Brunswick’s capabilities to all potential investors in our great province, present and future.
6472. J.D. Irving and its affiliates are committed to New Brunswick and we are very proud to operate here at home. We’ve been in business for over 130 years and will continue to invest and grow our businesses for the next generation.
6473. We are also firmly dedicated to taking care of our forests in order to sustain a healthy environment and to ensure a strengthened future for all New Brunswickers.
6474. Energy East is an important opportunity for New Brunswick and for Canada. We believe it is and can be constructed without trade-offs to our environment, our businesses, and our workforce.
6475. We thank the Panel Chair and Panel Members for your attention. To reiterate, J.D. Irving fully supports the Energy East Project and looks forward to continued consultations with the Applicant.
6476. In closing, we would like the Applicant to consider the following three questions that we have.

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6477. The first question is what steps will the Applicant take to continue to engage stakeholders in finalizing the required environmental protection plan?
6478. **MR. VAN DER PUT:** Energy East concurs that environmental protection plans are a critical tool in terms of ensuring that the mitigation measures are going to be effective, mitigation measures that will allow us to protect the environment. And a critical ingredient in that is input.
6479. So those environmental protection plans are currently under development. We're currently seeking input through consultation with regulatory authorities certainly at the federal, provincial level, but also with stakeholders, importantly landowners such as J.D. Irving. That consultation process will continue through 2017 so that we can finalize those environmental protection plans prior to construction. If the current schedule holds we'll be looking at the end of 2018.
6480. **MR. SAUCY:** Thank you. The second question is how will the Applicant ensure best-in-class emergency response in the event of an unexpected incident, specifically if an incident were to occur in a remote area of the province?
6481. **MR. VAN DER PUT:** I will ask Mr. Grenon to respond to that question.
6482. **MR. GRENON:** Thank you.
6483. Energy East will be ready to respond to any incident anywhere along the pipeline no matter what the location is. It will be able to respond to isolated and remote locations.
6484. What we will do is that we will identify in advance locations where we can deploy the equipment and we do that for all conditions. So we do that for winter conditions; we do that for high-flow conditions; and we do that for low-flow conditions such as a summer period.
6485. In fact, this work has already started for New Brunswick. We have carried out field validation of such tactical control points, what we call "tactical control points", in the Edmundston area and the Juniper area.
6486. We will also have people on call 24/7. They will be Energy East staff that will be in the area. They will be local people.

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6487. That will be complemented as well by local specialize emergency response contractors that bring a complementary strike force to respond to any incident.
6488. And we will have our own equipment. And this equipment will be transportable by air, by road, and by boat, if necessary. So no matter what are the conditions -- if it's wintertime, maybe a specific location, we will need to use snowmobiles, for example, to access that location. We will have those equipment ready to respond. And in some cases maybe it's going to be an ATV in the summer and we will have those equipment as well.
6489. And all of this work, I mean, the work that we started -- I gave the example of Edmundston and Juniper area -- we are doing with the local first responders. And we intend also to work with landowners specifically when we're going to look at access conditions and roads and so on to access these response locations.
6490. All of this will be integrated, of course, into our emergency response plan. We're going to develop site-specific response plans so that information will be available in those documents.
6491. And I would like to point out that we are very early in the process. Typically for such projects, the emergency response plans are developed -- are put in place, if I can say, at least six months to a year before the pipeline is in operation.
6492. But in the case of Energy East, we are starting developing those plans and we are planning to have them ready or substantially complete by 2018. And that's a full three years before the planned in-service date, which will give us enough time to train our responders, the local responders or contractors, and also to carry out exercises. And we will organize exercises that will include response to those remote locations. So we're going to test our equipment; we're going to test our ability to respond anywhere along the pipeline.
6493. **MR. SAUCY:** Thank you very much. Our third and final question is in order to ensure New Brunswick receives maximum benefit from the project, what measures will be in place to prioritize the use of New Brunswick businesses and New Brunswick workforce during the development and operational phases of the New Brunswick portion of Energy East?

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6494. **MR. VAN DER PUT:** Energy East shares the level of priority that J.D. Irving obviously puts in this area. We're committed as well to maximising the use of New Brunswick businesses, the use of the labour force here, in New Brunswick, on Energy East.
6495. Just a few examples of some of the initiatives that we've already put in place and others that we'll put -- that we'll put in place in the future.
6496. We've established a portal allowing local vendors to register their interest or indicate their interest in working on Energy East projects. And as a matter of fact, in New Brunswick, there's over 350 companies that have already indicated that interest and so have already -- we've already begun to engage with in that regard.
6497. With the provincial government, we established a Workforce Development Committee made up of several ministries at the provincial level and working with them in terms of looking for ways to maximize opportunities for training and development of the local workforce.
6498. And we've already demonstrated -- essentially putting our money where our mouth is in terms of using New Brunswick businesses. There's over \$42 million that have been spent here in New Brunswick thus far involving New Brunswick businesses and New Brunswick workers.
6499. So going forward, some of the things that we're looking at is as we get closer to construction and we get to our requisition for proposals process with the contractors that would be building the facilities, we would be looking for demonstration of policies on their part for the maximization of a local workforce.
6500. Other things that we'll do as we get closer to construction again, we've found on other projects the idea of hosting job fairs and of course this is something that would be done in conjunction with the contractors that -- the successful contractors that would be engaged in those -- on Energy East.
6501. So those are just some of the examples of ways that we've already tried to maximize the use of New Brunswick businesses and labour force in the ways that we'll continue to do so in the future.

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6502. **MR. SAUCY:** Thank you very much. We have no further questions.

6503. **THE CHAIRMAN:** Thank you, Mr. Saucy.

6504. **MR. WATTON:** Our next intervenor this afternoon is the Fundy North Fishermen's Association.

6505. And Ms. Recchia, if you could just confirm that you've had an opportunity to be either affirmed or sworn on the way in when you registered?

6506. **MS. RECCHIA:** Yes, I was. Thank you.

--- ORAL PRESENTATION/REPRÉSENTATION ORALE PAR THE FUNDY NORTH FISHERMEN'S ASSOCIATION:

6507. **MS. RECCHIA:** My name is Maria Recchia, and I'm the Executive Director of the Fundy North Fishermen's Association.

6508. Our Association has been in existence officially for over 25 years but actually informally for 35 years. We've been representing the commercial fishermen throughout much of the coast of New Brunswick and the Bay of Fundy, and I really appreciate the opportunity to speak with you today.

6509. So we represent not only the fishermen who fish within Saint John harbour but also the fishermen who fish in the freshwater system of the Saint John River. So they would also potentially be impacted by the pipeline and all the crossings there.

6510. We have 144 members, most of whom are captains and most of them employ on average three fishermen as well who work on their vessels. Plus, as you heard David Thompson fisherman say yesterday, in certain fisheries they employ up to eight or nine people, like in the scallop fishery.

6511. So our inshore fishery is the number one employer in many of southwest New Brunswick's coastal communities, and it's all small family business. We did an interesting survey with the Province of New Brunswick a couple of years ago and found out that most of our fishermen are either sons or grandsons of commercial fishermen. And if you look at the crew members on board, almost all of them are related to their captain.

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6512. So it's still small-scale family business and these people have been doing -- pursuing this livelihood for many generations. And as a result, the knowledge that these fishermen have is quite incredible. I would say that there isn't -- there is no one else that has the combination knowledge of the currents, the tides and the weather and how all of this, the substrate, the biodiversity and how it all kind of works together.
6513. So I think fishermen are really valuable experts to be part of this process, and I think they can shed some light on some of the potential impacts that probably no one else could really recognize to that depth.
6514. So it is my perspective that the building and operation of this marine terminal, as it's proposed, will have impacts, significant impacts on the commercial lobster and scallop, and groundfish and also river fishermen that I represent. And I don't think that was adequately portrayed in the Proponent's application.
6515. We have so many concerns about this project but because time is really short, I'm just going to focus on three main topics for today, and they are the poor quality of the information on the commercial fisheries that is contained in the application; the inappropriate boundaries of the local assessment area; and the lack of access to the information submitted to the TERMPOL process by the Proponent.
6516. Firstly, I was very unimpressed with the quality of the information on commercial fisheries that's contained within the application, and that's despite having several meetings with TransCanada and some of their -- the companies who did the consulting work for them. Still, I really feel like they haven't adequately portrayed the fishery at all.
6517. So I asked for this map to be put up. This map comes from the application itself and we'll see if I can use the laser pointer. Okay, great.
6518. I guess for the Panel, you can't see my pointer but there is -- if you see the dashed red line at the bottom, okay, I'm going to talk about that line a fair bit. So this is the local assessment area and the blue sort of blobs over here to the right, that's where they found lobster buoys and they figured out how much -- how many fishermen were there and how much gear was there.
6519. And I do understand that they went out, at least for part of this

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- information, with a Mispec fishing boat to gather some of this information. However, what I find shocking is that if you look at this line at the bottom here, just above the line -- so this whole area in here extending from about here, all the way six miles out to the end of the traffic lanes, is one of our biggest lobster fishing grounds in the spring.
6520. And in fact, DFO has these maps and I was very surprised that the Proponent hadn't utilized this information but DFO has put together maps of the landings of lobster. There are these little boxes, these grid squares that fishermen have to fill out all their landings information, every time they go fishing, as to where they're catching their lobster and how much they land in each area.
6521. And so those have been amalgamated into maps and they have -- they're colour coded. So light green is not too much fishing; yellow and orange is a lot of fishing; red is the highest.
6522. Well, this area here -- so part of it is within their designated LAA, from there to six miles out to the shipping lane is orange. And that's also significant because the maps are for the whole year and the lobster fishery there is really, really, really big in May and June. So that means in May and June, it's red but there's so much fishing there that over -- if you spread it out over 12 months, it still comes out as orange.
6523. And if you notice, there's no recognition of any fishing that's gone on down here. So that's a bit concern for us.
6524. What they've done is they've done the same thing that Canaport LNG and the IDA Rock Project did, is they're trying to make the case that the only fishermen impacted are the six boats that fish out of Mispec, which mostly fish inshore. And that's what they did Canaport LNG. That's what they did IDA Rock. And it's completely wrong. And to say that the fishing industry is insignificant in this area I think is very problematic for us.
6525. I have to catch up with my notes because I went way off.
6526. So one more point and then I'll ask my question on this topic.
6527. So as you heard David Thompson, the fisherman, talk about, the shipping lanes end about six miles out. And from the end of the shipping lanes, the vessels and their auxiliary vessels like tugboats or whatever else they need to

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help them out, pilot boats, can travel any which way to get into their anchorage or to get into a berth where they're going to offload their oil or take on oil. And that's where the bulk of the impact happens between the lobster fishermen and the shipping industry.

6528. So in my opinion, my understanding is that the local assessment area is an area where the impacts may be more intense, and the regional assessment area is a larger area that could have some impacts but they're not going to be as intense as the ones in the local assessment area. I think making this the boundary for the local assessment area is really the wrong way to go.

6529. I think the boundary should be bumped out to six miles out to the end of the shipping lanes. And that way you will capture the impacts on the commercial fishery. Because the fishermen who are finishing outside of this line down to the shipping lanes, they are impacted severely by tank tanker traffic. Whereas the boats off Grand Manan Island or off Nova Scotia are not impacted to that same level. And so to have that area as part of the regional assessment area I think is completely inappropriate.

6530. So I come to my first question. My question for the Applicants is, how will you rectify these inaccuracies in your application and when will you amend Volume 17, Part B, Section 5 of your application to accurately account for the socio-economic implications for the commercial fisheries?

6531. **MR. VAN DER PUT:** Given that the work that you're referring to was completed by Stantec as part of the Environmental Socio-Economic Assessment, I'll ask Mr. Lees to speak to that. And then I'll complement the answer in terms of our intention in working with you further.

6532. **MR. LEES:** Thank you.

6533. The figure you show on the screen here comes from Part B of Volume 17. And the scope of the project that we have is -- the project itself is from Hardisty to the Canaport Marine Terminal. And then we were asked by the NEB to assess the effects of increased shipping on -- to examine the environmental and socio-economic effects of increased shipping.

6534. So the assessment is -- that local assessment there is related to the development of the Canaport Marine Terminal and berthing of the vessels. The assessment that we did for marine shipping included the shipping lanes all the

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way into the harbour. And so our findings are on a fairly large basis and we found that they are not -- the ESA-predicted are of not a significant adverse effect on commercial fishing. So we stand behind those conclusions and we don't believe there's a need to amend Volume 17.

6535. However, Energy East has undertaken consultation and will continue to engage with the Fundy North Fishermen's Association to better understand their issues and to work cooperatively with resolving these issues.

6536. **MR. VAN DER PUT:** Yeah, that's really the commitment that I wanted to make. So we won't direct Stantec to amend that application. But what's important to us is continuing the engagement that we've been doing with the Fundy North Fishermen's for several years now. And we have an opportunity to ensure that the input we receive from you is addressed as we move into the emergency protection plans -- or excuse me, the environmental protection plans. So that's where I think we're going to get the most value.

6537. **MS. RECCHIA:** Thank you.

6538. I just want to say a few words about consultation because I've heard and I read some of the transcripts from the other days. And I've heard a lot of reference to consultation with Fundy North Fishermen's Association.

6539. This is my perspective on that consultation. It has been very long PowerPoint presentations where we need to kind of push in and ask our questions and talk about our concerns. Although they have listened, the Proponent has listened quietly to us, we have never seen reference of any of our concerns or any of our real issues addressed in the application. And when we ask to talk about actual mitigation, none of which is in the application, what we usually hear is that, "We're not at liberty to discuss that at this time."

6540. So you know, we are trying to present real, concrete solutions. I think there are real, concrete solutions. Our goal is for commercial fishermen to be able to keep fishing in this area as they have done for hundreds of years. It's a very lucrative part of our fishery. We're talking about up to 75 boats that fish in this area, as opposed to the 10 or 15 that the Applicant has made any reference to.

6541. And I don't know how we can get our concerns addressed, but there are solutions. There are ways of having traffic lanes and controlling the traffic once it leaves the shipping lanes. There are protocols that can be put into place so

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that we can determine when gear has been lost and what caused it and compensation can be given.

6542. Gear loss is going to be outside of the threat of oil spills, which is a huge concern to us. Gear loss from fixed gear, like the lobster fishery, and loss of access to fishing grounds are our number one issues. And gear loss has never been mentioned by the Applicant in the application, period. And in fact, leading into my question number two, I read so many references in the application to TERMPOL, that TERMPOL is going to address these kinds of marine traffic issues.

6543. I also heard some reference of Fundy North's participation in TERMPOL. And just to be clear, we understood that we do not have a role in TERMPOL. We were not allowed to be privy to any of the work that TERMPOL has done.

6544. We pressed the Proponents to allow us to have a meeting with them about TERMPOL and asked that they present to us the information they had on the fishery. And they did, graciously, which we appreciate very much. And at that meeting we learned that they were utilizing a tool called AIS, Automated Information Systems, to determine what all of the ship traffic was in the harbour. Fishing boats do not have AIS. They're not required to have it; it's very expensive. You've heard David Thompson talk about it the other day.

6545. So as a result, their consultants from California put forward that there is no commercial fishing traffic in Saint John Harbour.

6546. So luckily we had requested that meeting. We told them that clearly wasn't true. We had conversations and did some interviews with the consultants in California, but we have never seen -- we don't know what happened after that. We've never seen any of the reports that the Proponent has put in to TERMPOL.

6547. And I understand that the Proponents' studies are completed for TERMPOL have been submitted, and at this point the TERMPOL group, which is made up of government bodies, is working on their report. And no one knows when this report will be finished.

6548. Yet, you have intervenors like ourselves who -- where this is a very important issue for us and we're going to be doing some studies with our intervenor funding. We need to know what reports the Proponent has submitted

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to TERMPOL and we need to know very soon.

6549. If we do not know then we can't address the inaccuracies which I'm assuming may be there like we see in the application.
6550. So, you know, I think if we're going to achieve our goal of real mitigation so that this project does not significantly impact the commercial fisheries we need to have the information and we need to actually sit down and engage in real dialogue and talk about solutions, not just get lengthy PowerPoints on how great this project is.
6551. We want real dialogue with not only the Proponent but the other players in the harbour so that we can solve the problems instead of just glossing over them and saying that the commercial fishery is insignificant, which in my opinion is completely unjustified.
6552. Okay, to the question. I would like to know from the Proponent when you will be providing the hearing participants with the studies that you have submitted to TERMPOL review committee?
6553. **MR. VAN DER PUT:** Those studies have been, as you said, provided to the TERMPOL review committee. They're currently reviewing them and will be issuing their report based on that review as we understand it in the coming months.
6554. In the interim though, as you highlighted, on at least another occasion we did meet; we were willing to meet you and have some discussion with regards to some of the substance in terms of those studies. And we're equally willing to do that today so absolutely can commit to you and any other intervenor who might be interested to have some discussion with you with regards to the information that's in those studies.
6555. **MS. RECCHIA:** I guess my question was when would you release the actual studies? Because giving us a PowerPoint presentation with select information is not the same thing. I want to see the written studies so that we can really analyze them and to prepare our own submissions.
6556. **MR. VAN DER PUT:** Yeah. What I can commit, what Energy East can commit to doing for now is, as we have been willing to in the past, is to meet with you and have discussion regarding what's in those reports and get your input.

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6557. With regards to the release of those reports, that's still something that we're assessing. And we will take under advisement and, you know, potentially when we get -- when we do get together with you and have some discussion with regards to what's in those reports, you know, perhaps we can give you an update with regards to that.

6558. **MS. RECCHIA:** So I guess I'm still not happy with that answer. And I would like to ask the Panel for an undertaking for the Applicant to release the studies submitted to TERMPOL within one month's time.

6559. **THE CHAIRMAN:** Could you just hold on for a second?

6560. Yes, Mr. Yates?

6561. **MR. YATES:** Thank you, Mr. Chairman.

6562. I wasn't sure whether the request was to the Board Panel for some kind of directive or to the witness panel for an undertaking. If it's the latter, then I would suggest that the answer has already been given; that the Applicants are considering whether they would be prepared to deal with or to release the studies themselves. And that answer having been given I think that no undertaking will be given.

6563. **THE CHAIRMAN:** Thank you.

--- (A short pause/Courte pause)

6564. **THE CHAIRMAN:** I apologize for the delay. Your question had a few more twists and turns that we wanted to properly consider.

6565. We won't make a decision today without hearing from affected parties. But as an intervenor, you may want to make a motion to that effect at a later date in writing.

6566. And also, I believe that the TERMPOL report will be released at some point, and you may want to consider asking IR request to get more information on that report. Is that ---

6567. **MS. RECCHIA:** Yes.

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6568. **THE CHAIRMAN:** Okay.

6569. **MS. RECCHIA:** I don't have -- oh, there. Thank you.

6570. I'm sorry to have taken up so much time but I really do appreciate the opportunity. And we will take you up on your offer from TransCanada for another meeting to talk about the TERMPOL.

6571. **MR. VAN DER PUT:** I'm pleased to hear that.

6572. **THE CHAIRMAN:** Thank you for participating.

6573. And these types of conversations are very important so you weren't taking too much time; these are important matters. Thank you.

6574. **MR. WATTON:** Our next intervenor is Mr. Rick Verge.

6575. And I just had a brief offline conversation with the Chair just to talk about the schedule for this afternoon. I believe after this intervenor we'll take a brief break, and after that we have only one intervenor left followed by the closing statement by the Applicant.

6576. So we'll take a break, a short 15-minute break at the end of this presentation and then come back after.

6577. So Mr. Verge, if you could just confirm that on your way in you were either affirmed or sworn when you registered?

6578. **MR. VERGE:** Yes, I was.

6579. **MR. WATTON:** Okay, thank you. Please proceed.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR MR. RICK VERGE:

6580. **MR. VERGE:** Thank you.

6581. Good afternoon, ladies and gentlemen. I'm a small property owner in

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rural New Brunswick and I'd like to propose today an alternative course of action, just a very small adjustment, that will allow future Canadians to look back at pipeline land acquisition with satisfaction instead of disbelief and regret.

6582. The small adjustment I'm talking about is giving back to landowners the right to say, "No" to companies who covet their land.
6583. If the Energy East Pipeline is deemed to be beneficial for Canadians and allowed to proceed, the route can be designed to go through Crown land, willing sellers, and existing right-of-ways.
6584. The pipeline technology today allows for bends and turns in the route to avoid obstructions and environmentally-sensitive areas. This same technology can be used to route away from those landowners who do not wish to sell control of their property to TransCanada Pipe.
6585. Picture yourself forced into something against your will by a large and powerful opponent. Your legal recourse is cut off. The harm may last a lifetime.
6586. We need to support this change in routing and acquisition policy because it avoids harm to individual Canadians and costs Canada absolutely nothing.
6587. Let's take a step back for a moment and look at some historical issues affecting individual rights to show that we do make mistakes as a society and we need to be watchful in order to avoid these errors in the future. Keep in mind that in all these examples the actions taken were perfectly legal at the time. But just because they were legal it doesn't make them right.
6588. The year was 1942; the place was Canada. Over 20,000 people had their homes and properties seized and sold and were forced to live in internment camps. Why? Well, these Canadians were of Japanese heritage. In 1981, Prime Minister Mulroney apologized for these actions.
6589. Less than 100 years ago, our country charged an exorbitant head tax on every Chinese immigrant, a practice which continued for 38 years. This effectively separated Chinese Canadians from their families for 24 additional years. Until 1947, Chinese people were barred entry to Canada at any price. In 2006, Prime Minister Harper apologized for these actions.

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6590. Unbelievable as it seems, less than 100 years ago women were not legally allowed to vote in Canada. The Inuit and First Nations people? They had to wait until 1950 and 1960 respectively.
6591. Now fast-forward to today and look at how a company trying to increase its profits with a slightly shorter pipeline route does so by taking advantage of individual property owners. Although currently legal, it's not right. Although legal, it brings harm to individuals. The only reason? So that others can increase their financial gain. I believe this system will be looked back on as a mistake.
6592. Can the pipeline be built without forcing people to put it through their property? Yes, of course. Other infrastructure projects have gone ahead using only voluntary sales from willing sellers.
6593. Would it be economically feasible? Again yes, of course. The 4,500-kilometre Energy East Pipeline would still be on the table today if it were 4,600 or 4,700 kilometres long.
6594. I'm asking for your help today to influence this small adjustment in how TransCanada Pipe acquires their land for their pipeline route. Give property owners back their ability to say, "No." It's the right thing to do.
6595. Thank you.
6596. **THE CHAIRMAN:** Thank you.
6597. **MR. VAN DER PUT:** Mr. Chairman, could I comment on the intervenor's comments?
6598. **THE CHAIRMAN:** Certainly.
6599. **MR. VAN DER PUT:** There we go.
6600. Yeah, all I wanted to say is that TransCanada, as I mentioned, has infrastructure throughout North America, a lot of that being pipelines. We work with 60,000 landowners through the totality of that infrastructure. In 99 percent of the cases when we build pipelines, we're able to come to agreement with landowners and it's only in very rare cases, and it's not something that we want to do, where we resort to the provisions that are available in the *National Energy*

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Board Act. And I think we've demonstrated it effectively on this project so far in that we have made many, many changes to the pipeline route and many of those taking into consideration the specific views and input from landowners with regards to how that pipeline could be better routed.

6601. So I just wanted to say that there is always the opportunity; the door is never closed, to continue to have those discussions with landowners, certainly including Mr. Verge.

6602. **THE CHAIRMAN:** Thank you, Mr. Van der Put.

6603. We will take a 20-minute break at this time and we'll return at 20 to 3:00.

--- Upon recessing at 2:18 p.m./L'audience est suspendue à 14h18

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

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

6604. **THE CHAIRMAN:** Mr. Watton?

6605. **MR. WATTON:** Thank you, Mr. Chair.

6606. Our final intervenor for this afternoon is Mr. Marc MacLeod appearing on behalf of the intervenor the Fundy Regional Service Commission.

6607. And Mr. MacLeod, if I could just ask you to confirm that you did have an opportunity to either swear or be affirmed on your way in this afternoon?

6608. **MR. MacLEOD:** I did.

6609. **MR. WATTON:** Thank you. Then please proceed.

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**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR FUNDY
REGIONAL SERVICE COMMISSION:**

6610. **MR. MacLEOD:** Thank you very much, Mr. Chair, Panel, TransCanada repetitive, and I guess members of the public as well.
6611. I appreciate, I guess, the opportunity to come here today and thank you for being ahead of schedule because I told my family it would be 3:30. So that worked out all right.
6612. I guess first of all, yeah, my name is Marc MacLeod. I'm the Executive Director for the Fundy Regional Service Commission. We have responsibilities under the New Brunswick legislation mandate to look after solid waste services, local planning, regional planning, sports and recreation, emergency measures, and policing. And so I appreciate being selected to be an intervenor and having an opportunity to comment.
6613. I also appreciate the opportunity that TransCanada has given us in the sense of I also participate on the Energy East Committee, Liaison Committee, and also was selected to participate in a panel put forward by the pipeline safety forum, which was organized by CEPA. So again, I appreciate the opportunity to learn and be able to represent the region.
6614. We represent about five communities -- well, we represent five communities or municipalities and nine local service districts. So I'm going to kind of talk in a regional sense.
6615. So what I'll do is I'll probably just try and talk for the 10 minutes and I have some questions at the end. And if TransCanada can answer in order that would be great.
6616. I guess I'll start off with regards to the fact that we do run a landfill so at least you guys have some supporters here.
6617. With regards to landfill we have a specific interest in the acid rock mitigation plan, not in the sense of disposal for monetary gain, but in the sense of benefit for kind of everybody.
6618. Acid rock, in the past in the province during previous pipeline

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construction projects, there was some opportunity at some landfills to dispose of the material; it was actually cheaper than the ocean disposal method available at the time. And what ended up happening was that the landfill, which serviced -- not our landfill, but the other landfill -- which serviced their communities, brought in about \$7 million of extra revenue, which meant lower tip fees and avoided taxes and things like that, so a bit of a legacy associated with that.

6619. On top of that, all -- because the material was used in the infrastructure, they were able to avoid destruction of virgin areas in the sense of use of future -- other materials for future construction and things like that. So in essence, in the -- in this whole process, we took a look at a number of the reports in the consolidated application and this one piqued our interest because we thought we'd look at the acid rock drainage mitigation plan, and as particularly section 6.33 which is the disposal methods. And we were interested in actually what the disposal plan was overall.

6620. I understand that there will be specific disposal plans as they run into acid rock throughout the process, but what we're interested in is the actual overall plan identifying what disposal sites are available. It's a bit of a gap because I don't believe at the moment there's any disposal sites in the province.

6621. That being said, if there are, and if they're just holes in the ground and things like that, I would argue what happens is consultants sometimes pass us over. We've have a couple of times that's happened, but there is an opportunity here for no extra money. Matter of fact, it might be cheaper in the sense of a partnership or some other methodology.

6622. For that acid rock to come to the six landfills in the province would service every community and citizen in the province of New Brunswick and allow us to avoid some future capital costs. That being said, the material does have to be handled so there would be a charge for it, but certainly much cheaper than the alternative.

6623. I'll have a question around that at the end, Mr. Chair.

6624. The second thing is that during my participation with a community liaison group, one of the things that came up from one of the presentations was the modelling -- I can't remember the exact word for it -- stochastic, is that correct? Anyway, some two-dimensional and three-dimensional modelling with regards to the risk assessment associated with oil spills and where will they travel

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and things like that. And on the map, it didn't seem to indicate that there was any consideration of the actions of the Saint John River.

6625. The Saint John River has a -- has the unique distinction of being a reversing falls, as it were, displacing about 100 and -- well, 100,000 cubic feet per second and so I would argue that any spill that enters the harbour -- I'm used to that sound, by the way, but -- any spill that enters the harbour would travel fairly quickly towards the Saint John River.

6626. So -- and the reason that's of concern to us is certainly, Saint John River is kind of -- I guess the term is -- in common literature, is the Rhine of North America, in the sense of the number of boating activities and recreation activities per capita on the river, the number of beaches and things like that.

6627. And so we'd certainly want a discussion on the effects on sports and recreation, and certainly also in the sense of landowners associated with the communities along the rivers that we service and certainly that's the majority of the communities that we represent around the -- are on that river. And so there's a discussion that we would like to have there.

6628. Second, is the -- I guess in the sense of the design as you -- as a lot of people purport -- we're in somewhat of an economically-depressed area, things like that, and we have some challenges with regards to the number of functionalities, including housing and sports and recreation and facilities and things like that. And in the assessment of the infrastructure in services, there's a lot of discussion about temporary setup and things like that, and accommodation and the impact of 1,400 work -- or 1,400 to 1,600 workers coming in to the region, and that certainly is an economic benefit.

6629. But I would argue that there's probably more of an opportunity for a legacy benefit, in the sense of certainly if we can transfer the structures into future function opportunities such as housing or again, recreation facilities. '

6630. I'm trying to keep ahead of the clock here.

6631. Also, the next thing of concern is certainly in the sense of the construction. Considering the climate change argument with regards to oil and the longevity of the project itself, I know there's some discussion about meeting all the building codes and following the codes.

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6632. But certainly, in the sense of anything exposed to climate change, weather -- that might be weather-affected -- maybe not the buried pipelines, but certainly maybe in the tank area or the marine area -- that may be weather-affected, in the sense of volume of precipitation, for instance, or wind, or things like that. Maybe there's an opportunity to try and exceed the 1 and 100-year design under the current building codes.
6633. And in my discussions with a lot of people throughout the community, one of the concerns that was brought up was about the claims process associated with the construction of the pipeline and the sense of understanding from the report, from the application, that there's going to be a baseline consideration of wells and things like that.
6634. And that's great, but what people are really concerned about -- and I think a previous intervenor used the term the -- kind of the big, large company -- is that a lot of people would like to see a plan around a claims process, in the sense of if the baseline is violated, is there a quick way to have a claims process?
6635. That's not a question yet, by the way. Is there a claims process that can be smoother than having to hire a lawyer and go to court to get a crack in the basement wall repaired, because the cost of the lawyer would exceed probably the repair in the wall.
6636. So you know, especially if -- and that really comes from -- a lot of that's from the blasting mitigation plan that's discussed. So there's certainly a lot of discussion in that plan about mitigation and avoidance and things like that, and I certainly would like to see a little more clarification on the claims process at this stage.
6637. And through the opportunity afforded to me through TransCanada and certainly the pipeline trust and CEPA, one of the things that was interesting was certainly the communication plan associated with future interaction, ongoing engagement with the community. And I would just -- we would just like to see something that's a bit more detailed, in the sense of what kind of structure and information is going to be brought forward to the community, as opposed to saying the interaction is going to happen. So we'd just like to see a little more detail on that.
6638. So from that, I have six questions, but in order, and I know we won't get through them all, but I'll ask them anyway.

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6639. So question one: Should the overall acid rock mitigation plan be expanded to include actual disposal options considering its integration into the project cost calculation and potential opportunity for the community?
6640. Two: Can it be shown how the reversing nature of the Saint John River has been accounted for in spill modelling, which was used as the basis for TERMPOL, EHHRA, and the NEB financial assurances?
6641. Three: Is there an opportunity to work with local groups with regard to options for designing and repurposing project structures for future use, such as housing, recreation, things like that? I'm not an engineer, but they'd gladly take your money to figure it out. I'm thinking along the lines of Olympic parks and things like that, although not the last two Olympics.
6642. Number four: Considering the longevity of the project and the inherent contribution to climate change, is there any opportunity to exceed the 1 in 100-years storm design standard for weather impacted infrastructure?
6643. Number five: Will there be a clarified claims process for our property owners impacted by pipeline construction and operation that quickly reacts to baseline property deviations as opposed as the option to go to the courts?
6644. And six: Can you expand on what will be the public interface dealing on operational safety and performance?
6645. Thank you, Mr. Chair, and I'm -- I guess I'm looking for question one first, the acid rock.
6646. **MR. VAN DER PUT:** Jumping right in to go expeditiously, Mr. Siegel will deal with the first one.
6647. **MR. SIEGEL:** Thank you.
6648. Yes, we are aware of acid rock in the province and we've done some preliminary studies to try and identify where we might encounter that rock. As you mentioned, the next phase, we'll be looking at trying to quantify how much there will be during our excavation of the right-of-way in the tank terminal.
6649. We would appreciate working with anybody who's got knowledge of

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disposal ideas, and we would take those into careful consideration in our planning.

6650. **MR. VAN DER PUT:** With regard to your second question about taking into consideration the reversing behaviour of the Saint John River, I'll ask Mr. Lees to speak to how that was addressed in the studies that you referenced.

6651. **MR. LEES:** Thank you.

6652. Stantec has included the Reversing Falls in the spill modelling that was carried out as part of the EHHRA. This modelling indicated that for release originating within the -- release originating at the marine terminal or in the anchorage area of the Port of Saint John, it is very unlikely that oil would be carried through the Reversing Falls.

6653. **MR. VAN DER PUT:** The other thing I wanted to mention is that that modelling was done for very specific purposes and you outlined them actually; ecological, human health, the risk assessment, the risk assurances.

6654. We are actually going to do some additional modelling and so we'll take the reversing behaviour of the Saint John River into consideration in that additional modelling. And we are going to be doing that modelling for the purposes of our emergency response planning over the next couple of years.

6655. I will deal with the next one. There actually is the opportunity -- and we'd be very happy to consult with local groups with regard to ideas if there is a need to construct for -- you know, accommodation for the labour force, opportunities that then, you know, once they're no longer required for that purpose, can they be used for future purposes that would benefit the community.

6656. I've seen that -- I'm aware of that being successful on other projects. So we're absolutely willing to consult in that regard. That's more of a 2017-2018 activity just in terms of expectations.

6657. With regard to the next one, the 1 in 100-year storm guidelines, I'll ask Mr. Siegel to address that.

6658. **MR. SIEGEL:** Thank you.

6659. So we're committed to ensuring that our facilities are designed to

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- withstand climatic conditions for the locations that we're going to be installing them. As you mentioned, the Building Codes and Environment Canada data are generally used to define the climatic design criteria for a region; wind, rains, snow loads, et cetera.
6660. And to keep pace with changes and ensure the latest innovations and applications are applied safely by the construction industry, the codes are periodically reviewed and updated. And Energy East is committed to following the latest Building Code Information and Design criteria.
6661. And specifically, the marine terminal engineering effort performed to date has taken into account the projected change in some design parameters, in particular, the rising sea level due to global warming.
6662. **MR. VAN DER PUT:** Mr. Siegel, just proceed with the next one. The issue is with regard to claims process, if there's compensation required, how that can be expedited.
6663. **MR. SIEGEL:** I can't comment specifically on a claim's process, but what I can tell you is that as a company, we would commit to going out and assessing adjacent properties and ensuring that we don't do any damage to wells and infrastructure. We would be working with local, municipal guidelines and provincial guidelines on that.
6664. But I can assure you that we would work with the landowners or whoever was deemed to be within the area of impact to ensure that we did pre-inspection of their facilities, to make sure that their wells were tested, and to ensure that when we left site after construction that everything was as we found it.
6665. **MR. VAN DER PUT:** And it looks like we'll be successful in responding to all of your questions.
6666. With regard to public interface, once the facilities are in operation, TransCanada, for all of its infrastructure has a very thorough public awareness program where we, at least on an annual basis, have very proactive communication with mail-outs, meetings, that sort of thing, issues such as "Call before you dig", making sure that people are aware of, for example, where the pipeline is located and, you know, call a number before any activity around the pipeline.

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6667. And so this will be the kind of program that will apply in the case of Energy East as well.

6668. **MR. MacLEOD:** Mr. Chair, thank you very much and thank you, TransCanada, for answering the questions.

6669. I think, certainly, there's a great opportunity here, certainly, from a community impact. I guess we'll continue to participate in the process, as we get a little more specific and asking some further questions. Particularly around the Reversing Falls, I would be interested to see what future studies bring.

6670. Thank you.

6671. **THE CHAIRMAN:** Thank you, Mr. MacLeod.

6672. We are at the stage where this concludes our Panel sessions here in Saint John. Barring any other matters, we will adjourn and reconvene on Monday, August 15th, in Fredericton.

6673. On behalf of my colleagues, I would like to thank everyone who appeared before us this week and everyone in attendance and following along via our website.

6674. Now, before we continue with these concluding remarks, Mr. Yates, I believe that you have -- you would want to make a brief summary and closing remarks?

6675. **MR. YATES:** Thank you, Mr. Chairman.

6676. What the intention was, was to have the current Panel released and then the summary remarks will actually be made by Mr. John Soini, who is the President of Energy East Pipeline.

6677. So with your leave, we'll proceed on that basis.

6678. **THE CHAIRMAN:** The panel is released with thanks.

--- (Witnesses are excused/Les témoins sont libérés)

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6679. **MR. WATTON:** Maybe we could just take a moment, so people can rise from their seats so we can straighten away the table for a second.

--- (A short pause/Courte pause)

6680. **MR. WATTON:** Okay, whenever you're ready.

JOHN SOINI: Sworn, Assermenté

6681. **MR. WATTON:** Please proceed.

6682. **MR. YATES:** Thank you, Mr. Chairman.

6683. The witness panel that's been here for the last three days was -- you know, members of that panel were selected, as I mentioned at the outset, in part as the people having the knowledge to speak to the regional issues that had been identified in the engagement process to this point.

6684. The final presentation though will be made by Mr. John Soini who is the President of Energy East Pipeline. And I think he's ready to do that now.

--- CLOSING REMARKS BY/REMARQUES DE CLÔTURE PAR MR. JOHN SOINI:

6685. **MR. SOINI:** Thank you very much.

6686. I appreciate this opportunity to be able to provide some remarks at the close of this first community panel session.

6687. I'm speaking to you in my capacity as President of Energy East. I have listened closely to the comments and questions that have been raised by intervenors during the past three days.

6688. I would like to thank all of the intervenors who participated in this process.

6689. Merci beaucoup pour votre participation.

6690. I would also like to acknowledge the participation of Chiefs, Elders, and Council members in the room today and those who attended in the previous

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days.

6691. I would like to reaffirm what Christian, my colleague, has already stated. We would like to continue learning from you and working with you.

6692. All of the intervenors have raised a number of questions and have clearly indicated to the Board and to us the issues of concern to you.

6693. I also extend my appreciation on behalf of Energy East and TransCanada, to the Board Panel members, and staff for holding this well-organized forum that has allowed for this important exchange.

6694. In these closing remarks, I want to address an issue that has been raised by several intervenors over the past three days, particularly by landowners who live in proximity to the proposed site of the tank terminal, representatives of First Nation communities and Aboriginal associations, and local fishermen, future industrial neighbours, and the City of Saint John.

6695. A point that you have all made, and it is a point that I acknowledge and fully understand, is that there are some questions that you have raised since we announced this project and have not yet been answered to your satisfaction.

6696. I want you to know that I understand your frustration and I understand that the lack of information can also be a source of stress.

6697. I want to take a few minutes to explain to you why at this early stage of the process we are not yet able to fully answer all of your valid questions.

6698. The reasons for this are due to where we currently are in both the regulatory process and in the planning and development stage of the project. We've been discussing the Energy East Project, including the facilities that are proposed to be built in New Brunswick, for almost three years. That seems like a long time. However, in the context of this major infrastructure project we are still in the early days.

6699. For small projects by this time one may expect that all of the information would be available. I'm sure you question why we don't have all the information that you believe we should have by now or should be available by now, but this is a major project. This is perhaps an understatement.

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6700. It is one of the largest projects to undergo a comprehensive review in the history of Canada and it takes time.
6701. When I state that we are in the early days let me give you some key dates in the timeline ahead of us. I want to give you some assurances that we will be in a position to address your concerns in due course. In fact, we are obliged to do so as part of the regulatory process as it unfolds.
6702. The timing for this will allow intervenors here and across the other five provinces involved in this project to provide their input and obtain responses to questions.
6703. First with respect to the regulatory process, as flagged a few times by the Board Chair, there will be an opportunity for intervenors to file evidence and to participate in information requests in 2017.
6704. Also in 2017 there will be further oral traditional evidence hearings for First Nation intervenors. Oral traditional evidence is important and is considered by us in further planning, detailed routing, and design stages.
6705. There will also be oral cross-examination hearings in 2017 as well as a process for providing reply evidence.
6706. The Board will have time to develop proposed conditions and it will recommend be imposed on the project, and there will be an opportunity for intervenors to comment on these proposed NEB conditions.
6707. The Board's hearing order issued in July of this year indicates that the Board will be making recommendations to the federal government in March of 2018. So we have another 19 months of regulatory process in front of us.
6708. In accordance with our current milestones, if the project is approved we have indicated that construction would not fully commence before 2019. And the estimated in-service date is 2021.
6709. We have time ahead of us to work with you, obtain your input, and address your concerns. More details will become available as we continue our development efforts and meet the requirements of the regulatory process.
6710. Let me address some specific concerns and what we will be doing.

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6711. We will have comprehensive emergency response plans in place, including for the tank and marine terminal before project commissioning begins. And we will be kept up to date and -- they will be kept up to date and reviewed by the regulator during the life of the project.
6712. We cannot have those plans finalized now because inputs into that planning are not yet available.
6713. As part of the emergency plans we will have effective evacuation procedures. We will comply with all applicable laws, regulations, guidelines, and criteria during construction and operations. We will be subject to ongoing regulatory oversight throughout the life of the project.
6714. We have worked and we will continue to work with First Nation communities and associations in New Brunswick to identify potential impacts to rights and interests, and to identify mitigation measures. Further traditional knowledge studies are anticipated to be completed next year.
6715. I don't want to take up too much more time as I know it's been a long day and I'm sure people want to get back home soon, but I want to end by stating that we greatly appreciate hearing from the intervenors who have attended this session.
6716. There was a comment made by a representative of the Conservation Council of New Brunswick that was made yesterday that was very well stated and is quite appropriate to repeat by way of a closing remark.
6717. Mr. Abbott offered that the reason why the Conservation Council of New Brunswick participates in regulatory processes such as the NEB process and why this organization provides input on projects such as ours is because it is important in a democratic society for input to be provided from different voices in order to ensure that decisions are made based on accurate facts, based on evidence, based on science-based information. We certainly share that position.
6718. I can confirm that your views have been heard and will inform how we continue to develop the Energy East in a safe and environmentally sound manner for the benefit of Canada.
6719. Thank you. Merci.

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6720. **THE CHAIRMAN:** Thank you, Mr. Soini.

6721. And before Mr. Yates prompts me, you are released.

--- (Witness is excused/Le témoin est libéré)

6722. **THE CHAIRMAN:** Continuing with my concluding remarks, I would like to take this opportunity to remind all intervenors to continue to consult the hearing order with respect to future process steps and opportunities to file evidence and ask questions through the more formal phases of our hearing process.

6723. Of particular interest to Aboriginal intervenors from New Brunswick, I would also note that the Board expressed its intention in Ruling No. 20 to return to New Brunswick in January to collect oral traditional evidence. Again, more details to follow.

6724. On that note, thanks everybody for welcoming you in your beautiful city.

6725. Yes, Mr. Watton?

6726. **MR. WATTON:** Sorry, just one final note for those intervenors who are going to be reviewing the transcripts which will appear on our website. They're usually up by night time, maybe tomorrow morning. If you spot any errors in the transcript, you can email them to our Regulatory Officer and we'll make sure that they're corrected as appropriate.

6727. That's all I have, sorry.

6728. **THE CHAIRMAN:** Thank you, Mr. Watton, for the reminder.

6729. And on that note, this concludes our hearing here in Saint, John, New Brunswick.

6730. Have a good evening.

--- Upon adjourning at 3:12 p.m./L'audience est ajournée à 15h12