



Final Written Argument

**Enbridge Northern Gateway
Joint Review Panel**

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With billions of dollars' worth of proposed and ongoing resource development projects in the northwest, I have toured northwestern British Columbia in true consultation about how to make resource development sustainable with the most critical and most often overlooked stakeholders of all: the communities themselves. The tour brought together local business and civic leadership, First Nations, civil society and ordinary citizens under one roof to discuss the kinds of development we want to see, and how we envision development projects leaving communities in better shape when they leave than when they arrived. This is, after all, both the meaning and intent of a "development" project.

Discussions were diverse in their form and content, the overarching decision was unanimous: the most crucial element for any development is the social license to operate from the communities who will be most impacted. In our discussions we looked at a broad range of criteria that can allow a company to obtain and maintain their social license. The central question in this regard is whether the company has a history and practice of sustainable and responsible practices and the same criteria must be true of the project proposal itself.

Naturally, then, we hold the same fundamental criteria up to the proposal before us from Enbridge Northern Gateway to run pipelines 1,100 kilometres from Alberta's oilsands to the west coast and supertankers of bitumen and condensate through the pristine wilderness along that coast.

First, it is important to familiarize oneself with the company's failure in regards to basic sustainable and responsible business practices. Enbridge, the proponent's parent company, has anything but a sterling record on pipeline safety and emergency response. Contrary to the company's rampant rhetoric about its improvements to pipeline safety and spill response, according to Enbridge's own data, between 1999 and 2010 alone, the company was responsible for over 800 spills resulting in the release of over 160,000 barrels of oil products into the environment. This amounts to approximately half the amount released from the Exxon Valdez spill in 1988. The company has been found responsible for even more spills in years since, notably at the Stingray pipeline in the United States in 2011, and in two separate incidents in Wisconsin and Alberta in the summer of 2012.

Over the last few years, we have seen and heard detailed presentations from the proponent about their commitment to safety, in language similar to that used by the proponent's parent company before, during and after the frequent pipeline spills to which they seem prone. There is no doubt that Enbridge has



made significant investments in researching and developing methods for ensuring the safety of their pipelines. However, within the company, there is clearly an ongoing culture of reluctance about actually maintaining the integrity of their equipment and holding themselves to the safety standards which they themselves set out.

For example, in 2012, Deborah Hersman, the chair of the US National Transportation Safety Board, criticized Enbridge for their poor handling of the Kalamazoo River spill in Michigan. Ms. Hersman noted that Enbridge was aware, as early as 2005, of 15,000 defects in the pipeline in the company's own internal report which ultimately resulted in the Kalamazoo River spill but they tragically did not act. More recently, our own National Energy Board found that Enbridge is breaking safety rules at 117 of its 125 pump stations across the country, which constitutes a 93% failure rate to conform to emergency safety shutdown requirements. Backup power and other legal requirements were simply absent from the pump stations.

These examples are recent and very serious instances of negligence that can and have had serious negative consequences to the company's reputation and more importantly to the environment and to the communities impacted. It is difficult for me, as a citizen of northwestern British Columbia, to look at Enbridge Northern Gateway, and come away with any kind of confidence in their claims about a new found commitment to safety in the face of such brazen – and recent – negligence for public safety and environmental protection.

The proponent has gone to extraordinary lengths to claim it has a model of a pipeline and marine shipping regime which set a world standard for safety regulations. And we know that Northern Gateway is not like the pipelines of the 1950s, due to the normal improvements in pipeline construction, leak detection technologies, and so on. What we have not seen from Enbridge is an improvement in its ability to follow the rules and its willingness to act when problems arise. It is not enough for the company to give grandiose presentations about pipeline and tanker safety measures today in order to have the project approved. What happens to the pipeline and those tankers in five years? Ten years? Fifty years? The company's history reveals a record of neglect and negligence as these projects age. As such, we have to ask: is Enbridge Northern Gateway a responsible company with a track record worthy of public trust? Do they take their obligations for public safety and environmental stewardship seriously? Recent history shows us that the answer is a resounding no.



Beyond the track record and reputation of Enbridge, we also have to assess whether the project itself is one that is responsible and sustainable. We have heard, for example, that the calculation of spills during marine transportation have been developed and presented in a clearly deceptive manner. World-renowned marine oil spill response specialist Dr. Gerald Graham, for example, wrote to and appeared before the panel in August 2012 and January 2013 to detail how, over the expected 50-year lifespan of the project, the likelihood of one or more major tanker spills (31,500 barrels or more) increases to between 8.7% and 14.1%.

But even this calculation contrasts starkly with the definition of a large spill as defined by the International Tanker Owners Pollution Federation (ITOPF), which applies to any spill greater than 5,131 barrels. History is replete with examples of oil spills of 5,000 barrels or even less which wrought enormous environmental and economic damage. Thus, if we applied the ITOPF's internationally recognized definition of a large spill in Dr. Graham's calculations, the likelihood of a major tanker spill would certainly rise well above 14.1% over 50 years as well.

Beyond calculation of risk, the proponent has also had great difficulty squaring its science on the properties of diluted bitumen in water with that of the independent scientific community and, indeed, with historical reality. The proponent steadily claims that diluted bitumen will behave like normal crude oil when it hits water, and that conventional recovery methods can be used in the event of a major bitumen spill. And yet witnesses and studies put before this panel and the public consistently show there is not a consensus among the independent scientific community on whether diluted bitumen will float or sink in saltwater and freshwater bodies in varying conditions, thus casting doubt on all of the proponent's proposed methods and technologies for marine recovery and clean-up. If the underlying assumptions about the nature of bitumen are wrong, as has been contended by several credible scientific witnesses, the technologies proposed to clean it up will also be wrong, making those negative consequences of a spill so much worse.

What is truly astonishing about the proponent's claim, however, is that Enbridge, their own parent company, has been involved in one of the lengthiest and most expensive oil spill clean-ups in the 21st century precisely because diluted bitumen sank when it spilled into the Kalamazoo River. This begs a very basic question: if Enbridge Northern Gateway claims to possess the knowledge and technology to mount a timely and effective recovery of diluted bitumen from a marine environment, why is their parent company still mired in a three-year



odyssey of cleaning up and restoring the Kalamazoo River in Michigan? This is an especially important question for this panel to consider, when we consider that a great deal of Enbridge Northern Gateway's submissions to this panel on spill response were filed before or very shortly after the Kalamazoo River spill – meaning they supposedly had this knowledge at that very time, and yet the results speak for themselves. For Enbridge Northern Gateway to make such bold declarations in such stark contradiction of historical facts and Enbridge's own experience is gravely disingenuous and undeserving of the trust of the public or this panel.

The proponent has been unable to provide transparent and consistent proof that a spill of diluted bitumen could not and would not be disastrous to the environment and the economy of northwestern British Columbia and the province as a whole. In such a context, it is simply unacceptable that the proponent would suggest routing their pipeline across nearly 800 rivers and streams, including British Columbia's two largest salmon watersheds. The pipeline would compromise crucial, globally-renowned bird, marine mammal, and fish habitat; it would fragment forest habitat for the endangered boreal woodland caribou, as well as the Great Bear Rainforest, home to the iconic Spirit Bear; and it would endanger British Columbia's lucrative coastal fisheries and eco-tourism industry.

The proponent has given to this panel a wide body of evidence about the fate and behavior of diluted bitumen, and the different techniques available for its recovery. Their submissions are no doubt meticulous, but in the majority of cases, what they have offered is a compendium of laboratory-bound, industry-backed science that does not square with the basic facts faced in a real world scenario. In the real world, we have seen diluted bitumen sink, destroy important habitats, and take years to clean up; in the real world, we have seen Enbridge asleep at the switch. If Enbridge is so confident it has the technical and organizational competencies to effectively prevent or respond to a diluted bitumen spill in the rushing Skeena River or in the tumultuous Hecate Strait, why couldn't they do so just a few short years ago in the shallow, placid waters of the Kalamazoo River? When we as citizens of the Northwest consider these claims by the proponent about its ability to counter the tremendous risks to our environment and our local economy, and question whether this is a sustainable and responsible, the answer is an unequivocal 'no'.

The federal government and the Prime Minister's cabinet have been anything but an ally to the people of British Columbia and to our treasured rivers, coast and wildlife. The Prime Minister and his cabinet have taken a very clear and very aggressive stance in favour of this project, long before it has run the course



of an environmental assessment and community consultation. Rather than allowing the voices of those people who would be impacted by this project to be heard, Mr. Harper and his ministers have very actively demonized and made completely outrageous accusations about ordinary citizens with legitimate concerns about this project.

Rather than hearing what we had to say, in November 2011, before the Joint Review Panel had even begun, Prime Minister Harper accused us of being foreign-funded special interest groups; on January 9, 2012, the Minister of Natural Resources, Joe Oliver, called the people I represent “radicals” for raising legitimate concerns about this project; on April 28, 2012, the Minister of the Environment, Peter Kent, accused us of laundering “offshore foreign funds for inappropriate use against Canadian interest.” Simply for our intent to register a concern about this project, the government of the day has seen fit to demonize us publicly, and no doubt this has had a very serious impact on the willingness of many other ordinary citizens to make their voices heard. This is not conducive to an open, democratic discussion; it is arrogant bullying from some of the highest powers in our country, and it has deeply jeopardized the legitimacy of this process in the public eye.

Well beyond the Prime Minister’s public comments, however, since this process began we have seen a concerted effort on the government’s part to stifle resources for the oversight and scrutiny of the proponent’s project, to nullify the laws that once protected our fisheries and our waterways, to neutralize the authority of this panel.

For example, in its submissions to the Joint Review Panel (Exhibit E7-2-2 Fisheries and Oceans Canada – Response to the JRPs IR Request No. 1 to Fisheries and Oceans Canada – A2T8V7; Exhibit E9-6-12 – Government of Canada – Volume 2, Part 2 – Fisheries and Oceans Canada and Canadian Coast Guard Written Evidence – A2K4S2), Fisheries and Oceans Canada openly admitted that they had not completed a review of all proposed crossings of the proposed pipeline with fish-bearing waterways, nor had they completed consultations with affected First Nations. It was also rather shockingly revealed during cross-examinations that the department has no mandate and no intention to consult commercial fishers or the sport fishing industry about the devastating impacts of this project. It is unacceptable that the department did not complete its assessments and its consultations prior to cross-examination at the Joint Review Panel. What is even more startling is that the current government has in the last year alone decimated Fisheries and Oceans Canada’s ability to carry out its work in relation to this project and protect our coast and fishery.



In 2012, over 1,000 positions at Fisheries and Oceans Canada were cut, many of which were scientific research positions. In 2013, the government has proposed another \$108 million cut from the department's budget over the next six years. Whether due to budgetary restraints, a lack of resources, or a ministerial directive, Fisheries and Oceans Canada failed to meet its commitments under the Fisheries Act in preparation for the Joint Review Panel – this much we know. This is the question the panel must now consider: if the department was unable to carry out the basic functions of its commitments under the Fisheries Act in assessing this project's impacts for the Joint Review Panel, how can the panel and the public reasonably expect the department to do even more with even fewer resources in years to come?

The Prime Minister's assaults on the Fisheries Act and the Navigable Waters Protection Act, passed in the government's 2012 budget, have stripped our fisheries and our waterways of their historic protection, and devastated public trust in this government's commitment to environmental stewardship. But most devastating to public faith in this government, and to this process in particular, is the transfer of final authority over approvals for projects such as Northern Gateway to the federal cabinet. In effect, the government has said that the submissions of experts and the concerns of citizens to determine the merits of this project matter only to the extent that a small room of ministers in Ottawa believes they do. The federal government chose to undermine this panel and the public you seek to serve by stripping you, the panel, of the authority to carry out this critical undertaking. By making the final decision a political one, the Harper government has poisoned the well of public opinion and created fundamental distrust of the government's real intention and the project's merits.

It was disconcerting to learn that the Joint Review Panel, in its 199 conditions for approval of this project, would mandate \$950 million in financial insurance provide coverage for the costs of liabilities for clean-up, remediation and other damages emanating from project operations. That the Joint Review Panel would ask such a small assurance is a source of bewilderment when we consider clean-up alone for the Exxon Valdez spill cost \$3.8 billion – or \$6 billion when adjusted for inflation. Furthermore, in a curious and more contemporary development, in March 2013, we learned that the clean-up cost for Enbridge's Kalamazoo River spill could top \$1 billion, and again we must emphasize that this figure does not represent the cost of remediation and other damages. Given these examples, one of them directly involving the proponent's parent company, it is stunning and unacceptable that the Joint Review Panel would leave our fisheries,



environment, communities and the Canadian taxpayer vulnerable to spill-over costs of an accident with such a low insurance figure.

Thus, when we ask whether the government has fulfilled its responsibility to its citizens to investigate this project, give it due scrutiny, and act in the best interests of our communities and our environment, the answer is another resolute no. The risks that Canada and British Columbians in particular would have to take for this project so vastly outweigh any potential economic benefit. As I have already outlined, this project would compromise countless sensitive and endangered species and their habitats, as well as our coast, our rivers, and our stunning wilderness.

It is impossible to assign a tangible value or a price tag to British Columbia's pristine wilderness and waters, because they shape who we are as a people and as a culture. And this is especially true of the First Nations of British Columbia, who have fished in these rivers and called these lands their home since time immemorial. To gamble with these sacred spaces and these eternal wonders of nature for the sake of running a pipeline to ship bitumen to China for fifty years is simply beyond foolish.

But what we can measure of the risks in this equation is the following: the economic risk posed by this pipeline to the industries in British Columbia that rely on our healthy, vibrant rivers, coast and wilderness. The eco-tourism industry in British Columbia, according to the Wilderness Tourism Association of British Columbia, represents \$13.8 billion in revenue and 132,000 direct jobs annually. It is meanwhile of note that fisheries and processing in British Columbia represent roughly 28,000 direct jobs and contribute \$1.3 billion annually, according to a 2012 report by BC Stats on British Columbia's fisheries and aquaculture sector. The impacts of an in-land or marine spill from the Northern Gateway pipeline or an outbound or inbound tanker would be ruinous for both of these industries, with the potential to revoke their positive economic impacts indefinitely. Recent history is replete with regions whose fisheries and tourism industries never recovered from a major oil spill.

When we put aside all of these risk factors and the ambivalence of both the Harper government and Enbridge Northern Gateway to the well-being of our region, however, we come to address the real elephant in the room. The fact of the matter remains that no one – not Enbridge, not the Harper government – came to ask us, the people of the Northwest, whether we wanted this pipeline and this marine terminal and these supertankers to begin with. This project proposes to run a pipeline across over 650 kilometres of northern British Columbia, and



over 375 kilometres of that span is within the riding of Skeena—Bulkley Valley. This project also proposes to send supertankers through narrow passages in tumultuous waters along over 320 kilometres of pristine coast line which also fall under the boundaries of the region I represent as well.

I have represented this area of our country for almost a decade – I know the people well, and I know that if the Harper government or Enbridge had even bothered to ask us and to actually listen to what we had to say beforehand, they would have known that we hold dear some basic values that unite us as residents of this beautiful land. This common cause also demands that we take some measure of responsibility to protect that land that provides for us and defend the interests of our people when threatened. A company or government interested in these values would have approached not with arrogance and bullying taunts but with curiosity and humility. This conversation was poisoned from a very early stage.

Indeed, the Joint Review Panel has spent much time in grueling cross-examinations and hearings in order to develop its recently released 199 conditions for this project's approval. However, these conditions betray what is and ought always to be the very first condition for any project of this magnitude: the social license to operate from the communities who will be most impacted.

In my time as a Member of Parliament, and most recently as I toured my riding to hear my constituents' vision of sustainable, responsible development in our region, I have heard one thing consistently. We want to develop our resources – it is the motor of our local economies, whether it is fishing, forestry, mining or natural gas, or innovative new forms of green energy development. We also insist on being engaged in the process; to be listened to; and to accomplish this with companies who come to us with a respectable track record and a sustainable and responsible project. The Northern Gateway project comprises none of these.

If Enbridge and the Harper government share one thing, it is certainly a penchant for acting first, and consulting later, if at all. For the last few years, the federal government has washed its hands of oversight over this project, gutted protection for our fisheries and our waterways, and attempted to bully anyone with a contrary opinion into silence. Then, sensing their tenuous situation, at the eleventh hour, they decided to appoint a special federal representative to be Enbridge's publicly-funded salesman to First Nations. Enbridge, meanwhile, facing constitutional challenges and opposition from dozens upon dozens of First Nations, has attempted to sway some with Protocol Agreements. But let us be clear: these do not amount to proper consultation, nor do they constitute consent



from First Nations; it simply means that First Nations will determine when, where and if they engage in conversations to protect their constitutional and historical interests.

It is imperative, however, that the Joint Review Panel reject this application not only on its dearth of merit and its overabundance of risk. The sheer scale of this proposal, the disingenuousness of the proponent, and the complete abrogation of duty by the federal government sets a disastrous precedent. If this project is able to proceed, it is a clear indication that reckless resource development projects can and will happen anywhere in Canada – no matter the environmental, social or economic importance of the region; no matter the reputation and track record of the proponent; no matter the lack of moral and political will by the government to protect its citizens.

Setting up Northern Gateway as an arms-length entity was a transparent attempt by Enbridge to shield itself from the untold liabilities of a potential spill from a pipeline or a supertanker. But in the same way, it also served as a clear acknowledgment by Enbridge that the risks inherent to this project are too high even for them, a multi-billion dollar company. But in the end, it is not Enbridge who will pay for the accidents. It is us, the citizens of the Northwest, who will pay with our lands, our rivers, our coasts, our way of life, our history, and our future.

And we say no.