

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



**Hearing Order EH-1-2000  
Ordonnance d'audience EH-1-2000**

**Sumas Energy 2, Inc.**

**Application to Construct an International Power Line**

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

**Garden Park Tower  
2825 Clearbrook Road  
Abbotsford, British Columbia/Abbotsford, Colombie Britannique**

**22 October 2002  
22 octobre 2002**

**Volume 8**

**International Reporting Inc.  
Ottawa, Ontario**

**Canada**

© Her Majesty the Queen in Right of Canada 2000  
as represented by the National Energy Board

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

Printed in Canada

© Sa Majesté du Chef du Canada 2000  
représentée par l'Office national de l'énergie

Cette publication est un compte rendu textuel des  
délibérations et, en tant que tel, est enregistrée et  
transcrite dans l'une ou l'autre des deux langues  
officielles, compte tenu de la langue utilisée par le  
participant à l'audience publique.

Imprimé au Canada

**HEARING ORDER/ORDONNANCE D'AUDIENCE  
EH-1-2000**

IN THE MATTER OF the *National Energy Board Act*  
and the Regulations made thereunder;

AND IN THE MATTER OF an application dated  
7 July 1999, as amended 23 October 2000,  
pursuant to Part III, section 58.23 of the  
*National Energy Board Act* (the Act)  
requesting a Certificate of Public Convenience  
and Necessity to construct an international  
power line (IPL)

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

Hearing held at Abbotsford (British Columbia), Tuesday, October 22, 2002

Audience tenue à Abbotsford (Colombie Britannique) mardi, le 22 octobre 2002

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

R.J. Harrison	Chairman/Président
C. Dybwad	Member/Membre
D. Emes	Member/Membre

## **APPEARANCES/COMPARUTIONS**

### **Applicant**

Sumas Energy 2, Inc.

- Mr. R.W. Lusk
- Mr. P.C. Godsoe

### **Groups/Groupes**

AM Productions & The New Media Institute (Option 2)

- Mr. M. Brown

Canadian Pacific Railway (Option 2)

- Mr. C.J. Goldie
- Ms D. Valiela

Sierra Legal Defence Fund (Option 2)

- Mr. T.J. Howard

Society Promoting Environmental Conservation  
represented by Mr. T.J. Howard

David Suzuki Foundation  
represented by Mr. T.J. Howard

Sto:Lo Nation  
- Mr. P. Bulwar

### **Government/Gouvernements:**

British Columbia Utilities Commission (Option 2)

- Mr. R.J. Pellatt

City of Abbotsford & Fraser Valley Regional District

- Mr. J.G. Yardley
- Mr. M.R. McAllister

Province of British Columbia (Option 2)

- Mr. C. Jones

## **APPEARANCES/COMPARUTIONS**

### **Individuals/Individus**

Allan, Lorna R.  
Audet, Robert N.

Bath, Martin A.  
Bowling, Milt

Cook, Dr. Donald R.

Degen, James G.  
Delparte, Don

Endersby, A.

Ferguson, George Fredrick

Geres, Bryce R.  
Gillanders, Ross Calvin

Johnwon, Dean R.

Peachey, Richard

Tanner, Jenafor  
Timberlake, Alan

Upright, Jim

### **Federal and Responsible Authorities Under the *Canadian Environmental Assessment Act*/*Authorités responsables sous la Loi canadienne sur l'évaluation environnementale***

- Mr. A Duncan (Environment Canada)
- Ms K. Hutton (Fisheries and Oceans Canada)
- Mr. C. Alleyne (Health Canada)

### **BC Provincial Authority**

- Mr. H. Wallis

### **National Energy Board**

- Mr. P. Enderwick
- Mr. A. Hudson

## TABLE OF CONTENTS/TABLES DES MATIÈRES

<b>Description</b>	<b>Paragraph No.</b>
Submissions by Mr. Jones	3467
Submissions by Mr. McNally	3480
Submissions by Rev. Kroguletz	3517
Submissions by Ms Reeves	3532
Submissions by Ms Tessaro	3569
Submissions by Ms Secco	3595
Submissions by Mr. Saaltink	3616
Submissions by Mr. Smith	3623
Submissions by Mr. Malloway	3672
Comments by Mr. W. Charlie	3737
Submissions by Dr. Charlie	3748
Submissions by Ms Roulston	3759
Submissions by Dr. Charlie	3781
Submissions by Mr. Wilkins	3809
Submissions by Mr. Welsh	3823
Submissions by Mr. Pincott (representing Mr. Arkesteyn-Vogler)	3872
Submissions by Mr. Berge	3885
Submissions by Mr. Pincott (representing Ms Janet Blakely)	3898
Submissions by Dr. Chafe	3902
Submissions by Mr. Pincott (representing Ms Marion Cockroft)	3947

## TABLE OF CONTENTS/TABLES DES MATIÈRES

<b>Description</b>	<b>Paragraph No.</b>
Submissions by Mr. Delparte	3956
Submissions by Mr. Dirks (representing Ms Gwen Hamm)	3958
Submissions by Ms Farenholtz	3966
Submissions by Mr. Degen	3986
Submissions by Mr. Ewert	4007
Submissions by Dr. Turner	4016
Submissions by Ms Gregorig	4031
Submissions by Mr. Guggenheimer	4048
Submissions by Mr. Fast	4120
Submissions by Ms Ross	4146
Submissions by Ms Ross (representing Ms Village)	4208
Submissions by Mr. Ferguson	4211
Submissions by Mr. Alden	4243
Submissions by Ms Callaghan	4263
Submissions by Ms Canning	4271
Submissions by Mr. Degen	4284
Submissions by Mr. Christensen	4312
Submissions by Mr. Chipperfield	4332
Submissions by Ms Hardbattle	4342
Submissions by Ms Gray	4348

## TABLE OF CONTENTS/TABLES DES MATIÈRES

<b>Description</b>	<b>Paragraph No.</b>
Submissions by Ms Hatch	4359
Submissions by Mr. Cox	4376
Submissions by Mr. Henderson	4391
Submissions by Mr. Hann	4405
Submissions by Mr. Hasselback	4422
Submissions by Ms Hoekstra	4435
Submissions by Ms Horsfield	4517
Submissions by Ms Horsfield (representing Ms Santschi)	4534
Submissions by Mr. Looper	4541
Submissions by Ms Mobley	4570
Submissions by Ms Mikulan	4575
Submissions by Mr. McCormick	4598
Submissions by Ms Moore-Edwards	4616
Submissions by Ms Merrett	4627
Submissions by Mr. Pincott (representing Mr. McCullough)	4634
Submissions by Ms Whittle	4643
Submissions by Mr. Ross	4652
Submissions by Ms Stuber	4666
Submissions by Mr. Noble	4670



## TABLE OF CONTENTS/TABLES DES MATIÈRES

<b>Description</b>	<b>Paragraph No.</b>
Preliminary Matter brought forward by Mr. Yardley	4684
Preliminary Matter brought forward by Mr. Lusk	4690
Reply by Ms Raulston	4697
Submissions by Mr. Van Dongen	4708
Submissions by Mr. Peachey	4769
Submissions by Ms Peables	4925
Submissions by Ms Peachey	4939
Submissions by Mr. Pincott (representing Sylvia Pincott)	4961
Submissions by Mr. Riedlinger	4972
Submissions by Ms Rachel	4986
Submissions by Ms Reznick	4994
Submissions by Mr. O. Skonberg	5011
Submissions by Ms C. Skonberg	5016
Submissions by Mr. Tilgner	5022
Submissions by Mr. Thiessen	5048
Submissions by Mr. Usborne	5057
Submissions by Mr. Vicktor	5070
Submissions by Mr. Vissers	5099
Submissions by Mr. Witt	5112
Submissions by Ms Hatch (representing Ms A. Waxman)	5127

## TABLE OF CONTENTS/TABLES DES MATIÈRES

Description	Paragraph No.
Submissions by Mr. Wilkins	5132
Submissions by Ms Webber	5159
Submissions by Mr. Young	5170
Submissions by Mr. Henderson (representing the Council of Canadians, Mission Chapter)	5188
Submissions by Mr. Clyne	5197
Submissions by Mr. Baumann	5222
Submissions by Mr. Pincott (representing Ms Allan, Mr. & Mrs. Aitken, Mr. Bot and Mr. Brandsma)	5226
Submissions by Ms Beulens	5229
Submissions by Dr. Constatino	5236
Submissions by Ms Morrison Day	5266
Submissions by Ms Dahlgren	5278
Submissions by Mr. Hoekstra	5293
Submissions by Ms Garry	5299
Submissions by Ms Graham	5307
Submissions by Ms Johnston	5328
Submissions by Mr. Pincott (representing H. Roos, L. Seale, and H. Venema)	5355
Submissions by Ms McAuliffe	5359

## TABLE OF CONTENTS/TABLES DES MATIÈRES

<b>Description</b>	<b>Paragraph No.</b>
Submissions by Ms McKinnon	5363
Submissions by Mr. Neufeld	5371
Submissions by Mr. McAuliffe	5399
Submissions by Mr. Van Dyke	5413
Submissions by Mr. Peary	5430
Comments by Mr. Enderwick	5455
Written submission submitted by Ms Simpkins	5463
Comments by the Chairman	5484
Comments by Mr. Yardley	5487
Comments by Ms Dahlgren	5497
Comments by Ms Peachey	5504
Closing comments by the Chairman	5513

## EXHIBITS/PIÈCES JUSTIFICATIVES

Exhibit No.	Description	Paragraph No.
C-391-4	Document entitled "Intervenor Presentation" submitted by the Sto:Lo Nation.	4695

**SUBMISSIONS**  
**(Jones)**

--- Upon commencing at 10:00 a.m./L'audience débute à 10h00.

3457.                   **THE CLERK:** Ladies and gentlemen, mesdames et messieurs.

3458.                   **THE CHAIRMAN:** Good morning, ladies and gentlemen. Bonjour mesdames et messieurs.

3459.                   Mr. Degen?

3460.                   **MR. DEGEN:** Yes, I had a matter, Mr. Chairman, I wish to raise with the Board as an issue. I have a request for the Board to find out some information for me regarding the Application and a question regarding the environment in the Application.

3461.                   I will be partly referring to it in my submission, but I believe it would be important to have the information before I start, anyway, which is of course sometime off.

3462.                   **THE CHAIRMAN:** Well, Mr. Degen, there is a process for getting information in advance of hearing argument. I don't see that we should depart from it at this stage in the proceedings.

3463.                   **MR. DEGEN:** May I take the Board to it, Mr. Chairman?

3464.                   **THE CHAIRMAN:** Could I ask that you just discuss it with counsel, with our counsel, at the first break this morning and we will see where we can go from there?

3465.                   **MR. DEGEN:** All right, Mr. Chairman. Thank you.

3466.                   **THE CHAIRMAN:** Mr. Jones?

--- **SUBMISSIONS BY/SOUMISSIONS PAR MR. JONES:**

3467.                   **MR. JONES:** Thank you, Mr. Chair, members of the Board. Again, for those people who may not have been here earlier in the week, my name is Christopher Jones, I'm counsel for the Province of British Columbia in this matter.

3468.                   The facts of this case are highly unusual and perhaps unique. A power plant located just inside -- just across the border in the United States has applied to this Board to transmit electrical power from that plant through Canada and back into the United States.

3469.                   In this unique situation, the Province of British Columbia spent over \$700,000 in the United States to oppose SE2. This is because no provincial forum exists to stop or regulate SE2 and its environmental effects in B.C.

**SUBMISSIONS**  
**(McNally)**

3470. B.C. continues to oppose SE2 in U.S. hearings, but has not had the opportunity to address SE2 in Canadian hearings until now.

3471. The only Canadian hearing addressing SE2 is this one respecting the power line application. Normally the Province of British Columbia, like other provinces, opposes the intrusion of the NEB into areas of provincial jurisdiction, such as the environmental consequences of power plant construction.

3472. However, as I mentioned, there are unique circumstances in this case, and let me tell you what they are.

3473. This is the first instance, to my knowledge, that a U.S. generator has sought to connect to the BC Hydro grid via a dedicated power line; second, the absence of any forum, but for this one, for reviewing the power line connection or the environmental effects of SE2; third, the very real threat that SE2 poses to the health of the people of the Fraser Valley.

3474. In these unique circumstances, the Province of B.C. agrees that it is appropriate for the NEB to consider the environmental effects of the SE2 power plant as part of this hearing.

3475. Those are my submissions.

3476. **THE CHAIRMAN:** Thank you, Mr. Jones. There are no questions.

3477. **MR. JONES:** Thank you.

3478. **THE CHAIRMAN:** I believe that concludes the submissions from parties who are represented by counsel. And we would proceed now to the associations and groups who have individual representation.

3479. I have a note here that Mr. McNally is to go next?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. McNALLY:**

3480. **MR. McNALLY:** Thank you, Mr. Chairman, Panel. My name is Grant McNally, member of Parliament for Dewdney/Alouette, and I thank you for the opportunity to address you today on this important matter on behalf of my constituents.

3481. I do represent the federal riding of Dewdney/Alouette, which includes the communities of Pitt Meadows, Maple Ridge, Mission, Agassiz and Harrison Hot Springs. We are close neighbors to our friends in Abbotsford.

3482. I represent approximately 130,000 people and, to my knowledge, I haven't

**SUBMISSIONS**  
**(McNally)**

had a single individual indicate that they are in support of the construction and operation of the proposed SE2 power plant or the power lines that might facilitate it.

3483.                   The matter before the Board in these proceedings is whether the Board has jurisdiction to hear evidence concerning the environmental effects in Canada of Sumas's proposed power plant to be located in Sumas, Washington, and if so, whether it should consider those effects.

3484.                   In my opinion, not only does the Board have the jurisdiction to consider the environmental effects, it has an obligation to do so. Let me briefly indicate how I have reached that conclusion.

3485.                   First, the powers granted to the Board under the *National Energy Board Act* are broad and not nearly constrained. Mr. Lusk referred earlier in the proceedings to section 12(1) of the Act which states, and I quote:

3486.                   *"The Board has full and exclusive jurisdiction to inquire into, hear and determine any matter where it appears to the Board that the circumstances may require that the Board, in the public interest, to make any order or give any direction, leave, sanction or approval that by law it is authorized to make or give or with respect to any matter, act or thing."*

3487.                   The Act in section 12(2) goes on to say, and I quote:

3488.                   *"For the purposes of this Act, the Board has full jurisdiction to hear and determine all matters, whether of law or of fact."*

3489.                   I think one can draw two conclusions from the legislation.

3490.                   One, as I have said, that the powers of the Board are broad enough to allow the environmental effects of the plant itself to be heard.

3491.                   Two, a guiding principle for the Board is the concept of public interest. There are hundreds of participants in this hearing because of concern for the public interest.

3492.                   May I also bring to your attention that the Board's own website states that, and I quote:

3493.                   *"The Board's corporate purpose is to make decisions that are fair, objective and respected. This principle guides the Board in carrying out*

**SUBMISSIONS**  
**(McNally)**

*and interpreting it's regulatory requirements."*

3494. Therefore, in the absence of any legislation or regulation that would not permit the environmental effects of the plant itself to be considered in the public interest, the Board should allow a broad discussion of the environmental effects evidence for its decision to be considered fair, objective and respected.

3495. A narrow and restrictive scope as argued for by SE2 counsel does not support the public interest and is not explicit in either the *National Energy Board Act* or the *Canadian Environmental Assessment Act*. I would respectfully submit the Board has the discretion to interpret the Act in this broad manner in the public interest.

3496. Second, the National Energy Board has environmental assessment responsibilities under the *Canadian Environmental Assessment Act*. I draw your attention to the preamble to that Act, and I quote:

3497.

*"Whereas the Government of Canada is committed to exercising leadership within Canada and internationally in anticipating and preventing the degradation of environmental quality, and at the same time ensuring that economic development is compatible with the high value Canadians place on environmental quality and whereas the Government of Canada is committed to facilitate in public participation in the environmental assessment of projects to be carried out by, or with the approval or assistance of the Government of Canada, and providing access to the information on which those environmental assessments are based."*

3498. CEAA goes on to define environmental effects as, and I quote: "any change that the project may cause in the environment." And further says: "whether any such changes occur within or outside Canada."

3499. Clearly the Board, on behalf of the government and citizens of Canada, has the responsibility to exercise leadership within Canada and internationally and, as the Act says, in anticipating and preventing the degradation of environmental quality. It has an opportunity to do so by allowing the environmental effects of the Sumas 2 plant to be heard in the context of the power line application.

3500. Three, CEAA makes it clear that the National Energy Board should assess the environmental effects of projects that come before it. The Act tells us that, and I quote:

3501.

*"Project means in relation to a physical work, any proposed construction,*



**SUBMISSIONS**  
**(McNally)**

*operation, modification, decommissioning, abandonment or other undertaking in relation to that physical work."*

3502. Is it not reasonable to suggest that the plant itself should be considered as any proposed construction or other undertaking in relation to it?

3503. Section 16(1) of CEAA says, and I quote:

3504. *"Every screening or comprehensive study of a project and every mediation or assessment by a review panel shall include a consideration of the following factors in combination with other projects or activities that have been or will be carried out."*

3505. Mr. Godsoe argued yesterday that because the power plant and the power lines are different in nature that they should not be included under the combination definition. I respectfully submit that the Board has the latitude to make a very different interpretation, that while the power plant and the power lines may be different, they do, in combination, have environmental effects for Canadians.

3506. Sumas Energy's representatives would like us to think that we should review the power lines in isolation from the plant to which they would be attached. However, the Application has not come from an applicant that is in the business of building power lines to facilitate the transmission of electricity. It has come from Sumas Energy 2, whose primary business is the construction and operation of natural-gas-fired electrical generation plants, and as such, the Applicant should expect that Canadian authorities will take an interest in the project of which the power lines are a part and will include an assessment of the environmental effects of the whole project.

3507. The fourth point, the counsel for SE2 and the Alberta Department of Energy have argued that, as a matter of law, you don't have the jurisdiction to hear evidence of the environmental effects in Canada or, if you do, that you shouldn't hear it.

3508. Counsel for certain intervenors have argued and will continue to argue that you do have jurisdiction and that you should hear it. Obviously, the matter is not clear in law or we would not be here debating this point.

3509. Mr. Martin and his counsel claim that the Sumas plant have already been subject to a rigorous environmental review, and while some of us might disagree with that claim, what if the situation were one where our neighbour had no commitment to environmental responsibility, who, driven by economic interests didn't care about the degradation of the environment of their country or their neighbours?

**SUBMISSIONS  
(Kroguletz)**

3510. How would we then view the law? Would we not be as vigilant as possible in the protection of the world's environment, not just our own?

3511. And while there are tens of thousands of Canadians who remain unconvinced that the environmental due diligence with respect to Canadian interests was done in this case, I urge you not to set a precedent and to allow the environmental effects in Canada to be heard.

3512. In conclusion, it is no secret that the people who live here in the Fraser Valley, that we have concerns about the air that we breathe every day. We have a stressed airshed which we have very little control over. Most of the polluted air we breathe every day comes from elsewhere.

3513. I submit to you that the reason that the residents of the Fraser Valley have become so passionately united in their opposition to SE2 is that we believe we do have an opportunity to exercise some measure of control in this matter through this hearing process. We are worried about the long-term health effects, not only for ourselves but for our families and for future generations.

3514. On behalf of the constituents of Dewdney/Alouette and all residents of the Fraser Valley, I believe you have the authority and the discretion to consider the environmental effects in Canada of Sumas 2's proposed power plant, and I encourage you to exercise your authority and your discretion to do so in the public interest. Thank you.

3515. **THE CHAIRMAN:** Thank you, Mr. McNally.

3516. I understand Reverend Kroguletz is to go next.

**--- SUBMISSIONS BY/SOUMISSIONS PAR REVEREND KROGULETZ:**

3517. **REV. KROGULETZ:** Mr. Chairman and members of the Board, from my personal correspondence with the Prime Minister, I was assured that you would be the final authority with regards to the matter before us. So I thank you for the opportunity of sharing my concerns.

3518. I would like to first respond to the statement made by the SE2 lawyer yesterday regarding Mr. Randy White. That statement was unfortunate and unfair.

3519. Mr. Randy White isn't a threat to SE2, neither is he a threat to the CPR company. Rather, is he a passionate and compassionate representative of his people. We appreciate him, and he is even willing to lay down his life for his people.

3520. So I would like to just make certain that we understand Mr. Randy White

**SUBMISSIONS**  
**(Reeves)**

is a man of integrity.

3521.                   Number two, the real threat, however, is the proposed SE2 plant -- power plant. No matter how modern and how efficient, SE2 is a major source of pollution in our narrow valley.

3522.                   I represent more than 150 people, about 100 from our church, of whom 11 come from south of the border every Sunday. Fifty people I represent in our Mayfair Gardens condominium, a number of these have asthma, two of them are on oxygen.

3523.                   We are within sight of the SE1 plant. On every calm and clear day we can see the smoke rise from the present plant and as it then begins to spread across the valley.

3524.                   Now, just to think that this smoke would be multiplied by 400 percent, it is most alarming for us who love this valley and who live here.

3525.                   Mr. Chairman, if this were Yellowgrass, Saskatchewan we wouldn't have this meeting here, but it's the narrow valley of the Fraser Valley, and we already have some unavoidable pollutants. We have three major railroads, we have major highways, we have a growing airport. And with progress, it is so that every new home that is being built comes with a chimney which only adds to the present pollution.

3526.                   With regards to SE2, it is on record of the previous hearings that SE2 has five other options of building their plant in areas which would be certainly safer as far as the environment is concerned.

3527.                   Also, on record of these hearings is the statement that if there would be the top-notch environmental experts coming to this valley to examine this project, all of them would condemn this location because of the proximity of the narrow valley.

3528.                   We want to be willing to forgive our Albertans, our oil-and-gas-conscious Albertans, for signing with SE2. But we plead with you to understand our plight.

3529.                   We are really up against a wall. We have no other choice but to ask you, yes, to have courage and compassion, to understand our situation. And our prayers are with you. May God bless you in this decision. Thank you.

3530.                   **THE CHAIRMAN:** Thank you, Reverend Kroguletz.

3531.                   We will turn now to the associations, and the first is the Abbotsford Downtown Business Association, Mary Reeves.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS REEVES:**

**SUBMISSIONS**  
**(Reeves)**

3532.                   **MS REEVES:** Good morning, Honourable Chair and Board members. Thank you again for letting us speak to you.

3533.                   Before I get started, I beg your indulgence for clarification on an issue that Mr. Lusk raised on Saturday. In the Transcript Point No. 965, 966 and 967, he spoke a lot about -- "You heard a whole variety of suggestions --"

3534.                   **DR. DYBWAD:** Which volume was that, Ms Reeves?

3535.                   **MS REEVES:** It is the transcript from Saturday. I'm not sure. I downloaded it from the net.

3536.                   **THE CHAIRMAN:** It is Volume 6.

3537.                   **MS REEVES:** It's 965, he made the statement in 965:

3538.                   *"You heard a lot -- a whole variety of suggestions..."*

3539.                   And in 966, he stated:

3540.                   *"Consequently, things that are based not on the record but that are based on rumour, hearsay, innuendo, prejudice..."* and so on.

3541.                   Then at 967 it was:

3542.                   *"What is relevant is what appears in this record, and (this) is a very, very scanty record indeed."*

3543.                   My question for clarification from the Board is, myself and I know a number of the public were confused because, as Option 1 intervenors, we assumed that when we come to speak to you this is part of the record. And his comments would have indicated that whatever was said that night obviously were not part of the record.

3544.                   I just wanted to clarify because there is a whole lot of us that are expecting that our voices will have some impact.

3545.                   **THE CHAIRMAN:** Well, anything that is said in the hearing clearly is part of the record, and any document at all that is filed and accepted by the Board, filed on behalf of any of the intervenors, is part of the record.

**SUBMISSIONS**  
**(Reeves)**

3546. **MS REEVES:** So letters of comments -- that was my second question -- there is no deadline for that. So letters of comment are also still part of the record; is that correct?

3547. **THE CHAIRMAN:** That is correct.

3548. **MS REEVES:** Thank you so much for that.

3549. I represent 160 property owners and 250 businesses. We would like to adopt the testimony of Sierra Legal Defence, Barry Penner and the City of Abbotsford.

3550. We are in support of the National Energy Board, including in their scope, the environmental effects of the proposed natural gas power plant in Sumas, Washington which will connect to the power line here in Canada.

3551. We wish to respond to the request from SE2 regarding the Environmental Effects Motion to narrow the scope of testimony and evidence.

3552. I have been unable to find in your regulatory documentation anything that restricts this Board from looking at projects outside of Canada.

3553. The NEB may consider whatever it determines to be relevant, and there is past decisions where the Board has already set precedence, three of which have already been mentioned, so I'm not going to go over them. That's the Hydro Quebec case, Trans Mountain Pipeline and the GSX, or Georgia Straight.

3554. In their correspondence to you, SE2 commented that the environmental effects of the power plant have been thoroughly canvassed by Washington State EFSEC. I wanted to bring to your attention the erroneous nature of this statement. I heard at an EFSEC public hearing Bernie Brady, who was responsible to explain and issue that PSD permit, admit to not having taken into consideration any impact north of the border. This was prior to approving the permit.

3555. If the NEB does not look at the impacts on Canadians from this plant, then which Canadian regulatory body will?

3556. I am Canadian and I want Canadian representation, as do all of my business and property owners.

3557. Although EFSEC allowed some of us to address our concerns and speak to them, these concerns were obviously dismissed, as we were not U.S. citizens and, therefore, the benefit of money for them was, in their view, a fair trade-off for the pollution for us.

**SUBMISSIONS**  
**(Tessaro)**

3558.                   Although we would offer some of the same information to the NEB as we did to EFSEC, we would hope that the NEB would assess this with Canadian interests in mind. NEB needs the benefit of hearing this evidence in order to assess it.

3559.                   We are not requesting that the NEB regulate the plant, but rather, the environmental impacts that it will have on us as Canadian citizens.

3560.                   Mr. Godsoe had stated here that there will be a slight impact. This impact is without considering the location in an already stressed airshed or the cumulative effects.

3561.                   It seems that we are in a position of having to prove that this is a dangerous facility of no benefit to Canada and will actually come at a price to Canadians, rather than the proponent having to prove that this is a benefit to Canadians. SE2's offset program for pollutants is of little value when there are no offsets to be found.

3562.                   This is not about dirtier operating plants in Canada, as the U.S. has these, too. Many of these plants in the U.S. are affecting our unique airshed as well. Currently the U.S., Whatcom County, in particular, has greater negative impact on our airshed than we do.

3563.                   This decision should be about finding the best location for this and any future plants, because they will have an impact.

3564.                   As Mr. Lusk stated, decisions cannot be made in a vacuum. This IPL is not a one-off issue. In fact, if SE2 is correct in stating that the plant will have very little impact on our air quality and it will be good for this airshed, why have they asked that the environmental effects of the plant and the testimony not be heard?

3565.                   Please consider your role to protect and benefit the Canadian people and do not let SE2 control how we, on this side of the border, will live.

3566.                   Thank you.

3567.                   **THE CHAIRMAN:** Thank you, Ms Reeves.

3568.                   The Abbotsford Soil Conservation Association. Mr. Feser...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS TESSARO:**

3569.                   **MS TESSARO:** Terry Feser of the Soil Conservation Association asked Mr. Howard that, if he weren't able to be here, that we would enter his statement for him. And I should make it clear for the record that Mr. Tim Howard and Sierra Legal Defence Fund don't represent Mr. Feser or the Abbotsford Soil Conservation Association. We are just entering his statement, for the record.

**SUBMISSIONS**  
**(Tessaro)**

3570.                   **THE CHAIRMAN:** Okay. That's fine. Could you identify yourself, for the record?

3571.                   **MS TESSARO:** I'm sorry. My name is Lara Tessaro.

3572.                   **THE CHAIRMAN:** Could you spell that, please?

3573.                   **MS TESSARO:** L-A-R-A T-E-S-S-A-R-O.

3574.                   **THE CHAIRMAN:** Okay. Go ahead, Ms Tessaro.

3575.                   **MS TESSARO:** SE2 has said that all necessary environmental impact studies have been completed by the U.S. authorities and as such, has -- have asked the Board not to hear any environmental arguments at these hearings.

3576.                   **THE CHAIRMAN:** Just perhaps a little slower. I think the --

3577.                   **MS TESSARO:** Okay.

3578.                   **THE CHAIRMAN:** -- reporters may have trouble keeping up, Ms Tessaro perhaps.

3579.                   **MS TESSARO:** Sorry.

3580.                   The Soil Conservation Association doesn't feel the studies are complete. Further, we wonder about the accuracy and validity of any studies relating to the Canadian environmental impact.

3581.                   While we are concerned about the overall air and water quality damages, we are not satisfied in particular with the soil degradation results of the environmental study.

3582.                   The Abbotsford Soil Conservation Association is very concerned about the impact, the generated toxins and heavy metals would have on the fragile soil structure of the Fraser Valley. If these studies have been completed, why are they not part of the Application?

3583.                   From the document EFSEC Sumas Energy 2 draft PSD fact sheet, Part 4.1.2 Deposition, EFSEC recognizes potential damage, yet concludes:

3584.                   *"EFSEC's permit writing contractor concludes that S2GF, Sumas 2 Generation Facility, is unlikely to have a significant impact on vegetation, soils and aquatic resources in class 1 or class 2 areas or the analogous*

**SUBMISSIONS**  
**(Secco)**

*area in British Columbia."*

3585. It is our position that the potential soil degradation deserves a more thorough analysis. In the deposition, EFSEC refers to "analogous areas in B.C.". The document lists certain national parks located relatively near the international boundary.

3586. Mount Revelstoke National Park, the closest one to us here, is a 600-kilometre drive from Vancouver. Portland, Oregon is approximately 500 kilometres from Vancouver.

3587. The other relatively near parks are even further north and east. In fact, Yoho National Park is about ten hours from Abbotsford, but only two hours from Calgary.

3588. In figure 6.1-21 on page 6.1-66 of Sumas 2 Generation Facility EFSEC Application 99-1, according to the mapping shown, the deposition lines extend south to the Seattle area, but only about 50 or so kilometres north of the Fraser River.

3589. Therefore, it is our position that this partial mapping supports our contention of incompleteness. Contrary to what SE2 says, we don't believe the necessary environmental impact studies have been done, and ask that the SE2 motion, asking the Board not to consider the issue of environmental effects be denied. Thank you.

3590. **THE CHAIRMAN:** Thank you, Ms Tessaro.

3591. B.C. Lung Association...? Mr. Vissers for the Straiton Community Club Association will appear later today.

3592. United Injured and Disabled Workers Association of B.C...? Mr. Barrie -- sorry, Mr. Alden -- Barrie Alden...?

--- (No Response/Pas de réponse)

3593. **THE CHAIRMAN:** Upper Fraser Valley Chiropractic Association...? Dr. Turner...?

--- (No Response/Pas de réponse)

3594. **THE CHAIRMAN:** We move now to the Groups, the Abbotsford Chamber of Commerce, Helen Secco...?

--- **SUBMISSIONS BY/SOUMISSIONS PAR MS SECCO:**

3595. **MS SECCO:** Good morning, Mr. Chairman and Board members.



**SUBMISSIONS**  
**(Secco)**

3596. First of all, we would like to go on record adopting Mr. Howard's presentation; Barry Penner, City of Abbotsford and Mary Reeves.

3597. My name is Helen Secco. I am executive director of the Abbotsford Chamber of Commerce, a business organization representing over 800 businesses, employing in excess of 8,000 people.

3598. When a business or a developer goes to the Abbotsford City Hall for planning permissions or permits for a new project or development, our city council and staff go to great pains to consider all impacts and implications of the project.

3599. What is the impact on the water and sewage systems? What is the impact on neighbouring business? What is the impact on our local environment? And what is the impact on our residents and property values?

3600. When a business wishes to build a high voltage power line through the middle of the city, Abbotsford City Hall is powerless to make a decision on behalf of the citizens of Abbotsford. Rather, that decision devolves to the National Energy Board.

3601. It is for the National Energy Board to look at the interests and consider impacts that this development will have on the Canadian people and the businesses in the area it will impact.

3602. In the case of SE2, we are perhaps dealing what dealing with a unique situation. We are not looking at hundreds of miles of transmission lines, bringing power from a hydro-electric generation plant in northern B.C. to consumers in the Lower Mainland.

3603. In this case we are considering a connection that will enable a gas-fired plant situated immediately adjacent to us across an arbitrary line to send power to a market outside the Fraser Valley.

3604. This transmission line provides no economic benefit to the Canadians whose interests you must consider. Rather, it enables a plant which we would argue will adversely impact Canadians with no offsetting benefits.

3605. Because of the proximity to this community of the power plant that the proposed transmission lines serve, the Chamber submits that the NEB is duty bound to include considerations of the impacts in the plant when considering SE2's transmission line application.

3606. Consider this: The emissions from SE2 plant will not heed the border. They cannot be stopped or turned back, even by the most diligent of Customs officials. Rather, it will gently drift on prevailing winds into our Fraser Valley into the Canadian lungs of men,

**SUBMISSIONS**  
**(Saaltink)**

women and children.

3607. I've done what many have done before me - went to the National Energy Board's website and found the purpose. The purpose is to promote safety, environmental protection and economic efficiency in the Canadian public interest while respecting rights within the mandate.

3608. The NEB is charged with the protection of the Canadian public interest. You cannot bury your head in the sand and pretend that the effects of the transmission lines do not include the impacts of the plant they serve.

3609. I respectfully submit to you that the project cannot be limited to the transmission lines only. As our MLAs, Penner and Hawes, previously stated, without the power plant, transmission lines are not required. Without transmission lines, the power plant will not be built. The power plant and transmission lines are intimately connected.

3610. At the information sessions held by the NEB in Abbotsford November 2000, we were assured that at the February 2001 hearings, consideration would be given to all the issues concerning this project.

3611. Finally, you cannot consider the lead dog without considering the dog at the end of the lead.

3612. Thank you.

3613. **THE CHAIRMAN:** Thank you, Ms. Secco.

3614. The BC Old Age Pensioners' Organization, Mr. Fred Coates...?

---(No Response/Pas de réponse)

3615. **THE CHAIRMAN:** Central Valley Naturalists, Jan Hendrik Saaltink?

--- **SUBMISSIONS BY/SOUMISSIONS PAR MR. SAALTINK:**

3616. **MR. SAALTINK:** Mr. Chairman and members of the Board, my name is Hank Saaltink and I speak on behalf of the 110 members of the Central Valley Naturalists.

3617. We have no legal expertise, but the issue of environmental impacts is of special interest to us because these impacts touch many aspects of our quality of life in this valley.

3618. The arguments eloquently presented by Mr. Howard and Mr. Yardley have

**SUBMISSIONS  
(Smith)**

underlined, we believe, the powers granted to the Board to deal with the matters that concern us. We trust that the Board will use these powers wisely to protect the interest of the people in this valley. Thank you.

3619.                   **THE CHAIRMAN:** Thank you, Mr. Saaltink.

3620.                   Generations Affected by Senseless Power, GASP...?

---(No Response/Pas de réponse)

3621.                   **THE CHAIRMAN:** Mission Regional Chamber of Commerce, Lynn Christianson...?

---(No Response/Pas de réponse)

3622.                   **THE CHAIRMAN:** School District No. 34, John Smith...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. SMITH:**

3623.                   **MR. SMITH:** Good morning, Mr. Board Chair, members of the Board. My name is John Smith and I represent the Abbotsford School District No. 34. I'm one of seven trustees and the board chair for the past nine years.

3624.                   The following views I'm about to express are unanimously held by my six fellow trustees. We represent the health, welfare and educational opportunities for more than 19,000 students and about 1,800 staff located in 49 schools throughout the City of Abbotsford. We are the largest single employer in the city.

3625.                   I adopt the previous arguments of Mr. Penner, MLA; Mr. Howard, representing the SPEC and David Suzuki Foundation; and Mr. Yardley, the City of Abbotsford.

3626.                   Respiratory disease is the single largest cause of student and staff absenteeism in our school district, affecting about 20 percent of the students, according to the B.C. Lung Association. Asthma is the worst of these respiratory diseases.

3627.                   You have already heard that this valley suffers the second worst pollution of any area in Canada. On many summer days the smog lies in a brown haze that completely or partially obscures the views of mountains only a few kilometres away.

3628.                   That is why our Board has taken a position from the outset to vigorously oppose this mega plant which is located only a few kilometres from many of our schools. In fact, about 20 of our 49 schools lie directly under the projected shadow, the worst area of particulate fallout projected from the SE2 power plant.

**SUBMISSIONS**  
**(Smith)**

3629. On a personal note, my own seven-year-old granddaughter, who lives right here in Abbotsford, was recently diagnosed as suffering from environmental asthma. Her doctor advised her parents to move away from the area.

3630. We have heard the promoters of SE2 argue, in effect, that the source of power which will flow down this 8.5 kilometre power line should not be an issue for the Canadian National Energy Board.

3631. They have tried to make the case that this issue is beyond your powers. They take the position that the issues relating to the public concern over the environment were appropriately dealt with during extensive hearings held last year by EFSEC, and that those issues which have also been properly dealt with by the governor of the State of Washington.

3632. They seek to muzzle Canadian objections to obvious and overwhelming environmental concerns held by a large number of well-informed citizens of the Fraser Valley. They know that those concerns are valid and compelling and, if allowed by you, will have a profound impact on your ultimate decision.

3633. You have already heard that these environmental concerns are the views of virtually the entire establishment of communities throughout this Fraser Valley; everyone from the provincial government, the city government, all of the elected MLAs, all of the members of Parliament, Chambers of Commerce, school boards, businesses, health boards, doctors, First Nations, many, many citizens, students. We're a large non-partisan coalition of angry citizens. It's not only the prospect of SE2 that worries us, it's the spectre of SE3, SE4 and so on.

3634. This mega power plant will be located less than 10 kilometres from this very spot. On a good day, I can actually jog that far.

3635. It is our position that the negative environmental impacts will be much greater for Canadians, the people whose interests the National Energy Board represents, than for the citizens of the U.S.

3636. But today we are really discussing issues of jurisdiction. And of course the NEB has no jurisdiction in the State of Washington, and neither do I, my colleagues on the school board, nor the 19,000 students whose interests we represent today.

3637. Yes, I attended the EFSEC hearings in the U.S.A. last year. I presented our position in strongly opposing this plant and submitted the concerns of my school board in writing. The EFSEC panel limited my comments to only a few minutes, and I never really felt I was listened to. However, I was in a foreign country, presenting to a foreign tribunal where I have absolutely no rights.

**SUBMISSIONS**  
**(Smith)**

3638.                   Therein lies the most important issue: neither I nor those 19,000 students I represented have any rights in that foreign country just 10 kilometres away.

3639.                   I was there as a guest of Uncle Sam at his absolute discretion. I could have been arbitrarily denied access without cause or reason at the border when I travelled to Nooksack, Washington that evening last year. My views, my objections, however valid, are the views of a citizens of a foreign country, a citizen with no democratic or civil rights in Sumas, Nooksack or Olympia. A Canadian citizen with no opportunity to vote for or against a governor in whose hands the decision to build the SE2 plant ultimately rested.

3640.                   I don't blame Governor Locke for his decision. Countries and states are not usually altruistic. Most political entities act in their own self-interest, and so should Canada.

3641.                   Now, I don't know of the circumstances surrounding the replacement of the first chair of the initial EFSEC Board and several of its members following their decision to recommend against the first application by SE2. I don't even know whether the new chair of the second EFSEC Board has a background, as has been previously suggested in these hearings, as being an advocate for the power industries.

3642.                   I do know this much: I don't have a lot of faith in the U.S. political process, and I have many friends and close relatives living in the States. I formed those opinions after listening to the revelations of none other than Senator John McCain in the last presidential election, who raised all sorts of issues regarding the power of political contributions.

3643.                   Ms Page representing Alberta used several analogies in making her client's case. I would like to use one, and that's the very birth of the United States itself, which was quite rightfully provoked by colonialists who exclaimed: No taxation without representation. Well, I say: No pollution without representation.

3644.                   I visited your extensive website, and a quote from the NEB website directs that "the purpose of the Board is to make decisions that are fair, objective and respected."

3645.                   I also note that the NEB operates under the *Canadian Environmental Assessment Act* and that you the Board are required to protect the public interest, "protect the public interest".

3646.                   I note that the CEAA Act promotes "the uniform consideration of environmental matters across federal departments and agencies" and is intended to encourage "a one project, one assessment approach."

3647.                   I suggest respectfully that this power line and this power plant are all one project.

**SUBMISSIONS**  
**(Smith)**

3648. All of these references seem, to my non-lawyer mind, to empower you to interpret the NEB and the CEAA Acts to "protect the public interest" in Canada as your common sense dictates. And this should only be about common sense and doing the right thing.

3649. I fully recognize that the NEB is effectively a court of record; that you members of the panel are effectively judges, and that you have to be concerned with jurisdictional issues with the letter of the law, so to speak.

3650. Lawyers for the proponent, SE2, have cited numerous legal precedents in an effort to persuade you of your limitations. However, I take some comfort from the fact that SE2 would not even have moved this motion in the first place had they not been concerned that you have the power to decide otherwise. They seek not only to muzzle the opponents, but they seek to muzzle you.

3651. By the way, I found it somewhat ironic when Mr. Godsoe, counsel for SE2, was speaking against the Degen Motion and trying to justify the apparent absence of a CPR approval of use of the right-of-way, and I paraphrase what he said. He said words to the effect: Not every "i" need be dotted or "t" need be crossed in order for the NEB to proceed with these hearings. It's most interesting that he is now insisting that every "i" and "t" be dotted when it comes to his interpretation of your authority.

3652. I'm obviously not a lawyer. My school board doesn't have any money to hire lawyers to research this case. We were just forced to cut \$6.8 million from our operating budget. We don't have enough money to purchase adequate supplies for library books. So with no resources for lawyers, the weight of arguing for the interests of those 19,000 kids falls onto my rather inadequate layperson shoulders.

3653. As I scanned the Internet and the NEB site looking for some information on prior legal cases which would lend credence to our arguments, I thought: What if there isn't an appropriate legal precedent? Then it occurred to me: Surely there is always a first time when there was a good enough reason for a court or tribunal to set a new legal precedent.

3654. Our students in grade 11 and 12 learn about the evolution of law and legislation as judges apply common sense to the ambiguity of laws and regulations. Surely common sense and natural law would dictate that even if there was a case for the NEB to make a ruling that the effects of a power plant should be properly considered when dealing with an application to construct a power line, then this would be the case.

3655. If the SE2 application is not a valid reason to establish a new legal precedent, then I suggest you will never find such a case.

3656. With respect to Mr. Lusk's suggestion that the NEB evaluation of the effects of SE2 will set precedents for counter evaluations of power plants in Canada, what I hear

**SUBMISSIONS**  
**(Smith)**

him saying is: We are polluting you guys in the U.S., but we don't want to give you an opening or a precedent so you can start litigating against us for our pollution.

3657. I suspect these issues get discussed in back rooms, but I have to ask: What sort of morality is this?

3658. If we are polluting the citizens of the U.S., and I'm sure we are, especially in eastern Canada, then my response to Mr. Lusk and the American people is: Go right ahead, use this as your precedent to clean up the situation. American citizens and kids deserve all of the same rights that we are asking for our kids or my grandchildren.

3659. His argument might cut some ice with our federal government or with the Province of Alberta, but it's lost on me.

3660. In any event, we have already heard Barry Penner's point of view on the Trail Smelter issue.

3661. Ms Page, representing the Alberta government, made a compelling argument for unbridled capitalism in the energy markets. I was reminded of a book I once read about the history of Standard Oil and the Rockefeller fortune, and I found myself also reflecting on the recent Enron scandal involving unregulated energy pricing.

3662. I am persuaded that Alberta is more interested in their bottom line than the health of their fellow Canadians, which is a sad reflection on the state of Confederation.

3663. Finally, Mr. Chairman, with respect, I quote your statement in your ruling handed down yesterday morning regarding the ruling on Mr. Randy White's motion for discontinuance. In your judgment, you stated, and I quote you:

3664. *"As a court of record, the Board is bound by the principles of natural justice and fairness. One of those principles is the right of an applicant to have its case heard."*

3665. *"As well, Parliament has charged the Board with making its determinations in the public interest. Such determinations can only be made by the Board on the basis of a complete understanding of the affected interests and issues raised by all parties."*

3666. I respectfully suggest that you can not obtain a complete understanding without the views of Canadians on the environment issues caused by the plant.

3667. In conclusion, our school board urges the NEB to allow Canadians the

**SUBMISSIONS**  
**(Smith)**

right to be heard by their elected representatives, through the NEB, and to be allowed to present their environmental concerns regarding the SE2 plant when those hearings into the pipeline -- into the power line reconvene. Thank you.

3668.                   **THE CHAIRMAN:** Thank you, Mr. Smith.

3669.                   The next in order here would be the Sto:Lo Nation. Mr. Malloway, are you ready to proceed now?

3670.                   I have been asked to remind submitters to speak a little more slowly. The court reporters are having a bit of trouble keeping up. There is a tendency on everyone's part to speed up, particularly when you're reading, so if you could just bear that in mind.

3671.                   Mr. Malloway...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. MALLOWAY:**

3672.                   **MR. MALLOWAY:** Thank you. My name is Ken Malloway. I have the Lands and Environmental Portfolio for the Sto:Lo Nation.

3673.                   We have a couple of comments on environmental aspects. I have a presentation to make also of this Sto:Lo Coast Salish Historical Atlas to the National Energy Board to give you an idea of who we are. I will give it to you later, otherwise you'll be looking at it when I'm talking to you or fighting over it.

3674.                   The people of the Sto:Lo Nation have been here for thousands of years. I've got an hereditary name it's "Wileleq". It means the one who's always careful, the one who is always aware. I was given that name in a longhouse when I was 18 years old. It has been in my family for 500 years. It means that I'm an hereditary chief of the Chilliwack tribe.

3675.                   So when the elders gave me that name, they told me that I had to carry myself a certain way, and that if I didn't, they would take that name away from me, so it is a very serious matter.

3676.                   A couple of the issues that I wanted to address, and because of the narrowness, I guess, of the mandate that you appear to have, I'm limited to certain issues.

3677.                   One of the things that we're concerned about is the possible impacts on fish. There is a million litres of water a day going to be used to cool the plant, and then that water is going to be dumped, I guess, into the Abbotsford sewer, and it will be treated and sent into the Fraser River.

3678.                   On one hand, we are concerned about an extra million litres of water a day



**SUBMISSIONS**  
**(Smith)**

coming out of the aquifer. I don't know if we can sustain that, especially in a year like this year where I saw on the news last night that Vancouver is worried because they are only at 37 percent of capacity in their water because the reservoirs are down because of El Nino and the lack of water this year, the lack of rain.

3679. We are concerned also about the heavy metals that will be coming into the water system -- into the Fraser River because of the discharge from the plant.

3680. The other things that we're concerned about are the discharge into the air. I know you've heard all kinds of talk about the different kinds of particulates that are going to be spewed into the air, and you've heard, I'm sure, from doctors and everyone else.

3681. I'm not a doctor, but I know that a lot of our people have asthma, and things are tough enough already without having to deal with these things.

3682. I don't want to take up too much of your time, but I do want to comment on the state of law in Canada. When Canada or British Columbia is going to do something that is going to impact on First Nations, they have a consultation process. They have an obligation to consult First Nations.

3683. From the Delgamuukw decision, it says:

3684. *"There is always a duty of consultation. Whether the aboriginal group has been consulted is relevant to determining whether the infringement of aboriginal title was justified....The nature and scope of the duty of consultation will vary with the circumstances. In occasional cases, when the breach is less serious or relatively minor, it will be no more than a duty to discuss important decisions that will be taken with respect to lands held pursuant to aboriginal title. Of course, even in these rare cases, when the minimum acceptable standard is consultation, this consultation must be in good faith, and with the intention of substantially addressing the concerns of the aboriginal peoples whose lands are at issue. In most cases it will be significantly deeper than mere consultation. Some cases may even require the full consent of an aboriginal nation, particularly when provinces enact hunting and fishing regulations in relation to aboriginal lands".*

3685. There have been a number of --

3686. **THE CHAIRMAN:** Mr. Malloway, sorry to interrupt. Could you slow down a little bit, please. The reporters just can't keep up.

**SUBMISSIONS**  
**(Smith)**

3687.                   **MR. MALLOWAY:** Usually people say Indians talk too slow, sorry. We usually try to think before we talk, but it's all written down here.

--- (Laughter/Rires)

3688.                   **MR. MALLOWAY:** Okay, I will slow down. There have been a number of cases recently in British Columbia and Alberta. The first one was the Sparrow decision. That's the one that talked about consultation, and then the other court cases, Delgamuukw and recently Halfway and Taku, they all talk about consultation and the duty of the Crown:

3689.                                   *"Consultation amounts to more than simply making a few telephone calls or sending a few letters or faxes; the Crown cannot say that it has consulted by referring to how many letters or phone calls it has made as the consultation must be meaningful."*

3690.                   That is from the Halfway and Taku cases.

3691.                                   *"It is up to the Crown, and not the First Nations, to initiate consultation."*

3692.                   That is from Sampson.

3693.                                   *"The duty to consult exists irrespective of whether or not a First Nation has proven its claims in court."*

3694.                   The Taku and Haida case in British Columbia.

3695.                                   *"The Crown's duty to consult is not fulfilled by merely waiting for a First Nation to raise the question of its Aboriginal rights."*

3696.                   Sampson, paragraph 109.:

3697.                                   *"There is a positive duty on the Crown to inform and consult."*

3698.                   Halfway River, paragraph 166.

3699.                                   *"The fact that a First Nation receives adequate notice of an intended decision does not mean that there has been adequate consultation."*

**SUBMISSIONS**  
**(Smith)**

3700. Halfway River, paragraph 159.

3701. *"The Crown's duty to consult imposes on it a positive obligation to reasonably ensure that Aboriginal peoples are provided with all necessary information in a timely way so that they have an opportunity to express their interests and concerns, and to ensure that their representations are seriously considered and, wherever possible, demonstrably integrated into the proposed plan of action..."*

3702. Halfway River, paragraph 160.

3703. *"There is a reciprocal duty on Aboriginal peoples to express their interests and concerns once they have had an opportunity to consider the information provided by the Crown, and to consult in good faith by whatever means available to them."*

3704. *Providing 'standard information' which is of the same form and substance as the information being given to all interested stakeholders, taken alone, does not constitute consultation within the meaning of s. 535.1."*

3705. Mikisew.

3706. *"First Nations are entitled to a distinct consultation process apart from public forums or general public consultations (Mikisew). A refusal by a First Nation to attend public meetings will not necessarily lead to the conclusion that the First Nation has frustrated the consultation process."*

3707. There are many more paragraphs in here that are quoting from court cases from the Supreme Court of Canada and from the B.C. Court of Appeal. And I don't want to spend all day reading them to you, but I will leave them with you.

3708. This document is called "Developments in the Law of Consultation and Aboriginal People", prepared by Hugh Braker & Company. That is our lawyer that works on our behalf.

3709. So without taking up any more of your time, the concern that the Sto:Lo has is that the Crown has not met their obligations to consult with First Nations.

3710. The last paragraph I read said that simply attending public forums does

**SUBMISSIONS**  
**(Smith)**

not meet the test for consultation for First Nations. The Crown is obligated to try to find a way to work with First Nations and make sure that all of our issues are dealt with, all of our concerns are dealt with.

3711.                   So I'll end there. I would like to make this presentation -- I would like to leave this with you and also this document on our presentation. Thank you.

3712.                   **THE CHAIRMAN:** Thank you, Mr. Malloway. Perhaps we should mark the two documents, your presentation and The Developments in the Law of Consultation.

3713.                   Do you have any problem with that, Mr. Lusk?

3714.                   **MR. LUSK:** I assume your proposal is to mark them as an exhibit for identification?

3715.                   **THE CHAIRMAN:** That is correct.

3716.                   **MR. LUSK:** I have not seen these documents, of course, and they probably should be identified.

3717.                   My concern is that, not having seen them, I don't know what reliance, if any, is going to be placed upon them. Certainly the information contained in them sounds like it is of interest.

3718.                   But on the other hand, down the road I don't want to be facing -- I don't want to be faced with evidence that I don't know about, is the long and the short of it.

3719.                   **THE CHAIRMAN:** Could I suggest that you take a look at them and maybe we can come back to your position on them after we've had a break later in the morning. Would that be acceptable?

3720.                   **MR. LUSK:** Yes.

3721.                   **THE CHAIRMAN:** I wasn't proposing that we mark the book that Mr. Malloway has. I think the Board would be happy to accept that into its library but not as part of the record in this proceeding, if that's agreeable to you, Mr. Malloway.

3722.                   **MR. MALLOWAY:** Yes.

3723.                   **THE CHAIRMAN:** So we'll leave open the question of marking the other two documents at this point.

3724.                   Thank you, Mr. Malloway.

**COMMENTS**  
**(W. Charlie)**

3725. Do I understand that the Sto:Lo First Nation had a further presentation as part of their submission?

3726. **MR. MALLOWAY:** Yes, Dr. Rose Charlie would like to make a presentation.

3727. **THE CHAIRMAN:** Okay. Yes, Dr. Rose Charlie...?

3728. **DR. CHARLIE:** Good morning, and thank you, National Energy Board.

3729. I would like to explain my -- before I make my presentation, that in showing that our people, First Nations, are fully supporting what is presented here this morning.

3730. And I do have with me one of the council members of Chehalis, that's the reserve that I'm from, Willie Charlie, and he has three of the employees of Chehalis, and with the blessing that I have and the blessing that we all have, that I would like to have them sing a song for me this morning, if I may.

3731. **THE CHAIRMAN:** Yes, thank you, Dr. Rose Charlie.

3732. Mr. Lusk, the Board has, in the past, received these submissions in this form and we have dealt with it in the transcript by simply receiving a copy of the words and incorporating that into the transcript, so that's what we'll do in this case.

3733. **MR. LUSK:** There's no objection.

3734. **THE CHAIRMAN:** Go ahead, Dr. Rose Charlie.

3735. **DR. CHARLIE:** Thank you very much.

3736. Willie...? Would you like to explain the song?

3737. **MR. CHARLIE:** My name is Willie Charlie. I'm councillor for Chehalis Indian Band. We were asked to come here today to share a little bit of our songs with you today and a little bit of the history of the song and the meaning of the song.

3738. This song is called, "Where I Used to Walk". And this song came to one of our elders that was walking through our territory and he started to cry because of all of the logging that had taken place in his traditional territory, and he started to cry because of the destruction that had taken place on his homeland, the traditional territory, or the resources that were gone, as he's remembered them through his life. It was just wiped out through the clear-cut logging.

**SUBMISSIONS**  
**(Dr. Charlie)**

3739.                   And as he was walking through, this cry came to him. We are told that our songs are prayers, and that he was -- it was a sorrowful prayer because of the devastation of the land and the environment, and we thought that this would be an appropriate song, because we, as (inaudible) people are Indian people, but also as people in general, human beings, we need to look after the things that we have.

3740.                   We are told by our laws, our Indian laws, that we need to look after things, so seven generations behind us has the same thing. We no longer have those logs, and if we wreck the air and the water and the fish in the environment, then what is our seven generations behind us going to have?

3741.                   So this song is called, "Where I Used to Walk".

**---SONG BY CHEHALIS INDIAN BAND DRUM, AS SPECIAL SUPPORT FOR DR. CHARLIE'S PRESENTATION**

3742.                   **DR. CHARLIE:** Otseam. Thank you. Thank you, my boys. So have a safe journey and good luck on the rest of the day.

3743.                   Thank you so much for allowing me to have my boys come and sing with respect and love and their prayers to fully show what this really means to our people.

3744.                   **THE CHAIRMAN:** Thank you, Dr. Charlie.

3745.                   Did you wish to make your submission in -- your own submission at this point?

3746.                   **DR. CHARLIE:** Yes, I do.

3747.                   **THE CHAIRMAN:** Yes. Go ahead.

**--- SUBMISSIONS BY/SUBMISSIONS PAR DR. CHARLIE:**

3748.                   **DR. CHARLIE:** Thank you.

3749.                   My name is Dr. Rose Charlie, I'm Grand Chief, and I'm from the Chehalis First Nation.

3750.                   My people have lived in this area we now call the Fraser Valley, and Washington State for the time immemorial. Archaeology confirms our oral tradition.

3751.                   I hold an honorary doctorate of law for my work on Bill-C31, which brought nationhood back to our off-reserve First Nations people. They were all called the

nonstatus Indians, but now they do retain -- they have regained their status as Indian people.

3752. I have been sanctioned the Grand Chief by the Union of B.C. Indian Chiefs in the Province of B.C., and with the work that I have done in the past, I am a community leader and grandmother and great-grandmother.

3753. I know that there are moral and logical reasons to not go ahead with this project, but I understand that this is a quasi-judiciary body, so I will present a legal reason as to why the Environmental Effects Motion could be accepted.

3754. I stand before you to respectfully remind you of our federal responsibility -- of your federal responsibility to First Nations. You have a responsibility to the well-being of First Nations people under the Canadian Constitution, Section 35.

3755. In 1982 Aboriginal rights were recognized and affirmed in Section 35(1) of the *Constitutional Act* in 1982.

3756. Court decisions have clarified the nature of the Aboriginal rights and as a consequence, redefined the legal relationship between the government and Aboriginal peoples.

3757. In short, as you are of the government, I remind you that the government activities and decisions cannot infringe Aboriginal rights unless there is the proper jurisdiction.

3758. I have a quote here by Matthew CoonCome, and I will have Francine present that at this time.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS ROULSTON:**

3759. **MS ROULSTON:** Thank you, Rose.

3760. These are quotes from our National Chief, Matthew CoonCome, in his address regarding Section 35 of the Canadian Constitution April the 17th, 2002, Section 35(1):

3761. *"The existing Aboriginal rights of the Aboriginal peoples of Canada are hereby recognized and affirmed." Constitution Act, 1982.*

3762. Assembly of First Nations National Chief, Matthew CoonCome, acknowledged the importance of the 20th anniversary to Canadians of the amended *Canadian Constitution Act* of 1982.

3763. Twenty years ago, the *Constitution Act, 1982* was enacted and became supreme law. The *Constitution Act* of 1982 was meant to be a landmark in Canada's dealings

**SUBMISSIONS**  
**(Roulston)**

with the original peoples of this land, both in content and process.

3764. Our leaders at the time fought for and won a place at the constitutional table. The result of their hard work and diligence is a document that in Section 35 explicitly recognizes the special statutes and rights of the Aboriginal peoples.

3765. Section 35 of the Constitution recognizes the three groups of Aboriginal peoples in Canada; First Nations were Indians, the Metis and the Inuit.

3766. Equally important, Section 35 recognizes and affirms existing Aboriginal and Treaty Rights. This is an important distinction because it affirms that our rights as Aboriginal peoples are inherent rights. They are rights that have always been within us and that stay with us regardless of where we live in this land.

3767. Section 35 does not give us any rights. It recognizes and affirms the rights that we have always held as self-determining nations. Those rights existed before any settlers arrived on our shores. We have had those rights at contact and they exist today.

3768. The central significance of non-Aboriginal Canadians is their Charter of Rights and Freedoms contained in Part I of the Act. This, our Act, guarantees and entrenches the human rights and freedoms of individual Canadians as against the power of the state.

3769. Part III of the *Constitution Act* applies uniquely to the collective rights of Aboriginal peoples. The cornerstone of this part is Section 35, which recognizes and affirms First Nations Aboriginals and Treaty Rights.

3770. Unfortunately, since 1982 nowhere near enough has been accomplished with respect to these fundamental constitutional rights.

3771. We are often -- we are too often set aside on issues that concern us with the result that we continue to be comparatively marginalized, landless and poor. Governments rarely consult us, and when they do, our major concerns do not make their agendas.

3772. And some courts begin to fashion to judifications for governmental infringement on our rights, infringements that would not be tolerated by non-Natives with respect to their rights.

3773. The challenge ahead of us is to give life to those words on paper. The 20th anniversary of the *Constitution Act* means we have been pushing for two decades to work with Canada to implement our rights.

3774. In 1929 when women were given the right to vote, they did not have to wait, nor should they have to had to wait 20 years before they could exercise their rights. Our



**SUBMISSIONS**  
**(Dr. Charlie)**

rights have existed, therefore, we were constitutionally recognized two decades ago.

3775. Do we have to wait another -- do we have to wait further decades to have our rights meaningfully implemented? It is the time to give life to our rights. We are integratedly involved in negotiations leading up to the amended 1982 Canadian Constitution, and as an order of government in Canada, we must always be a pivotal part of any process concerning First Nations.

3776. Under the *Indian Act*, legislation is based on colonial mentality, yet, this is still the law that we operate under where First Nations are treated as Wards of the State rather than as the sovereign participants in this land.

3777. Therefore, I respectfully ask you to consider First Nations in these hearings regarding the proposal to build a gas-fired power plant in the heart of Sto:Lo territory.

3778. We have an opportunity to work on a real and practical relationship between First Nations and Canada as the NEB hearings is the only Canadian hearing process offered to Canada on the SE2 issue.

3779. I respectfully remind the National Energy Board that you represent Canada to us and that there is an opportunity to do things right. This would include considering the Environmental Effects Motions before you. Thank you.

3780. I will give it back to Ms Charlie.

3781. **DR. CHARLIE:** Thank you very much, Francine. I will now carry on with my presentation.

3782. In addition, the Supreme Court of Canada made the Delgamuukw decision. The decision discussed Aboriginal title, adding new factors which must be taken into consideration during consultation with Aboriginal groups. In this case, there has been no consultation with the First Nations. I am asking you to provide consultation. You may say this is it and where have we, First Nations, been?

3783. I respond by pointing out that the court or jurisdiction process is difficult for us and is not a process that we have developed as First Nations, but have learned to take part in from the white people. Our tradition is that of talking, negotiating and working things out.

3784. For example, only now is the court realizing the value in new ways, which to us is our old way; that for circle sentencing. We have here some very contrasting ways of doing business.

3785. What could be most important is the intention of First Nations to continue

**SUBMISSIONS**  
**(Dr. Charlie)**

to negotiate rather than to use the courts. Sometimes when the litigation route is chosen, the environmental community is essentially frozen out of the process and has no opportunity to affect the outcome.

3786. The legal route is a bit of a gamble, since there is usually a winner and a loser, and there is no way of knowing ahead of time which way the decision will go. We are made to stick to legal arguments which sometimes don't seem to make common sense to us; therefore the consultation process is very important to us.

3787. The Delgamuukw decision took nearly a quarter of a century to make its way through three levels of the legal system. It is not likely that our natural environment could survive another quarter century intact, which (sic) further legal cases wind their way through these complex maneuvers, therefore I ask you to consider the bigger picture and include the environmental effects in your decision-making.

3788. You have an opportunity to create room for environmental considerations, as this is a great concern to First Nations people. We are of this land. We are dependent on the earth that provides us with the resources that has sustained us since time immemorial.

3789. As my song went this morning, that is to be taken into consideration.

3790. Now for the first time in a hundred generations, environmental changes caused by humans are endangering our fish, our forests and our air. I mean our -- for you and for me. You may come from far away, but you still need to eat, breathe and live.

3791. In recent times we First Nations have attempted to gain more control over our lives, including our cultures, our traditional lands and our aspirations for the future. We have never lost our culture, traditions and pride, but only recently we have been able to show them in a public way after decades of repression.

3792. With the new decisions like Delgamuukw, there is a strengthened Aboriginal hand at the negotiating table. Governments and corporations will likely work harder to reach settlements, which truly recognizes and accommodates First Nations' interests, which in many ways are compatible with environmental and other community building interests. We can work together if our goals are for the benefit of the greater whole.

3793. Judging by the past and present record of government and industry performances to manage for all values and protecting ecosystem and integrity, perhaps it is time to cooperate and work with the First Nations in order to achieve the healthy environment and the healthy communities that we all desire.

3794. Finally, these new decisions like Delgamuukw provide some satisfaction and confidence that Canada is still a just society and that the highest court in the land

**SUBMISSIONS**  
**(Dr. Charlie)**

recognizes that the Canadians by and large want done what is right.

3795. Doing what is right should include equity and fairness, especially for those of us who have been under-deserving victims for over a century of injustices.

3796. I would be saddened to hear that doing what is right for First Nations is some times as simple as consultation. We would infringe on the National Energy Board's way of doing business.

3797. On another note, I also wish to explain that First Nations were here long before Canada and the U.S. were created. First Nations do not recognize the border as this new line is drawn through the heart of our Sto:Lo territory.

3798. We have close blood family on both sides of the border in many processes, including travel, commerce and traditional rights. The fact that the First Nations do not recognize this border has been honoured. Some of these proceedings are as old as the Jay Treaty in 1794.

3799. Therefore if there is no border for First Nations, then the proposed power lines in Canada and the proposed gas fired power plant in the U.S. are indeed one of the same project. They are inherent in each other as the NEB is the Canadian appointed body operating ultimately under the Canadian Constitution.

3800. I respectfully remind this Board to consider section 35 and include our First Nations' perspective that because the power lines and the power plant are one and the same project, the National Energy Board will consider the environmental impacts on First Nations and of Canadians.

3801. Thank you so much for hearing me.

3802. **THE CHAIRMAN:** Thank you, Dr. Rose Charlie and Ms Roulston.

3803. **MR. WILKINS:** Mr. Chair, members of the Board, I would like to make a brief comment in support --

3804. **THE CHAIRMAN:** Could you just identify yourself?

3805. **MR. WILKINS:** I'm sorry, Terry Wilkins, Terrance Wilkins -- in support of the Sto:Lo Nation as the perspective of a retired federal employee. Would that be permissible?

3806. **THE CHAIRMAN:** Well, we are going through the list in order, Mr. Wilkins. I would like --

**SUBMISSIONS**  
**(Wilkins)**

3807.                   **MR. WILKINS:** I just thought it would be timely in view that I'm speaking in support of what she just said. It might hold more weight.

3808.                   **THE CHAIRMAN:** If it's brief. We have to be fair to everyone. Everyone is expecting we will proceed on the basis of the Order of Appearances --

3809.                   **MR. WILKINS:** Fine. I just have a very brief paragraph.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. WILKINS:**

3810.                   **MR. WILKINS:** The Sto:Lo Nation has made a very accurate and persuasive argument. The National Energy Board, I feel, has an opportunity to legally exercise extraterritoriality because the Nation has no U.S./Canadian boundary.

3811.                   Canada and U.S. customs who represent U.S. and Canadian governments, when they identify a Native American, have no authority to prevent them from crossing back and forth to both countries.

3812.                   Goods are dutiable, but when border officials recognize their drums and other religious garments, et cetera, they are to be respected and passed without any officiality.

3813.                   I respectfully submit that this is a unique situation; that there is no boundary as far as the Sto:Lo Nation or any Native American Indian because of the Jay Treaty which still stands.

3814.                   Thank you for this opportunity.

3815.                   **THE CHAIRMAN:** Thanks, Mr. Wilkins.

3816.                   The next in order would be the District of Mission, Mayor Abe Neufeld?

3817.                   **MR. WELSH:** Mr. Chairman, is the University College of the Fraser Valley not listed --

3818.                   **THE CHAIRMAN:** I'm sorry --

3819.                   **MR. WELSH:** -- prior to that?

3820.                   **THE CHAIRMAN:** You are Mr. Bassford, are you?

3821.                   **MR. WELSH:** No, I'm Wayne Welsh and I'll be representing --

3822.                   **THE CHAIRMAN:** Yes, you would be next. I'm sorry about that

**SUBMISSIONS**  
**(Welsh)**

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. WELSH:**

3823.                   **MR. WELSH:** Thank you Mr. Chairman, members of the Board. My name is Wayne Welsh. I'm the vice-President Academic of the University College of the Fraser Valley and I would like to speak on behalf of UCFV.

3824.                   We seldom take positions as an institution on issues like this because our role is one of presenting opportunities for discussion and to educate. However, our students, our employees, and our board members are united on this issue.

3825.                   Some of our employees are listed as separate speakers and they will present their own perspective.

3826.                   We would like to adopt the arguments and authorities presented by Mr. Howard and Mr. Yardley, as well as the arguments of Mr. Penner, Mr. McNally this morning, Ms Reeves, and by Mr. Smith.

3827.                   Particularly, we would like to adopt the powerful argument that Mr. Smith presented about the possibility of having to set a precedent in a case such as this that seems to cry out for such.

3828.                   Additionally, we would like to present a brief conceptual argument about why we feel that the Board would be in a better position to protect our interests as Canadians if you consider the environmental effects of the plant in these deliberations. We have three points.

3829.                   First, the line is not a separate entity from the plant in terms of the SE2 project. We are convinced that the plant and the line are a single project entity, because there is no need for the line if there is no SE2 power plant.

3830.                   The sole purpose of the line is to transport electrical power of high voltage into the North America grid via connection to the Clayburn station. The only reason for the line is because of the desire to transport power along it from a power plant potentially located in the U.S. that is capable of producing that much electricity.

3831.                   As an intervenor, we are not aware of any power source, other than SE2, which will supply power of such magnitude for such a line. If such exists, we would like to know about it.

3832.                   Our conclusion is that the line would be built only if the SE2 plant would be built -- were to be built.

3833.                   Counsel for SE2 has already implied that the line and plant are components of the same project by saying during presentation on an earlier motion that permits

**SUBMISSIONS**  
**(Welsh)**

must be sought simultaneously and not in a linear one-after-another manner for large and complex projects.

3834. Further, they must feel that this line is important because they originally applied for the project prior to even having a permit to build the plant.

3835. So our first point is that the line and plant are pieces of one project. There is, therefore, a causal nexus between the power line and the plant which must be considered when examining the potential environmental effects of the power line.

3836. To look at the environmental effects of the power line totally separate from those of the plant would be to ignore a significant part of the environmental effects actually arising from the power line project.

3837. Our second point follows from the first. There will be some environmental effects coming into Canada from this project, and we feel that the nature of that pollution must be determined before it can be determined how it affects our Canadian interests. Protection of our interest is part of the Board mandate relative to applications before you.

3838. Now, I have a short paragraph about the fact that some pollution will be coming into Canada, but I am under the understanding that you have accepted that some pollution would come into Canada. There would be some environmental effect. I believe you have made that statement.

3839. **THE CHAIRMAN:** Just to be clear, Mr. Walsh (sic), we are assuming that for the purposes of arguing this motion.

3840. **MR. WELSH:** Then I will argue very briefly that there will be some, okay, in support of your assumption. The power plant will burn natural gas, and even with state-of-the-art technology, it will produce some air and water pollution.

3841. This statement is not about the amount nor the kind of that pollution but simply that there will be some pollution. No one has suggested that the plant will be 100 percent pollution free.

3842. Some of that pollution, however dispersed and whatever its nature, will come into Canada at the Fraser Valley because of the location of the plant being only a few hundred feet from Canada and the nature of the aquifers, flow of rivers and the prevailing or even occasional winds from the southwest to the northeast.

3843. We feel it is indisputable that if the total project as proposed goes ahead, then some pollution will come into Canada. Clearly, there are two extremes. One extreme is that the pollution coming into Canada is totally insignificant, and the other extreme is that the

**SUBMISSIONS**  
**(Welsh)**

pollution coming into Canada is highly significant; and, of course, there is a continuum of possibilities between these two extremes.

3844. In the first extreme, namely, that it is totally insignificant, we assume that the Board would have no difficulty relative to the issue of protecting Canadian interests on this aspect of the rulings. Of course, there are other aspects to consider: line-specific issues, government-scope issues, et cetera. But on this one, it seems to us that it would be clear.

3845. In the second extreme, namely, that the pollution is so significant that it would impose an extreme health hazard, then again, we assume that the Board would have no difficulty in their decision-making relative to protecting Canadian interests.

3846. So in the extremes, the Board would presumably have no difficulty, yet the decisions would be opposite. In actuality, the pollution situation would be neither extreme but will be somewhere between these extremes.

3847. It seems to us that you need to determine approximately where this project will be placed on that continuum of pollution possibilities before you can appropriately determine how it pertains to protection of our health and safety; our Canadian interests. You need to hear the evidence to do that.

3848. Our last point is about the risks or impacts that your ruling on the motion before you might have relative to protection of current and future Canadian interests. There are two rulings possible and two different impacts for each, and I will just refer to them as A,B and A-1, A-2, that kind of thing.

3849. A, if you rule against the motion and, therefore, allow evidence and arguments on pollution from the plant, then two possibilities: A-1, if subsequent evidence shows the pollution to be insignificant, then it presumably is not a point of any bearing for you on the Application, and we will have only wasted a small amount of time and money.

3850. On the other hand, A-2, if subsequent evidence shows the pollution to be significant, then you will have to consider that relative to protection of our Canadian interests; and in our view, that will give you a more complete picture on which to judge.

3851. B, if you rule for the motion, and therefore do not allow evidence or arguments on pollution from the plant, then again, there are two possibilities.

3852. B-1, if the pollution in reality turned out to be insignificant, then you properly prejudged that it was of no importance. B (sic), on the other hand, if the pollution in reality turned out to be significant, then we will have been left with a disaster, the magnitude of which we won't even have discussed in this our only Canadian hearing.

**SUBMISSIONS**  
**(Welsh)**

3853.                    Given the mandate to protect the interests of Canadians, which seems to us to include the health and safety of Canadians, it would be prudent to err on the side of caution when it comes to this kind of a situation. That means to us that the Board should take time to hear the evidence.

3854.                    In conclusion, we think that the line and plant are inseparable and that the protection of our Canadian interests will require understanding of any and every effect of the whole project on Canada, particularly, the environmental effects on the Fraser Valley.

3855.                    If your ultimate decision on this Application turns out eventually, say in ten or 20 years, not to have protected our interests, and we know the process is set up to prevent such an error like this but cannot guarantee it, then we hope at the very least that your decisions will have been based on all evidence that could have potentially affected us so that any error would have been totally unforeseen or unpredicted.

3856.                    Over 250,000 Canadians living in the Fraser Valley now, and potentially two to three times that many in 20 years, will be affected by your decision. For UCFV, a disaster of added pollution in the Fraser Valley relates to the health of our 600 employees and nearly 10,000 students and also relates very directly to a large and looming issue for us, namely, our ability to attract qualified -- quality and qualified faculty from all over the world to live in the Fraser Valley as the retirement bulge is about to hit us.

3857.                    Thank you very much for hearing these points. We hope you will hear the environmental effects of the plant. Thank you.

3858.                    **THE CHAIRMAN:** Thank you, Mr. Walsh. There are no questions.

3859.                    Mr. Abe Neufeld for the District of Mission...?

--- (No Response/Pas de réponse)

3860.                    **THE CHAIRMAN:** That brings us to the end of the groups, associations and governments, and we will proceed now to the individuals.

3861.                    Can I remind everyone that we are not at this point distinguishing between those who pre-registered their intention to make a presentation and those who did not.

3862.                    And in the interests of time, I'm going to simply call by alphabetical grouping. So any individual intervenor whose name begins with "A".

3863.                    Yes, sir. Could you please just identify yourself.

3864.                    **MR. ALLEN:** I'm Garry Allen.



**SUBMISSIONS**  
**(Allen/Pincott for Arkesteyn-Vogler)**

3865.                   **THE CHAIRMAN:** Come forward, Mr. Allen. You would be the first on the list.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. ALLEN:**

3866.                   **MR. ALLEN:** Thank you, Mr. Chairman, Board members. Good morning.

3867.                   I wholeheartedly support the position taken by Mr. Howard, Ms Reeves, MLA Barry Penner and anybody else that I happen to forget on this whole issue. I wholly support their position on this. Thank you.

3868.                   **THE CHAIRMAN:** Thank you, Mr. Allen.

3869.                   Anyone else whose name begins with "A"? Mr. Arkesteyn-Vogler...?

3870.                   **MR. PINCOTT:** My name is Keith Pincott, and I am speaking on behalf of the Mr. Arkesteyn-Vogler.

3871.                   **THE CHAIRMAN:** I got it half right.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. PINCOTT:**  
**(On behalf of Mr. Arkesteyn-Vogler)**

3872.                   **MR. PINCOTT:** I wish, on his behalf, to speak of the concern of the water in connection with the power line in the Marshall Creek watershed, and Mr. Arkesteyn-Vogler lives in this watershed. He's adopted that watershed, and he is making it his responsibility to look after it. And he is expressing his concerns regarding that.

3873.                   And in addition, on his behalf, I wish to adopt the presentation of the previous speakers: the SPEC, the City of Abbotsford, Fraser Valley Regional District, and quite a list of people who had a lot of good things to say which I would not bother repeating, but that take -- up the time to repeat, I mean, but that express our concerns very well. So I won't bother repeating it. Thank you.

3874.                   **THE CHAIRMAN:** Thank you, Mr. Pincott.

3875.                   And I should just note that there are some parties who have indicated that they are not available until either this afternoon or tonight, so just because I go past their name in the list, it doesn't mean that they have missed their chance.

3876.                   Anyone whose surname begins with "B"...?

**SUBMISSIONS  
(Berge)**

3877. Yes, sir.

3878. **MR. BERGE:** My name is Mr. Berge.

3879. **THE CHAIRMAN:** Berge, is it?

3880. **MR. BERGE:** Yes.

3881. **THE CHAIRMAN:** Mr. Berge, come forward.

3882. Just for the record, Mr. Berge, it's B-E-R-G-E; correct?

3883. **MR. BERGE:** B-E-R-G-E, correct.

3884. **THE CHAIRMAN:** Thank you, Mr. Berge.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. BERGE:**

3885. **MR. BERGE:** Mr. Chairman and members of the Board, before I begin my dissertation, or my brief comments, I would like to support Messrs. Penner, Howard, Yardley, Smith, Ms Reeves and the Sto:Lo Nation. I concur fully with their arguments.

3886. I stand before you as one of the 300,000 persons who live in Canada's second most vulnerable airshed. I live in Chilliwack and I have lived with my family in Chilliwack for over 20 years. I am strongly opposed to the construction of the power line and the proposed power plant in Sumas, Washington.

3887. I cannot accept the SE2 proposition that the application for a power line is not relevant to the environment. The plant will utilize water from our aquifer, discharge the heated water into the Fraser River and discharge annually 2.4 million tonnes of carbon monoxide, as well as other toxic material into our atmosphere.

3888. Moreover, as the power line cannot be separated from the power plant, environmental considerations are not limited to Sumas, Washington.

3889. In effect, we will get the pollution and the health problems while SE2 cannot be held responsible or accountable because they are not subject to our jurisdiction.

3890. Evidence has been submitted that the power is not required for this area and will most likely be marketed to California.

3891. So I conclude, that when all the factors are stripped to the bone, what we are dealing with is corporate profit versus our health.

**SUBMISSIONS**  
**(Pincott for J. Blakely)**

3892. SE2 protestations to the contrary with promises to offset are of little meaning to us in the Fraser Valley. We will still get the toxic pollution and, of course, the greatest irony is that we will be polluted by our own natural gas. I find it unacceptable to be placed in harm's way without having the ability to control or regulate the pollution effects.

3893. For these reasons, I think it is imperative that you, the National Energy Board, consider the environmental effects to Canada. You have the power to keep us out of harm's way. Please deny the application to connect SE2 to BC Hydro's transmission grid near Abbotsford, British Columbia.

3894. Thank you for your attention and consideration in this matter.

3895. **THE CHAIRMAN:** Thank you, Mr. Berge.

3896. Any other intervenors whose surname begins with "B"...

--- (No Response/Pas de réponse)

3897. **THE CHAIRMAN:** Intervenors whose surname begins with C...

--- **SUBMISSIONS BY/SOUMISSIONS PAR MR. PINCOTT:**  
**(On behalf of Janet Blakely)**

3898. **MR. PINCOTT:** Keith Pincott again speaking on behalf of Janet Blakeley. I wish to adopt the presentation of Barrie Penner, Randy Hawes, Tim Howard and Mr. Yardley, as well as the Sto:Lo Nation, Mary Reeves. Thank you.

3899. **THE CHAIRMAN:** Thank you, Mr. Pincott.

3900. Intervenors whose surname begins with C...

3901. Dr. Chafe...

--- **SUBMISSIONS BY/SOUMISSIONS PAR DR. CHAFE:**

3902. **DR. CHAFE:** Good morning. My name is Alfred Chafe, C-H-A-F-E. I'm a family physician. I've worked in the community of Abbotsford for the last 20 years, and I communicate regularly with the physicians at our local hospital regarding efforts and updating them about what's happening with SE2. There's a tremendous amount of interest in our medical community.

3903. Mr. Chairman, members of the Board, thank you for this opportunity to speak. I would like to first support the presentations of Mr. Tim Howard, Mr. Barrie Penner,

**SUBMISSIONS**  
**(Chafe)**

Sto:Lo Nation and many others.

3904. SE2 will cause untold human suffering and death. I believe it is the purpose of this hearing to prove this statement correct or incorrect based on factual information. If we do not take on this challenge, there does not appear to be any other agency who will, and the buck will be passed on with very significant consequences.

3905. I believe, the public obviously believes, and our politicians believe that this task is yours. Even CPR believes this is your task.

3906. As we have seen in previously presented CPR letters, CPR believes that government agencies, such as NEB, are the appropriate overseer of projects such as SE2. The mechanisms, such as NEB public hearings, are designed to properly evaluate such projects to protect the Canadian public interests and welfare.

3907. CPR shares with the community the belief that a thorough review of the project studying not only the impacts of the transmission quarter in Canada, but also of the proposed power plant in Sumas, Washington is essential.

3908. CPR is hopeful the voices of the community such as ours will be heard when the impacts of the SE2 project are assessed. This summary comes from letters that have been presented from CPR and direct communication that I have had.

3909. Mr. Chairman, members of the Board, please listen to our voices.

3910. Mr. Godsoe stated that there was no need to duplicate an environmental review process, as EFSEC has done an extensive review. Since when have presentations made to a foreign agency exclude Canadian citizens the right to address issues in their own country?

3911. In my opinion, and I attended, the EFSEC process was very different from the NEB hearing. It was very political. This process is much more law-based, much more officious, and it appears to be much more fact-finding.

3912. Can we accept an American review process when the water, effluent, fuel, transmission, and predominantly pollution, are Canadian?

3913. Mr. Godsoe has stated his perspective of environmental effects from SE2 and dismissed them. Was this detailed environmental data accepted by the Board? And if so, I would like to proceed a little further.

3914. First off, I would like to add that Dr. John Cook, who unfortunately is no longer in our community, has left, did a poll of physicians a year and a half ago regarding SE2. Thirty percent of the physicians in this community have said they will leave if SE2 and the

**SUBMISSIONS**  
**(Chafe)**

power line are constructed.

3915. When this beautiful Fraser Valley was created, it came with some great strengths and some terrible weaknesses. The unique climate influenced so much by the Pacific Ocean and the mountains has supported a diverse and unique ecosystem.

3916. This has become a much-loved home to both nature and humankind. Unfortunately, the weaknesses have made this domain quite fragile. The weather systems moving in from the Coast, compounded by the wall of the Coastal and Cascade Mountains have created this giant room that we call the Fraser Valley.

3917. This room factor does not allow the typical venting and disbursement of gases and particulate that would occur in a more open topography. The prairies being -- or the mid-ocean being the other extreme.

3918. Presently smog levels that pose potential risks to health occur in the Fraser Valley 43 percent of the time for that of ground level ozone, and 3 percent of the time for fine airborne particles.

3919. Recent studies on air quality and health indicate that effects on humans begins to occur at levels well below accepted levels -- or accepted standards, be they American or Canadian, and I have references that have been put in as exhibits backing those statements.

3920. We also know that infants and children have a much increased sensitivity to poor air quality. The predicted risks from this facility are considered to be increased by 10 percent for the residents of Sumas Mountain and 1 to 2 percent for those of Abbotsford and the valley. SE2 will produce 2.2 million tonnes of carbon dioxide per year, just to give you some perspective of the size.

3921. Presently the Fraser Valley produces 56,000 tonnes per year. This is a whopping increase of nearly 4,000 percent. Carbon dioxide is not a terribly harmful gas, but it gives you some idea of the volume that's going to be created by this huge plant.

3922. As a family physician, I witness daily the effects of our environment and the health of our citizens. Children and the elderly are the most affected. They present with asthma, bronchitis, ear infections and reduced ability to fight illness in general. Healthy adults also present when the smog is at its worst. The commonest complaints are throat irritation and sinusitis. Presently the patients worst affected are advised by the physicians to leave this area. It's commonly said.

3923. I cannot believe that we are about to aggravate this unacceptable situation. Recognizing the risks to our population, the Fraser Valley Health Region, in the summer of 2000, came out publicly against the construction of SE2.

**SUBMISSIONS**  
**(Chafe)**

3924. This organization represents 3,000 employees, four hospitals between Hope and Abbotsford, as well as all of the health services in this area.

3925. Approximately nine years ago -- and the Sto:Lo Nation was involved in this, as well and I was involved in this, as well -- the residents of Abbotsford fought against the construction of an incinerator in this valley. We know the air in this valley is very sensitive. It's very precious.

3926. This incinerator represented the latest and the best technology at the time. No question. But any increase in pollution was deemed unacceptable at that time and we were successful in our battle.

3927. I wish now to refer to expert testimony made at the EFSEC adjudication in 2000 -- 2001, excuse me, and there are exhibits for these, as well.

3928. Dr. David Bates is a physician with 50 years of experience in occupational and environmental medicine, specializing in respiratory diseases related to air pollutants.

3929. There was a study published very recently that demonstrates the onset of adverse health effects in humans that are exposed to ozone and particulate matter at levels low the Canadian objectives and standards. The study was conducted in Atlanta, Georgia at the time of the Summer Olympics in 1996.

3930. Due to a decrease in vehicle traffic during that time, there was a 20 parts per billion reduction in ozone levels. We have a huge ozone problem here. The study found that this was associated with a 35 percent reduction in hospital admissions of children with asthma. Taking the cars off the streets for the Olympics reduced asthma in the Atlanta, Georgia area. At all times, interestingly, ozone levels were below both the current United States and Canadian standards.

3931. We already have a provincial record for the incidence of asthma in the Fraser Valley. This is a fact. A study of 6,000 school children was conducted in Los Angeles. The authors found that an increase of 20 parts per billion of ozone was associated with an increase of 62 percent for illness-related absent rates and 173 percent increase for lower respiratory tract infection illnesses that were associated with a wet cough.

3932. A study in Boston, Massachusetts reported a highly significant association between the occurrence of acute heart attacks in 770 individuals and the level of particulate pollution.

3933. All of these studies corroborate the findings of earlier studies that indicate that as exposure increases, so does the risk of adverse health effects, and that there has been no demonstrated threshold below which these effects do not occur.

**SUBMISSIONS**  
**(Chafe)**

3934.                    Basically it's saying we have standards. Unfortunately, however, the standards are probably not good enough, looking at the these studies, and if we reduce the pollution, particularly ozone, of any level we see positive effects.

3935.                    I will add at this time that this community, this valley, has worked very hard to improve its air quality. We have a very good air care program. Incinerators in this valley no longer exist to the extent that they did 10 years ago. The Regional District is working very hard to clean our air.

3936.                    Dr. Jerry Lily (phonetic), who has a Masters degree in engineering acoustics and who completed a two-year term as President of the American National Council of Acoustical Engineers, indicated that the noise monitoring program in the second revised application for SE2 excluded British Columbia. We were not included in that.

3937.                    Michael Cage, with 20 years experience in air quality issues, has spent the last three years studying air quality in the Fraser Valley sponsored by Health Canada, and I quote:

3938.                    *"When higher emissions at higher ground level concentrations during start-ups and shutdowns are figured, the annual average concentrations of nitrous oxide and carbon monoxide may be substantially higher than predicted from previous studies".*

3939.                    What he is saying here is that with the revised -- the first proposal was rejected by EFSEC. The second proposal looked at by this individual shows that the carbon monoxide levels and nitrous oxide and are probably going to be even higher than the first proposal because they are looking more at start-ups and shutdowns which are not as efficient.

3940.                    When he was asked -- this is Michael Cage again -- by EFSEC counsel if he believed the modelling results for SE2 accurately assessed the visibility impacts, his response was the negative -- was a negative one. He did not believe the modelling that was presented to EFSEC was appropriate or accurate.

3941.                    Nobody in this room would put 10 smoking adults in the bedroom of a sleeping child. This example is very graphic, as we can each take from our own personal life experiences. These 10 smoking adults would be asked to go outside to smoke. In this way, the overall health and environmental effects would be minimized.

3942.                    In this same way, we should ask that SE2 go outside the walls of our home. I believe the Fraser Valley should be protected for nature, agriculture, and people. I believe we should ask our mutual governments to protect this area, both from this development and from any like developments in the future. I ask the same of you.

**SUBMISSIONS  
(Delparte/Dirks)**

3943. Thank you for this opportunity. I really appreciate it.

3944. **THE CHAIRMAN:** Thank you, Dr. Chafe.

3945. Any other intervenors whose surname begins with "C"?

---(No Response/Pas de réponse)

3946. **THE CHAIRMAN:** Are we still in the Cs, Mr. Pincott?

--- **SUBMISSIONS BY/SOUMISSIONS PAR MR. PINCOTT:**  
**(On behalf of Marion Cockroft)**

3947. **MR. PINCOTT:** Marion Cockroft, Mr. Chairman, has asked me to speak for her. She had a bad fall the night these hearings began.

3948. And we adopt the presentation of Tim Howard, Barry Penner, Randy Hawes, Mr. Yardley, Mary Reeves, Terry Visser, the Soil Conservation Association, Ken Malloway, Dr. Rose Charlie of the Sto:Lo and John Smith for the School District 34.

3949. **THE CHAIRMAN:** Thank you, Mr. Pincott.

3950. Is Ms Blondin here?

---(No Response/Pas de réponse)

3951. **THE CHAIRMAN:** Any other individual intervenors whose name begins with "C"?

---(No Response/Pas de réponse)

3952. **THE CHAIRMAN:** Individual intervenors whose name begins with "D", come forward and please identify yourselves for the record.

3953. **MR. DELPARTE:** Don -- excuse me, I'm suffering from the air pollution.

3954. **THE CHAIRMAN:** It's Mr. Delparte, right?

3955. **MR. DELPARTE:** Yes.

--- **SUBMISSIONS BY/SOUMISSIONS PAR MR. DELPARTE:**



**SUBMISSIONS**  
**(Farenholtz)**

3956.                   **MR. DELPARTE:** I concur with the opinions presented by the previous speakers against the motion. Thank you.

3957.                   **THE CHAIRMAN:** Thank you, Mr. Delparte.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS DIRKS:**  
**(and On behalf of Gwen Hamm)**

3958.                   **MS DIRKS:** Kathy Dirks reporting. I have a question mark after all my other -- when my names were called. I listened on Friday night -- when you adjourned at a quarter after nine, I said I can't take it any longer, I have to go home. So I turned on the net and "Kathy Dirks?" Wasn't there.

3959.                   I want to support Mr. McNally, John Smith, Mr. Howard, Mary Reeves, Dr. Chafe, and on and on. I also appreciate very much the presentation by the Sto:Lo Nation. It just made me think if I was back home in my native country, it would be with painted faces and big tongues and aggressiveness. But we are not doing that here, we are among friends.

3960.                   I also wanted to represent -- I think there is an Gwen Hamm on the list. She also asked me to speak on her behalf. She also will affirm those previous speakers.

3961.                   The only thing I wanted to add was that there is a mood in the citizens of this town, and it's been that despite all the best efforts, that the writing is on the wall; that all our combined protests are in vain. We are wasting our money, time, in going through the motions, and I quote "to uphold the general impression that we are living in a democratic society and thus able to have a say in decisions affecting us so profoundly." And this, says Rudolph Gunkel of Abbotsford in a letter to the editor of the local paper.

3962.                   So I ask: Are we just little Davids throwing sand at Goliath, and I would like to believe that this isn't true; that our government does come out for the small folk. And I depend on the National Energy Board to determine this issue to be very relevant and so boost our confidence in the system.

3963.                   Thank you and thank you for your endurance.

3964.                   **THE CHAIRMAN:** Thank you, Ms Dirks.

3965.                   Mr. Degen, just before you do come up, and I know I'm going against my own earlier rule, but I understand that Ms Farenholtz wishes to be heard before the lunch break and cannot be here this afternoon. So Mr. Degen, if you don't mind if she could go ahead.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS FARENHOLTZ:**

**SUBMISSIONS**  
**(Farenholtz)**

3966.                   **MS FARENHOLTZ:** Thank you for allowing me to jump the queue. Yes, I am half-owner of a small business and I do have appointments for the rest of the day.

3967.                   Mr. Chairman and members of the Board, my name is Sandra Farenholtz and I am representing both my husband Douglas and myself. We are also residents of Lower Sumas Mountain and therefore would be in a direct line of SE2.

3968.                   We moved to Abbotsford in 1993, partially because of a work-related contract, but also because of our love of the outdoors and time spent hiking and skiing in the Mount Baker area and mountains in and to the east of the Fraser Valley.

3969.                   I was somewhat offended yesterday by counsel to Alberta's Department of Energy, wherein she implied that we should have been more involved in the EFSEC hearings and that they were the authority to whom we should have voiced our concerns.

3970.                   Yes, we did voice those concerns; governments, municipalities and individuals. And obviously EFSEC believed that we had reasons for concerns regarding our airshed on pollution. Having the second worst airshed in Canada is not something to be proud of, and perhaps we should be commended on trying to do something about it.

3971.                   As we all know, EFSEC did deny issuance of a permit, and then unfortunately politics got in the way and that is why we are here today asking you as a Canadian authority to broaden your scope and include an environmental assessment of the power lines required by SE2 to hook up to the Clayburn substation.

3972.                   I now suffer from allergies, which is something that never concerned me until I moved to the valley. Having been tested by an ear, nose and throat specialist was told that I like so many other people have become sensitive to pollution in the Lower Mainland.

3973.                   We also have concerns regarding the transmission lines. We had a firsthand experience this summer when a few friends were cycling from Abbotsford east to Cultus Lake along the dike. At one point heading south along the Vedder River, the dike passes under the transmission lines.

3974.                   One of our friends suddenly leapt off his bike saying he had been stung by a wasp. Seeing no wasps around, he proceeded to get back onto his bike only to leap off it a couple of seconds later exclaiming that the whole thing, i.e. the bike, was alive.

3975.                   I thought of another story that I had heard and looked up and remarked that we were under the transmission lines. The bike was then gingerly removed from under the lines and we proceeded without further incident. Anywhere that metal from the bike was touching the skin of our friend, he was getting a shock. Quite an experience and hopefully one not to be repeated.

**SUBMISSIONS**  
**(Degen)**

3976. In closing, I would ask that you help us to make this a cleaner place to live in rather than potentially becoming the worst airshed in Canada.

3977. Not one of the proponents of SE2 lives in this area because, if they did, then surely they would jump ship and become an opponent.

3978. I, like many others, am becoming tired of this fight. I have a house, garden and a family business to run, and I also have a life to live.

3979. Just as a footnote, I would like to add this: That individuals can make a difference. Sometime last night I awoke and I remembered the case in California where the water authorities in the greater Los Angeles area needed more water and persuaded the locals how they would benefit from piping their water and draining -- and I think it was Mono Lake.

3980. But then one day the people realized that they were getting no benefits and only the problems associated with it. And it was only because of the tenacity of a few and someone realizing that migratory birds needed this lake for survival that Mono Lake survives to some extent to this day.

3981. My facts are actually somewhat fuzzy, because it was 3:00 in the morning, and I didn't have time before to check everything.

3982. I also wish to adopt the statements of Barry Penner, and Randy Hawes and all those that have come before me.

3983. And thank you for letting me jump the queue, and thank you for sitting and listening to all of us.

3984. **THE CHAIRMAN:** That you, Ms Farenholtz.

3985. Mr. Degen...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. DEGEN:**

3986. **MR. DEGEN:** I am sure this looks worse than it is going to be, Mr. Chairman, with all the books. I do apologize.

3987. **THE CHAIRMAN:** I'm relieved to hear that, Mr. Degen.

--- (Laughter/Rires)

3988. **MR. DEGEN:** Mr. Chairman, there is a slight correction to the

**SUBMISSIONS**  
**(Degen)**

submission which is Exhibit C-111-29, and it is on page 2. The very last line in brackets it says "see EH-1-2000, B-3, lines 1 to 7". I would like to add above that, that is above B-3, "B-2 lines 11 and 12". Thank you.

3989. In addition to the written submission that I have made, I make the following additional remarks. The relevant exhibits to my submission are: the Application, that is EH-1-2000, particularly pages 2 and 3. I will return to that, Mr. Chairman, but I would like you just to keep it open for the moment.

3990. In addition, there is the written submission which is C-111-29 and C-111-32.

3991. I will just continue, Mr. Chairman. The National Energy Board has delegated --

3992. **THE CHAIRMAN:** Just a moment, Mr. Degen.

3993. Mr. Lusk...?

3994. **MR. LUSK:** Mr. Chairman, I'm not sure what it is that Mr. Degen refers to when he talks about written submissions. Do we have those, Mr. Degen?

3995. **THE CHAIRMAN:** I think he is referring to C-111-29.

3996. Is that correct, Mr. Degen?

3997. **MR. DEGEN:** Yes.

3998. **THE CHAIRMAN:** It is in the record. It is Mr. Degen's letter to the Board dated September 25th, and "I attach written submission relating to Motion 3."

3999. **MR. DEGEN:** I am happy to return, Mr. Chairman, if my friend would want to look at it for some reason.

4000. **MR. LUSK:** I don't think we have that document. I would like to get a copy of it, if you have one, Mr. Degen.

4001. **MR. DEGEN:** I don't have the facility to do that, but I will return later if my friend wants to do that.

4002. **THE CHAIRMAN:** Perhaps that would be the best, if Mr. Degen stood down and if he could provide you with -- we will make arrangements for you to have a copy.

**SUBMISSIONS**  
**(Ewert)**

4003. And then, Mr. Degen, when it is all sorted we will call you on again.

4004. Any other -- thank you for that co-operation. Any other individual intervenor whose name begins with "D"?

4005. --- (No Response/Pas de réponse)

4006. Intervenors whose surname begins with "E"?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. EWERT:**

4007. **MR. EWERT:** Thank you. My name is Michael Ewert.

4008. I would like to, for the record, formally adopt the arguments as presented by Mr. Howard, Mr. Yardley, Dr. Charlie, Mary Reeves, John Smith.

4009. I was going to simply state that. However, after sitting through many excellent arguments, they all seem to say the same thing. And of course, I'm not a lawyer, and there are many people in this room that have clearly done their homework and clearly have eloquently stated their case and, in fact, my opinion as well.

4010. It seems that the matter is very simple: The SE2 power generation plant simply will not exist without the natural gas to run it and the power line by which to transmit the electricity. Both the input, if you will, and the output must occur in or travel through Canada, not to mention the waste product which, apparently, will also travel through our country and will ultimately be dumped into one of our most important rivers. All this while the plant itself operates in the U.S.

4011. I find it disappointing, difficult to comprehend, and in fact absurd that any part of this project, as it relates to the environmental effects, could be excluded from consideration. It seems that the political border can very easily be crossed by the input or the output. We all know that the pollution can even more easily cross this same border.

4012. So I believe it is your duty, and I rely on the fact that you will represent we Canadians. It is your duty that you examine all aspects of this very interconnected project. Thank you.

4013. **THE CHAIRMAN:** Thank you, Mr. Ewert.

4014. Any other intervenors whose name begins with "E"?

---(No Response/Pas de réponse)

**SUBMISSIONS  
(Turner)**

--- (A short pause/Courte pause)

4015.                   **THE CHAIRMAN:** Before we proceed with the individual associations, I understand Dr. Turner is here for the Upper Fraser Valley Chiropractic Association, and if you could come forward now, Dr. Turner, we could hear your submission.

--- **SUBMISSIONS BY/SOUMISSIONS PAR DR. TURNER:**

4016.                   **DR. TURNER:** Thank you, Mr. Chairman and Board members.

4017.                   Reading from the NEB website:

4018.                   *"The NEB is an independent federal agency that regulates several aspects of Canada's energy industry. The purpose is to promote safety, environmental protection, and economic efficiency in the Canadian public interest while respecting the individuals' rights within the mandate set by Parliament in regulation of pipelines, energy development and trade."*

4019.                   Clearly our environment and our safety will be damaged if SE2 goes ahead. SE2 has conceded that 3 tonnes of pollutants will be added daily to our already compromised airshed.

4020.                   Furthermore, I can already see the pollution from SE1 from my front window every day, and I can see the smoke being blown into our valley.

4021.                   This is not a game -- a lawyers' game where the confessed criminal goes free on a technicality. This is our health and our homes that are being threatened. Safety, environmental protection and economic efficiency all dictate that SE2's Application be rejected.

4022.                   At the onset you said that this hearing must be fair and look that it is fair. Without the environmental issues, this hearing becomes only that lawyers' game already mentioned.

4023.                   I would like to adopt the position of Tim Howard and the City of Abbotsford. Thank you very much.

4024.                   **THE CHAIRMAN:** Thank you, Dr. Turner.

4025.                   That brings us to the individual intervenors whose last name begins with "F".

4026.                   Mayor Ferguson I see you in the room. I had a note that you wanted to go

**SUBMISSIONS**  
**(Gregorig)**

after 1:30, but if you wanted to go now, you could. We would be happy to wait until after 1:30 if you'd prefer.

4027. Any other individual intervenors whose name begins with "F"?

--- (No Response/Pas de réponse)

4028. "G"?

4029. Yes, Mr. Guggenheimer, come forward, please.

4030. I'm sorry, Ms Gregorig...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS GREGORIG:**

4031. **MS GREGORIG:** Thank you. My name is Gwen Gregorig. Thank you, Mr. Chairman, members of the Board, and thank you for allowing me to express my views.

4032. I would like to support the submissions made by Messrs. Howard, Yardley, Penner and Dr. Chafe, and I will be referring to Exhibit C-154-4.

4033. I do not believe you can take the hearing Application for a power line in Abbotsford and put it in a separate compartment from the SE2 plant because they are part and parcel of the same thing.

4034. The plant needs the power line to sell its product, and because that production would cause the pollution in Canada, I believe that production is a valid point of consideration.

4035. Over the past 35 years, I have been a visitor to the Palm Springs area of California on an almost annual basis. The topography of that area is very similar to that of the Fraser Valley in that it is a level area surrounded by mountains so that a bowl effect is formed, similar to the funnel effect here.

4036. Over the years, I have noticed and watched the Palm Springs air gradually become polluted with a blanket of brown smog. As the pollution from Los Angeles, over a hundred miles away makes its way east and then sits there trapped by the mountains.

4037. Now, I believe California has refused to allow more power plants to be built there. So is it all right, then, for the unique and specific Fraser Valley basin with its prevailing winds and similar topography to the Palm Springs bowl to be burdened by a plant generating power to be exported south? I don't think so.

**SUBMISSIONS  
(Guggenheimer)**

4038. I hold that the Charter of Rights and Freedoms is implicit in the considerations of all judicial and quasi-judicial parties operating in Canada. I submit not only implicit, but mandatory, because of the fundamental nature of the Charter which provides four sections of Canadian government activity, including the judiciary.

4039. On Monday, Mr. Godsoe suggested that the NEB should recognize the offsets referred to by EFSEC regarding plant emissions at SE2 as they affect Canada. I submit that those offsets are contrary to my rights and the Canadian Charter of Rights and Freedoms, as the emissions would be a direct threat to my life.

4040. A report from the David Suzuki Foundation using information from Environment and Health Canada stated that:

4041. *"Air pollution is responsible for 16,000 premature deaths annually in Canada".*

4042. Therefore, Section 7 of the Charter, which guarantees my right to life, would be breached. The Board must recognize my right to life, liberty, security and enjoyment of my property under the Charter, and to protect those rights in decisions made under the NEB jurisdiction.

4043. Now, because gas and electricity connections come under the supervision of the National Energy Board, the Board has the right to interest itself in the outcome of licenses, as are issued under its mandate, and the right and the jurisdiction to examine harmful consequences which might arise from its licensing powers.

4044. There is a closed circuit of legal and physical connection to gas, to plant, to power line between the SED -- SE2 and the National Energy Board. I have learned this from my participation in Hearing Order GH-1-2002 and this Hearing, EH-1-2000.

4045. Thank you very much.

4046. **THE CHAIRMAN:** Thank you, Ms Gregorig.

4047. Mr. Guggenheimer...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. GUGGENHEIMER:**

4048. **MR. GUGGENHEIMER:** Thank you, Your Honours - Mr. Chairman and members of the Panel, members of the National Energy Board, as I understand.

4049. I am John Guggenheimer and speak also for my wife, Sally, a fellow



**SUBMISSIONS**  
**(Guggenheimer)**

intervenor who was unable to attend these hearings partly for medical reasons alluded to earlier.

4050. We also live within line of sight of the Clayburn substation to which the international power line would be connected if built. This helps to explain our intense interest and our intervention in these proceedings.

4051. We especially appreciate your remarks earlier in -- earlier in these proceedings regarding the principles of natural justice in this court of record, because that implies that you will consider the health needs of Canadians, particularly here in the Fraser Valley as part of the Canadian public interest in light of the damaging environmental effects that SE2 would have, if built.

4052. I am speaking as a successfully and happily retired former officer of the Health Insurance Commission of Australia.

4053. Now, not only my retirement, but much more importantly, the health of my wife and that of many friends and neighbours -- in fact, all the residents of the Fraser Valley - - young, middle-aged and old who are vulnerable, for whatever reason, are under threat, under severe threat, not only from additional pollution from any source, but as specifically in this instance, in this case, from the prospect of the SE2 power plant and the integral power line.

4054. I will not explore at this point the fact that not only are we under threat, we are terrified. In other words, we are feeling terror. We -- now, I'm not in a position and there's probably not time, and this may not be the appropriate forum to explore whether, in fact, we are in a situation of terrorism, whether, in fact, any proponents in these hearings could be considered as terrorists, nor indeed whether any alleged terrorists could be stopped at the border by Customs or other authorities.

4055. I will also not explore or try to relate this threat to much -- much more widely publicized threats as perceived by the presidency and administration of our friends across the line --

4056. **THE CHAIRMAN:** Mr. Guggenheimer, I think we are straying from the motion. If we could stay focused on the question of the Environmental Effects Motion, please.

4057. **MR. GUGGENHEIMER:** Thank you.

4058. I was -- I was reminded just moments ago by my fellow intervenor, Sandra Farenholtz, remarks that she made in her presentation of an incident that I would like to relate to you, which I believe is relevant to this motion.

4059. Some little time ago my wife and I visited our parents-in-law who live in a very nice townhouse complex, very nicely situated with a prominent view, however, very close

**SUBMISSIONS  
(Guggenheimer)**

to power lines, a high-tension power line crossing the Fraser Valley.

4060. We -- as part of the visit, we went for a walk nearby. It was raining slightly, otherwise very pleasant conditions. The umbrella that we held actually started to buzz and hum as we approached the power line.

4061. I mention this only to -- as an example of effect that power lines do have. Is that acceptable?

4062. **THE CHAIRMAN:** Well, can I just take the opportunity to remind you and all of the other parties, we are going to be looking at the environmental effects of the power plant. That much is settled and I believe accepted by the Applicant, SE2.

4063. So we are focused here on the environmental effects of the power plant in Canada --

4064. **MR. GUGGENHEIMER:** Right.

4065. **THE CHAIRMAN:** -- revolving around the emissions.

4066. So the environmental effects of the transmission line itself will be examined when we come to the main hearing.

4067. **MR. GUGGENHEIMER:** Thank you.

4068. Please excuse my very much lay understanding of the processes of the law and I beg your indulgence in accepting my presentation.

4069. My reading of the, albeit it brief, and not necessarily complete reading of the *National Energy Board Act*, seems to make it clear to me that the National Energy Board does have great jurisdiction and obligation to rule on any relevant matters to ensure they are in the Canadian public interest.

4070. I contend that the direct effect of this Environmental Effects Motion put before us by SE2 -- and please excuse me, I have been preparing this in parallel with attending these hearings.

4071. I will endeavor to minimize any delay resulting from my inadequate preparation. I contend that the direct effect of this Environmental Effects Motion is to deny the rules of natural justice.

4072. Now, we respect the rule of law. Let me simply say that, with respect, legal counsels for SE2 and legal counsel for the Alberta Department of Energy, their

**SUBMISSIONS  
(Guggenheimer)**

submissions and arguments on this motion ring with respect -- ring extremely hollow indeed in light of the Applicant's continual criticism of public opponents of SE2 and associated approval requests and processes as being misinformed, unscientific, having been misled or attempting to mislead the proceedings, et cetera, and most recently, breaching legal protocol and wasting time by applauding and thereby perhaps delaying proceedings.

4073. To my mind -- well, the word "filibuster" came to my mind. Now, this is in the context of process of law, and understanding that this is a court of record acting with the effect similar to a court of law. Filibustering, I'm sure, is defined as a deliberate attempt to delay proceedings.

4074. While undoubtedly within a legal protocol, it appears to me that counsel for SE2 is indulging in the same behavior for which we have been criticized.

4075. With respect, by including veiled threats of reciprocal action or consequences thereof by U.S. regulatory powers, it appears to me that SE2 counsel's arguments are no less frivolous than they alleged Randy White's motions to be.

4076. Am I still in order? And is this within acceptance of the --

4077. **THE CHAIRMAN:** Well, we have dealt with Mr. White's motions and I would really urge you to stay focused on the Environmental Effects Motion.

4078. **MR. GUGGENHEIMER:** Thank you.

4079. My point, Your Honours, is that the strict and narrow application of existing law does not of itself necessarily guarantee a just outcome. I'm reminded of the old medical canard, the operation was a success, but the patient died.

4080. A lawyer and former colleague of mine, with whom I worked on tenders and contracts, explained to me that the law can never be complete in the sense of covering every possible situation and circumstance that may arise. It is not possible to foresee every situation and circumstance.

4081. Therefore, the law provides for examination of specific cases and special circumstances often resulting in precedence, which I think add to the body of law, but again, do not claim to provide completion in the above sense of universal applicability.

4082. What this means to me as a layperson is that there are rules, but existing rules may be inadequate or incomplete.

4083. We are prepared to play by the rules, but what if the rules don't apply, are incomplete, or even wrong. We are fighting for our lives, quite literally, regardless of what any

**PRELIMINARY MATTERS**  
**(Lusk,**

court anywhere may have said so far.

4084. In conclusion, I would like to support, adopt and especially acknowledge with gratitude the arguments and submissions of Tim Howard, Mr. James Yardley for the City of Abbotsford, the Province of B.C., our MLAs, Barry Penner, Randy Hawse, Grant McNally; also adopt the arguments in support of Mary Reeves, John Smith, Dr. Chafe, and all the many others who have so ably explained the necessity of considering environmental effects, with special mention of the presentation and the prayers of our friends in the First Nations.

4085. Given that precedents have been referred to at length and recognizing Alberta Department of Energy counsel's interest or concern in the establishment of new precedents, it remains very clear to me that consideration of environmental effects in Canada of a proposed power plant in the U.S.A. is entirely within your jurisdiction, and I strongly support and urge exercise of your authority, and may I say obligation, to make any and all decisions in the Canadian public interest.

4086. **THE CHAIRMAN:** Thank you, Mr. Guggenheimer.

4087. We are going to take our adjournment now. That will bring us to the individual intervenors whose name begins with "H", but before we proceed with "H"s when we return after lunch, we will pick up those who did not go this morning, and that would be starting with Mr. Degen and Mayor Ferguson.

4088. Mayor Ferguson and Mr. Degen, I will leave it to you to sort out over lunch who goes first between the two of you, and I will call for any other parties whose name begins with a letter from "A" to "H" before we resume the list after lunch. But we will start with either Mr. Degen or Mayor Ferguson.

4089. You must come to the microphone. I'm sorry, Mayor Ferguson. We have to record the complete transcript.

4090. **MR. FERGUSON:** Thank you. I just wanted to draw to your attention and Councillor Fast is also going to be here at 2:00, so he is an "F", too.

4091. **THE CHAIRMAN:** Thank you, Mayor Ferguson.

4092. And in view of the hour, we will adjourn until 1:45. Thank you.

--- Upon recessing at 12:40/L'audience est suspendue à 12h40.

--- Upon resuming at 1:45 p.m./L'audience est reprise à 13h45.

4093. **THE CHAIRMAN:** Just before we proceed, to tidy up some loose ends,

**PRELIMINARY MATTERS**  
**(Lusk,**

Mr. Lusk, there were two documents that you were going to consider that were submitted during the course of argument by the Sto:Lo Nation.

4094.                   **MR. LUSK:** Well, unfortunately the court reporter asked if she might borrow them, and I've not got them back. So I'll have to -- I will try and have a look at them at the break.

4095.                   **THE CHAIRMAN:** Thank you, Mr. Lusk.

4096.                   Mr. Lusk, the copies you've got may have exhibit numbers on them, but I want to assure you that we haven't determined that yet.

4097.                   **MR. LUSK:** Perhaps I could just ask you this, Mr. Chairman. We have been asked about some other material, whether we have any objection to it. These materials that are going in at this time are going in and are being marked as exhibits for identification, are they?

4098.                   My concern is this: That it's one thing to have aids to assist in the argument, but if this is somehow evidence that is going -- that I'm going to face down the road that's unsworn and the details of which I don't know about, of course, that's another matter.

4099.                   I'm not trying to be difficult in terms of handling of the process. If someone has a written submission they're making as part of their argument, then I don't have a problem with that. But I do have a problem if I'm going to be faced with some of these other things later on with someone saying that somehow it has been proven.

4100.                   **THE CHAIRMAN:** Well, I certainly understood that in the case of these two documents that they were nothing more than aids to and a document referred to as part of the Sto:Lo Nation's argument on this motion.

4101.                   **MR. LUSK:** Right.

4102.                   **THE CHAIRMAN:** If you want to take more time to consider them, we are more than happy to leave it for the moment and come back to it.

4103.                   **MR. LUSK:** All right, thank you.

4104.                   **THE CHAIRMAN:** We will resume, then, with the presentations on the Environmental Effects Motion in the Order of Appearances.

4105.                   I understand, Mayor Ferguson, you're ready to go next. Is that correct?

4106.                   Mr. Degen is going next.

**SUBMISSIONS**  
**(Fast)**

4107. **MR. FERGUSON:** And Mr. Fast.

--- (A short pause/Courte pause)

4108. **MR. DEGEN:** Could I take you to the Application, Mr. Chairman and Panel, pages 2 and 3 --

4109. **MR. YARDLEY:** Excuse me, Mr. Chair.

4110. **THE CHAIRMAN:** Yes, Mr. Yardley?

4111. **MR. YARDLEY:** I apologize to Mr. Degen. We have two members of council or a member of council and the mayor who have a meeting at 2:00, and there was previously an arrangement, I understood, for them to be able to speak in order to accommodate that meeting.

4112. I understand that their submissions would be relatively brief, and I am wondering if it is possible to have them heard at this time.

4113. **THE CHAIRMAN:** Well, I did call on Mayor Ferguson and he deferred to Mr. Degen.

4114. **MR. FERGUSON:** I deferred because my meeting that was at 2:00 is now 3:00.

4115. **THE CHAIRMAN:** Mr. Degen, I'm sorry to ask your indulgence again. This will be the second time we've asked you --

4116. **MR. DEGEN:** I will just leave that there.

4117. **THE CHAIRMAN:** So if there are councillors who have 2:00 -- or let's deal with those that have a time constraint and get that behind us and then move on to Mr. Degen.

4118. **MR. YARDLEY:** Thank you, Mr. Chair, and thank you, Mr. Degen.

4119. **THE CHAIRMAN:** Could you identify yourself, please.

--- **SUBMISSIONS BY/SOUMISSIONS PAR MR. FAST:**

4120. **MR. FAST:** Thank you. My name is Edward Fast. I am the deputy mayor for the City of Abbotsford.

**SUBMISSIONS**  
**(Fast)**

4121. Mr. Chair, members of the Panel, I wish to, first of all, formally adopt the submissions of Mr. Howard, and it also goes without saying that I support the submissions of Mr. Yardley, as representing the views of the City of Abbotsford.

4122. My opportunity to speak to you today on the Environmental Effects Motion will focus, not on the technical legal aspects of the motion before you, but on the context in which your decision will be made.

4123. I suspect that once you have considered the legal arguments from both sides of this motion, your decision will still reflect a significant degree of discretion. It is for that reason that, on behalf of the residents of my community, I hope to put a human face and give a human voice to this issue.

4124. Now, without belabouring the point, which has been made repeatedly, I want to start by again referring you to section 58.16, subsection 2 of the Act which reads as follows:

4125. *"In deciding whether to issue a certificate, the Board shall have regard to all considerations that appear to be relevant."*

4126. And the word "appear" is inherently subjective and is clearly broad enough to allow the Board wide discretion to review the environmental consequences which the proposed power lines would facilitate.

4127. On behalf of the residents of the Fraser Valley, I want to state emphatically and without qualification that the quality of our air and water are considerations which are and should, by any account, be relevant to your decision.

4128. I hasten to repeat what others have already pointed out. That is, the decision to approve the plant itself was made by an authority outside of the federal government's and the Province's jurisdiction.

4129. Canadians had no hand in appointing and then reappointing the members and the chair of the Energy Facility Site Evaluation Council. We had no hand in electing Governor Locke. Both EFSEC and the Governor's office are legally and politically accountable only to the citizens of the United States.

4130. Yet, the plant will have a profound and long-lasting environmental consequence for the citizens of our country, for the human beings who live in this airshed. That is why the position of the mover of this motion is untenable.

**SUBMISSIONS**  
**(Fast)**

4131. Mr. Lusk has asked you to consider the power line on its own merits; in a vacuum, as it were. The last thing his client wishes to do is place those power lines in a much larger and obviously more relevant and significant context.

4132. I would respectfully suggest that it is this Panel's duty and obligation to consider the public interest, and that is the public interest of Canadians. More importantly, it is the public interest of the residents of the Lower Mainland and the Fraser Valley which you have specifically been appointed to protect.

4133. And I fully recognize the duty of this Board to provide a full and fair hearing in accordance with the rules of natural justice. What this Board is not obliged to do is to abandon common sense in the protection of the interests of Canadians.

4134. I would encourage you to consider what is perhaps an even greater issue, and that is the role and credibility of this Board. We, as Canadians, have become quite cynical about the role of government in our lives and its ability to protect both the health and welfare of our families and our citizens.

4135. The EFSEC appointment and reappointment process and its eventual decision just confirmed the suspicions of Canadians and many Americans that government represents the interests of the powerful and influential. I would like to think that in Canada we do business differently, that we treat our citizens with more respect.

4136. Now, recently, several days ago, you heard our Member of Parliament, Randy White, speak to you about the "unanimous opposition to this proposal in Canada".

4137. Now, his was an visceral response borne out of frustration with our seeming inability to influence the decision-making process around us, and that is where the issue of credibility is being tested.

4138. With such an overwhelming number of Canadians opposing the construction of the SE2 plant, it is incumbent on this Panel to broaden its scope of investigation to ensure that all factors which appear relevant are taken into account in your quest -- and I trust that it is your quest -- to protect the public interest.

4139. I want to conclude by saying that the willingness of average Canadians to entrust their lives to government-appointed tribunals, such as yours, is a very fragile thing. Our willingness to trust you should never, ever be taken for granted.

4140. Trust is earned when the investigative and decision-making process is thorough and fair, and it is for that reason that I ask you to give special attention to ensuring that all impacts of the power line, whether direct or indirect, be considered and that SE2's Environmental Effects Motion be dismissed. Thank you.



**SUBMISSIONS**  
**(Ross)**

4141.                   **THE CHAIRMAN:** Thank you, Mr. Fast.

4142.                   Ms Ross, are you under a time constraint?

4143.                   **MS ROSS:** I'm just not able to be here this evening.

4144.                   **THE CHAIRMAN:** I think if you wanted to go ahead now, we could accommodate that.

4145.                   **MS ROSS:** I should probably get rid of my gum first.

--- (Laughter/Rires)

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS ROSS:**

4146.                   **MS ROSS:** Thank you. I would like to say first, before I start, how much the residents of the Fraser Valley appreciate your patience and accommodation in allowing us to -- not giving us any time constraints to speak. And we promise -- I don't think there is anyone here that is interested in abusing that privilege, but we do appreciate it very much.

4147.                   Mr. Lusk has said that there was ample opportunity for people to participate in the EFSEC hearings, but we were only allowed four minutes, and believe me, that microphone was cut off at four minutes. And with such a complicated issue, it was pretty much impossible for people to be able to express all their comments in that four minutes.

4148.                   As well, they only had two evenings for public hearings, and they were only I think about three hours each. And when it was 10:00, that was it. Anyone who didn't have the opportunity to speak was simply sent home. So there were a lot of people who didn't have that opportunity.

4149.                   Could I just -- before I begin my other comments -- ask the Board's indulgence just for a clarification as to the rules of procedure? I just -- I have just a bit of a concern.

4150.                   Mr. Lusk argues that evidence or testimony not previously submitted to these hearings should not be admitted, yet, in his closing arguments he brought up a statement in a prior motion with Mr. Randy White. He brought up a prior statement that I had made to the press, but he brought it up in his closing arguments, and yet, he had argued that evidence and testimony not previously submitted shouldn't be admitted, yet, he did that during closing arguments, even though the statement I had made was not submitted prior, and it was something that was made to the media, which, by the way, he misconstrued.

4151.                   I mean, if Mr. Lusk chooses to open that door, I would be more than

**SUBMISSIONS**  
**(Ross)**

happy to enter into a long list of statements that Mr. Chuck Martin has made to the press, including calling these Canadian proceedings a circus, but I don't believe that it's appropriate.

4152. When Alberta -- the counsel for Alberta relayed a couple of private conversations that she had had with people just out in the hallway, at least she did it during a time when the people going after her were speaking and they would have the opportunity to say whether her characterization of the conversation was misrepresented or not.

4153. By Mr. Lusk bringing it up in the closing arguments, I had no opportunity to say how his characterization of my comments were misconstrued.

4154. So I would just like to offer that and ask that if I would have an opportunity to explain those remarks, because I'm concerned that it may possibly influence the Board's perception of my future comments.

4155. **THE CHAIRMAN:** Well, Ms Ross, I don't want to get into a debate now or a discussion now of the rules of evidence and the rules of proper argument. Your general understanding is correct, that it is not proper for counsel to introduce evidence, either in argument, reply or otherwise. That is a matter for the evidence to go on the record.

4156. One of the problems we have in a hearing of this sort is, of course, that usually exception to such a statement by counsel would be taken by counsel for the party who is affected by that at the time.

4157. We recognize that in this case there are numerous parties who are not represented by counsel and some of the niceties of procedure may not be fully understood. So your understanding is correct. You can proceed on the basis that, as the hearing unfolds, we'll ensure that the rules of evidence and proper argument are adhered to.

4158. **MS ROSS:** Okay. My concern was that he did it during the previous motion and that it might occur again, and I won't explain my remarks then, but just take my word for it, that it was a mischaracterization that was taken out of context. So I'll proceed with my arguments.

4159. I believe that the evidence presented so far overwhelmingly proves that the National Energy Board does have the jurisdiction to hear evidence of the environmental effects in Canada of the proposed power plant.

4160. Now, to support those arguments, I offer the following. For one thing, it is not as if you do not know the end use of the power lines. This is not some project where the end use is not yet defined. You know very specifically where the power lines are going and what the end use will be.

**SUBMISSIONS**  
**(Ross)**

4161. As a Canadian entity, it is your duty to consider the environmental effects of the whole project to Canadians and their health, as well as the surrounding ecosystems, which ultimately will affect aspects of our economy, and certainly most of the negative effects of the plant will be felt by Canadians.

4162. We were failed by the evaluation of the American bodies such as EFSEC and by Governor Gary Locke, who did not consider the particulars of the location and rubber-stamped it on the basis that it met certain standards.

4163. When EFSEC turned the application down the first time, they said that it was their mandate to not only look at whether the project met standards, because they recognized that current standards are not adequate to protect health.

4164. Just as a demonstration -- slow down? Okay.

4165. Just as a demonstration of that, the current standard is 80 parts per million for criteria pollutants, and the level at which health effects occur is 20 parts per million.

4166. So after that decision, the Chair was abruptly replaced with an energy lawyer and three other members were replaced, and I think that made more of the difference in the change around their decision.

4167. The SE2 application made openly minor and superficial changes and is yet to do the modelling -- now, this is important -- they are yet to do the modelling to determine the impact of the plant on issues such as flooding, the aquifer and seismic issues, nor have they yet proposed mitigation measures. They basically said, give us certification, we promise we'll do it later.

4168. So we still don't know that for sure. So even that -- and, by the way, EFSEC did ask them for that information repeatedly and SE2 refused to comply, and so we are obviously upset that EFSEC gave them certification without full disclosure.

4169. So even that information is incomplete and has not yet been evaluated, although we do know enough to know the risk is great and damage could be great catastrophic and "catastrophic" is the word that the provincial government used in their closing arguments in the EFSEC hearings.

4170. Although SE2 is to provide that information at a later date, it is yet to be evaluated, and the opportunity for public and certainly Canadian involvement at that point will be almost nonexistent.

4171. The real change that brought about the approval the second time was the change in the EFSEC membership who ignored the specific problems with a location and

**SUBMISSIONS**  
**(Ross)**

approved it on the basis that it met certain standards.

4172. They did ignore their own mandate as they had set it out in which they said was their mandate in the beginning when they turned it down the first time.

4173. There is more that is yet to be researched that was not adequately evaluated in the EFSEC hearings, such as the start-ups and shutdowns that the increased emission -- and the increased emissions resulting from that.

4174. The modelling that SE2 used to determine impact to the airshed was highly criticized throughout the hearings and proven to be woefully inadequate.

4175. Just one example, is that it did not consider the full impact of the ammonia emissions. Bob Caton, a witness for the province, proved that the ammonia alone from the plant had the potential of almost doubling the particulate matter already in the airshed because of how it attaches itself to other pollutants and creates particulate matter.

4176. And I'm sure that you know that particulate matter is one of the pollutants of the greatest concern because it's small and inhalable and that's the cause of most of our health problems.

4177. We are confident that the NEB process will not be as disappointing in its evaluation of this project. There were loopholes written into the agreement that EFSEC wrote with SE2 which may let SE2 off the hook from providing realistic offsets that they promised.

4178. Just two examples to demonstrate my point, was that SE2, of course, will brag about offering 100 percent offsets for nitrogen oxide and particulate matter emissions.

4179. On page 19 of the agreement, which I believe that you have, it says that:

4180. *"If SE2 cannot find offsets within one year, they can basically just pay us off \$1.5 million."*

4181. Yet, that was brought out in the hearings that SE2 had already tried and failed to find offsets in both Washington State and B.C., and it was not because of political reasons that we quit trying, as SE2 would have you believe.

4182. Now, if that were the case, then why would it only have been B.C. that they couldn't find offsets? What about Washington? They couldn't find any there either.

4183. If you put together all the point sources of pollution in the Fraser Valley, it would only be a small fraction of emissions from SE2.

**SUBMISSIONS**  
**(Ross)**

4184. So knowing it was unlikely that they would find meaningful offsets, they gave a small window of time to let them off the hook. The \$1.5 million was also proven in the EFSEC hearings, Bob Caton's testimony, to be only enough offset just one of those pollutants, the nitrogen oxide for two to three years, yet this plan is going to be in existence for at least 30 years or more.

4185. The GVRD, Greater Vancouver Regional District, report that was submitted as evidence as well, shows that just to offset the nitrogen oxide and particulate matter emissions would be more realistically over \$1 billion and more for the other pollutants, and that's even if you could find enough offsets in this airshed.

4186. If not, it doesn't matter how much money you put into it. If there aren't any, there aren't any, unless they would like to pump money into our health care system and donate for funeral expenses after the fact.

4187. There is also no provision in the agreement that the offsets have to be in the local airshed most affected or that they have to be permanent, as long as the plant is in operation.

4188. So they could find some short-term offset in northern B.C. or in southern Washington that would not help those of us who have to breathe in these pollutants on a daily basis.

4189. The second example is the greenhouse gas emissions, although SE2 brags about providing 8.4 million in GHG emission offsets. This might sound impressive until you find out that it's only enough to offset 3 of 5 percent of those emissions, which just shows you how massive they are.

4190. Also, they were warned that if they did not require money for administration or monitoring of the offset program, the program would likely fail.

4191. Yet, written into the agreement, page 49, it specified that there would be no requirement for administration and did not even mention the monitoring. So they're setting these offset programs up to fail, knowing full well what the consequences will be.

4192. So personally I believe that to be irresponsible. We are failed by them, but we are hoping for better from you. You can't possibly make an intelligent decision without knowing all the facts and implications of the project, and you need to know what the full implications of the whole project are, including the plant itself.

4193. To do anything but consider the environmental effects of the whole project which would include the plant, would be taking an unacceptable risk and a great leap of faith, as well as making an incorrect assumption that the EFSEC has completely and thoroughly

**SUBMISSIONS**  
**(Ross)**

evaluated all aspects and implications to Canada.

4194. Natural resource-based energy has become the hot investment item of our time, and it seems that many can only see the dollar signs in front of their eyes. In their greed for a fast buck, what's been forgotten or ignored are the long-term consequences and costs in health and the environment.

4195. We must be particularly diligent to ensure the principles of sustainability are practised and all factors are evaluated in these proposals, which would include the environmental effects of the whole projects.

4196. What you have to ask yourself is this: If the plant were really as innocuous as its proponents do claim, do you really think that we would have spent over \$500,000, devoted the last three years of our lives, made personal and professional sacrifices, put programs at the city on hold for three years, if what they were saying were true?

4197. And believe me, this is not our idea of a good time. And what would we have to gain, except the protection of our quality of life? But we have done our research and we are not prepared to sell our souls and the future of our children for the few crumbs that SE2 is prepared to offer.

4198. There is just a couple of other brief comments that I had made that I took some notes while others were speaking. I believe it was Mr. Lusk that quoted in regards to the groundwater issue, that they would fully mitigate to the extent possible.

4199. Now, that's the operative part that you have to question. They highlighted to fully mitigate those impacts to groundwater, but you have to -- what you have to highlight is that to the extent possible.

4200. So it suggests certainly that it may not be possible to mitigate all those effects, an admission that they don't know that for sure.

4201. He had said that there are no local impacts from greenhouse gas emissions. Well, there may not be immediate, but there will be eventually, and is the Board to only examine impacts for the short term? I don't believe so.

4202. Also, the comment was made that B.C. law does not require offsets. Now, there was a B.C. power plant just approved recently that was required to provide offsets of 50 percent of greenhouse gas emissions and another one just approved that will also have to provide about the same. So 50 percent is a great improvement over SE2's 2.5 to 5 percent greenhouse gas emission offsets.

4203. The comment was made that new power generation in Canada will be

**SUBMISSIONS  
(Ross for Village)**

natural gas. Well, certainly a lot of Canadians are hoping for -- to move away from natural resource-base power generation, things like wind generation. But even so -- we are not against natural gas power generation, so that's not a fair characterization. The issue is the location. Even BC Hydro says they wouldn't put a power plant here.

4204.                   And the final one that I wanted to make was the counsel for the environment recognized, and I quote, "the world has changed", but yet she wants you to go by the old rules. But surely that statement that the world has changed backs up our argument that, you know, things need to be done differently. I think a greater focus needs to be put on health and the environment and not the almighty buck.

4205.                   That concludes my comments, but can I just indulge the Board very briefly?

4206.                   Mr. John Smith, who spoke earlier, had to leave, and he had agreed to read a very, very brief -- it's very short -- comment from Heidi Village who can't be here. Would you permit me to make her comments at this time?

4207.                   **THE CHAIRMAN:** Go ahead, Councillor Ross.

**--- SUBMISSIONS OF/SOUMISSIONS PAR MS ROSS:  
(on behalf of Ms Village)**

4208.                   **MS ROSS:** "I Heidi Village give permission for Mr." -- Oh, okay. I haven't read this yet -- "for Mr. John Smith", so substitute that, please, with Patricia Ross, "to speak on my behalf on the Environmental Effects Motion at the SE2 hearings. I fully support and wish to adopt the arguments brought forward on the Environmental Effects Motion by Mr. Howard and Mr. Yardley, as well the arguments brought forward by -- I'm sorry, I can't even read this one name -- Ms Mary Reeves, Ms Patricia Ross, Mr. Ferguson, Mr. John Smith, Dr. Wayne Welsh and others who would like the National Energy Board to consider environmental impacts of the SE2 power plant should it be hooked up with an international power plant. Thank you."

4209.                   **THE CHAIRMAN:** Thank you, Councillor Ross.

4210.                   Mayor Ferguson, why don't we ask you to come forward at this point so we don't run into a time constraint.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. FERGUSON:**

4211.                   **MR. FERGUSON:** Good afternoon. Mr. Chairman, members of the Board, I was going to say it's a pleasure to be here. It's a pleasure to be here to listen to lawyers argue. And I don't know how you sort out the end result, but that's your problem.

**SUBMISSIONS**  
**(Ferguson)**

4212. I'm not a lawyer and I'm not a scientist. I'm a politician elected to serve my citizens. I have been elected in this community for 33 years. And I know that you know that the other night we probably had the biggest demonstration of people in this community at any given time regarding this issue. These people were sincere.

4213. You were also here the night that we had that heavy evasion of fog and all the other things that normally is like today. You know that we have always been recognized in this part of the world as the California of Canada. One of the reasons why we have so many people coming here is because they think they are coming to the California of Canada and want to live in Canada.

4214. If you were around town, and I assume you have been, and you looked at the area and you looked at our hospital and it says "MSA". And to a lot of people that means, Manitoba, Saskatchewan and Alberta, in California. So again, these people that were out to the meeting the other night -- and I was also told that there was a lot of gridlock, there were a lot of people that would have liked to have been here that couldn't get here -- the crowd would have been bigger.

4215. Anyhow, they are very sincere in their position on this particular issue. They are concerned. And of course they properly and thoroughly address the health of Canadians are protected. And that's your job. You are here to look after the interests of Canada, and I understand you understand that. Those rules have been laid out very clearly for you in the Act.

4216. So I'm assuming everybody here is concerned about the air quality the impact will have on their health. That's what they are here for. You have listened to John Smith talking about the school, the young people of this community. And also you have listened to the doctors and the medical people speaking today and the other days about the health concerns.

4217. And surely those senior citizens that have made this country what it is and have come to retire in this area from those areas of Manitoba, Saskatchewan and Alberta have a right to be able to think that they can go out in their community and breathe and not be afflicted with the poisons that are going to come from this plant. That's really what they are.

4218. Also, your decision will determine the health and the future of our younger people, the people that are going to be responsible for this country in the future.

4219. Because when it's all said and done, if you can't breathe, nothing else matters, really, very much. So I wish you would really concern yourselves about the health of the people in this community. It's an important -- very important issue to us. Not only to us, it's to our American friends, too. They have to live and breathe the same type of air.

4220. I receive phone calls, letters, e-mails and by my citizens just stopping me



**SUBMISSIONS**  
**(Ferguson)**

on the street at events expressing their concern. That's continuous. I had one this morning. E-mails on the weekend -- this last weekend we had 130 e-mails, and the biggest percentage of them were around the fact of SE2 and the concerns they have for SE2. So it's a real consideration.

4221.                   Every day there seems to be another story in the newspapers, a new medical and scientific study that confirms their concerns. Now, you know that there is a study that can't be used that was done by GVRD. There is another study that's just come out from California, and there is another study that just came out with an e-mail yesterday from England about the concerns of transmission lines.

4222.                   I can tell you from experience, transmission lines -- there are problems. Not only this transmission line, but transmission lines that you have approved before. And I think people are becoming more and more aware of the effects of transmission lines by and large across the country and in other countries. We are going to have to do something different in that area.

4223.                   But the fact is that a reality that I can tell you as a farmer -- that's what my profession was -- a farmer going up to a high transmission line out on Marion Road. The man had left the tractor and the disk up against -- close to his transmission line, and I went out that day myself to take the tractor to the home farm and went to pull the pin, and I got a jolt good enough that it put me on my knees. That's how much electrical current was coming off that one.

4224.                   I'm told there is a line in town here that you can go out and take one of those tubes out of that light up there, plug it in the ground and light it up. So there is a lot of electrical current that's being fed.

4225.                   And I can tell you as a dairy farmer and knowing the situation with electrocurrent and pulsation with a milking machine, the amount of damage that has been done to good cattle when it's not properly grounded and looked after properly. Those aren't hearsay, those are facts.

4226.                   And I say today, Canadian interests were not fully addressed in the Washington State EFSEC hearings. It's outrageous to suggest otherwise. The Government of Canada was not even an official intervenor at the EFSEC process. They weren't there.

4227.                   Mr. Anderson had an idea that if we looked after the two-cylinder cycle engines and didn't use our barbecues too much, we wouldn't have a problem.

--- (Laughter/Rires)

4228.                   **MR. FERGUSON:** And I don't think Mr. Anderson really meant that, but that's what he said.

**SUBMISSIONS**  
**(Ferguson)**

4229. It's not the job of the citizens of Abbotsford or the province of B.C. to represent Canada's interests alone. The federal government has a place.

4230. Our citizens are very concerned that SE2 will undo the improvements of air quality that we have made. They are not confident the EFSEC's conditions to the approval of SE2 will address the air quality and health-related concerns. There is nothing so far to show us that that is the case.

4231. This hearing is the only opportunity that Canadians will have to fully address the environmental impacts of SE2 in Canada. Individual Canadians were not able to be heard as official intervenors at the EFSEC process in the U.S.

4232. It is no wonder that you have as many people waiting to be intervenors at this hearing, and I must congratulate you on the way that this hearing has been held and the leeway that you've given to speakers.

4233. And I understand that you are really interested in hearing this hearing. I know the hours are long and the chairs get hard by 10:00 at night, but you seem to be able to persevere. But I am sure that this is probably one of the longer hearings that you have had to deal with across the country.

4234. As a public official, you and I have a duty, responsibility, to consider and protect the public interest. You have that responsibility along with myself and other politicians.

4235. We also have an obligation to do what's right and good for Canadians. That's what it's all about. You have a right to do what's right for Canadians.

4236. As a mayor and as a Canadian, I call on you to do what's right and good for this community and for this country. Expand the scope of these hearings and consider the full impact of SE2 on Canada. It's only common sense.

4237. Please give that your full consideration. Thank you.

4238. **THE CHAIRMAN:** Thank you, Mayor Ferguson.

4239. Mr. Degen, I am going to beg your further indulgence and just clean up the few loose ends that we have leading up to the "H"s that we had arrived at.

4240. The United Injured and Disabled Workers Association of B C.

4241. Mr. Barry Alden...?

4242. **MR. ALDEN:** Yes, Mr. Chairman.

**SUBMISSIONS**  
**(Alden)**

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. ALDEN:**

4243.                   **MR. ALDEN:** I'm sorry that I was not here this morning when I was called earlier, but we couldn't make our agenda fit yours. We've had a problem with this for awhile, so thank you very much for allowing me to come and speak and our organization to be represented here.

4244.                   We have been involved with this Application in many ways since it was made. Our main concerns are that we wish to be able to present to a proper environmental hearing on the full course of the environmental impact that is going to happen to the Fraser Valley when these tower lines are erected. We think that we have some expertise to bring to these hearings, not only as a Level 1 but as Level 2 intervenors.

4245.                   I have just given counsel a letter that I faxed earlier asking to speak here as a Level 2 intervenor as a Fraser sturgeon expert, and I would be asking counsel in the future, and this Commission if they would upgrade us from Level 1 to Level 2 if, in fact, this Commission grants an environmental hearing -- a full environmental hearing.

4246.                   We believe that a full environmental impact study should be done on the effects of SE2 into the Fraser Valley, and we also have other knowledge that we believe we could bring to this Commission that they're not going to hear here about future power plants other than SE2.

4247.                   And our greatest fear is that if this tower line application is granted that there will be future applications because we have the knowledge from the fact that some of us injured and disabled workers have worked on transmission lines; I have myself.

4248.                   In the initial stages in the sixties, we surveyed them, and we helped put them where they are. And we have the knowledge that British Columbia has the majority of transmission line hook-up capabilities to Washington State, other than Alberta.

4249.                   We are quite indignant that some comments have been made that our information and other environmental information that might come before this Commission in a proper environmental hearing would cause a circus. We think we can bring some very hard facts to what the ramifications are to the future of the quality of life in the Fraser Valley from this transmission line application being granted.

4250.                   We also have the knowledge that there are many other power plant applications going to come forward in Washington State, possibly up to 20. We have the knowledge that we have large natural gas reserves off the west coast of British Columbia that were explored in the late sixties which are sitting there waiting to be uncapped to supply those very same power plants.

**SUBMISSIONS**  
**(Alden)**

4251. And we have the knowledge -- at least we believe -- that when this Commission makes its decision on this transmission line application that future ones will follow. We have concerns about the plant and how it will discharge its effluent into our Fraser River system.

4252. We have concerns because our injured worker members fish the Fraser River. These are disabled people who line the banks of the Fraser to fish the salmon runs, which are coming up now.

4253. We also have great concern for the future of the Pacific white sturgeon, which is a 400-million-year-old species, which I have pictures here, in excess of 20 feet long, which still come up the Fraser from the ocean.

4254. We have concerns about the total impact of the plant and future plants. We don't believe SE2 will be the final expansion. We believe there will be an SE3.

4255. And we are concerned and we wish to present information to a full environmental hearing on SE2, as a result of this transmission line application, to the full impact of the Fraser fishery, the quality of life and wildlife in the Fraser Valley which includes the American bald eagle which comes to our river to winter, just a few miles northeast of here.

4256. This is a very important transmission line application for the future of the quality of, not only the people, but the full wildlife spectrum of the Fraser Valley.

4257. We urge this Commission to allow a full environmental hearing into this transmission line application because we think it will set a precedent for future applications, and we believe under NAFTA and the Free Trade Agreement that if this one is granted, other applications will have to be similarly granted which will lead to more applications to discharge into the Fraser River effluents that probably cannot be discharged into rivers and creeks and streams in the State of Washington because of a ban by the U.S. Environmental Protection Agency.

4258. We have grave concerns to this Application. It is much more than a transmission line.

4259. That's all we have to present today. Thank you very much for allowing us to speak.

4260. **THE CHAIRMAN:** Thank you, Mr. Alden.

4261. Again, working our way through alphabetically, I understand that Christine Callaghan is here this afternoon?

4262.

**SUBMISSIONS  
(Callaghan)**

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS CALLAGHAN:**

4263.                   **MS CALLAGHAN:** Thank you for your time. My name is Christine Callaghan. I just wanted to briefly say a few comments.

4264.                   Having lived 32 years of my life in South America, air quality is commodity I don't take lightly. In the country where I spent that time, the government was self-governing as far as air quality was concerned, and I have no hesitation to say they did not have the best interests of the citizen in mind.

4265.                   I am a nurse and I have worked as a nurse in that country, and I dealt with many of the detrimental effects, especially in children of, lead poisoning due to no government controls in the sale of leaded gasoline, despite outcries to do so.

4266.                   I am an American citizen by birth, a Canadian by naturalization, and I love both countries. I believe Sumas 2 to be detrimental to both countries that I love and request that the environmental hazards and effects be absolutely considered.

4267.                   No government can be trusted to advocate for its citizens when economics is the motivating factor. That's all I have to say except that I respectfully accept also the submission of Mr. Howard and Mr. Yardley and Patricia Ross on this hearing.

4268.                   **THE CHAIRMAN:** Thank you, Ms Callaghan.

4269.                   **MS CALLAGHAN:** Thank you.

4270.                   **THE CHAIRMAN:** Ms Canning...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS CANNING:**

4271.                   **MS CANNING:** I'm not sure why I should still be so nervous with everybody saying so much, but God, it is a little stressful. Actually, I won't even read that. It will make me more stressed out.

4272.                   My name is Shelley Canning. I would like to accept the submissions of Mr. Howard and Mr. Yardley and their proposal that we do consider all environmental effects.

4273.                   Very quickly, I have two jobs, none of them anything like what you're doing, but I am a mother. I take that very, very seriously, and I think I'm a good mother.

4274.                   I have three daughters and I have a real problem trying to explain to my 11 year old why -- if there is no issue around the environmental effects, why would this motion ever have come? Why are we discussing this?

**SUBMISSIONS**  
**(Degen)**

4275. If there really is no problem, then all information should be able to be considered. I have an issue trying to tell her why.

4276. My other problem or my other job as a nurse, I have to say that anecdotally I have worked in Vancouver and the Fraser Valley for about 15 years. I am master's prepared so I have a good information base, and I do sound practice.

4277. Anecdotally, I'm seeing more and more people with more and more environmentally induced problems, especially with regard to respiratory problems. It's very difficult to nurse people as they live and to nurse people as they're dying when they respiratory illnesses.

4278. And I really have a fear that if we let this plant come that there will be problems that we can't retroactively fix. So I really am asking you please, for the health of all of us, do consider the whole picture.

4279. I will have an answer for my daughter, and I will feel that we've really made the best decision, then, if everything has been considered. Thank you.

4280. **THE CHAIRMAN:** Thank you, Ms Canning.

4281. Mr. Degen...?

4282. **THE CHAIRMAN:** Thank you again, for your accommodation, Mr. Degen.

4283. **MR. DEGEN:** It's a pleasure, Mr. Chairman.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. DEGEN:**

4284. **MR. DEGEN:** I am going to be brief, Mr. Chairman.

4285. Could I take the Board to page 2 and page 3 of the Application. Under the subject matter, B-1 on page 2, just for identification purpose, it's subheaded "Sumas Energy 2, Inc.", and taking you over the page to the first paragraph:

4286. *"SE2 has no partners in the IPL. Accordingly, SE2 will own and operate the IPL and will manage the affairs of the IPL, including activities related to obtaining other federal and provincial permits and approvals required for the construction and operation of the IPL."*

4287. I wanted to marry to that statement to one of the annexures on C-111-29,

**SUBMISSIONS**  
**(Degen)**

and it is in annexure 2 from the International Boundary Commission. It's the Approval dated the 22nd of April 1999, which gives the authority to cross the international border for SE2 in the electric transmission line.

4288. Attached to that is a letter from SE2 dated April 7, annexure 2.1. The relevant paragraph is on page 2. I would just read it for the record. It's under the heading "Related Federal Approvals to the U.S. and Canada". The last sentence:

4289.

*"Sumas Energy 2 is in the process of preparing an application to the Canadian and Federal National Energy Board for a permit authorizing the construction and operation of a 230 Kv electric transmission line in British Columbia. The permit to build the international power line is expected to be issued within one or two months after filing."*

4290.

I particularly emphasize the last two lines of that statement.

4291.

Taking you down on page 3 of the Application the .3, "Description of the Energy Source and American Portion of the Power Line", and I quote opening paragraph:

4292.

*"As described above, SE2 is proposing to own, construct and operate the power plant."*

4293.

The next sentence down commences with the statement:

4294.

*"SE2 is also planning to construct a private natural gas pipeline in the U.S. to supply fuel for the combustion turbines and an electrical transmission line from the power plant to the international border to transmit electrical energy from the power plant."*

4295.

It goes on further to say in the last paragraph:

4296.

*"Westcoast Energy Inc. (Westcoast) will be responsible for obtaining NEB approval to construct a 200-yard lateral gas pipeline from its natural gas pipeline system to the U.S. border. Westcoast is in the process of making an application pursuant to Section 58 of the National Energy Board Act for an exemption order."*

4297.

*The Canadian Environmental Assessment Act, SE1992 C37(CEAA), will*

**SUBMISSIONS**  
**(Degen)**

*be treated as a consequence of the Section 58 Exemption Application. The proposed lateral gas pipeline will utilize the existing Westcoast right-of-way. A screening review will be carried out by the NEB under the CEAA."*

4298. While I appreciate, Mr. Chairman, that the gas pipeline lateral line connection is not part of this application, I believe the Board must be conscious of the energy source for the plant in its consideration of the environmental effects that will arise from the use of the gas at the plant, as well as the transmission line that will emanate from the plant to the power grid in Canada.

4299. And I might also note and draw to your attention that this does not appear to be the environmental effects contained in this application, and may not be the last environmental effects assessment that the Board may be required to make. The second one may be when Westcoast makes the connection under that particular application at sometime in the future.

4300. With your guidance this morning I was able to talk to officers of the Board who were able to tell me that Westcoast has not made any application for that connection and it's not before the National Energy Board at the present time.

4301. In summary, the National Energy Board has delegated authority from the CEAA to conduct an environmental assessment as defined in that Act of the project contained in GH-1-2000.

4302. The NEB will have delegated authority from the CEAA Act to eventually conduct the environmental assessment for the gas connection to the plant. Identified by SE2 on page 3 of the EH-1-2000 Application.

4303. You will find attached to my written submission the collection of International Boundary Commission correspondence, which I put to the Board is a factual and unique combination of correspondence which is helpful to the Board in examining the gas connection to the plant and the electrical transmission line connection back from the plant into Canada.

4304. I believe that that collection of correspondence is extremely significant and will help the Board understand the interconnection of the gas to the plant and from the plant back to the electrical product delivered from the plant into Canada.

4305. So they are companions, those letters from the International Boundary Commission, companion letters that go with the various references on page 2 and 3 of the Application.



**SUBMISSIONS  
(Christensen)**

4306. Finally, Mr. Chairman, the other attachment is C-111-32. It's the *International Boundary Commission Act*. Definitions of work on page 1 that should be examined by the Board and the Commission's powers, which is under Section 3 is also helpful to understand the workings of that body.

4307. When you are convinced, as I believe you will be, that you have jurisdiction to conduct an environmental assessment of the plant, I believe then that you will have an obligation under the *National Energy Board Act*, Section 52(a), in the public interest to study the environmental effects of the plant.

4308. Thank you, Mr. Chairman.

4309. **THE CHAIRMAN:** Thank you, Mr. Degen.

4310. We haven't quite got back on track with the alphabetical approach yet. I understand Mr. Christensen is here and would like to make his submission.

4311. **MR. CHRISTENSEN:** Thank you.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. CHRISTENSEN:**

4312. **MR. CHRISTENSEN:** Thank you for coming here to listen to all the concerns. It's a great opportunity for the local people to say what we think about this project.

4313. My name is Gustav Strong Christensen. I have a Ph.D. in Electrical Engineering and I'm a Professor Emeritus from the University of Alberta. I taught electrical engineering for over 25 years at the University of Alberta. This included a course on alternate energy sources for 4th year students.

4314. My specialty was optimization, and is optimization, of the economic operation of power systems. I have written four books and over 140 articles on the topic.

4315. Now, my reason for being in favor of the National Energy Board wholly in the environmental hearing in B.C. on SE2 are the following:

4316. SE2 will cause unacceptable limits of pollution in the Fraser Valley, and this is simply because of the shape of the valley itself. It goes without saying, physically, it seems that's the way that this will happen.

4317. And we all know that nitrous oxides and sulfuric mist may be produced by proposed plant in this -- in a very sensitive airshed. We also know there are over 300,000 people living here and everyone's comfort and physical well-being will be severely affected.

**SUBMISSIONS**  
**(Christensen)**

4318. And furthermore, I think the Board's well aware of this, but I want to point it out. Again, there are numerous examples or similar mistakes having been made in other locations in North America. The prime examples are the Los Angeles and Mexico City areas.

4319. If you have been to these two cities lately -- well, now you see some improvement now in the Los Angeles area because of the small amount of pollution they have done their now because of restrictions on its production. But Mexico City is as bad, I think.

4320. Now, I have written many letters to SE2 and to many other people about my opinion of this project, but I must say, my experience is that SE2 officials pay no attention to new developments and simply ignore possible improvements in the proposed power plant design. Now, and then I would suggest a radical change in SE2's design of its power plant would result in, and the following is listed.

4321. The fuel still being used is natural gas but utilized at higher efficiency. Virtually the same costs per kilowatt hour electricity as now. No extra pollution in the Fraser Valley since such plants have a lot lower oxidation temperature than the present gas turbines.

4322. Siemens-Westinghouse Manufacturing Corporation in Pittsburgh has been taking orders for such plants using solid oxide fuel cells since January 2002 with delivery in 2004. And there is a website you can see on the solid-state -- what I am saying, excuse me. I have the website here. I can give it to you, if you like.

4323. And you should see the article "Fuel Cell Technology".

4324. The transmission of electricity to California from Sumas will consume at least 10 percent of that generated at Sumas. It is much cheaper to transmit the natural gas to there.

4325. **THE CHAIRMAN:** Professor Christensen, I'm sorry to interrupt you, but we are only concerned at this point with a quite specific question of whether we should consider the environmental effects of the plant as those effects impact Canada.

4326. **DR. CHRISTENSEN:** But these are the reasons I think we should have a hearing like that.

4327. **THE CHAIRMAN:** I'm hearing you say a lot about the plant and alternatives to it. We are on the narrower question than that at this point.

4328. **DR. CHRISTENSEN:** Yes, I realize that. In conclusion, I will say the pollution from SE2 will cause severe discomfort for 300,000 Canadian citizens in the Fraser Valley. The seriousness of this fact and the availability of modern pollution-free technology warrants that an environmental hearing be held in B.C. by the National Energy Board on SE2.

**SUBMISSIONS  
(Chipperfield)**

4329. Thank you, Mr. Chairman, members of the Board.

4330. **THE CHAIRMAN:** Thank you, Professor Christensen.

4331. I understand Mr. Chipperfield is here.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. CHIPPERFIELD:**

4332. **MR. CHIPPERFIELD:** Thank you, Chair and Board. I would like to go on record as supporting the position of the following intervenors: Tim Howard, the City of Abbotsford, Mary Reeves, Abbotsford Soil Conservation Association, Dr. Chafe and numerous others.

4333. I would also like to go on record with the following position: I fail to see how the decision to consider the environmental effects of SE2 on Fraser Valley residents is anything about clear cut. Environmental risk assessment is based on good science -- based on good science is critical to the decision-making process concerning any development.

4334. To date, Canadian concerns about the effects of SE2 on our region have not been addressed adequately. These concerns are not limited to residents who simply do not wish to see a power plant in their back yard. These are the concerns of all levels of government as well as scientific and health professionals.

4335. The National Energy Board provides the only opportunity for Canadians who have the most to lose from the proposed SE2 plant to have these environmental risks assessed. How in fact can the National Energy Board, whose mandate is to promote environmental protection for the Canadian public interest, know if the public interest is served if all the facts are not brought to light?

4336. To not evaluate the environmental risk of SE2 suggests to the Canadian public that their interests are in fact not important to the NEB and that somehow it is quite acceptable to allow a partially evaluated project to be pushed through. If that should happen, the National Energy Board would be failing its commitment to the Canadian public. Thank you.

4337. **THE CHAIRMAN:** Thank you, Mr. Chipperfield.

4338. Are there any individual intervenors present whose surname begins are "A" to "G" before we proceed?

---(No Response/Pas de réponse)

4339. **THE CHAIRMAN:** If not, we will get back into the order of the alphabetical list and call on those intervenors whose name -- surname begins with H. Ms Hatch,

**SUBMISSIONS  
(Hardbattle)**

your name appears -- I'm sorry?

4340. **MS HARDBATTLE:** Hardbattle? W.O. Hardbattle.

4341. **THE CHAIRMAN:** Go ahead, Ms Hardbattle.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS HARDBATTLE:**

4342. **MR. HARDBATTLE:** Thank you, Mr. Chairman and members of the Board. I don't have any credentials to be here except I have lived in the Fraser Valley for 55 years. I don't know if -- I hope you will indulge me here.

4343. I hope that if you haven't already driven up the valley as far as Hope, I hope you get the opportunity to do so. Coming from Alberta, as you are based there, where you have a wide open sky, your airshed is miles and miles wide. I hope you get the chance to see how we live in a narrow valley area.

4344. And if a mega plant like this was to be proposed eight miles from the centre of Calgary, and the offsets were to be in Montana, that is how we feel; that is the situation that we are faced with. Thank you.

4345. **THE CHAIRMAN:** Thank you, Ms Hardbattle.

4346. **MS GRAY:** May I speak? My name is Mrs. Gray, Elizabeth Gray.

4347. **THE CHAIRMAN:** Yes, go ahead, Ms Gray.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS GRAY:**

4348. **MS GRAY:** Mr. Chairman, members of the Board, thank you for allowing me to speak and to express my concerns regarding the proposed SE2 plant.

4349. I'm a third generation of five generations who have lived and do live in this valley. For over 35 years, I was a registered nurse, and during that time, many crisis situations arose that I was part of.

4350. Without a doubt, one of the most serious and most dramatic events was a child or adult in an acute asthmatic attack. It demands immediate attention, as we have precious few moments before the brain is affected by decreased oxygen supply.

4351. Just imagine for one minute if you were in that situation. Even if you tried as hard as you could to pull some air into your lungs, you didn't succeed, you struggled, you panicked because you couldn't breathe, and that was because your lungs and your throat were

**SUBMISSIONS  
(Hatch)**

swollen from pollution and you still could not get sufficient air into your lungs. Just think of that for a moment.

4352.                   Asthmatic rates in the valley have increased dramatically. Our valley has the second worst air pollution in all of Canada, and now the proposed SE2 plant wishes to dump 2.5 tonne of pollutants into this valley a day.

4353.                   We who live here are trying our best to address the pollution problem. We have control over that, but we have no control over the proposed dumping of 2.5 tonnes a day into our airshed. Please conduct a full environmental assessment of this plant.

4354.                   And I would like to leave you with one small quote. It goes:

4355.                   *"In times of drastic crisis, human beings can arise to the occasion."*

4356.                   And to that I add: 450 intervenors have. Thank you.

4357.                   **THE CHAIRMAN:** Thank you, Ms Gray.

4358.                   Ms Hatch, I think you might be next.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS HATCH:**

4359.                   **MS HATCH:** Thank you. I did send a letter in dated September 21st. I don't have the numbers. I apologize.

4360.                   **THE CLERK:** It's C-165-7.

4361.                   **MS HATCH:** Thank you. I'm not going to read --

4362.                   **THE CHAIRMAN:** We don't have it in front of us, Ms Hatch, but we do have it in the record, so go ahead.

4363.                   **MS HATCH:** Okay. I usually start off any preamble with the fact that I'm an old nurse, literally and figuratively, not so currently registered; not quite back when the mountains were cooling, but close to it.

4364.                   So my main thrust is health. I didn't start off with nursing, I started off with anthropology, which is history and people and everything else, but I ended up with nursing. And that's the health of people, the health of the flora and fauna, the health of the earth, the health of everything else which, if those are all in sync, there will be a healthy economy, I firmly believe.

**SUBMISSIONS**  
**(Cox)**

4365. I have done an awful lot of reading; books, mainly, not too many articles. But I've spent the largest part of my life, nearly 27 years, in Kitimat, B.C., which was the sixth part of a similar multi-part interdependent business enterprise which is what I call SE2.

4366. Kitimat relied on an earth-filled dam that had to divert a river. It had to build tunnels into a mountain. The river dammed -- the river that was dammed formed a huge lake. The lake fell into the hole in the mountain that had the generators in the mountain.

4367. That was at Kemano, and then 50 miles of power line went over the mountains to Kitimat to the smelter that was owned and operated by The Aluminum Company of Canada. And the reason that Kitimat was chosen for the smelter was because it was at the head of a huge or a navigable deep-sea port. Then to accommodate the employees and everybody else, the community was built.

4368. SE2 is a similar multi-point interdependent business enterprise. It has to have access to gas, natural gas, it has to have access to water. It has to have access to a discharge of its effluents. It has to have a power line.

4369. So you cannot take one of those things out and have SE2 survive, if I understand the little bit of economics that I know.

4370. I don't see how you can discuss a power line without the plant. Now, we have, a few of us, been intervenors with the Westcoast Energy/Duke application who swear that the gas is not going to SE2. So I know that gas has to come.

4371. I want to say that health of everything is the most important, and believe it or not, I believe that the economy will survive if all other health is protected.

4372. I support the previous presentations of Mr. Howard, Mr. Yardley, Mr. John Smith, Ms Reeves, the Sto:Lo Nation and all the good ones that I am claiming -- I'm giving them the label "good". They'll know who they are.

4373. I can't think of anything else to add, but I hope that you will consider that the environmental effects be part of your decision.

4374. **THE CHAIRMAN:** Thank you, Ms Hatch.

4375. Mr. Cox...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. COX:**

4376. **MR. COX:** Thank you for allowing me to speak to your Board. I guess the question at hand is: Should the Board hear evidence concerning the environmental effects in

**SUBMISSIONS**  
**(Cox)**

Canada of SE2?

4377. I consider myself an average Canadian. I was born and raised in this immediate area. I have five grandchildren whose welfare is my prime concern for being here today.

4378. My family have chosen to live in the Lower Mainland of B.C. and make this their home for the past 100 years, and we intend on continuing to do so.

4379. I am deeply concerned over the environmental effects that I believe SE2 will have on my family. So who to turn to to express my case?

4380. Yes, I expressed my concerns to my MLAs, my MP, the mayor and all the local elected officials, all of whom stand before you today.

4381. I feel no satisfaction whatsoever in speaking with elected officials in the United States as it is clear to me that their agenda does not include the welfare of Canadians, let alone a good many of our American friends in the Whatcom County who also have to live within the SE2 airshed and who rejected heavy power lines crossing their county.

4382. Where do I turn but to yourselves to express my views? You are a Canadian-appointed Board, made up of Canadians. Your mandate must surely include to hear the people of Canada. Standing before you is such a Canadian.

4383. I feel a bit like a minority in a Third World country, not given the right to speak, let alone the opportunity to vote on the issue.

4384. In our democracy, you must give me my right to express my views on how my family will be affected by these power lines and by SE2.

4385. Once this hearing is over, your Board will move on to another case. Thank God there are people like yourselves who represent my government willing to listen to the views of Canadians.

4386. My family will be left standing directly under these power lines and in this airshed for many years to come. We need you to hear our voice on the environmental effects.

4387. Please don't gag us. Give us an opportunity to speak of our concerns over the environmental impact of these power lines in the SE2 plant.

4388. I ask you to do so not only as members of the National Energy Board but as fellow Canadians. Thank you.

**SUBMISSIONS**  
**(Henderson)**

4389.                   **THE CHAIRMAN:** Thank you, Mr. Cox.

4390.                   Are there any other intervenors whose surname begins with "H"? Please come forward.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. HENDERSON:**

4391.                   **MR. HENDERSON:** Mr. Chairman and Council, my name is Vern Henderson, and I am speaking for my wife, Robin, and myself. Unfortunately, she could not be here. Thank you for listening.

4392.                   We fully support Mr. Howard and Mr. Yardley and Patricia Ross in their arguments.

4393.                   I guess my concern is in the past few years there has been meetings all over the world on environment and how we're all trying to work together to correct it, and then for us to implement something at this end would undo the work that is being done.

4394.                   And we seem to have enough even natural disasters, with volcanos and accidental spills and whatever is going on, just to manage that and clean it up seems to keep us busy and unable to keep up with it.

4395.                   My other concern is the Fraser River starts in Alberta. I've been there. It is just a small stream, and it 700 miles away, or so. And true for years, it was abused even all through B.C. by farmers and mills and towns; mostly by people not realizing what they were doing.

4396.                   But for a long time now, there has been a program to clean it up and everybody is working -- working towards that, and it just doesn't seem right for them to be doing all that and then 50 miles from the end for us to dump pollutants at the James treatment which is over between Mission and Abbotsford.

4397.                   And it's a facility that was never built to handle this type of effluent from SE2. It wasn't designed and it wasn't expected. It was to take the sewage from the small town of Sumas, not from SE1, SE2.

4398.                   And also, I did stay for Saturday and yesterday and heard all the arguments and the precedents, especially across Canada, and I found it long but interesting. And I actually went home a bit depressed because I thought how do we ever -- how do we ever answer that?

4399.                   But it's -- all those two days of arguments are really erased just by one simple thing that we are in a unique airshed, and that's been agreed by all parties. So all of that



**SUBMISSIONS**  
**(Hann)**

-- all of those references and that just come down to that one simple thing.

4400.                   And I keep thinking if there was a row of mountains across the border here and the air from SE2 was going the other way, there would be almost a civil war in Washington State because it's so obvious like what's happening here.

4401.                   And I just -- I think I am just asking you to respect our wishes, respect the earth, and thank you again for listening to us.

4402.                   I just have one more thing. I'm not working right now and I could volunteer my time and help you make a decision. Thank you.

--- (Laughter/Rires)

4403.                   **THE CHAIRMAN:** Thank you, Mr. Henderson.

4404.                   Other speakers whose name begins with "H"?

--- **SUBMISSIONS BY/SOUMISSIONS PAR MR. HANN:**

4405.                   **MR. HANN:** My name is entered as Hann, Karl, H-A-N-N.

4406.                   **THE CHAIRMAN:** Go ahead, Mr. Hann.

4407.                   **MR. HANN:** I am a resident and a farmer in Abbotsford and, for the record, I would like to state that nobody has coerced me to appear in front of you, and coercion would have been probably something to keep me away from this place.

4408.                   I also want to say that I support all the motions that you have in front of you considering the environmental impacts of the project across the border, and I had about 60 pages which I could present in support of this, and that is now drastically reduced.

4409.                   But I think it is significant for the Board to take into consideration the way in which the proposals by the proponents of SE2 have been placed in front of you and in front of other authorities. It was a rather piecemeal approach, which I do not appreciate and a lot of other people do not.

4410.                   It is also something that for the last two years has seemed to me that it is becoming more a matter of ego than simply the desire to supply clean energy to the United States. And, on that note, I would say that no Canadian is opposed to the United States having clean energy or any energy at all, so we are not really hypocrites. And I state that because we have been accused of being hypocrites.

**SUBMISSIONS**  
**(Hann)**

4411. I would like you also to take into consideration a statement made by Mr. Chuck Martin. It was aired on a CBC interview -- I was driving down the freeway so I do not have it word for word, but it can be looked up -- in which he stated that: We want to be good neighbours and now it is your turn to be good neighbours; let us go ahead with the projects.

4412. For whatever reason, I do not get the logic of this. They have reduced emissions. This means in very plain farmer's language that instead of choking me with two hands, you're choking me with one and I should still quiet and not put up any resistance. And I do not think that that is very neighbourly at all.

4413. As a farmer, we also know that we are dealing a lot with ripple effects and with accumulation of residue that affects biology and environment in a way that we do not fully comprehend.

4414. And I am still a little bit nervous about the decisions that could be made by the NEB considering their duty to the Canadian public interest and as a watch dog for the Canadian public interest, I would like to state that if you consider plain numbers that are brought in front of you, mostly from the proponents of SE2 and related projects, it could appear that Canadian interest is served by considering a few million dollars scattered across the province or across the country.

4415. But I have not seen or heard any figures that deal with numbers that relate to the costs of possible damages resulting from the environmental effects.

4416. It could appear as a consideration of parts per million or a percentage that we are looking at here. It is a ripple effect, and as long as that one is not addressed, and as long as there is nothing in place, so that's those people which might be overworked in a very democratic way by a majority that benefits, that same majority is responsible to bear all the costs that result to the minority which, in this case, is the Fraser Valley and its residents.

4417. So I think the implications and the pressure on you to rule on this go beyond a very simplistic approach that has been brought forward by SE2.

4418. When I listened yesterday to the comments from Alberta, Mrs. Page picking paragraphs and numbers and also SE2 proponents, throwing numbers at you, I had this picture of a keg in front of me and it is taking the highest grade ingredients, throwing them in a bowl, making some sort of pop out of it, decorating it really nicely and fancy and trying to sell it to us as something that is palatable and that we can live with.

4419. I still consider it a pretty gooey mess, and I personally would disregard all those incentives that could be there and consider a portion of the public interest instead of the greater public interest. Thank you.

**SUBMISSIONS  
(Hasselback)**

4420.                   **THE CHAIRMAN:** Thank you, Mr. Hann.

4421.                   Further intervenors whose name begins with H...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. HASSELBACK:**

4422.                   **MR. HASSELBACK:** My name is Bruce Hasselback,  
H-A-S-S-E-L-B-A-C-K.

4423.                   I live in Abbotsford on Sumas Mountain. I would like to endorse the arguments made by the earlier speakers, especially Mr. Penner, Mr. Howard, Ms Reeves, Ms Ross, the City of Abbotsford, the Abbotsford Chamber of Commerce, the Abbotsford School District and the Sto:Lo Nation, all against the SE2 motion.

4424.                   You must hear evidence that concerns the environmental effects in Canada because your mandate is to take into account all the concerns that are raised.

4425.                   My wife and I wrote to the Board of our objection back on October 13th, 2000 , fully two years ago, and our views have not changed, but in fact, have become stronger in opposition to the whole project.

4426.                   Then we stated the Board should stop this travesty to our lives and our health. This is still very much our position. Mr. Martin of Sumas Energy 2 said during a radio show on the 16th of January this year, that people opposed to the plant and to the power lines were voicing their opposition from an emotional point rather than a scientific perspective. This is probably true.

4427.                   However, the emotions come from studying the large amount of scientific data that has been made public concerning this project. And what is wrong with getting emotional over an issue that affects our lives and the lives of our children?

4428.                   The National Energy Board issued an information bulletin in August of 1996, which clearly indicates that the Board has a responsibility to take into account all the concerns that are expressed by the public at the hearings.

4429.                   The National Energy Board is a governmental agency and as such, is to represent the wishes of Canadians.

4430.                   You have received thousands of signatures on petitions, hundreds of intervenors, and you have had, by your own admission, a larger response to this issue than any other in your history.

4431.                   This should present to you a message loud and clear that Canadians do not

**SUBMISSIONS  
(Hoekstra)**

want the power lines, nor the power plant fastened to the southern end of the lines.

4432.                   Your commitment should be and must be to protect the health and safety of Canadians by listening to and taking into account all of the environmental effects. It's as simple as that. Your commitment must be to support Canadians. Thank you.

4433.                   **THE CHAIRMAN:** Thank you, Mr. Hasselback.

4434.                   Ms Hoekstra...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS HOEKSTRA:**

4435.                   **MS HOEKSTRA:** First, I would like to adopt the arguments of Tim Howard, James Yardley, Dr. Alfred Chafe, Gwen Gregorig, Counsellor Ed Fast, Counsellor Patricia Ross, Mayor Ferguson, Barrie Alden, Christine Callaghan, Shelley Canning, James Degen -- and I'll quit there. I did miss some people who I heard had great presentations, but I was dashing in and out of our computer room yesterday and today, so I wouldn't know, so I can't adopt.

4436.                   But I'm going to be referring to the two EFSEC orders, and I have the exhibit number. I don't know if you need it, but I have it, so I would like to use it. It's C37-37, Tab 7, Exhibit A is EFSEC Order 754 and Exhibit B is EFSEC Order 768.

4437.                   First of all, the Applicant wants to assure the Board that the whole issue of the environmental effects of the power plant has already been looked at by EFSEC.

4438.                   I would wholeheartedly agree, if it were the first EFSEC decision, Order No. 754, that EFSEC -- or that SE2 refers to. As it is, SE2 refers to the second decision, Order No. 768. Reading both of these orders makes me wonder if they are in reference to the same project. Order 768 completely contradicts everything in Order 754.

4439.                   If you look at the issue of need, SE2's final environmental impact statement of 2001 stated that the issue of SE2 meeting local power needs is unclear.

4440.                   In the first EFSEC order on page 16, it states -- this is part of the reason why they turned it down for the issue of need:

4441.

*"...that having found that the Applicant has demonstrated only generalized energy benefit from the proposed plant, EFSEC did not find that SE2 would meet local energy needs."*

4442.                   In the second decision on page 29 EFSEC said:

**SUBMISSIONS**  
**(Hoekstra)**

4443.

*"In light of the Applicant's offer of long-term contracts and sales to purchasers that meet IRP criteria, the council finds that the proposed facility will provide a significant benefit to the western power grid and to the residents and businesses in this region, except that SE2 never did say that they would enter into long-term contracts and sales to purchasers in any particular region."*

4444. Neither EFSEC order mentions any Canadians or Canadian concerns with respect to SE2's contention that it would meet local energy needs. On the issue of air quality, EFSEC said in the first order, on page 30:

4445.

*"The counsel finds that over three tonnes per day of criteria and toxic pollutants would be emitted from S2GF into an airshed that is already suffering from impaired air quality. The air pollutants that would be added to an airshed of this nature is a significant reason why the council decided to recommend denial of the siting of this project in this location."*

4446. But lo and behold when SE2 is down to only two and a half tonnes per day of emissions, then EFSEC said on page 33 of Order 768 -- it convinces the council that there are no air quality issues that should prevent the project from being sited in Sumas. In the first order, EFSEC made frequent references to Canadian authorities and citizens indicating that they influence the decision.

4447. In the second order there is mention of only one Canadian authority's testimony and EFSEC finds it erroneous.

4448. On the subject of offsets, the first order, page 28, it says:

4449.

*"The council does recognize that significant effort was expended by the Applicant to locate potential sites for such offsets in the Lower Fraser Valley. However, the council finds that no such offsets were ultimately located by SE2 and presented to the council as mitigation for the impacts on air quality."*

4450. But in Order 768, page 36, it says:

4451.

*"As reconfigured without any diesel oil burning and with total offset of NO<sub>x</sub> and particulate matter, this facility will cause only very slight*

**SUBMISSIONS**  
**(Hoekstra)**

*impacts to air quality in the Lower Fraser Valley airshed."*

4452.                   What EFSEC doesn't say is that there are still no offsets to be located, and so none are identified in the second order, but that's good enough for EFSEC to say "yes" and where are other mentions of the other pollutants, including sulphur, which is stated to increase from 13 tonnes a year with a first application to 69 tonnes per year with the second application.

4453.                   EFSEC figures that if we ignore it, it won't exist. There were a number of references to Canadian sources influencing EFSEC in their first decision on offsets. Those same Canadian sources' testimonies were dismissed in the second decision.

4454.                   As far as water quantity goes, originally SE2 was to use 849 gallons per minute of water from our shared Canadian/U.S. aquifer, but with the revised application, they would use 802 gallons per minute.

4455.                   The second order on page 45 says:

4456.                   *"We conclude that the project's modifications address the substantive concerns outlined in the council's decision on the original project proposal."*

4457.                   The project modifications are a reduction from 849 gallons per minute down to 802. It's hardly a drop in the bucket when they are already using so much water. There were no references in either order on Canadian authorities or concerns on water quantity.

4458.                   On water quality, the council has original concerns that such a large draw of water could increase the concentrations of nitrates in the public water supply, as well as private wells.

4459.                   Order 754 says:

4460.                   *"The lack of complete study of the impacts and lack of meaningful mitigation supports a recommendation for denial."*

4461.                   And at the bottom of the page before, there's a No. 33. It says:

4462.                   *"While the council did pose questions on other potential contaminants in the aquifer, no data was supplied about contaminants other than nitrates. If the council were recommending siting this plant at this location, more data would be requested on that issue."*

**SUBMISSIONS**  
**(Hoekstra)**

4463. But in the second Order on page 47, it says: The council has reconsidered its statement in Order No. 754 regarding SE2's responsibility to provide mitigation for possible nitrates in private wells.

4464. And on the next page, it says: The council finds that there are no longer water quality concerns that militate against siting the plant in Sumas.

4465. This is a complete turnaround and there is a no request from the council concerning data on other contaminants. In both orders there is a big fat zero in regards to any mention of Canadian concerns.

4466. On the issue of flooding, the first Order, page 35, it says: The past flooding in this area has been severe. Local residents and county officials are understandably concerned about exacerbating expected flooding events. The council finds that it has been presented with insufficient evidence to decide the effect of site filling on potential flooding events and consequent effect on adjacent properties and other properties in the Sumas area.

4467. The second Order, the 768, page 55, it says: The unsteady state model can be used to identify and evaluate any reasonable mitigation that may be required to compensate for adverse effect. Except that modelling hasn't been done yet and there is no mention either of people's concerns at all in the second order.

4468. On the greenhouse gas emissions on the first Order, page 39: SE2's failure to present a plan that actually proposes to reduce its projected greenhouse gas emissions, including CO<sub>2</sub>, thus contributes to our decision to recommend against site certification in this case.

4469. However, SE2 has not done anything more now than to offer to pay for a small percentage of its greenhouse gas emissions to a fund, not to actually offset or reduce it, but that's good enough for EFSEC.

4470. As well, on page 37 of the first Order, it says: We find the testimony that suggests the principle of "economic dispatch" could result in S2GF displacing production from older, dirtier facilities on a transitory basis during non-peak field periods to be unconvincing.

4471. On page 58 of 768, it says: The council does recognize that adding new efficient CT plants such as S2GF will, over time, be part of the solution to reducing greenhouse gases, even though SE2 has never shown that it would ever replace any dirtier industry ever.

4472. As far as noise went, on Order 754, page 42: The applicant's failure to adequately assess and address the impacts of noise on neighbors and to offer meaningful mitigation measures contributes to our decision to recommend denial of the application.

**SUBMISSIONS**  
**(Hoekstra)**

4473. Everything is okay to EFSEC in Order 768, despite the fact that there still is no mention of meaningful mitigation or assessments of impacts.

4474. Order 754 mentions the City of Abbotsford and its Chamber of Commerce and residents close to the SE2 site. Order 768 doesn't mention any Canadians' concerns.

4475. As far as decommissioning and site restoration, the first order says, on page 44: The council determines that the site restoration plan offered here is insufficient to assure the cost of restoration will not fall on the taxpayers.

4476. Order 768 doesn't mention any plan, just a reference to one to be made in the future, and that is good enough for EFSEC.

4477. As far as the conclusion on page 45 of Order 754, it says: In light of the nature of the location in which the applicant seeks to site this facility, we must recommend denial of the application.

4478. Order 768, never mentions the location of the site, and this has been our biggest -- one of our biggest arguments all along.

4479. In Order 754, EFSEC decided to recommend denial of SE2 in the categories of air quality, water quantity, water quality, flooding, greenhouse gas emissions, noise and decommissioning plan site restoration.

4480. In Order 768, EFSEC decided to recommend approval of SE2 in all of those categories.

4481. The differences between the applications were, No. 1: the removal of the use of diesel fuel as a backup fuel supply during high draws on natural gas; and, No. 2: the reduction in water usage from 849 gallons per minute to 802 gallons per minute, and that is it.

4482. I would like to follow up on these with EFSEC Councillor Jerry Richmond's concurring opinion at the end of the Order 768.

4483. In the second paragraph, he says: However, concurrence with this decision is difficult because this is a polluting facility. The plant will burn natural gas and the discharge from this burning, no matter how treated, will be released into the atmosphere. Since SE2 has been unable to obtain offsets, the mitigation programs will revert to a monetary line. This does not reduce the discharge at the stack or compensate for it at a local level. The discharge adds to the pollution enveloping Sumas and the surrounding area.

4484. Another difficulty is the large amount of water and other services dedicated to this plant.



**SUBMISSIONS**  
**(Hoekstra)**

4485.                   The reason for local acceptance of this development is monetary. The City of Sumas has no need for the power produced. Its power needs are provided for under contract with the BonnevillePower Administration. Not only the tax bases but also the sale of municipal services will be a welcome increase in revenues to the city.

4486.                   The business community of Sumas will welcome the infusion of revenue from construction wages and expenditures. There are also a number of permanent jobs, 25 to 30, associated with the facility when it is operational. These are compelling arguments in the current economic recession presently being experienced by the City of Sumas.

4487.                   I agree that a project of this size will provide economic advantage for this community. However, my conviction, developed after becoming involved in this process, is that our fossil fuel resources are depleting and our dependency on them is growing greater. The development of energy self-sufficiency is a national imperative. The development of renewable energy resources is an important component in accomplishing the goal of energy self-sufficiency.

4488.                   I understand the state government has made a commitment to the development of renewable energy. This facility will be a large user of natural gas, a non-renewable energy resource. It appears, in spite of our goal of developing renewable resources, that we are sending a message that there is in fact no monetary feasibility in renewable energy.

4489.                   The resources devoted to the development of this natural gas fired electrical generated facility could better have been used for the development of renewable energy resources. I understand the development of energy policy is a function of the state legislature and the governor and not of EFSEC. I therefore reluctantly concur in the council's decision.

4490.                   I had to -- after I read that, I had to look up the word "concur" in the dictionary, because I thought I might have gotten it wrong. But it sounds to me like all Councillor Jerry Richmond is saying is that he had to agree.

4491.                   Fooled, betrayed, misled, duped, deceived, cheated, deluded, fleeced, hoodwinked swindled. The trouble is that I'm not quite sure which time. Obviously I am in agreement with EFSEC's first decision, but it's hard to tell which one truly reflects the council's view.

4492.                   I attended virtually every EFSEC hearing, but I would not ever waste my time going to another EFSEC hearing with the same faces sitting at that table. I submitted the letter from Governor Locke to Mr. Jim Luce, the chairman of the EFSEC council.

4493.                   And this letter is another example of selective reasoning. Either Governor

**SUBMISSIONS**  
**(Hoekstra)**

Locke never bothered to read any of the materials submitted by Canadians, or more likely he felt the same urge as EFSEC did to abandon any ethics he might have had. It's dated August 23, 2002

--

4494.                   **THE CHAIRMAN:** Ms. Hoekstra, I'm sorry to interrupt, but we are really not here to appeal the EFSEC ruling. We have all of the materials that you have referred to and I would urge you not to continue reading extensive excerpts into the report.

4495.                   **MS HOEKSTRA:** I wanted to talk about it just in that the Applicant wants to tell us that EFSEC has already heard all the arguments, and I wanted to show that even in Governor Locke's -- I won't read it, then -- even in Governor Locke's letter to the EFSEC Chair, he is backing up exactly what SE2 wanted to say, but he is not saying anything of what was presented to EFSEC during on any of the hearings by Canadian authorities and Canadian people.

4496.                   I don't think we had our say at all when EFSEC had the hearings. I was never able to participate in the EFSEC hearings as an intervenor, given the fact that individuals were cautioned that they should retain the services of a lawyer and the fact that some of those hearings took place in Olympia, which is about a four-hour drive from here.

4497.                   Those individuals who had the courage to act as intervenors had severe restrictions placed on what they could talk about to the point of being muzzled.

4498.                   I listened yesterday morning ad nauseam to Mr. Godsoe go on about the power line and power plant being separate. If I am not mistaken, if the plant were to be located in Canada or if the power line were to be completely contained in the States, this would be considered a single project.

4499.                   In fact, all of the materials that I have seen on this proposal has SE2 describing the project as one consisting of power plant and power line. Now they would have us separate it.

4500.                   The project is a physical work located on both sides of the border attached across the border, and both components of the same project must exist in order for this project to function at all. The effects of this project are very serious to Canadians.

4501.                   The EFSEC hearings did not in any way, shape or form include Canadian concerns. I am seriously peeved at having an American entity tell me that what happened with EFSEC is all I can hope for, and for this same American entity to tell our National Energy Board what it should and shouldn't listen to. And then they go on and on expounding the delights of the very same power plant that they don't want us to talk about.

4502.                   Mr. Godsoe said that SE2 meets Canadian air quality standards and that if

**SUBMISSIONS**  
**(Hoekstra)**

the standards are not enough to protect human health, then it is up to other agencies to amend those standards, not the NEB.

4503. Mr. Godsoe neglected to tell this Board about a major flaw in the calculations of the effects SE2 would have on this airshed. SE2 emissions were added to our entire airshed -- a massive area -- and this had the desired effect of diluting the numbers.

4504. When SE2's emissions are added to that part of our airshed where the emissions would regularly be, the numbers clearly show that SE2 does not meet any Canadian air quality standards, even the lax ones we have now.

4505. Mr. Godsoe said that the Affidavits from the six proponents of SE2 show that there are no concerns about SE2's wastewater, air emissions, noise impacts, water supply and quality impacts and flooding effects.

4506. Now that SE2 has had their opportunity to argue the effects of the plant, we should also be given the same opportunity.

4507. The letter from Mr. Godsoe to the NEB dated July 9, 2002 replying to the NEB letter of June 21, 2002 requesting comments from SE2 and interested parties on allowing new evidence, SE2 submits the changes that have taken place application-wise with respect to the power plant.

4508. Again, if the power plant has nothing to do with this hearing, then why does SE2 insist on talking about the so-called "merits" of the plant.

4509. Mr. Godsoe referred to the GSX CCC motion decision by the NEB dated September 5, 2002. The very reasons that he feels this decision shows that the NEB can't or shouldn't look at the power plant, I feel, show that the NEB should look at the power plant.

4510. On page 9, third paragraph, it says: The Joint Review Panel did conclude that the end use of the gas at a future electrical generating facility was relevant to its consideration of the pipeline proposed to carry that gas. However, the location and circumstances of that facility were known or could be determined. This allowed the Joint Review Panel to conclude that the facility was directly linked to the pipeline and its proponent.

4511. To meet this decision seems to say that, in the case of the GSX CCC motion, the end use of the pipeline was not specific or clearly defined. To me, this decision seems to say that, in cases where there is a direct link between components of a project, that the Board is able to see relevancy in a situation where one part of a project is clearly connected to another.

4512. If the Board rules that we will not get to talk about the plant's effects, then

**SUBMISSIONS  
(Horsfield)**

it would only have been fair for us to argue the plant during this environmental effects motion as the Applicant has done. We could have all dragged our boxes, filing cabinets, trunks and suitcases full of what we've gathered over the last two and a half to three years to dispute the effluent we've heard about the power plant already from the Applicant.

4513.                   The National Energy Board is a Canadian board situated in Canada, sat on by Canadians, paid for by Canadian taxpayers, governed by Canadian lawmakers. And its job is to address Canadian concerns in regards to energy projects.

4514.                   I believe that the Board's first responsibility is to Canadians, the health, safety and economic needs of Canadians. Please honour that. Thank you.

4515.                   **THE CHAIRMAN:** Thank you, Ms Hoekstra.

4516.                   Ms Horsfield...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS HORSFIELD:**

4517.                   **MS HORSFIELD:** Thank you to the Chair and Board members and this opportunity for me to speak to you today.

4518.                   I wish to support the submissions of Tim Howard, Barry Penner, John Smith, the Sto:Lo Nation, Dr. Chafe, Gwen Gregorig and Councillor Ross.

4519.                   When I was preparing my material for today, I looked up the word "environment" in a dictionary. The definition reads:

4520.

*"All of the surrounding conditions and influences that affect the development of living things."*

4521.                   The effect of this proposed plant, half a mile from the Canadian border, will be devastating on all living things in the Fraser Valley, on plants, wildlife, fish, agriculture and the adverse effects on human health. There is nothing positive about this project for Canadians.

4522.                   The EFSEC hearings in the U.S. are of great concern to me. The contradiction between the two outcomes of these hearings, both unanimous, both the direct opposite of the other; the first to disapprove, the second to approve.

4523.                   I suggest the contradictions should alert the NEB to exercise extreme caution in placing too much weight on the EFSEC outcome.

4524.                   I have heard SE2 repeatedly say that the NEB has no jurisdiction over the

**SUBMISSIONS  
(Horsefield for Santschi)**

plant being outside Canada. If SE2 wants to build the plant with no transmission lines to it, I guess that would be true.

4525. As they appear to need transmission lines to produce and, as it is one entity, I think they will have to listen to us Canadians and abide by Canadian rulings.

4526. Why did SE2 put forward this motion? Should the Board hear evidence concerning the environmental effects in Canada of Sumas's proposed power plant in the U.S.?

4527. Why are SE2 so nervous on this issue? There is only one reason. SE2 knows that the plant is going to pollute our valley; pollution equivalent to 320,000 cars idling on the valley roads each and every day. Not a nice way to treat your neighbour.

4528. You, the NEB, are our only Canadian regulating body. This process actually is difficult for me to understand. We are having to prove to you that the environmental effects from this proposed plant spell disaster to us in the Fraser Valley. Our health will be in jeopardy, not only today, not only tomorrow, but for decades.

4529. The NEB's purpose is to protect Canadians, and we are asking you to do just that. I respectfully ask you to be true to your mandate and allow the environmental effects of the plant and the supporting testimony to be heard. Canadians expect nothing less of you. Thank you.

4530. **THE CHAIRMAN:** Thank you, Ms Horsfield. Is there anyone else who --

4531. **MS HORSFIELD:** There is just one other thing, Honourable Chair. I was wondering if I could just read my daughter', Jackie Santschi's. It is very short.

4532. **THE CHAIRMAN:** Go ahead.

4533. **MS HORSFIELD:** Thank you.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS HORSFIELD:  
(On behalf of Ms Santschi)**

4534. **MS HORSFIELD:** I support the submissions of Tim Howard and Patricia Ross. I believe that environmental effects of this proposed plant must be considered by the Board. I read recently in the *Abbotsford News* that this area that many of us call home has the highest asthma rates.

4535. We already know that our air quality is poor, therefore, to increase the pollution and further aggravate people's health would be irresponsible. As a nurse, I visit many

**SUBMISSIONS**  
**(Looper)**

people with respiratory problems and speak for them.

4536.                   A simple example comes to mind: Let's say my neighbour is SE2 and he decides to burn his garbage. I would receive the irritants from that fire. I would insist that he stop burning his garbage, just as Canadians insist that SE2 not pollute our air.

4537.                   I feel it would be irresponsible to not consider the environmental effects.  
Thank you.

4538.                   **THE CHAIRMAN:** Thank you, Ms Horsfield.

4539.                   Anyone else whose surname begins with "H"? I am going to call "I" and "J" together. Anyone whose surname begins with "I" or "J"? "K"? "L"?

4540.                   Mr. Looper...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. LOOPER:**

4541.                   **MR. LOOPER:** Mr. Chairman and Panel members, I'm Ywe Looper, and I am a 12-year resident of Chilliwack, a former base commander of Canadian Forces Base, Chilliwack and a former chairman of the Chilliwack School Board.

4542.                   I request that you examine the environmental effects in Canada of the SE2 power plant as part of your consideration of the power line application.

4543.                   To justify my request, I must tell you a bit about myself and my neighbourhood.

4544.                   On my retirement from the Canadian Forces in 1994, my wife and I decided to remain in Chilliwack because of its remarkable natural setting and its agricultural history and surrounding.

4545.                   We bought a lovely farm with a magnificent view on Pelly Road. My life seemed almost ideal until two years ago, and after a series of tests and procedures, a lung specialist informed me that I have pulmonary fibrosis, which is a deadly disease, which slowly covers the lungs with tiny scars. And the mortality rate is 70 percent in five years.

4546.                   The cause is uncertain. In my case, the lung specialists believe that I am hypersensitive to some airborne substance. Two months later, my lungs went into an unexpected crisis, and apparently I nearly died.

4547.                   The expertise of the doctors on the lung floor of the Vancouver hospital saved my life. However, I remain on heavy medication and must use oxygen to carry out all

**SUBMISSIONS**  
**(Looper)**

basic functions.

4548.                   About the same time, SE2 became a public issue. It took me no more than a day of research to conclude that the proposed construction of this power plant would be a disaster for people such as I who live in the Fraser Valley, and especially in Chilliwack, and who have breathing problems.

4549.                   Mr. Chairman and Panel members, I can assure you that the number of people in Chilliwack with serious or minor lung problems is in the thousands and includes both young and old.

4550.                   And here are three examples of anecdotal evidence: My wife's kindergarten class at Evans Elementary School has 20 students -- had 20 students. Two little boys carried puffers because of their serious asthma problems. That is 10 percent of that class.

4551.                   The senior citizen who volunteers almost daily in her class carries a puffer wherever she goes and uses it throughout the day.

4552.                   Now, as an aside, my wife retired from teaching this summer because we have to move to an area with less air pollution.

4553.                   Now, while I was on the lung ward in Vancouver General Hospital, which held about 45 of the most serious lung patients from the entire province of B.C., four were from Chilliwack. Now, this is 9 percent from Chilliwack whose population of 65,000 is less than 1-1/2 percent of B.C.

4554.                   Now, the third example I was going to quote: Of the three neighbours closest to me on Pelly Road, one lady has several puffers which she uses daily to relieve her breathing difficulties, and a younger man has a lung problem almost as bad as mine. Including myself, that is three out of ten people.

4555.                   These three situations may not be an accurate gauge, but they illustrate that lung problems plague our community, as does Abbotsford and Mission.

4556.                   I, and my fellow lung disease victims, do not want this plant built because the single plant is estimated to increase pollution in the atmosphere by an average of 1 to 1-1/2 percent.

4557.                   This may not sound like much, but this is over the entire area which may be affected by the pollutants from the plant -- from this particular plant, and that area is estimated from Chilliwack to the Georgia Straits and from Squamish to the Canada/U.S. border, and perhaps larger.

**SUBMISSIONS**  
**(Mobley/Mikulan)**

4558. Now, if this is the average increase over that area, I can guarantee you that for the district of Chilliwack, the increase will be much higher because of the prevailing winds and the orientation of local mountains. Chilliwack is at the narrow end of a funnel formed by these two mountains -- these two mountain ranges; the Coastal Range, north of the Fraser River, and the Cascade Range, which is at an angle and goes to the southeast.

4559. The prevailing winds will blow the airborne contaminants from that particular plant north across the border and into the Fraser Valley, and then east towards Chilliwack, where I and many other lung victims live.

4560. I am convinced that the airborne pollutants from the SE2 plant will significantly increase the suffering of lung patients in the Chilliwack area and, indeed, those in Abbotsford and Mission. In fact, it will shorten our lives.

4561. Mr. Chairman and Panel members, you are the only Canadian tribunal to which I can turn for help in protecting my health and that of many other Canadians who live in the Fraser Valley and who suffer from lung problems.

4562. The SE2 plant and associated power line are one integral project. You must, therefore, consider the plants airborne pollutants, most of which end up in Canada, as part of your consideration of the power line application.

4563. You know, two years ago, I made a presentation a bit like this to the EFSEC board. I didn't need oxygen. I was able to stand up here and gave a good presentation, you know, as I always have.

4564. Today, I need this wretched cannister of oxygen, and I hope it's the last time I have to make a presentation, because two years from now, I might not be able to make it.

4565. Thank you for allowing me to speak.

4566. **THE CHAIRMAN:** Thank you, Mr. Looper.

4567. Anyone else's name who begins with "L"?

--- (No Response/Pas de réponse)

4568. **THE CHAIRMAN:** Intervenors whose last name begins with "M"?

4569. Come forward, please.

--- **SUBMISSIONS BY/SOUMISSIONS PAR MS MOBLEY:**



**SUBMISSIONS**  
**(Mobley/Mikulan)**

4570.                   **MS MOBLEY:** Mr. Harrison and ladies of the Panel, I am Audrey Mobley, Canadian veteran, a string keeper and a Central Valley Naturalist, and I have been privileged to sit on a panel for the Sto:Lo Nations treaty negotiations.

4571.                   And I would like to second the motion of 90 percent of the people that have spoken previously and today about having the atmosphere environmental effects being heard, because we were not heard in Nooksack.

4572.                   Yes, first we were with the first board, but the second board definitely did not address our concerns, and I feel that you are the only resource we have left.

4573.                   And as proud Canadians, I think we should stand up for our own, and I would like to speak later on, if you do permit the environmental things, because there are some things that need to be said here. Thank you very much.

4574.                   **THE CHAIRMAN:** Thank you, Ms Mobley.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS MIKULAN:**

4575.                   **MS MIKULAN:** Yes, I'm Andrea Mikulan.

4576.                   Firstly, I would like to thank the members of the Board for this opportunity to address the Environmental Effects Motion.

4577.                   I would like to formally adopt the arguments of Tim Howard, James Yardley, John Smith, Patricia Ross, Mayor Ferguson, Jim Degen, Laurie Hoekstra, the Sto:Lo Nation, and the many others who have opposed this motion so eloquently.

4578.                   Sumas Energy 2 contends that this Board does not have the authority or the jurisdiction to consider the effects on pollution on Canada from a plant situated outside of our borders, but only has the jurisdiction to talk about the effects of the international power line itself.

4579.                   From a layperson's point of view, I must disagree. The National Energy Board Act, Section 12, subsection 2 explicitly states:

4580.                                   *"For the purposes of this act, the Board has full jurisdiction to hear and determine all matters, whether of law or of fact."*

4581.                   Section 58.16(2):

4582.

**SUBMISSIONS**  
**(Mobley/Mikulan)**

*"In deciding whether to issue a certificate, the Board shall have regard to all considerations that appear to it to be relevant."*

4583. Such explicit language would seem to contradict the SE2 argument that no such environmental review is possible under the *National Energy Board Act*.

4584. In fact, such a review has precedent in previous cases such as the Trans Mountain Pipeline hearing as has been ably discussed by others.

4585. Sumas Energy 2 also contends that the Washington State EFSEC adequately dealt with the effects of pollution from the plant on Canada, and that for this Board to do so, as well, would be redundant and unnecessary.

4586. But the EFSEC review turned out to be a victim of the most egregious form of political interference. Much of the scientific evidence presented by SE2 was skewed by flawed modelling. Much of the evidence produced by SE2 opponents was just ignored by EFSEC. Much of the rationale for the plant itself was skewed by empty promises such as the purchase of offsets, impossible to buy because no single point offsets could be found in the valley.

4587. These are promises contrived to convince us that the plant will, in the end, actually be good for our environment and, yes, you heard me that -- correctly. I believe Mr. Martin has actually uttered those words.

4588. No, our community deserves better than what we have been given so far. The health effects of this plant will be devastating in an already stressed airshed.

4589. Even if the plant met the highest environmental standards, this airshed is the wrong location. Our unique topography in our valley traps pollutants. If you were to take a car with the lowest emissions and run it in this hearing room, we would all soon be running for the door gasping, and the same principle applies in this valley.

4590. We need an environmental review that would take into account our own Canadian standards for air pollution free of the bias of economic benefit, as was the case with EFSEC. Certainly there is no economic benefit to our community, and indeed this plant could prove to be hugely detrimental to our agricultural-based economy.

4591. We, the citizens of our beloved Fraser Valley, require and expect our own forum where our concerns about the environmental effects of SE2 can be heard.

4592. I respectfully submit to you that the forum is here. The time is now. We have no other venue to make our voices heard. I believe that under the provisions at the heart of the NEB Act, you have the discretion. And may I respectfully submit to you, you have the

**SUBMISSIONS**  
**(McCormick)**

fiduciary responsibility to review the environmental effects of this plant on our community.

4593.                   We, in the Fraser Valley, indeed the whole of Canada, are placing our trust in you. Please do not fail us. Thank you.

4594.                   **THE CHAIRMAN:** Thank you, Ms Mikulan.

4595.                   Continuing with intervenors whose name begins with M...?

4596.                   **MR. McCORMICK:** Rod McCormick. I'm on the second list.

4597.                   **THE CHAIRMAN:** Go ahead, Mr. McCormick.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. McCORMICK:**

4598.                   **MR. McCORMICK:** Like the others, I'm very grateful for the opportunity to express my democratic rights and I do hope that boring as all this may be, that you are attentive to each of us and you will give us your sincere attention.

4599.                   I come here unprepared and I do not like doing so. I rushed home just about an hour and-a-half ago and I said: I got to get over to the Panel to see what's going on and to make sure I have an opportunity to make some kind of a presentation.

4600.                   The reason I have been rushed is that I'm in the final stages of a transaction whereby I'm selling my -- I have sold my previous home and I'm just going through the stages of purchasing a new one, so I was seeing lawyers and that type of thing up until -- I haven't had my lunch yet.

4601.                   We moved here five years ago, and that wasn't our intention to be moving again. This was to be home for the rest of our lives. One of the things my wife said when I got home -- and this is exactly -- spells it exactly -- my wife told me this just an hour and a half ago when I got home: So and so was here. She wanted to know how much we sold our house for because she is in the stage of selling hers. And my wife said: Well, that's sort of private, I don't want to tell you that. She said: My, you know, I wouldn't have known you; you've aged ten years since I saw you last.

4602.                   She happens to be an American, of which I have a -- as much as I admire Americans and like them very much, I also find much of them to be unlikable, especially to what they're doing to us today.

4603.                   My wife has been kept alive the last five years basically on prednisone. She was she was up to 23 tablets of prednisone a day. She now spends much of her time in a wheelchair and we just have to leave. I'm 75. My wife is 70. And we don't want to do this. It's

**SUBMISSIONS**  
**(McCormick)**

essential if she's just -- to live.

4604. Pardon me, as I say, I did come unprepared but I will try to make these points.

4605. In my own life, I was diagnosed three years ago with asthma. I'm a very active person. Since moving here, I have hiked the Westcoast Trail and I have hiked the Klondike Trail with my two sons.

4606. My son has planned another trip next spring to re-hike the Klondike Trail. We love that. And I have told him he had better wait awhile because I don't know whether I would be up to it or not, because even though that is a big part of my life, I'm not up to it anymore. It's not because I'm 75. It's -- I just don't have the capacity anymore, due to my lungs. I just can't do it.

4607. We refer quite often to people who don't know their left hand from their right hand, or whether they are coming and going and that sort of thing, and I think -- I have a couple of politicians I'm quite convinced they don't know their left hand from their right hand, and I think in a way the SE2 has this same attitude that they are in a bubble.

4608. The power lines are another world apart from their little world. All we do is create electricity. Don't talk to us about the power lines. Don't talk to us about the gas lines, and don't talk about where we are selling the power. That's nobody's concern. We produce power and that's our business.

4609. They're in this little bubble and they don't want the rest of this world to be a part of that bubble or -- that just isn't true. We are not living on islands. We are our brother's keeper. We are very much intertwined in our lives. I don't think anybody will dispute that, and I think it is very much wrong that we should even entertain the idea that there is not a relationship between the power line and the pollution that's going to be emitted by the SE2 plant. They are totally one in the same.

4610. If we are going to have a power line -- or we will not have the SE2 power plant without the power line. Whether it's here or the United States, they have got to have the power line to exist or they're not going to build the darn place.

4611. We have got to consider them as a -- as a one unit, and I just hope that in your deliberations, this panel will consider this fact that there's nothing can be considered in isolation.

4612. The power line and the Sumas 2 power plant are one, and I do hope that I will be able to come back again and tell you exactly why this power plant should not be allowed to be built in this valley.

**SUBMISSIONS  
(Moore-Edwards)**

4613. I do hope that you will make those deliberations and sincerely take what we are saying to heart. Thank you very much.

4614. **THE CHAIRMAN:** Thank you, Mr. McCormick.

4615. Continuing with M...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS MOORE-EDWARDS:**

4616. **MS MOORE-EDWARDS:** Mr. Chairman and Panel members, my name is Sharon Moore-Edwards, and I live in the Chilliwack River Valley. I'm on the second part of the list.

4617. The representative of the Alberta Department of Energy has stated that Canadians have received a fair hearing from EFSEC and the Americans had not put their own self-interest above ours. I strongly disagree with her remarks.

4618. Prior to September 11th, 2001, EFSEC denied SE2's application. Subsequently SE2 refiled - the only significant change is the discontinuance of the diesel power. This does not greatly affect the total amount of pollutants to be released. EFSEC then reverses itself and allows the project to go ahead.

4619. I submit that this is a strong indication of self-interest on the part of the U.S.A. to develop alternative power within their own borders and to reduce their dependency on middle eastern oil.

4620. In light of their war on terrorism, I understand their need to look for alternatives. SE2 is definitely the wrong plant in the wrong place. If the same plant were to be built here in Canada, I would expect to hear all the environmental effects to be discussed.

4621. So, therefore, I don't see how it would be prejudicial to SE2 in requiring them to discuss these here. I believe the only way to make an informed decision is by having all the facts. If only the effects on the environment from the electrical transmission lines are allowed, then all the information will not be before you, and your decision could not be an informed decision.

4622. I would also like to adopt the comments of Mr. Penner, Mr. Howard, Mr. Yardley and those that followed them. Thank you.

4623. **THE CHAIRMAN:** Thank you, Ms Moore-Edwards.

4624. Anyone else beginning with M...?

**SUBMISSIONS  
(Merrett)**

4625. Good afternoon. Marilyn Merrett. I should be on the first one.

4626. **THE CHAIRMAN:** Go ahead, Ms Merrett.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS MERRETT:**

4627. **MS MERRETT:** Thank you. I want to adopt and concur with the arguments presented by the previous speakers. I'm a resident of the Fraser Valley for approximately 20 years. I'm not an expert in medical things or anything else, although I have had to do a lot of it.

4628. Have learned a lot about power lines and the potential problems that they can cause as far as illness goes and have learned a lot about pollution, airborne and ingested, and what it can do to people.

4629. I believe as a fact that this plant would cause more pollution. It goes without saying. I believe that if we have it here, an already poor airshed is going to get worse, and instead of making it worse, we do need to get it better.

4630. I have dealt with a very serious child who had brain tumours. The thought was perhaps because of living near high power lines. My mother who is on your list as an intervenor when this first came about two years ago has since died of lung cancer, and I've nursed her through that.

4631. I don't believe we need to negate the impacts that this will have. I think we need to address them seriously with the well-being of all of the people of this Fraser Valley through to Hope taken into consideration. Thank you.

4632. **THE CHAIRMAN:** Thank you, Ms Merrett. Any other intervenors whose name begins with "M"?

4633. Are you sure you are not getting a fee for each of these, Mr. Pincott?

--- (Laughter/Rires)

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. PINCOTT  
(on behalf of Mr. McCullough)**

4634. **MR. PINCOTT:** Pincott again speaking for Richard McCullough who would like to go on the record as adopting the presentations mentioned. Should I list them?

4635. For the record, it's Tim Howard, Barry Penner, Randy Hawes, Patricia Ross, John Smith, Mary Reeves and all the others that spoke, not only because they advocate

**SUBMISSIONS  
(Whittle)**

that you deny the motion and proceed with considering environmental effects, but that they eloquently, to my opinion, answered the proponent as well in his arguments.

4636.                   **THE CHAIRMAN:** Thank you, Mr. Pincott.

4637.                   Any other intervenors whose name begins with "M"?

4638.                   Before I move down in the alphabet, we are planning to adjourn at 4:30. I understand there may be a couple of intervenors here who cannot come back this evening whose names we haven't arrived at alphabetically yet. If that's the case, we could accommodate them. Is Ms Santschi here?

4639.                   **MS. HORSFIELD:** No, I --

4640.                   **THE CHAIRMAN:** I'm sorry, Mrs. Horsfield -- I beg your pardon, yes.

4641.                   Ms Jean Whittle?

4642.                   **MS WHITTLE:** Yes.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS WHITTLE:**

4643.                   **MS WHITTLE:** Good afternoon. I will be very, very brief. I would just like to support the past presentations and ask you would conduct a full investigation into the environment problems of the Fraser Valley.

4644.                   I am asthmatic. I have these and if I didn't use these every day of my life, I wouldn't be able to breathe. Thank you.

4645.                   **THE CHAIRMAN:** Thank you, Ms Whittle.

4646.                   Mr. Vissers?

---(No Response/Pas de réponse)

4647.                   **THE CHAIRMAN:** Are there any other intervenors here who are not able to be here this evening?

4648.                   Come forward, sir.

4649.                   **MR. ROSS:** Mr. Chairman, Board members -- I have lived and worked --

4650.                   **THE CHAIRMAN:** Could you identify yourself for the record, please?

**SUBMISSIONS**  
**(Ross)**

4651.                   **MR. ROSS:** Sorry. Don Ross. I'll be on your second list of intervenors.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. ROSS:**

4652.                   **MR. ROSS:** I have lived and worked in Los Angeles. I know what living in air pollution is all about. I now live and work in this community. Unfortunately, these two communities are very similar in their geography. The problem: Westerly onshore winds blowing an accumulation of air pollution up against a wall of mountains. In Los Angeles, it's the smog of the Los Angeles basin pushed up against the San Bernardino Mountains.

4653.                   Here in Abbotsford in the Upper Fraser Valley, it's the accumulated air pollution of Vancouver and northwestern Washington pushed and trapped against the wall of the Coast Range Mountains and the Cascade Mountains. The results in both communities is the same, unacceptable air pollution.

4654.                   I am a family physician. I work in this building. I have been running back and forth all day trying to service my patients and keep track of these hearings. I have practised medicine in this community for 22 years. Over this time, I have seen a progressive deterioration of the air quality, and with that, a parallel increase in respiratory illness in my patients; that is, asthma, chronic bronchitis, chronic sinusitis, chronic irritated nose and eyes.

4655.                   My good friend Dr. Chafe -- and he is my good friend. It seems like lawyers refer to their enemies "as my good friend Mr. so and so", but he truly is my good friend -- has presented you with all the scientific data and studies to support the fact that increasing air pollution caused a decrease in respiratory health.

4656.                   I will not repeat these studies, but I will say that too many people in this community depend on inhaled medications every day of their lives to live their lives, and this is unacceptable.

4657.                   The bottom line is we need less, much less, not more, air pollution in this confined airshed.

4658.                   If I were to propose building a massive gas-fired power generating plant in downtown Los Angeles, I think people would shake their heads in disbelief of this concept. If I were then to state that all the power produced by this plant was being shipped to Canada for sole use of Canadians, I believe there would be a roar of protest.

4659.                   And then finally, if I were to suggest that the wheezing, tearing residents of Los Angeles were barred from commenting on the environmental effect of this plant which would spew 2 million tonnes of toxic pollutants into the air daily, I think I would be on the next stagecoach out of town.



**SUBMISSIONS**  
**(Stuber)**

4660. This scenario is what we face today. The IPL will allow this plant, for all practical purposes, to be built in the middle of our town. The energy will all be exported to the United States. B.C. is not an importer of electrical energy.

4661. And similar to the final point of my scenario, SE2 is trying to deny me the right to speak against the effects of this plant on my health. Of course, I feel SE2 should be on the next stagecoach out of town, but I don't have that power.

4662. All I can do is stress that we must be able to speak to the environmental effects of this plant, our health, and in many cases people's lives will depend on it. Thank you.

4663. **THE CHAIRMAN:** Thank you, Dr. Ross.

4664. Is there anyone else who cannot be here this evening?

4665. Yes, ma'am, come forward, please.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS STUBER:**

4666. **MS STUBER:** Mr. Chairman and Board members -- oh, my name is Diane Stuber. I would like to adopt the testimony of all those who have spoken before me. I feel there is no separating the power line from the plant, and therefore the needs for the environmental effects must be heard. Thank you very much.

4667. **THE CHAIRMAN:** Thank you, Ms Stuber.

4668. Anyone else who cannot be here this evening?

---(No Response/Pas de réponse)

4669. **THE CHAIRMAN:** We have just a few minutes. I will take -- go with "N" and "O" together, anyone whose surname begins with "N" or "O".

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. NOBLE:**

4670. **MR. NOBLE:** Thank you to the Chair. Name is Noble, Jim for Jim and Elly.

4671. Thank you very much for the opportunity to participate in this democratic function. Over the last 50 years I have had the pleasure of being in some federal, provincial and municipal areas such as yours, and I have had the pleasure of being in the chair. I know the hot seat.

**SUBMISSIONS**  
**(Noble)**

4672. But we support all of the intervenors who have so eloquently negated the building of the SE2 plant in Sumas, Washington.

4673. I have had firsthand experience in electrical energy in international and commercial source. I worked on the St. Lawrence Seaway project. It, too, was in an earthquake area, and people may not realize, but we -- and our engineering work and things in advance that we drilled holes under the base where the dam was to go and poured in concrete for three years to support it so if there was a problem and a fault, that people would be safe from flooding. And every square inch of the thousands of metres of soil were screened so that if there was an earthquake, that there wouldn't be any flooding. There has to be a long, long range approach to all of these things.

4674. I understand from these that the legal systems -- and they're promulgated to assist the SE2 lawyers. They must favour their clients, even though logically and morally they may know it's wrong, but they have a job to do. And there are 180,000 words in the English language to their advantage.

4675. But, you know, had it not been for the wonderful people in Abbotsford for giving permission for sewage for the City of Sumas, we wouldn't be here. Now we are being used for our kindness by other neighbors.

4676. Canadian boards such as yourselves, whether elected or appointed, are in the public trust and have a mandate to fairly and honestly in the long-range good of all, to evaluate all sides. And you must present to the greatest good of all our Canadians and our neighbors. We the public may not always understand these rulings, we may not agree with them, but we realize that you are in a position and have a mandate that -- that you have a valid proof that the intent of such findings is established on the entire continuing good of all persons concerned.

4677. Now, the chicken cannot be separated from the egg any more than SE2 can be separated from the power line. The health of all persons on both sides of the border should not be jeopardized for the potential location of a natural gas generating plant with potential, proven potential, for increasing human and animal health problems and regressive agriculture productivity.

4678. If it is necessary to have a source of this type, it should be located in a much less vulnerable area not to affect human, animal and agricultural factors.

4679. We trust in your good judgment, conscience and moral responsibility in this matter and that you will come up with a judgment in the best long-range interest of the public health, our public and well-being. Thank you for the opportunity.

4680. **THE CHAIRMAN:** Thank you, Mr. Noble.

**PRELIMINARY MATTERS**  
**(Yardley/Lusk)**

4681. Any other intervenors in "N" or "O"?

4682. We are going to adjourn at this point and resume at 6:00.

--- Upon recessing at 4:25 p.m./L'audience est suspendue à 16h25.

--- Upon resuming at 6:00/L'audience est reprise à 18h00.

4683. **THE CHAIRMAN:** Mr. Yardley...?

4684. **MR. YARDLEY:** Mr. Chairman, I would like to take this opportunity to correct a couple of errors from my submission that I see in the transcript. This is just mislabelling who I was directing my wrath at last night.

4685. For the record, this is in Volume 7 of the transcript, at paragraph 3386, the first word there is a reference to "EFSEC" and that should state "SE2".

4686. Likewise down the page, paragraph 3393, in the second line, there is a reference to "EFSEC". That should also be "SE2."

4687. And the third is over the page at paragraph 3404, the first reference on the third line to "EFSEC" should be replaced with SE2. That is SE2's mess and not EFSEC's. Thank you.

4688. **THE CHAIRMAN:** Thank you, Mr. Yardley.

4689. Mr. Lusk, did you have an opportunity to consider the two documents that we discussed with respect to the Sto:Lo submission?

4690. **MR. LUSK:** I did look at them, Mr. Chairman. I don't have a difficulty with the smaller of the two that is entitled "Intervenor Presentation". It would appear to, in good measure, deal with the issues before you.

4691. The other document I do have a difficulty with. It's simply because I haven't had notice of it. It's a brief that has been prepared on the subject of consultation, and I don't know what the intention is or was with respect to this brief, but I simply don't have adequate time to consider it.

4692. I've not seen it before today and so consequently, I am not prepared to -- I'm not able to prepare the appropriate response to it.

4693. **THE CHAIRMAN:** Let's mark the first document.

4694. **THE CLERK:** It is C-391-4.

--- **EXHIBIT NO./Nº DE LA PIECE C-391-4:**

4695.

*Document entitled "Intervenor Presentation" submitted by the Sto:Lo Nation.*

4696. **THE CHAIRMAN:** Ms Raulston do you have anything to say in reply to Mr. Lusk with respect to the document entitled "Developments in the Law of Consultation in Aboriginal People".

4697. **MS RAULSTON:** Yes, we do. In response to Mr. Lusk's concern about the material that the Sto:Lo Nation are asking to be submitted, we, the Sto:Lo Nation, will not abuse the Consultation Act that we are asking the respective Board to recognize by misrepresentation meaning that the presenting of this referral documentation to the Board is for the benefit of these hearings alone and is to be used for clarification, if needed, for any comments made by Mr. Malloway.

4698. We are unlike some parties that the Sto:Lo Nation conducts business with who would later on call this submission consultation under the guise of section 35 of the Aboriginal Rights and Consultation.

4699. It is just for these hearings and for reference material, if it's needed.

4700. I would like to thank you. I have to make my leave. I would like to thank you all for your indulgence on behalf of the Sto:Lo Nation, especially this morning.

4701. And I will probably see you again because tomorrow I'm dealing with BC Gas and Duke/Westcoast Energy Pipeline.

4702. So thank you all very much. It's very much appreciated from the Sto:Lo people.

4703. **THE CHAIRMAN:** Thank you, Ms Raulston.

4704. Mr. Lusk, anything further in reply to Ms Raulston?

4705. **MR. LUSK:** No, I still have the same difficulty, Mr. Chairman.

4706. **THE CHAIRMAN:** We will reserve on it and consider it when we take a break this evening. We will leave that document unmarked for the moment, and we will resume with the submissions from the individual intervenors.

**SUBMISSIONS**  
**(Van Dongen)**

4707. I understand that Mr. Van Dongen has a request that he be allowed to proceed first this evening. So, Mr. Van Dongen, come forward, please.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. VAN DONGEN:**

4708. **MR. VAN DONGEN:** Thank you, Mr. Chairman and Panel members. My name is John Van Dongen. I am the MLA for Abbotsford/Clayburn, a responsibility I have held for seven and a half years.

4709. My colleague, Michael deJong, MLA for Abbotsford/Mount Lehman, is hopeful of to being able to make is own presentation to this Panel, if his schedule allows. However, in any event, he would like to be recorded as supporting my submission.

4710. I am here today to speak against the Applicant's motion. My comments today are on behalf of my constituents and Michael deJong's constituents who are very deeply concerned about the prospect of a large power plant being built right here in our already stressed airshed.

4711. I have been actively involved in this issue for three years, including acting as a witness for the City of Abbotsford in the original EFSEC Application by SE2.

4712. I want to say, by way of background, that I fully understand the role of economic activity, jobs and capital investment in our society, as well as the ongoing need to maintain a healthy environment.

4713. As an elected representative, one of my main areas of activity has been on the issues involving resource industries, land use issues, conflict management between competing resource interests, management of environmental impacts, mitigation strategies and finding more effective strategies to achieve high environmental standards in a way that is efficient for both government and business.

4714. The prospect of a large, new, long-term point source of additional air emissions in the Lower Mainland/Fraser Valley airshed is one that my constituents are universally very concerned about.

4715. What is the motivation for this unprecedented opposition to a power plant? Clearly, it is people's primary concern about human health and their more general concern about the environment that they live in.

4716. As the population ages, people become more and more aware of personal health issues, both for themselves but also for their children and grandchildren.

4717. This preliminary motion is to determine the scope of the Panel's review of

**SUBMISSIONS**  
**(Van Dongen)**

the project. I want to refer to section 58.16 under which I understand the main Application would be heard.

4718.                   Section 58.16 includes the following statement under the heading of "Criteria". This is subsection 2:

4719.

*"In deciding whether to issue a certificate, the Board shall have regard to all considerations that appear to it to be relevant."*

4720.                   I think that's certainly a key issue.

4721.                   I also want to quote a part of section 52, which I understand is a parallel section of the Act, and I am just going to quote a part of the section:

4722.

*"The Board shall have regard to all considerations that appear to it to be relevant and may have regard to the following:"*

4723.                   It lists (a) to (e), and (e) says:

4724.

*"Any public interest that in the Board's opinion may be affected by the granting or the refusing of the application."*

4725.                   It is very clear that the public interest in Canada will be affected by the issuance of a certificate for the power line. Approving the power line would directly facilitate the construction of the plant.

4726.                   The proponent in all of its statements has clearly emphasized the Canadian power line as an integral part of the power plant project. In fact, despite the requests by EFSEC to provide another option for its consideration, the proponent deliberately declined to do so.

4727.                   The fact is that Whatcom County has a law in place that outright prevents a 250 Kv power line from being built. It would be a significant injustice, in my view, that on the one hand Whatcom County, where the plant would be built, can completely bar a 250 Kv line from being built, yet B.C. citizens could be denied even a hearing in Canada on the environmental impacts of the power plant.

4728.                   The foregoing comments reflect some of the uniqueness of this particular cross-border situation. There are other unique aspects to be considered.

**SUBMISSIONS**  
**(Van Dongen)**

4729. This is the first situation where a U.S. power generator has applied to connect to the BC Hydro grid through a dedicated power line.

4730. SE2 has been adamant that they would not consider any alternative power lines. In other words, they have insisted on the right to go through our city, our province and our country, but they appear unwilling to allow even consideration of the possible environmental impacts of a power plant by a Canadian panel.

4731. This National Energy Board process is the only opportunity for Canadian citizens, in Canada, for citizens' concerns to be heard on the power plant.

4732. SE2 would like to deny this one single opportunity to have citizens' concerns heard right here in their own country. This does not seem reasonable or fair that people would be denied the one opportunity in their own country to have their concerns heard and considered.

4733. It seems to me that if the proponent insists on imposing a power line into the middle of our community where it is completely opposed, I would hope that the Panel could allow the citizens of this country to express their concerns -- all of their concerns -- on the overall project.

4734. I understand that counsel for SE2 argues that the environmental concerns of Canadian citizens were in effect heard by the EFSEC process.

4735. And it would appear that our concerns were heard in the first EFSEC decision, which recommended that Governor Locke not approve the permit application.

4736. However, we have found no credible explanation for a completely opposite recommendation by the second EFSEC panel in response to what were, in fact, relatively small changes to the proposed project specifications.

4737. With respect from the Canadian perspective, we question the integrity of the second EFSEC decision, given the fact that the second EFSEC panel only looked at a small part of the project and relied on the original panel and the original decision for most aspects of the proposed plan.

4738. The second point I would like to make to the argument of the environmental effects of the plant have already been heard is this. British Columbia, through its Crown Corporation, BC Hydro, years ago made a decision not to build any new gas-fired power plants in the Lower Mainland and Fraser Valley based on environmental considerations. BC Hydro made this decision after putting out a request for proposals in many parts of B.C. for new power sources.

**SUBMISSIONS**  
**(Van Dongen)**

4739. They decided not to proceed with any of the submissions in the Lower Mainland/Fraser Valley either then or in the future. Regardless of what the proponent may say or EFSEC may say about this proposed plant meeting U.S. and Canadian air quality standards, the fact is, this plant would very simply not be allowed in B.C. anywhere in the Lower Mainland or in the Fraser Valley.

4740. Our situation in the Fraser Valley area is also unique in terms of individual responsibilities regarding auto emission standards. As far back as 1991, the air quality problem in the Lower Mainland was serious enough to warrant the imposition of the air care emissions testing program for all automobiles.

4741. Until recently, the B.C. Lower Mainland was the only area in Canada to have auto emission regulations. B.C. also has new car emissions equipment standards that are higher than most jurisdictions in North America. We have actually made measurable progress in reducing impacts to air quality from auto emissions. But why should Canadians be willing to relinquish these gains to Sumas Energy?

4742. Which other community on either side of the Canada/U.S. border has had an air care program for over ten years? Which other communities close to the Canada/U.S. border decided seven years ago not to build a similar plant in their airshed?

4743. The relevance of my comments and my theme is that I believe what we are seeking is an international basis -- on an international basis is the ability to discuss and establish appropriate siting for international facilities, such as power plants close to the border.

4744. The proposed location of this plant is clearly problematic and inconsistent with decisions already made on the Canadian side of the border.

4745. SE2 knows this and not surprisingly, would like to avoid this reality being heard and considered by a Canadian panel that clearly has the legal authority to do so.

4746. However, as I said, if SE2 wants to impose on Canadians and British Columbians a power line, then it should, as a minimum requirement, be prepared to accept the consideration of the environmental impacts of the plant at this Canadian hearing.

4747. I believe that the National Energy Board is entirely the appropriate agency to consider the environmental aspects of this plant as part of its overall consideration of the public interest.

4748. We have clearly established the zoning models at the local and provincial level, but we have never given international consideration to appropriate zoning as a planning tool for locating power plants such as this.



**SUBMISSIONS**  
**(Van Dongen)**

4749. I personally view the SE2 issue as a land use planning issue, rather than the emotional label that the proponents use to characterize the concern of citizens.

4750. This plant is proposed in the wrong location, one of the most sensitive airsheds in Canada. The geographic configuration of the mountains and the funnel shape of the Fraser Valley pose another unique aspect of this case which further justify Canadian consideration of the environmental aspects of the plant.

4751. When I read 58.16 and Section 52(e) of the NEB Act, then it seems to me that this individual panel has the discretion to consider the environmental aspects of this plant and power line proposal.

4752. Given the many unique aspects of this case, I believe you have a strong case to consider the environmental concerns. I will summarize these aspects again:

4753. (1) This is the first instance of a U.S. plant wanting to connect to the BC Hydro power grid;.

4754. (2) The unique geography of the Fraser Valley and the proven sensitivity of the airshed;

4755. (3) The absence of any other Canadian process to consider the environmental aspects of SE2;

4756. (4) The potential health and environmental impact of a large, new, single point source which will be irreversible and could have a life of 30 years or more;

4757. (5) The total lack of Canadian regulatory authority on the future maintenance, operation and environmental performance of the SE2 plant;

4758. (6) The fact that British Columbia made a decision seven years ago not to build a similar new power plant in this airshed, then, or in the future; and,

4759. (7) The strong and direct linkage made by SE2 itself between its proposed U.S. based plant and a power line proposed for Canada.

4760. When all of these factors are given fair consideration, I believe it is totally reasonable and totally appropriate for this panel to consider the environmental effects of the plant.

4761. Indeed, I would argue that under the circumstances of this case, it would be contrary to the public interest if the environmental impacts were not considered in Canada as part of this process.

**SUBMISSIONS  
(Peachey)**

4762. On behalf of my constituents and Mr. deJong's constituents, I strongly encourage you to consider the public interest in this motion very carefully.

4763. I encourage you to dismiss this motion in favor of giving our Canadian citizens a reasonable opportunity to have their very legitimate concerns heard in a legal forum.

4764. Thank you for hearing my comments and accommodating me on your schedule.

4765. **THE CHAIRMAN:** Thank you, Mr. Van Dongen.

4766. I'm going to resume our alphabetical listing, and I know that there are some parties here tonight whose place in the alphabetical list we have passed, but we will come back to them.

4767. So we are at the Ps.

4768. Mr. Peachey...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. PEACHEY:**

4769. **MR. PEACHEY:** My name is Richard Peachey. I'm an Option 2 intervenor. My wife and I reside in Abbotsford. I'm concerned about our local environment in general and about the quality of our airshed, in particular. I have personally lived with respiratory problems all my life, including asthma.

4770. My neighbour on the right-hand side, next door neighbour, is a retired nurse who has asthma. Our neighbours on the left-hand side, next door neighbours, have a child who has asthma, so I'm concerned for the community, as well, in which I have lived for some 15 years.

4771. Also, as a high school science teachers, I have a particular concern for the health and well-being of students and educators in the school district I work in.

4772. Mr. Chairman and Board members, I would to express a word of appreciation for the long hours I know that you and your staff are putting in in order to give all intervenors a chance to speak to the issues. So I thank you for your dedication to the public interest, and I am anticipating a worthy decision at the end of this process.

4773. Before I continue, I want to adopt the arguments of Barrie Penner, Randy Hawes, Mr. Howard, Mr. Yardley, Mr. Jones, Grant McNally, Wally Kroguletz, Mary Reeves, Helen Secco, John Smith, Wayne Welsh, Alfred Chafe, Kathy Dirks, Michael Ewert, Robert

**SUBMISSIONS**  
**(Peachey)**

Turner, Gwen Gregorig, Ed Fast, Patricia Ross, Christine Callaghan, Elizabeth Gray, Jim Cox, Bruce Hasselback, Laurie Hoekstra, Christine Horsfield, Ywe Looper, Andrea Mikulan, Rod McCormick, Don Ross and John Van Dongen.

4774. And I thank Chuck Martin for one thing -- we met a lot of new friends here that we didn't know before.

4775. Sumas Energy 2, Inc. has made a motion that intervenors be prevented from discussing and the NEB panel be restricted from hearing, that which happens to be the No. 1 concern on the hearts and mind of virtually all of us. I wish to argue against that motion, which I will refer to as the "SE2 Gag Motion".

4776. You will recall that the Applicant tried to gag us last year by eliminating us to speaking for only four minutes each, and they're trying again.

4777. As everyone knows, the vast majority of intervenors want very much to talk about the environmental effects in Canada of the proposed SE2 plant. We believe that the SE2 project, as a whole, will impact us in a variety of detrimental ways.

4778. And we want to be free to put each of those concerns on the table. By the way, concerns of valley residents ought not to be dismissed as parochial interests, as Mr. Lusk labelled them. The desire to breathe and stay healthy and have healthy children -- these are not mere parochial interests.

4779. As members of the Canadian public, we intervenors began this process a long time ago now, with a reasonable expectation that the Canadian National Energy Board would listen to all of our concerns regarding the SE2 project.

4780. In the NEB's own information bulletin, Information Bulletin No. 2, the Public Hearing Process, on page 2 we are told:

4781. *"Under the NEB Act, the Board holds public hearings in order to hear all sides and points of view prior to making decisions."*

4782. In another NEB document untitled, but it's the one with the little computerized boxes running down the sides, on page 3 under the heading "Our Responsibilities", it states, quote:

4783. *"The Board considers environmental and socio-economic effects."*

4784. And the Canadian Environmental Assessment Act is there referenced.

**SUBMISSIONS**  
**(Peachey)**

4785. In that same handout on page 4 under the heading Overview of Public Hearing Process, we are assured "the Board considers all evidence". And the word "all" is underlined for emphasis. That's how it appears in the NEB's own literature.

4786. In what I find to be the most significant statement of all in the NEB's Information Bulletin No. 2, on the preface page, it states:

4787. *"The purpose of the Board is to make decisions that are fair, objective and respected."*

4788. I submit to the Panel that if we are not allowed to speak about the environmental impacts of SE2's power plant, which is the number one concern for virtually all of the intervenors in this hearing, then there is very little chance that the people of Abbotsford and the Fraser Valley will be able to have respect for the NEB's ultimate decision, nor will we consider it fair.

4789. In the light of these statements found in the NEB's own literature, I'm going to make the claim that there is a strong and a reasonable presumption that intervenors ought to be allowed to speak about whatever is on our minds in relation to the SE2 proposal. I can conceive of only one possible factor that could neutralize such a strong and reasonable presumption, and that would be if relevant legislation is absolutely crystal clear in placing an explicit restriction on what the National Energy Board may hear.

4790. As I make reference now to some pieces of legislation, I will attempt to show that no such clear restriction exists that would overturn this strong and reasonable presumption we have that we should be free to speak our minds.

4791. Now, I'm not a trained lawyer, and I'm going to give you kind of a layman's tour of the legislation that I have carefully looked at. Fortunately legislation these days is -- they try to write it in a readable fashion for the ordinary person, so I think I have a bead on some of the relevant parts of those pieces of legislation.

4792. I'm going to be using SE2's own books. This is Exhibit B-79. It's the volume titled "Brief of Authorities and Affidavits, Environmental Effects Motion, Volume One of Three". And Volume 1 is what I will be using for most of the time.

4793. First of all, the *National Energy Board Act*, Tab 1, page 9 under the heading "Jurisdiction", section 12 (1), the NEB Act states, and I quote:

4794. *"The Board has full and exclusive jurisdiction to inquire into, hear and determine any matter ..."*

**SUBMISSIONS**  
**(Peachey)**

4795. -- and then paragraph (b):

4796.

*"... where it appears to the Board that the circumstances may require the Board, in the public interest, to make any order or give any direction, leave, sanction or approval that by law it is authorized to make or give, or with respect to any matter, act or thing that by this Act or any such regulation, certificate, licence, permit, order or direction is prohibited, sanctioned or required to be done."*

4797. The section I've just read is near the beginning --

4798. **THE CHAIRMAN:** Mr. Peachey, I'm sorry to interrupt you, but we have heard very extensive arguments on the *National Energy Board Act* and the *Canadian Environmental Assessment Act*. I would ask you to try and focus on any particularly new aspect of it that we haven't heard about already.

4799. **MR. PEACHEY:** Some of this will be legitimate re-emphasis, I believe. I'm not going to linger long on any of these sections. I believe, actually, there's some that haven't been mentioned in particular that I'll be alluding to.

4800. The section that I just read is near the beginning of the NEB Act. It establishes broad powers using language such as full jurisdiction, any matter, with no reference to any sort of restriction on the Board's fact-finding mandate.

4801. This is reaffirmed on page 10 in section 12(2), which says, quote:

4802.

*"For the purposes of this Act, the Board has full jurisdiction to hear and determine all matters, whether of law or of fact."*

4803. On page 39 under the heading "International Power Lines" -- and this has been alluded to already, but I will just briefly refer to it.

4804. In section 58.16(1), the NEB Act discusses how the Board may issue a certificate for various kinds of international power lines *"if the Board is satisfied that the line is and will be required by the present and future public convenience and necessity."*

4805. In the same section (2), the Act says: *"In deciding whether to issue a certificate, the Board shall have regard to all considerations that appear to it to be relevant."*

4806. I turn now from the NEB Act itself to a related document titled "National Energy Board Electricity Regulations", Tab 2, page 5.

**SUBMISSIONS**  
**(Peachey)**

4807. Under the heading "International Power Lines Greater Than 50 Kv", section 5 says:

4808.

*"An application for a permit for the construction and operation of an international power line that exceeds an operating voltage of 50 Kv shall contain the following information, unless the Board advises the applicant that the information is already in the possession of the Board or that the information is not relevant to the application."*

4809. Then follows a list of information required by the Board. On page 8, paragraph (t), part (iii) is specified "a description of the environmental effects". So this regulation requires of the Applicant to provide to the Board a description of the environmental effects.

4810. Now, what is intended by the term "environmental effects"?

4811. Definitions of terms are given at the beginning of the regulations in section 2, page 2. There it states that "environmental effect means in respect of a project" -- then looking down to paragraph (b), the definition includes:

4812.

*"...repercussions on the environment of malfunctions or accidents that may occur and any cumulative repercussions on the environment that are likely to result from the project in combination with other projects or activities that have been or will be carried out."*

4813. Based on that definition of environmental effects, I would argue that SE2 is required to provide information to the National Energy Board regarding environmental effects of the project as a whole. Therefore, as a matter of fairness, intervenors should certainly be able to comment on environmental effects of the project as a whole.

4814. Many have already argued that the international power line that SE2 is applying for is a vital part of a larger combination of projects, which includes the proposed power generating facility in Sumas, Washington. It is a package deal. The parts operate together. We should not be forced to talk about one and ignore the other.

4815. On January 16, 2001, on the John Pfeiffer show on radio station CKST, Chuck Martin stated that putting the power line through Abbotsford is "the superior and only practical route."

4816. Mr. Martin was quite right. The Abbotsford option is much shorter than the next best alternative. Furthermore, SE2 could conceivably put a 230,000 volt power line

**SUBMISSIONS**  
**(Peachey)**

through Abbotsford, whereas Whatcom County would allow a power line to carry only a fraction of that voltage through its territory so that SE2 would have to construct multiple lines if it went through Whatcom County.

4817. Furthermore, when SE2 presented its case before the Washington State Energy Facility Site Evaluation Council, or EFSEC, their whole proposal was premised on building the power line through B.C.. EFSEC would not even permit intervenors down there to discuss alternative power lines. If you need a reference for that, it's EFSEC's Council Order No. 743, Pre-Hearing Order No. 1, page 5.

4818. The B.C. power line and the Sumas power plant are therefore plainly a package deal. If the NEB were to permit the power line to go through Abbotsford, the NEB would be directly encouraging and facilitating the construction of the power plant in Sumas, Washington. We must, therefore, be allowed the right to speak against any part of that package deal that affects us.

4819. The situation demands that we speak about all pertinent environmental effects, and the relevant legislation has nothing to say against that. Indeed, I am encouraged by the legislation to believe that the NEB owes it to us to hear our concerns on these issues.

4820. Before I move to the next piece of legislation, I want to address three related points.

4821. First of all, I note that yesterday Mr. Godsoe spent about 20 minutes detailing how the wonderful mitigation measures and offsets proposed by SE2 must be taken into account by the Board. And yet, we apparently should not be allowed to talk about those very pollutants which the measures are designed to mitigate and offset. Isn't there some irony in there somewhere?

4822. Secondly, SE2 claims that we should not redo the work EFSEC has already done. Well, I agree that EFSEC did a good job, the first time. Concerning the second EFSEC decision, however, I find myself in agreement with my member of Parliament, Randy White, in the transcript of October 18, Volume 5, paragraphs 250 to 253.

4823. Mr. White notes that politics has entered into EFSEC's decision-making process with the EFSEC chairman being replaced and with large energy company political contributions in the background.

4824. Thirdly, I take you to Tabs 9 and 10 in the SE2 book, the cases of the Citizens' Mining Council and the Friends of the West Country.

4825. Not referring to any pages in general, but just to mention in both of these cases, the issue was separate assessments for projects that were widely separated by physical

**SUBMISSIONS**  
**(Peachey)**

distance. In the first case, a mine and a smelter; in the second case, two independent bridges.

4826. I submit that neither of these cases is relevant to what we are doing here because SE2's power line and power plant will not be physically separated at all, but are completely connected and interdependent on each other.

4827. I move now to the *Canadian Environmental Assessment Act* or CEAA, at Tab 3, page 1.

4828. Within the preamble of CEAA, the fourth paragraph says:

4829. *"Whereas the Government of Canada is committed to facilitating public participation in the environmental assessment of projects to be carried out by or with the approval or assistance of the Government of Canada, and providing access to the information on which those environmental assessments are based..."*

4830. I will end the quote there. This paragraph speaks of public participation and access. The spirit there is diametrically opposed to that found in the SE2 gag motion.

4831. On page 7, section 5, sub 2, it states:

4832. *"Notwithstanding any other provision of this Act..."*

4833. And then paragraph (a):

4834. *"An environmental assessment of a project is required before the Governor in Council, under a provision prescribed pursuant to regulations made under paragraph 59(g), issues a permit or a license, grants an approval or takes any other action for the purpose of enabling the project to be carried out in whole or in part."*

4835. If the NEB were to approve the international power line SE2 has applied for, this would obviously be an integral and vital part of a larger project. Environmental issues need to be considered and the public must be allowed to participate in that. No exclusion or restriction of any kind is envisioned there.

4836. On page 11 under section 15(1) CEAA states:

4837.



**SUBMISSIONS**  
**(Peachey)**

*"The scope of the project in relation to which an environmental assessment is to be conducted shall be determined by..."*

4838. And then paragraph (a) says:

4839.

*"The responsible authority".*

4840. No restricting of federal authority is envisioned there other than self-imposed restrictions decided upon during the process of scoping.

4841. So this legislation is not going to stop this NEB Panel from hearing anything it decides would be appropriate to hear. Once again, there is no help here for the SE2 gag motion.

4842. On page 12, section 16(1) says:

4843.

*"Every screening or comprehensive study of a project and every mediation or assessment by a review panel shall include a consideration of the following factors..."*

4844. Paragraph (a):

4845.

*"The environmental effects of the project, including the environmental effects of malfunctions or accidents that may occur in connection with the project and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out".*

4846. And then paragraph (c) adds that:

4847.

*"Such reviews should include... comments from the public that are received in accordance with this Act and the regulations."*

4848. Furthermore, on page 2, the definition of the term "environmental effect" in this Act includes the specification:

4849.

*"Whether any such change occurs within or outside Canada."*

**SUBMISSIONS**  
**(Peachey)**

4850. No restriction on the public is envisioned here. In fact, the opposite is the case. Also please note that this section encourages consideration of environmental effects of combinations of projects, even where only a single part of the whole is being ruled on by a federal authority, no matter where those environmental effects arise. There is nothing here to support the SE2 gag motion whatsoever.

4851. I turn now to a different book. I believe it is under B-49 -- Exhibit B-49, Volume 2, and this is the original very first book of authorities submitted by SE2.

4852. **THE CHAIRMAN:** I don't think we have it with us, Mr. Peachey.

4853. **MR. PEACHEY:** I can let you have a couple of copies here. One of those copies is the full case I am going to refer. The other one is --

4854. **THE CHAIRMAN:** Excuse me, Mr. Peachey.

4855. **MR. PEACHEY:** Yes?

4856. **THE CHAIRMAN:** You must provide a copy for Mr. Lusk.

4857. **MR. PEACHEY:** This is SE2's own documentation.

4858. **MR. LUSK:** Tell me what it is, if you would, please.

4859. **MR. PEACHEY:** It's Exhibit B-49, and I'm referring to case of the *Bow Valley Naturalists Society v. Minister of Canadian Heritage*.

4860. **MR. LUSK:** All right. It's not our materials, incidentally, but we do have access to it. Thank you.

4861. **THE CHAIRMAN:** Mr. Lusk, was your original book of materials, was it withdrawn? It was replaced, was it not?

4862. **MR. LUSK:** It was not withdrawn, but I think what we said was words to the effect that you didn't have to rely on it because the other materials were in our -- the materials we were going to rely on were in the new books.

4863. **THE CHAIRMAN:** In any event, Mr. Peachey, we don't have it with us.

4864. **MR. PEACHEY:** I did submit the name of this case along with my other authorities before I became an Option 2 intervenor.

4865. **MR. LUSK:** I think that case is in the SPEC Book of Authorities.

**SUBMISSIONS  
(Peachey)**

4866.                   **THE CHAIRMAN:** Mr. Howard, can you help with us a reference?
4867.                   **MR. PEACHEY:** All I need is paragraphs 25 through 28 of that case.
4868.                   **MR. HOWARD:** For your reference, Exhibit C-30-14, the supplemental book of authorities of the Suzuki Foundation and SPEC, Tab 3. And I believe that the paragraphs Mr. Peachey is referring to are excerpted -- yes, that excerpt does include the paragraphs he is referring to.
4869.                   **THE CHAIRMAN:** Thank you for helping there, Mr. Howard. Thank you.
4870.                   And the paragraph numbers again, Mr. Peachey?
4871.                   **MR. PEACHY:** I am going to be looking at 25 through 30 -- parts of 25 through 30.
4872.                   **THE CHAIRMAN:** Yes, go ahead.
4873.                   **MR. PEACHY:** Now, this document -- this case was included in the first version of SE2's Book of Authorities but curiously omitted from their more recent version. And I can provide copies of both the early and later versions of their table of contents to document that, if necessary.
4874.                   In this Bow Valley case, paragraph 25, Justice Linden wrote:
4875.                   *"The Act ..."*
4876.                   -- that is referring to the *Canadian Environmental Assessment Act* --
4877.                   *"... does not define the process of scoping of the project. Neither does it define the term 'scope'. Nor does it provide any direction to the responsible authority in determining which physical works should be included within the scope of the project. The Responsible Authority's Guide, however, suggests the use of the principal project/accessory test to ensure consistency in scope of the project determinations. According to the principal project/accessory test, the principal project, i.e., either the undertaking with respect to a physical work or the physical activity, must always be included in the scope of the project. The scope should also include other physical works or physical activities which are accessory to the principal project."*

**SUBMISSIONS**  
**(Peachey)**

4878. Justice Linden continues in paragraph 26:

4879.

*"The Responsible Authority's Guide suggests two criteria to be used in determining what constitutes an accessory to the principal project: interdependence and linkage. If the principal project cannot proceed without the undertaking of another physical work or activity, then that other physical work or activity may be considered as a component of the scoped project. Furthermore, if the decision to undertake the principal project makes the decision to undertake another physical work or activity inevitable, then that other physical work or activity may also be considered as a component of the scoped project."*

4880. These two paragraphs, as far as I can see, give absolutely no encouragement to the SE2 gag motion, and I'm not surprised the Bow Valley case has been removed from their revised Book of Authorities.

4881. The proposed international power line is obviously linked to the proposed power plant which would be the principal project, and the power plant is dependent upon the power line. The NEB is entirely within their mandate if they include both projects within the scope of what they're considering.

4882. Nothing within any of the pieces of legislation I've mentioned would restrict the NEB from considering environmental effects in Canada of the Sumas power plant. Indeed, there is every encouragement to evaluation -- to evaluate the combination of parts as if it were one large project.

4883. I want to read into the record two further paragraphs from Justice Linden's decision in the Bow Valley case.

4884. Paragraph 29 says:

4885.

*"Subsection 15(3) of the Act..."*

4886.

-- meaning CEAA --

4887.

*"... requires the responsible authority to include in the environmental assessment a consideration of all undertakings or activities with respect to a physical work, and all activities with respect to a physical work which are proposed or in its opinion, are likely to be carried out."*

4888. And paragraph 30 says:

**SUBMISSIONS**  
**(Peachey)**

4889.

*"The scope of the project to be assessed has been the subject of significant judicial consideration in the past few years. In Quebec (Attorney General) v. Canada (National Energy Board), the Supreme Court of Canada considered the question of the scope of the project for the purposes of assessment under the National Energy Board Act. Hydro Quebec had applied for licenses to export electricity to Vermont and New York --"*

4890.                   **THE CHAIRMAN:** Mr. Peachey, I'm sorry to interrupt again, but I think we almost know this case by heart.

4891.                   **MR. PEACHEY:** Okay.

4892.                   **THE CHAIRMAN:** We really don't need long recitations of the written material that is in front of us.

4893.                   **MR. PEACHEY:** I want to read it with a certain emphasis, however, and I am nearing the end of my submission. So I would ask the Board's indulgence to just bear with me for this last paragraph.

4894.

*"The National Energy Board (Board) approved the licenses subject to two environmental conditions related to the proposed electricity generating facilities. At issue was the Board's ability to attach the conditions. One condition required that prior to their construction, the electricity generates facilities undergo an environmental assessment.*

4895.

*This court ..."*

-- and he means the lower court --

4896.

*"... found that the Board exceeded its jurisdiction by attaching the conditions as the facilities were under provincial jurisdiction. The case was then taken to the Supreme Court of Canada. The Supreme Court rejected the arguments of Hydro Quebec and ruled that in assessing the scope of the assessment, the proper question to ask was whether the construction of the new facilities is required to serve, among other needs, the demands of the export contract."*

4897.                   And then, here's a sentence to emphasize:

**SUBMISSIONS**  
**(Peachey)**

4898.

*"The court further held that the Board was not limited in its scope of inquiry to the environmental ramifications of the transmission of power by a line of wire, thus the environmental effects of the electricity generating facilities were related to the Board's power to grant an export licence and came within the scope of the assessment."*

4899.

Now, the professionals here may be very familiar with that case, but when I, as a layman, read that, it strikes me as something very clear linking power lines with power plants.

4900.

Once again, I can see why SE2 removed this document from its book of authorities. In fact, I'm wondering if some heads haven't rolled in a legal office somewhere, because this case was originally included with SE2's authorities.

4901.

In this case, the Supreme Court rejected an attempt by a major corporation to limit the scoping authority of the National Energy Board. The NEB was held to be within its authority in considering a power plant together with a power line, and in evaluating environmental effects of the power plant, not just of the power line.

4902.

Along with the other references I have cited, this document supports the wide ranging authority of the NEB to:

4903.

*"Inquire into here and to determine any matter."*

4904.

Just as the NEB Act states.

4905.

As for Mr. Lusk's contention that if the Board determines they have jurisdiction, they should not exercise it by hearing the concerns of the Canadian public -- that, I would say, is simply ludicrous. There is no way in the world that valley residents would consider that kind of decision fair, objective or respected.

4906.

Mr. Chairman, you said yesterday, and I believe you are right, you said that according to transcript Volume 7, paragraph 187:

4907.

*"Parliament has charged the Board with making its determinations in the public interest. Such determinations can only be made by the Board on the basis of a complete understanding of the affected interests and issues raised by all parties."*

4908.

I think that's a well-said statement.

**SUBMISSIONS**  
**(Peachey)**

4909.                    So if you can legally hear certain information, then, really, you ought to hear that information. To have that jurisdiction but not to exercise it would constitute a heinous miscarriage of judicial process.

4910.                    I will summarize. In going through the relevant legislation, I found:

4911.                    (1) that the legislation gives the NEB broad powers of inquiry;.

4912.                    (2) that no explicit restrictions are imposed upon the NEB's authority to scope projects or upon the NEB's authority to hear and determine any matter in which it may take action;.

4913.                    (3) that the public has been led by the NEB's only literature to have a reasonable expectation of full involvement and access to information in discussion of environmental matters related to projects under NEB authority, and that reasonable expectation which we have is encouraged, not discouraged, by the legislation; and

4914.                    (4) that the public's right to be involved and to speak out is not explicitly restricted by anything that I have come across in the relevant legislation.

4915.                    Whatever you find in your assessment of cases that have been alleged to be related to the legislation, whatever you find there, the actual legislation itself is encouraging and enabling, not restrictive at all, it seems to me.

4916.                    I, therefore, urge that the NEB deny SE2's inappropriate gag motion.  
Thank you.

4917.                    **THE CHAIRMAN:** Mr. Peachey, thank you.

4918.                    I was waiting for Mr. Lusk to rise. I do have to take exception to your characterization of the motion as a "gag order". I don't think it's appropriate in a court proceeding.

4919.                    Thank you, Mr. Peachey, for your submission.

4920.                    **THE CHAIRMAN:** Are there other intervenors whose name begins with "P"....?

4921.                    **MS PEABLES:** Mine has been left off the list for some reason.

4922.                    **THE CHAIRMAN:** You have to speak into the microphone, please.

4923.                    **MS PEABLES:** My name is Trish Peables, P-E-A-B-L-E-S. I should

**SUBMISSIONS**  
**(Peables)**

have been before Mr. Peachey.

4924.                   **THE CHAIRMAN:** We do have your name on the list. It's not off the list. I saw Mr. Peachey and overlooked "Peables" come before it. So go ahead, Ms Peables.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS PEABLES:**

4925.                   **MS PEABLES:** So I'm on. My name is Trish Peables. I've been a Mission resident for 15 years. I moved from Vancouver when I was still naive enough to think that a home in the country meant that it came with fresh air. I'm a writer and an artist.

4926.                   As part of my response here, I created a sculptural piece which I had installed in the lobby for a short time. Many were able to view it at the afternoon break from 4:30 on.

4927.                   We had permission to have the piece installed, but we were also basically booted out by a small group of residents who kicked us out of Dodge. It was encouraging in a way that a small group could have such an incredible impact on their environment, so, you know, I've decided to continue.

4928.                   Originally I planned to read my artist's statement as my intervenor statement. So I'm going to go ahead and do that.

4929.                   During these proceedings, I have become concerned that our strongest point would become our weakest one. That is, our sheer numbers and similar stories would ultimately end up desensitizing you, our audience.

4930.                   As an artist I started looking for other ways to explore the subject, particularly with a view to contributing something visual to this primarily hearing process.

4931.                   My husband and I created a sculpture entitled "SEETOO", and that's S-E-E-T-O-O, as our statement and contribution to this tribunal process. If you haven't already seen it, you can't. As I said, we were asked to remove it, and we did.

4932.                   The legal nature of these hearings implies a separation - logic and legal facts versus emotional and physical aspects are humanity, if you will. Well, our piece portrays this. There is, of course, no such separation in real life. Our stories today reflect the vital reasons each person is here and are essentially all we have to offer this process.

4933.                   To investigate only the effects of a dangerous piece that sits on our side of the lawn is an example of a skewered thought process; somebody's head having literally been severed from the effects of having a body.



**SUBMISSIONS  
(Peachey)**

4934. Our piece showed very clearly the outcome of culture that uses this logic in their central decision-making process, and we are becoming such a culture.

4935. I invite all of you to take a moment and reflect that the fullness, the richness and the balance of the human body, mind and soul is our birthright, not something to be given or taken away by any corporation, government or regulatory body, with all due respect.

4936. I believe this is why each of us is here tonight and why we participated in these hearings. Thank you for hearing me.

4937. **THE CHAIRMAN:** Thank you, Ms Peables.

4938. **THE CHAIRMAN:** Mrs. Peachey...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS PEACHEY:**

4939. **MS PEACHEY:** Thank you. By now we can all recite the *National Energy Board Act*; right?

4940. So from my perspective, the way I read that is that you do have the permission from Parliament to look at the environmental issues, and as to whether you should look at them or not, that really has seemed obvious to me for a long time.

4941. I just want to say one thing -- gratitude to you people -- that I got involved in this thing three years ago, and after two full days nonstop telephone calls to every conceivable government agency under the British Columbia skies and Canada skies, I finally reached the National Energy Board, and someone there, for the first time said, yes, we can and we will be looking at the Sumas 2.

4942. And it was a truly wonderful feeling, because I was beginning to think we were a country out of control, that anybody could essentially invade us with any kind of thing that would pollute our country, and there was no one who would say, yes, we can look at this. And so, I feel great gratitude to you and it's because of you that I got the heart to go on.

4943. And I would really encourage you to -- the folks over here suggested that the National Energy Board's International Authority extends to migratory birds. And I thought, well, yeah, all right, that's fine with me, because I belong to three nature clubs; one of them is birds, one of them is plants and one is rocks, and I very much like animals and things. And I'm -- I'm pretty aware of the fact that many animals have gone extinct and many birds simply can't survive in the environment that we give them.

4944. So certainly if you're concerned about migratory birds, you will be taking care of our health. Because the fact of the matter is, human beings second only to rats, have the

**SUBMISSIONS**  
**(Peachey)**

ability to survive our own pollution. So do take care of migratory birds and consider us, as well, in the whole scene.

4945. This whole involvement with thinking about Sumas Energy 2, has led us into considering the wider picture, and that's why I think it's so vital that you do consider all the environmental impacts.

4946. Because as one of you there knows, we are involved in the proposal for Westcoast/Duke to increase their capacity flow by 10 percent, which is 200 million cubic feet per day, and those of us involved in that battle are very, very concerned that a great deal of that will be going to fuel Sumas Energy 2, and while we refer to it as two and three and four, we're all aware that it could be any different number of companies with different names that are planning to come to the border. It's just so lucrative. It's just so easy.

4947. They don't really have to fuss with the Americans too much, because in all fairness, you know, most of us don't worry about things that don't affect us, and so if you can plant yourself on the border with the lovely prevailing winds, take care of your pollution, and they've got this arrangement that we, as a friendly city, granted to the City of Sumas, is now being seriously taken advantage of.

4948. So we take the dirty water. I have studied a little bit of soil, and actually, my instructor from the college is here and I'm sure hoping that she's coming on because she does a wonderful job on soils, but I've learned a little bit about soils.

4949. The draw on that water is significant, and the effect that that will have on soil, water and on our farmlands is something that just simply hasn't been looked at.

4950. So in my journey, this last thing, we spent five days with you people at the Rhombus in Chilliwack regarding Duke Energy, and it was really amazing to me how many incidents these people have, safety incidents -- now, these are the people that are going to be providing the gas ultimately -- it doesn't matter if it's a deal that's written now or not written -- at Sumas will be getting its gas from British Columbia.

4951. These people see fit to not report to you all sorts of incidents that we thought were rather serious. And again, my instructor from the college is here and she can verify the question of the dead cows at the Rosedale substation -- it's a Rosedale compressor there. So there were 20, 30 dead cows. The account varied --

4952. **THE CHAIRMAN:** Mrs. Peachey, I'm sorry to interrupt you. I'm having trouble connecting this to the issue that's before us. It sounds like you're back in the other hearing.

4953. **MS PEACHEY:** No, it is connected, sir, in that, what I'm talking about

**SUBMISSIONS**  
**(K. Pincott for S. Pincott)**

here is that Sumas 2 doesn't want you to look at the environment, and what I'm going to lead up to is that we already are not doing at all a good job of policing the whole energy industry.

4954.                   We have here a company that's going to be providing the fuel, that's asking for an expansion, which -- whether that expansion is for it or a future one is for it, we already have trouble.

4955.                   We have a self-policing energy industry, is what I'm leading up to. These folk did not report to you the death of 30 cows in Rosedale. They did not report to you the illness of a woman, who is still ill today and because they paid her through the courts, somehow they felt they didn't have to report that to you.

4956.                   So my -- what I'm leading up to is: If we grant power lines to feed a power plant which is across the line, we don't even police what we have on this side of the line; how on earth are we ever going to have any guarantees of safety, of sensible caring for our migratory birds or our fish if we're not even taking care of what's over here?

4957.                   I mean, I feel that the National Energy Board not only needs to look at this issue, but needs to seriously re-examine the whole energy industry.

4958.                   And I won't say anything else because everybody else stole my thunder, so thanks.

4959.                   **THE CHAIRMAN:** Thanks, Mrs. Peachey.

4960.                   Other individual intervenors whose surname begins with "P"...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. PINCOTT:**

**4961.                   (on behalf of Sylvia Pincott)**

4962.                   **MR. PINCOTT:** Keith Pincott. I didn't have to put the quarter in this time.

4963.                   I'm speaking on behalf of my wife, Sylvia, and adopting Richard Peachey's submission, and which he conveniently adopted a multitude of other submissions, and I'm inheriting them, I hope, and possibly with the addition of Shelley Canning and Elizabeth Gray. I'm not sure they were included.

4964.                   **THE CHAIRMAN:** Mr. Pincott, we really are looking for something new at this point.

4965.                   **MR. PINCOTT:** Just stand back. I wanted to share with you who we are. I have a list of people who you know that I have been speaking for, and I warn you now

**SUBMISSIONS**  
**(Riedlinger)**

that if they don't show up, I've got a few more that they have asked me, with your forbearance, to get them into the record.

4966.                   We are parents and grandparents. We are retired business executives. We are university professors. I'm associated with some of those folks with a Bible study group. We have an environmental Bible study group a couple times a month. And others are associated because our family is a long way away, and so these young families have come into our lives as surrogate children and grandchildren; busy and not able to take part in this, but having a concern for the issue that we are talking about.

4967.                   That's about all I've got new, I think. Except that one of my friends handed me a note that was just reminding me about sort of the passing by of the flooding that comes up in connection with this plant and which is sometimes easily set aside by the proponent.

4968.                   But the fact is, there were four days in 1990 the Sumas Customs and Immigration Office was closed because of flooding. And it so happened during that time, as a matter of interest, that the regular council meeting of Sumas City was able to be held -- they were able to get a quorum together -- and pass the bylaw that permitted SE1 to be built.

4969.                   There was concern in the city at that time by many of the citizens about the proposal, and would have been at that meeting if they had not been preoccupied with the flooding going on around their homes. So I thought that was interesting and I thought it was worth mentioning here tonight.

4970.                   And the source of that is Connie Hoag. I heard her say it -- tell this little story. Connie Hoag, a citizen and a former council member of Whatcom County who now resides in California, otherwise she would have been here. Thank you.

4971.                   **THE CHAIRMAN:** Thank you, Mr. Pincott. Any other intervenors whose name begin with "P"? Intervenors whose surname begins with "Q" or "R"?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. RIEDLINGER:**

4972.                   **MR. RIEDLINGER:** Good evening, Chairman and Panel. I'm going to bring you something new.

4973.                   **THE CHAIRMAN:** Just for the sake of the record, could you identify yourself?

4974.                   **MR. RIEDLINGER:** Robert Riedlinger.

4975.                   **THE CHAIRMAN:** Thank you, Mr. Riedlinger.

**SUBMISSIONS**  
**(Rachel)**

4976.                   **MR. RIEDLINGER:** It's not been talked about too much in past years, and it's coming to light more and more about the electro-pollution, electro-magnetic field pollution.

4977.                   **THE CHAIRMAN:** Mr. Riedlinger, I hesitate to interrupt you right off the bat, but we are going to be examining the environmental effects of the transmission line. That is not an issue and it's not an issue at this time, and any question with respect to electro-magnetic fields, et cetera, or other alleged impacts of the power line itself will be examined in the main hearing. We want to focus very narrowly on the environmental effects in Canada from the power plant.

4978.                   **MR. RIEDLINGER:** Well, there is one item here that I wanted to refer to as far as the seriousness of it and in the connection to this power plant - - pollution plant, I call it.

4979.                   In Pakistan in a court case, installation of grid station -- this is -- environmental pollution, they call it. I will just read a short little paragraph.

4980.   *"Citizens under Article 9 of the Constitution of Pakistan were entitled to protection of law from being exposed to hazards of electro-magnetic field or any other such hazards which may be due to the installation and construction of any grid station, factory, power station or such installations."*

4981.                   Now, I know we might not have that in our Constitution, but I believe that there is a certain amount of responsibility to these people that want to put this plant up. The mixture of the radiation and the pollution, according to a Dr. Dennis Henshaw, is deadly because of the ions in the air, the particles from the pollution plant, mixing with the radiation, and it causes -- it charges these particles and they stick in the lungs just as if you were to -- you wipe your hand on the front of your television tube and the dust all collects there. Well, that's what happens in our lungs.

4982.                   So I will just have to wait till later with the rest of it.

4983.                   **THE CHAIRMAN:** Thank you, Mr. Riedlinger.

4984.                   **MR. RIEDLINGER:** Thank you.

4985.                   **THE CHAIRMAN:** Other intervenors whose name begins with "R"?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS RACHEL:**

**SUBMISSIONS**  
**(Reznick)**

4986.                   **MS RACHEL:** My name is Alison Rachel. I am here speaking for myself and on behalf of my husband Christopher and our unborn child which is due in December. I would also like to adopt the many well spoken, logical, and heartfelt submissions that have presented to you by deeply concerned citizens, governments and organizations who have argued why your Board should hear the evidence on the full scope of the SE2 project.

4987.                   I am a Canadian citizen and a resident of Abbotsford. I wish to state that I believe your Board should hear the full scope of evidence concerning the environmental effects in Canada of the proposed SE2 power plant.

4988.                   You should hear this evidence because your Board is the only Canadian government agency with the legal authority with the responsibility to look at the broad scope effects this power plant would have in Canada. As all parts of the project are interconnected and the environmental effects would impact Canadians, citizens here in the valley need a Canadian assessment and hearing of those effects.

4989.                   There is also a precedent for the hearing of environmental effects of a project based in the U.S. with the Trans Mountain Pipeline case where the NEB found that the impact in Canada of the oil pipeline going to the U.S. oil port were relevant. I wish to have the same right to have the effects of the entire SE2 project considered as Trans Mountain Pipeline's effects were also considered.

4990.                   As I mentioned in opening, I'm expecting this baby in December. I'm trying to be very careful of what I let into my body from the environment around me such as secondhand smoke, household cleaning agent fumes. I try to minimize the amount of traffic exhaust fumes I inhale by shutting the vents on our car while driving or avoiding exercising in parks close to major roads or by staying indoors on days where the air quality here is especially bad. I am able to somewhat protect my baby from the harmful effects in the environment.

4991.                   You three individuals sitting on this NEB Board are the only chance that I have to have my concerns heard about the environmental effects the SE2 project would have and the harm they would pose to my family, the wildlife and all present and future generations of citizens in the valley.

4992.                   I ask your Board to give my family, the individuals, organizations and governments before you the opportunity to present the environmental effects evidence regarding the entire SE2 project. Thank you.

4993.                   **THE CHAIRMAN:** Thank you, Ms Rachel.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS REZNICK:**

4994.                   **MS REZNICK:** Good evening, my name is Jackie Reznick. Mr. Chair

**SUBMISSIONS**  
**(Reznick)**

and Board members, good evening. I'm presenting in an extremely simplistic way of saying this.

4995. First of all, I would like to formally adopt Mr. Timothy Howard and Mr. James Yardley on all the submissions by those learned people.

4996. As I said before, it's very simple: The main reason we should consider the question at hand is the common knowledge that SE2 needs the power line, the gas connection to go ahead both in Canadian soil.

4997. We will then enter into a partnership or a contract, you might say, with another country, of which we have no authority to control, regulate or police.

4998. We know that SE2 has gathered information regarding their impact on our environment in Canadian soil for their U.S. presentation, and thus have admitted that our airshed will be affected by offering, I think, \$1.8 million.

4999. And I wanted to add this -- and please forgive me, it's not an insult. But that \$1.8 million is about three homes in the Eagle Mountain development, which is part of the Sumas Mountain that I am aware that you know that there is a problem there.

--- (The lights begin to go off in the room).

5000. **MS REZNICK:** I have powers!

--- (Laughter/Rires).

5001. **MS REZNICK:** The monetary offering that may occur -- because I heard that it may occur -- that constitute that they have included Canada in their presentation, that they have included both countries as part of the package.

5002. As I mentioned before, the last time -- I'm not very good at speaking, but there are many events that we cannot bring to your table because they are past the deadline.

5003. I now sit on the Abbotsford aquifer -- stakeholders of the aquifer, and on that board there are Americans and Canadians. We don't see boundaries. We are both working together to resolve the problem of the aquifer. There is a symposium, as you may please, next March that will have Americans, Canadians. I don't think either side sees the boundary.

5004. I also am involved in looking at the swans that have been dying. And they are starting -- about 300- 400 swans died last winter. And we are starting both in Whatcom County and Canada -- I don't see boundaries.

5005. So looking at the question under discussion, should we consider all of it?

**SUBMISSIONS**  
**(O. Skonberg/C. Skonberg)**

Absolutely.

5006. I think that there is a moral, an ethical responsibility towards the Fraser Basin, the future of generations and not just us for the moment. And there is no many other resources that you need to look at.

5007. I thank you and I think that you have a stamina that I could never endure.

--- (Laughter/Rires)

5008. **THE CHAIRMAN:** Thank you, Ms Reznick.

5009. Other intervenors whose name begins with "R"?

---(No Response/Pas de réponse)

5010. **THE CHAIRMAN:** "S"?

--- **SUBMISSIONS BY/SOUMISSIONS PAR MR. O. SKONBERG:**

5011. **MR. SKONBERG:** Good evening, my name is Owen Skonberg and I came up in front of you on Friday night and I had the opportunity to speak on behalf of my school. I'm an elementary school principal, and I just wanted to take the opportunity to speak again tonight.

5012. I support the previous speakers in their plans. I find it very difficult at times when I have to talk to the children at school, especially the ones that are on ventilators for health reasons, and try to explain to them why the air quality is so poor, the air is purple haze up there in the sky and they have trouble breathing when we go out for physical education.

5013. In fact, in the summer months or just before summer, we have to go inside the gymnasium because the quality is so poor.

5014. As an administrator of the school district in Chilliwack -- of a school in Chilliwack and as a parent, I just wanted to voice my concerns. Thank you.

5015. **THE CHAIRMAN:** Thank you, Mr. Skonberg. Other intervenors whose name begins with "S"?

--- **SUBMISSIONS BY/SOUMISSIONS PAR MS C. SKONBERG:**

5016. **MS SKONBERG:** Chris Skonberg, also from east Chilliwack, Rosedale area, and hoping that you will -- I don't know how many different people over the last months or



**SUBMISSIONS**  
**(Tilgner)**

years now -- some of us are definitely getting worn down and, you know, having to appear again and write letters and ask you people please to support the endeavours of those who are trying to defeat the building of SE2 and similar plants.

5017. I believe that -- is it the United -- the United States has attempted to deregulate the energy regulations in the States since the 1980s, and I have read about Calpine, the stock market increases, the number of plants they have throughout the United States, development.

5018. I don't know if we can stop this giant industry engine, but this valley is particularly in its amount of construction. You know all that.

5019. I just have to go on record, please, as saying, once again, you know I just feel that if this -- if this continues on this road we will be down on the ground meeting the bulldozers because -- I don't know. Thank you.

5020. **THE CHAIRMAN:** Thank you, Ms Skonberg.

5021. Other intervenors whose name begins with "S"? Intervenors with a surname beginning with "T"?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. TILGNER:**

5022. **MR. TILGNER:** I am Mr. Harald Tilgner. Mr. Chairman, members of the Board, not being a learned counsel, I have considerable difficulty in thinking clearly after SE2's counsel implied and real remarks, to gather my thoughts, even after a night's rest.

5023. What relevance is money and/or other mitigation, if any, when the air we have to breathe is threatened by pollution announced to result if SE2 is allowed to proceed?

5024. EFSEC did do their homework, as somebody else mentioned, the first time. What relevance is there to EFSEC's findings, however, if the air is not kept unpolluted and we are supposed to accept the findings?

5025. Most people are aware of and concerned by water pollution. We drink about 2 to 4 litres a day which compares to 20,000 litres of air we breathe daily. Now, take that into consideration.

5026. The Fraser Valley airshed is unique in several respects. Due to inland heating and cooling, the air is being drawn into the interior during the day and out toward the sea during the night. It becomes more and more saturated with moisture and pollutants until another large system moves through and clears out this polluted parcel of air.

**SUBMISSIONS**  
**(Tilgner)**

5027. A similar set of circumstances are at work in the Fraser River and salmon survival. I will come to that again later.

5028. Quite frankly, I am personally offended by the threatening tone of the consequences we would suffer if we don't go along with SE2. Mitigation or money is of absolutely no use to someone who is dying as a result of the pollution in the air.

5029. Some of the arguments were based on after-the-fact operation. My argument and that of all my family and friends is to raise awareness beyond the tip of the nose, to consider future livability of future generations.

5030. I feel you should consider all of the aspects of the entire project and not only the segments mentioned in the SE2 argument.

5031. Unlike any of the speakers I have heard, I do have something to offer in the search for offsets: Double the track lines on either or both sides of the Fraser River, electrify them and supply the electricity to run them at present rates -- at preferential rates, I'm sorry.

5032. This would allow electric trains to run often and timely to entice people to leave their cars at home and, thereby, reduce pollution. Thus, the elusive offset is achieved.

5033. On page 21 of Timothy Howard's presentation, paragraph 69:

5034. *"In the Trail Smelter arbitration, the U.S. sought damages from Canada for harm caused in Washington State by pollution produced in Trail, B.C. In finding Canada liable for that pollution, the arbitration tribunal found that 'under the principles of international law...no State has the right to use or permit the use of its territory in such a manner as to cause injury by fumes in or to the territory of another...when the case is of serious consequence and injury is established by clear and convincing evidence.'"*

5035. This means that we have to wait until SE2 actually operates and then sue the pants off them. That is a ludicrous assumption and a ludicrous way of doing things.

5036. For the love of my life, I would like to know why we forever have to fight for things. Why can't we foresee things in a rational way and then steer away from such actions that would put us in a position that's so untenable?

5037. There was also mention of the aquatic habitat. As was pointed out by the chiefs of the First Nations, the people lived here for thousands of years, and when the first explorers got here, they found a largely untouched, pristine environment which impressed them and attracted the pioneering side of the secondary nations whose following hordes proceeded to

**SUBMISSIONS**  
**(Thiessen)**

act in a not so nice way, the result of this action we are witnessing today.

5038. The Fraser River is tidal in its lower reaches where most of the newcomers have made their homes and where most of the effluent is being poured into the river, only partially treated. The result is that the pollution gets pushed back and forth, similar to the air I spoke of earlier.

5039. The young fish migrating toward the ocean are caught in this mess long enough to put their survival into question, and I would presume that this is, in large part, responsible for the unexplainable decline of the numbers of fish returning to spawn. The young fry didn't even make it to sea.

5040. If we all continue to ignore the basics in the equation, i.e. Mother Nature cannot over the long haul continue to mend everything, our wonderful planet will become antibiotic for every still living entity. You must, therefore, reject SE2's motion.

5041. Just as an aside, I was one of the intervenors denied to speak because the clock ran out at 10 p.m. at the EFSEC hearings.

5042. Lastly, with all due respect, I would submit to the Board that in the ruling on Mr. Randy White's Discontinuance Motion, the Board said:

5043. *"...Parliament has charged the Board with making its determinations in the public interest. Such determinations can only be made by the Board on the basis of a complete understanding of the affected interests and issues raised by all parties.*

5044. *Mr. White's motion seeks to have the Board make its public interest determination without all parties on the merits of the Application."*

5045. And I have made a footnote to this, and I would say that the order in which the motions were dealt with could have accommodated this concern by dealing with this motion last. Thank you very much.

5046. **THE CHAIRMAN:** Thank you, Mr. Tilgner.

5047. Intervenors whose names begin with "T"?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. THIESSEN:**

5048. **MR. THIESSEN:** Honourable Chairman, members of the Panel --

**SUBMISSIONS**  
**(Usborne)**

5049.                   **THE CHAIRMAN:** It's Mr. Thiessen, right?

5050.                   **MR. THIESSEN:** That's correct. My name is Robert Thiessen -- I was coming to that. I represent my wife, Louise, a registered nurse; my greater family on both sides of the border; numerous friends; and, of course, myself.

5051.                   I'm in support of the ramblings of Mr. Howard, Mr. Penner, Mary Reeves, Mr. Smith of the Fraser Valley School Board, the Sto:Lo Nation, the gentleman from the Fraser Valley University College, Mr. Berge, Wally Kroguletz, Dr. Chafe, Sandra Farenholtz, Mr. Ewert, Mrs. Gregorig, Mr. Fast, Mr. Ross, Mr. Ferguson, and I really sympathize with Mr. Looper.

5052.                   I respectfully submit, and if I may give you this charge, that all aspects of fact, law and common sense be addressed and evaluated; in addition, all aspects of environmental effects be considered.

5053.                   And not until you can be sure that no living thing will be harmed, compromised or killed, whether they be man, woman, child, fetus, animal, bird, fish, plant, food chain, body of water, either above the ground or at the surface, should any part of this power plant gas line or power line be approved. Thank you.

5054.                   **THE CHAIRMAN:** Thank you, Mr. Thiessen.

5055.                   Are there other intervenors whose name begins with "T"...?

5056.                   I'll do "U" and "V" together...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. USBORNE:**

5057.                   **MR. USBORNE:** Mr. Chairman and members of the Board, my name is Barney Usborne, and I live in Mission, B.C. I'm here on my own behalf and that of my partner, Kim Shehowski, who couldn't be here tonight. I'll be fairly brief.

5058.                   Essential I'm in 100 percent support of having all of the environmental impacts considered in this decision-making process with respect to the power line in question, all of the aspects, excluding the impact resulting from the usage through SE2.

5059.                   On October 16th this past week, the *Province* newspaper quoted the purpose of the National Energy Board from its website. I quote:

5060.                   *"The purpose is promote safety, environmental protection and economic*

**SUBMISSIONS**  
**(Usborne)**

*efficiency in the Canadian public interest."*

5061. Now, I don't mean to insult you by reading your own purpose to you, but when I look at that, and that was the first time I had seen it, and I consider this issue before you here tonight - the safety, environmental protection and economic efficiency in the Canadian public interest, when I look at the potential impact on peoples' health, their respiratory systems through the air pollution, which is said to be two and a half tonnes daily or the equivalent of 320,000 idling cars per day, when I look at the potential financial impact to our already over-burdened health care system and our budget -- and I'm sure you have some awareness here in British Columbia, all of the cuts that are taking place in the health ministry and so on -- and I look at the potential impact of increased health problems - asthma, et cetera.

5062. My partner has asthma. Her son has asthma. When I look at the effluent, the liquid effluent flowing into the Fraser River that will result from SE2; when I look at the sturgeon population, an endangered species that's been around since the time of the dinosaur; when I look at the sports fishing industry on the Fraser River; when I look at the recreation and sports and tourist uses of the Fraser Valley and the potential impact that that could have from a financial point of view, and not to mention the quality of life.

5063. To me, it would be unconscionable, immoral and unjust not to consider the environmental impact of the spin-off environmental impact from the intended usage of this power line, and I agree with the comments in that respect made by the second speaker before me.

5064. So I would strongly, strongly urge you to support the motion and agree to have all of the -- all of the environmental impacts, including the SE2 environmental impacts, considered relative to this specific pipeline.

5065. It is in the public interest, and we here in the Fraser Valley who have to breathe this air and not all of the other parties bringing SE2 forward be will breathing this air, we are looking to you to give us a level playing field to fight this fight and to protect our health and safety, our quality of life and environmental damage in the Fraser Valley.

5066. So, again, in closing, I urge you to allow the scope of the discussion on the power line to include all environmental impact, including that stemming from the SE2 power plant. Thank you.

5067. **THE CHAIRMAN:** Thank you, Mr. Usborne.

5068. All right. "V"...?

5069. **MR. VICKTOR:** I'm a "V", I guess I should go.

**SUBMISSIONS**  
**(Vicktor)**

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. VICKTOR:**

5070. Mr. Chairman, Committee members, thank you again for this opportunity.

5071. **THE CHAIRMAN:** Identify yourself for the record.

5072. **MR. VICKTOR:** Wilfred Vicktor, V-I-C-K-T-O-R.

5073. I would like to start by adopting the argument and comments of Mr. Van Dongen and all of his esteemed fellow elected officials at the municipal, provincial and federal levels.

5074. Obviously what I have noticed, and this is certainly not in any way meant to cast doubt on the National Energy Board or our legal system, but nowadays it's not a matter of what's right or what's wrong. It's what can be proven within a legal framework, and sometimes I think it's quite often the simplest solution is quite often overlooked.

5075. And I was perusing the *Canadian Charter of Rights and Freedoms* today, and I have to say, I'm not that boring a guy that I normally do this, but there are a number of items in here which I think certainly will resolve our issue, and I'm sure since SE2's esteemed legal representation probably has a very intricate knowledge of this document, I don't have to provide copies, but I do have a copy available, if so desired.

5076. There is a number of pertinent items here which tie directly into allowing Abbotsford and the valley residents to fully discuss the SE2 power plant project in its complete effect, if built.

5077. The first relevant section is under "Fundamental Freedoms", Section 2(b):

5078. *"The freedom on thought, belief, opinion and expression, including freedom of press and other means of communication".*

5079. I think it's been very evident to all members of the Committee and all members of the community that there are more than a fair share of people who would like freedom to express themselves, and I think certainly if you afford everyone the opportunity to do that, we can -- or more appropriately, you can make an appropriate decision if we look at the entire SE2 issue, not just a small portion of it.

5080. Under "Legal Rights", and that's Section 7, and I quote:

5081. *"Everyone has the right to life, liberty and security of a person and their*

**SUBMISSIONS**  
**(Vicktor)**

*right not to be deprived thereof, except in accordance with the principle of fundamental justice."*

5082. I think that's a very relevant section, as well.

5083. Under "Legal Rights," as well, Section 12:

5084. *"Everyone has the right not to be subjected to any cruel and unusual treatment or punishment."*

5085. Very relevant, as well, given the situation which we are encountering.

5086. Under "Enforcement", Section 24(1):

5087. *"Anyone whose rights or freedoms as guaranteed by this Charter have been infringed or denied may apply to a court of competent jurisdiction ..."*

5088. -- hopefully the National Energy Board --

5089. *"... to obtain such remedy as the court considers appropriate and just in the circumstances."*

5090. A very relevant section.

5091. Another section, the second to last section that is of direct pertinence,  
Section 31:

5092. *"Nothing in this Charter extends the legislative powers of any body or authority."*

5093. And then, under Part III, "Equalization and Regional Disparities", Section  
36, Section 1:

5094. *"Without altering the legislative authority of Parliament or of the provincial legislatures or the rights of any of them with respect to the exercise of their legislative authority Parliament and the legislatures, together with the Government of Canada and the provincial governments*

**SUBMISSIONS  
(Vicktor)**

*are committed to, (a) promoting equal opportunities for the well-being of Canadians."*

5095. And I would feel that if we do not have the full opportunity to fully discuss the full impacts of SE2, we would certainly be in a gross and fundamental breach of the *Canadian Charter of Rights and Freedoms*.

5096. And I think this is sort of the owner's manual to being a Canadian, and I respectfully suggest we take a real close perusal of this document.

5097. **THE CHAIRMAN:** Thank you, Mr. Vicktor.

5098. Any other intervenors whose name begins with "V"...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. VISSERS:**

5099. **MR. VISSERS:** Yes, good evening. I'm actually listed under "Associations" but my name is John Vissers and I'm sorry that I'm speaking out of turn. I know it may come as a shock to some of the people in this room, but I do, in fact, have a job and a family, and sometimes I do have to do other things.

5100. Should the Board hear evidence concerning the environmental effects in Canada, Sumas proposed power plant in Washington?

5101. Now, I'm not a lawyer and I can't make legal arguments, so I hope you would allow me just to submit a simple analogy.

5102. I helped organize the citizens' rally that you heard outside on Friday night, the rally for the valley, and part of my job was to borrow a generator to run the lights and sound system. And I had access to a very large commercial generator that runs on gas and produced more than enough electricity for our needs, but I didn't have a way to hook into the grid, so I probably missed out on a tidy profit selling my surplus electricity, but that's another argument.

5103. I thought the best place to locate the generator would be in an alcove just behind this building -- in fact, just over here next to the sidewalk -- and that would lessen the noise from the generator, but still provide easy access to the power cables to run the sound and lights.

5104. We were about to start the generator when I noticed a very large air grill just, you know, up on the wall just above us, and I realized that if I ran the generator in that location, most of the exhaust fumes could be vented directly into this building where we are right now, and possibly right into this room.



**SUBMISSIONS**  
**(Witt)**

5105. We fully intended to be loud enough for you to hear our electrically amplified cheering, but I could not subject you to the by-product fumes from our generator.

5106. Now, I didn't confine my scope to the safety and effects of my power line. I'm sure our cables met all the regulatory and safety standards. I'm sure our gas-fired generator met and surpassed all CSA standards, but that wasn't the problem either. The problem was the location.

5107. I moved the generator. You may not have been able to stay in this room Friday night if I hadn't done that.

5108. Your considerations when you decide whether or not SE2 will be allowed to run their power cables will make all the difference. You have that -- you have that judicial right, and I think you have that judicial responsibility. Thank you.

5109. **THE CHAIRMAN:** Thank you, Mr. Vissers.

5110. Are there any other intervenors whose name begins with "V"...

5111. Intervenors whose name begins with "W"...

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. WITT:**

5112. **MR. WITT:** Mr. Chairman, Board members, I usually bring up the tail end of this parade.

5113. **THE CHAIRMAN:** Excuse me, sir, for the record, again, could you just give us your name, please?

5114. **MR. WITT:** Elmer Witt, W-I-T-T.

5115. As a resident of Abbotsford who took in most of the EFSEC hearings in Washington State, I had an opportunity to see both sides of this process, and I would like to compliment the Board for the dignity which has attended its efforts in these meetings here in Abbotsford. And I also wish to thank them for the respect they have proffered to the people who came here to testify. It wasn't quite that easy in Washington, I assure you.

5116. I want to deal with the first decision of the EFSEC council, and in its first -- in that first decision, the council's evident concern for humanity on both sides of the border -- in that decision -- maybe if I got my glasses on, it will be better.

5117. *"In its evident concern for humanity on both sides of the border, the*

**SUBMISSIONS**  
**(Hatch for A. Waxman)**

*decision of the first EFSEC consulate to deny a permit for the construction of SE2 must be regarded as a monument to altruism.*

5118.

*“However, it was to be a short-lived achievement and was soon destroyed in an act that frustrated the will of the people in the area and reduced the democratic process in Washington State to the status of a grotesque farce, smacking, at best, of cheap politics or, at worst, of criminal intent.”*

5119. Which brings us to Mr. Bernie Brady, a gentleman we heard of earlier today. He was the gentleman who was to eventually approve the prevention of a significant deterioration certificate which Sumas Energy so earnestly desired. And he did so shortly afterwards.

5120. However, in an interview with a newspaper reporter shortly afterwards, he stated that he had done so without ever seeing or hearing one word of public testimony. And I think when the Board is making its decisions on this matter, that it should have serious questions about what appears to be an illegitimate process.

5121. Apart from that, I just wish to adopt the position of Tim Howard and Mr. Yardley and Mr. Penner and Mr. Randy White, who I continue to regard as a true patriot. I think that's all. Thank you very much.

5122. **THE CHAIRMAN:** Thank you, Mr. Witt.

5123. Any other intervenors whose name begins with "W"? Any intervenors whose name begins --

5124. Ms Hatch...?

5125. **MS HATCH:** I'm giving some information from Ava Waxman.

5126. **THE CHAIRMAN:** Go ahead.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS HATCH**  
**(On behalf of Ava Waxman):**

5127. **MS HATCH:** She apologizes that she could not be here. She moved to Port Coquitlam and then works in Vancouver and just is finding it very impossible to get here in time.

5128. She asked me to state that she supports the presentations by Mr. Howard, Mr. Yardley, Mr. John Smith, Ms Reeves and the Sto:Lo Nation.

**SUBMISSIONS**  
**(Wilkins)**

5129.                   **THE CHAIRMAN:** Thank you, Ms Hatch.

5130.                   Any other intervenors whose name begins with "W"?

5131.                   **MR. WILKINS:** Terry Wilkins from Mission.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. WILKINS:**

5132.                   **MR. WILKINS:** Mr. Chairman, members of the Board, I hope I'm going to give you something a little different.

5133.                   Unlike so many others, I would have taken the Board's authority for granted, that they had full authority to encompass all pertinent information and facts until SE2's counsel challenged it and started instructing them on what they could and couldn't do. Then it became necessary for counsel for our side to support you and what you can do, which took a lot of time. I feel it was probably unnecessary, because you know what you are supposed to do, anyway.

5134.                   However, I would like to tell a story, and the story has to do so with environmental effects and pollution. It has to do with EFSEC, and it has to do with myself travelling to the EFSEC hearing.

5135.                   I'm a retired customs officer. I was -- I worked for Canada Customs as a senior customs inspector. A couple of years ago I got involved in this process and became an intervenor, but before I did so, in 2001 I -- in the fall of 2001, I endeavoured to travel to an EFSEC hearing.

5136.                   So I got in my van with several other people who were going -- from Mission who were going down to the EFSEC hearing in Bellingham. And I probably didn't get involved soon enough so that I could be an intervenor in that process, but nevertheless, I travelled down there.

5137.                   Just before I got to the border, I got stopped for speeding and got a hundred dollar ticket, which didn't make me too happy. However, that's not part of the story.

5138.                   I approached the U.S. customs and was interviewed by a U.S. customs officer and a U.S. immigration officer who were both packing artillery on their hip. It gives you pause when you have to face an armed officer. These gentlemen were very pleasant and did their job very well.

5139.                   We proceeded on to Bellingham to the courthouse where the EFSEC hearing was about to begin. The impression I got is that I had walked into an armed camp. There must have been over a hundred armed officers there from the sheriff's department, the city

**SUBMISSIONS**  
**(Wilkins)**

police, the state police, the guards at the courthouse.

5140. I want to give you this picture, because this is what the people who went to the EFSEC hearings -- perhaps not all of them, but this one I went to -- this is the way it was. It was an armed camp.

5141. Imagine some of these people here tonight, some of these intervenors, who have faced you, and I -- a few of the intervenors here tonight have complimented you on the surroundings and the decorum of this Board, of this hearing, and I agree with that. Apart from being long and sometimes tedious, it is a pleasant experience.

5142. It wasn't a pleasant experience for me. As a customs officer, I -- let me put it this way: The Canadian government and the Canadian Customs Service is very proud that we guard the longest unarmed border in the world without any arms. That's the way it is on our side.

5143. As a customs officer, I have seized enumerable amounts of firearms being illegally entered into Canada. That doesn't bother me. It didn't bother me to remove loaded weapons off of a person trying to enter our country. I'm not bothered by that. I wasn't bothered by that. I was in the military service under live fire in training. That didn't bother me.

5144. But it bothered me when I was going down to try and be an intervenor or a witness at an EFSEC hearing in which we were trying to protect our environment from a foreign organization that was trying to force something on us and I walked into an armed camp.

5145. Let me describe to you what it was. There were probably 80 policemen -- and I'm guessing, but there was an awful lot of policemen outside in the two blocks surrounding the courthouse. Outside the courthouse there were officers in four different uniforms, all carrying firearms.

5146. Inside the courthouse I went in to try and enter the EFSEC hearing, and I was confronted and told that there was no room, there was no seating for us, and all the seats were taken and all the standing room was taken and we couldn't enter. A couple hundred of us stood outside in the cold for three hours waiting for the results of the hearing.

5147. I just want you to have this picture of what we were confronted with.

5148. You have heard from others that they were given four minutes, some were even denied access as intervenors who were actually accepted intervenors and were denied access.

5149. Mr. Chuck Martin has said that this was our only recourse. This was the only way that we could have a hearing -- the only way we could be heard. He said that you did

**SUBMISSIONS**  
**(Webber)**

not -- you as the Board did not have authority to -- excuse me, I'm getting awful dry. I'm agitated.

5150. Mr. Martin made the statement in his Affidavit -- I believe it was in his Affidavit, that the -- however, he did make a statement that the National Energy Board did not have the authority to rule on a plant outside of Canada or its effects.

5151. Now, the effects of the plant in Sumas, Washington on Canada has to be considered.

5152. I believe that the picture I painted for you indicates intimidation of Canadians who travel to Washington State to try and be intervenors. If it doesn't prejudice them, it certainly intimidated them.

5153. I wouldn't ordinarily have been intimidated by firearms. I never was before. But looking at probably over a hundred officers who were placed there, I believe not only to protect American interest, but to intimidate those who were attending -- do they figure that Canadians are all violent or what was the purpose of them being there?

5154. I think I've given you a picture of what EFSEC -- of what the EFSEC hearings -- one aspect, at least, of what the EFSEC hearings were doing.

5155. I don't think you should consider EFSEC as having done a proper job. I think you have to disregard their actions and consider that they did not have any Canadian interests at heart, especially the second panel, which I don't believe were acting in good faith at all.

5156. I respectfully submit this to you and apologize for being agitated and emotional, but I guess that's the way I am. Thank you.

5157. **THE CHAIRMAN:** Thank you, Mr. Wilkins.

5158. Any other intervenors whose name begins with "W"? And the last letters I will take as a group, "X", "Y" and "Z"?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS WEBBER:**

5159. **MS WEBBER:** Good evening, Mr. Chair and Board members, I apologize for not addressing you properly before.

5160. **THE CHAIRMAN:** Excuse me, ma'am, could you identify yourself, please.

**SUBMISSIONS**  
**(Young)**

5161.                   **MS WEBBER:** Bernadette Webber, I'm sorry.

5162.                   I would like to adopt the arguments of Barry Penner, Dr. Rose Charlie, Mr. Berge, Ed Fast, Elizabeth Gray, Mr. Cox, Christine Horsfield, Jackie Santschi and Andrea Mikulan.

5163.                   And I would just like to say that I consider this valley my home; not just Abbotsford, and that the value of my nieces and nephews and, in fact, every man, woman and child in this valley, is infinitely greater than any economic grain that could be derived by SE2.

5164.                   And the right thing for you to do is everything you possibly legally can do in addressing all the effects of the power plant as a whole. I guess that's all. Thank you.

5165.                   **THE CHAIRMAN:** Thank you, Ms Webber.

5166.                   Any remaining intervenors whose name begins with "W"?

5167.                   The last letters of the alphabet I will take together: "X", "Y" and "Z"?

5168.                   **MR. YOUNG:** My name is Basil Young.

5169.                   **THE CHAIRMAN:** Go ahead, Mr. Young.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. YOUNG:**

5170.                   **MR. YOUNG:** Mr. Chairman, last time I spoke to you it was 12 minutes past midnight last year, so it is a treat to be talking to you four hours earlier.

--- (Laughter/Rires)

5171.                   **MR. YOUNG:** I am in complete agreement with the submissions of Ms Reeves, Dr. Chafe, Messrs. Howard, Yardley, Welsh, Penner, McNally and that of the Sto:Lo First Nation.

5172.                   You have heard that the airshed in the Fraser Valley is very fragile, and you have also heard about the quantity of additional pollutants which would be added to the airshed were SE2 to be allowed to proceed with the construction of the plant and to runs its power lines through Canadian territory.

5173.                   You have also heard about the number of school children who are already suffering from respiratory problems. Twenty (20) percent of school-age children are affected by respiratory problems, and that's under the authority of the B.C. Lung Association survey.

**SUBMISSIONS**  
**(Young)**

5174. Now, you've heard these statistics submitted to you, and I want to take just a few minutes to add substance to these figures.

5175. I am a chronic asthmatic and have suffered from this disease for 67 years. Unfortunately, two daughters and two grandsons now have asthma that doesn't seem to be chronic but rather sporadic.

5176. I know how terrible it is to watch one's child fighting for every breath with prescription inhalers not alleviating the condition, with certain despair, the parents carry the child to the car and take him or her to hospital for more drastic measures.

5177. Because I was careless in taking preventative medications during my young adult years, my wife has seen me become cyanotic indicated by the face turning blue from lack of oxygen in the blood. At this point, I was suffering a very severe asthma attack and was hospitalized.

5178. Those children who suffer from respiratory diseases have to carry one or perhaps more inhalers with them at all times and will do so until one, they may grow out of the disease; or two, until such time as a cure may be found.

5179. Members of the Board, what kind of persons would propose to build a plant that will spew out noxious pollutants which will add to our already fragile airshed and further compromise the health of our children and grandchildren? Do they have a conscience?

5180. Is this the inheritance we want for our children and our grandchildren?  
Thank you for allowing me to speak.

5181. **THE CHAIRMAN:** Thank you, Mr. Young.

5182. We do have a "Z" on the list. Is there anyone remaining in the "X", "Y", "Z" category?

5183. **MS GRAHAM:** Hi, I'm actually a "G".

5184. **THE CHAIRMAN:** Well, I am going to come back and go through it one more time. We will take a ten-minute break at this point and then resume and make sure we haven't missed anyone, and then hopefully wrap up a few loose ends before adjourning.

--- Upon recessing at 8:00 p.m./L'audience est suspendue à 20h00.

--- Upon resuming at 8:20 p.m./L'audience est reprise à 20h20

5185. **THE CHAIRMAN:** We are aware that there are some intervenors here

**SUBMISSIONS**  
**(Henderson)**

who were not here when we went through the list earlier, so we'll ensure that we've covered everyone off.

5186. Are there any representatives of associations that have not yet been called?

--- (No Response/Pas de réponse)

5187. **THE CHAIRMAN:** Representatives of groups that are registered as intervenors?

--- **SUBMISSIONS BY/SOUMISSIONS PAR MR. HENDERSON**  
**(On behalf of Council of Canadians, Mission Chapter):**

5188. **MR. HENDERSON:** Good evening, Mr. Chairman, Council. Sorry we're late. It is the Council of Canadians, and they were to be here this morning, and I have a letter from Patricia Cocksedge.

5189. My name is Vern Henderson, and I am representing the Mission chapter of the Council of Canadians.

5190. **THE CHAIRMAN:** Go ahead, please.

5191. **MR. HENDERSON:** Thank you. Patricia has written me -- handed me a letter here to read, but first of all, she refers to an article. In 1991, Canada and the United States signed an agreement on air quality to establish -- and this is a quote from the article "Practical and Effective Instrument to Address Shared Concerns Regarding Transboundary Air Pollution".

5192. Under this agreement, both governments created a bilateral international air quality committee to control transboundary air quality. That was in 1991.

5193. Then Patricia goes on to say -- this is her letter for the council: That if the NEB and the governments represented here do not have authority to consider the environmental effects of power lines in conjunction with the facility they are meant to connect to, then we have been badly served by the governments we have elected to serve the interests of all Canadians. And this would affect our health and environmental issues. Thank you very much.

5194. **THE CHAIRMAN:** Thank you, Mr. Henderson.

5195. I don't believe there are any other groups or organizations that we've not heard from, so we'll return to the list of individual intervenors and we'll go in blocks by alphabet.

5196. Anyone whose last name begins with letters "A" to "C"?



**SUBMISSIONS**  
**(Clyne)**

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. CLYNE:**

5197.                   **MR. CLYNE:** Good evening, Mr. Harrison, Ms Emes, Dr. Dybwad. Welcome again to our valley. My name is Dave Clyne with a "C".

5198.                   I support the Environmental Effects Motion and all the people who have so far supported it. I speak on behalf of my wife, who is actually a Canadian and an American citizen, and my two children.

5199.                   I was born actually in Mission quite a long time ago, and a year later my parents moved up the Okanagan, but 26 years ago we moved back to Chilliwack and have lived there since then and have seen many changes in Chilliwack, but we've also seen changes in the environment before our eyes.

5200.                   I can remember when there was no problem seeing mountains. I can also remember gradually the mountains disappearing before our eyes at times, and I can remember about five to ten years ago hearing on the radio with fair regularity: "If you're going to jog or exercise, do it before 3:00 in the afternoon."

5201.                   When I was writing this last Thursday, it sort of struck me that we've had four or five or six pollution-free clear days. And when I was talking to John Les about this on Friday, he said actually the pollution in the valley -- the air quality of the valley has improved considerably over the last five, ten years. And that's for a variety of reasons, partly AirCare, partly better cars.

5202.                   About five years or so ago, my doctor sent me to a specialist in Vancouver for allergy tests, and what turned out to be -- I didn't have any allergies, except the doctor mentioned or the specialist said that I had mild asthma brought on by pollutants, which I found rather surprising because I never knew I had asthma before.

5203.                   Right now my eyes are itchy. I don't think this happens to people who come into the environment who aren't used to it. I just know when the pollution starts to happen -- they haven't been itchy for the last -- well, for quite a long time, but tonight they are itchy and that just seems -- that is just part of what I get used to.

5204.                   I support this motion because our valley cannot withstand such an increase in pollution. Pollution will increase naturally over the years if the population continues to increase the way it does and the resulting increase of cars.

5205.                   This alone is enough of a challenge for us to reduce car pollution and existing power plant pollution such as the Burrard plant.

5206.                   Two, the impact of pollution does not only affect us but the wildlife and

**SUBMISSIONS**  
**(Clyne)**

trees as well as future generations of people. Currently, environmental groups are very concerned about the spotted owl dying out in our area due to loss of old-growth forest trees.

5207. I wonder how much of their reduced reproductive rate has been due to pollution in this area. Now, it's interesting, I don't know if you're aware, but about one or two weeks ago, Interfor, which is a pretty huge international forest company, stopped logging in old-growth forest because of the concern that there are very few owls left.

5208. And I figure if we're so concerned about the effects of logging old-growth trees on the spotted owl population, we need to also be concerned about the effects of extra pollution on them, the trees and other wildlife.

5209. Three, Prime Minister Chrétien plans to sign the Kyoto Agreement will make Canada committed to decreased levels of pollution. If this is imminent and if the government is committed to reducing pollution levels over the next ten years, then it is most important that the environmental effects of SE2 be part of your investigation.

5210. Four, if SE2 is allowed to use the Abbotsford power grid and builds a plant, more power plants are slated to be introduced in the Fraser Valley. The eastern valley cannot tolerate any more pollution, and certainly pollution from environmental plants here, oddly enough, I think are going to affect the areas of Chilliwack and Hope probably more than Abbotsford.

5211. It's unfortunate that there aren't more Chilliwack and Hope people here, because the natural progress of the pollution has to be going down to our valley, and it's because it narrows, it's going to increase.

5212. As a matter of fact, I believe one of the surprises of the pollution study last year done by the federal government was how much pollution we get from Abbotsford; not Vancouver but from Abbotsford.

5213. I have rarely heard Fraser Valley residents support SE2, but I have to say, unlike Chuck Strahl, I have heard of a few. I have actually seen a couple of letters supporting SE2 from the Canadian side.

5214. However, citizens, city councils and our provincial government are all against SE2. There has been a great deal of research from our Province showing the current state of pollution, the negative effects of it, and the potential effects of increased pollution. Please consider our plight as residents who live every day in this lovely valley and who want to reduce the level of pollution.

5215. I'm concerned that SE2, clean as it supposedly is -- and I have to say "supposedly" because once that thing is up, what happens if it exceeds the levels that it's said?

**SUBMISSIONS**  
**(Baumann/Pincott/Beulens)**

Are they going to close it down?

5216. Over time, it and others may turn our beautiful valley into an environmental wasteland. I guess I wonder if big business -- big U.S. business and big U.S. government are ignoring the pleas of ordinary American and Canadian citizens to not approve this environmental polluter that will, unfortunately, affect mostly Canadians.

5217. I support this motion most fervently because it seems that this is the very last chance that we, in the Fraser Valley, have for an environmental investigation to occur regarding the future of the SE2.

5218. I thank you, and I again thank you, like other people have mentioned tonight, with the respect that you have given us all and the fact that the hearings have run very smoothly. I appreciate that. Thank you.

5219. **THE CHAIRMAN:** Thank you, Mr. Clyne.

5220. Any other intervenors in the group "A" to "C"?

5221. Could I remind everyone to identify themselves when they come to the microphone, please, for the court reporters.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. BAUMANN:**

5222. **MR. BAUMANN:** My name is Eric Baumann. Mr. Chair, Board members, I am a resident of Abbotsford. I have been living here since 1988, and like many of my neighbours and fellow citizens here, I am very much concerned about the environmental effects -- negative effects of the power plant.

5223. I think the arguments have been made very well by other people, so I'm not going to be tedious and repeat everything. I would like to adopt and support the arguments of Mr. Howard and Mr. John Van Dongen.

5224. What I would like to add is that, in my view, it's -- that the NEB, your Board, cannot fulfill its mandate, as it is in public record -- and that's read some of it -- cannot fulfill its mandate without considering the environmental effects of the power plant itself. Thank you.

5225. **THE CHAIRMAN:** Thank you, Mr. Baumann.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. PINCOTT:**  
**(On behalf of Ms Allan, Mr. & Mrs. Aitken, Mr. Bot and Mr. Brandsma)**

**SUBMISSIONS  
(Constantino)**

5226.                   **MR. PINCOTT:** Keith Pincott speaking on behalf of Lorna Allan, Clay and Emily Aitken, Rudy Bot, Pete Brandsma. I'm adopting formally the submissions of Tim Howard and James Yardley and Richard Peachey. Thank you.

5227.                   **THE CHAIRMAN:** Thank you, Mr. Pincott.

5228.                   "A" to "C"...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS BEULENS:**

5229.                   **MS BEULENS:** I'm coming up bit by bit here. That's what happens when you start in the back.

5230.                   Mr. Chairman and Board's members, my name is Sandra Beulens, and I'm not able to attend the meetings during the day, but I really do have to appreciate the transcripts that are appearing on the -- on your website. Unfortunately, of course today's comments are not there yet, so I can only refer to them generally.

5231.                   I feel that studying -- or dealing with the power lines only is like dealing with this little picture, which is part of the party game. You look at this and say, "What is it?" If you don't have the rest of the picture, you don't know it's a giraffe passing a window.

5232.                   And to me, that's what the power lines -- studying the power lines without dealing with the end user of SE2 would be like looking at a picture that's incomplete.

5233.                   And based on what I've heard before on other occasions, I would also like to support many of the other speakers that have passed before me. Like I say, because I don't have today's information, I cannot name them specifically, but I'm sure you've had some very good references and very good arguments as to why you should consider the whole picture.

5234.                   **THE CHAIRMAN:** Thank you, Ms Beulens.

5235.                   "A" to "C"...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR DR. COSTANTINO:**

5236.                   **DR. COSTANTINO:** Honourable Chairman, Board members, ladies and gentlemen, my name is Dr. Anthony Costantino, with a "C", C-O-S-T.

5237.                   I'm a neurologist and presently in the Abbotsford area, and first of all I would like to thank you -- or thank the NEB for the opportunity of presenting my opinion regarding SE2 project.

**SUBMISSIONS**  
**(Constatino)**

5238. Yes, I believe the Board should hear evidence concerning the environmental issues and effects because of some concerns I wish to bring up and express.

5239. As a resident and physician, I have grave concerns regarding the existence of such a facility. I'm not against progress, economic endeavours by individuals or corporations, but not at the expense of mine, my patients and the public's health and personal welfare.

5240. The SE2 group wish not to discuss the impact of such a facility on the environment. They only talk about the power lines. Why do you think they do not want to talk about the environment? They say it's a nonissue.

5241. Why is it that all of the citizens want to bring it up? The obvious answer is that the SE2 know that the environment is indeed a very important matter, and that is why they do not want to discuss or what -- or wish to avoid the issue, otherwise they would be happy to defend their views and discuss the real issues - health and environment.

5242. Money is compensation for environmental pollution. It cannot buy back health or life. They are trying to hide from the severe impact that they know such a facility will have on the health and environment in the Lower Fraser Valley.

5243. I have no intentions of reviewing all of the polluting emissions of such a gas -- sorry, a natural gas-fired electrical generation facility will produce, since this has been well worked out and stated on numerous other occasions.

5244. I am very pleased to read that this proposed natural gas burning facility will use the latest technology and meet overall present quality standards.

5245. This, however, is all relative and totally meaningless, and I repeat, meaningless, in an area that cannot tolerate any added pollution. This fact is being totally ignored by the SE2 proponents.

5246. I will not discuss the effects of electromagnetic fields, nor the carbon monoxide, sulphur dioxide, nitrous oxide, lead, fluoride, ammonia or other hazardous intoxicant pollutants. But I see some reports of PM<sub>10</sub> emissions of 42 pounds per hour or 209 tonnes per year.

5247. In the relatively recent article in the *New England Journal of Medicine* -- which is a very prestigious journal, I may add -- dated December 14th, 2000, there's an article entitled "Fine Particulate Air Pollution in Mortality in 20 U.S. Cities, 1987 to 1994".

5248. Now, without going into any detail, the conclusion was, I quote:

5249.

**SUBMISSIONS**  
**(Constantino)**

*"There is consistent evidence that the levels of fine particulate matter in the air are associated with the risk of death from all causes and from cardiovascular and respiratory illnesses. These findings strengthen the rationale for controlling the levels of respirable particulates in outdoor air."*

5250. In the editorial in this article in the same issue, the EPA, the Environmental Protection Agency, in 1987 set the standard of a maximum allowable 24-hour concentration of 150 micrograms per cubic metre and maximum allowable annual mean of 50 micrograms per cubic metre.

5251. However, in 1996 the PA wrote that, in quotations again:

5252. *"Staff cannot conclude that the current standards protect public health with an adequate margin of safety."*

5253. Now, the PM<sub>10</sub> concentrations were positively associated with daily mortality rates in most of the 20 cities studied in the concentrations well below the current 24-hour standards. Moreover, the association was specific to PM<sub>10</sub>.

5254. The epidemiological evidence suggests that the association between fine particulate concentrations in mortality is linear across the entire range of current concentrations, thus as the concentration increases, so does mortality.

5255. Now, with this information and the fact that the lower Fraser Valley is already suffering from poor air quality given this geographic characteristics, how can anyone in any corporation even conceive that such a facility as the SE2 will not be detrimental to the public, people and environment.

5256. Mr. Chairman, ladies and gentlemen, how can the SE2 group honestly say that there is no significant impact on the environment and they do not wish to discuss it?

5257. The SE2 project is not for the Sumas and Fraser Valley area. I'm not an environmentalist, but a realist and a very concerned Canadian citizen who feels that our rights to clean air and good health are being violated.

5258. This is a grave injustice that is totally unacceptable. Such a proposed polluting plant cannot be allowed to proceed. If such a proposal is permitted to proceed, I would not be surprised if at some point or other that class action lawsuits would ensue.

5259. I have not even touched on the negative economic impacts that the SE2 will have for the local area. This, I'm sure, will be discussed by other intervenors at some point

**SUBMISSIONS  
(Morrison Day)**

in the future.

5260. I trust that the NEB with the Government of Canada's action on clean air with the Canadian Environmental Protection Act of 1999, that the SE2 will not be allowed to proceed.

5261. From what has been said, it would seem that the NEB are in a legal position and have a responsibility and a mandate to consider the health and welfare of Canadian citizens - in this particular case to the Fraser Valley residents.

5262. I thank you again for your time, consideration and attention to this very important matter, and again, it is absolutely wonderful to have such an open forum and opportunity to speak. Thank you.

5263. **THE CHAIRMAN:** Thank you, Dr. Costantino.

5264. Any more intervenors in the group "A" to "C"...?

--- (No Response/Pas de réponse)

5265. **THE CHAIRMAN:** "D" to "F"...?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS MORRISON DAY:**

5266. **MS MORRISON DAY:** Good evening. My name is Rose Morrison Day. At work more precisely I'm known as Rose Morrison, while at home more often I go by Rose Day. For tonight I have put the two names together because the matter at hand affects every part of my life.

5267. In the Chair's opening remarks on Friday evening, Mr. Harrison, you stated that, as a court of record you are bound to hear evidence and arguments of all the parties who appear and then, based on that evidence, come to a decision in the Canadian public interest.

5268. The number of intervenors at SE2 hearings is, I am told, unprecedented at NEB public hearings. The number of those intervenors with environmental concerns about the proposed Sumas energy plant is also without precedent.

5269. The Board will not be able to come to a decision in the Canadian public interest if it does not allow us to present evidence on what concerns us the most.

5270. Like many, I have developed a familiarity with the *National Energy Board Act*, and the lines that stay with me the most as being most pertinent to the matter at hand are found in Part III.1, which deals with international power lines; 58.14, Criteria 2.

**SUBMISSIONS**  
**(Dahlgren)**

5271. In determining whether to make a recommendation, the Board shall have regard to all considerations that appear to it to be relevant, including the impact of construction or the operation of the power line on the environment. The emphasis is my own, but the words are the words of the Act.

5272. With respect, I would bring it to the Board's attention that operation of the proposed power lines and no extra pollution in our airshed are mutually exclusive events. Therefore, if the Board does not receive and consider environmental effects evidence, it will not be able to make a balanced decision.

5273. If you should come to the conclusion, Mr. Harrison, Ms Emes and Dr. Dybwad, that your mandate does not allow you to consider this Power Transmission Application in anything but the most reductionist context, a context that decouples economic endeavours from the community that should approve them, and the ecosystem that enables both economy and society, then I ask that you keep your integrity and go no further until the Board has been granted a broader mandate.

5274. I do trust that, unless this hearing is discontinued, that I will have the opportunity to address you in the future when you return to hear evidence on the environmental effects in Canada of the proposed power plant in Sumas, Washington.

5275. Mrs. Peachey is right - these are a lot of things that we need to tell you. I speak tonight also on behalf of my husband, John Russell Day, and we endorse all those who have opposed this motion to curtail environmental effects evidence. Thank you.

5276. **THE CHAIRMAN:** Thank you, Ms Morrison Day.

5277. "D" to "F"?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS DAHLGREN:**

5278. **MS DAHLGREN:** Mr. Chairman, members of the Board, thank you for allowing me the time to speak this evening. My name is Debra Dahlgren. I'm a resident of Abbotsford. I'm a mother of three boys. My youngest suffers from asthma. I'm terrified of the emissions of this proposed plant.

5279. Recently my 16-year-old son Joel asked myself and his father if he could attend a house party. We told him perhaps, but I need to talk to the parents hosting the party, first to get all the information. He was aghast.

5280. He said we had told him he could attend parties when he was 16 and that we do not trust him. We told him it would be irresponsible to let him attend this party without speaking to the parents and finding out if they are going to be home and making sure that there



**SUBMISSIONS**  
**(Dahlgren)**

would not be any alcohol at the party.

5281. I did not wish to embarrass him or force our family values on the hosts, but simply establish if it's in my family's interest for him to attend this party.

5282. I'm appealing to you, the National Energy Board, as our extended Canadian family, to please do the same for us in the Fraser Valley. Make sure that you have all the information on the effects of this plant before you make any decision that would affect the health and economics of this valley for decades.

5283. I have been involved with the citizens group concerned with this application for several years. On Thanksgiving Sunday, a friend and myself were handing out rally posters at a local shopping mall. I was approached by a young family. A child of about nine years old acted as interpreter between his mother and myself. I asked this child if he knew about SE2. Yes, he replied, he read about it in the paper. He then asked me: If you have asthma, will SE2 kill you?

5284. I gave pause to his question and I asked him: Do you have asthma? He answered yes. My first reaction as a mother was to protect him from his fear. I told him not to worry because the adults would take care of him. A lame answer to a question I am not sure of.

5285. Will SE2 kill him or simply make him sicker? Will his family be forced to move out of the valley? Are the papers sensationalizing the effects of this plant? Are the doctors' and scientists' fears unfounded?

5286. The only way to determine this is to have a Canadian assessment of this plant. The Board has a responsibility, as stated in their vision statement to protect us, Canadians, from harm's way.

5287. SE2's claim that the Washington State's EFSEC has already considered the Canadian concerns is not a legitimate argument. We are but tourists in the U.S.A. Every day Canadian citizens are denied entry into the U.S.A.

5288. EFSEC decided in their second decision that for economic and political reasons, Canadian interests were not to be given the same weight they were in the first hearing. We deserve better than this.

5289. If the effects of this plant are as benign as SE2 would have us believe, with all the opposition to this application, one would think they would be willing to accommodate a Canadian assessment. Instead, they try to hide behind a censorship motion.

5290. I beg you to make the right decision for the Fraser Valley and the Canadian public as a whole and deny this motion. Thank you.

**SUBMISSIONS  
(Hoekstra)**

5291. **THE CHAIRMAN:** Thank you, Ms Dahlgren. "D" to "F"?

---(No Response/Pas de réponse)

5292. **THE CHAIRMAN:** "G" to "J"?

--- **SUBMISSIONS BY/SOUMISSIONS PAR MR. HOEKSTRA:**

5293. **MR. HOEKSTRA:** My name Josh Hoekstra. I live in Abbotsford and I'm -- I think that the NEB should hear arguments about the power plant because it is going to affect us. The power plant and the power line are the same thing for one simple reason: they need each other. They can't work without each other. The power lines are for SE2 alone.

5294. I want to have my say about the power plant because it's going to affect me and Abbotsford and Mission. The power plant should be heard in Canada because it will affect Canadians. Maybe some people couldn't go to the EFSEC hearings because they couldn't cross the border.

5295. The Americans' council has different rules than the Canadian Board. I'm Canadian and I want to speak at a Canadian hearing because I'm comfortable speaking in Canada and not in the States. I think a lot of people probably feel like me. Thank you.

5296. **THE CHAIRMAN:** Thank you, Mr. Hoekstra.

--- (Applause/Applaudissements)

5297. **THE CHAIRMAN:** I think, Mr. Hoekstra, you probably carry the prize for the youngest registered intervenor in an NEB proceeding at this point.

5298. Yes, ma'am?

--- **SUBMISSIONS BY/SOUMISSIONS PAR MS GARRY:**

5299. **MS GARRY:** Mr. Chairman, members of the Board, fellow residents of the Fraser Valley, my name is Elaine Garry. I would like to adopt the comments of Mr. Howard, Mr. Yardley, Mr. White and Mr. Smith.

5300. I had a plan before I came here today, and that was to go down to the local fire department and borrow one of their smoke machines and drag along a cord and have it plugged in here and having it just kind of spew out this smoke that they fill the fire house with when they are teaching children how to get out of a smoke-filled building.

5301. I was going to say: It's harmless, it won't hurt you. That's what they keep

**SUBMISSIONS**  
**(Graham)**

saying. I struggle to understand that that's true.

5302. Take a deep breath. I encourage all of you now to take a deep breath. Just take a deep breath. It feels so good to take a deep breath full of clean air.

5303. About 30 years ago, because I grew up in Mission, I remember when they used to dump raw sewage into the Fraser River and people kind of sat up and took notice and they built sewage treatment plants all along the Fraser River, and they say our river is probably the healthiest it's been in many, many years, and I'm very proud to say that. To know that, to be part of it and being here when it happened.

5304. I am very concerned about our airshed. We are looking for ways to reduce pollution, not to increase it. We don't need SE2 or any other project that proposes to add to our airshed problems.

5305. I would like you to hear the evidence concerning the environmental effects in Canada of the proposed power plant in Washington State. It is appropriate subject matter for this Board to consider. Thank you.

5306. **THE CHAIRMAN:** Thank you, Ms Garry. "G" to "J"?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS GRAHAM:**

5307. **MS GRAHAM:** Hi, I'm the "G" that was trying to sneak in here earlier. Anne Graham.

5308. I would like to adopt all the arguments of all the previous speakers, and I concur with their thoughts and beliefs.

5309. Honourable members of the Panel, I thank you for this opportunity to speak. I'm a resident of Abbotsford for 14 years. I live and work here. My children go to school here. I first heard about the proposed Sumas 2 power plant more than three years ago.

5310. I attended as many of the EFSEC trials as I could to try to lend some support to those people who are brave enough to step up to the mic. I was particularly impressed with the Sumas elementary teacher who was overcome with emotion and could not finish what she had come to say. She did mention the gist of her concern was that many of the children in her school had to stay indoors at lunch and recess when the neighboring Sumas 1 power plant was running.

5311. She felt as many of us here today feel, horrified by the thought of such -- a second such power plant in Sumas.

**SUBMISSIONS**  
**(Graham)**

5312. I was in Bellingham standing outside the courthouse chanting "we want clean air" when the original EFSEC verdict was given as no. And I remember how right it seemed and I remember thinking: That's that, it's over with. They'll go build their power plant somewhere else, good riddance.

5313. That was over a year ago. Now the situation is getting more and more desperate, because they don't want to go away. They don't care about the hundreds of thousands of people that are affected by pollution in the valley, and they are not going to go away unless somebody absolutely stops them.

5314. I recently went to a meeting put on by the Ministry of the Environment about the proposed pipeline to the Sumas hub. We were invited to discuss our concerns about any environmental issues involving property or safety issues, or even ungulates in the woods which could be disturbed by the laying of the pipeline.

5315. For some strange reason, we were not allowed to address the concerns of where the pipeline was going or what it was going to hook up to. I don't know why we could not speak about the proposed power plant, but I do know that the ungulates in the woods might be prepared to put up with a pipeline, but they probably won't stand up well to the effects of large-scale polluting power station belting out tonnes of filth into the air.

5316. Over the last three years, I have met a large cross-section of people who have become involved in this fight. You are meeting them now: doctors with data about asthma and cancer rates, environmentalists with warnings about acid rain, real estate agents concerned about property values, business people concerned about the local economy, and many other people who are just like me, an average person with average attributes; most notably, the very basic need for breathing a little oxygen with my valley air.

5317. My fear if Sumas 2 is built is the same as everybody else's. I will have to move my family out of the Fraser Valley because it will be worse than it already is. I would like this to be over. I would like a group of powerful federal government bureaucrats to realize this whole idea of pipelines, electrical lines, wastewater and power plants are just going to serve a few people who are already obviously very rich to the detriment of thousands upon thousands of men, women, children, fish in the river, ungulates in the woods, doctors, real estate agents, business people and people just like me.

5318. I listened to the defence speak for three hours on Monday morning. I thought the defence was trying the patience of the Board with his arguments that we cannot address the environmental issues of SE2.

5319. Whatever the validity of these arguments have, they must be overwritten by the concern for quality of life in the Fraser Valley and loss of life in the Fraser Valley. Whether it's acid rain in the headstreams killing the organisms which start the chain of life or

**SUBMISSIONS**  
**(Johnston)**

heavy metals in the field starting a chain reaction in our dairy cattle; whether it's asthma caused by the haze or a water shortage caused by the millions of gallons of water needed to support the power plant; whether it's the raising of the temperature of the Fraser River by the effluent or electro-pollution by the power lines, all of the aspects should be addressed, every last one of them.

5320. We are a farming community, a business community, a religious community, a rich community, a poor community, an aboriginal community, a young and old community. We are united and unanimous: We live in a place where the air quality is threatened; inarguably, one of the worst airsheds in Canada.

5321. There are many people already who have left this area because they cannot breathe the air. In 1994, after having enjoyed a rather healthy life of over 30 years, I came down with a chest cold that would not go away. I have never been free of it since. This is called a chronic condition.

5322. My chronic condition is called "asthma", and what is coincidental to the date that I developed my condition is that it was the same time as the power plant known as Sumas 1 was fired up.

5323. Had I been aware at the time Sumas 1 was being planned that it would cause me health problems, I would have tried to address those concerns at that time.

5324. Once this power plant gets fired up, SE2, there is no avenue to address the pollution, no stopping the 2.5 to 3 tons of filth it is supposed to emit every day; no stopping my lung condition from worsening.

5325. That's all.

5326. **THE CHAIRMAN:** Thank you, Ms Graham.

5327. "G" to "J"?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS JOHNSTON:**

5328. **MS JOHNSTON:** My name is Christine Johnston, Mr. Chair and members of the Board. Thank you again for allowing me to speak.

5329. I want to adopt Mr. Howard and Mr. Yardley's comments.

5330. We have to ask ourselves this question: Is this a need or a want? Do we British Columbians need this power line and power plant, or does this company's want for profits a reason to risk our children's health? The answer to these questions is "no".

**SUBMISSIONS**  
**(Johnston)**

5331.                   Why does this company want to limit the scope of the hearing? Does this company have something to hide? I feel that SE2, given the choice of profits or protecting the Lower Mainland's environment, will choose profits.

5332.                   If this U.S. company is willing to sacrifice the people of Whatcom County, then why do we think that they would protect us Canadians?

5333.                   SE2 might argue that the environmental issue has been covered in the EFSEC hearings. Since I am not a citizen of the United States, I feel that EFSEC does not represent my family and me.

5334.                   I also have issues about the way the FSEC hearings were conducted. First EFSEC denied SE2's application, then a few members are changed and, to no one's surprise, the application is approved.

5335.                   We, the citizens of the Fraser Valley, do not have the resources to sway U.S. decision-makers.

5336.                   This application will only benefit the Americans and has little economic gain for us. We Canadians will once again be used by another American big business. Our children will pay the price for this corporation's greed.

5337.                   I would like to see Canada, on behalf of Canadians, prepare fair studies about the effects on our environment -- what the effects on our environment and health will be.

5338.                   I want answers to questions such as: Since all the benefits will be enjoyed by Americans and, in particular Californians, why is this plant not built in California? Why should we breathe pollution from SE2 when we get nothing in return?

5339.                   I would like to ask Mr. Martin if his company has done an incremental health impact study of the effects of the air pollution from SE2 on the Fraser Valley.

5340.                   I would be interested in knowing what the total cost to our health system will be because of the added pollution from SE2. If my children's health is affected due to the increased pollution or effects from the power lines or power plant, whom do I turn to? SE2? Government? The National Energy Board?

5341.                   The building of the power plant and the power lines are one issue. You cannot separate the plant from the power lines.

5342.                   In Mr. Lusk's submission on October 19th, Volume 6, paragraph 977 he states:

**SUBMISSIONS**  
**(Pincott)**

5343.

*"The Applicant requested an adjournment because it had been denied a key permit for the project."*

5344.  
plant.

Mr. Chairman, the key, as Mr. Lusk points out, to this project is the power

5345.

If we are to grant the power lines and all aspects of the project, including the power plant, it should be assessed by the National Energy Board.

5346.

If the environmental issue of the plant and the power lines are not allowed, I will feel that justice has not been done and the appearance of justice has been avoided.

5347.

In closing, thank you to Mr. Martin and the SE2 project. Your application has united the citizens of the Fraser Valley and thousands across the border.

5348.

We have come together as one, and we will fight until the end as one. We will, as Mr. White said, fight to the end for our future.

5349.

We must all work together, Canadians and Americans, to find solutions to our energy and pollution problems. Thank you.

5350.

**THE CHAIRMAN:** Thank you, Ms Johnston.

5351.

"G" to "J"?

5352.

**MR. PINCOTT:** Pincott again. You will be glad to know that two of the people I was going to speak for showed up. I am glad, too.

5353.

Mr. Chairman, I have Marilyn Ingram and Bruce Geres in that bracket. Should I break ranks and mention the other three or four I've got here?

5354.

**THE CHAIRMAN:** Why don't you do that, Mr. Pincott. Thank you

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. PINCOTT:**  
**(On behalf of H. Roos, L. Seale, and H. Venema)**

5355.

**MR. PINCOTT:** I have Hank Roos, who is overseas on a construction job, R-O-O-S, Linda Seale; Herman Venema.

5356.

And they adopt the submissions by Tim Howard, James Yardley and Richard Peachey. Thank you.

**SUBMISSIONS  
(McAuliffe/McKinnon)**

5357.                   **THE CHAIRMAN:** Thank you, Mr. Pincott.

5358.                   Are there any remaining parties in the "G" to "J" grouping? "K" to "O"?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS McAULIFFE:**

5359.                   **MS McAULIFFE:** Good evening. My name is Patricia McAuliffe. Mr. Chairman and members of the Board, I urge you to consider all environmental effects of the proposed SE2 power plant.

5360.                   I am a resident of Abbotsford, and I am also an elementary school teacher in the Abbotsford School District.

5361.                   When I was an intervenor in the last round of talks, I surveyed my school community with regard to respiratory problems. I found that at least 30 percent of families reported some respiratory problems such as asthma and chronic bronchitis. These conditions are, in large part, due to poor air quality that already exists in the Fraser Valley.

5362.                   If SE2 is allowed to go ahead, there will be an increase of pollutants being added to our airshed. Young children are affected more than adults by pollutants, and I am very concerned about the health of the children in our community. Thank you.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MS McKINNON:**

5363.                   **MS McKINNON:** Mr. Chairman, members of the Board, my name is Glenda McKinnon.

5364.                   I wish to adopt the testimony of Mr. Penner, Mr. Yardley, Mr. Howard, Dr. Constantino and Deb Dahlgren.

5365.                   I am very grateful that we've had many lawyers and government leaders who have been able to argue precedent and the meaning of the various Ats. But as a resident of Abbotsford, the environmental effects are real. They're not a hypothetical thing written in a book; they're something that we fear.

5366.                   Then to explain our concerns, we need to be able to discuss the environmental effects before this Board.

5367.                   Mr. Yardley mentioned acting in the public interest, and it may be over simplistic, but I feel we are the public and it's our interest.

5368.                   He also mentioned that you will finish the hearings and go home, but we have to live with the consequences. And I think that that is one of the -- we have to live here.



**SUBMISSIONS  
(Neufeld)**

We're residents and that's one of the main reasons that we need to be able to discuss all our concerns, including the environmental effects. Thank you.

5369.                   **THE CHAIRMAN:** Thank you, Ms McKinnon.

5370.                   "K" to "O"?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. NEUFELD:**

5371.                   **MR. NEUFELD:** Good evening, Honourable Chair, Mr. Harrison, and distinguished members of the NEB Board.

5372.                   I want to thank you for your presence and acknowledge your evident attentiveness to the speakers.

5373.                   My name is Abe Neufeld. I'm the mayor of Mission. I have held elected office at the local government level for some 14 years, and only last week was honoured by acclamation for another three years.

5374.                   It is difficult -- I received a phone call while attending the Fraser Valley Regional District board meeting indicating that if I didn't show up here soon I would probably lose an opportunity to speak.

5375.                   So we left in some haste, and I've come without my prepared notes, which are at home, and I thought I would visit here tomorrow morning. And I'm not certain if you will still be listening to speakers tomorrow.

5376.                   But I thought I'd rather come tonight and speak from my heart and share with you the thoughts and the concerns that have been presented to me by the citizens of the Mission community.

5377.                   We have a population of some 33,000 in our city, and we service an area that is close to 45,000.

5378.                   Our community is galvanized in its concern and opposition to the proceeding of the SE2 plant. We have attended rallies. We've attended information meetings. We've crossed the border to attend hearings. We've made presentations.

5379.                   And we've had large groups of people coming to our council expressing their concern wondering what we, as local leaders, were prepared to do or were able to do or if it was a fixed deal, and is there a chance to speak and address this concern.

5380.                   The District of Mission shares many of its utilities and efforts with the

**SUBMISSIONS**  
**(Neufeld)**

Abbotsford community, and we share the airshed with the Abbotsford community. We have the our hands across the river supporting each other in many endeavors.

5381. I want to be on record here tonight as saying that the District of Mission has reviewed the presentations by Mayor Ferguson, Councillor Patricia Ross, MLA John Van Dongen.

5382. And we certainly support their submissions and stand firmly behind them and say that: Yes, we, too, share those concerns.

5383. I have been a resident of Mission for some 30 years, having grown up in Chilliwack. I've watched the environment change. I've watched the wonderful view that we have -- the southern view that we have of Mount Baker and all its glory and how bright and how pristine it is during the first bright summer days, and have watched over the years as we have seen a haze that begins to appear after the first day and second day and the third day.

5384. And if we have persistent warm, fine weather that haze continues to grow until it is totally obliterated and looks like an inversion smog that settles on the valley.

5385. Loss of scenery is concerning, but recognizing that that haze contains contaminates, that our airshed has been damaged, is most disconcerting.

5386. It is troubling to me because I have a wonderful wife who is a preschool teacher and has managed her own preschool for some 23 years and has seen numerous children come through at that very tender age between ages four and five -- three, four and five.

5387. And many of these children come with fragile respiratory systems, and she's shared with me how they are affected during these days when the haze lingers.

5388. And it's shocking and almost unbelievable for us to imagine that any of us in government would support endeavors that increase the contaminants that would flow into the airshed.

5389. I frequently have people winding their way up the stairs to my second-floor office, breathing hard, short of breath, obviously with a fragile respiratory system, expressing their concern to us that we might be considering a burning by-law to allow people to burn garbage in their yards.

5390. As a city and as a community, we have taken every effort possible to restrict the increasing of contaminants into the airshed within our community.

5391. We are alarmed. We are appalled. We are shocked at the thought that a neighbouring country, a neighbouring community, would not only consider, but would endorse,

**SUBMISSIONS**  
**(P. McAuliffe)**

further polluting an airshed that no one -- surely no one -- must dispute is in a fragile state.

5392. And so I'm extremely grateful that we do have a National Energy Board and extremely grateful for your attentiveness, and I know how difficult it is in long public hearings, having chaired many of them myself, but I applaud you for --

5393. I think you're not only looking intent and interested, I'm absolutely convinced that you are observing and listening and taking in the thoughts of people. And I see you smiling. I know it's difficult at times to do, having sat four and five hours at sessions.

5394. So again, I just want to say thank you very much for your commitment. I know it's a difficult one.

5395. I appreciate the fact that you will take the transcripts and you will have to study them and review them and weigh them, and I know that it will not be an easy decision. I think it should be, but I know that it will not be and that you will have to review these carefully.

5396. I want to just say that I certainly appreciate the fact that we do have a National Energy Board and that you have seen fit to come and listen to our concerns, and we thank you for that. Thank you very much.

5397. **THE CHAIRMAN:** Thank you, Mayor Neufeld.

5398. "K" to "O"?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. McAULIFFE:**

5399. **MR. McAULIFFE:** My name is that Peter McAuliffe. Mr. Chairman and Board members, I thank you for your fair and earnest consideration of our concerns and the chance to address you this evening.

5400. I concur with the comments by Mr. Howard, Mr. White, Mayor Ferguson and John Van Dongen.

5401. As a Fraser Valley resident since 1985, I have witnessed the deterioration of air quality, and I have to admit that I have even considered living elsewhere but there is not a lot of opportunity job-wise to move out of the Lower Mainland so I am stuck here for the time being.

5402. But I would rather stay and fight than flee, because and if we lose this battle, it's just going to be the next airshed, too.

5403. Again, I have reviewed the National Energy Board mandate on your

**SUBMISSIONS**  
**(Van Dyke)**

website, and it seems quite obvious to me that protecting public health and the environment is a huge part of your mandate, and to deny us the opportunity to discuss the environmental effects of the power plant I think would be going against your mandate.

5404. I think the Canadian environmental effects need to be considered in a public legal forum, and they have not been considered adequately to date.

5405. I am wary of the unwillingness on the part of SE2 and EFSEC to allow debate on the environmental effects in Canada. It's a bit of smoke and mirrors, and it concerns me that they are trifling with our health and environment here.

5406. And it's not just SE2 that I fear, but the energy brokers to follow and precedent this ruling would set.

5407. I think the denying of debate on environmental effects is tantamount to approving this dangerous project and denying us our right to a healthy environment.

5408. The air here is barely breathable now, and we must do whatever we can do keep it from getting worse.

5409. Will the NEB lease fulfill its mandate and allow the environmental effects of the power plant to be considered in the power line hearings? Thank you.

5410. **THE CHAIRMAN:** Thank you, Mr. McAuliffe.

5411. "K" to "O"?

5412. And then finally I'll do the "P" to "Z" as one group, as we have already been through that grouping this evening.

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. VAN DYKE:**

5413. **MR. VAN DYKE:** Mr. Chairman, members of the Board, my name is Jack Van Dyke. I'm a long-time resident of the Fraser Valley and a professor of chemistry at Trinity Western University.

5414. It is my submissions that the full range of environmental considerations must be taken into account when a power line is constructed through Canadian territory.

5415. Although the NEB task is to consider approval of a power line, this line is only one part of a larger project. Without the lines, the project is dead. Without the plant, the lines would not be built.

**SUBMISSIONS**  
**(Van Dyke)**

5416. Specific arguments against construction of the power line have been enumerated by others, but in summary, from my perspective: One, environmental considerations including the power lines themselves. They are unsightly and property values are affected within a wide range of the lines themselves.

5417. My property would be affected --

5418. **THE CHAIRMAN:** Mr. Van Dyke, we are going to examine the power lines and the environmental effects of the power lines.

5419. We are focused, at this point, on the question of whether we should be examining the environmental effects in Canada of the power plant.

5420. **MR. VAN DYKE:** Thank you. I'll move to my second point, then.

5421. To suggest that satisfactory environmental hearings were conducted in Washington State is to deny the rights of Canadians to express their concerns about this project before the National Energy Board, a Canadian agency appointed to represent Canadian interests.

5422. And third, the air quality issues of the construction of the plant itself. It is estimated that the level of pollution in the valley would increase by 2 to 10 percent with construction of this plant.

5423. Air knows no international boundaries. The prevailing winds are from the southwest into the Fraser Valley. This plant will affect all residents of the Fraser Valley.

5424. You could hear me cough somewhat because I have a chronic cough, which medical specialists claim is aggravated by air pollution, particularly nitrous oxide, which cannot be eliminated from internal combustion engines no matter how clean the fuel.

5425. I urge the Board to consider the international nature of this issue. To me, here is the simple logic: The gas comes from Canada, the gas is burned in the U.S., power is proposed to ship into Canada to be routed through Canada back into the U.S., pollution from the plant blows into Canada, water is drawn from the Abbotsford/Sumas aquifer in the U.S., and waste water is shipped into Canada for treatment.

5426. The problem is that the international border is an imaginary line. If the plant were proposed for two miles north of its proposed place, the full range of environmental effects on Canadians would be considered.

5427. It is my firm hope that the NEB will act in favor of Canadians living in the Fraser Valley. The energy produced by this project is of little value to B.C. and Washington residents, which are accustomed to clean hydroelectricity, that is intended for shipment to

**SUBMISSIONS**  
**(Peary)**

California where they resist construction of further fossil-fueled power plants because of air quality considerations.

5428. I would further adopt the detailed positions as stated by Mr. Howard and Mr. Yardley which oppose this motion. Thank you very much.

5429. **THE CHAIRMAN:** Thank you. "P" to "Z"?

**--- SUBMISSIONS BY/SOUMISSIONS PAR MR. PEARY:**

5430. **MR. PEARY:** Mr. Chairman and members of the Board, good evening.

5431. My name is George Peary. The last name is spelled P-E-A-R-Y. The first four letters of my last name are my shape

--- (Laughter/Rires)

5432. **MR. PEARY:** Thank you for hearing me. Like Mayor Neufeld, I rushed away from the Regional District meeting to make a presentation here this evening.

5433. I am a secondary school principal in my profession, and I have been for the past 30 years in this community. I am also a councillor in the City of Abbotsford where I have served for 15 years.

5434. As I was getting into politics, the mayor at the time said there were the three criteria to be successful in politics. He said you should have grey hair because it gives one the look of the father image as you listen to the people. I qualified in that regard.

5435. Secondly, he said you should have glasses because he said it gives you something to play with while you contemplate the imponderables that are presented to you.

5436. The third requirement he said was hemorrhoids, because it gives you that look of pained intense interest as you listen to people.

5437. I thought it was time for a chuckle this evening, Mr. Chairman.

5438. **THE CHAIRMAN:** You better be careful where you're going with this, Mr. Peary.

--- (Laughter/Rires)

5439. **MR. PEARY:** I commend you for your indulgence. I've lived in this community for 30 years, as I said, and we have enjoyed exceptional relationships with our

**SUBMISSIONS**  
**(Peary)**

neighbours across the line.

5440.                   Indeed, in British Columbia, there is probably much more traffic flowing north and south than there is across the mountains to the east and the rest of Canada.

5441.                   And while we do have occasional differences with our neighbours to the south, we are somewhat like the Irish. We fight amongst ourselves to make sure we have worthy opponents.

5442.                   However, in this particular instance, there has been some evidence over the course of the last two and a half years that has indicated that indeed the City of Sumas, Washington was, at least in preliminary discussions with Sumas 2 people, before they concluded the sewer agreement with the City of Abbotsford --

5443.                   And I would like to take just a moment, if I could, to explain the sewer agreement.

5444.                   Up until the City of Abbotsford signed the sewer agreement, agreed to take sewage from the City of Sumas and treat it in our very sophisticated sewage treatment plant, the City of Sumas was dumping partially treated sewage into the Sumas River that was flowing across the Sumas Prairie in the City of Abbotsford and ultimately making its way into the Fraser River.

5445.                   And we felt, as good environmental stewards, that it made eminent sense to enter a contract with the City of Sumas to take their sewage and avoid the expense of a \$7,000,000 sewage treatment plant for that city and clean up the Sumas River as it flowed across our magnificent Sumas Prairie and to make sure that what was entering the Fraser River was very well treated before it entered the river.

5446.                   I must tell you that we now feel betrayed. I refer you to Emmanuel Kant -- not that you need any more references -- when he talks about ends and means. To those of us in this city and many residents of the Fraser Valley, you can't separate the power lines from the power plant. The ends, power generation; the means, however, are the power lines. And to us they are inextricably interwoven.

5447.                   We would love to be able to, for this Board, review the environmental impacts because we don't feel they have been adequately assessed. I did travel to Bellingham, Washington and was cordially accepted by EFSEC in that community. But I must tell you that some of the presenters were less than friendly as they baited the Canadians down there saying: You can't tell us what to do in our country. Fair enough.

5448.                   EFSEC has given their approval, in spite of the legal challenge of Whatcom County. The plant may be built in Sumas, and we may not be able to stop that;

**COMMENTS  
(Enderwick)**

however, as Mr. Martin himself has acknowledged, the plant without the power lines running north is a non-starter.

5449.                    So I endorse the comments of Mr. Howard, Mr. Yardley. I thank you for listening to not just myself, but all the others who have spoken to you during your visit here. Thank you.

5450.                    **THE CHAIRMAN:** Thank you, Mr. Peary.

5451.                    "P" to "Z"?

--- (No Response/Pas de réponse)

5452.                    **THE CHAIRMAN:** That then brings us to the conclusion of the intervenor submissions. It remains for SE2 to make their reply submissions and we will turn in a moment to the timing of that.

5453.                    We do, however, have a couple of housekeeping items to attend to before that.

5454.                    Mr. Enderwick?

5455.                    **MR. ENDERWICK:** Yes, Mr. Chair. Ms Kathy Simpkins, an intervenor in this hearing, has provided written submissions on the Environmental Effects Motion, as she could not be here tonight.

5456.                    I have provided a copy to Mr. Lusk and would propose to have Ms Simpkins' submissions entered into the transcript.

5457.                    **THE CHAIRMAN:** That is the only written submission been received, Mr. Enderwick?

5458.                    **MR. ENDERWICK:** Yes, it is.

5459.                    **THE CHAIRMAN:** Mr. Lusk is shaking his head. He doesn't seem to have received it.

5460.                    **MR. LUSK:** I don't think so.

5461.                    We have it.

5462.                    **THE CHAIRMAN:** Thank you, Mr. Lusk. Ms Simpkins' submission will be transcribed in the transcript.



**WRITTEN SUBMISSION  
(Simpkins)**

**--- WRITTEN SUBMISSION BY MS SIMPKINS:**

5463. Written submission by Kathy Simpkins:

5464. NEB Public Hearing - October 21, 2002

5465. SE2's motion:

**Should the Board hear evidence concerning the environmental effects in Canada of Sumas's proposed power plant to be located in Sumas, WA?**

5466.

I think the Board **should** hear evidence on the environmental impact in Canada of the proposed power plant to be built in Sumas, Wa. There is the **need**, the **ability** and the **duty** for the Board to do so.

5467.

The NEB Bulletin IX (Protection of the Environment, Aug., 1996), p. 1 states: "The NEB Act requires the Board to consider matters of public interest that could be affected by the approval of an application." As evidenced by the response to these hearings, the members of the Board must certainly agree that the public interest is indeed affected by the **IPL** application and its outcome. Further on the same page of the same document, it states: "The Board has assumed a mandate for the protection of the environment under the NEB Act ..." In order to carry out this mandate, it seems clear that the Board must first hear argument describing potential impacts on the Canadian environment as would be caused by the applicant's **entire** project. The NEB Act

5468. s. 58.16 (2) states that: "In deciding whether to issue a certificate, the Board shall have regard to **all** considerations that appear to be relevant." I respectfully ask, what could be more relevant than our health, homes, lives and our future?

5469.

Given the volume of environmental concerns erupting in Canada as a result of this proposed project, it is crucial that the NEB hear environmental evidence on **all** matters related to the **entire** project. NEB Environmental Policy states that "the NEB has long recognized the critical importance of environmental protection and respect for individual rights for Canadians." Now is the time to put this policy into action.

5470.

The only formal review of a **Canadian** agency of any element of the proposed project is that which is occurring here this week. It is **this board** which has been given the mandate and the responsibility to ensure that Canadian public interests be protected. I am part of the Canadian public and my interests are to continue my efforts to clean up the

**WRITTEN SUBMISSION**  
**(Simpkins)**

environment -- to reduce, reuse, recycle, carpool pass AirCare and so on.

5471.

It is inconceivable to think that this esteemed Board would decide on the IPL application *without* considering its purpose and ultimate effect on Canadian citizens. How could this Board fulfill its mandate to protect Canada's environment *without* fully contemplating the *inextricable* endpoint of that IPL? Indeed, according to the NEB's 1996 "Protection of the Environment" Bulletin IX: "the Board must meet the requirements of the Canadian Environmental Assessment Act. The CEA Act promotes the uniform consideration of environmental matters ... to encourage a 'one project, one assessment' approach."

5472.

I suggest that this entitles the Board to view the environmental effects in Canada of the

5473. *entire project* since the destination of the power line **is** the proposed SE2 power plant. SE2 would prefer to metaphorically separate the power line from its intended destination and present it as an inert, harmless assemblage of towers and wires. I respectfully argue that the NEB should **not** separate these two parts of one and the same project.

5474.

Obviously, the proposed power line would not stand disconnected, in isolation. It would run 2 km south of the Canada/US border to the proposed power plant, cheek to jowl with a Canadian community of 100,000+ people and surrounding farmland. The power lines would feed this plant which would pump toxins and particulate matter into the air. These chemicals would be inhaled by Canadians, fall onto farmland, seep into aquifers. There is no mile-high glass barrier to keep these pollutants from us. To agree to the construction and operation of the power lines is tantamount to agreeing to the plant. The two are inseparable.

5475.

Can you, members of the Board, imagine granting a permit for a power plant identical to SE2, however state-of-the-art it may be, to be located on **this** side of the border, minutes from the heart of Abbotsford, *without* hearing evidence concerning its environmental effects?

5476.

While the NEB would not be able to comment on the operations of, or alter the environmental impacts of SE2 in Sumas, WA, **once it were built**, it does have the power **now** to hear environmental impact concerns regarding the power lines and *what they are to be used for*: feeding a power plant that WA's own EFSEC initially determined should not be built in this region.

5477.

I beseech you to look at the **whole** environmental picture. It is not simply

**COMMENTS**  
**(Chairman/Yardley)**

a power line in question here. John F. Kennedy once said, "We all share this small planet, we all breathe the same air, we all cherish our children and we are all mortal." Let's not hasten that mortality by ignoring the most critical body of evidence connected to the application before you: the **purpose and function** of the IPL and its potential environmental effects on thousands of Canadians. This Board has the right and the duty to hear all arguments and evidence pertaining to environmental effects in Canada of the proposed Sumas power plant before permitting the power lines which would run it. Please review this IPL application in its complete and total environmental context, because we will have to live in it.

5478.

Thank you.

5479.

Submitted by:

5480.

Kathy Simpkins (dated Oct. 21/02)

5481.

34709-4th Avenue

5482.

Abbotsford, B.C.

5483.

5484.                   **THE CHAIRMAN:** The other housekeeping matter to be attended to is the submission entitled "Developments in the Law of Consultation in Aboriginal People", which was presented to the Board earlier today by Mr. Malloway in the course of his submissions on behalf of SE2.

5485.                   The Board has decided not to enter this document into the record. It was not presented until Mr. Malloway's argument, which was well past the deadlines for the submission of written materials to be used in support of arguments and SE2 has objected to the entering of the document into the record, and accordingly it will not be entered into the record.

5486.

Mr. Yardley...?

5487.

**MR. YARDLEY:** Mr. Chair, I just would like to confirm one matter. I believe it was raised earlier by yourself, and I actually don't know where it is in transcript, but I would just like to perhaps have it confirmed right now, that there is no deadline that's been set yet for letters of comment with respect to this matter.

5488.

**THE CHAIRMAN:** That is correct, Mr. Yardley.

**COMMENTS**  
**(Dahlgren)**

5489. **MR. YARDLEY:** Okay. Could we perhaps discuss what the process -- is there some indication as to what -- when that determination might be made as to what the deadline would be?

5490. **THE CHAIRMAN:** All I can say at the moment is obviously our next step is to rule on this Environmental Effects Motion, and depending on what the ruling is, a further direction on procedure will be coming out at that time as to hearing and outstanding deadlines.

5491. **MR. YARDLEY:** So that would be with respect to the Application generally, letters of comment, that you are saying?

5492. **THE CHAIRMAN:** That is correct.

5493. **MR. YARDLEY:** My question is with respect to letters of comment on the Environmental Effects Motion. Is there a deadline now on that or is it with the end of the hearing?

5494. **THE CHAIRMAN:** We haven't said explicitly, but I think it's necessarily implicit, and I will make it explicit now, that the deadline for letters of comment on the Environmental Effects Motion has to be considered to be closed now.

5495. **MR. YARDLEY:** Okay, thank you.

5496. **THE CHAIRMAN:** We can't take any submissions that aren't to the microphone, because everything must be recorded in the transcript.

5497. **MS DAHLGREN:** Sorry, I apologize. I have about 4,000 of them in my vehicle. And Dave said that he would accept them. And I can't -- it's about \$2,000 for me to mail those at 51 cents, so --

5498. **THE CHAIRMAN:** Can I be clear that what we are talking about at the moment are letters of comment specifically with respect to the Environmental Effects Motion.

5499. **MS DAHLGREN:** Oh, okay.

5500. **THE CHAIRMAN:** And the record on those letters of comment has to be considered to be closed now because SE2 has the right of reply, and obviously they can't be replying to documents that come in after they have made their reply.

5501. **MS DAHLGREN:** So these have -- they do speak to that, but they have other information on them, so they will be -- so you will be happy to deliver them back to Calgary --

**COMMENTS  
(Peachey)**

5502.                   **THE CHAIRMAN:** They will not form part of any record for the purposes of our ruling on the Environmental Effects Motion. The Board will fix a date at a later time which will be a final cutoff for any letters of comment in the whole proceeding.

5503.                   Can we turn -- Ms Peachey --

5504.                   **MS PEACHEY:** May I ask a question?

5505.                   **THE CHAIRMAN:** You have to come to the microphone.

5506.                   **MS PEACHEY:** I would like to ask about the late intervenors. Now, we had 162 people ask to address this particular hearing and you refused. Now, for the next hearings that come up, will you be allowing people to come on board as late intervenors?

5507.                   **THE CHAIRMAN:** What I can tell you, Mrs. Peachy, is that you should read carefully what our ruling was on the late intervenor applications for the hearing of this motion, and in particular the statement in there that the onus to establish your entitlement to late intervenor status gets higher and higher, heavier and heavier, the further we go.

5508.                   **MS PEACHEY:** Yes.

5509.                   **THE CHAIRMAN:** I will say no more about our ruling, it has to speak for itself.

5510.                   **MS PEACHEY:** Well, are you saying yes or no?

--- (Laughter/Rires)

5511.                   **THE CHAIRMAN:** I have said as much as I am going to say about it, Mrs. Peachey.

5512.                   **MS PEACHEY:** Okay.

5513.                   **THE CHAIRMAN:** Mr. Lusk, can we turn our attention to the question of when SE2 would be in a position to present its reply argument? As you are aware, we cannot sit on Thursday, and if we are not able to hear your reply argument tomorrow, it could not be until Friday.

5514.                   **MR. LUSK:** Yes. Our expectation is that we will need some time to prepare for our reply. We have been working on it, but the days and nights have been short this week.

**CLOSING COMMENTS**  
**(Chairman)**

5515. I would expect that if we could have tomorrow during the day, that we could be ready to proceed tomorrow evening, if that would be acceptable.

5516. **THE CHAIRMAN:** Could you be ready by 6:00 p.m.?

5517. **MR. LUSK:** I would prefer if it was a bit later than that.

5518. **THE CHAIRMAN:** I have had my knuckles wrapped for doing this before, negotiating with counsel from the bench. 7:00?

5519. **MR. LUSK:** 7:00 would be certainly better than 6:00. Thank you.

5520. **THE CHAIRMAN:** In that case, we will adjourn now and reconvene here tomorrow evening at 7:00 p.m.

5521. --- Upon adjourning at 9:37/L'audience est ajournée à 21h37.