

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



**Trans Mountain Pipeline ULC  
Trans Mountain Expansion Project  
National Energy Board reconsideration of aspects of its  
Recommendation Report as directed by Order in Council P.C. 2018-1177  
Hearing Order MH-052-2018**

**Trans Mountain Pipeline ULC  
Projet d'agrandissement du réseau de Trans Mountain  
Réexamen par l'Office national de l'énergie de certains aspects de son  
rapport de recommandation, conformément au décret 2018-1177 de la  
gouverneure en conseil  
Ordonnance d'audience MH-052-2018**

**VOLUME 6**

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

**Delta Hotels Victoria Ocean Pointe Resort  
100 Harbour Road  
Victoria, British Columbia**

**November 28, 2018  
Le 28 novembre 2018**

**International Reporting Inc.  
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**Canada**

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as represented by the National Energy Board

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Imprimé au Canada

HEARING ORDER/ORDONNANCE D'AUDIENCE  
MH-052-2018

IN THE MATTER OF Trans Mountain Pipeline ULC  
Trans Mountain Expansion Project  
National Energy Board reconsideration of aspects of its Recommendation Report  
as directed by Order in Council P.C. 2018-1177  
File OF-Fac-Oil-T260-2013-03 59

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

Hearing held in Victoria, British Columbia, Wednesday, November 28, 2018  
Audience tenue à Victoria (Colombie-Britannique), mercredi, le 28 novembre 2018

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

Lyne Mercier	Chairperson/Présidente
Alison Scott	Member/Membre
Murray Lytle	Member/Membre

## APPEARANCES/COMPARUTIONS

(i)

### **Applicants/Demandeurs**

Trans Mountain Pipeline ULC

- Mr. Sander Duncanson
- Ms. Cassie Richards
- Ms. Georgia Dixon

### **Intervenors/Intervenants**

Natural Resources Canada

- Mr. David Murray, Senior Policy Advisor

Tsawout First Nation

- Ms. Crystal Reeves
- Chief Harvey Underwood
- Dr. Nick Claxton
- Elder Eric Pelkey
- Ms. Mavis Underwood
- Ms. Shauna Johnson
- Mr. Jeremiah Sylvester
- Mr. Robert Clifford

Tsartlip First Nation

- Mr. Eamon Murphy
- Mr. Peter Jones
- Mr. Sam Maroney
- Chief Don Tom
- Elder John Elliott
- Elder Linda Elliott
- Elder Tom Sampson
- Mr. Mark Sampson

Swinomish Indian Tribal Community, Tulalip Tribes, Suquamish Tribe,  
and Lummi Nation (U.S. Tribes)

- |                               |                       |
|-------------------------------|-----------------------|
| - Ms. Kristen Boyles          | - Ms. Noel Purser     |
| - Ms. Stephanie Tsosie        | - Ms. Marie Zackuse   |
| - Hereditary Chief Bill James | - Mr. Ray Fryberg     |
| - Mr. Jeremiah Julius         | - Mr. Jeremiah Wilbur |
| - Ms. Lisa Wilson             | - Mr. Tandy Wilbur    |
| - Mr. Leonard Forsman         |                       |

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

- Mr. Paul Johnston

## **ERRATA**

**Monday, November 26, 2018 - Volume 4**  
**and Tuesday, November 27, 2018 - Volume 5**

Should read:

### **APPEARANCES/COMPARUTIONS**

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

- Ms. Carol Gagné

- Mr. Paul Johnston

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Dr. Nick Claxton  
Elder Eric Pelkey  
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--- Upon commencing at 9:017 a.m./L'audience débute à 9h17

2048.           **THE CHAIRPERSON:** Good morning. I understand that we will have a prayer and song, but first, I'd like to go through some housekeeping and then we can proceed.
2049.           Before we commence our hearing today, the Board wishes to acknowledge with respect the Lekwungen-speaking people in whose traditional territory we are gathered, and the Songhees, Esquimalt and the Saanich people whose historical relationships with the land continues to this day. It is with truth and respect we would like to acknowledge all the Indigenous ancestors of this place and reaffirm our relationship with one another.
2050.           Good morning everyone. Welcome to the Oral Traditional Evidence phase of the National Energy Board's hearing regarding the Trans Mountain Expansion Project Reconsideration. My name is Lyne Mercier. I am the Chair of the Panel. With me on my left is Alison Scott and on my right is Murray Lytle. We want to welcome everyone who is here today, both in the hearing room, and listening in to the webcast.
2051.           As a matter of housekeeping, I'd like to describe the evacuation procedures in the event of an emergency. If the building's evacuation tone begins sounding and we are asked to leave the building, the muster point for the venue is the waterfront walkway. Please exit in an orderly fashion through the lobby. At the muster point, please ensure your party is accounted for.
2052.           In addition to the Panel, we have staff in the room to answer process-related questions that you may have. You will be able to recognize them by their brass name tags.
2053.           With respect to our schedule for hearing oral traditional evidence, today we have scheduled time to hear from three Indigenous groups. We will normally plan to take breaks if required.
2054.           In order to be fair to all presenters we have allotted up to two hours to hear from you. If two hours is not enough, at the end of the session please feel free to file additional oral traditional evidence by electronic means, such as a video or some other method.
2055.           Before we get underway, I would remind parties of the Panel's

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guidance in the Hearing Order and Procedural Directions in regards to oral traditional evidence.

2056. The Board understands that the Tsawout First Nation has an oral tradition for sharing knowledge from generation to generation and this information cannot always be adequately shared in writing.
2057. Sharing your traditional knowledge and stories about the use of your traditional territory is of value to us. We appreciate that you've chosen to be here today.
2058. Following oral traditional evidence, Trans Mountain, other intervenors, or the Board may have questions for the witnesses. If so, witnesses can choose whether they will answer questions orally, or at a later date in writing, or a combination of both.
2059. With that, I believe that we are ready to get underway. Before I call on the Tsawout First Nation to present their oral traditional evidence, I'd like to have the representatives of the Proponent, Trans Mountain, to introduce themselves.
2060. **MR. DUNCANSON:** Thank you, Madam Chair.
2061. Good morning, everyone. My name is Sander Duncanson. I am with the law firm Osler, Hoskin, and Harcourt. With me this morning is Cassie Richards from our office and we're representing Trans Mountain. And on behalf of Trans Mountain as well is Georgia Dixon. So good morning.
2062. **THE CHAIRPERSON:** Thank you, Mr. Duncanson.
2063. I would also ask if there are any other intervenors in the room who would like to introduce themselves or if there are any preliminary matters they would like to raise. And for the record, if you could indicate who you are and who you are representing. Thank you. Yes.
2064. **MR. MURRAY:** Thank you, Madam Chair. Thank you, Panel Members.
2065. My name is David Murray and I'm a Senior Policy Advisor with Natural Resources Canada. I am here as a representative of the federal Crown to hear the witnesses' oral traditional evidence in relation to the reconsideration of

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the Trans Mountain Expansion Project.

2066. I do not intend to ask any questions today, but rather, I am here as a representative of several federal department and agencies that are registered intervenors.

2067. If necessary, we will ask additional questions through the NEB's Information Request process.

2068. Finally, I'd like to note that I'm honoured to be present at this hearing in the traditional territory of the Coast Salish. Thank you.

2069. **THE CHAIRPERSON:** Thank you, Mr. Murray.

2070. Are there other intervenors that wish to identify themselves? I see none.

2071. I think now it's time for the ceremony. And I'm not sure if it's Chief Harvey or one of the elders. So I'm in your hands and we're ready to proceed. Thank you.

--- (Opening ceremony, prayer and song)

2072. **MS. MAVIS UNDERWOOD:** I believe I will help to present the order of the speakers. There's a presentation or something that people want.

2073. **THE CHAIRPERSON:** Yes, we have a small presentation for you. And thank you very much for this beautiful song. Really, thanks.

--- (A short pause/Courte pause)

**HARVEY UNDERWOOD: Affirmed**

**MAVIS UNDERWOOD: Affirmed**

**NICK CLAXTON: Affirmed**

**ROBERT CLIFFORD: Affirmed**

**ERIC PELKEY: Affirmed**

**SHAUNA JOHNSON: Affirmed**

**JEREMIAH SYLVESTER: Affirmed**

2074. **THE CHAIRPERSON:** So, Ms. Underwood, so you're directing

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traffic. Yes, we're in your hands, thank you.

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

2075.           **MS. MAVIS UNDERWOOD:** I just wanted to again say thank you. And if our presenters -- if you wouldn't mind introducing yourselves and sharing your ancestral names as well? Because it helps talk about place and purpose and where we've lived.
2076.           So we would like to start with Chief Harvey Underwood.
2077.           **CHIEF HARVEY UNDERWOOD:** Good morning. My name is FOLE WETSTEN. It means helper. And that was given to me by my late Grandpa on my dad's side at birth.
2078.           So good morning.
2079.           **MS. MAVIS UNDERWOOD:** It's your turn. Harvey.
2080.           **CHIEF HARVEY UNDERWOOD:** Oh, okay. Sorry. I thought you meant we're going to go down the line here.
2081.           But anyways, I just want to thank everybody here present today to witness what is about to be said today. And I'd like to thank all our presenters today and they're all descendants of the Douglas Treaty. The signatories, they're all descendants.
2082.           So I am very thankful for the young people that are coming up. And as you can see, there are younger people here and we're just passing it on to the next generation. And they're very educated young people that have come a long ways. And as for myself, I'm phasing out, so they're taking over. And that extended our -- my hand to my generation back, I shared with them, and so on and so on, from generation to generation.
2083.           So we have a big concern of the areas that's going to be used for a shipping channel. And for us, that's our whole livelihood. That's our treaty and that's our food that sustains us through life.
2084.           So I just want to make that loud and clear, that that way of life is going

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- to be disrupted if there's shipping that comes through our territory.
2085.           But I just wanted to share a little story about our relation to the whale. And I used to go fishing with my grandpa, Burt Underwood, and he would prepare himself by prayer and we'd head out to the fishing grounds. And as we headed out to the fishing grounds, we had our relations next to us going the same way. And that was the orca whale, the blackfish, the killer whale. And we'd be going in the same direction. And we'd be fishing there and they'd be doing the same thing.
2086.           So I really believe that we had a great relationship with our relations, the killer whales. And that's what it's all about today, is having a voice for them.
2087.           So I just wanted to share a little bit what The Magazine of Science said about killer whales -- autonomous, have discovered that whales whose squeaky calls have long been known to convey meanings have spindle cells in their brain cells that until recently were thought to be found only in humans. These cells enable them to have social organization, empathy, intuition about others, feelings, and gut reaction, and speech. Surprisingly, the brains of whales have three times as many of these cells as do the brains of humans. So that's why I'm saying these things today, because I have a great concern of the southern killer whales. And you know, from generation to generation, it's been -- they've been with us for thousands of years. So that's my little talk today.
2088.           But as we are all learning here to be a better steward of what our Creator has entrusted to us, to care and assume the greater fruit, both spiritually and naturally, and that's why we're here today. So *HÍSWKE*.
2089.           **MS. MAVIS UNDERWOOD:** *HÍSWKE*, Chief Harvey. One of the things that Harvey did not mention is one of the roles, the traditional roles that he has in our community. He was and is one of our gravediggers. It's a very honoured tradition in our community, how the traditions are handed down from family to family. And they're mentored often now that it is adapting; they're the cultural monitors as the earth is torn up and the remains of our people that were underground are now coming up again. And we've having an opportunity to speak to that. So it's a very important role that he plays in the community in assisting with that.
2090.           And one of the things that we wanted to make really clear with Trans Mountain representatives here -- we are opposed to the pipeline advancement and

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- we -- but we need to speak to mitigation if this is going to proceed. Very concerned about the impact on our food security and our health of our people. It's very active marine lifestyle that our people practise and still try to -- very hard to practise and it's an aspect of our appetite that's not being met by many of the foods that we consume through stores and so that we're very concerned about the habitat destruction as well as the loss of our food security.
2091.                So in saying that, just wanted to invite our next young speaker. Jeremiah Sylvester, if you could.
2092.                **MR. JEREMIAH SYLVESTER:** Hello. Nice to meet everybody. My name is Jeremiah Sylvester. I am a member of the Tsawout First Nations. My father is Darryl Sylvester. My late *SILE* is Ronald Rafael Sylvester and my other *SILE*, Helen Jack. *SILE* means grandparent in our language, *SENĆOFEN*. It is important to me to introduce myself as well as some of my family because I am proud of where I come from. I am grateful for the teachings that have been passed down to me. When I look around our land, I know it's because of my ancestors' sacrifices that we have this.
2093.                We come from chiefs, singers, dancers, hunters, and gatherers. This isn't just our history, this is our identity.
2094.                I want to start by saying that public speaking is way out of my comfort zone. Doing something like this isn't in my nature. When I was asked to come here and defend our rights, it made me nervous, to say the least. Sometimes it's hard to explain to non-Native people the significance of the ocean and our land.
2095.                One thing I hope that I can make clear is that we are a saltwater people. Anything you do to the ocean, you do to us.
2096.                Growing up on Tsawout Reserve, I have always had a close connection to our lands and the ocean. My late *SILE* Ronald Sylvester was a fisherman and my father Darryl Sylvester is as well. These are the skills that have been passed down from generations. I remember since I was a young age my dad taking me and my sisters out on his boat regularly. I was shown all the fishing holes, the places to harvest clams, oysters, and other shellfish. Above all, I was taught to respect the ocean.
2097.                We didn't have a lot of money growing up and there was a lot of us, so we counted on the ocean to provide us for food. Let us say, we just ate a lot of

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fish and rice growing up. I remember getting so sick of it, but I knew that without it, sometimes we might have gone hungry.

2098. My late grandparents lived on Saturna Island in the Gulf Islands, which is where I have lived for the last three years. I spent a lot of time there growing up. As a kid, I couldn't keep still. I would always be outside at the beach or on the water. I had a little boat that I called The Bathtub because I swear it was only as big as a bathtub. I would buzz around the harbour in it and slowly started to explore more of the islands and find more areas to fish and harvest shellfish.

2099. **THE CHAIRPERSON:** Just a minute, Jonathan. You're speaking fast and maybe you don't know, but we have translator. We are translating in French so just a bit slower. It would be better for them. I can follow up, but it's hard for them. They have to add about 20 percent words in French.

2100. **MR. JEREMIAH SYLVESTER:** Okay. I would buzz around the harbour and slowly start to explore more of the islands and find more areas to fish and harvest shellfish. I would always feel so much pride when I brought something back home. It would remind me of my teachings, my grandfather, my dad, and how it's our responsibility to keep the culture alive. And the more that we practise our traditional ways, the more connected we stay with our culture.

2101. I have slowly graduated from The Bathtub to a larger fishing boat of my own. Over the years, fishing our Salish Sea, I have already seen how environmental disasters have affected our ocean life. Since I was a kid, not only have I noticed a decrease in our ocean life, I have also seen an increase in mutations of fish that I have caught.

2102. I spend most of my time out on the water in the summers and in the winters, my family and I eat a lot of seafood. And in the winter, which is hunting season, we eat a lot of game meat. And if an oil spill were to occur, it would absolutely destroy my way of life. I think about our young people in particular, my nieces and nephews, and I am worried about how they will continue to keep our tradition alive with the direction the world is going. No amount of money would ever be worth destroying our ocean and lands and in turn, our culture.

2103. We have been told world-class measures would be in place to prevent an oil spill and deal with one if it happens. A world-class standard for an oil spill

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- cleanup is 10 to 15 percent is recovered from the ocean. The remaining 85 to 90 percent will destroy our beaches or sink to the bottom of the ocean and kill everything that lives down there. This is a reality and it seems like no one wants to talk about it.
2104. I think about Dakota Pipeline, Dakota Access Pipeline and the First Nations that courageously protested it in regards of being tortured with dogs and illegal scare tactics. And exactly what they feared would happen did happen; 795,000 litres of oil leaked from an underground section 64 kilometres west of the Lake Traverse Reservation. All it takes is once incident and no one on this earth can guarantee that won't happen.
2105. Where I am living currently is directly in the pathway for the tankers heading to the Vancouver ports. Every day from my window I can see commercial ships and tankers heading in and out of the ports. As projected, the tankers will increase from 5 to 34 tankers per month. What is this going to do to our ocean life? With more tankers transiting the coast, the risk of a spill increases. The risk of a spill is further complicated by the fact that the tankers would be carrying bitumen oil that is shown to sink in similar conditions to what we have on the B.C. coast.
2106. We have no ability to clean that oil when it sinks below the ocean surface. This is a recipe for disaster. Even without the spills, the additional noise from tanker traffic can disturb our -- the orca's sense as they rely on echo-location to communicate and forage for food.
2107. Not only do me and my family rely on the ocean life such as salmon, for food, but the already endangered Salish Sea orcas do as well. In case of an oil spill, we can expect a large portion of the already shrinking salmon population to die along with the orcas as well.
2108. Have any of you ever seen a whale breach? I do all the time. In fact, they come up often in front of my house and it's a sight you cannot quite put into words. What will happen to our saltwater people when our orcas, who have been culturally significant to our people and our way of life, get killed off?
2109. This is not a time, day, or age for someone to grow up not knowing who they are, to live with the loss of identity. In order for our people to heal from the generational trauma, we have to stay connected to our lands and our oceans. Without that connection our people will get sick. Once you know your culture,



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your language, your traditions, no one can take that away from you. If our land and our oceans continue to be destroyed you are taking away the ability for us to heal, the ability for our future generations to learn who they are, the same way that I learned.

2110. On behalf of my people, my ancestors, my family living now, and the unborn, I'm here to tell you that the Trans Mountain pipeline is against everything it is to be one with our lands. This pipeline represents another attempt of destruction of our culture and our way of life that have been connected for thousands of years.

2111. I'm a grandson of the Salish Sea. The kinship comes with the responsibility to protect the sea creatures. These connections cannot be bought and will always be fought for.

2112. Thank you.

2113. **MS. MAVIS UNDERWOOD:** *HÍSWKE*. Thank you very much, Jeremiah.

2114. I would ask Eric Pelkey.

2115. **ELDER ERIC PELKEY:** Thank you, Mavis.

2116. My hereditary name is *WEC'KINEM*, and when I was given that name it reflected the land where I actually live and it's by the ocean, and that's what I was told that that name meant, "by the ocean". So that really depicts who we are as a people.

2117. Our people, our villages have always been by the ocean, by the water, and all of the names that we have reflect that, and the names in the *WSÁNEĆ* Nation all reflect seeing the village from the water. And that's what Tsawout means is houses on the hill and that you're seeing that -- you're seeing it from the water, and it goes up -- the houses go up the hill.

2118. And it's the same thing with our neighbouring village of Tsartlip, and call it land of maples, because when you paddle into the shores of Tsartlip that's all you can see is maple trees all along the waterfront.

2119. And we go down to Tseycum in that village there is made of clay, so

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when you're coming into that village all you can see is clay along the waterfront and clay underlies the entire reserve. So the land of clay, that's what that one is.

2120. But I have brought, I guess, my genealogy of who I am and it also reflects many of our panel members. *SEXSOXELWET* is what we knew as the mother of *WSÁNEĆ*, many of the people there. *SEXSOXELWET* was the mother of *CELOWENFET* who was a great warrior who saved our people from the northern raiders and organized our people and really saved the nation as far as our people were concerned.
2121. His son (Speaking in *SENĆOFEN*) was his son who created many of the medicines and the healing powers of our people and passed those on to our people so many of our families now are healers and medicine people, and that's what he brought to our people.
2122. And all those listed below him are his children, which depicts the families of the *WSÁNEĆ* Nation, Monasat, the Elliots and the Olsens, Coopers, and Harrys, Sequat, the Barthelmans, Shemshot, the Henrys, Cluckton, the Charles', Tetumpkin, which is the Claxtons, and the Pelkeys, and also some of the Underwoods are descendant from him.
2123. Tetumpkin married the hereditary chief of Tsawout, Louis Pelkey. That's the picture there. That is my great grandfather. And this is the cape that he handed down. We call it *HAWKWUS* (ph), the cape of the chieftain, handed down to my father and then handed down to me.
2124. So it shows that there is -- our lineage that is there.
2125. This next slide is reflecting the *SENĆOFEN* place names. Our elders tell us that all of our -- all of the *SENĆOFEN* names reflect the territory. And where there is no *SENĆOFEN* names that is not part of our territory. That's what we've been taught.
2126. So you see the places and how far it goes. It goes across the ocean, across the Salish Sea, to the other side. Also it goes across the border into the American side, because that was part of our people. Before they created that American border, we had villages all throughout the San Juan Islands and over in the lower mainland that's now part of the United States.
2127. So many of our people were separated by that border but still maintain

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a cultural connection. We still know who are families are.

2128.           There's a -- you can see there's a fish on the map, and that reflects the reef net sites of our people. Our reef net sites that our people utilized to catch salmon. And that reef net site -- those reef net sites follow the migratory path of the salmon when they come into our territory that are going to the Fraser River. And our people became knowledgeable and studied the migratory patterns so that they could find the best places to set up their reef net sites.
2129.           And also that -- the next slide. (*SENĆOFEN* word) followed that path, followed that path and followed the salmon because that was their food. (*SENĆOFEN* word) was a sacred creature to our people. Not so much a creature to them but a brother. (*SENĆOFEN* word) in our language means sacred one sent to help us. That's why it was so sacred.
2130.           Our elders told us that sometimes when our people were having a bad season (*SENĆOFEN* word) would come and he would -- if he saw a sea lion close to our people, he would push that sea lion up onto the beach to be taken by our people for food. So they thanked (*SENĆOFEN* word) for doing that because that was a great food source for our people outside of salmon. So we always understood that (*SENĆOFEN* word) was there to help us so we would help it also.
2131.           There's a well-known location to our people directly across our village between the islands of James Island and Darcy Island. There's shallow water between the two islands that's extremely rocky, and the whales would come in there and scrape themselves on the rocks to get the barnacles and the other things that they didn't want to have on their skin. And they would scrape themselves along the rocks and our people would see them. And the (*SENĆOFEN* word) would come back so much that our people had recognized him individually and given them names, but they always respected that the (*SENĆOFEN* word) was a sacred creature for our people.
2132.           This reflects one of the bottom fish that our people take that is right in the path, right out there, out in the outer areas of Haro Strait that our people utilize for food. And so that if there's action, that entire food source would be wiped out for us.
2133.           The crabs are all throughout our territory. A regular, regular food source for us. All throughout the area of Haro Strait, all along all of the Gulf Islands and the San Juan Islands. So it's a very sensitive creature and subject to

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any kind of pollution.

2134. This is one of our elders and young people. He was laying down some teachings to the young lady there and talking about the ways that they could utilize the oceans for clam digging and the harvesting of seafoods.
2135. And this is what we call *XIWE*. *XIWE*, it's called sea urchins. And this is not only a food source, but a medicine source for our people that's found throughout the islands and out into the Haro Straits.
2136. That *XIWE*, sea urchin, is a medicine for our people because when you eat it, it fixes your blood. It fixes your blood, so it's really a food that's required by many of our young ladies. If they're having any iron-poor blood or anything they're urged to eat that.
2137. And I've had that exact same experience with one of my daughters who had a lifelong problem with her iron, iron for her blood. But when she started eating *XIWE*, her blood leveled out and she never had a problem anymore.
2138. So that's why the seafoods are so important to our people.
2139. This is one of our favourite, I guess, events that happen in the summer. And it's the barbequing of the salmon and the cooking of the crabs on the beach. It is something that is a blessing to our people, but also hard to come by.
2140. Salmon, as you know, have been scarce the last few years. And the crabs have been severely affected by pollution.
2141. But we are afraid that any type of occurrence, such as an oil spill, would completely wipe out the food source in our area.
2142. This is our seasons of the moons, the seasons of the moons of our people. And that shows that the seasons are reflected by the salmon that come to us, and the food sources that come to us at different seasons of the year that we know that we can depend on those food sources at that time of the year. So that -- this is something that our people live by.
2143. This is my grand-aunt, but she's also the grandmother of our chief and Nick.

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2144.           So she was a medicine woman who was very knowledgeable in the medicines of our people. And she was always active in going out into the islands, in the San Juan Islands, harvesting different types of medicine and carrying those medicines for our people and teaching people. And also, ended up writing a book of the medicines of our people. Her name was Elsi Claxton.
2145.           And this map here, it shows *SENĆOFEN* place names and also the reef net sites, which reflect the path of the salmon. But it also shows the proposed supertanker reach that would be coming through our territory. And you can see that it comes along the path, directly along the path of the harvesting routes of our people.
2146.           See the -- and that's what is so scary to us. Those -- that if anything happened in that area, it would completely destroy a lot of our food and resources that we have in our harvesting sites.
2147.           Our fishermen that are out there all the time tell us that Haro Strait, which is directly in the middle of our territory and one of our more -- most productive food source places, is the most dangerous place for the supertankers because of the reefs that exist within Haro Strait. Those hidden reefs, they say come -- they rise, they come up with the low tides and then you can't see them at all in the high tides.
2148.           So they are really afraid of the supertanker -- the increase in supertankers in that area and what it would do to our food sources and our harvesting sites.
2149.           So that shows you there how dangerous this could be.
2150.           So I'd like to thank you. Thank you for listening to me. I have -- we have much, much information that we've been gathering from all of our people that have been out in the water. We've tried to keep track of all of them that go out there, where they go and what they harvest, so that we retain that knowledge for our people. We retain that knowledge and we can share that knowledge when we come to hearings such as this, or any other matter that's affecting the integrity of our territory.
2151.           So I thank you this morning. *HISWKE*.
2152.           **MS. MAVIS UNDERWOOD:** *HISWKE*, Eric.

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2153. It's really wonderful all the time to see the pictures of our way of life and just to remind people that that way of life is alive for us.
2154. Like many people here, we didn't know that we were struggling for money, because we had been told time and time again that we were the richest people in the world. Everything that we needed was provided for us off the land and off the waters.
2155. I grew up in that childhood too, sometimes having salmon three times a day and we were just happy for that. And we grew up having Saanichton Bay right in front of us. They say that when the tide was out the table was set and there was a huge abundance of crab there for us. And so we grew up with that throughout the summer, having a lot of crab and shellfish baking on the beach.
2156. So it is indeed a very rich way to grow up. And we are not prepared to let it go.
2157. And it's also important to remind people about the -- you know the big species, the whale -- it's there; it's present, but we're very concerned about all of the minor species, the smaller species, the plants that are in the water that are a vital part of this whole system.
2158. The destruction of eel grass in our area, for instance, has really reduced the opportunities for crab to thrive in our area. It's also a healing plant in the oceans and there's a lot of life that depends on sea meadows, the bull kelp, the giant bull kelp, and the seaweed. So it's not just a product to be commercially harvested and exploited that it needs -- it has a place and a purpose in the ocean.
2159. We're very concerned about the displacement of crab and sea barnacles, which help keep the ocean clean and the herring, the displacement of herring, which is a primary source of food and it's a primary source of food for other larger sea mammals, but also for us as well.
2160. So I just wanted to remind people about that and now invite Robert Clifford to speak.
2161. **MR. ROBERT CLIFFORD:** *SIAM*. Thank you for the opportunity to speak today. My name is Rob Clifford, *WSÁNEĆ*. I'm a member of the Tsawout First Nation. I carry the name *YELKÁTTE*. That name comes to me

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- from my late grandfather Earl Claxton Senior. I'm from the Claxton family. My grandma is Joanne. My mother is Becky and my father is Ray.
2162. I'm a PhD candidate at Osgoode Hall Law School at York University and I am studying and interested in revitalizing *WSÁNEĆ* traditional laws and governance structures.
2163. I wanted to start by thanking Mavis and Gracie for the opening prayer and song as well. Opening prayer is meant to shape the way that we relate to each other here today, to open our hearts and our minds. It's about honouring and respecting relationships. So I invite you to come as well with an open heart and open mind to what I'm about to say, to what I'm about to share, and what we have heard from others and will hear.
2164. To us, consultation requires not just hearing but understanding our laws including our standards of judgement, the obligations that they create, and the relevance and legitimacy that they have in these places.
2165. So to begin, Indigenous peoples have been standing or in this case sitting in front of Canadian institutions like this one here for decades upon decades, often with very little success in creating what we would call meaningful change. The reason that we do this and that we will continue to do it is that we are obligated to act. And speaking in these institutions is one of the ways in which we do so.
2166. So our laws, Indigenous laws, that is, the laws of my Saanich people, which is distinct from Aboriginal law branch of Canadian law that deals with Aboriginal people -- it requires us to act and to protect our homelands and the other beings that are within it, the islands, the salmon, the whales, the water, and much, much more, as we've heard. It is a positive obligation within our law.
2167. In the time that I have here today, which I anticipate to be about 15 minutes, my focus will be to give some insights, of course, only very briefly into how to understand Saanich law, how to understand that the things that we've been hearing and the things that we will hear are our laws. And I'll try to give a few examples where I can to help make this clear.
2168. I'll also touch again, albeit briefly, on the centrality of Indigenous law in reconciliation which includes the calls to action by the Truth and Reconciliation Commission of Canada.

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2169.           So in *WSÁNEĆ*, our laws and our beliefs are intimately connected. In fact, the *SENĆOFEN* word *SKAHALES* means both laws and beliefs. This connection between law and culture is true of all law, including Canadian law. We could trace the origin and influences of the common law back through history if we wanted to.
2170.           But my point is that how we see the world and how we envision ourselves within it directly structures our standards of judgement. So since all law is generated from within the broader cultural framework in which it is embedded, we need to pay very close attention to world view in order to understand another legal tradition.
2171.           In *WSÁNEĆ*, we have creation stories which are often tied to specific *SENĆOFEN* place names for the land and beings within *WSÁNEĆ* territory, most of whom we view as our relatives or ancestors or whom we are connected to through our different cultural societies. So it's through *WSÁNEĆ* law that we honour and maintain these relationships for thousands of years.
2172.           Since a significant component of why we are here today relates to the marine environment, I thought I would share a little bit more specifically about islands and water, both of which are threatened by increased tanker traffic.
2173.           I found that relating the *WSÁNEĆ* understanding of islands is a useful place to introduce people to *WSÁNEĆ* law. So in *SENĆOFEN*, our word for islands is *TETÁCES*. It translates as relatives of the deep. And the etymology of that word reflects our creation story for those islands. During the time of creation, the Creator *XALS* was moving around *WSÁNEĆ* territory transforming people and animals. At this time there were no islands in the *WSÁNEĆ* territory. In creating the islands, *XALS* took a number of *WSÁNEĆ* ancestors and threw them out into the ocean. Each island landed in its own unique way and has its own unique characteristics.
2174.           So we do not name islands after significant people or seek to objectify or impose ourselves over an island. Rather, we name them based on their characteristics or the relationships that we have to them. For example, James Island, named after Sir James Douglas, which is right next to the Tsawout Reserve, is called *LEL, TOS* in the *SENĆOFEN* language. And *LEL, TOS* means "splashed on the face" because the southeast side of the island is worn by the wind and the tide as it flows through Cordova Channel.



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2175. So returning to the creation story of islands, after *XALS* threw the *WSÁNEĆ* ancestors out into the ocean creating the islands that are there today, *XALS* turned to the islands and said, "You will look after the *WSÁNEĆ* people."
2176. These islands have provided a way of life for *WSÁNEĆ* for thousands of years. But *XALS* also turned to the *WSÁNEĆ* people and said, "You too will look after your relatives of the deep."
2177. This creates a reciprocal relationship of care between *WSÁNEĆ* and *TETÁCES*, our relatives of the deep. This responsibility is absolute in that we are obligated to care for these islands, not only through our own actions, but to protect these islands when needed from harmful actions of others as well.
2178. So it's not just that we see islands as our relatives, but that seeing those islands as relatives then informs *WSÁNEĆ* law, that is, its structures, our standards of judgement, and our decision making processes. That is why, at the outset, I said that being here today is an enactment of our laws.
2179. A similar point is true in the way that we see water. (Speaking in Native language), the first *WSÁNEĆ* man, we call him grandfather rain, he came to the earth in the form of rain and helped form the world. He helped carve the lakes and the rivers and so forth, as water does. And obviously, without water, there is no life.
2180. So in *SENĆOFEN*, we can refer to water as (speaking in Native language). But during ceremony when we are bathing, when we are cleansing ourselves with cold water and offering a prayer, we refer to water as (speaking in Native language), grandfather rain to honour that relationship.
2181. So again, this orientation structures our laws and standards of judgement. It's why we see water as sacred and as needing to be protected and to be kept pure from harm in order to keep its cleansing properties and all of our cultural teachings and beliefs that surround that.
2182. So it's very hard to give a full depth of *WSÁNEĆ* law and culture in such a short period of time, and to be sitting in a room like this, as opposed to out at these places that I'm speaking about.
2183. But I also wanted to mention that with us today I've brought along a

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class that I'm teaching on *WSÁNEĆ* law. A field course through the University of Victoria. They're all sitting in the back there. It's a pilot course for UVic's new Indigenous law degree that they recently launched.

2184.           So it's a field course that has students out on the land, in the water, at our sacred mountains and places. And it's about embodying the relationships that *WSÁNEĆ* law speaks to.
2185.           It's a semester-long intensive course and has the students working in community on a daily basis learning and on projects that are important to the *WSÁNEĆ* community. And even that is only just an introduction into understanding *WSÁNEĆ* law. If we think about going through law school, I spent years there and obviously only had a brief glimpse into Canadian law.
2186.           But together on the first day of class of our field course, we went into the ocean, into the cold water right off the shores of the Tsawout reserve. And I talked to them about Grandfather Rain as one of the first orientations to our class. We saw and we visited these different islands, and we saw tankers going by as we were out on the boat visiting with our relatives. I see them cruise past every day.
2187.           There are many other law schools that are starting to do similar things with Indigenous law, to really focus on what Indigenous law is and how it works.
2188.           These are the lawyers of the future. The path forward in this area of law necessitates a deeper understanding of Indigenous law. And my hope is that we can be ahead of the curve instead of behind it.
2189.           The Truth and Reconciliation Commission of Canada in its calls to action emphasizes a similar focus on Indigenous law.
2190.           And the Supreme Court of Canada recognized that Indigenous peoples were here living by their own laws and traditions when others arrived.
2191.           That, and the injustices that followed, are the very reasons that we speak of the need for reconciliation. We need to be able to grapple with these issues and these differences in meaningful ways.
2192.           At the outset, I mentioned that Indigenous peoples continued to be in front of institutions like this because our own laws create an obligation to do so, and that we would continue to do so as long as we needed to.

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2193.           And at the same time, I invited you to open your hearts and minds to understand where we are coming from and to listen very carefully.
2194.           It reminds me of my grandfather, Earl Claxton Sr., who once had recalled something that his father had told him while they were out visiting a river. He said that the river is a living thing, and if you listen, he will speak to you. My wish is that we will all start to listen a lot more carefully.
2195.           The orca who carried the body of her lost child for 17 days for all of us to see is telling us something. She is showing us that things are not okay, that there are serious problems we need to deal with. And for those who are listening, she is telling us that we have responsibilities that we are not meeting.
2196.           There are signs all around us that we need to stop recklessly burning through fossil fuels and other destructive behaviour, extracting it from one Indigenous territory, transporting it through another, to burn somewhere else, even if it's another country.
2197.           The notion of looking at things in a silo is foreign to *WSÁNEĆ* law. And if we're to be honest, it's a short-sightedness that is very dangerous in Canadian law as well.
2198.           It's time that we started to do things differently. And I hope that we can start here. Much of what I said sets the stage for what my cousin, Nick Claxton, will speak about as well. So I just wanted to thank you for the chance to speak here today, and for you for listening to me. *HÍSŪKE SIAM*.
2199.           **MS. MAVIS UNDERWOOD:** *HÍSŪKE*, Robert. Thank you very much.
2200.           And if we could turn it over to Nick, Nick Claxton?
2201.           **DR. NICK CLAXTON:** *HÍSŪKE SIAM*.
- (Speaking in *SENĆOFEN*)
2202.           Just a few words in one of the original languages of this land to acknowledge all of you, to say that I'm glad that we're all gathered here today. I said my hereditary, my ancestral name is (*SENĆOFEN* word), which was given to

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me by my grandfather on my mom's side. I said I come from the Tsawout community and that Saanich is my homeland, and that I'll be talking to you today about the reef net and what I hope for the future.

2203. I'm both a community member of the Saanich nation, but also a researcher from the University of Victoria. The focus of my research, which is not unlike all of us that are gathered here today talking to you, is about our vision for our community as a community member.

2204. I also have to say that this comes from growing up very much like Jeremiah, as a fishing person, coming from a fishing family. My grandparents and my parents on both sides were fishers. I grew up as a harvester, and I still do. In fact, my daughter only eats foods that are traditionally harvested. She won't eat from what we can buy at the store.

2205. So I hope that gives you some perspective in terms of the immense feeling we have against threats to our homelands and territories.

2206. It is with this perspective that I bring to my work, which is really about the regeneration and the resurgence of traditional lifeways of the *WSÁNEĆ* people, and in particular, in our youth. The revitalization of the reef net fishery has been a particular focus for me. This is mainly because the reef net was historically the backbone of the Saanich people and the Saanich way of life. It was often said that the reef net fishery both distinguished us as a Nation but it also brought us together as a Nation.

2207. It's with the reef net in mind that I've come to share with you today, and in particular, the future of our fisheries, our way of life, and my concerns that I think we all share with this proposed project, specifically, the marine component, though I think we all have serious concerns about the project as a whole.

2208. In my work, I often try to envision a better tomorrow for the future generations of Saanich people. And this is what drives my work today with the youth in my community.

2209. I would like to share with you this vision, but first, I think we need to back up. Let's back up say, 166 years so that we can consider the longer term, bigger picture struggle of the Saanich people, well, frankly, of all Indigenous peoples that are impacted by this project.

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2210. Let me try to explain theoretically the problem that has brought us together today. Simply put, we have never really resolved the problem of the colonization's theft of our Indigenous lands and the imposition of foreign sovereignties and laws over our Indigenous Nations and the forced assimilation and the acculturation of Indigenous peoples into Eurocentric ways.
2211. If this is the problem with colonization, let's be clear. This is not simply a problem of our past. It is, in fact, still happening. Think about this whole National Energy Board process critically for a minute. The fact that we, as Saanich, have to testify our concerns to the National Energy Board in a process that was imposed on us about our lands and waters that were literally stolen from us, just to ultimately allow the continued expansion of the colonial capitalistic empire, through adequate consultation, of course, then it seems to me like the colonial mission is still driving forward relentlessly.
2212. So what do we do? What can I do? Robert spoke eloquently about our responsibility, that's why we're here, responsibility that comes from our scales, our laws and teachings. We all share a responsibility to each other in this relationship, but we as *WSÁNEĆ* have responsibility to our laws, our language, our lands and waters, and to the future generations. That's why we're here and that's why I'm here, and that's why I do what I do.
2213. So now I'd like to talk to you about the work that I've been doing. I spoke to the National Energy Board about the reef net fishery during its first review process so I don't think I need to explain that again. But very quickly, as I began to learn more about the reef net and the significance of it, as well as what our ancestors likely understood about our Treaty relationship with the early settlers, the question that continued to arise was, why aren't we still doing this? What's stopping us from doing it now? This was the fundamental premise for my doctoral research project and continues to be reflected in my current research practice in my community.
2214. In my introduction, I encouraged us to back up and think about what it was like 166 years ago. Why did I say that? Well, relatively speaking, that was not that long ago compared to our existence here, as Robert talked to us about. There's scientific evidence through research that coming through universities like the University of Victoria that tells of our existence on this coast at least 13,500 years. Our laws are that old. Our language is that old. Our relationship to our territory is that old. It was strong.

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2215.           A hundred and sixty-six (166) years ago when we signed the Douglas Treaty, signed -- I put that in air quotations -- we were still strong. And in fact, at that time, we numbered in the thousands compared to historians have told us there were about 60 settlers living in the Fort of Victoria. So think about the balance of power at that time. The balance of power was ours. Think about the balance of power and how that's shifted today.
2216.           That's why I'm asking you to consider what it could have been like for us not that long ago.
2217.           Traditionally speaking, we did not distinguish land from water. Our language tells us this. It was all of our homelands.
2218.           Robert spoke about our relationship and our responsibility to the natural world through Saanich law which sometimes gets defined through what Canadian courts and Canadian law calls rights. But when you look through the lens of our language, which is a lens to the world, as an example, what we talk about in terms of our laws and beliefs, our (speaking in Native language), these things could not be sold or ceded.
2219.           Another example, our word for land, *TENEW*. Our elders talk about how that could mean earth, land, soil, but it has a double meaning. It means "my wish for the people". And who is wishing? It's the Creator's wish for us. From that perspective, the promises of James Douglas, who was acting on behalf of the Crown, take on new meaning. If James Douglas promised that we were entitled to hunt over unoccupied lands and to carry on our fisheries as formerly, from the perspective of our language, that means all of our laws were to be respected in this Treaty relationship. That means the ownership of our homelands, both land and water, could not be ceded or sold. That's what our *WSÁNEĆ* law tells us.
2220.           How do we live up to this responsibility as *WSÁNEĆ* people? Part of it is to go reef netting. That's a responsibility to carry these teachings, practices, forward. This is where my learning journey and my work has started. First of all, what I spoke to you about last time was sort of my learning journey about reef netting and actually going out fishing, going out reef netting again 100 years after it was outlawed by the Canadian government, learning how to do it, actually learning by doing.
2221.           But the work is great for us. It's about building a foundation. It's about

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- rebuilding our community, rebuilding our ceremonies, and that's where my work is being situated lately and I've brought you a picture that I'd like to share. It's with my work at the *LÁU, WELNEW* Tribal School, teaching the children about reef netting, the values and the beliefs as well as the practices of reef netting, to build that foundation of knowledge so that we can once again have that as the backbone of our community.
2222.           There's so much rich knowledge to be shared when it comes to the reef net. It's about our relationship to the salmon, the relationship to our lands, the relationship to our waters. It is really about a *WSÁNEĆ* world view. And my work has been focused on sharing that and building our curriculum around that at the school.
2223.           It includes ceremony, spiritual knowledge, spiritual beliefs, as well as practical knowledge, practical knowledge of the tides, the currents, knowledge of the salmon and our relationship to them.
2224.           Robert talked about our word for islands, *TETÁCES*. That is also a central part of the reef net fishing practice, because in traditional times, a spiritual leader would take a solo journey before each and every fishing season, travel and speak to the islands as if they're relatives.
2225.           Think about if you spoke to the land in that way, how different would that be? How would you explain what we're doing to it?
2226.           There's many ceremonies where kids, children in our communities, are the most central and integral part. Things like the first salmon ceremony, the end of the season ceremony. Kids, in our world view, are the most important. And that's the future.
2227.           My work has been guided by Indigenous scholars and what they call Indigenous resurgence, but ultimately, that means restoring our communities, restoring Indigenous presence on the land, revitalizing our practices, revitalizing our believes, revitalizing our languages.
2228.           Our young community members are a reflection of that.
2229.           It's also guided by confronting colonial structures and colonial mentalities and then envisioning resurgence. Along with that, I think also a need -- there's the need to reawaken ancient treaty and diplomatic relationships and

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- mechanisms.
2230.           Ultimately, what I was hoping to share was just to tell you that our work as a community is laying down a foundation of reef net knowledge, of *WSÁNEĆ* knowledge, of *WSÁNEĆ* law, so that our reef net practices can resurge, come back to life in a fulsome and meaningful way.
2231.           But this leads me then to my concerns, which I'd like to share with you now.
2232.           Overall, this project runs counter to our efforts as *WSÁNEĆ* people, our efforts to regain and revitalize our ways of being and living, our ways of life that were developed and stood for a millennia, the many gifts that were given to us by the creator, *XALS*, such as the *SXOLE*, and these things were promised to be respected through our treaty relationship, which are still being ignored and pushed aside by the settler colonial state.
2233.           The impact of increased tanker traffic on the reef net fisher. Reef net fishing is a dangerous practice. It occurs in strong tides, strong tidal waters. Imagine the increased danger to our reef net fishers, which including -- could be the youth, by increased tanker traffic. But also the impact on both our travel, as well our stationary fishing practices.
2234.           I'm also concerned about erosion by increased traffic. Particularly erosion to our reef net sites. You'll recall from that map that was shown earlier, all of our reef net sites coincide perfectly with the proposed tanker traffic route.
2235.           As was said earlier, our reef net sites align with the tanker traffic route. And obviously, our reef net sites align with the pathway of the Fraser River salmon. But it also aligns with the pathway, as we heard, of the southern resident killer whale population.
2236.           It's understood through *WSÁNEĆ* law that impacts to one of these will in turn impact us all. And I think that would include impacting us all in B.C. and in Canada.
2237.           As Robert talked about, I'm really concerned about recolonization, rather than reconciliation, not respecting the treaty relationship that we have, ignoring the calls to action of the Truth and Reconciliation Commission. We have that opportunity now.



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2238. In short, my concern is that projects like this will have not only immediate destruction, but cumulative impacts that are detrimental to our homelands and waters, which are foundational for us as *WSÁNEĆ* people and our *WSÁNEĆ* identity, which has been the focus of my work.
2239. I want to thank my relatives today for sitting with me and sharing all that you shared. *HÍSŪKE SIAM*.
2240. **MS. MAVIS UNDERWOOD:** *HÍSŪKE. HÍSŪKE*, Nick. Thank all of you. Thank everyone for your patient listening; it's very important at this time. So I just want to say *HÍSŪKE* and invite Shauna Johnson to participate.
2241. **MS. SHAUNA JOHNSON:** Hello. My name is Shauna Johnson. My mother is Roberta Pelkey and my father is Terry Johnson from Laxkwala'ams. So my mother is from Tsawout First Nation.
2242. My ties to my community stem from my mother and the longstanding family ancestral relationships that are there. And I'm coming from a different approach, I think, from some of the other speakers on this panel, because I didn't grow up on Tsawout Reserve lands, I didn't grow up in my territory until I was about 12 years I moved up here.
2243. I had no idea who I was as a person. And I think this story echoes many of the young people today who are coming back around to understanding who we are, to coming back to our identity, and all of the challenges that come with that.
2244. I started working for Tsawout First Nation and I worked with my community for about three years as an environmental technologist. I have a Bachelor of Science degree in Environmental Sciences. And it was in 2012 when I started working with Tsawout. I started out working -- interviewing elders, learning and listening to the stories of our people, learning our oral history, learning the ways of being of our people in a way that I never even understood.
2245. The time I spent at Tsawout led me to where I am today. I pursued my Master of Science degree in Indigenous Community Planning at UBC, where I now teach. And I mentor and support indigenous practitioners as they go into community doing First Nations planning, Indigenous planning. I found meaning in the work that I do.

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2246. With my experience working at Tsawout, I saw how difficult it was for our community to move forward with all of the complexities, the barriers, the challenges, the dysfunction because of the legacy of residential school, the trauma that is still continuing in our communities.
2247. I also witnessed the ongoing attacks on the assertion of our rights as Aboriginal people. Part of my job at Tsawout was receiving referral letters when I was there, and one of them was from Trans Mountain. And this was only one of them, you know? When you see the number and the volume of referral letters that get placed on the community's desk and the lack of time of the staff resources that they have to respond in a way that's meaningful, given short timelines -- 30 days to respond or it's considered an approval.
2248. And I think it's important to understand this perspective and the challenges that the communities face because, you know, the impacts of development and industry is only going to get worse. It is getting worse. In my work as a land use planner working with First Nation communities across the country, I have witnessed oil industry on the land and I struggle with the fact that how are the principles of working in the oil industry and the impacts that I see with land in their territories -- how are those going to carry out and translate or change when they're in the marine environment, when they're in our water? I struggle to believe that it's going to change.
2249. Part of my work while I was at Tsawout was working at Cordova spit, *TIKEN*. And on the pictures here on the side there are several species at risk that we are responsible for taking care of, not only these species at risk as they're protected under the Canada legislation, but we also have medicinal plants that we want to protect there and food, like, food plants that we use as medicines, that we use to harvest, that we use to connect with our land.
2250. We have Yellow sand-verbena; Beach bindweed; American glehnia; Black knotweed; Fleshy jaumea, which are blue-listed plants of special concern.
2251. Grey beach peavine; Howell's Tritelleia; and contorted pod evening primrose are red-listed species as threatened or endangered.
2252. The entire ecosystem itself is a sand dune ecosystem, a rare ecosystem, one that there are only a few across Canada. And the Yellow sand-verbena is a really good example of the relationships that exist between plants and animal

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because this Yellow sand-verbena is a home for the Yellow sand-verbena moth and it only reproduces on that plant. It has a very specific connection with that one plant. So if that plant leaves, so does it.

2253.           The area at *TIKEN* has also been known for a host of migratory birds that pass through the area. It's a sanctuary as they pass through it. There are already studies in the marine use study talking in length about that so I won't spend a lot of time on it. But my time there spent was trying to restore that land using traditional ways of restoration under the advice of our elder, Earl Claxton. We had invasive species plant removal parties; we had beach cleanups, and opportunities just to provide education to the public because this piece of land is connected to a very high-use park at Island View Beach where people always access it, they bring their dogs for walks, they bring horses out there, and they just go out there.
2254.           We also provided opportunities for storytelling. Earl Claxton would tell stories and the history of that place and I can't emphasize how important it is to listen to stories and to listen to our oral history on the land, how important it is to understand what it's like to learn, not just from your mind, but to learn through your body and your spirit and the way that you connect when you're there.
2255.           My Auntie Belinda spoke a lot about the medicinal plants before in her last affidavit so I won't spend a lot of time on that. But there -- I want to point that out still.
2256.           But I also want to speak to the orca whales again. I know it's echoed a lot today already but when Chief Harvey brought up in his affidavit at the last hearings, he spoke of -- and again, we're hearing that the orca is our relative. And it brings up this story that I heard in the work that I've been doing with revitalizing Indigenous law using stories as a source.
2257.           I had the privilege of listening to one of our knowledge keepers tell a creation story about the orca whale. It tells how a blind wolf received some help from Eagle to hunt for food so he can survive. And he was humble about it. He was blind and he knew his impediments.
2258.           And he called to the mountains and he prayed for guidance. And he prayed, "What is going to become of me? What is going -- where is my place in this world?" And he kept asking that in prayer to the Creator out loud.

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2259.           And when he is waiting for his response, or a response, or a sign of some sort in answering his prayers, he starts hearing the sound of ocean waves on the shores. And they come louder and he's drawn to the ocean. Moving his feet in rhythm with the sound of the waves, he runs towards the cliffside. And as he leaps off, his friend Eagle tries to catch him, but instead, grabs his fur and pulls out the dorsal fin just as wolf transforms into the killer whale that we see today and that we call the blackfish.
2260.           There are other stories that I've listened to that speak of the role of the blackfish in who we are. They are an important species in the *SXWAYXWUY* masks and how the *SXWAYXWUY* masks were gifted to our people.
2261.           And it also speaks of how they guide and come to our people and give them guidance and gifts, abilities for being able to catch fish.
2262.           And I want to also speak to the -- about the story and how it illustrates the intelligence of this orca whale. The fact that the wolf who was blind on land can use that to his advantage in the water world, in the water, the ocean environment, speaks of the resilience of that animal. It also speaks to the connection of the wolves and the killer whales from the land and the water and how those are so important and connected. It speaks to how adaptable they are and capable of making change when they know that their food supply is low and they're unable to feed themselves.
2263.           So when I think of the current state of the killer whale populations that exist today, and we've mentioned the mother who carried her calf for 17 days; what is the message that she is trying to send us? If this orca whale, who's so resilient, so highly intelligent, so adaptable, is not able to take care of herself and her young, after having found her place in this world, being able to do that successfully for so long, what is she trying to tell us?
2264.           Robert already spoke about listening through Indigenous laws. You know, the orca whale is a natural law that teaches us. She teaches us. So to me, you know, the orca whale has responsibilities as well, just as much as we do, to carry out her relationships in the waters. So if she can't do that then I think we're in a rough place, you know, because pretty soon that means we're not going to be able to.
2265.           Nick before in his affidavit spoke about a relationship with salmon people in the salmon ceremony and the conservation protocols and ethics that are

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carried out in the reef net system to make sure that those people, our relatives, continue life.

2266. Research today is telling us, you know, the supply of salmon and other fish in the Salish Sea and all of the work that even we're trying to do with scientists is not working. All of the restoration work that we do -- even, you know, it's coming along with when you see the Elbow Dam and having that being released and the restoration and revitalization of that waterway with salmon now returning.

2267. But the Salish Sea continues to be contaminated not just with sewage and upland pollution but unchecked levels of pollution entering the waters from industry, from agriculture, from fish farms, and now in the Salish Sea we have the threat of the marine tankers, and it's not just carrying oil; it's carrying bitumen oil.

2268. And this is a clear threat to our food supply, and not just our food supply but our Indigenous food systems which is substantially different than the western perspective and the conventional model of what foods systems exist today. It's different because it ties so closely to our well-being as a people, as a culture society of who we are and how we govern our communities.

2269. If one part is out of balance then it's all out of balance. And for a while now we have not been able to sustain ourselves like we used to. We can't access the salmon like we used to. We can't eat the clams that are polluted. We can't eat our crabs anymore. If we do we know we're taking a risk. And today with the convenience of access to grocery food stores that are processed -- highly processed -- we're not receiving the same amount of nutrients that we used to. Our people are seeing more diet related illnesses higher than ever before, with levels of diabetes, heart disease, obesity, at higher rates than non-Indigenous people because we rely on traditional foods and we can't have access to those foods anymore.

2270. Food was at the center of our culture so much that our governance systems were framed around the yearly activities like Mavis talked about and like Nick has talked about with our reef net system. All of our activities were centered around making the reef net and how we gathered food to ensure that our people were fed and protected while they're out on the waters half of the year.

2271. The tankers related to this pipeline will prevent us from accessing our

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- traditional way, our traditional territory in the same way that we do today. It will also prevent us from being able to teach future generations and to revitalize some of the practices and cultural teachings required in order to harvest food in a good way. Without these teachings it's going to be hard to maintain our respectful relations.
2272.           The risk is too high for us, because all it takes is one spill to ruin our foods, to ruin our beaches, to ruin the traditional plants that we harvest.
2273.           One in six children in Canada experience some degree of food insecurity and a large proportion of these are Indigenous children. A 2012 nationwide survey shows that Indigenous households report more than double the rate of food insecurity that's experienced by white Canadians.
2274.           Now, while it's useful to use these kinds of statistics, it doesn't capture fully the impacts that Indigenous children and people are experiencing today because of that cultural connection that we have with our food. It's not capturing that spiritual connection that happens through ceremony, that happens when we pray, that happens when we provide offerings to the salmon or we provide offerings to the deer or the clams. Those are difficult to measure but ones that need to be taken seriously.
2275.           In the *WSÁNEĆ* revitalizing law research that I worked on I think one of the things that I learned most was that we don't -- a lot of dominant society does not place their selves on the same playing level as plants and animals of this planet, and we need to. We talk about the killer whale, you know, and how much there is to learn from the killer whale and the orcas.
2276.           And the most -- another important thing that I have learned is that after all of the academic learning and degrees that I have on paper, I go back to our Indigenous knowledge systems and I feel like that's where I need to put my effort, and I feel like there's so much to learn from there, so much that needs to be put at the forefront, and science is even acknowledging that today.
2277.           Regarding impacts of the Trans Mountain pipeline and the tankers, a lot of -- I think I've already spoke a lot about it, but, you know, being able to revitalize our Indigenous laws could be threatened by that; our ability to maintain our relationships with the orca whale and the other spiritual beings in the waters of the Salish Sea; our ability to continue to protect not only the rare coastal gene ecosystem but the medicines there; our ability to access and increase the level of

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- food resources that are safe to consume just to be healthy, not to mention the increased emissions that will happen when we take more oil out of the earth.
2278.           The climate change impacts, including erosion, particularly marine resources on our beaches, and limiting access to teaching sites that we use for revitalizing Indigenous law, revitalizing our culture, telling stories and teaching our children about our history, it's so important, as I mentioned, to access those places because you can't learn in the same way if you're not at that place.
2279.           And as a community planner I see impacts upon our ability to plan for our futures in a way that respect our long-standing laws, customs, and traditional practices of the Saanich people. Community planning is closely tied with community development, and rebuilding our community governance systems, our institutions, our society, our education, our ways of life, the way that we live.
2280.           When I was asked to talk today I was also a bit nervous because, you know, I've come into my role in the community as someone who's been trained in the western academic world and still learning, and I'm going to spend my lifetime learning the knowledge systems that have been passed on through the generations, the Indigenous knowledge systems that are there that still are there that just need to be accessed.
2281.           And you know, as a community planner, part of my job is to look at the bigger picture, to be a visionary and to speak on behalf of the people for the complexity of issues there and to communicate it in a way that's easy to understand.
2282.           When I think of all of the issues and the cumulative effects that are coming, not just from land development, you know, but from things like this tanker, pipeline routes, it scares me. It scares me for my children, you know, because what kind of world are we going to leave them if the practices and how we use energy, and how we think of energy, and how we consume things, natural elements of this earth, doesn't change, what are we leaving them?
2283.           And as I mentioned before, you know, this is the second time that the Tsawout community has been here at these hearings and it's hard to think that it's going to change because you're only here because you were forced to. The first time around, you didn't want to acknowledge the impacts on the marine environment, nor our people. And that's very hard for our people today, our young people who are thinking of the future and the generations ahead of us, and

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the world that we're leaving behind. How do we plan for that?

2284.           So thank you very much for listening to me today.
2285.           **MS. MAVIS UNDERWOOD:** *HÍSWĶE. HÍSWĶE* each and every one of you for your participation. I just wanted to have a clarification of time? How much time would we have?
2286.           **THE CHAIRPERSON:** You know, we started a bit late, so you can have maybe another 10 to 15 minutes. Would that be okay?
2287.           **MS. MAVIS UNDERWOOD:** Yes. I would like to take that time to acknowledge each and every one of you who has come today.
2288.           Sorry for this, I need to stand.
2289.           I need to acknowledge our relatives who have come, Belinda Claxton, a very important of the teachings in our community and at the school. She played an active role, and that was her late mother that was there with the plant knowledge that's been passed on to Belinda Claxton. She's very active in our community, even though she's moving toward retirement, we don't really retire, we actually get more busy.
2290.           And Adeline Claxton from Tsawout, Nick Claxton's mother, has been a very important part of the saving of our history, doing documentation, establishing files and a lot of the interactions that occur, helping to organize us. We haven't -- we wouldn't be where we are today without that evolution, important evolution. Taking hold of education and using it as a tool, not as a weapon, not as something that's going to assimilate us. We're actually an active part of education now and we're changing how people think and relate to us because of our education. So I just really want to acknowledge all the folks that have come forward.
2291.           I would like to acknowledge as well our legal counsel. Crystal Reeves is here to help if there are any questions that will require those legal submissions; Crystal is here to help us with that.
2292.           And again, I would just like to thank you. Thank you all for coming and being part of what we're doing here today.



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2293. This is some of the most important work of our people. And it is our birthright to stand up in our territory and defend the land and the water, and to defend our way of life as our birthright, so that people will understand we cannot accommodate the industrialization of the ocean. It's about food. It's alive. And we can't allow the continued destruction through chemicals, through noise, and like I say, industrialization.
2294. We've been prodded. We've been tempted with offers of money, with jobs, and all kinds of things, but our way of life is very important to us and it's something that we're trying very hard to pass on to the generations of children that are coming forward.
2295. For those of you that are aware, most of the communities of First Nations across Canada, across North America, are primarily young, under 25 years of age, surviving and needing a place, and a place of identity.
2296. I just really want to thank you, Jeremiah, for speaking about the important connection, and others who spoke about that. The mental and physical health and wellbeing of our people is connected to that way of life, of the ocean and the land, for us.
2297. That distinct identity is something that's not only protected as our teachings are passed along, it's now reinforced by UNDRIP and by other kinds of interactions with us. And it's very compelling, right from the beginning relationship that we had with Crown, the Royal Proclamation. We were to be left alone with our governance, our way of life, because we wouldn't have intruded on anyone; we wouldn't have harmed anyone, we would have continued to stay alive in our lands.
2298. But industrialization wanted our lands, wanted our waters. And that continues today.
2299. And so we try to have a relationship with business development, with municipalities, with the provincial government, and with the federal government. And we try to have that relationship in a very open and respectful way.
2300. But I think that for us, our land bases are getting smaller, and smaller, and smaller, our population is thriving and that's part of the blessing of our creation.

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2301.           So I just really wanted to thank everyone for coming and just ask if anyone has any last comment that they wanted to make with this bit of time that we had?
2302.           If you want, Chief Harvey?
2303.           **CHIEF HARVEY UNDERWOOD:** Yes, thank you for the opportunity to speak in front of everyone today. And I'm really happy for all the ones that spoke before today in front of you.
2304.           And it amazes me that Louie Pelkey, that Eric Pelkey's presentation, he had his picture up there, all those words were actually coming out of his mouth today. And I really believe that.
2305.           And as you could hear clearly over the last hour, this is actually the last hour. For us it's desperation to say no to tanker traffic. So I really believe that. And our way of life is in the last hour.
2306.           So if you could put that to your heart, you know, I really believe that things can change in a slow way of restoring our territory as it is now.
2307.           Just like that moth that needs that flower, we need that ocean, we need that land, in the same way that moth thrives on that to live for another time.
2308.           So with those words, I just want to thank you. And I hope everybody understood what we said today and *HÍSWKE SIAM*.
2309.           **MS MAVIS UNDERWOOD:** I would say we conclude or? Okay. *HÍSWKE*.
2310.           **THE CHAIRPERSON:** Thank you. So, Mr. Duncanson, do you have any questions?
2311.           **MR. DUNCANSON:** If I could just have one minute to confer, Madam Chair?
2312.           **MS. REEVES:** And just, Madam Chair, Tsawout has advised me that they were prefer to answer any questions in writing, rather than orally, as per the direction. Thank you.

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2313.           **THE CHAIRPERSON:** We can ask them orally, and then you can answer in writing, if we have any. Thanks.
2314.           **MR. DUNCANSON:** So we have no questions.
2315.           But on behalf of Trans Mountain, I would like to thank you for coming and sharing your knowledge and perspectives. Thank you.
2316.           **THE CHAIRPERSON:** The Panel has no questions. As you can see, I've been touched by your stories. Thank you very much.
2317.           It's interesting to see the young people, the elders have the traditional knowledge, and people where went to university with the western knowledge and now you're trying to mesh the two together. So that's very nice to see.
2318.           So at this point, we want to thank you for participating and we appreciate and acknowledge you for your traditional evidence as well as where you're heading. And we will consider all we've heard as we decide on a recommendation on this hearing.
2319.           And we'll reconvene at 12:30 to hear from the Tsartlip First Nation. Thank you very much.

--- Upon recessing at 11:15 a.m./L'audience est suspendue à 11h15

--- Upon resuming at 12:33 p.m./L'audience est reprise à 12h33

--- (Opening ceremony, prayer and song)

**DON TOM: Affirmed**

**JOHN ELLIOTT: Affirmed**

**LINDA ELLIOTT: Affirmed**

**TOM SAMPSON: Affirmed**

**MARK SAMPSON: Affirmed**

2320.           **THE CHAIRPERSON:** Before we commence our hearing today, the Board wishes to acknowledge with respect the Lekwungen-speaking people in whose traditional territory we are gathered, and the Songhees, and the Esquimalt, and the Saanich people whose historical relationships with the land continues to this day. It is with truth and respect we would like to acknowledge all the

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Indigenous ancestors of this place and reaffirm our relationship with one another.

2321. Good afternoon, everyone. Welcome to the Oral Traditional Evidence phase of the National Energy Board's hearing regarding the Trans Mountain Expansion Project Reconsideration. My name is Lyne Mercier. I am the Chair of the Panel. With me on my left is Alison Scott and on my right is Murray Lytle. We want to welcome everyone who is here today, both in the hearing room and those listening in to the webcast.
2322. In addition to the panel, we have staff in the room to answer process-related questions that you may have. You will be able to recognize them by their brass name tags.
2323. As a matter of housekeeping, I'd like to describe the evacuation procedures in the event of an emergency. If the building's evacuation tone begins sounding and we are asked to leave the building, the muster point for the venue is the waterfront walkway. Please exit in an orderly fashion through the lobby. At the muster point, please ensure that your party is accounted for.
2324. Now, I also want to point out that at 1:55 p.m. there will be a test, a public safety alert, sent to all of your phones. If this causes phones to ring, we will just take a brief pause to minimize the disruption to our presenters. So this is a test that's being run across Canada to make sure that we're prepared in case of a national emergency.
2325. With respect to our schedule for hearing oral traditional evidence, today we have scheduled time to hear from three Indigenous groups. We will normally plan to take breaks if it is required.
2326. In order to be fair to all presenters we have allotted up to two hours to hear from you. If two hours is not enough, at the end of the session please feel free to file additional oral traditional evidence by electronic means, such as a video or some other method.
2327. Before we get underway, I would remind parties of the Panel's guidance in the Hearing Order and Procedural Directions in regards to oral traditional evidence.
2328. The Board understands that the Tsartlip First Nation has an oral tradition for sharing knowledge from generation to generation and this

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- information cannot always be adequately shared in writing.
2329.           Sharing your traditional knowledge and stories about the use of your traditional territory is of value to us. We appreciate that you've chosen to be here today.
2330.           Following oral traditional evidence, Trans Mountain, other intervenors, or the Board may have questions for the witnesses. We understand that Tsartlip First Nation has requested that any questions be in writing. Since the Board has said that witnesses have the option to answer questions orally or later in writing we will honour this request. If Trans Mountain or the Board have questions, they will be submitting it in writing in the form of an information request. The response will also be in writing and normal deadlines for information requests will apply.
2331.           With that, I believe we are ready to get underway. And before I call on you to present your traditional evidence, I'd like to have the representatives of the Proponent, Trans Mountain, introduce themselves.
2332.           **MR. DUNCANSON:** Thank you, Madam Chair.
2333.           Good afternoon. My name is Sander Duncanson. I'm with the law firm, Osler, Hoskin, and Harcourt, representing Trans Mountain. With me is Cassie Richards from our office, and Georgia Dixon from Trans Mountain.
2334.           Thank you and good afternoon.
2335.           **THE CHAIRPERSON:** I would also ask if there are any other intervenors in the room who would like to introduce themselves, or any preliminary matters they would like to raise. And for the record, please indicate who you are and who you are representing.
2336.           **MR. MURRAY:** Thank you, Madam Chair; thank you Panel Members.
2337.           My name is David Murray and I'm a senior policy advisor with Natural Resources Canada.
2338.           I'm here as a representative of the Federal Crown to hear the witnesses' oral traditional evidence in relation to the reconsideration of the Trans

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Mountain Expansion Project.

2339. I do not intend to ask any questions today but rather I'm here as a representative of several federal departments and agencies that are registered intervenors.
2340. If necessary, we will ask additional questions through the NEB's information request process.
2341. Finally, I'd like to note that I'm honoured to be present at this hearing in the traditional territory of the Coast Salish.
2342. Thank you.
2343. **THE CHAIRPERSON:** Thank you, Mr. Murray.
2344. Is there any other intervenors? I do not see any.
2345. I understand that members of Tsartlip wish to affirm to indicate that they're presenting -- what they are presenting is accurate and truthful to the best of their knowledge.
2346. But we can -- if you wish, we can skip that step, since we had the ceremonial entrance and we have prayers and songs and that can be substituted as your affirmation.
2347. Okay. So I see that you agree, so we can save some time and go on as to come on and listen to you.
2348. So I'm looking at the Chief and I don't know who's going to be -- or the lawyers. So I will invite either Mr. Murphy or Mr. Jones to tell us how they want to proceed.

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR TSARTLIP  
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2349. **MR. MURPHY:** Yes, thank you, Madam Chair, Panel members, Chief, elders, community members, elected councillors.
2350. My name is Eamon Murphy. I'm legal counsel with Tsartlip First

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Nation.

2351. With me is my colleague, Peter Jones, who is also legal counsel, and our articling student, Sam Maroney.
2352. Just a couple of brief comments before the panel begins. I'd like to acknowledge that we're on Coast Salish territory. And I'd like to give you a little bit of a road map of what you're going to hear today, just to try to guide everybody that's in the room.
2353. I should note that we filed yesterday a map, and it's document A-96158. And the map's up on the screen. This map was filed -- thank you, there it is. It's called Map 9 because it was filed in the original hearing. And on that map there are two primary things I just want to draw your attention to. One is that there are traditional place names that appear on locations throughout Tsartlip territory. And you also can see on that map the shipping lanes in blue.
2354. Counsel is going to be guiding the witnesses. We'll be asking questions. So you'll excuse me for sitting at the very end of the table; we'd like to be able to see who we're speaking to. We'll try not to turn our backs on anyone.
2355. Mr. Jones is going to be leading three of the witnesses and I will be leading two of the witnesses. And brief summary turns, because I'm conscious of the time. I'd like to introduce the panel that you have before you.
2356. We have Elder John Elliott. He's going to be speaking about his role in the community as a teacher, a teacher of culture, of language. In fact, he's a teacher of teachers, a very important place in the community. John Elliott is going to be speaking about Tsartlip and *WSÁNEĆ* connection with the killer whales.
2357. Next to John Elliott, we have Elder Linda Elliott. She is also a teacher. And she will be speaking of the importance of *WSÁNEĆ* culture and teachings. She's going to be talking about how this project doesn't respect *WSÁNEĆ* culture. She's also going to be talking about the importance of killer whales within *WSÁNEĆ* teachings.
2358. Next to Linda Elliott we have Chief Don Tom. You've heard from him briefly this morning. He's going to be speaking a bit about his traditional

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name and the meaning of the name. He's going to be speaking about those things he has heard from Tsartlip community members about this project. He would like to speak about the process itself and the challenges that it presents for Tsartlip. And he's also going to reference the Roberts Bank Terminal 2 project and how it also is part of the issues that they are dealing with.

2359. On Chief Tom's left we have Mark Sampson. He's a fisherman. He's going to be speaking about his experience as a fisherman through the Salish Sea, on the map in front of you. He will be also talking about his intimate knowledge of the lands and waters in this area, the area through which the project related shipping will go. And he's going to be talking about the impacts from increased tanker traffic on Tsartlip fishing practices.

2360. And last but not least, we have Tom Sampson, who is an elder. Tom Sampson is going to be speaking a bit further about killer whales and Tsartlip's relationship with killer whales. You've already heard a bit about the impacts that the mother killer whale had when she carried around her baby that died and the impacts that had on the community. He's also going to be speaking about the noise impacts that are suffered by killer whales.

2361. Without further ado, I'm going to turn the mic over to Peter Jones and he's going to be leading John Elliott.

2362. **MR. JONES:** Thank you, Mr. Murphy.

2363. Elder Elliott, thank you for coming before the National Energy Board today and for your willingness to provide your evidence.

2364. Now, you've previously given evidence in front of the National Energy Board in the original hearing in 2014. Is that correct?

2365. **ELDER JOHN ELLIOTT:** Yes, it is.

2366. **MR. JONES:** Okay. And on that basis, the evidence that you gave previously is still on the record and it's going to be considered and just so, for your information, I may be asking you different questions than I did last time. And so this interview is going to be more focused on your background as a teacher and your knowledge of killer whales.

2367. So you teach at the *WSÁNEĆ* Tribal School; is that correct?



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2368.           **ELDER JOHN ELLIOTT:** Yes, I teach at the *WSÁNEĆ* Tribal School. At that school there I teach the language and culture and art of the *WSÁNEĆ* people.
2369.           **MR. JONES:** And how long have you taught there for?
2370.           **ELDER JOHN ELLIOTT:** I've been working at the school there for 41 years and working on understanding our language and our history of the lands and cultures of our people there.
2371.           **MR. JONES:** And do you teach anywhere else?
2372.           **ELDER JOHN ELLIOTT:** I also teach at the University of Victoria and Camosun College, the Lands and the Language course -- our Language in the Land. So how our language interprets for caring for that -- for our homelands and territories.
2373.           **MR. JONES:** Thank you. And Elder Elliott, I understand that you're also very active on a number of projects in your community.
2374.           Can you talk a bit about your work on revitalizing the *SENĆOFEN* language?
2375.           **ELDER JOHN ELLIOTT:** Well, I started several years ago working with a group of 18 first language *SENĆOFEN* speakers. I was hired at the Saanich School Board. And I worked there recording the important information that the elders wanted to archive at that time. When I was 25, and I'm 70 now.
2376.           **MR. JONES:** Okay. And I understand you also worked on an internet tool called First Voices. Could you describe that that is?
2377.           **ELDER JOHN ELLIOTT:** FirstVoices.com is a -- it's an internet tool help people like ourselves whose languages are really going extinct in this country here and around the world so that they can archive and have control of the archive materials that are being put into the -- out there for their community and for their families so that their languages, they can capture all of the important information from the elders and get the young people and the elders working together so that language and teachings and knowledge of language can be moved forward to next generations.

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2378.           **MR. JONES:** Thank you. And you also sit as chairman on a couple of societies as well. Could you describe what those are?
2379.           **ELDER JOHN ELLIOT:** Yes, I sit on the *WSÁNEĆ* Heritage Society, which is a society working along with the Saanich School Board. And that is -- our main objective has been to bring strength to our language and our cultural teachings around preservation of language and laws and beliefs systems and taking care of those things that are happening within our territory that maybe people are digging up our ancestors or maybe disturbing a whole village, sorts of things like that.
2380.           And also, we go into the schools and so we have from part of my job, only one part of it, but I'm the chairman of (inaudible) and I also sit as chairman of the First Peoples' Culture Foundation which is a fund-raising board for a First Peoples' Cultures language council which is -- we fundraise for the survival of languages across British Columbia.
2381.           **MR. JONES:** Thank you. And I also understand that you've received several honours in your lifetime for the work that you've done. And among those honours is a honorary PhD; is that correct?
2382.           **ELDER JOHN ELLIOTT:** Yes, it is. It is an honorary PhD from University of Management of Maharishi University of Management in Iowa for the work that I do with language preservation and teaching about our laws. And so it's an honorary Doctorate of Natural Laws, they called it, at that time. Yes.
2383.           **MR. JONES:** Thank you. Now, I want to ask you some questions about your role as a teacher in your community. Could you describe what the roles -- your roles and responsibility are as a teacher in the *WSÁNEĆ* community?
2384.           **ELDER JOHN ELLIOTT:** Well, it's varied over the years. After working with the elders for a time and then they pretty much pushed me into teaching. I was telling them I wasn't quite ready but they said, "You'll have to be ready because we need -- you know enough to teach the Kindergarten, so you're going to go and teach them." So that's how I started out.
2385.           And Kindergarten, this was in -- then Grade 1 all the way through to Grade 10 over the years that I was working there at the *LÁU, WELNEW* Tribal School. Of course, I was learning all along the way and was helping to write

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- curriculum and also wrote some books, one of the books called the "Saanich Calendar" was based on our year according to the cycles of the moon throughout our year. I co-authored that with my late cousin and elder, Earl Claxton, and did the artwork in there as well.
2386.           And then we also did another book called "*TELAMUCHHH*" which is a child's reader in our language about a story of the great flood which I illustrated that one as well. And then we did another book called "The reef net technology of the *WSÁNEĆ* People," which I co-authored that with the late Earl Claxton as well and then did the artwork in that one as well.
2387.           So it's -- then we did one time, we did one of the first books, little tiny books the kids had was a kind of a novelty for them to want to pick it up. It was a little tiny book and it was "*XEN SEN I SENĆOFEN*"; It means "I can speak *SENĆOFEN*." But it was just through the morning and daily activities and all the pictures we did to go with that so they could begin to read the language in that one.
2388.           **MR. JONES:** What are your responsibilities as a teacher of *WSÁNEĆ* culture?
2389.           **ELDER JOHN ELLIOTT:** Well, you know, it's our job to be able to begin to get our people to first of all understand and know the value of the -- knowing the language and being able to speak to one another and to communicate to one another and -- but you know, on a day-to-day basis. And then we talk about family; we talk about our homelands and territories, our connections to all these things, to the language, which is -- the language really informed us clearly on about how we must be looking after this place and really relates us to what we call our *skahales* and (speaking in Native language), *skahales* and (speaking in Native language) is our laws and our ways and (speaking in Native language) which is our sacred teaching of life, which helped to move forward our culture and belief within our Nation of people.
2390.           **MR. JONES:** Do you have any responsibility to pass on that knowledge to future generations?
2391.           **ELDER JOHN ELLIOTT:** That's a huge responsibility to have that, but yes, I feel very pushed to do that every day and have been feeling that way ever since I got involved with and working with the language and learning that from my late father and my late mother. Both spoke to one another all the time.

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- But they didn't speak to it and to us because of the boarding school system was hard on them in their generation. And so we had to relearn our language after that because of many generations from their generations down where they didn't want their children to be punished like the rest of them were punished for knowing their language. Because many of our kids died there.
2392.           **MR. JONES:** So Elder Elliott, as you likely know, the issue of killer whales and the potential effects of product-related marine shipping from the Trans Mountain project are a major issue in this reconsideration hearing. I'm wondering if you can describe the relationship between the *WSÁNEĆ* peoples and the killer whales?
2393.           **ELDER JOHN ELLIOTT:** First of all, I'd like to thank you all for coming to talk to us about it here today, all those represented here. (Speaking in Native language). Just thanking my relatives also for being here, all the ones who are at this table and the ones that are from the community that are here with us.
2394.           You know, the word *KELLOLEMEĆEN* is the word we have for what they call killer whale today or orca, I hear lately. And if you -- to our people, that means that whale, *KELLOLEMEĆEN*; it means the whale it is. But if the meaning of that, it has a meaning inside of that word, *KELLOLEMEĆEN*, mind that left the earth. And I was told that by my late cousin, my elder who was my elder teacher, late Earl Claxton.
2395.           And I teach that to the younger people today. Mind that left the earth relates to a story about how our -- one of our own Saanich ladies made into the killer whale people family long ago. And when the human spirit of the *KELLOLEMEĆEN* came on the land and they became close with one another over a bit of time -- I'm going to have to tell you the shortest version of this story. But over time, they were busy treading on the shores. How it started out, the two sisters were down at the beach and they were (speaking in Native language). They were harvesting some chitons, it's called today. We call it stick shoe sometime. They grow on rocks. And it's kind of hard to get off sometimes.
2396.           And one sister said to the other sister, "You know, this is a kind of a hard job doing this." They were gathering it and put it in their basket there. And this is -- they were talking like that. And a pod of the whales went by. And the one sister looked over and she said, "Look at how beautifully strong they are. Aren't they beautiful and strong? Don't you wish you were just like them? You wouldn't have to be struggling for food like we do this way. They probably have

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a lot of food," she said. And she says, "I wished I was one of them."

2397.           And so sometime later when she was down on the shore and she met this young man walking on the shore. And they met many times. And at one point he said to her, "I want to take you to my home and show you my home."
2398.           And she said she would go. Then he went in the water and he turned into the whale. And he said, "Get on my back. Put this stone under your tongue." And away they went.
2399.           He took her under the sea. And when they went down into the deep water, and then they came -- surfaced up underneath there, in a huge big cave of an area. And then they surfaced up and it was like a big home under there. And as he was kicking out of the water, he was taking off his whale outfit and she looked and they were all in a row, side by side, all the killer whales. And he says, "This is our canoe. We're humans too," he said, "like you. And this is our home."
2400.           And he had already changed to be that young man again. And he took her to introduce her to his family down there. And she liked the family, they liked her. So she says, "I want to go home now." So he took her back up to the shores where they met and he says, "I want you to become my mate and come live with me in my home."
2401.           And she said, "Well, if you want that, you're going to have to come and ask properly this question." (Speaking in *SENĆOFEN*). "You're going to have to come and ask properly in my home." And then he said he would.
2402.           So he went there and he was accepted in. And she told her family that he was from under the sea, but he was human. And so they did go together after he was accepted in and went back.
2403.           Then he would bring her back to visit her family now and then. And then her mother noticed her face was changing. Her face was changing some, and it kind of made her feel bad. So she said to her daughter, "It hurts my feelings to see you changing into a whale." She said, "I know you're going to be okay. You love your mate and your mate loves you. And they look after you well. So go back and don't come back to the land now. But we want to give you a special way of calling us, if you wanted, before we go."

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2404.           And so they went back down and she stayed down there and she became one of them.
2405.           One of our descendant's girls became one of what you call a killer whale, a *KELLOLEMEĆEN*, mine had left the earth.
2406.           And so always when our people travelled, they went on the sea, they're going to make a big crossing with their -- going across to the other side, waiting at the other side, they'd call them with the words they were given, and they'd always come. And they'd tell them, "We're going to cross." They wanted to lead us across. And the killer whales would go in front of the families travelling across to the other side.
2407.           And when they got to the other side, they'd thank them and give them some salmon and thanked them for coming.
2408.           It's an important part of our belief of who we are as a people. We can't change that. It's who we are. It's a belief of us, that the Creator allowed that to happen to our people, and that connection that we have for the life there in the sea with all the marching people. They are our relatives.
2409.           I'd like to thank my elder for singing that mourning song for the ones that passed on, the little one and the mother whose heart was broken, that she had to carry her around for quite a while. They showed the people that it also means a lot, even though they're considered to be wild by the people today; they're killers. Well, yes, they have a way of life. It's their way of life. The ocean is their home.
2410.           So, you know, you have to honour that and respect it because it wouldn't happen if it wasn't going to wish for that to happen.
2411.           And that's how we connect to them whales there, you call them killer whales, we call them *KELLOLEMEĆEN*, mine had left the earth.
2412.           And you know, our people are not that far away from using that word. When we need it, we can use it. It's not gone. It's not lost.
2413.           In my dad's generation, his first cousins had lived out in San Juan. They call it today, *STOLĆEEĒ*, that's where my name is from, San Juan Islands, which is now on the other side of the border, you can see it from here.

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2414. Our auntie over there, when my dad's first cousins were young, becoming young teenagers, and she brought them. Her name of Tikwat. She was Tikwat and my mom's name was also Tikwat, and my late auntie.
2415. And when her boys become young teenagers, she took them all out on her canoe and brought them out in the middle between this land here and out in San Juan, in the middle there, and she called the whales up with those words. She spoke to them and she said, "I want you to look at my sons. I want you to see them." I speak it in our language. (Speaking in SENĆOŦEN). "I want you to see how my son's here, see who they are and look after them, and watch over them when they're out here." And she thanked them and she gave them some fish and they went under.
2416. And that's in my dad's generation, that's still going on.
2417. I believe that can happen today and will happen for a long time to come, as long as we're not forced to throw away our belief system.
2418. **MR. JONES:** Thank you. When we spoke earlier this week, Elder Elliott, you told me about a tradition out on the water that Saanich peoples had to be quiet when the killer whales were around. Can you talk a little bit about that?
2419. **ELDER JOHN ELLIOTT:** Yes, in travelling out to the outer islands, sometimes when you're heading out that way, to the outer islands, when they go to San Juan Island, it's called today. When the ebbing tide is running out, it runs along the Saanich Peninsula that way heading out. And then it goes out and goes out. And finally it starts to flood. And the flood tide starts coming back, coming back. And then they start to meet at a certain point. And then the tide runs crossways across the normal way of the tide. It runs out to those islands.
2420. Well, our families use to catch that tide going out to the outer islands because it was a way quicker to go across. And sometimes our -- it would be dark when we'd have to do that.
2421. Like my dad was young and he was on the canoe with my grandmother, Cecilia and auntie, Mrs. Olsen is my grandma's sister. And he was just a boy. And they were going out to see their other sister out there, Tikwat, over there. And *STOLĈEE*, where my name is -- they call it *STOLĈEE*, they call that San Juan Island now, where she was living. And they had to catch that tide, know when to catch that tide. So out in the place called (Speaking in

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- SENĆOFEN*) on the south end, there's a big boulder there. When that boulder submerged, then those tides are now starting to meet and go across. And that was the place they knew they could go across easily now. In summer time it happened at night, in dark, so they had to go in the dark.
2422.           And they were paddling and my dad said -- he came to Grandma and he said, "Why aren't you guys talking? How come nobody's saying anything?"
2423.           She says, "You don't talk out here in the dark like this. We're travelling in their home. This is their home. We must respect them. This is their place." Talking about her relatives that we call *KELLOLEMEĆEN*. "Respect them. We don't make a lot of noise around here. We're going to respect them when we're in their place."
2424.           He says, "Well, I'm getting sleepy, tired."
2425.           She says, "That's good. Go up on the blanket up there and lay down and go to sleep."
2426.           So he laid up on there. And he said he was watching the stars and going by and he could hear the paddles paddling and he could hear the bubbling of the canoe behind, and that's how he went to sleep. And he said, "That was a favourite part of my life" when he was old. And then before he passed, he said, "That was a favourite part of my life travelling along there. I felt totally secure and safe there with my mom and my aunt and I felt so peaceful and I went to sleep."
2427.           And he says, "That's why I'm Pinich (ph)"; it means travelling in fair tide. It was my dad's name Pinich, fair wind. So it's important to respect that, and being taught as a young boy that's the way to me.
2428.           And if ever we went fishing with my dad on a boat my God you'd have to be so quiet. He'd get after us if we were bumping around or anything. We were pretty careful. He says "Sound travels a long way in the water you know." He'd say that to us. "You better be quiet out here you're going to just scare them all away."
2429.           **MR. JONES:** Thank you.
2430.           You shared an oral tradition about killer whales which describe them



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as relatives. Do you look at the killer whales as family, and what is the relationship between you and the killer whales? Do you protect each other or ---

2431.           **ELDER JOHN ELLIOTT:** You know, our people have always had respect for the killer whales or any part of the life that is out there right from the islands to all the salmon, all the fishes. We have names for them. They have relative names or some kind of relationship names that we speak to them. And those are family held things that people hold onto because they're very sacred to talk about that. We don't talk about the sacred part -- that sacred things. And there's many things that people can't even talk about because it's too sacred, too holy to be talking about.

2432.           **MR. JONES:** Do you -- do any *WSÁNEĆ* people pray to the killer whales?

2433.           **ELDER JOHN ELLIOTT:** Well, I don't know what other people do, but I know we always say a little prayer for them, and we use the very words we know that connect us to their places they go. Not just them, we pray for the (*SENĆOFEN* word), all of our ground, clam beds, and oyster beds, and our octopus beds. It's all relative to us. It doesn't matter what. That's how our people were given the laws to live by to take care of those things.

2434.           **MR. JONES:** And is there -- do you pray to them because there's a protective relationship?

2435.           **ELDER JOHN ELLIOTT:** We pray for them because I'm worried about them and I want them to still be there so my grandkids and my great grand could see it and know it the way that our people always have.

2436.           **MR. JONES:** What would be the effect on *WSÁNEĆ* people and *WSÁNEĆ* culture if the killer whales weren't around anymore?

2437.           **ELDER JOHN ELLIOTT:** Well, it's a great loss and a great shame. It's a great loss and a great shame that another nature dies because of colonization, because of lack of respect for other people. We have a belief and that's the way it is. We can't change it.

2438.           And if they're allowed to die -- if our people were in control of this -- and we have been for thousands of years -- the killer whales weren't dying off. The beaches weren't going spoiled. The rivers were clean. And we related to

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- everything in prayerful way.
2439.           And, you know, the ones that are in charge of the -- nowadays that have the say out there in government or whatever it is, or the National Energy Board, will you let them die, the last of them, or are you going to do something about it? That's what I want to know. Are you going to do something about it or are you going to let it continue like it doesn't matter? That's what I want to know. That bothers me.
2440.           I'll continue to pray for them like we always have. And I know our relatives pray for our homelands and territories. It's just a part of our people. It's who we are. We can't change that.
2441.           **MR. JONES:** Elder Elliott, thank you very much for sharing with the Board today. Those are my questions for you.
2442.           **ELDER JOHN ELLIOTT:** Okay. Thank you very much for listening today.
2443.           **MR. JONES:** Tsartlip's next witness is going to be Elder Linda Elliott.
2444.           Now, Elder Elliott, you are a member of Tsartlip as well?
2445.           **ELDER LINDA ELLIOTT:** Yes, I am. I was born in Watassis. And I also married into the Tsawout tribe across the peninsula.
2446.           **MR. JONES:** And John Elliott is your brother?
2447.           **ELDER LINDA ELLIOTT:** That's correct.
2448.           **MR. JONES:** Do you have a traditional *SENĆOFEN* name?
2449.           **ELDER LINDA ELLIOTT:** My name is *ƆOSINIYE*. It was given to me by my late father. And it means star woman.
2450.           **MR. JONES:** Now, you're a teacher as well. Is that correct?
2451.           **ELDER LINDA ELLIOTT:** Yes, I've been a teacher for a long time now. Nineteen seventy-five (1975) was when I first was asked to come and

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become a part of the *SENĆOFEN* language program that was happening in our local community school, and the person that was the administrator or principal at that time asked me if I would become a part of the language program then.

2452.           **MR. JONES:** Which grades do you teach?
2453.           **ELDER LINDA ELLIOTT:** Well, I've taught all the grades. This year I'm not teaching any grades except I am teaching some adult students that are wanting to learn our language. But over the years I've taught from nursery up to grade eight and adult classes through the University of Victoria. And I've continued to teach those classes from 1975 til just this September when I changed position a little bit. Now I'm writing curriculum and translating books and material that our immersion classes are using to teach the children.
2454.           **MR. JONES:** Thank you.
2455.           And just for clarity, you teach at the Tsartlip Tribal School. Is that correct?
2456.           **ELDER LINDA ELLIOTT:** Yes, it's (*SENĆOFEN* word) Tribal School. It's our community school that (*SENĆOFEN* word) are the ones that send their children to our (*SENĆOFEN* word) Tribal School.
2457.           **MR. JONES:** And the classes that you teach there, those include teachings on *WSÁNEĆ* teachings as well?
2458.           **ELDER LINDA ELLIOTT:** Yes, that's correct. In one year teaching languages it encompasses many things. It's a view of life and how our families see the world and how we are part of the world and the creation and they are part of us. We are connected. We cannot survive one without the other.
2459.           **MR. JONES:** Could you describe some of the *WSÁNEĆ* teachings that relate to *WSÁNEĆ* connection to the natural world?
2460.           **ELDER LINDA ELLIOTT:** I have many times with the children; that's my point of reference. Because I spent a lot of time with our elders when I was learning language and I was privileged to be able to be a part of that time when we were documenting and preparing language for our classes so that we would be able to continue teaching our classes after our first language speakers had left us. And that's the point where we're at now. We're very, very short of

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- first language speakers.
2461.           And so what we do immersion classes for our children now. And it encompasses everything that is a part of our culture and our belief as well as teachings about the land and the ocean and all the -- our relatives as we call them, the creatures that are part of creation. It encompasses all of creation.
2462.           So I teach the children about our connection to the land and our connection to the *S,OXELI*, to the sacred teachings that the Great Spirit left us here on this earth. *XALS* is His name. That's the word or the name that we know as God. *XALS*. And He left the Saanich people teachings and beliefs. And we have laws that we must live by that He gave to us, that we must walk this earth in a sacred way, in a certain way. And this is the wish of the Great Spirit that we continue to look after all that He gave us, the mountains and the streams, all our relatives in the ocean, the salmon and the *KELLOLEMEĆEN* and all the many other creatures.
2463.           And there is creation stories about all of them, of how they came to be. Even when you look at the mountains and the islands, the different places where you may go, there's something that you can see that reminds you of what the Great Spirit gave us, the teaching that He wished us to carry out, the way that He wished us to live. And these are -- sometimes it's a stream; sometimes it's an animal or a bird or salmon or killer whale. Sometimes if you look around you see the mountains and you remember this is what the Creator wishes us to be.
2464.           And in this way, when you look at our land, when you know the *S,OXELI*, wherever you look, wherever you go, you remember the sacred teachings of how we are meant to live on this earth, the way that we're supposed to be.
2465.           And so I always say that we don't have any written Bible but wherever you look, there is a sacred teaching to remind you of how you're supposed to live your life. Our people walked on this earth in a sacred way. The Great Spirit left us these things and these were his wishes for us, to look after the land, our relatives, and they would look after us. Each one of them is important, right down to the smallest little bugs.
2466.           I heard on the news not that long ago that in 20 years the climate is going to be so hot that the bugs are beginning to become infertile. They will not be able to go on living on this earth. And I was alarmed to hear that and it made

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- me sad. What are the birds going to eat? What's going to happen to them?  
What's going to happen to the plants without the bugs and the birds, and so on?
2467.           You may think that it's not important to you. You may think that you can escape this trauma and this tragedy that is happening around us. When we disregard the sacred earth, when we disregard our relatives of creation, do you not think that you're a part of this? Are we not part of all of this creation? And without all of these parts, are we going to be here? This is what I think sometimes.
2468.           And I wish for our children to have a happy life, to live in peace and harmony, to be able to know their relatives of creation, and to be able to walk in the sacred way that our Great Spirit left us here.
2469.           But not only that, the time has come where we have to step forward because I believe that our people have been given a great understanding and a job to do here on this sacred earth. And that is to teach the people that don't understand, they do not feel the connection, they do not feel that this place is sacred. We have to teach you. This is the words that our Father left to us. "They never had anybody to teach them about this place and how we're supposed to be." He said to us, "You're going to have to teach them."
2470.           And so that's why I'm here today, because this is what I tell our little children so that they'll know in the future that's (speaking in Native language), that's sacred. (Speaking in Native language). Our lives and the lives of this earth and all of creation is sacred.
2471.           You may look down on us because we don't have any Bible. But every day is a sacred day for us, wherever we walk, whatever we do. The teaching was, leave no stone overturned. Leave no blade of grass bent. When you leave that place, it has to be the same.
2472.           So when you see those beautiful majestic creatures that the Creator put here dying of the garbage in the water, they can't feed their babies because the streams are dying, it's full of garbage, pollution; the salmon can't survive. They have nothing to feed their babies. They can't eat. Think of your own children. Think of what they're going to be and how they're going to have this life in this world. Think of your grandchildren. How are they going to be? How will they survive?

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2473.           And we have to look inside of ourselves and overcome this feeling of wanting more for ourselves and think of those children. We have to remember them. We're only the caretakers here. We're given the job to know right from wrong. We know that it's wrong to spill oil in the ocean or on the land or cut off the migration of those creatures that were also given a place on this earth. We're not more important than them. If we're lucky, we can be equal to them.
2474.           So I wish that everyone would feel it in their heart to remember the great and beautiful gift that the Creator gave to us here on earth, respect all of our relatives, and remember, it's not just human beings that live here. Remember that the other parts of creation are just as and maybe more important than us.
2475.           We have to become the ones that are the caretakers. In this way we will have a good future. We have to stop the ones that are taking too much. This is something that our relatives, our grandfathers (speaking in Native language) our ancestors taught. This is a big teaching for us. It's wrong to take more than you need. It's a sin to be greedy. And this is our belief. This is the way of our people. Those ones that are greedy and they take more than they need, they're considered pitiful because they don't have the teachings.
2476.           So our job here today and for the future is to choose to keep what we have and to make a way for the future of all of creation to continue. And remember, Creator didn't just put human beings here. He gave us all of the parts of creation and we must learn to respect and take care of the ocean and the land, all those ones that fly, even down to the little bugs because we are not going to survive, our children are not going to survive, our grandchildren aren't going to have anything because we finished it. Do we want to do that to our little ones?
2477.           So we look at the future and I ask the Great Spirit to bless everybody here today with that understanding in your heart.
2478.           **MR. JONES:** Elder Elliott, could I ask you to talk a bit about the importance of killer whales in the Saanich culture?
2479.           **ELDER LINDA ELLIOTT:** Well, I think that my brother probably said a lot of why we believe in the importance of the *KELLOLEMEĆEN*. We have a belief that they are also once human that lived on this earth and that they were relatives that the Great Spirit *XALS* changed into *KELLOLEMEĆEN* long ago.

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2480.           And I always try to teach my little students to understand and to love and feel that they are a part of creation. I mean, so one of the things that I did for the children was I gave them -- I made -- I wrote a little song for them about *KELLOLEMEĆEN*. And they still use that song for their children.
2481.           But as far as the killer whales being a very important part of our Saanich culture and tradition, this is -- they are greatly revered by our people. When they enter our bay -- and I'm talking about Brentwood Bay -- they enter our bay in May and it's a big deal. Everybody is very happy to see them coming. That's our relatives.
2482.           And when they come into the bay, they're coming to have their babies. They're going to give birth to their babies. And when they do that, just below our house there's a waterfall. It's called (speaking in Native language). It means whale. And they say that after they give birth to their babies, the mother will bring the baby up to the waterfall to have a drink of fresh water and that's how they begin their life.
2483.           And the people always say that when they leave, we never see them leave. They come in the bay but they never leave. And that is because they have a pathway underneath the mountains that goes to the outside water on the other side of the island.
2484.           And this is what we know personally to our relative *KELLOLEMEĆEN* (speaking in Native language). And this is some part of our life that brings a great sense of reverence and joy to see them. And to know that they are our relatives and we do have the ability to speak to them and they will travel with us whenever we call them. And they will bring us a good crossing on the water and they'll travel with the people.
2485.           **MR. JONES:** You mentioned a second ago a song that you wrote about killer whales. I won't ask you to sing it unless you'd like to, but could you share some of the meaning behind that song?
2486.           **ELDER LINDA ELLIOTT:** It talks about the killer whale when it used to live on the land and how he left the land and he put his cane on his back. It just talks to the spirit of the killer whale that when he sings his songs in the ocean, it brings a great sense of happiness and peace to our people. And it's medicine for all of us, for the land and the ocean, you know? It's mostly the teaching the children about our relative, the killer whale.

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2487.           **MR. JONES:** And then what would be the effect on the Saanich people and on the Saanich culture if the killer whales weren't around any more?
2488.           **ELDER LINDA ELLIOTT:** Well, just the same as if we were missing a great part of our creation. There would be some part of creation that could no longer exist because he wasn't here. And it would go down the line because we all depend on each other. And when it affects the people and when the ocean and the other creatures of the ocean can no longer live, then I know that what I feel, is the Saanich people can't live. We won't live because we eat the same things that the *KELLOLEMEĆEN* does.
2489.           Our bodies are made from this land. Our grandfathers and our ancestors were buried here. This land that we eat from, that our bodies were born from, we are completely this land. We are this land. And without that part of our creation, we won't flourish the way we should, as well as the other parts of the ocean.
2490.           There's going to be a change. Maybe we don't know what that change is, but I am very certain we will feel it.
2491.           **MR. JONES:** Elder Elliott, thank you very much for speaking before the Board today. Those are my questions.
2492.           **ELDER LINDA ELLIOTT:** Thank you.
2493.           **MR. JONES:** Our next witness is Chief Don Tom. And I'm going to turn the microphone over to my colleague, Mr. Murphy.
2494.           **MR. MURPHY:** Good afternoon, Chief Tom.
2495.           **CHIEF DON TOM:** Good afternoon.
2496.           **MR. MURPHY:** I understand you've been an elected chief for the last five years, and then before that, an elected council member for four years?
2497.           **CHIEF DON TOM:** Yes, this is -- I just ask the Board to bear with me as I'm battling a cold. I'll do my best to enunciate my words, and hopefully you can hear me.



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2498. Yes, this is my third term as chief of Tsartlip. I'm going on five years as chief. I've served previously two terms on council. So it's a great passion of mine to advocate and to be able to influence important matters to Tsartlip people.
2499. **MR. MURPHY:** Now, you testified almost four years ago to the day in front of the Panel in relation to the original hearing. So I'm going to try to avoid asking questions, in light of the time, that they've already addressed.
2500. But I understand that one of the things that you didn't speak about was your traditional name. I wonder if you could tell the Panel about your name and just a little bit about it, what it means, what responsibilities it holds for you?
2501. **CHIEF DON TOM:** Thank you. As I came in and spoke in our language, I did introduce myself, *KWUK'THUT'STUN*.
2502. I received the name *KWUK'THUT'STUN* in our longhouse through our naming ceremony. When one is named, families typically watch the children as they grow up, or they see the character that they have. And my eldest uncle in our family, who also carried the name *KWUK'THUT'STUN*, thought it would be a good name for myself to carry.
2503. And it wasn't until -- you receive the teachings of where your name comes from and the history that comes with it. And *KWUK'THUT'STUN* was a leader of his people. He was a chief of his community. He was a fierce warrior who developed many -- 1:55, I see. He's developed relationships with many other neighbouring Coast Salish communities.
2504. So in a name, once you receive a name, there is a great significance that comes with that. You are given a name and it ties you to what we call our *NEHIMET*, and that ties you to a land and water where your name comes from, and through your *C'ELA 'NEN*, and you have your birth rights that go with it, whether that's fishing sites, or clam harvesting sites, or medicine sites, your name ties you to the land.
2505. And with the name that you receive, you're given a responsibility to uphold that name, just as your ancestors have. And as part of this responsibility, you know, I accept these responsibilities. And it -- if one were to disrespect or give his name -- not represent himself in a manner that one should, our names could be taken away from us. And so there's a great deal.

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2506.           So I carry *KWUK'THUT'STUN* with great admiration and respect for my ancestor who -- and I take it on as an inherent responsibility that it's my job to look after these lands and these resources, just as *KWUK'THUT'STUN* did in the past.
2507.           And it's a responsibility that is tied to me. And I accept that responsibility.
2508.           And I share with you some of these responsibilities. And that is ensuring that our waters are safe, ensuring that our people can continue to hunt on these lands. And part of that is making sure that our community members who are out fishing and where you can see we're in the line of where the tanker traffic goes through, is that it's my job to ensure that we advocate and protect our fishers who are out there and ensure their safety, because it's protected under our Douglas Treaty.
2509.           And I think as -- sorry, Eamon -- as we have this dialogue, and as I share my name with you, it tells me that I have a jurisdiction that comes with my name. And that is to protect the rights of our hunting and fishing rights as formally under Douglas Treaty.
2510.           And where I see this coming to is that we have competing rights when it comes to tanker traffic, when it comes to impacts that would -- impacts on our Salish Sea, impacts on our sockeye that return to the Fraser River, the impacts of tanker traffic on our *KELLOLEMEĆEN*.
2511.           And so in these competing jurisdictions, I must say to the National Energy Board, that you must recognize that we have decision-making authority when it comes over to these waters, that DFO, the NEB, Transport Canada, and the Crown must include us in these deliberations and decision making around tanker traffic, around tanker size, around any infringement -- any direct infringement that would limit our ability under -- that is protected not only under our treaty, but these are Constitutional rights that our treaty is protected as well, section 35.
2512.           And our relationship hasn't been one -- I wouldn't say that it's reciprocal respect or reciprocal acknowledgement of these jurisdictions. Our history has shown us that through colonization, that at every opportunity they've tried to limit our ability to live as we have formerly, to go out and fish during the time that we know that we can, and to go out and hunt and harvest when we can.

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2513.           And at every opportunity they've -- whether it's Conservation, or DFO, has tried to limit our ability to go and do that as we have -- as our treaty says that we can do, hunt and fish as formerly.
2514.           And it's -- and I think that history has shown us through, whether it's government or church, that has taken part in our life.
2515.           And just to be -- just to give you a sense, that over our period of time that we were made to be inferior. We were addressed as heathens, we were addressed as savages. And our history hasn't been very kind to us.
2516.           And as we strive to live the life that *XALS* intended for us, and to speak the language on these lands and waters as He intended for us to do, and what we are doing is just living the life as *XALS* intended for us, to go out and live, and to go out and not to take too much, as our elders have shared.
2517.           So in saying that, it hasn't been in these rights that we feel that Canada, and DFO, and Transport Canada, and even international shipping lanes, feel that their rights are superior to ours. And I would say that it is not the case.
2518.           And I think, you know, through our Douglas Treaty, and through, you know, we would be proven. And we have -- it's been acknowledged through Supreme Court of Canada, and affirmed as Douglas Treaty, that they are recognized and they are real rights, and we are the beneficiaries and successors of those treaties.
2519.           **MR. MURPHY:** Thank you, Chief Tom. I'm going to circle back to a couple of those comments in a minute.
2520.           I'd like you to tell the Panel, in the four years since you've previously testified you've been in touch, of course, with members of your community. What are you hearing from the community about this project -- their concerns, particularly in light of this Panel's mandate to consider the project related shipping, the impacts on killer whales? What are you hearing from your community?
2521.           **CHIEF DON TOM:** I think, yeah, the concerns that we hear from our community are based on results, and they're based on the results of our previous National Energy Board hearings where we compelled you to take into

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consideration the concerns that we have for the southern resident killer whales of our Douglas Treaty rights that exist within the waters, of our concern for the Fraser River salmon stocks.

2522.           And our concerns are is that we've been through this process before and we've seen more of the same. And our concerns are is that the National Energy Board will just roughshod over our WSÁNEĆ and Douglas Treaty rights and inherent rights.
2523.           And so I -- the concerns that I hear from the community are that this process is unfortunately -- I'm hoping it will not be more of the same and that you take into consideration that what we are sharing with you today. So there's -- we don't have faith in the current process.
2524.           And furthermore, I would say that our concerns -- the National Energy Board doesn't have the ability to properly address our constitutional rights and infringements of this project on Tsartlip's right to fish, harvest, gather, and hunt, and to carry on our ceremonial practices within our territory.
2525.           And I say that because through our Douglas Treaty it defines our relationship with the Crown, and I would say that the National Energy Board has limitations to it of which you cannot have that discussion and dialogue with us. And a lot of the responsibility and the missing person from I think this hearing is the Crown, as the Crown has an obligation and a duty to ensure that our rights are protected and ensure that if there are to be any infringements that they have to notify us. And we haven't been notified any -- I think there will be another failure upon the Crown when there will be another infringement.
2526.           **MR. MURPHY:** Have you heard from your community with respect to any safety concerns from the increase in shipping that would occur if this was -- if the project was approved?
2527.           **CHIEF DON TOM:** Yes. Thank you. Yes, we've heard many concerns that there is an increase in tanker traffic already. And I think if you look back on this summer at a commercial fisher who was out there, one of our B.C. ferries got in his line and dragged this fishing boat. It tells me that there is enough traffic out there that it's interfering not only with our First Nations fishing but also with the commercial fishing industry that there is currently, I think, a capacity that is -- makes it unsafe for our fishermen to be out there.

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2528.           **MR. MURPHY:** You heard from Elders Linda Elliott and John Elliott about Tsartlip's relationship ---
2529.           **THE CHAIRPERSON:** Let's just wait for a couple of minutes until the sound -- so it's working. I think it's already over. Okay. So we can resume.
2530.           **MR. MURPHY:** Thank you, Madam Chair.
2531.           Chief Tom, you've heard today from Elders John Elliott and Linda Elliott about Tsartlip's relationship with killer whales. Is there anything that you've heard from other members that you can share with the Panel or have they adequately addressed those issues here?
2532.           **CHIEF DON TOM:** Thank you. We have concerns for the safety and well-being of the southern resident killer whale and that you look at their population and it is steadily declining, and you can compare that to the northern resident killer whale where they don't have as much of -- there is a recent article in the Times Colonist over this weekend comparing the two. And we don't feel that Canada or the Proponent, who is Canada now, has provided enough information around the cumulative impacts that through tanker traffic, through the noise, through just an increase in tanker traffic period, we don't feel that Canada is prepared to address this. We've seen that DFO has denied for the killer whales to be put on as species at risk and that they're critically endangered and DFO has denied doing that.
2533.           So we have concerns that there isn't -- that any sort of, I guess, mitigation factors that the Proponent would put forward to say that the orcas would be safe or that the noise from their engines -- we don't believe that it's adequate, and it does -- and based on results you'll see -- and you also see the decline in whales, and you see a whale that the Makah had picked up because it was hit by a propeller as well, and the Makah took that whale and they harvested that whale but that was part of the tanker traffic that we're concerned about.
2534.           I think when it comes to environmental protections, our community is concerned in the event that there is to be a spill within the Salish Sea the proximity to the Fraser River -- and the Fraser River being one of the largest salmon runs in the world -- the impact that diluted bitumen would have in being so close to that Fraser River salmon run that many of our communities, including Tsartlip, depend on.

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2535. We don't feel that Canada is prepared to adequately mitigate those spill factors in the event that there is a spill. You've seen in English Bay there was -- hours before someone realized that there was a spill coming from one of the tankers that were anchored out in the bay. Hours went by. You look at the spill on the east coast that's recently in the news, there was nothing that they could do in those rough waters.
2536. Our community is led to believe, based on results, that Canada and the Proponent are not -- do not acquire the ability to safeguard, to have contingency plans put in place in the event of a spill. It just -- history and results have just shown us that.
2537. And, you know, the English Bay spill it was a dialogue between the province and Canada on whose jurisdiction it was to clean it up.
2538. So these are the questions that are still out there which leads our community to believe that we cannot -- we don't feel safe in the event that there is a spill that Canada or the Proponent could clean it up.
2539. **MR. MURPHY:** Thank you, Chief Tom.
2540. When we were speaking about the preparation for this hearing you had mentioned that you're also involved in discussions -- or Canada has approached you about another project which would increase tanker traffic. I wonder if you could at least in summary terms describe for the Panel what you're dealing with and why it's important with respect to the other project.
2541. **CHIEF DON TOM:** Thank you. Tsartlip has been in discussion with Roberts Bank Terminal 2 Project around -- they're -- we're having similar discussions with them and CEAA about the increase in tanker traffic that would be coming to Vancouver's port.
2542. We know that that port is part of Canada's -- a substantial amount of Canada's GDP for the country, the amount of shipping that comes in, and my concern is -- and I would just ask to bring awareness to the National Energy Board to consider that not only tanker traffic that would triple with the proposed pipeline today in tanker traffic, but I would ask you to take into consideration that the Roberts Bank Terminal 2 Project would also be increasing their tanker traffic, and that has to be taken into consideration when you look at the tanker traffic that would be coming through the Salish Sea and international shipping lane laws.

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2543. We feel that there could be misguided information as to the amount of tanker traffic that would be coming through the Salish Sea being limited to just only this project. But I would also ask that the Energy Board also consider that there will be with the approval -- pending approval of Roberts Bank 2 Terminal Project, there would be also a significant increase in tanker traffic as well, and that also includes the coal that comes through there as well.

2544. So there are a number of concerns that we have not just limited to the oil tanker traffic, but -- and tanker traffic period that you must consider when it comes to reduction of the noise, when it comes to mitigation factors, when it comes to protecting the orcas and the salmon stock that it not be limited to just tanker traffic, that you also take into consideration what's being proposed by Robert's Bank Terminal 2 Project because that is also a significant amount increase in tanker traffic.

2545. Also, I just want to share that some of the other concerns that our community have are, since the last time we've met with you, the National Energy Board, there's been an introduction of Bill C-51. And our concerns are, is that corporate laws are being taken more into consideration than Aboriginal and -- Aboriginal rights and title and treaty rights, that Bill C-51 basically characterizes any -- I would say start off as an example who may want to lawfully go out and protest. And whether it's this pipeline project or anything else, it characterizes us as terrorists and it directly infringes upon our rights to privacy.

2546. It gives -- gives CSIS, RCMP and the Justice Department to monitor all of our communications. And these are -- these are the limitations that we're faced with when it comes to how do we try and bring awareness of this if we are not satisfied and we don't support this pipeline project and we want to rally people; there are limitations in there that sometimes we have to think twice as to do we want to be monitored by CSIS, do we want to be monitored by RCMP.

2547. These are limitations that have been put in place since the last time we've met with you, and I think Canada has taken the position that they are limiting again. As I mentioned before, that Canada has always seemed to limit our ability to be in part of that dialogue and to be part of those decision-making bodies of those competing jurisdictions that I mentioned before.

2548. So that I just want to share with that that our concerns are that, you know, even if they're lawful protests that we're being deemed or characterized as

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- terrorists or someone who would be a threat to, I guess, the national security of Canada and our -- the pipelines or the train lines of which they run on.
2549.           So I just wanted to share that with you as well.
2550.           **MR. MURPHY:** Thank you, Chief Tom.
2551.           Any further comments before I turn the floor over to ---
2552.           **CHIEF DON TOM:** Yes. I just want to thank you for the opportunity for listening to us and just say that I have grave concern where our leadership is going within Canada and the United States when it comes to -- I think we're at a critical point in our history when it comes to climate change, and I think we -- I believe we are at ground zero here in B.C. seeing the effects.
2553.           You look at the mountain pine beetle that is affecting our forests. You look at the warmer waters that are coming up from the Pacific. And we're beginning to see other species of fish and shark that are coming up here that we have never seen before.
2554.           And I would say that you have the critical role in deciding our coastline that many British Columbians, many Canadians know as this to be a fruitful place if you want to take people out, whether it's recreational fishing that -- B.C. is known for its beauty. B.C. is known for its wonderful coast.
2555.           Many -- the Prime Minister likes to vacation out here himself in Tofino every summer. And so in saying that, I just want to say that you play a large role, and my hope is that there is going to be a shift, and that the shift says that what is being presented is not adequate.
2556.           And I would say that if you feel it's not adequate, send it back and let us find the right answers because it -- our climate is at a critical point and I just worry that if this project is approved as is that it would put us over the deep end and there is no turning back from this.
2557.           **MR. MURPHY:** Thank you, Chief Tom. Thank you very much.
2558.           I'd like to turn to our next witness, Mark Sampson.
2559.           Mr. Sampson, I understand you're a fisherman and you've been fishing



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since you were four years old?

2560.           **MR. MARK SAMPSON:** Yes.
2561.           **MR. MURPHY:** How old are you now?
2562.           **MR. MARK SAMPSON:** I'm now 49.
2563.           **MR. MURPHY:** Oh, just a young guy.
2564.           **MR. MARK SAMPSON:** Yeah.
2565.           **MR. MURPHY:** You -- how often do you go fishing?
2566.           **MR. MARK SAMPSON:** I fish all the time. Every month. I would be out there every day if I could, but I do still have four children under my wing and I take a great big part in their lives still today.
2567.           **MR. MURPHY:** I understand that you're considered a provider not only to your family, but in the community. Can you briefly describe to the Panel what that means?
2568.           **MR. MARK SAMPSON:** Yes. First of all, I'd like to say thank you to everybody that's participating in this meeting. Thank you, Uncle, for the songs and previous speakers, thank you for your words.
2569.           Yeah. I -- I'm taking on the role as my dad did before me. My late dad taught my brothers and I and one of our sisters how to be providers for not just our family, but for the community and the communities of the south end of Vancouver Island.
2570.           And what I mean by that is I hunt and gather fish and game all year round. Certain times you can go to the mountains, certain times you can go to the water for certain things. And I stock those in my freezer. It's a part of our harvesting time.
2571.           And when I get to the point where I feel I have enough because we only usually take what we need, and I deliver those -- those certain foods to our community members, to our (Native word), which is our longhouse, to the longhouses from here to Nanaimo, Beecher Bay, Chemainus, Duncan, Malahat,

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Tsawout.

2572. All these longhouses, they -- they know that what we do is -- it's a good thing. I get commended all the time on it, but that's not my sole purpose, to get commended, but it's to take care of our people.
2573. And you know, my dad has been a provider for years and, well, Uncle -- late uncle and my dad were brothers, so their dad was a provider as well. And that got -- gets passed down, like our relative here was saying. You know, certain things get passed down to certain individuals in the family, and a lot of that does tie back to their name.
2574. But I, myself, don't have a *SENĆOFEN* name as of yet. My dad was in the midst of getting that lined up and he passed away back in October.
2575. But yeah, in regards to providing, that's what we do, my brothers and I and my sister. We stock our freezers and we give it to the people who are in need for their ceremonial dances, for ritual purpose, for birthdays, namings. All kinds of these things. And I will continue to do so.
2576. But you know, having something so huge as, you know, with the Trans Mountain is wanting to put forth, that would put an absolute end to everything I've ever done up to this point in my life in regards to hunting and fishing.
2577. If there were an oil spill in there, anywhere in there, that would put an end to all of our -- our foods that we've known and grown up as (*SENĆOFEN* word) people. There would be no more. We would have to go great distances to get these things with the permission of the communities up north or down south. And the ones down south, they don't have what we have in these waters, as you heard our brother here say.
2578. You know, with the climate change and all there's lots of new fish coming up and we're not even familiar with them, so yeah.
2579. **MR. MURPHY:** How important is the marine environment to your diet?
2580. **MR. MARK SAMPSON:** The marine environment and everything it has to offer is very important to our diet. We need these things in our bodies to continue on growing in a healthy way. If I had it my way, I would live off strictly

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- the land and the sea because I see so many of our people, not just Native community but the non-Native communities, you know, perishing and passing away of all these illnesses from the food we buy today in the grocery stores. Our people in the past were very healthy. We had cures for all of these illnesses that are -- is known to man today.
2581.           So yeah.
2582.           **MR. MURPHY:** The fishing knowledge that you have, do you try to pass that on? Is it important to you to pass that on?
2583.           **MR. MARK SAMPSON:** You know, when I look back as far as I can remember, being four or five, when our dad first started taking us out fishing, the knowledge that he's passed on all these years up until the last couple of years of his life is -- it's just amazing. You know, our elders, as long as -- as well, rather, as my uncle here, they're like, encyclopedias of knowledge, and same with our elders to my right. They have so much knowledge. And you know, if we don't share that with our children, which I'm glad our dad shared with us, it will go with them and that part of that knowledge will die.
2584.           But the knowledge that he left us is very important in regards to our relationship with the water, the mountains, everything that lives in the water and the mountains. So passing that on to my children is very important. Like I shared with one of the fellows -- I think it was Peter -- that it was -- the knowledge that is passed down to me, I believe was passed down by their father before them and so on and so forth.
2585.           As far back as our ancestry, these things have been passed on orally, not on a paper. You know, a lot of these things that we know, no other Nation knows other than our own. Some of these things are so sacred that we can't even speak about them.
2586.           So yeah, the knowledge that I wish to pass on to my son, you know, I hope that he takes a grasp to it. I'll share it with him anyhow. And I share it with a lot of the young fellows that are in the communities, not just in Tsartlip but in all the south end Native communities. I share a lot of that knowledge with them because it's important to pass that one. Because like I say, it will just die with me if I don't share that and we have to keep those certain parts of the knowledge going with our young children so that they can carry it on.

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2587.           **MR. MURPHY:** I'd like to ask you a few questions about that knowledge if I can. Up before you is a map. I understand that you've got a lot of knowledge about the area in front of us that the map that's before the Panel right now including the various islands. And they're hard to read but there's all sorts of place names throughout the area that the map depicts. And it's over islands such as Pender, Galiano, Mayne, the San Juan Islands.

2588.           Is it correct that you are intimately familiar with this area that's depicted on the map?

2589.           **MR. MARK SAMPSON:** Yes, I am.

2590.           **MR. MURPHY:** And can you describe -- I appreciate that you're not going to be able to talk about all of the areas of importance, but can you describe at least a couple of the areas that are extremely important fishing areas that would be impacted by the tanker traffic? And if you could describe those areas so that it gets on the record.

2591.           **MR. MARK SAMPSON:** Sure. Just using this -- the pen here that you've provided, where are we here -- there we go -- this would be Saturna. There's little spots right in here. There's a couple of different coves. There's two coves in here in particular that we harvest clams. We actually used to go there for an annual camping trip. It was during a certain time of the year and it was also followed by the tides that brought us from here all the way through to this spot.

2592.           **MR. MURPHY:** Let the record show that Mr. Sampson's pointing to the southeast area of Saturna.

2593.           **MR. MARK SAMPSON:** And I'm not nervous. You see I'm kind of shaky? I didn't eat this morning yet so, but yeah. There's a couple of different beaches in here. We used to go for our annual camp and we harvested a lot of clams in those areas. And I shared with one of the fellows here -- I think it was Peter again -- that you know, the shellfish there is -- it's untouched, I believe, like, for years upon years because you know, I've personally tried to teach young fellows where these areas are but because their knowledge that has been passed down to them, they don't really know too much about this, these areas.

2594.           But we went camping here one time and our parents left our cereal bowls. They left them at home. And the clams that are provided in this beach, as my uncle can probably testify to, they're really big butter clams. Like, they're

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- huge. And my late dad and my late Uncle Smoker and Uncle Mike, they dug these clams and the ladies, my mom and my aunties, they took the meat out of these clams and these were big enough for -- they cleaned them out good enough rather, we used those as our cereal bowls for the whole week we were out there. And we continued to keep those with us because in case we misplaced our cereal bowls again.
2595.           But yeah, those spots in particular, there's that spot there right here and it goes -- stretches right from this side of -- I guess that would be like, a little peninsula there -- right from here over to the other side where you can also harvest shellfish on that side as well.
2596.           **MR. MURPHY:** You're referring to the northeast side ---
2597.           **MR. MARK SAMPSON:** The northeast, yes.
2598.           **MR. MURPHY:** --- of Saturna Island?
2599.           **MR. MARK SAMPSON:** Yeah, the northeast and the southwest, I guess, you'd say, on this side. And all along here for salmon. That's just on the edge of where you want to put these -- or rather where you want to increase the amount of ships that are going to go through here. And we also have areas off of South Pender. There's the South Pender Bluffs where the Sockeye are every year before they venture on. Some of them go up through and some of them go up through here, through the channel, through Active Pass and then make their way into the Fraser River.
2600.           But these areas here, we fish quite often, my nephews and I and our brothers. And my nephews, which was my Uncle Tom's sitting next to me, his grandchildren, they fish through the areas as well for salmon and there's a few cod beds that lie out here but we do troll also out this way.
2601.           **MR. MURPHY:** And you're looking at just south of Pender Island right now?
2602.           **MR. MARK SAMPSON:** Yeah, we troll these areas all along here. When the salmon are en route to the river, that's the best time to get them, right in this channel part right here. And that's yearly, not just once in a while. We fish that yearly.

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2603.           **MR. MURPHY:** Mr. Sampson, you described to me -- when you look at the map, there's the tanker route, when it turns south around -- I believe that's Stuart Island ---
2604.           **MR. MARK SAMPSON:** Yeah.
2605.           **MR. MURPHY:** --- there's a bit of a sharper turn. You described that area to us when we were preparing for this. I wonder if you could describe to the Panel that area in a bit more detail and any concerns that you've raised about safety in that area.
2606.           And just before you answer, Madam Chair, I note the time. I appreciate that it's now 2:32 and I wonder if we could have a few more minutes?
2607.           **THE CHAIRPERSON:** Yes, of course.
2608.           **MR. MARK SAMPSON:** This area in particular, I actually nicknamed Suicide Corner, not just because of it being a line of transport for big boats but it is a very dangerous corner in particular, especially for big boats.
2609.           You know, we were at the meeting two weeks ago, and this fellow that was there, I brought up -- I asked him to increase the size of Gooch Island right here. But before he did that, I pointed out a reef that's right around here. It's right at the edge of that turn.
2610.           **MR. MURPHY:** And you're looking -- sorry to interrupt. You're pointing to just east of Gooch Island?
2611.           **MR. MARK SAMPSON:** Just east, yes. It would be kind of northeast of Gooch, right at the tip of the east side of Gooch. It goes straight up and out a little.
2612.           But right there I asked that fella that was at the meeting that day, I said, "There is a reef right there." And I asked him to bring it up and to increase the size of the map. And it wasn't until he increased the size of that map that he seen that reef. He didn't even know it was there and he worked for Fisheries. I was really surprised he did not know that was there. But it came up, right there.
2613.           And at nighttime, or rather daytime, sorry, in the daytime tides, that rock is visible to the naked eye. Anybody can see it. But at nighttime, however,

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- if you do not know that rock is there and you're not familiar with these waters, you know, that's very dangerous.
2614.           Like, you know, my question to the Energy Board and Trans Mountain is these tankers that you want to increase in this area, how much knowledge do these fellows have that are driving these boats? How much knowledge do they have of this area, if any?
2615.           There's so many reefs like this one right here. Like there's one there, there's one right here. There's one here, just to the left of that ferry line. They're like all over. There's -- like there's one that comes up off this; you can't see it. It's right in here somewhere.
2616.           Do they have knowledge of all of these reefs? Because, I mean, if not, that's a catastrophe in itself waiting to happen. I mean, once you're on that, there's no getting off of that.
2617.           And as far as my knowledge is in regards to anything big enough to get a tanker off of these rocks, is down in Seattle, in Neah Bay, which is the biggest tugboat, known to us, anyhow, that can come from Seattle all the way here to get something that big of magnitude off of something like that.
2618.           And you can image -- from my knowledge, it takes about two to three hours for that tugboat to get here. And you could just imagine how much oil would seep into that area if somebody came aground and sprung a leak in one of these tankers. In two hours, that would decimate everything in its path because there are so many tides and currents that go each direction through here.
2619.           And at nighttime, like our previous speaker, John, was saying, you know, when they went with the tide and that was at night. In the wintertime we have lots of night tides. And all these waters pull you down south, southeast. They pull you right along here. Like, I mean, you don't even have to paddle hard at night time.
2620.           I've heard my dad speak of this as well when we were visiting, you know, our relations down in the San Juan Islands. He spoke about this tide highly. And he spoke also about the whale and all kinds of things.
2621.           But yeah, if these guys are unaware of these reefs, which, you know, I bet you nine out of 10 they don't know nothing about these waters or what's

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underneath them waters. And if they don't, then everybody's in for trouble, the whole sports fishery, the commercial, everything. You're going to start a huge uproar if something like that happens.

2622.           **MR. MURPHY:** And Mr. Sampson, you've been speaking about your concerns about whether a ship might hit the reef just to the northeast of Gooch Island and what may happen, have you actually witnessed or known about anybody hitting that reef?

2623.           **MR. MARK SAMPSON:** I've known of at least three in my lifetime. I've witness with my naked eye while fishing at Gooch Island. And they're usually twenty to thirty-five-foot pleasure cruisers, because they don't know it's there. They don't have knowledge of it. So if they don't know it's there, they're cruising along.

2624.           And it's mostly Canadians too, they're not Americans. Usually Americans have a flag on their boat. These ones don't. And the serial numbers they had on their boats, back then everything was 14K, and that's what these boats had on them. I can specifically remember them being Canadian boats.

2625.           But they came ashore on those rocks and they had to get the -- what do you call it, the safety guys to come out there. I can't think of that right now.

2626.           **CHIEF DON TOM:** The Coast Guard?

2627.           **MR. MARK SAMPSON:** Yeah, the Coast Guard, sorry. Thanks, Don.

2628.           But yeah, they had to get the Coast Guard on every occasion to get those boats off of that reef.

2629.           And these are three big -- fairly big sized boats. And, you know, they don't even have knowledge of that and they're from these waters.

2630.           And, you know, you put -- what do we have, four or six in existence, tankers trucking crude oil through our waters as it is, and you want to quadruple that?

2631.           The nighttime alone, in the wintertime tides, are going to be brutal if they don't know these waters.



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2632. I believe, in my heart and in my mind, and I think I could probably speak for everybody behind me, that if they have no knowledge of these waters and what is underneath it, and how swift, and how the waters can turn on you, if they have no knowledge of that, then, you know, there's serious accidents waiting to happen day and night.
2633. **MR. MURPHY:** Mr. Sampson, you've been pointing to the shipping route with the laser pointer. Can you talk a little bit about what you've seen with respect to the travel of the salmon and the orcas when you turn and go south from Gooch Island along the shipping route? Have you witnessed where the orcas and salmon are in relation to that blue line that's on the map?
2634. **MR. MARK SAMPSON:** Absolutely. When I was a young boy, into my teens, this will go down here, but they'll come up from Tsouk, like around Victoria into Tsouk -- into Victoria, rather. Around Oak Bay. They used to come in here. They used to travel through here. And they would -- they'd be that way, in that little area for a while, and then they would come right down into -- there's a little island in front of Goldstream.
2635. When I was a young boy, a teenager, we used to call those whales the seven sisters. That's what my dad taught me that his dad taught him what they were called. They were the seven sisters. There was seven whales every time. And this is the route they used to take.
2636. **MR. MURPHY:** And you're describing a route -- or pointing to a route that goes through the islands; is that James Island and Sydney ---
2637. **MR. MARK SAMPSON:** Yes.
2638. **MR. MURPHY:** --- Island?
2639. **MR. MARK SAMPSON:** Yes, it used to go through here. But today it has a different route because of the climate change. Over the last three to five years they've been coming right up this channel. And they've been going in this way or coming around the north sides of Moresby and Portland and then going in. And they would sit in this little area on the south side of Saltspring Island.
2640. But I witnessed them out there, because, like I say, I fish this every year. And I'm at Gooch Island a lot because, you know with the orcas, the

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- relationship that I have with them, and my brothers have with them, is that we follow them right from Tsouk side all the way around. Because when it comes winter time, when we have -- as you've seen, the Goldstream run sign has been on for the past month. When those whales come in here, we start to see them show up. Like I say, they used to come in here, but over the last three to five years they're right in this lane.
2641.           **MR. MURPHY:** And you're pointing to the shipping lane ---
2642.           **MR. MARK SAMPSON:** Yes.
2643.           **MR. MURPHY:** --- right now that the orcas follow.
2644.           **MR. MARK SAMPSON:** And at that meeting that we had before, I didn't even know this was a shipping lane until you told me. So -- but this is where they travel today, the orca.
2645.           And when we see those, we know the salmon are nearby. So we follow in front of them and behind them, because that's what our late dad taught us to do, because they're after the chinook salmon. That's a huge part of their diet.
2646.           But now we have to follow them a different route. We go out here and around. And they feed in this little area on -- there's a little island off the northwest side of Portland Island. They feed there. And they feed there and they feed there and they'll stay there all day long. As I explained to I think it was Peter and that other fellow that was unaware of this reef at Gooch.
2647.           They not only feed on salmon they feed on the seal. There's a little point of rocks right off of this tip where the orca whale actually corralled a bunch of seals right there. And what I mean by that is you take this cup in front of me for instance and you put a bunch of whales around it, and on that cup picture that being the rock, and there's a whole bunch of seals on there, and they rushed them all at the same time.
2648.           And, you know, having a catastrophe happen anywhere in here, you know, that would devastate the food, not just the salmon, but to the seal that -- you know, this is a harvesting time for them, for those seals. That's one of their harvesting points is right there. And they have another one out this way. But you know, that would really affect these whales.

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2649.           And the relationship we have with them is -- we're so close and in tune with these whales. They've actually come right up to our boats and we can pet them. That's how closely related -- relation rather we have with these whales. And that's usually when they come in here. They come right in this area. And right in Brentwood Bay where our relation Linda was talking about where they used to come and have their babies.

2650.           But if -- like my relation with the whales is very intimate. I get very up and close and personal with them. And that's not with my motor running. They come to me. I don't have to go to them. Because they know us. As well as the eagle and the otter. The eagle -- there's a certain whistle our family gives and they come right to our boats. They know who we are. That's how closely in tune with nature we are. And, you know, that's everywhere. A certain whistle here for the eagles, and out here as well. And there's a spot here. There's spots everywhere where we're in tune with these -- the mammals and the birds.

2651.           But, you know, you take away that whale you don't have much, you know, in relationship with the sea. They will change.

2652.           But like I said earlier, if you had a catastrophe out here with the oil spill, you know, where would that whale go for a lot of its food. This is his path -- their path. It's a yearly path. And they don't change that for anybody. But you had an oil spill in here that would change everything, our whole ecosystem in regards to the water and the land.

2653.           And not only the fish and the birds depend on these waters for food. So do the deer and the otter, because the otter live on and off the land, but the deer come down daily. I've witnessed it, you know, on many of these islands. They come down to the saltwater daily for what we call a salt lick. They eat seaweed. That's a part of their diet. And if an oil spill were to happen you'd take that away from them. You'd interrupt their diet and their cycle as well.

2654.           **MR. MURPHY:** Thank you, Mr. Sampson.

2655.           Madam Chair, I note the time. We could probably carry on our discussion for quite some time. There are a lot of areas that Mr. Sampson is very familiar with.

2656.           I note for the record he was describing a route that the killer whales

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follow that flows the blue line that represents the shipping lane and it goes up and around Moresby and Portland Island into Saanich Inlet.

2657.           With that, we're going to bring our evidence to a close today.
2658.           We kind of went out of order. We were going to end with Elder Tom Sampson. We began with him. He provided you with a song and a prayer and the story about the mother and the baby killer whale.
2659.           So with that, there's a lot more to say, but we appreciate that we've got a limited time here.
2660.           **MR. MARK SAMPSON:** If I could just add, you know, just real quick, that not only the killer whale are in this area yearly, the humpback are also in there, every year now. And they used to migrate right in this area, but they come up this way now. And I do believe that's due to climate change in the water -- the temperature in the water. They've changed their route. They actually used to come in here once every about 16, 17 years you'd see a humpback whale down in (Inaudible) feeding on what's there provided for food for them.
2661.           I just wanted to add that in there.
2662.           **MR. MURPHY:** And for the record, Mr. Sampson was pointing to the shipping lane again up between the San Juan Islands and the Gulf Islands where the humpback whales are travelling.
2663.           **MR. MARK SAMPSON:** I just wanted to take this time to say thank you for -- you know, to our Chief Don Tom and our elders to the right and the left, and for the ones that are standing with us, you know, for giving me this time to share some of this knowledge with you.
2664.           I believe it's very important to what's going on here, because the people that are involved with these things that want to be put into place need to know and be familiarized with the things that we know and the knowledge we have and the knowledge that, you know, they didn't know at all probably.
2665.           But I just wanted to take the time to say thank you to the Energy Board and Trans Mountain for, you know, hearing our voice today.

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2666.           **THE CHAIRPERSON:** We're the one thanking you for sharing your traditional knowledge. You said a lot and I think Chief Don Tom kind of summarized it.

2667.           B.C. -- British Columbia -- is indeed beautiful.

2668.           So we thank you again for what you shared with us today. We will consider all that we have heard as we decide on a recommendation in this hearing.

2669.           So we have -- we will reconvene in a few minutes because we have another -- your cousins are coming from the U.S. So we will reconvene at five past three o'clock.

2670.           Thank you very much, and safe travel.

--- Upon recessing at 2:49 p.m./L'audience est suspendue à 14h49

--- Upon resuming at 3:23 p.m./L'audience est reprise à 15h23

--- (Opening ceremony, prayer, and song)

**BILL JAMES: Affirmed**

**JEREMIAH JULIUS: Affirmed**

**LISA WILSON: Affirmed**

**LEONARD FORSMAN: Affirmed**

**NOEL PURSER: Affirmed**

**MARIE ZACKUSE: Affirmed**

**RAY FRYBERG: Affirmed**

**JEREMIAH WILBUR: Affirmed**

**TANDY WILBUR: Affirmed**

2671.           **THE CHAIRPERSON:** Before we commence our hearing today, the Board wishes to acknowledge with respect the Lekwungen-speaking peoples in whose traditional territory we are gathered, and the Songhees and the Esquimalt and *WSÁNEĆ* people whose historical relationships with the land continue to this day. It is with truth and respect we would like to acknowledge all the Indigenous ancestors of this place and reaffirm our relationship with one another.

2672.           We would like to thank you for welcoming us today through your ceremony, and we'll welcome to our hearing process.

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2673. So good afternoon, everyone, and welcome to the Oral Traditional Evidence phase of the National Energy Board's hearing regarding the Trans Mountain Expansion Project Reconsideration.
2674. My name is Lyne Mercier. I am the Chair of the Panel. With me on my left is Alison Scott, and on my right is Murray Lytle. We want to welcome everyone who is here today both in the hearing room and listening in to the webcast.
2675. As a matter of housekeeping, I'd like to describe the evacuation procedures in the event of an emergency. If the building's evacuation tone begins sounding and we are asked to leave the building, the muster point for the venue is the waterfront walkway. Please exit in an orderly fashion through the lobby. At the muster point, please ensure your party is accounted for.
2676. In addition to the Panel, we have staff in the room to answer process-related questions that you may have. You will be able to recognize them by their brass name tags.
2677. With respect to our schedule for hearing oral traditional evidence, today we scheduled time to hear from three Indigenous groups. You are the last one. We will normally plan to take breaks if required.
2678. In order to be fair to all presenters, we have allotted up to two hours to hear from you. If two hours is not enough, at the end of the session please feel free to file additional oral traditional evidence by electronic means, such as a video or some other method.
2679. Before we get under way, I would remind parties of the Panel's guidance in the Hearing Order and Procedural Directions in regards to oral traditional evidence.
2680. The Board understands that the Swinomish Indian Tribal Community, Tulalip Tribes, Suquamish Tribe, and Lummi Nation have an oral tradition for sharing knowledge from generation to generation and this information cannot always be adequately shared in writing. Sharing your traditional knowledge and stories about the use of your traditional territory is of value to us. We appreciate that you've chosen to be here today.
2681. Following oral traditional evidence, Trans Mountain, other

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- intervenor, or the Board may have questions for the witnesses. If so, witnesses can choose whether they will answer questions orally or at a later date in writing, or a combination of both.
2682. With that, I believe we are ready to get under way. And before I call on the Swinomish Indian Tribal Community, Tulalip Tribes, Suquamish Tribe, and Lummi Nation to present their traditional oral evidence, I'd like to have the representatives of the Proponent, Trans Mountain, introduce themselves.
2683. **MR. DUNCANSON:** Thank you, Madam Chair.
2684. Good afternoon. My name is Sander Duncanson. I'm with the law firm Osler, Hoskin & Harcourt. With me is Cassie Richards from our office, and representing Trans Mountain is Georgia Dixon. Good afternoon.
2685. **THE CHAIRPERSON:** Thank you, Mr. Duncanson.
2686. I will seek to see if there is any other intervenor in the name or any other preliminary matters.
2687. Yes.
2688. **MR. MURRAY:** Thank you, Madam Chair. Thank you, Panel Members.
2689. My name is David Murray. I'm a senior policy advisor with Natural Resources Canada. I'm here as a representative of the Federal Crown to hear the witnesses' oral traditional evidence in relation to the reconsideration of the Trans Mountain Expansion Project.
2690. I do not intend to ask any questions today but, rather, am here as a representative of several federal departments and agencies that are registered intervenors. If necessary, we will ask additional questions through the NEB's information request process.
2691. Finally, I'd like to note that I'm honoured to be present at this hearing in the traditional territory of the Coast Salish.
2692. Thank you.

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2693.           **THE CHAIRPERSON:** Thank you, Mr. Murray.
2694.           Are there any other intervenors? I see none.
2695.           Usually -- I understand that the member will give us information that is accurate, truthfully and to the best of their knowledge, and we will accept the ceremony as being your affirmation of that. Thank you very much.
2696.           Ms. Counsellor, you don't have a tag, so I wish -- please, can you name yourself?
2697.           **MS. BOYLES:** Kristen Boyles. And at the other end of the table is Stephanie Tsosie. And our job here today is to try to coordinate the testimony from the four Coast Salish U.S. tribes that have travelled here today for you.
2698.           That's the Swinomish Indian Nation, the Tulalip Tribes, the Suquamish Tribe, and the Lummi Nation.
2699.           Our plan today is to have two speakers from each tribe and -- present their traditional oral testimony. We thank you for inviting us to do this. We thank you for your attention. We thank the Songhees and Esquimalt peoples on whose land we are.
2700.           And we'll get started with Chief Bill James from the Lummi Nation.
2701.           **THE CHAIRPERSON:** Thank you.

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR SWINOMISH INDIAN TRIBAL COMMUNITY, TULALIP TRIBES, SUQUAMISH TRIBE, AND LUMMI NATION:**

2702.           **HEREDITARY CHIEF BILL JAMES:** (Speaking in Native language)
2703.           I guess I'll go back and interpret a little bit. My name is Bill James. I come from the Lummi Nation, and we're down in the States.
2704.           If you look at your map, we're not that far away. We're really just across the water a little ways.



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2705.           And I was just explaining how we don't recognize the border as a people. We are all one people. We are all relatives, all throughout the Puget Sound area. We're all related to each other.
2706.           And I was explaining that my great-grandmother come from Penelakut, from Kuiper Island, so I have Canadian ancestry in my blood, too.
2707.           But today, we're here to talk about a number of things, the pipeline, as well as the protection of the *qw'e lh'ol m'èchen*, the black fish or the killer whale. That's one of the things that we're here for.
2708.           One thing that we have to remember is that as we go through the process of what we're doing is these are very serious decisions that you folks are making because it's not only going to affect the people; it's going to affect our plant life, our trees. It's going to affect our animals, our birds, our fish, but also it's going to affect our water and our air. These things are going to have to be taken under consideration when you make a decision. That's most important to remember. It's not just a matter of the pipeline. It's going to affect everything and all of these things.
2709.           I was born and raised at a fishing village. I spent the first major part of my life at the fishing village. I was raised with a lot of old people born in the 1890s. They were my teachers.
2710.           The values have changed so drastically amongst our people nowadays. The values have changed. Part of the reason for the change of the values is the boarding schools and the church schools took away our children. They changed our diets. They're changing -- they tried to change the environment of our people. There were still people that practiced the whole ways, you know, living off of the land.
2711.           Going back to *KELLOLEMEĆEN*, the black fish, or the killer whale, I listened to the elders come to my home and tell us stories of the black fish how we come to be related to them, the people that live under the sea. I heard stories years ago of people that live under the ice at the north pole. I've heard stories of people that live under the mountains.
2712.           I've heard stories years ago -- oral history that's not written down, you know, that I teach to my young people coming behind me.
2713.           But as we go through the -- like I say, the protection of the earth, I

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- used to listen to the old timers speak years ago. You remember now. You tell the (Native word), the non-Indian people, you have to be aware of when we start to die you're next. You beware when we start to die and you're next.
2714. As I've grown up through life different species are already disappearing from our earth, and even in just my lifetime species are disappearing.
2715. Be aware of what's going on around us. You see Tahlequah, the mother that carried her baby, the black fish that carried her baby for so long, she's giving us a sign. Our Native people know how to read that. She's giving us a sign to stand up and tell the world that we've got to be getting ready. The black fish are dying around us. We tried to feed them the best we could.
2716. But as I say, the pipeline is going to affect each and every one of us. The food chain -- the food chain is going to trickle down to each and every one of us. Our young people are already starting to die. I see so many young people dying now unnecessarily.
2717. Like I say, I come from the Lummi Nation and down -- just outside of Bellingham. But I've been involved with the blackfish or the killer whale. I've been out on the boat when we were trying to feed them out there. I feel their hurt, and it really affects me personally. And the pollution of the water, the pollution of the boats, you know, the big boats, all of this is affecting each and every one of us.
2718. And like I was saying, you know, with a pipeline what's going to happen if a major earthquake hits. What's going to happen; oil's going to be all over the place. You know, that's going to be sad for our environment. It's going to happen. It's going to happen. We know it's going to happen.
2719. And we know that our salmon are disappearing. We know that our salmon are getting sick already from the pollution. The salmon are getting sick.
2720. I live right on the water right by the beach on the water. I walk the beach quite regular. In more recent years it's the first time I ever saw bamboo on our beaches. Bamboo is on our beaches now. Pollution's coming at us. You know what I mean. I don't have to explain. You know what I mean.
2721. Things are coming at us and we have to do what we can while we can.

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You turn around and you look at your children and your grandchildren now; what are you going to leave for them. That's most important. What are you going to leave for them? there's not going to be much left for them to survive.

2722.           These are just a few things that I'd like to talk about, because we relate to the Salish Sea as a family. Years ago many of our tribes came to (Native word), the Point Roberts to do the reef net. Many peoples come there to do the reef netting. Our people did reef netting all throughout the Sound. That's most important to remember that. That we were reef netters. That's our own method of fishing that was given to us by the Creator.

2723.           I can't explain to you how -- I don't know how to explain to you my values, what I value. My values are entirely different than your values are because culturally, and spiritually, and through our genealogy we know who we are. We know where we come from. We know that the Creator gave us all of these things to protect. That's what we believe. This is what we believe; the Creator gave these things to us.

(Speaking in Native language)

2724.           I talk to your spirit. I talk to your spirit and I hope your spirit will understand what I'm saying, you know, your spirit will understand.

2725.           As a teacher for many years I teach the values of our people to our young ones that are coming behind. What can you do to help us better understand and change the values of your people? Number one, you need to change your curriculum of your schools to protect the environment. This is most important. You need to protect the -- teach the children that are coming behind you. Because Mother Earth is sacred and you only have one mother. You only have one mother. When she's gone there's no more.

2726.           That's kind of what I was thinking about today that we talk about global warming. Global warming is affecting each and every one of us too. It's not getting as cold as it used to. It's not raining as much as it used to still. We have to remember that everything that we do, the clear cutting of the forests, you know, it's affecting everything. You know, (speaking in Native language).

2727.           If you have any questions, feel free to ask.

2728.           **MS. TSOSIE:** Thank you, Chief James.

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2729. I'd like to next introduce from the Lummi Nation, Lisa Wilson.
2730. **MS. LISA WILSON:** (Speaking in Native language). My name is Lisa Wilson. My grandmother was Sarah James from Lummi and my grandfather was Charles Wilson from Cape Mudge.
2731. My grandfather met my grandmother in a fish cannery in Tsawwassen in the early 1920s. And that's a major part of who I am. I grew up fishing with my dad. I started the year before the Judge Boldt decision and for those of you that do not know what the Judge Boldt decision is, it was a major court case that was settled in 1974 and as a result of my tribe and the other tribes that are here today that signed the Treaty of 1855, the Point Elliott Treaty, and in that Treaty, my people were promised that we were going to be able to fish and gather in our usual and accustomed areas, to fish, hunt, and gather in our usual and accustomed areas.
2732. And so what my people signed on for is to make sure that we had that way of life. My ancestors got into a canoe and paddled down to Muckl-te-oh in 1855 to reserve our rights to hunt and gather in our usual and accustomed areas. And that is the area that is all around us in the Salish Sea.
2733. And I'm here today because my people, all of these people here, are depending on sustaining our way of life. I work for Lummi Natural Resources. I'm the *Endangered Species Act* Manager and Policy Representative for Lummi Natural Resources. But I am here representing my whole tribe today.
2734. I worked on the Orca Task Force with the governor's Orca Task Force this past year. I sat in for my chairman and I worked extensively with a group of people to try to come up with some solutions to this crisis that we're in, and that is that we are in danger of losing our southern resident killer whales. And you know, it's not -- if we don't do something right away, then we are going to be losing them and that is a fact.
2735. So we know that the impact on vessel traffic, we know the impact of the noise, and we know the impact if there was oil spill, the major devastation that's going to wipe out all of the species in the Salish Sea.
2736. So I come to you today to protect what we have left. Because you see, 100 years ago, when my grandfather met my grandmother in Tsawwassen, if you

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- could just imagine what the waters were like back then, you know, when our fish and our other animal life were healthy. And since then, all of the cumulative impacts that have happened since then due to vessel traffic, due to pollution, water quality, habitat degradation, population growth -- what that's done on our ecosystem and as a result of that, what it's done to our fishing stock, that what, in fact, is doing to our people. Because if the salmon are not healthy, if the orcas are not healthy, and our people are not healthy, it's exactly what my chief has said, that we are not going to sustain ourselves either.
2737.           So we've come to a crossroads were this is the opportunity to start changing things and making a shift. We've got to stop taking and taking and taking and we've got to turn the tides, literally, to make sure that we can actually save a species if we all put our efforts together.
2738.           There is a lot of different solutions that came up in this Orca Task Force. And it is definitely a holistic. There's a lot of different things. And I know that the vessel traffic and the threat of an oil spill is one of those major things.
2739.           And that makes me very sad. I am the *Endangered Species Act* Manager for my tribe. I sit in meetings. I remember fishing with my dad and it wasn't even a thought that we would never have fish. You know, it's been said before, when the tide is out, the table is set. Fishing the salmon are as important as the air that we breathe and it's true, you know, because I know that I grew up fishing all my life with my dad and that's part of who I am today, and that's why I'm here. That was instilled in me from a young age to be able to fish and how important salmon are to our people.
2740.           It's very emotional to me, you know, because of my lineage, of my grandfather being from Cape Mudge and my grandmother being from Lummi. And I actually lived in Victoria for 15 years. And it feels like I've come full circle today. It feels like there is a lot of weight on my shoulders and I carry that. I carry that for my people. I carry that for my father who passed away three years ago. I carry that for my grandmother that passed away 35 years ago. And I carry that for my ancestors that paddled down to Muckl-te-oh to sign that Treaty.
2741.           You know, it was a promise that was made that we would always retain our way of life and what I've seen from my experience in -- you know, fishing's always been a part of my life that when I went to school, I researched the history of our Lummi people. I went back and I did my Capstone project and I

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- created a documentary on the fishing history of the Lummi people. So I've been back and I've researched what has been promised. And I've researched all of the injustices that have happened and all the court cases that led up to the *Boldt* decision, all the cases even after the *Boldt* decision, you know, the *Culbert* case on habitat, to where that we were able to be co-managers.
2742.           And that's what's different down there is that we have a lot more say. And that's why I am actually really glad to know that that's why we're here today for lack of consultation with First Nations people and tribal people. Because you know, to me, I don't have a border. I don't have a border. Like it's been said before, these are my family and the family, I have a lot of family up here too, and it's not about a border, it's not about -- it's about saving what we have.
2743.           And for a fact, like I said before, I know that if we don't do anything right now, then we're going to be losing that.
2744.           So the impact that my tribe has felt over the last 100 years was losing a lot of their fishing rights, gaining fishing rights, and then losing a lot of their fishing rights due to the habitat degradation and due to such projects as the Kinder Morgan Pipeline.
2745.           We went from a very strong fishing tribe of 1,000 people and now we barely have 500 fishermen. And so that's something that is devastating to me to see our fishermen struggle, to see our actual people struggle, and you know, we've had to -- over this habitat degradation and dams, we had to put a lot of emphasis on our hatcheries, and we've had to create our own salmon. But you know, we have made a mandate to increase our hatchery production and we know that, you know, producing the hatchery production is not going to be the end all, but it's what we can do to survive right now, and we also know that, you know, our habitat -- our hatchery fish need habitat too.
2746.           So you know, we have stood on the forefront for many years, and we come from a lot -- a long line of people that have fought through, starting with the court case in Point Roberts in 1895 over our reef net sites, and we've been fighting ever since, like I said, with the *Colvert* case, and we're fighting every single day, and we are going to continue fighting. You know that's -- this is not -- it's just not our livelihood. It's who we are. It's our culture, and that's -- you know, we have people that work for our tribe into their seventies and eighties because it's not a job; it's who we are, and it's what we do.

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2747.           **MS. TSOSIE:** Ms. Wilson, can I ask you to explain to the Board some of the efforts the Lummi Nation has undertaken to save and help the blackfish?
2748.           **MS. LISA WILSON:** So our orcas were in trouble. You know, we saw the mother carrying her baby for 17 days, and it was devastating. It wasn't, you know, just in our -- it wasn't just us that saw it, but the world saw it. You know, I've had people tell me that they were in Germany, and on the news was this baby, and so the world is watching us. So we had to do something.
2749.           And so we coordinated with our federal trustees and our co-managers, and we took up an effort to literally feed Scarlet, the orca that -- you know, she ended up passing away, but it's like we couldn't stand back and we couldn't watch this happen, we had to do something. And it took a lot of coordination and a lot of involvement.
2750.           You know, it's not the first time that we have stepped in as the Lummi Nation. A year ago, we had an Atlantic salmon spill that was an emergency, and we stepped in and we were on the forefront of trying to catch as much as we could and try to work with the Emergency Management System.
2751.           And one of our biggest fights over the last decade has been the Cherry Point fight. And it was because of our way of life and our treaty. *Xwe'chi'eXen* is -- that's why we stopped it, and you know, we will be there to stop it. You know, we will be there to fight every time that we can. And you know, we are working with our co-managers, and we are working with our federal trustees to do what we can. And that's -- we are on the forefront of producing more hatchery fish so that we can feed the orcas, you know.
2752.           And so we can do all that we can do, like we can put all our efforts into that, but unless we're all -- unless we all do something, then we're going to lose this -- we're going to lose the orca and that will be on our watch and that will be on our conscience if we let that happen.
2753.           **MS. TSOSIE:** Thank you. Can you also explain to the Board that -- some of the impacts, the adverse impacts -- and we've heard a little bit, but if you could tell the Board what this project will mean to Lummi Nation if it gets approved?
2754.           **MS. LISA WILSON:** So I know that we've had fishermen that have

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- testified before -- one of our fishermen, Dana Wilson, and I heard his testimony. And he talked about -- you know, I remember fishing with my dad when I was younger and we would be out there and we would be worried whether our net would get run over. We worried for our safety. You know -- and so that -- what it is doing is impacting us from our treaty right of being able to set our net out there, to be able to set our crab pots. That's impeding us. That's not letting us continue our way of life.
2755.           And like I stated before, you know -- and I've sat on the oil spill team for my tribe because -- and we've partnered up with the neighbouring oil refineries, you know, because we have to protect what we have, and -- so I've been through a lot of oil spill training and I know the devastation that an oil spill will cause, you know. So that will be a major impact. That is just -- that's going to, you know, devastate our tribe and it's going to devastate our people if we do not have our fishing, you know. I just can't even imagine that happening.
2756.           **MS. BOYLES:** Thank you, Ms. Wilson.
2757.           Next, we want to hear from Mr. Jeremy Wilbur of the Swinomish Indian Tribal Community.
2758.           Mr. Wilbur, could you tell the Board a bit about who you are, what you do?
2759.           **MR. JEREMIAH WILBUR:** Good afternoon. My traditional name is Kats-Butt-Soot, seventh generation. My grandfather carried that name, and he passed that name to me, and I've passed that name along to my son, who is Kats-Butt-Soot, eighth generation. That name goes so far back in our family history that it has no meaning, it's just a name.
2760.           My birth name is Jeremy James Wilbur. I come from the Swinomish Tribe, which is located just south of Bellingham about 30 miles, next to Anacortes, the gateway to the San Juan Islands. My family is from Swinomish. I was born and raised there. I am currently a Swinomish Tribal Senator. I was elected -- it's an elected position on council. I'm a newly-elected senator. I started in March of 2018, elected by my people. I also sit on the Fish Commission -- the Fish and Game Commission for the Swinomish Tribe, and I have been on the Fish Commission for a number of years.
2761.           But I think most importantly, which means the most to me in my



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- lifetime, is I am a fisherman. And that's what I've done for a majority of my life. That's what my father has done, my grandfather, my great grandfather, my great great grandfather has fished the Salish Sea. And we consider the Salish Sea to be from, you know, Point Roberts, Canada, all the way down Southern Puget Sound, and everything in between.
2762. I want to thank our respected Elder, Chief Bill James, for making -- travelling up here today. Every time our Elders like Chief Bill James speak, a younger generation like myself will learn something. In our culture, we're taught to respect our Elders and what they have to say. They have a lot to teach us younger folks. So I'd like to thank him for coming and speaking today.
2763. Three years ago, I did a declaration for this pipeline. I was asked to, you know, indicate the areas that I fish, and the impacts to the fishing. So if you folks have any questions later on, you could probably look at my declaration and see. It was a great -- they reminded me of being a third grader. I got to colour like in a colouring book again, right, highlight the areas that I fish, which is pretty much all over the Salish Sea in my lifetime so far.
2764. My -- where I come from, in Swinomish we're considered -- we call ourselves the People of the Salmon, or the Salmon people. And many of us tribes do, down in Washington.
2765. Salmon has sustained -- is one of the resources that has sustained our people since time immemorial. We've always relied on salmon, clams, halibut, shrimp, prawns, diving. You know, I dive. Our ancestors used to collect urchins off the beaches though on San Juan Island and out in that area, you know, for to set the table.
2766. You know, we have a saying at home, you know, when the tide is low, the table is set. You know, that was taught to us, handed down to us for many generations. That's how our people sustained themselves.
2767. And so, you know, fishing, and not just in my family, but in our communities, is a major, major -- culturally is what we do. And to impact that would be a major disaster.
2768. And, you know, I'm glad Lisa brought up the orca whales. You know, that's just one of many species, you know. It's, you know, salmon, the orca whales. We've got many species now that are not what they were 100 years ago,

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- you know. And that's due to population, you know, in our area.
2769.           And we -- when I heard about this, you know, Trans Mountain Pipeline and the vessel traffic that it was going to create through my ancestral grounds of fishing, it was a major -- you know, it was sad news, really.
2770.           The increase in the amount of traffic. We have a hard time at home already making our living on the water. And something our families have done for generations and generations. And these tanker traffic -- even in my lifetime, you know, I started fishing -- I guess to give you kind of a history, I started fishing -- I was born in 1971. I started fishing, really fishing, for myself in about 1984, when I was old enough to actually get my own fishing permit. That was the age I had to be, 13. And I had gone on a boat with my father, my grandfather, you know, before that.
2771.           I started fishing back in -- myself -- 1984. And, you know, the vessel traffic back then was minimal compared to what it is today.
2772.           And today Lisa touched on Dania's testimony. I know Dania very well. He's a well-respected fisherman. In all of our communities we all know who Dania is.
2773.           And not just gillnetting, you know, not just these tankers impacting our gillnets, where we're able to fish at, and, you know, what parts of the water these tankers, we know, anyway, being fisherman, that these tankers, and a lot of this vessel traffic, they don't stick to the traffic lanes. They just don't, you know. If they can take a shortcut from point A to point B, they're going to do that. It's like driving a car, you know, you don't always stay in your lane, sometimes, you know, you take a short cut somewhere. These tanker traffics, boats will do the same thing.
2774.           I own a purse seine boat, a salmon purse seine boat, my own fishing boats, and crab boats, and I can tell you that trying to cross these -- number one, trying to cross these, not just the traffic lanes, but it's a fear for myself and my employees that we're going to get ran over by a tanker.
2775.           I had an experience just this summer, coming up the side of Lummi Island; it was a tanker, a tug and tow, it was towing a barge, and he honked at me. It was the middle of the night and we were travelling north from Anacortes up along the island. And I had a -- it honked at me.

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2776.           And at night time it's hard to see on a radar or a GPS exactly what angle their bow is pointing at. So I had a crewman on night watch with me. And so I asked him, you know, "Look through the binoculars, can you see, where is his bow pointed? I see his, you know, his lights, but where exactly is he heading? He's honking at us." And we couldn't tell.

2777.           And he honked at me again. So I took a hard right and I went in straight towards the beach. And I'm doing eight knots. And at that point he was blaring on his horn. And, you know, which made me nervous. So of course, I, you know, gave the boat more goose and instead of doing eight knots I was doing nine.

2778.           And I made it into the beach, but in the meantime, you know, originally I was fine travelling in the direction I was going. I wasn't interfering with this traffic lane. But being nighttime, you know, I couldn't tell where his bow was pointed.

2779.           And what I did was when I turned right, a hard right, I ended up getting in front of it. And, you know, fortunately we made it through to the beach without getting run over, but that's the types of things we deal with with a lot of this traffic coming through. Not to mention the gear that we lose, not just gillnets.

2780.           You know, my family, we crab, commercial crab. And, you know, we have, in our usual and accustomed areas that we fish, we have a lot of tug, barge, and tanker traffic coming down to Anacortes -- Cherry Point, and Anacortes.

2781.           And every year we lose thousands and thousands of dollars worth of gear to this traffic that comes through.

2782.           And so it makes it difficult with, you know, the declining resources and the, you know, population the way it is, you know, for us to carry on our traditional fishing, this increased traffic and stuff makes it even more difficult than what it has been.

2783.           **MS. BOYLES:** Mr. Wilbur, can you explain to the Board what a usual and accustomed fishing area is?

2784.           **MR. JEREMIAH WILBUR:** Usual and accustomed fishing areas are basically, as tribes we have our -- it's -- usual and accustomed is the areas that we

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- that our families have fished for -- our tribes have fished for many, many, many generations. And so that's basically what a usual and accustomed -- to me that's what a usual and accustomed fishing area is.
2785.           And they do define it by law, usual and accustomed fishing areas between tribes, but for me it's where my family has fished for many, many generations.
2786.           I guess ---
2787.           **MS. BOYLES:** You had mentioned earlier that you were a diver?
2788.           **MR. JEREMIAH WILBUR:** Yes, I was going to actually point on -- make a point of that. You know, not to mention the gear that we lose, and sometimes our life feeling threatened with this, you know, with the traffic, increase the traffic that's going through here, I guess the most important thing I could say is when it comes to the species, whether it be salmon -- we've all done -- you've all done the studies on if a tanker blows a breach in its hull and decimates the beach and decimates our, you know, wildlife, which, you know, we already know for a fact the Exxon Valdez in Alaska, there's been studies done on that, and that place has never been covered. We all know that.
2789.           But for me, how many people have actually -- how many people are divers? Anybody a diver? You ever dive in the ocean at all?
2790.           I do that for a living. That's one of the fishing -- that's one of my fishing ventures, I guess, what I do for a living. I fish for many species, diving urchins and sea cucumbers -- excuse me, tongue twister. And that is also what I do.
2791.           And I guess, you know, there's not just the toxic or the chemical pollution. But if you've ever been under water when a tanker, one of these big tankers, or even a ferry goes by four or five miles away, you can hear it underwater, whoop, whoop, whoop, whoop, whoop, and not just hear it, you can feel it in your body. You can feel it like somebody's -- if you've ever been next to a loud speaker with a big -- you know, a kid with the bass drum going in a car, you know, next to you, that's what it feels like, boom, boom, boom, boom, boom. And you just feel it in your body.
2792.           So when I think about orca whales and the way they hunt for fish with

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sonar, I'm not a scientist, but for me that would disrupt it, wouldn't it? That's one of the reasons, one of the many reasons, you know, our southern resident killer whales are about ready to go extinct, along with salmon.

2793.           So I guess there's quite a few folks who need to speak. I don't want to take up too much time. But you know, in closing, we do -- in the States, anyway, we do -- us tribes, all of us that are here and many others, we do a lot of fighting for species, fighting for salmon, fighting for -- we do a lot of restoration. We argue at the county, you know, the state, the national level and fighting for these species that are so important to our cultures, our Native cultures and the way we have learned to live, sustain ourselves on these species.

2794.           And for me, now we're doing it internationally. You know, I have to come up to Canada and, you know, express, you know, the fight I have in me to, like the Chief said, save these species, save our culture.

2795.           Not just that. You know, we see the salmon decline, we see the orca decline. Well, it's going up the chain. Who's next? What's next? When's it our turn?

2796.           We keep being economically driven to, you know, driving force. We're bound to destroy everything that we hold dear.

2797.           So anyway, that's what I'd like to say, and thank you for listening to my testimony.

2798.           **MS. BOYLES:** Thank you, Mr. Wilbur.

2799.           And now I'd like to introduce Mr. Tandy Wilbur. Mr. Wilbur, if you could introduce yourself to the Board and tell them your tribe and your occupation.

2800.           **MR. TANDY WILBUR:** Good afternoon. My name is (Native language). It's my Swinomish tribal name I was given by our family. My -- I go by Tandy Wilbur.

2801.           And I just would like to say that it's kind of difficult to be up here having to testify to just the impacts alone. That would be so not only heartbreaking, devastating, detrimental, catastrophic, whatever term it is you want to use, to the Native culture, the people on the Salish Sea, up and down the coast.

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- We -- it's really hard for me to have to try to express the value, the traditions, the spiritual, the meaning of loss.
2802. I don't think there's anyone that could probably put it into words what that would mean. That's our way of life, the Native people.
2803. So a little history about myself. I am -- I was currently no longer Swinomish Tribal Senator. I served as a Senator for 15 years. I currently now hold the job title of Assistant Fisheries Manager, so I have some history on -- oh, and I'm also currently an active commercial fisherman.
2804. And so I know the challenges and the -- that tribes face to continue to protect the Salish Sea and adding another amount of vessels to the Salish Sea is something that is not favourable for mother nature, for the Salish Sea itself and for tribal cultures.
2805. We as people look to the water for survival. It's our lifeline. Everything that we are taught comes from the water. Everything that we do and teach and pass down, there's some form of teaching from the water.
2806. We of Swinomish have a First Salmon Ceremony. We make sure we like to bless the fishermen. This is done by giving back to the water. We do it to the four directions. We have a catch of salmon. We bless it, we feed the people, and we're basically feeding the water for protection and plentiful harvest of the sea.
2807. When I was growing up, it's also a tradition to give back your first catch, but we are now on the verge of not -- no longer having that first catch.
2808. We have come to say seven generations. We like to think out seven generations. Well, I don't even know if we can think -- if that's going to even be the next generation.
2809. We have to realize that we can no longer take, take, take. We have to protect. We have to realize that there's only so much that Mother Earth and the Salish Sea can take.
2810. There's -- and part of the teachings of the first ceremony, and we give away to our Elders, just like was said to the Chief, our first catch, we give that first -- my first catch I give to an Elder. We pick an Elder and give it to them.

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And that's a big meaning to me because I feel that it's told to me, you know, it's a sacrifice because your first catch, you don't -- you know, what do you want to do with your first catch? You usually want to eat it yourself or you want to sell it. Well, you give it away. And therefore, you're going to get blessed in return.

2811.           And it's part of our culture and teachings when we move that we will be protected out on that water.
2812.           And when I was 14 years old, this really sticks with me because I gave away -- I fished all day and night, and I caught two fish. And I was like, "Man, I only caught two fish. I don't even have -- can't afford gas money to go back out."
2813.           And then -- so I'm driving with the fish in the back of my truck, and I get pulled over by a tribal member and they say, "Oh, so and so uncle's having a barbecue up there but he has no fish". And of course, he's an Elder, so they're like, "What have you got in the back of your truck?" I'm like "Fish".
2814.           They're like, "Oh, well, you go and give it to your uncle". I'm like, "Well" -- you know, it's one of the hardest things I had -- I did, but I did because that's what we were taught. And therefore, these teachings continue on and on and on, generation to generation.
2815.           But if we don't protect and we don't stand up and we don't say no to things that can -- are detrimental and have impacts that could wipe out cultural traditions, Native people's way of life, that's what we're faced with today. That's what I'm here today, to give testimony to protect Native people in their way of life.
2816.           So once again, there's lots of risk involved. And like I stated earlier, I'm -- I am a commercial fisherman and starting back probably in '97 I started to crab. And I didn't see a lot of tankers. So when you heard the other testimonies of usual and accustomed areas, that's where all the tribes were fishing their usual and accustomed areas, we are being impacted.
2817.           For the last 20 years, more and more traffic coming in and bunkering. It's not just that vessel traffic is going from point A to point B. These vessels are coming in for fuel, bunkering and -- which is anchoring -- and they're taking vast amount of real estate or water by sitting there on anchor time and time again. I don't think I've seen the Billingham -- the -- I'm not sure what kind of water you'd call it, but the Salish Sea, which is heavily used for crabbing, has just now flooded

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with bunkering of big large tankers.

2818. We are being impacted and cannot utilize our usual and accustomed areas. We are being forced to try to make a living by doing something -- by doing other methods of fishing or take the risk of losing our gear, risking our lives, of a collision.

2819. I personally had to go up and pull a buoy off of the bunker and off of the ship's hull. The buoy was on the hull because -- and I had to go up to it and try to get the buoy and save my pot and gear off of that vessel. And then you think nobody -- no vessel is there so you go throw your gear in the water, and the next day a vessel appears because they're coming in and coming out, and there's no -- you don't know when they're coming or going. And so then you go back to get your gear and it's gone.

2820. So tribes are being affected by their -- on their livelihoods being affected, from their income with loss of gear, their traditional and usual custom areas are being lessened because of the big barge and tankers take up so much area. And we can no longer bear this burden.

2821. This is one another burden that the Salish Sea has to -- is risk, we're risking the Salish Sea of a burden of oil spills, vessel noise, causing orcas -- you know, the Chief was right when he says that that's a sign. You have an orca whale trying to keep her baby alive for 17 days; that's a sign that something's not right. I think we'd all agree here that something's not right. And adding all those extra traffic with the noise and it's just another challenge that's another burden that natural creatures, blackfish specifically, have to try to deal with to survive.

2822. And we are here to say that our way of life can no longer be pushed to the wayside. Your decision has big impacts on tribal lives, tribal culture, traditions, spiritual. We are here to protect that and share with you our story of our way of life. Because we are a strong people and we fight, and we're here to pass on that message.

2823. **MS. TSOSIE:** Thank you, Mr. Wilbur. I'd like to next introduce Chairman Forsman of the Suquamish Tribe.

2824. Chairman Forsman, would you tell the Board who you are?

2825. **MR. LEONARD FORSMAN:** Yes.



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2826. Good evening. I'm Leonard Forsman. My ancestor name is Gvóí, and I'm Chairman of the Suquamish Tribe near Seattle. And it is the home of Chief Seattle and Chief Ktsap and many other great leaders. And I'm also the President of Affiliate Tribes of Northwest Indians. And I'm also a Presidential Appointee from the Obama Administration on the Advisory Council on Historic Preservation. And we work on helping federal agencies and tribes and private parties implement the National Historic Preservation Act of 1966, which protects sacred lands and archeological resources.

2827. I've been on our Tribal Council. I was Chairman since 2005 and I've served as Council Secretary for 15 years prior to that. And I have done some fishing in my younger years and most of my -- a good portion of my time now is engaged in treaty resource protection because we are, like all of the tribes here, signators to the Treaty of Point Elliott, and we work very hard on trying to protect our fishing and hunting rights which were affirmed in the Treaty of Point Elliott and adjudicated in the *Boldt* decision in 1974, and then in the *Rafeedie* decision in 1995.

2828. **MS. TSOSIE:** Thank you. Can you tell the Board about the relationship that the Suquamish Tribe has to the First Nations here, and that the Suquamish Tribe has to the Salish Sea?

2829. **MR. LEONARD FORSMAN:** It's been said quite a bit by our Elder, and a lot of our other leaders, the importance of the Salish Sea to our respective tribes and nations, and I just wanted to make sure that we understand because I have a background in archeology and anthropology, worked in our museum; I worked as our contract archeologist for private firm for many years. So I have a couple decades of formal experience.

2830. But in the end that had probably a stronger spiritual impact on me in my life and so I think it's important to remember that and remember the relationship that each of the tribes, each of the families were -- families formed the tribes, they have -- we have our family names, we have our family traditions, and then we unite as families to protect our sovereignty, and I'd like to emphasize that.

2831. And part of that sovereignty is our relationship with our homeland. This is an ancient landscape that our people have inhabited for thousands of years, and we have stories that tell how this land was formed. And when our Elder, Bill

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- James, I have great respect for, who has done so much for Indian tribes throughout Puget Sound, when he spoke in his language, that language is purely related and part of this landscape. So it was an honour to hear that and also the fact that he has relatives on Vancouver Island as well is very powerful.
2832.           And so the relationships between the tribes here of course, that existed well prior to the border being established. Chief Seattle and Chief Chalikum (ph) were two of our major leaders. Hudson Bay Company established a post in what's now DuPont, near Tacoma, in 1832 and operated there for a couple of decades.
2833.           And it was still up in the air where the border was going to end up, so if it went one way, we'd be all in the same country right now because they thought about putting it at the Columbia River. But as you know, it went up a little further north and we have our, you know, political relationships that are based upon that. But our people travelled up into this area. Chief Seattle came up to Fort Langley and traded here. He was very familiar with this area. And then Chief Ktsap was -- led many expeditions up to Vancouver Island as well. So we have a long oral history of presence up here and our travels to trade and socialize with the groups from up in the First Nations B.C. -- what is now the B.C. area.
2834.           So through canoe journey, of course, we've got a lot of -- even intensified those relationships and today we've been even making them stronger through our cooperative effort to let you know how important the decision before -- in front of you is and how impactful it will be on our way of life.
2835.           **MS. TSOSIE:** You mentioned the canoe journey. Can you tell the Board what the canoe means?
2836.           **MR. LEONARD FORSMAN:** Briefly, in 1989 the State of Washington was celebrating their hundredth anniversary and the tribes at that time felt that they really couldn't celebrate without us because we'd been here a lot longer than that, and so we were pressuring the State to invest in cultural programs to help the tribes regain and retain a lot of their cultural ways.
2837.           So as part of that, a grant program was started to give out money to the 29 tribes of Washington and who were able to do cultural programs. And also another effort was made to bring cedar logs to the tribes so they could carve their own canoes and try and restore some of the voyaging canoe tradition. And then, also, to support the race canoe tradition because Emmett Oliver of the Quinault

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- was very involved racing canoes in his day and he felt that there needed to be more investment in that.
2838. We ended up with a small flotilla that started out on the coast, came around the Suquamish. On the last day we pulled from Suquamish to Ballard in north Seattle on about an eight-mile pull we call the Paddle to Seattle; it had a nice ring to it. And we thought, well, this is a good way of celebrating and acknowledging our presence here on the hundredth anniversary of the State of Washington.
2839. That night before we left, Frank Nelson of the Bella Bella Heiltsuk Nation challenged all the tribes to come north and he gave us four years to get ready. He said, "You don't get four years pull here. You get four years to get ready and come up." And our tribe and many other tribes went up there, and after that young people asked that this journey was so important that we do that on an annual basis.
2840. So now it goes on on an annual basis. Our hosts from Lummi are here. They'll be hosting the journey this year, and we get a lot of people from around the Pacific Northwest who participate in that and host each leg of the journey as it moves forward and builds to the final hosting site. And we host it in 2009 on the 20<sup>th</sup> anniversary of the Paddle to Seattle. Create a great resurgence in language, material arts, canoe carving, songs, dances, regalias, all those things have been brought back as a big part of our cultural resurgence from across the Pacific Northwest because of the canoe journey.
2841. **MS. TSOSIE:** Can you describe how the increased marine vessel traffic from this project will have an impact on Suquamish Tribe?
2842. **MR. LEONARD FORSMAN:** Yes. The -- there's a few things that occur.
2843. We've already heard a lot about the conflict with fishing gear, but there's also the impacts it will have on the -- on the orca whale, as you've heard about. And I've also -- I was appointed by Governor Inslee to be on the Southern Resident Killer Whale Task Force. And we're finding that the -- if they have an oil spill, vessel traffic, the noise that was discussed earlier by Swinomish.
2844. Also, the collisions with the pods is more possible. And then also, the promotion of fossil fuel use and combustion will contribute more to climate

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- change, which is also impacting the warm -- warming waters and raising sea levels has also had a huge impact.
2845.           And we are very concerned about its impact in the orcas and also on the rest of the food chain in the -- in the Salish Sea and how everything inter-relates and the orca's just an alarm bell that we've raised for us to consider. And there are other places where we have a lot of other problems with salmon habitat, shellfish habitat, water quality, all those things that impact the food web.
2846.           **MS. TSOSIE:** And can you briefly describe the significance of the orcas?
2847.           **MR. LEONARD FORSMAN:** Yeah, I just thought I'd tell a story.
2848.           I'm wearing this necklace, and it's a replica of an artefact from the Old Man House. And it's a knife handle that was excavated there. And Old Man House was the home of Chief Seattle, I guess, where he was -- his father and Chief Kitsap built. It was one of the largest warehouses in the Puget Sound and in northwest, hosted a lot of large gatherings.
2849.           And then when our reservation was established, Chief Seattle was a strong negotiator, was able to get our reservation to encompass the Old Man House so he could -- our people could continue to live in that one of our many winter villages, but that was our main one.
2850.           And when the reservation was established under the treaty, it was then divided into different parcels about 25 years after the treaty was signed, and that was an attempt to assimilate us so that the U.S. wouldn't have to hold up to the promises they made to us in the treaty. They thought they could assimilate us by dividing us up, putting us on other -- separate parcels of land and then sending all of our children off to boarding schools and where they were forced to attend boarding schools where their language wasn't allowed to be spoken and their culture was lost.
2851.           And as a part of that, the Old Man House was eventually claimed by the U.S. Army to build a fort shortly after this land was divided up. And the fort was never built, but the land was sold off on our behalf to a private developer.
2852.           The State of Washington came in and bought one acre of -- which was a portion of the Old Man House village, and we were -- after that state park was

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- established, we worked really hard to try to get it back because it was the last piece of land that included our ancient village. And Rob Purser, who's in the audience here, led that fight, and we were able to get the park returned to us.
2853.           And when the park returned to us, there had been about four excavations that -- archaeological investigations that had been done there, and some of that material was being held by the state at the Burke Museum at the University of Washington. So once we became the owners, the owners of the land owned the artefacts, so then it was transferred back to us.
2854.           And those artefacts were put onto the Washington State Ferry, brought over to our homeland and was escorted by a pod of southern resident killer whales that followed and escorted the artefacts home. So we have this strong spiritual relationship there.
2855.           They also come in sometimes and eat our fish. They came into Dyes Inlet, which is near Bremerton, Silverdale area, and they camped out there for a few weeks about 20 years ago and feasted on our chum salmon that we have one of the last wild runs of chum salmon.
2856.           So we ended up not having a fishery that year because of the fact that they were in need. So we have a strong, strong relationship with the -- with the orca whale.
2857.           **MS. TSOSIE:** Thank you.
2858.           And I have one last question. You mentioned climate change. Does the Suquamish Tribe have concerns about the cumulative impacts of this project?
2859.           **MR. LEONARD FORSMAN:** Yeah, we are very concerned about this and a number of the other fossil-related impacts that our continued investment and commitment to fossil fuel consumption, and I think to the -- to the ignorance of the other opportunities that are out there.
2860.           And I just came back from the Global Climate Action Summit in San Francisco. It was held in September. And you're finding a lot of the corporate -- international corporate community is moving away from fossil fuels and moving towards more sustainable energy programs, so they really see that there's a -- there's a short life span for fossil fuel extraction and using the wind and solar and all these more sustainable opportunities for generating energy.

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2861.           So I think that we need to get more creative and get away from these short-term investments and start thinking more long term.
2862.           That's all. I'd like to reserve the rest of the time for other speakers.
2863.           **MS. TSOSIE:** Thank you, Chairman Forsman.
2864.           I'd like to next introduce Noel Purser from the Suquamish Tribe.
2865.           Can you introduce yourself to the Board?
2866.           **MS. NOEL PURSER:** (Speaking in Native language)
2867.           My name's Noel Purser. I'm the daughter of Rob and Cindy Purser. I come from the Suquamish Tribe, and I also have ancestry in Newfoundland here in Canada. I like to acknowledge my grandmother whenever I can because a lot of my appreciation for my Indigenous culture comes from her appreciation for it.
2868.           Sorry. I'm pregnant and sick at the same time, so -- but I made it here today.
2869.           So the first part of my introduction, I said you are all my family. Not just the people here at this table with me, but all of you. You are my family. I am here speaking on behalf of my tribe and as one of your relatives, so my hands are up to you. Thanks for being here and listening.
2870.           **MS. TSOSIE:** Thanks.
2871.           Can you talk a little bit about your background? Professionally, what do you do?
2872.           **MS. NOEL PURSER:** I'm an environmental scientist and Indigenous ecologist as well as a Salish ethnobotanist, and a mom. That's most of my professional experience.
2873.           **MS. TSOSIE:** And if I may ask, how does your cultural life interact with the Salish Sea?
2874.           **MS. NOEL PURSER:** So my literal earliest memory is on my dad's

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- fishing boat. I had to go to college to become an environmental scientist, but my first lessons in ecology were with my people throughout the Pacific Northwest.
2875. Ecology didn't get a name in the English language until 1935, but it has been a fundamental concept inherent in indigenous cultures throughout the Pacific Northwest since time immemorial as evidenced through the philosophies of *Slahal*, if you're familiar with that.
2876. *Slahal* is a game, a representative game based on indigenous spirituality and stories of our origins played all throughout the Pacific Northwest, and the stories that come with *Slahal* are what guide our way of life and how we relate to the land and share resources with all the other people, mammals, reptiles, et cetera that live here.
2877. **MS. TSOSIE:** Thank you.
2878. And can you talk about how salmon and killer whales fit into that concept and into your culture?
2879. **MS. NOEL PURSER:** So I was asked today to speak mostly as an Indigenous person more so than a scientist, so I'm going to tell you a little -- just a little snippet of some of our stories about how we relate to salmon, orcas and wolves.
2880. During *Slahal*, this was a battle between humans and animals for the right to exist because we had been living out of balance. We'd been over-harvesting. We'd made one of our relatives go extinct from over-hunting, and the animals were revolting because we were not -- we were getting above ourselves, forgetting ourselves.
2881. And so they petitioned to the Creator to -- to do away with us as we've done away with some of our other relatives. So a game was initiated between us. And I can't go into too much detail about that because some of these stories are sacred and can only be told in certain contexts. But there was one animal, the ancestor of the (speaking in Native language) ancestor, there's the coyote, the wolf, and the killer whale who didn't want to pick a side, who was our closest ally to humans. And so he and his brother took to the sea.
2882. Now, when the game was over and the humans had won and retained the right to exist but we've lost the right to communicate with animals directly,

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- one came back. That's the coyote. One stayed, the orca. And it is from them that we based a lot of our family structure, the way we structure our communities, you know, borrowing a lot of our ceremonies, being passed matrilineally as orcas are matrilineal. Some of our living styles, you know, bilineal as wolves tend to be.
2883.           When the wolves went extinct in the Olympic Peninsula, our elders were concerned that the orcas would be next. And they were right. Our orcas are going extinct. And once they're gone, we will too because those are our closest allies. Of all the animals in the Pacific Northwest, those are the ones throughout our human history, according to our stories that have been our greatest allies.
2884.           **MS. TSOSIE:** Can you describe how the Trans Mountain Pipeline will impact you and the Suquamish Tribe?
2885.           **MS. NOEL PURSER:** So I understand that people need to make a living. We all do. We live in a capitalist continent. We need to have currency to survive. That's our new bartering. So I understand why people who know no other way depend on this. I understand that.
2886.           The problem is, this pipeline risks so much. You know, when my ancestors came from Ireland to Newfoundland, there was a lot of people building outhouses near their gardens. And the Mi'kmaq people warning them, "Don't do that. You'll make yourself sick."
2887.           As my great-great grandfather William who instilled in my grandma an appreciation for Indigenous knowledge -- he was an Indigenous man from Ireland -- he was descended from Celts -- and he was a fisherman and he followed the cod to Newfoundland so he could maintain that lifestyle even after it became more difficult in Ireland. And they didn't build their outhouse near their garden. They listened. And they didn't get sick like a lot of their neighbours did. You don't poison where you get your food. You just don't do that.
2888.           So I understand for some families, 50 families, I think, was it, in British Columbia, this pipeline will provide a way of having an income. But is it worth the potential of a spill, that risk? Is it worth that? Is it really worth that, because that will impact everybody, not just here in British Columbia; it will impact us in Suquamish, it will impact our relatives in Alaska. I mean, the oil spill up in Prince William Harbour Bay was brought up earlier. That had an 11,000-mile reach and it devastated numerous populations in various species.



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2889.           So that's -- even if an oil spill doesn't -- or even if a spill doesn't happen, even if we're lucky, even if the -- what was it, 70-something percent chance that the Simon Fraser University calculated as being the risk? Even if that 70-whatever percent chance of a spill doesn't happen, just the noise pollution alone, to cut those orcas off from being able to communicate from one another, you know, my grandpa talked about that, being unable to speak with his sisters in the boarding schools. They were together but they were alone because they weren't allowed to talk, especially in their language.

2890.           During that game I was telling you about, *Slahal*, the humans were down to their last stick, the chief's stick. We were about to lose. And our friend saw that, the ones I was telling you about, and they gave us a song so we can keep playing because we had forgotten all our songs. We had forgotten how to be.

2891.           So they gave us a song. And because of that, we were able to survive and win. Right now, none of these creatures that we depend on, all of us -- I'm sure everyone in this room has had salmon, I'm sure everyone in this room has had some sort of seafood, I'm sure everyone in this room has had some sort of animal or plant that depends of seafood if not seafood itself. We're not giving them a voice, you know? It's not like New Zealand where they've assigned the rights of personhood to a river. We don't do that here in North America. We're not giving them a voice.

2892.           And so I would like to lend my song to our animal relatives so maybe they can survive.

2893.           **MS. TSOSIE:** Thank you. Do you have concerns about the future generations as a result of this project if it were approved?

2894.           **MS. NOEL PURSER:** Oh gosh, yes. I'm pregnant right now with my youngest child and one of the things that drove me to want to study environmental science instead of pursue my passions in the arts is my grandma's stories of what happened to her family when the cod fishery collapsed in Newfoundland, how that way of life and that culture was lost, and how she hadn't really felt at home until she was in Suquamish watching our fishermen filet the fish and set them out to dry and smoke and just seeing the bustle of the community. She would just come and watch. And that had a huge impact.

2895.           My papa, he too would go out with my dad. He couldn't fish but he'd just watch because that couldn't happen for them any more. The cod fishery

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- collapsed in Canada. Multiple species of cod are now extinct there and it's had profound ecological impact there in Newfoundland.
2896.           So I've never been able to go there and fish. My ancestors' fishing village is gone. It's been abandoned. All we have is stories and regret and a tool that one of my great-grandparents used. That's all. That's all we have left.
2897.           And I worry the same thing is going to happen to my people here in British Columbia, the U.S., Alaska. It's devastating.
2898.           **MS. TSOSIE:** Is there anything else you'd like to add as to why you're opposed to this project?
2899.           **MS. NOEL PURSER:** You know, I'm sure a lot of us in this room have ancestry from Britain. I know I do on some lines. I don't know how many of you know the story of Coroticus. He was one of the last British war chiefs of the Celtic people before the Romans conquered Britannia. He and his people died trying to protect the River Thames and the name for that river actually comes from their language. It was a sacred spot where they used to pray. And he was sentenced to die in Rome, but the speech he made before the senate begging the Romans to treat his home better than they do theirs left such a lasting impact on them that they allowed him to live although he was banished from Britain forever because they were afraid he would rile resistance again.
2900.           He was an ecologist like me before that word was invented. He was an Indigenous person, like me. He was all of our ancestors, those of us who have British ancestry. Now that river is so polluted not even fish can live in it. You know, our ancestors prayed in that.
2901.           I hope this perpetual cycle of destruction ends somewhere. And I hope everyone in this room really thinks about their hand in future generations and what we leave behind for them. That's all.
2902.           **MS. BOYLES:** Thank you.
2903.           I would like to introduce Chairwoman Marie Zackuse from the Tulalip Tribes. If you could introduce yourself, ma'am, and give your story.
2904.           **MS. MARIE ZACKUSE:** My name is Marie Zackuse, and I am the Chairwoman of Tulalip Tribes, and I have served on the tribal council for

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- 27 years, and this is the first year about to end serving as the Chairwoman. And on behalf of my tribe, I want to lift my hands to the Esquimalt and Songhees Nation for welcoming us to this traditional land. And I also want to thank the National Energy Board of Canada for sitting down to listen to our testimony today.
2905. I speak on behalf of not only my ancestors gone before us, but to all my people at home, which is up to 4,800, and I am also honoured to sit here beside my relatives and to other nations that have come and spoke before you today.
2906. We are the Tulalip people. The St'hovs (ph) and other allied Coast Salish Nations who have lived on the shores of the Salish Sea since time immemorial. The Tulalip Tribes are the descendants of the Snohomish, Snoqualmie, the Skokomish and other Bands that signed onto the 1855 Treaty of Point Elliott. Our stories tell us we have lived in the Salish Sea since time began. It is our homeland. We are rooted here, and our ancestral life ways continue to be the foundation of our culture and community as we practise the same teachings, values and follow the same calendar of ceremonies as our ancestors passed down generation after generation.
2907. Our inherent sovereignty as a people was reserved for us by our ancestors. We knew that the only way to protect future generations was to negotiate a treaty with the United States that would allow our culture to continue. Just as our ancestors did, we still fish, hunt, and gather throughout the Sound from Seattle up to the U.S./Canadian Border.
2908. We continue to travel up to Snoqualmie to harvest our cedar and huckleberries in the foothills of the Cascades. We harvest a variety of plants and fibres for ceremony, weaving, and for medical uses like teas, salves, and tinctures, the same ones our ancestors made for their ailments and to keep up good health.
2909. Although our reservation and land base is only 22,000 acres, thanks to the forethought of our ancestors, we continue to have access to our usual and accustomed lands and waterways, and therefore, our culture. Our story is one of resilience. Following decades of federal and state laws that attempted to force assimilation, we are here only because of our teachings and values. They helped us to survive. These teachings and values are shared with all of the people of the Coast Salish Nations. Our treaty rights are sacred to us, and they are vital to the continuation of our lifeways for countless generations to come.

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2910. As Coast Salish people, we do not recognize the imaginary line that divides us from First Nation relatives. The Salish Sea does not recognize this border. Our relatives, the salmon and the killer whales do not recognize this border. Pollution, industrial waste, and climate change do not recognize this border. Impacts to these species are felt throughout the Salish Sea on both sides of the border, and they are cumulative effects.
2911. Our cultural teachings tell us that we have a responsibility to future generations. Today, the Salish Sea cries out to us that it can't take any more of the impacts that human beings continue to inflict. Just this year we were devastated to see Tahlequah, one of our southern resident killer whales, lose her calf and carry it for over 1,000 miles in a morning ritual. As a mother, this was a wrenching site to see. As Tulalip people, we share a sacred cultural bond with the killer whales. They are the symbol of our tribe and it is our responsibility to speak up for them when they are in need.
2912. Today, our treaty rights in the Salish Sea are experiencing a death of a thousand cuts. Human beings continue to put additional pressures on the Salish Seas one proposal at a time. But we have reached a tipping point. This Trans Mountain expansion may just be the project that brings us past the point of no return. Our treaty rights include the right to access all species of fish and shellfish, including all salmon species, halibut, crab, geoduck, and shrimp. Right now, treaty resources are already depleted because of habitat impacts and vessel traffic in the Salish Sea.
2913. Our fishermen describe how traffic from large marine vessels already interferes with treaty fishing. Large vessels displace our fishermen from our usual and accustomed fishing areas because the risk of collision is too great. Large vessels can also damage or destroy nets, crab pots, and other gear resulting in loss of gear and catch, as well as lost fishing opportunities.
2914. All of these impacts are only what exist today, and they will only increase as a result of this pipeline expansion, which will greatly increase the amount of oil shipped through the Salish Sea. More ships will mean greater danger to our tribal fishermen and more risk of damage to gear and catch, and these significant impacts pale in comparison to the devastation that will result from a possible oil spill in the Salish Sea.
2915. This pipeline will greatly increase the amount of fossil fuels in the

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- Salish Sea at a time when the fish, the killer whales, and other species are already struggling. This also increases the likelihood of a major oil spill in the Salish Sea. The consequences of this kind of a spill would be unspeakable. It would affect marine life and shellfish for decades to come. Frankly, it would have the potential to put an end to our Coast Salish lifeways. Without access to healthy fish, clams, and wildlife, our culture and spiritual practice could not continue.
2916.           And we ask you to please consider all of our words. We come with our -- all of our ancestors, like I said in the beginning, and we speak on behalf of our Elders and all of communities here seated here today. Thank you.
2917.           **MS. BOYLES:** Thank you.
2918.           And I'd like to introduce Mr. Ray Fryberg, also from the Tulalip Tribes. Mr. Fryberg.
2919.           **MR. RAY FRYBERG:** Thank you for the time, you know, taking the time to be here with us and to talk about what we have in front of us.
2920.           My name is Raymond Fryberg. I am the Executive Director of Natural and Cultural Resources for the Tulalip Tribes. I have fishing, hunting, forestry, all of the resources departments or things that we utilize, shellfish, are under my department. I also have cultural departments, the language, the museum, carving, different functions.
2921.           But I'm here to share my story, which even I hope that you could understand some of this. It's -- my Indian name is Stetolk. Translated, it means spotted tail like on a Chinook salmon, and that comes from my great grandmother's side. It was my great grandmother's grandfather's cousin where that name come from, five generations. And he was actually a treaty signer.
2922.           And in our tribe here, like Marie said, we have the killer whale as a crest. We have legends that come to us. The legend of the five killer whale brothers comes from Priest Point. It comes from a family there that his English name was Little Sam, but his Indian name was sʔadacut, and he told this story. And we knew the family. Not Little Sam, but he had children; their names were Hagan Sam and Alfred Sam. And I knew them. And they were able to tell stories like their -- like Little Sam and Priest Point Sam were. They carried a lot of the legends of our people.

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2923.           And in my capacity, I'm also -- I represent Tulalip at the United Nations. I go there and participate in WIPO, which is the World Intellectual Property Organization. And I go there to protect and defend traditional knowledge, secret and sacred, cultural expression, free and prior informed consent, and genetic resources.
2924.           And I have served five times as the Chairman of the Indigenous Caucus at the United Nations there.
2925.           And all of the things that we talk about there, there's things that we talk about there at that convention.
2926.           And I've also been to the United Nations twice for the meetings on cultural and biodiversity, which addresses things like global warming and carbon emissions.
2927.           But, you know, in our territory we know the history here. I tell the people back home that we own half of the history and we're very familiar on this side of the border also. We own a portion of the history here also.
2928.           In 1824 the Hudson's Bay Company came through the Puget Sound. And at Steilacoom, down there, south of Seattle, they met up with two Swinomish chiefs. One of them was named Chief Snah-talc. And he guided them up here over by White Rock, over there somewhere. And he brought them up to Nicomekl and the Serpentine River and intersected up into the Fraser River where the first European establishment was made at Fort Langley.
2929.           And our Chief (Native name), who was my great grandmother's grandfather, was probably one of the most prominent figures recorded in the Hudson's Bay Company records, the journal of daily occurrences.
2930.           So, you know, we share a lot, you know. The waters here, the rivers and the waters were our freeways. We were very familiar with the territory. And after things like that started to happen, our territory really started to shrink. We lost contact with a lot of our relatives up here in Canada and weren't able to move back and forward as freely as we used to.
2931.           But there was territories where we used to come up and gather cranberries up in the Fraser River and participate with a fishery up in there, and the sockeye fishing, and different things like that. But we were prominent in the

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establishment of this territory.

2932. In our legend, I met -- I went to a beach where Alfred Sam, who was our descendent of Little Sam, who had the story of the five killer whale brothers. And he said, "I'm going to tell you something." He said, "There was a lady that lived at Priest Point and she was kind of a really greedy lady. And she carved a wooden seal and she towed it out into the water out off of Priest Point. And she told her husband, she said, 'Your brothers are really lazy. They won't do anything to give me any food. They won't even go out there and harpoon a seal for me.'
2933. And so her husband and the four brothers, they went out there in a canoe and they harpooned a wooden seal and it came to life and it towed them out into the straits, out into the straits, out into the fog, and turned back into wood. And so they were surrounded by fog. They didn't know where they were at. And they were lost out there in the fog.
2934. And they were paddling around and they came to a canoe. And there was a little man in there. And he was diving over the canoe and he was going down to the bottom and he was catching halibut and he would put them in his mouth and then swim up and then throw the halibut in the canoe and dive back down to get another halibut.
2935. And so the Swinomish brothers were really hungry, so they went over and took one of his halibut. And when they came up, the little man was angry with them because they took one of their fish. And they told them, 'Well, we're lost out here. We don't know where we're at and we want to get back home.'
2936. So he brought them to his village and they were all little people. And these little people, they didn't trust the Swinomish and they wanted them to go home. But while they were there, they were attacked by Bird People from the north. And these Bird People came flying in and they had bows, and they would pull feathers out of their body and they would shoot the feathers at the little people. And the Swinomish helped drive the bird people off. And the little people were thankful, but they still wanted the Swinomish to leave.
2937. And eventually the weather cleared up and the brothers got in the canoe and they started to travel home, back to Swinomish, Tulalip. And all the oldest brother said, 'This is going to take us a long time. We should jump into the water and turn ourselves into killer whales.'

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2938.           And the other brother said, ‘You can’t do that.’ And the oldest brother dove off of the front of the canoe, and when surfaced he come up and he was a killer whale.
2939.           And so the other four brothers, they followed their brother and they all came up as killer whales.”
2940.           And from that time forward, the Swinomish were known as the brothers of the killer whale, the Killer Whale People.
2941.           And whenever they were on canoes and they would see killer whales going by they would stop their canoes and back them in and let the killer whales pass.
2942.           Backing your canoe in is a sign of respect. When you back your canoe in when you come into somebody’s territory, you back your canoe in, that means you’re coming in in non-aggression. There’s no way that you could attack coming in backwards. And so they always did that.
2943.           I did research for the tribes for the archive for the *Boldt* decision and I later on found that original story by Alfred’s grandfather, Little Sam, and it was word for word the exact way that Alfred had told me.
2944.           And I’m going to lead into my story now, my own killer whale story. And maybe you could turn that poster around?
2945.           In 2003 I lost my brother and he had carved canoes for us, for Tulalip, the first canoes that had ever been carved in decades. Like Mr. Forsman was saying, we were really instrumental in participating in a canoe journey. But we used to have hundreds of canoes in our village, but when the gold rush came through Seattle, all the canoes got bought up and went north.
2946.           And so my brother carved a canoe in 1989 and he carved two others. And my brother passed away in 2003. So I knew that if I didn’t pick up that carving of the canoes that it was going to get lost in my family. So since then I have made three canoes myself. One canoe went to Ahousaht, one canoe went to Nooksak, and one canoe went to Stilaguamish.
2947.           And in 2004 we went to Kalik Bay, right up the coast up here. And let



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- me stop there.
2948.           Also, I was adopted on the island up here by the late Chief Jerry Jack from Gold River from the Mowachaht tribe. His Indian name was Kla-okwa-geela, copper maker. And he adopted me and my wife and gave us Indian names to use up here. And my Indian name up here, my Nuu-chah-nulth name is Klopinatoice. It means prays at the first light that comes over the mountain. And he gave my wife a name Quinquinaoakwilla. What that means is the breath that you see when the killer whale comes to the surface.
2949.           So in 2004 we came to Kaleet Bay, and I came in by myself, and the Canadians were rafted up, and I seen Jerry Jack and another friend of mine from Clayoquot, Kelly John, the chief also, that was adopted as my brother, and I “Hey” -- “Hey, Ray” and they opened up the canoes and I pulled in right beside them. I was telling Kelly I said “Gee, I seen you on TV with a killer whale.”
2950.           And he said “Yeah, yeah.” He said “There was an old man at the village there, a chief, his name is Ambrose Maquinna, Indian name is Tsux’iit., and he was telling me, he said “I’m old and I’m not going to live much longer.” And he said, “I know I’m going to pass away” he said “But when I do, I’m going to come back as a killer whale.” And Ambrose Maquinna he said and a few days later this killer whale showed up. It had to come like 25 miles inland of the Nootka Sound, came right to the village at Friendly Cove.”
2951.           And I said we’re really connected, we’re connected to the killer whale at (Native language). We have legends about that, about being brothers with the killer whale. I said I’d really like to witness that. You know, a long time if there was something powerful like that people would have went a long ways to see.
2952.           And so anyway he was just shaking his head.
2953.           And the next day I was walking to the Big House, the smoke house up at Kaleet Bay, and I heard, “Hey, Ray” and I turned around and Kelly John was coming and he had a man with him and he said “this is Mike.” I said “Mike?” Yeah, Mike Maquinna. That was his dad Tsux’iit, the one that passed away, come back as a killer whale. And I was telling him we’re really connected where I’m from. With the killer whale it’s our crest. We have that on all of our paperwork, up on our buildings, and on our business cards and everything like that. And I said I’d really like to witness that. And he said “When the journey’s done we’ll make arrangements for you to come there.”

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2954.           And so we all went home, and then Mike Maquinna called me up and he said “How about the 27<sup>th</sup>, why don’t you come on up.” So I brought my canoe, brought it across the ferry, and I went up to Gold River. I had 17 of my family members on with me. My mother-in-law, my wife, my sister-in-law, my niece, three of my children, probably about eight grandchildren, the youngest probably about two. And we went up there.
2955.           And that year I just got initiated into my culture in my own belief, my own way. I was initiated with my family up in Lummi.
2956.           So we went up there and we -- they had their canoe ready, and we went out there, and we couldn’t find him, and we came back in, had our canoes pulled all the way out of the water. We were like, well, we tried.
2957.           And then we heard “Hey, he’s out there by this rock.” He likes to hang out by this rock. And so we went out there, and we got out there and Kelly said, “Let’s put our canoes together because we haven’t been around him for a while we don’t know how he’ll react.” And so we put our paddles across and we were holding onto the canoes, and he was going outside of us. He was probably out about 200 yards going like this (making a noise).
2958.           And they started to sing that old man’s paddle song, that old man Ambrose Maquinna. They started to sing his paddle song and that killer whale his fin stopped, and then he was listening just for a second, then he turned, then he start coming like this right underneath the water. He’s coming like a torpedo, and the water was flying over his head. And he went down. And then he came up right between just like this but he was standing up a little bit higher.
2959.           And there’s no way that you could ever get used to a killer whale coming up and breathing that close to you. And he came up like that and he was just like that, and he had his eye right on me, right on me. He never took his eye off of me. And Kelly over there was talking to him in their language, and he was saying “This is Ray Fryberg, he is like our family. All of our families we travelled together in our canoes. He come along way, brought his whole family so he could meet and pay his respect to you. We sing and we dance together up and down, up and down the coast. Came a long way to meet you.”
2960.           And he said, “Tell him who you are.” And so I introduced myself to him. And I was looking at him like that, then he just kind of leaned forward and

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- he went right between our canoes with his dorsal fin. And he got up to the front and my daughter was up there in the red up there on the top front -- on the canoe on this side that's me on the back, my sister-in-law and my wife. But he got up to the front of the canoe and he got underneath it, and he put the front of the canoe on the tip of his nose and lifted my canoe about three feet in the air. And my daughter started to get really scared, she was like "Ah, ah, ah" and I go "We're okay. We're okay. We're okay." And he held the canoe up there for a while and then he put it back down.
2961.           And he came around and he got underneath my canoe upside down. He was belly to belly with my canoe. And his pectoral fin on this side he went from the back to the front like this rubbing my canoe like this. And Kelly was saying, "He's really blessing you guys up. He's really blessing you."
2962.           And he did that -- he came around again, and I was watching him and he was floating to the surface coming up right between us again, but he wasn't like this, he was floating to the surface, and I was leaning over, and when he came to the surface about two inches from the surface I seen this big bubble come out of the blow hole in his head. And when he hit the surface I was leaning over and he breathed right in my face, and I was like how often does that happen to anybody that you could share that breath with a killer whale?
2963.           But he never popped his head out of the water, just the hole was out of the water, and he started going (making a noise). And then I was just listening to him and then he rolled over on his side like this and he was looking at me this way and his mouth was open and he had his tongue out like that, and he was looking at me and he started going (making a noise).
2964.           And I've been working with the whale scientists since 2007, and after -- after that experience, I called up Ken Balcomb. He's one of the world's leading killer whale scientists. He did all of the identification of all of the pods and a lot of different things like that.
2965.           And I was telling him what that killer whale was doing. He said, "Under the water like that when they make that clicking noise, they could see things that they can't even see". They're out there. They could tell what the texture is, whatever it is.
2966.           He said, "They are so sophisticated that if you were sitting in the water in front of him, he could probably measure your emotional content". And he said,

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- "When he leaned over like that and started making that whistling sound", he said, "he was actually talking to you. They have their own dialect, their own sound, but he was -- he was actually talking to you".
2967.           And so it started to get dark and I had my grandbabies on there, two little girls, two little boys. And they said, "We better get your kids in there. It's getting dark there. We'll get them off the water".
2968.           So we took them in and we went to the village, and we went to the village and they fed us. And they sang for us and they danced for us. And we sang for them and we danced for them.
2969.           And the Chief there, you know, he said, "What was that like for you?"
2970.           I said, "I been a hunter and a fisherman all my life and I'm comfortable out in the woods. I'm comfortable out on the water". And I said, "I've never felt such a powerful spiritual anything like that in my life."
2971.           And I said, "I heard the story about that man," and I said, "my brother just passed away also and I thought that, you know, maybe I'd see a little bit of my brother in there when I came up here."
2972.           And when we were leaving trying to go back in, I had a paddle that my brother made me. It's a red paddle with a killer whale on it, skipper paddle. He only made like six or seven paddles that he gave to people, and I had one.
2973.           And I was paddling like this, and about the third stroke that killer whale came and pushed my paddle out of the water. He had it up on his head. And I was like -- I was afraid I was going to poke him or something with the tip of the blade.
2974.           And he was looking at me like that, and then go back and I'd take a couple dips and he'd push my paddle out again. He kept pushing my paddle out.
2975.           And Kelly was saying, "Well, he really likes that paddle or else he don't want you to go." And so it took a long time to kind of process things, you know, what did I just see, what -- what was really happening, you know.
2976.           But they asked me, "What was it like for you?" And I said, "I been a fisherman and a hunter all my life, but I've never had any spiritual experience like

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- that.”
2977.           That was the most spiritual experience I've ever had in my life because I've been around animals and different things like that, but when I was looking at that killer whale and we were looking at each other eye to eye, that was a -- that was a being. There was a spiritual being in there.
2978.           And I said, "I knew that we were examining each other all the time that we were looking at each other, but it felt like he knew something that I didn't." And the Chief was going like that.
2979.           And I said, "You know, we are" -- we come from Tulalip, and the boarding school at Tulalip for all of western Washington, all of the tribes was at Tulalip. And that education system was really tough on our Indian people. Punish speaking language. Songs and dances outlawed. And the treatment in that boarding school was like being a prisoner of war. And you know, that's part of the history. But it really did a lot of damage to our culture. And you know, you hear that long enough and you start to believe it. Children hearing that over and over.
2980.           My grandparents, they never -- they spoke Indian to themselves. I was raised by my grandparents. But they never, ever tried to teach me any language because they probably figured I would get punished for it if I -- if I was participating in the language.
2981.           But I told -- I said, "You know, I just went through my ceremony to be initiated into my culture. I been -- I been under my red road, my journey, for 30 years. Where am I going to -- where am I going to land spiritually?"
2982.           And I just went through that, the sacrifice that I made. And I told the Creator this is where I'm going to be. And you know, the Creator he was like, you know -- we -- in our belief, we recognize the spiritual life in everything that inhabits the forest, the trees, the water. Everything. The inside of the water, the beef and every -- all of the different things. There's a lot of spiritual power in there.
2983.           But most of all, we realize that there's one Creator that made all of this. All of this creation belongs to him. And we need to acknowledge it that way. These are the Creator's gifts. Everything that is made is here from the Creator.

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2984.           And I said, "You know, we have a -- we've had the boarding school which impacted us. And we have these stories about killer whales, about five killer whale brothers." And I said, "They sound -- they sound fantastic, you know, like a great fable or something like that. They sound kind of fantastic. But after having my own experience with a wild killer whale, I know that these things happened with our ancestors before."
2985.           And I said, "That really validates my belief in my ancestors, my own way of life. Before we were connected to everything, we were out in the forest, we were out in the water and then we kind of got separated."
2986.           And I ran into an old lady down in Esqualick (ph). Her name was Alma McLeod. And I was sharing some history with her, and she goes -- I was talking about spirituality. And she said, "A long time ago there used to be really strong (Native word) out in the -- out in the forest and different things, Indian spirit".
2987.           And I had a -- I had a smaller photograph of that one there. And I slid it over there and I go, "It's still there, Grandma. It's still there. We been separated."
2988.           And you know, I was thinking while I was looking at that killer whale, "What is he saying to me?" He's talking to me. What is he saying to me?
2989.           He's saying I don't have a voice. I need someone to stand up and speak for me. You're my brother. You need to get up and say things are not right in the water for our family.
2990.           They know. They know their ancestors. They travel in family pods. They're all sisters, aunties, nieces. Males are on the outside. They know how to navigate these waters. They know what grief is. They know what death is when they push their baby around for 17 days. They know their ancestry. They know all of this.
2991.           They are impacted right now. That one baby, that one baby in that pod, if it was J pod, if that one baby would have survived, that pod would have stayed even. No, they didn't increase the population, but they didn't lose any. But they lost that one, which dropped them down into the negative. They're losing this year.

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2992.           That one baby whale was really important, dropped them into the loss column. The females, they -- the killer whales, they absorb PCBs and contaminants into their fats. And the males can't slough them off. The females could slough that off. They -- the babies come and nurse but it goes into the babies. But the males and the babies are really impacted, and of course, you know, the food and different things that we look at now to try to help them out, because they do need help.
2993.           And you know, thinking about -- we heard here that the killer whales are -- a certain amount of interference, you know, is by -- they're continually just followed by whale watchers and ships coming in and they have blasts underwater and all kinds of different things like that. But when I was saying that echo-location system that they have on there is so sophisticated, it is so sophisticated it's not just a sonar ping where they go bong-bing-bong, there's something in front of them.
2994.           It is more sophisticated than that so that propellers, all of these sound noises and everything like that could inhibit them from being able to find their foods properly or more adequately and that's probably how they navigate a lot of different things like that that really has a lot of impact on them, and an impact on us.
2995.           Like Leonard said, I'm related in Suquamish too. I'm quarter Suquamish. But I have always admired Chief Seattle in his speech, his ecology speech. He said, "Whatever befalls the beast also befalls the man." They're a barometer of what's going on in our waters, you know?
2996.           And I went to the conference on CDB in south Korea. Six thousand (6,000) Indigenous people were there. They were saying, "We're losing our land, we're losing our food, and we're losing our water."
2997.           I went up on the mountains where Buddhism was brought into Korea and we went to a temple and one of the Buddhists up there said, "In the world, we all need to be making --how we address carbon emissions. We all need to be setting the same standards, everybody. We need to be reducing the amount of carbons that we release into the atmosphere," because we might not be able to have a place that's even safe for our grandchildren if we exceed tipping point.
2998.           You know, the tipping point is here for our killer whales. A lot of this

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- is happening. Every day we go to work in a cultural Natural Resources. It's all about global warming, the habitat, the environment. No statistics on it. There's none. There's no baseline statistics on what is happening with our global warming. You think the glaciers are melting and increasing the volume of the oceans. Well, if the temperature of the oceans increases by three degrees, increased temperature creates increased volume. We're growing bigger oceans. That's really a lot that we're faced with to make good decisions because our people say, "We don't inherit this earth from our ancestors, we borrow it from the children." We do have a lot to look at to make good wise decisions.
2999.           You know, when I was at the CBD they were talking about that we all need to start adopting similar standards for doing something with our global warming. I was saying, "You know, the Indigenous philosophy is going to become really, really important," like it was said down here. Only so much you could take. You can't continue to take or continue to pollute this earth. It could only take so much. We need to learn to live with the earth. And that's the Indigenous philosophy.
3000.           And so you know, I encourage you with what you've heard today, you know, because there's a lot. I couldn't say that -- I couldn't say for myself that I could endorse this pipeline and all of the effects that it has with the cultural impacts that it has with our people and the fishing and our lifestyle.
3001.           I eat pretty much everything that is in the ocean, clams, shellfish, everything. I eat sea urchin, sea cucumber, shrimp, sole, flounder. I've eaten whale, seals. Like they said, when the tide is out the table is set. That's where my food comes in.
3002.           And these things affect us physically. We Native Americans have the highest rate of diabetes and heart disease because we've been separated from our Native diet and those foods aren't there any more for us. We're losing ground, losing ground and we're forced to eat foods that are different to our blood type. And it does have effects. It does have effects.
3003.           And I couldn't say that I could endorse the pipeline. And I could say also that speaking for Tsooke, I couldn't endorse it either for what he has to go through also and what my story is that I received from him. But something's wrong. Something's wrong and everybody got their own story from him.
3004.           But I hope I haven't overwhelmed you. But I just had to come here



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- and say, this is my story. This is (speaking in Native language) story. And just glad that I could be here today and thank you for making time available here to hear our concerns. Thank you.
3005.           **MS. TSOSIE:** Thank you, Mr. Fryberg. We'll be returning to you shortly.
3006.           In closing, I would like to offer several thanks. I would like to thank the Esquimalt Nation and the Songhees First Nations for hosting us here today in Victoria. It's a beautiful island.
3007.           And I want to thank the National Energy Board for taking the time to listen to us today. I know it's the end of a long day. You've heard a lot of testimony and we've had a lot of people travel from very far to come and share this with you, to share this with everyone, the story of how the Salish Sea is central to their tribal identity and to their way of life.
3008.           And this isn't the first time that these tribes have been in front of the National Energy Board. There was testimony in 2014 and I strongly urge you to review that testimony and you will hear some of the same stories, some of the same concerns about safety, about being able to fish, about protecting homeland.
3009.           And I want to thank each of the witnesses here today that testified here on behalf of the Swinomish Indian Tribal Community, the Suquamish Tribe, the Lummi Tribe, and the Lummi Nation and Tulalip Tribes. They took time out of their busy schedules and time away from fishing, time away from their communities to travel here and share with you the essential protection of the Salish Sea.
3010.           And I also want to thank the traditional witnesses that are here today. At the beginning of oral testimony when we walked in, they were called as traditional witnesses to watch and to witness what happened here today so they can share that with the future generations. You have a rare opportunity here, and it really is an opportunity. And that is to reconsider this project.
3011.           It was mentioned earlier that this decision, that your decision has a big impact on these tribes. And this reconsideration proceeding allows you the opportunity to actually and fully examine the impacts that this project will have on the Salish Sea, on the marine life, and on the people that depend on it and that have depended on its survival since time immemorial.

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3012. And any impact that happens here, that affects the marine ecosystem, that affects salmon, that contributes to the dire situation that our orcas are in right now, those impacts don't recognize an international border and they will be felt by each one of these witnesses that testified before you today.
3013. We heard that they look to the water for survival and that water, just because it's south of the international border, doesn't mean it's any less impactful and that it's any less necessary to these tribes for their cultural survival.
3014. And those impacts will also be felt by the traditional witnesses and the future generations that they tell.
3015. The tribes are already feeling the effects of reduced salmon runs and the effects that vessel traffic has on their safety on their ability to fish. And approving this project means that these harms grow exponentially. And Coast Salish tribes and First Nations cannot continue to bear the brunt of that development. And the orca and the salmon cannot either.
3016. We've heard testimony today that it is simply hard to even express what loss of the Salish Sea, what loss of salmon, and what loss of orca would even mean.
3017. And we all have our stories, and we all have our regrets. And this project should not be one of them.
3018. **MR. DUNCANSON:** Sorry, Madam Chair, just if I could interject? I feel like we're straining a little bit beyond the purpose of oral traditional evidence. We're not giving legal argument at this stage in the process, although there will be another opportunity for that.
3019. So I feel like I gave a little bit of leeway, but that was crossing a little bit too far for my comfort level.
3020. **THE CHAIRPERSON:** Yes. You can just wrap up. And you will have the chance to do argument that will read, you know, carefully.
3021. **MS. TSOSIE:** Yes, thank you.
3022. We just respectfully ask that you take to heart and that we talk to your

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spirit in your consideration -- in your reconsideration of this project today.

3023. I am going to turn the microphone back to Ray Fryberg, the witness you just heard, who will close us out with a song.
3024. **THE CHAIRPERSON:** I just want to make sure if the Panel has any questions.
3025. **MS. TSOSIE:** I mean, this is the end of what we have. So if there were questions to ask, before the song I think would be good.
3026. **THE CHAIRPERSON:** Mr. Duncanson, any questions?
3027. **MR. DUNCANSON:** I do actually have just one basic clarification question. And first of all, thank you for travelling up here; I know you've come a long way.
3028. One of the things that was mentioned earlier on in the presentation, I just want to make sure I'm clear on it, was around the project related marine shipping impacting nets and equipment, impacting the ability to set nets and creating risks for safety and things like that. And I think Mr. Wilbur, I think, mentioned that part of the concern was that tankers sometimes deviate away from shipping lanes.
3029. I just wanted to make sure that we were clear. So the concern about the shipping associated with this particular project impacting your fishing equipment and nets, is that associated with shipping within the Canadian shipping lanes or is that associated with the risk of deviating outside those lanes?
3030. **MR. JEREMIAH WILBUR:** I guess I can -- all I can speak on is past history. The episodes I've had in the past with shipping in general, that they have been -- they have deviated from the natural shipping lanes or the order of shipping lanes to cut corners.
3031. There are specific spots, specific areas that they do cut across and come out of the shipping lane for a brief moment and back into it.
3032. And so yes, that's all I can speak on. I can't speak on what you're -- the future of shipping, but what my personal -- what I've seen personally in the past.

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3033.           **MR. DUNCANSON:** Okay, so that -- I think that clarifies it for me. And that's the basis of the concern is, in the future, if that was to happen, the cutting of corners, that's where that concern arises?
3034.           **MR. JEREMIAH WILBUR:** You know, they -- yeah. All I can speak for is in my past. You know, in my past or even present today, ships have been known, in my visible eye, that they cut corners out of shipping lanes.
3035.           **MR. DUNCANSON:** I appreciate that. Thank you very much. That's all that I have, Madam Chair.
3036.           **THE CHAIRPERSON:** The Panel -- our Panel has no questions. And you can have your song and then I will close off the meeting.
3037.           **MR. RAY FRYBERG:** All right. Thank you.
3038.           You know, we sang our way in, and we will sing our way out.
3039.           This song is a family song and it comes from ---
3040.           **THE CHAIRPERSON:** Then I will close now, and then you can sing your way out. I think we've got straight now.
3041.           So I would really like to acknowledge the Swinomish Indian Tribal, the Tulalip Tribes, Swinomish Tribes, and Lummi Nation, first for travelling this far, and then for sharing your history, your current challenges, your stories, and your traditional knowledge that you have shared with us today.
3042.           We'll consider all we have heard as we decide on our recommendation in this hearing.
3043.           We will reconvene tomorrow at 12:30 p.m. to hear from the Squamish First Nations.
3044.           Safe travels. Thank you.
- (Closing prayer and song)
- Upon adjourning at 6:03 p.m./L'audience est ajournée à 18h03