



Day 10 - September 21, 2012 - Edmonton

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Order of Appearances

Northern Gateway Pipelines Inc. (NGP) - Panel 1

Mr. John Carruthers [[B90-17 CV](#)]
Mr. Paul Fisher [[B90-22 CV](#)]
Mr. Neil Earnest [[B90-20 CV](#)]
Dr. Robert Mansell [[B91-5 CV](#)]
Mr. Roland Priddle [[B91-12 CV](#)]
Dr. Jack Ruitenbeek [[B91-15 CV](#)]
Mr. Mark Anielski [[B90-7 CV](#)]

Features for enhanced use:

- Links to reference documents provided throughout the notes
- Frequent paragraph numbers to the relevant text or discussion in the transcript

- Examination by Ms. Gaertner (continued) 25698
- Examination by Ms. Hales 26344

Examination by Brenda Gaertner for Coastal First Nations (continued) 21849

93 % chance of a spill in 50 years

As a follow-up question from the previous day relating to spill probabilities, Mr. Gaertner obtained Dr. Ruitenbeek's agreement that there is 93% chance of a tanker spill, terminal spill, or full bore pipeline rupture happening in 50 years operation of the Northern Gateway system. 25749

Environmental impacts in the cost benefit analysis

Referring to Table 5.1, the summary of cost benefit results, Ms. Gaertner confirmed that the "Environmental Impacts" costs come directly from Mr. Anielski's ecosystem goods and services work, and that they are related only to terrestrial impacts.

Ms. Gaertner: "So the only marine numbers we have primarily are those related to spills. We don't have any marine numbers as it relates to increased environmental costs?" Dr. Ruitenbeek: "That's correct. ... To the extent that those may exist, they were not monetized and reflected in these estimates." 25763

Damage to the ecosystem not included in IOPCF claims: Kontovas and Vanum

25767-25841

Ms. Gaertner quoted from the Kontovas report: "Finally, another major issue raised by many researchers is the IOPCF claims probably underestimated the cost of oil spills since they do not include environmental damage costs."

She also quoted from the Vanum article and asked Dr Ruitenbeek to comment.

Ms. Gaertner asked Dr. Ruitenbeek to conform that Kontovas and Vanum both "clearly say that there are limitations with the reliability of using ... multipliers because we have to be very site-specific and location-specific." He agreed. 25815

Ms. Gaertner: "Did you attempt to adjust the damage costs for the characteristics of the marine environment where the Northern Gateway pipeline and the tankers are going to be operating?"

Spill costs in Wright Mansell, and comparison to Michigan spill

25842-25892

Ms. Gaertner observed that the cost of the Michigan spill is \$767 million or \$785 million, and the spill volume was approximately 20,000 barrels. That works out to \$38,000 per barrel. Dr. Ruitenbeek used \$4000 a barrel for large spills. He explained that the \$4000 figure is for cleanup, but they also included \$10,000 for environmental damages, for a total of \$14,000. And, he said, these are expected costs in Canada, not in the US.

Passive use values

25893-26048

Ms. Gaertner and Dr. Ruitenbeek described what is meant by the term "passive use values". These includes uses other than the direct good or service, and include spiritual

values. It differentiates from active uses. Dr. Ruitenbeek said that passive use values are expected to be low compared to “other monetized values.”

Discussion focuses on the question as to whether what people are willing to pay for in terms of avoidance of an oil spill is reflective of the passive use values. Carson is cited

Dr. Ruitenbeek wrote in Wright Mansell: “Given that any project impacts are expected to be temporary because all will be mitigated and in any event, ecosystems will, in due course, recover from any project impact. The passive use values for relatively small sites such as for NGP are expected to be low.” Ms. Gaertner asked what research he had done to conclude that ecosystems would in any event recover from an oil spill. He replied that Enbridge had filed quite a bit within its recovery work. 25964

Concept of substitution

Ms. Gaertner asked Dr. Ruitenbeek: “Are you suggesting ... that there’s a substitute for the Great Bear Initiative or a substitute for Haida Gwaii?” He replied, “I am suggesting that ... individuals have their own perceptions of what substitutes for a given type of resource, whether it’s a rainforest or a coral reef or some specific area. If it has some type of substitute with which they are individually familiar -- and this is not my judgment; this is a perception of an individual, whether that is substituted -- then it is perfectly adequate.” 26048

He continued, “For those people that feel that there is no substitute, they will often attribute a much higher value for passive use. Where there are perceived to be no substitutes and it’s an on/off switch that may actually destroy a culture or an asset or a very rare ecosystem, if there are infinite values applied to that, then that is not within the realm of what cost benefit analysis can handle and with which environmental economics and monetization can handle.” 26056

First Nations’ culture and social cost of conflict in valuation work

26136-26214

Ms. Gaertner quoted from a report by Dr. Ruitenbeek for Stats Canada in which he said, “Integrating First Nations' culture into valuation work, this should be regarded as a priority and an opportunity for B.C.” He agreed that he still believes this to be so.

Ms. Gaertner asked, if it is important to include an assessment of the social cost of conflict, be that political, social or legal conflicts, when completing a benefit cost analysis. Dr. Ruitenbeek replied that conflict issues are really beyond the scope and ability of cost benefit analysis and they cannot be adequately captured [within the cost benefit analysis]. 26146

Ms. Gaertner responded, “Should this Panel approve this project and there be increasing social conflict associated with that in British Columbia, what effect that might have on Enbridge’s reputation internationally or otherwise? You haven’t taken into consideration

the effect that that might have on the B.C. economy [or on] the public interest whatsoever; is that correct?” Dr. Ruitenbeek: “That’s 100 percent correct.” 26156

In objecting to this line of questioning, Mr. Roth said that when [David Cutts of the Veterans of Clayoquot] spoke in Comox, “you shut him down ... and I suggest you shut down this line of questioning now.”¹ 26184

With an admonition to Ms. Gaertner to be mindful that the joint panel review is a lawful process, the Chairperson allowed her to proceed.

BC share of revenues, polls, First Nations who have signed up, partners agreement

Asked what would be the BC government’s share of revenues from the NGP, Mr. Carruthers replied, \$8.6 billion from construction and operation and \$6.6 billion in BC’s share of federal revenues. Asked about the BC government’s position regarding these revenues, Mr. Carruthers said he could not speak for the province. 26215

Ms. Gaertner turned to a 2012 Abacus poll in which the results showed 56% opposed, 8% unsure, 24% supportive, and 13% “neither” with respect to the NGP. The Chairperson asked what relevance this had to the economic issues to be discussed in Edmonton. Ms. Gaertner replied that polls are one of the tools we use to gauge public views and the Panel needs to be aware of those results.

Ms. Gaertner requested as a motion the list of First Nations which have signed up for an equity interest in the project, to provide evidence that the project actually does have the support of 60% of First Nation communities. NGP again said it cannot provide that information because of confidentiality agreements, Mr. Roth opposed the motion, and the Panel denied the motion. 26278

Ms. Gaertner was advised by Mr. Fisher that the agreement with the funding participants expires on December 1, 2022, and that it contains no agreement to complete the regulatory process by any specified date. 26297

Ms. Gaertner’s final question is “Are you prepared to respect if First Nations say no to this project?” Mr. Carruthers’s response includes, “We will respect their views and we will respect the decision of this Panel and the Government of Canada.” 26308

Examination by Carol Hales for the National Energy Board 26344

¹ Mr. Cutts said, “If this project proceeds, there’s going to be such a backlash from the citizenry that I’m very much afraid what I saw at Clayoquot, with 859 arrestees, is going to be a drop in the bucket. With 1,100 and some kilometres, two mountains to put holes through, about 700 rivers and creeks, 60 Native bands, not counting all the environmental groups, the fishing groups, I have a very great fear that we will have a huge amount of turmoil as we had in 1993.

So what I’m saying to the Panel is that not only should you look at the environmental -- possible environmental consequences, b.”

Mr. Cutts’ statement begins at paragraph 25826 in [the transcript for March 30, 2012](#)

Facts summary

Ms. Hales was told by Mr. Fisher that no capital cost estimates have been prepared since the \$6.4 billion reported in Wright Mansell 2012. He also confirmed that NGP have not prepared a financing plan beyond the plan filed in the application.

Asked how Northern Gateway intends to raise the remaining equity if none of the funding participants elect their equity options, Mr. Fisher replied that “Enbridge would be looking to put the appropriate equity into the project.” 26397

Ms. Hales recaps certain information: there are 10 funding participants and each has now put in \$14 million for a total of \$140 million. Sinopec, MEG, Total, Cenovus, Nexen and Suncor have identified themselves. There are still four unknown parties. \$300 million is expected to be spent in pre-development costs, and they are “just shy of” that amount now. NGP expects to recover these expenditures through tolls.

Without naming any companies, Mr. Fisher stated that NGP has three non-funding participants who have signed precedent agreements for shipping capacity, bringing the committed number of export shippers to 13, and capacity to about 100,000 barrels over 500,000 barrels. 26444

Direct ownership vs funding participant equity ownership

26429-26541

Ms. Hales and Mr. Fisher had a dialogue about the differences between these two forms of ownership.

Aboriginal equity ownership

26542-26582

Ms. Hales, Mr. Fisher and Mr. Carruthers had a dialogue about the Aboriginal Equity program.

Ms. Hales asked specifically about restrictions in the agreements, namely “To not oppose the Project in a general nature in the regulatory process and to co-operate with [Northern Gateway] [...] in good faith in connection with the regulatory activities ...” Mr. Carruthers said the expectation was “directionally, you support the project, that you're in alignment with project going forward” but that they would be able to make their views known on “non-business” things. 26567

Common carrier obligations of oil pipelines

26583 - 26716

Ms. Hales questions elicit the thinking and intent with NGP going from the 2005 open season, in which they received expressions of interest totalling 1, 155,000 bpd, to the 525,000 bpd on the oil line and 193,000 bpd on the condensate line today.

She also asked about the funding participant process and explored who and when parties expressed interest. Mr. Fisher said that the meetings with tentative participants were one-on-one, and that “all of this summer, we were starting to get a queue of parties that would like to become a funding participant because, remember, we only sold the 10 units.”

Having identified that there is a continuing, perhaps growing interest in shipping on NGP, and that precedent agreements are already in place for more than 600,000 bpd, Ms. Hales asked if there’s a possibility that NGP might expand the pipeline even before construction.

Mr. Fisher replied, “I don’t think there’s anything that would prevent us from doing that but we’d have to go through a regulatory process and get regulatory approval to do that.” Ms. Hales: “So we’d have to do this all over again?” The transcript reports laughter at this.

Spot shipping

26718

Ms. Hales next line of questioning is about the allocation of reserve capacity for uncommitted shippers – about 25,000 bpd or 5% on the oil pipeline and 17,5000 bpd or 10% on the condensate pipeline.

She asks, “Would it be fair to assume that if there were a higher level of capacity reserved for uncommitted shipments that might result in greater potential benefits to the larger Canadian industry or public interest? And that's because a higher level of unreserved capacity may enhance flexibility and optionality in Canadian oil markets generally through providing access to waterborne markets?” Mr. Earnest replied that he can’t “think of a reason why the benefit estimate would significantly change.” 26726

Noting toll differentials between funding partner shippers, non-funding partner term shippers, and spot shippers, Ms. Hales asked if this could create a disincentive for spot shipments. Mr. Fisher said he doesn’t think so. 26864

Letters of support

Ms. Hales asks about the benefits that accrue to those who sign letters of support. Mr. Fisher says the only benefit is prioritization when it comes to allocation of capacity. Funding participants who have signed a letter get the first tranche, non-funding participants with a letter are second, then funding participants with no letter, and finally non-funding participants with no letter. 26926

Incidental information includes that the cost of preparation and delivery of technical studies will cost about \$150 to \$180 million. 26934

Pro-forma financial statements

Referring to the pro-forma financial statements in JRP IR 2.8(c.1) ([Exhibit B31-8](#)), Wright Mansell, page 86, cost of spills of \$12.43 million per year and the statement just made by Dr. Ruitenbeek that a total spill cost could be in the order of \$200 million, Ms. Hales asked NGP to “show me how these financial statements illustrate that Northern Gateway would be sufficiently capitalized to sustain a loss of [that \$200 million].” The explanation reiterates discussion with Ms. Graff on September 7. It involves cash flow from the pipeline the desire of shippers to keep it operating, the value of the asset, possible increase in tolls, and the need to pay spill obligations before paying dividends. 27070

Ms. Hales asked, “Are there other financial assurance options that may be viable?” Mr. Carruthers replied that thicker steel, increased number of block valves, increased number of in-line inspections, dual leak detections – all of those are a form of assurance. Spending \$500 in engineering and construction was felt to be the better form of insurance. 27093

Ms. Hales said that nevertheless, “a great deal of reliance -- understandably -- has been put on insurance”. Mr. Carruthers replied that what Enbridge did in Kalamazoo was make “a facility ... from its lenders to facilitate the payment of the bills and then recovered subsequently through insurance.” 27099

Ms. Hales will continue with her remaining questions tomorrow.