

**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 9

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

**Vancouver Island Conference Centre
101 Gordon Street
Nanaimo, British Columbia**

**December 4, 2018
Le 4 décembre 2018**

**International Reporting Inc.
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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 Nanaimo, British Columbia, Tuesday, December 4, 2018
Audience tenue à Nanaimo (Colombie-Britannique), mardi, le 4 décembre 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

- Ms. Phoebe Miles, Senior Policy Advisor

The First Nations of the Maa-nulth Treaty Society

- Ms. Kristy Pozniak
- Mr. Mark Stephens
- Chief Councillor Charlie Cootes Sr.

Stz'uminus First Nation

- Ms. Melinda Skeels
- Elder Ray Harris
- Elder. Pearl Harris
- Elder Councillor Harvey Seymour
- Elder George Harris
- Mr. Fred Elliott

Shxw'ōwhámél First Nation - PowerPoint presentation

Mr. Ryley Mennie, Counsel

Mr. Dan Fogarty

Ms. Angie Dick

Ms. Sally Hope

Mr. Albert Jules McHalsie

National Energy Board/Office national de l'énergie

- Ms. Jessica Lim

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The First Nations of the Maa-nulth Treaty Society
Oral Traditional Evidence

--- Upon commencing at 9:17 a.m./L'audience débute à 9h17

4023. **THE CHAIRPERSON:** Before we commence our hearing today, the Board wishes to acknowledge with respect the Hul'q'umin'um'-speaking peoples in whose traditional territory we are gathered, and the Snuneymuxw people whose historical relationships with the land continue to this day. It's with truth and respect we would like to acknowledge all the Indigenous ancestors of this place and reaffirm our relationship with one another.

4024. 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 in here today, both in the hearing room, and listening in to the webcast.

4025. As a matter of housekeeping, I'd like to describe the evacuation procedures in the event of an emergency. Please take note of the nearest emergency exits. If the building's evacuation tone begins sounding and we are asked to leave the building, the muster point for the venue is Terminal Avenue. Please exit in an orderly fashion through the lobby. At the muster point, please ensure your party is accounted for.

4026. 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.

4027. 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.

4028. 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.

4029. 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.

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4030. There will be a later opportunity for argument. Today, the Panel is particularly interested in how maritime shipping impacts your rights and interests, and matters related to the list of issues.
4031. The Board understands that the First Nations of the -- and please correct me -- the Maa-nulth Treaty Society has an oral tradition for sharing knowledge from generation to generation and this information cannot always be adequately shared in writing.
4032. 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.
4033. 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.
4034. With that, I believe we are ready to get underway. Before I call on the First Nation of the Maa-Nulth Treaty Society to present their oral traditional evidence, I'd like to have the representatives of the Proponent introduce themselves.
4035. **MR. DUNCANSON:** Thank you, Madam Chair.
4036. Good morning, everyone. My name is Sander Duncanson I'm with the law firm Osler, Hoskins & Harcourt representing Trans Mountain. With me is Cassie Richards from our office and Georgia Dixon with Trans Mountain. Thank you.
4037. **THE CHAIRPERSON:** Thank you, Mr. Duncanson.
4038. And I'd 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, could you indicate who you are and who you're representing?
4039. **MS. MILES:** Thank you, Madam Chair. Thank you, Panel Members. Good morning. My name is Phoebe Miles. I am a senior advisor with Natural Resources Canada. I'm here as a representative of the Federal Crown to hear the

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witnesses' oral traditional evidence in relation to the reconsideration of the Trans Mountain Expansion Project.

4040. I do not intend to ask any questions today; rather, I am here as a representative of several federal departments and agencies that are registered intervenors, some of whom are here today with me. If necessary, we will ask additional questions through the NEB's information request process.

4041. I would like to note that I am deeply honoured to be present at this hearing. I look forward to the oral traditional evidence shared today in the traditional territory of the Snuneymuxw First Nation. Thank you.

4042. **THE CHAIRPERSON:** Thank you, Ms. Miles.

4043. Any other? I do not see any.

4044. I understand that members of the First Nation of the Maa-Nulth Treaty Society wish to swear in using the eagle feather to indicate that the information it is presenting is accurate and truthfully, to the best of their knowledge and belief.

4045. **CHIEF COUNCILLOR CHARLIE COOTES SR.:** No eagle feather today.

4046. **THE CHAIRPERSON:** So I will get Ms. Comte to affirm you, if that's all right. Yeah. Okay.

CHARLIE COOTES SR.: Affirmed

4047. **THE CHAIRPERSON:** So you have the floor. And I don't know if you're going to start or your lawyer is going to lead you, but we are all ears.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR THE FIRST NATIONS OF THE MAA-NULTH TREATY SOCIETY:

4048. **CHIEF COUNCILLOR CHARLIE COOTES SR.:** Okay, thank you. And first of all, I wanted to acknowledge the traditional lands of the Snuneymuxw and thank then for allowing us to carry out these all-important discussions and presentations here today.

4049. I would like to -- we traditionally and culturally start off any business

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that we have with a prayer, so I would like to do a prayer. This, we remain seated.

--- (Opening prayer)

4050. **CHIEF COUNCILLOR CHARLIE COOTES SR.:** So just before I start, I wanted to acknowledge the people in the room and start off introducing who we are. I mean, on my left, we have Kristy Pozniak and, on my right, Mark Stephens. One is a legal advice and the other is our CAO of Maa-Nulth Treaty Society, in that order.

4051. And this part of the introductions I wanted to make the Panel aware of what I'll be speaking to in the time that we have. So I'll be covering areas of traditional marine use, study reports, family groups, traditional territories, social organizations, traditional marine use, all species, especially salmon, ceremonial aspects, resource management, treaty rights, the Maa-Nulth Treaty, domestic fishing rights, current fishing and concerns, impacts on treaty rights, economic benefits sharing, mitigation measures, proposed orca measures and others, and the health of the sea. And we may have something to send in at a later date.

4052. So I will start off my presentation with the introduction of who I am. I am the Chief Councillor of the Uchucklesaht Tribe Government. As well, I'm the President of the First Nations of Maa-Nulth Treaty Society. And it's Maa-Nulth, so you're fairly close in your pronunciation. Maa-Nulth Treaty Society.

4053. And I wanted to speak to the experience and the corporate knowledge and traditional knowledge that I have in years. I've been with my nation as the elected chief councillor, appointed chief councillor for many years. The last three election cycles I've been in the election process. So I've been -- my first time in office was in 1966/67. So I've been in there ever since, so it's 50 plus years. And that's how long I've been leading my nation. And as a Board of Directors for the Nuuchah-nulth Tribal Council since 1984, since it's inception, as well as on the Board of the Maa-Nulth Treaty Society since it's inception April 1st, 2011. I've sat on various and many, many boards.

4054. So I've also simultaneously, and in parallel with my political life, I've spent 34 years in the forestry industry, as well as in the fishing industry, many, many different sectors of fishery sectors, seining, gill netting, trolling, long lining. And those took place, you know, in the summer time, shut downs in the forest industry, or winter shutdowns for the snow.

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4055. So I have -- I just wanted to let the Panel know that I do have quite a bit of experience, you know, from being a leader for so many years and participating in the industries that we are speaking to today, which includes, you know, shell fish, and includes land mammals, ocean mammals, things like that.
4056. So just a little bit about the Maa-Nulth First Nations are five Nuuchah-nulth First Nations with traditional territories along the west coast of Vancouver Island, from Brooks Peninsula to Port Renfrew. So there are 14 nations in all.
4057. Maybe a little bit of history of how we got to where we are as Maa-Nulth. We started in about 1992 negotiating a modern-day treaty with British Columbia and Canada. And we negotiated for many years as a larger group called the Nuuchah-nulth table of 14 nations, and it varied over time, the size.
4058. We eventually came to an agreement in the principle stage where we had a referendum about whether we're going to move forward and accept what was on the table.
4059. The vote of the nations, 12 at the time, was six nations voted in favour of the agreement in principle, six nations voted in opposition to the agreement in principle. So for a couple years we sat, you know, trying to determine which direction we would move forward in. Eventually four of the five nations that had voted in favour of the agreement in principle approached Canada and British Columbia to see if we could resume negotiations to achieve a treaty. And during the process, we had another nation join us, so we were five Maa-Nulth Nations.
4060. So to cut the story short, we started negotiations again and finalized an agreement on April 1st, 2011. We're between our 7th and 8th year of our treaty. The first five years were very -- we saw a steep learning curve, learning what the treaty was about, learning how to be a government. And in the past couple of years, we've been on the fast track implementation of what the treaty is, what it provides for us, the tools it gives us to generate wealth, to govern ourselves as a distinct people. And that's where we are today.
4061. And one of the things that threaten our livelihood are some of the processes that go on today, such as the Trans Mountain Pipeline, the shipping lanes that go through our territories.

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4062. Under our treaty we have numerous Constitutionally protected treaty rights, including fishing rights. So I wanted to speak to our fishing rights. They stem from our long connection to the water and the marine resources within our traditional territories and they have the potential to be seriously impacted by the Trans Mountain Project.
4063. So I've been asked to present on behalf of all five of the Maa-Nulth Nations.
4064. And a little bit more about our past: we came from a reserve system that was created from the period of 1885 to around 1915 to 1920 when the reserve creation was the process. And unlike nations from the interior of British Columbia, we have very small plots of land for our Indian reserves. Interior nations have up to thousands and thousands, tens of thousands of acres of land each. Maa-Nulth are, you know, are fortunate to have a few hundred or a thousand acres of land as reserve lands. And they're spotty along where our -- what we called our fishing stations.
4065. And I'm including this dialogue to make you aware of the importance of our fishing stations and why we wound up with such small parcels of land to live on.
4066. My nation today is 300 strong. At one time we were 8,000 strong in our -- occupying our main villages and our fishing stations.
4067. In the allocation of our Indian reserves, the commissioners that our ancestors talked to about identified areas questioned why we were having such small plots of land. And we acknowledged that we derived our livelihood from the ocean. And that was part of the rationale for the small land bases, and part of the rationale, I say.
4068. And since those days, we have been regulated out of our fishing industries, our ocean gatherings, through the licensing scheme of Canada. And I think it's important for us to note that what we do have left we have some fishing licences; we have, prior to treaties, Aboriginal rights to resources to what we needed.
4069. Since signing the treaty, we have substituted those Aboriginal rights for treaty rights, which are -- for some species they set allocations for our Nations, which are inadequate for our needs in salmon, shellfish, bottom fish, halibut, sea

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mammals, land mammals. So that's why it's so important for us because all we have left is what we have in our treaty.

4070. We were -- prior to contact we were self-governing nations. Since contact legislation has stripped us of our ability early, early of our ability to govern ourselves through the potlatch. They have stripped us of our ability to fish by alienating the resources from our access. So that's really important.

4071. And our potlatch was not just our way of life, it was our government. It was the way we governed. We had a taxation system. We had what you equate to ministers in our Tyee Haw'iih, who is our chief negotiator -- excuse me, all our members are negotiators. Our chief hereditary or head hereditary chief was called our Tyee Haw'iih and his subordinates were called (Native words). That's the multiple term for Haw'iih. And each nation had a Tyee Haw'iih, a head chief, and other subordinate chiefs that carried other roles.

4072. We had beach keepers. We had singers. We had dancers. We had gatherers. We had hunters. We had fishermen. We had people who looked after conservation of our resources and the people who were in charge of ceremonies. We had people who were in charge of maintaining our traditions.

4073. We don't have a written history; we have an oral history, which is recorded and passed on by way of songs, and dances, and what you call today petroglyphs and things like that, culturally modified trees.

4074. We used all of our resources -- took what we needed and used everything we needed, including the salmon. What we didn't use we put back into the environment, into the streams, into the creeks, back into the ocean, such as the entrails of our salmon and our mammals.

4075. So I wanted to talk about the principle of *hishuk'ish tsawak* because I'll be using this during my presentation. Hishuk'ish tsawak it's called. It's spelled H-I-S-H-U-K-I-S-H-T-S-A-W-A-K. Hishuk'ish tsawak. It means everything is one and everything is connected. And that's one of the main principles and beliefs in our peoples' history. And it means that if you, you know, don't look after each link in our food chain, or each link that connects the mountains to the streams, to the land, to the ocean, to the skies, if you don't look after -- if you let one deteriorate it affects everything else. So that's one of our major principles.

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4076. We also have -- operate on a principle of *lisaak*, which is respect for all things, and that's how we conduct our lives with respect for all of our resources, for our people, for our guests.
4077. And as well the third principle that's major in our history is *uu-a-thluk*, and that means to look after or to take care of, and that's not only limited to resources but it's limited to people and other things.
4078. So I wanted to say that before I got into my actual presentation.
4079. As well, that prior to treaty our food sources after the *Sparrow* court case, which was a fishing case. The term we used to use was food, social and ceremonial purposes for salmon and for any other wildlife or -- you know, it was for food, social, ceremonial purposes, but since we signed a treaty it comes under the heading of domestic now, our domestic needs, whether it's salmon, whether it's any resource that we access and use. So just so you're aware, when we use those words.
4080. So, as I mentioned before, our Nations -- Maa-nulth Nations have the potential to be impacted by the Trans Mountain pipeline.
4081. And that was a little bit about our past.
4082. To help inform you about our modern treaty rights we have access to two lands. Each of our Nations has a quantum of land. Each of our Nations have a constitution which describes who we are; what is our government structure; what are our Nation's individual rights; what are our collective rights; our schedules of governance.
4083. We are structured with a legislature. We are structured with an executive council, and the peoples' assembly, which we gather a number of times each year.
4084. So to raise some outstanding concerns we have regarding the project under the traditional marine use study, some of the information I'm sharing today has been passed on to me by elders in other -- our own elders in Maa-nulth or in Uchucklesaht and in the two Nuu-chah-nulth Nations during our negotiations of our main treaty when we first began negotiating treaty in 1992 to today. And they're based on -- a lot of the stuff -- a lot of the information I'll be presenting is based on my own personal experience.

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4085. And because of the rushed deadlines in this process, each Maa-nulth First Nation was not able to send its own representation here today that's why I'm here. So I've been asked to share information from the areas that I have already outlined.

4086. And the study -- the traditional marine use study for the -- was prepared in 2004 as part of our Treaty negotiations. So these studies included information from several sources including interviews with myself and other Maa-Nulth First Nation representatives. Copies of the studies were filed in the original hearings for the Project.

4087. I want to speak a little bit to family groups. Present day Maa-Nulth Nations are each comprised of various family groups. For example, the Uchucklesaht Tribe government, its government of which I have been elected Chief Councillor for 50 years, and most of that was appointed as Chief Councillor for 50 years, plus. And our government is comprised of actually five family groups, one representative from each of the family groups who do their internal elections for their representative, their family representative.

4088. We have a seat also for those who may not be representatives of one of the five major family groups. We have a Chief Councillor and we have our Hereditary Chiefs who sit on our legislature without a term. They have -- they sit on for as long as they want to be part of the governing of our Nation. So they're the thread that connects when in between the elections and that we have consistency in government and knowledge of what's going on.

4089. Our Hereditary Chiefs are not elected. They are just appointed to our legislature.

4090. We have elections every four years. We also elect one Chief Councillor.

4091. So that's the makeup of our governance. And as I have mentioned before, our populations at one time were great and we lost many people as a result of smallpox and other disease introduced by Mamatni. Mamatni is known as our word for non-Native people, people who came to our country 150 to 200 years ago. Today, we live as modern Treaty First Nations focused on wellness, restoration, and cultural revitalization, and economic prosperity.

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4092. I wanted to talk a little bit about our traditional territories, the area that we have traditionally been connected to since time immemorial. The traditional territories that our people occupied were vast, expanding a great distance into both land and the ocean, as I have to describe earlier as part of our official Indian reserves, why they're so small. And that's our use of the oceans.
4093. We are made up of the Huu-ay-aht First Nation who live around present-day Bamfield on the east side of Barkley Sound. We have other Nations. There's the Ka:'yu:'k't'h'/Chek'tles7et'h' Nation. They reside around Clayoquot Sound and Checlesht Bay in the northern end of our Nuu-chah-Nulth territory in among this Treaty area.
4094. The Toquaht Nation, they live around Toquaht Bay on the west side of the Barkley Sound. We have the Uchucklesaht Tribe. We reside in the area around Henderson Lake and Uchucklesaht Inlet. We have the Ucluelet First Nation which is adjacent to the village of Ucluelet, the municipality around the present-day Ucluelet as well as Effingham Inlet and as well as Noment (ph.) Bay.
4095. And I wanted to mention that each of the areas that we live in were chosen or fought for in battle because of the resource that is there -- maybe a river, maybe a source of other resources, whether it be berries, whether it be timber, whether it be other things along the shoreline, access to shellfish, beaches, and all of those things that we consume as food that are connected to the land, the water, and the shorelines, and the ocean bottoms. So that is the focus of our serious concern as to ensure that there is a plan to protect all of these resources that I'm talking about. The map shows our traditional territories were filed in the original hearing for the Project.
4096. So I will talk about our social organization. I think I've touched on it a little bit. Historically, our communities were organized by rank. There are some differences in spelling between Maa-Nulth Nations, but each local group had a -- as I mentioned, a Tyee Haw'iih or a head chief who was the recognized leader of the tribe and had numerous rights and responsibilities stemming from that role including a share of any resources harvested within the tribe's hahoulthee meaning traditional territory, or how we had rights and responsibilities similar to the Tyee Haw'iih with specific portions of the overall hahoulthee.
4097. And I wanted to describe a little further of what I talked about earlier, about how our government ran, how we used taxation and those kind of things. Our hunters, our fishermen, our gatherers all went out and did their -- what they

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- were mandated to do, their roles, gathering of resources, gathering of food, gathering of berries, gathering of the culture and bringing it to our head chief, the Tyee Haw'iih, our head Hereditary Chief, who, on numerous occasions throughout the year would hold a potlatch, which was our government system, our way of life in each of our Nations.
4098. And in that, when food and resources were gathered, given to the Tyee Hiw'iih, the head chief, he would then distribute it among all of the other chiefs and the (Native word) which we call our people, our common people, and distribute the resources. And the fishing and gathering was our form of taxation to the head chief and he provided the food and services and things to the community. He directed all of that.
4099. So that is very important history for our Nations.
4100. Our speakers, who gave speeches on behalf of the (Native word) at potlatches, they did updates on the state of the resource, you know, and any other thing that they had to report to the people on behalf of the head chief.
4101. War chiefs led war expeditions. Keepers who were responsible for monitoring a portion of the harvest rights or (Native word). There was the chief -- head chiefs had their own enforcement. They were called wolves who took care of business of the day, any serious areas. And it's something that has been kept tight to the chest of the Nations, of the leaders. Others would carry out various tasks in the community including fishing, hunting, canoe making, weaving, berry picking, as I mentioned earlier.
4102. The time of the potlatch was a time of a great feast. The Hiw'iih would provide gifts to his guests and to his people. The Hiw'iih's position within the community was recognized, passed on. The Hereditary position was passed on from father to son or father to the next leader that was chosen by the Tyee Hiw'iih. They could choose who was the most worthy to proceed him, or to follow him, succeed him.
4103. Traditional marine use. Our marine resources were and continue to be an integral part of our culture and way of life. And the ocean was as much our home as our land. And all species, especially salmon, was part of our marine use. We harvested all species of marine resources throughout our traditional territories, including salmon, herring, halibut, shell fish, sea mammals such as seals, sea otters, and whales.

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4104. And I did mention that we had conservation efforts that we used. One of -- I'll explain one of them that we used up until most recent history is that Coho salmon, there's males and there's females. And part of the conservation of that, when the runs were low, our people would go up the rivers to catch only the males. And they'd do that by having a stick, a pole or a stick, and they'd pound it on a rock in the creek. And the males, being curious by nature, because they're the protective ones, would come and investigate what that was, what that pounding on the creek was. And then we'd harvest those males.
4105. The females would then proceed up the stream because they aren't as curious as the males.
4106. So that was a form of our conservation. And that's one of so many, many, many examples of our conservation, as well as of the well-known fish traps that we built on the beaches with rocks, that as the tide declined, the fish that were in there were trapped in there. And our nations went and picked what we needed and put the rest back out into the bay. And that will support our conservation, not just taking everything and killing everything that we had, such as the present-day commercial fisheries do.
4107. I just wanted to mention that, you know, the best fishery for conservation is trolling because it pulls individual fish out of the water. The next sector that isn't as good for conservation is the net fisheries, the gill net fisheries, because they catch fish in the gill net and they're fairly effective; they catch a lot of fish. The most destructive or terminal is the seine fishery because it catches and takes 100 percent of what's inside of its nets.
4108. So that's the difference between the way our Indigenous people conducted conservation in a way -- the way our other fisheries -- commercial fisheries have a lot less regard for conservation or resources.
4109. So I just wanted to mention that we utilize sea mammals such as I mentioned earlier, seals, sea otters, and even whales. At this point we have kind of a moratorium on harvesting whales in our treaty. I guess 25 years that were set aside to study whales as opposed to harvest any.
4110. Some of these resources were harvested near the shore, but others, such as halibut, required us to travel a great distance from the shore.

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4111. While all marine resources were important, salmon were key to our culture and our way of life. We harvested many species of salmon and (inaudible) in the season around -- depending on where and when the salmon were returning.
4112. We would dry salmon to carry us through the rainy and stormy winters. Life was certainly not easy at that time, but the abundance of salmon enabled us to be free from the daily search for food so that we could spend time on ceremonies and had a surplus to trade with other nations and Europeans when they arrived.
4113. Under the topic of ceremonial, marine resources were central to our potlaches and other traditional ceremonies. Great effort went into preparing the great feast for those ceremonies. A variety of marine resources would be served or gifted at ceremonies, which would take several months to prepare.
4114. We honoured and treated our marine resources with respect so that they would allow us to continue harvesting them.
4115. Resource management. We are also responsible for managing marine resources. To ensure marine resources remained abundant for future generations, they would make decisions such as when to open or close a fishing site, the timing of the tribe's seasonal moves, where to locate fish traps or weirs.
4116. It's important to know that our tribes, our nations, moved, you know, depending on the season and where the fish were to different fishing stations throughout their traditional territory, fishing spots that they moved to, depending on what they were after.
4117. For instance, our nation moved up to the head of Henderson Lake. And all of our nations are similarly moved to areas so they could get to the best harvest fish at the time they were best suited for smoking. And for us, as (Native name) said, Chum were best once they entered the river and went to the head of the lake, where they let go and burnt all of their fatty parts so you could smoke them. You cut them into strips, smoke them, and they dry and keep longer if there's less oil in the meat.
4118. So that's -- those are the things that we do and we moved out to different areas, out maybe into the entrances to the ocean. Our fishing sites near the ocean, where we catch our fresh product for salting, for smoking, as well as

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for different types of smoking that we did.

4119. Moving on to treaty rights. The Maa-Nulth Treaty. Already mentioned, in 2011 we entered into the modern treaty with British Columbia and Canada. One of our goals to entering the treaty was to preserve our culture and our way of life, to ensure we have a continued role in governance, resource management, and the economy within our traditional territories.
4120. And to help achieve those goals, we have a number of Constitutionally protected rights under the treaty. We outlined those rights in detail in the original hearing for the Project, so I'll not repeat them here.
4121. So our Constitutionally protected rights, the Constitution that I'm talking about is the Canadian Constitution, as opposed to our own Constitutions.
4122. And so in common about our Constitutions, we -- it took us a number of years to develop our Constitutions that I spoke about earlier. And it was -- as was our treaty and the provisions in our treaty, it took a comprehensive community consultation process that we had to go through to get our First Nation Constitution and our treaty and its chapters accepted by our community. It took us a number of years because we went into our communities with a legal advisor, with our head administrator, and with a political person as our panel to go clause-by-clause through our Treaty in our community to make them aware of exactly what was in Treaty so they knew what they were voting for upon ratification.
4123. And that's how we achieved such a high ratification rate in our treaties and constitutions. Our Nation in particular was well over 90 percent of ratification in favour of the Treaty and separate ratification of the Constitution, 98 percent. Other Nations range from 70 to 90 of the Maa-Nulth Nations, so it was a very welcome thing in our Nation, what we were doing in negotiating the Treaty.
4124. Our marine resources were a critical component of our Treaty negotiations. Under the Treaty, we have rights to harvest marine resources for food, social, ceremonial, or we call them "domestic purposes" at this point, in two domestic fishing areas. We have in Treaty Maa-Nulth domestic fishing areas, one in Barkley Sound out into the ocean a long ways, one near -- one in Clayoquot Sound and it goes out to the ocean. Those are our Maa-Nulth domestic fishing areas.
4125. We also have a "me too" clause in Treaty which allows us to convert

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our commercial fishing rights into Treaty rights due to the Court's findings in the *Ahousaht* case.

4126. During our Treaty negotiations as Maa-Nulth or even as the Nuu-chah-nulth negotiations, the federal government and the provincial government put a condition in our negotiations that we could not negotiate and litigate at the same time. So it forced us out of the Nuu-chah-nulth litigation which wound up with five nations in the *Tla-o-qui-aht* case -- they call it the *Ahousaht* case. So that case was five nations, non-Treaty.

4127. But in order to -- because we were part of that litigation to begin with, we had to drop out if we had -- if we wanted to continue negotiating our Treaty. So one by one, each of our Maa-Nulth Nations were forced to drop out of the litigation case. But we did insist on having a trigger in the Treaty, Treaty language that is called the "me too" clause. And if I may, could you speak to -- or do you know much about it?

4128. **THE CHAIRPERSON:** As long as you just explain it, not make an argument, we're fine.

4129. **CHIEF COUNCILLOR CHARLIE COOTES SR.:** Just explain what it is.

4130. **MS. POZNIAK:** This is Kristy Pozniak, legal counsel. So the "me too" clause is a provision in the Treaty which provides that there are various commercial fishing licences under a side agreement with Canada and British Columbia and the Treaty provides that those commercial fishing licences can be -- and any other fishing, commercial fishing licences that are brought under the umbrella of the *Harvest Agreement*, it enables those to be converted into constitutionally-protected Treaty rights upon trigger by the Maa-Nulth First Nations, depending, of course, on the outcome of the *Ahousaht* case which concluded that the Nations have commercial fishing rights.

4131. **CHIEF COUNCILLOR CHARLIE COOTES SR.:** So thank you for allowing me to defer.

4132. Under our current fishing, due to various factors, including government regulation, we are not able to participate in fishing today to the extent that we did in the past. And it was -- falls under what I discussed earlier about what we feel we were regulated out of our fishery and out of our -- what

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constituted our land settlement package, which included most of the ocean.

4133. But we were regulated out of it by having to purchase expensive fishing licences that we could not afford or didn't have the -- we didn't fit into that scheme very well, commercial fishing licence; a few of us had licences. But we did continue to participate in all three sectors of today's fisheries, the domestic fishery, the food social ceremonial, the tourism fishery, and the commercial fishery. A few of our members are participating in that.

4134. For those that are unable to fish themselves, our government's contract fishers to catch our allocation and distribute to our people. This includes fishing for salmon and other species within the Barkley Sound domestic fishing area, which tankers from the Project will pass through. So some of our concerns, our people have raised a number of concerns regarding this Project, many of which we shared in the original hearing of the Project.

4135. So the impact on our Treaty rights, we are concerned about impacts Project tankers may have on our Treaty fishing rights, impacts a spill could have on our Treaty rights, our economic interests, and the environment within our traditional territories.

4136. So I mean, there is much more to talk about but I think I've already mentioned what would be impacted, you know, on the ocean bottoms, on the ocean shores, on the ocean surface, you know, on our shellfish and our -- so anyway, I wanted to go into economic benefits and sharing.

4137. We also have a right to share in economic benefits from the Project and I have highlighted several times the significance of fish to the cultural and economy of the Maa-Nulth First Nations. Given this Project's potential to impact that resource, we should share in the several billions of dollars this Project will generate. We sought economic benefit sharing from both Kinder Morgan and Canada as the new owner of the Project. Both have refused to engage in meaningful negotiations with us towards a mutual benefits agreement and mitigation measures. In the original hearing for the Project, we proposed a number of mitigation measures to help minimize impacts to our Treaty rights and the environment in the event of a spill. We continue to seek those mitigation measures.

4138. So I wanted to speak to the proposed orca measures. We understand that Canada -- and this is connected and I'll make the connection. We understand

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that Canada is also proposing measures regarding the southern resident killer whale including designating a significant portion of our domestic fishing area as critical habitat, an emergency listing of the *Species at Risk Act*, for the Thompson and Chilcotin steelheads. These measures, if implemented, have the potential to significantly impact our Treaty rights.

4139. The Maa-Nulth First Nations are not against protecting killer whales. Upon the mental principle of our culture is an acknowledgement that all life forms are interconnected. However, Canada is rushing both of these measures without adequate consultation with us as modern risk and without providing us science to back the measures.
4140. Canada seems to be creating the impression that this is an emergency so that it can -- so they can say in this process. "Look we are doing something to help the killer whales." We need more time and more information for meaningful consultations. Canada owes us the duty to provide that.
4141. And I wanted to further comment on the *Species at Risk Act* for Thompson and Chilcotin and the measures that they're proposing to put in place, as well as for the killer whales.
4142. We as Maa-nulth attended a meeting on particularly the Thompson River steelhead and its impacts that it would have on Maa-nulth and the closures that they were proposing for next year. We looked at those closures, those measures that are taken just to protect the steelhead. The Thompson River steelhead are up Fraser River. And those measures we layered them on top of our -- this year's fishing season. And those measures alone if they were applied this year would have prevented us from harvesting 91 percent of our chinook harvests that are allocated to us in treaty. So this is what we have to look forward to next year when they're actually implemented, so many closures. So those were our findings with our technicians in our Maa-nulth party.
4143. So I wanted to talk about the health of the sea. The last concern I will raise is one regarding the general health of the sea in trying to ensure the long-term health of the sea. This is currently being done poorly, in my view, and without sufficient input from the Maa-nulth First Nations. Mega project after mega project are approved. Smaller projects slip through unnoticed, all without a comprehensive plan to ensure we still have an ocean to enjoy and marine resources to harvest in future generations.

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4144. We have treaty rights to participate in the management of fisheries within our traditional territories. Planning should also take place at a broader level and we should be at the table participating in that broader level planning.
4145. And just some activities and actions in fisheries in the past that I wanted to use as an example. One in particular is all of the plastics, you know, and damaging waste materials that are going to our oceans need to be addressed. In the past there have been -- I don't know if you want to call it a world fishery, or a foreign fishery, European fishery, Japanese fishery, Taiwanese fishery. It's called the ocean drift net fishery where they set nets out to catch targeted species that they're allowed to catch. These nets span a length of 200 miles. That's a long, long net. And they caught a lot of other species not on the list to be targeted for that particular fishery, such as chinook, such as (inaudible), such as whales of different sorts. And a lot of those nets get abandoned. And they continue to fish and continue to kill.
4146. So, I mean, those are some of the things that I think may have -- may be beginning to be addressed, but it all has to do with the health of the sea, and all of these affect the returns of our resources, migratory species that go out to the ocean and come back and return to our territories.
4147. And I wanted to speak to the science of the orca, the southern resident killer whale, the science that DFO is putting out there which, you know, if the measures are implemented that are proposed are going to have the same serious impacts on closures around our domestic fishing areas and affect our ability to harvest salmon, bottom fish, shellfish, everything that we access.
4148. And it has to do with the science of over the period of 43 years that they've been observing killer whales in our domestic fishing area or in our Barkley Sound area there has not been very many sightings. Very, very few sightings reported in our area. Yet they say it's going to have a huge impact on killer whales. We don't see it that way. Their science of over 43 years makes our case that there aren't killer whales in abundance in our territories.
4149. So the other thing I wanted to talk about is the measures that are going to affect us seriously in the steelhead -- Thompson River steelhead -- is that three percent of the very little small steelhead population in Thompson River when they spawn they return back to the ocean, go on for another few years, and then come back. They have plans as well to put protective measures on those probably less than 50 fish that go out and come back.

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4150. So how that's going to impact us or if it's going to impact us I don't know at this point but I thought it would be very important for me to raise that.

4151. So that concludes my presentation. And I wanted to acknowledge and thank you for listening. So thank you.

4152. **THE CHAIRPERSON:** Do you have any questions?

4153. **MR. DUNCANSON:** So, Madam Chair, I think we have a few minutes left in the schedule. If I could take just a few minutes to confer.

4154. **THE CHAIRPERSON:** Yeah, and we want those few minutes as well, so that's good. We'll just kind of stay around and you'll signal when you're ready.

--- (A short pause/Courte pause)

4155. **THE CHAIRPERSON:** Mr. Duncanson?

4156. **MR. DUNCANSON:** Thank you.

4157. So we do not have any questions. But thank you very much, Chief, for sharing all of your knowledge and perspectives with us.

4158. **THE CHAIRPERSON:** Member Lytle?

4159. **MEMBER LYTLE:** Well, first, let me thank you very, very much. That was very interesting information that you've given us.

4160. And I'm going to try and sort of high-grade the questions that popped into my mind as I was listening to you. I've got a lot of questions, but most of it is just curiosity, so I'll save my curiosity for a coffee sometime; how's that?

4161. You talked about that you've been regulated out of your fishing rights. And I wanted to understand that a little bit more. Was it just the need to purchase commercial fishing licenses, or was there -- are there other aspects of that that caused you to sort of lose out, as it were, on your rights?

4162. **CHIEF COUNCILLOR CHARLIE COOTES SR.:** Well there

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- were other aspects such as locations of openings and closures of resource harvesting, whether it was in the salmon fishery, in the bottom fishery, or in the shellfish fisheries. And sometimes areas would open that are a longways from where we traditionally fished. So those kinds of things made it a lot more difficult for us to access the areas that were open.
4163. As well as the location of some fisheries, we traditionally were a small fleet fishery, which we may call at this point a mosquito fleet, and not the big massive boats that go out for 10, 12, 30 days at a time, or those boats that manufacture on board, or freeze and have the ability to be out for long periods of time. As the resource declined, you needed to be out there longer. And we're basically day fisherman and things like that.
4164. So there are lots of connections about how we were regulated or unable to access the fisheries as we traditionally had in order to operate our Nation's governments and carry out our economic activities to make a living from, what do you call it, when the first Europeans came over to present day. We were more -- had better access the further back you go.
4165. **MEMBER LYTLE:** Thank you. And my understanding then is that you're sort of takers of what a government agency, I guess, determines as the -- how the fish will be run for a particular year? You don't participate in how that's done; it's just arranged and you're told?
4166. **CHIEF COUNCILLOR CHARLIE COOTES SR.:** Well, there's two areas that -- well, three actually. There's a recreational fishery we can access, you know, three salmon a day if we go out and buy, you know, a \$15 or \$30 recreational license or whatever it costs these days. I mean, that takes a lot of effort and time, you know, for someone to do that.
4167. Or there's the commercial fisheries, which our people can't afford to purchase; they're really expensive these days. I think I mentioned earlier that a prawn license, or a geoduck license are in the millions of dollars now per license, or a halibut license for 60,000 -- access for 60,000 prawn quota a year is, I think is over a million dollars now. And things like that.
4168. So that's the commercial aspect of it to generate a living, to generate, you know, for a commercial.
4169. But for our domestic purposes, that we eat for food, social, ceremonial

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- purposes, we have negotiated allocations of certain species in treaty. Some are, you know, inadequate for use, but it was a give and take negotiation, you know. At the end of the day we didn't get all we wanted, but we look at whether we got the tools in our treaty to generate wealth in other areas.
4170. So our allocations, some are allocated, some are not -- are unallocated. So we still have the ability to go out and access the unallocated species, but, you know, they are limited by DFO regulations.
4171. Our allocated species is all we can take for that year. If we don't achieve it, then we don't get it. if we go -- I don't know if we go -- if shellfish, I know salmon are subject to overages and underages that may be considered the following year. So those kinds of things are -- that's the difference in the species.
4172. And in our treaty, we have a committee that's called the Joint Fisheries Committee. It's a group of people, a representative from Maa-Nulth and the DFO to make joint recommendations to the Department of Fisheries, or to wherever those recommendations need to go.
4173. And the main reason I wanted to talk about it, is because we do talk about all our resources and access issues, and those kinds of things.
4174. But the make up of that committee and the mandate is to talk about issues of concern, or issues to address that both parties can address -- can agree to as a solution and move it up the ladder to a decision maker.
4175. But the way our committee has been going since its inception is that we come to an agreement jointly on something, but DFO to this day has not jointly recommended upward to say, "This is a recommendation from Maa-Nulth," and they pass it up the ladder.
4176. So the question that numerous times in that meeting, what is the purpose of this committee? And there was a hint that they can't go against their policies, or they can't be -- the DFO members, you know, they can't recommend against what their existing policy is. So it leads me to the question of, well, then what is the purpose of this committee? It's a joint fisheries committee and we make joint recommendations when we agree to do that and it still hasn't happened.
4177. I know there's fear of repercussion from the higher ranks, their

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positions. So that is something that needs to be addressed because it affects those decisions that wreck our access to the very resources that we're talking about here that could be affected by the pipeline and the ships leaving.

4178. So I mean, take it as you may.

4179. **MEMBER LYTLE:** Thank you. I think I'll just ask one more question. And that is about the impact of the proposed -- I guess it's a proposed steelhead cutback. I thought I heard you say that you've done some studies on the impact that what they're proposing up river will have on your fishery?

4180. And also, you talked about through 43 years of experience, when you have seen very few southern resident killer whales in the neighbourhood. Is that also in a study? And finally, if they are in studies or could be put in studies, would you put that on the record?

4181. **CHIEF COUNCILLOR CHARLIE COOTES SR.:** Yeah, the 43 years of records was documentation that we got from DFO in regards to the killer whales. And there was very few sightings in our traditional territories, so it really leads to the question of then why are we being labeled as critical -- is it critical habitat?

4182. **MS. POZNIAK:** Critical habitat, yeah.

4183. **CHIEF COUNCILLOR CHARLIE COOTES SR.:** Yeah, designation when there's not very many killer whales there, never has been over the last 43 years, and that's their own information.

4184. The other one was only our calculation about -- from what we gleaned from the actions that are going to come out of the steelhead, the Tsilhqot'in steelhead, are the actions that are being proposed there. There are some closure is already being proposed. From the meeting that we had -- and we just -- well, really, it goes onto our -- this year's (inaudible) to see what impact it would have had if they had implemented it this year. So that's what that was.

4185. Well, what I could do is get the actual -- talk to our people, our technical people, maybe get something to you, you know, accurate, something that's accurate.

4186. **MEMBER LYTLE:** Yes. We usually hear about impacts in the

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Salish Sea and how they're felt upriver. It would be very useful, I think, if we could get kind of the reverse side of that story as well. So if you wouldn't mind, that would be very useful to us.

4187. **MS. POZNIAK:** Yes. So we'll consult with the technical advisor and see what information we can provide. Thank you.

4188. **MEMBER LYTLE:** That would be good. Thank you so much.

4189. **MR. DUNCANSON:** So Madam Chair, just a process issue. I take it that would become an undertaking on the record. Maybe we could just discuss procedurally how that will work from a timing perspective, just to make sure that Trans Mountain has the opportunity to respond and everything else.

4190. **THE CHAIRPERSON:** We'll simplify the procedure. We will ask an IR. Do you -- will ask for an Information Request to your First Nation. So it's -- your lawyer must be aware, sir. In this process we can ask IRs of parties. So he was wondering whether or not I put an undertaking. So we'll ask you a question and you will be able to respond in writing to the best of your knowledge. So I see the lawyer is nodding.

4191. **MR. DUNCANSON:** That's perfectly fine for us. Thank you.

4192. **CHIEF COUNCILLOR CHARLIE COOTES SR.:** We'll also try and do it in a timely manner, as soon as we can.

4193. **THE CHAIRPERSON:** It's going to be quite explicit. We'll make it easy for you. You will get a formal question and you will have time to respond and it's -- and the lawyers can look up at the Hearing Order because all the -- it's a conference schedule so all the steps have been accounted for.

4194. Thank you very much. I echo my Panel very -- we are very thankful for your evidence today. It's interesting.

4195. One of the things that everything is that I want to say hell is paved with good intention. It's how sometimes decision have unintended consequences and it's indeed a very complex world. We've been hearing from many different Nations and it's -- and the fisheries and the impact and it's very complex. So thank you for your testimony.

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4196. So we thank you again and for your traditional knowledge, also sharing your success with negotiating Treaties. And we'll consider all that we have heard. We will decide on our recommendation in this hearing.
4197. We will convene this afternoon at 12:30 to hear from the Stz'uminus First Nation.
4198. We thank you very much.
- Upon recessing at 10:38 a.m./L'audience est suspendue à 10:38
--- Upon resuming at 12:44 p.m./L'audience est reprise à 12h44
4199. **THE CHAIRPERSON:** Good afternoon. Just a point of verification. I understand there is a ceremony so we can do either the ceremony now or I can just do the introduction first, at your preference.
- (Opening prayer and song)
4200. **THE CHAIRPERSON:** Thank you.
4201. Before we commence our hearing today, the Board wishes to acknowledge with respect the Hul'q'umin'um'-speaking peoples in whose traditional territories we are gathered, and the Snuneymuxw people whose historical relationships with the land continue to this day. It's with truth and respect we would like to acknowledge all the Indigenous ancestors of this place and reaffirm our relationship with one another.
4202. 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.
4203. As a matter of housekeeping, I'd like to describe the evacuation procedures in the event of an emergency. Please take a note of the nearest emergency exits. If the building's evacuation tone begins sounding and we are asked to leave the building, the muster point for the venue is Terminal Avenue. Please exit in an orderly fashion through the lobby. At the muster point, please

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ensure your party is accounted for.

4204. 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.
4205. With respect to our schedule today for hearing traditional evidence, we have scheduled time to hear from three Indigenous groups. We will normally plan to take breaks if it is required.
4206. 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.
4207. 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.
4208. There will be an opportunity for argument in a later hearing step. Today, the Panel is particularly interested in hearing about impacts, how Project-related marine shipping on your community's rights and interests, as well as topics in the list of issues.
4209. The Board understands that the Stz'uminus First Nation has an oral tradition for sharing knowledge from generation to generation and this information cannot always be adequately shared in writing.
4210. Sharing your traditional knowledge and stories about the use of your traditional territory is of value to us. We appreciate that you have chosen to be here today.
4211. Following oral traditional evidence, Trans Mountain, other intervenors, or the Board may have questions for the witnesses. If so, the witnesses can choose whether they will answer questions orally, or at a later date in writing, or a combination of both.
4212. With that, I believe that we are ready to get underway. Before I call onto the Stz'uminus First Nation to present their oral traditional evidence, I'd like to have the representatives of the Proponent Trans Mountain to identify

themselves.

4213. **MR. DUNCANSON:** Thank you, Madam Chair.

4214. Good afternoon. My name is Sander Duncanson. I'm with the law firm Osler, Hoskins & Harcourt representing Trans Mountain. With me is Cassie Richards who is also from our office and Georgia Dixon with Trans Mountain. Thank you.

4215. **THE CHAIRPERSON:** Thank you.

4216. And I would also ask if there are any other intervenors in the room who would like to introduce themselves or if there is any preliminary matters they would like to raise. And for the record, please indicate who you are and who you are representing. Thank you.

4217. **MS. MILES:** Thank you, Madam Chair. Thank you, Panel Members. My name is Phoebe Miles and I am a senior 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. I do not intend to ask any questions today; rather, I am here as a representative of several federal departments and agencies that are registered intervenors, and some of them are here with me today.

4218. If necessary, we will ask additional questions through the NEB's information request process.

4219. I would like to note that I am deeply honoured to be present at this hearing in the traditional territory of the Snuneymuxw First Nation. Thank you.

4220. **THE CHAIRPERSON:** Thank you, Ms. Miles.

4221. Any other intervenors? I see non.

4222. We thank you for the prayer, and we'll take the prayer as your affirmation of what you're going to present is accurate and truthful to the best of your knowledge and belief. That's your swearing in for us.

RAY HARRIS: Affirmed

PEARL HARRIS: Affirmed

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HARVEY SEYMOUR: Affirmed

GEORGE HARRIS: Affirmed

FRED ELLIOTT: Affirmed

4223. **THE CHAIRPERSON:** I just want to verify maybe with the counsel, I understand that there is -- perhaps somebody's participating remotely?

4224. **MS. SKEELS:** Yes, that's correct. Ray Harris on the line now, I believe. He is in Ottawa. He's attending AFN event there and so had to call in today.

4225. **THE CHAIRPERSON:** So either Mr. Ray will chime in or you will prompt him to come to the line?

4226. **ELDER RAY HARRIS:** I can hear you.

4227. **MS. SKEELS:** It sounds like he's chimed in.

4228. **THE CHAIRPERSON:** Okay. So welcome, and we'll -- please let us know if something -- if you want to chime in or introduce a subject. We'll be watching for you.

4229. So we are ready to proceed, and we'll let Ms. Skeels take us into the process, please.

4230. **MS. SKEELS:** My name's Melinda Skeels. I'm legal counsel for Stz'uminus First Nation. And the witnesses are going to begin by each introducing themselves to you and telling you a little bit about themselves.

4231. And I would ask that Mr. Harris, who's on the line, Shulqwilum, begin that process.

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR
STZ'UMINUS FIRST NATION:**

4232. **ELDER RAY HARRIS:** (Speaking in Native language). Thank you so much for the work that you do. My name is Ray Harris, Shulqwilum, from Stz'uminus. I reside in the village of Stkemn, also known as Shell Beach.

4233. **MS. SKEELS:** And now I would ask that, to my immediate left, Pearl

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Harris, Qwatxamaat, introduce herself.

4234. **ELDER PEARL HARRIS:** (Speaking in Native language). I am a mother and a grandmother, and I work in Stz'uminus and I live in Stz'uminus territory. And I've been a member of Lady Smith all my life.
4235. **MS. SKEELS:** And Fred Elliott?
4236. **MR. FRED ELLIOTT:** Yeah. My name is Fred Elliott, and I'm also from the Stz'uminus First Nation. I've been there a long time, all my life, just about. But I'm just here to see how things go.
4237. **MS. SKEELS:** And George Harris, Whul Latza.
4238. **ELDER GEORGE HARRIS:** (Speaking in Native language). I'm George Harris. My traditional name comes from Mylaxin, (speaking in Native language). And I want to say that I'm -- I'm here as -- I'm from Stz'uminus First Nation, thuq'min village, also known as Shell Beach.
4239. **MS. SKEELS:** And finally, Harvey Seymour, S'eshia.
4240. **ELDER HARVEY SEYMOUR:** (Speaking in Native language) Good afternoon, everybody. My name is Harvey Seymour, Senior. I'm a Councillor of the Stz'uminus First Nations, Elder Councillor. My name is S'eshia.
4241. I live in Stz'uminus, which is now called Kulleet Bay on the map.
Thank you.
4242. **MS. SKEELS:** And now before I begin with my questions, I'm going to ask that George Harris -- George Harris, Whul Latza, is going to give some introductory comments about the territory. And if you could advance the slide, please.
4243. **ELDER GEORGE HARRIS:** I also want to mention that our Chief is here, Chief John Elliott.
4244. I just want to give a description of our territory, Stz'uminus First Nation. We are a proud Nation of people. Our territory and -- is quite extensive, but our reserve lands which sometimes we're restricted to is -- represents maybe

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only three percent of our traditional territory. But our territory goes into the Fraser River, Taktines, and also all the Gulf Islands and our wood sometimes goes beyond -- beyond that.

4245. We are a Coast Salish Nation. We have kinship ties and relationships with the Stó:lō people, Lower Fraser Valley, Sunshine Coast, northwest Washington and southeastern Vancouver Island. That's all of our friends and relatives, and that's who we are as people, as Coast Salish.
4246. Our territory, we're very strong in our culture. All of us sitting here, we follow our culture and traditional way of life. In our territory we have over 50 longhouses that we practise our sacred ceremonies in, and it's prime time right now for that. And to let you know that it also is used all summer long, year round. So we are very connected to our territory in more -- more ways than one, I guess, in relation to our culture, traditional ways, sacred ceremonies and our -- and our land and oceans, mountains and fresh water areas. (Speaking in Native language).
4247. **MS. SKEELS:** And now I'll ask for Ray Harris, who's on the line, Shulqwilum, to please share some opening remarks with us.
4248. And Ray, just so you know, we've advanced the slid now. Everyone's looking at that second slide with the boulder and the sea wolf on it.
4249. **ELDER RAY HARRIS:** Okay. Thank you so much.
4250. I would be honoured to say this, and I think it's important for the Board to know and the Proponent to know that we Stz'uminus have always taken every opportunity to speak about our territory and our land, our way of life.
4251. Our great-grandfather was an interpreter for Wayne (Inaudible), researcher that went around the coast. Two of our uncles were interpreters for the McKenna-McBride Commission when they made their rounds about the size of the reserves -- the inadequate sizes of the reserves.
4252. Sometimes though those writings never really -- were not complete as far as we're concerned in terms of our aspirations and our knowledge of what was presented to those kinds of issues like the Commission and also the archaeologist researcher. So I just wanted to start with that and let you know that we've always been very concerned about that.

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4253. In terms of our position that we end up with, it's always been a concern that half or -- the reserves that we have now are all small reserves on the coast compared to the reserve sizes further east in Canada and British Columbia. And the government -- the colonizing government at the time justified that by saying we, the coastal people, in particular Stz'uminus, we relied on the resources and all that we could gather from the sea.

4254. In fact, some of the reserve lands that are registered on the coast are called fishing stations. It emphasizes that we rely on the sea, the Salish Sea, for our -- everything that we need.

4255. So kind of -- it kind of conflicts with the -- the -- it conflicts with some of the things that we're hearing, the Ministry of Transport talking about navigable waters. Those waters are, in fact, our territory and in fact, they're actually where we have our enjoyment of our way of life.

4256. The Department of Fisheries and Oceans are another agency that interferes with our way in terms of our gathering and of our resources in the sea. And we're worried about that the Minister of Environment was negligent in making sure that there's no disturbance to the environment, that there's destruction to the sea life, including the whales and the such.

4257. We are so concerned. In the past, even our old people were concerned, so concerned about how and who was in our waters. There's a -- we have a history of -- it's called a petroglyph today but it's a depiction of a sea wolf. As you know -- you may not know but in the times past in the early formation, the whale and a wolf were -- they transformed into each other.

4258. Our people love the -- how they looked after each other, how they looked after their families. And we learned lots from them, how they stayed together as a family, how the matriarchs they call them now today but the grandmothers ruled the roost. They took care of it. They made sure the family unit was together. They shared food together, both the wolf and the killer whale.

4259. In that concern, one of our strong medicine men -- a lot of our people lived in the Kulleet area, Kulleet Bay area where my cousin Harvey lives. We understand there was thousands of people there before the decimation of our people by the disease, tuberculosis. And it was a thriving, thriving community there.

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4260. One of our medicine men, he recognized that it's quite costly and families were impacted that when they always had a sentry out there, a guard. So he decided that he was going to do something about that. He gathered his -- gathered the people, the leaders, the elders, and he said, "We will now save on our sentries and give some comfort to our young men that they don't have to be out there guarding the land and the sea all the time. We're going to call upon our cousins the whale and the wolf."
4261. So he built the -- he went out there and this big rock that is out there, my late mother-in-law told me that these rocks that are here and there all over our place is because of the ts'amu'qwus. (Speaking in Native language). This being that we call ts'amu'qwus was throwing big rocks around here and they were playing around. It was a fun thing he was doing.
4262. I said, "Mom," I said, "you know the scientists say that the rocks fell out of the ice when the ice melted."
4263. And she looked at me and she said, "Yeah, maybe that happened somewhere, where they're from, but here, this is what happened."
4264. And how this big rock got there, it's not just a rock out of place.
4265. So our medicine man went and put this picture of the sea wolf on there -- we call it a petroglyph today -- but he gave it the power to warn us if anybody disturbs our sea, enters the sea in our territory because of the connection between the whale and the sea wolf and the wolf.
4266. It's easy to research that for anybody to research those two beings, how they act as a family and how they look after each other. So I'll ask you to do that yourselves.
4267. Sometimes we can't talk about the -- too much about -- I'm saying this to you, that we have hardly ever said that to anybody. It's our business. It's our secrets. It's our way. We have lots of -- my brother mentioned and I think it's been mentioned that we're longhouse people. (Speaking in Native language). We have ways that are very strong in our longhouse and we never, ever, ever stop doing it.
4268. Sometimes White people and Hollywood people talk about our spirit

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- partner. Well, it actually happens in our Stz'uminus customs. We have suli, we call them, and we have shared spirits with -- we share the spirits. Our mom had a custom -- my dear mother now has passed away, but every time she had a great-grandson or a great-granddaughter, she made sure she made it there and cuddled them. One day, she was cuddling her great-grandson and she noticed something on him. And she, in our wonderful way, she said, (speaking in Native language). "Gee, son," she said, "this guy is going to be a (Native word). This young man is going to be a killer whale." That's what she said. "His partner is going to be a killer whale."
4269. You could see it in him. She showed me what he was doing as a baby, already as the influence of our spirit world was coming and it was the killer whale.
4270. There's others. There's a lot of others but I hope you treat my information with respect. And I can't talk too much more about the other spirits that we actually transform with, where we consider ourselves true transformers.
4271. So I want to thank you for that and I hope it's held in your heart. Thank you.
4272. **MS. SKEELS:** George, could I ask that you just give the Board a little bit of an idea of the connection between the images that we were just seeing in the petroglyph and what's on the screen now?
4273. **ELDER GEORGE HARRIS:** Just one piece of information. My brother mentioned the ts'amu'qwus. Ts'amu'qwus is the sasquatch and the sasquatch was throwing rocks, playing games. But I just wanted to let the Panel know that ts'amu'qwus is sasquatch.
4274. The silver carving you see up there is my nephew's rendition of the sea wolf. The sea wolf is what Ray described just now about the petroglyph that's at the entrance to Kulleet Bay Harbour. They mythical legend of that is, it is the protector of our harbour. And I am wearing this now. I have this one and the silver carving on me and I wear it all the time.
4275. The sea wolf has the mythical legend and it is a very important part of or Stz'uminus First Nation. And like my brother was saying, many of our people lived in the Kulleet Bay area before the epidemic started. So it was our protector of our harbour.

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4276. **MS. SKEELS:** Shulqwilum, could I ask you to please speak to the Board about the connection of Stz'uminus people to the ocean and to marine resources?
4277. And then we'll be asking each of the witnesses here to speak to that same issue.
4278. **ELDER RAY HARRIS:** Well, I continue to be -- have an interest in commercial fishing, me and my family. We have two boats. We participate on -- reliance of all that we can work with in terms of making a living also.
4279. And in the last four years we've had only three small openings of commercial fishing for salmon in the Fraser River, three small openings, and mostly because of lack of stocks. Everybody's blaming everybody on why. But it's so desperate that one -- well, our view of it now with this oil thing is one tanker accident or one spill of oil on the pipeline would decimate our way of fishing. We just rely so much on fishing.
4280. Every day that the tide is out my kids are digging clams for a living. We dig clams for a living. We have no other way. This is our way. So we're so reliant on the sea.
4281. Why my son was going through his time in the longhouse we had ceremonies with the sea urchins. We had ceremonies with the clams.
4282. We continue to have ceremonies with the salmon. It's part of our secret stuff that we keep to ourselves. But with the danger coming we have to say something. Like I said, I hope you keep it to yourself that we -- we're so reliant on the sea for everything -- food, and all the customs we have.
4283. Thank you.
4284. **MS. SKEELS:** Thank you, Ray.
4285. I would now like to ask Qwatxamaat to speak to the same issue, the connection of herself as a Stz'uminus person and of Stz'uminus people generally to the ocean and to the marine resources.
4286. **ELDER PEARL HARRIS:** *Hych'ka.*

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4287. I recall as a young girl as I was raised by my grandmother and my mother the teachings of how important it was for us to be able to go down to the beach and collect our food and learn from our environment. We didn't have a book, or TV, or other things to teach us.
4288. But my grandmother was a medicine woman and she would take me down to the beach and show me different medicines. And in our walk she talked about the
4289. Kell-olemećen, the killer whale. They came in in pods to Shell Beach, the thuq'min area. And she said they came up to these rocks and they would come up and they would go up on the rocks and they ate these leaves, which was a medicine. She said they weren't well or they were showing her because she was praying to our ancestors.
4290. We have a strong belief that if you ask them, they will come and give you the information, because we carry a lot of information as mothers and grandmothers and we rely on our spiritual beliefs to get this information.
4291. So she believed that when the kell-olemećen was coming up to Shell Beach and coming up on the rocks and eating these leaves she was getting the information she needed to be able to help the people that were suffering, and she was praying for help for them because she couldn't figure out what to give them.
4292. She was looking in the forest and kell-olemećen came in these big pods, and they were down on the beach, and she said "They came to help me."
4293. And they were always coming in and giving us their time. We were an area where they come to visit and rest in their journey. They were our family.
4294. And she said, "And we don't see them like we used to." She says, "They don't come as much anymore because it's changing for them." She said, "I don't know if they're losing their way or if they don't have the food."
4295. But she was a strong person in our community who helped our people. And she was teaching me to help our people to learn from her as a young girl, but because of residential school I was taken away and I couldn't continue the journey with her in the learning. So that stopped that for me.
4296. But I remember her always sharing with me -- her and my mother --

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the teachings of how we help the people. And we use the nature. We use animals. We listen to them. But if they're not here we don't learn those lessons about the medicine.

4297. We watched and observed and this is how we learned to help our people in the area of the medicine woman and learning spiritually from the animal, from the sea animals, and on land. It's very important for our people to continue doing this, and if we can't have that it's going to be tough for us.

4298. *Hych'ka.*

4299. **MS. SKEELS:** I'll next ask Fred Elliott the same question.

4300. Fred, could you please tell the Board about your connection as a Stz'uminus person to the ocean and marine resources and your understanding of Stz'uminus people's general connection to the sea and to marine resources?

4301. **MR. FRED ELLIOTT:** My name's Fred Elliott.

4302. My dad was John Elliott. He was a commercial fisherman all his life. I fished with him quite a bit during my younger days. And in them days the oceans were much cleaner. When I was very young it was a lot different. Now it's not like it used to be.

4303. We depend a lot on all the seafood around Gulf Islands. That's all been depleted quite a bit.

4304. If we're going to have more tankers coming through, that's going to hurt a lot not only the killer whales -- they seem to have a hard time. We were on the Fraser River this summer trolling for sockeye and there's very few killer whales now compared to back in the old days. You don't see the killer whales where there was a huge back fin anymore. It's like if they don't live very long. Because when I was young they had -- the bulls had such huge fins. It was just something to see. Now they don't get old enough to have them big fins on them anymore. So they're going downhill and they're going downhill fast. They depend a lot on the sockeye, the chum, spring, but that's also depleted.

4305. What we want is for more room for the killer whales and less tankers. We don't need more tankers. That's going to hurt a lot.

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4306. And in Burrard Inlet if you watch the news you'll see the picture sometimes on there that's filled right up with tankers. And now what -- in our area they call it an overload or a place to go and anchor up. So they're anchored up on the west side of Valdes Island and now we have them anchoring up right in Kulleet Bay.
4307. And we don't want them in there. There's so much life in our bay, like the Dungeness crab, like the geoducks, clams, oysters. They're all going to get -- just become not edible if those ships are losing any of their, like, bilge water, it's not looking good. And now this expansion, if that ever ruptures anywhere, it's going to finish off everything that we have. We depend a lot on the seafood. In (inaudible) Pass we used to have a lot of our seafood right there. That has depleted down so much we go down now as far as almost the American border, where there's more seafood, more lingcod and that sort of thing.
4308. So we've got to make a lot of runs. Like, if we need seafood for ceremonies, anything that our people want, it's a long run to run down to the American border just to supply people with what they want.
4309. It's, like, you know, the tankers are taking over that -- our channel down that way. The beaches are getting polluted. And as I said, the whales should have more freedom there rather than tankers.
4310. That's it.
4311. **MS. SKEELS:** Thank you, Fred.
4312. I'm going to ask George Harris, Whul Latza, to please speak to this issue of the connection of Stz'uminus people to the ocean and to marine resources, please?
4313. **ELDER GEORGE HARRIS:** Thank you. Since I got asked to come and speak to this here today, I've been thinking lots. And my mind has taken me back and reminiscing about our ancestors. If we go back 200 years now, thereabouts, I would hazard to guess that my ancestors wouldn't recognize the land that we live on now.
4314. There is so much impact on our land by everything from residential development, industrial, shipping, and everything like that, eh?

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4315. Speaking to that, I did call the Department of Transport because I was concerned. And I talked to our members. And it had a mental impact on them to see ships within very close to their house, to their beach.
4316. One of my members' comments was, "Are we losing our land claims? We had the water. We have small reserves, but we had the water. Are we losing that now?" Because there's lots of impact on our land in relation to the introduction of foreign species of the different things that are in the bilge water that's pumped out and that's at Shell Beach, outside of Shell Beach too.
4317. And if you go to Shell Beach and look out, you can see six ships now that are anchored. You go to Kulleet Bay, there's more. And at the shores of Kumalockasun, which you can see from Kulleet Bay, there's more ships being anchored.
4318. I don't know if I'm speaking to the question, but that's on my mind right now.
4319. But in relation to that, if there's an increase in shipping coming from overseas, where are they going to anchor? Are they going to come to us? Is there one a week or one a day coming out of the -- getting filled up with oil and heading out to foreign countries?
4320. My personal life already has been impacted, so has my children. I got interviewed in 2005 I think it was, 2006. And I won't say who interviewed me, but they were talking about the state of the Salish Sea. At that time, I said to them, "I only have good memories. Good memories I can share with my children and grandchildren about how things used to be, how abundant our wildlife, and birds, and seafoods were in our territory."
4321. It's going in one direction, and that direction is the more impact -- and it's based on the almighty dollar. And there's more and more people coming to our country, and more and more land getting bulldozed and getting developed, whether it be residential, or industrial, or whatever.
4322. I want to say this, that our people are a proud people. I am a proud Stz'uminus Naut'sa mawt. My life, until recently -- and I still depend on the water -- I'm getting older, so my niece dropped off some clams and I cooked it the other day. So I still have access to seafood. But in my life, I spent thousands and thousands of hours on the water. Thousands of hours. Whether as a child riding

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on logs and anything that floated, right from the time I was a young child, then later on, at 16, I got my first boat, my very first boat, day troller. And I got that when I was 16. And I've had a boat ever since.

4323. But I want to say that the killer whales, my brother described the wolf and the killer whales have the same family values, they look after their young, look after each other, stick together. We're like that, Stz'uminus, we can't go anywhere. If I don't like what's going on in my nation or around my nation, I can't sell my house and move somewhere else. I'm there for life. I ain't moving. I can't move.

4324. When I say that the connection to our waters and oceans, from a historical perspective, is strong. Our ancestors spoke about that. How strong? Our oceans, Salish Sea and all the oceans, more in the past than now, is our highways travelled to visit people in other nations, our family at other nations.

4325. When I was younger, not too long ago, I was a canoe paddler. My sister-in-law, Pearl, ladies' crew, boys' crew, men's crew, logged thousands of hours on canoe. At times, killer whales were among us when we were paddling. They honoured and respected us like we honoured and respected them. They would not touch us. Sometimes we were paddling as fast as we could go and they'll go right past us because they swim very fast.

4326. They have -- the killer whale, the orcas, have great meaning to us and we have a high respect for them. When they come into the harbour, Kulleet Bay, or Shell Beach, or Ladysmith Harbour, people go out the door and go look. "The killer whales are here." We call them imushne'tun, our visitors that come to visit us. And we feel it's a blessing when they come in.

4327. I have real big concerns that their numbers are declining. But everything we do -- or not we, but everything that is being done, is in a direction of making that situation worse. It's going to get worse. It's not getting better.

4328. Canada bought a pipeline. You know, in our culture and traditional ways of our people, when we go into our longhouse, my speaker, when he says, "Listen, (Native word), listen", that's a big part of our culture. We listen.

4329. I'm hoping that you, the Panel, are going to listen. I'm hoping our words are heard beyond this room. Beyond this room because if it isn't, it's written down in foreseeable future that all our words are not going to be meant for

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anything. And I don't want that to happen.

4330. You know, we are a people. The killer whales are killer whales. You know, we're -- we want to survive here, too. We are very fortunate that we are sitting in this room considering the epidemics that took place in our past in Stz'uminus, in all of our Nations, and our population was very big. We're a small fraction of that population now because of the colonization process that took place.

4331. Maybe I said too much, but I had to say it anyway. (Native word).

4332. **MS. SKEELS:** Thank you, George.

4333. Finally, I would like to ask Harvey Seymour, S'eshia, to answer the same question. Could you please speak to us about the connections of yourself and your people to the ocean and marine resources?

4334. **ELDER HARVEY SEYMOUR:** (Speaking in Native language).

4335. I speak on behalf of all Nations, including our Nation, Stz'uminus.

4336. Anywhere on the coast from Alaska to California, we talk to the Native people that live by the sea, live by the natural resources. We're afraid that a disaster could happen, and will happen, with more traffic.

4337. We depend on the natural resources from the ocean. All foods that came from the ocean, our (Native word), delicacy, sea urchin, (Native word), sea cucumber. All the bottom fish that there is to name in the ocean and, of course, our salmon.

4338. And also, delicacy, our (Native word), our herring. Herring spawn. Also migratory -- the ducks. When herring's in, the ducks are in. And they are a part of our diet. Ducks is part of our ceremonies, what we do.

4339. In Stz'uminus, we're -- we're very cultural people. We have not let this go. We share with the oceans, with the whales, the wolf, the bear, the eagle.

4340. The wolves come down to the beach and they eat seafood, too. Their DNA proves that. They go up in the mountains and you'll see that they -- what they leave behind is from the ocean.

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4341. Many things we rely on, should an accident occur in -- in our Salish Sea, it'd be devastated in our coast. I cannot see them clean that kind of oil up in a matter of hours. The water moves too quick for -- for an oil spill to happen. It will spread through the coast. It will devastate our seafood along with the anchorage that -- that could happen if the ships come and freighters.
4342. You know, they keep their generators going there 24/7, and these are big, noisy engines, diesel engines. And the vibrations they cause and the noise they cause is -- probably does harm to the ocean.
4343. And the anchorage there where -- where the eel grass is, is where the crabs go to hide. And them anchors, they're drag. They're huge and they'll probably drag the chains also as the tide shifts -- to shift the ships with the tide and the wind.
4344. There's so many things that could happen. A disaster could happen should more traffic come into our coast.
4345. Thank you. (Speaking in Native language)
4346. **MS. SKEELS:** Thank you, Harvey.
4347. I now would like to go back to Ray Harris, Shulqwilum, on the phone. Ray, I'll let you know that we just had the slide advanced and we're all looking at "Orca Family" by Dion Daniels, now. And I'd like to ask you to speak to the significance of killer whales to the Stz'uminus people.
4348. **ELDER RAY HARRIS:** We've touched upon quite a bit of it. We've expressed to the -- today that my mom and our older people could tell when a killer whale's spirit was going to be a partner with one of our young.
4349. I was going to say that -- I want to say that the killer whale is just like us. They breathe air just like us. They eat the same foods as us. Exactly the same foods as us. They look after their young just like us. They have a way to look after each other by respecting their grandmothers and their mothers.
4350. They've been interfered with too much. Our grandpa, I remember the first time I -- one of my first memories about a whale -- we were on a canoe with grandpa, and a whale surfaced not too far from us, a couple of them, but one huge

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one like Fred was talking about. The dorsal fin was the size of a mountain, as far as I could see.

4351. Grandpa stopped paddling and he said, "Be quiet." I asked him, "How come I have to be quiet?" He said, "That's how -- that's what the whales need. They need quiet. That's what they need because they talk to each other."

4352. They already knew -- they already knew the importance of quiet still waters for the whales. And the whales are sending us messages that we need to heed.

4353. (Speaking in Native language)

4354. So we just have so much reverence for the whale, and it's a concern. There's lots going on with the governments right now. They're putting listening stations here and there to show what they're doing. They're slowing ships down to reduce noise.

4355. But to me, that's all feel-good stuff. Those freighters that slowed down did it on voluntary basis because they know the writing's on the wall. If we don't try and find a way to get the noise out of the water, there's going to be more issues come up. So they're trying a little bit. But it's just feel-good stuff that's happening.

4356. But where we ended up is -- where we're ending up is that the political world's got to make some big decisions on terms of how to really save the whales as we know them today. Thank you.

4357. **MS. SKEELS:** Thank you, Ray. I have a follow-up question for you. Could you please tell the Board what the loss of the southern resident killer whale population would mean for you?

4358. **ELDER RAY HARRIS:** You know, all our people right now, especially us, we're barely getting ourselves back together after just -- after losing the two that we lost, that were lost in the last little while. We suffered. We suffered like we lost our own. And since then, another baby whale has been found dead. And about a week ago at Tsawwassen, just outside Tsawwassen, outside the coal port there in the Salish Sea, a grey whale was found and the necropsy was it was determined that the whale was run over and suffered trauma from a propeller from one of the freighters.

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4359. So as we try and fix our hearts and our spirits from the sorrow of the mother whale and the one that starved to death, can you imagine in the Pacific northwest, one of the richest places in the world, starving to death? That's horrible. So we can't even imagine a life without whales.
4360. **MS. SKEELS:** Thank you, Ray.
4361. I'm going to ask Pearl, Qwatxamaat to speak now. Could you advance the slide please?
4362. Pearl, we already heard a bit about -- from you about killer whales and their connection to a medicine woman, your grandmother. Ray was just talking about the recent loss of some killer whales and I was wondering if you have any thoughts you can share with us about that?
4363. **ELDER PEARL HARRIS:** *Hych'ka*. Well, as you all know, everyone has watched it on the news, the confusion of the mother with her baby whale. And like I said, my mother said, my grandmother and my mother taught me that we look after our children as mothers and grandmothers. We take care of them. And the same way as we see (Native name) with the mother pushing her baby, taking her baby with her. They baby was dead. And as a mother and a grandmother, you would not leave your child floating in the water. You would not leave your baby sitting on the ground. This mother needed to find a place for her baby to rest. And for some reason, she was lost.
4364. And I don't believe it was grief. I believe she couldn't find the place where the baby could go to the burial spot.
4365. My grandmother talked about (Native word) in front of the water where they would come and if they were going to die, there was a place in our area where they went to die, where they were taken when they were not well and they would just go onto the beach in the mud flats and they would just stay there. That was their spot to die. That's where they went under in the mud flats. They sunk under.
4366. So this mother was lost. For some reason she couldn't find that spot. And that's what I believe from my teachings because we look after our own. We do not leave our people lying on the ground. We take care of them. We have a big ceremony. I had just finished a ceremony for my brother who I lost four years

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ago. It takes that long to have closure. And this is our tradition. It's the way we're taught.

4367. So I really believe this mother was lost and she didn't know where she was going because for some reason, she couldn't find that (Native word) that way that she was supposed to go. And that's my belief. *Hych'ka*.

4368. **MS. SKEELS:** Thank you, Pearl. Could you please also tell us what the loss would mean to you personally of the southern resident killer whale population?

4369. **ELDER PEARL HARRIS:** Our people have strong beliefs of spirits, strong belief of speaking to our spirits, our ancestors. We really strongly believe that like my grandmother said, we pray, we ask. We ask for those messages. And we believe that the killer whale is an ancestor of someone's ancestor, our ancestors. They come in many forms. And I believe that if we lose the killer whale, we lose some of our teachings, our teachers. We lose that spirit that is needed for our survival, just like we need seafood, we need the land, we need the animals. And I keep saying that they are our spirit, they are our people. We all have that strong belief.

4370. And many of our people don't talk about it because it's ours. It's our teachings and we don't share a lot of it because it's sacred and it's something that leads us. It's a teaching that leads us through our life from young to the day we die. And we need to have our sea life. We need to have the killer whale. We need to have the fish and even the seals; there's always something out there that we believe in everything that lives is part of our history and our life. *Hych'ka*.

4371. **MS. SKEELS:** Thank you, Qwatxamaat.

4372. Fred Elliott, I'd like to ask you the same question as I've been asking the others. What is the significance of killer whales to you and to Stz'uminus people?

4373. **MR. FRED ELLIOTT:** The killer whales, from listening to the old people from way back, they were always in the spirit world. They wanted to see them around forever. The one thing that's really bothering them is this global warming. The waters are getting warm. Sockeye especially are -- don't like warm water. They look for cold water. Killer whales are the same. They need cold water. And so if we're going to lose them, you know, it's been our way of

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- wanting to have them around, either in the spirit world or not, but where we just can't see that pass, for them to disappear. But they are going downhill. Thank you.
4374. **MS. SKEELS:** Thank you, Fred.
4375. Whul Latza, George Harris, I'd like to ask you the same question. First one, what is the significance of killer whales to you and to Stz'uminus people?
4376. **ELDER GEORGE HARRIS:** Thank you.
4377. To me, I think that the killer whales and the Stz'uminus -- Mustimuhw Stz'uminus people, to me, they're so connected. It's like almost saying they're one because of their significance of the killer whale to our people. We refer to them as majestic beautiful creatures with similar strong values as we have.
4378. As Pearl said, they look after their children. That mother whale that kept trying to prop up her baby for two weeks. Never ate. All she did was try to prop up her baby above -- pushing her baby above water. It was more than two weeks, I think. And that's the kind of compassion they have for their young.
4379. I consider, and many of my people would consider the orca, the killer whale, as sacred -- very sacred. For me, I can recall that there were many, many orcas back in the '50s and '60s. And I'm dating myself now how old I am. But back in the day there were many. One of the pods that we have now has I think 74. And the numbers is declining.
4380. I want somehow some way to be reassured that we're not taking a big risk in relation to them not going extinct. And I think that the direction we're heading is a big risk.
4381. I have no faith in the ocean protection plan in relation to what's written on paper. And they can spend millions of dollars on oil spill recovery and all that kind of stuff but in actuality if an oil spill were to happen I have no faith or confidence that they will recover the oil.
4382. The TV spots that we have now, spend millions of dollars on TV trying to reassure the public that there's noise reduction happening for the goodness of the killer whale, but I keep saying this. What's the difference

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between a generator running 24 hours, seven days a week, on a ship that's parked in relation to the noise? Or what's the difference between a propeller, and shaft, and motor turning at 400 RPM when they're cruising slow compared to when they're cruising kind of fast and maybe they're doing 1,500 RPM. The noise is still going to be there no matter what.

4383. I want to say this from a Stz'uminus Mustimuhw that the spirit of the killer whale is very strong in our community. Maybe I'll mention the neighbouring tribe there. Their logo, and they have a mythical legend, is a killer whale and a thunderbird is their official logo for their Nation. But with us it's part of our life. It would be devastating for us if there were no more killer whales, for us as Stz'uminus Mustimuhw.

4384. So I want to know what we can do, what kind of plan we can have, that would reassure us that the killer whale, the orca, will go on in the future and increase the numbers that they have.

4385. But the memory I have right now is not about newborn killer whales that survived; it's the ones that have died. The one they found two or three weeks ago, and the other one, the one the mother was propping up. That's the memory I have.

4386. And I just want to say that the killer whales are so very important to Stz'uminus Mustimuhw.

4387. Hych'ka siem.

4388. **MS. SKEELS:** Thank you, Whul Latza.

4389. S'eshia, I'd like to ask you the same question please; what is the significance of killer whales to you and to your Stz'uminus people?

4390. **ELDER HARVEY SEYMOUR:** To us as Stz'uminus people killer whales are very important. Their spirit is very important as we're one with the killer whale. We're one with nature, the mountains, the wolves. I believe through evolution that whales were once humans.

4391. And I think that with more traffic it's not going to help our whales, or our ocean, or our natural resources. I think we're on a journey of destruction of our ocean and natural resources and the sea.

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4392. (Speaking in Native language)
4393. We ask the Panel to listen to our words that came out today.
4394. *Hych'ka*. Thank you.
4395. **MS. SKEELS:** Thank you, Harvey.
4396. Could you tell us what it would mean to you to lose the southern resident killer whale population?
4397. **ELDER HARVEY SEYMOUR:** The spirit of the whales, the beauty of the whales, we don't see them too many come into Stz'uminus, known as Kulleet Bay, anymore. It is beautiful to see a killer whale, mysterious. I wish we could connect with them and be one with them again like our old people were.
4398. Anywhere we go on the coast we have the symbols of killer whale, as you see on my toque, my hat. And the sweater I wear the design on the back is a wolf.
4399. We want the spirits of -- the life of these and the spirits of these that gives us the strength to be people. And we look to the kell-olemeécen, the killer whale, because their strength, how they carry on their life, looking after each other, the same as we do, and the wolf.
4400. And I feel that if there's no more whales the spirit of our nature is -- it would be at a sad state.
4401. So thank you.
4402. **MS. SKEELS:** Thank you, S'eshia.
4403. I'm going to follow-up with another question for you. Could you tell us what you do for a living?
4404. **ELDER HARVEY SEYMOUR:** I work in the forest industry. At the present time I work for Western Forest Products in Ladysmith Harbour. I worked there for 50 years.

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4405. And in the past there was just a few ships, maybe just a log ship that came into the harbour to load logs, but now they're there. It's an anchorage for freighters. Last week there was six ships anchored from Ladysmith to Chemainus.
4406. (Speaking in Native language).
4407. Those ships cause -- during anchorage, they disrupt the ocean life, the ocean resources, such as whales. I don't think a whale would want to come in with all that noise. So from what I've seen -- I've worked on boats, boom boats, all my life, and I've seen many changes.
4408. And I also fished with my dad, a gill netter, as far as the river's inlet, Fraser River, the Salish Sea. And a life without the whales or the sea life, resources, it would be devastating to Stz'uminus and many other nations.
4409. Thank you.
4410. **MS. SKEELS:** Thank you, Harvey.
4411. George, you're concerned about the use of anchorages and increased use of anchorages in your territory too; aren't you?
4412. **ELDER GEORGE HARRIS:** Yes.
4413. **MS. SKEELS:** Could you tell us about some of your concerns?
4414. **ELDER GEORGE HARRIS:** About maybe two months ago, thereabouts, I started calling the Department of Transport because of my concern for ships that have been anchored within a very short distances of the shore line in Kulleet Bay Harbour, as well as in Shell Beach. There's two different bays I'm mentioning now with villages on each of the bays.
4415. And I think I called maybe six or eight different Department of Transport offices. The Westminster, even Victoria, and I think I even called as far away as Ottawa at one point. But I never got a real good answer from anyone. They kept passing the buck.
4416. And my concern was that one of the people in Kulleet Bay said, "Are we losing our land claims? Are we losing our water?" Because of the anchorage

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that's a very short distance from the shoreline where this person lived.

4417. It had a mental impact on our people from the village because of the tanker with all the bright lights and the generators going 24/7, and even to the point where this old man was sitting -- or not sitting, maybe walking outside in his yard and he'd seen a couple rats. I hate to say this, but he questioned whether those rats came from the ship. He said, "I'd never seen rats before, until now." He said that.
4418. So it does have an impact on our people, in relation to what I just described, saying that, "Are we losing our land claims? Are we losing our territory?" Impacted by ships.
4419. My concern is that if we have more ships come in for oil, where are they going to park? And I was told that some of these ships are not even from -- not even loading up in our area, they're going back across the mainland to load up with whatever they're loading up with.
4420. But it's such that we are being impacted by these big freighters that are coming in. And like Harvey said, with the generators going, noise, I don't think a killer whale would come into our harbour, you know.
4421. And the other thing is introduction of invasive species into our waters. We have different kinds of clams now that's on our beach, and they're thriving. And we don't eat them because they're not good.
4422. And it seems to me that our Stz'uminus Mustimuhw, our people, the local people, are the ones that are paying the price. We're paying the price for all of the things that's been impacted on us as people.
4423. You know, I go back to my words I said earlier, I only have good memories now I can share with my children and grandchildren with how much abundance there used to be in the past, in my past.
4424. And it's not getting any better. I hate to be sounding negative, but no one has come forward and given me any reason why I should be more confident in the future in regard to the ships that are coming in and impacting on our land.
4425. How much tons of bilge water are they letting out? Because they have to let that bilge water out before they load up.

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4426. There's six ships that I can see if I stand on my beach at Shell Beach, and there's more in Kulleet Bay and more on Valdes Island.
4427. **MS. SKEELS:** Thank you.
4428. Ray, Shulqwilum, I have a question for you. Are you concerned about the possibility of an oil spill in your territory?
4429. **ELDER RAY HARRIS:** Very, very concerned. We had -- just from the experiences that we've had, and other people have had around the world, that there's no way to get the oil off the water.
4430. And now they're talking about bitumen, which is a different issue all together in terms of how it floats in the water, how it sinks in the water. Then it's contaminated with all kinds of chemicals that aren't in diesel, or gas, or refined oil. So I'm very, very concerned.
4431. I don't know if it's been mentioned, but the Stz'uminus logo is four canoes, the four villages of Stz'uminus, the four villages of Stz'uminus, from the Fraser River to Vancouver Island.
4432. And so we're always concerned about what's happening in the water. We've experienced regulations from the governments that aren't healthy for us.
4433. An example is the governments have instituted something called depuration. The American tribes and our people say it's a license to pollute; it's for the shellfish. They allow pollution on the beaches and they have licensed plants that depurate the clams to purify them. But it's a license to pollute our seafoods. And those pollutions are right in where our gathering places are, our clam gardens.
4434. So with the experiences we've had and seen, I'm concerned, so concerned, that this promotion by the governments to have a world-class recovery program is B.S. There's no such thing as a world-class recovery cleanup program. In fact, the caption that was coined after that is "World-class, my ass." That's how strongly we feel about the ability of anybody to clean up an oil spill.
4435. Thank you.

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4436. **MR. SKEELS:** Thank you, Ray.

4437. All of the witnesses have spoken very passionately about the issues that I've asked them about and so I'd like to do one round of final questions for each of the witnesses. And we'll start with you, Ray.

4438. Why is this issue so important to you?

4439. **MR. RAY HARRIS:** I have 11 children, 20 grandchildren, 10 great-grandchildren. Our reserves are small. We live by the sea. My teachings are to my kids, to my children, all related on how to be on the sea. Some of them are astronomers, for Christ's sake. They know how to read the stars. It's all from our teachings. So that's my -- that's who we are, to me, as people. We're peoples of the Salish Sea. Thank you.

4440. **MS. SKEELS:** Thank you, Shulqwilum.

4441. The same question for you, Qwatxamaat. Why is this issue so important to you?

4442. **ELDER PEARL HARRIS:** I'm an educator. I work with our children. I have a big family. They're all my children that I work with, a community. We raise our children, and if we don't have the resources, the land, we teach by our land. Our language is our land, our culture is the land. If we don't have this, we can't continue sharing and teaching our children. It's important to us spiritually to have the killer whale in our lives, to have that environment around us to teach our children they need to have this in the future because we had it as young children, our mothers, grandmothers, shared. And I'm a grandmother and this is how I teach from our land, our culture. And if we don't have that, what do we have to carry on our teachings for our children, our teachings for our future? *Hych'ka*.

4443. **MS. SKEELS:** Thank you, Qwatxamaat.

4444. Fred Elliott, the same question for you. Why is this issue so important?

4445. **MR. FRED ELLIOTT:** Yeah, it's very important. The tide in the straits between the Gulf Islands and Vancouver run very strong. If there's any kind of a spill, no matter what it is, it could be over to the Gulf Islands within a

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day. There's no way you can stop or gather up anything you spill in the water. The tide runs too strong.

4446. So like, we depend on the Gulf Islands for all our seafood. If we lose that, we're lost forever. There's no stopping it if you're going to spill anything in the ocean now. And it's because of that tide. The Fraser River pushes across the strait very fast. So it's like, if you're going to spill something, it's going to be the end of our food supply.
4447. **MS. SKEELS:** Thank you, Fred.
4448. Whul Latza, why is this issue so important for you?
4449. **ELDER GEORGE HARRIS:** I think one of the words we haven't used today is *snoweyah*. *Snoweyah* translated is the teachings that's passed on from generation to generation. I have teachings that go back many generations. I had the honour of being a young boy to see my great-grandfather and he was born 1871. And some of the things I learned as a young boy was from him through my grandmother, my great-grandfather. And the teachings in the stories that pertain to how we honour and respect the orca, other wildlife, because it sustained our past generations for many, many, many thousands of years. And I got to honour and respect those teachings, the *snoweyah*.
4450. And like I said earlier -- and I said it two or three times -- the only -- I only have stories I can tell my children and grandchildren of the abundance of sea life that used to be in our territory. The Salish Sea, to me, is very important in how we look after it and we are Stz'uminus Mustimuhw. One of our duties and responsibilities is to look after our territory. But it's been a overwhelming task in the past years.
4451. And you just look at the amount of development in our territory. Twenty-five (25) years ago I took a trip to Victoria just to go to see how many water lock licences there are in our territory from within our area, Chemainus or (Native name) I think, to Nanaimo. Literally hundreds. And every one of those water lock licences was a permit to pollute. It was a permit to pollute, to compromise our environment. And to me, that was unacceptable at that time and it still is today.
4452. As Stz'uminus Mustimuhw, we are asked to be disconnected from our resources. We are asked to be disconnected from our relationship with the Salish

Sea and the orca. And that's not acceptable.

4453. There needs to be reassurance somehow that the orca, to me, it's almost that an analogy is the canary in the coal mine. We only have 74 left in one of the pods. How much less is it going to be in 10 years and will they survive?

4454. In the Stz'uminus Mustimuhw one of the big things -- and I already mentioned it -- in our cultural traditional ways of our people, in our longhouse, is listen, listen. Please, listen. We want to be heard. We want to be heard, not just passed over and say, "Well, we -- they spoke words to us but let's just carry on with our plan and do what we got to do to carry on with the Project that we're Coast Mountain Pipeline." And I'm really concerned for the future of our people and the future of the orca.

4455. I'm a -- I don't want to say this, but like, I'm a residential school survivor and it sort of feels, that feeling I have when I was there and dealing with the issues along that is this same feeling I have today, dealing with cultural genocide. That's a strong word, strong word. But that's the way I feel right now.

4456. Stz'uminus needs to be heard. It needs to have reassurance that the orcas are going to be looked after, our environment's going to be looked after. The bitumen, like my brother was saying, I think -- I don't know too much about it, but I think it sinks. As soon as it's spilled, it sinks. So what's the recovery plan if it's 1,000 feet down below in the ocean bottom if it spills? My guess is, they're going to leave it there like they left the ferry that's sunk up north and the other tugboats Harvey mentioned that are still down in the ocean, rusting away, and when the rust goes through the fuel tanks, it's going to disperse their fuel. And our people again are going to suffer because be access the seafoods and we pay the price.

4457. So I'm just going to say that for now. I want to thank you for giving us time to be here to make our presentation and say our words to you.

4458. *Hych'ka siem.*

4459. **MS. SKEELS:** Thank you, Whul Latza.

4460. S'eshia, we have the same question for you; could you please tell us why this issue is so important to you?

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4461. **ELDER HARVEY SEYMOUR:** Yes, as Stz'uminus people we have a history of being in the Stz'uminus area, our territory, for over 6,000 years, and we're not going anywhere. That's our home, our lands.
4462. We rely on the resources from the waters, the mountains. We're all one with the ocean, where our people were. We're warriors of the sea. They were our roads.
4463. We travel in peace. When we traveled with our people we traveled with women and children and we went in peace.
4464. Anything that's going to change our way of life through a disaster, through an oil tanker, or a freighter ship, it will be there forever. It will damage our ocean, our Salish Sea, and our way of life.
4465. We rely very heavily on the ocean and we cannot risk that a disaster happens in our Salish Sea or anywhere in our oceans because of the tide travels. It will damage our way of life, food, forever. And there's too much to lose. Our whales are spiritual relatives who we rely on for strength and the spirit of the whale.
4466. And this time I hope the Panel hears our concerns of Stz'uminus Nation and how we oppose more traffic in our waterways.
4467. Thank you.
4468. **MS. SKEELS:** Those are my questions.
4469. But before we're finished, we were asked through your staff if the witnesses would like to receive a gift of tobacco, and I passed that question onto them, and they let me know that that's not their way but rather that they have a gift they'd like to present to the Board.
- (Presentation of gift by the presenters to the Board)
4470. **THE CHAIRPERSON:** Thank you very much.
4471. Mr. Duncanson, will you have any questions for the witnesses?
4472. **MR. DUNCANSON:** Thank you, Madam Chair.

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4473. We do not have any questions. But thank you very much to each of you for coming here today and sharing your knowledge and perspectives with us.

4474. **THE CHAIRPERSON:** Member Lytle?

4475. **MEMBER LYTLE:** Well, thank you all very much for that. I think I speak on behalf of my Panel mates that we do indeed hear what you're saying.

4476. I have one question, and that is about the ships that are berthing in your harbour, are they ships bound for Vancouver, Victoria, Seattle, or -- I'm curious as to your thoughts as to why they're there. And it sounds like this is a more recent phenomenon. Is it due to overcrowding in the ports and how do they determine where they're going to be -- these ships are going to be berthed. A little bit more information whether that would be -- if you have information it would be very useful to us.

4477. Thank you.

4478. **MS. SKEELS:** It strikes me that the question of whether it's a recent phenomenon and what they've observed is likely the only one that the witnesses are going to be able to answer without needing, you know, for us to do some research. I will let the Board know that we do have an expert report coming to you on anchorages. Although that specific question is one that may actually end up being left to the information request process for some of the other parties and intervenors. But perhaps the witnesses are able to respond in part to your question.

4479. **ELDER RAY HARRIS:** Maybe it's just an answer they use to get rid of us, but what we were told -- what I was told was that the Department of Transport and Oceans don't really have much of a say where they anchor. What they told me was that those anchorages are historical anchorages from the sailing ship days and it takes an international treaty to change those anchorages. In other words, those ships coming from wherever they're coming from they look at a map and it says -- it's got a picture of an anchor on there and they can choose the one they want. That was what was told to me.

4480. I felt like they were just getting rid of me when they gave me that answer because I have no more questions. It's totally out of our hands. And I think that needs to be dealt with.

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4481. **ELDER GEORGE HARRIS:** I want to thank Ray for that answer.
4482. I phoned -- like I said, I phoned six or eight times to the Department of Transport asking them if they could cease the anchorages of ships in our harbours and I basically got the runaround big time.
4483. And Ray's answer is -- answers part of that. We're not in international waters. We're in the waters of Stz'uminus Mustimuhw, Salish Sea, the province, and the federal government. We're not in international waters. We're inside of the gulf, inside of our territory. And we should be able to have a say, and I think it's just indicative of what takes place in our country right now. Our words are not being listened to in a -- in a very good way.
4484. **MEMBER LYTLE:** Thank you very much.
4485. **MR. FRED ELLIOTT:** When we're out fishing like close to the Fraser River, you'll see them ships coming in from the south end of the island. They're coming from the Juan de Fuca Strait.
4486. Now, where they come from beyond that we don't know, or where they go to, but they head the same direction when they're heading out. And then what we noticed is when they're coming in and they're coming to -- coming up, getting close to the -- wherever they're going into either the seaport of the -- the -- been to Vancouver.
4487. They don't slow down until they're getting close to where they're going. That's one thing I was surprised, that there's a lot of fishing boats out there, sports, whatever, and they don't slow down for nothing. It's -- if the killer whales are there, they're not going to slow down for them. They just barrel right on through.
4488. And that's one thing that if those ships that are coming and going now, before any more comes, they should be slowed down.
4489. **THE CHAIRPERSON:** Before I thank you, I want to -- special thanks to Mr. Ray Harris to be taken away from his important meeting with the Assembly of First Nations to be here with us today, so thank you for participating over the phone. We know it's not easy. You don't see us, and you have to pay special attention, so very much -- many thanks.

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4490. So we'd like to thank you for sharing not only your teaching, but your concern about the potential impact related to shipping -- marine shipping and the impact it has on your people. We will consider all that we've heard as we decide on a recommendation on this hearing, and we will reconvene this afternoon at three o'clock to hear from the Shxw'ōwhámél First Nation.

4491. Thank you very much, and safe travels.

--- Upon recessing at 2:38 p.m./L'audience est suspendue à 14h38

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

4492. **THE CHAIRPERSON:** Before we commence our hearing today, the Board wishes to acknowledge with respect the Hul'q'umin'um'-speaking peoples in whose traditional territory we are gathered, and the Snuneymuxw 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.

4493. Good afternoon, everyone. Welcome to the Oral Traditional Evidence phase of the National Energy Board's hearing regarding the Trans Mountain Expansion Project Reconsideration.

4494. 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.

4495. As a matter of housekeeping, I'd like to describe the evacuation procedures in the event of an emergency. Please take a note of the nearest emergency exits. If the building's evacuation tone begins sounding and we are asked to leave the building, the muster point for the venue is Terminal Avenue. Please exit in an orderly fashion through the lobby. At the muster point, please ensure your party is accounted for.

4496. 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.

4497. With respect to our schedule today for hearing oral traditional

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evidence, we had scheduled time to hear from three Indigenous groups. We will normally plan to take breaks if it is required.

4498. 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.

4499. 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.

4500. There will be an opportunity for argument in later hearing steps. Today the Panel is particularly interested in hearing about impacts of project-related marine shipping on your community's rights and interests as well as topics in the List of Issues.

4501. The Board understands that Shxw'ōwhámél First Nation has an oral tradition for sharing knowledge from generation to generation and this information cannot always be adequately shared in writing.

4502. 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.

4503. Following oral traditional evidence, Trans Mountain, other intervenors or the Board may have questions for you, the witness. If so, you can choose whether you will answer orally or at a later date in writing, or a combination of both.

4504. With that, I believe that we are ready to get under way. Before I call on you to present your oral traditional evidence, I'd like to have the representatives of the Proponent, Trans Mountain, introduce themselves.

4505. **MR. DUNCANSON:** Thank you, Madam Chair.

4506. Good afternoon. My name is Sander Duncanson. I'm with the law firm Osler, Hoskin & Harcourt, representing Trans Mountain. With me is Cassie Richards from our office as well. Thank you.

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4507. **THE CHAIRPERSON:** Thank you, Mr. Duncanson.

4508. I 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, can you please indicate who you are and who you are representing. Thanks.

4509. **MS. MILES:** Thank you, Madam Chair. Thank you, Panel Members.

4510. My name is Phoebe Miles. I'm a senior advisor with Natural Resources Canada. I'm here as a representative of the Federal Crown to hear the witness' oral traditional evidence in relation to the reconsideration of the Trans Mountain Expansion Project.

4511. I do not intend to ask any questions today; rather, I am here as a representative of several federal departments and agencies that are registered intervenors, some of whom are here with me today. If necessary, we will ask additional questions through the NEB's information request process.

4512. I would like to note that I am honoured to be present at this hearing and grateful for the evidence we are about to hear, and grateful to be in the traditional territory of the Snuneymuxw First Nation.

4513. Thank you.

4514. **THE CHAIRPERSON:** Thank you, Ms. Miles.

4515. Are there any other intervenors? I see none.

4516. So I understand that you indicated that you are -- you wish to affirm that the information you're presenting is accurate and truthfully on the best of your knowledge and belief, and I'll ask Ms. Comte to affirm you.

4517. Thanks.

ALBERT JULES McHALSIE: Affirmed

4518. **MR. MENNIE:** Thank you, Madam Chair, and good afternoon to the Board today and members of Trans Mountain's counsel representing Trans Mountain. And good afternoon to other intervenors in the room, Natural

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Resources Canada, and Ms. Lyne from the National Energy Board, as well, to the representatives of the media and other First Nations intervenors and guests.

4519. My name is Ryley Mennie. I'm counsel for Shxw'ōwhámél First Nation. To my left is Dan Fogarty who's an articling student in our office. Immediately to my -- behind me to the right is Angie Dick who is Lands Clerk for Shxw'ōwhámél First Nation, and to her left is Sally Hope who is the Rights and Title liaison for Shxw'ōwhámél First Nation.
4520. The presenter for the day from Shxw'ōwhámél is Naxaxalhts'I also known as Albert Jules or Sonny McHalsie who is sitting immediately to my right.
4521. Just by way of brief introduction, Mr. McHalsie is the Cultural Advisor and Historian for the Stó:lō Research and Resource Management Centre. He has worked for the Stó:lō as researcher in cultural heritage and Aboriginal rights and titles since 1985.
4522. He currently acts as the cultural advisor on the Treaty negotiation team for the Stó:lō Xwexwilmexw Treaty Association. He was a co-author of the book, "I Am Sto:lo!: Katherine Explores Her Heritage" in 1997, focusing on his family and his daughter. He contributed to and served on the editorial board of the award-winning publication "A Stó:lō Coast Salish Historical Atlas" in 2001.
4523. Mr. McHalsie was also the author of a chapter entitled "We Have to Take Care of Everything That Belongs to Us" in Bruce Milner's book "Be of Good Mind" in 2007. He also wrote the forward in Keith Thor Carlson's "The Power of Place, the Problem of Time" in 2010.
4524. Mr. McHalsie's areas of expertise include (Native word) including place names, fishing, and Stó:lō oral history. He's also been featured in many television documentaries for the CBC, the APTN, and OMNI.
4525. He's a member of the Shxw'ōwhámél First Nation, the proud father of two daughters and seven boys, and has nine grandchildren.
4526. Mr. McHalsie continues to fish at his ancestral fishing ground in Aseláw in the Stó:lō 5 Fishery in the Lower Fraser River Canyon, and has an honorary Doctorate of Law from the University of Victoria.
4527. Mr. McHalsie is here today to provide evidence to the Board about the

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Shxw'ōwhámél people's understanding of interconnectedness of all things, about the importance of the waterways and the species that will be impacted by Project-related marine shipping, to Shxw'ōwhámél people's culture, identity, and their relationship with other Nations, and the cumulative impacts of industrial development on Shxw'ōwhámél's territory and their culture.

4528. Following Mr. McHalsie's presentation, if he's comfortable, he is willing to answer points of clarification; however, he prefers that any substantive questions remain with the Board's IR process.

4529. Without further ado, I present to you Mr. McHalsie.

**--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR THE
SHXW'ŌWHÁMÉL FIRST NATION:**

4530. **MR. ALBERT McHALSIE:** Thank you. First of all, I'd like to acknowledge my *siyá:ye*, my family and relatives and the Snuneymuxw. Our people acknowledge their territory.

4531. A lot of the stuff I'm going to talk about was talked about back in 2014, but I think for the sake of the Board to understand what we're getting to, I want to kind of review some of that and as mentioned, I want to talk a little bit about the interconnectedness between us as Shxw'ōwhámél of the Fraser River and our connection to the people down here, especially to the land and resources down in this area as well.

4532. Many different features of our culture and history that connect us to the people here, one of the first ones is the language. I know in your introduction you talked about the Halq'eméylem language. That is the language that we speak. We have three main dialects. We have what is called the upriver dialect which is Halq'eméylem from Sumas all the way up to Yale. And then we have the downriver dialect from Abbotsford or Matsqui all the way down to (Native name) or Musqueam and that is called the Hunquminum dialect.

4533. And then over here on east coast of Vancouver Island, Duncan, Nanaimo, Chemainus, that area is known as the Halkomelem. Okay. You can see there are slight differences between the three. Also, within those -- each of those main dialects we have what we call micro-dialects or what we refer to as tribal groups. So I come from Shxw'ōwhámél. Shxw'ōwhámél is part of the Tit Tribe which is the eight First Nations from Seabird and Popkum all the way up to Yale.

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Other examples just include like, the Chilliwack or Tsahawulk or the Chehalis or (Native name) and so on.

4534. As I mentioned as well, we have a lot of family over here. One of the bigger families in my community is the George family, Elder and former Chief Willy George, one of his daughters married over here to (Native name) so we do have relatives over here as well as my family and my cousin Sally who's sitting behind me here. Our Charlie family also extends over here as well.
4535. A couple of aspects of our oral history also provide us with the connection over in this area. First of all, two main aspects of our oral history. One is known as the showquiem and the second one is known as sugelquels, so just to kind of give you an understanding or an explanation of that, showquiem has two meanings. One of it, it's a word that describes a time period that our elders talk about when the world was mixed up, when animals and people could talk to each other. And showquiem is also the word for a story from that particular time period. And it's also the stories about Xexá:ls, what we know as the transformers.
4536. Over here they have very similar stories as well about the transformers. And so the transformers then, (Native name), the three bear brothers and the bear sister, they're the children of Red-Headed Woodpecker. And Black Bear, they were given special powers and given responsibility to travel through the land to make the world right. So they started at the head of Harrison Lake, made their way down to the Fraser River, went upriver to the sunrise, travelled through the sky to the sunset, and then travelled back upriver to the sunrise and were never seen again.
4537. In fact, when Simon Fraser came downriver in 1808, our ancestors thought that he was Xexá:ls returning.
4538. So all those transformations that were done where people were transformed either -- well, bad people were transformed into rocks. There were some good people like, the Mother Mountain Lhílheqey. You might have heard of Mount Cheam. That's regarded as our Mother Mountain. Her three daughters, Séyewòt, Óyewot, Xomó:th'iya, her dog (Native name), her three sisters behind her, her half-sister (Native name), those are all people that were transformed into those mountains.
4539. Other showquiem stories include stories about (Native name),

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according to the late Bertha Peters was a very well, generous man who was always helping our people. When he died, out of his grave grew the cedar tree and because of his generosity, that's why we get so many things from the cedar tree. The trunk of the tree is used to build our pit houses, our longhouses, our canoes. Planks were split off the living trees to use to cover our longhouses. The bark was used for clothing, rope, and twine. Inner bark was scraped and dried and used for diapers and of course, the roots were used for the cedar root baskets, and the cedar boughs were used for spiritual cleansing.

4540. And so that's one of the showquiem stories. That's one of the more wider-spread stories throughout the territory. But all throughout our territory we also have different stories about different places where particular resources were transformed. We're people that were transformed. So for instance, where I come from at Shxw'ōwhámél, the late Agnes Kelly tells the story about a long time ago during a famine in the middle of winter everyone ran out of their dried salmon and their smoked salmon. And she said that Chíchelh Siyámin, the Creator, came down and took pity on our people and told one of our men to walk down to the edge of the water. He was standing by the edge of the water and Chíchelh Siyámin told him to dive into the water. And when he dove into the water, he was transformed into the sturgeon. Agnes Kelly said that he was transformed into that sturgeon so that we could have food in the winter months.

4541. She says it was a bit of a love story as well because his wife, she missed her husband very much. She was mourning for her husband. She was constantly crying. Chíchelh Siyámin took pity upon her as well, told her to go down to the water. She went walking down to the water. She was carrying some dried deer meat. She had it carried -- tied around her wrist. She got down to the edge of the water. Her husband came in the form of a sturgeon, called her. She recognized his voice. She knew that's her husband. She dove into the water and she was transformed into the female sturgeon.

4542. The late Agnes Kelly says the truth of that story lies in the fact that when you butcher a sturgeon, when you cut the head off, right behind the gills you see this piece of brown meat that looks like deer meat because that woman had that deer meat tied around her wrist when she dove into the water.

4543. So when we look at that story then. It creates a relationship that we have with the sturgeon. It's not only regarded as a food, but also we acknowledge and recognize and pay respect to the fact that two of our ancestors were transformed into that sturgeon, meaning that it requires more respect and not just

viewed as a resource.

4544. So throughout our territory there are many different stories similar to that. I won't go into too much detail, other than telling you that Chilliwack, it's the black bear with the white spot on its chest. Matsqui, it's the beaver. Go down to Musqueam and it's a type of grass that grows down there. Chehalis it's the sasquatch. And so on, and many other stories similar to that.

4545. So those are the sxwōxwiyám stories.

4546. We also have what is called the sqwelqwel. Sqwelqwel means "true news" but also it means "family history."

4547. The late Rosaleen George and the late Elizabeth Herrling, they told me about this sqwelqwel. Elizabeth Hurling says that it's stories about your parents, your grandparents, your great grandparents, your great-great-great grandparents, stories about where they fished, where they hunted, where they gathered berries, where they were born, where they lived, where they died, anything like that is our sqwelqwel.

4548. So every Stó:lō person has their own sqwelqwel that they share with their brothers and sisters. And also, that sqwelqwel becomes important when you find out all those different places where your ancestors fished and hunted. And we have an obligation to go out to those places, fish where they fished, hunt where they hunted, gather berries where they gathered berries, and so on.

4549. And that's why today many of us Stó:lō people continue to do that, fishing in those places and using those places that our ancestors used.

4550. And it also brings us to the important law that we have, where we have to take care of those things once we start using those places. This is expressed by a principle that was shared by the late Tillie Gutierrez. The chiefs, when they used to meet, they started off with this statement. The statement in our language is, "S'olh Temexw Ikw'elo. Xolhmet Te Mekw'stam It Kwelat," meaning, "This is our land, we have to take care of everything that belongs to us."

4551. Sqwelqwel is also still today. When we have a naming ceremony, according to the late Agnes Kelly again, our ancestral names, in the past, were tied to all the different resources we're tied -- we're rights and privileges, we're attached to that name, where we could fish, where we could hunt, which part of

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- longhouse you could live in, the stories you could tell, the songs you could sing. All of those sorts of things were attached to our name. And so that's also part of that Sqwelqwel.
4552. The other thing that kind of connects those two things together is our belief in what we call shxweli. Shxweli in our language means, like, spirit or life force.
4553. I know back in 1985 when I first started this job, I had come across the word and I wasn't sure, I didn't quite understand what it was all about. I think I -- my first big exposure to it was back in 1993 when the late Aggie Victor from Cheam got up -- and this is at a site on the other side of Mission, some of you might have heard it, it's formerly called, Hatzic Rock Site, now known as the Xá:ytem. There's a story there shared by the late Bertha Peters where these three chiefs, or three sí:yá:m, are given the knowledge of the written language and they're told to share it with all the rest of the Stó:lō people. Xá:ls had given it to them, the transformers. They kept it to themselves, though. And Xá:ls returned to check up on them, saw that they weren't sharing the language, he heaped them into a pile and transformed them into that stone. So that's what that large stone is located at that site, is three sí:yá:m that were transformed into that rock.
4554. In 1993 we got the elders together, we wanted to find out more information about that rock, if there was anything else that they could share. The late Aggie Victor, she got up, and I'll never forget her words, because she said, "I want you young people not to forget the spirit of those three chiefs is still inside that rock." I didn't quite fully understand what she was talking about.
4555. I remembered that word, shxweli, meaning spirit or life force. I went to see the late Amelotten Rosaleen George and asked her, "What is this shxweli?" And I asked her, "What is Aggie Victor talking about? Is it the shxweli?" And she said, "Yes, it is."
4556. And I asked her, "Well, can you explain to me then, what is shxweli?" So the best way I can describe shxweli is how she described it to me. She put her hand on her chest, she said, "Shxweli is inside you here. It's in your parents, your grandparents, your great grandparents, your great-great grandparents, your great-great-great grandparents. It's in the rocks, it's in the trees, it's in the grass; it's in the ground."
4557. Okay, so that's when I began to fully understand the importance of the

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sxwōxwiyám and also the sqwelqwel. Because when Aggie said that the spirit, or the shxweli of those three chiefs that's still inside that rock, and now that is our understanding, that is our belief, that all those places where ancestors are transformed.

4558. Like most recently T'xwelátse, one of the ancestors of the Ts'elxwéyeqw Tribe was recently brought back home not too long ago, was down in the Burke Museum since the 1800s and just recently brought back home because of that connection through our sxwōxwiyám and because also the understanding and our belief that the spirit or the shxweli of that ancestor is still inside that rock.

4559. So that provides us with that connection to everything.

4560. Same with the sqwelqwel. When I talk about how our family history and stories about people out on the land using the land, so it is our belief that our ancestors' spirits are out there on the land in all those different places where we fish, where we hunt, where we gather berries, anything like that, it is our belief that our ancestors' spirits are out there. So when we are out there doing those same activities, we're actually rubbing shoulders with our ancestors' spirits.

4561. My first understanding of that happened back in -- also back in 1993. One of our late elders, the late Andy Commodore from Soowahlie, explained to me; he said, "If you ever go to a place that your ancestors used, for the first time make sure you spend the night there so that your ancestors' spirits get to know you."

4562. And back in 1993, I returned back to my ancestral grounds, it was talked about earlier, a place called Eslau, a 9,200-year-old archeological site known as the Milliken Site. My cousin, Sally, behind me, also comes from that genealogy as well.

4563. When I went back there for the first time, I got a hole punched in my Zodiac. We ended up spending the night there. Because when I put the patch on, the last instruction was, "Let dry for 24 hours." We weren't planning on spending the night, but we spent the night.

4564. It wasn't until a couple weeks after that I realized and I remembered what the late Andy Commodore said. And it's my belief that my ancestors' spirits made us spend the night because we weren't planning on spending the

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- night there so that they could get to know us. And we actually ended up sleeping in a cave with no blankets, no food, no water, but a cave that our ancestors probably used as well.
4565. So those are different aspects of -- just to try to help you understand the interconnection.
4566. I also want to talk about the importance of our waterways, especially the importance of right from where we are, located up river, all the way down to - all the way down to the saltwater. When you look at our territory that we describe in our language as S'ólh Téméxw, meaning, "Our land," you can see the difference in the geography, and also you can see where the differences of the resources within our territory.
4567. Just to give you some example so you have a better understanding of that, is up in Yale, up in the canyon, in the Fraser Canyon, that's the only place that you can dry salmon throughout our territory. You can't dry salmon down here. You can't dry salmon in Vancouver, or in Langley, or in Chilliwack. The only place to dry salmon is up in the canyon. So if you understand that, you have an understanding of the importance and the past. And we didn't have freezers, and we didn't have canning jars. The two main ways of preserving salmon was by smoking and drying. So if you lived down here, you ate a lot of smoked salmon. And that's why our relatives here came up river to dry salmon, because Yale was the only place to dry salmon.
4568. When you look at other examples, the smoked salmon from around Chilliwack to Hallis area, one of our late elders from Yale, the late Lawrence Hope, he's the grandfather of the present Chief of Yale, says that he referred to the people from Chilliwack and Chehalis as the Smoked Salmon People.
4569. And so another example is the (Native word), the Pit River, that was where we got a lot of wild potatoes. And of course, when you get down to the saltwater, then that's where we get all our saltwater resources, such as clams and so on.
4570. And so that river provided us with a transportation corridor where we could access all those different resources. We travelled using our extended family, using our connections through our social structure, where we have the (Native word) and the (Native word), the upper-class and the middle-class people, using those connections to access those resources.

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4571. Also, the waterways are home to what we call our s'ó:lmexw. S'ó:lmexw in our language is referred to as what is known as the -- well, quite often referred to as "water babies." They're actually little people that live under water. We have a very important ceremony that's very strong in our culture right now; it's a huge revival started back in around 1988. It's up to the point now where we're not worried about losing it. It's two main categories of our culture that have been really protected and really hidden away, and that is the sxwo:yxwey, which is the mask dance, and then also the smílha, which is the winter dance. Both of those ceremonies are both practised by our relatives, our siyá:ye, down in this area, and also up in -- up in our area.
4572. And so the mimestíyexw, the little people, that is where we got that one mask, the sxwo:yxwey mask dance. There's a long story to that, but that's the -- it's from those underwater people that we got that mask.
4573. The importance of that mask is it's done at birth ceremonies, naming ceremonies, puberty ceremonies, weddings and also for funerals. Basically what it does, it blesses and prepares you for that important phase of your life.
4574. So when you're first born, it blesses you and prepares you for -- for your childhood. When you reach puberty, it blesses you and prepares you for your adulthood, and so on with your name and also with the wedding.
4575. Of course, when you pass away, it blesses and prepares your spirit so it can go off and join the other ancestor spirits.
4576. So throughout our territory, different places like the Chilliwack Lake that's called Sxótsaqe, which just means sacred lake, and it's because of our belief that there are the little people that inhabit that lake, and many other places, Yale, all the way down to Stanley Park. Different places where we have the s'ó:lmexw. And so they live mainly in -- in the water.
4577. It's also -- our waterways are also home to Stl'áleqem, Stl'áleqem, we still believe in the Stl'áleqem. We have families that take care of the Stl'áleqem because of its -- their source of power. I know there's a family that's very close to me and the Ch'elxweyeqw, the Chilliwack tribe, who take care of the tsilke, which is the double-headed serpent that inhabits the river between Vancouver and -- and as far up as Hope.

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4578. The Stl'áleqem are important to us because those are the places where -- where those Stl'áleqem reside is places where people who are training to become shxwlá:m or to become medicine people or Indian doctors or shaman, whatever term you want to use, that is where they go to obtain their power, from the Stl'áleqem.
4579. Also, our waterways are important to us for the -- all the different fishing grounds. As I mentioned, the dry rack area up in Yale, that's where we did all our fishing with dip nets. Today, of course, since the 1920s, we've been using -- using gill nets, but in the past it was all done with dip nets. And also, in the lower parts of the river, using the huge bag nets that would stretch across between these two tables here in between -- in between a canoe and attached to -- attached to a pole.
4580. And so all our fishing grounds, we had different methods all throughout the river to catch our salmon. When you got up at -- get up into the canyon, all the salmon are along the edge because the water's so swift up there, and that's why up in that area we can't use those bag nets in between the -- in the canoes. We have to use -- use the dipping.
4581. Family -- or the fishing grounds are owned by family. That whole system was disrupted back in the late 1800s when the Fisheries Act came in and created what's labelled as a food fishery. Prior to that, we did whatever we wanted with our salmon and then, of course, that Fishing Act came in and restricted the use of our salmon, saying that we weren't allowed to sell, created this artificial boundary around the Mission Bridge saying that commercial fishermen can fish as far as Mission Bridge and you can't fish commercially above the Mission Bridge, so it took a lot -- it had a big impact on our -- on our people and on our economy.
4582. So all those fishing grounds continue to be important to us, and I'll talk a little bit more about the impacts of that later on.
4583. The river itself is also a transformation. When I talked about the transformer, Xexa:ls transforming things, they actually created the river, so that is regarded as an important -- in our language we call it (Native word), which means sacred, so the whole river is considered sacred because of the fact that it is one of the (Native name), same as the Chilliwack River or the Ch'elxweyeqw River. That is also another river that was created by Xexa:ls, the transformer.

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4584. As I mentioned, the river also connects us throughout our territory right from the upper end of our territory, which is at the -- about six miles or ten kilometres north of Yale. There's a big rock in the middle of the river there commonly referred to as the Sailor Bar Rock. That's the northern boundary of our territory. Above that is the Nlaka'pamux people who live beyond that.
4585. We already talked about the access to all the different resources up and down the river. Also, the waterways are important to -- for our spiritual cleansing.
4586. One of our Elders, the late Evangeline Pete, talked and promoted times of sorrow for us to walk down to the water and use the water. She said the river is like our friend. It helps us. It washes away our tears, washes away our sorrow, and it's a big part of our spirituality.
4587. Whenever we use things like, for instance, cedar boughs, the cedar boughs are used for cleansing. If you ever attend one of our funerals, when we walk out of the cemetery, we'll have people there with cedar boughs brushing people off, taking any bad spirits off.
4588. The bad spirits are inside those cedar boughs, and that is our way of cleansing those cedar boughs. We bring them down to the water and put them down, put them into the water.
4589. Also, we have, I mentioned earlier, the two dances, the smílha and then the sxwo:yxwey. Smílha dance is -- it's a cleansing that's done as well. Those people at -- that we call them that wear the paint that are involved in the smílha, can't talk too much about -- about it, but the fact is that they do use the water as a means of cleansing.
4590. They have to go for a swim every morning, and it doesn't mean in the local Rotary swimming pool, but it means out in the -- out in the forest. And sometimes they have to break through the ice or sometimes they have to go for their swim when there's snow on the ground. But it's important for them early in the morning right at daybreak to go for that swim. And it's an important cleansing that is done. So that's another one of the important uses of the waterways.
4591. Talk a little bit more about the different resources that are going to be impacted. I know one of the -- one of the things that we wanted to clarify is the -- the whale. I know we as Shxw'ōwhámél, when you look at us way upriver and

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- you think that there's no connection, well, we do have a -- we do have a connection with the whale and we do have a connection, as I mentioned -- when I talk about our relatives down here at Snuneymuxw, our word for them is -- I recognize them as siyá:ye. Siyá:ye in our language means friends, but also it means family or like extended family.
4592. And it's important that -- the health of our siyá:ye is important to us as well, and so when we look at the -- the whales, you know, it's -- people tend to think that we must be disconnected from that because here we are way up in the -- way up in Shxw'ōwhámél, and -- but we are. We do have a connection.
4593. So -- and that is why I wanted to -- that's why I mentioned a little bit about the Sxwóxwiyám so you have a better understanding of the Sxwóxwiyám because we have two Sxwóxwiyám stories about the whale, both the names are called (Native word). And one is up in the Harrison Lake.
4594. If you're ever up there on the west side of the lake about three kilometres up from the Harrison Hot Springs, there's a cabin. Somebody built a cabin right on top of it. But there's a big rock you can see about the size of this -- width of this room, and it looks like the back -- the back of a whale. It's called kwellis (ph).
4595. So it's a whale that was transformed into stone. And if you understood the importance of our Sxwóxwiyám, then that means that the shxweli of that whale is still inside that rock and it requires us to take care -- to take care of it.
4596. Also up in a place called Eyum, which is about four kilometres north of Yale, there's a rock up there also called kwellis (ph), and it's the back of a whale transformed into stone there as well.
4597. A lot of the oral history, our Elders talk a lot about whales coming up -- up the river. Just most recently is one of my good friends, former Chief of Soowahlie, he was talking about his dad, Wesley Sam. And they were out fishing just below Chilliwack Mountain. And while they were out there, they could -- saw this whale coming out of the -- coming out of the water, jumping out of the water.
4598. And when he looked to his dad to acknowledge that they'd both seen the same thing, and then his dad said that, yeah, the whale come up and they were chasing -- chasing the salmon.

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4599. And so there's two -- two words. There's (Native name), which is the killer whale or else the black fish. It's also quite referred to as the black fish. I know a lot of our people refer to it as the black fish. Kwellis (ph) is actually a more generic term that is used for the whale, and that's the name of those two -- two rocks that were transformed into stone.
4600. Now, saltwater resources are important to us, and in the past -- and the late Rosaleen George explained how we would access the saltwater resources. Of course we do not trade or we do not barter with family. We have a protocol where we share with family members.
4601. And so what she said was that if you're from up river you have access to a lot of the dry salmon. If you wanted to come here -- down here to visit relatives, down here to access the saltwater resources, what we would do is load up our canoes with our resources up there, come down here with it. And it wasn't regarded as trading it was regarded as a sharing. Because we were not allowed to trade with our relatives, and so we would just give them the dried salmon or whatever resources that we have from up there, and then in return they would reciprocate by giving us some of their resources from here.
4602. Also through our different gatherings, our smílha gatherings, or any name giving ceremony, or wedding ceremony, usually at the end of that is what we call the potlatch, and that is also where a lot of the exchange of items take place there, and the potlatch is usually more for confirming your status, whether or not you're smilath (ph) or whether or not you're Satetha, meaning whether you're upper class or whether you're lower class.
4603. We are connected to our relatives down here. And as I mentioned earlier, that is why it is important -- their health is important to us as well. So in the past when we talk about all the different coming down here -- now, some of our people still do that. And it's coming back. Like, I think a lot of the relationships in the past are coming back to us. I mean, there are some aspects of it that are still done.
4604. So, for instance, like the smíla, the winter dance, that is done. I know my daughter just last weekend was down here at one of the communities attending smíla, as well as other members of my family were down here attending that as well.

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4605. And of course one of the biggest features of those gatherings is sharing a meal.
4606. Same with when we host one of those gatherings up in our area, same thing, we share a meal, and usually that meal consists of the local resources that we have.
4607. So down here when we come down here we look forward to the different saltwater resources that our siyá:ye have to share with us.
4608. But also when we talk about -- like I talked earlier about shxweli. I wanted to clarify another important part of that shxweli. Shxweli is what connects us as well, and it's that shxweli that can bring good and also it can bring harm as well. There's a connection that we have.
4609. And the best story I could tell to have you understand that is a story -- again this is Rosaleen George, or Yamalot. I was talking to her one time and she was talking about the mimestíyexw, the little people. So I talked earlier about the s'ó:lmexw. The s'ó:lmexw are little people that live under water. We also have a belief in little people that live in the forest. It's very similar to the Irish people who believe in fairies. Very similar to that. But pretty well most First Nations throughout North America believe in little people that live in the forest.
4610. Well, I was talking to Rosaleen one time and she was talking about how these little people were bothering her. They're like spiritual beings. And she said that she was in bed trying to go to sleep and one of these little people walked through the wall, came up to her, and was grumbling and poking her into the side. And that's something that we don't do as First Nations people is poke each other in the side. Again that's got to do with -- there's a spiritual reason for that as well. But this little person was grumbling -- that small man was grumbling and poking at her, and he walked through the wall on the other side of the room.
4611. She was talking on the phone the next day with one of her cousins up in Chehalis and the same thing was happening to her cousin up in Chehalis. And her cousin told her that one of their cousins down in Vancouver in Musqueam was experiencing the same thing. They didn't know what that was about. They knew that something was wrong but they didn't quite know what it was about at that time.
4612. And I had called her because we had some ancestral remains that were

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- being stored in a canoe shed near my office. The anthropologist who was working for us at that time didn't understand the importance of taking care of those remains and not leaving them inside like that, and we didn't know about it. But when I found out about I said we have to take care of them. And I contacted Yamalot and asked her to help organize that and then she made arrangements for her community at Skwah in Chilliwack to take those ancestral remains and bury them in their cemetery.
4613. She said as a result of that she said that the people were -- she wasn't bothered anymore by those little people, and also both of her cousins from Chehalis and Musqueam weren't being bothered as well.
4614. And also the other thing that connects us spiritually, something that we use is what we call temelh. Temelh is the red ochre. It also comes in other colours as well. There's a bright red, a darker red, brown, and also black. Those are paints that are used by our winter dancers. They have a protocol. When they attend the smílha they have to wear their paint. They're not allowed to go in there without their paint.
4615. Our spiritual people like the shxwlá:m, Indian doctors, and also people like the (Native word), those people that take care of our ceremonies where we feed our ancestors' spirits and where also we blanket them and where we clothe them, those people also where temelh on their faces.
4616. Also quite a few years ago back in early 1990s the elders instructed us to -- because we were hiring archeologists and we were working collaboratively with the archeologists, they instructed us that the archeologists must wear temelh was well. So that's why to this day as part of our Stó:lō heritage policy any archeologist that works in our territory they have to have temelh, They have to put it on their temples, put it on their hands, put it on here, put it on their feet, and also Betty Charlie from Skwah says on the back of your neck as well.
4617. The reason for that is temelh, the red ochre, is something that's been around for thousands of years. The archeologist when they do their work excavating different archeological sites they find that temelh in there, you know, 5,000, 6,000 year old temelh.
4618. So it's an important part of our ceremonies, and so our elders say the reason that the archeologists have to use it is as a protection. And they clarified it to me, because when they first told me that I thought they thought that we were

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- putting that paint on the archeologist to protect the archeologist. And they said no, it's not just to protect the archeologist, it's to protect us as well, because whatever those archeologists are doing -- whatever work that they're doing out there in the forest, or in our old village sites, or whatever, it's going to affect everyone.
4619. So it's not just to protect them, it's to protect us as Stó:lō people, and not just us right there at that community where they're doing their work but also our relatives up and down the valley. So even over here -- our relatives over here, because sometimes the way this -- when we talk about it we talk about it as how -- the way the spirit works, and sometimes the way the spirit works it will have an effect on our relatives down here.
4620. So that's why it's important to us. The health of our siyá:ye down here is an important part of our daily lives as well.
4621. Other resources include the salmon, many different types of salmon. We have stories about the origin of the salmon down here in the saltwater. We talk about them as the sockeye people. We have a story about how the sockeye baby was brought up to the canyon, is transformed into stone right in front of our village, my community of Shxw'ōwhámél. We have a village up there called Kuthlath. There's a big bay there. And that's where the sockeye baby was transformed into stone and that is why the salmon come back up every year.
4622. And we also have what is called the first salmon ceremony where that's -- one of the most important parts of the ceremony is that very first salmon that is caught is shared with as many people as possible. Us as a Stó:lō Nation the political group when we host a first salmon ceremony the most people we had attending was 350 people. If you can imagine 350 people sharing one salmon you're only going to get one little morsel or one little bite of that salmon. But that's one of the most important parts of that is to share that salmon with as many people as possible. Not just your family but your extended family and other people from other communities as well.
4623. Second part of that is that all the unused portions of the salmon is collected, like the bones and the guts and that are put into a basket. After the feasting is over and then we have four people, one of the leaders, a spiritual person, an elder, and a youth, usually a youth anywhere from four to seven years old. They bring all the unused portions of the salmon back down to the river. A prayer is said to the river thanking the river for allowing the salmon to come back

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up, thanking the Sockeye people for allowing the salmon, and also thanking Chíchelh Siyámin, the Creator, for the return of the salmon.

4624. There are different runs of salmon that are important to us. That all depends on the season. Like I mentioned earlier as well that the dried salmon, we can only dry salmon in the month of July. After that, in the first week in August, that's when the blowflies and that's also when the yellowjackets or the wasps come out. And so we have a short, short season to dry salmon right in the month of July.

4625. A number of environmental factors that allow that to happen is first of all, the salmon, they spend the first 100 miles or so -- what is that, 160 kilometres, something like that -- in the water. They're expending their energy, burning their fat. We have studies that show that by the time they get up to Yale they lose about 13 percent of their body fat which is important for drying the salmon. And that is why today if you ever go up and take a look at the dried salmon, you'll notice how people today cut the stomach out of the dried salmon. In the old days, they used to call -- it was called the "butterfly" where they used to open them right up, take the backbone out, keep it all one piece and they would open it up like that. But nowadays you see people cut the stomach out because the stomach has a high content of fat in there so it doesn't dry very well. In fact, it has a very strong taste to it and a lot of the younger people today don't do it.

4626. I grew up with it, so I was used to it. But I know even one of our elders, Tina Jack from Seabird Island, she used to dry it the same way and then -- but now she does it in halves and takes the stomach out as well. And I asked her why she did that and she said, "Oh, my grandkids don't like that, the taste of that fat," because it doesn't really dry. It just gets a strong taste to it.

4627. Okay. So it's really important that that body fat is lost so then it allows the salmon to dry. So we feel that if you took a salmon from the saltwater and brought it up there to dry, it probably wouldn't dry very well because of the high volume of fat content in there.

4628. Also, the other thing too is, the other environmental factor is there's no dew up in the canyon. When you get downriver, Hope, Chilliwack, Abbotsford, Langley, you have dew at the nighttime in the summer. Maybe you might have the proper conditions in the day to hang your salmon. It might be nice and windy. It might skin over. But then at nighttime, the dew comes out, gets on your salmon, your salmon just go moldy. And so up in the Yale Canyon, if you ever

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go up there, you'll notice you'll see the -- all the rocks, the rock mountains there. That absorbs the heat from the sun and then at nighttime it dissipates that heat. It doesn't allow dew to form so there's no dew up there in the canyon so that allows us to dry the salmon up there.

4629. The other thing as well is the salmon, they need to conserve their energy for to get up to the spawning grounds. So down in the lower parts of the river, they're out in the middle of the water and that's why the commercial fishermen, when they do fish from the Mission Bridge down they set their nets right across the river because the salmon are all in the middle. But when you get up to Yale, the river is so swift, all the fish are along the edges and that's why we as Stó:lō people have developed technology with the two different dip nets, a dip net and then also what's called a still net to catch those salmon as they're following along the edge of the bank. And then they're dried.
4630. The other thing is, the dry air; some of you might have heard about Lytton as being easily the hot spot of British Columbia. They're always breaking their own records. And that's where that dry air blows down from in the morning. The wind blows from upriver and blows down. Around 4:00 or 5:00 in the afternoon, the wind shifts and starts blowing up. The elders say to start drying your salmon in the morning while that wind is blowing down. They recommend not hanging your salmon in the evening because that's when you have the air from -- blowing from the coast, blowing upriver and it carries a little bit of moisture with it. So they say don't dry it at that time.
4631. Okay. So those are the reasons why the -- we can only dry salmon up in that area. And so the only salmon that are available at that time then are the spring salmon and then also the Sockeye salmon.
4632. Once we get into the fall, drying season is over. And the other thing too is, we can't smoke salmon -- well, a lot of people do now because they use those little Indian chiefs or those sort of things -- but the traditional method of using -- having a smokehouse to smoke salmon, you can't really smoke salmon in the summer because it's just too hot and the salmon will rot before they start preserving. And so that is why we wait til the weather to cool and so usually in September or October, that's when we start drying our salmon.
4633. So then of course, then the only salmon that are available then in those months are the pink salmon and the chum salmon. Of course, the pink salmon are only available on -- they only come on odd years, they don't come on the even

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years. But those are the two salmon that we use for smoking.

4634. Other fish, I know I already mentioned the sturgeon but also there is the eulachon. Eulachon is very important to our people. Just down where we are located at Shxw'ōwhámél which is now known as Laidlaw, just downriver of us is Jones Creek. Jones Creek is -- there's an old slough that used to come off of that creek and went and joined to the river. The name of that place was called *Swiolh*.

4635. The late Agnes Kelly said that was an important fishing ground for the eulachon when the eulachon used to come up that far. I'm not sure if you guys know this. The number of eulachon have reduced in the last few years and now they only come up as far as Kwantlen or Langley area and they don't get up to our way. They used to come up into Chilliwack and come all the way up into Hope. The last time one of our elders, the late Ralph George from Shxw'ōwhámél saw the eulachon up in Hope was back in 1978. They haven't been seen up there since.

4636. But that camp that was set up there at swiolh, it wasn't just for the Shxw'ōwhámél people, it was also our relatives, the people from downriver, from Scowlitz, the people from across the river at (Native name), our relatives from Chawathil, and people upriver as well, Union Bar. They would come down there and they would smoke the eulachon. There's a huge processing camp right there for smoking the eulachon, very similar to our downriver relatives had a similar setup at the mouth of the Sumas River where all the people from downriver would gather at that one spot and smoke the eulachon. So eulachon is very important to our people.

4637. I should be okay. I just got that last bit now.

4638. Okay. So the last bit as mentioned, I wanted to talk about the different impacts of development on our Shxw'ōwhámél lands and also the broader territory of the Stó:lō territory or what we call the (Native name). First of all, of course -- so I don't know if you know the history. 1808 was when Simon Fraser first came down through the river, came down from upriver, came down to Musqueam; the Musqueam people chased him back out of the territory because he stole one of their canoes. It wasn't until 1826 when the Hudson Bay Company established Fort Langley for -- so from 1826 to 1858 there was only about 50 non-Native, non-Stó:lō people living within our territory. It wasn't until 1858 when the gold rush happened, not too long after the California gold rush, which I believe was in 1849, 30,000 American miners moved up here into our territory.

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Had a huge impact, not only on our people but also on the environment.

4639. The oral history talks about them raping their women, shooting our children, using them for target practice and that sort of thing. But also, the gold rush had a huge impact on our salmon habitat because of the way they were digging up the gravels, digging up all the different gravel bars and interfering with the spawning. And that's why the very first conflict happened there at a place known as Hills Bar just south of Yale, often referred to as the Fraser Canyon War.

4640. And also, the lasting effect of that is the mercury. There's still mercury underneath the rocks because some of you might know this, when they extract the gold from the black sand they use mercury and sometimes it's burnt. And because of all the mercury that was used for extracting the gold, if you go up in the canyon, certain places where there was heavy placer mining and if you dig up the rocks and you can see little droplets of mercury still underneath those rocks. So that was the first development that came through, was that whole gold rush having a huge impact on our salmon habitat and the spawning grounds.

4641. Then of course, not too long after that, that's when the new settlers came in, starting settling on our land. And of course, because of their settlement, that's why the reserve creation started was to take away our lands and put us -- isolate us, alienate us from our lands, put us on smaller pieces of land, so that would open up the rest of the land for the new settlers that were coming in. So reserve creation started back in the 1860s right up until 1878 and also 1912, 1913 as well.

4642. The problem with that reserve creation was that because of the western society's perspective on important lands, a lot of our reserves were created along the river. They didn't create any reserves away from the river, not recognizing the importance of our connection to our land as well. Because we call ourselves Sto:lō, meaning people of the river, but we also call ourselves (Native word). (Native word) is the word that connects us to the land. Because the word for our land is téméxw, right, so you can see that connection there.

4643. You can also see our relatives up and down the river that carry the names that -- their name has that similar part to it, like the (Native word). You see that "*muk*" at the end. The (Native word). The (Native word) people they call it (Native word). You see that little part. And that's what attaches them to the land. And same with us, so Shxw'ōwhámél attaches us to the land.

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4644. And so we have no reserves away from the river. So a lot of our hunting grounds, berry picking grounds, those sorts of things were alienated from us. And then of course once the logging of our forests, the clearcutting, came in it had a huge impact on the animals, the animals that we relied on, like the mountain goat and the deer.
4645. Also even in the late 1800s with all the trophy hunting that had taken place, the mountain goat was almost completely wiped out. It is regarded even by the province and the biologists today that their numbers are still not high enough, that there's no hunting of the mountain goat within our territory of Shxw'ōwhámél, although in the past they were quite important to our people.
4646. But with those hunters coming in and having a huge impact on our game just specifically for their trophies wasn't good.
4647. And then of course the railroads came in. So the first one was the Canadian Pacific Railroad. And the thing is a lot of the reserves are created in 1878, Gilbert Malcolm Sproat. And what happens four years later that land is taken away by creating right-of-ways for the Canadian Pacific Railroad. Because they started construction in 1882 and completed in 1885. A lot of destruction happened from the creation of that railroad.
4648. Also another good story is about the -- what they created there at Seabird Island. Seabird Island at one time was a -- well, it's technically no longer an island. But at the upper end of the Island when the CPR first went through there they built a bridge. In 1894 the flood washed out the bridge. Instead of rebuilding they bridge they filled it in with rip-rap and blocked the river from running around Seabird Island. And the elders say that was a very important habitat for the sturgeon. And so that was a problem created by the Canadian Pacific Railroad.
4649. Nineteen ten (1910) was the Canadian National Railroad. The Canadian Pacific Railroad when they went through they -- because they were the first railroad that went through they were able to pick the best side where they could build their railroad. The Canadian National Railroad didn't have a choice. They had to build it on the other side. Of course they were competing against the CPR.
4650. And of course because they built on the other side they had a huge negative impact on our resting areas, especially like if you go up into the canyon

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you'll notice all the different bays and that, and those are the places where the sockeye when they're making their way up river, and the spring salmon or the chinook, they'll have resting areas. They'll pull into those little bays and they'll rest then continue.

4651. You'll see places up there, long stretches of the river where all those natural resting areas are gone now because they dumped rip-rap. And you see these huge long straight banks and the water's just running swift. So the salmon when they go through there they have to go through that swift water. They don't have places to rest anymore.

4652. So that's something that was created by the Canadian National Railroad.

4653. And of course when they went through they had a huge impact on our reserves. There was actually just prior to 1910 -- in 1905 there was what we call the five-mile fishery and we also call it the 1905 fishing rock map where as a result of two fishermen being in conflict over a fishing site Agent MacDonald was sent up there to map all the different fishing rocks. So he mapped all these fishing rocks and based on those fishing rocks that's how they determined where to lay some of the reserves.

4654. So they created reserves on the east bank of the Fraser River, so no Canadian National Railroad at that time. But then the Canadian National Railroad came in, they needed to survey the right-of-way. The Department of Indian Affairs didn't have money to pay for a survey to survey those reserves, but because the CNR was going in there to survey the right-of-way they asked the CNR surveyor, which, in my perspective, was a conflict of interest. So they asked the CNR surveyor to go and survey those reserves, and of course they reduced all those reserves. So the reserves were quite large. Like where I fish up there was supposed to be 41 acres. They moved the decimal point over and it's now 4.1 acres. And a couple of the other reserves as well were reduced by the CNR surveyor.

4655. Trans-Canada Highway -- of course the first one that went through was the caribou wagon road. Minimal impact. Some of you might have seen some of the pictures of that old highway when it went especially through the canyon where they hung the highway on the edge of the rocks. So it wasn't until they started building the Trans-Canada Highway that you see today back in 1962. Huge impact again, not only on our reserves but also on some of the cemeteries.

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- Some of the cemeteries and that had to be moved to make way for the railroad or else even for the highways as well.
4656. Agricultural development, once the settlers came in with the agricultural development again huge impact on our forest. The elders talk about a time when all the flatlands all around Chilliwack and that area was all nothing but cedar trees, and of course it's all logged out, all taken away.
4657. Those of us that still use the cedar root to make cedar root baskets, the best place to gather the cedar root for the nice long straight roots is in the flat ground on the flood plain, and all those trees are gone now, so our people are forced to go up into the mountains to gather the cedar root. And quite often when you gather those roots because it's so rocky up there you can't get the straight roots anymore. So a huge impact that they had.
4658. Also with the agricultural development many of our creek channels were modified and turned into ditches. So if you look at the old maps you'll see the old maps of the creek channels. And you look at a contemporary map and the old creek channel ends and then all of a sudden there's a straight long ditch that follows the road and continues on.
4659. And making those ditches of course had a huge impact on the fish that used to go up there. I know the late Edna Douglas from Cheam talked about a creek that used to run next to their community and she talked about how they made it into a ditch and it had a huge impact on the fish that used to go up in that area.
4660. Clearcutting of our forests -- as I mentioned earlier, the reserve creation alienated us from our forest. We were moved away from -- no lands were created up in that area. So that allowed the way the Minister of Forests operates it allowed them to give permits and that so people could just go up into our areas.
4661. And like most recently the last decade or so our women's fasting ground right behind Shxw'ōwhámél was ruined by helicopter logging, even though the Minister of Forests came in and consulted with our Si:yam council and our Si:yam council told them to stay away from that area. They said, "That's the women's fasting ground stay away from there."
4662. But when they were doing their helicopter logging they started early in

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- the morning. It wasn't until about 10:00 o'clock that some of our community members realized what they were doing. And sure enough they went right into the women's fasting area. So even though they consulted they destroyed that fasting area. So those sorts of things are still happening today with our forests.
4663. And of course the other big impact is a lot of the cedar trees -- the old cedar trees that we used to use, it's hard for us now to even find a cedar tree to carve a canoe. Some of our canoe carvers have to rely on getting their logs from the Haida in the Charlotte Islands.
4664. I know when we look at our own building, the Sto:lō Resource Centre, we wanted to pay respect to the cedar and we had two great big cedar logs that are inside the lobby of our building, and sad to say that we couldn't find those logs in our territory; we had to get those logs hauled from the Queen Charlotte Islands as well. So those sorts of things are still happening.
4665. Of course, the importance of the cedar in the past was, as I mentioned, to build our homes, to build our longhouses, and build our pit houses. And you look at some communities, although, like, nowadays, at Shxw'ōwhámél, we have a lot of housing, but I know some people, some communities have a hard time with housing. And, you know, if we just had access to those forests to build our longhouses, the way we did in the past, it would make a big difference.
4666. Also, another big impact was the dyke-ing, dyke-ing along the river. And also the draining of Sumas Lake. I don't know if you guys know this; there used to be a large lake, 30,00-acre lake between Sumas Mountain and Vedder Mountain from the Vedder Canal to Kennedy Ridge drained back in the 1920s. Very important lake to the people from Semath, our relatives down in the Semath area. That had a huge impact.
4667. Also, a lot of the other dyke-ing in different areas. I know that the community of (Native name), they had -- the name of that place has to do -- means it's a spawning place. But you go there, there's no spawning that happens there now, because when they built a dyke, they built a road, blocks the water, the river can't run in through there now, and so now there's no more spawning. So that is the result of the dyke-ing as well.
4668. And also, of course, when the pipelines come through, the pipelines going through different parts, like on both sides of the river up where we're from, of course in addition to the highway and the railroad, the new highway, the side

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roads, parallel roads, and the pipelines, and then B.C. Hydro. If you look at Shxw'ōwhámél, right from our reserve from the river, to the back of the mountain we have all these different rights-of-way that cut through our reserve and just reduces our land.

4669. And of course, the worries that we have for the pipeline, our water system, well water system. Where the pipeline is located, if something were to happen, that would come down and get right into our water system and we won't have good fresh water.

4670. So those are just some of the examples that I wanted to share, just about the different impacts, the different developments that is a part of our history, and a real negative part of our history, and something that we still struggle with today, still trying to right some of those wrongs that those different developers did while they went through our territory. And hopefully at some time it will be resolved and we can start to take care of our land and our resources.

4671. That's it for my presentation.

4672. **MR. MENNIE:** Thank you. So that concludes Mr. McHalsie's presentation of oral traditional evidence today. And if there are any questions from the Board Panel, or from Trans Mountain, or any intervenors, although I believe NRCan mentioned that wouldn't be making questions today?

4673. **THE CHAIRPERSON:** Mr. Duncanson?

4674. **MR. DUNCANSON:** I have no questions, Mr. McHalsie, but I certainly learned a lot this afternoon. That was a lot of information. So thank you very much for coming here and sharing that with us.

4675. **THE CHAIRPERSON:** Member Lytle, if you have something?

4676. **MEMBER LYTLE:** I don't have any questions, but I just wanted to say that was a real tour de force. Thank you very much.

4677. **THE CHAIRPERSON:** I concur. So I do have all the history, I'm glad that today we have transcripts, because you said quite a bit in a clear, concise, and very cogent way.

4678. So thank you very much for sharing how the impacts of the various

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developments over time and this -- and how you're connected to your cousins here, you know, and to the saltwater.

4679. So we thank you very much for sharing this with us today. And we will consider all that we have heard as we decide on our recommendation in this hearing.

4680. And we will reconvene tomorrow morning at nine o'clock to hear from the Lyackson First Nation.

4681. Thank you very much. And safe travels.

--- Upon adjourning at 4:22 p.m./L'audience est ajournée à 16h22