

# Northwest & Ethical Investments L.P.

## INVESTOR BRIEFING NOTES

On Tuesday April 14<sup>th</sup> 2009, CERES and the Ethical Funds Company hosted an investor briefing to provide an overview of Enbridge's proposed Northern Gateway Pipeline, its relation to Canada's oil sands and key risks the project is facing.

Presenters included experts in relevant American/State and Municipal energy policies, Canadian Aboriginal Law, British Columbia's coastal tanker traffic and representatives of the Nak'azdli (member of the Carrier Sekani Tribal Council) and Gitga'at First Nations (member of the Coastal First Nations of the Turning Point Initiative).

### ANDREW LOGAN – Call Moderator, CERES

Notes below are summarized, transcript of speaking notes not provided.

#### *Context for the investor briefing*

- Enbridge's gateway pipeline project presents a potential investor risk and socially responsible investors have recognized this risk by filing 2 shareholders proposals.
- Oil sands represent a massive resource containing as much oil as Saudi Arabia but where the reserves are trapped within the substrate (sand) requires stripping of extensive boreal forest as well using large amounts of natural gas and water in order to extract/separate the oil into a useable form. All of these steps, including the generation of toxic tailings have impacts on the land ultimately causing risk for investors.
- Market projections show that oil sands production will gain in strength and mostly destined to US market, supplying 20% in next 50 years. However, many producers are concerned about future regulation changes to the US market and the Gateway project is the only project that brings oil to west coast, destined for the asian market.

### MATT PRICE – Program Manager, Environmental Defense

Notes below are summarized, transcript of speaking notes not provided.

For additional information, please refer to presentation slides.

#### *Overview of oil sands pipeline network*

- Canada is a major oil producer and estimates show that it is the 2<sup>nd</sup> largest reserves holder in the world. Although the current oil production show a 50/50 split between oil originating from oil sands vs. conventional sources; oil sands are projected to increase.
- It should be noted that forecasts and projections pre-date the current economic downturn, when a number of pipelines had been proposed, most notably the following 3 Enbridge proposals:
  - Alberta clipper – is currently facing a lawsuit by a Minnesota NGO
  - Gateway
  - Trailbreaker – is currently delayed
- The most recent oil use is projected to be flat until 2030, in part due to greater fuel efficiency and the use of renewables.



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## *Policy developments*

- California has introduced fuel standards which reduce GHG by 10%. These standards also distinguish between carbon intensive oil production (such as oil sands) vs. conventional production.
- Markey Waxman Bill is a US nationwide carbon fuel standard that is modeled after the California standard. This bill presents targets that are less ambitious than those proposed in California and in essence formalizes a “hold the line” position for all fuel coming into the US in the next decade.
- There is growing perception in Canada that a cap and trade system will be proposed by the new US administration and that the Federal government will have to follow with hard caps. Exact details of this proposal are not known.

## **JESSICA CLOGG – Senior Council, West Coast Environmental Law**

Complete transcript of speaking notes provided by speaker.

For additional information, please refer to presentation slides.

The Gateway project decision making engages section 35 of the Canadian Constitution, which recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada.

## *Aboriginal Title is collectively held and encompasses*

- Right to exclusive use and occupation of land
- The right to choose to what uses land can be put, subject to the ultimate limit that those uses cannot destroy the ability of the land to sustain future generations of Aboriginal Peoples
- Inescapable economic component (see *Delgamuukw v. BC*, [1997] 3 S.C.R. 1010 at paragraph 166)
- Aboriginal Title continues to exist in British Columbia with more than 60 First Nations have filed writs in recent years.
- Justifying infringements of Aboriginal Title may require the “full consent” of the First Nation (see *Delgamuukw v. BC* at paragraph 168)
- Short of Aboriginal Title, the Canadian Constitution also recognizes Aboriginal Rights, such as fishing or hunting
- Most First Nations are pursuing reconciliation negotiations rather than court challenges, but it is virtually inevitable that one or more affected First Nations will successfully be recognized by the courts during the lifetime of the Enbridge project.

## *Consultation and Accommodation in the Interim Period*

- The Crown’s position for many years is that it had no legal duty to even consult with First Nations until they proved their rights in court. This position was finally rejected by the courts in 2004 - see *Haida Nation v. BC*, 2004 SCC 73 at paragraph 35 which stated that “To limit reconciliation to the post-proof sphere risks unfortunate consequences. When

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the distant goal of proof is finally reached, the Aboriginal peoples may find their land and resources changed and denuded. This is not reconciliation. Nor is it honourable.”

- The decision-making and regulatory approval process for a massive undertaking like the Enbridge pipeline falls squarely into this kind of situation. Virtually all natural resource tenuring, permitting or approval decisions do – see *Haida Nation v. BC* at paragraph 33 which stated “The duty arises when the Crown has knowledge, real or constructive, of the potential existence of the Aboriginal right or title and contemplates conduct that might adversely affect it.”

## *Duty to consult and accommodate*

- Scope of the duty will vary according to the strength of the nation’s case and the seriousness of potential impacts
- At a minimum includes good faith consultation with the intent of substantially addressing the concerns of the First Nation
- Deep consultation, aimed at finding a satisfactory interim solution, may be required, including formal participation in the decision-making process by the First Nation
- First step in consultation is to discuss the process itself
- The Crown must engage directly with the First Nation, not just as an afterthought to standard public participation
- There is a duty to consult with respect to higher level “strategic” planning and policy decisions about the use of resources, not just project-specific or operational ones
- The Crown’s duty is not just to provide a reasonable process, but also substantive accommodation of impacted Aboriginal Title and Rights
- Varying or withholding approvals or even legislative/policy amendments may be required
- The honour of the Crown may not be delegated to third parties

The first step is to discuss process itself: for example *Gitksan First Nation v. BC (Minister of Forests)*, 2004 BCSC 1734 at paragraph 113; and *Huu-Ay-Aht First Nation v. BC (Minister of Forests)* 2005 BCSC 697 at paragraph 123. Recent litigation with respect to the Mackenzie Gas Pipeline suggests that the duty to consult and accommodate with respect to the Enbridge Gateway project was likely triggered at a very early stage, when the agencies involved initially contemplated proceeding by way of Joint Review Panel and other decisions about process design: *Ministry of Environment et al v. Dene Tha’ First Nation*, 2006 FC 1354 at paragraph 110, *aff’d* 2008 FCA 20.

In *Carrier Sekani Tribal Council v. British Columbia (Utilities Commission)*, the BC Court of Appeal recently confirmed that the process of consultation requires discussion at an early stage of a government plan that may impact Aboriginal interests, before a decision crystallizes, “so that First Nations do not have to deal with a plan that has become an accomplished fact”: 2009 BCCA 67 at paragraph 52.

The Crown’s constitutional duties of accommodation may require them to take concrete steps to avoid the harm or minimize impacts on the First Nation (see *Haida* at paragraph 47).

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Consultation at the operational or project-specific level may have “little effect” if First Nations have not been honourably consulted at the strategic level (see *Haida* paragraph 76).

## *Treaty context*

- Decisions to alienate treaty lands or that may otherwise negatively impact on treaty rights to fish, trap or hunt require consultation and accommodation
- Crown will already have notice of the rights impacted, but otherwise the legal principles about consultation from *Haida* apply – (see *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)*, 2005 SCC 69).

## *Implications*

- Failure to work with First Nations to design the process for review and decision-making on projects may result in legal challenges and delay (e.g., *Dene Tha'*, *CSTC* cases)
- Resource tenures or approvals granted without honourable consultation and accommodation are vulnerable to legal challenge and may be set aside or suspended by the courts (e.g., *Klahoose* case)

## **ERIC SWANSON – Corporate Campaigner, Dogwood Initiative**

Notes below are speaking notes; transcript not provided.

For additional information, please refer to presentation slides or an audio recording of this portion available here: <http://www.dogwoodinitiative.org/in-depth/complexities-faced-by-enbridge-gateway>

## *Introduction*

Dogwood Initiative is an environmental organization headquartered in British Columbia, Canada. I'll be abbreviating British Columbia as 'BC' throughout the rest of this presentation.

I've been invited to this call to summarize some of the major environmental concerns associated with Enbridge's proposed Northern Gateway project, which aims to link Alberta's oil sands to emerging markets in Asia and California. The project is competing in the post 2015 production timeframe. From here on in I'll simply refer to the project as 'Gateway'.

Though I'm speaking as a representative of Dogwood Initiative specifically, I can say that our concerns are shared to a large extent by many leading organizations in BC and across Canada such as Pembina, ForestEthics, Greenpeace and Sierra Club.

## *Summary of concerns - Pipelines*

Gateway project consists of two major components: a twin pipeline component and a marine, tanker component.

The pipeline component would begin near Edmonton, Alberta and terminate in Kitimat, a coastal community in northern BC. The twin pipelines would export oil sands product and import condensate diluent.

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The proposed pipeline route is 1100 km in length, and in contrast to neighbouring Alberta, would include the first oil pipeline ever constructed along a significant of its route in BC. Hence, Gateway represents a completely new and in many cases a poorly understood land use for some communities along the route.

The pipelines themselves would cross approximately 1000 streams and rivers, and the potential impacts to these waterways and the fish they support are critical points of contention along the route.

Many of these streams and rivers have high economic and cultural significance, for example tributaries of the Skeena and Fraser rivers, which provide important habitat for many species of fish; most notably perhaps being salmon, which are central to the character of many of the communities currently deliberating over Enbridge's proposal.

Protection of wild salmon has featured prominently in recent victories of provincial and federal politicians in the electoral areas that encompass the western portion of the Gateway route.

In December 2008 a major coalbed gas project proposed by Royal Dutch Shell was delayed by the BC government due in part to blockades and actions asserting the interests of the Tahltan First Nation, and in part to a broad based grassroots campaign that united people in the region around the protection of salmon.

The concern is that salmon, caribou, grizzly bears and other species that are important to communities along the pipeline route could be impacted by construction and maintenance activities, and spills. The unfortunate reality is that spills and leaks along pipelines do happen, and although Enbridge would surely strive to minimize these incidents, the potential for spills and resulting long term damage is significant.

To highlight this, an oil spill of over 6,000 barrels into the Pine River in 2000, from a pipeline owned by Pembina Pipeline Company, remains fresh in the minds of many people in northern BC.

What we're seeing is that if communities along the pipeline route perceive major threats to salmon or other resources that in their minds outweigh the employment opportunities, largely limited to the three year construction window, as many people decided was the case for Shell's project, significant local and regional political pressure could build against Enbridge's Gateway proposal.

## *Summary of concerns - Tankers*

The marine component of Gateway involves the construction of a new marine terminal in Kitimat, which would accommodate an estimated 225 oil and condensate tankers annually.

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The red and yellow lines on the map indicate the various routes available to the tankers. Note the community of the Gitga'at's Hartley Bay, a representative of which will be presenting on this call.

In the past, vessels carrying methanol and ammonia have called on the Port of Kitimat via similar routes, as have a limited number of condensate vessels servicing an Encana project since 2006.

However, Gateway would bring the first ever crude oil tankers to this stretch of coast; the ships proposed are significantly larger than what has called on Kitimat in the past, and would be arriving at over 3 times the rate of historical vessel traffic. Again this is important because it means that Gateway represents a controversial new activity.

I say controversial largely because of the perceived threat of the oil tanker traffic. The tankers would pass through the coastal heart of one of the last large, intact temperate rainforests in the world, known globally as the Great Bear Rainforest, due to the large populations of grizzly bears and the unique Kermode (spirit) bears.

As an interesting note, the annual trek of grizzlies in this area from their mountain dens down to coastal feeding grounds is being featured by the BBC in the follow up to their Planet Earth series, which they're calling 'Nature's Great Events'.

The Gateway oil tankers would also have to travel through feeding grounds for humpback and killer whales, past the entrances to hundreds of salmon spawning streams, and by beaches and bays used by what has recently been confirmed to be a unique sub-species of rainforest wolf.

This stretch of coast is also the heart of BC's commercial fishery.

The fear of course is that of a large oil spill occurring within these internationally celebrated waters. Most people have but to think of the Exxon Valdez to visualize the kind of damage that can be wrought by a single large spill.

And although technology and procedures have certainly improved over time, and I imagine they'll continue to do so, the unfortunate fact is that accidents will always happen, whether by human or mechanical error.

A study by Simon Fraser University in Vancouver estimated back in 2005 that the Gateway project would bring a spill of over 1,000 barrels every 5 years or so, and a spill of over 10,000 barrels about once every 12 years. What seems clear is that spills would be a matter of when, where, and how large, not if.

And unfortunately, once oil is spilled into the marine environment it is very difficult to clean up. Clean-up rates that approach 15% are widely considered to be great successes, and once oil hits a beach, there is very little that can be done.

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So the prospect of Enbridge's Northern Gateway project bringing the first ever oil tanker traffic through these waters is generating a great deal of controversy.

Dogwood Initiative believes the cultural, environmental, and economic risk posed by oil tanker traffic through the Great Bear Rainforest outweighs the economic benefits of the Gateway project itself.

This rationale forms the basis of Dogwood Initiative's campaign to strengthen a tanker moratorium dating back to the 70's through legislation that would effectively bar oil tankers from this stretch of coast.

Polling conducted by the firm Synovate in 2008 indicates that such a ban is supported by over 70% of British Columbians, across all political stripes. These results are consistent with earlier polls, and consistent with the prevailing sentiment of British Columbians going back to the early 70's.

During the 2008 federal election, all three opposition parties in BC, including the Liberal Party of Canada, supported a measure to bar oil tankers. Leadership of the party has since changed, but indications are that this support has not.

If we are successful, such a ban would effectively eliminate the possibility of an oil sands export terminal in northern BC, whether the Gateway project, or similar competing proposals by Kinder Morgan or more recently, CN rail.

Since the launch of our efforts in 2006, tens of thousands of people have officially signed onto the idea of a tanker ban, and this continues to grow rapidly as our NoTanker loonie project, which has supporters stick decals onto normal Canadian dollar coins, spreads across the country. We currently estimate there are over 300,000 of these coins in circulation.

In addition to those actively supporting an outright ban on tankers, many more do agree that Gateway should be subjected to a full public inquiry, to replace the assessment process currently proposed.

## *Conclusion*

To summarize, there are a variety of environmental concerns associated with both the pipeline and marine component of Gateway. The issue of oil tankers and oil spills will be critical in the public debate on Gateway and continues to attract significant profile due to the longstanding opposition of a majority of British Columbians to the concept. This opposition may in fact translate into a measure that bars oil tankers outright, thereby closing the door on Gateway and competing northern oil port proposals, or this opposition may politically manifest as an expanded public inquiry, which could delay Gateway project timelines and increase the likelihood that a recommendation is made that this project not proceed.

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I hope that this information has been useful in elucidating some of the complexities faced by Enbridge's Northern Gateway Project. Thank you for your time.

**DAVID BENTON, Manager for the Indian Band - Gitga'at First Nation**  
**CAMERON HILL, Community Leader - Gitga'at First Nation**

Complete transcript of speaking notes provided by speakers.  
For additional information, please refer to presentation slides.

Good day to us all. I am speaking to you from Hartley Bay, British Columbia. My name is David Benton, I am the Manager for the Indian Band known as the Gitga'at First Nation. I would like to introduce you to Cameron Hill, an outstanding community leader in Hartley Bay, teacher and prolific food hunter and gatherer.

Cameron Hill: Good day. Thank you for taking the time to listen to me.  
I'm here to tell you of our vision for the Gitga'at First Nation.

We are speaking to you today because we are very, VERY concerned about the impact of tanker traffic on our success in achieving this vision and on our very survival - as a people, and as stewards of a great, temperate rainforest.

Our vision is developed and shared by our Chiefs and my fellow elected councilors. We are working hard toward this vision in many ways and have been for years. We have been celebrating many successes.

### *Gitga'at Vision*

- Environment – a healthy, pristine environment and effective stewardship allows us to thrive off the land and sea for all time.
- Unity - Gitga'at recognize ourselves as one unified group who cooperate together, led by Elder wisdom.
- Nation-Building - by asserting our rightful place in the world we are recognized as a united self-governing nation. Negotiation with our peers, partners and neighbours is conducted on the basis of strength, wisdom and integrity.
- Governance - our trusted Government is cooperative, representative, and inclusive. Our informed and proactive policies and plans are practical, well communicated, and supported.
- Infrastructure - excellent infrastructure allows the Gitga'at to flourish beyond our needs.
- Economic development - great economic opportunities abound for Gitga'at in sustainable new and traditional economies. We are recognized as the 'best place to work', because of our effective leadership, work ethic and productivity.
- Well-Being - Gitga'at society allows individuals, children, families and elders to thrive by way of physical, spiritual, emotional and mental wellbeing.

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## *Enbridge Project Impacts and Risks*

- The Enbridge Project is all impacts and risks and we see no benefit.
- Nothing is worth having at the expense of Gitga'at Territory.
- The Project has created an overwhelming sense of imminent danger for our people.
- The intention of the Enbridge Project is to bring oil and condensate through our territory with an estimate of at least one tanker per day (each tanker up to 350 meters long - 3 and a half times the length of a football field).
- We still aren't sure of the volume that will go through our home land.
  
- This map shows our territory outlined in red, and the tanker routes favoured for fair and dangerous weather in green and yellow respectively.

As you can see, the proposed tankers will travel narrow passages. They are rocky and dangerous. If you lived with us and experienced the storms we get every year, with hurricane force winds, you would also look at this routing like we do, shake your head, and ask 'What are they thinking?'

The tankers will pass directly in front of my village, less than a half a mile from our front door. We are terrified. The risks are many and they are huge.

The world cannot afford to ruin this pristine part of the planet. You are familiar with the risk of an oil spill from a tanker:

- You just have to think of the Exxon Valdez, the Braer disaster of Scotland or the recent Brisbane disaster.
- Spills are not a matter of if, they are a matter of when.

## *The impacts will be huge.*

The Great Bear Rainforest is so complex that we will always be learning about the life forces that breath through it. Still we know that there will be cumulative impacts resulting from the daily tanker traffic: the pollution and noise from huge engines; the destruction by massive wakes; the addition of invasive species that will put an eco-system under ever increasing stress.

The wakes will be out of sync with tides that have directed the development of life on the shore for millennia.

My people will lose their ability to sustain themselves and the Rainforest:

- Our hard won opportunities will be lost
- Our health will be compromised.
- Our culture disabled.

Our sustainability plans to be the greenest village, have thriving eco-tourism businesses, grow and harvest world-class seafood, maintain Gitga'at jobs for the Gitga'at people - these will be rendered ridiculous if daily tankers plow through our territory.

Our living system will be destroyed

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Canadian governments, through our courts, have recognized the rights of our people to be involved in decision-making about our traditional territory. There is already a clearly established right for First Nations to be consulted and accommodated in matters that affect us. In order for consultation to be meaningful, adequate information for decision-making is required.

The gathering of this information is at the expense of the proponent. In a case like this, the knowledge base to be developed is vast and complex.

Knowledge must be developed regarding the Ecological, Social, Economic, Health, and Cultural impacts of tankers in our homeland.

There is no current agreed-upon baseline of information and significant effort and expense are needed to develop enough information to satisfy the requirements of even the proposed Environmental Review process. Our standards are higher than theirs and there will be further requirements arising from the duty to accommodate to compensate us for infringement.

Our territory is vast and is a complex ecosystem and social system - a living system with links worldwide.

The development of sophisticated data models will require significant resources.

The analysis must be of the highest possible standard in order to meet the test of informed decision-making.

Once the consultation is complete, and informed decision-making is possible, a plan must be developed to accommodate the impacts as required by Canadian law.

In the minimum this would involve security measures, management of risks and hazards, and disaster containment - if this is even possible.

Some proponents assign a value to the jobs they would provide. So far, the jobs considered for the Gitga'at – spill clean-up crew or tug operator, are not traditional or sustainable jobs. We reject them.

In fact the sustainability of these kinds of jobs, and their impact on the society of communities like Hartley Bay is yet to be known. They would ensure that the traditional knowledge would never be preserved through training among family members, like we do now.

Further, accommodation would attempt to address the impact on Ecological, Social, Economic, Health, and Cultural systems, assign a value, and provide some compensation for the infringement – an unknown quantity. To accommodate we will need compensation for loss of income, loss of economic opportunity and on a wide range of Ecological, Social, Economic, Health, and Cultural losses.

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In addition, given the real potential for rendering the territory unlivable, and given the experience of the Exxon Valdez, it has been suggested that a Trust Fund of between \$5 and \$20 Billion be set aside for catastrophic loss, as a beginning.

It should be noted that the first contact of the Enbridge proponents and our people occurred only two months ago. The information protocol between us has not even been developed. Getting the information we need will take many years and will require monitoring and evaluation for the life of the project.

Further, we are collaborating with others— like minded First Nations, particularly our Coastal Neighbours who stand with us in solidarity – Environmental NGOs, Lawyers, Media, and other people who are committed to moving forward on issues of sustainability and the need for new solutions in a new era of energy and climate understanding. This is a public and a political process, with great public interest and input.

From our discussions with our First Nations neighbours, there is overwhelming consensus to stop the tankers. We will individually and collectively assert and defend our rights to self-determination, our status as a government, and our unceded title to our lands and waters. We will exhaust EVERY option in the process to ensure that our interests and our territory are protected.

Finally, if the system, corrupted, allows the tankers to come, bringing the resultant risks and losses to our people and our territory - we will demand the most sophisticated protection available including an unprecedented trust fund for disaster. We will expect to recover the real costs of the impacts for all time, **without limit and without leniency**.

Thank you for you time.

**ANN SAM – Councilor, speaking on behalf of Nak'azdli Band and Nadleh Whut'en.**

Transcript of speaking notes not provided.

For additional information, please refer to presentation slides.

## *Carrier Sekani Tribal Council Background*

The Carrier and Sekani peoples occupy a vast territory in central BC and are part of Athabasca family. The Carrier Sekani Tribal Council (CSTC) provides political and technical support to 8 First Nations who have not signed treaties with the Crown. The member First Nations of the CSTC are:

- Burns Lake Band (Ts'il Kaz Koh First Nation)
- Nak'azdli Band
- Nadleh Whut'en
- Saik'uz First Nation
- Stelat'en First Nation
- Takla Lake First Nation
- Tl'azt'en Nation
- Wet'suwet'en First Nation

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The core to the governance system is based on the concept of “keyoh” which means the resource area that belongs to a particular settlement or clan, and that serves as the material, cultural, and spiritual basis for sustaining human life. The Gateway project will impact traditional keyoh holders from nak'azdli in beaver lake, stuart lake and stuart river.

## *Regulatory challenges*

On February 8<sup>th</sup>, a letter was received from the federal government announcing the establishment of a Joint Review Panel for the Enbridge Gateway project. This represents a concern because the federal EIA process does not have a clear policy on aboriginal rights and title nor does it have a separate definition for First Nations outside of stakeholders.

In consequence, the role of First Nations interests remains undefined with consequences such as the potential for project delays due to conflict and possible legal challenges

## *Impacts*

The project is predicted to have significant impacts on keyohs holders and wildlife, particularly on fish – especially the Stuart river salmon (also known as the early stuart run) and Nechako river white sturgeon, both of which are critically endangered species.

In addition, increased industrial activity in area carries the burden of climate change and cumulative impacts on the land – these are mostly identified as increase pollution due to the presence of toxic tailings from mines operations; habitat destruction from the constructions of Kenny Dam, the Mountain Pine Beetle epidemic, as well as other proposed pipeline projects (ex. Pacific Northern Gas).

## *A way forward - 1<sup>st</sup> Nations Review Process*

In 2006, First Nations were contacted by Enbridge and this process resulted in the establishment of a proposed First Nations Review Process with “principles” for engagement set forth by the CSTC. Over 20 Nations signed on to the proposed process which was to be held in parallel to the Federal EIA process. Unfortunately, this proposal was ignored by both the Federal government and Enbridge.

It should be noted that consent is different from consultation and that First Nations land was never surrendered to Crown.

Many concerns exist about proposed project; most striking is the message that was carried back from an elder from Nak'azdli that went to Fort Chipewyan last summer and saw and heard first hand the impacts the tar sand development are having on the community of Fort Chipewyan. These communities requested help in the form of support from other First Nations to deal with high cumulative impact sustained by the land, especially given the additional industrial activities in the area.

Currently, rather than engaging CSTC directly, Enbridge is approaching each Nation individually. The company is requiring MOUs that are considered restrictive and that require sign on to federal EIA process.



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## **AMANDA CARR – Shareholder Action Manager, The Ethical Funds Company**

Complete transcript of speaking notes provided by speaker.  
For additional information, please refer to presentation slides.

Amanda Carr is joined by Bob Walker, VP of Sustainability and several analysts from the sustainability team of environmental, social and governance risk analysts. The Ethical Funds Company is a division of Northwest and Ethical Investments.

As the last presenter in this call I will take just a few minutes to summarize and alert you of the shareholder proposals which were circulated in Enbridge's Management Information Circular on March 31st. These proposals represent the opportunity for investors to proactively begin to address the risks identified for our company in the presentations we have heard today.

### *Shareholder Proposal No. 1,*

As is referenced in Enbridge's circular, requests that the Board of Directors prepare a report on the likelihood and liability of product spills associated with the Northern Gateway Project.

This proposal was filed by five individual investors, who are also members of Dogwood Initiative. In addition, other SRIs have been in dialogue with the company on the issue of tanker traffic and recently stated that they are calling on the company to reconsider the feasibility of proceeding with the Northern Gateway Project.

Eric Swanson, who you heard from earlier, is coordinating the investors response and associated proxy alert with respect to this proposal so please contact him directly for more information at [eswanson@dogwoodinitiative.org](mailto:eswanson@dogwoodinitiative.org).

### *Shareholder Proposal No 2*

Result of ongoing shareholder engagement with Enbridge which began in 2006.

The proposal requests that the Board of Directors assess and report on the costs and benefits of adopting a policy of free, prior and informed consent and disclose to investors the status of negotiations with First Nations along the transportation route for the Northern Gateway Project.

### *Enbridge Response*

Enbridge responded to the proposal, by suggesting that the need for consultation and accommodation is being met by the Government of Canada's regulatory approval process, that their practices go beyond sector performance and that their disclosure is adequate. In addition they highlight philanthropic contributions to First Nations.

However, Enbridge's response is similar to the content shared with Ethical Funds in our most recent meetings with the company and leaves significant concerns. Specifically, relying on the federal government process has lead to projects not proceeding or at a minimum significant cost overruns, project delays and ongoing issues with social license to operate.

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## *Ethical Funds Proxy Alert*

Our proxy alert provides 2 specific cases in Northern BC where companies have had permits denied as a result of First Nations opposition, these are in addition to the Shell example Eric mentioned earlier and the infamous Mackenzie Valley Pipeline project which was first proposed in the 1970s and is still not built and embroiled in legal challenges and ongoing regulatory process today.

From risks to opportunity we believe that the concept of free, prior and informed consent deserves consideration as a potential proactive approach for the company to address the complex legal landscape described by Jessica's presentation.

First Nations have distinct legal standing in Canada that clearly separates them from other community stakeholders or special interest groups. Philanthropy is a positive indicator of corporate social responsibility but inappropriately highlighted in response to the risk of lack of free, prior and informed consent raised by this proposal.

Finally, despite meeting with the company on several occasions, systematically reviewing the annual report and MD&A disclosure, as well as combing through all content on the National Energy Board's website and Enbridge's own Gateway website, we have been unable to determine the results of Enbridge's current approach. We can not determine which First Nations and Métis Associations have met with the company, which have signed agreements, how those agreements are related to consent, how many, what percentage or which First Nations and Métis Associations have offered consent or stated opposition. Disclosure is simply not sufficient to analyze these risks.

Shareholder Proposal No. 2 was filed by the Ethical Funds with co-filers Trillium Asset Management and First Affirmative Financial Network. For more information or any follow up questions please feel free to contact me at [acarr@ethicalfunds.com](mailto:acarr@ethicalfunds.com)

## **QUESTIONS**

Comments on press reports that various asian companies have offered to provide financial support and invest in communities in exchange for project support.

David Benton – Community of Hartley Bay has not been approached but such offers would not be sufficient to mitigate project impacts.

Eric Swanson – Unique financing structure for Gateway project involves advance sales of "founder shipper" units to Alberta suppliers and Asian purchasers who would then have priority access to pipeline capacity. No supply contracts have yet been signed. This disclosure of 'founder shippers' is unavailable due to confidentiality agreements.

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Comments on discrepancy of what presenters have shown as very clear positions regarding First Nations rights vs. what the company is doing.

Jessica Clogg – from legal basis courts have been clear and there is not much uncertainty regarding the high level principles. The practical application however requires significant shift from regular conduct for business. Some progress has been made at the provincial level to proceed on basis of shared decision making. What remains in question is when the federal government will begin to act in a more proactive way.

David Benton - Courts are in the process of strengthening and giving more meaning to Aboriginal rights and title. The New Relationship between the BC Provincial government and First Nations has been guided by court cases decisions. At the federal level, there is a lack of capacity to be able to integrate federal cases into day to day operations.