NATIONAL ENERGY BOARD
OFFICE NATIONAL DE L'ÉNERGIE

Hearing Order OH-001-2014
Ordonnance d'audience OH-001-2014

Trans Mountain Pipeline ULC
Trans Mountain Expansion Project

Trans Mountain Pipeline ULC
Projet d'agrandissement du réseau de Trans Mountain

VOLUME 23

Hearing held at
L'audience tenue à

Victoria Conference Centre
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Victoria, British Columbia

November 28, 2014
Le 28 novembre 2014

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OH-001-2014

IN THE MATTER OF Trans Mountain Pipeline ULC
Application for the Trans Mountain Expansion Project

HEARING LOCATION/LIEU DE L'AUDIENCE

Hearing held in Victoria (British Columbia), Friday, November 28, 2014
Audience tenue à Victoria (Colombie-Britannique), vendredi, le 28 novembre 2014

BOARD PANEL/COMITÉ D'AUDIENCE DE L'OFFICE

D. Hamilton	Chairman/Président
P. Davies	Member/Membre
A. Scott	Member/Membre

ORAL PRESENTATIONS/REPRÉSENTATIONS ORALES

Tsawout First Nation
Mr. Eric Pelkey
Ms. Belinda Claxton
Mr. Earl Claxton, Jr.
Mr. Nick Claxton
Mr. Aaron Sam
Ms. Mavis Underwood
Ms. Brenda Gaertner (counsel)

ERRATA

TABLE OF CONTENTS/TABLE DES MATIÈRES

LIST OF EXHIBITS/LISTE DES PIÈCES

No.	Description	Paragraph No./No. de paragraphe

UNDERTAKINGS/ENGAGEMENTS

No.	Description	Paragraph No./No. de paragraphe

--- Upon commencing at 9:08 a.m./L'audience débute à 9h08

(Drumming ceremony/Opening prayer)

11345. **THE CHAIRMAN:** Good morning. And I thank you, Chief Underwood, for your words and your welcome, for your prayer and for your song that you came with this morning. And we acknowledge that and thank you for that.

11346. And I welcome to the -- welcome you to the oral traditional evidence phase of the National Energy Board's hearing regarding the Trans Mountain Expansion Project.

11347. My name is David Hamilton; I am the Chair of the Panel. And with me on my left is Alison Scott; and on my right, Phil Davies.

11348. We want to welcome everyone who is here today, both in the hearing room and listening to the Webcast.

11349. We will sit from 9:00 until -- from now until 12:00 noon. And please feel free to take breaks as you require, and we will also do the same to help us get -- assist with going through this morning.

11350. If you find that at the end of your session that this morning that you have not had enough time to give all the oral traditional evidence that you feel that you would like to give us, please make a request to file additional oral evidence by electronic means, such as a video, or some other method.

11351. The Board understands that Tsawout have an oral tradition for sharing knowledge from generation to generation, and this information cannot always be adequately shared in writing. The Board recommends that those providing oral traditional evidence focus on their community interests and rights. Sharing your traditional knowledge about the use of your traditional territory is of value to us.

11352. If you wish to share any concerns about the impacts the proposed project may have on you and your community, and how any impacts could be eliminated or reduced, that would be also helpful to us. This is the type of information we're here to listen to, and we will use this information we gather today, along with all the other available information, in considering the possible effects of the proposed project.

11353. We appreciate that you've chosen to be with us today, and before providing oral traditional evidence, presenters will be asked to swear or affirm that the information they are presenting is accurate and truthful to the best of their knowledge and belief.

11354. Before we get underway then, I would ask the -- perhaps the representatives of the Proponent Trans Mountain to introduce themselves.

11355. Ms. Oleniuk, good morning.

11356. **MS. OLENIUK:** Thank you, Chair. Good morning to the Board and good morning also to the representatives from Tsawout First Nation.

11357. My name is Terri-Lee Oleniuk, and I'm legal counsel to Trans Mountain; along with my colleague to my left, Heather Weberg; and to my right is Annie Korver, and she's a member of Trans Mountain's Operational Engagement Team.

11358. Good morning.

11359. **THE CHAIRMAN:** Prior to affirming or swearing, Ms. Gaertner, would you like to say a few words, or would you like us to have them sworn or affirmed first?

11360. **MS. GAERTNER:** Is it on? The red light is flashing. I can say a few words and then we can affirm them and start them. Let's do it that way.

11361. **THE CHAIRMAN:** Thank you. And good morning. It's nice to see you again.

11362. **MS. GAERTNER:** For the -- oh, I guess I just have to speak closer to it. There you go.

11363. Tsawout has intervened in this process related to Trans Mountain because they have serious concerns about the proposed project and its impact on their homeland, the territorial lands and waters over which they have, since the beginning, always carried sacred responsibilities for; sacred responsibilities for this generation, for past generations, and for future generations. Those are the responsibilities the members hold, not just to the people, but to the territory, to the

waters, to the places, to everything that is interconnected and precious to them.

11364. The six people here today that are Tsawout's witnesses, Eric Pelkey, Earl Claxton, Aaron Sam, Belinda Claxton, Nick Claxton, and Mavis Underwood have prepared so they can come and share the information they hold on behalf of the Tsawout and the W̱SÁNEĆ people, the territory on behalf of their rights, including their established Douglas Treaty rights to carry on their fisheries.

11365. They will also share information about their world views, their ethics, their laws, their customs, their philosophies and, as I've already mentioned, their responsibilities.

11366. As already has been noted by the Chief and in your opening comments, Chairman, there's only a morning to spend time with you today. So there will not be sufficient time. They're going to give you a snapshot during this time of their sacred relationship, and we will be filing supplementary evidence during the process.

11367. There are a few things that would benefit from legal clarity from the outside of this oral hearing. We welcome -- Tsawout welcomes the opportunity to spend the morning with you and provide this knowledge to the Panel and the other intervenors. However, they are becoming increasingly concerned about this process. Chief Harvey Underwood has put those concerns in writing today to the Crown. We're copying you so that you can become and continue to be aware of the concerns they have.

11368. There are just a couple here. One of the concerns is the timing of this. I know that it's difficult in holding a robust process, as you must do. We suggested you hear this evidence at the end of the exchange of written evidence in writing. We still think that would have been a more appropriate time to hear it. It would have been more comprehensive and complete. And for that reason, once we have gathered all of the information we need to assess this project, we'll try to put further evidence before you.

11369. The second thing that we need to be clear on the record is Tsawout has not accepted this process, your process, as an appropriate means for Canada to discharge its duty to consult with Canada. Canada should be consulting Tsawout directly on a government-to-government basis and not relying on a highly technical regulatory proceeding to meet their constitutional obligations. Tsawout will continue to have those discussions directly with the Crown.

11370. As you will hear from the witnesses today, based on Tsawout's assessment to date, this project will clearly interfere with Section 35 rights, including their Douglas -- established Douglas Treaty rights to carry on their fisheries. So according to Canadian law, to international declarations and to W̱SÁNEĆ laws, Tsawout's consent will be needed, will be sought, must be sought for this interference. Currently, there is no process by which the Crown is seeking Tsawout's consent.

11371. Finally, Tsawout's witnesses have agreed today to answer any questions you have to clarify their evidence. If there are other questions, we would appreciate that those be provided by writing and we'll respond in the process.

11372. Those are all my opening comments. And with that, I'd like to briefly introduce the first panellist. I would say that each one of them will introduce themselves in their traditional way, so my comments are just to give you a little bit of a sense of the people that you're hearing from.

11373. Eric Pelkey will begin. And Eric has had many roles and responsibilities in his lifetime on behalf of the Saanich. Currently, he is the Tsawout Land and Treaty Officer. But he's also been, for 21 or longer, many years the administrator for the Tsawout First Nation. He's a founding member of the Coast Salish Employment and Training Centre. He's a chairman of the Douglas Treaty Nations Committee and he's -- and he was the Chairman of the SENĆOŦEN Alliance.

11374. And so without further ado, I would ask that Eric begin.

11375. **THE CHAIRMAN:** I think we'll look forward to hearing from Eric. We'll have them affirmed or sworn first and then we'll let them -- let you get at it.

11376. Thank you.

ERIC PELKEY: Affirmed
EARL CLAXTON, JR: Sworn ...
AARON SAM: Affirmed
BELINDA CLAXTON: Affirmed
NICK CLAXTON: Affirmed
MAVIS UNDERWOOD: Sworn

11377. **THE CHAIRMAN:** Mr. Pelkey, we're prepared to have you proceed. Thank you.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR MR. ERIC PELKEY:

11378. **MR. ERIC PELKEY:** (speaking native language) I want to thank you for hearing the words that we have to share today.

11379. My name is WEC'KINEM, my hereditary name that was passed on to me by my Elders. Eric Pelkey is my family name of our people in Tsawout.

11380. I guess first off I'm going to start off by explaining the history of our family in Tsawout and on the Saanich Nation because that is where most of our people are. That slide that we have presented, the first slide is SEXSOXELWET. She is my ancestor that was born around in the 1700s and who we are -- almost all of us here amongst our relatives descended from.

11381. ȻOLOWENTET was her son and ȻOLOWENTET was one of our greatest warriors of the Saanich Nation. He was one of the warriors that really ensured the continuity of the Saanich Nation. He was the one that fought off the northerners when they were trying to overtake our lands and run our people off.

11382. ȻOLOWENTET was the one that negotiated our territory with most of our neighbours and had peace treaties negotiated with them through his statesmanship and leadership and also his warrior abilities. He established the line between us and the Hul'qumi'num people and also the people -- the Hul'qumi'num over in the mainland and our neighbours down to the south.

11383. Without ȻOLOWENTET, my father said the Saanich people probably would not exist because he is the one that fought to keep our villages and keep our territory and keep our resources for our people and he's the one that organized to unite our people together in the preservation of who we are.

11384. So that's why this is so important to us to have him reflected in this way. When ȻOLOWENTET was a young man, his mother brought him -- after his father was murdered by the northerners, his mother brought him over to Tsartlip to establish a new village to train warriors.

11385. And that's where we come to ȻOLOŁEMKEN. ȻOLOŁEMKEN was one of the sons, one of the many sons of ȻOLOWENTET who we are all descended from. ȻOLOŁEMKEN was a leader in a different way. He established the spirituality, our connection with the spiritual world of our people and also the -- he established our connection with the magics of nature to help our people.

11386. So a lot of those things that ȻOLOŁEMKEN developed and sought out in order to help our people are still practised by our people now. ȻOLOWENTET lived in the 1800s and then ȻOLOŁEMKEN brought us into the 1900s.

11387. Then, from there down, ȻOLOŁEMKEN's children are MENELOT, who you see the descendants of him, the families of the Elliotts, the Olsens, the Coopers and the Harrys. And you heard John Elliott speak the other day here and he is part of our family.

11388. And then there was ZIȻOT, the Bartlemans; SEMTOT, the Henrys; ȻLEKTEN, the Charles' and TETEMKEN, which brings into our family here.

11389. TETEMKEN had a daughter named Sliliot (ph) and that's the name that's carried by my auntie here sitting here. She carries that name, that hereditary name. Sliliot (ph) married the Hereditary Chief of Tsawout, Chief Louis Pelkey, and so that brought into their son, Marshall Pelkey, who's my grandfather, Gabe Pelkey, who is my father and myself, Eric Pelkey.

11390. WEC'KINEM, comes from my great-grandfather, the Chief's line. And the last name on there is JELKIM. That's Charlie -- the Charlies from Tseycum. So those are -- I just wanted to show that to show our direct hereditary line and how we go back hundreds of years to show where we come from and who we are and where our rights come from and where our lineages come from.

11391. Move on to the next. That picture there is Chief Louis Pelkey. Chief Louis Pelkey, Hereditary Chief, my great-grandfather and the grandfather, great-grandfather of my cousin here and my other cousin that was sitting here, the grandfather of my auntie there; the great-grandfather of my cousin over there and my cousin over here, great-grandfather.

11392. So he takes us all in and he is sitting in what is Saanichton Bay, and I'm not sure how well aware you are of the Saanichton Bay Marina case, and he is

sitting right on the beach right in the area that we fought to save -- to save from the Saanichton Bay Marina. And what you see there is really the clam beds and out into the water is the crab beds that have sustained our people for thousands of years.

11393. And we don't allow anybody else to access those resources except us and they've never been depleted, never. They've never run out and even though our people have accessed them for thousands of years. That is why we so treasure conservation and how that means so much to our people.

11394. This next map that you have showing there reflects the SENĆOŦEN place names of our people. This was gathered by our Elders and then passed on to us, and this is -- as you can see, it covers our entire territory but it's not really every name that we could place onto that name, only the main names. And what our people have always -- our Elders have always told us that your territory is reflected by the SENĆOŦEN names.

11395. You don't have -- we don't see lines on our maps, we don't see lines that say, "This side of the line's ours and that side of the line is yours." We show the place names to show that the places that are of importance to us and the places that we actually use. And as you see that it goes right from the Greater Victoria area all the way through the Saanich Peninsula to the Gulf Islands and all the way over the Lower Mainland and Boundary Bay, Point Roberts. All those areas down to W̱LEMMI and all the way down to Elwha, we have those place names in the San Juan Islands and the Gulf Islands. All of those things reflect the territory that we use and that even though it's right across the water we use all of those territories.

11396. And when we interviewed our people that are still practising their Aboriginal and Douglas Treaty rights, we have placed every one of them on the map, and that map covers this entire territory and even covers all the way across the water to show that our people are still continuously using our territory considering -- and we've documented everything that they've been accessing in different types of resources. Not only fish, but all types of resources throughout our territory are documented by our interviews of our Douglas Treaty practitioners and our Elders.

11397. So that's why we have such a clear idea of what's out there. We have such a clear idea because our people are still out on the water, are still out on the islands, and they're still accessing our territory.

11398. Those little fish that you see on the map reflect the reef net fishing sites of our people. And as you can see, those reef net -- the reef net sites are right in line with the areas that we're talking about in this proposed Trans Mountain pipeline shipping lanes. So those are -- that's why we are so concerned about what's coming forward here because we're out there and we -- our fishermen, when they see the proposed shipping lanes, they know all the reefs, they know all the fishing sites, and they bring those concerns over to us saying that they're really scared about what's coming down the line in terms of increased shipping.

11399. This map here is a smaller version of that larger map, and this shows the map of Saltspring Island to reflect what it means to our people. WEN,NÁ,NEĆ there, that name on the right, WEN,NÁ,NEĆ, it means, "looking towards Saanich"; that's what that means. It means that our people were there, and from there they could look towards Saanich, and that's what WEN,NÁ,NEĆ means. WÁSWEN, that little island that's above there, WEN,NÁ,NEĆ, is where our people used to stop off and dry their fish.

11400. And all these little islands that are in between WEN,NÁ,NEĆ and WÁSWEN are all mostly grave islands. Grave islands that held the remains of our High Chiefs and those that are of a high blood. Many non-Indians live on those islands now, and we have heard about all of the remains of our ancestors that have been moved as a result. So that's just a little bit of history on that portion.

11401. TEKTEKSEN. TEKTEKSEN, what you know as Saturna Island, and that is the entry point. We see the entry point to the shipping lane that comes into the Gulf Islands. And that also is reflective of the salmon routes of our people.

11402. Did you see those arrows that are going there that are on the map? That is what our Elders have determined are the routes of the salmon. That they come into there and they follow those lines up into the Fraser River and out into the ocean. So they come through that way and pass that way when they're coming through the Gulf Islands. So that's what those arrows represent.

11403. And that little island that's off the end of East Point and Saturna -- I can't hardly see it -- I'll have to refer to my map.

--- (A short pause/Courte pause)

11404. **MR. ERIC PELKEY:** TEMOSEN. TEMOSEN is what our people refer to -- our people call that TEMOSEN and it's referred to as part of Parks Canada, as Tumble Island on the Gulf Islands National Park. And that island is of great concern to us in regard to this project also because of the sacredness of that island.

11405. ȻOLOŁEMKEN, when he was alive, established a training area for the people that are amongst our people that were chosen to enter into the spiritual training of our people, and to be able to teach them the magics of nature and how to contact the spirits of the spirit world to help our people that are here today. ȻOLOŁEMKEN was the person that established a training centre that was on TEMOSEN, and our people still use that as a spiritual place today because of that fact.

11406. And one of the most compelling things about TEMOSEN is that the tide runs in one direction continuously. It runs in a counter-clockwise fashion around the island and continues, and it never, never changes; it never, never goes the opposite way. It always goes in a counter-clockwise fashion around the island. And that's why ȻOLOŁEMKEN thought when he went there that this place has a magic about it that our people can use to access the spirit world. So that is really a special place to us, and we never want it to ever be disturbed or changed.

11407. And one of the things that happened in the years that I've worked with Tsawout First Nation is that remains were found on a little island right beside TEMOSEN called Cabbage Island. When B.C. Parks established a camp -- that as a camping site for people to access TEMOSEN. They dug an outhouse and found one of our people. They dug an outhouse and found the remains of one of our people and turned it over to the Royal B.C. museum. And this was particularly upsetting to our people when we found out that they'd done that.

11408. It caused quite an uproar, not only amongst the SENĆOŦEN or the Saanich people but also the Hul'qumi'num people because they also sent their people down here to be trained.

11409. So there was such an uproar that Parks Canada worked with -- worked with our people to return those remains and rebury them on that island.

11410. And the reason why it was so important to us is because our Elders

told us any remains on that little island are people that died on TEMOSEN as the -- the people that were going there to be trained. So anybody -- anything that happened or they might have died out there, then they would have been buried on that little island.

11411. So that's why it's so important to us to have those islands left as they are, and that we know that the remains of our ancestors are there.

11412. And the same thing with the -- on the little island by South Pender, what you can see as named QENENIW̱. On South Pender there's a little island called Skull Island. And what happened was that one of our people that were travelling through there spotted remains on that little island.

11413. We consulted with our Elders and our Elders told us that one of our ancestors, one of the director ancestors to my cousins, was actually buried there, a great Chief who died in Tsawout -- died in Tsawout but his chieftainship came from that location. And he was returned to that island and he was buried there.

11414. So we went to Parks Canada when they -- when we heard that they were talking about moving those and went them -- went to them and told them that we actually know who that is because it was directly a descendent -- our people were directly descendent from that person and they -- our Elders did recall that when we buried them there.

11415. This map here is a -- it reflects the San Juan Islands and all the SENĆOŦEN place names that we have out there. And our cousin that was on the other day, STOLȻEŁ, and that -- that is -- San Juan Island is the -- and STOLȻEŁ is the name that he carries and he is actually from our family also.

11416. And Tsecinqwes (ph); Tsecinqwes (ph) up there off the left hand of the -- of the island is what is commonly known as Henry Island. Tsecinqwes (ph) is where our people lived and fished and reef net fished through the summer months and had a well-established living space there.

11417. So it showed that our people actually were out there and living there, and the Americans actually honoured our right to carry on our fisheries out there longer than the Canadian government did. Even though the Canadian government was shutting down our reef net sites over here and stopping us from accessing our fishing sites, the American government was still honouring the Treaty. And so that we carried on the fishery over there longer than over in Canada.

11418. And if I could have our Elder Lou Claxton stand up?

11419. Our Elder Lou Claxton is one of the last living people that actually fished on that site. And so I'm honoured to have him here because he is one of the people who was actually out there before the American government also outlawed it and stopped us from going over there.

11420. Thank you. Thank you, Lou.

11421. So I just wanted to show this to reflect that our people were back and forth across the border and what we're planning on doing is cooperating with our American relatives and going back out there again in the upcoming years.

11422. So they're -- we're tearing down the border, as we see it. Tearing down the border that was established to divide our families in going back out and reuniting with our families that are out there and opening up those fishing sites once again.

11423. And the thing about it is that they have a thing over there called the Point Elliott Treaty that gives -- that honours their right to reef net fish, and they are re-establishing that. And that Point Elliott Treaty is around the same time that our Douglas Treaty was established on this site. And we hope that the Canadian government and the -- even the B.C. government will honour that.

11424. That -- yes? Okay, that's -- I guess in closing I really wanted to speak to the Treaty. The Treaty was established in 1852 with our people. And the Treaty was established because they recognized us -- when the British Crown was here, recognized us as the owners of the territory and the ones that were the existing government of the time and that's why there's a Treaty.

11425. Under the Royal Proclamation it's -- it was said that they had to negotiate with the -- with the existing indigenous people in order to have a legal right to settle on the land. And that's why the -- there came about to be a Treaty. Because we were -- the government of the time, that's Sir James Douglas, came here and negotiated a Treaty with. As my cousin STOLQEŁ explained the other day, that we understood it to be a peace Treaty, but we also understood it to be the protection of our way of life, to fish and hunt as formerly and to protect our villages and enclosed field. Which we meant that he would -- to fish and hunt as formerly meant to protect our way of life.

11426. To fish, to be out on the water, to be what we know ourself as to be the Saltwater People; that everything that we do -- everything that we do is reflected from the water. All of our place names are all named from the water. All of the village sites are named like you're coming in on a canoe and you see it for the first time. And that's how all of these place names are brought about, as they're viewed from the water.

11427. A lot of our practices are always evolved from the water, even our way of hunting. Our people had a way of hunting deer from the water. And all those things were done in that way. And that's why people always refer to us as the Saltwater People because the salt -- people -- other people had rivers but we had this -- we had this water here, and we knew the water like the back of our hand.

11428. We knew the water and our people lived by the tides, they lived by the moons, they lived by how the weather was coming, and they knew when that it was time to be off of the water and in the safety of your villages. And that's why we had winter villages.

11429. And that's who we are and that's why we really treasure the quality of the water in our territory and, really, are here to protect it. HÍSW̱ḴE.

11430. **MS. GAERTNER:** Our next speaker is Earl Claxton, Jr. Earl has been a land manager and a lifetime advocate for the environment. He's worked so closely with lawyers, with administrators, with teachers, with students, with the people here. He currently works with SeaChange and leads interpretive talks on the sea, on the native plants and the medicines of the W̱SÁNEĆ people.

11431. He'll speak about his teachers and, of course, his Dad Dr. Earl Claxton, the late Dr. Earl Claxton, and his wonderful grandmother, Elsie.

11432. So without further ado, Earl, please bring your wisdom to this room.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR MR. EARL CLAXTON, JR.:

11433. **MR. EARL CLAXTON, JR.:** Thank you, Brenda.

11434. I'll start with my English name, Earl Claxton, Jr. And my

SENĆOŦEN name is Tousilum (ph). And that comes from my great-grandfather Emalihat (ph). And when the Qwuniitum people first came here, they couldn't speak our language and we couldn't speak theirs. So when they came into our area, my Dad told me that they came with a hat that had names in it and that we were asked to pick a name out of the hat and that would become our last name.

11435. But my great-grandfather Tousilum (ph) said, "No. My name is Tousilum (ph) and that's it. I'm not changing my name." And so Claxton is the anglicized version of Tousilum (ph).

11436. And I'd like to also mention that I have another name from my mother's side from Squamish, from north shore Vancouver. And that name that I carry from there is Heplanukh (ph), a descendent of Chief Capolino.

11437. And I'd also like to give you a little history lesson, I guess, in regards to the first village site of the Saanich. And that was at a place called the SȽITȻEŁ, and that location is at right next door to Butchart Gardens. And that's known in English as Tod Inlet.

11438. And our people were there for a very, very long time, until one day the Haida came and raided the village and burnt the whole village. There was a huge, huge fire there and many of our people were killed in that battle with the Haida.

11439. But the -- there was a woman and her son, young son, Thilonquithut (ph) who -- when we decided that maybe it was a good idea to move from that site to Tsawout, our current village site, when that came about, that -- the mother of Thilonquithut (ph) said, "I'm not going to move with you when you go over to Tsawout. I'm going to take my young son and train him to be a fierce warrior and avenge the deaths of my brother and my husband." And she said, "I'm going to move to Tsartlip and if any of you want to come with me you can." And some of our people did, and so that was the creation of the second village of the Saanich. And everyone else moved over to Tsawout.

11440. And Tsawout is the word that in English means, "Houses in the Air" because of the terrain of the village rises up. And when you're sitting on the water looking in towards the village, the houses have the illusion of being lifted up or floating in the air. And so that's how Tsawout got its name there.

11441. And over at SȽITȻEŁ, the name of that translates as "The Place of the Blue Grouse." And it was called that because the blue grouse like to roost in the

branches of the trees. And there was so many blue grouse there that they filled all the branches of the trees all the way down to the lower branches. And the Saanich could go out at night and conk one on the head and collect it for dinner for the next day.

11442. And the blue grouse are an indicator bird for the Saanich because we know that they'll only stay at a place that has fresh water and lots of food. So we knew that if we were paddling along and we saw a place that had blue grouse, that that would be a good place to go and stay.

11443. In regards to the lands, the Saanich people believe that we were put here as protectors of the land and that we belong to the land and not the law -- the land belongs to us. That's the Qwuniitum concept of ownership. But there was ownership with the Saanich. And those were fishing locations and good places to hunt or good places to collect camas.

11444. Camas used to be a very major part of the Saanich diet. We cultivated that for a long, long time and had huge fields of camas so that when the European people first came here and the surveyors came, the surveyors had to go out to the upper mountains to look over the terrain to see where they would be surveying. And when they did that, it was spring time and the camas was in bloom, which has a blue flower when it blooms. And when they looked down from the mountaintops to see, they could see the blooming camas and it appeared to them like it was a lake or water. And they were surprised when they got down there and found that it wasn't water at all but it was these blue flowers that had been cultivated by the First Nations' people.

11445. And I asked my Dad once if he'd ever attended a pit cook where they cooked camas. And he said yes, he had. And I said, "And how much camas did they put in there?" And he said, "Sacks and sacks." And up to that point, I'd only seen -- when I dug up a camas, I saw one that was about the size of my thumbnail and that was a pretty darn big one at that time. And I was thinking when my Dad said, "Sacks and sacks," I thought, "My gosh, they must have been digging for a couple of weeks to get sackfuls."

11446. But the Saanich knew that if they dug up the camas bulb and replanted it that it stimulated bulb growth and they had bulbs the size of their fists that they could fill up those sacks and sacks quite easily. And we were very dependent on that; that was our potato. When you cook -- slow cook it in a pit cook it converts the starches into edible sugars which are good for you.

11447. And so the Saanich had a good diet of this camas and salmon. And when the European people came, they introduced potatoes to the Saanich. And the potato was so similar in the way to grow it with the camas that the Saanich easily converted over to using just potatoes to the point where I think most of our people have never ever tried a camas.

11448. So part of my work that I do is to try and reintroduce those kind of cooking methods back into our communities so that we can have a healthy diet again because our people are becoming sick from the food that the European people introduced to us. So I miss very much being able to go down to the beach and dig clams.

11449. The European people don't have much regard for the ocean. They dump here in Victoria. They dump their sewage directly into the water without treating it because they can't see it after. So when they can't see it, then it must be all right, but we know that things aren't right and, as protectors of the land, we need to do something about it and I really feel that we're doing that today.

11450. But years ago, when they tried to put a marina in the Saanichton Bay which fronts our village, I went out and physically stopped them from digging in the bay by climbing up onto the cables and stopping them from doing it. I feel that that was part of protecting the bay and I still feel that -- that power to go out there and physically stop people from doing destructive things to the ocean and I certainly feel that oil ships coming through our territory is not a matter of if it will happen; it's a matter of when it will happen.

11451. And we're the ones that have always paid. We've always paid the price when the Qwuniitum has done something. And I always remember asking my grandmother, "Why are they doing that kind of thing, Grandma?" And she just shook her head and just would said, "Sqwatti Qwuniitum, crazy white man."

11452. And I just want to also say a little bit about the reserve systems that were put upon us. When the government was coming across Canada and had the reserve system in place, they had a formula for -- a per capita formula for making reserves. But when they got to here, they said, "They're not farmers; they're fisherman. And so they don't need as big a land for their reserves."

11453. So we have much smaller reserves than the rest of Canada because of our fisherman label. So our people always have been dependent on the salmon.

We still go down and collect the salmon out of the river, the Gold Stream River. We go down there and we have a treaty right to collect the salmon that comes up the river there.

11454. And I just want to tell a little story about my grandfather, the late Johnny Claxton, who was fishing in the river there, and there was a Parks person or a warden of some kind that came to him and said, "You have to have a permit to fish here." And he said, "No, I don't need a permit. I'm covered by The Douglas Treaty." And the warden insisted, "No, you need this permit to fish here." And just then, he looked downstream and he saw an old wallach swimming up the stream and he snatched the permit from the warden and he ran out and he showed the old wallach the permit and he said, "Now I can take you." And he hooked him and he ran up the bank with that old fish.

11455. So there was always a strong belief that our treaty would protect us, and I think we still do have that strong belief that The Douglas Treaty will protect us, that by the Constitution and because it's a pre-Confederation treaty, signed on February 11th, 1852, that we're also protected by the Royal Proclamation of 1763 where the King talks about treating with Indians as if they were the sole occupants to the land and that these rights will always flow as long as the sun rises and the rivers flow.

11456. So we feel that there's still great strength in those laws. And I just want to talk a little bit about the eel grass that is in Saanichton Bay. Eel grass is an important plant for the bay or for any bay. The crabs like to hide in there and also the young fish hide in there. So it's an important -- the bay -- Saanichton Bay is very important to the Saanich as a rearing site for those creatures that we take from the sea.

11457. Our Elders always said that when the tide was out, the table was set. And that meant that no matter how poor you were, you could still go out and dig clams and catch a salmon and eat like a king.

11458. If there's an oil spill, those eel grass beds are going to be coated with oil and they won't any longer be a good home for the creatures that live there.

11459. And when we were fighting construction of the marina in Saanichton Bay, Department of Fisheries and Oceans had a policy called a no net loss policy of where if you remove a part of the habitat, it has to be replaced somewhere else.

11460. And so the marina company did some test transplants on the outside part of Tixen which is called Cordova Spit in English, which is contiguous with the Saanichton or Saanichton Bay and also part of the Tsawout lands.

11461. Our special medicines are out there called gukmeen (ph) and gukmeen (ph) is a medicine in English that's called the Indian consumption plant and the Saanich use the gukmeen (ph) as a cure for tuberculosis which was introduced to us, as well as small pox and other diseases that were infected blankets that were given to us in the hopes that we'd disappear.

11462. Long ago, I did travel out to the Gulf Islands with my dad and my grandmother to collect deer and collect other things out there and we stayed out there and it was a good time that we stayed out there. I miss those times.

11463. And I was just talking with some of the Elders this morning saying, "I wish I could turn the clock back sometimes and go back to those times when we were out there enjoying those islands.

11464. I just want to talk about the salmon a little bit and the reef nets that we have out on the Gulf Islands. And when we went out there to go fishing, the men of the village, the whole village, all the men went out and assisted in the reef net to collect salmon for the whole village. And at the same time, all the old people, and the children, and the women went into the forest and collected berries for the whole village, berries to be dried, and cakes for consumption later on.

11465. All our food had to be dried right hard. My dad said that when the salmon was dried for use over the winter, he said it was that hard (indicating) on the table, and he said also that in the ceremony in the longhouse, new dancer needs to take a bite out of a male salmon and a female salmon, and he said, and I don't know how they bit through that hard salmon.

11466. But as a young man, I can remember -- a young person -- going into the longhouse and seeing those salmon in the rafters of the longhouse, and that's where the salmon was stored. And we had to dry it that hard because we didn't have refrigeration back then, and so the fish was actually quite salty. And I can remember doing salmon with my grandmother, how salty that fish was.

11467. But now with concerns about salt intake for our people, I cut back on salt quite a bit and I don't put as much salt as my grandmother did, but that was

for preservative purposes for the salmon. And I think the Qwuniitum people also did the same thing with the cod in the barrels of salt. They preserved the fish.

11468. And so the Saanich had great knowledge of all of these things. They knew about preservation. They knew about where the fish were and when to take it. And our -- we have a calendar, the 13 moons, that guided us to tell us when it was time to go and do those things.

11469. I don't think I have anything more. Thank you.

11470. **MS. GAERTNER:** Thank you so much, Earl.

11471. Our next speaker is Aaron Sam. Aaron spends his time on the waters. It's been a -- it was a chore for him to come in to prepare for these interviews and to come here, because his place and the way that he lives, the way his grandfather and his father has taught him is on the water, and so you're going to hear from Aaron Sam next. He's going to describe his name, his family, the places he travels and that which he provides.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR MR. AARON SAM:

11472. **MR. AARON SAM:** Hello. My name's Aaron Austin Sam. My Indian name is Mamalluch (ph), passed down from one of the providers. I've been providing for my Elders for 40 years, funerals, weddings, longhouses ceremonies. And my parents are Ray and Marjorie Sam.

11473. And I always wanted to be like Marshall Pelkey and Philip Pelkey. I always wanted to be like my Elders, Bert Underwood, "Uncle Bert", and Eric Pelkey, Earl Claxton, Belinda Claxton, Nick Claxton. We're all one family, and Mavis Underwood.

11474. My father was raised up by his grandparents and he was an Underwood. He just took his mother's maiden name. That's why I'm a Sam, and that's why you don't see no Sam on the tree there.

11475. But that's what I do for my Elders. My Elders come first, then my children. And I got 10 grandchildren, and I got four boys that are in their -- 11 and 12, and I got four granddaughters that are young, and they're all fishermen, even the girls. They're tomboys, I always call them, but I'm really happy to see

them coming in my paths.

11476. And my grandson's name is Raymond Sam the fourth, and he's two years old, and he comes out in the water with me, you know, in the summertime, and I'm teaching him how to do it the way I was taught.

11477. And I fast for my Elders for providing all the seafood. I get urchins. I get Dungeness crab, clams, everything out in the ocean, because my Elders told me that was my store and I have to look after it and provide for anybody who needs it, because the Elders that I provide for are old and they can't go do it no more. So my father gave me the job to do everything for the Elders.

11478. I provide for 10 reserves and, you know, I figured it would be hard, but eventually, as I grow up, it gets a lot easier and I'm learning different things every day. For a person that don't know how to swim, my dad always said that I was playing Russian roulette because the power of the water is so powerful that I'm competing against knowledge.

11479. And if one of you guys' freights, it's going to end up like the Queen of the North, you know -- I don't know if they cleaned it up or not, but that's what I don't want happening in my playground, because my Elders said it was my playground, that I have to keep on showing my grandchildren and respecting the family that I have left because, you know, life's short and every day you're learning something different.

11480. You know, the people I grew up with, I grew up with older people, Elders, and I looked up to them. Now I look and they're all leaving me and it's my turn to sit back and show my grandkids how to provide like the way I do, and I've been doing that for 40 years. So anybody that needs stuff for the funerals or anything, I'll provide for them.

11481. All -- and the Gulf Islands, this is my playground, and where you guy's freight line is, I'm out there on both sides of the border. I don't have no boundaries for a treaty native. I could do anything I want. Instead I have to go through the rules, you know. The government's always trying to charge me, always trying to bring me to court for my rights. And the RCMP, they were on my side because they said, “Well, if you guys are going to keep bringing them to court, you're going to have to get more paper and more time to bring them to court and you're going to lose.” And so that's how I was taught to stick up for my Elders and my family that's growing up now.

11482. And the two-year old, Raymond the fourth, is a smart little boy. I'll show him once and he uses -- showing him how to use a crab fork and clam gun, we call it. And now they got us doing it the white man way. They took my crab rights away. Now they're giving me stainless steel traps that I don't like using because I'm losing all my rights. Like you guys have taken my treaty rights away from me.

11483. And you know, it's a hard thing to do, but you eventually get a hold of everything that you do in one day, and it's a short time. As my Elders say, the worst enemy is time, and that's all I have to say about that.

11484. And the Saanichton Bay, I was with my cousin Earl out there, stopped in the marina from going in. And still today, those holes are still out there and it's just like quicksand.

11485. And, you know, I look at it every day and I'm out there in a -- along the border there. And the freights, the wake is demolishing all the burial grounds that we have close to the water. And Saturna Island, Pender Island, it's all places where my Elders all camped while they were doing their providing for themselves.

11486. And my Dad used to always say, "Who all wants to go to store?" And I have seven sisters and two brothers. And two of my older brothers and sister put their hands up and that's when we were all snowed in. And they got on a boat and went to Sidney and got some food, and there was a Christmas hamper.

11487. So my Dad says a couple of months later, he goes, "Well, who all wants to go to the store?" And none of the families put their hands up and wanted to go. So I was the youngest out of my family and I put my hand up. I said, "Yeah, I'll go the store with you, Dad." And I've been going to the store ever since. And here I thought we were going to Sidney to get food hampers for Christmas, and here we were out practicing our rights, fishing all day, freezing cold. And ever since that I've been out on the water every day of my life. You know, it's my playground.

11488. So if anything happens, like the "Queen of the North." You know, I don't know; it took two lives and that guy only did four years and it's -- I don't know what's going to happen if we have a disaster in our area here because it's just like one big flush and it goes one way, the other way. Tide goes in; tide

comes out. And it's just going to make a disaster. And we're not going to have anything. And my father says, "Yeah. Then you'd be ordering stuff from Safeway and Japan with your guy's freights and we're going to have to buy stuff off of you guys."

11489. And I just -- the things that we go through and see; I even found barrels of -- I don't know what it is. I showed the RCMP. And still today, they're probably still there. So I don't know if they come from the freights or big boats. Because I'm in the areas where I get the urchins and the crab and I'm going to go look, see if it's there. If it's there, then they'll hear from me. And I wouldn't mind getting all that stuff out because it might be a waste.

11490. So we have certain kinds of variety of crabs and urchins. We have the squeetci (ph). That's medicine for my Elders. And the urchins, it's all medicine I get for the Elders. And that's what I've been practising my rights for.

11491. And every part of the -- from Put Over Bay all the way up to Saturna, that's my playground for my Elders. And, you know, they come first, then me last. I fast; I don't eat until my job's done.

11492. But I'd like to thank everybody that's here providing their support for us because I wouldn't want to see any disaster that goes on out in the ocean because it's so powerful. Because the Elders said that we're playing with power. And one of your boats happens to get power loss or anything, then we're going to have a big disaster and that's what I don't want to see.

11493. So I've been doing these for years and years. And as I do it, it's getting easier and easier. And plus I learn something every day. That's about all I have to say.

11494. **MS. GAERTNER:** This would be an appropriate time to take a break, if that would work for the Panel.

11495. **THE CHAIRMAN:** That is fine. So we'll take 15 minutes. We'll come back at quarter to 11.

11496. Thank you.

--- Upon recessing at 10:30 a.m./L'audience est suspendue à 10h30

--- Upon resuming at 10:49 a.m./L'audience est reprise à 10h49

11497. **THE CHAIRMAN:** Welcome back from the break. Thank you and appreciate that.

11498. Ms. Gaertner?

11499. **MS. GAERTNER:** Thank you, Mr. Chair.

11500. I realized I neglected to introduce myself when I started the day and so I apologize that. I'm Brenda Gaertner; I'm legal counsel to Tsawout. And with me is Crystal Reeves.

11501. Our next speaker is Belinda Claxton. Linda will also introduce herself and her name and her place in the community. But I wanted to let you know that Belinda's currently the Co-Chair of the Lands Committee and she's an ongoing Elder in a very long project that's been going on for the SENĆOŦEN Language Dictionary Project. And so she has been working very closely with linguists and others on the project and with others at the University of Victoria.

11502. She did community research for many years prior to that and prior to that she worked in both the provincial governments and many tribal council and other First Nation governments in the area.

11503. Right now, Belinda has also been doing ongoing work with the Elders on linguistic research and the SENĆOŦEN language. So we're all looking very much forward to the wisdom that Belinda will share with us today.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR MS. BELINDA CLAXTON:

11504. **MS. BELINDA CLAXTON:** (Speaking in Native language.) Tsawout. Belinda Claxton is my name. It's nice to see everyone. SELILIYE is my grandmother's name; and I share that with her, Lucy Pelkey.

11505. I'm going to be talking about the 13 moons and the importance of the 13 moons as well; how the language is related to the moons and how language is imperative to be related to our -- who we are as SENĆOŦEN people.

11506. Today we're part of a world that uses clocks and calendars and

daylight savings time, but once we -- but once we used a system that was better for us. Before the coming of the Europeans, we were in touch with nature and we used the universe as a giant clock. Our culture and our survival depended on the time of man and nature being one, so much so that we planned our lives around it. The moons told us a change in the weather and signalled our food gathering and spiritual and social activities.

11507. Because we are Saltwater People who once lived as much on the sea as on the land, the tides were the clock that fixed our daily activities. The moon that signalled winter storms also warned us to put our paddles away and stay on the land. Some moons were also signs to prepare for the annual cycle of the reef net fishery that distinguished us from other people.

11508. As a people for the annual cycle of the reef net fishery that distinguished us, whether we were at major rivers or we learned to create artificial reefs when the salmon passed through our straits, our calendar has 13 moons rather than 12 months. The names of the moons signify their origin and their purpose in our tradition, like the names of the places and the persons that are sacred, and they explain their place in the universe.

11509. We shared this calendar with the animals. Science now confirms what we have always known for many generations, that the salmon people use the moons and use the sun to navigate to know when it come -- when to come back to us.

11510. So this book that we have was authored by my late brother, Earl, and this is what you see up in the -- up there is the 13 moons, and you will see SIS,ET, S-I-S,-E-T. Right on the top is SIS,ET, it means the Elder Moon. SIS,ET is the oldest of the moon family and it means the Elder. In reality, this is not the first -- this is the first month but the last in the yearly cycle of the moons. It is at this time of the year when the earth is at its farthest point with the sun. The weather, the days are short; the storms and heavy rainfalls make sea travel unpredictable and unsafe; therefore, much more time is spent indoors. In and around the Saanich fill with water and they provide a wintering place for visiting ducks and geese.

11511. Our economic activities: Because we were rich with stored food we had more time to prepare for future harvests. Wood pitch was gathered for torches, fires to collect shellfish during the night tides common in this time of the year. The ducks and the geese were netted and speared, and in our protected

inlets people only ventured in and out of their protected inlets for ocean fishing. Nettles were gathered earlier in the year and were stripped and twisted into twine to make nets, ropes, and cables. Roughed-in canoes were brought into the longhouse to be finished.

11512. Our cultural activities: This the most important time of the year for spiritual and cultural activities. Our Saanich people are involved in winter ceremonies and our Elders tell legends, use stories to teach children the right way to live. Our people gathered in longhouses for the winter ceremonial dances. The new dancers are dancing and practicing their ceremonies.

11513. NINENE: I don't know if I'll be going through all the 13 moons because it's -- I'll just go through a couple of them. NINENE is N-I-N-E-N-E, Moon of the Child. In our world, this is the true beginning of the Saanich Year. The new moon signifies the change in our days and are growing longer, and the nature of the moons and the whole world are being reborn.

11514. The weather: This is the time the earth starts to move closer to the sun once again. All things begin to warm up. Everything in nature is being reborn. Although the cold, the winds, and the winter rains are still with us, there are some good days and this is the first sign that a new year has begun.

11515. Our economic activities: Some of the twine that has been made from nettles is now woven into nets and to be used for the reef net fishery. Each family group had responsibilities to produce a certain amount of net for their fisheries and their parts would be -- later be assembled for use.

11516. Although fresh food hunting and fishing were done, people mainly relied on the wealth of fish and game that had become stored for the winter. For those who would take the risk, halibut fishing was available as the halibut had now returned to their traditional spawning beds and well as the grill. This is the season that our deer fawns are born and the coming of this moon is the signal to stop hunting deer.

11517. Our cultural activities: The instruction of our children and telling of tales helps to pass the winter nights. The longhouse ceremonial dances will continue.

11518. And in this book, like I was saying, there’s 13 moons and we speak about the weather, we speak about the economic activities and the cultural

activities all around in the 13 moons there.

11519. This calendar also signifies our philosophy. My late brother, Earl, always told me that the plants, the sea life, and the animals, and the earth were all connected. We rely on each other. The plants are indicators, the birds and the animals are indicators; they all -- they're all very important to us, as well as the sea life. The kelp is also our medicine. I'll tell you a little story about my late brother, Clyde.

11520. When he was a kid, he was playing in the marsh, and my Mum and Dad always said we're not allowed to play in the marsh because it was hakah (ph), and it was not a good place to be playing. And my late brother, Clyde, kept playing there; he was about 10 years old. And he -- finally one day he was -- he started limping and my grandfather asked him what happened and my Dad and he had this big hole in his leg. And he went to the doctor but nothing could help him.

11521. So finally my Dad went down to the beach and grabbed some kelp, and he grabbed some seaweed, and he grabbed some seawater and he worked on my brother's leg; it was a big hole. And every day, as he kept changing the water and putting kelp in, and then his leg healed up.

11522. So the sea life is our medicine, not just only the eel grass and the kelp and everything else in there, but the fishes are medicine. Whenever my Mum was feeling really sick or any ailments she would ask my brothers to go and get some halibut because that was our medicine for our stomachs.

11523. We always -- I'll tell you another little story about what my Mum told me when she was a little girl. She was telling my older brothers and sisters when they were eating to return all the bones back to the platter from the fish. And she said that when all the bones are returned to the platter after they had dinner my grandmother, SELILYE, took her down to the beach. She returned the bones back into the sea, and my Mum said if she didn't see it with her own eyes she wouldn't have believed it, and it turned back into another salmon and swam away.

11524. So that's how come we respect the fish. We respect everything around us. It is our philosophy. It's who conducts us, who we are. We are taught to respect the land. We were taught to respect the animals. We were taught to respect everything that's around us, because if one chain breaks they all break, and that's how important it is to us, and not only important to the animals on land but

us people.

11525. I was saying that the ocean sprays are indicators. When the ocean spray is at its peak and it starts to flower, it's an indicator to let us know that Sockeye is at its peak. Birds are also indicators. They're indicators -- my brother talks about those, all the birds, that they're all indicators to other animals as well as to us Saanich SENĆOŦEN people.

11526. My mother has worked for many, many, many years with Nancy Turner. She shared all her traditional medicines, not just the traditional plants but as well as the sealife plants, she shared them with Nancy Turner, and the Ten Bark medicine. Ten Bark medicine is 10 types of trees where she used the bark, and at one time they healed tuberculosis. I've learned a lot of the different medicines from my late mother, and now I'm teaching my grandchildren and my nieces and nephews.

11527. And talking about the fish, my brother, my late brother, always introduced the different types of bottom fish as nephew or some other type of relation. He always introduced one to the other. They were all our relatives.

11528. As you heard about the kexmin, the consumption plant, it was used for our voices, to strengthen our voices if you're a singer, used as a tea if you have a sore throat, and freshener and to ward off bad spirits. And the white PEPEQEWS, it's the white berries. They're for if you've got any -- if you're allergic to anything and you start to break out, we would use that to get rid of any skin conditions.

11529. I'd also like to talk about why the fish is very important to our diet, and especially myself because I just learned recently -- well, actually, about 10 years ago I learned that I have liver problems.

11530. And my Dr. Pearson, he's a specialist, he asked me if my -- if I was drinking every day and he was asking me all these things and I said no. He asked me all kinds of things, wondering why my enzymes were elevated. And I had test after test and he couldn't figure out why my liver was elevated. And the only conclusion that he can come to is because I'm lacking seafood in my diet.

11531. Because I'm born in 1952 and my mom and my grandmother lived on fish three times a day, he said the only conclusion, he says, "More and more First Nations people are coming into my office because they're having liver problems,

kidney problems, heart problems, pancreas problems" because they don't get seafood in their diet anymore because we're right at the border where the processed foods come in "And now," he says, "the more seafood you eat would be better for you."

11532. So now I have to try and get as much seafood as I can. And because processed foods came in, my body is rejecting the processed foods. So it's imperative that I get my seafood diet at least once or twice a day.

11533. Today I'm talking about restoration and I work with a lot of non-Native people in the Gulf Islands trying to restore the clam beds, the oyster beds, because -- trying to make it a little more plentiful because it's just getting less and less every day and we're having success with that right now. So we're trying to encourage our non-Native friends to restore those beds and make them active again, as well as people in the local areas here in Victoria and in Saanich.

11534. Not only are the -- Aaron, my nephew, talked about this, about the beaches. At one time, when the man of the cloth came, before they came, our ancestors requested that they be buried anywhere they'd like and we were cremated or they would just go in their canoe and go somewhere where they would be -- where they wanted to go, you know, when they passed away and they would pick a site. And so we didn't really -- we didn't believe in burials at that time. And so they would go close to the waters because being that we were saltwater people, that's where they would go. And so when the man of the cloth came, like my late brother said, they requested that we start being buried. And that's why we have to be buried these days.

11535. And the rights of passage for the girls and the boys, we use the beaches. There are rights of passage when they become a young man or when they become a young girl. We use the beaches every -- for 10 days, you know, and 4 o'clock in the morning for a bath. It doesn't matter if it's in the winter; it's important to the rights of passage of our young people.

11536. So everything, not just the sea life, not just the land, the animals and everything that's around us, it's our whole philosophy, that's who we are as SENĆOŦEN people. That's how we were governed way back when.

11537. We were taught to respect everything around us. We were not allowed to take any more than we should. If we decided we were going to have salmon one day, my brother would go and get a salmon and say we're going to have

salmon for dinner. We would never take any more than one.

11538. We always worked around respecting each other's land, respecting each other's rights and we respected our traditional rights and our philosophy because that's how we governed ourselves. We've always treated and respected other people.

11539. A lot of this was brought down from my mother and my late brother Earl. A lot of it was from my late brother Earl. And I'm the youngest. I had my late brother Earl, my late sister Molly, and Louis and I and my sister Janet are the only ones of six. I'm the baby of the family. I grew up with my nieces and nephews. My sister and I were 12 years apart. I wondered why I was born so late. I think I'm here for a purpose. I grew up with Earl, Jr. and Allan and Harvey, and then I understood my mom's language fluently. And I think that's why I was born so late, so that I can teach my nieces and nephews about who we are as SENĆOŦEN people, the philosophy, how we governed ourselves as our government and how we conducted ourselves. And I think that's why I was born so late.

11540. Earl, Jr., him and I are the same age. We were both born in 1952. As a matter of fact, he's a month and a half older than me. Allan is about the same age. Harvey, I think he's about three or four years younger than us. But I grew up with them and I remember in school, I -- they always said "No, that's your brothers," and I said, "Oh okay, they're my brothers." Nobody could understand that they were my nephews because I'm younger than them, Earl, Jr.

11541. But now I think I know why there's a reason and a purpose for me being born so late. It's because maybe I was chosen to teach my nieces and nephews about what my mom taught me.

11542. I'm going to share one more story of over the canal. This is a picture of my mother, Elsie Claxton. She -- her and I went -- gathered the tanbark medicine. And it was -- it took us a whole day just to gather the tanbarks. And it was a medicine for pretty well everything. And she was teaching me how to do the process and how to cook it and that was the last of her pictures before we lost her. She was 93 years old when we lost her, and she taught us everything we wanted to know about medicine and about the language. She was a busy, busy, busy woman.

11543. I didn't realize it when I was working how busy my mom was. She

worked with a man from Texas, doing language, and she worked with Nancy Turner doing medicines. She worked with about four or five professors. I didn't even know that, until I started working with them, how busy my mom was. She worked with Nancy Turner, making notes of all the traditional medicines.

11544. And I thank her today because she's got the recipe, but I have the process. She doesn't know how to do it, but I know how to do the process.

11545. So I feel that the impact, if there's any impacts to our seafood and our life, like I was saying, it's important to our health, to all of us First Nations on this island. It's our medicine.

11546. And I speak for my grandchildren. I speak for my great-grandchildren and the unborn. I not only speak for my nieces and nephews and every one of my relatives, but I speak for your grandchildren and your great-grandchildren, unborn, for the non-Native people, because they're the ones that are going to have to live here. So I'm speaking on everyone's behalf because they're the ones that are going to have to live here on this Earth and be the caretakers of this land.

11547. (Speaking in native language)

11548. **MS. GAERTNER:** Thank you so much.

11549. Our next speaker is Nick Claxton. While young in age, Nick has been very busy already in his life, and once I remove some of the personal information, I will be providing you his C.V. as part of the evidence we'll submit.

11550. When Nick started working, his C.V. starts back in about 2002. He began to do sessional instruction work at the University of Victoria because he had done his Bachelor of Science and Psychology at U of Vic and then he moved on to do a Masters of Arts at the University of Victoria in Indigenous Governance. He's presently doing a doctorate at the University of Victoria and we're looking forward to him finishing that so he has more time to do all the teaching and the work that he has in front of him.

11551. Nick is a man of the salmon and he's going to speak to you about his research, his work and how he's bringing forth into the newer generations that which he is.

11552. Thank you, Nick.

--- ORAL PRESENTATION BY/PRÉSENTATION ORALE PAR MR. NICK CLAXTON:

11553. **MR. NICK CLAXTON:** (Speaking in native language). I'm not going to give my whole presentation in the language, don't worry.

11554. My name is Nick Claxton and my Hul'qumi'num name is Xemtoltw. It comes from my mother's father, and I've been told it originates in Hul'qumi'num. Along with this name comes many rights and responsibilities. To have a name is a hereditary right. It's a birthright.

11555. I was born and raised in the Saanich territory. My key teachers in the oral traditions have been my mother and father, my uncle Earl Claxton, Sr., who you've heard a lot about, and Uncle John Elliott, Sr., who you heard from earlier this week, as well as my grandparents.

11556. I belong to the Saanich people, and that is where I live. I've had the opportunity to be educated -- that is, academically and traditionally in the territory in my homelands. And as you heard, currently I'm a PhD candidate at UVIC, where I've studied the reef net fishery and the Douglas Treaty.

11557. And along this journey, I also still fish and hunt throughout our homelands, and this is the position which I come to speak to you today.

11558. I'm going to talk about "To Fish as Formerly". I think that's important because it reflects what we feel is significant about the Douglas Treaty, which you've heard a lot about already. And I want to talk about how we have birthrights and responsibilities to the past but also to the future generations. And I want to reflect that in my learnings of the Sxole.

11559. That's a picture of reef net fishing that you see there. That one, I think, is from the early 1900s.

11560. You've heard a lot about our history here on these homelands from a traditional perspective, but I also want you, through this brief presentation, to understand that this is something that we are carrying on and hope to carry on because it's our responsibility to do so for future generations, which is partly why we're here today, to speak of our concerns.

11561. Next slide, please. I want to explain the message that I'm trying to convey in this diagram, and I think it's about a world view. And you've heard all of us on the panel here today speak about this world view. It's really about our responsibility. So that straight line on the top is kind of like a number line. I think we can all understand the idea of what a number line is. It goes one direction and it doesn't stop, and it goes the other direction and it doesn't stop.

11562. And that little arrow in between represents what I'm thinking of as an individual. For example, the name that I carry, the very ancient name, which in our world view and our belief and our understanding goes back to the beginning and it will carry on. And you've heard all of us talk about that world view, how it reflects our understanding of the land as well.

11563. So we have this responsibility to our community, to our Nation, to our Elders, to our children, to our relatives, but we also have a responsibility to our ancestors and to the future generations. And I think that connection is really reflected in the spirituality of our world view and our ceremonies and our teachings.

11564. Just for example, at the beginning you saw maps of our islands, the islands that are really dissected by the proposed tanker traffic route.

11565. In our teachings -- and I think you probably heard this earlier this week from Uncle John -- those islands were our relatives. They are our relatives. And you saw the place names map at the beginning of our presentation. That really reflects our connection to this place as very deep. Our word for islands, tetaces, relatives of the deep. They're our relatives.

11566. The Creator created those islands to protect us, but also gave us a responsibility to protect those islands as well.

11567. Next slide please. So I'm coming at a time where this knowledge is threatened. Our islands are threatened. Our language is threatened. We've been alienated from much of our lands, our homelands.

11568. The fisheries, which I've come to understand, particularly our reef net fishery, which I've been told was the backbone of our traditional society, was implicit in that belief system and that practice was the management of our fisheries and now our fisheries are being managed by Fisheries and Oceans.

11569. You've heard that I did a Master of Arts in Indigenous Governance at UVIC and I'm continuing now with this work, but I really started when I had some time, spending some time doing my -- and I'll do air quotations -- "my research" where I actually had some time to sit with Uncle Earl, and he shared what he knew with me. And now, what I'm hoping to do is to share what he shared with me with the future generations.

11570. And my interest really came from that Douglas Treaty, and you can see that on the right. There's James Douglas and his treaty, which your courts have upheld and said that it still is a valid treaty. Your courts have upheld that.

11571. But what really piqued my interest in that treaty is that it says we're entitled to carry on our fisheries as formerly. So that's been my research question, I guess, and that's what I hope to share with you today. What is to fish as formerly?

11572. Next slide, so to fish as formerly really goes back to the beginning. Again, to give you a sense of how old this fishery is, it's reflected in a story where a young Saanich princess and a young man met many times on the beach, and this was a story that my uncle told me a long time ago. This young Saanich lady, she was a beautiful princess and they met down at the beach many times, and this man and this young woman got to know each other and the young man wanted to take her away to be his wife, but she was a strong believer in the Saanich laws and she said, "Well, I wouldn't mind going to be your wife, but you'll have to stay with us and you'll have to get the consent of my parents first."

11573. So they went to meet her parents and the parents agreed only if he would stay with the Saanich for a time. So that's what he did. He stayed with us. And it was during this time when the salmon became scarce and he said, "I can help you." And that's when he taught us how to reef net fish.

11574. After that time, because of that gift that he gave us, he said, "Now is the time for us to travel back to my village." So they loaded up their canoe and they travelled off, the whole community on the shoreline seeing them off. And they travelled and they started to paddle away to a very deep spot, and then they just went into the water just like that.

11575. So it was then when we realized that this man was the human form of The Salmon People and he gave us the gift to harvest salmon in abundance in

exchange for our gift. So what this story really does, it reflects our connection to the salmon. They are our relatives. We have a responsibility to them.

11576. And it's not just a story. A lot of times people dismiss oral history because it's story or fairy tale or fable or make-believe. This isn't. This is our history and this is our belief and it's our truth.

11577. How significant was the reef net fishery? I've done a lot of looking into the colonial literature and history about it and I've seen references to this fishery, catching thousands of salmon per day. We can just reflect now on that and even today, you hear how still strongly we are connected to the salmon.

11578. You can see on that map there, there's another traditional place names map. And on that map at the beginning of the presentation, you saw the extent of our traditional fishery. It was throughout our territory, and that's how we connected to our territory.

11579. Next slide, please. So what is the reef net fishery? We've been talking about it a lot. Here's a diagram of what it is. It was a very sophisticated technology. It's a very complicated but a very effective fishing technology. For us traditionally, it was fundamentally a part of our life just as breathing is. To be Saanich was to be a reef net fishing people.

11580. This is a way of life that we almost lost despite this protection of The Douglas Treaty. My father stood up today, acknowledging him as the generation, one of the last reef net fishermen. I'm happy to say that we now have a new generation of reef net fishing people and we want to continue to build that up.

11581. Traditionally speaking, the reef net was made from natural materials that we found in our territory and they were -- it's a stationary fishery. There were two main anchors that were set and a lead led salmon into the net.

11582. And these reef net sites were very specific locations. And it was specific according to the structure of the land as well as the flow of the tides as well as the path of the salmon. And all of these sites are directly adjacent to the proposed tanker route.

11583. I wanted to come and share this story of how we're bringing this technology, this practice back to the people and I have a short video that I want to share with you. This video is -- you'll see our reef net revitalization project and

it's not a video that I created, but it was created by some colleagues of mine at the University of Victoria, but I think it does a really great job of showing you what the reef net is and how we're bringing it back.

11584. I think that's the next slide.

(Video presentation/Présentation vidéo)

11585. **MR. NICK CLAXTON:** I think if we could just stay on that slide that'd be great.

11586. So you can see, hopefully, in that video how to fish as formerly, this is a very significant part of our identity as a nation, right down to the children and our Elders and our fishermen and our homelands and the future generations and our ancestors all intertwined together.

11587. It's our hope that we can re-establish our connection to our territory, to all of our reef net sites that are found throughout the Gulf Islands and the San Juan Islands. I feel this could be part of our rebuilding of our nation, as a way to connect to our belief systems, but it's also a way to feed ourselves in a healthy way.

11588. Reef net fishing is very labour intensive and it requires a significant amount of time spent out on those sites.

11589. One of my friends from Lummi said, "Reef net -- as a reef net people we were hard-working people." This is what I -- this is what I'd like to bring back for our nation.

11590. Let me connect this to the Douglas Treaty a little bit again. You heard in the video and you heard me say this is how we governed ourselves. Okay. Put yourselves back in that time when the Douglas Treaty was proposed to us when Douglas said, "Your fisheries will be protected." But to us, it wasn't just the ability to go fishing. But it also included using some of our own SENĆOŦEN words, our NEHIMET and chelangen (ph), which the SX̱OLE or the reef net was a part of. But it also included our Á,LEN̲, our houses; our tmix^{w} (ph), the land; the swaalit (ph), our reef net fishing locations; our freshwater supplies, and while we're out there, all of the other things that went along with our life out on the islands, the deer hunting, the medicine gathering, the berry picking, the bird

hunting. Everything that encompassed our way of life on those islands was to be protected, we were told by that Treaty. So we didn't see a threat. Rather, we saw a promise.

11591. So that's why I'm here and why I wanted to tell you a bit about the reef net fishery, because it's a concern. Our reef net fishery will be directly affected by this project. And it will interfere with our rights that are protected by the treaty, our access to the fisheries, to the other aquatic resources. And we fear for the impacts on the environment out there, regardless of whether a spill would happen or not. Even just increased tanker traffic would affect our ability to get out there and to fish as formerly.

11592. (Speaking in native language).

11593. **MS. GAERTNER:** Thank you, Nick.

11594. Our next speaker is Mavis Underwood. Mavis is a woman of distinction in many ways. She has been -- she had a long year -- long years of professional work as focussing on First Nations' issues in family and community development. Her work eventually took her into working directly for the Province of British Columbia. And she was the first Aboriginal Deputy Director and had that position from 1993 for a number of years following that.

11595. She then went on and came closer to home and worked in Child and Family Services for the North Island Family and Child Services Program.

11596. She's received a number of awards through her lifetime and she is an incredibly progressive woman who will be able to provide you information on how she identifies and feels the impacts of these projects on their abilities to continue their way of life.

11597. Thank you, Mavis.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR MS. MAVIS UNDERWOOD:

11598. **MS. MAVIS UNDERWOOD:** HÍSW̱ḴE. HÍSW̱ḴE each and every one of you who's come here today, I just need to stand for a moment. We have many of our friends and relatives and others who have come to witness the events today.

11599. I just want to say HÍSW̱K̲E, HÍSW̱K̲E hayla (ph), raise up our hands to you. You could have been in other places, but you came here. Maybe you're hungry now, but you're still here with us. Maybe you're getting tired and you're still here with us and we really say HÍSW̱K̲E, HÍSW̱K̲E hayla (ph).

11600. I just need to acknowledge the Panel, my relatives, the dear ones in our community, my cousins, my brothers and sisters, each one of us comes now to you and speaks and we're in positions that we would rather not be in. We would rather have our Elders here. Each one of us has been touched by loss and it's been very hard, I know, for them to look at the pictures, to see the places, to remember the events and not long for those Elders to be back with us because our Elders are really not very far away.

11601. I would really like to acknowledge Joyce Underwood, Victor Underwood, and Romaine for drumming and singing today. What they brought forward was something very sacred, something very special, and something very protective. And that's not just for us, the SENĆOŦEN people, the W̱SÁNEĆ, the WELN̲EW̱. It's for everyone that's here to be embraced by that protection, that understanding that our history is alive and it's with us, and we have a responsibility to it.

11602. Our people walk these very lands here. They camped here. They worked for farmers clearing trees as our land began to be broken up and it began to change, it began to be encroached on, and reduced.

11603. And so it's very important when we pose that question about cumulative effects, there's so much that has started right from the point of first contact. And we ask you to remember that. Don't just start now; go back, because the pipelines are already here. The ancestors have been moved, the ground has been disturbed, the trees have been taken down, the waters have been violated.

11604. And we talk not only of the saltwater; our precious relationship with the saltwater begins with freshwater. The Douglas Treaty reinforced that, that we would have salmon forever, so that means maintaining the salmon, the salmon streams, the freshwater points of creation as part of that relationship, as part of that ecosystem. Not just part of that environment. It's part of an ecosystem. It's all related.

11605. It's all connected, as we are connected, and we struggle very hard to remain connected. And that's what a lot of my work has been related to, is about looking at the social issues we face, the health issues we face, the struggles in economic development and education, and how that's impacted by settlement, by industrial development, by the removal of important resources.

11606. We talk about the impact of tanker traffic, and it's not just the tanker traffic, it's the vibrations, it's the wave action, it's many sensitivities that are being disrupted there. Not just the fish, but the organisms that are responsible for helping the fish to stay alive in that water. And Earl -- my cousin, Earl, mentioned the eelgrass, and that is one of the indicators that is really disrupted by the velocity of the waters. It really struggles to stay alive.

11607. And if many people think our belief systems, our stories, our mythology, maybe you need to think of these important elements as metaphor because that's how I've taken it into the academic realm, to think of this as metaphor.

11608. Right from the beginning, our origin, the flood story, we became the children growing ourselves up because the flood took away a lot of our old people, and the people that are gathered here now we're restoring the language; we're restoring the knowledge of the seas; we're restoring the knowledge about our family history.

11609. We are trying to reconnect ourselves and to stay connected and to be strong, as Nick and others have said, to defend our rights; the rights that were given to us from creation. They were not given to us from court cases. They were given to us from creation and they were handed down from family to family.

11610. And that's our history and that's the way we live our history. It doesn't come to us from a Canadian history book. It comes to us from each other and our relationships with each other and our connection to the land and to the water and to that way of life. It's ongoing. It's continuity. It's sustainability.

11611. And I apply sustainability not only to the resources that we have, I apply that to my life. For me to live my life as I was intended to live it from creation, I must be sustainable, I must be able to have those stories and those teachings.

11612. I look at Belinda and I say that's a treasure. Because of Belinda and

the knowledge that she has about preparing young men and women for the responsibilities of adulthood, for puberty, she helps ground our people. She helps strengthen them.

11613. Changes in our world mean that many people don't listen the way that they were intended to listen. But she is a treasure of teaching. And if more people would listen, we may have less of the problems that we have with suicide and violence and addictions. And we do struggle with that in our communities because we've been displaced off the lands. We cannot live free on our land.

11614. Even that precious reef net was outlawed by government fisheries, yet it's a very sustainable way to fish. You can take the fish you need and you can leave the rest. So it's very important to remember those things.

11615. Aaron, one of our providers, we were lucky to be part of witnessing the old way of crabbing, a way of crabbing that's very sustainable. We'd see the pitch lamps out there at night and it wouldn't just be one, there would be a dozen of them out in Saanichton Bay. And they'd be moving around the water. Some people are walking with their pitch lamp, some people had little boats. And they could get the crabs just to come right up to them because of the light.

11616. And as kids, we would walk out there with sticks, crabs would just latch onto it. We have our crab, we have our lunch. So we still have those memories, and you can still do that in our bay.

11617. And it's not just a saltwater bay; it is a mudflat, a mudflat ecosystem. It's not important just for the codfish, the eelgrass, the crab, the clam. There's all the ducks that come in there because of that mudflat. It's all the organisms that we put our feet through the mud and we see the worms come up. And you can see all of the action, the life that's there because of the barnacles trying to clean that water.

11618. And so it's a very important knowledge that we have and very few teachers. So I really appreciate the people that have come and the work that they do and that they often work without the gratitude that they need.

11619. Eric Pelkey, as he said, he worked many, many years for the band. And it takes a lot of time to defend your rights in court, and it takes a lot of money. And we were glad to have not only the support of our own people but many non-Native people who came forward because of the social justice that's

required to get that time and attention in court and to have the resource there to pay for that. So it's a struggle that we face each and every day that we're alive.

11620. And I'm so lucky in my life to have my dad who walked these lands as a free man. He walked as a boy and he snared rabbit. He hunted with a slingshot. He used a bow. He used a knife and then later he used guns. But he provided, like Aaron, many things that we don't have now. He harvested seagull eggs, and I can remember the Elders coming for those seagull eggs and they always had to get first pick. And it was a very cultivated taste to eat a seagull egg. They're very strong smelling, but they're good.

11621. And I can remember growing up as a child just never having to go inside because we'd have a big kettle and a fire on the beach. We'd have mussels and clams in the embers there, popping open for us to eat, and we'd have crabs in and out, putting them in and out of the boiling water. And there'd be seaweed there. We can use it as medicine. You can eat it as your vegetable, perfect food.

11622. I just was so privileged to have those teachings coming from the way of life that we had each and every day and probably never fully appreciated it, to having a teacher like Dave Elliott remind me over and over and over again.

11623. Dave Elliott would say "We are the richest people in the world." And I'd have to remind myself that as I work with people who felt they were the poorest people in the whole world. They were ashamed of how they lived. They're ashamed when your people would look at us in our villages and see us as poor people, the poorest people, uneducated.

11624. So it's through the work of young men like Nick that we're coming to really value how important our teachings are, how our teachings can help heal the world, how our teachings can help strengthen us as a people, encourage our young people to be proud again.

11625. And I hear Belinda, Eric, others say 'our children's, children's, children'. And that's how far our responsibility goes.

11626. But when you see that double-ended -- you see that double-ended arrow, that's also part of the mythology, the two-headed sea serpent sees the past and it's connected by the present and it looks to the future. It's our responsibility and it's recalled in that mythology. It's shown in that artwork and that's where we've now taken our teachings into the next generation for the greater world to

appreciate. It's in the artwork, the valuable artwork, the continuity of salmon. It's here, as the circle of life and it helps restore that pride and economy to many people.

11627. So I just wanted to say again, HÍSW̱K̲E. HÍSW̱K̲E for all the attention today. And I ask for some words to be put up there. They're not my words, but they're very important words because they're from that international court, that international realm, that tells you that we are not people without law. We have many laws to govern us. We are self-governing people. And it's actually the laws of the government here that are breaking us.

11628. We haven't been breaking any laws by living the way we live and the way we want to live. And this article tells us that we're entitled to live that way.

11629. It's also reinforced in that Royal Proclamation that Earl mentioned. That's not about a relationship with Eastern Canada. That's a relationship with the Crown and Indigenous Peoples, a promise that we would live undisturbed in our lands. It's reinforced in the Douglas Treaty. It says we could fish as formerly. To be able to fish as formerly we have to have the ecosystem intact.

11630. And this is not part of our consultation here. There's much more dialogue that has to come and there's a lot more action that has to come.

11631. Indigenous People have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions as well as the manifestations of their sciences, technologies and cultures, including human and genetic.

11632. I go back to my relatives there, Dick and Joyce, and I think about their time in residential school and the time that they've now devoted to the healing and recovery work for our people. They're teaching us again about the importance of that traditional knowledge, the healing that comes from knowing who we are as people and restoring that strength to our family and our community, the resources, the seeds, the medicines, the knowledge of the properties of the fauna and the flora, oral traditions, literature, design, sports and traditional games, visual and performing arts.

11633. We are free to evolve as a people. We don't have to stay the way many people see us in the museum. We're not artefacts; we're alive. We have families and we have family responsibility.

11634. So in conjunction with Indigenous People, states shall take effective measures to recognize and protect the exercise of these rights.

11635. So I think it's important that many of -- much of this process is not for us; it's for our non-Native neighbours and those in positions of responsibility and influence to remember what their responsibilities are, because we have tried to stay true to who we are and stay intact and linked to our tradition and culture and history.

11636. And we've overcome a lot of interference, a lot of degradation and a lot of oppression to change.

11637. And I believe that the Trans Mountain pipeline or any kind of pipeline or any kind of forestry, any kind of activity that's carrying on in the lands, must remember this is there for the world to see now and there's now a whole body of case law, and I only have a little bit of it here.

11638. Nineteen-eighty-nine (1989), *Saanichton Bay Marina*; 1990, *Regina vs. Sparrow*; 1991, *Delgamuukw*; 1996 *Smokehouse, Van Der Peet and Gladstone*; there's much, much more, and the *Tsilhquot'in* decision. And there's so many people. I know of one Chief from Saddle Lake, spent most of his life from his community because he was involved with this UN declaration that Canada failed to recognize. But he spent a long, long time on it and he was criticized in his home community.

11639. And the same with many of these cases, many of the people were away from their communities and criticized in their home communities for defending those cases and for maybe putting money into legal cases, maybe they could have put it into housing or maybe they put it into education, but this was important to stand up for who we were.

11640. And I just have to acknowledge my dad again because he was a warrior. He was a warrior on the land. He stayed true to who he was. But when Canada became threatened, my dad didn't have to go to war. He volunteered. He followed two of his brothers to war. He was under fire in Italy, wounded twice and he returned to raise a family, 16 children.

11641. And when we were growing up we were under scrutiny, constant scrutiny by government, public health nurses, teachers, who thought we were

poor, who invaded our privacy. They looked in our fridges, they looked in our cupboards. They felt our bones because they thought that we didn't have enough, but then my Mum and my Dad took them down to the basement, showed them all the jars, canned goods, the fruit, the vegetables, the fish, and we had fish. Dried fish would last forever. It was outside; it was hanging up. It was in different places. We never had to worry about food.

11642. When we were working in the berry fields, my Dad brought us crab, crab salad. And I remember my boss coming over and saying, "What are you kids eating?" "We have crab salad." "You know how much you'd pay for that in a restaurant?" We had no idea you ever had to pay for crab salad. We got it for free. And that's how free we were to enjoy our life in our land.

11643. I'm just so proud of everybody that's come and the people that have gone before. I just wanted to mention one of our relatives, Simon Smith. When people sometimes think that our people aren't organized, we had organized labour right from the beginning of time.

11644. Simon Smith is one of the traditional gravediggers in our community. And that's not something that's just handed over lightly to someone to do. A gravedigger is taught right from the beginning how they're responsible to the digging, the work, how they're responsible to the families, how they prepare themselves, and how they clean themselves after. There's a lot of responsibilities that go with that work.

11645. The gravediggers now are the ones who are at the side of our archaeological digs verifying remains. They have very important work to do. It's very sacred work and not just anyone can do it.

11646. And that's what happens every time a pipeline is dug up or laid down. The earth is still alive and it has those remains in it; it has those teachings in it. And we need to be the first people that are there to remind others that we were here and we still are here and we have that responsibility to those remains and to the land so that it's all treated with proper respect.

11647. And that's not just for us. That's a protection for everyone. And it's not mythology, it's teachings. It's about mental health. And so we are trying to make sure that we can connect with that; we can connect with that natural healing that's there and it's there for us and that's our role and our responsibility in society to be part of the spiritual health and wellbeing of all peoples.

11648. I have -- what we're doing now harkens back to a process that happened in the nineties. There was the Clayoquot trials. And the Clayoquot mass trials were to stop the clear-cutting of forests, and foresters were being involved talking about how the forests were part of a complex ecosystem. And it was not just the relationship with the ground, but it was also the relationship with the air and it was also the relationship with physical health and wellbeing; that we needed to have a certain amount of plants and vegetation and wildlife there for all of us.

11649. And at the time, there was an international forum again. It was called the Caracas Declaration, the Fourth World Congress of the International Union for the Conservation of Nature met in Caracas, Venezuela in February 1992. Both the B.C. Ministry of Environment, Lands, Parks, and the Ministry of Forests have endorsed the principles enunciated by the Caracas Declaration.

11650. It states:

> *"Our national wealth is being eroded at an unprecedented rate because of, among other things, excessive consumption of natural resources so that the future of humanity is now threatened."* (As read)

11651. And it was a philosophy that was very much in keeping with what our people were saying. The wealth is not in the dollars. The wealth is in the understanding of the environment and the ecosystems and how they're all connected.

11652. So I thought it was important to just recall that part of the history. It's not necessarily just our history, but it's bringing back some of your history to you as well.

11653. I tried to bring my notes this morning, but I remember that this forum was about our oral history, our oral teachings, but I had to acknowledge my teachers and one of my little teachers right now is my granddaughter. She leant me her SENĆOŦEN book as my notebook because I forgot my notebook. She said, "I'm finished with it now." And it has many of her SENĆOŦEN words in it. I just really want to say hi to my little granddaughter.

11654. My other teachers before I even was in school -- and, you know, I

don't know if many people realize, we weren't even in public schools until the fifties; that we had to have legislation to let us in that door. But before that, I had teachers, my Mum and my Dad, the most precious people, and I knew my grandparents and I knew my great-grandmother and it's from my great-grandmother that I get my name, Tiwenemot (ph), and it comes to me from Nanaimo and it comes with teachings. It comes with responsibility.

11655. And that name is alive. It's alive in me. I pass it on to my daughter and it may go to my granddaughter, but it's about maintaining those connections to who we are as people and family so that wherever we go we know we're related when we meet another named Tiwenemot (ph) and we know that maybe we have an origin down here in Saanich or we have an origin up there in Nanaimo.

11656. So I just -- I needed to just kind of acknowledge all that's gone on today and I'm really so proud of many of the things that have been brought forward. What's been brought forward is gifts, the balsam fir. It's medication. It's not just for us. For many people it's a tea. You could put it into a tea and it can help your system in a lot of different ways.

11657. We've been blessed with some down in this bag and it's about bringing truth and integrity to a process and the blessings; the blessings that are here, the blessings that have been shared in the song and in the prayers.

11658. And we have KEXMIN. I was given KEXMIN when I had to go to court and bear witness one time in a very difficult court case, and as Belinda shared, it helps you with your voice. It gives you a strong voice. It also helps you with truth. It also helps that clarification, that purification that you need.

11659. So that's why it's put on the stove sometimes and it's burned. It's burned as an incense to clean the air, to help burn off some of the bad germs. It's very powerful medicine. It's very simple medicine and it grows in special conditions where the salt and the sand and the freshwater systems all join together and they produce these wonderful plants.

11660. So I just wanted to share some of those teachings with you and really acknowledge the wealth of information that has come forward today. Thank you all for your patience.

11661. HÍSW̱ḴE.

11662. I don't have too much more to add, but I just say thank you. HÍSW̱ḴE.

11663. **MS. GAERTNER:** Mr. Chairman, I recognize the time, but we're just about finished if that's okay with you. Thank you.

11664. Our last speaker again is going to be Eric Pelkey and he's going to speak to the last two slides.

--- ORAL PRESENTATION BY/REPRÉSENTATION ORALE PAR MR. ERIC PELKEY:

11665. **MR. ERIC PELKEY:** Thank you. I'd like to remind you my traditional name is WEC'KINEM. And I bring that out because it's the name that our ancestors gave to me.

11666. And I guess one of the things that -- before I go through this list here, I just wanted to present you with a word that was used before the coming of motorized transportation. Our people's main mode of transportation was their arms and to paddle, paddle the canoe. And they had a word that they used called S̱WIST, S̱WIST. It meant paddling around, paddling around to access the resources of your territory.

11667. So there was a lot of things said by just one word, S̱WIST. If you said S̱WIST, the people knew that you were going out to access the resources in your territory by paddling. So S̱WIST was a common word in the days of my grandfather, before the coming of motorized transportation. So I just wanted to leave that word with you.

11668. And also, LELA'NEṈSEN. We're talking about oral history here today. And that's what our main mode of oral history was to ask the people to be a witness to what is being said. Be a witness because that's how the knowledge was passed on and that's how the information was passed on, by asking everyone to be a witness.

11669. And you, the Panel, are asked to be a witness to everything that was being said here today, as is our representative from Trans Mountain asked to be a witness to what is being said here today, and also the people that are sitting in the

audience, you are asked to be a witness, a witness to what is being said here today because in our tradition, in our history, everyone that attended was asked to be a witness to bring back the information to the others, the people that were not able to make it. You were asked to take that information and bring it back and share that information.

11670. That is a tradition of our people that has brought all of our teachings down from generation to generation to generation. LELA'NENSEN , you are all asked to be a witness.

11671. I'll go through our potential impacts from the increased marine shipping and accidents and malfunctions.

11672. Number one, disruption of Tsawout's way of life, increased alienation from an interruption with Tsawout's sacred relationship and reliance on the waters and lands of our territory.

11673. Number two, disturbance to food-gathering locations, fishing, harvesting, aquatic resources, plant gathering and hunting.

11674. Number three, disturbance to distribution, health, abundance and long-term sustainability of fishery, aquatic resources, birds, mammals, vegetation, threatened and endangered species, benthic communities and other resources.

11675. Number four, disruption to marine ecosystem from wake, noise, air emissions and lights.

11676. Number five, disturbance of burial sites and other spiritual and cultural sites.

11677. Number six, disruption to historic and modern future marine travel ways and marine access through the territory, including areas now considered within the U.S.

11678. Number seven, decreased water quality, increased pollution including introduction of non-Native invasive species.

11679. Number eight, increased risk of collision, accidents including water contamination, shoreline contamination and physical contact between the tanker's hull and marine and sub-tidal habitat from vessel grounding.

11680. Number nine, increased risk of impacts because of insufficient knowledge and capacity to contain and clean up diluted bitumen in the marine environment.

11681. Number 10, continued cumulative effects to the territory including contributing to climate change impacts, ecosystem effects, health, physical and emotional, social and mental wellbeing of the Tsawout.

11682. Number 11, infringement of Section 35, including -- in Section 35 rights including our Treaty right to carry on our fisheries as formerly.

11683. Thank you.

--- (Applause/Applaudissement)

11684. **MR. ERIC PELKEY:** The last slide we have here is reflecting the transportation route of the Kinder Morgan pipeline tanker route through our territory and how it impacts the way of life of our people, and that endangers the resources within the tanker route and the surrounding areas.

11685. HÍSW̱ḴE.

11686. **MS. GAERTNER:** That concludes our evidence.

11687. **THE CHAIRMAN:** Thank you, Ms. Gaertner.

11688. As you indicated, the Tsawout said they would be interested in any questions of clarification and anything substantive in writing. I'll offer that opportunity first to Trans Mountain.

11689. **MS. OLENIUK:** Thank you, Chair.

11690. We have no questions at this time, but on behalf of Trans Mountain, I would like to thank all the witnesses for their testimony today. And, sir, I'd also just like to take the opportunity to thank the Board's staff and counsel for all the work they've done over the past few weeks in making sure the hearings proceeded smoothly and efficiently. So thank you for that.

11691. **THE CHAIRMAN:** Thank you. The Panel don't have any questions,

in-the-moment questions as was asked as of yesterday if we have any in-the-moment questions. We don't at the present time.

11692. I'd like to acknowledge each and one of your -- each and every one of your voices and those also who have come with you today to witness your presentations today.

11693. I must say that each of your voices, we've listened to each of them. Eric, you said it was an honour for you to be here today. It certainly is an honour for us to have you here today, and we appreciate you coming.

11694. Earl, you talked about the protection of the land and what you do about that. And you're doing that here today. And we also acknowledge that you're coming and doing that with us as well.

11695. Aaron, you talked about your being a provider and your playground. We acknowledge you for bringing that voice to us today as well.

11696. Belinda, for grounding us in the 13 moons. We've heard testimony on the 13 moons as we've gone through. But today, you brought a visual of those and an understanding and a grounding of those 13 moons.

11697. Nick, you brought your spirituality and your responsibility, the reef net fishing and the backbone and the giving of life. And we acknowledge you for bringing that to us today.

11698. And, Mavis, for your connections and your sustainability, I acknowledge those and thank you for bringing those to us today.

11699. And as we move forward, we will consider everything that you have said to us today, as well as all the other voices we've heard and we will be considering those as we decide on whether or not to recommend approval of this project.

11700. So if you would allow me to close today and then I understand that we will conclude with a prayer and a drum at the end, if that is okay?

11701. **MS. GAERTNER:** Mr. Chair, there are gifts that they would like to provide to the Panel and they'd like to do that on the record.

11702. **THE CHAIRMAN:** That's fine. We are on the record still. So that would be appreciated.

11703. **MS. MAVIS UNDERWOOD:** If you're not allowed to accept gifts, then maybe their teachings.

(Gift offerings)

11704. **THE CHAIRMAN:** We acknowledge that and the heartness and the sentiment that is given and we are receiving it in that spirit as well. Appreciate that.

11705. The Alexander First Nation located in northwest of Edmonton were scheduled to present this afternoon. They are unable to do so due to heavy snow in Alberta and through, obviously, no fault of their own. We haven't controlled nature yet or the weather, so the Board will work with the Alexander First Nation to find another time and place to hear from Chief Kurt Burnstick and his people.

11706. This brings us to a close of the scheduled oral traditional evidence sessions. We have heard from 39 presentations from Aboriginal people, from First Nations, and from U.S. tribes spread over 21 days in Edmonton, Chilliwack, Kamloops, and Victoria. And we end in Victoria on the land of the Coast Salish people.

11707. This is a significant milestone in this hearing process. Alison and Phil and I would like to thank all parties for the substantial time and effort they have put into this phase of the hearing.

11708. Our thanks also go to the support we've received from our staff that sit behind us and some of you don't see. And without their support and all the work they do leading up to it, we would not have been able to have such a hearing as this.

11709. I'd also like to make a special mention to the gentleman you see, Dale Waterman, who is typing there at the end of that table. He has listened to our oral traditional evidence and has heard the language that has been used and throughout this hearing and has made a tremendous effort to reflect some of those words and many of those words in the written transcripts of this hearing. So I'd like to acknowledge his efforts in that regard.

11710. The Panel will continue to receive and consider written evidence from intervenors and Trans Mountain, as well as letters of comments from commenters. We have listened and have heard all of the oral traditional evidence put forth and will consider that evidence, and everything else on the record, in our deliberations after this process and our journey comes to a close when the Panel will deal with the very difficult task of making our recommendation and decisions on this project.

11711. With that, we are adjourned and we would be honoured to receive your -- thank you.

(Closing prayer and song)

--- Upon adjourning at 12:26 p.m./L'audience est ajournée à 12h26