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August 28, 2012

Attention: Ms. Sheri Young, Secretary to the Joint Review Panel Enbridge Northern Gateway Project

Secretary to the Joint Review Panel
Enbridge Northern Gateway Project
444 Seventh Avenue S.W.
Calgary, Alberta
T2P 0X8

**Re: Hearing Order OH-004-2011
Enbridge Northern Gateway Project
Response to Department of Justice Canada letter dated August 22, 2012 and Secretary to the Joint Review Panel's letter dated August 24, 2012.**

First, let me thank the Panel for the opportunity to clarify my request to question several key participants in the proposed Enbridge Northern Gateway Pipeline project. The Department of Justice has made a submission, on behalf of the Attorney General, questioning several aspects of my request for cross-examination of federal departments. These departments hold key aspects to the public's understanding of the project and the government's role in the process. Their responses to the topics that I have outlined are important to my constituents and to Canadians more generally; it is fitting to the purpose of the review that as an elected Member of Parliament, I have the opportunity to ask questions that are on the minds of many Canadians about this project.

The topics I propose to address are central to the mandate of the Panel, as set out in the Terms of Reference, to "conduct a review of the Environmental Effects of the project and the appropriate mitigation measures based on the project description and consideration of the project application under the NEB Act." The mandate of the Panel is designed to accommodate the questions of "all of those affected by the project," including the questions that I will raise.

The Hearing Order sets out that the List of Issues is not exhaustive: "the Panel's environmental assessment of the Project and related public interest determination will include, but not be limited to, consideration of the following." This is also underscored in the Panel's Procedural Direction #8, where the list of sub-issues by location is stated to be illustrative rather than exhaustive. Procedural Direction #9 simply states that questions "must relate" to the List of Issues. The Panel is not precluded from allowing questions that do not match up *verbatim* with the list of issues. Strictly limiting the topics to the List of Issues as set out in the Hearing Order could constrain the Panel from hearing questioning that is relevant to fulfilling its mandate.

All of the topics that the Department of Justice suggests, on behalf of the Attorney General, are not directly related to the evidence are in fact related to testing the credibility of the evidence that has been filed on the record. Testing the credibility of the evidence can, at times, be done best by examining whether critical information is missing from the evidence, what alternatives exist, and the context within which the existing project has emerged. The purpose of the questioning is to test the credibility of the evidence and nothing prohibits the Panel from hearing questions to that end. Limiting the questioners and responders to only what has been already submitted would render the questioning phase of the proceedings moot.

The Panel has said that this process is “designed to gather information from all viewpoints” and “is public and open to anyone who wishes to participate.” The Department of Justice submits, on behalf of the Attorney General, would like the Panel to adopt overly restrictive procedures that would compromise integrity of the proceedings. What’s more, those interpretations would exclude me and many others from participating in the proceedings. A broad understanding of the kinds of questions that go to the credibility of evidence must be adopted in order for a proper review to take place.

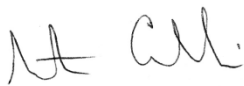
On the question of the Department of Fisheries and Oceans my questioning of the application of the Fisheries Act is specific to the role of the federal government. The response from this department to the Panel's own requests for comment and risk assessment has been both disappointing and in need of clarification. I expect to get such clarification through my questions.

I also note that the Panel has reportedly requested that Transport Canada “provide a detailed discussion on what provisions exist in the relevant Canadian marine shipping legislation to ensure that Northern Gateway’s voluntary marine shipping risk reduction measures are and remain mandatory and enforceable.” Supertankers have never before carried diluted bitumen through such narrow passageways in such unpredictable waters; the risks to Northwest British Columbia’s pristine coastal waters, land, and way of life, are too great to allow such obligations to be voluntary. These matters get at the heart of what concerns many of my constituents and Canadians alike. Questions about Transport Canada’s role in this are critical to reviewing the environmental effects of the project.

It is difficult in the context in which we are conducting these public forums to separate the current government's objections to my questions and the government’s publicly stated support for the project prior to assessment. Further, the Panel's authority has been seriously undermined by a retroactive rewriting of the rules of engagement creating a potential for loss of faith on behalf of the public.

Some have described the various tactics employed by the government as an attempt to silence critics and minimize the scrutiny of proposed pipeline and supertanker traffic. In my earlier intervention with the Panel I attempted to remain respectful of the Panel and the process that guides your deliberations. I will continue to respect the Panel’s independence in determining the best route towards understanding the potential impacts of this project.

Sincerely,



Nathan Cullen, MP
Skeena-Bulkley Valley

