

# Joint Review Panel Oral Statements Q&A



## OVERVIEW

### What is the Joint Review Panel?

The Joint Review Panel (JRP) is a three person panel appointed by the federal government to review the Enbridge Northern Gateway proposal. They are considered a “joint” review panel because they must review the project application under both the *Canadian Environmental Assessment Act* and the *National Energy Board Act*.

The Panel’s job is to consider the issues set out in the [Joint Review Panel Agreement](#), and to specifically,

- Examine the environmental effects of the project;
- Consider technically and economically feasible measures to mitigate negative environmental effects;
- Consider comments from the public and Aboriginal peoples that are received during the review;
- Provide various ways in which interested organizations and people including members of the public and Aboriginal groups may participate the hearing process; and
- Submit a final environmental assessment report with recommendations about the project to the federal government.

Once the review is complete, the Panel will make a recommendation to Cabinet about whether to approve the project or not.

### When is the JRP expected to make its final decision?

The JRP has until December 31, 2013 to send its report containing recommendations to Cabinet. Cabinet will have 180 days to make a decision. If the project is approved, the National Energy Board (NEB) will have 7 days after receiving the decision to issue a Certificate of Public Convenience and Necessity. Therefore, a final decision is expected in mid-2014.

### Will the Panel review just the pipeline or both the pipeline and the tankers?

The Panel must look at issues regarding both the pipeline and the tankers.

### Will the Panel take climate change or the tar sands into account?

No. The Panel decided to reject broad consideration of these issues, despite being asked to consider them by First Nations, community and conservation groups, and individuals.

*Greenhouse gas emissions and climate change:* It does not appear that the Panel will expand the consideration of greenhouse gas emissions and climate change impacts of the project beyond the



emissions directly caused by the construction and operation of the pipeline. It will only consider federal policy on greenhouse gas emissions and international commitments as they relate specifically to the project's direct environmental effects, which means it will not examine broader climate change implications of the related tar sands production or oil consumption. The Panel will not consider the impact of the project on Canada's ability to meet its greenhouse gas reduction commitments. The Panel also does not say that it will consider the impact of the project and wilderness fragmentation on climate change adaptation.

*Tar sands development impacts:* The Panel will not consider impacts of "upstream" tar sands development. The Panel states that tar sands impacts are a provincial responsibility, and it wishes to avoid unnecessary duplication caused by examining them. In addition, the Panel states, "we do not consider that there is a sufficiently direct connection between the Project and any particular existing or proposed oil sands development, or other oil production activities, to warrant consideration of the environmental effects of such activities as part of our assessment of the Project," since this is a project to transport oil, not to extract oil, and the oil could come from any number of locations in Alberta. The Panel states that unless tar sands environmental impacts somehow enter into its cumulative effects analysis, it will not consider them; given the Panel's finding that there is no direct connection with oil production, this is unlikely.

### **Recent statements from the federal government make it sound like this project is a done deal. Is this true?**

Until the 2012 federal Budget Bill, C-38, was passed into law by Parliament, the Joint Review Panel had the final say on whether or not to approve the pipeline. It had a mandate to make the decision as an independent, quasi-judicial body similar to a court of law. The Panel has [affirmed](#) that it will make its recommendation based on evidence presented during the review process and will not consider or respond to information reported in the press or elsewhere that is not on that record.

However, the federal government has now changed the law to give the Cabinet – that is, the Prime Minister and his cabinet ministers – the final say on whether the pipeline will be approved. The Joint Review Panel can now only *recommend* to Cabinet whether or not the project should be approved, and what conditions should be placed on such an approval. The Panel's recommendation will come at the end of its review process, and Cabinet will make a decision after that. Although Cabinet will take the Panel's report and recommendations into consideration, it has the final say and does not have to abide by those recommendations. Cabinet may consider any factors that it chooses to, including political factors, in deciding whether to approve the pipeline and whether the pipeline is, in its opinion, in Canada's national interest. The federal government has already declared that it believes that having pipelines to the Pacific Coast in order to export oil to Asia is in Canada's national interest. While originally this decision was to be made in an independent and impartial manner, now it appears that the decision will be politically motivated.

### **If the panel recommends against approving the pipeline and tankers, can the federal government still approve the project?**

Yes. See above.

### **Should I participate in the JRP process even though the federal government has changed the rules to give itself the final say, and has taken that authority away from the JRP?**

Yes, absolutely! The JRP has requested that people come forward to share their views and concerns about the project. We must all have a say in proposals that threaten our lands and waters. This is especially true for First Nations in B.C. whose lands have never been ceded by treaty or conquest and First Nations in Northeastern B.C. and Alberta who have signed treaties. We all have a right to say “no” and to decide whether this project should go ahead or not. The JRP process provides a forum to voice our concerns and our opposition. It is also a forum to assert the authority of local communities, First Nations and all British Columbians to make this decision.

### **Will the panel listen to my concerns or are they only looking for expert opinion?**

The Panel has a duty to consider comments from the public and First Nations that are received during the review. Giving an oral statement at a community hearing is an opportunity to provide your personal knowledge, concerns or views about the project in your own words. You do not have to be an expert. You can choose to include facts and arguments in your presentation, make a heartfelt pitch, or do both. Your message can be as simple as “I do not want this project.” It will still be considered.

The Panel says that it will listen to what everybody has to say. In practice, expert evidence and oral evidence that may be cross-examined (or tested through questioning) in a courtroom style – as opposed to individual oral statements that won’t be cross-examined – may be given more weight by the Panel.

### **What is the difference between the technical hearings this fall and the community hearings that are starting in January 2013?**

One portion of the JRP hearings is for INTERVENORS - First Nations, governments and other organizations that have registered to provide expert written evidence. Starting in January 2012 these intervenors presented their *oral evidence*, similar to court proceedings. The technical hearings this fall have been a chance for Enbridge to cross-examine the evidence put forward by the intervenors, and vice versa. Another portion of the hearings is for INDIVIDUALS like you to speak your mind to the Joint Review Panel in a 10-minute *oral statement*. These community hearings were held along the proposed route during spring and summer of 2012, and will begin for Southern B.C. communities in January 2013. After the community hearings conclude, the cross-examination of intervenors will continue through the spring of 2013 and then intervenors will present their final arguments to the Panel in the fall of 2013.

## **LOGISTICS / TIMING / WHAT TO EXPECT**

### **Where can I find information from the Joint Review Panel on what to expect?**

[Procedural Directions 5 and 6](#) from the Panel: These directions provide guidance for participants who have registered to make an oral statement to the Joint Review Panel during the community hearings.

### **I think I signed up to speak, but I haven't heard anything from the Panel. Am I registered?**

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If your name is on this [list](#), you are registered to give an oral statement. However, if you did not take the additional step of signing up for a time slot, you will not be permitted to speak according to the rules at the present time. Please check the Joint Review Panel website for further information, as the hearing schedule was being updated at the time of writing.

### **When and where are the remaining hearings?**

The Panel has announced the following dates for hearing oral statements. For updates please see the Panel [website](#).

**Victoria, B.C.** (venue and exact times to be confirmed)  
January 4 – 11, 2013

**Vancouver, B.C.** (venue and exact times to be confirmed)  
January 14 - 18, 2013  
January 30 and 31, 2013  
February 1, 2013

**Kelowna, B.C.** (venue and exact times to be confirmed)  
January 28, 2013

### **What have other people been saying to the JRP?**

Community hearings have been held in the following locations and you can access [transcripts of those hearings here](#), if you want to get an idea of the kind of statements people have been making:

Bella Bella, BC	Hartley Bay, BC	Prince Rupert, BC
Bella Coola, BC	Hazelton, BC	Skidegate, BC
Burns Lake, BC	Kitamaat Village, BC	Smithers, BC
Fort St. James, BC	Klemtu, BC	Terrace, BC
Grand Prairie, AB	Old Masset, BC	Calgary, AB
Comox, BC	Prince George, BC	Edmonton, AB

### **I am concerned that I may be on holiday when it is my turn to speak. Can I have someone else speak for me?**

No. Only people who registered to give an oral statement can do so.

### **When do I have to show up to the hearing I am scheduled for?**

When you used the online scheduling tool, you signed up for a morning, afternoon or evening session. You must arrive on location at least 15 minutes before the start of your session. For example, if you have scheduled a presentation during the 9 a.m.-12 p.m. morning session, you must arrive on location by 8:45 a.m. The Panel cannot give you a precise time for your presentation, because when you speak will depend on how long the other speakers take. Within each time block, the order of speakers will be arranged

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alphabetically based on last name. The list of speakers will be released a few days before the hearing in each community.

### **What do I do when I arrive?**

When you arrive you must check in with a member of the Panel staff who will explain more about the process for that venue. You will need to show photo identification.

You will also be asked to sign a photo release form which will allow the Panel and government to use any photos taken of you at the hearings for non-commercial purposes. If you do not want to sign the form, you may still give your oral statement.

### **What will the room be like, and what else can I expect?**

The hearings are like a courtroom in many ways, but a little less formal. You have to tell the truth and be respectful. You will be asked to swear or affirm that the information you are presenting is accurate and truthful to the best of your knowledge and belief.

The three panelists will be sitting together at a table. You will be seated at another table facing the panelists. You will be speaking into a microphone so that everybody in the room can hear what you are saying.

There will be an audience of people listening. These people will likely be sitting behind you when you speak, depending on the set-up of the room. An Enbridge lawyer will likely be in the room.

Your presentation will be recorded and broadcast live over a webcast for anyone to listen to. There will also be someone there transcribing your words as you speak, and the transcript will be available online afterwards.

Once you give your presentation, you are free to leave the hearing, or you can stay and listen to what others have to say.

There are no placards or signs allowed inside the hearing room, however we are encouraging everyone to wear a blue scarf and/or pin on a blue felt water drop to show solidarity with the speakers.

Before each hearing, there will be informal information sessions for you to see the set-up of the room and ask any last-minute questions to the Process Advisory Team. You will be notified via email about these sessions. Attendance is not mandatory.

### **How long will I have to speak?**

You have a maximum of 10 minutes but can use less if you choose. As you are presenting, a member of the Panel staff will signal to you to let you know when you have three minutes left to speak, and again when you have one minute remaining. If you go over your allotted 10 minutes, you will be asked to stop.

### **Can I read from notes?**

Yes.

### **Can I use props, use a PowerPoint presentation, or show a video?**

Electronic visual aids (such as PowerPoint presentations, videos, digital photos or maps, or other media) will not be allowed.

Although not recommended, you may use props or hard copy photos or maps, but you will have to describe them out loud so people listening to the live webcast and the transcriber know what you are showing. You must allot time in your 10 minutes to do so. No additional time will be granted.

Paper documents such as photos and maps cannot be handed up to the Panel. Because the deadline for submitting Letters of Comment has passed, if you wish your documents to be in the public registry, you will have to file a written Motion with the Panel formally requesting acceptance of your documents.

A [map](#) showing the proposed pipeline, facilities and marine shipping routes will be displayed at the hearings for presenters to refer to if they wish.

### **Can I have another person stand with me as I present, and if so, can that person speak with me during my presentation time?**

If you need a person to assist you because you have difficulty speaking or communicating, this should be permitted by the panel. You should confirm this with the Process Advisor Team toll free at 1-866-582-1884. Ordinarily no-one else should be speaking in your time slot. Singing by others as part of your presentation may be permitted, but you should be prepared to address the Panel in a non-musical way if they decide not to permit you to sing.

### **Can I present in a group?**

Yes, but each member of the group must have registered by the October 2011 deadline. In addition, you must have scheduled a block of time long enough for each group member's allotted 10 minutes. In other words, if there are six members of your group, you must have scheduled a 60-minute time slot in the online scheduling tool.

### **Can we bring a friend to watch?**

Yes! Everyone is free to attend the community hearings even if they are not speaking.

### **Will the hearings be taped?**

Audio recordings are broadcast live during the hearings. The written transcripts are available from the Panel website [here](#).

Media may also be present at the hearings, so you may be photographed or filmed.

### PREPARING MY PRESENTATION

#### **What should I talk about in my presentation?**

This is your opportunity to share your views about this project. Your presentation can include how the project will impact you and whether you think it should be approved or not. You may talk about any part of the project or its impacts (environmental, cultural, and/or economic) that you wish. Everything you say should support your position on the project. If you do go off topic in the view of the Panel, they may ask you to come back to the point.

#### **Is the fact that climate change issues are not being reviewed by the Panel in itself an issue for discussion?**

Yes. Both the effects of climate change and the decision to not consider the broader issues in the scope of the review process could be included in your statement.

#### **Can I talk about the tar sands and climate change as they are linked to the project, even though these are not being reviewed by the Panel?**

Yes, if those are the issues that most concern you. However, they may decide not to let you speak about these issues so you should be prepared with alternative comments, or be prepared to make a case as to why you *should* be able to present on these issues, or both.

#### **Can I talk about associated energy projects such as the Site C dam and shale gas, as they relate to Enbridge?**

Yes, if those are the issues that most concern you. However, they may decide not to let you speak about these issues so you should be prepared with alternative comments, or be prepared to make a case as to why you *should* be able to present on these issues, or both.

#### **What does the Panel mean by “national interest”? Can I speak to what I perceive to be in the national interest?**

“National interest” generally refers to what is in the collective interest of all Canadians when balancing the economic, social and environmental components of an issue. You may define what it means to you and say whether or not you believe the proposed project is indeed in our collective best interest.

#### **Many environmental impacts have been discussed in the media and by First Nations in their oral evidence. I am still allowed to talk about them?**

Yes. The environmental impacts from this project are of serious concern. You are free to express your thoughts on whatever most concerns you. You might want to come prepared with alternative things to say, or an argument for why you should be entitled to express your view in case the Panel says that your concerns are repetitive. However, if you speak about what the environmental risk means to you personally, you are not repeating anything that has been said before. We each have a unique perspective and story to tell.



### **Do I need to do research to prepare my presentation?**

No. All you need to do is be yourself and tell the Panel what you think and how you feel about Enbridge's proposed pipelines and tankers. If you do have technical expertise or knowledge you wish to draw on, that's great, but it needn't be your focus.

### **Should I tell facts or stories?**

Either one – or both – is fine. You get to decide what you share with the Panel. Whatever you do, speak your truth. To speak from the heart, make it personal. Why does this matter to YOU? Tell stories. Make it place-based. What are the places that matter to you that would be at risk of tanker spills or a pipeline leak?

Speaking from the heart will help you:

- Stick out in Panel's mind: The Panel will be hearing from thousands of people, and many arguments will be similar. The Panel is more likely to remember your message if it is unique and personal.
- Show depth of opposition: The Panel only needs to glance at a poll to see the majority of British Columbians oppose tanker traffic on the North Coast, but a poll does not demonstrate how much people care about an issue or why.
- Highlight the complexity of the issue: Bringing to light all the diverse ways this project would impact British Columbians shows it's too complex for a simple rubber stamp.

### **Am I the only one who feels nervous about speaking?**

No. Many people are facing their fear of public speaking and are finding the courage to speak out. If speaking to the Panel seems nerve-wracking, remember that many, many people are standing with you and support your position.

### **First Nations have already said no to Enbridge, how can I support them?**

You can reference the First Nations opposition in your presentation. Here is some background information to help non-Aboriginal people to speak about their support for First Nations. Make sure that you are careful, if you are not First Nations yourself, that you don't claim to speak *for* First Nations:

- Over 130 First Nations in western Canada have stated their opposition to Enbridge's proposed Northern Gateway project. Opposed First Nations form an unbroken chain across B.C. and from the U.S. border to the Arctic Ocean. The First Nations position is that this project will violate their constitutionally-protected Aboriginal Title and Rights, and that the Enbridge pipeline and tankers are against their laws.
- There are two declarations against Enbridge: the [Coastal First Nations Declaration](#) bans crude oil supertankers on the North Coast; and the [Save the Fraser Declaration](#) bans tar sands pipelines through Fraser River watershed, as well as tankers on the North and South Coasts.



- First Nations Laws never went away: In B.C., First Nations have the right to make decisions about the use of their land and waters, according to their own laws, which are protected under Canada's constitution and international laws. The Coastal First Nations Declaration and the Save the Fraser Declaration are First Nations law, permanently protecting the coast and rivers from oil spills. As of March 2012, over 87,000 British Columbians have signed petitions supporting First Nations and recognizing that these declarations protect us all.

### **Many municipalities have already said no to Enbridge. How can I support them?**

You can reference the opposition in your presentation. Here is some background information:

- In 2010 the Union of B.C. Municipalities passed a resolution in support of a permanent tanker ban on the North Coast of British Columbia. A permanent tanker ban would effectively stop the Northern Gateway project because the tankers are a key component of the project.
- In 2012 the Union of B.C. Municipalities passed a resolution opposing projects that would lead to the expansion of oil tanker traffic through B.C.'s coastal waters. In this resolution, the Union of B.C. Municipalities committed to urging elected provincial officials to use whatever legislative and administrative means available to also halt such an expansion.
- The Skeena Queen Charlotte Regional District, Kitimat-Stikine Regional District, and the City Councils of Prince Rupert, Terrace, Smithers, Victoria, North Saanich, and Whistler, as well as all the municipalities on Haida Gwaii, have all passed resolutions opposed to Enbridge's Northern Gateway project.

### **Can I express my concerns regarding the process, given recent federal government statements in support of the project?**

Yes.

### **Can I ask the Panel questions, during my presentation?**

No, the Panel will not answer any direct questions.

### **I have more questions, who can answer them?**

The Joint Review Panel Process Advisory Team is available to answer any questions regarding the community hearings in order to help make you more comfortable. You can contact the Process Advisory Team via email at [GatewayProcessAdvisor@ceaa-acee.gc.ca](mailto:GatewayProcessAdvisor@ceaa-acee.gc.ca), or toll free at 1-866-582-1884.

Many organizations in British Columbia are prepared to help answer your questions as well. Feel free to contact any of us: Dogwood Initiative, ForestEthics, Friends of Wild Salmon, Living Oceans Society, Sierra Club BC, T Buck Suzuki Foundation, and West Coast Environmental Law.

### OTHER RESOURCES

- **Upcoming webinars:** *Our Coast, Our Decision: Maximizing Your Impact at the Enbridge Northern Gateway Joint Review Panel Hearings* co-presented by West Coast Environmental Law, Dogwood Initiative, ForestEthics, Friends of Wild Salmon, Living Oceans Society, and Sierra Club BC. The webinars will be held:
  - Thursday, November 22, 2012 at 7:00 p.m.,
  - Saturday, November 24, 2012 at 3:00 p.m., and
  - Wednesday, November 28, 2012 at 12:00 p.m.

We will repeat the same information in each webinar. Please contact one of these organizations if you are interested in joining a webinar.

There will also be in-person preparation sessions presenting the webinar information, in [Vancouver](#) on November 29, 2012, and in [Victoria](#) on December 4, 2012. Please contact one of the organizations listed above for more information.

- **[Procedural Directions 5 and 6](#):** Guidance from the Panel for participants who have registered to make an oral statement to the Joint Review Panel during the community hearings.