

New Brunswick Board of Commissioners of Public Utilities

In the Matter of an application by Irving Oil Limited for a Permit to Construct an Ultra Low Sulphur Diesel (ULSD) Pipeline

PUB Premises, Saint John, N.B.  
April 12th 2005, 10:00 a.m.

CHAIRMAN: David C. Nicholson, Q.C.

COMMISSIONERS: James Bateman  
Randy Bell  
Patricia Leblanc-Bird

BOARD COUNSEL: Ellen Desmond

BOARD SECRETARY: Lorraine Légère

BOARD STAFF Doug Goss  
John Lawton  
Todd McQuinn  
Izabell Fagan  
Dave Young

..... CHAIRMAN: Good morning, ladies and gentlemen. This is a hearing in the matter of an application by Irving Oil Limited for a permit to construct an Ultra Low Sulphur Diesel Pipeline from the Refinery here in Saint John to the Courtenay Bay facilities.

Can I have appearances?

MR. VINCENT: Robert Vincent and Jill Dewitt for the applicant, Mr. Chairman.

CHAIRMAN: Okay. And Mr. Dalzell?

MR. DALZELL: Yes. Gordon Dalzell present.

CHAIRMAN: Okay. You gentlemen, you are part of the Irving -- all right. Would you like to give

Mr. Dalzell that seat, sir, just for a few moments, being that he is requesting Intervenor status. And so therefore -- thank you. And who are you?

MR. CLARKE: My name is Bill Clarke.

CHAIRMAN: I beg your pardon. I'm teasing. Mr. Dalzell, if you would speak into the mike and just tell, for the sake of the record, who you are and who you are representing.

MR. DALZELL: Yes. My name is Gordon Dalzell. I'm representing the Citizens Coalition for Clean Air in Saint John.

CHAIRMAN: Good. Thank you. Any preliminary matters at all, Mr. Vincent?

MR. VINCENT: Mr. Chairman, at this point would you like me to introduce the others who are with me on this application?

CHAIRMAN: Yes. That would be fine. I'm sorry to disrupt your stage management here, but --

MR. VINCENT: Not at all. Now I'm going to have to keep turning because in the last few minutes --

CHAIRMAN: Yes, of course.

MR. VINCENT: -- it has been like a kaleidoscope with people

moving around. But with me is Louise Steward from Irving Oil Limited, the Refinery Environment Manager.

Next to Louise is John Ringeri of Fluor Canada Limited, Project Manager. Behind me is Tim Ryan of Fundy Engineering Limited, our Lead Presenter, who will address the application if we get to that point.

And I'm looking for Bill Clarke. Over here on Mr. Dalzell's right is Bill Clarke, also of Fluor Canada Limited, Project Coordinator. And next to me on my left is Jill Dewitt, my associate at Stewart McKelvey Stirling Scales.

And I'm sorry, at the back of the room, Maggie Coffin-Prowse, Associate Counsel with Irving Oil Limited. Next to Maggie is --

CHAIRMAN: Go ahead and introduce the staff. Because I was going to do that. But you are doing a fine job.

MR. VINCENT: And I'm Robert Vincent, Stewart McKelvey Stirling Scales.

CHAIRMAN: Thank you, Mr. Vincent. Ellen Desmond is here as Board Counsel today.

Todd McQuinn seated at her right is, of course as you are aware, the head of the Safety Division of the Board and also the Chair of the Pipeline Coordinating Committee. And Mr. John Lawton is to Ms. Desmond's left.

Okay. Any preliminary matters?

MR. VINCENT: I don't believe so.

CHAIRMAN: I think the Board wants to deal with your application, Mr. Dalzell, to be an Intervenor. Hang on. We will all need some water.

Mr. Dalzell, we received your letter of intervention. And it is my understanding that you were speaking with

Mr. Lawton concerning some matters that were brought forth in your request for intervention.

And Mr. Lawton I believe indicated to you that

Mr. McQuinn would be back from a vacation on Monday and that you should contact him to talk about the way in which the Board Safety Division operates and under what regulations and standards.

It is my understanding that you did not do that, is that correct?

MR. DALZELL: I did receive, yes, a call from Mr. Lawton. And we had an informative conversation. And he brought to my attention that Mr. McQuinn was responsible in that regard. And I did not contact him.

I was working actually yesterday. And it may not have been clear in my mind as to whether or not I was invited to contact him or whether he was going to contact me. But for the record I did not talk to him yesterday.

CHAIRMAN: The Board's -- this panel's concern, Mr. Dalzell, is that you recite a good deal of concern in here about certain things like the Pipeline Act itself. This Board has had concern with this legislation for some time.

But when it comes to the standards, we are concerned that you have not taken the opportunity to find out precisely what standards Mr. Quinn and his group are doing the inspections or reviewing the application pursuant to it and they are current and they are up to date.

And I don't want to sit here and have to listen to someone who is complaining about standards and that sort of thing who hasn't taken the time and the effort to find out precisely what it is that the Board's Safety Division regulates the pipeline construction industry with. I mean, otherwise we are just giving you a soap box to say what you want to.

And we want every New Brunswicker to have the opportunity to appear in front of this Board and to question witnesses, et cetera. But we want it done from the point of view of -- as informed a point of view as they can have. And frankly two-thirds of the things that you mention in here, we have absolutely no authority over whatsoever.

The one thing that we will give due consideration to

is that you express some concerns in reference to the type of insurance that is in force in reference to the proposed facility and the existing facility. And I'm certain that Mr. Vincent in his normal fashion will be covering that during the hearing itself.

So all of that having been said, then what I'm going to suggest that we do is that we will consider in our next break whether or not we should give you Intervenor status.

And I want you to rest assured this has nothing to do with the next hearing which may occur. But it is in this one where Board staff gave you the opportunity to become enlightened about how things are done. And you didn't take it.

MR. DALZELL: Would it be possible to make a comment,

Mr. Chairman?

CHAIRMAN: Absolutely. Go ahead.

MR. DALZELL: Well, I did take great effort to receive the documents, the application, and carefully studied them and read them. And in every sincere effort raised what I perceive to be issues of interest hopefully to the Board.

Certainly on Friday when we received the call it was not possible for me. I was working. In fact I had to take a day off today, this morning. But I was working yesterday. And it is correct that we weren't able to

connect with Mr. Quinn. But certainly the application which I have studied and read, you know, did clarify and did describe the project. So I feel that I did take responsible time and effort to study the application and to put forward some comments and issues that I believe the Board might be interested to consider. So just for the clarification on that area of interest, Mr. Chairman.

CHAIRMAN: Thank you. We will suggest that you listen to the evidence that is brought forth here today. And you will be given an opportunity to address the Board as an Informal Intervenor.

But again it will be restricted to those areas that we have jurisdiction over. And I suggest that you write to the various government members who have control over the legislation. Because this Board does not.

So Mr. Vincent, how did you want to proceed? I know I made you put back the room in a similar form which it was. But I gather from that that you want to have what we affectionately call a dog and pony show, in other words to have someone explain with the use of overheads or whatever, the project itself?

MR. VINCENT: Yes, Mr. Chairman. Mr. Ryan, who will present with respect to the application and its contents, has prepared a presentation in slide form, or Power Point form

if you like that I believe will take us through this in a fairly concise and direct manner. And then obviously the opportunity for questions or comments can be made.

But in order to do that, we discovered earlier that if we used the table, the small table that is in front of me here, that the picture actually overpowers the screen. So that is why we were shuffling furniture around prematurely, it turned out, to allow for the slide presentation.

CHAIRMAN: Yes. I understand. Do you have a copy -- how would the Shorthand Reporter like to handle the slide presentation?

MR. CLARKE: We have a copy that we can give her.

CHAIRMAN: Okay. So that is all set. Just one further matter, Mr. Vincent. Is there an amendment to the application?

MR. VINCENT: Yes. The application which was filed or dated rather December 16th 2004 and filed with the Public Utilities Board, we will be addressing. And Mr. Ryan will also be addressing a recent modification to the information in the application which was -- and this information was circulated yesterday to all of those who received copies of the application and also of course to the Board. And it relates to a modification and support

structure for the proposed pipeline. And we will be addressing that.

And Mr. Clarke and Mr. Ringeri are also here to provide any technical assistance to Mr. Ryan that may be required with respect to questions that may come up and so on. So there is that modification. We believe it is quite an insignificant modification. It does not change or alter the footprint of the pipeline.

What is happening is that the pipeline, rather than resting on the previously existing pipe rack, the pipeline which is in place now, it will rest on its own support system under the existing pipe rack.

And so it will mean that there are several caissons over an 1100-meter stretch of the pipeline that will be put in place to support this new pipeline.

CHAIRMAN: The man you have to convince as to his lack of significance is Mr. Quinn sitting back there in the committee that he chairs, Mr. Vincent. I'm sure you are aware of that.

MR. VINCENT: I am.

CHAIRMAN: Yes. Okay. Well, we will take a break. And you let us know when you have rearranged things to your satisfaction.

MR. VINCENT: Okay.

CHAIRMAN: Okay. Great.

(Short recess)

CHAIRMAN: Now, Mr. Dalzell, I will give you an opportunity to come forward when the time comes to address the Board. Maybe you would like to -- you are not going to be able to see the presentation. But the other thing is whoever is presenting he has got a microphone, so you are all right. And that will pick up okay. That's fine. Carry on.

MR. VINCENT: Mr. Chairman, before we move to swear in our witnesses that will be speaking or making presentation or responding to questions, I have a few preliminary matters dealing with the application that I thought would be -- I could get out of the way at this point.

First of all with respect to the crossing agreement status questions, I can confirm the status of the various crossings if you are prepared to hear me on that at this time?

CHAIRMAN: It might mean more to the Panel if you were to do that after, Mr. Vincent, in that I presume your presenter will be identifying the crossings and that sort of thing?

MR. VINCENT: Fine. Then may I table the proof of publication and service of the Board's order?

CHAIRMAN: Yes. Absolutely.

MR. VINCENT: This is the original affidavit of Jill Dewitt

who is here with me today. The publication of the notice of this hearing was published as ordered by the Board and also that the Ministers that were listed in the Act have been served and there have been acknowledgements and proofs of service attached here in these documents. So if I may just file that with the secretary?

CHAIRMAN: With the secretary. Thank you.

MR. VINCENT: The next item, Mr. Chairman, is the issue of the financial responsibility of the applicant for -- as required under Section 9 of the Act, the Board takes into consideration the financial responsibility of the applicant as well as the insurance that is available. You mentioned that a moment ago in your opening comments.

And if I might take a moment at this point, Mr. Chairman, to table or to file with the secretary a certificate from Marsh Canada Limited with respect to Irving Oil's liability insurance coverage that it maintains, and also a letter from Deloitte & Touche who are the auditors of Irving Oil Limited that Irving -- certifying that Irving has the financial means to fully meet the commitments in this project.

CHAIRMAN: Tell me, the Marsh -- no, that's okay, you file them and I will ask the question and by the time you get back you may know what it is. But the Marsh letter, does

it -- my understanding, Mr. Vincent, is that normally there are two differing kinds of insurance involved for instance in the construction of a project and in the operation of a project. Will this be -- this work be done by Irving Oil Limited or is it going to be contracted to someone else? What is the nature of the relationship there?

MR. VINCENT: Mr. Chairman, my understanding is that the work will be conducted by Irving Oil Limited, with the project coordination by Fluor Canada Limited to work with Irving with respect to its projects related to the Refinery.

CHAIRMAN: Can you tell me on this what the deductible is on the commercial general liability policy?

MR. VINCENT: Can I just have a moment? I haven't the exact information. We are going to have to confirm that. We believe it may be \$1 million deductible.

CHAIRMAN: Yes. We will give you time to do that. And you can confirm it after in writing sort of thing.

MR. VINCENT: Yes.

CHAIRMAN: As you are well aware if the deductible were 35' or \$40 million it certainly puts a different complexion on the beans. And certainly -- I was looking yesterday at the general franchise agreement between the province and

Enbridge Gas New Brunswick, and they are looking at 12' or -- it's around \$12 million per occurrence kind of insurance, whereas this is coming pretty close to it, depending on what the deductible is as well.

MR. VINCENT: So having filed those materials with you -- and we will give you the undertaking of course to come back with further detail on the deductible to confirm that. Perhaps at this point I would like to have Mr. Ryan, Mr. Clarke and Mr. Ringeri sworn.

CHAIRMAN: Just before you do, Mr. McQuinn has filed with the Board a report of the Pipeline Coordinating Committee and I would just like to read the letter and then I will mark it, it will form part of the record. And it's addressed to me and its subject, technical review of Irving ULSD pipeline permit application, file number 210-08-08. The Pipeline Coordinating Committee, PCC, comprised of representatives from the following government departments has completed their review of the subject application. 1) Environment and Local Government. 2) Fisheries and Oceans Canada. 3) Public Safety, that's provincial (Safety Code Services). 4) Archaeological Services Culture & Sport Secretariat. 5) Transportation. 6) Agriculture Fisheries and Aquaculture. 7) Business New Brunswick. 8) Environment Canada. 9) Department of

Natural Resources. 10) Department of Energy. 11) New Brunswick Emergency Measures Organization. And last but not least the Pipeline Safety Division of this Board.

All departments have agreed to the issuance of a construction permit based on the technical information presented in the application before the Board and with the conditions as outlined in the final report of the Committee's review which is attached.

Now that will -- since there is going to be an amendment there will have to be as well an amendment to this because of the simple fact that certain things have changed. But we will deal with that later. Okay. Sorry. Go ahead.

MR. VINCENT: Perhaps I would ask Mr. Ryan, Mr. Clarke and Mr. Ringeri if they would step up, and I understand the secretary will administer the oath.

MESSRS. RYAN, CLARKE AND RINGERI, sworn:

MR. VINCENT: Mr. Chairman, at this point I would like to turn it over to Tim Ryan, who I believe first will address the issue of the modifications that Irving has with respect to its application.

And then having dealt with that then we can at your direction move forward with the application itself.

CHAIRMAN: Fine. If you have any question when the

presentation is being made just shout. And he will stop. I will give you the mike. And we will go ahead.

Go ahead, sir.

MR. RYAN: Okay. Thank you. Thank you for the opportunity to present on this project this morning. And as

Mr. Vincent mentioned there has been a design modification made.

The modification includes to the pipe support for the pipeline. The pipe support will now be constructed below the existing pipe rack, where our initial application of December with the pipe traveling on top of the pipe rack.

We are now building new concrete foundations below the pipe rack to support the pipeline. And the stations for where that modification is to be made will be shown further in the presentation I'm going to give this morning. The rationale --

CHAIRMAN: Why the change?

MR. RYAN: Well, the rationale is the schedule, the scheduling of the work. And this project, we have to be delivering Low Sulphur Diesel by September 2006 to the marketplace.

We have to have 15 parts per million Low Sulphur Diesel at the pump by September of 2006. It is to meet new standards for sulphur concentrations in diesel gas.

So if we back ourselves up from that date, we would like to have the pipeline completed by December of this year, 2005.

CHAIRMAN: Those standards are in California?

MR. RYAN: They are EPA standards.

CHAIRMAN: So they are not Canadian standards. Okay. Go ahead.

MR. RYAN: So for us to meet that deadline, we cannot do the modification work that is required on the existing support structure and build the pipeline to put the pipe, test the pipe by December of this year. So that is the rationale for the change, the modification to this.

So I will have some slides further in the presentation that will show the initial design and then the new design and a typical section for a concrete support and then the rationale for why the change was made.

The application that has been presented has been presented in four documents. In December we submitted our initial PUB application. In January we submitted Pipeline Coordinating Committee, answers to their questions that they gave us following their review. Further supplemental information was provided February 17th. And the design and support modification was submitted yesterday.

In the application it set out to -- in three sections.

Section 1 is the product description. And it has a lot of the engineering details and project design and specifications, the land where the pipeline route is, listing of the crossings.

The regulatory framework for the pipeline falls under the Pipeline Act and the Pipeline Regulation. Within those Acts and Regulations we pulled out the specific details that pertain to obtaining a permit to construct.

So we put together our application. We addressed each of those areas of the Act or Regulation that had anything to do with the ability to construct a pipeline.

And we will -- under this framework we will acquire any other permits outside of the PUB that we require to construct this pipeline.

So the pipeline -- and this drawing was submitted in a larger format in the December submission. The pipeline originates at the Refinery and crosses Little River. This is under the existing -- in the existing right-of-way of the existing pipe rack that is there. Crosses Little River, travels down again along this existing right-of-way above ground. It crosses over CN Rail. It crosses under Bayside Power -- or Bayside Drive. Crosses over the Maritimes & Northeast Pipeline. And terminates at the East Saint John facility.

The pipeline -- the hydraulic profile in the pipeline is shown in green. The pipeline itself is shown in red. And the land contour is shown here. So Irving Oil is the proponent. They operate the largest refinery in Canada and on the eastern seaboard of North America. And the modernization of this facility has resulted in the upgrade to now produce Ultra Low Sulphur Diesel.

The pipe is 24-inch diameter. The length of the pipeline is approximately 1900 meters. Again the pipeline will begin at the Refinery and connect to the loading manifold at the East Saint John terminal. The design operating pressure at maximum is 275 psi.

And again it is on the existing East Saint John pipeway or the new pipeway supports that we will speak to. And all activity will be conducted within existing pipeway property and easement boundaries.

This slide speaks to the specifications that the pipeline will be built to. And of note is that heavy wall pipe will be used for the entire lengths of pipe.

The leak prevention detection, heavy wall pipe the entire length, complete above-ground installation, a maintenance inspection program, a detection -- there is visual inspection of pipeline twice daily. And there will be pressure transducers used to alarm the operator of any

sudden drops in pressure.

CHAIRMAN: What is a pressure transducer?

MR. CLARKE: A piece of equipment that will transmit -- it's a piece of equipment for detecting the pressure and transmitting it to an enunciation panel, so that someone can read the -- see what the pressure is, reading -- and there would be alarms potentially on those pieces of equipment.

CHAIRMAN: How often would you have a transducer on that line? What is it, 1900 meters in length? How many of them would there be?

MR. CLARKE: We were planning to put two, one at each end primarily.

CHAIRMAN: Thank you.

MR. RYAN: The protection will be an epoxy primer and top coat. And for each joint of pipe -- the majority of joints is fixed with this protection in the shop. And each section there will be a small section that is welded together. And there will be a field application of the same epoxy completed after the weld is complete.

This slide speaks to the construction methods for the pipeline. Each joint -- it should be noted that each joint will be nondestructively tested with radiography.

Cleanup will be completed after the pipeline is finished.

And any road markings or crossing markings will be fixed. The pipeline will be cleaned internally with a device called the pig.

CHAIRMAN: How often do you pig it? Is that just before you start an operation?

MR. RYAN: You pig it --

CHAIRMAN: That is the only substance you are going to be using in this line, is it not?

MR. RYAN: It is the sole use line --

CHAIRMAN: So you don't need to pig it to clean it before the next product goes in it or anything like that?

MR. RYAN: No, sir.

CHAIRMAN: Yes. Okay.

MR. RYAN: You may pig in the future to check the integrity of the pipeline.

CHAIRMAN: With a smart pig.

MR. RYAN: A smart pig. So the pipeline will be tested at .25, the maximum operating pressure. And we are pushing for summer completion.

And we propose to use water as the test medium. And the water will be discharged to the Refinery effluent pond and tested to ensure it meets the quality under that approval.

And treatment would be applied as required. If we

complete in the winter, a water glycol solution will be used. We will acquire this from the supplier.

We will not treat, separate or dispose this material and will make it the responsibility of the supplier. And we will make it -- we will also ensure that the supplier has the appropriate licences and approvals to handle that product.

This lists the crossings on the pipeline and --

CHAIRMAN: You are too far away. I can't see that.

MR. RYAN: Yes. I will list them through. And there is a road crossing at Bayside Drive which we pass under. There is a railway crossing, CN Rail, a water crossing, Little River which we pass over on a new trestle.

Pipeline crossings include two water lines, one for Irving Paper, one for the City of Saint John and a natural gas pipeline. We are crossing over top of all these pipelines. And power lines crossings, there is five. And we will pass below. These are overhead power lines.

Section 2 of our application talks about the regulatory requirements, some of the administrative things that we have to file with you, engineering and land matters.

So what we did is we took the sections of the Act and Regulation and reprinted them verbatim. And then on the

column on the far right we indicated where in our application you would find the response to these questions.

So the administrative requirements, you know, the application must be submitted in duplicate, as submitted to the Pipeline Coordinating Committee. We identified the start end point of the pipeline. It includes an application fee, application form.

On the engineering side there is requirements for the pipeline plan, a hydraulic profile, profile load crossings, leak detection system, corrosion device, detection devices which I spoke to earlier.

So the crossings include Little River. And each one of these crossing drawings has been included in your application. And this one just depicts the pipeline in red. Here is Little River. And there is a new trestle that is being built. And this pipe will pass over top on this new trestle, over Little River.

At CN, we come up and go over the rail line and cross at that point. It is just prior to Bayside Drive. And this matches the existing pipeline rack in the configuration for how we cross over at the CN rail.

CHAIRMAN: Is this the crossing where the change occurs?

MR. RYAN: No. The change actually occurs between this --

the change occurs after the Little River crossing and prior to this crossing.

CHAIRMAN: Okay.

MR. RYAN: And Bayside Drive, which we pass under the bridge. And the Maritimes & Northeast Pipeline again is a buried pipeline. And we pass over top.

So on the land matters I will let Mr. Vincent speak to the status of those agreements for easements.

Section 3 of the application speaks to health, safety and environment. And the pipeline will of course adapt to existing health, safety and environmental management plan. A copy of that plan was included in the appendix of the PUB application. And this has specific information on health, safety and environmental concerns related to pipeline construction.

Some of the health and safety factors. The work will be completed in the city, and we will follow, you know, the City of Saint John noise bylaws. We will again conduct entirely within the footprint of the existing pipeway and any dust suppression or erosion control will be provided as required.

Just for your information, this pipeline does not require registration under the Environmental Impact Assessment Act because it's less than five kilometres in

length. It doesn't meet their schedule. And it's subject to application under the Pipeline Act.

This is the crossing of Little River --

CHAIRMAN: Just for the sake of the record, sir, even though it doesn't require that, I just want to bring to everyone's attention that in fact a representative of the Department of the Environment and the Municipalities and Local Government has sat on the Pipeline Coordinating Committee and has reviewed the application as a result of all of the legislation that would be in the purview of that department.

MR. RYAN: Thank you. For Little River crossing, again this is the same crossing diagram we show earlier. The Little River travels through here. The existing -- a new pipe rack is being built right here, trestle it's called, and the pipeline -- the new pipe, the 24 inch pipe will be placed on top of the new trestle. This project went through an environmental impact assessment last year and received full approval in June of 2004.

As a result of this work our crossing does not require a water course -- a wet land and water course alteration permit for our pipeline. And we have got that in writing from the Department of Environment. We did include that in Appendix 4 of the application.

So now I will speak to the modifications -- to the design modifications. And this is from station 0 plus 480 to station 1 plus 550. And the modification is to provide engineering concrete foundations to support the pipeline versus placing the pipe on the existing structural steel supports.

So in our initial application the initial proposed support method was to put pipe on the existing pipe rack.

The final design configuration is to construct these new concrete footings and to place the pipe beneath that rack but within and below the pipe rack -- the existing pipe rack. A typical section for concrete footing is shown here.

CHAIRMAN: Constructing or laying the pipe in that fashion with what can sometimes be very deep snow cover, does that cause any concern?

MR. CLARKE: The plan is to place the pipe at an elevation sufficiently high that ground snow will not be an issue for us.

CHAIRMAN: How high is high enough?

MR. CLARKE: Between one-foot-six and two feet.

MR. RYAN: So the rationale for this -- well the initial design spoke to the placement of this on the existing pipeway, with maintenance work identified for

approximately 40 locations. So this included the replacement of beams, replaced columns, adding bracing. And we described this in the January 28th 2005, submission.

So that speaks to work that we would require to do maintenance work on these existing structures. So the design change now is to install on a new pipeway support, which was again station number 480 and 1 plus 550 as I have described. So the rationale, September 2006 we have to be complying at 15 parts per million at the pump. To achieve this we believe we have to start delivering this product at 15 parts per million in May, because each tank requires approximately six turn-overs for it to naturally flush itself from holding 15 parts -- from holding 500 parts per million down to 15 parts per million.

We want to commission the system in March and April, complete final and point installations in February and complete the pipeline in December of 2005. When I say complete, that's hydrostatic test the pipeline.

So we cannot complete both the new pipeline and the maintenance work by December.

So that concludes my presentation.

CHAIRMAN: Good. Thank you very much. Mr. Vincent?

MR. VINCENT: Mr. Chairman, if there are no questions of Mr.

Ryan, or Mr. Clarke or Mr. Ringeri at this point I would then like to address the issue of the status of the crossing agreements.

CHAIRMAN: Yes.

MR. VINCENT: The first agreement as Mr. Ryan indicated and as indicated in the application I believe at Section 1.7 and 2.4, the land crossings over the lands of Irving Oil Corporation Limited and Canaport have all been obtained. And the Irving Oil Corporation and Canaport are related companies of Irving Oil Limited.

With respect to the crossing at Bayside Drive under the bridge, we have reached an agreement with the Department of Transport. There was considerable discussion back and forth with the Department of Transport about ensuring that the added pipeline that would be mounted under the bridge would not impair the bridge's structure.

A study was undertaken by ADI to that effect and assurances given to the Department of Transport. Irving Oil has signed off and agreed to all of the terms and conditions the Department of Transport have been required -- have requested, and those materials are being forwarded off to the Department of Transport. We do not have a signed highway usage permit at this moment but we

expect that we will have that within days.

Now with respect to the Canadian National rail crossing, again Irving Oil Limited's representatives and CN representatives have been engaged in the discussion of this. As of last Friday Irving signed off and agreed to all terms and conditions required by CN. Those documents were forwarded by courier to CN on Friday. I have a letter that is dated April 11th, that is yesterday, that has been faxed to me from -- or faxed to our firm by the counsel for Canadian National Railway Company or a representative of Canadian National that indicates that this will confirm that Canadian National and Irving Oil have agreed on the form of the agreement.

We understand that Irving Oil Limited has executed the agreement and that three originals of the same together with the necessary payments, certificates, et cetera, are enroute. This will confirm that once the foregoing documents have been received, as we expect that they probably have been by now, that Canadian National will execute the agreement and deliver the same to Irving Oil in due course. So that's the status of that agreement.

CHAIRMAN: They are hard to deal with, aren't they, Mr. Vincent?

MR. VINCENT: Everything is last minute on these things or

comes down to it it seems.

With respect to the water crossing on the Little River, Mr. Ryan has addressed that. That matter really was subject to an EIA approval back in June of -- issued June 24th 2004. And the Department of the Environment, the appendages to the application indicate Department of Environment are satisfied that that is all the permission that will be required there.

With respect to the crossing of the Maritime & Northeast Pipeline, we have a signed agreement with Maritime & Northeast that is dated March 23, 2005. That was completed and is in hand.

With respect to the power line crossings, we have a letter of agreement with NB Power dated January 17, 2005. With Saint John Energy a letter of December 10, 2004, stating no objection to the proposed crossing. And the City of Saint John has issued a letter and a resolution which states that they have no objection to the project as well so far as it may affect the City of Saint John. I believe that that covers the crossing status.

Are there any further questions on any of these items so far, Mr. Chairman?

CHAIRMAN: No, I don't think so, Mr. Vincent. You have been provided with a copy of the Pipeline Coordinating

Committee Report?

MR. VINCENT: I'm sorry?

CHAIRMAN: You have been provided with a copy of the Pipeline Coordinating --

MR. VINCENT: Yes, we have. And we are aware of the recommendations the Pipeline Coordinating Committee are making with respect to conditions on the issuance of the permit. We have no objections or no issues with respect to those.

If I might then, the only thing that I have remaining is to make the following comments with respect to one of the other items that appears under Section 9 which is Public Convenience and Necessity. And I think some of this has already been touched upon certainly in the application but also by Mr. Ryan.

First of all, we do not believe that the public will be inconvenienced by this project in any way. Construction and installation are mainly on the lands owned by the applicant or its related companies. The only exceptions being the crossings which we have referred to for which agreements have been or will be imminently obtained.

With respect to the issues of public health, safety and environmental issues, those are all addressed in the

application and Mr. Ryan has referred to them as well.

With respect to the further convenience I would say overall to the public, the project -- the ultra low sulphur diesel project represents a continued progress by Irving Oil. As Mr. Ryan indicated, this is a step that has taken place with the modernization of a facility, the refinery upgrade project and so on, and this is a further step to produce cleaner burning fuels and to remove the sulphur content from these fuels.

Sulphur reduction overall is one step to a cleaner environment, and that is a positive thing.

The project represents continued investment and upgrading in the local industrial base, i.e., the refinery and its related operations.

As Mr. Ryan has indicated the -- there is an imperative that has been placed on by U.S. regulations or EPA regulations for their fuel and the fuel quality that is to be shipped in, so that if a company is to participate in the United States market, meeting those requirements are necessary and ultra low sulphur diesel must be delivered to that market.

So continued investment and upgrading is essential for the industry, for the company to remain competitive, to survive in the industry. The pipeline is a necessity of

course to move the product from the refinery to the port for shipment, both to United States ports and to other ports in Canada. And the continued development services of those markets are of continued importance to the survival of the industry.

Those are my comments.

CHAIRMAN: Thank you. What happens to the sulphur? In other words the petroleum comes in in whatever form it is and this by the modernization of the refinery you can produce low sulphur diesel. What happens to the sulphur that is there?

MS. STEWARD: Maybe I will answer that. The refinery is set up so that we have a variety of processes, and you are right, the crude comes in and it contains a certain amount of sulphur. And it passes through various units within the refinery and that sulphur is actually removed. Some of it does make its way into the air shed. We do have a scrubber, we have various environmental units on there that do do -- do reduce the amount of sulphur that is emitted.

So you are right, it is removed from one medium but we do have several environmental units on site that do reduce the sulphur emissions to the environment.

CHAIRMAN: So the layman in me says, am I correct in saying

that the sulphur that would have been in that diesel is scrubbed out of it by one mechanical or whatever kind of device that might be there?

MS. STEWARD: Right.

CHAIRMAN: It doesn't end up in another fuel?

MS. STEWARD: No, it does not.

CHAIRMAN: Okay. Good. Thank you. That has been gnawing away at me for some time now.

Mr. McQuinn, would you get so you can be on a mike. Mr. McQuinn as I indicated earlier is the Chair of the Pipeline Coordinating Committee and he and I had an opportunity of chatting before we came into the room today. And it is your opinion, is it not, sir, that you should take this proposed amendment back to your Pipeline Coordinating Committee?

MR. MCQUINN: I think that would be fair to the other members of that committee, yes.

CHAIRMAN: And how long is a reasonable length of time for that committee to be able to review this change?

MR. MCQUINN: Well I -- when I received the supplemental information yesterday it was late in the afternoon and I did try to contact the other members to get some sort of feeling how much time they would need to have a look at it -- at those changes. And I haven't heard back from

everybody but I would think it would be safe to say that two weeks would be more than fair.

CHAIRMAN: Good. Thank you. Mr. Vincent?

MR. VINCENT: Just to comment, Mr. Chairman, that yesterday when we circulated the information that was related to Mr. Ryan's presentation to the Board, we also sent it out electronically to all of the members of the Pipeline Coordinating Committee so that -- and Mr. McQuinn may know that now, but they have that information in hand as well. So that may help facilitate moving things along. I know the schedule that was alluded to earlier -- first of all I note that the modification is our work. I mean, it isn't caused by anyone else. And the schedule is extremely tight insofar as being able to get started because of that. They must finish by the end of the year and get that project in place. After that I have -- I just wanted to make sure that the Board understood that the Pipeline Coordinating Committee has received the information that we provided to the Board this morning.

CHAIRMAN: Yes. Appreciate that. We also appreciate that normally by the time people get here schedules are tight. And I don't discount that at all.

Are you available -- I will tell you what is going through my mind, is that we will hear Mr. Dalzell after

this is concluded and then we will adjourn over to reconvene sometime in the last week of April, at which time the Pipeline Coordinating Committee will have had an opportunity to review the change and get back. And if they have no concerns with the change and the proposed method of proceeding, then I would suggest that there is no reason for us to reconvene in an open hearing, Mr. Vincent, unless you wanted to have your last kick at the cat at that time. But the Board will then render its decision and I would suggest to you that that will be rather quickly. And I would also propose that at the conclusion of this session that we will get a listing of any further -- for instance the undertaking that you have on the insurance and that sort of thing, and compile a list which can go between Board staff and your offices between now and whenever we adjourn to so that we are all familiar with the various conditions that have to be met or those that have been concluded. So that in other words our decision will not be a long drawn out thing at all. Does that sound appropriate? We have -- and I'm going to suggest, just to give the Pipeline Coordinating Committee as much time as possible -- the 27th of April, we have the afternoon of the 26th and we have the 25th. What is on your schedule at that time?

MR. VINCENT: Any of those days are all right.

CHAIRMAN: All right.

MR. VINCENT: Can I also say that if there is anything that we can do to facilitate the Pipeline Coordinating Committee's considerations, if they have any questions, any issues, I mean, we can arrange -- we can be available for a meeting if that would help? I mean, we are at your disposal.

MR. MCQUINN: We will be in contact.

CHAIRMAN: Thank you. That's great. All right. We are going to take a brief recess and come back and hear Mr. Dalzell, and then we will adjourn and subject to the Pipeline Coordinating Committee's report reconvene or not.

(Short recess)

CHAIRMAN: Okay. Mr. Dalzell, this is your opportunity to address the Board.

MR. DALZELL: Thank you very much, Mr. Chairman and members of the Board. My name is Gordon Dalzell, a community member, 32 Dorothea Drive in East Saint John.

I'm here as a representative of the Saint John Citizens Coalition for Clean Air, an environmental public interest group concerned on issues of air quality in the community.

And we carefully follow the regulatory procedures and

operational aspects of the applicant. And we are here with the intention to raise just a number of issues we would like to ask the Board to consider.

I value this opportunity to participate in this public hearing, as I believe it is important for the public to take interest in these projects and these regulatory procedures, because they have the potential to impact on the quality of life and on potentially the environment as well.

And our -- my interest in this informal intervention is solely within the public interest. And no other intention or motivation is present in regard to the interventions that we make today.

Okay. Basically what I did, I contacted Louise Steward in respect to getting a copy of the application. And I was directed to contact Mr. Tim Ryan of Fundy Engineering. And I went to the office to pick up a copy of the application and had the opportunity to meet with him in which he reviewed the application with me.

And at that time, over the period of time, we took the opportunity to study the application and to review it and make the comments for the Board's consideration.

It is within that context at Section 9, which is referenced in the application, that the -- on considering

an application the Board takes into account the location of the proposed pipeline and its effect on public health and safety in the environment and other such matters that the Board considers relevant to the public interest. And it is within that context that we do make the presentation as Informal Intervenors.

Now for the record, we recognize that the pipeline being proposed to transport the Low Ultra Sulphur Diesel Fuel is for -- for the transportation sector is very positive.

We further recognize that the cleaner lower sulphur content fuel will be for markets that do contribute to transboundary pollutants that do contribute to our own quality of -- air quality problems in other jurisdictions.

I guess I'm assuming that some of that fuel will find its way down to the northeast U.S. and perhaps -- and of course I understand California.

So we do recognize that. And we do acknowledge that it is a very important product that has low sulphur in it. And it is one of the efforts that we did over the years with Environment Canada to promote and advocate for low sulphur content.

Having said that though we do feel there are a number of issues in respect to the application that we would

still like to raise on the record.

One of the problems, the applicant as we know is required, pursuant to Section 7 of the Pipeline Act, to make this application to the Board and -- to permit the construction of this ULSD pipeline.

In reviewing the 29 year old Act I have some serious concerns as to whether the current legislation is adequate from a public safety perspective in areas of design, construction, operation and maintenance.

A key element to ensure pipeline safety is comprehensive and up-to-date government legislation that reflects new knowledge and technical understanding, but may not have been known or accepted in 1976 in which the Pipeline Act was passed.

I'm therefore concerned that the applicant may be working under an older, outdated piece of legislation that may be incomplete or inadequate and thus limiting and potentially compromising public safety not --

CHAIRMAN: Mr. Dalzell, now I tried at the beginning, and Board staff has tried to say to you, that from a public safety and construction standard point of view, what is being done is updated every four years.

So that is one of the reasons that I stopped then. Because I don't want this being dissipated outside,

circulated that we are doing something under an old piece of legislation, therefore the standards aren't met. Because that is not true.

I said before, and I will say again, it is an old piece of legislation. We have recommended to government that it be changed. There is a movement to do that. But the safety standards involved are the most modern there are. I want to make that point.

MR. DALZELL: Yes. No, we -- the purpose of this is to bring this issue up and then to get the -- the information that you have just given is reassuring. And it is with that in mind that we can be more assured that that is the case. But we just simply want to raise it.

And we do respect and understand the comments you have made in that regard. So that is certainly understood. But again, as I say, we just wanted to raise that. And we understand that you have to work under the existing legislation.

There was another issue that I'm sure, and perhaps the Board may be of course aware -- there is another regulatory process ongoing at this time. And that is the public review of the certificate of approval for the Irving Oil Refinery.

And one of the recommendations and issues that we were

going to bring forward in that public review under the Department of the Environment and Local Government is that we believe that the Saint John East terminal, the marine terminal, we believe that that should be incorporated into the Refinery. That should be part of their certificate of approval. Right now it is not. It is not considered, under that regulatory certificate of approval, part of the operation.

Now we know that the pipeline is going to end at the terminal. And of course the product is going to be loaded into ships and transported out.

What I was concerned about is that right now there is this public review. The Minister of the Environment is in a process of listening to the public through this public participation regulation. And then he will have to consider any recommendations. One of them may be, or it may not be, that the marine terminal come under the jurisdiction under the certificate of approval.

CHAIRMAN: Okay. That is the environmental approval --

MR. DALZELL: That is true.

CHAIRMAN: -- you are talking about?

MR. DALZELL: Yes. That is correct, sir. But if he decided let's say it was to be --

CHAIRMAN: She -- the environment I believe.

MR. DALZELL: If the Minister -- that is right. If the Minister decided that that was going to be part of the Refinery and part of a regulatory process under the certificate of approval, it might have some implications, cost or otherwise, in terms of the end of the pipeline resting in the marine terminal, that the map clearly shows it is going to go into the terminal area. And then of course it is going to be transported from there into ships.

Now we believe that any of the fuel transfers -- now we know that this is a closed system and that there are no air emissions. It does say that in the application. And I did read that. It talks about the operation of the pipeline closed, no air emissions.

However, it does not really address what happens at the end of the pipeline when the product has to be transported into the ship. For example, in any of these fuel transfers whether it is rail cars or trucks or ships, there are fugitive emissions. These are VOC emissions. It is well established that there are -- some of these emissions that could be present, could escape.

So the question is if the Board was to make a decision on this and was not perhaps fully aware of what could be coming down the road by September 2005, the question is

would there be any important information that the Board needs to be aware of in making a final decision.

So that was one of the issues there. We won't belabor that one.

The -- I just want to see what else we have here. Well, again the Board -- Mr. Chairman, you did acknowledge, and we have learned about the issue around insurance. I was pleased to hear that insurance was covered and that you have took that into consideration.

I guess one of the other supplementary questions around insurance is to what impact will the local neighborhoods' insurance rates be affected, the residents who live in the area?

There was some question about this in another pipeline matter in East Saint John as to the impact on their own home insurance rates, will they increase and to what degree this will affect the public who live nearby, my brother-in-law being one of them.

CHAIRMAN: Did you ask him?

MR. DALZELL: Yes. I was trying to -- he said, bring it up. And there were a number of other issues in the application. I know -- I want to be mindful of what, Mr. Chairman, you did point out at the beginning, that some of these areas may be beyond your jurisdiction.

But I did feel that it might be important to raise them. And if the Board will indulge us to continue we could raise several others.

CHAIRMAN: What are you thinking of raising, Mr. Dalzell?

MR. DALZELL: Pardon?

CHAIRMAN: What are you thinking of raising?

MR. DALZELL: Well, okay. There are a number of -- for example in the application, in Section 1.4 it talks about the roles and responsibilities of the on-site Project Manager. There is some -- a number of issues there.

And it says -- one is to report any irregularity compliance issues, incidents, infractions of noncompliance. And they have to -- he has to report this to the environment group. It is referred to as the environment group. The primary role of the environment group is to provide external reporting for regulatory compliance issues.

This is an area of concern. We believe that the Project Manager should immediately report any irregularity compliance issues directly to the regulatory authorities. And in this case they do have to -- he does report to the environmental group. The environmental group of course is made up of the applicant and the industry representatives.

So there were a few issues and a number of others that

caught our attention, that we felt may be areas that the Board may find of interest. And if so we will let them stand.

I just want to -- oh, yes. There was -- you mentioned about the safety and the construction. One of the areas that did concern us is that the pipeline is above ground. And even though it is built to the standards as outlined in the report there, our concern is what about any external interference of it? Will it be able to withstand any extraordinary interference such as, well, a terrorist interference?

We know that this an issue that has come up through the Government of Canada. And CSIS and other regulatory agencies have raised that issue about the infrastructure of some of these facilities.

So again we just want to make sure that the construction will be properly designed and mitigate to deal with -- and the security issues that any of these large infrastructures have as a potential.

The CSIS and the Government of Canada did produce a number of reports on this. And we understand that there are constant reviews on those issues. So we just want to make sure that the construction will withstand that.

I was reassured to learn however about the new support

system that was put in place. I felt that it was very reassuring to see some extra support at the bottom of the base of the pipeline rack to secure it.

The other -- oh, yes, there was Section 3. There was one issue under Health and Safety Environment, Section 3, page 2. It says "Construction activities along the pipeway closest to residents which may result in elevated noise will be restricted to between the hours of 7:00 a.m. and 9:00 p.m. Monday to Saturday."

I believe that that is too long a period. Certainly in the evening -- certainly Saturday is sometimes a day that people like to have. It depends if it is going to be built I guess in the summer obviously.

But we felt that those restrictions were unacceptable. People should be able to enjoy their weekends, a day like Saturday, and should there be any kind of noise or construction activity.

And the other part of the construction activity that doesn't -- that is not addressed in the environmental section, are the emissions from the construction equipment, the trucks and vehicles.

And it doesn't really talk about any mitigation of those particular ones. It does talk about dust, but certainly not the emissions from any trucks or

construction equipment.

And it says here "Operation of heavy equipment will be within the pipeline way and not result in the impact to the public." Well, there again there may be one aspect of that that may need to be -- the Board may be aware of. And public Awareness -- and one of the Public Awareness statements, 3.3, there was only one sentence in the application which I didn't feel really was that adequate in terms of public awareness. It does discuss about giving notice, et cetera. If there are other initiatives taken I'm not -- you know, I'm not familiar with them and I didn't see any others referenced.

In Section 3.23, external reporting, and upon the discovery of a spill or release, the environment group shall be notified. And along with the regulatory authority. We believe it should be the regulatory authority who should be notified right away who will in turn evaluate the external reporting requirements. We just wonder if that is the best way to handle that, whether or not the incident should be reported immediately to the proper municipal, federal or provincial regulatory authority and not have to go through a secondary group referred to as the Environment Group.

We believe it is better to move quickly and to report

these cases to the ministers responsible and let them come up immediately to investigate, whether it's with photos or any kind of data collection that they require.

So basically we don't want to belabour this but we did want to raise a number of the issues. As you mentioned earlier, Mr. Chairman, this does not come under the EIA of New Brunswick, you know, the regulation. So we weren't able to participate at that level, although this probably would not have constituted any kind of a hearing under the EIA regulations. So we do welcome that opportunity to raise those issues. And if you feel that they have any merit or within your jurisdiction we would respectfully ask them to be considered if you think they are of value.

That concludes the comments today, Mr. Chairman.

CHAIRMAN: Thank you, Mr. Dalzell. The -- Mr. Vincent, what regulatory authority regulates the connection with seagoing vessels? In other words, Mr. Dalzell referred to the connection and it's referred to in the application that there is no -- there are no air emissions because it's an enclosed pipeline and that sort of thing. In other words, where does the provincial and where does the federal jurisdictions begin and end in a tidal water like that?

MR. VINCENT: Well it's a very good question. I believe

that both the province and the federal government maintain they have co-existing authority with respect to harbours and tidal waters in areas notwithstanding where the harbour line might be. And so you will see that when you have had harbour spills and so on, you will have federal investigation being undertaken in some instances and some instances provincial. They often will correspond -- not correspond -- they will contact one another to determine who will take the lead and then one will fall back. But with respect to -- so in my view it is potentially both Environment Canada and Fisheries & Oceans who would be interested, as well as the Department of Environment and Local Government.

CHAIRMAN: I notice that the Nova Scotia Board has called for -- sorry -- the Nova Scotia government has indicated that they will have jurisdiction over the LNG processing facility and docking facilities in Nova Scotia, and they want our sister Board there to in fact regulate that facility, and they are calling for comments from the public now.

You know, I don't know what sort of approach this province is going to take at all. But certainly I remember on the Esso pipeline across the south end of the city -- I don't know if you were involved in that one or

not, but there was a very detailed explanation given to the Board about how the connections were made at dockside to the underground pipeline and precautions taken and all that sort of thing.

But -- and certainly I know that Fisheries & Oceans federally were involved in that hearing and actually sat on the committee -- the pipeline committee that reviewed it. And I believe in this one there is Fisheries & Oceans Canada is involved as well. And of course the provincial environmental group. But it always is a rather nice question from a legal point.

MR. VINCENT: And neither jurisdiction are going to waive off total access. I mean I think that what happens is in Nova Scotia it was determined that the province will have the regulatory -- that will be done with -- from the federal authority to say, well go ahead, we will live with that, you know, and you can take it out of your budget instead of out of ours.

CHAIRMAN: That's right. Yes. We have not gone into the whole environmental approvals, of course, because it's not our jurisdiction. But my guess is that this project is under the Environmental Management Plan for the entire refinery. And Mr. Dalzell did mention about wanting to contact directly provincial authorities if there is a

spill or something of that nature. But I would presume, and certainly those who are knowledgeable are in the room, that the reason that the project manager gets in touch with the environmental folks at the refinery is because they are the ones who initiate the calls to whomever must be called. And rather than having some project manager down constructing a pipeline trying to deal with what officials have to be contacted, it is probably better than -- that they not have to do that. They have one place to call and that's it. I'm speculating.

But, Mr. Dalzell, one of the difficulties, you probably -- if you want to get into a detailed discussion of sections of the application like that you should have applied to be a formal intervenor, because then you put the questions to the witness when they are giving their testimony and that witness can then explain. But that's for the future.

We will stand adjourned under the situation that I mentioned before. If need be, we will come back at 10:00 a.m. on the 27th in this room. If Mr. McQuinn's Pipeline Co-ordinating Committee comes back to the parties and the Board and indicates that they have worked out anything that needs to be worked out, then there will be no need for us to reconvene this hearing. So we will leave that.

I will ask Mr. McQuinn to -- by the 25th to be in a position to say yea or nay as to whether we reconvene. And also in the interim, Mr. Vincent, Board staff and yourself with the assistance of the applicant can take a look at what conditions are proposed. Mr. McQuinn's group has already done some. And we will go from there.

MR. VINCENT: Yes.

CHAIRMAN: Great. Thank you very much. We will adjourn.

(Adjourned)

Certified to be a true transcript of the proceedings of this hearing as recorded by me, to  
the best of my ability.

Reporter