

New Brunswick Board of Commissioners of Public Utilities

IN THE MATTER OF Applications by Irving Oil Limited for:

a Permit to Construct an Orimulsion Supply pipeline extending
from Mispec Point to Courtenay Bay in Saint John; and,

to amend the license for the use of an existing pipeline
extending from Courtenay Bay to NB Power Generation Facility
at Coleson Cove

Delta Hotel, Saint John, N.B.

February 12th 2004

CHAIRMAN: David C. Nicholson, Esq., Q.C.

COMMISSIONERS: J. Cowan-McGuigan
H. Brian Tingley
James E. Bateman

BOARD COUNSEL: William F. O'Connell, Esq., Q.C.

BOARD SECRETARY: Lorraine L, gŠre

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CHAIRMAN: Good morning, ladies and gentlemen. This is a
hearing, pre-hearing conference being held in reference to
an application by Irving Oil Limited for a permit to
construct an Orimulsion supply pipeline extending from

Mispec Point to Courtenay Bay in Saint John.

And the Board will be reviewing an application that went to the Minister of Natural Resources to amend the licence for the use of an existing pipeline extending from Courtenay Bay, New Brunswick to the NB Power Generation facility at Coleson Cove.

There are a good number of members of the general public here today. And I thought it would be beneficial to them if I were to basically outline the Board's process that will be involved in reference to this matter. And then after that I will go through and get appearances, et cetera, that sort of thing.

Just a housekeeping note is that if you do wish to speak, you should get to a microphone and push the button on the mike so that it lights up with a red light and that sort of thing. Otherwise the proceedings will not be properly transcribed.

This hearing is being conducted under the Pipeline Act, which is a different jurisdiction than for instance the Natural Gas Distribution Act. Under the Natural Gas Distribution Act, this Board has complete authority over the permitting of and the running of lines that carry natural gas in this province.

Under the Pipeline Act all other petroleum product lines are governed by that legislation. In that legislation we provide -- the Board provides more of a public forum rather than a review panel.

And to assist us in that process under the Pipeline Act, why there has been established what we call the Pipeline Coordinating Committee. And representatives of

the following departments or agencies sit on that Pipeline Coordinating Committee.

First of all, the Heritage Branch of Archeological Services, Culture and Sport Secretariat, a representative of Agriculture, Fisheries and Aquaculture, that is a provincial department, the New Brunswick Emergency Measures Organization, the Environmental Protection Branch of Environment Canada, that is a federal department, Project Assessment Officers for the EIA, that is Environment and Local Government provincially. There is a representative from the Policy Branch of the Department of Natural Resources, as well from the Energy Secretariat in the Department of Energy, the Industrial Approvals Branch in Environment and Local Government, Industry Support from Business New Brunswick, Fisheries and Oceans Canada, Habitat Management Section, the Property Management Section of the provincial Department of Transportation and last but certainly not least it is chaired by the head of our Pipeline Safety Division with the Board here in Saint John of the Board of Commissioners of Public Utilities.

The theory behind it is that the applicant, in this case Irving Oil Limited, would make an application to the Board, and in the case of the change of use of the existing line to the Minister of Natural Resources.

And those applications would be turned over to this Pipeline Coordinating Committee which would then review it and ask questions of the applicant concerning the application from the point of view of each department and what they have statutory authority to protect. And that process would go back and forth to the point where the review had been completed.

And then Mr. McQuinn, head of the Safety Division and the head of that Pipeline Coordinating Committee would report to the Board. And from that point we would go ahead, set dates for a hearing, et cetera.

And then at the hearing itself we basically try and attempt to provide members of the general public with some witnesses. For instance in this matter the Board will retain its own consulting engineering firm to review the actual change of substance in reference to the existing line.

The Department of Natural Resources has retained that same consulting engineering firm to do a review of the applicant's consultants who, as they call it, smart pigged the line and looked to the data and came up with recommendations.

Then Colt Engineering who acted for Natural Resources and Energy has reviewed that and critiqued the applicant's

expert. And those are all submitted to the Pipeline Coordinating Committee, those experts' reports and dealt with by the Committee.

Ultimately if it is in the public interest, which in this case the Board will certainly make its expert witness subject to the public's questions as to what has been done and what that individual's opinion might be in reference to same.

And if it turns out that it appears that a witness should be presented by any of those departments, particularly the provincial ones that I have listed off that are on the Pipeline Coordinating Committee, if they can add something to the public's awareness and the process itself, then the Board would ask that department to put up a witness too.

As a result of that, and that hearing process, the Board will take the recommendations from the Pipeline Coordinating Committee and assess them. And if we are in agreement with them, why then we will include those as conditions to the permit to construct.

And as well, if as a result of the public process there are matters that come to our attention that should be put on as a condition, and we believe they should, those too will be added to the permit to construct.

And of course the applicant then, if the permit is issued, is free to go ahead but will have to be governed by those conditions that are in that permit to construct.

One last thing I would like to mention to members of the public is that quite often we will have what is called an interrogatory process that we will set up, and that really is questions are asked of the applicant or applicant's witnesses in writing in advance of the hearing. The applicant then will respond to those questions in writing.

We find that that tends to cut down on the hearing time itself. Many different subject matters that parties are interested in to begin with, once those written questions flow back and forth, those -- the answers are readily evident and they don't come up at the hearing at all. Whether we do that in this particular matter or not is something we are here to decide today.

Having said all of that, my intention now would be to ask for appearances. And if I can find my list -- I have got it -- there are a number of intervenors who have come forward and asked to be given formal intervenor status and as well there is one individual who has come forward and asked to be informal.

A formal intervenor is allowed to call evidence, to

ask questions both in the interrogatory process, in the hearing itself and sum up to the Board at the conclusion of the hearing.

Informal intervenors are like any member of the public, welcome to sit throughout the process and get what information they want to have from Board staff. Then at the end of the hearing process, we normally will allow an informal intervenor to make a presentation to the Board orally or, if they choose to, in writing. As they have not called any witnesses, et cetera, why the Board accepts that informal intervention and gives it the weight and circumstances that we believe should be given to it.

All right. Appearances. For the applicant Irving Oil Limited?

MR. VINCENT: Robert Vincent and Janet Thompson-Price representing the applicant, and with us today are Christopher Borden, corporate counsel for Irving Oil, and Daniel Goodwin, public relations for Irving Oil.

CHAIRMAN: Thank you, Mr. Vincent. It isn't necessary to stand in this process. We try to make it as user friendly as we can.

MR. VINCENT: Thank you, Mr. Chairman.

CHAIRMAN: Conservation Council of New Brunswick?

MS. FLATT: Yes, Sharon Flatt.

CHAIRMAN: And with you today?

MR. THOMPSON: David Thompson.

CHAIRMAN: Good. Thanks. Ms. Flatt, I'm going to say something here. Like an elephant I have a long memory. I believe the last time you appeared in front of us was in the Point Lepreau Refurbishment hearing.

If you will remember, during that hearing we emphasized over and over again that we had absolutely no jurisdiction from an environmental point of view. We didn't wish questions concerning environment addressed in our hearing. We were to do a review of the economic benefits, or lack of same, in reference to the refurbishment of Point Lepreau.

I was extremely pleased that you were representing Unitarians for Social Action and if I remember correctly during that hearing Conservation Council was here represented by Mr. Thompson on occasion and Mr. Coon.

Anyhow, my point in this that everyone who participated in that hearing stuck by the rules. Sometimes they slipped into an environmental conversation, but very, very rarely. Except for yourself when it came time for summation.

I believe there was a conference going on in another room in this hotel which you I think had attended. When

you came in and it came time for you to make your summation to the Board, a lot of participants in that meeting came in. You then arose and delivered an impassioned plea as to why nuclear power should not be pursued in this province and Lepreau not be refurbished, which was totally outside of the rules that had been set at the commencement of the hearing and emphasized throughout it.

Now I bring all that up here to say for instance this Board has absolutely no jurisdiction whatsoever in reference to the expropriation process that may or may not be going on now. That's not our jurisdiction. And I realize that a lot of the people who are here today have an interest in that and I can well understand that. But we don't have any jurisdiction. So we don't want to hear irrelevant matters.

And I have said all of this just to let you know that if you -- if this Board agrees with the Conservation Council being a formal intervenor and you and Mr. Thompson representing that council, that you will stick with the rules of the Board and not deviate from it. Is that understood.

MS. FLATT: Yes, that's completely understood.

CHAIRMAN: Thank you.

MR. THOMPSON: Pardon me. As a point of clarification there, in this particular case -- in the last hearing in the particular case the -- well what the Board was examining was the economics and, you know, how far does it reach in the pipeline hearing beyond that?

CHAIRMAN: Oh, a very different jurisdiction, Mr. Thompson.

MR. THOMPSON: Yes.

CHAIRMAN: I don't wish to colour it that way. I just want Ms. Flatt to know that as the rules of engagement as it were are laid out then we all go along with them and we don't wait until the last minute and then suddenly go back and breach them. That's all.

We are here to look at the safety aspects of the applicant's proposed pipeline, the safety aspects of both to the environment and otherwise. On the Pipeline Coordinating Committee there was an environmental representative, et cetera. So those things are to a certain degree definitely within the Board's jurisdiction to review and we respect your desire to -- and other members of the public to be here and feel assured that they are being looked after.

MR. THOMPSON: Well that was our understanding and of course those are the things which we want to, you know, see thoroughly examined, are the safety and environmental

implications of, you know, operation of the pipelines, leaks, that sort of thing.

CHAIRMAN: Yes. You can leave the hairsplitting up to me.

I understand exactly where you are coming from. There has been an environmental review, I understand, of that whole project, the Orimulsion and conversion of Coleson Cove, is that not correct?

MR. THOMPSON: That's correct. There was an environmental impact assessment carried out.

CHAIRMAN: Yes. So my understanding is that any of the conditions that the New Brunswick Department of the Environment would bring by way of recommendations flow from that particular hearing.

But certainly a representative of the Department of the Environment or somebody who was involved in that EIA process, in my humble opinion at this time, and I haven't talked to my fellow Commissioners, should be a witness that could come and give testimony as to what occurred and what the recommendations are. Okay?

MR. THOMPSON: Thank you.

CHAIRMAN: All right. You are welcome. And for any other members of the general public, I will go down -- the second table on my righthand side of the room are Board staff and Mr. O'Connell, Board counsel. And I want any

members of the public who need any explanation of the processes that we follow or try to make things easier for those of you who have not been before a tribunal like this before, they will try and assist you in any way they can.

Lafarge Canada Inc. is represented by who?

MR. LEBLANC: Karen LeBlanc on behalf of Lafarge Canada Inc.

CHAIRMAN: Thank you, Ms. LeBlanc. Mr. MacIntyre? Is Roly MacIntyre here? NB Power?

MR. MORRISON: Yes, Mr. Chairman. Terrence Morrison on behalf of NB Power and with me is NB Power staff Marg Tracy, Pamela McKay and Linda Pyne.

CHAIRMAN: Thank you, Mr. Morrison. And I just saw Saint John Citizens Coalition for Clean Air coming in late again. Mr. Dalzell, will you just come up and put your appearance on the record at a microphone, sir.

MS. FLATT: For the record, I am representing the Clean Air Coalition until Gordon Dalzell's appearance. So we were here.

CHAIRMAN: I'm sorry, Ms. Flatt. I didn't hear you.

MS. FLATT: I have been asked by Gordon Dalzell to represent the Clean Air Coalition until he was able to leave a court appearance that he was at.

CHAIRMAN: Okay. Well he managed to get here on time, so go ahead, Mr. Dalzell.

MR. DALZELL: Yes. My apologies for being late, but we asked Ms. Flatt to -- on the record to advise the Board that we are present. So for the record, my name is Gordon Dalzell, Saint John Citizens Coalition for Clean Air. And just to clarify the reference Ms. Flatt made as to where I was, I had a professional duty at the Court of Queen's Bench as a social worker and that's why we are late this morning. Thank you.

CHAIRMAN: I was just teasing, Mr. Dalzell. Don't worry about it. And there are a number of property owners who have requested formal intervenor status and I will just go down through the list and if you are here just raise your hand and I will tick you off on the list and the record will show that you are present.

There is a Teresa Debly. Yes, Ms. Debly is here. Mr. and Mrs. Frank Lahey. Not present. Mr. Duane McAfee. My note says there is a solicitor here representing Malcolm and Sandra McAfee and I guess that's Duane. Okay. Mr. Clark McIlveen. He is present. And Mr. and Mrs. Douglas McKiel. They are present. And another Mr. David Thompson, not to be confused with the one over there. Okay. Mr. David Thompson is here. And Mr. Fred Thompson. And he is here as well. The one intervenor who has requested informal intervenor status is Mrs. Shirley Byrd.

Is she present? She is present. Okay.

Are there any other intervenors or members of the public who wanted to have formal intervenor status? No one is showing their hands. I will move on.

Who is appearing today for Board and Board staff?

MR. O'CONNELL: Mr. Chairman, William O'Connell appearing as Board counsel and I have with me as Board staff Mr. Todd McQuinn, Mr. Douglas Goss, Mr. John Lawton and Isabel Fagan.

CHAIRMAN: Thank you, Mr. O'Connell. Those are the folks that anybody who wants to find out about the process and whatnot, you can approach them at your first opportunity.

I call Mr. McQuinn as I have mentioned of Board staff is our pipeline -- or he is the head of our pipeline safety division and he is the coordinator or chair or whatever you want to call it of the Pipeline Coordinating Committee. And either he or through Board counsel, would they give the panel an indication as to the Pipeline Coordinating Committee's progress in their review for this hearing?

MR. O'CONNELL: Mr. Chairman, I discussed that issue with Mr. McQuinn earlier this morning. The Pipeline Coordinating Committee has not received all of the information that it requires to complete its process. I

am informed that the process will take approximately six weeks to complete once it has received all the information that it needs. So we are at least six weeks away from conducting a formal hearing into this application.

CHAIRMAN: Well make that eight weeks. March is plugged on the Board's agenda except for that first week that we had set aside tentatively for this hearing. I'm sure that counsel for Irving Oil would like to have something to say now. Go ahead, Mr. Vincent.

MR. VINCENT: Thank you, Mr. Chairman. Respecting Mr. O'Connell's comments which he was relating for Mr. McQuinn.

I understand that the Pipeline Coordinating Committee's concern about information not yet complete is solely with respect to the existing pipeline and the application for the change of substance to be transmitted therein.

I spoke with Mr. McQuinn yesterday morning. My understanding is that the exchange of information -- the application for the construction permit on the new line was filed with the Board on December 2nd.

Prior to that time there was informal discussion with Mr. McQuinn, with the Board about how we would proceed into that area. But the actual filing was December 2nd.

On December 17th there was a meeting in Fredericton with the Pipeline Coordinating Committee.

And the applicant as well as NB Power were represented. And a presentation was made at that time with respect to the new pipeline that was to be -- or that we are applying to construct.

Between that time and the beginning of February, there was a fairly extensive series of questions and comments coming forth from the members of the Pipeline Coordinating Committee and responses delivered by Irving Oil.

To my knowledge there is nothing outstanding with respect to that exchange, that that has been completed. And as I understand it from Mr. McQuinn, the Pipeline Coordinating Committee has essentially completed its review of that information and are at the point where they are prepared to sign off, with or without recommendations.

Where the concern lies is that the -- and again this is my understanding from Mr. McQuinn, both by our discussions and also by an e-mail that he gave me, that the Pipeline Coordinating Committee has not received from the Department of Natural Resources the report from Colt Engineering that you were referring to earlier that is in response to the applicant's proposal.

It is my further understanding that part of the

problem, although we haven't heard this from anyone but in this discussion with Mr. McQuinn, that part of the problem is that Colt were waiting for a Pipeline Integrity Management Program from Irving.

That program, some 900 plus pages, were delivered to the Pipeline Coordinating Committee including the Department of Natural Resources' representative in -- I believe in early February, the beginning of February.

And so far as I'm aware, there is nothing that would restrain that Colt report from being completed. We haven't -- there is no further delay that we are aware of.

But I would suggest this. As is indicated in the Board's order and in the Board's notice, the Board has tentatively put a hold on the week of March 1st for a public hearing.

We believe very strongly that that date should be held and that the applications should proceed with the application for the construction of the new pipeline to take precedence.

And the reason that we urge that is that the construction is very much linked to the available construction schedule, the season upon which this work can be done.

If that season is not met -- and of course there are a

lot of contingencies which impact that season. There is a period during which you can't disturb the area because of migratory birds. There is a period during which you have to be very careful and can't disturb any water areas because of fish reproduction. There is of course weather and a number of other items.

But that construction season is vital to getting the new pipeline in place so that NB Power may meet its commitments with respect to its conversion, a conversion which it has announced publicly is costing in the vicinity of three-quarters of a billion dollars to handle Orimulsion.

We believe that the Board's consideration of the application to construct, although the Board has included with it, at the request of the Minister of Natural Resources, its review of the second application to change the substance in the existing line, the Lorneville line, we believe that the Board can proceed with its review of the technical and other aspects of the application to construct as presently scheduled.

And we think that it should do so. And we suggest very strongly that it should do so. We can use that time. That time is available. And it is my understanding a lot of the information -- well, basically all of the technical

information has been provided.

So those are my submissions with respect to that, Mr. Chairman.

CHAIRMAN: Thank you, Mr. Vincent. I don't quarrel with anything that you have said. It is a position that you have taken before. I will take a brief recess and speak with my fellow Commissioners about it.

But before I do, this is hearsay evidence, but it is my understanding that there have not yet been approvals for for instance the jetty that is to be constructed in the bay, which has a dual function, which is to bring the Orimulsion tankers in, and as well in the future LNG tankers in.

And that still requires approvals. And I don't profess to know how many different departments. But it certainly is a federal matter without question. And representatives of the Board were at a seminar or conference in Halifax within the last couple of weeks dealing with LNG in the Maritimes. And that was something that came up.

And I saw something in the press the last couple of days about how the process that the LGN application for here is being subjected to is far more lengthy and cumbersome than that which Port Hawkesbury is. I don't

understand why. But it seems that that is the case.

Anyway, all I'm trying to say here is that I don't think that this Board's review and Irving's construction of the new pipeline and conversion of the old in time for the opening of the conversion of Coleson Cove is going to be the killer. I think it is probably going to be that jetty.

Any comments on that?

MR. VINCENT: Yes, Mr. Chairman. Thank you for bringing the jetty to my attention. And I had overlooked responding to that or commenting on it. First of all, I think -- you are absolutely right. Some of these items are still out there and being worked on and have to go through various approvals.

But one of the main drivers here is the schedule for construction. And as I understand it -- and actually I think really I should ask my friend Mr. Morrison to address that for NB Power. Because NB Power is very much concerned about the timing and the construction schedule as well.

But I think that it would be a mistake, in my submission -- and I respect your comments very much. But in my submission, it would be a mistaken to proceed on the assumption that approvals are not going to be forthcoming

or that the project will be stopped by something beyond the area or the scope of this particular application.

And again I might say that with a project of the size and scope that NB Power has entered into with respect to Coleson Cove, and with respect to the obvious delivery system that is available, that is using the landing facilities in Mispic Point, also the facility of the pipeline to handle Orimulsion, to take it from Saint John down to Coleson Cove, given the magnitude of the size and the amount of the financial commitment by this body, this project is going to proceed.

One way or the other, whatever the conditions, the project will go forward. And that is part of what this process is, is to determine what conditions should be made and what are appropriate and reasonable, and then work toward dealing with those.

And we have submissions of course as to what those should be and shouldn't be as well. But I believe that it could be safely assumed that the project will proceed and all of the hurdles will be met.

MR. MORRISON: Mr. Chairman, if I might make --

CHAIRMAN: Identify yourself, sir?

MR. MORRISON: It is Terrence Morrison, Mr. Chairman. I know you can't recognize me this far back in the room. I

would like to say first that --

CHAIRMAN: But I can hear you, Mr. Morrison.

MR. MORRISON: You can hear me. Thank you.

I would like to say first of all that, as you know, this is Irving Oil's application to construct the pipeline. But it is for the benefit of the fueling of the Coleson Cove project which, as everyone knows, is a significant investment.

I can't comment on, because I'm not familiar enough with the jetty situation. But the people in the construction end of this project at NB Power have certainly told me, and I have no reason to doubt them, that construction -- to meet the overall construction schedule, construction of this pipeline has to start by May 1st.

And clearing for those lands that are capable of being cleared -- and there are some issues with some other landowners which is the subject of a separate process. But those lands that can be cleared, those lands have to be cleared between now and the end of April.

So there is a significant impact on -- well, I'm told there is going to be a significant impact on the construction schedule if this matter cannot start by May 1st. And having said that, if you look at a six or

eight-week delay for the permitting, that could have serious consequences for my client.

I would want to comment on something that Mr. Vincent said, just so that it is not misunderstood. He said that this project would proceed in any event.

And I think what he was saying is that look, if there are issues with the existing line, in other words, if there are conditions that are imposed by the Board that says you have to do this and that in order to get that existing line up to snuff, if that is the issue, then I think what Mr. Vincent was saying, there is more than a reasonable assurance that those things are going to be done, just because of the investment that has been made in this project.

So I think the Board and the public can take a great deal of comfort in the fact that if this Colt report reveals issues with the existing line, that they will be dealt with. And of course they will become conditional to the Board's order.

So I believe the Board can proceed with an approval or at least a construction permit with respect to the new pipeline. Conditions can be imposed at anytime with respect to the existing pipeline. And those conditions of course will have to be met.

CHAIRMAN: I can't comment on the motivation of the Minister of Natural Resources in referring this matter to us for a review.

But I could speculate that one of the reasons is that when the new line is -- or proposal for the new line is reviewed in the public forum, that the old line will be too as one integrated project which it ultimately will.

And you gentlemen know that from the very first I have been trying to have it so that we would combine into one hearing flow so that those people who have to give up a day's work and the pay associated with it will be able to have a concept of exactly what is happening not only with the new but the old.

And that has been my approach. There is a lot of common sense in what both of you are saying. And I don't wish to be a barrier to progress. But I do hold that opinion. And you both know it.

What I'm going to suggest is that the Board will retire for 15 or 20 minutes. I will ask the representatives of the Coordinating Committee who are here to speak with one another, having heard this again, and see if there is anything you want to address to the panel after we come back in or not, and just leave it with you for that 15 or 20 minutes.

(Recess)

CHAIRMAN: We would like to apologize for having taken so long, but a lot of things came to the fore.

First of all the Board will accept all of the requests to be granted formal and informal intervenor status, including the representation of Mr. MacIntyre who corresponded with the Board prior to the hearing and said he would like to be a formal intervenor.

And as well there was a bit of difficulty -- correspondence flowed back and forth between the applicant and one of the formal intervenors and the Board concerning the service on Lafarge Canada counsel for both the applicant and Lafarge have spoken. That looks to be just fine now. And of course Lafarge will be given intervenor status.

We have -- as Mr. Vincent knows, when he and representatives of the applicant met with the Board we set aside some tentative dates. My Commissioners have been asking me where my head was when we were doing the first of March because we got down to looking at the number of days that we have between now and the first of March and we as a panel have some real concerns that even if we were to proceed with the new construction alone and deal with the old line at a future time, if there is sufficient time

-- for instance, it's our understanding that a number of the formal intervenors have yet to receive a copy of the application itself.

And that's not blaming anybody at all, that's just simply saying that that's a fact and they should have an opportunity to review it, then in this Board's normal process we would give an opportunity for the intervenors to ask written questions, as I explained earlier, called interrogatories.

It could be that in this -- in order to speed the process up a bit, we could direct the applicant to hold a public, what we call, technical conference where members of the public and otherwise can come and ask all the questions that they want to of the applicant and their witnesses.

But even that we are looking at something short of three weeks I guess between now and the first of March. I guess it is just three weeks. And, you know, that's really pushing it.

However, what I would like to do, if I might, is to go around the room and to see what all of the people here have to say about whether they wish to proceed -- try to proceed in that first week of March or if it is they don't care whether it's the first week of March or the first

week of April, just to get a feeling for what the various intervenors have to say.

Then we will come back and I understand that the representative of the Department of Natural Resources who is in the room today had some things he wants to just bring before the panel in reference to the state of information and information requests in reference to the old line. However, we will get to that after I go around.

CHAIRMAN: Mr. Vincent, after all that do you have anything further you wish to add to your position that you enunciated, sir, before we took the break?

MR. VINCENT: No, Mr. Chairman, just to pick up on your comment with respect to the intervening time. I looked at that time as well and felt that while it would be tight that we could I believe handle it. And I -- your suggestion of a technical conference, which you did mention earlier in one of our earlier meetings, is perhaps one of the ways that we can do that, and that is to make our people available in an open hearing and respond to questions and provide answers.

But I have nothing really beyond that further to say than what I said earlier.

CHAIRMAN: Thanks, Mr. Vincent. Let me ask a question that was asked in our break-out room a couple of times, is if

the property that is in the right-of-way is in fact expropriated and transferred to the applicant's title, what is to stop the applicant from going on their own land and clearing the right-of-way before this Board concludes the hearing process?

MR. VINCENT: Probably nothing with respect to the applicant's own land. I think it's probably unlikely in the time frame that we are talking about that the expropriation process will work its way through.

There is -- I had somewhere a description of the process that NB Power are following, but I know that there are several steps. One is filing with the expropriations officer in Fredericton the intention, then filing notices of expropriation. There is a time period I believe of 21 days or thereabouts for objections to the expropriation, and from that probably follows after a decision a right of judicial review.

So that theoretically that whole issue could get protracted. But if it isn't, if those challenges really don't flow, then the expropriation takes effect. It's kind of separate from the issue of compensation, as I'm sure you are aware.

But if Irving -- if the applicant obtained title to the property or if the applicant was on its own land, I

imagine that it could deal with its own land accordingly. We are dealing with a considerable amount of stretches of property here where they don't have that ownership.

CHAIRMAN: Thank you, Mr. Vincent. Mr. Morrison, do you have anything to add to that?

MR. MORRISON: Other than to reiterate our position and the importance of maintaining an early hearing date, certainly the first week of March is --

CHAIRMAN: I was just inquiring about the expropriation since it is NB Power that is doing it.

MR. MORRISON: That's right. I have not been intimately involved with that, Mr. Chairman. But I have been told that a hearing date could be set by -- well no earlier than March 1st. The filings have been made and we are currently waiting the assignment of the hearing date from the expropriation officer.

CHAIRMAN: That's an interesting date you bring up. What happens if the expropriating authority sets the same date as we set for this hearing, then a goodly number of the intervenors here have got a real conflict?

Anyway, I will go around the room and you can address both things, or rather, the one thing which is the first week of March. We just had another -- who knows when the expropriation officer will set that hearing.

Is there an input by the expropriated individual landowners as to dates and that sort of thing, Mr. Morrison, or Mr. Vincent, are you aware?

MR. MORRISON: I don't think so, Mr. Chairman, but I'm not sure.

CHAIRMAN: So that authority simply arbitrarily sets it?

MR. MORRISON: I really don't know, Mr. Chairman, but I'm told that that's essentially how it works.

CHAIRMAN: Mr. Vincent?

MR. VINCENT: I believe that that's correct too. I can't tell you exactly, but my understanding is that once the expropriating officer receives any objections, then a date is scheduled and it probably is to the convenience of all of the parties that would be there.

But I would imagine that the matter has to proceed with some dispatch because it could not be for instance set over six months or whatever. It would be sooner rather than later but I can't give you the rhyme and verse at this time.

It isn't -- it's my understanding it's not set forth in the Act but I'm not sure about the regulations.

CHAIRMAN: Good. Thanks, Mr. Vincent. It's been a long time since I had anything to do with expropriation, so I don't profess to know.

So let's go around the room, if we could. We have heard from Irving Oil Limited. And I just want to know what your feelings are about whether or not we could proceed during that first week of April in reference to the new portion of the line alone or should there be more time.

And again for those of you who are not familiar with the process, we could have a technical conference that Irving Oil would put on and it would not be on the record but it would give everybody an opportunity to ask any questions that they want and get additional information. Or alternatively, our normal process is written questions and written responses, which then are part of the record for the hearing process itself.

So Conservation Council, any comments?

MR. THOMPSON: Yes, Mr. Chairman. I guess we have a number of comments. And, you know, certainly aside from what Mr. Vincent, the applicant's representative, has said, you know, there are a number -- and what you had brought up -- there are a number of processes, a number of decisions which haven't been made yet.

You know, we are looking at a situation where the environmental impact assessment for the dock itself has not been completed. In fact, you know, we were told -- I

say we, at the community liaison environmental meetings that are held as a result of the EIA by the Province on the project, we were told by Irving officials only about a month ago that studies for the dock and weather studies and that sort of thing had yet to be completed.

You know, so it looks like it's going to be a long time, you know, at least a year maybe before the dock will be built on that end. You know, there are the federal approvals for this dock and that kind of situation to, you know, occur there both from the federal government and the Province.

As to intervenors I guess such as local residents and ourselves participating in the hearing, it's, you know, I guess easier if you could do it all at once like you had previously mentioned.

A number of other things. I guess, you know, we would like to have, I guess, you know, the information available for the whole pipeline at that time too. And I wanted to ask you about this Colt report, when it will be available or if it will be made available to intervenors?

CHAIRMAN: Certainly the -- anything that has been filed with the Pipeline Coordinating Committee as something which is participating -- which the various representatives are participating in that and is subject

of the review, we would certainly be able to bring that before the hearing process.

The Colt report I would certainly want to have it available for intervenors to look at as well. You may have technical resources yourself that would want to do so. So I guess the short answer is I would certainly think so.

MR. THOMPSON: Thank you.

CHAIRMAN: When it's going to be available, that's one of the big questions, because that deals only with the existing line.

MR. THOMPSON: Well exactly. I mean, that's a major concern of ours. I mean, we are certainly concerned, you know, with the operations and the installation of the new line and the environmental impacts of that, but our major concern is with this old line, this existing line.

I guess the other thing that I wanted to ask is if -- you know, if this process takes place, you know, later on, you know, when is it going to take place on the old existing line?

You know, it could take place at a time of the year when we weren't available, you know, and it was difficult, that sort of thing. You know, it would seem that if we could schedule the hearing for both the old and the new

pipeline at one time it would be better.

CHAIRMAN: That's a very unique way of putting it. You are not a migratory bird, are you, Mr. Thompson, that you wouldn't be available?

MR. THOMPSON: Well no, but sometimes there are a lot of bird feeders around and, you know --

CHAIRMAN: Sorry I brought that up. Go ahead.

MR. THOMPSON: But one other point I wanted to make, Mr. Chairman, and another one that I hope is clarified at some point in this hearing, and that's the whole matter of the contract for the Orimulsion itself. I mean, you know, it seems unclear --

CHAIRMAN: Now, Mr. Thompson, what we are dealing with right now is dealing with whether or not there should be an adjournment to the first of March to deal with the new line only or if that is not convenient to you as an intervenor. And I think you are saying it is not. Now I don't want to get into what you just brought up at all.

MR. THOMPSON: That's correct. It's inconvenient to deal with them separately. We would like to -- you know, they are really one project, they are linked together. The other thing is that there are many other approvals and uncertainties and we seem to be being pressured into this by the applicant and by the applicant's associate.

And, you know, there are other decisions in spite of, you know, suggestions by the applicant that, you know, these things will go ahead and all, you know, that kind of -- you know, those are assumptions.

CHAIRMAN: Okay. Thanks, Mr. Thompson. I will tell you that this Board will not and has no intention of having the Pipeline Coordinating Committee harried or hurried in its deliberations, and also we are here to give the public the opportunity to review in an appropriate fashion both the new construction and the conversion of the old line. That's our statutory duty and we intend to do that.

However, we also don't want to put impediments in the way if in fact we can meet those tests that I have just enumerated and as well hopefully speed the process along, always guarding the public's interest as I have enumerated.

Having said that, Ms. LeBlanc, Lafarge Canada Inc.?

MS. LEBLANC: Yes, Mr. Chairman. I would just like to state that dialogue in this case was initiated with Lafarge by NB Power back in December of 2003 through Peter Dowd, its right-of-way agent and its solicitors Cox Hansen.

Since that time we have been examining this situation with our client in order to ascertain the issues that we need to clarify in order to protect our client's

interests.

At this point in time we have not received all of the information that we need in order to make that assessment. We have not established a categorical position on this by any means.

But we are not in a position to even make a decision at this point or to determine all of the issues before us. There are things that need to be addressed in order to protect our clients such as safety, access to and from the property.

The property in question is an asphalt plant which is quite busy throughout the year, principally in the summertime and the springtime. And we want to make sure that those business activities aren't hampered as well.

So whether or not the March 1st deadline is doable, I'm not sure that 11 or so business days gives us enough time to have all of those matters addressed and to review those with our client and to come up with a solution or a position one way or another.

With respect to a technical conference, that I think may be of some assistance. However our issues will certainly have to be addressed in writing between the parties.

So practically speaking, March 1st seems awfully close

to me.

CHAIRMAN: Thank you, Ms. LeBlanc.

MS. LEBLANC: Thank you.

CHAIRMAN: Mr. MacIntyre is not here today. Mr. Morrison,
do you want to add to what you said, sir?

MR. MORRISON: No, Mr. Chairman, other than I think the
Lafarge issue is more a property issue than it is a
pipeline issue.

CHAIRMAN: I'm not going there, Mr. Morrison. Mr. Dalzell?

MR. DALZELL: Our approach would be that -- to have some
flexibility and try to be realistic about it. We have had
an opportunity to read some of the reports.

But we recognize 11 days is rather tight to complete
like the interrogatories. So our preference would be
actually April 1. But for the record, whatever -- we will
respect the decision of the Board. Thank you.

CHAIRMAN: Thanks, Mr. Dalzell.

Look, I think what I will suggest here is that if
there are any or all of the property owners who wish to go
on the record with their opinion, why -- are the mikes
right to the back of the room there? I can't see from
here. Every table but the back one I guess has a mike.

So if you do wish to, when I call out your name, and
give you an opportunity to go up and borrow somebody's

mike, if you have to, that is a table or two ahead.

And so I will start with Ms. Debly.

MS. DEBLY: Yes, Mr. Chairman. I guess just one point that I can make is in the application form it says that there were 57 agreements from the properties out of 58 that were not agreed to.

So I would have a question as to the proceeding of the pipeline hearings before that is somewhat settled.

CHAIRMAN: I'm not familiar with that point. Mr. Vincent, perhaps you could address it and give me a little knowledge in this matter?

MR. VINCENT: Yes, Mr. Chairman. The agreement with the property owners has been -- is being pursued by NB Power. And I have been in touch with NB Power, as we approach this hearing, to determine what the present status is with respect to the agreements between the parties.

First of all, I would just point out to Ms. Debly that she is referring to the application which was filed December 2nd. And on December 2nd that accurately set forth the state of the agreements. In other words, they had one signed agreement. And they had 57 I believe of the 58 that were listed that were not completed, not agreed to or whatever.

At this point in time, my understanding from NB Power,

they may wish to comment on this as well, is that all of the -- apart from the individual property owners, but the various companies that are involved, that all or most of those are in fact proceeding toward signed agreements, that there have been no flat rejections and that sort of thing.

And so they are described as tentative. They are just in the process of being completed. Some of them are completed and signed.

With respect to the property owners, I believe that there are -- if I have this right, I think there are 17 of the individual property owners. And of those I think there are three signed agreements. There are 14 expropriation actions pending.

CHAIRMAN: So what Ms. Debly is referring to then is background in the application concerning where the negotiation/expropriation process stands now --

MR. VINCENT: Yes.

CHAIRMAN: -- is that it? Is that -- okay.

So now that I have got a grasp of what you were referring to, Ms. Debly, would you go on the record again and let me know what it is that you are concerned about there and how that affects going ahead on March the 1st or postponing till later. Go ahead.

MS. DEBLY: I guess March -- from what I understand, March the 1st -- I guess the way I see it, I see kind of the cart being put ahead of the horse. Because I don't understand the process where the application would go without the consent of the landowners.

So of the 14 for example that are not in agreement, why it would go ahead until those 14 have somewhat been settled. And then I guess whenever that is settled, I would see this hearing after that point.

I'm not familiar at all with these Utility Board hearings, so --

CHAIRMAN: Ms. Debly, nor am I. But from my experience, sitting where I do, I can tell you this, that if we proceed -- if the statute gives us jurisdiction to do a review, and for instance, when we issue a permit to construct a pipeline or something, there will be probably many conditions that are attached to it.

And one of those conditions of course would be that satisfactory title be obtained to the land over which this pipeline is going to be constructed before construction begins.

Now that is not presupposing our decision or anything else. But that is how it would be done. We are not tied to waiting for instance until the EIA process may or not

be concluded.

However, in a situation like this it is my understanding that if it hasn't been concluded in reference to the line, it is pretty well. And the representatives of the Department of the Environment can have an input into our process that we want to hear.

So I guess I can understand, from your point of view, that it may be putting the cart before the horse. But I guess maybe in our -- the way we have to view it is that the horse and the cart are going down parallel on the highway. Otherwise it would be a long race. I guess that is -- if that is a good analogy.

So we will proceed with the application that Irving Oil has brought. But a caveat, sorry, a condition would be attached to the licence if they didn't own the property at the time that we conclude the hearing.

Does that answer your question? Maybe not satisfactorily.

MS. DEBLY: I guess it is becoming more clear. So I guess for the dates as to whether April the 1st or March the 1st, personally to have better understanding, to take a bit more time and leave it till a later date in April would be my preference.

CHAIRMAN: Okay. Thank you. Mr. and Mrs. Lahey?

Mr. McAfee?

MR. MCAFEE: Thank you, Mr. Chairman. I just have a couple of comments I would like to make. First from a very practical perspective, that is the March break.

And I suspect that would impact a lot of people who maybe intend on attending the hearing. I know it certainly impacts myself because I won't be here.

Secondly I can't see how it is in the best interest to all the various residents of the area to move this matter along that quickly. They are going to be left with this decision effectively for the rest of their lives.

And Mr. Vincent has indicated for instance there is a 900-page report. For your average layman to digest and read, if that is something that they should choose to want to read, you know, really giving it two weeks I don't think is sufficient time.

And this has been my experience over the years. Time and time again when I have been presented with this, well, we need to get this done in such-and-such a time, the project appears to me to be fraught with so many different possibilities of delays, I don't think at the end of the day the four weeks is going to make any difference.

That is all I have to say.

CHAIRMAN: Good. Thank you. And the grandparents up here

will acknowledge that the first week of March is the March break. And that does affect quite a number of people in the room.

Mr. McIlveen?

MR. MCILVEEN: Yes. Some of our concerns are the actual access to our land after this pipeline goes through, and more specifically the actual width of the right-of-way itself.

We don't believe that that is necessary, a 30-foot -- or 30-meter right-of-way through there for a 12.75-inch Orimulsion line. But it may be a moot point anyways.

I mean, they are asking for application for a pipeline over land that they do not own yet or have right-of-way on and through a jetty that isn't there for a product that is not an official contract from Bicolor yet.

So I don't know. It seems to me like to put this application for a pipeline and to go ahead and put a pipeline through there, there is a lot of things that have to be ironed out before that.

We are still dealing and negotiating with the NBEP for that land, and before the expropriation of such land, if it cannot be negotiated. So we are in a --

CHAIRMAN: I guess I attempted to answer what you have just said to Ms. Debly. And I'm sorry I can't give a better

explanation. But sometimes we are running parallel processes. And that is the way we do do it.

And then when we conclude ours we put conditions on the permit to construct. In other words, you can't construct unless you have a legal right to be able to do so. And that covers that situation.

And then expropriation authority deals with the expropriation issue. And I can understand why members of the public would begin to say it is the cart before the horse, et cetera. But that is not an uncommon thing, sir.

Now just back to the question that we are canvassing here which is what is your feeling about proceeding during that first week of March or going to a later date?

MR. MCILVEEN: Anytime in March, towards the end of March, in April would be okay with me.

CHAIRMAN: Good. Thank you, sir.

Mr. and Mrs. McKiel?

MR. MCKIEL: Thank you, Mr. Chairman. Most of the concerns about the property owner have been brought up. But also I would like to bring up in Section 3 about the groundwater. There is a subdivision right beside our property.

CHAIRMAN: Mr. McKiel, you will get an opportunity to talk about that later on, I'm sure.

MR. MCKIEL: Oh, okay.

CHAIRMAN: But now I would just like to deal with how --

MR. MCKIEL: The time?

CHAIRMAN: -- what is your opinion in reference to which date we adjourn to, sir?

MR. MCKIEL: April would be fine.

CHAIRMAN: Okay. Thank you. And Mr. David Thompson?

MR. DAVID THOMPSON: Thank you, Mr. Chairman. A later date would be probably better, so we could have a more informed decision. Thank you.

CHAIRMAN: Great. Thank you. And Mr. Fred Thompson?

MR. FRED THOMPSON: He said it all.

CHAIRMAN: For the record, somebody said "He said it all", so -- okay.

I'm going to ask Board Counsel if he has any words of wisdom to add to this. Or he can hold his peace if he wants to too. That is most unlikely with Mr. O'Connell.

MR. O'CONNELL: Mr. Chairman, the only thing I will say is that the note I made, as you went around the room, was a note after Mr. Vincent said something like, and I wouldn't attempt to quote him, that they are proceeding toward signed agreements.

And the note I made to myself when he said that, or something like that, was that is very close to kissing your sister.

I have nothing more to add.

CHAIRMAN: My hearing is really going but I won't ask you to repeat that. We are going to take three or four minutes and step outside and be back.

(Recess)

CHAIRMAN: Well we have taken our three minutes. When we adjourn today we will be adjourning to the -- subject to the convenience of counsel, et cetera, to the 5th of April.

We would -- I will not sit on the morning of the 1st of April, but we also have scheduled an Enbridge Gas New Brunswick hearing, if necessary, on the afternoon of the 1st and Friday the 2nd. So the first available date in April is the 5th.

I guess maybe the thing to do now is it would be from the panel's perspective from what the Pipeline Coordinating Committee has told us we could attempt to proceed with both parts of the line. But there are some things in reference to the old line in addition to what Mr. O'Connell mentioned previously that I believe Mr. Griggs wants to address, something that Mr. Vincent said. I don't know. Is that correct, Mr. Griggs? Mr. Griggs is with the Department of Natural Resources which is the lead department, I guess you would say, in reference to this

matter. Go ahead, Mr. Griggs.

MR. GRIGGS: Thank you, Mr. Chairman. I just wanted to issue a brief statement as to the status of the reports we are expecting from our consultants, Colt Engineering.

Last year we commissioned an independent study of the existing pipeline. This was the integrity audit which was completed and submitted to the various parties in draft form.

One of the key recommendations arising from the audit was the drafting of an integrity management program for the entire pipeline, or IMP. This has been discussed between us, the applicants, Natural Resources and our consultants over the past several months.

As Mr. Vincent stated, a fairly voluminous document was submitted to Natural Resources and our consultants at the beginning of this month. It has in fact been reviewed and our consultants made a number of suggestions for revisions. These have been conveyed to the applicant and this is what we are now waiting for. We are just waiting for the applicant to make those revisions and then we will take another look at it.

CHAIRMAN: My real duty now begins. Would you explain to all of us what an IMP is?

MR. GRIGGS: Well essentially the pipeline already has an

operating and maintenance procedures manual. The IMP goes beyond that. It addresses changes in the operation of the -- future changes in the operation of the pipeline. It's a statement of the management philosophy.

It incorporates most particularly risk analysis which allows for mitigation measures. An operations and maintenance manual, as I understand it, essentially says what needs to be done according to established standards in particular situations. The IMP seeks to be more proactive in looking for potential difficulties and taking action ahead of time. It's a dynamic document where the operations and maintenance manual is more of a static document.

CHAIRMAN: Thank you, Mr. Griggs. That was an excellent explanation. Could you perchance address Mr. Thompson's question that he gave is that the report that is presently filed with your department by Colt Engineering, is that going to be made an exhibit in this process, sir?

MR. GRIGGS: Yes, it is. It is in draft form. It is being finalized. I expect to have it either today or in the next couple of days and I will be providing it to the Coordinating Committee.

CHAIRMAN: Okay. Good. Thanks. Stay right there. Mr. Vincent, do you have anything you want to say?

MR. VINCENT: Yes, I do, Mr. Chairman. If I understand what Mr. Griggs is saying, is that the Colt report won't or cannot be released until Irving makes changes to its IMP at the request of the department. Now quite frankly, I think that that is tantamount to attempting to force a result before this process starts.

If I could just come back. If there is when this process begins, and as it proceeds before the Board, issues or conditions that are required to be put on the approval, then that is obviously one of the things that the Public Utilities Board can do, and perhaps should do.

But to not proceed now or to say that we can't proceed or to say that the review committee cannot complete its review of the information that has been given, because Irving hasn't made changes to its report that they are being provided, I really don't think is a proper reason for holding the matter up.

This surely is exactly the kind of thing that you are going to get into during the hearing, whether changes should be made, what provisions should be given. The bottom line is the information has been provided and as Mr. Griggs has said they have been through it, but they say now that they want Irving to do something else.

And I'm just saying I don't see that as reason to hold

things up, but, you know, having said that you have set your dates for processing or for proceeding and we will deal with that.

CHAIRMAN: Mr. Griggs, I don't know if you want to carry on this discussion in public, but --

MR. GRIGGS: Yes. I would just like to clarify --

CHAIRMAN: -- but I was going to suggest that what the next step that this Board will take will take another quick adjournment to give the parties an opportunity with assistance of Board staff to come up with a one set question/answer interrogatory process between now and that date I mentioned in April, and possibly go ahead with a technical conference as well to assist in that.

But you and Mr. Vincent, I would suggest, and the representatives of Irving, should chat. I'm not asking Mr. McQuinn to convene a Pipeline Coordinating Committee here, but I think it's propitious since we are in the room that we pursue this and see exactly -- there may be a stumbling block or they may not, and I think it's up to you folks to get to the bottom of it now if you are able to do so.

So that's a twofold request. Do you want to take a luncheon break now or do you want to proceed through? I can sit until 1:00 o'clock. I can't get beyond that

though without eating my lunch. Do you want to take a break now, Mr. Vincent?

MR. VINCENT: Actually I will go along with the suggestions of any of the others and the Board on the timing of whether to break now or whether to come back. Either way.

Before you do adjourn, Mr. Chairman, could I -- just coming back to your suggested date of April 5th to come back, I am out of the country and not arriving back in Saint John until the night of April 5th. And so if a hearing were going to be started, I would like to see it perhaps April 7th at the earliest, if that's possible.

CHAIRMAN: Look, the Board would have no problem with that, I don't think. I don't think -- Mr. O'Connell, do you have any problem?

MR. O'CONNELL: The only comment I would make, Mr. Chairman, is that my understanding is that April 9th is Good Friday, and I don't know whether there is suggestion that we could do this in two days or not. Or do you want to go into the next week?

CHAIRMAN: I think I got the last of that. I don't know why Board counsel has always such difficulty with these microphones, but we have two and I have to tell both of them to draw it in. The 9th is Good Friday and we would not sit on that day, but I -- you know -- I would like to

get on -- if we are ready to roll, I would like to get on with it.

Mr. Vincent, if you think that one day to overcome jet lag I presume is sufficient for you, then the Board has no problem with proceeding on the 7th. Do any of the other intervenors or parties, do they? If they do, let us know right now, but otherwise I will take it that it's convenient with everyone else in the room.

All right. So we would do -- we would start on the 7th then, that's a Wednesday. We will take a break. I will ask Board staff to let the panel know when the two things that I have requested be done are done. That is, Mr. Vincent talk with some of the Pipeline Coordinating Committee to find out if there is in fact a log jam with information flow or not.

And the second thing is Board staff can perhaps take a peek at setting up an interrogatory process that would occur hopefully -- would have to occur if we are going to go ahead with the old line as well on the 7th of April after the Colt report would be available so the intervenors could have a copy of it. I will leave that with you. Let us know when you are through.

MR. MORRISON: Mr. Chairman, if I may, are we breaking for lunch or -- just so I know whether to go out and grab

something?

CHAIRMAN: No. I will hang in there until 1:00. Thank you.

MR. MORRISON: Thank you.

(Recess)

CHAIRMAN: Mr. McQuinn, the Board's Director of Safety just had his first crack at being a facilitator. He is ready for lunch, I think.

Anyhow thank you for spending the time to at least come up with a few dates here. My understanding is that there is really not a consensus in reference to a technical day.

What I'm going to suggest is that we reserve a date. And if intervenors inform the Board in sufficient numbers that they would find it a useful process then we will go ahead on that scheduled date. I don't want to burden anybody with more activity than is useful. So we will leave it at that.

But everyone, as I understand it, has agreed that -- first of all, Mr. Griggs has indicated that the existing or draft Colt report will be available momentarily.

Is that correct? Yes. For the sake of the record he nodded his head. And is that in electronic form?

MR. GRIGGS: It will be, yes.

CHAIRMAN: Yes. Okay. What I'm going to ask the

intervenor then, when can you reasonably anticipate we could have it at the Board, Mr. Griggs?

MR. GRIGGS: I think I should be able to transmit it tomorrow.

CHAIRMAN: Okay. I will ask all of the parties here who has an e-mail address and have computers that are able to receive the report in electronic form, let the Board Secretary Mrs. L, gŠre know.

If you are an intervenor that wants to receive a hard copy of it then we will make a hard copy. And it might take us a couple of days.

And if you live in the Saint John area, why if you want to get it quickly I suggest that you phone Mrs. L, gŠre and make arrangements to come by and pick up a copy. Otherwise please leave your mailing addresses with her after we break today. And we will send it out by mail to you. Okay.

So the dates for intervenor interogs to the applicant would be Thursday, March the 4th. I apologize to those of you who are on March break. But I guess you will have to get them done before you leave the Friday before. And then responses from the applicant to the intervenors on Thursday, March the 18th.

Now it is the Board's normal procedure that if a party

is for instance delivering questions that in addition to delivering them to the applicant, then they must also copy all of the other intervenors. That means that we the Board are not thrust in the middle with a terrible workload. And it is a speedier way to go.

You can phone the Board Secretary or speak to any of the Board staff about some way we might be able to facilitate those of you who don't have electronic means of communication.

But then again the applicant, when the interrogatories are responded to, then the normal procedure is of course the applicant sends it to all of the parties. And when responding, repeats the question at the beginning, so we just have really the one page that we are working from, rather than having to take the question and compare it with the answer on a separate sheet. That makes things more convenient.

Now technical conference. Mr. Vincent, if we had to have one -- I'm looking at some parties wanted to have it before the interrogatories were delivered. Other parties wanted to have it after.

There is no use in having a technical conference before Colt on behalf of the Board has been able to look at the information on the change of substance. So I'm

hopeful that that will be done relatively quickly.

But we can't predict that now because we haven't had an opportunity to review the first Colt report. And they haven't had an opportunity. So that is in a bit of abeyance.

But I'm going to suggest that what we do is we try the 19th of March which is a Friday. And you will have had your responses from the applicant's questions -- or sorry, the responses of the applicant to the questions in that interrogatory process before you go into that.

And I would ask the applicant together with -- I'm sure that witnesses from NB Power would probably be helpful as well, Mr. Vincent, to be available in that. And Board staff would certainly talk with yourselves and with NB Power about how that would be run, in other words assist you in preparing it.

And if any of the intervenors have questions concerning it or questions they wish to have covered or witnesses to be heard from, then I suggest that you get in touch with Mr. McQuinn at the Board. And he will pass that along.

I will ask you folks. Have I covered everything?

MR. VINCENT: Mr. Chairman, there were some questions that came out of discussions that I was having I think with

Mr. Dalzell and also Mr. Thompson and Ms. Flatt about I think the calling of witnesses. Mr. Dalzell was reviewing that. I don't know whether he got responses.

But I told him that my understanding is you normally give directions to the intervenors at the pre-hearing conference as to what notice they have to give if they intend to call witnesses and so on.

I was reading through the minutes of the Coleson Cove application, where I think you indicated that c.v.'s of witnesses had to be filed with the Board or presented to the Board, and any written evidence or written documentation that was going to be entered three days prior to the hearing.

But I didn't know that those terms -- that time period would necessarily bind you. But what I did tell Mr. Dalzell is I thought you might address that at this point.

CHAIRMAN: Well, you are very correct in what you said, Mr. Vincent. And thank you for reminding me and Mr. Dalzell, et cetera.

I think what -- let me see. Frankly, we will probably give a little bit more time, require each intervenor to give an indication of who is going to be called. I don't think that we will do as we have done with major intervenors in the past and require them to submit a

written examination in chief.

Unless counsel for the applicant has a great deal of difficulty, I would suggest that we would allow a witness to come, if in fact they cover the nature of what it is they wish to address the Board concerning in letter form.

Would that be all right, Mr. Vincent?

MR. VINCENT: Yes. What you are saying is that in the notice of the witness, if you like, the c.v. of the witness that is filed, that there would be a brief statement of the nature of the testimony that would be anticipated?

CHAIRMAN: Yes. That is correct. And for instance, that is a double function. Because then if there is something that witness wants to address us on that we have no jurisdiction over, then we can point that out to the proposed witness or whoever is calling them.

So we will probably require that sometime. I'm going to talk to staff after this over. And we will be sending it out to all the parties as to when that time would be.

Anything else that I have forgotten? Mr. Dalzell?

MR. DALZELL: Yes. Just in response to -- the first set of responses are for March the 4th, and then to March the 18th for the answers.

What about if there are another set of questions and

responses to refine the original ones? Will there be provision made for a second set of interrogatories?

CHAIRMAN: Let me describe -- I don't think in this instance that that is going to serve -- it might serve a purpose. But if so, it is outweighed I think by the inconvenience that it is going to cause.

Just because you submit a written question and get a written answer doesn't mean that you can't ask oral questions of any of the applicant's witnesses, or if NB Power presents some at the time of the hearing.

You don't have to submit written questions if you don't want to. And you always, as a formal intervenor, have the right to question orally the witnesses that come forward. It is as simple as that.

MR. DALZELL: Yes.

CHAIRMAN: And so therefore I think in this case that a second set is -- unless you have got an expert in your back pocket, Mr. Dalzell, that is prepared to run his own pig through the line or something, I don't think that that would be appropriate.

MR. DALZELL: Thank you.

CHAIRMAN: Okay. Anything else from anyone? Mr. Thompson?

MR. THOMPSON: Yes, Mr. Chairman. I just wonder if you could explain the technical conference a little bit?

CHAIRMAN: Well, it is an opportunity, when all of the intervenors who wish to can come. And the applicant will bring people who may well be those folks who are going to be witnesses at the time of the hearing.

And the Board staff can request, if in fact there is somebody from a government department who we might be calling as a witness who we think is important to come.

And questions can be asked of those people in a less formal atmosphere, without going on the record, so that everybody gets a greater appreciation of what it is that has been provided by way of evidence and what is going to happen.

Tends to cut out a lot of questioning again during the actual hearing day, et cetera. And people can get a better grasp of the subject matter. That is the way it is used.

MR. THOMPSON: So this technical conference, then it is the workshop that we were asked about at break, at intermission?

CHAIRMAN: Yes. I'm sorry. That is a regulatory term for it.

MR. THOMPSON: Yes. I was just -- I guess I just -- you know, okay, it's the same thing, okay. Now the sponsorship or ownership of this, is it the Board's or is

it the applicant's?

CHAIRMAN: I don't know what ownership means, frankly.

MR. DAVID THOMPSON: Well, I mean, who is holding it? I mean, who will --

CHAIRMAN: The Board is providing for it. And we are requesting the applicant, and if it is appropriate, NB Power and any members of the Pipeline Coordinating Committee to attend. And if there are questions that they can answer off the record for somebody's understanding, then you can do so.

That doesn't mean that you can't ask the same questions again in the oral hearing. It just gives people a better understanding of the normally technical evidence that an applicant has filed. It is as simple as that. It has certainly worked in other kinds of hearings.

And I offer it in this one to assist in people's appreciation of what it is that is going to be filed. I mean -- I guess I can't answer any better than that, Mr. Thompson.

MR. THOMPSON: Thank you. It is well answered.

CHAIRMAN: Yes. Okay. Anything else anybody has?

MR. VINCENT: A couple of housekeeping things, Mr. Chairman.

I think as far as the record is concerned, the hearing will be in the English language.

CHAIRMAN: Yes. That was in our Board notice. Thank you, Mr. Vincent. This is good that you are keeping track of the things that I have missed. And I mean that sincerely.

In reference to the Official Languages Act of this Province, why we have to ascertain at this particular hearing if this is to proceed, the language of the hearing is to be in the English language or the French language.

And I will simply go around the room. And I think what I will do, just to cut some time, because it is well past my lunch hour, is that I will ask those parties who wish to proceed in the English language, which we have all been doing today -- that doesn't mean that somebody can't ask for it in the French language -- if you want to have the language of the hearing be English, would you just raise your hand? And those in the French language? All right. Then the language of the hearing will be in English.

Anything else I have missed?

MR. VINCENT: Sorry. I'm not --

CHAIRMAN: No, no.

MR. VINCENT: -- trying to be overly whatever.

CHAIRMAN: I appreciate you doing this.

MR. VINCENT: The hearing dates may well be more than the two days of the week of -- when we begin on the 7th. And

first of all I presume the Board will not set Good Friday or Easter Monday?

CHAIRMAN: That is correct. That assumption is correct.

MR. VINCENT: So if there was an adjournment over, would that then resume on the 13th?

CHAIRMAN: That would be -- well, I'm trying to think if Easter Monday, if that is a holiday or not. Is it? Yes. All right.

Unless there is somebody in the room that has a problem with reconvening an adjournment on the 13th, why that is when we would adjourn to for the weekend, Mr. Vincent.

MR. VINCENT: And would the hearing continue through the Friday? Because that I know that in some other previous hearings the Board has indicated that it normally sits Monday to Thursday. And I only get that from some of my reading.

CHAIRMAN: No. And we have done that. I do not anticipate that it will go that long. That is my assumption. And it is a rather ragged way of doing it. And I don't like to do this. But we will be communicating with everybody in reference to, for instance, the Board's review of the Colt report and whether or not the Pipeline Coordinating Committee has been able to complete its review of the

application that went to the Minister for change of use on the old line.

And hopefully we can work everything through concerning both our hearing on the new line and the change of substance on the old on the dates here. If not then we will have to look at something else. I don't want to cross that bridge until I come to it. I hope that we are able to do just that.

So we will now adjourn until -- and the place of adjournment will be indicated to you. But I think we are going to have to -- we will have enough people there that we are going to have to have a -- rent a room in this hotel or somewhere else for that period of time.

Would you before you leave please contact Mrs. L, gŠre and either get from her an address that you can send your, as she terms them your coordinates, in other words how can we get in touch with each of you, before you do leave. Or get back to her this afternoon at the office and she can give you the telephone number.

Thank you, everybody. And we will see you in a month's time.

(Adjourned)

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

Reporter□