

COASTAL FIRST NATIONS GREAT BEAR INITIATIVE



OH-4-2011

NOTICE OF MOTION

Name of person Bringing Motion: Coastal First Nations

Decision or Order Requested

This Motion by the Intervenor, Coastal First Nations, is made pursuant to Hearing Order OH-4-2011 (the “Hearing Order”) and section 35 of the *National Energy Board Rules of Practice and Procedure*, 1995, SOR/95-208, for:

That the Testimony of Mr. John Carruthers, President of Northern Gateway Pipeline Ltd., identified in this Motion be expunged from the Hearing Record.

March 21, 2013

Date Submitted

<original signed by>

Art Sterritt
Executive Director
Coastal First Nations: Great Bear Initiative



Statement of Facts

1. According to the Hearing Transcript (A50909) for March 19, 2013, the Chairperson of the Joint Review Panel made the following ruling with respect to material filed by the Government of Canada on March 18, 2013:

31458. And in addition to that, the Panel notes the Government of Canada's position in its filing yesterday was not intended to be written evidence. As such, it will be removed from the registry. The documents filed appeared to be released publicly and made generally available by the Government of Canada.

31459. The Panel will only consider evidence that is properly filed on the record. Documents should not be filed on the public registry unless they are evidence filed in accordance with the Hearing Order.

2. On March 19, 2013, Mr John Carruthers, President of Northern Gateway Pipelines Ltd. repeatedly attempted to read into the record part of that information ruled expunged by the Chairperson of the Joint Review Panel, as noted in #1 above.
3. The specific instances cited in the Hearing Transcripts in which Mr. John Carruthers attempted to circumvent the Chairperson's ruling and improperly read evidence into the record are as follows:

March 19, 2013 (A50909)

- 31589
- 31590
- 31946
- 31947
- 31949
- 31951
- 31953
- 31955

March 20, 2013 (A50928)

- 332
- 333
- 334
- 359

4. Mr. Chris Tollefson, counsel to B.C. Nature and Nature Canada appealed to the Chairperson to have Mr. Carruthers' aforementioned testimony of March 19, 2013 struck (31950. **MR. TOLLEFSON:** --- somewhat facetiously, but could I just get a ruling here?).
5. Notwithstanding Mr. Tollefson's appeal and her own ruling as cited in #1 above, the Chairperson stated:

31981. I just want to confirm with the transcripts that we were able to capture all the evidence of the witness that was being presented when we had two people talking over each other.

Grounds for the Motion

6. Evidence has been placed on the record improperly.

Decision or Order Sought

7. CFN respectfully requests that the Testimony of Mr. John Carruthers, President of Northern Gateway Pipeline Ltd., identified in this Motion be expunged from the Hearing Record.

All of which is respectfully submitted this 21st day of March 2013.

<original signed by>

Art Sterritt
Executive Director, Coastal First Nations