



A Matter of
TRUST

THE ROLE OF COMMUNITIES
IN ENERGY DECISION-MAKING

Northern Gateway
Energy Pipeline



Case Study
Kitimat and Haisla Nation
British Columbia

CANADA WEST FOUNDATION & UNIVERSITY OF OTTAWA

We would like to thank those who agreed to be interviewed for this study. Their insights and contributions were invaluable in preparing this report.

As is customary, any errors of fact or interpretation remain the sole responsibility of the authors.

Copies of the *A Matter of Trust: The role of communities in energy decision-making* report and the six case studies are available for download on the Canada West Foundation and Positive Energy websites.

© Canada West Foundation and University of Ottawa 2016
ISBN 978-1-927488-37-9

Canada West Foundation is a registered Canadian charitable organization incorporated under federal charter. (#11882 8698 RR 0001)

2016 PATRONS

Centre for Natural Resources Policy

Arthur J.E. Child Foundation Endowment
Fund at the Calgary Foundation
Enbridge Inc.
Government of Alberta, Ministry of Culture and Tourism
Government of Manitoba
Government of Saskatchewan, Crown Investments Corporation of Saskatchewan
Government of Saskatchewan, Ministry of the Economy
Imperial Oil Limited
Max Bell Foundation
N. Murray Edwards/Canadian Natural Resources Limited
Richardson Foundation
Ron Mannix/Coril Holdings Ltd.

POSITIVE ENERGY'S Financial Supporters

Alberta Energy	Canadian Energy Pipeline Association
Alberta Energy Regulator	Canadian Gas Association
BC Oil and Gas Commission	Cenovus
Canadian Association of Petroleum Producers	Encana
Canadian Electricity Association	Natural Resources Canada

Nanos Research is our official pollster and our national media partner is The Globe and Mail.



uOttawa

POSITIVE ENERGY



CONTENTS

02 INTRODUCTION

03 COMMUNITY
CONTEXT

04 PERSPECTIVES
& ISSUES

09 REGULATORY
PROCESS

12 THE OUTCOME

13 ASSESSMENT AGAINST
THE FRAME

19 CONCLUSION

20 REFERENCES

INTRODUCTION

The Enbridge Northern Gateway project is a proposed twin heavy crude pipeline running from near Edmonton, Alberta, to a new deep-water port terminal in Kitimat, B.C.

In May 2016, researchers from the Canada West Foundation visited the communities of Kitimat and Kitimaat Village to interview residents about their confidence in the actions of public authorities and factors that lead to greater satisfaction with the energy infrastructure siting process.

Those comments are summarized and captured in this case study. In addition, quantitative polling of Kitimat residents and a secondary research assessment was undertaken by reviewing public records from the regulatory hearings, media articles and the project website.

The development and approval process

The National Energy Board (NEB) is the federal agency in Canada tasked with regulating pipelines. Projects that may cause adverse environmental effects or have a large degree of public concern can be referred to a joint review process. This was commissioned by the Minister of the Environment and the NEB in 2006. The Joint Review Process (JRP) brings together the NEB and the Canadian Environmental Assessment Agency (CEEA) to evaluate the technical and economic feasibility of the project, as well as the social and environmental

impacts to determine if the project is in the public interest of Canadians.

The JRP held 180 days of hearings in 21 communities across B.C. and Alberta. While the hearing process was initiated in Kitimat, more hearings (especially the final hearing and questioning phase), were held in Prince Rupert, B.C. In 2014, the project was approved with 209 conditions.

The project became one of the most controversial energy projects in Canada. It has faced opposition at various stages from its inception through the JRP process, and from different groups including environmental non-governmental organizations (ENGOs) and Indigenous communities and some residents in communities affected by the project. It has also been politically divisive, drawing both support and opposition from federal, provincial and municipal governments.

Despite receiving conditional approval by the JRP, the project did not go forward. Recent activity – talks of lifting the tanker moratorium (imposed by the federal government) and an extension application from Enbridge to meet the 209 conditions – was thought to give the project new life. However, a July 2016 decision from the Federal Court of Appeal overturning the approval was a serious legal blow to the pipeline’s chances of getting built. Following the decision, the NEB suspended the review of Enbridge’s request for an extension on the sunset clause for the project.

Enbridge conducts a project needs analysis	Kitimat is selected as the terminal location	Joint Review Panel formally established	Hearings	Project approved with 209 conditions
1998	2005	2010	2012	2014

COMMUNITY CONTEXT

The community of Kitimat, B.C., is at the heart of Canada's national infrastructure challenge. Kitimat sits at the head of Kitimat Arm portion of the Douglas Channel and its deep sea port is the third largest port on Canada's West Coast (Kitimat, 2016). The town of Kitimat was founded as an industry town. It was built in 1950 when the Aluminum Company of Canada chose it as the site for an aluminum smelter. A pulp and paper mill, methanol and ammonia plants are among the industries that once operated in Kitimat. Its population of 10,000 is about the same as 2001, after recovering from a decline of about 20 per cent following plant closures. A large percentage of Kitimat's labour force is employed in the manufacturing, construction and services sectors (Statistics Canada, 2011).

Kitimaat Village, about 10 kilometres downstream from Kitimat at the head of the Douglas Channel, is the principal residence for a majority of the 1,700 Haisla people. The Haisla Nation has occupied the territory since ancestors settled there about 1,200 years ago. The economy was based mainly on fishing of salmon and oolichan (a smelt-like fish). In 1890, the federal government set aside land surrounding the village for the Haisla people as reserve land (Haisla Nation, 2015). The Haisla Nation continues to use, occupy and rely on the land and surrounding water for sustenance and cultural heritage.

PERSPECTIVES & ISSUES

Kitimat is familiar with industrial development and there is an understanding of the benefits and costs that development can bring. Residents' opinions differ on how the Northern Gateway proposal would affect the community. It became apparent in interviews and polling that the community was split on the project. One in two of the polled residents support or somewhat support the Northern Gateway project, while two in five oppose or somewhat oppose it. The main themes were: threats to the local environment, safety concerns, impact on society and the way of life and culture for Indigenous people, job benefits, and issues with the process.

The community promotes on its website its ability to have industry and nature exist in harmony, with the tag line, *A Marvel of Nature and Industry*.

“Kitimat is proof nature and industry can co-exist. But it has to be done right.”

(Phil, elected representative)

Although some contend that nature and industry can co-exist, not everyone agrees. There are some who feel Kitimat has not done it right.

“This town seems to be all about industry. With the Rio Tinto project, we don’t even have access to our local beach and boat launch. We don’t even have a public arena. It is odd that we don’t even have a harbourmaster. It seems that Kitimat is here to be used, doesn’t matter how it’ll be after, as long as there is profit to be made.”

(NEB, 2012, p. 36)

Some felt Kitimat was bearing the risk without getting sufficient benefit for the Northern Gateway project. Some residents, who participated in the regulatory hearings in Kitimaat Village, were less supportive of industry involvement in Kitimat.

Environment and Safety

Perhaps the biggest concerns with the Northern Gateway pipeline are around safety and spill risk. Three in four residents agreed or somewhat agreed that a risk of accident could harm the Kitimat community. The key question was how big was the risk and how will it be managed. In particular, some respondents described the close connection they feel with the natural beauty of the region and expressed fears over the risk of an oil spill that would irreparably damage the ecosystem of coastal B.C. People in Kitimat are worried about how high the spill risk would be, and what the effects would be on the Douglas Channel and the many fish, killer whales and humpback whales that swim in the waters, as well as marine birds that rely on the habitat.

“Containing even a small spill would be challenging considering bitumen will sink, the regular strong southerly winds in the Douglas Channel and accompanying whitecap swells.”

(NEB, 2012, p. 27)

Other participants indicated the root of their concerns was with the product being shipped – bitumen. Participants had concerns with bitumen being highly corrosive and sinking, in the event of a spill. As described previously, there are other existing industrial activities that rely on the use of the channel, including the aluminum plant. A spill resulting in unprocessed bitumen leaking into the water could hamper all activity in the channel.

“It’s not the company, it’s the product in the pipeline and tankers. Pipelines are the safest option, but on shipping, can’t guarantee safety. One accident could wipe out the Douglas Channel.”

(Phil, elected representative)

While a prominent issue for the wider environmental opposition was climate change, in Kitimat, it was more about concerns that there might be a repeat of the 2010 oil spill from Enbridge’s Line 6b pipeline in Kalamazoo, Mich., or even the Exxon Valdez spill at Prince William Sound in 1989. Residents fear the destruction of the pristine beauty of northwest B.C. Three in four of Kitimat residents agreed or somewhat agreed that the project risks harm to the environment in Kitimat and beyond. Several Kitimat community members indicated their attitude toward Enbridge was influenced by the company’s reputation in North America, including the way it handled the Kalamazoo River spill. There was a general lack of confidence in Enbridge’s ability to minimize the risk of a spill and the quality of the spill response.

“If you want to hire a truck driver to move something very precious to you, who would you hire – someone that has had lots of tickets and accidents or someone who has not? If I could hire a company to build a pipeline, it wouldn’t be Enbridge.”

(Tom, resident)

“I am not anti-industry, but look at the reputation and response (prior cases) and Enbridge fails on all fronts.”

(Anonymous3, resident)

I have always believed that the way to judge someone is by his or her actions and not by their words. We have the advantage of reviewing Enbridge’s actions, and it is less than complimentary, most notably, the number of leaks and spills at their facilities, their cleanup efforts and how the victims of the spills are treated

(NEB, 2012, p 30).

Another significant concern was potential contamination of the Kitimat water supply because the pipeline route is planned to go through the Kitimat River watershed. People are concerned about the quality and speed of the leak detection system during high tide season or in winter when the Kitimat River is frozen.

“I have concerns about the drinking and fresh water supply being contaminated for years.”

(Tom, resident)

As the opposition to the Northern Gateway project grew, it became about more than just the project. An environmental movement spread through B.C.,

and Northern Gateway faced opposition across the province. As the opposition grew, concerns were expressed about the level of the Stephen Harper government's commitment to environmental concerns, the effect of Chinese investors in Canada, and the federal government's withdrawal from the Kyoto protocol. Some participants mentioned the influence of external organizations that were funding interest groups and were active in the community.

"It wasn't even about oil anymore. It wasn't one thing. It wasn't even about Gateway."

(Lucy, former proponent)

Impact on society, way of life and culture of Indigenous people

A major concern for the Haisla Nation was how a spill could affect members' traditional way of life. The Haisla people are dependent on the land and they still harvest food from the sea, which is a part of their culture. A spill in the Douglas Channel would affect their food source. While Kitimat residents are less dependent on the Douglas Channel for food, they mentioned habitat protection and enhancement as a concern.

"If I lost the ability to hunt and trap, I don't think I would be able to survive. I don't think the Haisla Nation would be able to survive. We live off the land and most of what we eat is from the land. I'm afraid that our culture will die off if my people's ability to hunt and fish were lost."

(NEB, 2013, p. 44)

In its final written argument submitted to the National Energy Board, the Haisla Nation stated the project is not in the public interest and failed to consider a number of key areas, including the impacts (including environmental) on the Haisla people. There was also a sense there is lack of understanding of the Haisla Nation's claim to Indigenous rights and title to the lands, water and resources impacted by the project and proper engagement for the latter (NEB, 2013, p 4).

"I know it's going to generate money. I thought about all those things, but my strong belief is keeping the traditional way."

(Anonymous1, Haisla Nation)

There was a deeply held value that the Haisla Nation has the most to lose in the event of a spill because of members' deep connection with the land, for past and future generations.

"Each year, we start the process of harvesting for winter... teaching our children to prepare for the winter. It's a process that we teach our children to bond with their family, to bond with the Earth. And to remove that is removing the Haisla from the Earth, and that's what you will do if you allow this pipeline to go through.... The harvesting of our resources that are important to our people is that because our language and our culture do not survive alone... Without our resources, I believe that there is no connection to the land and there's no anchor to hold our people together. I fear that the Haisla culture will be exterminated."

(NEB, 2012, p. 33)

“Haisla have the most to lose. For example, I could sadly up and move if there was a spill. But not for the Haisla, with generations and generations connected to the land.”

(Kelly, resident)

Jobs and economic benefits

The key concern with Northern Gateway was the negative impact on the environment, but residents were also aware of the potential economic benefits. A majority of polled residents agreed that the project creates local jobs and provides financial benefits to the municipal, provincial and federal government.

“A lot of people were concerned about the job growth and environment, but the two can survive together and that opinion needs to be considered.”

(Ron, business community leader)

There were three main themes: 1) participants wanted job opportunities in Kitimat; 2) some participants felt the project presented benefits to governments and Enbridge but the jobs in Kitimat were overestimated and not sufficient; 3) there was an overwhelming sense of the need for a refinery in Kitimat and not just a terminal.

The pro-project voices in the community spoke about economic growth and job opportunities that would result from the project, and getting Canada’s oil to market in the safest way possible. Seventy-seven per cent of polling respondents agreed or somewhat agreed that the project creates local jobs. With the shutdown of both the pulp and paper mill and the Methanex ammonia plant, as well as Alcan reducing its workforce, jobs for future generations are a growing concern in the community. Residents in favour of the project recognize the value of jobs and

“...are adamantly in favour of development that is sustainable and environmentally responsible.”

(Phil, elected representative).

“I was in favour from the start. My view then and now hasn’t changed. Have to look at it as a Canadian, we have to get oil to market that is in the public interest. As a British Columbian, you see the benefits to the provinces – taxes et cetera. As a lifelong resident of Kitimat, I do have concerns about safety, but I am confident that those concerns could be addressed by proper regulations and enforcement.”

(Ron, business community leader)

“When you watch the news federally, they don’t know Kitimat is open to business. Not necessarily to Northern Gateway, but open as a venue for oil and gas coming from Alberta.”

(Mario, elected representative)

The concerns with the project were not limited to the environmental and social aspects. While some interview participants recognized the project might be beneficial for the province, federal government, the oil sands and Enbridge, they were highly skeptical of the claims around potential economic growth and full-time jobs. Some participants cited experience with Alcan, which estimated that the smelter would help the community grow to 60,000. The number never went higher than 15,000.

“The standard belief is that these types of projects inflate the job numbers because they want to get public support.”

(Anonymous, resident)

The possibility of a refinery, however, changes the discussion in Kitimat. Many in Kitimat thought that when exporting Canada's resources, it is important to extract as much value and jobs as possible from that commodity. While a great deal of opposition centred on environment and safety concerns, many participants had serious concerns with exporting "raw product" because that does not extract full value and therefore is not in Canada's best interests. During the regulatory process for the Northern Gateway project, media owner David Black announced plans to pursue an oil refinery in Kitimat. There is a sense that the community response to a refinery has been very different.

"Kitimat is a value-added hub. One of the biggest issues was the lack of a refinery. With the smelter, Eurocan pulp and paper mill – all brought materials to process it in Kitimat."

(Anonymous)

"As a community, [we] are opposed to Gateway but, as a community, [we] have also voted on council to pursue a refinery."

(Mario, elected representative)

Process before formal hearing process

A big concern in the community was how the consultation and engagement process played out. Broadly, affected communities need to be engaged early, continuously and respectfully. There was a strong sentiment that Enbridge and the government did not do that.

"On Northern Gateway, they (Enbridge) really failed on the consultation part of things. They bullied their way through, found resistance and started to scramble.... The community meetings felt like they were just checking off their list so they could say they had consulted with the community."

(Kelly, resident)

"The team came in with an air of arrogance. Walk like Calgary, talk like Calgary, dress like Calgary. Can't wait to get on a plane out of the small town."

(Lucy, former proponent)

The recent decision from the Federal Court of Appeal that overturned the approval of the project highlighted the failure of the federal government to consult with First Nations people affected by the project.

"I was kind of shocked because they heard our concern [at the NEB hearing]. The government never approached us or anything. They went ahead and did what they wanted to do."

(Anonymous, Haisla Nation)

REGULATORY PROCESS

There is a general sense in the interim report interviews that people blame the process if the decision on a project is not in line with their individual perspective. It begs the question of what a fair decision is. Overall, Kitimat residents have a fairly low level of confidence in public authorities. Fifty-four per cent of polled residents do not trust the regulators to make decisions about energy projects. Some of that can be seen in the Kitimat case study but several broader engagement and procedural issues were also brought forward.

Issues with the regulatory process

There was recognition among interview and polling participants that the community and the regulator strove to make the hearings extremely respectful. Sixty-three per cent of polling respondents agreed or somewhat agreed that the process was respectful. It was stated that the hearings were full of emotion and not easy for the panel members to sit through.

“I want to tell you that I admire the three of you and your faithful staff for having the stamina to endure all the travelling and the absences from your homes and families. That must be very difficult. I admire your ability to listen attentively to so many voices.”

(NEB, 2012, p. 44)

There was a general lack of trust in the ability of the regulators to make a fair decision. A little less than half of the polled residents (40 per cent) thought public authorities made the wrong decision about Northern Gateway; 35 per cent thought they made the right decision.

“...that brings up, what is the definition of fair. Is fair what I want? Or is fair that the whole evidentiary record was considered and expert tribunal made a recommendation?”

(Sheila, former regulator)

Some participants felt that the decision was made even before the process started. Other participants, in support of the project, stated it was a thorough process, and perhaps too exhaustive, so that everyone had the opportunity to be heard.

“Windows of opportunity for a project only last for a short while. If they drag their feet, then you miss the opportunity. It has to be streamlined. Otherwise, [we] will never reach consensus on any project.”

(Ron, business community leader)

“It was an in-depth process. But you look at NEB and 99 per cent of projects get accepted right away, so it leaves a bitter taste. It is there to have projects go forward. Their premise is to get projects through; they are not looking at the public interest as their predominant concern.”

(Anonymous 3, community member)

Some participants trusted the JRP to make a fair decision but emphasized the importance of the regulator’s independence from government and politics.

“It was a fair decision. I have faith in the JRP; no faith in politicians. JRP is non-political, fairly exhaustive and no one who wanted to make a submission was denied. Election promises lead to dumb decisions. With politicians, there won’t be an emphasis on the best interests of Canadians.”

(Ron, business community leader)

“I do have faith in the institutions. They are probably not perfect and there is always room for improvement but, in the absence, what do we have? The assessment process met my expectations.”

(Mario, elected representative)

Opposition across British Columbia – and Canada – was considerable. Across Canada, 130 First Nations signed the Save the Fraser declaration. In 2012, then-federal Natural Resources Minister Joe Oliver issued an open letter branding oil pipeline opponents “radicals” attempting to “hijack” the hearing process with funds from “foreign special interest groups.” (CBC, 2012) Some participants in Kitimat alluded to U.S. groups trying to control the agenda.

The B.C. government opposed the project because Northern Gateway did not address environmental concerns. This was echoed in Kitimat, where almost half of the polled residents were not satisfied with how the community concerns, environmental impacts and spill risks were considered. These scenarios added to the mistrust in public authorities and highlights the need of an independent regulatory system.

A major concern with the regulatory process was the “in-and-out” nature of it. This was in keeping with interviews previously conducted with elites involved in the project: regulators, corporate executives, and First Nations leaders. In both cases, responses said that, to be effective, the regulator needs to be seen as human and that communication has to be face-to-face, direct and personal.

The interviews confirmed the elite interview finding that language matters; regulators need to communicate the decision in plain language. Some participants also highlighted the need for engagement or feedback after the panel released its report.

“JRP hearings were very sterile, not many ways to engage. Trust requires elements of the heart.”

(Lucy, former proponent)

“You say your piece and there is no response. Thank you for your comments. No, ‘This is how we will address your concerns,’ no feedback.”

(Anonymous 3, community member)

“Ask anyone in Kitimat when was the last time they saw anyone from the NEB? It was the last day of the hearing. They just took off and left.”

(Anonymous)

It was noted that while the panel would have liked to present the final report to the communities and people engaged in the process, to maintain the level of engagement that they tried to establish throughout, there are legal considerations that might not allow them to engage after the final report is released.

THE OUTCOME

In 2013, the JRP panel released its report with 209 conditions. The report and decision was met with opposition. Many opponents felt that the JRP did not have sufficient evidence to conclude that the project would not result in significant environmental impacts and that Canadians were better off with the project than without.

This was followed by several thousand people rallying against pipeline expansion in Vancouver. In 2015, eight Aboriginal bands, four environmental groups and a labour union attended the Federal Court of Appeal in Vancouver, trying to overturn the government's approval of the plan to build the pipeline. In June 2016, the Federal Court of Appeal issued a decision that further Crown consultation is required on the Northern Gateway project.

Throughout the JRP hearings, the Kitimat town council had a neutral stance on the project and did not participate in the hearing process in an official capacity. In 2014, the Town of Kitimat held a non-binding plebiscite. The community voted 'No' to Northern Gateway, with 58 per cent opposed.

The plebiscite was expensive to conduct and contentious. It pitted neighbour against neighbour and created tension in the community. Some participants claimed that quite a few people who were in favour of the project did not vote. However, the vote was considered to be a moral victory for many opposed to the project.

“People felt like if they showed up to speak positively about Enbridge, how will it ostracize them from their peers and family.”

(Lucy, former proponent)

“A good friend of mine left the community because of it. He was part of the opposition but changed his mind and had to move.... It got too intense.”

(Ron, business community leader)

The interviewers sensed that Northern Gateway remains an unpopular topic of discussion in Kitimat, even with news coverage of Enbridge's application for extension and the court decision. It is almost as if the town is recovering from the intense response to the project and mending relationships that were damaged and tensions that were created as a result of the project.

Assessment against

THE FRAME

This section assesses the case study against the framework set out in the interim report that focused on the notions of context, values, information and engagement.

Context

Any discussion about reforming the regulatory system is incomplete without understanding the context of what was taking place in the communities affected by a specific project. One of the biggest failures of this project, identified by supporters and other participants, was the lack of sensitivity to community context and a local voice on the project to advise the proponent and regulators along the way. There was a perception that the team in Calgary did not have a true understanding of the context of a northwestern B.C. small community. Further, there was a sense that the project also needed to be considered in the broader Canadian context.

“It was a complicated project in a very complicated time in Canada.”

(Sheila, former regulator)

There was a sense in the interim report interview findings that regulatory decisions were hobbled by unresolved policy issues. These issues are beyond the regulator’s mandate, specifically on climate change and rights and responsibilities of Indigenous communities. Climate change and broader unresolved

policy issues were not an issue in the Kitimat case study. An exception was the understanding and recognition of Indigenous treaty rights. Opposition in Kitimat was centred around risks of oil spills, tanker traffic on the Douglas Channel and contamination of the town’s water supply. However, some participants pointed out that opposition to the Gateway project was widespread, ranging across the province and Canada. By the end, it became *“like a religion”* and eventually was not about the specific project anymore.

“People were radical on both sides.”

(Kelly, resident)

The unresolved issues around Indigenous rights and consultation were key in the community. As evidenced by the recent Federal Court of Appeal decision, there was a strong sentiment that the Indigenous communities (including the Haisla Nation) were not properly consulted in the decision-making process.

“They didn’t do a very good job of consulting. They had to start earlier, know the territory you’re in, set a relationship.”

(Anonymous1, Haisla Nation)

“Before you go into a formal consultation process, how about share a meal together, build a trusting relationship and try and better understand the community?”

(Lucy, former proponent)

The senior stakeholder interviews highlighted a crucial question as to how regulators function. People want them to be open, engaged, informal, working in partnership with others, effective real-time communicators and yet somehow judicial, objective and guardians of the integrity of regulatory processes. The regulator was seen as an outsider, parachuting into the community for short periods of time to make some important decisions that would affect the community on a daily basis. The complexity of balancing engagement and objectivity should not be underestimated.

“When you’re on a panel, you don’t see anybody. It’s like being a judge. It’s a very lonely life because you can’t talk to anybody, because you just can’t be influenced outside of the record. It’s the record. Maybe that’s not been explained well enough, either.”

(Sheila, former regulator)

Perhaps what used to be seen as an independent body is now seen as an arm of the broader political mechanism. The makeup of the JRP panel was questioned by several participants and their backgrounds and connection to energy – real or perceived – led some people to not trust them to be fair. Opinion was split on the independence of regulators. Thirty-four per cent of polled residents disagreed with the statement that regulators are independent of government and industry; 12 per cent somewhat disagreed. Twenty-three per cent, however, agreed and 23 per cent somewhat agreed that they were independent.

“[The regulatory panel] didn’t have the credibility it needed. There was a sense in the community that, no matter what, they will be approving it anyway.”

(Phil, elected representative)

“[They must] ... act without influence from the governing political party. I did research on the panel, and right away I thought – two for the project and one against, just from the bios. The first step is to pick an independent panel, have to be knowledgeable but without pre-determined viewpoints on oil development.”

(Kelly, resident)

The theme of “co-creating” processes could be useful in future applications.

“When you’re setting up a process, you need to consult on the process.”

(Sheila, former regulator)

While the regulator did consult on process in terms of pre-hearing, there are lessons to be learned and more work to be done on broader consultation about the regulatory process, such as who will be involved, timeframes, and key issues.

Information

According to the polling results, a high majority of Kitimat residents (98 per cent) are aware of the Northern Gateway project. There was recognition that information was available and there were a number of avenues to get information. Sixty-four per cent of polled residents had access to information and decisions if they were interested. Most participants acknowledged that Enbridge did provide information

through newsletters, pamphlets and websites. However, people turned to family, friends and social media to get information.

“People could go to the Northern Gateway website. More often, people used social media to understand what was going on. You’d go to the farmers’ market and there would be a flash mob. A booth. It felt everywhere you turned, Douglas Channel Watch was there. Bumper stickers and signs, and rally in the park on a Wednesday night.”

(Lucy, former proponent)

A grassroots movement against the project also developed. The Douglas Channel Watch played a prominent and key role in disseminating information in the community. The fact that Douglas Channel Watch members were lifelong members of the community worked in their favour.

“You can’t just open up an office in a mall and say you’re an equal member in the community.”

(Kelly, resident)

“There was no shortage of effort to make information available. But [you would earn] more credibility if you build a relationship and have trust.”

(Anonymous)

There was a sense that information put out by Enbridge was discounted because it was the proponent. Some participants did go to the Northern Gateway website to get information. They said the information there was more of a “*rubber stamp to get through the regulatory process,*” or, there was a sense that the entire picture wasn’t presented.

“They put out information, but once you dissected it, people would find problems.”

(Phil, elected representative)

An example, mentioned by several participants, was a map by Enbridge that depicted a clear path for tankers. The map omitted several islands on the Douglas Channel (CTV News, 2012), and the perceived deception sparked outrage and bred mistrust in the community. Half of the residents that were polled think that the federal government should have been responsible for providing information about the project.

This case study challenges the interim report finding that communities and individuals have to become better informed. It has been argued that there is room for broader energy literacy in the community – people don’t understand the breadth of energy development. However, civil society leaders and residents who participated in the hearings did their research and were very informed.

“I try to be open-minded and look at various angles. I looked at what Enbridge said and the environmental groups. You have to read between the lines and filter the garbage from both the positive and negative messages and confirm sources and information. I listen to both sides, did a considerable amount of research, and then made a decision.”

(Anonymous 3, member of community association)

There was a sense, however, that some people did not understand the complex procedures of the regulatory hearing process but did understand that the JRP hearing was their only chance to present their perspective on the project. Eighty-one per cent of polled residents agreed or somewhat agreed that opportunities to question project proponents existed.

“It was the only process they had and they came very well prepared.”

(Lucy, former proponent)

An unclear aspect of the regulatory process is an understanding of the regulator’s mandate and scope of decision-making. An understanding of the importance of the final report, the conditions that are the backbone of the quasi-judicial review was lacking in the community. It was noted that the NEB staff held online workshops and issued newsletters to clarify questions about participation. However, participants still felt the regulator was not present and the procedures not understood. Channels matter, and this reinforces the need for face-to-face communication and the regulator being present in the community.

Values

The strongest value and priority that emerged from the interviews was related to environment and safety. The interim report contextualized questions around distributive justice and how they are answered in terms of values and interests. In the Kitimat case study, the community felt it was losing because the risks outweighed the benefits. Tolerance of risk, or the lack thereof, as pointed out in the interim report, was a common theme.

The strongest reason related to the support for the project in Kitimat was the economic and job opportunities. Three in ten polled residents said that the reason behind their view on the project was because the project is necessary for the economy, local energy development and job creation.

Most residents’ views on the project did not change over time: 63 per cent of those polled said they still have the same perspective. For those whose views

have changed to support or oppose the project, the main reason was jobs or the environmental impacts and risk of a leak.

A few participants felt their concerns weren’t adequately addressed through the JRP process while others felt they had been heard. Fifty-five per cent of polled respondents agreed or somewhat agreed that community concerns were taken into account for the decision, 41 per cent disagreed or somewhat disagreed.

“It seemed like they weren’t taking the thousands of submissions against safety seriously; those opposing were not treated as credible. There was the belief that, no matter what, they would build it and we would have to live with it.”

(Phil, elected representative)

“When asked hard questions, Enbridge’s panel would respond by passing the question like a hot potato, no one wanted to answer, or had the answers. You just lose confidence in a company when that’s how your concerns are handled.”

(Kelly, resident)

Some participants acknowledged that some of their concerns were addressed in the JRP process.

“In JRP report and conditions, some concerns were looked at, but others weren’t. The employment concerns weren’t addressed, benefits need to be maximized for B.C., Alberta and Canadians... Canada exports raw resources – the value-add is elsewhere.”

(Anonymous3, community member)

Engagement

In the eyes of the interested community interview participants, both the proponent and the regulator failed on the engagement front. It is not as if efforts were not made. However, as recognized by the proponent, they started off on the wrong foot by not fully understanding how best to deal with these communities. Interestingly, the polling results paint a different picture, where 66 per cent of the polled general public agreed or somewhat agreed that early opportunities to learn about and influence the project decision existed.

A recent decision from the Federal Court of Appeal found the federal government had not adequately consulted the First Nations affected by the project. The decision found that the federal government only offered a brief, hurried and inadequate opportunity to have a meaningful dialogue and ignored entire subjects of interest to the affected First Nation communities. This sentiment was echoed in the interviews. One interviewee said the hearings, *“could have been clearer and started earlier.”*

(Anonymous 2, Haisla Nation)

The senior stakeholder interviews indicated that regulators have been slow to adapt to changing times. The question is: Change in what direction and to what effect? The regulator’s evolving role of engaging the community early was echoed across stakeholder groups. However, the engagement needs to be genuine. The regulator and proponent need to get out into the community to understand what the issues are and reach common ground on what the process will look like, including expectations of timelines.

“For that, you need to meet people in the community, where they are, and understand how they engage. And build your process and strategy around that.”

(Lucy, former proponent)

“We all continue to learn. It’s how do we reset the framework so that we can have a discussion that’s meaningful, as opposed to the degree of polarization against yes and no.”

(Sheila, former regulator)

There is some sense that learnings from the Northern Gateway case are being applied and the proponent’s engagement strategies are starting to evolve.

“It has changed, [the engagement] is much less of an ad campaign.”

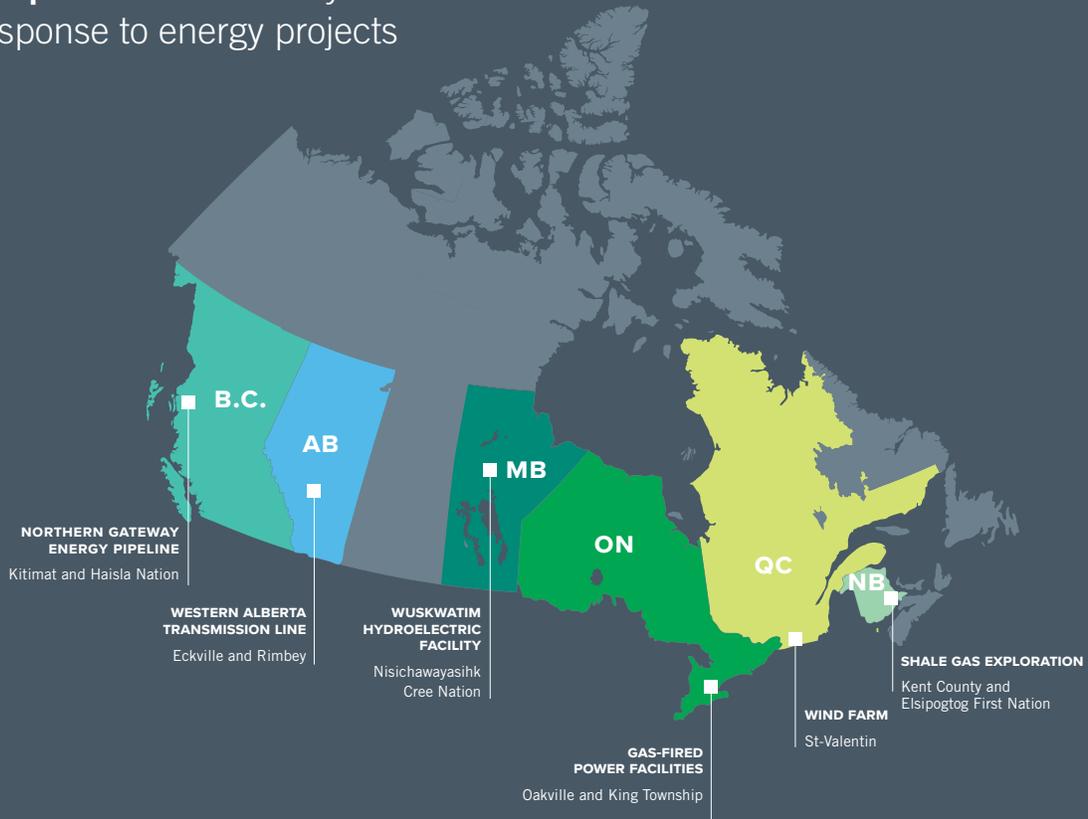
(Anonymous)

For the regulator, while presence in the community emerged as being key, a new process should not add to the confusion in understanding the role of the regulator. A front end consultation on the broader process, the key concerns for the affected communities is an option that would hopefully set the stage more clearly for what the process and scope of the regulator’s decision-making.

“We need to reach common ground on what a process looks like. What it involves, what the expectations of timelines are so you can create a process that will be as effective as you can make it within the boundaries of what you have to deal with.”

(Sheila, former regulator)

Snapshot of community response to energy projects



Kitimat

1 in 2

support or somewhat support Northern Gateway

Eckville and Rimbey

More than 1/2

of residents said a fair needs assessment showing the need for WATL would change their support

Nisichawayasihk Cree Nation

COMMUNITY INPUT

during design and planning led to significant redesign

Oakville and King Township

More than 70%

were concerned about local environmental impacts

St-Valentin

THE "FLIP"

to a new proponent undermined trust in both the proponent and public authorities

Kent County

59%

expressed low confidence in the capacity of the regulator to enforce rules

Nanos Research on behalf of the Canada West Foundation and University of Ottawa's Positive Energy project conducted surveys between July and September 2016 with 1,775 respondents to assess views within each case study community on the role of local in energy decision-making.

CONCLUSION

The project emerged in a time when Canada was renegotiating its energy systems and experiencing an awakening about energy and the environment. The degree of opposition to this project was unexpected and unprecedented, and is rooted in the project's potential environmental social and economic impacts. The broader rhetoric has been political and extremely divisive. As evidenced by the case study, people directly impacted have seen some of these tensions in their communities.

With the opposition being as widespread as it was, the Northern Gateway decision became a mechanism to raise broader issues, such as the link between enhanced shipment of fossil fuels and climate change. While these issues were brought forward by external organizations, this was not necessarily the case in the affected communities. Interview participants expressed legitimate local concerns about spill risk, spill response, impact on their water supply and the economic benefit to the community. However, the case study affirms the interim report finding that there is a need for separate forums where climate change and broader policy issues can be debated so they don't overtake regulatory hearings designed for specific project decisions.

The finding from the interim report that talks about the challenges of solution-seeking in the world of communications, where we can get as much information as we want, is particularly relevant to the Northern Gateway experience. While chasing the Twitter cycle can be seen as unproductive, it is important to be mindful of how people are accessing information. The availability and completeness of information is crucial in shaping attitudes about a project. Communications about the project were conveyed via traditional media, for example, while people were increasingly turning to social media for information. Further, the information provided by Enbridge was seen as being incomplete or not conveying a truthful picture.

There was a powerful sense in this case study that participants did not get the genuine engagement and consultation they were looking for – on the part of the proponent, the regulator or the government. However, the general public seemed to think there were sufficient avenues to be engaged early in the process. Nevertheless, the interim report finding of the need for face-to-face, direct and personal engagement is reinforced – for all stakeholders. A key component that was missing was the understanding of community context, especially in the earlier stages of the project.

REFERENCES

CBC News. (2012). Radicals working against oilsands, Ottawa says. Retrieved from:
<http://www.cbc.ca/news/politics/radicals-working-against-oilsands-ottawa-says-1.1148310>

CTV News (2012). Enbridge depiction of clear tanker route sparks outrage. Retrieved from:
<http://bc.ctvnews.ca/enbridge-depiction-of-clear-tanker-route-sparks-outrage-1.916234>

Haisla Nation. (2015). Kitimaat Village. Retrieved from:
<http://haisla.ca/community-2/kitimaat-village/>

Kitimat. (2016). Port of Kitimat. Retrieved from:
<http://www.kitimat.ca/EN/main/business/invest-in-kitimat/port-of-kitimat.html>

National Energy Board (NEB). (2012). Kitimaat Village Hearing Transcript. Volume 58. Retrieved from:
https://docs.neb-one.gc.ca/ll-eng/llisapi.dll/fetch/2000/90464/90552/384192/620327/628981/827122/12-06-25_-_Volume_58_-_A2U3Q5.pdf?nodeid=827123&vernum=-2

National Energy Board (NEB). (2013). Haisla Nation Final Argument: Northern Gateway Pipeline project. Retrieved from: https://docs.neb-one.gc.ca/ll-eng/llisapi.dll/fetch/2000/90464/90552/384192/620327/624910/693017/960020/D80-104-2__Haisla_Nation_Final_Written_Argument_-_31_May_2013_-_A3IOV0.pdf?_gc_lang=en&nodeid=959797&vernum=0

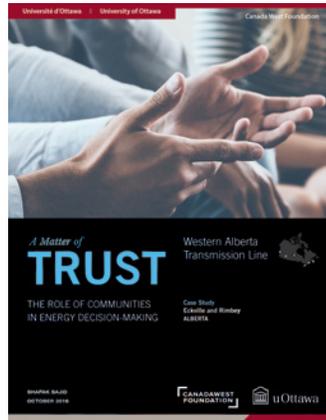
Statistics Canada (2011). National Household Survey. Profile for Kitimat, BC. Retrieved from: <https://www12.statcan.gc.ca/nhs-enm/2011/dp-pd/prof/details/page.cfm?Lang=E&Geo1=CSD&Code1=5949005&Data=Count&SearchText=kitimat&SearchType=Begins&SearchPR=01&A1=All&B1=All&Custom=&TABID=1>

The six case studies are available for download on the Canada West Foundation (cwf.ca) and Positive Energy website (uottawa.ca/positive-energy)



NORTHERN GATEWAY ENERGY PIPELINE

*Kitimat and Haisla Nation
British Columbia*



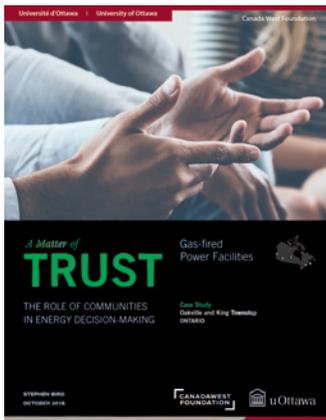
WESTERN ALBERTA TRANSMISSION LINE (WATL)

*Eckville and Rimbey
Alberta*



WUSKWATIM HYDROELECTRIC FACILITY

*Nisichawayasihk Cree Nation
Manitoba*



GAS-FIRED POWER FACILITIES

*Oakville and King Township
Ontario*



WIND FARM

*St-Vaentin
Québec*



SHALE GAS EXPLORATION

*Kent County and
Elsipogtog First Nation
New Brunswick*

THE CENTRE FOR NATURAL RESOURCES POLICY
CHAMPIONS THE RESPONSIBLE DEVELOPMENT
OF WESTERN CANADIAN RESOURCES
TO SAFEGUARD CANADA'S PROSPERITY.

THE UNIVERSITY OF OTTAWA'S POSITIVE ENERGY PROJECT
USES THE CONVENING POWER OF THE UNIVERSITY
TO BRING TOGETHER ACADEMIC RESEARCHERS AND
DECISION-MAKERS TO DETERMINE HOW ENERGY RESOURCES
CAN BE DEVELOPED IN WAYS
THAT GARNER SOCIAL ACCEPTANCE.



uOttawa

POSITIVE ENERGY