Thank you for this opportunity to address the Expert Panel on the subject of the CEAA Environmental Review process. I first want to acknowledge that we are meeting on the traditional territory of the Musqueam, Squamish and Tsleil-Waututh First Nations.

My name is Eoin Finn, and this is my 40th year living in BC. I hold a B.Sc. and Ph.D. in Physical Chemistry and an MBA in International Business (the latter two from McMaster University), and I retired some years ago as a Partner in the major Accounting/Consulting firm of KPMG. So I know more than a little of both Science and business. I am currently volunteering as Director of Research for the NGO My Sea to Sky, which was formed in the early stages of the Environmental Assessment review of the proposed Woodfibre LNG project in Howe Sound, BC. That was my first – but not only – experience with the confusing and ineffective labyrinth that is Canada's EA process.

Much like Mark Anthony's eulogy of Julius Caesar, I can state at the outset that come to bury the current CEAA process, not to praise it. I view your task being less a renovation than a tear-down and rebuild. We wouldn't all be here if it were otherwise. The very public standoffs – Standing Rock, Unistoten, Madii Li, Burnaby Mountain, Lelu - to name but a few, stand here in mute testimony that the current EA process is broken well beyond simple tinkering repair.

That said, it is clearly in the interests of proponents, governments and the public good that it be replaced with a robust, trusted process, lest our environment is crippled, Canada becomes an investment black hole in the eyes of the world, our economy stagnates and our youth rebel against those who left them such a mess.

If my presentation runs a little over my allotted time, I hope you will allow me some leeway in that. I have much to say, sprinkled with examples from my experience of the Woodfibre and other-project EAs.

In carrying out the review, this Panel has to consider the following matters:

- *How to restore robust oversight and thorough environmental assessments of areas under federal jurisdiction, while working with the provinces and territories to avoid duplication?*
- *How to ensure decisions are based on science, facts and evidence and serve the public's interest?*
- *How to provide ways for Canadians to express their views and opportunities for experts to meaningfully participate?*
- *How to require project advocates to choose the best technologies available to reduce environmental impacts?*
- *How to ensure that environmental assessment legislation is amended to enhance the consultation, engagement and participatory capacity of Indigenous groups in reviewing and monitoring major resource development projects?*

I will summarize my testimony on these matters in the following points:

1. Restoring Trust: Post-CEAA2012, it is clear that many citizens, like me, have lost trust in the way we assess and make decisions about these projects. CEAA and NEB are widely regarded as merely "gift shops for well-heeled proponents". Voters were promised "real change", a new, fairly-balanced EA process, but all we got instead was lipstick on what remains, to all external appearance, a pig. The promise was further broken to allow in-process EA's to complete under more-or-less the same biased, unsatisfactory rules commonly dismissed in both Government and scientific circles as "broken". This is simply unacceptable and, as follows the night

the day, will reap its own bitter rewards when public protests turn into ugly confrontations. These are pitting authorities enforcing asinine laws against our youth's protesting being handed the poisoned chalice of a ruined atmosphere, dead oceans, species extinction and a mountain of debt. What a legacy to leave our children! What a way to discourage investment – what do prospective investors think of Canada when their airwaves fill with images of the flower of our youth pepper-sprayed, tear-gassed, handcuffed and carted off to jail ! In Canada! For "standing on guard for thee?". As you sow, so shall ye reap! Remember: Trust, once lost, is exponentially difficult to restore, and is viewed through a lens that colours all projects, good and bad.

Examples: Kinder-Morgan Burnaby Mountain experience #1: E. May's testimony to the Review Panel, scoping out inconvenient value components, lack of oversight, x-examination of proponent-supplied "science" , conflict of interest

2. Need for a new approach to EAs: CEAA's current process of approving projects – and most of them <u>are</u> approved –are based on proponents' claims of how they could mitigate environmental damages resulting from the project. Not "prevent" or "avoid", but "mitigate". In a first-world country, that is indeed a low standard. The dictionary definition of the word is "*make less severe, serious, or painful"*. Like anesthetic before a root canal. That is hardly a recipe for assuring the social license so necessary for a project to be successful.

I would suggest that a better approach would be that future projects require proponents to show how approval will make a net improvement to our sustainability as a nation, to show how the project is at least consistent with our international obligations and with our national, provincial and regional development goals. Our free-market economic system would be much healthier – and trusted -if the benefits of each project were so demonstrated. I would argue that

none of the recent approvals would pass that test- hence their lack of support with an increasingly incensed public.

Examples: Burnco example- no net employment gain at the cost of destroying a salmon-bearing estuary; All LNG projects: Not viable, even with huge, ill-advised subsidies. Site C.- no demonstrated need for its power, lest alone at $9 B.

3. The NEB's role needs to be de-scoped: CEAA2012 gave the NEB a mandate it had no competence to accomplish. It has become a captive regulator, and regards the public interest as synonymous with the interests of Western Canadian fossil-fuel producers. It:

- has little/no competence in value-laden science matters;
- excludes climate change effects from its declared scope;
- has allowed 20+ LNG export licenses (300MTPA approved- against 1,280MT proven reserves) through use of the dubious notion that Canada can always buy American gas if we run out (As we are all aware, the future of NAFTA has been put in some doubt?)
- performs no economic viability test –that task it leaves up to proponents, arguing that, if it is a bad idea for them, it will not come about. But that is not a test that is performed from the perspective of the public benefit, or the risks – social, environmental and economic – the public must take aboard if the project is viable for other than the proponent's perspective. KM-TME is a case in point.
- excludes catastrophic effects of (particularly, oil and gas) projects from its scope on the thin argument that they were "highly unlikely". So were the "accidents" of Lac Megantic, Exxon Valdez, Deepwater Horizon, Husky, Bantry Bay, Kalamazoo, Marathassa and Nathan E. Stewart, to name but a few "unlikelies".
- does not regard it in its scope to include research into world-leading practices and

industry standards.

The NEB's own process is hardly a model of transparency or inclusivity – witness the "public" KM-TME hearings closed to the public last year in Burnaby. And the lack of any opportunity for expert testimony or public access before granting those LNG export licenses.

4. Federal abrogation of responsibility to province (substitution). To my knowledge, BC is the only province with a formal agreement to substitute its EA process for the Federal one. For LNG projects, this is especially egregious, as the current BC Government was elected to office on a promise – a curious one for a Government professing to believe in a free-market economy – to foster an LNG industry in BC. Besides this obvious conflating of the public interest with political goals of one party, this substitution arrangement has more than a few flaws:

- it wrongly assumes competence by provincial environment ministry staff to conduct EA's;;
- it ignores the lack of provincial jurisdiction over below-tidewater marine matters, especially in the area of plant siting and the transit paths of dangerous oil and LNG tankers and pipelines passing too close to significant human populations, contrary to industry standards and international best practices;
  in the absence of any controls over BC's free-for-all political funding, there is a deep public suspicion of a tie-in between party donations and EA decisions;

(Examples: Teck case- it took a law-suit from across the border to stop pollution of the Columbia River. Teck gave $2.3M to the Governing party over the past 5 years – that Government uttered not a word about the matter, though the lead pollution was known since the '70s. Woodfibre fundraiser – while the decision on its application was before two of the Ministers attending; Burnco, Imperial Metals, SNC Lavalin, Encana political contributions; difficulty of stopping pollution and labour abuse once permission to operate is granted- communities are captive)

5. Cumulative Effects. The current process pays almost no attention to the cumulative effects – either the temporal effects of any one project, or the additive temporal effects of multiple projects in the same region or ecosystem. At presently practiced, CEAA2012 is:

- oriented to evaluating individual projects, short term effects v. multi-project cumulative effects over time
- inadequately characterizing baseline environmental conditions, species populations and habitat.

Proponents are reluctant to do so because of cost and public liability implications, but our Federal agencies have been silenced, stripped of talent, and muted through legislation such as CEAA2012. We are therefore condemned to be witnesses to repeating tragedies of the Commons. A new EA process can and should do better by including cumulative effects on all its value components. Federal agencies must be re-stocked with talent and freed to do their jobs for public – not private – interests..

6. Aboriginal rights and title: Is there any topic more vexing to all parties involved in EA's than this one. It is the hot potato of our time, and those EAs that have sought to avoid it have been (successfully, so far) challenged in the courts, which have found in the Tsilhqot'in and Delgamuukw rulings that full and informed consent is mandatory. A new EA process must address this.

Examples: Lax Kwalaams/Lelu, Tsleil Waututh/KM-TME, Wasanec/Steelhead, UBCIC/Site C, Standing Rock Sioux/DAPL

7. Independent science. Peer review and cross examination are implicit safeguards in the scientific method – these are glaringly absent in the current EA process, which discourages presentation of any but proponent-supplied, not peer-

reviewed "science". There is a clear need for an independent "devils advocate" representing the public's interests and taxed with "truthing" and re-balancing proponent-supplied evidence. This would be funded to the same level as the proponent's witnesses and advocate and be accorded at least equal status in EA hearings with that of the proponent's evidence.

Examples: Lelu/Flora Bank and the work of Dr. McLaren, an eminent sedimentologist; letter from independent scientists re Skeena salmon; Herring spawn in Howe Sound – missing DFO data supplied by local citizen scientist John Buchanan; Bowen experience re CO2/ocean acidification, tanker stopping distances, pseudo-science wave studies; Mount Polley – lack of monitoring
Also: KM-TME dilbit studies, Woodfibre LNG assertions on herring spawn, effects of once-through cooling;

8. International commitments. At COP21 in Paris, our Environment Minister thrilled the world when trumpeting loudly that "Canada is back" and signing on to a pledge to keep global warming to below 2^0C. Our premiers attended. Since then, all of the EA decisions rendered – Woodfibre, PNW LNG, Kinder Morgan TME, Line 3, NEB's granting 40-year licenses to several LNG plants - have plotted a course away from achieving that goal. And our commitment to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

We have already entered into a climate crisis – one which the vast majority of world climate scientists agree has deadly consequences for the liveability of the planet. That humans - and specifically the burning of fossil fuels - are causative factors is now beyond argument. Self-preservation compels us to act…. now … to limit its effects!

Canada cannot expand tar sands and fracked gas production, as it currently seeks to do, while still meeting its COP21 and UNDRIP commitments. To do so would mean all other sectors of the economy would be required to reduce emissions at a

scale and speed that is simply not realistic. A new EA process must include this goal as a foundational principle.

9. Recommendations:

How to restore robust oversight and thorough environmental assessments of areas under federal jurisdiction, while working with the provinces and territories to avoid duplication?	1. Rescind the egregious parts of Bill C-38, CEAA2012; 2. Reframe the objective of EA's to emphasize economic, environmental sustainability; 3. Re-establish the role of government(s) as keeper of the public trust, not proponent cheerleader(s) 4. Restore NEB's role to that of pipeline safety regulator; 5. Rescind the EA substitution agreement with BC.
How to ensure decisions are based on science, facts and evidence and serve the public's interest?	1. Appoint a public's advocate, funded in parity with proponent's spending; 2. Require independent, peer-review of all proponent-supplied science; 3. Allow public cross-examination of proponent-supplies materials; 4. Require establishment of baselines for key environmental metrics, value components; 5. Require a full pro-forma public-benefit accounting; 6. Forbid proponents' local donations, political donations during EA process; 7. For marine projects, strengthen TC's Termpol process –make its recommendations mandatory
How to provide ways for Canadians to express their views and opportunities for experts to meaningfully participate?	1. Require extensive local advertising, social media notice of EA steps & timing, notice to all local authorities; 2. Require that the Working Group be representative of <u>all</u> stakeholder

	interests ; 3. Require Town-hall style Open Houses hosted by the Public Advocate, experts to attend; 4. Require proper attention to public comments, proponent responses to comments, expert evidence
How to require project advocates to choose the best technologies available to reduce environmental impacts?	1. Require that the Public Advocate research & publish world-leading practices, technologies; 2. Require proponents to highlight and address any deviation from world-leading; 3. Require adequate public liability insurance coverage, clean-up bonds;
How to ensure that environmental assessment legislation is amended to enhance the consultation, engagement and participatory capacity of Indigenous groups in reviewing and monitoring major resource development projects?	1. Clarify indigenous rights and title prior to launch of EA process; 2. Fund FN's own EA reviews, clarify their legal status; 3. Respect bottom-up organization of FN decision-making; 4. Require proponents to adhere to contractual deliverables to FNs. 5.