
Thank you for the opportunity to speak Madame Justice.

As Mr. Chantler has outlined, I have had a privileged academic career while working for the public's health. I have been most privileged to live uninvited, on these beautiful Coast Salish lands and waters for the past 17 years. The lands, waters and people of the inlet, have nourished me and taught me so much about the long arc of the moral universe, that Martin Luther King assured us bends towards justice. My commitment to protecting the planet is indeed both a professional and a moral calling. Until this event, I had never been arrested. I have an unblemished criminal record and have been an upstanding member of each community where I have lived. I frequently volunteer as a health expert for community groups who need assistance navigating complex public health problems. I am a Fraser Riverkeeper and member of many organizations and boards working to protect the planet. I am a board member of the International Physicians for the Prevention of Nuclear War and was an active medical student member when IPPNW won the Nobel Peace prize in 1985. Through this work, I was involved in the International Campaign to Abolish Nuclear Weapons (ICAN) which won the 2017 Nobel Peace Prize. After my internship in Medicine and receiving my license to practice I spent two-and-a-half years working as a doctor in a warzone in Nicaragua. I try to do what I can to make the world a safer place and bend that arc in the universe.

As part of my work as a public health physician I have been engaged in the Trans Mountain Expansion Project's impact assessment since 2014. This pipeline expansion project is a perfect example of an outdated infrastructure project that flies in the face of the promised energy transition, in a climate emergency and in a stunningly beautiful, yet fragile place we call home. As noted, my skills as a physician, epidemiologist and toxicologist are a perfect fit for assessing and challenging the project at multiple levels. As a result, I became an intervenor in the review process addressing the health impacts of the project.

I led two major reports on the health impacts of the pipeline and its associated hazards. Despite my expertise, my evidence of potential harms from this project has been ignored by the National Energy Board (NEB), now the Canadian Energy Regulator. In April of 2019, fellow members of the Health Officers Council of BC recognized the inadequate review that the Trans Mountain Pipeline Expansion Project had undergone in terms of impacts on health, and demanded an independent, cumulative health impacts assessment. This is the same group of doctors that brought us the incredible provincial response to the COVID-19 pandemic. Their entreaties have also been ignored.

When the project was initially considered, Prime Minister Stephen Harper insured that climate change could not be considered as a factor in the review. Because of this prohibition I was not allowed to include in my two reports anything about the most profound health impacts of the project, namely the health impacts from climate change, with its devastating and inevitable chaos for future generations. We had a preview of these devastating impacts last year, with over 600 climate-related deaths in BC alone.

A lot has changed since the injunction was ordered by Judge Affleck in June of 2018. The cost of the project to taxpayers has ballooned from \$4.2 billion to **\$21.4 billion**. Violations of conditions all along the route and the construction delays continue. Many economists and the Parliament's own budget

office show how the project will likely lose money if ever made operational, as the world weans itself from fossil fuels and Canada strives to meet our international commitments to reduce emissions.

The most important wake-up call since the injunction was issued involved the hundreds of British Columbians who have died from global heating and the floods which also killed hundreds of thousands of farm animals in the Fraser Valley, millions of sea creatures along the shores of the Salish Sea, and displaced thousands of residents. The devastation caused billions of dollars in losses last year alone. As Premier Horgan put it in his year-end speech in December 2021, "For many, this will be remembered as the year that climate change arrived at our doorsteps. Here in B.C., we faced record-setting droughts, heat waves and forest fires, floods and mudslides. Even for an optimist like myself it has been an exceptionally challenging time."

We know that the Trans Mountain pipeline expansion project will worsen global heating and kill more people. It is an **existential threat**. We also know from Government's own analysis that we cannot meet our greenhouse gas emissions (GHG) commitments if we complete and operationalise this pipeline expansion. We heard loud and clear earlier this year, from the UN Secretary General that we must stop building new fossil energy infrastructure to ensure a future for our children. On Apr. 4 of this year in announcing a new UN report on climate change, he said, "Investing in new fossil fuels infrastructure is moral and economic madness."

Health Canada's report that I referred to earlier, states unequivocally that health risks will increase as warming continues and that much of the mortality and morbidity is preventable. The UN's Intergovernmental Panel on Climate Change states with "high confidence" that, "Climate change is a threat to human well-being and planetary health. Any further delay in concerted anticipatory global action on adaptation and mitigation will miss a brief and rapidly closing window of opportunity to secure a liveable and sustainable future for all." Your honour, what will we tell our grandchildren, that we did to address this "code red for humanity"?

The climate impacts of this project are not the only threats to public health that it poses. In my Intervenor reports, we outlined the toxic effects of a diluted bitumen spill, childhood leukemia risks, toxic releases magnified by the hot summers of future climates and mental health effects, to name just a few. These health issues remain unaddressed. The NEB itself stated in its February 22, 2019 re-review (following the Federal Appeals Court order quashing NEB's original decision) that, even without the much larger downstream emissions (95% of the total) "greenhouse gas emissions from Project-related marine vessels would likely be significant." And that, "while a credible worst-case spill from the Project or a Project-related marine vessel is not likely, if it were to occur the environmental effects would be significant". These admissions about the project happened **after** the injunction was issued and are critical to Canada's national interest.

Once I realized that the scientific evidence was not going to stop the project, I began to look to direct action as the next logical step in the efforts to stop the project. I found guidance and support from the People of the Inlet, the Tseil-Waututh (TWN) who along with the Squamish and Musqueam have stewarded this land since time immemorial.

The modern Hippocratic oath requires that I protect the health of my patients AND the public AND to inform or warn about impending health threats. This is an essential expectation in my professional role. The American Medical Association states that "ethical responsibilities usually exceed legal duties... When physicians believe a law violates ethical values or is unjust, they should work to change the law. In

exceptional circumstances of unjust laws, ethical responsibilities should supersede legal duties". I am an upstanding member of the medical community here in BC, and as attested by the Health Officers' Council of BC.

Your Honour, at the time of my arrest, I was in a difficult position. In light of my professional knowledge of the grave danger we face from climate change. I have the utmost respect for the court, but here in Canada we are in deep trouble, trouble that the UN Secretary general calls moral trouble, because our fossil energy policies are exactly the opposite of what is required to reduce the numbers of people who will die from climate change. These environmental concerns are the concerns of everyone in a climate emergency. When faced with this choice, my professional responsibility and obligations led me to stay in the tree until November 29 when I was removed. I do feel remorseful for breaching the law. I was stuck in this aforementioned dilemma.

Quoting from the Crown's Book of Authorities regarding the political principle of civil disobedience, "that political principle contemplates that a public and, as far as possible, passive act of resistance to a law that is perceived to be unjust, coupled with an embracing of the appropriate punishment for the offence, is consistent with the procedure for bringing about democratic change, and when properly understood indicates the highest respect for the rule of law as a benign and necessary part of the structure of a just and democratic society. Acting in accordance with the principle of civil disobedience is not a defence in law. But surely it must be a relevant factor in assessing moral culpability for the offences. [MacMillen Bloedel v. Brown 1994. BCJ 268. 126." Previous jurists in this province have also asked if the rule of law is truly at risk every time there is a public breach of a court order [Judge McEachern opinion in MacMillen Bloedel v. Brown 1994. BCJ 268. 124]. I ask that you assess the gravity of my non-violent civil disobedience in this context, along with my expression of remorse for violating the law..

Your honour, I am also asking you also to consider my health in your sentencing. I am 65 years old, have hypertension and three artificial stents in the arteries of my heart. In his letter, my cardiologist has outlined that the stress of sleep deprivation and sudden loud noise in prison is significant physiologic stress in my condition. Conditions that have been recently verified by former inmates at the facility in question. As Dr. Charania has stated, "His risk of suffering a heart attack would be minimized if he is able to avoid excessive and repetitive loud noises during the day and night and if he is able to avoid chronic sleep deprivation." I appreciate your need to deter future violations of the injunction. I am asking you to consider the significant potential danger of cardiac arrest in prison and that you find a proportionate sentence that serves the Crown's need for deterrence but does not put my life at risk.

Thank you for your consideration.