"GOVERNING DISCOURSES" IN CANADIAN ENVIRONMENTAL ASSESSMENT: A CRITICAL DISCOURSE ANALYSIS OF CLIMATE CHANGE IN THE NORTHERN GATEWAY PIPELINE REVIEW PROCESS

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ABSTRACT

This qualitative inquiry focuses on Canada's environmental assessment (EA) of the controversial—now defunct—Enbridge Northern Gateway Pipeline as a case study. Adapting Fairclough's (1992) approach to critical discourse analysis (CDA) as a methodological framework, I investigated how Northern Gateway's environmental effects were discursively framed and rationalized in relation to climate change, and how these discourses are connected to statutory interpretations and institutional norms. Using frame analysis and argumentation analysis as methods, I examined a corpus of publicly available Joint Review Panel (JRP) documents, federal statutes and official decision statements related to Northern Gateway's EA. Findings suggest that the convergence of particular discourses, ideologies, institutional power relations, and entrenched discretionary practices tended to marginalize and depoliticize climate change considerations in Northern Gateway's EA. These dynamics provided a foundation to rhetorically legitimate contentious project-related governance decisions, and arguably expose areas of potential concern in the contemporary EA and climate change context.

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List of Abbreviations

CDA: Critical Discourse Analysis
CEAA: *Canadian Environmental Assessment Act*
CEA Agency: Canadian Environmental Assessment Agency
EA: Environmental Assessment
GHG: Greenhouse Gas
IAA: *Impact Assessment Act*
JRP: Joint Review Panel
NEB: National Energy Board
NEB Act: *National Energy Board Act*

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Chapter 1 – Introduction

1.1 Overview

Using critical discourse analysis (CDA) as a methodological framework and applying frame and argumentation analysis methods, this thesis investigates underexamined relationships and tensions between language use, resource governance, and anthropogenic climate change in a case study of the Enbridge Northern Gateway Pipeline Project's (Northern Gateway) environmental assessment (EA) process. Originally proposed in 2006, Northern Gateway was a plan to build a twinned oil pipeline that would connect Bruderheim, Alberta with a port in Kitimat, British Columbia. Despite being approved in 2013, the project was abandoned and its approval revoked in 2016, making it unlikely to be revived. However, examining how Northern Gateways potential environmental effects were framed and rationalized in relation to climate change throughout the official EA and decision-making process provides interesting insight into the practice of environmental governance in Canada. Throughout Northern Gateway's EA process, significant changes to Canada's political landscape, climate change commitments, and EA legislation occurred which underscored the important nexus between politics, law, and the environment. This qualitative research probes official documents—federal statutes and decision notices, and Joint Review Panel (JRP) documents—that are necessary to understand how Northern Gateway's climate change implications were framed and rationalized through the institutional lens of Canada's environmental governance regime.

1.2 Research Rationale

The problematic interplay between climate change, environmental governance, the oil sands, and language use provides the core impetus for my research. Most scholars agree that anthropogenic climate change represents a far-reaching, transboundary, cross-scale,

intergenerational ethical problem affecting non-consenting third parties in myriad ways (Gardiner 2006; Incropera 2016; IPCC 2018). While Canada's historical and ongoing economic reliance on oil sands exploitation may be considered its sovereign prerogative, the choice to continue or expand this practice represents a controversial ethical and practical flashpoint in the context of climate change (MacLean 2018), and runs counter to the government's own emissions reduction commitments. How the cross-scale dynamics of resource and environmental governance are negotiated in practice at the level of states therefore remains a critical consideration in the context of anthropogenic climate change. This issue is particularly salient where proposals would further entrench and "lock-in" (Pineault 2018, 137) the inertia of "fossil capitalism" (Scott 2013), such as through the expansion of the key "networked infrastructure" essential to Alberta's oil sands—pipelines.

At the heart of pipeline governance is law and the environmental assessment (EA) process. Importantly, beyond some probable (but private) discussion among cabinet members, environmental assessment is the *only* governance process through which the multiple environmental, economic, and social merits and consequences of proposed pipelines are evaluated (MacLean 2015, 788). The assessment process then becomes the basis for recommendations, decisions, and actions that affect the real world. As in energy policy debates more generally, language is the primary medium used to frame, represent, reason and make knowledge claims about the multiple intersecting (and often, conflicting) issues, values and stakeholder interests involved in a pipeline's environmental assessment (Scrase and Ockwell 2010). Language thus plays a critical role in influencing not only the practical outcomes of the assessment process, but also in informing and shaping the very basis for decision-making, and warrants deeper examination in applied contexts.

As I will demonstrate in my literature review, the interplay between language, law, and environmental assessment plays in environmental assessment processes remains problematically under-studied, and investigating its function is a keystone to developing a rich understanding of the dynamics of environmental and climate governance in Canada. Considering the potential magnitude of impact these governance decisions could have in relation to climate change, this study is designed to partially address this knowledge gap using a case study approach, which is guided by three research questions and three objectives.

1.2.1 Research Questions and Objectives

In order to focus my overarching concerns about the nexus between climate change, Canadian environmental governance, and language, my research is driven by the following objectives:

- To critically analyze how environmental effects and climate change have been accounted for in a case study of Canada's pipeline governance process, and how existing literature might inform this analysis
- To investigate how discursive and institutional practices might influence and legitimate inherently value-laden governance processes
- To understand how discursive patterns and strategies may reinforce normative power inequities embedded in resource and climate change governance

To convert these research objectives into an investigable, methodologically-informed object of study, these objectives have been operationalized into three research questions:

- How have the Canadian federal authorities involved in the Northern Gateway environmental assessment process discursively framed the project's environmental effects and rationalized their decisions in relation to climate change?

- How were specific intertextual interpretations of relevant statutes relied upon to support these framings and rationalizations?
- How might these framings and rationalizations reflect institutional "regimes of truth"?[1]

As a proposal to build pipeline infrastructure to increase bitumen exports from exploiting Alberta's oil sands (Gunster and Neubauer 2019), Northern Gateway represented a significant and controversial environmental issue in relation to climate change, and the characteristics of its environmental assessment and governance process are congruent with the concerns underlying my research rationale. Changes made to federal laws regulating environmental assessment, and the shifting commitments of multiple federal governments to national and international climate change governance during the review process make the Northern Gateway a particularly compelling case in relation to my research agenda. Northern Gateway's well-documented environmental assessment process provides a highly applicable and instructive case in which to investigate my research questions and pursue my objectives. Further, the project's completed environmental assessment and governance process presents a unit of analysis in an intrinsically and temporally "bounded system" consistent with conducting contextually-situated case study research (Merriam and Tisdell 2009, 39–40). Reflecting my focus on the discursive and institutional aspects of environmental governance within my case study, my data selection centres on publicly available environmental assessment documents produced by the Northern Gateway's Joint Review Panel (JRP), federal Orders in Council, and federal environmental assessment law.

Pursuing this research agenda carries important methodological implications for the design and conduct of my study. Focusing on contextually-situated language use in the

[1] Foucault's (1980) concept of "regimes of truth" will be explicated in greater depth in Chapter 3. Briefly, and at the risk of oversimplification, the concept refers the role and function of epistemological positions in a given social order, and could be thought of as a society's "general politics of truth."

assessment and governance process necessitates a methodology that is empirically attentive to discursive nuances, and provides a useful theoretical framework that coheres with my rationale and research agenda. Consequently, my research utilizes critical discourse analysis (CDA) as a guiding methodological and theoretical framework (Fairclough 2010); this approach is augmented by adapting frame analysis and argumentation analysis as methods to facilitate systematic analysis of my data corpus (Fletcher 2009; van Eemeren, Henkemans, and Grootendorst 2015).

Aside from attempting to address knowledge gaps specifically related to my research questions and case study, I also hope to contribute to broader discussions on the nexus between language, climate change, and environmental assessment. In recent years, the federal environmental assessment process was altered by repealing and replacing *CEAA 2012,* the *NEB Act* and their corresponding agencies with those of the *Impact Assessment Act 2019* (*IAA*) and the *Canadian Energy Regulator Act 2019*. In providing a richer understanding of the role language played in a previous environmental assessment process and institutional framework, this investigation offers timely observations, insights, and criticisms which can be brought into conversation with Canada's new environmental assessment regime.

1.3 State-level Dynamics of Resource Governance and Climate Change

Anthropogenic climate change is an inherently transboundary, and therefore global, problem largely driven by the atmospheric concentration of greenhouse gas (GHG) emissions generated through fossil fuel combustion (IPCC 2018). However, due in part to the lack of any global governance[2] authority, the governance of resource exploitation which contributes to

[2] Throughout this thesis I draw on Graham, Amos, and Plumptre's (2003, 1) definition of "governance" as a "process whereby societies or organizations make their important decisions, determine whom they involve in the process and how they render account." Governance processes may include (but are not limited to) "controlling the allocation of

climate change largely remains the sovereign prerogative of individual states. This social, spatial, and temporal disconnection between the drivers and effects of climate change means that, in Ulrich Beck's (2010, 165) terms, this separation "decouple[es] the producers and subjects of risk." Put simply, multiple producers of GHG emissions generate risks associated with climate change which are diffused to other parties that have no or little control over the production of a given source of emissions.

Climate change is a complex problem for which state intervention alone is not a panacea; yet, states do maintain a vital level of agency in relation to climate change, and represent one of the most important forms of formal collective organization capable of enacting progressive climate change policies. While international agreements such as the Paris Agreement (United Nations 2016) represent a positive step toward global climate policy, whether and how states aim to reach their self-selected emissions targets remains each government's prerogative, and the lack of binding enforcement mechanisms means that failure would be largely inconsequential for individual states (Lawrence and Wong 2017). Research suggests that Canada's emissions commitments are both insufficient (Green 2018) and—along with many other countries—unlikely to be met (United Nations Environment Programme 2019). Regardless, international agreements like the Paris Agreement cannot necessarily reconnect the producers and subjects of environmental risk since they cannot provide new legislative mechanisms for states to exert more control over resources and emissions beyond those already permissible within each country's constitutional framework. This is one reason that national and sub-national scales of analysis remain important in the context of resource governance and climate change.

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resources between social actors," often by "providing a set of rules and operating a set of institutions setting out "who gets what, where, when and how" in society" (Capano, Howlett, and Ramesh 2015, 312).

1.3.1 The Role of State Resource Regimes

States maintain sovereign authority to govern the legal, private property, and natural resource regimes within their territories. To the extent legally and practically actionable, states are thusly endowed with the power to determine whether, where, how, and how much any given type of resource extraction and development occurs within their sovereign boundaries. However, since states are also responsible for maintaining socioeconomic norms—a "socio-industrial metabolism" currently predicated on unsustainable levels of resource exploitation (Hirschnitz-Garbers et al. 2016), their role in mediating competing socioeconomic interests in the context of climate change is therefore challenging. Most states are at least partially dependent on the economic benefits of resource extraction and development, whereas many states, including Canada, are heavily dependent on the extractive economy, including the oil and gas sector (Alexander et al. 2018). While other social or institutional actors may influence any state's capacity to act unilaterally, in the context of resource governance, the state endures as a critical "extra-economic actor" which administers and enables carbon-resource mobilization (and simultaneously, capital accumulation) (Bridge 2014). It is partly due to these territorially-bounded, state-centric conceptions of "resource sovereignty" (Bridge 2014) that the cross-scale—and inherently transboundary—drivers of climate change are intensified.

Notwithstanding considerable scholarly interest in the emergence of more polycentric forms of governance (particularly in the context of neoliberalism), governments retain the power to "verticalize"—to assume decision-making authority over—governance processes, and therefore remain pivotal policy-actors (Capano, Howlett, and Ramesh 2015). In Canada, the power to verticalize resource governance processes completely would require constitutional changes that seem unlikely to gain traction at sub-national levels. Canadian federalism devolves

power to the provinces and territories to develop natural resources within their borders (largely according to their own policies), making the federal management of climate change contributors at their source more difficult. Resource development projects like Northern Gateway which fall specifically under federal jurisdiction offer potential insights into how these conflicting interests are balanced at the national level.

1.3.2 Transboundary Emissions: a "Tragedy of the Commons"

Each state's capacity to independently manage property regimes, resource extraction, and use within their sovereign terrestrial territories drives global climate change and partly exemplifies Garrett Hardin's (1968) "tragedy of the commons" problem. While it is not necessary to accept all of Hardin's assumptions (e.g., the pre-existence and immutability of capitalist relations, and his reductive view of humans as self-interested *homo economicus*) or prescriptions (Cole, Epstein, and Mcginnis 2014; Yamagishi et al. 2014), his seminal paper does provide a useful conceptual lens through which human relationships to each other and to climate change can be analyzed. Hardin's central analytical point can be thought of as an "expression of the disconnection between individual and collective risk," and this proposition can be considered at multiple social, political, and biophysical scales (Etkin and Ho 2007, 638).

Without reiterating the details of Hardin's (1968) parable, he argues that over-exploitation of finite shared resources is inevitable in any system that rewards individual exploitation but spreads the negative consequences of over-exploitation among third-parties.[3] For a terrestrial commons, Hardin suggests that this problem can be averted by some form of private property regime since each individual (or state) would—theoretically—personally suffer the consequences of over-exploitation. However, climate change defies this potential solution in that

[3] Many scholars use the term "externality" to describe any positive or negative effect experienced by uninvolved third-parties (Schmid 2008; Beck 2010).

it represents an "atmospheric commons" (Murphy and Murphy 2012)—a commons which is globally ubiquitous, indivisible, and impossible to regulate without collective cooperation. This is because GHG emissions do not depend on the spatial contiguity of resource exploitation activities. Anthropogenic climate change is simply a by-product or externality of these activities whose effects aggregate (unequally) across space, biophysical scales, and time (Gardiner 2006; Incropera 2016). These dynamics make climate change "the ultimate diffuse risk" (Hoberg 2013, 374).

To some degree, Hardin recognized the distinction between these types of commons, and advocated that they should be protected through "mutual coercion mutually agreed upon" in the form of collective regulations (1968, 1247). Arguably most international environmental agreements are created in this spirit in order to further common interests. Despite such agreements, the fundamental spatial and temporal disconnection between long-term collective risk and short-term individual rewards may remain for states, particularly while much of society remains structured around the normality of complete state sovereignty and state- and market-led resource management. Moreover, states' obligation to pursue particular visions of their own citizens' wellbeing may take precedence over competing priorities or concerns. While other spatial and temporal scales of analysis and foci can also surface important and distinct practical and ethical concerns associated with resource extraction and development across the supply chain (Buse et al. 2019; Buse, Smith, and Silva 2019), states can be seen as legitimately employing "levels of control over the social [and environmental] order that no other institution enjoys" (Davidson and Gismondi 2011, 171). The magnitude of influence state policies and practices can have on the global environment is therefore not a concern to be discounted.

1.3.3 Canada's Oil Sands Economy and GHG Emissions

Carbon-intensive resource extraction activities have long played a substantial role in Canada's economy and, as a result, Canada has maintained proportionally high historical, annual, and per-capita GHG emissions that contribute to climate change (Murphy and Murphy 2012; Environment and Climate Change Canada 2019a). Globally, Canada is currently the fourth largest producer and exporter of oil, and has the third largest proven (economically recoverable with current technology) oil reserves with 166.7 billion barrels—96% of which are in Alberta's bitumen sands (NRCAN 2019a, 48–53). It is estimated that 315 billion barrels could be recoverable in the future (NRCAN 2016b, 19). Considering that, cumulatively, only about 10 billion barrels had been extracted from the oil sands[4] as of 2014 (NRCAN 2016a), even currently recoverable reserves represent an immense potential source of GHG emissions (and also immense local and regional environmental consequences "upstream" and "downstream").[5]

The oil sands also represent a large potential economic dividend for industry and governments; they have long been considered "vital" to the Canadian economy (NRCAN 2016a), and are supported by billions in annual subsidies (Bowness and Hudson 2014; Coady et al. 2019). In 2015, the oil and gas sector accounted for $142 billion of Canada's GDP (7.7% of total GDP), and has consistently been a significant source of direct government revenues (averaging $20.8 billion annually between 2010 and 2014 (NRCAN 2019b, 5–10), and $14.8 billion annually between 2014 and 2019) (NRCAN 2019a, 10). This revenue source is especially

[4] The terms 'oil sands' and 'tar sands' are unavoidably politicized. According to several scholars, 'tar sands' was used most commonly historically (and is now typically favoured by those opposed to their exploitation), while 'oil sands' was a moniker promulgated by industry (and some governments) beginning in the 1990s (Gunster et al. 2018, 4; Murphy 2015, 340; Urquhart 2018, 11). I chose to use 'oil sands' to be consistent with government publications.

[5] "Upstream" and "downstream" are used metaphorically to refer to impacts that occur at different spatial or temporal ends of a given action, often in the context of considering effects caused through a given chain of production (see Buse et al. 2019). As a simplified example, "upstream" of an oil pipeline might involve considering effects from the suite of activities associated with oil extraction, whereas "downstream" considerations might involve refining, manufacturing, emissions, end-product uses, health outcomes, etc.

important for the Alberta government, where the sector accounted for nearly 22% of GDP in 2015 (NRCAN 2019b, 6), and royalties on the oil sands alone are typically the province's fourth largest income source, accounting for 10% of total revenue on average (Dobson 2015). Through longstanding contributions to Canada's equalization programs, other provinces also benefit substantially from Alberta's oil sands revenues (Bakx 2015). Coupled with other factors, these economic dependencies contribute to an oil sands "lock-in" effect in Canada (Pineault 2018, 137).

Since 1990, the oil and gas sector has, on average, been the single greatest source of Canada's GHG emissions, and in 2017 accounted for 27% of total emissions (closely followed by transportation) (Environment and Climate Change Canada 2019a, 11). Between 1990 and 2014, Canada's annual total GHG emissions grew by 20%, to 732 megatonnes, with the mining and upstream oil and gas sector responsible for the majority of this increase (Environment and Climate Change Canada 2016). In the same period, conventional oil and bituminous oil sands production increased by 21% and 528% respectively (Environment and Climate Change Canada 2016, 47).

This substantial increase reflects changing technological and economic conditions, but also the importance of oil resources to private investors, and the provincial and federal governments' respective political and economic agendas. The increased rate of bitumen extraction is particularly problematic given that, largely due to natural gas combustion during extraction and processing, bitumen extraction produces 60% more GHG emissions per barrel of oil than conventional crude extraction (Environment Canada 2011, 24). According to Natural Resources Canada (2019b, 29), improved efficiencies between 2000 and 2017 have reduced these additional GHG emissions per barrel by 28% (bitumen extraction therefore remains about

one third more emissions-intensive than conventional crude). This improvement may be negated, however, by recent findings that overall oil sands GHG emissions actually measure 30% higher than those reported by industry, despite the use of up-to-date and IPCC-recommended methodologies (Liggio et al. 2019).

In any case, annual emissions from Canada's oil and gas sector continue to increase, largely in conjunction with production output. According to Environment and Climate Change Canada (2019b, 8), between 1990 and 2017, Canada's annual GHG emissions from conventional crude production increased by 36%, and emissions from oil sands have increased by 423%. Furthermore, since between 70-80% of oil's GHG emissions occur during end-use combustion as fuel, rather than during extraction and processing (NRCAN 2016b), direct emissions from oil sands production represent only a fraction of the problem in the context of climate change.[6] Evidently, these trends run counter to the need for net zero GHG emissions—the key requirement to limit the increase in average global temperatures to under 1.5 °C this century (IPCC 2018; Liggio et al. 2019). They also pose a challenge to Canada's commitment to reduce GHG emissions to 30% below 2005 levels by 2030 (Environment and Climate Change Canada 2017, 1).

1.3.4 Case Study Background, Timeline, and Sociopolitical Context

Formally initiated in 2006, Northern Gateway was a proposal to build a 1178km twinned pipeline to connect Bruderheim, Alberta with the Pacific port of Kitimat, British Columbia, in order to facilitate the import and export of diluent chemicals and (primarily) diluted bitumen[7] from Alberta's oil sands (see Figure 1) (NEB 2013a). The pipeline was planned to operate for 50

[6] Moreover, these emissions figures do not account for other possible end-uses of oil or bitumen.
[7] Bitumen is a thick and viscous oil product, so it is combined with a mixture of light oil products known as "distillate" or "condensate" to dilute it for pipeline transportation (NEB 2013a, 7). The westbound pipeline would have been capable of transporting a variety of crude oil products.

years or more (*Gitxaala Nation v. Canada 2016*), transporting an average of 193,000 eastbound barrels of diluent per day and 525,000 westbound barrels of bitumen per day intended for international trade. Westbound bitumen would then be loaded into so-called "supertankers" at the proposed Kitimat marine terminal which would navigate the Douglas Channel before reaching the Pacific Ocean.

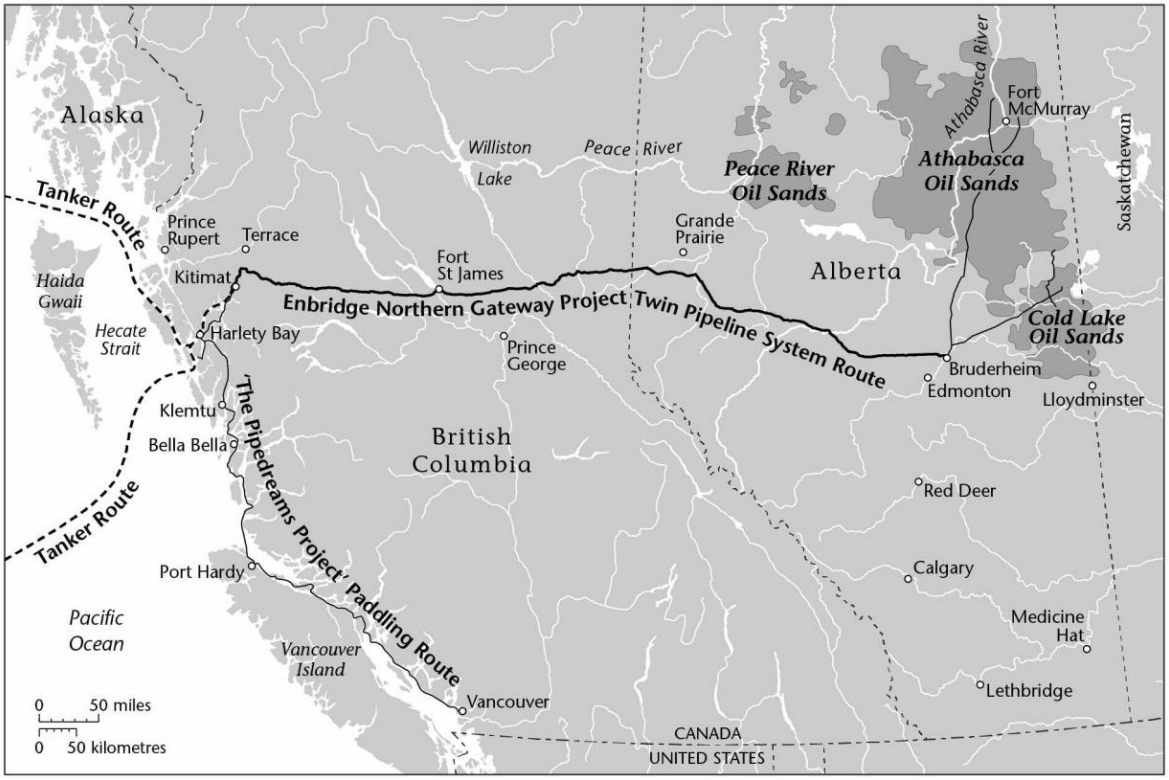

Figure 1. Northern Gateway Proposed Route. Fig1a in Le Billon, Philippe Le, and Ryan Vandecasteyen. 2013. "(Dis)Connecting Alberta's Tar Sands and British Columbia's North Coast." *Studies in Political Economy* 91 (1): 40. © Studies in Political Economy, reprinted by permission of Taylor & Francis Ltd, http://www.tandfonline.com on behalf of Studies in Political Economy.

Although the provinces regulate most resource extraction activities in Canada, due to the project's transboundary (interprovincial) characteristics and other engagements of federal jurisdiction, the proposal was subject to federal environmental assessment processes under the *Canadian Environmental Assessment Act, 1992* (*CEAA 1992*) and the *National Energy Board Act* (*NEB Act*). In December 2009, the federal Minister of the Environment and the chair of the

National Energy Board (NEB) made an agreement to appoint a three-member Joint Review Panel (JRP) to fulfill the project's environmental assessment requirements stipulated under both federal acts. In January 2010, the Minister and NEB chair appointed the members of the JRP. After Enbridge filed its formal application in May, the JRP conducted formal evidence collection, evaluation, and held quasi-judicial public hearings over the following two years.

In May of 2011, Stephen Harper's Conservatives were re-elected, increasing their seat count to form a majority federal government. This majority helped the Conservatives to quickly pass two omnibus budget bills, C-38 and C-45,[8] without being subject to public debate, while rejecting all amendments proposed by the opposition (Kirchhoff and Tsuji 2014). Amongst many other legislative matters, the bills introduced sweeping changes to environmental regulation in Canada. In addition to repealing the Kyoto Protocol, weakening several environmental and species-protection acts, and revising the *NEB Act*, the omnibus bill repealed the *CEAA 1992* and replaced it with the *Canadian Environmental Assessment Act, 2012* (*CEAA 2012*).

In December 2013, newly subject to most provisions of the *CEAA 2012*, including a restricted timeline for report submission, the JRP recommended the approval of Northern Gateway, subject to 209 conditions, and issued its recommendations and rationale to the federal Cabinet in a two-volume report (NEB 2013a; 2013b). Publicly deferring to the scientific panel's expert recommendation as a reason behind their decision (Wingrove and Chase 2014), the otherwise vocally pro-pipeline Conservative federal Cabinet subsequently issued their approval in June of 2014 (Le Billon & Vandecasteyen 2013, 43), and directed the NEB to issue the "Certificates of Public Convenience and Necessity" legally required for the project to proceed (Government of Canada 2014).

[8] Bills C-38 and C-45 respectively became known as the *Jobs, Growth, and Long-term Prosperity Act 2012*, and the *Jobs and Growth Act, 2012*.

Despite gaining a positive recommendation from the JRP and approval from the Conservative federal Cabinet, the project faced considerable public opposition (see Bowles and Veltmeyer 2014; Le Billon and Vandecasteyen 2013; McCreary and Milligan 2014). Several different lawsuits were filed by a coalition of First Nations and environmental groups challenging aspects of the project, the review process, the adequacy of the JRP's reports, and the issue of unresolved Aboriginal[9] title (*Gitxaala Nation v. Canada 2016*). In part, uncertainty associated with these legal challenges delayed Northern Gateway's construction timeline and, in the interim, Justin Trudeau's federal Liberals were elected to form a majority government in the fall of 2015. Eventually, in 2016, these different lawsuits were consolidated as *Gitxaala Nation v. Canada* and the case was heard by the Federal Court of Appeal.

The court refused to consider any claims related to whether the JRP's reports adequately fulfilled its statutory mandates under the *CEAA 2012*, arguing that the Governor in Council[10] was the only meaningful decision-maker involved (*Gitxaala Nation v. Canada 2016)*. However, the court did consider issues pertaining to Aboriginal title and the crown's duty to consult. The court ruled that the federal government had failed in its duty to consult First Nations peoples, and the project's approval certificates were quashed. While this ruling was not appealed by either Enbridge or the federal government at the time, it remained possible for the project to proceed if the federal government—directly or via the JRP—engaged in more substantive "consultations" with First Nations peoples (Hume and Stone 2016).

In October of 2016, Canada ratified the Paris Agreement, and in early November, the Trudeau government committed $1.5 billion in funding for an ocean protection plan which

[9] I use the term "Aboriginal" specifically in this context only to be consistent with Canada's legislative and judicial frameworks recognizing "Aboriginal title." The term is also what the JRP chose to use in its reports.
[10] The Governor in Council (GiC) means the Governor General "acting by and with the advice of, or by and with the advice and consent of, or in conjunction with the Queen's Privy Council," which includes Cabinet and the Prime Minister (*Gitxaala Nation v. Canada 2016*, 65).

included coastal oil spill response preparedness (CBC News 2016). On November 25, the federal Cabinet announced that the Northern Gateway project would be denied, citing threats to endangered species along the pipeline route and the threat of coastal oil spills as the reasons (Government of Canada 2016). On the same day, Cabinet approved Enbridge's Line 3 pipeline replacement and the Nova Natural Gas pipeline, and four days later, approved the Kinder-Morgan TransMountain pipeline expansion. Subsequently, in 2018, an informal moratorium on oil tanker traffic along BC's north coast (from northern Vancouver Island to the Alaskan border) was formalized with Bill C-48 (Chong and Sweeney 2017), and the federal Cabinet refunded Enbridge $14.7 million in regulatory fees (Canadian Press 2018). These governance decisions have ensured that Northern Gateway is unlikely to be revived in the current political climate. That said, studying the dynamics of the project's environmental assessment can provide insight into ways the interface between institutions and statutory change could play out in the context of climate change considerations under the *Impact Assessment Act* (discussed in chapter five).

1.3.5 Navigating Environmental Tensions in the Language of Governance

As evidenced by previous discussion, Canada occupies a contentious position between competing interests and commitments. Various levels of government are dependent on the proceeds of the oil sands industry to serve their social, economic, and political objectives. Simultaneously, governments are obliged to acknowledge the threats associated with climate change and commit to GHG emissions reductions. These tensions are especially salient where environmental decisions could be seen as controversial. Thus, the resource governance process itself is a critical arena from which to glean insights into how Canada negotiates and makes decisions about socio-environmental issues. Within the policy arena, actors use language to "frame" and reason about policy problems and solutions, and their documented use of language

provides a key source of empirical data to investigate the nexus of energy and climate governance in Canada.

Frames act as referential "interpretive structures" or schemas through which individuals cognitively organize and understand experiences and information (Fletcher 2009; Lakoff 2010; Goffman 1986). Frames are embedded in language use (and thus governance processes) and can provide implicit or explicit cues that might include, exclude, emphasize, or link specific interpretive references that ultimately "function to promote" certain interpretations of information and events (Entman, Matthes, and Pellicano 2009, 117; Pincus and Ali 2016; Gamson 1989). In the context of environmental governance (and in policy debates more generally), framing can thus influence how issues and solutions are considered, and hence carries important implications for policy decisions and practical outcomes (Entman, Matthes, and Pellicano 2009, 183).

1.4 Thesis Structure

This thesis is organized as follows. My literature review in chapter two briefly outlines the contours of the present literature gap before probing the state of existing scholarly knowledge relevant to my case study, research questions, and objectives. In chapter three, I describe and explain my use of critical discourse analysis (CDA) as a methodology to inform my overall research design, data selection, and which systematically guided my analytical inquiry. Chapter three also elucidates the key terms and theoretical concepts which supported my application of CDA, and describes how I applied frame analysis and argumentation analysis methods to the data corpus. Additionally, chapter three explicates how I have incorporated considerations of positionality, reflexivity, rigour, and an awareness of limitations into my research process. Chapter four introduces and discusses analytical findings in a thematically organized context,

integrating examples from my data set alongside interpretations informed by theoretical, methodological, and contextual considerations. Finally, chapter five will focus on conclusions which reintegrate and recontextualize my research questions and agenda with my analytical findings, stressing the key critiques that surfaced throughout the research process and their practical, political, and environmental implications in the contemporary milieu.

Chapter 2 – Literature Review

2.1 Introduction

Among other possible uses, some of the key purposes of literature reviews are to find and present important research-related background or contextual information, and to assess and evaluate the state of knowledge necessary or relevant to understanding a topic or field, therein identifying points of consensus or tension, as well as the strengths, weaknesses, and gaps (McCracken 1988, 115; Kirchhoff and Tsuji 2014; Hart 1998). Literature reviews inform the design and conduct of research, and allow researchers to accurately situate their work within the existing body of scholarship (Creswell 2007, 102). Depending on the dynamics of the research problem and the range of literature that can productively inform the inquiry, literature reviews may need to draw on scholarship from multiple disciplines and sub-fields in order to trace the contours of existing knowledge. This is very much the case given the intersecting parameters of this thesis research, and engaging with literature across disciplines is an important pillar of my pursuit of a degree in interdisciplinary studies.

Since my research questions and objectives connect climate change, environmental governance and politics, and language, this literature review draws mainly on environmental politics and law, human geography, discourse and communication studies, and relevant inter- and trans-disciplinary scholarship; in other words, literatures synthesizing different disciplinary knowledges and approaches, and literatures going beyond disciplines, respectively (Frodeman, Klein, and Mitcham 2010, 15-30). Largely conducted between 2017 and 2018, this review focuses on scholarship which examines the politics of contemporary resource governance in Canada (particularly those that explore the relationships between climate change, energy policy, and the oil sands), the federal environmental assessment (EA) process, how discourse may

function in relation to these issues, and research explicitly related to Northern Gateway. This chapter is divided mostly along thematic lines (which sometimes overlap) rather than disciplinary or methodological lines, in order to lend coherence to the diverse range of scholarship which intersects with and informs this research.

2.1.1 Literature Gap

Environmental assessment in Canada has received considerable scholarly attention and criticism, particularly in response to shifting legislation. As detailed in subsequent sections of my literature review, several scholars have conducted case studies related to the Northern Gateway project and review process. These studies predominately focus on ways Enbridge, the review panel, and the federal government have rationalized the project on largely economic grounds while ignoring the unresolved issue of Aboriginal title in British Columbia. Many scholars have studied how climate change, energy, and governance issues intersect in a number of contexts. Yet important knowledge gaps remain: insufficient attention has been paid to how the Canadian government and its appointees discursively construct environmental effects and climate change in specific environmental assessment processes, and how decisions and their rationales may reflect political and institutional norms therein. My review traces the contours of this literature gap, and explores work which informs my investigation of this underdeveloped area.

2.2 The Federal Environmental Assessment (EA) Regime in Canada

Environmental assessment (EA) is intended to act as a precautionary planning tool to help inform decision-makers of the socioecological impacts of proposed projects (Stacey 2016). While the EA regime has changed over time, it has been an "integral component of land use decisions" in Canada since the early 1970s (Fluker and Srivastava 2016, 66). As previously mentioned, federal EAs were governed by the *Canadian Environmental Assessment Act*

(*CEAA*[11]), and among other purposes, this process was meant to "encourage responsible authorities to take actions that promote sustainable development and thereby achieve or maintain a healthy environment and a healthy economy" (*CEAA 1992*). Two of the CEAA's requirements are especially important in the context of climate change: first, EAs must consider "any cumulative environmental effects" of a proposed project (in combination with other projects that have been or will be carried out); second, transboundary environmental effects (*CEAA 1992*; *CEAA 2012*). These and other provisions provided (an underutilized) authority under federal EAs to explicitly consider GHG emissions and climate change as part of the review process (Hazell 2010; Hsu and Elliot 2009; Koehl 2010). The following section briefly outlines previously unmentioned aspects of the EA process of most importance to analyzing the Northern Gateway case, followed by key scholarly critiques of the EA system.

2.2.1 Basic Legal and Institutional Structure

Under the *CEAA*, the Canadian Environmental Assessment Agency (CEA Agency) was the authority responsible for most of the federal environmental assessments conducted in Canada, but pipelines under federal jurisdiction result in the National Energy Board (NEB) replacing the CEA Agency. The NEB was ostensibly independent from government, and was responsible for issuing permits and regulating specific energy infrastructure projects and energy trade in Canada (*NEB Act*), namely oil and gas pipelines or power lines crossing provincial or national borders. There were three tiers of EA at the federal level, the most exhaustive of which—a panel review—applied to the Northern Gateway.

The Minister of Environment and the chair of the NEB jointly appoint members to the

[11] In order to ensure relevance with my case study, information presented in this section reflects the legislative framework *prior* to the 2019 repeal and replacement of several key EA statutes. Also, general references to the *CEAA* which *do not* include the year (1992 or 2012) indicate version consistency, and/or are meant to avoid confusion between the specifics concerning the repeal of *CEAA 1992* and its replacement with *CEAA 2012*.

review panel from a roster of technical experts; the panel is then required to fulfill both the NEB's mandate and complete an EA that complies with the *CEAA*. After their review, the Panel submits a report outlining its recommendations (namely specifying whether significant adverse environmental effects are expected, mitigation measures, and whether it believes the project is in the "public interest") to the Minister of Natural Resources. Cabinet (more technically, the Governor in Council) makes the final decision to approve or deny the project, and a decision statement is required to be published in the *Canada Gazette* (the Government of Canada's official newspaper) before permits are issued. These official decision statements are known as "Orders in Council" (Government of Canada 2014; 2016a).

2.2.2 Scholarly Criticisms of the Federal EA Process

The EA process under the *CEAA* has been subject to considerable criticism since its inception (Jeffrey 1991; Delicaet 1995), and many of these criticisms have been persistent across both the 1992 and 2012 versions. Of consistent concern has been the reliance on project proponents for information about likely environmental effects and their significance. In addition to weaknesses concerning the limited scope and low quality of scientific information required to inform EAs (Doelle 2012; Gibson 2012)**,** reliance on the proponent means that information can be collected and framed in ways favourable to their agenda. Notwithstanding proactive governance mechanisms codified by *CEAA*, the perception that the process is proponent-driven leads some to argue that, "[b]ias towards the development paradigm" is "built into the structure of the Act" and hence "tends to favour the project proponent" (Herring 2009, 292). Noble (2010, 8) suggests that governments eager to benefit from efficient resource development regimes can exhibit a " 'get to yes' syndrome" at the expense of conducting effective EA, particularly with respect to cumulative effects assessment. Duinker and Greig (2006, 155–56) echo the view that

while in theory EA is about environmental protection and sustainability, "in practice it is about project approval." In the view of some scholars, these characteristics suggest a potential "deference to the industrial worldview of the targeted project" (M'Gonigle and Ramsay 2004, 4).

In their systematic content analysis of ten recent EAs in BC, Murray et al. (2018, 1062) problematize proponents' (under- and mis)use of quantitative environmental significance thresholds: in every case where at least one significance threshold was exceeded after mitigation (in 8 out of 10 projects, and in 31 of 47 measured thresholds), "practitioners[12] used a variety of rationales to demote negative impacts to non-significance." The authors found that patterns of argumentation with "weak or flawed reasoning" were "frequently used to justify designating impacts as non-significant" (2018, 1067). All ten projects were approved despite exceedances, underscoring the importance of representation and reasoning in the consideration of environmental effects, and the need for further study at the level of EA decision-making.

McLeod-Kilmurray and Smith (2010) argue that environmental assessment in Canada typically takes the form of an implicit cost-benefit analysis, but the valuation of most social or environmental considerations are problematically opaque (and often, unquantifiable). These observations reflect broader issues of concern across the ecosystem services literature (Schröter et al. 2014), and highlight the challenges inherent to complex socio-environmental evaluations and decision-making. Scholars also routinely problematize the lack of transparency and clear decision-making criteria in EA (Van Hinte, Gunton, and Day 2007), regulatory capture (MacLean 2019), potential for conflicts of interest (government agencies may be project proponents and self-assess their own EA, for example) (Doelle 2012), limited stakeholder

[12] In this case, practitioners are assessors employed by project proponents to collect data and prepare Environmental Impact Statements (EIS) for submission to government EA review.

involvement (Mikadze 2016), and excessive discretionary powers held by those conducting EAs and by Cabinet (Gibson 2012).

Concerning discretionary powers, in the event that an EA determined that a project was likely to cause significant adverse environmental effects, responsible authorities under the *CEAA* can recommend whether or not the project ought to be "justified in the circumstances." Meanwhile, the Governor in Council could make substantive decisions about whether project approval is "justified in the circumstances," regardless of the recommendation in the EA report.[13] Consequently, there is no "clear limit on the amount of harm that the Minister may authorize" (Olszynski 2015, 228; Kirchhoff and Tsuji 2014). Under the circumstances, questions about whether the perceived economic and political utility of EA decisions (especially relative to electoral cycles) might influence decision-makers' consideration of the public interest is somewhat difficult to completely dismiss.

The changes to EA legislation and the implementation of *CEAA 2012* via two omnibus budget bills are considered by most scholars to have been a substantial "step backward" (Doelle 2012, 17; Gibson 2012). Notably, all infrastructure projects contained in the omnibus's stimulus package (meant to respond to the financial crisis) were exempted from environmental assessment (Stacey 2016, 173), arguably signalling that economic pressures might influence EA outcomes. Regardless, Kirchhoff and Tsuji (2014, 111) note that most of the changes introduced in *CEAA 2012* contradicted the international literature's suggestions for effective EAs and the principles underlying best practices.

This observation raises questions regarding the particular objectives and interests served by the changes. The Conservative federal government routinely argued that the changes were

[13] Responsible authorities and the Governor in Council retained this discretionary power under the *Impact Assessment Act* (2019) and *Canadian Energy Regulator Act* (2019).

designed to reduce EA duplication (which Kwasniak (2009) and others argue was not actually occurring), and to "streamline" and modernize the process to be more "efficient," and "predictable." However, several of the most prominent scholars in the field have argued that the changes have had the opposite effect from their stated intentions (Gibson 2012; Doelle 2012). Generally, these criticisms revolve around the drastic reductions to the number and types of projects subject to review (the from a peak of over five thousand federal EAs carried out annually under *CEAA 1992,* about thirty were conducted annually under *CEAA 2012*) (Sinclair, Doelle, and Gibson 2018, 167), restricting the definition of "environmental effects" and the scope of environmental considerations required therein, the expansion of discretionary powers,[14] and arbitrarily restricted review timelines (Kirchhoff and Tsuji 2014).

Public participation processes in Canada's EA regime have been extensively studied over the years (Mikadze 2016; Bowness and Hudson 2014; Sinclair, Schneider, and Mitchell 2012; Rutherford and Campbell 2004; Sinclair and Fitzpatrick 2002). Overall, these scholars are commonly critical of how public participation in EA processes (especially under NEB panel reviews) have been problematically circumscribed—leading to the marginalization of public participants and their interests. These criticisms were particularly sharpened after the passing of *CEAA 2012* (2(2)) further limited who would be allowed to participate as an "interested party" to those who—in the "opinion" of the responsible authority—are "directly affected" by a project or have "relevant information or expertise."

Palen et al. (2014, 465–466) argue that public "debates over oil-sands infrastructure obscure a broken policy process" which fails to consider broader climate, energy, and environmental issues by compartmentalizing each pipeline proposal as an isolated, "binary

[14] In addition to new discretionary powers afforded to Ministers, *CEAA 2012* removed the ability of a responsible authority conducting an EA to deny project approval—formerly, their only substantive decision-making power.

choice" between approval or a "lost economic opportunity." This piecemeal approach to individual EAs—as opposed to high-level, systematic approaches routinely stressed as important for effective EAs (Stacey 2016)—has been criticized for decades (Jeffrey 1991). It is commonly believed that disconnected EA silos and the absence of explicit mechanisms for the comparison of competing projects and cumulative effects leads to a "tyranny of small decisions" (Noble 2010; Van Hinte, Gunton, and Day 2007).

At the same time, under the *CEAA* legislative scheme, it is ultimately left up to the sitting federal Cabinet to make more holistic considerations if they so choose.[15] Consequently, some have suggested that the statutory and institutional regime merely "prohibit[s] uninformed—rather than unwise—agency action" (Westwood et al. 2019, 246). Notwithstanding what is "wise," Hazell (2010) argues that discretionary powers in EAs have not been used effectively to address the government's own stated climate change and GHG emissions reduction priorities. Koehl (2010, 218) takes a bolder stance, claiming that "[t]oday, *CEAA* is actually enabling and thereby legitimizing projects with high GHG emissions even though such projects are leading us to places that this Act was specifically designed to help us avoid."

2.2.3 Depoliticizing Public Issues: Technocracy and Scientism in Oil Sands EA?

The social and ideological mechanisms which support extractivist approaches to the oil sands and risk management have been of interest to scholars. Kowalsky and Haluza-DeLay (2015), for example, use Jacques Ellul's theory of technology to demonstrate that in the context of the oil sands, a totalizing technological rationality is mobilized by various pro-extraction actors as a means to establish their position as exclusive authorities over the "facts" of oil sands development. The strategic maneuvering of certain pro-extraction actors to legitimate their views

[15] This is somewhat less true under the new *Impact Assessment Act* (2019) since considering climate change *specifically* is now a requirement of every federal environmental assessment. However, at the level of decision-makers, the details of these considerations seem likely to remain "cloaked in confidentiality" (Gibson 2012, 187).

as objective, scientific, and divorced from personal, partisan, or ideological agendas seemingly evokes a positivist epistemic hierarchy. In naturalizing this "technoscientific rationality," these actors simultaneously preclude ethical considerations and seek to undermine the credibility of those with differing viewpoints as offering subjective, value-based, and socially irrelevant opinions. Relatedly, other scholars have argued that technocratic discursive strategies effectively depoliticize climate change and "narrow[s] the space for ideological conflict" by establishing binaries between possible/impossible, legitimate/illegitimate, and by "concealing underlying values, interests, and assumptions" (Pepermans and Maeseele 2014, 223).

However, in focusing on the rhetoric of politicians and the media, Kowalsky and Haluza-DeLay's (2015) work leaves unanswered questions about whether (or the extent to which) problematic technological rationality may be present in the environmental assessment process, or the statutory regime itself, and what effects it could have. Still, the technological rationality observed by Kowalsky and Haluza-DeLay is strikingly similar to what other scholars have called "scientism" (Blue 2018; Welsh and Wynne 2013) which Blue (2018, 545) defines as "a phenomenon whereby authority is implicitly granted to scientific and technical experts to define the meaning, scope, and by extension solution for public policy concerns." Blue (2018, 547-549) argues that scientism is both a normative stance and a political doctrine which is often discursively mobilized in formal public participation processes, and further, that these processes can reinforce and normalize the hegemony of technical policy frames and their underlying assumptions.

According to Methman and Rothe's (2012) discursive investigation, the ways that climate change is predominately framed as a highly threatening global risk actually "reinforces the existing technocratic risk-management approach in international climate governance"

(Pepermans and Maeseele 2014, 221). Thus, rather than provoking novel responses to the systemic, human drivers of climate change, "apocalyptic" framings of the problem elicits an entrenchment of technocratic logics of risk wherein "mitigation" is conceived as simply "precautionary risk management, adaptation as investing in preparedness, and security not as preemption [or necessary systemic change] but as a combination of the former two" (Methmann and Rothe 2012, 337). It may be important to consider these findings in the context of the Northern Gateway's environmental assessment, since a board of technical experts was tasked with evaluating the merits of the proposal in relation to its anticipated environmental effects.

2.3 "State Resources": Sovereign Energy Geographies and Northern Gateway

A large body of literature in human geography has explored the dynamics of how state territorial sovereignty, resource management, and private capital converge in a variety of contexts, across social and spatial scales. This section introduces key features of this literature, while also identifying areas warranting further research to better understand the nexus of language, capital, and state resource management in the context of Northern Gateway specifically. Bridge (2014), for example, reviews and summarizes geographic analyses (with varied theoretical and topical orientations) of the ways in which resource extraction activities are negotiated, rationalized, and enacted by state and non-state actors within and across scales. Despite a diversity of methodological approaches, much of the geographic scholarship that Bridge's review identifies implicitly or explicitly reinforces the importance of considering the role of the state in the administration of resource extraction. Even in contexts where the state could be seen as playing a marginal role in resource governance or extraction due to the neoliberalizing processes of deregulation, privatization, and marketization, the state remains a critical "extra-economic force" (Bridge 2014), in that it administers the rule of law over the

spatial and property relations which underpin extractive activities and concomitant capital accumulation. Bridge's analysis of the geographic literature thus underscores the ongoing need for resource scholarship to investigate the role of state institutions as key administrators of resource mobilization.

In a similar vein, Calvert (2016) traces the historical trajectory of geographers' engagement with energy issues specifically, pointing to a plurality of theoretical and conceptual approaches geographers have adopted in order to be more responsive to the need for transdisciplinary understandings of complex issues such as energy. In common with many of his peers, Calvert (2016, 110-111) identifies energy—an inherently political and contested resource—as a critical mediator in the human-environment relationship. Accordingly, Calvert (2016) emphasizes the importance of considering how energy development and governance may be guided by the rhetorical mobilization of dominant political-economic ideologies and geographic imaginaries which could yield inequitable socio-spatial outcomes. The fact that Calvert neglects to discuss how such ideologies or geographic imaginaries are transmitted or sustained by discourse exposes a key gap for further research. My research questions and design are directed towards contributing to filling this gap through a case-bound systematic discursive analysis.

Echoing Calvert's (2016) observations, Childs (2016) observes the persistence of "national" framings of resources, wherein resource management or ownership is associated with evocations of national identities, rights and ambitions. In the Canadian context, Smith's (2010) analysis of the Harper government's use of nationalistic rhetoric to evoke notions of Canadian "arctic sovereignty" and associated economic ambitions (arguably made possible by climate change) supports Childs' claims. These findings are also interesting in light of MacLean's (2018,

57) critique of Canada's "carbon democracy," in which he argues that the "ideological identification of the oil and gas industry's private interest" has become deeply entrenched in the government's perceptions and pursuits of the "broader public interest." This assertion suggests that, in the context of environmental assessment processes, there is a particular need to be attentive to the ideological positions of decision-makers, and that research focused on the discourse of decision-making processes may have a role in identifying these positions.

Childs (2016, 544) recommends paying greater attention to the cross-scale power dynamics involved in struggles over resource ownership and governance in specific spatial contexts to help improve our understanding of equity concerning such issues. Himley (2008, 445–47) makes similar arguments, also advocating contextually grounded research agendas aimed at disentangling power and sociospatial inequities inherent to neoliberal environmental governance regimes. My research questions and design are congruent with the respective calls of Childs and Himley to conduct contextualized, cross-scale analyses that may reveal power inequities related to resource and environmental governance in Canada.

Taking a different approach, Huber (2015) argues that political ecologies of energy are central to production and reproduction of "geopolitical imaginaries" of nationhood and international relations, and shows how critical geographers have endeavoured to demonstrate the ways geopolitical tropes are utilized in furtherance of agendas and in the legitimation of specific power relations. Since part of the Joint Review Panel's mandate was to make a recommendation about the project based on whether Northern Gateway was in the "national interest," Huber's observation suggests that remaining cognizant of ways that nationalistic geopolitical imaginaries might be strategically deployed in discursive frames about the project may be important in the context of my research. While not specific to energy issues, Huber's interest in how different

modes of representation are deployed in the construction of nationalistic social or policy frames (which can then be used in an effort to legitimate state actions) has long been an important concern in the field of critical geopolitics (Ó Tuathail and Agnew 1992; Dalby 1991; Mamadouh and Dijkink 2006; Dodds, Kuus, and Sharp 2013).

Beck (2010) is also concerned with the effects of states and their governance institutions in terms of structuring the social distribution of risk and reward. Beck (2010, 167) argues that "national boundaries draw a sharp distinction between politically relevant and irrelevant inequality," wherein "[t]he 'legitimation' of global inequities is based on an institutionalized 'looking the other way.' " This assertion is poignant in that it partly attributes the construction of state-centric socio-spatial divides, along with reinforcing institutional practices, to the perceived legitimacy of inequity. Given the unavoidable intersections of national resource governance regimes and global climate change, Beck's point raises questions about whether (or the ways in which) the environmental assessment process itself might be suffused with institutional practices that normalize socio-spatial divisions of inequity, and what social actors become legitimate producers or subjects of risk as a result.

2.3.1 Case Studies of the Northern Gateway Project

Although Northern Gateway is often mentioned in the scholarly literature, outside of media and communication studies, there are relatively few examples of case studies specifically focused on the project. The use of geopolitical tropes—figurative or metaphorical representations of geopolitical themes—have been explored within the context of the Northern Gateway application process by Rossiter and Wood (2016), who conducted case study research utilizing official Enbridge application documents, selected hearings transcripts, and advertisements as source data. Rossiter and Wood (2016, 902-909) found that Enbridge made strategic efforts to

frame the project in terms of nationalistic, "collective economic security," and evaded or omitted any discussion of how resource development is tied to the unresolved question of Indigenous title through the representation of a "postpolitical "fantastic topography" where such questions are already resolved." Ultimately, Rossiter and Wood's (2016, 900) analysis led them to argue that Enbridge leveraged de-politicized, narrowly economic rhetoric as a public relations strategy to help "fix the [resource development] landscape" for capital investment, delegitimize claims to Aboriginal title, and dismiss the concerns of public participants.

By focusing on primarily on the rhetoric of the project proponent—which had very clear economic interests in gaining project approval—Rossiter and Wood (2016) give limited consideration to the Joint Review Panel's use of rhetoric. Further, their case study's overall inattentiveness to climate change issues and discourse leaves a key knowledge gap to be investigated. My research aims to partially address this gap by examining the review panel's discursive representations of the Northern Gateway's environmental effects and climate change within the assessment process.

Several academics have also explored technical, political, and community risk perceptions related to the Northern Gateway pipeline at local, regional, and provincial levels (Service et al. 2012; Wilson and Summerville 2014; Hotte and Sumaila 2014; Bowles and Wilson 2016; Bowles and Veltmeyer 2014). Axsen (2014) studied provincial variability in public acceptance of fossil-fuel infrastructure, using value-theory and focusing his statistically-oriented analysis on the Northern Gateway. Perhaps unsurprisingly (especially in hindsight), Axsen found that Alberta respondents were most likely to support the pipeline and perceive economic benefits, while BC respondents were most likely oppose the project and perceive environmental risks. Axsen (2014, 264) underscores that governments hoping to navigate public opinion in

similar contexts will need to "carefully frame [their] political decisions" in order to anticipate how these frames might "connect or clash with different core values." Still, questions remain concerning decision-makers' perception of the risks Northern Gateway could pose in relation to climate change, and how these perceptions might influence or rationalize governance outcomes.

Participants and observers have voiced numerous concerns about the conduct of general public and Indigenous "consultation" processes during the Northern Gateway JRP proceedings, wherein commentators commonly felt that making verbal or written submissions in opposition to the project would have no impact on the outcome (Le Billon and Vandecasteyen 2013). Indeed, the Federal Court of Appeal's (2016) ruling in the case of *Gitxaala Nation v. Canada* seems to corroborate the view that power differentials involving the circumscription of public agency in JRP processes renders public participation into more of a token gesture than of a substantive opportunity to influence policy.

However, Le Billon and Vandecasteyen (2013, 50-52) maintain that there are several strategies by which people can gainfully attempt to "re-scale the politics of resource governance" (to shift decision-making authority across to other levels of sociopolitical organization). They suggest decision-making power can be negotiated by engaging with existing governance processes (e.g., voicing opinions within established governance processes such as public hearings), attempting to rescale the process itself (e.g., demanding the rules of governance be altered to share decision-making power more equitably), and attempting to rescale power by organizing outside the process (e.g., building opposition coalitions to exercise political agency through activism, legal challenges, and other means). However, it is arguably necessary to have a rich understanding of the existing resource governance process to inform any attempts to rescale it, and case studies can prove instructive in this capacity.

McCreary and Milligan (2014) also conducted case study research on the Northern Gateway proposal, focusing on the ways Indigenous identity, land title, and knowledge was largely preconceived, circumscribed, and tokenized within the JRP process and broader resource governance regime. This, in turn, revealed that power to challenge the extractive activities within the provided forum is problematically delimited. Similar to Bowles and Veltmeyer (2014) and Le Billon and Vandecasteyen (2013), they stress that resistance is possible within and outside governance processes, and that the exercise of power it not necessarily totalizing or unidirectional—an important point given the efforts of many non-state actors to influence resource governance processes. Further, McCreary and Milligan (2014, 117) suggest that the full suite of social, spatial, economic, political, and ecological issues implicated in the material practice of resource extraction are not necessarily considered within the JRP's governance regime. Despite that observation, McCreary and Milligan do not address how particular discursive framings of these potential considerations within the JRP process may serve to rationalize their inclusion (and treatment therein) or exclusion from the review, or what effects such discourses might have.

Aspects of Northern Gateway have also been subject to different types of discursive analysis by Master's students. Massie (2016), for example, used critical discourse analysis to study how Enbridge itself attempted to rhetorically legitimate Northern Gateway through their website, and found a number of economic, environmental, and scientific themes that portrayed the project as highly beneficial to Canada and the well-being of Canadians. Contrastingly, Lockhart's (2014) approach employed discourse network analysis to investigate how the JRP "contributed to effective environmental governance" through its policy recommendations (12). Lockhart notes that discourse coalitions tended to form between social actors based on shared or

conflicting values or beliefs, and views about whether the project should be approved or not. Of interest for my research is that some of the justifications offered by the JRP for its scoping choices, and the overall completeness of its final reports were seen by many stakeholders opposed to the project as unsatisfactory (102; 107).

2.4 The Language of Energy and Climate Governance

The following section explores the ways that language inseparably connects environmental governance, energy and climate debate and policy. Specifically, I discuss how scholars have examined language in relation to notions of institutional legitimacy, as well as how they have investigated the strategic representation of energy and climate issues and policy debates broadly, and specifically in the Canadian institutional and political context.

2.4.1 Language as a Medium of Governance and Means of Legitimation

Language is often the central way we represent and attempt to understand others, ourselves, objects, ideas, values, actions, problems, and solutions. Language is likewise a key medium through which we create, translate and disseminate knowledge and reason about issues (although other forms of representation and communication can be used). In law, policy, and governance, language is deployed with the intention of promoting or achieving desired outcomes, usually by legitimating, facilitating, restricting, or prohibiting particular actions. Consequently, language is "the medium through which law does most of its work" (Conley, O'Barr, and Riner 2019, 2), and much the same could be said of resource governance. In a way, language is the primary medium of governance since both law and governance are, short of force, mobilized using language—they are inextricable.

However, language is not value-neutral—it carries explicit and implicit value orientations, epistemological and ontological assumptions, and its use can be inherently

persuasive (Johnson and McLean 2020). It is partly the sociopolitical ramifications of this recognition that led Gramsci to point out that "in language, there is contained a specific conception of the world" (quoted in Ives 2004, 82), and rhetoricians to argue that "language is a kind of ideological fingerprint" reflective of its users (Toye 2013, 1). Thus, language has important implications for governance and society: it can implicitly or explicitly influence how issues and knowledge claims are framed (and consequently interpreted) (Scrase and Ockwell 2010; Pincus and Ali 2016), and thereby how and what decisions are made and acted upon.

Language is also a central means by which institutions—especially democratic governments—seek to establish or maintain public perceptions of the legitimacy[16] of their actions, decisions, or existence (Mayr 2008, 2–3; Van Leeuwen 2007). As Weber (2019, 339) 339) argued in the early 20th century, the survival of any system of authority over others depends partly on their ability to "arouse and foster belief in their legitimacy" as a "reliable basis for rule." Searle (2010, 140) echoes Weber's assertion by claiming that "institutions work only to the extent that they are recognized or accepted." In contemporary liberal capitalist democracies where environmental decisions could be considered controversial, a government's interest in cultivating public perceptions of the fairness, accountability, and legitimacy of their administrative institutions and decisions may be especially salient. In Canada's resource management regime, these issues are brought to the forefront in the environmental assessment process and navigated using language.

2.4.2 Environmental Assessment as an Instrument of Administrative Legitimation

Environmental assessment is widely considered an integral planning tool for sound and publicly accountable decision-making (Doyle and Sadler 1996), and involves "studying,

[16] I use Suchman's (1995, 574) definition of "legitimacy:" "a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions."

understanding and attempting to predict the potential environmental effects" of activities before decisions are made regarding them (Stacey 2016, 169). This is consistent with the precautionary intention behind several stated purposes of *CEAA*. At the same time, as a process which negotiates the seemingly competing interests between environmental protection, resource exploitation, and diverse stakeholders, environmental assessment partly allows the state to address potential "legitimacy quandar[ies]" (Davidson and Gismondi 2011, 173) by "providing a framework for public justification in environmental decision-making" (Stacey 2016, 169). In part, this justificatory function is codified by the *Canadian Environmental Assessment Act* (*CEAA*) (and the *National Energy Board Act* (*NEB Act*), where applicable), which governs the federal EA process and requires that reasons supporting EA decisions are published publicly (*CEAA 1992*; *CEAA 2012*).

Yet the statutory requirement to provide reasons is interesting, because while the courts have interpreted whether principles of procedural fairness require government administrators to provide reasons supporting their decisions differently in particular contexts, there is no overriding legal requirement to do so (except where explicitly required by specific statutes) (Kushner 1986; Wilson 2012). The existence of the statutory requirement to provide reasons for decisions in the context of the *CEAA*, therefore, suggests that legislators recognized the specific need for (and arguably, the strategic utility of) publicly rationalizing government environmental assessment decisions, especially those that might be controversial. Some have gone so far as to argue that lending legitimacy to executive environmental decision-making was a key reason that Canada's EA legislation was initially created (Winfield 2016). Among other functions, then, environmental assessment in Canada can be understood as a tool to render visible aspects of the

environmental governance process, thereby providing a means of potential public justification of Canada's governance institutions which is in line with Weber's notions of state legitimation.

Public concern with the perceived legitimacy of environmental assessment processes and institutions is highlighted by scholars, think-tanks and even the government's own expert review of the EA process as repeatedly emphasizing the necessity of restoring "public trust" and "confidence" in EA processes (thus implying the erosion of these qualities) (Colton et al. 2016; Matthews 2017; CEA Agency 2017). Understanding how exactly environmental assessment—and therein, language use—functions as a potential means of cultivating administrative legitimacy necessitates an examination of how issues and decisions are framed, reasoned about, and rationalized within this governance process. While there are other arenas in which government representatives may aim to persuade the public of the legitimacy of their intentions and decisions with respect to environmental assessment—particularly through engagements with the media—the EA process remains the only officially required step in the pipeline decision-making process where governments can demonstrate procedural fairness and produce evidence of administrative legitimacy. This type of inquiry is particularly necessary in the context of climate change, where the assessment process negotiates tensions between multiple stakeholders' competing environmental, social, and economic interests, and may need to yield a publicly defensible outcome for elected officials hoping to retain their positions

2.4.3 Resource Governance Processes as Sites of Debate?

Glenna and Thomas (2010) examined the state of Pennsylvania deliberative process in the development of an energy policy which includes "waste coal" as an exception to an energy portfolio otherwise consisting only of renewable energy sources. They argue that the legislative body "serves as the location where social and environmental problems are defined, potential

solutions are debated, and outcomes are justified to the public" (2010, 858). They also contend that policymakers often respond to environmental problems by defining and framing the parameters of the issue in ways that present the situation as under control, a "non-problem," or unimportant compared to economic agendas (2010, 860; 857-858).

This observation resonates with previously discussed critiques of public participation processes and technocratic environmental decision-making, and throws into question how such tendencies might influence the governance process and its outcomes, and the specific values and agendas served therein. Still, Glenna and Thomas emphasize that investigating these sites of policy debate offers insight into processes whereby the state manages the public legitimation of their decisions. Notwithstanding differences between American and Canadian governance processes generally, their central contention that the site of policy debate serves to define problems and legitimate solutions remains an important point in the context of my research, with key caveats.

At the federal level, although the public JRP hearings may appear to be an analogous process in the context of my case study; the quasi-judicial, turn-taking format of the hearings meant that this process could not be considered an equivalent site of public "debate." While participants could share their views and present formal evidence, the roles of review panel members are primarily to gather information deemed necessary to make their recommendation, and to mediate between speakers, rather than to directly participate in public debates about the merits of a proposal. Instead, review panels produce texts which are meant to present their decisions and offer insights into their reasoning. While such texts may arguably serve to provide public justification for decisions, debate between the review panels and the public remains circumscribed by the structure of the hearing process, resulting in largely unidirectional,

monological rather than dialogical discourses. Meanwhile, the substantive decision-makers (Cabinet) are not directly involved in the JRP's review process, so there is no official way to "debate" those with policy power.

Thus, while much of Glenna and Thomas' (2010) contention about such processes serving to define environmental problems, propose solutions, and justify outcomes remains valid in the context of my case study, the JRP's authoritative position over participants is more akin to those of court judges than policymakers debating among peers. Consequently, understanding how and why Northern Gateway decision-makers framed and rationalized the project in relation to its environmental implications requires looking beyond the hearings process. In particular, the texts in which recommendations and decisions are articulated as part of the "official" pipeline governance process are key resources. From a methodological standpoint, Glenna and Thomas' discourse analytical approach to probing issue framing and legitimation in environmental governance processes suggests the efficacy of adapting similar research strategies to my case study. Several characteristics underlying their case study and research design have informed features of my focus on the Northern Gateway governance process.

2.4.4 Energy and Climate Change Governance Discourses

Popular and academic interest in climate change have led to an explosion of research across the natural and social sciences (Callaghan, Minx, and Forster 2020), much of which is concerned with the effectiveness of public communication regarding climate change (Schäfer and Schlichting 2014). As Ulrich Beck (1992, 23) has observed, risks under conditions of modernity are "open to social definition and construction. Hence the mass media and the scientific and legal professions in charge of defining risks become key social and political positions." In this sense, Beck highlights that discourses regarding risks are politicized and can

have important socioenvironmental implications and, moreover, that particular communicators are highly influential. Many scholars have attempted to discern linkages between discourses concerning energy and climate change and their social, political, and environmental effects.

Fleming et al. (2014, 408) provide a substantive review of the existing literature examining climate change discourses across a variety of contexts. They note a spectrum of dominant discursive framings which can either enable or constrain the action of particular groups. Applying post-structural theories of agency and change to their research, they argue that by empirically examining different framings of climate change and challenging hegemonic discourses, novel opportunities to change social behaviour arise. Contrastingly, taking a historical-geographical approach, Offen (2013) argues that the meaning of climate change is temporally, culturally, and contextually variable, and is intimately intertwined with social mores, politics, institutions, philosophies, and cultures that ascribe it with meaning. Fleming et al. (2014) and Offen's (2013) work lend some credence to the notion that climate change discourses should be investigated with attention to their specific contexts.

Murphy and Murphy (2012) take a broader approach to the resource-climate change governance issue with comparative case studies of Canada and New Zealand, partly focusing on oil sands development. They discuss the neoliberal economic metrics underlying risk-benefit evaluations between resource exploitation and climate change, arguing that the "framing of energy security and cost(risk)-benefit analysis has had great rhetorical force in Canada, motivating high emissions" and a reluctance to acknowledge that this strategy may be irrational in the long-term (Murphy and Murphy 2012, 256). Despite drawing attention to the influence of rhetoric on resource and climate governance in Canada, Murphy and Murphy do not clearly examine any specific discourses. Instead, they take a historical approach to the policy objectives

stated by different political forces and their practical outcomes. Consequently, their work does not explicitly demonstrate how or in what ways framing and rhetoric could elicit the effects they describe, leaving an important gap for future research.

Greaves (2013) is also concerned with the dominant framing of Alberta's bitumen sands in terms of "energy security" or "economic security," arguing that such characterizations are strategically mobilized to obscure the conditions of environmental insecurity and damage inherent to oil sands exploitation. Greaves also critiques the Alberta and federal governments' rhetorical marginalization of the climate impacts of oil sands expansion. He points out repeated instances where government officials assume the inevitability of technological advancement to adequately compensate for emissions and other environmental damage, thereby favouring the status quo. Additionally, Greaves observes that comparing annual GHG emissions of the oil sands to (the orders of magnitude larger) annual global emissions is used as a strategy to trivialize environmental critiques and minimize the perception of any problem requiring change.

Scrase and Ockwell (2010) take a similarly discursive analytical approach. Notwithstanding the influences of technological "lock-in" and transitionary challenges associated with climate and energy policy, they argue that "linguistic framing may serve to favour the status quo in energy policy" (2225), while also acknowledging a kind of "Catch-22" in energy policy debates. The catch, they suggest, is that to counter this ostensibly hegemonic framing, it may be necessary to adopt elements of those very discourses to persuasively reflect core state agendas (such as economic growth, national security, and administrative legitimacy) in order to gain policy traction. This may not be an especially novel observation in wider policy advocacy circles, but they effectively demonstrate how specific policy discourses are more successful when aligned with the language and logics of state agendas.

Concerning energy policy specifically, Scrase and Ockwell (2010) suggest the main goals that policymakers focus on are 'access,' 'security,' 'efficiency' and 'environment,' and demonstrate the interplay between these and core state objectives in the context of UK energy policy (2228). Additionally, they explicate the importance of institutional arrangements in structuring and forming routine understandings among policy discourses. In particular, this observation supports the notion that institutional practices represent an important locus for empirical discursive analyses concerning the effects of framing on policy debates and outcomes.

Examining legislative and policy documents, press releases, media briefings, and ministerial speeches relevant to climate change as primary sources, Young & Coutinho (2013) explored the Harper government's "anti-reflexive" climate change framing strategy—in other words, the government's intentional mobilization of resources and strategies to justify climate change inaction and undermine criticism. They explain the government's rhetorical tactics, such as the use of "affirmation techniques" which express acceptance of the consensus that climate action is needed, but are coupled with attempts to control and limit the policy implications with "sensible" and "balanced" approaches to action. In effect, the authors argue this performance "masks the ideological motivations of the anti-reflexive movement by recasting these as apolitical pragmatic decisions" (98-103).

Young and Coutinho also note that government mobilized nationalistic framings of Canada as a "clean energy superpower," and routinely created "policy noise" to resemble action connected to their "made in Canada" approach to climate change. Additionally, they point out the restrictive funding and media policies which allowed the government to control the flow of and shape knowledge claims about climate change (referred to by the media as the "muzzling" of

scientists).[17] Given that Northern Gateway's environmental assessment process occurred within this political backdrop, it is clear that cognizance of whether similar discursive strategies might be present in the formal environmental assessment process is critical to gaining a fulsome understanding of the issue.

In general, scholarship in this area supports the importance of empirically investigating the relationships between particular discursive framings and rhetorical strategies and their potential policy effects in specific contexts. In some cases, a broader topical or theoretical focus has come at the expense of empirical specificity in these article-length contributions, and so fewer methodological insights can be gleaned. That said, Young & Coutinho (2013) in particular offer useful methodological insights into their data collection and analytical processes which, when adapted, gainfully inform these aspects of my research design.

2.5 Conclusion

The body of literature examined in this chapter demonstrates a wide breadth of scholarly knowledge which informs our understanding of key legal, institutional, political, and discursive dynamics relevant to investigating the nexus between language and Northern Gateway's environmental assessment. However, insufficient attention has been paid to the discursive framing and rationalization of environmental effects and climate change within Canada's official environmental assessment process, and in the context of Northern Gateway specifically. Combined with the pressing need to address anthropogenic climate change, this literature gap strongly underscores the need for discourse analytic approaches that can help better explain the relationships between discourse and environmental governance in applied institutional contexts.

[17] Formal complaints about this muzzling were later confirmed to be "well founded" in a report by the outgoing Information Commissioner of Canada (CBC News 2018).

Chapter 3 – Methodology and Methods

3.1 Introduction

In this chapter, I describe and explain my how I have employed Critical Discourse Analysis (CDA) as a methodology, and frame analysis and argumentation analysis as complementary methods, in the pursuit of answering my research questions and fulfilling my research objectives. Specifically, I discuss how the application of CDA guided my research design and provided the necessary analytical framework to systematically investigate my research questions and contribute to addressing the knowledge gap in the literature. The chapter begins by introducing key premises, terms, concepts, and analytical models used in CDA, and explaining how they have informed my research design and provided the basis from which to conduct my analysis. Next, I discuss how social theory—in particular, the concepts of "hegemony" and "regimes of truth"—interface with my application of CDA methodology. Then, I discuss my use of two distinct but complementary methods—frame analysis and argumentation analysis—as tools for analysis at the textual level (Fairclough, Mulderrig, and Wodak 2011; Blommaert 2005, 24; Fairclough 2013, 20133). Finally, I explain the implications of this methodological programme for my overall research design and data selection, along with important limitations, challenges, and reflexive considerations.

3.2 Methodology: Critical Discourse Analysis (CDA) – Background, Premises, Key Concepts

Methodology "constitutes a whole range of strategies and procedures" which inform and guide all aspects of the research process (Alasuutari, Brannen, and Bickman 2008, 1)—it is a procedural framework which is integral to the design and conduct of research from conception through execution and completion. Methodology is distinct from methods (which, following Schensul (2008), I view as discreet tools or techniques used to collect data), but should provide

guidance about what methods optimally cohere with the research project as a whole. Indeed, methodology has a pervasive influence on all choices made throughout research, from framing research questions, identifying and selecting objects of investigation, data, methods, guiding paradigms, conceptual and theoretical frameworks, through procedures for analysis and interpretation (Schensul 2008, 518). Within the confines of a case study approach, my methodology draws heavily on Norman Fairclough's (1992; 2010) formulation of Critical Discourse Analysis (CDA), and his "three-dimensional" analytical framework more specifically.

The field of critical discourse studies is a heterogeneous group of mainly (but not exclusively) qualitative and inter- or transdisciplinary approaches to the study of language-in-use that began to emerge in the mid-1960s, and has grown considerably since the 1990s (Wodak and Meyer 2015, 2–5; Machin and Mayr 2012, 2). Research falling under the umbrella of critical discourse studies is diverse, owing to researchers' different disciplinary backgrounds and research projects which are informed by their own theoretical models, methods, and agendas (Fairclough, Mulderrig, and Wodak 2011, 357; Johnson and McLean 2020, 377).

Despite such diversity, research in this field shares a 'critical' impetus rooted in Critical Theory as originally espoused by the Frankfurt School, and later, by theorists such as Jürgen Habermas (Wodak and Meyer 2015, 6; Weninger 2008, 145). Critical Theory differs from ostensibly "traditional" theory (the aims of which are arguably geared towards understanding and explaining society) by taking an explicitly normative stance which orients empirical, historically-situated, interdisciplinary social inquiry and criticism towards transformative, emancipatory social change (Bohman, Flynn, and Celikates 2019; Wodak and Meyer 2015, 6–8). This normative position entails considering the status quo "against the background of an alternative (ideal) state and preferred values, norms, standards or criteria" (Reisigl 2017, 50), and the

process of critique is intended to function as a "mechanism for both explaining social phenomena and for changing them" (Fairclough, Mulderrig, and Wodak 2011, 358).

3.2.1 CDA's "Dialectical-Relational" Approach to Discourse

In keeping with the 'critical' tradition, CDA is a problem-oriented, interdisciplinary methodological framework concerned with the "role of discursive practice in the maintenance of the social world" (Jørgensen and Phillips 2002, 63), including the "semiotic dimensions of power, injustice, abuse, and political-economic or cultural change in society" (Fairclough, Mulderrig, and Wodak 2011, 357). Part of applying CDA as a methodology thus requires "exploring patterns in and across . . . statements and identifying the social consequences of different discursive representations of reality" (Jørgensen and Phillips 2002, 21). Accordingly, many scholars have used CDA methodologies to analyze the discursive dimensions involved in the exercise of political power (Weninger 2008, 145-147).

This focus on the role of 'discourse'—broadly defined here as the "social use of language" or "language in social contexts" (Fairclough and Fairclough 2012, 78)—stems from the premise that discourse and various layers of the social world are dialectically related (known as the "dialectical-relational approach") (Fairclough 2010, 3–4; Wodak and Meyer 2009). CDA is grounded in a particular critical realist ontology,[18] but it is generally assumed that "discourse is a socially constituted as well as constitutive semiotic practice" (Reisigl 2017, 51). Put simply, discourse and society influence one another. Any discursive event is shaped contextually by social practices, situations, institutions and structures; these and other aspects of society are influenced by the role discourse plays in constituting situations, objects of knowledge, social

[18] "Critical realist ontology" in this context refers to the assumption that "there is a real world which exists independently of our (always limited) knowledge of it and of whether or how we represent it;" however, semiosis—the making of meaning—is seen as causally efficacious on the real world (Fairclough 2010, 164; 204-206).

identities and relations (Fairclough, Mulderrig, and Wodak 2011, 357–58; Jørgensen and Phillips 2002, 67).

In part, this dialectical relationship exists because in using language (or other semiotic elements), "we do not simply name things but conceptualize things," which to some extent affects how different social actors "see" and position ideas, knowledge, values, identities, and social relations in particular contexts (Fairclough, Mulderrig, and Wodak 2011, 358). For example, the terms 'normal,' 'sane,' 'freedom,' or 'democracy' are all partly conceptualized through the imbrication of multiple discourses—which themselves are connected to particular values, knowledges, and identities. It would be impossible to "know" anything about the meaning of these terms or what they represent without being mediated by some symbolic system "that classifies, subjectifies, and objectifies" them relationally (Dittmer 2010, 277). Rather than passively reflecting reality, language thereby also constructs meaning and mediates understanding (Fairclough 1992, 3–4; 41–42). Consequently, CDA scholars maintain that semiosis—inclusive of all forms of symbolic "meaning making," from visual images or body language to language itself—is an inherently value-laden rather than neutral process (Weninger 2008, 145–47; Raiter 1999; Fairclough 2001, 122).

The influence of Michel Foucault's theories about the dialectical, co-constitutive interdependencies between discourse, power, and knowledge are manifest in CDA scholars' view that semiosis is value-laden (Taylor, Yates, and Wetherell 2001, 72-80). Foucault maintained that discourse never occurs in a socio-material vacuum: it is always situated within a network of historically and contextually-specific power and knowledge relations, and plays a pivotal role in their maintenance or alteration (Johnson and McLean 2020, 377–78). Although Foucault used the term 'discourse' in a variety of senses, one such use arguably referred to a

constellation of "representations, practices, and performances through which meanings, [knowledge(s), and subject positions] are produced, [and] connected into networks" (Gregory 2000, 180; Johnson and McLean 2020).

It is this understanding of discourse which led Foucault to assert that "it is in discourse that power and knowledge are joined together" (Foucault 1990, 100). He argued that discursive representations, practices, and performances constitute (and are constituted by) objects of knowledge and subject identities in such a way that power, knowledge, and discourse are inextricably linked (Johnson and McLean 2020, 378). In doing so, he affirmed the notion that language plays an important mediating role in social relations and structures (Wodak and Meyer 2009, 21). However, these relationships and their ideological underpinnings are often opaque in practice (Fairclough, Mulderrig, and Wodak 2011, 358). CDA scholars maintain that "discourse does ideological work" (Scollon 2001, 141), and CDA's core methodological programme is meant to help de-mystify power and ideological relations embedded in discourse through the systematic analysis of dialectical relationships between semiosis, social practices and structures (Fairclough 2001, 123; Wodak and Meyer 2009, 3).

Norman Fairclough's (1992, 36–61) development of CDA drew heavily from Foucault, but Fairclough intended to mitigate what he considered major theoretical and methodological weaknesses in Foucault's work. In particular, Fairclough criticized Foucault's approach to discourse as overly abstract—untethered from the empirical analysis of texts. Likewise, he (1992, 5; 37) criticized extant textually, and thus linguistically, oriented approaches to discourse analysis for giving "insufficient attention to social aspects of discourse" and ultimately neglecting social theory. Fairclough thus sought to wed Foucault's theories about the co-constitutive nature of discourse and power with methodological influences from linguistically-

oriented discourse analysis. To that end, he developed a "three dimensional" analytical framework for conducting discourse analysis.

3.2.2 Fairclough's "Three-Dimensional Model" of CDA

Fairclough's (1992) three-dimensional model of discourse analysis attempts to situate discursive 'events'—instances of discourse, conceived as "texts" whose linguistic features can be "read"—within two layers of the social context: discursive practice and social practice. Fairclough's model is rooted in the dialectical-relational approach to discourse, and the three dimensions are considered analytically distinct but interdependent (see Figure 2). "Text" is nested within its processes of production, distribution and interpretation, which constitutes the dimension of discursive practice; in turn, text and discursive practice occur within their broader socio-historical context, considered the dimension of social practice.

Thus, any discursive event is considered as "being simultaneously a piece of text, an instance of discursive practice, and an instance of social practice" under the three-dimensional model (Fairclough 1992, 4). These three layers form "the overall 'discourse' under investigation" and must be analyzed in an integrative fashion, taking their interrelations into account (Rogers-Hayden, Hatton, and Lorenzoni 2011, 135; Fairclough 2010, 59–60). Consequently, as Fairclough (2010, 237–38) explains, "textual analysis is only a part of semiotic analysis (discourse analysis), and the former must be adequately framed within the latter. The aim is to develop a specifically semiotic 'point of entry' into objects of research."

Each dimension in Fairclough's model entails different foci and levels of analysis, and necessitates iterative research processes which oscillate between textual analysis and analysis of different elements of the social context (Steacy et al. 2015; Johnson and McLean 2020). To that end, drawing on Dittmer (2010, 279), it can be helpful to think of each dimension as (roughly)

corresponding with the three levels of traditional social analysis: micro (texts), meso (discursive practice), and macro (social practice).

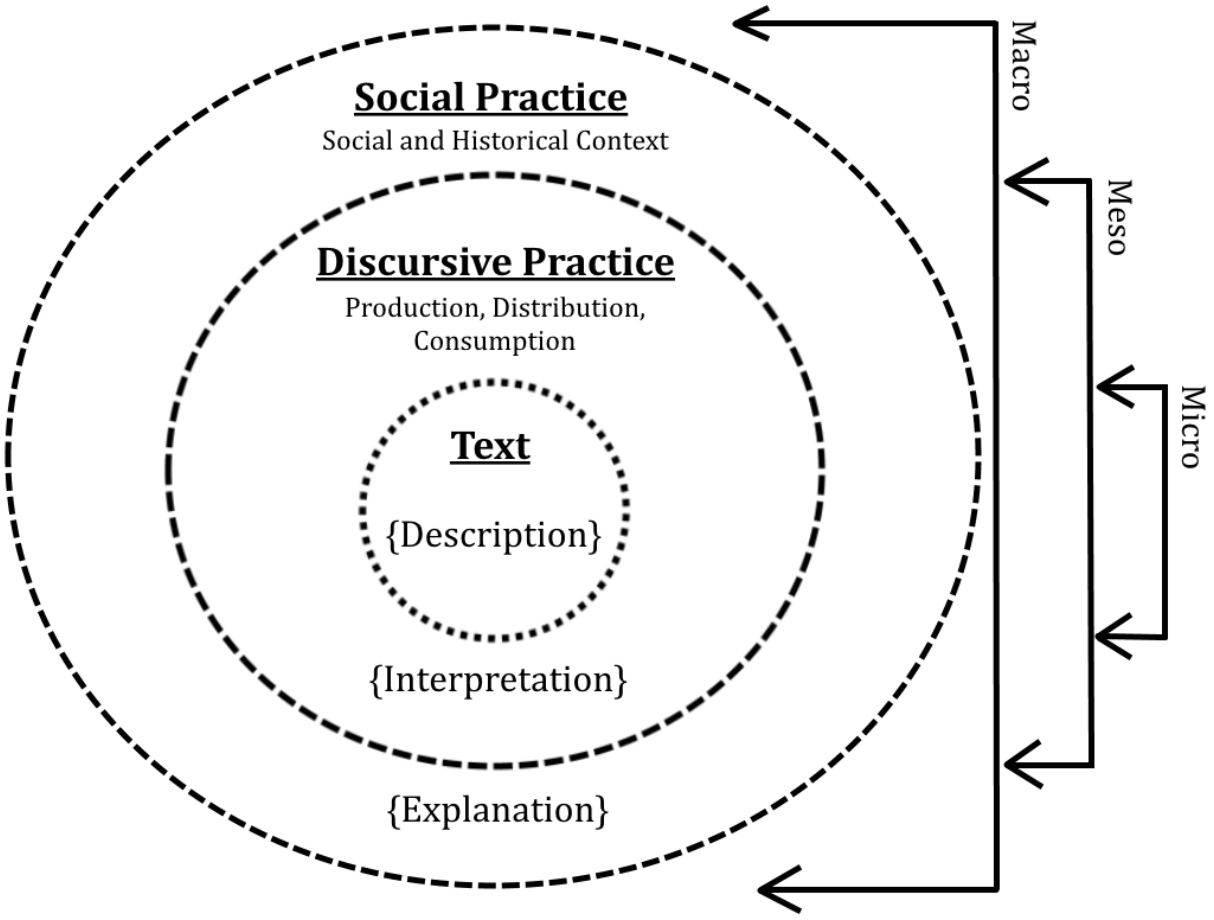

Figure 2: Fairclough's Three-Dimensional Model of Critical Discourse Analysis. Adapted from Fairclough (2010, 133).

Conducting analysis across these scales from a semiotic point of entry requires specific analytical goals. CDA scholars posit that analysis should involve stages of *description* (of text), *interpretation* (concerned with how social actors produce and understand discourse in context), *explanation* (drawing on social theory to explain relationships between discourses, actors, ideology, and social practice), and *critique* (Fairclough 2010, 132–33; Wodak 2011; Blommaert 2005, 30). These analytical practices can also be considered as corresponding to text (description; micro), discursive practice (interpretation; meso), and social practice (explanation

and critique; macro). At the same time, this process is nor linear, and analysts need to apply description, interpretation, and explanation recursively at each scale of analysis to appreciate the dialectical nature of discourse in context (hence the penetrable lines in the circles in Figure 2).

The following paragraphs describe how Fairclough's "Three-Dimensional Model" of CDA (Figure 2) can be applied as an analytical framework across the levels of text, discursive practice, and social practice. Moreover, the remainder of this section explains how working with CDA, and Fairclough's model specifically, informed choices in research design for this study, the selection of the corpus of data to be analyzed, as well as the identification of complementary analytical methods suited to my research questions and objectives.

At the textual level, Fairclough (2001, 123–24) suggests that analysis should be geared towards describing genre ("ways of acting, or producing social life in the semiotic mode"), discourses (in this context, defined as the representation of social practices), and styles ("ways of being, identities, in their semiotic aspect") based on the linguistic characteristics of texts (e.g. vocabulary, grammar, cohesion, structure). However, these concepts proved to be too abstract and open-ended to be practical foci in the context of my research design. Instead, since my research questions focus on aspects of representation and rationalization, I chose to apply frame analysis and argumentation analysis methods to investigate the linguistic level of my texts, as explained later in this chapter.

Contrastingly, Fairclough's approach to examining the level of discursive practice is highly apposite in the context of my research. I conceptualize analysis at the level of discursive practice as concerning the immediate context of discursive activity in which semiotic interaction produces texts, and actors interpret meaning in conjunction with their own resources, the immediate context as well as within the wider social context. Consistent with Fairclough, my

approach to analysis thus entails consideration of social and material processes of discursive interaction, and interpretations of the relationships between them (Fairclough 2010, 132). The concept of "intertextuality" is instrumental to interpreting these relationships (Fairclough 1992, 101–5).

Intertextuality refers to the notion that all communicative events inevitably draw on those preceding them, and that any given text may be implicitly or explicitly connected to multiple pre-existing texts and recontextualized (Jørgensen and Phillips 2002, 73; Blommaert 2005, 253). How and in what ways intertextuality is manifest in texts and discursive events is an important consideration in CDA because language users draw on and recontextualize existing discourses, genres and styles in the production and interpretation of texts (Jørgensen and Phillips 2002, 69). Likewise, intertextuality is a vital concept in research concerning governance processes since laws, institutions and actors therein often explicitly draw on pre-existing texts as a basis for interpretation and action. Following explicit intertextual references was especially informative during the initial scoping and selection of potential data sources for this research, and was influential both in narrowing the corpus of data to be analysed, as well as informing my approach to this analysis. Scoping revealed that several key legal documents are implicitly and explicitly drawn upon by government representatives as a basis of shared meaning, and understanding this intertextuality is a prerequisite to analyzing much of my corpus, as well as aspects of the legal and institutional context (explained further in the "Research Design and Data Selection" section).

Applying the last dimension of Fairclough's model (Figure 2), my analysis at the macro-level of social practice is primarily focused on using social theory to explain relationships between discourse, socio-historical circumstances (such as the institutional, organizational, or

political context) and ideology.[19] This necessitates moving recursively between different scales of analysis (from focusing on text and social actors through social structures and the wider social context), and thus also requires the observation of relevant socio-historical information. In my research, observing the configuration of governance and legal frameworks and institutions, their operation, and the shifting socio-political climate over the Northern Gateway proposal's lifetime are vital to contextualizing my analysis at the level of social practice. I have explored a number of these important socio-institutional and political contextual features in my Introduction and Literature Review, and many of these considerations will resurface in Chapter 4 and 5. Bringing those observations to bear on the textual data and analyzing ideological dimensions throughout the research process has required ongoing attention to and application of social theory.

3.2.3 CDA and Social Theory: "Hegemony" and "Regimes of Truth"

To address the ideological characteristics of discourse, Fairclough (1992) maintains that Antonio Gramsci's concept of hegemony provides the means to analyze the relationships between discourse, ideology, and power at the level of social practice. Hegemony emphasizes that relations of domination are maintained in a "contradictory and unstable equilibrium" (Fairclough 2010, 62), based partly on discursive struggle over the what Gramsci called the "ideological terrain," the negotiation of alliances and the integration consent and coercion (Filippini 2017, 18; Blommaert 2005, 29; Jørgensen and Phillips 2002, 76; England 2019, 14). In this way, "[l]anguage is a kind of ideological fingerprint which—if only we know how to interpret it—gives its author away" (Toye 2013, 1). Following Gramsci, Fairclough (2010, 239) argues that "discourse is ideological in so far as it contributes to sustaining particular relations of power and domination," and that "[h]egemonies within particular organizations and institutions

[19] Following van Dijk (2006), I characterize "ideology" as socially-shared, foundational (but abstract), axiomatic belief systems which provide organizing principles that inform other attitudes, beliefs, values, and ways of representing. Thus a racist ideology might influence attitudes about immigration, to use van Dijk's example.

and at a societal level are produced, reproduced, contested and transformed in discourse" (1992, 10). Discursive practice is thereby seen as an aspect of hegemonic struggle (Jørgensen and Phillips 2002, 76), and social practices—and especially social change—might be seen as manifestations of hegemonic struggle from this perspective.

In the context of my research, however, the concept of hegemony poses methodological and theoretical dilemmas which I do not believe can be addressed entirely without supplementation. In particular, it remains unclear how analysts ought to identify hegemonic discourse from an empirical basis, the socio-historical scope to consider, or what specific explanatory purposes this would serve. Rogers-Hayden, Hatton, and Lorenzoni (2011, 135) suggest that hegemonic discourse makes particular "rules/systems/beliefs appear to be the 'natural' ones" and "contributes to the deactivation" of projects which challenge this naturalization. The reliability of those observations therefore requires effectively exercising researcher reflexivity. Without reflexive engagement, the concept of hegemony may implicitly encourage whatever an analyst perceives as "dominant" in a particular context to be presumed hegemonic prior to gaining an empirically-informed understanding of the ideological dynamics linking text, social actors, and context. Hajer (1995, 60–61) has suggested judging what is hegemonic in a particular context via the level of "discourse institutionalization" (the translation of discourses into concrete policies and institutional arrangements), and "discourse structuration" (actors must draw on a given discourse to maintain credibility). This is methodologically helpful, especially given the heavily institutional context of my research, but does not necessarily demonstrate why or how analysis of discursive hegemony meaningfully illuminates foundational ideological dimensions of discourse or social practice.

To avert this impasse and better address my specific research questions, I utilize

Foucault's (1980, 131) concept of "regimes of truth." Foucault's concern is not what *is* true in an objective sense (knowledge and power are inseparable and socially contingent—and therefore subjective—in Foucault's view), but what *functions as* truth and what effects it has in a given social order. Foucault suggests that a regime of truth—a society's "general politics of truth"—can be characterized by:

> the types of discourse which it accepts and makes function as true; the mechanisms and instances which enable one to distinguish true and false statements, the means by which each is sanctioned; the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what counts as true. (1980, 131)

Notably, these epistemological characteristics are all reasonably observable across all three dimensions of Fairclough's model (Figure 2), and they can therefore be drawn from a sufficiently large textual corpus and described. What is perceived as and functions as truth (knowledge), how truth is distinguished and legitimized, the means of producing truth, and the status of truth producers leave empirical traces across text, discursive practice and social practice. These characteristics can be inferred partly based on what text producers explicitly assert, how they represent ideas, knowledge, values, themselves and others, along with the premises used and conclusions drawn in their argumentation.

This is particularly the case in documents from this corpus, wherein legal and institutional frameworks converge in the EA process and multiple social actors reason about both the context of action and the basis of knowledge that should inform what ought to be done in relation to this knowledge. Following van Dijk's (2006) notion of ideology as socially-shared, foundational, axiomatic "belief systems," truth regimes can be considered fundamentally ideological. Investigating the manifestation of these elements across all three dimensions of discourse can provide clues to the ideological positioning of social actors, and the implications of this at the level of social practice, and ultimately, help explain some of the dialectical relationships between

discourse and society. Importantly, the concept of truth regimes also coheres very well with the specific methods I selected to deploy at the textual level—frame and argumentation analysis.

3.3 Method: Frame Analysis

Frame analysis is an inductive means of tracing the ways particular discourses are rhetorically defined, positioned and represented relative to other ideas, knowledge, values, identities, and social relations (Mills, Durepos, and Wiebe 2010). Frames operate heuristically at a cognitive and social level—as "mental shortcuts" that help evoke representational associations which support particular interpretations of the cue (Winslow 2017, 584; Lakoff 2010). These associations are possible because symbolic expressions occur within a larger rhetorical environment, and draw on aspects of existing culturally-circulated narratives and social orientations (Winslow 2017). Lakoff (2010, 73) explains that "[w]ords themselves are not frames," but due to the relational nature of language and cognitive structures, "words can be chosen to activate desired frames. This is what effective communicators do." Still, audiences are not passive and will necessarily have varying levels of familiarity with—and receptiveness to—particular frames. In Winslow's (2017, 584) terms, "[f]rames do not work *on* audiences, they work *with* audiences" (original emphasis).

Nevertheless, since all language use inevitably draws on pre-existing discourses, frames are inherently embedded in language use (and in all forms of semiosis) irrespective of whether they are employed intentionally. Thus, framing can be conceived as "the process whereby communicators act—consciously or not—to construct a particular point of view" in which certain ideas, knowledge, identities, and so forth, are made more salient, while others may be obscured, omitted, or associated with a particular connotation (Kuypers 2009, 182). "Framing" in

this sense most closely approximates "discourses" (or ways of representing) that Fairclough argues should be analyzed at the level of text (2001, 123–24).

Frames function implicitly or explicitly to help "define problems, diagnose causes, make moral judgements, and suggest remedies" (Kuypers 2009, 182). Frames are not neutral, but function to impose "a specific logic on an audience" and "foreclos[e] alternative perspectives in subtle and taken-for-granted ways" (Winslow 2017, 584). Whether or not framing makes any difference to how a given audience interprets something (determining this is not a goal of frame analysis), analyzing frames can provide evidence of how authors may perceive or interpret something. Moreover, framing is one of the means that governments can use in an attempt to "manag[e] the symbolic resources that are the basis of legitimacy" (Capano, Howlett, and Ramesh 2015, 312). Consequently, when deployed critically as a method, frame analysis can help "[expose] the role of political language and worldviews in the construction of plausible, meaningful and socially relevant pathways" of action (Fletcher 2009, 801).

My application of frame analysis employs a query-based approach to texts to help identify frames that social actors draw on or evoke. At the most basic level, this involves considering how people, ideas, events, facts, knowledge, values, etc., of relevance to my research questions are represented by the authors, and what relational frames are implicitly or explicitly drawn upon by the authors in support of these representations. In this way, frame analysis is a process of examining textual artifacts to interpret how social actors perceive, interpret, and represent the world. My process involved examining elements of vocabulary as well as more structural features of the text, while questioning how values are represented, what is nominalized, specific, explicit, or represented as natural or desirable, for example, and what is correspondingly omitted, ambiguous, vague, implicit, or represented as unnatural or undesirable.

By identifying patterns of representation across the corpus, frame analysis serves a descriptive function at the textual level, and provides a basis for interpretation and explanation across the other dimensions of Fairclough's model (Figure 2).

3.4 Method: Argumentation Analysis

In common use, argumentation can be understood simply as any set of statements linking premises and a claim. In making recommendations to Cabinet and providing reasons for a proposed line of action, the review panel engages in argumentation. In turn, Cabinet uses argumentation in the presentation of its decisions to the public. However, argumentation is also conceived as a dialogical process in which a social actor aims to persuade a reasonable critic (real or imagined) of the acceptability (or unacceptability) of a claim by providing reasons purported to justify the claim (Fairclough and Fairclough 2012, 36; van Eemeren, Henkemans, and Grootendorst 2015). Argumentation analysis involves the identification and deconstruction of rhetorical logics and strategies of rationalization used in discursive events (Eemeren and Grootendorst 2004; Paso 2014). How argumentation analysis is performed and what specific aspects of argumentation are of interest varies across disciplinary traditions.

My use of argumentation analysis is tailored to address my first research question concerning how government representatives rationalized their claims and decisions in relation to climate change. As such, it focuses on the "practical reasoning" government representatives used which connects premises based on "what [they] believe (about the situation or means-end relations)," along with their goals and values, to the justification of judgements and decisions concerning action (Fairclough and Fairclough 2011, 243). The point is to observe patterns of rationalization to better understand how the rhetor (arguer) views the context of action, to render

their reasoning more transparent, and to gain insight into how they anticipate doubt or skepticism in a given audience.

In a descriptive capacity, argumentation analysis involves identifying and deconstructing premises—including "unexpressed premises" that often enter into argumentation implicitly—and how they are linked with claims (van Eemeren, Henkemans, and Grootendorst 2015; van Eemeren 2010). Fairclough and Fairclough (2012, 86–87) caution that "ways of representing the world"—particular ways of framing—"enter as premises into reasoning about what we should do." How premises are framed hence serve "an argumentative function of steering the argument towards a certain conclusion and precluding other conclusions from being arrived at" (116). Frame and argumentation analysis are complementary in this capacity, and help to overcome certain weaknesses in either approach alone. The convergence and triangulation of these methods in my research is further discussed in the section on rigour.

Describing arguments provides the basis for evaluating the quality of premises themselves, and the "strength of the relation between premises and conclusion" (known as inference) (Hansson and Hadorn 2016, 10:52). My application of argumentation analysis in this research, however, is strategic and limited for technical and practical reasons. Evaluating the strength of inferences requires specialized knowledge of formal and informal logic, the subject matter of premises, and normative criteria. Consequently, my evaluative proficiency is limited to that of a "reasonable critic," and I largely use the descriptive capacities of argumentation analysis to inform my use of Fairclough's model and analysis of truth regimes. Additionally, conducting argumentation analysis on every claim made throughout the Northern Gateway's assessment process would be too time-consuming to be practical, and only some areas within the selected corpus are of relevance to my research questions. To ameliorate this issue, I took a

targeted scoping approach to effectively identify and select sections from within the corpus for argumentation analysis based on whether any premises or claims related to my research questions or objectives.

3.5 Research Design and Data Selection

The Northern Gateway's EA process lies at the nexus of a multi-scaled social and environmental policy problem, wherein governance, politics, and language use are integral to how these dynamics are reconciled, choices are made, and actions are taken. These characteristics mean that a number of "semiotic entry points" are possible (Fairclough 2010, 237–38), and many aspects of the social context are potentially relevant to the object of research. Taking a case study approach to research design facilitated the selection of an appropriate corpus and informed the process of identifying and researching applicable aspects of the social context.

Case studies are often deployed when a researcher aims to explore "a single entity or phenomenon bounded by an event and process" (Kirchhoff and Tsuji 2014, 115), especially in order to "improve our knowledge of [complex] individual, group, organizational, social, political and related phenomena" (Yin 2003, 1). Case studies can thus facilitate investigations which are sensitive to the real-life social and historical context of an event or phenomena. My research design can be categorized as a "single instrumental case study" in that I identify central issues of concern (see Chapter 1: Introduction) to investigate within the confines of a single, bounded, applicably representative case (Creswell 2007, 74; 245).

A key aspect of any research is that data collected "can purposefully inform an understanding of the research problem and central phenomenon in the study" (Creswell 2007, 125)—the application of this concept to data selection is known as "purposeful sampling." In order to maintain purposeful sampling in my research, I have drawn on both "critical case" and

"criterion" sampling techniques (Creswell 2007, 125-129). Critical case sampling involves evaluating the degree that a chosen case can provide representative data at units of analysis that address the purposes and questions of the research. Criterion sampling involves examining cases and data based on whether they conform to specific criteria set out by the researcher (Creswell 2007, 125-129). I applied both critical case and criterion sampling strategies at two levels: in the selection of my overall data corpus, and in the selection of focal points for targeted, in-depth analysis within the data.

My use of both sampling techniques was guided by my research questions, which were fine-tuned during the process of refining my methodology, methods, and case study research design. Chapter 1 described the origins of this approach in relation to the ways that Northern Gateway's EA and governance process provide an instructive case in the context of the interconnections between climate change, Canadian resource and environmental governance, and the role of language use. My research questions and objectives are simultaneously geared towards drawing out these relationships and concerns within the context of Northern Gateway and "converting" this case into a "researchable object" (Fairclough 2010, 5). Part of this conversion process necessitates identifying suitable semiotic entry points, and developing appropriate research questions informed by methodological considerations.

Specifically, my research questions are all layered to probe each of the dimensions in Fairclough's model (Figure 2), and to shift between description, interpretation, explanation and critique. Investigating my first question, on how Northern Gateway's environmental effects are framed and rationalized in relation to climate change, serves a descriptive purpose at the level of text. Examining how these framings and rationalizations are connected to statutory interpretations (my second research question) draws out intertextual relationships embedded in

the context of discursive production. The focus of my second research question is thus geared towards interpretation (specifically, interpreting how social actors interpret and produce discourse) at the level of discursive practice. Lastly, the third research question is concerned with exploring how discursive practices might reflect aspects of institutional truth regimes pivots towards explaining links between discourse and multiple levels of the social context at the level of social practice. Investigating these lines of questioning together in conjunction with theory and Fairclough's three-dimensional analytical framework provide a foundation for explanatory critique.

Following this line of inquiry had important implications for the selection of my corpus and purposeful sampling. Research questions focusing on language pertaining to environmental effects and climate change within Northern Gateway's EA processes necessitates specific attention to "official" governance discourses. The corpus of data is temporally bounded by the Northern Gateway project's regulatory lifetime (2008-2016), and was chosen based on a thorough scoping of public document registries. Registries pertaining to Northern Gateway included three (now defunct) online repositories and websites of the National Energy Board (NEB 2016), the Joint Review Panel (JRP 2017), and Canadian Environmental Assessment Agency (CEA Agency 2017). Most of these repositories overlapped content almost entirely, but categorized items differently among the nearly 5600 records. Scoping hundreds of documents categorized as related to the public hearing process and responses to public comments revealed that they would be poor sources to glean any insight into how the JRP framed or rationalized environmental issues, simply because they almost exclusively performed judicial and administrative functions in those contexts without representing topics themselves. For example, "climate change" was mentioned over 600 times in transcriptions of hearing documents, but

participants were responsible for almost all instances. Since my research questions concerned representations and rationalizations offered by the federal government or its representatives in an official capacity, such categories were excluded from the corpus, and records and memos that were authored by the JRP were scoped using different search terms such as "climate," "environment," "environmental effect," "effect," "greenhouse gas," "GHG," "carbon," "CO2," "emission," and "pollution."

Manual content scoping then allowed for the identification of documents relevant to my research questions, and narrowed the corpus to five documents of varying length. This first, non-analytical pass over the selected JRP documents also allowed for the identification of intertextual references to key documents the panel relied on which they did not author, such as statutes and policy documents, and allowed for the application of a more targeted "snowball" technique. This led to three key federal statutes that governed the majority of Northern Gateway's assessment process, and have strong intertextual ties to all of the other document types. These are the *CEAA 1992*, *CEAA 2012*, and the *NEB Act*. Without addressing the intertextual relationships between these documents, it would be impossible to accurately interpret what government representatives mean in proper context, or to understand how they have interpreted their statutory obligations. Thus, pertinent sections of these three statutes were also selected for inclusion in the corpus and subject to frame analysis (since they do not express "arguments," per say).

This snowballing process also revealed two key federal government documents related to Northern Gateway's governance that have been included in the corpus: Orders in Council. Orders in Council represent the only two federal decisions rendered about the project at the executive level; they are the only decision statements legally required to authorize or refuse the issuing of permits to Northern Gateway. Orders in Council are published in the *Canada Gazette*

(the government of Canada's official newspaper). These documents are interesting because they come from two different federal Cabinets, the first (2014) Conservative, the second (2016) Liberal, meanwhile they represent conflicting governance decisions which used the same reports, statutes, and definitions to come to different conclusions.[20]

Based on intertextual references, several ancillary documents were also consulted—not as targets of analysis but to assist in interpreting the institutional dynamics and statutory interpretations underlying the JRP and government's respective discourses. All of the documents in the corpus are publicly accessible, convey official articulations and determinations concerning Northern Gateway's environmental effects, and are legally required to progress the approval process. As such, they represent key junctures in the governance of the project and an important locus in relation to my research questions.

Each of the corpus documents just described are concisely listed below in Table 1 and Table 2, and are described in greater depth in Appendix A. Table 1 is intended to provide a convenient point of reference to documents included in the corpus as items are discussed in subsequent chapters. Table 1 classifies document types within the corpus, and shows the in-text citations and titles used in the body of this thesis, authorship, and analytical method(s) selected for use on sections therein. Frame analysis was applied to all analyzed documents, and argumentation analysis was applied in addition based on whether a document contained explicit instances of "practical argumentation" (see section 3.4). Please refer to Appendix A for a more detailed corpus table which includes descriptions of the content and purpose of each document (among other identifiers).

[20] Government representatives' engagement with news media falls outside the scope of official governance processes and, on that basis, was excluded from the corpus. See Dusyk, Axsen, and Dullemond (2018) for an example of how others have studied print media framings of Northern Gateway. Given CDA's attention to context, however, government framing within the media cannot be completely dismissed where relevant, but it is not a target of analysis.

Table 1. Corpus Reference Guide Classified by Document Type

Document Type	In-Text Citation	Short Title	Author/Institution	Method
Key JRP/NEB Documents	NEB 2009a	JRP Agreement (includes Terms of Reference)	NEB, Minister of Environment	Frame
	NEB 2011	Panel Session Results and Decision	JRP	Frame; Argumentation
	NEB 2012	NEB Memorandum	NEB, Minister of Environment	Frame
	NEB 2013a	*Connections*	JRP	Frame; Argumentation
	NEB 2013b	*Considerations*	JRP	Frame; Argumentation
Federal Statutes	*CEAA 1992*	*CEAA 1992*	Government of Canada	Frame
	CEAA 2012	*CEAA 2012*	Government of Canada	Frame
	NEB Act	*NEB Act*	Government of Canada	Frame
Federal Orders in Council – *Canada Gazette*	Government of Canada 2014	Northern Gateway Approval	Governor in Council (Cabinet)	Frame; Argumentation
	Government of Canada 2016	Northern Gateway Dismissal	Governor in Council (Cabinet)	Frame; Argumentation
Ancillary Policy Documents	CEA Agency 2009	Scope of the Factors	CEA Agency	Frame
	CEA Agency 1999c	Operational Policy Statement 1	CEA Agency	N/A
	CEA Agency 1999b	Operational Policy Statement 2	CEA Agency	N/A
	CEA Agency 1999a	Cumulative Effects Assessment Practitioners Guide	CEA Agency	N/A
	NEB 2009b	NEB Filing Manual	NEB	N/A

Given the political shifts that occurred during Northern Gateway's EA process, it can also be helpful to reference the temporality of corpus documents relative to legislative changes. Thus, Table 2 below shows which relevant statutes were in force at the time a given corpus document was authored. The key division between 2011 and 2012 was the passing of the omnibus budget

bill, the *Jobs, Growth, and Long-term Prosperity Act 2012* (which also revised the *NEB Act*). Attentiveness of the statutory scheme was necessary to conduct contextually-situated analysis.

Table 2. Corpus Documents Organized by Statutes in Force

Statute(s) in Force		Corpus Documents
NEB Act (Subject to revisions)	*CEAA 2012*	2016 - Northern Gateway Dismissal
		2014 - Northern Gateway Approval
		2013 - JRP Report Vol 1: Considerations
		2013 - JRP Report Vol 2: Connections
		2012 – NEB Memorandum
	CEAA 1992	2011 - Panel Session Results and Decision
		2009 - JRP Agreement
		2009 - Scope of the Factors
		2009 - NEB Filing Manual
		1999 - Operational Policy Statement 1
		1999 - Operational Policy Statement 2
		1999 - Cumulative Effects Practitioners Guide

3.5.1 Rigour

Triangulation is an important source of rigour in this research. My research design was intended to achieve triangulation in two different ways. First, by having multiple sources and types of data from which interpretations can be drawn based on the convergence or divergence of evidence. While all of this data is text-based (as opposed to being multi-modal, or collected using different methods), the main documents have distinct genres (i.e. statutes, reports, memos, government directives), were produced by different authors for different purposes, and contain distinct types of data. The distinctiveness of content, style, and authorship between statutes, directives, and JRP-related documents (reports and memos) provide an important means of "structural corroboration" where points of convergence and disagreement in the data are used to provide evidence supporting a more holistic interpretation (Guba and Lincoln 1981, 106). This approach was augmented with supplemental "auxiliary documents" which were not the focus of the investigation (by virtue of their contents), but provide additional insight into how the other

documents and policies have been and might be interpreted and acted upon (see "Ancillary" documents in Appendix A) (Merriam and Tisdell 2009, 178).

Through their "official provenance" and public availability as government documents, the data used in this research is considered to have "high validity and trustworthiness" (Mackieson, Shlonsky, and Connolly 2019, 970). The trustworthiness and transparency of the raw data (listed and described in tables and appendices) (Creswell 2007, 45) are useful in that anyone interested could choose to consult the source materials independently to either verify inferences made in this research or conduct their own research. As Wesley (2014, 144–45) reminds us, the "dependability" and "confirmability" of qualitative research partly hinges on the transparency of research, such that external readers can use their own critical judgement to assess the accuracy of the findings. In this respect, I have tried to make my research design and methodology and my description of source materials from which I draw inferences explicit enough that an observer could make judgements regarding dependability and confirmability.

The second way triangulation was sought in this research was through the convergence of two different methods (frame and argumentation analysis), Fairclough's three-dimensional methodological framework of CDA (Figure 2), and theory. Methodological triangulation is thought to increase the confidence of results through the "confirmatory support" of different techniques, where one lens of analysis and interpretation might otherwise have limitations (Heesen, Bright, and Zucker 2019). While there are similarities between methods, especially with respect to the context of their application to text, putting both methods into conversation with a defined methodological and interpretive framework helped to surface observations from the data that may otherwise gone unnoticed and led to more partial results.

A limitation of frame analysis alone is that it does not provide a framework to understand

the basis of rationalizations—an important consideration given that some of the documents provide policy recommendations or declarations that would affect society if enacted. Conversely, using argumentation analysis alone, it would be unclear how particular representations enter into arguments in the form of unexpressed premises (including as representations of values and the context of action) and thereby have a rhetorically persuasive function, a dynamic which Fairclough and Fairclough (2012, 86–87) stress is a critical consideration. Thus, both methods offer different descriptive and interpretive lenses, but can be applied to the same data to allow for stronger inferences to be drawn when combined. When combined with CDA's methodological and interpretive frameworks emphasizing attention to different scales of analysis (Figure 2) and theory—in this case theory concerning the potential implications of epistemological norms and power relations embedded in the social processes under examination—this synergy helps flesh out blind spots that would undermine the capacity for my analysis to adequately address my research questions based on the corpus.

Some additional consideration with respect to rigour involved adopting an open analytical attitude towards the data, and through immersion, allowing emergent observations to become coherent with the corpus and the wider social context of the case study as a whole. Following Foucault (1972, 25) (1972) and Rose (2001, 150), an important step in analyzing discourse is that "pre-existing categories must be held in suspense" (without rejecting them definitively) in order to estrange oneself from the material such that unconscious bias can be minimized while opening new space to denaturalize and question taken for granted knowledge and categories as socio-historically contingent (Johnson and McLean 2020, 381). This attitude helps to support emergent observations, but "persistent observation and prolonged engagement" are also especially necessary in this type of qualitative research (Schwandt, Lincoln, and Guba

2007, 13). Several years of being immersed in this case study data provided me the opportunity to reach a point of "saturation," wherein linking micro-level analysis across different texts with broader social and conceptual dynamics yielded persistent "concordance" that have allowed me to gain a reasonable degree of confidence in the credibility of my findings (Morse 2017, 1387). Additionally, I have tried to provide "thick description" of the data and social context (emphasized through attention to analytical scales in Fairclough's model) so that a degree of transferability is, ideally, possible (Schwandt, Lincoln, and Guba 2007, 19).

3.5.2 Positionality and Reflexivity

My research is motivated by a strong set of normative values and aspirations for fair, just, resilient and sustainable human-human and human-environment relationships, inclusive of non-human species and ecosystems. These values have undoubtedly influenced my choice of research topic and agenda, and indeed, aspects of my critical interpretation of the data. They are, however, congruent with the principles of CDA—particularly its "problem-oriented" interdisciplinary approach to understanding and addressing matters of social concern (Fairclough, Mulderrig & Wodak 2011, 357)—and with "critical" research more generally. Furthermore, I argue that moral obligations are raised by the potential consequences of anthropogenic climate change that require us to better understand and address the numerous sources of the problem across multiple social and physical scales.

Consequently, taking an explicit normative stance may be seen by some as an inherent bias in the pursuit of objective research. But, if positionality is made as transparent as possible during the research process, and norms and values are engaged with reflexively, there can be a firmer ground for others to judge the products of research, while also pursuing a pragmatic agenda for positive change. It is arguably the invisibility of ideological biases that most severely

threaten the legitimacy of research. Researchers are responsible for ensuring that their potential biases are rendered visible to their audiences, and it is my hope that all audiences exercise critical thinking and reflexivity when assessing discourses according to their own ontological, epistemological, and moral paradigms. The purpose of reflexivity "is not to demonstrate neutrality and objectivity, but to make explicit the researcher's contribution to all aspects of the interpretive research process" (Mackieson, Shlonsky, and Connolly 2019, 967).

Our beliefs are unavoidably conditioned by factors of social positionality such as gender, race, ethnicity, social class, (dis)ability, age, education, social capital, political orientation, and experiences. I am aware that a number of systemic socio-cultural privileges and challenges variously affect my life, experiences, opportunities, agency, and perspective relative to others across a wide spectrum of social privilege and marginalization. As a white male born in a settler-colonial state, it is important to acknowledge how many historical and contemporary injustices along multiple axes of oppression have affected my opportunities in life at the expense of others. While my social capital and individual agency are both limited relative to many, particularly along economic and class-based lines, I have strived to leverage my position towards the pursuit of a more equitable and just future. These are values which, in keeping with the critical tradition, I have tried to harness ethically in my research.

I spent a great deal of my childhood in rural Ontario observing and interacting with elements of nature, and a considerable amount of my adult working-life reforesting remote clear cuts in Ontario and BC. These experiences have given me a deep appreciation for the natural world, a desire for enduring balance and harmony, and a better understanding of the complex relationships humans have with resource dependence and extraction. Other personal experiences, including my educational background, have contributed to the cultivation of values and moral

sensibilities rooted in the pursuit of equity. It is with these values and experiences in mind that I view anthropogenic climate change as a collective existential threat to ecosystems and humans, which is already illuminating and exacerbating existing inequities among humans and between humans and the natural world.

Although many characteristics of positionality may be manifest implicitly during research, exercising self-reflexive inquiry throughout the entire analytical process is central to recognizing and mitigating any effects it may have on the veracity of research. I practiced this by trying to document my general thoughts as I processed information and reflecting on how they might be related to aspects of my positionality, and trying to retain an open mind regarding the multiplicity of possible interpretations that could be drawn from a given textual fragment. Revisiting these notes throughout the research process provided an important reflective basis to better gauge the reliability of my initial assessments.

3.6 Conclusion

Guided by CDA and using a semiotic point of entry into a case study, my research oscillates between focusing on text, the production and interpretation of discourses by key social agents, and the institutional and socio-historical dynamics underlying how a matter of social and environmental importance has been framed, reasoned about, and acted upon. In this capacity, my research transforms the Northern Gateway, as a case, into a researchable object that can illuminate important—but hidden—links between discourse and society. Given the socio-ecological stakes, gaining a better understanding of the implications of discursive framing and rationalizations in environmental governance in Canada is a key component of effective climate change policy.

Chapter 4 – Analysis and Discussion

4.1 Introduction

This chapter discusses key analytical insights gleaned through the process of applying frame and argumentation analysis methods to the data corpus, along with emergent interpretations drawn through the integration of my approach to CDA methodology. Due to the iterative, cyclical nature of conducting CDA, and since text is analytically distinct—but inextricable from—its social context, this chapter is organized thematically based on contextual relevance or analytical coherence within and across texts (as opposed to dividing discussion arbitrarily along Fairclough's dimensions of text, discursive practice, and social practice (see Figure 2, for example). For similar reasons, discussion in this chapter is not structured according to the chronology of documents in my corpus since there are multiple lines of influence between and across texts.

Since intertextuality (see section 3.2.2) figures so heavily into many documents and it is necessary to understand Northern Gateway's EA process as based on the *CEAA*, *NEB Act* and institutional norms, I begin by introducing key material from these statutes to provide the basis for integrating JRP's framing and rationalization of environmental effects with the various statutory interpretations they hinge upon. After examining various institutional power dynamics that are imbricated in the context of discursive production, I discuss linkages between the JRP and government's approaches to Northern Gateway's climate change implications.

4.2 Understanding How Statutory Framing Could Inform the JRP's Interpretation of Environmental Assessment

In order to understand how the JRP framed environmental effects and rationalized its decisions in relation to climate change, it is first necessary to consider how the *CEAA* defines and represents "environment" and "environmental effects" for the purposes of environmental

assessment. Analyzing the frames CEAA draws on also provides a basis to make inferences concerning how the JRP relied on particular statutory interpretations to support their choices (my second research question). Under *CEAA 1992* (2(1)), "environment" is defined as "the components of the Earth, and includes (a) land, water and air, including all layers of the atmosphere, (b) all organic and inorganic matter and living organisms, and (c) the interacting natural systems that include components referred to in paragraphs (a) and (b)." This is a very broad and inclusive definition of environment: its framing is both specific (in listing "components") and sufficiently general (in applying to all matter) to conceivably include anything physical within Earth's outermost atmosphere. No intrinsic or extrinsic values of the components are implied, so the definition seems neither ecocentric nor anthropocentric in and of itself. Further, it stands to reason that climate and climate change are aspects of the environment covered by this definition, particularly given that climate is part of a natural system which interacts with the other listed components in different ways. It is also noteworthy that this definition of "environment" is not limited by political or geographic boundaries.

In contrast to the meaning of "environment," applying frame analysis to the *CEAA 1992*'s definition of an "environmental effect" of a proposed project reveals a more targeted structure, the focus of which makes certain aspects more salient, and expands what could be considered an effect on the "environment" as defined above. "Environmental effect" refers to:

> "(a) any change that the project may cause in the environment, including any change it may cause to a listed wildlife species, its critical habitat or the residences of individuals of that species, as those terms are defined in subsection 2(1) of the Species at Risk Act, (b) any effect of any change referred to in paragraph (a) on (i) health and socio-economic conditions, (ii) physical and cultural heritage, (iii) the current use of lands and resources

> for traditional purposes by aboriginal persons, or (iv) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, or (c) any change to the project that may be caused by the environment, whether any such change or effect occurs within or outside Canada" (*CEAA 1992*, 2(1))

While part (a) retains the broad applicability that characterizes the definition of "environment," part (b) is decidedly anthropocentric and emphasizes social and economic effects that seem inconsistent with effects that might be considered drawing only on the definition of "environment."

Using "environment" as a definitional basis, items in part (b)—including an effect on socio-economic conditions—are necessarily *secondary effects of a change in the "environment."* To be defined as a component of the "environment" which could be affected in and of itself, socio-economic conditions would have to be considered material or living components of "interacting natural systems." If the definition of "environment" cannot by itself reasonably include socio-economic conditions without considering them "natural," their inclusion as "environmental effects" raises questions about which part of the "environment" the Act was primarily intended to assess and protect, and the manner and degree to which potentially incommensurate values are weighed against one another in the formulation of policy recommendations. While it is arguable that some of this incongruity might be attributable to temporally specific lexical and policy trends in EA, the statutory framing of "environmental effects" as inclusive of items not captured by "environment" reflects what some discourse analysts call "equivalence:" a rhetorical device wherein two or more things are implicitly represented as having equivalent value or inherent compatibility (Kambites 2014, 343–44).

Employing CDA towards an ideological critique of this language suggests that the lack of distinction between "natural" aspects of the environment and human economic systems belies an anthropocentric ideological bent—one which is naturalized by the *CEAA* and which is also manifest in the JRP's notion of the "public interest . . . the interest of all Canadians" (NEB 2013, 11). The JRP argues that "there is no differentiation between the environment and the economy. They are inextricably connected and are integral aspects of the public interest" (NEB 2013a, 74). Holistic and integrative approaches to environmental assessment (and especially cumulative effects) have been encouraged by EA scholars and others (Gillingham et al. 2016; Green 2018, 118). However, applying frame analysis to the claim that there is "no differentiation" between the natural environment and the economy exposes a dubious form of equivalence which forecloses the possibility of conceptually or practically distinguishing between human economic activity and the natural world. Arguably, this prefigured representation subordinates the environment to human value systems couched in nationalistic and instrumental understandings of "public interest." This ideological position merits further examination (discussed at the end of this chapter) in relation to how the JRP weighed various "benefits and burdens" of Northern Gateway's environmental effects (NEB 2013a, 73-76; 2013b, 10-13).

Even though the definition of "environmental effect" changed under *CEAA 2012*,[21] the above definitions and understandings are used in the JRP Agreement (including the version amended to comply with *CEAA 2012*), JRP memos, and its final reports. These are key definitions which provide an intertextual basis to examine how the JRP framed and rationalized environmental effects in relation to climate change, and how the panel interpreted statutory requirements to support its choices. However, JRP texts also need to be interpreted in relation to

[21] In lieu of a definition of "environmental effect," *CEAA 2012* provides a list of effects to be considered in environmental assessment.

other aspects of the *NEB Act*, *CEAA 1992* and *CEAA 2012*, depending on which legislation was in force at the time the texts were produced.[22]

4.2.1 Tracing Potential Influences of Shifting Preambles and Purposes Between *CEAA 1992* and *CEAA 2012*

This section discusses the framing of important clauses in *CEAA 1992* and *CEAA 2012* that must be taken into account in order to understand how the JRP interpreted environmental effects in relation to climate change and its statutory obligations over the course of the review process. Conducting this comparison required side-by-side textual comparison of both acts along with secondary research (see scholarly critiques of *CEAA* in chapter 2) to identify and understand changes most relevant to my first two research questions. Frame analysis was deployed in this comparison to tease out how aspects of environmental assessment are represented in relation to other ideas, broader social and policy objectives, and to explore how these representational frames might favour particular statutory interpretations and corresponding institutional practices.

One of the most notable differences between *CEAA 1992* and *CEAA 2012* is that the former had an explanatory preamble which was removed from *CEAA 2012*. Preambles are thought to serve multiple purposes. Some suggest they aim to "establish legitimacy by providing a narrative of the origins and purposes of the legislation" (Roach 2001, 129), but they are most commonly held to "assist in the interpretation of the legislature's intention" (Laidlaw 2019, 610), often supplying "principles and ethics intended to guide [statutory] application" (McLeod-Kilmurray 2019, 64). Preambles do not carry the same force of law as the body of a statute, but statutes "must always be interpreted holistically" in conjunction with preambles (Laidlaw 2019, 610). From a discourse-analytical perspective, preambles could be said to set the initial framing

[22] The *NEB Act* (1985) was amended, rather than repealed, as a result of the *Jobs, Growth, and Long-term Prosperity Act* (2012). Table 2 provides a point of reference for which statutes applied to corpus documents.

of legislation and offer insight into how legislators view the world and wished to represent their ideologies and intentions, as well as the dialectical-relational implications of those representations.

It is worth remembering that Canada's environmental assessment regime is premised on an instrumental view of the environment, wherein the exploitation of natural resources by economic actors is permissible, subject to defined procedures and the interests of state actors. *CEAA 1992*'s preamble emphasizes the government's aspiration to "achieve sustainable development *by* conserving and enhancing environmental quality,"[23] using environmental assessment as a means to plan and make decisions "in a manner that promotes sustainable development" (emphasis added). Both *CEAA 1992* and *2012* define sustainable development as "development that meets the needs of the present, without compromising the ability of future generations to meet their own needs" (2(1)), and the JRP also adopts this definition (NEB 2013a, 11). "Needs" are undefined and therefore highly subject to interpretation, however.

Still, sustainable development is framed by both acts as serving current and intergenerational human interests, but the means to that end can and should simultaneously conserve and enhance environmental quality. This formulation suggests an inherent compatibility or acceptable level of compromise between objectives which might otherwise be considered at odds in the context of resource exploitation and development. Relatedly, the government expressed its "commit[ment] to exercis[e] leadership within Canada and internationally in *anticipating and preventing* the degradation of environmental quality and *at the same time ensuring* that economic development is compatible with the high value Canadians place on environmental quality" (*CEAA 1992*, preamble; emphasis added). These are arguably

[23] A literal interpretation of this word choice might suggest a means-ends relationship wherein sustainable development is contingent on conserving and enhancing environmental quality.

lofty aspirations to achieve in the practice of environmental assessment, and the mechanisms of the Act guarantee little besides the collection of information on which to base decisions.

While *CEAA 2012* removed all aspirational preamble (and thus additional context to consider in the application of the Act), its purposes section mentions the government's goal "to encourage federal authorities to take actions that promote sustainable development in order to achieve or maintain a *healthy environment and a healthy economy*" (4(1)(h), emphasis added).[24] This pairing of environmental and economic "health" is another form of rhetorical equivalence which takes the apparent compatibility of resource extraction and development and environmental health for granted. This framing suggests that from the perspective of legislators that drafted and enacted *CEAA 2012*, these objectives are mutually supportive and achievable or beneficial compromises can at least be struck.

Additionally, whereas the health of particular environments can be reasonably considered based on the health of living organisms and the resilience of natural systems they rely on, endowing the economy with the attribute of "health" is a common metaphorical anthropomorphism which in this case is used to imply desirability. Health is commonly considered a positive attribute or quality to foster and promote. It is typically assumed that for an economy to be "healthy" it must grow at a rate of around three percent annually—a notion that has been roundly criticized by scholars wary of the propensity for social and environmental overexploitation within capitalism (Robbins 2014, 5; Brown 2016, 125). Still, based on both *CEAA*s, the permissibility if not the desirability of economic growth predicated on resource exploitation remains a paradigmatic assumption framed as a positive force in the pursuit of human and economic "health." This interpretation is also somewhat supported by the emphasis

[24] This particular purpose is almost identical to *CEAA 1992* section 4(1)(b): "federal authorities" replaced "responsible authorities" in *CEAA 2012*.

on job creation and economic growth in the *Jobs, Growth, and Long-term Prosperity Act* (2012) which repealed and replaced the *CEAA*.

A key difference between assessment acts is that *CEAA 1992* paid specific attention to the possibility of transboundary environmental effects, thereby offering potential to consider the contribution of GHG emissions to climate change. Purpose 4(1)(c) is to "*ensure* that projects . . . *do not* cause significant adverse environmental effects outside the jurisdictions in which the projects are carried out" (emphasis added). *CEAA 2012* does allow consideration of an environmental effect occurring outside a province or outside Canada (5(1)(b)(iii)), and it does "*encourage* the study of the cumulative effects of physical activities *in a region*" (4(1)(i); emphasis added). However, the scope of transboundary consideration is extremely restricted due to the Act's emphasis on protecting "*components* of the environment that are *within the legislative authority of Parliament* from *significant* adverse environmental effects" (*CEAA 2012*, 4(1)(a); emphasis added).

This change reasserts the principles of federalism and the limits of federal jurisdiction over provincial resource governance while simultaneously refocusing environmental assessment on specific aspects of the environment unambiguously subject to federal legislation (such as the *Species at Risk Act*). Depending on practitioners' interpretations of federal jurisdiction over the atmosphere, it could also complicate their inclination to assess the effects of GHG emissions originating from project activities undertaken in a given region. Moreover, it puts a significant onus on review panels to accurately judge the limits of Parliamentary authority—a topic often contested in the courts. These aspects of both *CEAA*s provide a necessary basis to examine how the JRP interpreted statutory obligations pertaining to environmental effects.

4.3 The Role That Institutional Power Dynamics and Scoping "the Project" Play in Assessing Northern Gateway's Effects

The JRP Agreement (NEB 2009a) is an important document in relation to my research questions and from a CDA perspective. While all texts can be conceptualized as crossing all three dimensions of text, discursive practice and social practice as in Fairclough's model (Figure 2), the JRP Agreement represents an interesting textual product that brings into focus particular legal and institutional power configurations between the NEB and the Minister of Environment that are relevant to my research questions and interpreting the data corpus. I will explain some key institutional power dynamics which help bridge the gap between the levels of discursive practice and social practice before discussing the JRP Agreement itself.

Although the NEB is ostensibly non-partisan and independent from government, its Chair, the Vice-Chair and all permanent members are appointed by Cabinet to serve, "during good behaviour," for a period of seven years (*NEB Act*, 3(2)). Members can be reappointed or removed by Cabinet at any time, and are remunerated an amount that Cabinet "may from time to time determine" (*NEB Act*, 5(1)). No abuses of this power were identified in this research project. However, this appointment method and the potential for the sitting Cabinet to exercise authority over NEB members during their tenure is an important institutional power dynamic to bear in mind when considering how JRP texts are produced and contextually situated at the levels of discursive practice and social practice.

The selection of panel members in particular could impact how a given project's environmental effects are considered based on the disciplinary orientation, education, experience, values and personal background of each member. For example, the chair of Northern Gateway's JRP was Sheila Leggett (then Vice-Chair of the NEB), who held an M.Sc. in Biology,

and had work experience in both conservation and environmental consulting prior to the review[25] (NEB 2010). Other appointees included Hans Matthews, who held a B.Sc. in Geology and worked in the mining sector for 25 years prior to appointment, and Kenneth Bateman, who held a Bachelor of Law degree, a Master's degree in International Business Management, and served as vice-president of Legal Affairs at a Calgary-based energy company (ENMAX) prior to joining the NEB (NEB 2010; Linkedin). Irrespective of whether any of these characteristics played a particular role in how Northern Gateway's environmental effects were considered, it is important to remember that review panels, like institutions, are comprised of individual people and there is a large potential diversity in how individuals may exercise judgement and navigate interpersonal and institutional power dynamics in the performance of their duties.

Additional power dynamics are at play, since the Chair of the NEB and the Minister of Environment[26] are the authors and signatories of the JRP Agreement, and fixed the terms of reference to be used by the JRP in conducting their environmental assessment. This power arrangement is codified by *CEAA 1992*, and allows the NEB Chair and the Minister to jointly set the scope of the assessment and outline the list of factors to be considered during the panel review. Ministers normally hold an elected office but are appointed to Ministerial positions by the Prime Minister, and are often given a specific mandate to fulfill. An elected official's involvement in the NEB process does offer a modicum of democratic accountability, but at the same time, the Minister's involvement in setting the terms of reference raises real or imagined concerns that political or economic agendas could influence project scoping and the review

[25] After completing Northern Gateway's review, Leggett served as president of an environmental consulting firm (Tower Peak Consultants), served as a board member of Alberta Electric System Operator (AESO). Currently, she serves on the boards of an oil and gas exploration and development company (Storm Resources Ltd) and an energy storage firm (Nutana Power), chairs an environmental standards committee of the International Standards Organization (ISO), and is a senior fellow at the think-tank C.D. Howe Institute (Linkdin; C.D. Howe Institute).
[26] At the time, Gaétan Caron chaired the NEB, and Calgary MP Jim Prentice (formerly the Minister of Industry) was the Minister of Environment until he resigned to become vice-chairman of CIBC, and later, the Premier of Alberta.

process at the outset.

While this was (and is, under the *Impact Assessment Act*) standard institutional practice, the power to set the parameters of environmental effects under review is a relevant consideration given that it could influence how review panels interpret their statutory obligations and choose to exercise discretionary powers under the *CEAA* and *NEB Acts*. Scoping is arguably a necessary and unavoidable part of environmental assessment, but it is important to acknowledge that scoping is one way that the parameters of allowable discourse are established in the public review process. In effect, the JRP Agreement establishes a framework for the inclusion or exclusion of issues of public interest, and scoping therefore has far-reaching implications for what evidence and perspectives enter the record for the purposes of assessment. In turn, the record forms the basis on which environmental decisions are made—this process can be interpreted as part a dialectical relationship between text and society.

The JRP Agreement itself is written in a highly technical, legal style commonly seen in acts of Parliament, official government declarations, or contracts, and includes numerous intertextual references to the *CEAA 1992* and *NEB Act*; the CEA Agency's (2009) "Scope of the Factors" document and NEB Filing Manual (2009b) are also referenced. This high degree of intertextual co-dependence and this writing style makes the Agreement relatively inaccessible and difficult to understand without previous experience. Knowledge of referenced documents and jargon is also required to be fully comprehensible. This may have presented barriers to members of the public that wanted to submit feedback on the scoping of environmental considerations listed in the agreement, and consequently influenced the depth and breadth of public commentary on the Agreement. Still, the power to make revisions to the Agreement based on public feedback rested with the NEB Chair and Minister of Environment.

The stated purpose of the Agreement is to coordinate the creation and appointment of the JRP and the review of environmental effects "likely to result" from the Northern Gateway project along with "appropriate mitigation measures" (NEB 2009a, 4). The Agreement specifies that it is to be "read with and interpreted in a manner consistent" with the *CEAA* and *NEB Act*, but "does not create any legal powers or duties, nor does it alter in any way the powers and duties established" by those statutes (NEB 2009a, 4). Additionally, nothing in the Agreement "should be construed as limiting the ability of the Panel to have regard to all considerations that appear to it to be relevant pursuant to section 52 of the *NEB Act*" (NEB 2009a, 4).

At the time the JRP Agreement was created, section 52 specified that "the Board shall have regard to *all considerations that appear to it to be relevant*," and section 52(e) further enabled it to consider "any public interest that in the Board's opinion may be affected" by issuing a certificate or dismissing an application (*NEB Act*, emphasis added). Thus, the JRP was not legally restricted to review only items in the JRP Agreement so long as it deemed a given consideration "relevant." However, while retaining the option to consider "any public interest" in section 52(e), the omnibus *Jobs, Growth, and Long-term Prosperity Act 2012* restricted the enabling clause to "all considerations that appear to [the Board] to be *directly related to the pipeline* and to be relevant" (*NEB Act* 52(2)). This framing seemingly restricts the JRP's ability to exercise discretion to consider only public interests that have demonstrable causal associations—subject to the JRP's judgement—with the physical construction or operation of the pipeline itself. Nevertheless, based on the JRP's 2011 decision not to consider items of public interest on the basis that there was not a "sufficiently direct connection" to "the project" (NEB 2011, 13), there is some evidence that considering only effects "directly related to the pipeline" was the de facto norm *before* the *NEB Act* was modified in 2012.

The Terms of Reference attached as an appendix "forms an integral part" of the JRP Agreement (NEB 2009a, 8). The Terms of Reference specifies the scope of the Northern Gateway project, factors to be considered during the joint review, the scope of those factors, and the review process itself (NEB 2009a, 9-14). The Agreement provides selected definitions, adopting the *CEAA 1992*'s definition of "environment" and "environmental effect." However, the open-ended framing and applicability of those definitions to the spectrum of potential direct or indirect environmental effects that could be subject to environmental assessment are tempered by the restricted framing and scoping of "the project" to be reviewed.

"The project" was scoped to include physical works and activities related to the "construction, operation, decommissioning and abandonment" of listed land and marine "components" (NEB 2009a, 9-10). This framing proved important throughout the review process since paragraph 16(1)(a) of *CEAA 1992* specifies that an assessment entails reviewing "the environmental effects *of the project*" (emphasis added). Northern Gateway's application hinges on the JRP's shared interpretation of the project in order to support restricting the physical scales used in its assessment to local and regional levels. The two largest scales at which the project's environmental effects were considered were the "Project Effects Assessment Area," defined as the "maximum area where project-specific environmental effects can be predicted or measured with a reasonable degree of accuracy and confidence" (NEB 2013b, 182), and the larger area in which it is inferred that the same level of quantitative accuracy is impossible, the "Regional Effects Assessment Area"—30km around the pipeline (NEB 2013b, 205).

Rigid interpretations of "the project" can seemingly result in tensions between other important elements of *CEAA 1992* that seem at odds with some of its intentions, such as the precautionary consideration of cumulative and transboundary effects. As well, this means of

project scoping contributes to logical divisions between directly attributable (and often, more easily quantifiable) causal effects of physical activities and more complex, indirect, cumulative, or induced effects such as upstream or downstream effects that are distinct from, yet integral to the project's ability to function as proposed. This interpretation of "the project" forms a foundational assumption in the JRP's narrow vision of Northern Gateway's potential atmospheric effects. The possibility that the project could have temporary or permanent national or global environmental implications was precluded from this scoping of Northern Gateways effects. Contrastingly, as detailed at the end of this chapter, the JRP chose to consider potential economic effects that were national in scope, including cumulative, upstream, and induced economic activity (NEB 2013b, 283-297).

4.3.1 The JRP Agreement and Intertextual Policy Feedback

Understanding the JRP's interpretation of its statutory obligations warrants some discussion of the potential role of intertextual policy feedback in the assessment process—specifically, of the recursive loop between statutes, institutional practices, and social actors. The JRP Agreement's Terms of Reference (NEB 2009a,12) specifies that the JRP "will have regard" to the NEB's Filing Manual (2009b) and the "Scope of the Factors" document issued by the CEA Agency (2009) in considering the scope of the factors under assessment. The meaning of "have regard" is highly ambiguous in this context, and it is unclear what influence or weight these documents were intended to have in the review process given that—unlike the *CEAA* and *NEB Act*—neither has the force of a legal statute. It is notable, however, that both documents which the JRP is to "regard" are written specifically to provide "guidance to the proponent" concerning the review process and what information will be expected as part of their application (CEA Agency 2009, 1; NEB 2009b 1-1).

This creates a degree of intertextually recursive policy feedback: in considering the scope of the factors under environmental assessment, the JRP must have regard to the scoping expectations that the NEB and CEA Agency—as institutions rather than by statute—have suggested for applications in general and for Northern Gateway specifically. These expectations are informed by institutional practices over time, and each agency's interpretation and administration of relevant statutes.[27] In this sense, regulatory institutions direct the proponent concerning the type and scope of factors they want to see in an application, then decision-makers direct the JRP to bear in mind what the proponent has been asked to provide in making its recommendation to Cabinet.

In practice, these circuitous exchanges often overlap with the scoping of factors in the Agreement itself, and many items are featured prominently and emphasized in the JRP's rationale for recommending project approval in its final reports (NEB 2013b, 11-13; 295-297). For example, the Minister of Environment and NEB Chair exercised their discretion under *CEAA 1992* (16(1) (e)) to add consideration of "measures to enhance any beneficial environmental effects" to the list of factors in the review. While the JRP Agreement does not indicate what beneficial environmental effects might be anticipated, the "Scope of the Factors" document does under the heading of "Project Benefits" (CEA Agency 2009, 4-5). This section directs Northern Gateway to "discuss the benefits of all project components" in its application, but lists exclusively socio-economic benefits such as employment, training, investment, as well as revenue from taxation, leases, purchases and procurement.

The JRP already had a mandate to consider the project's effects on health and socio-economic conditions (positive or negative), yet via the JRP Agreement (2009) the Minister of

[27] Again, bearing in mind that institutions are made up of individuals exercising their own judgement and agency within institutional and social constraints.

Environment and NEB Chair directed the JRP to consider *specifically beneficial economic impacts* that Northern Gateway was asked to discuss.[28] Evidently the scope of environmental assessment can be expanded or contracted to include, emphasize, or exclude specific things of interest to decision-makers. However as institutional practice, policy, and political discretion converge in the assessment process, the circuitous paths between text and discursive practice can alter and reinforce particular policy options that over time manifest in wider social practices.

4.4 Reasoning Around the Oil Sands: How Framing and Rationalizations Functioned to Marginalize Consideration of Northern Gateway's Direct and Indirect Environmental Effects

One of the most illustrative documents in this corpus was the JRP's procedural direction issued in January 2011, titled "Panel Session Results and Decision" (NEB 2011). A main purpose of the document was to publish notice of clarifications and revisions to the List of Issues within the JRP's Terms of Reference in response to public comments. The document provides the most explicit examples from my corpus of how the JRP reasoned about environmental effects in relation to climate change.

The JRP said it received "numerous comments" on its List of Issues related to the consideration of GHG emissions and climate change, cumulative effects, upstream and downstream emissions, the environmental effects of oil sands development, sustainability and sustainable development (NEB 2011, 4; 12-14). Analyzing the JRP's discussion of each of these topics is critical to understanding how it framed and rationalized environmental effects in relation to climate change, and how it interpreted related statutory obligations.

Under the heading of "General Environmental Matters," the JRP responded to public

[28] While considering specifically beneficial effects was not part of *CEAA 1992* or *2012*, the *Impact Assessment Act 2019*, section 6(1)(c) specifies that "both positive and adverse" effects (including economic effects) must be considered.

commentary regarding GHG emissions and climate change, and confirmed that its assessment will "include consideration of the environmental *effects of GHG emissions* associated with *the Project*" (NEB 2011, 4; emphasis added). The representation of public comments here is homogenized and vague,[29] while the JRP's response is framed as assuaging these generalized concerns about GHGs. What its affirmation omits from mention is that "the Project" is defined intertextually such that consideration of the "environmental effects of [GHG] emissions"—not necessarily climate change specifically—would be restricted to specific physical activities (construction, operation, decommissioning and abandonment). This excludes wider considerations of the overall GHG implications Northern Gateway could induce by facilitating increased global access to oil, or incentivizing investment in upstream extraction due to anticipated increases in oil prices (NEB 2013b, 332).

The JRP goes on to address requests that "federal and provincial GHG policy and legislation, and international commitments" be considered. It notes that its review would address these concerns insofar "as they relate specifically to the Project and its environmental effects . . . based on the evidence before us" (4). As before, deliberate reference to "the Project" significantly narrows the applicable scope, and that its consideration would be "based on the evidence before [them]" restricts this further by subtly implying that the onus is on the hearing participants to provide evidence supporting the applicability of GHG-related policies to specific aspects of the project.

A month before the JRP made this statement, the Conservative government announced Canada's withdrawal from the Kyoto Protocol and regression to much less stringent, non-binding emissions targets (CBC News 2011; Jones 2011). Thus, the burden of proof required for

[29] A limitation of this research is that it is not possible to determine the fidelity of these and similar representations or summaries of public comments without examining all relevant public submissions on the record compared with the JRP's reiteration. This is true across all JRP texts in the data corpus, but fell outside the scope of this research.

participants to leverage the applicability of federal emissions policies to the limited scope of "the project" was made more challenging. In the JRP's final reports, there is no evidence whatsoever that any federal or provincial GHG emissions policies were considered in its assessment of Northern Gateway's environmental effects, including cumulative effects. These policies are simply omitted from mention (including in discussions about factors of public interest it chose not to assess) (NEB 2013a, 17; NEB 2013b, 170-171). This omission suggests either that there was insufficient evidence on its record to warrant discussion, or that the JRP believed (due to the project's narrow scoping) that its atmospheric effects were too inconsequential to require consideration in relation to provincial or federal GHG policies.

4.4.1 Gatekeepers of the Truth Regime: The JRP as Arbiters of Knowledge

It is important to remember that the JRP was a "quasi-judicial" authority empowered to act as a "court of record" (NEB 2013b, 8; *NEB Act*, 11(1)), and all evidence "on the record" had to be submitted in conformity with various procedural rules and timelines, to ultimately be judged by the JRP. The majority of data pertaining to Northern Gateway's potential environmental effects comes from the proponent itself (who necessarily has an interest in securing project approval).[30] Formal intervenors and other participants are also given status to submit evidence and cross-examine the evidence of other parties, but producing or analyzing environmental evidence is time and resource-intensive (thus favouring the well-resourced), and these parties may have different stakes and interests in the fate of the project.

Taken together, this arrangement means that unequal power relations are inherent to evidential submissions and other aspects of the hearing process, and the JRP was—by design—intended to act as an arbiter of evidentiary submission and validity in the review process. The

[30] This is consistent with standard EA practice and has long been a target of critique by EA scholars (Van Hinte, Gunton, and Day 2007; Westwood et al. 2019).

JRP did not have statutory obligations to be transparent about or explain the level of consideration or weight it may have given any particular evidence in its evaluation. The JRP was only required to provide a rationale underlying its conclusions and recommendations (*CEAA 1992,* 34(c); *CEAA 2012,* 43(1)(d)).

As such, the JRP's framing of and reasoning related to knowledge and fact is a key locus when considering an institutional truth regime underlying environmental assessment. In its advisory role for government decision-makers, the JRP functions similarly to what have been called "privileged definers" in media studies of climate change discourse (Murphy 2015). The JRP describes itself as "an expert tribunal" tasked with evaluating all aspects of the project, and in its consideration of the public interest it "weighed the credibility of scientific and technical evidence" (NEB 2013a, 73). The JRP's framing of problems (or its lack thereof) and knowledge related to Northern Gateway's environmental effects plays an important filtering role in selecting the information upon which governments base key decisions. As well, the appointment of members to the JRP to function as a quasi-judicial authority within specific institutional frameworks puts them in a position where they may be expected to uphold certain enduring institutional practices of the NEB, while also acting as gatekeeper and judge of knowledge produced and disseminated in the assessment process.

From a Foucauldian standpoint (1980, 131), the JRP's discursive treatment of knowledge can indicate ideological commitments and the presence of institutional norms that may reflect aspects of a contextually-situated truth regime. The JRP chooses "the types of discourse which it accepts and makes function as true;" it has values and knowledge informing "the mechanisms" or belief systems it uses to "distinguish true and false statements," and the "techniques or procedures accorded value in the acquisition of truth" (Foucault 1980, 131). The JRP makes its

commitment to what Foucault called a "general politics of truth" clear in stating that "science and law provided the framework" for its process (NEB 2013a, 11). Correspondingly, throughout the JRP's reports, its reasoning and decisions are framed as objective, evidence-based, unbiased and value-free: its "determination in the public interest is based on *findings of fact* and *a review of scientific and technical information*" (NEB 2013b, 8; emphasis added). The JRP draws distinctions between "tested" and "untested" oral evidence depending on whether it has been subject to quasi-judicial procedures of cross-examination (NEB 2013a, 14; NEB 2013b 5). In so doing, it reveals its belief that the judicial process of cross-examination is a key litmus test in establishing the validity of knowledge.

Interestingly, neither *CEAA 1992* nor *2012* (nor their precursor, the *Environmental Assessment Review Process Guidelines Order* (*EARPGO*)) contained explicit reference to "science" or "scientific information" (Westwood et al. 2019, 253–57) . Yet it is tacitly understood that environmental assessment processes necessarily involve scientific information and methods. The superiority of these knowledge systems in reasoning about environmental effects are taken as given without discussion by the JRP, arguably because this approach has become embedded in institutional praxis over the course of decades (CEA Agency 1999a).

In practice—based on evidence "on the record"[31]—the JRP scopes out or marginalizes environmental effects where there is no causally-verifiable, quantifiable adverse effect on a receptor (a "key indicator species" or "valued ecosystem component" that supports a "functioning ecosystem") (NEB 2013b, 188-189; 129-130; 168). Under the JRP's cumulative effects methodology, some degree of inference capable of predicting links across a causal chain

[31] The JRP is empowered to summon any person or government agency to provide evidence or produce records (*CEAA 1992* 35(1); *CEAA 2012* 45(1)), so routine deference to the limits of "the record" obscures its agency to pursue information in the public interest at its own discretion. It also throws into question the JRP's adherence to the precautionary approach, wherein "*lack of full scientific certainty* shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation" (CEA Agency 2009, 2; emphasis added).

was required—this arguably partly why the panel considered downstream GHG emissions considerations "hypothetical and of no meaningful utility" (NEB 2011, 14). *CEAA 2012* created a new provision that required environmental assessment reports to be "final and conclusive" (29(3)), but it is unclear whether such requirements played a role in the framing of the JRP's numerous "findings of fact" (NEB 2013b, 7). Taken together, the JRP codifies a hierarchy of knowledge and testimony (with positivist natural science at the apex) and demonstrate a strong preference for quantifiable information throughout its reports. At the same time, the JRP sometimes adopts positions that are seemingly unscientific, but still perform an ideological and political function, such as the discourse around a "healthy economy."

The JRP routinely frames and describes its activities using active, definitive language that reinforces its authority as a judge of knowledge. For example, Volume 2 of its report, *Considerations* (NEB 2013b), expresses its judgements prefaced with the phrase "the Panel finds that" 287 times, thereby emphasizing the definitive, ostensibly evidence-based nature of the JRP's expert judgement through repetition. In the field of rhetoric, these semiotic forms of authoritative self-representation are analyzed as instances '*ethos*'—a type of "proof," in Aristotelian terms—that speakers draw upon to support claims through the reinforcement of their authority or character (Paso 2014; Toye 2013; Harrington, Series, and Ruck-Keene 2019). From a Foucauldian perspective (1980), the JRP affirms its status as a social actor capable of "distinguish[ing]" truth, and in the context of providing its EA recommendation, the JRP itself functions as a "mechanism" for Cabinet to better distinguish between multiple social actors' competing truth claims.

As institutional representatives, the JRP functions as a knowledge legitimator in the EA process, and what knowledge it legitimates 'functions as truth' in its recommendation to the

government. The JRP's process and its reports provide the foundation of legitimacy necessary for governments to justify project-related decisions as well-informed and stemming from a just and scientific foundation as opposed to political agendas. After approving Northern Gateway, Prime Minister Stephen Harper deflected critique "[t]he fact of the matter is . . . the government is acting on the advice of an independent scientific panel that thoroughly reviewed all matters" (Wingrove and Chase 2014). Both Orders in Council (2014; 2016) defer to the JRP's findings, despite coming to different political conclusions about what action should be taken.

4.4.2 The JRP's Interpretation of Cumulative Effects Assessment

The JRP's omission of federal and provincial GHG policy considerations in its reports makes analyzing its interpretation of cumulative effects assessment all the more important to understanding how Northern Gateway's effects were framed and rationalized in relation to climate change. *CEAA 1992* obligates the JRP to assess "any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out" (16(1)(a)).[32] The assessment of cumulative effects is especially relevant to considering Northern Gateway's role in facilitating GHG emissions since, as an infrastructural project that enables the transportation of GHG-intensive products, the "operation" of the pipeline is also contingent on the supply of product and thus upstream extraction activities. Furthermore, pipeline operation also implies that there will be different possible end-uses of oil that produce emissions downstream—emissions which would be magnitudes larger than those produced by simply transporting oil via pipeline and that would contribute to cumulative atmospheric effects. Neither *CEAA 1992* nor *2012* defines cumulative effects or explains how they are to be assessed. Instead, the "Scope of the Factors" document directs Northern Gateway to the CEA Agency's Cumulative Effects Assessment Practitioners Guide (1999a). This guide

[32] *CEAA 2012*, 19(1) has a similar provision.

defines cumulative environmental effects broadly as "changes to the environment that are caused by an action in combination with other past, present and future human actions" (2.1).

The JRP affirmed that it "*will* assess the *potential* for environmental effects of *the Project* to act in combination with environmental effects *from other projects and activities*," whether or not those projects or activities are proposed or undertaken by Northern Gateway (NEB 2011, 4; emphasis added). The JRP claims that "*[t]ypically*, future projects or activities are considered to be those for which formal plans or applications have been made" (5; emphasis added). The JRP considers such formalized projects "reasonably foreseeable" (NEB 2013b, 188). Yet this explanation and interpretation of "reasonably foreseeable" appeals to normative institutional practices—what is "typically" routine procedure—and avoids acknowledging its discretionary power in deciding what activities are considered.

More importantly, this interpretation of reasonably foreseeable activities contradicts the CEA Agency's (1999b, 2) admonition that the approach described by the JRP "may not always be adequate to understand the implications of development activities on the future well-being of the environment." Furthermore, reasonably foreseeable activities include those which are not directly associated with the project under review, but which the reviewed project may "induce" if approved (CEA Agency 1999a, 37). The CEA Agency (1999a, 20-21) considered these potential "growth-inducing . . . spin-off actions" as reasonably foreseeable pathways for environmental feedback effects.

By limiting its cumulative effects assessment to only projects or activities with formal plans or applications, the JRP misrepresents the scope of reasonably foreseeable activities, and excludes consideration of key pathways for potential cumulative effects. Its statement also obscures its exercise of discretion in deciding which institutional guidance documents and

common practices to follow and which to selectively ignore. The JRP's appeal to what is "typical" suggests its interpretation of reasonably foreseeable activities was consistent with normative, "business as usual" NEB institutional practice and demonstrates a preference to avoid countering institutional inertia (despite its broad discretionary powers). Additionally, this might indicate a preference to simplify the scope and depth of environmental consideration where contributing factors are poorly understood or difficult to quantify, in favour of positivist approaches reasonably capable of providing more definitive predictions. For example, the JRP's preference for more simplified, clearly quantifiable, predictive approaches to cumulative effects might be inferred from its admonition that considering the project's downstream effects would be "hypothetical and of no meaningful utility to [its] environmental assessment or public interest determination" (NEB 2011, 14; NEB 2013b, 3).

The JRP echoes this penchant for predictive methods when its introduces its cumulative effects assessment methodology, stating that after considering the effects of "the Project," it will consider if there is "potential" for those specific effects—"residual" effects after mitigation—to "interact" with the effects of "other projects or activities" (NEB 2011, 4). In this context, the framing of these terms all infer the prediction of determinative causal chains between effects. Still, narrow project scoping again plays a role in limiting the pathways to consider induced GHG emissions, and restricts consideration mainly to direct (measurable) emissions from construction and operations. The magnitude of these direct (predictable) emissions would have been much smaller than those the project would induce upstream or downstream, giving an artificially narrow view of Northern Gateway's emissions contribution above baseline GHG levels, and the potential for residual effects to "interact" with existing GHGs involves a much more hypothetical prediction. Based on the JRP's reports, it is unclear whether baseline

atmospheric GHG levels from any past activities—aside from specific industrial emissions near the proposed Kitimat marine terminal—were ever considered in its cumulative effects evaluation, hypothetically or otherwise (NEB 2013b, 189-192).

Relatedly, it is unclear under what criteria the project's direct GHG emissions might be considered "residual" after mitigation within this framework. This determination matters for two interconnected reasons: first, the NEB's policy states if there are no "predicted interactions" between a specific "residual" project effect, further cumulative effects analysis is not required (NEB 2009b, 4A-16; NEB 2011, 4). Failing to recognize or acknowledge an effect as residual—or that residual effect's capacity for interaction—means the effect's cumulative assessment is short-circuited. Even if a residual effect with an environmental interaction is predicted (within spatial and temporal boundaries selected by the proponent) (NEB 2013b, 182), the JRP "does not provide a detailed discussion of cumulative effects where it found project effects remaining after mitigation would be *minor, localized, or acceptably mitigated*" (NEB 2013b, 188; emphasis added). Substantive decision-makers are therefore not apprised of such "minor, localized, or acceptably mitigated" environmental effects because they are ostensibly too insignificant to warrant consideration at the political level. Even more problematically, applying frame analysis to the JRP's use of these terms reveals that the usage of these terms was undefined. In practice they functioned as relativistic, discretionary qualifiers which the JRP routinely invoked to frame certain environmental effects as non-significant in its judgement overall, while simultaneously lending its determinations an air of scientific objectivity despite the lack of any definitional criterion.[33]

Another reason the designation of "residual" project effects matters is that the JRP often rationalizes an effect's dispersal over space and time as acceptable means for cumulative effects

[33] In particular, see text boxes in Volume 2 of the JRP's report (NEB 2013b), Chapter 8, specifically pages 189-257.

to dissipate to levels of insignificance (NEB 2013b, 191-192; 146; NEB 2013a, 69). Despite contradicting best practices, in some cases, assessment practitioners have argued that if residual effects are insignificant then they have no basis from which to act cumulatively (CEA Agency 1999a, 63). While the JRP does not explicitly adopt this position, the approach it took is clearly inconsistent with an accounting of the additive and synergistic cumulative behaviour of atmospheric carbon dioxide as it relates to climate change, and an "insignificant" cumulative effect still makes a cumulative contribution worthy of consideration.

In one of few examples in this corpus where carbon dioxide was mentioned explicitly,[34] the JRP merely communicated Northern Gateway's conclusion that the project's carbon dioxide emissions "would be very low compared to provincial and national emissions" without comment (NEB 2013b, 190).[35] Breaking down this rationale as an instance of practical argumentation, it appears clear that comparing project emissions with total emissions from sources at vastly larger scales is a relativistic rationalization, which in this case is used to downplay the project's emissions and frame them as inconsequential. From a cumulative effects perspective, such justifications can amount to a kind of "tyranny of small decisions" that accumulate or synergize with others, contributing to a much larger or more complex environmental effect (Noble 2010, 5). The JRP's silence on Northern Gateway's rationalization could be interpreted as tacit agreement with their conclusion, and its overall inattentiveness to carbon dioxide emissions supports the idea that it believed the project's direct or cumulative effects were too small (or too scientifically unpredictable) to warrant serious consideration.

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[34] Carbon dioxide or CO2 was mentioned once in Volume 1 of the JRP report, and eight times in Volume 2. Each instance was not written to communicate the JRP's own view but as the indirect or reported speech of other parties. These were the only instances either term was used in any documents in the corpus.

[35] This is consistent with the JRP's discussion of the project's local industrial emissions in Kitimat: they would be "minimal compared to the existing sources presented" (NEB 2013b, 192).

4.4.3 Arguing Against the Current: Reasoning About Upstream Effects

The JRP addressed its refusal to consider Northern Gateway's upstream implications associated with oil sands development and downstream oil use head on, early in the hearing process (NEB 2011, 12-14), and some of its rationale is restated in its final reports (NEB 2013a, 17; 2013b 170-171). Prior to its final reports, the JRP supplied four paragraphs rationalizing why, "[s]ubject to consideration of cumulative effects," it would not consider the environmental implications of upstream oil sands development associated with Northern Gateway, despite numerous public requests (NEB 2011, 13). These justifications warrant consideration at the level of practical argumentation, and consequently it is worth remembering that representations—ways of framing circumstances or facts—enter into rationalizations in the form of premises (which can sometimes be persuasive or unexpressed) (Fairclough and Fairclough 2012, 93-94).

The first argument the JRP gives for excluding Northern Gateway's upstream effects from consideration is that the issues were outside the scope of "the Project" as established in the JRP Agreement's Terms of Reference (NEB 2009a). Given the authorship of the JRP Agreement (the NEB Chair and Minister of Environment), this could be construed as an appeal to authority—a type of justification that appeals to the credibility or legitimacy of an agent with social or other forms of authority as a reason to accept a claim or action (Van Leeuwen 2007; Paso 2014). The JRP goes on to imply that its Terms of Reference was inclusive of public concerns by stating that the agreement was reached "following consultations with the public and Aboriginal groups" (NEB 2011, 13). This framing insinuates that the public more or less consented to the items listed in the Terms of Reference—that public interests were accommodated through consultation processes and are represented in the Agreement—and upstream considerations were, apparently, not among those interests. This framing also evokes a

sense of procedural fairness and order: the supposed inclusion of public feedback in the Terms of Reference is leveraged as an unexpressed premise, meanwhile this representation obscures the unilateral power the NEB Chair and Minister of Environment had to set the Terms of Reference (irrespective of public feedback). Furthermore, it is an ironic oversight to proffer rationalizations for the exclusion of a public concern which hinge on the scope of assessment being *fixed* within a document explicitly intended to publish *revisions* to the List of Issues under the JRP's Terms of Reference (NEB 2011; NEB 2009a, 1).

The JRP's second rationalization for excluding upstream oil sands considerations is largely a jurisdictional defence based on their interpretation of federalism. It reasons that oil sands production is regulated provincially, and "many" projects are already subject to environmental assessment legislation and mitigation measures at either provincial or federal levels (NEB 2011, 13). It also points out that considering these environmental effects as part of the Northern Gateway review is "contrary" to one (of many) purposes of the *CEAA 1992*: the "elimination of unnecessary duplication" in environmental assessment (13), invoking a legal rationale predicated on interpretations of efficiency and "unnecessary" duplication.

While these points may be accurate, it is important to consider how the JRP has used indirect (reported) speech to represent the public's request as the basis to offer this rationalization. At the beginning of this section (prior to offering reasons for the exclusion of oil sands effects), the JRP stated that "numerous" participants requested that the JRP "include environmental effects associated with the development of Alberta's oil sands in its assessment of the environmental effects associated with the Project" (NEB 2011, 12). This phrasing is rather ambiguous and homogenizes requests from "numerous" people into a unified, specific appeal.

The JRP's rationalization concerning duplication and jurisdiction appears to hinge on interpreting the public's request as asking the JRP to conduct an assessment of oil sands developments themselves, in addition to assessing the environmental effects of Northern Gateway. While requests to that effect may exist, it is also possible that framing public concern this way obfuscated more moderate requests that the JRP simply consider effects that Northern Gateway could have induced upstream via facilitating the transportation of oil sands products. But, it is impossible to determine the fidelity of reported speech from documents in my corpus alone. Thus it is also impossible to know if this homogenized framing of public requests was oversimplified, forming a jurisdictional strawman to rationalize excluding induced upstream effects from consideration.

The JRP's third rationalization to exclude upstream considerations combines spatial, jurisdictional, and definitional components. The JRP echoes its previous assertion that production of oil supply to be transported is subject to assessment in its respective jurisdictions, and supply could come from anywhere in the Western Canadian Sedimentary Basin, not just the oil sands (NEB 2011, 13). The unspoken premise concerning oil supply is that there is ostensibly no reason the JRP should consider oil sands specifically if there are other potential sources of bitumen for the pipeline, many of which are subject to corresponding jurisdictional regulations.

From a definitional standpoint, the JRP argues that its mandate is limited since the Northern Gateway's application was "for a transportation undertaking only, and Northern Gateway has not indicated any intention to develop any oil sands projects" (13). By itself, this claim is valid (although it does not invalidate arguments favouring consideration of induced effects). However, the practical argumentation deployed is also highly misleading: while principally backed by Enbridge (an energy transportation company), Northern Gateway Ltd. also

made funding support agreements with ten oil producers[36] (NEB 2013a, 28; 2013b, 322-324). Many of these producers do in fact develop oil sands projects, and most made it explicit to the JRP that they plan to increase their oil production significantly (NEB 2013b, 322-324). In 2011, when the JRP first rationalized that oil sands would not be considered on the grounds that Northern Gateway was "only" a transportation undertaking, it was not clear (based on this corpus) that it was aware of the close financial ties between Northern Gateway and oil sands producers (or if these agreements existed). However, the JRP repeated the same claim in its final report (NEB 2013a, 17), *after* it was made aware of funding participants' oil sands expansion plans (detailed in its 2013 report) (NEB 2013b, 322-324). Framing Northern Gateway's lack of intention to develop oil sands projects as a rationalization to exclude consideration of the project's upstream implications therefore appears disingenuous.

The JRP's final rationalization to exclude upstream environmental considerations is that Northern Gateway's terminus near Bruderheim, Alberta, is "*a substantial distance* from existing and proposed oil sands developments" and could receive oil from sources which "do not form part of the Project" (NEB 2011, 13; emphasis added). The JRP concludes all four previously discussed arguments, stating that, "[f]or the above reasons," there is not a "*sufficiently direct* connection between the Project and any *particular* existing or proposed oil sands development" to warrant consideration of *potential* upstream effects of Northern Gateway (13; emphasis added). Physical proximity is a debatable reason to disavow responsibility for considering induced and transboundary environmental effects given the JRP's espoused commitments to the precautionary approach and sustainable development (NEB 2013a, 11), and concern for trans-

[36] Six of Northern Gateway's funding partners were formal intervenors in the hearing process with direct interests in oil sands development; corporate investors included Cenovus, Nexen (representing more than 300 producers and customers), Suncor, INPEX, TOTAL, and MEG (NEB 2013b, 322). Northern Gateway was paid $140 million (total) to secure promissory fifteen-year shipping contracts with ten producers, which agreed to contribute another $1 billion—each—to Northern Gateway if the project was approved (323).

jurisdictional environmental effects in the purposes section of *CEAA 1992*.

Furthermore, invoking spatial and definitional arguments about "the project" without mention of critical connecting infrastructure obfuscates the prospect for the public and decision-makers to gain a full understanding of Northern Gateway's implications. Enbridge's Woodland Pipeline (Lines 49/70), Waupisoo Pipeline (Line 18), and Norlite Diluent Pipeline (Line 74) run from oil sands developments north of Fort McMurray, AB, and intersect with the Bruderheim, AB terminal where Northern Gateway's eastern end was planned to terminate (see maps in Appendix B). In effect, pipelines all principally owned and operated by Enbridge would become integrated as part of a larger "networked infrastructure" of fossil fuel extraction and development connecting the oil sands with new international markets (Scott 2013).

With this network in mind, the claim that Northern Gateway's connection to the oil sands is not "sufficiently direct" seems either facile or strategically misleading. Taken together, all four of the JRP's rationalizations to exclude any discussion or consideration of Northern Gateway's upstream environmental effects rest on unexpressed premises (some of which have questionable foundations) and partial representations of information and the context of action. Ultimately, they function as rhetorical legitimations for the JRP's exercise of discretion, and work to depoliticize the assessment process by steering discourse away from the climate change implications of Northern Gateway's networked infrastructure.

4.4.4 "In [Which] Circumstances"? Strategic Ambiguity and Unexpressed Premises in the Justification of Environmental Effects

The original JRP Agreement specified that the JRP was to submit its report "setting out its rationale, conclusions, and recommendations *relating to the environmental assessment* of the project" (NEB 2009a, 7; emphasis added). Three months before the JRP submitted its final report

under newly imposed time limits, the same section of the JRP Agreement was amended: the report was instead to be prepared under section 52 of the *NEB Act*,[37] concerning whether a certificate should be issued if the project "is and will be required by the present and future public convenience and necessity" (NEB 2012, 3; see Table 1 for chronological reference). The original clause concerning environmental assessment was included as a secondary matter—subject to the more restrictive environmental effects provisions of *CEAA 2012*—and amendments required the report to be submitted to the Minister of Natural Resources (rather than the Minister of Environment as under *CEAA 1992* and the original JRP Agreement).

The JRP's recommendation pursuant to issuing a certificate was always understood to be *part* of its environmental assessment report since it had obligations under both *CEAA 1992* and the *NEB Act* (NEB 2009a, 5). In that sense the change may appear unlikely to have meaningfully impacted the JRP's recommendation. Still, from a frame analysis perspective, emphasizing section 52 increases the salience of the *NEB Act*'s priorities and purposes, and lends them primacy over those of the *CEAA*. To an extent, the emphasis on section 52 of the *NEB Act* can arguably be seen in the Order in Council's explanatory note (Government of Canada 2014), wherein the federal government explains that the JRP "assessed the Project from the perspective of its *effects on the industry, the wider economy*, social and environmental effects, as well as the soundness of the design" (emphasis added). While the order of this listing may not be intentional or demonstrate priority, it may reveal what policy-makers were implicitly most interested in. This interpretation is partly supported since Cabinet's first stated consideration underlying approval was that Northern Gateway would "diversify Canada's energy export markets and would contribute to Canada's long-term economic prosperity" (np). Also directly in line with the JRP's recommendation, the government deemed that significant adverse environmental effects

[37] Northern Gateway was the first pipeline reviewed using the new section 52 clauses (Savage 2016, 18).

on grizzly bear and caribou "are justified in the circumstances." Unpacking both of these claims reveals unexpressed premises and argumentation strategies that underlie the value-based decision-making of the JRP and federal government.

The use of the phrase "in the circumstances" in environmental legislation and Northern Gateway's assessment is a key rhetorical element in decision-makers' exercise of discretion. It leverages ambiguity strategically to perform an argumentative function: it is framed such that the imagined audience's agreement about "the circumstances" is presumed, and this often avoids the obligation of the speaker to both describe the circumstances and rationalize its decision in relation to the circumstances. Evoking "the circumstances" without sufficient elaboration functions as an unexpressed premise which obscures the implicit values, motivations, and ideological commitments of decision-makers.

At the same time, the phrase functions as an "empty signifier" (or "floating signifier") because it can mean "all things to all people" and is implicitly subject to radically different interpretations of the circumstances (Brown 2016, 116). In this way, when invoked without explanation, "the circumstances" works as a framing device that advances a proposition based on hidden premises. This is a subtly persuasive rhetorical technique that forecloses alternative policy options. The phrase's inherent ambiguity and interpretive subjectivity is observable in the second Order in Council (Government of Canada 2016a), which dismissed the application "having decided that the Project is not in the public interest" and that the significant adverse environmental effects it was likely to cause "are not justified in the circumstances."[38]

[38] However, it is important to consider the political context outside the EA process in interpreting potential reasons influencing Northern Gateway's dismissal. For example, Trudeau made campaign promises to protect the Great Bear Rainforest and to uphold the informal moratorium on crude tanker traffic along BC's north coast (Tasker 2016). Coupled with public opposition and the ruling in *Gitxaala Nation v. Canada* (2016), the public optics of dismissal might be seen as (overall) politically favourable for the federal Liberals. Additionally, the close timing between the Trudeau government's Nov. 7th announcement of $1.5b funding for BC's ocean protection and

Comparatively, the JRP usually offers more insight into its vision of the circumstances by evoking the phrase after at least some discussion of its perception of Northern Gateway's "benefits and burdens" (NEB 2013a, 57; 72-74; 2013b, 10-13; 262). In these cases, the circumstances reference what is an ostensibly cost-benefit analysis of the "public interest" where economic benefits are framed such that they appear to outweigh environmental and other burdens "on balance" (2013a, 73). The JRP explains that "[t]he NEB defines the public interest as being *inclusive of all Canadians* and refers to *a balance* of economic, environmental and social considerations that *changes as society's values and preferences evolve over time*," and that "[t]he NEB weighs *all relevant* impacts when making its decisions" (NEB 2011, 12; emphasis added). As previously discussed, the JRP functions as an arbiter of what impacts qualify as "relevant," so "the circumstances" evoke only what it has chosen to include in its scope.

Analyzing certain claims and the unexpressed premises they hinge upon offers insight into how the JRP and Cabinet perceived "the circumstances." Unpacking Cabinet's claim that Northern Gateway would "diversify Canada's energy export markets and . . . contribute to Canada's long-term economic prosperity" (Government of Canada 2014) reveals a few assumptions and a wider scoping of economic benefits than environmental effects. Diversifying energy export markets is framed positively and as a means to an end (long-term economic prosperity), yet the assumptions and reasoning this rests on are implicit.

In particular, the claim that greater market diversity can contribute to prosperity is in this case premised on the view that overdependence on oil exports to the US is preventing Canadian oil producers from getting "full value" for their commodities (NEB 2013a, 27). Thus, market diversification should allow for greater income from upstream extraction activities, from which

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emergency response plan (CBC News 2016), Northern Gateway's dismissal (Nov. 25th), and the TransMountain approval (Nov. 29th) suggests that these decisions might have been taken together guided by a political calculus.

the JRP notes that it is "shippers [producers] that most directly benefit" (NEB 2013b, 327). This is an example of an induced upstream effect, and higher profit margins have historically incentivized investment and thereby increased production and expansion in the oil sector (Millington 2016, 4). It is worth noting also that predicted increases in oil sands production and supply—and contingent economic forecasts—used in the JRP review relied on the assumption that all currently proposed or approved pipelines (new or expanded) would be approved and operate as proposed (NEB 2013b, 323).

This presumes a number of direct, indirect and induced economic benefits from oil extraction and development that are experienced by local, provincial and federal governments and citizens. At the same time, it evokes the *CEAA*'s framing of development as the means to an apparently harmonious synergy between a "healthy environment and a healthy economy." Thus, in the federal government's calculus, upstream economic benefits *have* been considered, and appear to have considerable weight in the overall decision. Yet (in line with the JRP) negative upstream impacts locally and regionally, including in the form of induced emissions or long-term impacts like contributions to climate change have not been considered.[39]

The JRP took several key positions that suggest that, in its view of the circumstances, oil sands development in general is in the public interest. It asserted that the petroleum industry was "a significant driver of the Canadian economy and an important contributor to the Canadian standard of living" (NEB 2013b, 332). This assertion reinforces rhetorical means-end linkages between the economy and human health largely abstracted from actual practices (thus obfuscating specific positive and negative implications upstream and downstream). Relatedly, when the JRP closely mirrored the claim of the Canadian Association of Petroleum Producers

[39] This remains true for the Liberal government's Order in Council (Government of Canada 2016a), which quashed Northern Gateway's certificates on the grounds that endangered species would be threatened and the risk of oil spills could harm some sensitive ecosystems.

that "the operation of market forces should determine when energy developments and infrastructure should proceed and how supply and markets are connected" (NEB 2013b, 324; 328), it revealed an underlying premise that economic actors' pursuit of self-interest positively influences the standard of living. Taken together, it could be argued that these perspectives should be interpreted as revealing a form of market fundamentalism (Shaanan 2017), wherein *laissez faire* approaches to economic activity are believed to serve public goods.

In like fashion, the Conservative Cabinet cited the JRP's view that "opening Pacific Basin markets for Canadian oil products *is important to the Canadian economy and society*. Societal and economic benefits can be expected from the Project" (Government of Canada 2014; emphasis added). These claims draw on national frames and anthropomorphize the economy by attributing it with agency. The means-end relationships also closely echo assertions made by Cabinet members throughout 2011 and 2012 in the media and in the House of Commons (Savage 2016), *before* the JRP had completed its review. For the Conservative government, the public interest determination had already been made (fairly publicly) at the executive level, but the JRP's process and reports were necessary for the purposes of legality and to confer legitimacy on their decisions.

Thus, emissions associated with climate change were not addressed among the 209 conditions the JRP required should Cabinet act on the recommendation that the project be approved. Neither Order in Council made any reference to climate change or emissions, while couching their respective project approval and rejections in the findings of the JRP (Government of Canada 2014; 2016b). This suggests that the JRP (and the EA process more broadly) served an important legitimating function wherein specific framings and rationalizations of the context of action and predicted outcomes were used as justifications for executive decision-making. In

the next chapter, these findings will be brought back into conversation with my research questions explicitly, and the policy implications will be explored in the contemporary context.

Chapter 5 - Conclusion

5.1 Introduction

Focusing on official discourses in Northern Gateway's environmental governance process, in this thesis, I investigated how two federal governments and the JRP framed and rationalized the project's environmental effects in relation to climate change. Relatedly, I also examined how statutory interpretations were relied upon to support those choices, and how normative institutional practices, discourses, and ideologies converged in Northern Gateway's assessment. Using CDA as a guiding methodological framework, this qualitative research deployed frame analysis and argumentation analysis as descriptive and interpretive methods to a selected corpus of publicly available government documents. Deploying Fairclough's three-dimensional framework (Figure 2) of text, discursive practice, and social practice as an analytical framework, this analysis required an iterative, recursive process—"a series of critical encounters" with text and context in order to gain a deeper understanding of discursive processes (Steacy et al. 2015, 169). In this chapter, I discuss key observations and insights that surfaced in the pursuit of answers to each of my three research questions (in relation to the literature where applicable), research contributions and remaining gaps, and I offer some concluding remarks.

5.2 Revisiting the Research Questions

The following three subsections explore key insights related to my research questions explicitly.

5.2.1 Research Question 1: How have the Canadian federal authorities involved in the Northern Gateway environmental assessment process discursively framed the project's environmental effects and rationalized their decisions in relation to climate change?

Based on this corpus, environmental effects related to climate change were given very little explicit consideration in Northern Gateway's official environmental assessment process—either by the JRP or by successive federal governments. This relative absence necessitated

analytical attention to more implicit discursive framings of and reasoning about the particular types and scope of "environmental effects" under assessment. Despite considerable public interest about the direct, indirect, cumulative and induced effects Northern Gateway could have related to upstream and downstream GHG emissions (NEB 2011), Northern Gateway's potential contributions to atmospheric GHG emissions were largely excluded from the scope of assessment through a variety of rhetorical strategies.[40]

Analyzing these rhetorical patterns required the interpretation of federal environmental assessment laws, and consideration of how these statutes frame the intentions, purposes, and worldviews underlying environmental assessment that social actors put into practice. Consequently, some crossover with my second research question (concerning intertextuality) is unavoidable when discussing how federal authorities framed and reasoned about environmental effects in relation to climate change. Ultimately, discursive analysis revealed underlying ideological perspectives embedded in the assessment process, and a number of framing and argumentation patterns that show how concerns about climate change were represented and their exclusion from the assessment were rationalized.

An overarching pattern surfaced through analyzing the corpus is that framings and rationalizations of environmental effects related to climate change tended to be rooted in an instrumental, anthropocentric view of the natural environment (views which were also reflected in the statutory and policy regime throughout Northern Gateway's tenure). Even the statutory mechanisms designed to protect otherwise natural components of the "environment" shift the focus towards specifically human (socio-economic) interests when they go on to specify the

[40] Note that "rhetoric" is commonly (mis)understood to inherently invoke a negative value statement, or to imply a deliberate attempt to mislead an audience (Harrington, Series, and Ruck-Keene 2019). In the field of rhetoric, however, it is actually considered a value-neutral and broad descriptor of language use; even if defined as "the art of effective composition and persuasion," value implications depend on context and ethical implications of accepting a given claim (MacDonald 2017, 5).

types of "environmental effects" that must be specifically considered in environmental assessments. Deploying a particular vision of "sustainable development" with a focus on meeting present and future human needs also suggests that both *CEAA*s (and by extension, the JRP texts in the corpus) were rooted in an instrumental approach towards regulating resource extraction and development. These findings resonate with the argument by Sachs (1999, 33) that by linking 'sustainable' to 'development' "a terrain of semantic ambiguity was created," and that this ambiguity can be leveraged to support dominant institutional framings of "nature as capital."

Both of the "environment" and the "sustainable development" frames evoked a rhetoric of "equivalence," wherein environmental and human interests are tacitly represented as inherently compatible or as having equivalent value (Kambites 2014, 343–44). "Sustainable development" in this context "tends to operate in ways that are decisively non-threatening to the status quo" (Brown 2016, 125). Indeed, the JRP went so far as to suggest that there is "no differentiation" between the natural environment and the economy, which naturalizes economic activity as part of the environment (NEB 2013a, 74). This false representation of equivalence is also manifest in both *CEAA*s and the JRP's use of the anthropomorphic "health" metaphor to imply that a "healthy environment" and a "healthy economy" are mutually achievable objectives under the framework of sustainable development. Fischer and Hajer (1999, 5) problematized the claim that "sustainability and economic growth can go hand in hand,"[41] arguing that it "presumes that our knowledge is sophisticated enough to reveal the limits of nature, thus permitting us to exploit resources safely up to that limit."

Drawing on Savski's (2018, 357) claim that "every policy or law codifies a particular construction of social reality," I argue that frames identified in the *CEAA* and expressed by the

[41] Decades after this critique, this discursive frame is still active and reinforced at the federal level in Canada, where the current Liberal government repeatedly invokes the political slogan that "the environment and the economy go hand in hand" (MacLean 2019, 510).

JRP proffer a prefigured worldview based on anthropocentric values and institutional norms. These frames functioned to foreclose alternative policy discourses (Winslow 2017), and thereby bolstered outcomes in environmental assessment processes which are favourable to the dominant socio-economic status quo.

In supplying this foreclosed statutory worldview as an interpretive foundation for practitioners (to say nothing of institutional norms), it seems unsurprising that the JRP might deploy argumentation which functions to exclude or downplay Northern Gateway's more complex, upstream, downstream, cumulative, and induced atmospheric environmental effects associated with climate change (NEB 2011; 2013a, 17; 2013b, 170-171), and why successive federal Cabinets omitted any such considerations from their decisions about Northern Gateway (Government of Canada 2014; 2016a). A key way that these broader environmental effects were explained away was via narrow project scoping coupled with deference to the myopically defined "project," which itself hinged on local and regional scales of the project's scoped effects.

Under both *CEAA*'s, the JRP had an obligation to consider adverse transboundary environmental effects. Instead, it invoked spatial and jurisdictional boundaries related to "the project" as rationales to justify the exclusion of any "hypothetical" upstream or downstream indirect or induced emissions (there might be a "substantial distance" between cause and effect, after all (NEB 2011, 13-14)). Relatedly, potential risks associated with the project were only considered if they were associated with spatially and temporally specific construction or routine operations. Frame and argumentation analysis revealed that the associated impacts tended to be trivialized using vague terminology or incommensurable scale comparisons. This relativistic framing is consistent with what Ohsawa and Duinker (2014, 224) termed a "scale trick," wherein cumulative effects are dismissed as unimportant and unworthy of further consideration because

they are framed as lesser than those at much larger scales. This observation is consistent with Greaves (2013, 189), who critiques the framing of oil sands as insignificant compared to global emissions. Contrastingly, the JRP routinely discussed the project's economic benefits at a national scale and invoke this nationalistic consideration in its final recommendation (2013b, 9-13; 2013a, 71-74).[42] In turn, national economic effects were framed as primary concerns to the Conservative federal Cabinet (Government of Canada 2014). Analysis suggests that choosing to consider some types of effects at a given scale—but not others—is not arbitrary, but value-based.

Overall, these discursive patterns functioned as rhetorical legitimations that obfuscate the exercise of institutional and political discretion at the expense of climate change considerations, and worked to depoliticize[43] key environmental, political, and economic issues that were inherently connected to Northern Gateway's implications as "networked infrastructure" (Scott 2013). This discursive pattern appears to support Beck's (2010, 167) claim that "national boundaries draw a sharp distinction between politically relevant and irrelevant inequality," and that "[t]he 'legitimation' of global inequities is based on an institutionalized 'looking the other way'." I discuss the broader implications of this policy attitude below in sections 5.3.2 and 5.4.

5.2.2 Research Question 2: How were specific intertextual interpretations of statutes relied upon to support these framings and rationalizations?

This question most closely aligns with Fairclough's second dimension, discursive practice (the meso-scale context of discursive production) (Figure 2), and correspondingly, this component of the analysis was aimed at teasing out social and institutional power dynamics

[42] The JRP did reassure the public that they did not "assign weight to any specific estimates of potential induced upstream [economic] benefits" in their public interest determination, however (NEB 2013b, 332).
[43] Following Hay (2007), depoliticization can be conceptualized as "the moving of issues from the political arenas of deliberation and contingency, where action is possible, to the non-political arenas of fate and necessity, where nothing can be done" (Wolf and Dooren 2018, 288). Depoliticization can take multiple forms such as 'rule-based,' 'institutional' and 'discursive' depoliticization (Wolf and Dooren 2018; Wood and Flinders 2014), and can be said to "remov[e] the political character of decision-making" and "shap[e] political opportunities" (Etherington and Jones 2018, 53).

embedded in processes of textual production and interpretation. One of the key insights revealed by examining the JRP's rhetorical manoeuvering around the consideration of GHG emissions and climate change is that the majority of its key decisions took place *prior* to the introduction of more restrictive statutory language in *CEAA 2012*. This illuminates an interesting potential distinction between the role statutory interpretation and normative institutional practices in federal environmental assessment.

For example, prior to being altered along with the *CEAA*'s replacement in 2012, the *NEB Act*'s section 52 explicitly gave the NEB the ability to consider "any" public interest it deemed might be affected by a proposed project, but the clause was restricted to considerations that are deemed "directly related"—implying a causal connection—"to the pipeline and to be relevant" by the *Jobs, Growth and Long-term Prosperity Act 2012*. Insofar as this change would obstruct public deliberation in the EA process, it can be characterized as "rule-based" depoliticization (Flinders and Buller 2006, 299). However, based on the Northern Gateway JRP's 2011 decision to exclude public concerns about GHG emissions on the basis that there was not a "sufficiently direct connection" to "the project" (NEB 2011, 13), the corpus provided some evidence that considering only effects "directly related to the pipeline" was the de facto norm *before* the *NEB Act* was modified in 2012.[44] This suggests that normative institutional practices play a key role in interpreting how to apply statutory obligations in the context of environmental assessment.

This proposition is further supported by the JRP's choice to interpret potential cumulative impacts associated with "reasonably foreseeable" projects and activities as only those with formalized plans or applications, since that is what the NEB "typically" does (NEB 2013b, 188),

[44] Another possibility—which is not supported by evidence from this corpus—is that it is that by 2011, some members of the NEB had surmised changes to their home statutes were incoming under the *Jobs, Growth and Long-Term Prosperity Act 2012*, which some argue were heralded in 2009 by the Canadian *Economic Action Plan* (*EAP*) as a political response to the global economic recession (Kirchhoff and Tsuji 2014, 112).

despite the CEA Agency's (1999b, 2) (non-statutory) suggestion that this approach may be inadequate in the context of induced or cumulative effects assessment. Similarly, one notable element of *CEAA*'s definition of "environment" is that it is inherently planetary in scale and is not limited by political or geographic boundaries. Therefore, it would seem logical that when considering "environmental effects," cumulative, transboundary GHG emissions involved in climate change would be of at least some interest. Even so, the JRP chose not to exercise its full discretionary latitude to that end early in the process (NEB 2011), and never discussed transboundary atmospheric emissions in its final reports (2013a; 2013b).[45]

CDA also revealed that a number of frequently used but undefined statutory terms obscure both the exercise of discretion in the assessment process and the specific outcomes to which the terms refer. For example, whether an environmental effect is deemed "significant" or not is not based on any clearly defined scientific or other criteria; the designation is instead at the discretion of the Minister and the JRP—a problem long criticized by EA scholars (Kirchhoff and Tsuji 2014, 112). Likewise, what is or is not considered "relevant" is a judgement affecting the parameters of acceptable discourse and information in the review process, and thus, the basis of decision-making. Similarly, even when adverse cumulative environmental effects are predicted, the JRP chose not to discuss them if they were judged "minor, localized, or acceptably mitigated" without disclosing how such conclusions are reached (NEB 2013b, 188). These discretionary terms have no statutory or defined scientific basis, yet discursively lend a sense of objectivity to subjective judgements when invoked.

Considering the corpus as a whole, analysis of the JRP's conclusions about Northern Gateway's environmental effects in its reports (and in documents preceding *CEAA 2012*) suggest

[45] Although, it is possible that *CEAA 2012*'s more restrictive framing of the limits of Parliamentary authority could have influenced the lack of any explicit transboundary discussion in the JRP's final reports (NEB 2013a; 2013b).

that it did not interpret *CEAA 1992*'s broad definition of environmental effects literally, as "*any* change" a project may "cause *in*" the (global) environment (2(1)(a); emphasis added). Rather, analysis showed ways that the JRP's interpretation of statutory obligations demonstrated a clear preference for avoiding the introduction of potential complexities associated with poorly quantified or poorly quantifiable data (NEB 2013b, 12), dismissing "hypothetical" environmental implications from assessment (NEB 2011, 14), and precluding potential induced transboundary effects from consideration.[46] If this particular JRP's choices were representative of the NEB's institutional norms regarding environmental assessment, a reasonable critic might argue that its statutory interpretations preceded those that might be inferred from *CEAA 2012*: the JRP was already geared towards identifying "*a* change" of political interest a project may "cause *to*" a listed "*component of* the environment" indisputably within Parliamentary authority (*CEAA 2012*, 5(1)(a); emphasis added). Taken together, this suggests that certain changes introduced by *CEAA 2012* actually brought the legislation closer in line with pre-existing institutional norms and practices—as opposed to causing a top-down shift in institutional practices.

These observations evoke interesting ambiguities in relation to studies of institutionalism. For example, the imposition of *CEAA 2012* during Northern Gateway's EA process could arguably be interpreted as a "critical juncture" in policy change (Hall and Taylor 1996, 942). However, findings from this analysis tend to support the predominant influence of "institutional continuity" (Lecours 2005, 11), and the importance of "positive feedback" in how the JRP responded to policy change. In response to criticisms that *CEAA 2012*'s elimination of the NEB's power to refuse permits eroded its independence, then NEB Chair Gaétan Caron stated that "[f]or the [NEB] and its staff, nothing has changed, saving for the wording of the [NEB]'s

[46] None of the JRP or Order in Council documents analyzed in this corpus discuss any potential transboundary emissions effects above the local or regional scale, again affirming Beck's (2010, 167) critique of "politically relevant and irrelevant inequality" being drawn at the state-level by some decision-makers.

disposition" (Savage 2016, 19). Based only on this case study, it seems reasonable to posit that institutional inertia and power dynamics played a key role in Northern Gateway's EA process. Additionally, where statutes are open to interpretation and broad discretionary latitude, there may be structural influences favouring the fulfillment of institutional functions in ways which do not threaten the status quo.

5.2.3 Research Question 3: How might these framings and rationalizations reflect institutional "truth regimes"?

This question most closely aligns with Fairclough's third (and most abstracted) dimension, social practice (Figure 2). It is helpful to revisit Foucault's (1980, 131) idea of a "regime of truth" before drawing out any parallels from this case study. Table 3 below breaks down the central identifiers Foucault suggests, and paraphrases my interpretation of the five key characteristics of this "politics of truth" in a given social context:

Table 3. An Interpretation of the Five Key Characteristics of Foucault's (1980) "Regime of Truth"

#	Five Characteristics of Truth Regimes
1	the types of discourse which social actors accept, and make function as knowledge
2	the means of distinguishing between true and false statements
3	the means by which true or false statements are sanctioned or legitimated
4	the techniques and procedures accorded value in the acquisition of truth
5	the status of social actors that are accredited with producing what counts as true.

These five characteristics can be operationalized into questions which can be asked of a given text within its dialectical context of social production and interpretation. As Rose (1999, 30) puts it, analyzing truth regimes entails "analysing what counts as truth, who has the power to define truth, the role of different authorities of truth, and the epistemological, institutional and technical conditions for the production and circulation of truths." Thus, truth regimes might best be thought of as the functional epistemological and ontological commitments explicitly and

implicitly expressed by those involved in the review process, coupled with the ideologies and power relations that bolster a given worldview.

The JRP gave a number of overt expressions regarding its commitment to the scientific pursuit of "facts" within a rational-legal framework involving processes of cross-examination. For example it explained that "science and law provided the framework" for its process (NEB 2013a, 11), and that its "determination in the public interest is based on findings of fact and a review of scientific and technical information" (NEB 2013b, 8). "Science" is of course not a unified practice, but science in this context refers to a particular methodological approach to the acquisition and affirmation of knowledges—it is both epistemological in orienting the ways "truths" are sought and validated, and ontological in terms of what "functions as truth" in relation to human understandings of reality and our environment.

Analysis showed that the position and status of the JRP is important as it is *the* central knowledge translator and disseminator in the assessment process (both to the public and to Cabinet), and with respect to their recommendations and conditions, it is also a principal judge of the quality and soundness of scientific and other information that function as an intermediary to the executive branch of government. As quasi-judicial authorities, JRPs are also discretionary gatekeepers of what types and what specific discourses enter the public record (the Minister and NEB chair that authored the JRP Agreement (NEB 2009) also played a very important role). Thus, its decisions with respect to what "counts" as true or false have important implications for decisions which affect the real world. With respect to its expert recommendation, the JRP is an important official decision-maker. Even if it is not considered a substantive decision-maker like Cabinet, it makes key decisions about what to include in its recommendations, and sets conditional requirements that, should the project be approved, cannot be overridden by Cabinet

(Savage 2016, 17).[47] This provides a crucial check against Cabinet's power to authorize environmental harm and also affirms the determinative powers of the NEB.

For the most part, the JRP's application of scientific methods of inquiry was not transparent in its memos or reports—most often, the JRP simply reported its judgements regarding specific claims based on authority vested in them as "an expert tribunal" (NEB 2013a, 73). Still, it is interesting to note the panel's espoused commitment to using scientific methods for discerning truth are not based on any enabling statutory mechanisms (Westwood et al. 2019, 253–57). Rather, these procedures are tacitly understood as normative institutional practices that developed and are iterated over time, and the JRP as a social group is acting accordingly within the confines of institutional and public expectations. The JRP did not create any particular institutional truth regime, but did help reinforce expectations and practices that evolved through more complex, historically contingent social processes (some of which are well outside the scope of this review; for example, the historical role of scientific knowledge in EA, along with other sociocultural political and economic trends). From this perspective, and consistent with the dialectical-relational approach to discourse central to CDA (see section 3.2.1), truth regimes might be seen as semi-circuitous, institutionally manifested networks of ideology and practice that can change over time as discourses and social practices surrounding "knowledge" evolve.

As "axiomatic belief systems" (van Dijk 2006), truth regimes (scientific or otherwise) are not value neutral but are inherently ideological—they favour certain social interests and values above others. The government and JRP's framings and rationalizations regarding key environmental effects tended to reflect dominant political and economic ideologies predicated on an instrumental, anthropocentric view of the natural environment, wherein the liberal democratic state's facilitation of capitalist resource extraction and development was a foundational

[47] Cabinet would be forced to deny permits if they refused to accept the conditions attached to NEB certificates.

assumption. This underlying belief system "narrow[ed] the space for ideological conflict" (Pepermans and Maeseele 2014, 223), while simultaneously performing a legitimating function for successive governments—both of which couched their decisions regarding Northern Gateway in the scientific findings espoused by the JRP, irrespective of approval or dismissal (Government of Canada 2014; 2016a).

5.3 Research Contributions

As a case study in environmental assessment, this research revealed new insights into the manner in which Northern Gateway's environmental effects were framed and rationalized in ways that favoured the discounting and omission of transboundary, cumulative, and induced GHG emissions associated with its "networked" fossil fuel infrastructure (Scott 2013), whether those effects might occur upstream or downstream. It traced key discourses in Northern Gateway's EA process across the two different statutory schemes it was subject to as a result of broader political changes. In so doing, this research showed how existing institutional norms, practices and statutory interpretations were deeply embedded in rationalizing and depoliticizing this discounting practice in ways that inequitably favoured certain values over others, all the while obscuring the selective exercise of discretion by institutional actors, and performing a legitimating function for different government decisions. In many ways, these discretionary mechanisms appeared at least as important as statutes themselves. To the extent that those values privilege and reinforce specific power relations in society (van Dijk 2006)—between social groups, producers and subjects of risk, and between humans and the natural world—denaturalizing these discourses suggested that this was a fundamentally ideological process.

This research demonstrated how CDA as an overarching methodological framework—using Fairclough's three-dimensional model specifically—can be gainfully adapted and deployed

in conjunction with other methods of textual analysis to a case study. It showed how contextually-situated readings of text, institutional and social processes are necessary to denaturalize taken for granted aspects of language use in governance processes and reveal their ideological foundations. On the whole, this research supports the notion that there are dialectical relationships between discourse and society (Fairclough 2010; Wodak and Meyer 2009), and further, between power and knowledge, but that these relationships are complex and recursive rather than temporally and causally linear.

5.3.1 Reflections on Research Design: Strengths, Limitations, and Areas for Future Research

There are a variety of methodological and practical challenges and limitations associated with conducting CDA, particularly independently at the Master's level. It is commonly asserted that discourse analysis is a time-intensive "craft skill" which requires considerable practice to learn (Berg 2009, 218; Potter and Wetherell 1994), and consequently that "[c]onducting a discourse analysis for the first time is notoriously difficult" (Dittmer 2010, 279). My experience tends to reaffirm those assertions, although the "persistent observation and prolonged engagement" (Schwandt, Lincoln, and Guba 2007, 13) required to immerse myself in this "craft" proved to be an asset that aided my ability to surface insights from the data and to better appreciate the cross-scale dynamics of the case study as a whole.

A significant challenge associated with this research is that I had no formal training in either linguistics-related fields or in law to draw upon. The former would have been an asset in conducting more technical, fine-grained textual and rhetorical analysis, and the latter in better understanding statutory interpretations. The interpretive nature of law is well known and frequently requires clarification from the courts, and environmental assessment law is no

exception (Olszynski 2015). Despite my best efforts, I cannot discount the possibility of errors in my legal interpretations, and any such errors are my own.

As well, in some respects, the level of technical expertise and logical awareness required to fully deconstruct propositional logics across the breadth of data in the corpus (even when applied selectively) reduced the depth to which argumentation analysis could be applied practically. However, the limited application of this particular method was not without certain benefits within my methodological framework. In particular, argumentation analysis provided a mechanism to evaluate the strength of relation between propositions and expressed or unexpressed premises used in rationalizations. When informed by analysis of representational frames as Fairclough and Fairclough (2012) emphasize and integrated with Fairclough's three-dimensional conceptual model (Figure 2), this methodological synergy was an asset in a number of key ways.

In particular, this methodological framework made more transparent the interconnections between what text producers believed about the context of action and means-end relations, along with the underlying values, goals, and ideological inclinations embedded in the discourse (Fairclough and Fairclough 2011). In denaturalizing these representations and power relations and as socio-historically contingent and value-laden (Johnson and McLean 2020, 381), this approach surfaced and gave voice to discursive silences (Steacy et al. 2015) associated with GHG emissions and climate change in the data, and showed how representations and argumentation functioned to "foreclos[e] alternative perspectives in subtle and taken-for-granted ways" (Winslow 2017, 584).

CDA's methodological movement from description through interpretation and explanation (see Figure 2) is a useful exercise for attempting to make linkages between text,

context, and society more broadly. However, in common with other types of research, making the leap from data interpretation to explanation of complex social phenomena can expose certain challenges and limits of causal attribution. This research has shown various linkages between texts, social actors, and context that appear to inform one another, but this process is dialectical and recursive, so drawing a causal arrow between data and observations relies on strong inferences to support particular conclusions. In the case of this research, the corpus alone did not provide enough data to infer fulsome socio-historical origins of discourses identified throughout the analysis, or to thoroughly understand how discourses within this EA process might feed into social practices outside the case study context. Neither consideration was an objective in this research, however, and both topics present interesting avenues for future study.

In common with other qualitative interpretive traditions more generally, CDA does not necessarily "provide a satisfying 'Truth' at the end of the research, but rather a situated reading" of particular phenomena (Dittmer 2010, 284–85). Notwithstanding efforts to ensure rigour in research design, data collection and analysis (discussed in Chapter 3), these methodological choices do put an onus on readers to critically evaluate the dependability of the research, and on the researcher to ensure enough methodological and analytical transparency that "inferences drawn are traceable to the data contained in the documents" (Wesley 2014, 145). Moreover, texts have multiple "meaning potentials" and are open to multiple interpretations (Jørgensen and Phillips 2002, 75); it cannot even be assumed that all text is communicated or interpreted exactly as its authors consciously intended.

In that respect, a major limitation associated with this research is that it did not benefit from collecting and analyzing interview data. Interviewees with relevant institutional experiences in EA or with respect to Northern Gateway's review specifically—especially

members of the JRP or intervenors—could have shed a unique light into many of the key dynamics highlighted in this research, and helped to better triangulate data sources and counterbalance my analytical findings. In particular, such interviews could have provided additional perspectives on and insights into my second and third research questions. However, owing to the size and scope of the case study, paired with methodological considerations, conducting interviews was not a feasible choice in my overall research design, and therefore remains an important avenue for future research.

Additionally, given institutional and personal constraints as a Master's student, it can be more difficult to design research that benefits from collaborative, interdisciplinary teamwork. While this research benefitted from the supervision and advice of an interdisciplinary committee with diverse academic experience and interests, many different research avenues would be possible in more thoroughly collaborative circumstances. Collaboration between researchers with different fields of expertise and disciplinary orientations could be synergized in ways that, for example, leverage very different research designs, methodologies, data collection and analysis methods to surface new insights into the discursive relationships between statutory mechanisms, institutional actors, political and economic agendas in the practice of environmental assessment and governance in Canada or elsewhere. Collaborative approaches to similar work could also have implications for rigour, such as by providing opportunities for inter-coder testing, and different strategies to triangulate data and methods (Wesley 2014).

Another key limitation in the scope of this research is that it could not compare particular discursive framings, rationalizations, or assessment methodologies that appeared in JRP and government documents with those that appeared in Northern Gateway's actual application documents, or the JRP's oral hearings. Future research could compare and contrast these texts to

provide deeper insight into potential congruencies, divergences, and lines of influence between discourses produced by different social actors (and this line of inquiry could be applied to EAs of different projects). In addition, the potential policy implications of this work have not been fully developed or realized in the confines of this thesis. Further knowledge translation and synthesis, with attention to particular contexts, may create opportunities for these research findings to be applied in response to specific governance and practice challenges. Lastly, it remains to be seen whether similar or different discursive patterns or inconsistencies could persist under Canada's new environmental assessment regime over time, administered by reformulated institutions and different federal governments.

5.3.2 Implications and Recommendations for Policy and Practice

At federal and provincial levels, Canada's historical and ongoing economic reliance on oil sands exploitation may be considered a sovereign prerogative, but each choice to expand and further entrench this "networked infrastructure" (Scott 2013) represents a problematic ethical and practical question of environmental justice in the ever-more urgent context of addressing global climate change. As Hsu and Elliot (2009, 503) argue, when "viewed on an incremental, project-by-project basis, even large projects are insignificant in the context of global greenhouse gas emissions." Normative institutional practices under previous EA legislation have demonstrated a tendency for practitioners to shy away from meaningful cumulative impacts assessment in favour of more simplified, causally attributable environmental effects modeling (Duinker and Greig 2006; Koehl 2010). This research lends support to claims that environmental legislation and practice in Canada has heretofore enabled a "tyranny of small decisions" (Noble 2010), wherein certain environmental risks and costs are concentrated locally or diffused globally but (excepting international shareholders) key economic benefits are captured at national and sub-national

levels. Scrutinizing these institutionalized practices and policies reveals distinct fault lines between "politically relevant and irrelevant [environmental] inequality" (Beck 2010, 167), and these lines are discursively reinforced at ideological and practical levels in the environmental assessment process.

With the recent repeal and replacement of *CEAA 2012* and the *NEB Act* with the *Impact Assessment Act* (*IAA*) and *Canadian Energy Regulator Act* (respectively), it remains an open question how these newly reformulated institutions will interpret and implement these statutes in practice, frame and rationalize their decisions, and exercise discretion over time under the contemporary EA process. With that in mind, there are still a number of applicable insights, critiques, and recommendations that can be drawn from this research that are applicable to the new system. Importantly, many of the identified problems associated with exercising discretionary powers based on excessively broad statutory language seem likely to persist in the new system (Doelle and Sinclair 2019).

For example, there is still no scientifically-based metric or other specification regarding what constitutes a finding of "significance," despite the widely acknowledged central importance of the concept to EA practice (in addition to its widely inconsistent application) (Ohsawa and Duinker 2014). Likewise, there are still no clear resolutions to the problematic ambiguity of "relevance," or what can be justified "in the circumstances," or of broad powers of Ministers and agency officials to select and scope the factors under assessment (*IAA,* 22(2)). Consequently, in common with previous *CEAA*s (Olszynski 2015, 228), there is "no clear limit" on the amount of harm that can be authorized by Cabinet under the *IAA*.

This situation means that—rather than referring to transparently defined criteria—EA practitioners and government actors will still need to employ justificatory reasoning discourses in

order to maintain the perception of legitimacy[48] in the EA process and in decision-making outcomes. Actually, the number of additional provisions requiring explicit consideration under the *IAA* (see sections 22 and 63) means that the breadth (though not necessarily the depth) of legitimating discourses will necessitate *more* rationalizations and justifications that make reference to project effects—particularly where discretionary decisions might be perceived as value-driven or controversial.

A number of other environmentally problematic and democratically regressive inheritances from *CEAA 2012* (see Doelle 2012) have been discussed by Doelle and Sinclair (2019). Given the number of underlying similarities between past and present statutory and institutional frameworks, it remains uncertain how institutional inertia might play into future EA policy and practice. Notwithstanding persistent problems in EA, the *IAA* does provide important new mechanisms that—if applied meaningfully in institutional practice—could allow for a comparatively more integrative approach to assessing direct, indirect, and induced GHG emissions upstream and downstream. For example, assessments must now consider how a project contributes to or hinders "sustainability," newly defined as "the ability to protect the environment, contribute to the social and economic well-being of the people of Canada and preserve their health in a manner that benefits present and future generations" (*Impact Assessment Act*, 2).[49] Still, the *IAA* stops well short of requiring carbon offsets to achieve net-zero emissions as a condition of project approval, meaning that other environmental policies and practices could be needed to compensate for these effects as part of broader emissions reduction strategies or commitments.

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[48] Noting that the concept of "legitimacy" is rooted in perception (Suchman 1995), and language is a central means of legitimation (Van Leeuwen 2007).

[49] Notice, however, the largely human-centric focus, how the definition in this context draws a national distinction between "politically relevant and irrelevant inequality" (Beck 2010, 167), and how this statutory language could still be employed in the justification of environmentally harmful activities that ostensibly benefit Canadians.

A principal recommendation stemming from this research is that EA practitioners and decision-makers need to more transparently and thoroughly articulate the rationales underlying their decisions. This is especially true in the case of project scoping: practitioners and executive decision-makers should be required through policy or statutory mechanisms to meet a higher burden of proof to demonstrate why some specific effects ought to only be considered at one spatial or temporal scale (e.g. temporary, localized GHG emissions) and other effects at another scale (e.g. long-term induced economic effects at a national scale). Project-level assessments should also work on the precautionary assumption that "all effects are cumulative" (Duinker and Greig 2006, 158), even in the absence of causally identified response thresholds.

Relatedly, clearly defined, criteria-based terminology should be developed in place of relativistic or value-based descriptors such as "minor," "temporary," "reasonable," "acceptably mitigated," or "significant." Heretofore, such terms have been used wantonly and diversely within and between project-level EAs (Murray et al. 2018; Ohsawa and Duinker 2014), and my research findings suggest that their use as "empty signifiers" (Brown 2016) obscures meaning while simultaneously invoking frames and rationalizations that perform an argumentative function. Additionally, the weight afforded to particular values and effects in EA recommendations and decision-making is problematically opaque. This supports the notion that, in the seemingly inevitable "balancing" of incommensurable interests (NEB 2013a, 73), there may be an implicit cost-benefit analysis involved in decision-making which undermines process intelligibility (McLeod-Kilmurray and Smith 2010). Some additional policy considerations are offered in my concluding section. A final note here is that the *IAA* will be subject to comprehensive review by an elected federal body ten years after coming into force (therefore, presumably around 2029). Remaining attentive to how the legislation is applied in practice over

time will provide an important basis to better inform necessary future statutory or institutional policy changes.

5.4 Concluding Thoughts

"[r]isk societies are characterized by the paradox of more and more environmental degradation, perceived and possible, and an expansion of environmental law and regulation. Yet at the same time no individual or institution seems to be held specifically accountable for anything."
– Ulrich Beck (1998, 18)

Since this research project began, Canadian federal politics and law have changed substantially with respect to environmental assessment and climate change. In a 6-3 split decision on March 25th, 2021, the Supreme Court of Canada ruled that federal carbon pricing legislation under the *Greenhouse Gas Pollution Pricing Act* is constitutional (Supreme Court of Canada 2021). In many ways this is an extremely important and positive step towards addressing national GHG emissions. At the same time, the Act does permit extremely broad executive discretionary powers to Cabinet to alter the legislation (and thus the pricing scheme—including for particular industries) without Parliamentary oversight.[50] In addition to the potential for value-based, differential treatment of GHG emitters, this legislative scheme also presents the possibility that a climate-regressive—or economically-driven—minority government could choose to hollow out the provisions of the Act where modifications to it (or a repeal or replacement) might not have garnered enough Parliamentary support. Irrespective of carbon pricing mechanisms, state actors and institutions will continue to play a pivotal role in authorizing project-level GHG emissions through the EA system, and these emissions will need to be reconciled with other policy commitments and the practical realities of climate change.

Despite these largely positive developments, Beck's (1998) paradox concerning environmental accountability in a risk society remains a perceptive observation. With few

[50] See arguments proffered by the three dissenting Supreme Court Judges (Supreme Court of Canada 2021).

exceptions, such as with *Greenpeace v. Canada 2014* (Olszynski 2015), Canadian courts have tended to defer to the discretionary powers of institutional actors like review panels (in interpreting their "home statutes") and Cabinet (as executive decision-makers).[51] Accordingly, the courts have refused detailed consideration of environmental assessment reports or executive decisions on substantive grounds regarding either their adequacy, basis in reason, or their fulfillment of statutory requirements (Green 2016).

In effect, environmental assessment reports and decision-making remain largely shielded from meaningful judicial scrutiny, while the assessment process itself continues to play a key role in legitimating governance decisions (so long as the rule of law is observed) (Stacey 2016). But, as MacLean and Tollefson (2018, 251) warn, "categorically deferential judicial review of EAs is a significant obstacle to Canada meeting its climate change mitigation and sustainability commitments, particularly when based upon broad statutory language." Indeed, judicial deference in environmental governance in this respect might be seen as a dimension of what Beck (1998) referred to as a form of "organized irresponsibility."

Findings from this research suggest that the discursive framing and reasoning used by review panels and government officials may—irrespective of intentionality—implicitly reinforce ideologies and practices that reproduce harmful and inequitable environmental outcomes, particularly where negative impacts are underspecified, unpredictable, or appear insignificant compared to national or global scales. So long as environmental assessment and decision-making processes are allowed to minimize meaningful, evidence-based consideration of incremental, indirect, and induced environmental effects inside and outside of Canada, an irrationally

[51] More specifically, two different standards of review—"correctness" or "reasonableness"—could be applied in EA litigation, with the latter affording a high degree of deference to institutional actors or Cabinet (see Olszynski 2015; Green 2016; 2018).

discounted perception of the true costs of "business as usual" will persist, and those costs will be inequitably borne by all life on Earth. Following Chalifour (2010, 31), I argue that EA processes "must not be a mechanism for perpetuating existing systemic inequalities by condoning an unfair distribution of environmental harm," and that project-level assessment *is* a key space in which issues of environmental justice should be addressed—before decisions are made.

The state's claim to legitimacy in the sphere of environmental governance hinges on choices made through the EA regime and other environmental policies which are required to be publicly articulated (Green 2018; Winfield 2016). It might be argued that outdated or regressive EA and climate-related policies and institutional practices—including those emboldened under *CEAA 2012*—partly forced public policy deliberation out of one of the few official environmental governance processes formerly available, and into the public sphere (perhaps in turn, into the ballot box). The disavowal of climate-related considerations throughout Northern Gateway's EA and decision-making process can be partly understood as a statutory, institutional, and political failure to respond to rapidly changing social and environmental circumstances.[52] Yet these failures also emboldened the mobilization of resistance movements and political will not only to the project but its broader implications (McCreary and Lamb 2014; Le Billon and Vandecasteyen 2013; Bowles and Veltmeyer 2014). In that sense, the findings of this case study lend some support to the idea that discursive "depoliticization can trigger repoliticization" in a dialectical sense (Wolf and Dooren 2018, 299).

Critique can thereby serve socially and environmentally progressive and productive purposes. Broad scholarly and public challenges to the efficacy and legitimacy of EA processes in their (in)capacity to deliver environmental justice (including with respect to climate change

[52] In addition to longstanding dynamics associated with settler-colonialism and unceded Indigenous sovereignty—issues which were marginalized or entirely omitted in documents within this corpus, and which necessitated judicial redress that culminated in *Gitxaala Nation v. Canada*.

and other perceived failures in Northern Gateway's EA) were arguably key reasons behind the political drive to recalibrate and "restore trust" in Canada's EA system through statutory reform (see EA Expert Panel 2017; NEB Expert Panel 2017). Therefore, under circumstances of excessive judicial deference, it is extremely important that the public, scholars and activists continue working to show *how* EA review and substantive decision-making is conducted, and *what* is and is not considered at a substantive level. This needs to include evaluations of the rationales supplied to support decisions (including seemingly non-substantive decisions), and explications of the expressed and unexpressed values, beliefs, and ideologies underlying how and what is done.

As experts note (Doelle and Sinclair 2019), the new *IAA* legislation falls short of fulfilling the recommended ideals of next-generation EA in a number of important ways, and especially at this relatively early stage, the 'devil is in the details' in terms of how institutions will choose to operationalize the statutes and exercise discretion within this framework. Importantly, power and knowledge are neither unilateral nor fixed, but are socially and historically contingent (Foucault 1980). Scholars, activists, and civil society will continue to play a pivotal role in that respect. Denaturalizing taken for granted premises and claims embedded within environmental reasoning (Johnson and McLean 2020), giving voice to the discursive silences within policy discourses (Steacy et al. 2015)—and ultimately—critically challenging the "governing discourses" in environmental assessment offers a vital means of holding political and institutional actors to account, and shaping the administration of environmental justice.

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Appendix A – Data Corpus Table

Short Title	Full Title and Registry Number (if applicable)	Year/ Date	Author/ Agency	Description	Pages* [53]	Method
Core JRP/NEB Documents						
JRP Agreement and Terms of Reference	Agreement Between The National Energy Board and the Minister of the Environment Concerning the Joint Review of the Northern Gateway Pipeline Project – A1R4D5	Dec 4, 2009	NEB, Minister of Environment	Establishes review panel; sets out definitions, responsibilities of JRP. Includes Terms of Reference as an appendix which outline the scope of the Northern Gateway project, factors to be considered in the review, and the scope of these factors.	14pg	Frame
Panel Session Results and Decision	Panel Session Results and Decision – A1X2L8 - A22-3	Jan 19, 2011	JRP	JRP response to oral and written comments submitted in response to the draft List of Issues and Terms of Reference within the JRP Agreement. Contains revisions and explanations of rationales.	24pg	Frame; Argumentation
NEB Memorandum	Memorandum – Amendment to the Agreement Concerning the Joint Review of the Northern Gateway Pipeline	Aug 3, 2012	NEB, Minister of Environment	Lists in-line amendments to the original JRP Agreement. Changes made in order to comply with the *Jobs, Growth, and Long-term Prosperity Act (2012)*, which replaced aspects of the JRP's *CEAA 1992* process with those of *CEAA*	5pg	Frame

[53] Page number may be approximate where documents unavailable in print or .pdf – Marked with asterisk *

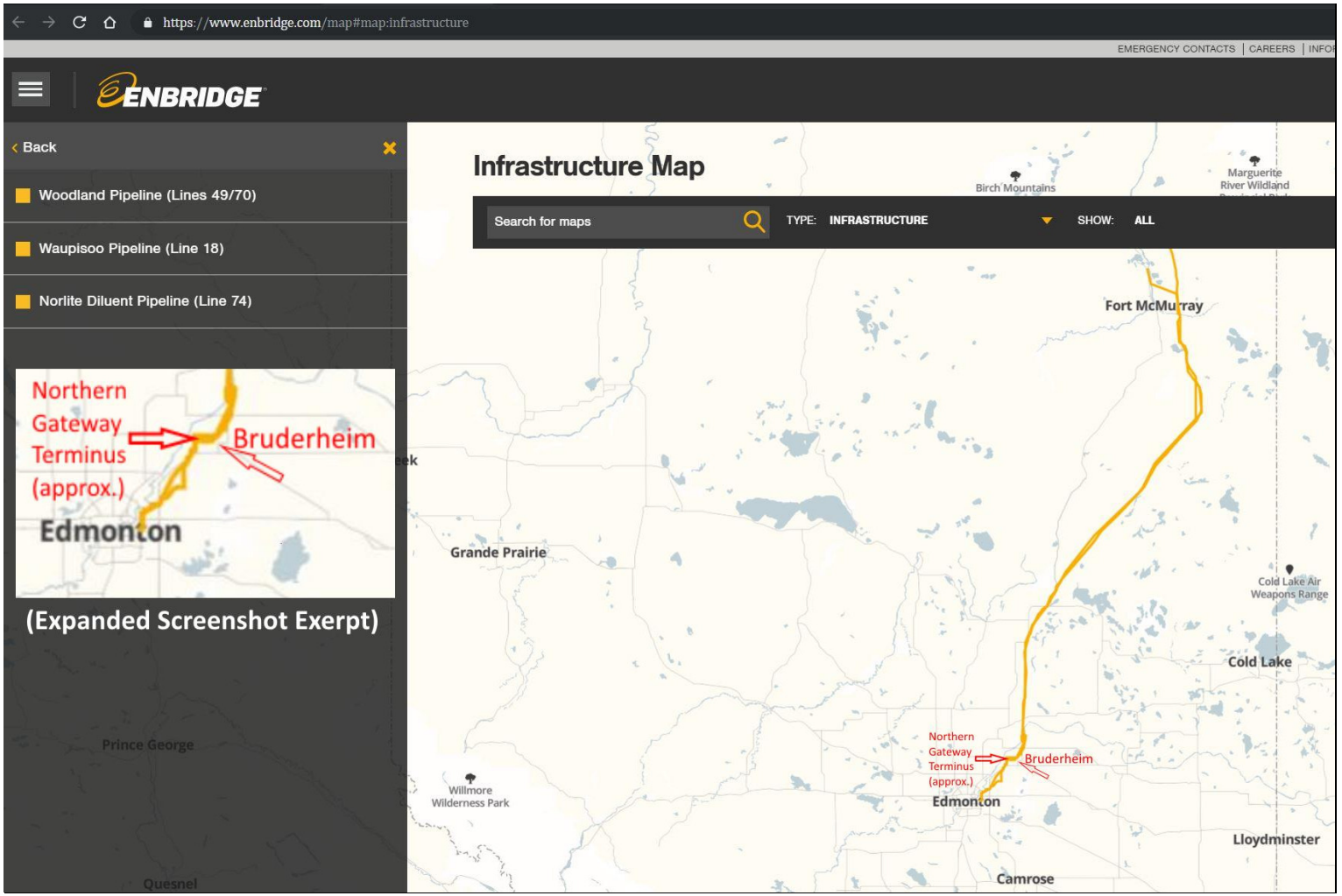
	Project – A2V5E4 - A213-3			*2012.*		
Connections	Connections: Report of the Joint Review Panel for the Enbridge Northern Gateway Project, Volume 1 – A56136-3	Dec 19, 2013	JRP	This is the first volume of the final report the JRP submitted to the federal government. It describes the project, summarizes the review and environmental assessment process, and states its recommendations. This volume is written more like a summary to engage with a broader public audience than Volume 2, which is more detailed and technical.	76pg	Frame; Argumentation
Considerations	Considerations: Report of the Joint Review Panel for the Enbridge Northern Gateway Project, Volume 2 – A56136-5	Dec 19, 2013	JRP	This is the second volume of the final report the JRP submitted to the federal government. Whereas Volume 1 was summative, Volume 2 provides more detailed technical information, and summarizes arguments regarding	417pg	Frame; Argumentation
Key Federal Statutes						
CEAA 1992	Canadian Environmental Assessment Act 1992	June 23, 1992	Government of Canada	Governed Northern Gateway's environmental assessment process until repeal (June 29, 2012).	86pg*	Frame
CEAA 2012	Canadian Environmental Assessment Act 2012	July 6, 2012	Government of Canada	Governed the remainder of Northern Gateway's environmental assessment process, after July 6, 2012.	70pg	Frame
NEB Act	National Energy Board Act (1985)	1985 (viewed 2010 and 2012	Government of Canada	Governed Northern Gateway's environmental assessment process (subject to revisions).	89pg*	Frame

		revisio ns)				
Federal Orders in Council – *Canada Gazette*						
Northern Gateway Approval	Orders in Council – National Energy Board Order — Certificates of Public Convenience and Necessity OC-060 and OC-061 to Northern Gateway Pipelines Inc. for the Northern Gateway Pipelines Project - P.C. 2014-809 *Canada Gazette*, Vol. 148, No. 26, Jun 28, 2014	June 17, 2014	Governor in Council (Cabinet)	Official statement from the Governor in Council directing the NEB to issue Certificates of Public Convenience and Necessity which authorize Northern Gateway. Supplies formal reasons for the government's decision (e.g. "WHEREAS" clauses)	5pg*	Frame; Argumentation
Northern Gateway Dismissal	Orders in Council – National Energy Board Order — Certificates of Public Convenience and Necessity OC-060 and OC-061 to Northern Gateway	Nov 25, 2016	Governor in Council (Cabinet)	Official statement from the Governor in Council directing the NEB to dismiss Northern Gateway's Certificates of Public Convenience and Necessity (thus revoking project authorization).	4pg*	Frame; Argumentation

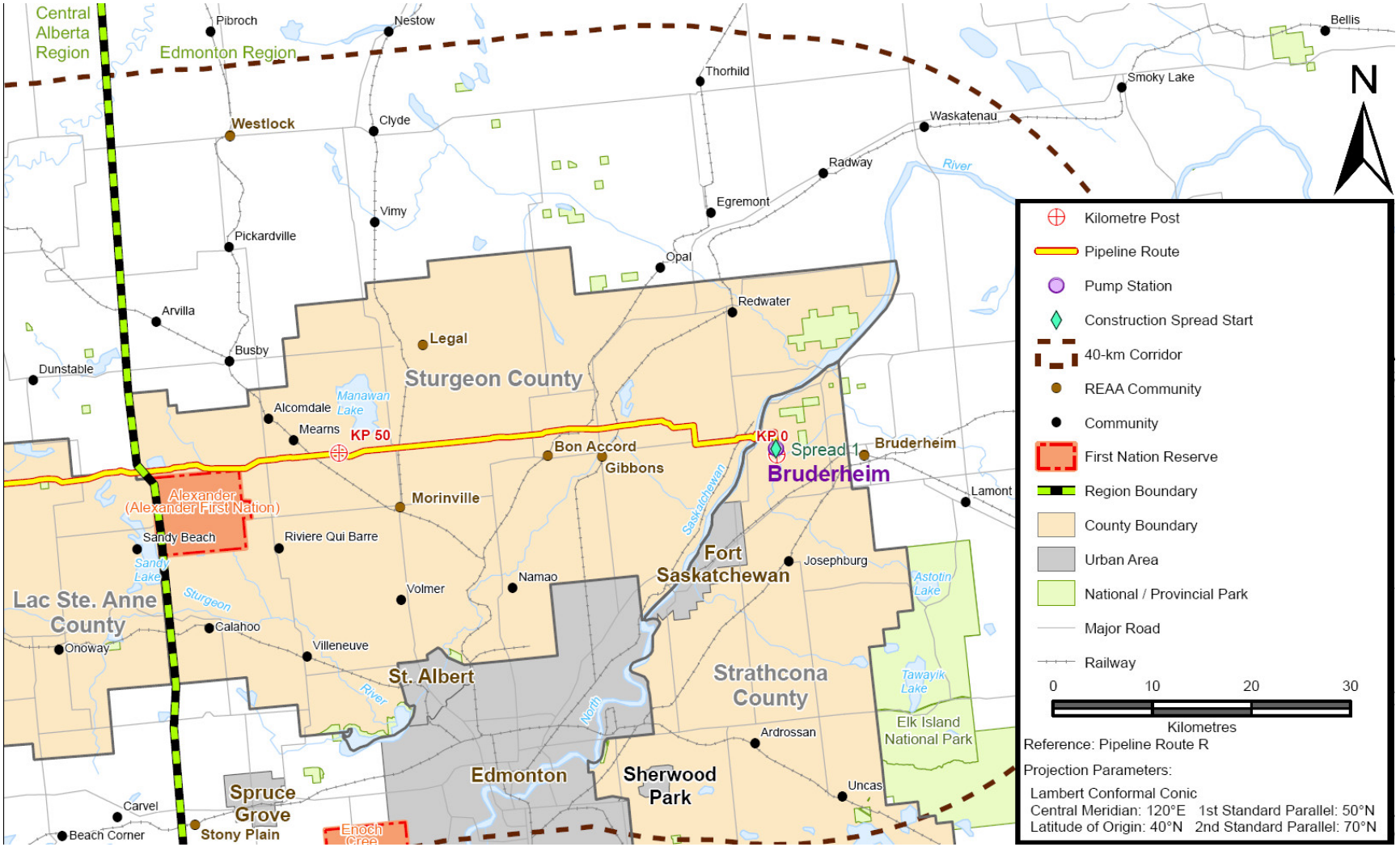
	Pipelines Inc. in respect of the Northern Gateway Pipeline Project - P.C. 2016-1047 *Canada Gazette,* Vol. 150, No. 50, Dec 10, 2016:					
Ancillary Intertextual Documents: Selected Agency Policy Guidance Documents						
NEB Filing Manual	National Energy Board – Filing Manual	Nov, 2009	NEB	The purpose of the Filing Manual is to provide guidance to project proponents regarding their application for NEB review.	255pg	N/A
Scope of the Factors	Scope of the Factors – Northern Gateway Pipeline Project Guidance for the assessment of the environmental effects of the Northern Gateway Pipeline Project	Aug, 2009	CEA Agency	Written for Northern Gateway to outline the CEA Agency's expectations regarding the scope of information on various factors that should be presented as part of the EA application.	18pg	Frame
Operational Policy Statement – "Need for"	Operational Policy Statement: Addressing "Need for", "Purpose of", "Alternatives to" and "Alternative Means" under the Canadian	1999, updated Nov, 2007	CEA Agency	Outlines the CEA Agency's position on the interpretation and application of specific clauses in *CEAA 1992* to project assessment.	7pg	N/A

	Environmental Assessment Act					
Operational Policy Statement – Cumulative Effects	Addressing Cumulative Environmental Effects under the Canadian Environmental Assessment Act	1999, updated Nov, 2007	CEA Agency	Outlines the CEA Agency's position on the interpretation and application of cumulative effects assessment in *CEAA 1992* to project assessment.	4pg	N/A
Cumulative Effects Assessment Practitioners Guide	Cumulative Effects Assessment Practitioners Guide	1999	CEA Agency	Details a range of "best practices" and government expectations related to the consideration of cumulative effects in environmental assessment processes.	143pg	N/A

Appendix B – Selected Enbridge Liquid Oil & Condensate Pipeline Infrastructure



Appendix B1. Online Screenshot of Selected Enbridge Infrastructure Map. Depicts Enbridge's existing liquid pipelines that would have intersected with Northern Gateway's proposed eastern terminal, outside of Bruderheim, AB. The image has been modified to show approximate locations (in red) based on maps from Northern Gateway's filings. Source: Enbridge. (2013). "Interactive Map." https://www.enbridge.com/map. © Mapbox, © OpenStreetMap contributors (under Open Database License).



Appendix B2. Map of Northern Gateway's Proposed Bruderheim, AB Terminal (KP 0). Comparing this image with the map in Appendix B1 provides a rough approximation of where Northern Gateway would end relative to Enbridge's other pipelines. Legend superimposed on original image. Source: Impact Assessment Agency. (2010). "A26944: Volume 6C: Environmental and Socio-Economic Assessment (ESA) - Human Environment and Section 4.4: Regional Socio and Economic Effects (From Northern Gateway Pipelines Limited Partnership to National Energy Board)." https://iaac-aeic.gc.ca/050/evaluations/document/46156.