

MANITOBA CLEAN ENVIRONMENT COMMISSION

KEEYASK GENERATION PROJECT

PUBLIC HEARING

Volume 15

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Transcript of Proceedings
Held at Fort Garry Hotel

Winnipeg, Manitoba

THURSDAY, NOVEMBER 14, 2013

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Judy Bradley - Member
Jim Shaw - Member
Reg Nepinak - Member
Michael Green - Counsel to the Board
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No Undertakings given

1 Thursday, November 14, 2013

2 Upon commencing at 1:30 p.m.

3 THE CHAIRMAN: We'll come to order and
4 reconvene the hearing. This afternoon we have the
5 Consumers Association Manitoba with a presentation
6 on sustainability.

7 Now, I understand there might be a bit
8 of an issue with Dr. Gibson hearing us?

9 MR. WILLIAMS: I believe as long as --
10 can you hear us okay, Bob?

11 THE CHAIRMAN: We can't hear him.

12 MR. WILLIAMS: We're just going to try
13 this again, Bob.

14 DR. GIBSON: (inaudible).

15 THE CHAIRMAN: Maybe he could talk a
16 little bit more.

17 MR. WILLIAMS: Bob, we're just going
18 to have you talk for a bit, maybe introduce
19 yourself and we'll see if the court reporter can
20 pick it up.

21 DR. GIBSON: Okay. I'm Bob Gibson,
22 (inaudible) Waterloo. Let me know if you can't
23 hear me.

24 MR. WILLIAMS: Bob, the sound is
25 breaking up just a little bit, so we're going to

1 try it one more time, just try it again and we'll
2 see how it goes. Okay?

3 DR. GIBSON: All right. (inaudible).

4 MR. WILLIAMS: Bob, we're going to ask
5 the tech people to come up and we'll ask you to
6 stand down, and I think they have some questions
7 for you.

8 (OFF THE RECORD)

9 MR. WILLIAMS: Bob, the technicians
10 would like to know, are you using your phone or
11 your computer?

12 DR. GIBSON: I am speaking through the
13 phone, I hope. I am getting a lot of feedback.
14 (inaudible).

15 MS. PASTORA SALA: Hi, doctor, it's
16 Joelle. Would you be able to try picking up the
17 phone?

18 DR. GIBSON: All right, I'm speaking
19 now right into the handset of the telephone.

20 MS. PASTORA SALA: That's much better.
21 Did you want to try introducing yourself one more
22 time?

23 DR. GIBSON: I am speaking on the
24 handset from Waterloo. It's Bob Gibson. I am
25 preparing to discuss matters with the Commission.

1 MR. WILLIAMS: Bob, that's great, and
2 now you know why I brought Joelle with me, she's
3 my interpreter in more ways than one.

4 So what I'm going to suggest is, we'll
5 just get Ms. Johnson, Bob, the board secretary, to
6 swear or affirm you.

7 DR. GIBSON: Okay.

8 Dr. Bob Gibson: Sworn.

9 MR. WILLIAMS: And just for the panel,
10 again, we have two handouts from CAC Manitoba.
11 One is the powerpoint presentation of Dr. Gibson
12 which we'll come to quite shortly. And the other
13 one is a brief statement of qualifications, both
14 for Dr. Gibson and for Dr. Gaudreau. And I would
15 just note that because of Dr. Gaudreau's duties at
16 the university of, I think Northern British
17 Columbia --

18 DR. GIBSON: Northern British
19 Columbia.

20 MR. WILLIAMS: -- he's unable to join
21 us today.

22 Dr. Gibson, I'll just ask you to
23 confirm that you have, one of your areas of
24 expertise is in sustainability assessment process
25 design and implementation at the strategic and

1 project levels?

2 DR. GIBSON: That's correct.

3 MR. WILLIAMS: And also if you would
4 confirm that another area of expertise is in terms
5 of advanced environmental assessment and strategic
6 environmental assessment?

7 DR. GIBSON: Yes, that's true.

8 MR. WILLIAMS: Dr. Gibson, am I
9 correct in suggesting that you are the author in
10 2005 of "Sustainability Assessment Criteria and
11 Processes"?

12 DR. GIBSON: Yes, with some assistance
13 from others.

14 MR. WILLIAMS: And as well that you
15 contributed to Alan Bond's 2012 paper,
16 "Sustainability Assessment Pluralism, Practice and
17 Process," and I should note that that is a book?

18 DR. GIBSON: Yes, I wrote a couple of
19 chapters for that book.

20 MR. WILLIAMS: Dr. Gibson, am I
21 correct in suggesting to you that you prepared a
22 report for the Canadian Environmental Assessment
23 Agency in terms of options for strategic
24 environmental assessment in Canada, first printed
25 in 2008 and then revised in 2009?

1 DR. GIBSON: Yes. I should recognize
2 co-authors of that publication as well.

3 MR. WILLIAMS: And in terms of the
4 Mackenzie Gas project review, you prepared a
5 report for the joint review panel for the
6 Mackenzie Gas Project entitled "Sustainability
7 Based Assessment Criteria and Associated
8 Frameworks for Evaluations and Decisions." Is
9 that right, sir?

10 DR. GIBSON: I did, yes.

11 MR. WILLIAMS: And finally, you also
12 assisted the Canadian Environmental Assessment
13 Agency in 2002 with the paper titled
14 "Specification of Sustainability Based
15 Environmental Assessment Decision Criteria and
16 Implications for Determining Significance in
17 Environmental Assessment."

18 DR. GIBSON: Yes.

19 MR. WILLIAMS: Now, Dr. Gibson, I'm
20 going to invite you to take us through your
21 powerpoint. I may interrupt you from time to
22 time, but please proceed when you are prepared.

23 DR. GIBSON: Okay. I am using the
24 marvels of modern technology here to share my
25 desktop, which should appear, and now to put on

1 the powerpoint deck. Am I safe in assuming you
2 can see that?

3 MR. WILLIAMS: We can see it, Bob.

4 DR. GIBSON: Okay.

5 So thank you to the panel for the
6 invitation. I had been asked to pass on
7 Dr. Gaudreau's regrets that he has now a serious
8 job that's less flexible than mine and can't
9 attend.

10 I should also say that it is very good
11 of the panel to allow me to do this presentation
12 by video link.

13 As background here, I should say that
14 I am in this role as an expert on sustainability
15 assessment frameworks and their application. I am
16 taking no position on whether the Keeyask dam
17 proposal represents the best option for Manitoba,
18 or whether it should in the end be approved. I
19 don't have the basis for making that kind of
20 judgment.

21 Also, while this paper does have
22 something to say about -- while this presentation
23 does have something to say about the legal aspects
24 of sustainability assessment, at least some
25 manners of legislation on the basis for doing so,

1 I'm not pretending to offer legal advice to the
2 panel.

3 And finally, Byron threatened to
4 interrupt on occasion. I am happy to accept that
5 and any questions from the panel as I go, if I
6 become unduly obscure or obnoxious in some manner.
7 So I am actually used to being interrupted, and
8 I'm happy to accommodate that should it be useful.

9 So I'm diving in here. This is an
10 examination of sustainability assessment and its
11 implications for this case. As you know,
12 Dr. Gaudreau and I put together a report on this,
13 describing a framework for sustainability based
14 assessment for this case. And the slide before
15 you simply repeats the purposes of that exercise,
16 which centred on discussing how framework for
17 sustainability based decision could be developed
18 and applied, why it had a legitimate public
19 interest in legislative base, and whether on the
20 basis of the general circumstance or the general
21 application of such an approach, whether there are
22 currently grounds for confidence that the proposed
23 project would promote progress toward
24 sustainability while avoiding adverse effects.

25 So this presentation has a parallel

1 agenda. It's not structured exactly as the report
2 is, or this different venue. However, I have
3 basically five points to go through here.

4 The first is generally why a
5 sustainability based assessment would be important
6 in this case as well as in general; and in this
7 case, how to do it; and whether the response from
8 the EIS guidelines submitted by the proponents
9 essentially complies with that kind of approach;
10 again, whether there is grounds for approving at
11 this point, and what the implications are for the
12 Commission's review.

13 So on to number one here;
14 sustainability is a term that's been the language
15 of art, I suppose, in discussions about how to
16 ensure a desirable and viable long-term future,
17 not just for humans on this planet. And that
18 concept has been since, well, 1987 or so, been
19 widely used and widely debated. It's been -- its
20 uses have been widely criticized as well. But we
21 have now lots of decades of experience and debate
22 and deliberation. So it's reasonably clear what
23 the essential qualities and characteristics are
24 moving towards sustainable development.

25 It is really not much more than a term

1 to describe what's needed to move positively into
2 a viable future, integrating socio-economic,
3 ecological, and other kinds of considerations and
4 recognizing that they are interdependent.

5 The key thing now, I think, is that
6 the important global trends are towards deeper
7 un-sustainability, so it is not sufficient merely
8 to seek mitigation of adverse effects of new
9 undertakings.

10 In the current context, mitigation is
11 only helping the ship to sink less quickly. What
12 we need to do is try and take this little
13 published float, hopefully in to perpetuity.

14 So we need to do significant efforts
15 to innovate, be more effective in our
16 consideration of old concerns, and address some
17 new ones. And we have to do so in the context of
18 great complexity and uncertainty. Part of that
19 involves recognition that we have planetary limits
20 and more specific ones at lower scales. And we
21 don't know where those limits are very well, so we
22 need to be a bit precautionary as well as
23 innovative.

24 It's a sizable challenge, but also one
25 that we haven't done much of, so the potential for

1 improvement is great.

2 Sustainability assessment really is
3 just trying to move toward sustainability in a way
4 that is thoughtful and hopefully more or less
5 rigorous, and defensible. It's changing the
6 conversation quite considerably in many cases.

7 And as I have said, since we have been having this
8 exploration for 30 years or so, the experience is
9 actually quite extensive, and sustainability
10 assessment under some different titles has been
11 pursued around the world in many places, with many
12 different applications. And those applications
13 have certainly varied to some extent, sometimes
14 quite dramatically. But that is largely because
15 the context of applications has been very
16 different.

17 We're doing a project in the Amazon
18 that is going to be different from a project in
19 Northern Manitoba, for example. And that applies
20 across all dimensions, socio-economic, cultural,
21 biophysical, and so forth.

22 It is possible, and indeed we really
23 didn't have that much difficulty taking the
24 experience globally and summarizing that as basic
25 essentials for moving toward sustainability. I'll

1 get to that in a moment, but that I think is
2 really not that difficult and it hasn't been,
3 since we have published our work, seriously
4 challenged by anybody. Today may be an exception,
5 but it hasn't happened so far.

6 And sustainability assessment under
7 various forms has certainly been applied in Canada
8 in various ways, including in official reviews.
9 Five major joint panel reviews, partially under
10 the federal process, have applied a sustainability
11 based approach. And the art has improved through
12 the years of application. So the quality of best
13 practice, if you wish, is certainly improving. I
14 wouldn't say we have reached anything close to
15 perfection yet, but the trend is in the right
16 direction.

17 So the basic idea of sustainability
18 assessment is that the objective is to ensure that
19 undertakings make a positive contribution to
20 sustainability as a higher test than merely
21 mitigating significant adverse effects. The focus
22 is on identifying, among the alternatives
23 available for serving a legitimate purpose and the
24 public interest, what is the best option?

25 And the best option, as I have

1 suggested, should go beyond simply avoiding or
2 mitigating adverse effects. We would like to have
3 gains that move toward sustainability, and we
4 would like to have those gains,
5 socio-economically, ecologically, and so forth,
6 recognizing that those are interdependent and
7 hoping that we can find ways that these multiple
8 gains can be mutually reinforcing, fairly
9 distributed, lasting, enhancing resilience and so
10 forth.

11 So this one of the key elements in the
12 design of assessment processes is particularly
13 important, I think, to stress that it is better by
14 far to be comparing our options and selecting the
15 best one than imaging that we can find a clearly
16 defined boundary between what is acceptable and
17 unacceptable. Whether it's a sustainability based
18 approach or avoidance adverse effect approach,
19 that boundary between acceptable and unacceptable
20 is at best vexed, if not illusory. So we would
21 emphasize that in particular in our experience.

22 Sustainability assessment covering
23 that full range, and considering the
24 interrelationships among the factors looks forward
25 to bringing attention to all of those issues, and

1 avoiding lasting damage as well as trying to
2 enhance the gains.

3 The idea is that because
4 socio-economic, cultural, bio-physical concerns
5 are interdependent in various ways because we gain
6 improvement on all fronts and because we want them
7 to be mutually reinforcing improvements, a key
8 thing is avoiding trade-offs. A key thing is
9 identifying them first and trying to find options
10 that will avoid those to the extent possible.

11 MR. WILLIAMS: Dr. Gibson, it's Byron,
12 before you leave this page, I'm going to ask you
13 to speak just a touch slower, and I know as you
14 get wound up, that's hard. But just when you
15 speak a little faster sometimes it's a bit hard to
16 hear you. But before you leave this page, can you
17 just remind us or elaborate on the point of why,
18 from a sustainability perspective, it isn't enough
19 to just look at significant adverse effects?

20 DR. GIBSON: Okay.

21 Well, there's several dimensions to
22 that. The first is that, well, I mentioned this
23 boundary between acceptable and unacceptable being
24 a difficult one to identify and to defend when we
25 try to nail it down and say this is exactly where

1 that line is. The same problem applies to
2 judgments about significance. And I suspect these
3 hearings, like virtually all the others on similar
4 kinds of situations, will find that there are
5 debates on what constitutes a significant effect
6 and not. We are constantly asked, where is the
7 boundary line and how you define it, what's the
8 methodology?

9 The best work that's been done there
10 is probably that summary work by David Lawrence,
11 it's inevitably really complex, and it's
12 inevitably more or less valuing. And so the best
13 expertise that I am familiar with suggests that it
14 is a better idea to compare options than to try to
15 find a boundary between significant and
16 insignificant, or acceptable and unacceptable.

17 Secondly, there's this bit about
18 adverse effects is the only focus. And I have
19 said, perhaps too quickly, that that's no longer
20 sufficient in a world where too much is becoming
21 unsustainable, where the trend towards exceeding
22 the planetary carrying capacity are worsening on
23 an annual basis, and we really need to reverse
24 that, or pass very regrettable ecological debt
25 essentially onto future generations.

1 So that's just one of the dimensions
2 of un-sustainability.

3 So it's, I think, quite clear that
4 mere mitigation is not enough. And it's not a
5 high enough objective, in any event, we should be
6 trying to seek gains in all dimensions. So while
7 it's a good idea to avoid significant adverse
8 effects, I don't think there's a valid argument
9 that that can be sufficient.

10 So that I think is a key element. And
11 as I say, the approach that compares options in
12 light of explicit sustainability criteria is
13 preferable to only trying to judge whether an
14 individual project is crossing a widely visible
15 line between acceptable and unacceptable.

16 And there's lots of discussion about
17 that, if anyone would like to pursue the matter.
18 A good start is an excellent book that Mary
19 O'Brien wrote some years ago about comparing
20 alternative assessment to risk assessment, the
21 same essential argument, very good work. I
22 believe she's American.

23 MR. WILLIAMS: Thank you, Dr. Gibson,
24 and I think we're hearing you better, but I would
25 just -- I think, I'm thinking four of the panel

1 members can hear you clearly, one of them might be
2 struggling.

3 MR. SHAW: I was just wondering if the
4 technical people can do something to take the
5 scratchiness out of it?

6 MR. WILLIAMS: Dr. Gibson, we're going
7 to encourage you to keep talking a bit slower, and
8 back away from the receiver just a touch. And we
9 are hearing you pretty well, but I just noticed
10 one of our panel members was having a bit of
11 difficulty.

12 DR. GIBSON: Okay. I am now an inch
13 and a half or so from the --

14 MR. WILLIAMS: That's perfect, Bob,
15 and you can move to the next slide. That's
16 lovely.

17 DR. GIBSON: Okay. You may be getting
18 mustache grinding sound in the headset or
19 something.

20 Okay. Moving on and trying to
21 remember not to fly at top speed.

22 So the basic steps in sustainability
23 assessment are probably fairly obvious. They will
24 look like a fairly conventional set of steps, I
25 suspect, from decision-making purposes in various

1 fields. It begins with applying sustainability
2 based criteria from the beginning and through to
3 the end of deliberation decisions for a little bit
4 to some undertaking. So it begins with the matter
5 of what are the purposes/needs, what are the
6 alternatives that could meet those purposes/needs?
7 What is the significance of positive and adverse
8 cumulative effects? And I'll underline cumulative
9 there, recognizing the effects that matter at the
10 end are the cumulative ones, always.

11 The fourth element here is identifying
12 trade-offs and needs for mitigation and for
13 enhancing the effects, especially of the preferred
14 alternatives when we narrow down what we're going
15 to look at in some detail. That leads to
16 decisions in the conditions and implementation of
17 monitoring, and follow-up, and readjustment, and
18 eventually decommissioning in many cases.

19 These bullet points follow a rationale
20 process that doesn't really apply perfectly
21 probably ever. And so the slide, if there were
22 more room, should include a bullet point or two
23 talking about iterative, back and forth, on some
24 of these matters, since clearly some of them
25 interact in various ways, and it may be useful to

1 revisit some matters of alternatives. For
2 example, if you find the ones that you have
3 initially examined all look fairly ugly.

4 So moving on.

5 The next basic issue here is whether
6 the contribution, the sustainability test is
7 something that is suitable in decisions in
8 Manitoba, suitable to the current review, for
9 example.

10 I think that that's reasonably well
11 established. I don't think it should be very
12 controversial, though I've been wrong on those
13 things before.

14 The basic requirement here is for
15 decision-making in the public interest, and what
16 we recognize the public interest to be necessarily
17 has evolved over time as circumstances change,
18 opportunities emerge. I have argued that the
19 global context of increasing un-sustainability
20 certainly puts that front and centre among the
21 realities to be addressed everywhere. So I would
22 certainly include that in the public interest.
23 Maybe it's just saying the public interest now
24 includes paying careful attention to the long, as
25 well as short-term, effects across dimensions that

1 we recognize to be interrelated.

2 I think that's reasonably well, in
3 fact, maybe qualifies as exceptionally well
4 recognized in the suite of legislative foundations
5 that we can refer to and have looked at in our
6 report.

7 This slide mentions in brackets at the
8 end of the three bottom points, places where we
9 have looked at this in some detail in the report.
10 It's not just Manitoba legislation, since the
11 Federal Assessment Act applies also in this case,
12 but I'll leave the argument and detail to the
13 report. I think the conclusion is that we have
14 pretty good grounds, or you have pretty good
15 grounds in Manitoba to recognize a sufficient
16 scope for looking at sustainability
17 considerations.

18 And the next question really is how to
19 do that with as much rigour and feasibility as
20 possible in the circumstances. And so that I
21 think turns to the question of evaluation, the
22 decision criteria.

23 Our experience certainly is that doing
24 sustainability based assessment is greatly eased
25 if we begin with a reasonably defensible,

1 comprehensive, and to some extent flexible set of
2 criteria that can be applied with some consistency
3 to that range of applications for purposes, to
4 approval conditions and implementation practice,
5 throughout the decision-making on a proposed
6 undertaking. And we have spent quite a bit of
7 time, over a decade now, really trying to refine
8 the approach to evaluation and decision criteria.

9 The basic story is that there are some
10 generic requirements and there are practical
11 obligations to address the specifics of case and
12 context. So the general requirements for us are
13 ones that are based on, first of all, the basic
14 requirements, if we hope -- that have to be met if
15 we hope to move toward sustainability. And the
16 second are rules to help clarify when trade-offs
17 can be accepted and when they can't be, so the
18 rules for trade-offs.

19 The latter, the rules for trade-offs
20 are implied by the need to have positive
21 contributions on all dimensions of sustainability
22 recognizing their interdependence.

23 The actual general rules, the
24 requirements for moving toward sustainability,
25 I'll get to in a minute. But certainly they have

1 to be integrated with understanding of the case
2 and context, what issues and imperatives,
3 opportunities, arise from those particulars.

4 So the generic criteria, what you have
5 in those eight bullet points are really criteria
6 categories as opposed to particular criteria,
7 those are just titles. They are not stated even
8 as criteria.

9 The basic story here is that it is
10 possible, indeed as I have suggested earlier,
11 quite easy to take the global experience and
12 synthesize the host of various approaches and
13 saying these are the main requirements for moving
14 towards sustainability. And I'm happy to go
15 through them. Indeed, I have been accused of
16 going through them in ad nauseam at length on
17 occasion. I won't do so now, but you will see
18 that it covers a range of different
19 considerations, including uncertainty, and
20 long-term as well as short-term matters, and looks
21 at social and ecological factors together.

22 One intentional peculiarity of this
23 particular list is that no one of the particular
24 components fits well into any one of the
25 traditional pillars of sustainability, social,

1 economic, ecological or biophysical. And that's
2 intentional and it's meant to help facilitate
3 thinking that crosses those boundaries and that
4 sees possibilities for integration.

5 So that's a conscious choice there.

6 And I emphasize choice in the phrasing of these.
7 These are eight points. I think the original
8 version had a dozen and they got collapsed and
9 integrated in different ways, assuming it was
10 possible to do, a similar set of categories that
11 would cover the same material with 24 categories,
12 or four, I suppose. That doesn't really make much
13 substantive difference, it has practical
14 implications.

15 But as I say, this is just the generic
16 set, it's not the one you end up applying. And
17 this is the generic set of trade-off rules.

18 Again, that list used to be bigger but
19 we had to pare it down to one that applied
20 everywhere, without exceptions. And they are
21 mostly about trying to avoid trade-offs, including
22 by putting the burden of trade-off advocacy on
23 whoever is proposing it, but having an open
24 process, recognizing these sort of valuated
25 decisions.

1 The fourth one is probably the most
2 interesting and maybe difficult one. The argument
3 is that there is never a justification for
4 displacing adverse effects to future generations
5 who can't be at the table to defend their
6 interests. And the only exception to that is if
7 all the other options are worse. We could return
8 to that if you want, but that one has been the one
9 that's been most often aggravating in cases.

10 So, that's the generic set of basic
11 requirements. And our view is that every
12 undertaking that we choose should have succeeded
13 in going through that process, should meet all
14 those requirements, should contribute in those
15 ways.

16 That said, the context is crucial.
17 And so what we're looking at in this case is
18 implications of choices about Manitoba and about
19 electrical energy needs, and in particular the
20 people in communities of the immediate area of the
21 project. And we're needing to recognize that
22 particular circumstances, hopes and fears that are
23 involved in that context with those people.

24 MR. WILLIAMS: Dr. Gibson, you have
25 been performing admirably, keeping your distance

1 from the phone, but can you just slow down? We're
2 starting to get a bit of feedback again. I'm
3 going to give you a B plus, you were working at an
4 A level, but you just got a little too close to
5 the mic lately.

6 DR. GIBSON: I'm in the mid season
7 slump here. I will try to improve. I think we're
8 about halfway through and I will try to be slower
9 and further from the mic.

10 Okay. So the next step here is to
11 take the generic criteria and combine them with
12 the particular issues of the case. We have
13 attempted to do that in appendix 5 of the
14 framework report. And we will -- appendix 6 talks
15 about the process that we used. I'm happy to talk
16 about that today. The clarifications needed here
17 include that we're doing this from a distance, we
18 have done it on the basis of our best efforts to
19 understand the case and the context. We would
20 expect that there are significant imperfections in
21 what we have done, that we have probably missed
22 some important things. We have probably
23 misphrased them. Maybe some of the things we have
24 included are not as important as some of the
25 things we have missed. We certainly are not

1 claiming that any last word has been done here.
2 This was meant to be more illustrative than
3 definitive. I think we probably have been I
4 illustrative and not definitive. But it should
5 give a reasonable idea of at least the structure
6 that would be helpful, the level of detail of the
7 kinds of categorization and the practical
8 implication, I would hope.

9 So what we have done is taken those
10 generic issues, and what we could see of the ones
11 that are specific to the case, and we have tried
12 to integrate them together, recognizing trade-off
13 needs and their related effects and so forth.

14 You will note that the ninth category
15 is all about interaction amongst effects, so we
16 make sure we didn't get that.

17 So there are nine categories, and
18 there are specific criteria issues under each
19 category, and under each of those issue areas
20 there are particular questions. As a result, the
21 framework goes on for more pages than will fit in
22 a powerpoint deck.

23 And we had the additional work, after
24 trade-offs have been identified, to figure out how
25 that is all going to be evaluated.

1 The nine big issue categories are on
2 this slide. You will notice those categories are
3 not simple reproductions of the generic
4 categories, they are ones that are particular to
5 this area as well as comprehensive of all the
6 generic ones. So our intent is to cover
7 everything.

8 I could say that I did a similar
9 exercise when I was working for the Mackenzie Gas
10 Project Joint Review Panel. They asked me to
11 draft a framework, which I did. And it was the
12 same exercise essentially, perhaps roughly similar
13 to the Keeyask case, insofar as there had long
14 been discussion in the Mackenzie Valley about the
15 issues surrounding pipeline, just like there's
16 probably been long discussions of the watershed of
17 Northern Manitoba, about the implications of hydro
18 projects. So, not in that case, in the Mackenzie
19 case, particularly difficult to identify at least
20 the main outlines of key issues.

21 And I at that time came up with 12
22 basic issues to look at, I think, ten or 12 in any
23 event. And the panel decided in the end that it
24 would simply amalgamate some of them, because they
25 thought 12 were too many for practical purposes

1 and thought five would be more sensible. And I
2 think their decision was probably right, and I
3 don't think anything was lost, though, I don't
4 mean to suggest that nine means you have to have
5 nine, or they had to be phrased this way, or
6 everybody would agree that this was the best set
7 of categories. But it should be at least as
8 comprehensive, and the specifics should be as
9 detailed.

10 So as I mentioned before, for each of
11 the larger categories -- so this slide 16 has one
12 of the categories, it turns out to be the first
13 one of these nine. So it takes that large
14 category, and it clarifies the agenda a little bit
15 by having a one sentence goal. And then it
16 identifies themes, issue areas within the field
17 covered by that category with that goal. And this
18 is a listing of the themes that would come under
19 improving the ecological basis for livelihoods and
20 health, or well-being if you prefer. And that
21 gets specified further, so that under each of
22 these categories, so the criteria area here is
23 improvement of habitats, number 2 in the bullets
24 on slide 16. So slide 17 has that same area, but
25 it's expanded with three illustrative questions

1 under each of them.

2 So you will find -- you may have found
3 in appendix five of our report, pages of
4 explanation of the various goals, the criteria
5 areas, and the particular questions under each of
6 them.

7 So that's the level of detail and
8 expectation and structure for the analysis that
9 would be applied to, and then comparing the
10 options and deciding what's best to do, deciding
11 what terms and conditions might be appropriate and
12 so forth.

13 And here's another example of a case,
14 of one of the themes of the case, fostering
15 desirable and durable livelihood. There's a goal,
16 there's various means, and there are questions
17 under each of the themes as illustrated here on
18 slide one.

19 MR. WILLIAMS: Dr. Gibson, I stopped
20 you here, and let's say my client, for example,
21 for closing is trying to develop a position, and
22 let's turn to the first bullet under criteria
23 here. And you're talking about ensuring
24 livelihood foundations, will the project ensure
25 available housing, applicable skills, education,

1 opportunities. I guess two questions that our
2 client would ask you is are you really expecting
3 the proponent to be doing this and, secondly, is
4 this like a pass/fail in the sense if you don't
5 achieve one of these criteria, it's a failure?
6 Could you give us an illustrative example of what
7 this means and how it might be employed?

8 DR. GIBSON: Okay. There were a few
9 parts to that, you'll have to remind me if I have
10 forgotten one or two of them. Let me step back a
11 bit to run at that one. The criteria are
12 numerous, and what we're doing in the end is
13 comparing alternatives as well as seeing how
14 attractive or strong or worrisome a particular
15 project may be.

16 So, on the matter of pass/fail, I
17 suspected that like in most grading of product,
18 the answers will not always be black or white, and
19 that there may be opportunities to enhance or
20 mitigate, depending on what you find as an initial
21 answer to that question. If you're say a
22 proponent working through what the project might
23 imply, you're looking for places where you wanted
24 to have mitigation or enhancement or find other
25 ways that could happen if it's not within your

1 mandate or capacity.

2 So I would say, no, it's not going to
3 be pass/fail, it's the whole suite of criteria
4 considered together that would be applied and
5 examined and judgments made on each of them,
6 interactions considered. And you are after an
7 overall effect, the overall analysis results from
8 the collection of assessments of the full suite of
9 criteria. So it may be that your very best option
10 will be unhappy on some of these criteria, while
11 you try to do the best you can to reverse the
12 negatives. But you may still find that that's the
13 best option. So that's one component of this.

14 Secondly, the suite of criteria will
15 include some that a proponent can, within its
16 powers and capacities, address. But there will
17 also be some that the proponent hasn't got any
18 expertise or authority or credibility to address.
19 And that raises questions about well, how will
20 somebody else address it or some other body
21 address it. The answer to that may well be yes,
22 maybe that can get organized before a proposal is
23 submitted and maybe it gets organized later.

24 Certainly there's a reality in cases
25 that I have been involved in one way or another

1 that review bodies making recommendations to the
2 final decision authorities, are often making
3 recommendations not just for things the proponent
4 should be required to do, but also things
5 governments should be required to do, for example.
6 And we have had lots of multi jurisdictional
7 assessments where multiple governments are
8 involved in the conditions of approval.

9 So, it's certainly not the case that
10 all of these areas are ones that the proponent
11 would be the one appropriate to address. But in
12 the end, the question is what is the best option.
13 And if there are some areas that are significant
14 concerns, and if those aren't addressed by the
15 proponent or somebody else, then they will remain
16 issues that will have to be faced by the decision
17 makers in choosing which option is the best. Does
18 that answer most of what you are asking?

19 MR. WILLIAMS: Much better than the
20 question. Thank you Dr. Gibson.

21 DR. GIBSON: Okay. So the process of
22 using those criteria obviously involves
23 application at various levels. But for each
24 alternative, we would want to address each
25 question. And it's not, as I just mentioned, the

1 pass/fail thing. Various applications we and
2 others have distinguished between positive
3 contributions that are clearly or strongly
4 positive, effects that are at least to some extent
5 positive and probably positive overall, but
6 uncertain or uneven. There may be some negative
7 aspects, but overall it looks pretty good. And
8 there may be, on the other side, effects that look
9 like they would be largely adverse, but maybe
10 there's some positive elements and maybe there's a
11 lot of uncertainty. And there would also be
12 strongly adverse effects.

13 So looking at these particular
14 questions wouldn't be a black and white check mark
15 or no check mark, this is actual analysis where
16 you try to figure out the overall implications.
17 So there's lots of gray zone possibilities here.

18 The overall positive and negative
19 effects in the categories should be identified.
20 So that's going to be adding up, if you wish. But
21 it's misleading to suggest that there's adding.
22 As I have tried to argue here, we're not talking
23 about check-marks or the absence of check-marks,
24 we are also not talking about adding up the number
25 of criteria met and subtracting the number of

1 criteria not met. The approach that we're using
2 here is much more centred on trying to be
3 comprehensive of all the issues, than it is of
4 trying to facilitate quantification analysis.

5 If we were to add up, we would want to
6 add every criterion being mutually exclusive of
7 others, and every criterion being equivalent in
8 its importance and weight to every other
9 criterion. We certainly have never tried to do
10 that. It being a bit inconvenient if you'd like
11 to have a numerical answer to what option is the
12 best, but I think it's more realistic. So that
13 makes it necessary to get the analytical mind
14 around complexities here. But we're at least
15 avoiding the false precision of trying to quantify
16 this stuff by adding up.

17 Where was I here?

18 Positive, negative effects categories,
19 interactions among effects, identifying
20 trade-offs, considering whether they are
21 acceptable, I might say that we didn't in this
22 case, but would recommend that the generic
23 trade-off rules be treated in the same way as the
24 generic requirements for progress and
25 sustainability. In other words, there may be

1 additional trade-off rules that are particular to
2 the case in the context, or at least specification
3 of those rules. There may be some trade-offs that
4 are particularly unacceptable in the Keeyask case,
5 that would be not particularly important in
6 another undertaking.

7 So specifying the trade-offs for the
8 case is also fairly important.

9 That leads eventually to identifying a
10 preferred alternative, looking at whether we can
11 do further enhancements or mitigations, try to
12 ensure that the effects can be mutually supportive
13 where we find opportunities for that, and
14 certainly avoiding long-term damages and risks and
15 unacceptable trade-offs.

16 Any analysis would have in it, as I
17 have suggested, more than yes, no, maybe. There
18 would be notes on priorities, uncertainties, and
19 recommended approval conditions and other
20 implications.

21 This sounds complex and it is, but
22 it's not undoable, or not non-doable. An example
23 would be the final chapter 19 I think it is of the
24 McKenzie Panel's report, the McKenzie Gas Project
25 Review Panel report in which they explicitly

1 examine alternatives and they look at under each
2 category and provide the summary discussions of
3 each of the five main categories of criteria they
4 applied, which summarizes the finding that they
5 don't publish, I think unfortunately, in 36
6 different criterias. So they had 36 criteria area
7 in five categories. Each of the categories is
8 summarized up in comparing alternatives in their
9 overall summary chapter. It's not the last word
10 in how to do it, but it certainly illustrates that
11 a panel with a similarly complex challenge before
12 them were able to do this and come up with a
13 defensible set of criteria applied in a way that
14 they could present to a public audience.

15 So the comparison of alternatives
16 requires the application of these criteria
17 following an approach that begins with critically
18 accepted examination of how to phrase the purposes
19 and needs, and we can return to the purposes in
20 this case. I do have an additional slide at the
21 end that might be worth taking a quick look at.

22 The purpose framing has all sorts of
23 cascading effects on what kinds of alternatives
24 appear to be examined. So that's a pretty
25 important element. So we have the purposes, you

1 have the criteria, you have the range of
2 alternatives, including the null option. And then
3 we go through examining the particular effects of
4 various aspects of various options looking at the
5 cumulative assessment effects covering all of the
6 requirements.

7 MR. WILLIAMS: Dr. Gibson, it's Byron
8 again. One is just to remind you to keep speaking
9 slowly, you're doing great, but secondly, this
10 sounds hard. And it sounds like a lot of work for
11 a proponent or for my client or for the
12 Commission. Just in a tight answer, what's the
13 value? Why not just do what we always do?

14 DR. GIBSON: Well, I think it -- maybe
15 in this discussion, it's appropriate to apply the
16 principles that we're advocating here and that is
17 to compare alternatives. The kind of approaches
18 that we have increasingly had in decision-making
19 are still evolving, but over the last probably 40
20 years -- I am over-simplifying more than a little
21 here, but I think what I'm saying is reasonably
22 accurate -- over the last 40 years we have learned
23 more and more about the effects of our
24 undertakings. And this is not just stuff that
25 gets covered in environmental assessment processes

1 but very broadly in governing economies and
2 societies. And the result of that, combined with
3 the gradually increasing pressures in all sorts of
4 areas and probably the gradually increasing
5 expectations in all sorts of areas is we have
6 proliferated countless processes and corrective
7 mechanisms and review and regulatory obligations
8 so that we are now reaching a stage where it's
9 clear that our approaches are in lots of areas
10 insufficient to meet all the expectations of
11 everyone.

12 And at the same time they are felt to
13 be onerous, unduly onerous by all sorts of people
14 who think that red tape is everywhere. They think
15 that obligations have gone crazy, that nothing
16 will ever get approved, that the number of
17 different approvals required are in the Byzantine
18 level and so forth. And so environmental
19 assessment, like so many other areas, is
20 essentially caught between a rock and a hard
21 place, the rock being the resistance to infinite
22 requirements, and the hard place being the
23 increasing recognition that what we're doing isn't
24 good enough.

25 So what we see here is certainly a

1 complex approach. It's a complex world and we're
2 not trying to paper over that fact. On the other
3 hand, it's meant to be a one window integrative
4 approach that takes all these things into
5 consideration through one process.

6 Sustainability assessment is one route
7 into a larger challenge of trying to rationalize
8 our decision-making processes so that we can look
9 at the socio-economic cultural biophysical stuff
10 and their interrelation together in one process
11 leading to a set of defensible, publicly
12 defensible conclusions.

13 And there will be some inevitable
14 pressure to try to simplify this kind of approach.
15 It will be, I'm sure, attractive to some if these
16 criteria could simply be added up and a number
17 produced. I have argued against that a few
18 minutes ago, and lots of other times on the
19 grounds that I think it's misleading. But there
20 are certainly methods to make this easier. I
21 think the exercise that we have gone through in
22 preparing appendix 5, certainly every time we do
23 it, it gets easier. But we're not claiming it is
24 perfect, but I think this stuff is at the
25 innovative edge where things are probably more

1 complex than they will in the end have to be. And
2 certainly they are more unfamiliar than they will
3 be as this gets further developed. But I think
4 it's already at a stage where reasonably capable,
5 ordinary people can do it, and that the potential
6 for streamlining decision-making and clarifying
7 obligations and reducing a whole bunch of other
8 requirements is pretty promising.

9 MR. WILLIAMS: Thank you, Dr. Gibson.

10 DR. GIBSON: So I may have lost where
11 I was. I think we finished 21 and on to 22?

12 MR. WILLIAMS: Indeed.

13 DR. GIBSON: And I think I can promise
14 that we're way past halfway here so those who are
15 rolling eyes invisibly to me can begin to relax I
16 hope.

17 So, we have looked at the Keeyask EIS
18 in light of this approach. And I'm not claiming
19 that we have done an overall reassessment that we
20 have gone through all of the EIS to see if it
21 meets all the criteria. We haven't done that at
22 all. We have done an overview to see in general
23 whether the approach that we have described is
24 replicated, or at least the equivalent in the EIS.
25 And there's cheerful and less positive things to

1 say about that.

2 I think it is quite clear that the
3 proponents have implicitly embraced a
4 sustainability agenda. I think they have
5 recognized that there is an overall mandate, if
6 you wish, of policy and other expectations, and
7 overall that that mandate is obvious to pretty
8 much everybody. And so more points to everybody
9 involved in that, frankly.

10 Secondly, it would seem that while
11 attention to sustainability based criteria is
12 included explicitly in the EIS, including
13 especially in chapter 9, which means to conclude,
14 there has not been consistent and evident
15 application of a set of sustainability based
16 criteria underlying the analysis. We can say more
17 about chapter 9, but it looks more like a taking
18 of the criteria, and then -- or the sustainability
19 principles, the various individual ones without
20 integrating them into a particular comprehensive
21 framework, and seeing largely what positive things
22 can be said about the project in light of those
23 criteria. That's not a bad thing. But it's not a
24 rigorous application of the established set of
25 sustainability based criteria, certainly not at

1 the level of specification and detail that the
2 example in appendix 5 offers.

3 And there's no comparative evaluation
4 of alternatives in the EIS. There's a page and a
5 half comment about why it's the best option but
6 that doesn't really qualify for what we're talking
7 about here.

8 I think there's a problem in the
9 framing of the purpose, and I'll talk about that
10 at the end. But there's a discussion in the
11 report.

12 And so there isn't yet a comprehensive
13 and reliable evaluation of all potential effects.
14 The alternatives certainly for the preferred
15 option, I suspect there's disagreement probably in
16 the room on this matter, but from what I have seen
17 there seems to be some areas that aren't
18 comprehensively -- that the EIS doesn't cover in
19 ways that we would want to see it covered
20 according to the criteria. There's some things
21 that aren't addressed fully. And there's certain
22 claims that are controversial, maybe subject to
23 greater uncertainties than have been recognized
24 and so forth. So I'm not an expert in any of
25 those areas, and I'm happy to leave the specifics

1 to those who are, but I have seen some of the
2 submissions and it looks to me like there are some
3 areas of concern, even about the preferred option.
4 The bigger question is, is it the best
5 alternative, and I don't think we have had an
6 answer to that one yet or the basis for answering
7 that one yet.

8 MR. WILLIAMS: Dr. Gibson, can I just
9 remind you just to keep your distance from the
10 phone and slow down just a touch. You're doing
11 well, sir.

12 DR. GIBSON: I have my thumb in here,
13 but sometimes it slips a bit.

14 Okay. So I think that the EIS does
15 not provide the sufficient grounds for saying it's
16 the most appropriate response to the reasonable
17 state of the purposes.

18 I also am not confident that the
19 project as described in the response to the
20 guidelines, in the EIS effectively, would
21 certainly promote progress with sustainability
22 while avoiding significant adverse effects. My
23 confidence in that is not well-informed by
24 expertise in all the areas I'd want to be informed
25 about. I'm not claiming to be the panel here.

1 But if there are (inaudible) grounds for wanting
2 to know more than or be convinced further than I
3 have been so far.

4 So I think the matter then turns to
5 what I would recommend for the panel and the CEC.
6 And this slide 24 is about what I think are the
7 key elements there. I think it is quite clear
8 that there are justifiable grounds for taking a
9 sustainability based approach, beyond the level of
10 the EIS criterion in chapter 9 of the EIS. I
11 think it's possible and desirable to adopt an
12 explicit set of sustainability based criteria.
13 And I wouldn't say that it should be taken
14 directly as we have presented it in appendix 5,
15 but certainly if we can do it, the panel can do it
16 better.

17 Secondly, I think there needs to be a
18 comparative evaluation of alternatives. It does
19 not seem, given the terms of reference, that the
20 CEC itself can do that comparison. But I think
21 it's needed for a defensible decision on whether
22 or not to recommend a licence. So, I think that
23 in the end there needs to be an examination of
24 those alternatives in light of an appropriate
25 framing of the purpose. And since that's

1 something that is apparently beyond the terms of
2 reference for the Commission, then the licence
3 cannot be justified, in my view, at least on
4 sustainability grounds, without waiting for the
5 results of the comparison of alternatives, which I
6 understand is to be done by the Public Utilities
7 Board in the need for and alternatives to review.

8 Is there a reliable basis for the
9 evaluation of potential effects? Not for the
10 alternatives, and I think largely for the Keeyask
11 dam it's available, but I think there are some
12 unresolved areas of expressed uncertainties. So
13 those probably have to be addressed as well.

14 So, yes, the CEC should adopt a
15 sustainability based approach and, yes, it should
16 adopt an explicit set of sustainability based
17 criteria for deciding what to do and for defending
18 what it has decided.

19 I think there needs to be a suitable
20 working definition of the purpose, which I'll get
21 to. And I think the criteria can be used to
22 evaluate the strengths and limitations of the
23 project, as proposed and as described in the EIS,
24 with some additional material likely in some areas
25 of contest, but I don't think, without the

1 valuation of alternatives, there are sufficient
2 grounds for granting a licence.

3 And so I suspect that means doing what
4 you can at this stage, referring to the strengths
5 and limitations, there can certainly be a report
6 after this review is completed with whatever the
7 panel has concluded about the strengths and
8 limitations of the project as proposed and
9 assessed. But I would think that a recommendation
10 on whether or not the licence should follow the
11 NFAT proceedings, so that the comparison of
12 alternatives can be incorporated in the judgment.

13 That's my view. And beyond that, I
14 would suggest that this, like the other
15 sustainability assessment applications and major
16 project reviews in Canada, is a step towards
17 getting better at all of this. And a positive
18 contribution can be made by the panel and the
19 Commission and the Province in the application in
20 this particular case, in future applications to
21 push the art further and the benefits from the
22 application further. This is not something I
23 suspect the Commission can do on its own, but
24 certainly the Province has the capacity, authority
25 to push that along.

1 And the final points are about various
2 components of this process that we have talked
3 about before, I have talked about before, purposes
4 and alternatives and criteria.

5 So that's what in our best judgment is
6 the appropriate conclusions in light of what are
7 effectively obligations now. I think to make a
8 concerted effort to move toward sustainability
9 instead of falling further behind.

10 MR. WILLIAMS: Dr. Gibson --

11 DR. GIBSON: I'm done, unless you'd
12 like me to go on?

13 MR. WILLIAMS: I always like you to go
14 on, but probably -- I do have one question, Dr.
15 Gibson. And let me play a devil's advocate for a
16 moment. Obviously appendix 5 or the executive
17 summary of that, which appears at the start of
18 your paper, is at the heart of your criteria. If
19 I were to criticize appendix 5 for saying in a way
20 it's skewed a bit more towards Keeyask as opposed
21 to the analysis of other alternatives, how would
22 you respond?

23 DR. GIBSON: I'd say that you get
24 points for being highly perceptive. But the
25 criteria that we have developed there are ones

1 that are, I think, quite appropriate for what is
2 within the mandate of the panel in this exercise.
3 So given that the panel does not have before it a
4 range of alternatives to compare, this is a set of
5 criteria that should be suitable for examining the
6 strengths, limitations of this particular option.

7 And I think they should serve
8 reasonably well with the various caveats I have
9 given earlier about how -- well, it's Gaudreau and
10 myself doing this as opposed to people who
11 actually are familiar with the realities of
12 Manitoba in a direct way. So, recognizing the
13 limitations, I think the focus on the Keeyask
14 project is appropriate to these proceedings. It
15 follows that those criteria are not particularly
16 appropriate, they are not sufficient, they are not
17 broad enough for the comparison of alternatives.

18 So for that, a different and broader
19 set of specified criteria would be needed. I
20 think they would have to cover the stuff that is
21 particular to the Keeyask option, as well as other
22 options. So they would be broader. They'd also
23 have to have specifics, but they would be
24 different, because as you quite rightly imply, the
25 scope is bigger.

1 MR. WILLIAMS: Thank you, Dr. Gibson.

2 And thank you for those extra marks. Did you wish
3 to go to slides 28 and 29, Dr. Gibson?

4 DR. GIBSON: Well, let me just flag
5 that they exist. It's only because there's a nice
6 image of a moose on one of them. The question of
7 purpose emerged in the presentation a couple of
8 times, and anticipating that somebody might be
9 curious about how the purpose might be phrased, if
10 we are looking at alternatives, I took a run at
11 that, and the result is on that slide on page --
12 or slide 28. So it is meant to be broad enough to
13 cover a range of alternatives that would be in the
14 public interest in Manitoba, recognizing effects
15 outside and carrying a full range of the usual set
16 of energy options.

17 So that's there. And also for
18 illustration, here is a slightly expanded set of
19 questions that would be suitable as issues to ask
20 in this case beyond just the point of the generic
21 trade-off categories. So that's meant mostly for
22 illustration further.

23 MR. WILLIAMS: Dr. Gibson, just to
24 finish, pretend I'm more educated than a humble
25 lawyer, pretend I am your first year student at

1 your fabulous university. And can you succinctly
2 tell me what's the point, what's the heart of
3 doing this analysis and what could it bring to us
4 tangibly, assuming that I'm one of your first year
5 students?

6 DR. GIBSON: Well, there is, as you
7 probably recognize, a considerable generational
8 gap between me and my first year students. And
9 there's a considerable gap between my first year
10 student and his or her grandchildren. Basically
11 the purpose of doing that is to recognize that
12 much of what we are doing on this planet is
13 increasingly stressing limits that are not going
14 to give way without serious problems. And those
15 serious problems that we are increasingly causing
16 are the legacy to the grandchild of that
17 undergraduate student. So we need to do something
18 about that and we need to do it on a whole variety
19 of fronts.

20 In making decisions about new
21 undertakings, what we want to do is ensure that
22 that kid's grandchild will be in a world where the
23 ecological and social and economic systems serve
24 each other, and that requires significant changes
25 from business as usual. I think that's about it.

1 MR. WILLIAMS: Thank you, Dr. Gibson.

2 And, Mr. Chair, I believe Dr. Gibson is prepared
3 for cross-examination, but I'm sure it must be
4 exhausting holding onto that phone and just even
5 body temperament, so certainly we're at your
6 discretion, but it might be an appropriate time
7 for just a short break for Dr. Gibson.

8 THE CHAIRMAN: I think we should
9 probably take the break now, let Dr. Gibson rest
10 his ear with the phone jammed into it, and we'll
11 return in 15 minutes with the cross-examination of
12 the proponent up first.

13 MR. WILLIAMS: Don't hang up.

14 DR. GIBSON: I won't. I won't even go
15 far away. I may change ears, however. But thank
16 you. We will see you in 15.

17 (Proceedings recessed at 2:51 p.m. and
18 reconvened at 3:05 p.m.)

19 THE CHAIRMAN: Dr. Gibson, are you
20 there?

21 MR. WILLIAMS: Dr. Gibson, can you
22 hear us? Dr. Gibson, can you hear us?

23 Clever ploy to avoid
24 cross-examination.

25 Welcome back, Dr. Gibson.

1 DR. GIBSON: It's surprising how
2 little sound I can get out of a phone from a far
3 way away.

4 MR. WILLIAMS: I am done with you.

5 Mr. Bedford and others will have some
6 questions for you now.

7 DR. GIBSON: Thanks for your patience.

8 MR. BEDFORD: Good afternoon,
9 Dr. Gibson. My name is Doug Bedford. Can you
10 hear me?

11 DR. GIBSON: I can. Thank you.

12 MR. BEDFORD: I will endeavour to
13 speak slowly and clearly so that my words will
14 carry to you in Waterloo.

15 My obligation at this hearing this
16 afternoon is to put some suggestions to you and
17 some questions on behalf of my client, the Keeyask
18 Hydropower Limited Partnership. My primary focus
19 is going to be the report that you filed in these
20 proceedings.

21 Do you have the report at hand?

22 DR. GIBSON: I do.

23 MR. BEDFORD: Thank you.

24 My client, the Keeyask Hydropower
25 Limited Partnership, has said explicitly at this

1 hearing that it did not intend to do a
2 sustainability assessment and that the response to
3 Environmental Impact Statement Guidelines that it
4 has filed here is not an example of a
5 sustainability assessment.

6 Now, having read your report more than
7 once, and having listened to you this afternoon, I
8 conclude that you agree with my client that the
9 response to the EIS guidelines is not an example
10 of a sustainability assessment?

11 DR. GIBSON: You are asking for a
12 response to that.

13 I'm not sure that there is a clear
14 response yes or no on that, Mr. Bedford. The fact
15 of the matter is I have seen many less
16 satisfactory versions claiming to be a
17 sustainability assessment. If your client is
18 saying this was not intended to be a
19 sustainability based assessment, well, they are
20 the one who would know. But it is fairly clear,
21 certainly from the framing of the concluding
22 chapter nine, that the merits of the proposed
23 undertaking were in the EIS framed in a
24 sustainability perspective. So it is
25 understandable for the reader, who is not privy to

1 the intentions of your client, to see this as an
2 effort that at least moves, I would say, a
3 creditable way towards being a sustainability
4 assessment.

5 MR. BEDFORD: Could you turn, please
6 to page 2 of the report that you filed.

7 DR. GIBSON: Two in normal numbers?

8 MR. BEDFORD: Two in normal numbers,
9 as normal here as in Waterloo.

10 I'm looking at the top of the page and
11 I, of course, can read that the authors of the
12 report, yourself and your colleague, identify five
13 deficiencies, as you term them, that you say make
14 it "impossible" for this Clean Environment
15 Commission of Manitoba to do its job here.

16 And I focus in on two of those
17 apparent deficiencies. The second one, no
18 justification of need for this project, and the
19 third one, no assessment in the EIS of
20 alternatives to this project.

21 Now, I did listen to your
22 presentation, and on slide 24, you alluded to a
23 term of reference issue that, of course, affects
24 those two deficiencies. And I know that you read
25 the terms of reference because you have mentioned

1 them, and you also cite them at the beginning of
2 the report as one of the several documents that
3 you read before you prepared the report.

4 Do you have a copy of the terms of
5 reference there?

6 MR. GIBSON: I do not have one. There
7 is probably one on the desktop, but for reasons
8 you can understand, I don't have access to that at
9 the moment.

10 MR. BEDFORD: Well, I am pleased to --

11 DR. GIBSON: Plus I recognize, as I
12 think you heard, that the terms of reference do
13 not include consideration of alternatives by this
14 review.

15 MR. BEDFORD: And when you use the
16 term, terms of reference, and when I do, you and I
17 will quickly acknowledge that we have in mind that
18 letter written by the Honourable Gord Macintosh,
19 Minister of Conservation, bearing date 14th day of
20 November, 2012, to Mr. Terry Sargeant, chair of
21 this Clean Environment Commission. Correct?

22 DR. GIBSON: I think we are talking
23 about the same document.

24 MR. BEDFORD: And the issue which you
25 have mentioned appears in the final paragraph of

1 those terms. And for the benefit of those here
2 who may not be familiar with them, and the benefit
3 of those who have perhaps read them too quickly
4 since they were written a year ago, I quote:

5 "In the near future, government plans
6 to conduct a detailed and
7 comprehensive needs for and
8 alternatives to assessment of Manitoba
9 Hydro's preferred development plan,
10 including the proposed Keeyask
11 Generation Station. As such, the need
12 for and alternatives to, as it relates
13 to Keeyask, should not form part of
14 this Commission's review because it
15 will be assessed separately as part of
16 a larger NFAT assessment."

17 Although you don't have a copy in
18 front of you, no question that I have quoted the
19 document correctly?

20 DR. GIBSON: It's what I recall it
21 saying, yes.

22 MR. BEDFORD: Now, with the greatest
23 of respect, Dr. Gibson, when I read the report
24 that you filed, and the second page that we have
25 just looked at, you and I, and I saw your

1 reference to five deficiencies which make it
2 "impossible" for these five commissioners here to
3 do their job, two of them being no justification
4 of the need for the project and no assessment of
5 alternatives to the project, I thought to myself
6 that the authors of this report are, in effect,
7 inviting the commissioners to ignore the mandate
8 that was given to them by the Minister of
9 Conservation.

10 Were you intending to do that?

11 DR. GIBSON: No. And I think that I
12 need to clarify a few things for you and perhaps
13 the panel, as far as this isn't obvious. The
14 portion of page 2 at the top that you were quoting
15 doesn't say that the Commission cannot, or the
16 panel cannot do its job. It says that the
17 response to the EIS guidelines, in other words,
18 the EIS document submitted, has deficiencies that
19 make it impossible to make an adequately informed
20 decision. That doesn't say that the Commission
21 can't do its job, and it doesn't say that the
22 panel -- and my understanding of the letter from
23 the Minister doesn't say that the panel cannot in
24 its review decide to take a two-staged approach,
25 which is what I suggested earlier. That would be

1 to do the review with what it has in front of it
2 and to come up and use, in fact, an explicit
3 sustainability based set of criteria, and to come
4 up with a, shall we call it an interim report that
5 would provide the panel's conclusions about the
6 strengths and deficiencies, and perhaps
7 uncertainties, and other implications concerning
8 the proposed undertaking, but await any decision
9 on whether or not it merits licensing until after
10 the alternatives evidence has been provided and
11 considered in the subsequent hearing to which you
12 have just referred.

13 MR. BEDFORD: Now, looking still at
14 the terms of reference, the word sustainable does,
15 of course, appear in the mandate given to the
16 Commission. As I read that mandate with respect
17 to the word sustainable, I see that the
18 instructions are that the Commissioners are
19 "where appropriate" to incorporate in their
20 recommendations the principles of SUSTAINABLE
21 DEVELOPMENT, capital letters, and GUIDELINES FOR
22 SUSTAINABLE DEVELOPMENT, capital letters again, as
23 contained in the sustainable development strategy
24 for Manitoba.

25 Now, while you don't have that in

1 front of you, I'm sure you recall that.

2 DR. GIBSON: Well, at least I'll trust
3 your reading of it.

4 MR. BEDFORD: Now, I'd suggest to you
5 that the Commissioners have not been asked by the
6 Minister to determine, as you and your colleague
7 put it on page 6 of your report, whether or not
8 the Keeyask project is "the best option for
9 progress toward sustainability"?

10 DR. GIBSON: Is that a question?

11 MR. BEDFORD: Yes.

12 DR. GIBSON: I could equally say that
13 the absence of an explicit requirement in the
14 Minister's letter is far from precluded, I would
15 argue, and have argued that consideration of
16 sustainability, sustainable development
17 implications is virtually always appropriate. And
18 that the implication of taking that seriously
19 include considering alternatives and seeking the
20 best option.

21 So if what you're asking is whether
22 the Minister's direction explicitly requires that
23 kind of analysis, I would concede that I don't see
24 the explicit requirement.

25 Would I see an implicit expectation of

1 something of the sort, given what I understand to
2 be the requirements for moving toward
3 sustainability and the imperatives of doing that?
4 Yes, I see that implied. Certainly, at the very
5 least, there is an opening for that should the
6 panel choose to use it.

7 MR. BEDFORD: Looking still at this
8 particular part of the Minister's mandate to the
9 Commission, could one not fairly state that within
10 the scope of that mandate, on the subject of the
11 sustainable development principles and guidelines
12 of this province, that it is within the mandate
13 for these Commissioners to consider whether or not
14 this Keeyask project is contributing to
15 sustainability?

16 DR. GIBSON: I think my message to the
17 panel has been and continues to be that they can
18 and should use sustainability based criteria to
19 evaluate the strengths, limitations of this case,
20 of this proposal. It's conceivable that they may
21 conclude that overall it would make a positive
22 contribution to sustainability.

23 I am not in a position to say that
24 that's what I would conclude if I were on the
25 panel, but I'm not, so I don't know. But I would

1 say they might be able to make that, draw that
2 conclusion.

3 I am arguing in addition to that, as I
4 thought I had been clear on, that the panel, given
5 the nature of the desirable approaches to
6 sustainability based assessment, should insist
7 that it gets to see comparative evaluation of the
8 alternatives before making a final judgment about
9 life.

10 MR. BEDFORD: Could one not equally
11 say that it is fairly within the mandate of this
12 Commission, on the subject of sustainability, for
13 the Commission to make recommendations as to
14 whether or not this Keeyask project is designed in
15 the most sustainable way it can be?

16 DR. GIBSON: I would agree, I think.
17 I think that's consistent with what I have
18 suggested, that that's a question that the panel
19 should be examining, or it's a version of the
20 question, or a key question the panel should be
21 examining. Whether this project could have been
22 designed or could yet be designed in a way that
23 would be a more positive contribution with less
24 risk of adverse effects is an open question.
25 Certainly that would be what I would see as

1 appropriate in an analysis of the project by
2 itself, as we have described. So if that's what
3 you are thinking of, then it sounds like we could
4 be in agreement.

5 MR. WILLIAMS: Mr. Bedford, if I can
6 just, and I'm not trying to interfere, I think
7 panel members may wish to see Dr. Gibson's face.
8 So, Dr. Gibson, I'm just going to remind you, you
9 are kind of leaning --

10 DR. GIBSON: Okay.

11 MR. WILLIAMS: You're not that
12 handsome, sir, but I think they would still like
13 the opportunity to -- and Mr. Bedford, I apologize
14 for interrupting.

15 DR. GIBSON: Is that acceptable?

16 MR. BEDFORD: It certainly is.

17 DR. GIBSON: Okay.

18 MR. BEDFORD: Now, I was uncertain
19 when I read the report whether or not you and your
20 colleague were alert to the fact that the Clean
21 Environment Commission of Manitoba has a
22 responsibility to make recommendations about
23 projects, but it is not vested with any authority
24 to make the decision as to whether or not a
25 licence shall issue, allowing a project to go

1 forward. Were you aware of that?

2 DR. GIBSON: Yes. And I think I
3 misspoke a moment or two ago on that matter if I
4 said making a decision. I recognize that the
5 Commission's authority is to recommend. And where
6 I have in the past few minutes said something that
7 sounded like the panel making an ultimate
8 decision, I was meaning their decision on what to
9 recommend.

10 MR. BEDFORD: Now, I am going to
11 reveal to you that when I heard many months ago
12 that you were coming to our hearing, I read two of
13 the books to which you have made extensive
14 contributions, and some six to ten of the articles
15 that you have written over the years. And I find,
16 among others, six important themes repeated in the
17 books and in the articles. And I'm going to just
18 list those six themes that I found, and when I'm
19 finished ask you to concur whether or not I have
20 fairly captured these as key themes in your
21 written works.

22 So, one, you tell readers to recognize
23 interrelationships in doing sustainability
24 assessments.

25 Two, you tell your readers to maximize

1 multiple reinforcing net benefits for
2 sustainability. And I'm going to pause and tell
3 you, I was once told by a Ph.D. like yourself, one
4 who taught history, not your specialty, that in
5 the English language, nouns can really only carry
6 the weight of three adjectives at best.

7 Number three, you tell your readers to
8 minimize compromises.

9 Four, you urge your readers to only
10 accept trade-offs that deliver net progress toward
11 sustainability.

12 Five, you are passionate about closing
13 the gulf between rich and poor on this planet.

14 And finally, you urge your readers to
15 stop the degradation of biospheric systems.

16 Now, have I fairly captured those as
17 six important themes in your written work?

18 DR. GIBSON: I would say yes, and I
19 would maybe think that you deserve either an award
20 or sympathy for being my most devoted reader.

21 MR. BEDFORD: Well, I'll pause again
22 and I'll tell you that certainly the book that was
23 published earlier this year, the book edited by
24 Mr. Bond and his colleague, to which you
25 contributed two chapters, is a very good book, and

1 I'd encourage everyone here to read it. But I
2 must tell you, with the greatest of respect, that
3 I found there was less sword play in it than Game
4 of Thrones, which I also read this summer.

5 Now, returning to the task at hand for
6 me, I would like to suggest to you, Dr. Gibson,
7 that if I apply Occam's razor to all of the Gibson
8 principles, to all of the Gibson frameworks, and
9 to all of the Gibson criteria, are you able to
10 agree with me that the simple fundamental purpose
11 of sustainability assessment done your way is to
12 improve decision-making about projects like
13 Keeyask?

14 DR. GIBSON: Well, I don't think
15 anything is that simple, but that is certainly one
16 of the key objectives with respect to the late
17 Occam.

18 MR. BEDFORD: And incidentally, did
19 you notice that in the report that you filed, you
20 used the words "decision-making" 45 times?

21 DR. GIBSON: I did not count, but I
22 will defer to your mathematics on that.

23 MR. BEDFORD: If all the witnesses at
24 this hearing would always defer to me so readily,
25 I'd go home pleased every evening.

1 The objective, I suggest to you,
2 Dr. Gibson, which appears on page 13 of the
3 report, is that all of us should be "fully
4 informed" in making decisions about the Keeyask
5 project. Would you agree?

6 DR. GIBSON: Well, certainly we would
7 want to be as fully informed as possible on the
8 relative merits of the proposal, yes.

9 MR. BEDFORD: And when we all remind
10 ourselves that the Minister of Conservation, who
11 will make the decision as to whether or not to
12 licence this Keeyask project, and when we remind
13 ourselves that the Minister of Conservation and
14 his colleagues in cabinet who will have to make
15 the decision to issue an order-in-council
16 authorizing the construction of another generating
17 station in this province, when they make the
18 decision about the Keeyask project, they will have
19 in hand all of the recommendations of this Clean
20 Environment Commission, and all of the
21 recommendations of the Public Utilities Board, and
22 will hold the democratic mandate of the people of
23 this province, I suggest to you that they will
24 have, as best as can ever be, fully informed
25 decision-making on the Keeyask project. Would you

1 agree?

2 DR. GIBSON: As can ever be is a high
3 standard you're setting there. So, frankly, I
4 doubt it. But the fact that there is this review,
5 and there is a dedicated semi concurrent review of
6 the need for and alternatives to, certainly is
7 likely to make them much better informed than
8 decision makers have been often in the past, and
9 probably in other cases concurrently. So
10 relatively speaking, I suspect they will be much
11 better informed than others.

12 We have the same quality of discussion
13 and product before the Public Utilities Board, so
14 I'm not going to predict that future, but I
15 suspect the basis of information would be quite
16 strong.

17 MR. BEDFORD: And having been a
18 devoted reader of your books and your articles, I
19 think you will acknowledge that the
20 recommendations coming forward obviously from this
21 Commission, and obviously in several months from
22 the Public Utilities Board, will be made after
23 full, open, transparent processes where any
24 citizen with sensible or nonsensical concerns
25 about the project can appear and say his or her

1 piece. And what I have in mind, of course, is you
2 are a firm advocate for open, transparent
3 processes in arriving at decisions about projects,
4 correct?

5 DR. GIBSON: I do know a fair amount
6 about that. And I, so as far I know the processes
7 involved here, think they are of a fairly high
8 standard.

9 I have not yet been involved in the
10 Public Utilities Board, though, I can't claim
11 direct knowledge of that. But I suspect that
12 relative to standards that we have seen and
13 regretted elsewhere, the performance of these
14 bodies in Manitoba is probably pretty good. I
15 would defer to those who know more in more detail
16 how the practices work and what the history of
17 those bodies has been. But, in general, I'm
18 probably happy to at least approach agreement with
19 you on that.

20 MR. BEDFORD: I saw no references in
21 the report you filed, I don't recall hearing or
22 seeing any in the presentation this afternoon, to
23 any of the answers to information requests. I
24 counted 17 such information requests that
25 addressed facts and issues relevant to your paper.

1 Did you read the answers to the information
2 requests on the sustainability topics?

3 DR. GIBSON: I have -- I am not sure I
4 read all of them, but I have, I did some time ago
5 look over most of the answers, and I believe
6 Dr. Gaudreau looked at them as well. Although
7 he's not here to ask, I'd have to seek
8 confirmation of that.

9 MR. BEDFORD: Well, I know you to be a
10 veteran advocate for sustainability done your way.
11 And I'm sure you'll agree with me that an author
12 who directly takes on the challenge of confronting
13 the details of a proponent's answers to your
14 concerns adds more weight to his own arguments and
15 earns more respect. Am I correct?

16 DR. GIBSON: Recognizing that there's
17 enormous detail involved in all of this, and
18 neither my brief nor my budget will allow infinite
19 pursuit of all those details.

20 MR. BEDFORD: Now, what did surprise
21 me about the report and continues to surprise me,
22 having listened to the presentation, is that I
23 would have thought you would at least have
24 acknowledged and discussed some of the good
25 aspects of this project which promise multiple

1 reinforcing net benefits, lasting contributions to
2 future generations, and a narrowing of the gulf
3 between rich and poor in this province. And I'm
4 going to list for you seven to eight of the good
5 aspects of this project that I have in mind that I
6 would have expected you to confront and address.

7 And they are, firstly, the revenue
8 stream that will flow for over a hundred years to
9 four First Nations in Northern Manitoba. The
10 moose sustainability plan, largely designed by,
11 and will be implemented by members of those First
12 Nation communities. The fish harvest
13 sustainability plan, whose objectives are similar
14 to the moose harvest sustainability plan with
15 respect to maintaining stable populations of fish
16 and terrestrial animals. The individual First
17 Nation monitoring plans that are described in the
18 EIS. The jobs and business opportunities for
19 members of these four First Nations, many of whom
20 this afternoon are unemployed. The wellness
21 programs that will be implemented in their
22 communities. The language programs that are being
23 funded through the project. And the offsetting
24 resource programs that are already,
25 notwithstanding that the project hasn't even yet

1 been licensed, the offsetting programs which are
2 assisting to some degree to reacquaint families
3 and members of these communities with traditional
4 activities.

5 None of those do you confront or
6 address. And to repeat, I was surprised that none
7 of them came in for some positive comment from a
8 strong advocate for exactly those sorts of
9 processes and programs that ought to be associated
10 with projects like Keeyask. Why not?

11 DR. GIBSON: Well, Mr. Bedford, I
12 think that your surprise might be a little
13 overstated, given that it's probably quite clear
14 to you what our brief was on this report, which
15 was not to do a sustainability assessment, but to
16 consider the EIS in light of what a rigorous
17 sustainability assessment would expect.

18 So the reason that those matters were
19 not addressed in our report, or in my
20 presentation, I think I alluded to at the
21 beginning of the presentation, which is that our
22 job, mine and Dr. Gaudreau's job, was not to do an
23 assessment, it was not to say here are the
24 positives, from a sustainability perspective,
25 aspects of this undertaking, or for that matter

1 here are the adverse ones. It certainly wasn't to
2 weigh the positive and the adverse and then come
3 to some conclusion.

4 Our job was to look at the process by
5 which those elements were examined and evaluated,
6 and the process by which the panel could and
7 should consider what is before it.

8 Frankly, I have worked on lots of
9 projects and of those, on the surface of things,
10 this one looks pretty good. Which isn't to say
11 that I am an expert or have examined in close --
12 in a close way whether all of the potential
13 benefits are realistically likely to be delivered,
14 or whether the mitigation efforts will all be
15 successful. We recognize that some of those
16 matters are open to at least some debate. Whether
17 overall this is a project that would make a
18 positive contribution to sustainability or not is
19 a matter that, in the current circumstance, given
20 our brief and what we are expected to do in this
21 particular exercise, I will remain agnostic about.
22 I'm not even sure that the client that
23 commissioned this work has a position on it.

24 In any event, it's not something that
25 I have allowed into this review. It's explicitly

1 excluded from this exercise because that's not
2 what we were talking about. We were talking about
3 the appropriate analytical approach, whether it's
4 there or not, and what to do about it in the
5 circumstance of the panel now facing how to weigh
6 the material before it.

7 So we could probably agree on all
8 manner of tearful promise from this project, we
9 might even agree on those aspects of it that look
10 like they could be adverse, whether they are going
11 to be as significantly adverse as might be the
12 case if it weren't done well. Whether there are
13 overly optimistic claims about some aspects or not
14 is a matter that we could have probably an amiable
15 discussion about over malted beverage.

16 But I'm not expert on those particular
17 matters, neither is Dr. Gaudreau on most of them,
18 and we haven't addressed that because it wasn't
19 our brief.

20 MR. BEDFORD: Well, if you are buying
21 the malted beverages, I'll see if I can get on a
22 plane this evening and we'll have the
23 conversation.

24 DR. GIBSON: I'd be delighted.

25 MR. BEDFORD: I'd like to return to

1 the book published this year to which you
2 contributed two chapters, and Mr. Williams made
3 reference to it when he introduced you to us, and
4 that, of course, is the book edited by Bond,
5 Morrison, Saunders and Howitt, you know it well,
6 "Sustainability Assessment, Pluralism Practice and
7 Progress."

8 Now, I'm going to read to you two
9 sentences from the concluding portion of the book.
10 I know you did not write these sentences, they are
11 the words of the editors of the book. But I'm
12 going to read them to you and to all of us, and
13 ask you when I'm finished whether you agree with
14 the editors or disagree.

15 "The reality of the modern world is
16 that assessment costs money and takes
17 time, and there will never be enough
18 money or enough time to conduct the
19 level of assessment that might be
20 considered ideal. It is also true
21 that levels of uncertainty in
22 economic, environmental, and political
23 realms is going to mean that any
24 specific recommendations about what
25 might be ideal in any given setting

1 will be both hard to pin down and
2 contested by multiple stakeholders."

3 Do you concur with those two
4 sentences?

5 DR. GIBSON: Yes, I do concur with
6 those two sentences. And you will recall that
7 some hours earlier this afternoon, I engaged in a
8 little broad discussion in the manner of the rock
9 and the hard place facing regulatory systems,
10 broadly defined, including certainly environmental
11 assessments in the kind of proceedings involved
12 here. So that is certainly a front of mind
13 consideration.

14 I would not, however, subscribe to the
15 implication that some might take from your words,
16 or from those quoted words, that we can't do a
17 sustainability based assessment that is a good
18 deal more efficient, as well as more effective and
19 fair, than much of conventional decision-making,
20 especially insofar as so much of it seems to be
21 fragmented and incomplete in its scope, poorly
22 integrated and poorly coordinated.

23 I suspect that there is at least as
24 much opportunity for sustainability based
25 approaches to enhance the comprehensiveness,

1 coherence, and rigour of assessments, as there is
2 for it to be a contribution to substantive gains,
3 both of which we could use a good deal of.

4 MR. BEDFORD: Yesterday those who
5 attend this hearing learned through my own
6 admission that I am one of the younger legal
7 counsel assisting the Keeyask Hydropower Limited
8 Partnership. And the last question I'll tell you
9 is going to be posed by someone older, yet wiser
10 than I am.

11 MR. LONDON: Dr. Gibson, he doesn't
12 mean that.

13 My name is Jack London. I'm counsel
14 to the Fox Lake Cree Nation. And I want to pick
15 up on the words you just used just a moment ago
16 about the function of your presentation being on
17 analytical approach, I think are the words that
18 you used. So I'm interested in discussing with
19 you briefly the notion of the relativity of
20 principles of sustainability, and it's in this
21 context.

22 I know that you would have spent much
23 time looking around the world at the issues
24 confronting un-empowered and under empowered
25 societies in the face of dominant societies. I

1 assume that's correct?

2 DR. GIBSON: Yeah, I probably don't
3 know as much as I should, but there's only so much
4 depressing information one can take in.

5 MR. LONDON: You know that they exist,
6 you know there's a continuing battle between the
7 under empowered, the un-empowered, and the
8 dominant society. And one of the things that we
9 hear from the under empowered and un-empowered
10 societies is, you continue your dominance if you
11 don't allow us to do what you did in order to
12 become dominant. Are you familiar with that
13 argument?

14 DR. GIBSON: Yes.

15 MR. LONDON: So in terms of relative
16 principles of sustainability, I was interested
17 that in your remarks today and in your report,
18 there was either no mention or very little mention
19 of the Cree Nations' environmental evaluation
20 reports.

21 DR. GIBSON: Yes.

22 MR. LONDON: And are you aware that
23 those are part of the EIS?

24 DR. GIBSON: Yes.

25 MR. LONDON: Why did you choose not to

1 reference them?

2 DR. GIBSON: Well, that's a good
3 question. And I think that the main answer to
4 that is that, while they are components of the
5 report, they are raising an approach issue that
6 we'd want to get into in more detail, and the
7 scope of what is covered there is not going to be
8 comprehensive of the key issue of the evaluation
9 of alternatives any more than the portion of the
10 EIS, the conventional section chapters that we
11 examined more closely. Indeed, we mostly focused
12 on the conclusion of the EIS chapter nine, looking
13 at the other portion, or looking at the nature of
14 the framework.

15 Now, I think in retrospect you have
16 raised a good point. I think it would be quite
17 interesting and perhaps quite fruitful to consider
18 the strengths of the other reports that you are
19 referring to, which frankly I thought were
20 considerable. But it would have taken us into an
21 additional area of inquiry that I don't think
22 would have changed our overall conclusions.

23 MR. LONDON: You'd understand how
24 someone might conclude from that that you
25 preferred, or you chose to look at those things

1 that the dominant society wanted you to look at,
2 rather than those things that the dominant and the
3 not dominant societies wanted you to look at?

4 DR. GIBSON: I don't think that's our
5 thinking on that. It wasn't my thinking. I
6 suspect that if there was a bias there, it would
7 be, we looked at the material we thought would be
8 most central to what the decision-makers involved
9 in this case would be relying upon most directly.

10 MR. LONDON: But that --

11 DR. GIBSON: Which may confirm a
12 concern that underlies your questions here.
13 Again, I think I would have spent more emphasis on
14 that, but I suspect that the main line of
15 decision-making in this case will rely heavily on
16 the material that we examined in the normal,
17 perhaps regrettable course of things. And that
18 again, I don't think that the material that we
19 read from those other reports would have changed
20 our overall conclusions.

21 MR. LONDON: I'm sure that I can speak
22 for the Cree Nations, I would never think to do
23 that when I would say that they would be sorry to
24 know that weight is not going to be given to their
25 perspectives, and the facts and evidence that they

1 presented, because the decision-making is going to
2 be made based on some other criteria. But I
3 wanted just, I know we're getting close to the
4 hour and I want to bring it actually to the point
5 that I had been wanting to discuss with you, and
6 it will be this. In those evaluation reports and
7 in all of the evidence that's been given to this
8 point by the Cree Nation witnesses, there is one
9 strong repeating common theme which is expressed
10 in the following way. The future of our children
11 and grandchildren is in using that river for new
12 purposes and in allowing us to find a way to
13 become empowered.

14 So my question is, in terms of the
15 relative principles of sustainability in a
16 situation as we have here in Manitoba in the new
17 era of partnership in hydroelectric dams, what
18 weight would you give to the emancipation of the
19 Cree Nations as opposed to whatever principles of
20 sustainability you may have, that may or may not
21 serve the purposes of the other societies?

22 DR. GIBSON: Well, that's a great
23 question. And I think that perhaps it is again
24 the same situation, the same concern that
25 Mr. Bedford raised, in different context slightly.

1 And that is, what position I would take or we
2 would take on the merits of various positive
3 components, or aspects or promises of this
4 project, various negative ones. And in the case
5 of my response to Mr. Bedford, I refused to
6 address that matter, as we have refused to address
7 it in the report and in the presentation, on the
8 grounds that that wasn't what we were asked to
9 comment on.

10 I may have my views, indeed, I do have
11 views on that matter. And it's certainly one that
12 comes up in very similar ways in many cases,
13 certainly when we were addressing issues with the
14 Mackenzie panel where there is a certain degree of
15 tension between questions of benefit for local
16 residents, largely Aboriginal, versus national
17 benefits, issues at a national and global scale as
18 opposed to regional ones.

19 This is a package of concerns, local,
20 regional, Aboriginal, other disadvantaged
21 communities, relative to those who will normally
22 gain, that I got lots to say about in normal
23 circumstances. It's not addressed here because
24 that's not our job. And I would be doing a
25 different task if I were to try to make recent

1 arguments about why the interests and aspirations
2 of people in the Nelson watershed should or should
3 not prevail over other provincial and broader
4 objectives. I do have views about that and I'd be
5 happy to rant about them for considerable time.
6 But that's not what we were asked to do.

7 And I think that that's a perfectly
8 good topic for the panel to address. I think it's
9 unavoidable.

10 I said earlier that in putting out all
11 the various criteria that we have in our
12 framework, which at least to some extent addresses
13 issues that you are talking about, we're not
14 saying anything about whether the project meets or
15 fails to meet those criteria. We recognize a lot
16 of those issues about equity, about opportunity
17 and redistribution and so forth, reasonably
18 explicitly I thought. And we want those things
19 to -- we recognize that those are issues that need
20 to be addressed.

21 We also recognize that there is a
22 weighting thing. As I mentioned earlier, we are
23 not presuming that each of these criteria is equal
24 to each other. The weighting of the significance
25 of various concerns is another matter that has to

1 be addressed. These are not meant to be criteria
2 in the framework that we presented, that are all
3 equal and all to be added up and you come up with
4 some total. That is I have said, I think quite
5 clearly, not what we are presuming, and that there
6 is always going to have to be some judgment about
7 which are more important. If that were to be done
8 in a fairly mechanical way, you would take the
9 various criteria there and weight them, provide
10 weights for which ones in this case and context
11 are more and less significant. We haven't done
12 that. It's probably something I should have
13 mentioned as a specific thing the panel could
14 consider doing. But certainly you are quite right
15 that weighting these things is crucial, that it
16 happens in any event in some way, better that it
17 should be explicit.

18 MR. LONDON: Dr. Gibson --

19 DR. GIBSON: I'm happy that you raised
20 that and I could get to correct a deficiency in my
21 previous comments.

22 MR. LONDON: Dr. Gibson, if it were
23 9:00 o'clock I would continue this with you, but
24 I'll end it by simply saying, it's been nice
25 dancing with you.

1 DR. GIBSON: The pleasure is mine.

2 THE CHAIRMAN: I'm sure, Mr. London,
3 that if you jumped on a plane, you could share
4 that same malt with Mr. Bedford.

5 The Partnership is finished the
6 cross-examination. Thank you. I believe on my
7 rotating order of appearance that Peguis First
8 Nation is up first.

9 MS. GIURGUIS: Thank you, Mr. Chair.
10 My name is Cathy Guirguis, I am representation for
11 Peguis First Nation. I have no questions for you
12 but I thank you for your presentation.

13 DR. GIBSON: Thank you.

14 THE CHAIRMAN: Thank you,
15 Ms. Guirguis. Next would be Fox Lake Citizens?

16 MS. PAWLOWSKA-MAINVILLE: Good
17 afternoon.

18 DR. GIBSON: Hello.

19 MS. PAWLOWSKA-MAINVILLE: Good
20 afternoon, Dr. Gibson. I just have a few
21 questions. I'll be quick, I promise again.

22 THE CHAIRMAN: Introduce yourself.

23 MS. PAWLOWSKA-MAINVILLE: My name is
24 Agnes, I'm speaking on behalf of the Concerned Fox
25 Lake Grassroots Citizens. Can you hear me well?

1 DR. GIBSON: Yes, thank you.

2 MS. PAWLOWSKA-MAINVILLE: Okay.

3 So I have a quick question for you to
4 start off with. So as Aboriginal people are
5 considered to be land based peoples, even today
6 because they do continue those practices, would
7 you say that Aboriginal people have exemplified
8 qualities of good sustainability in their
9 interactions with the environment?

10 DR. GIBSON: Certainly there is lots
11 of evidence that that has happened for millennia.
12 There are counter examples, of course. But, yes,
13 as a general rule, I think it's a safe claim.

14 MS. PAWLOWSKA-MAINVILLE: Thank you.

15 Would you say that since Aboriginal
16 people are one of the fastest growing populations
17 in Manitoba and Canada, that it is critical that
18 those beliefs and practices of sustainable
19 ecological management are maintained and passed
20 down on to new generations?

21 DR. GIBSON: It sounds like a good
22 thing to me.

23 MS. PAWLOWSKA-MAINVILLE: Thank you.

24 And then on page 18, 19, you discuss,
25 and you used the term "protecting most

1 vulnerable". So I have a question for you. Would
2 you say that harvesters and food gatherers who
3 continue to rely on the land for subsistence and
4 for resources fall under your understanding of
5 protecting the most vulnerable?

6 DR. GIBSON: I don't know enough about
7 the specifics of the communities that we are
8 discussing here, so I don't know relative to
9 others whether the group that you are talking
10 about, or the individual you are talking about,
11 are particularly more vulnerable than others. But
12 in general, as a non-expert talking about this, I
13 would think that that's certainly a question one
14 would want to examine, and it certainly could be
15 that they are among the most vulnerable members of
16 those communities. I don't honestly know from
17 direct experience and expertise.

18 MS. PAWLOWSKA-MAINVILLE: That's fine.
19 Thank you.

20 And then on page 19 of your
21 presentation, you discuss things like trade-offs
22 and durable livelihoods.

23 Would you say that as per a
24 sustainability based approach, communities
25 directly affected by development of hydro or other

1 sorts should rate high, or higher on the quality
2 of life index after development of the local
3 resources?

4 DR. GIBSON: Well, it depends on what
5 we're talking about as a quality life index, I
6 suppose. But, in general, the idea of having
7 positive contributions to sustainability
8 incorporates both improvements of well-being,
9 which probably could happen in some areas
10 anywhere. And secondly and at least as important
11 is that there should be a more fair distribution
12 of benefits, which would address at least at the
13 very general level, equity of distribution,
14 especially to those who currently have less of the
15 wherewithal than others. So broadly speaking at
16 least, the sustainability criteria, the generic
17 sustainability criteria point towards what you are
18 saying.

19 MS. PAWLOWSKA-MAINVILLE: So you would
20 say that increased economic benefits or betterment
21 of economics in those communities those resources
22 also being developed, should technically increase
23 with development of those resources?

24 MR. BEDFORD: That those communities
25 should benefit from the resource initiatives, yes.

1 We would want not to consider only the economic
2 aspects, if those economic gains were at a price
3 of long-term ecological loss, or loss of cultural
4 or other valued aspects of well-being, then we'd
5 have to look at that more closely. So I wouldn't
6 want to look just at the economic aspect alone as
7 if it weren't connected to the other aspects, but
8 with that caveat, sure.

9 MS. PAWLOWSKA-MAINVILLE: Thank you.

10 And then around the page 21, you used
11 the term "ecological debt of future generations",
12 and as well you mentioned that you have a
13 discussion on positive legacy.

14 DR. GIBSON: Yes.

15 MS. PAWLOWSKA-MAINVILLE: Do you think
16 that things like revenue or royalty sharing and,
17 for example, electricity subsidy to First Nations
18 communities could be considered as one measurable
19 way to trade off those economic benefits to
20 ecological debts of future generations, and
21 therefore perhaps embody a true way of a
22 partnership, or bringing up those individuals who
23 perhaps could be seen as dominated?

24 DR. GIBSON: Well, maybe. I guess
25 what we would prefer to see is that the economic

1 gains are not traded off for ecological damage.
2 And I think we have seen in the EIS, for example,
3 some efforts on the proponent's part to try to
4 ensure that the adverse effects are mitigated,
5 perhaps even that some improvements could result.
6 So ideally what we'd like to see is that there be
7 ecological gains and economic gains to the same
8 project, rather than trade-offs.

9 Now, I understand, though it certainly
10 isn't my area of expertise that there is some --
11 that they are thought to be experts about the
12 extent to which say net improvements in sturgeon
13 population viability will result from the efforts
14 that have been proposed in the EIS. I have no
15 idea whether, what side of the expertise debate on
16 this has the stronger arguments. But certainly
17 that is at least an indication that there are some
18 efforts being made in the sustainability direction
19 to avoid trading one thing off against another,
20 which is what we would desire. We would like to
21 have both ecological improvements, in the sense of
22 greater reliability of the desirable aspects of
23 ecological systems in perpetuity, as well as
24 strengthening the socio-economic basis for the
25 community, and especially those who are most

1 vulnerable, most disadvantaged now.

2 MS. PAWLOWSKA-MAINVILLE: Okay. Thank
3 you. That's all the questions I have. Thank you,
4 Dr. Gibson.

5 DR. GIBSON: Okay.

6 THE CHAIRMAN: Thank you
7 Ms. Pawlowska-Mainville.

8 Pimicikamak?

9 MS. KEARNS: Hello, Dr. Gibson.
10 Stephanie Kearns, legal counsel for
11 Pimicikamak. A couple of questions for you.

12 One is during your presentation you
13 mentioned that there have been five major
14 environmental assessments that use this
15 sustainability assessment approach, and you
16 mentioned the Mackenzie Valley Pipeline, and I
17 wonder if you can provide us with the other four?

18 DR. GIBSON: Sure. There had been
19 five, and it's not quite true that they have
20 always -- they have all used a very advanced
21 framework. The Mackenzie one is the most detailed
22 framework application. The first one was Voisey's
23 Bay nickel mine assessment on the north cost of
24 Labrador, a joint panel representing the Federal
25 and Provincial Newfoundland, Labrador Governments,

1 plus memorandum of understanding with the Innu and
2 the Inuit.

3 The second and third, not sure of the
4 order actually, there is a gold copper mine in
5 North Central British Columbia, Keness North,
6 K-E-N-E-S-S North, and it was subject to a joint
7 panel review. That case had an explicit set of
8 sustainability criteria drawn from frameworks
9 developed by the B.C. Government and the global
10 mining industry. The other one at roughly the
11 same time was the Whites Point Quarry and Marine
12 Terminal in Nova Scotia on the Bay of Fundy. It
13 was reviewed by a panel under Federal and
14 Provincial jurisdiction. And what's the last one?
15 The last one I guess, well, there is the Mackenzie
16 one, and there has also subsequently been the
17 Lower Churchill panel review, Lower Churchill Dam
18 proposal, again in Labrador, again a joint review
19 panel. And they too had a sustainability
20 foundation for the analysis that they did.

21 MS. KEARNS: Thank you.

22 There is discussion during your
23 cross-examination that given all the processes
24 that will happen for Keeyask, like the CEC and the
25 NFAT review, that the decision to issue a licence

1 will be an informed decision. But won't the issue
2 of whether it will be an informed decision or not
3 depend on the information that the proponent
4 provides and whether or not that meets a
5 sustainability assessment approach?

6 DR. GIBSON: Well, yes, that's my
7 view. I think I expressed it in this discussion,
8 and as I think I said in response to Mr. Bedford's
9 inquiry, we have not yet seen the quality of
10 material submitted for the NFAT hearings by all
11 parties. We certainly don't know what the board
12 in that case will do with that information. So
13 it's premature for me to make some kind of
14 judgment about how well-informed it all looks to
15 be. But in so far we're talking about relative
16 levels of information, it's better informed than
17 lots have been in the past. And we would
18 nonetheless want continued improvement in the
19 level of not just information, but of defensible
20 analysis of that information. So that's what our
21 agenda is here.

22 And it remains to be seen. I will
23 look back in a couple of years and make a better
24 informed judgment than I can give now.

25 MS. KEARNS: Thank you.

1 THE CHAIRMAN: Ms. Whelan Enns.

2 MS. WHELAN ENNS: Dr. Gibson has gone
3 dark, but I'm saying hello. Can you hear me,
4 Dr. Gibson?

5 MR. GIBSON: I'm still here, I suppose
6 what I need to do is compensate for the fact that
7 the sun has set. I think I'm still in the dark
8 just because there's a light behind me now, but
9 for aesthetic reasons that might be better than
10 what you'd otherwise have.

11 MS. WHELAN ENNS: Thank you very much
12 for that. I'm Gaile Whelan Enns of Manitoba
13 Wildlands, Dr. Gibson. And my questions are more
14 specific to your presentation today than your
15 report.

16 DR. GIBSON: Okay.

17 MS. WHELAN ENNS: The Manitoba
18 Government has begun the steps to review our
19 Environment Act, and I'd like to ask you how many
20 governments across Canada now have environmental
21 assessment, either regulation or specific acts,
22 and also just whether from your point of view the
23 existing regulations go far enough in terms of
24 sustainability assessment?

25 DR. GIBSON: Two parts to that

1 question. I think, I don't know the answer to the
2 first part, which is whether, how many governments
3 in particular have specific environmental
4 assessment law. There is a great proliferation of
5 different approaches, as you probably know, and no
6 two of them are the same. Some of them are
7 stand-alone environmental assessment acts, some of
8 them are included in other legislation.

9 Given the other variations in form,
10 I'm not sure that that's the most crucial
11 distinction between stronger and weaker versions,
12 but certainly there's many different forms, and
13 it's not exclusively Federal or Provincial or
14 Territorial, there's also -- up there a number of
15 Aboriginal governments have assessment processes
16 that derive from land claim agreements.

17 MS. WHELAN ENNS: Thank you.

18 Are there any examples you would point
19 to in terms of sustainability assessment that's,
20 again, within a regulatory system now where you
21 would point to them and say, that's the way to do
22 it?

23 DR. GIBSON: I think the short answer
24 to that is no. The best examples are the ones
25 that I mentioned earlier of joint panel reviews,

1 where you combined in those cases the strength of
2 different processes and different jurisdictions.
3 All of the ones that I mentioned were joint
4 processes and they involved a variety of different
5 jurisdictions, Federal, Provincial and Federal and
6 Territorial, and in some cases, in most cases at
7 least some Aboriginal influence, in some cases
8 explicit memoranda agreement with Aboriginals.

9 So typically we get better
10 sustainability based decision-making,
11 recommendations toward decision-making, I guess,
12 in places where we have multiple jurisdictions
13 collaborating.

14 In our report, which I probably didn't
15 mention in the slide, we note that this case is
16 subject to Federal review, and there is some
17 components of the Federal review contribute to
18 having a sustainability base for this case.

19 Would I say there's a model better
20 than law in application in Canada that by itself
21 represents the good approach sustainability? I
22 would say no.

23 MS. WHELAN ENNS: Thank you very much.
24 We have a current situation here in Manitoba where
25 the Clean Environment Commission has made a

1 recommendation for regional cumulative effects
2 assessment for, if you will, the hydro region, to
3 be just very general in terms of Northern
4 Manitoba, and multiple projects region.

5 Do you have a suggestion and/or how
6 would you make then sustainability assessment, how
7 would you build it in, in terms of a regional
8 cumulative effects assessment?

9 DR. GIBSON: How would I build
10 sustainability assessment into regional effects
11 assessment, or vice versa, or both?

12 MS. WHELAN ENNS: Cumulative effects
13 assessment?

14 DR. GIBSON: Yes?

15 MS. WHELAN ENNS: Am I clear enough?

16 DR. GIBSON: Well, let me give an
17 answer and you can tell me if I've gone off in
18 answering something else. It is frequently
19 noticed that project based assessments are, by
20 themselves, not very ideal ways of getting at
21 regional cumulative effects, especially when
22 there's multiple undertakings, et cetera.

23 So the usual recommendation in
24 response to that is not merely to have evaluations
25 of regional effects that inform projects, although

1 that's not a bad idea. And that's one of the few
2 good things that has happened with the new Federal
3 Assessment Act.

4 The better approach is to put more
5 emphasis on strategic level exercises that
6 incorporate the best qualities of sustainability
7 based assessment. And the best mechanism for
8 doing that I think depends on the case you are
9 examining. So we would have to say, all right, if
10 we were doing something like that for Northern
11 Manitoba, what would it look like? And that's
12 another thing that I haven't been asked to do in
13 this case, and I haven't done it, and I don't have
14 the answer. But certainly it's an interesting
15 question to explore, and I have been involved in
16 exploring similar kind of things elsewhere, but I
17 don't know that is what I would recommend for
18 Northern Manitoba context.

19 MS. WHELAN ENNS: Thank you very much.
20 Thank you.

21 DR. GIBSON: Okay.

22 MS. WHELAN ENNS: Now, I'm checking
23 for questions that haven't already been asked.

24 Do you think of all Manitobans as
25 owners of Manitoba Hydro?

1 THE CHAIRMAN: I'm not sure that
2 that's relevant.

3 MS. WHELAN ENNS: Fair enough. I will
4 try it a different way.

5 This has got to do with page -- it
6 came up when we were on page 12, so we'll try a
7 quote from it. This is your identification of big
8 specific issues.

9 DR. GIBSON: Okay.

10 MS. WHELAN ENNS: And you are
11 referring to the future of Manitoba?

12 DR. GIBSON: Yeah.

13 MS. WHELAN ENNS: Okay. And then you
14 also refer to people in communities in the
15 immediate area of the project?

16 DR. GIBSON: Yeah.

17 MS. WHELAN ENNS: So the intent in my
18 question then is to ask you, when we are in a
19 situation where we have 50 years, leaving the
20 Winnipeg River out, 50 years of building a hydro
21 system where the effects, responsibilities and so
22 on are with all Manitobans, whether then you
23 would, in your identification of specific big
24 issues, go beyond people in the immediate area of
25 the project?

1 THE CHAIRMAN: Again, I'm not sure
2 that that's relevant. I mean, Dr. Gibson has made
3 it clear that he wasn't looking at specifics about
4 this proposal, he was looking at the framework,
5 and framework for sustainable assessment.

6 MS. WHELAN ENNS: We'll try another
7 one, Mr. Chair.

8 Manitoba Hydro, Dr. Gibson, has been
9 using, in both written EIS materials and in their
10 presentations during the hearing, the term
11 precautionary approach.

12 DR. GIBSON: Yes.

13 MS. WHELAN ENNS: On page 15 you make
14 a reference to precautionary management and making
15 it a priority?

16 DR. GIBSON: Yes.

17 MS. WHELAN ENNS: Could you tell us
18 how you, or what you mean and how you would apply
19 precautionary management in terms of this EIS and
20 this assessment, particularly with your target of
21 sustainability?

22 DR. GIBSON: Okay. Well, I think the
23 easiest way to answer that question is refer to
24 appendix five of our report. As I mentioned, like
25 these other big topics, the attempt in the

1 appendix was to set out an illustrative framework
2 which would take these various topics and would
3 explain in greater detail. There would be a
4 statement of the goal, and there is a variety of
5 subcategories that have different areas of concern
6 within the broad field. And then there would be
7 particular questions under them.

8 So I don't know if you have a copy of
9 our framework report, but I'm sure you can get
10 one. And if you can't, I'm happy to send you one.
11 And I'm referring then to the details that are
12 provided on page 72 and over, 73. So there are, I
13 don't know, a quick glance, some 15, 16 questions
14 that are related to that overall area. And they
15 identify those kind of issues that would specify
16 what we would put under that category of
17 precautionary adaptive.

18 So that at least gives you some idea
19 of the kinds of things that we think would be
20 appropriate for consideration there.

21 MS. WHELAN ENNS: Thank you.

22 MR. GIBSON: That may be as much as I
23 can do at this point.

24 MS. WHELAN ENNS: Thank you. And I
25 have just been handed that page, so I appreciate

1 your answer. I am now looking at page 17.

2 MR. GIBSON: Okay.

3 MS. WHELAN ENNS: Under criteria you
4 make a reference to maintenance of Keystone
5 species?

6 DR. GIBSON: Yes.

7 MS. WHELAN ENNS: Manitoba Hydro, and
8 this is in the terrestrial volume in the EIS, has
9 a definition for Keystone species thus:

10 "A species that indirectly creates
11 essential attributes for another
12 species. For example, cavities
13 excavated by pileated woodpeckers and
14 used then by other species that cannot
15 excavate."

16 Would you tell us if that definition of Keystone
17 species is what you mean in your criteria?

18 DR. GIBSON: Well, I suppose there's a
19 range of definitions of Keystone, and I don't know
20 where the one in the EIS fits in the range of
21 possibilities. I think it captures much of the
22 essence of the question, which is that it's
23 important, especially important to look at species
24 whose viability is indicative and may be
25 determinative, and certainly influential on the

1 overall viability of the ecological and perhaps
2 socio-ecological system. And so what we have,
3 what people working in this area with more
4 expertise than I have, have been trying to do is
5 find ways that you can get to a reasonable
6 understanding of the effects on the viability of
7 these complex systems, without spending infinite
8 years and infinite mental neurons trying to figure
9 out everything that's going on in possibly complex
10 circumstances. So what are the things you can
11 look at that will give you a reasonable
12 understanding?

13 And so Keystone is to be understood in
14 that context. It's not just ones that are
15 endangered, it's also ones that are indicative of
16 the overall health of the system, of the overall
17 integrity beyond health in an ecological system.

18 MS. WHELAN ENNS: Thank you
19 Dr. Gibson. I have finished my questions. Others
20 have asked most of the rest I have identified.
21 Thank you very much for your participation here
22 today.

23 DR. GIBSON: Thank you.

24 THE CHAIRMAN: Thank you, Ms. Whelan
25 Enns.

1 Dr. Gibson, I am Terry Sargeant, I'm
2 the chair of the panel. I have one question and I
3 think that will conclude the cross-examination
4 this afternoon.

5 I think I find the concept of
6 sustainability assessment to be an interesting
7 one. I think it's one that the Province of
8 Manitoba should consider as it reviews its
9 environmental assessment process. But my
10 question, at this point in the Keeyask process
11 where we're now three quarters of the way down the
12 track, 80 percent of the way down the track, would
13 it be fair to require the proponent to go away and
14 do a sustainability assessment? And furthermore,
15 would it even, you know, I don't think it would be
16 that simple?

17 DR. GIBSON: Well, I agree that simply
18 is asking a lot. I don't think this stuff is
19 simple. I have described various elements of it
20 as surprisingly easy, like getting the generic
21 criteria. And I think we have intentionally not
22 recommended that the proponent should go back and
23 do a sustainability assessment. Not that it's a
24 horrible idea necessarily, but it's certainly not
25 what we are recommending here.

1 Our recommendations are mostly for you
2 and your colleagues, and they are about the
3 situation that the other review panels that I
4 mentioned and listed a few minutes ago were
5 facing. They had before them proposals supported
6 by environmental assessment documents that were
7 more or less inadequate as sustainability
8 assessments, that were nonetheless more or less
9 comprehensive of the issues to be faced. And the
10 problem that immediately confronted those panels
11 was, so how do we weigh what's in front of us?
12 And we made some suggestions about that.

13 I think the hard part is something
14 that we're dumping on you if you are willing to
15 accept it.

16 On the other hand, the scope of what
17 is addressed in chapter nine of the EIS suggests
18 that they, the proponent, whether it was
19 intentionally doing a sustainability based
20 assessment or not, certainly drew conclusions that
21 suggested it thought that it presented at least
22 for that undertaking what was needed for such an
23 evaluation.

24 Secondly, the need and alternatives
25 part, which is not adequately in the EIS, is

1 material that has to be provided for the other
2 hearing, was supposed to have been provided for
3 Federal purposes. I don't know what happened to
4 that.

5 In any event, the proponent has been
6 required, will be required, is expected to present
7 the basic information on those matters.

8 So recognizing that it may be
9 incomplete and imperfect in various ways, and that
10 there may be particular things that could be
11 requested for supplementary information, I had
12 been assuming that it is conceivable that your
13 panel would want to have a reasonably defensible
14 framework for analysing what is before you, that
15 that should and could be sustainability based,
16 that it wouldn't be simple, but it would be a
17 comprehensive and reasonably integrated approach.
18 It wouldn't require enormous more information than
19 you have before you. It would be, in my view,
20 enormously easier to defend.

21 So while I recognize it's a challenge,
22 and I'm just as happy that it's yours and not
23 mine, I think it's doable. It may not be perfect,
24 but it's probably enormously better than the
25 standard of practice that we normally see. And

1 you'll be moving the yardsticks along.

2 So I have every confidence that that's
3 something that you could make a strong
4 contribution to. I don't think it's impossible.

5 THE CHAIRMAN: Thank you, Dr. Gibson.

6 Mr. Williams, redirect?

7 MR. WILLIAMS: Dr. Gibson, just before
8 you leave us, just in redirect related to a
9 question from Mr. London. He was the second and
10 slightly more senior lawyer from the Partnership.

11 Dr. Gibson, in looking at the EIS
12 conclusions, specifically chapter nine --

13 DR. GIBSON: Yes.

14 MR. WILLIAMS: -- and given that it
15 was put forward by the Partnership, did you assume
16 that the conclusions would include and draw from
17 what is expressed in the environmental evaluation
18 reports of the Cree Nation Partners?

19 DR. GIBSON: That is a fair
20 conclusion. And as I mentioned to Mr. London, we
21 did focus on chapter nine as the summary of the
22 work from a sustainability perspective.

23 Nonetheless, I think I am still happy
24 to concede to Mr. London that some direct
25 attention to the framework implied in those

1 reports from the Partners is something that merits
2 direct attention. And were I to do it again, I
3 would look more closely at that.

4 I still don't think it would affect
5 what we have concluded, and I think it's fair to
6 say that chapter nine was supposed to include that
7 stuff. But, you know, as you have heard only
8 between the lines, I'm not dazzled by chapter
9 nine. And so if it did a somewhat less than a
10 perfect job of incorporating that other material,
11 well, you know, I'm not going to be astonished.

12 MR. WILLIAMS: Dr. Gibson, certainly
13 on behalf of our client, we thank you, and as well
14 pass on our thank you to Dr. Gaudreau for his
15 assistance in this proceeding.

16 DR. GIBSON: Thank you.

17 THE CHAIRMAN: Dr. Gibson, just before
18 you go, it's the Chair again. I too would like to
19 thank you for your presentation and participation
20 this afternoon, particularly in a rather awkward
21 set up. We'll give your arms and your ears a rest
22 now.

23 I would hope that, given that
24 Mr. Williams put you into this awkward situation
25 today, and that he added insult to injury by

1 commenting on your looks, I hope he's paying you
2 very well, at least enough to afford a good malt
3 beverage.

4 DR. GIBSON: I will attempt to share
5 it, and I'd like to invite you to join us with
6 that when that happens. Thank you all, it's been
7 a pleasure, and we're happy for it to go over to
8 you now.

9 THE CHAIRMAN: Thank you.

10 DR. GIBSON: Good-bye.

11 THE CHAIRMAN: Bye now.

12 Okay, a couple of items of business
13 before we break. Madam secretary, some documents?

14 MS. JOHNSON: Yes. CAC 18 will be
15 Dr. Gaudreau's and Gibson's report; 19 is Bob
16 Gibson brief statement of qualifications; and
17 number 20 is Dr. Gibson's presentation.

18 (EXHIBIT CAC 18: Dr. Gaudreau's and
19 Gibson's report)

20 (EXHIBIT CAC 19: Dr. Gibson's brief
21 statement of qualifications)

22 (EXHIBIT CAC 20: Dr. Gibson's
23 presentation)

24 THE CHAIRMAN: Thank you.

25 Now, we're breaking until 7:00 p.m. at

1 that time we will have presentations from members
2 of the general public. I would note that there is
3 no role for participants this evening, although
4 you are certainly welcome to sit in if you wish.

5 We have nine people registered, so we
6 won't be staring at each other as we did a week
7 and a half ago. We will have a full evening. So
8 see you all at 7:00 o'clock.

9 (Proceedings recessed at 4:40 p.m. and
10 reconvened at 7:30 p.m.)

11 THE CHAIRMAN: Okay, we'll come to
12 order. This evening is reserved for public
13 presentations. We have a number of them that have
14 registered. If they all take the full 15 minutes,
15 it will be the more than the two hours we have
16 allotted, so I am going to have to enforce the 15
17 minute rule pretty strictly. I have cards that I
18 will flash to you that say five minutes and one
19 minute. And then time is up. And if you keep
20 going after the time is up, then I will wave to
21 him and he will shut down the sound. I don't want
22 to have to do that. Unless some people take a lot
23 less time than the 15 minutes, we really have to
24 be strict on the time so that everybody gets their
25 chance to speak this evening.

1 Now, I guess it's a personal
2 preference, you can speak from this table here
3 facing the panel, or you can speak from that table
4 there facing the crowd. I will call the first
5 person forward, Selina Saunders. Is Selina here?

6 Do you want to go there? That's fine.
7 The remote for your powerpoint is on that table,
8 so you can take it to the other table, wherever
9 you wish to. You can sit there or there. Take
10 the remote with you.

11 Selina, just introduce yourself for
12 the record and then proceed with your
13 presentation.

14 MS. SAUNDERS: Hello, tansi. My name
15 is Selina Saunders. I appreciate the opportunity
16 to present my resources for adverse effects on
17 trapline 15, also known as Gull Lake.

18 I was raised by my parents, Allison
19 and Charlotte Saunders on trapline 15.

20 I will be presenting, "Hydro Affects
21 my Livelihood, Mercury, Fish, Poisoning,"
22 presented by myself, Selina Saunders.

23 The Keeyask dam will harm the
24 sturgeons because Gull Lake will be destroyed by
25 the flood. A hatchery will be developed, but it's

1 an ecosystem on life support, stated by
2 environmental scientists Daniel Green from
3 Aboriginal People's Television Network Down the
4 Mighty River. It's on every week on APTN.

5 Mercury will decline over the next 30
6 years, but it will remain forever. We'll get back
7 to that topic.

8 In 1984, Quebec Hydro affected
9 residents and found high levels of mercury in
10 64 percent of the population. That's 64 percent,
11 over half the population.

12 The symptoms of poisoning was
13 numbness, shakiness, and loss of peripheral
14 vision. Mercury poisoning is known as nimass
15 akaiwin, meaning fish disease in Cree.

16 Quebec Hydro said it would take 30
17 years for the methylmercury to dissipate. Studies
18 suggest it will take a hundred years. Mercury
19 poisoning was a problem. Methylmercury had
20 evaporated and returned into the water poisoning
21 the food system.

22 Flooded vegetation is a rotting
23 vegetation underwater. Methane is the worst
24 greenhouse gas causing methylmercury
25 contamination.

1 Under the 1930 Constitution Act, the
2 Province secured Indians a supply of game, fish,
3 for their support and subsistence.

4 As a non-commercial resource user of
5 trapline 15, I have hunted geese and snared
6 rabbits. The Province assures of the hunting,
7 trapping and fishing for food on all unoccupied
8 Crown land to which the said Indians may have a
9 right to access.

10 Aboriginal rights to the lands are
11 based on traditional use and occupancy. I was
12 educated on Gull Lake by my parents who were
13 teachers in Tataskweyak Cree Nation, in
14 traditional and non-traditional. I brought my
15 textbooks to trapline where my parents taught me.

16 Fish levels would decline and
17 resources for subsistence would be destroyed.

18 The Cree had occupied the land using
19 it for hunting, fishing. As you guys all know,
20 hunting season has occurred, but prohibited to
21 hunt due to construction workers on site.

22 Any interference would compromise
23 their culture and way of life. It's already
24 occurring today without compensation to the family
25 members of trapline 15.

1 Manitoba Hydro submitted a
2 compensation letter proposal to trapline 15
3 regarding personal loss and damages associated to
4 the Keeyask project. Rosann Wowchuk, Minister
5 responsible of Manitoba Hydro, sent me that letter
6 in 2010.

7 Hydro is damaging Treaty rights by
8 denying us to hunt and trap and fish, due to the
9 future flooding on the land of Gull Lake, also
10 known as trapline 15.

11 Initial flooding is 45 square
12 kilometres, and will increase due to erosion, and
13 will be clear-cutting prior to flooding in the
14 resource area. However, damages have already
15 occurred on trapline 15 by the north access route
16 of the project.

17 Mercury in Split Lake and Gull Lake,
18 by Ross Wilson, Scientific and North/South
19 Consultants. I am using this information to
20 compare expert advice from McGill University and
21 other environmental scientists. Dr. Laurie Chan
22 states, mercury is in the form of methylmercury,
23 the type that causes health concerns. Again, I'm
24 comparing this to APTN's Down the Mighty River
25 environmental scientist, Holly Dressel.

1 Source of food moves higher in certain
2 types of fish, particularly large and older types
3 of fish like sturgeons.

4 Manitoba Hydro is still discussing
5 issues relating compensation for impacts of the
6 proposed Keeyask project on trapline 15 for taking
7 away our livelihood. Manitoba Hydro continues to
8 be interested in trying to resolve this issue. No
9 compensation for impacts for the north access
10 route for family members affected.

11 Ekosi. Thank you. Thank you for your
12 time.

13 I am representing for Allison and
14 Charlotte Saunders for trapline 15.

15 I'd like to add a personal statement.
16 This presentation is to honour my parents who
17 loved the trapline and the land.

18 In 2004, I attended a Hydro meeting.
19 I questioned Hydro representatives if I was
20 allowed to go visit the family campsites. Hydro's
21 response was the land will be under water. I was
22 speechless. If my parents didn't take me out on
23 trapline 15, I wouldn't be here today presenting
24 this powerpoint presentation.

25 Gull Lake is 50 kilometres downstream

1 of Split Lake -- of TCN Split Lake. There is a
2 healthy food fish program in place, but how does
3 the program remove mercury from the fish?

4 Thank you. Thank you, I'm done.

5 THE CHAIRMAN: Thank you,
6 Ms. Saunders. And thank you for going to the
7 trouble to put it into powerpoint. Thank you.

8 Next is Solange Garson. Please
9 introduce yourself for the record, Ms. Garson, and
10 then proceed.

11 MS. GARSON: Proceed, okay. Tansi.

12 My name is Solange Garson from
13 Tataskweyak Cree Nation, also known as Split Lake,
14 Manitoba. I also am an elected councillor. And I
15 have been living in Winnipeg for the time being.
16 So I am going to read off my letter.

17 THE CHAIRMAN: Pull the mic in just a
18 little closer, please.

19 MS. GARSON: I'm going to read off
20 this letter. It's already posted on the CEC
21 hearing page, so I apologize, I didn't have enough
22 copies.

23 One moment. Okay. As I said, my name
24 is Solange Garson from Split Lake, also known as
25 Tataskweyak Cree Nation. I have been very

1 outspoken on this Keeyask negotiation as early a
2 the year 2000.

3 I had no knowledge of these Hydro
4 negotiations until I moved back in the year 1999.
5 And then hearing the disgusting stories how these
6 consultants and lawyers have been taking advantage
7 of these positions to have Hydro projects to be
8 pushed on our community, especially when I had
9 been asked, and this is -- it's not on a letter,
10 but it's just my little note on the side --
11 especially with the financial part.

12 I knew it wasn't my imagination,
13 thinking there's a lot of money missing. And
14 there was supposed to be a lot of projects from as
15 far back as you can remember. So when I read the
16 policy series saying the Manitoba Hydro is the
17 worst transparency in Canada, then I knew right
18 away that I wasn't imaging this, as I was told so
19 many times by the consultants and lawyers, or
20 basically blaming our leaders. So I'll continue
21 on.

22 I was stunned when I returned home,
23 periodically I'll go home. I remember how TCN was
24 with six beautiful beaches, clear water and fish
25 that were edible. Now, ugly jagged rocks Hydro

1 had dumped on the shorelines, also the water is
2 murky brown with manure and dead logs from the
3 erosions from the fluctuating water level, and
4 fish are likely with high level of mercury and
5 some are rotten with sickness. I have seen it.

6 Animals that are sick from the Kelsey,
7 Limestone, and other Hydro dams that were dumped
8 with toxic chemicals by covering the lagoons with
9 dirt. That's been known to happen. They don't
10 follow the guidelines to keep the environmental
11 clean, but cutting corners to cut waste of money.
12 This is a personal note that I had been writing.

13 My dad, Johnny Garson, worked all his
14 life at CNR labour, and he was also a trapper by
15 trade. We moved back to TCN in early '70s, and I
16 noticed the changes with surrounding environment,
17 our members and our cultural way of life slowly
18 but dramatically destroying our dignity.

19 I saw my dad's eyes slowly fading from
20 the hurt, he couldn't provide for us. We lived on
21 Hudson Bay groceries.

22 This was a double whammy for my
23 parents. First the government came along, took
24 the children away. He couldn't pass on his
25 knowledge to his sons. I am the third youngest

1 and I know for a fact that I was hidden from the
2 Indian agents not to be taken away.

3 My older siblings were taken. One is
4 still missing and we have no knowledge if he is
5 alive. Now TCN members are being ripped apart
6 again from Hydro's Indian agents.

7 And I will not repeat the names of
8 those consultants and lawyers that were constantly
9 with TCN from day one.

10 I had no knowledge what was happening
11 to our community. Then I went home year 1999. I
12 was so shocked to see the devastating effect it
13 had on the community. Men were slowly drifting
14 away from our cultural ways, nothing was passed
15 on.

16 Hydro's lawyers and consultants busy
17 having our former leaders being wined and dined to
18 sign agreements, or paying themselves extremely
19 well and leaving the bill on TCN's expenses.

20 I saw many of our elders succumb to
21 this lifestyle these outsiders provided with
22 alcohol and drugs. We buried more of our members
23 than we put them to work.

24 Hydro promised them prosperity. Now,
25 I'm hearing these contractors that received

1 millions for the Keeyask dams, and these are
2 hundreds, three digits, for the Keeyask dam, and
3 they are not giving any jobs to the First Nations.
4 They get laid off for months on end. No training
5 is provided, or they take the training dollars
6 away from the community. All this is done at
7 Hydro office and their clean renewable energy at
8 Winnipeg. So I take, we're not part of any
9 Partnership. Then we should just rip up their
10 agreements, or don't build that dam in our land.
11 It doesn't matter if it's Crown land, it's still
12 ours.

13 I don't understand how these dams were
14 approved without proper assessment, when it was
15 already approved by the Minister of Conservation
16 and Water Stewardship that granted the licence.
17 So I don't understand why the clean environment
18 assessment or hearings are for when the damage is
19 already done. They should have been done way
20 before those licences were granted.

21 This Clean Environment Commission,
22 from what I'm hearing and from what I saw, is
23 being dictated by these consultants and Manitoba
24 Hydro employees. They say they speak for the
25 trappers, fishermen and our members, when actual

1 fact, we can't speak at these hearings. They
2 don't want the public to know the truth, the
3 damage that's being done to the environment,
4 devastating our way of life. No amount of money
5 can replace what was done to Northern Manitoba,
6 irreversible, and impacted our way of life along
7 with the animals and water life. I don't need to
8 be a trapper, or an environmentalist, or a brain
9 scientist to know what's happening to the land.
10 We don't need outsiders to come and decide our
11 future while they are getting extremely rich with
12 their lives.

13 Other communities, Easterville, Moose
14 Lake, Grand Rapids, Fox Lake, Nelson House, South
15 Indian Lake has suffered the most when Hydro
16 bulldozed the residents homes, or forced them to
17 leave their homes when they hired these Indian
18 agents to force the leaders or bribe them to sign
19 off our lands.

20 That's basically what I see, and I do
21 apologize, but you know, this is getting way out
22 of hand.

23 This is back in the early '60s when
24 First Nations were treated as insignificant with
25 no regard of lives that were impacted by Hydro's

1 clean renewable energy.

2 NFA schedule E joint action program
3 for the eradication of mass poverty and
4 unemployment. Well, this is year 2013, still no
5 jobs. Maybe cleaning up after them, but no
6 training, nothing.

7 Now we have more mass poverty and no
8 jobs for our members. These dams clearly damaged
9 the environment. I will not apologize for my
10 letter. We are not being treated fairly along
11 with other Manitobans.

12 This is our lives and our lands and to
13 protect, not to be extinguished by Hydro and
14 others that lie to the public, and wasting the
15 taxpayers' money to gain personal wealth. This is
16 serious, and millions of dollars are unaccounted
17 and mysteriously disappeared, possibly money
18 laundering. And no honesty or integrity is being
19 displayed by Manitoba Hydro and consultants.

20 We asked for a forensic audit, then I
21 was ousted out and was treated like an outsider
22 immediately. Does it pay to be honest? I would
23 believe so.

24 Thank you for taking time to listen to
25 my opinions on this. And I hope CEC hearings

1 should be stopped until this matter is resolved by
2 the RCMP to find out where hundreds of millions
3 disappeared.

4 Again, I do apologize if I offended
5 those. And as long as my views are out -- I have
6 been fighting too long and I have created a lot of
7 division among our members, even right down to our
8 Chief and Council. Because we had been asking for
9 forensic audits, financial transparency. And I
10 haven't seen it. And I have been demanding this,
11 along with the other groups that came along. And
12 we have been finding a lot. And I hope Manitobans
13 will listen, and this is just not a Native thing,
14 it's all for Manitobans. And we must stop this.
15 This is a terrible thing to go through. As for
16 myself, I created a lot of enemies, but that's
17 okay. This is for the future children, and we
18 need a place too, not to be displaced in Winnipeg
19 on the streets once they flood us out.

20 Ekosi. Thank you.

21 THE CHAIRMAN: Thank you, Ms. Garson.

22 I can just tell you that the Clean
23 Environment Commission hearings that we're
24 conducting right now are for the generation
25 project, and that licence has not been issued yet.

1 MS. GARSON: So you mean to tell me --

2 THE CHAIRMAN: The work that's going
3 on in that area right now is on a separate
4 licence.

5 MS. GARSON: So, Conawapa is being
6 approved? It's being built right now as we speak?

7 THE CHAIRMAN: No, this is not for
8 Conawapa. This review is for Keeyask, the Keeyask
9 generation.

10 MS. GARSON: It doesn't matter, I'm
11 just speaking for all.

12 THE CHAIRMAN: But thank you for
13 coming in and making your presentation.

14 MS. GARSON: Okay. Thank you.

15 THE CHAIRMAN: Next on our list is
16 Janie Duncan. Is there a Janie or Janie Duncan?
17 No? Well, next then after that is Al Ciekiewicz.

18 MR. CIEKIEWICZ: Is this on now?

19 THE CHAIRMAN: It will be. The sound
20 man controls that. So just introduce yourself for
21 the record and then proceed.

22 MR. CIEKIEWICZ: Okay.

23 Good morning, Mr. Chairman, members of
24 the Commission, and all others in attendance. My
25 name is Allan Ciekiewicz. I live approximately --

1 well, not approximately, a short distance
2 northeast of Winnipeg.

3 Sound is okay? Okay.

4 I found the initial comments -- first
5 of all, I came a couple of days last week and I
6 listened to some comments. So I found the initial
7 comments made by the Partners of the project to be
8 very interesting, but at the same time very
9 disturbing for the following reasons.

10 I number all my topics all the time,
11 so number one, Manitoba Hydro's unacceptable
12 attitude has not changed all that much over the
13 many decades.

14 The second point, my involvement with
15 Hydro began around the year 2000. In my opinion,
16 Manitoba's northern residents affected by Keeyask,
17 the Keeyask project, have to be very careful when
18 they deal with or enter into partnerships with
19 Manitoba Hydro. I say this because Manitoba Hydro
20 still manifests their attitude of the 1960s, and
21 make the following statements as a reminder of
22 Manitoba Hydro's past indiscretions of the 1960s
23 when they dealt a devastating blow to the northern
24 residents.

25 Four, Manitoba Hydro's recent

1 television commercials in support of Manitoba
2 Hydro's development of the north, point one, in
3 those commercials, Mr. Adams stated how it was
4 incredible to help build the northern hydro
5 stations, but forgot to mention the incredible
6 events that caused devastation to the northern
7 residents of Manitoba.

8 Yude Henteleff, a lawyer for the
9 northern residents, in a December 1986 interview
10 regarding Hydro's 1968 application for the
11 Churchill River Diversion, South Indian Lake,
12 stated, the fact is that day Hydro were totally
13 ill-prepared. They approached the situation with
14 considerable arrogance, and felt that anybody who
15 questioned them was in effect questioning God.
16 Somehow they were touched with infallibility in
17 terms of decisions. Who had the temerity to
18 question them?

19 As will be evidenced by the remainder
20 of this presentation, it is also unfortunate that
21 after 45 years, Manitoba Hydro still exhibits that
22 same arrogance. Manitoba Hydro's recent
23 television commercials, in my opinion, were
24 misleading by leaving out important information
25 such as the negative impacts that do occur due to

1 firm export contracts, droughts, et cetera. Every
2 Manitoba Hydro television commercial related to
3 development of the north made the comment that
4 today it is a new generation's job to provide
5 reliable energy for the future. It's our turn to
6 invest.

7 I assume that means what it says, that
8 being, in other words, it is not the old
9 generation's job to invest once again.

10 In another one of those commercials, a
11 gentleman states that after 70 years later, much
12 of our system needs to be replaced. The question
13 begs to be asked, what was Manitoba Hydro doing
14 for 70 years? Does that mean that Manitoba Hydro
15 has failed to maintain to high standard the system
16 that Manitobans have relied on for the past 70
17 years?

18 The unfortunate and probably
19 deliberate action of Manitoba Hydro to eliminate
20 from their television commercials the fact that
21 much of this monstrous investment for the new
22 generating stations in the north is to provide
23 power, not just for Manitobans, but for exports.
24 If Manitoba Hydro would concentrate on providing
25 power for Manitobans first and foremost, then we

1 would not be in the present unfortunate
2 predicament of having to invest unnecessarily
3 billions upon billions of dollars in our Hydro
4 system.

5 Can we really believe what Manitoba
6 Hydro tells us? Actually, can Cree Nations and
7 the MMF believe what Manitoba Hydro tells them?

8 Number 5. The illusive 75 to 25 debt
9 equity ratio. After the 2002, 2004 drought,
10 Manitoba Hydro told us that it would take several
11 years of good water conditions to recoup the
12 losses due to the drought. Manitoba Hydro would
13 not recover the pre drought debt equity ratio, 80
14 to 20, until 2012. That 80 to 20 debt equity
15 ratio was achieved in 2006. By 2008, Hydro
16 achieved illusive debt equity ratio of 75 to 25 or
17 better. That is the ratio that Hydro always
18 stated was an indicator of the corporation meeting
19 its financial targets. But did that result in
20 lower rates for Manitoba Hydro customers? No, it
21 didn't. The rates skyrocketed and continue to do
22 so.

23 This indicates the inability of
24 Manitoba Hydro to make accurate forecast
25 projections, predictions, and it is having a

1 negative effect on ratepayers. Can we believe
2 Manitoba Hydro?

3 Part 6. There is two parts, or three
4 parts, four parts to this, I don't know, I forget.
5 The Selkirk Thermal Generation Station, coal-fired
6 and converted to gas in 2002 and its environmental
7 impact statement 2005.

8 Under coal, when they are using coal,
9 because the coal-fired station lacked efficient
10 pollution control devices, Selkirk station's sole
11 purpose was to provide power for Manitobans if the
12 supply of power for Manitobans was threatened. It
13 was predicted that for the worst case scenario,
14 that the station would have to provide
15 450,000-megawatt hours of power for Manitoba. For
16 the years 1998 and 2000, the Selkirk station
17 surpassed the worst case scenario production when
18 in fact there was no worst case scenario and there
19 never has been.

20 But Hydro thought it acceptable to use
21 the station, one of the dirtiest generating
22 stations, to shower the area with thousands of
23 tonnes of pollutants so that they could export
24 more power to the United States. Manitoba Hydro
25 admitted that they used the station for export

1 purposes and such an action violated the operating
2 licence.

3 So add insult to injury, Manitoba
4 Hydro bragged how great it was to be able to help
5 the Americans reduce their emissions of pollutants
6 into the environment while emitting those same
7 pollutants into our environment instead. How sick
8 is that.

9 The second part of 6. The gas for its
10 Selkirk station. For two or three years, I was an
11 interested individual regarding Selkirk's EIS
12 2005. Manitoba Hydro was reluctant to give me
13 accurate and complete responses to many of my
14 questions and concerns. A glaring mistake in the
15 EIS indicated that the 24 hour lead emissions
16 would be 239 times greater than if the station
17 operated at a 15 percent generated capacity which
18 means running for 54 days straight. That is an
19 impossibility. But Hydro, in its wisdom, stated
20 that since the amounts of lead were so small, that
21 it didn't affect the conclusions of the EIS. I
22 was never made aware if Hydro actually corrected
23 the mistake. And makes you wonder how many other
24 mistakes are part of that 2005 EIS. Also, how
25 many mistakes are in the current EIS for Keeyask?

1 I used existing facts to determine
2 actual carbon dioxide emissions. Hydro thought
3 their method, I assume based on modeling
4 techniques, was more accurate and difficult to
5 believe how a model is needed when the required
6 facts are in existence. If modelling was used to
7 determine the extent of flooding that will occur
8 due to the construction of the Keeyask Generating
9 Station, what will be the consequences if, after
10 years of operation, the modeling turns out to be
11 inaccurate, causing negative effects to the
12 residents of the north?

13 Continuing with the Selkirk EIS 2005.
14 You've got to listen to this one carefully.

15 In 2008, the director of licensing
16 issued a new operating licence for the Selkirk
17 station. In the past, those who were involved
18 with an EIS were notified of the issuance of a new
19 licence. The director made a deliberate choice
20 not to notify me of the issuance of the licence in
21 a timely manner. And when I was made aware of the
22 issuance of the licence, the time set for the
23 appeal process, if I so desired to appeal, had
24 expired. There is no doubt in my mind that the
25 director made a conniving decision to thwart my

1 ability to be able to appeal the licence if I so
2 desired. That director is Ms. Tracey Braun who
3 made a presentation before this Clean Environment
4 Commission.

5 Continuing with that, I wrote to the
6 Minister of Conservation asking for an extension
7 to make an appeal if I so desired. This is even
8 better than the first.

9 The Minister of Conservation in his
10 May 20, 2009 response to my request stated that
11 there never was an application to issue a new or
12 to alter an existing licence and therefore there
13 never was nor is there an appeal process. But the
14 new licence was issued April 30, 2008, one year
15 earlier than his outrageous comments. The sad
16 part of this situation, and very important to the
17 residents of the north, is that such an
18 ill-informed Minister of Conservation at that time
19 recently was given the role as the minister
20 responsible for the administration of the Manitoba
21 Hydro Act. That would be Minister Struthers. To
22 all the residents of the north, good luck.

23 More on the 2005 EIS.

24 I submitted a complaint to the
25 Ombudsman department. Director Braun's responses

1 to the Ombudsman's department's investigation of
2 my complaint made statements about me, my
3 complaint and the issued operating licence that
4 were misleading, not accurate and in some cases
5 could be labelled as false. However, the
6 Ombudsman's department agreed with me that indeed
7 a licence was issued and it was appealable. But
8 based on the flawed responses of Director Braun,
9 the Ombudsman department made inappropriate and
10 unnecessary additions to my original complaint.

11 Residents of the north, please
12 understand, that you should be aware of the fact
13 that the reality of Manitoba Hydro coupled with
14 the Struthers/Braun duo may not be the reality
15 that you are seeking.

16 Seven. For years, I had a lingering
17 concern regarding the development of the north,
18 apparently for the benefit of the northern
19 residents. To be blunt, in the 1960s, Manitoba
20 Hydro just stepped all over the residents of the
21 north and used their land with no thought of the
22 consequences to the northern residents. Now it
23 appears in order to make amends for Hydro's past
24 indiscretions, Manitoba Hydro is involving the
25 residents of the north in more development of the

1 north. That sounds great but Manitoba Hydro is
2 still using the northern residents' land as hydro
3 did in the 1960s.

4 Now Manitoba Hydro is once again using
5 the assets/resources of the land of the northern
6 residents to apparently repay the residents of the
7 north, but for Manitoba Hydro's past blunders. On
8 the other hand, the residents of the north, by
9 allowing Hydro to use their land now, are paying
10 themselves back with their own land for Hydro's
11 past indiscretions. Is there a different solution
12 other than building another dam? Common sense
13 dictates that there probably is. Now is the
14 correct time for a needs for and alternatives to
15 hearing regarding the residents of the north.

16 In the words of Rosie Dumas of South
17 Indian Lake, resident in 1960s, stated in January
18 of 1974 that Hydro has no thought of the people of
19 the South Indian lake, only of the power he can
20 get out of it. Forty-five years later, can we
21 believe what Manitoba Hydro tells us?

22 To bring my presentation up to 2013, I
23 wrote Manitoba Hydro CEO Scott Thompson, a
24 March 18, 2013 letter, due to the comments that he
25 had been making regarding Hydro matters. The

1 letter consisted of approximately 15 questions or
2 concerns. Little did I know that today, about
3 nine months later, November 14, 2013, I would
4 still be requesting of Mr. Thomson to answer my
5 questions and concerns.

6 Mr. Thomson, in his wisdom, had one of
7 Manitoba Hydro's lawyer's attempt to answer my
8 questions and concerns. However, the lawyer
9 replying on Mr. Thomson's behalf stated that since
10 I was a presenter at earlier hearings, that since
11 many of my questions were related to the upcoming
12 needs for and alternatives hearing, and that since
13 my questions were of a technical nature, which was
14 completely false, that I would not receive a
15 response to my questions and concerns and I
16 didn't.

17 Apparently my concerns and questions
18 did not fall into Hydro's category as customer
19 service concerns. What a mind boggling statement.
20 It was suggested that I work with the Consumers
21 Association. Hydro CEO Thomson is making comments
22 regarding Hydro matters and Hydro expects me to
23 ask the consumers association to justify the CEO's
24 comments. Come on Hydro, you're joking.

25 Following is an example of one, just

1 one of my questions of Mr. Thomson, says Manitoba
2 Hydro is always reminding Manitobans of the fact
3 that we have some of the lowest rates in North
4 America due to export revenues, I asked
5 Mr. Thomson the following question: How much
6 higher, the actual accurate amount, would our
7 residential rate of 7.183 cents per kilowatt hour
8 be without the benefits of allocated export
9 revenues used for decreasing residential rates?

10 The lawyer's one and only attempt --

11 THE CHAIRMAN: You're running out of
12 time.

13 MR. CIEKIEWICZ: How much time do I
14 have?

15 THE CHAIRMAN: Two or three minutes.

16 MR. CIEKIEWICZ: Our rates will be
17 approximately 25 percent higher and higher if the
18 preceding decade was considered. But I didn't ask
19 about the previous decades. My request was
20 specific to now. It appears that Manitoba Hydro
21 does not know the exact amount that export
22 revenues contribute to lowering our residential
23 rates now. So why are we constantly being told
24 that low rates are the result of export revenues?

25 Currently, in my opinion, export

1 revenues and their questionable advantages to
2 ratepayer rates are in a shambles. In fact,
3 Hydro's inappropriate focus on exports may in the
4 long run, be very detrimental to residential
5 rates.

6 I'll skip that one paragraph.

7 Nine. Now is the time, correct time,
8 for a Needs For and Alternatives hearing regarding
9 the residents of the north in order to find an
10 alternative to building another dam.

11 In conclusion, to all the Manitobans,
12 to all of Manitoba's northern residents affected
13 by the Keeyask project, if you approve the Keeyask
14 project, you will need the strength of the eagle
15 feather to give you the power to soar above your
16 lands and give you sight to oversee the Keeyask
17 project in order to realize your vision for your
18 people while controlling your land. Please
19 remember the comments of Rosie Dumas and Yude
20 Henteleff.

21 Ladies and gentlemen of the Clean
22 Environment Commission, thank you for this
23 opportunity.

24 THE CHAIRMAN: Thank you very much,
25 Mr. Ciekiewicz.

1 MR. CIEKIEWICZ: You are welcome.

2 THE CHAIRMAN: Has Janie Duncan
3 arrived? Okay. Then next on our list is Cheryl
4 Kennedy Courcelles.

5 THE CHAIRMAN: Go ahead.

6 MS. COURCELLES: Okay. My name is
7 Cheryl Kennedy Courcelles. Dear Chairman Terry
8 Sargeant, panel members, ladies and gentlemen. My
9 name is Cheryl Kennedy Courcelles and I would like
10 to thank you for the opportunity to speak on
11 behalf of myself and my family as well as all of
12 those who do not have a voice, like Mother Earth,
13 the animal kingdom, water energy, our unborn
14 children and all of those people whose spirit has
15 been broken.

16 I have several points of concern that
17 I would like to share with you this evening.

18 Number 1. We need to take into
19 greater utilization the Cree world view into the
20 vision and operation of the hydroelectricity and
21 the dams. They speak of truths and sacred laws
22 that have served them for all of time. We have
23 lots to gain and even more to lose if we do not
24 incorporate their teachings into our modern day
25 ways. I am pleased with the Aboriginal ownership

1 with this project.

2 Number 2. It seems odd or convenient
3 that the woodland caribou have been protected
4 under the Species at Risk Act but yet it does not
5 extend to the Keeyask area. A red flag for sure.
6 What is our plan if the caribou start to be
7 negatively affected? Will we really shut down the
8 dam? What will we do?

9 Number 3. Methylmercury in the jack
10 fish and pickerel fish in Gull Lake shall take 30
11 years to return to the current natural levels.
12 And as we learned this evening, that's probably
13 not even the case. How are these people going to
14 feed themselves? How are they going to continue
15 their culture? How are they going to teach their
16 sons and daughters and grandchildren how to fish?
17 As the fish become poisoned from the mercury and
18 human beings and the wildlife start becoming sick
19 from eating the fish, fishing will then end.
20 Their culture and their health will be sacrificed
21 and the animal kingdom will suffer and may even
22 vanish permanently from the area.

23 Number 4. We need to follow up every
24 three to five years with participants and the
25 public with the CEC on all CEC hearings.

1 Number 5. Follow up on all EIS and
2 VEC commitments. Example, how are the common
3 nighthawk, the rusty blackbird, the fly catcher,
4 lake sturgeons, moose, bald eagles, frogs and the
5 caribou, et cetera, and so on. How are they doing
6 three years from now, five years, 10 years, 20
7 years and so on? In the Terrestrial Mitigation
8 Implementation Plan, when does it start? Does it
9 last for the life of the dam and what is the
10 follow-up? And as the studies state, the caribou
11 are not expected to have problems but what is the
12 plan if they do have problems? What is our plan
13 if the sturgeon fry cannot survive in their new
14 locations?

15 Number 6. Health concerns by the
16 impacts of the dam. Hydro operations, Northern
17 Regional Health Authority, a precise action plan
18 is needed to improve the services to the affected
19 communities. We cannot leave it the same old,
20 same old. Just not good enough for the grief that
21 is going to hit them when these flood waters come
22 and do not go away.

23 Number 7. Financial help or training
24 needs to be provided to the area to help the
25 residents to secure local employment for the life

1 of the dam, not just for the start of it.

2 Number 8. Fresh food replacement
3 programs due to mercury poisoning of their food
4 chain could improve such projects as hydroponic
5 greenhouses that operate in the winter too and not
6 just in the summer time, sharing and sending up to
7 the communities the fish that our southern
8 commercial fishermen are catching but do not have
9 a market for instead of those fish dying and being
10 left on the ice for the birds or the shorelines to
11 rot.

12 Number 9. Some question the
13 sustainability of who is going to use up all of
14 this power in the future? Will it just be
15 Manitoba? Do we need to be building stronger
16 relationships with Saskatchewan and Ontario as
17 well as the United States? Are we careful not to
18 promise what we cannot deliver?

19 Number 10. If a community is too
20 close to the actual dam or dam operations for
21 their own safety, perhaps they should be relocated
22 and compensated at a fair market value and then
23 some for their obvious inconvenience and the
24 emotional harm done to them.

25 Number 11. Due to the flooding from

1 the dam operations, we have to take care and be
2 accountable for the people, the wildlife, fish and
3 ecosystems first and foremost if not for the
4 sacrifices of these people, animals and Mother
5 Nature, none of our water hydro energy would ever
6 exist in the first place.

7 Number 12. Lake sturgeons have been
8 called the aquatic bald eagles, a title that
9 touches our hearts and common sense in taking
10 responsibility for the sturgeons' very survival
11 and sustainability. This is a sacred species
12 that's been around for 300 million years. It
13 belongs with the dinosaurs, and yet it is still
14 here with us. One can just imagine the close knit
15 relationship the Aboriginal people have with this
16 regal fish. The very survival and recovery
17 program of the sacred lake sturgeon may well be
18 some of the best conservation work Manitobans and
19 Canadians will ever do. We may need Hydro but we
20 cannot lose yet another species when we can do
21 something about it. Long live the lake sturgeon.

22 Number 13. Concerns and recognition
23 of the Metis people issues need to be addressed
24 and not shuffled under paperwork, lack of time and
25 disrespect. If there are Treaty rights that need

1 to be honoured, then now is the time. If we need
2 further postponing of CEC hearings to do so, so be
3 it. Hydro cannot turn its back on this
4 responsibility. Taxpayers and hydro users and
5 suppliers will not stand for any other way.
6 Society has come to the table to hear, mitigate
7 and take responsibility for all truths to our
8 energy needs and visions.

9 Number 14. Manitobans agree with the
10 Clean Environment Commission that a full regional
11 assessment of impacts from all existing Hydro
12 projects in Manitoba need to happen. And I would
13 like to add before any projects are licensed, we
14 need to have a clean slate and fix what we can.
15 If we do not, we are leaving the door wide open
16 for bad karma to step in. There's no reason for
17 that to happen when we know better.

18 Number 15. It concerns me that the
19 Aboriginal youth are pleading for no more dams.
20 That their peaceful way of life is at stake once
21 again. They are also correct in asking for more
22 energy conservation strategies to be a top
23 priority.

24 Number 16. I can understand the
25 elders' wisdom and harsh realities when they do

1 not want their families to ever endure the cold
2 and dark hardships that they had gone through
3 before water hydro energy came along. Most of us
4 who live down south in the province have no idea
5 what it's like to be freezing cold and to lose
6 loved ones to it. I also understand the heavy
7 weight of responsibility that is being placed on
8 these elders and communities in accepting Hydro
9 operations on their sacred Treaty land. Crow
10 medicine comes into play where we will all have to
11 honour and respect our past, present and future
12 well-being of Mother Earth, accepting that she's
13 able to change and accept her current reality and
14 move on prayerfully in a peaceful harmony that is
15 needed to curb disease and dis-ease that these
16 drastic environmental changes can bring.

17 Number 17. Mercury in the waters,
18 fish, animals, birds and humans is a massive
19 concern for us. To say it is minimal local and
20 regional is simply wrong. What if all the food
21 coming into your home and community was full of
22 mercury? Would you still think it was minimal or
23 okay? Most likely not. It is a whole different
24 story when it is your babies, parents and
25 grandparents that end up with mercury poisoning.

1 We have to have a proper food plan for these
2 affected communities. Where else can they fish
3 and hunt that is safe? Can we make sure the fish
4 that is in their community is not full of mercury?
5 I have a cousin from up north who has mercury
6 poisoning from eating the fish and wildlife and it
7 is totally debilitating. It can take a once
8 healthy active person and turn them into a sad
9 state of affairs when they are unable to
10 contribute to their families or their communities.
11 This mercury is expected to be in the waters for
12 30 years. If someone told me my grocery store
13 meat and water had mercury in it for the next 30
14 years, I would not be able to live with that. Why
15 would we expect them to? What is our plan?

16 Number 18. Extra
17 hydro/provincial/federal money has to be spent and
18 delivered for the health, mental health and
19 wellness needs for the affected artificially
20 flooded communities. We have a disgusting track
21 record in this regard, especially for our northern
22 communities. The negative fallout that happens
23 when all you know and care for starts getting
24 sacrificed and destroyed can no longer be ignored.
25 Its negative adverse effects touch the people and

1 ecosystems all the way from the water, all along
2 the waters edges in Manitoba that flow north to
3 these dams. Some help could look like a 24 hour
4 help line, addiction and abuse programs,
5 post-traumatic stress disorder, cancer and disease
6 care, disaster management training, education and
7 training of our healthcare workers and so on.

8 Number 19. Archeological sites that
9 are 5,000 years old being artificially flooded
10 carries a huge responsibility to all of us as
11 hydro users and taxpayers. Not only are we losing
12 the physical land in the now, we are drowning the
13 history, culture and heritage of Manitoba and
14 Canada's past. What if it held the secrets to our
15 much needed environmental and spiritual
16 sustainability and harmony? We may never know.
17 Can we live with the consequences of that? Do we
18 recognize the stress and anxiety and emotional
19 hardships this puts on the people, to have their
20 ancestors flooded? It will be essential to use
21 the services of the spiritual people to be able to
22 right our wrongs and flooding the sacred
23 community, to help clear the energy. To help deal
24 with the grief.

25 Number 20. Have we invested in enough

1 conservation and alternative energy production
2 methods or do we have tunnel vision for just water
3 made electricity? And I do not mean spending
4 another dime on wind farming. It is not
5 sustainable as it is. Negatively affects the
6 birth rates of all species that live near it, nor
7 to underscore how it is killing our birds and
8 sacred bats of which humanity is so crucially
9 dependent on.

10 21. Do we really need this project?
11 When is enough really enough? How many people and
12 ecosystems are we willing to sacrifice? Can we
13 call it clean energy when we are sacrificing so
14 much? We are not using the Cree world vision when
15 we are putting values on one life versus another.
16 We can fudge the ledgers any way we want to in the
17 big scheme of valuing money over life. But in the
18 end, can we live with this guilt? Deliberately
19 harming another's peaceful way of life and right
20 to naturally raise their families on their Treaty
21 lands or privately owned lands? Harming the
22 natural rights of the fish, wildlife and
23 ecosystems? What is the karma that goes with this
24 kind of destructive phase? Have we tried all the
25 ways to make it better, to ease or stop the

1 suffering. Do we have mercy? Are we accountable?
2 Is the Clean Environment Commission accountable?
3 And what are the other Clean Environment
4 Commission findings saying? Are there things we
5 are missing? Have we heard from all the affected
6 parties?

7 Number 22. With these dams and their
8 operations, we are asking/telling people to
9 self-sacrifice themselves, their communities,
10 heritage and culture, to sacrifice their babies
11 and grandparents' peaceful way of life and natural
12 ecosystems for water hydro production. It reminds
13 me of the Sun Dance energy of warrior sacrifices
14 for the hopes of greater good for all. The big
15 difference here is society does not respect these
16 people who are being artificially flooded and we
17 do not treat them like the brave warriors they
18 are. No, we treat them as victims, whiners and
19 complainers which only breeds further negative
20 consequences and ill effects. What is the plan to
21 raise the image and the self-esteem of these
22 people, to place them on the top rung of the
23 ladder instead of bottom rung? We need to honour
24 all of these people who store hydro water on their
25 Treaty lands and private lands, treat them as the

1 environmental heroes as opposed to artificially
2 flooded victims. We can help them prepare for
3 flood waters such as the 24 hour hotline
4 counselling, environmental grief counselling,
5 disaster management training, and so on. Let them
6 tell their stories in your commercials and web
7 pages so we down south learn to understand what is
8 really going on, whom the heroes are and the
9 sacrifices they are making so that we have our
10 electricity to run our homes and workplaces.

11 Number 23. A huge acknowledgment with
12 this grand flush of water to operate these
13 northern dams came in the Red River Floodway
14 hearings when the CEC asked Manitoba Floodway
15 Authority and government what they were going to
16 do to restore the harmony to the Red River valley
17 and community. Owning up to the government's
18 deliberate and artificial flooding and treating
19 us, as I live there, as environmental warriors,
20 soldiers, that they have turned us into has
21 certainly helped heal some of the bad spiritual
22 energy and karma. Providing us with the exact
23 same rights and services that the rest of the
24 province has, even in flood times, has gone a long
25 way to alleviate some of the stresses too. A

1 necessary shift in attitude towards the people of
2 who often have no choice to be sacrificed can do
3 more good than you ever can imagine. That hearing
4 ended with some firm checkpoints, to-do lists,
5 accountability trails, and most importantly
6 presenter and public consultations for follow-up
7 every three, five, 10 years and so on. This is
8 extremely necessary to maintain accountability and
9 peace of mind for those who do live in the
10 artificial flood waters. To have no voice and to
11 be lied to kills the very spirit of the people.
12 And that has long-lasting negative effects that
13 does not need to happen with proper leadership,
14 truth telling accountability and follow-up. We
15 have been there, done that far too often already
16 and it does end up in abuse to our families,
17 addictions, suicides, disease and dis-ease all
18 because we didn't expect, honour and properly
19 mitigate the adverse effects of artificially
20 flooding our fellow citizens.

21 Number 24. I strongly encourage the
22 Manitoba and the Canadian governments and Manitoba
23 Hydro to stop placing the blame on Mother Nature
24 for most of the flooding that is going on in the
25 millenium. We have collectively changed the

1 drainage of our landscapes to further the economy
2 and put the water in the lake silos to ensure a
3 bumper water crop to run our turbines in the dam
4 structures for the production of hydroelectricity.
5 It's as simple as that. And so is the provincial
6 and national public knowledge about that truth.
7 Sometimes the left hand did not know what the
8 right hand was doing, and I will give you that.
9 But in the end, the water is being drained off the
10 landscape as fast as it can and we are seeing some
11 of the horrific adverse effects like our waterways
12 turning into blue/green toxic algae death pits
13 because of it.

14 25. When I look into our
15 environmental sustainable future, I am a tad
16 worried. I do not like the water quality and
17 quantity path that we are on. Our rapid draining
18 of surface water to the tributaries along with our
19 artificial damming of water is destroying and
20 turning our sacred waters into pools of waste,
21 full of mercury, antibiotics, pesticides,
22 chemicals and so on. We have to slow down this
23 fast-draining flush of the lakes and return it to
24 its natural pace where the toxic pollutions can be
25 filtered out. We need a commitment from Hydro and

1 all levels of government that they shall restore
2 and protect the natural flows to the lakes and to
3 the dams, restoring balance and harmony to Mother
4 Nature also has to be a part of Hydro's mandate,
5 mission and vision statements and action plans.
6 In this very action, there will be education and
7 job opportunities as well as the necessary water
8 sustainability.

9 26. Without good clean healthy water,
10 we die. And sadly, we are witnessing the deaths
11 of so many dear people until the Philippines right
12 now as water energy has turned against them. We
13 cannot take the gift of safe drinkable water for
14 granted nor can we take for granted that many of
15 our northern communities still do not have a safe
16 supply of drinking water or a flushable toilet.
17 Yet there is a massive hydro dam or a hydro
18 infrastructure right in their very own back yards.
19 It is time for change, time to get these
20 communities up to speed with the rest of Manitoba
21 and Canada. Time to right our societal wrongs,
22 forgive and move on. Time to restore the harmony,
23 create balance and respect for all of those who
24 have made great sacrifices in the past and present
25 Hydro production dealings.

1 27. I have a dream, a clear vision
2 that we, the people of Manitoba and Canada, shall
3 work harmoniously and profitably together on our
4 future energy needs. That we shall adapt and
5 innovate together, recognizing that our Aboriginal
6 people, including the Metis people, are the first
7 stewards of the land, air and water. That we
8 shall continue to include them in the ownership
9 and environmental sustainability planning and
10 operations of our energy needs. Peace, harmony
11 and balance becomes critical and essential in
12 making these Crown corporations and/or private
13 enterprises successful, profitable and long
14 lasting. I believe that if we come to the table
15 respectfully and equitably for all citizens and
16 ecosystems, that we in Manitoba and Canada can
17 collectively come up with an energy plan that is
18 fair for all and second to none. Our energy plan
19 shall be used as a blueprint of community,
20 culture, heritage and environmental sustainability
21 success.

22 And finally number 28. We once again
23 find ourselves on this exciting tipping point of
24 change for our bright future. It is only going to
25 get better from here on as we set to rest our old

1 outdated ways and embrace the present and future
2 with equality, compassion and a sustainable green
3 vision. All for one and one for all. It takes
4 dedicated and passionate and intelligent people,
5 like all of you here today, all of our
6 commissioners and their supporting teams,
7 panelists, presenters and the general public,
8 showing up, caring and contributing their truths,
9 knowledge and best management practices to make
10 the sustainable energy plan a successful reality.

11 I thank you for your time and
12 attention and wish everyone the best of good
13 health, peace and prosperity. Merci Beaucoup,
14 Meegwich.

15 THE CHAIRMAN: Thank you, Ms. Kennedy
16 Courcelles. As always, you have given us a very
17 well thought out and well presented presentation.
18 Thank you.

19 Next Janet McIvor.

20 MS. McIVOR: We're going to do this as
21 a group. I am waiting for my sister Marilyn, my
22 brother Jonathan.

23 THE CHAIRMAN: Where are they?

24 MS. McIVOR: We have a slide
25 presentation but we're going to have to wait after

1 our presentation. We can do the oral
2 presentation first and then we'll do the slide
3 presentation.

4 THE CHAIRMAN: We have another
5 presenter we can hear from first.

6 Mr. Braun? Just operate from there,
7 Mr. Braun, that will be great.

8 If you can keep the chatter down at
9 the front table, please.

10 MR. BRAUN: Good evening, my name is
11 Will Braun, I work for the Interchurch Council on
12 Hydropower, who I am presenting on behalf of
13 tonight and thank you for the chance to be part of
14 this hearing.

15 The purpose of the Interchurch Council
16 on Hydropower is to monitor the situation at the
17 northern end of the transmission line and to
18 advocate for fair treatment of land and people
19 affected by hydro development. Our council
20 includes official representatives of the Catholic,
21 Lutheran, Mennonite and United churches. These
22 are also our funders. We also have unofficial
23 representatives from the Anglican Church. Our
24 work is rooted in a 40 year history of Interchurch
25 involvement on hydro issues.

1 We are entirely non-partisan. We have
2 no direct stake or interest in hydro development.
3 We speak only of citizens and users of
4 electricity.

5 I will make four points tonight.
6 These points will stress the terms of reference
7 you had been given. You might be used to that by
8 now already. My fourth point will argue that such
9 stretching is essential. And I'll provide some
10 specific recommendations along the way.

11 First point; Keeyask, if built, would
12 not be an isolated stand-alone project and it
13 should not be reviewed as such. The northern
14 hydro system is designed and operated as a single
15 integrated whole. Keeyask would plug directly
16 into that larger system. It would rely, for
17 instance, directly on the Churchill River
18 diversion CRD. This massive project redirects
19 three-quarters of the flow of Manitoba's second
20 largest river through a manmade channel along a
21 diversion route into the Nelson River, a few
22 hundred kilometres away where Keeyask would be
23 situated.

24 According to the Manitoba Hydro
25 website CRD "increases the power producing

1 potential of the lower Nelson by as much as
2 40 percent." That is up to 40 percent of the
3 water that would flow through Keeyask would be
4 from the Churchill River. The storage capacity in
5 southern Indian lake, which is part of the CRD
6 scheme, would also benefit Keeyask as of course
7 the battery like storage of water is a key element
8 of Manitoba Hydro system.

9 Keeyask would likewise rely directly
10 on Lake Winnipeg regulation which alters flows on
11 the Nelson River system and would benefit from the
12 Cedar Lake Reservoir.

13 Churchill River diversion, Lake
14 Winnipeg Regulation and the Cedar Lake Reservoir
15 are integral aspects of the proposed Keeyask
16 project. And I'm sure that all the modeling of
17 the Keeyask functioning and viability would
18 certainly incorporate these projects.

19 Keeyask, I would suggest, is not so
20 much a new dam as an expansion of the existing
21 hydro system. It's an expansion of Churchill
22 River Diversion, an expansion of Lake Winnipeg
23 Regulation. To assess this environmental impact
24 and presumed isolation is to defy reality. And of
25 course, this argument approaches the realm of

1 regional cumulative effects assessment to which I
2 will return in my conclusion.

3 So my first point is this. Keeyask
4 would plug directly into the larger hydro system.

5 Second point, that system is an
6 environmental mess. Manitoba Hydro's northern
7 system causes severe widespread and ongoing
8 ecological damage. Manitoba Hydro's operations
9 dramatically, and in many cases, drastically alter
10 the four largest rivers in Manitoba, the Nelson,
11 the Churchill, the Winnipeg, the Saskatchewan, the
12 four largest rivers in the province. Hydro
13 operations also affect three of the five largest
14 lakes in our province, Lake Winnipeg, Southern
15 Indian Lake and Cedar Lake. Many smaller rivers
16 and lakes are also affected.

17 Last year, we sent a photographer,
18 Matthew Sawatzky, and a Cree elder, Ellen Cook,
19 who is from the Misipawistik Cree Nation and is
20 the co-chair of our council, we sent them to four
21 affected hydro affected communities. And I want
22 to share some of the photos that they gathered.

23 Do you have the ability to see? This
24 is Southern Indian lake. Severe shoreline
25 erosion. Keeyask would be linked directly to

1 this. Destabilized shoreline on Southern Indian
2 Lake. CRD raises the level of this lake about
3 three metres flooding roughly 800 square
4 kilometers of boreal lands along the diversion
5 route and at the lake. Again, up to 40 percent of
6 the water that would flow through Keeyask would
7 come through here.

8 This is the dry bed of the
9 Saskatchewan River near Grand Rapids. The water
10 is redirected through the Grand Rapids Generating
11 Station. The Grand Rapids are no more.

12 That dam holds back a 30 metre high
13 wall of water at Cedar Lake turning the lake into
14 a storage reservoir. And here you see some of the
15 115,000 hectares of boreal forests and wetlands
16 that are permanently flooded by the Grand Rapids
17 dam. And again, Keeyask would have a stake in
18 that flooding. Flooding of the Cedar Lake
19 Reservoir causes extensive shoreline erosion.
20 Thousands of trees are washed into the water.
21 This makes shoreline access difficult for both
22 people and animals. And this is a common scene in
23 hydro-affected waterways in the north.

24 This is Split Lake, hydro-affected
25 shoreline, just upstream of course of the proposed

1 Keeyask site. It is this sustainable development.
2 Split Lake. This is what clean hydro
3 looks like at the other end of the transmission
4 line. Again, Split Lake, an abandoned trapper's
5 cabin where the shoreline keeps advancing. And I
6 should note that the fisher/hunter/trapper from
7 Tataskweyak who escorted our photographer is here
8 tonight and would be able to speak much more
9 eloquently about the impacts.

10 Again, Split Lake. Government and
11 hydro officials often refer to the past damage
12 from hydro dams. The dams are still there and the
13 damage is still there. And Keeyask is an
14 expansion of this system depicted here. It cannot
15 be isolated from the rest of the system or from
16 this damage. What I have shown you here would be,
17 in a sense, the impacts of Keeyask.

18 We recommend that you visit these
19 waterways if you have not yet. Spend a few days
20 out on the water, not just in the communities. On
21 Southern Indian Lake, the Churchill River below
22 Missi Falls, Split Lake, Cedar Lake give the
23 environment itself a voice in this process.

24 You are the Manitoba Clean Environment
25 Commission. It would seem unusual, in our view,

1 for you to make determinations about the
2 hydropower system in Manitoba without firsthand
3 experience of these waterways.

4 Third point, the Hydro narrative in
5 Manitoba largely contradicts and ignores the
6 environmental reality that I have just shown you.
7 The popular narrative, as we see it and hear it
8 from Hydro and government, says that Hydro is a
9 clean source of renewable energy that will reduce
10 the use of fossil fuels in central North America.
11 And I would suggest that the popular narrative, as
12 I have called it, is relevant here both because
13 Hydro has raised it. The words that I have just
14 read you are those of Ken Adams spoken here on
15 October 21st, and because the CEC reports inform
16 the public narrative.

17 So is hydro clean as advertised and as
18 mentioned in Hydro materials for this hearing?

19 We have pushed the provincial
20 government for its criteria by which it makes this
21 determination. We have received no clarification
22 from them. It appears to be a simple assertion.
23 Presumably the implication is that hydro power is
24 cleaner than energy from coal-fired plants. But
25 just because dams don't have smoke stacks does not

1 make them clean.

2 Is hydropower renewable? Many
3 American jurisdictions have clear criteria for
4 renewable energy. Wisconsin counts only power
5 from Manitoba dams built after 2010 as renewable.
6 Minnesota counts only power from dams smaller than
7 100 megawatts as renewable. And recently federal
8 legislation was introduced in the U.S. that would
9 likewise exclude almost all hydro power from
10 Manitoba.

11 In these jurisdictions, untested
12 assertions are put aside in favour of thoughtful
13 consideration of the environmental costs and
14 benefits of dams. People in these jurisdictions
15 do not consider large dams clean, pure and simple,
16 like that. Yet our government utility officials
17 stick to their assertions. These assertions we
18 would argue, the assertions that hydro is clean and
19 renewable, put branding ahead of environmental
20 reality and environmental science. They obscure
21 and impede public debate about energy climate and
22 clean environment.

23 Therefore, if we may, we suggest that
24 you include in your final report two simple
25 non-licensing statements, I'll call them, and one

1 related non-licensing recommendation. First
2 statement, hydropower produced in Manitoba is low
3 carbon energy but is not accurately described as
4 clean, particularly in the absence of a
5 comprehensive cumulative effects assessment.

6 Second statement, Manitoba Hydro's
7 generation system causes significant environmental
8 harm over a large area. These damages are not
9 confined to the past, they are in many cases
10 ongoing.

11 And then a recommendation which would
12 be that the provincial government establish clear,
13 written criteria for renewable energy as well as a
14 rationale for those criteria.

15 Allow me one further comment regarding
16 public narrative. The hydro narrative in Manitoba
17 also says exported hydropower displaces fossil
18 fuel power generation and greenhouse gas emissions
19 in the U.S. The notion here is that Manitoba is a
20 leader in terms of energy policy and climate
21 change and that Keeyask sits on this leading edge.

22 Last February, Premier Selinger was in
23 Washington D.C. where he spoke about hydropower
24 exports to the U.S. as a huge part of the
25 "solution" to climate change. What he didn't

1 mention when positioning Manitoba as a leader in
2 climate change is that Manitoba didn't even come
3 close to meeting its own legislated greenhouse gas
4 emission targets. He also didn't mention that
5 Manitoba Hydro has very significantly scaled back
6 its commitment to energy efficiency, powersmart
7 DSM measures falling far behind energy for the
8 industry leaders.

9 Is Manitoba really a leader on climate
10 change and energy policy? Should we be patting
11 ourselves on the back? Is the underlying
12 objective behind Keeyask is the driving impulse to
13 address continental greenhouse gas emissions?
14 Dams do not reduce greenhouse gas emissions per
15 se, they increase energy supply.

16 Apart from a demonstrated continental
17 commitment to dramatically reduce emissions and
18 energy demand, the case for Hydro's climate
19 solution is for the utility or rather convenient
20 truth. Hydropower can't be part of a climate
21 change solution if there is no solution.

22 As a province, we need to move beyond
23 PR if we hope to have sound policy, and if we hope
24 to have credibility outside the province. I had
25 the opportunity to be in Minnesota recently,

1 meeting with environmental groups and elected
2 officials there. And when they heard about our
3 track record on greenhouse gas emissions and
4 reductions in energy efficiency programs, they are
5 not patting us on the back for that. The
6 conversation there is more nuanced and more
7 sophisticated.

8 Energy consumption and climate change
9 pose an unprecedented challenge to humanity. Is
10 our most creative response to pour 870,000 tonnes
11 of cement into a river, affecting some 14,000
12 hectares and then to blaze a 1,500 kilometre
13 transmission corridor? Is that the best we can
14 do? Is the best we can do to revive mega projects
15 first dreamed of decades ago while cutting energy
16 efficiency programs and simply accepting endless
17 growth in energy demand?

18 And are we going to use these
19 justifications to dam all our rivers and then find
20 that emissions and demand for energy are still
21 growing?

22 As I understand it, these sort of
23 macro environmental issues, I'm not sure if that's
24 the right categorization, I think it might be,
25 that they don't actually belong here, they belong

1 in the PUB NFAT hearing.

2 That brings me to my final point. The
3 hardest part of preparing for this presentation
4 was trying to figure out what fits within the
5 terms of reference that you have been given.
6 According to the strictures of the regulatory
7 process, I think some of the points I have made as
8 I have suggested don't fit. Some of the points
9 don't actually fit anywhere within this so-called
10 public process that the government has set out.
11 Not in the Bipole III hearing, not in the NFAT
12 hearing, not in this hearing. That is a problem.
13 Though I am glad that you are willing to listen to
14 these matters.

15 Somehow, the whole regulatory and
16 public process with its piecemeal scoping and
17 narrow view of cumulative effects appears to
18 sidestep what our group considers the most
19 important considerations. And if I may say so,
20 it's hard to have confidence in the overall
21 regulatory regime in this province, partly because
22 it is fragmented up into individual projects and
23 different reviewing bodies, partly because the
24 province refuses to look at the overall northern
25 project or the overall expansion plan. And

1 partly, if you will allow me to name the sizeable
2 mammal in the room, because the provincial
3 government has clearly decided long ago that it
4 will push Keeyask through regardless of what the
5 PUB or CEC recommends.

6 They spent hundreds of millions on the
7 project already. Heavy equipment has been on the
8 ground for over a year related to the Keeyask
9 project.

10 At the motions hearing before you last
11 month, a Pimicikamak representative suggested to
12 you that hydropower expansion in this province is
13 a runaway train. In our view, that assessment is
14 troubling and apt. The decide-first-review-later
15 order of public and regulatory process undermines
16 the integrity and relevance of what you do. We
17 urge you to recommend to the Minister that future
18 reviews be held at an earlier and more meaningful
19 stage of the process. And I recognize that there
20 has been no formal decision to approve Keeyask,
21 but certainly the perception in the public is that
22 that decision has been made long ago as evidenced
23 by the things I mentioned earlier.

24 All of that said, now the provincial
25 governments has endorsed the concept of regional

1 cumulative effects assessment by accepting the
2 non-licensing recommendations in your Bipole III
3 report. We join our voice with those calling for
4 such a review, a regional cumulative effects
5 assessment prior to final decisions regarding
6 Keeyask. There is a lot to assess and a lot to
7 address.

8 We believe such an assessment must
9 include the entire northern hydro system once and
10 for all, something which you recently acknowledged
11 has never been undertaken and is not included in a
12 Keeyask EIS. That was from the decision regarding
13 the motions, the reasons for the decision
14 regarding the motions.

15 An assessment must also be independent
16 and clearly seen to be independent. The days of
17 hydro assessing itself are over. This is Canada
18 and the 21st century.

19 Further to that, I would note
20 recommendation 7.7 from the 2004 CEC Wuskwatim
21 final report. In relation to the final Water
22 Power Act licence for CRD and Lake Winnipeg, which
23 are still outstanding nine years later after you
24 recommended they be completed. In relation to
25 those, the CEC recommended that an operational

1 review of the projects, hydro projects be
2 undertaken. We urge you to restate this
3 recommendation. An operational review of the
4 northern hydro system could identify ways that
5 Manitoba Hydro could manage water flows and levels
6 in less damaging ways. And what they are
7 proposing in the current final licensing processes
8 for Lake Winnipeg regulations and CRD do not
9 include this sort of operational review. Hydro
10 has suggested no changes to those licences and we
11 have pushed the government to see if they are
12 accepting that and they appear to be accepting
13 that sort of premise, that it's just going to be
14 rolling over the same parameters for the licences
15 unless they wish to state otherwise.

16 An operational review could, for
17 instance, ensure that stable and appropriate water
18 levels could be maintained during key spawning and
19 nesting seasons in particular areas. It could be
20 actual, practical, substantive improvements to the
21 environment of the north, if such an operational
22 review could be undertaken.

23 In conclusion, the CEC's 2004
24 Wuskwatim final report made some strong and
25 forward-thinking recommendations in our view but

1 it boiled down to four words, "will not be
2 significant." That is the adverse effects of the
3 project, "will not be significant." If this
4 review boils down to those same words, we will be
5 dismayed. Hydropower is complex. We need to
6 grapple with those complexities.

7 Let us not forget that dams themselves
8 are no favour to the environment. The moose and
9 the beaver do not stand on the shore applauding as
10 the bulldozers roll in and as the dynamite goes
11 off. I don't think they stand there thinking this
12 is not significant.

13 As a province, we need to acknowledge
14 the ongoing impacts of the hydropower system
15 finally. We need to grapple with the fact that
16 Keeyask would plug directly into an environmental
17 disaster. We need to test the assertions and
18 assumptions that drive the clean energy narrative.
19 And I believe that you are uniquely positioned to
20 help us as a province in that regard. And so we
21 urge you to provide leadership in that regard.
22 Thank you.

23 THE CHAIRMAN: Thank you, Mr. Braun.
24 Is it possible for you to file perhaps
25 electronically these photos with us?

1 MR. BRAUN: Certainly. Should I talk
2 to the people at the back?

3 THE CHAIRMAN: Yes.

4 Now do we have any idea whether your
5 slide show is workable? Okay. Do you want to go
6 through the slide show first or as you do your
7 presentation?

8 MS. McIVOR: We're going to do the
9 oral presentation first because I know you are
10 still trying to figure it out. Okay, we'll do the
11 oral presentation first.

12 THE CHAIRMAN: Sure. Could you all
13 introduce yourselves, please?

14 MS. McIVOR: Yes. That's exactly what
15 I was going to do first. Good evening to
16 everybody that's present here, CEC and our Chief
17 and Council. And my sister Gloria, can you come
18 up here? Jonathan, my brother Jonathan.

19 My name is Janet McIvor. I am from
20 Split Lake. And I am from Gayaashki-zaagiing,
21 Gull Lake.

22 MS. DISBROWE: My name is Illa
23 Disbrowe, traditional land user of Gull Lake.

24 MS. WAVEY: Mary Wavey from Split
25 Lake. Traditional land user from Gull Lake.

1 MS. MAZURAT: Marilyn Mazurat,
2 traditional land user from Split Lake, from Gull
3 Lake.

4 MR. SPENCE: Robert Spence,
5 traditional land user, commercial fisherman Split
6 Lake.

7 MS. KITCHEKEESIK: Gloria
8 Kitchekeesik, traditional land user of
9 Gayaashki-zaagiing.

10 MS. N. McIVOR: Norma McIvor,
11 traditional land user.

12 MS. McIVOR: I'm used to standing when
13 I do my presentations. So I'll just go with the
14 flow.

15 We are the family whose ancestral land
16 is on the Gull Lake Trapline 15 area. Our family
17 members have held that Gull Lake licence 15 but
18 hence, we are not here to talk about the word
19 trapline, we are here to talk about traditional
20 land use.

21 Excuse me, I'll let me brother
22 introduce himself.

23 MR. KITCHEKEESIK: Jonathan
24 Kitchekeesik from Split Lake, from Gull Lake
25 originally.

1 MS. McIVOR: The Clean Environment
2 Commission has already been told that the Gull
3 Lake area will be the most devastated land and
4 water, that will be when Keeyask Generating
5 Station. You have already been told time and time
6 again that in our Cree cultural Aboriginal and
7 Treaty harvesting practices and rights, are
8 exercised by our family on the land, we know, love
9 and is our home.

10 We sit before you, CEC, to hear our
11 voice for our rights as descendants of the keeper
12 of the land. Our ancestral land has already been
13 disrupted by the worst kind. From what we have
14 seen, when KGS is built, our lives, our heritage,
15 our ancestral lands will be altered and destroyed
16 forever.

17 I am going to let my daughter read
18 because I am having a hard time.

19 MS. N. McIVOR: All the money in the
20 world is not going to replace the lost ways of our
21 ancestral connection to the Gull Lake Trapline 15
22 that will forever change our relationship with the
23 land runs deep. Our way of life on Gull Lake, as
24 we have come to live, it will be wiped out when
25 the Keeyask Generating Station is completed.

1 We want to talk to the CEC about two
2 things; the way Keeyask Generating Station project
3 has and have and had affected our family
4 physically, mentally and socially and spiritually.
5 And second, the kind of accommodations that
6 Manitoba Hydro should provide to try and ease the
7 damage and the mental stress and the personal
8 turmoil done to each and every one of us. We
9 implore CEC to make a condition on the licence for
10 Keeyask Generating Station that our family be
11 provided this accommodation.

12 MS. MAZURAT: Keeyask has and will
13 affect us. We are a traditional Cree family
14 carrying on our Cree culture as our inherent right
15 to do so. From all our commotion from the
16 so-called progress, we are from the land and live
17 with the land and to care for it.

18 We have had to deal with a lot of
19 changes forced on us over the years, but by far
20 the worst change imposed on us has been the
21 building of the Keeyask Generating Station. Yes,
22 we know there have been agreements between our
23 First Nation and Manitoba Hydro. We feel the
24 First Nation got boxed in by all the pressure.
25 There was the pressure from all the damage that

1 hydro -- that the existing hydro projects have
2 done to all of us, and the pressure that came from
3 KGS itself. Many of us believe that KGS will get
4 built regardless of what we want. The Manitoba
5 Hydro has so much power that they will get what
6 they want no matter what.

7 So there was a real pressure to agree
8 to get something from this next project instead.
9 But we think that the damage from KGS will be so
10 great and that the TCN is getting what TCN is
11 getting in return is so little that TCN should
12 have never agreed to KGS.

13 We think it goes against our Cree
14 world view to allow such permanent and widespread
15 damage and harm, especially when so little is
16 being offered in return.

17 This is what the damage will be to our
18 family and homeland alone, displacing our way of
19 life, flooding us out, disconnecting the integrity
20 of our connection of our past, ruining our
21 relationship to our land. Destroying the way of
22 the hunting and fishing, affecting what we harvest
23 the land and waters to sustain life on this land,
24 reducing mercury and affecting the fish, taking
25 away our fishing, taking away our plants, waters

1 and shorelines that severely affects the habits of
2 different species that make it a beautiful
3 sanctuary.

4 MS. DISBROWE: Keeyask dam will be
5 built in the heart of Gull Lake. To us, the
6 family that is -- this is the last place we seen
7 our brother, Leon, alive. He couldn't speak but
8 we understood him. His remains were never found.
9 To this day, we still search and scour the
10 shorelines when the water level is low. After the
11 Keeyask dam is built, this will be gone. It will
12 be a reservoir, gone forever. Our trust has been
13 compromised. How can we trust Manitoba Hydro to
14 do the right thing?

15 When they were doing the supposed
16 consultation process, the year they did the
17 referendum, there were people that had questions
18 and seeing things that needed change in the JKDA,
19 but were told they can't change it because it was
20 a frozen draft. But in the presentation, it only
21 said draft, not frozen draft.

22 So how can we trust anything we are
23 told when Manitoba Hydro lawyers, consultants can
24 easily change the meaning of a word in a
25 dictionary?

1 We were part of the protest and we
2 were served court injunction. We were told we
3 were trespassing in our own traditional territory.
4 This court injunction is still held over our
5 heads. RCMPs were like messengers. They told us
6 Hydro would deal with outstanding issues. To this
7 day, we haven't seen nothing.

8 There is no amount of money that would
9 replace what we will lose. I had heard numerous
10 times people say this, this is just a formality.
11 In today's world, CEC will grant Manitoba Hydro
12 this licence because Manitoba Hydro already spent
13 millions. Money talks.

14 So I come back to trust. How can we
15 trust Manitoba Hydro to do the right thing? But I
16 believe there are still some good people out
17 there, so I trust CEC to put in a condition.
18 Before Manitoba Hydro builds Keeyask dam, to deal
19 with all the outstanding issues and concerns.

20 MR. KITCHKEESIK: I was listening to
21 that woman Janie speaking when I was standing back
22 there, and then the other gentleman there showing
23 pictures of Split Lake and South Indian Lake.
24 When I was out and about on the land trying to
25 feed my kids their food from where I come from, I

1 used to see these little damages a long time ago
2 that seem so tiny today. I used to see all these
3 things from way back in 1979 when my dad and I
4 used to go out on the land there. We used to pull
5 our skidoos through about a foot of ice water with
6 about an inch of ice on top. I used to think oh,
7 this is part of life. And then as I got older, I
8 had some kids, and everything started to change.
9 Everything started to change anyways. Education
10 became first and then came back away from the land
11 to try and get my kids educated.

12 But meanwhile hydro never sleeps.

13 And then I got started working with
14 the band on these issues. And then everything
15 started to look real real heavy.

16 And in 1992, I had a dream of my
17 grandfather and a little child. There was three
18 of us standing there, holding hands. My
19 grandfather spoke to me in that dream and he said
20 look at the little child. There was no place for
21 him to play. That's the way it looks now in Split
22 Lake with all the sharp rocks along the shoreline.

23 We live in a prison of Manitoba Hydro
24 dyke. There is no -- they took all our like, for
25 example, mayflies we call them or fish flies. And

1 then they took all those that we used to have a
2 lot of fish along the shoreline. If every little
3 thing that I thought was normal became this really
4 huge, like I heard the man say, clean environment.
5 I seen Manitoba Hydro's commercials, clean
6 environment. But if you walked a day in my shoes,
7 I don't think he would think it was clean.

8 I think I got so used to the way that
9 Hydro treated the land that my system got really
10 strong. Like I drink water that was brown, just
11 that's how I used to see it. And in the
12 springtime, when Hydro would let go of some water
13 and then they'd choke up the river and then more
14 water would come and then the ice dam would break
15 and then it came to our camp. There was no way we
16 could get some more water except for where we used
17 to get it. And all the little minute particles in
18 the ice melted on top of that. It settled on top
19 of the ice that when spring came around, it melted
20 the snow because that particles absorbed the sand.

21 It took my brother away that way.

22 Every little change that we had
23 experienced before now became something that we
24 must adapt to.

25 I didn't know what the Clean

1 Environment Commission was before. Because where
2 were they a long time ago? I don't know.

3 I'll let my sister speak on behalf of
4 what they feel. It is not a clean environment.
5 This is not what we used to feel a long time ago.
6 And I know things change, but it is not clean.

7 MS. McIVOR: We have been forced to
8 negotiate for some sort of accommodations under
9 Article 10 of Adverse Effects Agreement. That
10 says Hydro will remain liable to compensate any
11 member who is a licensed trapper, not traditional
12 land user, for any loss of revenue from commercial
13 trapping and any direct loss or damage to any
14 buildings, structure or other infrastructure
15 located on the registered trapline used by a
16 member which resulted from a construction and
17 operation of the KGS project.

18 And when we did our Cree Nation
19 partner Keeyask environmental evaluation on page
20 123, registered trapline system, it also states
21 that their traditional family territories. We had
22 family, traditional territories before licence,
23 trapline licence. Traditional land uses has been
24 passed on from generation to generation in our
25 culture. Each family has their own territory.

1 And to impose this on them will create conflict
2 between families. That's what Hydro is trying to
3 do to us, is to find another trapline for us. But
4 every family member in our community has their own
5 traditional land use. We can't go and impose on
6 them. Because every time we have a meeting with
7 Hydro, that's what they put on the table.

8 Manitoba Hydro has suggested to us
9 that all they have to do is to pay us a very small
10 amount of money and perhaps find us another
11 trapline area. But this is not a trapline issue,
12 we have been given very few choices and all very
13 poor.

14 First of all, we find another -- if we
15 find another suitable trapline area, it will never
16 substitute for our homeland, where we have always
17 been. It will be like forestry location.

18 Anyone who understands Cree culture
19 would never say to a Cree person, just pack up and
20 move on. That would degrade who we are because we
21 are about the relation to our land. The land of
22 the creator gave to us to live on and take care of
23 it.

24 Second, we are about to lose
25 everything, including use of our land, trees,

1 rocks, shoreline. These are structures and
2 infrastructures to us, yet Hydro refuses to accept
3 this and say we only get bare bones compensation
4 for our homes on the land.

5 What if I go to your territory and
6 said I want to move my family here? What if I go
7 next door to your place? This is our homeland.
8 Everybody has -- every culture has the system.
9 And I know that everybody in our Cree culture
10 knows this.

11 We asked CEC to consider recommending
12 conditions to put on the licence for proposed gas
13 generating station. Hydro to make best efforts in
14 good faith and on a good urgent basis to negotiate
15 compensation package for our family that includes
16 infrastructure, like Leon's Island is our Memorial
17 site. This is where we lost our brother. And
18 what they wanted to compensate for us is a
19 Memorial and a picnic table. I already got a
20 picnic table, I can make my open picnic table.

21 And Lillian's Island. How much do you
22 think that is? That's whenever we take our
23 children out, that's where they go swim and that's
24 where we go have our picnics as a family. We have
25 our gathering here as a family. It will be under

1 water. This is named after our oldest sister,
2 Lillian.

3 Our dad's main camp. It had a tepee
4 in it and that's where we had our kids, we had our
5 traditional gathering in there. What is Hydro
6 willing to put on the table for that land?

7 Looking Back Lake. My daughter here
8 in the back used to run from Gull Lake all the way
9 to PR 280. And now they are making a gas camp
10 there. They are displacing us with all this
11 Keeyask dam. This is a very important and
12 spiritual and cultural places to our family.
13 Cabins, travel access safety to our family,
14 ceremonies and memorial sites, and heritage sites.
15 We want to be left alone, undisturbed and
16 protected.

17 And my brother Robert also has
18 something to say about sturgeon.

19 MR. SPENCE: (Cree spoken) Some of you
20 that are here know me. (Cree spoken) I'm a 44
21 years old. (Cree spoken) I have lived my life, my
22 short life on the land in Split Lake where I grew
23 up, where my grandparents brought me up. (Cree
24 spoken) It's not hard for me to come up here -- it
25 is hard for me to come up here and sit in front of

1 all you here today because what I carry with me, I
2 have carried with me all my life. And I don't
3 know if I can speak enough today, tonight on this
4 occasion to tell you the hurt that I carry within
5 me, that I carried all my life because of Manitoba
6 Hydro. (Cree spoken) My soul hurts and is dying.
7 I feel as though I'm mourning everyday while being
8 on the lake and the land. You can't understand
9 that because you don't want to go past that door.
10 And you can't. I like to see you try. To live
11 the life we live as First Nations people being as
12 connected to the water and the land as we are.
13 You killed the land. You killed the water. You
14 killed the fish. You killed the Indian. Ininiw.
15 Do you understand that?

16 I come here with a rage built up
17 inside me for so long that I can't hold it back
18 anymore. (Cree spoken)

19 Thank you Lord for giving me the
20 chance to come and speak here today in front of
21 the CEC. (Cree spoken) And I never thought I was
22 going to be able to come up here to talk in front
23 of all you people. But I asked the Creator for
24 help. And thank God he gave me the courage to
25 come up here and talk on behalf of the people of

1 Split Lake. And behalf of the people that have
2 gone. On behalf of the people that Manitoba Hydro
3 ignored. And passed on. (Cree spoken) A lot of
4 elders are gone, our elders, who taught us to
5 respect the land, to carry on the teachings and
6 the traditions of the First Nations people. I
7 carry those with pride. Everyday.

8 (Cree spoken) It burdens me everyday.
9 It tears me down. It weighs me down so much so
10 that every time I come to Winnipeg, I get sick. I
11 am sick here today. (Cree spoken) I don't know
12 what's wrong but every time I come to Winnipeg, I
13 feel the pressures and the stress of the city. I
14 hate the city. I didn't come here for personal
15 pleasure, I came here to voice the concerns that
16 my people have, our people as a First Nations
17 people. A lot of people who wanted to come up
18 here today can't come up here. They never had
19 this opportunity. (Cree spoken) A lot of them
20 left us already. A lot of good people. (Cree
21 spoken) but I hope through me that they can speak.

22 Hydro, since day one, has done nothing
23 but harm to the environment. (Cree spoken) I'll
24 tell you a story. I had so much Tylenol. (Cree
25 spoken) My late grandfather John George Garson, I

1 was out with him on the lake when he was
2 commercial fishing in a chestnut canoe. I was
3 just a young guy. Boy I was proud to be out there
4 out in the lake with my grandfather. I thought I
5 was doing something worthwhile and meaningful.
6 (Cree spoken) That means a lot to a lot of us
7 people who work hard. We are hard working people.
8 But to us, it's not work. That's a white man
9 word. To us, it's just living. We are out on the
10 lake and I went with them to check his net. We
11 drove up to his net. Well, I looked down into the
12 water (Cree spoken) and I saw the bellies of the
13 fish under the water. About a foot and a half to
14 two feet down I saw them. (Cree spoken) Boy we've
15 got a lot of fish in the net. Honestly, that's
16 how far I was able to see down into the water.
17 (Cree spoken) You won't see nothing.

18 This is the water today, this is a
19 fish today you try to look at a fish underwater.
20 It's like you can't see it. But back in the day,
21 you could see it that far. (Cree spoken) we can't
22 see that today. (Cree spoken) A lot of the weeds,
23 the vegetation are gone that I grew up with
24 seeing. I said to my grandpa, boy (Cree spoken).
25 One of these days, my grandpa, I said, I'm going

1 to do that too when I become a fisherman I said.
2 I'm going to be able to see all those fish in my
3 net when he get old enough to fish.

4 Now, (Cree spoken) not even this
5 close, can't see anything under the water. (Cree
6 spoken) They invited aquatic environmental
7 specialist. I thought I was doing really good
8 going to work with these people, I thought I was
9 making friends. But you know what I learned over
10 the years, you can't make friends with people who
11 are in it for money. You can't do that.

12 Now I realize I'm going to say what I
13 have to say regardless of who I thought I made
14 friends with. Sure we tag sturgeon. I didn't
15 feel right about it, I felt really bad for the
16 sturgeon. How would you feel if I stuck prongs in
17 your ass and put wires through it? You wouldn't
18 like it. (Cree spoken) He's got a life. He
19 suffers too. We see it. We have seen it in the
20 tags, aquatic and acoustic tags we put in the
21 sturgeon.

22 And recently, I have seen the damages.
23 (Cree spoken) I said to my grandfather. (Cree
24 spoken) I'm going to get lots in my net. What he
25 said next dumbfounded me because I never thought

1 in my wildest dreams that anybody can be so
2 capable of so much destruction. And he said to me
3 (Cree spoken) when you get older, you're not going
4 to have the same shorelines, they are going to be
5 gone, the trees will be gone, they will be
6 floating by.

7 (Cree spoken) I see it today. I
8 thought (Cree spoken) that's what I said to him.
9 (Cree spoken) And he said to me (Cree spoken) my
10 grandson, they act like God. They have the power
11 to destroy the land. And I say you are crazy in
12 Cree. (Cree spoken) And he chuckled at me.

13 Now I see it. Act of God that we hear
14 all the time when floods occur. The
15 overmanipulations of the water systems in
16 Manitoba, Churchill River, Nelson River. One's
17 flooded, the other one's drained. What about the
18 sturgeon? (Cree spoken) The Churchill River, the
19 sturgeon are getting wiped out. The only place
20 where we harvest sturgeon is at the mouth of the
21 confluence of the little Churchill River because
22 they have a river there that they can survive
23 from. The Churchill little River From Fidler to
24 Billerd (ph). No sturgeon there no more.

25 Yet 20 years ago is the last time

1 anybody has harvested a sturgeon from Fidler Lake
2 from TCN. But today there's none. Why is that?
3 Thirty years ago, I'm guessing commercial fishing
4 on Billerd. What happened to them? Split Lake
5 never went there in 30 years and yet 15 years ago
6 there was sturgeon there. Redhead Rapids, 10, 12
7 years ago, there was sturgeon there, they are
8 gone. And I heard a so-called expert say that it
9 was overharvest, it was due in part of
10 overharvesting by First Nations people. That was
11 a lie. Whoever said that and whoever is repeating
12 that is also lying. Those are strong words,
13 especially my culture. Maybe in yours, too.

14 Same thing happening on the Nelson
15 River. Sturgeon are dying. I fed my mama
16 sturgeon. My dad told me when I went and fed the
17 sturgeon to my mom (Cree spoken) I gave her that
18 sturgeon. Boy she was happy. But my dad told me
19 later on, Robert, that sturgeon had no taste.
20 It's like the water. Your mom had to put ketchup
21 on it just to give it flavour.

22 That's when we noticed about a lot of
23 the fish on the Nelson River. We have tagged
24 sturgeon there too. And as for (Cree spoken) no
25 evidence of sturgeon spawning at Gull Rapids (Cree

1 spoken). I thought that's crazy.

2 I was part of a study that went to
3 Gull Rapids. Jonathan was there. The province
4 was part of it. When we picked up some of the
5 sturgeon that we were tagging, they were melting.
6 I didn't know what it was at first. They were
7 melting which meant they were ready to spawn. A
8 lot of the females that we caught you can tell
9 they were females because some of the eggs were
10 coming out. That would only happen when they are
11 ready to spawn.

12 How is it that you guys are getting
13 away with saying there's no evidence of sturgeon
14 spawning there? (Cree spoken)

15 MS. McIVOR: We will do the slide
16 presentation, the sound.

17 (Slide presentation)

18 MR. KITCHKEESIK: Yes. Where you see
19 where that camp is, a long time ago my dad
20 harvested the moose probably right underneath that
21 trailer where it stands now.

22 Ekosi. Thank you.

23 MS. McIVOR: I want to thank CEC for
24 hearing our story, our concerns and I want to
25 thank everybody that's present that are here.

1 Thank you.

2 MS. DISBROWE: Last but not least,
3 make sure Manitoba Hydro does the right thing, and
4 go back to the tables regarding the JKDA for our
5 people because we also live in TCN and the health
6 conditions of our people is very poor. And the
7 river is like a bloodvein and it's affecting all
8 of us in our community. That's all I need to say.

9 THE CHAIRMAN: Thank you all for --
10 I'm sorry.

11 MS. WAVEY: Before we go, I'll say a
12 prayer.

13 (Prayer)

14 THE CHAIRMAN: I'd like to thank you
15 all for coming in and making presentations this
16 evening. We saw and heard from a number of you in
17 Split Lake so it was nice to see you again. Thank
18 you.

19 They were the last presenters on our
20 list. We are off next week. We'll be back here
21 in this room a week Monday, the 25th. So we are
22 adjourned. Sorry, we have some documents to
23 register.

24 MS. JOHNSON: WPG 3 will be
25 Ms. Saunders' presentation. Number 4 will be

1 Mr. Ciekiewicz. Number 5 is Ms. Kennedy
2 Courcelles', and number 6 is Mr. Braun's.

3 (EXHIBIT WPG 3: Ms. Saunders'
4 presentation)

5
6 (EXHIBIT WPG 4: Mr. Ciekiewicz's
7 presentation)

8
9 (EXHIBIT WPG 5: Ms. Kennedy
10 Courcelles' presentation)

11
12 (EXHIBIT WPG 6: Mr. Braun's
13 presentation)

14 THE CHAIRMAN: Thank you. And we'll
15 see you all in a week and a half.

16
17 (Adjourned at 9:19 p.m.)

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OFFICIAL EXAMINER'S CERTIFICATE

Cecelia Reid and Debra Kot, duly appointed
Official Examiners in the Province of Manitoba, do
hereby certify the foregoing pages are a true and
correct transcript of my Stenotype notes as taken
by us at the time and place hereinbefore stated to
the best of our skill and ability.

Cecelia Reid
Official Examiner, Q.B.

Debra Kot
Official Examiner Q.B.

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