

MANITOBA CLEAN ENVIRONMENT COMMISSION

KEEYASK GENERATION PROJECT

PUBLIC HEARING

Volume 12

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Transcript of Proceedings
Held at Fort Garry Hotel

Winnipeg, Manitoba

THURSDAY, NOVEMBER 7, 2013

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Judy Bradley - Member
Jim Shaw - Member
Reg Nepinak - Member
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No Undertakings given

1 Thursday, November 7, 2013

2 Upon commencing at 9:30 a.m.

3 THE CHAIRMAN: Good morning. We'll
4 reconvene the hearings.

5 First up this morning we have a
6 presentation from the Shamattawa First Nation.
7 Following that, we will return to yesterday's
8 cross-examination.

9 So I'd ask if you could introduce all
10 of the folks at the two tables and then proceed
11 with your presentation.

12 MR. HENLEY: Thank you, Mr. Chairman.

13 I'm Thomas Henley. I'm assisting as a
14 friend of Shamattawa here. To my right, Paddy
15 Massan, our elder; to his right, Chief William
16 Miles. Starting to the left of the table at the
17 front, Sam Miles; our coordinator, Councillor
18 Jordan Hill, Councillor Liberty Redhead,
19 coordinator Daniel Redhead, Brittany Napoakesik,
20 Malcolm Canibie, Councillor Kerry Miles,
21 Councillor Sidney Canibie.

22 THE CHAIRMAN: Thank you. And you can
23 proceed with your presentation.

24 MR. HENLEY: Thank you, Mr. Chair,
25 commission members, chiefs, elders, youth, ladies

1 and gentlemen, for this opportunity to provide
2 commentary about the proposed Keeyask project and
3 the material submitted by KCNP about Shamattawa
4 First Nation.

5 This presentation is made from the
6 perspective of the people of Shamattawa, and
7 secondarily, from the perspective of Chief and
8 Council. Chief and Council take their direction
9 from the people of Shamattawa, and over a very
10 long period of time they have found that directing
11 Chief and Council and acting collectively is their
12 primary way of survival at Shamattawa. This is a
13 community closely connected to the land, to
14 hunting, fishing and trapping. And we are
15 delighted to be here today.

16 What we hope to do in our presentation
17 is at the outset describe the basis, the context
18 and background of how we came to be here. Because
19 we arrive here without funding, and as a real last
20 opportunity to get what we think are some very
21 important points on the record. So in that we
22 will provide a response to the executive summary,
23 we'll provide a more detailed response to what
24 we're calling CEA registry reference number
25 11-03-64144, which is a report specific to

1 Shamattawa First Nation. We'll conclude by
2 suggesting some recommendations or outcomes for
3 the Clean Environment Commission to consider.

4 The area that is under consideration
5 is the traditional land use and occupancy area of
6 Shamattawa First Nation. When you look at the map
7 before you, you might think it's the white area
8 but, in fact, the area that is represented by
9 Shamattawa traplines is both the white area and
10 the shaded area. And later on we'll show that
11 this is important.

12 So key to the geographic area that we
13 are referring to, the Hayes River running in this
14 direction, the God's River intersecting there, and
15 the Echoing River going right over into Sturgeon
16 Lake in Ontario. It's important to know this area
17 that at Kaska, the Kaskattama River, this is the
18 old York Factory site at Marsh Point, and there's
19 a close intersection between Shamattawa and the
20 people at Port Severn. This is the winter road
21 from Gillam to Shamattawa, and carrying on from
22 Shamattawa to Port Severn.

23 At the time this particular study was
24 done, we mapped right into Ontario, even though
25 the trapline area is only represented by Manitoba.

1 The little creatures you see here are
2 moose, caribou. There's fish that I'm sure you
3 can't see and I can't see. But this map was based
4 on interviews with 53 people that use the land,
5 and it was done as part of Conawapa work in 2009,
6 and I'll expand on that momentarily.

7 We put this slide in, and want to say
8 this: The rivers are pristine, they run with
9 clean water. They have sturgeon, brook trout,
10 many fish species. This area is replete with
11 woodland caribou, moose, geese. It is an area in
12 this province that's relatively untouched.

13 And I think the message that I got and
14 was directed to convey to you by the people of
15 Shamattawa and Chief and Council is they are
16 determined to keep it that way. They want it that
17 way because their livelihood is based on clean
18 water, untouched resources, un-impacted.

19 This simply shows an annual round of
20 land use activities that include hunting, fishing,
21 trapping, gathering, tents and cabins. Until this
22 was produced, I really didn't know what
23 traditional knowledge was. But suffice it to say,
24 at any time of the year, people at Shamattawa know
25 where they can get food. So it wouldn't be

1 obvious to us. But December, January, they are at
2 Whitefish Lake dip netting whitefish in very large
3 number. They know where trout are, sturgeon are.
4 They know when the caribou will arrive and leave
5 and come back. And this annual cycle of gathering
6 and harvesting from the land has been practised
7 for a very long time. It's been practised in the
8 past, it's practised now, and it will be practised
9 in the future. That is a message they wanted to
10 convey to the Clean Environment Commission.

11 So how have we been involved? Why are
12 we here?

13 In 2007, Shamattawa entered into an
14 agreement with Manitoba Hydro to examine a number
15 of matters related to Conawapa. We were
16 considered a First Nation community in the
17 vicinity. And for five years, we have worked hard
18 and produced three studies, a traditional land use
19 and occupancy report in 2009, which I have here, a
20 household survey; a household survey, an in-depth
21 look at issues in the community 2010; and a rather
22 detailed fishing report done collaboratively with
23 North/South and with others, two major studies
24 there focused on fisheries and on sturgeon.

25 On the July long weekend, we were

1 offered the opportunity to provide commentary on a
2 draft report specific to Shamattawa. And a
3 colleague and I were given modest funding to
4 provide a critique, which we did, we have provided
5 to CEC. And that is the only funding that we have
6 had to provide any feedback on Keeyask.

7 So these reports, most of them
8 prepared as part of our Conawapa consultation, a
9 focus on the very specific report on Shamattawa,
10 the cumulative effects chapter, and other selected
11 parts of the EIA for Keeyask, that is the basis
12 for our presentation here today.

13 We simply put this round of slides in
14 to show that people at Shamattawa are people who
15 want to be included, want their issues considered,
16 who are prepared to work collaboratively with
17 others to more fully understand the natural
18 environment and the effects that either Keeyask or
19 Conawapa, or more importantly the effects of prior
20 hydroelectric development have had on this
21 community and this region.

22 So what are the linkages of Shamattawa
23 First Nation to the Nelson River? There's a
24 shared history and culture preceding European
25 contact. There's a Cree family of people that

1 include Tataskweyak, York, Fox, War, Shamattawa.
2 This is a group of people who have acted in
3 concert for many, many years and probably will in
4 the future. These are people who travel by canoe
5 and boat in the summer, by sled and snowmobile in
6 the winter, and there is a continuum, past,
7 present to the future.

8 Their lives are governed by migrating
9 animals, birds, fish, and the community is very
10 dependant. If you have ever visited Shamattawa,
11 you will know the cost of living is high there.
12 And if it wasn't for this natural grocery store on
13 their doorstep, people would be in deep trouble.
14 Of all the Cree communities I have ever worked
15 with, these people are the closest to the land
16 when it comes to hunting, fishing, gathering.
17 It's an absolute necessity for them in terms of
18 their livelihood and their life at Shamattawa.

19 There have been interactions with
20 Manitoba Hydro because this is a community that
21 has diesel energy. And they interact with others,
22 there's a new school going in, a very important
23 initiative. And we will elaborate on some of this
24 in a moment.

25 In the first round of PIP

1 consultation, Shamattawa was unable to participate
2 because they had no representation and -- or just
3 unable to be involved. By round two, Chief
4 Napoakesik and his Council lead the community in
5 meetings with Manitoba Hydro. And we were pleased
6 that the issues were put on the record for the
7 first time.

8 In round 3, Chief William Miles and
9 his Council hosted a PIP presentation. And later
10 the community and Chief and Council interacted on
11 the draft report, which I think hurt some people's
12 feelings over there by what was in and what was
13 out. And I'll talk more about that.

14 So what are the concerns about the
15 project? We believe that hydro development
16 effects are not fully identified and have not been
17 addressed by Manitoba Hydro. We believe that for
18 reasons of definition and scope, Shamattawa First
19 Nation was left out of all aspects of the Keeyask
20 consultation, planning and involvement process.
21 And that is to their regret.

22 We think that there's a potential
23 effect on their livelihood, on their rights. And
24 at this point, it's not clear that there will be a
25 process to address those issues. We have applied

1 for funding. No agreement has been signed. We
2 know that's a separate process and issue now. We
3 certainly didn't know that at the time that this
4 process was getting under way. So there is
5 complexity. There was a flow chart that lead to
6 confusion. And let's just say that Shamattawa
7 doesn't feel fully informed about the various
8 processes that relate to the Keeyask assessment.

9 It was through talking with other
10 partners of Manitoba Hydro about potential effects
11 that members in the community became deeply
12 concerned about environment, culture, and the
13 implications for their future.

14 Many of the assurances, mitigative
15 measures, compensation measures did not apply to
16 Shamattawa because their concerns, documented in
17 written reports and PIP consultations since 2009,
18 have not been addressed. They have been
19 identified but they have not been addressed.

20 Fifty-five years of hydroelectric
21 development in Northern Manitoba have had profound
22 effects that are acknowledged. However, the
23 summary suggests that proponents of the project
24 have mitigated, remediated, compensated for those
25 effects, and any remaining effects are

1 insignificant and acceptable. We disagree with
2 this assurance because we know that Shamattawa was
3 left out, and Shamattawa will and has experienced
4 effects.

5 The main Keeyask project VEC
6 conclusions, no significant effects in several
7 biophysical and socio-economic components are not
8 accepted by SFN, who believe that cumulative
9 project effects are inadequately addressed, and
10 adverse effects of past hydro development continue
11 and have yet to be addressed or resolved. And
12 these are not new. These were identified in 2009,
13 in writing. Letters were followed up to Manitoba
14 Hydro. There are matters to be resolved with
15 Shamattawa First Nation that remain outstanding.
16 The community knows about these grievances. We're
17 not going to go into detail today, but we're
18 certainly going to highlight some of them.

19 And I emphasize, there has been no
20 Keeyask past adverse effects agreement or
21 negotiation process made available to Shamattawa
22 First Nation.

23 The summary touts the Keeyask project
24 will provide electrical service for over 400,000
25 homes elsewhere in Manitoba and the U.S. through

1 hydroelectric grid. However, there is no
2 renewable hydroelectric service or benefits for
3 Shamattawa because the community is not on the
4 grid.

5 And this is galling to the people at
6 Shamattawa. These people are 110 kilometres from
7 Gillam. They have been asking since 2004 to be on
8 the grid. They know what dirty diesel is in terms
9 of electrical generation and heating. And I will
10 elaborate on this, because there are people in
11 Shamattawa today, and they are not well off, who
12 haven't got their \$700 barrel of oil, and they
13 will not get heat in their houses until later in
14 November.

15 And in Canada, one of the richest
16 nations on earth, we have a situation that is
17 actually appalling.

18 The summary notes the positive Keeyask
19 effects in the reduction of greenhouse gases, the
20 need for fossil fuel in Manitoba and the U.S.
21 however, the people of Shamattawa will not be
22 included and must continue to rely on fossil fuel
23 generated power for electricity and heat.

24 Now, we are part of a land line
25 planning process with Hydro, but there is no

1 prospect at this point for funding. And when we
2 think about the estimated \$5 billion in export
3 profits over the last decade, we have to wonder
4 why citizens of Manitoba within a hundred miles of
5 some of the largest generating facilities in the
6 world must depend on diesel generated electricity,
7 that every year becomes more problematic as the
8 winter roads last for fewer and fewer weeks, the
9 hundreds of truck loads of diesel fuel that have
10 to be brought in for heating and generation. This
11 is something that many people in Shamattawa find
12 unacceptable. Not only do they get the dark side
13 of environmental and social effect, but they get
14 none of the benefits. And yet for the people in
15 the United States, thousands of miles of
16 transmission are not too much, and cheap power for
17 them is our gift to them. But for the people of
18 Shamattawa, nothing.

19 The summary describes the basis for
20 inclusion of First Nations in JKDA. And
21 Shamattawa was excluded because they were not
22 considered in the vicinity as compared with
23 another definition that I would propose, impacted
24 First Nation. These are an impacted First Nation,
25 past, present, and I believe in the future. But

1 they were excluded because they weren't in the
2 vicinity.

3 Now, I will say that they are included
4 in the vicinity of Conawapa, 90 kilometres farther
5 downstream. Something here doesn't resonate. And
6 I would like to see in legislation where in the
7 vicinity is 90 kilometres away.

8 The summary notes the general
9 acceptance of major project effects by the Cree
10 Partners, and I say Shamattawa was excluded, their
11 issues documented but not addressed.

12 So one of the main conclusions is that
13 some of these VECs are minimal, insignificant, or
14 can be remediated. Yet 55 years of hydroelectric
15 development is seen by members at Shamattawa as
16 devastating to the Cree in terms of the
17 biophysical environment, socio-economic
18 circumstance, and in cultural terms.

19 Although funded to understand Conawapa
20 effects, the Partnership funding was not provided
21 to understand Keeyask project effects. So we are
22 here kind of on a particularly peculiar basis,
23 learning what we can from one project, applying it
24 to another.

25 Although many effect issues are

1 included in the specific report -- and we thank
2 Manitoba Hydro for that. These documents that I
3 described initially were the basis for much of the
4 information in the report. What we want to talk
5 about today, what isn't in the report, and we want
6 to raise the question why material provided to
7 Manitoba Hydro was used selectively.

8 We note that one of the partners in
9 this partnership has a hand in creating the
10 Shamattawa report, and yet there is an issue and a
11 concern yet to be resolved. And we find that
12 problematic.

13 I wanted you to look closely at this
14 map because this map is identical to the map in
15 this report. The only difference in this map is
16 the shading that constitutes the York Factory
17 resource management area has been removed. You'll
18 see there the words "York Factory resource
19 management area." You'll see in the key documents
20 submitted by the proponents that the regional
21 scope includes York Factory resource management
22 area. What is less clear in the document about
23 Shamattawa is that all of these traplines,
24 numbered 550, and I'm using my pointer here, are
25 all Shamattawa traplines. So this area here

1 called the coastal trapline area are Shamattawa
2 traplines.

3 Moose are taken there. Caribou are
4 taken there. There's a spring goose hunt that
5 they have sunk only in the last five years,
6 \$270,000, into flying people, youth and elders out
7 to hunt geese on the coast. They go there every
8 spring. They also go to Marsh Point here. And
9 there's a concern about effects on the migratory
10 pattern of geese, about sturgeon that migrate
11 around Marsh Point and up through and right into
12 Sturgeon Lake. And there's a concern about
13 migrating caribou. But the most important point I
14 want you to note is that all of these traplines
15 are Shamattawa traplines. And so if there has
16 been a past adverse effects agreement with York,
17 and that if York's resource management area is
18 included, then those effects are Shamattawa
19 effects because they are Shamattawa traplines.

20 And in the specific report there is a
21 tendency to say, well, you know, they shot a few
22 caribou near the community and moose near the
23 community. And we're here to say very clearly no.
24 Those are moose taken there by people from
25 Shamattawa. Those are caribou that are hunted by

1 people from Shamattawa. This area is the basis of
2 livelihood for people in Shamattawa. And this
3 report is not clear at all about their interests.

4 And you might say, well, where did
5 this issue come from? Shamattawa was invited in
6 the early '70s to take over this entire trapline
7 block, and they did. By 1995, Manitoba, Manitoba
8 Hydro and Canada had problems settling one of the
9 Northern Flood Agreement issues. And I want to
10 jump back. When the fort closed, 116 families
11 were at York Factory: 16 went to York Landing, 50
12 went to Fox roughly, and 50 went to Shamattawa.
13 There is a multitude of interest. And let's
14 remember that prior to the '50s, these were all
15 one group of people.

16 And we've got pictures of the grave
17 stone where the first chief, Abraham Beardy, was
18 the chief of both York Factory and Shamattawa. So
19 there are multiple interests. But when the Chief
20 from York Factory came twice to visit Chief Miles,
21 and Chief Kerry Miles who sits here, the elders
22 met. And twice they were told no, we don't agree
23 that the northern traplines can go as part of your
24 resource management area. Notwithstanding that,
25 Manitoba and Manitoba Hydro and Canada signed an

1 agreement and created a York Factory resource
2 management area right on top of the traplines of
3 Shamattawa.

4 People at Shamattawa see that as an
5 issue and a grievance to this day. And now when
6 they are asked and criticized, well, where is your
7 future planning? Well, how do you plan for your
8 traplines when it's under somebody else's resource
9 management area? So they are doubly grieved.
10 It's difficult for them to plan. They should be
11 planning for these traplines, they are their
12 trapline areas, it's their people that operate
13 them.

14 And by the way, Shamattawa has said to
15 me directly, we will not be valuated by the
16 production from our traplines. These activities
17 on the land are part of the Cree culture. People
18 go there, hunt, fish and trap, and they don't do
19 it primarily to make a few hundred dollars a year.
20 They go there because it's part of their Cree
21 culture. They have done it in the past, they are
22 doing it now, and with your assistance, they will
23 do it in the future. This is about their
24 livelihood as people and their activities on the
25 land.

1 So this issue is one of the most
2 pronounced and grievous issues visited on this
3 group of people by past hydroelectric development
4 projects. It's been brought to Hydro's attention,
5 letters have been sent specifically asking for a
6 process to address this. Ultimately, we will not
7 see one First Nation pitted against another.
8 That's not our purpose here. But this matter
9 needs to be addressed. And until it's addressed,
10 it's a serious concern in the community and it
11 hampers their efforts to move forward.

12 I simply use this to emphasize the
13 point. There is your regional study area on the
14 right, and I apologize for the poor quality of the
15 image on the right. There's a very nice map in
16 the document that shows this as the regional study
17 area. The map on the left shaded area is York,
18 and you'll see they coincide exactly. But if you
19 read the document, it's very difficult to sort out
20 the fact that the traplines are actually
21 Shamattawa traplines. Yes, there's a shared use;
22 yes, these people are interrelated by family and
23 use the area. But, in fact, they are Shamattawa
24 traplines. And to the extent that there's been
25 past effects agreements entered into, without

1 Shamattawa's concurrence or involvement, is
2 difficult for the people of Shamattawa to accept.

3 I want to move now to talk a little
4 bit about the Pen Island caribou herd and this
5 notion that people hunt near the community. This
6 is a group, a herd of caribou coming from Ontario,
7 predictability moving west to east, they are in
8 the community right now. Last spring hundreds and
9 hundreds of them were at the Keeyask construction
10 site and many were shot there. Many were shot by
11 hunters from Wisconsin on the winter road on the
12 way back. And I'll comment a little bit more on
13 the idea, that non-Aboriginal people still hunt
14 this herd.

15 But, you know, Shamattawa has been
16 scoped out of the effects assessment, and we find
17 that challenging to think about. This species and
18 other migratory species, caribou, sturgeon,
19 waterfowl, are really important to Shamattawa
20 livelihood activities.

21 As you read the reports, and our
22 marching orders in the long weekend in July when
23 we reviewed the draft document was provide
24 published sources. So we picked up public sources
25 from Ontario. And I will tell you that what's

1 written in Ontario about this herd is quite
2 different than what's written by advisers to
3 Manitoba Hydro. This herd is threatened, it's
4 possibly endangered. And I listened last Thursday
5 to Rob Berger who used two words, uncertainty
6 about the direction the population is going and
7 about the migratory patterns. And I would agree
8 with that completely. That resonates with what I
9 read from the biologists in Ontario. This is an
10 interprovincial herd that is not well-understood.

11 The elders at Shamattawa believe, for
12 example, that historically the coastal herd on the
13 west shore of Hudson Bay would regularly come
14 across and intermingle with the Pen Island herd.
15 And they say that no longer happens, and they
16 believe it is the changed flows on the Nelson
17 River that has cut off the northern herd from
18 intermingling with the Pen Island herd.

19 There was a commercial fishery at
20 Shamattawa, not mentioned, but well-documented,
21 and it should be mentioned. It was there, but now
22 it's not there. And stewardship is practised by
23 these people. And later on we're going to show
24 some slides of sturgeon and the importance of
25 sturgeon to the community, not as some abstract

1 interest to people with masters and Ph.D.'s, but
2 to people who see the sturgeon, catch them and eat
3 them.

4 There is a point to be made here
5 generally. It's my view that Manitoba Hydro would
6 cast a very narrow band of effects following the
7 sinuosities of the Nelson River. And many people
8 do not believe that there is a narrow band of
9 effects. When there's mercury in mammals and
10 fish, these fish migrate miles and miles from the
11 Nelson River. Some of the biggest walleye runs
12 follow the tributaries well back from the Nelson
13 River.

14 When the migrating caribou move east
15 and west and back, if they are affected on the way
16 there, they are affected throughout the district
17 that they migrate. And it's the same with the
18 sturgeon. And in some cases where there's fair
19 comment, and there's much fair comment in what was
20 produced by Manitoba Hydro and the Manitoba Hydro
21 consultants, but there's a tone and emphasis
22 that's lost.

23 Manitoba Hydro is as responsible, in
24 my opinion, for losses to sturgeon as the
25 commercial fishery. There's nothing that can

1 demonstrate that scientifically, but once rapids
2 are flooded, once a river is cascaded with dams,
3 there's a problem with sturgeon. We associate and
4 are part of lower Nelson River sturgeon
5 stewardship agreement. We want to be part of the
6 solution. But at no point should anyone ignore
7 that the damming of the rivers in Northern
8 Manitoba, the dewatering of the Churchill River,
9 the initial flows through the Nelson, have an
10 effect on these species that can be attributed to
11 hydroelectric development. We shouldn't shy away
12 from that. The challenge is to properly identify
13 those affected and ensure that people are treated
14 fairly when their areas, their culture is
15 impacted.

16 Now, the third bullet I think
17 illustrates the problem. The report will say,
18 well, Shamattawa is not affected because they
19 don't hunt fish and trap near the Keeyask project.
20 And that's true, that statement is true. But the
21 second statement is not true, unless you want to
22 use the weasel words directly. When caribou go
23 into this area, and their habitats are fragmented
24 by hydroelectric development, and when roads give
25 people access to hunt, Aboriginal or

1 non-Aboriginal, the herd is affected and fewer go
2 back, and the people at Shamattawa are affected.

3 So to say they are not affected
4 directly in some ways is quite disingenuous. They
5 will be affected to the extent the herd that they
6 depend on is affected. And that's what this
7 report needs to say directly, there is an effect.

8 On the final bullet, there is
9 uncertainty about the herd size, whether it's
10 increasing or decreasing and its migratory
11 patterns. And Canada associates with something
12 called the precautionary principle, and that
13 principle says when there's uncertainty, bring
14 certainty. So if there's any area to be studied,
15 this caribou herd should be studied. Because we
16 know that the islands in the forebay where they
17 calve will be flooded, their habitat will be
18 fragmented. And you only have to read the
19 literature in Ontario to see hydroelectric
20 development singled out specifically. It's
21 singled out in Ontario, by the way, but it's not
22 referred to much here in the literature in
23 Manitoba. But hydroelectric development is one of
24 the impacting factors on this herd and it's one of
25 the factors that lead to fragmentation.

1 So we make this contrast between the
2 biologists in Ontario studying the same animals,
3 and the people in Manitoba studying. And it's
4 tonal. And I listen carefully, and I heard be
5 careful, uncertainty here, uncertainty there, yes,
6 uncertainty and an effect. And when there is that
7 kind of an effect, the people at Shamattawa worry,
8 rightly, that their livelihood, their dependence,
9 if you go back to that seasonal calendar of
10 activities, their livelihood is likely to be
11 affected. And they are concerned, they are
12 concerned and they are left out.

13 And I point out, this is a direct
14 quote from the Ontario study:

15 "Fragmentation due to settlement and
16 development activity such as forestry,
17 mining, hydro corridors and roads."

18 And I say to you that typical of
19 development is the primary industry or the first
20 order effects. And the minute there's roads,
21 there's cottages and cabins and fisher people and
22 people coming from other areas. And the people of
23 Shamattawa, and particularly women identified this
24 issue. There are hunters, Aboriginal hunters
25 coming in on the winter road who said

1 specifically, our area is depleted, there is no
2 moose, there is no caribou, we are coming to hunt
3 and fish in your area. And several have been told
4 by women, go back, we don't want you to fish in
5 our area, which is very unusual for the Cree.
6 Usually, as long as you check in, you are welcome.
7 But there is this concern that the un-impacted,
8 relatively speaking, area, traditionally used by
9 Shamattawa will be increasingly used by people
10 whose resources have been depleted.

11 This is Chief Miles' sturgeon from a
12 few months ago, and it was a big one. And people
13 at Shamattawa look at these fish in a very
14 important way relative to their culture. Catch it
15 and eat it. You are hungry. You can't go to the
16 Northern Store and pick up a roast for 65 bucks,
17 you need the caribou, you need the fish. This is
18 probably one of the most expensive communities I
19 have ever visited.

20 And for whatever reason -- I want to
21 come back to this theme of being left out.
22 Surveys have been done, they have got the highest
23 cost of living in Canada. They get no freight
24 subsidy. Why? Somebody probably didn't fill the
25 forms out. They have got a Northern Store. You

1 have to see the prices to believe that you just
2 can't go and live, and I'll come back to this.

3 So this is an area of relative
4 abundance, but it's clear now from tagging, that
5 fish from the Nelson River go around Marsh Point,
6 up the Hayes, up the God's, into Sturgeon Lake in
7 Ontario, those tags are regularly recovered now,
8 returned to North/South Consultants for tracking
9 and we believe, and this is hypothesis, that the
10 fish that had been tagged now at Red Sucker Rapids
11 and on the Echoing River will go back. It's a
12 two-way traffic in fish. The number is not known,
13 but it is known that in principle they follow this
14 migratory pattern.

15 And the concern is about what's coming
16 back. Will there be fewer because of
17 hydroelectric development? Will they be different
18 fish because of the hatchery? These are questions
19 that the people of Shamattawa are concerned about
20 and would like addressed. And they are willing to
21 participate and be part of, and a positive
22 influence. But in the background people are very
23 concerned, particularly when it comes to tagging,
24 fish and sperm stripping out of the fish horrifies
25 the elders. They are not even sure about

1 stocking.

2 And so at the committee we'll say,
3 well show us that this works? If it works, you
4 know, maybe we'll be part of that. But there is a
5 worry that fish from that stocking program will
6 come, and will they be the same kind of fish?

7 People worry about those questions.

8 So I want to emphasize this point.
9 For five years, people at Shamattawa have
10 collaborated on studies about sturgeon. They have
11 collaborated on effects. They have contributed to
12 the PIP process. But they want to continue to be
13 involved. Particularly when it comes to caribou,
14 we think there's more work to be done and it
15 should be done collaboratively with people in
16 Shamattawa so that both science and traditional
17 knowledge can be shared, and uncertainty about
18 this herd reduced.

19 I like this picture, because too many
20 people look at that fish and they think of it in
21 scientific terms. And for sure it deserves a tag
22 somewhere, and it should be monitored as it moves
23 around. But you know what, those kids are hungry
24 and they look at that fish and think, wow, this is
25 dinner for the next month or two.

1 Manitoba Hydro and other scientists, I
2 think, understand the potential broad effects of
3 mercury accumulation in ecosystems, fish, animals,
4 and to that end they took hair samples in
5 Shamattawa for study in the early '70s. Results
6 of those investigations were never brought back to
7 the people in Shamattawa, but suddenly the people
8 in Shamattawa, including Chief William Miles who
9 worked for the Health Authority at the time, are
10 now wondering about mercury in fish, in animals,
11 regarding their health. And I would say it's
12 indicative that people who were professionally
13 educated knew the effects of mercury are
14 widespread. They know the health effects on
15 people, and that's why they came to people in
16 Shamattawa and said, let's have this. And I think
17 that data, if it can be found, is critical in
18 terms of a baseline. And I want to emphasize this
19 point. In many areas, there is no baseline after
20 55 years of hydroelectric development, or worse,
21 there's a baseline that is the degraded baseline.
22 And I have attended meetings where visitors to
23 Shamattawa area know it to be pristine, know the
24 waters to be clean, like the taste of the fish and
25 the animals. And they actually burst into tears,

1 and they have said to the elders in Shamattawa,
2 our waters are ruined, the fish taste different,
3 we have not done the right thing. And this
4 concerns people in Shamattawa. And what we're
5 trying to do is be involved, bring understanding,
6 and bring a full understanding of effects that
7 have occurred, might occur, and will occur in the
8 future.

9 "Land and resource use for traditional
10 purposes has not been documented in
11 the Keeyask local resource use study
12 area. Therefore, traditional land and
13 resources use undertaken by members is
14 not expected to be directly affected
15 by the project."

16 I agree with the first statement. I
17 disagree with the second statement. It's
18 disingenuous. Anything that affects the Cree
19 people at Shamattawa in terms of their ability to
20 hunt, fish, trap, gather, it may be an indirect
21 effect, but this is getting into wordsmithing and
22 it's disingenuous. Their animals will be affected
23 and they will be affected. And if you think about
24 the Cree worldview, their relation to the land, to
25 the animals, is core to that Mother Earth model

1 that they believe in, and it should be respected.

2 "In the regional study area, it is not
3 expected that this use and associated
4 travel and navigation area will be
5 affected in any noticeable way."

6 And we disagree with this. We have
7 asked for and we expect to receive a study of the
8 Nelson River estuary and changing physical
9 characteristics of that estuary. These people go
10 down regularly, down the Hayes to Marsh Point,
11 around Marsh Point and up the lower Nelson River.
12 There is no doubt in my mind that the flows are
13 dramatically different today than they were in the
14 past. Many people believe that ice scouring and
15 changes in the composition of grasses have
16 actually changed the migratory patterns of geese
17 in the area. And when two chiefs have gone with
18 their sons to hunt at Marsh Point for five days
19 and not shot a single goose, they come back and
20 say something significant has happened here. And
21 they attribute it to hydro development, I don't
22 know whether it is or isn't, but it's certainly a
23 concern for the people of Shamattawa.

24 So to go through documentation that
25 always ends up somehow concluding no significant

1 effects are expected, that's not accepted. It's
2 too predictable a conclusion. It happens too
3 often. And it happens against, I think, data that
4 would negate that general conclusion applied
5 widely to everything.

6 Now, we believe that there is evidence
7 to review the overall conclusion of no significant
8 effects, particularly with regard to resource use
9 and planning in the York Factory resource
10 management area. We don't want to hear that
11 people are hunting moose and caribou near the
12 community, it's not true. They travel widely by
13 canoe, they travel widely by snowmobile, they take
14 animals throughout their traditional land use
15 area. They have done it in the past, they are
16 doing it now, and they hope to do it in the
17 future. That's the message that should have come
18 out in that report.

19 The fact that the proponents have
20 settled with and compensated York is no excuse for
21 ignoring the trapline areas that are Shamattawa's
22 and operated by people in Shamattawa, who have not
23 been afforded even a process to try to sort this
24 issue out between the two First Nations, and it's
25 been asked for in writing.

1 And we think the Pen Island caribou
2 herd will be negatively impacted. The degree, the
3 significance of that, we don't know. But
4 certainly the people here depend on that herd. If
5 X number go there and less come back, they are
6 affected directly.

7 We want to continue to understand the
8 magnitude of the migration of sturgeon around
9 Marsh Point, up the Hayes River, the God's, into
10 the Echoing, that needs to be better understood.
11 And we'd like to continue working with people who
12 study those things from a number of perspectives.

13 Water quality issues and mercury are
14 front and centre in the member's mind. These
15 legacy issues undermine confidence that the
16 adverse effects of Keeyask will be addressed in a
17 timely and effective manner. It's hard to hear
18 that when issues that go back 15 years have not
19 been addressed. Will a hatchery be built? I
20 don't know. But if you feel that you were grieved
21 from 1995, when your northern traplines seemingly
22 became the York Factory resource management area,
23 it doesn't build confidence that the assurances,
24 the remediation, the mitigation, will be wonderful
25 and these things will be taken care of. The

1 people of Shamattawa have not been part of that
2 process and have serious concerns.

3 Elder Paddy Massan will make a
4 statement now related to this.

5 MR. P. MASSAN: Good morning. I have
6 always wondered about environmental impacts in
7 Shamattawa, our home. If you look at the map of
8 Manitoba, go from east to west, cut it in half.
9 The west side is all polluted, water no good.
10 East side still good for now.

11 Hydro destroyed our Manitoba waterways
12 from Lake Winnipeg, Hayes River, Nelson River,
13 they destroyed that. I believe the fish is no
14 good over there, not as healthy as ours. But
15 there comes a time the fish are going to migrate
16 to our area.

17 We need these animals, we need this
18 fish for our livelihood. The cost of living is
19 twice in Shamattawa. For me and my son, my
20 welfare is only 795 a month. I've got to live on
21 that. And if I buy my son a jacket, two, \$300
22 jacket, I have 400 left for my groceries to live
23 off for a month. I calculate it between him and I
24 how much it's going to cost to feed me in a day.
25 Three square meals a day, it's going to cost me

1 \$11, it will feed me, \$11 to eat three square
2 meals.

3 The animals are very important in my
4 community, very important. Caribou, the moose,
5 the geese, the water, it's not pure like it used
6 to be in the past. If you send anybody to check
7 on the water, they have a problem with mercury
8 now. I go to Whitefish Lake to go fish, there's
9 fish, maybe 200, maybe 50 of them come from Nelson
10 River full of mercury. They have to come in that
11 way. Our hunting is very -- our hunting, the
12 water, we need them. They told me one time, your
13 water pure, but now it is not.

14 That was the past. Now I always
15 wondered about the future. Now, the fish is still
16 good, maybe, but the future? How will it impact
17 my kids and their kids and their kids? Everything
18 being destroyed slowly. The planes that fly by,
19 the fuel that falls down. Just my own community,
20 the fuel, fuel, it keeps coming outside the tank
21 into my ground. I use a lot of fuel to heat my
22 house, and fuel is expensive, with welfare. I'm
23 glad I am working a little bit, work a little bit.

24 Now, global warming has always been a
25 big issue. He's telling the truth. There's a lot

1 of places in Shamattawa where the shores have
2 fallen in. It never happened before, now it's
3 happening. Global warming is very (indiscernible)
4 the scientist, everything is going on, everything
5 is cockeyed. I know that. Sometimes the caribou
6 come early. The only time I seen two birds I have
7 never seen in my life, I have seen about 12
8 pelicans, how come they come there? There is
9 another bird that comes here about the same size
10 as goose, they eat fish -- they come around here,
11 they come too far north, maybe global warming,
12 something happening.

13 So I always say my grandchildren are
14 going to feel the impacts, my great-grandchildren
15 up ahead of me, the future. We have to protect
16 the future my friends.

17 You see the caribou go to the west
18 side, west side of Shamattawa, to go from east to
19 west. There is a lot of hunters to the west.
20 South, people come. Hydro, they told me, you guys
21 are shooting too much caribou, they come this way.
22 That wasn't us, I told them. We eat them if we
23 take them. So some people shooting caribou for
24 nothing.

25 We need caribou protected on our side,

1 from the hunters and from the environment, from
2 pollution, for our kids.

3 You know, the only thing, you know how
4 Shamattawa is, waterways, still good right now.
5 You've got to be there to see it. Compare both
6 sides, west and east, compare the waters. What
7 Hydro done to the Nelson River, they destroyed
8 that side.

9 So I think like the others hunters in
10 the communities go out of there, go hunt some
11 place where it's good water, fish and moose,
12 caribou are good health, no pollution.

13 Mining in my area, I think they have
14 come, they are drilling all over the places. The
15 water sources in Shamattawa come from the Hayes
16 River. Why do they? They don't tell us. Why do
17 they monitor the water? They don't tell us
18 nothing. They are doing it on (indiscernible)
19 Lake. They say there is a potential site for a
20 mine. But I'm totally against a mine. But for
21 the government, I think it's their benefit.

22 I want a power line. I fought for the
23 power line when I was the chief, but they never
24 give me the power line because they don't make
25 money on my side, they we don't have enough people

1 to make money. But they make power lines to the
2 States, anywhere, Saskatchewan. They want to make
3 power lines for them to make money, but they don't
4 put a power line to benefit my people to live
5 good, and give heat, they will never do that.

6 I need millions and millions of
7 dollars to make a power line. Right now I'm
8 building a school. They are going to enhance
9 power, enhance the power, more power to Shamattawa
10 because they need power at the school. Why don't
11 they give us a power line? They will come in
12 there. We want a winter road. Highways tell me I
13 don't got a winter road. Also de-tree
14 (indiscernible) report it. I think those are my
15 trees anyway. They are in the way for the safety
16 of the truckers, for us.

17 The reason why environmental, global
18 warming, now they change, the winter road change
19 from 20 years ago to now. There are places on our
20 road that had never frozen, where you could just
21 plow away through them with the bulldozer going
22 through. Now they don't go through, because of
23 the global -- I think it's global warming,
24 something going on. There is something going on.
25 It's been stated by scientist after scientist

1 towards the government, the countries, you've got
2 to stop this. The north is thawing out. It is.
3 I see that. Polar bears coming our way. They
4 don't come our way, it's too far south, too far
5 west. And they go that way, to the north, they
6 stay to the north. Why they come this way? Those
7 birds are coming. (Indiscernible) It's global
8 warming.

9 Pollution is very high on my list.
10 How is it going to affect my fish, the moose,
11 caribou. What falls from the sky feeds -- what
12 falls from the sky, I mean rain, feeds the grass,
13 feeds the willows, animals eat that. It goes
14 through their system. What happens to the animal
15 that's going to be polluted? We can't eat it. In
16 the future, not now, in the future. It's going to
17 get worse.

18 We have to have it now, not tomorrow,
19 now. We've got to tell these big industries stop
20 putting smoke in the sky with their mining,
21 everything like that. We have to put a stop to
22 it. We need clean air. We will have to wear gas
23 masks, air masks in the future. It's just going
24 to happen.

25 One time I went to Hamilton, Ontario,

1 I was on top of a hill. We go Hamilton, there's a
2 blue haze. What the hell is blue there? It looks
3 like Indian summer back home, that's what it looks
4 like. But it's just from the mine, polluted air.

5 I was in Vancouver, all I could smell
6 outside was a lot of cars, all exhaust. That goes
7 in the air, man. But it's going to get worse, I
8 will tell you that much, it's going to get worse.
9 It's written by these -- you could see it, the
10 more mines that go, the more smoke that goes in
11 the air, the more jet planes that fly pollute the
12 air. And it impacts us, impacts animals in the
13 north. It does.

14 (Indiscernible) scientists, key
15 governments, Harper and those guys, and I don't
16 believe them. All mighty dollar for them. It is.
17 Hydro, they make them they make a dam. They don't
18 care about us, they don't tell you anything.

19 I was living in Limestone about 35
20 years ago before I moved to Shamattawa. There was
21 a reason why I moved to Shamattawa.

22 (Indiscernible) thousands of trout, two feet of
23 water, full of water, thousands of them. You can
24 get 20, 30 of them, how many they can pack to take
25 home. But the following couple of years,

1 Limestone came up, I go back to that same spot
2 that same year, no trout, all gone. Where did
3 they go? I don't know. Their dam scared the away
4 or somebody scared them away? They went
5 elsewhere.

6 I moved to Shamattawa 33 years ago,
7 October 19th. I killed my first moose, and threw
8 my hook in the water and catch a trout. I am a
9 hunter, I'm a fisherman. I went home, I went back
10 there, I met a woman and married her. I never
11 regretted it. I lived there. I still live there
12 now. I lived there and, boy, I love that place,
13 water still clean.

14 I will tell you something my friends,
15 you guys are the people who make a difference, to
16 stop these guys from polluting. You have to stop
17 them now. I can see it coming. How much should I
18 tell you? Put all your heart and soul into these
19 people, stop them somehow. I can't say any more
20 than that.

21 Thank you for listening. Okay,
22 thanks.

23 THE CHAIRMAN: Dr. Henley?

24 CHIEF MILES: Chief William Miles. I
25 want to thank Thomas for doing such a great job on

1 the presentation for Shamattawa.

2 They say that the people move away
3 from York Factory back in the '50s, but
4 Shamattawa, originally from York Factory, moved
5 inland where we live now in Shamattawa. Actually,
6 people of York Factory only moved inland. We
7 still have access to York Factory. We can go
8 there any time we want to. We just jump on the
9 boat, go down river, and hunt there. And nobody
10 moved away from York Factory. Shamattawa's there.
11 We are the people from York Factory. We go there
12 any time we want to by boat. And we go up Hayes
13 River.

14 We actually moved to Shamattawa to be
15 where we have more access to our land, to the
16 resource area, our livelihood where we live, to be
17 more in the central part of our region, our
18 territory. So we can go to rear and centre of
19 where we make a living off of the land. We go up
20 towards Echoing River, up to Sturgeon Lake. Many
21 people don't even acknowledge, but, I mean,
22 Ontario, because it is our traditional territory.
23 That's where we lived off for so many years, so
24 it's part of our land. I won't say it's our land.
25 We go there all the time, even today. You may not

1 see a lot of cabins, but we go there by boat. We
2 have our tents. We go there any time we want to.

3 If we would see it, what Thomas showed
4 on the map, you will see where I've been. I've
5 been to York Factory, even all the way up to
6 Sturgeon Lake, only this fall we went up there to
7 hunt moose.

8 We still have a lot of animals that we
9 depend on. That is why we can live \$370 each
10 month from welfare. It's not totally on that, we
11 live off the land, like we say. We've got people
12 who have their nets in the river, in front of the
13 river that they go check on everyday, that's where
14 they eat fish, all the time. And we hunt that
15 fish all year-round. That's where we get our food
16 from. That's how we manage to survive on what we
17 get from welfare.

18 It's also very expensive, our diesel
19 generation that we have. Thomas brought up points
20 that we didn't know, the benefits that we don't
21 know that we should be given. Like we should have
22 power off the grid, and this shouldn't be just
23 because it's feasible that you cannot only put
24 power to Shamattawa, if it is feasible they said.
25 But I think they should take care of our people

1 and put power for Shamattawa, no matter how much
2 it costs. You have to take care of our people in
3 Canada, like they do in B.C. I guess they put
4 power in all of the reserves, or not just
5 reserves, but in places where people live. I
6 think, I forget, but just some low number of
7 families or houses that they can put the line,
8 power line in B.C. They should do that here. And
9 the Hydro pays for all of it, and they should do
10 that to us also. We're not even that far off
11 Gillam. We are only, like they said, 194
12 kilometres to the main road from Shamattawa.

13 You know how much it costs to take us
14 to fall behind on the bills before it's very hard
15 to catch up. Like right now we have 1.3 million
16 behind our Hydro payments, and it doesn't take
17 that long. It's very expensive to, you know, to
18 hydro power, diesel generating power in the
19 reserves. It's so expensive. And I think we need
20 that cheap power that everybody gets in Manitoba,
21 and also even in the United States. We're so
22 close. Why can't we get it? That's one of the
23 big issues that what we want, we want the hydro
24 power in our community.

25 And also I guess we don't have a lot

1 of time, I will let Thomas do more presentation,
2 he was almost done.

3 MR. HENLEY: I'll wrap up fairly
4 quickly with some thoughts about what we think CEC
5 might recommend.

6 So on the first bullet, we disagree
7 with the main conclusion and we think there's
8 matters unresolved that should be resolved.

9 We particularly would like to see
10 ongoing collaborative studies on the Pen Island
11 caribou herd, that involve the scientists from
12 Ontario as well as Manitoba. This herd is not
13 well understood. It's critical to the livelihood
14 of people of Shamattawa. It really does warrant
15 additional attention. And when the Hydro
16 consultant uses the term "uncertainty" about
17 migratory patterns, about population, when we see
18 articles like this, that some scientists think
19 these caribou are on their way to extinction, when
20 we know the level of uncertainty that is
21 associated with counting animals, when we look at
22 the parts of this province that had animals that
23 now don't, the red flags are there.

24 On the second point, as we go home to
25 houses that are warm, I want you to know this,

1 that not only do the people on welfare, social
2 assistance, at Shamattawa gets \$790 a month, I
3 want you to know that they get two barrels of
4 heating fuel later this month, December, January,
5 February. And it's too bad for you if it's cold
6 in October and March, because you're not getting
7 any fuel at \$700 a barrel. And where the elders
8 come and say they are freezing, Chief and Council
9 will give them a barrel or two of fuel to heat the
10 house and it has to come from somewhere else.

11 And in a country as rich as Canada, to
12 have people that don't have the benefit of heat in
13 winter, when we're sending power to the United
14 States, when we're earning billions of export
15 dollars, is actually shameful and disheartening.
16 And it isn't enough to buck pass and say, well,
17 yeah, the Feds have got to come up with their
18 number and the Province with theirs. No, take the
19 lead. Tell Hydro, these are citizens of Manitoba,
20 these are people who want a decent standard of
21 living, do the right thing.

22 This idea of casting local and
23 regional effects so narrowly as to scope out
24 people who are impacted is worth thinking about
25 for future environmental assessments. I think a

1 better definition at the outset is, who is
2 affected by the project? That's what I read in
3 legislation. Include them in, listen to their
4 issues, study them. To leave people out because
5 they are not in the vicinity, I don't read that
6 anywhere. I think that's misguided. And I think
7 in many cases, the local study area and the region
8 are so naturally cast that they don't capture all
9 the effects.

10 In the final analysis, there is an
11 association with sustainable development, and I
12 put the Brundtland definition up in the header.
13 Meet the needs of the present without compromising
14 the ability of future generations to meet their
15 own needs. A good deal of this power is for
16 export and is for profit. Some of it's used in
17 Manitoba, sure. But this is a public utility
18 owned by the citizens of Manitoba. Be fair to the
19 citizens of Manitoba who will experience some of
20 the social and environmental effects. Give them
21 the benefits as a priority.

22 It shouldn't be the case that --
23 newspapers will talk about, well, you know, there
24 may be a mine in Nunavut and we'd certainly get a
25 line up there quick. No. Let's get a line a

1 hundred miles away to the people of Shamattawa and
2 to the other three communities, Tadoule, Brochet,
3 Lac Brochet. Let's treat people of Manitoba
4 fairly when it comes to sharing the wealth.

5 And I want to remind people who wrap
6 themselves in the mantel of sustainable
7 development, that Brundtland talked about the
8 needs of the poor are the priority. It's not
9 giving more to the people who already have, it's
10 to lift the poorest of the poor up. And I can
11 tell you at Shamattawa, there aren't wealthy
12 people. There are people struggling to get by.
13 Families with many children, families that don't
14 get heat, kids that don't have enough to eat.
15 This is a community that should benefit from hydro
16 development and quite frankly haven't. They have
17 been left out, and left out, and left out. And
18 that's unfair.

19 The issues are in front of the panel,
20 the Clean Environment Commission, and that's
21 appreciated. Because were it not for the modest
22 amount given to us to bring the elder and members
23 down, their issues would not have been heard. We
24 recognize and respect the work done by others
25 that's reflected in reports. We are absolutely

1 determined, though, that tonal elements and
2 elements left out be included. It's important
3 when people believe they are disadvantaged, when
4 they have grievances, that they be heard. They
5 may not always be right, but to not hear them, to
6 leave them out, to exclude their issues or not
7 address them is unacceptable.

8 The Cree wanted a final message. In
9 terms of people at Shamattawa, they respect the
10 past, the wisdom of the elders. They want to be
11 included in Keeyask and Conawapa. They want to
12 fully understand the projects. And I have not
13 heard anyone say that there aren't great
14 advantages to the people of Manitoba of these
15 projects. There is. But let's make sure that the
16 people who live in the area receive some of the
17 benefits and are treated fairly. Because these
18 are money makers, and that wealth should be shared
19 with people who greatly deserve some of the
20 benefits associated with hydroelectric
21 development.

22 So we look forward to working in
23 respective working relationships with others for
24 the betterment of future generations. And I
25 conclude with what I was told by the people and

1 Chief and Council. We have been in this area in
2 the past for thousands of years, we're there now,
3 we're going to be there in the future, and we will
4 sustain ourselves hunting, fishing and trapping.
5 Respect that, protect their future. Thank you.

6 THE CHAIRMAN: Thank you. Is it Mr.
7 or Dr.? Mr. Henley, thank you.

8 I want to thank you for this very
9 thoughtful and heartfelt presentation. The CEC
10 will certainly listen to what we heard this
11 morning, and we are somewhat limited in what areas
12 we can make recommendations. I can tell you that
13 your first request for recommendation for a
14 55-year cumulative effects assessment is something
15 that we have already recommended, and that is in
16 the early stages of being implemented. I don't
17 know when or how it's going to be done. That is
18 not our job to do. But it is something that the
19 community that you represent, Shamattawa, should
20 keep an eye out for and see where they might
21 participate in that process as it unfolds.

22 Typically -- or not typically, our
23 practice guidelines, we don't have
24 cross-examination of presentations. We do allow
25 the proponent and members of the panel to ask

1 questions but only questions of clarification. So
2 I'll turn to the proponent and see if there are
3 any -- only clarification, I don't want any
4 positions challenged.

5 MR. REGEHR: That's fine, Mr. Chair.
6 I only have one question. And that's in relation
7 to slide, I believe it's slide 17, it's page 9 of
8 the handout.

9 In the second bullet, it says:

10 "is it because a partner in the
11 KHLP..."

12 Am I correct in understanding that that partner is
13 York Factory First Nation?

14 MR. HENLEY: That is correct. And
15 we're raising the rhetorical question of, most of
16 what was in our study was included, and our
17 question is, how can the big conclusion not be
18 concluded? We wrote an entire section about the
19 history of the area. When I first started in '08
20 helping Shamattawa out, I had my doubts. And then
21 suddenly, as we got into the history and the
22 background, we drew a major conclusion. We have
23 the two chiefs here who remember vividly saying,
24 no, we don't agree. So how is it that without
25 consultation and discussion and being told no,

1 that their trapline area is covered by another
2 First Nation's trapline? There's just no answer.

3 We raise the question. They write
4 down that, at least in one small part of the PIP,
5 but there is no substantive response. Shamattawa
6 needs a process that will enable the two First
7 Nations to sit down and talk about this. And
8 everybody in Shamattawa knows the issue. The fact
9 that it was overlooked, I think, is appalling, and
10 somebody should account for it. It's there in the
11 document.

12 THE CHAIRMAN: It strikes me that --
13 Mr. Regehr, do you have a --

14 MR. REGEHR: No.

15 THE CHAIRMAN: It strikes me that this
16 is a legitimate concern, a serious concern for the
17 community you represent. However, it is clearly
18 beyond the scope of our powers to resolve issues
19 between the two First Nations.

20 MR. HENLEY: Let me respond to that,
21 Mr. Chairman, because that's key. And we have
22 said over and over, this is not an issue between
23 the two First Nations, this is an issue visited on
24 the two First Nations by Manitoba Hydro, by
25 Manitoba and Canada. And they must undo or sort

1 out this issue.

2 We will not be pitted against another
3 First Nation where there are -- this is a family.
4 But the issue has to be addressed. And I think
5 the people that created the problem in the first
6 place should be front and centre in addressing it
7 now, not ignoring it, not overlooking it, not
8 saying go away.

9 THE CHAIRMAN: I have a couple of
10 questions. I think you may have answered this in
11 your presentation, but the question of mercury in
12 fish in the community, or near the community, or
13 where community members go to fish, have there
14 been any studies done on the fish? Is there
15 evidence of mercury in --

16 MR. HENLEY: We're unaware of any
17 studies being done, other than the hair samples
18 being taken in the '70s. People would like to
19 know the results of that, largely because it makes
20 an important baseline. And if there are effects
21 in the future, you could look back and say, well,
22 here's the level in the '70s when the hair samples
23 were taken, have they changed? But people
24 remember their hair being clipped but nobody
25 remembers getting any results back.

1 THE CHAIRMAN: Does anybody know who
2 conducted the study?

3 MR. HENLEY: It's probably a federal
4 program called, I can't remember if it was FIRE.
5 There is an acronym.

6 THE CHAIRMAN: It was Indian and
7 Northern Affairs Canada?

8 MR. HENLEY: I'm not sure.

9 THE CHAIRMAN: Okay. You also
10 mentioned, I think it's an impending study of the
11 Nelson River estuary?

12 MR. HENLEY: No. I believe the study
13 was completed. It's a multi-million dollar study
14 on, I think it's hydraulics, water movement. One
15 of the things that strikes us, the flows on the
16 Nelson have changed, and it's quite possible that
17 the environment, the biophysical environment in
18 the estuary has changed because -- and we're just
19 getting into this issue. It used to be you could
20 go by canoe down the Hayes to Marsh Point readily.
21 Now there's a series of sand bars. There's a
22 down-cutting it seems of the Hayes. Some studies
23 are under way. But people see physical changes in
24 the vicinity of the Hayes River estuary, the
25 Nelson River, and that's an area where we have

1 asked that technical information be brought to us.
2 It hasn't yet, but we think it will be in the
3 future.

4 THE CHAIRMAN: But do you know who did
5 this study or -- you believe it's been completed?

6 MR. HENLEY: I think it's been
7 commissioned by Manitoba Hydro. I'm going to
8 defer to them. They certainly acknowledged our
9 request. No one said it wasn't done. I think it
10 was a major study and it is complete.

11 THE CHAIRMAN: Okay.

12 MR. HENLEY: But I would have to rely
13 on people from hydro to say yes or no, that it was
14 or wasn't.

15 I will note that this estuary of the
16 Nelson River is absolutely critical to wildlife.
17 There's polar bear, there's whales, there's
18 migrating sturgeon. This is a biological hot spot
19 and deserves a lot of attention. But because it's
20 that, it's why the Cree are there hunting in the
21 spring and looking for caribou and the rest.

22 MS. PACHAL: Mr. Chair.

23 THE CHAIRMAN: Ms. Pachal?

24 MS. PACHAL: Maybe to try to add some
25 clarity to that, the study that Mr. Henley is

1 referring to is a study that Manitoba Hydro funded
2 and did in partnership with ArticNet, individuals
3 from the university and others, with the
4 understanding for Conawapa, there is some initial
5 studies, or there's initial thinking that there
6 could potentially be some impacts on the estuary.
7 And because of that, studies were undertaken, and
8 I think there are potentially some additional
9 studies yet to do before we file the Conawapa EIS.
10 But I think that's what Mr. Henley is referring
11 to.

12 THE CHAIRMAN: Thank you. I have one
13 last question and this is pretty basic. What is
14 the on-reserve population at Shamattawa?

15 MR. HENLEY: It should be around 1,575
16 people, which makes it fairly large, and growing
17 rapidly, so they have the usual problems with
18 housing. But this is a bigger First Nation.

19 THE CHAIRMAN: Thank you. Any
20 questions of just clarification?

21 MR. NEPINAK: You mentioned fish that
22 were tagged, that were caught going into the lake
23 at the end of the river. Were those tags
24 identified, where they originated from? And those
25 were sturgeon, right?

1 MR. HENLEY: Yes. They originated,
2 they were tagged in the Weir River in '90s. So
3 it's possible, because a lot of tagging was done
4 there, that's why the tags are showing up. But
5 our idea is we have cooperated to have tagging
6 done at Red Sucker Rapids, at different places on
7 the Echoing River. We are interested now in
8 protecting spawning sites. So we're looking to
9 document the size of the migration and the
10 seasonal pattern. But it's almost sure the fish
11 also go back into the Nelson River. And that will
12 be proved when the tags that went on in '11 and
13 since start showing up on the lower Nelson River.
14 And people in the community now I think have a
15 very good attitude toward the tags, and are quick
16 to get them back to North/South and look for the
17 map showing, you know, where was it tagged, where
18 was it caught, and what are the implications of
19 that?

20 MR. NEPINAK: When was the last,
21 timeline, when was the last tag caught?

22 MR. HENLEY: A few months ago. They
23 are regularly taken now. I think they were
24 regularly taken before, but people were reluctant
25 to turn in the tags. They really didn't know what

1 the tags were about. Now people are very quick to
2 say, look, this is key to our livelihoods, and
3 they will send the tags quickly into North/South,
4 and then expect to see the dots on the map showing
5 the tag and its implication.

6 MR. NEPINAK: All right. Thank you.

7 THE CHAIRMAN: Just where were these
8 caught?

9 MR. HENLEY: On the Echoing River for
10 sure some, on the God's.

11 THE CHAIRMAN: How far is this from
12 Weir River where they originated?

13 MR. HENLEY: The Weir River is on the
14 lower Nelson.

15 THE CHAIRMAN: It's on the north side,
16 isn't it?

17 MR. HENLEY: That's right. So the
18 fish are coming around Marsh Point. Maybe when
19 the tide goes out, the fresh water is there.
20 Because it's not just sturgeon, there are other
21 fish that had been tagged that are showing up. So
22 they are going around Marsh Point, up the Hayes,
23 up the God's, into the Echoing, into Ontario.
24 We're picking them up at Red Sucker Rapids,
25 Limestone Rapids, and even right in front of the

1 community where I think it's Olive Redhead
2 everyday goes out, paddles out, lifts their net,
3 gets fish, feeds about 50 people.

4 THE CHAIRMAN: Thank you. Mr. Shaw?

5 MR. SHAW: I have one question.

6 You cite the conclusion in Hydro's
7 Environmental Impact Statement that residual
8 effects on caribou are small, adverse, medium in
9 extent, long-term in duration and small in
10 magnitude. And you go on to say that there are
11 studies in Ontario that are in sharp contrast to
12 that. I was wondering if you'd be able to provide
13 us with the titles and the authors of those
14 reports?

15 MR. HENLEY: Sure. Absolutely. We
16 have submitted them to Manitoba Hydro. They are
17 part of Manitoba Hydro's documentation. Where I
18 will leave this with you, which is the national
19 study that raises alarm about woodland caribou, we
20 know that Ontario, for example, has banned hunting
21 of these animals since 1929. Manitoba hasn't.

22 So it's hard to credit this province
23 for being concerned when people are coming up
24 regularly and hunting these animals. They can't
25 in Ontario.

1 Ontario has a management strategy in
2 place. The Federal Government was supposed to put
3 a management strategy in place in 2011. And
4 there's a very sharp contrast between the
5 literature from the scientists in Ontario and the
6 literature here.

7 So, yes, we will definitely give you
8 the studies that we referred to. They are
9 on-line, this is not secret stuff, they are
10 on-line, and they are totally different than the
11 studies in Manitoba. And I don't understand that
12 because it's the same herd migrating across the
13 border and back.

14 MR. SHAW: Thank you very much.

15 THE CHAIRMAN: Well, thank you very
16 much. Thank you Chief Miles and Elder Massan, and
17 Mr. Henley. Thank you for this presentation this
18 morning. And thank you to the others from your
19 community who have come with you today.

20 Often when we give presentations like
21 this, we will comment in our report that we have
22 heard you. We will note what we have heard, but
23 we may not be able to make recommendations
24 specific to your needs because it's outside of our
25 terms of reference. But what you have said to us

1 today certainly won't be ignored, and it will be
2 in our mind as we're making our deliberations.

3 MR. HENLEY: In a democratic society,
4 being heard is the first step, it's most
5 important, and we appreciate the forum that you
6 have provided us with today. Thank you very much.

7 THE CHAIRMAN: Thank you.

8 We'll take a 15 minute break and swap
9 teams at the front.

10 (Proceedings recessed at 11:00 a.m.
11 and reconvened at 11:15 a.m.)

12 THE CHAIRMAN: We'll reconvene,
13 please. We'll continue with the cross-examination
14 that was interrupted yesterday.

15 Now, Ms. Cole, do you have something
16 you wanted to bring up at this time?

17 MS. COLE: We can do it now or after.
18 Did you want me to do it now?

19 THE CHAIRMAN: Sure.

20 MS. COLE: Yesterday we were talking
21 about the Wuskwatim and the EIS predictions versus
22 the actuals, and I quoted you numbers, and I
23 inadvertently read you the wrong numbers off my
24 sheet of paper. So I wanted to read back to you
25 the correct numbers for the record.

1 So in terms of Wuskwatim, the
2 predicted person years of employment was 1,100.
3 And the predicted northern Aboriginal employment
4 range from about 500 to about 650 person years.
5 The actual person years of employment was a little
6 over 2,800, and northern Aboriginal person years
7 of employment was close to 950 person years.

8 THE CHAIRMAN: So that was 1,100 to
9 2,800.

10 MS. COLE: Yep.

11 THE CHAIRMAN: And Aboriginal was?

12 MS. COLE: 500 to about 950.

13 THE CHAIRMAN: 500 to 950. Thank you.
14 Okay.

15 Ms. Pawlowska-Mainville?

16 MS. PAWLOWSKA: Good morning, I am
17 here on behalf of Concerned Fox Lake Grassroots
18 Citizens. I just wanted to state that I have a
19 camera here that will record today's questioning
20 for, specifically for Mr. Massan, who was unable
21 to be here and hear some of the questioning
22 because of health constraints.

23 Thank you.

24 THE CHAIRMAN: Thank you. Ms. Craft.

25 MS. CRAFT: Thank you, Mr. Chair and

1 good morning. I'm glad to see that most of the
2 panel members have made it back. I think we have
3 lost one and gained another.

4 THE CHAIRMAN: Can you bring the mic a
5 little closer please?

6 MS. CRAFT: Certainly. I was told
7 yesterday that I speak with a soft voice.

8 THE CHAIRMAN: You do.

9 MS. CRAFT: Do we have to swear in?
10 Is there another panel member that needs to be
11 sworn in?

12 THE CHAIRMAN: Do we have to swear
13 Martina in?

14 Ms. Saunders, I don't think you've
15 been sworn in.

16 Martina Saunders: Sworn.

17 THE CHAIRMAN: Carry on.

18 MS. CRAFT: Thank you.

19 Okay. So yesterday we left off
20 talking about ATK and worldview, and I want to
21 thank you again panel members for your frank
22 responses to those questions yesterday. I'm going
23 to continue on in the vein of ATK, and this
24 question is specifically for Mr. Bland. And I
25 welcome a partial answer or a full answer from

1 Ms. Saunders as well.

2 We have heard from previous panels
3 that ATK was used to deal with uncertainty in the
4 EIS, and this theme of uncertainty is picked up in
5 your environmental evaluation report in quite a
6 few places. I won't list all of them. But one of
7 the quotes that I have pulled from page 103 is
8 that the Keeyask project will add to these changes
9 in some ways that are foreseen, and may add to
10 these changes in other ways that are currently not
11 foreseen. And so this uncertainty theme I think
12 resounds from your EER.

13 My question to you is, how does the
14 Cree worldview deal with this concept of
15 uncertainty?

16 MR. BLAND: That's a very good
17 question. We identified two different areas. One
18 was caribou. And we thought that there was going
19 to be different impacts from what was identified.
20 Another one was the water regime in Split Lake.
21 So when it came to those two different areas, we
22 included them in our Adverse Effects Agreement so
23 that if we do, in fact, find out that there is
24 more changes than we anticipated or -- as a
25 partnership then, then we would be able to

1 mitigate that problem.

2 Coming from a world where
3 traditional -- or what did you say was a
4 traditional knowledge point of view?

5 MS. CRAFT: I said from a Cree
6 worldview, which is the foundation of your report.
7 That was your testimony yesterday, is that's the
8 foundation of the report?

9 MR. BLAND: Yeah. So how do we deal
10 with it?

11 MS. CRAFT: With uncertainty.

12 MR. BLAND: It's always difficult to
13 try to put that into perspective because our Cree
14 worldview is about Askiy, it's about who we are as
15 people. And when we try to put that into
16 perspective, the first thing we would consider is
17 a western science approach, and we would look at
18 something like monitoring, whether it be
19 socio-economic, environmental monitoring
20 stewardship. Through those processes, we
21 incorporate our traditional knowledge, we
22 incorporate having our members be a part of that
23 monitoring and evaluation, and through our elders
24 and our youth, we also are able to teach our youth
25 and pass on traditional knowledge in that respect.

1 So most of the -- most of our ways of
2 doing things are through traditional knowledge and
3 passing on information. And that's also a part of
4 our reconciliation. I talked a little bit about
5 it yesterday, but moving forward in that direction
6 is very important for us in terms of this
7 two-track approach and the direction that we're
8 heading.

9 MS. CRAFT: Mr. Bland, if I recall
10 correctly yesterday, you used the terms Cree
11 mitigation measures. Can you describe for us what
12 Cree mitigation measures are?

13 MR. BLAND: Was that in my report?

14 MS. CRAFT: It was in your oral
15 presentation yesterday.

16 MR. BLAND: Can I have one second? I
17 just need to find out what context we used it.

18 MS. CRAFT: Sure.

19 MR. BLAND: Thank you.

20 Okay. I didn't refer specifically
21 back to that portion, but Cree mitigation.

22 MS. CRAFT: Do you recall saying that
23 yesterday, Mr. Bland?

24 MR. BLAND: Yeah, yeah, okay. It's a
25 little bit about what I just spoke about just a

1 second ago about reconciliation. Mitigation
2 measures would include ceremonies, feasts, having
3 our people get back to the land, and stewardship
4 monitoring, you know, those are Cree mitigation
5 measures that I was referring to.

6 MS. CRAFT: Okay. Thank you.

7 Moving on to a bit of a different
8 track. My question is for all three, so I'm going
9 to start with either Councillor Neepin or
10 Ms. Anderson, and the others can be prepared for
11 the question as well.

12 Your environmental evaluation reports
13 don't deal extensively, I would say, and in some
14 cases some of them don't reference at all Treaty
15 rights or Aboriginal rights. And I'd like you to
16 help me with this. To what extent do Aboriginal
17 and Treaty rights inform your worldview? I am
18 asking you to speak each for your own First
19 Nation.

20 MR. NEEPIN: I'm not sure to what
21 extent you want me to discuss this, but our
22 position is, and it's been clear in the previous
23 statement that I made, that Treaty and Aboriginal
24 rights are not affected.

25 Did you want to pursue that

1 discussion?

2 MS. CRAFT: So it's your position that
3 Treaty rights and Aboriginal rights are not
4 affected by Keeyask?

5 MR. NEEPIN: That was noted in my
6 previous presentations.

7 MS. CRAFT: Fair enough.

8 MR. NEEPIN: Did you want more
9 discussion on that?

10 MS. CRAFT: Fair enough, that's a
11 complete answer. Thank you. Mr. Spence?

12 MR. SPENCE: Can you ask that question
13 again, please?

14 MS. CRAFT: Well, my question was
15 actually to what extent Treaty and Aboriginal
16 rights inform your worldview. Mr. Neepin chose to
17 answer it in a different way and that's fine. But
18 I'd like to know, is that part of how you view the
19 world is through the Treaty and Aboriginal rights
20 that might be asserted by your nation?

21 MR. SPENCE: In our process at TCN, I
22 can only speak for TCN and on behalf of our
23 partner, War Lake. In assessing and evaluating
24 the project, our nation and our members spoke
25 about Treaty and Aboriginal rights, and talked

1 about section 35, where we have the right to be
2 consulted. And after that, we had to do our own
3 assessment based on our inherent right and
4 Aboriginal right, on sustaining our culture, and
5 that's how we evaluated and did our evaluation,
6 project evaluation.

7 MS. CRAFT: Just to follow up on that
8 then, the answer to the question is that yes, it
9 would be part of your worldview to a certain
10 extent?

11 MR. SPENCE: I'm sorry?

12 MS. CRAFT: So would the answer to the
13 question then be, yes, Treaty and Aboriginal
14 rights inform part of your worldview? And don't
15 get me wrong, I'm not suggesting that it's the
16 entirety, but part of?

17 MR. SPENCE: It was part, it was
18 discussed, yes.

19 MS. CRAFT: Thank you.

20 MR. BLAND: As for York Factory, I
21 wouldn't say that Aboriginal and Treaty rights are
22 a part of our worldview. Our worldview was
23 created before Canada became Canada and signed
24 Treaties with the First Nations. I think the
25 Treaty and Aboriginal rights that you are

1 referring to are just a part of the process. You
2 know, as Victor mentioned, it's section 35
3 consultation. Manitoba is a government, Canada is
4 a government, so we wanted consultation to our
5 members. And I think a part of that process
6 that's, you know, the people needed to be able to
7 consult and understand what was happening and what
8 this process was all about.

9 MS. CRAFT: Thank you. Now, let's
10 look at your environmental evaluation reports
11 themselves. I am assuming you all have copies in
12 front of you, and I'll try and be very precise in
13 terms of what I'm referring to by listing page
14 numbers. And all of you have directly referenced
15 your concerns in the reports, and I'll point to
16 those directly.

17 THE CHAIRMAN: Mr. London?

18 MR. LONDON: I just want to interrupt
19 for a second. One of the things that I have
20 noticed, we have noticed is that there's sometimes
21 a difficulty in terms of the question being
22 understood because of the terminology that's used.
23 For example, the earlier question and the response
24 by Councillor Neepin was that Aboriginal and
25 Treaty rights were not affected. In fact, under

1 the JKDA, there is a specific provision that says
2 that, and he was responding to that. The next
3 answer and question had to do with whether or not
4 it was part of the worldview, which he didn't get
5 to. So I think it's important to put the
6 questions in a way that they are understood by the
7 panelists fully before they respond.

8 MS. CRAFT: And that's fair, I'm happy
9 to clarify any questions.

10 The original question that I did pose
11 to Mr. Neepin was on worldview and incorporation
12 of Treaty and Aboriginal rights. And if there is
13 a follow-up answer to that, I'd be very interested
14 in the answer.

15 So turning to the reports themselves
16 then, I think we can agree to this, and I'm going
17 to ask for confirmation from each of the panel
18 members. The environmental evaluation reports
19 look different from the EIS, and were approached
20 from a different worldview than the EIS was. Is
21 that correct?

22 MR. BLAND: Yes.

23 MR. SPENCE: Yes.

24 MR. NEEPIN: Yes.

25 MS. CRAFT: Thank you. Now, your

1 environmental evaluation reports identified impact
2 and effects based on your worldviews. Is that
3 correct?

4 MR. BLAND: Yes.

5 MR. SPENCE: That's correct.

6 MR. NEEPIN: Yes.

7 MS. CRAFT: And we established
8 yesterday that the environmental evaluation
9 reports were not integrated into the EIS
10 necessarily, but that they were two separate
11 assessments. And what we established yesterday
12 were the two tracks. And that's established, I'm
13 not asking you to answer that question.

14 Now, Fox Lake environmental evaluation
15 report says:

16 "The VEC approach tends to ignore...",
17 and this is at page 18,

18 "...tends to ignore the
19 interrelatedness of people, animals,
20 water, landscape and plants which are
21 inherent in the way FLCN and our
22 people view and define Aski."

23 Can you confirm for me that the EER
24 and the discussions leading up to, and the
25 research, did not use a VEC model? Is that

1 correct, Councillor Neepin?

2 MR. NEEPIN: I'm not sure what your
3 question is really implying. Yesterday, we
4 discussed a bit about there being two processes.
5 Our process, I would say, will remain distinct.
6 Our process has not, nor will it be integrated
7 into the other report. And that's important to
8 note because -- that doesn't necessarily mean that
9 because we're not integrated that we're not
10 collaborating. There was a lot of collaboration
11 between our community elders, land users, with the
12 scientists and the western science that came into
13 our community.

14 So with that collaboration, we felt
15 that the studies undertaken were more effective if
16 there was non-collaboration. We don't -- we
17 wouldn't necessarily feel that the results would
18 be as thorough, because throughout as well, there
19 was a sense that our elders had to, wanted the
20 western science to be drawn in to them so that
21 they were aware of what was being undertaken
22 around the water and land. They had input, they
23 had some control.

24 We didn't refer to it as a VEC because
25 the process, as I said, that we took was distinct.

1 And I can't get into or be drawn into any
2 discussions as to the negative side as to why our
3 process remains distinct and why -- and I can't
4 get drawn into any kind of discussion why it
5 wasn't merged or been, you know, absorbed by the
6 western science because that's not -- because that
7 wouldn't -- it's not possible. Because our elders
8 lived, saw, and they know exactly what the results
9 will be of this development. And those were the
10 reference points that they made.

11 MS. CRAFT: And that's certainly not
12 what I'm asking. I'm just confirming with you
13 that you chose not to use the VEC model for your
14 evaluation; is that correct?

15 MR. NEEPIN: It wasn't a choice. I
16 mean, there was no way we could do that. I mean,
17 that's why it's distinct. You have to understand,
18 probably read a little bit more of what our report
19 does, and you have to understand where our elders
20 were coming from. There's no way that that's
21 possible.

22 MS. CRAFT: And something that I did
23 take from your report is that interconnectedness
24 is central to your worldview and how the report
25 was prepared; is that correct?

1 MR. NEEPIN: Say it again?

2 MS. CRAFT: That intersectedness?

3 MR. NEEPIN: Yes.

4 MS. CRAFT: That all things are
5 related?

6 MR. NEEPIN: Yeah. I want to get away
7 from the word integrated. It seems that's
8 perceived as being negative because we weren't
9 integrated. Our process remains distinct and it's
10 different from the studies that were being applied
11 throughout. It's a positive thing for us.

12 MS. CRAFT: Okay. And I take your
13 point on the integrated, I'm not going to use that
14 terminology. What I was referring to, though, is
15 interconnectedness.

16 MR. BLAND: I would just like to add
17 to that, or were you going to ask me the same
18 question?

19 MS. CRAFT: I was going to ask you the
20 same question.

21 MR. BLAND: Okay. When we look at a
22 valued environmental component or ecosystem
23 component, it's identified as an element of
24 environmental, or having scientific, social,
25 cultural, economic, historical, archeological or

1 aesthetic importance.

2 As George was pointing out, our First
3 Nations come from a different perspective and we
4 have a holistic approach. And we have identified
5 what we are all about. We talked about, in the
6 EIS document section 2.2, we talked about who we
7 are as people, Inninuwak. And you kind of alluded
8 to it just a moment ago, about the
9 interconnectedness. That's why it was difficult
10 for our elders to try and combine the two, try to
11 integrate them, as somebody pointed out here --
12 sorry for using that word. But it's impossible,
13 because we come from a spiritual perspective, and
14 that's just who we are as people. And we have
15 identified this time and time again through all
16 three of our reports, and we all spoke
17 individually about who we are. We are three
18 distinct First Nations. We are a Cree Nation, but
19 we are distinct First Nations, and everybody has
20 their differences and everybody has their
21 different ways of approaching this project.

22 MS. CRAFT: Thank you for that
23 clarification.

24 And that's why I'm asking each of you
25 repetitive questions. I'm asking the same of each

1 of your nations because I acknowledge that
2 difference.

3 So the question goes to Mr. Spence as
4 well. Your environmental evaluation report does
5 not use the VEC model; is that correct?

6 MR. SPENCE: That's correct.

7 MS. CRAFT: Thank you.

8 MR. SPENCE: Go ahead.

9 MS. CRAFT: My question is for
10 Ms. Anderson, so if you have a clarification on
11 that, I'm happy to hear it.

12 MR. SPENCE: May I just continue? I
13 thought you were going to ask me a follow-up
14 question. But in relation to your first question,
15 TCN, in evaluating the project -- and I know that
16 under the environmental CEA, both the Federal and
17 the Province use VEC, the valued environmental
18 components. But in our assessment, all things are
19 equal, and from that, we did an assessment on the
20 project.

21 Our people, back in 2000, insisted
22 that the voice of our people be heard and be part
23 of the EIS. The evaluation that we did was from
24 our Aski. And we did not use or necessarily look
25 at the Federal or the Provincial guidelines. I

1 think that's been said before under the Two-track
2 system by the panel that was here before. Egosi.

3 MS. CRAFT: So this question is for
4 Ms. Anderson. I want to say you did a very
5 helpful presentation the other day in the
6 socio-economic social resource use and heritage
7 resources panel. And I'd like to refer you back
8 to that, if you have it on hand?

9 And to confirm, you know, a lot of
10 these concepts are both in that powerpoint
11 presentation that you did and contained in your
12 environmental evaluation report.

13 Your EER, would you agree with me that
14 your EER considers events earlier in time than the
15 environmental regulatory process did -- in the
16 EIS, pardon me. So you go back earlier in time
17 than the EIS?

18 MS. ANDERSON: Yes.

19 MS. CRAFT: Would you be in agreement
20 with me that it incorporates past impacts and
21 cumulative or compounding effects? I'm speaking
22 of your environmental evaluation report.

23 MS. ANDERSON: Yes, it does.

24 MS. CRAFT: And would you agree with
25 me that it uses a different baseline than the EIS

1 does?

2 MS. ANDERSON: Yes.

3 MS. CRAFT: On Monday, in reference to
4 past hydroelectric developments, you said:

5 "The whole northern environment
6 changed with hydroelectric
7 development."

8 Do you recall saying that?

9 MS. ANDERSON: Yes.

10 MS. CRAFT: And can you please help me
11 understand this further from your perspective, why
12 this historical and cumulative perspective is
13 important?

14 MS. ANDERSON: Okay. So when I did
15 the history of Fox Lake, I wanted everybody --
16 like in my opening comments of my presentation, I
17 said that we take opportunity to make others aware
18 of our experience with hydro. And so part of that
19 was how much the environment changed in the north.
20 And then I precursed, when I talked about the
21 three dams coming, that I wasn't promoting Hydro,
22 but I wanted to show how much the environment and
23 the landscape changed for Fox Lake. So it's very
24 important to us to let others know that.

25 MS. CRAFT: We're going to look at

1 some of the conclusions in the EIS and we are
2 going to see if they actually correspond to some
3 of your EERs, and I am to ask you questions around
4 that.

5 Now, I think we have established that
6 the EERs are not based from VECs. I think that's
7 clear from our discussions. But I'm struggling
8 with how to understand if the EERs come to similar
9 or different conclusions from the EIS.

10 And Mr. Bland, yesterday you said, and
11 I'm going to quote you here, please feel free to
12 correct me if I don't have this correctly. You
13 said:

14 "By sitting down together, York
15 Factory First Nation and Hydro, we
16 have come to understand some of the
17 similarities and differences in the
18 way we see the project and how
19 Manitoba Hydro sees the project."

20 Is that correct?

21 MR. BLAND: I don't know if I said it
22 in those words, but it's along the lines, yeah.

23 MS. CRAFT: So I am going to try
24 something like that together right now. Let's
25 look specifically at the resource use presentation

1 from Monday and Tuesday, and I chose this one in
2 particular. I think a lot of this applies to some
3 of the other panel presentations. But you'll be
4 familiar with this one because, Ms. Anderson and
5 Mr. Bland, you were on that panel and were here
6 for the presentations. So I'm hoping that you
7 have some familiarity with that.

8 Do you have a copy of Monday's
9 powerpoint presentation? I'm going to ask for us
10 to look at slide 104.

11 MR. BLAND: I don't have a copy of it.

12 MS. CRAFT: If that can be projected?

13 MR. BLAND: I didn't bring a copy of
14 it. I thought we were done with the
15 socio-economic panel. It's here in front of us,
16 so let's go ahead.

17 MS. CRAFT: So in looking at this,
18 this is essentially a slide that talks about the
19 residual effects and the significance of them.
20 And the conclusion here is that effects on
21 domestic fishing as a VEC are concluded to be of
22 neutral effect and not significant. So that's
23 what we're seeing in front of us.

24 My question is to Ms. Anderson. I'm
25 wondering if this conclusion that we see on the

1 slide, is it similar to those that were drawn in
2 your environmental evaluation report in relation
3 to domestic fishing? And I'm going to refer you
4 directly to the page where I think you deal with
5 domestic fishing, which is page 77 of your report.

6 MS. ANDERSON: Just give us a moment,
7 please.

8 MR. BLAND: You're going to ask me on
9 it, you're talking the conclusion of significance
10 is what you are after, right? You want us to say
11 that it was significant?

12 MS. CRAFT: Actually, Mr. Bland, I'm
13 not planning to ask you the same question so
14 you're off the hook here.

15 MR. BLAND: Actually, I wouldn't mind
16 helping out my partner because we're all on one
17 panel, if you don't mind?

18 MS. CRAFT: Certainly.

19 MR. BLAND: We understand that there's
20 going to be an impact. And, you know, this is a
21 VEC that was identified. And earlier on we said
22 that our approach is different. We have a
23 holistic and Cree worldview. We understand that
24 it's going to happen. This is why we have
25 monitoring programs and environmental impacts and

1 stewardship agreements that we have, and this is a
2 part of how we incorporate or introduce our
3 knowledge into this.

4 MS. CRAFT: Thank you.

5 MS. ANDERSON: Okay. Sorry, can you
6 just repeat the question? I want to make sure I'm
7 referring to it properly.

8 MS. CRAFT: Yes. My question is, are
9 the conclusions from your environmental evaluation
10 report similar to those drawn in this slide in
11 terms of significance of residual effects on
12 domestic fishing?

13 MS. ANDERSON: Okay. From the
14 conclusion of the presentation here, like the word
15 "significant" is a regulatory term. And from,
16 based on Fox Lake's study, we know that there will
17 be impacts. And the main one from our traditional
18 study is that subsistence hunting will be
19 impacted. And going forward, like we are looking
20 for ways to mitigate, I guess, is not the proper
21 term from us, but we're look at monitoring the
22 issue.

23 And the other big issue for Fox Lake
24 is regarding in the area of Gillam, Fox Lake
25 traditional territory, like the influx of workers

1 is going to put a big stress on the resources
2 also. And you know, not only from the project,
3 but transmission lines, et cetera, there's going
4 to be a further stress that way. So that's
5 another way, that's another issue that we need to
6 work collaboratively with our partners to, you
7 know, look at mitigating that.

8 MS. CRAFT: Thank you, Ms. Anderson.
9 And I'm looking at your report and you have
10 identified a number of critical issues at page 77,
11 and then some of the mitigation measures and
12 adaptive management approach that will be
13 utilized. And that's very helpful in terms of
14 understanding how Fox Lake views the impact on
15 domestic fishing.

16 My next question to you would be --
17 and I'm not asking you to make any regulatory
18 determination on significance. That I don't think
19 is your job. But from a Cree worldview, and
20 specifically from Fox Lake perspective, using your
21 worldview and your environmental evaluation,
22 something that you undertook as a nation with, I
23 understand, a lot of collaboration from your
24 community members, is your view that the effect,
25 the residual effect, so the end game after

1 mitigation and adaptive management, that the
2 effects on domestic fishing are not significant to
3 Fox Lake?

4 MS. ANDERSON: I mean, you keep using
5 the term significant. I want to make sure that
6 you're not using it in the sense that it was
7 provided in the report, the slide.

8 MS. CRAFT: That's fair. That's fair.
9 I'm going to use a different term then -- very
10 important?

11 MS. ANDERSON: Okay. For Fox Lake, we
12 are really very concerned about the changes that
13 are coming and the impacts that there are going to
14 be, but it goes for all areas. I'm not going to
15 go through each animal, but all of them are going
16 to be affected, yes.

17 MR. BLAND: I think that's basically
18 the same question that you asked me, though,
19 right? In terms of significance, it's almost the
20 same thing. The only thing you're doing now is
21 specifying that it's fish, and if it's significant
22 or not?

23 MS. CRAFT: And if the question has
24 already been asked and answered, then I apologize
25 for that. It's me trying to access what it is

1 that you're saying through your environmental
2 reports. And you were tasked with a pretty big
3 task of doing an environmental evaluation from
4 your perspective. So I'm working on trying to
5 understand that. So I appreciate your patience.

6 Ms. Anderson, taking your comment that
7 you don't want to walk through every single one of
8 the issues that have been identified, I am going
9 to take you through one more, and that's at slide
10 112 of the presentation the other day on
11 socio-economic and resource use. And this one
12 relates to domestic hunting and gathering.

13 And again, here we see from a
14 regulatory perspective that the conclusion on the
15 significance of residual effects is that it's a
16 neutral effect and not significant. Let's look at
17 your EER, and specifically at pages 78 and 79, you
18 refer to hunting of caribou. And my question is
19 the same. Although I'm not going to put you on
20 the spot and ask you about significance, we're
21 going to see if, from the conclusions that were
22 drawn from your environmental evaluation at Fox
23 Lake, if the residual effect on Fox Lake members
24 and citizens is very important.

25 MS. ANDERSON: Okay, sorry. So,

1 again, you are referring to the slide which is a
2 conclusion from the people who had done that
3 study. But for Fox Lake and our environmental
4 evaluation report, we know that you know from the
5 past, that there is going to be impact from the
6 caribou, the moose, the animals. And going
7 forward, like in the past, there has never been
8 any mitigation. So we can't predict that yet.
9 And we are relying, going forward on our
10 monitoring programs from our open monitoring
11 programs for Fox Lake. So those are the 100 that
12 we're looking for too. But like I said, we know
13 there will be impact because in the past, there
14 has been an impact but going forward there has
15 never been any mitigation.

16 MS. CRAFT: Okay. And with the
17 proposed mitigation measures, which you refer to
18 in your report as well, does that come to a
19 determination then, taking that into account, so
20 potential impacts and adverse effects and
21 mitigation, in your report do you come to a
22 conclusion that it's still a very important
23 concern to Fox Lake?

24 MS. ANDERSON: Okay. So for Fox Lake,
25 yes, it is a major concern, that is a major food

1 source for us. And again, it refers to all the
2 animals in the area that we use for our
3 subsistence.

4 MS. CRAFT: Thank you. And I
5 appreciate this is not an easy exercise because we
6 are going back and forth between two different
7 worldviews to try and understand really where you
8 are coming from. So I appreciate --

9 MS. ANDERSON: I mean, at the same
10 time, I know that our elders, from when they, when
11 we spoke to them, that some of them -- you know,
12 was it yesterday, I guess they talked about we
13 wanted Hydro to come and tell us what their field
14 work is. And our elders were able to provide to
15 Hydro some of the areas where they would be
16 studying. So we do have some influence on the
17 scientific studies. So that's an area that we
18 took part. I just wanted to make that statement
19 also.

20 MS. CRAFT: In the EIS, and
21 specifically in reference to these types of slides
22 and conclusions on significance of residual
23 effects, when that determination of neutral effect
24 was made in the EIS, future projects were not
25 considered.

1 My question to you, Ms. Anderson, is,
2 was the impact of future projects, so things you
3 know will be going on in your territory in the
4 future, were those considered as part of your
5 evaluation?

6 MS. ANDERSON: Yes.

7 MR. NEEPIN: If I could just respond?
8 Like our elders just, didn't necessarily just
9 focus on Keeyask and within the immediate area.
10 Our elders are wise people, and they have lived
11 and seen the impacts of development in their area,
12 and they know the results. You know, they don't
13 necessarily have to speculate on what the results
14 will be and how damaging the development can be.
15 Yeah. So the elders, I guess, you know we
16 can't -- that's just the way our process went.
17 We're not going to limit an elder to bring forward
18 or bring another effect to the discussion. We
19 can't say no, no, no, that doesn't apply here,
20 we've just got to focus here. Because I think
21 that's the significance of our research and our
22 involvement in this process, is that our elders
23 dealt with everything. It was, like I said, it
24 wasn't just in the immediate area.

25 MS. CRAFT: Am I hearing from you,

1 Councillor Neepin, that your elders would have
2 considered future development in your territory as
3 part of this assessment by Fox Lake?

4 MR. NEEPIN: Well, you know, our
5 elders ask questions, that doesn't necessarily
6 mean that we're going to get the right answer.
7 There's always something about whether planning is
8 actually in place. Like for years we have worked,
9 to the best of our abilities, with the developer,
10 with government. There was a lot of times when
11 things were held close. And I said this in my
12 previous statement, that us partners have to hold
13 certain information close. But the elders knew
14 and could see where this whole development was
15 progressing, where it was going.

16 And as I said in Fox Lake
17 particularly, we have three plants, we have two
18 converter stations, we have miles and miles of
19 power lines.

20 And I guess in order to answer you
21 directly how the elders can see, they see for
22 themselves when there's housing being built in our
23 community. We ask why these houses are being
24 built. You know, there's something going on.
25 Like the elders are -- you can't -- any elder that

1 we spoke with knows what's going on in the area.
2 And us as negotiators, those of us that are
3 involved in board rooms, have to report to those
4 elders and say, you know, really, is this what's
5 going on? They see and they know what's going on.
6 They see, because we live right in the very
7 community that Hydro is, we know, the elders can
8 see and recognize that something is going on.

9 MS. CRAFT: Thank you.

10 Mr. Bland, a similar question for you.
11 In having read your community's report more than
12 once front to back, I see an echoing theme of
13 deciding on behalf of future generations. Would
14 you agree with me on that?

15 MR. BLAND: Yes.

16 MS. CRAFT: And so would you also
17 agree that future projects were considered, and
18 future development in your territory, as part of
19 your environmental evaluation report?

20 MR. BLAND: When we were making our
21 report, our focus was on Keeyask and we specified
22 that. When we looked at some of the different
23 impacts that were happening to our community, we
24 wanted to ensure that, you know, we incorporate
25 different things such as stewardships, such as

1 monitoring. You know, these are things that I
2 have talked about before. And we still feel that
3 these are important for us to consider. And we
4 haven't officially made any form of agreement on
5 future projects yet. We do have an article 9 that
6 basically says that if there is going to be any
7 impacts, that our community should be involved.

8 MS. CRAFT: But did you consider them
9 in your environmental approach, in your reports?

10 MR. BLAND: If we're looking at future
11 generations, then, yeah.

12 MS. CRAFT: Okay.

13 Mr. Bland, I'd like to talk to you
14 about what's not identified as a VEC but that you
15 have raised in your environmental evaluation
16 report for York Factory, which is swimming. It's
17 not a VEC in the EIS. Would you agree with me?

18 MR. BLAND: A VEC?

19 MS. CRAFT: Valued environmental
20 component.

21 MR. BLAND: No.

22 MS. CRAFT: But it has been identified
23 as a concern by York Factory First Nation, both in
24 terms of access to beaches, as you read from
25 Ms. Saunder's presentation the other day, access

1 to beaches, and also the quality of water for
2 swimming; is that correct?

3 MR. BLAND: That's correct.

4 MS. CRAFT: In fact, yesterday you
5 referenced a prediction that Manitoba Hydro has
6 made that there will be no further degradation of
7 water quality near York Landing.

8 Do you recall saying that yesterday in
9 your presentation?

10 MR. BLAND: Yes, I do.

11 MS. CRAFT: And you followed that by
12 saying:

13 "We continue to be skeptical about the
14 predictions of the potential effects
15 of the Keeyask project."

16 MR. BLAND: Yeah.

17 MS. CRAFT: Are the concerns about
18 access to beaches and the quality of water for
19 swimming adequately addressed in terms of the
20 offsetting, or AEA's, or mitigation or monitoring
21 that's been identified in relation to Keeyask?

22 MR. BLAND: Adequate? Adequate is a
23 tough word to use. Really, York Factory would
24 love to have a huge Pan Am size pool, and we'd
25 love to have top of the line, if we could. But

1 the cost of that is, we all know is very, very
2 expensive, and it's something that, you know, it's
3 too much for York Factory to afford.

4 Our priorities are a little different.
5 But what we have done in our Adverse Effects
6 Agreements are, through working with the shoreline
7 stabilization projects and stuff like that, we
8 have -- working on building beaches in our
9 territory. And we're looking at two beaches at
10 this point. They still need a little bit of work
11 but, you know, those are some of the measures that
12 we have undertaken and tried to provide beaches
13 for our children.

14 MS. CRAFT: And do you expect that
15 members of York Factory First Nation will be able
16 to swim at those beaches?

17 MR. BLAND: They already have been.
18 They are just not -- you know, they need a little
19 bit more work, and we have been accessing them
20 quite frequently.

21 MS. CRAFT: In your report, and this
22 is a quote directly from you in the report at page
23 76, you say:

24 "When I was a kid, the water was nice
25 enough to swim in. Now you can tell

1 the difference. Kids can't go
2 swimming because they get sores on
3 their bodies. A lot of them complain
4 about itchy skin."

5 Is that correct?

6 MR. BLAND: Yes, that's correct.

7 MS. CRAFT: Is that going to be
8 addressed through the mitigation and AEA's?

9 MR. BLAND: One of the things, you
10 know, the first part of it is swimming, and the
11 next part of your question would be skin, because
12 I just addressed the first part, right? It is
13 difficult for children when we swim. You know,
14 the water is different, the quality is different.
15 We acknowledge that. It's still something that,
16 you know, people are dealing with. And as in
17 terms of adequate, you know, I can't say how
18 people really feel. People are still swimming is
19 all I can say.

20 MS. CRAFT: And we have talked about
21 the interconnected nature of all things, which is
22 a foundation for your report and the others. And
23 an effect on swimming that we have just discussed
24 could also have an effect on Inninuwak life,
25 recreation, social cohesion, culture and health.

1 Would that be correct from your environmental
2 evaluation perspective?

3 MR. BLAND: It's stated in the
4 document that we provided.

5 MS. CRAFT: Thank you.

6 You do also state in the document, at
7 page 104, that York Factory is not satisfied that
8 the AEA is enough.

9 "Ultimately we're not happy with our
10 AEA."

11 Are you aware of that comment that's
12 made in your environmental evaluation report?

13 MR. BLAND: Just give me one second,
14 please. 104? Which part of 104? Which
15 paragraph, just so I can refer to it?

16 MS. CRAFT: It's the second paragraph
17 from the top. So there's a bulleted paragraph,
18 and then it's immediately the first sentence after
19 that.

20 MR. BLAND: Okay, yeah, yeah. That
21 was a statement that we made back in 2008. We had
22 just completed our negotiations with Manitoba
23 Hydro. And I did talk about this earlier this
24 week as well. And actually, I talked about it in
25 the form of reconciliation though.

1 MS. CRAFT: And I think Mr. Williams
2 will have some further questions for you on that.

3 And speaking of Mr. Williams'
4 questions, this is for Mr. Spence. On October
5 22nd, when you were there, Mr. Williams asked you
6 about your process of consensus decision-making,
7 which you referenced in your presentation that
8 day. And you referred him at that time to this
9 panel where you would be discussing that
10 specifically. So I'd like to ask you if you can
11 advise us and share with us an answer on
12 Tataskweyak's process of consensus
13 decision-making?

14 MR. SPENCE: What was the question
15 from Mr. Williams?

16 MS. CRAFT: I can go back to that
17 question, but essentially it is, what is your
18 process for consensus decision-making at
19 Tataskweyak?

20 MR. SPENCE: What was the question?

21 MS. CRAFT: Do you want Mr. Williams'
22 question?

23 MR. SPENCE: Yes, please.

24 MS. CRAFT: Or would you prefer mine?

25 MR. SPENCE: Well, at that time

1 Mr. Williams asked a question, and I'd just like
2 to hear it again, and you can ask me a question.

3 THE CHAIRMAN: Perhaps rather than
4 repeat Mr. Williams' question, if you could ask
5 for the same information in your own words,
6 Ms. Craft?

7 MS. CRAFT: Well, I have it here in
8 front of me, Mr. Chair. Thank you though.

9 So Mr. Williams' question was, and I
10 am going to directly quote:

11 "And what I was hoping, not in great
12 detail, but if you could give me, our
13 client, and others in the room some
14 insight into your traditional process
15 of consensus decision-making?"

16 And he also said:

17 "And, Mr. Bland, heads up because I'm
18 going to ask you the same question
19 next."

20 And I would say ditto.

21 MR. BLAND: I actually answered that
22 already, by the way.

23 MS. CRAFT: Mr. Spence?

24 MR. SPENCE: Tansi. In our process,
25 and I was a councillor for about 14 years from

1 1980 onward, as a councillor and as community
2 member, in deliberation of many serious and
3 important issues among our nations during our
4 path, there is a referendum process, there is the
5 secret ballot, and there is the lifting up the
6 hand. And at times in the community and at band
7 meetings, we would ask people to stand if they
8 support the motion. And so that way we have
9 consensus, not necessarily too formal in the sense
10 where we have a process under the -- whether you
11 can say it -- under the Federal guidelines, or the
12 Provincial or corporation. But there is a huge
13 and long debate on issues. Even on Keeyask, it's
14 still ongoing.

15 MS. CRAFT: So do you have a generally
16 accepted definition of what might constitute
17 consensus for your community?

18 MR. SPENCE: After deliberation or
19 debate on an issue, the members would be asked
20 whether, through the lifting of hands or standing
21 or yea and nay, that would be the process. But
22 the people would have to be heard.

23 MS. CRAFT: And was this the process
24 that you employed for decision-making on whether
25 to partner with Manitoba Hydro for Keeyask?

1 MR. SPENCE: No.

2 MS. CRAFT: And why not?

3 MR. SPENCE: We use a more formal
4 process in terms of -- where there was a six-month
5 process leading to a referendum date. So there
6 were presentations, community meetings in
7 Winnipeg, Thompson and Tataskweyak.

8 And if I may, it was agreed to by our
9 members that an independent -- I have forgotten --
10 an individual from another community was used
11 which had a Mr. Moses -- maybe that's not the name
12 of the individual -- but he was hired and selected
13 by the members, but the sitting Chief and Council
14 at that time do run the referendum process.

15 MS. CRAFT: Mr. Spence, are you able
16 to speak about War Lake First Nation's process of
17 consensus decision making?

18 MR. SPENCE: TCN was not directly
19 involved in their decision-making. No, I cannot
20 speak on that.

21 MS. CRAFT: Thank you. And what is
22 the process for Tataskweyak in terms of dealing
23 with dissent and disagreement?

24 MR. SPENCE: Can you rephrase that
25 question, please?

1 MS. CRAFT: Yeah. We were just
2 talking about consensus decision-making, and I am
3 interested to know what Tataskweyak's process or
4 method is for dealing with dissent and
5 disagreement?

6 THE CHAIRMAN: Mr. Roddick.

7 MR. RODDICK: I don't know what the
8 relevance of this question is.

9 THE CHAIRMAN: Ms. Craft, could you
10 explain the relevance and where you're going with
11 this question?

12 MS. CRAFT: Certainly. I'm trying to
13 establish what the community processes are for
14 endorsement of both the process of entering into
15 partnership, which is relevant, which is the line
16 of questioning Mr. Williams began earlier in our
17 interrogation, and also in terms of determining
18 whether or not the environmental evaluation
19 reports meet the criteria that is internal to the
20 communities.

21 THE CHAIRMAN: Mr. Roddick?

22 MR. RODDICK: Mr. Chairman, they have
23 described the process, and the results of the
24 process are before you. What dissent has to do
25 once that decision has taken place, I don't think

1 is, I submit is not relevant to what you are here
2 to decide.

3 MS. CRAFT: And Mr. Chair, the
4 environmental evaluation reports do speak about
5 dissent in the community process and how some of
6 the members may not agree, but they have chosen to
7 move forward together. I think all of the reports
8 reflect that. I'm just trying to get at what it
9 is that -- how each of these First Nations are
10 dealing with dissent.

11 MR. BLAND: I'd like to, just before
12 we --

13 THE CHAIRMAN: Just excuse me,
14 Mr. Bland, just give me a moment.

15 The panel seems to think that
16 Ms. Craft's line of questioning is valid, so we'll
17 allow it to continue.

18 MS. CRAFT: Thank you.

19 MR. SPENCE: We live in a democratic
20 community.

21 MS. CRAFT: I am sorry, I didn't hear
22 you, Mr. Spence?

23 MR. SPENCE: It was done by vote, and
24 every individual had a right to vote.

25 MS. CRAFT: Okay. And I'm talking

1 more about, not even necessarily in the context of
2 this hearing, but do you have a process, maybe
3 even a traditional process for resolving disputes
4 that has built into it a way of addressing dissent
5 or disagreement? And if you don't, that's fine.
6 I'm just inquiring to know if there is a process?

7 MR. SPENCE: Well, there are a lot of
8 disputes, and different forms of dispute. So I'm
9 not comfortable to answer that question unless I
10 know what specific dispute you are referring to --
11 dissent.

12 MS. CRAFT: Would you agree with me
13 that there is a process, a traditional process
14 possibly for Tataskweyak to deal with
15 disagreement?

16 MR. SPENCE: Yes.

17 MS. CRAFT: Okay. And if there was
18 disagreement in relation to Keeyask within your
19 community, how would that be dealt with?

20 MR. SPENCE: We had numerous meetings
21 in the community, Thompson, Winnipeg, in relation
22 to the project. Not everyone spoke and favoured
23 the project. I can honestly say my children
24 questioned me on that, inquiring more questions,
25 what's this, what's that? However, at the end

1 every individual had a right to vote yes or no, or
2 abstain, on the project.

3 During the course of the negotiations,
4 there were a lot of angry words spoken. People
5 were hurt. There were arguments, strong arguments
6 against the project.

7 At the end of that, there was a
8 referendum process. The people spoke in favour of
9 the project.

10 Yes, right up to even now there are
11 people that do not want the project. But the
12 people have spoken, and the majority of people
13 have spoken on the development.

14 MS. CRAFT: Okay. Thank you for that
15 answer.

16 And in your answer, I think I heard
17 that some people may still be in disagreement.
18 And is there a process going forward after the
19 decision was made for dealing with that
20 disagreement?

21 MR. SPENCE: Not specifically to
22 address the -- like what Mr. Bland said in terms
23 of having a healing process on this, but we
24 haven't initiated that process yet. No.

25 MS. CRAFT: Thank you.

1 Ms. Anderson, can you answer a similar
2 question in terms of a process for a consensus
3 decision-making that is employed by Fox Lake in
4 terms of your decisions?

5 MR. NEEPIN: Okay. While Ms. Anderson
6 is thinking about her question, let me say when
7 Victor talked about his children asking him
8 questions, the very same thing with me, my
9 daughter asked me about being transparent
10 throughout this whole process. I'm living in
11 Winnipeg, how do I know what's going on back home
12 in my community is what she asked me. She said
13 that perhaps from time to time we should issue
14 some kind of information to everyone, to every
15 member of our community. And that's what -- we
16 struggled with that. That was one of the barriers
17 that we looked at, and that's why in our
18 presentations previous we mentioned the effort we
19 made to consult and draw people in the various
20 communities where a majority of our citizens
21 lived, whether that was Churchill, Thompson,
22 Winnipeg.

23 That was important for us to do
24 because we needed an informed, we needed to inform
25 them so that they could make a decision to move

1 forward with this project. We felt that that was
2 our responsibility to do that.

3 We tried to approach -- we were trying
4 to be innovative as much as we can, either through
5 the development of newspapers and/or memos in our
6 community, and trying to draw people to come to
7 information sessions that we held throughout. And
8 that was important for us to do. Because at the
9 end of the day, it was our responsibility to make
10 sure that no member of Fox Lake felt that we were
11 not providing the information that they needed to
12 make an informed decision on this huge development
13 that's going to have impacts. And we know
14 exactly, and our elders know what the impacts will
15 be.

16 And I have said this before, the
17 elders were very cautious, they were almost
18 afraid. The young were looking at the potential
19 opportunities. They were optimistic. It meant
20 employment, it meant business opportunities, it
21 meant that they could actually benefit from the
22 development.

23 So we had to find a balance. That's
24 what mino-pimatisiwin is. Mino-pimatisiwin is
25 understanding how we lived before. That's what

1 the elders kept pounding into this process,
2 remember the way we were, how -- and we listened
3 to the previous presenters this morning who live a
4 traditional way of life. We were once like that.

5 Our elders envy the people who live on
6 the Hayes River. I have been on the Hayes River.
7 I can pull ashore anywhere on the Hayes River
8 because the shores are pristine. There is
9 sweet-grass, there is sage along that river. And
10 that's Mino-pimatisiwin is, what our brothers and
11 sisters said to us this morning, they described
12 what Mino-pimatisiwin is, and that's the reminder
13 we got from our elders.

14 And our young people, as I said,
15 remind us as well that we have to have a balance,
16 and that's what we do, and we are struggling with
17 that everyday. And that was one of the major
18 struggles that we had. We had to make sure that
19 our young people, like what my daughter asked me
20 is, I need to know. And we remember that, and
21 that is the effort we made.

22 MS. CRAFT: Thank you. And I'm glad
23 you referenced the presentation from this morning,
24 because I was actually going to go there and say,
25 you know, what you're telling us is that you have

1 provided a lot of information, and there is
2 listening that was actively engaged in that
3 decision-making process. And I think that in the
4 exchange between Shamattawa and the panel here
5 that, you know, it was information is really
6 important. And then that next stage is decision
7 making.

8 And how do you go about making that
9 decision from a Fox Lake perspective?

10 MR. NEEPIN: The keyword for me is
11 informed. That was our responsibility, to make
12 sure that our members made an informed decision.
13 And how do we do that? We struggled with that,
14 how do we make that happen? Where there is
15 dissention, that's everyone's right to do that.
16 And I answered that as well in my statement
17 previously, that we are not going to be here in
18 front of the commissioners and tell them that we
19 had 100 percent consensus to proceed with this.
20 Dissension is always -- it helps, it remind us, it
21 reminds us what we have to go, what those -- what
22 we have to be cautious about, that we don't go
23 into this process thinking that everything is
24 going to be perfect. And that's what dissension
25 is a reminder for us on how we have to be cautious

1 with this process.

2 But we have to also be very optimistic
3 and remember our young people, and the unborn, how
4 are they going to be taken care of by this project
5 and future development along that same river that
6 we live?

7 So dissension is important, it's a
8 reminder for us to be very careful and that
9 there's red flags along the way that we have to be
10 very mindful of. Those are things that we have to
11 take into account.

12 MS. CRAFT: Ms. Anderson, did you have
13 anything in relation to consensus decision making
14 from a Fox Lake perspective?

15 MS. ANDERSON: You said consensus
16 decision-making. I think your question earlier
17 was about dissension, right, when you first spoke?

18 MS. CRAFT: The first question I asked
19 was on consensus decision making. And then
20 dissent and disagreement, I asked Mr. Spence, and
21 I will come there to that question with you. So
22 if you want to lump them into one answer, that's
23 fine.

24 MS. ANDERSON: Okay. Well, for this
25 process, the Keeyask process, I would say that,

1 like George already stated that it was an informed
2 consent for all the members. And again, we accept
3 that some of our members are not in total
4 agreement of the process. And I think one of your
5 questions was also, going forward, what is the
6 process for the dissenters, or dissension,
7 whatever their concerns are?

8 I think like, the formal process, like
9 this is one of those processes is to make their
10 concerns known to the public. But also for Fox
11 Lake, like we don't really know everything, like
12 we still have to be cautious. Like George says,
13 we don't know -- we're not, we don't have our
14 blindfolds on thinking everything is going to be
15 rosy and perfect. But going forward, we have
16 opportunities in our agreements to say, you know,
17 these are concerns that are not going away, they
18 are not being, I guess, you know, it's not
19 improving or it's not -- we have areas that we can
20 bring those forward again. So that's the area,
21 like if any of our members have these concerns,
22 you know, going forward when the project is
23 beginning, any of those concerns, if there's
24 really no improvement or it's getting worse, those
25 are avenues that we have that we can address some

1 of those. But we try to make the opportunity,
2 like everyone -- there's always concerns from
3 other areas in the community, it's not just
4 Keeyask that it's focused on. So everybody can
5 have a say.

6 THE CHAIRMAN: Ms. Craft, it's 12:30
7 now.

8 MS. CRAFT: Let me ask up one last
9 follow-up question. It is very straightforward.

10 THE CHAIRMAN: You can ask your
11 follow-up question at 1:30. We'll take our break
12 for lunch right now.

13 MS. CRAFT: Thank you.

14 (Proceedings recessed at 12:30 p.m.
15 and reconvened at 1:30)

16 THE CHAIRMAN: I would like to
17 reconvene. Just before we start, Ms. Craft, the
18 panel had a little bit of a discussion over lunch,
19 and we are not quite sure where you are going with
20 this line of questioning or what its relevance is
21 to our review?

22 MS. CRAFT: Actually I have ended with
23 that line of questioning. I'm moving on to
24 something else.

25 THE CHAIRMAN: I didn't even need to

1 say it then. Carry on.

2 MS. CRAFT: I wish you had a more
3 enjoyable lunch than worrying about that.

4 THE CHAIRMAN: Well, there were other
5 things to worry about as well.

6 MS. CRAFT: Thank you, Mr. Chairman.
7 I'm going to move on to the JKDA, and adverse
8 effects agreements that were put to a vote in
9 February 2009, February for Tataskweyak and March
10 for York Factory and Fox Lake. Mr. Bland
11 yesterday you told us something to the effect that
12 a majority of York Factory said yes to the JKDA
13 and the AEA, is that correct?

14 MR. BLAND: Yesterday, I said -- a
15 majority of the voting -- people that voted agreed
16 to the JKDA and the effects agreement.

17 MS. CRAFT: Thank you. And,
18 Mr. Bland, I gave two documents to your legal
19 counsel and I believe he shared those with you.
20 And one of them is the Northern Flood Agreement,
21 Implementation Agreement from 1996 for York
22 Factory. It is the York Factory agreement.

23 MR. BLAND: Yes, I did see it. I have
24 a whole pile of papers around me, but go ahead, I
25 do know what you are talking about.

1 MS. CRAFT: And you are familiar with
2 the implementation agreement? Thank you, Mr.
3 Regehr.

4 MR. BLAND: Yes, I am.

5 MS. CRAFT: And I'm not going to dwell
6 extensively on this other than to just ask
7 Mr. Bland if he is aware of one section, 14.2.1,
8 which is ratification and execution of the
9 Northern Flood Agreement?

10 MR. BLAND: Yes, it is in front of me.

11 MS. CRAFT: And that process --

12 MR. BLAND: Yes.

13 MS. CRAFT: -- for ratification and
14 execution. And the ratification in the case of
15 the Northern Flood Implementation Agreement for
16 York Factory required a majority of members
17 eligible to vote to actually vote?

18 MR. BLAND: Yes, that's correct.

19 MS. CRAFT: Okay. And, Mr. Bland, I'm
20 also going to ask you about a second document that
21 I shared, and that's just to refresh your memory.
22 I'm assuming as a former chief that you have
23 knowledge of both the Implementation Agreement and
24 also the Manitoba Treaty Land Entitlement
25 Framework Agreement that York Factory is one of

1 the member First Nations of?

2 MR. BLAND: Yeah, not as great with
3 the TLE, but yes.

4 MS. CRAFT: York Factory is one of the
5 members --

6 MR. BLAND: Yeah.

7 MS. CRAFT: Okay. And the community
8 approval process in the Manitoba Treaty Land
9 Entitlement Framework Agreement is provided for in
10 section 29. And it refers to a schedule 8 that
11 talks about minimum requirements for approval.
12 And you should have that document, I think Mr.
13 Regehr has just shared that with you, and I
14 provided them to him yesterday.

15 MR. BLAND: Okay.

16 MS. CRAFT: The Commission would like
17 these?

18 THE CHAIRMAN: Well, of course.

19 MS. CRAFT: We can provide copies.
20 Would you like to do that now? I'm referring to
21 concepts generally and not necessarily the
22 particular wording.

23 THE CHAIRMAN: But you are referring
24 to specific sections in each document, and the
25 panel should have those before us.

1 MS. CRAFT: Would you like them to be
2 produced right now?

3 THE CHAIRMAN: If you have them, yes.
4 (Proceedings paused)

5 THE CHAIRMAN: Fair enough.

6 MS. CRAFT: Okay. So I'm afraid you
7 might find the documents themselves a bit
8 underwhelming, but the concept itself, Mr. Bland,
9 in the schedule 8 to the Manitoba TLE Framework
10 Agreement lists that a majority of voters must
11 vote.

12 MR. BLAND: Yes, that's what it says.
13 Yep, it does say that.

14 MS. CRAFT: Thank you. And in the
15 information request process we did pose a
16 question, the CAC posed a question about the
17 referendum process for each of the First Nations,
18 and we received a response indicating that a
19 referendum is a western style voting system which
20 assigns equal weight to each voter in order to
21 reach a majority decision on a specific issue.
22 Are you familiar with that IR? It is CAC0111.

23 MR. BLAND: I'm not familiar with it.
24 I don't think that I read it, but continue if you
25 need to.

1 MS. CRAFT: Okay. Now, would you
2 agree with me, Mr. Bland, and you can make this
3 subject to check, these numbers are in chapter 2
4 at page 29, that for York Factory First Nation the
5 voter participation was 261 out of 713 eligible
6 voters?

7 MR. BLAND: 262 out of 714, yes.

8 MS. CRAFT: And that would represent a
9 36.6 per cent turn-out roughly, based on my
10 calculation. Do you agree?

11 MR. BLAND: That's what it says there,
12 36.7.

13 MS. CRAFT: And would you also agree
14 with me that in taking those numbers, carrying
15 this one step forward, that that would represent
16 for York Factory a 30.3 per cent favorable vote in
17 favour of the JKDA?

18 MR. BLAND: Yep.

19 MS. CRAFT: And a 30.8 per cent
20 favorable vote on the AEA?

21 MR. BLAND: Yes. Did you calculate
22 those numbers?

23 MS. CRAFT: I made those calculations
24 and you can accept them subject to a mathematical
25 check.

1 MR. BLAND: I will accept them subject
2 to a check, if I feel I need to, but go ahead.

3 MS. CRAFT: And I'm open to being
4 questioned on my math. I'm not the strongest in
5 math, but I have had someone check these numbers,
6 so if they need to be corrected in any way, please
7 let me know.

8 MR. BLAND: Okay.

9 MS. CRAFT: This question goes to
10 Councillor Neepin, and you mentioned to us
11 yesterday that you were chief at the time of the
12 referendums on the JKDA and AEA respectively; is
13 that correct?

14 MR. NEEPIN: That is what I said in my
15 statements, yes.

16 MS. CRAFT: And referring again to the
17 EIS response to guidelines, chapter 2, there is an
18 indication that 268 of 726 eligible voters
19 participated in the referendum. You can accept
20 that subject to a check by your legal counsel, if
21 you like.

22 MR. NEEPIN: Yes, go on with your
23 presentation then.

24 MS. CRAFT: It is at page 30. Now
25 that would represent 36.9 per cent voter turn-out

1 for Fox Lake referendum?

2 MR. NEEPIN: Go ahead. You want me to
3 say yes every time you are referencing my notes
4 from --

5 MS. CRAFT: You have notes on this?

6 MR. NEEPIN: You are referencing the
7 numbers in the documents, so just make your --

8 MS. CRAFT: I'm not sure I understood.

9 THE CHAIRMAN: Mr. London.

10 MR. LONDON: Sorry, when Councillor
11 Neepin refers to notes, he is talking about the
12 presentation he gave at the KJLP panel, it was the
13 presentation that's part of the evidence.

14 MS. CRAFT: Okay. Fair enough. And
15 there was a second referendum, and I'm going to
16 jump straight into the question that is not in
17 your notes, which is, does -- do these numbers
18 represent on the second referendum a 43.6 per cent
19 endorsement or positive vote from Fox Lake on the
20 JKDA?

21 MR. NEEPIN: Like, the ratification
22 and referendum process was conducted in accordance
23 with the process that we had in place within the
24 JKDA. As was mentioned, I think even Karen
25 mentioned it, we said that twice, two votes were

1 taken. Yes. But I'm not quite sure what the
2 numbers are, you said 43 point -- yes, I would say
3 yes to that. We didn't quite -- we established
4 for ourselves a threshold, and we did everything
5 that we could to reach our members because a lot
6 of our people don't reside on our reserves. Many
7 of them are outside the reserves. And through no
8 fault of our own, I would love to have all of my
9 people in our community and our people would love
10 to be back home, but they can't because of the
11 housing, because of health facilities. Many of
12 our elderly who are sick have to leave our
13 community. So I don't know -- that's all I can
14 say. I don't know if that's a fault you are
15 trying to find in our process that we were unable
16 to meet our threshold.

17 MS. CRAFT: I apologize if that's the
18 impression that I'm giving you, Mr. Neepin. I'm
19 just trying to find out from the numbers that are
20 available on the record what the percentage is,
21 and if you agree with that.

22 So I'm going to move on to another set
23 of questions, and I'm going ask this one of
24 Ms. Anderson, and it is a follow-up to a response
25 you gave Dr. Kulchyski yesterday. And it was a

1 question about the majority of members voting and
2 you have indicated when we do not have a vote, we
3 do not understand that to be a no vote. Do you
4 recall saying that yesterday?

5 MS. ANDERSON: I think it was in
6 reference to one of the -- I can't remember. I
7 think it was in reference to it says, somebody
8 said that if somebody votes, then it is a no vote.
9 That's what I was referring to. I was referring
10 to somebody else's statement, saying if somebody
11 doesn't vote, then it is considered a no vote. I
12 have to go back -- anyway, go ahead.

13 MS. CRAFT: If someone doesn't vote,
14 do you necessarily understand that to mean an
15 endorsement or a yes vote? I'm just trying to
16 clarify if I understood you correctly yesterday.

17 MS. ANDERSON: I'm saying that was in
18 my statement, I was saying that in different
19 circumstances, usually when members are not
20 attending meetings, or they are not attending or,
21 you know, doing votes and that, then they are in
22 agreement with the chief and council, so they
23 support the council, so that's what I was trying
24 to put across, not that just because somebody
25 didn't come and vote it was necessarily a no vote.

1 MS. CRAFT: That was applied to the
2 referendum then, if someone doesn't show up, that
3 doesn't necessarily mean that's a yes vote in your
4 view?

5 MS. ANDERSON: You were saying no
6 vote --

7 THE CHAIRMAN: I think you know the
8 answer, and it is on the record. I'm not sure
9 that you need to -- I mean it was on the record
10 yesterday.

11 MS. CRAFT: Fair enough.

12 MR. NEEPIN: Like I said in my
13 presentation, I said that not every Fox Lake
14 member took advantage of the consultations and the
15 data and the information that we presented. And
16 that was always in the back of our minds, that we
17 had to do everything that was necessary for us to
18 reach all of our members, regardless of where they
19 were residing. And not every Fox Lake member
20 voted and not every Fox Lake member believes that
21 we did enough as a community to investigate, to
22 analyze and protect our environment. And I don't
23 know, some people might call that dissension but,
24 you know, we made every effort to try and reach
25 our citizens. And like I said before, many of our

1 citizens are not resident on our reserves because
2 our community can't sustain everyone. And I said
3 that many of our people have expressed to us that
4 they would love to come home, but housing does
5 not -- it does not allow them to do that. And
6 many of our citizens because of health reasons,
7 education, have to leave our communities.

8 MS. CRAFT: I'm going to move off this
9 subject matter and ask you, Councillor Neepin,
10 about something that you said yesterday. And you
11 mentioned that unlike some of the other panels
12 that we have heard from before, that you were only
13 permitted two witnesses, that being Karen Anderson
14 and yourself, with Leslie Agger to assist you.
15 And my question is simple; it is just who else
16 would have been here had you been permitted?

17 MR. NEEPIN: I think -- I think you
18 are picking a little bit about what I said. What
19 I also mentioned was that we had a whole team work
20 with -- right down to the field workers, right to
21 our fishers, our land users, our elders groups,
22 our harvester group, as we call them. It took the
23 whole community to be able to make an assessment,
24 and for us to determine that this was a positive
25 initiative that the leaders were expected to

1 pursue, right? So, yeah, unfortunately in that
2 time it was a disadvantage to us, for us, we don't
3 have all of the necessary experts that we utilized
4 in past to be with us today. And that's all that
5 I was expressing. It is not a fault or anything.

6 MS. CRAFT: I have one last question,
7 and it is for Ms. Anderson. In referring back to
8 your powerpoint presentation, which as I've
9 expressed before I thought was very helpful. And
10 the last slide, if that can be put up on the
11 screen. Do you have it, Ms. Anderson?

12 MS. ANDERSON: I know what it says.

13 MS. CRAFT: And it does say that Fox
14 Lake, today, we, the Fox Lake Cree Nation, is
15 asserting its voice and showing its strength and
16 resilience. We have endured enough to destroy a
17 people, but we have survived as a people and will
18 be part of all activities on our land and in our
19 traditional territory.

20 Thank you for putting that up on the
21 screen.

22 Would you accept that participation is
23 not the same thing as being an ultimate decision
24 maker?

25 MS. ANDERSON: In this statement here

1 I'm saying who we are, as Fox Lake people. Again
2 when I said I wanted to share this history, that
3 we wanted people to understand who we were and,
4 you know, to understand our experience. But
5 today, like we are making sure that history
6 doesn't repeat itself in terms of especially
7 against the hurts and violations against our
8 people.

9 MS. CRAFT: Just following that a
10 little further --

11 MS. ANDERSON: Just give me a second.
12 Go ahead. Never mind.

13 MS. CRAFT: You know, following this a
14 little bit further, would it be fair to say that
15 Fox Lake would rather be the ultimate decision
16 maker with respect to activities on your
17 traditional lands and territories?

18 MS. ANDERSON: Yes.

19 MS. CRAFT: I would like to ask the
20 same question of Mr. Spence. Would it be fair to
21 say that Tataskweyak would rather be the ultimate
22 decision maker with respect to activities on your
23 land and traditional territory?

24 MR. SPENCE: That would be an ideal,
25 yes.

1 MR. BLAND: An ultimate decision
2 maker?

3 MS. CRAFT: That's correct.

4 MR. BLAND: Considering what I know
5 now, with the Province and Canada and everybody
6 else around us, that would be ideal. But that's
7 not the way it is.

8 MS. CRAFT: Okay. Thank you. Those
9 are my questions.

10 THE CHAIRMAN: Thank you, Ms. Craft.

11 MS. CRAFT: I would like to thank the
12 panel members for their candor in answering some
13 of these difficult questions.

14 THE CHAIRMAN: Now, did we have some
15 trading going on? Next up should be the Fox Lake
16 Citizens, but is Pimicikamak coming up?

17 THE CHAIRMAN: Mr. Roddick.

18 MR. RODDICK: Mr. Chair, just for the
19 record, it is article 3 in the JKDA that sets out
20 the ratification provisions that were to be
21 followed in ratifying the JKDA, just for your
22 information.

23 THE CHAIRMAN: Thank you. Although it
24 does beg the question, you put a ratification
25 process in a document that isn't yet ratified. So

1 how would it carry weight?

2 MR. RODDICK: Well, there have been a
3 number of ratification processes over the years
4 going back to the Indian Act, which is the one
5 that started with what was called the Double
6 Majority to deal with land matters, and there have
7 been a variety of them. You are correct, it was
8 in an agreement that had not been ratified. There
9 had to be some rules and those were the rules that
10 were jointly agreed upon.

11 THE CHAIRMAN: I accept that, it just
12 seemed a little strange.

13 MR. RODDICK: It wasn't a matter of
14 having a meeting to decide what the procedure was,
15 before you went -- it is a tough thing to do. It
16 is done in a number of agreements. It is not
17 ideal.

18 THE CHAIRMAN: Thank you. Mr. Regehr.

19 MR. REGEHR: Mr. Chair, just to follow
20 up on what Mr. Roddick said, and in the danger of
21 giving evidence, the ratification protocol was
22 actually executed by the parties before the JKDA.

23 THE CHAIRMAN: Thank you for that.
24 That resolves my conundrum.

25 Mr. Paupanakis. I'm not sure if you

1 have appeared before us in Winnipeg, so if you
2 could introduce yourself for the record?

3 MR. PAUPANAKIS: Yes. My name is
4 Darwin Paupanakis. I did appear at the motion
5 hearing I believe.

6 THE CHAIRMAN: Yes, of course.

7 MR. PAUPANAKIS: I'm secretary to the
8 councils of Pimicikamak Okimawin. And just for
9 clarification purposes, I am the secretary with a
10 capital S, not the minute taker for the councils.
11 I am the holder of the Pimicikamak laws and also
12 I'm the holder of the traditional laws of our
13 people. So, I'm here to ask some questions to the
14 panel regarding traditional knowledge.

15 Tansi. I thank the Commission for
16 allowing us to be here today, and hope that I can
17 speedily move through some of the questions. I
18 don't have very many questions.

19 So, to begin with, to the panel here
20 today, do you agree that Aboriginal traditional
21 knowledge is for community interests, and it is to
22 be used for determining actions as how it affects
23 other people and creation? That's for all of you
24 on the panel.

25 MR. BLAND: I think that's a part of

1 what traditional knowledge is. In our community
2 traditional knowledge is used to share and pass
3 down information from our elders to our youth. To
4 learn about the environment, to learn about the
5 water, to learn about the land. Learn about the
6 animals. To learn about migration routes. And
7 traditional knowledge is to be carried on from
8 generation to generation.

9 MR. PAUPANAKIS: So you agree it is
10 part of your actions, determining your actions
11 here with the project of Keeyask?

12 MR. BLAND: Traditional knowledge is
13 incorporated into our agreement, it runs parallel
14 to western science.

15 MR. SPENCE: Tansi. Victor Spence,
16 Tataskweyak Cree Nation. In relation to your
17 questions on traditional knowledge, in mino
18 pimatisiwin, yes we use that to evaluate solely on
19 Keeyask, we focus on Keeyask, and not necessarily
20 the whole territory of TCN. And in our
21 deliberation and debate among ourselves as a
22 nation, our self-governing nation of TCN, we focus
23 on ourselves. Regrettably to our members there
24 are others that are outside of the nation, whether
25 in The Pas, Thompson, Calgary, Ottawa, they were

1 not able to fully participate. So -- but you
2 their voices were among us. So we did our
3 environmental evaluation among ourselves. TCN,
4 Fox Lake, York did theirs respectively. And we
5 did not again try to speak for other nations. We
6 do not have that right.

7 MR. NEEPIN: I'm not sure if I'm going
8 to be answering you directly, but I'm more
9 comfortable in stating the fact that through our
10 communities and our elders long standing use of
11 the land and water, the membership, and I mean the
12 elders, land users, have observed the many changes
13 and have directly witnessed for themselves the
14 changes that occurred in the environment.

15 MR. PAUPANAKIS: So, I still didn't
16 get the clarification or the correct answer that I
17 was thinking. Aboriginal traditional knowledge
18 that you applied to Keeyask, did you determine
19 that your actions to agree to the project, that
20 ATK in your worldview affects other people and
21 creation? Do you agree that it affects other
22 people and creation, our worldview?

23 MR. BLAND: For York Factory, yes we
24 did. We took into consideration our partners,
25 Tataskweyak, War Lake and Fox Lake, and took into

1 consideration what our actions and our decisions
2 would make directly in our region.

3 MR. SPENCE: TCN did respectively too.

4 MR. NEEPIN: To answer you directly,
5 yes.

6 MR. PAUPANAKIS: Let's move on. Did
7 the partners, or the First Nations view -- or have
8 viewed Manitoba Hydro as exploiting the land for
9 its own purpose before Keeyask?

10 MR. BLAND: For York Factory my
11 presentation, both on the KHLP and the KCN panel,
12 I openly discussed that we felt that the past
13 projects of Manitoba Hydro did not include any
14 of -- did not include York Factory First Nation,
15 and did not consult with them on any of the damage
16 and impacts that were felt by the First Nation.

17 MR. SPENCE: TCN strongly says and
18 advocates in the report that Manitoba Hydro had
19 adversely impacted the environment. We do not deny
20 that.

21 MR. NEEPIN: Could you repeat your
22 question?

23 MR. PAUPANAKIS: Do the partners, the
24 First Nations view, or have viewed Manitoba Hydro
25 as exploiting the land for its own purposes?

1 MR. NEEPIN: I think we said that in a
2 couple of our statements previous to this panel.
3 And that formed part of our decision to be
4 partners rather than watching development around
5 us, as we have done in the past 40 years since the
6 first dam was built in our community. It was a
7 balance. It was, and I mentioned that again this
8 morning about the balance, whether we were going
9 to pursue a partnership with this development.

10 MR. PAUPANAKIS: Okay. Thank you. In
11 your statements you claim environmental
12 degradation, harm, durability to live in harmony
13 with the land. Does the environmental degradation
14 and exploitation pose a form of oppression and
15 devastation of your culture?

16 MR. BLAND: I also discussed this in
17 my presentation. We acknowledge that there was
18 degradation, changes to our environment. In terms
19 of forming an oppression or causing an oppression,
20 these things, this development that happened in
21 the 1970s and the '57, and so on, you could look
22 at it as the government or the Manitoba Hydro, I
23 don't believe it was Manitoba Hydro at the time
24 that developed the first project in Kelsey, but
25 they went ahead and did a lot of things without

1 consulting with the First Nation. And if you look
2 at the history of Canada and the Federal
3 government and Manitoba, these things have been
4 happening with First Nations people for as long as
5 I can remember.

6 MR. NEEPIN: One of the -- the way I
7 described it previously from memory here, and now
8 I've described it, our presentations have
9 described it in many ways, but one of the areas
10 about our past was I called it abysmal history
11 with affiliation with Hydro in our area.

12 MR. PAUPANAKIS: The next one; do the
13 partners, the Cree Nations, now view today by
14 building Keeyask this project, without the
15 agreements in its present form, affect Aboriginal
16 rights?

17 MR. SPENCE: Can you repeat that
18 question, please?

19 MR. PAUPANAKIS: Keeyask in its
20 present form, without the agreements, do the
21 partners now view by building Keeyask, this
22 project without the agreements, in its present
23 form, affect the exercise of Aboriginal rights?

24 MR. BLAND: If there wasn't any
25 agreements or if there was no consultation, I

1 think that would be pretty obvious.

2 MR. PAUPANAKIS: In its present form?

3 MR. BLAND: It is hard to say Keeyask
4 in its present form without what we've already
5 created as partners. Keeyask wouldn't be what it
6 is today. There wouldn't be a present form of
7 Keeyask without what we contributed to it. So
8 your question is very difficult to answer because
9 it wouldn't be the same Keeyask it is today.

10 MR. PAUPANAKIS: I'm saying it is what
11 it is today, does it affect the exercise of
12 Aboriginal Treaty rights or Aboriginal rights in
13 particular, in its present form, the way it is
14 structured?

15 MR. BLAND: If was like one of the old
16 projects where there was absolutely no
17 agreements --

18 MR. PAUPANAKIS: No, no.

19 MR. BLAND: Again, I'm not going to
20 answer that. This agreement that we have today is
21 something that was created by us and our partner.
22 This agreement, this project wouldn't be what it
23 is without us and how we helped create what it is
24 today. So again, I'm having a difficult time
25 answering your question. If you can rephrase it.

1 MR. PAUPANAKIS: Let me try and
2 rephrase that. Today, in this present form with
3 Keeyask and all of its environmental impact
4 statements, does it affect the exercise of
5 Aboriginal rights?

6 MR. BLAND: Again, I just want to say
7 first -- one second, my colleague would like to
8 answer as well.

9 MR. SPENCE: Egosi. All development
10 within our territories, respective territories,
11 Cross Lake, Pimicikamak, and the other nations,
12 any development affects our Treaty and Aboriginal
13 rights and also it affects Section 35. I agree
14 with that. I wasn't sure if you just wanted a yes
15 answer or --

16 MR. PAUPANAKIS: I think you have
17 given me an answer that's sufficient. Next
18 question: How does the agreements of this
19 project, this project's negative impacts address
20 the disruption of your social systems as a whole?

21 MR. BLAND: I would say that it is
22 very difficult just to include this one agreement
23 without considering everything else that is
24 happening, such as residential school impacts,
25 isolation, there is a whole bunch of things that

1 all happen at once. In terms of the specific
2 agreement, it contributes to what is happening in
3 our community. I would say our community is
4 generally fairly healthy. I won't say it is
5 perfect by any means. We have our problems, as
6 does any other community. We have alcoholism. We
7 have low employment. We have a lot of the same
8 problems as anyone else. But, you know, as I say,
9 it is difficult to try and isolate problems
10 without compounding factors.

11 MR. PAUPANAKIS: Mr. Spence?

12 MR. SPENCE: Can you repeat the
13 question, please?

14 MR. PAUPANAKIS: How is the agreements
15 of this project's negative impacts address
16 destruction of your social systems as a whole?

17 MR. SPENCE: Like I said, any
18 development within our territories, and especially
19 Keeyask, which is so in the immediate vicinity of
20 our nations, will affect us. However, we
21 negotiated a package with Manitoba Hydro taking
22 the negative and the other impacts which are and
23 have been experienced in the last 50 years and the
24 consideration. However, we fully appreciate as a
25 nation that Manitoba Hydro is not the cure-all.

1 It is part of the past, and where we have to deal
2 with the problems that we have in our nations,
3 housing, alcoholism and other health related
4 matters and the accruing needs in terms of health
5 problems, diabetes, and other diseases that
6 prevail in our nations. So with that, yes, the
7 social needs are increasing, the socio-economics
8 of our nations are changing. All that has been
9 taken into consideration. We are few now. In 20
10 years there will be more of us and so forth.

11 MR. PAUPANAKIS: So just to clarify
12 this; Tataskweyak agreement, negative impacts on
13 your social systems, does not address the
14 disruption?

15 MR. SPENCE: The disruption on what?

16 MR. PAUPANAKIS: On your social
17 systems. As an example, there was a blockade in
18 Tataskweyak, a woman I believe was sued for
19 blockading, wanting to be heard. That social
20 system.

21 MR. SPENCE: I think I answered the
22 question this morning on that. However, TCN
23 acknowledges there are different views, different
24 positions, different understandings. And in
25 respect to disagree to Keeyask, there are members

1 in our nation that do not agree with it. And in
2 relations to the event that you have mentioned, I
3 am not sure if an individual was sued, or legal
4 recourse were taken upon the participating members
5 at that event.

6 MR. BLAND: I would just like to add,
7 too, that this agreement is not like the
8 implementation agreements or comprehensive
9 agreements that we have. Those agreements
10 required Manitoba and they required Canada. They
11 were four party agreements. Your community was
12 part of the 1977 agreement. So I'm sure you are
13 fully aware of what that is whole process was. We
14 talked earlier about JKDA ratification numbers.
15 The Federal government imposed a 50 per cent
16 voting by each first member. In this case we
17 developed the JKDA, we set a 33.3 per cent
18 benchmark and we all agreed, the First Nations
19 agree, that this is a business relationship. This
20 is strictly business.

21 MR. PAUPANAKIS: Thank you. So do the
22 partners agree that band council resolutions grant
23 them control over traditional lands outside
24 reservation boundaries, and how the environment is
25 divided up amongst themselves and Hydro?

1 MR. SPENCE: In terms of your
2 question, I can't answer it right now without
3 talking to our advisors.

4 MR. BLAND: Are you talking about
5 resource management areas, traditional
6 territories?

7 MR. PAUPANAKIS: No.

8 MR. BLAND: Because we have specified
9 reserve areas.

10 MR. PAUPANAKIS: No, I'm asking the
11 First Nations --

12 MR. BLAND: Yes.

13 MR. PAUPANAKIS: -- do you agree that
14 by signing a band council resolution grants you
15 control over traditional lands outside of
16 reservation boundaries, and how the
17 environmental -- the environment is divided up
18 amongst yourselves and Hydro?

19 THE CHAIRMAN: Mr. Regehr.

20 MR. REGEHR: I'm going to object to
21 the question. It asks for legal conclusions. The
22 panel shouldn't have to do that here.

23 THE CHAIRMAN: I'm sorry, I didn't
24 hear all of --

25 MR. REGEHR: I have to object because

1 the question asks for legal conclusions.

2 THE CHAIRMAN: Mr. Roddick, were you
3 raising your hand as well?

4 MR. RODDICK: Same point, sir.

5 THE CHAIRMAN: Thank you. I would
6 accept that objection. So it is -- we are asking
7 them to make a legal conclusion and they are
8 not -- none of them is a lawyer and they are not
9 their own counsel.

10 MR. PAUPANAKIS: Okay. I will just
11 let that rest for now.

12 Okay. Next question: Before I move
13 on, could I ask was there an undertaking to
14 provide BCRs in these agreements that we asked
15 from last week?

16 THE CHAIRMAN: There was some question
17 about that. I can't remember exactly how that was
18 resolved.

19 MR. RODDICK: Mr. Chairman, we looked
20 at that and we have taken the position they are
21 not relevant, and we put that on the record a
22 couple of days ago.

23 THE CHAIRMAN: Yes.

24 MR. PAUPANAKIS: Okay. Thank you. My
25 last question; isn't it true that our with Cree

1 worldview would not let us agree to Keeyask and
2 the permanent damage it will cause for all of us?

3 MR. BLAND: Well, I will start off.

4 THE CHAIRMAN: Mr. Regehr?

5 MR. REGEHR: I'm not sure when the
6 question is put "our worldview," I don't know
7 whose worldview is being -- there needs to be some
8 clarification on that.

9 THE CHAIRMAN: He did say Cree
10 worldview.

11 MR. PAUPANAKIS: Yes, the Cree
12 worldview, our Cree worldview. I'm asking, isn't
13 it true that our Cree worldview would not let us
14 agree to Keeyask and the permanent damage it will
15 cause for all of us?

16 MR. BLAND: As I was going to say,
17 when we developed our worldview, our Cree
18 worldview, we described ourselves as Inninuwak
19 from the coast, and we referred specifically to
20 Fox Lake Cree Nation, War Lake, Tataskweyak, and
21 York Factory. It is difficult to try to include
22 all other First Nations into our worldview. When
23 we identified our worldview, each community was a
24 little bit distinct in their own way. Everybody
25 else, every community had a little bit of

1 difference in each community. So when we decided
2 what we were going to do, the KCN, we understood
3 what we were doing, and how we were planning to be
4 partners, and how we were planning to be a part of
5 the process, and minimize any impacts, any
6 damages, to put in monitoring commitments, to put
7 in socio-economic monitoring. Those are things
8 that we've done. And we acknowledge that there
9 was impacts. And we acknowledge that as our KCN
10 Cree worldview, we wouldn't normally allow things
11 like that to happen. I imagine Pimicikamak is
12 somewhat similar. And it is difficult to try to
13 speak for you, and I won't try to speak for you.
14 I'm speaking for the four First Nations that
15 signed this agreement.

16 MR. PAUPANAKIS: Yeah, I was referring
17 to our view, not the First Nations, our worldview.
18 First Nations is a Federal agency under the Indian
19 Act, administered by the Department of Indian
20 Affairs under the Minister's direction. So I'm
21 speaking about our worldview, not the Federal
22 agency. Thank you.

23 MR. BLAND: Well, I was speaking
24 specifically about the four Cree Nations.

25 MR. NEEPIN: I'm not going to -- I

1 think you know the answer. But, you know, the
2 most important for us was the trade-offs have been
3 thoughtful, and our people have been given full
4 opportunity to express themselves on the details
5 and desirability of the terms of the project, and
6 I said this before.

7 Additionally, of course, the most
8 important part is we are a limited partner in this
9 project because of the considerable benefits the
10 negotiations of the JKDA have and will produce for
11 Fox Lake, in terms of capacity building, economic
12 rewards, the assurance that we will be an informed
13 people with regard to the development, and we will
14 participate to a certain extent in the roles
15 allowed by law for a limited partner in the
16 governance of this project.

17 It would take many hours, if not days,
18 for me to give you chapter by chapter and verse
19 describing every benefit we see as forthcoming
20 from the project, all of which cumulatively
21 outweigh what we see as negative effects.

22 MR. PAUPANAKIS: So, you are saying
23 there is no permanent damage?

24 MR. NEEPIN: I don't think I said
25 that.

1 MR. PAUPANAKIS: So you are saying
2 there is permanent damage?

3 MR. NEEPIN: I said the trade-offs
4 have been -- our people, through extensive
5 discussion amongst ourselves, have been given full
6 opportunity to express themselves on the details
7 and desirability of the terms of the project is
8 what I'm saying. We had extensive discussion.
9 There was a balancing that we had to do, and I
10 mentioned briefly this morning that we know and we
11 don't have to speculate on what the results are
12 going to be of this development. We know exactly
13 what is going to happen. But there was a balance,
14 and there was extensive discussions that we had as
15 a community to try and see what we could benefit,
16 the benefits from this project. And I listed them
17 for you, like the business opportunities that come
18 with this development.

19 I don't want to sit here all afternoon
20 and discuss the very issues that we discussed as a
21 community all on the negative impacts, the fish,
22 you know, all of that. We can sit here for the
23 rest of the week to discuss those. But those are
24 the discussions that we had in our community, as
25 extensively as we could. And in order for us to

1 move forward, we had to then make a decision as a
2 community; what are the benefits to the project?

3 MR. PAUPANAKIS: Thank you.

4 Again, is there or is there not
5 permanent damage, in your worldview, our
6 worldview?

7 MR. SPENCE: Yes. There will be
8 impacts, adverse impacts on the footprint of this
9 development, yes.

10 However, if I may just elaborate a
11 little more. It is a long journey, a long path
12 that our grandfathers took. And it was not an
13 easy path, it was very difficult. There were
14 tears that were shed, cries uttered, lamentations
15 that we heard through the last 50 years on hydro
16 development. But this Keeyask gives us an
17 opportunity, a hope to our younger generation.
18 But we do not forget the past, we do not forget
19 our forefathers, our grandfathers. But with that
20 wisdom that they gave us, the journey that they
21 started in 1977, we still continue.

22 After I'm gone there will be others,
23 our next generations that will deal with
24 development within our respective territories.
25 And that is why it is very important that we

1 negotiate with developers, with the governments,
2 on behalf of our youth and next generation.

3 I can dwell on the past. That's not
4 going to get me or our people anywhere. We have
5 to provide and move on, and that's what we have
6 done. Egesi.

7 MS. SAUNDERS: I would like to add to
8 that. When you look at the Cree worldview, you
9 look at it holistically, you don't just look at
10 the land, Aski, living things. We also look at it
11 spiritually, there is a spiritual aspect to it.
12 And when we began negotiations with Manitoba Hydro
13 and talking with the other First Nations, we took
14 that into account.

15 We are working towards reconciliation.
16 We have already started this process. Because we
17 were never a part of -- not only were we never a
18 part of hydro development, there was a time that
19 we could not practice our traditional and cultural
20 way of life. We weren't allowed to speak our own
21 language not too long ago. But we are doing that
22 today.

23 And in this process, like I said,
24 we've begun the reconciliation. We have
25 acknowledged those things have happened in the

1 past, but they don't continue to happen today. We
2 are reclaiming our ways of life. We do
3 ceremonies. Like I said, there is also the
4 spiritual aspect to this. We acknowledge there is
5 going to be damage to the land, to Aski, but we
6 also took into account that we need to reconcile,
7 not only with ourselves, but with the land and the
8 spiritual aspect. And we took those steps
9 already. Those things, like we can't sit here and
10 say, okay, those things haven't been done yet,
11 because they have been done.

12 I was very honoured to sit in a
13 ceremony with my chief who did a pipe ceremony
14 right at the Gull Lake, not long ago, with the
15 chief and council. And we said prayers, we
16 offered tobacco, and acknowledged what is
17 happening. Those things that we've done for
18 thousands of years, we are reclaiming those ways.
19 And Keeyask has given us an opportunity to do
20 that. Whereas we wouldn't have -- we couldn't
21 have done that before when we weren't included in
22 hydro development, but here we are today.

23 MR. PAUPANAKIS: So can I ask a
24 question in reference to what you just said?

25 So that is where you got your guidance

1 from and your answers to move forward on Keeyask?

2 MS. SAUNDERS: From who?

3 MR. PAUPANAKIS: You just said you had
4 a ceremony?

5 MS. SAUNDERS: Yes.

6 MR. PAUPANAKIS: You got your
7 guidance, when you asked for guidance, that's what
8 you do in ceremonies, that is where you got your
9 answer to move forward on Keeyask?

10 MS. SAUNDERS: No, that's not where we
11 got our answers.

12 MR. PAUPANAKIS: Thank you.

13 And another thing, I just want to
14 maybe follow up with a question from earlier from
15 Ms. Craft, Mr. Chairman. And it is in relation to
16 the dissension, and I want to direct that again to
17 Mr. Spence.

18 Mr. Spence, are you aware that some
19 TCN members tried to blockade Keeyask construction
20 and that Manitoba Hydro brought an injunction
21 against them and sued them for damages?

22 MR. SPENCE: Again, I believe that IR
23 was asked. And my eyesight, I can't read that
24 small print. I will ask Mr. Bland to read that.

25 MR. BLAND: Hi. I don't remember that

1 question being asked by her but I am going to go
2 ahead and read this.

3 "Each KCN community is governed by an
4 elected chief and council. As in this
5 case in every community which elected
6 its leaders, those elected carry a
7 responsibility to listen to all of the
8 members they govern and to be
9 sensitive to their concerns.

10 Listening to the concerns of members
11 who have not in the past supported the
12 project may require the community's
13 leadership to explain the basis for
14 decisions being taken with respect to
15 the project, and there may be
16 opportunities, where feasible, to
17 factor into new decisions solutions to
18 concerns that are raised. Similarly,
19 the responsibility of elected leaders
20 is to show respect to members who have
21 contrary opinions through listening
22 and explaining is met by obligations
23 of such members to show respect to
24 chief and councils after decisions are
25 made and implemented with the purpose

1 of benefiting the community as a
2 whole."

3 MR. PAUPANAKIS: That concludes my
4 questions.

5 THE CHAIRMAN: Thank you,
6 Mr. Paupanakis.

7 MR. PAUPANAKIS: Egosi. Thank you
8 commissioners and thank you panel.

9 THE CHAIRMAN: Now, I'm not sure if
10 there was any more trading going on.

11 Next up should be Concerned Fox Lake,
12 do you have questions?

13 MR. KULCHYSKI: Mr. Chair, with your
14 agreement, my colleague, Ms. Pawlowska is going to
15 begin and ask a series of questions, and I will
16 ask some subsequent questions.

17 THE CHAIRMAN: Okay. Just remember
18 relevance. This panel is evaluation reports,
19 that's what we are considering right now.

20 MS. PAWLOWSKA: Of course. Good
21 afternoon. Some of the questions I will be asking
22 have been questions that I have formulated along
23 with Mr. Massan and other members who will be the
24 witnesses during our presentations.

25 The first one is directly from

1 Mr. Massan. And he asks, since there will be work
2 camps, housing, and the south access road on the
3 south side of the river, he is afraid that people
4 will keep harvesting on his trapline. So he is
5 wondering how the representatives of Fox Lake and
6 those in charge of the access management plan will
7 ensure that the resources are not harvested
8 outside of his camp -- outside of the camp, I'm
9 sorry. And if you could be specific, please?

10 THE CHAIRMAN: I think that question
11 should have been asked of the last panel on
12 socio-economic affairs. How does this relate to
13 the environmental evaluation reports that are
14 before us?

15 MS. PAWLOWSKA: Well, the individuals
16 have created an environment plan, and Mr. Massan
17 and I have discussed it, and he is wondering how
18 some of the initiatives that are set out in the
19 plan are actually going to be met, and he is
20 looking for specifics so...

21 THE CHAIRMAN: That's a legitimate
22 concern, but I don't think the question you just
23 asked is relevant to that.

24 MS. PAWLOWSKA: Can I ask another
25 question that is an example?

1 THE CHAIRMAN: Try.

2 MS. PAWLOWSKA: Okay. Mr. Massan
3 wants to know if, for example, he takes down the
4 licence plate number of the individual and reports
5 it to the RCMP, will the licence -- will the
6 driver's licence be taken away if he catches them
7 hunting or fishing on his trapline?

8 THE CHAIRMAN: Mr. London?

9 MR. LONDON: Mr. Chairman, I don't
10 think that -- the objection to that is the one you
11 just made. It is obvious it doesn't have anything
12 to do with the panel, and certainly these are not
13 law enforcement agencies that are sitting at the
14 table.

15 In addition, when Councillor Neepin
16 spoke on the very first day, he said that the Fox
17 Lake Cree Nation encourages and welcomes the
18 dissent, and we will, and it is unlikely for the
19 most part that we are going to challenge it, Fox
20 Lake is going to challenge it. But I don't think
21 that this process can be turned into a claim by an
22 individual for whatever compensation or benefits
23 he may be seeking.

24 THE CHAIRMAN: Thank you. I would
25 agree that objection is legitimate.

1 MR. KULCHYSKI: There is no claim for
2 compensation here.

3 Will Fox Lake Cree Nation have itself
4 any specific duties under the mitigation plans to
5 assist any of the trappers who are affected by the
6 influx of non-aboriginal hunters on their
7 traplines, which are close to the Keeyask project?

8 THE CHAIRMAN: I think again you are
9 going -- these are questions that should have been
10 asked to the socio-economic panel yesterday. And
11 you did have an extensive cross-examination,
12 Dr. Kulchyski, of that panel.

13 MS. PAWLOWSKA: Thank you. The next
14 question is for Mr. Neepin --

15 THE CHAIRMAN: Sorry, Mr. London
16 again.

17 MR. LONDON: Just in addition to that,
18 there has been a tremendous amount of evidence
19 already given, and on at least two or three
20 occasions, the details of the mitigation program
21 and the availability of the mitigation program to
22 people who are affected has been spoken to quite
23 clearly by Hydro on a number of occasions. It is
24 there, the transcript is full of them.

25 MS. PAWLOWSKA: Thank you.

1 So the next question is for Mr. Neepin
2 and Ms. Anderson. You have stated in the report,
3 in the Fox Lake environmental report, and to the
4 panel today, that there were dissenting voices in
5 the community. If so, to what degree do you think
6 you have satisfactorily incorporated those
7 dissenting voices in the report and in the EIS?

8 MS. ANDERSON: Okay. So, you are
9 asking whether we have incorporated the dissenting
10 voices? In our report we've listed many of the
11 concerns of all of our members. And if you have a
12 specific person and a specific concern, and like I
13 could answer that, but in our report we've
14 listened to all of the voices in our community,
15 the elders, that's the reason we have the core
16 group. And so like I said, if you have a specific
17 person, maybe we could respond to that, or
18 specific concern. But, yes, we have incorporated
19 all of the concerns from the community.

20 MS. PAWLOWSKA: Okay. Thank you.

21 THE CHAIRMAN: Just on Ms. Anderson's
22 question, I won't allow you to go down the road of
23 specific concerns of specific people. That's not
24 what we are here to do.

25 MS. PAWLOWSKA: The next question I

1 have is for, again, Ms. Anderson, but this one is
2 for Mr. Spence and Mr. Bland as well.

3 Were you the individuals who worked
4 the closest with the elders?

5 MS. ANDERSON: Yes, I've lived in the
6 community all of my life, so I guess I would call
7 that work, but I have learned from them. And I'm
8 not sure if you mean developing the report, or we
9 have had different people, you know, different
10 people have been hired at different times that
11 have assisted us in creating these reports. So I
12 am not sure how closely you mean?

13 MS. PAWLOWSKA: You are right, I
14 should have clarified. I meant for the report,
15 the environmental report?

16 MS. ANDERSON: Yes, we have had
17 different people in the community, but I myself
18 have been involved in part of it, not totally at
19 the community level.

20 MS. PAWLOWSKA: Mr. Spence, Mr. Bland?

21 MR. BLAND: Over the past six years, I
22 was involved in developing some of the different
23 plans and monitoring agreements, or whatever. And
24 we also had some elders work with us on our future
25 development team, a couple of who are here today,

1 but I don't believe they are still here. But we
2 participated with our elders consistently.

3 MR. SPENCE: I participated in
4 numerous meetings where elders were -- but in
5 relation to specific dealings with traplines, I
6 will just say traplines, RTLs and impact, we had a
7 due process on that which we call OWL. It was
8 staffed by our local members. And they
9 participated in the community consultation, along
10 with the councils, the chief and council. And
11 that's how we made our assessment on the project.
12 But I do respect and I love elders, yes.

13 MS. PAWLOWSKA: Thank you.

14 Would you say in your opinions that
15 many Fox Lake and York Factory and TCN elders
16 attended the presentations?

17 MR. BLAND: I would say that many of
18 our members attended the presentations. For
19 clarification, which presentations are you talking
20 about?

21 MS. PAWLOWSKA: The ones that you
22 conducted for the environmental reports?

23 MR. BLAND: We had a couple of them
24 here. It is too costly to fly many of our members
25 out for that.

1 MS. PAWLOWSKA: Thank you.

2 MR. SPENCE: We had extensive -- TCN,
3 we had an extensive involvement with our elders
4 and they participated throughout the process.

5 MS. ANDERSON: Okay. For Fox Lake,
6 yes, many of our elders were involved in all of
7 the field work and all of the presentations, and
8 putting together like reports, like our executive,
9 our evaluation report is a summary of all of our
10 reports. And yes, all of our elders were
11 involved, many of them.

12 MS. PAWLOWSKA: Thank you. So for all
13 three of you, have those same elders ever been
14 invited by Manitoba Hydro to attend any of their
15 meetings in the south?

16 MR. BLAND: As I mentioned earlier,
17 we've invited our elders down quite a few times.
18 We have had different elders attend different
19 meetings, whether it be terrestrial, aquatics,
20 sturgeon, caribou, we have had different elders
21 that have experience in different areas attend
22 with us at meetings down here in the south.

23 MS. PAWLOWSKA: Mr. Spence?

24 MR. SPENCE: Yes, we had our elders to
25 come down south. We value their contribution into

1 the process. And it was -- they were the
2 foundation of our voice in this process.

3 MS. ANDERSON: So, yes, our elders
4 were invited. We had a core group in the
5 community of elders and they, that group they had
6 chosen who would attend the meetings. And some of
7 the meetings, I mean, not only were they invited,
8 but also our core group invited Hydro to our
9 community to meet with the core group elders.

10 MS. PAWLOWSKA: Thank you. So my
11 question now is for all of you again. Were those
12 elders invited to the meetings in order to observe
13 or to voice their opinions?

14 MR. BLAND: Our community, I just
15 stated earlier that we had different elders that
16 held different knowledge in different areas. As I
17 mentioned, we had gentlemen and women that knew
18 how to fish for sturgeon in certain areas, we had
19 moose hunters that were better hunters than
20 others, we had caribou hunters, we had trappers
21 that knew where all the animals were and stuff
22 like that. We had different elders participate in
23 different meetings, and they were the ones, as
24 Victor pointed out, they are the ones with the
25 knowledge, they are the ones that helped us bring

1 our information forward.

2 MS. PAWLOWSKA: Ms. Anderson,
3 Mr. Neepin?

4 MS. ANDERSON: So when our elders come
5 to the meetings, they are able to speak their
6 minds, and I don't think that any of us could
7 stifle them if we tried, and I think that they did
8 bring out their concerns in the meetings, which is
9 what we expect, you know, of our members to hold
10 up our views and our concerns.

11 MS. PAWLOWSKA: Thank you.
12 Mr. Spence?

13 MR. SPENCE: They had a very
14 meaningful participation. We valued their input
15 and their guidance. But most importantly, they
16 participated in the meetings, and not only
17 participated, but they had conviction. They were
18 able to articulate an argument that was moving and
19 touching to us Cree, the people who understood
20 them when they spoke in Cree. And with that, as a
21 voice of reason and conviction, we took guidance
22 to watch out, don't trust anyone. This is a
23 business arrangement. So with that, with their
24 voice, we choose to venture into this business
25 arrangement.

1 MR. NEEPIN: Just let me add to that.

2 In our documentation, knowledge is transmitted
3 through respect of the individuals, and that
4 includes elders amongst other peoples in the
5 communities such as trappers, hunters and fishers,
6 mostly by an oral tradition. Traditional
7 knowledge is a term that was originally coined by
8 western academics to describe the knowledge of
9 indigenous people about their lands, ways of life,
10 values, and worldviews.

11 Now, that's not possible if we, or if
12 you are implying that we dismiss our elders. Our
13 elders play a significant role when we meet.

14 MS. PAWLOWSKA: Thank you.

15 So the next question is for Mr. Neepin
16 and Ms. Anderson. In regards to the core
17 Kitayatisuk, have the elders ever stated
18 grievances about Manitoba Hydro workers harvesting
19 resource from their land?

20 MR. NEEPIN: Always.

21 MS. PAWLOWSKA: Thank you.

22 Did they enthusiastically and
23 willingly provide the information to you about
24 their traditional knowledge?

25 MR. NEEPIN: Yes, they do, and they

1 expect results, they expect feedback. And if I
2 don't get back to them on any questions that they
3 have, they remind me the very next day. It is a
4 responsibility that all of us as leaders in the
5 communities have.

6 MS. PAWLOWSKA: Thank you.

7 Were they willing to disclose the
8 harvesting sites to Manitoba Hydro consultants?

9 MS. ANDERSON: You are asking if the
10 elders willingly disclosed harvesting sites?

11 MS. PAWLOWSKA: Correct.

12 MS. ANDERSON: Okay. So for the
13 elders, they disclosed what they thought would be
14 helpful in the reports. They didn't want to
15 provide all of the information. It was what they
16 felt was relevant to whichever area we are
17 discussing -- was being discussed.

18 MS. PAWLOWSKA: They specifically
19 said, we will provide you with information as
20 evidence?

21 THE CHAIRMAN: I think she answered
22 your first question.

23 MS. PAWLOWSKA: Thank you then.

24 So did your core Kitayatisuk group of
25 the elders ever complain that they are tired of

1 the meetings with Manitoba Hydro and their
2 consultants?

3 THE CHAIRMAN: I think if we look at
4 the numbers that I think it was Mr. Bland put on
5 the record yesterday about hundreds, if not
6 thousands of meetings, I'm sure that everybody was
7 tired of meetings. So I think we can take that as
8 what lawyers call as judicial notice. It is a
9 given.

10 MS. PAWLOWSKA: So it is a yes. Thank
11 you.

12 Do the core elders groups and its
13 members feel that they were adequately listened to
14 by Manitoba Hydro?

15 MR. NEEPIN: Okay, while Karen is
16 discussing that question -- I think it goes back
17 to what we talked about in terms of our process
18 being integrated to the overall, to the EIS. I
19 mean, we agreed that our process was distinct, and
20 that includes going away with the sense that not
21 all of your concerns are being incorporated. I
22 mean, the elders will hold us to that in terms of
23 what their expectations, and what they are
24 contributing, if it is not incorporated. But I
25 just wanted to say that the elders, I don't

1 know -- we hold, we put a lot of weight in what
2 our elders tell us and what their role and
3 function is. And I don't want to really start
4 going into any kind of detail about how we, as
5 negotiators, or how negotiations related with the
6 elders. The elders are respected, and they are
7 the knowledge holders, and so we relied heavily on
8 their guidance throughout this process.

9 MS. PAWLOWSKA: Thank you.

10 Have the elders in Fox Lake ever
11 stated that they wished that the Keeyask dam would
12 not be built?

13 MS. ANDERSON: I think not only the
14 elders, but some of our members. Again going back
15 with our history with hydroelectric projects, I'm
16 pretty sure that everybody -- even some of our
17 children who have not experienced those yet,
18 because they hear the stories of our history, yes,
19 so I think that everybody has said that.

20 MS. PAWLOWSKA: And you have explained
21 to them the Adverse Effects Agreement and the
22 JKDA, and even so, they wish that the project
23 would go through?

24 THE CHAIRMAN: I think that was
25 answered.

1 MS. PAWLOWSKA: Okay. Mr. London.

2 MR. LONDON: Sorry, Mr. Chairman, the
3 questioning is fine. Could we identify the
4 numbers, or the who in the question, and the
5 notion of what did the elders do denigrates them
6 into a homogenous group, and I don't think that's
7 appropriate.

8 MS. PAWLOWSKA: Thank you. I was
9 referring to the core Kitayatisuk elders group.

10 MR. LONDON: It is my same point,
11 there may be some that think one way and some who
12 think another way. How are they supposed to know
13 that?

14 MR. KULCHYSKI: I should also point
15 out that the panelists have all been using the
16 expression the elders and their elders throughout
17 the course of the proceeding. So I think it is
18 kind of late in the day to object to that.

19 THE CHAIRMAN: I don't think that we
20 need to get into a squabble over this issue. But,
21 please, carry on with questions that are relevant
22 to this panel's knowledge.

23 MS. PAWLOWSKA: Thank you.

24 Ms. Anderson, this question is
25 directed to you. Would you say that the First

1 Nation's reports from Fox Lake and the
2 environmental report was heavily edited by
3 Manitoba Hydro?

4 MS. ANDERSON: Not heavily edited, I
5 mean, not our traditional knowledge project or
6 the -- sorry, no.

7 MS. PAWLOWSKA: Thank you. So
8 Mr. Neepin and Ms. Anderson, actually
9 Ms. Anderson, am I correct to say that you
10 conducted numerous studies of Hydro impacts on the
11 environment, correct?

12 MS. ANDERSON: Some studies, I don't
13 know what you mean by numerous.

14 MS. PAWLOWSKA: At least one?

15 MS. ANDERSON: Yeah, at least one.

16 MS. PAWLOWSKA: Thank you.

17 Am I correct to say that you also
18 conducted an impact study of Hydro on people?
19 Correct?

20 MS. ANDERSON: Is that the same report
21 that you are referring to in the first day, in the
22 opening remarks?

23 MS. PAWLOWSKA: Have you or have you
24 not conducted a report on the social impacts of
25 Hydro development?

1 MS. ANDERSON: We worked on one, but
2 we didn't complete it. No.

3 MS. PAWLOWSKA: Thank you.

4 Have you ever conducted individual
5 land use and occupancy studies around the Gull
6 Lake and Gull Rapids?

7 MS. ANDERSON: Yes.

8 MS. PAWLOWSKA: Did you include
9 intangible cultural heritage on the maps?

10 MS. ANDERSON: Yes. I'm just
11 referring to Leslie, she was more involved with
12 them.

13 MS. PAWLOWSKA: Thank you.

14 So now my question is in regards to
15 the project area and traplines number 7, 9, 15 and
16 25, that were given to us on one of the big
17 evidence sheets provided by Manitoba Hydro.

18 So were those individuals or the head
19 trappers of those traplines included in the land
20 use and occupancy studies?

21 MS. ANDERSON: Maybe can you give us
22 the names of the trapline holders? We are not
23 quite whose is which.

24 MS. PAWLOWSKA: Okay. Number 7, 9, 15
25 and 25, I don't have the list with me of the other

1 numbers, but number 9 is Mr. Massan, and I believe
2 that number 15 or 25 is Jack Massan.

3 MS. ANDERSON: Okay. They were
4 included, both those who you referenced,
5 Mr. Massan and Jack Massan, Noah Massan and Jack
6 Massan, they were both involved in the studies.

7 MS. PAWLOWSKA: I am sorry, they are?

8 MS. ANDERSON: Yes.

9 MS. PAWLOWSKA: Thank you.

10 MS. ANDERSON: You don't know the 7
11 and 25. Are those Fox Lake members?

12 MS. PAWLOWSKA: I don't have the list
13 on me.

14 MS. ANDERSON: Okay.

15 MS. PAWLOWSKA: Thank you.

16 And this land use and occupancy study,
17 was that historical and present use?

18 MS. ANDERSON: Yes.

19 MS. PAWLOWSKA: Thank you.

20 And did the elders, or the two
21 individuals, Jack Massan and Mr. Massan, when they
22 saw their biographies of the land, after you
23 showed them the land and occupancy studies, did
24 they object to having their history put on paper
25 at any point, or no?

1 MS. ANDERSON: So you are talking
2 about the map biographies they did, or were
3 involved in?

4 MS. PAWLOWSKA: Yes.

5 MS. ANDERSON: Okay. So for Noah, he
6 made a decision not to participate in the Keeyask
7 traditional knowledge map biography. And Jack
8 did.

9 MS. PAWLOWSKA: Thank you.

10 MS. ANDERSON: We just want to make
11 sure, Leslie wants to make sure that it was, that
12 he did, and that it was for the purpose of the
13 reports.

14 MS. PAWLOWSKA: Can you repeat the
15 last part, for the purpose of?

16 MS. ANDERSON: Of our reports.

17 MS. PAWLOWSKA: Okay, thank you.

18 My next question is about the Butnau
19 River. Is the Butnau River a river of heritage
20 and history for Fox Lake?

21 MS. ANDERSON: Yes, all the whole
22 area.

23 MS. PAWLOWSKA: Thank you.

24 So including the Butnau River, the
25 intersection of the Butnau River and the Nelson

1 River?

2 THE CHAIRMAN: I think she just said
3 the whole area.

4 MS. PAWLOWSKA: So was the
5 intersection of the Butnau and the Nelson a
6 historical site for Fox Lake?

7 MS. ANDERSON: Yes, the entire area
8 is, and was.

9 MS. PAWLOWSKA: Thank you.
10 Was it a site because the people
11 stayed at the intersection of the two rivers
12 because of its close proximity to Gull Rapids?

13 MS. ANDERSON: Okay. When you say the
14 intersection of the two rivers, you mean Kash
15 Lake?

16 MS. PAWLOWSKA: No, I mean the Nelson
17 River and the Butnau River?

18 MS. ANDERSON: Well, the whole area is
19 our traditional territory, and all of these areas
20 lead to other rivers. So if it is an
21 intersection, it might have been like an
22 intersection of a highway where you can go to
23 different areas to do your traditional activities.
24 So I would say yes.

25 MS. PAWLOWSKA: Okay. So, yes,

1 because it was in close proximity to Keeyask
2 Rapids?

3 MS. ANDERSON: I don't know if it is
4 just to that specific area, but to all areas, to
5 all traditional areas or river routes, or creeks,
6 you know, yes. I don't know specifically just for
7 that Gull Rapids area.

8 MS. PAWLOWSKA: I guess I was
9 referring to the question I asked previously a few
10 minutes ago about whether or not the intersection
11 of the Butnau River and the Nelson River was a
12 historical site for the Inninuwak. And then you
13 said yes, and so then I'm just wondering is it
14 because of its close proximity to the Keeyask
15 Rapids?

16 MS. ANDERSON: I answered because it
17 is an intersection, I'm viewing it as like a
18 highway intersection, it goes to different areas.
19 That's why I said yes.

20 MS. PAWLOWSKA: Okay, thank you.
21 Was it a meeting place for the
22 Inninuwak because of the fishing at Keeyask
23 Rapids?

24 MS. ANDERSON: Yes, that's one of the
25 reasons, I'm sure.

1 MS. PAWLOWSKA: Thank you.

2 So my next question is a little bit
3 different, it will shift towards --

4 THE CHAIRMAN: Perhaps,
5 Ms. Pawlowska-Mainville, we can take an afternoon
6 break right now?

7 MS. PAWLOWSKA: Sure.

8 THE CHAIRMAN: I would ask that during
9 the break you sort of filter through your
10 questions. It sounds like you have an exhaustive
11 list, and most of them are givens and most of them
12 are on the record, so if you could --

13 MS. PAWLOWSKA: I have about ten
14 minutes only and then Dr. Kulchyski will go.

15 THE CHAIRMAN: Okay. Thank you.

16 (Proceedings recessed at 3:03 p.m. and
17 reconvened at 3:16 p.m.)

18 THE CHAIRMAN: Okay. Can we resume,
19 Ms. Pawlowska-Mainville?

20 MS. PAWLOWSKA: Yes. So, in the
21 previous panel, so yesterday I believe Dr. Petch
22 has recorded your heritage resources, and she did
23 her presentation on that, but she also stated that
24 some of the communities have conducted their
25 studies on intangible cultural heritage.

1 So my question for you, Mr. Bland, is
2 have you or your community ever conducted an
3 intangible cultural heritage study?

4 MR. BLAND: Through community history
5 studies and traditional knowledge studies we have.

6 MS. PAWLOWSKA: Have you ever
7 inventoried your intangible cultural heritage as
8 per the definition that Dr. Petch has provided?

9 MR. BLAND: Have we ever inventoried
10 it?

11 MS. PAWLOWSKA: Yes?

12 MR. BLAND: Yeah, we tried to record
13 as much as we could, but then again, traditional
14 knowledge is difficult to pass on -- to record,
15 sorry, not to pass on.

16 MS. PAWLOWSKA: Thank you.

17 Mr. Spence, have you and your
18 community TCN, and War Lake if you can speak for
19 them, ever conducted an intangible cultural
20 heritage study?

21 MR. SPENCE: I don't think that we log
22 everything, but we did have interviews dating back
23 to the early '70s that's been videotaped and just
24 documented right up to this current date, and also
25 on previous developments.

1 MS. PAWLOWSKA: Thank you.

2 And Ms. Anderson, you said that you
3 did conduct an intangible cultural heritage study,
4 so I'm going to ask you what kinds of things you
5 actually gathered?

6 MS. ANDERSON: Okay. So this is a
7 different question than what you just asked them;
8 right?

9 MS. PAWLOWSKA: Sorry?

10 MS. ANDERSON: This is a different
11 question than you just asked, or is it the same?
12 Are you asking what we actually gathered?

13 MS. PAWLOWSKA: Yes, what was
14 inventoried or gathered as part of your intangible
15 cultural heritage study?

16 MS. ANDERSON: We didn't have one
17 called intangible cultural heritage study, but in
18 different areas, that stuff that we gathered, the
19 people identified burial sites, they identified
20 land forms, they identified gathering sites, Cree
21 place names, and also areas that had oral
22 narratives identified with them.

23 MS. PAWLOWSKA: Okay. Thank you.

24 And if I were to ask you what you
25 understand by intangible cultural heritage, would

1 you be able to tell me what it means from the Cree
2 worldview?

3 MS. SAUNDERS: Can I answer that
4 question while she is --

5 MS. PAWLOWSKA: Of course.

6 MS. SAUNDERS: Intangible, our elders
7 don't talk about intangible, like we don't
8 define -- a lot of our culture we don't define
9 what it is, it is more a way of life. And when
10 you refer to a heritage, intangible heritage plan
11 or whatever it is you said, we did do interviews
12 with our elders in the community and outside of
13 the community. And they passed on knowledge about
14 history and traditions, customs. Those are the
15 things that we did with our elders.

16 And I would just like to clarify a
17 question that you asked, and my colleague Ted
18 Bland answered about elders being included. I
19 can't remember exactly what you asked, but his
20 response was that, I think, he meant to see the
21 presentations here at the Fort Garry for the CEC
22 hearings. But our elders were involved in the
23 process from the beginning and to where we are
24 today. They've shared their knowledge with us.
25 And like people said, like not everybody was in

1 favour of being a partner in Hydro, this project,
2 but that didn't mean that they didn't participate.
3 Like they participated and they did share
4 knowledge with us.

5 And a personal story, my grandmother
6 she just passed away not long ago. She is -- she
7 was part of the elders who participated. She did
8 a couple of interviews. She was 84 when she
9 passed away on October 31st, and her first
10 interview I believe was either in 2005 or 2006,
11 and her last interview was on October 4th of this
12 year, and she was 84 years old. So she
13 participated, and some of our elders were employed
14 at the future development office, like not only
15 were they participating like as community members,
16 but there were some elders were actually employed
17 at the future development office. I just wanted
18 to clarify that.

19 MS. PAWLOWSKA: Thank you.

20 MS. ANDERSON: If I remember the
21 question you wanted me to explain that term in our
22 Cree worldview? Is that what you said?

23 MS. PAWLOWSKA: Yes, what you
24 understand by it through your Cree worldview?

25 MS. ANDERSON: Okay. So, again,

1 building on what Martina said, there is really no
2 term for that, but in our process of gathering
3 information, the elders decided that those are the
4 areas that they wanted to identify on the land.
5 But there is no term to say these are intangible,
6 these are tangible.

7 MS. PAWLOWSKA: Okay. Thank you.

8 So through this understanding that you
9 have just presented, have you identified any
10 intangible cultural heritage places and sites and
11 spaces around Keeyask Rapids?

12 MS. ANDERSON: Yes.

13 MS. PAWLOWSKA: And roughly where do
14 they fit in the EIS and your environmental report?

15 MS. ANDERSON: Mr. Chair, I want to
16 ask if Leslie can help me respond. Leslie was
17 more involved with the core group of elders in
18 gathering this information, so I think she can
19 better take a lead.

20 THE CHAIRMAN: Certainly. I think
21 that her response need be fairly brief, because
22 you covered it earlier when you said there really
23 isn't a term in your Cree language for this. But
24 go ahead, Ms. Agger.

25 MS. AGGER: Sure, thank you.

1 So in our evaluation report, just one
2 example of intangible heritage that is in the
3 report is, there is a very nice little story told
4 by Elder Jessie Anderson about the Butnau Sipi,
5 now called Butnau River, about a white rock that
6 the community had used as a landmark for travel.
7 That would be one example. And as you yourself
8 mentioned that that Butnau Sipi was an important
9 river system that linked the community to all
10 sorts of resource use areas, including the Keeyask
11 Rapids and also Fox Lake, and Fox River.

12 MS. PAWLOWSKA: Thank you.

13 So, Ms. Anderson, would you say that
14 Atunokawina and Atchimowina would be something of
15 intangible cultural heritage? Excuse my Cree as
16 well.

17 MS. ANDERSON: Are you referring to a
18 page in our report?

19 MS. PAWLOWSKA: Yes, page 19.

20 MS. ANDERSON: I'm not sure, because
21 it is like referring to transferring of stories
22 and transferring of the experience. So I'm not
23 sure, like it is not like right on the land, it is
24 the people's experience.

25 MS. PAWLOWSKA: Okay. Thank you.

1 So if I can refer you to page 12 then,
2 and there is a section in the middle that says,
3 and I quote:

4 "This knowledge was passed down from
5 generation to generation orally and
6 through experiential learning, games,
7 art, dancing, music and the use of
8 atchimowina and atunokawina. Today we
9 still draw upon this knowledge to
10 inform our worldview and to connect
11 safely and appropriately with our
12 understandings."

13 THE CHAIRMAN: And the point of
14 quoting that was?

15 MS. PAWLOWSKA: I'm just referring
16 Ms. Anderson to the page so I can ask her a
17 specific question in regards to Keeyask about this
18 phrase.

19 THE CHAIRMAN: I think we are getting
20 into a level of detail that is far too excessive
21 might be the word, or there is too much minutia.
22 I'm not sure this is entirely necessary.

23 MS. PAWLOWSKA: I have two more
24 questions.

25 THE CHAIRMAN: But still, I think even

1 this last question that you asked about these
2 specific Cree terms, which may or may not be
3 appropriate to define on the record.

4 MS. PAWLOWSKA: I'm not looking for a
5 definition, I'm actually looking -- that was my
6 next question, if Ms. Anderson or Fox Lake has
7 ever found those specific terms around the Gull
8 Rapids, and if so, have they been recorded?

9 THE CHAIRMAN: Okay, Ms. Anderson, I
10 will allow that.

11 MS. ANDERSON: It is kind of difficult
12 to answer the question because like we don't just
13 refer to Keeyask as one area. I know that this
14 whole process is about Keeyask, but we look at our
15 whole environment and our whole experience, so we
16 don't just refer to, like to find that in that
17 area. Like I don't understand. We can't really
18 understand your question or what is behind it.
19 But like I said, for us it is the whole area that
20 we live in, it is not just Keeyask. Like we don't
21 separate them. Maybe Victor is going to try to
22 respond also.

23 MR. SPENCE: Maybe if I could try to
24 enlighten the crowd.

25 To us all things are sacred, the

1 rapids, the environment. Aski, we walk on it, we
2 eat from it, we cry on it, we dance. All of these
3 things as a culture are us people, you call it
4 intangible, but those are our feelings, our very
5 being. They can not be minimized or limited to a
6 word of intangible. My grandpa danced, my grandpa
7 had a ceremony at these sites. There are stories,
8 the Butnau River that you talk about, yes, that
9 was a very real environment, immediate. It is
10 50 feet under water. It has changed.

11 However, we look forward to this
12 partnership to provide a means of again being able
13 to dance, to be able to live as we have.

14 The very rock that she talked about at
15 Butnau River, my granny told me of that story when
16 I was 10 years old, before I was taken away to
17 residential school. It was real. It was more, it
18 was in the river itself, a white rock. They
19 touched it with their paddle, because their
20 forefathers did the same before them, their
21 grandfather. I do not have that opportunity
22 because I don't know if it is still there.

23 However, to say intangible as a means
24 of -- it does exist, but it is not something that
25 you can really touch. The stories of those sites,

1 of the Nelson River, the sacred ceremonies that
2 they did, they had, the meeting sites, and where
3 they fish in seasons, in the spring and in the
4 fall, so they are there. They were there. Egosi.

5 MS. PAWLOWSKA: Thank you.

6 Mr. Spence has just done an excellent
7 job responding to that question. Thank you.

8 So I will give the mic over to
9 Dr. Kulchyski.

10 THE CHAIRMAN: Could I ask your
11 indulgence, Dr. Kulchyski? Ms. Guirguis has to
12 catch a flight home to Toronto. Would you mind if
13 she came in now and asked her questions, and then
14 you can come up after, and then she can go off and
15 safely catch her flight?

16 MR. KULCHYSKI: She should catch her
17 flight, absolutely, no problem.

18 MS. GUIRGUIS: Thank you for that.

19 Good afternoon panel, good afternoon,
20 Commissioners, Mr. Chair.

21 I know it has been a long day, long
22 day of questions so I hopefully won't take too
23 long. I have, I guess I would say three main
24 themes of questions. I'm going to try not to go
25 over anything else anybody has already talked

1 about, but my apologies if there is some
2 repetition.

3 So the first thing I wanted to talk to
4 you about was that in all of the reports in my
5 review, particularly in TCN's report and in Fox
6 Lake Cree Nation's report, there is a bit of
7 preamble about the impacts that have already been
8 felt by your communities. And this is, of course,
9 in York Factory's report as well. But the impacts
10 that have already been felt, and also the
11 struggles in coming to a negotiating table.

12 Can I take that these statements, and
13 I mean I can draw you to particular quotes, but I
14 think just in general you probably know what I'm
15 talking about. In general, would you agree with
16 me that it was a long haul to get Manitoba Hydro
17 to the negotiating table?

18 MR. SPENCE: Sorry, can you repeat the
19 question, please?

20 MS. GUIRGIUS: My question was just
21 about, you know, given the level of impacts from
22 past hydro development over the past 50 years,
23 there is mention in each of the reports about the
24 progression of getting to the negotiating table or
25 getting Manitoba Hydro and other authorities to

1 recognize the legal obligation to speak to you.

2 Is it fair to characterize that that
3 was a long hard haul to get there?

4 MR. SPENCE: Yes.

5 MS. GUIRGIUS: And would the other
6 panelists agree with that, from their own
7 experience?

8 MR. BLAND: I would say it depends on
9 what specifically you are talking about. Because
10 there was different agreements that were agreed
11 to, I guess, or made with the communities.

12 Are you talking about Keeyask?

13 MS. GUIRGIUS: I'm talking about if
14 Keeyask was, you know, the first time that you
15 actually felt the ability to sit down and that
16 your concerns were being addressed, yes, then I'm
17 talking about Keeyask.

18 And, Mr. Bland, sorry, if it helps I
19 can give you a specific example from your own
20 community's report. At page 71, one of the
21 examples that's used -- at page 71 there is
22 discussion about the impacts that have already
23 come from other hydro development. For example,
24 you do talk about, there is a quote that says:

25 "Even when the Kettle Station was

1 developed well downstream of our
2 community, our elders witnessed subtle
3 changes in the Split Lake and the
4 Aiken River."

5 It also talks about the LWR and CRD changing the
6 water levels on the river, flooding the Aiken
7 River. What I'm getting at is, these impacts were
8 going on for a long time. But to have any
9 acknowledgment of the impacts on your rights and
10 your interests and so on, was that a long road to
11 get there? Would it be fair to characterize it as
12 that it wasn't easy to come to where you are now?

13 MR. BLAND: It wasn't easy. Of
14 course, there is the 1995 implementation agreement
15 that York Factory has moved forward on. And now,
16 of course, before that was the 1977 agreement.
17 Those were different processes. This Keeyask
18 agreement is much different. And again, I did
19 point out that this is a different organization
20 that we are working with today. And I would say
21 yeah, it has been a few years.

22 MS. GUIRGIUS: Thank you.

23 Ms. Anderson or Mr. Neepin, could you
24 provide comment on that? And I can refer you to
25 page 63 of Fox Lake Cree Nation's report that --

1 page 63 actually uses the words that:

2 "FLCN remained invisible during the
3 1970s, even as First Nations such as
4 Tataskweyak and York Factory were
5 negotiating compensation agreements
6 with Manitoba."

7 And then a later paragraph it says:

8 "Only after Bird was designated as a
9 reserve in the mid 1980s, that FLCN
10 was recognized as an interested party
11 in the ongoing development."

12 So based on those statements would you -- would it
13 be fair then to say also for Fox Lake Cree Nation
14 that it was a bit of a struggle to get Manitoba
15 Hydro and other parties to recognize a legal
16 obligation to deal with the impacts that have been
17 caused?

18 MR. NEEPIN: Yes.

19 MS. GUIRGIUS: Thank you.

20 And not having been here for the
21 entire time, but having heard over the past couple
22 of days that I have been here and having heard on
23 this panel about the devastating impacts that have
24 happened to your lands and waters, would it be
25 fair to say that the impacts and the adverse

1 effects on your communities, the lands, the
2 waters, your exercise of rights, were apparent or
3 evident over the years?

4 MR. BLAND: I would say that's fair to
5 say.

6 MS. GUIRGIUS: Thank you.

7 MR. SPENCE: We experienced and
8 witnessed them.

9 MR. NEEPIN: Yes, I agree.

10 MS. GUIRGIUS: And did leaders from
11 your community, members of your communities voice
12 these concerns to Manitoba Hydro and to other
13 authorities since the 1950s on?

14 MR. SPENCE: Yes.

15 MR. BLAND: Yeah, these are things
16 that we discussed in our reports, like in depth.

17 MS. GUIRGIUS: Yes.

18 MR. NEEPIN: Yes.

19 MR. BLAND: Our presentations.

20 MS. GUIRGIUS: Thank you. Okay.

21 So based on all of that, if I put to
22 you that a First Nation is impacted by
23 hydroelectric development, that they feel the
24 impacts, that their lands are impacted, that their
25 reserve lands are impacted, their exercise of

1 rights are impacted, that even though the
2 authorities and Manitoba Hydro may not recognize
3 it at the time, there may still be impacts that
4 are going on from that, that need to be dealt
5 with?

6 MR. SPENCE: Which part of the
7 hydroelectric development, and where?

8 MS. GUIRGIUS: The hydroelectric
9 development in general causes impacts, as it has
10 to your First Nations. And so my -- what I'm
11 suggesting, and I'm wondering if you could agree
12 with me on it, based on your own experiences, is
13 that even if Manitoba Hydro hasn't recognized it
14 right away, or acknowledged a legal obligation in
15 it, it is still true that those impacts are
16 ongoing. Correct?

17 MR. BLAND: Well, I don't know if we
18 can say that they are ongoing if we don't know
19 what they are. One of the things that we've done
20 in our Adverse Effects Agreement was to build in
21 an unforeseen clause, I guess we will call it.
22 And if there is things that our Partnership hasn't
23 predicted, or Manitoba Hydro hasn't predicted,
24 then it gives us something to fall back on.

25 MS. GUIRGIUS: Okay.

1 So based on that, Mr. Bland, if I can
2 follow up on what you just said there, your
3 agreements provide that if there is some effects
4 that arise, that are indirect, that aren't
5 apparent right now, they need to be dealt with by
6 the agreements at some point; is that correct? Or
7 they need to be dealt with?

8 MR. BLAND: It is an agreement that we
9 have, it is our Adverse Effects Agreement, but
10 that's what we built into the agreement.

11 MS. GUIRGIUS: And the Adverse Effects
12 Agreements are there because there is a legal
13 obligation, or some kind of obligation on the part
14 of Manitoba Hydro to provide you with compensation
15 because of the impacts that are happening?

16 MR. BLAND: Compensation, mitigation,
17 whatever it turns out to be.

18 MS. GUIRGIUS: Okay.

19 And if a First Nation is impacted, if
20 there are impacts, then would you agree that there
21 should be these agreements in place before
22 Manitoba Hydro should move forward -- can move
23 forward?

24 MR. BLAND: They are already in place.

25 MS. GUIRGIUS: Okay.

1 But I'm just saying just in general, a
2 general proposition, they are in place because
3 they need to be in place before the project can go
4 ahead; right?

5 MR. BLAND: Absolutely, yes.

6 MS. GUIRGIUS: Okay. And you would
7 agree that that's not just the case for these
8 First Nations, but if a project was impacting a
9 First Nation, then that First Nation should be
10 consulted and an agreement should be come to?

11 MR. BLAND: Well, the project is in
12 our traditional territory, our region, so we have
13 negotiated them. And I agree, our First Nation
14 partners I believe have done the same.

15 MS. GUIRGIUS: So I don't know if that
16 quite answered what my question was, I'm just
17 asking about the general principle that --

18 MR. BLAND: I understand.

19 MS. GUIRGIUS: -- that if the First
20 Nation feels impacts, they should be consulted.

21 MR. REGEHR: I have to object to this
22 question. I don't think that Mr. Bland can answer
23 the question in terms of what positions other
24 First Nations should take in any type of resource
25 development.

1 MS. GUIRGIUS: And I'm not asking --

2 MR. REGEHR: He can only answer for
3 York Factory.

4 MS. GUIRGIUS: I'm not asking him to
5 take a position with respect to any other First
6 Nation, I'm just putting out a basic general
7 principle to see whether he agrees with it based
8 on his experience.

9 MR. REGEHR: I don't understand the
10 relevance of the question. If there is questions
11 directly for Mr. Bland in regard to York Factory
12 and Hydro development, those are fine. But the
13 question is so broad as to beg whether it is
14 relevant at all to these proceedings.

15 THE CHAIRMAN: I would agree with the
16 objection.

17 MS. GUIRGIUS: Okay. That's fine, I
18 can move on.

19 So you have already talked a bit, and
20 there has been questions posed to you a bit about
21 Aboriginal traditional knowledge versus western
22 science. I'm not going to go into it too much
23 more, but I want to ask a follow-up question just
24 about the monitoring, and how -- when -- from what
25 I understood is that when there was different data

1 from Aboriginal traditional knowledge and western
2 science, as was included in the Environmental
3 Impact Statement, I believe it was Ms. Anderson
4 that said that what is in place to deal with that
5 is monitoring mechanisms. So my question is about
6 that.

7 And I suppose I would put it this way;
8 is that if Keeyask is up and running, and it turns
9 out that the disagreements, let's say about the
10 aquatic environment and water quality with respect
11 to Aboriginal traditional knowledge data and
12 western science data, if it turns out that the ATK
13 was correct and there is more severe effects, or
14 that from your particular worldview that, you
15 know, things don't go exactly how it is set out in
16 the EIS per the western science point of view,
17 when it comes to monitoring, according to what
18 standards is that monitoring and that mitigation
19 going to take place?

20 THE CHAIRMAN: Mr. Regehr?

21 MR. REGEHR: There is going to be a
22 panel on monitoring following this panel, or
23 having terrestrial in between, finishing up, and
24 that's a question more suited for that panel.

25 MS. GUIRGIUS: And I'm perfectly happy

1 to wait for that panel. I actually just realized
2 that another panel was coming up on mitigation and
3 monitoring.

4 THE CHAIRMAN: We are not sure when,
5 but sometime in the future.

6 MS. GUIRGIUS: But it will be here, so
7 I'm fine with waiting on that, unless the panel
8 wants to speak to that?

9 MR. BLAND: I was going to say the
10 same thing.

11 MS. GUIRGIUS: You were going to say
12 the same thing, okay.

13 So I think that is actually all of my
14 questions. I think the rest can wait for the
15 later panel.

16 If I could take a moment, Mr. Chair,
17 if you could indulge me for one second with
18 respect to other panels that are coming up, I
19 wanted to ask a question that I believe was raised
20 earlier on in the proceedings when I wasn't here,
21 but I was informed by my colleague about the fact
22 that there is no cumulative effects panel, and
23 that was going to be revisited at a later time.
24 And I wanted to ask the Commission about that.

25 THE CHAIRMAN: That's not exactly

1 true.

2 Early in the process when the
3 Partnership laid out their -- well, they have it
4 all sort of nicely blocked out on the different
5 steps that we are going to take in this review and
6 what they are going to present. They didn't have
7 a separate panel on cumulative effects, which is,
8 yeah, what is on the board right now. That's what
9 I was trying to reference to, I don't know what
10 you call it, a schematic. They didn't have a
11 panel on cumulative effects. I and others asked
12 about that. The Partnership said that they
13 intended to address cumulative effects with each
14 different presentation and with each assessment of
15 each of the VECs. I said at the time that if at
16 the end of the day the panel wasn't satisfied that
17 cumulative effects had been fully canvassed, we
18 may ask for more.

19 Until we conclude all of the
20 Partnership presentations and the
21 cross-examinations of those presentations, I can't
22 tell you whether or not we will feel that
23 cumulative effects has been adequately addressed
24 in these proceedings.

25 So, if that's clear, I'm not sure.

1 MS. GUIRGIUS: I think then we could
2 raise the issue again after the final panel?
3 Would that be possible?

4 THE CHAIRMAN: Well, there will also
5 be, hopefully next week, right now it is scheduled
6 for Tuesday afternoon we will have the terrestrial
7 effects panel back up. There probably will be a
8 fair bit of canvassing at that time of cumulative
9 effects in respect of many of the terrestrial
10 effects.

11 MS. GUIRGIUS: But that won't provide
12 the opportunity to discuss overall methodology and
13 outstanding questions with respect to that and
14 cumulative effects?

15 THE CHAIRMAN: No, but there will be
16 other opportunities when that could come up. For
17 example, on Tuesday morning the Consumers
18 Association will be bringing a couple of experts
19 who specialize in cumulative effects assessment,
20 and participants can cross-examine those witnesses
21 and those presentations. So in that forum you
22 would certainly be open to ask them, and by
23 comparison with what the Partnership has done.
24 You can also make those points in your own
25 presentation.

1 MS. GUIRGIUS: Yes, absolutely, and we
2 would definitely plan to. I guess my concern and
3 my client's concern is the ability to scrutinize
4 and look at the actual methodology that the
5 Partnership applied.

6 THE CHAIRMAN: Okay. I won't make a
7 commitment right now, when, or if that will be
8 covered, but we will certainly consider that. And
9 we may decide at some point or other to address
10 those issues, but right now I'm not going to make
11 that commitment.

12 MS. GUIRGIUS: Okay. Thank you,
13 Mr. Chair. Thank you panel.

14 THE CHAIRMAN: Dr. Kulchyski?
15 Ms. Pachal?

16 MS. PACHAL: I just wanted to make a
17 point that when panel 4A was up, the methodology
18 for cumulative effects was discussed at length,
19 and there is a number of slides in that
20 presentation that the participants from Peguis
21 First Nation could refer to in terms of, I think
22 they are very clear in terms of the methodology
23 that we undertook for cumulative effects.

24 THE CHAIRMAN: Thank you.

25 Dr. Kulchyski, do you have any idea

1 how long you might be? I'm sort of thinking of
2 planning the rest of the day.

3 MR. KULCHYSKI: I certainly will be
4 done by 4:30, not a huge long list.

5 THE CHAIRMAN: Okay. We still have
6 one other witness who I think may or may not have
7 any questions, but if you could --

8 MR. KULCHYSKI: I cut through my
9 questions as much as possible. It has been a long
10 day, so I'm glad you got some candy. And
11 Ms. Saunders, I want to say I'm very sorry for
12 your loss as well.

13 I wanted to ask you if you have seen
14 each other's reports, if there was any
15 coordination among you in the development of the
16 ATK reports, and if you have, you know, looked at
17 and learned anything from each other's work, or
18 were these done sort of as completely isolated
19 silos, and you haven't really paid much attention
20 to what the other communities were doing?

21 MR. BLAND: For York Factory, I think
22 the timing of the reports were all different and
23 we didn't have a chance to look at anybody's. We
24 basically focused on our own at the time, and
25 everybody's reports started coming out at

1 different times.

2 MR. KULCHYSKI: And was that the same
3 with Tataskweyak and War Lake?

4 MR. SPENCE: Yes, that's correct.

5 MR. KULCHYSKI: And was that the same
6 with Fox Lake?

7 MR. NEEPIN: It was just Fox Lake.

8 MR. KULCHYSKI: So, I mean, one of the
9 things that's interesting to me is actually the
10 reports are very, very different in tone. And
11 looking at them now, do you think there are things
12 that can be learned from each other in terms of
13 developing reports for the future?

14 MR. NEEPIN: For me this whole process
15 is a learning experience all around, yes.

16 MR. BLAND: As for myself, yeah, it is
17 the same thing, everybody's reports are different,
18 the focuses are different and the approaches are
19 different.

20 MR. KULCHYSKI: Mr. Spence?

21 MR. SPENCE: Yes, TCN looked at the
22 Nation and we use our own ATK to move forward,
23 yeah.

24 MR. KULCHYSKI: Thank you. And were
25 there ways, I will start with Ms. Anderson, that

1 you felt constrained in gathering or presenting
2 the Aboriginal traditional knowledge, by the fact
3 this was done specifically as part of the Keeyask
4 EIS, did you feel in any way that there were
5 things that you couldn't ask or couldn't do, or
6 had to ask and had to do because of, you know,
7 what this was done for?

8 MS. ANDERSON: Just conferring with my
9 colleague, we say that our TK study was done
10 independently of any other reports.

11 MR. KULCHYSKI: But did you feel any
12 constraints about the fact that this was done for
13 the Keeyask project and, therefore, they were
14 looking for certain things, and they had a certain
15 language that they were using and deploying? Did
16 that limit you in any way?

17 THE CHAIRMAN: Mr. London?

18 MR. LONDON: It would just be helpful
19 if we defined "they"?

20 MR. KULCHYSKI: Manitoba Hydro, sorry.

21 MS. ANDERSON: So, for our report we
22 were given a list of topics to consider, and
23 ultimately it was the elders who decided what was
24 in the report.

25 MR. KULCHYSKI: I'm interested like,

1 for example, the fact that the word traditional
2 territory doesn't appear often in your reports,
3 but I know the elders often use that to describe
4 the land base. Did you feel that you didn't want
5 to use that word very much because it is not a
6 term of art in these proceedings?

7 MS. ANDERSON: Just a minute.

8 MR. NEEPIN: Okay. Traditional
9 territory, and it was alluded to earlier when one
10 of the people that had come forward to ask
11 questions, that traditional versus actual or the
12 RMA system, and also reserve boundaries.
13 Traditional use of the Keeyask area by our members
14 and the close proximity of this development to our
15 community and citizens was one of the reasons why
16 we are up here today on this panel. So I'm not
17 really fully understanding what you mean by
18 pressures? I mean, every time we thought we
19 needed to assess or review, we had to
20 substantiate, and if that's what you mean, yeah,
21 it wasn't a very easy process in that regard, but
22 it was ultimately necessary for us to have access
23 to the resources of technical people that we
24 required.

25 I'm not quite sure if I'm answering

1 your question.

2 MR. KULCHYSKI: Let me rephrase it.
3 Mr. Neepin, let me say, I teach in universities, I
4 in many respects like and respect the traditional
5 knowledge reports that you have produced in the
6 environmental assessment. I think they are -- I
7 would really compliment you on much of the work
8 that's done there, particularly in the gathering
9 of community voice that you articulate very
10 nicely. And I would say the same to those -- I
11 don't know if I'm allowed to compliment people,
12 but I'm going to say the same thing to people from
13 York Factory Landing, I really appreciate the use
14 of local voice, the use of narrative in much of
15 the material that you have gathered, particularly
16 in those two reports I think is very strong.

17 But there are limitations, there is
18 natural limitation about time and other things.
19 I'm curious about any limitations you may have
20 felt as a result of doing this as part of the
21 Keeyask EIS. One of those that I could think of
22 might be that elders often talk about the
23 traditional territory, but I don't see that word
24 cropping up very much in your reports. So I will
25 be asking all three of you this. So was that, or

1 were there any other kind of things that you felt
2 that you couldn't really say in the reports
3 because they were being used for these purposes?

4 MR. NEEPIN: One of the reasons why
5 this may not show up anywhere is we keep referring
6 to Aski, all three of us refer to Aski. And that
7 might have something to do with it. We don't --
8 we all at some point -- Gull Rapids was a
9 significant area for all of us, you know. So I
10 don't really know, I think it is because we use
11 Aski. And we were at one time, as was mentioned
12 earlier this morning, a part of one, we all come
13 from York Factory, as we heard very clearly with
14 Shamattawa.

15 MR. KULCHYSKI: Thanks, Mr. Neepin.

16 Mr. Spence, I note that in your report
17 you tend to use the word Mother Earth. You know,
18 only thinking of that, that's one example that
19 comes to my mind. Were there any other areas, or
20 that one, where you felt in some ways limited or
21 constrained by -- this wasn't an exercise
22 specifically only for your community, this was an
23 exercise to produce a report that would be a part
24 of this process. Did that impose any constraints
25 on you?

1 MR. SPENCE: Like the previous members
2 have mentioned Aski. We look at the immediate
3 vicinity of the north, the boreal forest as an
4 Aski. But to meet the terms of the regulatory
5 process, certain words were used, terminologies.
6 However, I don't believe that we were restricted
7 by anyone or anything in determining how we
8 express our people's voice in terms of this
9 report.

10 However, George mentioned we were one.
11 We still, I still look at our nations as one.

12 And my father-in-law, when he asked an
13 elder, can I go to your trapline? Just on this
14 section -- the old man was about 84 years old,
15 very agile. Why do you ask me? I did not make
16 this earth. It is not my land. It is ours. It
17 is only the white man that created the boundaries.
18 You are welcome.

19 So that's how we would look at the
20 boundaries of our -- that kind of limits us, but
21 territory of the Crees, yes.

22 MR. KULCHYSKI: If I can follow up,
23 Mr. Spence. It is interesting to me, like you
24 refer here to your people's voice, but I don't
25 actually find that in your report. Your report

1 doesn't actually have much in the way of narrative
2 and, I can hardly find any sort of quotes from
3 individuals or from people. I feel actually I
4 have learned more today from you personally
5 telling us some stories that I did from reading
6 your report, in terms of getting a feel for
7 people's voices in your community.

8 Can you say, was that a deliberate
9 decision on your part of not including people's
10 voice?

11 MR. SPENCE: We participated through
12 this business arrangement with Manitoba Hydro on
13 Gull development. And the whole due process was
14 to lead to this moment. We talk about our voice,
15 and you would have a stack of volumes, and
16 tomorrow you would have another stack.

17 Our journey does not end in the
18 academic world definition of journey from when you
19 are done. However, we did not express my
20 grandfather's stories, my uncle, my brothers, that
21 was not the purpose of this report, that was not
22 the primary objective of this report.

23 And I welcome you to our Nation if you
24 want to hear the voices of our people. However,
25 that is a process that is on to itself, it is an

1 oral history.

2 And my grandfather told me a story of
3 York Factory. I can tell you that story. My
4 grandfather really frowned upon and hated alcohol.
5 I asked him, when I became a councillor back in
6 1980, grandpa, why it is that you and the elders
7 are against alcohol? He said, you don't know what
8 you are talking about. I said, grandpa, I do not
9 understand. He said -- I said, grandpa, I don't
10 understand, tell me? And he told me a story, I
11 will make it very brief. He said in York Factory,
12 the ships arrived and they replenished the fort.
13 And when they replenished the fort, they brought
14 alcohol. At that time, half a hour before sunset,
15 our people were asked to leave. Half an hour
16 after sun rise, the gates were open. But when the
17 ships arrived, they close the doors. And every so
18 often the white people came and took little girls
19 and wives, they disrupted the family, the social
20 fabric.

21 Those are the stories of us at the
22 time in York Factory when you white people
23 arrived. However, survival is another story, how
24 we were nomadic. And then after that we became
25 peasants in our own nation, in that we were

1 confined to a reserve. We don't want that
2 reserve. We want to be able to move again. And
3 this gives us that opportunity to, this business
4 arrangement gives us the means and the tools to be
5 able to again practice our cultural identity.

6 I know I've said things that are kind
7 of irrelevant to answer your questions, but we
8 come from an environment that is not only changed
9 by a corporation. The laws of the land impact us.
10 The highways, the railroad, Hudson Bay railroad,
11 the residential school, the churches, they all
12 played a factor. Egosi.

13 MR. KULCHYSKI: Thank you, Mr. Spence.

14 Honestly, again, I feel like I learned
15 more traditional knowledge listening to you here
16 than I do from reading the hundreds of pages of
17 your report.

18 MR. SPENCE: The report was not to do
19 that.

20 MR. KULCHYSKI: And so, Mr. Bland, I
21 would ask you the same question. Did you feel
22 that there were some constraints on your ability
23 to produce the ATK and write it as a result of
24 this process?

25 MR. BLAND: No. I don't think there

1 was. I don't feel like there was any restraints
2 or any -- it didn't hurt our ability to produce
3 our traditional knowledge or anything like that.
4 But I did want to also reference one thing about
5 Aski, the other term that we use was ancestral
6 homeland, just for the record.

7 MR. KULCHYSKI: I see that in your
8 report. It just struck me the word traditional
9 territory is often used and wasn't used, but Aski
10 and ancestral homeland are both absolutely
11 perfectly good substitutes.

12 Let me move on. I will start with
13 Mr. Bland. Would you say that your work was
14 highly respected by Manitoba Hydro and its
15 consultants, somewhat respected, or largely
16 ignored?

17 MR. BLAND: I would say that it was
18 not ignored at all. I know Manitoba Hydro paid a
19 lot of attention to the content there. What we
20 did there was we gave an honest account of our
21 history, our dealings with Manitoba Hydro.

22 And it was a little difficult for
23 Manitoba Hydro to accept in the beginning. We did
24 have our discussions about it. But we also wanted
25 people to know that this was what happened to us,

1 this is who we are. This is where we are today.
2 This is how we feel. And we did have some
3 discussions with Manitoba Hydro. In the end they
4 accepted what we wrote, and they acknowledged that
5 this is a part of our history, but they also
6 acknowledge that there is some good things in the
7 article as well.

8 MR. KULCHYSKI: Thank you.

9 And Mr. Spence, I ask you the same
10 question. Would you say that the work was highly
11 respected, somewhat respected, or largely ignored
12 by Manitoba Hydro or its consultants?

13 MR. SPENCE: We had numerous meetings
14 with Hydro in developing the EIS, and our voice
15 was heard. However, I would say that we expect
16 respect from others, and that it played an
17 important, very important factor in the due
18 process of Keeyask.

19 MR. KULCHYSKI: Thank you.

20 And Mr. Neepin, or Ms. Anderson?

21 MR. NEEPIN: Thank you for that
22 question.

23 For me, I don't know whether it was
24 seeking the approval of Hydro to what we did, it
25 was more important for us to have the approval by

1 our citizens, with the elders and the land users,
2 because they were the ones that were going to give
3 us the mandate to proceed with this partnership or
4 continue to pursue the discussion towards a
5 partnership. That was critical for us. It was an
6 important factor towards making the decision,
7 making that informed decision.

8 It wasn't just a few people sitting
9 around boardroom tables, sitting in boardrooms
10 discussing and reaching a decision on this. It
11 was a community decision. And that to me was a
12 bit -- is more significant for us to get the
13 approval and support of our people.

14 MR. KULCHYSKI: I appreciate that.
15 But I think it is also important for us to hear
16 about whether you think, you know, Manitoba Hydro
17 has taken on board, and its consultants in their
18 preparing of this, you know, the things that your
19 people said in an adequate way. So that's why I'm
20 asking whether you think it was highly respected,
21 somewhat respected, or largely ignored.

22 I fully understand that all of you,
23 you know, it was important that this meet the
24 standard of your own people's approval, but it is
25 also being produced to go forward, and supposedly

1 was integrated into reports on caribou management
2 and mitigation and all sorts of other things.

3 So do you think you could answer that?

4 MR. NEEPIN: You know, I'm trying to,
5 you know, be respectful, because -- like I'm not
6 really, you know, if I would be disrespectful to
7 say I could care less if Hydro or the Provincial
8 Government approved what I was doing in my
9 community. And I'm trying to tell you that in a
10 respectful way. It is the elders, it is the
11 people of Fox Lake who make final approval and
12 decision making on how we proceed with anything
13 for that matter. And that's what I'm trying to
14 say.

15 So for me, if you want me to answer
16 that Hydro was highly respectful, I think they
17 exhibited that in a couple of ways throughout our
18 association with them the last ten years.

19 For instance, I think you were
20 alluding to the environmental studies that took
21 place in our communities. Our elders, as I said
22 earlier this morning that our elders called these
23 people that were in our traditional territory,
24 when they were doing studies, they showed them
25 where. And it was through their advice that these

1 scientists, and their studies and review and
2 assessment of the land and water were more
3 effective, because our elders provided that
4 guidance.

5 MR. KULCHYSKI: Thank you. I will
6 move on.

7 And so this is also for Fox Lake, and
8 I leave it to Mr. Neepin or Ms. Anderson to
9 answer. But Dr. Petch said yesterday basically
10 she didn't do any research on spiritual matters
11 because she didn't feel she had the degree of
12 trust for that.

13 Did you gather knowledge and conduct
14 research around spiritual matters that weren't
15 communicated to Dr. Petch?

16 MS. ANDERSON: In my previous
17 statements I said that this was an area that was
18 very personal to Fox Lake. And I guess from that,
19 a lot of it is not written down and it was decided
20 not to. So that's where I will leave it at.

21 MR. KULCHYSKI: I wanted to ask
22 specifically about the sacred boulders. And we
23 have had another example here which apparently
24 Dr. Petch didn't know about, because she was
25 talking about one that the historical records

1 showed near Keeyask. And then we learned today
2 actually of white rock. That was very moving
3 testimony.

4 I'm curious if you asked elders or
5 gathered information about other sacred boulders
6 in the region?

7 MS. ANDERSON: I just want to say
8 something and then I will ask Leslie. I don't
9 know if it was just actual sacred boulders, but
10 they identified sacred sites to them.

11 MR. KULCHYSKI: Did you have more to
12 say?

13 MS. ANDERSON: No.

14 MR. KULCHYSKI: Then if you identified
15 them and didn't communicate them to Dr. Petch,
16 what mechanism are you using to make sure that
17 they don't get, any of those sacred sites,
18 including boulders, that they don't get damaged
19 through the whole Keeyask process?

20 THE CHAIRMAN: Dr. Kulchyski, I think
21 that was covered in yesterday's presentation. I
22 seem to remember a number that identified -- I
23 think they were sacred sites.

24 MR. KULCHYSKI: I got some from
25 Dr. Petch, but I'm curious about the information

1 that's not communicated to her that the
2 communities may still hold?

3 MS. ANDERSON: Okay. So from our work
4 with our elders, like I said, some didn't want to
5 put them in the report, but we did invite, I
6 guess, the consultant to come to the community and
7 we showed them where the sacred sites that were
8 important to us in the community, but they are not
9 identified in the report. So it is an ongoing
10 process. We will ensure that, you know, there is
11 consideration for those sites to make sure that
12 they are not disturbed or desecrated, damaged.

13 MR. KULCHYSKI: Thank you.

14 So I guess I would ask each of the
15 three of you, are there specific lessons that you
16 have learned from this that you might be using as
17 you try to integrate ATK into projects going
18 ahead? Maybe I will ask Mr. Bland first.

19 MR. BLAND: Specific -- give me one
20 second?

21 MR. KULCHYSKI: They want me to be
22 done, but I'm hanging on by my tentacles here.

23 THE CHAIRMAN: Mr. Regehr?

24 MR. REGEHR: I am wondering what the
25 relevance of the question is to this process? The

1 question is about future unknown projects. We are
2 at a hearing here on the Keeyask project, so I
3 don't know what the relevance is.

4 THE CHAIRMAN: I think this is very
5 similar to Dr. Kulchyski's first question, which I
6 thought was probably marginally relevant, I was
7 curious about it myself, but it was responded to I
8 thought by all three parties that they found it a
9 very good learning experience, and one would
10 assume that they would carry that forward.

11 MR. REGEHR: Then I will amend my
12 objection and say asked and answered.

13 MR. BLAND: I do have a little bit of
14 an answer here.

15 What I would say about traditional
16 knowledge is, we are including it in this process
17 right now. This is what I had said at one point
18 was our first kick at the can. This traditional
19 knowledge being incorporated into this project is
20 not happening anywhere else, to my knowledge, in
21 Manitoba, or with any major company in Manitoba.

22 We incorporated a lot of our knowledge
23 into the Environmental Impact Statement with
24 Manitoba Hydro through sharing our knowledge of
25 the land, our migration routes, terrestrial

1 animals, aquatics, all of those things that we
2 shared were incorporated into this one big
3 document. We also incorporated our traditional
4 knowledge as these evaluations. The only thing
5 that I would say is, we are learning more at this
6 point with how to incorporate it more. We are
7 also protecting our spirituality, where we are
8 recognizing what our elders are teaching us, but
9 not to give away everything about who we are.

10 So when we move forward, if we look at
11 other projects, incorporating traditional
12 knowledge into this project is just a start. We
13 have a long way to go. And as we move forward, I
14 think it is just going to get better, it is just
15 going to get stronger, and it is going to
16 encapsulate who we are as people. And these
17 projects are going to be about the First Nations
18 when they happen.

19 Keeyask is a name, but it means a lot
20 to our people. Thank you.

21 MR. NEEPIN: I'm just going to refer
22 to my notes, and hopefully I'm answering your
23 question. As we move forward in our relationship
24 with Manitoba Hydro, we are no doubt aware that
25 lessons have been learned on both sides, and

1 respect for our respective interests and desires
2 has also grown. So, while we do not expect to
3 agree on every aspect of this process, we are
4 confident that Manitoba Hydro has come to have a
5 better understanding of us and who we are as a
6 people. We as a people have also come to
7 understand our strength and our ability to
8 advocate for what we feel would be most respectful
9 of Aski and ourselves.

10 MR. KULCHYSKI: Thank you.

11 Mr. Spence, do you have anything to
12 add?

13 MR. SPENCE: It was a long journey, a
14 long path. We have learned from it mutually, and
15 this is where we are today. I'm pretty sure that
16 we will continue the journey together and that we
17 will continue to learn from this current process.
18 And we were exposed, as a Nation, as a people to a
19 different way of how a corporation, when it wants
20 to build a dam, I will just say. The regulatory
21 process that it goes through, the Federal CEAA,
22 and the Provincial, and of course our modern day
23 Treaty with the corporation, and the Federal
24 Government and Provincial Government.

25 And again, Mr. Neepin from Fox and

1 Mr. Bland from York have articulated the journey
2 and the learning experience. Egosi.

3 MR. KULCHYSKI: Thank you, Mr. Spence
4 and thank you all.

5 I will draw my questions to a close,
6 so thanks for your indulgence, Mr. Chair.

7 THE CHAIRMAN: Thank you
8 Dr. Kulchyski.

9 Now, Manitoba Wildlands I understand
10 doesn't have any questions? Although we better
11 confirm she has left the room. Perhaps while we
12 are waiting for her to come back, Madam secretary,
13 some documents to register?

14 MS. JOHNSON: Yes, the Shamattawa
15 presentation will be WPG 002, the Northern Flood
16 Agreement excerpt from CAC will be CAC 005, and
17 the Manitoba Treaty Land Entitlement Framework
18 Agreement will be BAC 006.

19 (EXHIBIT WPG 002: Shamattawa
20 presentation)

21 (EXHIBIT CAC 005: Northern Flood
22 Agreement excerpt)

23 (EXHIBIT BAC006: Manitoba Treaty Land
24 Entitlement Framework Agreement)

25 THE CHAIRMAN: Thank you.

1 Ms. Whelan-Enns?

2 MS. WHELAN ENNS: My apologies,
3 Mr. Chair, I thought I was listening to Mr. Bland
4 still from just outside the door.

5 I do not have any questions for the
6 panel today. I wanted to thank the communities
7 and panels for your environmental evaluation
8 reports and for all of the work that has gone into
9 them. It is most appropriate, and my personal
10 preference that the questions today have come from
11 the First Nations that are in the room as
12 participants and Aboriginal persons in the room.
13 Thank you.

14 THE CHAIRMAN: Thank you,
15 Ms. Whelan-Enns.

16 I would like to thank this panel and
17 your support team for your very good work over the
18 last couple days, for your diligence, but also for
19 informing us of your journey through this
20 environmental evaluation. Thank you for your
21 work, and you are now excused.

22 We will adjourn now until Tuesday
23 morning at 9:30. Now, next week's schedule will
24 get a little weird. I think some of the
25 scheduling, we find out more tomorrow after Cathy,

1 the Commission secretary, has once again totally
2 overhauled the schedule for the rest of these
3 hearings.

4 But Monday morning, because certain
5 witnesses were confirmed and arrangements were
6 made, we can't play around them, so Monday morning
7 we will be hearing from the Consumers -- Tuesday
8 morning, well, that's a given, Tuesday morning we
9 will hear from the Consumers Association, and they
10 will have Drs. Gunn and Noble making a
11 presentation on cumulative effects.

12 Tuesday afternoon we will return to
13 the terrestrial effects panel. Hopefully
14 Mr. Berger's cold will be long past by then.

15 Then next week after that, once we've
16 finished with the terrestrial effects panel, I
17 think it is just the Consumers Association and the
18 panel left to question on that? I'm correct
19 there.

20 Then I believe Wednesday and Thursday
21 next week is Consumers Association. Next Thursday
22 evening is another evening session for the general
23 public. We do have I think five or six people
24 registered, so it won't be quite as long an
25 evening as it was earlier this week.

1 Mr. London?

2 MR. LONDON: I didn't hear reference
3 to the moving forward panel in that list of next
4 week?

5 THE CHAIRMAN: I don't know when that
6 will be, but after Ms. Johnson has juggled the
7 agenda tomorrow, then we will know when it will
8 be.

9 MR. LONDON: Fine.

10 MS. CRAFT: Mr. Chair, if I may, I
11 know we are all anxiously preparing our
12 cross-examinations, and just to clarify that what
13 was intended for Tuesday after was Dr. Schaefer on
14 caribou and that has actually moved to Wednesday.

15 THE CHAIRMAN: Yes, thank you. Thank
16 you for that information.

17 Anything else I need to know or
18 anything else that needs to be done? Okay. Thank
19 you all. I will see you Tuesday morning at 9:30.
20 Have a good weekend.

21 (Adjourned at 4:29 p.m.)

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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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