

MANITOBA CLEAN ENVIRONMENT COMMISSION

KEYYASK GENERATION PROJECT

PUBLIC HEARING

Volume 1

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Transcript of Proceedings  
Held at Fort Garry Hotel

Winnipeg, Manitoba

MONDAY, OCTOBER 21, 2013

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## APPEARANCES

## CLEAN ENVIRONMENT COMMISSION

Terry Sargeant - Chairman  
Edwin Yee - Member  
Judy Bradley - Member  
Jim Shaw - Member  
Reg Nepinak - Member  
Michael Green - Counsel to the Board  
Cathy Johnson - Commission Secretary

## MANITOBA CONSERVATION AND WATER STEWARDSHIP

Tracey Braun  
Bruce Webb

## KEEYASK HYRDOPOWER LIMITED PARTNERSHIP

Doug Bedford - Counsel  
Janet Mayor - Counsel  
Vicky Cole  
Shawna Pachal  
Ken Adams  
Chief Walter Spence  
Chief Louisa Constant  
Chief Betsy Kennedy  
Chief Michael Garson

## CONSUMERS ASSOCIATION OF CANADA

Byron Williams - Counsel  
Gloria DeSorcy  
Aimee Craft  
Joelle Pastora Sala

## MANITOBA METIS FEDERATION

Jason Madden - Counsel  
Jessica Saunders

## MANITOBA WILDLANDS

Gaile Whelan Enns  
Annie Eastwood

## PEGUIS FIRST NATION

Cathy Guirguis - Counsel  
Lloyd Stevenson  
Jared Whelan

## CONCERNED FOX LAKE GRASSROOTS CITIZENS

Agnieszka Pawlowska-Mainville

PIMICIKAMAK OKIMAWIN  
Stephanie Kearns - Counsel  
Darwin Paupanakis

KAWEECHIWASIHK KAY-TAY-A-TI-SUK  
Roy Beardy

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1 Monday, October 21, 2013

2 Upon commencing at 9:30 a.m.

3 THE CHAIRMAN: Good morning, ladies  
4 and gentlemen, and welcome to open our hearings in  
5 Winnipeg. I would like to ask elder Amelia  
6 Saunders to say an opening prayer.

7 (Opening prayer)

8 THE CHAIRMAN: Thank you, Elder  
9 Saunders. For those of you who may be new to this  
10 room, I will introduce myself. My name is Terry  
11 Sargeant, I'm the chair of the Clean Environment  
12 Commission, I'm also the chair of the panel that  
13 will be conducting this review. At the outset I  
14 would like to acknowledge that we are meeting here  
15 today and for the next few weeks in the  
16 traditional territory of the Treaty 1 people, as  
17 well as in the homeland of the Metis Nation.

18 I would like to introduce other  
19 members of the panel. On my far left, Jim Shaw,  
20 Judy Bradley; to my right, Reg Nepinak and Edwin  
21 Yee. Also with us, I would like to introduce a  
22 number of our staff and advisors who are assisting  
23 us in this review, starting with our Commission  
24 secretary, Cathy Johnson, Commission  
25 administrative assistants at the back of the room,

1 Joyce Mueller and Amy Kagaoan; our legal counsel,  
2 Michael Green; our report writer, Bob Armstrong,  
3 and from our technical advisory team, Phil Shantz  
4 of SENES Consultants.

5 We are here today at the request of  
6 the Minister of Conservation and Water Stewardship  
7 to commence public hearings in Winnipeg respecting  
8 the proposal from the Keeyask Hydropower Limited  
9 Partnership for the development of the Keeyask  
10 Generation project.

11 On November 14th of last year, the  
12 Minister of Conservation and Water Stewardship  
13 wrote to me asking that the Clean Environment  
14 Commission hold public hearings on this proposed  
15 project. The Minister attached terms of reference  
16 to his letter, which asked the Commission to  
17 review and evaluate the Environmental Impact  
18 Statement prepared by the proponent, as well as to  
19 review the proponent's public consultation  
20 process.

21 He asked us to recommend whether an  
22 environmental licence should be issued to the  
23 partnership for the development of this project.  
24 And finally he asked us, if we do recommend that a  
25 licence be issued, that we recommend conditions

1 that might be attached or that we feel necessary  
2 to be attached to the licence. Such conditions  
3 would include measures proposed to mitigate any  
4 potential adverse environmental, socio-economic,  
5 and cultural effects, resulting from the project.  
6 Also measures to manage any residual effects, as  
7 well as any future monitoring that we feel may be  
8 required.

9 In the eleven months since the  
10 Minister's letter, much activity has occurred. A  
11 participant assistance program was initiated,  
12 ultimately approving seven applications for a  
13 total of more than \$1 million in funding. Two  
14 rounds of information requests were conducted with  
15 over 500 questions submitted to the proponent  
16 seeking further explanation or clarification. A  
17 number of pre-hearing meetings were held. Last  
18 week a motions hearing was held at which three  
19 motions were argued before the panel. And during  
20 the last number of months, all parties, the  
21 proponent, the participants and the Commission  
22 have engaged in countless hours of preparation for  
23 these hearings.

24 Today we begin what we expect to be  
25 six weeks of hearings here in the city. There are

1 23 days scheduled. Our projected final date is  
2 December 5th.

3 We have already held hearings in  
4 Northern Manitoba, including in the communities of  
5 Gillam and Thompson, as well as in the First  
6 Nations communities of Bird, York Landing, Split  
7 Lake and Cross Lake.

8 The Manitoba Clean Environment  
9 Commission is an arms-length Provincial agency  
10 established under the Environment Act to encourage  
11 and facilitate public involvement in environmental  
12 matters. One way we do this is by conducting  
13 hearings such as these. The hearings are but one  
14 of a number of key steps in approving an  
15 application for an environmental licence. These  
16 steps include the proponent's application; the  
17 preparation and review of the Environmental Impact  
18 Statement under the guidance of the Environmental  
19 Approvals Branch of the department; the  
20 Commission's hearings and subsequent  
21 recommendations and advice which come out of these  
22 hearings; the Crown's consultation with Aboriginal  
23 communities; and ultimately the final decision  
24 comes from the Minister who will approve the  
25 licence and issue the licence with attached

1 conditions.

2                   The purpose of the hearings is to  
3 provide an open and accessible process to allow  
4 for public input into the decision making, which  
5 will assist the Commission in providing  
6 recommendations to the Minister as to the merits  
7 of the proposal. This will in turn assist the  
8 Minister, as the ultimate decision maker, by  
9 providing diverse, well-reasoned and well-informed  
10 perspectives on the merits of the proposal. To  
11 achieve this will we strive as much as reasonably  
12 possible to assure a thorough and comprehensive  
13 review.

14                   The Commission operates under the  
15 authority of the Manitoba Environment Act. The  
16 Commission is directed to conduct the hearings in  
17 general accordance with the process guidelines  
18 respecting public hearings, which ensure that  
19 hearings remain fair and open forums for the  
20 exchange of information and ideas, and that they  
21 provide full opportunity for public involvement in  
22 the environmental assessment process in Manitoba.

23                   We strive to be as informal as  
24 possible, however, recognizing that hearings about  
25 a project as complex as Keeyask require some

1 structure. Thus our process guidelines include a  
2 number of practice directions and guidelines that  
3 all parties to this proceeding will be expected to  
4 know and to follow. We recognize that fairness  
5 must not only occur, but there must be a  
6 perception of fairness and impartiality during the  
7 hearing process.

8 We also recognize that participants,  
9 and in particular members of the public, do not  
10 have the same access to expert advice and  
11 resources available to the proponent. And we  
12 recognize that critical questioning of all aspects  
13 and merits of the proposed project contributes to  
14 a positive process and a positive outcome.

15 So flexibility and common sense will  
16 be given preference over rigid bureaucratic rules.  
17 Nonetheless, the panel will be the final arbiter  
18 of procedural fairness in adapting to  
19 circumstances that may arise.

20 Let me say a few words about what will  
21 ensue over the next few weeks. A schedule of the  
22 hearings is available at the registration desk,  
23 but I would like to review it quickly. After  
24 opening procedures this morning, we will hear from  
25 the proponent and the registered participants who

1 will make brief opening statements setting out the  
2 nature of their participation in these  
3 proceedings. Following that the proponent, the  
4 Keeyask Hydropower Limited Partnership, will begin  
5 to set out its proposal. We expect that the first  
6 two weeks, if not more, will be taken up by this  
7 presentation and the cross-examination and  
8 questioning of the partnership. Following that,  
9 participants will present their evidence, which  
10 will be subject to cross-examination and  
11 questioning by the partnership, the panel and  
12 other participants.

13                   We will provide opportunities for  
14 members of the public with their own concerns to  
15 be heard. Two evenings sessions have been  
16 scheduled primarily to hear presentations from  
17 members of the public. Upon demand, we may or  
18 will hear public presentations during daytime  
19 sittings. Members of the public will also be  
20 given an opportunity and allowed to ask questions  
21 of the partnership following participants. I  
22 should note that public presentations, that is  
23 presentations from the general public, are not  
24 subject to cross-examination. Only panel members  
25 may ask questions of clarification.

1                   Once participant evidence is concluded  
2    in a number of weeks, the partnership will be  
3    given an opportunity for rebuttal, followed by  
4    final argument by the participants and proponent.

5                   After the hearings end and the record  
6    is closed, the panel will begin its deliberations.

7                   And finally, the Commission will make  
8    a report containing advice and recommendations to  
9    the Minister, which under the Environment Act we  
10   must do within 90 days following the closure of  
11   the hearing. Once the Minister has received our  
12   report, it is up to him to determine the date upon  
13   which the report will be released to the public.  
14   Typically this has been a week and a half to two  
15   weeks. And ultimately it is the Minister's  
16   decision as to whether a licence is issued or not  
17   and on what conditions that licence might be  
18   issued.

19                  A few words now just about some  
20   housekeeping issues. On the top of the list is  
21   what goes on inside this hearing room. First of  
22   all, cell phones, I do not want to hear cell  
23   phones going off in this room. So, please, turn  
24   them off, or at least turn them to vibrate. And  
25   if the call is that important that you need to

1 take it, step out of the room.

2           The same applies to conversations  
3 within this room. Please show respect for all the  
4 other participants, particularly those who may be  
5 making presentations. Take your conversations out  
6 of the room, and also take them away from the  
7 doorway. It can still be pretty distracting to  
8 parties near the doorway if you are carrying on  
9 conversations outside.

10           Another thing, just moving around this  
11 room during proceedings, please keep it to an  
12 absolute minimum, because that too can be very  
13 distracting. And those of you who have sat  
14 through hearings before that I have chaired will  
15 know that you probably shouldn't try to test my  
16 patience on some of these matters.

17           One other matter, most of you will  
18 know from pre-hearing meetings and previous  
19 hearings sessions, I'm a stickler for starting on  
20 time, whether it is in the morning, after breaks  
21 or after lunch, so please be here at the time we  
22 specify for reconvening.

23           Also those making presentations, I  
24 will enforce time limits strictly. Where you are  
25 bound by a time limit, I will give you a five

1 minute and a one minute warning.

2                   Just a note about the microphones on  
3 these two front tables, because they are close to  
4 where the speakers are, we have to keep them  
5 turned down a little bit, so you will have to  
6 speak very closely into the microphones.

7                   With regard to registration, members  
8 of the public wishing to make a presentation must  
9 register at the desk by the entrance to this room.  
10 And if members of the public wish to receive a  
11 copy of the final report, please leave your name  
12 and address at that same table.

13                   Finally, we make best efforts to post  
14 verbatim transcripts of each day's proceedings by  
15 the following day. These will be posted on our  
16 website at [CECManitoba.ca](http://CECManitoba.ca). And we will also post  
17 to our website, as soon as we are able, all  
18 written submissions and presentations. There are  
19 some limitations for overly large documents.

20                   Some concluding remarks: Our task in  
21 the next few weeks is for each of us to play a  
22 role in ensuring that the Keeyask Generation  
23 project, if it is to be built, does not result in  
24 any serious and ongoing damage to the environment  
25 of our Province. As in all Commission hearings,

1 the challenge to the panel is to have a complete  
2 and understandable body of evidence upon which to  
3 base its recommendations to the Minister. The  
4 challenge for the proponent, the Keeyask  
5 Hydropower Limited Partnership, is to ensure that  
6 this record is complete and that the panel and the  
7 public fully understand the conclusions set out in  
8 the Environmental Impact Statement. The challenge  
9 for the participants is to vigorously test the  
10 positions and arguments put forth by the  
11 proponent, in this way assisting the panel and the  
12 process in the full understanding -- in achieving  
13 full understanding.

14                   While the test in Manitoba is not to  
15 determine whether the project is in the public  
16 good, if we all succeed in these challenges we  
17 will be looking out for the environment and that  
18 is in the public good.

19                   I would like to conclude this  
20 introduction with some words that I wish were  
21 mine, but they are not. Unfortunately, I did not  
22 record whose words they are or where I found them.  
23 Nonetheless, I believe they are words appropriate  
24 to guide us as we conduct this review over the  
25 next number of weeks, and I quote:

1 "The environment should be treated  
2 like a child that can not speak for  
3 him or herself. Sympathy and caution  
4 must always go to the environment  
5 since it can not defend itself. The  
6 environment must depend on  
7 environmental legislation,  
8 environmental stewards, environmental  
9 impact statements conducted by  
10 committed, unbiased and professional  
11 environmental assessment  
12 practitioners, as well as academics,  
13 environmentalists, advocates and  
14 others. Failure of these instruments,  
15 organizations, individuals, et cetera,  
16 to do their job should not be an  
17 excuse for developers, governments and  
18 others to do what they want with the  
19 environment."

20 It is our job not to fail in our task.

21 Now, before I turn to the next agenda  
22 item, a word about the motions heard last  
23 Wednesday. As you will know from the note emailed  
24 to all parties on Friday, the panel came to the  
25 decision to dismiss all three of the motions.

1 That's why we are here today. However, given the  
2 timing of the motions hearing, so close to the  
3 scheduled start of the Winnipeg hearings, the  
4 written decisions are not yet completed. While I  
5 have completed the boilerplate stuff in the  
6 decisions, I have not yet had a chance to review  
7 the transcripts or to write much of the panel's  
8 reasons. You will have them as soon as possible.  
9 Whether that's in a day or two or a week or more,  
10 I cannot predict.

11 I did indicate that I would give brief  
12 oral reasons this morning, however, on reflection,  
13 I would rather leave that until the final written  
14 version is complete and after the other panel  
15 members and our legal counsel have had a chance to  
16 review what I write.

17 That concludes my opening comments.  
18 Moving to the agenda, and you may note on the  
19 agenda that I was given an hour for opening  
20 remarks and I think that, if I had taken the full  
21 hour, that might have ended the hearings very  
22 shortly. We have now passed 20 minutes, we will  
23 move on to the next item on the agenda.

24 MS. JOHNSON: Mr. Chairman, excuse me,  
25 before we do that, can we put our terms of

1 reference on the record?

2 THE CHAIRMAN: Do we do that?

3 MS. JOHNSON: Yes, we do.

4 THE CHAIRMAN: Okay. I stand  
5 corrected.

6 MS. JOHNSON: I here have the letter  
7 from the Minister of Conservation and Water  
8 Stewardship of November 14th. This is his request  
9 to the Clean Environment Commission to hold public  
10 hearings on the proposed Keeyask Generation  
11 project, and have enclosed the terms of reference,  
12 that will be CEC number 1.

13 (EXHIBIT CEC-1: Letter from Minister  
14 of Conservation and Water Stewardship,  
15 November 14, request to hold public  
16 hearings)

17 MS. JOHNSON: And as we said, the  
18 terms of reference are to review the EIS,  
19 including the proponent's public consultation  
20 summary, and note that the detailed technical  
21 review will be done by the Provincial and Federal  
22 specialist agencies who are members of the TAC.  
23 As such, documents produced during the assessment  
24 should be considered by the Commission as input  
25 for the hearing, and to hold public hearings for

1 the Commission to consider stakeholder and public  
2 input, and to prepare and file a report with the  
3 Minister of Conservation and Water Stewardship  
4 outlining the results of the Commission's review,  
5 and providing recommendations for the Minister's  
6 consideration. The report should be filed within  
7 90 days from the date of completion of hearings as  
8 per Section 7(3) of the Act. And that will be CEC  
9 number 2.

10 (EXHIBIT CEC-2: Terms of reference)

11 THE CHAIRMAN: Thank you. I will now  
12 ask the director of the Environmental Approvals  
13 Branch to come forward and make some introductory  
14 comments.

15 MS. JOHNSON: The operator of the  
16 powerpoint, we need this projected at this point.  
17 Thank you.

18 MS. BRAUN: So hopefully you won't  
19 expect me to take up the rest of that hour, but...

20 THE CHAIRMAN: I do not.

21 MS. BRAUN: Okay. Good morning  
22 everybody. Thank you, Mr. Chairman, members of  
23 the panel, for allowing me this opportunity to  
24 provide a summary of the regulatory process that  
25 has happened to get us to this date for the

1 Keeyask Generation project. And my name for the  
2 record is Tracey Braun. I'm the director of  
3 Environmental Approvals for Manitoba Conservation  
4 and Water Stewardship.

5           Next slide, please? The Keeyask  
6 project, being an electrical -- is somebody going  
7 to be doing the overheads? I don't have control  
8 over that here.

9           THE CHAIRMAN: We have some  
10 high-falutin technology here today, so it takes a  
11 little while to get into it.

12           MS. BRAUN: Thank you very much.

13           So the Keeyask project is a class III  
14 development under the classes of development  
15 regulation under the Environment Act, and as such,  
16 the decision, as the Chairman has stated, will be  
17 made by the Minister of Manitoba Conservation and  
18 Water Stewardship.

19           The Provincial regulatory process  
20 started with the proposal that was filed on  
21 December 9, 2011, by the Keeyask Hydropower  
22 Limited Partnership, also known as the  
23 Partnership. The proposal was accompanied by an  
24 environmental assessment scoping document. It was  
25 advertised for public review, and we did this

1 jointly with the Federal Canadian Environmental  
2 Assessment Agency. We did this online, as well as  
3 in newspapers in Winnipeg and Thompson.

4           Copies of the proposal and the scoping  
5 document were placed in public registries in  
6 Winnipeg, Thompson, and the project area. Public  
7 comments were invited to January 31st, 2012.  
8 Copies of both documents were provided to members  
9 of the Technical Advisory Committee for review  
10 with the same requested date for comments.

11           Public and TAC comments on the  
12 environment assessment scoping document were also  
13 provided to the Partnership. The scoping document  
14 was deemed by the Province as being equivalent to  
15 guidelines for the preparation of the  
16 Environmental Impact Statement, and that's because  
17 it had the same content and review process.

18           Unlike with Bipole, the Keeyask  
19 project did come under Federal regulatory  
20 assessment. And as I mentioned earlier, it was  
21 advertised jointly with the agency, and it was  
22 deemed to be a comprehensive study report under  
23 the Federal legislation that was in place at the  
24 time the project was filed. All project  
25 information requested and received through the

1 Federal and Provincial processes has been shared  
2 and we have worked very closely with them, where  
3 possible. The legislation has changed since the  
4 application was filed, but the Keeyask will be  
5 reviewed under the legislation that was in place  
6 at the time it was filed.

7           So continuing on, the Environmental  
8 Impact Statement was filed on July 6, 2012. It  
9 also was placed in the public registries and  
10 advertised for public review in Winnipeg and  
11 Northern Manitoba newspapers between July 14th and  
12 the 21st of 2012. Comments were invited to  
13 September 20th, 2012. The EIS was circulated to  
14 TAC members for review with the same requested  
15 date for comments.

16           Following the receipt of public and  
17 TAC comments on the EIS, additional information  
18 was requested, and as is often the case for larger  
19 complex projects such as this one, there was an  
20 iterative information request process. That could  
21 be a tongue twister.

22           So, at that time we were undergoing a  
23 parallel process with the Clean Environment  
24 Commission in terms of information requests.  
25 Requested information items to address the

1 Provincial requirements were filed on  
2 November 19th of 2012, and then again on  
3 April 26th, 2013. Additional information was  
4 provided subsequently to address the Federal  
5 requirements. During the process for Keeyask, the  
6 CEA office moved from Winnipeg to Edmonton, but it  
7 didn't affect the review or cooperation with the  
8 CEA, in any event.

9           So the CEC was advised by the  
10 Environmental Approvals Branch in June of 2013,  
11 June 26, 2013, that all of the information was  
12 available, and that it was our opinion that  
13 hearings could proceed. And they did, in  
14 September in the northern locations, as the Chair  
15 had mentioned, and then they are resuming here  
16 today in Winnipeg, October 21st.

17           I put this up, I know that the  
18 presentation or copies of them are available here,  
19 but here are a couple of websites for you. All  
20 information that has been presented to date on the  
21 Environmental Impact Assessment and questions from  
22 the TAC comments, comments from the TAC, all of  
23 that are available online at these locations,  
24 which you can access by getting a copy of this  
25 presentation.

1                   And basically the next step is just,  
2   again, we look forward to hearing public comments  
3   and concerns on the project going forward, and to  
4   the Commission's recommendations to the Minister  
5   following the hearing.

6                   And thank you, again, for allowing me  
7   this opportunity.

8                   THE CHAIRMAN: Thank you, Ms. Braun.

9                   We are about an hour and a quarter  
10   ahead of schedule. We are going to move into the  
11   opening statements by the different participants,  
12   first the Partnership and then the different  
13   participants. These opening statements are  
14   limited to ten minutes, hopefully. And they are  
15   just meant to outline what the different parties  
16   will be presenting over the next few weeks. First  
17   up the Partnership, Mr. Bedford?

18                  MR. BEDFORD: Tansi. Doug Bedford,  
19   (Speaking Cree).

20                  For the record, I have just said in  
21   Cree, my name is Doug Bedford. I am a lawyer. I  
22   am trying to learn Cree.

23                  Learning Cree is going to be a very  
24   long journey for me. You, me, and all of us here  
25   are setting off today on a journey, but it will be

1 a much shorter one, one and a half months.

2 I work at Manitoba Hydro, but for our  
3 journey for one and a half months, my  
4 responsibility is to represent the Keeyask  
5 Hydropower Limited Partnership, the owner and  
6 proponent of the Keeyask project. I will not have  
7 any difficulty remembering that, and no one else  
8 here should either.

9 Happily for me and for the  
10 partnership, I will be accompanied by a number of  
11 fine colleagues in the legal profession.  
12 Ms. Janet Mayor and Mr. Bob Bettner who are also  
13 employed by Manitoba Hydro, will accompany me  
14 throughout the hearing. Ms. Sheryl Rosenberg, and  
15 if we call him, Mr. Bob Adkins of the Thompson  
16 Dorfman Sweatman firm will also be here.

17 As the partnership prepared over the  
18 last five months for this hearing, it has also  
19 benefited from the assistance and advice of a  
20 number of experienced lawyers, Mr. Bob Roddick,  
21 who also acts for Cree Nation partners. Cree  
22 Nation partners, I remind you, are Tataskweyak  
23 Cree Nation and War Lake First Nation; Mr. Jack  
24 London of the Pitblado firm, and Mr. Mark Beard of  
25 the Amiter Law Group have assisted us as well, and

1 they also act for Makeso Sakahikan, Fox Lake Cree  
2 Nation. And Mr. Brad Regehr and his colleague,  
3 Ms. Uzma Saeed, of the Winnipeg D'Arcy & Deacon  
4 law firm, have helped us and they also act for  
5 Kitche-Waskahigan, York Factory First Nation.

6           The project and the Keeyask Hydropower  
7 Limited Partnership will be introduced to you this  
8 afternoon by Chief Michael Garson of Tataskweyak  
9 Cree Nation, Chief Betsy Kennedy of War Lake First  
10 Nation, Chief Walter Spence of Fox Lake Cree  
11 Nation, and Chief Louisa Constant of York Factory  
12 First Nation, and by Manitoba Hydro's senior vice  
13 president, Mr. Ken Adams.

14           Long after our journey is over, and  
15 long after your careers as Commissioners of the  
16 Clean Environment Commission have concluded, I  
17 predict that when you look back at this hearing  
18 what you will remember best is that we are a  
19 partnership; two languages, two cultures, two ways  
20 of looking at the world woven into one project and  
21 one partnership. And perhaps we might even  
22 inspire some of you who do not speak Cree to learn  
23 another language. Egosi.

24           THE CHAIRMAN: Thank you, Mr. Bedford.  
25 Next up, Manitoba Wildlands. Ms. Whelan-Enns

1 seems to have left the room. Perhaps we will move  
2 on and come back to her.

3           Next up, and I haven't been taking  
4 lessons in Cree so I may have a little trouble  
5 pronouncing this, but Kaweechiwasihk  
6 Kay-tay-a-ti-suk, which I believe is the York  
7 Factory citizens group. Are there any  
8 representatives from that group here today? No?  
9 Peguis First Nation? Come forward please, and  
10 opening comments.

11           You have been bumped, we will come  
12 back to you in a moment, a few minutes.

13           Okay. Lucky we are ahead of schedule,  
14 we are being a little lenient this morning. Okay,  
15 Ms. Whelan-Enns, we will give Peguis a chance to  
16 review their presentation. So if you can make  
17 your openings comments, please? Introduce  
18 yourself for the record and then proceed?

19           MS. WHELAN ENNS: Good morning, I'm  
20 Gaile Whelan Enns, the director for Manitoba  
21 Wildlands in our Province. And I thought I was  
22 safe.

23           I would like to say good morning to  
24 all parties to these hearings, and wish each of us  
25 a productive, positive, and civil process.

1                   Manitoba Wildlands is a non-profit  
2 organization that serves as a public interest  
3 research group, interested in the steps and  
4 decisions about public or Crown lands and waters  
5 in our province.

6                   Manitoba Wildlands derives from my  
7 work when I represented the World Wildlife Fund  
8 Canada, and then the Canadian Wildlife Federation  
9 in our Province. In all three periods of time, we  
10 have been involved in reviews and proposals under  
11 the Environment Act. We are often described as an  
12 organization that monitors and audits government  
13 processes and policies about our lands and waters.

14                   Our website is often referred to as a  
15 go-to place for information about lands and waters  
16 in Manitoba and decisions regarding them, and is  
17 used by journalists, university students,  
18 political staff, the general public, among others.

19                   The "about us" information on our  
20 website states that Manitoba Wildlands is a  
21 non-profit environmental public research  
22 organization. And again, feel free to take a  
23 look -- feel free to take a look, rather than more  
24 quotes from the website.

25                   During the last 12 years Manitoba has

1    been involved in reviews of three class III  
2    Manitoba Hydro developments under the Environment  
3    Act.  And as the director of licensing has  
4    reminded us this morning, a hydro development  
5    project is a class III project.  We were involved  
6    in the Wuskwatim project, generation and  
7    transmission, from 2001 to 2007.  We know from  
8    that experience eight years ago that it is urgent  
9    to think about and consider our whole hydro system  
10   when making decisions about adding to that system.  
11   We learned that systems thinking, future thinking  
12   and the best new conservation biology and ecologic  
13   science, together with traditional knowledge, are  
14   all needed for Manitobans to make decisions about  
15   its or our hydro system.

16                    We have been active in the reviews,  
17   proceedings and hearings for Bipole III since  
18   2008, and continue to watch the steps to fulfill a  
19   recent licence for Bipole III.  We also  
20   participated in the reviews of staged hydro  
21   projects, for instance, the stages of the Keeyask  
22   projects, which include the infrastructure and  
23   transmission projects.

24                    Today we are here at the beginning of  
25   the Keeyask Generation Station hearings as

1 participants. Our aim in being a participant in  
2 the CEC proceedings and hearings is to help  
3 improve the content and basis for making decisions  
4 about our hydro system in Manitoba.

5 We wish to ask questions, bring  
6 content to the hearings, and assist the CEC in  
7 fulfilling its mandate in the terms of reference.  
8 We also wish to assist all parties to continue to  
9 improve the content analysis and outcome from  
10 these CEC hearings, based again on whole system  
11 analysis.

12 Certainly, as we all found out last  
13 fall and winter, the Bipole III EIS was weak,  
14 incomplete and deficient. Manitoba Wildlands  
15 supports the CEC in its recommendations aimed at  
16 improving environmental effects assessment in our  
17 province, and improving the content of EIS filings  
18 and reviews for hydro projects.

19 We are very conscious of the fact that  
20 the CEC had to repeat certain of its primary  
21 Wuskwatim recommendations in its Bipole III  
22 report. The regional cumulative effects  
23 assessment of our existing hydro system is best  
24 delivered by independent experts and technicians.  
25 It is not plausible for it to be done any other

1 way. Thank you.

2 THE CHAIRMAN: Slow down a touch,  
3 please, for the transcriber.

4 MS. WHELAN ENNS: All right. Manitoba  
5 Wildlands has responded to public reviews  
6 regarding Keeyask generation by the CEC and  
7 Manitoba Conservation since 2009. This includes  
8 the CEA guidelines and the Manitoba Conservation  
9 scoping document.

10 Keeyask Generation project is the  
11 first class III project under the Manitoba  
12 Environment Act to be framed by a scoping  
13 document. Scoping documents are new under our  
14 Environment Act, and have been in place instead of  
15 the public process to arrive at EIS guidelines for  
16 class III projects, such as was used for the  
17 Wuskwatim projects.

18 For the Keeyask Generation Station  
19 then we have both the EIS guidelines initiated by  
20 CEA, affirmed and responded to by the proponent,  
21 and the scoping document framework. Both are  
22 binding and both must be fulfilled by the  
23 proponent. That is part of all of our work and  
24 tasks then in the next six weeks.

25 Manitoba Wildlands will bring to these

1 hearings a team that includes an engineer and a  
2 UBC forestry trained expert to shine a light on  
3 life-cycle assessment of the Keeyask Generation  
4 project components. We will also bring in an  
5 ecologist who will comment on monitoring plans,  
6 especially those involving aquatic ecosystems,  
7 hydro projects, rivers, and Aboriginal  
8 communities. An independent biologist will be  
9 commenting on the valued environmental components,  
10 or VECs, and habitat models, and the conclusions  
11 in the EIS, especially regarding certain species.

12 We will also bring in an expert in  
13 sustainable development, sustainability, and how  
14 our public policy and regulatory system should  
15 enable delivery of sustainable projects, including  
16 in order to make sustainability an active,  
17 evaluated and deliverable set of objectives.

18 In 2004, at the end of four years of  
19 monthly briefings or discussion sessions between  
20 Manitoba Hydro and civil society organizations and  
21 communities, I was asked to make --

22 THE CHAIRMAN: Five.

23 MS. WHELAN ENNS: I was asked to make  
24 a presentation. These monthly sessions were all  
25 about the future Manitoba Hydro, future projects

1 for which Manitoba Hydro was getting ready.  
2 Certain of the same consultants and experts which  
3 Manitoba Hydro used in the Wuskwatim, Bipole III,  
4 and now Keeyask proceedings and hearings, were  
5 brought into those sessions to explain the  
6 projects.

7                   We were nearing the end of the  
8 sessions, and it was my turn to present, I had  
9 little time to prepare, but found myself in a room  
10 walled in white board. So I drew pictures, maps  
11 of Manitoba side-by-side. One was for Manitoba  
12 Hydro, the company, and the other was for Manitoba  
13 Hydro, the public utility. I identified  
14 responsibilities and characteristics for a  
15 successful company and for a successful Crown  
16 corporation or public utility. And I asked, which  
17 is Manitoba Hydro? Why does Manitoba Hydro slip  
18 back and forth between the two? When will  
19 Manitoba Hydro realize that best practices for  
20 each are essentially the same? And when will  
21 Manitoba Hydro move to those best practices?

22                   In the last decade we have all found  
23 out a lot about the state of our global  
24 ecosystems. And businesses and companies around  
25 the world are changing their practices, improving

1 their social licences to operate, and realizing  
2 that taking care of the environment, the economy,  
3 and communities is all based on the same set of  
4 best practices and principles.

5           So far there is a lot of rhetoric from  
6 our utility on how far it is going to these new  
7 practices. Still the utility does not seem to  
8 understand that it is civil society, affected  
9 communities, Commissions like the CEC, and  
10 independent external experts who determine if the  
11 rhetoric is also the reality.

12           On a closing note, since April, in  
13 these proceedings, we have had some examples of  
14 practices that are simply not best practices. It  
15 is Manitoba Wildlands' intention to track these  
16 and any other variances. Certain practices have  
17 been repeated from the Bipole III proceedings  
18 already, others have become a little bit worse.

19           So here is some questions: Why is it  
20 so difficult for Manitoba Hydro and the  
21 Partnership to be clear about its panels and  
22 specific match to volumes, reports and contents in  
23 the EIS? Why would Manitoba lose 26 IRs? Why did  
24 Manitoba Hydro and its partnership file late EIS  
25 materials again, without identifying them as

1 supplementary filings? And are we supposed to  
2 take the filings seriously? Why did Manitoba  
3 Hydro not file the technical reports for the EIS  
4 when it filed the EIS? Why did Manitoba Hydro  
5 continue to file its list of experts and panels,  
6 staff and consultants late, in pieces, and so on?  
7 Why have we been provided with almost useless  
8 listing of what each panel will cover? Does  
9 Manitoba Hydro understand civil society, respect  
10 the participants -- excuse me, participants in  
11 proceedings and hearings conducted by our CEC?  
12 And why are there so many divisions, blocks and  
13 non-collaborative processes going on inside our  
14 utility?

15                   Manitobans need a lot of things to  
16 improve so our Environment Act and our utility  
17 deliver projects and manage a hydro system that is  
18 sustainable. A few -- I will try for three and  
19 four, Mr. Chair -- examples include, environmental  
20 assessment standards and regulations so we stop  
21 customizing and adjusting to suit the project; an  
22 energy plan for Manitobans that is arrived at  
23 based on consultation and discussion by  
24 Manitobans; admission that damage and impacts from  
25 the existing hydro system in Manitoba continue

1 today -- 2005 high waters would be a very good  
2 example; a public registry that is trusted and  
3 again includes appeals, paperwork; sufficient  
4 resources in the EA and licensing branch so that  
5 staff can read and review the materials for each  
6 project; cumulative impact assessments for our  
7 hydro system including for any project that  
8 requires any kind of permit or licence to be  
9 renewed; transparency with respect to anything our  
10 government or our utility says in the United  
11 States about energy projects and exports.

12           It is our hope that we find the  
13 answers to some of these questions and are able to  
14 arrive at best practices and best basis for  
15 decision making during these hearings. Thank you,  
16 Mr. Chair.

17           THE CHAIRMAN: Thank you,  
18 Ms. Whelan Enns. Has anyone from the York Factory  
19 Citizens Group arrived to make comments? No.  
20 Then Peguis First Nation, please?

21           MR. SUTHERLAND: Good morning,  
22 Mr. Chair, panel, ladies and gentlemen. Good  
23 morning, Mr. Chair and Commissioners of the Clean  
24 Environment Commission, good morning to the  
25 proponents and to all participants and all

1 Aboriginal persons in the room.

2 Peguis appreciates the opportunity to  
3 make opening comments at the Keeyask Generating  
4 Hearings.

5 I forgot to state my name, Mike  
6 Sutherland, councillor for the Peguis First  
7 Nation, portfolio holder for Consultation on Lands  
8 and Natural Resources. I will continue on.

9 We also appreciate the opportunity to  
10 participate in these hearings. Our aim is to  
11 inform the CEC, support the mandate of the CEC to  
12 consider the Keeyask Generating Station, and to  
13 bring our knowledge and skill to the hearings.

14 Let us pause for a minute and consider  
15 where we are meeting. We are on the top of the --  
16 we are on the top floor of the Hotel Fort Garry in  
17 downtown Winnipeg. We are also in the midst of  
18 Treaty 1 territory and only a few hundred metres  
19 from the Forks, where Aboriginal peoples met,  
20 camped, traded goods and formed alliances for  
21 hundreds and hundreds of years. We are in Peguis  
22 territory and a short drive from our original  
23 homeland when we were the St. Peters band.

24 The community of Peguis is potentially  
25 affected by the Keeyask Generating Station, as we

1 are affected by the existing hydro systems, and  
2 infrastructure that may be added to the system.  
3 Our reason for being here in the hearings include  
4 our ongoing concern about the effects of hydro  
5 projects and the hydro system in our province, the  
6 basis for the decision making as Manitoba seeks to  
7 build various hydro projects, and the weakness of  
8 our environmental assessment and licensing  
9 regulatory regime in Manitoba.

10           Peguis First Nation participated in  
11 the Bipole III hearings. We believe that the CEC  
12 made some wise recommendations, which Minister  
13 Mackintosh adopted both licensing and policy  
14 recommendations. We had many other -- others in  
15 Manitoba are awaiting for the Lake Winnipeg  
16 Regulation reviews, community consultation  
17 projects, and CEC hearings. As long as we attempt  
18 to make decisions about separate projects without  
19 considering the whole system and the effects of  
20 regulation on Lake Winnipeg, we will continue to  
21 take on risks that are economic, social and  
22 environmental.

23           The greatest risk or impact from the  
24 Hydro system on Peguis is from the regulation of  
25 Lake Winnipeg. We wonder how the Government of

1 Manitoba and the CEC would respond if 60 per cent  
2 of the land in the municipality was gone, no  
3 longer usable due to regulation of Lake Winnipeg.  
4 That is our situation at Peguis today.

5 We are also here in these hearings due  
6 to the matter of unextinguished Aboriginal title  
7 that Peguis has in the Northern geographic areas.  
8 When Treaty 1 was signed in 1871, there were no  
9 extinguishment clauses in the Treaty document for  
10 lands outside of the Treaty 1 area. As a result,  
11 Peguis has never been entitled to lands outside of  
12 the Treaty 1 area, including areas in the proposed  
13 generation project regional study area, local  
14 study area and impact zones.

15 Accordingly, notice is provided in  
16 these opening statements that Peguis has asserted  
17 and continues to assert Aboriginal title in this  
18 geographic area.

19 It is important to know that the  
20 Supreme Court of Canada has stated that these  
21 Aboriginal title rights and Aboriginal rights do  
22 not have to be proven or resolved before a First  
23 Nation can indicate or state their rights under  
24 Section 35 of the Constitution Act, 1982. The  
25 development activities being considered for

1 Keeyask Generation project are where Peguis has  
2 unresolved underlying Aboriginal title. The  
3 members of Peguis have a history that include a  
4 lot of travel, trade, work for the Hudson Bay  
5 Company, and alliances with Cree people. History  
6 and elder information share the travels of Peguis  
7 First Nations, and Ojibway peoples who have  
8 traversed the northern regions of this province,  
9 and of course the travel was by water and on the  
10 major rivers and lakes, one of the major rivers is  
11 the Nelson. A book titled the Ojibwa of Western  
12 Canada by Laura Peers makes reference to 100  
13 canoes of Ojibways who came to York Factory in  
14 1781, and 24 canoes came in 1782. History tells  
15 us that Chief Peguis journeyed to York Factory  
16 with the Hudson's Bay Company in September of 1814  
17 and spent some time on the ship anchored at York  
18 Factory.

19 In more recent years members of Peguis  
20 First Nation continue to travel to the north to  
21 exercise their hunting and harvesting rights and  
22 continue to fish in the northern areas.

23 Through marriage there are many  
24 connections to a number of northern communities.  
25 And as a result, numerous relatives in the north

1 are connected to Peguis through their extended  
2 family, and the familial connections and alliances  
3 started in historic times, pre-Treaty.

4           Of significant importance to Peguis is  
5 the resulting hydrology of the Keeyask Generating  
6 project. Hydrology is a branch of physical  
7 geography that deals with the laws, properties  
8 distribution and effects of water. We have stated  
9 in the past and continue to state that the  
10 effects, deleterious or otherwise, of a proposed  
11 generating station or any activity that affects  
12 the flow of water will and has affected areas that  
13 are not in the immediate vicinity of the  
14 generating station or activity. Hydrology is akin  
15 to plumbing in your house, if you have blockage in  
16 your drain, it will most certainly affect other  
17 parts of your house.

18           If you transfer the schematics of the  
19 plumbing in your house to the waterways in the  
20 Province and to other Provinces and States, any  
21 ordinary person will understand how the blockage  
22 will affect other waterways. Certainly the  
23 effects will be felt in Lake Winnipeg. Lake  
24 Winnipeg has direct impacts on our community of  
25 Peguis. The generating station is a blockage.

1                   When the report on Bipole III hearings  
2 was released, the Clean Environment Commission had  
3 harsh words for the EIS, that it was incomplete,  
4 deficient, and not conducted properly. Peguis can  
5 predict that the current EIS for the Keeyask  
6 Generating project will show some of the same  
7 pitfalls and will be less than desirable in  
8 identifying the significance of the effects on  
9 communities, land and water.

10                   Peguis First Nation rights, lands and  
11 water were not considered when the EIS was  
12 developed, and perhaps through examination of  
13 potential affected areas was not considered. This  
14 may be construed as being negligent. We do know  
15 the EIS was being prepared at the same time as the  
16 Bipole III EIS. The EIS is an important step in  
17 the process of assessing impacts, and if certain  
18 communities are excluded, then the EIS becomes a  
19 faulty piece of assessment bringing into disrepute  
20 the administration of environmental assessment for  
21 the Province.

22                   Peguis First Nation was scoped out of  
23 the Bipole III EIS in errors, and that decision is  
24 the basis for our decision to participate in the  
25 reviews and hearings of future hydro projects.

1                   It is our understanding that the  
2   elders in the four partnership communities had to  
3   wrestle with the idea of allowing activity that  
4   would affect their worldview, including plants,  
5   animals, fish, fowl, and their way of life. They  
6   have to decide whether to protect the environment,  
7   which was given to them by the Creator, or allow a  
8   provincial utility to erect another generating  
9   station to provide hydro power to our southern  
10  customers and, indeed, customers in the United  
11  States. Some elders decided in favour of the  
12  project while others stuck to their principles to  
13  the sacredness of water.

14                  Given the situation at the Wuskwatim  
15  Generating Station, and the lack of any  
16  foreseeable profit or revenues for the partnership  
17  First Nations there, we must all be careful in our  
18  assumptions about this partnership for Keeyask.

19                  In our worldview, respect plays an  
20  important part in our lives. Our worldview is not  
21  much different from the northern First Nation  
22  worldview, and respect also plays an important  
23  role in their culture. The water on Mother Earth  
24  is to be shared among all First Nations,  
25  regardless of tribe or culture. It is also

1 incumbent on First Nations to protect the nature  
2 and quality of the water and to ensure that no  
3 activity will affect our neighbours upstream or  
4 downstream. In our view, the concurrence by those  
5 communities to allow the development of the  
6 Keeyask Generation station appears to have  
7 breached the sacredness of natural law of water  
8 which the Creator has provided.

9           Technical reports by various  
10 scientists will never be able to appreciate the  
11 pith and substance of indigenous natural law and,  
12 indeed, appreciate the spirit of water.

13           When Treaty 1 was being negotiated in  
14 August 1871, some chiefs stated that they have to  
15 speak for the land because the land cannot speak  
16 for itself. Furthermore, the Anishinaabe peoples  
17 were asked to be stewards of the land and the  
18 water. That is the responsibility of the  
19 Anishinaabe, a duty given to us by the Creator.  
20 As protectors of the land and water and  
21 environment, the okitchita and okitichita qua were  
22 formed to provide protection as a means to fulfill  
23 the sacred duty.

24           In conclusion, Peguis is hopeful that  
25 our input in these hearings will provide a

1 viewpoint and position that the Clean Environment  
2 Commission will seriously consider and appreciate,  
3 thus providing guide posts for a report that is  
4 just and fair. Respectfully, Peguis First Nation.  
5 Thank you very much.

6 THE CHAIRMAN: Thank you, Councillor  
7 Sutherland.

8 Ms. Land, you might have a minute or  
9 two?

10 MS. LAND: Thank you, Mr. Chair and  
11 panel. My name is Lorraine Land and I'm legal  
12 counsel for Peguis. We appreciate the opportunity  
13 to make the opening statements today.

14 Mr. Bedford mentioned that this is a  
15 short one and a half month process. I will  
16 reiterate a point that we were making in our  
17 motion materials and arguments to you last week,  
18 this is not a short process. This is a very long  
19 process that you are involved in, one that goes  
20 back at least 50 years in terms of hydro projects,  
21 but thousands and thousands of years in terms of  
22 the relationships that have developed in that  
23 region between people, the land and the water. So  
24 we urge you to take a look at what you are doing  
25 at the broadest possible level, to understand the

1 interconnectedness over the long term.

2                   It was heartening to hear, Mr. Chair,  
3 your quote about your vision for an environmental  
4 review process that speaks for the environment  
5 because the environment cannot speak for itself.

6                   Part of what Peguis is saying, as you  
7 heard Councillor Sutherland say, is that the water  
8 and land and the creatures do speak, but we have  
9 to deeply listen. And that's part of Peguis'  
10 role, is to assist you in making this a deep  
11 listening process, not just an opportunity to blow  
12 off steam or check off one more box in a  
13 regulatory process, so the proponent can go ahead  
14 and do what it wants to do anyway.

15                   There are already some problems in  
16 that listening process that we are concerned  
17 about. Poor listening in terms of the  
18 documentation so far, a disjointed Environmental  
19 Impact Statement with lots of inconsistencies, a  
20 wall of information with a lack of good systematic  
21 analysis, lots of gaps in the information that is  
22 being shared, hurdles to making this really an  
23 iterative process. It has been very difficult to  
24 get documentation, or even proper lists of panels  
25 so we understand for the purposes of

1 cross-examination what kind of information is  
2 going to be forthcoming. So we ask you to really  
3 listen to what the environment is saying. If you  
4 indeed take those comments that you made  
5 seriously, we ask you to really deeply listen to  
6 what these First Nations, including Peguis, are  
7 saying about the inter-relatedness of the  
8 creatures, the lands and waters in that area.  
9 Because, as you said, the environment needs a  
10 public voice. In this process -- in this process  
11 you are that public voice. And as you said, you  
12 can not fail in that task. And we are encouraged  
13 to hear that you hold that up as a standard.  
14 Thank you.

15 THE CHAIRMAN: Thank you, Ms. Land.

16 Next up is the Manitoba Metis  
17 Federation.

18 MR. MADDEN: Whatever advances we have  
19 made in time, I will hopefully maintain that as  
20 well.

21 Good morning Commissioners and  
22 honoured guests here. My name is Jason Madden.  
23 I'm legal counsel for the Manitoba Metis  
24 Federation in the Clean Environment Commission's  
25 hearings. I'm also joined by Jessica Saunders who

1 is going to be assisting me in representing the  
2 MMF as well.

3           On behalf of the MMF, I want to  
4 welcome everyone to the heart of the Metis Nations  
5 traditional territory. The lands we are on today,  
6 which most Manitobans take for granted, were once  
7 the home of the well-known Red River settlement  
8 where Metis formed the majority of the population  
9 and had their own systems of laws and governance,  
10 well before Manitoba was a province. The lands we  
11 are on today were promised to the children of the  
12 Manitoba Metis as a part of a negotiated  
13 settlement with Canada after the events of 1870,  
14 which happened only a stone's throw from where we  
15 are sitting here today at the Fort Garry Hotel.

16           Of course, as the Supreme Court of  
17 Canada recently held in the Manitoba Metis  
18 Federation case, that promise was broken to the  
19 Manitoba Metis, and the Metis were dispossessed  
20 from the lands and were diminished and  
21 marginalized in a province that they were  
22 negotiating partners in.

23           Today the Manitoba Metis Federation  
24 represents the Metis Nation throughout the  
25 province, including the region where the Keeyask

1   Hydropower and transmission projects are being  
2   proposed, receives its mandate from approximately  
3   52,000 adult members, and when you add in children  
4   it is around a population of 100,000 or so who  
5   live throughout the province.

6                   These citizens have a different form  
7   of government than First Nations, but it is no  
8   less legitimate, and needs to be respected as  
9   well. They elect their leadership at the local,  
10   regional and Provincial levels through ballot box  
11   elections at regular intervals.

12                   I want to make this point: The Nelson  
13   River system up to York Factory was one of the  
14   historic highways for the Metis. As part of the  
15   fur trade network, that sustained their way of  
16   life, culture and economy. Contrary to what you  
17   are going to hear from Manitoba Hydro and its  
18   First Nation partners throughout the hearing, the  
19   Metis, as a distinct Aboriginal people, fit into  
20   that historic narrative in this region. They  
21   continue to be part of that narrative today,  
22   despite best efforts of some to ignore it.

23                   And I want to also make this point:  
24   Their history and story is not the same as First  
25   Nations, but it is no less worthy of

1 acknowledgment, respect and consideration. And  
2 Metis have always been an awkward fit in between  
3 two dominant cultures, and I think that what we  
4 see in the Keeyask project is that they haven't  
5 found a spot. And I think that you are going to  
6 hear throughout the hearings about the challenges  
7 with the EIS, with Hydro, with Manitoba Hydro, as  
8 well as its partners, not coming to grips with  
9 that, but also it results in a deficient EIS in  
10 many fronts in relation to understanding impacts  
11 on Metis.

12                   Now, I want to just start today giving  
13 some broader context to what is going on in what  
14 we are seeing here today. And I think I want to  
15 just read the first five paragraphs of the Supreme  
16 Court of Canada's recently decided decision in the  
17 Manitoba Metis Federation land claims. I think it  
18 should be required reading for Manitobans, myself  
19 personally, but I also think it is a succinct  
20 narrative that people don't understand. And I  
21 want to connect the narrative that you are going  
22 to hear from the Cree partners with the trajectory  
23 that the Manitoba Metis are on as well. So the  
24 Supreme Court starts:

25                   "Canada is a young nation with ancient

1 roots. The country was born in 1867  
2 by consensual union of three colonies,  
3 United Canada, now Ontario and Quebec,  
4 Nova Scotia and New Brunswick. Left  
5 unsettled was whether the new nation  
6 would be expanded to include the vast  
7 territories of the west stretching  
8 from modern Manitoba to British  
9 Columbia. The Canadian Government  
10 lead by Prime Minister John A.  
11 Macdonald, embarked on a policy to  
12 bring the western territories into the  
13 boundaries of Canada and opening them  
14 up for settlement. This meant dealing  
15 with the two indigenous peoples who  
16 were living in those western  
17 territories. On the prairies these  
18 consisted mainly of two groups, the  
19 First Nations and the descendants of  
20 the unions between white traders and  
21 explorers and Aboriginal women, now  
22 known as Metis. The government policy  
23 with respect to First Nations was to  
24 enter into Treaties with various bands  
25 whereby they agreed to settlement of

1           their lands in exchange for  
2           reservation of land and other  
3           promises. The government policy with  
4           respect to the Metis population, which  
5           in 1870 comprised 85 per cent of the  
6           population in what is now known as  
7           Manitoba, was less clear. Settlers  
8           began pouring into the region  
9           displacing the Metis' social and  
10          political control. This lead to  
11          resistance and conflicts. To resolve  
12          the conflict and ensure peaceful  
13          annexation of the territory, the  
14          Canadian Government entered into  
15          negotiations with the representatives  
16          of the Metis lead provisional  
17          government in the territory. The  
18          result was the Manitoba Act, 1870,  
19          which made Manitoba a Province of  
20          Canada. This appeal is about the  
21          obligations to the Metis people  
22          enshrined in the Manitoba Act, a  
23          constitutional document. These  
24          promises represent the terms which the  
25          Metis people agreed to surrender their

1 claims to govern themselves in their  
2 territory and become a part of the new  
3 nation of Canada. These promises were  
4 directed at enabling the Metis people  
5 and their descendants to obtain a  
6 lasting place in the new Province.  
7 Sadly, the expectations of the Metis  
8 were not fulfilled and they were  
9 scattered in the face of settlement  
10 that were marked in the ensuing  
11 decades."

12 That's the frame, and finally we have the Supreme  
13 Court of Canada telling us what we always knew,  
14 but which governments as well as Manitoba Hydro  
15 continue to deny within this province.

16 The Supreme Court of Canada goes on  
17 further to say that Canada breached the honour of  
18 the Crown owing to the Metis in relation to those  
19 land based promises for 1.4 million acres of land  
20 on what we are sitting on today, for the Metis to  
21 be a fundamental part of this province they helped  
22 to create.

23 And those are the promises embedded  
24 within Section 31 of the Manitoba Act, and they  
25 remain unfulfilled. And the Supreme Court of

1 Canada has acknowledged that that was breached.

2 It is these promises, and I think that  
3 we have to understand this, I want to connect this  
4 to what we see going on in the hydro partnership.

5 It is these promises, whether they are  
6 constitutional in nature in relation to the  
7 Manitoba Metis, or embedded in the historic  
8 Treaties, that are what this country is built on.  
9 These are the constitutional compacts that make us  
10 who we are. And we all work today in this room to  
11 make sure we breathe life into them and not  
12 continue the same shameful indifferent history of  
13 the past.

14 And what you are seeing through the  
15 partnership is that's begun to change. You see  
16 with the First Nations, 50 years ago Treaties were  
17 not worth the paper they were written on in the  
18 perspective of many governments and many decision  
19 makers. Manitoba Hydro's indifference lead to the  
20 sorry history that we all know in the north. But  
21 there is, through intervention of the courts, as  
22 well as political goodwill and negotiations, we  
23 are finding rebalances on that. And as you will  
24 hear from First Nation partners, that is taking  
25 shape.

1                   The problem is, and the Metis run  
2 about 20 to 30 years behind in the courts, that  
3 isn't happening with the Metis. The same  
4 indifference and arrogance that Manitoba Hydro  
5 exhibited to the First Nations in the past  
6 continues towards the Manitoba Metis Federation,  
7 and you are going to hear about that.

8                   This Commission in 2004, in Wuskwatim,  
9 said change. In 2012, you once again said, you  
10 have got to find a better way to deal with the  
11 Manitoba Metis Federation and the Metis Nation in  
12 Manitoba. That's not changed. What you are going  
13 to see through our intervention and us testing the  
14 EIS is that, while Manitoba Hydro has come to  
15 grips with how to deal with First Nations, it  
16 still doesn't with Metis.

17                   So Manitoba Hydro, this arrogance has  
18 lead to First Nations -- in the past this  
19 arrogance lead to First Nations turning their  
20 collective action -- to collective action as well  
21 as the courts because their constitutional  
22 commitments, their Treaties were not being  
23 respected. Ultimately through negotiations and  
24 agreements like the Northern Flood Agreement, a  
25 new path was blazed. And while not perfect, we're

1 witness in this hearing to four First Nations  
2 being partners with Manitoba Hydro in new  
3 developments, rather than being collateral damage.

4           The MMF applauds these efforts. We  
5 take nothing away from them. And we say that we  
6 know that Manitoba Hydro can do it if they know  
7 they need to. The reality is that they don't do  
8 it. The partnership agreement, the partnership  
9 and the adverse effects agreements with First  
10 Nations show that Manitoba Hydro can learn, but it  
11 needs to be -- it needs ongoing nudging. This  
12 indifference and disregard will, more likely than  
13 not, lead us to the Metis being in the courts. We  
14 have already appealed the Bipole III licence  
15 issued by the Minister, and more likely than not  
16 we will be appealing that in the Manitoba Court of  
17 Queen's Bench. Because until Manitoba Hydro  
18 changes its approach to Metis, the same way that  
19 it has over the years changed its approach to  
20 First Nations, you are going to see ongoing  
21 deficient environmental assessments and projects  
22 that don't consider Metis rights and interests as  
23 well.

24           Our intervention throughout the next  
25 month and a half is going to focus and highlight

1 on where those deficiencies lie. This takes  
2 nothing away from the partnership that has been  
3 developed with First Nations. But the reality is  
4 that partnerships with First Nations don't mean  
5 that there can't be any place for other Aboriginal  
6 groups who are affected at all. It doesn't mean  
7 that everyone needs to be the same. But it does  
8 mean that people need to be respected. And with  
9 that, we hope that you will help find our  
10 interventions and our testing of the evidence  
11 informative. Hopefully, once again this  
12 Commission will nudge the government on ultimately  
13 saying, you have to, Manitoba Hydro has to adapt  
14 and change the reality of how it deals with Metis.  
15 But the reality is that if not, ultimately these  
16 issues will more likely than not be worked through  
17 the courts, similar to how they have in the First  
18 Nations context. Thank you.

19 THE CHAIRMAN: Thank you, Mr. Madden.  
20 Consumers Association of Canada, Manitoba?

21 MR. WILLIAMS: Yes. Good morning,  
22 Mr. Chair, Board Member Shaw, board member --  
23 Commission member Bradley, Commission member  
24 Nepinak, Commission member Yee. My name is Byron  
25 Williams and I represent the Consumers Association

1 of Canada, the Manitoba branch.

2 Just for the Commission's information,  
3 our client has provided an outline of its  
4 submissions for this morning. It is titled  
5 "Certitude or Dilemma," with the subtitle  
6 "Inevitability, Dissonance and Cumulative  
7 Effects."

8 Mr. Chair, before beginning I would be  
9 remiss if I didn't introduce my client, Ms. Gloria  
10 DeSorcy, executive director of the Consumers  
11 Association. You won't see her at the CAC  
12 Manitoba bench, but if you look back in the room  
13 beside Ms. Mueller, she will be watching no doubt  
14 with rapt attention.

15 At the bench, or at the table for CAC  
16 is my colleague, Aimee Craft, and also our  
17 articling student, Mr. Joelle Pastora Sala.

18 Our consortium takes to heart the  
19 comments of our friend, Mr. Bedford, about the  
20 partnership. And I note that generally during the  
21 outline, I referred to the Partnership, but I did  
22 slip up at one point in time and refer to Manitoba  
23 Hydro. No disrespect was intended and I certainly  
24 apologize for that.

25 Just turning to page 2 of the outline,

1 members of the panel, we give you a bit of  
2 background about CAC Manitoba. You will know that  
3 they were participants in both the Wuskwatim  
4 hearing as well as the Bipole III hearing. They  
5 bring an evidence based perspective to these  
6 proceedings, focused on representing the consumer  
7 interest with a number of key goals, including  
8 empowering consumers with the skills and knowledge  
9 to make sound, sustainable choices.

10           And there are eight core consumer  
11 rights that guide any Consumer Association of  
12 Canada (Manitoba) intervention. I have set out  
13 five of them that are particularly relevant to  
14 this hearing on page 2, and I have highlighted  
15 certainly the right to a healthy environment. And  
16 certainly, what my client advises me is that  
17 increasingly today, Manitoba consumers are looking  
18 for products that are environmentally sound, and  
19 produced and acquired in a socially responsible  
20 way.

21           And our client's mandate to the legal  
22 team and experts in this hearing is set out on the  
23 bottom of page 3, three core questions that --  
24 page 2, excuse me -- three core questions that our  
25 client has asked us. What are the true

1 environmental, social and economic costs and  
2 benefits of this development? Secondly; is any  
3 community or geographic region bearing an  
4 unreasonable share of the adverse effects, risks  
5 or costs of the proposed project? And third; do  
6 consumers have the information they need to make  
7 an informed choice on the products they are  
8 consuming, whether that's electricity or wild  
9 fish?

10           At page 3 of the outline we set out,  
11 we put the headline "Certitude or Dilemma," and we  
12 have also set out some excerpts from the  
13 principles of sustainable development. And  
14 certainly from our client's perspective, these  
15 principles of sustainable development speak to  
16 many of the difficult analytic and philosophical  
17 challenges underlying this proceeding. Because in  
18 essence, the partners are presenting a bold, not  
19 to say radical, remedy to address the profound  
20 social, economic and biophysical disruption caused  
21 by past hydroelectric and other development  
22 activities in the Nelson River Watershed, a bold  
23 remedy.

24           Indeed, it is somewhat initially  
25 counterintuitive to think of a remedy to the often

1 tragic legacy of past hydroelectric development  
2 being more hydroelectric development, albeit  
3 offered with a profoundly different model,  
4 premised on greater partnership by the KCN, and  
5 also by the promise of certain economic rewards.

6           Staying with these principles of  
7 sustainable development, we have highlighted on  
8 this page certain language. Because in our  
9 client's respectful view, at the heart of this  
10 proceeding is a challenge of reconciliation. The  
11 principles of sustainability demand not just an  
12 acknowledgment of past injustice, but a forward  
13 looking remedy. And if you look at these  
14 principles on page 3, you can see the difficult  
15 task of reconciliation. Section 3(4), it is  
16 important to consider the aspiration, needs and  
17 views of the people of various geographic regions,  
18 including the Aboriginal people. Certainly there  
19 are economic and partnership opportunities flowing  
20 to the KCN from this proposal.

21           Item number 5, we should be  
22 maintaining the ecological processes, biological  
23 diversity and life support systems of the  
24 environment. And (d), enhancing the long term  
25 productive capability, quality and capacity of

1 natural ecosystems.

2                   And finally under 5, endeavoring to  
3 repair damage to or degradation of the  
4 environment.

5                   Recognize the aspirations of the First  
6 Nations, maintain the ecological processes,  
7 enhance the long term productivity, repair past  
8 damage, a difficult task, and certainly our client  
9 will be struggling. The dilemma our client will  
10 be struggling with is whether Manitoba Hydro and  
11 its partners, the Partnership, have appropriately  
12 reconciled these aims.

13                   Our client speaks of certitude, and it  
14 is a bit surprising to our client that there is  
15 already so much certitude expressed about this  
16 project, either for it from the Partnership, or  
17 against it by certain participants in this  
18 hearing. Because certainly from our client's  
19 perspective, their approach to this hearing is one  
20 of sensing a dilemma, not of certitude. And we  
21 put some language in the -- on page 4 of the  
22 outline, which really in our client's view well  
23 expresses the simplicity, perhaps banality of the  
24 certitude of certain perspectives.

25                   You see the description of the energy

1 produced by Manitoba Hydro is clean energy and a  
2 suggestion that the project is designed to  
3 minimize the effects on the environment.

4           From our client's perspective, given  
5 the profound legacy of hydroelectric development  
6 on the Nelson River, and the material risks  
7 associated with the superimposing a major  
8 development project upon an already profoundly  
9 disturbed environment, it takes an astonishing  
10 degree of certitude to describe the effects of the  
11 project as minimized, or to describe  
12 hydroelectricity as clean. If they would have  
13 used words such as renewable, low GHG-emitting,  
14 perhaps our clients would not have been so  
15 astonished. But clean?

16           Our client does take comfort and they  
17 have some sympathy for the expression, turning to  
18 page 5 of the outline, for the dilemma as it has  
19 been so poignantly expressed by both leadership  
20 and membership of a number of the affected First  
21 Nations. And I note you heard while you were up  
22 north just last month from Chief Constant from  
23 York Factory, who talks about how she knows all of  
24 the benefits will not come without, you know, a  
25 lot of consequences. And certainly Mr. Bland in

1 that hearing also talked about the difficult  
2 emotional struggle for a number of the people in  
3 his community.

4           So, our client believes that this is a  
5 complex, difficult decision. They certainly do  
6 not have certitude. And they want to flag a  
7 couple of issues that make the issue in particular  
8 complicated. One is that the EIS response itself  
9 does not invite a coherent, integrated analysis.  
10 This has been expressed in different ways in the  
11 hearing. The Keeyask Cree Nations themselves have  
12 argued that the VEC approach ignores the  
13 inter-relatedness of people, animals, water,  
14 landscape and plants. And our clients agree with  
15 that. Certainly, there was a difficult challenge  
16 for our clients in trying to weigh the potential  
17 economic benefits and efforts at partnership  
18 against the superimposition of a major project  
19 upon a disturbed environment.

20           At page 6 of our outline we talk about  
21 inevitability, the quote is in there for your  
22 benefit, as well as dissonance. We talk about the  
23 dissonance of clean energy statement versus the  
24 Nelson River reality. And the fact that there is  
25 so many uses of the word "substantial" in this

1 application, and so few significantants.

2           Just in closing, perhaps the biggest  
3 dissonance in this hearing, turning to page 7,  
4 relates to cumulative effects. The EIS, as our  
5 client understands it, suggest that there will be  
6 no significant adverse cumulative effects due to  
7 the Keeyask project. Yet look at the words from  
8 the York Factory First Nation: The effects  
9 continue to reverberate along the Nelson River  
10 system, impacting the people, not just the land,  
11 and that Keeyask is expected to further  
12 destabilize our increasingly compromised  
13 environment.

14           Our client asks at the top of the page  
15 8 -- then I will move right to my conclusion  
16 Mr. Chair -- where is the cumulative effects  
17 panel? And that's certainly a notable omission in  
18 terms of the evidence.

19           At pages 8 through 10, I have set out  
20 some of the key questions that will be posed by  
21 the CAC Manitoba witnesses, and they are there for  
22 your reading pleasure.

23           At the end we note, perhaps too  
24 simplistically, that a hydroelectric generating  
25 station may operate almost in perpetuity. And

1 like others before on this panel, our client echos  
2 that point, that the implications of this decision  
3 may last just as long.

4           The issues raised in this EIS are  
5 profound, with far reaching implications for the  
6 health of the Nelson River system, its people and  
7 our province. And looking back at the Keeyask EIS  
8 two to five years from now, our clients would just  
9 say that the -- we won't be valuing it based upon  
10 how many maps it produced, how much information it  
11 produced, but the role it played in supporting a  
12 sound decision about the overall significance of  
13 the project and the broader Nelson River  
14 Watershed.

15           We wish the panel good luck in its  
16 deliberations and thank you for your  
17 consideration.

18           THE CHAIRMAN: Thank you, Mr.  
19 Williams.

20           Next up is the Fox Lake Grassroots  
21 Citizens.

22           MS. PAWLOWSKA-MAINVILLE: For the  
23 record, my name is Agnieszka Pawlowska-Mainville,  
24 and I will be speaking today on behalf of the  
25 CFLGC, the Concerned Fox Lake Grassroots Citizens.

1 I am a doctoral student completing my thesis in  
2 native studies. My thesis is about Asatiwisipe  
3 Anishinaabe, or Poplar River First Nations  
4 application of the world heritage site initiative  
5 called Pimachiowin aki on its traditional  
6 territory.

7 Many of our team members here at CFLGC  
8 are unavailable to be here because of a death in  
9 Fox Lake. And Dr. Kulchyski, a leading scholar in  
10 his field, regrets that he is unavailable to be  
11 here today as he is attending a conference in  
12 England. He will, however, be here for the rest  
13 of the presentations and will be active during the  
14 hearings. I know he feels deeply that his  
15 research knowledge be brought to bear on the  
16 critical questions facing Northern Manitoba at  
17 this time.

18 The CFLGC developed as a result of one  
19 vision of an elder from Fox Lake Cree Nation, or  
20 Makeso Sakahikan, who wanted to ensure that the  
21 critical voices and views of members of his  
22 community were not submerged in the rush to build  
23 more dams.

24 I met Mr. Massan and put him in touch  
25 with Dr. Kulchyski. It is rare to have this kind

1 of partnership between a senior professor and a  
2 the respected elder, but we think it has proven  
3 fruitful. Along with Mr. Massan, we interviewed  
4 and worked with four other elders and four other  
5 community leaders. While this number may appear  
6 small, research and traditional knowledge has come  
7 to recognize that intensive work with fewer people  
8 produces much stronger results than quantitative  
9 data gathering with larger numbers of people.  
10 Large impersonal surveys actually produce no  
11 significant knowledge of value and can often  
12 create misperceptions.

13                   The best published works of  
14 traditional knowledge that have emerged over the  
15 last few decades are studies, reports, or  
16 ethnographies with one or two participants. The  
17 names of Louie Bird or George Blondel, for  
18 example, have become known as rich sources of  
19 traditional knowledge. Julie Cruickshank's book,  
20 *Life Lived Like a Story*, was done in collaboration  
21 with three elders, Angela Sidney, Annie Ned and  
22 Kitty Smith in the Yukon. This is perhaps the  
23 gold standard for research of this sort. Sagijuk  
24 by Nancy Wachowich, which was three Inuit  
25 participants, is another recent study that uses

1 this model.

2 Building trust and spending time with  
3 particular elders allows for more knowledge to be  
4 gained than administering impersonal surveys and  
5 interviewing many people over a short period of  
6 time. The latter form of research cannot be  
7 adapted to meet the local cultural protocols and  
8 can not produce significant or rich results. In  
9 fact, it often produces misleading results.

10 We will have video excerpts, because  
11 we found that many of our subjects were eager to  
12 speak for themselves, not in Gillam where their  
13 voices and their stories are already known, but  
14 right here in Winnipeg. Many felt that what they  
15 have been saying for numerous years already had  
16 been filtered out of the reporting that was done.  
17 Therefore, they wanted to be sure that they could  
18 "tell their stories" or say what was on their mind  
19 in this setting, right here in Winnipeg, to the  
20 people in the south. As such, we have spent  
21 significant amounts of time interviewing subjects  
22 in their homes, on the lands, and in the case of  
23 Mr. Massan and others, also in the research  
24 facility at the University of Manitoba. Hence our  
25 presentation will involve testimony from many

1 community members. Some will be directed through  
2 questions to give them appropriate guidance and to  
3 ensure their comfort when speaking in front of  
4 large groups. We will start with Mr. Massan, and  
5 then move through a number of community elders,  
6 including Ivan Moose, Thomas Nepetaypo, Christine  
7 Massan and others.

8           As well we have asked other community  
9 members who have relevant comments to the Keeyask.  
10 Ramona Neckoway, a doctoral student originally  
11 from Nisichaywasihk will speak to the experience  
12 of a recent development that's similar, an  
13 agreement in her community. Judy Desilva, an  
14 award winning environmentalist from Grassy Narrows  
15 First Nation, will speak on issues around  
16 environmental degradation. I myself will speak to  
17 the importance of non-tangible cultural heritage  
18 as it is being recognized at the United Nations  
19 level. And Dr. Kulchyski will speak on several  
20 inter-related issues, including, but not limited  
21 to Aboriginal and Treaty rights, the partnership  
22 agreement around this project, and the ethics of  
23 continued hydro development in Northern Manitoba.

24           With great respect to Fox Lake Cree  
25 Nation, to the partners who are proponents of this

1 project, and to Manitoba Hydro itself, it is the  
2 position of CFLGC that the Keeyask project should  
3 not be built. The community's support for Keeyask  
4 and Fox Lake's agreement was dependent on outcomes  
5 of studies, particularly the social impact study,  
6 and none of them were made available to the  
7 community. The damage that further hydro  
8 development will do, as past experience has  
9 clearly shown, will far outweigh the meager, if  
10 any, benefits that it may provide to the  
11 community. We believe that this dam should at  
12 least be delayed until a comprehensive cumulative  
13 environmental, social assessment is done. One in  
14 which communities are talked to together, and in  
15 which different models for agreements, including a  
16 Peace of the Braves, which we will discuss, and  
17 revenue resource sharing are presented as options.

18 That is, a global, cumulative,  
19 comprehensive discussion is needed that looks at  
20 different models, best practices around the world,  
21 and that comes up with a better way.

22 We can not separate land based people  
23 and the environment. And members of our team feel  
24 that they can not stop these projects, but want  
25 people at least to hear their experiences of

1 living with hydro development and the price they  
2 pay for each additional project on their land.

3           Anything less, we are continuing a  
4 pattern that has proven to be socially devastating  
5 to indigenous people in Northern Manitoba.  
6 Anything less may lead to another generational  
7 "legacy of hatred" in Dr. Kulchyski's words,  
8 towards Manitoba Hydro by the people who will grow  
9 up in the shadow of the decisions that will be  
10 made today.

11           We are realistic and appreciate that  
12 our views will not likely find favour in this  
13 forum. We are also prepared, based on our  
14 knowledge and findings, to make recommendations  
15 for how the existing process may be improved or  
16 mitigated. We believe that you, the CEC panel,  
17 has a very heavy obligation here and now. If you  
18 look at these communities which have been engaged  
19 with Manitoba Hydro for many decades, the social  
20 conditions that prevail are deplorable. The  
21 ability of people to use their land base to  
22 sustain their culture has been significantly  
23 eroded. While at one time Manitoba Hydro's  
24 planners, and indeed the Provincial political  
25 leadership classes of this Province exhibited a

1 callous disregard for the fate of indigenous  
2 communities, relocating them and destroying their  
3 land base in a way that saw them as obstacles to  
4 development.

5           We hope we live in a more enlightened  
6 time. We hope you have a real concern for the  
7 well-being of a people who will be most affected  
8 by these projects, and that such a concern  
9 permeates all of our groups; the First Nations  
10 leadership, Manitoba Hydro, the CEC, the  
11 mainstream political leaders, the scholars,  
12 lawyers and consultants who are engaged in this  
13 process.

14           The question, if that concern exists,  
15 is how to best achieve a measure of justice that  
16 will ensure the well-being of the people of those  
17 backs massive profits may be made. We desire a  
18 future in which Hydro affected communities are not  
19 the Province's dirty little secret, but are  
20 measurably better off than other communities, and  
21 show the world that things can be done in a better  
22 way. We have ideas on what that means and we will  
23 present those ideas here.

24           Finally, it has been a great pleasure  
25 and honour for us to be able to work with all of

1 the elders, especially Noah Massan. And Dr.  
2 Kulchyski has asked me to say the following, to  
3 which I strongly agree.

4 "In the course of my work, I have met  
5 what could be considered a lot of  
6 those important elders across the  
7 north. And indeed, I believe the  
8 elders of Northern Manitoba are still  
9 largely an unappreciated asset of this  
10 province. Noah Massan is a genuine  
11 treasure. We have seen him  
12 demonstrate the strength of character  
13 that only comes with great courage and  
14 determination. You may know that he  
15 suffers from what is diagnosed as  
16 Kennedy's disease, a debilitating  
17 affliction that would have entirely  
18 stopped a lesser man, which was  
19 predicted for him. We have seen Noah  
20 fall and crawl and stagger and grope  
21 for support, all with grace and  
22 determination. We have seen him  
23 suffer criticism and isolation for the  
24 stand that he takes today. I believe  
25 he takes the stand not for himself,

1 but for his people. I have learned of  
2 his great knowledge of and love for  
3 his lands and his people. He has a  
4 quality we find very rarely in the  
5 public life today; courage. I admire  
6 him and hope our work will measure up  
7 to his great character."

8 I, Angieszka Pawlowska-Mainville, on  
9 behalf of the Concerned Fox Lake Grassroots  
10 Citizens, thank you for your time. Egosi.

11 THE CHAIRMAN: Thank you very much.  
12 Next Pimicikamak?

13 MR. PAUPANAKIS: Good morning, Mr.  
14 Chairman, panel. My name is Darwin Paupanakis.  
15 I'm secretary to the four councils of Pimicikamak  
16 Okimawin, our government. Pimicikamak lives with  
17 the ongoing impacts and the environment  
18 devastation of the existing Hydro development in  
19 Northern Manitoba every day. We feel the impacts  
20 throughout our territory, which extends up to the  
21 Keeyask area. We use the land and waters and  
22 exercise our inherent treaty rights throughout our  
23 territory, but our ability to exercise our rights  
24 has been extremely impacted and continues to be  
25 impacted by Hydro development.

1                   We are here because our people are  
2    terrorized, they are terrified of the new and  
3    cumulative impacts of Keeyask on the lands,  
4    waters, the animals, birds, and the people.

5                   We have paid a huge price already, and  
6    we continue to pay a huge price for this Hydro  
7    development. Our economy has been decimated, our  
8    people have been hurt, and they have been killed.  
9    Our lands have been destroyed, our waters have  
10   been forever altered and made unsafe. Our way of  
11   life has been destructed. Our identity as a  
12   people is being silently erased. The ancestors of  
13   our people are being eroded from the land, grave  
14   sites washed away by hydro development, and still  
15   it continues to do that at this very moment, all  
16   because of this existing hydro development in  
17   Northern Manitoba.

18                  We are worried about the impacts  
19   Keeyask has because our eco-system is already so  
20   delicate from the development already built. We  
21   are afraid that any impacts on Keeyask, no matter  
22   how small, will have the potential to cause a  
23   chain reaction and destroy what little is left of  
24   our environment.

25                  We want to make sure during these

1 hearings that the CEC takes into account the  
2 current state of our environment when assessing  
3 the environmental impacts from Keeyask. We have  
4 seen the devastation that comes with hydro  
5 development. It can not happen again with  
6 Keeyask. The water levels in our territory are  
7 always changing because of Manitoba Hydro's  
8 operations. This causes erosion throughout our  
9 territory and makes it dangerous to travel. You  
10 will hear these stories about these dangers in our  
11 evidence during these hearings.

12 Manitoba Hydro changes the water  
13 levels at times of the year when Pimicikamak  
14 citizens want to go out and use the land the most,  
15 during the duck, goose and moose hunting seasons.  
16 Many of our young people do not use the land or  
17 exercise their rights because of the risks and our  
18 fear of our own environment. Hydro development  
19 has destroyed our ability to use the land and our  
20 way of life. You will hear stories about the  
21 serious impacts and the additional impacts we  
22 expect from Keeyask.

23 Manitoba Hydro has tried many  
24 mitigation measures in the past without consulting  
25 our people. We have experienced these and we will

1 tell you what works, but more importantly, what we  
2 know does not work on the ground and in the water.  
3 We are very concerned that no one has looked at  
4 the regional cumulative effects of hydro  
5 development in Manitoba, no one has looked.

6                   How can the CEC know and assess the  
7 environmental impacts from Keeyask without  
8 first -- without first understanding the  
9 environmental devastation that has already  
10 occurred?

11                   We will present evidence during these  
12 hearings on why a regional cumulative effects  
13 assessment is necessary, what it must look like,  
14 and when it has to be done. You need to know the  
15 environmental impacts of Keeyask. The only way  
16 that you can know this is by considering all of  
17 the impacts that are there because of hydro  
18 development to date. The Pimicikamak has been  
19 profoundly impacted by hydro development to date,  
20 and we will be further impacted by Keeyask.

21                   We will do our best to give the CEC  
22 evidence on this hearing on expected impacts from  
23 Keeyask on Pimicikamak and our environment. We  
24 are disadvantaged.

25                   Before we can know the impacts of

1 Keeyask in our environment, we first need to  
2 understand what is going on now in our  
3 environment? How fragile is the land, the waters,  
4 the animals and the birds? Who uses the land and  
5 waters? How do we use it? We can only get this  
6 through a land use and occupancy study for  
7 Pimicikamak. Until we get the results of these  
8 studies, we can not properly assess the possible  
9 effects of Keeyask on Pimicikamak and the  
10 environment. These studies have not yet been  
11 done. We continue to ask for these studies and we  
12 will continue to ask until we get answers.

13           The CEC needs all of the information  
14 before it can complete an assessment of the  
15 environmental impacts of Keeyask and give the  
16 Minister recommendations. Until the CEC has this  
17 information and properly assesses the true, direct  
18 and cumulative environmental impacts of Keeyask,  
19 and imposes adequate mitigation measures, the CEC  
20 should not recommend that a licence be issued for  
21 Keeyask.

22           And for the perspective in short, what  
23 has happened to our people is basically our church  
24 has been partially destroyed. The laws that come  
25 from the Creator have been erased from the memory

1 of the people who preach it. The elders, the  
2 kaysaya (ph), as we call them, the word, the root  
3 word comes from love. They cannot pass that on to  
4 future generations. They can not express that  
5 love because their church has been destroyed. So  
6 goes our identity. The Creator put us here for a  
7 reason and we have to live with that.

8 So thank you for taking the time to  
9 listen to me this morning. That's my opening  
10 statement and Stephanie Kearns will make her  
11 statement as well.

12 THE CHAIRMAN: You still have about a  
13 minute or too.

14 MS. KEARNS: Stephanie Kearns, I'm  
15 legal counsel for Pimicikamak. My colleague Kate  
16 Kempton will also be appearing during these  
17 hearings.

18 Quickly, Pimicikamak will argue and  
19 present evidence as Mr. Paupenakis, has just  
20 explained, at these hearings that a licence for  
21 Keeyask cannot be issued at this time because key  
22 information and analysis is missing, that the  
23 Commission must have to make an informed  
24 recommendation and recommend adequate licence  
25 conditions to the Minister.

1 Pimicikamak will present evidence and  
2 make submissions on what is missing and the impact  
3 that that missing information has on the task  
4 before the Commission. This evidence will be  
5 presented through three witnesses for Pimicikamak,  
6 Mr. Paupanakis, Darrell Settee, an executive  
7 councillor Lee Roy David Muswaggon. As well  
8 Pimicikamak will have an expert witness, Dr.  
9 Annette Luttermann, who has worked with  
10 Pimicikamak for many years and will present  
11 evidence on the ecological devastation and some of  
12 the deficiencies in the EIS.

13 Thank you for your time.

14 THE CHAIRMAN: Thank you very much,  
15 Mr. Paupanakis and Ms. Kearns. I will try once  
16 more, anyone from the York Factory Citizens group  
17 in the room to make an opening statement? Okay,  
18 if not, I'm going to take two minute time out and  
19 just consult with the partnership on how we might  
20 proceed. I will be back up here in a minute or  
21 two.

22 (Recess taken)

23 THE CHAIRMAN: Just to proceed  
24 momentarily, or for a moment or two. The  
25 Partnership confirmed what I believed, that some

1 of the chiefs in the partnership who will be part  
2 of the opening statement this afternoon, were not  
3 expecting to be here until 1:30. We are well  
4 ahead of schedule. There is nothing to fill the  
5 time slot at this time. That won't happen for  
6 long as we get into the process, if we have open  
7 holes, we will have other things to slot things in  
8 there. So we will take a break now and we will  
9 reconvene at 1:30 sharp.

10 (Proceedings recessed at 11:30 a.m.  
11 and reconvened at 1:30 p.m.)

12 THE CHAIRMAN: Good afternoon. We'll  
13 reconvene. This afternoon will I expect be fully  
14 consumed by the Partnership introducing the  
15 project to us. We will take at least one break,  
16 more or less mid afternoon, but we're scheduled to  
17 go from now until 4:30.

18 I believe Mr. Ken Adams from the  
19 partnership will be taking the lead and I'll turn  
20 it over to him and ask him to introduce himself  
21 and his panel members, and then proceed with their  
22 introductory presentations and comments.  
23 Mr. Adams.

24 MR. ADAMS: Yes, thank you,  
25 Mr. Chairman, good afternoon. Commission members,

1 chiefs, elders, youth, ladies and gentlemen, my  
2 name is Ken Adams. I am the chair of the  
3 proponent, the Keeyask Hydropower Limited  
4 Partnership. The chiefs of the four Keeyask Cree  
5 Nations, starting at my far right; Chief Walter  
6 Spence from Fox Lake Cree Nation, Chief Louisa  
7 Constant from York Factory First Nation, Chief  
8 Betsy Kennedy from War Lake First Nation, and  
9 Chief Michael Garson from Tataskweyak Cree Nation.

10           Among other things, I am a senior  
11 vice-president at Manitoba Hydro and I am the  
12 executive with primary responsibility for the  
13 development of the Keeyask project. I am also  
14 president elect of the International Hydropower  
15 Association, and I will come back and discuss the  
16 relevance of that later on in the discussion.

17           The Keeyask partnership is pleased to  
18 present this project and its Environmental Impact  
19 Statement for your review. It is the result of  
20 more than a decade of planning, study and design  
21 involving both Manitoba Hydro and our Keeyask Cree  
22 Nation partners.

23           We are looking forward to what I'm  
24 sure will be a vigorous discussion. We are  
25 confident that when these hearings conclude, we'll

1 have demonstrated the environmental merits of the  
2 project to the satisfaction of this Commission, so  
3 you are able to recommend to the Province that it  
4 issues a licence for us to proceed.

5           Nine years ago we were before this  
6 Commission to present the Wuskwatim Generating  
7 Station, which is owned and operated by Manitoba  
8 Hydro and Nisichawayasihk Cree Nation. Wuskwatim  
9 began generating about 18 months ago and has  
10 provided us all with considerable current  
11 experience in identifying, preventing and managing  
12 potential environmental impacts. We have been  
13 able to incorporate these lessons into the Keeyask  
14 project.

15           Again, in 1992, long before any  
16 legislative requirements, Manitoba Hydro became  
17 one of the first major companies in Canada to  
18 adopt and publish its own principle of sustainable  
19 development. In part, this was to recognize the  
20 corporation's responsibility as a caretaker of the  
21 environment, and the need to integrate  
22 environmental and social considerations into  
23 decision-making at all stages of the project.

24           As such, sustainable development has  
25 been an underlying characteristic of the Keeyask

1 project from Manitoba Hydro's earliest discussions  
2 with the Keeyask Cree Nations. It has been  
3 carefully planned and designed to ensure social,  
4 economic and environmental sustainability. The  
5 project not only addresses the environmental,  
6 social and economic goals and guidelines of  
7 Manitoba Hydro's own sustainable development  
8 principles, but it also addresses other  
9 initiatives currently in force, including the  
10 Federal Sustainable Development Act and the  
11 Sustainable Development Act of Manitoba.

12           Similarly, it is important to Manitoba  
13 Hydro that the First Nations people who live in  
14 the directly affected areas are fully involved in  
15 the planning and shaping of the project, are able  
16 to take part in its implementation, and will have  
17 access to its benefits. Their direct and fulsome  
18 participation has helped to ensure we have the  
19 best project possible.

20           Manitoba Hydro has an extremely  
21 rigorous internal decision-making process. In  
22 part, it's designed to measure a product against  
23 the various sustainability criteria and to ensure  
24 any recommendation regarding major investments  
25 that we, as the executive management team, make to

1 our board is in the best overall interest of our  
2 customers.

3 We firmly believe Keeyask is an  
4 excellent project when reviewed from each of the  
5 economic, environmental and social perspectives,  
6 or the so-called triple bottom line.

7 Earlier I referred to the  
8 International Hydropower Association, or IHA as  
9 it's known as. Since 2000, the IHA has worked  
10 with other interested partners to develop a  
11 practical approach to implementing the core values  
12 and strategic practices recommended by the World  
13 Bank's World Commission on Dams. The result is a  
14 sustainability assessment protocol endorsed by  
15 environmental organizations, including the World  
16 Wildlife Fund and the Nature Conservancy. It's  
17 endorsed by social organizations, including  
18 Transparency International and Oxfam, and is  
19 endorsed by funding organizations such as the  
20 World Bank and the Equator Principles Banks. Also  
21 involved in endorsing it are both developing  
22 country governments and developed country  
23 governments.

24 The protocol is not intended to be a  
25 substitute for a regulatory process such as this.

1 It does, however, provide a formal, comprehensive,  
2 evidenced based mechanism to assess any project  
3 against predetermined international standards.

4 Under this assessment, Keeyask has  
5 been rated as proven international best practice  
6 on three quarters of the applicable aspects, and  
7 at least proven international good practice on the  
8 remainder. As such, it is internationally  
9 recognized as a prime example of sustainable  
10 development in action.

11 Unlike the Wuskwatim hearing where the  
12 Commission evaluated all three sustainable  
13 development perspectives, at this hearing you will  
14 be primarily focused on the environmental and  
15 social aspects of the project, with the Public  
16 Utilities Board reviewing the economic and  
17 financial perspectives.

18 Overall, Keeyask continues to follow  
19 what is still a fundamentally new and different  
20 approach to development of Manitoba's  
21 hydroelectric resources. I would like to describe  
22 a few of the outcomes and benefits of this  
23 approach under the headings of partnership,  
24 sustainable development, economics, the  
25 environment, and the social aspects of the

1 project.

2 First the partnership. We, as the  
3 partnership, as the project proponent, come before  
4 the Clean Environmental Commission as a  
5 partnership governed by the joint Keeyask  
6 Development Agreement. The project is a result of  
7 more than a decade of planning and study and  
8 design processes involving both Manitoba Hydro and  
9 the four Keeyask Cree Nations.

10 As you will hear from my fellow  
11 panelists, the chiefs, in addition to working  
12 directly with Manitoba Hydro, they developed and  
13 undertook independent community specific  
14 environmental evaluation processes based on the  
15 their own experiences and perspectives.

16 Second, sustainable development.  
17 Hydroelectric power generation remains the most  
18 environmentally sustainable and cost effective  
19 bulk electricity supply alternative, with  
20 virtually no emissions compared to coal or natural  
21 gas. These are qualities our customers, both in  
22 Manitoba and in our export markets, value as they  
23 move forward in reducing the environmental impacts  
24 of their own operations and economies.

25 The project will contribute to

1 reductions in global greenhouse gases, contribute  
2 to increases in regional lake sturgeon  
3 populations, provide employment opportunities for  
4 Aboriginal and northern workers resulting from  
5 extensive pre-project training that was provided  
6 between 2003 to 2010 as part of this project. It  
7 will enable the Keeyask Cree Nations to build  
8 entrepreneurial skills, and profit from  
9 construction contracts, as well as their  
10 investment as equity partners. And the project  
11 will produce long-term secure, renewable energy  
12 for Manitobans and our export customers.

13                   Thirdly, the economics. The project  
14 will be a major contributor to Manitoba's economy.  
15 For many generations it will generate revenues  
16 through power sales locally and to customers in  
17 other provinces and in the U.S. Earnings will  
18 flow to the partner communities as well as to the  
19 Province through Manitoba Hydro. These revenues  
20 will contribute to Manitoba Hydro maintaining  
21 among the lowest cost electricity service in North  
22 America.

23                   As we are all aware, Manitoba Hydro  
24 operates in a complex continually evolving  
25 business environment that reflects the changing

1 and diverse perspectives of our customers, our  
2 owners, and other stakeholders throughout the  
3 Province. It also involves changes throughout the  
4 rest of North America, and to some extent the rest  
5 of the world. Our business environment is also  
6 affected by unfolding events throughout the  
7 continent, such as the structural changes in the  
8 electricity industry, and by global issues such as  
9 climate change, world economic fluctuations,  
10 geo-political and technological developments. The  
11 Keeyask project we are proposing has been shaped  
12 by all of these influences and will continue to be  
13 for the next century or more. Hydropower has  
14 always been about the long view.

15           Fourth: The environment. The  
16 project, without mitigation, would undoubtedly  
17 cause numerous and widespread environmental and  
18 socio-economic effects. Some of it would have had  
19 the potential to be significant. To avoid this,  
20 the partnership has or will mitigate, remediate,  
21 and compensate for these effects using past  
22 experience, Aboriginal traditional knowledge, and  
23 state of the art scientific and engineering  
24 techniques. Probably the most telling example of  
25 the partnership balancing environmental

1 considerations against financial considerations is  
2 the scaled reduction of the plant from the  
3 original design for 1150 megawatts, which would  
4 have flooded 183 square kilometres, to the  
5 proposed 695-megawatt plant that will flood less  
6 than a quarter as much.

7 I also want to comment on sturgeon  
8 because they are culturally and spiritually  
9 important to the Cree and because of their special  
10 status as a heritage species in Manitoba. They  
11 have been designated as endangered and are being  
12 considered for listing under the Species at Risk  
13 Act. But I can categorically state that sturgeon  
14 in the Keeyask region will be better off with the  
15 project than without it. This is because an  
16 integral part of the project is a combination of  
17 mitigation measures, including habitat enhancement  
18 and a large scale stocking program, which will not  
19 only maintain existing stocks of lake sturgeon,  
20 but will increase the population size in the  
21 region. Plus the enormous amount of knowledge  
22 that has been collected on sturgeon through the  
23 Keeyask studies will continue to their ongoing  
24 overall management and protection throughout  
25 Manitoba.

1                   And fifth, the social aspects.

2   Keeyask provides an innovative model for First  
3   Nation and corporate partnership and has been  
4   specifically and locally designed to ensure the  
5   Keeyask Cree Nations have a role in the ongoing  
6   governance of the project, including as members of  
7   the board and of various monitoring committees.

8                   They will also play a major role in  
9   the ongoing monitoring programs that will include  
10  the use of Aboriginal traditional knowledge.

11 Through this partnership, the Cree have an  
12 opportunity to expand and strengthen their  
13 management capacity and workforce talent through  
14 business opportunities and training and  
15 employment. Potential impacts due to our project  
16 have been addressed by the partnership through  
17 mitigation measures, offsetting programs such as  
18 alternate relocation, resource harvesting and  
19 monitoring programs that will allow us to review  
20 actual effects and respond accordingly.

21                   To conclude, I want to commend the  
22 efforts and dedication of the skilled and  
23 committed people that make up our partnership  
24 team. The overwhelming majority of the people  
25 involved, both from the traditional knowledge and

1 the western science perspective, are Manitobans.  
2 They are very highly qualified and principled.  
3 They are accountable to their peers, to their  
4 colleagues, to their friends and relatives, and to  
5 future Manitobans. And in most cases, they will  
6 be the ones responsible for dealing with the  
7 consequences of their work. They cannot and do  
8 not take these responsibilities lightly.

9           However, recognizing there are some  
10 areas we need assistance, we have, where  
11 appropriate, engaged experts from other parts of  
12 North America, all to ensure that the best  
13 available minds have been brought to bear on all  
14 aspects of our deliberations.

15           Together Manitoba Hydro and the  
16 Keeyask Cree Nations are confident that,  
17 individually and collectively, their staff and  
18 consultants have performed their work very well.  
19 We are confident that over the next few weeks  
20 their body of work will demonstrate that Keeyask  
21 will provide a clean source of renewable, firm  
22 energy that will reduce the use of fossil fuels in  
23 central North America. And as we are  
24 demonstrating elsewhere, it will provide financial  
25 and reliability benefits to Manitoba Hydro's

1 domestic customers, and it will be profitable to  
2 the Keeyask Cree Nations.

3           The partnership is convinced that the  
4 work performed on its behalf has been conducted in  
5 accordance with current best practices. It is  
6 complete and comprehensive, and it will  
7 demonstrate that the environmental effects of this  
8 project, with appropriate mitigation applied, are  
9 not significant. And in fact, when viewed on a  
10 global basis, there is a net Provincial benefit, a  
11 net environmental benefit, sorry. We will show  
12 that the environmental risks associated with the  
13 proposed development are relatively low and  
14 readily manageable.

15           Thank you. I confirm that we look  
16 forward to these hearings and the rigorous  
17 examination of a project in which we truly  
18 believe. Thank you, Mr. Chairman.

19           THE CHAIRMAN: Thank you, Mr. Adams.  
20 You can just introduce your panel or ask them to  
21 take over as they conclude.

22           CHIEF SPENCE: Good afternoon,  
23 Mr. Chair and members of the Commission, fellow  
24 Chiefs, respected Elders, citizens and all  
25 parties.

1                   This will be the third time in a short  
2 period that you, Mr. Chair, and the Commissioners  
3 will have heard opening words from me as Chief of  
4 Fox Lake Cree Nation. I must say we very much  
5 appreciated your attendance at our meeting at Bird  
6 Reserve, and again at the public meetings for all  
7 who wished to attend in Gillam, our home and  
8 traditional territory.

9                   This is an exciting moment in time for  
10 Fox Lake. This represents a historical moment in  
11 our history. After long years of being outsiders  
12 in our own territories, of being helpless to the  
13 devastation of aski and our people, we are here  
14 today as partners and proponents of the Keeyask  
15 project.

16                   Finally, for the first time ever we  
17 are being recognized as owners who have, and will  
18 continue to have participation, influence and  
19 authority in this major development project, which  
20 promises significant benefits for our people and a  
21 real opportunity to exercise our stewardship of  
22 our environment.

23                   My fellow member of council,  
24 Councillor George Neepin, will be delivering  
25 evidence that he will submit to the Commission on

1    behalf of Fox Lake.  So I will not dwell on the  
2    details of the partnership, or the project itself.  
3    We have appreciated the independence of thought,  
4    the mutual support and assistance demonstrated by  
5    five of the partners in the project as we prepared  
6    for these hearings.

7                    I simply want to say this:  We trust  
8    that this Commission will support our rights as  
9    the First Peoples of the territories in which the  
10   Keeyask will operate, so that we finally may  
11   benefit from the use by others of our resources  
12   which for so long have been the monopoly of non  
13   indigenous people.  Our people have lived in the  
14   area of the Keeyask project since time immemorial.  
15   We know the environment and its contours,  
16   features, strengths and weaknesses.  It has  
17   nurtured us in many ways and it is a part of who  
18   we are.

19                   Aski and the people of Fox Lake have  
20   undergone dramatic change over the past 60 years,  
21   and we have experienced this together.  We have  
22   always relied on aski to nurture us, and through  
23   this Keeyask project we have asked that once again  
24   she do so.  We also ask that we, as Fox Lake and  
25   our partners, respect the fact that aski will

1 again undergo significant change to provide us  
2 with a means to survive and to thrive as a people.

3           So, Mr. Chair, and members of the  
4 Commission, since our people have spoken clearly  
5 of their desires to be the beneficiaries of this  
6 project. I appear before you today wishing you  
7 hard work and good luck in your endeavours, and a  
8 profound understanding of the importance of the  
9 project to us, both in its symbolism as rightful  
10 owners and for the benefits that will be delivered  
11 to our future generations, as we not only try to  
12 heal from all that has come before, but to begin  
13 our journey to once again flourish as a people.

14           Thank you for your time.

15           THE CHAIRMAN: Thank you, Chief  
16 Spence. Chief Constant?

17           CHIEF CONSTANT: Good afternoon. I  
18 want to acknowledge all our elders that are here  
19 with us today, our members from our communities  
20 that are here with us today. I say good afternoon  
21 to Chiefs and Councillors, to the Clean  
22 Environmental Commission members, and our Keeyask  
23 partner, Manitoba Hydro, and members of the public  
24 that are here today. Good afternoon.

25           I'm pleased to be here today to speak

1 to you about York Factory First Nation, who we are  
2 as an Inninuwuk community affected by hydro  
3 development. We're also here as a proud  
4 co-proponent in the Keeyask project.

5 I will also make my comments brief as  
6 well. We have two key witnesses that will speak,  
7 Ted Bland and Martina Saunders, who will speak for  
8 York Factory First Nation at these hearings in  
9 more detail about York Factory's involvement in  
10 Keeyask. They will speak to you in the days  
11 ahead.

12 For our members and myself that's here  
13 today, we have travelled, you know, for many, many  
14 hours. We came a long distance to be here today  
15 from our community, Kichewaskhegan, York Landing.  
16 To the people from the south, the members of the  
17 York Factory live in the wilderness or the  
18 frontier of development. But to us, the Inninuwuk  
19 of the Lower Nelson and Hudson Bay region, it's  
20 our homeland. Like our Cree partner, Cree  
21 Nations, we live right in the middle of many hydro  
22 developments which has transformed completely our  
23 homeland over the last 55 years. And where we're  
24 gathered here today is close to the forks of the  
25 Red River and the Assiniboine Rivers. The waters

1 that passes by The Forks makes its way downstream  
2 more than 900 kilometres and flows by my community  
3 on its way to the Hudson Bay. That water flows  
4 through the turbines of the many generating  
5 stations on the Nelson River, providing power to  
6 your homes, power to these lights that are here,  
7 and to this microphone I'm using now.

8 York Landing is geographically  
9 isolated from the outside world. It's located at  
10 the mouth of the Aiken River and then it enters  
11 into Split Lake and the Nelson River. We don't  
12 have an all-weather road. We travel by ferry and  
13 boat in the summer and by ice road in the winter,  
14 and by planes. When the ice sets in and the ferry  
15 can't run, both the ice road -- needs another two  
16 months to open and then we travel primarily by  
17 plane. Travel in and out of our community is time  
18 consuming and very expensive, and the journey is  
19 often unpredictable and sometimes dangerous and  
20 impacts our involvement. So during freeze up and  
21 break up, travel is especially difficult. And  
22 when the weather is bad, you know, we're stuck, we  
23 can't go anywhere.

24 So this isolation means there are many  
25 challenges to access health care, social services,

1 education, employment, business and economic  
2 opportunities, there's more challenges for us.  
3 And we have to work very hard every day, you know,  
4 to overcome these obstacles.

5 York Factory First Nation takes its  
6 name from the Hudson Bay Company at the estuary of  
7 the Hayes River on Hudson Bay. The Hudson Bay  
8 coastal region, the Nelson, the Hayes, the Kaska,  
9 the Kaskatamakan and the Owl Rivers, these are our  
10 ancestral land and waters. We have lived here for  
11 thousands of years since the glaciers melted.  
12 Much longer than Manitoba Hydro, Manitoba or  
13 Winnipeg have existed, we have been there.

14 Our community was relocated from York  
15 Factory on the Hudson Bay to York Landing in 1957,  
16 and it was immediately after we arrived at York  
17 Landing that construction began on the Kelsey dam  
18 located just upstream on the Nelson from where we  
19 are. So we had been living with hydro development  
20 ever since.

21 Our history, our culture, our  
22 relationships to the land and waters, both along  
23 the coast and where our community is now located  
24 on Split Lake are essential to understanding who  
25 we are as Inninuuk. We experienced the changes

1 caused by hydro development everyday, and we will  
2 be living with hydro development for the rest of  
3 our lives, and of those generations yet to come.  
4 We have been living with hydro development for  
5 over half a century, and for all those years we  
6 saw few, if any, lasting benefits.

7                   We have seen poverty, chronic  
8 unemployment, lack of education, while the people  
9 of Manitoba have benefitted and continue to  
10 benefit from the reliable, abundant and supposedly  
11 low cost electricity that's produced by the Nelson  
12 River. York Factory has taken the view that  
13 further development of hydro, hydro development  
14 projects in Northern Manitoba can only proceed  
15 with the direct involvement of the First Nation  
16 people most directly affected.

17                   And York Factory has also determined  
18 that any future hydro development within our  
19 ancestral lands must advance our community and  
20 economic interests. York Factory has been  
21 involved in negotiations with Hydro and the other  
22 Keeyask communities since 2001, and the process to  
23 negotiate, to plan and prepare for Keeyask has  
24 been long and hard. We have had many, many  
25 meetings with our members. We spoke to each other

1 about the project, what it means to us as  
2 individual members, and also as a people and a  
3 community, what it means for our children and for  
4 our future generations and for those not yet born.

5           After that long process for the many  
6 years, we decided to become partners in the  
7 Keeyask project. And the decision to become a  
8 partner in Keeyask was difficult. Not every  
9 member of our First Nation supports Keeyask. Many  
10 others who support the project continue to do so  
11 with mixed feelings. It's important to  
12 acknowledge and respect, you know, the perspective  
13 of all our members. While York Factory supports  
14 Keeyask, it's important to acknowledge that we are  
15 impacted by this project in profound ways that  
16 affect the way we look at life, our worldview, our  
17 culture and our deep relationship with aski, with  
18 the land, with the water, the plants, animals, and  
19 all of creation.

20           York Factory First Nation chose to  
21 support Keeyask, not only so our people could  
22 benefit from employment, business and investment  
23 opportunities. We chose to become a partner so we  
24 could have a voice in how the project is developed  
25 and managed. We want to be on the inside and

1 influence the project. As Inninuwuk, it's  
2 essential that we care for the aski.

3           We have worked hard with all of our  
4 partners to include our values, our perspectives  
5 and principles in the Environmental Impact  
6 Assessment. So I'm here today as a proud  
7 representative of the people of York Factory First  
8 Nation, and we are partners in Keeyask and we're  
9 seeking a new relationship with Manitoba Hydro and  
10 with our Cree partners. We want to work together  
11 to improve the lives of our people.

12           And as I have said, it has been a long  
13 process. Members are impatient to realize the  
14 benefits from Manitoba Hydro, hydro development.  
15 But we know that Keeyask won't solve all the  
16 challenges and obstacles we face as a community.  
17 The Keeyask project also presents new problems and  
18 challenges. The benefits do not come without  
19 consequences. We know that. And we also know it  
20 will take many years to fully realize the benefits  
21 of the project, but we will be here, we're not  
22 going away.

23           When we talk with our community  
24 members about the future, we always end up talking  
25 about the children and grandchildren. We want

1 their future to be better. Our children and  
2 grandchildren, they want a better future, they  
3 want good things. But they also, you know, want  
4 to continue caring for the environment and also be  
5 part of the land.

6 York Factory First Nation wants to  
7 work with our partners for the entire life of the  
8 Keeyask project, to sustain and achieve respect  
9 for our Cree culture and self-determination. We  
10 want to produce sustainable, tangible benefits for  
11 our First Nation, and continue to build trust and  
12 a meaningful partnership. We remain skeptical  
13 because of what has happened to us in the past,  
14 but we have stepped forward with our Keeyask  
15 partners as a determined and committed First  
16 Nation to the Keeyask project. And we're here  
17 today to move forward with our partners in the  
18 Keeyask project.

19 So I thank you for the opportunity to  
20 share these comments here today, and we look  
21 forward to a respectful and constructive hearing.

22 THE CHAIRMAN: Thank you Chief  
23 Constant. Chief Kennedy?

24 CHIEF KENNEDY: Good afternoon,  
25 Mr. Chairman, members of the Clean Environment

1 Commission, representatives of Manitoba Hydro, our  
2 Cree partners, and the proposed Keeyask project  
3 participants, and the members of the public, good  
4 afternoon.

5 I am the chief of War Lake First  
6 Nation in Northern Manitoba, along with  
7 Tataskweyak Cree Nation, York Factory First Nation  
8 and Fox Lake Cree Nation, we comprise the Keeyask  
9 Cree Nations equity partners with Manitoba Hydro  
10 and the proposed Keeyask Generating Station.

11 I look forward to the day now only a  
12 few years off when Keeyask turbines will supply  
13 homes and businesses in Manitoba and elsewhere  
14 with clean, affordable and reliable energy. Our  
15 people have lived in our ancestral homelands in  
16 Northern Manitoba since long before the coming of  
17 the Europeans in the 1500s.

18 Our people were hunters, gatherers,  
19 who lived off the rich resources of the land and  
20 waters. Still today our young people are out  
21 there hunting and fishing with their grandfathers  
22 and their fathers. They appreciate the land that  
23 they have right now and that they will continue to  
24 do so. These are the young people who will become  
25 stewards of the land when they get older.

1                    Since the coming of the Europeans, we  
2     have experienced many changes in our way of life,  
3     many of which were imposed on us. None had more  
4     profound effect than the advent of hydroelectric  
5     development. We have been part of a long  
6     difficult struggle to gain control of our lives  
7     and our destiny. That struggle has brought us  
8     here today where we stand as co-proponents in the  
9     construction and operation of the proposed Keeyask  
10    Generating Station. 57 years ago the first  
11    indication of the Kelsey Generating Station was  
12    built with the smoke rising in the distance, smoke  
13    from the construction camp of Kelsey. No  
14    consultation with the Cree people living in the  
15    vicinity were held before the decision to build  
16    Kelsey was made. In spite of the effects, it  
17    would surely have been our culture and our way of  
18    life.

19                    Within our traditional territory,  
20    Kelsey was followed by other massive hydroelectric  
21    projects, including the Churchill River Diversion,  
22    Lake Winnipeg Regulation, and the Kettle, Long  
23    Spruce, Limestone Generating Stations, now  
24    producing over 75 percent of the hydroelectricity  
25    generated within Manitoba. These projects have

1 had an enormous impact on the Cree people of  
2 Northeastern Manitoba and in our environment. And  
3 yet for a long time we saw no benefits.

4 In the mid 1970's, five Cree Nations,  
5 including Tataskweyak, York Factory,  
6 Nisichawayasihk, were able to enter into  
7 negotiations with Canada, Manitoba, and Manitoba  
8 Hydro to protect their rights and interests to win  
9 a fair share of the benefits that have flowed to  
10 others.

11 The result was the Northern Flood  
12 Agreement, an agreement that envisioned the  
13 construction of the future electric dams.

14 In 1998 Tataskweyak proposed to  
15 Manitoba Hydro the joint development of Keeyask  
16 with the objectives of securing greater influence  
17 on the decisions and benefits from hydroelectric  
18 development. Negotiations resulted in signing the  
19 Keeyask Agreement in principle in 2000, the first  
20 of its kind in Manitoba.

21 War Lake joined with Tataskweyak and  
22 the Cree Nation partners in 2001. We became a  
23 signatory to the Keeyask AIP in 2003. We  
24 negotiated and signed our past adverse effects  
25 agreements in 2005. The Joint Keeyask Development

1 Agreement and adverse effects agreements followed  
2 in 2009.

3 More importantly, War Lake members  
4 contributed to the developments of the Keeyask  
5 project. In fact, in addition to participating in  
6 a wide variety of forums with Manitoba Hydro to  
7 develop the project, we consulted our own members  
8 to evaluate the effects of the project on  
9 ourselves. This is a significant and meaningful  
10 development, and the relationship between Manitoba  
11 Hydro and those who are affected most by Hydro  
12 developments in this province, the Cree in  
13 Northern Manitoba.

14 Keeyask will have enormous value to  
15 the Keeyask Cree Nations over its life in revenue,  
16 in jobs and business opportunities. Our people  
17 have trained for jobs that will result, and our  
18 businesses are provided the opportunity to access  
19 millions with direct negotiation contract  
20 construction.

21 We have prepared our young people,  
22 when we first started in 2000. One example is  
23 that a person was nine years old, he was going to  
24 school in our community. We spoke to the parents  
25 to prepare the project coming in the north,

1 Keeyask. I just wanted to add that this person,  
2 young man is now 19 years old. He completed grade  
3 12. We put him through the first training. He is  
4 taking university and taking civil tech, but  
5 without the help of his parents and grandparents'  
6 support, I don't think he would have achieved  
7 this, but he is still in school currently. And  
8 his aspiration is to work for Manitoba Hydro when  
9 he finishes his training and his education.

10           Clearly, with Keeyask, we believe our  
11 people would be better off. Keeyask will allow us  
12 to join the mainstream of Manitoba's economy, to  
13 build a future of hope that will sustain our  
14 cultural integrity and our Cree identity, and will  
15 significantly contribute to our economic  
16 prosperity.

17           It is also a source of pride to us  
18 that Keeyask is being developed in a way that will  
19 better protect the environment. As was said by  
20 Chief Constant and Chief Spence, that there have  
21 been things that have been happening in the north  
22 without consultation, and that we are bringing  
23 information that is a concern.

24           There are some of the -- these are  
25 some of the reasons why our members voted in

1 favour of the Keeyask project. We are shown the  
2 wilderness, the strength and the ability to bring  
3 to life the visions of our grandparents, a vision  
4 that will once again allow our beloved land and  
5 waters to provide to us. Thank you. Egosì.

6 THE CHAIRMAN: Thank you, Chief  
7 Kennedy. Chief Garson?

8 CHIEF GARSON: Good afternoon,  
9 Mr. Chairman, panel. I want to first of all  
10 acknowledge my fellow chiefs. It's great to be up  
11 here with you, and discussing the potential and  
12 meaningful partnership that we have envisioned for  
13 the future of our people in our area. I  
14 acknowledge the Hydro people that are here  
15 listening, and hopefully you will take to heart  
16 some of the language that's being spoken here.  
17 And also the people that are here, that are not  
18 involved directly but are here to listen, come to  
19 understand what it is that -- what's there in our  
20 area, what's happened in the past and the  
21 potential of what's going to happen in the future.

22 I just want to start off by, I guess  
23 by mentioning that Tataskweyak Cree Nation, which  
24 is Split Lake by the way, you know, we signed our  
25 Treaty in 1908. And since that time, almost I

1 guess immediately, the TCN people at the time went  
2 to work on establishing themselves in the  
3 immediate area as trappers. Well, they have been  
4 trappers but, I mean, they have been practising  
5 their traditional land and resource use rights  
6 that they have within our area. They went on to  
7 say that the resource area was created rather  
8 immediately shortly after the signing of the  
9 Treaty.

10           Tataskweyak Cree Nation resource area  
11 covers roughly about 7 percent of Manitoba. It  
12 stretches beyond the Churchill River, which by the  
13 way is impacted by Hydro. It also goes to the  
14 east as far as the railway line leading up to  
15 Churchill, as far south as beyond the Dafoe's,  
16 bordering the Cowichan Lake area, and in and  
17 around the Pikwitonei area, and as far west as  
18 bordering with the Nisichawayasihk Cree Nation  
19 resource management area. So it's quite a huge  
20 chunk of land that TCN has occupied, I guess, in  
21 the last hundred or so years ago.

22           You know, Chief Kennedy had mentioned  
23 that, also Chief Constant had mentioned that back  
24 in the '50s, when the first disturbances I guess  
25 came to our area from Hydro activities was back in

1 the '50s. And I was glad that the Chiefs here had  
2 mentioned the impacts that immediately was imposed  
3 upon our people. Basically, it is to ignore the  
4 rights of the people within the area. They were  
5 not consulted. They had no idea what was going on  
6 in the starting of the construction of Kelsey. As  
7 the story goes, as the elders had told me in  
8 person, there was smoke. How could there be a  
9 forest fire in the middle of winter? So they had  
10 to go check it out. They went there, and who was  
11 there? There was Manitoba Hydro beginning their  
12 quest to impact and damage the Nelson River, which  
13 is within our resource area. So that's when it  
14 all started.

15 We have been in constant dialogue and  
16 arguments, and whatever you want to call it, with  
17 Manitoba Hydro for about 50 something years now.  
18 And so when Kelsey was done, it immediately  
19 followed into another generating station that was  
20 built not long after that, it was Kettle station,  
21 then Long Spruce, then Limestone.

22 There's four generating stations that  
23 are within TCN territory. There's various  
24 kilometres of transmission lines that occupy TCN  
25 territory. And of course, the impacts of the

1 Churchill Diversion project and, of course, the  
2 Lake Winnipeg Regulation project. So there is a  
3 lot happening within TCN resource management area.

4           So back in the early '70s, there's  
5 five nations that had gotten together to fight  
6 hydro development within our area, not only TCN  
7 territory, but also other -- and I'll mention the  
8 First Nations, which obviously was TCN,  
9 Pimicikamak, Cross Lake, Norway House, Kinosao  
10 Sipi, York Factory, Nisichawayasihk, also  
11 Nisichawayasihk, which is Nelson House.

12           You know, we're talking about  
13 partnership today, but I call it potential  
14 partnership at this moment. We're not quite there  
15 yet, but we are working toward it. But what I'm  
16 saying is this idea, a partnership with Hydro has  
17 been around a long time. The Elders have told me,  
18 saying they were arguing about the potential  
19 partnership even in the early '70s with Manitoba  
20 Hydro. Every time the turbine turns, we should  
21 have been making money is basically what they  
22 said. We wanted that, but obviously it fell on  
23 deaf ears. It didn't happen.

24           So somewhere along the line there was  
25 a consultation with people within the five First

1 Nations and then they decided to have an agreement  
2 with Manitoba Hydro, which we arrived at in the  
3 1977 agreement. However, many years have passed  
4 after the signing of the '77 agreement, 15, 16  
5 years went by with virtually not much happening in  
6 terms of implementing the articles and the  
7 language that's within the 1977 agreement.

8           So in the late '80s there was an  
9 opportunity for the five Northern Flood committee  
10 bands to enter what we called a global settlement  
11 at the time, which there is a lot of money  
12 obviously involved. When you discuss matters with  
13 Hydro and the governments, there's always monies  
14 involved, but there's also other benefits off, you  
15 know, that the Cree Nations had wanted to happen  
16 in terms of economic opportunities, business, and  
17 social, you know, name it.

18           However, unfortunately the idea that  
19 was there at the time in the late '80s didn't  
20 work out. The five First Nations had voted on a  
21 global package, and four of the five nations  
22 decided not to take it because there is -- we have  
23 had problems, I was going to say had problems with  
24 some of the language that was written in the  
25 proposed global settlement.

1                   However, TCN thought otherwise. TCN  
2 had seen that the door was open. The door was  
3 literally open after 15, 16 years of really  
4 nothing happening, finally there was a door that  
5 was open.

6                   So sharing that information with TCN  
7 members and having a serious and meaningful  
8 dialogue with them, they decided, informed the  
9 leadership at the time, let's get inside that  
10 door, let's take advantage of this opportunity  
11 that is finally there for us so we can have  
12 something for ourselves in the future.

13                   So in the early '90s, we decided to  
14 start negotiating with Manitoba Hydro on the  
15 potential of settling a comprehensive agreement  
16 with TCN, Manitoba, the Province and Hydro.

17                   A couple of years went on and we  
18 finally decided the people, through a referendum  
19 process, which is very key in reaching agreements  
20 in the north is that we do go through a referendum  
21 process which it is actually the people that  
22 decide. And that's important to us, that the  
23 people do decide and determine the future of the  
24 children, grandchildren, and going forward into  
25 the future.

1                   But then in the '92 agreement, we had  
2 the '92 agreement which basically, like I said,  
3 was quite comprehensive. It offered opportunities  
4 for TCN to make good on a lot of the needs that  
5 were needed desperately in the community to  
6 provide all these opportunities for our people.

7                   And as the years went on in the late  
8 part of the -- in the '90s there was discussion on  
9 the potential negotiations, or going into  
10 discussion on Keeyask Generating project.

11                   Mind you, TCN has always been open to  
12 negotiating agreements with Manitoba Hydro. We  
13 understand that the impacts are there. They have  
14 happened already, 50 something years ago, and they  
15 have increased over the decades. It's hard to,  
16 you know, it's really very hard to reverse any  
17 kind of damage that's already been done in our  
18 river systems, on the lands and the waters.

19                   So TCN decided, you know, okay, this  
20 is another opportunity for TCN to reopen  
21 discussions with Hydro that it had in the early  
22 '70s and say, okay, if you want to build a  
23 generating station within our resource area, you  
24 seriously have to consider us as being partners.

25                   So those discussions went on. And it

1 just so happened that there was an agreement in  
2 principle in exploring that thought. 70,  
3 75 percent of all the electricity, which the  
4 Chiefs had mentioned, are produced within our  
5 area. A lot of people don't realize that, that's  
6 the impacts and the enormous hydro activity within  
7 our resource area. So we have had to decide on  
8 the future for our people.

9           So as the negotiations went on, TCN  
10 realized that although this is the resource  
11 management area of TCN, there is other communities  
12 that live within our resource area, which is  
13 immediately to the south of us, there's York  
14 Factory First Nation, and to the east of York  
15 Factory there's War Lake First Nation. And then  
16 on the east border side there we have Fox Lake  
17 Cree Nation. These are our brothers and sisters.  
18 These are First Nations that originally come from  
19 the Homeguard Cree, who are situated at the mouth  
20 of the Nelson River, and also the other rivers are  
21 Hayes River and all of that up in York Factory  
22 area. That's where all our people come from.

23           So TCN decided, let's bring our  
24 brothers and sisters on board so they could also  
25 benefit from this, not just Keeyask, but maybe

1 future development, in the future, Hydro future  
2 development. That's why you see us up here today  
3 as four First Nations, Keeyask Cree Nations,  
4 partners with Hydro.

5           There will be many arguments in the  
6 future with Hydro. There are many contracts that  
7 need to be awarded to the Cree Nations up here  
8 that you see. But TCN, I can only speak for TCN,  
9 but TCN will do everything that they can to  
10 protect the rights of TCN and to keep reminding  
11 Manitoba Hydro that this is our land.

12           You come in and you develop, although  
13 we agreed through a referendum process, but you  
14 come into our territory, you alter the land  
15 through construction, whatever it may be, to build  
16 the proposed Keeyask Generating Station, we will  
17 do what we can to maximize benefits to build  
18 capacity for TCN, now, and even after the project  
19 is built. TCN is not only looking at now, we're  
20 looking at the after care. It has to be that way.  
21 It's been over 50 years since we have been  
22 impacted. And the Cree Nations that you see up  
23 there, up here today, we have to have the benefits  
24 on any future Manitoba Hydro project within our  
25 area.

1                   Given all the negative publicity that  
2 we have had in the last little while, and whether  
3 it's TCN or the other Cree Nations that you see up  
4 here, but I think that we deserve that. We  
5 deserve the benefits that come with Hydro  
6 development, be it through employment, training,  
7 business arrangements, social, economic, you name  
8 it, we deserve that.

9                   So that's all I have to say, and thank  
10 you for listening.

11                  THE CHAIRMAN: Thank you, Chief  
12 Garson. Mr. Adams, do you have anything more to  
13 say or does that complete the opening?

14                  MR. ADAMS: It would be very remiss to  
15 try to say anything after the Chiefs,  
16 Mr. Chairman.

17                  THE CHAIRMAN: I assume that completes  
18 the introductory comments, and we'll be switching  
19 teams, is that the idea? We'll take a five minute  
20 break.

21                               (Hearing recessed at 2:30 p.m. and  
22 reconvened at 2:39 p.m.)

23                  THE CHAIRMAN: We will reconvene. We  
24 have another panel who will begin to introduce  
25 specifics of the project itself. I'll turn it

1 over to Ms. Pachal.

2 MS. PACHAL: Thank you, Mr. Chair.

3 Good afternoon everyone, Elders, Chiefs  
4 Councillors, Commission members, youths and ladies  
5 and gentlemen.

6 I want to begin by pointing that at  
7 the beginning of every one of our panel  
8 presentations, you'll see this slide, and it will  
9 have a check mark to help you understand what  
10 panel we're at and the overall topic area.

11 So we are the Keeyask Hydropower  
12 Limited Partnership panel, the first panel. I'm  
13 Shawna Pachal. I am the division manager of the  
14 power projects development division and a member  
15 of Hydro senior executive team responsible for the  
16 licensing and the development of the Keeyask  
17 project.

18 I have worked at Manitoba Hydro for  
19 close to 30 years, and I have worked on this  
20 project for over a decade. With me today on this  
21 panel are our partners from the First Nations,  
22 Victor Spence, Ted Bland and George Neepin, and  
23 from Manitoba Hydro, Elissa Neville, Jane Kidd  
24 Hantscher and Glen Schick.

25 Mr. Spence is the manager of future

1 development for Tataskweyak Cree Nation. He's  
2 worked for TCN for over 35 years, including as a  
3 councillor for 15 years. In his capacity as a TCN  
4 employee, he played a significant role in both the  
5 '92 comprehensive implementation agreement and  
6 Keeyask negotiations.

7 In his current role, he is responsible  
8 for implementing the terms of the Joint Keeyask  
9 Development Agreement and the Adverse Effects  
10 Agreement for TCN and War Lake, who together are  
11 the Cree Nation partners.

12 Mr. Bland is the senior negotiator for  
13 York Factory Future Development, a position he has  
14 held for nearly six years. Prior to this role, he  
15 was the Chief of York Factory First Nation. He's  
16 been a board member or executive on several York  
17 Factory authorities and corporations. Mr. Bland's  
18 responsibilities in his current position are to  
19 represent York Factory's interests in the  
20 development of the Keeyask project.

21 Mr. Neepin is a current member of Fox  
22 Lake Cree Nation, Chief and Council. He was  
23 previously as well Chief of Fox Lake for five  
24 years, as well as the project manager for Fox  
25 Lake's negotiations office. He has also held

1 senior management positions with MKO, including  
2 the position of executive director. His council  
3 portfolio includes responsibility for Manitoba  
4 Hydro related projects and initiatives,  
5 specifically the Keeyask project.

6 Elissa Neville is the division manager  
7 of the Aboriginal relations division. In her  
8 role -- in this role she is also a member of  
9 Manitoba Hydro senior executive team, and her  
10 division has the responsibility for our corporate  
11 goal of strengthening working relationships with  
12 Aboriginal communities.

13 Prior to this position, she was the  
14 manager of transmission licensing and assessment,  
15 and prior to that, the manager of Aboriginal  
16 policy and strategic initiatives.

17 Glen Schick is the department manager  
18 of the Keeyask engineering and construction. He's  
19 worked for Manitoba Hydro for over 20 years, and  
20 has been in his position for several years. His  
21 responsibilities include managing all aspects of  
22 the construction of the Keeyask infrastructure and  
23 generation projects.

24 Jane Kidd Hantscher is the partnership  
25 implementation supervisor, a position which she

1 has held for nearly 10 years. In this role she is  
2 responsible for working collaboratively with  
3 Manitoba Hydro's First Nation partners on our  
4 future development projects. Ms. Kidd Hantscher  
5 has worked for the corporation since the early  
6 1990s.

7 To undertake this project, Manitoba  
8 Hydro and our First Nation partners, Tataskweyak  
9 Cree Nation, War Lake First Nation, Fox Lake Cree  
10 Nation and York Factory First Nation has formed  
11 the Keeyask Hydropower Limited Partnership.  
12 Together today we are pleased to present an  
13 overview of the Keeyask partnership. Following my  
14 comments, you will hear from each of our partner  
15 First Nations to complete our presentation.

16 We at Manitoba Hydro are honoured that  
17 the Cree Nations have joined us in this  
18 partnership and we appreciate the extraordinary  
19 efforts they have made to work with us in a  
20 respectful and meaningful way. We are well aware  
21 of the past history of power development along the  
22 Lower Nelson River, and we recognize that it's  
23 been difficult and hurtful to the Cree people.  
24 And we understand their northern environment and  
25 way of life has been changed dramatically in small

1 and very large ways. There is no question that  
2 Manitoba Hydro development in the north has been  
3 extensive, with large changes to river systems,  
4 including the Lower Nelson, the place the Keeyask  
5 Cree Nations call home.

6 In developing these earlier projects,  
7 Manitoba Hydro used development practices that  
8 were acceptable then, but would not be considered  
9 acceptable today. Efforts to inform, consult or  
10 involve local communities in the process were  
11 either missing or much more limited. There was a  
12 different understanding of Aboriginal rights and  
13 interests, and project effects were not fully  
14 understood. And it was only after many years and  
15 the successful conclusion of compensation  
16 agreements with each of the First Nations in the  
17 region that discussions of any further Hydro  
18 development began.

19 The Manitoba Hydro that negotiated the  
20 Northern Flood Agreement of many years ago is not  
21 the same Hydro that negotiated the Joint Keeyask  
22 Development Agreement or participated in the  
23 Keeyask environmental assessment.

24 The Joint Keeyask Development  
25 Agreement is at the core of how Manitoba Hydro and

1 the partner First Nations will go forward. It  
2 details the partner's understandings in the areas  
3 of governance, the regulatory process, the project  
4 description, adverse effects, training and  
5 employment, business opportunities, business  
6 arrangements, income opportunities and dispute  
7 resolution. It defines and it is the foundation  
8 of a strong and fair partnership arrangement.

9           During negotiations Manitoba Hydro  
10 committed to not proceeding with the project for  
11 export purposes if the partner First Nation  
12 communities did not support the project. This is  
13 a really important point because this meant that  
14 the partners and Hydro had to reach an agreement  
15 that was satisfactory to both parties if the  
16 project was going to be advanced for export.

17           Along with the JKDA are the companion  
18 Adverse Effects Agreements, the main focus of  
19 which are a series of community based programs  
20 designed to offset unavoidable adverse effects on  
21 the practices, customs and traditions integral to  
22 the partner First Nations.

23           These include opportunities for  
24 hunting, fishing and trapping for food beyond the  
25 Keeyask area, cree language programs, and programs

1 providing youth and young adults with  
2 opportunities to experience a traditional  
3 lifestyle.

4           The agreements also contemplate a  
5 process to address any adverse effects that were  
6 not anticipated or foreseen, and which were not  
7 identified from the environmental impact  
8 assessment process.

9           The four partner First Nations will  
10 implement the programs and some are already  
11 underway with a community approval process  
12 contemplated if there are to be changes to any of  
13 the programs.

14           Negotiating both the Joint Keeyask  
15 Development Agreement and the separate adverse  
16 effects agreements, all of which were validated  
17 through community referendum processes and signed  
18 in 2009 with each First Nation, has taken, as you  
19 have heard many times already this morning, a  
20 tremendous decade long effort. Process funding of  
21 approximately \$140 million, amounting to about  
22 2 percent of the total project cost, was provided  
23 over the ten-year period to ensure that our  
24 partner First Nations had the necessary legal and  
25 technical support and funding for studies,

1 technical tables, community meetings, and overall  
2 involvement.

3           The Keeyask EIS process has included  
4 intense consultation, discussion, and  
5 communication, hours, days, months and years.  
6 This involved each partner First Nation conducting  
7 its own intensive consultation process with its  
8 members and within their own communities. Between  
9 the period 1998 to 2009, the Cree Nation partners  
10 held nearly 2,100 meetings of the following types  
11 related to the Keeyask project: Information  
12 meetings, negotiation meetings, reference group  
13 meetings, general membership meetings and youth  
14 meetings.

15           York Factory First Nation and Fox Lake  
16 Cree Nation also undertook intensive consultation  
17 processes, which are explained in more detail in  
18 the EIS submission. The partner First Nations  
19 reviewed all aspects of the EIS, and it could not  
20 be filed until there was agreement with its  
21 contents. Throughout, the partner First Nations  
22 have maintained their identity, integrity, and  
23 strengthened their influence and capacity.

24           As well, we have undertaken an  
25 extensive public involvement process throughout

1 the north, as well as held open houses in Winnipeg  
2 and Brandon, which were open to all stakeholders  
3 who wanted to participate. It has provided  
4 opportunities for communities, groups and  
5 organizations to learn about and provide input to  
6 the project. Three rounds of formal public  
7 involvement meetings took place between June 2008  
8 and July 2013, for a total of over 70 events.

9           Public involvement events included  
10 meetings and sessions with Chiefs and Councils,  
11 municipal leaders, and representative  
12 organizations such as MKO and KTC, through  
13 community meetings, workshops and open houses.  
14 Over the five years in excess of 130 groups,  
15 communities and organizations were invited to  
16 participate, including Cross Lake First Nation,  
17 Pimicikamak Okimawin, Shamattawa First Nation, as  
18 well as the Manitoba Metis Federation.

19           At the motions hearing last week, our  
20 lawyer, Bob Adkins, explained the extensive  
21 multi-year process that Manitoba Hydro has engaged  
22 in, in an effort to reach an agreement with Cross  
23 Lake First Nation, Pimicikamak Okimawin on a land  
24 use study. Cross Lake, Pimicikamak Okimawin and  
25 Hydro continue to meet through the Northern Flood

1 Agreement Article 9 consultation process, which  
2 includes ongoing discussions about the project.

3           The Manitoba Metis Federation and  
4 Manitoba Hydro continue to meet to determine  
5 whether there are any Metis who have an interest  
6 in the project area. And following more than 30  
7 meetings over several years, an agreement was  
8 finally reached on a work plan to undertake a  
9 Metis specific traditional land use and knowledge  
10 study, and socio-economic assessment. The  
11 partnership has yet to receive this report.

12           Shamattawa First Nation participated  
13 in rounds two and three of the public involvement  
14 process. And Peguis First Nation had an  
15 opportunity to participate in the initial process,  
16 and after application for participant status, we  
17 invited Peguis to a workshop as part of the round  
18 three public involvement process.

19           Most importantly, in terms of  
20 consultation, the partner First Nations have been  
21 influential and effective in identifying and  
22 advocating measures to reduce the project's  
23 environmental effects, based on their knowledge of  
24 the land and their experience with previous  
25 projects.

1                   Symbolically, but very notably, the  
2 Keeyask Cree Nations early on in the process  
3 changed the project name from Gull Rapids to  
4 Keeyask, the Cree word for gull. It was a sign  
5 and a signal that their participation would be  
6 influential and pivotal, and it has been.

7                   The result has been a thoughtful,  
8 carefully planned and designed project.

9                   If approved, it will be built within  
10 the Split Lake Resource Management Area  
11 immediately upstream of Stephens Lake between two  
12 existing Manitoba Hydro generating stations,  
13 Kelsey, developed in the late 1950s, and Kettle  
14 Rapids in the early 1970s. It is an area  
15 traditionally used by all the partner First  
16 Nations.

17                  The nearest communities are Split  
18 Lake, home of Tataskweyak Cree Nation, and Bird,  
19 home of the Fox Lake Cree Nation, Gillam, the  
20 location of Manitoba Hydro's operation centre in  
21 the north and Fox Lake Cree Nation, War Lake First  
22 Nation at Ilford on the Hudson Bay rail line, and  
23 York Factory First Nation at York Landing on Split  
24 Lake.

25                  Over ten years ago, Manitoba Hydro

1 made a business decision in response to the First  
2 Nation proposals, to negotiate partnership  
3 arrangements with these First Nations, based in  
4 part on their vicinity to the project and their  
5 historical relationship with Manitoba Hydro, so we  
6 could provide these in vicinity communities with  
7 an opportunity to have a say in and benefit from  
8 these future developments.

9           If built at 695 megawatts, it will be  
10 the fourth largest generating station in Manitoba,  
11 with an average annual electricity production of  
12 about 4400 gigawatts, gigawatt hours, enough to  
13 power approximately 400,000 homes. It is  
14 estimated to cost approximately \$6.2 billion.

15           Subject to regulatory approval,  
16 project construction will begin in 2014, with  
17 first power produced in 2019, and construction and  
18 site rehabilitation completed in 2022, an eight  
19 and a half year process. There is no doubt the  
20 project, without mitigation, would cause  
21 environmental and socio-economic effects, some  
22 with the potential to be significant. To avoid  
23 this, the partnership has or will mitigate,  
24 remediate, and compensate for these effects using  
25 past experience, Aboriginal traditional knowledge,

1 and state of the art scientific and engineering  
2 techniques.

3           The most telling example of the  
4 partnership balancing environmental considerations  
5 against financial considerations is the scaled  
6 reduction of the plant from the original design,  
7 which we call the high head option of  
8 1150 megawatts, which would have flooded 183  
9 square kilometres, to the proposed low head  
10 option, the 695-megawatt plant that will flood  
11 about 45 square kilometres, less than one quarter  
12 the area.

13           The project provides many benefits for  
14 the partner First Nations, specifically business  
15 opportunities, employment, training and income. I  
16 will now take a few minutes to discuss each  
17 benefit, which in our view are not meager, in more  
18 detail.

19           There will be business opportunities  
20 through direct negotiated contracts valued at  
21 203 million for qualified partner First Nation  
22 business or joint venture partnerships. These  
23 provide opportunities to expand the number,  
24 capacity, diversity, and viability of the partner  
25 First Nation businesses. The contracts include

1 access road construction, camp maintenance, camp  
2 sewer and water, catering, security, employee  
3 retention, and support services.

4           Throughout the Keeyask project  
5 negotiations, Manitoba Hydro and the partners  
6 worked to identify specific business opportunities  
7 that would match the communities' capacities and  
8 interests, so they could develop business capacity  
9 that would serve them in the long-term.

10           The scope of work involved in the  
11 Keeyask project direct negotiated contracts will  
12 further build on the capacity of the community  
13 businesses and the experience, and capacity gained  
14 from carrying out the contracts should enable the  
15 partner businesses involved to compete for other  
16 similar contracts on other projects while Keeyask  
17 is under way and after it is complete. Most of  
18 these contracts are being carried out as joint  
19 ventures between a partner First Nation owned  
20 business and a non First Nation business with  
21 extensive experience and a solid track record in  
22 performing similar types of work.

23           A qualification system for First  
24 Nation businesses was agreed to in the Joint  
25 Keeyask Development Agreement to ensure these

1 contracts would not just be flow-throughs and that  
2 First Nations would have a meaningful role as  
3 50/50 shareholders with the non First Nation  
4 partners.

5           The process of negotiating, managing,  
6 and completing these contracts in a joint venture  
7 setting will provide valuable business experience  
8 to the partner First Nation owners and managers  
9 selected for the project. It is expected that  
10 these relationships will result in additional  
11 knowledge transfer, and build skills that could  
12 lead to future joint undertakings. To the extent  
13 that the joint ventures can perform well and  
14 generate profits, businesses could expand their  
15 equity base, invest in capital, or choose to grow.

16           To assist the partners in building  
17 capacity for direct negotiated contracts, the  
18 Keeyask infrastructure project was initiated in  
19 2011. The partners are currently responsible for  
20 several infrastructure contracts, including the  
21 access road construction, camp site preparation  
22 and development, catering, and employee retention  
23 and support services.

24           The direct negotiation contracts allow  
25 for direct member hiring from the partner First

1 Nations. This ensures that the members do not  
2 have to compete with any other individuals to  
3 access these jobs.

4           Moving now on to employment. The  
5 partner First Nations and Manitoba Hydro share the  
6 objective of maximizing employment of members, as  
7 well as Aboriginal people generally. This  
8 objective has been looked at holistically, and the  
9 JKDA includes several mechanisms to enhance  
10 construction employment, which include training,  
11 employment provisions, contracts and governance.

12           Construction of the Keeyask Generating  
13 Station is projected to require a minimum of 4,225  
14 person years of employment over a seven-year  
15 period. It will provide a range of opportunities  
16 for both designated and non designated trades and  
17 support occupations. Designated trades include  
18 electricians, plumbers, and other licensed skilled  
19 trades. Non designated trades include heavy  
20 equipment operators, truck drivers, labourers and  
21 others. Support occupations include clerks,  
22 cooks, catering personnel and security.

23           In addition to direct hiring through  
24 the previously discussed direct negotiated  
25 contracts, hiring for the project will be directed

1 by the terms of the Burntwood/Nelson agreement  
2 which we refer to as the BNA, and it governs  
3 employment on the northern hydroelectric projects.  
4 The agreement provides six preference tiers that  
5 will refer workers to project employers. The  
6 provisions of the first preference, northern  
7 Aboriginals living within the Churchill/Burntwood  
8 Nelson River region and surrounding areas, as  
9 defined in the BNA, and members of the Keeyask  
10 Cree Nations who live in Manitoba, will allow for  
11 qualified partner First Nation members to be hired  
12 for Keeyask within this first preference.

13           The JKDA includes a project  
14 construction employment target of 630 person  
15 years. Members employed in jobs related to the  
16 Keeyask project from 2009 to completion will be  
17 counted toward this employment target. These jobs  
18 include working for any contractor, subcontractor,  
19 or supplier on a direct negotiated contract for  
20 Hydro as the project manager, and in the partner  
21 First Nations future development offices or the  
22 partner First Nation implementation offices.

23           If the target is not met, the limited  
24 partnership will contribute up to \$3 million of  
25 funding for the working groups on operational

1 jobs. These working groups on operational jobs  
2 were established pursuant to the JKDA to work  
3 jointly and collaboratively to design and  
4 implement a successful employment framework to  
5 increase the number of partner First Nation  
6 members employed in Hydro's ongoing operations.

7 A 20-year target of 182 jobs was  
8 agreed to, and that consists of approximately a  
9 hundred members from Tataskweyak Cree Nation, ten  
10 members from War Lake, 36 members from York  
11 Factory and 36 members from Fox Lake.

12 Within the 20-year time frame, Hydro  
13 and the partners are working together through the  
14 operational jobs working groups. An initial  
15 five-year work plan was developed and is currently  
16 being implemented. Hydro reimburses the  
17 reasonable costs of each partner First Nation to  
18 implement those work plans during the 20-year  
19 period.

20 Within the development agreement, the  
21 partners and Hydro also agreed to the  
22 establishment of the advisory group on employment.  
23 The group is a forum for addressing employment  
24 related issues, in particular Aboriginal  
25 employment related to construction of the Keeyask

1 project. It will receive, review, and find  
2 solutions to concerns and issues, and monitor,  
3 report and make recommendations to Hydro as the  
4 Keeyask project manager on employment related  
5 matters as required.

6           This group will be comprised of voting  
7 representatives of each of the partner First  
8 Nations, from Hydro, the Province, the Hydro  
9 project management association, and the Allied  
10 Hydro Council, which we often refer to as the AHC.  
11 It will also include non-voting representatives  
12 appointed by each contractor on site, and the  
13 AHC's Aboriginal union representative for the  
14 Keeyask project.

15           Now, turning our minds to training,  
16 there is both pre-project training and on the job  
17 training. There has been a 60 million-dollar  
18 pre-project training initiative that train members  
19 for employment on Wuskwatim, Keeyask and for other  
20 industries. 45 million of the 60 million was  
21 allocated to the Keeyask partner members and other  
22 northern Aboriginals. Of that 45 million, a total  
23 of 75 percent, or 33.75 million made up the  
24 Keeyask partners' training funds which were  
25 available to them for pre-project training. The

1 training began in 2001 and spanned nearly a  
2 decade. Members received educational upgrading  
3 and training for designated and non-designated  
4 trades, as well as construction support  
5 occupations. What was unique about this training  
6 initiative, which was one of the largest of its  
7 kind in Canada, is that the First Nations and  
8 Aboriginal organizations involved designed,  
9 developed, and implemented the training programs  
10 themselves.

11           Beside the pre-project training,  
12 on-the-job training programs at Keeyask will  
13 provide further training opportunities. Under the  
14 contracts, members will be able to develop varied  
15 employment skills in different areas, including  
16 management training, apprenticeship, and general  
17 labour. On-the-job training is a fundamental  
18 aspect of the project's employment framework.

19           And now I want to speak a little bit  
20 about the income benefit. The overall capital  
21 requirements of the Keeyask Limited Partnership  
22 will be funded 25 percent by equity investments  
23 from Hydro and the partners, and 75 percent by  
24 debt financing. So illustratively, with a project  
25 cost of 6.2 billion, 4.65 billion will be funded

1 by debt financing, and 1.55 billion will be funded  
2 by equity financing. The partner First Nations  
3 have an opportunity to become partners through the  
4 purchase of up to 25 percent equity ownership  
5 shares in the project that will generate future  
6 income streams for the communities. Hydro will  
7 purchase the remaining 75 percent. So, again,  
8 illustratively, Hydro will contribute 1.16 billion  
9 in equity, and the partner First Nations together  
10 will contribute 388 million. The 25 percent  
11 common equity ownership is divided amongst the  
12 Cree as follows: 15 percent for the Cree Nation  
13 partners, who again are made up of Tataskweyak  
14 Cree Nation and War Lake First Nation, 5 percent  
15 for York Factory, and 5 percent for Fox Lake.

16 As a common unit partner, a First  
17 Nation will be eligible to receive annual  
18 distributions based on their proportionate share  
19 of distributable cash after equity loan  
20 repayments. A First Nation may alternatively  
21 elect to invest in the partnership as a preferred  
22 unit partner to limit their risk and be eligible  
23 to receive distributions which correspond with the  
24 lower risk.

25 Income distributions received from the

1 First Nation investment entities' interests in  
2 Keeyask may be used for various purposes,  
3 specifically resource rehabilitation and  
4 development measures, initiatives to support  
5 Aboriginal or Treaty rights, cultural support and  
6 social development initiatives, business  
7 development and employment development, local  
8 community infrastructure and housing development,  
9 construction of capital projects, and technical  
10 and legal services related to First Nation  
11 businesses and other affairs.

12           The Chief and Councils of the partners  
13 will ensure that for the information of their  
14 members, there will be appropriate community  
15 consultation processes prior to using the project  
16 distributions.

17           More generally, the project will also  
18 benefit Manitobans at large. It will create more  
19 than 4,000 person years of employment that will  
20 help build skills, capacity and experience.

21           Finally, the project will be a major  
22 contributor to Manitoba's economy by generating  
23 revenues through power sales locally and to  
24 customers in other Provinces and the U.S.  
25 Earnings will flow to the partner communities

1 through their equity investments, as well as to  
2 the Province through Manitoba Hydro. These  
3 revenues will contribute to Manitoba having among  
4 the lowest cost electricity service in North  
5 America, and produce long-term, secure, renewable  
6 energy for Manitobans and our export customers.

7           Keeyask provides an innovative model  
8 for First Nation and corporate partnership, and  
9 it's been specifically and locally designed to  
10 ensure the partner First Nations have a role in  
11 ongoing governance of the project as members of  
12 the partnership board and various committees for  
13 employment, construction and monitoring. The  
14 First Nations will also each have their own  
15 implementation offices to manage their project  
16 related activities. As well, two partner First  
17 Nation site representatives will be hired as  
18 advisers to the resident project manager. The  
19 partner First Nations will play a major role in  
20 the environmental protection program which  
21 includes ongoing monitoring programs that include  
22 the use of Aboriginal traditional knowledge.

23           The Joint Keeyask Development  
24 Agreement has a comprehensive dispute resolution  
25 process that includes, among other things, a

1 neutral fact finder and arbitration provisions.

2           In the past we have had an opportunity  
3 to visit -- in the past weeks we have had an  
4 opportunity to visit a number of communities in  
5 the north, to hear from the general public as well  
6 as members from our partner communities. There  
7 are a number of recurring themes, very similar to  
8 the one that have emerged during our extensive  
9 public involvement process. Over the next week,  
10 our partnership representatives will be making  
11 presentations to you to address the issues and  
12 concerns that have been raised.

13           The partnership has been a struggle  
14 for all concerned because there is so much  
15 accumulated pain and bitterness within the First  
16 Nation partners. Like marriage, it continues to  
17 have its ups and downs. As partners in the  
18 project, Manitoba Hydro and its First Nation  
19 partners are seeking the same end. And we have  
20 worked exhaustively, side by side, developing the  
21 various presentations you will hear. They  
22 truthfully represent the events and processes that  
23 have lead up to the filing of the EIS and  
24 supplementary documents.

25           Each partner, along with Manitoba

1 Hydro, has had an opportunity to improve upon the  
2 message of the other, to ensure its accuracy and  
3 completeness. Each witness has contributed his  
4 and her own perspectives and experiences on the  
5 evidence, and has received assistance from his or  
6 her advisors when requested to ensure clarity.

7 To conclude this presentation, I want  
8 to affirm that hydroelectric power generation  
9 remains the most environmentally sustainable and  
10 cost effective bulk electricity supply alternative  
11 in the world, with virtually no emissions compared  
12 to coal or natural gas. These are qualities our  
13 Manitoba and export market customers value as they  
14 move forward in greening their own operations and  
15 economies. And this is why people refer to  
16 hydropower as clean. The project is consistent  
17 with Federal and Provincial principles of  
18 sustainable development. The partnership has  
19 addressed potential project impacts through  
20 mitigation measures and offsetting programs such  
21 as alternate location resource harvesting and  
22 monitoring programs that will allow us to review  
23 the actual effects and respond accordingly.

24 The partnership is convinced that its  
25 environmental assessment will demonstrate that

1 with planned mitigation, the adverse effects of  
2 this project can be effectively managed. When  
3 viewed globally, the project will create a net  
4 benefit, and we will show the environmental risks  
5 associated with the proposed development are  
6 relatively low and readily manageable. We see  
7 this as a new era of responsible, sustainable  
8 resource development, where Manitoba Hydro and our  
9 First Nation partners are deeply integrated and  
10 involved in all aspects of the Keeyask project,  
11 from planning, to execution, to our mutual  
12 long-term commitment for a sustainable future.

13 I'd now like to pass the mic over to  
14 Ted Bland from York Factory First Nation to  
15 continue our presentation.

16 THE CHAIRMAN: Ms. Pachal, when we  
17 talked before the presentation, you thought -- do  
18 you think this is the most opportune time to take  
19 a break?

20 MS. PACHAL: Yes.

21 THE CHAIRMAN: Okay. We'll take a  
22 break for ten minutes and resume just before 3:30,  
23 please?

24 (Hearing recessed at 3:17 p.m. and  
25 reconvened at 3:30 p.m.)

1

2 (Proceedings reconvened at 3:30 p.m.)

3 THE CHAIRMAN: We'll reconvene this  
4 session. Mr. Bland.

5 MR. BLAND: Hello, my name is Ted  
6 Bland. I'm a senior negotiator for York Factory  
7 First Nation Future Development in York Factory  
8 First Nation. My colleague that I'm here with  
9 today is Martina Saunders. She is on the social  
10 economic panel, and Chief Constant mentioned her  
11 today.

12 I'm here today to speak about York  
13 Factory First Nation's history, York Factory's  
14 involvement in the Keeyask project, including the  
15 decision to become partners and our involvement in  
16 the Keeyask environmental assessment. In our Cree  
17 language we call ourselves Ininiwak. The Ininiwak  
18 have lived throughout Northern Manitoba for a very  
19 long time, much longer than Manitoba and Canada  
20 have existed. We have been here from a time  
21 reaching beyond memory. There are well over 200  
22 ancient and historical sites, some up to 5,000  
23 years old, identified across the Hudson Bay  
24 coastal area of Manitoba. Many of these are  
25 associated with our Ininiwak ancestors.

1                   We have had contact with the Europeans  
2   for over 300 years. In 1668, three separate  
3   European exploratory parties arrived at the  
4   estuaries of the Nelson and Hayes rivers. Our  
5   Ininiwak ancestors were there. The Hudson Bay's  
6   Company, York Factory post at the mouth of the  
7   Hayes River, which we call Kischewaskahekan or Big  
8   House in Cree, it began operations in 1684, and  
9   soon became the central hub in the North American  
10  fur trade. The Ininiwak were central to the fur  
11  economy due to our knowledge of the region and its  
12  resources.

13                   Over the next several hundred years,  
14  the Cree continued to occupy and move throughout  
15  the Hudson Bay coast and further inland, bringing  
16  fur traders furs to trade for European goods at  
17  York Factory. It was during this time that our  
18  ancestors formed alliances with our first nations,  
19  and our ancestors became middle men in the fur  
20  trade.

21                   In 1875, the Crown signed Treaty 5  
22  with the Saulteaux and the Cree at Berens River,  
23  but it was not until August 10, 1910 that York  
24  Factory signed an adhesion to Treaty 5. Over the  
25  next 45 years as the York Factory posts role in

1 the fur trade declined and Port Nelson project was  
2 abandoned, many of our relatives moved to  
3 Tataskweyak, Shamattawa, Churchill and sites along  
4 the Hudson Bay railway line.

5 In 1947, two different groups of Cree  
6 people from York Factory split into the Shamattawa  
7 and Fox Lake bands. We continue to share a common  
8 history, even grandparents, aunts and uncles.  
9 With Cree families in Shamattawa, Churchill, Bird,  
10 Ilford, Tataskweyak and Gillam.

11 In the fall of 1956, the  
12 representatives from Indian Affairs travelled to  
13 York Factory and told the remaining York Factory  
14 members of plans to close the trading post and  
15 move our members inland to the southeast side of  
16 Split Lake. Before relocation, our people lived  
17 throughout the lower Nelson and Hayes rivers, and  
18 the Hudson Bay coast, at settlements of Port  
19 Nelson, Crooked Bank, Ten Shilling, Shamattawa,  
20 York Factory and other places. While the  
21 relocation to York Factory and Kawechiwasik, as we  
22 say in Cree, was an unwelcoming experience, York  
23 Landing has become our home for over 56 years. It  
24 was not until 1990, however, that a small area of  
25 reserve land was established for our First Nation

1 at York Landing.

2 Younger York Factory members were born  
3 in York Landing and travelled to the coast to  
4 conduct traditional activities such as hunting,  
5 trapping and fishing. The Hudson Bay coast  
6 continues to be a fundamental part of who we are  
7 as a community, even though it requires great  
8 effort for our members to access the area.

9 The location of our home community,  
10 York Landing, makes it difficult not only to reach  
11 our coastal area, but also to travel to Thompson  
12 or Winnipeg or other places by road. Without  
13 all-weather road access, we crossed the lake by  
14 boat, ferry, skidoo and winterized road to get to  
15 our banks, groceries, medical services, family  
16 members, gatherings outside the community. Air  
17 travel is expensive and not an option for most of  
18 our community members.

19 In 1957, the year York Factory members  
20 arrived in York Landing, Manitoba Hydro began  
21 construction of the Kelsey Generating Station. We  
22 were not consulted about the project, even though  
23 it was just built kilometres from York Landing,  
24 and would forever change the waters and the land.  
25 In the 1970s, the Lake Winnipeg Regulation and

1 Churchill River Diversion proceeded, again without  
2 any prior consultation with Cree communities and  
3 without any environmental assessment and  
4 licensing.

5 The Kettle Generating Station was  
6 completed downstream of York Landing in 1974,  
7 followed by Long Spruce Generating Station in  
8 1979. Finally, the Limestone Generating Station  
9 was completed in 1990.

10 Our community knows Manitoba Hydro and  
11 electric development well.

12 The relationship between York Factory  
13 and Manitoba Hydro is shared by a number of legal  
14 agreements, negotiated over the last 35 years.  
15 York Factory, with four other First Nations, Split  
16 Lake, Nelson House, York Factory, Norway House and  
17 Cross Lake signed a Northern Flood Agreement in  
18 1977 with Canada, Manitoba, Manitoba Hydro.

19 In 1995, York Factory entered into a  
20 second agreement called a comprehensive  
21 implementation agreement with Canada, Manitoba,  
22 and Manitoba Hydro to implement the NFA. That  
23 agreement contains principles and processes for  
24 future development such as Keeyask, including the  
25 involvement of York Factory and the assessment and

1 mitigation of project effects and the ways in  
2 which York Factory can benefit from the project  
3 such as employment and business opportunities.

4 York Factory's formal involvement in  
5 the planning for the Keeyask generation project  
6 began in 2001. On September 14, 2001, York  
7 Factory, Manitoba Hydro, TCN, War Lake, First  
8 Nation and Fox Lake Cree Nation signed the  
9 principles memorandum setting out the negotiating  
10 principles for concluding the JKDA. About a year  
11 later, on October 15, 2002, York Factory, Manitoba  
12 Hydro, Tataskweyak, War Lake and Fox Lake signed  
13 and negotiated principles and process proposal,  
14 which set out in more detail the negotiating  
15 principles and process for concluding the JKDA.

16 Between 2002 and 2008, York Factory  
17 participated with Manitoba Hydro Cree Nation  
18 partners and Fox Lake in the negotiation and  
19 drafting of the JKDA. York Factory also  
20 participated with the project partners in various  
21 committees and working groups responsible for  
22 considering different aspects of the project. For  
23 example, the Keeyask project description  
24 committee.

25 From late 2005 until the spring of

1 2008, York Factory and Manitoba Hydro negotiated  
2 the York Factory Keeyask Adverse Effects  
3 Agreement, which addresses Keeyask adverse effects  
4 on our First Nation. The Keeyask adverse effects  
5 agreement emerged out of article 9 of the 1995  
6 agreement, which states that York Factory and  
7 Manitoba Hydro must develop a proposal to  
8 compensate York Factory for known and foreseeable  
9 adverse effects of any future development,  
10 including the Keeyask Generation Project.

11 Before York Factory Chief and Council  
12 signed a JKDA, the First Nation held a referendum  
13 to determine whether its members supported the  
14 signing. At the same time that referendum on the  
15 JKDA was held, York Factory members were also  
16 asked to vote on whether they supported Chief and  
17 Council signing the adverse effects agreement.

18 In the period leading up to the  
19 referendum poll between April 2008 and March 2009,  
20 York Factory conducted six rounds of information  
21 meetings for members of the First Nation in each  
22 of York Landing, Thompson, Churchill and Winnipeg.

23 In addition to the information  
24 meetings, we used other methods to communicate to  
25 members about the JKDA and Adverse Effects

1 Agreements. A website was set up where members  
2 could access documents and other information about  
3 the JKDA and the Adverse Effects Agreement. Full  
4 copies of the JKDA and Adverse Effects Agreements  
5 were distributed to members. Newsletters in Cree  
6 and English and plain language summary of the JKDA  
7 were also prepared and distributed.

8           The York Factory referendum polls for  
9 the JKDA and Adverse Effects Agreements were held  
10 in March 2009. The referendum questions asked  
11 members if they would support Chief and Council in  
12 signing the JKDA; yes or no. And the adverse  
13 effects agreement; yes or no. In the referendum,  
14 York Factory applied the minimum threshold  
15 required by the JKDA ratification protocol for the  
16 poll. A sufficient level of support for Chief and  
17 Council to sign the JKDA and Adverse Effects  
18 Agreement required participation by a minimum of  
19 one-third of all members eligible to vote and a  
20 majority of votes cast being in favour of the  
21 referendum question.

22           Of 713 eligible voters on and off  
23 reserve, 262 cast ballots; 36.6 percent. There  
24 were 218 yes votes in favour of the JKDA,  
25 87 percent of the valid ballots, and 220 yes votes

1 in favour of the adverse effects agreements, 85 of  
2 ballots.

3 In May 2009, York Factory Chief and  
4 Council signed the JKDA and Adverse Effects  
5 Agreements on behalf of the First Nation. The  
6 signing of the JKDA and Adverse Effects Agreement  
7 marked York Factory's decision to become a partner  
8 and co-proponent in Keeyask. This is not an easy  
9 decision for the community to make, given the  
10 circumstances and the diversity of views held by  
11 the community members regarding the Keeyask  
12 generation project.

13 Members faced a deep moral dilemma in  
14 terms of assessing the potential environmental  
15 impacts that would affect the community. Even  
16 with the best planning, mitigation and monitoring  
17 programs, York Factory feels that there will still  
18 be substantial adverse effects to the land and our  
19 way of life.

20 For York Factory, the decision to  
21 become a partner in Keeyask was made so that our  
22 youth and future generations will benefit from  
23 project revenues, jobs, training and capacity  
24 building opportunities.

25 It has also been important for York

1 Factory to participate in the project and the  
2 Environmental Impact Assessment. To be at the  
3 table and to have voice and planning in the  
4 planning, operation and management of Keeyask.

5           Throughout time York Factory's  
6 relationship with the land has been and continues  
7 to be important to us. Our relationship with the  
8 land, our understanding of the world, our values  
9 and our traditional knowledge have been central to  
10 the survival of our people, and the continued  
11 respect and stewardship of the land and waters.

12           York Factory's teachings have been  
13 handed down through generations and continue to be  
14 passed on today. These teachings embody the  
15 values of York Factory ancestors and today's  
16 elders, giving guidance to our community members.  
17 By adding our voices, values and traditional  
18 knowledge to the Keeyask Generation Project we  
19 hope to positively impact the project, reduce  
20 adverse effects, and continue to be stewards of  
21 the land and the waters.

22           To York Factory, it's important to  
23 show respect when speaking toward Askiy, which is  
24 the Cree word for the whole of the land, the whole  
25 of the land, water, people, plants, animals and

1 all things.

2 We are affected by even the small  
3 changes to Askiy. York Factory members are part  
4 of Askiy. We have relied on Askiy for as long as  
5 we have survived.

6 For York Factory, it's also important  
7 to honour life and Askiy. These are special gifts  
8 that must not be forgotten. We believe that  
9 everything in life comes from manitou. We believe  
10 that relationships with the living and non-living  
11 things are two-way relationships. To live a good  
12 life, we respect and care for Askiy, other people  
13 and all things in this world for our ancestors and  
14 for future generations. This is called  
15 minopimatisiwin.

16 With the arrival of Europeans, many  
17 York Factory members accepted Christianity and  
18 Christian beliefs. Today, diverse spiritual  
19 beliefs and practices are found among community  
20 members that would be called traditional Christian  
21 or more blended forms of spiritual belief.

22 Regardless, spirituality is very  
23 important in York Factory's culture and worldview.  
24 Our spirituality informs stewardship of the land  
25 and how we feel. It is important to acknowledge

1 spirituality in the Keeyask Generation Project.

2                   It is also very important that we  
3 speak truthfully based on our knowledge and  
4 experience. The truth isn't always pleasant. But  
5 by acknowledging the truth, it is possible to move  
6 forward and build trust with others and come to  
7 terms with our actions and our feelings. Trust is  
8 also important to York Factory members,  
9 relationships with family, friends and working  
10 partners. Trust is developed over time through  
11 experience and other individuals or groups of  
12 people.

13                   Ohcinewin is a very important Cree  
14 concept which is not very easily translated into  
15 the English language. Because of the  
16 interconnectedness of Askiy, if you harm anything,  
17 including land, water, people, plants and animals,  
18 you will experience equally harmful consequences.  
19 These can also come back to those around you, your  
20 children or your children's children. This  
21 concept applies to all aspects of life. This is a  
22 powerful thing, so it is very important to be  
23 careful and to respect even the use of the word.

24                   It is important to consider one's  
25 actions carefully with caution because of the

1 possible consequences of those actions. When  
2 caution is not exercised, mistakes are made.  
3 Caution is important so that individuals in our  
4 community can avoid disrespectful and harmful  
5 actions by others to Askiy.

6 York Factory's traditional knowledge  
7 is held by our elders and passes from generation  
8 to generation. Our elders, members and resource  
9 users continue to maintain their worldview, values  
10 and traditional knowledge. To York Factory  
11 traditional knowledge is more than just  
12 information to be recorded and included in the  
13 environmental impact statement, it lives within  
14 our way of life. It is added to and adapted to  
15 the lives of successive generations of Cree  
16 people. For this reason, our traditional  
17 knowledge is best expressed and shared through the  
18 participation of our elders, resource users and  
19 knowledge holders in the partnership. It is  
20 crucial that our community representatives,  
21 elders, youth, resource users and knowledge  
22 holders continue to participate in the Keeyask  
23 Generation project's next phases, including  
24 construction, operation, environmental stewardship  
25 and adaptive management.

1                   Between 2002 and 2010, York Factory  
2    undertook a number of community based studies to  
3    examine the environmental and socio-economic  
4    issues of specific importance to the community.  
5    Studies were undertaken to examine existing  
6    socio-economic and environmental conditions,  
7    potential and environmental socio-economic impacts  
8    of the project, community goals and future  
9    priorities, traditional economic and land-based  
10   activities and community history.

11                  Community members were involved in the  
12   studies throughout meetings, workshops,  
13   interviews, surveys and field trips. Study  
14   reports were provided to Manitoba Hydro and its  
15   environmental management team.

16                  The York Factory Future Development  
17   office has informed members about the Keeyask  
18   Generation Project and the environmental  
19   assessment process through newsletters, community  
20   meetings and workshops, including special meetings  
21   and workshops with elders and resource users and  
22   youth. Cree translation has been provided at  
23   meetings and in newsletters. We have communicated  
24   the views, concerns and knowledge of York Factory  
25   members about Keeyask and our expectations for the

1 future through our reports and participation in  
2 the project planning and assessment processes. We  
3 continue to keep members informed about Keeyask  
4 Generation project by holding community meetings  
5 in York Landing and through our website.

6 York Factory has also been involved  
7 with Manitoba Hydro and other Keeyask Cree Nations  
8 in the process of preparing the Keeyask EIS by  
9 participating in working groups, attending  
10 workshops, reviewing and commenting on various EIS  
11 volumes, and writing our own report to include in  
12 the Keeyask EIS.

13 Our report for Keeyask for the EIS is  
14 called Kipekiskwaywinan, which means Our Voices in  
15 Cree. Kipekiskwaywinan has become a very  
16 important document to the community because of how  
17 it tells York Factory's story of Keeyask and  
18 expresses concerns, experiences and priorities of  
19 members.

20 Kipekiskwaywinan is not a tidy account  
21 that tries to make community concerns, experiences  
22 and priorities sound objective, balanced, certain,  
23 predictable and manageable. Rather the report is  
24 is full of many contradictions, fear, anger,  
25 weariness, resignation, yet hope. Our aim in this

1 report is to communicate the impact of this  
2 project and partnership on our community and  
3 people. York Factory members have differed with  
4 each other in meetings and workshops. Some  
5 members have shed tears while trying to describe  
6 the pain of changes to their way of life and the  
7 threats to their cultural survival.

8 Kipekiskwaywinan has been very important for York  
9 Factory members to reflect upon, discuss and begin  
10 to come to terms with the effects of past Hydro  
11 development and potential effects of Keeyask.

12 Through participation in Keeyask and  
13 the Environmental Impact Assessment, York Factory  
14 has become very aware of the role it will play in  
15 the potential environmental impacts, both positive  
16 and negative, as well as with mitigation measures,  
17 monitoring and follow-up programs and adaptive  
18 management of the project.

19 York Factory's history and experience  
20 with past Hydro development has lead to a level of  
21 distrust and scepticism of some of the scientific  
22 predictions. York Factory, however, is optimistic  
23 and hopeful moving forward in partnership with  
24 Manitoba Hydro and the other Keeyask Cree Nations.  
25 It's very important to York Factory to continue to

1 build a better relationship with our partners and  
2 learn about and manage the environmental impacts  
3 of Keeyask. We must also maintain our cultural  
4 values, practices and traditional knowledge  
5 through the Keeyask Generation Project while  
6 ensuring various economic benefits for our  
7 children and our grandchildren.

8           It is very important that we work  
9 together as partners to continuously reconcile a  
10 role in the partnership to heal past wounds  
11 related to the Hydro development, to build  
12 trustworthy relationships with our partners. We  
13 especially want our children and future  
14 generations to know that we entered into this  
15 partnership with these feelings and deep  
16 misgivings, but insisted on a long-term, ongoing  
17 commitment to healing, reconciliation, mutual  
18 respect and self-determination.

19           Despite our caution for what lies  
20 ahead, York Factory sees the need and importance  
21 in adapting and maintaining our culture, teachings  
22 and way of life as we have done many times since  
23 first contact with European colonizers.

24           York Factory is approaching the  
25 Keeyask Partnership with hope, determination to

1 keep our values, participate actively in  
2 environmental stewardship and provide  
3 opportunities for our nation.

4           We expect that the Keeyask partners  
5 will continue learning to work together and share  
6 knowledge with one another about Askiy over the  
7 long term. The environmental licences and the  
8 environmental protection program will play the  
9 largest role in determining how the partnership  
10 proceeds in its mitigation, monitoring and  
11 research management and reconciliation activities.

12           However, York Factory does not view  
13 obtaining an environmental licence as the end of  
14 the environmental stewardship and responsibility.  
15 Rather, we view the licences as providing a  
16 framework for the development of new hydroelectric  
17 facilities in our homeland.

18           As I explained at the beginning of  
19 this presentation, we have been here for a long  
20 time, much longer than Manitoba Hydro, the  
21 Province of Manitoba and Canada have existed. We  
22 are a part of Askiy. What we do to Askiy affects  
23 us deeply. For this reason, we have approached  
24 the Keeyask project and partnership with caution.  
25 As partners in Keeyask, we take our role very

1 seriously and hold ourselves in Keeyask  
2 partnership to a very high standard.

3 As we move forward with our Keeyask  
4 partners, Manitoba Hydro, Tataskweyak Cree Nation,  
5 War Lake First Nation and Fox Lake Cree Nation, we  
6 will keep striving to ensure that the partnership  
7 is the best it can be. We are hopeful and  
8 determined to use the Keeyask project to empower  
9 our community to maintain who we are as Ininiwak  
10 and to create a better future for our youth and  
11 generations to come.

12 Egosi. Thank you.

13 THE CHAIRMAN: Thank you, Mr. Bland.

14 MR. BLAND: Mr. George Neepin, Fox  
15 Lake.

16 MR. NEEPIN: Good afternoon. My name  
17 is George Neepin. I am currently on council of  
18 the Fox Lake Cree Nation. Mr. Chairman and  
19 members of the Commission, it's nice to see you  
20 again, elders and other participants, I especially  
21 want to acknowledge the youth that are with us in  
22 the room, as I consider them to be witnesses in  
23 the future for this historical event that we are  
24 attending here today.

25 It is my pleasure to appear before you

1 today on behalf of Fox Lake Cree Nation in order  
2 to address the following two questions. Given the  
3 abysmal history of adverse effects suffered by Fox  
4 Lake Cree Nation at the hands of Manitoba Hydro  
5 development, why would the great majority of Fox  
6 Lake members have chosen to become a partner with  
7 Manitoba Hydro and the three other Cree Nations in  
8 the development, operation and maintenance of the  
9 Keeyask hydroelectric project? And how did Fox  
10 Lake ensure that the process of negotiating the  
11 Joint Keeyask Development Agreement, our Adverse  
12 Effects Agreement and their associated instruments  
13 were satisfactory to and in accordance with the  
14 values of the citizens of Fox Lake, both in Gillam  
15 and Bird, as was the process through which the  
16 momentous decisions were taken by our community.

17 To answer those two questions and to  
18 provide the Commission with an understanding of  
19 the way Fox Lake participated in this project, I  
20 will attempt today, as concisely and accurately as  
21 possible to highlight our evidence in this regard.

22 At the outset, let me say that it is  
23 somewhat challenging for me, as it is I am sure  
24 for all of the Cree Nation witnesses, to be  
25 comprehensive while at the same time protecting

1 information extraordinarily confidential for Fox  
2 Lake and also recognizing the obvious fact that  
3 Fox Lake Cree Nation, like the other Cree Nations,  
4 is a limited partner of Manitoba Hydro in its  
5 development which, as in all partnerships in the  
6 commercial world, means that partners do not  
7 always agree. Partners often maintain strategic  
8 decisions with each other and they ensure that  
9 their future best interests are not betrayed by  
10 the disclosure of too much or too little about  
11 those strategic realities. But this is a new era  
12 and a new context so I will do my best to manage  
13 the duality of our circumstances.

14 I start with a short description of  
15 the history of hydroelectric development as it has  
16 affected Fox Lake in the past. Virtually all of  
17 the negative effects derived from hydro  
18 development along the Lower Nelson River area  
19 since the construction of the Kelsey Generating  
20 Station in the late 1950s, Kettle in 1966, Long  
21 Spruce in 1971 and the Limestone Generating  
22 Station in 1985 were occasioned and fell in Fox  
23 Lake's backyard, which is Gillam and later Bird  
24 and resulted primarily from a single phenomenon.  
25 That phenomenon was that Manitoba Hydro,

1 throughout those processes, did not take the  
2 interests, needs, history, existence and  
3 traditional knowledge of Fox Lake members into  
4 account in the planning or operation of those  
5 plants, except for some minimal regard at  
6 Limestone.

7 Hydro development in Manitoba,  
8 throughout the period, took place, not inclusively  
9 of Fox Lake, but in virtual complete disregard of  
10 Fox Lake and its citizens. We were in no way part  
11 of the process. We were simply the objects of a  
12 destructive process.

13 I command to your attention those  
14 parts of the Fox Lake Cree Nation Environmental  
15 Evaluation Report September 2012, already filed  
16 with the Commission, which offers more detail on  
17 the truth both in regard to the adverse effects to  
18 the individual projects and, more importantly,  
19 their cumulative effect.

20 In our view, all adverse consequences  
21 relating to an environmental impact which, in our  
22 case, uniquely includes incredible negative  
23 impacts from the massive influx of workers into  
24 our territory. Our homes, our lives and the  
25 well-being of our people lie in the corporate

1 hands of Hydro. To put it bluntly and in short,  
2 our people have been massively traumatized  
3 displaced and disrupted. And as individuals and  
4 as a community, we bear scars from that era which  
5 I am sure are unimaginable for the members of this  
6 Commission, but which are very real in our present  
7 and will be in our future until great healing has  
8 taken place.

9           The first healing step in that  
10 direction was the negotiation and signing of our  
11 Impact Settlement Agreement in 2004 with the  
12 province and Hydro which began to address, in  
13 part, the effects of the then four existing dams.  
14 We are now at step two. So we are here as limited  
15 partners in the Keeyask project because for the  
16 first time in the history of hydro development in  
17 this province, our needs have been examined, the  
18 potential impacts on our lives have been  
19 investigated, our traditional knowledge of the  
20 environment, which we call Askiy, has been  
21 highlighted. And with the skills and experience  
22 of our people, our consultants and our lawyers, we  
23 have been fully involved in years of long,  
24 detailed and creative negotiation and the drafting  
25 of outcomes leading to the joint Keeyask

1 development agreement and our adverse effects  
2 agreement.

3           In short, for the first time in  
4 history finally, we are part of the process, not  
5 the object of the process. We are partners in  
6 this project because for the first time in  
7 history, this is not their project, but theirs and  
8 ours. That is the revolutionary concept. This is  
9 not to say, as we testified, for example, at this  
10 Commission's hearings on Bipole III, that we  
11 achieved all of our goals or that the terms of the  
12 limited partnership or adverse effects agreement  
13 are fully consistent with all of the things we  
14 might like to have had included; or for that  
15 matter, that all of the potential impacts on our  
16 lives will have been defended, mitigated or  
17 compensated.

18           The agreements are not perfect from  
19 our perspective, they are not perfect from the  
20 perspective of any of the partners including the  
21 other Cree Nations. But most importantly, the  
22 trade-offs have been thoughtful and our people  
23 have been given full opportunity to express  
24 themselves on the details and desirability of the  
25 terms of the project.

1                   Additionally, of course, and very  
2   importantly, we are a limited partner in this  
3   project because of the considerable benefits the  
4   negotiations of the joint Keeyask development  
5   agreement have and will produce for Fox Lake in  
6   terms of capacity building, economic rewards, the  
7   assurance that we will be an informed people with  
8   regard to the development and we will participate,  
9   to a certain extent, in the roles allowed by law  
10   for limited partners in the governance of the  
11   project.

12                   It would take many hours if not days  
13   for me to give you chapter and verse describing  
14   every benefit we see as forthcoming from the  
15   project. All of which cumulatively outweigh what  
16   we see as negative effects.

17                   Each of our three Cree partners would  
18   do the same. However, the benefits, other than  
19   the psychic benefit of the pride of ownership we  
20   feel are evident in the documentation filed with  
21   this Commission, including the joint Keeyask  
22   development agreement and our adverse effects  
23   agreement. Therefore, so that we can all have an  
24   understanding of their value, I will summarize  
25   what we anticipate those benefits are for which of

1 course we are investing our own funds by way of  
2 capital contributions to the partnership.

3 I start with the observation that our  
4 participation in these many years in the  
5 negotiations and the enumerable technical  
6 committees of which we have been a part of from  
7 project description to adverse effects  
8 negotiations have greatly increased our capacity  
9 to do business and to function in this competitive  
10 world.

11 At the outset in fact, while we were  
12 negotiating our Impact Settlement Agreement with  
13 Manitoba Hydro and the province, before the  
14 Keeyask negotiations were concluded, we  
15 established the Winnipeg based negotiations office  
16 which has operated in parallel with the governance  
17 of Fox Lake, by the Chief and Council and  
18 supporting entities but which was designed for two  
19 specific reasons. First, we determined that it  
20 was in our best interests to develop the technical  
21 abilities to act ourselves as a consulting firm  
22 similar to the non Aboriginal consulting firms  
23 which have participated in the negotiations.

24 In our case, almost all of the office  
25 staff and all of its leadership were comprised of

1 First Nations personnel, most of who were in and  
2 are members of the Fox Lake Cree Nation itself.  
3 Our technical skills and our understanding of good  
4 business practice have grown through this  
5 institution. We were not always perfect but we  
6 have learned extraordinary lessons.

7 Our capacity also has been greatly  
8 facilitated and improved by the training programs  
9 in which our membership participated extensively.  
10 Throughout the years and the employment that our  
11 members have experienced, are experiencing and  
12 will experience as the development of the project  
13 continues and gathers stream.

14 In that same context, under the terms  
15 of the joint Keeyask development agreement, we  
16 have been awarded approximately 20 percent of the  
17 value of the direct negotiated contracts which  
18 have been made available to the Cree Nations  
19 without public tender but only after meeting  
20 established criteria.

21 I want to emphasize that the terms,  
22 mechanics and outcomes established through the  
23 negotiations with Manitoba Hydro, the province and  
24 the unions for the training and employment  
25 programs and the awarding of the direct negotiated

1 contracts were and are not perfect but they were  
2 methodologies and outcomes in the development of  
3 which we participated. We negotiated and our  
4 members approved. We won some and lost some. But  
5 in those processes and in operationalizing the  
6 employment and business opportunities, the  
7 capacity of our people to be employed and to do  
8 business now and in the future has been  
9 significantly positively affected. And I should  
10 add that as a result of these opportunities having  
11 been made available, Fox Lake has worked  
12 successfully to develop joint venture business  
13 relationships with experience, profitable and  
14 talented partners. From the very small to the  
15 very large, domestically and internationally, in a  
16 number of areas, notably catering, security and  
17 employee retention. Particularly in catering, we  
18 are a reliable and first rate vendor. These joint  
19 venture relationships we hope will bode extremely  
20 well for future development after Keeyask and  
21 apart from Keeyask.

22 Of course we will also benefit  
23 significantly as an equity partner from the income  
24 opportunity we have in the profits of the Keeyask  
25 project. Others will have described for you or

1 you will find in the joint Keeyask development  
2 agreement the two potential investment streams  
3 available to us. Whichever of the two we choose  
4 which happens at the same time, the last turbine  
5 goes into service and we anti up our investment  
6 funds. We pray for perfect climatic conditions  
7 and significant domestic and export prices sourced  
8 to maximize our share of partnership profits. We  
9 look forward to the stream of income, not only  
10 because of the programming it will allow our  
11 communities to develop and prosper but also  
12 because these will be our funds resulting from our  
13 investment and our efforts and we will not be  
14 beholden to other levels of government or  
15 institutions in the determination of their use.

16 In the case of Fox Lake, we have  
17 already established an umbrella structure which we  
18 have called Fox Lake ventures under which all of  
19 the income generated by our business opportunities  
20 will be housed and administered in accordance with  
21 sound business practice. The income and the  
22 capacity building are both major benefits from the  
23 project.

24 Lastly, one of the benefits we have  
25 achieved in our cost benefit analysis which lead

1 to the approval of the partnership by our  
2 membership is the adverse effects agreement  
3 entered into bilaterally between Fox Lake and  
4 Manitoba Hydro. Subsequent panels of this hearing  
5 will address those provisions more fully perhaps,  
6 but I do want to note a number of points. Each of  
7 the Cree nations separately negotiated a Keeyask  
8 Adverse Effects Agreement with Manitoba Hydro  
9 which first had to be approved by our membership  
10 in the referendum process and signed off by Chief  
11 and Council.

12                   The obligations of Manitoba Hydro  
13 under these adverse effects agreements will be  
14 assumed by the limited partnership once the  
15 decision is made to proceed with the Keeyask  
16 project and the funding for offsetting programs  
17 and compensation to the Cree Nations currently  
18 being expended by Manitoba Hydro will be charged  
19 to the limited partnership. Because Fox Lake is  
20 downstream of the Keeyask project, the  
21 environmental impact of the Keeyask project on Fox  
22 Lake's traditional territory, unlike Conawapa,  
23 will not be as significant as the environmental  
24 impacts on the other Cree partners of the area  
25 upstream from the Keeyask project. However,

1 because of Fox Lake's presence in and near Gillam,  
2 the impact from the influx of workers will be  
3 quite substantial. Once again, it has been  
4 identified as a significant adverse effects that  
5 needed to be and is being addressed, not perfectly  
6 but sufficiently for the time being. We expect  
7 the Commission will want to note the importance of  
8 this issue to Fox Lake to ensure it continues to  
9 be addressed properly.

10 The mitigation programs all have a  
11 focus on healing and strengthening the Fox Lake  
12 people and on strengthening Fox Lake's culture,  
13 language and heritage. The programs include a  
14 youth wilderness program, traditions program, Cree  
15 language program, grave site restoration program,  
16 alternative justice program, crisis centre and  
17 wellness counselling program, a lateral violence  
18 and Where Do We Go From Here program and a  
19 resource user access program.

20 The adverse effects agreement also  
21 anticipated \$3 million to be used for the design  
22 and construction of a gathering centre in Gillam,  
23 reference in our evaluation report. Although, for  
24 a number of reasons, that project will not proceed  
25 and the funds have not yet been drawn down by Fox

1 Lake.

2                   Our communities in the process of  
3 determining the best use for the funds to address  
4 adverse effects. In addition to the funding for  
5 those programs, the agreement provided for cash  
6 compensation as well as some \$1.5 million. Fox  
7 Lake will receive the funding for and will  
8 administer the offsetting programs. We will be  
9 required to provide annual budgets and annual  
10 reports to our members and to Manitoba Hydro to  
11 ensure that funds for the offsetting programs are  
12 used only for those programs. However, we have  
13 the ability, subject to certain requirements, to  
14 reallocate funding between programs, discontinue  
15 programs and create new programs to address  
16 adverse effects. Also, the adverse effects  
17 agreement has a reopener provision which provides  
18 that either Fox Lake or Manitoba Hydro may request  
19 changes to the agreement or the offsetting  
20 programs if there are material changes to the  
21 Keeyask project, unanticipated effects occur or  
22 new and material information comes to light that  
23 was not considered or addressed in the negotiation  
24 of the Keeyask Adverse Effects Agreement.

25                   In exchange for the commitment of

1 Manitoba Hydro and the limited partnership to the  
2 Adverse Effects Agreement, Fox Lake agreed that  
3 subject to the reopener terms and certain  
4 important exceptions including unanticipated  
5 adverse effects, Fox Lake has no remaining claims  
6 against Manitoba in the partnership for adverse  
7 effects of the Keeyask project including impacts  
8 on the exercise of Aboriginal or Treaty rights;  
9 that is, the collective rights and interests of  
10 Fox Lake and/or its citizens. However it is also  
11 important to note that the Aboriginal and Treaty  
12 rights of Fox Lake and Fox Lake citizens  
13 themselves are in no way impaired or altered as a  
14 result of the adverse effects agreement or the  
15 joint Keeyask development agreement.

16 Other initiatives agreed to in the  
17 process of negotiating the adverse effects  
18 agreements included the harmonized Gillam  
19 development initiative, a process more fully  
20 articulated in our environment evaluation report.  
21 In short, the initiative requires Fox Lake,  
22 Manitoba Hydro and to some extent the Province of  
23 Manitoba and the Town of Gillam to participate in  
24 discussions which acknowledge the political,  
25 marginalization of Fox Lake people in Gillam,

1 unhealthy racial relationships in the area and a  
2 number of guiding principles by which the parties  
3 collectively would work together overtime to  
4 mitigate those inappropriate relationships and to  
5 build a more harmonious environment in Gillam  
6 where so many of our members live. We are under  
7 no illusion that the process will be successful  
8 overnight, or even in the short term.

9 Institutionalized discrimination runs  
10 deep and will require some time, much time and  
11 effort before even moderate change is effected.  
12 But it is a start. Gillam has become not only our  
13 home but a place of comfort for our people. Fox  
14 Lake also has completed several socio cultural  
15 assessments on impacts of hydroelectric  
16 development along with a community history project  
17 and the study on the historical use of Fox Lake  
18 sturgeon on the Lower Nelson River.

19 Most importantly in 2009, Fox Lake  
20 documented the local and historical knowledge of  
21 our people in our traditional knowledge program  
22 which formed our environment evaluation report  
23 which, in turn, became part of the Environmental  
24 Impact Statement which of course has been filed  
25 with the Commission and will be addressed by a

1 subsequent panel at these hearings.

2 Later in these hearings, our witnesses  
3 will address more fully our experience and  
4 participation in the environment assessment that  
5 has taken place. Our participation in that  
6 process and our views on the outcomes which have  
7 been detailed in the Environment Impact Statement.  
8 For the moment, I command to you a reading of the  
9 Fox Lake Environmental Report itself. I should  
10 say however that while the process of meaningfully  
11 tying regulatory science and Aboriginal  
12 traditional knowledge was not perfect and will  
13 have to be improved as the years and projects go  
14 by, a representative giant step for us because  
15 finally at least we are part of it.

16 I turn now from benefits to process.  
17 That is, how have we participated in the  
18 development of the project to date? More  
19 importantly, how are Fox Lake members informed and  
20 consulted and how did the membership as a whole  
21 arrive at its decision to support Fox Lake's  
22 participation in the limited partnership?

23 Fox Lake entered the process of  
24 negotiations sometime after Tataskweyak Cree  
25 Nation had negotiated a bilateral agreement in

1 principle which ultimately formed the basis for  
2 and set the boundaries on subsequent events.

3           The agreement in principle established  
4 a relative participation rights of the four Cree  
5 Nations in up to 25 percent of the equity of the  
6 project and in the ratio of 60 percent for  
7 Tataskweyak Cree Nation and War Lake and  
8 20 percent for each of the Fox Lake and York  
9 Factory. As I have indicated earlier, our Keeyask  
10 negotiations office together with our lawyers  
11 participated fully and conscientiously in all of  
12 the technical negotiations which followed, both on  
13 the terms of the joint Keeyask development  
14 agreement, its corollary agreements, all of the  
15 associated processes, other issues which developed  
16 and our adverse effects and other initiative  
17 agreements.

18           Throughout that whole process, Fox  
19 Lake maintained a Keeyask advisory group comprised  
20 of a number of Fox Lake members, not otherwise  
21 involved in the technical matters and  
22 negotiations. Some of those members sat at the  
23 adverse effects table. They met from time to time  
24 with our technical people and lawyers or  
25 independently of them, received status reports and

1 information and offered their perspectives  
2 positive and negative as representatives of the  
3 pulse of the community. In addition, throughout  
4 the entire process, periodic information sessions  
5 were held with members of the first nation at band  
6 meetings and specially called meetings of members.  
7 All of the major developments were communicated to  
8 the membership, at least those who were interested  
9 in receiving the information throughout the  
10 process period. Of course the technical  
11 complexities which bent the minds of experts  
12 trained in those areas let alone lay people, had  
13 to be presented in understandable terms. And they  
14 were. The negotiations office and lawyers met  
15 consistently with Chief and Council.

16 I pause to add that a number of  
17 different chiefs and councillors were elected and  
18 served during that period. I was one of those  
19 chiefs, as well as having been the director of the  
20 negotiations office. Information was provided to  
21 Chief and Council by our negotiating team on a  
22 regular basis. They were consulted for  
23 instructions whenever major issues arose or  
24 strategic decisions had to be determined.

25 The chief, from time to time, and

1 often the chief and councillors, were also part of  
2 meetings of what was known as the core group, a  
3 committee of the whole designed to deal with  
4 difficult or generalized issues and  
5 decision-making which required broad  
6 representation of Manitoba Hydro and  
7 representatives, politicians and members,  
8 technicians and lawyers for all of the First  
9 Nations.

10 On stalemate, principals meetings were  
11 held involving only the CEO of Hydro and the  
12 chiefs.

13 Often at the joint Keeyask development  
14 agreement negotiating table, members of the  
15 Keeyask negotiations office participated with our  
16 lawyers and periodically community members also  
17 attended. Once the terms of the joint Keeyask  
18 development agreement had been finally settled,  
19 two processes were instituted in order to ensure  
20 that Fox Lake's entry into the partnership met  
21 with the will and support of the Fox Lake  
22 membership. The two processes were further  
23 community consultation and the membership  
24 referendum.

25 In terms of the consultation process,

1    which was comprehensive, summaries of all the key  
2    terms of the joint Keeyask development agreement  
3    and adverse effects agreement and all of the  
4    thinking and analysis of Fox Lake's negotiators at  
5    the table that had gone into the agreement were  
6    prepared by legal counsel and technicians from the  
7    Keeyask negotiations office. All of the  
8    complexity of agreements were highlighted in the  
9    presentations not only at a high level but in a  
10   way which allowed lay people to hear and  
11   understand the terms of the agreements as best as  
12   we could.

13                   Those presentations were taken on  
14   several road trips which covered Gillam, Bird,  
15   Thompson, Churchill and Winnipeg at pre-publicized  
16   meetings attended by interested members who were  
17   presented with the material and the explanations  
18   by legal counsel and the technicians involved at  
19   which they were able to ask questions and receive  
20   explanations.

21                   Of course opponents and critics of the  
22   concept or of individual terms were also welcomed  
23   at the meeting so that all points of view might be  
24   heard and taken into account.

25                   I have indicated that throughout the

1 process, information sessions about the JKDA were  
2 held in various communities in which Fox Lake  
3 members resigned. And great care was taken to  
4 ensure that subject areas of each of those  
5 consultations was manageable.

6                   For the convenience of the Commission,  
7 I have tendered with the clerk as evidence in this  
8 hearing a document entitled Joint Keeyask  
9 Development Agreement Fox Lake Community  
10 Consultations which exemplifies the dates, the  
11 locations and topics of some such consultations.  
12 It is marked Appendix A. The ratification and  
13 referendum process that then was conducted in  
14 accordance with the provisions of the joint  
15 Keeyask development agreement.

16                   Comprehensive information meetings in  
17 anticipation of the referenda attended by Fox  
18 Lake's consultants and legal counsel were held in  
19 Winnipeg in February 21, 2009, Bird February 24,  
20 2009, Gillam February 25, 2009, Thompson  
21 February 26, 2009 and Churchill February 9, 2009.  
22 The first referendum vote that is for both the  
23 JKDA and adverse effects agreement took place  
24 March 11, 2009 in Winnipeg, Bird, Gillam, Thompson  
25 and Churchill. In the first referendum, although

1 the vast majority of members voted in favour of  
2 both the JKDA 86.9 percent and the adverse effects  
3 agreement 90.7 percent, Fox Lake failed to meet  
4 the minimum participation threshold in that set on  
5 the first round at one-half of all of its members.  
6 Consequently as permitted under the protocol, a  
7 second referenda was held on May 6, 2009 in the  
8 same locations without the requirement of a  
9 minimum threshold. Just less than 50 percent of  
10 eligible voters voted. On both referenda votes,  
11 mail-in ballots were also accepted.

12 I am tendering, for the convenience of  
13 the Commission, a document entitled Fox Lake Cree  
14 Nation Joint Keeyask Development Agreement and  
15 Adverse Affects Agreement which certifies the  
16 results of the second referenda. It is marked  
17 Appendix C.

18 Overall, 91.9 percent of voters voted  
19 in favour of JKDA and 93.3 percent of voters voted  
20 in favour to the Adverse Effects Agreement.

21 Chair and Commissioners, I have one  
22 last point to make in this initial presentation of  
23 the Fox Lake Cree perspective. I want to  
24 emphasize that not every Fox Lake member agreed or  
25 agrees with our participation. Not every Fox Lake

1 member took advantage of the consultations and the  
2 data and information that was presented. Not  
3 every Fox Lake member voted and not every Fox Lake  
4 member believes that we did enough as a community  
5 to investigate, analyze and protect our  
6 environment. To expect such unanimity would be an  
7 impossible dream.

8           In fact, as you will know, some few  
9 Fox Lake members have sought and have received  
10 standing at these hearings and have retained some  
11 expertise to assist them in presenting their  
12 perspectives.

13           On the technical points regarding the  
14 environment, I will defer to my colleagues on a  
15 subsequent panel dealing specifically with our  
16 evaluation reports. But I do want to affirm that  
17 we value and encourage debate and critical  
18 dissent. We respect those of our members who  
19 oppose or are critical of the project and who will  
20 testify perhaps on their reasons for that  
21 opposition. Because they are Fox Lake members,  
22 absent provocative reason, it is not our intention  
23 to challenge or cross-examine those of our members  
24 who are dissenting on their political or, for that  
25 matter, analytical perspectives. I repeat again,

1 we respect their right to be critical and to  
2 express that criticism.

3           Instead, I would repeat a theme that  
4 you have heard already from me today. The  
5 consultative and informative process allowed all  
6 Fox Lake members who were interested to learn  
7 about, get information on and question and  
8 criticize the project as it was being negotiated  
9 and prior to the referendum, that lead to our vote  
10 being taken to an informed and procedurally  
11 appropriate basis. An overwhelming majority of  
12 our people said yes to both the joint Keeyask  
13 development agreement and Adverse Effects  
14 Agreement.

15           The referendum was fairly conducted to  
16 inform the population and its result was  
17 conclusive. As First Nations people, we try  
18 always to find consensus and we get as close as we  
19 can to a consensus when we can.

20           We did so in our approval of Fox  
21 Lake's entry into the partnership. The democratic  
22 ideal which is expressed in these statements in my  
23 view is sufficient answer to those who would  
24 oppose the licensing of the partnership and the  
25 project. We are proud of our accomplishments.

1 Thank you.

2 THE CHAIRMAN: Thank you, Mr. Neepin.  
3 Mr. Spence?

4 MR. SPENCE: Mr. Chairman and members  
5 of the public, members of the Clean Environment  
6 Commission, representatives from Manitoba Hydro  
7 and our Cree Nation partners, my name is Victor  
8 Spence. I am the manager of the Future  
9 Development for Tataskweyak Cree Nation. And I  
10 represent the Cree Nation partners, Tataskweyak  
11 Cree Nation and War Lake First Nation.

12 I am pleased to be here today to  
13 provide you with an overview of how the Cree  
14 Nation partners came to be involved in the Keeyask  
15 project, including a description of intensive,  
16 meaningful and respectful processes that we were  
17 able to employ to consider the project. To help  
18 save it to meet our needs and ensure that the  
19 business arrangements and our environmental  
20 concerns were addressed to the greatest possible  
21 extent.

22 We have taken a long time to get to  
23 where we are today. Co-proponents of a major  
24 energy project. Our path has not been an easy  
25 one. It has been very difficult.

1                   Some may find it puzzling that a  
2 hydroelectric development which has caused such  
3 devastation to our lands and waters will now be  
4 proposed by us as a way forward to a better future  
5 of our children and grandchildren. We have told  
6 our story of this journey in our environmental  
7 evaluation report. Which is an important part of  
8 the Keeyask EIS and which I encourage you to read.  
9 But I'd like to give you an overview of it today  
10 and at this time.

11                   The process that we have entered  
12 through this partnership has been a difficult  
13 path. However, back in 1977, our grandfathers  
14 entered into a modern day Treaty with Manitoba  
15 Hydro, the federal government and the provincial  
16 government. And there arises an agreement which  
17 we have rights and interests. And one of them is  
18 this partnership. This partnership gives us an  
19 opportunity of hope, to provide hope to our people  
20 and to our children and their grandchildren. It  
21 is with this hope that our members voted in favour  
22 to a referendum process on this partnership. And  
23 at this time, I will acknowledge our partner War  
24 Lake First Nation, which is represented by Mr. Roy  
25 Ouskun and also our Tataskweyak Cree Nation Robert

1 Flett to do the presentation. Mr. Flett,  
2 Mr. Ouskun.

3 MR. FLETT: Thank you. My name is  
4 Robert Flett. I am from Tataskweyak Cree Nation.  
5 I work for our local future development team and I  
6 have been involved with that since 2000, so it's  
7 been coming up to 14 years now. I have been  
8 working with Mr. Spence since that time and I have  
9 learned a lot from that gentleman.

10 MR. OUSKUN: Good afternoon,  
11 Mr. Chair, panel and the members of the public, my  
12 name is Roy Ouskun, member of War Lake First  
13 Nations. And I was appointed here through my  
14 Chief and Council in which I participated from the  
15 beginning. And it's been a hard journey for all  
16 War Lake and TCN. And listening to our elders.  
17 And working from there. Thank you.

18 MR. FLETT: To understand the decision  
19 of the Cree Nation partners, Tataskweyak Cree  
20 Nation and War Lake First Nation, to approve the  
21 Keeyask project, you need to know some of our  
22 history. Tataskweyak Cree Nation or TCN is a  
23 nation of Cree people who are the descendants of  
24 the original inhabitants of Northeastern Manitoba.  
25 The population of TCN is nearly 3,500, of which

1 about 65 percent of those live on reserve.

2 MR. OUSKUN: War Lake was recognized  
3 as a separate band in 1980. Before that, most War  
4 Lake members had been members of TCN. The  
5 community of Ilford where the main reserve of War  
6 Lake is located is on the Hudson Bay railway line,  
7 and used to be an important supply and  
8 distribution point for the TCN community at Split  
9 Lake, and points further north and east. War Lake  
10 has had a population of 269 members with 75 living  
11 on reserve.

12 MR. FLETT: Two mighty rivers flow  
13 through our lands, the Churchill and the Nelson.  
14 Our traditional lands include the Split Lake  
15 resource management area and the War Lake  
16 traditional use area within the Split Lake  
17 resource management area. The Split Lake resource  
18 management area is more than 43,000 square  
19 kilometres in area, representing, just like our  
20 chiefs said earlier, 70 percent of Manitoba, an  
21 area approximately the size of the proposed rural  
22 heritage site on the east side of Lake Winnipeg.

23 Our traditional territories are even  
24 broader than the Split Lake resource management  
25 area. The Split Lake resource management area

1 includes lands bordering the Nelson River, all the  
2 way up to the Hudson Bay coast as recognized in  
3 the 1992 NFA implementation agreement between  
4 Canada, Manitoba, Manitoba Hydro and TCN.

5 MR. OUSKUN: From time and memorial we  
6 live here, an organized society that hunted,  
7 fished, trapped and harvested. Governing  
8 ourselves according to our own laws, customs and  
9 beliefs. Recent archeological discoveries at  
10 Clark Lake referred as to Manay (ph) in Cree.  
11 Approximately seven miles downstream of TCN's  
12 Community of Split Lake, provide evidence of our  
13 ancestors trading with other tribes across North  
14 America before first contact with Europeans.

15 Before the first contact, our  
16 ancestors lived in harmony with the land and had  
17 power and authority to govern their own lives.  
18 Our homeland ecosystem, the Churchill and the  
19 Nelson Rivers, the rich boreal forest fed by the  
20 rivers and the bountiful Hudson Bay lowlands and  
21 coast line sustained us both physically and  
22 culturally. Our people were complete self-relying  
23 and self-sustaining.

24 For some 250 years after the first  
25 European contact, our land continued to support as

1 we blended new technology and values with our  
2 traditional ways. But with the passage of time,  
3 outsiders eventually gained control of our land  
4 and authority over our lives. Our history  
5 throughout the better part of the last century,  
6 our history shared by all First Nations peoples in  
7 Canada is a sad story of this procession and posed  
8 changes, neglect, poverty and underdevelopment at  
9 the hands of governments and outsiders. For  
10 example, government forced us, a people who had  
11 always lived throughout our past traditional  
12 territory, into a static and alien existence on  
13 our reserve. Our environmental evaluation reports  
14 provide a description of many other such changes  
15 that were imposed on us.

16 MR. FLETT: From all of our history,  
17 the most significant changes to our way of life  
18 are the result of hydroelectric developments in  
19 Northern Manitoba. Hydroelectric development of  
20 our waterways began in 1957 with the construction  
21 of the Kelsey Generating Station on the Nelson  
22 River where it empties into Split Lake in the  
23 south of the Split Lake resource management area.  
24 Hydroelectric development continued in the 1970s  
25 with the Churchill River diversion and the Lake

1 Winnipeg regulation, new generating stations on  
2 Kettle, Long Spruce and Limestone further flooded  
3 and changed our lands and rivers forever. They  
4 had a devastating effect on our customs, practices  
5 and traditions. The Churchill River diversion and  
6 Lake Winnipeg Regulation had a great impact on us.  
7 In particular, the Churchill River diversion  
8 greatly increased the flow of water and sediment  
9 into Split Lake in order to power the new plant  
10 generating stations downstream from us. The  
11 adverse effects went beyond the worst fears of our  
12 people.

13                   The natural Nelson River pattern of  
14 higher flows in the spring and summer with  
15 declining and low flows in the fall and winter was  
16 reversed. Flooding of our lands and erosion of  
17 the shoreline occurred turning our waterways to  
18 mud. In winter, our traditional highways on the  
19 ice became dangerous and often unusable. There  
20 was damage to property and loss of homes. While  
21 life patterns and habits we knew and depended upon  
22 changed, mercury contaminated the fish, Manitoba  
23 Hydro development was the final step in removing  
24 forever our opportunity to fully support and  
25 sustain ourselves in our traditional ways.

1                   MR. OUSKUN: Our lands and waters were  
2 so changed by these projects that it was as if we  
3 had been uprooted and moved to some distant  
4 foreign place. To give an idea of the scale of  
5 these projects today, about 75 percent of the  
6 hydroelectricity generated within Manitoba is  
7 generated within the Split Lake resource  
8 management area due to the regulations of Lake  
9 Winnipeg, the diversion of the Churchill River  
10 into the Nelson and the construction of Kelsey,  
11 Kettle, Long Spruce and Limestone generating  
12 stations. The value of these projects to  
13 Manitobans has been enormous. But for a very long  
14 time, the only thing we experienced was the  
15 impacts, as much of this hydroelectric development  
16 was imposed on us with little or no consultations.

17                   MR. FLETT: Fifty-seven years ago, our  
18 grandfathers and grandmothers looked southwest  
19 from their homes in Split Lake and saw smoke  
20 rising in the distance above the trees. That  
21 smoke from the construction camp for the Kelsey  
22 generating station was our first indication that  
23 Kelsey was being built. No consultations preceded  
24 the decision to build Kelsey, despite how close it  
25 was to our community how it imposed unwelcome and

1 disruptive changes on our culture and our way of  
2 life.

3 MR. OUSKUN: In order to begin  
4 addressing concerns over hydroelectric development  
5 projects, TCN, along with other four affected  
6 First Nations, form the Northern Flood Committee  
7 in 1974. The NFC was able to bring Hydro,  
8 Manitoba and Canada to the table to begin  
9 negotiations concerning the impacts of the  
10 hydroelectric projects on our First Nations lands,  
11 livelihood and culture. The negotiations resulted  
12 in the signing of the Northern Flood Agreement by  
13 Hydro, Manitoba, Canada and the NFC in  
14 December 1977 and ratified by members of the five  
15 NFC bands in March 1978. The NFA was a difficult  
16 agreement to negotiate because of government and  
17 Hydro. However through a collective determination  
18 and our elders' wisdom, the other parties were  
19 forced to recognize our people's historic and  
20 independent relationship with our homeland  
21 ecosystem. Our efforts resulted in the legal  
22 framework to give us a voice with a respect to  
23 future hydro developments. This was a huge  
24 accomplishment.

25 In addition to being difficult to

1 recognize, the NFA proved an equal difficult  
2 agreement to implement largely because of a lack  
3 of understanding by outsiders of the enormous  
4 adjustments and damages imposed on our people.  
5 For many years, little positive actions were taken  
6 toward implementing the NFA.

7           In 1990, after two years of  
8 negotiations between the Northern Flood Committee,  
9 Canada, Manitoba and Hydro, to implement the NFA,  
10 the negotiations broke down.

11           MR. FLETT: At that point, TCN took  
12 the far-sighted, controversial and courageous  
13 decision to proceed alone with negotiations to  
14 implement key features of the NFA with Hydro,  
15 Manitoba and Canada. Other affected Cree Nations  
16 chose their own path. Negotiations resulted in  
17 TCN'S 1992 NFA implementation agreement that  
18 brought the benefits to TCN members. It resulted  
19 in major changes in the relationship between TCN  
20 and Hydro and the gradual improvements and  
21 understanding within Hydro how we experience  
22 impacts. The 1992 agreement also contains  
23 provisions protecting TCN's rights and interests  
24 in relation to any future hydroelectric  
25 development and formal recognition of TCN's

1 governance and authority and formally recognized  
2 the Split Lake resource management area and  
3 provided for the co-management of the resources by  
4 Manitoba and TCN through the establishment of the  
5 Split Lake resource management board.

6           From 1992, TCN and Hydro explored  
7 various development options downstream. Hydro  
8 suggested in 1996 that TCN and Hydro continue  
9 consultations about the scope and timing of a  
10 potential development of Gull Rapids which at that  
11 time was contemplated to be about 20 to 25 years  
12 away. The Cree word for gull as you know is  
13 Keeyask.

14           In recognition of the fact that TCN  
15 and Hydro shared virtual interests in the waters  
16 of the Nelson River basin, TCN Chief and Council  
17 wrote to the president of Hydro in 1998  
18 recommending that the best way to move forward at  
19 Keeyask would be to negotiate the terms of a  
20 business partnership between us as co-proponents  
21 of such future development. Our leaders were  
22 determined that if we couldn't achieve partnership  
23 status for the project, they would oppose any  
24 future development, with every means at our  
25 disposal. But Hydro responded positively to our

1 proposal. And negotiations began toward an  
2 agreement in principle.

3           The agreement in principle, the AIP as  
4 we call it, was signed between TCN and Hydro in  
5 October 2000, the government partnership  
6 negotiations. It's also worth noting that the  
7 idea of First Nations ownership in an  
8 infrastructure project of this magnitude was very  
9 new for such projects in Canada at the time that  
10 was proposed by TCN, so we're kind of breaking new  
11 ground here now.

12           MR. OUSKUN: TCN took steps to include  
13 neighboring First Nations and the Keeyask  
14 partnership arrangements. In May 2001, TCN and  
15 War Lake formed the Cree Nation partners. TCN  
16 also invited York Factory First Nation and Fox  
17 Lake Cree Nation to sign but they declined and  
18 sent out to independently negotiate arrangements  
19 with Manitoba Hydro.

20           In July 2003, War Lake was formally  
21 made a party to the TCN and Hydro agreement in  
22 principle. This agreement also recognized the use  
23 of War Lake's traditional resource area in the  
24 southern portions of Split Lake resource  
25 management area.

1                   In each of the TCN and War Lake AIP's,  
2   it was agreed to work jointly with Hydro, to  
3   define and carry out environmental studies,  
4   consultations and other work required to prepare  
5   an Environmental Impact Statement for the Keeyask  
6   project. These agreements state that we are  
7   responsible for the processes within our  
8   communities leading to our decision about whether  
9   to proceed with the project. They also state that  
10   the protocol for our participation and the  
11   environmental assessment process would be  
12   developed relating to our participation as to  
13   co-proponents of the project.

14                   The environmental and regulatory  
15   protocol approved in February 2001 provided for  
16   our participation in the assessment of Keeyask  
17   environmental effects and in particular for using  
18   our Cree world in the process. A number of  
19   committees and processes which representations  
20   from the Cree Nation partners, York Factory First  
21   Nation and Fox Lake Cree Nation and Hydro were  
22   established for the environmental assessment of  
23   Keeyask. Over the eight years following the TCN  
24   AIP, TCN and War Lake developed detailed  
25   negotiation positions and consulted with members

1 on all aspects of Keeyask projects. This included  
2 identification and evaluations of potential  
3 Keeyask adverse effects, medication, adverse  
4 effects agreements, business arrangements and  
5 finally the joint Keeyask development agreement.

6 MR. FLETT: A key role in our  
7 negotiations and consultations was played by our  
8 OWL reference group which OWL refers to overview  
9 of water and land established by us in the early  
10 2000s which was responsible for reviewing the  
11 Keeyask project description, regulatory issues and  
12 adverse effects. War Lake carried out a parallel  
13 process. War Lake negotiated and signed a 2005  
14 War Lake past adverse effects agreement with Hydro  
15 and Manitoba which provided compensation for  
16 adverse effects of existing hydro development, and  
17 provided processes for addressing impacts of  
18 future hydro projects. The following extensive  
19 consultations and negotiations concerning the JKDA  
20 and our respective adverse effects agreements, TCN  
21 and War Lake each held a referendum. Following  
22 that, our Chief and Council signed our respective  
23 adverse effects agreements and the joint Keeyask  
24 development agreement in 2009.

25 Our environmental evaluation report

1    which forms an important part of the Keeyask  
2    environmental impact statement describes how we  
3    set out to protect our interests beginning with  
4    our 1998 proposal to Manitoba Hydro to negotiate a  
5    partnership for the development of the Keeyask  
6    project. Our report outlines a process of  
7    consultation and negotiation conducted in  
8    accordance with our tradition of consensus,  
9    decision-making which included extensive  
10   opportunities for our members to voice their  
11   opinions, to raise their concerns and to have  
12   their questions addressed and their viewpoints  
13   respected.

14                   MR. OUSKUN: Our report provides  
15   information about how we identify and evaluate the  
16   severity of the environmental issues and potential  
17   adverse effects to within the knowledge and  
18   experience of our members and the context of our  
19   world view. By describing the anticipated effects  
20   from Keeyask as effects on our relationships, we  
21   were able to appropriately express the impacts and  
22   negotiate medication and compensation.

23                   We have also described the instances  
24   where we had a direct influence on the design and  
25   other key features of Keeyask beginning with a

1 decision to use the lowest possible reservoir so  
2 as to limit environmental impacts.

3 MR. FLETT: Like previous  
4 hydroelectric developments, the Keeyask project  
5 will have certain major unavoidable effects.  
6 Knowing this, we nevertheless are hopeful that the  
7 project will actually enhance our culture by  
8 providing increased opportunities to engage in the  
9 customs, practices and traditions integral to our  
10 distinctive cultural identity and which are key to  
11 strengthening our vital relationships with Mother  
12 Earth. Similarly, we are hopeful that the  
13 benefits that are associated with the JKDA like  
14 training employment, business opportunities and  
15 income opportunities from the sale of the  
16 project's power will sustain us physically.

17 MR. OUSKUN: Our communities have  
18 experienced the effects of previous hydroelectric  
19 developments for over five decades without a fair  
20 share of benefits. Now through the vision,  
21 guidance and determination of our elders and  
22 leaders, and active participation of our members,  
23 we are in the position to meet our goals of  
24 secure, socio-economic and cultural benefits  
25 sufficient to sustain our people while protecting

1 the natural environment.

2 MR. FLETT: You know, it's impossible  
3 to know with absolute certainty what our future  
4 will be with Keeyask. But in voting to approve  
5 the joint Keeyask development agreement and our  
6 adverse effects agreement, we express a hope, a  
7 realistic hope based on a careful assessment that  
8 Keeyask will help sustain us. Thank you.

9 THE CHAIRMAN: Thank you, Mr. Ouskun  
10 and Mr. Flett.

11 Mr. Spence?

12 MR. SPENCE: Mr. Chairman, at this  
13 time, I thank the two gentlemen. Regrettably due  
14 to limited eyesight, I was unable to read the  
15 presentation. And I do thank Mr. Flett and  
16 Mr. Ouskun for backing me up, but I will be the  
17 main witness for the rest of the panel at this  
18 time.

19 And also for the public and,  
20 Mr. Chairman, we had a video to introduce our  
21 story but we may not have time to show it this  
22 afternoon.

23 THE CHAIRMAN: Ms. Pachal and I spoke  
24 about it earlier and I think given the time now, I  
25 think we will put the video off until tomorrow

1 morning.

2 And so does that conclude your opening  
3 comments or the comments for this afternoon?

4 Okay. We will adjourn for today and  
5 we will resume tomorrow morning in this room at  
6 9:30.

7 MS. JOHNSON: Mr. Chairman, I have a  
8 number of documents.

9 Okay. From this morning's  
10 presentation, Ms. Braun's presentation on behalf  
11 of the department will be MCWS 001. We have  
12 opening comments from the Consumer's Association,  
13 Mr. Williams' presentation will be CAC 001. We  
14 have opening comments from Manitoba Wildlands MWL  
15 001. Peguis First Nation opening comments will be  
16 PFN 001. And the documents that we are here to  
17 actually review are the partnership documents and  
18 they will be numbered from 1 to 28. That will  
19 include the EIS, the TAC responses, the IR  
20 responses, the video and any supplemental  
21 materials. And we'll provide a list tomorrow of  
22 the actual numbers for each document.

23 I'm sorry, I didn't put the prefix on  
24 those, KHL P from 1 to 28.

25 And KHL P 029 will be the panel

1 presentation guide. KHL P 30 will be the York  
2 Factory presentation. KHL P 31 will be Appendix A  
3 from Fox Lake. KHL P 32 will be Appendix C from  
4 the Fox Lake Cree Nation. KHL P 32 will be the  
5 presentation to the CEC, KHL P panel, the slides.  
6 And 33 will be the presentation materials from the  
7 Cree Nation partners.

8 (EXHIBIT MCWS001: Ms. Braun's  
9 presentation on behalf of the  
10 department)

11 (EXHIBIT CAC001: Mr. Williams'  
12 presentation)

13 (EXHIBIT MWL001: Manitoba Wildlands  
14 presentation)

15 (EXHIBIT PFN001: Peguis First Nation  
16 opening comments)

17 (EXHIBIT KHL P 1 to 28: Partnership  
18 documents numbered from 1 to 28)

19 (EXHIBIT KHL P029: Panel presentation  
20 guide)

21 (EXHIBIT KHL P030: York Factory  
22 presentation)

23 (EXHIBIT KHL P 031: Appendix A from  
24 Fox Lake)

25

1 (EXHIBIT KHLP032: Appendix C from the  
2 Fox Lake Cree Nation)

3 (EXHIBIT KHLP032: Presentation to the  
4 CEC, KHLP panel, the slides)

5 (EXHIBIT KHLP033: Presentation  
6 materials from the Cree Nation  
7 partners)

8

9 THE CHAIRMAN: Thank you. Now we  
10 stand adjourned until 9:30 tomorrow morning.

11 (5:02 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.

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Cecelia Reid  
Official Examiner, Q.B.

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Debra Kot  
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