

MANITOBA CLEAN ENVIRONMENT COMMISSION

MANITOBA-MINNESOTA TRANSMISSION PROJECT

VOLUME 14

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Transcript of Proceedings
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Winnipeg, Manitoba
TUESDAY, MAY 30, 2017

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INDEX OF PROCEEDINGS

Manitoba Metis Federation presentation:	3102
Will Goodon	
Briele Reimer	
Adena Vanderjat	
Tracy Campbell	
Questions Mr. Adkins	3178
Questions by Mr. Toyne	3261
Questions by CEC panel	3269

INDEX OF EXHIBITS

INDEX OF UNDERTAKINGS

NO UNDERTAKINGS

1 TUESDAY, MAY 30, 2017

2 UPON COMMENCING AT 9:30 A.M.

3

4 THE CHAIRMAN: Good morning, everyone,
5 and welcome back to our hearings into the
6 Manitoba-Minnesota Transmission Project. And
7 today we're going to be hearing from the Manitoba
8 Metis Federation. So Mr. Davis, I'll ask you to
9 start, I'm assuming. And maybe just before I do
10 that, are there people needing to be sworn in?
11 Okay.

12 MS. JOHNSON: Could you please state
13 your names for the record?

14 MR. GOODON: My name is Will Goodon.
15 (Will Goodon sworn)

16 MS. REIMER: My name is Brielle
17 Reimer.
18 (Brielle Reimer sworn)

19 MS. VANDERJAT: My name is Adena
20 Vanderjat.
21 (Adena Vanderjat sworn)

22 MS. CAMPBELL: My name is Tracy
23 Campbell.
24 (Tracy Campbell sworn)

25 THE CHAIRMAN: Okay. Now, Mr. Davis,

1 you can go ahead, thanks.

2 MR. DAVIS: Thank you to the
3 Commission for your time this morning. I'm not
4 going to speak very much this morning, I'm going
5 to leave most of the speaking to be done by our
6 panel. The panel is made up, as you just saw, of
7 four individuals. The first, Will Goodon, is a
8 member of Cabinet of the Manitoba Metis
9 Federation, and he will be presenting the origins
10 of Metis people, their history, giving you the
11 context, the frame, the lens which we really
12 believe is necessary to understand what impact
13 this project will have on the Manitoba Metis
14 community.

15 Brielle is a Metis harvester. She is
16 a woman who has put a lot of thought into the
17 issue of Metis harvesting in Southern Manitoba.
18 And she will speak to you from the perspective of
19 the harvester, to give you a human face to what
20 impact this project will have on the Manitoba
21 Metis community. We feel that is really
22 important. We feel that one of the shortcomings
23 of the Environmental Impact Assessment was that it
24 didn't tackle the challenge of quantifying the
25 beliefs and perceptions of Metis people with

1 respect to this project. And by failing to do
2 that, fails to reflect the true impact that the
3 project will have on Metis people.

4 And that is why the final speakers for
5 you today are going to be Tracy Campbell and Adena
6 Vanderjat of the Cailliou Group, who have made the
7 effort to move beyond the personal stories and
8 give a community picture of what the impact of
9 this project will be on the beliefs, perceptions,
10 and ultimately behaviour of Metis harvesters in
11 Southern Manitoba.

12 So with that I want to pass it over to
13 Will, and I would ask that you introduce yourself
14 and the Manitoba Metis community.

15 MR. GOODON: Thank you very much,
16 Zach. My name is Will Goodon, and I hope to -- I
17 have brought along a few notes to help me rejig my
18 memory of what I'm going to say to you today. I
19 apologize ahead of time in case I go off on
20 tangents. I have a tendency to do that.

21 I am a Metis person. I am from
22 Brandon, Manitoba, but I grew up in the Turtle
23 Mountains in the southwest region of Manitoba. My
24 father grew up there and his father grew up there
25 as well. As I said, I live in Brandon with my

1 family, two kids, and my wife who works at Brandon
2 University. I am also a member of the Manitoba
3 Metis Federation system of the Metis Nation, and I
4 have both a Metis harvester card and a Metis
5 citizenship card.

6 Just as further introduction, I'm also
7 an elected member on the Cabinet of the Manitoba
8 Metis Federation. Currently my portfolio and
9 title includes being the Minister of Housing and
10 the Minister of Property Management. In addition,
11 I'm also on the committee for the tripartite
12 self-government negotiations committee.

13 One of the things I wanted to talk
14 about was the early origins of the Metis Nation,
15 and how the fur trade played a pivotal role in
16 what was to become a new people. As we know from
17 some of our history books, although in the past,
18 our history books haven't always portrayed the
19 Metis properly, nor their origins, one of the
20 things we do know is that in the early part, in
21 the early history of our country, the European
22 men, voyageurs would travel across the country in
23 search of furs, in search of the fur trade. While
24 they were travelling, they would meet the people
25 who were on the land at the time, the First

1 Nations people. And one of the things that
2 happened at that time, obviously there was
3 marriages.

4 Marriages were more than just romance.
5 A lot of times marriages were borne out of
6 business arrangements. They were alliances that
7 were made to open up new parts of the west for the
8 fur trade. But at the same time, these marriages
9 produced families. These families were at the
10 time mixed blood between First Nations and
11 European people. Over the generations, because
12 these families lived on the outskirts of both
13 societies, there became a genesis of a new people.
14 In fact, the people developed their own language,
15 developed their own culture, they developed their
16 own way of life. Obviously commerce was a big
17 part of that, the fur trade, but also the buffalo
18 hunt was a big part of that as well.

19 One of the things that we find in
20 looking back at history is the important role that
21 the Red River played in -- one of the things that
22 we find is the importance of the Red River in the
23 history of the Metis Nation. The geography of
24 what is now Canada has a pretty big geographical
25 barrier between what is now Ontario, southern

1 Ontario and Quebec, and what is now Western
2 Canada. So once the voyageurs came over here,
3 there wasn't a lot of movement back and forth
4 between the east and the west. So the Red River
5 became a focal point, if you will, of the Metis
6 descendants of these families who were descendants
7 of the First Nations and European peoples.

8 One of the things that, as I mentioned
9 before, is the buffalo hunt and how the buffalo
10 hunt played a big role. It was primarily the
11 Metis who participated in the buffalo hunt to feed
12 the fur trade, if you will. The fur trade was
13 expanding throughout Western Canada, it was
14 becoming a major part of the economy, especially
15 out here, and the buffalo hunt also became a part
16 of who the Metis people were to become.

17 One of the examples that we give when
18 we look at sort of a spot in time for when the
19 Metis Nation had a realization that they were a
20 new people is what is popularly known as the
21 Battle of Seven Oaks. The Metis themselves call
22 it something different, and you'll have to pardon
23 my French pronunciation, but they call it le
24 Victoire de la Grenouilliere, the Victory at the
25 Frog Plain. And the Frog Plain incident was

1 something that happened between the colonial
2 powers, and the Metis, who were basically the
3 largest group of people in the Red River area at
4 the time.

5 So what happened was the Governor came
6 out from his fort, came out to meet a group of
7 Metis hunters. There was some words that were
8 discussed back and forth. Part of the issue that
9 was raised at the time was that the Governor
10 thought that the pemmican, the buffalo meat,
11 should be reserved for the settlers at the colony.
12 The Metis were much more open about trade, being
13 early free traders, and they wanted to sell to
14 their -- they wanted to sell their goods to the
15 people who would pay the highest prices.

16 This discussion turned into an
17 argument, the argument turned into a fight.
18 Nobody is sure exactly who shot the first shot.
19 But at the end of the day, I believe there was one
20 Metis who was shot, and the rest of the Governor's
21 party was not left standing. The Metis point to
22 this as a pivotal point in their history, because
23 it shows the strength that they had at the time to
24 be able to make their own way in the west, to
25 become their own leaders, to become their own

1 people. And in fact, they did -- again, pardon my
2 pronunciation, but they called themselves la
3 nouvelle nationale, the new nation, at this time
4 after the battle of Seven Oaks, after the victory
5 at Frog Plain.

6 Throughout the 18th century there were
7 other markers of nationhood as well. As I
8 mentioned, they developed their own language, but
9 there were other incidents that happened that also
10 marked the Metis as being a major power in the Red
11 River in Western Canada. One of them being the
12 Sayer trial, which was again about free trade,
13 about being able to sell goods as the Metis saw
14 fit.

15 One of the things I wanted to talk
16 about as well is to sort of put out the idea that
17 the Metis governed themselves. When the Metis
18 would go out to the buffalo hunt, they didn't just
19 go out and willy-nilly, pardon the pun, just go
20 out and shoot as many buffalo as they could.
21 There was structure, there were laws, there was
22 the ability to have discipline, there was
23 democracy. Every day they voted on who was to
24 lead them, who was to be the captain of the hunt.
25 So there was a lot of structure around how the

1 Metis people conducted themselves.

2 MR. DAVIS: Thank you, Will. Could
3 you tell us a little bit about the story of
4 Confederation and the role that the Manitoba Metis
5 played in that?

6 MR. GOODON: Yeah. Thank you for the
7 question.

8 One of the things that happened later
9 on in the 1800s is the idea that Canada would
10 become a country. Canada had developed
11 Confederation in 1867. The Prime Minister at the
12 time had a vision of having the country go from
13 coast to coast. And in order to do that, he
14 needed to go into Western Canada and to claim that
15 land as Canadian. The problem being is that when
16 they went into Western Canada, came into places
17 like Red River, they found that there's already
18 people here. Canada had purchased what was then
19 known as Rupertsland from the Hudson Bay Company
20 without actually talking to the people who lived
21 on the land. Canada even went so far as to send
22 surveyors to survey the land without -- prior to
23 even having ownership of the land.

24 There's the story of the surveyors who
25 were using the chains to mark out the land in the

1 Red River, and the Metis farmer whose land was
2 being surveyed across, he lived there, and he had
3 his livestock there, and he was making a living on
4 this land, and people were surveying it as if it
5 was going to be given away to somebody else.
6 There were messengers sent to Red River, and Louis
7 Riel was one of the people who came back with the
8 leadership of the Metis at the time. And the
9 story goes that Louis Riel stepped on the chain,
10 told the surveyors to stop and to leave the
11 territory and to not come back.

12 So that being what happened, there was
13 a very big concern in the area that there was no
14 discussion, there was no consultation, there was
15 no back and forth idea of Canada talking to the
16 people who lived on the land, just making some
17 assumptions that the people would want to be
18 Canadian, without having any discussions on how
19 that would affect their lives and how that would
20 affect their livelihood.

21 So what happened was, another act of
22 democracy, the Metis people elected
23 representatives from the parishes throughout the
24 Red River region. They developed their own
25 government, they called it a provisional

1 government. Eventually Louis Riel became the
2 president of the provisional government. And they
3 demanded that negotiations begin between Canada
4 and the territory of what is to become Manitoba,
5 that these negotiations happen as soon as
6 possible. Canada was left in a little bit of a
7 tough spot because they had no way to enforce
8 their views on the people, there was no way to get
9 troops up here, so they were in a little bit of a
10 tough spot. Negotiations happened, and one of the
11 things that was negotiated was that Manitoba will
12 be a province, that they would have certain
13 controls over their own destiny.

14 Another big thing that we're going to
15 talk about, that I'm going to talk about later on,
16 but another big point in negotiation was the idea
17 that land would be set aside for the families of
18 the Metis people. This was to secure a lasting
19 place for the Metis in the place that they called
20 home. They knew that there was going to be
21 settlers coming from the east. They knew that the
22 settlers would probably outnumber them at some
23 point. But the Metis also felt that it was
24 important that they have a secure place to call
25 home, and that these lands would still be a part

1 of the Metis Nation when all the smoke had cleared
2 after joining confederation.

3 Now, history shows that ultimately a
4 lot of these promises were broken by Canada. A
5 lot of the ideas of the Manitoba Act, which became
6 the negotiated deal between Manitoba and Canada,
7 that a lot of the ideals that happened in there
8 didn't happen.

9 One of the things that did happen was
10 a railway was developed, and through this railway,
11 the Canadians were able to move to Red River. And
12 with the Canadians moving to Red River, there was
13 felt a need by the Canadian government that troops
14 were also sent to Red River.

15 What happened after that is something
16 that the Metis Nation calls the Reign of Terror.
17 Whether there be murders, rapes, violence in the
18 streets, not just perpetrated by regular citizens
19 but by the militia themselves, on the Metis
20 people. When the Metis tried to assert themselves
21 and tried to get to the point where they would
22 receive land that was promised to them, the
23 1.4 million acres, these acts of violence were
24 enacted upon Metis almost on a daily basis.

25 Alongside that, the Government of

1 Canada took many years to come through with the
2 idea of distributing the land to the point that
3 the actual effect of those delays was that a very
4 large majority of the Metis did not receive their
5 lands. And in fact, the result of this
6 two-pronged approach of the Reign of Terror, along
7 with the delays that were put upon the process by
8 both Canada and the newly minted Province of
9 Manitoba was that there was a Metis diaspora. The
10 Metis would either go underground and refuse to
11 identify themselves as Metis, or they would leave,
12 physically, the land that was theirs, the Red
13 River area. They left to go to Northern
14 Saskatchewan, to Northern Alberta, to other places
15 throughout Western Canada. And pretty soon the
16 voices of the Metis Nation was silent in the area
17 that was at one point 95 per cent Metis.

18 One of the things that the Manitoba
19 Metis Federation undertook in the late '70s, early
20 '80s was a court case. And I'm going to talk
21 about that a little bit as well later on.

22 MR. DAVIS: Before you get to that,
23 Will, could you tell us about the origins of the
24 Manitoba Metis Federation?

25 MR. GOODON: Absolutely. So there was

1 decades of time where the Metis, as I said, the
2 Metis' voice was silent. I'll just tell a quick
3 little story. I remember a story that my father
4 told me when he was a young child, that his father
5 never identified as Metis. Their whole family
6 didn't identify as Metis. When my father was
7 young and they would go into town, my father's
8 family lived up in what we call colloquially as
9 the bush. But when they would go into town, the
10 town kids would chase them around and call them
11 dirty half breeds, along with other names that I'd
12 rather not repeat here as well. But the idea of
13 racism, discrimination was very, very deep. And
14 my father remembers telling the town kids that no,
15 no, we're not Metis, we're French, we speak
16 French, we're French people. One of the things
17 that had really bothered my father. And when he
18 had his family, me and my sisters, he made sure
19 that we understood who we were. He made sure that
20 we were proud of who we were and that we would
21 never be ashamed of who we were. So that kind of
22 action really stuck in his mind.

23 So the Metis went underground for
24 several decades, but there was always a political
25 consciousness out there. In the late '60s, a

1 group of Metis broke off from a pan-Aboriginal
2 group and declared themselves to be the Manitoba
3 Metis Federation in 1967. Slowly over the years,
4 the Manitoba Metis Federation moved from being an
5 advocacy group, to a representative group, to what
6 we now today identify ourselves as the government
7 of the Metis people of Manitoba.

8 I also wanted to talk a little bit
9 about rights, if that's all right. One of the
10 things that happened early in the '80s, in 1982
11 when the Constitution of Canada was repatriated,
12 was that the Metis were included. This is the
13 second time the Metis were included in the
14 Constitution of Canada, the first being in 1870
15 with the Manitoba Act, the second being in section
16 35 of the Constitution Act in 1982.

17 We thought there was going to be lots
18 of positive things coming out of that, but it took
19 many, many years for us to come to a point where
20 anything was recognized out of section 35. In
21 1993, there was two gentlemen in Ontario who shot
22 a moose. It took 10 years for them to go to the
23 Supreme Court and reach a decision. But these
24 Metis gentlemen, the Powleys, were found not
25 guilty of hunting without a provincial licence

1 based on their constitutional rights as Metis
2 rights holders.

3 I've had a similar experience. In
4 2004, I shot a duck. It was a year after the
5 Supreme Court had declared that the Powleys had
6 hunting rights. We had a Premier here in Manitoba
7 who declared in front of all Metis citizens that
8 he would respect our rights. And in 2004, I used
9 my Metis harvester card to shoot a duck.
10 Eventually I was charged, and we spent four and a
11 half years in court here in Manitoba. And again,
12 we were found that -- it was found that I was not
13 guilty because I had exercised my rights as a
14 Metis rights holder and was identified as such
15 through my Metis harvester card.

16 MR. DAVIS: Will, could you explain
17 the Metis laws of the harvest and the Metis
18 harvester cards?

19 MR. GOODON: Absolutely. Prior to the
20 Powley case even being pronounced by the Supreme
21 Court, the Manitoba Metis Federation had spent a
22 substantial amount of time working on harvesting
23 issues. One of the things that it did was to go
24 around to communities throughout Manitoba. I was
25 a staff person at the time and had the fortune of

1 being able to go to all these communities, and
2 listening to harvesters, listening to elders talk
3 about what was important, or what should be
4 important to Metis in Manitoba in developing a
5 system for Metis harvesting. One of them being a
6 harvester card. The harvester card basically
7 identifies a rights holder. It uses background
8 information to say that this person is a rights
9 holder under the Constitution, section 35.

10 The other thing that the elders and
11 the harvesters told us was that it was important
12 that our rights be recognized, but it was also
13 important that the Metis participate in
14 conservation. And in order to participate in
15 conservation, we had to put some structures, some
16 laws, not dissimilar to what the Metis did during
17 the buffalo hunt, whether it be a limit on the
18 number of big game animals that can be taken, or
19 fish that can be taken, or whether it be seasons.
20 The importance there being that the elders wanted
21 to ensure that when big game animals were being
22 taken, that the young were not affected, whether
23 the young were still inside the deer or the moose,
24 or whether they were very young and couldn't fend
25 for themselves. So we had put together seasons

1 and rules and structures around hunting and
2 harvesting.

3 MR. DAVIS: Thank you, Will. I think
4 it would be helpful if you could also explain a
5 little bit about the land claims negotiations
6 going on with Canada.

7 MR. GOODON: Thanks. One of the
8 things that has happened recently, back in --
9 actually not so recently, it was about three years
10 ago. In 2013, the Supreme Court of Canada did
11 find the country of Canada to be negligent in
12 enacting the Manitoba Act provisions, including
13 the dispersal of the 1.4 million acres of land.
14 We won that court case. Canada was told that they
15 did not fulfill their duty as the Crown, and that
16 there was necessarily going to be negotiations
17 happening to resolve that issue, to resolve the
18 non-compliance of the Constitutional Act of the
19 Manitoba Act.

20 So basically what happened here in
21 2016, just last year, is that Manitoba and Canada
22 signed a framework agreement. Now, this framework
23 agreement is the beginning of what we hope are
24 going to be negotiations that are going to seek to
25 address, to redress the idea that the lands were

1 never given to the Metis families who were
2 promised in 1870.

3 So one of the things that we're
4 looking at is not necessarily the idea of lands to
5 replace the lands, but the idea of the
6 opportunities that those lands would have given
7 our people at the time, whether the case may be
8 that there may be lands involved in that today, or
9 whether there may be other opportunities for our
10 people that Canada can help us to move forward and
11 address the 140 years of non-compliance by the
12 country in fulfilling their duties.

13 One of the things that we're looking
14 at is the idea of self-government. And in this
15 idea of self-government, we're looking at the
16 concept of a modern day Treaty. This would be the
17 first time that a Treaty of any sort had been
18 signed with the Metis Nation. And as the Manitoba
19 Metis Federation represents the descendants of
20 those Red River Metis who were to receive the
21 lands, the government has recognized us as this
22 representative. So this is a monumental
23 milestone. We're looking at quite a substantial
24 development to come out of this, and it's going to
25 be something that we'll be able to hand down to

1 our children in the future.

2 MR. DAVIS: Thank you, Will, that's
3 very useful in setting the stage. Is there
4 anything you want to say to sum up before we pass
5 the microphone to Brielle?

6 MR. GOODON: Yeah. There's just one
7 thing I skipped over in regards to the Metis
8 rights, hunting rights. I forgot to mention the
9 idea that with the victory of our court case on
10 hunting rights, that we were able to develop and
11 negotiate and conclude an agreement with the
12 Province of Manitoba on harvesting rights. So
13 there's places where some points of agreement on
14 where and when Metis can hunt and harvest, going
15 from the idea of a small community in the Powley
16 case to the idea of what we now have, close to
17 two-thirds of Manitoba being recognized under the
18 Metis harvesting agreement.

19 MR. DAVIS: Great, thank you. That's
20 a great segue for Brielle, who's going to speak
21 more about Metis harvesting.

22 Brielle, could you introduce yourself?

23 MS. REIMER: Thank you. Good morning.
24 My name is Brielle Reimer, my maiden name is
25 Beaudin. I am a Metis woman who lives in Winnipeg

1 currently, however, I was born in St. Eustache,
2 which is in the southwest region, which is in the
3 RAA, the field, of the RAA field. I was born in
4 St. Eustache and I grew up in St. Eustache, and I
5 continue to spend a lot of time in St. Eustache.
6 St. Eustache is actually a historic Metis
7 settlement. It was originally located -- it was
8 originally known as Baie St. Paul, which is where
9 many Metis people lived, and it's just near St.
10 Francois Xavier, which is also a historic Metis
11 community.

12 Due to flooding, Baie St. Paul was
13 actually relocated to where St. Eustache is
14 located today. And St. Eustache was given its
15 name because, as is customary in the Roman
16 Catholic Church, they would appoint a saint to act
17 as an intercessor for the community members in
18 their faith journey, and usually that had
19 something that reflected the needs of the
20 community. And so St. Eustache himself was
21 actually the patron saint of hunters. And so the
22 saint was attributed to the community because they
23 were Metis hunters and harvesters. And so the
24 church felt that this was an appropriate saint for
25 the community.

1 MR. DAVIS: Thank you. Could you tell
2 us about your role with the MMF?

3 MS. REIMER: Sure. I am currently an
4 employee of the MMF. However, I want to note that
5 I did take the day off today to share my
6 perspectives as a harvester, because this issue is
7 close to my heart, and so that's my degree of
8 separation there. But I also want to note that
9 not only am I speaking for myself, I mean I am
10 speaking for myself, but what I'm trying to say is
11 that often Metis people don't just speak for
12 themselves without the weight of their family and
13 their community. And in saying that, I'm here
14 today with that weight of my community and my
15 family.

16 I have been a member of the Manitoba
17 Metis Federation and a citizen of the Metis Nation
18 since I was very young. I also hold a harvester
19 card and I have since they first began to issue
20 them.

21 I've been harvesting since I was very
22 young. I grew up in a family of five. There's
23 five siblings and I was the youngest. And so I
24 got to learn from all my older siblings about
25 these harvesting traditions. So I was often the

1 helper, but by being the helper I learned a lot
2 about strategies and methods and where the best
3 places to go are. And so I gained a lot of
4 knowledge from not only my immediate family, but
5 my extended family and my community.

6 MR. DAVIS: Could you tell us, before
7 getting deeper into your harvesting background, a
8 little bit about your education?

9 MS. REIMER: Sure. So I completed a
10 Bachelor of Arts in History, and then I continued
11 on because my interest was piqued in Canadian
12 Aboriginal History. And so I decided to do a
13 Master of Arts in Indigenous Governance. And
14 specifically what I was interested in was studying
15 the Metis Nation and the Manitoba Metis community,
16 because often research doesn't reflect -- you know
17 it's nice that we have Will, coming off of Will's
18 historical narrative there, because often the
19 Metis are largely misunderstood. And so it was
20 important for me to continue my education that was
21 Metis specific. And so I actually looked at
22 harvesting in Southern Manitoba. And that was
23 specifically to look at harvesters' perspectives
24 on the impact of policy and legislation, both in
25 the historic and a contemporary perspective,

1 through archival research and individual
2 interviews. So I had a lot of time to speak with
3 harvesters and hear their perspectives, hear their
4 challenges, and hear their triumphs. So that's a
5 little bit about the background of my education.

6 MR. DAVIS: Thank you. Could you tell
7 us a little bit about your background now in
8 harvesting?

9 MS. REIMER: Sure. So as I was
10 saying, I grew up in a small rural town, St.
11 Eustache. There's about 300 people that live
12 there, and I grew up just outside of the town.
13 And it is a historic Metis settlement so there's
14 predominantly Metis people that live there. And
15 in and around this area is largely agricultural
16 lands, but there is still bush surrounding the
17 Assiniboine River and the creeks that flow from
18 it. And I grew up harvesting since I was very,
19 very young. A lot of kids grew up doing different
20 activities, but harvesting was my activity. It
21 was something that I did with my family. We
22 fished, we did a lot of fishing. We fished off
23 the riverbanks. We went hunting for waterfowl, we
24 also went hunting for beaver, deer. And we also
25 went berry picking. My brothers and father

1 trapped, and I was largely in charge of kind of
2 helping, going along with them, but also helping
3 in the aftermath where you would prepare, undress
4 the meat and prepare it. And so that's something
5 that we grew up doing. It was something that was
6 central to our family life. It's something that
7 connected us all. And it was really important
8 that we stayed -- it was something special that we
9 could stay around home to do. It was really
10 unique, and most of my childhood memories are
11 actually made up of this activity.

12 MR. DAVIS: Thank you. Could you
13 explain in a little more detail where you prefer
14 to harvest?

15 MS. REIMER: Sure. If it's not
16 apparent already, but my preferred harvesting area
17 is in and around the region where I grew up. It
18 seemed that you could just, you know, there's
19 something special about harvesting in your area,
20 it's a building of the knowledge of years and
21 generations. And it's also about the knowledge,
22 not only just the specific knowledge that's passed
23 down to you, but also the knowledge that you
24 receive with some of those specifics. The
25 memories, or the relational memories of that

1 knowledge that comes with it is very important and
2 special. And so what I love about our region is
3 not only -- I guess is specifically because that's
4 what I know and that's what I feel comfortable
5 with. It's also what I feel I can be successful
6 at.

7 And there are areas where you can
8 access, because we have built years and
9 generations of relationships with private
10 landowners. And this is a big thing because those
11 are not something that you can just knock on
12 someone's door whenever you want to access their
13 lands, it's something that's done in relationship.
14 And so you try to find areas that are preferred by
15 the animals, and this is often on unoccupied land.
16 And that happens to be, yeah, where I grew up.

17 MR. DAVIS: That's great. Could you
18 fill that idea out a little bit by telling us
19 about places that you don't like to go harvesting?

20 MS. REIMER: Sure. I mean, even
21 considering the region that we do traditionally
22 harvest in, there are preferred areas within that
23 region. I mentioned that that is a region we
24 prefer to harvest, but we don't prefer to harvest
25 around the developed areas, or like along the road

1 or things like that. So non-preferred areas are
2 not my traditional territory, and areas that are
3 largely developed. And this can be a scale of 1
4 to 10 in terms of the development, but they all
5 have an impact.

6 MR. DAVIS: Could you describe some of
7 the challenges you face as a harvester, as a Metis
8 harvester in Southern Manitoba?

9 MS. REIMER: Sure. So one of the
10 things, and one of the largest challenges in
11 Southern Manitoba is the development. These lands
12 are large scale agricultural lands. And this has
13 had a huge impact to the environment. And
14 although it may seem that, you know, one part of
15 that development may not have the largest impact,
16 but cumulatively, they add up. And so this makes
17 it very difficult for people in Southern Manitoba
18 to harvest. And this is true for myself, and I
19 feel that this is also something that many
20 harvesters talk about, that it's just, you know,
21 the diminishing bush and just various effects that
22 come from development make it very difficult to
23 harvest in Southern Manitoba.

24 MR. DAVIS: Do you think it's possible
25 to sustain your family harvesting in Southern

1 Manitoba?

2 MS. REIMER: In my opinion, no. For
3 many reasons, but largely, you know, we're not the
4 only ones out there, and resources become more
5 scarce as things change, as more and more
6 development happens. This impacts the
7 environment, this impacts the animals that live in
8 it. And then it's having its impact on us in
9 terms of what we can be successful at, and what we
10 can harvest, and what's available to us. And also
11 the quality. And that's a big thing too. It's
12 not just about the quantity, it's also about the
13 quality. You know, a fish may be there, but
14 should you eat it? Maybe not.

15 MR. DAVIS: Can you tell us a little
16 bit about what you feel the impacts of the
17 Manitoba-Minnesota Transmission Project might be
18 on your harvesting activity?

19 MS. REIMER: Sure. I think that
20 overall, the project and the physical presence of
21 the transmission line, I think reflects, it does
22 not only have a physical environmental impact, but
23 it also is a constant reminder, its physical
24 presence is a constant reminder of the diminishing
25 available lands that are left intact as natural

1 lands, which is really important for Metis
2 harvesters. The sense of connection to the land
3 is something that I think that -- and I
4 understand, it's not something that everybody can
5 understand as a heart thing, but it is a heart
6 thing. And having those lands be intact is
7 something that is really important to that
8 connection, to maintaining that connection, to
9 maintaining the tradition of harvesting. And so I
10 think while there are some physical impacts, some
11 real impacts to the environment. I think on
12 another level it serves as a constant reminder
13 that in Southern Manitoba, there continues to be
14 lands that are used for development. And these
15 lands are so important to the Metis Nation, to the
16 Manitoba Metis community, because it's the heart
17 of our homeland. And it may look like a
18 riverbank, you know, to someone, but that
19 riverbank is so important. And so I guess, yeah,
20 on both levels, there are different impacts from
21 the transmission line and this project.

22 MR. DAVIS: Thank you. That's very
23 helpful. Is there anything you want to say to sum
24 up before we ask Adena and Tracy to present their
25 reports?

1 MS. REIMER: Sure. I guess I want to
2 thank everybody for taking the time to listen to
3 our panel and hearing about our history and about
4 how important harvesting is to the Metis, and
5 specifically just trying to see it beyond what you
6 may know it as.

7 Maintaining a tradition of harvesting
8 is really important to myself, it's important to
9 my family, it's important to the way we live, the
10 way that we understand our life. It's not only
11 about the skills that we gain, but it's also about
12 the knowledge and the importance that it gives us
13 in understanding other people and the humility of
14 those relationships. It's a tradition I want to
15 carry for my daughter, for my unborn daughter, and
16 I'd like it to stay in my family, and I wish that
17 for our whole community.

18 And so I just, I thank you for
19 listening and I thank you for trying to understand
20 the impact that it has to Metis harvesters,
21 although I know that sometimes it can be difficult
22 to understand.

23 MR. DAVIS: Thank you very much.

24 MS. REIMER: You're welcome.

25 MR. DAVIS: Tracy?

1 MS. CAMPBELL: Good morning. Our
2 agenda for today will start with introductions of
3 who we are, Adena and myself. Then we'll move to
4 a description of how our company got here, which
5 started with a review of the EIS, and moved to a
6 development of a report called the Metis Land Use
7 and Occupancy Study, Assessment of Potential
8 Effects Prior to Mitigation MMTP.

9 My name is Tracy Campbell and I'm the
10 principal of the company called Calliou Group.
11 And this is Adena Vanderjat, who is a senior
12 consultant specialist with Calliou Group.

13 Calliou Group is a small company based
14 in Calgary who specializes in providing advice and
15 support for the duty to consult, for either
16 Aboriginal Nations across Canada, public
17 governments engaged in the duty to consult, or
18 industry proponents proposing a project. Our
19 services include reviewing regulatory applications
20 on behalf of Aboriginal nations to identify
21 whether impacts to their section 35 rights were
22 included in those filings, and conducting
23 Aboriginal rights studies, sometimes called
24 traditional land use studies, that can identify
25 impacts to section 35 rights that may result from

1 a regulatory approval.

2 I have over 25 years of experience in
3 the field of aboriginal consultation. I am a
4 former chief negotiator for the Government of the
5 Northwest Territories and a consultation manager
6 for the Government of Alberta, and I've been with
7 Calliou Group for nine years.

8 MS. VANDERJAT: My name is Adena
9 Vanderjat and I have experience working with
10 numerous Aboriginal Nations in Canada, and have
11 acted as project manager for numerous aboriginal
12 consultation initiatives and regulatory
13 applications. I am also responsible for the
14 creation of digital maps and the management of GIS
15 data, production of graphic materials and project
16 support. I lead the development of innovative GIS
17 applications for using Aboriginal rights
18 information and traditional land use and occupancy
19 studies. And I have considerable experience
20 collecting and interpreting information collected
21 from Aboriginal peoples.

22 I also lead the Calliou Group team for
23 providing third party review of environmental
24 assessments for impacts to Treaty and Aboriginal
25 rights. I have also previously participated in

1 regulatory hearings on behalf of Aboriginal
2 clients for a third party review completed on
3 their behalf.

4 MS. CAMPBELL: Calliou Group was
5 retained by the MMF in 2015 to conduct a review of
6 the MMTP EIS, to determine if the EIS adequately
7 described impacts of matters of importance to the
8 MMF.

9 Calliou Group has experience working
10 with transmission lines in Manitoba, as we
11 supported the Crown consultation process for the
12 Government of Manitoba for the Bipole III
13 transmission line.

14 Calliou Group's review included a
15 review of the EIS scoping document to determine if
16 any gaps or deficiencies existed within the EIS,
17 as well as reviewing methodology used to identify
18 impacts. We are also tasked with examining the
19 information used by Manitoba Hydro to identify
20 impacts to the MMF, and matters of importance to
21 the MMF, and provide an analysis of conclusions
22 reached by Manitoba Hydro and their consultants.
23 Following our review of the EIS, we identified
24 there were gaps and deficiencies with the EIS that
25 needed to be addressed.

1 First, those gaps and deficiencies
2 included, the MMTP EIS used information that was
3 not specifically collected for the MMTP regulatory
4 process. Manitoba Hydro and their consultants
5 used information collected from MMF citizens on
6 other projects, including Bipole III and Keeyask,
7 that were publicly available.

8 From MMF's perspective, this
9 information was not intended for use on MMTP.
10 It's a common mistake of proponents across Canada
11 where information is used without permission from
12 a nation, or is used for a purpose unintended by
13 the nation at the time of information collection.

14 Second, for the MMTP EIS, Manitoba
15 Hydro and their consultants selected the valued
16 component of traditional land and resource use to
17 primarily characterize effects to the Aboriginal
18 peoples of Manitoba, which was intended to capture
19 effects on Metis. At first glance, traditional
20 land and resource use seems like a reasonable
21 selection to characterize changes or effects to
22 Aboriginal peoples. However, in order to identify
23 changes, you have to identify appropriate
24 measurable parameters that can be used to show
25 effect to traditional land and resource use.

1 Traditional land and resource use as a subject
2 matter is too big to measure, you have to pick
3 something to measure change to that thing.

4 Unfortunately, Manitoba Hydro
5 primarily used biophysical measurable parameters
6 to characterize effects to the valued component of
7 traditional land and resource use. Based on our
8 experience, the use of biophysical measurable
9 parameters, if used on their own, provides an
10 incomplete characterization of effects to matters
11 of importance to Aboriginal peoples. It's a
12 common mistake made by proponents, but one that is
13 slowly being corrected across Canada.

14 The measurable parameters used for
15 traditional land and resource use by Manitoba
16 Hydro were availability of resources, or access to
17 plant gathering, hunting and trapping areas,
18 disturbance to trails or travel ways, and reduced
19 ability to access or use those travel ways,
20 disturbance to cultural sites and access to
21 cultural sites. Notice that these measurable
22 parameters do not relate to the activity -- are
23 not related to the activities of people, but
24 mostly to plants, animals, sites or things.

25 The argument goes that biophysical

1 parameters on their own can be used to show change
2 to Aboriginal peoples. I believe this approach is
3 flawed. In order to show an effect to traditional
4 land and resource use, using a biophysical
5 measurable parameter, you must be able to show an
6 effect to plants, animals or things. The theory
7 goes if the project doesn't extirpate or eliminate
8 that species being studied, there will be
9 therefore no effect to Aboriginal peoples, or the
10 use of that species by Aboriginal peoples, because
11 they can either go elsewhere or those animals will
12 be displaced to other areas where they can be
13 harvested.

14 So if you think about a transmission
15 line, it's obvious or understood that a
16 transmission line wouldn't necessarily kill an
17 animal in the construction and maintenance or
18 operation of the project, but those animals would
19 be displaced.

20 So what these biophysical measurable
21 parameters don't reflect is the preferences of the
22 people using those resources. If you don't study
23 the people using those resources, you won't
24 understand the behaviours of the people using
25 those land and resources. So we would like to

1 argue that in addition to studying the biophysical
2 resources, you should also study people.

3 So for this report, rather than study
4 biophysical things, we studied the Metis people
5 themselves. We studied Metis beliefs and
6 perceptions. We studied what Metis prefer and
7 what Metis people avoid when they harvest. It's
8 similar to the approach taken in the MMTP EIS, or
9 at least cited in the MMTP EIS community health
10 and wellness. Or Manitoba Hydro reflected a study
11 that looked at perceived risk related to
12 transmission lines, health perceptions of
13 transmission lines.

14 It's a common thing to, in
15 environmental assessments, to study the
16 perceptions of people in relation to the project
17 at hand. It can be done, it can be done, it
18 should be done at the same time as all the other
19 biophysical studies initiated to support the
20 regulatory application. It takes time, resources
21 and planning, but it absolutely can be done. Just
22 like a wildlife study, a study on people could be
23 initiated and conducted at the same time as those
24 biophysical studies. It just has to be planned.

25 Manitoba Hydro and MMF in discussions

1 agreed that gaps in the EIS require additional
2 information about matters of importance to MMF to
3 fully describe effects to MMF resulting from the
4 project. A report was commissioned to fill the
5 identified gaps in the EIS, in which Calliou Group
6 was contracted to undertake.

7 Discussions between MMF and Manitoba
8 Hydro lasted approximately 12 months. A budget
9 work plan and scope of work was finalized during
10 that time. The initiation of the Metis land use
11 and occupancy study assessment of potential
12 effects prior to mitigation of MMTP, which I'll
13 thankfully shorten to the MMF report for the rest
14 of the presentation, was commenced in
15 February 2016.

16 The MMF and Manitoba Hydro intended
17 that the MMF report would provide necessary
18 information that Manitoba Hydro could use to
19 supplement their Environmental Impact Statement.

20 It's important to understand what the
21 MMF report does and does not do. The MMF report
22 identifies negative effects from MMTP to matters
23 of importance to the MMF. The MMF report does not
24 contain any mitigation measures to offset, reduce
25 or eliminate those identified effects. The

1 identification of mitigation measures to offset
2 those effects is still required. The MMF report
3 also does not include a cumulative effects
4 assessment to the 10 identified effects that the
5 report contains. The MMF report does not identify
6 any alternative routes.

7 The methodology used to complete the
8 MMF report used the same methodology utilized by
9 the Manitoba Hydro and their consultants in the
10 compilation of the MMTP EIS. The report, the MMF
11 report strove to meet the same overall objectives
12 as the one used by Manitoba Hydro.

13 MS. VANDERJAT: For example, the study
14 boundaries used in the MMF report were similar to
15 the ones used in the MMTP EIS. The project
16 development area was identified as the area of
17 anticipated physical disturbance associated with
18 the construction, operation and maintenance of the
19 project. The local study area was based on the
20 spatial boundaries defined for the wildlife and
21 wildlife habitat assessments, because it was the
22 most inclusive biophysical boundary. And the
23 regional assessment area was identified as the
24 wildlife and wildlife habitat assessment for the
25 same reason.

1 Similarly, temporal boundaries of
2 construction, operation and maintenance were based
3 on the temporal boundaries outlined in the MMTP
4 EIS.

5 MS. CAMPBELL: We have chosen a couple
6 of examples to show the similarity of methodology
7 used between the MMF report and the EIS at the
8 MMTP EIS, but we could go through more examples if
9 there were questions.

10 There are four basic steps to
11 conducting an environmental assessment. Number 1,
12 which I think is the most important thing, is pick
13 something to study. Number 2 is collect
14 information on that thing you picked. Number 3,
15 identify changes or effects to the thing you
16 picked to study. Those effects can either be
17 positive or negative. These effects are estimated
18 or potential impacts that you are attempting to
19 predict as a result of a project that may be built
20 and operated in the future. Number 4 is identify
21 how you lessen those negative effects once
22 identified. This is normally called accommodation
23 or mitigation measures. However, we recognize
24 that when you identify a mitigation measure for
25 one identified effect, it may have an unintended

1 consequence for either increasing or changing
2 another identified effect. So this process of
3 mitigation measure development requires continuous
4 trade-offs and compromises. But at the end of the
5 day, how the mitigation measure strives to
6 eliminate or reduce the identified effect is
7 paramount.

8 But for the purpose of today's
9 presentation, we'll only focus on the first three
10 steps. Because as part of the MMF report, as
11 previously stated, we didn't include mitigation
12 measures in the report. So we'll just stick with
13 the three major steps.

14 So let's start with the first step,
15 pick something to study. As I mentioned, it's
16 probably the most important thing in an
17 environmental assessment is choosing the correct
18 thing to study. The commonly used term in
19 environmental assessment methodology, as the basis
20 for a measurement of effect, is the term valued
21 component. The term valued component for this
22 report was changed to Metis specific interest for
23 the purposes of the MMF report. Metis specific
24 interest is a term used throughout the MMF report,
25 and resulted in discussions between Manitoba Hydro

1 and the MMF to describe the selected valued
2 components that would be used, in turn to describe
3 the effects to Metis from the MMTP. Metis
4 specific interests are things of importance to
5 Metis, things you can study, and things that could
6 be potentially impacted by the MMTP project. It
7 had to meet certain criteria to get scoped in.

8 So in order to choose the correct
9 valued components, the MMF gathered information
10 from workshops with MMF harvesters and citizens.
11 We conducted four workshops in Manitoba -- or in
12 Winnipeg, Lorette, Portage la Prairie and Selkirk
13 in January 2016. Information was shared by 86 MMF
14 citizens in the workshops about what was important
15 to them as Metis rights holders. Many concerns
16 about exercising Metis rights were identified.

17 But if there's a number one rule of
18 conducting an environmental assessment, you can't
19 study everything. Even though things are
20 important, there's many things important to people
21 living in the area of the project, you have to
22 narrow it down. Even though people may be
23 concerned about a variety of things, you have to
24 narrow things that relate to the project in some
25 way. For example, no one in Manitoba would be

1 concerned to know that Manitoba Hydro did not
2 study marine mammals, for example, in their
3 environmental assessment. You have to be
4 selective in what you choose for study. You have
5 to narrow it down.

6 So criteria used in narrowing concerns
7 down from the workshop included, the concern had
8 to be susceptible to a potential effect from a
9 project interaction. It could be clearly
10 understood. The effect could be measurable.
11 Information, whether qualitative or quantitative,
12 could be collected on that subject in a reasonable
13 fashion. You wouldn't pick something, for
14 example, that would take 10 years to collect
15 information or millions of dollars, it wouldn't be
16 fair to the proponent.

17 So those 86 Metis harvesters at the
18 workshops identified many concerns that they had
19 about harvesting in Southern Manitoba. They
20 expressed these concerns in terms of challenges or
21 concerns they faced in harvesting, and they
22 related to them as Metis peoples in terms of their
23 section 35 rights and were not related to matters
24 as Manitobans. So they took their Manitoba hats
25 off, Manitoban hat off and put their Metis hat on.

1 So things like Metis sites, the economic aspect of
2 harvesting, historical connection to places, the
3 amount of land available for harvesting, as
4 Brielle mentioned, sites used for teaching future
5 generations, cabins and camps, that
6 intergenerational connection resulting from
7 harvesting and harvesting activity themselves were
8 expressed by these 86 harvesters. But using those
9 criteria I previously described, we narrowed down
10 those multiple concerns into ones that could be
11 reasonably connected to the MMTP. And we arrived
12 at the Metis specific interests of available land,
13 Metis sites and harvesting. So we scoped those
14 other concerns out as not meeting the criteria for
15 selection as a valued component and narrowed it
16 down to these three.

17 Just as a side note, the issue and
18 concern of sites was scoped out and not included
19 in the report, following data collection on those
20 three valued components, because the results of
21 sites and harvesting were so closely connected it
22 didn't merit separation of the information for
23 those components. So we ended up with two. Lands
24 available for Metis use and Metis harvesting were
25 the valued components selected for study for the

1 MMF report.

2 Lands available for Metis use was
3 identified because the exercise of Metis rights
4 requires a place or location to exercise those
5 rights. Metis harvesting was identified because
6 the conditions related to harvesting has a
7 reasonable chance of being affected by the
8 project.

9 So generally, a valued component, as I
10 mentioned before, is too broad a topic to study,
11 you have to narrow it down. So in a typical
12 wildlife, or in a typical environmental
13 assessment, wildlife is usually chosen as a valued
14 component for study, because people are concerned
15 about wildlife and they'd like to know what the
16 effects of the project would be on wildlife if a
17 project went ahead. But you can't just study
18 wildlife. Wildlife as a concept is too big of a
19 thing, it's too broad of a subject matter. So you
20 have to narrow it down. You have to pick
21 something that would characterize effects to
22 wildlife. So, for example, if bears were a
23 specific concern to the public, bears might be
24 chosen to characterize one particular effect to
25 wildlife. But that's still not narrowed enough

1 down. You can't just collect any and all
2 information about bears, you have to be specific.

3 So for this example, the indicators
4 that may be chosen for bears would be the habitat
5 bears require, or population of bears affected by
6 the project. So these two indicators would be
7 used to scope information that would be collected
8 when you move to the second step of an
9 environmental assessment, collect information on
10 the thing.

11 The general rule is, the more specific
12 you are in the selection of indicators, the better
13 chance you have in characterizing change to the
14 valued component. The same could be said about
15 moose. If moose are an important species to the
16 public, you may choose indicators such as a
17 decreased -- increased mortality to moose
18 resulting from a project, or if the project went
19 ahead. And then you can go out and collect
20 specific information about moose or bears and test
21 how these indicators may be affected by the
22 project.

23 So that's the process we went through
24 for the two valued components chosen for the MMF
25 report.

1 Lands available for Metis use was the
2 first one. So lands available for Metis use as a
3 valued component is too broad to go out and start
4 collecting information from Metis people about
5 that particular topic. You have to narrow it
6 down.

7 So the two measurable parameters that
8 were chosen for lands available for Metis use, the
9 valued component of lands available for Metis use,
10 was the amount of land for use and the change in
11 access. So these are the two measurable
12 parameters that we identified for further
13 measurement.

14 We still narrowed it down further.
15 The three indicators for amount of land for use
16 were legal restriction, where a project, a phase
17 of the project would result in a change of land
18 from land that can be used unimpeded by Metis
19 harvesters to land that cannot be used unimpeded,
20 for whatever reason, by the Metis. A change in
21 physical attribute, whereby a phase of the project
22 could result in a change in the distinct physical
23 attribute of land used by Metis harvesters,
24 whether through air noise or visual quality. And
25 a change in Metis perception of land, whereby

1 phases of the project could result in increase in
2 avoidance behaviours by Metis harvesters.

3 For change in access, the two
4 indicators were an increased access for Metis,
5 whereby phases of the project could result in an
6 increased access to the project for Metis
7 harvesters, and conversely increased access for
8 non-Metis people where phases of the project could
9 result in an increased access to the project area
10 of non-Metis land users. In total, we had five
11 indicators of change for the valued component of
12 lands available for Metis use.

13 For the second valued component, Metis
14 harvesting, the two measurable parameters were
15 harvest activities and experience in culturally
16 critical species, and the five indicators of
17 harvesting activity, quality of harvesting
18 experience, harvesting success, displacement and
19 contamination of species. You heard some of those
20 recounted by Brielle and Will in their openings of
21 those types of influences that can influence their
22 behaviour in the event of a project going forward.

23 So moving to the second step of an
24 environmental assessment. First you pick what you
25 study, you narrow it down to things that have a

1 reasonable chance of being affected by the
2 project, and then you go out and collect the
3 information. So the way the MMF, or the way
4 Calliou Group collected information on our 10
5 indicators was through 139 surveys delivered to
6 Metis harvesters, and 47 in-person interviews
7 conducted with Metis citizens.

8 For the MMF report we used paper
9 surveys, which were comprised of a consent form
10 and two specific questions which asked MMF
11 harvesters what they prefer when they harvest and
12 what land or development types were typically
13 avoided.

14 The 47 in-person interviews had 220
15 questions about harvester preference, harvester
16 avoidance behaviours, land and resource use
17 characteristics, including species harvested,
18 locations in the vicinity of the project, time of
19 year of harvest, and what the species or type of
20 harvest is used for, project specific questions,
21 and supplemental questions about language,
22 cultural identity, teaching and transmissions and
23 Metis values. The 47 participants who completed
24 the in-person surveys sat from anywhere from an
25 hour to six hours to complete those surveys. It

1 was a very intensive process.

2 A draft report was completed and
3 provided to Manitoba Hydro in May 2016. A final
4 report was provided to Manitoba Hydro in July of
5 2016, and from then until February 2017, iterative
6 edits were completed on the report, and the MMF
7 undertook extensive discussions with Manitoba
8 Hydro in relation to the report contents.

9 As previously mentioned, the MMF
10 report does not include an identification of
11 mitigation measures, nor an identification of
12 cumulative effects. Those steps are still
13 outstanding.

14 So let's move to a discussion of the
15 third step in environmental assessment, a
16 discussion about results, identify the effects to
17 the things you pick to study. So we'll start with
18 legal restriction.

19 For this indicator we looked at the
20 change in the legal restriction for a parcel of
21 land. Why is this important? So if you are
22 Metis, not all land is created equally. Locations
23 matter and conditions of the land matters. Let's
24 use hunting as an example. If you are Metis, you
25 can't simply walk onto someone else's property to

1 exercise your right to hunt. If a Metis person
2 wants to hunt on private land or private property
3 they require the permission of the landowner.
4 There are many places, where as a Metis person
5 exercising their constitutionally protected
6 rights, you can't go.

7 In a typical traditional land use
8 study, though, people aren't asked where they
9 can't go, they are asked where they do go. So in
10 a normal traditional land use study, people only
11 depict on a piece of paper or a map where they do
12 go. We wanted to flip that question around and
13 ask where people don't go.

14 So as Will mentioned, the MMF laws of
15 the hunt, put it this way, Metis harvesters may
16 harvest throughout the Metis recognized harvesting
17 area on all unoccupied Provincial Crown lands in
18 Manitoba, and occupied Provincial Crown lands,
19 including provincial parks, wherever First Nation
20 members are allowed to harvest, and on any
21 privately owned land in Manitoba on which the
22 Metis harvester has been given permission by the
23 owner, or occupant, or Indian reservation lands
24 with the permission of the band council.

25 So as Will mentioned, there are

1 examples throughout Canada's history of there
2 being confusion or dispute of where Aboriginal
3 people can and can't go to exercise their rights
4 under the law. And if they break those laws, they
5 are subject to prosecution or worse, as we seen in
6 Saskatchewan.

7 So we asked ourselves, what was the
8 state of the lands currently in the vicinity of
9 the MMTP project? What lands exist in the
10 vicinity where Metis can freely exercise their
11 rights, without asking permission or breaking a
12 law?

13 So if we start with a blank slate,
14 it's a process of elimination. This map outlines
15 the proposed MMTP right-of-way, or project
16 development area, the one we used in our report,
17 the local assessment area and the regional
18 assessment area.

19 On this map, the white space shows all
20 the land theoretically where Metis exercising
21 their rights are theoretically allowed to go. So
22 let's move to an identification of where they
23 can't go, by either asking permission or breaking
24 the law. So it's a process of elimination.

25 So first we'll start with identifying

1 national parks, provincial parks, ecological
2 reserves, wildlife refuges, wildlife management
3 areas and provincial forests that have a
4 regulation or some type of legal restriction in
5 the management of that area that prevents the
6 exercise of Section 35 rights by Metis people.

7 So for this next series of maps, the
8 darker pink areas will show the layer of which we
9 are adding to the blank slate. So the darker pink
10 areas on this map are places where, for legal
11 reasons, Metis harvesters may be excluded from
12 harvesting from time to time because of either
13 provincial or federal laws prohibiting hunting in
14 national parks, provincial parks, ecological
15 reserves, wildlife reserves, wildlife management
16 areas and provincial forests.

17 So added to this layer was mines,
18 quarries and mineral mines, well pads -- maybe I
19 won't read the whole thing. There is lots of
20 these places where, for obvious reasons, where
21 Metis can't hunt on the same spot as these things.
22 So if we add that to the previous layer, the dark
23 pink will be added to the previous layer of the
24 light pink, showing areas within Southern Manitoba
25 where mines, quarries, and mineral mines, well

1 pads, transmission lines, power lines, pipe lines,
2 hydroelectric generating stations, hydroelectric
3 converter stations, transformers, forestry
4 activities, timber operations, forestry harvesting
5 areas, and liquid and solid dumps.

6 So adding to the next layer of cities,
7 towns and villages, populated areas, Indian
8 reserves, houses, cottages, barns and outbuildings
9 and recreation areas. So the dark pink represents
10 those areas added to the previous light pink
11 layer.

12 Moving to railway lines, primary roads
13 and highways, secondary roads, resource roads or
14 prescribed trails. So Southern Manitoba is
15 getting a little bit pinker.

16 Next was agricultural land, private
17 land and community pastures, which is primarily
18 private land. So now the dark pink is the lands
19 that reflect agricultural, private land and
20 community pastures.

21 So if you add all those together, if
22 you add all the private lands to all the occupied
23 Crown lands that have some type of legal
24 restriction that prevent the free exercise of
25 Section 35 rights by Metis citizens, it's all the

1 pink.

2 So for this report we clipped and only
3 examined the information within the RAA. So even
4 though some of those ecological and provincial
5 parks are outside the RAA, we didn't consider
6 those in our calculations, we only looked at what
7 was inside the RAA. Although for other clients in
8 other parts of Canada, an examination through
9 their entire traditional territory is a done, to
10 have the government understand whether there's
11 enough land within their entire traditional
12 territory to exercise their rights in a meaningful
13 way.

14 So the white areas on this map are the
15 lands that are unoccupied and have no legal
16 impediment for why Metis can harvest in that area.

17 So we'll just move through those
18 layers just a little bit quicker so you can see
19 the progression of how those layers fit together.

20 So the idea that Southern Manitoba
21 contains a lot of land for Aboriginal people to
22 freely exercise their rights is not correct. And
23 that's the same case for most of the provinces in
24 Western Canada. Most of the southern part of the
25 provinces has already been taken up by private or

1 agricultural land or lands for cities. So the
2 idea that there's lots of wild spaces left in
3 places where people can go to freely exercise
4 their rights is incorrect.

5 So if we clip that down to the
6 project, within the RAA, 84.6 per cent of the RAA
7 is private land already. Within the PDA it's 76.5
8 per cent is private, and within the right-of-way
9 itself, 80 per cent of the right-of-way is on
10 private land. Occupied Crown within the project
11 area, 3.2 per cent within the RAA, 13.8 per cent
12 in the PDA, and 6.6 per cent in the LAA. For
13 unoccupied Crown, only 10.3 per cent within the
14 RAA is unoccupied Crown, 9.6 in the PDA or
15 right-of-way, and LAA is 14.1 per cent. But
16 really those numbers mean nothing unless it's
17 relative to something. So understanding whether
18 those numbers are big or small and how the project
19 affects those numbers is the next step, putting
20 those numbers in context.

21 So the question for this valued
22 component and the indicator was, would MMTP reduce
23 the amount of available land for the exercise of
24 Metis rights? How would MMTP change the
25 availability of land? To answer this question we

1 looked at the change in the legal restriction
2 resulting from MMTP.

3 And that restriction comes from the
4 application of the easement agreement. It's the
5 legal authority provided to Manitoba Hydro to
6 restrict people on the right-of-way for reasons
7 necessitated by the project.

8 So we looked at the change in the
9 legal restriction resulting from MMTP, through the
10 example of the easement agreement from the Bipole
11 III project, because we didn't have access to the
12 easement agreement for this project, it hasn't
13 been written. We made the assumption that the
14 disposition for Bipole III would be similar, or
15 extremely similar to the disposition applied to
16 the MMTP.

17 So the easement agreement and the
18 disposition under the Act gives clarity on who can
19 tell who to move. So you need that clarity in
20 preventing situations like Will described, where
21 there's a disagreement between rights holders and
22 there could be consequences under the law. So if
23 a Metis harvester is harvesting on a particular
24 spot, who has the right to tell him he can't, for
25 whatever reason. And that's the nature of the

1 rights under the law.

2 So the wording from the Bipole III
3 easement agreement is:

4 "Manitoba Hydro can enter, use,
5 construct, place, operate, maintain,
6 repair alter, add to, remove on,
7 under, across, along, over, through,
8 or from the right-of-way, overhead or
9 underground, and gives them the right
10 of free and unimpeded ingress and
11 egress to and from the right-of-way."

12 So it just gives clarity who has priority rights
13 over someone else with competing rights on that
14 spot. And our system of knowing that is central
15 to knowing where you can exercise your rights or
16 not.

17 THE CHAIRMAN: Sorry to interrupt,
18 it's Serge Scrafield, the Chair. We're at 11:00
19 o'clock. Normally we would break now, but if
20 there's a better time to break in your
21 presentation, why don't you just let me know?

22 MS. CAMPBELL: I think we can go now.

23 THE CHAIRMAN: We'll take a break.

24 We'll be back here at 11:15. Thank you.

25 (Proceedings recessed at 11:01 a.m.)

1 and reconvened at 11:16 a.m.)

2 THE CHAIRMAN: All right. I wonder if
3 you could all take your seats? We're going to
4 resume. Mr. Davis.

5 MR. DAVIS: Thank you. I'll pass the
6 floor back to Tracy.

7 MS. CAMPBELL: So the question we
8 asked ourselves is how would the MMTP project
9 change unoccupied Crown land in the right-of-way?
10 So if the MMTP project is approved, 100 percent of
11 the unoccupied Crown land available in the PDA, on
12 right-of-way, will be changed to the occupied
13 Crown land as a result of the easement. So the
14 easement would convey priority rights to Manitoba
15 Hydro, and in the event of a conflict between
16 Manitoba Hydro and a harvester, Manitoba Hydro
17 would have the legal authority to tell that
18 harvester to not do the thing he was doing in the
19 spot where Manitoba Hydro wanted to be.

20 So the change of unoccupied Crown to
21 occupied Crown land in the LAA is 5 per cent, and
22 in the RAA is .04 per cent. So those amounts
23 might seem like teeny tiny amounts of change. And
24 your mind goes to, well, if it's teeny tiny like
25 that, then the effect is not big. But I'd just

1 like to emphasize that this report does not
2 identify any mitigation measures that may alter
3 those results, and that a cumulative effects
4 assessment wasn't conducted for this report, where
5 you would take this change and add it to all the
6 other times in the RAA that changes unoccupied
7 Crown land to occupied Crown, and you'd add those
8 two things together. So specifically for a
9 cumulative effects assessment for changing the
10 legal description of land, you would look at all
11 the other times that someone would take, for
12 whatever reason, unoccupied Crown and put a legal
13 restriction on it to change it to occupied Crown
14 or private.

15 So Manitoba Hydro, reflected in the
16 route selection process that Manitoba Hydro did,
17 as a component cited the project on Crown land,
18 and this is not preferable to Aboriginal people,
19 as opposed to sighting the project on private land
20 which would not increase the legal land
21 restrictions to Metis people.

22 It's been my opinion the MMTP EIS
23 conflated natural habitat with Crown land and
24 didn't take into account where Metis people had a
25 right to exercise their Section 35 rights. And I

1 tried to think of an analogy for this point. You
2 may have the most pristine natural habitat
3 available, where animals flourish and there's a
4 healthy environment. But if that landscape is
5 located within a protected area where Metis rights
6 can't be exercised, that habitat might as well be
7 on the moon. So what the land looks like, the
8 condition of the land is important, but also
9 whether a right of access exists for that land has
10 to be taken into account. And for that reason,
11 that's why we split out, in those 10 different
12 indicators, a way to measure effect to Metis
13 rights. Because as a mitigation measure, a
14 proponent may institute measures to increase the
15 amount of natural habitat available, or decrease
16 the effect to natural habitat available, but that
17 conversely may render that land inaccessible for
18 the exercise of rights due to where that land is.
19 So it's kind of a whackamole mitigation. Trying
20 to preserve natural environment, if you put it in
21 a place where you can't hunt, then it might as
22 well be on the moon.

23 So why is this point important? As
24 part of the MMF report, we collected information
25 about how Metis harvesters use the land in the

1 vicinity of the project. 98 per cent of the
2 participants interviewed for our report indicated
3 they harvest within the PDA, LAA and RAA. There
4 were 281 specific use sites that we identified
5 that intersected with the project development
6 area. And most of that use occurred on unoccupied
7 Crown land in the RAA. So if you look on the map,
8 for example, for berry and berry plants, most of
9 the cross hatched use occurs in the area where
10 there's unoccupied Crown.

11 So in other words, information
12 collected in the survey supported the theory that
13 unoccupied Crown land is critical to the exercise
14 of Metis rights. So any decrease in the
15 unoccupied Crown land and conversion to some legal
16 impediment to the exercise of rights is important.

17 So let's move to the second indicator
18 used to characterize the valued component of lands
19 available for Metis use, which is physical
20 attributes. The survey we conducted with Metis
21 collected information on what conditions
22 associated with changes from MMTP might affect
23 their use.

24 The distinct physical attributes
25 necessary for Metis harvesters have the potential

1 to be affected through changes in air, noise and
2 visual quality. As has been recognized by the
3 Canadian Environmental Assessment Agency, Metis
4 harvesters may have a different threshold for
5 sensory disturbance than those generally listed as
6 EIS receptors, typically considered by proponents
7 in assessing biophysical valued proponents. This
8 is important as the perception of changed is often
9 as powerful as a concrete change in sensory
10 experience.

11 Survey participants reported, and the
12 range was from 63 to 90 per cent, that they would
13 not harvest where they could smell industrial
14 development. This is important as odour will be
15 present during construction as diesel and
16 equivalent engines will be used by the proponent
17 to construct the project.

18 Survey participants additionally
19 reported, ranging from 39 per cent to 80 per cent,
20 that they would not harvest where they could hear
21 industrial development. Solitude was important.
22 This is key due to noise present during the
23 construction from the machinery, transportation,
24 vehicles, clearing equipment, and periodic
25 explosive discharges that are described in the EIS

1 technical data report, section 1.2. Noise could
2 be a deterrent to Metis harvesters during
3 maintenance due to the infrequent use of
4 helicopters.

5 Survey participants also reported,
6 ranging from 40 per cent to 88 per cent, that they
7 would not harvest where they could see industrial
8 development. In fact, the MMTP EIS concedes that
9 the project has the potential to change the visual
10 quality of the landscape from viewpoints of
11 importance to Metis, and an adverse change in
12 visual landscape can contribute to stress and
13 annoyance.

14 Overall, there are aspects of the
15 project that will result in changes to air, noise
16 and visual quality. Survey participants also
17 reported that they would generally avoid these
18 sources of change.

19 For the indicator of Metis perception
20 of land, information was collected in the surveys
21 of how Metis used the land -- how Metis use of the
22 land would be influenced by perceived changes
23 resulting from MMTP. Information from 47 surveys
24 identified Metis preferences for use of land.
25 Metis harvesters were asked about their

1 preference, that is they were asked how close they
2 would prefer to harvest to a specific development
3 or land type, such as park, industrial activity or
4 road. In addition to not being allowed to go on
5 certain types of land, we asked Metis harvesters
6 how close to that land would they prefer to
7 exercise their rights?

8 The changes in perception were
9 represented through something we called diminished
10 preference zones, or areas where survey
11 participants were asked distances they would avoid
12 development for land types, including for
13 environmental, aesthetic or safety concerns.

14 So if we look at the same map using
15 the same layers that we showed legal restriction
16 of land, we then calculated the distance from the
17 edge of that parcel of land to identify the
18 preference zone for a Metis harvester based on the
19 survey results. So for this example, we used
20 hunting as the example. For hunting, survey
21 participants reported that they preferred to stay
22 100 metres away from national parks, 2 kilometres
23 away from provincial parks, 2 kilometres from
24 ecological reserves, and preferred to harvest on
25 wildlife reserves resulting in no buffer.

1 I'd just like to note too that it's
2 been my experience, working with Aboriginal people
3 across Canada, that harvesters don't generally
4 know the nuances of where they are and are not
5 allowed to go. So generally they err on the side
6 of caution. So if they're not allowed to hunt in
7 one particular area, they don't go to that area to
8 do other activities, for fear of legal challenge,
9 or you get kind of the stink eye from people being
10 out there, or the shame of being asked to leave
11 for doing something that makes you who you are.

12 So on this map the orange is the layer
13 of the parks, and the yellow around the orange is
14 the area where people would prefer not to go.

15 So, again, for any of the calculations
16 in the report, we clipped the calculations to the
17 RAA and didn't consider things outside that RAA.

18 For hunting, survey participants
19 reported they preferred to stay away 2 kilometres
20 from mining activities, 2 kilometres from well
21 pads, 2 kilometres from hydroelectric generating
22 stations, 2 kilometres from hydro converter
23 stations and transformers. So again, these land
24 types are represented in orange and the buffer
25 applied to those land types is represented by

1 yellow. So this is just another way to show how
2 land is affected by a potential land use that
3 would, in turn, affect behaviour of MMF citizens.

4 So added to that, Metis -- the survey
5 participants reported they would stay 2 kilometres
6 away from cities, towns and villages or populated
7 areas, for obvious reasons.

8 And survey participants added to this,
9 reported that they would stay a hundred metres
10 away from railway lines, or 2 kilometres from
11 primary roads and highways, and a hundred metres
12 from secondary roads, and those buffers were
13 applied as necessary.

14 So if you add all those things up, it
15 shows the amount of land that is unpreferred,
16 based on land type, by survey participants. So it
17 just, it tries to give context to the idea that
18 there's lots of places Metis prefer to go, if they
19 had control where they would go and where they
20 wouldn't go.

21 The results of that for hunting is
22 that 100 percent of the right-of-way is not
23 preferred, and zero per cent would remain if the
24 project would go ahead. For the LAA, 92 per cent
25 is not preferred. So that idea that the project

1 would only displace activity for a certain amount
2 of time and you can just go elsewhere is
3 unsupported by the data we collected in the
4 survey.

5 Let's move to Metis access. The
6 majority of survey participants indicated that
7 they believed access changed to harvesting areas
8 from project development with the exception of
9 fishing. It was noted in the EIS that land users
10 would potentially have access to areas adjacent to
11 the PDA rather than directly on. It was also
12 noted that there would be restrictions to access
13 during active construction. It's salient to note
14 that participants felt that by approving this
15 project, the Manitoba Government would give
16 Manitoba Hydro the right to restrict harvesters
17 from access at certain times.

18 What about non-Metis access? What did
19 the survey say about that? Survey participants
20 were asked what their experience of traffic and
21 people in the project area was now. 61 per cent
22 of participants indicated that traffic from Dorsey
23 to Anola was high and that they typically
24 encounter more than 10 people while out harvesting
25 in that area. This was contrasted with the

1 southern project right-of-way from Anola to the
2 United States border, which was noted to have only
3 moderate traffic and 2 to 4 encounters with people
4 while harvesting. It just gives additional
5 importance to the amount of unoccupied Crown land
6 in the southern part of the RAA.

7 Many participants expressed that an
8 increase in traffic and people to levels similar
9 to Dorsey to Anola would result in increased
10 competition for resources within the project
11 development area. It again would result in
12 cultural disconnect, as harvesters would choose
13 not to access the PDA and not go there to teach
14 their kids.

15 So in the interest of time, we'll
16 collapse the three indicators of harvesting
17 activity, quality of harvesting experience and
18 harvesting success into one result. And in
19 addition to time, the results of those three
20 indicators were surprisingly similar and can be
21 discussed as one result.

22 The participants expressed the results
23 in terms of what they like and what they don't
24 like. So in terms of what they liked, Metis
25 reported that they prefer where it's quiet, where

1 they have past success, where there is no
2 development or people, which I think you heard
3 Brielle express in her presentation. Noise,
4 displacement of wildlife, inspection controls and
5 vegetation management processes were all
6 identified as potential factors of change in the
7 EIS and could contribute to these two categories
8 of change for the Metis. In terms of what they
9 didn't like, participants reported that they would
10 not harvest if industrial workers were present or
11 vehicles were there, or if a location was
12 particularly dusty.

13 So Metis prefer quiet, areas of past
14 success where there's no development and where
15 there's no people. Metis avoid industrial
16 workers, the presence of vehicles, or whether the
17 location was dusty.

18 The assessment of changes to
19 harvesting success was completed using qualitative
20 information. Construction was thought to occur
21 over approximately two and three quarter years.
22 In that time, MMF harvesters will have to
23 establish new hunting areas in order to avoid the
24 project development area. If harvesters are
25 successful in these new areas, the survey results

1 clearly show that they will continue to frequent
2 these new areas of success. This could
3 potentially remove the project site from
4 consideration as a viable harvesting alternative.
5 Survey participant patterns of use can and will
6 adjust to the project construction, but this may
7 result in a continual displacement. I think our
8 survey results show how tenacious and adaptable
9 Metis harvesters are, if forced. But if given the
10 preference, they would rather have places that are
11 familiar, where they have had success and that
12 have the conditions that support preference.

13 Specifically for transmission lines,
14 for hunting, 73 per cent of the survey
15 participants said they would avoid transmission
16 lines by a hundred metres. For culturally
17 critical species where phases of the project may
18 result in temporary displacement of species of
19 importance to the MMF -- for the indicator of
20 displacement of key resources, participants were
21 asked if there were resources available near the
22 project right-of-way. Participants responded that
23 there are, some resources available for hunting,
24 plenty of resources available for trapping, some
25 resources for fishing, plenty of resources

1 available for berry and plant gathering, plenty of
2 resources for plant, mushroom and medicine
3 gathering, plenty of resources for tree and tree
4 product gathering, plenty of resources for rock
5 and mineral gathering.

6 The majority of participants felt that
7 project would change the availability of resources
8 for these activities, with the exception of
9 fishing, which only 29 per cent indicated the
10 project would result in a change.

11 For contamination, finally for the
12 tenth indicator for contamination, where project
13 could result in a perception of increased
14 contamination from the project. People are an
15 interesting bunch. They react and change their
16 behaviours to either a real or perceived change.
17 So if there's a sense that there is a chance for
18 contamination of resources that they will eat,
19 they will avoid that area, regardless of whether
20 that change is real or not. So showing an effect
21 from EMF, for example, you can show a harvester
22 that EMF doesn't physically affect resources, but
23 if they perceive an effect, a change from EMF,
24 they still won't go there, resulting in a change
25 of behaviour.

1 For this parameter participants
2 broadly noted that the quality of plants, animals
3 and fish in the vicinity of the project
4 right-of-way was good. Many expressed a general
5 unease with the development of the project and
6 related their experience with previous
7 transmission lines to this potential transmission
8 line. Some participants related general concern
9 with contamination of plants, animals and fish,
10 highlighting a perceived effect.

11 A perception is largely a subjective
12 analysis that this report relied solely on the
13 reported results for the existing environment,
14 contrasted with participants impressions of past
15 transmission installations. Based on that, there
16 may be an effect to participants' perception of
17 the project.

18 So to wrap the 10 effects up, there
19 will be less available, less preferred land if the
20 project goes ahead, based on an increased legal
21 description as a result of the easement agreement,
22 and the quality of land and the experience, as
23 experience has diminished by Metis harvesters.
24 Specifically for this project, Metis reported that
25 they would avoid transmission lines by a hundred

1 metres, whether it is from a real or perceived
2 change resulting from the project.

3 So in my opinion, it's not sufficient
4 only to study biophysical resources, you need to
5 study people and their behaviours to understand
6 the effect of the project on exercise of Section
7 35 rights. And our studies show that unoccupied
8 Crown land is important, if not critical, for the
9 exercise of Metis rights, and that unoccupied
10 Crown land is a diminishing resource in Southern
11 Manitoba. And any conversion of unoccupied Crown
12 land to occupied Crown should be taken with great
13 care. The actual condition of the land is
14 important, but the access of that land is also
15 equally important. Finally, the perception of
16 people is important and influences the behaviour
17 of harvesters.

18 So what's next for the results in the
19 MMF report? The development of mitigation
20 measures to offset those 10 individual impacts
21 have to occur.

22 The 10 impacts that we identified in
23 our report are not found in the MMTP EIS. So by
24 nature, mitigation measures are developed to
25 directly offset that effect. So no mitigation

1 measures can be found in the EIS to directly
2 offset those 10 mitigation measures, or those 10
3 effects.

4 MMF and Manitoba Hydro are currently
5 discussing mitigation measures to offset those
6 effects identified in the report, but they're not
7 included in our report.

8 And so in the absence of those
9 mitigation measures, effects in the PDA will
10 remain. And based on the criteria we identified
11 for significant, the effects will be considered
12 significant, in the absence of developing
13 mitigation measures.

14 And our definition of significant is
15 also laid out in the report. We use similar
16 criteria to identify the definition of significant
17 based on direction, magnitude, geographic extent,
18 frequency, duration, reversibility, and ecological
19 context. Significant is based on professional
20 judgment, combination of these criteria and
21 information in guiding documents.

22 So because the magnitude met the
23 measurement for high for the PDA, for all effects
24 in the PDA, we determined that this identified
25 effects to all indicators were significant.

1 MR. DAVIS: Thank you, Tracy. That
2 takes us to the end of our evidence. And if I
3 may, I might offer a very brief conclusion to it,
4 before we open the floor for questions, should
5 there be any.

6 Earlier during these proceedings, I
7 believe my colleague, Megan Strachan, drew
8 attention to a short passage in the EIS. This is
9 in chapter 11, the portion of the EIS dealing with
10 traditional land and resource use. For reference,
11 this is page 11-14.

12 "Manitoba Hydro wrote that beliefs or
13 perceptions around adverse effects are
14 difficult to quantify and not easily
15 amenable to assessment in the same way
16 as other project effects. Given this
17 objective nature of this effect
18 pathway and the limited site specific
19 information provided by First Nations
20 regarding beliefs and concerns
21 regarding the project, the full
22 effects characterization is not
23 carried forward."

24 The thrust of the evidence that we
25 presented today is that just because something is

1 hard does not mean that it cannot be done well.
2 Beliefs and perceptions can be measured. In fact,
3 elsewhere in the EIS, Manitoba Hydro measured
4 beliefs and perceptions, for example, with respect
5 to stress and annoyance. What the MMF report does
6 is it provides a measurement of the effects on the
7 beliefs and perceptions of Metis people, the Metis
8 community, Metis harvesters in particular, that
9 will result from the project. And these will,
10 it's shown in the report, have an effect on their
11 behaviour.

12 This is something that Hydro has an
13 obligation to attempt to measure, it has an
14 obligation to attempt to assess the effects of the
15 project on the environment, which includes people,
16 which includes the Manitoba Metis community.

17 And as the report shows, these effects
18 will be significant. They will be significant,
19 among other reasons, for the reason that Brielle
20 mentioned, which is that it is presently, with the
21 lands available in Southern Manitoba, extremely
22 difficult for a Metis person to fully exercise
23 their harvesting rights, which is to say to
24 sustain themselves based on their harvesting
25 rights. Any added impediment, any added

1 diminution of the lands available to the Metis
2 community to exercise those rights in that context
3 becomes significant.

4 The Environmental Impact Assessment
5 paid some lip service to this and says that it
6 addresses the effects on the perceptions of
7 Aboriginal harvesters narratively. But what is
8 required is more than lip service. It is required
9 that these effects be taken seriously. And now in
10 light of this evidence, they can be and they ought
11 to be. Thank you.

12 THE CHAIRMAN: Thank you for those
13 comments, Mr. Davis, and thank you for an
14 excellent presentation to the panel. And it
15 certainly gives us more useful and comprehensive
16 information to consider in our deliberations. So
17 thank you.

18 So we'll move now to questions. And
19 I'll begin with Manitoba Hydro.

20 MR. ADKINS: Thank you. I have the
21 honour of serving Manitoba Hydro today in terms of
22 asking questions about this. So I appreciate it.
23 And I do have to say it was a pleasure actually
24 meeting Will Goodon. We followed his case in the
25 law courts and it's interesting.

1 And Brielle, it was interesting
2 hearing from you as well, and you added a part to
3 this that I think is important to people here. So
4 I really appreciate both of those, and I think
5 Manitoba Hydro appreciates that.

6 We have also a report, which I have
7 spent a fair amount of time reviewing, and we have
8 had now a slide presentation that I received this
9 morning. There seem to be some differences in
10 some of the figures. And I can pick out some of
11 them, but I don't think I would necessarily get
12 them all. But if there's something significant,
13 when I'm asking questions of representatives of
14 the Calliou Group, perhaps you could indicate that
15 there's something that is relevant to that, or why
16 the difference between the report, which I have
17 reviewed carefully, and the slide presentation.
18 Would that be acceptable?

19 MS. CAMPBELL: Of course.

20 MR. ADKINS: Thank you. One of the
21 first things I noted in the slide presentation is
22 the numbers of people that responded or were
23 surveyed. And it seemed to have increased from
24 the time of the presentation -- sorry, from the
25 report. But I could just be misreading that. You

1 had 139 surveys in your slide number 22. In my
2 recollection of the report, you showed 121 surveys
3 plus 47 participants; correct?

4 MS. VANDERJAT: From the original one
5 that was filed in July to the one that was filed
6 in February, there was a change, because we
7 received a few more surveys via e-mail, and I'm
8 pretty sure it was updated. But if it wasn't,
9 then that was an error. It should have been
10 updated, that number.

11 MR. ADKINS: I hope I was looking at
12 the right one.

13 MS. CAMPBELL: So a draft report was
14 filed, submitted in May, a revised report in July,
15 and then the final in February.

16 MR. ADKINS: But in any event, they
17 were part of the original group of surveys that
18 were sent. There wasn't an additional survey
19 undertaken?

20 MS. VANDERJAT: No, it was just the
21 survey was submitted by e-mail to some people and
22 it just came back a bit later.

23 MR. ADKINS: Okay. I appreciate that
24 comment.

25 Some of my initial questions just

1 related to, and you have actually now spoken to it
2 to some degree, but the history of this resulted
3 in the EIS being completed before the report that
4 was undertaken by Calliou was submitted or
5 finalized or, in fact, even commissioned. Is that
6 correct?

7 MS. CAMPBELL: That's correct.

8 MR. ADKINS: And you have had it, as
9 Calliou Group, as representatives of the MMF and
10 the Metis, and had an opportunity to review the
11 EIS in fair amount of detail. Am I correct in
12 that?

13 MS. CAMPBELL: I would say that's
14 correct.

15 MR. ADKINS: You have also had an
16 opportunity to talk to Manitoba Hydro, both
17 internal and external consultants or experts who
18 were involved in the preparation of the EIS. Am I
19 correct in that as well?

20 MS. CAMPBELL: I wouldn't say
21 extensive, but yes, that's correct.

22 MR. ADKINS: Okay. And as part of
23 that process, you identified things that the
24 Calliou Group and the MMF thought were gaps or
25 believe were gaps that should be addressed. And

1 you have outlined a process through which an
2 arrangement was set up and funding was provided so
3 that that study could be undertaken?

4 MS. CAMPBELL: That's correct.

5 MR. ADKINS: And are you satisfied
6 that the gaps have now been addressed in terms of
7 this, based on the report that you have provided?

8 MS. CAMPBELL: That's incorrect.

9 MR. ADKINS: Okay. So you think that
10 there's continuing gaps?

11 MS. CAMPBELL: Well, we identified the
12 gaps. I think your question was, was those gaps
13 addressed? So the gaps have not been addressed.
14 So the gaps have been identified but...

15 MR. ADKINS: So you have identified
16 the gaps, and initially I think you identified the
17 gaps in the fact that there were no Metis specific
18 interests that were being considered?

19 MS. CAMPBELL: We identified gaps and
20 deficiencies with the EIS. We identified a
21 deficiency that the EIS didn't include information
22 collected by -- collected specifically for this
23 regulatory process, it used existing public
24 information. That was one deficiency. A gap was
25 that a measurable parameter or indicator wasn't

1 specific to the Metis to characterize effect to
2 traditional land and resource use. So that was a
3 deficiency that our report corrected. But as far
4 as addressing those gaps, I think the only way you
5 can address those gaps is to redo the EIS, redo
6 the conclusions in the EIS.

7 MR. ADKINS: But you have identified
8 Metis specific interests, you have done your
9 survey, you have been able to present the
10 information, and that's contained in your report
11 and contained in your presentation?

12 MS. CAMPBELL: Correct.

13 MR. ADKINS: And that information has
14 been filed before the CEC and is available for
15 consideration by the CEC?

16 MS. CAMPBELL: Yes, but something
17 still has to be done with the information. So I
18 mean, yes, there is information that that should
19 have been in the EIS and should have been
20 considered in the conclusions in the EIS. I
21 wouldn't say it's gone any further than that, is
22 identifying the information that's missing.
23 Something still has to be done with that
24 information. Either development of mitigations,
25 development of a cumulative effects assessment, or

1 seeing if that information would identify an
2 alternative route.

3 MR. ADKINS: On page 24 of your
4 report, you basically have discussed the Metis
5 specific valued components. Correct?

6 MS. CAMPBELL: We'll just get there.
7 Hold on.

8 MR. ADKINS: Okay.

9 MS. CAMPBELL: Yes.

10 MR. ADKINS: And in the following
11 pages, you identify how you, as you again reported
12 today, how you reviewed the information from the
13 group that you worked with?

14 MS. CAMPBELL: The workshops, yeah.

15 MR. ADKINS: The workshops. And you
16 came up with a list of potential identified Metis
17 specific interests, and then you modified that
18 down to the three areas, and ultimately the two
19 areas that you have reviewed as part of this, as
20 the basis for your report?

21 MS. CAMPBELL: Correct. We collect
22 issues and concerns from Metis at workshops. We
23 narrowed those things down into about 10 things.
24 And then we further narrowed, we scoped out those
25 concerns, using criteria that's common to

1 environmental assessment methodology, to narrow
2 down the selection of valued components. Correct.

3 MR. ADKINS: And you ultimately ended
4 up with two valued components. One was the land
5 available for Metis use and the other was
6 harvesting?

7 MS. CAMPBELL: Correct.

8 MR. ADKINS: And then your report
9 deals with those in a fair amount of detail?

10 MS. CAMPBELL: Excruciating detail,
11 yes.

12 MR. ADKINS: And in doing this, you
13 effectively had the workshops that you undertook
14 to decide what would be the Metis specific
15 interest, and then you proceeded to undertake
16 in-person participatory surveys with 47
17 representatives of the Metis. And then you mailed
18 out, I thought it was 120, but 130, whatever that
19 number is, where there were paper respondents that
20 came in. And you refer to the people that were on
21 the interview personally and dealt with personally
22 as participants, and people who simply mailed
23 things in and responded to the paper survey as
24 respondents. Is that basically correct?

25 MS. CAMPBELL: Correct. When you are

1 compiling results, you have to be careful not to
2 mix apples and oranges, so we had different
3 datasets that we could pull from to describe in
4 the report.

5 MR. ADKINS: Okay. And you also
6 identified three different geographic scales. Am
7 I correct in that?

8 MS. CAMPBELL: Correct.

9 MR. ADKINS: You have described those
10 as being the PDA, that's the project development
11 area?

12 MS. CAMPBELL: Yes.

13 MR. ADKINS: And that's basically the
14 right-of-way area?

15 MS. CAMPBELL: Correct.

16 MR. ADKINS: Where the actual line is
17 going to be constructed if it gets approved?

18 MS. CAMPBELL: Correct.

19 MR. ADKINS: And then the local
20 assessment area, which you sometimes refer to as a
21 local study area in the report?

22 MS. CAMPBELL: Correct. I should only
23 call it the LAA. For other environmental
24 assessments in other regulatory process, the terms
25 are interchangeable. But, yes, for this report

1 it's the LAA.

2 MR. ADKINS: But we are talking about
3 the same area, geographic area of land?

4 MS. CAMPBELL: Correct.

5 MR. ADKINS: Okay. And then the
6 regional assessment area, which is the RAA;
7 correct?

8 MS. CAMPBELL: Correct.

9 MR. ADKINS: And you have put up, and
10 I appreciate that, this slide which is showing the
11 RAA, and then showing the LAA, and then the PDA?

12 MS. CAMPBELL: Correct.

13 MR. ADKINS: And the PDA is very
14 difficult for me to see from where I'm sitting,
15 but it is a line that runs right down the centre
16 of the LAA?

17 MS. CAMPBELL: Correct.

18 MR. ADKINS: And the width of that
19 line would vary from what, 80 to 100 metres?

20 MS. CAMPBELL: I don't think it
21 varied -- oh, it varied.

22 MS. VANDERJAT: The shape files that
23 we used to identify these were from the Manitoba
24 Hydro website. So they were the files that were
25 used in the project as well. So they would vary.

1 MR. ADKINS: Okay. I had assumed that
2 they would, simply because the right-of-way would
3 vary from place to place.

4 And when I look at the RAA, it's an
5 area that sort of represents the region, the
6 regional area?

7 MS. CAMPBELL: Yes. In an
8 environmental assessment you have to identify
9 spatial areas for study, so that you know what
10 you're measuring. So if we're using this room as
11 an example, and we're trying to figure out what
12 the changes are in this room, we wouldn't go
13 outside of this room to describe the changes in
14 this room. So the RAA is taken from the wildlife
15 assessment in the MMTP EIS, and so we use that
16 boundary to describe changes in that regional area
17 for the project.

18 MR. ADKINS: But if you were
19 considering a change in this room that decreased
20 the occupancy, you might actually consider outside
21 this room to consider other areas of occupancy
22 that would be available in this hotel?

23 MS. CAMPBELL: If you made the hotel
24 the regional AA, or the regional assessment area,
25 then I would agree with you.

1 MR. ADKINS: Yeah.

2 MS. CAMPBELL: But for the example I
3 just used, the room would be the regional
4 assessment area, so you wouldn't go outside of it.

5 MR. ADKINS: What would the PDA be in
6 this particular?

7 MS. CAMPBELL: The PDA is the
8 right-of-way basically.

9 MR. ADKINS: Right, so within this
10 room it would represent --

11 MS. CAMPBELL: Oh, okay, I gotcha, the
12 tables.

13 MR. ADKINS: -- the tables?

14 MS. CAMPBELL: One table would be the
15 PDA and all the tables would be the LAA.

16 MR. ADKINS: So the relevance of one
17 table within this room is the PDA?

18 MS. CAMPBELL: Correct.

19 MR. ADKINS: In considering the
20 significance of that, you would consider how many
21 tables are in the room, or how many tables could
22 be put in the room and that sort of thing; is that
23 correct?

24 MS. CAMPBELL: Correct. Yeah, you
25 need something to measure against.

1 MR. ADKINS: I'm just going to read
2 this to you because I think this is consistent
3 with what you're saying now. This is from page 4
4 of your report. It's the third full paragraph on
5 that page. This report characterizes --

6 MS. CAMPBELL: I'm sorry, page 4 or
7 40?

8 MR. ADKINS: Page 4, I apologize, page
9 4.

10 MS. CAMPBELL: Got it.

11 MR. ADKINS: And this is repeated in
12 several locations in the report, this is just the
13 first time I came across it.

14 "This report characterizes effects of
15 two Metis specific interests at three
16 different geographic scales, project
17 development area, which is the area
18 which will be physically disturbed by
19 the project, the local assessment
20 area, which is the area where project
21 related environmental effects can be
22 predicted, and the regional assessment
23 area is the area that establishes
24 context for determining significance,
25 as well as the area within which

1 cumulative effects are assessed."

2 And that cumulative effects has not been something
3 you have addressed within this report?

4 MS. CAMPBELL: Correct.

5 MR. ADKINS: You have looked at the
6 question of significance?

7 MS. CAMPBELL: Correct, with a big
8 huge qualifier. I mean, normally you wouldn't
9 look at significance without the development of
10 mitigation and without a cumulative effects
11 assessment. So totally agree.

12 MR. ADKINS: I understand that aspect,
13 but you have specified what you have done here,
14 and I appreciate that. And when we're looking at
15 the question of significance, you would look at it
16 in the context of the RAA; correct?

17 MS. CAMPBELL: Correct.

18 MR. ADKINS: Okay.

19 MS. CAMPBELL: Okay. We did split it
20 out in the table at the back of the report to the
21 three spatial parameters, and we came up with a
22 significance determination for each spatial
23 parameter.

24 MR. ADKINS: Okay. And in your report
25 again, this is, as I say, it's repeated in quite a

1 few places, but as I say, I have difficulty
2 sometimes seeing and having a sense of comparison.
3 So I looked at figure 1-1-1 on page 19 of your
4 report.

5 MS. CAMPBELL: Gotcha.

6 MR. ADKINS: So I think it's
7 relatively clear from this that that's repeating
8 what you have showing up on the screen, but
9 there's a little more detail shown on figure
10 1-1-1?

11 MS. CAMPBELL: Correct, yeah.

12 MR. ADKINS: So, for example, the
13 boundaries of the City of Winnipeg are shown in
14 figure 1-1-1?

15 MS. CAMPBELL: They are.

16 MR. ADKINS: The area of the PDA is
17 shown in the blue line. Is that actually to scale
18 or is that just as narrow as you can make it and
19 still see it?

20 MS. CAMPBELL: It's the shape file
21 provided by Manitoba Hydro.

22 MS. VANDERJAT: So, in GIS it would be
23 represented to scale, but because it's zoomed out,
24 you will lose some of the context of the shape.
25 So it would have to be zoomed in quite further to

1 get the context of the shape.

2 MR. ADKINS: Yeah. My understanding
3 is a portion of this project, and the project, if
4 I understand it correctly, is the entirety of
5 what's shown there or shown in 1-1-1 in the sense
6 of the PDA?

7 MS. CAMPBELL: Yeah. I mean, this is
8 just representative for the purposes of this
9 presentation. If we tried to project this, I
10 mean, it wouldn't be very pretty.

11 MR. ADKINS: And that's perfectly
12 understandable. It gives us a reasonable
13 indication of the relative location and size of
14 these different components, the geographic areas
15 that you are discussing. I think that's what it
16 does. I don't think anyone is expecting it to do
17 more than that.

18 MS. CAMPBELL: That's what any map
19 does. As soon as you put a line on the map, it
20 distorts what's actually there.

21 MR. ADKINS: Considerably, depending
22 on the scale.

23 MS. CAMPBELL: Totally.

24 MR. ADKINS: But when I look at the
25 project and I try to figure out what the effects

1 or impacts of the project are, as they relate to
2 Metis or Metis specific interest, and then look
3 from a percentage point of view, do you use the
4 entirety of that project, that is commencing in
5 the far, I guess it would be northwest corner of
6 the City of Winnipeg, down looping below the City
7 of Winnipeg and then down to the United States, or
8 are you just referencing that area that is really
9 in the most southeasterly part of that where there
10 is existing Crown land?

11 MS. CAMPBELL: We looked at the entire
12 right-of-way. We delineated in the right-of-way
13 what was unoccupied and what was occupied. So I
14 think your question is where was most of the
15 unoccupied Crown land? It was at the southeast
16 corner, but in our calculation, I mean, in our
17 examination we looked at the entire line.

18 MR. ADKINS: Okay. So in terms of the
19 project and where it impacts or affects what
20 you're referring to is unoccupied Crown land, it
21 is a relatively small portion of the entirety of
22 the project?

23 MS. CAMPBELL: Correct.

24 MR. ADKINS: So there has been a fair
25 amount of effort by Manitoba Hydro, or whomever

1 was involved in this routing, to effectively
2 follow areas where there might be existing
3 impacts. For example, a large portion of this
4 runs along an existing right-of-way; correct?

5 MS. CAMPBELL: No, I wouldn't agree
6 with that. I mean, in a routing process you are
7 trying to constantly weigh, something might be
8 good for here, and something might be bad,
9 conversely bad for someone else. So it's a
10 constant trade-off using different indicators on
11 constraints mapping, if you will, to try to figure
12 out what's the path of least resistance for that
13 line? So I think there were some systemic
14 mischaracterizations used in the routing process
15 that valued some types of land, more, private land
16 for example, over other types of land that weren't
17 seen as valuable. So I think even using that word
18 preferred, the preferred route is in a general
19 sense, after you weigh all those checks and
20 balances. Preferred doesn't mean preferred by
21 everybody, it was preferred by mob rule kind of
22 thing. Most people ended up saying it was
23 preferred.

24 MR. ADKINS: Let me just go back,
25 because I'm not wanting to get into semantics

1 about the routing process. What I am trying to
2 get at is, in terms of relevance to your study, in
3 terms of relevance to Metis specific interests,
4 the focus of what you looked at was the unoccupied
5 Crown land component of the project, the PDA. Am
6 I correct in that?

7 MS. CAMPBELL: We looked at 10
8 effects, so we looked at 10 indicators, one of
9 which was legal restriction. In terms of
10 representing that effect, it was the most
11 interesting, from my perspective, to work on, but
12 there were 10 effects, 10 different indicators.

13 MR. ADKINS: Geographically, which
14 area did you look at specifically, or most
15 importantly?

16 MS. CAMPBELL: For what?

17 MR. ADKINS: In undertaking the review
18 that you did?

19 MS. CAMPBELL: It depends on the
20 indicator. So for legal restriction, we
21 classified what land existed in the PDA, the LAA
22 and the RAA. For harvesting, for example, we
23 looked at areas of use. For harvesting
24 experience, we looked at, habitat played a role.
25 So it depended on the indicator.

1 MR. ADKINS: Okay. Am I correct that
2 a portion of this project is running along an
3 existing right-of-way where there is already an
4 existing transmission line?

5 MS. CAMPBELL: I believe so.

6 MR. ADKINS: And was that seen, from
7 the MMF's perspective, as something that would be
8 a positive siting of routing for that, for this
9 new line?

10 MS. VANDERJAT: In the presentation, I
11 think Tracy touched upon some of the questions
12 that we asked that related specifically to how the
13 north portion of the route is, and then how the
14 south portion of the route is. So it was taken
15 into consideration in terms of those.

16 MS. CAMPBELL: I'll get it. In the
17 same way that Manitoba Hydro didn't have a room
18 full of people and ask them, well, where do you
19 think the route should go, it's never that simple.
20 So if we stood in front of a room full of Metis
21 harvesters and said, what should we pick as Metis
22 specific interests or a valued component, they
23 would look at us with blank faces. So in a
24 similar way to identifying constraints mapping for
25 the routing process, we narrowed down indicators

1 that were good and bad for Metis harvesters. So
2 it would have been great if those indicators had
3 been reflected in the routing process that
4 Manitoba Hydro undertook before they did their
5 EIS. Because I think some of those
6 misunderstandings were baked into the routing
7 process and in the EIS. So if, for example, if
8 the routing process had identified that access
9 where there's no legal restriction was important
10 to consider in routing, where conditions for
11 successful Metis harvesting were considered in
12 Metis routing, I would have loved to have seen if
13 the routing had been changed. But we'll never
14 know.

15 MR. ADKINS: I'm not certain that
16 those, what you're saying about that is accurate,
17 but I'm not going to follow up with that right
18 now. I'll come back to it if I feel that I
19 should.

20 But I do want to take a look at some
21 of the approaches that you did take in terms of
22 this. And one of the things that you looked at is
23 called the precautionary principle?

24 MS. CAMPBELL: Correct.

25 MR. ADKINS: And you have identified

1 that on page 32?

2 MS. CAMPBELL: Yes.

3 MR. ADKINS: "The scope of this
4 report and methods for its execution
5 adhere to the principle of
6 environmental assessment methodology
7 referred to as the precautionary
8 principle. The precautionary
9 principle ensures the potential
10 effects to the MSIs, the Metis
11 specific interests, are considered in
12 careful and precautionary manner. The
13 precautionary principle requires the
14 assessor to take a cautionary approach
15 or to err on the side of caution,
16 especially where there is a large
17 degree of uncertainty or high risk.
18 Essentially, when considerable
19 uncertainty exists as to whether or
20 not a proposed activity is likely to
21 cause adverse environmental effects,
22 the lack of certainty should not be
23 used as a reason to preclude or
24 postpone action to prevent harm."
25 Correct? And that's precautionary principle that

1 you are referring to?

2 MS. CAMPBELL: Um-hum.

3 MR. ADKINS: And then on page 33, you
4 identified two ways this report ensured that
5 precautionary principles were used. And the first
6 one, ensuring any predicted measurable change from
7 existing conditions, no matter how small, was
8 considered to be adverse. So there was not a
9 consideration of whether or not it might be
10 positive. If there was a change, it's considered
11 to be adverse. And that's substantially part of
12 what you have intentionally done in preparing this
13 report?

14 MS. CAMPBELL: You make a good point.
15 That first bullet, there was three components to
16 the precautionary principle. It could be adverse
17 or positive. But I think if your question is did
18 we deliberately show this project to result in
19 negative changes, I would disagree with you.

20 MR. ADKINS: I wanted to find out what
21 you did. That's what it said there and,
22 therefore, I would read that and assume what
23 you've done is if there is any change, any
24 measurable change, you would assume it's adverse.
25 But you are saying that notwithstanding what that

1 says, that's not what you did?

2 MS. CAMPBELL: If there had been a
3 positive change, we would have reflected a
4 positive change.

5 MR. ADKINS: And did you find a
6 positive change?

7 MS. VANDERJAT: In terms of access,
8 increased access for Metis, there were some
9 positive aspects to increased access to the
10 project right-of-way that was described in the
11 report. But it was overarchingly found to be
12 negative in that case as well.

13 MR. ADKINS: And then if I go down
14 that list, the next one is conservative
15 assumptions were used so that effects were not
16 underestimated. And that was part of your
17 approach in terms of preparing the report; is that
18 correct?

19 MS. VANDERJAT: Yes. And in terms of
20 mapping, some of the results were underestimated.
21 For example, in the digitizing of the layers, we
22 identified that there was 3.15 or 18 hectares of
23 the PDA that were not being captured in our
24 calculations. And we ran them a few times and we
25 decided to keep that as it reduced the

1 percentages, rather than increase the percentages,
2 and chalked it up to mapping error.

3 MR. ADKINS: And the end result in the
4 last document, I see 100 percent of the PDA you
5 say is impacted by the project. Previously it had
6 been 98 per cent. Is that where that is picked
7 up?

8 MS. VANDERJAT: Yeah, it's just
9 rounding. It is technically 98 per cent of the
10 PDA, with 3.15 or 3.18 hectares not encapsuled in
11 the calculation.

12 MS. CAMPBELL: But we also recognize
13 that 100 percent of the right-of-way would be
14 covered by the easement. So we couldn't
15 rationalize where 3.14 hectares wouldn't be
16 covered by the easement. And so it was a factor
17 of the data layers that we got, either publicly
18 available or from Manitoba Hydro, that resulted in
19 that error.

20 MR. ADKINS: Okay. And then you go on
21 and you say, additionally two additional methods
22 can be applied to the project as the project
23 progresses through mitigation discussions with
24 Manitoba Hydro. And then you identified those on
25 page 34. The first one is the evaluation of

1 significance of effect will be based on the
2 maximum predicted effects, no matter how
3 infrequent or over how small an area?

4 MS. CAMPBELL: Correct.

5 MR. ADKINS: And so that was applied
6 by you in terms of the preparation of this report?

7 MS. CAMPBELL: Yeah.

8 MR. ADKINS: Good, thank you.

9 MS. CAMPBELL: We were repeating and
10 trying to replicate the assessment methodology
11 used by Manitoba Hydro in their EIS. So if you
12 notice where that wording is taken, it's taken
13 from the Manitoba Hydro EIS.

14 MR. ADKINS: And what I'm wanting to
15 be sure of, as I'm asking my questions, is that
16 the approach that you take in your report?

17 MS. CAMPBELL: Up to the point of
18 mitigation development, correct.

19 MR. ADKINS: You then talk about
20 temporal boundaries and spatial boundaries.
21 That's on page 38 of the report?

22 MS. CAMPBELL: Yes.

23 MR. ADKINS: And your temporal
24 boundaries set up three different time elements.
25 One is construction, the second is operation and

1 maintenance, and the third is decommissioning.

2 MS. CAMPBELL: Correct, but
3 decommissioning wasn't carried forward because the
4 project description didn't characterize the
5 project as being decommissioned.

6 MR. ADKINS: So although you have
7 identified it, there was no information available
8 to you with respect to that particular issue;
9 correct?

10 MS. CAMPBELL: Correct.

11 MR. ADKINS: And the construction you
12 have indicated is about two and three quarters
13 years is what your figure used. I think mine
14 might have been a bit lower, but not a lot.

15 MS. CAMPBELL: I think so.

16 MR. ADKINS: So from that temporal
17 boundary perspective, that would be out of, you
18 are talking a hundred years in total, so a
19 relatively small time that the construction would
20 occur?

21 MS. CAMPBELL: Relatively small.

22 MR. ADKINS: In terms of your --

23 MS. CAMPBELL: If you're comparing it
24 to the life of the project?

25 MR. ADKINS: Yes.

1 MS. CAMPBELL: Two and a half years or
2 two and three quarters years relative to the life
3 of the project, yes.

4 MR. ADKINS: And then you have
5 operation and maintenance, and you have looked at
6 that in a hundred year frame. But you haven't
7 considered the frequency of that consistent with
8 your approach, you haven't considered the time
9 that that would be undertaken, or the area that
10 there would actually be anything being done at any
11 particular point?

12 MS. VANDERJAT: The details of the
13 operation and maintenance schedule were not
14 available to us. We have no information on when
15 maintenance activities will occur, other than
16 identification that it will happen annually, in
17 the EIS report.

18 MR. ADKINS: Okay. In terms of the
19 construction activities then, you have no
20 knowledge as to how a transmission line is
21 constructed, or did you have some basic knowledge
22 or understanding of that in undertaking this work?

23 MS. VANDERJAT: So we did have
24 information from Manitoba Hydro that construction
25 will be undertaken in a phased approach, but we're

1 not aware of when, or the length of the line that
2 would be included in that phase.

3 MS. CAMPBELL: So based on the
4 precautionary principle that we outlined before,
5 we assumed the two and three quarter year
6 construction period over the entire line for
7 construction purposes for that temporal parameter.

8 MR. ADKINS: Okay. So although you
9 had that information, you didn't have the details
10 of it, you took the precautionary approach, which
11 you said you would do and, therefore, you said the
12 entirety of that line is what's going to be
13 affected by this. And by the entirety of the
14 line, you're saying really from the northwest
15 corner of the City of Winnipeg down to the U.S.
16 border?

17 MS. CAMPBELL: Correct.

18 MR. ADKINS: And then in terms of
19 operation and maintenance, you also didn't have
20 time parameters surrounding that, at least you
21 didn't have anything official -- I thought there
22 had been discussions about it, but in any event --
23 that you were able to look at and say, well, that
24 will be phase 2, and over certain sections and
25 things of that nature?

1 MS. VANDERJAT: Yes. I mean, in the
2 EIS it does state that maintenance activities will
3 be done annually, but it doesn't specify when.

4 MR. ADKINS: And just so I'm clear on
5 this, using a precautionary principle, effectively
6 you're saying you're looking at the impact of this
7 line on the basis that for two and a half or two
8 and three quarters years there would be
9 construction along the entirety of the line, and
10 then there would continuously be, for a hundred
11 years, operation and maintenance along the
12 entirety of this line. So that's the
13 precautionary principle that you are applying;
14 correct?

15 MS. CAMPBELL: Well, maintenance, we
16 didn't estimate that maintenance would occur all
17 the time annually, we just said annually. So
18 sometime during the year there will be maintenance
19 activities, we assume, maintenance activities
20 along the line, whether it's by helicopter or
21 inspection or vegetation maintenance. It would
22 have been great to have those details.

23 MR. ADKINS: All right. So then you
24 don't have any sense of where that might take
25 place, or how it might take place, or how it could

1 be phased, or notices that could be given, or
2 anything of that nature, based on what you have
3 been able to deal with in this report?

4 MS. VANDERJAT: No. And I think a lot
5 of those issues could be addressed through
6 mitigation discussions.

7 MS. CAMPBELL: Or addressed when the
8 EIS was done, so in the same way --

9 MR. ADKINS: It wasn't addressed at
10 that time, in that fashion, related to these
11 specific issues -- and I don't know if we want to
12 get into the history of that, I think it is what
13 it is -- and we now have that information, it
14 would be relevant to consideration of mitigation.
15 Is that not correct?

16 MS. CAMPBELL: I think mitigation
17 should be directly proportional and responsive to
18 the effects identified in our report. So
19 identifying mitigation measures specific to those
20 10 effects is a necessary step to happen, yes.

21 MR. ADKINS: And then on your spatial
22 boundaries, you just simply identify the three
23 types of areas that you already previously
24 identified, and this is continuing on, on page 36.
25 So you have the PDA, the LAA and the RAA?

1 MS. CAMPBELL: Yes. We wanted to put
2 some structure, some credible structure around the
3 identification of effect. We have seen some
4 projects, some bad examples of projects across
5 Canada where effects to Metis or First Nation
6 peoples are identified through a show of hands.
7 So a room full of people are asked, what do you
8 think the effects are. And the opinion is taken
9 from people as an identification of change from
10 the project. So that's as credible as if Manitoba
11 Hydro, throughout their EIS, held a meeting in
12 Winnipeg and asked the people who showed up to
13 that meeting, what do you think the impacts of the
14 project are? So in order to provide some
15 credibility to the identification of change to the
16 project, we tried to, as closely as possible,
17 follow the same methodology as the methodology
18 identified in the EIS. But in no way can our
19 report be considered a complete environmental
20 assessment. It was done, you know, not with
21 nearly the time or resources that the Manitoba
22 Hydro EIS was prepared under.

23 MR. ADKINS: Okay. I appreciate your
24 comment, at least in part. There was a lot of
25 work done to try to get information from all sorts

1 of different parties in the area of the RAA, or
2 the LAA, or indeed the PDA, including the MMF, in
3 Manitoba Hydro's preparation of this EIS. I think
4 that's a fair statement.

5 MS. CAMPBELL: I don't think I can
6 offer an opinion on that.

7 MR. ADKINS: I'm not supposed to give
8 evidence, so if you can't offer an opinion,
9 neither can I.

10 And then on page 39 you proceed to
11 talk about the characterization of residual
12 effects, and you talk about, in characterizing, we
13 look at direction, magnitude, geographic extent,
14 frequency, duration, reversibility, ecological or
15 social economic context; correct?

16 MS. CAMPBELL: Yes.

17 MR. ADKINS: And you have done that as
18 you went through this in coming to your
19 conclusions?

20 MS. CAMPBELL: Yes.

21 MR. ADKINS: Now, then there's a
22 fairly significant portion of the report which
23 talks about the Manitoba Metis Federation. We
24 have had, I think, some of that been provided to
25 us by Mr. Goodon, which is appreciated, that's

1 contained in there. But you really get down to
2 your review of the assessment of effects on Metis
3 specific interest land in chapter 4; correct?

4 MS. CAMPBELL: Yes.

5 MR. ADKINS: And that's starting at
6 page 39. And you had started by taking a number
7 of slides that you put up on, at least in your
8 presentation where you discussed sort of the lands
9 and some of the things that are currently existing
10 as it relates to the lands along which the project
11 is being proposed?

12 MS. CAMPBELL: Yes.

13 MR. ADKINS: I want to clarify, on
14 page 60, you have the term unoccupied Crown land,
15 a big green circle?

16 MS. CAMPBELL: Oh, the graphic?

17 MR. ADKINS: The graphic.

18 MS. CAMPBELL: Yes. Oh, you know
19 what, you're looking at an old report.

20 MR. ADKINS: Okay.

21 MS. VANDERJAT: Yeah, that figure has
22 been removed.

23 MS. CAMPBELL: We were trying to come
24 up with a way visually to show how, through a
25 process of elimination, you could arrive at

1 identification of where Metis can go without legal
2 restriction. And I think we tried a couple of
3 iterations. And what we landed on as most helpful
4 was that, showing how you -- well, the three
5 graphics together showing what the land types were
6 in the PDA, the LAA and the RAA. We were trying
7 to show what that process of elimination would be,
8 and how do you get to an arrival, an
9 identification of where Metis people can go
10 without impediment?

11 MR. ADKINS: Can you tell me what your
12 definition is of unoccupied Crown land?

13 MS. CAMPBELL: Sure.

14 MR. ADKINS: And can you identify for
15 me where that is located in your report?

16 MS. CAMPBELL: It's on page 63,
17 section 4.1.2, right above --

18 MR. ADKINS: Sorry, page 63?

19 MS. CAMPBELL: Yeah, right above -- so
20 4.1.2:

21 "Unoccupied Crown land is Crown land
22 that is not currently subject to a
23 regulatory restriction on any kind of
24 harvesting activity."

25 I think it's been an ongoing struggle

1 for Aboriginal people in Canada to figure out
2 where they can and can't go without being
3 arrested, where they can go to harvest without
4 being charged under a law. So in order to
5 identify unoccupied Crown, it's a process of
6 elimination to show where there is a legal
7 impediment. So you start with, you can take, once
8 you take Crown land away or provincial land that's
9 under some sort of regulation that prevents
10 hunting, you take that away, you take roads away,
11 you take industrial activity where there is
12 mining, for example, you take that away. So you
13 take land away where someone else has been given
14 priority rights over the constitutionally
15 protected rights to arrive at an identification of
16 unoccupied. So after you take everything away,
17 what's left is unoccupied Crown. I think in the
18 EIS it was called no special land, I think, if I'm
19 not mistaken, or parts of it were called -- in the
20 siting process I think it was called no special
21 land. So you have to look at what the legal
22 restriction is on that piece of land to prevent
23 the activity, and what's left over is unoccupied
24 Crown.

25 THE CHAIRMAN: This is Serge

1 Scrafield, the Chair. Mr. Adkins, normally we
2 break at this point for lunch. I'm wondering how
3 much more time you anticipate for questioning?

4 MR. ADKINS: I'm going to be probably
5 an additional hour. So if this is a good time to
6 break for lunch, that's --

7 THE CHAIRMAN: All right. We'll break
8 for lunch and be back at 1:30 then.

9 (Recessed at 12:30 p.m. to 1:30 p.m.)

10 THE CHAIRMAN: All right, Mr. Adkins,
11 go ahead and continue.

12 MR. ADKINS: In your definition
13 section, you have unoccupied Crown land. And you
14 define that as being Crown land to which Metis
15 have a right of access, and no permission has to
16 be sought from a third party. You've also set out
17 the provisions of the easement in the text of your
18 document. You will agree with me the easement, at
19 least from what you've seen, does not give any
20 exclusive right to Manitoba Hydro; is that
21 correct?

22 MS. CAMPBELL: No, it is not correct.

23 MR. ADKINS: It has the exclusive
24 right? It has the priority to use that land.

25 MS. CAMPBELL: If they choose to, it

1 is correct. It is at their discretion. If you
2 look at the wording of the easement, the wording
3 of the easement would be -- if you look at the
4 wording of the easement, the word is I think an
5 important word is "unimpeded". So Manitoba Hydro
6 is given priority rights over the easement for
7 them to determine when they need the easement for
8 construction. They don't have to ask permission
9 of anyone for them to construct; they are given a
10 permit to construct. They are given permission to
11 maintain when they need to.

12 MR. ADKINS: Correct.

13 MS. CAMPBELL: So they are given
14 priority rights over the right-of-way. Whether
15 Manitoba Hydro chooses to implement those priority
16 rights at intervals is up to them. So to do any
17 of those things -- enter, use, construct, place,
18 operate, maintain, operate, maintain, add on,
19 blah, blah blah -- is at Manitoba Hydro's
20 discretion. So, in that way Manitoba Hydro's
21 priority rights come before Metis' use of land.

22 MR. ADKINS: I want to be very clear,
23 and I'm not trying to be legalistic, but I do want
24 to understand this, because I think it is quite
25 important.

1 My understanding of the easement
2 agreement would be that for specific purposes,
3 Manitoba Hydro does have the right to go into that
4 area and to undertake construction of a specific
5 type of project, and it also has the right to go
6 into that area to undertake maintenance of that,
7 but it doesn't have other rights. It doesn't get
8 the right to throw people off. It doesn't get the
9 right to fence it. It doesn't get the right to
10 put up signs saying you are not permitted, no
11 trespassing, no shooting; none of those things are
12 granted to it by the easement. Am I correct in
13 that?

14 MS. CAMPBELL: I would assume that
15 there would be some indication from Manitoba Hydro
16 during construction that no shooting around their
17 workers would be appropriate, so...

18 MR. ADKINS: I'm not saying that's not
19 appropriate. But I'm saying there is nothing that
20 gives them permission to do that. There are
21 permissions to do the work, and there are general
22 laws and regulations with respect to firearms that
23 would prevent someone from firing a firearm into
24 an area that has a lot of people carrying on an
25 activity. Is that correct?

1 MS. CAMPBELL: So I believe in the
2 EIS, there is -- we can look up the reference --
3 there is a description during construction in the
4 EIS that says Manitoba Hydro would put up limited
5 fencing and limited signs that alert people that
6 their workers are in the area. So whether -- so
7 it is in that precautionary principle, where I
8 won't dispute with you that the -- that activities
9 that Manitoba Hydro chooses to do may not be
10 continuous. And I think the intermittent idea of
11 Manitoba Hydro's use of the right-of-way, using
12 their priority rights is reflected in our study.

13 But I wouldn't agree with you that the
14 easement agreement doesn't give Manitoba the right
15 to put up a sign saying "No Shooting" in the areas
16 because of construction activities. I believe
17 that would be a smart thing for Manitoba Hydro to
18 do.

19 So I would, I mean -- how Manitoba
20 Hydro chooses to protect their workers and their
21 infrastructure, once they have their easement
22 agreement, is up to Manitoba Hydro. So...

23 MR. ADKINS: Can you indicate to me
24 where a Metis person would seek permission to go
25 into the easement area? Are you aware of any

1 place where you would obtain permission?

2 MS. CAMPBELL: If there was
3 construction on the right-of-way. And I mean,
4 theoretically, I guess a person who wanted to hunt
5 in that right-of-way in the same spot that
6 Manitoba Hydro was constructing, they would be
7 compelled to ask permission to hunt in the same
8 spot that Manitoba Hydro was constructing.

9 Practical -- in practical terms, they
10 wouldn't do that, because Metis people don't want
11 to shoot someone.

12 MR. ADKINS: In fact, they wouldn't
13 have the right to go and shoot a gun in that area,
14 because there are people carrying on an activity
15 in that area.

16 MS. CAMPBELL: And the authority to
17 carry on that activity comes from the easement
18 agreement.

19 MR. ADKINS: That gives it a priority.
20 That gives it the right to do that. That's
21 correct; Manitoba Hydro has the right to do that,
22 okay. But it does not have the right to tell
23 people, there is nothing that says that you
24 can't -- the Manitoba Hydro can say put up signs
25 saying "No Shooting", you can't shoot here. The

1 law generally is if there is an activity being
2 carried on, you can't go ahead and shoot.

3 MS. CAMPBELL: I would draw your
4 attention again to right of free and unimpeded
5 egress, means that you get to tell someone else to
6 move. So there is competing rights. There is a
7 Section 35 right to harvest, but the easement
8 agreement -- so the easement agreement doesn't
9 extinguish those rights; it just goes on top, like
10 an area rug.

11 So Manitoba Hydro, in order to -- or
12 MMF citizens, in order to access their rights to
13 harvest, would have to ask for a lift of that
14 priority right, and Manitoba Hydro would have the
15 discretion to say yes or no.

16 I mean, Metis people are not going to
17 hunt where there is people. But the people are
18 present, and given the authority to be present
19 because of the easement agreement.

20 MR. ADKINS: What about a hiker on
21 unoccupied Crown land? A hiker has the right to
22 go and hike?

23 MS. CAMPBELL: Yep.

24 MR. ADKINS: A camper has the right to
25 go and set up a tent and camp there. Boy Scouts

1 would set up a Scout camp, or Girl Guides can set
2 up a camp, they don't need permission to do --
3 they have the right to do that. And if they are
4 carrying on that act on unoccupied Crown land,
5 that would be an area that you would not be
6 allowed to hunt.

7 MS. CAMPBELL: I wouldn't characterize
8 Boy Scouts having a right as the Metis have a
9 constitutional right to harvest. I say that
10 person camping or hiking doesn't have a right to
11 be there, no.

12 Now, if a Metis person set up their
13 camp, which they have a right to do, on the
14 easement, and Manitoba Hydro wanted to construct
15 on that spot, who gets to stay? Does the camp get
16 to stay for the Metis person, or does Manitoba
17 Hydro get to construct on that spot?

18 Manitoba Hydro has the right to tell
19 people who are on that spot to move. It might be
20 temporary; it might be -- you know, in -- from a
21 certain judgment, for a short amount of time, or a
22 limited amount of time, or not significant amount
23 of time; but Manitoba has the right to tell Metis
24 people they have to move.

25 MR. ADKINS: The MMF or Metis people

1 are familiar in the RAA generally, in that area of
2 the province of Manitoba, of all sorts of
3 different transmission lines that cross in that
4 area; correct?

5 MS. CAMPBELL: I believe so.

6 MR. ADKINS: And I take it that they
7 could go onto that land, they can walk on that
8 that land, they can berry-pick on that land, they
9 can hunt on that land, they can carry on all of
10 their activities on that land where there is an
11 easement and a right-of-way, and they don't have
12 to ask any permission to do that.

13 MS. CAMPBELL: If Manitoba Hydro isn't
14 there.

15 MR. ADKINS: Or a Boy Scout camp, or
16 another indigenous group -- what if a First
17 Nations -- you talk about Boy Scouts or members of
18 the public having rights; what about an indigenous
19 group, if they are there? Whoever is there
20 creates an issue for a person carrying on hunting,
21 not necessarily berry picking, rock collecting,
22 any of those other types of activities. The only
23 one that seems to be potentially an issue of
24 safety is with respect to hunting.

25 MS. CAMPBELL: Manitoba's

1 right-of-way, when it goes on private land,
2 requires an easement agreement to come to an
3 agreement between that rights holder, the private
4 land rights holder, and Manitoba, so that both
5 know what their rights are; both know what
6 acceptable land uses are. Both know who has the
7 right, a priority right on that land at certain
8 times.

9 So it is an agreement between those
10 two parties. So it is in the same way that
11 Manitoba Hydro's right comes in conflict with the
12 Metis right to harvest. There isn't a hard and
13 fast rule about -- you know, those two parties
14 sitting down and coming to agreement, no, there is
15 not -- I used the wrong term.

16 There is no process for Manitoba Hydro
17 to sit down with MMF and say, let's come to an
18 agreement of the use of the easement, so that we
19 agree.

20 Just like when you sit down with a
21 private landowner, that would be great if that
22 could happen, because there would be agreement and
23 an understanding of how the easement -- the
24 priority rights provided under the easement
25 agreement to Manitoba Hydro could work with the

1 MMF.

2 But it is not the same thing as a Boy
3 Scout or a camper. I won't talk about a First
4 Nation right, because it is similar to them as the
5 MMF, the right to use the easement agreement is
6 between those two parties.

7 The MMF and the Manitoba Hydro are in
8 conflict. So when there is a conflict, Manitoba
9 Hydro gets to tell MMF harvesters if they can stay
10 there or not.

11 And I mean, deciding whether Manitoba
12 Hydro's ability to displace the MMF right is a big
13 thing or a little thing, depending on the
14 interval, depending on whether it happens across
15 the line, depending on whether it happens four
16 times a year or once a year, those are ways to
17 characterize the size of the impact. But the
18 impact itself is the ability of Manitoba Hydro to
19 be able to legally tell Metis harvesters that they
20 have to move.

21 If they are in conflict, if they are
22 on the same spot, who gets to choose? Manitoba
23 Hydro does, because of your easement agreement.
24 So in the same way that Will was charged for
25 killing a duck, if an MMF harvester didn't want to

1 move on the same spot where you want to construct,
2 and it went to court, the MMF harvester would
3 lose, because their priority rights are displaced;
4 their rights are displaced by your easement
5 agreement. And there wouldn't be a dispute about
6 that easement agreement.

7 MR. ADKINS: I understand what you are
8 saying. I don't still appreciate the issue the
9 way you described unoccupied Crown land as land
10 that you don't require permission, or you don't
11 require permission to come on to it. And I do
12 understand that if Manitoba Hydro indicates we are
13 coming into this area, we are going to be carrying
14 on construction in this area for a three-week
15 period between such-and-such a date and
16 such-and-such a date, and they come in to do that
17 work, that they effectively would have the
18 priority right to do that work. That wouldn't
19 stop MMF people from coming into that area, as
20 long as there is no danger from construction
21 materials and stuff of that nature; but they
22 couldn't hunt, because there would be an activity
23 going on. But they would still have the right of
24 access without permission.

25 MS. CAMPBELL: Not while you are

1 there. So it is the argument, you have a right of
2 access until you don't. So you have an
3 intermittent right of access. Okay, if the
4 easement agreement reflected that you didn't have
5 an unimpeded right of access, you only had -- if
6 on your easement agreement you had dates of where
7 you had priority rights, and everybody else
8 didn't, we would be talking about a different
9 thing. But your easement agreement doesn't have
10 dates of application; it is all of the time. You
11 get to choose when you are there.

12 MR. ADKINS: Just so I'm clear in
13 terms of my understanding of the rights that are
14 granted, and also what are exercised and what is
15 common within this province and in areas that
16 include the areas that the MMF or Metis people
17 carry on their activities, is that Manitoba Hydro
18 does not exclude people from the right-of-way,
19 except when there is an activity that is being
20 undertaken, and they give notice of that, and it
21 is short term, and that's what they do.

22 Otherwise, the Metis people, other
23 people, members of the public generally, other
24 indigenous groups that have treaty rights or
25 Aboriginal rights, can come on to that land and

1 carry on their activities without any interference
2 from Manitoba Hydro, without having to obtain the
3 permission of Manitoba Hydro.

4 And that is what transmission lines
5 are; that is how they operate. That is the way
6 they are in our province.

7 So I still have trouble with this
8 concept of having to get permission from someone
9 to come onto a line that's developed, and nothing
10 is being done on it at that point in time.

11 MS. CAMPBELL: There has been many,
12 many court cases over the last 70 years of
13 disputes between Aboriginal harvesters and either
14 the Crown or private landowners when there has
15 been a dispute of an Aboriginal person exercising
16 their right -- normally it is hunting -- on land,
17 where it goes to court. And the only question is
18 whether the -- who can tell who to move.

19 So -- so it is not -- I think we are
20 confusing the size of the impact with whether the
21 impact exists or not. So the impact exists when
22 Manitoba Hydro can tell someone to move during
23 construction. That is the impact. Characterizing
24 it, whether it is small or big, is the second
25 step.

1 But at least we have to come to an
2 agreement that you have the right to tell people
3 to move when you have -- when you want to. You
4 may not want to, 98 per cent of the time, but
5 those 2 per cent of the time you have the right,
6 you have unimpeded access.

7 MR. ADKINS: There is -- just so we
8 are clear, the easement grants a right to Manitoba
9 Hydro, and I don't dispute that and I'm not trying
10 to say it is not an important right and it is
11 granted in priority. I acknowledge that. But it
12 is for specific purposes only; it is not a general
13 right to keep people out of an area. It is not a
14 right that gives them the ability to say, "You
15 need our permission to come into this particular
16 area", unless it is interfering with the
17 construction of that line or the maintenance of
18 that line. In all other cases, Manitoba Hydro
19 does not have those rights.

20 Which is by far and away the majority
21 of the time that that is going to be there during
22 the 100 years; is that not correct?

23 MS. CAMPBELL: I think you are mixing
24 up whether it is an impact versus the size of the
25 impact. You keep going back to -- "Well, it is

1 not a very big impact, because they can go there
2 most of the time."

3 It is whether there is an impact, and
4 then we have to figure out whether it is big or
5 small. So there is an impact when you tell people
6 to move.

7 And I would just like to point out
8 that when you asked earlier how do we identify and
9 define unoccupied Crown, when you use mapping
10 information, when you use GIS information, there
11 is no data layer that says "Unoccupied Crown
12 land." It is a process of elimination. There is
13 a data layer that shows national parks, and you
14 can go into each one of those national parks and
15 you can see what is legally restricted. You can
16 go to any one of those data layers that you can
17 access as the public, to figure out where
18 activities are restricted. You can go and get a
19 data layer of those mines, mineral, timber
20 operations, that provides some sort of legal
21 restriction for activity for those specific things
22 and then you add cities, towns and villages,
23 obviously you can't hunt inside the towns, so you
24 use the boundaries of those towns to show where
25 there is something happening or something legally

1 occurring that prevents the activities from
2 occurring.

3 So you have to stitch together all of
4 these data layers, and then what is left over is
5 unoccupied Crown. So they, it would be awesome if
6 the government kept track of land that didn't have
7 any legal impediment on it to prevent the exercise
8 of Aboriginal and treaty rights, but they don't;
9 you have to reverse-engineer it.

10 And in other provinces, the province
11 keeps really good track of that information. And
12 in Manitoba it is difficult to arrive at an
13 identification of all of these different layers.
14 The MMF had to physically digitize the municipal
15 maps to figure out where all of the little towns
16 and villages were. So it is a process of
17 elimination. And the reason these things are
18 included on the data layers is because there is
19 something about it that's legally classified to be
20 found in that data layer. We didn't make it up.
21 There is publicly available data where you can
22 search for a data layer that says "Cities", and
23 they all pop up. So the people who create these
24 digital layers understand that these things are
25 different than empty land, empty land.

1 MR. ADKINS: There is a couple of
2 photographs on page 73 of the report. The "don't
3 shoot" residential area. And then subsequently on
4 page 87, "private property, no trespassing."
5 These are related to areas that are not
6 project-related; these are areas where there is
7 other restrictions. Is that correct?

8 MS. CAMPBELL: Yeah, we took pictures
9 when we were doing our workshops, when we were
10 traveling to interview someone in the region, and
11 we took pictures of interesting things to make the
12 report prettier, to illustrate the point that
13 there are signs telling people that they can't do
14 stuff because of the type of land that's there.

15 MR. ADKINS: Correct. And where they
16 have the right to put up those signs, the
17 Minister, for example, has the right around
18 certain types of developments -- forestry areas
19 and forest roads, things of that nature, not
20 actually Hydro lines -- to say, you know, no
21 hunting or no shooting. And again I can't
22 testify, so if you don't agree with me, you should
23 say something.

24 MS. CAMPBELL: I'm sorry, I didn't
25 hear the question.

1 MR. ADKINS: I almost have to have it
2 read back.

3 I guess I'm struggling with this issue
4 that -- about the permission, because it doesn't
5 compute in my mind with what is granted by an
6 easement for Manitoba Hydro to carry on building a
7 transmission line, and Manitoba Hydro's right to
8 go in and maintain that transmission line. And
9 the thought that somehow that creates a right on
10 Manitoba Hydro to exclude people, generally from
11 that area, that you would generally need Hydro's
12 permission to go into that area, that just doesn't
13 make sense to me, in terms of my knowledge.

14 MS. CAMPBELL: So what we didn't find
15 when we were -- it would have been great if we
16 found an active transmission construction zone
17 when we were driving around, and we could take a
18 picture of safety signs, saying "Caution, workers
19 in the area, no hunting", and those signs would
20 have been put up by Manitoba Hydro or someone
21 constructing a transmission line in order to
22 protect their workers. That has the effect of
23 keeping someone out, because activities granted
24 under the easement were occurring.

25 So I would love to put up -- I mean,

1 if I were Manitoba Hydro and I was having an
2 active construction site, I would put signs
3 everywhere to say "No Hunting" to make sure none
4 of my workers were accidentally hurt.

5 MR. ADKINS: Okay. On page 73 of the
6 report, your report, you reference the EIS. And
7 it talks about, on page 11-4 and table 113, the
8 types of impositions that might be imposed. So
9 page 11-4 states:

10 "There will be short periods where
11 access to active construction zones will be
12 restricted based on safety concerns to project
13 staff and the public."

14 Table 11-3, page 11-5, it states:

15 "Construction operation of the project
16 may result in temporary or permanent change in
17 access to traditional lands used by First Nations
18 and Metis. By limiting access during
19 construction, which is the temporary, restricting
20 and restricting traditional activities at or near
21 constructed project facilities, thereby reducing
22 the lands available for First Nations and Metis
23 use."

24 So it is giving effectively for short
25 term, while we are undertaking construction, and

1 in fact potentially operation and maintenance
2 issues, and longer term, where we have a facility
3 like a converter station, substations, something
4 of that nature, in those areas, there may in fact
5 be some type of permanent imposition in that area.

6 Other than that, I understand there
7 isn't an effect in terms of going onto that land
8 to carry on normal activities by the general
9 public, and certainly not Aboriginal rights
10 activities or Treaty rights activities by
11 indigenous people of our community.

12 So, you say that that only seems to
13 matter in terms of the import of the impact, but I
14 thought that one of the things that we were to
15 look at or consider the degree of significance,
16 and it seems to me that that would be a question
17 in terms of the significance of the impact. Is
18 this an impact along that whole line from the
19 northwest part of the City of Winnipeg, around the
20 city down to the US border, is that an area that
21 effectively Metis people are not allowed to go on
22 at any time without Hydro's permission? Or is it
23 an area that for short periods of time during
24 construction or operation or maintenance, there
25 may be, in the work that is to be undertaken, not

1 the whole area, there may be some imposition to
2 stop someone from carrying on those activities?

3 I see that as important. Do you not
4 agree?

5 MS. CAMPBELL: I don't. So if you
6 look at our report, the only time we talk about
7 significance is in the last paragraph of the
8 report. We say that if mitigation measures were
9 not employed, the impacts which we distinguish
10 between the PDA, and RAA and characterize the
11 residual effects which is contrary to EA
12 methodology, but due to the work plan and the
13 purpose of the report was to prepare an
14 identification of effects to arrive at mitigation
15 discussions in a collaborative process with
16 Manitoba Hydro.

17 So the report was not meant to
18 identify mitigation measures, do cumulative
19 effects assessments, or identify alternative
20 routes; so until mitigation methods are directly
21 responsive to those ten effects, then you can move
22 to an identification of whether those ten effects
23 are big or little.

24 Actually, that's incorrect.
25 "Significant" does not mean big or little; it

1 means acceptable or unacceptable. So we don't
2 know if the effect of those ten things is
3 acceptable or unacceptable to the Metis until
4 mitigation measures are developed, after
5 cumulative effects is done, to know whether
6 restricting access to Metis harvesters to areas of
7 construction or intermittent maintenance is a big
8 deal or little deal.

9 But it is a thing. I mean, what you
10 quoted exactly what we quote to prove our point
11 from the EIS. You have the ability to restrict.
12 If that's a big thing or a little thing, that's a
13 second step of determination. But you do have the
14 right to restrict.

15 MR. ADKINS: I think I laboured this
16 point perhaps as much as I need to. I certainly
17 don't think I'm convinced by what you are saying;
18 I'm obviously not convincing you. I think the
19 point that I tried to make is there. I don't
20 think there is much sense in trying to labour it
21 any further.

22 When you go further into your report,
23 on the issue of the land, again, on page 73 of the
24 report, you -- and I think this is your language:
25 Manitoba Hydro will be authorized to prohibit

1 Metis access to the PDA during construction of the
2 project. Additionally, Metis access to the PDA
3 for purpose of exercising their rights, could be
4 substantially disrupted as a result of operation
5 and maintenance activities.

6 Then it talks about the Wildlife Act,
7 which prohibits hunting, and then goes on to talk
8 about situations that are unsafe or dangerous.

9 And to me, that's the regulation that is
10 applicable to carrying on hunting in areas where
11 there is an activity being carried on by others,
12 whether they are there with the priority rights,
13 or whether they are there with no right. But
14 there is an activity being carried on; you can't
15 go and do your hunting there.

16 Okay. And it seems to me that in fact
17 is picked up by the law of the hunt. I think it
18 is picked up in the agreements between Manitoba
19 and the MMF. And I think it is picked up in their
20 legislation, and effectively is a common sense
21 type of thing. That, I think, is the restriction
22 that existed with respect to hunting.

23 MS. CAMPBELL: Can I disagree with you
24 there? It is a chicken-and-egg thing. The
25 Wildlife Act applies if there is unsafe activities

1 being undertaken, and the activities are initiated
2 because of the easement agreement. You wouldn't
3 be there unless you had your easement agreement.

4 MR. ADKINS: Again, this is kind of a
5 quibble. I'm not for a second thinking that we
6 need that law for Metis people to recognize this
7 is a potentially dangerous situation and not go
8 hunting in an area where there is an activity
9 being carried on.

10 MS. CAMPBELL: You totally need that
11 wall.

12 MR. ADKINS: I totally got that wrong.

13 MS. CAMPBELL: Not wrong, you need the
14 law, you need the law because not everybody has
15 common sense, so and there has to be rules around
16 where you can fire a firearm. And not absolutely
17 we are not saying the Wildlife Act should be
18 relaxed or should be removed or is a problem; the
19 Wildlife Act is not the problem.

20 MR. ADKINS: In any event, you go on
21 and say:

22 "As a result, Metis harvesters could
23 lose the guarantee of consistently available
24 unoccupied Crown they currently have."

25 Now, I don't know what you are saying

1 when you suggest there is a guarantee of
2 consistently available unoccupied Crown land. I
3 do understand that unoccupied Crown land, from
4 what you say, is land you don't require permission
5 to go onto. But the regulations related to
6 hunting and harvesting effectively say if someone
7 else is there, you are not able to utilize that
8 for that purpose.

9 So there is no guarantee that you
10 could hunt in an area of unoccupied Crown land,
11 because there could be regulations against it,
12 given that there is other uses being made of that
13 land.

14 MS. CAMPBELL: I think our survey
15 showed that it is not a simple thing to identify
16 one thing that will influence Metis behaviour; it
17 is a combination of things. So the more
18 impediments that you identify for a location, the
19 greater probability that the harvester will avoid
20 that -- avoid that location.

21 We showed that Metis use occurs in
22 places where it shouldn't. People are sneaking
23 onto land that they shouldn't be on.

24 Pardon me for the "sneaking", but they
25 are breaking the law when they exercise their

1 rights.

2 So the higher combination of
3 impediments will influence the behaviour of
4 people. So adding one more layer of legal
5 restriction will add to the probability of
6 harvester avoidance.

7 So it is not as simple as -- "If it's
8 dusty, I'm not going to go there." People will go
9 where it's dusty if they are forced to. If the
10 only place left to harvest is beside a road --
11 even, I'm sure, if Brielle had the choice, she
12 wouldn't harvest beside the road; but if it's the
13 only place to go, that's where you go.

14 Metis are adaptable; they're
15 resilient. They have gone through way more
16 factors trying to stamp out their culture than a
17 transmission line, and they find a way to maintain
18 their culture.

19 But when deciding whether to approve a
20 transmission line, the government -- the Crown
21 should be aware of the consequences of approving a
22 project that has the probability of increasing
23 factors that will prevent the exercise of
24 constitutionally protected rights, which has to be
25 taken very soberly.

1 So it is not a simple thing,
2 whether -- it is not a hard and fast rule. People
3 do things all the time that they are not supposed
4 to. But it is not correct to say that the
5 transmission line construction, or operation, or
6 maintenance, will not have an effect -- or will be
7 okay because it is short. That's a secondary
8 step. There will be an effect.

9 MR. ADKINS: What concerns me to some
10 degree in the way this is coordinated and the
11 questions that were asked, and I guess the live
12 interviews the day the participants were carried
13 out, I look further down on the same page, and you
14 reference Participant M316 stated that, "We have
15 to ask permission to the Hydro to go on the line
16 if we do go hunting on it. And that's one big
17 concern."

18 So here is a member of the MMF, a
19 Metis person who has rights, and who somehow
20 believes that he is going to have to ask Hydro's
21 permission to go onto that line to hunt. And I'm
22 not aware of that ever being the case.

23 MS. CAMPBELL: During construction.

24 MR. ADKINS: It doesn't say "during
25 construction". It is not what he seems to be

1 talking about.

2 MS. CAMPBELL: We didn't say all of
3 the time.

4 MR. ADKINS: So this was just during
5 construction? Is that what you are saying?

6 MS. CAMPBELL: No, you said you
7 weren't aware of a -- I mean -- I wish I could
8 remember exactly what you just said, but I'm not
9 aware of a point where someone would have to ask
10 permission of Manitoba Hydro to go on the
11 easement. During construction.

12 MR. ADKINS: There is a group of
13 people that collect rocks. And you've identified
14 in your report, 100 per cent of those people find
15 that the project is interfering with their
16 collecting of rocks. Right? So the participants
17 in that particular part were 47.

18 Five of the people that responded as
19 participants identified a concern about access for
20 the purpose of hunting rocks. And you said five
21 out of five. You said N is five; that's
22 100 per cent.

23 MS. VANDERJAGT: Yes. Not every
24 activity that was asked of people was completed by
25 every participant. I think there was -- I'm not

1 sure, but there is varying degrees. Some people
2 berry-gathered, some people harvested medicines,
3 some people did not. Some people hunted, some
4 people trapped, some people did not. It is
5 actually just a function of what they actually
6 did.

7 MR. ADKINS: So -- sorry. Go ahead.

8 MS. CAMPBELL: So of the 47 people,
9 five people responded to rock gathering.
10 100 per cent of them said they would avoid
11 transmission lines.

12 Without the actual numbers in front of
13 me, that's what that "N" would mean.

14 MR. ADKINS: When I go back and take a
15 look earlier in your report, you identify on what
16 would be page 7, and I just want to make sure --
17 100 per cent of identified rock and mineral
18 gatherers felt access would change for rock and
19 mineral gatherers. Okay?

20 And if you go to your maps, where you
21 are showing those activities.

22 528 -- I don't know if you want to put
23 it up there or just look on this. But
24 effectively, there are two areas, one of which is
25 quite a large area, but does come into the LAA and

1 touches on the PDA, in part. But most of it,
2 which is by far and away a really significantly
3 large area, and the other one does not come on to
4 the PDA, it doesn't come into the LAA.

5 And these people, five out of five,
6 which you identified as 100 per cent, rather than
7 5 out of 47, because there were only five that
8 answered the question, but you identify that as
9 100 per cent; and they feel that access would
10 change for rock and mineral gathering.

11 And I don't understand that. Like,
12 there has got to be something that has been missed
13 here in terms of -- how is Hydro going to keep
14 them out of these areas where they carry on this
15 rock gathering and hunting?

16 MS. CAMPBELL: There could be
17 construction going on.

18 MR. ADKINS: Well, the construction
19 has got to, for sure, be on the PDA. They are not
20 constructing off of the PDA.

21 MS. CAMPBELL: Are you talking about
22 the use map?

23 MR. ADKINS: Yeah. I'm talking
24 about 5 --

25 MS. CAMPBELL: With the

1 cross-hatching?

2 MR. ADKINS: Yeah.

3 MS. CAMPBELL: That's areas where
4 people identified that occurs.

5 MR. ADKINS: There is, on one area --
6 which is quite large; looks like it is quite a few
7 sections of land -- there is a small portion of it
8 in the LAA, and a very small portion into the PDA,
9 and another one where effectively there is a
10 rock-gathering area that isn't in there at all.

11 So you think that -- the project is
12 going to have that impact; that 100 per cent of
13 the people who would go rock gathering would say
14 "No, I really shouldn't go rock gathering; I won't
15 have access."

16 MS. CAMPBELL: I don't think anything.
17 It was what the people who were interviewed
18 opinion's, interviewed opinion.

19 So the question -- the question 203 of
20 the survey was, "Do you believe the project will
21 change the access to harvesting areas?"

22 And it listed a whole bunch of
23 activities. So for the people who -- I mean, not
24 everybody was rock gatherers; not everybody was
25 hunters. So if you answered the question, you had

1 the choice. You had the choices of -- yes or no.

2 So the people who answered that
3 question said "Yes, it will."

4 MR. ADKINS: This was in the
5 participants; this was the people who you were
6 actually meeting with, that you were discussing
7 the project and eliciting answers and giving
8 information, and I assume giving them information
9 as well.

10 MS. CAMPBELL: It was a painstaking --
11 three-, four-, five-, six-hour process, where the
12 interviewer would read the question, and the
13 person would answer. We have hours and hours and
14 hours of answers from people going "Yes", "No",
15 "100 metres" -- I mean, it wasn't our opinion; it
16 was the information provided by the survey
17 participants.

18 MR. ADKINS: Okay. The reason I'm
19 spending as much time as I am on this question of
20 the legal access question is because when I look
21 at, again, that page 7, you have a list of seven
22 different types of activities, and every one of
23 them had a large number of people who said access
24 would change for that particular activity.

25 So 95 per cent identified plant --

1 mushroom and medicine gatherers felt access would
2 change for plant, mushroom, and
3 medicine-gathering. So this is being reported as
4 a fairly significant percentage of people who are
5 concerned about access to these areas for doing
6 that type of gathering.

7 MS. CAMPBELL: 95 per cent of the
8 people who answered that question thought that,
9 yes.

10 MR. ADKINS: And the process of a
11 three- or four- or five- or six-hour discussions
12 with people from your company?

13 MS. CAMPBELL: Correct.

14 MR. ADKINS: Okay. Thank you.

15 You have identified again, in
16 chapter 4, and as you went through your list of
17 areas where there would not be -- where there is
18 restrictions on harvesting. And I'm surprised in
19 some ways, because effectively -- I thought the
20 starting point for this would have been the
21 agreement between Manitoba and the MMF, dealing
22 with harvesting and the availability of land for
23 harvesting, and giving a priority right, if you
24 like, subject to argument or discussion,
25 concerning Hydro's priority under a specific

1 easement, but to go into these areas and carry out
2 hunting.

3 And effectively, it says you can do
4 this wherever you have the right of access, okay,
5 and where there is no prohibition on -- overall
6 prohibition on hunting.

7 It is very clear that unless you are
8 prohibiting everybody from hunting, you can't
9 prohibit indigenous people from hunting. Is that
10 correct? That seems to me the whole purpose of
11 that agreement between Manitoba and the MMF.

12 MS. CAMPBELL: So this is the wording,
13 right? From the -- between --

14 MR. ADKINS: Yep.

15 MS. CAMPBELL: So you can harvest on
16 all unoccupied Provincial Crown lands?

17 MR. ADKINS: Right.

18 MS. CAMPBELL: We just tried to figure
19 out where that was. So it would be great if, in
20 the approval of this project, the Crown would
21 consider what the effect of reducing the amount
22 of -- the overall amount of land, even
23 periodically, or intermittently, the effect of
24 approving this project would reduce that amount of
25 land, that would be awesome. And then figure out

1 if that's a big deal or a little deal.

2 MR. ADKINS: I appreciate that, and I
3 appreciate the difficulties that you might have in
4 terms of getting some of this information. And I
5 don't want to be sounding critical with respect to
6 these matters, but I did go and take a look at
7 Beaudry Park, Grant Lake Wildlife Management Area,
8 the game and bird refuge, Birds Hill Wildlife
9 Refuge, Red Pine, Wampum, Jennifer and Tom Shay,
10 Pocock Lake Ecological and the Piney Ecological
11 Reserves, and I noted, in going through those,
12 that for sure there are four of those areas that
13 effectively specifically allow the carrying on of
14 activities by indigenous people in those areas.

15 So they are not excluded, the MMF, in
16 terms of the exercise of those things are
17 important from its cultural perspective, it can
18 continue to do that, in at least four of those
19 areas, although not in all of them.

20 MS. CAMPBELL: Which ones were those?

21 MR. ADKINS: It was Grant Lakes
22 Wildlife Management Area, Wampum Ecological
23 Reserve, the Pocock Lake Ecological Reserve, and
24 the Piney Ecological Reserve.

25 MS. CAMPBELL: Could I ask whether it

1 was certain activities, or all activities?

2 MR. ADKINS: The ecological reserve,
3 Wampum, Pocock, and Piney were -- by recollection,
4 I did have it here -- indigenous uses, so included
5 hunting. In Grant's Lake Wildlife Management
6 Area, there is the bird refuge, and the bird
7 refuge, you can't carry on those activities. But
8 in the balance of it, you can carry on those
9 activities.

10 MS. CAMPBELL: What about trapping?

11 MR. ADKINS: I'm sorry?

12 MS. CAMPBELL: So we have it
13 identified in Appendix J, but -- so when there was
14 an activity, and there are multiple activities
15 involved in harvesting, hunting, trapping,
16 gathering, and gathering a number of different
17 resources, and trapping.

18 So when one regulation from one of
19 those Provincial or Federal areas prohibited one
20 of those activities through regulation, because we
21 used the precautionary principle, we applied it
22 across the board to the activities.

23 So, I mean, I would -- I would bet, if
24 you look in Appendix J, all of those four areas
25 would have a prohibition against trapping.

1 MR. ADKINS: So in other words, if it
2 had a prohibition against any one, such as
3 trapping, you are saying that prohibition would
4 then effectively be the basis on which it's
5 excluded, even though hunting might be allowed?

6 MS. CAMPBELL: In a similar way you
7 had an objection to applying a construction period
8 over the entire PDA, for 2 and 3/4 years, the
9 precautionary principle was also used for this.

10 So I would also add, it's been my
11 experience when Aboriginal people are aware one
12 activity is prohibited, they don't go there to do
13 other things.

14 So it is -- again it is just adding
15 those -- another impediment, another factor on top
16 of an exercise of rights that will influence
17 behaviour and prevent someone from going there, or
18 influence their behaviour.

19 MR. ADKINS: I'm not able to give
20 evidence on that, so I can't submit materials or
21 anything of that nature. But I appreciate your
22 comments.

23 I've struggled with this issue, that
24 we have -- the number of hectares of unoccupied
25 Crown lands prior to the project, in the PDA, you

1 had 293.28 hectares. In the local assessment
2 area, you had 5,983.84 hectares, and in the
3 regional assessment area you had
4 66,428.48 hectares.

5 And then, when you go and say what is
6 the percentage of change, initially you were
7 saying that would be a 98 per cent change in the
8 PDA; but as you explained, that was a rounding
9 error, and it was actually 100 per cent -- sorry?

10 MS. VANDERJAGT: It is 98 per cent.
11 The -- rounding to 100 per cent, but it is
12 98 per cent.

13 MR. ADKINS: Okay.

14 MS. CAMPBELL: It should be
15 100 per cent, but the data we were using -- and to
16 be honest, we asked for digital data from Manitoba
17 Hydro multiple times, didn't get it, so we had to
18 use what was available.

19 So 3.1 hectares is the error of us
20 trying to cobble together what was in the PDA.
21 But I would think you would agree that the PDA, or
22 the right-of-way, would be 100 per cent covered by
23 the easement agreement.

24 Like, you wouldn't have part of your
25 easement agreement that wasn't covered by -- you

1 wouldn't have part of your right-of-way that
2 wouldn't be covered by your easement agreement.

3 MR. ADKINS: We may not agree on the
4 effect of the easement agreement, but we do agree
5 that the whole of the PDA is covered by the
6 easement agreement.

7 In the totality of this -- and you've
8 said several times in the report, you said that
9 significance is assessed in the RAA. In other
10 words, you actually look at that as being not
11 100 per cent of the PDA, but rather as being
12 .04 per cent of the RAA in trying to determine
13 significance.

14 MS. CAMPBELL: That's correct, if you
15 jump over mitigation, characterization of residual
16 effects, and a cumulative effects assessment.

17 So in order to do a significant
18 determination in the RAA, you have to determine
19 whether you can carry forward an effect into -- to
20 act in combination with similar effects occurring
21 elsewhere in the RAA by similar conversions.

22 So we would have to be aware and
23 identify all the other times within the RAA where
24 unoccupied Crown land was converted to occupied
25 Crown land in a certain amount of time, and you

1 add that to the project effect to see whether it
2 is a big deal or a little deal.

3 I mean, every single project effect,
4 if you only carry it from the PDA into the RAA,
5 every effect looks tiny. You don't do that in an
6 environmental assessment; you have to carry it
7 forward with other things.

8 MR. ADKINS: I understand the
9 distinction, and you are talking about not only
10 recent projects, but also potential projects,
11 identified projects into a reasonable period into
12 the future.

13 But you did actually undertake what
14 was a review of existing impositions on Crown
15 land; effectively you've identified the private
16 land, you've identified the parks, you've
17 identified the areas where there is structures;
18 you've identified the roads -- all of which is
19 removing land from the RAA that would be
20 unoccupied Crown land, given your definition.

21 And effectively, you still end up with
22 a fairly significant amount of unoccupied Crown
23 land. And you know, we've looked at it. You've
24 displayed it there. And in terms of the amount of
25 Crown land that's going to be affected by the

1 easement, which is a very small amount that is
2 unoccupied, and it is that portion in the
3 southeast corner of the province,.

4 MS. CAMPBELL: All those words you are
5 using is totally subjective: "Small",
6 "insignificant", you know, "relatively" -- blah,
7 blah blah. You look at this map; you have to pin
8 it to something.

9 So if I were -- you know, if you look
10 at that map, every piece of unoccupied Crown land
11 is important. Any reduction in unoccupied Crown
12 land to something else is important, given that
13 the amount of -- the total amount of unoccupied
14 Crown land is diminishing.

15 Very rarely does it go the opposite
16 way; private land is not turned back into
17 unoccupied Crown. Very rarely do proponents give
18 up their disposition. So once it happens, it
19 happens. For this project, it will be there after
20 we are all dead.

21 So any conversion should be paid
22 attention to. And that's what we tried to do with
23 this one indicator: Draw attention to the change
24 and conversion of unoccupied Crown to occupied
25 Crown.

1 If that were put in context -- which
2 we could not do with this report, because of what
3 I've explained before -- it would be great if that
4 could be done now.

5 MR. ADKINS: Okay. Just in connection
6 with the 5-2 -- sorry.

7 You have a -- the Figure 5-2-1, and it
8 is dealing with hunting areas collected from
9 participants, so that's the 47 that you actually
10 met with. And avoidance zone for the bird hunting
11 in relation to hunting areas.

12 And I take a look at that map -- I
13 don't know whether others have it to look at, but
14 you are showing, again, the RAA; you are showing
15 the LAA and the PDA; and you've topped that with
16 land that effectively is private, or land that has
17 got avoidance in it, and you find that there is
18 very little land that is left that effectively
19 falls in that category that you call unoccupied
20 Crown land.

21 That's not the map that I'm referring
22 to, but if you go to the one that has all of the
23 avoidance zones in it, then you take a look at the
24 activities, when I look at the activities, there
25 seem to be significant areas of activity -- and

1 admittedly more along the area that is less
2 developed -- but in all different areas where this
3 activity occurs.

4 So of the 47 people, my recollection
5 was it was 3,200 or something areas where there
6 was activities, hunting activities or harvesting
7 activities, being carried on. So 47 people
8 identified something in excess of 3,000 areas
9 where they carried on activities.

10 And when I go through these -- and I'm
11 looking right now at 5-2-1; that's with respect to
12 birds. If I go to avoidance zones for mammal
13 hunting, again, this is under 5-2-2.

14 You are showing, again significant
15 areas where there are activities being carried on
16 by those 47 people. And that's carrying on in
17 terms of hunting for mammals. And these are in
18 areas that are either not permitted or where there
19 is -- they have to get permission, or where it is
20 not a preferred area.

21 With respect to avoidance zones for
22 trapping, again, you are showing a fair amount of
23 trapping carried on along the entirety of the RAA
24 outside of the City of Winnipeg.

25 With respect to avoidance zones for

1 fishing, you are not -- you are not getting much
2 indication that there is going to be an impact on
3 fishing, but you do show an awful lot of areas,
4 actually more of them in more developed areas
5 where there is fishing.

6 In terms of berry picking and
7 gathering, again, you are showing significant
8 areas -- again, more so along the east side of
9 that corridor, but in several other locations that
10 are other lands that are -- would no longer --
11 were never considered occupied or preferred areas.
12 Sorry, were never considered, aren't considered
13 unoccupied or preferred areas.

14 Similarly with respect to medicine
15 gathering, large areas where that's being carried
16 on.

17 We already talked about the rock
18 gathering, which is a couple of small areas.

19 So -- and you've actually said this;
20 you've said that they are resilient, Metis people,
21 and they will carry on their activities, you know,
22 because it is important to them.

23 But there seems to be a fairly
24 significant amount of activity being carried on.
25 And I'm not sure how you, again, classify the

1 significance of this imposition on about
2 200-and-some -- under 300 acres of what you call
3 unoccupied Crown land in that overall RA territory
4 when all of this harvesting is going on. Can you
5 comment on that at all?

6 MS. CAMPBELL: I'm trying not to get
7 mad, because on the one hand Aboriginal people are
8 penalized for doing things in places where they
9 shouldn't, and get charged for that; but their
10 culture is so important to them that they will do
11 things under the cover of darkness, against the
12 law, where they shouldn't go, in places that isn't
13 preferred, just to maintain who they are.

14 And the use that's identified in that
15 map shows that no matter what you do to Metis
16 people, they will continue to be who they are.

17 I would just hope that the Crown would
18 recognize that every little cut that's applied to
19 Metis culture is a negative. It doesn't make a
20 difference. It doesn't help them. So that they
21 are continuing to exercise their rights should be
22 celebrated; but it should not be minimized when
23 something negative, to affect their constitutional
24 right, is done, knowingly done, without a
25 corresponding offset, elimination, or reduction of

1 that impact.

2 So Metis people are both -- all
3 Aboriginal people are condemned for doing what
4 they do, and prevented from what they are doing.

5 I don't see the same initiatives being
6 undertaken by the Crown or proponents to try to
7 find places to encourage use. So I don't see any
8 contradiction of the use identified by people who
9 are saying they are going on private land, or on
10 places where they don't prefer. I think that
11 those people should be celebrated.

12 But the flip side of that is when
13 something negative happens to discourage use, it
14 should be done incredibly carefully, and with the
15 correct information in front of you, so that you
16 can do it and know that you are doing it every
17 single time.

18 And soon, maybe -- after we are dead,
19 we won't have to consider this, because they will
20 always have to sneak, or they will always have to
21 go on places that they don't prefer, or -- or they
22 will have to break the law, or put someone in
23 danger or put themselves in danger.

24 So I would just ask for that to be a
25 consideration, and know that you are doing that

1 when you approve this project or any project.

2 MR. ADKINS: Thank you. I appreciate
3 those comments. I appreciate those comments, and
4 I appreciate the responses. As I said, I did
5 appreciate very much meeting you. I did
6 appreciate the comments, as well, from you in
7 terms as a harvester. And we obviously have
8 different views on certain things, but I
9 appreciate all of evidence that you gave. Thank
10 you very much.

11 Those are my questions.

12 THE CHAIRMAN: Thank you, Mr. Adkins,
13 for those questions and for the responses.

14 Mr. Davis, do you have anything more?

15

16 MR. DAVIS: We have nothing to add.

17 THE CHAIRMAN: All right. Thank you
18 all again.

19 I understand that Mr. Toyne would like
20 to ask a couple of questions. Is that accurate?

21 MR. TOYNE: Yes.

22 THE CHAIRMAN: Yes. Come on up.

23 MR. TOYNE: All right. Thank you very
24 much.

25 My name is Kevin Toyne. I'm the

1 lawyer for the Southeast Stakeholders Coalition,
2 and it is a group of individuals who own land
3 along the final preferred route, or people who are
4 otherwise concerned about the line traveling
5 through that part of the province, and some of our
6 members are also your members. So thank you very
7 much for your presentation today.

8 The very small series of questions
9 that I have, and perhaps the even smaller series
10 of questions I will be allowed to ask, relate to
11 what the Coalition has asked the Commission to do
12 during this hearing. And what we've asked the
13 Commission to do, and will be asking them to do in
14 our final submissions, is to shift the line
15 further to the east. So the questions that I've
16 got for you relate to that.

17 If I use the term "Route AY", do you
18 know what I'm talking about?

19 MS. CAMPBELL: I did attend the
20 hearing when those routes were being mentioned.

21 MR. TOYNE: Excellent.

22 I have a series of questions that I
23 think might be more appropriate for when President
24 Chartrand attends later in the week, but I will
25 ask the questions that I think are most pertinent

1 to the presentation that you gave.

2 So I reviewed all of the maps and the
3 information in your report, and it struck me --
4 you know, so for example, some of the maps that
5 Mr. Adkins just went over, 5-21, 5-22, that a lot
6 of the areas that are being identified on those
7 maps are from the town of Richer south, towards
8 the border, as opposed to north from Richer,
9 towards the existing transmission corridor. Is
10 that a fair characterization?

11 MS. CAMPBELL: Yes. The information I
12 believe we said Anola to -- Dorsey to Anola was
13 different, characterized different than Anola
14 south.

15 MR. TOYNE: Right. So the Route AY,
16 the route that the Coalition is focused on in this
17 hearing, would continue traveling along that
18 transmission corridor, from Anola to close to
19 Vivian, and then start to head south.

20 So from that eastern -- continuing
21 along that transmission corridor from Anola to
22 Vivian and then south, past Ross, towards Richer,
23 it struck me, looking at the maps that you've
24 produced, that that's not an area that's a focus
25 of concern for the members that you surveyed, and

1 I just wanted to make sure that that's an accurate
2 statement.

3 MS. CAMPBELL: Yeah. I don't think we
4 can make that leap, because the information we
5 collected, it tangentially went outside the RAA;
6 it was supposed to be focused on the RAA.

7 So I wouldn't -- for the same reasons,
8 if -- yeah, I don't think we can make that leap.

9 MR. TOYNE: So the area that I'm
10 talking about is still within the RAA?

11 MS. CAMPBELL: Yes.

12 MR. DAVIS: I would just like to raise
13 that the -- it is not appropriate to ask the
14 Calliou group to speak on behalf of the members of
15 the MMF. President Chartrand has the mandate to
16 do that, and he will be here on Thursday. They
17 can speak to what is in the report, what is stated
18 in the report, but they can't express the concerns
19 of the members of the MMF.

20 THE CHAIRMAN: This is the Chair,
21 Serge Scrafield.

22 Mr. Toyne, that question, and perhaps
23 others you're asking, can you confine them to --
24 can you conceive of the question in some way that
25 restricts it to the purposes and the results of

1 this study, as opposed to anything broader?

2 MR. TOYNE: Yes, and I apologize if I
3 failed to do that the first time I asked it. So I
4 will try a second time, and hopefully it goes
5 better this time.

6 So that area of the RAA just east of
7 Anola, to Vivian, and then down towards Richer, I
8 take it that you didn't hear a lot of concerns
9 from the members that you surveyed or interviewed
10 about that particular area? Is that a --

11 MS. CAMPBELL: I'm not understanding
12 "concerns". What do you mean?

13 MR. DAVIS: The report does two
14 things. It evaluates use areas, and it evaluates
15 areas where there are restrictions or lack of
16 preference. But it doesn't show concerns. I
17 think the problem is with the word "concerns".

18 MR. TOYNE: If we sub out "concern"
19 and insert "uses", is that -- is that better? I'm
20 not intentionally trying to be difficult or dense,
21 and I apologize for being both.

22 MS. VANDERJAGT: Do you have an
23 example of the route map, just so I can compare?

24 MS. CAMPBELL: Just eyeballing it, it
25 looks like it goes through use.

1 MR. TOYNE: Sorry, can you say that
2 again?

3 MS. VANDERJAGT: Just by looking at
4 the maps in comparison, with no actual data
5 calculations, it looks like it does intersect
6 areas of Metis use. But we have not calculated
7 the unoccupied land underneath this new route, so
8 we can't speak to that result.

9 MR. TOYNE: All right. I will try one
10 more time, and then perhaps I will move on. And
11 again, I do apologize; I'm struggling to ask the
12 question in a way that makes sense.

13 So as I understood it, when you were
14 surveying the members about the areas of the RAA
15 that they used and what sort of use was being made
16 of those areas, it struck me that a lot of
17 responses that you got focused on the southeast
18 part of the RAA, as opposed to the northeast part
19 of the RAA. Is that a better way to ask the
20 question?

21 MS. CAMPBELL: There is less use
22 depicted in our study of that area than in the
23 farther southeast part, but I wouldn't make that
24 leap, to say there is no Metis use in the area; it
25 is just, this reflects the people -- the 47 people

1 who we interviewed for this study.

2 So that's about as far as we can go.

3 MR. TOYNE: Okay. And maybe a related
4 question: If a route similar to the AY route that
5 you have just seen, if that had been in
6 contemplation when you were conducting your study,
7 would the pool of individuals that you had
8 interviewed been different?

9 MS. VANDERJAGT: We did interview
10 Metis participants from the town of Selkirk, which
11 is in that vicinity. So I don't think the pool
12 would change.

13 MR. TOYNE: You had talked about some
14 buffers or avoidance zones near railways and
15 roadways, and the note that I took -- and I
16 apologize if I got it wrong -- was about
17 100 metres was an avoidance zone that at least
18 some members indicated during the course of the
19 survey. Did I get that down right?

20 MS. CAMPBELL: 100 metres from railway
21 lines, two kilometres from primary roads and
22 highways, and 100 metres from secondary roads.

23 MR. TOYNE: And I noticed that the
24 Watson P. Davidson Wildlife Management Area was
25 not one of the areas that you would refer to as

1 occupied Crown land. Was that -- do you know what
2 that wildlife management area is, is maybe the
3 first question to ask.

4 MS. VANDERJAGT: We did do a review of
5 the management areas -- wildlife management areas,
6 refuges, ecological reserves, things like that, to
7 see if there were restrictions placed on them; and
8 if there were restrictions placed on an activity,
9 then that was applied. But in this case, we
10 obviously didn't include that one.

11 MR. TOYNE: Right. And my
12 understanding is that that's because the only
13 potential hunting-related restriction in that
14 wildlife management area is just the ability to
15 use certain vehicles to go in and out.

16 So is it safe to say, then, that
17 from -- for your purposes, that wildlife
18 management area would be occupied or unoccupied
19 Crown land?

20 MS. CAMPBELL: Unoccupied.

21 MR. TOYNE: Okay. And in the course
22 of the surveys and interviews that were conducted,
23 did any of the members that you spoke to express
24 specific concerns about the strip of land
25 immediately to the east of that wildlife

1 management area?

2 It is between a rail line and
3 Provincial Road 404, if that helps.

4 MS. CAMPBELL: And again, I think the
5 concerns --

6 MR. TOYNE: Sorry. Sorry.

7 Did any of the members identify any
8 uses of that strip of land immediately to the east
9 of that wildlife management area? And I apologize
10 for using the word "concern" again.

11 MS. CAMPBELL: We would have to look,
12 because I don't know the strip of land that you
13 are talking about. So we would have to look.

14 MR. TOYNE: If they did, would that be
15 reflected in the report that you provided?

16 MS. CAMPBELL: If they identified use?

17 MR. TOYNE: Yes.

18 MS. CAMPBELL: Yes, it would be in the
19 report.

20 MR. TOYNE: Okay. And if it is not
21 listed in the report, then none of the members
22 that you surveyed would have identified that
23 particular strip of land from a use perspective?

24 MS. VANDERJAGT: As long as that strip
25 of land is in the RAA, the use that we captured as

1 part of this report is listed in this report.

2 MR. TOYNE: Okay.

3 MS. CAMPBELL: But I wouldn't
4 confuse -- like, I would keep separate "use" from
5 "right".

6 MR. TOYNE: Yes.

7 Okay. The other questions that I have
8 I think are more, as my friend indicated, more
9 appropriately asked on Thursday, as opposed to
10 today. And given how awkward some of the
11 questions were, I should probably stop anyways.

12 THE CHAIRMAN: All right. That's the
13 first time I've heard the word "awkward" used in
14 these hearings.

15 Okay. Thank you very much, Mr. Toyne,
16 for the questions, and for the responses, panel.

17 Questions from our panel?

18 MS. STREICH: Yes. It is Laurie
19 Streich.

20 Ms. Campbell, you referred to ten
21 types of effects in your presentation, and they
22 are shown on page 18 of your PowerPoint. They are
23 Slides -- I guess 70 and 72. They were for the
24 two valued components that you had talked about.

25 Yes, that's one of them, and there

1 should be one on page -- or one on Slide 70 as
2 well.

3 So are these laid out in your report
4 somewhere? And I wonder if you could tell me --
5 point out whereabouts those are laid out?

6 MS. CAMPBELL: Okay. We will start
7 with lands, non-Metis access.

8 I'm sorry, could you repeat that
9 question?

10 MS. STREICH: Sure. Yeah.

11 So for these ten types of effects that
12 were discussed under the two valued components
13 that you mentioned -- so it is lands available for
14 Metis use, and Metis harvesting, were your two
15 components -- I didn't see them numerically laid
16 out in the report. I'm just wondering if you
17 could point out if they were, and on what page.

18 MS. CAMPBELL: Sure. The assessment
19 of effects on the first specie of land starts at
20 page 59.

21 The first indicator of legal
22 restriction is on page 72, Section 4.4.1.1.

23 Physical attributes would be page 75,
24 4.4.1.2.

25 Perception of land, page 76, 4.4.1.3.

1 Changes to access, page 77, 4.4.2.1.

2 Increased access for non-Metis users,
3 page 78, 4.4.2.2.

4 That's the first VC. The second VC
5 is in -- starts on -- starts on page 87.

6 The first indicator is page 101,
7 5.5.1.

8 The second indicator is on page 102,
9 5.5.2.

10 Harvesting experience, the third
11 indicator, is page 111, 5.5.2.1.

12 Harvesting success is 5.5.2.2,
13 page 113.

14 Availability of culturally critical
15 species, page 114, 5.5.3.1, which relates to
16 displacement.

17 And the final one, page 115, 5.5.3.2.

18 MS. STREICH: So there isn't a place
19 in the report that they are actually all just
20 numerically laid out? They're discussed on these
21 separate pages?

22 MS. CAMPBELL: Yes, we organized it --
23 we did it by VC, so we did all the indicators for
24 VC 1 in one chapter, and then in the second
25 chapter, we did five indicators for the second VC.

1 MS. STREICH: Okay. Thank you.

2 THE CHAIRMAN: Additional questions
3 from the panel members? No?

4 MR. NEPINAK: Mr. Goodon, in this
5 morning's presentation you mentioned Metis went
6 underground. Can you elaborate what that means,
7 how it affected families or the individuals in
8 families?

9 MR. GOODON: I will do my best.

10 It is my understanding that when this
11 reign of terror did happen, people physically
12 left; they moved throughout northwestern Canada.
13 But they also stopped identifying themselves as
14 Metis.

15 You know, as I said, with my own
16 family, my grandfather -- and my father, when he
17 was young -- stopped identifying as Metis. And it
18 has only been -- I think the Manitoba Metis
19 Federation has had a big impact on having people
20 understand that it is okay now to be Metis, and it
21 is actually a matter of pride, where people will
22 identify again as Metis.

23 One of the stories that has been
24 handed down to me is how the Metis of the Red
25 River, the ones that stayed around, stopped

1 identifying publicly as Metis and stopped
2 gathering together as Metis. They would do it in
3 -- but they would do it in ways that were perhaps
4 not visible to the public eye.

5 Instead of having -- Metis by nature
6 are political. They love getting their hands
7 dirty in the political process. You know, you've
8 got the idea of Louis Riel, of some of his
9 compatriots who were very active in the political
10 process.

11 So when this happened, the Metis
12 couldn't organize themselves politically. When
13 the reign of terror happened, it was physically
14 impossible for them to get together and discuss
15 issues that were important to them.

16 It is my understanding that they would
17 have picnics. They would have picnics in some of
18 the parks in Winnipeg. And then the young people
19 would get together, but the older folks would also
20 move off to one side, and they would carry on this
21 tradition of trying to make change, trying to make
22 things better for themselves.

23 But as far as my -- the stories that
24 I've been told personally, the people were
25 embarrassed; they were afraid. They were not able

1 to come out and identify.

2 As I said, my father really tried to
3 instill in me a pride, but it was hard, even --
4 you know, I'm 48 years old, and even when I was in
5 elementary and high school, there was racism and
6 discrimination, and I'm not as visibly Metis as
7 some others are. But it was carried on in places
8 in small-town Manitoba where it was hard to -- it
9 was hard to be proud of who you are.

10 As I said, though, things have
11 changed, and they have changed rapidly. You know,
12 as being a representative of the Metis government
13 here in Manitoba, you know, I had the opportunity
14 last night to go to a youth role model awards
15 dinner. And there was -- out of I think 15 or 16
16 of the youths that were receiving the awards for
17 different things, four of them were Metis. And
18 they all came up to me after and thanked me -- not
19 me personally, but the MMF, for providing a place
20 where they could feel safe, where they could feel
21 that they can come out and talk, where they can
22 come and receive funding to go to school. Where
23 they can find a place to go and get their
24 harvester card, so they can feel safe when they go
25 out hunting.

1 So I think things have come a long
2 ways. But there was definitely a time, and the
3 anecdotes are in my own family, where people were
4 quite literally physically afraid of identifying
5 themselves as Metis people.

6 MR. NEPINAK: Thank you very much.

7 Ms. Reimer, do you have any anything
8 that you can add to that?

9 MS. REIMER: I do. I think I reflect
10 a younger generation, without -- just a little
11 bit.

12 But it is interesting for me to see,
13 you know, just the impacts on my generation and
14 the generations under me. And what I've seen and
15 what I've heard from older generations, and as
16 Will mentioned, he has covered that topic, but you
17 know, these -- the underground years is a very --
18 is known as the dark era for the Metis, and it was
19 really dark.

20 And the implications of that is
21 evident in -- through systematic racism. And so
22 that's even reflective in the social situations
23 that are faced, regardless of how visibly Metis or
24 Aboriginal you may appear. You know from being
25 told that you have bush French, in university,

1 to -- various things like that, and events like
2 that, that stick with you in your adulthood. And
3 there are always those things in our lives, no
4 matter where we came from, that impact us. But
5 they serve as reminders throughout our life of
6 where we came from.

7 So the underground years, I mean,
8 those are -- it has had a real impact on our
9 community. And -- you know, we talk about what
10 are the impacts, are they big or are they small?
11 And those are of course subjective, but the
12 question is to ask the question. And if you omit
13 them, there is no opportunity for that response to
14 understand.

15 So that's really the only other
16 comment that I can say to that. Thank you.

17 MR. NEPINAK: Thank you very much for
18 giving us your personal views and experiences.

19 THE CHAIRMAN: Thank you for your
20 responses to that question, and the previous
21 question from the panel.

22 Do we have announcements or filings?

23 MS. JOHNSON: We have documents, as
24 always.

25 MMF 002 is the outline and CVs. MMF

1 03 is the written submission. 04 is the
2 presentation we saw today.

3 (EXHIBIT MMF-02: Outline of
4 presentation and CVs)

5 (EXHIBIT MMF-03: Written submission
6 of MMF)

7 (EXHIBIT MMF-04: MMF presentation)

8 THE CHAIRMAN: All right. Thank you
9 for those, and we are adjourned until tomorrow
10 morning, 9:30, back here. Thank you.

11 (Adjourned at 3:10 p.m.)

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OFFICIAL EXAMINER'S CERTIFICATE

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