

MANITOBA CLEAN ENVIRONMENT COMMISSION

BIPOLE III TRANSMISSION PROJECT
PUBLIC HEARING

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Transcript of Proceedings

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TUESDAY, NOVEMBER 13, 2012

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Brian Kaplan - Member
Ken Gibbons - Member
Wayne Motheral - Member
Michael Green - Counsel to the Board
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PINE CREEK FIRST NATION
Charlie Boucher
Warren Mills
John Stockwell

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2 Tuesday, November 13, 2012.

3 Upon commencing at 9:00 a.m.

4 THE CHAIRMAN: Good morning. Welcome
5 back after a snowy long weekend. If nothing else,
6 being snow bound gave us all a good excuse to stay
7 in and read all the many documents that we have on
8 our plate, some very exciting stuff to pass a
9 snowy Sunday.

10 On our agenda today is the second of
11 the participant presentations. It will be the
12 Manitoba Metis Federation. They will be taking
13 today and tomorrow to make their presentations.

14 I don't think there's any other
15 business to take care of starting off, so
16 Mr. Madden, over to you.

17 MR. MADDEN: Good morning, Mr. Chair.
18 Jason Madden for the Manitoba Metis Federation. I
19 know everyone is very excited. It is Metis day or
20 days, and we have our expert panels first that
21 we'll be starting with on land use, archaeology,
22 as well as moose. And we'll be moving on to
23 panels with traditional resource users for the
24 Duck Bay/Camperville area, as well as from the
25 Swan River area, and also having a presentation by

1 the president of the Manitoba Metis Federation,
2 David Chartrand. And so what we hope is that
3 those will be completed by mid afternoon tomorrow.

4 I want to start with, I guess I could
5 just hit repeat of what we have said as we go into
6 week two, after having proposed routing changes
7 from Manitoba Hydro and no environmental
8 assessment on those issues. I am asking again for
9 an adjournment to allow, one, Manitoba Hydro to
10 provide that information to the Commission, but
11 also to allow the participants a fair opportunity
12 to review those changes. It's now two weeks since
13 we have received a PowerPoint presentation with
14 some proposed routing changes, but we have nothing
15 formal in writing about what the environmental
16 effects of those changes are.

17 And I don't want to be like a dog with
18 a bone, but the reality is that it's significant
19 to our case. And we can't continue to operate as
20 what we're presenting on today, moose, which you
21 are going to hear a lot about, Moose Meadows and
22 those areas about what the reroutes are. So,
23 again, we would ask for the Commission to set some
24 direction to Manitoba Hydro, as well as to provide
25 an adjournment to allow us to prepare.

1 We just, you know, I have done quite a
2 few of these regulatory type proceedings in
3 different jurisdictions, and I do not understand
4 how both the Province, as well as the Clean
5 Environment Commission, can be in a position that
6 we're hoping, or we're asking the proponent to,
7 but no one can actually tell them to.

8 This isn't the Manitoba Hydro show, it
9 is Manitoba Hydro making application to a
10 government body, as well as using the Clean
11 Environment Commission. They are the ones making
12 the application. And if we don't have the
13 information for the application, I don't
14 understand how we can continue to proceed.

15 THE CHAIRMAN: Well, just let me
16 explain our process a little bit. One is the
17 nature of the Manitoba Clean Environment
18 Commission, the Manitoba Environment Act, is that
19 we don't issue the licences, as you well know. We
20 offer advice and recommendations to the Minister
21 who issues the licence. We also don't have the
22 authority to tell Hydro what or how to do things.

23 What our authority is, is to sit in
24 judgment, if you will, of what Hydro puts on the
25 table. And it's always open to us, if they don't

1 put sufficient information on the table, it's open
2 to us to recommend to the Minister that he not
3 issue a licence.

4 In offering suggestions, as I did last
5 week to Manitoba Hydro, I don't have the authority
6 to command them to go away and do an environmental
7 assessment on those reroutes. But I certainly
8 have the power to strongly recommend to them that,
9 if they wish to get positive recommendations from
10 the Commission, that they do that.

11 MR. MADDEN: So in relation to that,
12 and I appreciate, because I have looked through
13 the legislation as well and don't see where the
14 authority lies, but what is very clear is in the
15 terms of reference that the Minister has provided
16 to the Clean Environment Commission, it's to
17 review the project. And we are not sure on what
18 "the project" is. And is Manitoba Hydro -- are we
19 still reviewing the project that was filed in
20 December of 2011, and that up until two weeks ago,
21 we had all assumed this was the final preferred
22 route? We cannot continue to operate in that
23 ambiguity.

24 Hydro has tabled a deck or a
25 PowerPoint presentation saying these are some

1 changes that we are trying to get approval from
2 the Minister on. I don't understand -- I am only
3 asking the Commission to look at the explicit
4 terms of reference you have, and the terms of
5 reference are, we are supposed to review the
6 project that has been provided to us by the
7 Ministry. So my appreciation then is that, if you
8 follow that logic through, we are still reviewing
9 the EIS based upon the final preferred route.
10 There has been no formal information provided to
11 the Commission from Hydro or by Manitoba
12 Conservation that that has changed. And so at the
13 end, I agree with you, is that if we get to the
14 end and there is not a different route, what the
15 Commission is essentially reviewing is what it has
16 before it, if your position is that you can't
17 direct Hydro to supplement that record.

18 THE CHAIRMAN: I don't have the terms
19 of reference in front of me, but I believe it is
20 to review the EIS that Hydro has filed in respect
21 of the project. But you are correct that the EIS
22 is as was filed on December something or other
23 2011.

24 Mr. Bedford -- or before you go ahead
25 Mr. Bedford -- Mr. Madden, you will know I'm sure

1 that on Friday afternoon the director of the
2 Environmental Licensing Branch of Manitoba
3 Conservation Water Stewardship did send a letter
4 to Manitoba Hydro asking that they conduct
5 environmental assessment?

6 MR. MADDEN: I don't read the letter
7 as that. I think that -- I'm not sure who wrote
8 the letter, but I think that the letter states
9 that we believe that Manitoba Hydro should. It's
10 very permissive as far as our understanding. And
11 also we don't think that it's consistent with what
12 the Environment Act is. We have written a
13 supplemental letter in response to that, but we
14 don't think that that letter provides a definitive
15 answer.

16 The other point, and I'm just going
17 back to, we do have to look at what the terms of
18 reference say, is that Manitoba Conservation said
19 we have sufficient information to forward this to
20 the Commission to begin its review. And that was
21 based upon the December 2011 EIS. It has not
22 provided supplemental instructions as saying, we
23 have reviewed this supplemental information from
24 Manitoba Hydro and we are providing this to the
25 Commission to supplement the record. So I think

1 that we're ad idem on the issue that we are still
2 reviewing the final preferred route based upon the
3 December 2011 EIS, that has then been supplemented
4 by additional information. But all that
5 additional information is still based upon the
6 final preferred route. There needs to be a
7 formal -- it needs to be formally put before the
8 Commission of what the revised project, if it is
9 revised, ultimately is.

10 THE CHAIRMAN: Thank you, Mr. Madden.
11 Mr. Bedford?

12 MR. BEDFORD: Well, I'm pleased I
13 think to tell you that my client will file on
14 Monday, January 28, 2013, a further written
15 supplementary environmental assessment of the
16 three route changes which the province has
17 directed that we implement for this project. In
18 addition, we will in that filing on January 28,
19 report on the further public consultation outside
20 of this process that my client accepts and thinks
21 is required with respect to these three route
22 changes. We would very much like the five
23 commissioners who are here to review that further
24 supplementary filing and to hear our report on the
25 further public consultations that I have said we

1 believe need to be done. And accordingly, I would
2 request politely that the Commission give some
3 thought to, once the business of the next two
4 weeks, this week and next week, perhaps the
5 following week that's already scheduled is
6 concluded, that you give some thought to then
7 adjourning, as opposed to concluding this hearing,
8 and allow us then following January 28, 2013, to
9 come back before you with this supplementary
10 filing so that you can hear participants in this
11 proceeding respond to that. I recognize that
12 there will have to be some allowance for time
13 following January 28 for participants to read that
14 filing, to review it with their respective
15 clients. And so you will clearly have to give
16 some thought logically to what dates would be
17 available following January 28, and following a
18 reasonable period, in your minds, to review that
19 particular filing.

20 THE CHAIRMAN: Thank you, Mr. Bedford.
21 Mr. Madden?

22 MR. MADDEN: I have nothing further on
23 that. I think what we would want to have clarity
24 on is that, is Manitoba Conservation providing the
25 information directly to the CEC as opposed to

1 Manitoba Hydro filing it with the CEC? Because
2 our understanding of the Environment Act is that
3 Manitoba Hydro needs to file it with the actual
4 government first, and then the government will
5 forward it to the CEC. And I think those are more
6 logistical issues. This is the first that we have
7 heard of it, similar to a whole host of things,
8 this information from Hydro hasn't been
9 forthcoming to the Manitoba Metis Federation or
10 I'm sure other participants either. So it's the
11 first we have heard of it. I'd like some time to
12 digest it, and I'll probably make further
13 submissions on it once I have that opportunity to
14 digest it.

15 THE CHAIRMAN: Perhaps you could
16 expand a little bit, what do you need to further
17 digest?

18 MR. MADDEN: The idea of how it's
19 procedurally done, as well as how -- I think from
20 our perspective, the fact that there is an
21 adjournment requested by Hydro and the fact that
22 there will be a supplemental filing is positive.

23 THE CHAIRMAN: That's what you are
24 asking for, isn't it?

25 MR. MADDEN: Yes.

1 THE CHAIRMAN: And I would assume that
2 your point about whether it's filed with the
3 Commission or with the Environmental Licensing
4 Branch, I would assume that Hydro would follow the
5 normal course and file it with the Environmental
6 Licensing Branch, and we would see it, I would
7 suspect, fairly soon -- fairly quickly after it's
8 been filed.

9 Does anyone else wish to speak to this
10 matter? I'll let you come back, Mr. Madden.

11 Mr. Williams?

12 MR. WILLIAMS: Just a very quick
13 comment, Mr. Chair. At the appropriate time,
14 presumably closing argument will not be now in
15 November, so our client would appreciate the
16 opportunity to make submissions about an
17 appropriate schedule in terms of reviewing the
18 amended EIS and in terms of closing argument.

19 THE CHAIRMAN: I think that's fair.
20 Are you prepared to make those points now or
21 should we do it later today?

22 MR. WILLIAMS: I'd like a chance to
23 just canvass this with some of my colleagues in
24 terms of schedule, Mr. Chair.

25 THE CHAIRMAN: Okay. Mr. Madden, are

1 you prepared to move on with your presentation?
2 Let's, when we come back right after lunch at 1:00
3 o'clock, we'll consider timing, I'll entertain
4 submissions from anybody who wishes to, or any of
5 the participants who wish to speak on the timing
6 for this adjournment.

7 MR. WILLIAMS: Thank you, Mr. Chair
8 and members of the panel.

9 THE CHAIRMAN: I would suggest, and
10 Mr. Bedford asked that we continue our scheduled
11 proceedings over the next couple of weeks. I
12 think that will be our decision. We certainly
13 aren't going to change this week. We have
14 Mr. Madden here with his people today, tomorrow,
15 and you on Thursday, Mr. Williams. We'll
16 entertain discussion later on about the rest of
17 the schedule, the final arguments, et cetera.

18 Anything else, Mr. Bedford, to add at
19 this time?

20 MR. BEDFORD: I can assure you, and
21 hopefully it will help Mr. Madden's digestion,
22 that we would, of course, file with the Director
23 of the Conservation Branch, but I think your
24 observations are entirely accurate. It will be
25 transferred to you very rapidly, and we'll likely

1 give you a courtesy copy, in any event.

2 THE CHAIRMAN: Thank you. Any other
3 business we need to take care of before Mr. Madden
4 proceeds with his presentation?

5 Okay. Mr. Madden, over to you.

6 MR. MADDEN: We have our panel, if I
7 can invite them up.

8 And my understanding is that the
9 Commission has the reports that have been filed,
10 printed copies of the reports, as well as there's
11 a PowerPoint presentation that has been handed out
12 for each. We're going to be starting with, I
13 guess two reports, the Manitoba Metis Traditional
14 Use and Bipole III project by Patt Larcombe, that
15 document. As well as, I'm not sure how much it
16 will be referred to, but as a part of the
17 technical reports, is the Manitoba Metis
18 Federation Traditional Land Use and Knowledge
19 Study. That's the more comprehensive report that
20 was filed as a part of the EIS. I don't think
21 that you are going to need a copy of that today,
22 but it's the larger report that details the study
23 that was done for the Manitoba Metis.

24 MS. JOHNSON: Ladies and gentlemen,
25 could you please state your names for the record?

1 Patt Larcombe: Sworn.

2 Abbie Stewart: Sworn

3 Kisha Supernant: Sworn

4 MR. MADDEN: We're going to start with
5 Ms. Larcombe, and she's going to do an
6 introduction, as well as I may have some
7 additional questions in relation to her CV, which
8 has also been provided to the Commission and the
9 participants.

10 MS. LARCOMBE: Good morning panel
11 members, ladies and gentlemen.

12 THE CHAIRMAN: You need to speak
13 almost directly into the microphones so the rest
14 of us can pick it up.

15 MS. LARCOMBE: As Mr. Madden said, my
16 name is Patt Larcombe, and I'm a principal in a
17 Winnipeg based company called Symbian Consultants.
18 I've been a partner in that firm since 1990, but
19 actually started working with that company in
20 1987. I have a bachelor's degree in geography and
21 I also have a masters degree in geography, which I
22 received in 1985.

23 Since 1987, the majority of my work
24 has been involved in both retrospective around
25 forward looking impact assessment, particularly as

1 it relates to impacts on traditional use of
2 Aboriginal peoples. In more recent years I have
3 also been involved in reviewing environmental
4 impact statements on behalf of Aboriginal
5 organizations or individual communities.

6 In the case of retrospective impact
7 assessment, I have been involved in research that
8 has looked at impacts of Hydro projects, illegal
9 surrenders of land, relocation of entire
10 communities, and I have done this in Ontario and
11 in Manitoba as well.

12 I have also worked with predictive
13 impact assessment. And when I say predictive, I
14 mean sort of in the context of what Manitoba Hydro
15 has put forward here in terms of the environmental
16 impact assessment. What are the impacts going to
17 be on traditional use?

18 In this regard I have worked with
19 First Nations in Labrador and British Columbia,
20 and Aboriginal communities here in Manitoba. For
21 example, I worked with the Tako River Tlingit
22 First Nation, and they are located in northwestern
23 British Columbia. My work there involved
24 documenting traditional use and knowledge in an
25 area where a mine was being proposed.

1 A second assignment with this First
2 Nation was regarding a proposal by a mining
3 company to use a hover barge on an important river
4 they used.

5 I have also worked with the Chilcotin
6 Nation in British Columbia in connection with the
7 Prosperity Mine which is a gold mine being
8 proposed by a company by the name of Taseko. My
9 work with that Nation involved doing a gap
10 analysis of the traditional use information that
11 they did have and advising them on the utility of
12 it to inform the environmental assessment.

13 I also gave testimony at the Federal
14 Review Panel Hearings on the Taseko Prosperity
15 Mine, and gave my opinions on how that project was
16 going to affect the Chilcotin.

17 I have been contracted by various
18 nations, including the MMF, to review
19 environmental impact statements, specifically
20 whether they were sufficient or conform to
21 guidelines with respect to traditional use. For
22 example, I have worked with the James Bay Cree in
23 Quebec on the Quebec Hydro projects, the Innu
24 Nation of Labrador, also the Lower Churchill Hydro
25 project, and more recently with the Athabasca

1 Chipewyan and Mikisew Cree in Northeastern Alberta
2 who are in the oil sands area.

3 I also did reviews, conformance
4 reviews of environmental impact statements for the
5 Taku River Tlingit and the Chilcotin Nations in
6 British Columbia.

7 Now, I was retained by the Manitoba
8 Metis Federation in mid 2010 to help them in
9 designing a system or a framework to document and
10 analyze traditional use of Manitoba Metis. And I
11 did that work in connection both with the Bipole
12 III project, but as well as the Berens River
13 project was also in the plans at that time.

14 I was largely responsible for the
15 system that throughout the day we'll be calling it
16 the TLUKS. I was the lead researcher in the
17 actual interviews that were done for that work.
18 And then finally I was involved on behalf of the
19 MMF in the initial review of the Bipole III EIS.
20 And it's because of my role over the last year and
21 a half that I'm here today and presenting. So
22 thank you.

23 MR. MADDEN: Just out of curiosity,
24 the Prosperity Mine, is that the Prosperity Mine
25 that was rejected by the joint review panel, the

1 Taseko mine that was rejected by the joint review
2 panel?

3 MS. LARCOMBE: It's the Taseko mine
4 that the federal panel recommended to the federal
5 cabinet that it not be approved, and then it was
6 the cabinet that said no to the project.

7 MR. MADDEN: Thank you. You can go
8 ahead.

9 MS. LARCOMBE: Okay. So my objectives
10 in my presentation today are as follows:

11 One, I would like to present an
12 overview of what has been documented about
13 Manitoba Metis current use of lands and resources
14 for traditional purposes, both within and adjacent
15 to the Bipole transmission line footprint, but
16 also within the broader project study area. I'm
17 going to be discussing some of the concerns I have
18 about the extent to which Manitoba Metis
19 traditional use of lands and resources was
20 considered, or informed the transmission line
21 routing process, the effects assessment and the
22 proposed mitigation measures.

23 I'm also going to be discussing what I
24 believe are some of the uncertainties regarding
25 the project effects on Manitoba Metis and also

1 some of the concerns I have about the mitigation
2 measures that have been proposed.

3 And finally, I'm going to be
4 discussing some of the recommendations I have made
5 or developed to address some of the information
6 gaps I believe are there, and some go forward
7 processes for identifying and implementing
8 mitigation and accommodation measures.

9 So I'm going to be referring to some
10 references today, and I just want to briefly go
11 over them so that it's clear what I'm referring
12 to. When I say such things as the EIS, obviously
13 I'm referring to Manitoba Hydro's environmental
14 impact statement dated November of 2011. When I
15 refer to the TLUKS report, what I'm referring to
16 is the Manitoba Metis Federation's report that was
17 filed with Manitoba Hydro in August 2011, and it's
18 that same report that is included in the EIS in
19 the Aboriginal traditional knowledge technical
20 report as appendix number E. The third reference
21 I'm going to be making during my presentation is
22 to the report that I wrote and submitted to the
23 Clean Environment Commission under the date of
24 November 4, 2012.

25 Because I have a geography background,

1 I felt I'd like to do a bit of a geography lesson
2 here. Throughout my presentation today, when I
3 refer to the project study area, that means the
4 project study area which is the -- I don't think
5 it's a backwards banana, but it does have a banana
6 shape and colour. That was the project area that
7 Manitoba Hydro identified in their EIS and it's
8 the same project area that the Manitoba Metis
9 Federation's TLUKS was based on as well. When I
10 say the final preferred route, it is the same
11 meaning as in the Environmental Impact Statement,
12 and this being the route that was, as it was
13 represented, and I understand now that there may
14 be some changes to that route. But on my map it's
15 the one that was in the EIS.

16 And then lastly, a geographic area
17 that I may be referencing quite often, I'm calling
18 it Central Western Manitoba, and that's the area
19 that's identified in the circle on this map. I
20 call it Central Western Manitoba. Mr. Madden, I'm
21 sure you have heard a few times, keeps referring
22 to it as the Metis bread basket, but I call it
23 Central Western Manitoba.

24 In terms of some terminology, this
25 slide is showing, in slide number five, some of

1 the language that is in the scoping document, the
2 EIS, and then the Manitoba Metis TLUKS reports.
3 And I put this slide together to illustrate that
4 there's a lot of variability in the language that
5 is being used. The phrase in the scoping
6 document, current use of lands and resources for
7 traditional purposes by Aboriginal persons, that
8 is in fact the language that you'll find in the
9 Canadian Environmental Assessment Act, and it's
10 duplicated in the scoping documents. But then the
11 scoping document variously introduces phrases like
12 traditional land and resource use, domestic use,
13 and Aboriginal traditional and local knowledge.
14 So that was the language in the scoping document.

15 Now, as you move into the EIS, it's
16 kind of crunched down into two terms, domestic
17 resource use and Aboriginal traditional knowledge,
18 and I'm sure everybody is familiar, it's being
19 called ATK. I personally found it interesting
20 that the language that was in the scoping
21 document, which was quite consistent with what
22 I've seen in other guidelines, became domestic
23 resource use. That's not a phrase that I'm
24 familiar with in my line of work, but I'm assuming
25 that Manitoba Hydro's use and choice of that word

1 was as a sort of a catchall for all of the things
2 that are reflected in the column on the left.

3 So lastly, the column on the right is
4 the language that myself and the research team and
5 the people that I was working with at the MMF came
6 up with. We are using the phrase traditional use,
7 values and knowledge, as sort of an
8 all-encompassing phrase that includes the current
9 use of lands and resources, but also traditional
10 knowledge, including ecological knowledge.

11 Rather than repeating this long, long
12 phrase, throughout my presentations I'm going to
13 use the phrase traditional use, but it's an
14 abbreviation for all of the things that the
15 broader language encompasses.

16 This slide six and seven, I just want
17 to run through because this is the language and
18 sort of the backdrop to the EIS in terms of what
19 is the relevant directions that come out of the
20 scoping document.

21 So 3.2 of the scoping document says
22 that the EIS will consider the following: And
23 what we see there is that it was to consider the
24 current use of land and resources for traditional
25 purposes by Aboriginal persons, consideration of

1 Aboriginal traditional and local knowledge, and
2 the capacity of affected renewable resources to
3 meet the needs of the present and future
4 generations.

5 The scoping document also said that
6 the assessment would consider traditional land and
7 resource use, and personal and family community
8 life.

9 On slide seven, in terms of the actual
10 environmental assessment language in the scoping
11 document, under resource use, and this is where
12 that phrase domestic use of resources sort of
13 enters the document, is that the EIS is to provide
14 enough information on domestic use of resources in
15 order to predict, avoid or minimize adverse
16 effects on domestic use of resources.

17 And then lastly in the scoping
18 document, under the subject area of personal,
19 family and community life, the scoping document
20 requires the EIS to provide information, including
21 information on the traditional economy of
22 Aboriginal hunting, fishing, trapping and
23 gathering. And specifically the EIS is to provide
24 sufficient detail to predict or avoid or minimize
25 impacts on this aspect of personal and family

1 community life.

2 So, in my mind that was the guidance,
3 those were the directives for the EIS with respect
4 to traditional use.

5 It was also those guidelines, or here
6 in Manitoba they are called the scoping
7 document -- I'm used to the word guidelines. So
8 the MMF and myself and other experts that were
9 working with MMF at the time were familiar with
10 the scoping document. We were familiar with the
11 types of guidelines that come out in other
12 provinces and under Federal reviews. And so we
13 set our minds to how are we going to design the
14 system of documenting Manitoba Metis traditional
15 use in a way that would develop a base of
16 information that would be informative to
17 environmental reviews, but also would be tailor
18 made for the circumstances of Manitoba Metis
19 traditional use.

20 Some of the challenges we faced as we
21 started to design a system -- and when I say the
22 traditional land use knowledge study is a system
23 rather than a study, when it's implemented it can
24 become a study.

25 Some of the challenges that we were

1 dealing with was that the criteria and processes
2 for recognizing who is a Manitoba Metis within the
3 Manitoba Metis community was in a state of flux at
4 that time. And I'm going to be talking a little
5 bit more about this later, but in the post Powley
6 court decision era, the Manitoba Metis Federation
7 had embarked on a new membership application
8 process, which essentially meant that the existing
9 membership list was in a state of transition to a
10 new membership list.

11 A second challenge that we recognize
12 was that, unlike most traditional use studies that
13 are frequently done for a particular First Nation
14 that has an identified traditional territory that
15 is reasonably in close proximity to where they
16 live, in the case of the Manitoba Metis community,
17 the citizens live all over the province but they
18 are one community. And they live all over the
19 province and they have really high mobility when
20 it comes to traditional use. They don't
21 necessarily engage in traditional use in the
22 vicinity of where they actually they live.

23 The MMF also at that time recognized
24 that they needed to develop a system that would
25 contribute, not just to the Bipole III project

1 that we're discussing today, but for future
2 projects that they knew there would be
3 environmental assessments associated with. For
4 example, there was at the time the Berens River
5 all-weather road proposal. The MMF was aware of
6 such things as the Keeyask project is on the
7 horizon, possibly the Conawapa. So they wanted a
8 system that was going to work for all of these
9 potentials and uses in the future. But in
10 addition to that, they wanted a system that would
11 contribute information that would assist the MMF
12 in discussions with the Crown on resource
13 management, or consultation matters, or possibly
14 even, you know, would be credible enough to be
15 used in a litigation sense, if required.

16 And lastly, the challenge we had was
17 to develop a system where the Metis Federation, as
18 a government, would retain possession and control
19 of Manitoba Metis traditional use on their behalf.
20 So what I mean by that is that there would be
21 assurances that there would be, you know,
22 confidentiality for individuals would be
23 maintained, the data would be housed and protected
24 and stored in a proper manner.

25 So the design of the TLUKS really

1 began in early June of 2010. The Manitoba Metis
2 Federation organized a think-tank session and
3 invited experts and scholars, and Manitoba Metis
4 advisers and staff together to brainstorm on how
5 we might develop a TLUKS. An outcome of that was
6 that I was charged with preparing a draft design
7 for that TLUKS, which I worked on in June through
8 July 2010.

9 When the draft was completed, I had it
10 peer reviewed by somebody I believe has been
11 mentioned in these hearings previously, I had my
12 the design peer reviewed by a Dr. Peter Usher,
13 whose advice I very much value. It was also
14 vetted through MMF staff and some harvesters. We
15 did some testing and refinement, and ultimately
16 came out at the end of July with a good to go
17 design.

18 The TLUKS involved two phases. The
19 first phase, which we called the screening survey,
20 was implemented from the beginning of October
21 through to mid-November of 2010. One of the
22 outcomes of the think-tank session was we
23 understood that, A, the Manitoba Metis Federation
24 really didn't have a lot of information on
25 traditional land use patterns. And secondly, to

1 identify people that actually engage in
2 traditional use in the Bipole III project area, we
3 needed to be able to reach out to them and find
4 out who they are. And thirdly, the screening
5 survey was an opportunity for the Manitoba Metis
6 Federation to get a sense of traditional use, not
7 just in the Bipole project area, but throughout
8 the province. So it had multiple utility as far
9 as they were concerned.

10 The second phase of the TLUKS involved
11 detailed interviews. These were one on one
12 interviews that were done through November 2010,
13 through July of 2011. Now, I'd like to point out
14 that the methodologies and the tools in terms of
15 both screening survey and the detailed interview
16 process are all included in the MMF's 2011 report
17 that is appended to the EIS. And if anybody has
18 any questions about that, I'd be more than
19 happy -- but I didn't think I should spend your
20 valuable time today going through that kind of
21 detail.

22 We prepared an interim report and
23 shared that with Manitoba Hydro in June of 2011.
24 At that point we had completed about half of the
25 detailed interviews, and then we, several months

1 later in August submitted the final report.

2 As I mentioned earlier -- I'm on slide
3 ten right now -- one of the challenges that we had
4 was identifying who was going to be eligible to
5 participate in the TLUKS for the Bipole III, or
6 for any other traditional land use work done by
7 the MMF. As I said earlier, the Manitoba Metis
8 Federation was in the middle of a process of
9 implementing a new citizenship code, and many of
10 the Manitoba Metis members had not made
11 application under the new membership code at that
12 time. So to be, sort of in a forward looking way,
13 a decision was made to reach out to individuals
14 who had reapplied and were in the new membership
15 code, and/or to reach out to Manitoba Metis who
16 met the membership code by virtue of having a
17 harvester card. And I'm sure maybe President
18 Chartrand will actually be able to explain this in
19 more detail. I guess the main point of it is that
20 the people who participated in the TLUKS were
21 individuals that were recognized by the MMF as
22 citizens. They were individuals who would meet
23 the test of the Powley criteria as being a part of
24 the Metis community.

25 MR. MADDEN: Can you maybe just

1 explain, you refer to Powley, and I'm not
2 necessarily sure that the Commission will
3 understand what Powley is. I am not asking you to
4 give -- but just a general overview of what the
5 Powley criteria relates back to?

6 MS. LARCOMBE: All right. I'll give
7 you my non legal understanding. The Powley case
8 was a court case in Ontario that involved an
9 Ontario Metis community, and the issue was about
10 harvesting rights. And the outcome of that court
11 case was that the Metis harvesting rights were
12 recognized, but there was -- the court came out
13 with criteria, I believe there was ten of them, on
14 what constitutes a Metis community. And I'll let
15 either Mr. Madden or President Chartrand talk more
16 about that because I'm not a lawyer, so I'm not
17 really all that comfortable talking about it. The
18 nut of it was, based on that court decision the
19 Manitoba Metis Federation took a look at what
20 their membership code was and changed the criteria
21 to meet that code in their 2008 Constitution, and
22 then provided a time frame in which their members
23 could reapply and be recognized under the new
24 criteria.

25 So all of this is to say that the

1 individuals who had participated in the TLUKS that
2 the MMF did are individuals that would meet those
3 tests, those Powley tests. They are individuals
4 that are distinct from other Aboriginal peoples.
5 So, for example, the eligibility, you cannot wear
6 two hats under the code, you cannot have a First
7 Nation status and be Metis at the same time under
8 this code. I think I'll leave it at that.

9 So the screening survey was sent out
10 to 3,278 Manitoba Metis citizens, and the response
11 rate was 24.3 percent or 796 respondents. Of
12 those 796, 735 of them returned screening surveys
13 with mapped information. So in the screening
14 survey package they were provided four maps, which
15 basically took the province and divided it into
16 four slices, and asked them to draw on the map the
17 places that they regularly go for purposes of
18 traditional use.

19 So of 735 surveys that were returned
20 that had maps, somebody had drawn something on one
21 of those maps, half of them or just half of them
22 drew circles on the maps that covered areas where
23 the Bipole III project area was. So the maps were
24 blank, we didn't put the Bipole III study area on,
25 we didn't put the Berens River Road project. We

1 didn't want to bias anybody to want to put their
2 circles inside those study areas. So it was after
3 the fact that we had to determine which ones were
4 in the Bipole study area. And as I'm pointing out
5 on the slide here, just over half of the surveys
6 that had mapped information identified a location
7 in that banana area we call the project area.

8 In total, the people who identified
9 using the Bipole III project study area
10 represented just less than 12 percent of the total
11 amount of surveys that were sent out.

12 Slide number 12 here is indicating the
13 results of the screening surveys, in terms of
14 people who identified traditional activity in the
15 Bipole project study area live in various parts of
16 the province. And so what I'm showing here is
17 that, for example, just over 19 percent of the
18 people who identified use in the project area were
19 living in the Winnipeg area. And 10.7 percent of
20 them were living in the MMF southeast region,
21 which is on this side of -- east side of Lake
22 Winnipeg. 10 percent of the people who identified
23 traditional use in the project area were from the
24 Interlake MMF region, almost 20 percent from the
25 southwest region, 21 percent from the northwest,

1 about 16.8 from The Pas, and 1.8 from Thompson.
2 Now, in the case of the Thompson region, I have to
3 say that the number of individuals who were either
4 on the harvester card list or on the new MMF
5 membership citizenship list was really quite a
6 small number. And correspondingly, there was a
7 very small number of screening survey returns from
8 people living in that region. I'm not in a
9 position, I don't think, to talk about why there
10 might be a lower number of people in the Thompson
11 region who either have a harvester card or are
12 under the new membership list, but it is a problem
13 with the screening survey. And in the detailed
14 interviews that there was, the representation from
15 that region is low, in the study and in the
16 findings.

17 So this map here on slide number 13,
18 it's a map that we have been able to create since
19 we have actually submitted the TLUKS report in
20 2011. This is showing the results of all of the
21 respondents' information from the screening survey
22 on where they said they engage in traditional use
23 in this quarter of the province.

24 We selected this quadrant because the
25 MMF has a lot of issues with the transmission

1 route in this area, but also we had very limited
2 resources and so we focused them on this
3 particular section of the province. So what this
4 is showing is, and I don't know if you can see it
5 on here, this outer brown line is showing the
6 outer extent where between one and 23 of the
7 screening survey screen respondents identified a
8 location within there.

9 I should add that this red line coming
10 down the middle is the final preferred route.

11 So the darker tinting on this map is
12 indicative of higher rates of overlap where the
13 screening respondents, independent of one another,
14 identified the same location. So basically it's
15 layering the number of times a place is
16 identified, one on top of the other.

17 So what this is showing is that the
18 greatest density of the overlap occurred north of
19 Riding Mountain National Park. This would be in
20 the mountain area -- the name will come to me --
21 Duck Mountain. There's also an area around Swan
22 Lake where there's a lot of overlap. There's a
23 lot of overlap around The Pas. But in general,
24 you can see that -- and this is based on 382
25 returned surveys, and it does not include the 49

1 people that we did the detailed interviews with.
2 And I purposely excluded those 49 people so that I
3 could look and say, were the detailed interview
4 results reflective of this broader number of
5 people? And as it turned out, they were.

6 So, as I said, the TLUKS involved a
7 phase one screening survey, and the second part of
8 it were detailed interviews. The detailed
9 interview component of the TLUKS was specifically
10 designed to document traditional use in sort of a
11 systematic and consistent way. It documents the
12 spatial locations, where people go to engage in
13 traditional use. It documents the temporal
14 characteristics, what seasons of the year is this
15 place gone to, what decades has it been used by
16 individual interviewees?

17 I should add that the TLUKS system is
18 built to document traditional use within the
19 interviewee's own lifetime. So by way of
20 examples, there's a type of study that's used in
21 Canada, and it's called a use and occupancy study
22 approach. And that approach is largely used for
23 land claims and title claims by Aboriginal groups
24 where they are relying on an oral history about
25 places, you know, parents went and grandparents

1 went. Whereas this particular type of traditional
2 use study is only documenting the personal
3 experiences of the people that you are
4 interviewing. So we're not asking, where did your
5 father go, or where did your grandparents go?
6 It's only where they have gone in their own
7 lifetime.

8 The TLUKS also documents all the
9 different species that are harvested and whether
10 they are harvested for food, for medicine, for
11 arts or crafts, for fuel wood. The only cash
12 income traditional use that is included in the
13 TLUKS is trapping. So it doesn't include
14 commercial fishing or commercial wild rice
15 harvesting, nor does it include recreational catch
16 and release fishing, or days spent at the summer
17 cottage. It's very focused on the traditional
18 aspect of traditional use.

19 The TLUKS system also documents some
20 cultural and social patterns that are associated
21 with traditional activity. For example, it
22 documents who people go out on the land with,
23 where they learned to go to the places that they
24 go, and some of their sharing practices. In a
25 general way, the TLUKS also gathers information

1 about country food consumption levels by the
2 interviewees and other things such as equipment
3 ownership.

4 The TLUKS system is designed to
5 collect information about traditional knowledge,
6 and that includes ecological knowledge. So we go
7 back to this concept that's in the EIS of ATK.
8 While the -- for the purposes of the Bipole III
9 project, we focused more so on traditional use,
10 the system itself is designed to collect
11 information on traditional knowledge, which would
12 include historic cultural sites, battle sites,
13 burial sites, ceremonial sites, and so on and so
14 forth, as well as ecological knowledge, including
15 interviewee knowledge of important spawning
16 habitats, ungulate migration routes, rare plants
17 for medicines and so on.

18 So the target, given the budget and
19 time that was available to the MMF, as well as for
20 myself, was to complete 50 detailed interviews.
21 This was never understood to be a statistically
22 valid sample, it was what could be done for the
23 money and the time available. In the end, we
24 completed 49 interviews. These 49 interviewees
25 were largely identified from the screening survey.

1 One of the questions in the screening survey had
2 been, would you be willing to participate in a
3 detailed interview? And so we'd of course grabbed
4 that list as quickly as we could and contacted
5 those people.

6 As I said earlier, the interviews were
7 conducted between November 2010 and the end of
8 2011. Each of these interviews typically took
9 between two and four hours, one on one. One of
10 them took eight hours in two separate sessions.
11 Clearly, the more active the harvester, the more
12 there is to talk about and the more to document.

13 We only documented traditional use
14 within the banana, although sometimes on some of
15 the maps that are in the TLUKS report, you'll see
16 cleared areas that are outside the banana. And
17 those were cases where an interviewee just really
18 felt it was important, they wanted that
19 information on the map, and so we put it on the
20 map, even though it's outside the project study
21 area.

22 The 49 interviews, in my opinion, are
23 very highly representative of those 49
24 individuals. However, 49 people is a very small
25 sample size in a very large Manitoba Metis

1 population. As a basis for projecting Manitoba
2 Metis harvesting patterns in general, is that a
3 big enough sample? Is it illustrative of what
4 might be going on out there? Yes, I think it is.

5 So what were the highlights from the
6 detailed interviews? Not surprisingly, we learned
7 that the interviewees living both within and
8 outside the project study area were engaging in
9 traditional use in the project study area. We
10 identified 419 separate food harvesting and 82
11 trapping areas on the mapping component.

12 One of the questions in the TLUKS
13 interview guide is asking people how much time,
14 how many days, how many trips they make to the
15 location they have identified and how many days
16 they spend there in each year. And so we
17 documented that for all of the different areas
18 that were identified by each interviewee.

19 So in the most recent decade of the
20 work that we did, from 1990 to 2000, what we
21 learned from those 49 interviewees is,
22 coincidentally, they spent an average of 49 days
23 in the project area each year. Half of those 49
24 interviewees spent 24 days or more, and
25 collectively they spent just over 2,000 days a

1 year engaged in traditional activities in the
2 yellow banana area.

3 We learned from these 49 interviewees
4 that they make multiple trips into the project
5 study area each year. They will go two or three
6 times to go hunt moose. They will go two or three
7 times to hunt deer and elk. And these are
8 separate trips. So, for example, these harvesters
9 don't go out to hunt elk, deer and/or moose at the
10 same time. They are very discrete activities.
11 They go out at a different time when they want to
12 go fishing. They may go another time when they
13 want to harvest small animals. And this is why
14 the data is showing high numbers of trips and high
15 number of days spent in the study area.

16 The 49 interviewees, we learned the
17 majority of them engaged in large animal
18 harvesting, moose, deer, elk. 88 percent of them
19 fish in the project study area.

20 I just noticed an error on my slide
21 here. Almost two-thirds of these interviewees
22 report that they harvest small animals in the
23 project area, and about 40 percent of them engage
24 in plant gathering activities.

25 Moose is the most sought after species

1 of large animals, followed by deer and then elk.

2 One of the questions we asked during
3 the detailed interviews was how often in the
4 previous 12-month period these interviewees had
5 consumed a meal of country food. And 85, just
6 over 85 percent of them reported that they ate
7 country food at least once a week, and 60 percent
8 reported consuming meals of country food two to
9 three or even more times a week. So these are
10 individuals and families that are relying on
11 harvesting activities as part of their nutrition
12 and their family economies.

13 We found many of the interviewees
14 don't live near the project study area -- or
15 sorry, the harvesters that we interviewed that
16 don't live close to where they are actually
17 harvesting typically stay with family and friends
18 who do live in that area. The dynamic of it is
19 that a lot of the interviewees were born close to
20 where they go back to harvest, or they had cousins
21 or grandparents still living in the area, or
22 friends. So it wasn't a case that they were --
23 the only draw to a particular area for harvesting
24 was they were likely to find something there,
25 there was that social aspect of it, of spending

1 time, whether it was over a weekend, over a week,
2 spending time with family, engaging in traditional
3 activity with family members or friends.

4 Almost half of the 49 interviewees
5 that we talked to reported that -- when we
6 identified a place on the map, we asked them, how
7 did you learn to go there? And just less than
8 half of them said, well, my father told me, my
9 grandfather told me, my aunt told me, my wife's
10 brother told me. So it wasn't sort of randomly
11 that they arrived to use this area, it was a
12 learning curve and it was usually familial.

13 As the interviewees, because we were
14 documenting on a decade by decade basis, what we
15 learned is that as the interviewees got older,
16 instead of going out on the land with their
17 father, they are now taking their own children or
18 their own grandchildren, or they are out there
19 with friends, you know, as they get older in life.
20 But largely the interviewees began their
21 traditional activities in the company of parents
22 or extended family.

23 Many of the interviewees we
24 interviewed were married and had children and were
25 spending time with their own children as well as

1 their spouse's family. There's a connection
2 through marriage. So sometimes a person may have
3 spent time harvesting in a particular area, and
4 then they married, and now they are harvesting in
5 an area where their spouse's family -- or maybe
6 they are using both areas now.

7 So the two maps up on the screen here
8 is a comparison of what the 382 people in the
9 screening survey told us, and that's on the left.
10 And the map on the right is all of the harvesting
11 areas identified by the 49 people who participated
12 in the detailed interviews. So the area that's
13 here on the left is the southwest quadrant of the
14 province, which I have outlined in this dashed box
15 here. So what this tells me is that, first of
16 all, the data from the 49 interviews wasn't a
17 fluke, it's actually confirmed and validated by
18 the 382 screening survey responses. So it gives
19 me a level of confidence that, notwithstanding 49
20 interviews was a small sample number, it's not an
21 anomaly, it's actually the use patterns are
22 similar to what at least 382 other Manitoba Metis
23 have provided.

24 I'm just going to quickly run through
25 slide number 20. The map on the right is the map

1 that is in the MMF TLUKS 2011 report, showing all
2 moose harvesting areas in the central part of the
3 province, as reported in all the decades between
4 1940 and 2010. The one on the left is only
5 showing the data for the period 1990 to 2010. And
6 I put them side by side to illustrate that the
7 pattern that's going on in the last decade is
8 similar to the pattern that was going on over the
9 longer period of time. As I'm going to be talking
10 about it a little bit later with respect to a lot
11 of the moose closures, if we were sitting here a
12 decade into the future, I think the map might
13 start to look quite a lot different.

14 These are, again, just the most recent
15 decade of information on elk harvesting areas and
16 deer harvesting areas. The full provincial maps
17 for the entire record from 1940 to 2010 are in the
18 map series D and E, in the MMF TLUKS 2011 report.
19 So these are just showing recent decade. All
20 decades are in the 2011 report.

21 So what this is showing is we've got
22 the Bipole preferred final route coming through
23 here, and what this is showing is that there is an
24 overlap of elk harvesting areas on the line, and
25 deer harvesting overlaps in a number of locations.

1 Slide number 22, again, small animal
2 harvesting and gathering areas, this is the data
3 just for the most recent decade of the TLUKS data.
4 You know, you can see the overlap again with the
5 preferred final route. Also this shows that
6 people are using a lot of the same areas, whether
7 it's for moose or for deer or for elk. There's a
8 consistency of going back to the same places for a
9 variety of different resources.

10 So, in summary, the findings regarding
11 Manitoba traditional use within or adjacent to the
12 preferred final route, both the screening survey
13 and the detailed interviews indicate that
14 traditional use areas are overlapped by the final
15 preferred route for the transmission line. The
16 west central part of the province, clearly, is a
17 highly important traditional use area and the
18 final preferred route transects right through that
19 area.

20 It's difficult to say too much about
21 the preferred final route and traditional use in
22 Northern Manitoba. As I said earlier, the sample
23 size was really too small to reflect traditional
24 use in that area.

25 We know that Manitoba Metis, who

1 engage in or near the final preferred route, don't
2 just live beside the preferred route, they live
3 all over the province. And we know that the
4 Manitoba Metis who live outside the final
5 preferred route area make many trips to and spend
6 many days in the areas that are transected or
7 overlapped by the final preferred route.

8 Is there a scheduled break that I
9 should be aware of?

10 THE CHAIRMAN: More or less 10:30, but
11 no rush.

12 MS. LARCOMBE: Slide 24, I just wanted
13 to mention that Manitoba Metis traditional use is
14 subject to influences and constraints. Probably
15 the greatest influence is the Manitoba laws of the
16 hunt.

17 The Manitoba Metis Federation has had
18 what is called the Metis laws of the harvest since
19 2004. It's, I think gone through, it's now in its
20 third edition, but largely these laws of the hunt
21 include the guiding principles of responsibility
22 to community, to the environment, and to
23 conservation and sharing among others. So the
24 laws of the harvest are the guide that Manitoba
25 Metis operate under when they are engaged in

1 traditional use.

2 Section 4.1 of my November 4th, 2012
3 report provides a lot of the detail of what is
4 included in the laws of the hunt. So I just want
5 to run through a few of them right now.

6 Under the laws of the harvest,
7 Manitoba Metis only have the right to hunt for
8 food or harvest for food. Harvesters are to
9 follow all health and safety regulations and
10 requirements, including applicable provincial and
11 federal firearms, vehicle and boating safety and
12 operating certificates and licences.

13 Under the laws, hunting of deer, elk
14 and moose is limited to the time frame between
15 July 15th and January 15th. No hunting of large
16 animal species that are accompanied by an
17 offspring under the age of a year. No hunting
18 where a conservation closure has been issued by
19 the Manitoba Metis Federation to assist with the
20 recovery of declining populations. No fishing by
21 net during fish spawning seasons. No hunting of
22 waterfowl during the nesting period. And so on
23 and so forth. I'm not going to go through all of
24 them.

25 The point here is that Manitoba Metis

1 traditional use is very much a community right,
2 and as a community they operate under a common set
3 of laws that were developed through and are
4 implemented by the Manitoba Metis Federation.

5 Another influence on Manitoba Metis
6 traditional use is land tenures and designations.
7 I'm not sure how clear the map is on this screen,
8 but you have hard copies I believe in front of
9 you.

10 What the map on the right is showing
11 is that in Manitoba, traditional use is not --
12 there's no carte blanche right to harvest on
13 privately held lands. A Metis harvester may seek
14 prior permission from the landowner to enter their
15 land to do that. But by and large, the point I'm
16 making here is that in that west central part of
17 the province, there is a lot of titled land.

18 Now, I wasn't able to identify a map
19 that showed me where all private lands were in
20 this particular geography of the province. So
21 what this map on the right is doing is
22 illustrative of where the agricultural lands are,
23 and by implication, most of those agricultural
24 lands are privately titled lands. So what this is
25 showing is that in this west central part of the

1 province, which is so important to the Manitoba
2 Metis, there is a large part of this landscape
3 that's not readily accessible to them for
4 harvesting.

5 A second area in this geography is
6 federal lands. We've got Riding Mountain National
7 Park, which is a fairly large landscape. Manitoba
8 Metis, well, for that matter no one by Federal
9 Park rules is permitted to harvest animals in this
10 part of that world. Additionally, and it's not
11 shown on this map, Federal lands which are held on
12 behalf of First Nations is reserve land and
13 upcoming Treaty Land Entitlement lands which will
14 eventually turn into Federal lands held as reserve
15 lands, all of those reserve lands are -- well,
16 Manitoba Metis traditional use on that land is not
17 prohibited, definitely harvesters require
18 permission from the First Nation to step foot on
19 the reserve.

20 And in the interviews that I
21 participated with the Manitoba Metis, it was
22 really quite clear to me that they were aware of
23 where those boundaries were, when we were doing
24 the mapping, oh, we don't go on the reserve there,
25 you can't do that. So there's sort of an implicit

1 understanding that those lands are off limits for
2 Manitoba Metis.

3 In terms of other influences or
4 constraints on traditional use, there is
5 provincial regulations. Many of the provincial
6 regulations are adopted into the MMF's Metis laws
7 of the harvest, but I did want to point out that
8 there is specific regulations that the Manitoba
9 Metis are subject to: For example, Provincial
10 Park rules that restrict hunting within specific
11 distances of cabins, camp sites, cottage areas,
12 roads, beaches, that sort of thing. There's rules
13 regarding the discharge of firearms within
14 specified distances of provincial, municipal and
15 local planning district roads. There's
16 restrictions on railway rights-of-way. And also
17 the province posts no hunting zones, sometimes for
18 public safety reasons and sometimes for
19 conservation reasons. And all of those rules and
20 regulations also influence how, where, and when
21 Manitoba Metis can engage in traditional use.

22 So the last influence I want to talk
23 about is something I understand the panel has an
24 ear full about already, so I'm going to be very
25 brief, is the recent moose hunting closures.

1 So slide 25 here that's on the screen
2 is showing on the left, these are the areas
3 identified by the 49 interviewees, places they
4 rely on for moose harvesting. And on the right,
5 we have the game hunting areas that have recently
6 been closed, no moose hunting in there anymore.
7 Additionally, I hear the province is also
8 considering closing game hunting area number 12,
9 which is up here at Red Deer lake, which if you
10 look on the map on the left, it's getting into one
11 of the higher use areas for moose by Manitoba
12 Metis.

13 So what this is showing is that game
14 hunting area 19 A, which is proposed to be
15 transected by the Bipole III transmission line, is
16 going to be one of the last remaining open moose
17 harvesting areas north of Dauphin.

18 Now, this map, which is based on the
19 49 interviews, is not showing as much moose
20 harvesting in 19 A, and this may be because
21 there's better areas further north, but I wonder,
22 with all of the other ones closed, how attractive
23 19 A might become since it will be open.

24 As well, as I mentioned, Manitoba
25 Metis people travel quite some distance to engage

1 in harvesting activities, and they have to wonder
2 what's going to happen when they have to look to
3 driving to The Pas as their first opportunity
4 really for moose hunting. And it's too early to
5 know what's happening in that regard, but
6 certainly there's a potential that not only
7 Manitoba Metis harvesters, but all rights holding
8 harvesters, faced with the same closure problems,
9 may all be congregating now, or shortly north of
10 Red Deer. And they are going to be doing that in
11 areas that the transmission line is cutting
12 through.

13 I think the panel beside me, or Abbie
14 Stewart is going to be talking more about the
15 moose biology aspect of that.

16 MR. MADDEN: Ms. Larcombe, can you go
17 back to the last slide again? And can you just
18 explain the map on the right-hand side with the
19 dashed line that says moose, can you explain that
20 line?

21 MS. LARCOMBE: Yes, this is -- it's
22 essentially sort of the southern boundary of where
23 your moose are. I mean, obviously, it's not --
24 it's like the maps that you see for the northern
25 tree line -- it's not precise on the map, but this

1 is a generalized south extent of moose with the
2 exception, you know, that there is still moose in
3 Riding Mountain National Park. But largely south
4 of that area in southwestern Manitoba, you're not
5 going to find moose these days.

6 MR. MADDEN: Thank you.

7 MS. LARCOMBE: Mr. Chairman, I'm just
8 thinking I'm sort of moving into a completely new
9 subject area, if this would be maybe a good time
10 for the break?

11 THE CHAIRMAN: Sure. We'll take a
12 break for about 15 minutes, come back about 20 to.

13 (Proceedings recessed at 10:26 a.m.
14 and reconvened at 10:40 a.m.)

15 THE CHAIRMAN: Okay. Returning to
16 where we closed off, Ms. Larcombe.

17 MS. LARCOMBE: Thank you. All right.
18 So we're on slide 26 on the screen right now. So
19 now that I've provided some background on Manitoba
20 Metis traditional use in the private study area,
21 I'm now going to move onto some of the concerns I
22 have about how Manitoba Hydro did or did not use
23 that type of information to narrow down where they
24 want to construct the transmission line, or where
25 they propose to construct it.

1 So this slide and the next are
2 highlighting some of the concerns I have about the
3 apparent lack of reliance on the traditional use
4 information, as required in the scoping document,
5 that went into the evaluation and eventual
6 selection of the final preferred route.

7 So the first bullet on the screen,
8 according to my review and understanding of what
9 is called the site selection environmental
10 assessment process that Manitoba Hydro has
11 identified in their environmental impact
12 statement, which was the process that was used to
13 guide and evaluate, and finally select the final
14 preferred route. So according to my review, the
15 initial list of sort of over-arching constraints
16 and opportunities that are identified in that
17 methodology and the ones that, according to my
18 understanding, guided the selection of the various
19 alternative routes, did not include lands
20 important for traditional use by Manitoba Metis or
21 any Aboriginal group as one of those over-arching
22 constraints or benefits. I'll qualify that by
23 saying that First Nation reserve lands and Treaty
24 Land Entitlement sections did make it onto that
25 over-arching list of constraints.

1 The next step in the SSEA was an
2 evaluative process to come up with the preliminary
3 final route review. And my understanding from
4 reading the SSEA is that the evaluation that was
5 used relied upon a series of what were called
6 regional features. And again, lands important for
7 traditional use were not identified in this second
8 step of the process.

9 Now, on slide 27, the third step in
10 the SSEA was the selection of the preliminary
11 preferred route, or the PPR, my understanding is
12 that at this step the preliminary route was
13 identified based on evaluation of 27 criteria that
14 were contained in a framework called the route
15 selection matrix, or the RSM. The 27 criteria are
16 listed in the EIS in appendix 7A on page -- sorry,
17 table 7A-1. The point I want to make is that
18 there's this list of 27 criteria, and traditional
19 use or lands important for traditional use are not
20 one of those criteria. There's a criteria in that
21 matrix that's labelled resource use. But when you
22 go into the document to figure out, okay, what
23 does that label mean, it doesn't include domestic
24 use or traditional use. So, once again, in my
25 view, at this stage in this selection process,

1 traditional lands and land use are not being
2 considered. They are not on the lists, they are
3 not in the constraints.

4 So then finally, the preliminary
5 preferred route is announced in late July of 2010.
6 And this date is important because -- actually,
7 I'd like to back up a minute here. With the
8 selection of the preferred route, the other thing
9 I wanted to mention is that -- there's a footnote
10 in the EIS that says the cut-off date for
11 information that fed into that 27 criteria in that
12 route selection matrix was April of 2010. In
13 April 2010, the MMF hadn't even -- I don't even
14 know if they even conceived of doing a TLUKS at
15 that point. And based on the information provided
16 by Manitoba Hydro as an undertaking in this
17 hearing, I understand that Hydro's own ATK work
18 was just roughly 50 percent completed at that
19 time.

20 So my point is that a preliminary
21 route is selected before the traditional land use
22 information is even on the table.

23 And then lastly, the final preferred
24 route, which is the route that's included in the
25 EIS that this panel is charged with looking at,

1 was filed two months after the MMF actually
2 provided their TLUKS report. And while that
3 report is appended to the EIS, it's clear that the
4 information that was in that report did not
5 adequately inform the route selection or the
6 effects assessment, which I'll be talking about
7 shortly.

8 So I guess in summary, it doesn't
9 appear to me that the TLUKS report and data in any
10 way informed the effects assessment on the final
11 preferred route. I'd like to point out that both
12 Hydro's ATK study and MMF's TLUKS were focused on
13 the larger project study area, the large banana
14 shape that we all know on the map. Neither of
15 those studies was particularly focused on the
16 preliminary preferred route or the final preferred
17 route. So both studies covered an enormous
18 landscape area, and both of those studies were
19 based on very small samples.

20 As a result, detailed information on
21 traditional use and/or knowledge specific to the
22 final preferred route, in my opinion, is lacking,
23 and this has lead to a lot of gaps and unknowns.

24 Conclusions about the residual project
25 effects on traditional use by Aboriginal peoples

1 in general, and the Manitoba Metis in particular,
2 in my opinion, appeared to have been made without
3 sufficient information.

4 And the reason there wasn't sufficient
5 information, I have talked about the timing of,
6 you know, when the route selection was done
7 predates the receipt of the information that
8 should have fed into it. But also at the end of
9 the day, because of those timing issues and not
10 having traditional use of lands and resources as a
11 criteria or a constraint at any step in that route
12 selection process, at the end of the day, you
13 know, Manitoba Hydro has come up with this list of
14 150 odd environmentally sensitive sites or ESS's.
15 And I believe this list absolutely has to be
16 incomplete because it didn't include the Manitoba
17 Metis data, and the information that is in there,
18 as far as I can tell, is based on a very small
19 sample size. And no attention, at least to this
20 date, has been spent specifically on looking at
21 the final preferred route, not the study area but
22 the final preferred route.

23 To be fair, Manitoba Hydro's EIS has
24 identified some of the impacts on traditional use,
25 and they are the ones that I would expect that

1 they would have identified. For example, they
2 have identified that there may be avoidance of
3 plant gathering in the vicinity of transmission
4 corridors due to concerns about chemical
5 vegetative management. They have identified that
6 there is a potential that animals will avoid
7 construction areas and this could have an effect
8 on traditional use. They have identified that
9 temporary disturbance, those are restrictions on
10 access and harvesting due to worker safety
11 concerns, could impact on traditional use. And
12 finally, they have identified that the access
13 created by the cleared portion of the entire
14 linear component of the transmission line could be
15 a double-edged sword. It could increase access
16 for harvesters, but it could increase it maybe too
17 well and result in overharvesting or conflicts
18 between harvesters and recreational users. So
19 they have identified some of those effects, but
20 there's some that they haven't.

21 So what I have to say about what I
22 think some of the effects are that haven't been
23 identified is based on two things. One, it's
24 based on what I know about Manitoba Metis
25 traditional use, based on the work I have done

1 with the MMF, but it also is built on my
2 professional career of working with Aboriginal
3 people, knowing how they harvest and knowing how
4 things impact them.

5 So, it's impossible to assess what the
6 impact of certain aspects of the construction
7 phase are going to be on traditional use. And the
8 reason I say this is because there's information
9 missing out of the EIS. The scoping document
10 required that the EIS describe a list of things.
11 And in that list of things were marshaling yards,
12 which existing access routes they were going to
13 use, where the new ones they might build would be,
14 where the borrow pits would be, all of that.

15 And I participated in the MMF's
16 development of information requests, some of which
17 went to you, panel, and were consequently sent on
18 to Manitoba Hydro. So we know from their
19 responses that they don't know where those places
20 are yet. It's been maybe a year has gone by,
21 maybe they know a little bit more than they did
22 when we initially requested that information. But
23 the point is, there's a whole part of this project
24 that's an unknown. We don't know what existing
25 access routes and trails they are going to be

1 taking their large equipment through during the
2 construction phase, because we don't know where
3 those routes are, we don't know how much of an
4 effect that's going to have on Manitoba Metis
5 traditional use in that area, because they may
6 very well be using the routes that they use.

7 Another area of project effect that I
8 don't think has been fully explored in the EIS is
9 how large an area and for how long a period of
10 time is the Crown going to put restrictions in
11 place to the benefit of construction worker
12 safety? Are we talking a square mile? Are we
13 talking a hundred yards? Are we talking, can't go
14 through it all? Can only go through at this time
15 of the day? There's many unknowns about how
16 traditional use is going to be affected. And it
17 will be temporarily, I acknowledge that, during
18 the construction phase. But because there's a
19 lack of detail in the EIS, it's pretty difficult
20 to identify project effects if you don't have all
21 the information in front of you.

22 The third point I wanted to make was
23 that the EIS focuses on what are the environmental
24 effects on traditional use going to be for local
25 communities, First Nations, Northern Affairs

1 communities, adjacent communities, and I'm
2 paraphrasing language from the EIS. What's
3 missing from all of that is, what are the project
4 effects going to be on the Manitoba Metis who
5 don't live there? The ones that live east of Lake
6 Winnipeg, the ones that live in Winnipeg, the ones
7 that live in the Interlake, the ones that live in
8 the southwest, they don't seem to be part of the
9 equation in the Environmental Impact Statement.

10 Another effect that I don't think has
11 been adequately explored in the EIS is what the
12 potential is that the Crown is going to close
13 existing access routes or harvest areas for
14 wildlife protection strictly in response to
15 project related access opportunities? So on the
16 one hand, the EIS is acknowledging, you know,
17 we're creating this new access opportunity, but if
18 it becomes a problem, well, that's the province's
19 responsibility to manage it. And I don't disagree
20 with that, but I don't think it's been explored
21 enough in the EIS to look at what are the
22 potentials and what are the probabilities that
23 that could happen?

24 And then the last issue in the EIS
25 that's not adequately addressed is obviously the

1 moose closures, and I think you have heard enough
2 on that subject, so I'm not going to belabour it.

3 I'm on slide 31, just some comments on
4 the mitigation measures that have been proposed in
5 the EIS with respect to avoiding or preventing or
6 minimizing impacts on traditional use. One of the
7 main mitigation measures that's identified, and
8 it's repeated in many locations in the EIS, is
9 that to minimize impacts on traditional use,
10 construction will occur in the winter months in
11 Northern Manitoba. I did a quick word search to
12 find out if, in the EIS, if it actually defined
13 what winter months were, and when winter months
14 applied to Northern Manitoba, what part of
15 Northern Manitoba are we talking about?

16 The issue with identifying
17 construction in the winter months as a mitigation
18 to minimize impacts on Manitoba Metis traditional
19 use is that Manitoba Metis actually engage in
20 traditional use during the winter months. As I
21 mentioned earlier, under the Metis laws of the
22 harvest, Manitoba Metis harvest large animals up
23 until January 15th. And that definitely in my
24 mind, being from Manitoba, is winter.

25 They also engage in small animal

1 harvesting during the winter. They also engage in
2 fishing during the winter. So limiting
3 construction to the winter months is not a panacea
4 for avoiding impacts on traditional use.

5 Another mitigation measure that's
6 identified in the EIS is the construction during
7 the summer months, in the southern part of the
8 province, will be done in a way to avoid impacts
9 on plant harvesting areas. And I agree, that's a
10 good thing. But the mitigation measure doesn't go
11 far enough to recognize that plant harvesting is
12 not the only thing that goes on in the summer
13 time. We've got waterfowl, we've got game bird,
14 we've got fishing, we've got gathering, and from
15 mid-July through January 15th, you've got large
16 animal hunting. All of those things are going on
17 in the summer months in the areas where the
18 transmission line is supposed to be built. And
19 this has not, in my view, been adequately
20 identified.

21 And then also the use of -- within the
22 EIS, Manitoba Hydro has repeatedly identified that
23 they will mitigate impacts on traditional use, on
24 wildlife, on many things by using existing roads
25 and trails for the construction phase. And I'd be

1 the first one to say that it's preferable to use
2 existing roads rather than building new access, so
3 don't get me wrong there. But the point I want to
4 make is that those existing roads and trails are
5 the same, that they want to use for construction,
6 are the same trails and roads that the Manitoba
7 Metis are using to access the landscape for
8 traditional use. They rely on those access
9 routes.

10 So just saying that you'll use
11 existing roads to mitigate impacts is counter
12 intuitive, in my opinion. It would depend on
13 which roads and which trails were identified to be
14 used during the construction phase. Because they
15 haven't been identified, it's impossible to say
16 whether this type of mitigation should be on a
17 road by trail by road by trail basis.

18 I wanted to talk a bit about access
19 management plans because, again, throughout the
20 Environmental Impact Statement, the use of access
21 management plans to mitigate a host of potential
22 project impacts, I guess my overall comment is
23 that making a commitment to mitigate is not the
24 same as a mitigation measure. The commitment
25 lacks the meat on the bones. To me it's a vague

1 commitment to do something in the future without
2 giving enough information to give a person like
3 myself confidence that this is something that's
4 actually going to work, and it's going to work to
5 the benefit of the Manitoba Metis, as well as
6 other rights holders in other communities.
7 There's a lot of competing interests out there.

8 So these access management plans lack
9 detail. Moreover, it's not clear who actually
10 gets to be involved in creating the plans. I went
11 through the EIS, as well as some of the
12 information request responses. And I appreciate
13 that there's multiple writers and during the
14 compilation of a large document, the language is
15 often not consistent, but, you know, we hear plans
16 will be created with affected communities, with
17 local communities, individual communities,
18 resource users, First Nations, Manitoba
19 Conservation and Water Stewardship. I'm just not
20 clear who these plans are going to be created
21 with. It could be all of the above, I'm not sure.
22 But it is also not clear what will trigger the
23 requirement for an access management plan to be
24 created. What is the trigger? Who has a say?
25 When is it going to happen? What are you going to

1 do when there's competing interests where, for
2 example, you've got Aboriginal rights holders
3 saying, please, stop access on this part of the
4 transmission line because it's disturbing
5 wildlife, competing against a snowmobile
6 association or a tourism operation saying, please,
7 keep it open because it's good for business. And
8 those are very real possibilities, obviously not
9 throughout the entire full kilometres of the
10 transmission line, but this could be the case in
11 segments of it. And the EIS just doesn't give me
12 the confidence of how the scenarios are actually
13 going to be handled.

14 The last point I want to make on
15 access management plans is that the language in
16 the EIS is, we're going to work with communities,
17 we're going to work with Manitoba, we're going to
18 do this together. But then when I read some of
19 the responses to the information requests, it
20 suggests that some of these plans were already
21 developed. And it kind of doesn't give me a lot
22 of confidence that this is going to be sort of an
23 iterative and consultative process with respect to
24 access management.

25 So, getting close to the end, I'm sure

1 you'll be happy.

2 Slide 33, this is covered under the
3 section on recommended mitigation and
4 accommodation measures in my November 4, 2012
5 report. The first bulleted item is addressing
6 information gaps. Thus far in my presentation
7 today, I have identified a number of gaps, I
8 think, in terms of sort of the linkage between
9 what's known and what's not known about
10 traditional knowledge, and what's known and not
11 known about certain aspects of the project. I
12 think some of these gaps are important enough that
13 they ought to be addressed sooner than later. In
14 particular, I don't think that a lot of the
15 information out of the Manitoba TLUKS made it into
16 the list of environmentally sensitive sites. I
17 don't know if any of them did, but I have a
18 suspicion, given the timing of when that data
19 became available, that they probably didn't make
20 it into that list.

21 And as I said earlier, the Manitoba
22 Metis Federation TLUKS looked at the project study
23 area, that large banana shaped object on the map.
24 I mean, that's a massive landscape. And it was
25 based on 49 interviewees out of -- you know, it's

1 an incredibly small sample size. The data that's
2 come out of the TLUKS is just simply not
3 sufficient to inform. You know, being added to
4 this list of sensitive sites which will then be
5 subject to mitigation through environmental
6 protection plans, there's a lot of gaps and
7 there's a lot of uncertainties and I really think
8 that they need to be addressed.

9 And I'm sure nobody likes to hear
10 this, but I think there needs to be additional
11 work done to get that. And I think that the
12 Manitoba Metis Federation and Manitoba Hydro
13 should be talking to figure out how to fill those
14 gaps, and do it before it's too late, before these
15 lists are finalized and before, you know,
16 licensing, you know, if it's approved, before
17 environmental protection plans are completed.
18 Because it's really difficult to get your foot in
19 the door when the wagon train or the cart is
20 already going down the road. And it's been my
21 experience, you know, over the last 20 odd years
22 that it just seems to be a common pattern for
23 Aboriginal groups, they are sort of behind, one
24 step behind, two steps behind, and that critical
25 information just never quite makes it into the

1 final analysis. And I think there's an
2 opportunity to address this in the short-term, and
3 to make sure that environmental protection plans
4 are the best that they can be, and the best that
5 they can be to protect Manitoba Metis.

6 So in the interest of time, this slide
7 33 in my November 4, 2012 report, I have talked
8 about my ideas and my recommendations for how the
9 MMF and the Manitoba Metis can have a more
10 meaningful role in environmental protection plans.
11 I have talked about the creation of a tri-party
12 agreement which would involve the Manitoba Metis,
13 Manitoba Hydro, Manitoba Conservation and Water
14 Stewardship, working collaboratively to identify a
15 process to get the things done that need to be
16 done. And I think I'm going to ask you to read
17 that section of my report. And I'll be available
18 if there's any questions.

19 And the third bullet there is, I have
20 also recommended that there be a communication
21 program put in effect during the construction
22 phase to address the concerns with respect to
23 there being a large number of Manitoba Metis
24 harvesters who are not in any of the communities
25 that are identified to receive communications in

1 the EIS. These are the Winnipeg people and the
2 Interlake people who, as I said, travel frequently
3 and for a fair number of days each year into areas
4 where the construction is going to be going on.
5 And it will be very easy for them to get all the
6 way out there only to find out that the route that
7 they plan to use is closed because there's
8 construction activity going on, or there's no
9 hunting postings because of worker's safety. And
10 the potential for that to happen, I think is high.
11 The potential to minimize that through proper
12 communications program, I think is a good thing.

13 So the last point I want to make is
14 that I have recommended that there be a follow-up
15 program for both the construction phase and the
16 operating phase. Both of these I believe could be
17 handled under the tri-party agreement that I had
18 mentioned.

19 The purposes of the construction phase
20 monitoring and reporting would be to, it's a form
21 and a process to actually evaluate whether the
22 mitigation or accommodation measures that are
23 being put into practice are actually working. And
24 if it's done in sort of a short time, you know,
25 every three, six months basis, it provides that

1 opportunity to actually discover whether it's
2 working while it's still under construction, as
3 opposed to too late. So it would allow for
4 adaptive management. So if there's a particular
5 mitigation measure that, you know, everybody
6 thought would do this, and you learn after three
7 months or six months or the first year it's not
8 working, it's a forum to actually go, okay, this
9 isn't working, let's try this instead.

10 I have outlined that this evaluation
11 process could be informed by the committee members
12 or the tri-party agreement members themselves.
13 The information could come out of the
14 communication program that I have talked about.
15 Local and regional MMF offices are a wealth of
16 information. They could also -- I mean, they are
17 going to know if these mitigation measures are
18 working because they are going to be the first
19 people that hear when it's not, if you know what I
20 mean.

21 And then finally, I would think after
22 the construction phase there should be a final
23 report on what worked, what didn't work, what were
24 the lessons learned. I think what struck me was
25 that one of the information requests that came out

1 of the MMF was, did Manitoba Hydro have any
2 monitoring or information on any mitigation
3 measures for Bipole I or for Bipole II? And the
4 answer was no.

5 Now, I know those were built a long
6 time ago and the regulatory regime was different,
7 and recognition of Aboriginal rights was different
8 in those eras. But I think this is the right era,
9 I think this is the right time to take this
10 opportunity to actually document, you know, best
11 practices would be useful for any future
12 transmission lines built in Manitoba. It would
13 also certainly inform other provinces and other
14 utilities who, to the best of my knowledge, also
15 lack that type of monitoring data.

16 Okay. And finally, I also recommend
17 that there be a longer term operating phase
18 monitoring adaptive management strategy in place.
19 This will be the forum for the MMF to bring
20 forward concerns that arise during the operations
21 phase of the project, to allow for continuous
22 monitoring, review, and reporting on mitigation
23 measures that relate to the operating phase as
24 opposed to the construction phase.

25 It also would be an opportunity for

1 the Manitoba Metis Federation to continue
2 communications with harvesters in terms of things
3 like, you know, what maintenance activities are
4 going to be happening this year, when, where, what
5 to look out for. Are there going to be places
6 shut down temporarily because of maintenance
7 activities and the like.

8 Now, I think President Chartrand is
9 going to be talking tomorrow about sort of a
10 broader umbrella. I have only -- sorry a broader
11 umbrella of mitigation and accommodation. The
12 recommendations I have made are particular to
13 traditional use. I know that my colleagues on the
14 panel will also be making some recommendations
15 with respect to areas that they are presenting on.

16 So with that, I'm going to say thank
17 you very much for listening to me and I'll look
18 forward to questions.

19 MR. MADDEN: Mr. Chair, I just have
20 three additional questions of clarity for
21 Ms. Larcombe, and then I think we can move into
22 the next presenter. My understanding is, if the
23 Commission is agreeable, that we'll hold questions
24 until all three presentations?

25 THE CHAIRMAN: Yes.

1 MR. MADDEN: Ms. Larcombe, can you --
2 you mentioned this, can you explain the difference
3 between what was done in the TLUKS in relation
4 that would inform routing versus what would be
5 done in an impact assessment on traditional use,
6 or is there a difference?

7 MS. LARCOMBE: Can you repeat that,
8 please?

9 MR. MADDEN: Is there a difference
10 between the study that you undertook to assist in
11 routing, or to assist in where you would put
12 routing, versus an impact assessment on, once you
13 know what the project is, what effects it's going
14 to have on resource use?

15 MS. LARCOMBE: Yes, there is a
16 difference. The MMF's TLUKS system is not an
17 impact assessment tool, it is a tool to establish
18 baseline information that can then inform impact
19 assessment.

20 MR. MADDEN: And you mentioned your
21 concerns about having clarity about who mitigation
22 is with. Can you elaborate on that, or explain
23 that, why is it important to have clarity about
24 who is being engaged?

25 MS. LARCOMBE: Well, clearly you want

1 to make sure that you're engaging the people who
2 have the rights and the people who are having, who
3 have traditional use. A large portion of the
4 Manitoba Metis population that's engaged in
5 traditional use don't live in the local
6 communities that the EIS identifies as being the
7 places they are going to go to communicate about
8 access plans and so on and so forth. So I don't
9 see where that segment of the Manitoba Metis gets
10 plugged into the equation, based on what's written
11 so far.

12 MR. MADDEN: And lastly, in your
13 professional opinion, based on what's in the EIS,
14 do you believe that the requirements of the
15 scoping document in relation to Aboriginal
16 traditional knowledge and Aboriginal traditional
17 use have been met?

18 MS. LARCOMBE: In the case of
19 traditional use, I don't believe so. I know that,
20 notwithstanding that Manitoba Hydro had an interim
21 report from the MMF, I think it was in June of
22 2011, they didn't have the full information until
23 August, or a couple of months before the EIS was
24 filed. So I know that Manitoba Metis traditional
25 use information didn't inform the route selection,

1 maybe in a generic way it did for effects
2 assessment.

3 And with respect to Aboriginal
4 traditional knowledge, the MMF TLUKS system
5 presents the opportunity to collect traditional
6 knowledge, or ecological knowledge, but we focus
7 more so on traditional use of lands, largely
8 because -- that's a long -- I'm not going to get
9 into that. We focused the data collection on the
10 scoping guideline that said, you will describe the
11 use of lands and resources for traditional
12 purposes, and the EIS will determine impacts on
13 that traditional resource use. That was where our
14 focus was. That was the baseline information that
15 we provided. Do I think it was adequately
16 addressed? No.

17 MR. MADDEN: Thank you, Ms. Larcombe.
18 I think we'll move onto our next presenter,
19 Ms. Stewart.

20 MS. STEWART: Good morning everyone,
21 my name is Abbie Stewart. I'm a wildlife
22 ecologist with MSCS, which is based in Calgary,
23 Alberta. My expertise relevant to these
24 proceedings is moose ecology. Specifically, my
25 graduate research was on moose responses to

1 changes in habitat and fragmentation of their
2 habitat in a landscape with human disturbance.

3 My work has been published in peer
4 reviewed journals and conference proceedings.

5 I have been involved in the production
6 of impact assessments in Alberta and the Northwest
7 Territories, including all stages from baseline
8 data collection, to data analysis, model
9 development, impact predictions, and the
10 development of mitigation measures. A couple of
11 examples are impact assessment in Northeastern
12 Alberta, where I was involved from start to
13 finish. So that included everything from being
14 down in the field collecting wildlife data,
15 analyzing those data, producing models,
16 determining zones of influence, and producing
17 impact predictions and the mitigation measures as
18 well.

19 Another one I was involved in was the
20 Mackenzie gas project. And there again I was
21 involved in baseline data collection, data
22 analyses, and model development for wildlife
23 species.

24 I have also reviewed documents and
25 made recommendations to boards with respect to

1 follow-up programs. And I am currently working
2 with a review board in an advisory role up in the
3 Northwest Territories. An example of one project
4 I was involved in as a reviewer was Telson
5 hydroelectric project in the Northwest
6 Territories, and there I reviewed wildlife
7 baseline information and made recommendations, or
8 highlighted gaps essentially for the board where
9 the baseline data could be improved.

10 I work with respect to follow-up
11 programs. I reviewed the wildlife affects
12 monitoring program that came out of the diamond
13 mine, and the review was for the EMAB, the
14 environmental monitoring advisory board. And
15 there I was reviewing wildlife data analyses and,
16 again, making recommendations based on how well
17 the data answered the objectives and the
18 predictions that were outlined by the monitoring
19 plan.

20 I am currently working with the
21 Environmental Impact Review board out of Inuvik,
22 and that's still ongoing. But I've been involved
23 in reviewing the documents relevant to wildlife
24 and providing, translating that information for
25 the board for their understanding, and

1 highlighting gaps and making recommendations where
2 required.

3 Today I am here on behalf of the --

4 MR. MADDEN: Can I just ask one
5 question? Do I understand correctly that you have
6 worked for Aboriginal communities, review panels,
7 as well as proponents?

8 MS. STEWART: Yes. And on that note,
9 I have also been involved in third party reviews
10 on behalf of First Nations in Alberta. So I have
11 reviewed the wildlife components of other impact
12 assessments, mostly in Northeastern Alberta.

13 And today I'm here on behalf of the
14 Metis, and I have reviewed and assessed the
15 analyses and the EIS provided by Manitoba Hydro
16 for the Bipole III project with respect to moose
17 here. And I am presenting the remaining gaps with
18 respect to moose today, after a single round of
19 IRs.

20 So just an overview of some of the
21 topics I will be going over today. I realize my
22 submission was a bit long, so I'll try to
23 summarize it into some key messages.

24 Initially, I'll focus my presentation
25 on the findings I had with respect to the

1 sufficiency of baseline data. And I'll be
2 focusing my attention in the central portion of
3 the study area, I believe it's referred to, so
4 that's largely south of The Pas.

5 I will present my own quick analysis
6 of moose data that was provided to me in the
7 spring by Manitoba Conservation. And again, it's
8 really with a focus in that area of Metis concern,
9 and I'll show a figure here in a moment.

10 I'll also talk about some of the
11 definitions used by Manitoba Hydro to determine
12 impact significance, and the data needed to
13 satisfy that definition and use it to make a
14 determination of impact significance.

15 And I'll be talking about the
16 information that we currently have available to us
17 to understand the effectiveness of mitigation, and
18 what we have available to us to make a decision,
19 as it stands right now, about project impacts.

20 And finally, I'll be talking a little
21 bit about moose response to management, how we
22 understand it right now, and the alternative
23 routes which have been a hot topic, I understand.

24 So this is a focal area, the red
25 shaded area here is recognizing Metis harvesting

1 area. And then the large fuzzy red rectangle that
2 you see up there is really where I focused my
3 attention, although I did look at information for
4 the whole project study area, but my focus is this
5 red rectangle today. And that's based on Patt's
6 traditional land use and knowledge study. And
7 this particular rectangle really outlines where
8 large mammal harvesting has taken place
9 historically from, I believe 1941 was the earliest
10 piece of information.

11 So my first topic is baseline data.
12 And I found that the baseline data as presented in
13 the EIS is not suitable for use in follow-up and
14 monitoring programs right now. It would be
15 difficult to use these data to verify impact
16 predictions, and difficult to use these data to
17 verify mitigation success. And we obviously can't
18 identify or verify mitigation success right now
19 for those mitigation measures that are currently
20 unknown to us.

21 So the area specifically in that red
22 rectangle that I showed you are not adequate. The
23 aerial surveys flown along the entire length of
24 the final preferred route, which I believe we will
25 refer to as the mammalian aerial surveys, were

1 qualitative, and that is the words of Manitoba
2 Hydro in response to my IRs. It provided
3 information in terms of relative track density, so
4 high, medium or low. That type of information
5 can't be used in a monitoring program because it
6 can't be used as a basis for comparison.

7 The quantitative aerial surveys that
8 were flown weren't in the area of concern for the
9 Metis, or what I refer to the area of concern,
10 which is the area of Metis large mammal
11 harvesting.

12 The high quality moose habitat aerial
13 surveys and the multi species aerial surveys don't
14 fall within the Metis area of concern, with the
15 exception of one survey that did fall north of Red
16 Deer Lake, south of The Pas.

17 I'll just note that that area was a
18 lower spatial extent of use by Metis. So it
19 appeared to follow quite a linear pattern of Metis
20 use. But I did include it in my focal area
21 because there was Metis use in that area for large
22 mammal harvesting.

23 There were ground data collected by
24 Manitoba Hydro for mammals. There were summer and
25 winter mammal tracking surveys. But these data

1 sets have quite a low sample size, and the ability
2 to really make any meaningful conclusions from
3 that type of data is compromised with such a small
4 sample size. We are simply looking at trends in
5 that case. And we can't conduct any detailed
6 analyses with this information. And again, that
7 sort of a data set is really -- it can't be used
8 in the follow-up and monitoring because you can't
9 really use it as a comparison if it's not strong
10 enough, if the data set isn't large enough to
11 really detect that change post project.

12 And I will show you some pictures here
13 in a moment about -- just to help visualize these
14 data gaps. And because of the limited survey
15 coverage we have for moose, we don't have a
16 baseline data set with which to compare
17 alternative route options. We can't do a
18 quantitative comparison alternative route option
19 with respect to moose. And therefore, when we're
20 faced with these new alternatives, we don't have
21 the information in front of us to really come to
22 any conclusions.

23 And I understand from this morning
24 that there will be some information forthcoming.
25 And hopefully, it will be of a nature that we can

1 actually come to some conclusions on our own about
2 what this alternative route means, particularly
3 for the Metis.

4 So this is a figure I pulled from the
5 mammals technical report, part of the EIS. This
6 is map two, and it's showing high quality moose
7 surveys. Now, there's a lot of information on
8 this map. Really what I want you to look at is
9 that there are four green polygons at the north
10 end, and those are the high quality habitat moose
11 surveys.

12 MR. MADDEN: Can you maybe use the
13 pointer?

14 MS. STEWART: So here's the
15 northernmost one, here and here. And here The
16 Pas, so we see nothing south of The Pas. And as
17 you'll recall, this area here is where the TLUKS
18 really highlighted the concentration of large
19 mammal harvesting by Metis.

20 Here is a second figure, and this is
21 showing a multi species aerial surveys that were
22 completed by Manitoba Hydro. And again, looking
23 at the north end, we see quite a concentration of
24 overlapping polygons here. And a single polygon
25 falling further south, south of The Pas. And this

1 one is falling north of Red Deer Lake. And this
2 is where there is Metis use, so the spatial extent
3 is much reduced compared to south of Red Deer
4 Lake. But, again, we have this area where we
5 don't have any quantitative aerial survey data or
6 it wasn't covered.

7 This is a third figure, again from the
8 mammals technical report. And this is showing
9 data provided by Manitoba Conservation. This is
10 moose aerial surveys that were completed from 1967
11 to 2010 by Manitoba Conservation. And the pink
12 highlights here are those where data were
13 presented, so moose population estimates for those
14 areas. Again, there is no aerial survey data
15 presented for south of Red Deer Lake, so we have
16 this area where we're not seeing any information
17 once again.

18 In response to one of my IRs where I
19 was asking about the sufficiency of the data
20 collected south of Red Deer Lake, in this area
21 where Metis are harvesting large mammals, Manitoba
22 Hydro responded that historical moose survey data
23 from Manitoba Conservation were used for areas
24 south of Red Deer Lake. They quote a moose
25 density for GHA 12, which is here, and the data

1 was from between 1991 and 2000. I didn't see any
2 other Manitoba Conservation data presented for
3 GHA, south of GHA 12. So I can't be sure which
4 historical moose survey data they are referring to
5 in their EIS.

6 So, really, what we have here is
7 really limited up-to-date data for moose south of
8 Red Deer Lake. Without that solid foundation of
9 data -- I mean, the data is the foundation for the
10 impact assessment, so we need to understand how
11 they came to the conclusions they did with such a
12 lack of data, some quantitative large sample sizes
13 for moose south of Red Deer Lake.

14 Now, I know this came up for
15 discussion already in the transcripts that the
16 moose habitat model wasn't validated, and I would
17 like to bring it up here again today, because
18 model validation is possibly one of the most
19 important steps in the model building process.
20 Without validation, we don't know that the model
21 is reliable or works as it's intended. This can
22 obviously have consequences for the impact
23 assessment if we're working with a model that
24 isn't as accurate as one expects it to be. And an
25 example of this that was already discussed is

1 Moose Meadows.

2 Now, what I have up here are clips
3 from a couple of maps from the mammals technical
4 report. Once again, on the left is map 22, and
5 this is relative moose density and distribution in
6 relation to the final preferred route. And the
7 red circles on this map are showing moose track
8 density. So the larger the red circles, the
9 higher the track density. The smaller the
10 circles, the smaller the track density.

11 And on the right, I have map 22 from
12 the mammals technical report once again. And this
13 shows the distribution of model moose habitat
14 within the project study area. So the orange on
15 that figure is moose habitat.

16 Now, if we look just northwest of Swan
17 Lake, so in this area here, we see quite a large
18 red circle here indicating a higher track density
19 for moose. If we look over here on the moose
20 habitat map, we don't see much corresponding moose
21 habitat.

22 Now, I understand that Manitoba Hydro
23 identified this as potentially a unique area and
24 looked into reasons why it wasn't picked up in the
25 moose habitat model. Their reasons may be

1 accurate, though, I can't actually assess them
2 myself with the information I have at my
3 fingertips. So it may be the case here. But I
4 will point to you up further north along this
5 route, and if you look on the left-hand map, we
6 see some high moose track densities once again.
7 And if we look over on to the right-hand map, we
8 don't see any corresponding moose habitat.

9 Now, I highlight these discrepancies
10 because this is the type of information I have in
11 front of me to try and understand what's
12 happening, what's the current status of moose in
13 this region. And now I am -- I have the question
14 of which one is accurate? Do I rely on a
15 qualitative aerial survey here on the left, or do
16 I rely on an unvalidated moose habitat model on
17 the right? And they appear to provide some
18 contradictory information, at least within this
19 area. And I haven't analyzed them or looked at
20 them closely for the rest of the area.

21 Once again, these data are the
22 foundation for the impact assessment that we have
23 in front of us, and the data just aren't there.
24 Manitoba Hydro hasn't demonstrated the suitability
25 of their baseline data for use for the prediction

1 of impacts, or for use in follow-up and monitoring
2 programs. Really, more data are needed if
3 monitoring programs for moose are going to be
4 implemented if the project is approved. And I'm
5 of the opinion that there really should be some
6 monitoring for moose populations, and project
7 effects on moose as well.

8 So this is where I wanted to get an
9 understanding for myself, being from Alberta and
10 coming to Manitoba, to understand what's happening
11 with these moose populations. I heard a lot about
12 closures and declining moose populations, but
13 didn't really have a good picture of what was
14 happening, or how they have changed in Western
15 Manitoba.

16 So based on the traditional land use
17 and knowledge study produced by Ms. Larcombe, I
18 narrowed down my focus to that area where there
19 was that higher intensity of large mammal
20 harvesting. I looked in that red rectangular area
21 and I picked all of those GHA's that fell within
22 the Bipole III study area and fell within the
23 Metis moose harvesting area. And I'm not sure if
24 you want me to list them all off, but you can see
25 them on the figure there. And I can provide that

1 information later if people want the specifics.

2 So the data were provided to me by
3 Manitoba Conservation this spring, and it was
4 provided to me in roughly this format of moose
5 population estimates in the 1990s, and moose
6 population estimates current. So for simplicity
7 sake, I have 1990 on the bottom axis here, the X
8 axis, and 2012, although it might be 2011, it's
9 just for simplicity sake here. And on the Y axis
10 I have moose density, which is the number of moose
11 per kilometre squared.

12 What I found was the sample size here
13 was big enough to actually do a statistical test,
14 and there is a significant decrease in moose
15 population over the last 20 years. So the
16 probability -- what that means is that the
17 probability is small that this relationship
18 happened by chance. So those two means that we
19 see there are significantly different.

20 I know we've heard this message a lot,
21 but I just wanted to reiterate it here that the
22 moose population in the area where the Metis have
23 historically harvested moose are in decline, and
24 this really focuses on an area of concern, this
25 analysis is in an area of concern for the Metis.

1 And this includes both open and closed GHA's here,
2 so it is that whole area.

3 Now, while the ultimate cause of this
4 decline is unclear, I couldn't say one way or
5 another why we're seeing the decline that we are,
6 what we have here is the moose populations are on
7 a downward trend, and they are less likely to
8 increase and recover with additional environmental
9 stressors. And Manitoba Hydro is proposing one
10 more linear disturbance in this area. And in this
11 particular area, they are not following the
12 existing linear access routes.

13 I haven't seen evidence yet of a
14 reverse of this declining trend in western
15 Manitoba, and that remains to be seen.

16 So Manitoba Conservation has cancelled
17 licensed moose hunting in those hatched GHA's, the
18 hatch marking up there on the figure. GHA 12 is
19 shaded here because it's apparently being
20 considered for closure, although this isn't
21 official yet. And I understand the Metis are
22 voluntarily refraining from hunting in these areas
23 as well.

24 Moose populations are significantly
25 declining in the GHA's that fall with the Bipole

1 III project study area and within the Metis area
2 of concern. It's possible that an additional
3 effect could be significant. I would like more
4 data available to me to make a conclusion like
5 that, but I've kept this information, at least
6 here this is the information I have available to
7 me that I can work with. And I have used it
8 basically to help me focus my review of the EIS.

9 Which brings me to my next topic,
10 which was the magnitude of an impact. And this
11 was one of the criteria that Manitoba Hydro uses
12 to determine significance. The significance of
13 the project impact on moose is underestimated in
14 at least this central portion of the project study
15 area.

16 Manitoba Hydro's definition of large
17 magnitude is up on the screen here, and this is
18 from chapter 4 of the EIS. It says that:

19 "Large magnitude are those effects
20 that are outside the normal range of
21 variation or exceed established
22 thresholds of acceptable change."

23 The definition refers to a normal range of
24 variation. But when I asked Manitoba Hydro for
25 this information, in response to one of my IRs

1 they stated that they don't have sufficient data.
2 Now, this isn't surprising. There aren't many
3 data sets that would really allow you to outline
4 the normal range of variation, which is why I was
5 surprised to see it in the definition for large
6 magnitude.

7 The definition also refers to
8 thresholds of acceptable change, but thresholds
9 weren't identified in the EIS that I could find.

10 Manitoba Hydro hasn't provided
11 information that, according to their definitions,
12 would be used to determine significance of
13 residual effects for the project case or the
14 cumulative effects case. Manitoba Hydro has
15 concluded that effects are within what they
16 perceive as acceptable, but I would ask, what
17 about other parties?

18 And the CAC outlined other issues that
19 they had with the criteria used by Manitoba Hydro,
20 and in particular the reversibility concern that
21 they outline. We're in agreement with them that
22 there are issues with using that to determine
23 significance.

24 So is this acceptable to the Metis?
25 Is it an acceptable amount of change? Is it an

1 acceptable amount of change to Manitoba
2 Conservation? It doesn't appear that Manitoba
3 Hydro worked collaboratively on an approach to
4 significance determination with other parties or
5 stakeholders or groups that might be affected by
6 the project. And this would just be general good
7 practice. Manitoba Hydro hasn't considered what
8 the Metis might consider an acceptable level of
9 change that I can see.

10 So moose populations are already under
11 stress in this central region. Management action
12 has been implemented in the form of closures. So
13 Manitoba Conservation has determined that a
14 threshold of sorts has been reached such that they
15 actually responded with management action in the
16 form of closures.

17 The project and cumulative effects
18 assessments aren't informed by quantitative data.
19 I outlined some of those deficiencies in baseline
20 data, and they don't have the evidence to support
21 their conclusions and their definitions. Their
22 criteria are difficult to -- it's difficult for
23 find supporting data really to satisfy that
24 definition of criteria for magnitude.

25 We really need more information. We

1 need more detailed baseline data for the central
2 region. We need to know trends, thresholds, is
3 any change acceptable? There's multiple factors
4 that are contributing to the current state of
5 moose populations. We don't have that
6 information. For example, what are the changes in
7 patch sizes, changes in linear densities that have
8 occurred up to now? Are there any changes in
9 predator density that have occurred up to now?

10 Again, we are in agreement with the
11 CAC evaluation of the cumulative effects
12 assessment with respect to the sufficiency of the
13 baseline data. I just don't see that it's there.

14 If Manitoba Hydro were to collect some
15 detailed data for this central region of the
16 project study area, they would need to incorporate
17 that data into an impact assessment and really
18 reassess, at least with respect to moose.

19 A quantitative cumulative effects
20 assessment, I think, would be extremely useful in
21 this case. The qualitative CEA is just
22 uninformative. Coming in as an outsider from
23 Alberta, I found reading the Cumulative Effects
24 Assessment, I was really no wiser after as to what
25 the future projects might be in the project study

1 area. I was provided some maps showing the
2 location of some of these disturbances after I
3 asked for it, however, the maps didn't show
4 project footprints. We still don't have access
5 routes for the project. It doesn't look like
6 seismic lines were included in those maps. So
7 there are still some questions here.

8 I think Manitoba Hydro needs to use an
9 alternative definition of magnitude, one which
10 could be supported with data. And I think they
11 should collaborate with other groups on
12 determining significance and really come up with a
13 relevant magnitude criteria with respect to moose,
14 and probably with respect to the other VECs as
15 well.

16 So I'm going to talk about follow-up
17 and monitoring now. And currently there's not
18 enough information to really understand the
19 effectiveness of mitigation prior to making a
20 decision about the project's impacts. Mitigation
21 and monitoring strategies are still undetermined.
22 Manitoba Hydro is still in discussion with
23 agencies such as Manitoba Conservation regarding
24 mitigation. Metis and other parties need to know
25 the outcome of these discussions. I think

1 certainly the panel needs to know the outcome of
2 these discussions.

3 The final Environmental Protection
4 Plan won't be available until a licence is
5 granted. So we won't know the details until this
6 has finalized and within that Environmental
7 Protection Plan will be some mitigation measures.
8 My understanding is the Environmental Protection
9 Plan also includes plans such as the access
10 management plan and the vegetation management
11 plan, which will outline specific mitigation
12 measures. We're in a situation where we don't
13 know what the final mitigation measures will be
14 for moose, or if they will be successful.

15 The point of an impact assessment is
16 to predict residual project impacts and residual
17 project impacts are those remaining after
18 mitigation has been implemented and is successful.

19 It's difficult to understand how we
20 have some residual project impacts, yet we don't
21 know what some of the final mitigation will be,
22 nor do we have evidence that for those mitigations
23 that we are aware of, that they will be
24 successful. And I haven't seen any detailed -- or
25 any details with respect to monitoring to

1 understand if they are going to be monitoring the
2 success of those mitigation measures.

3 I know targets for definitions of
4 mitigation success were provided. Targets could
5 be developed independently or using the baseline
6 data, and those targets would be used to trigger
7 adaptive management. However, I have demonstrated
8 the baseline data for that central portion of the
9 study area for moose are insufficient. We don't
10 have the data necessary to detect significant
11 changes post project.

12 There is no evidence that proposed
13 mitigation will be successful. So the
14 effectiveness of the measures on reducing impacts
15 on moose are currently unknown. Manitoba Hydro
16 has responded to an IR, that they have not had to
17 mitigate specifically for moose before, which begs
18 the question whether the mitigation measures that
19 they are now proposing will be effective. If they
20 don't have experience there, I'm not sure that
21 they have that information.

22 The detailed follow-up program
23 information should be available prior to project
24 construction, and that's according to CEA
25 operational policy on follow-up.

1 Manitoba Hydro hasn't provided clear
2 and detailed information on how mitigation success
3 will be determined. I don't have a clear
4 understanding of what will be monitored should the
5 project be approved. I need to understand what
6 Manitoba Hydro is considering in a monitoring
7 program with respect to moose. I will say that
8 moose wasn't included in the monitoring plans in
9 the original EIS, though, since then in a meeting
10 with Manitoba Hydro, it appears as though moose
11 now are being considered in monitoring. So that
12 is a step forward. I think we need to understand
13 what aspects they are going to be monitoring with
14 respect to moose.

15 And Ms. Larcombe identified some
16 timing issues with respect to identifying
17 environmentally sensitive sites that are Metis
18 specific. So I understand monitoring will include
19 environmentally sensitive sites. So as long as
20 those sites are complete and include Metis
21 information, I think we're moving in the right
22 direction.

23 Now, this is a figure taken from
24 Manitoba Hydro's presentation on October 31st,
25 where they were talking about moose responses to

1 management. This is a moose population history
2 from GHA 8. We have moose population on the Y
3 axis, and we have year along the X axis here. And
4 I understood the point of this figure was to
5 demonstrate that moose populations are resilient.

6 Now, what we see is that moose
7 populations here are declining until about 1986,
8 where a full closure was implemented and we saw
9 moose population increase. Once it was open
10 again, we saw a rapid decline. It continued to
11 decline through a partial closure. And with the
12 full closure, the moose population increased once
13 again.

14 So the expectation is that moose
15 populations will respond positively to decreases
16 in hunting pressure. I think this is good
17 information. Well, I think it's useful to see
18 this. I think at least it gives us some room for
19 optimism. However, I do have some concerns with
20 this information, which is that Manitoba Hydro has
21 presented one factor that could be affecting moose
22 populations. They have looked at a closure.
23 There are multiple factors that could be
24 influencing moose which we don't see on this
25 figure here. We don't have information on, for

1 instance, predator density or fire history or
2 additional disturbances on the landscape. So
3 we're really just seeing one snapshot with one
4 factor.

5 This is a sample size of one, which
6 isn't a very large sample size. We need more data
7 to really make an informed interpretation of this.
8 Here we have a trend, it's a positive trend, but I
9 think we need to really replace beliefs with
10 knowledge. We need to monitor whether these
11 closures are successful.

12 I would also like to note this
13 scenario is equivalent to other GHA's with the
14 same ecological processes operating here that are
15 now at play in other closed GHA's. We have
16 multiple bordering GHA's that are closed that have
17 reduced moose populations. Will we see the same
18 response from all of those GHA's?

19 Now, I'm not saying that we won't. I
20 am just saying that we can't assume that the
21 closures will be effective. We need to see that
22 they will be effective, so we need to measure the
23 success of that particular piece of mitigation.
24 If it is not successful, we need to implement
25 adaptive management.

1 And for adaptive management to be
2 implemented, we need a trigger. So we need a
3 target. Is the current population of moose the
4 target, the baseline? That probably won't be
5 satisfactory to a number of parties, so presumably
6 that target is much higher, but we don't know what
7 their target is.

8 With respect to Happy Lake, which was
9 another example that Manitoba Hydro brought up,
10 access management was implemented. And I don't
11 know if the same access management plans are going
12 to be implemented in the Bipole III project study
13 area, simply because we don't have a final access
14 management plan, we don't have those details. So
15 we don't know the mitigation and we don't have
16 that information to make a decision right now. So
17 we certainly need to have a better understanding
18 of the mitigation and whether it will be
19 successful in this particular scenario.

20 Multiple factors are at play here:
21 Hunting control, so in the form of Manitoba
22 Conservation closures to moose hunting; predator
23 control in the form of increased bag limits for
24 wolves; it could be fires on the landscape,
25 vegetation is always changing; and additional

1 linear disturbance.

2 Manitoba Hydro is talking about
3 changes to a few of these factors at least. We
4 need to know the outcome and measure the outcome
5 of changing these factors.

6 To detect change, we need a baseline
7 against which we can measure. And as I have
8 already highlighted, the baseline is lacking for
9 moose in the central region. We need to
10 demonstrate that management will be successful.
11 So those closures that access management, we need
12 to understand the specifics of those mitigation
13 measures. And we can't plan monitoring if we
14 don't know what the mitigation is. So we can't
15 plan on how to measure the mitigation success
16 right now.

17 So, in addition to those factors that
18 I have mentioned -- and those are just a drop in
19 the hat, there could be multiple other factors,
20 there are other factors at play for moose,
21 disease, there could be many more. But in
22 addition to those, we have some evidence about
23 moose's negative response to change at the
24 landscape scale.

25 This is map six from the mammals

1 technical report and this is showing moose density
2 relative to access density along the final
3 preferred route.

4 On the left-hand image, these are the
5 red circles again showing moose track density,
6 high to low, and the purple lines are showing
7 access density. So the narrower the lines, the
8 lower the access density. The wider the lines,
9 the higher the access density. And essentially,
10 as Manitoba Hydro stated that map six illustrates
11 the relationship of reduced moose densities with
12 increased levels of fragmentation. So Manitoba
13 Hydro has highlighted that moose respond
14 negatively to fragmentation.

15 This is a theoretical figure from my
16 own research. We have animal density increasing
17 in suitable habitat on the Y axis, and the percent
18 of suitable habitat from zero to 100 percent on
19 the X axis.

20 The expectation is that animals
21 respond, or moose respond to habitat amount. So
22 the more habitat there is, the more moose there
23 are; the less habitat, the less moose, and that
24 moose would simply decrease proportionately with
25 habitat loss. There's this horizontal line that

1 extends all the way across the figure until you
2 have no habitat, and then moose population is
3 decreased.

4 That's the expectation, but what I
5 found actually happens through my research was
6 that moose populations are relatively constant to
7 a point of habitat loss, and we started to see a
8 much more habitat loss of moose in suitable
9 habitat. So the density was decreasing. And this
10 indicated that there are factors at play, other
11 than habitat loss alone, and fragmentation is
12 influencing moose. So we are having an increase
13 in number of patches, an increase in distance
14 between patches, there is extra costs for moose to
15 actually move between those patches of habitat.
16 And the concern is that the project will
17 contribute to habitat loss and fragmentation of
18 moose habitat in areas where populations are
19 already low.

20 I have some other research that shows
21 that moose abundance decreases in habitat adjacent
22 to non habitat such as grassland. So disturbance
23 can change habitat effectiveness for moose. But
24 Manitoba Hydro responded to one of my IRs that the
25 Bipole III right-of-way is not expected to have an

1 effect on habitat utilization on or near the
2 right-of-way. That's a difference of opinion, but
3 they need to demonstrate this. And that would be
4 done with follow-up monitoring, verifying impact
5 predictions.

6 So the point here is that moose
7 respond negatively to habitat loss and
8 fragmentation, and there's multiple factors at
9 play already influencing moose populations, and
10 we're already in a situation where moose
11 populations are low.

12 We really need to have a better
13 understanding of what Manitoba Hydro is planning
14 on monitoring with respect to moose, and we really
15 need to understand the mitigation and really have
16 some confidence that the mitigation that they are
17 proposing will work.

18 This is one more example, this is from
19 the oil sands region in Alberta. We have moose
20 density on the Y axis, which is number of moose
21 per kilometre squared, and year on the X axis.
22 And this year roughly corresponds to a rate of
23 1.5 percent habitat loss per year, so small amount
24 of habitat loss, but we're seeing a significant
25 decline here. We're seeing a correlation between

1 moose density and that habitat loss over time.

2 So, again, moose are responding
3 negatively to that habitat loss, 1.5 percent per
4 year. The point is, moose populations can be
5 resilient, but there are many factors influencing
6 how resilient they are. And we really need to
7 know and understand those factors at play in the
8 Bipole III study area. And we don't have that
9 understanding based on the baseline information
10 that we have been provided. We need the baseline
11 data, we need to measure mitigation success, and
12 we need to verify impact predictions. And I'm not
13 sure how we are going to verify impact predictions
14 right now with the type of data that is available
15 for moose in that central portion of the study
16 area.

17 Now, there have been some reroutes
18 that have been proposed, and I just learned this
19 morning that there will be some information
20 forthcoming on the route changes. I will just say
21 a few words about the route change in section
22 seven. Now, this is the area with Moose Meadows.
23 You probably know what I'm going to say, which is
24 that we need better data in the central area to
25 understand how Manitoba Hydro selected between

1 alternative routes with respect to moose.

2 Map 22 of -- so the new route that
3 they proposed, as far as I can tell, it doesn't
4 follow existing linear disturbance, so it will
5 still be a new linear feature on the landscape.
6 Map 22, I had showed earlier from the mammal
7 technical report shows those high moose track
8 densities in section seven. I'd like to see where
9 else there might be high moose track densities,
10 preferably with quantitative data.

11 The moose habitat model has already
12 missed some important areas. Is Manitoba Hydro
13 relying on that moose habitat model to select this
14 alternative route? And perhaps that moose model
15 should be validated.

16 The only recommendation I can make
17 based on the information available to me right now
18 is that any alternative route proposed should
19 follow existing linear disturbance. I would need
20 an impact assessment completed for the new
21 proposed route. I would need data, quantitative
22 data presented on this new proposed route to
23 really make any other sort of recommendation or
24 evaluate what the alternative route might mean for
25 the Metis.

1 Map six, as I already showed you,
2 shows that negative relationship between moose
3 density and linear density, and we have Manitoba
4 Hydro proposing another linear disturbance in an
5 area with low moose populations.

6 And mitigation has been implemented
7 there in the form of closures, but we haven't seen
8 the population responding yet. We need to find
9 out, we need to be sure that that mitigation will
10 work and that moose populations will respond. We
11 need significance criteria that are relevant for
12 moose. We need quantitative baseline data for
13 these areas of the central region. And we need
14 final mitigation measures so that we can begin
15 planning monitoring to ensure that the mitigation
16 is successful.

17 And that's everything I had to say.
18 Thank you.

19 THE CHAIRMAN: Thank you, Ms. Stewart.

20 MR. MADDEN: I just have two
21 additional questions. Can you explain to me, or
22 explain a bit more about mitigation success and
23 data, and what the connection between the two are?

24 MS. STEWART: So right now we're given
25 ideas of what the mitigation measure might be.

1 So, for example, one mitigation measure is to
2 allow some shrub regrowth along the right-of-way.
3 To understand whether that particular piece of
4 mitigation is effective with respect to moose, we
5 would need to understand whether moose are using
6 the right-of-way, or how they are using the
7 right-of-way compared to adjacent habitat. So is
8 there a difference between -- and we would need to
9 know before and after a project. So, what is
10 moose use in that area where the right-of-way will
11 be before the project, and what is moose use of
12 that right-of-way after the project? Is that
13 significantly different? And for that we would
14 need a quantitative data set to actually analyze
15 that. And then to understand on the route and off
16 the route, whether there's a difference, so
17 whether it's actually the project that might be
18 influencing any differences, you would need to
19 have data, strong enough data to compare between
20 the footprint of the project and a control area
21 outside of that project. And if there were a
22 significant difference there, you could determine
23 that it was most likely the project that was
24 actually resulting in that change, or if there's
25 no difference, then it wouldn't be the project

1 influencing that change.

2 So we need to have a strong
3 quantitative data set in order to be able to
4 assess those things and then know whether that
5 mitigation of vegetation regrowth worked for
6 moose.

7 And then you could also measure, or
8 actually have vegetation plots to measure how
9 vegetation differs on the right-of-way versus off
10 of the right-of-way, and that information would
11 feed into your understanding of how moose are
12 using the landscape.

13 MR. MADDEN: So if you don't have the
14 data, how do you conclude that the mitigation has
15 been effective?

16 MS. STEWART: You can't.

17 MR. MADDEN: Okay. You mentioned
18 about general good practice about making
19 determinations about significance and that -- or
20 making determinations about thresholds of
21 acceptable change, about involving other parties
22 and groups. Do you have some examples of that, of
23 what you are referring to when you mentioned
24 general good practice?

25 MS. STEWART: Sorry about that, I was

1 just confirming some of the details.

2 There was a case with the Northern
3 Impact Review Board, NERB, where they actually
4 postponed the project because the community wasn't
5 involved in, really in the determination of
6 significance. So there was no feedback from the
7 community there, or they weren't involved in the
8 whole process the way I understand it to really be
9 involved in that determination of significance.

10 MR. MADDEN: I have nothing further.

11 THE CHAIRMAN: Thank you. Thank you,
12 Ms. Stewart. We'll break for lunch in a minute.

13 Immediately following lunch, I want to
14 hear comments from some of the participants. I'd
15 really appreciate it if one or two can express a
16 consensus opinion rather than hear from a half a
17 dozen different folks. But what I want to hear is
18 just some thoughts on the adjournment and what our
19 schedule might be for the next two weeks, and then
20 for the period when we reconvene in the new year.
21 So let's come back at 1:15

22 (Proceedings adjourned at 12:15 and
23 reconvened at 1:15 p.m.)

24 THE CHAIRMAN: Okay. Can we come back
25 to order, please? We'll start by hearing

1 comments, arguments, thoughts from various
2 participants about basically the scheduling of the
3 adjournment, the next two weeks, and then whatever
4 time we will require in the new year.

5 Mr. Williams?

6 MR. WILLIAMS: Thank you, Mr. Chair,
7 and good afternoon members of the panel. Just in
8 terms of -- certainly our anticipation is that CAC
9 will finish their presentation, also Bipole III.
10 Where the hearing proceeds after that is obviously
11 up to you, but certainly Bipole III Coalition, CAC
12 are prepared to proceed and would like to proceed.

13 Where we have really focused amongst
14 the participants is trying to get our heads around
15 what happens in January and after that. And
16 essentially what I'm told by my colleagues is that
17 we can anticipate that following the Hydro filing
18 with Conservation on January 28th, we can
19 anticipate that the MMF and Pine Creek, and most
20 probably Peguis, will want to present evidence
21 with regards to the revised route.

22 It's unclear whether CAC Manitoba or
23 Bipole III would do so. I could indicate on
24 behalf of CAC Manitoba that prior to the revisions
25 to the route, they had prepared a bit of

1 additional evidence which they pulled.

2 In terms of scheduling, my
3 understanding is that the parties who -- in terms
4 of reviewing the revised filing, assuming that
5 there was a TAC process, my colleagues advised me
6 that they would expect about a month following the
7 TAC process to prepare for hearing and to prepare
8 their materials.

9 In terms of what a hearing might look
10 like following that revised filing, we anticipate
11 that the additional time for the hearing will
12 probably be in the range of three weeks.

13 THE CHAIRMAN: Three weeks?

14 MR. WILLIAMS: Yeah. And from that I
15 understand to be Hydro's presentation of its
16 material, accompanied by perhaps some additional
17 experts. And as I have indicated, there is two
18 parties, most likely three participants who have
19 indicated that they will require additional --
20 they expect to file additional evidence, and then
21 closing submission. So that's roughly how we have
22 estimated things out, Mr. Chairman.

23 I don't know if Mr. Madden has any
24 additional comments?

25 MR. MADDEN: I think my only other

1 comment would be, we have a real challenge or
2 difficulty in cross-examining on the Environmental
3 Protection Plan or the access plans in light of
4 what the actual routes will be. So I would only
5 request that we are able to cross-examine on those
6 issues when we come back in after Hydro refiles.
7 It becomes, as we already said in a letter
8 written, it becomes very challenging in crafting
9 mitigation measures. Well, we have put some
10 generic ones until we actually know whAat the
11 route is, in particular because these route
12 changes are so in an area of importance or concern
13 to our client. So that's the only other, I guess
14 caveat, is we just aren't in a position to
15 cross-examine fully on the Environmental
16 Protection Plan. And we would hope that maybe,
17 from some of the presentations that Hydro has
18 heard, it may want to update some of those
19 materials as well as a part -- since we really
20 don't know what exactly they are going to be
21 filing at the end of January.

22 THE CHAIRMAN: Okay. I have a couple
23 of questions.

24 Mr. Williams, why do you feel you'd
25 need four weeks? Last week when we were talking

1 about this, I indicated that two weeks would be
2 sufficient time to --

3 MR. MADDEN: One of our challenges has
4 been now the availability of experts, that we
5 still don't know exactly when we'll have the filed
6 materials. So people can't drop everything. A
7 two-week period is just not a big enough window to
8 allow us to review, potentially submit additional
9 expert reports on those, so then when we resume,
10 we can present those reports as well as have our
11 experts testify. So we think that a month is
12 reasonable. The sooner that Hydro gets those
13 materials to us, the sooner it can be done.

14 MR. WILLIAMS: And with the benefit of
15 hindsight, Mr. Chairman, I do have -- if you think
16 of the process, the experts will be both
17 preparing, assisting legal counsel to prepare
18 cross-examination, and then preparing their own
19 reports. And given -- again, it's hard to know
20 what it will take to see it, but I would, with the
21 benefit of reflection, I think two weeks would be
22 very ambitious, too ambitious.

23 THE CHAIRMAN: Mr. Madden, you said
24 that you'd like to delay your cross on access and
25 environmental protection plans until after this

1 material is in. Why would you not be able to do
2 it with the exception of these two or three areas?

3 MR. MADDEN: Because it's a broader --
4 the Environmental Protection Plans are specific to
5 what the ultimate route may be, and we just don't
6 have that. We can start, you know, with very
7 generic questions, but I just don't -- I don't
8 think it would be helpful, and I don't think it
9 would be an effective use of time, when I would
10 have to come back at it after the adjournment,
11 based upon what the supplemental filings would be.

12 So if it's absolutely a must or
13 required, yes, but I would just ask latitude
14 similar to how we have asked latitude on the
15 issues around needing to file supplemental expert
16 reports.

17 THE CHAIRMAN: Okay. In respect of
18 how much time each of the participants might
19 require in the new year, I'd like you to let us
20 know as soon as possible, no later than the end of
21 the day tomorrow. So if you feel you are going to
22 need a half a day, or a couple of hours, you
23 know -- Mr. Madden has identified some
24 cross-examination that may or may not go in the
25 new year. Mr. Williams, you said that two or

1 three parties would want to bring some evidence at
2 that time. We need to know approximately how long
3 that will take, and we need to know it very
4 quickly.

5 Mr. Mills, do you have some comments
6 on this? Please come forward?

7 MR. MILLS: Thank you, Mr. Chairman.
8 We were able to speak with Chief and Council over
9 lunch. We thank Hydro for the time. We really
10 believe it's a good decision.

11 In light of this, we would like to
12 forego next week, take us off the schedule. We'll
13 speak once following the information of the 28th.

14 And finally, our time frame could be
15 shortened, but Hydro made an indication of a need
16 for further consultation. If that consultation is
17 forthcoming, we can move along quite quickly, but
18 we'd like to be clear that our ability to proceed
19 promptly is subject to the consultation that we
20 have agreed now to undertake. So our schedule is
21 really in Hydro's court, and we encourage them to
22 get that started with us. Those are our points.
23 Thank you.

24 THE CHAIRMAN: Thank you, Mr. Mills.
25 And the same would apply to you as well,

1 Mr. Mills, please let the Commission secretary
2 know as soon as you can how much time you feel you
3 will need in the new year? I believe you had said
4 earlier probably the same half day?

5 MR. MILLS: Yes, and we'll keep the
6 secretary informed as to how the consultations are
7 going.

8 THE CHAIRMAN: Thank you. We had an
9 e-mail, it was addressed to the Commission
10 secretary from Mr. Beddome, who was here first
11 thing this morning but was not able to come back
12 this afternoon. Without reading the whole
13 thing -- bear with me as I'm just scrolling
14 through this -- he is asking some questions. He
15 says Mr. Bedford indicated there will be public
16 consultations in respect of the route revision
17 outside of the hearing process. I would suggest
18 that the Commission ask Mr. Bedford and his
19 clients, and perhaps Conservation and Water
20 Stewardship, to elaborate on what this process
21 will be. Will there be an open house similar to
22 those held from 2008 to 2010? Will the public and
23 the technical advisory committee be invited to
24 provide comments? What other consultation
25 processes does the proponent have in mind? How

1 will this impact the Crown Aboriginal consultation
2 process? Those are interesting questions. I'm
3 not sure, as I have noted this morning, it's not
4 within my jurisdiction to tell Hydro what or how
5 to do it, it's just to decide whether or not they
6 have done a good enough job.

7 He goes on with some comments about
8 the concurrent EAB, which is Environmental
9 Assessment Branch, I think it should be
10 Environmental Licensing Branch, CEC Crown
11 Aboriginal process, and just the fact that there's
12 going to be two or three concurrent review
13 processes going on. That's really all he has. I
14 mean, he had a lot more to say but that probably
15 encapsulates the important parts of it.

16 Does Manitoba Hydro have any comments
17 on this matter before us?

18 MR. BEDFORD: I understand that my
19 colleagues are currently sorting out and designing
20 what form of public consultation can reasonably be
21 done between now and January 28th. So I don't
22 have any more detail on that for you.

23 THE CHAIRMAN: Thank you. Any other
24 comments on this matter right now?

25 Okay. I indicated before lunch to

1 Mr. Madden that rather than disrupt his
2 presentation, the panel will take this under
3 advisement. We will consider some or all of it,
4 or we'll consider all of it during our afternoon
5 break. We may have responses to some or all of
6 it, which I will give at the end of the day. So
7 we'll now turn it back to Mr. Madden and his
8 panelists.

9 MR. MADDEN: Next we have Kisha
10 Supernant presenting on heritage sites.

11 DR. SUPERNANT: Good afternoon
12 everyone, welcome back from lunch. I will do my
13 best not to put you to sleep for the next hour or
14 so.

15 I am Dr. Kisha Supernant, I am an
16 assistant professor at the University of Alberta
17 in Edmonton. I did my Bachelor of Arts in
18 Anthropology from UBC, awarded in 2002, Master of
19 Arts in Anthropology from the University of
20 Toronto, awarded in 2004, and my Ph.D. in
21 Anthropology, awarded in 2011 from the University
22 of British Columbia.

23 My expertise is in archeology, and I
24 have been working in the field of archaeology
25 since approximately 2001. I have worked in a

1 variety of capacities. A lot of my research has
2 taken place in British Columbia, working with
3 First Nations communities on both academic and
4 consulting projects. My research has been
5 published in peer reviewed journals, and I have
6 attended international and national conferences
7 dealing with the archaeology of the fairly recent
8 past in Canada.

9 My particular expertise is in GIS, in
10 mapping, so looking at spatial relationships
11 within archaeological sites and how archeological
12 sites pattern on landscapes, and also what they
13 mean for contemporary communities.

14 I have done consulting work for
15 communities both in Alberta and in British
16 Columbia. I did some research for the Okanagan
17 First Nation on archeological resources in their
18 traditional territory, and recently competed a
19 project with the Fort McKay First Nation providing
20 expert opinions on how to develop co-management
21 plans around heritage resources in Northern
22 Alberta.

23 On the academic side, I have recently
24 been awarded funding from the Social Sciences and
25 Humanities Research Council of Canada for a new

1 project on the archaeology of Metis over-wintering
2 sites on the Canadian prairies. This was the top
3 ranked application to the funding body on the
4 particular committee it was submitted to, placing
5 it in the top 12 of all applications in social
6 sciences and humanities fields across the country.
7 And that project is just getting underway in
8 consultation with the Manitoba Metis Federation,
9 the Metis Nation of Saskatchewan and the Metis
10 Nation of Alberta.

11 So I bring this expertise today to
12 bear on an issue of relevance to the Bipole III
13 project, specifically the presence of Metis
14 archeological heritage in Manitoba. And so that's
15 what I'm going to be talking to you about today.

16 The basis for my review is the
17 heritage and resources technical report which was
18 prepared for Manitoba Hydro, and I reviewed this
19 with an eye to how it might impact Metis
20 archeological heritage.

21 Within this document Metis
22 archeological heritage was really not considered.
23 The term Metis was used in a few places, but the
24 specific nature of the Metis archeological record
25 was not a part of the overall more general

1 consideration. And I'll talk about a number of
2 reasons why this is problematic.

3 In addition, as noted in the heritage
4 technical report, there was a lack of on the
5 ground research related to heritage in general for
6 the Bipole III right-of-way and study area. So
7 much of the research was done from behind the
8 desk. And as those of us in archaeology will tell
9 you, you can only learn so much from sitting
10 behind a computer.

11 So in response to this I have prepared
12 a report which provides a number of different
13 things. One of the things it does is it provides
14 a historical background for Metis land use and
15 occupancy in Manitoba. So unlike my colleagues,
16 Ms. Stewart and Ms. Larcombe, I am focusing on a
17 period earlier, and the impacts that this
18 particular project might have on the remains of
19 material that was historic in nature.

20 I am also going to spend some time
21 outlining why it's important to consider the
22 uniqueness of the Metis archeological record and
23 how it may be distinct from other First Nations or
24 European historic sites. So I'm going to spend a
25 little bit of time outlining for you the research

1 that has been done in this area, what the
2 components of the Metis archeological record are,
3 and how they might exist within the Bipole III
4 study area, even if there are only a limited
5 number of known sites.

6 I'm then going to provide a critique
7 of some of the methodological points within the
8 heritage resources technical report before
9 providing a series of specific recommendations,
10 based on my own experience working with different
11 nations, to ensure that proper consultation takes
12 place with the Manitoba Metis Federation around
13 heritage resources.

14 Now, what we're concerned with here
15 are the heritage resources that are protected
16 under the Heritage Resources Acts. So all
17 heritage resources in Manitoba are protected by
18 this Act. And our specific concern is about how
19 the Metis are going to be involved in the
20 mitigation of the impacts that are going to take
21 place on the historic resources related to the
22 Metis.

23 I'm going to start with a little bit
24 of background. Why is this so important in
25 Manitoba? Well, Manitoba is in many ways the

1 homeland of the Metis Nation, during the historic
2 period, where you have a new nation emerging from
3 a variety of social, cultural, economic and
4 political dynamics surrounding the fur trade.

5 Of course, as we know, Metis played a
6 very important economic role in the fur trade,
7 with hunting, trapping, transporting goods from
8 different fur trade posts, trading, and then
9 eventually also leading to more permanent uses of
10 the landscape, including farming. The Metis, of
11 course, played a significant role in the formation
12 of Manitoba as a province, but they were largely
13 disenfranchised after 1885. And a variety of
14 issues arose from this, but one of the things that
15 comes out of this disenfranchisement is a lack of
16 consideration of the Metis archeological heritage.

17 And as will become clear throughout my
18 presentation, one of the biggest issues here is a
19 lack of research, which is one of the motivations
20 for starting this new research project I'm
21 involved in.

22 It's important to understand the
23 history of Metis land use, because the way that
24 the Metis uses the land has a direct impact on the
25 types of archeological material which get

1 deposited. So different types of activities will
2 leave different archeological signatures. And in
3 particular, there are some Metis ways of life
4 which leave different signatures than the majority
5 of the archeological record in Manitoba might
6 represent.

7 What we can say is Metis historical
8 land use is diverse. So you see everything from
9 farms being developed and farming being
10 undertaken, you find a lot of more temporary uses
11 of the landscape, perhaps on a seasonal basis, in
12 the realm of camps for things like transportation,
13 both via cart and via canoe, as important methods
14 of moving goods around the landscape. You find
15 activities related to hunting, which may be
16 slightly more ephemeral in the archeological
17 record and harder to see, and same with trapping.
18 But you do get the presence of a few other
19 interesting representations of Metis land use.
20 One of these is something that we consider a
21 unique feature of Metis ways of life, and this is
22 over-wintering.

23 Over-wintering sites are locations
24 where groups of Metis families would go out onto
25 the Prairie during the winter months to pursue

1 winter buffalo hunting. This primarily took place
2 from about the 1820's and '30s onward, with a peak
3 in about the 1880's prior to the complete collapse
4 of bison stock. You find this throughout the
5 three Prairie Provinces, so Manitoba, Saskatchewan
6 and Alberta. And these would actually have a
7 fairly visible archeological signature, as we'll
8 see some examples of later. These sites are
9 particularly important because it does represent a
10 tradition that Metis specifically follow.

11 A few other things to consider in
12 terms of Metis land use is the fact that Metis
13 were present at pretty much every fur trade era
14 fort in Manitoba. So there will be a presence of
15 Metis artifacts and archaeology at these
16 locations. And then there's also an extensive
17 system of trails which would have been used by the
18 Metis during the historic period, some of which
19 are now under contemporary roadways, but some of
20 which are still present on the landscape. So
21 these would also need to be considered.

22 I provided a map for you of some of
23 the areas of known Metis historic use. This is by
24 no way a representation of all sites of historical
25 Metis use, but these are some of the locations

1 that came out of a review of some of the
2 historical literature, in terms of areas that were
3 important for a variety of reasons for the Metis,
4 and this just gives you a small sense of where
5 many of these sites are located.

6 Obviously, there is a concentration
7 around the Red River settlement area and there are
8 a number of important archeological sites in this
9 area that I will come back to. But you will also
10 see the majority of these, and I focus here on
11 Western Manitoba, but they are all throughout the
12 landscape, and some of which fall into that what
13 we are calling the proverbial banana of the Bipole
14 III study area.

15 There's also a trail system which
16 would have extended from the Red River settlement
17 to the south, to the north, and extensively into
18 the west, where many Metis families and traders
19 were choosing strategic routes to the north, and
20 typically through the western side of the province
21 as opposed to the eastern. The movement following
22 the bison herds was primarily to the west and to
23 the north, and so you see the distribution of
24 likely places for over-wintering, for example,
25 would be to the west and north of Red River.

1 I will note that this particular map
2 would benefit from some of the research that was
3 undertaken by Symbian Consulting around
4 traditional use, and there likely are more areas
5 we can identify where there are Metis historical
6 signatures likely.

7 I'm now going to give you a sense of
8 the research, or lack of research being done on
9 Metis archaeology, because I don't have a lot to
10 critique from this particular project, because
11 there was no research done on Metis archaeology.
12 What we do know is that there is very limited
13 previous research, both from an academic
14 standpoint and even from a consulting standpoint.
15 There's some academic research done and some
16 excavations done on various sites throughout the
17 1970's and 1980's, but since the 1980's there has
18 been no concerted excavations done on Metis
19 settlements outside of a few examples of
20 mitigation.

21 There have been three excavations in
22 Manitoba, and I will outline those for you in a
23 moment, focusing again in the area around the Red
24 River settlement, excavations of Metis permanent
25 settlements where families occupied the location

1 for a number of years.

2 There are no excavations of Metis
3 sites outside of the Red River settlement in
4 Manitoba. Because of this, I have tried to
5 provide a few possible comparative examples,
6 specifically highlighting a few from Saskatchewan,
7 simply because there's a dearth of research. So
8 we don't have a good sense of any over-wintering
9 sites, where they might be located, and what they
10 might look like in Manitoba, which is a
11 significant problem.

12 In total, in Canada, there have been
13 nine sites with previous excavation that relate to
14 Metis, which is a very small amount when you
15 compare it to other Aboriginal communities. What
16 this means is that there is a significant lack of
17 knowledge of Metis archeological heritage, and we
18 need to be very careful about the potential
19 impacts because so little is known.

20 I provided for you here a map which
21 shows the sites in Canada with a history of
22 research and excavation. So as you see this
23 covers parts of the three Prairie Provinces,
24 Manitoba, Saskatchewan, Alberta, the three
25 excavations in Manitoba, there have been a few in

1 Saskatchewan, and one in Alberta, although this is
2 a border area.

3 This is, again, by no means a
4 representation of what the Metis archeological
5 record actually is. It is considerably more
6 extensive than this, and also still very unknown.
7 What we do know is a few things about Metis site
8 types. So I'm going to spend a little bit of time
9 now defining for you what we might expect from the
10 Metis archeological record.

11 As I outlined before, there are a
12 combination of factors that influence and
13 determine how archeological material gets
14 preserved on Metis sites. And this is true of
15 sites from any era, that there's a number of
16 factors, both cultural and natural, which impact
17 how we actually find and observe sites.

18 In this case there is some things that
19 we might look for. So when you have the Metis
20 occupation where there's actually structures being
21 built, what you'll find is Red River framed
22 cabins. So upon review of the literature, this
23 seems to be one of the most consistent things that
24 Metis sites see. So if there is standing
25 architecture, and in some examples there is

1 limited standing architecture, you'll see Red
2 River framing.

3 Usually associated with the cabin
4 structures, you will find mounds of various types,
5 particularly those of chimneys. So it seems to be
6 a fairly distinctive way to discover sites from
7 this era on the landscape, as you find these
8 collapsed chimney mounds usually made out of
9 brick, and then they will be covered over by some
10 soil.

11 In addition to mounds, you find a
12 variety of what we call cultural depressions,
13 which are basically a variety of different types
14 of pits which over time have partially filled in
15 but leave a visible signature on the landscape.
16 And from again my reading of the literature, these
17 can vary quite a lot in terms of the types of
18 depressions and what they might represent on the
19 different sites. And I'll show you some examples
20 as we move through.

21 One of the challenges is that Metis
22 sites all date to what we consider the post
23 contact period, and that is often a line at which
24 there is quite a clear division within the
25 archaeology of Canada, sort of pre contact and

1 post contact. And one of the major concerns here
2 is that Metis material culture, meaning the sort
3 of artifacts which are the products of day-to-day
4 life, may not look on sort of a cursory perusal
5 all that different from historic sites where Metis
6 people were not. And this creates a problem of
7 trying to distinguish Metis sites on the
8 landscape.

9 There has been some research that has
10 attempted to tease out some of the patterns of
11 Metis material culture. This is drawn actually
12 largely from the work in the Red River settlement,
13 and there was a couple of particular types of
14 artifacts that seem to be distinctive and
15 different that we can look for in the
16 archeological record.

17 So one thing that we see is high
18 concentrations of beads. And this is not entirely
19 surprising, considering the role of beads and bead
20 work in Metis culture. But one thing that was
21 quite consistent is that their sites had
22 relatively high concentrations of beads compared
23 to other sites from the same era. This, of
24 course, creates a bit of a problem because beads
25 are very, very small. And I'll come back to this

1 in a moment, but it does make a difference of
2 whether or not you can actually see many beads
3 when you are actually doing archeology because
4 they are so small.

5 One other area that has been a focus
6 for understanding the Metis archeological record
7 is the role of decorated ceramics, oftentimes
8 quite fragile. And decorated ceramics show up
9 both in permanent settlements, but also in more
10 temporary settlements. So it does appear that
11 Metis families were taking even some very delicate
12 ceramics out with them over-wintering or camping,
13 and then you see the results of that in the
14 archeological record. So that might be another
15 area where we can distinguish a Metis site from
16 other types of sites.

17 Of course, as I mentioned, there are
18 different activities taking place at these
19 different sites. So you will find different
20 artifact types, depending on what was taking place
21 at that particular site. Hunting is going to look
22 different than over-wintering, and it's going to
23 look different than farming. And so we can start
24 to look at some of those differences as well. But
25 based on the past research, this is basically what

1 we know now.

2 I'm going to highlight a few of the
3 aspects of Metis material culture. I provided for
4 you here a list. This is drawn again from a
5 combination of different resources which are cited
6 in my report, where I have combined the different
7 lists of types of artifacts that prior excavations
8 at Metis sites have found. I'm not going to read
9 this list to you but I will highlight a few
10 things.

11 As I mentioned before, you do find
12 quite a common occurrence, relatively speaking, of
13 Hudson's Bay Company ceramics, including rare and
14 delicate ceramics. This is actually a picture
15 from a site in Saskatchewan that was excavated and
16 these are some of the types of ceramics that were
17 found in that particular excavation. A number of
18 things relate to architecture, so nails, in many
19 cases nails are one of the most common types of
20 artifacts found at Metis archeological sites, so
21 the presence of nails might be somewhat of an
22 indicator. Various types of chinking used in
23 architecture to help fill in some of the gaps and
24 help stabilize various structures. Also many
25 different types of glass. A lot of things related

1 to kitchen activities and cooking activities, and
2 then a lot of things relating as well to personal
3 adornment, whether it be beads or buttons.

4 We also find interestingly a
5 combination of both fauna material, which is the
6 remains of animals, whether they be birds, fish,
7 large or small mammals. All of those categories
8 tend to appear in Metis archeological sites that
9 are known.

10 And other than these sites in Red
11 River, all the other excavations that have taken
12 place have also uncovered potentially associated
13 lithic material, which is interesting if you think
14 about the combination of the use of sort of
15 European materials and more Aboriginally based
16 materials.

17 So looking specifically then at some
18 of the types of sites, I outlined for you before
19 that there are different things that we might
20 expect because of the different diverse ways of
21 life of the Metis during the historic period. And
22 these are some of the potential indicators of
23 those types of sites on the landscape. So if we
24 were to be looking at areas of permanent Metis
25 settlement, we expect a higher proportion of both

1 ceramics and architectural remains compared to
2 other types of Metis sites, and evidence of the
3 use of Red River framing.

4 Over-wintering sites we expected to be
5 a little bit different. Architecture was still
6 present in that the families were building usually
7 one room, sometimes two room cabins. So we will
8 expect some remains of that activity. Including
9 one of the things that has come up at some
10 over-wintering sites is what are known as mudding
11 pits, which would create a cultural depression,
12 which I brought up earlier. These are areas of
13 preparing plaster to help cover the insides of the
14 cabins and help with the insulation. We'd also
15 find ceramics. And in particular in
16 over-wintering sites, there does seem to be a high
17 occurrence of beads, as I had mentioned before.

18 For camps and other temporary
19 locations, you would not expect to find much in
20 the way of architecture, or not much in the way of
21 ceramics, although as I mentioned before, there
22 might be some, but you will find a higher
23 occurrence of hunting material. So arms related
24 artifacts, we often find bullet casings, sometimes
25 parts of arms, and then also a higher occurrence

1 of this fauna material, again, remains of animals
2 in this case.

3 Around then, of course, there's fur
4 trade posts where the pattern becomes a little bit
5 more complex. Trying to understand how a Metis
6 material pattern might differ from other
7 activities around the fur trade fort is not a
8 question that has been adequately addressed in the
9 literature. So it's something that I really
10 cannot yet speak to.

11 Basically, what we can say, though,
12 about fur trade posts is that there will be Metis
13 material there. So if there's a location that is
14 encountered which is related to fur trade posts,
15 we can assume that there is a very high potential
16 for Metis archeological heritage.

17 I've given you some overview of Metis
18 site types and artifacts, but I'd like to give you
19 some specific examples, to kind of take this
20 general picture and put it into the specifics of
21 archeological research.

22 So I have drawn from the research of
23 David McLeod, who did a series of excavations in
24 the late 1970's and early 1980's. He is
25 referenced in my report. He looked at three

1 different sites, Riel house, Delorme house, and
2 the Garden site, and these are indicated on your
3 map here. These are all related again to the more
4 permanent nature of Metis settlement, and I'm just
5 going to run briefly through each one.

6 So Riel House, of course, a very
7 important location in Metis history, it's located
8 here in Winnipeg. And two areas of the settlement
9 were excavated in the late 1970's. This is not
10 the best quality of map, it's a scan from a poor
11 reproduction, so I apologize for the quality.
12 This is basically showing -- this is Riel house
13 here, and there's a number of different areas
14 adjacent to Riel house, and there is a series of
15 excavations which picked up primarily cellar and
16 other debris. And then those, the remains from
17 that were analyzed by McLeod and a gentleman by
18 the name of Forsman, and they were trying to
19 understand the history of the occupation and the
20 use of this particular location.

21 Overall, the time range for the
22 particular excavations here were 1842 to 1892,
23 when the house was occupied by various members of
24 the Riel family. A couple of notes about the Riel
25 house excavation is that there is a very high

1 count of ceramics and nails are also very common.
2 So the two highest proportions of artifacts from
3 the excavations are ceramics and nails.

4 The Delorme House is located in the
5 Parish of St. Norbert. This had a cellar feature
6 excavated in 1981. The house has since been moved
7 and so this is I guess a picture of it prior to
8 the process of it being moved to the heritage
9 park. The house, occupied by the Delorme family
10 from approximately 1854 to the early 1880s, these
11 dates are generally based on a combination of
12 factors, including dating the ceramics within
13 particular house context by sort of relative age
14 and also by historic information.

15 Overall, the Delorme house shows quite
16 similar patterns to the Riel House except for
17 nails are more common, and then ceramics are next
18 most common, with a fairly high frequency of
19 clothing.

20 A third location that McLeod worked on
21 was the Garden site. So the Garden site is
22 located farther south in the Parish of St. Norbert
23 from the Delorme house. This was excavated in
24 1979, and occupied again from a similar time
25 period, looking from 1840's to 1880's, by the

1 Beauchamp family. Interestingly, the Garden site
2 has a little bit different pattern than Riel House
3 and Delorme House in that the highest proportion
4 of artifacts was beads. So the clothing category
5 was best represented here, and ceramics were
6 common and nails were also frequent. This image
7 here is a stratigraphic profile showing the
8 excavation unit that was put in at the Garden
9 site.

10 So this is a summary of the
11 information I just told you about. What we have
12 here is a table which demonstrates the differences
13 between the different locations that were
14 excavated by McLeod. This is taken from the 1986
15 McLeod, as cited in my report.

16 So what you see here again, among the
17 most common types of artifacts found relate to
18 kitchen and architectural activities. This is a
19 very common way to divide up the remains of
20 historical sites, and it differs quite a lot from
21 how we divide up material from sites prior to
22 contact. So they tend to be arranged in the
23 historic period based on the type of activity they
24 were most closely related to. So, for example,
25 you see here clothing as a high count at the

1 Garden site. This represents the beads, even if
2 it doesn't specify how the beads were being used,
3 but they were some sort of adornment and so they
4 go under clothing. So this is sort of a standard
5 way of comparing sort of historical sites.

6 It's likely that these patterns are
7 somewhat different than other European historic
8 sites from this particular time period. But,
9 again, there's a bit of a lack of work here. So
10 we're not entirely sure what those differences
11 look like.

12 The other category I'm going to
13 discuss are over-wintering sites. I am going to
14 give you a few examples. Again, as I mentioned,
15 there are no excavations of over-wintering sites
16 from the Province of Manitoba, so my examples are
17 drawn largely from Saskatchewan.

18 This is a map of Metis over-wintering
19 sites which is compiled from, again, a series of
20 historic accounts, which demonstrates areas that
21 were noted by various historical figures as
22 locations of Metis over-wintering. So part of my
23 goals in my upcoming project is to locate a number
24 of these and do some continuing excavations, but
25 for now we only have a very small sample of the

1 particular sites that are relevant to the Metis.

2 I'm just going to give you a summary
3 of some of the characteristics of over-wintering
4 sites that we know of from the different research
5 that has been done.

6 Over-wintering sites, when they have
7 any kind of visible surface remains, are often
8 marked by collections of these cultural
9 depressions and mounds, remains of cabins and
10 associated activity. The cabins tended to cluster
11 together at sheltered locations with easy access
12 to wood and water, wood being particularly
13 important because of the need to construct cabins.
14 And the other types of activities that were
15 represented by these cultural depressions and
16 mounds include the chimney mounds I mentioned
17 before, these mudding pits used for the
18 preparation of plaster, and those appear at all
19 the over-wintering sites where excavations had
20 taken place, and a variety of storage pits and
21 cellars and other types of pit features.

22 On reviewing the artifacts found at
23 these sites, the differences from Riel House,
24 Delorme House and the Garden site are not
25 particularly pronounced, which is interesting. So

1 you still have a fairly large occurrence of
2 architectural debris of kitchen materials, related
3 ceramics, and other types of kitchen activities,
4 personal items, especially beads, there are fairly
5 high bead counts at all of the over-wintering
6 sites, presence of arms and then of course the
7 presence of food remains as well.

8 So these are some of the things we
9 might expect at locations for over-wintering in
10 Manitoba, even though these are based on ones in
11 Saskatchewan, because the pattern is fairly
12 consistent across all sites that are known.

13 These are a couple of maps, these are
14 drawn from Burley et al in 1992, which is cited in
15 my report as well. These are just showing some of
16 the clusters of the features found on the surface.
17 So clusters of different pits and mounds all
18 throughout. And you'll notice as well on this
19 particular site, which is from Petite Ville in
20 Saskatchewan, there is a historic trail running
21 through it as well. So all of these are historic
22 resources in this case. And here again you find
23 clustering of these, usually near some type of
24 water source.

25 I wanted to show this picture to you,

1 again, poor quality scan from a very poor quality
2 copy, but what you can notice is this is H, this
3 is beads. So for a comparative scale, you know,
4 you have buttons, and then nails, and the beads
5 are very, very small. And if beads are one of the
6 ways in which Metis archeological sites are
7 marked, and there is an unknown Metis site which
8 gets encountered during the Bipole III project,
9 current methodology within archaeology is perhaps
10 unlikely to pick up beads. So it's one of the
11 things to be considered in this discussion, is
12 that beads are very, very small. And most
13 archeological excavation involves some type of
14 screening through a mesh, but the mesh is not fine
15 enough to pick up these small seed beads in
16 particular.

17 And this just shows you some of the
18 other things that are found in over-wintering
19 site, including things like a piece of a writing
20 slate and also an end scraper. And the end
21 scraper would have been made out of stone, so it's
22 a stone tool.

23 So that was kind of my educational
24 portion of the talk. And now I'm going to move
25 more specifically into what some of the impacts

1 might be on Metis archeological heritage through
2 the Bipole III project and study area.

3 So after having reviewed the types of
4 sites and the types of archeological material we
5 might expect to find with Metis archeological
6 heritage, I reviewed known sites with Metis
7 affiliation in Manitoba. So I contacted the
8 Manitoba Historical Resources Branch and asked
9 them to provide a list of sites in their database
10 that had Metis somewhere in the database
11 affiliated with those sites.

12 I looked at the ones within the study
13 area based on a visual examination of a map. I
14 would actually love to have the shape file at some
15 point so I can do a more precise review here.

16 There are 25 sites in Manitoba, known
17 sites I should say, with Metis affiliation, 20 of
18 which fall roughly within the study area. It is
19 unclear how many fall within the stated three mile
20 buffer zone of the right-of-way as established in
21 the heritage resources technical report.

22 I will give you a sense of some of
23 these sites in a minute, but a couple of things to
24 note, that there's a range of things like
25 disturbance. So one of the things we look at when

1 we are looking at archeological heritage is what
2 is the current state of the site? So if the site
3 has already been largely disturbed, as opposed to
4 something that has been undisturbed, they are
5 given a bit of a different value. We do see the
6 occurrence of a lot of residential sites, so
7 places where Metis were living, and then also some
8 campsites as well of these 20 known sites.

9 I will note that this is probably a
10 small fraction of the number of Metis
11 archeological sites in Manitoba. There's likely
12 many more, but no one has ever really looked for
13 them, so we don't know if they are actually out
14 there.

15 So because of this there is a high
16 probability of the presence of unknown Metis sites
17 in the Bipole III study area which provides some
18 concern as well in terms of the impacts. If we
19 don't know what's out there, we don't know what
20 the impacts will be.

21 So this is a table provided for you of
22 the different sites that fall roughly within the
23 Bipole III study area. This particular Borden
24 number here is the method used in Canada to
25 distinguish each archeological site from another

1 archeological site. It is a combination of four
2 letters and a number. So when you see those, it's
3 a system used in Canada to make sure we don't have
4 overlapping ways of referencing archeological
5 sites.

6 And these run roughly from south to
7 north, and I'll show you a map in a moment. So
8 you will notice there's a number of different
9 types of sites noted here, including permanent
10 settlements, residential, generic historic -- this
11 probably could use refinement -- also campsite
12 locations. And this gives you the condition, some
13 of which are unknown, which again we'd want to
14 know that prior to activity taking, and some of
15 them are largely undisturbed as well.

16 So this is a map of known Metis sites
17 in the study area that I have created based on the
18 information provided to me by the Manitoba
19 Historic Resources Branch. This is not in your
20 report because I was not given permission by the
21 Manitoba Historic Resources Branch to put it out
22 in that particular form. Archeological sites are
23 very sensitive and we do not like to provide
24 specific locations, unless a project such as this
25 is undertaken, for fear of sort of public activity

1 around those sites. So the information tends to
2 be quite protected.

3 You will notice a couple of things I
4 want to point out here, a cluster around Red River
5 settlement, which is not surprising. There is a
6 small cluster to the south, and then there are
7 four sites to sort of the north. And this again
8 is likely not at all representative of the actual
9 archeological sites in this area, these are only
10 ones that are known and registered with the
11 Historic Resources Branch.

12 And in the area that has been
13 discussed a lot today, the sort of central western
14 area, the area of concern, or the Manitoba Metis
15 bread basket, there are very few known sites in
16 this particular location, which I suspect
17 represents an oversight in the type of work that's
18 gone on in this area.

19 And this is especially true based on
20 the discussion of traditional use, and
21 particularly in the past 60 to 70 years, this area
22 has been an area of intensive use for Manitoba
23 Metis, and that likely has much deeper historical
24 roots.

25 One example I'm going to highlight is

1 located in this cluster of sites here. I'm just
2 going to discuss it briefly. It says DJLM-6,
3 again, that's Borden designation, it is the St.
4 Daniel Mission Cemetery. And the St. Daniel
5 Mission was, in the 1860's and '70's, I believe
6 was home to approximately 30 Metis families.
7 These are two historical photos. This is one of
8 the cemetery itself, and this is one of the actual
9 church at the mission. This is sort of on the
10 southern boundary of the study. So it's an
11 example of what could come up in this process.
12 It's a cemetery site which, of course, is
13 particularly sensitive due to the presence of
14 burials. The state of intactness of this location
15 is unknown. It was just briefly noted in a
16 report, so it's not been explored in any way. But
17 it definitely is of historical significance, both
18 to the Metis and in a broader sense as well.

19 So these are some of the things that
20 could potentially be encountered throughout the
21 Bipole process.

22 So now I want to kind of move into
23 some of the concerns and the potential impacts to
24 Metis archeological heritage. So as I mentioned
25 at the beginning, heritage resources are protected

1 through the Heritage Resources Act. The best
2 mitigation practice is avoidance, but as anyone
3 who has worked in archaeology knows, when large
4 projects like this take place across a large
5 portion of our province, it is virtually
6 impossible to avoid all heritage sites. And also,
7 if you don't know where the sites are, then you
8 don't know if you're going to be disturbing them
9 either. And many sites can be uncovered through
10 these processes, because you are building a road
11 or you're disturbing the ground, and things come
12 up during that process.

13 So there's potential for disturbance
14 of known sites that's usually a little bit easier
15 to mitigate, because if you know where they are,
16 then you can adjust the routes based on that. And
17 that is part of what the heritage resources
18 technical report was attempting to do, choose a
19 route that was the least impactful on heritage
20 resources.

21 In addition, there's a disturbance of
22 unknown sites discovered during project
23 activities. And one of the concerns here is that
24 if heritage monitors, for example, who are working
25 on the project don't know what a Metis site looks

1 likes and they disturb a Metis site, no one is
2 going to contact the Metis in terms of how these
3 things should be mitigated and how they should be
4 dealt with, because sometimes it is impossible to
5 avoid, and they need to be excavated or otherwise
6 mitigated as much as possible.

7 And then there's the issue of
8 increased access to the area. So as you are
9 building roads in various access areas adjacent to
10 the Bipole III right-of-way, you increase the
11 possibility that sites will get visited by other
12 people, potentially be looted or otherwise
13 disturbed. Sacred areas might be impacted in a
14 variety of ways as well, just because more people
15 might be moving through those areas. So it's
16 important to note that while there's the material
17 remains, as represented by the archaeology, there
18 are also these more intangible elements of the
19 landscape that usually coincide with archeological
20 material that include culturally sensitive areas.
21 This might include burials, but also other sacred
22 places. And sacred places and burials for the
23 Metis might be quite significantly different than
24 those of other communities in Manitoba.

25 So in terms of mitigation concerns, I

1 reiterate again, heritage sites are protected
2 under the Manitoba Heritage Act. But what the
3 major concerns are by myself, in representing
4 Metis heritage in this way, it's unclear how
5 mitigation protocols will meet the concerns of the
6 Manitoba Metis Federation. In particular, there
7 might be specific protocols which need to be
8 applied to how sites are dealt with, if necessary,
9 and how they are mitigated, that are specific to
10 the Metis and can't just be grouped into the
11 broader heritage protection plan. And this is
12 part of the problem with the heritage review in
13 general. The Metis are kind of lumped in when
14 their needs are actually quite different.

15 Major concern; Metis sites may not be
16 identified as Metis during monitoring. They may
17 just be identified as historic sites because the
18 heritage monitors, and this is demonstrated quite
19 clearly in the heritage resources technical
20 report, where no literature regarding the Metis
21 was cited, but they are not familiar with the work
22 that has been done and the types of things that
23 might come up when you encounter a Metis site.
24 And part of this problem is that if you're not
25 looking for it, you might not be able to

1 distinguish Metis sites from other historic era
2 sites in the same regions.

3 What I have provided for you here is
4 the map showing different archeological sites
5 known throughout the study area. In total, they
6 noted that there's almost 600, I believe it was
7 599, registered heritage sites in the region. A
8 couple of clusters, you'll notice around the
9 Winnipeg area, and then up here. But there is a
10 bit of a gap in this region that did not show up
11 particularly well. But I am trying to highlight
12 that there are almost no sites known in this
13 particular region. And that's an area of, you
14 know, historically Metis activity and use. And
15 then there's some gaps within this sort of central
16 Western Manitoba as well.

17 A couple of other concerns that come
18 up out of the heritage resources technical report;
19 so the heritage resources technical report
20 developed a predictive model, which you have heard
21 some about in a previous presentation. Basically
22 it's a way to try and evaluate areas of the
23 landscape which are highest likelihood for unknown
24 sites.

25 Now, there are a number of different

1 issues with the ways in which predictive models
2 are constructed. The predictive model in this
3 case was based on known sites. So they took all
4 the sites that were known in the study area and
5 used those as the basis for predicting where other
6 sites might be.

7 Now, as I mentioned, you have 599
8 sites registered in the area, 20 of them are
9 Metis. So it is unlikely that when you're basing
10 a predictive model on 599 that you are going to
11 capture the patterns of those 20, because they
12 might be distinct, but they're not going to be
13 represented in the model because there are so many
14 other sites obscuring that particular pattern.

15 And indeed, in the transcripts from
16 earlier presentations it was noted that the
17 predictive model actually didn't turn out to be
18 nearly as robust as they had originally hoped, but
19 they had very little opportunity to actually
20 ground test it. So a predictive model provides
21 you with possible areas that are high, medium and
22 low potential for archeological sites, but unless
23 you actually go out and see whether or not sites
24 fall within those areas, you do not know if your
25 model actually works. So that's part of the

1 problem here as well.

2 And because of the lack of knowledge
3 of Metis archeological patterns, it's unclear how
4 well predictive models predict Metis land use
5 because no one has ever attempted to apply a
6 predictive model to the ways in which the Metis
7 pattern archeologically on the landscape. So it's
8 unclear whether or not this particular model
9 captures that important kind of aspect.

10 And then, of course, one of the things
11 that were not considered in the heritage resources
12 technical report was the role of access roads. So
13 they did the right-of-way with the three mile
14 buffer, and there was no sort of justification for
15 that particular choice of buffer. But areas where
16 there might be access roads have potentially as
17 much possibility of disturbing heritage sites as
18 any other element in the process. So it's really
19 important that once access roads are known, that
20 the heritage be reconsidered based on that. And,
21 of course, as re-routing happens, you also need to
22 rethink where the impacts are going to happen on
23 the heritage resources as well.

24 So from my review of the research on
25 Metis archaeology, and from my review of the work

1 that has been done by the Bipole III project and
2 Manitoba Hydro, I came up with a series of
3 recommendations. And these are specifically ways
4 in which to address the various issues that I have
5 raised in this presentation. And so I'm going to
6 spend the last bit of time here just kind of
7 running through these for you. There is more
8 detailed information in the report on these
9 specific ones, but I'm going to summarize them for
10 you.

11 One of the things that I very strongly
12 recommend is that additional research needs to be
13 done to identify areas of high potential for Metis
14 archeological heritage, and not just archeological
15 heritage in general, throughout the Bipole III
16 project area. The reason why this needs to be
17 done specifically is so that in these areas the
18 Manitoba Metis Federation and Manitoba Hydro can
19 work to have specific monitors from the Metis,
20 Manitoba Metis Federation, to keep an eye on
21 things when construction is taking place in areas
22 of high potential. If we don't know where those
23 are, we can't sort of suggest where those monitors
24 should be in place.

25 And as I noted, any changes in the

1 route must undergo a reassessment of the heritage
2 impacts. This is very important, because it
3 changes which sites might be in the right-of-way
4 and the type of impacts that might happen on them.
5 And while there has been some work done with a
6 number of First Nations such as the Swan Lake
7 First Nation, the Manitoba Metis Federation has
8 had no consultation on this particular issue.

9 Another thing that I strongly
10 recommend is that before the heritage permit is
11 issued by Manitoba Heritage, and this is something
12 that happens through that office, for the
13 archeological monitoring and any mitigation that
14 might happen for the right-of-way, the Manitoba
15 Metis Federation should be given the opportunity
16 to review and comment on the permit application.

17 Now, this is something that is
18 commonplace in British Columbia, and I am going to
19 go into the specifics of that on the next slide
20 for you, to sort of support that particular
21 argument, because it is quite common in other
22 jurisdictions to actually have a review process in
23 place.

24 In addition, the proponent should
25 financially support a full-time Manitoba Metis

1 Federation heritage/cultural sites coordinator
2 throughout the duration of the projects
3 construction, to ensure there is a point of
4 communication for the Manitoba Metis Federation
5 with Hydro about some of the things that are being
6 encountered and any mitigation that might take
7 place. There is someone who needs to be the point
8 of contact within the Manitoba Metis Federation.

9 So this is a section that I have drawn
10 out of the BC archeological permit regulations,
11 and the link is here, it's also in your appendix
12 of the report, it's appendix two of the report
13 that I completed. So this is drawn verbatim from
14 the permit regulations. It says:

15 "Complete applications are referred by
16 the manager to First Nations asserting
17 traditional interest in the proposed
18 study area."

19 With a request for comment, preferably in writing,
20 within a reasonable time, usually 15 to days.

21 So every time that somebody files a
22 permit to do archeological research in British
23 Columbia, it goes to any First Nation in the
24 traditional territory, and they have the
25 opportunity to comment, and then the comments can

1 be addressed by the manager, or by the applicant,
2 if there are issues raised with the study
3 methodology.

4 So how this tends to work is that
5 there are -- there's an opportunity to comment,
6 it's not necessarily -- the decision still remains
7 within the Heritage Branch in British Columbia,
8 but First Nations ensure that particular concerns
9 of theirs are addressed in the project permit
10 application.

11 And so I strongly suggest that this
12 occur throughout this process as well, to ensure
13 that the Manitoba Metis Federation and other
14 interested parties have the opportunity to review
15 the methodology and comment on it.

16 A few more of the specific management
17 recommendations that come out of this review is
18 that regional and local Metis heritage monitors
19 need to be identified and work with Manitoba Hydro
20 and the various other heritage monitors who might
21 be identified as part of the Bipole III project,
22 and liaison with the Manitoba Metis Federation
23 through a heritage and cultural sites coordinator.

24 So, again, this has to do partly with
25 ensuring that monitoring is taking place in ways

1 that are sensitive to Metis issues, but also
2 ensuring that communication is happening between
3 the people on the ground and the people who might
4 be back in the regional offices, so that if
5 anything needs to be addressed, it can be in a
6 timely manner and not create any delays.

7 In addition, the Manitoba Hydro has
8 stated that they will develop a heritage
9 protection plan, so the HPP. But within this
10 there needs to be the establishment and
11 implementation of Metis specific protocols, and
12 those protocols need to be identified in
13 consultation with the Manitoba Metis Federation,
14 and was likely to be part of the agreement as
15 outlined by Ms. Larcombe with the Manitoba Hydro
16 and Manitoba Conservation and Water Stewardship in
17 relation to the project environmental protection
18 plan. So they need to be related in ensuring that
19 these needs are being met.

20 As part of this, I have a specific
21 recommendation for a protocol which requires this
22 regular reporting to the Manitoba Metis Federation
23 when sites with Metis archeological heritage are
24 found, or potential Metis archeological heritage
25 are found during the construction phase. So,

1 again, the big issue here, sites are not
2 necessarily known, the construction is taking
3 place, sites are hit and found during that time
4 period, potentially disturbed during that. And
5 there needs to be a way to regularly report that
6 back to ensure that any mitigation measures are
7 being undertaken.

8 And then after construction is
9 complete, there needs to be an ongoing process of
10 consultation about the long-term impacts to
11 heritage sites from the operation of Bipole III,
12 so during the operating phase, including, you
13 know, making sure that sites that are found during
14 the process are being monitored and not being
15 continually disturbed by access roads or increased
16 traffic through those areas.

17 So just to kind of summarize for you,
18 Metis archeological heritage does exist in the
19 study area. It's not that well known because of a
20 lack of research and for a variety of reasons.
21 But there is great potential that unknown sites
22 may be impacted by Bipole III construction. And
23 one of the challenges here is the lack of
24 knowledge about Metis archeological heritage, both
25 in general and by the heritage monitors, may lead

1 to adverse impacts. You know, methods and other
2 protocols that are not necessarily being followed
3 that the Metis would require because of this high
4 potential for unknown Metis heritage resources,
5 and a concern that, when found, people won't know
6 what they are looking at.

7 And just to kind of reiterate, it's
8 out there. We don't necessarily know exactly
9 where it is because of the lack of research, but
10 because of this the Manitoba Metis Federation
11 needs to be involved during the permitting
12 approval and monitoring process throughout the
13 duration of the entire project.

14 Thank you.

15 THE CHAIRMAN: Thank you,
16 Ms. Supernant.

17 MR. MADDEN: I just have one question.
18 And I know you have read the transcripts. You
19 have identified 20 sites in the study area, and I
20 think Ms. Petch testified that she had only
21 identified three in relation to Metis. Do you
22 have any understanding of what the discrepancy is,
23 or where that discrepancy may arise from?

24 DR. SUPERNANT: I'm not entirely sure,
25 because the first I had heard of any Metis sites

1 in the study area was in reviewing the
2 transcripts. I believe her comment was that the
3 majority were in the Winnipeg area. So there is a
4 lack of understanding. I'm not sure if her
5 information was out of date. I know that there
6 were a few sites added in 2011, but it could also
7 be just her not double-checking that.

8 Now, the 20 sites that were identified
9 have, again, Metis as an affiliation. There are
10 likely other sites in the database that are Metis
11 that don't have that affiliation identified as
12 well. So, again, whether it's three or 20 makes a
13 difference, but the reality is, it's still a very
14 small sample of what's likely out there.

15 MR. MADDEN: Thank you.

16 THE CHAIRMAN: Thank you. Now, if I
17 am correct, this concludes your presentation, the
18 witness's presentations for today?

19 MR. MADDEN: Yes.

20 THE CHAIRMAN: Okay. We'll now have
21 cross-examination and questioning from panel
22 members later on. On my list of priority,
23 Manitoba Hydro, do you have any questions,
24 cross-examination for these witnesses?

25 MR. MADDEN: Mr. Chair, I would only

1 add that we do have our panel of harvesters that
2 could start today if we have enough time, so...

3 THE CHAIRMAN: Well, let's see where
4 we get.

5 MR. MADDEN: Yes.

6 MR. BEDFORD: Mr. Sargeant, I have a
7 few questions for each of our three presenters.
8 Would you like me to go through all of my
9 questions for each of the presenters, rather than
10 one, and then rotate through the audience and then
11 back?

12 THE CHAIRMAN: No, just cover the
13 whole panel, and we'll ask the same of the other
14 participants, we'll do all three at once.

15 MR. BEDFORD: Thank you.

16 Ms. Larcombe, good afternoon. You and
17 I have met once before I know, and that was on the
18 occasion of your presentation of your interim
19 report in June 2011 to Manitoba Hydro. I'm going
20 to make at least one reference to the TLUKS
21 report. Do you have a copy of that handy?

22 MS. LARCOMBE: The final?

23 MR. BEDFORD: Yes?

24 MS. LARCOMBE: Yes, I do.

25 MR. BEDFORD: And in addition, I'm

1 going to make one reference to your presentation,
2 so you may want to take control of the computer
3 and have your presentation available for us.

4 Ms. Larcombe, having read the
5 presentation that was supplied to us last week by
6 Mr. Madden, am I correct in understanding that all
7 49 of the Metis persons who were interviewed for
8 the TLUKS report are members of the Manitoba Metis
9 Federation?

10 MS. LARCOMBE: To the best of my
11 knowledge, they are. As I said during the
12 presentation, we chose the individuals from the
13 screening results. But I also understand that
14 there were, towards the end, I think particularly
15 in the Thompson area, that the individuals that
16 were interviewed did not currently have their new
17 membership status. But I was informed that their
18 applications were in progress, or their family
19 genealogies assured the MMF that they would
20 qualify.

21 MR. BEDFORD: Subject to the
22 qualification you have just given, is my
23 understanding also correct that all 382 Metis
24 persons who received and responded to the
25 screening survey were members of the Manitoba

1 Metis Federation?

2 MS. LARCOMBE: Yes, to the best of my
3 knowledge, because those screening surveys went to
4 individuals who had a harvester card or were
5 listed in the new membership database, or both.

6 MR. BEDFORD: And I learned, when I
7 read your final TLUKS report, that you yourself
8 conducted only about half of the interviews that
9 you have described to us?

10 MS. LARCOMBE: That's correct.

11 MR. BEDFORD: And the other roughly
12 half of the interviews were conducted by staff of
13 the Manitoba Metis Federation?

14 MS. LARCOMBE: They were conducted by
15 two particular staff, one of which had -- well,
16 actually, both of which had been present during
17 all of the interviews I had done. I was also in
18 touch with them on a regular basis when they were
19 in the field, and I reviewed the data that was
20 coming out of those interviews. And I think it
21 was on two occasions, in reviewing the data, I
22 requested the videotapes so that I could actually
23 listen to what had gone on. And there was one
24 interview that I actually refused because I didn't
25 believe the interviewee was being candid.

1 MR. BEDFORD: And I also learned from
2 reading footnote 15 on page 41 of your report
3 that, unhappily, there was some neglect on the
4 part of the staff of the MMF who did interviews
5 that you did not do. And what I'm specifically
6 referencing in footnote 41 --

7 MS. LARCOMBE: In which report, sir?

8 MR. BEDFORD: The TLUKS report, if
9 you'd like to turn to it.

10 MS. LARCOMBE: That's correct.

11 MR. BEDFORD: And the unfortunate
12 happenstance that occurred in the interviews was
13 that whoever the staff member of the Manitoba
14 Metis Federation who was asking the questions was,
15 he or she neglected to ask certain questions about
16 cultural and ecological knowledge. Is that
17 correct?

18 MS. LARCOMBE: Well, my recollection
19 is, as I was reviewing the data, as it was coming
20 in sort of on a weekly basis -- clearly, I can see
21 the data and I'm seeing there's no information
22 recorded in certain categories. And so when I
23 talked to them, they had said that they were so
24 involved in getting the traditional land use data,
25 that they had neglected to ask those questions.

1 MR. BEDFORD: And am I correct in
2 understanding that, unfortunately, no Metis
3 persons living in Gillam were interviewed for the
4 TLUKS report?

5 MS. LARCOMBE: That's my
6 understanding, yes.

7 MR. BEDFORD: And further that no
8 Metis persons living within 50 miles of Gillam
9 were interviewed for the TLUKS report?

10 MS. LARCOMBE: I'm not sure I can
11 agree with you there, because I don't have the
12 residence addresses of those individuals present
13 in my mind.

14 MR. BEDFORD: Now, you have told us
15 all that the screening survey went out in 2010?

16 MS. LARCOMBE: Correct.

17 MR. BEDFORD: And it went to members
18 of the Manitoba Metis Federation who either held
19 harvester cards or were known to engage in
20 harvesting activities?

21 MS. LARCOMBE: No, that's not correct.
22 They were mailed out to individuals who, A, had a
23 harvester card, or B, were registered under the
24 new membership code under the MMF Constitution of
25 2008, and some of those individuals were on both

1 lists.

2 MR. BEDFORD: And then the screening
3 survey was followed by the interviews, and the
4 persons interviewed, I understood, you'll correct
5 me if I'm wrong, were all members of the Manitoba
6 Metis Federation who engage in harvesting
7 activities?

8 MS. LARCOMBE: I think I answered that
9 question already.

10 MR. BEDFORD: The answer was yes, as I
11 recall?

12 MS. LARCOMBE: Yes, with the
13 qualification of the latter interviews.

14 MR. BEDFORD: And the initial round of
15 interviews were interviews of members of the
16 Manitoba Metis Federation living in Winnipeg and
17 in other parts of Southern Manitoba in the
18 Interlake, is that correct?

19 MS. LARCOMBE: That's correct.

20 MR. BEDFORD: Could you please show us
21 all on the screen, page 20 of your presentation,
22 which is a couple of maps.

23 MS. LARCOMBE: Slide 20?

24 MR. BEDFORD: I have it as page 20, it
25 could be slide 20. Would you focus, please, on

1 the map on the left-hand side whose heading is
2 moose hunting areas 1990 to 2010?

3 MS. LARCOMBE: Excuse me, does anybody
4 have a hard copy that I can use of this
5 presentation? All right. Now we have a version I
6 can read.

7 MR. BEDFORD: The focus, you have
8 changed I think from 20, it's 25 now. If we can
9 go back to 20? And we're looking in particular
10 at, it's to my left, the map that says moose
11 harvesting areas 1990 to 2010. Can you tell me,
12 please, whether any of the 382 survey respondents,
13 or any of the 49 interviewees, told you that they
14 had concerns about a serious decline in the number
15 of moose in the areas that are marked in a red
16 colour on that left-hand map, which generally I
17 understand to be a region of Manitoba to the south
18 of Red Deer Lake in the vicinity of the Porcupine
19 Forest and the Duck Mountains?

20 MS. LARCOMBE: I don't recall anybody
21 talking about concerns about moose in the
22 interviews I was present during, which were done
23 in 2010.

24 MR. BEDFORD: And accordingly, you'll
25 agree with me that you don't make note in the

1 report, the TLUKS report, the final copy of which
2 was given to Manitoba Hydro at the end of
3 August 2011, that there is any reference to a
4 concern on the part of Metis citizens or members
5 of the Manitoba Metis Federation about a serious
6 decline, say in the previous decade, in the
7 numbers of moose in the area we have just looked
8 at?

9 MS. LARCOMBE: I am the primary author
10 of that report, and that report is based on my
11 knowledge of what came through the TLUKS
12 interviews.

13 MR. BEDFORD: Thank you. I noticed in
14 both reading the paper that you have presented
15 today and in listening to you this morning when
16 you gave your presentation, that in exercising
17 their rights and their interest in hunting, Metis
18 citizens, I know like the rest of Manitobans, if
19 they wish to hunt on private land, they need to
20 seek the permission of the landowner. I also
21 observed in your presentation that when Metis
22 citizens wish to hunt on reserve land, they need
23 to seek the permission of the particular First
24 Nation whose reserve it is. Can you help me,
25 though, as to what Metis citizens do when they

1 wish to resource hunt in areas that are part of
2 the traditional lands of First Nations outside of
3 the reserves of First Nations?

4 MS. LARCOMBE: I think you should
5 defer that question to Mr. Chartrand. It was not
6 a subject that was within my scope in the TLUKS
7 study.

8 MR. BEDFORD: And I also listened
9 closely when you described the Manitoba Metis
10 Federation's law of the harvest, I believe I have
11 that correct, it's the law of the harvest?

12 MR. MADDEN: It's actually laws of the
13 hunt.

14 MS. LARCOMBE: That's what I thought,
15 when I was reading the slide I was going, it
16 doesn't look right. Metis laws of the hunt.

17 MR. BEDFORD: I stand corrected, Metis
18 laws of the hunt. Can you tell me, please, what
19 the repercussions are to a Metis citizen in
20 Manitoba, a member of the Manitoba Metis
21 Federation, when he or she violates the laws of
22 the hunt? For example, if we assume that I for a
23 moment am a member of the Manitoba Metis
24 Federation, and in a particular year I kill three
25 moose as opposed to the lawful one moose, what are

1 the repercussions to me?

2 MS. LARCOMBE: Again, I'm not trying
3 to be difficult, that's not my area of expertise.
4 I think that question should be asked of either
5 President Chartrand or an MMF staff person
6 responsible for that.

7 MR. BEDFORD: Now, I have noticed that
8 one of your primary recommendations is that there
9 be no licence granted to my client, Manitoba
10 Hydro, for the Bipole III project until an
11 agreement has been entered into by my client with
12 the Province of Manitoba and the Manitoba Metis
13 Federation. I think that is clear in your
14 recommendations, is it not?

15 MS. LARCOMBE: Yes, it's clear.

16 MR. BEDFORD: And when I asked myself
17 the question, why would that be desirable or
18 necessary, I think I found some of your answers on
19 page 41 and 42 of the written presentation that
20 was provided last week. If you'd like to look at
21 those pages as a handy reference?

22 MS. LARCOMBE: Starting at page 40,
23 41?

24 MR. BEDFORD: Forty-one and 42 on my
25 copy.

1 MS. LARCOMBE: Oh, sorry. I'm not
2 sure that we have the same page numbers.

3 MR. BEDFORD: Not the TLUKS study, but
4 the written presentation.

5 MS. LARCOMBE: Top of page 41 in my
6 printout begins with a bulleted list. Is that the
7 same as yours?

8 MR. BEDFORD: It does, yes. And one
9 of the answers to the question why that I posed to
10 myself, to which you provide an answer on these
11 two pages, which you addressed in your
12 presentation, is the fact that many Metis
13 citizens, some who live in Winnipeg, travel
14 significant distances in order to exercise their
15 rights and their interests in hunting. That's
16 correct?

17 MS. LARCOMBE: That is correct.

18 MR. BEDFORD: And on a day-to-day
19 basis, thinking ahead to the construction of this
20 project, it's obviously Manitoba Hydro which will
21 know day-to-day where construction is being
22 carried out and how long it will be carried out in
23 such an area, correct?

24 MS. LARCOMBE: One would hope so.

25 MR. BEDFORD: And I think quite

1 obviously the Manitoba Metis Federation on a
2 day-to-day basis knows who its members are and has
3 various programs in place by which it regularly
4 communicates with its members, correct?

5 MS. LARCOMBE: I'm not able to answer
6 that question. I don't work there.

7 MR. BEDFORD: It has, among other
8 things, I have seen a website. Have you looked at
9 its website ever?

10 MS. LARCOMBE: "Its" being the MMF?

11 MR. BEDFORD: Yes.

12 MS. LARCOMBE: Yes, I have had
13 occasion to look at it.

14 MR. BEDFORD: And so the good sensible
15 purpose that you think needs to be achieved is
16 that communication should be timely from Hydro as
17 to where construction is taking place, and for how
18 long, to the Manitoba Metis Federation, so that it
19 can in turn alert its members or provide
20 information that its members are likely to find as
21 to where construction is happening, so that they
22 won't be frustrated and drive great distances only
23 to discover that they are unable for a period of
24 time to hunt?

25 MS. LARCOMBE: Yes. And I make this

1 recommendation because, after reviewing the EIS, I
2 don't see any avenue of communication to Manitoba
3 Metis harvesters who don't coincidentally live in
4 a community that's defined in the Environmental
5 Impact Statement. I didn't feel confident that
6 the strategies in the EIS for communication would
7 ever reach that particular segment of the Manitoba
8 Metis population.

9 MR. BEDFORD: And another worthy
10 purpose that you identify in your report, that we
11 have also heard more about from one of your
12 colleagues on the panel today, Ms. Supernant, is
13 that there does exist the possibility that, as
14 construction goes forward, a site heretofore
15 unknown of interest to the Manitoba Metis
16 Federation and Metis interests might be discovered
17 and would need to be assessed and dealt with
18 properly. Correct?

19 MS. LARCOMBE: I'm trying not to be
20 sarcastic here. I know you could stumble across
21 Metis heritage, but if you stumbled across a
22 harvester it would be quite funny.

23 I'm not sure, you mean if your
24 construction is out there and then they have to
25 phone in and say, oh, my God, I see a Metis

1 harvester, you know, a hundred yards away?

2 MR. BEDFORD: No, I'm sorry, I was not
3 clear. An unknown archeological site of interest
4 in particular to those persons who are expert in
5 studying newly discovered archeological sites,
6 perhaps with artifacts and the remnants of
7 structures, those could be discovered as
8 construction goes forward, correct?

9 MS. LARCOMBE: I think that question
10 should be answered by Dr. Supernant. I'm not an
11 archaeologist.

12 MR. BEDFORD: You also, though, on
13 pages 41 to 42 identify as one of the purposes for
14 there to be an agreement that there are likely to
15 be these sorts of things discovered as
16 construction goes forward and there should be a
17 proper process of communication in place?

18 MS. LARCOMBE: Yes. I mentioned those
19 because my report is so -- has the blinders on
20 looking at traditional use. But I obviously was
21 aware that something would be recommended in the
22 case of heritage resources, or other moose
23 management, that sort of thing.

24 MR. BEDFORD: And what struck me in
25 reading your report was that you don't propose any

1 alternative to the agreement, the tripartite
2 agreement that you described, in the event that
3 such an agreement could not be successfully
4 negotiated. Could one not still achieve the
5 sensible reasons for having an agreement that you
6 identify through perhaps a licence condition that
7 Manitoba Hydro be obligated to notify the Manitoba
8 Metis Federation daily, if need be, as to where
9 construction is taking place and when? And
10 similarly that Manitoba Hydro be obligated through
11 a licence condition to notify the Manitoba Metis
12 Federation as soon as reasonably practical upon
13 the discovery of any particular archeological site
14 that may or may not be of unique interest to Metis
15 citizens?

16 MS. LARCOMBE: Well, I think in a
17 perfect world, those would not be unreasonable
18 suggestions. But my experience working with First
19 Nation and Aboriginal groups across Canada is that
20 when such commitments are made and are buried in
21 licences, when one or more parties does not live
22 up to the letter of what they said they were going
23 to do, there is nobody to enforce compliance.

24 MR. BEDFORD: Thank you very much.

25 MS. LARCOMBE: Okay.

1 MR. BEDFORD: Ms. Stewart, good
2 afternoon.

3 MS. STEWART: Good afternoon.

4 MR. BEDFORD: You and I also have met
5 once before, however briefly. You don't
6 recollect?

7 MS. STEWART: No, I don't.

8 MR. BEDFORD: Well, my ego is modestly
9 hurt by that.

10 MR. MADDEN: I think you'll survive.

11 MS. STEWART: Now I do recollect. You
12 were very quiet during that meeting.

13 MR. BEDFORD: Characteristically so.

14 Ms. Stewart, I'm told that predictions
15 about the impacts of any project, no matter how
16 robust the predictions are and no matter how much
17 data has been successfully gathered to support the
18 predictions, that one must test the predictions in
19 monitoring and follow-up programs. Do you agree
20 with that?

21 MS. STEWART: Yes.

22 MR. BEDFORD: And I can tell you and
23 everyone else who is listening that the two
24 gentlemen, Mr. Schindler and Dr. Jim Rettie, who
25 did the presentation on moose, that I gather you

1 have had an opportunity to look at, have told me
2 that one thing that ought to be done when
3 construction moves forward is to compare moose
4 distribution and abundance against a spatial
5 analysis of access pre, during construction, and
6 post construction. Do you agree that that would
7 be a worthy thing to do?

8 MS. STEWART: Yes, I do.

9 MR. BEDFORD: And they tell me that at
10 least two things would be accomplished by that;
11 that we could certainly add to the provincial
12 database and to our knowledge about moose. And
13 secondly, quite obviously, such a study they think
14 would assist in illustrating the effects of the
15 Bipole III project on moose and whether mitigation
16 is indeed working. Do you agree with that?

17 MS. STEWART: Yes, I do agree that
18 this would be a worthwhile endeavour, but as it
19 stands right now, the baseline data aren't there,
20 and the baseline data that aren't there haven't
21 informed the current impact assessment.

22 MR. BEDFORD: I am told that there
23 exists in the area that Ms. Larcombe showed me on
24 a map just moments ago, that map to my left that
25 was on the screen, it's the same area that you

1 identified in your presentation and that we have
2 all come to know of as being of concern regarding
3 moose, that is south of Red Deer Lake and north of
4 Riding Mountain National Park. So that general
5 area, I'm told that in that area there exists a
6 moose management committee whose members include
7 rights based hunters, which I understand to mean
8 members of First Nations and members of the
9 Manitoba Metis community, in addition to
10 stakeholders, I understand stakeholders would be
11 non Aboriginal citizens of Manitoba who purchase
12 hunting licences and enjoy hunting moose. I
13 understand that that committee was meeting as
14 recently as a week ago with representatives of the
15 Province of Manitoba from the Conservation and
16 Water Stewardship Department, and that they were
17 discussing an imminent program of collaring moose.
18 Apparently a company in the United States is to be
19 engaged to do moose collaring. And I assume that
20 that sort of thing is something you would heartily
21 endorse, and that that's an appropriate way to
22 enhance and gather data about moose, which we
23 don't seem to have at the moment in Manitoba?

24 MS. STEWART: I do agree that that is
25 a good thing. And my concern is the timing of

1 this information. Is this collaring occurring
2 prior to construction now and will data be
3 available for evaluation prior to construction?

4 MR. BEDFORD: Well, Mr. Bedford
5 doesn't know, but obviously that's something that
6 other people in the room might like to know, and
7 I'm sure that when we're finished today, some
8 citizens will be eagerly pursuing what I have just
9 revealed to you.

10 You wouldn't recommend I'm sure at any
11 time that my client, Manitoba Hydro, engage in a
12 competing process of trying to monitor and gather
13 data about moose?

14 MS. STEWART: I think a collaborative
15 process would be a good way forward.

16 MR. BEDFORD: Thank you.
17 Ms. Supernant?

18 DR. SUPERNANT: Doctor.

19 MR. BEDFORD: Doctor, I'm sorry, you
20 and I have not met before.

21 DR. SUPERNANT: Before we proceed, can
22 I just request that someone bring up a pitcher of
23 water for the panelists, if possible. Thank you.

24 MR. BEDFORD: I read the report that
25 you prepared for us all when it arrived last week.

1 And I must say I was a little startled that you
2 write in the report, page 16, that you did not
3 have made available to you the current
4 right-of-way, we call it the final preferred route
5 in this hearing, at the time that you did your
6 review and wrote your report. Is that correct?

7 DR. SUPERNANT: That is correct. That
8 is partly an oversight on my part of directly
9 requesting the shape file, so it ended up being
10 more of a visual review. With the revised routes
11 that are forthcoming, I would be more than happy
12 to apply those to the known locations and give an
13 updated map when that does occur.

14 MR. BEDFORD: Can I safely conclude
15 today that you are no longer concerned about sites
16 of Metis archeological significance within the
17 City of Winnipeg, such as 226 Academy Road or the
18 site of the Riel family home which is in St.
19 Vital?

20 DR. SUPERNANT: Are you asking whether
21 or not I'm concerned about ongoing impacts from
22 this project on those sites?

23 MR. BEDFORD: Yes.

24 DR. SUPERNANT: I do not believe I
25 have enough information about the activities that

1 will be taking place within Winnipeg to evaluate
2 what those particular impacts might be.

3 MR. BEDFORD: I am told that currently
4 there are 11 registered archeological sites with
5 Heritage Branch in Manitoba that are of particular
6 interest to Metis citizens because they relate to
7 the history of the Metis people in Manitoba. I am
8 told that ten of those 11 registered sites are
9 within the boundaries of the City of Winnipeg.
10 And I recognize that in your presentation, you
11 told us all a little bit about at least two of
12 them. One was the Riel family home and the other
13 was the home that's now located in St. Norbert
14 Park, the Delorme home. But there is one that's
15 outside the City of Winnipeg. Are you familiar
16 with the Mission site and graveyard at Cormorant
17 Lake?

18 DR. SUPERNANT: I have reviewed some
19 information about that, but I cannot claim to be
20 an expert on that particular site.

21 MR. BEDFORD: Okay. And a sincere
22 effort, recognizing that you will continue in your
23 career to do research on these sites, I would
24 invite you to speak to Ms. Virginia Petch, I
25 understand it was her firm and her who notified

1 the province about the importance of the Cormorant
2 Lake site and suggested that it be registered by
3 Heritage Resources. I can tell you as well that
4 it is within the project study area for Bipole
5 III. And on the assumption that you will follow
6 up my suggestion that you contact Ms. Petch, I
7 understand that the Lauder hills and the Toews
8 sites in Manitoba, which are outside our project
9 study area, are of known interest to those
10 scholars and archeologists particularly interested
11 in Metis archeological sites and over-wintering.

12 In reading your paper, and
13 particularly the brief historical overview that
14 you provide for readers in the paper, I concluded
15 that what we all should understand regarding Metis
16 history is that in the period, roughly 1812 until
17 about 1880, Metis persons travelled widely across
18 the plains, and you mentioned the parkland area in
19 Manitoba, primarily because they were hunting
20 buffalo. Would I have that correct?

21 DR. SUPERNANT: That would be one of
22 the activities that they were undertaking during
23 that period. I wouldn't say that was the only
24 reason people were travelling widely on the plains
25 at that time. They also had roles in

1 transportation between various locations as well.

2 MR. BEDFORD: But primarily because
3 one is pursuing buffalo, one should be sensitive
4 to the historical fact that Metis persons who were
5 hunting buffalo would over-winter in various parts
6 of the plains and into the parklands.

7 DR. SUPERNANT: Yes.

8 MR. BEDFORD: And I used a termination
9 point of about 1880, and I did that because as a
10 child I learned that sadly by about 1880, most of
11 the buffalo in North America had been killed. Is
12 my date about right?

13 DR. SUPERNANT: That is close, yes,
14 depending on where you are.

15 MR. BEDFORD: I'm sure you'll be
16 excited to know that Mr. Mills, one of the regular
17 attendees at this hearing, has discovered a herd
18 of bison not far from Pine Creek First Nation.

19 On page 19 of your report, and in your
20 presentation, you told us all that a primary
21 concern you have as an expert in your field is
22 that my client's project and the construction
23 crews of contractors could quite easily -- and the
24 implication is, if we're not careful -- carelessly
25 disturb unknown sites as well as known sites, but

1 there's very few known, unknown sites where Metis
2 hunters over-wintered. Is that correct, the
3 disturbance is a primary concern?

4 DR. SUPERNANT: I wouldn't use the
5 term careless. It's easy to disturb things that
6 are under the ground that you don't know are
7 there. But, yes, disturbance is an issue.

8 MR. BEDFORD: And I can observe that
9 in Manitoba, the area from just south of Mafeking
10 in the parklands area, south down through the
11 plains all the way to the site of the proposed
12 Riel converter station, has been heavily disturbed
13 over the last 100 years by agriculture. Would it
14 not be reasonable for me to conclude that over the
15 last 100 years, it's far more probable that the
16 activities of those engaged in agriculture have
17 disturbed, regrettably perhaps, most of the known
18 or unknown over-wintering sites that were once
19 occupied by Metis buffalo hunters?

20 DR. SUPERNANT: I would agree that
21 disturbance will have taken place. However, sites
22 that are disturbed by that kind of activity are
23 not necessarily completely destroyed, so there may
24 be remaining intact material below, for example,
25 plow zones. But there is possibilities that in

1 agricultural areas, not all of not the whole area,
2 of course, has had that history, that surface
3 features may have been disrupted or disturbed, but
4 there may be remaining intact material below the
5 surface.

6 MR. BEDFORD: Thank you very much, all
7 three presenters.

8 THE CHAIRMAN: Thank you, Mr. Bedford.
9 In a moment we'll take a break. When we return
10 from the break, it will be open for participants
11 to cross-examine these witnesses in the following
12 order, I don't believe Tataskweyak is here, so
13 Pine Creek, Coalition, Consumers and Peguis. If
14 you want to make your own arrangements in respect
15 of order, that's open.

16 I'm going to take a slightly longer
17 break so that the panel can consider the matter we
18 discussed just when we started the afternoon. So
19 come back in about 20 minutes, please

20 (Proceedings recessed at 3:07 p.m. and
21 reconvened at 3:29 p.m.)

22 THE CHAIRMAN: Okay. Returning to
23 cross-examinations, any change in the order,
24 Mr. Mills? Are you up first?

25 MR. MILLS: Thank you, Mr. Chairman,

1 just a few brief questions. I apologize, I'm
2 terrible for names.

3 MS. STEWART: Abbie Stewart.

4 MR. MILLS: Ms. Stewart, thank you,
5 Mr. Chairman.

6 Abbie, I assist Pine Creek First
7 Nation in trying to understand Bipole III. Are
8 you familiar with some of the proposed route
9 revisions that have been bandied around recently?

10 MS. STEWART: I'm as familiar as one
11 can be with a few of the snapshots I have seen.

12 MR. MILLS: Okay. We have some
13 concern and we're going to ask you some questions
14 that may assist us in better understanding this.
15 We understand from the GHA 19A and 14A proposed
16 route revisions that the issue was moose habitat
17 primarily. And we think we understand that. We
18 have also asked Manitoba Hydro to give us some
19 assurances with regards to the use of herbicides
20 in the right-of-ways. And I'm wondering if it
21 isn't a bit of a paradox for us to be moving a
22 route to better accommodate a moose habitat, but
23 then apparently using herbicide on an ongoing or
24 semi-annual basis to keep that right-of-way open.
25 Would the use of herbicide, these are

1 industrial strength, the best language I have
2 heard is approaching agent orange levels of
3 herbicides, wouldn't those herbicides have a huge
4 effect on moose? And wouldn't the herbicides
5 themselves have a far greater fragmenting or
6 driving effect on a herd of moose than a
7 right-of-way clearing would? These animals, my
8 experience is they can sniff you or I from miles
9 away. Wouldn't industrial strength herbicides
10 send them packing?

11 MS. STEWART: I don't have much
12 expertise with respect to the impacts of
13 herbicides or pesticide use on animals. I
14 actually don't have any literature saying one way
15 or the other how moose are impacted by the use of
16 herbicides. But I also don't think I quite
17 understood the question. Is it that if the route
18 doesn't go through the moose habitat, then the
19 alternate route will require a lot of herbicide?
20 Was that your question?

21 MR. MILLS: You've caught me, I'm not
22 sure what the question is. We're just stumbling
23 with the apparent paradox of, we're relocating a
24 route in order to accommodate a moose habitat,
25 moving it adjacent to the habitat as opposed to

1 through it, but then apparently on a semi annual
2 or occasional basis, large doses of industrial
3 strength herbicide may be used along that route.
4 And we're just looking for someone who has some
5 connection between a moose habitat and herbicides,
6 and I sense you don't?

7 MS. STEWART: No, I really can't offer
8 you much on that particular area.

9 MR. MILLS: Okay. Just one last
10 question. Have you reviewed the memorandum from
11 James Duncan, Director of Wildlife, with regards
12 to the Bipole III transmission line proposed
13 relocations?

14 MS. STEWART: No, I'm sorry, I have
15 not.

16 MR. MILLS: Okay. Let's just talk
17 about it for just a minute, Mr. Chairman. The
18 proposed route change is based on concerns about
19 moose management concerns will be reduced by
20 rerouting the proposed transmission line through
21 this portion of the game area. And he goes on to
22 say that the proponent is still expected to
23 collaborate with regional wildlife biologists, and
24 some suggestion of stakeholders, to implement
25 mitigation strategies to further minimize impacts.

1 We have heard Hydro's sense of mitigation
2 strategies. Can you give me a quick overview of
3 what you might encourage us to encourage Hydro to
4 incorporate as mitigation strategies? Not build
5 the line?

6 MS. STEWART: With the linear
7 corridor, the problem is a removal of habitat is
8 one aspect. So in that case I would recommend
9 allowing regrowth along that right-of-way to
10 really re-create that habitat, if possible, where
11 moose habitat has been removed. And then the
12 access control is a good focus as well to limit
13 both human, and I'm not sure how one would limit
14 predator access except through again that
15 vegetation which is reducing line of site.

16 MR. MILLS: So your first observation,
17 will you and I agree that to have the least effect
18 on moose habitat, Hydro should be encouraged not
19 to maintain or use herbicides in the right-of-way,
20 but allow it to regrow as quickly and as
21 completely as possible? I can't be any more
22 leading.

23 MS. STEWART: Yes, I would agree
24 that -- yes, allowing regrowth on there as much as
25 they can. I understand there's some limitations.

1 MR. MILLS: Okay, thank you.

2 THE CHAIRMAN: Thank you, Mr. Mills.

3 Mr. Meronek, do you have any
4 questions? Mr. Williams?

5 MR. WILLIAMS: Yes, and good afternoon
6 again. And for the panel, I believe my questions
7 will be restricted to Ms. Stewart.

8 And Ms. Stewart, we have not met and
9 my ego, perhaps not as large as Mr. Bedford's, I
10 wouldn't expect you to remember me if we had.

11 MS. STEWART: It's very nice to meet
12 you.

13 MR. WILLIAMS: Ms. Stewart, I'd like
14 to make two or three assumptions, if you would, to
15 set up my question. Just so you know, my name is
16 Byron Williams, I'm representing the Consumers
17 Association.

18 Let's assume, first of all, that one
19 has concluded that there are significant
20 information and data gaps in the effects
21 assessment, okay. That's assumption one. I see
22 you're nodding your head?

23 MS. STEWART: Yes.

24 MR. WILLIAMS: And assumption two, let
25 us assume that one has reached the conclusion that

1 there are significant information and data gaps in
2 the cumulative effects assessment. You are
3 prepared to make that assumption?

4 MS. STEWART: Yes.

5 MR. WILLIAMS: And let us assume as
6 well that one has reached the conclusion that
7 Manitoba Hydro has good intentions in terms of
8 developing appropriate mitigation and appropriate
9 adaptive management. I'll ask you to make that
10 assumption.

11 MS. STEWART: Okay.

12 MR. WILLIAMS: Making those three
13 assumptions, are good intentions in terms of
14 mitigation and good intentions in terms of
15 adaptive management a sufficient answer to
16 significant flaws in effects assessment and
17 cumulative effects assessment?

18 MS. STEWART: I still think that the
19 significance of the project impacts on moose have
20 been underestimated, particularly in that central
21 region of concern to the Metis. With that, I
22 think this is a nice commitment for the collection
23 of more baseline data. However, as it stands,
24 that data has not contributed or informed the
25 impact assessment as it stands. So the impact

1 assessment requires that information. So if this
2 information is collected, I do think that there
3 should be a reassessment of project impacts. We
4 need to know where we are at now.

5 With the data I presented today, I
6 have illustrated that what we know for the region
7 is that moose are declining significantly. We
8 need more detailed baseline data to determine
9 whether we have a significant situation now. So
10 the collection of more information is nice, but I
11 would like it to inform the impact assessment
12 before any approval is granted.

13 MR. WILLIAMS: Okay. And just one
14 other in follow-up to a question that Mr. Mills
15 posed to you, I think you spoke of habitat
16 regrowth. Do you recall making a comment to that
17 effect?

18 MS. STEWART: I do, yes.

19 MR. WILLIAMS: And are you familiar
20 with the policy or the concept of no net habitat
21 loss?

22 MS. STEWART: Yes, I am.

23 MR. WILLIAMS: Could you articulate it
24 to a small degree?

25 MS. STEWART: I'll do my best, but

1 essentially, if you lose, to simplify it -- to
2 lose one piece of habitat or landscape in one
3 area, you would put effort into re-creating
4 habitat elsewhere. So it may be in another
5 disturbed landscape that needs reclamation, you
6 could put your efforts into reclaiming that so
7 that in the end you would have no net loss of
8 habitat.

9 MR. WILLIAMS: Are you familiar with
10 that as it has been practised in other
11 jurisdictions, or the experience with that?

12 MS. STEWART: There are cases of this
13 with respect to wetlands, that's mostly where we
14 hear about no net loss. With respect to
15 terrestrial systems, I don't have any good
16 examples.

17 MR. WILLIAMS: Okay. Thank you,
18 Mr. Chairman, for the panel's time. Thank you,
19 Ms. Stewart.

20 MS. STEWART: You are welcome.

21 THE CHAIRMAN: Thank you,
22 Mr. Williams. Mr. Dawson? No questions. I think
23 that's it for participant groups. Members of the
24 panel. Ms. MacKay? Ken?

25 MR. GIBBONS: Clarification?

1 THE CHAIRMAN: Yes.

2 MR. GIBBONS: I think I might have one
3 or two questions for each person, but they are
4 matters of clarification.

5 First for Ms. Larcombe, at various
6 times, both in your report and in the slide, there
7 is reference to issues which should be addressed
8 by MMF, and other points, for example, in slide
9 eight -- I think slide ten makes reference with
10 two columns, one which refers to information
11 secured from local and regional MMF, and then the
12 other column refers to local MMF. And the
13 interviews themselves took place with individuals.
14 And at some point I think I'm beginning to lose
15 track of who is responsible for conveying to us,
16 as a community, what the traditional knowledge of
17 the Metis community might be. It seems to be
18 coming from individuals, it seems to be coming
19 from local groups, it seems to be coming from the
20 regional MMF, and also from the MMF itself, which
21 is ultimately, according to slide eight,
22 responsible for keeping and controlling that
23 traditional knowledge.

24 Could you just briefly sort that out a
25 little bit for me? I'm having trouble keeping

1 track of -- it's sort of like in sports where you
2 need a program to tell who the players are.
3 Because at one point you do say, and I think it is
4 on slide eight, that the MMF itself, and I imagine
5 by that you mean the central organization, is
6 responsible for keeping and controlling the
7 traditional knowledge?

8 MS. LARCOMBE: First of all, I'd like
9 to clarify what that bullet says. And that is
10 that -- it was in reference to that the MMF, in
11 designing a system that would collect and store
12 traditional use information of the Manitoba
13 community, with the big C on that community,
14 having a system that would allow the MMF, which is
15 the government of the Manitoba Metis, to retain
16 the possession and control of traditional use
17 information. I didn't say traditional
18 knowledge --

19 MR. GIBBONS: Sorry, my mistake.

20 MS. LARCOMBE: -- on behalf of the
21 Manitoba Metis. So that by way of history, I have
22 worked for many communities across Canada, and
23 there are many traditional knowledge and
24 traditional use studies and, you know, governments
25 go in and do studies and take the data away and it

1 gets put in a box on the back shelf, and
2 consultants have a bad rep for going in and doing
3 studies. What's happening, has happened is that
4 for many communities is like, you have to start
5 from scratch every time. Because this information
6 about them isn't in their own control, and it's
7 not being stored in a really secure and
8 confidential and safe manner. So that's where I
9 was getting at, and that the MMF, which is the
10 government of -- I mean, the Manitoba Metis
11 collectively is the proper choice. The Manitoba
12 Metis locals and regional offices, you know, on
13 the map they look like they are, you know, all
14 over the place and must be very busy, but many of
15 them have very little resources. Right. So they
16 don't have, many of them would not have the
17 capacity to, you know, to have the GIS systems and
18 the sort of size of external hard drives that are
19 required to store the type of information that's
20 being collected. So that's where I was coming
21 from. Does that answer your question?

22 MR. GIBBONS: Yes, it does. But,
23 again, it's information often collected from
24 individuals, and there is a hope on the part of
25 the Metis community that they are able to retain

1 that information so it's not lost in the back
2 rooms of some government or consulting agency?

3 MS. LARCOMBE: Correct. And in the
4 introduction to each of the detailed interviews,
5 and the release forms that individuals signed, it
6 was clear in the release form that the Manitoba
7 Metis Federation would be responsible and take
8 responsibility for that information, and keep it
9 secure and keep it confidential on their behalf.

10 MR. GIBBONS: Great. Thank you very
11 much. That's very helpful.

12 Second question is for Ms. Stewart,
13 and it's in relation to slide 12. And again it's
14 for clarification, just so I can better understand
15 the perspectives being discussed. The question
16 about thresholds, it indicates here the thresholds
17 for the moose populations were not established in
18 the EIS, and you also asked the question,
19 acceptable to whom, in terms of the original
20 quotation. Could you in very brief form give us a
21 sense of how other jurisdictions such as, for
22 example Alberta, but any one of your choice, might
23 handle that threshold question? And also how they
24 answer the question acceptable to whom, so I have
25 a better sense of what you're going for there?

1 MS. STEWART: So other methods have
2 been used for magnitude. In fact, in an impact
3 assessment I was involved in, we used an alternate
4 definition for magnitude which looked at
5 extinction probabilities. And we actually used
6 software available to us for population viability
7 analyses. We were actually able to put numbers
8 into that software and it would provide extinction
9 probabilities, depending on the amount of habitat
10 that we lost in those areas. So there are
11 alternative methods that could be used for
12 determination of magnitude and you would actually
13 use data and information to come to that
14 conclusion.

15 With respect to determining acceptable
16 significance, and determining who it's acceptable
17 to, I think I will allow Petr Komers here to
18 respond in that particular respect.

19 MR. KOMERS: Thank you, Ms. Stewart.
20 We worked with a number of communities, especially
21 up north in the Northwest Territories. There are
22 co-management bodies that determine significance.
23 The point here is that what Ms. Stewart was
24 talking about is the determination of significance
25 from an ecological point of view. But the problem

1 is, with significance in general, is significance
2 really is in the eye of the beholder. And for
3 that reason, we need to work with those people
4 that might be affected, and ask them what is
5 significant to you? For that reason, we in the
6 co-management situation work with Aboriginal
7 communities very closely, very early in the
8 process. In fact, the Aboriginal communities
9 determine the terms of reference where they
10 essentially have a say in what and how things will
11 be studied. That seems to have been lacking in
12 this process. So we need to ask whomever might be
13 affected, what does significance mean to you?

14 In this case, we're essentially behind
15 the eight ball because we have not asked that
16 question. There are, as I said mostly in the
17 north, examples of where such processes do exist.

18 MR. GIBBONS: And if I may just a
19 quick follow-up, when you asked the question, are
20 you asking it of individuals, or are you going
21 through organizations that might represent those
22 individuals? I ask that because you are here, for
23 example, at the behest of the MMF. So would this
24 come through the MMF, for example, in the way that
25 you foresee this as possibly occurring?

1 MR. KOMERS: Certainly the MMF would
2 need to be one of the organizations that would
3 contribute to that and help to determine the
4 significance. And you know, there could be for
5 any impact assessment different levels of
6 significance for different communities or
7 different interested parties.

8 MR. GIBBONS: Thank you for that.
9 That again helps to clarify.

10 Last question in this case, I didn't
11 arrange it this way it just worked out in the
12 following way, but a question for Dr. Supernant.
13 And here, I sometimes bore people in the audience
14 because I have a stats background myself, and the
15 question that occurred to me when you were talking
16 about the 20 sites that were used as not just a
17 sample, but the population of sites to be studied
18 is so small as to make it difficult to model from
19 that. But I'm wondering whether the information
20 from those sites was, in the sense I'm looking --
21 the word diminished comes to mind, it's not the
22 right word -- but is the impact of those sites
23 lost because they were subsumed within the 599?
24 And if so, is it possible simply to separate out
25 those 20 and do an analysis which would allow them

1 some predictive capacity based on studying those
2 20 sites alone, not as part of a larger population
3 of 599 sites?

4 DR. SUPERNANT: I think, yes, the
5 noise of the 599 obscured any potential difference
6 in the pattern of those 20. And I would
7 recommend, actually, that if further research is
8 going to take place, which I think is necessary,
9 that, yes, you could pull out those 20, yeah. The
10 population is tiny, but it would at least allow us
11 to test whether or not they do fit into the model
12 of predictability that was presented. Because
13 they may, but we have no idea because they got
14 lost in that. And I would suspect not all of the
15 sites, because of the variety in their types and
16 uses being quite different than the earlier sites
17 that make up the majority of the sample, would
18 give us some sense of how robust that predictive
19 model might be to capture some of those patterns.
20 So it's definitely a worthwhile endeavour, I would
21 say.

22 MR. GIBBONS: And basically it starts
23 with data that Manitoba Hydro already has?

24 DR. SUPERNANT: Yes.

25 MR. GIBBONS: Thank you.

1 MS. MacKAY: Yes, my first question is
2 for Ms. Larcombe, but perhaps after she responds,
3 Dr. Supernant might want to comment.

4 Ms. Larcombe, in your recommendations
5 at the end when you are addressing information
6 gaps, you indicate that the TLUKS was not used for
7 any of the ESS identification of those
8 ecologically or environmentally sensitive sites,
9 and that the TLUKS is too small. Your sample size
10 is too small at this point to really be greatly
11 useful. How much more would need to be done, do
12 you think, to identify a reasonable proportion of
13 the Metis ESS site and to give you what you'd
14 consider a reasonable sample size?

15 MS. LARCOMBE: Thank you for the
16 question. I think step one would be, you know,
17 going through the sites that have been identified,
18 because there could be overlap in terms of what
19 was identified, you know, by who knows who in one
20 of the ATK workshops. I mean, sometimes places
21 are good places because they are a good place. Do
22 you know what I mean?

23 MS. MacKAY: Yes.

24 MS. LARCOMBE: When they said that the
25 TLUKS -- I mean, the TLUKS looked at the banana,

1 which is massive. Now that we have, you know, a
2 preferred final route or an adjusted preferred
3 final route, yes, it would be nice to go back and
4 do a larger number of detailed interviews specific
5 to the line at this point, but I think it could
6 also be done in a different way, you know, with a
7 smaller group of people who are knowledgeable
8 about different segments, and to actually sit down
9 with maps or air photos or walk the line or
10 whatever, and identify sites.

11 Now, the listing of environmentally
12 sensitive sites that are in the EIS, it seemed to
13 me that the focus was on plant gathering areas or
14 burial sites or ceremonial sites, but I didn't
15 necessarily see in that list just really good
16 harvesting places, harvesting for other animals.
17 I think what should be in that list would also be
18 important access routes, so that hopefully they
19 are not the very routes that are identified for
20 construction. It's a bit of a chicken and egg
21 thing at this point, because there's things that
22 we don't know from the EIS, and so it would be
23 difficult. I mean, you can't look -- you wouldn't
24 want to investigate the whole proposed corridor
25 looking for where something might be in a

1 marshaling yard when you don't know where the
2 marshaling yard is supposed to be. So I guess
3 that's a very long way of saying, I don't think --
4 you know, we're looking at another year of
5 detailed interviews to address these gaps. I
6 think they can be done through a very focused and
7 structured workshop environment. Thank you.

8 MS. MacKAY: And Dr. Supernant, in
9 relation to the archeological sites, what do you
10 say might usefully be done to improve the exposure
11 of these sites?

12 DR. SUPERNANT: Well, I think that the
13 suggestion of pulling out the 20 known, and we can
14 kind of confirm based on the final preferred route
15 what might be appropriate to be using for the
16 predictive model would be one step. But I
17 actually think that what Ms. Larcombe has
18 suggested might also be a very useful exercise in
19 terms of identifying areas which have probability
20 of having historic Metis sites. And one thing we
21 can do is expand that sort of set of questioning
22 to glean some of that information, because it is
23 in the, you know, relatively recent past compared
24 to the 12,000 years of Manitoba history, there are
25 some, you know, good possibility that we'll be

1 able to identify some areas that have high
2 potential from an interview process.

3 And I might just comment that that is
4 part of, I think the motivation for coming to some
5 sort of set of agreements about what needs to
6 happen and how, you know, creating an agreement
7 with the MMF about the procedures that need to
8 take place is an important part of that. And then
9 once that's in place, we can proceed with some of
10 this data collection.

11 MS. MacKAY: Thanks. I have one
12 question for Ms. Stewart. This comes out of the
13 graph of the populations, it's on page 15 or slide
14 15 of your presentation. I'm asking you to
15 speculate, I know you can't say anything specific
16 about this population of moose, but do you think
17 it's even possible that the whole story behind
18 this is simply overharvesting, or would you think
19 it likely that something else is operating in
20 there as well? And I know you're just
21 speculating.

22 MS. STEWART: Yes, I really wouldn't
23 want to speculate, really. I don't have any
24 numbers in front of me, but I would just say that
25 ecological systems are extremely complex and

1 there's never just one factor at play here. I
2 would say that it's quite likely that there are
3 multiple variables involved. So I would be
4 hesitant to say that one factor is really
5 causing -- is really the cause of all of these
6 fluctuations in the moose population. I would
7 really want to see more information on other
8 variables like fire, vegetation, predation.

9 MS. MacKAY: Thanks.

10 THE CHAIRMAN: Thank you. I have a
11 few questions that sort of bounce all over the
12 place, but the first for Ms. Larcombe.

13 In your presentation you talked about
14 the fact that the PPR, the preliminary preferred
15 route, was selected before the TLUKS was
16 completed. In fact, that it was announced, I
17 think you say here, in July 2010, just as you were
18 completing the design of the TLUKS. I asked a
19 similar question to people from Fox Lake Cree
20 Nation last week. In an ideal world, how would
21 you like to see the sequencing of Metis
22 traditional land use and knowledge studies, or
23 Aboriginal traditional knowledge studies, should
24 they and can they even be completed before the EIS
25 is even undertaken?

1 MS. LARCOMBE: Absolutely. I think I
2 actually wrote a report on that very subject, but
3 in my mind, traditional knowledge and traditional
4 use, and I think -- do I need to clarify what I
5 mean when I distinguish knowledge from use?

6 THE CHAIRMAN: No.

7 MS. LARCOMBE: Okay. I think the
8 environmental assessment is supposed to be, it's a
9 planning process. And in the case of, in this
10 case with Bipole III it's, you know, it's gone
11 through a process of looking at a study area this
12 big to this big to this big. And ideally, sort of
13 the nature of the TLUKS work that the MMF did
14 would have been informative at stage one where
15 they were looking at overriding constraints to
16 narrow down the focus of their study area to those
17 alternative routes. So the nature of traditional
18 use information that was assembled through the
19 TLUKS would have been very appropriate at that
20 scale. And then as you continue through your
21 phases of the EIS or planning process, as it's
22 supposed to be, it becomes more iterative. And it
23 is iterative for other disciplines, you know, they
24 go back and forth, they go do some more moose
25 surveys, they go do this, they go do that, for

1 reasons I don't entirely understand.

2 When it comes to traditional use and
3 traditional knowledge, it's like this box of
4 information, and it sort of comes in late in the
5 day. I don't know if it's because people can't
6 come to agreements on how long it's going to take,
7 how much it's going to cost, whether it should be
8 done at all, but it inevitably comes in too late.
9 And then it's almost like it gets fudged. And
10 then particularly, since at least in the Federal
11 legislation, and it was in the scoping document
12 for this particular project is this directive that
13 you're supposed to include original knowledge or
14 traditional knowledge. It's not a box of
15 information, it's supposed to be an iterative
16 process where science and traditional knowledge
17 parallel one another so that you get the best
18 information possible. But if that information
19 comes in late in the day, it's really not very
20 useful.

21 So to answer your question, if it's
22 properly designed and, you know, whatever
23 arrangements are -- they need to be made earlier
24 in advance. That's the nut of it. Thank you.

25 THE CHAIRMAN: Thank you. You also

1 from page 29 under access and/or harvesting
2 restrictions and disturbance, you said that they
3 should identify project effects on Manitoba Metis
4 who do not live near the transmission line but do
5 engage in traditional use within and adjacent.
6 How could this reasonably be done?

7 MS. LARCOMBE: Well, I think the
8 Environmental Impact Statement is written, the
9 tone of it is that people who engage in
10 traditional use must live near there. I think
11 it's almost, it's implicit, and that's why you see
12 the language of affected communities, local
13 communities, adjacent communities. And I think,
14 you know, with respect to Manitoba Hydro, I think
15 maybe that started to, maybe began to become aware
16 of that shortly before the EIS was submitted,
17 because the timing of the TLUKS coming so soon
18 after the final EIS is filed, so I'll give that
19 breathing room there. The tone of it is that if
20 we're going to stop access here or we're going to
21 close this place down, it's okay because we're
22 going to go talk to the local communities and tell
23 them what's going on, and everybody is going to be
24 okay with that. What I'm saying is that how is
25 Mr. Smith, who is a Manitoba Metis harvester who

1 lives in St. Vital, how is he a part of that
2 picture? How is he -- unless there's good
3 communications, they are not going to know, they
4 are not part of the loop. And that's where I'm
5 getting at with that bulleted point.

6 THE CHAIRMAN: But how could the
7 proponent reasonably be expected to know about
8 Mr. Smith in St. Vital?

9 MS. LARCOMBE: Well, he's not supposed
10 to know about Mr. Smith in St. Vital. But they
11 knew, because in the interim report that we
12 presented to them in June, we had the statistics
13 back from the screening survey showing that
14 Manitoba Metis from all parts of Manitoba were
15 involved in traditional activities in the project
16 study area. So they knew at least then. But
17 maybe President Chartrand tomorrow can answer
18 better, because obviously I wasn't privy to the
19 discussions that lead up to whatever arrangements
20 resulted in me being hired and this type of work
21 being done.

22 THE CHAIRMAN: So could the concerns
23 be addressed by a good communications program?

24 MS. LARCOMBE: I think it would
25 certainly help mitigate. I mean, I realize that

1 some of these blocked access routes, it's
2 temporary, it's not permanent. But if you're
3 travelling, you know, 300 miles to go to your, you
4 know, meet up with your family and go harvesting
5 at place X, and you get there and it's posted you
6 can't go there, there's a financial effect,
7 there's a social effect, and communications would
8 at least hopefully preempt that kind of situation
9 from happening. And I think as long as important
10 harvesting areas weren't restricted for lengthy
11 periods of time, you know, I don't think it's
12 going to be the end of the world for that type of
13 activity.

14 THE CHAIRMAN: Okay. Thank you. Now,
15 I wrote something down and I think you said this,
16 that Manitoba Metis people live all over the
17 province but they are one community? Can you
18 define that, or should I leave that for
19 Mr. Chartrand?

20 MS. LARCOMBE: Well, it's a legal
21 question, but in the time that I had worked with
22 the Manitoba Metis Federation, it's my
23 understanding that the collective of the Manitoba
24 Metis people is the broader Metis community of
25 Manitoba.

1 THE CHAIRMAN: Thank you.

2 Ms. Stewart, you talked about a dearth
3 of data in respect of moose south of Red Deer
4 Lake. Is there anywhere in the EIS where there's
5 sufficient data on moose provided?

6 MS. STEWART: There were quantitative
7 aerial surveys that were in the north. I have
8 concerns about the coverage of that data as well.
9 There are conclusions made in the EIS about the
10 final preferred route and how it is preferable for
11 moose, but I don't see that the coverage that they
12 had provided them that information.

13 THE CHAIRMAN: So, you mentioned
14 aerial survey. Why is the information or the data
15 provided not sufficient, and/or what would you
16 like to see in the way of data to make it
17 sufficient?

18 MS. STEWART: Are you talking about
19 the entire route now?

20 THE CHAIRMAN: No, the Red Deer Lake,
21 or south of Red Deer Lake specifically?

22 MS. STEWART: Well, they have done
23 track data, winter tracking data in the south for
24 mammals. From what I can see in the EIS, the
25 sample size is too small to really pull out any

1 statistically significant relationships. They can
2 certainly bolster that by doing more track
3 surveys. And if they were to use that information
4 for follow-up in monitoring, transects would have
5 to be placed outside of the local study area as
6 well, so you could really have a strong monitoring
7 design, you know, like a before or after and a
8 control impact. So you can really determine
9 whether impacts are from the project or just due
10 to natural variation just in the region in
11 general.

12 THE CHAIRMAN: Just to follow on to a
13 question that Ms. MacKay asked. She asked you
14 about some of the reasons for decline. But do
15 numbers typically recover when -- like there's a
16 hunting ban right now, does that or other actions
17 help the moose recover typically?

18 MS. STEWART: Well, in the two figures
19 that were presented by Manitoba Hydro, it would
20 appear that way, that moose were responding to
21 that closure. I don't have more information
22 relative to those particular scenarios, and I
23 can't really -- I can't make a definitive yes or
24 no on that, if moose populations would respond to
25 that.

1 THE CHAIRMAN: Okay, thank you. You
2 have talked about it, and actually many others
3 over the last few weeks have talked about the dire
4 situation that moose in this area are in. But
5 that's right now, this is before the Hydro line
6 goes through. What additional stresses on the
7 moose might there be from the Hydro line, without
8 going into -- I'm sure you can elaborate for days,
9 but briefly if you might?

10 MS. STEWART: Well, we're adding
11 another disturbance. And we already have those
12 relationships that I showed you in today's
13 presentation, that moose respond negatively to
14 increases in fragmentation and habitat loss. So
15 we have a population that's already very low, and
16 now we're adding another disturbance on top of
17 that, so it could be significant. We could be at
18 a threshold right now. We don't have enough
19 information to know that.

20 THE CHAIRMAN: We did hear from one
21 witness a week or two ago who said that
22 rights-of-way can actually be beneficial to moose
23 in that they really like the young plants and the
24 regrowth after you had gone through a clear-cut.
25 Do you have any comment on that?

1 MS. STEWART: Yeah, I have heard that
2 many times. And my concern with general
3 observations like that is that we may see moose on
4 the right-of-way, but we're not seeing how many
5 are not on the right-of-way, which is why we need
6 that data really in a well -- strong study design
7 stratified sampling, so we can understand whether
8 moose are really on the right-of-way, or they just
9 appear to be because people tend to observe them
10 more when they are on the right-of-way. And
11 actually, one of the references that was cited in
12 the EIS talks -- it actually says that, I believe
13 it was no difference between the right-of-way, or
14 they didn't have enough data actually to say
15 whether it was -- the right-of-way was better or
16 worse than the adjacent habitat. But I bring that
17 up because Manitoba Hydro used that citation to
18 support one of their conclusions that they would
19 use the right-of-way. So really, we're at an
20 impasse there. We need more information to know
21 whether that's actually the case or not.

22 THE CHAIRMAN: From studies or
23 observations in other jurisdictions on
24 transmission lines, has anybody looked at whether
25 or not the moose do like the rights-of-way?

1 MS. STEWART: So there was a study by
2 Ricard and Doucet in 1999, and they actually
3 looked at transmission lines, and they were
4 looking at -- they were basically comparing use of
5 the transmission line compared to adjacent
6 habitat, and the right-of-way did not actually
7 offer good moose feeding habitat. And they had a
8 small sample size, so they couldn't conclude if
9 moose browse more or less on that right-of-way.
10 And that's the only transmission study I have at
11 my fingertips. It doesn't mean there's not more
12 out there.

13 THE CHAIRMAN: Thank you. One final
14 question, one of your slides, slide 14, you stated
15 detailed follow-up program information should be
16 available prior to project construction, and then
17 you note CEAA 2011. Do you know if that provision
18 survived into CEAA 2012?

19 MS. STEWART: Actually, I'm sorry I
20 don't.

21 THE CHAIRMAN: I didn't get the name
22 of the gentleman next to you.

23 MS. STEWART: Dr. Petr Komers.

24 THE CHAIRMAN: Sir, in response to
25 Mr. Gibbons earlier you said something about

1 significance being in the eye of the beholder.
2 Now, we have had some discussion, and I expect
3 we're going to have more discussion before we're
4 finished on significance. Environmental
5 assessment processes and laws set out different
6 standards for significance. We have had some
7 debate here about what one consultant calls
8 regulatory significance. So when you say it's in
9 the eye of the beholder, what are you meaning?

10 MR. KOMERS: Thank you for that
11 question, Mr. Chair.

12 The significance question always was
13 one that I struggled with for the last two decades
14 at least. You see, for us, we're just ecologists
15 if I can say, we're crunching numbers. If you ask
16 me from an ecological point of view what
17 significance is, it's probably where you either
18 introduce a species into a landscape, or where you
19 remove a species from a landscape. In that case,
20 you really change the way the ecosystem functions.
21 That's a pretty significant change from an
22 ecological point.

23 But the problem here is that before we
24 get there, you have to reduce a population by a
25 large number of individuals. Let's say we have a

1 thousand individual moose in an area to begin
2 with. If you reduce that population by a hundred,
3 is that significant? Or by 500? I don't know. I
4 just can tell you as an ecologist that, yes, you
5 reduce the population size. For that reason, we
6 ecologists in impact assessments actually need the
7 information from people that are affected to tell
8 us what they think is significant. Where is the
9 threshold that you want us to evaluate the impacts
10 at? Then we can tell you, we can calculate those
11 numbers for you.

12 As an ecologist I cannot tell you
13 where that point is. And that is my conundrum. I
14 need to hear that from the people that they are
15 affected. Does that answer your question?

16 THE CHAIRMAN: It does, but it worries
17 me, because if you as an expert in this area
18 struggle with significance, how do us mere mortals
19 up here come to understand and make some decisions
20 on significance?

21 DR. SUPERNANT: Can I make a comment
22 here?

23 THE CHAIRMAN: Certainly.

24 MS. SUPERNANT: This is coming from my
25 background as an anthropologist. Significance in

1 this case partly has to do with world view in
2 terms of how people approach a landscape and how
3 they use a landscape. We can't always understand
4 how somebody else interacts with a landscape. So
5 what might be significant to me as an
6 archaeologist, or to others as ecologists, may not
7 be the same as significance to a harvester. And
8 so it's very important to remember the different
9 ways in which we approach and understand
10 landscapes have a significant impact on
11 significance.

12 THE CHAIRMAN: Thank you. And that
13 brings me to you, Dr. Supernant. I have a couple
14 of questions.

15 You say Metis sites may not be easily
16 distinguishable from other historic era sites.
17 And I'm curious, particularly, you know, you look
18 at camp sites, or camps and other temporary
19 locations, or fur trade posts, how do you
20 determine that the site is Metis and not First
21 Nation?

22 DR. SUPERNANT: That's a question that
23 I don't think anyone has adequately answered in
24 terms of the archeological record. I do think you
25 will find different patterns of material within

1 those sites. What those patterns are is at this
2 point a bit of an unknown, because no one has ever
3 asked that question of the archeological record.
4 What I will suggest is that sites are not just --
5 in many cases they are not just Metis, just First
6 Nations, just settler. Oftentimes they are
7 combinations of those things. So while I talk
8 about over-wintering as a likely location of
9 primarily Metis activity, most of the other Metis
10 type locations are likely overlapping with other
11 material. So I would suggest that in this process
12 we need to err on the side of caution and be more
13 inclusive of different stakeholders within those
14 sites until a determination can potentially be
15 made.

16 THE CHAIRMAN: I'm sure if you just
17 went down to the Forks a few blocks from here,
18 you'd have at least three different cultures
19 there, you may even have more because I think
20 there's some very old Aboriginal cultures, but as
21 well as recent First Nations, recent Metis, and
22 then Scots and English.

23 MS. SUPERNANT: And same with fur
24 trading posts.

25 THE CHAIRMAN: Turning to your

1 management recommendations, you talk, in number
2 two and three you talk about, more particularly
3 number three, you talk about the proponent
4 financing a full-time MMF heritage cultural sites
5 coordinator. Shouldn't this also apply to First
6 Nations?

7 DR. SUPERNANT: Absolutely.

8 Absolutely. I'm here to speak on behalf of the
9 Manitoba Metis Federation, but I think points two
10 and three should be also applied to First Nations.

11 THE CHAIRMAN: Okay. Thank you. I
12 think that concludes my questions. Anyone else?
13 Anything popped up?

14 MR. MOTHERAL: I hear the reference to
15 country food. I'm from the country and I'm pretty
16 sure I know what you meant, but why is it called
17 country food?

18 MS. LARCOMBE: It's just part of the
19 lexicon that's used in people who are involved
20 with traditional use studies. It's called
21 traditional foods, country food, bush food.

22 MR. MOTHERAL: Okay. I was asked by
23 the panel to ask that. I'm the food critic on
24 this group here.

25 MR. MADDEN: Mr. Chair, if I can beg

1 indulgence to ask one more I think clarification
2 question? I think Mr. Gibbons raised a really
3 important question that I'd like Ms. Larcombe to
4 try to unpack a little bit more, because I think
5 it's one of the challenges of why you -- what I
6 heard in the question, and I'm not quite sure if
7 Ms. Larcombe answered it completely, was what's
8 this -- you are doing individual interviews but
9 there's communities over here, and how do you, and
10 why are you, you know, and then when we want to
11 talk about the sites, why are you saying you have
12 to go to the communities versus the individuals?
13 And I guess what I wanted to ask Ms. Larcombe
14 about is, because even though we're talking about
15 traditional use, we're also embedded within that
16 talking about Aboriginal rights. Would you agree
17 with me, or that they are interchangeable?

18 MS. LARCOMBE: Well, I don't
19 interchange those words because I get into
20 trouble, because I'm not a lawyer. But generally
21 the right is understood to include the harvesting
22 of animals and plants and fish.

23 MR. MADDEN: And I'm not asking you a
24 legal question, but it's well understood though
25 that Aboriginal rights are collective rights,

1 correct?

2 MS. LARCOMBE: That's my
3 understanding, correct.

4 MR. MADDEN: So I can understand
5 Mr. Gibbons' concern is, well, why are you, if
6 these are collectively held rights, but you're
7 talking to individuals, do the individuals -- are
8 the individuals giving you information just about
9 themselves or are they talking -- is the
10 information you are collecting about a broader
11 collective?

12 MS. LARCOMBE: It depends which type
13 of data. I mean, the TLUKS collects a variety of
14 information. So if it's information that an
15 interviewee may be providing about who they go
16 harvesting with, you know, if it's their family
17 members or extended family members, they are
18 talking about somebody, they are providing
19 information outside of their individualism. If
20 they are talking about their knowledge of
21 important historic places or portages or what have
22 you, they are sharing knowledge that's been
23 transferred to them. And you could call it
24 community knowledge, because it's largely known by
25 a larger number of people. So it depends on what

1 piece of data you're talking about.

2 MR. MADDEN: And maybe Dr. Supernant

3 can answer this too, because I have to tell you, I

4 have done a lot of these and this is -- the

5 problem is, we're looking at an environmental

6 assessment and we're supposed to, whether we can

7 use the language of rights or whether we use the

8 language of traditional use, we are talking

9 about -- so I'll use an example. In the TLUKS you

10 are identifying sites. And I identify a site as

11 Ms. X harvester. But is that site mine

12 individually? So, for example, is the appropriate

13 mechanism, once you find that site, to go talk to

14 that individual harvester, or is it to go talk to

15 the collective? And I'd like it from

16 Dr. Supernant to answer that question as well,

17 because I think that one of the challenges is the

18 difference of perspective that we have of what was

19 done in the Manitoba Hydro ATK workshops versus

20 the self-directed studies that were done by the

21 Nations. And I think if you can give your

22 thoughts on that, it would be helpful. So those

23 sites that are identified, should you be going and

24 talking to the individuals, or are those things

25 that you should be going and talking to the

1 collective?

2 MS. LARCOMBE: I just want to be
3 clear, Mr. Madden, are you talking about the sites
4 that are listed in the EIS listing of
5 environmentally sensitive sites, or are you
6 talking about locations or sites derived from the
7 TLUKS?

8 MR. MADDEN: I'm talking about a
9 heritage site that's identified, or a sacred site
10 that's identified by an individual harvester, but
11 that individual harvester's interview
12 acknowledges, you know, we aren't the only -- I'm
13 not the only guy that uses the berry patch, right.
14 So that's what I think is the problem, where does
15 the collective -- and maybe, I don't want to put
16 words in Mr. Gibbons' mouth, but I often struggle
17 with that too, of when is it an individual and
18 when is it a collective? And if you can maybe
19 provide some assistance on that.

20 MS. LARCOMBE: Okay. Here's my stab
21 at it. Knowledge about historic places, burial
22 sites, and I will qualify that, if it's a burial
23 or cremation site that let's say for example was
24 mine and nobody else knows where it is, that's
25 clearly, you know, if it was my spouse or my

1 husband, but it's contemporary and it's very
2 personal for me, so I don't consider that
3 collective knowledge if it's on a personal nature
4 like that. If we're talking about, you know,
5 known burial places where it's widely known,
6 that's collective knowledge. And if it's places,
7 you know, where there's berry patches or there's
8 moose hunting or what going on, that's not --
9 there's no proprietary right to that knowledge or
10 to that use. That's collective to the community,
11 it's collective to those rights. I think the only
12 place where there might be some proprietary issues
13 is with intellectual knowledge. And we haven't
14 been involved in collecting that, you know, data
15 of that nature. And if it was collected, I wasn't
16 aware of it, let's put it that way.

17 MR. MADDEN: So to follow that
18 through, your answer would be, when those sites
19 that come up that aren't, using your first
20 example, solely discrete of one individual, who
21 should be approached from your professional
22 perspective of doing this for about 20 years plus?
23 I'm not dating you.

24 MS. LARCOMBE: Thank you. I think
25 that the most responsible party who represents the

1 interests and rights of that Aboriginal group is
2 your first go. And then it would be incumbent
3 upon them to find the right "community," I'm using
4 quotation marks, for the transcripts, or group or
5 family members or whatever who may have the most
6 knowledge about that, or most familiar with it,
7 maybe because of physical proximity to it or, you
8 know, it's known that their family has had oral
9 history knowledge. But I don't consider it any
10 one individual to be the only knowledge holder for
11 anything that I have ever come across with
12 traditional use or traditional knowledge.

13 MR. MADDEN: Dr. Supernant?

14 DR. SUPERNANT: I would concur with a
15 lot of what Ms. Larcombe is saying. And from my
16 perspective of more the historic sites, which can
17 include cemetery locations, burial sites --
18 actually I like the term cemeteries, because
19 burial implies more -- not as permanent of a
20 marker. And I think not only are the knowledge of
21 those places and the roles that they play at the
22 level of the community a collective set of
23 knowledge, I think impacts are collective. So
24 when a site is disturbed, "the community" that's
25 most affected is part of the collective of Metis

1 in Manitoba, for example. So I would say it is
2 very much a collective impact, as well as just the
3 collective knowledge.

4 MR. MADDEN: And following that
5 through, your example of the British Columbia
6 model is -- who is engaged is the First Nation.

7 MS. SUPERNANT: Yes, the chief and
8 council would be, in that case, would be the
9 person contacted. So it wouldn't be individuals
10 who live near the sites, it would be the
11 collective body, and then they would canvass their
12 constituents.

13 MR. MADDEN: Thank you.

14 THE CHAIRMAN: Before you run away,
15 Mr. Madden, I would think that given the time you
16 don't want to bring your harvesters panel today,
17 we can start with them first thing tomorrow
18 morning.

19 MR. MADDEN: Yes.

20 THE CHAIRMAN: Okay. Thank you all
21 very much for your presentation here today, and
22 thank you for coming, some of you from afar, safe
23 travels home.

24 I will now address some of the
25 conclusions, or maybe conclusions such as they are

1 from our earlier discussions about the timing of
2 the rest of the hearing process. Now, between now
3 and next Thursday, we will continue to sit as
4 scheduled until I guess Tuesday. So we'll have
5 MMF tomorrow, Consumers Association Thursday,
6 Coalition on Monday, and Tataskweyak Cree Nation
7 either morning or afternoon on Tuesday. And then
8 a number of individuals have identified themselves
9 to Commission secretary, Ms. Johnson, requesting
10 an opportunity to make presentations, including at
11 least one First Nation. So depending on how we
12 can schedule them, they may be -- some of them may
13 be on Tuesday, others will definitely be on
14 Wednesday. Somewhere in there, perhaps all day
15 Thursday, depending on scheduling, we might be
16 able to fit it in at other times, there's sort of
17 a clean-up of cross-examination and panel
18 questions of various Manitoba Hydro witnesses.

19 Mr. Madden, you asked earlier about
20 doing your cross on EPP mitigation, et cetera, in
21 the new year. We would rather that you did it now
22 this fall, so either tomorrow afternoon when they
23 will be here, or one day next week, but preferably
24 tomorrow if we have the time, if we get through
25 all of your stuff tomorrow -- unless Hydro would

1 rather put that off until next week and not have
2 the people here tomorrow. It really depends. We
3 can just have all these people here one day next
4 week and clean it all up in one day?

5 MR. MADDEN: Mr. Chair, my only
6 problem is next week I am unavailable entirely, so
7 if we can --

8 MR. BEDFORD: I understand
9 Mr. Matthewson is not available to us next week,
10 so preferably tomorrow for Mr. Matthewson.

11 THE CHAIRMAN: Okay. And how long do
12 you think your presentations tomorrow will be?

13 MR. MADDEN: It's hard to estimate,
14 but I'm hoping that we could be wound up by
15 morning. By the afternoon, I think I would have
16 some time to do the questioning on the EPP.

17 THE CHAIRMAN: Okay. So we'll do it
18 that way. We have scheduled a sitting tomorrow
19 evening, I don't think we'll need that. I think
20 what we'll try to do then is if we're not finished
21 at 5:00, we'll go to 5:30 or 6:00, and just go
22 straight through and try to clean it up then. And
23 then you would be given an opportunity to pursue
24 some of that. Everybody will be given an
25 opportunity to pursue further issues related to

1 these three reroute sites. When we come back in
2 the new year, I only want to deal with the
3 re-routing. That will include presentations, that
4 will include a presentation by Manitoba Hydro,
5 cross-examination, and then presentations by Pine
6 Creek, MMF, and perhaps Peguis, and then final
7 rebuttal and final arguments.

8 MR. MADDEN: My only -- and I
9 indicated this previously, my only -- we have not
10 tabled, and I think Mr. Mills asked Ms. Stewart
11 some questions about, you know, the mitigation
12 measures proposed in relation to moose, we
13 haven't -- you'll see in all the expert reports
14 because they were I think, I wouldn't necessarily
15 say generic enough, but broader, that they weren't
16 locationally specific mitigation measures on the
17 line. We will be filing a supplemental report on
18 mitigation measures in relation to moose and elk,
19 and it's not just about the routing, we haven't
20 filed the broader document. So we just want to
21 make sure that --

22 THE CHAIRMAN: We'll probably allow
23 it.

24 MR. MADDEN: Okay.

25 THE CHAIRMAN: Mr. Williams had

1 indicated earlier he thought it would take three
2 weeks in the new year. I find that a little
3 surprising. We have covered almost a whole thing
4 in about five weeks, and he thinks we need another
5 three weeks for a hundred K. Our estimation is
6 that it should be between six and eight hearing
7 days.

8 Now, as to when we can have those
9 hearing days, Manitoba Hydro has indicated they
10 will file their supplemental evidence on the 28th
11 of January. The Environmental Licensing Branch
12 has told me that they will have a two week TAC
13 period. We are then inclined to give another two
14 weeks, which was a commitment I made last week,
15 which would take us to February 25th.
16 Unfortunately, there's a problem for the panel, we
17 have panelist shortages that week. So our
18 thinking right now is that we'll come back on
19 March 4th and that we would conclude on
20 March 14th. That will give you guys lots to time
21 to prepare, so no arguments on not having enough
22 preparation time. You probably have more time to
23 prepare for this than you did for the whole EIS.

24 Any questions on comments? Mr. Mills?

25 MR. MILLS: I could wait for the

1 transcripts, but I'm just trying to understand,
2 Mr. Bedford, when he rose this morning, indicated
3 that as a result of work that needed to be done,
4 he was requesting this delay, and there was a
5 reference to consultation. And I was just
6 wondering if he could elaborate or give me some
7 help with that?

8 THE CHAIRMAN: I think he answered
9 that by saying that they were working right now on
10 a consultation plan. You may recall that I read
11 into the record some comments from Mr. Beddome,
12 and Mr. Beddome in particular had some points
13 about the consultation process. And Mr. Bedford,
14 if I put words in his mouth, said they were still
15 working on that plan.

16 MR. MILLS: Does Mr. Bedford have any
17 sense of when we might see that plan? The start
18 of that is really the start of our period to get
19 ready for March.

20 THE CHAIRMAN: Well, I can't speak for
21 Mr. Bedford. And as I have said many times, I
22 can't tell Manitoba how or what. But if he wishes
23 to respond to that he may. If he doesn't, then I
24 can't.

25 MR. BEDFORD: As you correctly

1 recalled, staff are working on it. I can tell you
2 no more today.

3 MR. MILLS: When you have something,
4 if you can let us know? Thank you.

5 THE CHAIRMAN: Well, I suspect that
6 your community will be one of the ones that's
7 quite intimately involved in this.

8 MR. MILLS: We hope so.

9 THE CHAIRMAN: Any other questions or
10 comments? Okay. We will adjourn until 9:00 a.m.

11 MS. JOHNSON: We have a pile of
12 documents again today.

13 THE CHAIRMAN: Of course.

14 MS. JOHNSON: MMF number 10 is the CV
15 package provided on September 17th; number 11 is
16 the traditional use report by Ms. Larcombe; number
17 12 is her presentation; number 13 is the summary
18 of ungulate information; number 14 is the ungulate
19 report by Ms. Stewart; number 15 is Ms. Stewart's
20 presentation; number 16 is the archeological
21 report by Dr. Supernant; and number 17 is her
22 presentation.

23 (EXHIBIT MMF 10: CV package provided
24 on September 17th)

25 (EXHIBIT MMF 11: Traditional use

1 report by Ms. Larcombe)
2 (EXHIBIT MMF 12: Presentation of Ms.
3 Larcombe)
4 (EXHIBIT MMF 13: Summary of ungulate
5 information)
6 (EXHIBIT MMF 14: Ungulate report by
7 Ms. Stewart)
8 (EXHIBIT MMF 15: Ms. Stewart's
9 presentation)
10 (EXHIBIT MMF 16: Archeological report
11 by Dr. Supernant)
12 (EXHIBIT MMF 17: Dr. Supernant's
13 presentation)
14 THE CHAIRMAN: Okay. So we're
15 adjourned now until 9:00 a.m. tomorrow morning.
16 (Proceedings adjourned at 4:43 p.m.)
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OFFICIAL EXAMINER'S CERTIFICATE

I, DEBRA KOT, a duly appointed Official Examiner
in the Province of Manitoba, do hereby certify the
foregoing pages are a true and correct transcript
of my Stenotype notes as taken by me at the time
and place hereinbefore stated.

Debra Kot
Official Examiner, Q.B.

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