

MANITOBA CLEAN ENVIRONMENT COMMISSION

BIPOLE III TRANSMISSION PROJECT
PUBLIC HEARING

VOLUME 17

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Transcript of Proceedings

Held at Fort Garry Hotel

Winnipeg, Manitoba

TUESDAY, NOVEMBER 6, 2012

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APPEARANCES

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Terry Sargeant - Chairman
Pat MacKay - Member
Brian Kaplan - Member
Ken Gibbons - Member
Wayne Motheral - Member
Michael Green - Counsel to the Board
Cathy Johnson - Commission Secretary

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MANITOBA METIS FEDERATION

Jason Madden - Counsel

MANITOBA WILDLANDS and SAPOTAWEYAK CREE NATION

Gaile Whelan Enns

GREEN PARTY OF MANITOBA

James Beddome

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Robert Dawson - Counsel

TATASKWEYAK CREE NATION

Ian Cluny
Shaun Keating

APPEARANCES CONTINUED:

PINE CREEK FIRST NATION
Charlie Boucher
Warren Mills
John Stockwell

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1 Tuesday, November 6, 2012

2 Upon commencing at 9:00 a.m.

3 THE CHAIRMAN: Good morning. Welcome
4 back. On our agenda today is the
5 cross-examination of socioeconomic matters.
6 Before we do that, I believe Manitoba Hydro has a
7 number of undertakings to file. Ms. Mayor?

8 MS. MAYOR: Yes, thank you, good
9 morning. We have a number of undertakings from
10 the first couple of weeks of the hearings, as well
11 as on the road trips.

12 So the first one was in The Pas on
13 October 17th, at page 1413. It was an undertaking
14 given to Ms. Salamandyk from Ms. Johnson, and as
15 well there was a follow-up question from
16 Mr. Gibbons in Niverville at page 1854. Both of
17 them related to paying for the project costs and
18 the impact on rates. The first question was how
19 long will it take to pay for the project based on
20 the figure of 3.28 billion on the cost of the
21 project. The answer is that Manitoba Hydro
22 recovers costs through customer rates over the
23 service lives of its underlying assets. This
24 ensures that only those customers that benefit
25 from the use of the project pay for the cost of

1 the project. In the case of Bipole III, the
2 average service life of the project is
3 approximately 50 years and is expected to go into
4 service in October of 2017, subject to regulatory
5 approval.

6 The second part of the question was
7 related to the increase in customer rates.
8 Manitoba Hydro rate increases are not based on the
9 costs of a specific project, but rather are
10 designed to recover the overall costs of providing
11 service to customers and maintaining a reasonable
12 financial position. Manitoba Hydro needs to make
13 major investments in its existing infrastructure
14 and is planning a number of new major projects
15 such as Bipole III transmission and Keeyask and
16 Conawapa generating stations. These investments
17 will further improve electrical system reliability
18 and meet the future energy needs of the province.
19 Manitoba Hydro's approach is to propose moderate
20 annual rate increases.

21 The second undertaking given by
22 Mr. Penner to Mr. Sargeant in Niverville on
23 October 26th is found at page 2012 to 2013. The
24 question was, how many times, ballparking, do
25 lines criss-cross on a landowner's property?

1 There are 110 crossings of distribution lines.
2 There are 33 transmission crossings. In
3 approximately three instances, Bipole III would
4 intersect another transmission or sub transmission
5 line where towers are going off in different
6 directions or perpendicular. In those instances,
7 Manitoba Hydro will meet with those landowners to
8 fully understand the impacts and to discuss what
9 can be done to reduce that impact.

10 On October 29th, Mr. Tymofichuk
11 provided an undertaking to Mr. Williams at page
12 2031. The question was, looking out to 2024,
13 2025, how much additional capacity is the
14 corporation currently estimating over and above
15 Bipoles I, II and III? That answer has been
16 provided in a written form and so we would ask
17 that that be filed as the next exhibit in this
18 proceeding.

19 On October 29th at page 2061 to 2062,
20 Ms. Zebrowski provided an undertaking to
21 Mr. Madden. The question had been, did the
22 province provide information on which Aboriginal
23 communities to engage with.

24 A further review of Manitoba Hydro's
25 records confirms the original answer provided by

1 Ms. Zebrowski, that the province did not provide
2 information.

3 The next undertaking also given by
4 Ms. Zebrowski to Mr. Madden at page 2082 to 2084,
5 did the province play a role in the development of
6 the glossary? And we can reaffirm once again that
7 the province played no role in the development of
8 the glossary.

9 At page 2091 of the same transcript on
10 October 29th, Ms. Zebrowski, again to Mr. Madden,
11 who was consulted with respect to Aboriginal and
12 northern consultation process separate and apart
13 from the ATK process? Manitoba Hydro can confirm
14 that the same 49 communities that were contacted
15 for the ATK workshops were consulted.

16 At page 2147 of the October 29th
17 transcript, Ms. Zebrowski again to Mr. Madden,
18 when did Manitoba Hydro first engage with OCN.
19 The date is April 24th, 2008.

20 On October 30th, Mr. Kuzdak provided
21 an undertaking to provide examples of trapper
22 compensation at 2351 of the transcript.
23 Mr. Kuzdak will be presenting those later this
24 morning, and we have provided five written
25 examples, and he will provide those verbally as

1 well. But if we can have those filed as the next
2 exhibit as well? Then he will briefly explain
3 those examples to you and the compensation for
4 both new trappers, and for open areas, community
5 lines and youth lines.

6 Page 2389 of the October 30th
7 transcript, Ms. Hicks provided an undertaking to
8 Mr. Sargeant, which was redirected elsewhere,
9 where will the security gate go on the road. We
10 had been informed that it will be located along
11 the Conawapa Road. It is tentatively set to be
12 installed approximately six kilometres from the
13 end of PR 290.

14 A further undertaking by Ms. Hicks to
15 Mr. Sargeant on October 30th is found at page
16 2390. This was a question with respect to the
17 cultural awareness training on Wuskwatim. The
18 information that we have obtained from those
19 involved indicated that cultural awareness
20 training was to be mandatory at the Wuskwatim
21 site. However, as the cultural coordinator could
22 only offer one session per month at times, this
23 presented difficulties for individuals hired for
24 short durations only, from two to six weeks.

25 For contractors, attendance by their

1 workforces was imposed as a contract condition,
2 again, due to scheduling difficulties and short
3 employment, attendance was not always possible.

4 In terms of recorded attendance, there
5 was well over 2,000 individuals that did receive
6 such training. There may be some duplication,
7 though, in those numbers if staff were hired by
8 more than one contractor, because they may have
9 been required to attend on more than one occasion.

10 THE CHAIRMAN: Ms. Mayor, did you say
11 imposed as a condition of contract?

12 MS. MAYOR: Yes.

13 THE CHAIRMAN: Okay. I could have
14 heard it as opposed.

15 MS. MAYOR: No, imposed, and I think
16 it was accepted as well.

17 On October 30th as well at page 2396,
18 Ms. Hicks to Mr. Motheral, what are Manitoba
19 Hydro's dust control mitigation measures? That
20 again was referred to a department of Manitoba
21 Hydro. The information that was received was,
22 prior to construction of line segments, the
23 construction supervisor, project engineer, will be
24 meeting with rural municipalities and landowners.
25 During these meetings the following will be

1 discussed, specific construction timelines,
2 methods of construction, and concerns such as
3 dust, noise, specific access arrangements on
4 private land. For dust control measures on roads
5 and when to apply those measures, the corporation
6 would rely on experience from the rural
7 municipality and will contract that work directly
8 to them in many cases. Those rural municipalities
9 have the knowledge, experience and equipment to do
10 that work. For dust control on private
11 agricultural land, that would be discussed
12 directly with the landowner as to what should be
13 done and how often. The construction workforce
14 will move through any one area fairly quickly.

15 At page 2397 on October 30th,
16 Ms. Hicks provided an undertaking to Ms. MacKay,
17 what were the provincial noise level guidelines?
18 Ms. Hicks had referenced an information request
19 that was VI, and the number was 258. The
20 guideline referenced was the guidelines for sound
21 pollution prepared by the Environmental Management
22 Division of Manitoba Environment and the date was
23 1992.

24 Ms. Hicks also provided an undertaking
25 to Ms. MacKay at 2399. The question asked was,

1 when the Keewatinoow station is operational, will
2 staff commute from Gillam or will the camp be made
3 permanent? It is expected that the staff working
4 at Keewatinoow will reside in Gillam and will
5 commute to the site.

6 On October 30th as well, an
7 undertaking was provided by Mr. Nielsen to
8 Mr. Gibbons at the pages 2489 to 2490. The
9 question asked was the loss of arable land out of
10 production. An exhibit has been filed with the
11 calculation, and we would ask that that be filed
12 as an exhibit today.

13 Mr. McGarry provided an undertaking to
14 Mr. Dawson at page 2536 to 2537. This related to
15 TLE lands that were being avoided, and the
16 question asked was, were the lands avoided, did
17 that include land within the TLE notification
18 zone? And it does not, or it did not include land
19 in the TLE notification zone.

20 On October 31st, Mr. Schindler and
21 Mr. Rettie provided a number of undertakings. At
22 page 2759, Mr. Schindler was asked by Mr. Madden
23 which self-directed studies were incorporated.
24 There were five such studies, the draft Fox Lake
25 Cree Nation traditional knowledge interim report,

1 the Long Plains First Nation traditional knowledge
2 report, the Manitoba Metis Federation interim
3 traditional use and knowledge report, the Swan
4 Lake First Nation preliminary report on the
5 findings concerning land adjacent to Swan Lake
6 First Nation, land at Indian Gardens number eight,
7 and finally the Tataskweyak Cree Nation report on
8 Bipole III and expected impacts.

9 There were additional questions asked
10 and Mr. Schindler advised that in addition
11 information from 96 interviews and mapping
12 collected through ATK workshops was also utilized.

13 On November 1st, Mr. Rettie provided
14 an undertaking to Mr. Williams at page 2848, and
15 he was asked about the sample sizes for table 31.
16 There was a table provided at the top left-hand
17 corner, it's called evaluation range, and that
18 will provide the answer requested. And we would
19 ask that that be filed as an exhibit as well.

20 On November 1st at pages 2849 to 2850,
21 Mr. Rettie was asked to provide the Alberta and
22 Saskatchewan studies to Mr. Williams. Both papers
23 have been provided and copies are available. We'd
24 ask that those be marked as an exhibit. From
25 Alberta the paper is entitled "Declines in

1 Populations of Woodland Caribou" by McLoughlin and
2 others. The Saskatchewan paper is called
3 "Dynamics of Woodland Caribou Populations at the
4 Southern Limit of the Range in Saskatchewan." And
5 the authors are Mr. Rettie and Mr. Messier. So
6 those are two further exhibits.

7 At page 2872, Mr. Schindler provided
8 an undertaking to Mr. Williams to provide a copy
9 of the Abraham 2012 report. That report is being
10 provided today, and it is entitled "Recent Changes
11 in Summer Distribution and Numbers of Migratory
12 Caribou on the Southern Hudson Bay Coast."

13 On November 1st at page 2901 to 2902,
14 Mr. Schindler provided an undertaking to
15 Mr. Beddome, asking about the herd sizes for the
16 five herds. The table is also provided and shall
17 be marked as an exhibit. The table at the top
18 left-hand corner has winter survey data.

19 And the last undertaking that we have
20 an answer to today was provided by Mr. Rettie to
21 Ms. MacKay on November 1st at 2947, and that was
22 to provide a copy of the Quebec study that was
23 referenced. That study is called "Calving
24 Survival Rate and Habitat Selection of Forest
25 Dwelling Caribou In Highly Managed Landscape" by

1 Pinard and a number of others. We would ask that
2 that also be filed as an exhibit.

3 Finally, just to complete the record,
4 there was the letter received from Manitoba
5 Conservation dated November 2, 2012, relating to
6 the proposed route changes, and we would also ask
7 that that be filed as an exhibit. Thank you.

8 THE CHAIRMAN: Thank you, Ms. Mayor.
9 No other preliminary business to care of,
10 Mr. Bedford?

11 MR. BEDFORD: I remind us all that
12 Ms. Hicks has to leave today at 11:30 this
13 morning. She will not be back for the rest of
14 today but she will be available to us on
15 subsequent days if questioning of her is not
16 complete.

17 And once we get underway, Ms. Petch
18 has a correction she would like to make to a
19 statement she made when she gave her presentation
20 a week ago.

21 THE CHAIRMAN: Thank you. Mr. Mills?

22 MR. MILLS: Thank you, Mr. Chairman,
23 I'll be brief. It's with regards to the last
24 document that Manitoba Hydro filed, the letter of
25 Ms. Braun, November 2nd. We all received it. It

1 reads in part, she as a director of the province,
2 indicates that they have reviewed the proposed
3 alteration, have solicited comments from the
4 Technical Advisory Committee, that those comments
5 have been placed in the public registry, and on
6 the basis of those comments approval is hereby
7 provided pursuant to 14.2 of the Environment Act.
8 That is now an affidavit and document within this
9 process and we're all relying upon it.

10 As the route change has a significant
11 effect on my client, we spent Friday afternoon and
12 most of Monday attempting to gain access to the
13 TAC review, which Ms. Braun assures us has been
14 done, so that we can bring ourselves up to speed
15 with it. We discovered late yesterday afternoon
16 that even though the primary and sole issue of the
17 route revision of GHA 19 is the moose habitat,
18 Ms. Braun admitted that in fact the province had
19 not as yet received the TAC comments on wildlife.

20 So I observe, firstly, that her
21 statements appear to be inaccurate and that we are
22 now all relying upon them. And secondly, I have
23 to query everyone, what's the rush? If
24 Mr. McGarry has a milestone that he needs to
25 achieve on Friday afternoon, couldn't he achieve

1 it within this process Tuesday or Wednesday, and
2 achieve it relying upon information that is, in
3 fact, I'll be gracious and say accurate?

4 This taints our respect for the
5 information the Province is providing us. And I'd
6 be disappointed if we all aren't offended that
7 assurances are being provided in writing that just
8 aren't supported by the facts.

9 So I raise that as a concern. And I
10 guess what I would ask is that Hydro withdraw the
11 affidavit that's just been filed, and for the sake
12 of the integrity of this process, we all wait for
13 Ms. Braun to have the TAC reports, and then write
14 a letter saying that she has the TAC reports. And
15 then allow Mr. McGarry to proceed with whatever
16 that allows him to do. But the process right now,
17 Mr. Chairman, to be clear, is based on statements
18 that are clearly not accurate.

19 THE CHAIRMAN: Mr. Mills, I should
20 inform you that this Commission has no authority
21 over what the Province does. Provincial officials
22 operate their own shop, so to speak, and we have
23 no right nor authority to interfere in that
24 process.

25 I would also think, and I don't --

1 it's not for me to defend Mr. McGarry, but I think
2 you have unfairly characterized him in your
3 comments. All he did was receive the letter from
4 Ms. Braun.

5 MR. MILLS: And that's all I've said
6 he did.

7 THE CHAIRMAN: Well, you cast some
8 other aspersions about the rush, that he was
9 acting hastily. I mean, it wasn't his decision
10 when Ms. Braun wrote the letter. As far as the
11 information not being available --

12 MR. MILLS: I received it five minutes
13 ago. It includes the statement that the Highways
14 Transportation information will not be available
15 until November 9th.

16 THE CHAIRMAN: That may affect the
17 timing. We have said that we would give parties
18 two weeks, or at least a couple of weeks more or
19 less to prepare based on the new routing.
20 Depending on what Highways has to say, it could
21 influence the timing of our procedures. So we may
22 be sitting at midnight some night dealing with
23 this before we conclude our hearings.

24 MR. MILLS: And we would hope that we
25 would be sitting with full and complete

1 information, Mr. Chairman.

2 THE CHAIRMAN: We would hope the same.

3 MR. MILLS: Thank you.

4 THE CHAIRMAN: Thank you.

5 Mr. Beddome?

6 MR. BEDDOME: Thank you very much

7 Mr. Chairman. James Beddome, for the record,

8 Green Party of Manitoba.

9 While I'm mindful of the work that
10 Ms. Mayor and Mr. Bedford are putting in, I'm
11 wondering in terms of the undertakings, if it
12 would be possible, similar to what we have for
13 exhibits, running Excel sheets or some sort of
14 chart tracking that, that circulate to
15 participants.

16 And additional to that, I am just
17 wondering, there are a couple of interesting
18 caribou studies that she mentioned in print, and
19 as well as the exhibit that I had requested. I'm
20 wondering if they can't be circulated
21 electronically in some manner as well, through the
22 e-mail list that we already have? It's just
23 something I think would make it easier to track
24 and easier for participants. Although as I said,
25 I am mindful of the workload, but I think it would

1 make life easier, and I would assume that they
2 have been creating such a tracking sheet
3 internally.

4 THE CHAIRMAN: Thank you, Mr. Beddome.
5 Ms. Mayor, do you have any comment on that?

6 MS. MAYOR: Just in terms of the
7 reports, copies are all available in writing right
8 there, so they have been made available.

9 MR. BEDDOME: And how many copies is
10 that? Like, I mean, I know you guys have been
11 trying to save on paper and I appreciate that, but
12 I don't think there is enough copies. Is there
13 one for everyone in the room today then?

14 MS. MAYOR: There are enough copies
15 for all of the participants and there are
16 additional copies for members of the public.

17 MR. BEDDOME: Is there any copyright
18 issue as to circulating these electronically? I'm
19 just wondering why we can't get a scanned pdf of
20 them and circulate it? It doesn't seem to be
21 unreasonable, and I found it easier rather than
22 carrying a stack of paper, to carry a laptop
23 around.

24 THE CHAIRMAN: Well, we don't control
25 how Manitoba Hydro tracks their business.

1 MS. JOHNSON: Mr. Chair, I do require
2 electronic copies of everything for our files, so
3 eventually we will get them.

4 MR. BEDDOME: So if eventually the
5 Commission is going to have electronic files,
6 maybe sharing a USB stick everyday? I'm open to
7 lots of different suggestions, but electronic
8 transmission is what I'm hoping to achieve here.

9 THE CHAIRMAN: I think the operative
10 word in what the Commission secretary said is
11 eventually. As I have noted yesterday, our entire
12 staff is in this room 10 to 12, 14 hours everyday.
13 We have Fridays when we can catch up on some of
14 our other business. When we will get all of the
15 electronic copies, I can't tell you, but it will
16 be at some time before we are required to put all
17 of these documents into archives. So I cannot
18 promise that you're going to get them all, or even
19 many of them during the course of these hearings.
20 You will have paper copies, though.

21 MR. BEDDOME: All right. Thank you.

22 THE CHAIRMAN: Mr. Madden?

23 MR. MADDEN: I just want -- I don't
24 think it's unreasonable, in fact, I think it's
25 quite the standard procedure that there be a

1 master undertaking list. I'm having great
2 difficulty in going back in the transcripts and
3 seeing where Manitoba Hydro is answering the
4 undertakings. And I'm positive that the
5 Commission is going to have the same challenge as
6 well when you are deliberating on the proceedings.
7 So I think that standard practice and joint review
8 panels and other environmental regulatory
9 commissions, that there is a master list of the
10 undertakings, the same way there's a master list
11 of the exhibits. That master list just needs to
12 have a description, and it should have the site
13 pinpoint of essentially where they are in the
14 transcripts. I think that for everyone's benefit
15 at the end of this, I think that the Commission
16 should request that from Manitoba Hydro.

17 THE CHAIRMAN: Whose standard practice
18 are you referring to?

19 MR. MADDEN: Joint review panels
20 within -- that are undertaken by the National
21 Energy Board or the Canadian Environmental
22 Assessment Agency, they will post and continue to
23 have a master list of the undertakings that had
24 been taken and responded to, because it's a means
25 of tracking them. Right now we are relying

1 completely on Manitoba Hydro to track those. It's
2 at the end, before the Commission closes its
3 proceedings, it needs to ensure that all the
4 undertakings have been identified and answered.
5 So I think that the onus falls on the proponent to
6 provide that to the Commission.

7 THE CHAIRMAN: Thank you. We'll take
8 that under advisement.

9 MR. MADDEN: The next issue that I
10 wanted to raise is, if we can get some general
11 timelines, or a general understanding from
12 Manitoba Hydro on whether they're filing a new
13 EIS, a supplemental EIS, what the timelines around
14 that are? We're all left guessing. We all have
15 experts that are retained on other projects. I'm
16 not asking for an exact date today, but I'd like
17 to have an understanding of what is exactly going
18 on in the proceeding around the revised route?

19 THE CHAIRMAN: Thank you. And that's
20 a good question. Can Manitoba Hydro provide any
21 guidance in that respect?

22 MR. BEDFORD: We're not filing a new
23 EIS. I doubt that we'll be filing a supplementary
24 EIS. I anticipate we will file something in
25 writing with the Commission once we have heard

1 from all the specialists on the route revisions.

2 But to repeat, it's not a new EIS, and I don't
3 think it would even be reasonable to characterize
4 it as a supplemental EIS. And we'll do that as
5 soon as we can.

6 THE CHAIRMAN: You will be filing
7 something that approximates an environmental
8 assessment of the new route?

9 MR. BEDFORD: I think we'll file
10 something that reflects the advice that we get
11 from all of our specialists about the new route
12 revisions. I suppose some might call it a form of
13 assessment of the route revisions, but we
14 certainly have to bring forward their respective
15 opinions on the three route adjustments.

16 THE CHAIRMAN: Correct me if I'm
17 wrong, but aren't all, or at least most if not all
18 of the new routing follows some of the preliminary
19 route selections, and weren't environmental
20 assessments to a greater or lesser degree done on
21 all of those? And if so, couldn't that be put
22 together specifically for these new routes?

23 MR. BEDFORD: I think so, with respect
24 to the Wabowden that's a reasonable
25 characterization. We're back to following more or

1 less the preliminary preferred route, I think,
2 with some modest changes to that. The other two
3 route adjustments certainly fall within the
4 project study area, but they are somewhat
5 different than what we originally looked at. I'll
6 have to talk to the staff at Manitoba Hydro and
7 determine what they can put together.

8 THE CHAIRMAN: I mean, I don't see how
9 we can conclude these hearings until we have had a
10 fair environmental assessment of what may well be
11 the final route of this project.

12 MR. BEDFORD: No question that we all
13 need to hear what the various experts in each
14 individual field have to say about the route
15 adjustments, absolutely.

16 THE CHAIRMAN: And I undertook a week
17 or two ago that we wouldn't -- we would give the
18 participants a reasonable amount of time to
19 prepare their cases. We don't expect -- some of
20 them will start to present their cases later this
21 week, and next week we don't expect to deal with
22 the new routes at that time, but we have -- we're
23 thinking tentatively about two weeks from now, on
24 the 21st or 22nd. So I think it would be pretty
25 necessary for participants to have some kind of an

1 environmental assessment PDQ.

2 MR. BEDFORD: And as I say, something
3 in writing as quickly as we can. And I certainly
4 understand the timing and the desirability of
5 having whatever we provide in writing provided
6 within two weeks.

7 THE CHAIRMAN: Within two weeks? That
8 won't give our participants sufficient time to
9 prepare. I would hope within a couple of days?

10 MR. BEDFORD: Well, I didn't mean two
11 weeks from today we would provide, so poor choice
12 of word.

13 MR. MADDEN: Mr. Chairman, I
14 understood your commitment was once we actually
15 knew what we were dealing with and received some
16 form of written documentation from Hydro, we would
17 be given two weeks from that date to essentially
18 review. It's just impractical.

19 Mr. Bedford is wrong. Their proposed
20 routing is not within the local study area as
21 defined by the current EIS. The majority of it is
22 outside the local study area. It requires another
23 environmental assessment or -- in relation to the
24 adjustments that are not within what is in their
25 current EIS. It's just -- this is basic

1 environmental law, they can't -- as I have said
2 before, this is not Etch-a-Sketch transmission
3 routing, there needs to be an environmental
4 assessment based upon the route that is before the
5 Commission. It's plain and simple.

6 And Mr. Bedford cannot say as soon as
7 possible. They are the proponent, they are
8 obligated -- it is not our job to guess. So in
9 our respectful submission, until we get that
10 information, we will continue to present on the
11 other issues, but until we get that information we
12 cannot contemplate -- we need two weeks after we
13 receive that information. And we'll still
14 actually look at it to see if it still actually
15 meets the requirements of an environmental
16 assessment. But there needs to be procedural
17 fairness here to participants, as well as to the
18 Commission, not just on Manitoba Hydro's schedule
19 or agenda.

20 THE CHAIRMAN: I would agree with your
21 final comments. I'd have to go back and check the
22 record to see if I did indeed commit for two weeks
23 after you received an environmental assessment.
24 But I would say to Manitoba Hydro that we're on a
25 very tight time line right now. If we don't

1 conclude these hearings by the end of November, we
2 may be looking at January, the end of January
3 before they are concluded.

4 I think that the request of Mr. Madden
5 and others in respect of an environmental
6 assessment of the new routes is not unreasonable.
7 I would hope that Manitoba Hydro can provide that
8 very quickly, otherwise we're looking at a
9 significant delay in this process.

10 MR. MADDEN: Mr. Chairman, I would ask
11 if it would be helpful to the Commission for
12 potentially the participants to provide some case
13 law on what happens in these situations. This is
14 not an anomaly of that, something is missed, or a
15 dramatic change is made to a project, or elements
16 of that project, and how other panels, commissions
17 have dealt with supplemental filings to an
18 environmental assessment, or in some cases whether
19 they say, no, we need a new EA. But I think it
20 would be helpful to have some guidance on that,
21 and we will be more than willing to provide some
22 case law on that. Because I think that
23 Mr. Bedford's interpretation of the law, as it
24 relates to what you need to do when you have
25 changed fundamental components of your

1 environmental assessment that are outside the
2 study area, what they are required to do.

3 THE CHAIRMAN: You are always free to
4 provide whatever case law you choose. I would
5 note, however, that for better or for worse, the
6 environmental law in Manitoba is not very clearly
7 defined. I'm not -- well, without having seen the
8 case law I can't say definitively, but I suspect
9 that it may well not apply in this province.
10 However, it can certainly give guidance and inform
11 us on how we go forward.

12 MR. MADDEN: Well, I can just say,
13 probably this project will make some law in this
14 province eventually. And I will also say that
15 even though there may not be clear case law that
16 is directly relevant to Manitoba, the law as it
17 relates to environmental assessment and this area
18 of jurisprudence, similar to Aboriginal
19 jurisprudence, has built up quite a body over the
20 past 30 years. So we will provide some cases that
21 we think are relevant. And if you think it would
22 be helpful for us to provide some submissions on
23 that, we would be more than willing to do that.
24 I'll leave it at that.

25 THE CHAIRMAN: Okay. I won't get into

1 a legal debate with you because we could spend the
2 morning on some of these issues. But, yes, carry
3 on.

4 MR. MADDEN: Our last issue that we
5 just want to raise on the record, and it follows
6 up on Mr. Mill's comment, and it really, as my
7 client who is an Aboriginal participant in this
8 hearing process, and I appreciate it's not of the
9 CEC's making, it is of Manitoba Conservation and
10 Manitoba Hydro's making. But there is an element
11 that what is done in relation to the routing needs
12 to be transparent and it needs to be consistent
13 with the honour of the Crown. And information is
14 not being provided, in fact, misinformation is
15 being provided. At the end of the day this record
16 is going to become a part likely of the Crown
17 considering its duty and constitutional
18 obligations, and potentially future judicial
19 determinations on it. We want to make it very
20 clear on the record that the Crown has not
21 provided -- did not engage on the routing changes,
22 Manitoba Hydro did not engage on the routing
23 changes. We have not been provided direct
24 information on the routing changes, nor have we
25 been consulted by Manitoba Hydro or the Manitoba

1 Government, despite written requests to do so, on
2 the routing changes. We just want that noted on
3 the record. We have written it in other letters.
4 And the other issue that I would like
5 the Commission to ponder is that if you read the
6 scoping document, the requirements of the scoping
7 document are that there were to be Aboriginal
8 consultation, as well as community engagement or
9 consultation on the final preferred route. The
10 final preferred route has changed. So I think
11 that in Manitoba Hydro's supplemental filing, it
12 has to illustrate, in addition to the
13 environmental assessment, about how the changes to
14 those parts of this new preferred route, or new
15 final preferred route, whatever you want to call
16 it, how they have undertaken community engagement
17 on it. And I think that that can't be done by the
18 end of this week. And I would just flag that.
19 The Commission has to look back at the scoping
20 document for whatever project ultimately ends up
21 before it. Those are my submissions.

22 THE CHAIRMAN: Thank you, Mr. Madden.
23 Mr. Mills?

24 MR. MILLS: Mr. Chairman, we have to
25 go on the record on the same points. And Manitoba

1 Hydro needs to take off the mask. This route
2 change following 14 meetings that Pine Creek First
3 Nation has held with Hydro, the Province,
4 Conservation and Water Stewardship, and as a
5 result of a few hundred moose, the buffer between
6 Bipole III and Pine Creek First Nation was reduced
7 by at least 60 percent. This proposed route
8 change moves the line substantially and
9 significantly closer to Pine Creek.

10 THE CHAIRMAN: You made that point
11 yesterday.

12 MR. MILLS: We have had no approach,
13 no conversation, no contact from Manitoba Hydro to
14 discuss or consider this. It has been up to us to
15 pull teeth. We have been, with respect,
16 Mr. Chairman, when we have been outside of
17 procedure, you haven't allowed us to come back to
18 supplementary questions in regards to this matter.
19 This is egregious. This change significantly and
20 substantially affects my client. We are told that
21 we may get something sometime. We are told that
22 there is information that exists that doesn't. We
23 have asked for follow-up and confirmation of
24 matters with regards to herbicide. Hydro
25 representatives have told us they will think about

1 it. They don't make eye contact with us today in
2 that regard.

3 Mr. Chairman, this process is moving
4 along. It's affecting my client. And what my
5 client prepared for isn't what in fact is
6 happening. The route is now two and a half miles
7 from Pine Creek First Nation. The route is closer
8 to Pine Creek First Nation than it is to War Lake,
9 Split Lake, York Factory, Tataskweyak, OCN, and
10 it's closer.

11 THE CHAIRMAN: Mr. Mills --

12 MR. MILLS: And we need to understand
13 it.

14 THE CHAIRMAN: Mr. Mills, you made
15 these arguments yesterday. It is on the record.

16 MR. MILLS: It's falling on deaf ears.

17 THE CHAIRMAN: Well, you don't know
18 that. It's on the record and it will be
19 considered.

20 MR. MILLS: Mr. Chairman, you are
21 going to hold us to seven and 14 day cut-offs,
22 hard cut-offs, you have described them. We have
23 signed documents acknowledging those hard
24 cut-offs. We're talking about a game of apples
25 when the game is oranges.

1 All we want is the information that
2 Hydro used to make the route change. We'd like to
3 discuss it, we'd like to consider it, we'd like to
4 understand it. And who knows, we may well come
5 back and support it. But we want this process to
6 be participatory. And what Hydro has done with
7 this route change, what has happened with the TAC
8 comments and information, which remain incomplete,
9 this is not the process that was described to us
10 when we agreed to participate. We'd like to get
11 back to the process.

12 There has been a substantial affect to
13 my client and they'd like to participate and
14 understand that, and today we don't. Thank you.

15 THE CHAIRMAN: Thank you, Mr. Mills.
16 And I'm sure that Manitoba Hydro officials were
17 listening to your comments, and I think they are
18 valid, and I would hope, as I have said earlier,
19 that we will hear from Manitoba Hydro very soon in
20 this regard.

21 Mr. Dawson?

22 MR. DAWSON: Good morning,
23 Mr. Chairman.

24 THE CHAIRMAN: How could the route
25 changes affect you?

1 MR. DAWSON: I'm sorry, Mr. Chairman?

2 THE CHAIRMAN: How could the route
3 changes affect you?

4 MR. DAWSON: I wouldn't want to
5 presume what the Commission will find in favour of
6 my client.

7 I did want to say some of the things
8 that I was going to raise in advance of my witness
9 tomorrow. Let me start by repeating things that I
10 have said in seminars that I think you,
11 Mr. Chairman, have actually attended in the
12 audience. We'll start with the function of this
13 particular panel. It's to provide advice and
14 recommendations to the Minister. And in order to
15 arrive at those recommendations and produce that
16 advice, this panel of course seeks the input of
17 the public and stakeholders, and that indeed is
18 part of what this hearing process is involved in.

19 Ultimately, I think any participant
20 who walks out of here should have only one
21 feeling, shall we say, and that is that they were
22 fairly treated. Fairness is a broad topic.
23 Fairness generally, I would suggest in the context
24 of this hearing essentially means first
25 transparency. And I think we have heard comments

1 already on that, and I'll come back to that.
2 Secondly, and I don't think this is a particular
3 problem, freedom of bias on the part of the
4 decision makers. Although I would suggest that
5 sometimes this panel does give the suggestion that
6 the very last ship is leaving, and if we're not on
7 board, we may be doomed to sit behind. But most
8 importantly, fairness does give rise to the
9 suggestion or requirement that the parties should
10 have an opportunity to be heard, to be heard both
11 to make their own case, as well as to challenge
12 the evidence that's being put forward.

13 In this particular hearing, the onus
14 is upon Manitoba Hydro itself in order to satisfy
15 this panel that certain recommendations and advice
16 favourable to Manitoba Hydro will be presented by
17 this panel to the Minister. Our job as
18 participants is to test that case that the
19 proponent is putting forward.

20 We hear this morning, and we have
21 heard frequently before, that the case that Hydro
22 is putting forward is not merely evolving in the
23 usual way that cases sometimes do from the start
24 of a hearing until the very end. But rather the
25 very fundamental theory of its case is changing.

1 Some participants who have spoken before me
2 complain, and I think with correct legitimacy,
3 that these changes fundamentally alter their case.
4 And I submit that the same is the case for Peguis.
5 I have a witness coming forward tomorrow morning.
6 I have a witness that I have been preparing for,
7 for tomorrow morning.

8 Now, it might very well be that the
9 changes that Hydro will introduce when it feels
10 like won't have anything to do with this witness,
11 but I do not know. I can't tell my witness to
12 make certain comments in certain areas because I
13 don't know what's going to change. I can't tell
14 my witness to say certain things, because what my
15 witness may say tomorrow could prove actually to
16 undermine our case if Hydro essentially
17 restructures the very fundamental basis of its
18 case.

19 I say this all up in the air as
20 potential, and it may be easy for some parties,
21 and certainly my learned friend Mr. Bedford will
22 try and dismiss my comments, but the reality is
23 that to my client the process is unfair. My
24 client does not see transparency. My client is
25 being fundamentally deprived of its opportunity to

1 challenge the case that Hydro is putting forward
2 because Hydro hasn't put forward its case.

3 There is, of course, this haste to
4 move forward so that Mr. Tymofichuk can sleep at
5 night and not worry about electricity going off in
6 2017. I suppose the crass reply is, Mr.
7 Tymofichuk should have started a lot earlier.

8 Our problem as participants is to
9 respond to the case before us. I submit that the
10 only way to avoid the otherwise I fear inevitable
11 visit to the Queen's Bench is for this panel to
12 simply say, Hydro is not ready to proceed, Hydro
13 must wait, Hydro must file its materials and then
14 sit back and allow the parties to participate.

15 If we want to look at actual prejudice
16 that my particular client would suffer, forget
17 about the potential, the reality here is that I
18 have a witness coming forward tomorrow, who is not
19 being paid, because unlike almost everybody else
20 in the room, my client has not received any
21 funding to support this particular venture. My
22 witness will come. My witness may very well have
23 to come back again. Indeed, that is part of where
24 I'm going with this. My witness will then have to
25 prepare again. My client will have to pay me to

1 sit with the witness and prepare again.

2 This is not the way in which I suggest
3 a hearing ought to be conducted, and I say this
4 with absolute compassion and respect. I realize
5 that there are practical pressures upon this panel
6 not to obstruct unnecessarily the evolution and
7 production and operation of a billion dollar
8 project. But at the same time, the law and the
9 requirements of fairness have certain exegesis of
10 their own.

11 It is my submission that the
12 appropriate way to deal with this mess is to
13 simply adjourn the hearing process until such time
14 as Hydro has got its act together. To come before
15 this board to change the routes midway, even in a
16 minor way, is to undermine and disrespect the
17 procedure that this panel has tried to put into
18 place. It's not the fault of the participants, it
19 is the fault of Hydro. Hydro is creating the
20 problem, not the participants, not this
21 Commission, not the panel and the commissioners.
22 So if anyone ought to bear the burden of the
23 problem, it would be Hydro.

24 So my first position is that there
25 should be an adjournment until such time as Hydro

1 gets its act together. In the event that this
2 panel dismisses that suggestion, I then wish to
3 say that it is only fair that I, and indeed every
4 other lawyer acting on behalf of participants, and
5 indeed those participants who are
6 self-represented, should have the opportunity to
7 do a number of things.

8 Once Hydro finally files its material
9 and gets its act in line, every participant should
10 have the opportunity to notify the Commission
11 secretary that either its existing case can
12 proceed as it has and no changes are necessary, or
13 that each participant should be able to take time
14 to have its experts review the changes or call
15 additional witnesses, or have its witnesses
16 return. And I think that's the only way to deal
17 with it. But the problem then becomes, as the
18 panel undoubtedly realizes, a further delay.
19 That's why an ultimate adjournment is, of course,
20 the easiest and best way to deal with it.

21 So that's my comment that I wish to
22 make. It is an objection that my client obviously
23 puts forward with force, and we ask that this
24 panel, I suggest, should simply adjourn for five
25 minutes at the very least, given the vehemence of

1 some of the suggestions, and consider what to do.

2 On an administrative point, I note
3 that this morning Mr. Mills made reference to a
4 number of documents in his alarming recanting of
5 what -- recounting rather of his communications
6 with Manitoba Conservation. And I'd suggest that
7 every document that he made reference to, more
8 specifically the Braun affidavit to which he
9 refers, should be entered as an exhibit to the
10 proceedings for review by the parties.

11 Thank you for the attention of the
12 panel. That concludes my objection.

13 THE CHAIRMAN: Thank you, Mr. Dawson.
14 Some of that was a very good lesson in
15 administrative law, some of that was a very good
16 argument that I anticipate to hear from you when
17 we get to the arguments.

18 I would like to correct the record.
19 You said that unlike most of the parties in the
20 room, your client had not been granted any
21 participant assistance funding. That is
22 incorrect. The participant assistance committee
23 did approve a sum of \$35,000 in our initial
24 direction, that was to allow Peguis to bring
25 people from their community before us to explain

1 how the project might impact on their ability to
2 continue to enjoy their traditional lifestyle.

3 I realize that you are going in
4 different directions, but it is always open to you
5 or your client to speak with the Commission
6 secretary to change the terms of reference. It's
7 not a large amount of money, it's significantly
8 less than others have received, but based on the
9 application that we got from Peguis First Nation,
10 we felt that that was a fair amount and a
11 justified amount.

12 I would also note in response to two
13 or three people's comments about, I think it was
14 Mr. Mills and Mr. Madden in particular, about the
15 failure of Hydro to consult with local citizens in
16 respect of these line changes. One of the
17 stipulations, or one of the terms of reference in
18 the reference from the Minister to the Clean
19 Environment Commission asked us to review Manitoba
20 Hydro's public consultation process. And even
21 though we're not inviting specific -- well, we
22 have had specific presentations on that, and we
23 have had commentary and cross-examination from
24 participants. It is very much front of mind among
25 the panelists in our consideration of this

1 process. So that could and may -- or that may
2 well be considered. The specific point was
3 brought up this morning by Messrs Madden and
4 Mills, that could well factor into our decisions
5 in respect of the public consultation process.

6 I am not going to adjourn the hearings
7 today, but I have made a commitment and I will
8 stand by it, that there will be reasonably fair
9 opportunity for participants to respond, to
10 prepare and to respond to Manitoba Hydro's
11 Environmental Assessment of the line changes. And
12 having said that, I would hope that Manitoba
13 Hydro's ears are wide open this morning, because
14 we need that PDQ.

15 Mr. Mills?

16 MR. MILLS: Mr. Chairman, we have
17 examined, it seems like dozens of Manitoba Hydro
18 agents and officers with regards to this. And
19 last Thursday we got a piece of paper that
20 indicated something was brewing. We were advised
21 late Friday afternoon that it's occurred. And
22 Monday morning we can't get the paperwork. In the
23 very least, can you assure me that any issues that
24 Pine Creek determines with respect to this change,
25 we will be allowed to go back and re-examine those

1 individuals who have given testimony in that
2 regard?

3 THE CHAIRMAN: I can't reassure you
4 completely, but within reason, yes. In other
5 words, we may not recall every single person, but
6 we will certainly recall those that are necessary
7 to, in the view of the panel, necessary to allow
8 you to properly canvass the issues.

9 MR. MILLS: I need to say that cutting
10 the buffer in half and --

11 THE CHAIRMAN: You have made that
12 point, Mr. Mills, and you'll make it again.
13 Please not again this morning.

14 MR. MILLS: I'm disappointed,
15 Mr. Chairman.

16 THE CHAIRMAN: Well, I have a thick
17 skin as well as a thick skull, so I'm not terribly
18 concerned about your disappointments.

19 Chief Boucher. Now, Chief, we're
20 speaking on specific issues here.

21 CHIEF BOUCHER: I know, you told me
22 that before. Again, I thank the panel. Pine
23 Creek First Nations chief, traditional territory
24 Treaty 4.

25 The environmental assessment, I also

1 concur, okay, what my First Nations is saying, and
2 also Peguis and also the Manitoba Metis
3 Federation.

4 I think the EIS, because of the
5 changes of the route, needs to be redone again.
6 And that requirement -- how can we honour Manitoba
7 Hydro in going back to the drawing board and
8 allowing them to consult with one another as
9 experts? Not fair. The assessment is declared,
10 the route is declared. Now there are changes and
11 you are allowing that? It's not fair, Mr. Chair.

12 Again, because of not being fair, the
13 experts, I question. And it's obvious they didn't
14 do their homework overall. Who am I as First
15 Nations?

16 The united declaration that you are
17 doing your homework; no, you didn't. Perhaps that
18 there would be accommodation to First Nations if
19 you did. The environmental impacts are going to
20 be tremendous. And what I witness, I was
21 certainly very optimistic in coming to this
22 process. Today, I am not optimistic because of my
23 people I have to lead.

24 The impacts that I determine in the
25 next little while, starting from 2017, the

1 evolution of today's world, the changing laws, the
2 new revised environmental assessments, developing
3 priorities and strategies for the development or
4 use of the lands and territory and other resources
5 of indigenous people. Like I said, I was
6 optimistic in fairness. I didn't hear one
7 fairness about my people, my traditional
8 territory, and our resources.

9 I'm asking, I'm begging the experts to
10 really do a broad assessment of who I am. Perhaps
11 I wouldn't be here today. I'm speaking for Mother
12 Earth, the Province of Manitoba. Manitoba Hydro
13 their mandate, I question. Thank you very much.

14 THE CHAIRMAN: Thank you, Chief
15 Boucher. Are there any more comments on this
16 matter? Mr. Williams?

17 MR. WILLIAMS: I'll be very brief, and
18 good morning panel. Just certainly from our
19 client's perspective in terms of the suggestion by
20 the MMF and others that a two week time frame to
21 prepare, from our client's perspective, they are
22 very supportive of that. Given the material
23 changes, they think that's a reasonable request.
24 Our clients don't have any instructions in terms
25 of an adjournment. I seem to recall my clients

1 were shot down on a similar motion a while ago,
2 but they do agree with Peguis's characterization
3 of the record as being in a material state of
4 flux.

5 Where our clients are just trying to
6 get our heads around, for the board's
7 consideration, is if we are looking at a hearing
8 on or about November 21st, 22nd, in that range on
9 the transmission line, obviously there's going to
10 be some effects in terms of closing submissions as
11 well, and especially in this hearing where so much
12 of the record is coming in relatively late. I
13 don't mean that in a pejorative way, but from our
14 client's perspective, when the Commission is
15 looking at closing submissions, we would suggest
16 that you look for them to start about one week,
17 five working days after the close of the
18 discussion on the transmission line. Just trying
19 to plan ahead. I think that would be a reasonable
20 recommendation. Thank you.

21 THE CHAIRMAN: Thank you,
22 Mr. Williams. Mr. Meronek?

23 MR. MERONEK: Just piggybacking on
24 what Mr. Williams said. I have looked at the
25 schedule, and certainly from my client's

1 perspective, we give our evidence on the 19th, and
2 then we're expected to argue on the afternoon of
3 the 21st. To me that is virtually mission
4 impossible to do a decent job. At the very least
5 what I would recommend, if we can't hike the
6 arguments a week later, is to have those who have
7 provided evidence first give their arguments
8 first. So in the same order of presentation of
9 the argument, then those parties will have the
10 same order of argument. Because by the time you
11 give your evidence, then you should be in a
12 position more or less to start preparing for your
13 argument. Thank you, sir.

14 THE CHAIRMAN: Thank you, Mr. Meronek.
15 The panel is going to take about a five or ten
16 minute break to consider all of the discussions
17 before us this morning. We'll come back in five
18 or ten minutes.

19 (Proceedings recessed at 10:00 a.m.
20 and reconvened at 10:24 a.m.)

21 THE CHAIRMAN: So we have all heard a
22 number of representations this morning in respect
23 of a number of matters. The panel has had
24 considerable discussion about these, and we'll
25 have further discussion in this regard.

1 I'm not going to entertain any more
2 comment on this matter this morning. We'll now
3 turn to the scheduled agenda for the day, which is
4 cross-examination on socioeconomic issues. As was
5 noted earlier, Ms. Hicks has to leave at 11:30.
6 She will be back tomorrow. So participants are
7 asked to conduct their cross-examination today
8 except for those parts that might be addressed to
9 Ms. Hicks, and you will get an opportunity
10 tomorrow morning to do that.

11 So the first up, TCN had to leave, so
12 first up this morning on the socioeconomic
13 cross-examination, I believe is Pine Creek, but
14 have you made arrangements to change the order?
15 Okay, Mr. Madden?

16 MR. MADDEN: Pine Creek has graciously
17 allowed me to go first since I have a meeting this
18 afternoon that I need to attend.

19 MR. BEDFORD: Mr. Sargeant, I remind
20 you that Ms. Petch was going to make a correction
21 before we proceed.

22 THE CHAIRMAN: Thank you, I had
23 forgotten that. Ms. Petch?

24 MS. PETCH: Thank you. Mr. Chairman,
25 Commissioners, participants and ladies and

1 gentlemen. On Tuesday, October 30th, 2012, I gave
2 a presentation regarding the ATK process and
3 culture and heritage resources. I now advise you
4 that there is a point of correction which I wish
5 to make for the record.

6 The point of correction is related to
7 page 2455 of the CEC transcript, where I stated:

8 "We phoned in individuals, we
9 attempted to have people tell us if
10 there were things that were missing or
11 that were not correct. The calls that
12 we were able to get through to people
13 were no. We have, no, we don't have
14 any concerns."

15 This was with regard to the transcripts and maps
16 that were derived through the ATK workshop process
17 only.

18 It was my understanding on
19 October 30th that the follow-up process that was
20 requested to the managing consultant had taken
21 place, but I have subsequently learned that phone
22 calls were placed to the administrative offices
23 only. The only personal contact that was made was
24 by Northern Lights Heritage Services to certain
25 individuals who provided specific ATK and/or

1 requested further information on reference or
2 interested material.

3 We followed up independently with
4 individuals from Duck Bay concerning burials,
5 areas of projectile points in the Cowan area, and
6 locations of medicinal plant gathering. We
7 prepared to conduct follow-up field visits with
8 certain interviewees who had identified sensitive
9 sites in their ATK interviews. Unfortunately, we
10 were not able to obtain access to the areas of
11 concern because of private landownership. And as
12 a result, the field visits did not transpire.

13 If, or once the lands are acquired, we
14 will complete surveys in advance of the
15 construction.

16 We did follow up with field visits on
17 Crown land of ATK received in the Barrows area.
18 We provided information packages on the Bird Atlas
19 of Manitoba to a resident in Pikwitonei, and
20 provided a Manitoba Heritage Grants package to a
21 resident in Thicket Portage. We also provided a
22 resident of Cormorant with information regarding a
23 nearby archeological site. Those who we were in
24 touch with appeared to be satisfied with the
25 process.

1 I can confirm that a letter
2 accompanied each of the packages which referred
3 the participant to contact Mr. Karl Johnson, who
4 has subsequently retired from Manitoba Hydro in
5 2012. They were to contact him regarding concerns
6 with the transcription and mapping. The sample
7 letters are found in appendix three of the ATK
8 report number one.

9 I am able to confirm the Canada Post
10 tracking record of the packages that were sent out
11 by the managing consultant to the communities and
12 participants, and there was a confirmation that
13 the packages were received. And that's all I
14 have.

15 THE CHAIRMAN: Thank you, Ms. Petch.

16 Mr. Madden, you may proceed.

17 MR. MADDEN: I'm going to start off
18 with the socioeconomics by Ms. Hicks. And I want
19 to go to page 2, slide four of your presentation.
20 And you start off by saying:

21 "The socioeconomic impact assessment
22 examines affects of the project on
23 people who are part of the existing
24 socioeconomic environment in the
25 vicinity of the project."

1 Are you talking -- is it just people
2 or is it communities? Because I gather in the EIS
3 scoping document it actually talks about the
4 socioeconomics will be done on communities, not
5 just individuals.

6 MS. HICKS: Talking about people in
7 communities, yes.

8 MR. MADDEN: So this is not just a
9 general population throughout the study area,
10 you're looking at communities?

11 MS. HICKS: Correct. Like one of the
12 things in routing process is what you try to do is
13 avoid communities because they have a large amount
14 of people in them. So for the case of a high
15 voltage transmission line, one of your criteria is
16 to avoid communities.

17 MR. MADDEN: When you're talking about
18 communities, are you talking about land based
19 communities only?

20 MS. HICKS: Talking about land based
21 communities for sure. Areas of residential
22 development that might not be, or residential
23 development that might not be a community per se,
24 but areas where there are a lot of people
25 together.

1 MR. MADDEN: And what about Aboriginal
2 communities, are you looking at that as a distinct
3 group?

4 MS. HICKS: First Nation communities,
5 and we've looked at Northern Affairs communities
6 as well, along with towns, villages, cities.

7 MR. MADDEN: What about Metis
8 communities?

9 MS. HICKS: Metis communities, what we
10 basically did in terms of Metis communities is the
11 NAC's and First Nations have Metis, and so do
12 other communities have Metis populations within
13 them. We didn't ask specifically of any
14 community, what was the percentage of Metis within
15 a community?

16 MR. MADDEN: And why wouldn't you do
17 that? It clearly says within the scoping
18 document, Metis, Aboriginal, First Nations. Metis
19 are a distinct group as a subset within those
20 communities. Why wasn't that looked at?

21 MS. HICKS: Basically VECs are not
22 specific to individual groups of people, they
23 characterize --

24 MR. MADDEN: You can't flip into VECs.
25 I understand VECs, but we're looking at the

1 socioeconomic aspects. You've done it for First
2 Nations, you've done it for Northern Affairs
3 Councils. Is it your position in your study that
4 Metis communities are under Northern Affairs
5 Councils?

6 MS. HICKS: Partly, yes.

7 MR. MADDEN: Even though they are a
8 distinct Aboriginal group that may have distinct
9 socioeconomic characteristics that aren't the same
10 as others within those NAC communities?

11 MS. HICKS: What we take is the people
12 that are in those communities and whatever
13 affiliation or group that they may belong to, and
14 we look at the effects of the project based on the
15 VECs. The VECs are important to people.

16 MR. MADDEN: You don't break out the
17 Metis. So you have no understanding of whether
18 they may be more vulnerable to some of the changes
19 than other individuals in the Northern Affairs
20 Communities?

21 MS. HICKS: We did get the report that
22 was done by the Manitoba Metis Federation.

23 MR. MADDEN: I am talking about --
24 that's not ATK, I'm talking about your
25 socioeconomic analysis about health, about

1 incomes, about a whole host of things. You have
2 no breakout for Metis within those numbers
3 whatsoever?

4 MS. HICKS: There was some information
5 in the Metis report which was given to Hydro about
6 populations.

7 MR. MADDEN: But that wasn't the
8 purpose of that report. That report was an ATK
9 report. You were supposed to undertake a
10 socioeconomic analysis in relation to various
11 communities, and the Metis were identified as one
12 of that. How did you do that?

13 MS. HICKS: The ATK process and the
14 ATK reports were used as part of the socioeconomic
15 effects assessment.

16 MR. MADDEN: Your socioeconomic
17 effects assessment, you don't get the Metis ATK
18 until September 2010. Your socioeconomic effect
19 assessment is already done.

20 MS. HICKS: We had relooked at that
21 report, but also had an interim report from the
22 Manitoba Metis Federation.

23 MR. MADDEN: Which didn't include
24 those sections.

25 MS. HICKS: Right, but we did have an

1 interim report, so it wasn't like at the last
2 minute we got everything.

3 MR. MADDEN: So for the purposes, and
4 I want to go to, I guess I'm looking at the Bipole
5 III socioeconomic baseline report prepared by MMF.

6 MS. HICKS: Okay.

7 MR. MADDEN: Within here you don't
8 identify Metis as a distinct group at all?

9 MS. HICKS: That report, I believe it
10 is not my report, I believe it does not.

11 MR. MADDEN: And your report doesn't
12 either -- break out Metis as a distinct group at
13 all either?

14 MS. HICKS: Right. What was done for
15 the EIS was that the socioeconomic reports that
16 were done, like transportation, the baseline
17 report, there's a land use report, all of those
18 reports were taken and looked at and basically
19 used to write the baseline in chapter 6, in the
20 EIS, as well as the effects assessment which is in
21 chapter 8 of the EIS.

22 MR. MADDEN: But Ms. Zebrowski earlier
23 on this week testified that she recognized, or
24 Manitoba Hydro recognized the Metis are a distinct
25 community for the purpose of that. You didn't

1 bother to get any information around that
2 community, separate and apart from Northern
3 Affairs Councils?

4 MS. HICKS: I got all the information
5 that was available from the process, including the
6 MMF report, ATK report.

7 MR. MADDEN: What process? So your
8 sole source of socioeconomic impacts is the MMF's
9 ATK report?

10 MS. HICKS: The ATK report, and
11 basically through the process some people I think
12 did self-identify as Metis, during the process of
13 the workshops. But we did not, Virginia did not
14 ask them if they were Metis. That was not the
15 purpose. But we did have information from certain
16 people that had self-identified as Metis in terms
17 of what their issues were.

18 MR. MADDEN: Why was the decision made
19 in order to not address Metis as a distinct group,
20 even though they are identified as such in the EIS
21 scoping document?

22 MS. HICKS: I did not make that
23 decision. I took the information that was given
24 to me and I put it together into the effects
25 assessment.

1 MR. MADDEN: Would you agree with me
2 that there is -- the reality, the socioeconomic
3 realities of Metis in Northern Affairs Communities
4 aren't -- they may be different than First
5 Nations? So for example, it's not a homogeneous
6 group. Within that broader population that has
7 non Aboriginal people, First Nations, Metis, there
8 are distinct characteristics of the Metis
9 community. Would you agree with me?

10 MS. HICKS: Yes.

11 MR. MADDEN: Why would those not be
12 collected, assessed within Manitoba Hydro's
13 review, even though the EIS scoping document says
14 they should be?

15 Maybe Mr. Osler wants to answer if
16 Ms. Hicks can't answer. I think I have already --
17 I think you've already answered it. So
18 essentially you haven't, that's what's pretty
19 clear.

20 MR. OSLER: I think that the point is
21 that the information base that Ms. Hicks used
22 includes ATK that is available from the processes
23 that Manitoba Hydro has been employing to develop
24 it, which are discussed, have been discussed.
25 When the VEC analysis is done, it does not break

1 out individual people, as you have noted, it
2 doesn't even break out individual communities of
3 the type you had just --

4 MR. MADDEN: I'm not asking that.
5 When you do the VEC, you need the raw data. If
6 it's all about the VECs, then you wouldn't collect
7 this data on the other communities.

8 MR. OSLER: If you'd let me finish,
9 the ultimate analysis is done for each one of the
10 professionals that deals with the VECs, which you
11 have acknowledged. Each of the professionals, be
12 it biophysical or socioeconomic or anything else,
13 uses the ATK information that is available, and
14 they have made that point in all of their
15 evidence. The fact that we started off talking
16 about socioeconomics at a very high level deals
17 with people, we have discussed that that breaks
18 down to people as they service these communities
19 as Aboriginal groups, Metis --

20 MR. MADDEN: But you don't break out
21 the Metis as an Aboriginal group?

22 MR. OSLER: Excuse me, can I please
23 finish -- including the Metis.

24 MR. MADDEN: Where is that in the
25 reports where it is broken down?

1 MR. OSLER: To the extent the
2 information is available, it's been provided in
3 the submissions. But that is information of a raw
4 data source, it's not the information that derives
5 itself or gets focused on when you are talking
6 about VECs, which is ultimately the analysis that
7 Ms. Hicks puts together.

8 MR. MADDEN: So let's go to the Gillam
9 area where you clearly have identified in the VECs
10 that there are socioeconomic impacts. And they
11 are one of the top four, or the identified key
12 four, in that analysis there's a Metis population
13 in that area, but there's no analysis done on --
14 you definitely do it for Fox Lake, but you don't
15 do it for the Metis community that live within
16 that area?

17 MR. OSLER: The available information
18 is pulled together and provided, and you have made
19 the point that in that information base, unlike
20 the activities back and forth with Fox Lake, the
21 activities to date back and forth with the
22 Manitoba Metis Federation, in other words, have
23 not resulted in a bunch of information separate
24 from the information that's been presented for Fox
25 Lake in terms of detailed information. That's

1 part of the record.

2 MR. MADDEN: And why is that? Why is
3 the opportunity provided to some Aboriginal groups
4 but not others?

5 MR. OSLER: I believe the evidence is
6 that the opportunity has been provided by Manitoba
7 Hydro to each group, including the Manitoba Metis
8 Federation, and including the individual
9 communities throughout the study areas.

10 MR. MADDEN: That's just simply not
11 truthful. The reality is that the opportunity
12 that was provided was to undertake an ATK. The
13 idea of doing a socioeconomic analysis of, i.e.
14 what are the distinct services provided to the
15 Metis, what type of rental pressures would they
16 face by the newcomers coming into Gillam, none of
17 that was a part of the offer or the agreement that
18 was provided between the Manitoba Metis Federation
19 and Manitoba Hydro. So that's just not consistent
20 with Ms. Zebrowski's testimony earlier on. It
21 wasn't for a socioeconomic analysis, it was for an
22 ATK.

23 MR. OSLER: I'm not going to get in
24 the middle of the discussions between the Manitoba
25 Metis Federation and Manitoba Hydro. I know that

1 professionals went through the consultation
2 processes that were designed by others, went to
3 each of the communities, including the communities
4 that had Metis in them. I know that the Manitoba
5 Metis Federation was, from what I heard on the
6 record, did not want a consultation with Metis to
7 take place with anybody other than the Manitoba
8 Metis Federation located in Winnipeg.
9 Nonetheless, people did have workshops, did have
10 meetings, did have consultations, and in the end,
11 the professionals that you are cross-examining
12 today could only work with information they had
13 available to them. Nobody in this room --

14 MR. MADDEN: But --

15 MR. OSLER: Excuse me, please. Nobody
16 in this room set out not to use information on the
17 Manitoba Metis.

18 MR. MADDEN: But you don't have it.
19 It's the proponent's obligation, it's not the
20 Manitoba Metis's obligation. The opportunity
21 wasn't provided.

22 MR. OSLER: In my experience, sir, it
23 takes two people to work the consultation process.
24 No one party can make it work by their own. And
25 I'm not going to get involved in that discussion.

1 I'm just going to say to you that the person
2 beside me is a professional who made use of the
3 information that she had available to her.

4 MR. MADDEN: And I think we've got the
5 answer, she didn't have any of that information
6 available to her, aside from the ATK.

7 So in the socioeconomic analysis, for
8 other communities you look at the average income,
9 you look at services available, look at whether
10 they rent or whether they own homes. Was that
11 done for those other communities? Did you have
12 that information for those other communities?

13 MS. HICKS: We did have some, I
14 believe. We don't have the baseline report.

15 MR. MADDEN: That's the MMM report?

16 MS. HICKS: Yes, I don't have it in
17 front of me.

18 MR. MADDEN: That's the report you
19 have already acknowledged has no Metis specific
20 information it in?

21 MS. HICKS: I believe it does not.
22 What I was going to say here, just let me scroll
23 through here. They list the Northern Affairs and
24 First Nation communities, as well as the other
25 communities such as cities, towns, and villages in

1 the project study area. They provide information
2 on population, dwellings, demographics, education,
3 labour force, industry and occupations.

4 MR. MADDEN: But the Metis aren't
5 broken out as a subset within that data?

6 MS. HICKS: No, they are not.

7 MR. MADDEN: I want to move on to
8 slide eight of your presentation.

9 MS. HICKS: Sorry, I didn't get the
10 slide number?

11 MR. MADDEN: I want to move on to
12 slide eight of your presentation. You didn't
13 gather the baseline information, MMM prepared the
14 baseline information?

15 MS. HICKS: Correct.

16 MR. MADDEN: And is someone from MMM
17 available? I guess my question would be, was
18 direction given not to collect Metis specific data
19 in the baseline?

20 MS. HICKS: I was not part of
21 collecting the baseline data, so I would have to
22 actually defer to Manitoba Hydro with respect to
23 that.

24 MR. MADDEN: Who will be able to
25 answer questions around the baseline data that was

1 collected?

2 MR. OSLER: If you have questions on
3 it, I can deal with them and get undertakings to
4 give to Manitoba Hydro.

5 To the best of our knowledge, there
6 was no such directions given to MMM not to collect
7 information with respect to Metis per se, but MMM
8 would be aware that the processes in place are the
9 ones that you have already heard about on the
10 record, through the processes that Manitoba Hydro
11 had with MMM, and the processes through workshops,
12 and processes through public involvement process
13 and consultations.

14 MR. MADDEN: But there is baseline
15 data that is available, for example, the 2006
16 census, as well as the 2011 census, you could
17 break out the Metis populations within those
18 Northern Affairs communities. That is an
19 identifiable population, and special runs could
20 have been commissioned and it wasn't.

21 MR. OSLER: I accept the fact there's
22 information available, and the record shows it's
23 not shown in the MMM report.

24 MR. MADDEN: And my question comes
25 down to why, why would that information not be

1 collected about the Metis? And if you can't
2 answer it, can we get an undertaking of why did
3 Manitoba Hydro make that choice, or why did MMM
4 make that choice, when you can't say that there's
5 not information available?

6 MR. OSLER: I will find out, or
7 somebody from Manitoba Hydro will take an
8 undertaking to find out.

9 MR. MADDEN: Going to slide eight, you
10 say further management mitigation assured through
11 use of local and traditional knowledge. Is this
12 in reference to the Aboriginal traditional
13 knowledge? I guess what I'm having, and maybe I
14 should hold off on this until I cross-examine
15 Ms. Petch, but there seems to be some flipping
16 between, sometimes it's Aboriginal, sometimes it's
17 local, sometimes it's whatever we want. What are
18 you talking about in that slide when you're saying
19 use of local and traditional knowledge?

20 MS. HICKS: I am talking about both,
21 because based on my experience with conducting
22 transmission projects since 1989, when you go out
23 and talk to people, you have workshops with
24 people, you're on the road with consultation with
25 people, you do get Aboriginal traditional

1 knowledge. This process was somewhat different in
2 terms of there were workshops and people did
3 self-directed reports, that's all fine. But when
4 you're out talking with people about a project,
5 alternative route, preferred route, you will get
6 information from local people that know the area
7 of sites that might want to be avoided. So we are
8 including both, like people that are potentially
9 affected by a project, be it First Nation, Metis
10 or anyone else, provide information which assists
11 in the project planning.

12 MR. MADDEN: And you're clumping it
13 all together? You would say that's --

14 MS. HICKS: Yes.

15 MR. MADDEN: And so it becomes,
16 because you clump it all together, it becomes near
17 impossible for let's say the Crown at a future
18 date to discern what comes from -- the Crown
19 doesn't have constitutional obligations to local
20 people.

21 MS. HICKS: Right.

22 MR. MADDEN: It has constitutional
23 obligations to Aboriginal peoples. So how is it
24 supposed to discern where this information is
25 from?

1 MS. HICKS: I am not sure, I would
2 have to ask Manitoba Hydro. But I think in their
3 environmental protection plan, they may have
4 broken down like environmentally sensitive sites
5 in terms of where they got that information from,
6 be it ATK versus something else. But that would
7 have to be double checked with Manitoba Hydro, but
8 that's my understanding. And I believe there is a
9 presentation on the Environmental Protection Plan
10 coming up this week.

11 MR. OSLER: I would just observe that
12 the scoping document also lumped together in
13 section six Aboriginal, traditional and local
14 knowledge. It's not an uncommon scoping
15 requirement, because the Crown keeps separate its
16 own responsibilities from the responsibilities of
17 the proponent to collect different types of
18 information.

19 MR. MADDEN: And my point on this is,
20 since you raised it, is in most other
21 environmental assessments those things are kept
22 separate because the Crown relies on it in
23 different ways. Once you put it in to a
24 pan-Aboriginal local mush, the Crown doesn't know
25 how it's able to discharge its duties in relation

1 to specific rights holders. So that's the point.

2 And I think that that will be a discussion for
3 another venue.

4 I want to go to slide 30 of your
5 presentation. You say one of the mitigation
6 measures is that there's going to be winter
7 construction in the north. What exactly is the
8 time period? What does Manitoba Hydro define as
9 winter? What are you referring to? Because this
10 is used in quite a few slides as saying this is a
11 mitigation measure. You know, for example, the
12 Manitoba Metis Federation's laws of the hunt go
13 until January 15th of each year. Are you saying
14 that -- I'm not quite sure of what -- can someone
15 provide an undertaking on what are you talking
16 about when it says winter?

17 MR. OSLER: Let me say that the
18 general understanding is that winter, when they
19 are talking about it from the point of view of
20 mitigation of the biophysical, is that you have
21 ground conditions that are frozen enough that
22 you're not going to disturb the vegetation, et
23 cetera. If you need a more precise definition
24 than that for the purposes, I will have to take an
25 undertaking.

1 MR. MADDEN: I would like that.

2 MR. OSLER: Okay.

3 MR. MADDEN: So you say mitigation
4 measures, on the same slide it says existing
5 trails, roads and cut lines used where possible.
6 But we don't necessarily know where those roads,
7 cut lines or trails are, correct, at this time?

8 MS. HICKS: To my understanding that
9 is correct. Although I would assume that Manitoba
10 Hydro has started to look at that in terms of both
11 access planning and the Environmental Protection
12 Plan. But again, we would have to ask them. But
13 I'm assuming, as part of the project, you want to
14 identify all those things prior to starting
15 construction. So how far along they might be in
16 that process, I don't know, we would need to ask
17 them.

18 MR. MADDEN: Okay. On the last bullet
19 you say, where access is important to a community,
20 Manitoba Hydro will work with the directly
21 affected communities to prepare access management
22 plans prior to construction. This language is
23 different than what's actually in the EIS. The
24 language in the EIS is around, we will discuss
25 with affected communities. The commitment around

1 comparing an access management plan with them, is
2 that an actual commitment on the part of Manitoba
3 Hydro now?

4 MS. HICKS: My understanding is that
5 Manitoba Hydro was always planning to work with
6 communities in terms of environmental protection
7 plans and access management plans. What exactly I
8 think this is more -- that's my understanding but
9 we should maybe again clarify with Manitoba Hydro
10 to see what plan they have in place. But they are
11 going to be, as far as my understanding is,
12 talking to the communities about both
13 environmental protection plans and access
14 management plans.

15 MR. MADDEN: And what's considered an
16 affected community. Would the Manitoba Metis
17 Federation, would the Metis community be an
18 affected community?

19 MS. HICKS: I would imagine. I
20 actually thought I saw an IR. I would have to
21 double check, but I thought Manitoba Hydro
22 committed to -- I'm not sure. We'll need to check
23 into that. I thought there was some commitment
24 there to liaise with the Manitoba --

25 MR. MADDEN: I guess here's the

1 challenge. All the language is, one, very
2 permissive, very wishy-washy and very
3 inconsistent. So the language you are using on
4 your slide is not -- the table that has been
5 provided from Manitoba Hydro is not consistent
6 with that. So I wanted to see whether there's any
7 nuance or differentiation from what you're saying
8 versus the ambiguous language used by Hydro in the
9 mitigation measures chart. So clearly your
10 assumption is, whatever is in the EIS, that's what
11 you're meaning. You're not meaning something
12 additional?

13 MS. HICKS: I would like to take a
14 look in terms of the table. Which table is that?

15 MR. MADDEN: It's the giant table
16 that's been provided to us as a part of Manitoba
17 Hydro, I guess, pulling out the commitments in the
18 technical reports as well as the EIS, based upon
19 the request from the CEC.

20 MS. HICKS: Okay. I will look.

21 MR. MADDEN: So on slide 31, you talk
22 about economic opportunities from contracting and
23 other business and employment opportunities, and
24 indirectly through provision of goods and services
25 to the workforce. Are those -- these are just the

1 broader overall contributions to the economy from
2 the project, or is this an actual explicit
3 commitment?

4 MS. HICKS: I actually think Glenn
5 Penner might be able to answer this better in
6 terms of the types of contracts. I think this is
7 a Hydro question. Because there are various types
8 of contracts.

9 MR. MADDEN: Okay. I guess I find it
10 challenging then, if you're putting this in your
11 slide and Hydro -- so at some point in time can
12 Mr. Penner be asked to answer? Because you're
13 making the statement. And so I guess my
14 understanding, we'll want to know what does that
15 actually mean? Does it actually have meaning?
16 But I guess I can ask Hydro to maybe put up
17 Mr. Penner at some point in time, or someone else
18 can give an undertaking of what the explicit
19 commitment is. Because it's very generic right
20 now.

21 MS. MAYOR: Mr. Penner is here, so
22 we'll just have him come up.

23 MR. MADDEN: Sure. So what are the
24 explicit commitments in this? Is it just we're
25 going to talk, or is there actually Manitoba Hydro

1 has said, we're doing these set asides, we're
2 committing this much to Aboriginal communities, or
3 is it just we're going to talk, more promises?

4 MR. PENNER: I'm sorry, you're very
5 hard to hear. We have been working, I think I
6 have spoken to this in my presentation, but we
7 have been working with a number of communities,
8 and we are working, specifically when it relates
9 to some of the clearing projects, we are currently
10 in discussions with a number of communities, and
11 are committed to working on direct negotiated
12 contracts for some of these clearing ventures.

13 MR. MADDEN: But there's no explicit
14 commitments on it. It's we're going to talk, and
15 if it suits Manitoba Hydro's purposes, we may
16 enter into a contract with communities?

17 MR. PENNER: We have actually
18 provided -- at this point we are in the stages of
19 discussions. Three communities are providing
20 their business information on a part one of
21 contracts right now, so that --

22 MR. MADDEN: But my question is, is
23 there an explicit commitment around, look it,
24 20 percent we're going to set aside for Aboriginal
25 participation or Aboriginal contracts? It's not.

1 It's Hydro determines whether -- they will assess
2 and Hydro will come to an agreement with the
3 communities if it so chooses?

4 MR. PENNER: So what we've done, I
5 guess, is for clearing contracts throughout the
6 Bipole construction project, we have looked at
7 sitting down and discussing with different
8 communities the opportunities that would be there.
9 On transmission construction contracts, those will
10 be open tender based on the complexity and the
11 nature of the construction requirements.

12 MR. MADDEN: But there's no set aside,
13 I guess that's my question, there is no set aside
14 for Aboriginal communities within the Bipole III
15 project, guaranteed set aside?

16 MR. PENNER: What we have decided is
17 that --

18 MR. MADDEN: It's a yes or no. I know
19 that --

20 MR. PENNER: I am saying, yes, we have
21 set aside clearing contracts for First Nations
22 communities.

23 MR. MADDEN: Only for First Nation
24 communities?

25 MR. PENNER: We certainly would be

1 willing to entertain discussions with the MMF. In
2 fact, we have had a number of meetings set up to
3 talk with Manitoba Metis Development Organization
4 that haven't come to fruition. But we'd certainly
5 be willing to discuss those kinds of topics with
6 them as well.

7 MR. MADDEN: But there's not a
8 guaranteed set aside? So, for example, we know
9 and it's in the economic reports around the
10 \$3.2 billion cost of Hydro, how much construction
11 work is there. Manitoba Hydro has not set aside
12 set targets for Aboriginal participation, and
13 saying we are going to ensure 20 percent goes
14 to --

15 MR. PENNER: Not in a dollar amount,
16 no, we have not set aside a dollar amount. We
17 have set aside --

18 MR. MADDEN: You haven't set aside a
19 percentage amount either?

20 MR. PENNER: I am sorry?

21 MR. MADDEN: You haven't set aside a
22 percentage amount either?

23 MR. PENNER: No. What I have said is
24 the type of work and the types of opportunities,
25 we have set those pieces aside. We haven't

1 defined it by percentage of the contract,
2 percentage of the project, but we certainly have
3 identified what would work for communities.

4 MR. MADDEN: And at the end of the
5 day, it's still at Manitoba Hydro's discretion?

6 MR. PENNER: Certainly what we have
7 set aside and what we will work with, with the
8 First Nations and Aboriginal communities --

9 MR. MADDEN: And Metis communities.

10 MR. PENNER: -- and Metis communities,
11 and certainly when I use the word Aboriginal, I
12 guess I was including Metis in there. It has been
13 to Manitoba Hydro's discretion as to how to set
14 aside these types of contracts. And on the
15 tendered contracts, we also have employment
16 preferences that we have clearly explained a few
17 weeks ago, as well as business opportunities that
18 the contractors that are successful on the job
19 will bring to the province.

20 MR. MADDEN: Okay. Ms. Hicks, I
21 wanted to move on to slide 38 of your
22 presentation?

23 So you are once again introducing some
24 new language, with mitigation measures and
25 monitoring, adverse residual effects not expected

1 to be significant from a regulatory perspective.

2 Mr. Osler used language about regulatory

3 significance. What do you mean by this? Is it

4 the same thing?

5 MS. HICKS: Yeah, it's the same thing.

6 MR. MADDEN: So I want to move on to

7 to the Keewatinoow converter station on slide 44.

8 And here you are talking about the mitigation

9 measures put in place up in the Gillam area.

10 Those mitigation measures, as they currently exist

11 in those discussions that are ongoing don't

12 include the Metis, do they?

13 MS. HICKS: No.

14 MR. MADDEN: And why is that?

15 MS. HICKS: In CEC Manitoba Hydro

16 VII-501, the IR, the question was answered, and we

17 have said, or Manitoba Hydro has said, particular

18 attention was paid to the Town of Gillam and to

19 Fox Lake Cree Nation because of the First Nation's

20 long-standing historical relationship with

21 Manitoba Hydro in the Gillam area and the concerns

22 that have consistently been expressed about future

23 Manitoba Hydro developments in the region.

24 MR. MADDEN: And I think the Manitoba

25 Metis Federation has written letters repetitively

1 about its concerns as well, but those have largely
2 been ignored by Manitoba Hydro, and those were
3 presented up in Gillam as a part of the
4 presentations from the MMF in that area.

5 MS. HICKS: I'm unaware of that.

6 MS. ZEBROWSKI: Can you advise what
7 letters those were that were written prior to the
8 hearings in Gillam that were provided to Manitoba
9 Hydro related to MMF's concerns in the Gillam
10 area?

11 MR. MADDEN: Those are letters that
12 related to Keeyask that have been written over the
13 past two years, and clearly Keeyask is in the
14 Gillam area.

15 MS. ZEBROWSKI: Were there letters
16 written specific to the Bipole III project?

17 MR. MADDEN: Letters were written in
18 relation to the concerns that the Metis community
19 has in that area in relation to all the projects
20 ongoing. One of them is related to Bipole III. I
21 guess the broad statement in the IR is, well, no
22 one told us. People have told you, it's just
23 Manitoba Hydro chooses not to pay attention to
24 those.

25 So I want to -- so essentially your

1 answer stands, no, Metis aren't included. Is
2 there any intention to include Metis in those
3 discussions?

4 MS. HICKS: Well, I would gather
5 Deirdre would want to check the letters to see if
6 a response has been filed. That would be our
7 answer.

8 MR. MADDEN: But the socioeconomic
9 impacts, and I've read the materials, you say
10 there's going to be impacts on the Aboriginal
11 peoples up there. It's not just going to be First
12 Nations are going to be impacted and not the other
13 Aboriginal peoples in there. So my question is,
14 why would one group be excluded from those
15 discussions while the other would not be?

16 MS. ZEBROWSKI: I think that it hasn't
17 been a question of exclusion. I think, as has
18 been clearly stated, that we have a long and
19 historical relationship with the Fox Lake Cree
20 Nation, and that these are concerns that that
21 community has consistently raised with us and that
22 we are endeavoring to work with that community to
23 address. We have a number of forums with the
24 Manitoba Metis Federation, including the Manitoba
25 Metis Federation and Manitoba Hydro relationship

1 task force --

2 MR. MADDEN: I believe I'm aware of
3 all that.

4 MS. ZEBROWSKI: Please let me
5 finish -- which has been in existence since 2004,
6 and since my time with Manitoba Hydro I have sat
7 on that task force. And frankly, the issue of
8 concerns related to the Manitoba Metis Federation
9 in the Gillam area have not been specifically
10 raised.

11 MR. MADDEN: So Deirdre, there's
12 actually written letters in the record in this
13 proceeding, so I think that it's a little
14 disingenuous to make those statements that they
15 weren't raised there. They have been raised by
16 the local communities up in that area. So I think
17 that the point that I'm making on socioeconomics
18 is that the socioeconomic impacts that Ms. Hicks
19 identifies aren't limited to just First Nations,
20 there's going to be impacts on, one, everyone
21 living in Gillam, and two, all Aboriginal people
22 living in Gillam. Is that correct, Ms. Hicks?

23 MS. HICKS: The mitigation that has
24 been identified was mitigation that was supposed
25 to, or is supposed to minimize potential effects

1 on the community, including anybody that's living
2 in Gillam.

3 MR. MADDEN: But not the Metis
4 specifically?

5 MR. OSLER: Can I just -- the Keeyask
6 project and this project have various people
7 inside Manitoba Hydro working together to try and
8 make sure they work together with the various
9 people in the community. Because we have
10 different divisions in Manitoba Hydro, at least
11 three involved here, perhaps more. We have
12 different groups of people in the Gillam area.
13 There are lines of communication which the record
14 shows that each of the parties are trying to deal
15 with each other on. The basics of the mitigation
16 and what the socioeconomic professional people are
17 saying is, okay, good, all of you people please
18 work together and make sure you tackle together
19 the problems of this community with all these
20 constructions taking place. And if you can't work
21 together, you're going to have problems. Whether
22 they occur to the Metis or the First Nation or
23 somebody else is frankly, in the great scheme of
24 these mitigation issues we're talking about from
25 construction impacts, something that each of them

1 can grieve together on if they occur.

2 So I really think that the record
3 shows that there are difficulties in doing this.
4 And believe me, from professional experience,
5 there's going to be difficulties doing this. This
6 is a challenge. And historically it wasn't done
7 very well.

8 MR. MADDEN: So logically --

9 MR. OSLER: So please, can we focus on
10 how to make it work, as a community of all these
11 people that have to live in Gillam. That's the
12 essence of the recommendations from the
13 socioeconomic professionals.

14 MR. MADDEN: So if you follow that
15 logic through, and I agree with you Mr. Osler on
16 that, and then the issue becomes, there is in the
17 mitigation measures no process on how to deal with
18 the Metis as a subset of that Gillam group, which
19 are clearly identified in the census records, have
20 been -- Manitoba Hydro is aware of the concerns.
21 So I guess my point on this is, if your stated
22 principle is actually sincere and honest, then
23 clearly within the mitigation measures you'll want
24 to see, or the CEC will want to make a
25 recommendation around that a process be put in

1 place with the Metis as well. Because your point
2 is very valid. Look it, there's going to be
3 dramatic changes in Gillam for everyone. So we
4 want to make sure we have processes in place of
5 how to smooth that or make it as palatable or
6 amenable to everyone. And I guess my client's
7 concerns are that there are clear mitigation
8 measures committed to in relation to Fox Lake,
9 rightfully so. There are not for the Metis. And
10 I think that point has been made, and that's the
11 point. And I think that your answer is very
12 helpful to that. For the Commission to hear us
13 saying, look it, everyone has to work at this
14 together in order to make it work, we flag their
15 socioeconomic problems upcoming, now where is that
16 in the mitigation measures? And I think what we
17 have right now is, there aren't any in relation to
18 Metis.

19 MS. ZEBROWSKI: I would like --

20 MR. MADDEN: I'm going to move on to
21 to another question now.

22 MS. ZEBROWSKI: I would just like to
23 build on that, just for the record, to put in
24 place, you know, just like we have processes in
25 place with Fox Lake Cree Nation to address their

1 concerns, we do, as I have previously referenced,
2 have in place, that's been in place since 2004,
3 the Manitoba Hydro/Manitoba Metis Federation
4 relationship task force. And we have also
5 provided funding for the Manitoba Metis Federation
6 to hire a Manitoba Hydro liaison officer, the
7 specific purpose of which is to raise issues such
8 as the one that Mr. Madden is raising, and to draw
9 those to Manitoba Hydro's attention, and to
10 further work between our two organizations to
11 assist us in finding mutually beneficial
12 resolutions to those issues. So I would suggest
13 that some mitigation measures, so to speak,
14 related to those two things are already in place.

15 MR. MADDEN: And you're going to hear
16 from the Manitoba Metis Federation that those,
17 while they have been in place, they have been
18 largely ineffective and, quite frankly, have not
19 resulted in progress on real tangible mitigation
20 measures. And you'll see, whether it be Keeyask,
21 and there be no agreement in place and no
22 consultation process in place, I'm not going to
23 preclude that. President Chartrand and the
24 Manitoba Metis Federation panel will speak to
25 that. I just don't think that it's accurate to

1 say that those have been effective, because what
2 you've seen as far as results in the Fox Lake
3 processes, as well as with other First Nation
4 communities, you don't see in the Metis community.

5 So I want to move on now to the second
6 bullet of development/implementation of the access
7 management plan for the converter station in
8 conjunction with Fox Lake Cree Nation.

9 MS. HICKS: What slide are you on?

10 MR. MADDEN: I am on the same slide
11 that we were on, 44.

12 So is this an actual commitment that
13 there will be a Fox Lake Manitoba Hydro specific
14 access management plan for Keewatinoow?

15 MS. HICKS: Yeah, there is going to be
16 a plan for the community.

17 MR. MADDEN: So I guess one of the
18 Metis concerns is, the Wuskwatim access management
19 plan for some access to the roads required those
20 individuals to be members of the First Nation in
21 that area, and it excluded the Metis from those
22 access management plans. Is that going to be the
23 same sort of thing that's going to happen in the
24 Keewatinoow?

25 MS. HICKS: I'm unaware with respect

1 to Wuskwatim that anybody got -- I don't know, I
2 didn't work on the Wuskwatim generation project.

3 MR. MADDEN: So can Hydro commit that
4 the access issues that are addressed are going to
5 be inclusive of Metis, that access isn't going to
6 be limited to them?

7 MS. ZEBROWSKI: Ron Elder will speak
8 to this.

9 MR. ELDER: To answer that question, I
10 guess the big difference would be -- sorry, which
11 project did you reference?

12 MR. MADDEN: Wuskwatim.

13 MR. ELDER: In Wuskwatim we cut a new
14 45 kilometre road into the site, which was part of
15 the construction site. The difference at
16 Keewatinoow is there is an existing road that's
17 been there for about 20 years.

18 MR. MADDEN: But in the Wuskwatim
19 scenario, the individuals that could have access
20 to that, they had to be NCN members, correct?
21 It's in the access management plan, it's on-line.

22 MR. ELDER: Yes. So what I'm trying
23 to point out here is, the difference here is we
24 created new access in there and obviously there
25 could be potential new hunting pressures. Whereas

1 Keewatinoow, the road has been there for about 20
2 years. So the intent of the access management
3 plan is to secure the construction zone and allow
4 access for anybody in the community up there
5 through that construction zone safely, but we
6 don't plan on limiting access for any groups.

7 MR. MADDEN: So it's different than
8 Wuskwatim. There won't be a limitation?

9 MR. ELDER: Because we're not creating
10 new access into the area.

11 MR. MADDEN: Okay. And if anyone put
12 in place that there be limitations, would that be
13 inclusive of the Metis as well? If that does come
14 out as part of the ongoing discussions that there
15 is access issues that emerge, is it just going to
16 be access for First Nations, or will it be
17 inclusive of the Metis?

18 MR. ELDER: I would liken it to, we're
19 doing some work in downtown Winnipeg, we need to
20 make sure that the construction zone is safe and
21 the general public is safe, but we don't see it as
22 our job to distinguish what community each
23 individual is from.

24 MR. MADDEN: So I want to move on to
25 slide 53 of your presentation. And again, this is

1 putting in place in relation to associated
2 facilities a monitoring plan implemented in
3 discussion with First Nations in the vicinity.

4 Again, this is exclusive of any discussions with
5 the Metis in the region?

6 MS. HICKS: I would gather it would be
7 similar in the fact that anybody in the area
8 that's potentially affected, there would be some
9 liaise by Manitoba Hydro with whomever has a
10 concern or a potential issue.

11 MR. MADDEN: So that commitment would
12 be -- so it should read monitoring plan
13 implemented in discussion with First Nations,
14 Metis and other stakeholders in the vicinity?

15 MS. HICKS: Yes.

16 MR. MADDEN: In relation to Gillam
17 specifically, did you collect any socioeconomic
18 data? So, for example, and I think this was
19 raised in the presentation up in Gillam, that
20 while First Nations have a land base or a reserve,
21 although many of them may live off reserve, that
22 the rental pressures created for Metis may be, in
23 particular as the working poor within communities,
24 may be more acute than other groups. In your
25 assessment, did you consider that at all?

1 MS. HICKS: No, we did not consider
2 that.

3 MR. MADDEN: I have no further
4 questions for Ms. Hicks. I'm going to move on now
5 to the ATK and Ms. Petch.

6 THE CHAIRMAN: Perhaps we'll just take
7 a very short time out. Ms. Hicks has to leave
8 momentarily, we'll excuse her and allow a moment
9 or two, and then you can carry on, Mr. Madden.

10 Okay, Mr. Madden.

11 MR. MADDEN: Okay. So let's talk a
12 bit about this ATK process, and I want to try to
13 get things straight in my mind. And in my
14 cross-examination, I want to make -- I'm going to
15 talk, when I speak about the ATK project, I'm
16 talking about your project. When I'm talking
17 about the ones that the Aboriginal nations
18 actually did, I'll refer to them as the
19 self-directed studies.

20 Ms. Petch, did you design and develop
21 this project from its very beginning?

22 MS. PETCH: Yes, I did.

23 MR. MADDEN: So it's your baby start
24 to finish?

25 MS. PETCH: Correct.

1 MR. MADDEN: And you stand by the
2 methodology?

3 MS. PETCH: I do.

4 MR. MADDEN: Did you consider the
5 Manitoba Government's Aboriginal consultation
6 policy when you developed the study?

7 MS. PETCH: We were not looking at
8 some of the Aboriginal process regarding section
9 35. We were looking at communities that would
10 have ATK as communities, as Northern Affairs
11 communities and First Nations.

12 MR. MADDEN: So this is based upon the
13 premise that Northern Affairs communities are
14 Aboriginal communities?

15 MS. PETCH: Yes. And we looked at the
16 definition of a Northern Affairs community and
17 used the definition that's given by the Manitoba
18 Government for Northern Affairs communities.

19 MR. MADDEN: And so that definition
20 that's in the glossary is a definition from the
21 Manitoba Government. The one that says, Northern
22 Affairs communities are northern and Aboriginal
23 communities. I think I've gone through this with
24 Ms. Zebrowski. That's the term, the definition,
25 and then it cites the Manitoba Government as the

1 source for it?

2 MS. PETCH: Yes.

3 MR. MADDEN: And so you based your
4 entire project on the assumption that those are
5 Aboriginal communities?

6 MS. PETCH: No. Because within those
7 communities there are people who are non
8 Aboriginal.

9 MR. MADDEN: So how do you -- but you
10 don't discriminate, when you went to collect the
11 information, you didn't make a distinction between
12 whether the person was Aboriginal or whether they
13 were non Aboriginal, you just asked the community
14 to identify people who may have knowledge and you
15 interviewed them?

16 MS. PETCH: The communities were
17 invited to participate in ATK workshops. The
18 communities that agreed to take part in the
19 process chose people from within their own
20 community. We did not have anything to do with
21 who was chosen. This was strictly a community
22 making decisions as to who best within their
23 community they believed would be able to provide
24 ATK within the Manitoba Hydro study area that
25 would help us to inform Manitoba Hydro as to where

1 the ATK was.

2 MR. MADDEN: So some of those
3 individuals could have been non Aboriginal?

4 MS. PETCH: That's correct.

5 MR. MADDEN: You didn't ask?

6 MS. PETCH: We did not ask.

7 MR. MADDEN: I can respect that. Then
8 why do you call it Aboriginal traditional
9 knowledge? Why not just call it local traditional
10 knowledge? It's problematic in some ways when
11 you're painting it with a brush that isn't
12 necessarily true.

13 MS. PETCH: Yes. And we struggled
14 with that, because there are a number of terms
15 that are used to describe the kinds of knowledge
16 that people have, there is local knowledge, there
17 is traditional ecological knowledge, there's
18 traditional knowledge, indigenous knowledge, and
19 naturalized knowledge. These are all terms that
20 have been used over the past 20 years to describe
21 knowledge.

22 What we did is we looked at Peter
23 Usher, and we looked at Terry Tobias, and we
24 looked at UNESCO for terms, and decided that ATK
25 was going to be the over-arching term that would

1 use all the forms of knowledge. And we
2 acknowledge that in our executive summary at the
3 very beginning, I believe it's the first statement
4 that we make -- the first statement that we make
5 is that for the Bipole III project Environmental
6 Impact Statement, Aboriginal traditional
7 knowledge, ATK, is used as the over-arching term
8 shared by the First Nation, Metis and Northern
9 Affairs communities through certain community
10 use -- though certain communities use such other
11 words as traditional knowledge, traditional
12 ecological knowledge, and Aboriginal ecological
13 knowledge.

14 MR. MADDEN: But in there you should
15 actually probably add in -- so in the Northern
16 Affairs community, implicit within that is that
17 there may be non Aboriginal people, correct?

18 MS. PETCH: That's correct.

19 MR. MADDEN: So I think that you can
20 understand why Aboriginal people may be offended,
21 or a little bit not happy with the idea that
22 Manitoba Hydro or yourself are portraying it as
23 Aboriginal traditional knowledge, when it may not
24 necessarily be from Aboriginal people.

25 MS. PETCH: That's correct, and it's

1 something that we struggled with.

2 MR. MADDEN: And professionally, and
3 you mentioned Mr. Usher, and he consulted on the
4 MMF's TK study. And professionally, though, do
5 you not believe that it's a little disingenuous to
6 hold it out as Aboriginal traditional knowledge?
7 Would you be personally more comfortable calling
8 it traditional knowledge from people in the study
9 area?

10 MS. PETCH: The term Aboriginal
11 traditional knowledge had been provided to us as
12 the term that was being used.

13 MR. MADDEN: I'm asking about you
14 professionally --

15 MS. PETCH: I haven't finished. I
16 personally would have preferred traditional
17 knowledge.

18 MR. MADDEN: That's very helpful,
19 thanks. And Ms. Petch, you have worked with First
20 Nation communities in the past?

21 MS. PETCH: I have.

22 MR. MADDEN: In Manitoba?

23 MS. PETCH: And in Nunavut and in
24 Saskatchewan.

25 MR. MADDEN: And you have worked with

1 Metis communities?

2 MS. PETCH: Yes.

3 MR. MADDEN: In Manitoba?

4 MS. PETCH: In Saskatchewan.

5 MR. MADDEN: And when you mentioned

6 Mr. Tobias and Mr. Usher, their work has been

7 largely focused on working with Aboriginal

8 communities directly as well, correct?

9 MS. PETCH: That's correct.

10 MR. MADDEN: And so why they are

11 calling it Aboriginal traditional knowledge is

12 that they aren't hired by a proponent, they are

13 actually hired by the communities themselves, and

14 there's protocols put in place between the

15 community and the professional adviser on how that

16 Aboriginal traditional knowledge will be respected

17 and held, et cetera?

18 MS. PETCH: Yes, if it is a project

19 that is within an Aboriginal community, then that

20 is the case.

21 MR. MADDEN: So this one is a little

22 bit unique?

23 MS. PETCH: It is.

24 MR. MADDEN: And in your work with

25 Aboriginal communities you, in the past, respected

1 the governing structures of those communities?

2 MS. PETCH: Of course.

3 MR. MADDEN: And do you believe the
4 Aboriginal peoples have the right to determine
5 who -- the governing structures who represent
6 them, not government?

7 MS. PETCH: We worked with Northern
8 Affairs communities and we worked with First
9 Nation communities on this project. We were of
10 the understanding that the MMF had its own process
11 in place.

12 MR. MADDEN: So the -- and you
13 mentioned UNESCO. Are you familiar with the
14 Declaration on the Rights of Indigenous Peoples?

15 MS. PETCH: I certainly am.

16 MR. MADDEN: And I want to go to
17 article 31 of the declaration. And article 31
18 reads:

19 "Indigenous peoples...",
20 and there's an S on it which means it's groups,
21 it's not just individuals,

22 "Indigenous peoples have the right to
23 maintain, control, protect and develop
24 their cultural heritage, traditional
25 knowledge and traditional cultural

1 expressions, as well as the
2 manifestation of their sciences,
3 technologies and cultures, including
4 human and genetic resources, seeds,
5 medicines, knowledge and properties of
6 fauna and flora, oral traditions,
7 literatures, design, sports,
8 traditional meetings, and visual and
9 performing arts. They also have the
10 right to maintain, control, protect
11 and develop their intellectual
12 property over such cultural heritage,
13 traditional knowledge and traditional
14 cultural expressions."

15 Do you agree with the principles in article 31?

16 MS. PETCH: Yes.

17 MR. MADDEN: And so when you look at
18 it and it says that indigenous peoples have the
19 right to maintain, control, protect, would you not
20 interpret that, that the people should hold that
21 knowledge, not proponents or agents of the Crown?

22 MS. PETCH: For the Bipole III
23 project, the communities were invited to
24 participate. There was no coercion or forcing of
25 people to participate in the process. And a

1 number of people decided, a number of communities
2 decided to do self-directed studies.

3 MR. MADDEN: Did you explain that
4 fully to the participants? And just so you know,
5 there are going to be some of those participants
6 coming up that they understood -- are you
7 comfortable that they fully understood that the
8 knowledge that Hydro would be collecting would be
9 kept by Hydro, as opposed to turned back to the
10 communities that they are from?

11 MS. PETCH: Packages were sent out to
12 each individual who took part in the process.
13 There was a transcript, there was a CD for those
14 who preferred to use DVD player, and there were
15 maps sent out to each individual person with
16 regard to the interviews that they had taken place
17 in.

18 Now, the community leadership,
19 whatever that is, was sent summaries and they were
20 sent composite maps of the people who had
21 interviewed -- who had been interviewed.

22 So the information, the data, the
23 knowledge that was gathered -- oh, and that was to
24 only those that requested it, because there were
25 some people who said, no, I don't want this. And

1 there were anonymous people as well, and we
2 respected the anonymity.

3 MR. MADDEN: Sorry, so you think that
4 there was inferred consent --

5 MS. PETCH: Yes, there was.

6 MR. MADDEN: -- of the individuals
7 participating?

8 MS. PETCH: Yes.

9 MR. MADDEN: Was it explained to them
10 that the traditional knowledge that they were
11 sharing was a part of the communities that they
12 come from, i.e. indigenous peoples? And I just
13 want to point out that the -- it's not a draft
14 anymore -- the declaration doesn't talk about
15 Northern Affairs communities, it talks about
16 indigenous peoples. And we know in Northern
17 Affairs communities, there's Metis and there's
18 First Nations that live there. And they are part
19 of those communities, but they may situationally
20 live in Northern Affairs communities. Was that
21 explained fully to people, that the Metis
22 community may disagree with what was actually
23 being done, or a First Nation community?

24 MS. PETCH: When we went into the
25 workshops, we held a meeting before the workshops

1 actually started. At that time we did not know
2 who was going to be participating. We had a
3 Powerpoint presentation that followed after
4 Mr. Johnson's presentation with regard to the
5 line. During that presentation, we explained the
6 informed consent agreement and --

7 MR. MADDEN: But the informed consent
8 agreement doesn't have those details about
9 explaining to people how they may be a part of a
10 rights bearing indigenous peoples that may not
11 necessarily be represented by the Northern Affairs
12 communities?

13 MS. PETCH: If people did not want to
14 participate, at any time they could withdraw. And
15 that was made very clear.

16 MR. MADDEN: Absolutely, and I
17 appreciate that, and you acknowledge that. But in
18 the informed consent, you didn't explain that to
19 people, did you? You didn't explain how this
20 could be --

21 MS. PETCH: Not in the document
22 itself, but in the dialogue that took part at the
23 workshop. And then at the time of the interview
24 that was discussed, and people were again
25 reminded. And one of the things that we did note

1 is we did not -- we told people that we were not
2 going to be talking about rights because that was
3 outside of our expertise.

4 MR. MADDEN: But it's a bit dancing on
5 a pinhead, don't you think?

6 MS. PETCH: Well, we could not -- we
7 had been instructed by Manitoba that we were not
8 to address Aboriginal rights in section 35, that
9 we were to stay within the bounds of traditional
10 knowledge.

11 MR. MADDEN: So traditional knowledge
12 would include harvesting, correct?

13 MS. PETCH: We did not ask about how
14 many animals were harvested. We asked more
15 general questions about animals and plants and
16 people's knowledge of them.

17 MR. MADDEN: We'll go to the questions
18 later.

19 MS. PETCH: I have one thing to add,
20 is that Manitoba Hydro does not have the maps or
21 any of the raw data for this project. It is held
22 at Northern Lights.

23 MR. MADDEN: You do?

24 MS. PETCH: We hold it.

25 MR. MADDEN: And are you indigenous

1 peoples, because you're maintaining, controlling,
2 protecting?

3 MS. PETCH: We are protecting the data
4 that was gathered. We have found that in the past
5 with other projects that we have done that,
6 occasionally, when material is sent to a
7 community, it is lost. We have kept master
8 copies, we have tried to have the master copies
9 put into the Provincial archives for safekeeping,
10 because there are a lot of projects kept there for
11 safekeeping.

12 MR. MADDEN: But shouldn't that be at
13 the direction of the Aboriginal community, not at
14 your direction?

15 MS. PETCH: Right now we are the
16 keepers of the information. If I start putting it
17 out to different communities and it's lost, then
18 that data is gone.

19 MR. MADDEN: But it's not your data?

20 MS. PETCH: No, it's not my data, it's
21 the people, and the people were told very clearly
22 it was their intellectual property and that we are
23 respecting it.

24 MR. MADDEN: So if they ask you for
25 it, please give it back and don't use it the way

1 that Hydro is asking you to use it, you would
2 respect that?

3 MS. PETCH: I would have to respect
4 it. We signed an agreement.

5 MR. MADDEN: Do you think that your
6 study is consistent with article 31 or the
7 principles of it?

8 MS. PETCH: With the time that we had
9 to complete the workshops, I stand behind our
10 work. These were not cultural assessments, these
11 were an ATK study to provide Manitoba Hydro with
12 an informed ATK location.

13 MR. MADDEN: Do you think your hero,
14 Peter Usher would agree with --

15 MS. PETCH: Maybe not. Peter and I
16 know each other for 20 years maybe, but
17 intellectual debate is another thing.

18 MR. MADDEN: Do you agree with me,
19 though, that the distinction you are making
20 between Aboriginal rights, and let's say you're
21 asking -- and you do ask in the questions, where
22 do people harvest, where do they gather, who do
23 you know does that? Don't you think those are
24 Aboriginal rights that those people may have?

25 MS. PETCH: We weren't looking at them

1 as being Aboriginal rights, we were looking at
2 them as being traditional knowledge that would
3 help us in assisting with routing.

4 MR. MADDEN: Can you appreciate
5 that -- and I understand your work, Ms. Petch --
6 but can you appreciate that maybe Aboriginal
7 people see that as a bit of a semantics?

8 MS. PETCH: Possibly.

9 MR. MADDEN: So I want to -- just so
10 we can understand, I want to move on to the
11 structure of the study. And you indicate 45
12 communities were initially invited?

13 MS. PETCH: Forty-nine.

14 MR. MADDEN: And how were those 49
15 identified?

16 MS. PETCH: I don't know. Those
17 were -- the 49 was the number that was presented
18 to us, and of those we had 19 communities to
19 participate.

20 MR. MADDEN: So where did the 49 come
21 from? Manitoba Hydro told you, these are the 49
22 to invite?

23 MS. PETCH: I think Deirdre maybe can
24 answer that one for me.

25 MS. ZEBROWSKI: I wasn't present at

1 the time when the ATK project started, but it is
2 my understanding from the record that the 49
3 communities that were identified through the EACP
4 process were the same 49 communities that were
5 included or invited to participate in the ATK
6 workshops.

7 MR. MADDEN: But Deirdre, or
8 Ms. Zebrowski, your testimony, you kind of punted
9 this to Ms. Petch on when you testified of saying
10 you didn't know. So how --

11 MS. ZEBROWSKI: That is correct. And
12 in the time ensuing since then, I have gone back
13 to look at the records for the time prior to when
14 I was at Manitoba Hydro, and this is the
15 understanding that I have.

16 MR. MADDEN: Sorry, what's that
17 understanding? Who developed the 49?

18 MS. ZEBROWSKI: My understanding is
19 that they were developed in consultation between
20 consultants and Manitoba Hydro staff in evaluating
21 the project study area for the Bipole III project,
22 looking at which communities were located within
23 the project study area, as well as those that
24 might be in close vicinity to the project study
25 area, and who Manitoba Hydro may wish to talk to,

1 to find out if they used the project study area.

2 MS. PETCH: I have just a little bit
3 of information here now. It seems that the MMM
4 group listed the Northern Affairs communities and
5 First Nations in the project study area, and also
6 looked to see if any outside First Nation
7 communities had TLE's in the project study area.

8 MR. MADDEN: And so of the 49, is the
9 Manitoba Metis Federation in that 49, or they were
10 in addition?

11 MS. PETCH: They were not included in
12 that list because I understand it was a separate
13 process between Metis Federation and Manitoba
14 Hydro.

15 MR. MADDEN: In developing that list
16 of 49, and I'm going to ask for an undertaking on
17 this, was there any consultation, engagement,
18 discussion, notes, meetings with the Crown in
19 order to identify those 49?

20 MS. ZEBROWSKI: I believe that was one
21 of the undertakings that we already previously had
22 and was answered this morning.

23 MR. MADDEN: Which was -- sorry, I
24 must have missed it, I came in late. It was no?

25 MS. ZEBROWSKI: The answer was no.

1 MR. MADDEN: So MMM developed this
2 entirely by looking at the backwards banana and
3 identifying First Nations and NAC, and Northern
4 Affairs communities in the banana, and then
5 potentially identifying ones that may have
6 interest outside?

7 MS. ZEBROWSKI: As Virginia had
8 referenced just a moment ago, as well looking at
9 TLE selections in that area as well.

10 MR. MADDEN: Okay. And so how did you
11 come about to arrive at the decision to engage
12 with the Manitoba Metis Federation?

13 MS. ZEBROWSKI: My understanding is
14 that, again through the Manitoba Hydro/Manitoba
15 Metis Federation relationship task force, there
16 were discussions of engagement in environmental
17 assessment processes on Manitoba Hydro projects.
18 And as a result of those discussions, there was
19 the development of the December 2009 agreement to
20 develop a protocol in terms of how Manitoba Hydro
21 and Manitoba Metis Federation might move forward.
22 But there was also funding provided through that
23 agreement to provide funding to the Manitoba Metis
24 Federation on the development of work plans and
25 budgets to undertake projects related to the

1 environmental assessment with relation to the
2 Bipole III project, the Pointe du Bois project,
3 Keeyask, and I believe Conawapa is on that list as
4 well.

5 MR. MADDEN: Do you have anything
6 more?

7 The communities like Dauphin and The
8 Pas are in the study area and they have Aboriginal
9 populations in them as well. But those weren't
10 identified as part of the 49. Can you explain
11 why?

12 MS. PETCH: No, I can't. I don't know
13 why.

14 MR. MADDEN: In deciding to engage the
15 MMF on Bipole III, was there any direction from
16 the Crown in order to do so?

17 MS. ZEBROWSKI: I was not with
18 Manitoba Hydro at the time of the development of
19 the protocol agreement, or the initial discussions
20 regarding the specific agreement related to the
21 Bipole III project. Based on the records I have
22 seen to date, specifically with respect to the
23 Bipole III project, I do not believe there was
24 direction from the Province.

25 MR. MADDEN: Can I get an undertaking

1 to that effect, that you'll just confirm --

2 MS. ZEBROWSKI: Can you clarify what
3 you're looking for specifically?

4 MR. MADDEN: I am looking for, was
5 Manitoba Hydro ever provided any direction
6 whatsoever from the Crown to engage with the
7 Manitoba Metis Federation in relation to Bipole
8 III? And when I'm talking about direction, it's
9 communications, notes, suggestions? We have also
10 done an access request on it, but we want to have
11 an answer through here as well.

12 THE CHAIRMAN: How is that relevant to
13 our deliberations?

14 MR. MADDEN: This is why it's
15 relevant. The whole point of this process is
16 we're going to have a clear record for the Crown,
17 in some ways. The Crown has already said they are
18 going to make use of the CEC's. What my client is
19 trying to ascertain is, was any direction provided
20 to the proponent. The bigger question ultimately
21 is, did the Crown discharge its duty? And so
22 through this process, I'm attempting to find out
23 how that was done, was direction provided? I'm
24 not going to belabour it anymore. I am just
25 trying to -- for us that's going to be a key point

1 in some future forum.

2 THE CHAIRMAN: Okay. I'm glad you're
3 not going to belabour it. I'm still not
4 convinced, but I will allow it.

5 MR. MADDEN: So based on -- and these
6 initial letters that you sent out, those were
7 certainly out in May 2009, correct, to the 49
8 communities?

9 MS. PETCH: I did not send them out.

10 MR. MADDEN: Manitoba Hydro sent them
11 out in May 2009?

12 MS. PETCH: It may have been Manitoba
13 Hydro, it may have been MMM group.

14 MR. MADDEN: And can you give me a
15 breakdown of the 49, how many are NAC communities
16 and how many are First Nations?

17 MS. PETCH: I can find it here, hang
18 on. I'm sorry, we're having trouble finding it.

19 MR. MADDEN: That's okay, I'll move
20 on. And once someone does find it, if you can
21 provide the answer, that will be great.

22 MS. PETCH: You bet.

23 MR. MADDEN: So 19 of those
24 communities responded?

25 MS. PETCH: That's correct.

1 MR. MADDEN: So that is roughly -- I
2 can't do math -- so, about 40 percent?

3 MS. PETCH: About 40 percent, yeah.

4 MR. MADDEN: And on page five of your
5 technical report, you indicate that 19 of those
6 communities, and you list which ones participated.
7 And just for everyone's convenience, I'm going to
8 hand out a map which has those 19 communities
9 located on it.

10 So, would you agree with me that this
11 is a fairly rough representation of where those 19
12 communities that did agree to participate are, the
13 19 are where the red dots are?

14 MS. PETCH: That's correct.

15 MR. MADDEN: And you indicated that
16 within these, throughout these communities, 96
17 interviews were conducted. Do you have the
18 breakdown for each one of these communities, how
19 many interviews were done for each?

20 MS. PETCH: Yes, we do.

21 MR. MADDEN: Can you provide those?

22 MS. PETCH: Yes.

23 MR. MADDEN: Would you agree with me
24 that ATK, and authors like Tobias, the point of
25 ATK is you're trying to get a fair representative

1 sampling of a community in order to understand how
2 they may use land, or how they may use their
3 traditional territory?

4 MS. PETCH: Yes. The more people you
5 have giving traditional knowledge within a
6 community, the more substance there is to the
7 record.

8 MR. MADDEN: Gives it more veracity
9 and credibility?

10 MS. PETCH: That's correct.

11 MR. MADDEN: In the literature, is
12 there a percentage that's kind of a threshold of
13 what you try to get within a community in order to
14 have a level of credibility or veracity to it?

15 MS. PETCH: It is going to depend on
16 the kind of study. We don't like to do anything
17 less than ten. But, again, the more people that
18 you can have participating, the better your record
19 is going to be.

20 MR. MADDEN: And so for the Aboriginal
21 participation that's in that area generally, does
22 your study represent that you have captured about
23 10 percent of that population?

24 MS. PETCH: No, I don't think it does
25 cover the -- but it was a record provided by the

1 people. The people from the communities
2 participated, and if there were only ten people
3 from a community, then we interviewed ten people.
4 If there were 15 or 20, we would interview that
5 many people.

6 MR. MADDEN: And in any of the
7 communities did you hit the 10 percent mark?

8 MS. PETCH: I would have to check on
9 that.

10 MR. MADDEN: Okay. So, what I have
11 handed out is based on the 2011 census, these are
12 the numbers. And I focused on the communities on
13 the west, in the west side corridor, not the
14 southern First Nations, but the populations for
15 Camperville, Pine Creek, Duck Bay, Pelican Rapids,
16 Baden. So based upon the numbers that you do
17 have, even if you were just to take five percent,
18 you really haven't done a five percent sampling of
19 these communities, since you only have 96?

20 MS. PETCH: That would be correct.

21 MR. MADDEN: So the level of -- the
22 level of that -- it's actually, that the study
23 accurately captures how these communities may use
24 the land is a little wanting in relation to the
25 10 percent statistics you have provided?

1 MS. PETCH: At the beginning of my
2 presentation last week, I said that we were only
3 scratching the surface and we knew that we were
4 only scratching the surface. We did what we could
5 with what was provided to us, and we analyzed it
6 according to methods that we would have used if we
7 had had a thousand informants.

8 MR. MADDEN: I think you have already
9 answered that in relation to identifying people in
10 the Northern Affairs communities, you approached
11 the mayors and council?

12 MS. PETCH: That is correct. That is
13 where the letters went.

14 MR. MADDEN: And for the First
15 Nations, you wrote to chief and council?

16 MS. PETCH: MMM wrote to chief and
17 council.

18 MR. MADDEN: And throughout the entire
19 process, were First Nations leadership continued
20 to be engaged throughout the entire study?

21 MS. PETCH: I believe so.

22 MR. MADDEN: So on page 14 of your
23 technical report you talk about the EA, meeting
24 with the EA assessment team?

25 MS. PETCH: Whereabouts are you on

1 page 14?

2 MR. MADDEN: Page 14 --

3 MS. PETCH: Oh, okay, at the bottom.

4 MR. MADDEN: Yeah. And so you spoke
5 about this yesterday and I just wanted -- it's a
6 quick question. When you are having these
7 discussions internally, or with Manitoba Hydro and
8 internally, are the Aboriginal communities
9 involved in developing those questions?

10 MS. PETCH: The initial questions?

11 MR. MADDEN: Yeah. Well, I don't
12 know, I didn't know that there were supplementary
13 questions. I'm talking about in section 3.2, when
14 you're saying that there's this ATK planning
15 workshop that's held between --

16 MS. PETCH: Oh, I'm sorry. That was a
17 workshop to introduce the Bipole III study team,
18 the entire team to the methods that we were
19 anticipating using.

20 MR. MADDEN: So that meeting, you are
21 meeting internally with Manitoba Hydro's
22 environmental assessment team as well?

23 MS. PETCH: Yes.

24 MR. MADDEN: And that's where you
25 developed the questions that are used for the

1 workshops?

2 MS. PETCH: That was partially -- the
3 questions were developed, we asked the different
4 study team members the kinds of questions that
5 they would like to have answers to from their
6 perspective. And we fashioned the questions based
7 on that, and plus our own experience in working
8 with First Nations and Aboriginal people.

9 MR. MADDEN: And Metis.

10 MS. PETCH: And Metis.

11 MR. MADDEN: And in those discussions,
12 when you are formulating the questions, the
13 Aboriginal communities aren't involved?

14 MS. PETCH: No, they were not
15 involved.

16 MR. MADDEN: Were any Aboriginal
17 people involved in those workshops?

18 MS. PETCH: The questions were
19 supposed to have gone to the communities for
20 review prior to the questions being asked, to
21 ensure that there was nothing that was culturally
22 sensitive, and that the questions were
23 translatable into any of the languages that may
24 be -- that people would have as their first
25 language and would feel more comfortable in.

1 MR. MADDEN: And were any Aboriginal
2 people involved in that?

3 MS. PETCH: Yes.

4 MR. MADDEN: Part of -- sorry, these
5 meetings between Hydro, Northern Lights and
6 yourself, or Northern Lights and Hydro, are there
7 Aboriginal people involved in those meetings?

8 MS. PETCH: Not in these meetings, but
9 with -- an Aboriginal person translator was hired
10 and attended the meetings, and when it was
11 necessary, did provide translation.

12 MR. MADDEN: But they weren't there
13 providing input, they are just there recording
14 what everyone else is saying in Cree or Saulteaux?

15 MS. PETCH: They only translated when
16 a person requested to have something translated,
17 or if there was something that we just could not
18 say in English that was understandable in
19 Saulteaux or Ojibway.

20 MR. MADDEN: Based on your experiences
21 in working with Metis communities and First Nation
22 communities in the past, would you usually not
23 involve them in the development of the questions?

24 MS. PETCH: Again, it depends on the
25 nature of the project. If we're working with and

1 for a First Nation or Metis community, we work
2 very closely with the community, whether it's a
3 set of elders that are assigned to work with us or
4 whether it's the leadership that assigns a
5 specialist from within the community to work with
6 us.

7 MR. MADDEN: Sorry, I want to go back
8 to your point because I think I may have missed
9 it. It was how you worded it. You said and then
10 the questions were shared with the communities, or
11 you think they were shared with the communities?

12 MS. PETCH: They were supposed to have
13 been shared with the communities. Now, I can't --
14 I don't have anything that says that they were.
15 The questions had been sent to the managing
16 consultant. Whether they went forth, I don't
17 know.

18 MR. MADDEN: Can we look at -- I just
19 want to look at two of the questions, just to get
20 a flavour for them. So if you turn to page 122,
21 I'm going to pick out question 157, and this
22 question says:

23 "What ceremonies or cultural practices
24 do you see essential to the autonomy
25 of your community and heritage?"

1 So I asked an elder from my community of what the
2 Michif word for autonomy is. Do you think that
3 that for an elder, or for people within Aboriginal
4 communities, that that's a question that they
5 would comprehend in the concept of autonomy?

6 MS. PETCH: No, of course not. And
7 these questions were guidelines, they were not
8 used verbatim all the time, and they were modified
9 in order to be understood by the person that was
10 being interviewed.

11 MR. MADDEN: And would you go through
12 all of these questions?

13 MS. PETCH: Not necessarily.

14 MR. MADDEN: This is almost like a
15 deposition.

16 MS. PETCH: It was a guideline.

17 MR. MADDEN: So I guess, you went at
18 great pains yesterday, or maybe it wasn't
19 yesterday, it's all blurring together.

20 MS. PETCH: Last week.

21 MR. MADDEN: Last week, about your
22 methodology and your standardization of it, and
23 how that's important. So it strikes me as odd
24 that then you have these questions, but they may
25 not have been asked to all of the participants.

1 That kind of is counter-intuitive to
2 standardization.

3 MS. PETCH: They are a guideline. We
4 use the semi-structured interview approach, which
5 was less formal than the questions in here are set
6 up.

7 THE CHAIRMAN: Mr. Madden, it's noon.
8 If you have five or ten minutes left, I'll carry
9 on. If not, we'll come back after 1:00 o'clock.

10 MR. MADDEN: After 1:00.

11 THE CHAIRMAN: Okay. We will adjourn
12 until 1:00 o'clock.

13 (Proceedings recessed at 12:00 p.m.
14 and reconvened at 1: 00 p.m.)

15 THE CHAIRMAN: Could we reconvene,
16 please? Before I turn it over to Mr. Madden, I
17 have just been informed that Mr. Kuzdak has to
18 leave at the end of the day today. So if there
19 are any questions on trapper compensation, please
20 ask them today, otherwise you may not get an
21 answer. Not at this point, after Mr. Madden.

22 Mr. Madden?

23 MR. MADDEN: Ms. Petch, I want to go
24 back to the map I handed out that had the 19
25 communities located on it. And I just want to try

1 to figure out, get a little bit more info from you
2 on when -- and I don't know if it was entered in
3 as an exhibit, it was a response to an undertaking
4 where Manitoba Hydro provided the list of when the
5 interviews were held, or when the workshops were
6 held?

7 MS. PETCH: That's correct, yes.

8 MR. MADDEN: Do you have that
9 document?

10 MS. PETCH: Yes, I think we do.

11 MR. MADDEN: Ms. Johnson, is it
12 actually an exhibit, the undertaking that Manitoba
13 Hydro provided in relation to the dates of the ATK
14 workshops?

15 MS. JOHNSON: Yeah, it is an exhibit.

16 MR. MADDEN: I didn't make copies of
17 it, but I guess -- I don't think I need it in
18 order to illustrate the point.

19 So you would agree with me that in
20 April 2010, Manitoba Hydro comes out with its
21 preferred route, correct?

22 MS. PETCH: April 2010?

23 MR. MADDEN: Yes, April 2010?

24 MS. PETCH: I believe it was in and
25 around that time.

1 MR. MADDEN: And if you look at the
2 list that you provided of when those TK interviews
3 were done, the ATK workshops were done, from my
4 calculation only seven of the 15 workshops were
5 actually held prior to April 2010. And based upon
6 my -- the information that was provided, where I
7 would say, and for those looking on the map, the
8 ones that were done, and maybe people just want to
9 circle those ones, were Barrows, Camperville, Pine
10 Creek, Pelican Rapids, Dawson Bay, Cormorant, Herb
11 Lake Landing.

12 MS. PETCH: I have Camperville,
13 Waywayseecappo, Herb Lake Landing, Dawson Bay,
14 Barrows, Pelican Rapids, Pine Creek --

15 MR. MADDEN: On the chart that was
16 given --

17 MS. PETCH: -- Cormorant.

18 MR. MADDEN: Okay. On the chart that
19 was given to me by Manitoba Hydro, Waywayseecappo
20 First Nation, workshop interviews were done in
21 November 2010. I am incorrect?

22 MS. PETCH: November 26, 2009.

23 MR. MADDEN: Okay. The document I
24 have says November 25th and 26th, 2010.

25 MS. PETCH: No, it should be 2009, on

1 those two dates.

2 MR. MADDEN: We may want to adjust the
3 exhibit then. Okay. So my mistake. So that gets
4 us to eight out of the 15.

5 MS. PETCH: After Cormorant, which was
6 the 31st of March, we have Pikwitonei on May 17th.

7 MR. MADDEN: Right, but those are
8 after April.

9 MS. PETCH: That's right, after April.

10 MR. MADDEN: So the route comes out,
11 there's only eight of the 15 interviews done. And
12 we're going to get the information from you,
13 essentially of those eight workshops that were
14 done, how many people were actually participants
15 in there, because we don't know that number. And
16 we already have an undertaking on that. Nothing
17 turns on that. I'm just trying to get a sense on
18 what Hydro's making decisions based upon in April.
19 Because there's been a lot of statements about, we
20 used ATK at the earliest points, it was thoroughly
21 integrated. I'm just trying to assess what Hydro
22 actually had when it came out with its route.
23 Because after, you can correct me if I'm wrong,
24 after April 2010, even when additional ATK
25 information is provided, the route doesn't change,

1 correct?

2 MS. PETCH: I'm not sure on that one.
3 But I know that what we did was, as the ATK was
4 coming in, we were feeding it into the
5 environmentally sensitive sites. And that was
6 passed on to Manitoba Hydro, and it was organic,
7 it was constantly being added to.

8 MR. MADDEN: But I guess what I'm just
9 trying to say is, this is what they had in
10 April 2010. They picked a line. Then even after
11 that organic feed-in was done, the line didn't
12 change?

13 MS. PETCH: I'm not sure. I know that
14 we made recommendations for areas.

15 MR. MADDEN: So did we. But can you
16 confirm that, that essentially the line didn't
17 change even after you are receiving more of the
18 ATK in after April 2010?

19 MS. PETCH: I really can't. I would
20 have to look at the maps and follow that process
21 from April through.

22 MR. MADDEN: Okay. And then, of
23 course, in April 2010 you have none of the
24 self-directed studies?

25 MS. PETCH: That's correct.

1 MR. MADDEN: Moving on to page 29 of
2 your report, and I want to talk a bit about the
3 environmentally sensitive sites, or the ESS's.

4 So these are 156 sites on the entire
5 final preferred route where participating
6 communities identify very important in
7 consideration of the route for the transmission
8 project?

9 MS. PETCH: That's correct.

10 MR. MADDEN: And how are those
11 identified? How do you define it as a site?
12 Someone says, look it, we have a berry patch
13 there. Someone says, look it, we hold ceremonies
14 in and around that local study area. That's how
15 they are defined?

16 MS. PETCH: Yes. We look at them as
17 points, lines and polygons. So for areas where
18 there would be burials, it would be a point.
19 Lines would be historic trails. And polygons
20 would be things like the berry patch or areas
21 where people would go to gather medicinal plants.

22 MR. MADDEN: Do those 156 sites
23 incorporate the sites identified by the Manitoba
24 Metis Federation as well?

25 MS. PETCH: Not in the initial ones.

1 As I said, as this information was coming in from
2 the different self-directed studies and from the
3 remaining ATK workshops, the ESS were being fed
4 into Manitoba Hydro.

5 MR. MADDEN: Would you agree with me,
6 that's a lot of sites that had been identified in
7 a very -- you have already acknowledged to some
8 extent, a cursory or a -- you know, we definitely
9 aren't at the 10 percent threshold of interviewing
10 the people there. These areas are pretty
11 important to the Aboriginal communities?

12 MS. PETCH: Of course.

13 MR. MADDEN: And the challenge with
14 the ESS's that you identify, is it your
15 understanding or is it your practice, in your
16 experience, that when ESS's are identified, or
17 sites of importance are identified for Aboriginal
18 communities, the proponents or government contact
19 those communities in order to talk about
20 protocols, in order to talk about mitigation, in
21 order to talk about avoidance, et cetera?

22 MS. PETCH: I think that for the
23 Bipole III project, Manitoba Hydro has ongoing
24 discussions with the different communities that
25 have areas that are of cultural and other

1 concerns.

2 MR. MADDEN: But I'm trying to -- I'll
3 get to Manitoba Hydro's example next. The first
4 thing is, in your experience -- so, for example,
5 building a pipeline in Alberta, the practices that
6 had been developed in your field, in the
7 environmental monitoring field, is when those
8 sites are identified in construction, when you're
9 in construction, that the protocols are that you
10 contact that Aboriginal community to talk to them
11 about how to try to avoid, how to try to -- it's
12 not kind of, well, we'll discuss it with you,
13 there's formalized processes put into place in
14 order to mitigate, avoid, et cetera?

15 MS. PETCH: Of course, and that will
16 come out in the Environmental Protection Plan and
17 the Heritage Resource Protection Plan which will
18 be part of that.

19 MR. MADDEN: So that's a commitment
20 that those types of protocols are going to be put
21 in place? Because what the language currently
22 right now reads is, we're going to talk to you
23 about environmental protection plans. But it's
24 not saying, we're going to put protocols in place
25 that when we come in to contact with these 156,

1 and I think it's going to be more, this is what
2 we're going to follow?

3 MS. PETCH: I can't speak for Manitoba
4 Hydro, but I think I remember reading something
5 about a commitment with the Environmental
6 Protection Plan and working with communities to
7 develop certain practices. And so I expect that
8 that's where that will be.

9 MR. MADDEN: And would your
10 expectation be that it's -- that in your
11 professional judgment, and based upon experience
12 and how these things are usually dealt with, do
13 you think that explicit protocols are important so
14 people know how to deal with things when they
15 happen on the ground as construction goes along
16 the line?

17 MS. PETCH: Yes, of course, we've done
18 that with Keewatinoow already.

19 MR. MADDEN: Well, not with the Metis.

20 MS. PETCH: No, but as heritage
21 resource, which is governed by the Manitoba
22 Heritage Act.

23 MR. MADDEN: So your expectation would
24 be that sort of clear delineation of the process
25 would be incorporated into Environmental

1 Protection Plans? Is that your commitment or is
2 it Manitoba Hydro's?

3 MS. PETCH: Well, it's my commitment
4 and I believe Manitoba Hydro's commitment. If
5 there was a site so that that was identifiable as
6 a Metis site, that it would receive the same
7 respect and the same consideration that any other
8 site, whether it was Paleo-Inuit, or if it was
9 Woodlands.

10 MR. MADDEN: But in order to have that
11 respect, you need to have a defined process in
12 place?

13 MS. PETCH: Yes, it has to be within
14 the customs and the practices of the community.

15 MR. MADDEN: Now, one of the
16 challenges with the ESS that you identified in
17 your study is, we don't know what community, whose
18 they are. So, for example, we don't know from
19 your interviews whether the people are -- you
20 didn't ask whether they are Metis, whether they
21 are First Nations. So these sites, some of them
22 in the 156 could easily be Metis, and they could
23 easily be First Nations as well already?

24 MS. PETCH: In the ESS from the ATK
25 perspective, yes. From the heritage, which we

1 probably will be getting to, we have identified 11
2 sites that are Metis, but most of them are outside
3 the study area.

4 MR. MADDEN: But I guess of the 156,
5 you don't know -- like I have looked in your TK
6 study, and I think on page, you know, 57, here is
7 an interviewee saying:

8 "We were speaking Saulteaux, there is
9 not quite a bit of people who speak
10 Saulteaux or Ojibway here in this
11 community, and there's not much Michif
12 that is spoken. The Cree is what is
13 spoken from our language, a mixture of
14 the language."

15 And then he goes on, or she goes on to say they
16 are leaving their traditional Metis heritage
17 behind because they are not being taught the
18 language and the culture, and all that culture,
19 comes from the language.

20 "We, our language, is dying."
21 So the people who participated within your, I
22 don't know, pan-Aboriginal, or let's just call it
23 a traditional knowledge study so we don't get
24 caught up in the word Aboriginal anymore, some of
25 those people could potentially be Metis as well?

1 MS. PETCH: Of course. And some
2 people did identify themselves as Metis.

3 MR. MADDEN: So the 156 sites, it's
4 not that they are pan-Aboriginal sites, it is that
5 they could be First Nation sites, they could be
6 Metis sites?

7 MS. PETCH: That's correct. And some
8 of them could be Euro-Canadian industrial sites.

9 MR. MADDEN: Right. So one of the
10 challenges with that study that you have done is
11 trying to figure out how do we -- I'm not going to
12 say unpack it -- how do we understand who we're
13 going to contact and how we're going to ensure
14 that the appropriate community is notified?

15 MS. PETCH: I'm not quite sure I know
16 what you mean?

17 MR. MADDEN: So you have identified
18 these 156 sites. You don't identify them as First
19 Nations, you don't identify them as Metis, because
20 you didn't ask -- the people who identified the
21 sites in the interviews aren't being asked, are
22 you Metis, are you First Nations? So have these
23 156 sites all along the line. But then when Hydro
24 comes across them in construction, they don't know
25 who to contact. They don't know, actually, no,

1 that's a Metis one, we should contact this person.

2 Because the way that you've done the study, it
3 throws everyone together in a mush. Do you follow
4 me?

5 MS. PETCH: I do, but I don't agree
6 with you.

7 MR. MADDEN: Okay. Why don't you
8 agree with me? Let's say we run across one of
9 these 156 sites, and who does Hydro contact?
10 Everyone, the Euro-Canadians, the First Nations,
11 the Metis.

12 MS. PETCH: We can identify the areas
13 on our maps as to the interview. And from the
14 interview we could, if we needed to, ask the
15 person to self-identify.

16 MS. ZEBROWSKI: Also if I could add to
17 that, Manitoba Hydro, as I think I have referenced
18 and others might have referenced before, and James
19 Matthewson may speak further to this when he does
20 his presentation on the Environmental Protection
21 Plan that will be forthcoming later, Manitoba
22 Hydro's intention is, based on the environmental
23 sensitive sites that have been identified to date,
24 through self-directed studies or through
25 Ms. Petch's process, or if there's other concerns

1 that have been identified through other
2 discussions with communities, it's Manitoba
3 Hydro's intent to go back to communities where
4 concerns or sites have been identified, and to
5 review the Environmental Protection Plan with
6 those communities, and to identify how those sites
7 are -- the various mitigation measures that are
8 planned and monitoring and various access, the
9 management plans, the access management plan, the
10 vegetation management plan, the waste management
11 plan, to determine which of those may be relevant
12 to the concerns or sites that have been
13 identified, and to review those with the
14 communities to determine if there's changes that
15 need to be made to those mitigation measures.

16 MR. MADDEN: Ms. Zebrowski, you're
17 missing my point. My point is, because of the way
18 you have approached the TK, that you don't know
19 how -- like these 156 sites are there, the
20 communities, because they haven't intrinsically
21 been a part of it, i.e. the First Nations and
22 Metis communities, because there's no -- you have
23 acknowledged in previous testimony, there's no, I
24 don't know, amorphous Aboriginal communities, they
25 are either First Nations or Metis. We can't

1 decipher from your work, and I don't think we're
2 going to be able to fix it here, all I'm just
3 flagging it for is, maybe don't do it again
4 because it becomes very challenging to then have
5 respectful relationships with the Aboriginal
6 communities. And Ms. Zebrowski, Ms. Petch already
7 acknowledged that there's some challenges by how
8 this study was constructed.

9 MS. ZEBROWSKI: I was raising the
10 point because you had indicated that when we
11 stumble across the 156 sites that had been
12 previously identified, and my point was that
13 already prior to construction occurring, the sites
14 that have already been identified would already
15 have mitigation measures and other things in place
16 to protect those sites.

17 MR. MADDEN: How? How without knowing
18 what communities should be contacted and whether
19 they are Metis or First Nation sites?

20 MS. ZEBROWSKI: By going back to the
21 places where the concerns were first raised.
22 Clearly, if there were other parties that should
23 be brought in to discuss those, those who have
24 already raised these as concerns and of importance
25 would likely be able to guide us if there are

1 other communities or other people that should be
2 brought into that conversation.

3 MR. MADDEN: So you're saying that
4 your initial point of contact would be going back
5 to the individuals who identified these sites in
6 their interviews?

7 MS. ZEBROWSKI: I think we would go
8 back to the communities where the ATK workshops
9 took place. But certainly we would make efforts
10 to ensure that those individuals who identified
11 some of these concerns could be present and at
12 those meetings and in part of those conversations.

13 MR. MADDEN: But the sites aren't
14 individual sites, they are collective, they are
15 part of Aboriginal communities. This is where it
16 plays out that the Crown does need to get
17 involved. Because Manitoba Hydro is making these
18 determinations, as opposed to being respectful of
19 how Aboriginal communities want to be dealt with.
20 And I'm not talking about Northern Affairs
21 communities, I'm talking about Metis and First
22 Nation communities, because that's what Manitoba
23 has in this province.

24 MS. ZEBROWSKI: Well, where Metis or
25 First Nation communities have raised concerns, we

1 would certainly be going back to the Metis or to
2 the specific First Nation to discuss those
3 concerns. Where concerns were raised in another
4 forum, we would go back to where those concerns
5 were raised and we would follow through on that
6 basis.

7 MS. PETCH: We also have the GIS maps
8 for each individual who was interviewed, and all
9 their particular information is on that one map.
10 So we are able to identify areas on the map in
11 relation to certain individuals. And at that
12 point, if we needed to determine who was First
13 Nation and who was Metis, and who was not, we have
14 that ability.

15 MR. MADDEN: But, Ms. Petch, you began
16 by acknowledging that that type of model, or that
17 approach that Manitoba Hydro continues to use
18 circumvents the actual communities. You tried to
19 essentially pick off members of the community --

20 MS. PETCH: No.

21 MR. MADDEN: -- rather than
22 respectfully engaging the First Nations and Metis
23 communities that are the legitimate rights
24 holders.

25 MS. PETCH: The participating

1 communities volunteered willingly.

2 MR. MADDEN: We're going to have
3 testimony about that, because some of the
4 individuals didn't fully understand.

5 MS. PETCH: Well, they had the right
6 at any time to withdraw.

7 MR. MADDEN: And they still have the
8 right to withdraw, so you can't continue to --
9 Manitoba Hydro and yourself as some sort of
10 arbiters are now in charge of traditional
11 knowledge for Aboriginal peoples.

12 MS. PETCH: We're holding it right
13 now.

14 MR. MADDEN: I've just got to say, do
15 you not believe that's just a little
16 paternalistic, that as opposed to the communities
17 being in charge of it, that you're in charge of
18 it?

19 MS. PETCH: I would love to give the
20 communities back their knowledge, but they are
21 files. But, I guess, how is it going to be
22 managed? Because I know from other projects I
23 worked on --

24 MR. MADDEN: But implicit within that
25 statement is that they don't have the capacity or

1 the wherewithal to hold it themselves. I have to
2 be, frank, that paternalistic attitude we had
3 hoped had gone by the wayside, and it's very
4 unnerving.

5 MS. PETCH: I don't look at it as
6 being paternalistic.

7 MR. MADDEN: Well, I do, and I think
8 that my clients do, and I think you are going to
9 hear from some of the Aboriginal communities that
10 they do, Ms. Petch. But we'll move on.

11 So I want to turn to page 31 of your
12 report. And the second arrow is crucial
13 highlights of environmentally sensitive sites that
14 illustrate the potential effects that would be
15 unique to participating communities within the ATK
16 regions.

17 My understanding is, how the report is
18 broken down is the next few pages are about, here
19 is the broad generalities we make based upon what
20 we see in all of the interviews, and then you go
21 further and pull out, here is kind of some of the,
22 I guess, area specific impacts that we see.

23 Am I understanding correctly of how
24 you are structuring the report?

25 MS. PETCH: Yes.

1 MR. MADDEN: Okay. And then on 4.1,
2 you kind of go through and you say, on EMF,
3 herbicides and sprays, access, fragmentation,
4 employment, historical record, you essentially
5 acknowledge that there's potential project effects
6 in all of those sectors?

7 MS. PETCH: This was based on the
8 results of the ATK workshops collectively.

9 MR. MADDEN: So they don't include the
10 self-directed studies?

11 MS. PETCH: I believe they may, yes,
12 the ones that we had available to us when we were
13 preparing the document.

14 MR. MADDEN: So when was that? Maybe
15 if you can just get back to me for this, what
16 self-directed studies you actually had?

17 MS. PETCH: Yes, I will.

18 MR. MADDEN: Thank you. And so based
19 upon your ATK, you conclude that there will be
20 effects in each one of these six areas?

21 MS. PETCH: Based on what we heard
22 from the community members.

23 MR. MADDEN: So I want to move on to
24 the unique community concerns on page 35. And
25 this is how you break it into different, I guess,

1 areas or sectors along the line.

2 Is this consistent with the map that
3 you provide in the report? So the map is on page
4 30, and you draw five circles of identifying
5 different quadrants?

6 MS. PETCH: No, the circles were for
7 our own benefit. The critical concerns were based
8 on the frequencies that these topics came up
9 within the different ATK's.

10 MR. MADDEN: Okay. So those four
11 circles, those five circles, they are arbitrary to
12 a certain extent, correct?

13 MS. PETCH: Yeah, that's correct.

14 MR. MADDEN: So some of the circles
15 could be clumped together, some of them may be
16 bigger, there may be more circles, but it's
17 just -- it's what you've done in order to attempt
18 to organize what you heard in the ATK workshops?

19 MS. PETCH: It was basically for our
20 internal, trying to wrap our heads around certain
21 things, and probably should not have been on the
22 map.

23 MR. MADDEN: Okay. Going to page 35
24 of your report, and I'm going to focus in on the
25 Red Deer crossing in the Cowan, Briggs Spur areas.

1 And it says:

2 "The Red Deer crossing represents a
3 bottleneck of highly valued cultural
4 and heritage sites that vary from
5 resource access to leisure pursuits
6 and culture activities for multiple
7 communities throughout regions two and
8 three of the ATK areas."

9 MS. PETCH: Okay. So then I stand
10 corrected.

11 MR. MADDEN: Sorry, stand corrected on
12 what?

13 MS. PETCH: The link between the
14 circles and the map, and the statement here.

15 MR. MADDEN: Okay. So when you are
16 using the language of bottleneck, what you are
17 really meaning is that there's a lot of activity
18 in this area?

19 MS. PETCH: That's correct.

20 MR. MADDEN: And you go on to say:
21 "Fragmentation within this region
22 would result in potential effects to
23 the TK of known animals, in addition
24 to alteration of cultural practices,
25 fish, spawning sites, kinship patterns

1 associated with leisure activities,
2 and harvesting of country foods and
3 medicinal plants."

4 And those are based upon the ATK
5 workshops as well as the self-directed, those
6 conclusions?

7 MS. PETCH: They are based on the ATK
8 workshops.

9 MR. MADDEN: And when you go on to
10 describe some of the issues of whether it's
11 blueberry patches or what have you, when you
12 clearly see that there are going to be these
13 effects, how do you get to the analysis that it's
14 not significant though? Because you really
15 haven't looked at it from the perspective of the
16 distinct communities that may be using the site.
17 So for example, if one of the communities that's
18 using the blueberry patch that's going to be
19 lost -- just because we have had, we talked about
20 this sort of example, and in this area there is
21 actually quite a few that would be, could
22 potentially be cleared -- that you aren't
23 understanding that, or the ATK doesn't capture
24 that those blueberry patches may actually have a
25 supplemental or country foods economy associated

1 with it?

2 MS. PETCH: I discussed that in my
3 report, and I think I mentioned it in my
4 presentation last week. We were very well aware
5 of what the communities were telling us about the
6 economic benefits that arose from the blueberry
7 patches. Not only that, they were culturally,
8 spiritually, socially important, an important area
9 for people to be in, and people were gathering
10 there from quite far distances. And it was almost
11 coalescence, a summer coalescence of people within
12 an area socializing and carrying on activities.

13 MR. MADDEN: So based upon that
14 description, would you agree with me, though, that
15 the loss of that to communities would be
16 significant? In particular from the point of view
17 of those communities -- I'm not saying the yellow
18 banana -- but from the point of view from those
19 communities, it would be significant?

20 MS. PETCH: If the entire area was
21 going to be cleared, yes. But it's my
22 understanding that the transmission line will run
23 along the western edge of the blueberry patch.

24 MR. MADDEN: And I'll just go back to
25 my example yesterday. Manitoba Hydro, in its

1 compensation for landowners, and we have heard
2 this from I think previous presenters, you know,
3 people being concerned, and rightfully so, of
4 having to see transmission lines out their
5 windows, and/or adjusting them so people don't
6 have to see a tower, you would agree with me that
7 even if they are on the western side of the
8 patches of all these things, aesthetically, adding
9 a tower or a line to that area that's extremely
10 important to the Aboriginal people would have
11 somewhat of an impact?

12 MS. PETCH: Aesthetically, yes,
13 because it affects anybody who does not like
14 having a tower, or a transit garage in their
15 backyard as I happen to be having now. There are
16 things that do concern and upset.

17 MR. MADDEN: Let's follow that
18 through. But in the landowner's world that gets
19 compensated because they own the land in fee
20 simple. But for the Aboriginal group that has,
21 you know, based upon your report, has been tied
22 there much longer than some people may have bought
23 a property or a farm, that that's an okay -- an
24 acceptable loss to them and that's not
25 compensable?

1 MS. PETCH: I can't comment on
2 compensation, it's outside of my realm. But I can
3 say that the blueberry patch area is an area of
4 commons, where people gather and they use the land
5 collectively.

6 MR. MADDEN: And just following
7 through on this blueberry statement, and I can
8 take you to some of the quotes in there, but have
9 you also heard -- and I'm sure you have heard
10 about spraying, the desire not to have spraying
11 near?

12 MS. PETCH: Yes.

13 MR. MADDEN: Did you also hear in the
14 ATK that, even if there is no spraying, there's
15 still a reluctance of people to go picking there
16 because --

17 MS. PETCH: Yes. Many times it was
18 mentioned that people felt, or perceived that
19 there would be contamination. Medicinal pickers
20 also told us that they would not pick near
21 transmission lines because the power of the plant
22 would be lost.

23 MR. MADDEN: So even with the fact
24 that it may not be going directly through the
25 patch, and it may not be completely destroying,

1 you know, there will be residual effects by virtue
2 of people's behavioural change to adapt to the
3 realities of, rightfully or wrongfully,
4 perceptions that don't pick in transmission routes
5 or near transmission routes?

6 MS. PETCH: Yeah, that's correct.

7 MR. MADDEN: In the Cowan, Briggs Spur
8 area, you say that this area represents an area of
9 existing and potentially high intensity cultural
10 and economic resource activities for many of the
11 local communities. Can you elaborate on that?

12 MS. PETCH: That's the blueberry
13 patch.

14 MR. MADDEN: Okay. So in the Red Deer
15 River crossing area, there's blueberry patches in
16 that area as well, correct?

17 MS. PETCH: There are some, but they
18 are not as large as in the blueberry patch.

19 MR. MADDEN: Right. So in addition to
20 just the loss, it's also a loss of areas that may
21 not be used as often for gathering and for
22 cultural activities as they once were. Was that
23 potential identified?

24 MS. PETCH: That's a potential. There
25 are a number of things that will -- people will

1 not go to an area for certain reasons.

2 MR. MADDEN: And given the fact that
3 you talk, and quite poignantly, and describe in
4 your report the importance of these areas to those
5 communities, that these are, you know, I think
6 that you've used the language of, this is where
7 people went in the old days, this is where people
8 went and had weddings, this is where people have
9 been buried. In the eyes of those communities,
10 it's pretty significant.

11 MS. PETCH: Yes. It came out time and
12 time again that that was a very significant area,
13 and probably one of the most significant along the
14 route.

15 MR. MADDEN: And so, can you walk me
16 through then how in your report -- not in your
17 report, but in the EIS, then given this
18 information, which I think is supported by also
19 the self-directed studies you get -- or Manitoba
20 Hydro gets to the conclusion, domestic resource
21 use, and that that the impact is not significant?

22 MS. PETCH: From a regulatory
23 perspective.

24 MR. MADDEN: Can you unpack that for
25 me?

1 MS. PETCH: That's outside of my
2 expertise, but there will be, from what I
3 understand, there will be a process in place to
4 deal with these kinds of things.

5 MR. MADDEN: But, Ms. Petch, you are
6 the expert in this area. You are the one that
7 Manitoba Hydro is holding out as saying this is
8 the traditional knowledge, and you come to that
9 conclusion. So from that, do you agree with the
10 conclusion that it's not significant?

11 MS. PETCH: From a cultural
12 perspective, I think there will be things that are
13 going to be very difficult to mitigate.

14 MR. MADDEN: Some of them may be
15 impossible to mitigate?

16 MS. PETCH: Some things you can't put
17 a value on.

18 MR. MADDEN: Okay. I'm going to move
19 on to heritage resources. And in your archaeology
20 report, you use a predictive model in order to
21 test for sites within the study area, correct?

22 MS. PETCH: We loosely used it. It
23 wasn't as robust as we had hoped it to be.

24 MR. MADDEN: Can you explain, and --
25 maybe just for everyone's benefit, when I'm

1 talking about a predictive model for the
2 identification of heritage sites, can you unpack
3 that a little bit or explain that a little bit?

4 MS. PETCH: Sure. Predictive model is
5 a tool that is used in archaeology to identify the
6 potential for an archeological site. It is one
7 tool that we use. And in that we use a number of
8 physical variables, or physical attributes that
9 over time have shown to be preferred. So we have
10 preferred kinds of slopes, we have preferred kinds
11 of vista aspects, how much you can see, the kinds
12 of soils that may be in an area, different kinds
13 of vegetation, water bodies. I think we had ten
14 or so for the model.

15 MR. MADDEN: And was the criteria that
16 you developed, was that tested for Metis sites in
17 the study area?

18 MS. PETCH: It's tested for all sites.
19 It's under the Heritage Resources Act, all
20 heritage resources are protected. And when we're
21 doing an HRIA, or Heritage Resource Impact
22 Assessment, we're looking at absence or presence
23 of archeological sites, so that we can identify
24 the sites and then also determine the kinds of
25 effects that may happen and the kinds of

1 mitigation that may take place. At that point, we
2 do not identify any site other than either being
3 pre European or post European, or historic.

4 At that point, if there are sites that
5 are more than an isolated find, one artifact, then
6 we will do further investigations at that area,
7 things such as shovel testing, maybe some test
8 excavation. And if we find materials that are
9 identifiable as to a particular cultural period,
10 then at that point we will make identification, if
11 possible. But for the most part it's absence,
12 presence, and identifying those sites, so that the
13 proponent would know where sites are, and that
14 when the Heritage Resource Protection Plan came in
15 place and construction started, there would be an
16 exact spot where those sites were.

17 And one of the benefits we have of
18 heritage is that it doesn't multiply and it
19 doesn't hibernate and it doesn't move around. The
20 heritage resources are the results of abandoned or
21 lost or discarded materials, and they stay in one
22 place. And when they are removed, that context is
23 destroyed.

24 MR. MADDEN: So in the model, you
25 don't build in anything for it, from your

1 perspective, you don't build in anything for it to
2 test for whether the site may be Metis or the site
3 may be First Nations?

4 MS. PETCH: No. The only thing we
5 examine or keep our eyes open for is the
6 difference between pre European and historic
7 materials.

8 MR. MADDEN: And in your technical
9 report on archaeology, you don't -- there's not
10 much time spent on looking at the materials in
11 relation to Metis archeological sites in Manitoba.
12 Can you explain why that wasn't --

13 MS. PETCH: Within the study area,
14 there were 11 sites, that's taking in ten in
15 Winnipeg. There was one site at Cowan Bay that
16 was identified. The site was originally a
17 homestead for a Norwegian missionary and there are
18 graves there. And the site is now used by hunters
19 from Cormorant.

20 MR. MADDEN: But the 11 sites you are
21 talking about, that's not the sites that the Metis
22 or First Nations identified themselves, that's
23 sites that the Province of Manitoba has
24 identified?

25 MS. PETCH: That's correct. Those are

1 sites that are registered with the Province of
2 Manitoba.

3 MR. MADDEN: So there's more likely
4 more heritage sites in the west side corridor that
5 are First Nations and Metis, or maybe both, since
6 they are highly related to the area?

7 MS. PETCH: And industrial and
8 historic and railway, of course there are going to
9 be many, many sites.

10 MR. MADDEN: Can you explain to me,
11 given the bottlenecks, why so little ground
12 research was done?

13 MS. PETCH: We worked in the Red Deer
14 River area. We went back this summer, once we
15 realized that it was going to be within an area of
16 Crown land. And we tested on both sides of the
17 river bank, I believe 50 metres from the river and
18 along the river banks, both the north and the
19 south river banks. And with negative -- shovel
20 testing was negative for any heritage resources.
21 All the heritage resources that have been
22 identified are on the west side of the bridge.

23 MR. MADDEN: And are there plans to go
24 back and do more, as you suggest on pages 67 and
25 68 of your heritage report, before construction?

1 MS. PETCH: It's during the time of
2 clearing, we anticipate that we will be back in
3 the field monitoring the crossings of the rivers.

4 MR. MADDEN: Do you not think it's
5 advisable to maybe have the Aboriginal communities
6 that are impacted involved in that?

7 MS. PETCH: For other work that we
8 have done, we have always had Aboriginal presence.

9 MR. MADDEN: For other work that
10 you've done, Northern Lights, not Hydro?

11 MS. PETCH: Yes, and Manitoba Hydro.

12 MR. MADDEN: So the only opportunity
13 I've seen that that's happened is in the case of
14 Fox Lake near Gillam?

15 MS. PETCH: No. For both Wuskwatim,
16 we had local community members with us in the
17 field.

18 MR. MADDEN: Is that the expectation
19 for Bipole III as well?

20 MS. PETCH: I would like to have
21 Aboriginal presence, because we get a fuller
22 understanding of some sites when we have
23 Aboriginal presence.

24 MR. MADDEN: And that would be
25 inclusive of the Metis?

1 MS. PETCH: If we have a Metis site,
2 yes.

3 MR. MADDEN: But the challenge with
4 some of these areas that are so highly used by
5 both First Nations and Metis, it's almost
6 impossible not to --

7 MS. PETCH: It's very difficult to
8 determine unless we have the oral tradition.

9 MR. MADDEN: Right. Okay. I am going
10 to move on to trapping now.

11 MS. PETCH: That's not my expertise.

12 MR. MADDEN: You're off the hot seat.

13 Mr. Kuzdak, I just have a few
14 questions on your presentation. You say that
15 there is 800 traplines affected by Bipole III. Of
16 those -- sorry, is that correct, around 800?

17 MR. KUZDAK: Incorrect. I was just
18 providing additional information for the
19 Commission that there are upwards of 46 RTL, or
20 registered trapline sections in the province. And
21 within those RTL sections, there are approximately
22 800 registered traplines in the province.

23 MR. MADDEN: Okay. So I must have
24 misunderstood. How many are actually impacted, of
25 those 800, how many are impacted by Bipole III?

1 MR. KUZDAK: Under the Hydro trapper
2 compensation notification policy, there are right
3 now 57 eligible registered traplines that are up
4 for compensation under the policy.

5 MR. MADDEN: And of those 57, do you
6 know how many are Aboriginal?

7 MR. KUZDAK: No, I don't. And we
8 certainly didn't look at that from an Aboriginal
9 perspective. It was certainly from a commercial
10 perspective, so we didn't break down the math or
11 the percentages.

12 MR. MADDEN: Just out of curiosity, of
13 the 800 traplines in total, you don't have a
14 breakdown of how many of those would be operated
15 by Aboriginal people either?

16 MR. KUZDAK: No, I wouldn't. I would
17 believe Manitoba Conservation may have a better
18 handle on those numbers.

19 MR. MADDEN: You indicated in your
20 testimony that Manitoba Hydro's trapline policy is
21 consistent with policies used in other
22 jurisdictions?

23 MR. KUZDAK: I didn't indicate that it
24 was consistent. I believe I testified that we had
25 researched and gone into other jurisdictions in

1 Canada, and United States for that matter, to see
2 if we can improve on our existing policy. We
3 didn't find anything that was outstanding. I had
4 assumed that we would find something, especially
5 from the western parts of Canada where the ongoing
6 oil and gas is being developed, that we would find
7 something. However, we did not find anything that
8 we could improve our policy on. However, not
9 saying that we're not -- we revisit the research
10 and conduct research from time to time.

11 MR. MADDEN: Have you been a trapper
12 in a past life, or are you a trapper, sir?

13 MR. KUZDAK: I'm presently a
14 registered trapline holder in the, I guess in the
15 Manigotagan Hollow Water area.

16 MR. MADDEN: Would you agree with me,
17 in particular in Aboriginal communities, that the
18 trapline plays maybe a more broader role in the
19 community than just the individual trapper? So
20 for example, whether it's bringing children,
21 family members out on the line to teach them, or
22 whether it's that trapper being able to contribute
23 to the economy of an Aboriginal community, that
24 it's not just purely an individualistic monetary
25 role that these traplines in some communities

1 play?

2 MR. KUZDAK: I agree with you 100
3 percent. I'm a third generation trapper and, I
4 believe, if it weren't for my grandfather taking
5 me out on to the land and teaching me the values
6 and the respect for the land, that I wouldn't in
7 fact be sitting here doing my best to represent
8 Hydro with the trapping community.

9 MR. MADDEN: And so one of the
10 challenges with Hydro's policy is, and I don't
11 have any brilliant ideas on the suggestions
12 either, but it doesn't -- it's not able to address
13 that larger compensable loss that may accrue
14 because people aren't brought out in order to
15 learn or, you know, parts of the traplines are
16 lost?

17 MR. KUZDAK: Not specifically. We
18 certainly are focusing our efforts in getting more
19 youth involved, along with the elders. I'm not
20 going to say that there's a generation gap there,
21 but certainly I think we need to collectively work
22 with the elders and those who have the wisdom
23 within trapping, hunting, gathering, fishing, to
24 teach the youth, not for the sake of simply just
25 losing, but to teach those youth values. So there

1 is a focus from Manitoba Hydro with regards to
2 that. But the compensation policy does not
3 compensate for that particular type of loss.

4 MR. MADDEN: And so you would agree
5 with me that these traplines, while held by
6 individuals, particularly in Aboriginal
7 communities, contribute to community well-being?

8 MR. KUZDAK: Yes, I agree with you.

9 MR. MADDEN: And under the current
10 Manitoba Hydro policy, helpers are not eligible
11 for compensation. I heard you correctly on that?

12 MR. KUZDAK: Yes, that's right. The
13 policy was written to compensate registered
14 trapline holders. So the helpers on a trapline,
15 although some of them are on an annual basis, from
16 year to year, some of them come and some of them
17 go. So our objective was to work with the primary
18 trapper, if you will, the registered trapline
19 holder, and explain the policy to him or herself,
20 how it was anticipated to work. And if there was
21 any compensation provided to the helper, that
22 hopefully the RTL holder would work that out with
23 that helper.

24 MR. MADDEN: And you'd agree with me
25 that in Aboriginal communities, those helper roles

1 are sometimes important, they are usually family
2 members often?

3 MR. KUZDAK: Absolutely.

4 MR. MADDEN: And I want to talk a bit
5 about how Manitoba Hydro negotiates settlements or
6 agreements with individual trappers. Within the
7 agreements that are negotiated, is there a
8 provision that allows for trappers to obtain
9 independent legal advice?

10 MR. KUZDAK: It's not written in the
11 agreement. However, we have offered and provided
12 the opportunity for legal advice at Hydro's
13 expense. But it is something that we're beginning
14 to focus more on for Bipole III, and it wasn't
15 necessarily a common practice for other
16 transmission projects.

17 MR. MADDEN: Because it's a bit
18 intimidating for an individual trapper, that
19 English may be their second language, to be
20 negotiating with Goliath on some of these issues.
21 Would you agree with me on that?

22 MR. KUZDAK: Yes.

23 MR. MADDEN: Is there the idea of
24 having some sort of Ombudsman or some sort of
25 support to help trappers, that isn't Hydro, that's

1 independent from Hydro, has that ever been
2 contemplated by Manitoba Hydro to help? So when
3 trappers have questions, they can get an honest
4 broker maybe answering a question, or also talking
5 to them a bit about, here's precedents of what
6 we've seen. Has that ever been thought of being
7 established? I only raise this because some
8 jurisdictions, those types of entities are there
9 for, you know, individuals to negotiate with
10 Goliath.

11 MR. KUZDAK: Right. No, we don't have
12 a specific or a neutral body that's available. We
13 focus our efforts on working with the, first of
14 all, Manitoba Conservation as well as the Manitoba
15 Trappers Association and local fur councils, and
16 eventually the individual trapper. And along the
17 way we hope that what we're providing is fair and
18 reasonable.

19 MR. MADDEN: Sorry, I guess the last
20 part of my question is, has Manitoba Hydro ever
21 looked at that as part of kind of enhancing,
22 bettering their current approach?

23 MR. KUZDAK: Not specifically. I'm
24 aware of the, for example the Alberta Trappers
25 Association has more of a provincially lead body

1 that looks at the compensation issues for
2 trappers. It's funded by not just one company or
3 one industry, but it's provincially based. So
4 that's kind of a unique I guess way of dealing
5 with compensation.

6 Through the research that I had
7 mentioned earlier, we brought that type of
8 approach up with Hydro, as well as Manitoba
9 Conservation. I believe Manitoba Conservation has
10 a definite -- a major role to play if that were,
11 you know, to come to fruition.

12 MR. MADDEN: It's helpful. You're
13 never going to quite get a balance, but it helps
14 at least put the scales a little bit closer
15 together?

16 MR. KUZDAK: Correct.

17 MR. MADDEN: In Manitoba Hydro's
18 current policy, is there any ability for Hydro to
19 differentiate in the formula that's provided
20 because of unique situations? So, for example, if
21 an elder is using the line and it's their entire
22 livelihood, versus someone who is just -- has a
23 full-time job and is supplementing their income
24 with that, is there any differentiator, is it just
25 a standard formula, we don't address the unique

1 circumstance of the person before you?

2 MR. KUZDAK: Yes, it's a standard
3 formula across the board, each registered trapline
4 is treated equally.

5 MR. MADDEN: And I don't know if this
6 was your presentation, I'm looking at MH 48, it
7 was presented the morning of October 3rd. I'm not
8 sure if that was your presentation? No, it
9 wasn't, okay.

10 Is there any thought by Manitoba Hydro
11 in order to -- how to operationalize the
12 compensation program for trappers on Bipole III to
13 engage with First Nations, regional tribal
14 councils, Manitoba Metis Federation, in order to
15 help or assist and get the word out on the
16 opportunities that are there, or is the
17 communication done directly with the trappers?

18 MR. KUZDAK: It's approach right now
19 is to deal primarily with the trapping
20 communities, starting with the Manitoba Trappers
21 Association, as well as the various local fur
22 councils that are active in the area.

23 MR. MADDEN: Okay. This is my kick at
24 the can for landowner compensation too, or is that
25 another day?

1 THE CHAIRMAN: Technically that's part
2 of what was presented last week. Are either of
3 those officials here?

4 MS. MAYOR: They will be. We were
5 going to have sort of a changeover of the guard
6 and have that coming up after this.

7 MR. MADDEN: Okay. I may not be able
8 to do it. Oh, sorry, I have one more question on
9 the traps.

10 Can you describe the nature of
11 engagement, if any, that Manitoba Hydro had with
12 registered trapline holders and helpers in the
13 route adjustment identified as P1 south of Paint
14 Lake?

15 MR. KUZDAK: The question is with
16 regard to the route adjustments?

17 MR. MADDEN: Yeah. Were those
18 trappers made aware? I think some of them
19 attended the meeting up in Thompson. Were those
20 trappers made aware of the route adjustments and
21 effects that will be on their lines?

22 MR. KUZDAK: I'm aware of two trappers
23 that have been notified that there are some
24 possible route changes in the area. So we are
25 making attempts to, I guess get a better handle on

1 where the routes and what traplines or trappers
2 that are impacted to have the formal communication
3 with on those changes.

4 MR. MADDEN: Thank you very much, sir.
5 I have nothing further.

6 THE CHAIRMAN: Thank you, Mr. Madden.

7 Now, as I noted earlier, Mr. Kuzdak is
8 only here for the day. Mr. Stockwell indicated
9 that he would have some questions on trapping.
10 Does anybody else have questions on trapping?

11 Then I think it's Pine Creek's kick at the can on
12 socioeconomic cross-examination. So you can come
13 up now and do your whole show. And Mr. Stockwell
14 can get in his trapping questions at some point.

15 MR. MILLS: Thank you, Mr. Chairman.
16 My questions may jump around a bit so I apologize
17 in advance.

18 Ms. Petch, is that the correct
19 pronunciation?

20 MS. PETCH: Correct.

21 MR. MILLS: Thank you.

22 Ms. Petch, I enjoyed your glowing
23 description of blueberries and for all the time we
24 spent on it, I look forward to the transcripts
25 because I really want to read again what you said.

1 That was terrific.

2 You clearly have a significant
3 traditional knowledge of the value of blueberries.
4 Have you seen in other projects you have worked on
5 the post event result of effects on blueberry
6 crops and harvest?

7 MS. PETCH: Not particularly blueberry
8 crops, no.

9 MR. MILLS: I'm sorry, I can't hear
10 you?

11 MS. PETCH: I'm sorry, not blueberry
12 crops.

13 MR. MILLS: So you have no after the
14 fact perspective on effects on blueberry crops?

15 MS. PETCH: No.

16 MR. MILLS: Okay, thank you.

17 Your peer, Mr. Szwaluk, had indicated
18 that he was of the opinion that crops might well
19 improve as a result of the Bipole III process.
20 This may be a stretch, but considering your sense
21 of the blueberries, is that a statement or a
22 belief that you could agree with?

23 MS. PETCH: That there would be an
24 increase in the -- I am not a botanist.

25 MR. MILLS: You have no knowledge, no

1 thoughts?

2 MS. PETCH: I have no ideas about how
3 plants grow. I appreciate them.

4 MR. MILLS: Okay. Thank you.

5 Our traditional harvesters in Pine
6 Creek First Nation have confirmed many, many
7 different species that they seek out and harvest.
8 My associate, Mr. Stockwell, wants to go through
9 the ATK at greater depth with you, but if I told
10 you they had identified to us 22 different
11 traditional herbs and medicines in the Bipole III
12 right-of-way area, would that number come as a
13 surprise to you?

14 MS. PETCH: No.

15 MR. MILLS: It wouldn't?

16 MS. PETCH: No.

17 MR. MILLS: Would you have thought it
18 to be higher?

19 MS. PETCH: We learned of the
20 different kinds of plants from a number of the
21 communities in the area. I wouldn't know
22 personally how many there would be, but it was
23 very interesting and comforting to know that there
24 were that many that were identified.

25 MR. MILLS: Okay. 22 crops of

1 traditional herbs and medicines wouldn't come as a
2 surprise to you?

3 MS. PETCH: No.

4 MR. MILLS: Thank you. The value that
5 the community places on the blueberry crop, Pine
6 Creek First Nation tells me that they have four
7 traditional food sources, that's the fishery,
8 moose, deer, and blueberries. In your experience,
9 would the loss of the fisheries in 1990, the
10 closure of moose hunting in 2010, would that cause
11 the community's relationship to blueberries to
12 take on a greater sensitivity?

13 MS. PETCH: I think there would be
14 concern that that might be the next to be
15 affected.

16 MR. MILLS: Thank you.

17 Ms. Petch, I appreciate all of your
18 work, sincerely, and almost everything I have
19 enjoyed. You did make a comment earlier about the
20 possession of the ATK. And I am wondering, have
21 you been to the Pine Creek First Nation band
22 office?

23 MS. PETCH: Not recently, I have been
24 in the past though.

25 MR. MILLS: Okay. If I told you that

1 the walls of the band office are lined with
2 hundreds of photographs dating back to the 1890s,
3 1900s, photos of families with complete
4 biographies and descriptions of the path of that
5 family, would you have seen anything like that in
6 any other community?

7 MS. PETCH: In some communities, yes,
8 we have seen that.

9 MR. MILLS: Does that sound like a
10 community that needs you to hold and protect their
11 ATK for them?

12 MS. PETCH: No, but we signed
13 documents with each of the people that were
14 interviewed, and we hold our responsibility for
15 those things that we sign very, very dear.

16 MR. MILLS: I understand.

17 MS. PETCH: Now, we have made the
18 information available to Pine Creek, we have
19 provided the transcripts.

20 MR. MILLS: I understand. Thank you.

21 Did you receive a BCR from Chief and
22 Council agreeing to you holding that ATK and not
23 returning it to the community?

24 MS. PETCH: No, we did not.

25 MR. MILLS: Did you ask for one or

1 attempt to obtain one?

2 MS. PETCH: That was outside of our
3 range of authority.

4 MR. MILLS: So your decision to hold
5 back the amalgamation of the ATK is not supported
6 with an agreement with the First Nation, you are
7 relying upon agreements with individuals who
8 contributed to it. Is that fair to say?

9 MS. PETCH: That's correct, yes, it's
10 their intellectual property.

11 MR. MILLS: Thank you.

12 Ms. Petch, in your process, you must
13 have a close out of the ATK work that you do with
14 a particular community. Can you describe the last
15 stage of work that you would do prior to the start
16 of construction? I'm not talking about monitoring
17 or review of what Hydro is doing in the field, but
18 the last bookwork that you would do in closing out
19 Pine Creek's ATK, can you give me a very brief
20 description of that?

21 MS. PETCH: I'm not quite sure what
22 you mean?

23 MR. MILLS: Do you prepare a summary,
24 that you provide to Manitoba Hydro, of Pine Creek
25 First Nation's situation? We've read the summary

1 at the front page of the ATK copy that
2 Ms. Zebrowski graciously provided us with. Is
3 there anything beyond that that you do, or is that
4 the completion of the ATK paper process?

5 MS. PETCH: We have transcripts, over
6 5,000 pages of transcripts.

7 MR. MILLS: We have those, yes.

8 The front page of those transcripts is
9 a summary. I'm asking simply, is there anything
10 more than that?

11 MS. PETCH: No.

12 MR. MILLS: Or is that summary the
13 summary that you would have provided to Manitoba
14 Hydro?

15 MS. PETCH: The summary is a summary
16 that goes in front of each transcript. It's part
17 of the process of having a summary available so
18 that the person reading it can understand what to
19 expect within the transcript.

20 MR. MILLS: Okay, thank you.

21 Has Manitoba Hydro asked you to do any
22 additional ATK review or consideration in light of
23 the recent proposed route change?

24 MS. PETCH: We have been examining the
25 existing ATK maps and the existing heritage

1 resources.

2 MR. MILLS: Have you provided Hydro
3 with any written review of your review of the
4 proposed route change as it affects Pine Creek?

5 MS. PETCH: We have provided
6 information as to where new environmentally
7 sensitive sites may occur. And we have also
8 identified that there are no heritage resources
9 sites that are known.

10 MR. MILLS: Could you provide us with
11 a copy of that?

12 MS. PETCH: I imagine.

13 MS. MAYOR: We'll take that under
14 advisement. I haven't seen that and I'm not sure
15 of the status of the information that's being
16 provided for the route adjustments. So we will
17 take that under advisement.

18 MR. MILLS: Ms. Petch, you have
19 generated a document that discusses the revised
20 route?

21 MS. PETCH: It's not a document, it is
22 a list only. There's no real text, except we have
23 identified the areas.

24 MR. MILLS: Okay.

25 Mr. Chairman, in light of the stress

1 that this route revision is under, if Hydro can be
2 encouraged to accelerate that information to us,
3 it would make it easier for us to --

4 THE CHAIRMAN: I believe that was the
5 nature of this morning's discussion, Mr. Mills, so
6 we don't need to repeat it again.

7 MR. MILLS: Just reinforcing, thank
8 you.

9 I am going to jump around a bit,
10 Ms. Petch. I thank you again for your work, I
11 sincerely do. And perhaps, Ms. Petch, you can
12 assist us here, but my associate is going to
13 review the integrity of the ATK that we are
14 relying upon. And the First Nation, I think we
15 know, and John's going to do a great job of
16 reinforcing that, the First Nation contests the
17 accuracy and completeness of the ATK work you did.

18 We had previously asked Ms. Zebrowski
19 if she would allow us to undertake the
20 self-directed ATK that other communities are
21 currently undertaking, and the answer was no. We
22 have been told that it will be quite some time
23 before construction gets to Pine Creek, perhaps
24 two years. And we have been told by Hydro that
25 the ATK did not affect the route selection and

1 that it will only be relied upon perhaps for tower
2 location within the right-of-way.

3 In all of that, Ms. Petch, if the
4 community was able to convince you that the ATK
5 work that you've done is deficient, would you
6 support returning to the community and continuing
7 or completing that process to Pine Creek's
8 satisfaction?

9 MS. PETCH: Of course. We realize it
10 was only a two-day workshop.

11 MR. MILLS: Ms. Zebrowski, you made
12 mention earlier to the Environmental Protection
13 Plan that will be coming later. Can you tell us
14 when later is?

15 MS. ZEBROWSKI: I was referring to the
16 presentation that will be, I know there's a
17 presentation on the Environmental Protection Plan
18 coming. I'm not sure of the exact schedule of
19 when it will be before this panel.

20 MR. MILLS: It isn't a document or a
21 draft of any form, it will be a PowerPoint?

22 MS. ZEBROWSKI: I believe it will be a
23 PowerPoint. The draft Environmental Protection
24 Plan was attached to the EIS and submitted as part
25 of the EIS.

1 MR. MILLS: Yes.

2 MS. ZEBROWSKI: And as we have
3 discussed with you previously, that is a living
4 document, so to speak, in that it is being refined
5 and further developed, which is why it was draft.

6 MR. MILLS: Thank you.

7 Socioeconomic effects, who would I
8 direct those questions to?

9 MR. OSLER: We could try some, but if
10 we need to have Ms. Hicks, she'll have to come
11 back tomorrow morning.

12 MR. MILLS: Thank you, Mr. Osler.
13 Perhaps you can help me.

14 Yesterday we discussed in cumulative
15 effects the qualities that would increase effects
16 on a community. Leaving Riel and the converter
17 stations aside, and holding our discussions
18 strictly to Bipole, because we acknowledge that
19 Pine Creek is not affected by the conversion
20 stations, I believe we agreed yesterday that
21 effects, the parameters of effects are community
22 size and relative relation or proximity to Bipole.
23 Is that fair to say?

24 MR. OSLER: You raised those
25 particular parameters and asked for some comments

1 on their potential importance for any type of VEC
2 we were looking at, and we discussed that
3 yesterday, yes.

4 MR. MILLS: What would be the greatest
5 parameter effect on a community relative to
6 Bipole?

7 MR. OSLER: The so-called pathways for
8 a community would traditionally be looked at
9 either as flowing through the construction
10 process, the actual construction activities, the
11 workforces in the area, all of that type of thing,
12 both positive and negative.

13 MR. MILLS: So the question I asked
14 yesterday, and I used Shamattawa First Nation as a
15 example, I think we all could agree that there's
16 probably no socioeconomic effects on a community
17 that distant from Bipole. Conversely, could we
18 agree that, as you get closer to Bipole, the
19 socioeconomic effects would increase?

20 MR. OSLER: We discussed that
21 yesterday, and I think everything we need to say
22 about it. Yes, you can say it in a general sense.
23 It depends a great deal on the circumstances and
24 each VEC as to what it means in practice.

25 MR. MILLS: Yes, in a general sense,

1 thank you.

2 The size of the community that's
3 related to Bipole, are the socioeconomic effects
4 increased by the size of an equivalently adjacent
5 community?

6 MR. OSLER: Not necessarily.

7 MR. MILLS: No? Could you give me an
8 example of a very small community that Bipole
9 would have a very large effect on?

10 MR. OSLER: I can't give you specific
11 examples along the route, but I could give you an
12 example in principle, if that would get the point
13 across.

14 If you're going adjacent to a large
15 community, something larger than the ones we're
16 talking about, could be in metropolitan area, it
17 could be a larger city, the issues with respect to
18 interactions with the community are much more
19 defined and specific to segments of the community,
20 and usually don't get the same attention as if you
21 were going cheek by jowl to a small community
22 where this is a very big thing relative to the
23 size of that community. So that's the basis upon
24 which I'm giving my answer.

25 It doesn't necessarily flow in terms

1 of the issues that bother people, that because
2 you're near a large community, it's a bigger deal
3 from the point of view of assessment for
4 socioeconomic purposes than if I'm adjacent to a
5 small community.

6 MR. MILLS: I was going to use an
7 example and I wonder if you could comment?

8 Aboriginal and Northern Affairs
9 confirms in their latest documents, and I sent a
10 link to Shannon Johnson and asked her to forward
11 it to you, that War Lake First Nation has 109 on
12 reserve band members, and Pine Creek First Nation
13 has 1,177 on reserve band members. Your charts
14 and maps seem to indicate that War Lake is
15 20 miles from the Bipole right-of-way, and that
16 Pine Creek is slightly less than three miles from
17 the right-of-way. Pine Creek First Nation is ten
18 times larger than War Lake and seven times closer
19 to Bipole than War Lake.

20 Would it be reasonable to conclude
21 that the socioeconomic effects on Pine Creek would
22 be greater than they are on War Lake?

23 MR. OSLER: No.

24 MR. MILLS: Ten times larger, seven
25 times closer, help me out, I don't understand?

1 MR. OSLER: Well, without knowing more
2 about the degree of construction activity, the
3 buffers between the two communities, between the
4 communities and the lines in each case, the
5 interactions between the community members and the
6 area where the line is being developed, I
7 professionally wouldn't suggest that one would
8 want to buy into this type of a discussion. It's
9 not very meaningful.

10 There are reasons why the size of the
11 community might be, as I just gave you, factors
12 that would diminish the nature of the effect. I
13 wouldn't want to argue that for the sake of a
14 thousand person community, but I gave you examples
15 a few minutes ago. And the distance factors, at
16 what point does the effect really start to become
17 at all detectable? Is it indeed three miles, is
18 it two miles, is it one mile, is it 15 miles?
19 Without getting into the individual situation, I
20 wouldn't suggest a professional opinion would be
21 very useful.

22 MR. MILLS: Thank you.

23 The EIS goes to great length to
24 describe the effects of Bipole and the converter
25 stations in and around Gillam. And I read at

1 great length the descriptions of bus routes and
2 security guards and traffic gates and scheduled
3 issues with regards to traffic, attempts to
4 mitigate the effect of traffic on the community.

5 With the revisions to the Bipole III
6 route, Bipole III is now significantly closer to
7 Pine Creek First Nation than it is to Bird. And
8 it is certainly significantly closer to Pine Creek
9 First Nation, which has within it two paved
10 90-degree unlit 100 kilometre an hour
11 intersections. Hydro's traffic will be passing in
12 and around and through that.

13 With the change in routing bringing
14 Bipole clearly closer to the community, and as you
15 indicate in your presentation, roads likely to
16 notice an increase in traffic, and only provincial
17 trunk highway number 10 is likely to experience
18 volumes in excess of design capacity, with the
19 route change, has Hydro done any additional
20 examination of the impacts of traffic on Pine
21 Creek First Nation?

22 MR. OSLER: I can't answer what level
23 of detail the people doing the analysis have done,
24 or are doing it right now, but that will become
25 apparent when they provide their assessment of the

1 route change.

2 MR. MILLS: So you are not aware of
3 any?

4 MR. OSLER: I'm not aware of that
5 level of detail, no.

6 MR. MILLS: Thank you. Your slide
7 number 35, I believe -- bear with me for one
8 moment.

9 MR. OSLER: Is this my slide or
10 Ms. Hicks' slide?

11 MR. MILLS: I'm sorry, this is Bipole
12 III transmission project socioeconomic effects
13 assessment overview.

14 MR. OSLER: Okay.

15 MR. MILLS: And slide 35 uses the
16 word, in the vicinity?

17 MR. OSLER: Yes.

18 MR. MILLS: Construction can result in
19 noise and disturbant effects to people in the
20 vicinity of the right-of-way. Does Hydro have a
21 rule of thumb or any guidelines or sense of what
22 constitutes in vicinity?

23 MR. OSLER: In this context I don't
24 believe so. The phrase was being used in this
25 type of a slide to make the point that, if you are

1 close enough, there will be some effects such as
2 the ones listed. And in that context the whole
3 question is begged as to how close is important
4 for noise, or for dust, or for whatever variables
5 you are looking at. It's not very helpful as a
6 phrase.

7 MR. MILLS: If we can't agree or can't
8 find a better description of "in the vicinity,"
9 can we agree that moving Bipole from seven miles
10 away from the community to two and three-quarter
11 miles away from the community will increase the
12 risk of in vicinity effects?

13 MR. OSLER: No, I don't --

14 MR. MILLS: You don't think so?

15 MR. OSLER: We're talking about a
16 construction activity is what we're focused on at
17 the moment. And the degree to which there's any
18 material risk to the community in either of the
19 two situations is what I would want to understand.
20 How long is the construction activity in the area?
21 What's the degree of ground rules for that
22 construction activity? I don't think there's any
23 camps that would be situated in that area, unlike
24 the whole situation for the five years that the
25 Keewatinoow converter station is being built.

1 So I wouldn't want to encourage
2 someone to think that this type of a movement was
3 going to cause a problem.

4 On the other hand, I wouldn't want
5 someone to think it wouldn't. The job of the
6 professional is to find out and then summarize it
7 and communicate it.

8 So I'm not trying to say you're wrong
9 and I'm not trying to say you're right. I am just
10 saying it all depends on the evidence, and I'd
11 like someone to get the evidence for you.

12 MR. MILLS: Have you seen any evidence
13 in this regard?

14 MR. OSLER: On the issue you're
15 raising right now? No.

16 MR. MILLS: Is it possible that Hydro
17 hasn't considered the effects on human health,
18 noise, vibration and dust, as a result of
19 disturbance affects to people in the vicinity of
20 the right-of-way with regards to Pine Creek?

21 MR. OSLER: Well, in regards to the
22 issue of human health, with respect to every
23 element of this project, it's one of the VECs.
24 And it has to be considered in each regard and
25 each instance, so it is being considered.

1 MR. MILLS: Thank you.

2 That same slide 35, describing human
3 health, effect on communities, personnel, family
4 and community life, human health, noise, vibration
5 and dust. Avoidance of First Nation reserve lands
6 is key in the route selection process. Do you see
7 where it says that?

8 MR. OSLER: Yes.

9 MR. MILLS: Okay. We have recently
10 discovered that Manitoba Hydro is moving Bipole
11 III significantly closer to the First Nation. And
12 we understand the first line in that move is as a
13 result of mitigating moose concerns. When you say
14 in this slide that avoidance of First Nation lands
15 is your key issue in route selection process, am I
16 missing something with regards to this proposed,
17 or apparently approved new route of Bipole as it
18 passes significantly closer to Pine Creek? Is
19 Hydro, in fact, operating under that statement?

20 MR. OSLER: I'm not aware that the new
21 route is violating that statement. The
22 information I had been given is that that
23 statement is intact with the new route options.

24 MR. MILLS: If you were attempting to
25 avoid something, would you consider yourself to be

1 more successful if you were seven miles away from
2 it than two and a half miles away from it?

3 MR. OSLER: I think the key is whether
4 I managed to avoid it, whether I'm a thousand
5 miles away from it or two feet. If I avoided it,
6 I'm successful. If I don't avoid it, I have
7 failed.

8 MR. MILLS: If the line passed
9 immediately adjacent to the First Nation, you're
10 telling me that Hydro would have achieved their
11 avoidance of First Nations as being key in route
12 selection?

13 MR. OSLER: I think that in the
14 technical section dealing with avoidance of land
15 use, they would meet that test from the point of
16 view of aesthetics or other issues that would also
17 arise. The proximity would start to become
18 important and would get attention in the various
19 assessments that are part of the socioeconomic
20 analysis. But I suspect that this particular
21 sentence derives from the very strict requirement,
22 if at all possible do not go on First Nation
23 lands.

24 MR. MILLS: I see.

25 My last question, your slide 37, or

1 your sheet 37, Manitoba Hydro will discuss site
2 specific circumstances or tower placement
3 preferences with landowners.

4 Will Manitoba Hydro discuss tower
5 placement or site specific circumstances with
6 immediately adjacent First Nations such as Pine
7 Creek?

8 MR. OSLER: That will be a question
9 that Manitoba Hydro will answer, I'm sure, at the
10 other end of the table. No, they are not here
11 still.

12 MR. MILLS: If Glenn's not here, could
13 I take that as an undertaking?

14 MR. OSLER: Yes.

15 MR. MILLS: Thank you. Those are my
16 questions. Thank you very much, Mr. Chairman.

17 THE CHAIRMAN: Mr. Stockwell?

18 MR. STOCKWELL: Thank you,
19 Mr. Chairman.

20 I think maybe I just have one question
21 in light of Mr. Madden's questioning of
22 Mr. Kuzdak. I just have one question, and we're
23 going to use Mr. Madden's Aboriginal name, which
24 is Steals My Thunder.

25 THE CHAIRMAN: It's probably a good

1 thing he's not here to hear that.

2 MR. STOCKWELL: Mr. Kuzdak, do I have
3 this correct, when you were talking of First
4 Nation trappers, and trappers in general, there is
5 no differentiation between First Nation trappers
6 and regular trappers?

7 MR. KUZDAK: Under the trapper
8 compensation policy, we look at commercial
9 trapping. We don't differentiate between First
10 Nation, Metis or non Aboriginal, we just look at
11 it from a commercial level.

12 MR. STOCKWELL: From a commercial
13 level. So that any compensation package would be
14 equivalent across the board, would be equitable?

15 MR. KUZDAK: That's correct.

16 MR. STOCKWELL: Very good.

17 We ran into another situation, I think
18 it wasn't controlled by Hydro and it wasn't
19 controlled by the Trappers Association. I think
20 it was controlled by Conservation. And that was
21 around the time of the 2011 flood, there was a
22 bounty on beavers. Are you aware of that?

23 MR. KUZDAK: I am familiar with, you
24 know, the beaver incentives I think is the words
25 they choose.

1 MR. STOCKWELL: Yeah, beaver incentive
2 is the same thing as a bounty, basically, is it
3 not?

4 MR. KUZDAK: It would be. But I guess
5 under the -- I guess to be politically correct you
6 know, incentive is what I'm familiar with.

7 MR. STOCKWELL: Good.

8 But you are aware that that incentive
9 was denied First Nation people, First Nation
10 trappers?

11 MR. KUZDAK: I am not specifically
12 aware, no.

13 MR. STOCKWELL: Okay. Well, it was
14 denied. If there was good reason, we can't find
15 the good reason, but I'm trusting that
16 Conservation had good reason, but I'd like to
17 verify that somehow. That's not up to you.

18 Are you aware of any types of
19 different treatment that First Nations trappers
20 would experience?

21 MR. KUZDAK: By whom?

22 MR. STOCKWELL: In either compensation
23 by Hydro or in the way Hydro would treat trapping?

24 MR. KUZDAK: No, I believe Hydro looks
25 at trapping from an overall industry in its own

1 right. Again, I have to reiterate that we don't
2 differentiate between First Nation or NAC or
3 non-Aboriginal trappers. Trappers, to us, if they
4 are a commercial trapper and they are eligible
5 under the compensation policy for transmission
6 lines, we deal with them in an equitable manner.

7 MR. STOCKWELL: And I appreciate that,
8 and I'm sure Pine Creek appreciates it.

9 I said I had one question and now this
10 is the third question, and this will be the last
11 question for you. I had asked this question of
12 Mr. Schindler, and I thought maybe you could bring
13 a different perspective to an answer, from a
14 trapping point of view, or from a trapper's
15 experience in the bush and on trapline.

16 Pine Creek has noticed an increase in
17 the number of predator sightings in the community
18 itself, wolves, cougars and bears over the past
19 few years. As a trapper, what would that mean to
20 you? Are there reasons for this that you could
21 put your finger on, or suggest?

22 MR. KUZDAK: Well, I could speak
23 probably more to wolves and bears versus cougars.
24 I'm not very familiar with cougars, you know, from
25 my trapping experience or where I come from. But

1 certainly for bears and wolves, typically they are
2 not a species that a trapper would go after, with
3 respect to the difficulty of harvesting either
4 animal, or the work involved of preparing, you
5 know, the pelt for market, it's a considerable
6 amount of work for each, either a wolf or a bear.
7 So typically what my experience is, trappers would
8 go after more I guess marketable species and
9 easier to handle species such as marten. So that
10 would be one explanation that I could say that
11 there's perhaps a lack of trapping by local
12 trappers, you know, focusing on those two species.

13 MR. STOCKWELL: I was thinking more
14 along the lines of, what does it mean when
15 predators are changing their territory, when they
16 are coming actually closer to communities, does it
17 mean anything in a general term to you? Does it
18 mean there are changes happening in the
19 environment? Does it mean they are searching for
20 prey or for additional sustenance?

21 MR. KUZDAK: Yeah, those are
22 reasonable to consider, if they are out searching
23 for prey, or if their populations are increasing.
24 So those are reasonable to consider for sure.

25 MR. STOCKWELL: I think I am -- that's

1 my last question --

2 MR. KUZDAK: Thank you.

3 MR. STOCKWELL: -- for you.

4 So with respect to landowner
5 compensation, we're going to do that later I
6 understand?

7 MS. MAYOR: Yes.

8 MR. STOCKWELL: Now, I have a few
9 questions now for Ms. Petch.

10 Ms. Petch, earlier when Mr. Madden was
11 cross-examining, the question came up about how
12 you were approached and how the information was
13 given to you, how you were contracted from Hydro,
14 or by Hydro to do ATK's in our communities, in our
15 Aboriginal communities or First Nation
16 communities.

17 Would you have preferred that it
18 happened in a different manner? In other words,
19 would you have preferred to be in charge or
20 control of contacting the communities and carrying
21 out the ATK's without Hydro having contact with
22 the communities first, I mean, if you had total
23 control of that?

24 THE CHAIRMAN: Mr. Stockwell, what's
25 the relevance of this line? I mean, how she might

1 have done it otherwise isn't really what's before
2 us. What's before us is what has been done, and
3 the hows and whats of what has been done.

4 MR. STOCKWELL: I'll move on.

5 THE CHAIRMAN: Thank you.

6 MR. STOCKWELL: With respect to the
7 Pine Creek ATK, was there a translator, an
8 Anishinaabe --

9 MS. PETCH: Yes, there was.

10 MR. STOCKWELL: There was a translator
11 present?

12 MS. PETCH: There was a translator who
13 was contracted to provide translations at all of
14 the places that we went where there may be a need
15 for a translator.

16 MR. STOCKWELL: The reason I ask that
17 is it should be evident in the ATK, when one reads
18 the ATK, that translation was being carried out.
19 However, when you read the ATK, there are so many
20 instances of the person who is transcribing simply
21 saying a native language. And it happens like
22 throughout this ATK, a native language spoken, or
23 unintelligible responses, or things like that.

24 Were you happy, satisfied with the
25 translation?

1 MS. PETCH: With the transcript?

2 MR. STOCKWELL: Translations?

3 MS. PETCH: Where there was a need for
4 a translator to make the questions understandable,
5 that happened. If a person wanted a translator
6 there was a person that would translate, and there
7 would be a discussion between the two people, and
8 then we would be told basically what transpired.

9 MR. STOCKWELL: Overall, when I read
10 the ATK, and I have permission to read the ATK
11 from the Chief and Council, I get -- and I also
12 read the transcripts from the Dauphin hearings
13 where Pine Creek residents, Pine Creek people were
14 presenting their concerns. And the reason I'm
15 into this kind of line of questioning is that
16 there's such a huge difference between reading the
17 ATK's transcript from Pine Creek and the
18 transcript from Dauphin. I mean, in Dauphin,
19 there was some translation, I understand, and it
20 was carried out in a very professional way.
21 Correct me if I'm wrong, anybody? And I think
22 everybody was very satisfied and very happy with
23 the degree of professionalism during the Dauphin
24 hearing, and also the transcription. But with the
25 transcription on the ATK in Pine Creek, the Chief

1 and Council are extremely distressed that that ATK
2 was presented to Hydro, or went any further. The
3 Chief, in fact, declared the ATK invalid at the
4 Dauphin hearing and at the Pine Creek community
5 meetings. And I think it's unfortunate because
6 there was a good deal of work that went into that,
7 both your work and I believe from certain members
8 of the community. That's why -- would you have an
9 explanation for why there would be such a
10 difference?

11 MS. PETCH: The interviews were sent
12 back to the communities for verification. I was
13 told that the first set of interviews, the package
14 was refused and sent back to Winnipeg unopened,
15 and then it was re-sent back to the community.
16 The transcripts and the summaries and the maps,
17 both composite and individual, were all sent to
18 the community. And we sought to have those
19 people, the people who were interviewed review,
20 and if there were questions, comments, concerns,
21 they were to make those known, I understand, to
22 Mr. Karl Johnson, who was taking that kind of
23 information from the communities back to MMM
24 Group.

25 We didn't receive anything back. And

1 I do get very nervous when I don't receive
2 anything back, because either the people hadn't
3 received the documents or they haven't read them
4 or they have no concerns. We didn't know what
5 happened with those documents.

6 MR. STOCKWELL: But nonetheless, that
7 information that you gathered through the ATK was
8 moved through your process?

9 MS. PETCH: Yes. We gave -- MMM had
10 given a 30-day notice to have some sort of a
11 response. When that didn't happen, another letter
12 was sent out and another 30 days. And at that
13 point we were having to provide the information
14 that we had gathered in the final form for mapping
15 for the ESS, and for cross-referencing and making
16 sure that we had our points on the maps and that
17 they were in the correct spots.

18 MR. STOCKWELL: Given the information
19 from the United Nations, and I'm assuming that
20 it's a legal position on ATK's and the ownership
21 of ATK information, wouldn't you be far more
22 concerned about the possession of the ATK
23 information that was contravening the United
24 Nations?

25 MS. PETCH: The interview consent

1 forms expressed the need and the use of the ATK.
2 People signed these. They realized that it was
3 still their intellectual property, but it was
4 being used by Manitoba Hydro for identifying areas
5 that would be in the vicinity of the transmission
6 route.

7 MR. STOCKWELL: Okay. I'm going to
8 jump around here, or continue to jump around I
9 should say.

10 How were the interviewees selected, or
11 were they selected?

12 MS. PETCH: As I had said before, the
13 communities had contacted Manitoba Hydro, after
14 they had received their invitation, if they wanted
15 to participate. And the communities chose the
16 people that were to be interviewed. We had no
17 part in that process. The only thing we had asked
18 for that it would be a representation of people
19 who had traditional knowledge, elders, resource
20 users, and we also asked that there would be some
21 representation of men and women.

22 MR. STOCKWELL: How did you verify
23 that those stipulations were actually provided?

24 MS. PETCH: I guess it was by the
25 people who were in attendance at the workshop.

1 MR. STOCKWELL: These people were
2 given an honorarium?

3 MS. PETCH: Yes, they were.

4 MR. STOCKWELL: And this honorarium
5 may -- I understand that we don't have
6 information, we don't know what that amount is and
7 you won't divulge that? It's protected
8 information?

9 MS. PETCH: I'm not sure what the
10 amount was. I know that there were a couple, for
11 the group interview and for the key person
12 interviews that followed, there were different
13 rates, but I don't have that with me.

14 MR. STOCKWELL: Okay.

15 For an Aboriginal, for a First Nation
16 person that is offered say any amount of money, if
17 that person has, you know, say an income of \$195 a
18 month, would any amount of cash, say over \$25
19 would be very significant to that person, would it
20 not?

21 MS. PETCH: That's correct.

22 MR. STOCKWELL: And offering an
23 honorarium and people knowing that an honorarium
24 is offered, would that encourage people to attend?

25 MS. PETCH: I don't know. The people

1 were chosen by the community leaders. I don't
2 know what kind of process they use within the
3 community. That was entirely up to the community
4 leadership.

5 MR. STOCKWELL: Well, my understanding
6 from the present community leadership is that it
7 wasn't done, there isn't a record of it having
8 been done. And if it were done, if the
9 leadership, being the Chief and Council, had
10 agreed to do this, that there would have been a
11 BCR written for it.

12 THE CHAIRMAN: Mr. Stockwell, you're
13 making a number of statements rather than asking
14 questions.

15 MR. STOCKWELL: I see. Okay, I'll try
16 to do better.

17 Would you agree that that's a normal
18 procedure --

19 MS. PETCH: To?

20 MR. STOCKWELL: -- to have a BCR
21 written by the Chief and Council?

22 MS. PETCH: In some instances we have
23 worked through BCR's, in other instances it's been
24 Chief and Council or leadership agreeing without
25 going through a BCR.

1 MR. STOCKWELL: Now, after the ATK
2 is -- the community meetings are done and you have
3 the information available to you, you mentioned
4 that there was a process of coding that went into
5 the responses that were given, to the information
6 that was given?

7 MS. PETCH: That's correct. After the
8 transcription, the documents were coded.

9 MR. STOCKWELL: The documents were
10 coded. And then you proceed to take that
11 information and it's -- I would assume that all of
12 that information is gathered from all of the ATK's
13 that you had performed?

14 MS. PETCH: We did each community
15 separately.

16 MR. STOCKWELL: Each community is
17 separate?

18 MS. PETCH: Yes.

19 MR. STOCKWELL: Good. Is there a way
20 to track, through the entire process, concerns
21 that were expressed by the community during the
22 ATK? For instance, if the people expressed a
23 concern over water, could you track that concern
24 all the way through your process and through
25 Mr. Osler's process in to the EIS?

1 MS. PETCH: We can.

2 MR. STOCKWELL: You can? There is a
3 large concern that was expressed in the ATK, and
4 it was expressed over and over a number of times
5 about -- and I think the question was, where is
6 all this water coming from?

7 And yet in the EIS there isn't really
8 a huge -- a large concern about the water in Pine
9 Creek community. Could you explain that? I mean
10 from the EIS point of view, there doesn't seem to
11 be a large concern, and I just wanted an
12 explanation.

13 MS. PETCH: I don't know if I would be
14 the person to ask that of, but I believe that with
15 the transmission line, there is very little impact
16 to water. There is no damming, there may be ice
17 roads built at areas where there are crossings for
18 a short time to get equipment across. But I
19 really don't think I am the person to be asking
20 that question, or answering that question.

21 MR. STOCKWELL: But during the ATK's,
22 the concern of water came up a number of times?

23 MS. PETCH: Yes, it did.

24 MR. STOCKWELL: Now, it was of some
25 significance, I understand, from reading the ATK's

1 it looks like it was of some significance. And
2 yet the importance of that to the community does
3 not seem to have been translated to Hydro either.

4 Did you, in your report to Hydro, did
5 you emphasize the concerns that Pine Creek had
6 about water in their community?

7 MS. PETCH: No, I don't believe that
8 we did.

9 MR. STOCKWELL: Are you aware of any
10 other major concerns that Pine Creek had that
11 didn't get translated or that Hydro didn't pick up
12 on in their EIS?

13 MS. PETCH: No, I don't believe.

14 MR. STOCKWELL: There weren't any
15 other major concerns that were missed?

16 MS. PETCH: Any concerns were
17 forwarded on.

18 MR. STOCKWELL: No concerns were
19 forwarded on?

20 MS. PETCH: Any concerns, all concerns
21 were forwarded on, but I don't believe the water
22 was one of those.

23 MR. STOCKWELL: Excuse me, there's
24 already questions that have been asked by
25 Mr. Madden and also by Mr. Mills, so I'm trying to

1 avoid re-asking those.

2 I have one final question. It occurs
3 to me that there's really not a comprehensive
4 understanding of what the blueberry patch means to
5 First Nations people. And we, if I can use the
6 term in white society or white Manitoba, are not
7 grasping the complete picture of what the
8 blueberry patch is. Would you agree with that,
9 Ms. Petch?

10 MS. PETCH: As a blueberry picker
11 myself, yes, that blueberry patch is very
12 important.

13 MR. STOCKWELL: Could you give us an
14 analogous situation that we might experience, say
15 in Winnipeg, like just completely fictitious, that
16 would give us some understanding of the profound
17 effect that the blueberry patch has, what all it
18 means? You know, we know it means more than just
19 a cup of blueberries in a bowl with some cream.
20 We know it means more than going out to the
21 blueberry patch at the cottage and picking some
22 blueberries and putting it on our Corn Flakes in
23 the morning. To First Nation people, it is of
24 huge significance, culturally, you have talked
25 about that culturally, as far as nourishment is

1 concerned, as far as economics is concerned, as
2 far as summer festivals are concerned.

3 Is there something that we can put
4 together so that we would, as white Manitobans,
5 understand more the significance of the blueberry
6 patch, of blueberry? Because my feeling is that
7 everything that we do falls flat.

8 MS. PETCH: It's not so much the
9 activity, it's the act of doing. And to
10 understand all of the components of culture and
11 all the interactions and interrelationships that
12 happen when a group of people get together,
13 requires a longer term ethnographic study. It's
14 something that doesn't happen overnight. It's a
15 study that takes two to five years of learning,
16 working with the people, watching, and asking
17 questions.

18 The ATK that we had done, as I had
19 said before, just scratched the surface. And we
20 realized that it was just scratching the surface.
21 But I think what it has done is show that there's
22 an incredible wealth of traditional knowledge
23 within each of the communities that we had that
24 privilege of visiting.

25 MR. STOCKWELL: Yes, I would agree.

1 To help me in my home in St. Boniface,
2 and maybe in homes throughout Winnipeg, I'm just
3 trying to draw an analogy between something that I
4 can understand and what Pine Creek would be going
5 through, what members of Pine Creek would be going
6 through. If all the Safeway stores were closed,
7 like as in Pine Creek the fisheries have been
8 decimated, it's completely collapsed, and all of
9 the drugstores were closed in Winnipeg, and most
10 of the -- and many of the cultural aspects of our
11 society were not available to us, and we had to
12 travel say to Portage la Prairie --

13 THE CHAIRMAN: Is there a question in
14 there?

15 MR. STOCKWELL: There is, I'm just
16 saying if, I said if, and I'm going to follow it
17 with a question mark. If -- where was I?

18 THE CHAIRMAN: You were off to Portage
19 la Prairie.

20 MR. STOCKWELL: Well, what I want is
21 everybody to picture that they are off to Portage
22 la Prairie to buy their groceries, their weekly
23 groceries or their monthly groceries, and their
24 drugstores, the drugstore supplies that they
25 require, prescriptions, any of the health foods

1 that they need, they are going to Portage la
2 Prairie, and they are doing this on \$195, would
3 that be fair to say that's kind of equivalent to
4 what Pine Creek members would be going through?

5 MS. PETCH: Quite possibly.

6 MR. STOCKWELL: But it is that
7 profound?

8 MS. PETCH: The elders have mentioned
9 many, many times that their backyard is their grub
10 box, it is their medicine chest. We had been told
11 that by many, many elders in many different
12 communities. And we respect that.

13 Others had referred to their backyard
14 as their bank, that when they need something they
15 go there and they get what they need and they go
16 home.

17 So, yes, if those things weren't
18 available to us here in Winnipeg, it would be a
19 profound effect on our lives.

20 MR. STOCKWELL: Thank you very much.
21 I think we're getting closer to it. I appreciate
22 that. We're doing landowners later -- next?

23 THE CHAIRMAN: At another time, yes.

24 MR. STOCKWELL: Thank you,
25 Mr. Sargeant.

1 THE CHAIRMAN: Just before I turn to
2 Mr. Mills, who has indicated he has one additional
3 question, I had a question up here asking what is
4 a BCR. It's a band council resolution.

5 Mr. Mills?

6 MR. MILLS: A BCR is a document, when
7 it's signed by a quorum of council, binds the
8 First Nation.

9 THE CHAIRMAN: And signed by the
10 Minister.

11 MR. MILLS: Accepted by the Minister,
12 correct.

13 I'm going to move quickly for two
14 reasons. One is I sense Mr. Sargeant's patience,
15 and I'm going to try to slip one by him before he
16 interrupts me.

17 THE CHAIRMAN: Good luck.

18 MR. MILLS: Ms. Petch, Ms. Zebrowski,
19 as you know, very earlier on Pine Creek identified
20 six areas of concerns with respect to Bipole, and
21 we documented them early on. Our concerns were of
22 the watershed, moose and wildlife, plant life, the
23 use of herbicides, ec-dev opportunities, and the
24 ability of the Province to maintain and enforce
25 the licence should and if and when it's issued.

1 Our third and fourth points are
2 socioeconomic, are linked under the socioeconomic
3 issue. And we have heard more talk of blueberries
4 than I think any of us would have ever imagined.

5 Ms. Zebrowski, as you know, on two
6 occasions Pine Creek has asked Manitoba Hydro if
7 they could quite simply bundle the assurances that
8 we have received here. Mr. Penner, your
9 vegetation expert, and others have given us
10 significant, broad, wide sweeping assurances of no
11 pesticides in the right-of-way, careful mitigation
12 of the waterways, concern for the plant life and
13 respect for the blueberry crop. And I just, as we
14 have indicated, would love to set plant life and
15 herbicide use aside, acknowledge that we have
16 accomplished something through this process and
17 shortened our list of what we'd like to speak to
18 in closing. And our request has not been
19 responded to or forthcoming.

20 And I was just wondering, as we have
21 indicated, we'd really rather strike those two
22 points from our list of issues, and I was
23 wondering if you could provide me with any sense
24 of why we can't cross that bridge together?

25 I was motivated to ask this question

1 by Mr. Osler's very sage words when he said,
2 "good, why don't all of you people work together?"
3 And we would love to work together on those two
4 issues, Ms. Zebrowski. Can you give me any sense
5 of why the requested bundling of the assurances
6 can't be provided to us as yet, or if ever?

7 MS. ZEBROWSKI: Can you clarify, you
8 gave me your list just now, can you clarify,
9 you're mentioning two items? Can you clarify for
10 me, I'm not clear what two items you are
11 specifically --

12 MR. MILLS: As you know, Shannon and I
13 met in Dauphin and again in Winnipeg, and we
14 discussed the items it would take to allow Pine
15 Creek to in fact stand in support of Bipole, and
16 we spelled those out to you. And specifically,
17 Shannon indicated that if we could provide her
18 with maps and descriptions of the watersheds that
19 we feel are affected, we had a discussion that the
20 assurances that Mr. Penner and your vegetation
21 expert, I apologize, I missed your name, and
22 others have provided us with regards to herbicide
23 use in the watershed above Pine Creek.

24 Quite simply, we ask you if you could
25 give us an assurance, a complete written

1 memorandum of understanding that Manitoba Hydro
2 would not use herbicides in construction and
3 maintenance of the right-of-way above Pine Creek?
4 We felt --

5 THE CHAIRMAN: Mr. Mills, if you're
6 looking for a written assurance from Manitoba
7 Hydro, this is not the forum to do it in. We are
8 not here for that purpose.

9 MR. MILLS: Well, Mr. Chairman, we
10 would like --

11 THE CHAIRMAN: You're trying to
12 achieve in this room, through this forum, what
13 must be achieved through negotiations between your
14 community and Manitoba Hydro.

15 MR. MILLS: Well, I'm trying to
16 achieve something else as well, Mr. Chairman. I
17 am trying to let the committee know that we have
18 continued points that are starting to annoy all of
19 us, and are offered to be addressed --

20 THE CHAIRMAN: But you've made those
21 points many number of times already, and I know
22 we'll hear them again when your community presents
23 and when you make your final argument. You were
24 hoping to slip that by me, you were hoping you
25 might slip by another repetition.

1 MR. MILLS: Mr. Chairman --

2 THE CHAIRMAN: I'm using your own
3 words. Thank you very much.

4 MR. MILLS: Thank you.

5 THE CHAIRMAN: We'll take a break now
6 for 15 minutes, so come back at 25 after, please.

7 (Proceedings recessed at 3:10 p.m. and
8 reconvened at 3:20 p.m.)

9 THE CHAIRMAN: I believe Mr. Dawson,
10 followed by Ms. Whelan-Enns, has a few questions
11 for Ms. Petch. Then we will move on to the
12 agricultural side of things.

13 MR. DAWSON: Thank you, Mr. Chairman.
14 Good afternoon, Dr. Petch.

15 I'd like to start by some quick
16 follow-up on what you had been talking with
17 Mr. Mills just recently about. If I understood
18 correctly, you said that when you engage with
19 Aboriginal persons, you enter into agreements with
20 the persons themselves. Am I correct?

21 MS. PETCH: That's correct.

22 MR. DAWSON: And just to be clear,
23 that means you don't offload onto, for example,
24 the band or the Aboriginal leadership, the job of
25 securing those consent forms, right?

1 MS. PETCH: That's correct.

2 MR. DAWSON: And you don't ask the
3 bands to consent on behalf of the individuals who
4 are participating with you?

5 MS. PETCH: That's correct.

6 MR. DAWSON: Why would it be wrong to
7 do it the other way, namely, to rely upon the
8 bands to act on behalf of the individuals?

9 MS. PETCH: When we're dealing with an
10 individual, we are requesting that person's
11 intellectual property. And so we are dealing
12 one-on-one with that person and entering into an
13 agreement that we won't use their material that
14 they present for any other purpose other than what
15 is stated.

16 MR. DAWSON: Is it simply restricted
17 to the way in which you intend to, as you say, use
18 their intellectual property, or is it also a
19 matter of simply respect for the individual whose
20 opinions you are soliciting?

21 MS. PETCH: It's respect for the
22 individual, that is first and foremost.

23 MR. DAWSON: Thank you, Dr. Petch.

24 What would you say, and again I
25 emphasize for those of you playing the home game

1 and sometimes wondering how cross-examination is
2 done, one way of doing it is to rely upon some
3 expert such as yourself to elicit helpful
4 information. So I don't plan to be
5 confrontational, I'm trying to seek your expert
6 opinion in assistance of my client. In essence,
7 we're going to ride on Hydro's dollar and try and
8 get some free advice from you.

9 Why would it then have been wrong, in
10 terms of respect, if you had gone to a band
11 leadership or the community leadership and simply
12 said, just consent on behalf of everyone who is
13 participating in this?

14 MS. PETCH: It's not morally ethical.

15 MR. DAWSON: Can you elaborate on
16 that? What do you mean? What are the concerns
17 that are underlying your comment?

18 MS. PETCH: If a person is going to be
19 interviewed regarding things that they know, the
20 agreement has to be made with them. The
21 communities chose the people to be interviewed,
22 but we could not sign an agreement, a blanket
23 agreement with any group. It wouldn't matter if
24 it was Girl Guides or whatever, we would have to
25 have it individually with each person.

1 MR. DAWSON: You pointed out the fact
2 that the communities themselves chose the people
3 who participated. Is this the ideal approach that
4 you would have preferred?

5 MS. PETCH: We believe that, because
6 we do not know people within a community that is
7 doing it this way, having a leadership choose who
8 is going to be interviewed, that they would have
9 the ability to identify those people within the
10 community that would have the kinds of knowledge
11 and people who would be willing to share that
12 knowledge.

13 MR. DAWSON: I don't want to go over
14 in detail areas that earlier participants have
15 raised in their conversations with you, but it
16 seems, from what you've just said, then that you
17 are comfortable in relying upon the leadership to
18 identify those who the leadership wants to
19 participate in your efforts, in your research
20 work? You have no control then over who is coming
21 forward and being part of your project?

22 MS. PETCH: That's correct. The only
23 thing that we often will ask for is that there's a
24 good representation of men and women, sometimes
25 youth, depending on the project.

1 MR. DAWSON: And even then, and I
2 appreciate you're pointing out that you are
3 talking about your work in general, but let's stay
4 focused on the work that you've done as part of
5 the report that you wrote on the ATK in this
6 particular hearing, just for the sake of clarity.
7 You say that you sought some assurances that the
8 selection, shall we say, that the band leadership
9 or the community leadership provided to you was
10 representative. Was there any way for you to
11 verify that representation?

12 MS. PETCH: No.

13 MR. DAWSON: So you relied upon the
14 particular band's decision as to who would
15 participate, entirely?

16 MS. PETCH: That's correct.

17 MR. DAWSON: Okay. At one point in
18 his conversation with you, Mr. Mills referred to
19 possible inadequacies in the study that you
20 conducted. And you very quickly pointed out to
21 him that you were having, and the quote was "only
22 a three day workshop." And then you went on to
23 have a conversation with him about something else.
24 The use of the adverb "only" caused me to wonder,
25 would you have preferred your workshops to be

1 longer or repeated over varying periods of time?

2 MS. PETCH: It's better if we have
3 longer workshops or if it is repeated over periods
4 of time.

5 MR. DAWSON: And that's not what
6 happened in this case, is it?

7 MS. PETCH: We did not have the time
8 to engage in that.

9 MR. DAWSON: I have had the
10 opportunity to visit your company Northern Lights
11 website, and I notice there's a helpful definition
12 there about how to study traditional lands and
13 First Nation lands. And I just want to make sure
14 that I've got the approach correct. I understand
15 that there are one aspect of such a study, that is
16 a study about traditional lands and First Nations,
17 is the extent to which those traditional lands
18 have been occupied by a First Nation. That's one
19 aspect. Am I right?

20 MS. PETCH: That's a traditional
21 occupancy study, yes.

22 MR. DAWSON: And then another aspect
23 of such a study is the way in which traditional
24 lands have been used, so the way they had been
25 used and the fact they had been occupied; am I

1 right?

2 MS. PETCH: That's correct.

3 MR. DAWSON: When you talk about land
4 usage on your website, I think the examples you
5 give are activities such as hunting, trapping,
6 fishing, harvesting medicinal plants, and berry
7 picking, for example; right?

8 MS. PETCH: Yes.

9 MR. DAWSON: And you also talk about
10 these particular projects in terms of using land.
11 You also mention that travel across other lands in
12 order to move to those geographic areas where the
13 activities will occur will also form part of your
14 study; am I right?

15 MS. PETCH: Yes.

16 MR. DAWSON: So just to be clear then,
17 it's possible for a First Nation to have used, or
18 use traditional lands in the sense that your
19 website is talking about, without actually
20 occupying those lands?

21 MS. PETCH: That's correct.

22 MR. DAWSON: Would it be fair to say
23 that that same approach, namely occupy lands or
24 travel across lands, informed the studies that you
25 performed as part of the report that you wrote and

1 the evidence you are giving before this panel?

2 MS. PETCH: Most of the studies that
3 we did were more community based. They were not
4 large geographic extents beyond what the people
5 were using within a certain area. But that being
6 said, there were some people who did tell us that
7 they travelled here or there for specific kinds of
8 activities. And we know that the berry patch,
9 that people from Moose Lake and from Nelson House
10 area also do come down to that area, so there is
11 mobility and movement for particular purposes.

12 MR. DAWSON: Okay. I wonder if you
13 would agree that agriculture done by a First
14 Nation that is planting and harvesting crops would
15 also fall within the definition of land usage?

16 MS. PETCH: I guess if it's large
17 farming activities, that would come under
18 agriculture. I am not quite sure about that one.

19 MR. DAWSON: Sure, that's fine. I
20 wonder if as part of your long career as an
21 archaeologist, you have any knowledge of whether
22 or not some First Nations in Manitoba have engaged
23 at some point in their historical existence in
24 agricultural activities on a sufficiently large
25 scale?

1 MS. PETCH: Historically, pre contact
2 we have evidence of horticulture in Manitoba, but
3 no real large scale farming as you would find down
4 in the Iroquoian settlements in the pre contact
5 period.

6 MR. DAWSON: And subsequent to
7 contact, or about the time of shall we say the
8 European infiltration, would you have any
9 knowledge of whether or not my client, Peguis
10 First Nation, in those days St. Peter's Indian
11 Band engaged in agricultural activities?

12 MS. PETCH: Yes, they did, around
13 St. Peter Dynevor.

14 MR. DAWSON: I was referred the
15 following line of questions by Ms. Zebrowski when
16 I was asking her some questions earlier. I'm
17 going to ask you if you would to return, or to
18 turn to your ATK report number one at page 87, if
19 I may?

20 MS. PETCH: I have it ready.

21 MR. DAWSON: The table at page 87 is
22 entitled Table of Constraints. Do you have that
23 there?

24 MS. PETCH: That's correct, I have it
25 here.

1 MR. DAWSON: Okay. And I don't think
2 there is a need for anyone else to turn to it, but
3 we'll go through it just very, very quickly.

4 There's a column on the left that
5 lists participating aboriginal communities,
6 correct?

7 MS. PETCH: Participating community,
8 yeah.

9 MR. DAWSON: Okay. And on the far
10 right of that same table, there's a list of
11 constraints relating to each of those
12 participating communities; correct?

13 MS. PETCH: That's correct.

14 MR. DAWSON: And not to go through
15 each one, I'll just abbreviate, if I may. Some of
16 the constraints described are described as Treaty
17 1 or 5, and Aboriginal rights. Am I correct?

18 MS. PETCH: Correct.

19 MR. DAWSON: So could you tell me what
20 the meaning is when the proponent there refers to
21 Aboriginal rights as a constraint?

22 MS. PETCH: Okay. We looked at
23 constraints as being things that needed to be
24 taken into consideration, but which were outside
25 our authority. In the Dakota Tipi and Dakota

1 Plains, the chiefs and others noted that they were
2 working with the Federal Government to achieve
3 Treaty. And we know that currently they are
4 within the Treaty 1 boundaries. That was where
5 that comment came from. And we should have added
6 that Dakota Plain and Dakota Tipi were not
7 signatories of Treaty 1, because that lead to some
8 confusion.

9 MR. DAWSON: I'm certainly not trying
10 to trip you up on that. I'm only concerned about
11 what these constraints are as far as the proponent
12 is concerned.

13 MS. PETCH: These are concerns that
14 the communities had that we thought may have some
15 bearing on their participation.

16 MR. DAWSON: When you say that you
17 thought that these constraints might have some
18 bearing on their participation, could you explain
19 to me how -- and again it seems to me there's
20 three rough kinds of categories of constraints,
21 one is Treaty 1 constraints, one is Treaty 5
22 constraints, and the other one is described as
23 Aboriginal constraints. Can we go through those
24 and you could explain to me what you think the
25 constraints were?

1 MS. PETCH: Sure.

2 MR. DAWSON: Just start with whatever
3 one you'd like. I'm not saying with reference to
4 a specific community, I'm just saying Treaty 1
5 imposes constraints. What does that mean?

6 MS. PETCH: To Dakota Plain and to
7 Dakota Tipi, it does provide maybe a perceived
8 constraint in that they are living within a Treaty
9 area that they are not signatory to.

10 MR. DAWSON: And you'll note that
11 further down that table, there are Treaty 1 listed
12 as constraints for I believe Aboriginal groups
13 that have actually signed Treaty 1. So what does
14 Treaty 1 mean there, where it's not so much a
15 perceived constraint but an actual constraint?

16 MS. PETCH: Are you referring to Long
17 Plain?

18 MR. DAWSON: That would be an example.

19 MS. PETCH: Again, just identifying
20 that there may be terms within the area that the
21 communities, the First Nation communities would
22 feel needed to be addressed in order to proceed
23 with any decisions that they were making.

24 MR. DAWSON: I'm not trying to be
25 difficult here, I'm just trying to understand.

1 You're not helping me, you're telling me that a
2 constraint is simply something that a member of
3 that community would in feedback have listed as a
4 constraint, without going beyond that. Do I have
5 what you're trying to say correctly?

6 MS. PETCH: We listed them because the
7 communities had noted and mentioned those
8 concerns. At the same time, we also informed
9 people that we were not qualified to discuss
10 Treaty 1 or Aboriginal rights, but we felt that it
11 was worthy because they were concerns that the
12 communities had that we note them.

13 MR. DAWSON: So what you did is simply
14 collect the comment and pass it up, without
15 assessing it, without giving it any further
16 meaning other than it's what we were told?

17 MS. PETCH: That's correct.

18 MR. DAWSON: The fact then that there
19 are other treaties in Manitoba that don't appear
20 as constraints, presumably simply reflects the
21 fact that you didn't get feedback mentioning those
22 other treaties?

23 MS. PETCH: That's correct.

24 MR. DAWSON: At the risk of being
25 unfair to Ms. Zebrowski, might I bother you with a

1 quick question?

2 MS. ZEBROWSKI: Sure.

3 MR. DAWSON: I had started by saying I
4 had only questions for Dr. Petch, but I didn't
5 want to offset you.

6 When Manitoba Hydro received
7 Dr. Petch's report that made reference to
8 constraints, what did Manitoba Hydro think
9 constraints meant?

10 MS. ZEBROWSKI: In terms of issues
11 that were raised by communities that were related
12 to rights, and my understanding is many times when
13 treaties were raised in conversations with
14 communities, those are raised in the context of
15 Treaty and Aboriginal rights. Manitoba Hydro's
16 communication to communities on that point was
17 that our understanding was that the Provincial
18 Government would be undertaking the Crown
19 consultation process, and that would be where the
20 rights based issues would be dealt with and
21 addressed. From Manitoba Hydro's perspective, we
22 were looking for issues and concerns, and we would
23 work with communities on those issues and concerns
24 as they are identified to us, but that the rights
25 based issues would be, as we were directed by the

1 Province, would be dealt with through the Crown
2 consultation process.

3 MR. DAWSON: Dr. Petch's report makes
4 reference to constraints. Hydro sees the
5 reference to constraints and Hydro, if I
6 understand, and I'll summarize your reply, ignores
7 the fact that constraints are there, trusting that
8 the government will deal with it. Do I have that?

9 MS. ZEBROWSKI: Our understanding is
10 that the government would be dealing with them
11 through the Crown consultation process.

12 MR. DAWSON: I have your point. But I
13 just want to be clear, Hydro therefore simply
14 ignored any possible Treaty or Aboriginal rights
15 that might act as constraints and simply entrusted
16 that to a party that's not involved in the EIS?

17 MS. ZEBROWSKI: We understood that the
18 Crown consultation process would be part of the
19 process and part of the decision-making process
20 that's made related to this project. So it was
21 outside of our jurisdiction and mandate to deal
22 with these types of issues, but we did understand
23 that they would be covered through the Crown
24 consultation process.

25 MR. DAWSON: If I can return to you,

1 Dr. Petch, please? And now Ms. Zebrowski, you may
2 easily put your head on the desk.

3 Your company, Dr. Petch, I understand
4 has a role to play in the process that lead to the
5 Keeyask generation project's EIS; am I right?

6 MS. PETCH: That's correct.

7 MR. DAWSON: And specifically I
8 understand that your company was part of the
9 environmental assessment study team, and your
10 company specifically provided guidance on heritage
11 resources, right?

12 MS. PETCH: That's correct.

13 MR. DAWSON: And the work that the
14 study team as a whole did was captured in a book
15 that supports the Keeyask Environmental Impact
16 Statement entitled "Socioeconomic Environment
17 Resource Use and Heritage Resources." Ring a
18 bell?

19 MS. PETCH: As part of the EIS?

20 MR. DAWSON: Of the Keeyask?

21 MS. PETCH: Yes.

22 MR. DAWSON: Yes, that's right. And
23 this is also something that I have given to my
24 learned friend, Mr. Bedford, as part of your cheat
25 sheet. There's a reference to ATK in that report

1 at page 1-7 that says, and I'll just quote it
2 here, and I appreciate you didn't write that
3 probably, you were just part of the study team,
4 but I just want to throw this out for your
5 comment.

6 "ATK is more than just information
7 about resources and resource use.

8 There is a role for ATK in each step
9 of the EA process."

10 Subject to your later check, I'm telling you that
11 that appears in the report of which you were a
12 study team, of which your company was to form part
13 of the study team. Let's review. Do you agree
14 with that statement, that ATK is more than just
15 information about resources and resource use,
16 there's a role for ATK in each step of the EA
17 process?

18 MS. PETCH: ATK is more than
19 information, it's knowledge. And that is one of
20 the shortcomings in our information age that
21 everything is considered information. The fact
22 that bodies of knowledge have been developed over
23 time are not treated as knowledge. And one elder
24 once told me that there is information, knowledge
25 and wisdom, and you'd better be careful about how

1 you use each category.

2 So there has been a role for ATK
3 throughout the environmental assessment for
4 Keeyask. And it was used by, we had the KCN, the
5 Keeyask Cree Nation partners did produce many
6 bodies of ATK that were used for that particular
7 study, for that project.

8 We had our work peer reviewed and it
9 was peer reviewed by the First Nations. And in
10 turn, we examined their studies. And that
11 contributed to some of the information that was
12 within the document.

13 MR. DAWSON: Would you agree that the
14 same statement would apply to the ATK, or should
15 apply to ATK in these proceedings, namely, ATK in
16 these proceedings is more than just information
17 about resources and resource use? Let's stop
18 there. I think the answer would be yes you just
19 said?

20 MS. PETCH: That's correct.

21 MR. DAWSON: Would you also go on to
22 agree that, just as was said in the Keeyask
23 context, that here in these proceedings there is a
24 role for ATK for each step of the EA process?

25 MS. PETCH: As much as was possible, I

1 think that that did occur.

2 MR. DAWSON: We'll come back to as
3 much as possible, but there's one point that I
4 wanted to pause on. Unlike the Keeyask process
5 where you made reference to reports that would be
6 peer reviewed, under the circumstances of that
7 one, am I correct -- and this is not at all
8 intended as a negative comment -- am I correct
9 that your report and other reports as part of this
10 EA process were not subject to peer review?

11 MS. PETCH: They were not subject to
12 outside peer review.

13 MR. DAWSON: Are you saying that the
14 Keeyask reports were subject to outside --

15 MS. PETCH: That's correct.

16 MR. DAWSON: Okay. And I note that
17 the majority of our panel is comprised of
18 academics, but just for the sake of judges who
19 like to read transcripts, can you tell us what
20 peer review is and what role it plays in
21 publication of academic articles?

22 MS. PETCH: The process of peer review
23 gives an outsider the opportunity to examine a
24 report and to ensure that the methods, the
25 analysis, and interpretation are correct and

1 within a certain framework that you establish at
2 the beginning.

3 MR. DAWSON: If I can now go back to
4 the comment you had made after peer review about
5 the importance of ATK, you know that Hydro had
6 originally invited some 49 Aboriginal communities
7 to be part of the ATK process, whether through the
8 workshops that you conducted or whether through
9 self-directed studies. Am I right, 49 or so?

10 MS. PETCH: Forty-nine communities
11 were invited, and some of them chose to do the
12 self-directed study.

13 MR. DAWSON: I believe that if we
14 count the ones who did self-directed as well as
15 the ones that you visited, the number is 19 out of
16 49. Am I correct?

17 MS. PETCH: We had 15, and there was
18 seven -- no, pardon me, we had 19 and there was
19 seven, so that's 26.

20 MR. DAWSON: So a little off, but not
21 all of them.

22 Would I be correct to think that in an
23 ideal world you would have wanted ATK from all 49
24 communities as part of this environmental
25 assessment process?

1 MS. PETCH: It would have been a
2 daunting task. We had 19 communities that we were
3 visiting and transcribing and it was, as I had
4 mentioned before, almost a whole year of staff
5 time. So if we had a larger number, we would
6 either have to have hired a group of about 30
7 people, and it would have taken a lot longer.

8 MR. DAWSON: Of course. Again, just
9 as an expert, I'd ask you to just accept the
10 premise of my question, which is that in an ideal
11 world you would have had unlimited staff,
12 unlimited time. I'm just trying to focus on this.
13 If you had a choice between hitting some of the
14 communities and getting a smattering of the ATK,
15 or getting ATK from all 49 communities, your
16 preference in that ideal world would have been to
17 get ATK from all 49 as part of the EA process,
18 right?

19 MS. PETCH: If it had been possible,
20 but as it turned out, it was not, we only had 19.

21 MR. DAWSON: Of course. I quite
22 understand that. And again, I'm not faulting you
23 for the fact that there are not a full slate of 49
24 Aboriginal communities. I'm just asking that
25 particular question, and I think I have my answer.

1 You have not only provided your
2 conclusions about ATK to this panel, but you
3 certainly have spent a lot of time explaining your
4 approach and setting out the methodology that you
5 have used. And I just wanted to explore why you
6 think it's important to tell this panel, not only
7 what your findings are, but your approach and the
8 methodology that you used in order to come to
9 those findings?

10 MS. PETCH: I consider that it was
11 important to have the methodology spelled out
12 because it has been our experience that ATK is
13 oftentimes regarded as information, as I had
14 already said, and oftentimes is not taken
15 seriously. With spelling it out and making people
16 aware that this is more than just gathering
17 information, we hope to raise not only the
18 anthropological value of methods, but also the
19 importance of ATK.

20 MR. DAWSON: Can I ask if part of the
21 reason why, and I'll say this correctly, you have
22 chosen to talk about your approach and methodology
23 is because you not only want to assure this panel
24 that Aboriginal communities have been consulted,
25 but also that the work that you did was work done

1 well and in accordance with accepted standards.

2 Is that your --

3 MS. PETCH: That's correct.

4 MR. DAWSON: So you would agree with
5 me then, it's not sufficient then just to engage
6 in a consultation process, you pretty much want to
7 inquire as to how that consultation was done?

8 MS. PETCH: I'm not quite sure I
9 understand what you mean?

10 MR. DAWSON: I'm just elaborating on
11 my earlier comment. Your comment was that you
12 wanted, by telling us not only your findings and
13 also setting out your approach and your
14 methodology, I believe, and correct me if I'm
15 wrong, you wanted to tell us not only what your
16 findings were in consulting with Aboriginal
17 groups, but also you wanted to give some assurance
18 that the work you did was done well and in
19 accordance with accepted standards?

20 MS. PETCH: That's correct.

21 MR. DAWSON: So my comment that you're
22 asking clarification for was just a summary
23 comment. It was just simply saying, so it's
24 important then to know that consultation -- not
25 only to know that consultation has been conducted

1 in and of itself, but also to inquire as to how
2 that consultation was done?

3 MS. PETCH: I think that the ATK was
4 not consultation in the sense that the other forms
5 of consultation --

6 MR. DAWSON: No, I don't at all mean
7 that. We can substitute the Hydro word of
8 engagement if you prefer, I'm not trying to
9 mislead you there.

10 MS. PETCH: It was engagement.

11 MR. DAWSON: Yes, all right. Well,
12 unlike your slide show, I do not have a sunset,
13 but this brings me to the end of this little
14 interval. I'm not closing my cross-examination,
15 I'm adjourning it subject to any future evidence
16 that the proponent may file. And with that, thank
17 you to the panel for your attention.

18 THE CHAIRMAN: Thank you, Mr. Dawson.
19 Ms. Whelan-Enns?

20 MS. WHELAN-ENNS: Good afternoon,
21 Ms. Petch.

22 I have some notes from your
23 presentation that I wanted -- a couple of things I
24 wanted to check with you, and that is notes I made
25 during your presentation and then also some

1 slightly more specific questions.

2 Would you tell us where the artifacts
3 are? My sense from your presentation was that in
4 the archeological investigation and some of the
5 field work that there were certain artifacts that
6 you mentioned?

7 MS. PETCH: Yes. We found artifacts
8 at the Keewatinoow converter station, that was the
9 main site. There were two sites within that area.
10 Those artifacts have been measured, analyzed,
11 catalogued and put into the database system. And
12 at the end of the project they will probably --
13 well, they have to go back to Historic Resources
14 Branch as part of the routine. And then I
15 understand that Fox Lake Cree Nation will be
16 asking to have them repatriated to their
17 community.

18 MS. WHELAN-ENNS: Thank you. And
19 that's a help in terms of the steps that are
20 needed.

21 I would like to ask you then whether
22 your site investigation where the Riel converter
23 station will be located caused any findings, were
24 there any artifacts?

25 MS. PETCH: Two flakes, two stone

1 flakes were found. They were uninterpreted, and
2 those have gone to the Province as well, and they
3 are in their depository.

4 MS. WHELAN-ENNS: Would you tell us
5 what size of area you investigated in terms of the
6 Riel converter station site? I mean, we all know
7 this is a location that's already been
8 significantly impacted. Did you stick to the
9 square mile?

10 MS. PETCH: I can't recall offhand.
11 It was quite a large area that we investigated.

12 MS. WHELAN-ENNS: Will you be, or will
13 Manitoba Hydro have you undertaking a similar kind
14 of site investigation for the two ground electrode
15 sites?

16 MS. PETCH: We already have done the
17 two ground electrodes. They were negative.

18 MS. WHELAN-ENNS: Thank you. I'll
19 take that as a correction.

20 My sense was, from first week of
21 October, that Manitoba Hydro has two options for
22 the ground electrode site for the Riel converter
23 station, and that they have narrowed it down in
24 terms of their preference, one of those two. So
25 may I take what you said to mean that you've done

1 the site investigation on the preferred location?

2 MS. PETCH: That's correct.

3 MS. WHELAN-ENNS: Thank you.

4 I'd like to know whether when the
5 workshops were held -- and I hear you clearly in
6 terms of the ideal versus these being shorter
7 events -- were the communities provided, were the
8 participants provided with the information in
9 terms of all of the Government identified heritage
10 and historic sites in the areas that they were
11 looking at in terms of their own traditional
12 knowledge?

13 MS. PETCH: I don't recall them being
14 on the maps that went out, but we certainly did
15 provide information as to where certain kinds of
16 sites were located.

17 MS. WHELAN-ENNS: Are there any
18 examples then in terms of the corridor area where
19 there's actually a combination of -- and I'm
20 thinking of the 156 Aboriginal sites -- a
21 combination identified by the Government of
22 Manitoba archeological sites and then these
23 significant and discrete Aboriginal sites. I'm
24 thinking Kettle stones here, were there both
25 present?

1 MS. PETCH: There are no recorded
2 archeological sites in the Kettle Hills area. We
3 know that from the communities and from the ATK
4 that there are sites and people have found
5 projectile points and other objects within that
6 area. There has been no official work done and
7 there is no recorded heritage within that area.
8 That's one of the problems where people know,
9 landowners and people know that they have sites,
10 but they are not reported because, for one thing,
11 they are afraid they are going to be reprimanded
12 for collections. And so a lot of times people
13 will not tell where sites are because they are
14 afraid of repercussions.

15 MS. WHELAN-ENNS: Thank you. Yes.

16 I haven't been sure in terms of your
17 presentation, and trying to be in the room most of
18 the time today, what width, if you will, of the
19 preferred corridor you were dealing with in these
20 workshops. So I guess the question, if I may, is
21 whether in the workshops there was a specific, you
22 know, line with a width on a map for those
23 participants that, from the communities that chose
24 to be in the workshops, or whether it was not on
25 the maps?

1 MS. PETCH: We did not have any lines
2 on the maps that we used for ATK. However,
3 Manitoba Hydro had provided wall maps, and these
4 were available for people to look at before and
5 after.

6 MS. WHELAN-ENNS: Combination would
7 make sense?

8 MS. PETCH: The reason we did not have
9 lines on the map is we did not want it to
10 interfere with a person providing information and
11 knowledge about their use of particular areas, and
12 having them trying to figure out how they were
13 going to dart around a line. We just wanted to
14 know where people were using the land and how they
15 were using it, and what they could tell us about
16 it.

17 MS. WHELAN-ENNS: And in your field
18 investigations then, similar question, what area
19 or width of area for the preferred corridor were
20 you looking at?

21 MS. PETCH: We were looking at the
22 three miles.

23 MS. WHELAN-ENNS: Okay, thank you.

24 If would you help us, I was going back
25 to the acronyms in your presentation, in terms of

1 the kinds of reports and kinds of filings that are
2 needed for a specific archeological site. And I
3 didn't get them all. So an HRPP is?

4 MS. PETCH: Heritage Resources
5 Protection Plan.

6 MS. WHELAN-ENNS: Would an HRPP then
7 become part of the Environmental Protection Plan,
8 or is it a separate plan?

9 MS. PETCH: It can be either. I think
10 for the Bipole III, it is within the Environmental
11 Protection Plan. Although for the Keewatinoow, we
12 did do an HRPP, because of the urgency of ensuring
13 that the two sites that we had found were being
14 protected.

15 MS. WHELAN-ENNS: Of the 156, I
16 believe that's the number of ATK sites that came
17 out of your analysis and your work with
18 individuals and communities, will they all then be
19 part of the HRPP?

20 MS. PETCH: They won't be part of the
21 HRPP because that is dealing strictly with
22 heritage resources, but I understand that they are
23 marked as environmentally sensitive sites and they
24 will be dealt with in the process of the
25 transmission line.

1 MS. WHELAN-ENNS: Would the HRPP
2 overall for Bipole III then carry standards,
3 instructions in terms of these sensitive sites?
4 I'm thinking that's what I'm hearing, but I
5 thought I would ask you. And if we need to ask
6 Dierdre, we can do that.

7 MS. PETCH: The Heritage Resources
8 Protection Plan is for heritage resources only as
9 they are described by the Province within the
10 Heritage Resources Act.

11 MS. WHELAN-ENNS: Thank you. And I
12 appreciate the repetition, but that's basically
13 why the questions, there's the requirement under
14 the Heritage Resources Act in Manitoba law, and
15 then there is the 156 sensitive sites.

16 MS. PETCH: I should say that the
17 sites that were identified as ESS heritage sites
18 will be looked at. There were heritage trails,
19 there were burials that people were concerned
20 about. If they are within the footprint or the 66
21 metre right-of-way, they will be included in the
22 Heritage Resources Protection Plan. We will make
23 sure that they have a heritage, or a Borden, a
24 number, a Borden number from the Province which
25 identifies a site, and it becomes a registered

1 site, so that any future work, people will know
2 that there is a heritage site at that particular
3 area and hopefully avoid. That is the first type
4 of mitigation.

5 MS. WHELAN-ENNS: I think I heard you
6 say that that would only occur for sites that are
7 in the 66 metre wide --

8 MS. PETCH: That's correct.

9 MS. WHELAN-ENNS: Thank you. You made
10 a reference this afternoon to MMM Group?

11 MS. PETCH: Yes.

12 MS. WHELAN-ENNS: Would you please let
13 us know then what MMM Group provided as products
14 or services or input so that you could do the work
15 that your firm did with respect to Bipole III?

16 MS. PETCH: The MMM Group provided the
17 logistical support and management of the project.
18 We developed the methodologies, conducted the
19 workshops with MMM members present, and we did the
20 transcription and the analysis and the report
21 writing. Their's was strictly a management, they
22 took care of all the details.

23 MS. WHELAN-ENNS: So did the MMM Group
24 have anything to do then with the consent forms in
25 terms of --

1 MS. PETCH: No.

2 MS. WHELAN-ENNS: Did they have
3 anything to do with the packages of materials that
4 went back to the communities and to the
5 individuals?

6 MS. PETCH: Yes.

7 MS. WHELAN-ENNS: They assembled
8 those, to my understanding?

9 MS. PETCH: We assembled them and they
10 were sent to MMM, and for that office.

11 MS. WHELAN-ENNS: So MMM Group then
12 did the logistics in terms of the contacts,
13 sending them --

14 MS. PETCH: That's correct.

15 MS. WHELAN-ENNS: -- seeing if there
16 was a response back?

17 MS. PETCH: Yes.

18 MS. WHELAN-ENNS: Did the MMM Group do
19 the mapping?

20 MS. PETCH: Yes, they did.

21 MS. WHELAN-ENNS: So does the MMM
22 Group now hold the data inventory and GIS
23 inventory for the maps for the ATK for the Bipole
24 III EIS?

25 MS. PETCH: I do not know.

1 MS. WHELAN-ENNS: The reason I ask, of
2 course, is because you have been very clear and
3 explicit in terms of intellectual property, and
4 what went back to the communities and to the
5 individuals in these packages. So when you
6 mentioned the MMM Group, some obvious questions in
7 terms of their role, what they handled, what they
8 may hold, become apparent. And because we have
9 not had experts from MMM Group or participation in
10 the hearings, other than from people who are now
11 employees of Manitoba Hydro who used to be part of
12 MMM Group, I wanted to make sure that we
13 understood. So we have an unanswered question
14 then in terms of what intellectual property and
15 GIS inventory and data they may still hold that
16 has to do with the ATK?

17 MS. PETCH: Manitoba Hydro would be
18 able to answer that, I'm sure. I do not know the
19 answer to that.

20 MS. WHELAN-ENNS: Is there someone on
21 the panel who can give us an answer?

22 MS. ZEBROWSKI: Your question is
23 specifically, what information related to the ATK
24 workshops is potentially held by MMM Group? Is
25 that your question? I just want to clarify.

1 MS. WHELAN-ENNS: No, my question is
2 what MMM Group may in fact still hold?

3 MS. ZEBROWSKI: In relation to the ATK
4 workshop that Northern Lights did?

5 MS. WHELAN-ENNS: That's right.

6 MS. ZEBROWSKI: We will have to take
7 that as an undertaking.

8 MS. WHELAN-ENNS: All right. How is
9 the turnaround on the undertaking then,
10 Ms. Zebrowski?

11 MS. ZEBROWSKI: I can't confirm that
12 at the moment. It would depend on who is
13 available, whether I can get in touch with people.
14 So we'll work on it to get it back in a timely
15 manner.

16 MS. WHELAN-ENNS: Well, let's take
17 some time later as being by the beginning of next
18 week, I would hope?

19 THE CHAIRMAN: No.

20 MS. WHELAN-ENNS: If I may, Mr. Chair,
21 I wanted to ask for an undertaking.

22 THE CHAIRMAN: We haven't put any
23 deadlines on any of the undertakings, but we have
24 asked Manitoba Hydro to do their best to get them
25 back as quickly as possible. And for the most

1 part, they have been able to comply.

2 MS. WHELAN-ENNS: Thank you,
3 Mr. Chair.

4 Ms. Petch, this is not a criticism but
5 rather a question that has to do with Manitoba
6 Hydro, asking it of you. I would be interested to
7 know which ethics standards your firm uses and
8 whether Manitoba Hydro also in fact then ascribes
9 to those and signs on them when you are involved
10 in this kind of extensive work for them? So to be
11 specific, union of British Columbia chiefs has a
12 set of principles that are publicly on their
13 website in terms of any and all ATK gathering or
14 interviews. There is also then another example,
15 and I'm sure you might improve on my examples, of
16 the Tri-Council Standards.

17 MS. PETCH: That is the one that we
18 use.

19 MS. WHELAN-ENNS: Thank you. So the
20 Tri-Council Standards are in place, they are a
21 foundation in terms of your work. And is it a
22 reasonable assumption that Manitoba Hydro then
23 ascribes to those standards too?

24 MS. PETCH: We're still here.

25 MS. WHELAN-ENNS: Because you can do a

1 better job of this than I can in the room, would
2 you explain to the room what the Tri-Council
3 standards are?

4 MS. PETCH: I actually have a copy
5 here somewhere.

6 MS. WHELAN-ENNS: If I said to you
7 medical, social, and natural sciences?

8 MS. PETCH: That's correct, yes.
9 There is a section in here that deals with
10 Aboriginal people, as well as the other SSHRC and
11 NSERC kinds of research studies that take place
12 with human individuals.

13 MS. WHELAN-ENNS: Thank you.

14 There have been some very specific
15 questions by the Metis Federation legal counsel
16 near the end of the first week of hearings,
17 beginning of October, about representativeness,
18 that would be the term I would apply to what the
19 legal counsel was asking. Those questions had to
20 do with how and whether Manitoba Hydro considers
21 two, or three, or four individuals from one First
22 Nation community to be adequate, that is for their
23 traditional knowledge to be representative of the
24 whole for that First Nation.

25 I have heard what you have said

1 clearly about scratching the surface, both in your
2 presentation and today.

3 So do you have a standard that you
4 seek or that you reach for in ATK gathering in
5 terms of representativeness of a community's
6 knowledge?

7 MS. PETCH: I think we answered that
8 question this morning when Mr. Madden asked about
9 numbers.

10 MS. WHELAN-ENNS: Thank you. I may
11 have missed that so I'll take a look at the
12 transcript. Just switching documents here.

13 There was, in the questions from
14 Mr. Dawson, and again already covered this
15 afternoon, this reality that is causing I think
16 probably much more question discussion, and that
17 is that only 26 of 49 communities have
18 participated in one option or the other in terms
19 of the ATK gathering. And you have also been
20 asked what the ideal is.

21 What I am interested to know, and this
22 is why the repetition I guess, is what kind of
23 questions you had in the workshops about the
24 impact zone? Did you find that people who are
25 participating in the workshops wanted to know

1 something more beyond 60 odd metres? Did it come
2 up at all?

3 MS. PETCH: Manitoba Hydro's
4 representative, Mr. Karl Johnson, answered
5 questions beforehand at the workshop. So in some
6 cases where there was clarification needed,
7 Mr. Johnson was the one that provided the details
8 about the corridor and about the routing. That
9 was outside of our, what we were there to do.

10 MS. WHELAN-ENNS: Thank you. Thank
11 you.

12 May I ask you about the book Maps and
13 Dreams, and whether you are familiar with it?

14 MS. PETCH: Is that one by Beitman, or
15 is it by Jennifer Brown?

16 MS. WHELAN-ENNS: It's Dr. Hugh Brody.

17 MS. PETCH: Oh, right. Yes, okay.

18 MS. WHELAN-ENNS: The reason I'm
19 asking has a little bit to do with the relevance I
20 think to this panel of the -- I want to use the
21 word heritage, but the rather extraordinary
22 Canadian First Nation pattern over what is now 35
23 years of -- and this is not meant as a colonial
24 term, but literally pioneering and participating
25 in the collection of Aboriginal traditional

1 knowledge. So I asked you about the book because
2 I'm interested in the influences and the experts
3 that you rely on in these services. Do you
4 consider Maps and Dreams to be relevant in your
5 work?

6 MS. PETCH: It's been a long time
7 since I've read it, but it probably, in the
8 recesses of my mind, is influencing me to some
9 degree.

10 MS. WHELAN-ENNS: Could you tell us,
11 and this was clear in your presentation, what the
12 steps were and whether there were any alternatives
13 in the decision to use Ethnograph for these
14 workshops and for the ATK gathering activity?

15 MS. PETCH: The Ethnograph, we
16 examined a number of social science computer
17 programs, and the ethnograph was the one that was
18 going to provide the most benefit to us in the
19 process of analysis. That was why we chose that
20 particular one.

21 MS. WHELAN-ENNS: My sense from your
22 presentation and also from your comments today is
23 that this was, the choosing to use Ethnograph was
24 also part of your advice to Manitoba Hydro, that
25 this was not just in your office and that

1 presumably members of the team inside Manitoba
2 Hydro for Bipole III were finding out about
3 Ethnograph, and part of the decision. Is that
4 accurate?

5 MS. PETCH: I'm not quite sure what
6 you mean by that?

7 MS. WHELAN-ENNS: Well, I'm asking
8 whether or not Manitoba Hydro personnel were part
9 of the decision to use Ethnograph?

10 MS. PETCH: No. No, that was our
11 method.

12 MS. WHELAN-ENNS: Thank you. Did any
13 of your staff or yourself, and starting with staff
14 because I know how full your schedule is,
15 participate in the Living Proof workshops held in
16 Winnipeg in the spring two years ago? This is a
17 reference to the book Living Proof which the union
18 of British Columbia chiefs published.

19 MS. PETCH: No, we were not able to
20 get to that.

21 MS. WHELAN-ENNS: Are you familiar
22 with Terry Tobias' work?

23 MS. PETCH: Yes.

24 MS. WHELAN-ENNS: Does Terry Tobias'
25 work in any way inform or contribute to the

1 methods and approaches that you use?

2 MS. PETCH: To a certain degree. We
3 chose to follow Peter Usher in our approach for
4 this time, because we were hoping to get more than
5 just identification of animals and counts.

6 MS. WHELAN-ENNS: I may not have
7 caught what you meant when you said his?

8 MS. PETCH: Tobias'. Tobias offers
9 good methods for land use studies, traditional
10 land and land occupancy studies, but we prefer to
11 use Peter Usher.

12 MS. WHELAN-ENNS: I understand about
13 not being able to take in those workshops, but you
14 would be aware that Living Proof is based on
15 interviews and methodologies from 400
16 practitioners through the Americas --

17 MS. PETCH: That's correct.

18 MS. WHELAN-ENNS: -- for ATK
19 gathering? Thank you. I have a couple of quick
20 questions from the PowerPoint presentation and
21 I'll be done soon.

22 Could you let me know whether there's
23 a methodology specific to how you use polygons
24 arrived at from ATK gathering, and whether there
25 is any requirements in terms of what you consider

1 to be a valid polygon?

2 MS. PETCH: The maps that we used was
3 computer micro dot maps and GIS pen. And as the
4 elder or resource user was providing information
5 about a particular area that he or she used, we
6 would trace with a pen and ask the person if this
7 is the area that are they were referring to. That
8 is how the polygons happened.

9 MS. WHELAN-ENNS: Thank you. The
10 description in the technical report in the EIS is
11 very clear. The reason I asked is because,
12 depending on methods and standards used, polygons
13 are arrived at from it differently. So in some of
14 the other methods it comes down to actually the
15 required number of points in a polygon. This use
16 of the GIS pen -- or GPS pen?

17 MS. PETCH: GIS pen.

18 MS. WHELAN-ENNS: Excuse me -- has got
19 some real potential in the future, but thank you.

20 Could you tell us time line then for
21 Manitoba Hydro's experts, and I'm thinking more
22 the external experts and those who have been in
23 panels this week like yourself, the time line in
24 terms of when the results of your ATK was
25 available to them?

1 MS. PETCH: It was available as soon
2 as we had completed the analysis and after the
3 30-day period that had been allowed for the
4 communities to provide any feedback.

5 MS. WHELAN-ENNS: I take that to mean
6 then, and tell me if I'm wrong, that that was per
7 community?

8 MS. PETCH: Individuals and community.

9 MS. WHELAN-ENNS: That means then that
10 the ATK information was available to the experts,
11 or to Hydro first, obviously, in stages and at
12 different times, because you were basically
13 working through those communities that were
14 participating?

15 MS. PETCH: No information was
16 released to Manitoba Hydro or the study team until
17 the 30-day period was completed.

18 MS. WHELAN-ENNS: For each community?

19 MS. PETCH: For each interview and
20 each community.

21 MS. WHELAN-ENNS: Thank you very much.

22 I wanted to ask you a question about
23 culture as a VEC. Is this new? That is, is this
24 a first instance in your experience for culture to
25 be a VEC in an EIS for a Manitoba Hydro project?

1 MS. PETCH: Yes. Actually, it's been
2 used as culture and spirituality in other projects
3 recently, but for this we looked at culture as a
4 separate VEC.

5 MS. WHELAN-ENNS: Do you believe that,
6 or do you foresee rather that hunting, gathering
7 and trapping as cultural and traditional
8 activities will be included in analysis using
9 culture as a VEC?

10 MS. PETCH: Those are included in
11 other disciplines --

12 MS. WHELAN-ENNS: Other VECs?

13 MS. PETCH: -- right now.

14 MS. WHELAN-ENNS: All right. Thank
15 you.

16 We are moving rapidly to potential
17 work on, decisions on and work on Bipole III. And
18 I want to ask you some questions about the
19 communities that did not participate, or have an
20 opportunity to date, or for one reason or other
21 did not participate in an ATK gathering.

22 Do you foresee the ability for
23 communities who are affected by Bipole III, who
24 have not yet participated in an ATK gathering, to
25 be able to contribute, for instance, to the

1 Environmental Protection Plans?

2 MS. PETCH: That would have to be a
3 decision of Manitoba Hydro.

4 MS. ZEBROWSKI: I can speak to that.
5 If a community were to come forward at this point
6 in time and indicate that they wanted to meet with
7 Manitoba Hydro to express or discuss concerns
8 related to the project, or they wish to have the
9 opportunity to review the Environmental Protection
10 Plan with us, we would be agreeable to doing that.

11 MS. WHELAN-ENNS: Thank you.

12 I hit a couple of questions that were
13 already asked, and I think that means we're close
14 to done. So thank you both, Ms. Petch. Thank
15 you, Mr. Chair.

16 THE CHAIRMAN: Thank you,
17 Ms. Whelan-Enns. Are there any other questions
18 for Ms. Petch or Ms. Zebrowski in this area?

19 Okay. We'll move on now then to
20 questions of the agricultural and land issues.
21 Mr. Meronek, are you up first on this?

22 MR. MERONEK: I could be.

23 THE CHAIRMAN: Well, do others have
24 questions on the agricultural and land
25 compensation side? Mr. Williams, do you have any

1 on that?

2 MR. WILSON: No, Mr. Chairman.

3 THE CHAIRMAN: Thank you. Mr. Mills,
4 Mr. Stockwell, do you have questions in that
5 respect? You indicated earlier you did.

6 MR. MILLS: One moment, Mr. Chair.

7 MS. JOHNSON: While we're deciding
8 this, I can take up the time here and get another
9 issue out of the way here.

10 THE CHAIRMAN: Okay.

11 MS. JOHNSON: I'd like to enter some
12 documents. MMF number 7 will be Mr. Madden's
13 United Nations declaration; MMF number 8 is his
14 map of the Metis's hunting area; and number 9 is
15 the table of Aboriginal communities.

16 Also Manitoba Hydro, MH 75 is a letter
17 dated October 19th from Conservation as a response
18 to the TAC request for August 7th; number 76 is
19 the approval, letter of approval for the route
20 change; 78 is the CV for Mr. Phillip Slota; 79 is
21 response to the undertaking from Mr. Williams;
22 number 80 is response to the undertaking with the
23 trapper compensation calculations; 81 is the
24 undertaking for arable land affected by Bipole
25 III; number 82 is the caribou population

1 statistics; number 83 undertaking, the article on
2 Decline of Populations of Woodland Caribou; number
3 84 is the response to the undertaking, the article
4 Dynamics of Woodland Caribou Populations at the
5 Southern Limit; 85 is the article, Recent Changes
6 to the Summer Distribution of Migratory Caribou;
7 number 86 is response to an undertaking, winter
8 caribou survey data; and number 87 is the Calving
9 Rate, Calf Survival Rate article as a response to
10 the undertaking. Thank you.

11 (EXHIBIT MMF 7: Mr. Madden's United
12 Nations declaration)

13 (EXHIBIT MMF 8: Map of Metis hunting
14 area)

15 (EXHIBIT MMF 9: Table of Aboriginal
16 communities)

17 (EXHIBIT MH 75: Letter, October 19th
18 from Conservation)

19 (EXHIBIT MH 76: Letter of approval
20 for the route change)

21 (EXHIBIT MH 78: CV for Mr. Phillip
22 Slota)

23 (EXHIBIT MH 79: Response to the
24 undertaking from Mr. Williams)

25

1 (EXHIBIT MH 80: Trapper compensation
2 calculations)
3 (EXHIBIT MH 81: Arable land affected
4 by Bipole III)
5 (EXHIBIT MH 82: Caribou population
6 statistics)
7 (EXHIBIT MH 83: Article on Decline of
8 Populations of Woodland Caribou)
9 (EXHIBIT MH 84: Article, Dynamics of
10 Woodland Caribou Populations at the
11 Southern Limit)
12 (EXHIBIT MH 85: Article, Recent
13 Changes to the Summer Distribution of
14 Migratory Caribou)
15 (EXHIBIT MH 86: Winter caribou survey
16 data)
17 (EXHIBIT MH 87: Article, Calving
18 Rate, Calf Survival Rate)
19 THE CHAIRMAN: Thank you. There
20 doesn't appear to be anybody else with questions
21 for the ag/land people other than you,
22 Mr. Meronek. How long do you think your
23 cross-examination of these people will be?
24 MR. MERONEK: Well, if they cooperate,
25 not long.

1 THE CHAIRMAN: Realistically?

2 MR. MERONEK: Probably about three
3 hours.

4 THE CHAIRMAN: I hate to break it up,
5 but we are running a little late, I'd hate to lose
6 even a half an hour of time. So if you'll go for
7 half an hour and then we'll break about 5:00
8 o'clock.

9 MR. MERONEK: Mr. Nielsen, I have
10 waited so long to chat with you, I feel like I
11 know you well already. But my first series of
12 questions will be directed to you, and then I
13 guess tomorrow, Messrs. McLeod and Gray. I do
14 have one question of Mr. Osler though.

15 We have seen a plethora of maps from
16 all the disciplines showing discrete points of
17 identification of areas of the right-of-way, and
18 for that matter, along the whole project study
19 area, of the location of various mammals, various
20 birds. Has Manitoba Hydro superimposed all these
21 individual maps to show an overall picture of the
22 location and the identification of the various
23 species which we are examining?

24 MR. OSLER: Are you focusing on
25 mammals, or are you looking at more than mammals

1 when you ask that question?

2 MR. MERONEK: The whole enchilada.

3 MR. OSLER: All of the VECs, so to
4 speak?

5 MR. MERONEK: Yes.

6 MR. OSLER: I'm not aware of such a
7 map. Maybe we can check with Manitoba Hydro, but
8 it would be quite a feat if they had. I think you
9 have a problem of scale as it is, if you try to
10 look at one map here. If I find that anything
11 like that exists, I'll let you know, but I don't
12 think it does.

13 MR. MERONEK: Thank you, sir.

14 Now, Mr. Nielsen, I have gone over
15 your qualifications carefully, your Curriculum
16 Vitae, it's long and varied. But if I was to
17 summarize it in a few words, would it be fair to
18 say that you are a soils expert and a crop
19 production expert?

20 MR. NIELSEN: Yeah. If you can hear
21 me, yes, that's probably true.

22 MR. MERONEK: And in your career, you
23 have identified yourself as being a farmer,
24 operator and owner for about 26 years, from 1981
25 to 2005?

1 MR. NIELSEN: Yeah. I went to Africa
2 in '78 and came back in '81, but I actually owned
3 the farm back in about '66.

4 MR. MERONEK: I was going to ask, you
5 certainly have a prodigious resumé as it relates
6 to working in Africa and Asia, for which I commend
7 you. It's near and dear to my heart, and I'm sure
8 you did incredible work there, but you must have
9 spent a lot of time out of the country?

10 MR. NIELSEN: Pardon me?

11 MR. MERONEK: You must have spent a
12 lot of time out of the country?

13 MR. NIELSEN: Back in the day, yeah,
14 prior to -- between 1981, when we came back from
15 Africa, and I guess it would be about '96, I
16 probably spent two to three months a year out. In
17 '96, '97, I began working in the oil patch, and
18 that's when I really learned how to assess soils
19 because all we have to do is clean them up.

20 MR. MERONEK: So you weren't farming
21 personally for the whole period of time, 1981 to
22 2005?

23 MR. NIELSEN: I sure was. I
24 definitely was. I didn't go away during the
25 farming period.

1 MR. MERONEK: Okay. And your farm is
2 located in Goodlands, Manitoba?

3 MR. NIELSEN: It is.

4 MR. MERONEK: And that's Western
5 Manitoba?

6 MR. NIELSEN: Yeah.

7 MR. MERONEK: And it's outside the
8 project study area?

9 MR. NIELSEN: Yes.

10 MR. MERONEK: And when you farmed,
11 what was the largest piece of equipment that you
12 used on your farm?

13 MR. NIELSEN: I had a 110-foot
14 sprayer.

15 MR. MERONEK: 110-foot?

16 MR. NIELSEN: Yeah, well, it did three
17 widths and four widths, so...

18 MR. MERONEK: You'd agree, sir, today
19 the techniques are more sophisticated than they
20 were several years ago?

21 MR. NIELSEN: Yes, they definitely
22 are.

23 MR. MERONEK: And the use of GPS is a
24 significant aid for farming operations?

25 MR. NIELSEN: Yeah. Well, if you

1 drive around the country and you look at all the
2 straight lines in the field, you'll know that
3 everybody has got an auto steer, and that happens
4 in my country as well.

5 MR. MERONEK: Do you operate equipment
6 with GPS?

7 MR. NIELSEN: I quit just when the GPS
8 came in, but we did GPS all the time in the oil
9 patch. It's a common thing, we GPS everything.

10 MR. MERONEK: Sir, does your farm have
11 any transmission lines on it?

12 MR. NIELSEN: Yes, it does.

13 MR. MERONEK: What kind?

14 MR. NIELSEN: It's got one diagonal
15 line that ran from oil to a battery, with
16 probably, I don't know, seven individual poles,
17 not large ones, just one pole.

18 MR. MERONEK: Mr. Chairman, I'm having
19 a great deal of difficulty understanding the
20 answers.

21 THE CHAIRMAN: Perhaps you might get
22 an earpiece from our sound person.

23 (OFF THE RECORD)

24 MR. NIELSEN: Excuse me. When I come
25 back tomorrow I have actually a megaphone that I

1 can use that would clear things up a lot. I'll
2 bring it.

3 THE CHAIRMAN: I can hear him.

4 MR. NIELSEN: I'll bring it tomorrow
5 morning.

6 MR. MERONEK: All right. Just so that
7 I can understand your last answer, you have a
8 transmission line on your property?

9 MR. NIELSEN: Yeah. It runs for
10 probably half, three-quarters of a mile.

11 MR. MERONEK: Okay. And what kind of
12 transmission line?

13 MR. NIELSEN: Well, it's a single pull
14 transmission line.

15 MR. MERONEK: Nothing in the order of
16 magnitude with which we were dealing with Bipole
17 III?

18 MR. NIELSEN: No.

19 MR. MERONEK: Now, in your consulting
20 experience, as I read your Curriculum Vitae, in
21 terms of transmission line route site selection
22 consulting, the only engagement you have had is
23 with Manitoba Hydro; is that correct?

24 MR. NIELSEN: That's correct.

25 MR. MERONEK: Okay. And you have

1 listed five studies that you have engaged in for
2 Manitoba Hydro, and on page 3 of your Curriculum
3 Vitae you have listed five. The last one that you
4 were engaged in was approximately 2001?

5 MR. NIELSEN: Yeah, that was at the
6 Glenboro line.

7 MR. MERONEK: And so you've done no
8 route site selection consulting since that time?

9 MR. NIELSEN: That's right.

10 MR. MERONEK: You mentioned one here,
11 a Bipole III complex in 1992/1993. Is that a
12 correct description?

13 MR. NIELSEN: Well, what happened in
14 92/93, that was the first year I worked for
15 Manitoba Hydro and they were going to do a ring
16 around Winnipeg from, it comes from Dorsey through
17 the floodway down to Riel. And then they were
18 going to do Riel around the south and west side
19 and back to Dorsey, so you had a circle route.
20 Additionally, we looked at running a line straight
21 east into Ontario before Ontario cancelled their
22 contracts.

23 MR. MERONEK: Okay. Would it be fair
24 to say that this engagement with Bipole III is by
25 far the most significant, complex, and the

1 lengthiest engagement in terms of site selection
2 and route selection that you had been engaged in?

3 MR. NIELSEN: Yes.

4 MR. MERONEK: Now, I believe I
5 understood your testimony to have been last week
6 that when you did these other studies, you weren't
7 involved in a point system. You hadn't approached
8 the projects on the same basis that are being
9 approached today by Manitoba Hydro. Did I get
10 that correctly?

11 MR. NIELSEN: That's true, yes.

12 MR. MERONEK: And those studies were,
13 would I be accurate in assuming that those studies
14 were all done strictly from an agricultural
15 perspective?

16 MR. NIELSEN: Pardon? I can't hear.

17 MR. MERONEK: Would I be fair in
18 assuming that all of those studies were done
19 strictly from an agricultural perspective?

20 MR. NIELSEN: Yes, they were.

21 MR. MERONEK: And I also understand
22 your evidence to have been that in all of these
23 projects, Manitoba Hydro always selected tower
24 placement of 42 metres from -- sorry, from the
25 road allowance?

1 MR. NIELSEN: Pretty much other than
2 one. On the Silver project, when they went
3 through one area they were on the edge of the road
4 allowance, with a 230.

5 MR. MERONEK: So essentially that was,
6 going in with this project, you knew that that was
7 Manitoba Hydro's protocol?

8 MR. NIELSEN: I did.

9 MR. MERONEK: Now, as I understand the
10 way you approached the project, you took a couple
11 of years, you started in 2007 and you did some
12 initial routing assessment up until 2009. Is that
13 correct?

14 MR. NIELSEN: That's true, yes.

15 MR. MERONEK: And you selected some
16 alternative routes, I believe, sometime in 2009,
17 perhaps July?

18 MR. NIELSEN: We didn't really -- I
19 think I know the piece in my report where it says
20 that, but the actual lines A, B, and C, were
21 selected in April, May of 2010. I don't know why
22 I wrote that in there like that, but that's what I
23 did.

24 MR. MERONEK: So your report is
25 inaccurate when you say that the route selections

1 A, B, and C were 2009?

2 MR. NIELSEN: Yeah, it's 2010, April,
3 May.

4 MR. MERONEK: When did you discover
5 that error, sir?

6 MR. NIELSEN: In the last few days
7 when I was reading it.

8 MR. MERONEK: Now, just in terms of
9 your farming experience, I take it that you are
10 not an aerial spray applicator?

11 MR. NIELSEN: Me, I don't fly a plane
12 but I have a really good friend who does, and I
13 spent some time talking to him about aerial
14 spraying. And I talked to Bob Morris out here,
15 just outside Winnipeg.

16 MR. MERONEK: I understand that. And
17 as I understand your evidence, you had
18 discussions, and as far as you are aware, you
19 incorporated what they told you into your report?

20 MR. NIELSEN: Right.

21 MR. MERONEK: Did they prepare a
22 report for you?

23 MR. NIELSEN: Pardon?

24 MR. MERONEK: Did they prepare a
25 report for you?

1 MR. NIELSEN: No, they did not. I
2 just -- I talked to them and I wrote down what
3 they suggested. And I do believe that it's quite
4 well reflected in my report.

5 MR. MERONEK: Okay. So in terms of
6 how Bipole III might impact the application of
7 aerial spraying, you would defer to professional
8 aerial spray applicators in terms of their
9 judgment?

10 MR. NIELSEN: I went to talk to them,
11 yes, because I didn't find any literature on the
12 subject for large lines.

13 MR. MERONEK: But you're not holding
14 yourself out as an expert in aerial spray
15 application?

16 MR. NIELSEN: No. I used it lots on
17 my farm.

18 MR. MERONEK: Sure. Now, I take it
19 you were not a, or you are not or were not a
20 livestock farmer?

21 MR. NIELSEN: No. Well, my dad had
22 livestock but I didn't have any.

23 MR. MERONEK: And you didn't operate a
24 hog operation?

25 MR. NIELSEN: No, but my neighbour

1 operated -- I just tore a barn down on my
2 neighbour's farm, and he operated the largest hog
3 operation in Manitoba in the '60s.

4 MR. MERONEK: Fine. I'm just
5 concerned about you, sir, not friends or
6 neighbours. So you didn't yourself?

7 MR. NIELSEN: I never operated a hog
8 operation.

9 MR. MERONEK: Nor did you operate a
10 poultry farm?

11 MR. NIELSEN: No.

12 MR. MERONEK: So with respect to the
13 application of liquid manure and other impacts on
14 livestock and hog operations, you would defer to
15 people who actually are involved in those
16 operations?

17 MR. NIELSEN: Yeah. I have watched
18 them apply the stuff earlier, like during the
19 process of routing.

20 MR. MERONEK: Right. But that was as
21 an observer, not as someone who has been involved
22 in that type of application, correct?

23 MR. NIELSEN: Well, I'm not sure. I
24 cultivated a lot of land, and when I watched them
25 put it on, it didn't appear to me like it -- I

1 mean, other than you have to trail the umbilical
2 cord back and forth, it appeared to be a normal
3 cultivation operation.

4 MR. MERONEK: I know you said that in
5 your testimony, sir, but I just want to confirm
6 for the record that you have not done that
7 yourself?

8 MR. NIELSEN: No, I have watched it
9 done.

10 MR. MERONEK: In terms of your farming
11 operations, have you engaged in any irrigation
12 system operation?

13 MR. NIELSEN: No.

14 MR. MERONEK: In the preparation of
15 your report, sir, did you make any quantitative
16 assessment as to the impact, the financial impact
17 that Bipole III might have on agricultural
18 Manitoba to the extent that Bipole III passes
19 through agricultural Manitoba?

20 MR. NIELSEN: Not really. When you go
21 from Riel to highway 16, you don't have any
22 choice, you have to pass somewhere through
23 intensively farmed agricultural Manitoba. And
24 most of the soil types are the same. So if you
25 move it one way or the other, it will have the

1 same impact.

2 MR. MERONEK: Sir, if you're having
3 trouble understanding my question, then just ask
4 me to repeat it and I'll be glad to do so. My
5 question is, did you undertake any quantitative
6 assessment as to the financial loss which may be
7 occurring, or will occur to landowners in
8 agricultural Manitoba where Bipole III passes
9 through land?

10 MR. NIELSEN: No.

11 MR. MERONEK: Were you advised not to
12 do such an assessment?

13 MR. NIELSEN: No.

14 MR. MERONEK: But it's just something
15 that you didn't consider necessary or appropriate
16 for your report?

17 MR. NIELSEN: Well, I know that -- all
18 I can answer is the same way, you have to get from
19 here to there, and it will impact one farmer the
20 same as the next.

21 MR. MERONEK: It wasn't part of your
22 terms of reference?

23 MR. NIELSEN: No.

24 MR. MERONEK: Now, when you embarked
25 upon your engagement, you had certain principles

1 or objectives in mind, and I'm going to list them
2 and you can confirm or otherwise correct me. In
3 terms of your objectives, you wanted to make sure
4 that lines went through the least intensive
5 agricultural land; is that correct?

6 MR. NIELSEN: That's correct.

7 MR. MERONEK: You wanted to have lines
8 go next to road allowances where possible on a
9 mile line, is that correct?

10 MR. NIELSEN: That's correct.

11 MR. MERONEK: You wanted to use -- and
12 when I say road allowance, it's having the tower
13 right by the road allowance, not the right-of-way.

14 MR. NIELSEN: Yeah, the tower is in
15 the field right by the road allowance. That's the
16 way it was put together.

17 MR. MERONEK: All right. And you
18 wanted to use a half mile line to avoid irrigation
19 areas in farmyards?

20 MR. NIELSEN: Yeah. We used a fair
21 bit of the half mile line.

22 MR. MERONEK: All right. And you
23 wanted to use existing linear disturbances such as
24 drainage ditches in order to -- or for the half
25 mile where this wasn't an ownership boundary

1 issue?

2 MR. NIELSEN: Yeah. We actually, we
3 picked out a few drains and followed them, but I
4 don't know, toward the --

5 MR. MERONEK: No, no, sir, I'm just
6 asking, we'll get into the details later, but I'm
7 just asking you to confirm or otherwise correct me
8 in terms of the principles and objectives you
9 employed starting out. Okay?

10 MR. NIELSEN: We followed road
11 allowances and drainage ditches.

12 MR. MERONEK: That's what your
13 objective was?

14 MR. NIELSEN: Yes.

15 MR. MERONEK: And you wanted to avoid
16 diagonal lines as much as possible?

17 MR. NIELSEN: We took them all out.

18 MR. MERONEK: Sir, you are jumping
19 ahead. I want when you first started out, your
20 objective was to avoid diagonal lines where
21 possible, correct?

22 MR. NIELSEN: Yes.

23 MR. MERONEK: And you wanted to avoid
24 in-field placement which created management split
25 units?

1 MR. NIELSEN: Yeah.

2 MR. MERONEK: And you wanted to avoid
3 irrigated lands?

4 MR. NIELSEN: I did, yes.

5 MR. MERONEK: And you wanted to avoid
6 potential irrigated lands?

7 MR. NIELSEN: Well, if you could, if
8 possible.

9 MR. MERONEK: And those objectives
10 that you had when you first went into the project
11 were still valid at the conclusion of your report;
12 correct?

13 MR. NIELSEN: Yes.

14 MR. MERONEK: Because as a matter of
15 fact, you recited those very routing principles in
16 your conclusion, correct?

17 MR. NIELSEN: I did.

18 MR. MERONEK: Now, in 2009 -- and
19 correct me if I'm wrong on this date, since we
20 have had one correction already -- you prepared a
21 report for MMM Consulting Group, and it's exhibit
22 C in your report?

23 MR. NIELSEN: It's appendix C.

24 MR. MERONEK: Yes.

25 MR. NIELSEN: Yeah.

1 MR. MERONEK: And it's dated July 2,
2 2009?

3 MR. NIELSEN: Right.

4 MR. MERONEK: And it was submitted by
5 you to MMM Group.

6 MR. NIELSEN: Right.

7 MR. MERONEK: Now, what was MMM
8 Group's role vis-a-vis you in this project?

9 MR. NIELSEN: Well, I started working
10 for MMM in April of 2009, as their agricultural
11 person. And they provided guidance, and like as I
12 said before, Mr. Krawchuk cross-referenced all the
13 routes, et cetera. And they also provided mapping
14 services. There was a lady that did the distance
15 from the line, that's where all those measurements
16 came from.

17 MR. MERONEK: So you were employed by
18 MMM Group?

19 MR. NIELSEN: I was.

20 MR. MERONEK: Okay. And MMM Group was
21 contracted with Manitoba Hydro?

22 MR. NIELSEN: Yes.

23 MR. MERONEK: And your direct contact
24 was with MMM Group, not Manitoba Hydro?

25 MR. NIELSEN: Well, MMM Group and

1 Mr. McGarry, he was always at all of our meetings.

2 MR. MERONEK: Okay. Now, in this
3 particular appendix C, you identify a certain
4 rating system for tower placement based on
5 categories of agricultural soil; correct?

6 MR. NIELSEN: That's right.

7 MR. MERONEK: And that was at the
8 request of Mr. McGarry?

9 MR. NIELSEN: Well, the soils thing is
10 a bit of a -- I started out with a soils expert
11 and we created appendix A, which you have probably
12 looked at. Then as we went through the project,
13 it became apparent that they really didn't want me
14 to use that system which had a multitude of soil
15 types, they wanted me to go back to the system
16 that I had used in all the other reports. And so
17 that's what I did. I took the soils maps and I
18 grouped soils according to their productivity.

19 MR. MERONEK: Right. But in terms of
20 tower placement ratings, that was at the instance
21 of Manitoba Hydro. That is not something that you
22 had employed in your prior engagements, is that
23 correct?

24 MR. NIELSEN: The tower placement in
25 the field, you mean?

1 MR. MERONEK: The rating of those
2 tower placements?

3 MR. NIELSEN: The rating of the tower
4 placements I did depending on the type of soil and
5 the impediments that were in those fields to begin
6 with.

7 MR. MERONEK: That's a rating system
8 that was employed for this project but not for
9 prior projects, correct?

10 MR. NIELSEN: That's right. I was
11 asked by Mr. McGarry to prepare that system.

12 MR. MERONEK: Okay. Can you turn to
13 page 4 of appendix C, please, sir?

14 MR. NIELSEN: Okay.

15 MR. MERONEK: On page 4 there is a
16 table that is entitled "Agricultural Impact of
17 Categories Four Through Seven Tower Placement."
18 And those categories are the ones which I am
19 mostly concerned about. Those categories relate
20 to cereal crops, row cropping, livestock
21 operations, irrigation operations; correct?

22 MR. NIELSEN: That's correct.

23 MR. MERONEK: They are more valuable?

24 MR. NIELSEN: They are more valuable.

25 MR. MERONEK: And you have identified

1 some ratings here. Sir, can you tell me how you
2 came about to rate these various tower placement
3 descriptions?

4 MR. NIELSEN: Well, I guess I sat down
5 and decided how I was going to rate them depending
6 upon the soil type and where I was in the
7 province, and the type of land, et cetera.

8 MR. MERONEK: Well, except that the
9 tower placement really for these ratings had
10 nothing to do with soil conditions, sir, it had to
11 do with location of the towers in relationship to
12 the placement on the land; isn't that correct?

13 MR. NIELSEN: That's right.

14 MR. MERONEK: So how did you go about
15 making an assessment as to how you were going to
16 rate the various locations?

17 MR. NIELSEN: Well, I guess it was
18 just based on my experience with Manitoba Hydro
19 and my experience as a soil scientist.

20 MR. MERONEK: Okay. So, your rating
21 for tower placement on a road allowance and your
22 tower placements on the edge of a drainage ditch
23 were the best rating, correct?

24 MR. NIELSEN: That's right, the lower
25 rating is the better one.

1 MR. MERONEK: And for the half mile
2 where there is some unit splits, your rating was
3 three?

4 MR. NIELSEN: Yes.

5 MR. MERONEK: And for the tower
6 placement on the quarter mile, here you have, or
7 50 metres into the field where there's a
8 management unit split, you had four?

9 MR. NIELSEN: That's right.

10 MR. MERONEK: Where did you get the 50
11 metres, sir? It's the first we have heard about
12 this in this hearing other than what is in your
13 report?

14 MR. NIELSEN: It was just -- it's a
15 figure that I used based on some prior history.

16 MR. MERONEK: Okay. Now, sir, would
17 it be fair to say that placing a tower 50 metres
18 into the field is much less preferable than
19 placing it on a half mile line?

20 MR. NIELSEN: I would say so, yes.

21 MR. MERONEK: Can you explain then why
22 you just gave it a rating of one higher, that is
23 the one in the 50 metres into the field?

24 MR. NIELSEN: Well, on the half mile
25 you may or you may not split a field, depends

1 whether the landowner owns the land on both sides.
2 Into the field it -- maybe I should have made it
3 one higher, I don't know, but it was, it seemed to
4 me to be a rational way to do it.

5 MR. MERONEK: Did you do an assessment
6 as to how many half mile lines would create a
7 management unit split?

8 MR. NIELSEN: No, I did not.

9 MR. MERONEK: Now, this report
10 identifies several routes that were analyzed and
11 assessed by yourself, correct?

12 MR. NIELSEN: That's correct.

13 MR. MERONEK: Is it fair to call this
14 a report that was prepared for Manitoba Hydro?

15 MR. NIELSEN: It's prepared for MMM
16 and Manitoba Hydro, I mean, because everybody was
17 at the meetings.

18 MR. MERONEK: When you talk about
19 preparing a report in 2009 for Manitoba Hydro,
20 it's appendix C?

21 MR. NIELSEN: Right.

22 MR. MERONEK: There's no other report?

23 MR. NIELSEN: There is in the middle
24 of the report, there is one that was done in
25 November -- or January 2010.

1 MR. MERONEK: Is that on the record,
2 sir?

3 MR. NIELSEN: Pardon, I can't hear?

4 THE CHAIRMAN: Mr. Meronek, might this
5 be a convenient time to adjourn? We seem to have
6 other distractions.

7 MR. MERONEK: Yes.

8 THE CHAIRMAN: I'd just like to say a
9 few words about tomorrow. Tomorrow is going to be
10 a fairly busy day. We have the land and
11 agricultural panel. We'll also have Ms. Hicks for
12 those who didn't get an opportunity to
13 cross-examine her this morning.

14 We have scheduled presentations by
15 Manitoba Hydro on the Environmental Protection
16 Plan and on the Pine Creek watershed study.

17 As well in the afternoon we have a
18 fixed time presentation by the Peguis First
19 Nation. The fixed time is because their witness
20 is available only at that time.

21 What I want to say is that I would
22 like to get through the socioeconomic
23 cross-examination tomorrow. I'm not going to
24 schedule an evening hearing, but we may go an hour
25 overdue if we -- if it looks like we might get it

1 done with a bit of additional time.

2 Mr. Bedford, did you have anything?

3 MR. BEDFORD: I think Mr. Nielsen is
4 only with us until noon tomorrow.

5 MR. NIELSEN: I can't be here after
6 lunch. I have some other complications in my life
7 that need to be looked after, but I can be back
8 for Monday morning.

9 THE CHAIRMAN: I suspect that
10 Mr. Meronek will finish with him before noon, and
11 I don't believe -- Mr. Madden had suggested he
12 might have a few questions, I believe. So that
13 shouldn't be a problem.

14 Okay. We are adjourned then until
15 9:00 a.m. tomorrow morning, and I hope they finish
16 blasting the upstairs by then.

17 (Proceedings adjourned at 5:00 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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