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APPEARANCES

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

MANITOBA CONSERVATION AND WATER STEWARDSHIP
Bruce Webb
Elise Dagdick

MANITOBA HYDRO
Douglas Bedford   - Counsel
Janet Mayor   - Counsel
Shannon Johnson

BIPOLE III COALITION
Brian Meronek - Counsel
Karen Friesen
Garland Laliberte

CONSUMERS ASSOCIATION OF CANADA
Byron Williams   - Counsel
Gloria Desorcey
Aimee Craft   - Counsel

MANITOBA METIS FEDERATION
Jason Madden   - Counsel

MANITOBA WILDLANDS
Gaile Whelan Enns

GREEN PARTY OF MANITOBA
James Beddome

PEGUIS FIRST NATION
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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McGarry, Mr. T. Joyal, Ms. V. Petch, Mr. Shindler,
Mr. Berger,
Questions by Panel
Re-examination by

 1　Wednesday, March 6, 2013

 2　Upon commencing at 9:00 a.m.

 3　　　　　　THE CHAIRMAN: Good morning. We'll

 4　reconvene. First up this morning we have the

 5　resumption of cross-examination of the panel

 6　that's sitting before us. I suspect this might be

 7　relatively short. We learned this morning that

 8　Mr. Madden will not be here today, he's not able

 9　to be here this week. He is here on Monday to

10　make his final argument, and my understanding is

11　that's the only day he's available this week to be

12　here. So he won't have an opportunity to

13　cross-examine this panel. So you get off a little

14　easy, but I think some of us might be tougher than

15　him anyway -- or already have been -- albeit more

16　respectful.

17　　　　　　I think we'll also have, later on this

18　morning, some questions on the fragmentation

19　issue, and then we'll turn to Mr. Mills and his

20　presentation on behalf of Pine Creek First Nation.

21　　　　　　So first up some questions from panel

22　members. Mr. Gibbons, I think we cut you off in

23　midstream on Monday afternoon, so...

24　　　　　　MR. GIBBONS: Thank you. Some

25　questions are more for clarification than anything

1   else, and I think that's true of the first.

2   For Mr. Joyal, the slide at the bottom

3   of page 7 was indicating the number of meetings,

4   et cetera. But what was not clear to me, and I

5   think I made assumptions about this, but

6   nonetheless I just want to make sure it's on the

7   record. The meetings with First Nations

8   communities, the leaders, et cetera, those were

9   initiated not only by letters and e-mails, et

10 cetera, but also through direct contact? Is that

11 fair to say?

12   MR. JOYAL: Generally, yes. The

13 initial letter would have gone out to all those

14 communities to meet, but through follow-up

15 contact, yes.

16   MR. GIBBONS: That's basically what I

17 was looking for. The reason I ask is because

18 there was some discussion by some of the experts

19 about what would be appropriate procedure for

20 contacting First Nations.

21   MR. JOYAL: For a First Nation that we

22 considered in the vicinity, we did follow up with

23 a phone call four days, I believe four days after

24 the initial mail-out, but as well notified all

25 other First Nations along the entire study area.

 1   MR. GIBBONS: Okay. I think that's

 2   the only question for Mr. Joyal.

 3   Next question, or questions for

 4   Dr. Petch, and I had a couple of questions here

 5   regarding, first I think the slide at the bottom

 6   of the page 3, just a further explanation. There

 7   was no ATK workshop held in the Wabowden area,

 8   therefore, no ATK is available for this area. Can

 9   I get a little explanation as to why that was the

10   case? I think I'm missing something there as to

11   why that was not available?

12   MS. PETCH: We did go into Wabowden

13   before the project started and offered an ATK

14   workshop, however, it was declined.

15   MR. GIBBONS: So it was declined,

16   okay. That's basically what I was looking for.

17   Top of page 15 -- sorry, bottom of

18   page 15 -- actually, I think this question has

19   been asked. It was about the question of whether

20   or not something could be realistically reversible

21   and so I think someone else --

22   MS. PETCH: I'm sorry, could you

23   repeat that, please?

24   MR. GIBBONS: Yes. I think I'll pass

25   on this question because I think we addressed the

1   question as to whether or not something was

2   reversible and in what time frame. I think

3   someone else had raised that question earlier, so

4   I'll pass on that one.

5   And then top of page 16, there's a

6   reference in the first bullet, it says:

7   "Manitoba Hydro is not aware of

8   mitigation measures likely to

9   alleviate adequately these expected

10   adverse residual effects on culture

11   from the AFPR route change."

12   I'm interpreting that to mean that either there is

13   no, within the literature let's say, procedure for

14   doing that, or am I to interpret that as meaning

15   that Hydro is not aware because there haven't been

16   discussions with the groups concerned as to how

17   they might be mitigated? I'm not quite sure as to

18   what source of that lack of awareness might be?

19   MS. PETCH: Okay. It's probably a

20   little bit of both. There is not an established

21   threshold to determine what kind of mitigative

22   measures should, or could be appropriate. And at

23   this point, we're not quite sure what those

24   mitigative measures would be.

25   MR. GIBBONS: Have there been any

 1   discussions with the concerned groups as to what

 2   they might have in mind?

 3   MS. PETCH: I have not been personally

 4   involved, but I know Manitoba Hydro has been, had

 5   ongoing discussions with the First Nations and

 6   NACC communities.

 7   MR. GIBBONS: And as far as you know,

 8   nothing yet has emerged?

 9   MS. PETCH: Not that I'm aware of.

10   MR. GIBBONS: Okay. Thank you.

11   And finally, this is in regards to the

12   last presentation on Monday, what I'm calling part

13   four. I'm not sure in this case whether the

14   question goes to Mr. Schindler or Dr. Rettie. I

15   think the earlier ones will go to Mr. Schindler.

16   Page 4 at the bottom slide, he talks

17   about the methods, and there were five bullets.

18   The last bullet uses the term enhanced assessment.

19   Can I get a little, just a brief elaboration as to

20   what makes that assessment enhanced? In other

21   words, how was it enhanced?

22   MR. SCHINDLER: I guess the enhanced

23   assessment relates to our report that we

24   presented, the enhanced assessment of the adjusted

25   preferred route detailing our assessment of

 1 landscape metrics, linear density in relation to

 2 moose densities, and the population monitoring

 3 that Dr. Rettie and myself undertook. So it

 4 relates to, some of the presentation materials

 5 relate to this particular report.

 6   MR. GIBBONS: And these were

 7 additional elements that were not done earlier?

 8   MR. SCHINDLER: That is correct. It

 9 was relative to assessing the cumulative effects

10 of the AFPRs and within the area of Moose Meadows

11 game hunting area 14, and then game hunting area

12 19A/14A.

13   MR. GIBBONS: Thank you. Next

14 question relates to slide at the top of page 15.

15   Now, I note here that all the rows are

16 indicated as being statistically significant at

17 .05 level or better, and that's fine. I guess

18 beyond the statistics, what I'm looking for -- and

19 if you had mentioned this during the presentation,

20 I apologize. I started using this yesterday

21 because I thought maybe the occasional word was

22 slipping by me, so it's possible that it might

23 have. But in the interpretation of that

24 statistical significance, I don't recall a sense

25 of, perhaps even speculation if that's the case,

1   as to why you would imagine that the moose are

2   closer to the linear features than had been

3   expected through the model, and what difference

4   that would make in terms of the assessment?

5   MR. SCHINDLER: I don't believe the

6   results of this model verification based on our

7   observed moose data would change any of the

8   conclusions in the EIS, or the cumulative effects

9   component. It provided an opportunity for us to

10   assess those data relative to a number of

11   features, somewhat in response to some of the

12   perhaps criticisms that we experienced in terms of

13   our model, in terms of determining high quality

14   habitat, and that moose perhaps avoid disturbed

15   areas or areas where there are, you know, linear

16   features, old trails, roads, et cetera. This is

17   part of that enhanced assessment where we had data

18   that we thought it would have some utility for us

19   to further understand and augment our conclusions.

20   So that was the purpose and that would be the

21   interpretation.

22   MR. GIBBONS: So from that, one can

23   assume then that you feel more confident of your

24   earlier conclusions based on these data?

25   MR. SCHINDLER: That would be correct,

 1   yes.

 2   MR. GIBBONS: Now, the next question I

 3   think might overlap the area that both of you

 4   worked on, because in my notes the question

 5   relates to the tables on slides 26 and 27, but

 6   also to some later tables or slides, I think the

 7   slides on page 33 and 36. And that regards the

 8   conclusion, so I'm not sure who wants to take a

 9   stab at this.

10   Statistically, obviously a P value of

11   .11 is too high to ascribe statistical

12   significance to a correlation, any of the

13   correlations in fact indicated here. But it is

14   also, from the perspective of that phrase that so

15   often appears at the end of academic articles,

16   provides inspiration for further research I think

17   comes into play here, in that when I think about

18   the slide at the bottom of page 26, in particular,

19   I did a rough calculation while you were doing

20   your presentation of what I thought was R equals

21   36, only to realize after I did the calculation

22   that it was R square, so I didn't have to

23   calculate at all. R square of .36 is a pretty

24   strong correlation. The reason why the P value

25   was so low is that the sample size, in my view, is

 1 so small. You have only eight data points from

 2 which to work. But if we throw out that table

 3 altogether, it seems to me, because there is no

 4 statistical significance, it leaves open that

 5 possibility that this is an area that's worthy of

 6 future research. An R square of .36 in the

 7 vernacular of statistics indicates about over

 8 one-third of the variation between the two

 9 variables is explained -- sorry, the one variable

10 is explained by the other. And given that there

11 is obviously this low significance level, we can't

12 say a lot about that, but does it not suggest that

13 with further research and a larger data set, that

14 we might find something rather interesting here?

15 In other words, this is an opportunity it seems to

16 me for further research. Perhaps as Hydro

17 continues its work in various areas around the

18 province, they could fund some research which

19 might provide us with more data points to see

20 whether or not this linearity that's implied by

21 the .36 will hold up with the significant data set

22 capable of providing P values less than .05.

23   MR. RETTIE: I agree. It could

24 suggest that with some additional data, you might

25 add strength to that relationship. One thing to

 1   note though is that what this suggests is that

 2   with increased linear disturbance, you get more

 3   moose. So from the perspective of a developer

 4   like Manitoba Hydro, what they would be then

 5   funding would be work to show that more of their

 6   projects are of greater benefit to the environment

 7   for moose populations, in particular. And I think

 8   that the greater concern would be is if they were

 9   causing environmental damage. And this is

10   suggesting that there's a positive aspect to

11   increased linear development.

12   MR. GIBBONS: We had heard in earlier

13   testimony, from more than one source it seems to

14   me, that one of the reason why some animals may be

15   drawn to rather than repelled by the linear

16   developments is that the undergrowth, if you will,

17   provides foraging opportunities for these animals,

18   increased berry production and so forth, once the

19   canopy is removed and things of that sort. It

20   also opens up opportunities for greater predation

21   as well by wolves and so forth. But it strikes me

22   that, as part of a long term research orientation,

23   that something along those lines is worthy of

24   continued investigation. Regardless of whether it

25   increases or decreases the moose population, it

 1   would give us something more to hang our hat on in

 2   terms of understanding the dynamic of this

 3   linearity with these predator and prey.

 4   MR. RETTIE: Well, in part that's

 5   true, but this is not just about the distribution

 6   of moose in the game hunting area and whether or

 7   not they are attracted to linear features, but

 8   this is actually their density within the game

 9   hunting area. So that would have accounted for,

10   any causes of predation or other mortality sources

11   would have been accounted for in that. We're

12   actually seeing more moose per unit area where the

13   disturbance level is higher. So that would not

14   them come, in a population level, that wouldn't be

15   a negative effect on them. If there are more

16   animals, there are more animals.

17   MR. GIBBONS: Yeah.

18   MR. RETTIE: And the kind of

19   information that would help with this would be, if

20   there were more frequent surveys conducted. And I

21   don't know that that necessarily requires a

22   research program as opposed to perhaps just more

23   frequent surveys by Manitoba Conservation to help

24   us establish benchmarks, particularly with game

25   hunting area 19 where there's never been a

 1   population estimate made by the province.

 2   MR. GIBBONS: Thank you.

 3   THE CHAIRMAN: Ms. McKay.

 4   MS. MacKAY: Yes, I have just one

 5   question in relation to the presentation by Messrs

 6   McGarry and Dyck. So I'm not sure who will want

 7   to respond to this.

 8   On your slide at the top of page 20,

 9   you were at some pains to point out to us a

10   change, the line near the top:

11   "AFPR reduces effects to lands under

12   annual crop production...",

13   you changed that to:

14   "...under crop and livestock

15   production."

16   And further down you made another change, the line

17   that's:

18   "...virtually avoids annual

19   croplands...",

20   you changed to:

21   "Virtually avoid crop and pasture

22   lands."

23   So you're putting in there the notion of the

24   importance of pasture and the impact that the

25   modification had on that, suggesting that it was

 1   reduced.

 2   And then two lines down from the last

 3   change, you say :

 4   "The modification transverses the

 5   bison ranch at 15.5 kilometres versus

 6   13."

 7   How can you say that it virtually avoids crop and

 8   pasture lands when you are transversing even more

 9   of that bison compound?

10   MR. McGARRY: Good morning,

11   Commissioners, Mr. Chairman.

12   That's a good point. But what we were

13   trying to communicate, maybe not very effectively,

14   was that in selecting those alternative routes, we

15   essentially try to avoid agricultural developed

16   area, as you can see on the satellite images where

17   the occurrences of private land holdings were. So

18   part of that is really about private land

19   holdings. Because of the late nature of this

20   process and introducing routing at this time,

21   there was a desire to avoid private land, and

22   maybe that should have been communicated along

23   with the crop and pasture land aspect of it. But

24   in general, pasture land is more or less an

25   opportunity for routing because it's pretty much a

1   compatible use of land to run a transmission line

2   through a pasture.

3   MS. MacKAY: So perhaps you shouldn't

4   have introduced the notion of livestock and

5   pasture into those earlier sentences, the change

6   you made, is that what you're saying?

7   MR. McGARRY: Perhaps it could have

8   been more focused on private land holdings. But

9   in that area, the private land holding is in crop

10 and pasture land.

11   MS. MacKAY: Do any of these

12 contradictions show up in looking at Moose Meadow?

13 I'm sure they won't in Wabowden, but in Moose

14 Meadow are there any similar contradictions?

15   MR. McGARRY: I'm not sure exactly how

16 you mean contradiction in that sense?

17   MS. MacKAY: Well, you are stressing

18 here, and I think you did in Moose Meadow, but I'd

19 have to go back to those slides to see, you're

20 stressing that it's not affecting pasture, but in

21 fact it is affecting pasture, and more pasture.

22 Which may be totally appropriate, I'm not arguing

23 that point at all. But I'm just wondering if

24 there are contradictions in what you told us about

25 Moose Meadow as well.

1   MR. McGARRY: Excuse us.

2   MS. MacKAY: That's all right.

3   MR. McGARRY: We're trying to follow

4   our own changes, and we have only one set in front

5   of us here.

6   Again, if I'm understanding correctly,

7   we don't particularly see a crop -- or a

8   contradiction. It was more about initially

9   looking at lengths of annual cropland as we site a

10 factor in agricultural land. The overriding

11 feature for us at that point was more about

12 private land. Some of the results were initially

13 listed as we are avoiding annual cropland, we are

14 reducing line length for annual cropland. But

15 overall we are reducing line length in agriculture

16 developed areas, if I'm catching your drift on

17 that.

18   MS. MacKAY: I think that will be all

19 right. Thanks.

20   THE CHAIRMAN: I'd like to follow on a

21 similar line of questioning. And basically my

22 questions relate to the bison ranch. We did

23 receive this map this morning which -- we had

24 another map that, the map that we have I'm told

25 shows the fenced area. This new map is about

 1   twice that size. And on this new map, it looks

 2   like the AFPR goes through two large swaths of the

 3   bison property, and it looks like it's

 4   significantly longer than the FPR.

 5   We knew this before and I believe it

 6   was Mr. Joyal the other day said that some of the

 7   land is privately owned, some of it is leased

 8   Crown land. Do you have an idea just how much

 9   land is involved in this bison ranch and how much

10   is privately owned and how much is Crown land?

11   MR. McGARRY: We can approximate it.

12   We don't have it exactly. We don't have the exact

13   amounts of each, but it was, as indicated before,

14   it was compiled using, in that material you have,

15   it was compiled from a repro map, which is a

16   property ownership map, and the data provided by

17   Ms. Dagdick, which came from Manitoba Agriculture

18   data.

19   MR. DYCK: There is three land holding

20   companies that we are aware of. And again, we

21   emphasize that we're not sure that we have the

22   entire, or have knowledge of the entire holding of

23   the bison ranch and its operations, the land that

24   it affects. But there's three entities, one is

25   the Conservation Bison Ranch Limited, one is Sweet

 1 Grass Ranch Limited, and the other one is Pine

 2 Ranches Limited. And under the compilation of the

 3 map I think that you have there now and that --

 4 that the area can -- or Pat can put on the screen,

 5 indicates those three entities. So any other

 6 holdings that may exist, we are not aware of.

 7   The approximate extent of that is in

 8 the neighbourhood of, just based on the quarter

 9 section parcels that we received and what's on

10 repro map, not a GIS estimate, but just on the

11 parcel fabric, in the area of 15,000 to

12 16,000 hectares. And I believe about 20 to

13 25 percent of that, again, from the repro maps, is

14 in private land holdings. The remainder is Crown

15 leased.

16   THE CHAIRMAN: About 20 to 25 percent?

17   MR. DYCK: Yes.

18   THE CHAIRMAN: Do you know who the

19 owners of these three different operations are?

20   MR. McGARRY: Only as provided, the

21 data tables we received from Manitoba Agriculture

22 indicated an owner on each set of data, and we had

23 two sets of data. The names are on the sheets.

24   THE CHAIRMAN: Are they local

25 companies or are they -- who are the owners?

1   MR. McGARRY: Well, we have heard, but

2   it would be second or third-hand information. We

3   don't have the particulars of -- we just have the

4   names on the sheets, and others have mentioned

5   their location and history.

6   THE CHAIRMAN: Nobody has thought to

7   check corporate records or --

8   MR. McGARRY: No, we haven't. As we

9   were -- this is all very new information, and its

10   direct connection to us may be somewhat limited,

11   although you have indicated you want to pursue

12   that but --

13   I was just being handed a note which

14   seems somewhat cryptic, but the map and the

15   information and the letter is of today's date,

16   March 6th. That's the extent of our information

17   right now.

18   THE CHAIRMAN: I'm sorry, Mr. McGarry,

19   I find that quite astonishing that at this point

20   in these proceedings, with you wanting to build a

21   significant transmission line through this

22   property, that you don't have much more

23   information.

24   Now, the other day when, in response

25   to questions from one of us, it may have been me,

1   I think Mr. Joyal said that the only contact with

2   the owners had been letters sent out to them and

3   you have had no response back. Is that correct?

4   MR. JOYAL: They received numerous

5   notifications throughout round four, and they

6   received two letters from us in this past round of

7   route adjustments. But we have not seen them come

8   forward at an open house or land owner information

9   centre, or they have been there and not given us

10   their names.

11   THE CHAIRMAN: Now, from our earlier

12   proceedings, particularly in agricultural country,

13   Portage la Prairie and Niverville, we heard about

14   how you have made direct contact with farmers and

15   how you have either begun or completed

16   negotiations with a number of farmers about using

17   their land. Why hasn't this been done in this

18   case?

19   MR. JOYAL: It has been. Evolve

20   Strategies have been out and spoke with these

21   landowners or leaseholders. I do not believe that

22   they have signed their easement forms with Evolve

23   Strategies at this point.

24   THE CHAIRMAN: So direct contact has

25   been made with the landowners?

1   MR. JOYAL: From what the property

2   department in Manitoba Hydro has told me, yes,

3   they have made contact, or I have spoke with them

4   and they refused to sign the forms.

5   THE CHAIRMAN: So what happens if one

6   or more of these companies strongly objects to you

7   going through the bison ranch?

8   MR. McGARRY: We would continue, I

9   mean at some point we're going to have to make

10   direct contact again, once we get to the point

11   where we need the land, you know, if we're

12   licensed in the near future, and to proceed with

13   the project. So that discussion will transpire

14   when we get to that stage.

15   THE CHAIRMAN: Now, would these

16   landowners, would they get the same sort of

17   package of compensation as a grain farmer south of

18   the City of Winnipeg?

19   MR. JOYAL: If the line is traversed

20   on Crown lease, only construction damages would be

21   paid to the lessee. Any private land ownership,

22   it would depend on, it would be likely natural hay

23   or seeded hay. Therefore, as a private landowner,

24   they would have received compensation.

25   THE CHAIRMAN: Now, do you know how

1   much of either of the purple or the green route

2   traverse private land holdings?

3   MR. McGARRY: We haven't done that

4   calculation, but from the data we have, which is a

5   2011 repro map showing land ownership, which

6   wouldn't be entirely up to date, that combined

7   with the Crown ag lease, which hopefully is

8   current, we would be able to likely determine the

9   split for each route.

10   MR. DYCK: Just to add to that, the

11 private land holdings are primarily in the Pulp

12 River area which is right at the southern extent

13 of that map.

14   THE CHAIRMAN: So perhaps where the

15 bottom of the purple line goes?

16   MR. DYCK: Correct, yes. The green as

17 well.

18   THE CHAIRMAN: Oh, yes. Okay.

19   I think that's all I have on that. I

20 must admit, I'm a little surprised at some of the

21 responses.

22   Mr. Gibbons, did that answer all of

23 your follow-on questions?

24   MR. GIBBONS: Yes.

25   THE CHAIRMAN: Mr. Kaplan?

1   MR. KAPLAN: I have a question that

2   doesn't arise from anything that you have said

3   already, but I thought while you are all here I

4   could get a clarification of something, if

5   possible. I'm going to direct my question to

6   Mr. McGarry, only because he was here yesterday

7   for most of the day, and he heard what the

8   Coalition expert said.

9   One of the points that the Coalition

10 expert said, and this is the clarification I'd

11 really appreciate, he talked of the difference

12 between analogue and digital. I assume as far as

13 instrumentation used by Hydro, analogue being

14 used, but better off to move to digital.

15   So I'm wondering, Mr. McGarry, if you

16 can reroute this question to anybody you think

17 might be able to answer it, to clarify the present

18 status of the use of analogue and the future as

19 far as digital, what's happening as far as Hydro

20 is concerned?

21   MR. McGARRY: Yes, that would be a

22 technical question well beyond my understanding.

23 I'm not sure we have anybody at this table.

24 However, we do have other people here.

25   MR. BEDFORD: Mr. Kaplan, tomorrow, we

 1   have got three engineers coming back to answer

 2   questions, and they are precisely the people that

 3   you should ask that, tomorrow. They do know the

 4   answer and they can probably tell you some

 5   additional things. But if you can hold it for 24

 6   hours, tomorrow.

 7   MR. KAPLAN: I can hold it for 24

 8   hours, certainly.

 9   THE CHAIRMAN: I think we have covered

10   all the questions we have. Probably wake up

11   tonight at 2:00 in the morning and think, oh, I

12   should have asked him that, but we have ways of

13   getting responses if we need them. So I think

14   that's all we require of most of this panel.

15   We'll turn to the fragmentation issue

16   now, and I understand there's a different person,

17   I'm not sure if any of you will be involved in

18   that. So we'll take a couple of minutes and just

19   change the panels.

20   MR. McGARRY: Mr. Chairman, I believe

21   we're ready when you are.

22   THE CHAIRMAN: Okay. Are you better

23   prepared on this than you are on the bison ranch?

24   MR. McGARRY: Well, if you want to

25   pursue that, we can -- perhaps not. Yes, I

 1   believe we are, based on the information I

 2   provided.

 3   THE CHAIRMAN: That was a shot, you

 4   didn't need to respond to that.

 5   Okay, I'm not sure that we have a lot

 6   of questioning. And my colleague, Mr. Gibbons, is

 7   going to take the lead on the fragmentation.

 8   MR. GIBBONS: Thank you. I don't have

 9   a lot of questions, but I think they will help, or

10   at least some of the questions will help us

11   understand the assumptions that are being used in

12   the analysis of the fragmentation. And I'll start

13   with an observation that, in looking over the

14   material, it struck me and others that there are

15   what appear to be on the surface some

16   inconsistencies. Now, that may be because I'm not

17   understanding the explanation. So I am open to

18   that possibility. But the example that I have in

19   mind is that that relates to three segments. One

20   is segment BC2C, and the other two are B1C1 and

21   B3C3. And the reason I raise this is that, at

22   least at a superficial level, the contiguous

23   forest in these three segments seems to be

24   proportionately similar. It's not obvious what

25   the difference might be between them. And yet

 1   B2C2 is treated differently than the other two.

 2   So I use that as an example.

 3   Can we get some explanation as to why

 4   something that appears to be on the surface quite

 5   similar ended up getting a different kind of

 6   rating? And perhaps using those examples, B2C2,

 7   and I should point out that it got a very high

 8   ranking for core community, an overall high

 9   ranking for all its biophysical and all its other

10   factors, but it was included as part of the FPR.

11   But B1C1 and B3C3 were rated low as compared to

12   the other being rated very high, and yet they seem

13   to be rather similar.

14   So can we use that as an example of

15   how we might understand this process better?

16   MR. BERGER: Certainly. One of the

17   things that we have to understand about the core

18   habitat score process is we have to think about

19   each segment relative to what would be available

20   in terms of the habitat and their patches and the

21   surrounding eco district. And that's probably one

22   of the main contextual drivers that we have to

23   understand in order to understand the core

24   community process.

25   So, for example, when we take a look

1   at situations where the coniferous forest is

2   common or plentiful in the eco district, as maybe

3   compared to the segment, the concern ultimately

4   for something that is relatively common becomes of

5   less importance or is ranked as low for

6   understanding the difference. Whereas if we take

7   a look at circumstances where coniferous forest

8   patches are rare within the eco district, and

9   become quite prevalent along the segment, those

10   are the types of circumstances which, in fact, we

11   are trying to identify in order to avoid these

12   types of patches.

13   So in the data that we use to

14   understand core communities, it can become quite

15   complex. So we do have to take a look at, we

16   still have to consider what the relative

17   comparison is between the segments versus the eco

18   district in order to put context to our avoidance

19   ranking.

20   So for B2C2, if we take a look at

21   broad leaf, for example, in table 1, the eco

22   district patch density is a low number, correct,

23   but there is no broad leaf forest at all in the

24   segment patch. So when we compare what might be

25   perceived to be a rare community type such as

1   broad leaf within B2C2, and we compare that to

2   nothing within the segment patch, our concern

3   ultimately becomes low. Because essentially what

4   we're doing is we're avoiding a rare broad leaf

5   community.

6   MR. GIBBONS: So the upshot of that

7   then would be that B1C1 and B3C3, if these

8   communities are traversed by the ROW, that there

9   are other communities of that sort in that area,

10   in that same eco district?

11   MR. BERGER: Correct.

12   MR. GIBBONS: All right. The second

13   question, and this relates again to a specific

14   segment, and that is segment B8C8, which was

15   included as part of the FPR, was given a rating of

16   low. But when I reviewed this and when others

17   reviewed it, we are struggling with why that one

18   got a low rating.

19   This is a request for information

20   rather than an answer right now, because I'm not

21   sure if you would have the answer before you or

22   not. But when there seem to be anomalies, and

23   again this may be because we are not fully

24   understanding the context of the analysis, can we

25   get additional information on that? For example,

1   the question I have here is, can we get the core

2   community assessment results for that segment?

3   Because it seems anomalous on the surface. And

4   again, I'll use that term superficially, or on the

5   surface, because it may be that there's something

6   at work there that we're not fully apprised of.

7   There's a more generic question about

8   whether or not we can get more detail about some

9   of these decisions for all the sections, but I'm

10   not sure if the Commission members want all of

11   that information. But this one sort of sticks out

12   in the mind of some as being, at least again

13   superficially anomalous. So request for

14   information on B8C8 as to how that rating of low

15   was arrived at?

16   MR. BERGER: For clarification,

17   Mr. Gibbons, is the information not contained

18   within table 2 for the core community analysis

19   under section 8 where we present the 3-mile

20   corridor as compared to the project study area,

21   and the corresponding interpretation of section 8,

22   does that not provide you with enough detail or

23   understanding of the differences?

24   MR. GIBBONS: It strikes me that the

25   concern is that the data provided suggest a rating

 1 other than low.

 2   MR. BERGER: Sorry?

 3   MR. GIBBONS: The data provided in the

 4 table suggests a conclusion that would be other

 5 than low. I guess that's where the concern is

 6 coming from. Given what we have, how do we arrive

 7 at the term low, the designation of low in that

 8 context?

 9   MR. McGARRY: Just for clarification,

10 Mr. Gibbons, then you are referring to the

11 original EIS matrix rating for core communities

12 when you say your conclusion was low for section

13 3 -- sorry, pardon me, B8C8?

14   MR. GIBBONS: This is actually an

15 observation made from the response to earlier IRs

16 actually, rather than the original document.

17   MR. McGARRY: Okay. I don't have

18 those in front of me, but, yeah.

19   MR. GIBBONS: Let's see if I can find

20 the actual in my notes. It's part of response

21 1(c) in regards to the fragmentation elements that

22 was titled summary of core community assessments

23 by 13 sections. And there's a reference there

24 that struck some of us as being unclear.

25   MR. McGARRY: I was just looking at

1 the matrix in your EIS, which had a rating of low

2 for B8C8, which was a selected segment. So the

3 table 2 in the material you have with section 3 is

4 B8C8, that is your understanding?

5   MR. GIBBONS: Yes, I don't have the

6 table in front of me at the moment, but that is my

7 recollection, yes.

8   I guess a little more information as

9 to how those data resulted in that rating of low

10 for that particular example. And again, I think

11 that helps us understand how the process worked in

12 a more general way.

13   Last question, and this actually is

14 drawn, I'll go back to the cover page, from the

15 package of February 21st, 2013, regarding

16 outstanding undertakings. And I'm looking at page

17 11 and lines 152 to 155 of that package. What I

18 will do is perhaps read it. It's a short element,

19 and perhaps I can get an answer from people

20 without necessarily tracking -- unless you have

21 the document there?

22   MR. BERGER: I believe we have the

23 document.

24   MR. GIBBONS: Okay. So lines 152

25 through 155:

1   "In the cases of mixed wood and

2   possibly broad leaf, this circumstance

3   for routing may be less desirable

4   because the three mile corridor goes

5   through more intact mixed wood forest

6   compared to its regional availability

7   in the project study area and where

8   broad leaf forest is less common in

9   northern environments."

10   The previous line says:

11   "This indicates the route passes

12   through an area with proportionately

13   more community patches compared to the

14   entire section."

15   So I guess I should have started one sentence

16   earlier.

17   If we take that paragraph in its

18   entirety, or at least the last two sentences of

19   that paragraph, the question again in helping me

20   understand how did decisions were made in regard

21   to the data is the following: If this is so, why

22   was that particular route selected, given those

23   observations? In other words, what was the

24   balancing that was done in arriving at that

25   decision?

1   MR. BERGER: One moment. We have to

2   remember that for this particular analysis under

3   which you ask specifically to do the undertaking,

4   these 13 segments, the analysis conducted for

5   these 13 segments is actually different spatially

6   than the analysis that we actually conducted for

7   the alternative routing analysis. That's one of

8   the differences we have to keep in mind.

9   So, for example, the sections that we

10 used were compared to eco districts, whereas in

11 fact for this undertaking they were compared to

12 the 13 segments, which actually go through a

13 different combination of eco districts. So the

14 results doing it by 13 sections can actually be

15 different than when you might compare it to doing

16 it in a section compared to the eco district. So

17 that's one of the differences we do have to keep

18 in mind.

19   MR. GIBBONS: I think that helps

20 understand that the analysis departed from a

21 different place, so to speak.

22   MR. BERGER: Right.

23   MR. GIBBONS: But in terms of the

24 weighting, when you arrive at a conclusion of this

25 sort in this document, it suggests that there was

1   some kind of weighting being done.

2   MR. BERGER: Correct.

3   MR. GIBBONS: And that we went this

4   way even though this may well have been more of a

5   problem as a result of this route. I'm presuming

6   then that something else was less of a problem?

7   MR. BERGER: Yes.

8   MR. GIBBONS: But I'm not getting that

9   from that paragraph. In other words, do you have

10 any recollection of what the trade off might have

11 been as to why, therefore, one did this as opposed

12 to taking a somewhat different route through that

13 section?

14   MR. BERGER: What we would have done

15 is, it may actually in fact not have been

16 ecological in terms of that final decision. We

17 would have performed our analysis, weighted the

18 different segments or options, and that

19 information would have been provided to Manitoba

20 Hydro to consider in context with all of the other

21 ranking factors that were used in the alternative

22 route selection process. So we, in fact, could

23 have recommended one of the segments as being

24 high, or another one being low, and we would have

25 had a preference based on our analysis. And then

1   we, of course, would have taken that analysis as

2   one of the 27 or 28 columns that would have been

3   used in terms of selecting or taking a look at the

4   differences between the alternative routes.

5   MR. GIBBONS: And I guess last

6   follow-up to that, and I think we have touched on

7   this much earlier in the hearing process, but with

8   all these factors that we were using, I think

9   others have perhaps raised a similar question, are

10   all factors weighted equally? This is one of 27

11   factors, but presumably not all factors are

12   weighted equally.

13   At the end of the day, obviously this

14   lost out to some other considerations. But in a

15   general sense, can you give us a sense of how much

16   the core community element played a role in the

17   decision process? I know I keep pushing on this

18   weighting idea, and then balancing --

19   MR. BERGER: I would ask Manitoba

20   Hydro to answer that.

21   MR. McGARRY: And we are right here to

22   do that.

23   Going back to the EIS, the table, the

24   route selection matrix which is table 7A1, core

25   communities for B8C8 in section 3, which is a

1 topic of discussion here, if I'm right,

2 Mr. Gibbons, that segment was chosen, B8C8, out of

3 the three alternatives. It was rated low as an

4 alternative route at that time. And the numeric

5 scoring working through the matrix in and out of

6 that segment, core communities was low,

7 fragmentation was high. Overall score was 10,

8 which numerically was less than the other choices

9 available.

10   And then together when we went to an

11 expert panel to review it all, it ended up being

12 the chosen segment. So the weighting per se is

13 not there numerically. As we explained earlier in

14 the whole process, there is some weighting behind

15 the selection for each individual factor, but when

16 they are held together, there is no multipliers.

17 And it takes an additive numeric score and then

18 it's put to an expert panel after reviewing

19 stakeholder input.

20   MR. GIBBONS: Thank you.

21   THE CHAIRMAN: I'm going to bootleg a

22 question in here, and it's somewhat related to

23 core fragmentation, or it does involve

24 fragmentation in a specific piece of forest.

25 Probably more related to site selection. But I

 1   need to get it in sometime before next Thursday,

 2   and I will try now, and if there is a perhaps a

 3   more opportune time, perhaps Mr. McGarry can

 4   notify me of that.

 5   It's a piece of the line just

 6   southwest of the Long Plain Reserve where it cuts

 7   off at an angle, it's on map 9 and 10, or section

 8   9 and 10, map 109. And that angle cuts right

 9   through one of the last pieces of contiguous

10   forest along the Assiniboine River in that area.

11   Are there concerns about avoiding

12   pieces of contiguous forest like this? This is

13   also an area, I believe, that Swan Lake First

14   Nation has some concerns about the routing.

15   MR. McGARRY: Mr. Chairman, just

16   taking out the map here to follow along.

17   THE CHAIRMAN: It's that angled piece

18   right down near the bottom of the map.

19   MR. McGARRY: That's where it crossed

20   the Assiniboine River I believe?

21   THE CHAIRMAN: Yes.

22   MR. McGARRY: So the question is, for

23   clarification, is relative to avoidance of a

24   fragment --

25   THE CHAIRMAN: It cuts right through

1   forest land, and there's not a lot of contiguous

2   forest land along the Assiniboine River, or on the

3   prairie out there.

4   MR. McGARRY: Lowland forest

5   associated with Assiniboine River, which runs

6   through an agricultural area, so you are going to

7   get residual forest through there. Where we have

8   crossed the Assiniboine River there are a number

9   of factors involved, but as you can see on that

10   map, we skirted the edge on the north side of the

11   Assiniboine River of that forest patch. On the

12   south side of the Assiniboine, we did route

13   through an area that had some forested land left

14   in that area.

15   I am trying to recall the factors that

16   are involved. But routing it through, across the

17   Assiniboine River was obviously a factor. We had

18   Long Plain First Nation to the north, we had

19   approximately a 2-mile offset from that reserve

20   land. There is a number of things that lead to

21   the location along the Assiniboine River we were

22   looking to cross, because we had to go southeast

23   at that point, and line up with an alignment

24   further south before it went fully east.

25   So traversing land in that area that

1   is still forested, we didn't see as a major issue

2   in routing because of the nature, you are on an

3   agricultural landscape, there is going to be

4   bottomland forest in a number of areas, as you can

5   see on that map. So it came down to a practical

6   choice of where we were going to cross.

7   THE CHAIRMAN: Did you say there was a

8   2-mile offset from the reserve?

9   MR. McGARRY: I'm just looking at this

10 map -- roughly.

11   THE CHAIRMAN: Is that a standard that

12 you would sort of avoid reserves by two miles?

13   MR. McGARRY: No, that is not a

14 standard. It was just, I guess how it lined up

15 coming down from the north. The alternative

16 routes were slightly closer to Long Plain

17 initially, but there was a better alignment

18 further to the west in this case.

19   THE CHAIRMAN: Now, am I correct in

20 recalling that this specific piece of the line is

21 the one that Swan Lake First Nation is quite

22 concerned about?

23   MR. McGARRY: Yes, that's correct.

24   THE CHAIRMAN: Are there continuing

25 discussions in that regard?

 1   MR. McGARRY: Yes. We sent a letter

 2   to Swan Lake recently and we have just heard back

 3   from the First Nation that they are agreeable to

 4   sit down and discuss with us again routing in that

 5   area. So we're pleased with that. Our

 6   discussions will continue on trying to route

 7   through that area of interest to them.

 8   THE CHAIRMAN: Now, you may not be

 9   able to answer this question but I'm going to

10   throw it out anyway. What happens if you don't

11   come to an agreement with Swan Lake, you don't

12   come to an agreement with the bison rancher, do we

13   have to come back and revisit other reroutes in

14   the future or --

15   MR. McGARRY: Well, what we're

16   discussing with Swan Lake right now, for instance,

17   we agree with their concerns about preservation of

18   culture and heritage sites, and we have no desire

19   to interfere. We believe from earlier discussions

20   that it is possible still to route through that

21   area, with a lot of caveats and perhaps additional

22   study. We don't have to build that segment this

23   year, or maybe even next year. There is time for

24   us to do additional study to make sure we avoid

25   things of interest to Swan Lake. So we're still

 1 confident that we can find a solution in that area

 2 without a major reroute in that area.

 3   And as for private land holdings,

 4 bison ranchers or anybody else, it is the same

 5 process whether in Southern Manitoba or in the

 6 Pine Creek, Pine River area.

 7   THE CHAIRMAN: Thank you. I have no

 8 further questions.

 9   Do either of the participants present

10 in the room have any questions on fragmentation

11 issues? Any members of the public? I am not sure

12 there are any members of the public. They all

13 seem to be affiliated somehow or other.

14   Okay. I think that will conclude

15 questioning of this particular panel. Thank you

16 very much for coming out today. We'll take about

17 a 15 minute break and then come back with

18 Mr. Mills and Pine Creek First Nation.

19   (Hearing recessed at 10:02 a.m. and

20   reconvened at 10:18 a.m.)

21   THE CHAIRMAN: Okay. We'll reconvene.

22 Mr. Mills and Mr. Stockwell, I'll turn it over to

23 commission secretary.

24 Warren Mills : Sworn

25 John Stockwell: Sworn

1   THE CHAIRMAN: Go ahead, whichever of

2   you is taking the lead.

3   MR. MILLS: Good morning,

4   Mr. Chairman, Commissioners, our friends from

5   Manitoba Hydro and the Province, and everybody who

6   chose to come out this morning.

7   John Stockwell and myself, Warren

8   Mills, represent and assist Pine Creek First

9   Nation. We were asked by the community last July

10   to assist them in attempting to understand the

11   Bipole III process and the potential for effect in

12   the community. We have enjoyed that process.

13   Pine Creek First Nation is a unique community.

14   And in a few moments, I'll ask John to give you a

15   brief overview of Pine Creek so you can better

16   understand our client and who they are and what

17   their parameters are.

18   We absolutely must open and close our

19   presentation by in fact thanking Manitoba Hydro.

20   Shannon Johnson, Deirdre Zebrowski, Glenn Penner,

21   Pat McGarry, and recently Fiona Scurrah, have been

22   candid, forthcoming, and have provided us by and

23   large with solid answers to any questions we have

24   asked of them. And we want to be clear that,

25   regrettably, sometimes our points made on Hydro

 1   have seemed confrontational, but we do respect,

 2   acknowledge and appreciate all the assistance they

 3   have given us.

 4   John has a brief description on the

 5   community and I'd ask him to provide that to you.

 6   MR. STOCKWELL: Mr. Chairman, panel,

 7   and proponent and participants and guests, Pine

 8   Creek is a small community on the shores of Lake

 9   Winnipegosis. It is four miles wide by

10   seven miles long. It hold approximately 1,350

11   residents. There are 2,600 registered members and

12   there are about 3,600 people in the area,

13   including Duck Bay and Camperville that consider

14   themselves Pine Creek family.

15   Today, the community is saturated due

16   to lake level flooding, and in recent years due to

17   river flooding. The community is situated in kind

18   of a funnel shaped watershed where the waters come

19   down from the east side of the Duck Mountains and

20   flow through a number of rivers, three of which

21   enter Pine Creek Reserve, and two of which cause

22   considerable flooding. And the flooding is on the

23   western side of the reserve. And in that area,

24   that's the area of the North Duck River, it's

25   about 20 feet higher than the east part of the

 1   reserve, so that's kind of unusual that that would

 2   be flooding as well. But it's flooding from river

 3   flooding as opposed to the lake flooding on the

 4   east side.

 5   During the flood of 2011, the

 6   community fought the flood almost on its own,

 7   sandbags, they doubled up families, there were no

 8   hotel rooms rented by the community members. It

 9   was a very good example of three of the seven

10   values, sharing, respect and humility of the First

11   Nations people.

12   There is a map of Pine Creek.

13   Unfortunately, it's not very visible to everybody,

14   but it's to my left, right behind the panel

15   members. Unfortunately, I think you have to come

16   up and view it physically to see what the reserve

17   looks like.

18   This is an old map. There has been

19   aerial photographs made of the reserve following

20   the 2011 flood but we can't seem to get ahold of

21   them right now.

22   I wanted to go just a little bit

23   through the history of Pine Creek, as far as some

24   of the events that have occurred to Pine Creek and

25   some of the experiences that they have had since

1   signing of the treaties.

2   Pine Creek is a Treaty 4 reserve, and

3   the reserve was signed, although there is some

4   argument about whether or not it actually was

5   signed by the First Nation, in the late 1800s.

6   One of the first experiences they had,

7   I would say a negative experience, was concerning

8   the Swan River haylands, which were traditional

9   lands that the Pine Creek people and many of the

10 people of the Treaty 4 group used during the

11 summer months. What I'm told by the lands manager

12 of Pine Creek is that during, in 1900, the Swan

13 River haylands had been used historically, and

14 suddenly they were in danger. The government was

15 telling the people that were using the haylands

16 that they were in danger of flooding and they

17 would have to move away from the haylands and not

18 come back to the haylands, not set up any

19 permanent or temporary shelters in that area. And

20 shortly after, the haylands were converted to

21 farms during the ensuing years.

22   Early in the 1900s, previous to the

23 1930 Crown Land Transfer Act, the residents or the

24 members of the band enjoyed Winnipegosis fishing

25 and they made a living from fishing. They were

 1   involved in forestry and they were involved in

 2   freight. There's a considerable amount of freight

 3   that went on in Lake Winnipegosis, moving timber

 4   from the north to the south and so on. The

 5   largest part of their economy was a result of

 6   fishing.

 7   In the 1930's, the Crown land transfer

 8   occur where the Crown land was more or less given

 9   over to the Province by the Federal Government,

10   and the responsibilities of administering that

11   land was given over to the Province. There was

12   absolutely no consultation with First Nations at

13   that time, and this is a sore point, certainly

14   today, with Pine Creek.

15   During the 1960s, we're probably all

16   familiar with Grand Rapids and the flooding of

17   Cedar Lake, but one of the things we're probably

18   not all aware of is that during that time the

19   reserve of Chemawawin was relocated. It had been

20   flooded out, it was relocated, and they were

21   without traditional lands, traditional -- mainly

22   trapping lands. And during that time, Pine Creek

23   traditional lands were offered to Chemawawin by

24   Manitoba Hydro and the Province. And in fact,

25   they had the cooperation of Pine Creek, because

1   Pine Creek wanted to share their lands with

2   Chemawawin. There was no animosity between the

3   bands at all. And Pine Creek was given, we would

4   call it future considerations in this day and age.

5   But to this day nothing has happened with sort of

6   returning, or the obligation to return some Crown

7   Lands, or some lands, traditional lands to Pine

8   Creek.

9   In the 1990s, their fishery collapsed

10   due to commercial overfishing is what our

11   understanding is. And that would represent

12   probably close to 30 percent of the income that

13   the band members enjoyed.

14   At the collapse of the fishery, there

15   is another sore point that Pine Creek has. At the

16   collapse of the fishery, the government introduced

17   a program that would help First Nation fishermen

18   buy boats and equipment to fish in a collapsed

19   lake. And this, to this day, still brings up a

20   bad taste in the members, within the members.

21   In 2010, the moose season was closed,

22   and this again was a very important source of

23   protein and diet to the members of Pine Creek.

24   Today, the community is saturated.

25   The septics are bloated. They are all inground

1   septics and they are all underrated, they would

2   not pass, come close to passing the standards that

3   we have for septics today.

4   Next to the septic tanks, also

5   inground are potable water cisterns, and they are

6   of course now bathed in sewage. The school

7   attendance is way down and the healthcare facility

8   attendance is way up.

9   I just wanted to give a few points in

10 the history, but as a result of this, Pine Creek

11 is a poor community. They have little hope for

12 the future, and they are certainly reluctant about

13 development in their traditional land and in their

14 areas. I think that will cover it for now.

15   MR. MILLS: Thanks, John. I know

16 those are heartfelt words.

17   I grew up as a Hydro brat and I spent

18 45 years with my father, a proud Hydro employee.

19 And every Sunday night we would sit at the dinner

20 table and he would present Hydro's position on

21 Grand Rapids and Missi Falls, Notigi Long Spruce,

22 South Indian Lake. And I, as a young

23 environmental studies student, would present

24 counterpoint. And we had some great discussions,

25 arguments. Some of my best memories are those

1   times with my father. And I suspect somewhere he

2   and my mom are staring down right now killing

3   themselves laughing.

4   Mr. Chairman, through the process of

5   discussion and review with Pine Creek First

6   Nation, we did hear many arguments with regards to

7   Treaty issues and much larger issues that we don't

8   have the ability or authority to discuss or

9   review. I'm sure you have, and will hear those

10 from others. John and I chose, and with the

11 support of Chief Charlie Boucher and his strong

12 council, we chose to attempt to determine the

13 issues that we felt we could, in fact, address

14 within this process. Some have referred to it as

15 the bread crumbs, but we believe that if we can

16 work cooperatively with the Province and Hydro

17 through the oversight of the CEC review and

18 recommendations to the Minister, we do, amongst us

19 all, have the ability to make a series of

20 improvements on the Pine Creek First Nation

21 community and those very wonderful people.

22   You probably have the outline of the

23 points which we distributed. I don't intend to

24 read them, but I will troll through them and

25 perhaps add some additional input and comments.

1   We, John and I and Chief and Council

2   of Pine Creek, pride ourselves in our attempts to

3   consult and communicate and share information

4   through this process. And as we have previously

5   indicated, we cannot fault Manitoba Hydro for

6   their access and support, and we wouldn't be here

7   today in a positive light were it not for their

8   contribution.

9   We must comment on the elephant in the

10   room. And Mr. Chairman, I'm sure it's been

11   difficult for CEC to oversee the matter and we

12   don't ask for your comment in any way, but we do

13   observe that this is a long arduous process that

14   participants are best represented with funded

15   support, with witnesses, with technical

16   information, and you can't help but noting that we

17   have none of that with us today.

18   We would encourage CEC in their report

19   to the Minister to emphasize that the consultation

20   does not end with the CEC process, and we would

21   encourage your report to the Minister to include

22   mechanisms to allow all of us to continue to share

23   information and look for solutions rather than

24   arguments.

25   The issues of the watershed, we have

1   heard, and we respect Manitoba Hydro's very well

2   thought out and well presented watershed argument.

3   We continue to believe that any water added to the

4   Pine Creek situation will be trouble. And we now

5   argue that any additional waters that the Bipole

6   right-of-way might contribute to the Pine Creek

7   watershed, and with particular emphasis on the

8   final preferred route, will wash down through the

9   legs of 4,000 plus bison, an issue we'll get to

10   later in our presentation. But it must be noted

11   in the communities' concerns on watershed quality

12   that any amount of water that Hydro contributes

13   will add to the septic rinsing which downstream in

14   the community is causing no end of health issues

15   to the First Nation.

16   I witnessed in the community a few

17   months ago a beautiful young lady at the band

18   office, and I had an opportunity to talk to the

19   health nurse, and she indicated that those sores

20   that I was troubled by were in fact septic sores.

21   And I know we have had a lot of push

22   back through this process from the Provincial

23   Water Stewardship and Conservation, and we have

24   had fair meaningful discussion with Manitoba Hydro

25   with regards to the effect on watershed and water

1 quantity and quality. But this is an issue,

2 Mr. Chairman, that isn't going away. And if we

3 pass over it today, as there seems to be almost a

4 willingness to do, I am confident that we will be

5 reading about this in the not too distant future.

6   We have noted that required to

7 resolve, there needs to be a comprehensive study

8 of the watershed. Regrettably, we're here staring

9 at Manitoba Hydro, but we believe that the

10 Province and Hydro have a role to play in

11 undertaking that study. They certainly have the

12 resources and the capability. And we would hope

13 that your report to the Minister would encourage a

14 comprehensive watershed study so that the net

15 effect of changes to the Duck Mountain watershed,

16 to Pine Creek, and as well to adjacent First

17 Nations.

18   We have recently heard from

19 Tootinaowazibeeng on the south edge of the

20 mountain that they are suffering with almost

21 identical problems.

22   We note in passing on the watershed

23 concerns that our friend at Hydro did indicate

24 that the waterway studies that they had performed

25 in the initial EIS did cover all of the affected

 1   waterways. We didn't comment at the time, but we

 2   do note that the alternate final preferred route

 3   does seem to now cross the Drake River, which is a

 4   very large substantial watershed that we don't

 5   believe has been reviewed by Hydro's consultants.

 6   The route consideration, and we will

 7   at this point discuss the conflict that the First

 8   Nation, the very real conflict that the First

 9   Nation feels with the rapidly growing bison

10   operation. We have some additional information,

11   and we hear discussions and we have seen maps and

12   charts. We believe there are at least four

13   companies involved under one ownership. The two

14   named companies that Ms. Dagdick had provided to

15   Mr. McGarry, which generated the map that we have

16   all had a chance to look at, there are at least

17   two additional companies, one of which is a

18   numbered company. We have heard discussions with

19   MAFRI, that's Manitoba Agriculture, that that farm

20   has intentions of growing significantly larger.

21   We believe today, Mr. Chairman, our information

22   indicates that the bison holdings are currently

23   approaching 70 square miles. I don't know that

24   you have been provided with the lands information,

25   but we will attempt to get it to you. We have a

1   copy of it, Ms. Dagdick had shared it with Hydro.

2   But you will see on that that the accumulation of

3   Crown leases is happening amazingly quickly,

4   without public input or consideration. And we

5   would suggest, Mr. Chairman, that the bison

6   accumulation has a Provincial lands component as

7   well has as of yet been unacknowledged.

8   We're disappointed in regard to the

9   bison matter, Mr. Chairman, because we have raised

10   our concerns with the Province as early as

11   August 28th of the last year. I can find at least

12   15 documented references where John and I and

13   Chief and Council have raised our concern with

14   Provincial Conservation through the parallel

15   process. And at the completion of our November

16   hearings, Mr. Chairman, we left this room and we

17   shared with both Conservation and Manitoba Hydro

18   our concerns of the bison ranch. And I'm as

19   disappointed as you are that we sit here today

20   with a very sketchy understanding of the scope and

21   intent, size and significance of that VEC. And we

22   believe that the information is held by MAFRI and

23   the Province of Manitoba. And that if

24   Conservation has the lead, as we were assured back

25   in August, of this process, it does have the

 1   ability to obtain.

 2   We'll come back to bison at the end of

 3   our presentation because we have some strong

 4   thoughts there.

 5   The First Nation is a very poor First

 6   Nation, Mr. Chairman, with very little

 7   opportunity. And the food of the land is

 8   essential to the health of the community.

 9   In the 2006 Minister's report, the

10   then Minister of Conservation and the Watershed,

11   Minister Melnyk, observed in her report that the

12   fishery in Lake Winnipegosis was lost in 1999.

13   There is some indication today that it may be

14   returning, but the community members who relied

15   upon the fishery as an economic opportunity, as

16   well as a very significant healthy food source,

17   assure us that neither the economy or the food

18   source of the fishery has returned to the

19   community.

20   The community has, for as long as they

21   can remember, relied upon the moose. I believe we

22   heard Chief Boucher refer to the integrity of the

23   community's harvest of the moose, and I believe he

24   talked about the complete use of the animal by

25   First Nations hunters, as opposed to photos and

 1   racks that may be used by those who purchase their

 2   tags and tickets.

 3   The First Nation was staggered when,

 4   with very little consultation, arguably none, the

 5   Province of Manitoba implemented a moose hunting

 6   ban in game hunting area 19A. And the First

 7   Nation find itself now with their two significant

 8   protein food sources, their fish and their moose

 9   source lost to them.

10   Some of the band members arguably are

11   travelling as far west as Saskatchewan to hunt

12   moose. And I have witnessed firsthand that

13   hunters are returning from other regions with

14   moose to share with the elders. But I know for a

15   fact that the distribution and availability of

16   moose meat and pickerel within the community is

17   missed, and there is a serious effect on the

18   health of the community.

19   It isn't perhaps a Hydro issue,

20   although we talk about moose and we will get back

21   to it with the routing of Bipole III through the

22   traditional lands, but it is an issue that must be

23   addressed because several thousand people are

24   significantly affected by that moose ban.

25   You have heard us talk in our

1   examination of the 22 traditional herbs and

2   medicines that the community relies upon. And

3   Mr. McGarry and I bantered yesterday, but there is

4   a booth at The Forks where the traditional herbs

5   and medicines of Pine Creek are marketed. The

6   community relies upon the forest for their

7   medicinal sources as you and I would rely upon

8   Shoppers Drug Mart or any of our commercial

9   sources. And where we would purchase Tylenol, the

10 community goes into the woods and sources it.

11   The First Nation is quick to

12 acknowledge that the size of the Bipole

13 right-of-way viewed in empirical terms isn't

14 significant compared to the overall size of their

15 traditional forest. Their concerns are the access

16 that will be created, and their concerns are the

17 herbicides that will be used. And we reference

18 herbicide. We must be quick to acknowledge that

19 we have had some very strong, very healthy

20 discussions with Manitoba Hydro with regard to

21 herbicide use, and we do have a commitment from

22 Hydro that herbicides will not be used during

23 construction. We are working on a similar

24 extension to the ongoing maintenance of the

25 right-of-way through the Pine Creek watershed, and

1   we have a good feel that our friends at Hydro are

2   starting to agree with us in that regard.

3   Mr. Chairman, I know that the

4   Provincial consultation is viewed by the

5   Commission as perhaps a separate process. But we

6   don't believe it's necessary for Pine Creek First

7   Nation to meet with Provincial consultants and

8   have them forward to the Minister the very small

9   issues that need and could be resolved through

10 this process. And we heard very early on the

11 concerns expressed by First Nations in the north

12 with regard to construction traffic and the

13 conflict, the gravel roads, the concerns expressed

14 with regard to the conflict of community travel.

15 We shared that with the First Nation and

16 light-bulbs went off. We listened further, and we

17 heard Hydro, and we understand the rationale

18 indicate that the preferred clearing and probably

19 construction is best done during winter months.

20 As we all recently didn't enjoy the experience of

21 dark mornings and dark evenings, it's apparent to

22 us that Hydro's construction schedule will overlap

23 with construction traffic coming and going on

24 shared roads with community school buses. We

25 don't understand why it's necessary for the

1   community and their advisers to attempt to draw

2   MIT to the table to address the simple issue of

3   adding street-lighting to high speed T

4   intersections within the community, when the same

5   street-lighting is available for adjacent non

6   Aboriginal communities.

7   And Mr. Chairman, we would like to

8   focus for a minute not on the highway traffic, but

9   on the mechanism of the discussion of the highway

10 traffic. John and I, at numerous meetings with

11 the Province and at several meetings with Manitoba

12 Hydro, raised that issue of concern. We asked

13 specifically of the Province that that concern be

14 addressed through the TAC process, and that we

15 asked for Manitoba Transportation to offer their

16 observations, comments, wise advice on a matter

17 which is clearly their domain. And we were

18 disappointed and angry when the TAC comments came

19 back and MIT not only didn't have a comment, but

20 hadn't bothered to have any comment. And we'll

21 come back to that a little later on.

22   We acknowledge that Manitoba Hydro has

23 been open and forthcoming and has offered on

24 several occasions, and we have not as yet been

25 able to implement the meetings that Hydro has

1   offered for discussions with the community

2   trappers. And we don't suggest that Hydro has any

3   fault or blame. A series of issues and events in

4   the community have prevented those meetings from

5   taking place.

6   Regrettably, Hydro has been able to

7   enter into some compensation agreements with

8   neighboring Metis communities, and now all we

9   would offer with regard to effect on trappers is

10 that we hope that Hydro's work with the Pine Creek

11 First Nation will be along similar lines to the

12 adjacent Metis community settlements, which we

13 understand they have been able to enter into.

14   Mr. McGarry spoke a few minutes ago

15 about Manitoba Hydro having lots of time to review

16 the Swan Lake concerns with regard to the

17 Assiniboine River and Assiniboine Forest crossing

18 and routing. Yet we must observe that

19 Ms. Zebrowski and Manitoba Hydro have indicated

20 that there is no longer sufficient time for Pine

21 Creek First Nation to undertake a proper

22 self-directed Aboriginal traditional knowledge

23 review.

24   We have indicated, and Hydro is aware,

25 that the Chief and Council find the Hydro ATK,

 1   which is relied upon, seriously deficient. We

 2   would suggest that the concerns raised with

 3   Ms. Petch in the last few days, and certainly the

 4   significant concerns that we're going to talk

 5   about with regards to the relationship of the

 6   bison herd and the conflict that it represents

 7   with the community's Aboriginal traditional

 8   knowledge, would make it clear to anyone who can

 9   connect those simple dots that the community and

10   Hydro and Conservation do not thoroughly

11   understand the lands immediately adjacent to Pine

12   Creek. And it is clear that Bipole III will pass

13   through those lands.

14   Mr. Chairman, Mr. McGarry indicated

15   that Hydro has time for them to review the

16   traditional land and concerns around Swan Lake,

17   and we agree with him. Hydro as well has time to

18   complete the study and review of the concerns that

19   Pine Creek First Nation has with regards to what

20   they believe is a seriously deficient Aboriginal

21   traditional knowledge study.

22   We have heard from our northern First

23   Nations their concerns with regard to the

24   cumulative effect on community health, and we have

25   heard Mr. Osler discuss and share information.

1   The community cannot come anywhere near

2   understanding, and we have not had the resources

3   or ability or depth to provide them with the

4   support or assistance they are looking for. The

5   anxiety and distress that we have witnessed in the

6   community over the Bipole III process is

7   significant. With no disrespect to our wonderful

8   Pine Creek First Nation friends, there is clearly

9   a very edgy, very angry, very alienated group

10   within the community.

11   John and I are of the opinion, and we

12   have shared it with council, that the cause is

13   just a lack of understanding. And yes, we have

14   provided cards and posters, and we agree with

15   Mr. Joyal, he has done a terrific job of showing

16   Hydro's willingness to share the information. But

17   Mr. Chairman, there's some disconnect there.

18   Because as much as John and I -- and we spent a

19   substantial amount of time in the community

20   working with really good people there -- there is

21   an anxiety and distress that we cannot grasp, we

22   can't even describe. When we talk about it, we

23   hear the anger and bitter rehashing of old issues

24   and old items that have happened to the community.

25   And we can't emphasize enough that the issues that

1   exist between the First Nation that we can

2   represent and Hydro and Conservation require so

3   much more than, with no disrespect, Trevor, than a

4   saturation of offers to talk.

5   Simple issues need to be addressed.

6   The community held -- I recently had an item fed

7   to me and I'll refer to it, and our friends at

8   Hydro will be familiar with it. We had a

9   community meeting with Hydro on October 11th. The

10   community asked if there was any ability for the

11   Manitoba Hydro district operator to share some of

12   his line clearing budget with the community, so a

13   few band members could get to work and clear some

14   trees that had fallen over a power line and had

15   caused a serious power outage in the June 24th

16   wind storm. We had assurances from Hydro members

17   present and from the district operator that they'd

18   get right back to us. And we have mentioned the

19   issue, and I'm sure Shannon would feel that we

20   need to be more emphatic, but so many small

21   kernels of the relationship between the community

22   and Hydro, Mr. Chairman, that with some attention

23   and some consideration, I think that a lot of the

24   unrest and disappointment could be addressed with

25   just quite simply some punch lists of discussions

 1   and items that have been talked about that could

 2   be followed up on.

 3   Economic development, we have had a

 4   very honest -- and I don't say honest with any

 5   suggestion that Hydro has been dishonest. I

 6   should say we have had some very forthright and

 7   candid discussions with Hydro with regards to

 8   opportunities for the First Nation to share in the

 9   work that needs to be done with Bipole III. And

10   although we table it, and I indicate meaningful

11   discussion followed by real documented

12   commitments, that's written, with no disrespect to

13   the hard work that has taken place outside of

14   these meetings with Hydro. And we do hope that

15   before the completion of this process, we will be

16   able to confirm, a confirmation of the economic

17   benefits that Pine Creek and Hydro are actively

18   involved in.

19   TAC inclusion. Mr. Chairman, on the

20   last page of your report I provided you with our

21   summary of the TAC overview. And it needs to be

22   spoken to and we speak to it with great

23   disappointment. Through our discussions and our

24   attempts to resolve issues with Provincial

25   Conservation, the lead, as we were told, in the

 1   Provincial process, we have raised so many issues

 2   with the Province and we have encouraged, asked,

 3   begged, cajoled, and in fact we have received

 4   assurances from the consultation process that our

 5   concerns would be taken to TAC. As recently as

 6   early January, Mr. Chairman, in anticipation of

 7   the supplementary report going to TAC, we had

 8   asked the representatives of the Province if we

 9   could work with TAC and provide them with our

10   concerns. And we were assured that we were not

11   allowed access to TAC, but that our concerns would

12   be heard.

13   Mr. Chairman, of the 26, and all I

14   have to go on is Ms. Dagdick's e-mail forms, but

15   it appears to us that of the 26 requests for TAC

16   comment, 25 went to Provincial technical advisory

17   committee members, and there are two real

18   responses from that request.

19   On the basis of that, Mr. Chairman,

20   the director of the EAB sends correspondence to

21   yourself indicating to you that she's reviewed the

22   TAC oversight and she's comfortable leaving it to

23   us to continue that oversight through this

24   process.

25   It's a tremendous opportunity,

1   Mr. Chairman, for real concerns to be tabled, to

2   be discussed, to be shared, and for the best

3   technical advice within the Province to be offered

4   back to the Commission and to ourselves. And we

5   would hope that one of your recommendations to the

6   Minister would be that TAC either work, or the

7   promise of TAC be removed from the process.

8   Candidly, we find the TAC performance tragic.

9   The community liaison we noted, but we

10 are also quick to confirm that we have had very

11 healthy conversations with Hydro. Hydro has

12 reviewed their ability to support community

13 liaison. And in our ongoing discussions, we look

14 forward to completing the discussions we have had.

15   Finally, Mr. Chairman, on our points,

16 and then we'd like to make a specific presentation

17 on Pine Creek's relation to the bison herd in

18 closing.

19   Subsequent oversight. When we entered

20 into this process, Mr. Chairman, one of the first

21 things we did was review Pine Creek's previous

22 relationship with the Clean Environment Commission

23 and the licensing process. And in 1996, the Clean

24 Environment Commission underwent a very parallel

25 review of which Pine Creek provided to 1996

 1   standards their contribution.

 2   Several things happened. The Clean

 3   Environment Commission observed in closing that

 4   the First Nation clearly felt that they hadn't

 5   been adequately involved and hadn't been allowed

 6   adequate participation. I like to think, and I

 7   cannot speak to this matter for chief and council,

 8   but from my perspective I like to think that a lot

 9   has changed, and in fact that observation of Clean

10   Environment Commission in 1996 today has been

11   realized by Pine Creek First Nation.

12   A permit was issued, LP 2191(e) for

13   any who care to read it, and very shortly

14   thereafter the permit recipient published their

15   version of the permit, a significantly revised

16   version of the permit. And that permit stands on

17   their website today as the permit in play. We

18   would encourage anybody interested in this process

19   to review clause 17 of the LP2191(e) permit as

20   issued, and go to the LP website and review clause

21   17, as LP and the province operate under it today.

22   And I think you'll find several levels of

23   oversight seem to have been removed. Fortunately,

24   at one point the coast guard was added to that

25   level of oversight.

1   I digress, Mr. Chairman, and I realize

2   that LP's permit is not CEC's issue today. But we

3   think that the previous process and today's

4   process needs to be considered and understood.

5   Because the errors of yesterday, not corrected

6   today, are a comment on all of us.

7   In closing, and before we share our

8   bison information, Chief and Council of Pine Creek

9   indicated clearly on November 16th, indicated

10   again on December 15th, or 18th, to Manitoba Hydro

11   that with these matters not resolved, not cheques

12   written as some would say, but with these matters

13   fairly spoken to, Pine Creek First Nation Chief

14   and Council respect that Bipole III is an

15   important part of the continued development of the

16   Province of Manitoba.

17   We clearly understand that the

18   likelihood of it not proceeding is very slim. And

19   we would hope that rather than rail against it, we

20   can work with it and find shared solutions to Pine

21   Creek's concerns.

22   And if there are any questions, or if

23   you'd rather we share our bison information, we

24   leave it to the Chair.

25   THE CHAIRMAN: Proceed with your bison

 1   information and then we'll open the floor.

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

 3   Mr. Chairman, we have three documents

 4   we'd like to share with you. This first document,

 5   I apologize for the shiny face, it's a laminated

 6   repro map of the Pine Creek First Nation. We

 7   believe this photo was taken in approximately

 8   2006. It's an undated photo.

 9   The yellow line is the outline of the

10   First Nation. That line was set down when they

11   signed the Treaty and it hasn't changed since.

12   The community's concerns about the

13   watershed and Bipoles affecting the waterway, it's

14   hard to see, but the very significant North Duck

15   runs through the community at this point. The

16   Slater runs through the community at this point.

17   And the Pine enters into the community at this

18   point.

19   Some perspective, the Federal and

20   Provincial Government overflew the community in

21   2011 in order to observe the extent of flood

22   damage. The photos exist. We have asked for

23   them. They haven't been forthcoming. It will be

24   a chapter in my book.

25   What you see right here are the sewage

 1   lagoon, 22 of the 160 homes in the community are

 2   on a piped sewage system. And the lake

 3   immediately to the south of it, today these two

 4   lakes exist as one, and this unnamed lake, during

 5   the fall of 2012, breached the south edge of the

 6   community sewage lagoon. So the water levels

 7   within the community have risen to a point of

 8   distress.

 9   The lake level on June 21st, 2012 was

10   833.25. This is McKay Point, several homes in the

11   community, the main floor joists are nine to

12   14 inches above lake level. What we see right

13   here is the community sports field. There are

14   four ball diamonds there with beautiful chain link

15   backstops, bleachers, a parking-lot, a tremendous

16   beach for the children. Unfortunately, the first

17   two rows of the bleachers are under water today.

18   The community has lost its sports complex.

19   I am not a sociologist and I can't

20   attribute the loss of a sports field to anything

21   else in the community, but it's evident as John

22   and I work within the community that the youth of

23   the community is not in a positive frame of mind

24   at this time.

25   The Slater River that passes through

1   the community here and offers some drainage into

2   these waterways starts in the Duck Mountain. And

3   in the Duck Mountain at Wellman Lake is a school

4   of brown trout that anglers from all over the

5   world come to Manitoba to attempt to catch. And

6   the water of Wellman Lake is pristine, clear, it's

7   sweet water. It finds its way into the Slater,

8   and 45 miles later, within the community of Pine

9   Creek where these three waterways enter into Lake

10 Winnipegosis. At the water treatment plant, the

11 community draws its drinking water out of the

12 delivery of these waters into Lake Winnipegosis.

13 At the water treatment plant the community draws

14 the accumulation of these waters through a state

15 of the art reverse osmosis water filtration

16 system, then through a supplementary filtration

17 system, and then injects the maximum amount of

18 chlorine that Health Canada will allow. And we

19 lost the chlorine injection in the fall. And

20 three and a half hours later, we had a boil water

21 advisory for e coli and coliform.

22   The water in the creeks and ditches is

23 enjoyed by the young children and their animals,

24 and the water testing of, sample testing

25 throughout the community is frightening. Our

1   concerns about the watershed are real. And we do

2   recognize, Mr. Chairman, that it's a thin

3   connection to Bipole III, but we do view it as an

4   opportunity, and we are attempting to use it as an

5   opportunity to focus our concerns.

6   We'll get to the bison. Mr. McGarry

7   has talked of the bison. And this is a repro map

8   that Pat referred to. The lands in purple are

9   Crown lands. You can see the line of the final

10   preferred route passing through here, and the

11   alternate final preferred route passing through

12   here. Both routes pass through the shaded areas

13   which are the lands that we know are held by the

14   bison operator. The map that Mr. McGarry shared

15   with us, we understand, Pat will correct me if I'm

16   wrong, was work that Hydro graciously did with the

17   information that was provided to us by

18   Conservation, who had received some information

19   from MAFRI, the Provincial lands.

20   We understand that there are four

21   corporations, two named, one numbered, and one

22   shadowy, that are accumulating lands in this area.

23   We have overflown, have quadded,

24   sledded and walked sections of the fenced

25   enclosure within those lands, and we cannot tell

1   you if it is one enclosure, possibly four

2   enclosures. We have debated at length with a

3   Conservation Assistant Deputy Minister with regard

4   to whether or not this bison enclosure and the

5   herd constitute a feed lot. We argue that it

6   does. If it does constitute a feed lot,

7   Mr. Chairman, a manure management plan or perhaps

8   even a CEC appearance would be in order. But

9   regrettably today, Provincial Conservation argues

10 with the bison developer, that this is free

11 grazing and, therefore, there is no oversight or

12 controls on the herd.

13   We do note that the herd freely grazes

14 and contributes to the Slater, and probably to the

15 Pine. And we are quick to acknowledge that we are

16 pursuing Federal Fisheries, and Provincial, and

17 other access to acts and regulations with regard

18 to water quality.

19   We remain, sadly, because we work with

20 some good people in the Province, but we remain

21 disappointed that Provincial Conservation, MAFRI

22 and Lands continue to support this development.

23   We have heard rumours -- I shouldn't

24 say rumours. An Assistant Deputy Minister of the

25 Province of Manitoba told us that he believes that

1   the bison farm is intending to grow, in his words,

2   all the way to Cowan. And we believe that the

3   decision on the final preferred route, the

4   alternate final preferred route, an alternate to

5   both of those that we'd like to propose, and

6   another alternate that we know Hydro has

7   previously considered, we believe that without the

8   three departments of the Province, Conservation,

9   Agriculture and Lands sharing their information

10   with Hydro, and clearly they haven't, that it's

11   very difficult for a decision to be made with

12   regards to Bipole passing through those lands.

13   It isn't just a fenced enclosure, it's

14   a series -- it appears to be a series of fenced

15   enclosures. And we are confident that the herd is

16   in excess of 4,000 animals today. A mature bison,

17   as you have heard me say many times, contributes

18   82 pounds of solid and liquid waste daily. And if

19   you do the arithmetic, it's terrifying.

20   We'll digress briefly just to give you

21   some perspective, Mr. Chairman, and we won't waste

22   a lot of time because we realize it's not Bipole.

23   But we think you need to understand, this is Pine

24   Creek First Nation here, and this is the filigree

25   of waterways that we have talked about and that

1   Hydro has referred to. All of these colours, be

2   they green, yellow, red, blue or brown, are LP's

3   block cuts in the watershed above Pine Creek. And

4   as you can see, LP are business people, their mill

5   is at Minitonas, and they clearly understand the

6   value of transporting pulp material. So they tend

7   to focus the majority of their cutting in this

8   area. But that is the filigree of rivers that

9   runs down into Pine Creek.

10   We note as a facetious aside that on

11 LP maps, the rivers that run into Pine Creek

12 appear to end about 30 miles away from the First

13 Nation. And we're not sure if that's wishful

14 thinking or just an oversight of their

15 cartographer.

16   And we're probably just a few more

17 minutes, Mr. Chairman.

18   After reviewing the final preferred

19 route, and when we did receive Manitoba Hydro's

20 information on the alternate final preferred

21 route, we held a series of community meetings, not

22 only with the community at large, with chief and

23 council and administration. We have the benefit

24 in Pine Creek of a very talented, very motivated

25 lands manager, a gentleman by the name of Marvin

1   MacKay. And we challenged Marvin, we said we

2   don't want to go to CEC and say no, we want to go

3   to CEC and say, have you thought about this? We

4   could work with this. So we challenged the

5   community to find a resolution to their concerns.

6   And it surprised us -- and this is a sketchy map,

7   we did provide this to Manitoba Hydro as noted in

8   the minutes I believe on December 15th. The final

9   preferred route is that line through here.

10   Hydro's alternate final preferred route is this

11   line. And what the First Nation would like to see

12   and would settle the routing of Bipole with

13   regards to Pine Creek First Nation, to be clear,

14   is that hybrid of the alternate final preferred

15   route coming to here, using an existing

16   right-of-way and, yes, coming closer to the

17   community. The community acknowledges and is

18   prepared to trade the visual appearance of Bipole

19   III with a route that doesn't intersect the bison,

20   crosses fewer waterways, and eliminates access

21   through lands that they believe are currently off

22   limits to anyone except perhaps an Aboriginal

23   hunter or trapper who would venture into those

24   lands.

25   So the community, in their wonderful

1   way and through some great conversations, has

2   agreed that they would ask Manitoba Hydro to push

3   the alternate final preferred route closer to the

4   community along these lines, and which would

5   remove it from any conflict with the bison ranch.

6   It's a relatively small route change.

7   We shared it with Hydro, we offered it

8   to Hydro. In fairness, Hydro indicated that in

9   the timing and with the constraints they had, they

10   thanked us for it, and they did acknowledge in

11   their notes that they were prepared to look at it

12   at a future time.

13   In closing, Mr. Chairman, you have

14   heard our points and you have our thoughts on all

15   other matters. You have our disappointment with

16   the TAC review process. And Pine Creek First

17   Nation would be pleased to work with Manitoba

18   Hydro on this alternate, alternate final preferred

19   route. And with this and the other items -- we

20   have great traction with Hydro -- and the other

21   items we have been discussing, Chief Boucher would

22   love to stand up in support of Manitoba Hydro's

23   Bipole III permit application.

24   If there are any questions, we'll go

25   back to the mic and take them.

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1   THE CHAIRMAN: Mr. Mills, I assume

2   that you will be tabling these maps with the

3   Commission?

4   MR. MILLS: Yes, Mr. Chairman, we

5   will.

6   THE CHAIRMAN: Thank you. So Manitoba

7   Hydro, any questions of Pine Creek?

8   MR. BEDFORD: I think, Mr. Mills, my

9   colleague, Ms. Mayor, is going to follow me with

10 something she would like you to be aware of, but I

11 can't control my curiosity.

12   You have just told us that people of

13 Pine Creek would prefer a hybrid route that moves

14 the proposed Bipole III line away and out of the

15 bison ranch, closer to the community, but lying

16 upon the AFPR.

17   Throughout this hearing, I have heard

18 nothing but criticism from the people of Pine

19 Creek about this bison ranch. So I am completely

20 mystified as to why you want it away from the

21 property and the operation of the bison ranch.

22   We have heard some expert testimony

23 that the nature of the terrain in the bison ranch

24 pasture for the animals presents a routing

25 opportunity. So that other factors aside, it

 1   seems to me sensible that one route through the

 2   bison ranch.

 3   We have also heard expert testimony

 4   this week from Dr. Petch that placing the route

 5   along the proposed AFPR raises very serious

 6   concerns about heritage and cultural issues that I

 7   understand relate directly to the historic use of

 8   this area by, amongst others, the people from Pine

 9   Creek. And I have in mind archeological sites.

10   We have heard a bit about the potential of burial

11   grounds.

12   So to repeat, I'm just mystified why

13   the people of Pine Creek would want this route

14   anywhere near the AFPR, when doing that raises

15   issues about heritage and culture, some of which

16   must be integral to their community's current day

17   existence and its history.

18   Can you help me out with my

19   mystification and curiosity?

20   MR. MILLS: Permission to speak

21   candidly. Mr. Bedford, I think a big part of the

22   community's problem is the fact that, as an

23   example, Ms. Petch's information that she provides

24   is based on an ATK that the community has refuted.

25   Ms. Petch herself hasn't been in the community,

 1   and yet she speaks for the culture and concerns of

 2   the First Nation. And Manitoba Hydro responds to

 3   her concerns with regard to the First Nation's

 4   culture. But candidly, Manitoba Hydro has had

 5   little, if any, input from the community with

 6   regards to those concerns.

 7   And I would suggest, with respect,

 8   that if Manitoba Hydro would step down a notch and

 9   talk to the community, as opposed to listening to

10   what Ms. Petch tells you is the community's

11   cultural concerns, you would get different

12   information. You just did.

13   MR. BEDFORD: Well, with respect,

14   Dr. Petch, we all heard, grounded some of her

15   opinion in the fact that there are a number of

16   registered archeological sites with the Province.

17   So to that extent, it seems to me that her opinion

18   is well-grounded in a registered system and known

19   sites that anyone could confirm or check.

20   Having observed that to you, let's go

21   to the bison ranch and I'll put my curiosity in a

22   different way. Why are the people of Pine Creek,

23   whom I understood to this date, for some common

24   sense reasons, are bitterly opposed to the bison

25   ranch. Why are you supporting now the bison

 1   ranch? Because I'm sure the owner of the bison

 2   ranch, the owners, whom we have heard have not

 3   signed up for easements, will be delighted to have

 4   this route removed from any interference or

 5   crossing the land that they are using. Why is

 6   Pine Creek suddenly, on this day, supportive of

 7   doing something that's presumably and intuitively

 8   desirable from the view of the owner of the bison

 9   ranch?

10   MR. MILLS: I don't believe Pine Creek

11   believes that they are supporting or assisting the

12   owner of the bison ranch. They view that ranch as

13   toxic. They view it as a significant blight on

14   their watershed. They don't want to have the

15   cumulative conflict of Hydro and bison ranch, and

16   in their beautifully simple way of looking at

17   things, they just don't think that the two -- they

18   believe that one plus one together, in conflict

19   together, will create a greater damage to their

20   community than the two issues separate.

21   And I respect your perspective,

22   Mr. Bedford. It was mine initially. But I

23   listened clearly to the community, and the last

24   comment, the last instruction I received from

25   their lands manager was, we will vehemently oppose

1 Bipole III if it passes through the bison ranch.

2   MS. MAYOR: Mr. Mills, we don't

3 actually have any further questions, we just

4 wanted to, on behalf of Manitoba Hydro, thank you

5 for your acknowledgments today of the efforts of

6 many of Manitoba Hydro's staff to try and address

7 those concerns and to meet with you on numerous

8 occasions to try and address those issues within

9 its area of responsibility. So we just wanted to

10 thank you for those acknowledgments. We don't

11 always get them. So thank you for that.

12   MR. MILLS: You're welcome. And I'm

13 pleased to say again that the support and

14 assistance and -- I mean I was stunned yesterday,

15 Mr. McGarry said no, and I hadn't heard that from

16 a Manitoba Hydro employee through this entire

17 process. And I will still attempt, Pat, through

18 some other mechanism to get that correspondence.

19 But Hydro's approach to this has been very

20 proactive, and we believe that if we can continue

21 with the lines of communication that are open,

22 that we can resolve this matter to our mutual

23 agreement and benefit. And that's the very clear

24 message from Chief Boucher. He would have been

25 here but he has his hands full.

1   THE CHAIRMAN: Mr. Williams.

2   MR. WILLIAMS: Yes, just a few

3   questions. And certainly the first is not a

4   question, but a statement, both to Mr. Stockwell

5   and to Mr. Mills, and also to Chief Boucher.

6   Certainly you have described a

7   community wounded by history, saturated by water

8   and bathed in sewage. And our clients just want

9   to acknowledge that reality and thank you for

10   sharing it.

11   Like Mr. Bedford, Mr. Mills, our

12   clients do want to explore the issue of the bison

13   enclosure just a little bit more. And Mr. Mills

14   am I correct in suggesting that earlier today you

15   made the statement that Hydro does not thoroughly

16   understand the traditional lands of the Pine Creek

17   First Nation?

18   MR. MILLS: I don't either, but I do

19   know that the First Nation believes that, yes.

20   MR. WILLIAMS: Okay. And Mr. Mills,

21   if I think of the thrust of some of your

22   cross-examination and of your evidence this

23   morning, can we agree that we can't truly

24   understand the implications of the Bipole III

25   development on the Pine Creek First Nation, its

 1   people, its traditional lands, and important parts

 2   of their biophysical sphere such as moose, unless

 3   we understand other factors in the landscape,

 4   including this massive bison development?

 5   MR. MILLS: Absolutely.

 6   MR. WILLIAMS: And the point that my

 7   clients have understood from you, through your

 8   cross-examination, again your statements this

 9   morning, is that you are of the view that there is

10   a gaping hole in terms of Manitoba Hydro's

11   knowledge related to this bison enclosure. Fair

12   enough?

13   MR. MILLS: It's everyone's knowledge.

14   We don't know, Hydro doesn't know, Conservation

15   doesn't know. We should know.

16   MR. WILLIAMS: Fair enough. And I

17   accept that.

18   Now, relating between bison and moose

19   just for a second, Mr. Mills, would it be fair to

20   say that the position of the First Nation is that

21   the massive and growing bison development and its

22   associated impacts are likely to place further

23   pressure on moose in this area?

24   MR. MILLS: We believe that based upon

25   the information that an Assistant Deputy Minister

1   provided us, that the bison enclosure will grow to

2   consume GHA 19A. And the only question is, and we

3   have had some discussion with one of the

4   Commissioners as to whether or not the bison and

5   moose will be able to cohabitate in that area. We

6   don't know and we don't think anyone knows.

7   MR. WILLIAMS: And so, Mr. Mills, in

8   this regard you identify two areas of uncertainty,

9   one being the actual scope of the proposed

10 development, and the second being the implications

11 of that proposed development on a species, which

12 within that region is in decline. Would that be

13 fair?

14   MR. MILLS: Yes, the bison will have a

15 very significant effect on two species, on moose

16 and members of Pine Creek First Nation.

17   MR. WILLIAMS: Mr. Mills, just in

18 terms of your estimate of the herd size of the

19 bison, what's the source of that information?

20   MR. MILLS: A lot of the information

21 we have has been given to us off the record by

22 provincial employees who share our concern. It is

23 public knowledge that a Mr. Dave Yunker, who is a

24 Provincial employee who works out of Dauphin,

25 estimated the herd size of between 2,000 and 2,700

1   in 2009 and 2011. A week ago, Assistant Deputy

2   Minister Dan McGuiness of the Provincial

3   Conservation Department told me in a phone

4   conversation that he knows, and he wouldn't share

5   with me how he knew, that the moose population is

6   4,000 today -- pardon me, the bison population is

7   it 4,000 today. And having been to the site, both

8   in the air and on the ground, the herd is -- it's

9   spectacular. John and I attempted to count it, we

10   couldn't. We couldn't begin to.

11   MR. WILLIAMS: You only have so many

12   fingers and toes I guess.

13   MR. MILLS: Yes, past 22 we're in

14   trouble.

15   MR. WILLIAMS: Mr. Mills, we certainly

16   look forward to seeing the preferred route

17   developed, proposed by your First Nation.

18   In justifying the preferred route, I

19   heard you mention bison, but I thought you

20   mentioned something about avoiding traditional

21   lands or areas that are currently, or should only

22   be exploited by Aboriginal hunters or gatherers.

23   I didn't quite get that point and I'm not sure if

24   I misheard you.

25   MR. MILLS: Pine Creek has two beliefs

 1   that are counterpoint to what we have heard here.

 2   One is with regard to Ms. Petch's, you know,

 3   respectful presentation, and Mr. Bedford referred

 4   to it earlier of discovered artifacts. The First

 5   Nation believes that there are artifacts

 6   everywhere throughout this region. And if you

 7   look at the location of artifacts discovered, they

 8   are conveniently close to roadways. There seems

 9   to have been a study, and the hunters or gatherers

10   of these artifacts didn't appear to get far off

11   the roadways. But the elders, and the elders'

12   memory and the records of the community assure us

13   that the entire traditional land was used by their

14   families.

15   And I'm not sure if I'm answering your

16   question, but there are artifacts everywhere

17   throughout the land. And we're going to find them

18   wherever we go.

19   MR. WILLIAMS: Well, I think you have

20   probably answered my question. I probably asked

21   the wrong question. So let me try it again.

22   And just in terms of the route that

23   your First Nation that you are assisting is

24   proposing now, did you suggest that one of the

25   advantages of it would be that it would avoid some

1 treasured traditional lands, or did I mishear you?

2   MR. MILLS: No. I think the genesis

3 for the First Nation's preference to this route is

4 twofold. The final preferred route passes through

5 untouched lands. And if the moose have a chance

6 of surviving, the community believes that keeping

7 Bipole out of there would help. The second reason

8 is that the right-of-way that they propose their

9 alternate, alternate final preferred route be

10 moved to is existing. So that these cuts into

11 that fragile environment would be reduced by their

12 proposed route.

13   And finally, they believe that the

14 Bipole right-of-way, combined with the fence line

15 right-of-way and the bison fencing contributes to

16 a smorgasbord of distress for moose.

17   So the First Nation's thoughts and

18 strong beliefs are that if they can eliminate, or

19 if we can eliminate the conflict of Bipole with

20 the bison farm, it will cause less of that

21 commingling of access into the lands that the

22 moose are on.

23   MR. WILLIAMS: And it really didn't

24 necessarily come up in your conversation this

25 morning, but certainly in listening to the

1   questions that had been posed by Pine Creek in the

2   course of this hearing, in terms of any of the

3   routes, whether it's the final preferred route of

4   Hydro, or the alternative, or the Pine Creek

5   preferred route, what, if any, implications for

6   traditional gathering, berry picking, do you have

7   any insight into the relative impact of those

8   three routes?

9   MR. MILLS: The 22 traditional herbs

10   and medicines that the community described to John

11   and I are scattered at random throughout this

12   entire area. And whether it's the final preferred

13   route or the alternate final preferred route, or

14   the alternate, alternate final preferred route, we

15   are going to affect them in some way. The First

16   Nation acknowledges that there will be a loss.

17   They don't have strong feelings as to this way or

18   that way. Their strong feeling is that herbicide

19   will spread off of that route into the waterways

20   and do further damage. So the route itself isn't

21   that great a concern. It's discussed, it's talked

22   about. But the use of herbicides to create that

23   right-of-way is their greatest fear. They don't

24   trust chemicals.

25   MR. WILLIAMS: Sir, just on that

 1   point, as I understand it, it is not just -- the

 2   concern of the First Nation is not just the

 3   creation of the right-of-way, but the maintenance

 4   of the right-of-way?

 5   MR. MILLS: Yes. In fairness to

 6   Manitoba Hydro, we have reached a strong

 7   understanding that herbicides won't be used in the

 8   creation of the right-of-way. Hydro continues to

 9   suggest that we need to consider its use in

10   ongoing line maintenance. And we're listening,

11   but we would not -- I'd be fired if I agreed to

12   that.

13   MR. WILLIAMS: Now, just a last couple

14   of questions. Is my client's understanding

15   correct that the alternative preferred route

16   proposed by Hydro will be moving into a Provincial

17   Forest?

18   MR. MILLS: Pine Creek's observation

19   was, I brought it to their attention and they

20   agreed, we are -- we find it tragic that TAC has

21   no comment that all of the effort and work that

22   the Province would go through to create a

23   Provincial Forest, that we would push a Bipole III

24   line through it with no observation or

25   consideration that we can find.

1   We understand Mr. Dyck indicated he

2   did have a conversation with a forester yesterday.

3   We did ask for that information, and I'm not sure

4   whether it's an undertaking or not.

5   MR. WILLIAMS: Mr. Chairman, members

6   of the panel, I thank you for this opportunity,

7   and we thank Pine Creek and their representatives.

8   MR. MILLS: Thanks, Byron.

9   THE CHAIRMAN: Thank you,

10   Mr. Williams. Any other participants have

11   questions for Pine Creek? Ms. Whelan-Enns.

12   MS. WHELAN-ENNS: Gaile Whelan-Enns,

13   Manitoba Wildlands.

14   Thank you, Mr. Mills and

15   Mr. Stockwell. Could you tell us whether or not

16   Pine Creek First Nation was initially one of the

17   26 affected First Nations identified by Manitoba

18   Hydro as affected by Bipole III?

19   MR. MILLS: I'm not sure, but I

20   believe it was.

21   MS. WHELAN-ENNS: Thank you. Are you

22   aware that Swan Lake First Nation has also

23   identified route changes, one at least, perhaps

24   two adjustments that they see as needed for Bipole

25   III?

1   MR. MILLS: We have attended every

2   sitting and every hearing and we have heard all of

3   the concerns of other routes.

4   MS. WHELAN-ENNS: Then you would also

5   be aware that Swan Lake First Nation in their

6   corridor project materials that Manitoba Hydro

7   funded, and also in their presentation here to the

8   hearings, have been very clear that their study is

9   not done, that they are not finished.

10   MR. MILLS: We have heard that. We

11   respect and listened to all other First Nations'

12   information, but we treat it as information. Our

13   focus is our client.

14   MS. WHELAN-ENNS: Thank you. I want

15   to thank you for your short comments in terms of

16   the technical advisory committee, that is TAC,

17   responsibilities on a class 3 project in Manitoba.

18   Do you -- and again you have worked

19   thoroughly and attended all sessions, and most of

20   the proceedings before the hearing started, do you

21   see it being relevant for affected communities and

22   the participants in the proceedings and hearings

23   to know clearly in advance, or at the beginning of

24   a TAC process, which individuals and which

25   government branches or units are part of the TAC

 1   for a specific project?

 2   MR. MILLS: We have so very little

 3   knowledge of the abilities of Provincial staff.

 4   Most of the names mean nothing to us. Our feeling

 5   is just quite simply that TAC, technical advisory

 6   committee, is a tremendous opportunity for all of

 7   the staff and skills of the Province of Manitoba

 8   to contribute to the information we all need to

 9   make good decisions. And we are adamant that that

10   doesn't currently happen. The timing is too

11   short, the response is too thin, the ability to

12   contribute or question or encourage the TAC review

13   is non-existent, in fact it's specifically denied.

14   And we just don't understand why such a serious

15   process, reviewing probably the largest, certainly

16   the longest construction project in the history of

17   Manitoba, wouldn't encourage the participants,

18   proponents, considering counsel, Commission, to

19   have -- if there are 25 TAC components, I find it

20   candidly disrespectful that they wouldn't

21   contribute to the decision that they were asked to

22   contribute to. And I'm picking my word carefully,

23   but I'm not happy, and I find it very

24   disingenuous. TAC is my Bipole III disappointment

25   gold medal winner.

1   MS. WHELAN-ENNS: Thank you. I will

2   not ask you about the runners up, the silver medal

3   winners, but we might be able to guess.

4   MR. MILLS: Careful, Gaile.

5   MS. WHELAN-ENNS: Thank you. Related

6   then if I may, I realize that because of your

7   client, as in Pine Creek First Nation's situation,

8   that there were deliberate decisions made in terms

9   of being here and participating through the

10 proceedings. But on the topic, and I know this is

11 a first instance then for the two of you to be

12 sitting and participating through CEC proceedings.

13   MR. MILLS: And hopefully the last.

14   MS. WHELAN-ENNS: Okay. I wasn't

15 asking that question.

16   Are you aware or would you be

17 surprised to know that in terms of my earlier TAC

18 question, that this in fact used to be done, that

19 for all class 2 and class 3 projects under the

20 Environment Act of Manitoba, that the proceedings,

21 if I will, or the steps under the Environment Act

22 actually started with a notification for

23 participants, reviewers and affected communities

24 of who was on the TAC.

25   MR. MILLS: I have goggled TAC so many

1   times and read so much about it in my trying to

2   understand it, I have seen that, I have heard

3   that. You know, what TAC did in the past is, you

4   know, is interesting. But what TAC does today is

5   of our concern, and we have clearly voiced that

6   concern.

7   MS. WHELAN-ENNS: Thank you.

8   You have been doing research, Google

9   and otherwise. Did you find then in your searches

10 the policies and procedures under the Environment

11 Act for how the TAC operates?

12   THE CHAIRMAN: Okay. I'm going to

13 close down this line of questioning. Because

14 while individuals and others may have concerns

15 about the process, it's something that's

16 completely beyond the scope of these hearings.

17 It's interesting to hear these comments, we may

18 make some minor comments on that, but we're not

19 going to go into the TAC process in depth. It has

20 nothing to do with the Clean Environment

21 Commission.

22   MS. WHELAN-ENNS: Thank you,

23 Mr. Chair. That was my last question on the

24 topic.

25   MR. MILLS: Mr. Chair, if I might, if

 1   I could ask you to finish that, because it's the

 2   elephant in the room.

 3   THE CHAIRMAN: Your elephant in the

 4   room.

 5   MR. MILLS: Okay. Tracey Braun sends

 6   a letter to you --

 7   THE CHAIRMAN: Yes.

 8   MR. MILLS: -- indicating that she's

 9   completed the review of the TAC.

10   THE CHAIRMAN: Yes.

11   MR. MILLS: If TAC isn't part of this

12   process, why does that process occur?

13   THE CHAIRMAN: TAC is, I won't say the

14   first step, it's one of the steps in the process,

15   but it is completely distinct from the Clean

16   Environment Commission process. TAC is involved

17   in many, many reviews that never come to the Clean

18   Environment Commission. It's a longstanding

19   practice and part of the Provincial environmental

20   assessment, but it's done before it comes to us.

21   We have no say or control over how TAC operates.

22   MR. MILLS: I respect that, and I just

23   add in closing that with such a great resource

24   that could provide all of us with such good

25   information, I suggest --

1   THE CHAIRMAN: We may well make

2   comments saying that there were concerns about the

3   process, but we're not going to go into it in any

4   depth. That is not our business.

5   MR. MILLS: Fair enough.

6   MS. WHELAN-ENNS: Mr. Mills, you have

7   provided information and content today in terms of

8   the discussions between Pine Creek First Nation

9   and Manitoba Hydro. I would like to ask you, and

10 again not to ask -- seek an answer that is

11 proprietary or not chosen to be talked about in

12 your presentation today, but I would like to ask

13 you whether or not Pine Creek First Nation also

14 expects to see benefits from the future

15 development initiative and fund for Bipole III? I

16 believe that's estimated to be an annual

17 $5 million a year for affected First Nations for,

18 again, a set period of time, either the first 10

19 or 20 years of the operation of Bipole III.

20   MR. MILLS: We have had very healthy,

21 candid conversations with Manitoba Hydro,

22 conversations that we hold with great respect.

23 And we have asked that same question. And Hydro

24 has told us exactly what they have told everyone

25 else, that their decision on their CDI fund will

1   follow from their receipt of a licence and that to

2   talk about it is premature. We will stay close to

3   them and hope that we can have that conversation

4   when they are able to have it.

5   MS. WHELAN-ENNS: Thank you. I wanted

6   to ask a question about your Louisiana Pacific

7   comments and the map that you showed, obviously

8   you were on the watersheds and the rivers and so

9   on, but you made a reference to cut blocks.

10   MR. MILLS: Yes.

11   MS. WHELAN-ENNS: So are the cut

12 blocks on that map, cut blocks identified in

13 forest management planning, are they future cut

14 blocks?

15   THE CHAIRMAN: That's not relevant to

16 this review.

17   MR. MILLS: Yeah. And I couldn't

18 answer the question, we don't know enough about

19 it.

20   MS. WHELAN-ENNS: I'm fairly sure that

21 that's all they are. Thank you, Mr. Chairman.

22   I would like to ask the two of you a

23 question based on this fairly thorough and first

24 in-depth experience with both the Environment Act

25 and at proceedings and hearings regarding Bipole

1   III, and that is what your opinion would be about

2   the potential, if engagement with the First Nation

3   who is your client had been earlier, if engagement

4   overall and consultations had been earlier,

5   whether there would be benefit in decision making,

6   benefit in environmental assessment, technical

7   reports, choice of route?

8   MR. MILLS: We don't have a lot of

9   experience and this raises -- John -- but I will

10   say again, I think Manitoba Hydro's work with

11   consultation and consideration and discussion and

12   review has been superior. And we're protagonists

13   in the process. But I would encourage the

14   Province to look to Hydro's style. And I think

15   that in the future resolutions on smaller matters,

16   I'm not suggesting any of us can resolve the much

17   larger issues, but the smaller issues, I think

18   Hydro has shown great leadership. I would

19   encourage them to continue in their style,

20   hopefully not with us. And I'd encourage the

21   Province to look to Hydro's style because -- I

22   know John has some thoughts.

23   MR. STOCKWELL: My thoughts are the

24   earlier, the better. In fact, I think one of the

25   motivating motivations for Pine Creek to come up

 1   with their own route adjustment was the fact that

 2   these two routes were chosen without any

 3   consultation to Pine Creek at all. And this third

 4   route is their own route, and they would of course

 5   prefer if they are included.

 6   I think that my own understanding is

 7   that none of the experts that were sent into the

 8   field to find information about flora and fauna

 9   and moose and fish, and any of that, none of those

10   experts consulted anybody in Pine Creek. And yet

11   there's a tremendous wealth of knowledge in Pine

12   Creek. I think that that would have been a very

13   good start to a relationship with Pine Creek

14   members, if they had been included in, you know,

15   in field trips, in just understanding what their

16   knowledge was. And I think that's what they are

17   looking for.

18   MS. WHELAN-ENNS: Thank you very much.

19   Mr. Chair, I have one remaining

20   question, and again for both of you or either of

21   you. Are you aware that Manitoba Conservation has

22   recently issued licences where identification of

23   both medicinal plants and/or endangered plant

24   species will literally be located and

25   transplanted?

 1   MR. MILLS: I wasn't aware, and we

 2   had, John and I between us -- John had pretty good

 3   knowledge, I had very little knowledge of the

 4   width and breadth of traditional plants,

 5   medicines. I have now had that education. And if

 6   I -- it will take time, but I would expect that in

 7   due course, Manitoba Hydro's crop compensation

 8   considerations will include from the start

 9   considerations of Aboriginal traditional crops,

10   because they really are -- I mean, the sincerity

11   that they are treated with in the community is, I

12   stand in awe of what these crops mean to these

13   fine folk.

14   MS. WHELAN-ENNS: Thank you both.

15   THE CHAIRMAN: Thank you,

16   Ms. Whelan-Enns.

17   Are there any participants or members

18   of the public who have questions for Pine Creek?

19   Mr. Mills, I have one or two

20   questions. First let me say that I thought your

21   presentation here today was very good. I am sorry

22   to hear that you think this may be your last

23   participation in the CEC proceeding. We were just

24   beginning to think this was the start of a very

25   good relationship.

 1   MR. MILLS: Apparently Ikea is hiring,

 2   Mr. Chairman.

 3   THE CHAIRMAN: Now, I share

 4   Mr. Bedford's mystery about your opposition to the

 5   line running through the bison ranch. And to my

 6   mind, it still isn't resolved. And if we're going

 7   to comment on it in our advice and recommendations

 8   to the Minister, we're going to require a better

 9   understanding as to why -- forget about whether or

10   not Pine Creek welcomes or agrees with, or opposes

11   the ranch. It's there right now, it may continue

12   to exist there. What is the nature of Pine

13   Creek's opposition to the line being routed

14   through the bison ranch?

15   MR. MILLS: Well, I think it's a very

16   visceral response to the failure of the Province

17   to include Pine Creek in the creation and growth

18   of this large buffalo enclosure. And I really

19   think that the community just is angry that it's

20   happening, and parts of them are angry that Bipole

21   is happening. And in their way, in their

22   beautiful view of the simplicity of how the

23   environment works, they just think that when you

24   take two bad things and you lay them over top of

25   each other, you'll get probably three as a result.

1   And I can't describe it, Mr. Chairman,

2   we have had very healthy conversation, and there's

3   been a lot of Tim Horton's coffee spilled over

4   that question. But Marvin McKay, the First

5   Nation's very wise and very involved lands

6   manager, is adamant that we are to argue that

7   Bipole III cannot, shall not, must not pass

8   through the bison enclosure.

9   I sensed Mr. Bedford's, you know,

10   thoughts, and candidly I share them, but it's the

11   community's strongest feeling. I can't --

12   THE CHAIRMAN: It's a visceral

13   response rather than any intellectual or

14   practical --

15   MR. MILLS: They are ticked off.

16   THE CHAIRMAN: I think this is where

17   Mr. Bedford was going, but perhaps I'm putting

18   words in his mouth. Why wouldn't they view it as

19   sort of thumbing their nose at the bison ranch.

20   You know, you guys came into our territory, you're

21   going to have your operation screwed up by having

22   this line go through it, to some extent.

23   MR. MILLS: I'm hoping I am not

24   breaking any confidence of people who have talked

25   to me, but one of the concerns issued, and we have

1   talked about it but it hasn't been addressed, is

2   there's a conspiracy theory in the community that

3   running Bipole III through the bison ranch will

4   provide the bison rancher with additional revenue,

5   not only from the bison, but from the compensation

6   that Manitoba Hydro will provide him for that.

7   And if Hydro wanted to tell me clearly that he

8   won't get a dime from Bipole passing through the

9   land, I'll take that back to the community. But

10 we have skated around that. And I have heard

11 that, well, the compensation will be similar.

12   I asked the Provincial Lands Manager,

13 Tyson Gillis, I said, so let me get this straight,

14 if you issue a lease to the bison farm, and then

15 Bipole III passes through it, is there any

16 compensation to the leaseholder? And he says no,

17 none. I said, well, when the lease renews, do you

18 reduce the lease amount because Bipole is now on

19 that land? And he skated. He said, well you

20 know, we would probably take it into

21 consideration. But the community is very angry at

22 the bison ranch for water reasons, and one of

23 their strong feelings of many is that this is a

24 mechanism whereby the province is providing the

25 bison rancher with additional provincial support.

1   And if you look, Mr. Chairman, and

2   we're way off topic, but if you look at the lands,

3   the quantities of Crown land that had been

4   transferred to this assembly, and if you look at

5   the timing in which it's occurred, an assembly of

6   land like this hasn't happened in the history of

7   Manitoba, and the band knows that. So they are

8   tremendously cynical about what the province is

9   doing in this regard. And when we can't get

10   answers, the cynicism compounded. And I have had

11   to tell them that we can't get answers.

12   THE CHAIRMAN: Is this bison ranch

13   located in an area where the First Nation has

14   traditionally harvested?

15   MR. MILLS: Yes. In fact, two elders

16   complained to me that they have a small hunting

17   shed within the enclosure and they can no longer

18   get to it. The enclosure is required, I

19   understand, by statute or guideline to be a

20   certain height off the ground, so that ground

21   animals, the wolverines and all of the other items

22   that Hydro, you know, fairly reviewed could move

23   around. There is real proof that that hasn't

24   happened.

25   I was supposed to get some photos

1   today, they may be in my mail, but there had been

2   moose hung up on that fence and slaughtered. And

3   some mature moose may be able to jump over a six

4   foot fence, but the younger animals, the band is

5   confident can't.

6   There were requirements for there to

7   be gates in the fence. The gates are lacking.

8   THE CHAIRMAN: Those I'm sure are very

9   real concerns but they are beyond our scope.

10   MR. MILLS: It's a very complex

11   position.

12   THE CHAIRMAN: Turning to other

13   matters in your presentation, you talk about the

14   effect on trappers, and requesting assistance and

15   accessing the trappers' compensation program to

16   levels received by neighboring Metis community.

17   Are trappers in Pine Creek not eligible the same

18   as the people in the Metis community to this

19   compensation?

20   MR. STOCKWELL: The trappers in Pine

21   Creek are not registered trappers, they are First

22   Nation trappers. And years ago, the First Nation

23   people were not allowed to leave the reserve

24   without permission from the Indian agent. And

25   that has carried on where First Nation people, the

 1   trappers have not wanted to register their

 2   traplines, they still wanted to trap but they

 3   didn't want people tracking them. So as a result,

 4   when Hydro has offered trapper compensation to

 5   other areas, for instance, Duck Bay or

 6   Camperville, it's to registered trappers. And in

 7   Pine Creek there are very, very few registered

 8   trappers.

 9   MR. MILLS: Mr. Chairman, in fairness

10   to Manitoba Hydro, we raised that issue, and Hydro

11   indicated a clear willingness to expand their

12   scope to consider and review that, and gave us

13   that commitment.

14   THE CHAIRMAN: Thank you.

15   I think this is my final question. On

16   the ATK review, did Manitoba Hydro give Pine Creek

17   an opportunity to engage in ATK review?

18   MR. MILLS: Virginia Petch's

19   organization sent a couple of individuals into the

20   community for a few days and they spoke to some

21   selected individuals. Regrettably, the community

22   was in flux. There were issues, and it wasn't

23   well-managed by the First Nation. And we're not

24   suggesting that there's fault or blame, or that

25   anybody dealt them a bad hand, it just didn't work

 1   out.

 2   And today, as chief and council and

 3   the elders in the community read the ATK, they get

 4   the real sense that the full width of the

 5   community wasn't considered. Of the members who

 6   contributed, several of them live off reserve. It

 7   appeared that a family member was contacted and he

 8   may have included his family. Pine Creek has

 9   numerous strong families. And you know, it's just

10   a grain in the sand in the gears, Mr. Chairman,

11   but it irks the community to have Ms. Petch, with

12   her integrity and sincerity, tell the community

13   what their cultural concerns are, and that Bipole

14   III should be rerouted because of cultural

15   concerns. And the community reads that and says,

16   says who?

17   And we would like to clear that bridge

18   and we have asked Hydro on a couple of occasions,

19   and so far it's been denied, but we intend on

20   asking until it's accepted.

21   THE CHAIRMAN: In fairness to

22   Dr. Petch, I think Mr. Bedford earlier commented

23   on that the fact that she was basing it on

24   information that's already registered with the

25   Provincial Government.

 1   MR. MILLS: And we have no argument

 2   with Ms. Petch.

 3   MS. MacKAY: I'd like to just clarify

 4   one more time around the bison compound. It

 5   sounds like it's going to grow very large if

 6   certain people get their way. Is this an area

 7   where the public and First Nations, anyone else,

 8   is definitely excluded, or are there things like

 9   cattle guards on roads so that people could go

10   through, but the bison not come out? I mean, is

11   this area to be no go for anybody except the

12   owners?

13   MR. STOCKWELL: It's a page wire fence

14   that composes the enclosure. Are you familiar

15   with the page wire fence? It's made up of

16   rectangles of wire that are approximately six to

17   eight inches deep and about a foot, or up to

18   16 inches wide. And it's like sheep fence.

19   MR. MILLS: The wire is the diameter

20   of a pen.

21   MS. MacKAY: But is it being, for

22   example, posted as no trespass or anything like

23   that?

24   MR. STOCKWELL: There is no posting on

25   the property that we are aware of. But it is a

1 considerable barrier to First Nations. There are

2 no cattle gates that we are aware of. There is no

3 methods to get in to the enclosure other than

4 crawling under the fence like the animals do, for

5 First Nation people. So does that answer your --

6   MS. MacKAY: Yes. So the assumption

7 at this point is that, yes, the public and any

8 First Nations are excluded?

9   MR. STOCKWELL: For the most part,

10 yes.

11   MR. MILLS: Mr. Chairman, one last bit

12 of information that I think, in fairness, I'd like

13 to share.

14   We have raised this issue with the

15 Conservation ADM, Mr. McGuiness, on several

16 occasions. He did indicate to us last week that

17 the Minister of Conservation was now aware of our

18 concerns and that this issue was being taken very

19 seriously. McGuiness assured us that a committee

20 of Lands, MAFRI and Conservation had been struck,

21 specifically, firstly to understand and then to

22 review and address this very real concern.

23   And it is not Pine Creek's intent to

24 make this an impediment to Hydro's licence, and we

25 are not here hoping that you will forego or delay

1   that process. We would be quite comfortable

2   working with Hydro on an ongoing basis in this

3   very small micro portion of the route to discuss

4   and review the concerns. And if we had an

5   assurance of support from the Province and the

6   sharing of their information, we'd be pleased to

7   say, let's move on, and amongst ourselves we could

8   address this issue. But it is not Pine Creek's

9   intent to cause this to be an impediment in any

10   way in Hydro's licensing of Bipole III.

11   THE CHAIRMAN: Thank you, Mr. Mills.

12   I don't think we have any more

13   questions from the panel.

14   MR. STOCKWELL: I'd like to add

15   something to that.

16   THE CHAIRMAN: Yes, Mr. Stockwell.

17   MR. STOCKWELL: What I'd like to add

18   is that this committee is supposedly being struck.

19   We have heard about this verbally. But when we

20   asked if Pine Creek could be included in that

21   committee, we were denied that.

22   THE CHAIRMAN: Thank you.

23   Any other questions? Do we have any

24   material to register?

25   MS. C. JOHNSON: Unfortunately, I have

 1   to make a correction to yesterday's exhibits, I

 2   actually made a mistake. BPC 13 -- sorry, the

 3   underground cable report should be actually be BPC

 4   13, and there is no BPC 17. Today's documents

 5   will be PCFN, number 2, which would be the outline

 6   that Mr. Mills has provided this morning, and MH

 7   117, which is the bison area map that Ms. Johnson

 8   provided this morning.

 9   (EXHIBIT BPC 13: Underground cable

10   report)

11   (EXHIBIT PCFN 2: Outline provided by

12   Mr. Mills)

13   (EXHIBIT MH 117: Bison area map)

14   THE CHAIRMAN: Thank you. Amazingly,

15   I think that brings us to the end of proceedings

16   for today. We had anticipated more

17   cross-examination earlier, as well as initially I

18   think Pine Creek thought they might take a longer

19   time.

20   So we have a free afternoon. You can

21   go off and do whatever you like. Maybe go back to

22   your respective offices and do some real work.

23   And we will see you all tomorrow morning at

24   9:00 a.m.

25   (Adjourned at 12:06 p.m.)

1   OFFICIAL EXAMINER'S CERTIFICATE

2

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4

5   Cecelia Reid and Debra Kot, duly appointed

6   Official Examiners in the Province of Manitoba, do

7   hereby certify the foregoing pages are a true and

8   correct transcript of my Stenotype notes as taken

9   by us at the time and place hereinbefore stated to

10   the best of our skill and ability.

11

12

13

14   ----------------------------

15   Cecelia Reid

16   Official Examiner, Q.B.

17

18   ------------------------------

19   Debra Kot

20   Official Examiner Q.B.

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