

MANITOBA CLEAN ENVIRONMENT COMMISSION

BIPOLE III TRANSMISSION PROJECT

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## APPEARANCES

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Pat MacKay - Member  
Brian Kaplan - Member  
Ken Gibbons - Member  
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Cathy Johnson - Commission Secretary

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## TATASKWEYAK CREE NATION

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APPEARANCES CONTINUED:

PINE CREEK FIRST NATION  
Charlie Boucher  
Warren Mills  
John Stockwell

## INDEX OF EXHIBITS

EXHIBIT NO.		PAGE
MMF 32	Mr. Madden's memo, March 6th	6905
MMF 33	Canadian Taxpayers Federation letter	6905
MH 122	Record of meeting from Manitoba Hydro at Minitonas Community Centre	6905
MH 123	Mr. Hegmann's CV	6905
MH 124	Mr. Hegmann's letter of February 18th	6905
MH 125	Mr. Hegmann's testimony	6905
MH 126	Response to the Clean Environment Commission Hearings for Peguis First Nation rebuttal	6905
127	Response to undertaking from Mr. Gibbons	6905
BPC 18	Coalition report	6905
CAC 12	Mr. Williams' supporting materials	6905

## INDEX OF PROCEEDINGS

Hydro Panel - Mr. P. McGarry, Mr. Tymofichuk, Mr. Ortiz, Mr. Penner Questions by the Panel	6782
Hydro Panel - Rebuttal - Mr. Neufeld, Mr. Tymofichuk, Mr. Mazur, Mr. P. McGarry, Cross-examination by Mr. Meronek Questions by the Panel	6820 6822 6842
Hydro Panel - Presentation by Mr. G. Hegmann, Mr. C. Osler, Presentation Cross-examination by Mr. Williams Questions by Panel Re-examination by	6848 6865 6879
Tataskweyak Cree Nation - Closing argument Mr. R. Lowe, Mr. C. Young	6906
Pine Creek First Nation - Closing argument Mr. W. Mills, Mr. J. Stockwell	6914
Manitoba Wildlands - Closing agrument Ms. G. Whelan Enns	6927

1 Tuesday, March 12, 2013

2 Upon commencing at 9:00 a.m.

3 THE CHAIRMAN: Good morning. We'll  
4 reconvene.

5 Today on the agenda, I guess it's a  
6 bit of a potpourri. First up we have some  
7 clean-up questions from panel members, and believe  
8 me, they may be all over the place. Following  
9 that, probably following the morning break we'll  
10 have Manitoba Hydro's rebuttal, and into the  
11 afternoon some cross-examination on the rebuttal.  
12 And then following that, perhaps, as many as four  
13 participant groups will make their final  
14 arguments.

15 So turning to the clean-up questions,  
16 I think all of the panel members will have one or  
17 more questions. I'm going to start off with one  
18 that's a bit of a mystery arising from yesterday's  
19 testimony, and then I'll let my colleagues go.

20 Yesterday we heard from Wuskwi Sipihk  
21 about marten and fisher. I want to tell you, on  
22 Sunday I was out at my cottage near Gimli and I  
23 saw a fox go off. I was out walking and he was  
24 down the road a block or two. And probably when  
25 he saw me, he cut off the road and went through

1 the ditch and across a little bit of a field. And  
2 later on I drove by to see if I could see his  
3 tracks. And I was in my car, I was closer than  
4 that projector stand is from me before I could see  
5 the tracks. And by the time the tracks got as far  
6 away as perhaps Gerald or Shannon, I couldn't see  
7 them anymore. So I'm really wondering how you see  
8 marten tracks out of an airplane flying along at  
9 120 miles an hour, or whatever airplanes do. Can  
10 somebody answer that one for me?

11 MR. MCGARRY: Good morning,  
12 Mr. Chairman, Commissioners, ladies and gentlemen.

13 Not having done that particular  
14 exercise myself, what I do know about track  
15 observation is that a gait, the way the animal  
16 places its feet, there is a lot of indicators  
17 other than the track itself, how the prints are  
18 positioned and so on. There's more to it than  
19 just the observation of prints with toes and heel  
20 pads. So it is possible to identify quite a bit  
21 from aerial track surveys. The extent of that  
22 would have to be left to an expert, but that's  
23 what I can share with you now.

24 THE CHAIRMAN: Okay. I'm not sure  
25 that it fully satisfies, but I understand and I'll

1 accept that for today.

2 Mr. Gibbons, do you have some  
3 questions?

4 MR. GIBBONS: Yes, I do. Good  
5 morning, panel.

6 And I think the questions that I have  
7 are largely, I would call them clarification  
8 questions, trying to bring together some of the  
9 things we have heard by way of responses over a  
10 period now of many weeks, but still seem to be a  
11 trifle unclear. And also in some cases, probably  
12 motivated in part by continuing concerns raised by  
13 some of the participants.

14 The first of these has to do with the  
15 use of herbicide. If I recall the testimony  
16 previously, I understand then through that that  
17 herbicide typically would not be used for  
18 clearing, but may be used for the maintenance of  
19 the ROW. And as you probably recall, we have had  
20 several First Nations, and I think the MMF both  
21 raised questions about herbicides in areas where  
22 they do harvesting. Can we get sort of an overall  
23 response to that as a kind of summing up of  
24 Hydro's policy in that regard?

25 MR. PENNER: Yes. Glenn Penner.



1                   So you are correct in saying we won't  
2 use any herbiciding during the construction  
3 process. And it will be about five years before  
4 we would go back, and it would be a spot  
5 application of herbicide on trees that are  
6 starting to appear to be growing large again. And  
7 the idea would be that we would hit those trees,  
8 very topical, hit them on their leaves and we  
9 would then -- it wouldn't be a broadcast method,  
10 it would be utilizing equipment down the  
11 right-of-way.

12                   After that we would come back a second  
13 time several years later, so this would be -- the  
14 first application may be in five years, and  
15 another one possibly three years later, with the  
16 intent that as we take out these larger trees and  
17 attack these growths, that eventually the  
18 undergrowth, the smaller brushes will eventually  
19 take over and less and less herbiciding will be  
20 required.

21                   We found that if you go in and you  
22 brush those trees, they get thicker, and more  
23 brushing is required, and it ends up being that  
24 you have to do a lot more mechanical clearing the  
25 more often that you trim these trees and cut them

1 down. And with herbicide applications, you tend  
2 to promote the low growing and the shrubs and the  
3 grasses that choke out the larger trees, And  
4 eventually we are doing very minimal herbiciding  
5 application.

6 We have been talking with Pine Creek  
7 in the area around them and around their concerns  
8 about herbiciding, and we would have buffers  
9 around riparian zones. As well we would be  
10 engaging someone from the community to be involved  
11 in the observation, as well as we are discussing  
12 the opportunity that we could potentially use a  
13 contractor directly from the community and create  
14 an opportunity for the community to be involved in  
15 this work, and certainly something that they could  
16 build in their community to work on some of this  
17 herbiciding.

18 MR. GIBBONS: A subset of that  
19 question relates I guess to a concern that was  
20 again raised within the last couple of days about  
21 the use of herbicides in harvesting areas. Is it  
22 possible, or is it practised by Hydro now to  
23 indicate, to have markers of some sort to indicate  
24 where that spot herbicide use might be used?  
25 Because one of the concerns that was raised was

1 that, if it's known that herbicides have been  
2 used, not knowing the full extent of that use,  
3 people may avoid that area completely. I'm  
4 thinking here in particular about berry  
5 harvesting, something which I spent a fair bit of  
6 my youth doing and I suppose I have an extra  
7 sensitivity to. But berry harvesters presumably  
8 would be concerned if they knew herbicides were  
9 used. Is there some provision for Hydro to  
10 indicate that there was a limited use here and  
11 that areas are relatively -- I shouldn't say  
12 relatively, but are free of herbicide use? In  
13 other words, where they weren't used in a spot  
14 fashion?

15 MR. PENNER: Yeah, I think that's  
16 something that could be done, certainly in areas  
17 where there's going to be blueberry patches,  
18 there's not typically going to be tall trees. So,  
19 in general, we typically won't be herbiciding  
20 anywhere near those open patches. But certainly  
21 if there was areas of sensitivity that we could  
22 identify and work together with the First Nation,  
23 or the concerned group, that we could create some  
24 sort of sensitive zone that we would mark out as  
25 being a non-herbiciding area.

1                   MR. GIBBONS: Related to this, but  
2 distinct from the herbicide question is the  
3 pattern of regrowth and how that regrowth might  
4 enhance or detract from harvesting opportunities,  
5 not just in regards to berries, but in other  
6 cases.

7                   As a general, if you were to summarize  
8 Hydro's sort of policy position on this, how would  
9 you describe the regrowth that is expected on the  
10 right-of-way and how that might affect, positively  
11 or negatively, harvesting opportunities, hunting  
12 opportunities, et cetera, for the First Nations  
13 and Metis that use these particular areas?

14                  MR. PENNER: I'm sorry, I missed the  
15 first part of your question?

16                  MR. GIBBONS: I'm saying, if we put  
17 aside for the moment the herbicide question, how  
18 would you summarize -- I'm even thinking that this  
19 could be the kind of thing that was presented at a  
20 meeting with First Nations or Metis groups -- how  
21 would you summarize Hydro's approach to the  
22 regrowth permitted in ROWs in terms of how it  
23 either positively or negatively affects  
24 harvesting, whether it's berry harvesting or  
25 hunting or what have you?

1 I think in our tour up north near  
2 Gillam, we had a sense that a certain amount of  
3 regrowth was permitted. Most recently there was  
4 an answer to a question which made reference to  
5 trees up to 17 metres in height. As a result of  
6 that, I'm not quite sure what the standard  
7 practice might be?

8 MR. MCGARRY: Just the first part of  
9 that I can speak to. If you're referring to berry  
10 patches, for instance, in terms of regrowth, the  
11 berries need some regeneration as part of their  
12 natural cycle anyway, which traditionally fire  
13 used to take care of. But Manitoba Agriculture  
14 and Food has done some studies on using mowing for  
15 maintenance of a right-of-way, and it's showing  
16 that to be effective in creating the regrowth, if  
17 that's what you're referring to.

18 The second part of that I'll leave to  
19 Mr. Penner.

20 MR. PENNER: Yes, there is a fair  
21 amount of growth that happens, especially in the  
22 undergrowth on right-of-ways. As we have exposed  
23 and taken down the larger trees, a lot of the  
24 undergrowth comes back fairly thick. And where  
25 the trees are not a danger that will grow -- and

1 essentially we can't come back every year, we just  
2 have too many right-of-ways to clear. So when  
3 we're going down that right-of-way, if we know  
4 that there are trees that are going to become  
5 danger trees, they have to come out. But if we  
6 know that they are not, that there's adequate  
7 clearance, you know, in stream bank areas and  
8 places where there's significant clearance, we  
9 don't take out all of those trees.

10 So, year one, certainly after we have  
11 come through and cleared that right-of-way is  
12 certainly a worst case condition, that the  
13 right-of-ways do come back and become very --  
14 certainly lots of undergrowth, and typically brush  
15 and smaller trees are left in place.

16 MR. GIBBONS: I'm moving in a slightly  
17 different direction now, but you had made  
18 reference to it earlier when you mentioned the use  
19 of herbicides and using local communities, or  
20 contracting people from local communities to do  
21 some of that work. Can we get, perhaps, again at  
22 least a broad picture of Hydro's policy in regards  
23 to the employment of people in the areas where the  
24 construction is being done and so forth, beyond  
25 say mere clearing activities, which are presumably

1 low paid and intermittent kind of work. I know  
2 that some of this may be covered through the  
3 contracts that you have with individual First  
4 Nations, for example, but is there a general  
5 policy where you were trying to, if not certainly  
6 meet certain targets for local employment, make  
7 provision for local employment that may be of  
8 benefit to the communities through which or near  
9 which these ROWs are being brought forward?

10 MR. PENNER: Sure. There's kind of a  
11 three-pronged approach there. So on the clearing  
12 components of Bipole III, we are engaging directly  
13 with the First Nations. They are working with  
14 joint venture partners, and they are becoming the  
15 contractor that will do the work. So they will do  
16 the hiring and be running the equipment and do all  
17 of the clearing work. And it's now -- a majority  
18 of the Bipole III right-of-way that's been split  
19 into eight different segments, and I believe it's  
20 now five different segments that we now have joint  
21 venture contractors that will be doing that work.

22 In addition, during construction,  
23 through our transmission line agreement, through  
24 the project agreement and our specifications, the  
25 contractors that hire for the project will have to

1 hire their employees through a hiring preference  
2 or a priority. And in the north, I think this is  
3 probably on the record, but the northern one, off  
4 the top of my head, it's northern Aboriginal,  
5 followed by northerners, followed by Manitobans.  
6 In the central sections, we define it as local  
7 Aboriginals. And the idea is that they have to go  
8 through and look at each one of those candidates  
9 that have applied. And the way that we ensure  
10 that there is opportunities is we will be talking  
11 with each First Nation group and getting contact  
12 names that will go into specifications when we bid  
13 these tenders. And from there, anybody interested  
14 in bidding on that work will have contact names to  
15 reach every community, to find out what kinds of  
16 local businesses are available to help with this,  
17 as well as local employment.

18 In addition, prior to starting the  
19 project, the plan right now is to have like hiring  
20 days in each community. So the contractor,  
21 Manitoba Hydro and the unions would be in each of  
22 these communities prior to the start of the  
23 project. And people interested in the work can  
24 come forward, bring their resumés, and even go  
25 through interviews on that day, but drop off their



1 resumés and get a sense of what kinds of work is  
2 available on the project.

3           So what kind of work is available on  
4 the project? It ranges from brush clearing, hand  
5 clearing for the clearing work, heavy equipment  
6 operators for clearing work. Certainly there's  
7 opportunities in fuel supply, in catering. On the  
8 construction side of things, again, there's tower  
9 assembly, tower erection. There will be  
10 opportunities for people to work on installing  
11 foundations and stringing wire.

12           When it gets to linemen type work, we  
13 certainly need to have people that are experienced  
14 in that work. And it takes more than a few months  
15 of training to be involved in stringing the work,  
16 but that's something that, if there is interest in  
17 the communities that some contractors may be  
18 willing to start training on the job for some of  
19 these types of opportunities.

20           So it's a gamut of work. And again,  
21 in the north it's short duration work. So we've  
22 got kind of January, February, March and into  
23 April, so it's kind of three and a half months of  
24 work, and then the contractors will have to wait  
25 for the following winter.

1                   MR. GIBBONS: As a follow-up to that  
2 question, we had a brief introduction to some  
3 young people in Gillam who were part of the Red  
4 Seal program. Can you give me a sense of how  
5 extensive that program is? Is this something that  
6 is only applied to a handful of people each year?  
7 And also the duration, I'm presuming it's a  
8 long-term commitment from Hydro to continue this  
9 program. So is there anything you can tell us  
10 about the Red Seal program, which in contrast to  
11 some of the things that you just said, I think  
12 opens up opportunities for longer-term employment,  
13 and also perhaps not wanting anyone to leave the  
14 province necessarily, but does give them skills  
15 that are marketable beyond the duration and the  
16 location of say the Bipole development and so on.  
17 So is there anything you can add there?

18                   MR. PENNER: Just one second.

19                   I'm sorry, I didn't have the  
20 opportunity to hear that in Gillam. My  
21 understanding on the Red Seal program is that  
22 Manitoba does not recognize Red Seal linemen at  
23 this point. And there is no training program for  
24 linemen, or construction linemen in the Province  
25 of Manitoba. That's different in other provinces.

1 So Manitoba Hydro trains linemen and would  
2 certainly be interested in having any First Nation  
3 communities that want to have their people trained  
4 to participate, and we have certainly extended  
5 that offer multiple times.

6 In Manitoba, I guess, I know that they  
7 are working towards accepting some sort of Red  
8 Seal program, but at this point I don't believe  
9 it's in place.

10 MR. GIBBONS: The Red Seal students  
11 then that we saw at Gillam, they are working in  
12 the area of station operation as opposed to line  
13 development and so forth?

14 MR. PENNER: Yes, correct.

15 MS. MAYOR: Mr. Gibbons, during the  
16 last round of collective bargaining with the  
17 International Brotherhood of Electrical Workers,  
18 there was also a provision negotiated so that the  
19 corporation, along with our union, are working  
20 towards certification of one of the apprenticeship  
21 programs into the Red Seal, and they are hoping to  
22 build upon that. So, as Mr. Penner indicated,  
23 with the apprenticeships and all of our  
24 pre-project and pre-placement apprenticeship  
25 programs with Aboriginals and other groups, we are

1 hoping that that will be something that will be  
2 addressed through that process.

3 MR. GIBBONS: Thank you.

4 Last question, again off in a  
5 different direction this time. But we have had  
6 raised at various times, I think most notably in  
7 Gillam, by residents of the Fox Lake First Nation,  
8 questions about the interaction between Hydro  
9 employees and First Nations. And of course in  
10 Gillam, the interest is there because of the camp  
11 that will be located in that area.

12 There's a lesser concern perhaps, but  
13 nonetheless a concern elsewhere along the line,  
14 but it's lesser because of the numbers of people  
15 and the duration of the work in each area.

16 One of the things that I am not clear  
17 on is whether or not Hydro has collected  
18 information about the experiences that they have  
19 had with, for example, Bipole I, Bipole II, or  
20 other -- more recently with the development at  
21 Wuskwatim -- experience in these areas of  
22 interactions, and how those informed the decisions  
23 that were made about how they were going to  
24 operate the camp at Keewatinoow, and more  
25 generally along the line? I take it there is no

1 report that was ever done on Bipole I and II that  
2 did a follow-up study or whatever, but presumably  
3 there's some internal anecdotes or whatever that  
4 informed that decision process that lead to some  
5 of the rules that were put in place for  
6 Keewatinoow camp?

7 MR. MCGARRY: Just to clarify,  
8 Mr. Gibbons, relating to Fox Lake in particular?

9 MR. GIBBONS: Sorry, Pat, I couldn't  
10 hear your reply?

11 MR. MCGARRY: Maybe if you could help  
12 me a bit, clarify the specific you are looking  
13 for? Is it employment interaction or --

14 MR. GIBBONS: No, not in this case,  
15 but the social interaction, there were some rules  
16 that have been put in place for Keewatinoow, the  
17 camp there, presumably some concerns along the  
18 line as well as it moves south in its construction  
19 phase, about the rules and so forth. How shall I  
20 phrase this? There were concerns raised by the  
21 community, particularly in Gillam, the number of  
22 employees from Hydro that will be there that will  
23 create certain social realities that may be  
24 difficult for a town the size of Gillam to handle.  
25 And I think that was the primary concern. So I

1 guess what I'm asking is, in the course of  
2 previous Hydro developments, whether it's Bipole I  
3 and II, or more recently with Wuskwatim and so on,  
4 has there been some knowledge acquired about how  
5 to deal with these questions, and did that help  
6 inform some of the decisions made about the  
7 Keewatinoow camp?

8 MR. MCGARRY: Well, certainly the  
9 recent experience with Wuskwatim has been  
10 informative on that type of thing, and how to  
11 manage workers coming and going from a facility.  
12 It's a little different because it's much more  
13 isolated development than we're looking at  
14 Keewatinoow, which would bring it much closer to a  
15 community on an existing road system. As you  
16 recall, for Wuskwatim there was a road especially  
17 constructed to get in there, so it was very easy  
18 to control access. The Keewatinoow development is  
19 on an existing road, although part of it's  
20 private, the Hydro, and part of it's Provincial.  
21 But in compiling the socioeconomic assessment,  
22 you'll note in the EIS there were a number of  
23 measures to try and ensure that workers generally  
24 stayed in camps and minimize their excursions into  
25 the community. I don't remember all the specifics

1 but they are listed in the EIS.

2 In addition to that, we recognize, in  
3 spite of all that attempt at reducing interaction  
4 with temporary workers and community, there's  
5 still that possibility there will be some worker  
6 interaction, and possibly negative. With that in  
7 mind, there is a committee, the Harmonized Gillam  
8 Development is working on developing specific  
9 measures to try and inform the community and deal  
10 with any potential negative interaction of  
11 temporary workers in particular in the area. So  
12 that's where we sit today in terms of the worker  
13 interaction aspect of those temporary workers.

14 MR. GIBBONS: And sorry, that is the  
15 kind of thing I was looking for. The committee, I  
16 don't know how much you can say about the  
17 committee at the moment, but in terms of its  
18 membership, people drawn from both Hydro and the  
19 community, or is this something that's strictly  
20 internal to Hydro?

21 MR. MCGARRY: I believe the committee  
22 is inclusive of local communities, including Fox  
23 Lake as they are part of the -- they are part of  
24 the overall Harmonized Gillam Development, so it  
25 involves the First Nation in that planning. The

1 committee will obviously do the same because it's  
2 very germane to Fox Lake interests, so...

3 MR. GIBBONS: Okay. Thank you very  
4 much. That's it.

5 THE CHAIRMAN: Mr. Kaplan?

6 MR. KAPLAN: I just have one question,  
7 and it's a result of the presentation yesterday by  
8 Mr. Turenne on behalf of the outfitters, you may  
9 recall if you were here. And I never sought to  
10 hunt a bear, nor do I care to do that in the  
11 future. But on behalf of the outfitters, the  
12 question that Mr. Turenne posed, as you may  
13 recall, was an issue of compensation. And it was  
14 in furtherance of the background that he gave you,  
15 wondering the difference between what Hydro does  
16 vis-a-vis trappers and outfitters. And I don't  
17 think he quite understood what the difference was.

18 Now, I'm sure one of you can answer  
19 that with a little more clarity perhaps. I have  
20 read both responses given by the lawyers for  
21 Hydro, Ms. Mayor and Mr. Bedford, to the two  
22 outfitters as to their request for compensation.  
23 I think one being in the neighbourhood of \$21,000,  
24 because of the line coming close to where their  
25 bait goes out and bears come, et cetera, et



1 cetera.

2                   So my question to you is, being  
3 semi-retired, I have never dealt with millions and  
4 billions of dollars like Hydro seems to be dealing  
5 with, we are talking, for want of a better phrase,  
6 spit in the ocean it seems to me, requested by the  
7 outfitters. What is the difference between the  
8 outfitters and trappers vis-a-vis compensation?

9                   MR. MCGARRY: Well, first of all,  
10 there are slightly different ways of generating  
11 income. The trapping program is long-established,  
12 well-regulated, involves people for long-term  
13 livelihoods. It's multi species, multi animals,  
14 production changes from year to year. And so it's  
15 a recognized area that there will be some  
16 disturbance. Yeah, it could affect the trapline.  
17 To deal with that, rather than go through a  
18 process every time with every individual trapper,  
19 a program was created to deal with that particular  
20 instance.

21                   In the case of outfitters, two have  
22 come forward with some issue about the impact on  
23 their businesses, which we recognize and have  
24 responded to them. Their business is slightly  
25 different. It's mostly about the spring bear

1 hunt. It's a fixed number of licences. There's a  
2 small number of business people. It really comes  
3 down to a case-by-case basis as to how Bipole III  
4 or any transmission project would actually affect  
5 that operation.

6 But I would say to Mr. Turenne, he  
7 came forward with quite a fear about the claims  
8 process. The process is legitimate and Hydro  
9 stands behind that. If you make a claim, it will  
10 be recognized on its merit. And I can see there  
11 are potential instances for an outfitter such as  
12 Mr. Grant and Adrenaline Outfitters where, for  
13 instance, the relocation and re-establishment of a  
14 bait station could incur cost as a result of  
15 Bipole III. To me that's a legitimate claim, and  
16 the process will accommodate. But we don't have  
17 all that information up front. There is a limited  
18 number of people that have come forward with an  
19 issue related to compensation. We have contacted  
20 all the trappers in our study area -- I mean,  
21 pardon me, all the outfitters in our study area.  
22 They have had a chance to respond, and we  
23 recognize that. But, I mean, the process to deal  
24 with that I think is appropriately the claims  
25 process, which is definitely different than the

1 trapper process.

2 MR. KAPLAN: But if I could go one  
3 step further and say to you that just as much as  
4 Hydro has to project 15, 20, 25 years into the  
5 future, as best they can, and sometimes they are  
6 right and I assume sometimes they are not right,  
7 so do outfitters with respect to the yearly amount  
8 of reservations taken and getting ready for the  
9 people who want to use outfitters. So they know  
10 in advance, based on prior involvement, what their  
11 losses could be because of this. What more do you  
12 want them to do? And I don't think that was as  
13 clearly put, with all due deference to both  
14 counsel, in counsel's response to the outfitters.

15 MR. MCGARRY: Well, again, the process  
16 is not set up to pay up front in terms of  
17 disturbance. One thing, the whole basis of that  
18 business is you have non resident game licences  
19 for generally black bear for the people we are  
20 talking about. Very few hunters, as Mr. Turenne  
21 indicated, go home without a bear, and that drives  
22 the business. So in relation to Bipole III then,  
23 one has to ask oneself, what's the impact on black  
24 bear? There may be slight disturbance during  
25 construction. Mr. Grant has pointed out that

1 perhaps there will be some inadvertent uncovering  
2 of bear denning. Yes, that's possible. We have  
3 identified that as mitigable, in a sense if it's  
4 encountered, we will temporarily avoid that area  
5 until the den is vacated.

6 So there's potential for minor  
7 disturbance, but overall in terms of habitat and  
8 use of bear population in the area of a Bipole III  
9 right-of-way, would be very small. And then it  
10 comes down to a case-by-case basis as to how that  
11 operation affects an outfitter.

12 MR. KAPLAN: Thank you.

13 THE CHAIRMAN: I'd just like to follow  
14 on this line. Why not a compensation program  
15 similar to the trappers' program?

16 MR. MCGARRY: Well, I guess the simple  
17 fact today is there isn't one. Should Hydro  
18 establish one? I guess that's the debate we're  
19 having. And right now we are deferring to the  
20 claims process, which to me, especially with the  
21 small amounts of money -- I recognize, of course,  
22 we are talking about small amounts of money and  
23 he's made that comment as well, and which can be  
24 potentially significant to an outfitter.  
25 Nevertheless, it doesn't seem to be large enough

1 from what we've seen to say that this is undue  
2 hardship, I think, in terms of going through a  
3 claims process. And again, we established  
4 programs for a broad need, a broader audience.  
5 The case of trappers, you know, there could be  
6 several hundred people involved. Lodge operators,  
7 smaller group, very legitimate business operation  
8 and a beneficial one. Right now we are addressing  
9 their issues related to compensation on an  
10 individual basis through claims.

11 MS. MacKAY: Can I just follow up with  
12 one more question on this?

13 One of the outfitters in his letter  
14 said that one of the important issues was to take  
15 their hunters into wilderness areas, and they did  
16 not see being beside or coming across a power line  
17 to be part of that experience. So his decision  
18 has been to cut his reservations, and he's making  
19 them up to two years ahead, cut his reservations  
20 from 16 a year to 9 a year.

21 Now, this is a loss he already knows  
22 about. How long does he have to wait to apply for  
23 compensation for that?

24 MR. McGARRY: I couldn't say. Again,  
25 that's an individual case. And he could make a

1 claim on that basis a year after construction, I  
2 would think, as soon as the effect is endured.

3 MS. MacKAY: Why not the year before  
4 construction?

5 MR. McGARRY: Well, as I pointed out,  
6 Ms. MacKay, we don't have a policy to that effect.  
7 I understand the panel is suggesting we do have  
8 one --

9 MS. MacKAY: Yes.

10 MR. McGARRY: -- but we don't have one  
11 right now to deal with that circumstance.

12 In the case of the outfitter you are  
13 referring to, Mr. McGraw provided us with bait  
14 station locations, and our proposed route does go  
15 very close to some of this bait stations.

16 However, the relocation of that and  
17 re-establishment may take a year or two, in his  
18 experience. And granted, he knows his business.  
19 That would be a legitimate claim. Also that may  
20 affect his bookings for that period of time, so it  
21 could be a cost as part of the claim.

22 MS. MacKAY: Okay. Well, maybe we'll  
23 just stay with the notion of compensation for a  
24 minute and switch to Crown lands. Can you tell us  
25 whether you have a policy and what that policy

1 might be of compensating people who have Crown  
2 land leases?

3 MR. MCGARRY: Most of the Crown land  
4 leases are related to agriculture where we incur  
5 them. So people rent Crown land for pasture, in  
6 some cases forage, and maybe even occasionally  
7 crop development. The compensation to a lessee in  
8 that case, Provincial lessee, is based on  
9 construction damage. If we damage a fence line or  
10 temporarily affect a crop or interfere with the  
11 movement of livestock or fencing or corrals,  
12 anything like that, Hydro is on the hook for  
13 compensating that, obviously, direct impact from  
14 construction.

15 In terms of the lease, we would have  
16 to acquire part of that lease to run the  
17 right-of-way. The effect on the overall lease  
18 would be up to Provincial Crown Lands as to how  
19 that affected any aspects of their arrangement  
20 between the lessee and the Province. But we  
21 compensated for directly attributable construction  
22 damage.

23 MS. MacKAY: Just one other question  
24 about compensation, since we're on the topic. You  
25 are compensating a lot of people for a lot of

1 different things. Have you ever considered a need  
2 to compensate Aboriginal folk for their hunting,  
3 and particularly gathering activities? I mean,  
4 many of these, as we have been told recently, many  
5 of these groups sell their products. Blueberries  
6 are sold. There's a booth down at the forks  
7 selling some of these products. Have you ever  
8 considered compensating those people for the  
9 damage done?

10 MR. MCGARRY: Not to my knowledge.  
11 But then you've got to look at the potential  
12 effect of the project which, for instance on  
13 blueberries, which like nice sandy environments  
14 with good sun exposure, the construction aspect of  
15 building a transmission line would interfere with  
16 some of that. Although these mapped areas of  
17 blueberries in the Kettle Hills and Cowan and  
18 Briggs Spur area are quite large and there are a  
19 lot of them. The construction of the transmission  
20 line is relatively small in terms of that  
21 disturbance. What we know from our botanists is  
22 that the plants will regrow. Rights-of-way are  
23 reasonably good places to grow blueberries. I  
24 know that First Nations and Metis have pointed out  
25 other issues related to having a transmission line



1 in proximity to the berries, but at this point in  
2 time there's not direct compensation for that crop  
3 loss, that native natural crop loss.

4 MS. MacKAY: And no consideration of  
5 developing one at this point?

6 MR. McGARRY: Not to my knowledge.

7 MS. MacKAY: Thank you. I'd like to  
8 just go back to the herbicide issue for a moment.  
9 One thing that has not been mentioned was an issue  
10 that came up yesterday, I think it was. The  
11 Wuskwi Sipihk folk, in their efforts to sort out  
12 their attitude towards Bipole III, went to Grand  
13 Rapids to look at Bipoles I and II. And yesterday  
14 they told us, and showed us a photograph of a view  
15 of Bipoles I and II that they said had been  
16 broadcast treated with herbicide and was now  
17 totally brown. Is it possible that in the last  
18 year or two, part of Bipoles I and II right-of-way  
19 would have been treated thus?

20 MR. PENNER: My understanding is that  
21 was not on Bipole I and II, it was on the Grand  
22 Rapids Ashern line. There was herbicide  
23 application, it was a selective application, but  
24 there was a significant amount of trees that were  
25 considered to be danger trees, and so are

1 considered to be trees that will grow into the  
2 lines. And so there's a significant number of  
3 trees that the herbicide was applied to. All of  
4 the undergrowth is still green and is still  
5 growing.

6 MS. MacKAY: Well, in fact, the  
7 photograph showed only low shrubs, and they  
8 indicated that you couldn't tell from the  
9 photograph much about colour, but they indicated  
10 that the entire area was brown. You're saying  
11 that this was not the case?

12 MR. ORTIZ: Wayne Ortiz. I was up  
13 there when that work was being done. It was a  
14 selective application, close and handgun. The  
15 herbicide was directed at -- the application was  
16 directed at the individual plants. The trees are  
17 small when they are treated, so it looks like they  
18 are shrubs but they are tree species. We were  
19 treating the Pine and the Poplar in particular.

20 MS. MacKAY: So, in fact, the very  
21 reduced use of herbicides that you told us about a  
22 few minutes ago, and which we heard about before,  
23 is a procedure used on all of Hydro's  
24 rights-of-way?

25 MR. ORTIZ: Yes, we do not do any

1 broadcast application.

2 MS. MacKAY: Anywhere?

3 MR. ORTIZ: Anywhere. It's all  
4 targeted application, single plant applications.  
5 In a situation like that where it's the first  
6 application after the right-of-way was  
7 mechanically treated, there is a lot of trees  
8 coming back. Five to 10 years from now, when we  
9 go back to treat that, there will be half as many  
10 plants to treat. And 10, 15 years after that when  
11 we go back to treat again, there will be about  
12 half of that number again. So it's a steadily  
13 decreasing process.

14 MS. MacKAY: Just one more question,  
15 off the herbicides, but around the same sort of  
16 areas. We heard much earlier in the proceedings  
17 some information about vegetation management,  
18 particularly in BC where they use a remote sensing  
19 program called Lidar. Are you using or planning  
20 to use any sort of remote sensing in assessing  
21 vegetation on the lines?

22 MR. ORTIZ: Yes, we use Lidar quite  
23 extensively.

24 MS. MacKAY: You do. Okay, thank you.

25 THE CHAIRMAN: I have a few questions

1 about access to the line. As we all know, that's  
2 been a major concern for any number of groups,  
3 including all of the Aboriginal groups we have  
4 heard from, but even the outfitters that we heard  
5 from yesterday, and others who are concerned that  
6 the route will become a super highway for hunters  
7 in particular, but also just for people who like  
8 to run about the wilderness on their skidoos or  
9 all-terrain vehicles, which would cause problems  
10 for the animals even if we're not hunting them.

11 I'd just like to get some more  
12 explanation, confirmation, or assurance about how  
13 you will limit access to the trails. You have  
14 talked about excavated trenches on the access  
15 roads into the right-of-way. But we also heard  
16 from one gentleman from around Swan River, I  
17 think, who said that all you need is a chain-saw  
18 and an ATV to get around those, the chain-saw to  
19 cut the trees that you might lay across the road.

20 Are you going to have fences at areas  
21 where the trail crosses road or trails? Are you  
22 going to have gates, and if so, how will they be  
23 monitored and controlled?

24 MR. MCGARRY: A lot of the discussion  
25 on trenches and other measures such as fencing,

1 gate surveillance, was provided in a letter to  
2 Ms. Dagdick. And that was specific to game  
3 hunting area 19 where the possibility of the final  
4 preferred routes becoming the preferred route  
5 again, after reviewing the alternate in that area.  
6 Manitoba Conservation made it pretty clear that if  
7 that were the case, it was still a very important  
8 area in their mind for moose, and the issue has  
9 always been about access for increased hunting in  
10 that area, probably more so even than  
11 fragmentation.

12           So in that discussion, we tried to  
13 develop measures that might go beyond what we  
14 might normally do, in that specific instance, to  
15 include trenches, fencing, surveillance, gates.  
16 Those types of measures can be used elsewhere as  
17 needed, but that was a particular circumstance  
18 that was identified.

19           So, in general, we have an access  
20 management plan, it's in draft stage right now.  
21 We will be updating that plan based on what we  
22 have heard in terms of priority or important areas  
23 for access. The approach to access prevention on  
24 a right-of-way is not universal. Where there is a  
25 need, an identified need, then we'd look at a

1 normal suite of measures, which Mr. Penner might  
2 be able to describe to you in more detail, or  
3 Mr. Ortiz. But generally, there are ways to try  
4 and limit access to the right-of-way for general  
5 use, vehicle or ATV. And also for wildlife access  
6 as well, we have heard a lot about wolf predation  
7 of moose. There are a number of measures,  
8 including vegetation management, to restrict the  
9 line of sight, meanders in access trails, again,  
10 to prevent line of sight loss for hunting. For  
11 wolf predation, there's also the opportunity to  
12 schedule maintenance activities on the ground so  
13 that we don't create the trail that the wolf might  
14 use if we do it a different time of season. So  
15 there are a number of measures.

16 Now, they are all being laid out in  
17 access management plans that is in draft, which we  
18 are reviewing with First Nations and Metis  
19 communities for input. So if there's additional  
20 specific circumstances, like occurred in GHA 19,  
21 additional measures might be looked at. But in  
22 general, we have a plan where certain measures  
23 will be used, like abandonment of access trails to  
24 prevent further access from an access trail on to  
25 a right-of-way and so on. So a lot of that is

1 already in the record, I believe.

2 THE CHAIRMAN: You have identified GHA  
3 19, but can this be extended to other areas along  
4 the line where there are concerns, and if not, why  
5 not?

6 MR. MCGARRY: I guess the approach is  
7 not universally to prevent access at all cost.  
8 Yes, it could be if there is an identified need  
9 that seemed reasonable. For instance, when we had  
10 the original final preferred route in the Wabowden  
11 area, there was specific access management  
12 identified for that area off of Highway 6 onto the  
13 right-of-way, because of the caribou issue. So as  
14 issues are identified, we can look at enhanced  
15 measures. Part of that will come through, in  
16 addition to the suite we have already put on the  
17 table, through a draft access management plan to  
18 look at specific circumstances as we consult on  
19 this, as we get closer to construction.

20 MR. PENNER: Just to add a little bit  
21 more there. The one thing that we certainly heard  
22 in The Pas was that, where Snowman packs trail and  
23 they get, I guess, licence from Manitoba  
24 Conservation to pack and maintain trail on our  
25 right-of-way, that's where a large number of

1 snowmobilers travel. And that may be one way to  
2 limit access, is to not allow Snowman to maintain  
3 snowmobile trails under these rights-of-ways.

4 THE CHAIRMAN: Good luck. I mean,  
5 knowing snowmobilers, it's going to take a lot to  
6 stop them, where they might want to go.

7 A few days ago, I think it was last  
8 week, I asked a question about your comments of  
9 enhanced mitigation. I don't think I got a full  
10 answer, and I'm just wondering what and how much  
11 the enhanced mitigation can and will be used, and  
12 how much of the line it can be used on, or you  
13 plan on using it on?

14 MR. PENNER: The enhanced mitigation  
15 was described for an eight kilometre section where  
16 there is currently limited access in G 19A, and  
17 that was a discussion held with Manitoba  
18 Conservation. So it was an eight kilometre  
19 section that we talked about. In those enhanced  
20 mitigations, we are still discussing those kind of  
21 things, but what we're talking about is limited  
22 access trails to the tower sites, minimal  
23 clearing, so that we would use our tallest towers  
24 closer together to allow for, I guess trees up to  
25 17 metres in height to remain in place. And this



1 is because it's an especially sensitive zone for  
2 these moose. It's certainly not something that we  
3 would extend to everywhere throughout the  
4 right-of-way. However, these are very similar  
5 mitigation measures that we would use in riparian  
6 zones to ensure that we are protecting the stream  
7 crossings throughout the right-of-way. But we  
8 certainly wouldn't be extending this to other  
9 portions other than -- unless there was specific  
10 concerns. I don't know if Pat has anything he can  
11 add?

12 THE CHAIRMAN: How about in caribou  
13 country, in areas where caribou might be using the  
14 line?

15 MR. MCGARRY: Well, the problem I  
16 mentioned at Highway 6, for instance, with the  
17 final preferred route of course is being altered  
18 by -- hopefully that the AFPR in that area will be  
19 adopted, which removes a lot of the access  
20 problem, because the access already exists, since  
21 we parallel a rail line, a transmission line and a  
22 road. So if somebody wanted to get in there, they  
23 could already. So we're not as concerned, neither  
24 is Wildlife Branch -- pardon me, the region on  
25 that particular issue in that area. I think from

1 our discussions they were -- that was the Wabowden  
2 herd -- from our discussions they seemed  
3 reasonably satisfied with the proposed alternative  
4 in that area, which should take care of the access  
5 problem for caribou for the Wabowden area.

6 THE CHAIRMAN: Switching gears, I have  
7 a question about agricultural land. It's not  
8 really a big deal but I am just curious. I  
9 understand that on Bipoles I and II, Hydro took  
10 title to the land on the right-of-way, is that  
11 correct, through agricultural country?

12 MR. MCGARRY: Yes.

13 THE CHAIRMAN: Why don't you do that  
14 in this case, rather than just taking an easement?  
15 I mean, you are paying them 150 percent of market  
16 value, why don't you just take the title?

17 MR. TYMOFICHUK: Mr. Chairman, I guess  
18 there's a lot of history in right-of-ways. In  
19 congested areas we have, over time, taken title  
20 say in the City of Winnipeg. And in the rural  
21 areas, it's felt that, you know, by taking  
22 easements, it eases the concern of the landowner  
23 to have a strip of land that may be on the edge,  
24 hence he no longer has a quarter section or half  
25 section or full section. So easements have worked

1 for us for many years and we'll continue to do  
2 that. But I don't sense that there's a burning  
3 desire to go for fee simple or title in the rural  
4 areas.

5 THE CHAIRMAN: Now, as I said, it  
6 wasn't a big deal to me, I was just curious. I  
7 only heard recently that you had taken title to  
8 the land underneath Bipoles I and II.

9 Another question that's probably a bit  
10 offbeat, but we hear a lot in the media about a  
11 nationwide, if not continent wide skill shortage.

12 Do you anticipate this will be a  
13 problem for the construction of this project?

14 MR. TYMOFICHUK: Yes, Mr. Chairman, it  
15 is an issue that's concerning not only the utility  
16 industry, but the energy industry and other  
17 industries. We have a good training program for  
18 the kind of skilled workers we need for  
19 constructing lines. We're not going to be using  
20 our own linemen, they are dedicated mostly to the  
21 sub transmission and distribution works, so the  
22 contractors have to find the necessary skills.  
23 And if there are multi projects going on at the  
24 same time, there's going to be competition for  
25 those people. But we'll be having our contractors

1 put their best foot forward to find them. Thank  
2 you.

3 THE CHAIRMAN: Thank you. Any other  
4 questions?

5 Tomorrow morning, or next Monday  
6 morning I'll wake up and say, darn, I should have  
7 asked that question.

8 I think that's brought us to the end  
9 of the questions that we have identified. So  
10 perhaps in a couple of minutes we'll take a short  
11 break and change the crew at the head table and  
12 move on.

13 Before I do that, I'd just like to  
14 respond. Yesterday we had a challenge to a  
15 document being filed by the Manitoba Metis  
16 Federation. It was one that we had previously  
17 ruled wouldn't be filed because it's not relevant.  
18 We recognize still that much of it is not  
19 relevant. However, this time we will allow it to  
20 be put on the record. I mean, in part, one of my  
21 colleagues this morning said, it's sort of the  
22 classic barn door and the horse getting out. It's  
23 on the public record. Many of the issues that are  
24 in that document got on our record yesterday  
25 through the evidence and cross-examination of

1 witnesses. It remains, of course, open to the  
2 panel as to how much weight we give that document.  
3 So we will register it for the record.

4 I think we'll take a very, perhaps ten  
5 minute break and come back with the next group.

6 (Hearing recessed at 9:56 a.m. and  
7 reconvened at 10:10 a.m.)

8 THE CHAIRMAN: It looks like we're all  
9 ready to go. I understand that there's going to  
10 be some short comment on the Grand Rapids  
11 pictures.

12 Mr. Ortiz, are you doing that?

13 MR. ORTIZ: Yes.

14 THE CHAIRMAN: Go ahead, sir.

15 MR. ORTIZ: Yes. I was shown the  
16 picture that you were shown yesterday, and what I  
17 see here is a fall time picture. This is indeed  
18 on G1A/G2A which runs parallel to Bipoles I and II  
19 outside of Grand Rapids. It is a fall picture.  
20 It is part of the area that was sprayed, but the  
21 grass is brown because it's dead for the winter.  
22 But the trees that are in that picture, indeed,  
23 have been sprayed. You can see they are Poplar  
24 and they are Pines. But in amongst them, if this  
25 had been a summer time picture when the leaves are

1 on, or next year, you would see the green shrubs,  
2 like Rose bushes and the Hazel in amongst those  
3 dead trees that would also still be alive.

4 MS. MacKAY: Thanks very much.

5 THE CHAIRMAN: So you're telling us  
6 that grass around Grand Rapids doesn't survive the  
7 winter?

8 MR. ORTIZ: It survives the winter,  
9 but not green.

10 THE CHAIRMAN: Thank you.

11 Now, I take it, I am sure one of you  
12 will explain, the first part of the rebuttal this  
13 morning is on transmission issues or -- I'll let  
14 you define it. Mr. Bedford.

15 MR. BEDFORD: You know, of course, we  
16 filed two written documents in rebuttal to the  
17 Coalition material, specifically the evidence that  
18 we heard from Dr. Lawson, Mr. Woodford and  
19 Mr. Derry. We have opted not to do a  
20 presentation, so to speak, on those two rebuttal  
21 documents. We are putting forward the individuals  
22 from Hydro who played a role in drafting the  
23 documents and who have to be expected to respond  
24 to questions on the rebuttal papers. But that's  
25 their purpose here, is for folks to ask them

1 questions arising out of the rebuttal documents.  
2 And when they are finished, and they can depart,  
3 then we will bring back Mr. Osler, and we are  
4 bringing forward Mr. Hegmann to deal with a  
5 completely different topic, which is cumulative  
6 effects.

7 THE CHAIRMAN: Thank you. And I'm not  
8 sure that I have these Hydro documents, what do  
9 they look like? We might need a short time out  
10 here to see if we can find them.

11 Well, I have managed to find one of  
12 them, but I don't have the other, but we'll carry  
13 on and I'll use Mr. Kaplan's, as I need.

14 So how are we doing this? You are  
15 presenting anything, or just available to answer  
16 questions?

17 MR. TYMOFICHUK: That's correct.

18 THE CHAIRMAN: Mr. Meronek, do you  
19 have questions for these gentlemen? Go ahead,  
20 sir.

21 MR. MERONEK: I'll let the record  
22 show, sir, that I've only poured half a glass of  
23 water because I won't be that long.

24 THE CHAIRMAN: You should have tipped  
25 us off to that months ago.

1 MR. MERONEK: Is a glass half full or  
2 half empty?

3 We visited a lot of the topics the  
4 last time we met, so I have only got a couple of  
5 areas. And one is related to the costs that are  
6 in the rebuttal. I was trying to get my head  
7 around some of the numbers. So whoever is in  
8 charge of that particular task, I'd like to  
9 discuss some of the numbers. And I'm referencing  
10 page 3 of the rebuttal.

11 Is that you, Mr. Mazur, that I should  
12 be talking to?

13 MR. MAZUR: That's right, Mr. Meronek,  
14 yes.

15 MR. MERONEK: Thank you. Now, there's  
16 been some attempt by Manitoba Hydro to identify  
17 the cost of relocation of Bipole II. And firstly,  
18 the first attempt was made I believe in July of  
19 2012, in response to an information request at  
20 CEC/MH VII/428. And in that particular  
21 information request response, the estimated cost  
22 for relocation was \$1.78 billion.

23 Do you recall that, Mr. Mazur?

24 MR. MAZUR: Yes, I do.

25 MR. MERONEK: And in that answer to



1 that information request, that included a 70  
2 kilometre 500 kV DC line between Dorsey and Riel;  
3 correct?

4 MR. MAZUR: That is correct, yes.

5 MR. MERONEK: And that's the line that  
6 we talked about recently that goes -- that feeds  
7 off the corridor and north of Dorsey, correct?

8 MR. MAZUR: That would be for allowing  
9 Bipole I and II paralleling, that's correct, sir.

10 I should also add that there was a  
11 revision to the \$1.78 billion, it was, I'll call  
12 it, a calculation error or a typo. I'm not quite  
13 sure which at this point, but the cost that we had  
14 revised was \$1.2 billion.

15 MR. MERONEK: You're going to take all  
16 of my questions away, sir, if you keep on  
17 volunteering.

18 MR. MAZUR: Sorry, I apologize.

19 MR. MERONEK: That was my next  
20 question. It is scary how prescient you are.

21 The correction that was volunteered in  
22 October, on the record, sir, was a reduction of  
23 some \$580 million down to 1.2 billion?

24 MR. MAZUR: That's correct, yes.

25 MR. MERONEK: And you say that was an

1 adding error or --

2 MR. MAZUR: Yeah, I think we had  
3 included some -- just give me a moment. Yeah,  
4 when we were putting the numbers together, it was  
5 just an adding error, if you will, where we  
6 included an extra, some extra costs there from the  
7 Bipole III components in error.

8 MR. MERONEK: It happens. Then the  
9 next revision came as a result of this rebuttal on  
10 March 4. And if you're looking at page 3 of the  
11 rebuttal, it's up to \$1.631 billion; correct?

12 MR. MAZUR: That is correct.

13 MR. MERONEK: So it's gone up now some  
14 \$430 million?

15 MR. MAZUR: That's correct. And the  
16 reason for that, it wasn't clear in your client's  
17 reports as to what the exact plan was. And I  
18 think what we're pointing out for plan D is that  
19 in the testimony, it was stated that the  
20 underground cable should be used between Dorsey  
21 and Riel, as opposed to an overhead paralleling  
22 line. And so the 370 million in green on our  
23 rebuttal page 3, I guess, if I've got it right,  
24 represents that cable cost which is missing in the  
25 Coalition's report.

1 MR. MERONEK: So if you took, if the  
2 decision was not to go underground cable, you  
3 would take the 370 million off that number,  
4 correct?

5 MR. MAZUR: We'd take the 370 million  
6 off and we'd add about 92 million for the overhead  
7 line that was proposed in our response to the  
8 Commission. And we would also add back the 70  
9 kilometre so-called paralleling line for  
10 167 million --

11 MR. MERONEK: So if you --

12 MR. MAZUR: -- I think total.

13 MR. MERONEK: If you took off the  
14 278 million, you're down to \$1.35 billion,  
15 correct?

16 MR. MAZUR: I don't have the  
17 calculator in front of me but --

18 MR. MERONEK: Subject to check.

19 MR. MAZUR: -- it would be that,  
20 that's correct.

21 MR. MERONEK: And you have gone from  
22 70 kilometres in your information request, for  
23 that 500 kV DC line, up to a hundred kilometres in  
24 this rebuttal, correct?

25 MR. MAZUR: No, that's not correct.

1 There's two components. One is the line that taps  
2 Bipole II and goes eastward and then south to  
3 Riel. We estimated that at a hundred kilometres.  
4 I believe the Coalition, your client's report had  
5 it at 70 kilometres. There was a difference in  
6 length there. So that's the one component. And  
7 the other one is the line between Dorsey and Riel.  
8 So one is a hundred kilometres in our estimate, or  
9 in our response to the questions the Commission  
10 posed on December 3rd, and the other is the 70  
11 kilometre Dorsey/Riel paralleling line.

12 MR. MERONEK: I'm sorry, I'm not quite  
13 understanding. The hundred kilometres in the  
14 rebuttal is a tap off from Bipoles I and II into  
15 Riel?

16 MR. MAZUR: Yeah, from the Bipole II  
17 line, some 50 kilometres north of Dorsey near St.  
18 Ambroise, as I think we discussed last week, going  
19 eastward and south to the Riel station.

20 MR. MERONEK: All right. And where is  
21 the 70 kilometres of --

22 MR. MAZUR: Seventy kilometres is  
23 required, because now you have separated Bipole I  
24 and II. And order to parallel it and have  
25 comparable reliability to what we have today, you

1 would need to build this paralleling line which  
2 would be on this south corridor between Dorsey and  
3 Riel.

4 MR. MERONEK: Got you, okay. So with  
5 those changes, and if you go over to table 1 on  
6 the next page, you are roughly at an \$850 million  
7 difference between the proposal of Bipole III as  
8 proposed by Manitoba Hydro and the Bipole  
9 Coalition estimated number if you took out the  
10 underground cable?

11 MR. MAZUR: If we took out the  
12 underground and replaced it with the overheads, as  
13 we just described, I believe that would be the  
14 correct addition, subject to the mathematics, but,  
15 yes.

16 MR. MERONEK: Now, when you're talking  
17 about the 70 kilometres of HVDC line on the south  
18 corridor, that's already in the capital budget for  
19 Manitoba Hydro, is it not?

20 MR. MAZUR: It is not. I might add we  
21 have had -- it was in the budget many years ago  
22 and, you know, with the change from east to west,  
23 it was removed. It's also subject of the  
24 discussion related to some of the questions in the  
25 evidence at this hearing regarding a future 500 kV

1 tie line. We have no committed plans in the  
2 budget at this point.

3 MR. MERONEK: Let me read to you page  
4 18 of the consolidated capital expenditure  
5 forecast which was presented to the Public  
6 Utilities Board. And it's got the Dorsey U.S.  
7 border new 500 kV transmission line, and it  
8 includes a design and build, the building of a 60  
9 kilometre 500 kV transmission line between Riel  
10 Station and Dorsey Station. Isn't that what we're  
11 talking about?

12 And in that capital forecast, for that  
13 particular transmission line plus the 123  
14 kilometre kV line between Dorsey and the U.S.  
15 border, there's \$204 million in the forecast.

16 MR. MAZUR: The \$204 million is for a  
17 line from Dorsey, heading toward Riel and south to  
18 the border.

19 MR. MERONEK: But it also includes the  
20 68 kilometres of 500 kV --

21 MR. MAZUR: Well --

22 MR. MERONEK: Can I just finish my  
23 question, sir? I'll give you an opportunity to  
24 respond.

25 MR. MAZUR: Sorry, sir.

1 MR. MERONEK: It includes the design  
2 and building of a 68 kilometre 500 kV transmission  
3 line between the Riel Station and Dorsey Station?

4 MR. MAZUR: 500 kV AC or DC?

5 MR. MERONEK: It doesn't say.

6 MR. MAZUR: I'll have to check,  
7 because I think our current proposal, from my  
8 recollection, is an AC line that is going between  
9 Dorsey -- the one route we are examining is  
10 running toward Riel on the south corridor and then  
11 south to the U.S. with no termination at Dorsey.

12 MR. MERONEK: So you'll check that for  
13 me?

14 MR. MAZUR: I'll check that.

15 MR. MERONEK: If in fact it is a 500  
16 kV transmission line, AC or DC, that's a cost that  
17 would be incurred in any event if that plan goes  
18 ahead. Correct?

19 MR. MAZUR: If that plan goes ahead,  
20 it would be a cost. But as I say, it wouldn't be  
21 a cost to the Bipole III project. I think what's  
22 in the budget is predicated upon the future  
23 northern generation development plan being  
24 approved.

25 MR. MERONEK: I understand. So

1 whatever that number is, whether it's an  
2 \$850 million increase, or a \$766 million increase,  
3 if you credited that south 500 kV line, that still  
4 implies, and we're looking over at table 1, that  
5 you're going to have to do something in 2025.  
6 We've been over that. But whatever it is, you're  
7 not going to do nothing, correct?

8 MR. MAZUR: Only if the approval is  
9 obtained for northern generation and a new tie  
10 line, and that may not -- may or may not happen.

11 MR. MERONEK: If you did something,  
12 would it be fair to add in a cost in table 1 where  
13 you have none listed in green; correct?

14 MR. MAZUR: No, it wouldn't. And the  
15 reason it wouldn't is because when we assess the  
16 three plans that are being compared there, the  
17 Manitoba Hydro Bipole III plan provides for  
18 reliability to 2025, considering an outage of the  
19 corridor and considering an outage of the Dorsey  
20 Station. The risk of one in 20 years of the  
21 corridor outages essentially mandates that we  
22 address it. The Coalition proposed plans D and E  
23 do not address the corridor outage. And from a  
24 reliability perspective, the deficit in 2025 is  
25 identical in terms of supply. Because if you



1 would -- give me a moment -- but if you had  
2 followed and addressed the corridor and you took  
3 the Coalition report, part 1, figure 1.3, the  
4 supply deficit would follow the Riel  
5 sectionalization line in that figure. And it may  
6 be a bit difficult to visualize. So in 2017, when  
7 part D is put in, there's no change in the supply  
8 deficit. And we're in the order of 1500 megawatts  
9 deficit. This would continue to grow to about  
10 2000 megawatts by 2025, at which time plan E, the  
11 proposed Coalition report, plan E would go into  
12 service. And that would raise the deficit to  
13 zero.

14 Now, at this point, you still, in the  
15 Coalition plan, as in Bipole I, need to do  
16 something. And so anything that's done would  
17 common to all plans.

18 MR. MERONEK: All right. That's a  
19 matter of argument. But you disagree with the  
20 suggestion that by 2025, the reliability of the  
21 Coalition's suggestion is greater than the  
22 reliability associated with Manitoba Hydro's  
23 solution?

24 MR. MAZUR: Absolutely. It ignores  
25 the corridor outage, which is a high risk outage

1 of once in 20 years, and suggests that Manitoba  
2 Hydro use load shedding in the event that those  
3 types of disasters happen. And we would judge  
4 that this would be unacceptable, given the, you  
5 know, the extended duration of these outages.

6 MR. MERONEK: Okay. Now, this  
7 particular tie line that is in the capital  
8 expenditure forecast is a line that's contemplated  
9 to go from Dorsey down to the States, just east of  
10 Gretna; is that correct?

11 MR. MAZUR: I don't think we have a  
12 specific route for the tie line. What I can say  
13 is that there has essentially been a couple of  
14 different options that have been evaluated over  
15 the last several years. And similar is the  
16 situation today, one option is to run something  
17 from Manitoba, Dorsey likely, to North Dakota,  
18 which would be more of a straight south line. The  
19 other option that is currently being looked at,  
20 jointly with the American utilities, is to run a  
21 line from Dorsey toward Minnesota, in sort of  
22 toward the Duluth area generally. And so there's  
23 no decision on exactly any kind of a preferred  
24 routing at this point.

25 MR. MERONEK: On page 4 you talk about

1 this existing, it's in the middle of the paragraph  
2 on that page, you talk about a new 500 kV export  
3 tie line, which will increase import capability by  
4 about 750 megawatts initially; correct? Do you  
5 see that, sir?

6 MR. MAZUR: That's correct. And we  
7 were just pointing out that in 2025, I don't have  
8 an answer today as to what we're going to do,  
9 because there are several options. And there's  
10 the future generation development plan in Manitoba  
11 is uncertain at this point. As many of us might  
12 know, there's supposed to be a review of the  
13 future Manitoba Hydro preferred development plan  
14 sometime later this year. And until that's  
15 solidified, we really wouldn't be able to select  
16 what happens beyond that, because it bodes  
17 heavily, depend on the outcome.

18 MR. MERONEK: It came to our attention  
19 recently, and I have sent what I received, a 2010  
20 environmental overview from MMM Group Limited, at  
21 or around the time that Bipole III was being, in  
22 terms of the preferred route was being  
23 disseminated. You have seen that particular  
24 overview, I take it?

25 MR. MAZUR: Yes, I have seen it. It

1 was a tabletop exercise looking at potential  
2 impacts on costs of a line going to North Dakota.

3 MR. MERONEK: And that environmental  
4 overview prepared by MMM Group Limited for  
5 Manitoba Hydro indicated, as a preferred  
6 preliminary route, the route that goes straight  
7 down from Dorsey to Gretna, just east of Gretna,  
8 with an in-service date of 2018. Do you recall  
9 that, sir?

10 MR. MAZUR: I don't have the report in  
11 front of me, but I believe that at that point in  
12 time, that was the thinking. But as I said, at  
13 this point today, we're looking at, actively  
14 looking at two different options. And certainly  
15 2018, did you say, is certainly not doable. It's  
16 probably one to two years later.

17 MR. MERONEK: Right.

18 MR. NEUFELD: Mr. Meronek, if I might  
19 add, the routing of that line is largely dependant  
20 upon who the proponent in the area south of the  
21 border is for that line. And that keeps changing.  
22 And not only do we not know what voltage level the  
23 line will be, but we don't have, at this point in  
24 time, a confirmed proponent.

25 MR. MERONEK: Now, if this particular

1 line is the line that ends up being preferred, you  
2 will agree it does cross or traverses prime  
3 agricultural land; correct?

4 MR. NEUFELD: It's just too early to  
5 tell.

6 MR. MERONEK: The question is, if this  
7 line is the preferred line, it will traverse prime  
8 agricultural land, correct?

9 MR. NEUFELD: Well, that may be, but  
10 that's an obsolete report.

11 MR. MERONEK: 2010 is obsolete?

12 MR. NEUFELD: That's correct.

13 MR. MERONEK: Do you have a better  
14 report for us, sir?

15 MR. NEUFELD: No, I don't believe we  
16 have. This is in a state of flux. We have  
17 different proponents, and we haven't nailed down  
18 where the route will go, nor do we know what the  
19 voltage level will be.

20 MR. MERONEK: So this is the most  
21 updated report you have with respect to that  
22 particular question, correct?

23 MR. TYMOFICHUK: Mr. Chairman, if I  
24 may? At that time, I believe that Manitoba Hydro  
25 and the utility in Minnesota had not signed a

1 power purchase agreement. So this was very, very  
2 preliminary to look at the lay of the land from  
3 very high up. It really has no bearing now.

4 As Mr. Mazur and Mr. Neufeld have  
5 said, studies are going on everyday to try and  
6 determine, and it depends on more than one utility  
7 in the U.S., where the line is going to terminate.  
8 The line Mr. Meronek refers to in that document is  
9 a very broad general direction at that time that  
10 it might end up at Fargo.

11 Today it appears to be moving more  
12 eastward toward the Duluth area.

13 MR. MERONEK: As we sit here today,  
14 sir, do you have an updated study which would show  
15 Manitoba Hydro's thinking in terms of where this  
16 line will go?

17 MR. TYMOFICHUK: There is work going  
18 on, but it's not a study. There's data being  
19 collected, there's resources being put to it, but  
20 there's no study that reflects what you have in  
21 front of you.

22 MR. MERONEK: And if this line is  
23 chosen, as demonstrated in this particular --

24 THE CHAIRMAN: Mr. Meronek, how is  
25 this line relevant to the review before us?

1 MR. MERONEK: It's tremendously  
2 important, sir, from a cumulative effects  
3 perspective. You're not seeing the whole picture.

4 THE CHAIRMAN: I'll let you proceed  
5 for now.

6 MR. MERONEK: If this line gets  
7 selected, sir, it will have to cross over or be  
8 crossed over by Bipole III; is that not correct?

9 MR. TYMOFICHUK: If the termination  
10 point is in Fargo, I think it's pretty clear that  
11 we'd have to cross agricultural lands.

12 MR. MERONEK: No, no, you  
13 misunderstood my question.

14 If this is the selected route, then at  
15 some point it will cross over Bipole III, the  
16 Bipole III line, cross over or cross under?

17 MR. TYMOFICHUK: That's correct.

18 MR. MERONEK: Is that something that  
19 is appropriate?

20 MR. TYMOFICHUK: Yes. We have many  
21 crossings, and we take great care to design the  
22 crossovers to make sure they are safe in every  
23 respect. That would not be unusual.

24 MR. MERONEK: And my understanding,  
25 and I can't put a finger to the exact -- I can't

1 put my finger on it. In the capital forecast that  
2 I referenced before, the in-service date has been  
3 moved to 2020?

4 MR. MAZUR: That's right. I have it  
5 in front of me, for the U.S. border Duluth line.  
6 And as you had pointed out earlier, Mr. Meronek,  
7 the line in this forecast is terminating at  
8 Dorsey. The current plan, or the next revision,  
9 we aren't terminating at Dorsey -- I'm sorry, at  
10 Riel. It will run by Riel, and that will be a  
11 measure to save costs. So the \$204 million that  
12 will be Manitoba Hydro's cost to the border, it's  
13 our argument that it wouldn't be a cost that you  
14 would apply to the Coalition plan. In fact, there  
15 is some additional costs missed in the Coalition  
16 plan. Because it's not clear to us, but it  
17 appears that the Coalition plan E into Laverendrye  
18 assumes a 105 kilometre section of line from  
19 Portage to Laverendrye, 40 of it being cable and  
20 65 being -- I'm sorry, 65 being cable and 40  
21 overhead line. If you make that adjustment, there  
22 should be another 450 million in Manitoba Hydro's  
23 calculation to that plan E.

24 MR. MERONEK: If this line goes in as  
25 anticipated in 2020, if the in-service date is



1 2020, then the lead time, according to this  
2 particular document, is approximately 40 months,  
3 correct?

4 MR. MAZUR: I'm sorry, I didn't  
5 understand?

6 MR. MERONEK: The lead time required  
7 to get approvals in construct is about 40 months,  
8 39 months?

9 MR. MAZUR: From today, seven years.

10 MR. MERONEK: No, from 2020 forward?  
11 If you're going to construct in 2020, according to  
12 this particular preliminary study, it says you  
13 need 39 months of lead time, which would bring it  
14 down --

15 MR. MAZUR: You're referring to a  
16 number in the study?

17 MR. MERONEK: Yes.

18 MR. MAZUR: I don't have it in front  
19 of me, so I'll have to take your word for it.

20 MR. MERONEK: Okay. So, you'd be  
21 bringing it down, you'd have to be before the  
22 Commission in the next couple of years; is that  
23 correct?

24 MR. MAZUR: I would say that's  
25 correct. As I said earlier, I think the need for

1 analysis for that line and the hydro generation, I  
2 think I said earlier, was sometime this fall, and  
3 Mr. Tymofichuk sent me a note here that said it is  
4 next spring. So, yes, we'd have to be bringing  
5 that before a Commission in that time frame.

6 MR. MERONEK: Thank you, sir.

7 MR. MCGARRY: Could I just add to  
8 that, Mr. Meronek? The planning process  
9 regulatory wise is just being worked out now and  
10 in the next few months. We're still very early in  
11 the planning stages for environmental assessment  
12 review. And as Mr. Mazur pointed out, there is no  
13 routing, it is all conceptual at this point. And  
14 as such, the planning framework is about to  
15 advance quite a bit, and we will be looking at  
16 beginning public consultation this year. When the  
17 final EIS gets to regulators will probably be  
18 about two years from now.

19 MR. MERONEK: Great, thank you, sir.

20 Thank you, Mr. Chairman.

21 THE CHAIRMAN: Thank you, Mr. Meronek.

22 Are there any other participants that  
23 have questions of these witnesses? Any panel  
24 members?

25 MR. GIBBONS: I hope this leads to a

1 brief answer, but who knows? What I'm still not  
2 quite clear on, after the discussion both today  
3 and earlier in the process regarding the  
4 Coalition's alternative plan, is whether the only  
5 technical, not financial, but technical difference  
6 of opinion is the need for, in the view of  
7 Manitoba Hydro, and correct me if I'm wrong, the  
8 need for Bipole III to be finished first before  
9 Bipole II is moved? And if so, does that -- from,  
10 again a technical perspective, putting aside the  
11 financial question -- suggest then that what could  
12 be done in a different world perhaps is the Bipole  
13 Coalition plan, with Bipole III going to  
14 LaVerendrye or thereabouts, Riel being the site of  
15 a diverted Bipole II, is that my understanding  
16 that it's not -- the only technical issue is the  
17 chronology that one needs to be done before the  
18 other, or am I missing other technical concerns?

19 MR. MAZUR: I would say yes, in the  
20 sense that at this point Manitoba Hydro sees  
21 Bipole III as being needed as soon as possible.  
22 The risks of even loss of the corridor are  
23 extremely high. We have made no commitment to  
24 move Bipole II at this time. It's not a given  
25 that we would move Bipole II. In fact, as

1 mentioned even in the rebuttal, that there's  
2 options that Manitoba Hydro has that continue to  
3 address not only, you know, the station, Dorsey  
4 station loss, but the corridor. So, as said  
5 earlier, that depends on the generation plan. If  
6 the preferred plan is approved and goes ahead, we  
7 will have an export line, and that will allow  
8 import of 700 megawatts initially, growing to  
9 1100. And that import line then will solve the  
10 reliability problem well into 2040 to 50 range,  
11 depending on load growth. So the location or  
12 relocation of Bipole II or Bipole I, for that  
13 matter, at some point in time is really a future  
14 option, a desirable option in terms of addressing  
15 the station size, but it's not a given that it  
16 should be done in the kind of time frame that the  
17 Coalition plan has proposed.

18 MR. GIBBONS: Just as a follow-up to  
19 that, my reading of the 2010 report, and I  
20 understand Mr. Neufeld says that report is now  
21 passe, but nonetheless, it seemed to me that the  
22 argument of that report was that the most, the  
23 optimal solution to the reliability issue was  
24 essentially, Bipole I to remain where it's at,  
25 Bipole II to be moved to Riel, and Bipole III

1 going to LaVerendrye, or conversely -- that's my  
2 interpretation of it -- or Bipole II to  
3 LaVerendrye and Bipole III to Riel.

4           If in fact other future events,  
5 putting aside, for example, the line to the United  
6 States, a 500 kV AC line running north/south, from  
7 a technical perspective is it not the case that --  
8 and technical in this context meaning reliability  
9 I suppose -- that running Bipole III to  
10 Laverendrye and Bipole II to Riel, putting aside  
11 as well the financial costs, makes sense from that  
12 perspective? Is that, in essence, the argument of  
13 the 2010 report?

14           MR. MAZUR: I assume you are referring  
15 to the ultimate DC report of 2010?

16           The primary purpose of that report was  
17 to look at what type of north/south transmission  
18 for generation, future generation, beyond Conawapa  
19 even, should be AC or DC. In doing that, and  
20 looking at the technical issues that have to be  
21 addressed, it looked at several options, option 3  
22 being the relocation. It looked at option 5,  
23 where there would be four converters assuming a DC  
24 line. You know, from one perspective, that  
25 provides great reliability benefits as well. But

1 the report in itself is looking at, do we build AC  
2 versus DC? It's not addressing -- it totally  
3 ignores the corridor outage. And so, taken in  
4 that context, the intent wasn't to say this is the  
5 next solution. The findings in the report are  
6 that the next line we build from the north should  
7 be AC, and it resolves a lot of technical issues.  
8 And the other finding is that it would be  
9 desirable at some point to move a converter out of  
10 Dorsey. It's also desirable to separate the  
11 Bipole I and II lines. But the end of life of  
12 those lines is probably in the 20, 40, 50 range.  
13 And until we do both, you really don't resolve the  
14 reliability issue, because of the high risk of  
15 corridor loss.

16 MR. GIBBONS: Thank you.

17 THE CHAIRMAN: I have only one  
18 question, and it's a very small one I think.

19 On page 3 of the location options  
20 rebuttal, the figure with all the numbers and  
21 different costs, in the middle of that figure you  
22 have the Dorsey Bipole II valve replacement  
23 smoothing reactors transformers at 272 million.  
24 Is that the entire cost for modernizing or  
25 refurbishing the Bipole II at Dorsey?

1 MR. MAZUR: That would be the cost for  
2 replacement of the valves, smoothing reactors.

3 And I might add maybe a little bit  
4 more explanation on the transformers. Manitoba  
5 Hydro keeps a spare transformer for each type of  
6 valve configuration, and there are two basic  
7 different types of valve configurations. So these  
8 transformers historically have been failing. So  
9 we have a spare. When the spare is used, we  
10 purchase another one.

11 So some of that money is, you know,  
12 slotted, assuming that we would need to continue  
13 doing that program at a rate that is historical,  
14 and that's kind of a place holder.

15 We're hoping and expecting that the  
16 newer transformers are designed a little more  
17 adequately and the failure rate would be less.  
18 But nonetheless, it would cover those costs, yes.

19 THE CHAIRMAN: I mean, we heard last  
20 week and earlier in this process about this  
21 so-called window of opportunity wherein Hydro has  
22 to refurbish Bipole II at both ends, but we're  
23 looking at the south end right now, and it might  
24 be opportune at this time to do the splitting of  
25 Bipole I and II. I mean, you have identified in

1 here that to build a new LaVerendrye station would  
2 be about 890, almost \$900 million. Is that the  
3 comparison then, between the 272 and the 889?

4 MR. MAZUR: It is, but it's still not  
5 clear as to whether going into LaVerendrye there  
6 should be additional costs included for this cable  
7 of 65 kilometres that's missing. I think part of  
8 the point is, yes, even with that money for  
9 refurbishment in there. I mean, there's a clear  
10 advantage to proceeding with the Bipole III as  
11 planned.

12 THE CHAIRMAN: Thank you. I think  
13 that's all our questions then.

14 Mr. Bedford, do you have any further  
15 questions for these gentlemen?

16 MR. BEDFORD: No.

17 THE CHAIRMAN: Thank you. Then we'll  
18 switch teams and move on to the next.

19 MS. MAYOR: Mr. Chairman, as you may  
20 recall, a number of weeks ago we had heard much  
21 about the Cumulative Effects Assessment  
22 Practitioners Guide authored by Mr. George  
23 Hegmann. It was referenced a number of times  
24 during Gunn and Noble's presentations very  
25 favourably, and they indicated they had adopted it



1 as a standard for cumulative effects assessment.  
2 As a result, Manitoba Hydro decided to go directly  
3 to the source, and we are very pleased to have  
4 Mr. Hegmann with us today to share his expertise  
5 with the panel. He will, of course, have to be  
6 sworn in, and we will just turn over to him to  
7 provide his comments in keeping with the document  
8 that was filed earlier.

9 THE CHAIRMAN: Thank you.

10 George Hegmann: Sworn.

11 THE CHAIRMAN: Go ahead, sir.

12 MR. HEGMANN: Good morning.

13 Mr. Chairman, I wish this morning to  
14 restate and expand on my main points further to my  
15 submission of February 18th, Bipole III cumulative  
16 effects assessment, rebuttal to Gunn and Noble  
17 critique. I wish to note as well that it's my  
18 understanding that hard copies of what I'm about  
19 to say have been distributed.

20 THE CHAIRMAN: That's correct.

21 MR. HEGMANN: I hope this will provide  
22 context for my comments and thereby assist the  
23 Manitoba Clean Environment Commission in its  
24 continued deliberation of the proposed Bipole III  
25 project.

1                   The issue that has brought me here  
2   today, and the issue of interest to the  
3   Commission, is the adequacy of the cumulative  
4   effects assessment or CEA. Doubts have been  
5   raised as to its adequacy based on the Gunn and  
6   Noble critique, basing their views on what they  
7   consider is acceptable practice on various points  
8   of method. And it would appear that certainly a  
9   few major points in the critique are generic in  
10   nature. That is they apply to an assessment done  
11   anywhere in Canada.

12                  As such, given the sweeping nature of  
13   the critique, bringing into question the very  
14   fundamentals by which assessments are done,  
15   notwithstanding a myriad of technical details  
16   within, I feel obliged to respond today by taking  
17   an equally broad view to establish what I believe  
18   is the appropriate perspective.

19                  My previous written submission  
20   provided my point-by-point response on some of the  
21   matters raised in the critique.

22                  For the record this morning, for the  
23   most important of these points, the Bipole III CEA  
24   does reflect current practice, does follow a  
25   method in alignment with the Cumulative Effects

1 Assessment Practitioners Guide, and is not  
2 deficient, as claimed, to the extent it be  
3 rejected and completely redone.

4           So where to begin? I believe an  
5 examination of adequacy begs the question from  
6 where arises the standard by which such  
7 assessments should be conducted, both on the  
8 fundamentals and in the many technical details of  
9 method. Is it perhaps from a definitive source or  
10 sources of published government guidance; or  
11 perhaps from the precedents of years of  
12 assessments accumulated through many public  
13 reviews, some such as this; or perhaps is it from  
14 the postulations of advocates of good practice  
15 from academic research?

16           Stated differently and plainly, the  
17 question to be answered is, what makes a good  
18 environmental assessment, which includes  
19 cumulative effects assessments, and who says so?

20           My answer in the largest sense is all  
21 of the above. The history of assessment practice  
22 in Canada, indeed globally, has followed the same  
23 evolutionary path as other examples of public  
24 administrative process and applied science, namely  
25 we learn as we go, and whenever possible avail

1 ourselves of the opportunity to improve over time  
2 and hence advance the practice.

3           That said, there remains fundamentals  
4 that have become well established and have served  
5 their purpose well. Some of these fundamentals  
6 serve us well, because they allow us to  
7 pragmatically test the acceptability of project  
8 applications subject to legislative provision, in  
9 this case, Environmental Assessment Acts, all  
10 within a process of public review. They also  
11 serve us well because they provide a means by  
12 which one may apply data, science and insight to  
13 assessing the potential effects of proposed  
14 projects interacting with complex natural and  
15 human landscapes.

16           These fundamentals, therefore, help do  
17 what all good assessments must do, which is to  
18 provide meaningful information to decision makers  
19 to help them render their decision on the fate of  
20 the project application before them.

21           The fundamental critique which I now  
22 specifically wish to address is the so-called use  
23 in Bipole III of the project centric approach  
24 within which also lies the concept of the residual  
25 effects trigger, that term having arisen

1 previously in this hearing.

2 I have this morning chosen to discuss  
3 this point from all matters previously raised  
4 regarding the Bipole CEA, as this one appears to  
5 be the most fundamental and repeated topic of  
6 discussion, a common thread, if you will, running  
7 through it.

8 This approach is juxtaposed in the  
9 critique against a preferred ecosystem based  
10 approach reflecting ambitious scoping. I am  
11 unfamiliar with the term ambitious scoping, am  
12 unclear as to what it means, and no definition is  
13 forthcoming from the critique. I am familiar with  
14 the term ecosystem based scoping, although it too  
15 in both the critique and the literature is poorly  
16 defined. Generally, it advocates an expansive  
17 approach to scope assessed valued ecosystem  
18 components, or VECs, under the supposition that  
19 some VECs deserve to be assessed even though there  
20 is no, or a weak demonstrable effect by the  
21 project. In other words, assessed simply because  
22 it happens to reside in the region in which the  
23 project occurs, and because someone is concerned  
24 about the VEC's fate. For all its intuitive  
25 meaning and potential, much needs however to

1 clarify just what ecosystem based assessment  
2 really means when it comes to actually using it in  
3 an assessment.

4           The basics of the project centric  
5 concept are simple, with profound importance in  
6 project assessments. In its simplest sense, one  
7 assesses things that the project may affect.  
8 Technically, we pursue a cause/effect chain of  
9 effects on each selected VEC. But in all cases,  
10 the project is the starting point, hence the term  
11 project centric. The project is the centre of the  
12 assessed universe.

13           This is important because, as I  
14 previously alluded to, the purpose of the  
15 assessment is to test the merits of the project  
16 typically within a mandate subject to the public  
17 interest test. As such, our interest is then what  
18 effects that project may cause.

19           A corollary of this is the following:  
20 If the project under review does not affect  
21 something, I do not have to assess that thing.

22           When it then comes to cumulative  
23 effects, one pursues an effect on a cumulative  
24 basis only for effects on VECs caused by the  
25 project. We then look about to see if other human

1 actions may also cause effects on the same VECs,  
2 and if so, we now have the basis to explore that  
3 effect on a cumulative basis.

4           Perhaps nowhere is the disparity more  
5 evident between those apparent contrasting points  
6 of view, than the dismissal in the critique of the  
7 value of concluding the significance of a  
8 project's incremental contribution to cumulative  
9 effects, in deference to making a conclusion on  
10 overall cumulative effects. Understanding that  
11 project contribution is critical to allow one to  
12 make judgment on the project's effects and hence  
13 its acceptability.

14           Now, what often happens at this point,  
15 as a concern by those advocating such expansive  
16 approaches as ecosystem based, are two things:  
17 One, did we miss including an effect? And two,  
18 did we get all the affected VECs in the  
19 assessment?

20           On the first point, did we miss  
21 including an effect? The debate revolves around  
22 what project effects merit attention on a  
23 cumulative basis. Of so much which could be said  
24 on this, I will just say that the effect has to at  
25 least be measurable, that is, in some way is

1 discernible amongst the endlessly complex natural  
2 and human ecology that surrounds us. And to lay a  
3 related matter to rest, it does not have to be  
4 considered significant to be passed on to the  
5 cumulative effects assessment. On this first  
6 point, the Bipole CEA follows current practice and  
7 follows the Cumulative Effects Assessment  
8 Practitioners Guide.

9           On the second point, did we get all  
10 the affected VECs in our assessment, debate  
11 revolves around the possibility that things out  
12 there may have been missed that warrant  
13 assessment. This view argues that current  
14 practice too narrowly defines VECs, leaving open  
15 the possibility that the assessment paints an  
16 effects picture less than may otherwise be  
17 justified.

18           However, the assessment practitioner  
19 must, as every assessment must, make a choice of  
20 VECs based on clear, reasonable and defensible  
21 criteria, the resulting VECs, including those that  
22 are clearly affected. And some of those may in  
23 part be selected because they offer a window,  
24 offer insight into broader effects and other  
25 receptors. In short, the job of any assessment is



1 not to assess everything, but to assess everything  
2 that can be reasonably demonstrated to be affected  
3 and for which the results provide decision makers  
4 with useful information, with insight into the  
5 acceptability of the project. On this second  
6 point, the Bipole CEA follows current practice and  
7 follows the Cumulative Effects Assessment  
8 Practitioners Guide.

9 I now wish to move on, not by  
10 continuing to address each technical point, but to  
11 change direction and address what I feel are the  
12 two most important issues underlying the critique,  
13 issues which frame the context of such reviews.  
14 These points often get missed in such discussions,  
15 yet must be first understood, to understand the  
16 way assessments work and the legitimacy of such  
17 critiques. These issues have been alluded to so  
18 far by others. And so I wish here to make them  
19 plain.

20 The first is the difference between  
21 two types of CEA, one for project applications,  
22 and the other for research and study. The second  
23 is the difference between current practice as  
24 conducted by practitioners who do CEAs for  
25 regulatory applications, and the views espoused by

1 those who study the art of assessment and wish to  
2 improve it.

3           Regarding the first, a confusion due  
4 to lack of clarity has occurred over the years  
5 regarding what the words "cumulative effects  
6 assessment" are actually referring to at any given  
7 moment. The reason for the confusion, which is  
8 causing endless trouble for all involved, is that  
9 these words have often been used interchangeably  
10 to mean two things at the same time, and they  
11 cannot.

12           One of the two versions is CEA done in  
13 support of regulatory filing requirements for  
14 individual project applications. That is what has  
15 brought us here today and to which I have focused  
16 my discussion so far.

17           The other is the so-called regional or  
18 strategic environmental assessment or study. This  
19 latter version has nothing to do directly with any  
20 one project application for regulatory review, and  
21 instead examines some regional area within which  
22 many things by people may be happening, all to  
23 better understand what is happening now and what  
24 may be forecast to happen. These regional or  
25 strategic environmental assessments enjoy far

1 greater freeboard to examine effects in VECs and  
2 many other things, unencumbered by the project  
3 centric process of project assessments, and often  
4 also enjoying the benefits of more time and a more  
5 expansive pursuit of information, data and  
6 analysis.

7                   However, and as stated in my previous  
8 submission, lack of such ostensible advancements  
9 in assessing cumulative effects through such  
10 regional studies does not in itself constitute  
11 deficiency in a project assessment. And certainly  
12 for such matters of method and analytical option,  
13 not to the degree as claimed, so as to result in a  
14 near complete failure of an assessment in meeting  
15 regulatory filing information requirements.

16                   There is great benefit to land and  
17 resource use administrators and to regulators to  
18 wherever possible have both, each approach serving  
19 different ends through different means. Examples  
20 of this can be found elsewhere in Canada, and as  
21 discussed in considerable and useful detail in the  
22 academic literature by researchers, including  
23 Dr. Noble and Dr. Gunn. It is my long-standing  
24 view, supported by a cast of many in that  
25 literature, that the assessment of cumulative

1 effects on an individual project-by-project basis  
2 benefits both the practitioner and decision maker  
3 more if such studies are available and used as a  
4 backdrop of information onto which one may drape a  
5 project's effects in comparison.

6           It is also important to point out that  
7 as of yet, no statutory trigger exists that  
8 defines when and where such studies are mandated.

9           Which then brings me to the second  
10 issue, that of current practice by practitioners  
11 and practice as envisioned by those who seek to  
12 improve that practice. In other words, both by  
13 practitioners and by theoreticians. What has  
14 emerged in Canada is an understandable frustration  
15 by the theoreticians, many, but not all by any  
16 stretch, working as researchers in academic  
17 institutions regarding how assessments are done.

18           Project assessments are viewed as too  
19 narrowly scoped, too weak in supporting data and  
20 analysis, and too much following simplistic  
21 formulae to the absence of innovation, more detail  
22 in the adoption of more expansive, all  
23 encompassing approaches. The use of landscape  
24 scale models to simulate far pasts and  
25 hypothetical far futures are examples of this.

1                   This situation has arisen for a  
2   variety of reasons.  However, I believe there is  
3   one clear driver that emerges as a root cause,  
4   reflecting an unresolved tension between the  
5   implications of two definitions of purpose of  
6   environmental assessments.

7                   The first definition is to assess and  
8   manage effects of regulated projects.  The second  
9   is to enable sustainable development.  The view by  
10   pundits of current practice is that practitioners  
11   and proponents place too much emphasis on the  
12   first to the minimization or exclusion of the  
13   latter, with CEAs representing an opportunity, a  
14   commonplace as the nexus of the two, to pursue  
15   larger objectives in support of sustainable  
16   development.

17                   These definitions are explicitly  
18   expressed in the Canadian Environmental Assessment  
19   Act, but the notion broadly applies anywhere in  
20   Canada, through Provincial and Territorial  
21   equivalents, many of which were modelled after the  
22   Federal Act.

23                   This situation is unfortunate.  The  
24   purpose at least of the Federal Act is clear, and  
25   it appears first in a list of purposes, that the

1 focus of the Act is to assess and manage effects  
2 of individual projects subject to provisions of  
3 the Act. I would argue that sustainable  
4 development, a rather large and commendable  
5 purpose, may, amongst many initiatives, be served  
6 well by assessments done well. In any event,  
7 those in pursuit of the larger ideals of  
8 sustainability assume that assessments must  
9 commensurately rise to the occasion by equally  
10 pursuing ideals to match.

11 To such critiques, however, I, as both  
12 a practitioner and theoretician, as to which,  
13 depending on the job at hand, offer the following  
14 to this: Current assessment practice, and to be  
15 clear, that associated with project regulatory  
16 applications, does what it does because it works  
17 within what I refer to as the pragmatic limits of  
18 the possible. Pragmatic speaks to, as all good  
19 practitioners do, and are the virtues of good  
20 assessment, doing everything possible with  
21 available data and knowledge supplemented by new  
22 observations within the time available, scoping as  
23 broadly as possible, but always tied back to the  
24 project under review, all the while fully  
25 admitting gaps, uncertainties and assumptions.

1                   The limits of the possible speaks to  
2 just how far the science, the analytical  
3 technology and the basic human insight and  
4 experience can take us, which sometimes is simply  
5 not as far as the theoreticians wish, their views,  
6 based on assessments, taking on the vestments of  
7 long-term studies more appropriate in the halls of  
8 basic scientific research. Often these limits are  
9 simply not recognized or accepted until one  
10 actually is immersed into conducting a regulatory  
11 application, which I can guarantee, once  
12 experienced, will never leave you looking at  
13 assessments the same way again.

14                   The Cumulative Effects Assessment  
15 Practitioners Guide was written specifically as  
16 guidance for projects subject to regulatory  
17 review, specifically under the provisions of the  
18 Canadian Environmental Assessment Act, and with a  
19 clear focus on a foundation of practice firmly in  
20 recognition of the pragmatic limits of the  
21 possible.

22                   The limits of the possible must also,  
23 for regulatory applications, consider another  
24 basis of reasoning than the purely scientific or  
25 technical. I refer to a standard of certainty as

1 evidenced in support of an application before a  
2 regulator. Practitioners must always ensure a  
3 variety of qualities exist in this regard to their  
4 work, including defensibility, completeness,  
5 robustness and accuracy. Practitioners must  
6 always ensure that our data, analysis, conclusions  
7 reflects these qualities. This stands in contrast  
8 to where overly enthusiastic advocates advancing  
9 CEAs wish to go; namely, into the conceptual, the  
10 hypothetical, and what I refer to as  
11 fictionalizing.

12           Again, CEAs are viewed as fertile  
13 grounds to play in the past, present and future,  
14 while admirable in introducing notions and  
15 possibilities, represent at times too great a risk  
16 of not reflecting the very qualities of integrity,  
17 as a standard of certainty expected by the  
18 reviewing authorities themselves to assist them in  
19 making their conclusions and recommendations based  
20 on supportable evidence.

21           I also wish to make clear that in my  
22 view, insights from practitioners and  
23 theoreticians are both required for the practice  
24 of assessment to move ahead in the best way  
25 possible. What works and does not work, what is



1 possible and is not possible, what simply makes  
2 sense and does not, must benefit by the engagement  
3 of all involved parties in the place where  
4 practice meets theory.

5 I'm aware, for example, of the good  
6 work done by Dr. Gunn and Dr. Noble, and others in  
7 the academic literature on trying to move  
8 assessment practice ahead, and but for my one  
9 strong caveat that at times this must be tempered  
10 but not stalled by the pragmatic limits of the  
11 possible, the world of environmental assessment  
12 would be poorer without it.

13 In conclusion, environmental  
14 assessments being the larger term that includes  
15 looking at cumulative effects are not research  
16 studies, although, and they often do embed  
17 like-minded elements such as recommendations for  
18 monitoring. These do as much as can be expected,  
19 which is to offset uncertainties by learning more  
20 and adaptively evolving as time goes by. That  
21 approach follows the original and true definition  
22 of the precautionary principle which states that  
23 lack of information should not in and of itself be  
24 used as an excuse to not make decisions now.  
25 Instead, recognized lack of information should be

1 used as the basis to plan for addressing that lack  
2 while proceeding with all the care and due  
3 diligence the many mechanisms at play offer, many  
4 which avail themselves in public review such as  
5 the one we are in today.

6 Thank you. This concludes my  
7 presentation.

8 THE CHAIRMAN: Thank you, sir.  
9 Questions, Mr. Williams?

10 MR. WILLIAMS: Good morning,  
11 Mr. Hegmann and Mr. Osler.

12 Mr. Hegmann, just to assist you, you  
13 should probably have at hand the little report  
14 that you prepared on February 18th, the written  
15 report. Do you have that, sir?

16 MR. HEGMANN: Yes, I have that with  
17 me.

18 MR. WILLIAMS: And as well it may  
19 assist our discussion, there is some supporting  
20 materials of CAC Manitoba that were provided to  
21 you and to the board today.

22 Mr. Hegmann, when I go to your little  
23 report of February 18th, 2013, I don't see a  
24 letter of retainer attached. Agreed?

25 MR. HEGMANN: That's correct, and no

1 such information is provided in that filing.

2 MR. WILLIAMS: And, sir, I take it you  
3 signed a letter of retainer with Manitoba Hydro,  
4 setting out the scope of your assignment, sir?

5 MS. MAYOR: We can advise, as we told  
6 Mr. Williams a number of weeks ago, there was no  
7 letter of retainer, and that's why it was not  
8 provided to him.

9 MR. WILLIAMS: Mr. Hegmann, when were  
10 you retained by Manitoba Hydro for the purposes of  
11 preparing rebuttal to the evidence of Drs. Gunn  
12 and Noble?

13 MS. MAYOR: Again, we have already  
14 spoken about this. I did it in my introductory  
15 comments to avoid any concerns you may have. It  
16 was subsequent to the Gunn and Noble presentation.

17 MR. WILLIAMS: The purpose is to  
18 understand when Mr. Hegmann was retained.

19 Mr. Hegmann, when were you retained?

20 MR. HEGMANN: To provide --

21 MR. WILLIAMS: Insight into, or  
22 rebuttal to Drs. Gunn and Noble?

23 MR. HEGMANN: The period of time of my  
24 engagement would have extended approximately into  
25 early February.

1 MR. WILLIAMS: So, sir, you were  
2 retained in early February and you provided your  
3 report on February 18th. Am I correct in that,  
4 sir?

5 MR. HEGMANN: I did submit the  
6 material that you have mentioned on February 18th,  
7 yes.

8 MR. WILLIAMS: Just so I have the  
9 chronology correct, sir, you were retained for the  
10 purpose of rebuttal a couple of weeks before that,  
11 agreed?

12 MS. MAYOR: For the Bipole project,  
13 that's what you are asking for? Yes.

14 MR. WILLIAMS: Thank you. Now,  
15 directing your attention to your little report of  
16 February 18th, Mr. Hegmann, page 1. In the second  
17 paragraph you identify a few documents that you  
18 reviewed in preparing this report, agreed?

19 MR. HEGMANN: Excuse me?

20 MR. WILLIAMS: Sir, what I'm asking  
21 you to agree is that on page 1 of your letter of  
22 February 18th, 2013, you identify some of the  
23 documents that you reviewed in preparing your  
24 report, correct?

25 MR. HEGMANN: Yes, that is correct.

1 MR. WILLIAMS: Sir, in preparing your  
2 report, did you have occasion -- and Mr. Hegmann,  
3 am I not speaking loud enough, is that the issue?

4 MR. HEGMANN: No, I hear you fine.

5 MR. WILLIAMS: Okay. Mr. Hegmann, in  
6 preparing your report of February 18th of 2013, or  
7 2013, did you have occasion to review the decision  
8 or the report of the Clean Environment Commission  
9 relating to the public hearings for the Wuskwatim  
10 generation and transmission project?

11 MR. HEGMANN: Could you clarify  
12 exactly the nature of the documents you are  
13 referring to?

14 MR. WILLIAMS: Sir, are you aware that  
15 in or around 2004, the Manitoba Clean Environment  
16 Commission prepared a report on the public  
17 hearings for the Wuskwatim generation and  
18 transmission project?

19 MR. HEGMANN: I am only aware of the  
20 existence of such documents. I did not review  
21 these documents.

22 MR. WILLIAMS: And sir, in preparing  
23 your report of February 18th, 2013, did you review  
24 the aquatic environment technical report prepared  
25 on behalf of Manitoba Hydro and dated

1 November 2011?

2 MR. HEGMANN: No. The material which  
3 I reviewed is as I have indicated here in the  
4 February 18th submission.

5 MR. WILLIAMS: So, sir, would I be  
6 correct in suggesting to you that any of the  
7 technical reports filed by Manitoba Hydro in  
8 November of 2011 were not reviewed by you in  
9 preparation of your rebuttal to Drs. Gunn and  
10 Noble? Would I be correct, sir?

11 MR. HEGMANN: That is correct, yes.

12 MR. WILLIAMS: And likewise, sir,  
13 would I be correct in suggesting to you that you  
14 did not review the supplemental material filed by  
15 Manitoba Hydro in July of 2012, relating to the  
16 Environmental Impact Statement, correct?

17 MR. HEGMANN: This is correct. I wish  
18 to perhaps restate and remind Mr. Chairman that  
19 the material which I reviewed is on the record.  
20 It was focused on the cumulative effects  
21 assessment, as filed. It was in regard to matters  
22 raised by Gunn and Noble in regards to that  
23 Cumulative Effects Assessment.

24 MR. WILLIAMS: And just to understand  
25 the nature of your review, sir, am I correct in

1 suggesting to you that you did not review chapter  
2 6 of the Environmental Impact Statement relating  
3 to the existing environment, correct?

4 MR. HEGMANN: I did not review that in  
5 detail as part of the nature of my work.

6 MR. WILLIAMS: And again, sir, am I  
7 correct in suggesting to you that you did not  
8 review chapter 8 of the EIS, titled Effects  
9 Assessment and Mitigation?

10 MR. HEGMANN: I examined chapter 8 to  
11 the extent that information was useful and  
12 applicable to the assessment of potential  
13 cumulative effects.

14 MR. WILLIAMS: Okay. Now, sir, in  
15 preparing your report, did you review the  
16 transcript relating to the presentation by the Fox  
17 Lake First Nation on or about November 8th, 2012?

18 MR. HEGMANN: No, I did not review  
19 those transcripts.

20 MR. WILLIAMS: And sir, in preparing  
21 your report, did you review the transcript  
22 relating to the presentation of the Tataskweyak  
23 Cree Nation on or about November 13th, 2012?

24 MR. HEGMANN: Mr. Chairman, again, I  
25 have made it quite clear a few times at this point

1 as to the extent of the nature of my review. I  
2 believe that I have made my statement in that  
3 regard.

4 MR. WILLIAMS: So the answer would be  
5 no, sir?

6 MR. HEGMANN: In regard to your  
7 current question, that's correct.

8 MR. WILLIAMS: Now, back in 2012,  
9 Mr. Hegmann, I'd be correct in suggesting to you  
10 that in February of 2012, you attended a CEA  
11 workshop, February 23rd and 24th, am I correct,  
12 sir?

13 MR. HEGMANN: Those are the  
14 approximate dates, if memory serves me, yes.

15 MR. WILLIAMS: While most of the  
16 persons at that workshop were government staff, it  
17 would be fair to suggest that there were a few  
18 leading experts in the field in attendance?  
19 Agreed, sir?

20 MR. HEGMANN: The agency, at their  
21 discretion, identified various individuals,  
22 including myself, to attend that event, yes.

23 MR. WILLIAMS: And sitting right  
24 beside you was Dr. Noble, correct?

25 MR. HEGMANN: He was in attendance,



1 yes.

2 MR. WILLIAMS: Also in attendance was  
3 Dr. Dunker, agreed?

4 MR. HEGMANN: Yes, he was there.

5 MR. WILLIAMS: And you considered  
6 Dr. Dunker an expert in the field of cumulative  
7 effects assessment, sir?

8 MR. HEGMANN: I would consider that  
9 Dr. Dunker is well published and has contributed  
10 substantially to the practice of environmental  
11 impact assessment in Canada over a number of  
12 decade, yes.

13 MR. WILLIAMS: And also in attendance,  
14 sir, was Dr. Bill Ross.

15 MR. HEGMANN: Yes, he was there.

16 MR. WILLIAMS: Now sir, Dr. Ross was  
17 one of the members of the CEA working group  
18 leading to the publication of the 1999  
19 Practitioners Guide, correct?

20 MR. HEGMANN: Yes, he was.

21 MR. WILLIAMS: And he is, of course, a  
22 leading authority in the field, sir?

23 MR. HEGMANN: He is recognized as an  
24 authority on environmental impact assessment in  
25 Canada.

1                   MR. WILLIAMS: And sir, if we were to  
2 ask Dr. Ross what's the appropriate perspective in  
3 good practice in cumulative effects assessment,  
4 you'll agree with me that his widely expressed  
5 view is that a VEC based perspective in conducting  
6 CEA studies is considered best practice and  
7 recommended. Agreed?

8                   MR. HEGMANN: I can't agree to a  
9 comment that I am not aware of or can recall. But  
10 what I can say, and I think it's important to  
11 remind ourselves that the guide which has been  
12 identified by Gunn and Noble as indeed a standard  
13 is a document which reflects at that time of its  
14 publication the views of a number of individuals,  
15 including some of the individuals whom you have  
16 named.

17                   MR. WILLIAMS: And sir, we'll come  
18 back to Dr. Ross in just a second.

19                   In the guide, we can agree that your  
20 advice is that the study area should be large  
21 enough to allow the assessment of VECs that may be  
22 affected by the action being assessed, and that  
23 this may result in an area that is considerably  
24 larger than the actions footprint. Agreed?

25                   MR. HEGMANN: I agree with that, yes.

1 THE CHAIRMAN: Can you give us the  
2 page number?

3 MR. WILLIAMS: In the supporting  
4 materials, Mr. Chair, it's page 11.

5 THE CHAIRMAN: Thank you.

6 MR. WILLIAMS: And indeed the advice  
7 in the guide, sir, is that each VEC may indeed  
8 have a different study area, correct?

9 MR. HEGMANN: There's always that  
10 possibility in any assessment, yes.

11 MR. WILLIAMS: Now, sir, just in terms  
12 of the position of Dr. Ross, I'm going to direct  
13 you in the materials to a report titled "State of  
14 Practice of Cumulative Effects Assessment and  
15 Management, The Good, The Bad and The Ugly" from  
16 2010. Sir, do you have that report?

17 MR. HEGMANN: Yes, I do. Thank you  
18 for providing that.

19 MR. WILLIAMS: And sir, is this a  
20 report that you are familiar with?

21 MR. HEGMANN: It's been some time  
22 since I have read it. There's much out there on  
23 the subject. I had a quick reacquaintance with  
24 the paper in the time that I had available this  
25 morning, yes.

1 MR. WILLIAMS: And if we went to page,  
2 marked in the top right-hand corner page 7?

3 MR. HEGMANN: Just a moment, please.  
4 Yes, go ahead.

5 MR. WILLIAMS: Just under the good  
6 lessons, potential best practice for CEAM, can we  
7 agree that under the first bullet, Dr. Ross is  
8 suggesting that a VEC based perspective should be  
9 used in planning and conducting a best practice  
10 cumulative effects assessment study?

11 MR. HEGMANN: The discussion at this  
12 point is introducing a number of semantics and  
13 meanings. And as always, it's important to be  
14 clear. I have not had the time this morning to  
15 reacquaint myself to the point where I believe,  
16 without further thought, I can best, by a complete  
17 read of the paper, understand the context that he  
18 is referring to.

19 So again, the practitioners guide in  
20 its guidance, in its fundamentals in regards to  
21 what one does, how one identifies and assesses  
22 VECs, the project centric approach is one which  
23 certainly takes into account the effect of project  
24 effects on valid ecosystem components.

25 You have put before me the words "VEC

1 based perspective." And I would have to read this  
2 paper again as to exactly what that means. I  
3 would suspect that that may be important for me to  
4 further comment.

5 MR. WILLIAMS: I appreciate that,  
6 Mr. Hegmann. Can we agree, and we have agreed  
7 previously, you had some fond words for  
8 Dr. Dunker. You think highly of him within the  
9 profession?

10 MR. HEGMANN: As I had stated a few  
11 moments ago, I believe that he has, yes, using my  
12 words, contributed substantially to the practice  
13 of environmental assessment in Canada.

14 MR. WILLIAMS: Is it your  
15 understanding of Dr. Dunker's perspective that his  
16 view is that the total effect of the proposed  
17 action and other actions on the VECs should be  
18 assessed?

19 MR. HEGMANN: That is correct. And  
20 that is what is viewed as the good guidance as  
21 provided in the guide.

22 MR. WILLIAMS: Now, sir, just  
23 directing you to your little report on page 3 of  
24 4?

25 MR. HEGMANN: When you say my little

1 report --

2 MR. WILLIAMS: Your report of  
3 February 18th.

4 MR. HEGMANN: Thank you, yes.

5 MR. WILLIAMS: The second full  
6 paragraph, you talk about the time horizons that  
7 are most useful are those accessible with the  
8 reasonable degree of certainty. Do you see that,  
9 sir? That would be the second full paragraph from  
10 the top, Mr. Hegmann?

11 MR. HEGMANN: Yes, I am there. Thank  
12 you.

13 MR. WILLIAMS: Mr. Hegmann, you  
14 practice a fair bit in the Province of Alberta,  
15 agreed?

16 MR. HEGMANN: Yes, that would be fair.

17 MR. WILLIAMS: You have done a lot of  
18 work with projects related to the oil sands,  
19 correct?

20 MR. HEGMANN: That is correct.

21 MR. WILLIAMS: And you are certainly  
22 familiar, sir, with the cumulative effect  
23 guideline or advice provided by the Alberta Energy  
24 and Utilities Board, the Natural Resources  
25 Conservation Board, and in Alberta Environment,

1 sir; agreed?

2 MR. HEGMANN: Yes, I am familiar with  
3 that document.

4 MR. WILLIAMS: And can we agree, sir,  
5 that the advice of those parties in Alberta is  
6 that while it might appear simpler to avoid  
7 uncertainty by including only those projects and  
8 activities known with certainty, such seemingly  
9 more solid predictions almost certainly  
10 underestimate cumulative effects by neglecting the  
11 current understanding of what is reasonably  
12 foreseeable. Can we agree on that, sir?

13 MR. HEGMANN: Sorry, can you take me  
14 exactly to where that is in the document?

15 MR. WILLIAMS: Yes, page 21 in the top  
16 right-hand corner, sir.

17 MR. HEGMANN: Yes, I see the page  
18 number.

19 MR. WILLIAMS: And you will see the  
20 headline Identifying Projects and Activities, and  
21 the third paragraph under that headline, sir.

22 MR. HEGMANN: Yes, I am there.

23 MR. WILLIAMS: Can we agree that's the  
24 advice provided in the Alberta guidelines, sir?

25 MR. HEGMANN: It certainly is the

1 advice in the guideline, that's correct.

2 MR. WILLIAMS: Mr. Chair, I thank  
3 Mr. Hegmann for his comments and I have no further  
4 questions.

5 THE CHAIRMAN: Thank you,  
6 Mr. Williams.

7 Are there any other participants who  
8 have questions of this witness?

9 I have one or two questions. One  
10 relates to the trigger. And on page 3 of your  
11 presentation this morning, about halfway down the  
12 paragraph that begins on the first point, you say  
13 that the effect has to at least be measurable.  
14 Then in the next sentence:

15 "And to lay the matter to rest, it  
16 does not have to be considered  
17 significant to be passed on to a  
18 cumulative effects assessment."

19 Now, are you saying that matters that are not  
20 significant could and should still be included in  
21 a CEA?

22 MR. HEGMANN: That is correct, yes.

23 THE CHAIRMAN: You see, we had been  
24 lead to believe that if there is no significant  
25 residual effect, then there's no need to go the



1 next step and do a cumulative effects assessment.

2 Would you agree with that approach?

3 MR. HEGMANN: No, I do not.

4 THE CHAIRMAN: Okay, thank you. The  
5 CEA guidelines were initially drawn up in '94; is  
6 that correct?

7 MR. HEGMANN: Just to be clear,  
8 Mr. Chairman, are you referring to the  
9 practitioners guide?

10 THE CHAIRMAN: The practitioners  
11 guide, sorry.

12 MR. HEGMANN: It was published in 1999  
13 by the Canadian Environmental Assessment Agency.

14 THE CHAIRMAN: Wasn't there an earlier  
15 version? It doesn't really matter but --

16 MR. HEGMANN: Not of the practitioners  
17 guide. However, there was a reference document  
18 published around the time that you alluded to,  
19 that shortly followed the promulgation of the  
20 Canadian Environmental Assessment Act to provide  
21 guidance at that time.

22 THE CHAIRMAN: Has the practitioners  
23 guide been updated or amended since 1999?

24 MR. HEGMANN: No, I am not aware of an  
25 update to that document.

1 THE CHAIRMAN: Do you think it needs  
2 an update?

3 MR. HEGMANN: I think it would be fair  
4 to say that it would benefit by updating, and  
5 certainly enough time has elapsed and many things  
6 have happened. And when I say that, I mean in  
7 terms of what's happening in Canada with  
8 assessments and applications, that I think there  
9 would be some benefit to take some in hindsight  
10 lessons learned from that. And that could be one  
11 example of the basis of an update, yes.

12 THE CHAIRMAN: Thank you. You also  
13 talk about sustainable development. And I get the  
14 impression from what you said this morning that to  
15 incorporate, or to pursue sustainable development  
16 in this type of an assessment is a touch  
17 unrealistic, am I correct, or a touch too  
18 idealist?

19 MR. HEGMANN: I would agree generally  
20 with those words. And I would add to that that  
21 sustainability, a matter that when it comes to  
22 regulatory applications would need to, how shall I  
23 say, land with more clarity in terms of how that  
24 matter would be addressed. In no way it  
25 diminishes, of course, the importance of the

1 concept. Mind you, then it becomes, when it's  
2 time now to do an assessment, subject to a  
3 provisioning act, how does one best accomplish  
4 that? I think certainly more needs to be done to  
5 provide that clarity. And I would wish to, if I  
6 may, just repeat that I do believe that good  
7 assessments can, in their own way, contribute in  
8 various respects to the notions of sustainability,  
9 yes.

10 THE CHAIRMAN: Manitoba, like a number  
11 of other provinces, does have a Sustainable  
12 Development Act, and it includes a list of  
13 principles and guidelines that various entities  
14 are required to abide by, including Manitoba  
15 Hydro. Also typically in terms of reference that  
16 are referred to us, we're asked to take into  
17 consideration those principles and guidelines.

18 MR. HEGMANN: Yes.

19 THE CHAIRMAN: Given that you think it  
20 might be a little idealistic, how do we look at  
21 cumulative effects assessment in light of the  
22 sustainable development guidelines that we are  
23 bound by, principles and guidelines?

24 MR. HEGMANN: I think cumulative  
25 effects assessment provide a very good

1 opportunity, again with the caveats that I have  
2 mentioned, but still much can be accomplished in  
3 that regards. Cumulative effects assessments  
4 provide an opportunity to examine possibilities of  
5 the future, and it is not that what perhaps is one  
6 way of looking at sustainability. The examination  
7 of what, in combination, human actions may have on  
8 a landscape can, for example -- and there are  
9 examples of this in other parts of Canada -- to  
10 reveal where there is a need to understand more,  
11 to manage better, to perhaps monitor, and gain the  
12 benefit what that may provide to even larger  
13 decision-making process and in land and resource  
14 administration.

15 THE CHAIRMAN: One thing I have  
16 discovered over the years is some interesting  
17 language around the subject of cumulative effects  
18 assessment. I'm still trying to wrestle with the  
19 concept of evolving baseline. I mean, I can  
20 understand sort of the new normal perhaps, but  
21 just the term evolving baseline strikes me as an  
22 oxymoron. Now you've got another phrase in here  
23 that I find intriguing, pragmatic limits of the  
24 possible. How would you define that?

25 MR. HEGMANN: In its most fundamental

1 way, environmental impact assessments are rooted  
2 in good information, good science, but also, and  
3 in some cases, more importantly, instrumentally  
4 the interpretation of professional judgment in  
5 consideration of all that evidence. The pragmatic  
6 limits of the possible, if I was to provide a  
7 definition further to the words that I have  
8 already provided today, would be that that data,  
9 that science, that interpretation, as in all  
10 matters of scientific investigation, at times may  
11 reach limits in terms of how far one may be able  
12 to, with a good degree of confidence, arrive at  
13 conclusions. What the intent of me mentioning  
14 that is that when one is doing environmental  
15 impact assessments, it is these matters which one  
16 must consider and, therefore, and now to the  
17 point, if there are considerations that, how shall  
18 I say, would exceed those bounds where we may  
19 indeed become what I would refer to as overly  
20 hypothetical or fictionalized. While on one hand  
21 I completely understand, within the discretion and  
22 mandate of a panel, they may wish to nonetheless  
23 explore certain matters, that's fine. But for the  
24 file material in support of a project application,  
25 one must take care to ensure that that

1 information, in the view of those preparing that  
2 work, have that clear defensibility. And the  
3 pragmatic limits of the possible is in recognition  
4 of that.

5 THE CHAIRMAN: One other concept  
6 around CEA that puzzles me, I guess, is how you  
7 define what's included within the parameters of  
8 past, present and future? I mean, to me it would  
9 seem pretty simple, that anything that's been  
10 built in the past, anything that's currently on  
11 site, and anything that's more or less planned  
12 into the near future would be included. But  
13 that's not always the case. How would you define  
14 what should be within those boundaries?

15 MR. HEGMANN: It's a very common  
16 question, and it's understandably very common, and  
17 it has been a very contentious issue over the  
18 years. It's one in which there are many views.

19 My view, if I may find a starting  
20 point -- again so much which could be said on  
21 this. My starting point -- and again under the  
22 idea of pragmatic, pragmatism -- is first of all,  
23 if I'm going to assess something, I have to be  
24 able to, in some fashion, have the ability that  
25 there is enough information that now I can

1 actually assess it. And what happens is on one  
2 hand, there is an understandable desire to take in  
3 the opportunity to do this thing called cumulative  
4 effects assessment, to look into the past and look  
5 into the future. Indeed, it's built into the  
6 fabric of how CEAs work. However, the desire  
7 often extends to creating pasts and creating  
8 futures where -- and I think this would be  
9 reasonable and understandable -- it becomes more  
10 difficult to start to actually describe what that  
11 past and future is. And so the bounds in  
12 answering your question, the first rule is you  
13 assess what is assessable.

14 Certainly in terms of what constitutes  
15 the future, things are fairly well established  
16 that way. For example, the practitioners guide  
17 and other guidance as well, such as the one that  
18 the gentleman had introduced from the Alberta  
19 Government, provide very clear bounds as to, if  
20 you will, what lands into our consideration for  
21 that future. And as such, those bounds mean by  
22 such guidance that types of human activities that  
23 extend beyond that, that move into the  
24 conjectural, hypothetical will not normally be  
25 included.

1                   In regards to the far past, there is  
2 the current pragmatic use of including what I call  
3 the echo of the past in what we commonly refer to  
4 as our baseline, what the world is prior to our  
5 project coming. And likewise, if I go back in  
6 time, it certainly is challenging to reconstruct  
7 that past as well.

8                   And so to conclude for the moment to  
9 your question, the bounds are, in my view, first  
10 that which we believe provides us enough  
11 information to assess with a good degree of  
12 confidence. And if that is to be exceeded,  
13 perhaps at times it may, if that then becomes  
14 information requirement specifically for that  
15 application, or as the review process proceeds.

16                   THE CHAIRMAN: Thank you. Ms. MacKay,  
17 any questions.

18                   MS. MacKAY: I have one question.

19                   On page 4 of your presentation today,  
20 you refer to two versions of cumulative effects  
21 assessments. One for a project for regulatory  
22 purposes, and the other you refer to as regional  
23 or strategetic assessment. What is it that would  
24 trigger such a regional assessment, and of what  
25 use is it if it's not feeding back into



1 regulation?

2 MR. HEGMANN: Two part question. When  
3 do these things arise? And secondly, is it not  
4 the case that when they do happen, that they would  
5 then not be useful cumulative effects? Have I  
6 characterized your question fairly?

7 MS. MacKAY: I think so.

8 MR. HEGMANN: Okay. I'll begin with  
9 the first. I think the easiest, simplest answer,  
10 and I can momentarily provide some examples, I  
11 think perhaps the best way is actually by way of  
12 example to illustrate, but generically. When  
13 there is regional -- these regional strategic  
14 studies have historically so far arisen when the  
15 following conditions apply. And the simplest  
16 fashion is that there's a -- typically it's a  
17 single area of land or resource administration.  
18 It might be provincial or territorial scale, or  
19 such a regional scale within, but there's a  
20 landscape. And there's a lot going on now, or we  
21 can just see it coming on the horizon, it's going  
22 to get busy, if it's not busy already. If it is  
23 busy already, it's going to get busier.

24 Technically, there is, for example, a  
25 large degree of anthropogenic change which has

1 occurred. It has been recognized on the landscape  
2 and the future trajectory that we may see for this  
3 area is that this may keep on going, and in fact,  
4 new types of development may happen, resource  
5 development, various types. And so a moment in  
6 time happens, and this is the critical moment.  
7 This is the trigger. Someone finally raises the  
8 point, are we going to do something different  
9 about this situation, different than what already  
10 is available through the current regulatory  
11 permitting licensing processes, and other  
12 processes as well at various levels? Is there  
13 something more that we can do to help all parties,  
14 government, public, proponents, better understand  
15 what it is that's happening out there now, and  
16 perhaps to some degree into the past, but most  
17 importantly, to help us prepare for the future.

18           Now, for those examples which I  
19 promised, which I do think perhaps are more useful  
20 than the generic version. In the Northwest  
21 Territories there is initiative currently at the  
22 environmental sustainability framework, previously  
23 the cumulative effects assessment management  
24 framework and strategy.

25           And in the Northwest Territories, and

1 this goes back about 10 years, a very unusual  
2 thing happened. There was a diamond mine. And in  
3 quick order, as resource development often does,  
4 more came up to bat, so to speak. And some very  
5 forward-looking individuals thought, you know,  
6 maybe we should explore this better. And so the  
7 framework's intent, and in its absolute basics is,  
8 again, we're going to help us understand how we  
9 may look into the future.

10 Another example is at the oil sands,  
11 at the Athabasca oil sands in Alberta. Arguably  
12 right now representing some of the most advanced  
13 work done, not everything that one reads out there  
14 is necessarily the whole story. We have regional  
15 land use plans which are backed up by statutory  
16 provision, very unique, very important. And we  
17 have the continuation of an evolution of  
18 monitoring and regional study, an establishment of  
19 many mechanisms in order to allow one to stand  
20 back in a very large area, where much is  
21 happening, and prepare and plan and manage for  
22 that future.

23 The Province of British Columbia is  
24 currently considering, beyond already going back a  
25 couple of decades, the regional management plans,

1 the incorporation of a cumulative effects  
2 framework, which would, if you will, move them  
3 into the 21st century in terms of more advanced  
4 insight, with good data and analysis and  
5 information and process to manage certainly  
6 northeast BC in that area. It was a project that  
7 I was involved in, to assist the oil and gas  
8 commission in a framework for that area.

9 So to conclude perhaps on your first  
10 question, a generic, a description of when these  
11 things happen and some examples.

12 Your second question, and the answer  
13 is yes. Where the question is, would these be  
14 useful? Absolutely. In fact, the Canadian  
15 Environmental Assessment Act, both the pre 2012  
16 and the current 2012 version, they recognize the  
17 value of these studies. Although they are not  
18 mandated, we don't have a trigger, if you will,  
19 within those Acts. They recognize exactly what  
20 you're saying, which is if there's that  
21 information available and you, some proponent, is  
22 coming into an area in which such a study exists,  
23 what they are saying is use that study, use that  
24 information, take it as far as you can, use the  
25 benefit of what has been gained from that to help

1 you.

2 Now, for your project application, do  
3 the best job that you can in consideration of what  
4 will be learned from that, yes.

5 MS. MacKAY: But if something useful  
6 for regulation can be gained out of a regional  
7 study, should we not be aiming at a cumulative  
8 effects assessment procedure that would, on a  
9 project level, draw those out?

10 MR. HEGMANN: Absolutely. The thing  
11 is, unfortunately, we don't yet have studies, and  
12 to the extent that would provide that benefit. I  
13 think, again, an example works wonders in this  
14 situation. In the Athabasca oil sands, fairly  
15 recently, certainly started within -- it's been a  
16 long process, many things have happened. But  
17 right now we have, for example, air quality  
18 thresholds on a regional basis. And this is a  
19 direct result of what's coming out of the regional  
20 studies, that regional view of that area.

21 So to the point. If I'm now coming in  
22 and I wish to propose a new oil sands project,  
23 whether it is in situ or a new mine, and I will  
24 have stacks, I will have air emissions, I now have  
25 to consider the thresholds that, for certain

1 constituents, have come out of that regional  
2 study. My assessment has now, in a sense, been  
3 affected, influenced by that study in a very real  
4 way, yes. And that's an example which could be  
5 replicated in many other ways as well.

6 The regional study is supported by the  
7 Government of Alberta.

8 THE CHAIRMAN: Mr. Kaplan?  
9 Mr. Gibbons?

10 MR. GIBBONS: Yes, I do have several  
11 questions, but one is first a clarification of an  
12 answer that you gave to Mr. Sargeant earlier, and  
13 to some extent is covered by the last set of  
14 responses. But I want to see if I can be a bit  
15 more clear about your position.

16 When asked whether something that is  
17 designated as in and of itself not significant as  
18 an effect, should therefore not be studied further  
19 in the context of cumulative effects assessment,  
20 whether you agreed with that or not, you said --  
21 my sense of this is that you said no, that there  
22 presumably then is some reason why one might in  
23 fact still do a cumulative effects assessment if  
24 it showed up as not significant in and of itself.  
25 And you used a word "threshold" in this last

1 response. When you were responding to Mr.  
2 Sargeant, I was thinking of the word "tipping  
3 point". I was also thinking of that cliché about  
4 the straw that broke the camel's back and so on.

5           Could you very briefly indicate why,  
6 in and of itself, not significant may not be  
7 sufficient for -- an insufficient reason for  
8 continuing further with the cumulative effects  
9 assessment? Is it because of this threshold or  
10 tipping point idea? Is that what you had in mind?  
11 Because I'm not quite sure where that's coming  
12 from?

13           MR. HEGMANN: Perhaps I need to return  
14 and provide clarification on this important point,  
15 residual effects triggers and the word used  
16 before. Fundamentally, what is some of the nature  
17 of the effects that make it, if you will, into a  
18 cumulative effects assessment, and when the word  
19 significance is then introduced into this?

20           So to be clear, A, if I'm assessing a  
21 project and in the lingo, the parlance that one  
22 uses in an environmental impact assessments, I'm  
23 looking at a direct project effect. So I have a  
24 project and it causes various effects which are a  
25 direct consequence. I can clearly see that as a

1 result of my project. I manage, I mitigate to the  
2 extent possible. And if there is a measurable  
3 residual effect remaining still, commonly, off it  
4 goes and it's included to now be looked at  
5 cumulatively. The reason the word significant has  
6 come in this, because at times the view is, well,  
7 if you are going to pass on an effect to  
8 cumulative effects, it has to be a significant  
9 effect. And that's not what we're saying, and  
10 it's not what was done in Bipole.

11 At times that comes up. So to be  
12 clear, an effect does not have to be concluded as  
13 significant as a direct project residual effect to  
14 then be assessed for cumulative effects.

15 So it opens up the possibility to many  
16 effects being pursued cumulatively.

17 And then you introduce the idea of  
18 thresholds, suggesting that perhaps when one is  
19 making that decision, should an effect be looked  
20 at cumulatively, that we should take thresholds  
21 into consideration? I would say, yes, absolutely,  
22 if they are available. And there aren't too many  
23 which are available yet. I could rhyme off a few.  
24 And I believe that time has been spent on that  
25 already during this hearing. But certainly that



1 would be a very valid candidate to be considered.

2 In other words, I have residual effect  
3 from my project, let's go check and see. Where do  
4 we stand on that contribution to what may exist,  
5 if anything exists at all, as a threshold, a  
6 quantifiable threshold. And that would certainly  
7 be informative in regards to how that effect would  
8 then be used on, assessed on a cumulative basis,  
9 yes.

10 MR. GIBBONS: Second question.

11 Mr. Sargeant used the term evolving baseline,  
12 which I agree sounds like an oxymoron to me, but  
13 nonetheless, we have also have had, in the course  
14 of the hearings, references at times to the term  
15 "new normal." Putting aside whether these things  
16 are in fact the same thing, I don't know that  
17 that's important here, what I have in mind is  
18 guidance that might be given to proponents and  
19 those assessing a proponent's CEA as to how a good  
20 CEA might avoid the kinds of problems that are  
21 implied by those concepts, the new normal,  
22 evolving baseline, and so on, which in effect, if  
23 I can summarize them very succinctly, refer to the  
24 idea that we never fully come to grips with the  
25 residual effect of our new project on top of other

1 projects because we keep changing the goal posts,  
2 moving the goal posts. What advice would you have  
3 to proponents and participants in the process as  
4 to how they might deal with that issue?

5 MR. HEGMANN: My advice would be first  
6 to understand what we're talking about. And this,  
7 as with so many things, there are semantics, there  
8 is the meaning of words. And to be clear,  
9 evolving baseline, new normal, which you  
10 mentioned, these allude to very much reality which  
11 is that things change. And the thing we're  
12 talking about in this case is the world that would  
13 surround a project.

14 Now, environmental impact assessments  
15 do refer to a baseline, and it is convenient and  
16 it's useful and it's necessary to at least ensure  
17 that we have a point of comparison. And the  
18 relevant point of comparison so far by current  
19 practice is the conditions of the environment  
20 prior to, just prior to the initiation of any  
21 measurable change in the landscape to the project  
22 construction. But that can change. That is, the  
23 baseline can change. If you have given enough  
24 years, yes, of course there will be due to human  
25 caused and natural caused events things changing.

1 But assessments out of necessity, of that  
2 pragmatic necessity, provide a moment in time that  
3 we just hold fast for a moment to allow us to  
4 examine right now, in the best way possible, what  
5 the effects may be.

6 All right. So with that context with  
7 some semantics, returning to the heart of your  
8 question on advice, my advice would be to admit  
9 and recognize and address implications that are  
10 possible as a result of possible changes, and into  
11 the future. And we already have that right now  
12 available to us through, for example, the effects  
13 of the environment on the project. And indeed, it  
14 is the changing natural environment which can  
15 occur in various forms that may give us pause for  
16 just a moment. That if we recognize that, for  
17 example, there might be fear in the future, in  
18 fact this very topic, this very matter is  
19 represented in recent precedents in the oil sands.  
20 We have projects there which now include looking  
21 ahead, including fire modeling, for example. And  
22 my point is, is that that is a reflection of how  
23 that fixed baseline may change.

24 My second and final advice right now  
25 is, it's fine to talk about all this, but then

1 what really is important, what does it mean to the  
2 conclusions of your assessment as we  
3 conventionally now do them? So you will look  
4 ahead, you will look and see what possible changes  
5 may happen to the baseline. But the important  
6 thing then is, what if anything does that mean  
7 that's different to what you have concluded so far  
8 in your assessment?

9 In some cases it may not make much  
10 difference, in some cases it may be important.

11 MR. OSLER: Mr. Gibbons, just for the  
12 sake of this record, I think the word baseline,  
13 the way we have tried to use it in this  
14 assessment, and the way Mr. Hegmann is using it,  
15 is essentially the world without the project. And  
16 the concept that that world could change as time  
17 advances without the project is the concept that  
18 some people have used the language evolving  
19 baseline.

20 In the material that was given out  
21 today by Mr. Williams, and the Alberta guidelines  
22 for cumulative effects, page 21 of what he handed  
23 out, the third paragraph from the bottom, CEA  
24 predictions should take into account that baseline  
25 conditions, i.e. those without the project under

1 review are not static. And I think that's all  
2 that anybody is trying to get at in this concept.  
3 If you have a different concept of what the word  
4 baseline might mean, if somebody is using it to  
5 mean the world before the project started, for  
6 example, or the world a long time ago before  
7 anybody did any changes, then it would be  
8 inconsistent to use the concept of evolving or  
9 change. But I think just to try and get that one  
10 matter on the record.

11 MR. GIBBONS: Last question, and I'm  
12 referring here to the last paragraph of the  
13 handout from Mr. Hegmann, where he makes reference  
14 to the following, and I quote:

15 "The lack of information should not in  
16 and of itself be used as an excuse to  
17 not make decisions now."

18 It strikes me, and this is seen as falling out of  
19 the precautionary principle, it strikes me that  
20 there are two ways to look at that. One is that  
21 the lack of information in the view of some should  
22 not be seen as a reason for not proceeding with a  
23 project. The opposite reality is that there are  
24 others who will contend that the lack of that  
25 information is reason to not proceed with the

1 project.

2 Can I get you to elaborate on that  
3 point briefly as to where you were going with  
4 that?

5 MR. HEGMANN: Yes. You are right.  
6 There is, as I have stated, the original concept  
7 which is used in science and is used -- it is  
8 recognized in administrative process often in  
9 regards to consideration of scientific  
10 information. But you are absolutely right, there  
11 is the other interpretation as well. And that is  
12 that in the absence of a high degree of certainty,  
13 the decision maker would pursue another course of  
14 action which is opposite to what is stated here.

15 The reason the precautionary principle  
16 came into existence in the first place is it's  
17 trying to grapple with something which has been a  
18 substantial challenge for a very long time. And  
19 that is, it's risk management and certainty. And  
20 science and environmental impact assessments which  
21 follow a similar method will at times admit indeed  
22 uncertainty, and on many matters 100 percent  
23 certainty is a rare thing. And the precautionary  
24 principle was developed in order to at least  
25 provide some advice or guidance on two steps. In

1 the absence of a high degree of uncertainty, if  
2 not a 100 percent certainty -- and again in many  
3 situations, and certainly many examples abound,  
4 whether it's in medical science or in ecological  
5 science, that will not necessarily exist but, and  
6 I think this is even more important, it doesn't  
7 leave it at that. It says, if you are going to  
8 work at this, you are going to continue the  
9 process of learning adaptively in order to ensure  
10 that if there is an unacceptable level of  
11 uncertainty, you will fill that gap with a planned  
12 intent.

13 And that's I believe, in full, the  
14 precautionary principle, as originally it was  
15 envisioned and as I had indicated.

16 MR. GIBBONS: Thank you. That's it  
17 for me.

18 THE CHAIRMAN: Thank you, Mr. Hegmann.  
19 Manitoba Hydro have any further  
20 questioning of the witness?

21 MS. MAYOR: No.

22 THE CHAIRMAN: Thank you very much.  
23 We'll take our lunch break in a moment or two.

24 Mr. Williams?

25 MR. WILLIAMS: Just very quickly, in

1 anticipation of closing argument, I'm seeking some  
2 guidance from the panel. We will have a legal  
3 brief relating to cumulative effects, and also  
4 kind of an overview of our response to  
5 Mr. Hegmann, and we have to incorporate a bit of  
6 the discussion from this morning, obviously. But  
7 I guess for the panel, we could have that  
8 available by the end of the day, if that would be  
9 of assistance. Otherwise, we'll just provide it  
10 with our materials tomorrow. We're just  
11 indicating we could rush to get it done or we  
12 could provide it to you tomorrow.

13 THE CHAIRMAN: I think tomorrow would  
14 be reasonable, Mr. Williams. You'll, I'm sure,  
15 describe it in some detail.

16 Mr. Bedford or Ms. Mayor, do you have  
17 any further rebuttal evidence today?

18 MS. MAYOR: No.

19 THE CHAIRMAN: Okay. When we resume  
20 after lunch, we'll start with some of the closing  
21 arguments. We have people scheduled at 2:00 and  
22 2:30. I would hope that some are ready to go  
23 earlier than that. We'll consult over noon.

24 So let's come back at 1:15. And again  
25 Mr. Hegmann, thank you for your testimony here



1 this morning.

2 (Hearing recessed at 12:15 p.m. and  
3 reconvened at 1:15 p.m.)

4 THE CHAIRMAN: Okay. We will carry on  
5 with the day's proceedings. We have three final  
6 arguments being presented this afternoon. First  
7 up will be the Tataskweyak Cree Nation; following  
8 that will be Pine Creek First Nation; and then  
9 Manitoba Wildlands.

10 Before we move to that, though, we  
11 have a number of more documents to be placed on  
12 the record, so Madam secretary?

13 MS. JOHNSON: Yes, I found Mr.  
14 Madden's memo from March 6th yesterday, so I will  
15 put that on the record, MMF 32. The Canadian  
16 Taxpayers Federation letter would be number 33.  
17 The record of meeting from Manitoba Hydro at the  
18 Minitonas community centre is MH 122.  
19 Mr. Hegmann's CV is 123. Mr. Hegmann's letter of  
20 February 18th is 124. Mr. Hegmann's testimony is  
21 MH 125. Response to the Clean Environment  
22 Commission Hearings for Peguis First Nation  
23 rebuttal is MH 126. Response to an undertaking  
24 from Mr. Gibbons is MH 127. And the Coalition  
25 report that was tabled this morning is BPC 18.

1 And Mr. Williams' supporting materials, CAC number  
2 12.  
3 (EXHIBIT MMF 32: Mr. Madden's memo,  
4 March 6th)  
5 (EXHIBIT MMF 33: Canadian Taxpayers  
6 Federation letter)  
7 (EXHIBIT MH 122: Record of meeting  
8 from Manitoba Hydro at Minitonas  
9 Community Centre)  
10 (EXHIBIT MH 123: Mr. Hegmann's CV)  
11 (EXHIBIT MH 124: Mr. Hegmann's letter  
12 of February 18th)  
13 (EXHIBIT MH 125: Mr. Hegmann's  
14 testimony)  
15 (EXHIBIT MH 126: Response to the  
16 Clean Environment Commission Hearings  
17 for Peguis First Nation rebuttal)  
18 (EXHIBIT MH 127: Response to  
19 undertaking from Mr. Gibbons)  
20 (EXHIBIT BPC 18: Coalition report)  
21 (EXHIBIT CAC 12: Mr. Williams'  
22 supporting materials)  
23 THE CHAIRMAN: Thank you.  
24 We call the Tataskweyak Cree Nation  
25 folks to come up to the front, please? You can go

1 here or there, whichever you prefer. Go up over  
2 there.

3 We will ask the Commission secretary  
4 to swear you both in. I don't believe either of  
5 you have been before. Mr. Lowe, were you sworn in  
6 November, or not?

7 MR. LOWE: Yes, I was.

8 THE CHAIRMAN: Okay. Then just your  
9 colleague.

10 MS. JOHNSON: State your name for the  
11 record?

12 Chris Young: Sworn.

13 MR. LOWE: Could I just begin by  
14 introducing Councillor Chris Young, recently  
15 elected to the Chief and Council of Tataskweyak  
16 Cree Nation. And Mr. Young will be delivering the  
17 presentation this afternoon.

18 MR. YOUNG: Good afternoon, members of  
19 the Clean Environment Commission panel, Bipole III  
20 proponent, Manitoba Hydro, and fellow  
21 participants.

22 My name is Councillor Chris Young from  
23 TCN, Tataskweyak Cree Nation. I would like to  
24 begin by thanking the Clean Environment Commission  
25 for providing our nation the opportunity to hear

1 our side of the story -- well, not story but --  
2 well, it is an opportunity to participate in the  
3 hearings.

4           Tataskweyak Cree Nation participated  
5 in these hearings in order to comment on its  
6 assessment of the impacts of the project upon TCN,  
7 and to protect our constitutional rights,  
8 interests, and existing agreements negotiated with  
9 Manitoba Hydro. By participating in these  
10 hearings, Tataskweyak Cree Nation sought to ensure  
11 that any licence issued to Manitoba Hydro  
12 addresses these impacts, rights and interests.

13           Tataskweyak Cree Nation believes that  
14 the impacts of Bipole III project will be  
15 substantial and must be addressed. This  
16 conclusion is grounded upon TCN's decade long  
17 experience with substantial hydroelectric  
18 developments within our traditional territory,  
19 which experiences started in 1957.

20           And the unique Cree world view, which  
21 is expressed through the mother earth model, the  
22 mother earth model emphasizes harmony and balance,  
23 and it is the touchstone for TCN's evaluation of  
24 the impacts of the Bipole III project.

25           TCN has submitted evidence to the CEC

1 describing our concerns with respect to the  
2 impacts of Bipole III. Our opening remark of  
3 October 1st, 2012, and as elaborated on the  
4 November 13th, 2012 presentation, we trust that  
5 the CEC will give them due consideration. These  
6 considerations are still alive today -- the  
7 concerns, these concerns are still alive today, as  
8 they were when the CEC hearings first began.

9           There is no need to restate in detail  
10 our concerns. It is suffice to say that with the  
11 fragmentation of approximately 437 kilometres of  
12 our resource area by DC and AC transmission lines,  
13 the presence of the Keewatinoow converter station  
14 and the presence of hundreds of workers over many  
15 years, there will be substantial, not  
16 insignificant adverse impacts on our traditional  
17 relationships with mother earth. This  
18 relationship reflects constitutional protected  
19 customs, practices and traditions.

20           The impacts of Bipole III are  
21 cumulative to the adverse effects accumulated over  
22 55 years of 35 Hydro projects in our resource  
23 area. While Manitoba Hydro may look on cumulative  
24 effects in a particular way, we live with these  
25 effects every day. The 35 Hydro projects that

1 have been constructed on our resource area over  
2 the last 55 years have transformed our lands and  
3 waters. Bipole III will substantially add to  
4 these effects.

5           For us it is incomprehensible that  
6 Hydro should be allowed to describe cumulative  
7 adverse effects as they do in such a narrow way,  
8 so constrained by the artificial time and space  
9 parameters that they use. Such constraints might  
10 be acceptable if there were few other projects --  
11 if very few other projects have been impacted on  
12 people's homeland. But in our case, with 35 such  
13 projects of such a massive scale, strain on our  
14 eco-system is unbearable.

15           We do not believe that the Bipole III  
16 EIS adequately reflects these concerns. Over  
17 decades we negotiated agreements to address the  
18 impacts of hydroelectric development in our midst,  
19 culminating in the 1992 agreement. In our view  
20 this agreement obligates Hydro to settle with  
21 TCN's adverse effects of any future Hydro  
22 development in our resource area.

23           The honour of the Crown requires  
24 mitigation, offsetting programs and compensation,  
25 and other benefits need to be negotiated with TCN.

1                   Our March 11th report attached to our  
2   November CEC presentation indicated that our  
3   support of Bipole III was conditional upon  
4   reaching agreement with Hydro on compensation for  
5   adverse effects to our collective rights, business  
6   training, and employment opportunities. These  
7   conditions are still outstanding.

8                   While we have met with Manitoba Hydro  
9   to negotiate an agreement covering these matters,  
10   progress has been painfully slow. Months have  
11   gone by between meetings and waiting for a  
12   response to a concrete proposal by TCN. Some  
13   modest progress has been made in the area of  
14   business opportunities for our nation. However,  
15   other work on Keewatinoow, which we are fully  
16   equipped to handle, has been denied to us for no  
17   apparent reason.

18                  We cannot support the issuance of any  
19   environmental licence which does not ensure that  
20   such concerns and proposed accommodations are  
21   addressed.

22                  The CEC has the authority to make  
23   recommendations with respect to the mitigation of  
24   any potential environmental, socioeconomic and  
25   cultural effects resulting from Bipole III. We

1 trust that TCN's concern and proposed  
2 accommodations will be recognized in your  
3 recommendations.

4 We ask that if you intend to recommend  
5 to the Cabinet that Bipole III should be licensed,  
6 that the conditions be attached to the licence to  
7 ensure that Manitoba Hydro has reached an  
8 agreement with TCN on compensation, business,  
9 training and employment opportunities for any  
10 construction to begin within the Split Lake  
11 resource management area. Thank you.

12 THE CHAIRMAN: Thank you, Councillor  
13 Young.

14 We don't have cross-examination on  
15 final argument. I have a question of  
16 clarification, though. And it may be in the  
17 earlier presentation in November. If it is, you  
18 can just refer me to that.

19 When you were talking about the  
20 adverse effects agreement, you mentioned  
21 accommodation in respect of Keewatinoow. Can you  
22 elaborate, or will I find that in the November  
23 presentation?

24 MR. YOUNG: Yes, I would like Ron to  
25 answer this one.



1 MR. LOWE: That is part of the  
2 November presentation. The Keewatinoow Converter  
3 Station and electrode site and a substantial  
4 amount of the collective lines are located outside  
5 the boundaries of the Split Lake resource  
6 management area, but within the defined Split Lake  
7 resource area which is defined in the 1992  
8 agreement.

9 THE CHAIRMAN: Thank you very much.  
10 We will refer to that document as well in your  
11 earlier presentation. Thank you.

12 Any other questions of clarification?

13 Okay. Thank you very much for your  
14 presentation today and thank you very much for  
15 your community's participation over the last few  
16 months.

17 We'll just have a brief time out here.

18 (Brief recess)

19 THE CHAIRMAN: Thank you, Councillor  
20 Garson.

21 We have had many opportunities over  
22 the past weeks and months where people from  
23 basically anywhere who wanted to speak and let us  
24 know their concerns were welcome to. Right now,  
25 though, we are in a sort of formal closing part of

1 the process. And at this point we are hearing  
2 from people who are officially designated to speak  
3 on behalf of your community. And the directions  
4 that we have had are that Councillor Young and the  
5 consultants who are with him are delegated by your  
6 chief to speak on behalf of the community. You  
7 are certainly entitled to have your views. If you  
8 had come out at a different time, we would have  
9 readily heard your concerns.

10 SPEAKER: I didn't know about this  
11 meeting. I just found out yesterday, they are not  
12 informing the rest of council.

13 THE CHAIRMAN: We did have meetings in  
14 Gillam and Thompson last autumn at which people  
15 were given an opportunity to speak. And then we  
16 had meetings throughout half of October and all of  
17 November here in Winnipeg at which people were  
18 given an opportunity to speak. So, you know, I  
19 don't like to cut you off, but we are in a formal  
20 part of the process at this time. Thank you.

21 SPEAKER: You are welcome.

22 THE CHAIRMAN: So we will move on  
23 then. Does that complete the -- Councillor Young,  
24 that completes the TCN presentation? Thank you.

25 Next up will be Pine Creek First

1 Nations, Mr. Mills and Mr. Stockwell.

2 MR. MILLS: Good afternoon,  
3 Mr. Chairman. John and I, on behalf of Chief  
4 Charlie Boucher and the Council of Pine Creek  
5 First Nation would like to thank the Manitoba  
6 Clean Environment Commission for the opportunity  
7 to work within this process, to attempt to have  
8 Pine Creek's position, concerns, and proposed  
9 solutions discussed, and hopefully understood and  
10 recognized.

11 Pine Creek First Nation, Mr. Chairman,  
12 believes it is the most affected stakeholder in  
13 the Manitoba Hydro Bipole III C1 route portion.  
14 Pine Creek First Nation is pleased to complete its  
15 participation in the CEC Bipole III review with  
16 the following closing comments.

17 Mr. Chairman, if our presentation as  
18 follows sounds familiar, it is, because our  
19 concerns have remained consistent throughout this  
20 process. The communities' concerns remain. The  
21 greatest and tangible concern, Mr. Chairman, is  
22 the inadequate consultation and/or the failure,  
23 refusal of the process to be transparent and  
24 inclusive.

25 The community, and John and I would

1 certainly agree, believe that the Province has  
2 failed in its duty to consult and accommodate with  
3 regards to this matter. The Province, and quite  
4 recently Hydro's refusal to share information with  
5 Pine Creek, the failure to share and coordinate  
6 information between Provincial departments and  
7 authorities, and the recent secrecy surrounding  
8 discussions with the proponent all point to a  
9 serious lack of understanding of or commitment to  
10 the honour of the Crown.

11           The duty to consult and the test of  
12 consultation was clearly spelled out by Mr. Gord  
13 Hannon, the gentleman from the Provincial Justice  
14 Department, who spoke to you on August 16th, prior  
15 to our joining the process. He assured us that  
16 Conservation would take the lead, and the clear  
17 implication was that Conservation would oversee  
18 and collect germane information from all other  
19 associated Provincial departments.

20           As we all experienced with the Bison  
21 debacle, which we will speak to soon, this just  
22 did not happen.

23           Mr. Chairman, you have indicated that  
24 you may or may not have much to say in regard to  
25 that matter. And we would ask you that if the

1 Clean Environment Commission doesn't express  
2 comment or concern to the Minister, who will?

3 As everyone who has endured us through  
4 this process knows, one of our client's greatest  
5 concerns is their watershed. The Wellman Lake in  
6 the Duck Mountains contains the finest Brown Trout  
7 in Manitoba, those waters are crystal clear. That  
8 water leaves the Duck's and flows 45 miles through  
9 the legs of Provincial indifference to arrive at  
10 the Pine Creek First Nation basin. It arrives  
11 tainted by the waste of 4,000 Bison.

12 Pine Creek First Nation is confident  
13 that Bipole III will add to the problem and add to  
14 the rinse of sickness that is now flowing into the  
15 community.

16 Water Stewardship and Conservation  
17 have no comment in TAC review. Hydro advises us  
18 that hundreds of thousands of litres of additional  
19 water into an already bloated community through  
20 the legs of this herd will not have a significant  
21 effect on the community.

22 We must predict that the Pine Creek  
23 basin, we believe, will in short order probably  
24 become Manitoba's Walkerton. Children in the  
25 three Aboriginal communities experience septic

1 sores today, coliform and e. coli fill the  
2 community's drinking water source. We believe  
3 that the additional water, no matter how much or  
4 how little, contributed through the Bipole III  
5 right-of-way clearing, will only complicate the  
6 inevitable review of cause, assessment of  
7 liability and assignment of costs.

8 We encourage the Province, with Hydro  
9 playing a part, to drop their denial and address  
10 this matter prior to the Bipole III right-of-way  
11 clearing taking place.

12 The community has grave concerns over  
13 the route and the route consideration. Pine Creek  
14 First Nation has responded to the final preferred  
15 route and the alternate final preferred route with  
16 the proposed very minor route revision, that the  
17 First Nation membership believes will resolve the  
18 majority of their routing concerns.

19 Hydro and the Province can't tell any  
20 of us today what the final route will be. Hydro  
21 will tell us that they are not considering the  
22 minor revision which we proposed. The band's  
23 proposed solution just can't gain any traction.  
24 While Hydro and Conservation discuss route  
25 alterations on the basis of a concern for, in

1 quotation marks, "culture", yet neither party has  
2 picked up the phone, spoken to and addressed the  
3 owners of that culture of which they base their  
4 concern.

5           The route selection process has not  
6 been completed, Mr. Chairman. And candidly, we  
7 don't think that you have anything yet that you  
8 are able to refer to the Minister for  
9 consideration of a licence. Can anyone tells us  
10 the route of Bipole III today? We don't believe  
11 so.

12           Mr. Chairman, while Conservation  
13 drives Bipole III here and there, no one in the  
14 Province seems to understand the substantial  
15 conflict with perhaps, in the owner's own words,  
16 probably the largest Bison herd in the world. At  
17 least 70 sections of specific use lands and the  
18 longest moose proof fence in the Province didn't  
19 even appear on the Bipole III radar screen until  
20 mid February. No one understands the extent of  
21 this matter fully even today.

22           We all, Pine Creek, Hydro and  
23 Conservation agree that the moose are in serious  
24 decline. While Hydro and Conservation debate  
25 alternate routes to help save the moose, the

1 Provincial Lands department is assisting in  
2 accumulating the very lands under consideration of  
3 moose decline for a much larger fenced Bison  
4 compound. The right hand, Conservation, doesn't  
5 understand what the left hand, Lands, has just  
6 done.

7 Simultaneous to this, Mr. Chairman,  
8 Provincial Agriculture, MAFRI, ignores complaints  
9 from the public and concerns from its own field  
10 staff, and insists that the Bison are grazing.

11 The Bipole III contributed run off  
12 will help, we believe, rinse this waste down into  
13 three Aboriginal communities with little, if any,  
14 Provincial comment or oversight, and with  
15 absolutely no Aboriginal consultation whatsoever.

16 Mr. Chairman, every involved  
17 Aboriginal community has expressed their serious  
18 concern of chemicals sprayed over their  
19 traditional lands and crops. It has been in every  
20 Hydro confirmation of community discussion, it has  
21 been in the minutes of countless section 35  
22 meetings; 22 traditional herbs and medicines were  
23 clearly delineated by the Pine Creek First Nation  
24 community, as well as several berry and bark  
25 crops, all enjoyed by the band members and their



1 families. And all of them regrettably found on  
2 all of the considered routes.

3           Despite all other crop harvesters  
4 having been offered a crop loss compensation, none  
5 has been offered to Aboriginal harvesters.

6           We heard, Mr. Chairman, your  
7 Commissioners' comments and concerns with regard  
8 to outfitters and the comparison of their damages  
9 to trappers. We have almost identical concerns  
10 with respect to Aboriginal harvesters and other  
11 more, shall we say, tragically traditional  
12 farmers. If a grain farmer loses crop to  
13 right-of-way work, he will be compensated through  
14 an acknowledged process. When an Aboriginal  
15 harvester loses their crop, and we know they will,  
16 it sounds as if Court of Queen's Bench will be  
17 their remedy.

18           Mr. Chairman, throughout the process  
19 Pine Creek First Nation has raised serious  
20 concerns about the conflict of Manitoba Hydro  
21 construction traffic in and around the Pine Creek  
22 community. And when the route moved significantly  
23 closer to the community, those concerns were  
24 raised.

25           We heard from Mr. Osler that the

1 relationship to the community doesn't necessarily  
2 have a relationship to the effects in the  
3 community. However, we disagree quite seriously  
4 in that regard. The community just doesn't  
5 understand why -- we raise this issue, do we  
6 really need the Clean Environment Commission to  
7 make a recommendation to the Minister to suggest  
8 that a First Nation adjacent to a high speed  
9 intersection should receive the same levels of  
10 lighting as the nearby white community receives?  
11 We don't think so.

12 Mr. Chairman, the effect on trappers,  
13 the community is increasingly concerned that those  
14 who are not owners of licensed Provincial  
15 traplines will be left begging for consideration.  
16 Hydro has indicated they will consider it.

17 ATK review: Mr. Chairman, when Hydro  
18 has been pressured with regards to Swan Lake's ATK  
19 concerns and that crossing, Mr. McGarry indicated  
20 to you clearly that Hydro has lots of time to  
21 resolve the Swan Lake ATK concerns.

22 Hydro has also indicated that the  
23 amounts in the infamous letter which is under  
24 consideration includes hundreds of thousands of  
25 dollars spent to date on ATK for other

1 communities. Pine Creek has vigorously denied the  
2 validity of the ATK Hydro relies upon. Recent  
3 comments by Hydro's own consultant raise serious  
4 concerns about new found burial sites,  
5 Mr. Chairman.

6 Pine Creek First Nation's simple  
7 request of Manitoba Hydro is to provide us with  
8 the resources to redo or continue the ATK. That  
9 request has been denied.

10 The community is upset, concerned and  
11 increasingly angry over their lack of  
12 understanding of what the cumulative effects on  
13 the community's health may be. Chief and Council  
14 do not understand what cumulative effects Bipole  
15 III will have on any or all aspects of band  
16 members' health and well-being. No help has been  
17 offered. Hydro has not been forthcoming in this  
18 regard. Mr. Osler, in fact, denied an effect of  
19 any significance exists. Mr. Osler has never been  
20 to the community, we understand. His peer  
21 Ms. Petch disagrees. Still no response.

22 Mr. Chairman, the cumulative effects  
23 on the health of Pine Creek First Nation are not  
24 understood and need to continue to be understood  
25 after CEC is complete.

1                   Mr. Chairman, we are the first to  
2 admit and to appreciate the economic development  
3 opportunities that Hydro has entered into  
4 discussions with us. However, we do observe that  
5 they have slow-played any potential economic  
6 relationship or benefits. The community has heard  
7 the description of the CDI fund. And we, like I  
8 think most other affected Aboriginal communities,  
9 ask ourselves, why does Hydro need a licence  
10 first? And why won't they commit to the CDI fund  
11 prior to a licence being issued?

12                   It is arguably repulsive to dangle a  
13 carrot like that in front of the community with no  
14 substance or commitment. If it is a commitment,  
15 table it. If it isn't a commitment, remove it.

16                   Mr. Chairman, the reliance upon this  
17 entire process of the TAC, the technical advisory  
18 committee -- technical advisory committee of the  
19 Province of Manitoba, in Pine Creek's opinion, has  
20 candidly and tragically been a waste of time.  
21 Serious technical oversight is required and  
22 expected of Provincial officials. Very little is  
23 offered or received.

24                   The recent consideration of the route  
25 revision of the most significant construction

1 project in Manitoba in this decade warranted two  
2 of 25 TAC review comments from the Provincial  
3 officers whose oversight we were counting on. Our  
4 concerns were raised through the consultation  
5 process at every level, Mr. Chairman. We asked,  
6 we offered, we proposed, we cajoled if we could  
7 meet with TAC, talk to TAC, forward information to  
8 TAC. We were assured that was happening through  
9 the consultation process, Mr. Chairman. It  
10 clearly didn't.

11 Authority to proceed on this matter is  
12 issued on the basis of a TAC review, as we  
13 observed, occasionally before that review is even  
14 available. We refer to the infamous November 2nd  
15 exchange when this Commission received an  
16 authority to proceed -- or Manitoba Hydro received  
17 an authority to proceed from a TAC process that,  
18 in fact, hadn't been assembled or completed.

19 Our disdain and concern for the TAC  
20 process lead us to review other TAC that is  
21 currently in the public registry. A TAC review  
22 recently completed of an all terrain vehicle park  
23 in the Duck Mountains is much more complete and  
24 much more inclusive than the TAC review provided  
25 to us after our significant requests that they

1 provide us with answers to our concerns.

2 Water quality concerns of a much  
3 smaller Manitoba Hydro transmission line in the  
4 Portage area, crossing one watershed, affecting a  
5 community one quarter the size of the Pine Creek  
6 basin, and at four times the distance, elicited a  
7 far more complete TAC response than the one we  
8 were hoping and looking for did. The entire TAC  
9 process is disappointing to us, Mr. Chairman, and  
10 is such a lost opportunity for good, founded  
11 information to be shared.

12 CEC must comment to the Minister. We  
13 would all make better decisions if we had better  
14 information, Mr. Chairman.

15 Our last point and in closing, when  
16 John and I entered into this process on behalf of  
17 Pine Creek First Nation, one of our first  
18 presumptions was that we were going to argue for a  
19 significant amount of oversight of Manitoba Hydro,  
20 no matter what or where became of Bipole III.

21 Having done our research and having  
22 read every document available to us, Mr. Chairman,  
23 the failure of the Province to monitor and enforce  
24 the overlapping LP permit, 2191E, that has a far  
25 greater effect on Pine Creek First Nation than we

1 expect Bipole will have, shows a real lack of  
2 resources or sincerity within that oversight  
3 process. We now don't believe that value would be  
4 achieved by encouraging the Minister to address  
5 additional resources to Conservation for  
6 oversight. In that regard, Hydro appears to know  
7 more and certainly offer more in terms of  
8 mitigation concern.

9 In closing, Mr. Chairman, we went back  
10 and reread the August 16th transcripts. The  
11 concerns of consultation were raised then. Those  
12 concerns seem to have fallen on deaf ears. The  
13 assurances of Mr. Hannon, senior member of the  
14 Justice Department of the Province of Manitoba,  
15 that Conservation would take the lead and  
16 coordinate the Provincial contribution just quite  
17 simply never transpired. The faults we discussed  
18 today were anticipated on August 16th. Einstein's  
19 famous definition of insanity comes to mind.

20 Mr. Chairman, the Clean Environment  
21 Commission has the ability to make recommendations  
22 of meaningful incorporation and change. We await  
23 your report with great hope for the health of Pine  
24 Creek First Nation.

25 Pine Creek First Nation would like to

1 and could support Bipole III with the above  
2 referenced matters addressed clearly and in  
3 writing. Chief and council have encouraged me to  
4 arrange those meetings with Hydro. We are  
5 currently awaiting Hydro's call.

6 Thank you, Mr. Chairman. Those are  
7 our closing comments.

8 THE CHAIRMAN: Thank you, Mr. Mills.  
9 Any questions of clarification?

10 Thank you Mr. Mills and Mr. Stockwell,  
11 thank you for your dogged participation in this  
12 process. You have added to the process  
13 immeasurably and represented your clients well, so  
14 thank you.

15 MR. MILLS: Thank you for your  
16 indulgence.

17 THE CHAIRMAN: Ms. Whelan-Enns,  
18 Wildlands, Manitoba Wildlands.

19 MS. WHELAN-ENNS: Mr. Chair, my name  
20 is Gaile Whelan-Enns and I'm speaking for Manitoba  
21 Wildlands at this time in closing statements. I  
22 have two documents in front of me that are on  
23 screen only, and we will provide them on paper in  
24 the next day or so.

25 I have taken the approach of watching



1 the patterns in the hearings in terms of repeat  
2 concerns voiced, repeat questions asked, and/or  
3 repeat, one of the EIS words would be  
4 deficiencies. So, again, in terms of our capacity  
5 that's the general description of the approach  
6 taken.

7 We do feel pretty strongly that there  
8 are some emerging patterns. The people here for  
9 the panel will be very aware of those at this  
10 point for sure. So there may be some repetition  
11 about things that are already quite evident.

12 One of the things that we assume in  
13 terms of participation, all of our roles in public  
14 hearings of the Environment Act in Manitoba is  
15 that we all need access to the information,  
16 transparency, understandable process, document  
17 language, everything being clear to all of us, if  
18 you will. And that also then applies to all of  
19 the steps in planning a project of this nature,  
20 preparing EIS, dealing with both what the process  
21 is under the Environment Act and what the process  
22 is then through the CEC.

23 We would ask the CEC and the panel to  
24 closely consider the scoping document at the very  
25 beginning of both sets of proceedings, if you

1 will, to see whether it has been fulfilled.

2 From the Manitoba Wildlands point of  
3 view, we have been involved from the time that EAP  
4 under the Environment Act and scoping document  
5 were posted and reviewed, and filed a variety of  
6 mostly recommendations on standards to Manitoba  
7 Hydro when the scoping document was being publicly  
8 reviewed.

9 It is entirely possible that the  
10 participants in the hearings, now that we are  
11 getting close to the end, would agree with the  
12 statement from the MMF yesterday that they firmly  
13 believe that the scoping document has not been  
14 fulfilled.

15 The first topic I have in front of me  
16 here has to do with Manitoba Hydro compensation.  
17 Again, we have heard, particularly in the last two  
18 or three days and prior to that, a variety of  
19 comments from participants about Manitoba Hydro's  
20 assistance of compensation for this kind of  
21 project and/or for generation project.

22 One thing that struck me throughout is  
23 we are not hearing about compensation for impacts  
24 and loss of income or sustenance from hunting, or  
25 gathering or tourism. We have a fairly narrow

1 path here that has only seemingly to do with  
2 compensation for trapping.

3 Certain of the affected communities,  
4 Metis and First Nation, no longer can trap. So it  
5 is -- well, it strikes me as an area that the CEC  
6 may want to take a look at in terms of what is  
7 compensation and why we only have one kind of four  
8 or five. And even gathering, it also has got to  
9 do with cash crops and the subsistence economy, or  
10 sustenance is seemingly absent.

11 We have heard a variety of comments  
12 about how the compensation processes seem to be a  
13 closed door and not necessarily understandable.  
14 If one was to harken back to the early stages of  
15 Wuskwatim proceedings, and just before the  
16 hearings on Wuskwatim there were 350 outstanding  
17 compensation claims still with respect to the  
18 Nelson House First Nation and the lands nearby at  
19 the time that those proceedings started.

20 My next heading here in front of me in  
21 sort of trying to collect our observations, it  
22 says "alphabet soup of areas." It goes directly  
23 to things being understandable, accessible and  
24 sensible, and reasonable for everybody in their  
25 roles in terms of the proceedings.

1                   We have a researcher right now that  
2   basically keeps asking me questions about the  
3   alphabet soup. And I find myself saying, well,  
4   you know, if you have to go back to what was  
5   almost -- it was over 20 per cent of the Province  
6   in terms of the original project area, study area,  
7   and then you have to move into the possible  
8   corridors of it, and keep on rolling in terms of  
9   the language used and the descriptors for the  
10   areas on the preferred corridor. The pattern that  
11   I have observed, though, in both written language  
12   and in the room here in the hearings, is that  
13   there is a preference on the part of the proponent  
14   to steer everything to the 66 metre corridor. So  
15   we have I think a lack or an absence of  
16   acknowledgment and clarity on all of the other  
17   impacts in order to get to the 66 metre corridor  
18   being cleared, built and operational. So we are  
19   talking about access roads, we are talking about  
20   burrow pits, we are talking about anything else  
21   that needs to be cleared or altered in order to  
22   get the towers in.

23                   So when Manitoba Hydro provided our  
24   office with the 4.5 kilometre wide impact zone  
25   data last fall, that was a good move. But if you

1 think about what is the project area, what is the  
2 local study area, what is the study area, what is  
3 the ROW, and you think about what we have before  
4 us and what we have been hearing, and how the  
5 terms are being used, overall, the focus and the  
6 intent is for us to be thinking only about the  
7 right-of-way, and there is a much wider impact  
8 zone. Manitoba Hydro's own trapping compensation  
9 policy acknowledges up to ten kilometres.

10 So I think that it needs some clarity,  
11 and it is a request also for you to consider this.

12 Just double checking -- burrow pits,  
13 access roads, further clearing, work yards,  
14 vehicles, I don't think that we have heard enough  
15 about restoration and rehabilitation of impacts on  
16 it either.

17 I want to also make a couple of quick  
18 comments about, to use sort of general terms,  
19 things that have to do with water power and water  
20 tenure, if you will, that our utility holds in  
21 Manitoba. And I'm again making a request that the  
22 CEC maybe give a little bit of thought and take a  
23 look at maybe just the full scope. Because we  
24 need that context, all of us, when we are in our  
25 roles and in the proceedings with respect to such

1 a significant project. And it is not generally  
2 known, for instance, so an example would be the  
3 full traditional territory for Pukatawagan now  
4 split into two First Nations, and the hundreds of  
5 thousands of hectares of water power tenure held  
6 by our utility in that region, and what the  
7 overall effect is in the whole province. And  
8 again, I think this would affect, this kind of  
9 context would help in terms of all the questions  
10 around VECs, and the fact that we really have, I  
11 think, insufficient attention to water and water  
12 systems.

13 On Aboriginal traditional knowledge, a  
14 couple of quick comments, and some of this was  
15 asked in cross-examination. But to have 96  
16 interviews to base these kinds of conclusions,  
17 analysis, and decisions, on the part of the  
18 proponent, on such a tiny, tiny proportion of the  
19 population in these affected communities, sort of  
20 is a little -- it begs reality. And this is one  
21 of the reasons why during cross-examination I  
22 asked the questions about review and possible  
23 standards and methodologies, other than what was  
24 used, whether the standards that First Nations  
25 across Canada and north of 60 are using, whether

1 they were looked at, whether there was any  
2 discussion at all in terms of these standards.

3           If you take the total number of people  
4 participating, choosing to participate in the ATK  
5 gathering workshops, and those that had one-on-one  
6 interviews, any way you run the numbers, total  
7 population in the region of Aboriginal persons,  
8 populations in relation to specifically affected  
9 communities, this proportion is extraordinarily  
10 low. And that may well be one of the reasons why  
11 we have had so much discussion and so many  
12 questions.

13           There is a couple of kinds of tenure  
14 and/or rights that Manitoba Hydro is acquiring  
15 with respect to Crown lands in this project that  
16 are barely visible in the EIS, have not been  
17 discussed particularly to date, and were handled  
18 last summer mostly. And I have only seen one set  
19 of documentation in this regard, so I cannot claim  
20 to know the whole pattern, but were basically  
21 handled in a fairly unilateral manner last summer.

22           So I'm referring to two things. One  
23 is the right-of-way itself on the preferred  
24 corridor, and the steps that were taken between  
25 the proponent and Manitoba Conservation to acquire

1 rights to the right-of-way on the preferred  
2 corridor. One question at this point might be  
3 whether the same process has already occurred in  
4 terms of these alternate routes. We have no idea.  
5 My point, though, is, we have no idea, but this  
6 really should have been, other than a couple of  
7 little references in a word search in the EIS,  
8 really should have been part of what we have been  
9 dealing with and discussing.

10           The second thing that was going on  
11 last summer -- and I guess I better describe the  
12 documentation, 11 by 14 page with very odd little  
13 maps attached, with a bunch of blocks on them, no  
14 context, no placement at all, and a little tear  
15 off consent sheet at the bottom. That's how the  
16 ROW rights were handled.

17           The other thing that was going on at  
18 the same time is odd faxes, which are then of  
19 course in black and white and might benefit from  
20 some colour, to affected First Nations, perhaps  
21 also to municipalities and other Metis  
22 communities -- again, I do not know. The cover  
23 letter was basically, you know, range, township  
24 kind of description. And then the second page in  
25 the fax was -- it is all eight and a half by 11 --



1 just a series of little black dots and the  
2 explanation on the letter is, this is where we are  
3 going to come and test the soil and determine what  
4 we need to know in terms of placement of towers.  
5 The only set that I saw surprised me right away,  
6 because the context and location was just sort of  
7 right beside a reserve, and that was it. So there  
8 is no way of knowing, because we have not heard  
9 anything, there's no way of knowing whether that  
10 was the only drill hole sites for testing, or the  
11 only ones considered by the proponents to be  
12 relevant to said First Nation. There is no way of  
13 knowing. We have next to nothing.

14 We are talking about a proponent who  
15 is our utility. We are all of Manitoba Hydro.  
16 And we have some challenges and also some real  
17 opportunities right now in terms of the kinds of  
18 steps that can be taken to ensure that  
19 self-assessment by the public utility in Manitoba  
20 improves and perhaps has some stronger scoping  
21 documents, stronger environmental assessment  
22 standards. There is a variety of things that may  
23 come forward in your discussions and your  
24 recommendations, and I'm hopeful in that regard.

25 It is predictable that I might have a

1 couple of things I want to say about data and  
2 maps. We have an absent entity in the room, they  
3 are not an elephant in the room, but we have a  
4 company that Manitoba Hydro used for a period of  
5 years at the beginning of their planning process,  
6 at the beginning of their community engagement  
7 process, and who produced a lot of the products in  
8 this EIS. So this is MMM Group. We were told by  
9 Manitoba Hydro staff panel members that they are  
10 no longer associated and that they are no longer  
11 providing services. Again, I'm not quoting  
12 transcript. This means that there is really no  
13 way to get an answer on anything to do with maps.  
14 And there were some technical standards that  
15 blocked access and blocked the ability to use the  
16 maps, including in communities, including in  
17 meetings, including yourselves.

18 Any organization that puts as many as  
19 150 maps in one pdf is creating work for everyone.  
20 And if you are in Northern Manitoba, rural  
21 Manitoba, if you have intermittent broadband, then  
22 this kind of lack of access is really -- it is a  
23 block on participation and so on.

24 So it is a mystery, and that's why I  
25 asked a couple of questions in cross-examination,

1 but I also think it is a gap and absence that is  
2 unfortunate.

3           Similarly -- and there are other  
4 participants who had been able to dig and work and  
5 research and respond and participate more  
6 thoroughly than we have, who have already said  
7 that they have got some real questions about the  
8 data and how it was acquired and how it was used,  
9 whose it was, and how it was aggregated.

10           So I have to assume that if you look  
11 at a series of maps, take one of the four main  
12 regions in these sets of 11 by 17 maps through the  
13 corridor, the region the corridor traverses, I  
14 have to assume that we potentially have data from  
15 1960, and data from 1985, and data from 1993, and  
16 data from yesterday, combining the same set of  
17 data with no methodology information and no  
18 variance information. I have to assume that  
19 because we don't know anything else. We have so  
20 little information in that regard.

21           There is a contrast that I think  
22 really matters in terms of what I just said, and  
23 that has to do with the first time that our  
24 province, our utility began preparations and  
25 planning for Bipole III. So this was work that

1 will precede 1988 within the utility, but this is  
2 work that was generally between 1988 and about  
3 1990 or 1991. It was on the east side of our  
4 province, it was thorough investigation of three  
5 possible corridors for Bipole III, and there was a  
6 great deal of actual field work, on the ground  
7 actual field work. All of which data and  
8 information is still in the possession of Manitoba  
9 Hydro.

10 So it is an incredible contrast when I  
11 sit and listen to what we have been dealing with  
12 here in the hearings. Because there is a way to  
13 do this right, and you have heard a lot of  
14 commentary about this.

15 Now, to go back to what we sometimes  
16 think of as sort of Conawapa 1 or Bipole III 1, in  
17 our discussions in our office, some of the  
18 scientists who did that field work, two in  
19 particular that I know, are quite available to  
20 you, in terms of methodology and what they were  
21 asked to do.

22 And I happen to have had a volunteer  
23 researcher for about a five-month period. I'm  
24 trying to figure out whether this was spring and  
25 summer of '97, or '98, it is awhile ago. But she

1 spent a great deal of time in the Manitoba Hydro  
2 library, a lot of time actually working with Bill  
3 Pruitt's papers at the University of Manitoba. So  
4 I'm a lucky Manitoban, I have seen all of these  
5 maps from that field work, using those  
6 methodologies, and including in terms of what, for  
7 instance, the impacts was for each of the three  
8 options in terms of how the field work was done.

9 I'm going to pass on saying anything  
10 further about the technical advisory committee. I  
11 think there is participants, in particular Pine  
12 Creek First Nation consultants, who have been very  
13 thorough. But this is an area of huge  
14 disappointment to me. In terms of Bipole III, I  
15 think of the entire undertaking, everything that  
16 we have been involved with since 2009, as a series  
17 of opportunities. And then the question, of  
18 course, is whether the opportunities have been  
19 realized.

20 I have colleagues in the environmental  
21 organizations across Canada who have sort of their  
22 favorite -- oh no, there she goes again kind of  
23 thing, where she comments. But I think it is  
24 worth saying that I always comment about the  
25 challenge for everybody involved in this kind of

1 undertaking, to think according to your training,  
2 your role, your specialty, and then to think  
3 ecologically about all of it to see where it  
4 integrates, to see where it is not fitting, to see  
5 whether we are thinking ecologically and  
6 holistically. And so far we are not there in  
7 Bipole III.

8           If you take a look, if you choose to  
9 take a look in your deliberations in terms of  
10 rounds one to four, Manitoba Hydro, they call it  
11 consultations or community engagement, if you look  
12 at the rounds one to four information, you are  
13 going to see right away why there was, and  
14 continues to be confusion in the media, probably  
15 confusion by politicians, certainly confusion in  
16 the municipalities and affected communities, about  
17 what the sequence was going to be, what the  
18 proceedings would be, what was going to happen  
19 when, and also what is consultation.

20           So there is these patterns again and  
21 changes in the use of language. And every First  
22 Nation community I have talked to over the last  
23 three years about Bipole III, almost the second  
24 thing they say is, the Crown is consultation, why  
25 does Hydro use the consultation word? If they

1 come in and tour our community, or they talk to us  
2 the day before or the day after we have had a  
3 section 35 meeting, it gets really confusing. So,  
4 again, opportunity not necessarily met.

5           So I want to say -- and it is a  
6 Manitoba saying -- and a fairly true and effective  
7 one, that I would be inclined to thank Dennis  
8 Whitebird for working on in terms of public  
9 language. But it is true, and it matters perhaps  
10 at the end of these hearings to say we, in fact,  
11 all of us are Treaty people. Whether we are  
12 settlers or whether we are Aboriginal persons,  
13 whether we are Metis, whether we are First Nation  
14 or non-status, we are all Treaty people.

15 Everything that has been said about rights and  
16 Treaty in this room actually affects all of us.

17           Now, a couple of quick things about  
18 science, if I may. The Consumers Association of  
19 Canada experts were wonderful to have, to have  
20 that kind of in-depth work. But we haven't  
21 necessarily had enough independent science in the  
22 proceedings, in the hearings. And I think that  
23 this is probably one of the biggest challenges, is  
24 the in-house Hydro panels and their analysis and  
25 information they bring forward, what is in the EIS

1 and Manitoba Hydro documents, and then the  
2 external Hydro experts, we get the pattern, but  
3 the ideal is to have a really solid independent  
4 scientific assessment of what they have said, and  
5 identification of alternatives and approaches.

6           So I have mentioned to the secretary  
7 of the CEC a couple of times, and I also asked a  
8 couple of cross-examination questions regarding  
9 the National Woodland Recovery Strategy, and the  
10 references from the external panel of experts  
11 regarding moose and Woodland caribou in November.  
12 So the National Recovery Strategy for Woodland  
13 caribou in this country was finalized in November  
14 2012. We heard references to the fact that it was  
15 used and included, and a partial basis for the  
16 Woodland caribou documents filed by Manitoba Hydro  
17 at the end of July.

18           Just not that simple. And given how  
19 long a time period and how many interventions and  
20 changes and rejections of the National Woodland  
21 Recovery Strategy until we got to October 2012, I  
22 would ask you to take this as an example of an  
23 area where everything you have heard so far about  
24 Woodland caribou from other participants is  
25 important, and greater independent information



1 ideally would have come forward to you.

2                   Now, what I have been doing along the  
3 way is checking with a national environmental  
4 organization and their chief scientist on this.  
5 We haven't had the capacity to do what I suggested  
6 we needed. But I think it is important in matters  
7 that Manitoba Hydro bring forward what is, versus  
8 adding or claiming something new. There are very  
9 specific contents in the new National Recovery  
10 Strategy for Woodland Caribou that are specific to  
11 certain of the Woodland caribou herds affected by  
12 Bipole III.

13                   So we have had a combination of  
14 commentary, because while we have had claims of  
15 the National Recovery Strategy being used, we have  
16 had nothing from Manitoba Hydro specific to what  
17 is in the National Recovery strategy for Woodland  
18 caribou and those herds. It is not there, it  
19 hasn't been done.

20                   We had a snake oil comment yesterday  
21 morning about snake oil environmental assessment,  
22 and it is in the record. And it is from Wuskwi  
23 Sipiik First Nation. I am curious, and we will  
24 probably know tomorrow, whether all three First  
25 Nations most affected by these route alterations

1 are going to approximately say the same thing,  
2 this is not good enough. But I decided I would  
3 look up junk science, because of that comment  
4 yesterday. It is junkscience.com and there are a  
5 lot of fairly clear references and sets of  
6 information, a lot of it American, some of it  
7 European, and definitions. I'm not going to go so  
8 far to say we have been on the receiving end of  
9 junk science, but I think it really matters that  
10 the scientific standards, the EA standards and so  
11 on be given a fair bit of thought. The ideal  
12 situation would be for us to have an updated  
13 Environment Act in the Province, greater support  
14 for the CEC, an actual environmental assessment  
15 regulatory mechanism, ideally, again, my favorite  
16 topic perhaps, regulatory standards and  
17 requirements for the public registry and access to  
18 information with respect to the Environment Act in  
19 the Province.

20 I have been wanting to have an  
21 opportunity to say -- and I only have a couple,  
22 three more things to say, Mr. Chair -- I have been  
23 wanting to basically say what might be really  
24 obvious but always needs to be said near the end  
25 of a process. And that is I believe everybody who

1 is a participant or party to this CEC proceedings  
2 and hearings has been working pretty hard. And  
3 this is a long set of hearings. So this is  
4 basically to participants, to their consultants,  
5 to their legal counsel, to everybody in Manitoba  
6 Hydro and everybody associated with the CEC, it is  
7 a lot of work, and it is a thank you. What we do  
8 matters. And that's an understatement from an  
9 environmental public interest point of view.

10           When I was thinking about junk science  
11 and looking it up yesterday, I also found myself  
12 with another common term, which is BAU. And there  
13 is challenge here I think at the end of the  
14 hearings to think about how much business as usual  
15 we have been hearing, reading, reviewing,  
16 listening to, responding to from Manitoba Hydro.  
17 And there is an overarching question, and that is  
18 this mostly business as usual, assumed licence,  
19 and are we losing the opportunities or adding risk  
20 because of the approach taken by the proponent,  
21 our utility?

22           So we were relaxing a little bit  
23 during the evenings' work last night in the  
24 office, and we started to have a conversation  
25 about some comments for today about the

1 alternative to business as usual and the kinds of  
2 sets of questions that really do matter near the  
3 end of these proceedings. I was also thinking  
4 about an associate and a couple of environmental  
5 organizations in Minneapolis that I have been  
6 talking to recently. Of course, Minnesota has  
7 switched back to a democratic majority, both the  
8 Senate and their House recently, which means there  
9 is an increase and returned focus to, for  
10 instance, their first renewable portfolio  
11 standards and mandated deadlines and requirements  
12 in terms of the proportion of energy used in their  
13 State. So they are going to go for 40 per cent  
14 very soon.

15                   So in terms of the alternative to  
16 business as usual in Manitoba, I think a lot of  
17 very repetitive and not necessarily out loud  
18 assumptions, and what we are all involved in here,  
19 I wanted to suggest -- and I'm not going to make  
20 any comments about people's age here, but I know  
21 this was before I was born -- I wanted to suggest  
22 it is worth reminding ourselves that in the 1940s  
23 through the entire eastern seaboard of the USA,  
24 almost all water was heated using solar. I think  
25 that Mr. Gore has a point when he says, well, you

1 know, if we were able to figure out how to cope  
2 with World War II -- this is my vernacular, he is  
3 a better speaker -- if we were able then to put  
4 the Marshall plan in place, work as allies after  
5 the war, build the UN, then today in the decade we  
6 are in now, in the world we are in now, we maybe  
7 need to use the same kind of spirit, innovation,  
8 know-how and will to think seriously about  
9 everything to do with energy and climate. These  
10 hearings are about energy.

11 To change business as usual  
12 assumptions takes all of those things, it takes  
13 vision, it takes risk, it takes human innovation,  
14 and hopefully humanist values with a long time  
15 line beyond the 50 years that we have been talking  
16 about in terms of decommissioning. Which of  
17 course means that if 50 years is the figure, or  
18 100 years is the figure for decommissioning of the  
19 future Bipole III, we need to already get ready on  
20 what the status of Bipoles I and II are.

21 So some of the kinds of things we  
22 might want to imagine and then ask questions about  
23 would just be, for instance, a significant  
24 multiplier on the use of heat pumps and thermal  
25 heat and solar energy in our province, where wind

1 projects in the north of Manitoba, top half, top  
2 two thirds, it is all north, would actually  
3 provide energy within the regions that the  
4 projects are producing the energy in.

5                   We would have then a feed in tariff.  
6 Lots of jurisdictions in our continent, and in  
7 Europe have a feed in tariff or equivalent, where  
8 the excess energy produced by domestic,  
9 commercial, apartment, home, business  
10 installations goes right back into the grid.

11                   Certainly there is on again off again  
12 vision of how that would ultimately work overall  
13 in Ontario, and there are many examples of course  
14 in Europe and North America. These renewable  
15 portfolios standards, there are different acronyms  
16 and different names for them, with public mandated  
17 goals and deadlines, create their own economy,  
18 create thousands of jobs, challenge everyone to do  
19 better, including an analysis research, training,  
20 and the local economy. Thinking Manitoba is a  
21 local economy here.

22                   So the questions, and there is a  
23 simple set I think, are whether Manitobans overall  
24 wish to continue to cross the thresholds and the  
25 tipping points that we risk in terms of the health

1 and function of our natural systems, by going  
2 forward with the whole series of new hydro  
3 projects. And if we do wish to continue to take  
4 that approach, then are we doing it to provide  
5 power and energy for our own society, or are we  
6 doing a combination in terms of also export? Does  
7 the formula for public debt and in-province energy  
8 costs still hold up? Should we hang our future on  
9 exporting energy? Will the market and the pricing  
10 that we need be there, or will Manitobans be  
11 paying more and more? And what are all of the  
12 options for Manitoba to solve our needs for  
13 citizen energy, security, reliability and  
14 sustainability? And what would a post BAU energy  
15 system in Manitoba look like? What part would be  
16 Hydro?

17 We are really, really weak on solar,  
18 you can tell why I'm repeating word.

19 I want to also thank, in terms of the  
20 fact that I have launched into things that are not  
21 in scope, I want to thank the CEC for the  
22 questions you filed in December, for some of the  
23 questions in the last week and this week to the  
24 proponent.

25 It is extreme -- we are all in a

1 extremely difficult situation without a NFAT,  
2 without a needs for and alternatives to review for  
3 this project. So that's a quick thank you.

4 I have a short set of requests, but  
5 you can tell that I have been making requests in  
6 my comments right through.

7 We would really I think all benefit if  
8 the CEC find ways to think about and make  
9 recommendations about earlier planning, earlier  
10 public information, earlier engagement of all  
11 affected parties, communities, municipalities,  
12 landowners, First Nations, Metis communities,  
13 earlier consultation, much, much earlier  
14 Aboriginal traditional knowledge gathering, much  
15 different standards and requirements. All of  
16 this, if it was in advance of the EIS, we would be  
17 in a very different sequence, I think, and  
18 potentially in a better place in terms of decision  
19 making.

20 You heard me previously make comments  
21 about having a regulatory -- sorry, regulation,  
22 regulatory standard public registry. We  
23 probably -- we don't drink in our office, but we  
24 would probably get the chocolate out and drink a  
25 lot of extra tea and take a break the day we saw a



1 reference to the CEC that was deeper. You need  
2 your flexibility, but a reference that was deeper  
3 in terms it of independent science would benefit  
4 decision making. That's just a simple example.

5           We also have moved -- and I'm going to  
6 say a couple of quick things about the 1990s and  
7 stop. We have moved, more specifically stopped  
8 under the Environment Act in Manitoba from having  
9 any kind of public review to set the EIS standards  
10 for a class 3 project. The EIS standards for  
11 Wuskwatim were set where the CEC actually, I think  
12 probably five locations, maybe four in the  
13 province where the CEC held meetings. And because  
14 they did that and went to the north, they had a  
15 lot of Manitoba citizens who participated, for  
16 instance, in the initial public hearings in  
17 Manitoba communities when Conawapa almost happened  
18 20 years ago. So they had a lot of expertise,  
19 they had a lot of people in the room when the EIS  
20 standards for Wuskwatim, both generation and  
21 transmission were being set. It was a healthy,  
22 well attended process. We tripped over some  
23 problems with the public registry. The then Chair  
24 of the CEC fixed that very rapidly. And there was  
25 confidence in those standards, much greater

1 confidence perhaps than a scoping document  
2 discussions that are between licensing, I assume  
3 licensing branch and the proponent, and then a  
4 final scoping document that's to direct what they  
5 include.

6           One of the other things that happened  
7 all of the time in the 1990s, and I wonder some  
8 days if it is the internet that causes these  
9 differences in approach. But in the 1990s, as  
10 soon as the EAP for a class 3 development in  
11 Manitoba was filed, everyone who had any previous  
12 pattern of participating in reviews, class 2 or 3,  
13 received correspondence that told us what the  
14 schedule was going to be, told us if there were  
15 going to be any public meetings, as I was  
16 describing, told us also who was on the TAC.

17           So I could go a little more thoroughly  
18 into this, but again we need to build and improve,  
19 not lose in the tools we use to make these  
20 decisions in Manitoba.

21           So, Mr. Chair, I'm going to stop. I  
22 appreciate the time to speak this afternoon. And  
23 as I said when I started, I have two documents on  
24 the screen in front of me and will provide them on  
25 paper and electronic to the Commission.

1 THE CHAIRMAN: Thank you very much,  
2 Ms. Whelan Enns. Just in your very last note  
3 about the '90s and the change in process, I'm not  
4 sure that the CEC reviewed a class 3 project  
5 throughout that entire decade. There was a review  
6 of Conawapa that was truncated, but that was not  
7 the CEC, it was a different panel that was set up.

8 MS. WHELAN-ENNS: Fair question and  
9 good question, and of course we all have got Hydro  
10 brain right now.

11 So during the 1990s, we had two rounds  
12 of quite extensive forestry licensing hearings.  
13 They were handled at the level of class 3, they  
14 didn't need to be, and we had some separation  
15 between new plans and the forest management plans.  
16 But because you asked the question, there is a  
17 couple of other examples that happened, because in  
18 those hearings Federal science experts were in the  
19 hearings.

20 THE CHAIRMAN: Different era as well  
21 in that regard.

22 MS. WHELAN-ENNS: That is right, the  
23 door is shutting in a lot of ways on Federal  
24 science. But I'm just taking the opportunity to  
25 say that there were options in terms of additional

1 independent science, and there were instances  
2 where Manitoba Government experts were presenting  
3 and being asked questions. The instance that is  
4 since the change in the Provincial Government in  
5 '99 that comes to mind, that maybe bears on your  
6 question -- and I'm hesitating because we had a  
7 lot of mills built on the Assiniboine River,  
8 didn't we? I think that is McCain's. And because  
9 the participants, including the funded  
10 participants were very, very specific in their  
11 requests, we had an Environment Canada expert who  
12 had handled nutrication, nutrient problems in the  
13 two provinces west to us come in and significantly  
14 contribute.

15 THE CHAIRMAN: Was that the McCain's  
16 in Brandon or the Simplot in Portage? One or the  
17 other, it doesn't really matter. We don't need to  
18 go down that road.

19 Thank you very much for your comments  
20 this afternoon, and thank you very much for your  
21 participation over the last many months. And it  
22 is only a few weeks before we jump into Keeyask,  
23 and we will see you then. Thank you very much.

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

25 THE CHAIRMAN: Okay. That brings us

1 very close to the end of today's proceedings.  
2 Tomorrow we will have perhaps four or five closing  
3 arguments, two of which will be fairly  
4 substantial. Bipole and Consumers Association  
5 have both indicated a fair -- a need for a fair  
6 chunk of time. We will also have Peguis and  
7 Sapotaweyak, and I believe the Green Party.

8                   So that's it for today. Thank you all  
9 very much and we will reconvene at 9:00 a.m.  
10 tomorrow morning.

11                   (Adjourned at 2:40 p.m.)

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OFFICIAL EXAMINER'S CERTIFICATE

I, CECELIA J. REID, a duly appointed Official  
Examiner in the Province of Manitoba, do hereby  
certify the foregoing pages are a true and correct  
transcript of my Stenotype notes as taken by me at  
the time and place hereinbefore stated.

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Cecelia J. Reid  
Official Examiner, Q.B.

A				
<b>abandonment</b> 6813:23	6939:2,14,23 6940:10,24 6941:3,16,23 6942:15,17 6943:23 6944:21 6946:10,14,25,25 6947:4,20 6948:8 6948:10,16,22 6951:8,9,21 6952:6 6954:3	6840:11 6941:1 <b>account</b> 6875:23 6899:24 <b>accumulated</b> 6850:12 6908:21 <b>accumulating</b> 6919:2 <b>accuracy</b> 6863:5 <b>achieved</b> 6926:4 <b>acknowledged</b> 6920:14 <b>acknowledges</b> 6932:9 <b>acknowledgment</b> 6931:16 <b>acquire</b> 6806:16 6934:25 <b>acquired</b> 6797:4 6938:8 <b>acquiring</b> 6934:14 <b>acronyms</b> 6949:15 <b>across</b> 6782:1 6804:16 6811:19 6933:25 6940:21 <b>act</b> 6860:19,22,24 6861:1,3 6862:18 6880:20 6882:3 6882:12 6891:15 6928:14,21 6929:4 6945:13 6945:18 6952:8 <b>action</b> 6873:22 6876:17 6901:14 <b>actions</b> 6854:1 6873:24 6876:17 6883:7 <b>actively</b> 6835:13 <b>activities</b> 6789:25 6807:3 6813:12 6878:8,20 6886:22 <b>Acts</b> 6851:9 6891:19 <b>actual</b> 6939:6,7 6945:14 <b>actually</b> 6801:4 6853:2 6857:6 6862:10 6886:1 6886:10 6888:11 6940:2 6942:16 6949:2 6952:11 <b>adaptively</b> 6864:20 6902:9 <b>add</b> 6793:17 6814:20 6816:11 6824:10 6826:6,8 6828:20 6831:12 6835:19 6841:7 6846:3 6881:20 6909:3 6916:13	6916:13 <b>added</b> 6927:12 <b>adding</b> 6825:1,5 6944:8 6946:19 <b>addition</b> 6790:22 6791:18 6798:2 6814:16 6828:14 <b>additional</b> 6813:19 6813:21 6839:15 6847:6 6916:18 6917:3 6926:5 6954:25 <b>address</b> 6831:22,23 6843:3 6851:22 6856:10,11 6898:9 6909:17 6917:9 6926:4 <b>addressed</b> 6795:2 6832:2 6844:21 6881:24 6907:15 6910:21 6918:2 6927:2 <b>addresses</b> 6907:12 <b>addressing</b> 6804:8 6843:14 6845:2 6865:1 <b>adequacy</b> 6849:3,5 6850:5 <b>adequate</b> 6789:6 <b>adequately</b> 6846:17 6909:16 <b>adjacent</b> 6921:8 <b>Adjourned</b> 6956:11 <b>adjustment</b> 6839:21 <b>administration</b> 6883:14 6888:17 <b>administrative</b> 6850:24 6901:8 <b>administrators</b> 6858:17 <b>admirable</b> 6863:14 <b>admit</b> 6898:8 6901:21 6923:2 <b>admitting</b> 6861:25 <b>adopted</b> 6816:19 6847:25 <b>adoption</b> 6859:22 <b>Adrenaline</b> 6801:12 <b>advance</b> 6802:10 6841:15 6851:2 6951:16 <b>advanced</b> 6890:12 6891:3 <b>advancements</b> 6858:8 <b>advances</b> 6899:17 <b>advancing</b> 6863:8 <b>advantage</b> 6847:10 <b>adverse</b> 6908:16,21 6909:7,21 6910:5	6911:20 <b>advice</b> 6873:20 6874:6 6877:23 6878:5,24 6879:1 6897:2,5 6898:8,8 6898:24 6901:25 <b>advise</b> 6866:5 <b>advises</b> 6916:17 <b>advisory</b> 6923:17 6923:18 6940:10 <b>advocates</b> 6850:14 6852:16 6863:8 <b>advocating</b> 6854:15 <b>aerial</b> 6782:21 <b>affect</b> 6787:10 6800:16 6801:4 6805:20 6806:10 6853:7,20 6933:8 <b>affected</b> 6806:19 6854:18 6855:10 6855:22 6856:2 6873:22 6893:3 6914:12 6923:8 6930:3 6933:19 6934:8 6935:20 6941:16 6944:11 6944:25 6951:11 <b>affecting</b> 6925:4 <b>affects</b> 6787:23 6803:11 6942:16 <b>AFPR</b> 6816:18 <b>after</b> 6784:12 6789:10 6805:1 6810:6,10 6812:5 6842:2 6860:21 6903:20 6922:25 6924:25 6942:2 6948:4 <b>afternoon</b> 6781:11 6904:6 6906:17 6906:18 6914:2 6953:22 6955:20 <b>again</b> 6784:6 6785:20 6789:21 6792:8,20 6795:4 6802:15 6804:3 6804:24 6810:11 6810:12 6812:5 6813:9 6842:10 6862:13 6863:12 6866:13 6870:6 6870:24 6875:19 6876:2 6883:1 6885:20,21 6890:8 6892:13 6902:2 6903:24 6928:4 6929:17 6932:21 6933:8 6935:22 6937:11 6940:22 6941:20

<p>6942:4 6945:15 6949:11,11 6953:18 <b>against</b> 6852:9 <b>age</b> 6947:20 <b>agency</b> 6871:20 6880:13 <b>agenda</b> 6781:5 <b>aggregated</b> 6938:9 <b>ago</b> 6809:22 6815:7 6822:25 6828:21 6847:20 6866:6 6876:11 6900:6 6939:25 6952:18 <b>agree</b> 6836:2 6867:21 6873:4,8 6873:19,25 6875:7 6876:6 6878:4,12,23 6880:2 6881:19 6896:12 6915:1 6918:23 6929:11 <b>agreed</b> 6865:24 6867:11,18 6871:19 6872:3 6873:7,24 6876:6 6877:15 6878:1 6893:20 <b>agreement</b> 6790:23 6790:24 6837:1 6909:19,20 6910:4,9 6911:8 6911:20 6912:8 <b>agreements</b> 6907:8 6909:17 <b>agricultural</b> 6817:7 6817:11 6836:3,8 6838:11 <b>agriculture</b> 6788:13 6806:4 6919:8 <b>argument</b> 6780:14 <b>ahead</b> 6804:19 6820:14 6822:19 6830:18,19 6843:6 6848:11 6863:24 6864:8 6875:4 6898:21 6899:4 <b>Aimee</b> 6777:14 <b>aiming</b> 6892:7 <b>air</b> 6892:17,24 <b>airplane</b> 6782:8 <b>airplanes</b> 6782:9 <b>Alberta</b> 6877:14,23 6877:25 6878:5 6878:24 6886:18 6890:11 6893:7 6899:21 <b>alignment</b> 6849:25 <b>alive</b> 6821:3 6908:6</p>	<p>6908:7 <b>allies</b> 6948:4 <b>allow</b> 6815:2,24 6819:19 6843:7 6851:6 6854:11 6873:21 6890:19 6898:3 <b>allowed</b> 6909:6 <b>allowing</b> 6824:8 <b>allude</b> 6897:10 <b>alluded</b> 6853:14 6856:17 6880:18 <b>all-terrain</b> 6811:9 <b>almost</b> 6847:2 6878:9 6920:9 6931:5 6941:23 6947:24 6952:17 <b>along</b> 6782:8 6794:19 6795:13 6795:25 6796:17 6814:3 6944:2 <b>alphabet</b> 6930:22 6931:3 <b>already</b> 6804:21 6814:1,16 6816:20,23 6828:18 6866:13 6884:8 6888:22 6888:23 6889:9 6890:24 6895:25 6898:11 6916:19 6928:11 6935:3 6938:6 6948:19 <b>alterations</b> 6917:25 6944:25 <b>altered</b> 6816:17 6931:21 <b>alternate</b> 6812:5 6917:15 6918:25 6935:4 <b>alternative</b> 6817:3 6842:4 6947:1,15 <b>alternatives</b> 6943:5 6951:2 <b>although</b> 6797:19 6807:16 6852:14 6864:16 6891:17 <b>always</b> 6812:9 6861:23 6863:2,6 6874:9 6875:13 6885:13 6940:24 6945:24 <b>ambitious</b> 6852:10 6852:11 <b>Ambroise</b> 6827:18 <b>amended</b> 6880:23 <b>America</b> 6949:14 <b>American</b> 6833:20 6945:6 <b>amongst</b> 6820:24</p>	<p>6821:2 6855:1 6861:5 <b>amount</b> 6788:2,21 6802:7 6808:24 6912:4 6925:19 <b>amounts</b> 6803:21 6803:22 6921:23 <b>analysis</b> 6841:1 6858:6 6859:20 6863:6 6891:4 6933:17 6942:24 6949:19 <b>analytical</b> 6858:12 6862:2 <b>and/or</b> 6914:22 6928:2 6929:21 6934:14 <b>anecdotes</b> 6796:3 <b>angry</b> 6922:11 <b>animal</b> 6782:15 <b>animals</b> 6800:13 6811:10 <b>another</b> 6784:15 6818:9 6839:22 6846:10 6862:23 6883:22 6890:10 6901:13 6946:12 <b>answer</b> 6782:10 6788:4 6799:18 6815:10 6822:15 6823:25 6834:8 6842:1 6850:20 6871:4 6888:9 6891:12 6893:12 6911:25 6937:13 <b>answered</b> 6850:17 <b>answering</b> 6886:12 <b>answers</b> 6925:1 <b>anthropogenic</b> 6888:25 <b>anticipate</b> 6818:12 <b>anticipated</b> 6839:25 6926:18 <b>anticipation</b> 6903:1 <b>anybody</b> 6791:13 6900:2,7 <b>anymore</b> 6782:7 <b>anyone</b> 6793:13 6918:9 <b>anything</b> 6793:9,17 6806:12 6816:10 6822:15 6832:16 6885:9,10,11 6896:5 6899:6 6918:7 6931:20 6936:9 6937:13 6938:19 6940:9 <b>anyway</b> 6788:12 <b>anywhere</b> 6786:20 6810:2,3 6849:11</p>	<p>6860:19 6912:23 <b>apartment</b> 6949:9 <b>apologize</b> 6824:18 <b>apparent</b> 6854:5 6910:17 <b>appear</b> 6784:6 6849:8 6878:6 6918:19 <b>APPEARANCES</b> 6777:1 6778:1 <b>appears</b> 6837:11 6839:17 6852:4 6860:25 6926:6 <b>applicable</b> 6870:12 <b>application</b> 6784:5 6784:14 6785:5 6808:23,23 6809:14,15 6810:1,4,6 6851:20 6857:20 6862:11 6863:1 6884:24 6887:15 6892:2 <b>applications</b> 6785:1 6810:4 6851:8 6856:21,25 6857:14 6861:16 6862:23 6881:8 6881:22 <b>applied</b> 6791:9 6793:6 6809:3 6850:24 <b>applies</b> 6860:19 6928:18 <b>apply</b> 6804:22 6839:14 6849:10 6851:12 6888:15 <b>appointed</b> 6957:5 <b>appreciate</b> 6876:5 6923:2 6953:22 <b>apprenticeship</b> 6794:20,24 <b>apprenticeships</b> 6794:23 <b>approach</b> 6787:21 6790:11 6812:23 6814:6 6851:23 6852:8,10,17 6858:18 6864:21 6875:22 6880:2 6927:25 6928:5 6946:20 6950:4 6953:9 <b>approaches</b> 6854:16 6859:23 6943:5 <b>appropriate</b> 6838:19 6849:18 6862:7 6873:2 <b>appropriately</b> 6801:24</p>	<p><b>approval</b> 6831:8 <b>approvals</b> 6840:7 <b>approved</b> 6830:24 6843:6 <b>approximate</b> 6871:14 <b>approximately</b> 6840:2 6866:24 6908:11 6945:1 <b>April</b> 6792:23 <b>aquatic</b> 6868:24 <b>area</b> 6785:7 6786:3 6786:25 6794:12 6795:11,15 6798:11 6800:15 6801:20,21 6803:4,8 6807:18 6809:10 6812:3,5 6812:8,10 6814:11,12 6816:18,25 6817:4,5 6820:20 6833:22 6835:20 6837:12 6857:21 6873:20,23 6874:8 6888:17 6889:3 6890:20 6891:6,8,22 6892:20 6908:12 6908:23 6909:1 6909:22 6910:13 6911:11 6912:6,7 6925:4 6930:5 6931:6,6 6932:1,2 6932:2 6940:13 6943:23 <b>areas</b> 6783:21 6785:21 6786:11 6786:16,21 6787:13 6789:7 6789:23 6795:21 6804:15 6807:16 6810:16 6811:20 6812:22 6814:3 6816:13 6817:19 6817:21 6818:4 6823:5 6930:22 6931:10 <b>arguably</b> 6890:11 6923:12 <b>argue</b> 6861:3 6925:18 <b>argues</b> 6855:13 <b>argument</b> 6780:10 6780:12 6832:19 6839:13 6843:22 6844:12 6903:1 6911:15 <b>arguments</b> 6781:14 6903:21 6904:6</p>
---	---	---	---	--



<p>6956:3  <b>arise</b> 6888:3  <b>arisen</b> 6851:25          6860:1 6888:14  <b>arises</b> 6850:6  <b>arising</b> 6781:18          6822:1  <b>around</b> 6785:7,7,9          6810:15 6811:16          6811:18 6821:6          6823:7 6834:21          6854:21 6855:11          6868:15 6880:18          6883:17 6885:6          6920:21 6933:10  <b>arrange</b> 6927:4  <b>arrangement</b>          6806:19  <b>arrive</b> 6884:12          6916:9  <b>arrives</b> 6916:10  <b>art</b> 6857:1  <b>artificial</b> 6909:8  <b>Ashern</b> 6808:22  <b>aside</b> 6787:17          6842:10 6844:5          6844:10 6896:15  <b>asked</b> 6815:8          6819:7 6882:16          6893:16 6924:5          6928:2 6933:15          6933:22 6937:25          6939:21 6943:7          6954:16 6955:3  <b>asking</b> 6797:1          6867:13,20          6931:2  <b>aspect</b> 6798:13          6807:14  <b>aspects</b> 6806:19          6922:15  <b>assembled</b> 6924:18  <b>assembly</b> 6792:9  <b>assess</b> 6831:15          6853:21 6856:1,1          6860:7 6861:1          6885:23 6886:1          6886:13 6887:11  <b>assessable</b> 6886:13  <b>assessed</b> 6852:17,19          6852:21 6853:12          6873:22 6876:18          6895:14 6896:8  <b>assesses</b> 6853:7          6875:21  <b>assessing</b> 6810:20          6851:13 6858:9          6894:20 6896:19  <b>assessment</b> 6797:21          6841:11 6847:21</p>	<p>6848:1,16 6849:4          6849:10 6850:1          6850:18,21          6851:9 6853:1,3          6853:15 6854:19          6855:5,7,10,13,15          6855:18,19,25          6856:7 6857:1,6          6857:18 6858:11          6858:14,25          6860:18 6861:14          6861:20 6862:14          6862:18 6863:24          6864:8,11          6869:21,23          6870:9,12 6872:7          6872:11,24          6873:3,21          6874:10,14          6875:10 6876:13          6879:18 6880:1          6880:13,20          6881:16 6882:2          6882:21,25          6883:18 6886:4          6887:23,24          6889:23 6891:15          6892:8 6893:2,19          6893:23 6894:9          6894:18 6899:2,8          6899:14 6907:6          6917:6 6936:21          6943:4 6944:21          6945:14  <b>assessments</b>          6849:14 6850:7          6850:12,19          6851:17 6853:6          6856:16 6857:25          6858:3 6859:17          6859:18 6860:6          6861:6,8 6862:6          6862:13 6864:14          6881:8 6882:7          6883:3 6884:1,15          6887:21 6894:22          6897:14 6898:1          6901:20  <b>assignment</b> 6866:4          6917:7  <b>Assiniboine</b> 6955:7  <b>assist</b> 6848:22          6863:18 6865:12          6865:19 6891:7  <b>assistance</b> 6903:9          6929:20  <b>assisting</b> 6919:1  <b>associate</b> 6947:4  <b>associated</b> 6832:22          6861:15 6915:19</p>	<p>6937:10 6946:6  <b>Association</b> 6777:13          6942:18 6956:4  <b>assume</b> 6802:6          6844:14 6861:8          6928:12 6938:10          6938:14,18          6953:2  <b>assumed</b> 6946:18  <b>assumes</b> 6839:18  <b>assuming</b> 6844:23          6846:12  <b>assumptions</b>          6861:25 6947:18          6948:12  <b>assurance</b> 6811:12  <b>assurances</b> 6926:13  <b>assured</b> 6915:15          6924:8  <b>Athabasca</b> 6890:11          6892:14  <b>ATK</b> 6921:17,18,21          6921:25 6922:2,8          6934:4  <b>attached</b> 6865:24          6910:1 6911:6          6935:13  <b>attack</b> 6784:17  <b>attempt</b> 6798:3          6823:16,18          6914:7  <b>attend</b> 6871:22  <b>attendance</b> 6871:18          6871:25 6872:2          6872:13  <b>attended</b> 6871:10          6952:22  <b>attention</b> 6834:18          6854:22 6867:15          6933:11  <b>attitude</b> 6808:12  <b>attributable</b>          6806:21  <b>ATV</b> 6811:18          6813:5  <b>audience</b> 6804:4  <b>August</b> 6915:14          6926:10,18  <b>authored</b> 6847:22  <b>authorities</b> 6863:18          6915:7  <b>authority</b> 6872:22          6872:24 6910:22          6924:11,16,17  <b>autumn</b> 6913:14  <b>avail</b> 6850:25          6865:4  <b>available</b> 6791:16          6792:2,3 6822:15          6859:3 6861:21</p>	<p>6861:22 6874:24          6889:10 6891:21          6895:22,23          6898:12 6903:8          6924:14 6925:22          6939:19  <b>avoid</b> 6786:3 6803:4          6866:15 6878:6          6896:20  <b>await</b> 6926:22  <b>awaiting</b> 6927:5  <b>aware</b> 6864:5          6868:14,19          6873:9 6880:24          6928:9  <b>away</b> 6782:6          6824:16 6936:5          6941:13  <b>awhile</b> 6939:25  <b>a.m</b> 6781:2 6820:6,7          6956:9</p> <hr/> <p style="text-align: center;"><b>B</b></p> <hr/> <p><b>back</b> 6784:4,12          6788:24 6789:1          6789:13 6808:8          6810:8,9,11          6820:5 6822:3          6826:8 6861:23          6871:8 6873:18          6887:5,25 6890:1          6890:20,24          6894:4 6903:24          6926:9 6930:14          6931:4 6939:15          6947:7 6949:10  <b>backdrop</b> 6859:4  <b>backed</b> 6890:15  <b>background</b>          6799:14  <b>Bad</b> 6874:15  <b>bait</b> 6799:25          6801:14 6805:13          6805:15  <b>balance</b> 6907:22  <b>band</b> 6919:25          6922:15  <b>band's</b> 6917:22  <b>bank</b> 6789:7  <b>barely</b> 6934:16  <b>bargaining</b> 6794:16  <b>bark</b> 6919:24  <b>barn</b> 6819:22  <b>base</b> 6918:3          6933:16  <b>based</b> 6802:10          6806:8 6812:21          6849:5 6852:9,14          6853:1 6854:16          6855:20 6862:6</p>	<p>6863:19 6873:5          6875:8 6876:1  <b>baseline</b> 6883:19,21          6887:4 6896:11          6896:22 6897:9          6897:15,23          6898:23 6899:5          6899:12,19,24          6900:4  <b>basic</b> 6846:6 6862:3          6862:8  <b>basically</b> 6912:23          6931:2 6934:20          6935:23 6945:23          6946:4  <b>basics</b> 6853:4          6890:7  <b>basin</b> 6916:10,23          6925:6  <b>basing</b> 6849:6  <b>basis</b> 6801:3          6802:17 6803:10          6804:10 6805:1          6853:24 6854:2,3          6854:23 6859:1          6862:24 6865:1          6881:11 6892:18          6896:8 6917:25          6924:12 6943:15  <b>bat</b> 6890:4  <b>BAU</b> 6946:12          6950:14  <b>BC</b> 6810:18 6891:6  <b>beaning</b> 6844:8  <b>bear</b> 6799:10          6800:25 6802:19          6802:21,24          6803:2,8  <b>bearing</b> 6837:3  <b>bears</b> 6799:25          6955:5  <b>became</b> 6925:20  <b>become</b> 6789:4,13          6811:6 6851:4          6884:19 6916:24  <b>becomes</b> 6882:1          6886:9 6887:13  <b>becoming</b> 6790:14          6812:4  <b>Beddome</b> 6777:19  <b>Bedford</b> 6777:8          6799:21 6821:14          6821:15 6847:14          6847:16 6903:16  <b>before</b> 6782:4          6784:3 6805:3          6809:22 6819:13          6837:25 6839:2          6840:21 6841:5          6842:8,17</p>
--	---	--	--	--

6851:20 6863:1 6867:10 6875:25 6894:16 6900:5,6 6904:10 6906:5 6924:13 6930:15 6932:3 6942:2 6947:21 6955:22 <b>began</b> 6908:8 6938:24 <b>begging</b> 6921:15 <b>begin</b> 6850:4 6888:8 6906:13,24 6911:10 <b>beginning</b> 6841:16 6928:25 6937:5,6 <b>begins</b> 6879:12 <b>begs</b> 6850:5 6933:20 <b>behalf</b> 6799:8,11 6868:25 6913:3,6 6914:3 6925:16 <b>behind</b> 6801:9 <b>being</b> 6784:23 6786:25 6789:24 6790:9 6799:23 6800:2 6804:16 6809:13 6813:16 6816:17 6819:15 6830:23 6831:16 6833:19 6834:21 6834:22 6836:1 6837:18,19 6839:19,20,20 6841:9 6842:14 6842:21 6844:22 6864:14 6873:22 6895:16 6904:6 6923:11 6928:17 6929:7 6930:23 6931:18 6932:5 6944:15 6952:21 6955:3 <b>believe</b> 6781:7 6790:19 6794:8 6798:21 6814:1 6823:18 6827:4 6828:13 6835:11 6836:15,24 6849:17 6850:4 6860:2 6871:2 6875:15 6876:11 6879:24 6882:6 6887:10 6895:24 6902:13 6906:4 6909:15 6915:1 6916:23 6917:2 6918:10 6919:12 6926:3 6929:13 6945:25 6956:7 <b>believes</b> 6907:13	6914:12 6917:17 <b>Bench</b> 6920:16 <b>beneficial</b> 6804:8 <b>benefit</b> 6790:8 6858:16 6864:2 6881:4,9 6883:12 6891:25 6892:12 6935:19 6951:7 6952:3 <b>benefits</b> 6844:25 6858:4 6859:2 6909:25 6923:6 <b>berries</b> 6787:5 6788:11 6808:1 <b>berry</b> 6786:4,7 6787:24 6788:9 6919:24 <b>beside</b> 6804:16 6871:24 6936:7 <b>best</b> 6802:5 6819:1 6863:24 6873:6 6875:6,9,16 6882:3 6888:11 6892:3 6898:4 <b>better</b> 6800:5 6836:13 6857:23 6883:11 6889:14 6890:6 6925:13 6925:13 6935:11 6948:3 6949:19 6951:18 <b>between</b> 6795:8 6799:15 6800:7 6806:20 6824:2 6825:20 6827:7 6828:2,7 6829:9 6829:14 6830:3,8 6847:3 6854:5 6856:20,23 6860:4 6910:11 6915:6 6934:24 6939:2 6953:2 6954:15 <b>beyond</b> 6789:24 6793:15 6812:13 6834:16 6844:18 6886:23 6890:24 6948:15 <b>bid</b> 6791:12 <b>bidding</b> 6791:14 <b>big</b> 6817:8 6818:6 <b>biggest</b> 6942:23 <b>Bill</b> 6872:14 6940:2 <b>billion</b> 6823:22 6824:11,14,23 6825:11 6826:14 <b>billions</b> 6800:4 <b>Bipole</b> 6776:6 6777:10 6790:12 6790:18 6793:16	6795:19,19 6796:1 6797:2 6801:3,15 6802:22 6803:8 6808:12,21 6823:17 6824:9 6825:7 6827:2,16 6827:23 6828:7,8 6830:21 6831:17 6832:15 6834:21 6838:8,15,16 6842:8,9,12,13,15 6842:21,24,25 6843:12,12,24,25 6843:25 6844:2,3 6844:9,10 6845:11,22,25 6846:22,25 6847:10 6848:15 6848:24 6849:23 6851:23 6852:4 6855:6 6856:6 6867:12 6895:10 6906:19 6907:14 6907:24 6908:2 6908:20 6909:3 6909:15 6910:3 6910:25 6911:5 6914:13,15 6916:13 6917:4 6917:10 6918:10 6918:13,19 6919:11 6922:14 6925:20 6926:1 6927:1 6938:25 6939:5,16 6940:14 6941:7 6941:23 6944:12 6948:19 6956:4 <b>Bipoles</b> 6808:13,15 6808:18 6817:9 6818:8 6820:18 6827:14 6948:20 <b>Bison</b> 6915:20 6916:11 6918:16 6919:3,10 <b>bit</b> 6781:6,18 6782:1,20 6786:5 6796:12 6814:20 6818:9 6832:6 6841:15 6846:3 6877:14 6893:14 6903:5 6932:22 6945:11 6946:22 <b>black</b> 6802:19,23 6935:19 6936:1 <b>bloated</b> 6916:19 <b>block</b> 6781:24 6937:23 <b>blocked</b> 6937:15,15	<b>blocks</b> 6935:13 <b>blueberries</b> 6807:5 6807:13,17,23 <b>blueberry</b> 6786:17 <b>board</b> 6777:4 6829:6 6865:21 6877:24,25 <b>bodes</b> 6834:16 <b>bookings</b> 6805:20 <b>booth</b> 6807:6 <b>border</b> 6829:7,15 6829:18 6835:21 6839:5,12 <b>born</b> 6947:21 <b>botanists</b> 6807:21 <b>both</b> 6783:20 6798:18 6799:20 6802:13 6842:2 6845:13 6846:22 6850:7 6852:15 6858:18 6859:2 6859:12 6861:11 6863:23 6891:15 6906:4 6928:20 6928:25 6931:11 6947:7 6952:20 6956:5 <b>bottom</b> 6899:23 6935:15 <b>Boucher</b> 6778:2 6914:4 <b>bound</b> 6882:23 <b>boundaries</b> 6885:14 6912:5 <b>bounds</b> 6884:18 6886:11,19,21 6887:9 <b>BPC</b> 6779:17 6904:25 6905:20 <b>brain</b> 6954:10 <b>branch</b> 6816:24 6953:3 <b>Brandon</b> 6955:16 <b>break</b> 6781:9 6819:11 6820:5 6902:23 6951:25 <b>Brian</b> 6777:3,11 <b>brief</b> 6793:2 6842:1 6903:3 6912:17 6912:18 <b>briefly</b> 6894:5 6901:3 <b>Briggs</b> 6807:18 <b>bring</b> 6783:8 6791:24 6797:14 6822:3 6840:13 6942:25 6944:7 <b>bringing</b> 6822:4 6840:21 6841:4 6849:13	<b>brings</b> 6859:9 6955:25 <b>British</b> 6890:23 <b>broad</b> 6789:22 6804:4 6837:9 6849:17 <b>broadband</b> 6937:21 <b>broadcast</b> 6784:9 6808:16 6810:1 <b>broader</b> 6804:4 6855:24 <b>broadly</b> 6860:19 6861:23 <b>broke</b> 6894:4 <b>Brotherhood</b> 6794:17 <b>brought</b> 6790:9 6819:8 6849:1 6857:15 <b>brown</b> 6808:17 6809:10 6820:21 6916:6 <b>Bruce</b> 6777:6 <b>brush</b> 6784:22 6789:14 6792:4 <b>brushes</b> 6784:18 <b>brushing</b> 6784:23 <b>budget</b> 6828:18,21 6829:2 6830:22 <b>buffers</b> 6785:8 <b>build</b> 6785:16 6794:22 6828:1 6829:8 6845:1,6 6847:1 6948:5 6953:18 <b>building</b> 6807:15 6829:8 6830:2 <b>built</b> 6885:10 6886:5 6931:18 6955:7 <b>bullet</b> 6875:7 <b>bunch</b> 6935:13 <b>burial</b> 6922:4 <b>burning</b> 6818:2 <b>burrow</b> 6931:20 6932:12 <b>bushes</b> 6821:2 <b>busier</b> 6888:23 <b>business</b> 6800:24 6801:2 6802:18 6802:22 6804:7 6805:18 6910:5 6910:14 6911:8 6946:14,18 6947:1,16 6948:11 6949:9 <b>businesses</b> 6791:16 6800:23 <b>busy</b> 6888:22,22,23 <b>Byron</b> 6777:13
---	--	--	--	--

<b>C</b>				
<b>C</b> 6780:7,10	<b>carrot</b> 6923:13	<b>central</b> 6791:6	6836:23 6837:24	6914:4
<b>Cabinet</b> 6911:5	<b>carry</b> 6822:12	<b>centre</b> 6776:18	6838:4 6841:20	<b>check</b> 6826:18
<b>cable</b> 6825:20,24	6904:4	6779:6 6853:11	6841:21 6845:17	6830:6,12,14
6826:2 6828:10	<b>case</b> 6789:12	6904:18 6905:9	6846:19 6847:12	6896:3
6839:19,20	6796:14 6800:21	<b>centric</b> 6851:23	6847:17,19	<b>checking</b> 6932:12
6847:6	6804:5,25	6853:4,11 6858:3	6848:9,11,13,20	6944:3
<b>CAC</b> 6779:19	6805:12 6806:8	6875:22	6865:8 6869:18	<b>chemicals</b> 6919:18
6865:20 6905:1	6809:11 6812:7	<b>century</b> 6891:3	6870:24 6874:1,5	<b>chief</b> 6906:15
6905:21	6817:14 6844:7	<b>certain</b> 6788:2	6879:5,23 6880:4	6913:6 6914:3
<b>cajoled</b> 6924:6	6851:9 6885:13	6790:6 6796:23	6880:8,10,14,22	6922:13 6927:3
<b>calculation</b> 6824:12	6888:4 6897:12	6813:22 6884:23	6881:1,12	6944:4
6839:23	6909:12	6892:25 6930:3	6882:10,19	<b>Children</b> 6916:24
<b>calculator</b> 6826:17	<b>cases</b> 6783:11	6944:11	6883:15 6885:5	<b>chocolate</b> 6951:24
<b>call</b> 6783:7 6824:11	6787:6 6806:6	<b>certainly</b> 6785:15	6887:16 6893:8	<b>choice</b> 6855:19
6887:2 6905:24	6853:9 6884:3	6786:16,20	6902:18,22	<b>choke</b> 6785:3
6927:5 6941:10	6899:9,10	6789:10,12,14	6903:13,19	<b>choose</b> 6941:8
<b>called</b> 6810:19	<b>case-by-case</b> 6801:3	6790:5 6792:6,13	6904:4 6905:23	<b>choosing</b> 6934:4
6886:3	6803:10	6794:2,4 6797:8	6906:8 6911:12	<b>chosen</b> 6837:23
<b>came</b> 6801:7	<b>cash</b> 6930:9	6814:21 6816:2,8	6912:9,19	6852:2
6808:10 6825:9	<b>cast</b> 6858:24	6835:14,15	6913:13,22	<b>Chris</b> 6906:12,14
6834:18 6890:4	<b>catering</b> 6792:7	6849:8 6858:11	6914:3,11,17,21	6906:22
6901:16	<b>Cathy</b> 6777:5	6875:23 6877:21	6915:23 6918:6	<b>chronology</b> 6842:17
<b>camel's</b> 6894:4	<b>cause</b> 6811:9	6878:9,25 6881:5	6918:12 6919:7	6867:9
<b>camp</b> 6795:10,24	6853:18 6854:1	6882:4 6886:14	6919:16 6920:6	<b>chunk</b> 6956:6
6796:6,17 6797:7	6860:3 6917:6	6887:6 6891:5	6920:18 6921:12	<b>circumstance</b>
<b>campus</b> 6797:24	<b>caused</b> 6853:24	6892:15 6895:25	6921:17 6922:5	6805:11 6812:17
<b>Canada</b> 6777:13	6897:25,25	6896:6 6902:3	6922:22 6923:1	<b>circumstances</b>
6849:11 6850:22	<b>causes</b> 6894:24	6913:7 6915:1	6923:16 6924:5,9	6813:20 6814:18
6858:20 6859:14	6953:8	6926:7 6941:15	6925:9,14,22	<b>citizen</b> 6950:13
6860:20 6872:11	<b>cause/effect</b> 6853:8	6949:11	6926:9,20 6927:6	<b>citizens</b> 6952:15
6872:25 6876:13	<b>causing</b> 6857:8	<b>certainty</b> 6862:25	6927:8,17 6954:1	<b>City</b> 6817:20
6881:7 6883:9	<b>caveat</b> 6864:9	6863:17 6877:8	6954:20 6955:15	<b>claim</b> 6801:9,15
6933:25 6940:21	<b>caveats</b> 6883:1	6878:8 6901:12	6955:25	6805:1,19,21
6942:19 6955:11	<b>CDI</b> 6923:7,10	6901:19,23	<b>challenge</b> 6819:14	6934:19
<b>Canadian</b> 6779:4	<b>CEA</b> 6849:4,23	6902:2	6901:18 6940:25	<b>claimed</b> 6850:2
6860:18 6862:18	6852:4 6855:6	<b>CERTIFICATE</b>	6946:13 6949:18	6858:13
6880:13,20	6856:6,21	6957:1	<b>challenges</b> 6936:16	<b>claiming</b> 6944:8
6891:14 6904:15	6857:12 6871:10	<b>certification</b>	6942:23	<b>claims</b> 6801:7,24
6905:5	6872:17 6873:6	6794:20	<b>challenging</b> 6887:6	6803:20 6804:3
<b>candidate</b> 6896:1	6879:21 6880:5	<b>certify</b> 6957:7	<b>chance</b> 6801:22	6804:10 6930:17
<b>candidates</b> 6791:8	6885:6 6896:19	<b>cetera</b> 6787:12	<b>change</b> 6819:11	6944:14
<b>candidly</b> 6918:6	6896:20 6899:23	6799:25 6800:1	6828:22 6832:7	<b>clarification</b> 6783:7
6923:20	<b>CEAM</b> 6875:6	<b>chain</b> 6853:8	6856:11 6888:25	6893:11 6894:14
<b>capability</b> 6834:3	<b>CEAs</b> 6856:24	<b>chain-saw</b> 6811:17	6897:11,21,22,23	6911:16 6912:12
<b>capacity</b> 6928:4	6860:13 6863:9	6811:18	6898:23 6899:16	6927:9
6944:5	6863:12 6886:6	<b>Chair</b> 6874:4	6900:9 6926:22	<b>clarify</b> 6796:7,12
<b>capital</b> 6828:18	<b>CEC</b> 6907:25	6879:2 6927:19	6948:11 6954:3	6853:1 6868:11
6829:4,12 6833:7	6908:5,8 6910:2	6945:22 6952:23	6955:4	<b>clarity</b> 6799:19
6839:1	6910:22 6914:15	6953:21	<b>changes</b> 6800:14	6857:4 6881:23
<b>car</b> 6782:3	6922:25 6925:12	<b>Chairman</b> 6777:2	6828:5 6898:10	6882:5 6931:16
<b>care</b> 6788:13	6928:22,23	6781:3 6782:12	6899:4 6900:7	6932:10
6799:10 6817:4	6930:5 6932:22	6782:24 6799:5	6941:21 6943:20	<b>class</b> 6952:10
6838:21 6865:2	6943:7 6945:14	6803:13 6810:25	<b>changing</b> 6835:21	6953:10,12
6884:25	6946:1,6 6950:21	6814:2 6815:4	6897:1,25	6954:4,13
<b>caribou</b> 6814:13	6951:8 6952:1,11	6816:12 6817:6	6898:14	<b>classic</b> 6819:22
6816:12,13	6952:13,24	6817:13,17	<b>chapter</b> 6870:1,8,10	<b>Clean</b> 6776:1
6817:5 6943:11	6954:4,7	6818:5,14 6819:3	<b>characterized</b>	6777:2 6779:13
6943:13,16,24	<b>Cecelia</b> 6957:5,14	6820:8,14 6821:5	6888:6	6848:23 6868:8
6944:10,11,18	<b>CEC/MH</b> 6823:20	6821:10 6822:7	<b>charge</b> 6823:8	6868:15 6904:21
	<b>cent</b> 6931:5 6947:13	6822:18,24	<b>Charlie</b> 6778:2	6905:16 6906:19

<p>6906:24 6914:6 6916:1 6921:6 6926:20 <b>clean-up</b> 6781:7,15 <b>clear</b> 6789:2 6795:16 6812:6 6825:16 6838:10 6839:16 6842:2 6847:5,9 6855:20 6860:3,24 6861:15 6862:19 6863:21 6870:25 6875:14 6880:7 6885:2 6886:19 6893:15 6894:20 6895:12 6897:8 6915:16 6916:7 6928:17 6945:5 <b>clearance</b> 6789:7,8 <b>cleared</b> 6789:11 6931:18,21 <b>clearing</b> 6783:18 6784:24 6789:25 6790:11,17 6792:4,5,5,6 6815:23 6917:5 6917:11 6932:13 <b>clearly</b> 6802:13 6855:22 6894:25 6915:12 6919:23 6921:20 6924:10 6927:2 <b>cliche</b> 6894:3 <b>clients</b> 6927:13 <b>client's</b> 6825:16 6827:4 6916:4 <b>climate</b> 6948:9 <b>close</b> 6799:24 6805:15 6809:14 6929:11 6956:1 <b>closed</b> 6930:13 <b>closely</b> 6928:24 <b>closer</b> 6782:3 6797:14 6814:19 6815:24 6920:23 <b>closing</b> 6780:10,12 6780:14 6903:1 6903:20 6912:25 6914:16 6925:15 6926:9 6927:7,21 6956:2 <b>Cluny</b> 6777:22 <b>Coalition</b> 6777:10 6779:17 6821:17 6827:4 6828:9 6831:22 6832:3 6832:11,15 6839:14,15,17 6842:13 6843:17 6904:24 6905:20</p>	<p><b>Coalition's</b> 6825:25 6832:21 6842:4 <b>coli</b> 6917:1 <b>coliform</b> 6917:1 <b>colleague</b> 6906:9 <b>colleagues</b> 6781:19 6819:21 6940:20 <b>collect</b> 6915:18 6930:21 <b>collected</b> 6795:17 6837:19 <b>collective</b> 6794:16 6910:5 6912:4 <b>colour</b> 6809:9 6935:20 <b>Columbia</b> 6890:23 <b>combination</b> 6883:7 6944:13 6950:6 <b>combining</b> 6938:16 <b>come</b> 6784:12 6789:1,5,11,13 6791:24 6799:25 6800:22 6801:18 6814:15 6820:5 6873:17 6893:1 6895:6 6896:24 6903:24 6905:25 6913:8 6936:3,23 6942:1 6944:1 6955:13 <b>comes</b> 6788:24 6801:2 6803:10 6853:2,22 6881:21 6895:11 6926:19 6955:5 <b>coming</b> 6797:11 6799:24 6804:16 6810:8 6887:5 6888:21 6891:22 6892:19,21 6894:11 <b>commencing</b> 6781:2 <b>commendable</b> 6861:4 <b>commensurately</b> 6861:9 <b>comment</b> 6803:23 6820:10 6873:9 6876:4 6907:5 6916:2,17 6919:14 6925:12 6940:24 6944:20 6945:3 <b>commentary</b> 6939:14 6944:14 <b>comments</b> 6815:8 6848:7,22 6866:15 6879:3 6914:16 6920:7 6922:3 6924:2</p>	<p>6927:7 6929:19 6930:11 6932:18 6933:14 6940:23 6946:25 6947:20 6951:6,20 6955:19 <b>commercial</b> 6949:9 <b>commission</b> 6776:1 6777:2,5 6779:13 6826:8 6827:9 6840:22 6841:5 6848:23 6849:3 6868:8,16 6891:8 6904:22 6905:16 6906:3,19,24 6914:6 6916:1 6921:6 6924:15 6926:21 6953:25 <b>Commissioners</b> 6782:12 6920:7 <b>commit</b> 6923:10 <b>commitment</b> 6793:8 6842:23 6915:9 6923:14,14,15 <b>committed</b> 6829:1 <b>committee</b> 6798:7 6798:15,17,21 6799:1 6923:18 6923:18 6940:10 <b>common</b> 6832:17 6852:6 6885:15 6885:16 6946:12 <b>commonly</b> 6887:3 6895:3 <b>commonplace</b> 6860:14 <b>communities</b> 6789:19,20 6790:8 6791:22 6792:17 6794:3 6798:22 6813:19 6914:20 6916:25 6919:13 6922:1 6923:8 6930:3 6933:19 6934:9 6935:22 6937:16 6941:16 6951:11 6951:12 6952:17 <b>community</b> 6779:6 6785:10,13,14,16 6791:15,20 6796:21 6797:15 6797:25 6798:4,9 6798:19 6904:18 6905:9 6913:3,6 6914:25 6916:15 6916:19,21 6917:12 6919:17 6919:20,24 6920:22,23</p>	<p>6921:1,3,4,10,13 6922:10,20 6923:6,13 6925:5 6937:6 6941:11 6941:22 6942:1 <b>community's</b> 6912:15 6917:2 6922:13 <b>company</b> 6937:4 <b>comparable</b> 6827:25 <b>compared</b> 6831:16 <b>comparison</b> 6847:3 6859:5 6897:17 6897:18 6920:8 <b>compensate</b> 6807:2 <b>compensated</b> 6806:21 6920:13 <b>compensating</b> 6806:1,13,25 6807:8 <b>compensation</b> 6799:13,22 6800:8 6801:19 6803:14 6804:9 6804:23 6805:23 6806:7,24 6808:2 6909:24 6910:4 6911:8 6920:4 6929:16,20,23 6930:2,7,12,17 6932:8 <b>competition</b> 6818:24 <b>compiling</b> 6797:21 <b>complaints</b> 6919:8 <b>complete</b> 6858:14 6875:16 6913:23 6914:14 6922:25 6924:23 6925:7 <b>completed</b> 6918:6 6924:18,22 <b>completely</b> 6786:3 6822:5 6850:3 6884:21 <b>completeness</b> 6863:4 <b>completes</b> 6913:24 <b>complex</b> 6851:14 6855:1 <b>complicate</b> 6917:5 <b>component</b> 6827:6 <b>components</b> 6790:12 6825:7 6827:1 6852:18 6875:24 <b>compound</b> 6919:4 <b>Conawapa</b> 6844:18 6939:16 6952:17 6954:6</p>	<p><b>concept</b> 6851:24 6853:5 6882:1 6883:19 6885:5 6899:16,17 6900:2,3,8 6901:6 <b>concepts</b> 6896:21 <b>conceptual</b> 6841:13 6863:9 <b>concern</b> 6785:19 6795:12,13 6796:25 6811:2 6817:22 6854:15 6911:1 6914:21 6916:2 6917:25 6918:4 6919:18 6924:19 6926:8 <b>concerned</b> 6786:8 6786:23 6811:5 6816:23 6852:23 6921:13 6922:10 <b>concerning</b> 6818:15 <b>concerns</b> 6783:12 6785:7,25 6796:17,20 6814:4 6816:10 6842:18 6866:15 6908:1,7,7,10 6909:16 6910:20 6912:24 6913:9 6914:8,19,20 6916:5 6917:12 6917:18 6919:9 6920:7,9,20,23 6921:19,21 6922:4 6924:4 6925:1,2 6926:11 6926:12 6928:2 <b>conclude</b> 6887:8 6891:9 <b>concluded</b> 6895:12 6899:7 <b>concludes</b> 6865:6 <b>concluding</b> 6854:7 <b>conclusion</b> 6854:9 6864:13 6907:16 <b>conclusions</b> 6863:6 6863:19 6884:13 6899:2 6933:16 <b>concrete</b> 6910:12 <b>condition</b> 6789:12 <b>conditional</b> 6910:3 <b>conditions</b> 6888:15 6897:19 6899:25 6910:7 6911:6 <b>conducted</b> 6850:7 6856:24 <b>conducting</b> 6862:10 6873:5 6875:9 <b>confidence</b> 6884:12 6887:12 6952:25</p>
---	--	--	--	--

<p>6953:1  <b>confident</b> 6916:12  <b>configuration</b>  6846:6  <b>configurations</b>  6846:7  <b>confirmation</b>  6811:12 6919:20  <b>confirmed</b> 6835:24  <b>conflict</b> 6918:15  6920:20  <b>confusing</b> 6942:3  <b>confusion</b> 6857:3,7  6941:14,15,15  <b>congested</b> 6817:19  <b>conjectural</b> 6886:24  <b>consent</b> 6935:15  <b>consequence</b>  6894:25  <b>Conservation</b>  6777:6 6812:6  6814:24 6815:18  6877:25 6915:16  6915:17 6916:16  6917:24 6918:12  6918:23,24  6919:4 6926:5,15  6934:25  <b>consider</b> 6849:7  6862:23 6872:8  6884:16 6892:25  6921:16 6928:24  6932:11  <b>considerable</b>  6858:21  <b>considerably</b>  6873:23  <b>consideration</b>  6808:4 6882:17  6884:5 6886:20  6892:3 6895:21  6901:9 6908:5  6917:13 6918:9  6919:2 6921:15  6921:24 6923:24  <b>considerations</b>  6884:17 6908:6  <b>considered</b> 6807:1,8  6808:25 6809:1  6855:4 6872:5  6873:6 6879:16  6896:1 6920:2  6936:11  <b>considering</b>  6831:18,19  6890:24 6917:21  <b>consistent</b> 6914:19  <b>consolidated</b> 6829:4  <b>constituents</b> 6893:1  <b>constitute</b> 6858:10</p>	<p><b>constitutes</b> 6886:14  <b>constitutional</b>  6907:7 6908:18  <b>constrained</b> 6909:8  <b>constraints</b> 6909:9  <b>construct</b> 6840:7,11  <b>constructed</b>  6797:17 6909:1  <b>constructing</b>  6818:19  <b>construction</b> 6784:2  6789:24 6790:22  6792:8 6793:24  6796:18 6802:25  6805:1,4 6806:9  6806:14,21  6807:14,19  6814:19 6818:13  6897:22 6911:10  6920:21 6923:25  <b>consult</b> 6814:18  6903:23 6915:2  6915:11  <b>consultant</b> 6922:3  <b>consultants</b> 6913:5  6940:12 6946:4  <b>consultation</b>  6841:16 6914:22  6915:12 6919:15  6924:4,9 6926:11  6941:19,24,25  6951:13  <b>consultations</b>  6941:11  <b>Consumers</b> 6777:13  6942:18 6956:4  <b>contact</b> 6791:11,14  <b>contacted</b> 6801:19  <b>contains</b> 6916:6  <b>contemplated</b>  6833:8  <b>contend</b> 6900:24  <b>contentious</b> 6885:17  <b>contents</b> 6944:9  <b>context</b> 6844:8  6845:4 6848:22  6856:13 6875:17  6893:19 6898:6  6932:24 6933:9  6935:14 6936:6  <b>continent</b> 6818:11  6949:6  <b>continuation</b>  6890:17  <b>continue</b> 6793:8  6818:1 6832:9  6843:2 6846:12  6902:8 6922:8,24  6949:24 6950:3  <b>continued</b> 6778:1</p>	<p>6848:24  <b>continues</b> 6941:14  <b>continuing</b> 6783:12  6856:10 6894:8  <b>contracting</b> 6789:20  <b>contractor</b> 6785:13  6790:15 6791:20  <b>contractors</b> 6790:21  6790:25 6792:17  6792:24 6818:22  6818:25  <b>contracts</b> 6790:3  <b>contrast</b> 6793:10  6863:7 6938:21  6939:10  <b>contrasting</b> 6854:5  <b>contribute</b> 6882:7  6955:14  <b>contributed</b> 6872:9  6876:12 6917:4  6919:11  <b>contribution</b> 6854:8  6854:11 6896:4  6926:16  <b>control</b> 6797:18  <b>controlled</b> 6811:23  <b>convenient</b> 6897:15  <b>Convention</b>  6776:18  <b>conventionally</b>  6899:3  <b>conversation</b>  6946:24  <b>conversely</b> 6844:1  <b>converter</b> 6845:9  6908:13 6912:2  <b>converters</b> 6844:23  <b>coordinate</b> 6915:5  6926:16  <b>cope</b> 6948:1  <b>copies</b> 6848:18  <b>corner</b> 6875:2  6878:16  <b>corollary</b> 6853:19  <b>corporation</b>  6794:19  <b>corrals</b> 6806:11  <b>correct</b> 6784:1  6794:14 6817:11  6822:17 6824:3,4  6824:7,9,24  6825:11,12,15  6826:4,15,20,24  6826:25 6828:14  6830:18 6831:7  6831:13 6833:10  6834:4,6 6836:3,8  6836:12,22  6838:8,17 6840:3  6840:23,25</p>	<p>6842:7 6848:20  6865:25 6867:3,9  6867:24,25  6869:6,10,11,13  6869:16,17,25  6870:3,7 6871:7,9  6871:11,24  6872:19 6874:8  6876:19 6877:19  6877:20 6879:1  6879:22 6880:6  6881:17 6957:7  <b>correction</b> 6824:21  <b>correspondence</b>  6953:13  <b>corridor</b> 6824:7  6828:2,18  6830:10 6831:19  6831:21,23  6832:2,25  6842:22 6843:4  6845:3,15  6931:10,14,17  6934:24 6935:2  6938:13,13  <b>corridors</b> 6931:8  6939:5  <b>cost</b> 6801:14  6805:21 6814:7  6823:17,21  6824:13 6825:24  6830:16,20,21  6831:12 6839:12  6839:13 6845:24  6846:1  <b>costs</b> 6823:5 6825:6  6835:2 6839:11  6839:15 6844:11  6845:21 6846:18  6847:6 6917:7  6950:8  <b>cottage</b> 6781:22  <b>council</b> 6906:15  6913:12 6914:4  6922:13 6927:3  <b>Councillor</b> 6906:14  6906:22 6911:12  6912:19 6913:4  6913:23  <b>counsel</b> 6777:4,8,9  6777:11,13,14,16  6777:20 6802:14  6946:5  <b>counsel's</b> 6802:14  <b>counting</b> 6924:3  <b>countless</b> 6919:21  <b>country</b> 6816:13  6817:11 6943:13  <b>couple</b> 6785:20  6819:10 6823:4</p>	<p>6833:13 6840:22  6867:10 6890:25  6932:17 6933:14  6934:13 6935:6  6937:1,25  6942:17 6943:7,8  6945:21 6947:4  6952:6 6954:17  <b>course</b> 6795:9  6797:1 6803:21  6816:17 6820:1  6821:15 6848:5  6872:21 6881:25  6896:13 6897:24  6901:13 6935:19  6940:18 6947:6  6948:17 6949:13  6954:9  <b>Court</b> 6920:16  <b>cover</b> 6846:18  6935:22  <b>covered</b> 6790:2  6893:13  <b>covering</b> 6910:9  <b>Cowan</b> 6807:17  <b>Craft</b> 6777:14  <b>create</b> 6785:13  6786:23 6796:23  6813:13 6949:17  6949:18  <b>created</b> 6800:19  <b>creating</b> 6788:16  6886:7,7 6937:19  <b>credited</b> 6831:3  <b>Cree</b> 6777:21  6780:10 6870:23  6904:7 6905:24  6906:16,23  6907:4,10,13,20  <b>Creek</b> 6778:2  6780:12 6785:6  6904:8 6913:25  6914:4,11,14  6915:5 6916:10  6916:12,22  6917:13 6918:22  6919:23 6920:19  6920:21 6922:1,6  6922:23 6925:5  6925:17,25  6926:24,25  6940:12  <b>Creek's</b> 6914:8  6923:19  <b>crew</b> 6819:11  <b>criteria</b> 6855:21  <b>critical</b> 6854:11  6889:6  <b>critique</b> 6848:17  6849:6,9,13,21</p>
---	--	---	---	--

6851:21 6852:9 6852:13,15 6854:6 6856:12 <b>critiques</b> 6856:17 6861:11 <b>crop</b> 6806:7,10 6808:2,3 6920:3,4 6920:12,15 <b>crops</b> 6919:19,25 6930:9 <b>cross</b> 6836:2 6838:7 6838:11,15,16,16 6949:24 <b>crossed</b> 6838:8 <b>crosses</b> 6811:21 <b>crossing</b> 6921:19 6925:4 <b>crossings</b> 6816:7 6838:21 <b>crossovers</b> 6838:22 <b>cross-examination</b> 6780:5,8 6781:11 6819:25 6911:14 6933:15,21 6937:25 6943:8 <b>Crown</b> 6805:24 6806:1,3,5,18 6909:23 6915:10 6934:15 6941:24 <b>crystal</b> 6916:7 <b>culminating</b> 6909:19 <b>cultural</b> 6910:25 <b>culture</b> 6918:1,3 <b>cumulative</b> 6822:5 6838:2 6847:21 6848:1,15 6849:3 6849:25 6850:19 6853:22,23 6854:3,8,10,23 6855:5,7 6856:7 6857:5 6858:9,25 6862:14 6864:15 6869:20,23 6870:13 6872:6 6873:3 6874:14 6875:10 6877:22 6878:10 6879:18 6880:1 6882:21 6882:24 6883:3 6883:17 6886:3 6887:20 6888:5 6889:23 6891:1 6892:7 6893:19 6893:23 6894:8 6894:18 6895:8 6895:14 6896:8 6899:22 6903:3 6908:21,23 6909:6 6922:12	6922:14,22 <b>cumulatively</b> 6895:5,16,20 <b>curious</b> 6817:8 6818:6 6944:23 <b>current</b> 6830:7 6839:8 6849:24 6855:6,13 6856:6 6856:23 6859:10 6860:10 6861:14 6871:7 6878:11 6887:2 6889:10 6891:16 6897:18 <b>currently</b> 6815:16 6833:19 6885:10 6889:21 6890:24 6924:21 6927:5 <b>customs</b> 6908:19 <b>cut</b> 6781:25 6784:25 6804:18,19 6811:19 6913:19 <b>CV</b> 6779:8 6904:19 6905:10 <b>cycle</b> 6788:12 <b>C1</b> 6914:13 <hr/> <b>D</b> <b>D</b> 6825:18 6831:22 6832:7 <b>Dagdick</b> 6777:7 6812:2 <b>Dakota</b> 6833:17 6835:2 <b>damage</b> 6806:9,9,22 6807:9 <b>damages</b> 6920:8 <b>danger</b> 6788:25 6789:5 6808:25 <b>dangle</b> 6923:12 <b>darn</b> 6819:6 <b>data</b> 6837:18 6851:12 6858:5 6859:19 6861:21 6863:6 6884:8 6891:4 6931:25 6937:1 6938:8,14 6938:15,15,16,17 6939:7 <b>date</b> 6835:8 6839:2 6839:25 6921:25 6934:17 <b>dated</b> 6868:25 <b>dates</b> 6871:14 <b>Dawson</b> 6777:20 <b>day</b> 6791:25 6903:8 6908:25 6927:24 6942:2,2 6951:25 <b>days</b> 6785:20 6791:20 6815:7 6929:18 6953:8	<b>day's</b> 6904:5 <b>DC</b> 6824:2 6826:23 6830:4,16 6844:15,19,23 6845:2 6908:12 <b>dead</b> 6820:21 6821:3 <b>deadlines</b> 6947:11 6949:17 <b>deaf</b> 6926:12 <b>deal</b> 6797:5 6798:9 6800:17,19 6801:23 6805:11 6817:8 6818:6 6822:4 6897:4 6939:6 6940:1 <b>dealing</b> 6800:4 6928:20 6935:9 6939:11 <b>dealt</b> 6800:3 <b>debacle</b> 6915:21 <b>debate</b> 6803:18 6854:21 6855:10 6918:24 <b>debt</b> 6950:7 <b>decade</b> 6872:12 6907:16 6924:1 6948:5 6954:5 <b>decades</b> 6890:25 6909:17 <b>December</b> 6827:10 6950:22 <b>decided</b> 6848:2 6945:2 <b>decision</b> 6796:4 6804:17 6826:2 6833:23 6851:18 6851:19 6856:3 6859:2 6868:7 6895:19 6901:13 6951:18 6952:4 <b>decisions</b> 6795:22 6797:6 6864:24 6900:17 6925:13 6933:17 6953:20 <b>decision-making</b> 6883:13 <b>decline</b> 6918:24 6919:3 <b>decommissioning</b> 6948:16,18 <b>decreasing</b> 6810:13 <b>dedicated</b> 6818:20 <b>deeper</b> 6952:1,2 <b>defensibility</b> 6863:4 6885:2 <b>defensible</b> 6855:20 <b>deference</b> 6802:13 6854:9 <b>deferring</b> 6803:19	<b>deficiencies</b> 6928:4 <b>deficiency</b> 6858:11 <b>deficient</b> 6850:2 <b>deficit</b> 6831:24 6832:4,8,9,12 <b>define</b> 6791:6 6821:14 6883:24 6885:7,13 <b>defined</b> 6852:16 6912:6,7 <b>defines</b> 6855:14 6859:8 <b>definitely</b> 6801:25 <b>definition</b> 6852:12 6860:7 6864:21 6884:7 6926:19 <b>definitions</b> 6860:5 6860:17 6945:7 <b>definitive</b> 6850:9 <b>degree</b> 6858:13 6877:8 6884:12 6887:11 6888:25 6889:16 6901:12 6902:1 <b>delegated</b> 6913:5 <b>deliberation</b> 6848:24 <b>deliberations</b> 6941:9 <b>delineated</b> 6919:23 <b>delivering</b> 6906:16 <b>democratic</b> 6947:7 <b>demonstrable</b> 6852:20 <b>demonstrated</b> 6837:23 6856:2 <b>den</b> 6803:5 <b>denial</b> 6917:9 <b>denied</b> 6910:16 6922:1,9,18 <b>denning</b> 6803:2 <b>Dennis</b> 6942:7 <b>depart</b> 6822:2 <b>department</b> 6915:14 6919:1 6926:14 <b>departments</b> 6915:6 6915:19 <b>depend</b> 6834:17 <b>dependant</b> 6835:19 <b>depending</b> 6843:11 6861:13 <b>depends</b> 6837:6 6843:5 <b>Derry</b> 6821:19 <b>describe</b> 6787:9 6813:2 6886:10 6903:15 6909:6 6935:11 <b>described</b> 6815:15	6828:13 <b>describing</b> 6908:1 6953:16 <b>description</b> 6891:10 6923:7 6928:5 6935:24 <b>descriptors</b> 6931:9 <b>deserve</b> 6852:19 <b>design</b> 6829:8 6830:1 6838:21 <b>designated</b> 6893:17 6913:2 <b>designed</b> 6846:16 <b>desirable</b> 6843:14 6845:9,10 <b>desire</b> 6818:3 6886:2,6 <b>Desorcey</b> 6777:14 <b>Despite</b> 6920:3 <b>detail</b> 6813:2 6858:21 6859:21 6870:5 6903:15 6908:9 <b>details</b> 6849:15 6850:8 <b>determine</b> 6837:6 6936:3 <b>detract</b> 6787:4 <b>develop</b> 6812:13 <b>developed</b> 6901:24 <b>developing</b> 6798:8 6808:5 <b>development</b> 6793:16 6794:13 6795:20 6797:13 6797:18 6798:8 6798:24 6806:7 6830:23 6834:10 6834:13 6860:9 6860:16 6861:4 6881:13,15 6882:12,22 6889:4,5 6890:3 6909:18,22 6923:2 6953:10 <b>developments</b> 6797:2 6907:18 <b>diamond</b> 6890:2 <b>difference</b> 6799:15 6799:17 6800:7 6827:5 6828:7 6842:5 6856:20 6856:23 6899:10 <b>differences</b> 6953:9 <b>different</b> 6789:17 6790:19,20 6793:25 6795:5 6797:12 6800:10 6800:25 6801:25 6807:1 6813:14
---	---	--	---	---

<p>6822:5 6833:14 6835:14 6836:17 6842:12 6845:21 6846:7 6858:19 6858:19 6874:8 6889:8,9 6899:7 6900:3 6913:8 6949:15,16 6951:15,17 6954:7,20 <b>differently</b> 6850:16 <b>difficult</b> 6796:24 6832:6 6886:10 6951:1 <b>dig</b> 6938:4 <b>diligence</b> 6865:3 <b>diminishes</b> 6881:25 <b>direct</b> 6806:13 6808:2 6874:12 6892:19 6894:23 6894:25 6895:13 6953:4 <b>directed</b> 6809:15,16 <b>directing</b> 6867:15 6876:23 <b>direction</b> 6789:17 6795:5 6837:9 6856:11 <b>directions</b> 6913:3 <b>directly</b> 6785:13 6790:12 6806:21 6848:2 6857:19 6930:22 <b>disagree</b> 6832:19 6921:3 <b>disagrees</b> 6922:21 <b>disappointing</b> 6925:9 <b>disappointment</b> 6940:14 <b>disasters</b> 6833:3 <b>discernible</b> 6855:1 <b>discovered</b> 6883:16 <b>discretion</b> 6871:21 6884:21 <b>discuss</b> 6823:9 6852:2 6917:24 <b>discussed</b> 6827:18 6858:21 6914:9 6926:17 6934:17 <b>discussing</b> 6785:11 6815:20 6935:9 <b>discussion</b> 6811:24 6812:12 6815:17 6828:24 6842:2 6852:6 6857:16 6865:19 6875:11 6903:6 6919:20 6934:2,11 <b>discussions</b> 6817:1</p>	<p>6817:2 6856:14 6915:8 6923:4 6936:23 6939:17 6953:2 <b>disdain</b> 6924:19 <b>dismissal</b> 6854:6 <b>disparity</b> 6854:4 <b>disseminated</b> 6834:23 <b>distance</b> 6925:6 <b>distinct</b> 6787:2 <b>distributed</b> 6848:19 <b>distribution</b> 6818:21 <b>disturbance</b> 6800:16 6802:17 6802:24 6803:7 6807:21 <b>ditch</b> 6782:1 <b>diverted</b> 6842:15 <b>doable</b> 6835:15 <b>document</b> 6819:15 6819:24 6820:2 6837:8 6840:2 6848:7 6873:13 6878:3,14 6880:17,25 6912:10 6925:22 6928:16,24 6929:4,7,13 6953:1,4 <b>documentation</b> 6934:19 6935:12 <b>documents</b> 6821:16 6821:21,23 6822:1,8 6867:17 6867:23 6868:12 6868:20,21 6904:11 6927:22 6936:21 6943:1 6943:16 6953:23 <b>dogged</b> 6927:11 <b>doing</b> 6785:4 6786:6 6790:21 6820:12 6822:14 6844:19 6846:13 6861:20 6884:14 6944:2 6950:4,6 <b>dollars</b> 6800:4 6921:25 <b>domestic</b> 6949:8 <b>done</b> 6782:13 6786:16 6788:14 6789:24 6796:1 6807:9 6809:13 6832:16 6842:12 6842:17 6843:16 6849:10,14 6857:12 6859:17 6861:6 6864:6</p>	<p>6877:17 6882:4 6890:13 6895:10 6903:11 6919:6 6925:21 6940:8 6944:19 <b>door</b> 6819:22 6930:13 6954:23 <b>Dorsey</b> 6824:2,7 6825:20 6827:7 6827:17 6828:2 6829:6,10,14,17 6830:3,9,11 6831:19 6833:9 6833:17,21 6835:7 6839:8,9 6843:3 6845:10 6845:22,25 <b>Dorsey/Riel</b> 6827:11 <b>dots</b> 6936:1 <b>double</b> 6932:12 <b>Doubts</b> 6849:4 <b>Douglas</b> 6777:8 <b>down</b> 6781:24 6784:10 6785:1 6788:23 6789:3 6801:3 6803:10 6807:6 6824:23 6826:14 6833:9 6835:7 6836:17 6840:14,21 6879:11 6919:12 6955:18 <b>Dr</b> 6821:18 6858:23 6858:23 6864:6,6 6871:24 6872:3,6 6872:9,14,16 6873:2,18 6874:12 6875:7 6876:8,15 <b>draft</b> 6812:20 6813:17 6814:17 <b>drafting</b> 6821:22 <b>drape</b> 6859:4 <b>draw</b> 6892:9 <b>drawn</b> 6798:18 6880:5 <b>drill</b> 6936:10 <b>drink</b> 6951:23,24 <b>drinking</b> 6917:2 <b>driver</b> 6860:3 <b>drives</b> 6802:21 6918:13 <b>drop</b> 6791:25 6917:9 <b>drove</b> 6782:2 <b>Drs</b> 6866:11,22 6869:9 <b>Duck</b> 6916:6 6924:23</p>	<p><b>Duck's</b> 6916:8 <b>due</b> 6802:13 6857:3 6865:2 6897:24 6908:5 <b>Duluth</b> 6833:22 6837:12 6839:5 <b>duly</b> 6957:5 <b>Dunker</b> 6872:3,6,9 6876:8 <b>Dunker's</b> 6876:15 <b>duration</b> 6792:21 6793:7,15 6795:15 6833:5 <b>during</b> 6784:2 6790:22 6794:15 6802:24 6847:24 6895:25 6933:21 6946:23 6954:11 <b>duty</b> 6915:2,11</p> <hr/> <p style="text-align: center;"><b>E</b></p> <p><b>e</b> 6831:22 6832:10 6832:11 6839:17 6839:23 6917:1 <b>EA</b> 6945:10 <b>each</b> 6791:8,11,20 6791:21 6793:6 6795:15 6846:5 6853:9 6856:10 6858:18 6874:7 6940:7 <b>EAP</b> 6929:3 6953:10 <b>earlier</b> 6789:18 6810:16 6839:6 6840:25 6841:2 6842:3 6843:5 6846:20 6848:8 6880:14 6893:12 6903:23 6911:17 6912:11 6951:9,9 6951:10,13,13 <b>early</b> 6836:4 6841:10 6866:25 6867:2 6930:14 <b>ears</b> 6926:12 <b>earth</b> 6907:21,22 6908:17 <b>easement</b> 6817:14 <b>easements</b> 6817:22 6817:25 <b>eases</b> 6817:22 <b>easiest</b> 6888:9 <b>east</b> 6828:22 6833:9 6835:7 6939:3 <b>eastern</b> 6947:23 <b>eastward</b> 6827:2,19 6837:12 <b>easy</b> 6797:17 <b>echo</b> 6887:3</p>	<p><b>ecological</b> 6902:4 <b>ecologically</b> 6941:3 6941:5 <b>ecology</b> 6855:2 <b>economic</b> 6923:2,5 <b>economy</b> 6930:9 6949:17,20,21 <b>ecosystem</b> 6852:9 6852:14,17 6853:1 6854:16 6875:24 <b>eco-system</b> 6909:14 <b>edge</b> 6817:23 <b>effect</b> 6805:2,6 6806:17 6807:12 6852:20 6853:23 6854:3,17,21,24 6875:23 6876:16 6877:22 6879:13 6879:25 6893:18 6894:23 6895:3,7 6895:9,12,13,19 6896:2,7,22,25 6916:21 6921:12 6922:18 6925:25 6933:7 <b>effective</b> 6788:16 6942:6 <b>effects</b> 6822:6 6838:2 6847:21 6848:1,16 6849:4 6849:25 6850:19 6851:13,25 6853:9,18,23,24 6854:1,9,10,12,22 6855:5,7,16,24 6856:7 6857:5 6858:1,9 6859:1,5 6860:8 6861:1 6862:14 6864:15 6869:20,23 6870:8,13 6872:7 6873:3 6874:14 6875:10,24 6878:10 6879:18 6880:1 6882:21 6882:25 6883:3 6883:17 6886:4 6887:20 6888:5 6889:23 6891:1 6892:8 6893:19 6893:23 6894:8 6894:15,17,18,24 6895:8,14,16 6898:5,12 6899:22 6903:3 6908:21,24,25 6909:4,7,21 6910:5,25 6911:20 6921:2</p>
---	--	--	---	---

<p>6922:12,14,22  <b>efforts</b> 6808:11  <b>eight</b> 6790:19  6815:15,18  6935:25  <b>Einstein's</b> 6926:18  <b>EIS</b> 6797:22 6798:1  6841:17 6870:8  6909:16 6928:3  6928:20 6934:16  6935:7 6937:8  6942:25 6951:16  6952:9,10,19  <b>either</b> 6787:23  6906:4 6932:16  <b>elaborate</b> 6901:2  6911:22  <b>elaborated</b> 6908:3  <b>elapsed</b> 6881:5  <b>elected</b> 6906:15  <b>Electrical</b> 6794:17  <b>electrode</b> 6912:3  <b>electronic</b> 6953:25  <b>elements</b> 6864:17  <b>elephant</b> 6937:3  <b>elicited</b> 6925:6  <b>Elise</b> 6777:7  <b>elsewhere</b> 6795:13  6812:16 6858:20  <b>embed</b> 6864:16  <b>emerged</b> 6859:14  <b>emerges</b> 6860:3  <b>emerging</b> 6928:8  <b>emissions</b> 6892:24  <b>emphasis</b> 6860:11  <b>emphasizes</b> 6907:22  <b>employees</b> 6791:1  6795:9 6796:22  <b>employment</b>  6789:23 6790:6,7  6791:17 6793:12  6796:13 6910:6  6911:9  <b>empty</b> 6823:2  <b>enable</b> 6860:9  <b>encompassing</b>  6859:23  <b>encountered</b> 6803:4  <b>encourage</b> 6917:8  <b>encouraged</b> 6927:3  <b>encouraging</b> 6926:4  <b>end</b> 6819:8 6837:10  6845:11 6846:23  6903:8 6929:11  6942:10 6943:17  6945:8,24  6946:13 6947:3  6956:1  <b>endless</b> 6857:8  <b>endlessly</b> 6855:1</p>	<p><b>ends</b> 6784:23  6836:1 6846:22  6858:19  <b>endured</b> 6805:2  6916:3  <b>energy</b> 6818:16  6877:23 6947:12  6948:9,10,25  6949:3,4,8 6950:5  6950:7,9,13,14  <b>enforce</b> 6925:23  <b>engagement</b> 6864:2  6866:24 6937:6  6941:11 6951:10  <b>engaging</b> 6785:10  6790:12  <b>enhance</b> 6787:4  <b>enhanced</b> 6814:14  6815:9,11,14,19  <b>enjoy</b> 6857:25  <b>enjoyed</b> 6919:25  <b>enjoying</b> 6858:4  <b>Enns</b> 6777:17  6780:14 6954:2  <b>enough</b> 6803:25  6868:3 6873:21  6881:5 6885:25  6887:10 6897:23  6932:14 6942:21  6945:2  <b>ensure</b> 6791:9  6797:23 6816:6  6863:2,6 6884:25  6897:16 6902:9  6907:10 6910:19  6911:7 6936:18  <b>entered</b> 6923:3  6925:16  <b>enthusiastic</b> 6863:8  <b>entire</b> 6809:10  6845:24 6923:17  6925:8 6940:15  6947:23 6954:5  <b>entirely</b> 6929:9  <b>entities</b> 6882:13  <b>entitled</b> 6913:7  <b>entity</b> 6937:2  <b>environment</b>  6776:1 6777:2  6779:13 6848:23  6868:8,15,24  6870:3 6877:25  6897:19 6898:13  6898:14 6904:21  6905:16 6906:19  6906:24 6914:6  6916:1 6921:6  6926:20 6928:14  6928:21 6929:4  6945:13,18</p>	<p>6952:8 6955:11  <b>environmental</b>  6834:20 6835:3  6841:11 6850:18  6851:9 6857:18  6857:25 6860:6  6860:18 6862:18  6864:11,13  6869:16 6870:2  6872:10,24  6876:13 6880:13  6880:20 6884:1  6884:14 6889:22  6891:15 6894:22  6897:14 6901:20  6910:19,24  6936:21 6940:20  6944:3,21  6945:14 6946:9  6947:4  <b>environments</b>  6807:13  <b>envisioned</b> 6859:11  6902:15  <b>equally</b> 6849:17  6861:9  <b>equipment</b> 6784:10  6790:16 6792:5  <b>equipped</b> 6910:16  <b>equivalent</b> 6949:7  <b>equivalents</b> 6860:21  <b>era</b> 6954:20  <b>erection</b> 6792:9  <b>error</b> 6824:12  6825:1,5,7  <b>especially</b> 6788:21  6797:16 6803:20  6816:1  <b>espoused</b> 6856:25  <b>essence</b> 6844:12  <b>essentially</b> 6789:1  6831:21 6833:13  6843:24 6899:15  <b>establish</b> 6803:18  6849:17  <b>established</b> 6804:3  6851:4 6886:15  <b>establishment</b>  6890:18  <b>estimate</b> 6827:8  <b>estimated</b> 6823:21  6827:3 6828:9  <b>et</b> 6787:12 6799:25  6799:25  <b>Europe</b> 6949:7,14  <b>European</b> 6945:7  <b>evaluated</b> 6833:14  <b>evaluation</b> 6907:23  <b>even</b> 6787:18  6791:24 6806:6</p>	<p>6811:4,10  6812:10 6842:22  6843:1 6844:19  6847:8 6852:19  6883:12 6902:6  6918:19,21  6924:13 6930:8  <b>evenings</b> 6946:23  <b>event</b> 6830:17  6833:2 6861:6  6871:22  <b>events</b> 6844:4  6897:25  <b>eventually</b> 6784:17  6784:18 6785:4  <b>ever</b> 6796:1 6807:1  6807:7  <b>every</b> 6789:1  6791:15 6800:18  6800:18 6838:22  6855:19 6908:25  6919:16,19  6924:5 6925:22  6941:21  <b>everybody</b> 6930:24  6940:25 6945:25  6946:5,6  <b>everyday</b> 6837:5  <b>everyone</b> 6916:3  6937:19 6949:18  6953:11  <b>everything</b> 6856:1,1  6861:20 6890:13  6928:17 6931:14  6940:15 6942:15  6943:23 6948:9  <b>everywhere</b> 6816:3  <b>evidence</b> 6819:25  6821:17 6828:25  6863:20 6866:11  6884:5 6903:17  6907:25  <b>evidenced</b> 6863:1  <b>evident</b> 6854:5  6928:11  <b>evolution</b> 6890:17  <b>evolutionary</b>  6850:23  <b>evolving</b> 6864:20  6883:19,21  6896:11,22  6897:9 6899:18  6900:8  <b>exact</b> 6825:17  6838:25  <b>exactly</b> 6833:23  6868:12 6876:2  6878:14 6891:19  <b>examination</b> 6850:5  6883:6</p>	<p><b>examine</b> 6858:1  6883:4 6898:4  <b>examined</b> 6870:10  <b>Examiner</b> 6957:6  6957:15  <b>EXAMINER'S</b>  6957:1  <b>examines</b> 6857:21  <b>examining</b> 6830:9  <b>example</b> 6790:4  6795:19 6844:5  6864:5 6881:11  6883:8 6886:16  6888:12,24  6890:10 6892:13  6892:17 6893:4  6898:12,17,21  6900:6 6933:2  6943:22 6952:4  <b>examples</b> 6850:23  6858:19 6859:25  6883:9 6888:10  6889:18 6891:11  6902:3 6949:13  6954:17  <b>excavated</b> 6811:14  <b>exceed</b> 6884:18  <b>exceeded</b> 6887:12  <b>excess</b> 6949:8  <b>exchange</b> 6924:15  <b>exclusion</b> 6860:12  <b>excursions</b> 6797:24  <b>excuse</b> 6864:24  6867:19 6900:16  <b>exercise</b> 6782:14  6835:1  <b>EXHIBIT</b> 6779:2  6905:3,5,7,10,11  6905:13,15,18,20  6905:21  <b>EXHIBITS</b> 6779:1  <b>exist</b> 6863:3 6896:4  6902:5  <b>existence</b> 6868:20  6901:16  <b>existing</b> 6797:15,19  6834:1 6870:3  6907:8  <b>exists</b> 6816:20  6859:7 6891:22  6896:5 6922:19  <b>expand</b> 6848:14  <b>expansive</b> 6852:16  6854:15 6858:5  6859:22  <b>expect</b> 6926:1  <b>expected</b> 6787:9  6821:23 6863:17  6864:18 6923:22  <b>expecting</b> 6846:15</p>
--	--	---	---	--



<p><b>expenditure</b> 6829:4 6833:8</p> <p><b>experience</b> 6795:21 6797:9 6804:17 6805:18 6862:4 6907:17 6916:25</p> <p><b>experienced</b> 6792:13 6862:12 6915:20</p> <p><b>experiences</b> 6795:18 6907:19</p> <p><b>expert</b> 6782:22 6872:6 6955:11</p> <p><b>expertise</b> 6848:4 6952:18</p> <p><b>experts</b> 6871:18 6942:19 6943:2 6943:10 6954:18 6955:2</p> <p><b>explain</b> 6821:12</p> <p><b>explanation</b> 6811:12 6846:4 6936:2</p> <p><b>explicitly</b> 6860:17</p> <p><b>explore</b> 6854:2 6884:23 6890:6</p> <p><b>export</b> 6834:2 6843:7 6950:6</p> <p><b>exporting</b> 6950:9</p> <p><b>exposed</b> 6788:22</p> <p><b>exposure</b> 6807:14</p> <p><b>express</b> 6916:1</p> <p><b>expressed</b> 6860:18 6873:4 6907:21 6919:17</p> <p><b>extend</b> 6816:3 6886:23</p> <p><b>extended</b> 6794:4 6814:3 6833:5 6866:24</p> <p><b>extending</b> 6816:8</p> <p><b>extends</b> 6886:7</p> <p><b>extensive</b> 6793:5 6954:12</p> <p><b>extensively</b> 6810:23</p> <p><b>extent</b> 6782:21 6786:2 6850:2 6870:11 6871:1 6892:12 6893:13 6895:2 6918:20</p> <p><b>external</b> 6943:2,10</p> <p><b>extra</b> 6786:6 6825:6 6825:6 6951:25</p> <p><b>extraordinarily</b> 6934:9</p> <p><b>extreme</b> 6950:25</p> <p><b>extremely</b> 6842:23 6951:1</p> <hr/> <p style="text-align: center;"><b>F</b></p>	<p><b>fabric</b> 6886:6</p> <p><b>facility</b> 6797:11</p> <p><b>fact</b> 6803:17 6809:6 6809:20 6830:15 6839:14 6842:25 6844:4 6889:3 6891:14 6893:23 6896:16 6898:18 6922:18 6924:18 6933:10 6942:10 6943:14 6950:20</p> <p><b>failed</b> 6915:2</p> <p><b>failing</b> 6846:8</p> <p><b>failure</b> 6846:17 6858:14 6914:22 6915:5 6925:23</p> <p><b>fair</b> 6786:5 6788:20 6831:12 6871:17 6877:14,16 6881:3 6945:11 6954:8 6956:5,5</p> <p><b>fairly</b> 6788:24 6886:15 6888:6 6892:14 6929:25 6934:21 6942:6 6945:5 6956:3</p> <p><b>fall</b> 6820:17,19 6841:2 6931:25</p> <p><b>fallen</b> 6926:12</p> <p><b>falling</b> 6900:18</p> <p><b>familiar</b> 6852:13 6874:20 6877:22 6878:2 6914:18</p> <p><b>families</b> 6920:1</p> <p><b>famous</b> 6926:19</p> <p><b>far</b> 6782:5 6856:18 6857:16,25 6859:24,25 6862:2,5 6884:11 6887:1 6888:14 6891:24 6897:18 6899:7 6925:7,24 6941:6 6943:23 6945:8</p> <p><b>Fargo</b> 6837:10 6838:10</p> <p><b>farmer</b> 6920:12</p> <p><b>farmers</b> 6920:12</p> <p><b>fashion</b> 6786:14 6885:24 6888:16</p> <p><b>fast</b> 6898:3</p> <p><b>fate</b> 6851:19 6852:24</p> <p><b>faults</b> 6926:17</p> <p><b>favorite</b> 6940:22 6945:15</p> <p><b>favourably</b> 6847:25</p> <p><b>fax</b> 6935:25</p> <p><b>faxes</b> 6935:18</p> <p><b>fear</b> 6801:7 6898:17</p>	<p><b>February</b> 6779:9 6792:22 6848:15 6865:14,23 6866:25 6867:2,3 6867:6,16,22 6868:6,23 6869:4 6871:10,11 6877:3 6904:20 6905:12 6918:20</p> <p><b>Federal</b> 6860:22,24 6954:18,23</p> <p><b>Federation</b> 6777:15 6779:4 6819:16 6904:16 6905:6</p> <p><b>fee</b> 6818:3</p> <p><b>feed</b> 6949:5,7</p> <p><b>feeding</b> 6887:25</p> <p><b>feeds</b> 6824:6</p> <p><b>feel</b> 6849:16 6856:11 6928:7</p> <p><b>feet</b> 6782:16</p> <p><b>fellow</b> 6906:20</p> <p><b>felt</b> 6817:21</p> <p><b>fence</b> 6806:9 6918:18</p> <p><b>fenced</b> 6919:3</p> <p><b>fences</b> 6811:20</p> <p><b>fencing</b> 6806:11 6811:25 6812:15</p> <p><b>fertile</b> 6863:12</p> <p><b>few</b> 6792:14 6802:20 6809:22 6810:25 6815:7 6841:10 6849:9 6867:17 6870:25 6871:17 6876:10 6895:23 6909:10 6909:11 6912:15 6955:22</p> <p><b>fictionalized</b> 6884:20</p> <p><b>fictionalizing</b> 6863:11</p> <p><b>field</b> 6782:1 6871:18 6872:6 6872:22 6919:9 6939:6,7,18 6940:5,8</p> <p><b>figure</b> 6832:3,5 6845:20,21 6939:24 6948:1 6948:17,18</p> <p><b>file</b> 6884:24</p> <p><b>filed</b> 6819:15,17 6821:16 6848:8 6869:7,14,21 6929:5 6943:16 6950:22 6953:11</p> <p><b>filing</b> 6857:13 6858:15 6866:1</p>	<p><b>fill</b> 6902:11 6917:1</p> <p><b>final</b> 6781:13 6812:3 6814:10 6816:17 6841:17 6898:24 6904:5 6911:15 6917:14 6917:15,20 6953:4</p> <p><b>finalized</b> 6943:13</p> <p><b>finally</b> 6889:7</p> <p><b>financial</b> 6842:5,11 6844:11</p> <p><b>find</b> 6791:15 6818:22 6819:1 6822:10,11 6883:23 6885:19 6911:22 6931:3 6951:8</p> <p><b>finding</b> 6845:8</p> <p><b>findings</b> 6845:5</p> <p><b>fine</b> 6868:4 6884:23 6898:25</p> <p><b>finest</b> 6916:6</p> <p><b>finger</b> 6838:25 6839:1</p> <p><b>finish</b> 6829:22</p> <p><b>finished</b> 6822:2 6842:8</p> <p><b>fire</b> 6788:12 6898:21</p> <p><b>firmly</b> 6862:19 6929:12</p> <p><b>first</b> 6777:20 6778:2 6779:14 6780:12 6781:6 6783:14 6783:20 6784:14 6786:22 6787:12 6787:15,20 6788:8 6790:3,13 6791:11 6794:2 6795:7,9 6798:25 6800:9 6807:24 6810:5 6813:18 6821:12 6823:18 6842:8 6854:20 6855:5 6856:15 6856:20 6857:3 6860:7,12,25 6870:17 6875:7 6879:12 6885:22 6886:12 6887:9 6888:9 6891:9 6893:11 6897:5 6901:16 6904:6,8 6904:22 6905:17 6908:8 6913:25 6914:5,11,14 6916:10,12 6917:14,17 6919:23 6920:19</p>	<p>6921:8 6922:6,23 6923:1,10 6925:17,17,25 6926:24,25 6929:15 6930:4 6930:18 6933:4 6933:24 6935:20 6936:12 6938:23 6940:12 6941:21 6942:13 6944:23 6944:24 6947:10 6951:12</p> <p><b>fisher</b> 6823:17</p> <p><b>fisher</b> 6781:21</p> <p><b>fitting</b> 6941:4</p> <p><b>five</b> 6784:3,14 6790:20 6810:8 6930:8 6952:12 6956:2</p> <p><b>five-month</b> 6939:23</p> <p><b>fixed</b> 6801:1 6898:23 6952:24</p> <p><b>flexibility</b> 6952:2</p> <p><b>flowing</b> 6916:14</p> <p><b>flows</b> 6916:8</p> <p><b>flux</b> 6836:16</p> <p><b>flying</b> 6782:8</p> <p><b>focus</b> 6861:1 6862:19 6932:5 6947:9</p> <p><b>focused</b> 6857:15 6869:20</p> <p><b>folk</b> 6807:2 6808:11</p> <p><b>folks</b> 6821:25 6905:25</p> <p><b>follow</b> 6803:13 6804:11 6832:4 6849:24 6901:21</p> <p><b>followed</b> 6791:5,5 6832:2 6850:22 6880:19</p> <p><b>following</b> 6781:8,9 6781:12 6792:25 6853:19 6859:20 6861:13 6888:15 6900:14 6904:7 6914:16</p> <p><b>follows</b> 6855:6,7 6856:6,7 6864:21 6914:18</p> <p><b>follow-up</b> 6793:1 6796:2 6843:18</p> <p><b>fond</b> 6876:7</p> <p><b>Food</b> 6788:14</p> <p><b>foot</b> 6819:1</p> <p><b>footprint</b> 6873:24</p> <p><b>foreage</b> 6806:6</p> <p><b>forecast</b> 6829:5,12 6829:15 6833:8 6839:1,7 6857:24</p>
--	---	--	--	---

<p><b>foregoing</b> 6957:7  <b>foreseeable</b> 6878:12  <b>forest</b> 6954:15  <b>forestry</b> 6954:12  <b>forks</b> 6807:6  <b>formal</b> 6912:25          6913:19  <b>forms</b> 6898:15  <b>formula</b> 6950:7  <b>formulae</b> 6859:21  <b>forth</b> 6789:24          6794:13 6796:19  <b>forthcoming</b>          6852:13 6922:17  <b>forward</b> 6790:9          6791:24 6800:22          6801:7,18 6819:1          6821:21 6822:4          6840:10 6924:7          6936:23 6942:25          6944:1,7 6950:2  <b>forward-looking</b>          6890:5  <b>found</b> 6784:21          6858:20 6904:13          6913:11 6920:1          6922:4 6946:11  <b>foundation</b> 6862:19  <b>foundations</b>          6792:11  <b>founded</b> 6925:10  <b>four</b> 6781:12          6844:23 6925:6          6930:7 6938:11          6941:10,12          6952:12 6956:2  <b>fox</b> 6781:23 6795:7          6796:8 6798:22          6799:2 6870:16  <b>fragmentation</b>          6812:11 6908:11  <b>frame</b> 6841:5          6843:16 6856:13  <b>framework</b> 6841:14          6889:22,24          6891:2,8  <b>framework's</b>          6890:7  <b>free</b> 6786:12  <b>freeboard</b> 6858:1  <b>Friesen</b> 6777:11  <b>from</b> 6779:6,15          6781:7,18,20          6782:4,21          6785:10,13          6787:2,4 6789:20          6791:13 6792:4          6793:8 6796:22          6797:11 6798:18          6800:14 6804:1</p>	<p>6804:20 6806:13          6807:21 6809:8          6810:8 6811:4,5          6811:16,16          6813:24 6814:23          6816:25 6817:2          6821:18,22          6825:6 6826:21          6827:14,16          6828:22 6829:17          6830:7 6831:23          6833:9,17,21          6834:20 6835:7          6837:2 6838:2          6839:18 6840:9          6840:10 6841:18          6842:9 6844:6,11          6844:24 6845:6          6850:5,9,11,13,15          6852:3,13          6863:22 6874:15          6877:9 6881:10          6881:14 6886:18          6891:25 6892:4          6894:12 6896:3          6899:23 6900:13          6903:2,6 6904:14          6904:17,24          6905:8,19          6906:22 6910:25          6912:22 6913:2          6915:13,18          6919:9,9 6920:25          6924:2,17 6929:2          6929:3,12,19,24          6935:19 6938:14          6938:15,15,16          6940:5 6943:10          6943:24 6944:16          6944:22 6946:8          6946:16 6952:8  <b>front</b> 6801:17          6802:16 6826:17          6835:11 6837:21          6839:5 6840:18          6905:25 6923:13          6927:22 6929:15          6930:20 6953:24  <b>frustration</b> 6859:14  <b>fuel</b> 6792:7  <b>fulfilled</b> 6929:1,14  <b>full</b> 6786:2 6815:9          6817:25 6823:1          6877:5,9 6902:13          6932:23 6933:3  <b>fully</b> 6782:25          6861:24 6896:24          6910:15 6918:21  <b>function</b> 6950:1  <b>fund</b> 6923:7,10</p>	<p><b>fundamental</b>          6851:21 6852:5          6883:25  <b>Fundamentally</b>          6894:16  <b>fundamentals</b>          6849:14 6850:8          6851:3,5,16          6875:20  <b>funded</b> 6955:9  <b>further</b> 6802:3          6813:24 6847:14          6848:14 6875:16          6876:4 6879:3          6884:7 6893:18          6894:8 6902:19          6903:17 6932:13          6940:10  <b>furtherance</b>          6799:14  <b>future</b> 6799:11          6802:5 6828:25          6830:22 6834:10          6834:13 6843:13          6844:4,18          6863:13 6883:5          6885:8,12 6886:5          6886:11,15,21          6889:2,17 6890:9          6890:22 6898:11          6898:17 6909:21          6948:19 6950:8  <b>futures</b> 6859:25          6886:8</p> <hr/> <p style="text-align: center;"><b>G</b></p> <hr/> <p><b>G</b> 6780:6,14          6815:16  <b>Gaile</b> 6777:17          6927:20  <b>gain</b> 6883:11          6917:23  <b>gained</b> 6891:25          6892:6  <b>gait</b> 6782:15  <b>game</b> 6802:18          6812:2  <b>gamut</b> 6792:20  <b>gap</b> 6902:11 6938:1  <b>gaps</b> 6861:25  <b>Garland</b> 6777:12  <b>Garson</b> 6912:20  <b>gas</b> 6891:7  <b>gate</b> 6812:1  <b>gates</b> 6811:22          6812:15  <b>gathering</b> 6807:3          6929:25 6930:8          6934:5 6951:14  <b>gave</b> 6799:14</p>	<p>6893:12  <b>gears</b> 6817:6  <b>general</b> 6786:19          6787:7 6790:4          6812:19 6813:4          6813:22 6837:9          6928:5 6932:18  <b>generally</b> 6795:25          6797:23 6802:19          6813:3 6833:22          6852:16 6881:19          6933:1 6939:2  <b>generating</b> 6800:10  <b>generation</b> 6830:23          6831:9 6834:10          6841:1 6843:5          6844:18,18          6868:10,17          6929:21 6952:20  <b>generic</b> 6849:9          6889:20 6891:10  <b>generically</b> 6888:12  <b>gentleman</b> 6811:16          6886:18 6915:13  <b>gentlemen</b> 6782:12          6822:19 6847:15  <b>George</b> 6847:22          6848:10  <b>Gerald</b> 6782:6  <b>germane</b> 6799:2          6915:18  <b>gets</b> 6792:12 6838:6          6841:17 6942:3  <b>getting</b> 6791:11          6802:8 6819:22          6929:11  <b>GHA</b> 6813:20          6814:2  <b>Gibbons</b> 6777:4          6779:16 6783:2,4          6785:18 6787:1          6787:16 6789:16          6793:1 6794:10          6794:15 6795:3          6796:8,9,14          6798:14 6799:3          6841:25 6843:18          6845:16 6893:9          6893:10 6896:10          6899:11 6900:11          6902:16 6904:24          6905:19  <b>Gillam</b> 6788:2          6793:3,20          6794:11 6795:7          6795:10 6796:21          6796:24 6798:7          6798:24 6913:14  <b>Gimli</b> 6781:22  <b>give</b> 6793:4,14</p>	<p>6820:2 6825:3          6829:23 6832:1          6874:1 6898:15          6908:5 6932:22  <b>given</b> 6799:20          6833:4 6842:24          6843:15 6849:12          6857:6 6882:19          6896:18 6897:23          6899:20 6913:15          6913:18 6943:18          6945:11  <b>glass</b> 6822:22          6823:1  <b>Glenn</b> 6783:25  <b>globally</b> 6850:22  <b>Gloria</b> 6777:14  <b>go</b> 6781:19,23          6784:4,21 6791:7          6791:12,24          6800:17 6802:2          6802:21 6805:14          6808:8 6810:9,11          6812:13 6815:6          6818:3 6820:9,14          6822:19 6826:2          6828:5 6832:11          6833:9 6836:18          6837:16 6848:2          6848:11 6850:25          6863:9 6865:22          6875:4 6879:25          6887:5 6896:3          6903:22 6905:25          6906:1 6931:4          6939:15 6945:7          6947:13 6953:17          6955:18  <b>goal</b> 6897:1,2  <b>goals</b> 6949:17  <b>goes</b> 6799:25 6824:6          6827:2 6830:17          6830:19 6835:6          6839:24 6843:6          6864:20 6890:1          6895:4 6930:22          6940:22 6949:10  <b>going</b> 6781:17          6786:17,18          6789:3,4 6795:23          6797:11 6804:2          6811:20,22          6815:5 6818:19          6818:23,24          6820:9 6824:15          6827:18 6830:8          6831:5,7 6834:8          6835:2 6837:5,7          6837:17 6840:11          6842:13 6844:1</p>
--	---	--	--	--

6847:5 6874:12 6885:23 6888:20 6888:21,23 6889:3,8 6890:8 6890:24 6895:7 6901:3 6902:7,8 6925:18 6935:10 6935:17 6936:3 6940:9 6941:13 6941:17,18 6945:1,7 6947:13 6947:19 6950:1 6952:5 6953:14 6953:15,21 <b>gone</b> 6825:13 6826:21 6910:11 <b>good</b> 6781:3 6782:11 6783:4 6807:14,23 6815:4 6818:17 6848:12 6850:14 6850:17 6851:17 6861:18,19 6864:5 6865:10 6873:3 6874:15 6875:5 6876:20 6882:6,25 6884:2 6884:2,12 6887:11 6891:4 6896:19 6906:18 6914:2 6925:10 6931:25 6945:2 6954:9 <b>Gord</b> 6915:12 <b>Gore</b> 6947:25 <b>government</b> 6850:10 6871:16 6886:19 6889:14 6893:7 6955:2,4 <b>grain</b> 6920:12 <b>Grand</b> 6808:12,21 6820:10,19 6821:6 <b>Grant</b> 6801:12 6802:25 <b>granted</b> 6805:18 <b>grapple</b> 6901:17 <b>grass</b> 6820:21 6821:6 <b>grasses</b> 6785:3 <b>grave</b> 6917:12 <b>grazing</b> 6919:10 <b>great</b> 6838:21 6841:19 6844:25 6858:16 6863:15 6926:23 6939:6 6940:1 <b>greater</b> 6832:21 6858:1 6925:25 6943:25 6945:13	6952:25 <b>greatest</b> 6914:21 6916:4 <b>green</b> 6777:4,18 6809:4 6821:1,9 6825:22 6831:13 6956:7 <b>Gretna</b> 6833:10 6835:7,7 <b>grid</b> 6949:10 <b>grips</b> 6896:24 <b>ground</b> 6813:12 6939:6 <b>grounded</b> 6907:16 <b>grounds</b> 6863:13 <b>group</b> 6786:23 6791:11 6804:7 6820:5 6834:20 6835:4 6872:17 6937:8 <b>groups</b> 6781:13 6787:20 6794:25 6807:5 6811:2,3 <b>grow</b> 6788:25 6807:23 6809:1 6832:9 <b>growing</b> 6784:6 6785:2 6809:5 6843:8 <b>growth</b> 6788:21 6843:11 <b>growths</b> 6784:17 <b>guarantee</b> 6862:11 <b>guess</b> 6781:5 6785:19 6794:6 6797:1 6803:16 6803:18 6814:6 6814:23 6815:24 6817:17 6825:23 6885:6 6903:7 6935:11 <b>guidance</b> 6850:10 6862:16 6875:20 6876:20 6880:21 6886:17,22 6896:18 6901:25 6903:2 <b>guide</b> 6847:22 6850:1 6855:8 6856:8 6862:15 6872:19 6873:11 6873:19 6874:7 6875:19 6876:21 6880:9,11,17,23 6886:16 <b>guideline</b> 6877:23 6879:1 <b>guidelines</b> 6878:24 6880:5 6882:13 6882:17,22,23	6899:21 <b>Gunn</b> 6847:24 6848:16 6849:5 6858:23 6864:6 6866:11,16,22 6869:9,22 6873:12 <b>G1A/G2A</b> 6820:18 <hr/> <b>H</b> <hr/> <b>habitat</b> 6803:7 <b>half</b> 6792:23 6810:9 6810:12 6817:24 6822:22 6823:1,2 6913:16 6935:25 6949:1 <b>halfway</b> 6879:11 <b>halls</b> 6862:7 <b>hand</b> 6792:4 6861:13 6865:13 6884:20 6886:2 6919:4,5 <b>handed</b> 6899:22 <b>handful</b> 6793:6 <b>handgun</b> 6809:14 <b>handle</b> 6796:24 6910:16 <b>handled</b> 6934:17,21 6935:16 6954:13 6955:12 <b>handout</b> 6900:13 <b>hang</b> 6950:8 <b>Hannon</b> 6915:13 6926:13 <b>happen</b> 6831:10 6833:3 6857:24 6888:4 6889:4 6891:11 6899:5 6915:22 6939:22 6941:18 <b>happened</b> 6881:6 6890:2 6892:16 6952:17 6953:6 6954:17 <b>happening</b> 6857:22 6857:23 6881:7 6889:15 6890:21 6924:8 <b>happens</b> 6788:21 6825:8 6834:16 6852:22 6854:14 6886:1 6889:6 <b>hard</b> 6848:18 6946:2 <b>hardship</b> 6804:2 <b>harken</b> 6930:14 <b>Harmonized</b> 6798:7 6798:24 <b>harmony</b> 6907:22 <b>harvester</b> 6920:15	<b>harvesters</b> 6786:7 6920:3,5,10 <b>harvesting</b> 6783:22 6785:21 6786:5 6787:4,11,24,24 <b>having</b> 6782:13 6794:2 6803:19 6807:25 6818:25 6851:25 6920:4 6925:21,21 6951:21 6952:8 <b>Hazel</b> 6821:2 <b>head</b> 6791:4 6819:11 6823:6 <b>heading</b> 6829:17 6930:20 <b>headline</b> 6878:20,21 <b>health</b> 6922:13,16 6922:23 6926:23 6949:25 <b>healthy</b> 6952:21 <b>hear</b> 6793:20 6796:10 6818:10 6868:4 6906:25 <b>heard</b> 6781:20 6783:9 6809:22 6810:16 6811:4,4 6811:15 6812:22 6813:6 6814:21 6818:7 6821:18 6846:19 6847:20 6913:9 6920:6,25 6923:6 6929:17 6930:11 6932:14 6936:8 6939:13 6943:14,23 6951:20 <b>hearing</b> 6776:7 6820:6 6828:25 6852:1 6895:25 6904:2 6913:1 6929:23 6932:4 6946:15 <b>hearings</b> 6779:13 6868:9,17 6896:14 6904:22 6905:16 6907:3,5 6907:10 6908:8 6928:1,14 6929:10 6930:16 6931:12 6939:12 6942:10,22 6946:2,3,14 6948:10 6952:16 6954:12,18,19 <b>heart</b> 6898:7 <b>heat</b> 6948:24,25 <b>heated</b> 6947:24 <b>heavily</b> 6834:17 <b>heavy</b> 6792:5	<b>hectares</b> 6933:5 <b>heel</b> 6782:19 <b>Hegmann</b> 6780:6 6822:4 6847:23 6848:4,10,12,21 6865:11,12,16,22 6865:25 6866:9 6866:18,19,20,23 6867:5,16,19,25 6868:2,4,5,11,19 6869:2,11,17 6870:4,10,18,24 6871:6,9,13,20,25 6872:4,8,15,20,23 6873:8,25 6874:9 6874:17,21 6875:3,11 6876:6 6876:10,19,25 6877:4,10,11,13 6877:16,20 6878:2,13,17,22 6878:25 6879:3 6879:22 6880:3,7 6880:12,16,24 6881:3,19 6882:18,24 6883:25 6885:15 6888:2,8 6892:10 6894:13 6897:5 6899:14 6900:13 6901:5 6902:18 6903:5,25 <b>Hegmann's</b> 6779:8 6779:9,11 6904:19,19,20 6905:10,11,13 <b>height</b> 6788:5 6815:25 <b>held</b> 6776:18 6815:17 6933:5 6952:13 <b>help</b> 6791:16 6796:11 6797:5 6851:16,19 6889:13,17 6890:8 6891:25 6918:25 6919:12 6922:16 6933:9 <b>hence</b> 6817:24 6851:2 6853:10 6854:12 <b>herbicide</b> 6783:15 6783:17 6784:5 6785:1,24 6786:12 6787:2 6787:17 6808:8 6808:16,22 6809:3,15 <b>herbicides</b> 6783:21 6785:21 6786:1,8
--	--	---	--	--

<p>6789:19 6809:21 6810:15 <b>herbicide</b> 6784:2 6784:19 6785:4,8 6785:17 6786:19 <b>herbs</b> 6919:22 <b>herd</b> 6817:2 6916:20 6918:16 <b>herds</b> 6944:11,18 <b>hereinbefore</b> 6957:9 <b>hesitating</b> 6955:6 <b>high</b> 6832:25 6837:3 6842:23 6845:14 6901:12 6902:1 6921:8 <b>highly</b> 6876:8 <b>highway</b> 6811:6 6814:12 6816:16 <b>Hills</b> 6807:17 <b>him</b> 6848:6 6866:8 6876:8 6913:5 <b>hindsight</b> 6881:9 <b>hire</b> 6790:25 6791:1 <b>hiring</b> 6790:16 6791:1,19 <b>historical</b> 6846:13 <b>historically</b> 6846:8 6888:14 <b>history</b> 6817:18 6850:21 <b>hit</b> 6784:7,8 <b>hold</b> 6898:3 6950:8 <b>holder</b> 6846:14 <b>holds</b> 6932:20 <b>hole</b> 6936:10 <b>holistically</b> 6941:6 <b>home</b> 6802:21 6949:9 <b>homeland</b> 6909:12 <b>honour</b> 6909:23 6915:10 <b>hook</b> 6806:12 <b>hope</b> 6841:25 6848:21 6903:22 6926:23 <b>hopeful</b> 6936:24 <b>hopefully</b> 6816:18 6914:9 6948:14 <b>hoping</b> 6794:21 6795:1 6846:15 6925:8 <b>horizon</b> 6888:21 <b>horizons</b> 6877:6 <b>horse</b> 6819:22 <b>hour</b> 6782:9 <b>House</b> 6930:18 6947:8 <b>huge</b> 6940:13 <b>human</b> 6851:15</p>	<p>6853:25 6855:2 6862:3 6883:7 6886:22 6897:24 6948:13 <b>humanist</b> 6948:14 <b>hundred</b> 6804:6 6826:23 6827:3,8 6827:13 <b>hundreds</b> 6908:14 6916:18 6921:24 6933:4 <b>hunt</b> 6799:10 6801:1 <b>hunters</b> 6802:20 6804:15 6811:6 <b>hunting</b> 6787:11,25 6807:2 6811:10 6812:3,9 6813:10 6929:24 <b>HVDC</b> 6828:17 <b>hydro</b> 6777:8 6779:6 6780:2,4,6 6785:22 6786:9 6791:21 6793:8 6794:1 6795:8,17 6796:22 6797:2 6797:20 6798:18 6798:20 6799:15 6799:21 6800:4 6801:8 6802:4 6803:17 6806:12 6817:9 6821:22 6822:8 6823:16 6828:8,19 6831:17 6833:2 6834:13 6835:5 6836:24 6841:1 6842:7,20 6843:2 6846:5,21 6848:2 6866:3,10 6868:25 6869:7 6869:15 6882:15 6902:19 6904:17 6905:8 6906:20 6907:9,11 6908:22,23,25 6909:6,20,21 6910:4,8 6911:7 6914:13 6916:17 6917:8,19,20,24 6918:22,24 6919:20 6920:20 6921:16,17,20,22 6922:2,7,17 6923:3,9 6924:16 6925:3,19 6926:6 6927:4 6929:7,16 6931:23 6934:14 6936:15 6937:4,9 6939:9 6940:1</p>	<p>6941:10,25 6942:24 6943:1,2 6943:16 6944:7 6944:16 6946:6 6946:16 6950:2 6950:16 6954:9 <b>hydroelectric</b> 6907:17 6909:18 <b>Hydro's</b> 6781:10 6783:24 6787:8 6787:21 6789:22 6809:23 6832:22 6837:15 6839:12 6839:22 6915:4 6922:3 6927:5 6929:19 6932:8 <b>hypothetical</b> 6859:25 6863:10 6884:20 6886:24</p> <hr/> <p style="text-align: center;"><b>I</b></p> <p><b>Ian</b> 6777:22 <b>idea</b> 6784:7 6791:7 6885:22 6894:10 6895:17 6896:24 6935:4,5 <b>ideal</b> 6943:3 6945:11 <b>idealist</b> 6881:18 <b>idealistic</b> 6882:20 <b>ideally</b> 6944:1 6945:15 <b>ideals</b> 6861:7,10 <b>identical</b> 6831:25 6920:9 <b>identification</b> 6943:5 <b>identified</b> 6803:3 6812:18,25 6814:2,8,12,14 6819:9 6846:25 6871:21 6873:12 <b>identifies</b> 6875:21 <b>identify</b> 6782:20 6786:22 6823:16 6867:17,22 <b>Identifying</b> 6878:20 <b>ignores</b> 6832:24 6845:3 6919:8 <b>II</b> 6795:19 6796:1 6797:3 6808:13 6808:15,18,21 6817:9 6818:8 6820:18 6823:17 6824:9 6827:2,14 6827:16,24 6842:9,15,24,25 6843:12,25 6844:2,10 6845:11,22,25</p>	<p>6846:22,25 6948:2,20 <b>III</b> 6776:6 6777:10 6790:12,18 6801:3,15 6802:22 6803:8 6808:12 6825:7 6828:7 6830:21 6831:17 6834:21 6838:8,15,16 6842:8,13,21 6843:25 6844:3,9 6847:10 6848:15 6848:24 6849:23 6851:23 6906:19 6907:14,24 6908:2,20 6909:3 6909:15 6910:3 6910:25 6911:5 6914:13,15 6916:13 6917:4 6917:10 6918:10 6918:13,19 6919:11 6922:15 6925:20 6927:1 6938:25 6939:5 6939:16 6940:14 6941:7,23 6944:12 6948:19 <b>illustrate</b> 6888:12 <b>imagine</b> 6948:22 <b>immeasurably</b> 6927:13 <b>immersed</b> 6862:10 <b>impact</b> 6800:22 6802:23 6806:13 6869:16 6870:2 6872:11,24 6884:1,15 6894:22 6897:14 6901:20 6931:24 6932:7 <b>impacted</b> 6909:11 <b>impacts</b> 6835:2 6907:6,12,14,24 6908:2,16,20 6909:18 6929:23 6931:17 6932:15 6940:7 <b>implication</b> 6915:17 <b>implications</b> 6860:5 6898:9 <b>implied</b> 6896:21 <b>implies</b> 6831:4 <b>import</b> 6834:3 6843:8,9 <b>importance</b> 6853:5 6881:25 <b>important</b> 6804:14 6812:7,22 6838:2</p>	<p>6849:23 6853:13 6856:12 6859:6 6873:10 6875:13 6876:3 6890:16 6894:14 6896:17 6899:1,5,10 6902:6 6943:25 6944:6 <b>importantly</b> 6884:3 6889:17 <b>impression</b> 6881:14 <b>improve</b> 6851:1 6857:2 6859:12 6953:18 <b>improves</b> 6936:20 <b>inadequate</b> 6914:22 <b>inadvertent</b> 6803:1 <b>inclined</b> 6942:7 <b>include</b> 6812:15 6898:20 6953:5 <b>included</b> 6824:1 6825:3,6 6847:6 6879:20 6885:7 6885:12 6886:25 6895:4 6943:15 <b>includes</b> 6829:8,19 6830:1 6850:18 6864:14 6882:12 6921:24 <b>including</b> 6798:22 6811:3 6813:8 6854:17,21 6855:21 6858:22 6863:4 6871:22 6873:15 6878:7 6882:14 6887:2 6898:21 6937:16 6937:16,17 6940:6 6949:19 6955:9 <b>inclusive</b> 6798:22 6914:24 6924:24 <b>income</b> 6800:11 6929:24 <b>incomprehensible</b> 6909:5 <b>inconsistent</b> 6900:8 <b>incorporate</b> 6881:15 6903:5 <b>incorporation</b> 6891:1 6926:22 <b>increase</b> 6831:2,2 6834:3 6947:9 <b>increased</b> 6812:9 <b>increasingly</b> 6921:13 6922:11 <b>incredible</b> 6939:10 <b>incremental</b> 6854:8 <b>incur</b> 6801:14 6806:4</p>
---	---	---	--	--

<b>incurred</b> 6830:17	6942:25 6943:25	<b>interest</b> 6792:16	6818:15 6842:16	6854:24 6862:2
<b>indeed</b> 6820:17,22	6945:6,18	6795:10 6849:2	6843:23 6845:14	6865:12 6867:8
6850:22 6873:12	6951:10	6853:17,17	6849:1,2 6859:10	6869:24 6873:18
6874:6,7 6884:19	<b>informative</b>	6946:9	6868:3 6885:17	6874:11 6875:3,5
6886:5 6898:13	6797:10 6896:7	<b>interested</b> 6791:13	6897:4 6921:5	6876:22 6880:7
6901:21	<b>informed</b> 6795:22	6791:23 6794:2	<b>issued</b> 6907:11	6882:6 6883:21
<b>independent</b>	6796:4	<b>interesting</b> 6883:16	6923:11 6924:12	6888:21 6897:20
6942:21 6943:3	<b>informing</b> 6913:12	<b>interests</b> 6799:2	<b>issues</b> 6804:9,14	6898:3,16
6943:25 6952:3	<b>initial</b> 6952:16	6907:8,12	6807:25 6814:14	6899:11 6900:9
6955:1	<b>initially</b> 6834:4	<b>interfere</b> 6806:10	6819:23 6821:13	6902:25 6903:9
<b>INDEX</b> 6779:1	6843:8 6880:5	6807:15	6844:20 6845:7	6903:10 6906:8
6780:1	<b>initiation</b> 6897:20	<b>intermittent</b> 6790:1	6856:12,13,17	6906:13 6911:18
<b>indicate</b> 6785:23,23	<b>initiative</b> 6889:21	6937:21	<b>i.e.</b> 6899:25	6912:17 6913:11
6786:10 6894:5	<b>initiatives</b> 6861:5	<b>internal</b> 6796:3		6915:21 6917:23
<b>indicated</b> 6794:22	<b>innovation</b> 6859:21	6798:20	<b>J</b>	6919:5 6921:4
6802:21 6809:8,9	6948:7,13	<b>International</b>	<b>J</b> 6780:12 6957:5,14	6926:16 6930:15
6835:5 6847:25	<b>input</b> 6813:19	6794:17	<b>James</b> 6777:19	6932:12,23
6869:3 6902:15	<b>insanity</b> 6926:19	<b>internet</b> 6953:8	<b>Janet</b> 6777:9	6936:1,6 6938:22
6910:2 6915:23	<b>insight</b> 6851:12	<b>interpretation</b>	<b>January</b> 6792:22	6943:18 6948:23
6921:16,19,22	6855:24 6856:4	6844:2 6884:4,9	<b>Jason</b> 6777:16	6952:4 6954:2,24
6956:5	6862:3 6866:21	6901:11	<b>job</b> 6792:18	<b>Justice</b> 6915:13
<b>indicating</b> 6903:11	6891:4	<b>intersection</b> 6921:9	6855:25 6861:13	6926:14
<b>indicators</b> 6782:16	<b>insights</b> 6863:22	<b>interventions</b>	6892:3	<b>justified</b> 6855:17
<b>indifference</b> 6916:9	<b>insignificant</b>	6943:19	<b>jobs</b> 6949:18	<b>juxtaposed</b> 6852:8
<b>individual</b> 6790:3	6908:16	<b>interviews</b> 6791:25	<b>John</b> 6778:3 6914:3	
6800:18 6804:10	<b>insists</b> 6919:10	6933:16 6934:6	6914:25 6925:16	<b>K</b>
6804:25 6809:16	<b>installations</b>	<b>intriguing</b> 6883:23	<b>Johnson</b> 6777:5,9	<b>Kaplan</b> 6777:3
6857:14 6859:1	6949:10	<b>introduce</b> 6895:17	6904:13 6906:10	6799:5,6 6802:2
6861:2	<b>installing</b> 6792:10	<b>introduced</b> 6886:18	<b>joining</b> 6915:15	6803:12 6893:8
<b>individuals</b> 6821:21	<b>instance</b> 6788:10	6894:19	<b>joint</b> 6790:14,20	<b>Kaplan's</b> 6822:13
6871:21 6873:14	6800:20 6801:13	<b>introducing</b>	<b>jointly</b> 6833:20	<b>Karen</b> 6777:11
6873:15 6890:5	6807:12 6812:14	6863:14 6875:12	<b>judge</b> 6833:3	<b>Keating</b> 6777:22
<b>indulgence</b> 6927:16	6814:9 6816:16	6906:14	<b>judgment</b> 6854:12	<b>keep</b> 6824:16
<b>industries</b> 6818:17	6933:2 6940:7	<b>introduction</b> 6793:2	6884:4	6889:3 6897:1
<b>industry</b> 6818:16,16	6947:10 6948:23	<b>introductory</b>	<b>July</b> 6823:18	6931:8
<b>inevitable</b> 6917:6	6952:16 6955:3	6866:14	6869:15 6943:17	<b>keeping</b> 6848:7
<b>infamous</b> 6921:23	<b>instances</b> 6801:11	<b>intuitive</b> 6852:24	<b>jump</b> 6955:22	<b>keeps</b> 6835:21
6924:14	6955:1	<b>investigation</b>	<b>junk</b> 6945:3,9	6846:5 6931:2
<b>influenced</b> 6893:3	<b>instead</b> 6857:21	6884:10 6939:4	6946:10	<b>Keewatinow</b>
<b>inform</b> 6797:6	6864:25	<b>involved</b> 6785:10,14	<b>junkscience.com</b>	6795:24 6796:6
6798:9	<b>institutions</b> 6859:17	6792:15 6804:6	6945:4	6796:16 6797:7
<b>information</b>	<b>instrumentally</b>	6857:8 6864:3	<b>jurisdictions</b> 6949:6	6797:14,18
6795:18 6801:17	6884:3	6891:7 6919:16	<b>just</b> 6782:19 6787:5	6908:13 6910:15
6810:17 6823:19	<b>insufficient</b> 6894:7	6929:3 6940:16	6788:8 6789:1	6911:21 6912:2
6823:21 6824:1	6933:11	6940:25 6947:18	6793:11,18	<b>Keeyask</b> 6955:22
6826:22 6851:18	<b>integrates</b> 6941:4	<b>involvement</b>	6796:7 6799:6	<b>Ken</b> 6777:4
6856:4 6858:5,15	<b>integrity</b> 6863:16	6802:10	6802:3 6803:13	<b>Kettle</b> 6807:17
6859:4 6864:23	<b>intend</b> 6911:4	<b>involves</b> 6798:25	6804:11 6805:23	<b>kilometre</b> 6815:15
6864:25 6866:1	<b>intent</b> 6784:16	6800:12	6806:23 6808:8	6815:18 6824:2
6870:11 6884:2	6845:4 6884:13	<b>in-depth</b> 6942:20	6810:14 6811:7	6826:9 6827:11
6885:1,25	6890:7 6902:12	<b>in-house</b> 6942:24	6811:11 6814:20	6829:9,14 6830:2
6887:11,14	6932:6	<b>in-province</b> 6950:7	6815:10 6817:8	6839:18 6931:24
6891:5,21,24	<b>interacting</b> 6851:14	<b>in-service</b> 6835:8	6817:14,16	<b>kilometres</b> 6826:22
6900:15,21,25	<b>interaction</b> 6795:8	6839:2,25	6818:6 6819:13	6826:23 6827:3,5
6901:10 6915:4,6	6796:13,15	<b>isolated</b> 6797:13	6822:15 6825:3,5	6827:8,13,17,21
6915:18 6924:7	6798:3,6,10,13	<b>issuance</b> 6910:18	6828:13 6829:22	6827:22 6828:17
6925:11,14	<b>interactions</b>	<b>issue</b> 6799:13	6833:9 6834:7	6829:20 6847:7
6928:15 6938:17	6795:22	6800:22 6801:19	6835:7 6836:4	6908:11 6932:9
6938:18,20	<b>interchangeably</b>	6808:8,9 6812:8	6841:7,9 6843:18	<b>kind</b> 6783:23
6939:8 6941:12	6857:9	6814:13 6816:25	6848:6 6853:1	6787:19 6790:1

6790:10 6792:3 6792:22,23 6798:15 6815:20 6818:18 6833:23 6843:16 6846:14 6903:4 6929:20 6930:7 6933:8 6935:24 6937:22 6940:22,25 6942:20 6948:7 6952:9 <b>kinds</b> 6791:15 6792:1 6896:20 6933:16 6934:13 6936:17 6947:1 6948:21 <b>knew</b> 6786:8 <b>know</b> 6782:14 6789:3,6,7 6790:1 6794:6 6798:16 6802:9 6804:5 6807:21,24 6811:1 6816:10 6817:21 6821:15 6828:22 6833:5 6834:12 6835:22 6836:18 6843:3 6844:24 6846:11 6890:5 6896:16 6912:24 6913:10 6913:18 6920:15 6926:6 6931:4 6934:20 6935:22 6935:23 6936:4 6938:19 6939:19 6944:24 6947:20 6948:1 <b>knowing</b> 6786:2 6815:5 6936:8,9 6936:13 <b>knowledge</b> 6797:4 6807:10 6808:6 6861:21 6933:13 6951:14 <b>known</b> 6786:1 6878:8 6933:2 <b>knows</b> 6804:21 6805:18 6842:1 6916:4 <b>know-how</b> 6948:8 <b>kV</b> 6824:2 6826:23 6828:25 6829:7,9 6829:14,20 6830:2,4,16 6831:3 6834:2 6844:6	6865:1 6900:15 6900:21,24 6915:9 6922:11 6926:1 6931:15 6937:22 <b>ladies</b> 6782:12 <b>laid</b> 6813:16 <b>Lake</b> 6795:7 6796:8 6798:23 6799:2 6870:17 6911:10 6912:5,6 6916:5 6921:21 <b>Lake's</b> 6921:18 <b>Laliberte</b> 6777:12 <b>land</b> 6806:2,3,5 6817:7,10,23 6818:8 6836:3,8 6837:2 6858:16 6881:23 6883:13 6888:17 6890:15 <b>landowner</b> 6817:22 <b>landowners</b> 6951:12 <b>lands</b> 6805:24 6806:18 6838:11 6886:20 6909:2 6918:17 6919:1,2 6919:5,19 6930:18 6934:15 <b>landscape</b> 6859:23 6883:8 6888:20 6889:1 6897:21 <b>landscapes</b> 6851:15 <b>language</b> 6883:17 6899:18 6928:17 6931:9,11 6941:21 6942:9 <b>large</b> 6784:6 6803:25 6807:18 6814:25 6861:4 6873:20 6888:25 6890:20 <b>largely</b> 6783:7 6835:19 <b>larger</b> 6784:16 6785:3 6788:23 6860:15 6861:7 6864:14 6873:24 6883:12 6919:3 <b>largest</b> 6850:20 6918:16 <b>last</b> 6785:20 6794:16 6795:4 6808:17 6815:7 6823:4 6827:18 6833:15 6846:19 6893:13,25 6900:11,12 6909:2 6912:15 6913:14 6925:15	6929:17 6931:25 6934:18,21 6935:11 6941:22 6946:23 6950:23 6954:2 6955:21 <b>later</b> 6782:2 6784:13,15 6834:14 6835:16 <b>latter</b> 6857:19 6860:13 <b>launched</b> 6950:20 <b>Laverendrye</b> 6839:17,19 6842:14 6844:1,3 6844:10 6847:1,5 <b>Lawson</b> 6821:18 <b>lawyers</b> 6799:20 <b>lay</b> 6811:19 6837:2 6855:2 6879:15 <b>lead</b> 6796:4 6840:1 6840:6,13 6879:24 6915:16 6924:20 6926:15 <b>leading</b> 6871:18 6872:18,22 <b>leads</b> 6841:25 <b>learn</b> 6850:25 <b>learned</b> 6881:10 6892:4 <b>learning</b> 6864:19 6902:9 <b>lease</b> 6806:15,16,17 <b>leases</b> 6806:2,4 <b>least</b> 6789:22 6854:25 6860:24 6879:13 6897:16 6901:24 6918:17 <b>leave</b> 6788:18 6793:13 6862:12 6902:7 <b>leaves</b> 6784:8 6820:25 6916:8 <b>leaving</b> 6855:14 <b>left</b> 6782:22 6789:15 6919:5 6921:15 <b>legal</b> 6903:2 6946:5 <b>legislative</b> 6851:8 <b>legitimacy</b> 6856:16 <b>legitimate</b> 6801:8 6801:15 6804:7 6805:19 <b>legs</b> 6916:9,20 <b>length</b> 6827:6 <b>less</b> 6784:19,19 6846:17 6855:16 6885:11 <b>lessee</b> 6806:7,8,20 <b>lesser</b> 6795:12,14 <b>lessons</b> 6875:6	6881:10 <b>let</b> 6781:19 6821:13 6822:21 6829:3 6838:4 6912:23 <b>letter</b> 6779:4,9 6804:13 6812:1 6865:24 6866:3,7 6867:21 6904:16 6904:19 6905:6 6905:11 6921:23 6935:23 6936:2 <b>let's</b> 6896:3 6903:24 <b>level</b> 6835:22 6836:19 6892:9 6902:10 6924:5 6954:13 <b>levels</b> 6889:12 6921:9 <b>liability</b> 6917:7 <b>library</b> 6940:2 <b>licence</b> 6814:23 6907:11 6910:19 6911:6 6918:9 6923:9,11 6946:18 <b>licences</b> 6801:1 6802:18 <b>licensed</b> 6911:5 6921:14 <b>licensing</b> 6889:11 6953:2,3 6954:12 <b>Lidar</b> 6810:19,22 <b>lies</b> 6851:24 <b>life</b> 6845:11 <b>light</b> 6882:21 <b>lighting</b> 6921:10 <b>like</b> 6791:19 6800:4 6803:13 6806:12 6807:13 6808:7 6809:17 6810:5 6811:7,11 6813:20,23 6819:13 6820:8 6821:2 6822:9 6823:8 6882:10 6896:12 6906:23 6911:24 6913:19 6914:5 6923:7,13 6926:25 6950:15 <b>likely</b> 6833:17 <b>likewise</b> 6869:12 6887:5 <b>like-minded</b> 6864:17 <b>limit</b> 6811:13 6813:4 6815:2 <b>limited</b> 6786:10 6801:17 6815:16 6815:21 6834:20 6835:4	<b>limits</b> 6861:17 6862:1,8,20,22 6864:10 6883:23 6884:6,11 6885:3 <b>line</b> 6790:23 6794:12 6795:13 6795:25 6796:18 6799:24 6803:14 6804:16 6806:9 6807:15,20,25 6808:22 6811:1 6813:9,10 6814:4 6815:12 6816:14 6816:21,21 6824:2,5 6825:22 6826:7,9,23 6827:1,7,11,17 6828:1,17 6829:1 6829:7,9,13,14,17 6830:3,8,16 6831:3,10 6832:5 6833:7,8,12,18,21 6834:3 6835:2,19 6835:21,23 6836:1,1,7,7 6837:7,8,16,22,25 6838:6,16 6839:5 6839:7,18,21,24 6841:1 6843:7,9 6844:5,6,24 6845:6 6925:3 6948:15 <b>linemen</b> 6792:12 6793:22,24,24 6794:1 6818:20 <b>lines</b> 6809:2 6810:21 6818:19 6845:11,12 6908:12 6912:4 <b>lingo</b> 6894:21 <b>list</b> 6860:25 6882:12 <b>listed</b> 6798:1 6831:13 <b>listen</b> 6939:11 <b>listening</b> 6946:16 <b>literature</b> 6852:15 6858:22,25 6864:7 <b>litres</b> 6916:18 <b>little</b> 6782:1 6797:12 6799:19 6814:20 6846:3 6846:16 6865:13 6865:22 6867:15 6876:23,25 6882:20 6917:4 6919:13 6923:22 6932:22 6933:20 6935:7,12,14 6936:1 6938:20
<b>L</b>				
<b>lack</b> 6857:4 6858:8 6864:23,25				

6946:22 6953:17 <b>live</b> 6908:24 <b>livelihoods</b> 6800:13 <b>livestock</b> 6806:11 <b>load</b> 6833:2 6843:11 <b>local</b> 6789:19,20 6790:6,7 6791:6 6791:16,17 6798:22 6932:2 6949:20,21 <b>located</b> 6795:11 6912:4 <b>location</b> 6793:16 6843:11 6845:19 6936:6 <b>locations</b> 6805:14 6952:12 <b>Lodge</b> 6804:6 <b>long</b> 6804:22 6822:23 6892:16 6900:6 6901:18 6907:16 6943:19 6946:3 6948:14 <b>longer</b> 6817:24 6930:4 6937:10 6937:10 <b>longer-term</b> 6793:12 <b>longest</b> 6918:18 <b>long-established</b> 6800:11 <b>long-standing</b> 6858:23 <b>long-term</b> 6793:8 6800:12 6862:7 <b>look</b> 6791:8 6807:11 6808:13 6812:25 6814:14,18 6822:9 6837:2 6844:17 6853:25 6882:20 6886:4,4 6890:9 6899:3,4 6900:20 6908:23 6930:6 6932:23 6938:10 6941:8,9 6941:11 6945:3 6950:15 <b>looked</b> 6813:21 6833:19 6844:21 6844:22 6895:4 6895:19 6934:1 <b>looking</b> 6796:12 6797:13 6798:15 6825:10 6831:4 6835:1,13,14 6841:15 6844:20 6845:1 6846:23 6862:12 6864:15 6883:6 6894:23 6898:20 6925:8	6946:11 <b>looks</b> 6809:17 6820:8 <b>lose</b> 6953:19 <b>loses</b> 6920:12,15 <b>losing</b> 6946:19 <b>loss</b> 6804:21 6808:3 6808:3 6813:10 6842:22 6843:4 6845:15 6920:4 6929:24 <b>losses</b> 6802:11 <b>lost</b> 6925:10 <b>lot</b> 6782:16 6784:24 6788:23 6806:25 6806:25 6807:19 6810:7 6811:24 6813:6,25 6815:5 6816:19 6817:18 6818:10 6823:3 6845:7 6877:17 6888:20 6937:7 6939:13 6940:2 6945:5,6 6946:7 6947:16 6951:25 6952:15,18,19 6954:23 6955:7 <b>lots</b> 6789:14 6921:20 6949:6 <b>loud</b> 6868:3 6947:17 <b>low</b> 6785:2 6790:1 6809:7 6934:10 <b>Lowe</b> 6780:10 6906:5,7,13 6912:1 <b>LP</b> 6925:24 <b>luck</b> 6815:4 <b>lucky</b> 6940:4 <b>lunch</b> 6902:23 6903:20 <hr/> <b>M</b> <hr/> <b>MacKay</b> 6777:3 6804:11 6805:3,6 6805:9,22 6806:23 6808:4,7 6809:6,20 6810:2 6810:14,24 6821:4 6887:16 6887:18 6888:7 6892:5 <b>Madam</b> 6904:12 <b>Madden</b> 6777:16 <b>Madden's</b> 6779:2 6904:14 6905:3 <b>made</b> 6788:4 6789:17 6795:23 6797:6 6803:23 6812:6 6823:18	6842:23 6870:25 6871:2 6910:13 <b>MAFRI</b> 6919:8 <b>main</b> 6848:14 6938:11 <b>maintain</b> 6814:24 6815:2 <b>maintenance</b> 6783:18 6788:15 6813:12 <b>major</b> 6811:2 6849:9 <b>majority</b> 6790:17 6917:18 6947:7 <b>make</b> 6781:13 6790:6 6801:9 6804:25 6838:22 6839:21 6854:12 6855:19 6856:18 6863:21 6864:24 6894:17 6899:9 6900:17 6910:22 6921:7 6925:13 6926:21 6932:17 6947:19 6951:8 6951:20 6953:19 <b>maker</b> 6859:2 6901:13 <b>makers</b> 6851:18 6856:3 <b>makes</b> 6844:11 6850:17 6864:1 6900:13 <b>making</b> 6804:18 6854:9 6863:19 6895:19 6932:21 6951:5,19 6952:4 <b>manage</b> 6797:11 6860:8 6861:1 6883:11 6890:21 6891:5 6895:1 <b>managed</b> 6822:11 <b>management</b> 6810:17 6812:20 6813:8,17 6814:11,17 6874:15 6889:23 6890:25 6901:19 6911:11 6912:6 6954:15 <b>mandate</b> 6853:16 6884:22 <b>mandated</b> 6859:8 6891:18 6947:11 6949:16 <b>mandates</b> 6831:21 <b>Manitoba</b> 6776:1 6776:19 6777:6,8 6777:15,17,18 6779:6 6780:14	6781:10 6788:13 6791:21 6793:22 6793:25 6794:1,6 6812:6 6814:23 6815:17 6819:15 6823:16 6828:8 6828:19 6831:17 6832:22 6833:1 6833:17 6834:10 6834:13 6835:5 6836:24 6837:15 6839:12,22 6842:7,20 6843:2 6846:4 6848:2,23 6865:20 6866:3 6866:10 6868:15 6868:25 6869:7 6869:15 6882:10 6882:14 6902:19 6904:9,17 6905:8 6906:20 6907:9 6907:11 6908:23 6910:8 6911:7 6914:5,13 6916:7 6920:20 6922:7 6923:19 6924:1 6924:16 6925:3 6925:19 6926:14 6927:18,20 6928:14 6929:2,6 6929:16,19 6931:23 6932:8 6932:21 6934:14 6934:25 6936:15 6936:19 6937:4,9 6937:20,21 6939:8 6940:1,3 6941:10 6942:6 6943:1,16 6944:7 6944:16 6946:5 6946:16 6947:16 6949:1,20 6950:12,15 6952:8,15,17 6953:11,20 6955:2 6957:6 <b>Manitoban</b> 6940:4 <b>Manitobans</b> 6791:5 6949:23 6950:10 <b>Manitoba's</b> 6916:24 <b>manner</b> 6934:21 <b>many</b> 6781:12 6783:10 6789:2 6807:4,4 6810:9 6818:1 6819:23 6828:21 6834:11 6838:20 6850:8 6850:12 6857:22 6858:2,24 6859:15 6860:21	6861:5 6865:3,3 6881:5 6885:18 6890:19 6892:16 6893:5 6895:15 6895:22 6897:7 6901:22 6902:2,3 6908:14 6912:21 6934:11 6937:18 6943:19 6949:13 6955:21 <b>mapped</b> 6807:16 <b>maps</b> 6935:13 6937:2,13,16,19 6938:11,12 6940:5 <b>March</b> 6776:19 6779:2 6781:1 6792:22 6825:10 6904:14 6905:4 6910:1 <b>mark</b> 6786:24 <b>marked</b> 6875:2 <b>markers</b> 6785:23 <b>market</b> 6817:15 6950:9 <b>marketable</b> 6793:15 <b>marks</b> 6918:1 <b>Marshall</b> 6948:4 <b>marten</b> 6781:21 6782:8 <b>massive</b> 6909:13 <b>match</b> 6861:10 <b>material</b> 6821:17 6867:6 6869:2,14 6869:19 6884:24 6899:20 <b>materials</b> 6779:19 6865:20 6874:4 6874:13 6903:10 6905:1,22 <b>mathematics</b> 6828:14 <b>matter</b> 6832:19 6843:13 6855:3 6879:15 6880:15 6881:21,24 6898:18 6900:10 6915:3,25 6917:3 6917:10 6918:21 6924:11 6925:20 6947:2 6955:17 <b>matters</b> 6849:21 6852:3 6858:12 6869:21 6879:19 6884:10,15,23 6901:22 6910:9 6917:2 6938:22 6942:9 6944:6 6945:9 6946:8 <b>may</b> 6781:8 6783:18
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6784:14 6786:3 6790:2,7 6792:17 6796:23 6799:8 6799:12 6802:24 6805:17,19 6815:1 6817:23 6831:10,10,10 6832:5 6836:9,24 6847:19 6851:12 6853:7,18 6854:1 6855:12,16,22 6857:22,24 6859:4 6861:5 6865:18 6866:15 6873:21,23 6874:7 6876:3 6882:6 6883:7,12 6884:10,11,18,22 6885:19 6887:13 6889:2,3,4 6890:9 6894:6 6896:4 6898:5,15,23 6899:5,9,10 6908:23 6911:16 6915:24,24 6922:13 6928:10 6930:6 6934:10 6936:22 6942:18 <b>maybe</b> 6796:11 6805:22 6806:6 6846:3 6890:6 6932:22,23 6948:6 6952:12 6955:5 <b>Mayor</b> 6777:9 6794:15 6799:21 6847:19 6866:5 6866:13 6867:12 6902:21 6903:16 6903:18 <b>Mazur</b> 6780:4 6823:11,13,23,24 6824:4,8,18,24 6825:2,12,15 6826:5,12,16,19 6826:25 6827:16 6827:22 6828:11 6828:20 6829:16 6829:21,25 6830:4,6,14,19 6831:8,14 6832:24 6833:11 6834:6,25 6835:10 6837:4 6839:4 6840:4,9 6840:15,18,24 6841:12 6842:19 6844:14 6846:1 6847:4 <b>McCain's</b> 6955:8,15	<b>McGarry</b> 6780:2,4 6782:11 6788:8 6796:7,11 6797:8 6798:21 6800:9 6802:15 6803:16 6804:24 6805:5 6805:10 6806:3 6807:10 6808:6 6811:24 6814:6 6816:15 6817:12 6841:7 6921:19 <b>McGraw</b> 6805:13 <b>mean</b> 6801:20,23 6807:3 6815:4 6817:15 6819:20 6846:19,25 6847:9 6857:10 6881:6 6883:19 6885:8 6886:21 6899:1,6 6900:4,5 <b>meanders</b> 6813:9 <b>meaning</b> 6852:25 6897:8 <b>meaningful</b> 6851:18 6926:22 <b>meanings</b> 6875:13 <b>means</b> 6851:11 6852:12 6853:2 6858:19 6876:2 6937:12 6947:8 6948:17 <b>measurable</b> 6854:25 6879:13 6895:2 6897:21 <b>measure</b> 6839:11 <b>measures</b> 6797:23 6798:9 6811:25 6812:13,16 6813:1,7,15,21,22 6814:15 6816:5 <b>mechanical</b> 6784:24 <b>mechanically</b> 6810:7 <b>mechanism</b> 6945:15 <b>mechanisms</b> 6865:3 6890:19 <b>media</b> 6818:10 6941:14 <b>medical</b> 6902:4 <b>medicines</b> 6919:22 <b>meet</b> 6790:6 6924:7 <b>meeting</b> 6779:6 6787:20 6858:14 6904:17 6905:7 6913:11 6942:3 <b>meetings</b> 6910:11 6913:13,16 6919:22 6927:4 6937:17 6952:13 6953:15	<b>meets</b> 6864:4 <b>megawatts</b> 6832:8 6832:10 6834:4 6843:8 <b>member</b> 6777:3,3,4 6926:13 <b>members</b> 6781:7,16 6841:24 6872:17 6906:18 6919:25 6922:16 6937:9 <b>membership</b> 6798:18 6917:17 <b>memo</b> 6779:2 6904:14 6905:3 <b>memory</b> 6871:14 <b>mentioned</b> 6789:18 6808:9 6816:16 6843:1 6867:6 6883:2 6897:10 6911:20 6943:6 <b>mentioning</b> 6884:13 <b>mere</b> 6789:25 <b>merit</b> 6801:10 6854:22 <b>merits</b> 6853:15 <b>Meronek</b> 6777:11 6780:5 6822:18 6822:21 6823:1 6823:13,15,25 6824:5,15,19,25 6825:8,13 6826:1 6826:11,13,18,21 6827:12,20 6828:4,16 6829:3 6829:19,22 6830:1,5,12,15,25 6831:11 6832:18 6833:6,25 6834:18 6835:3 6835:17,18,25 6836:6,11,13,20 6837:8,13,22,24 6838:1,6,12,18,24 6839:6,24 6840:6 6840:10,17,20 6841:6,8,19,21 <b>met</b> 6823:4 6910:8 6942:4 <b>method</b> 6784:9 6849:8,25 6850:9 6858:12 6901:21 <b>methodologies</b> 6933:23 6940:6 <b>methodology</b> 6938:17 6939:20 <b>Metis</b> 6777:15 6787:13,20 6807:24 6813:18 6819:15 6930:4 6935:21 6942:13	6951:12 <b>metre</b> 6931:14,17 <b>metres</b> 6788:5 6815:25 <b>MH</b> 6779:6,8,9,11 6779:13 6904:18 6904:21,23,24 6905:7,10,11,13 6905:15,18 <b>Michael</b> 6777:4 <b>mid</b> 6918:20 <b>middle</b> 6834:1 6845:21 <b>midst</b> 6909:18 <b>might</b> 6785:24 6787:3,10 6788:7 6806:1 6811:19 6812:13,14 6813:1,13,21 6815:6 6816:13 6822:9 6828:20 6834:11 6835:18 6837:10 6846:3 6846:23 6878:6 6882:20 6888:18 6893:22 6896:18 6896:20 6897:4 6898:17 6900:4 6909:9 6935:2,19 6936:25 6945:23 6948:22 <b>miles</b> 6782:9 6916:8 <b>million</b> 6824:23 6825:14,22 6826:3,5,6,10,14 6828:6 6829:15 6829:16 6831:2,2 6839:11,22 6845:23 6847:2 <b>millions</b> 6800:3 <b>mills</b> 6778:3 6780:12 6914:1,2 6927:8,10,15 6955:7 <b>mind</b> 6798:7 6812:8 6882:1 6894:10 6896:17 6926:19 6955:5 <b>mine</b> 6890:2 6892:23 <b>minimal</b> 6785:4 6815:22 <b>minimization</b> 6860:12 <b>minimize</b> 6797:24 <b>Minister</b> 6916:2 6918:8 6921:7 6925:12 6926:4 <b>Mintonas</b> 6779:6 6904:18 6905:8	<b>Minneapolis</b> 6947:5 <b>Minnesota</b> 6833:21 6836:25 6947:6 <b>minor</b> 6803:6 6917:16,22 <b>minute</b> 6805:24 6820:5 <b>minutes</b> 6809:22 6819:10 6919:21 <b>miss</b> 6854:17,20 <b>messed</b> 6787:14 6839:15 6855:12 6856:14 <b>missing</b> 6825:24 6842:18 6847:7 <b>misunderstood</b> 6838:13 <b>mitigable</b> 6803:3 <b>mitigate</b> 6895:1 <b>mitigation</b> 6815:9 6815:11,14 6816:5 6870:9 6909:24 6910:23 6926:8 <b>mitigations</b> 6815:20 <b>MMF</b> 6779:2,4 6783:20 6904:15 6905:3,5 6929:12 <b>MMM</b> 6834:20 6835:4 6937:8 <b>model</b> 6907:21,22 <b>modeling</b> 6898:21 <b>modelled</b> 6860:21 <b>models</b> 6859:24 <b>modernizing</b> 6845:24 <b>modest</b> 6910:13 <b>moment</b> 6787:17 6798:17 6808:8 6825:3 6832:1 6857:7 6875:3 6887:8 6889:5,6 6898:2,3,16 6902:23 <b>momentarily</b> 6888:10 <b>moments</b> 6876:11 <b>Monday</b> 6819:5 <b>money</b> 6803:21,22 6846:11 6847:8 <b>monitor</b> 6883:11 6925:23 <b>monitored</b> 6811:23 <b>monitoring</b> 6864:18 6890:18 <b>months</b> 6792:14,23 6822:25 6840:2,7 6840:8,13 6841:10 6910:10 6912:16,22
--	--	---	--	---



<p>6955:21  <b>moose</b> 6812:8          6813:7 6816:2          6918:18,23,25          6919:3 6943:11  <b>more</b> 6781:17          6782:18 6784:22          6784:24,25          6792:14 6795:20          6795:24 6797:3          6797:12 6799:19          6802:11 6804:12          6810:14 6811:11          6812:10 6813:2          6814:21 6833:18          6837:6,11 6846:4          6846:16 6854:4          6858:4,4 6859:3          6859:21,22          6862:7 6864:19          6878:9 6881:23          6882:4 6883:10          6884:3 6885:11          6886:9 6889:13          6889:19 6890:4          6891:3 6893:15          6902:6 6904:11          6920:11 6924:23          6924:24 6925:7          6926:7,7 6938:5          6945:22 6950:11          6950:11 6952:7          6953:17  <b>morning</b> 6781:3,9          6782:11 6783:5          6819:5,6,21          6821:13 6848:12          6848:13 6849:22          6852:2 6865:10          6874:25 6875:14          6879:11 6881:14          6903:6 6904:1,25          6944:21 6956:10  <b>most</b> 6788:3 6795:6          6806:3 6836:20          6843:22 6849:23          6852:5 6856:12          6871:15 6877:7          6883:25 6889:16          6890:12 6914:12          6923:8,25          6944:25  <b>mostly</b> 6800:25          6818:20 6929:6          6934:18 6946:18  <b>mother</b> 6907:21,22          6908:17  <b>motivated</b> 6783:12  <b>Mountains</b> 6916:6          6924:23</p>	<p><b>move</b> 6819:12          6842:24,25          6845:9 6847:18          6856:9 6863:24          6864:7 6886:23          6891:2 6904:10          6913:22 6931:7          6931:25  <b>moved</b> 6839:3          6842:9 6843:25          6920:22 6952:5,7  <b>movement</b> 6806:11  <b>moves</b> 6796:18  <b>moving</b> 6789:16          6837:11 6897:2  <b>mowing</b> 6788:14  <b>much</b> 6797:12,14          6798:16 6799:4          6802:3 6809:9          6810:16 6815:10          6815:12 6819:18          6820:2 6821:4          6847:20 6852:25          6854:23 6859:20          6860:11 6864:18          6874:22 6883:2          6885:20 6890:20          6897:10 6899:9          6902:22 6912:9          6912:13,14          6915:24 6917:3          6919:3 6924:23          6924:24 6925:2          6932:7 6934:11          6946:14 6951:13          6951:13,14          6952:25 6954:1          6955:19,20,23,24          6956:9  <b>multi</b> 6800:13,13          6818:23  <b>multiple</b> 6794:5  <b>multiplier</b> 6948:24  <b>municipalities</b>          6935:21 6941:16          6951:11  <b>must</b> 6851:17          6855:19,19          6856:15 6861:8          6862:22 6863:2,5          6864:2,9 6884:16          6884:25 6907:15          6916:22 6925:12  <b>myriad</b> 6849:15  <b>myself</b> 6782:14          6871:22 6875:15          6931:3 6946:11  <b>mystery</b> 6781:18          6937:24</p>	<p style="text-align: center;"><b>N</b></p> <p><b>nailed</b> 6836:17  <b>name</b> 6906:10,22          6927:19  <b>named</b> 6873:16  <b>namely</b> 6850:24          6863:9  <b>names</b> 6791:12,14          6949:16  <b>narrow</b> 6909:7          6929:25  <b>narrowly</b> 6855:14          6859:19  <b>nation</b> 6777:20,21          6778:2 6779:14          6780:10,12          6786:22 6791:11          6794:2 6795:7          6798:25 6870:17          6870:23 6904:7,8          6904:22 6905:17          6905:24 6906:16          6906:23,25          6907:4,10,13          6910:14 6914:5          6914:11,14          6916:10,12          6917:14,17          6919:23 6920:19          6921:8 6922:23          6925:17,25          6926:24,25          6930:4,18          6936:12 6940:12          6941:22 6942:13          6944:23  <b>national</b> 6943:9,12          6943:20 6944:3,9          6944:15,17  <b>Nations</b> 6783:20          6787:12,20          6790:4,13 6795:9          6807:24 6813:18          6914:1 6933:4,24          6935:20 6944:25          6951:12  <b>nationwide</b> 6818:11  <b>Nation's</b> 6922:6  <b>native</b> 6808:3  <b>natural</b> 6788:12          6808:3 6851:14          6855:1 6877:24          6897:25 6898:14          6950:1  <b>nature</b> 6849:10,12          6868:12 6869:25          6870:5 6871:1          6894:16 6928:19  <b>near</b> 6781:22          6786:20 6788:1</p>	<p>6790:8 6827:17          6858:14 6885:12          6945:24 6947:2  <b>nearby</b> 6921:10          6930:18  <b>necessarily</b> 6793:14          6890:14 6902:5          6921:1 6930:13          6942:4,21          6947:17  <b>necessary</b> 6818:22          6897:16  <b>necessity</b> 6898:1,2  <b>need</b> 6788:11          6792:13 6804:4          6807:1 6811:17          6812:25,25          6814:8 6818:18          6822:9,13 6828:1          6832:15 6840:13          6840:25 6842:6,8          6846:12 6879:25          6881:22 6883:10          6894:13 6908:9          6909:25 6921:6          6922:24 6923:9          6928:15 6932:24          6936:4 6948:7,19          6950:10 6952:1          6953:18 6954:14          6955:17 6956:5  <b>needed</b> 6812:17          6842:21 6944:6  <b>needs</b> 6842:17          6852:25 6881:1          6882:4 6931:21          6932:10 6945:24          6950:12 6951:2  <b>negative</b> 6798:6,10  <b>negatively</b> 6787:11          6787:23  <b>neglecting</b> 6878:10  <b>negotiate</b> 6910:9  <b>negotiated</b> 6794:18          6907:8 6909:17          6909:25  <b>neighbourhood</b>          6799:23  <b>neither</b> 6816:23          6918:1  <b>Nelson</b> 6930:18  <b>Neufeld</b> 6780:4          6835:18 6836:4,9          6836:12,15          6837:4 6843:20  <b>never</b> 6799:9          6800:3 6862:12          6896:24 6922:19          6926:17  <b>Nevertheless</b></p>	<p>6803:25  <b>new</b> 6829:7 6831:9          6834:2 6847:1          6861:21 6883:20          6889:4 6892:22          6892:23 6896:15          6896:21,25          6897:9 6922:4          6944:8,9 6950:2          6954:15  <b>newer</b> 6846:16  <b>next</b> 6819:5 6820:5          6821:1 6824:19          6825:9 6828:6          6839:8 6840:22          6841:4,10 6845:5          6845:6 6847:18          6879:14 6880:1          6913:25 6927:24          6930:20 6936:13  <b>nexus</b> 6860:14  <b>NFAT</b> 6951:1  <b>nice</b> 6807:13  <b>night</b> 6946:23  <b>Noble</b> 6848:16          6849:6 6858:23          6864:6 6866:12          6866:16,22          6869:10,22          6871:24 6873:12  <b>Noble's</b> 6847:24  <b>non</b> 6802:18  <b>none</b> 6831:13          6920:4  <b>nonetheless</b> 6795:13          6843:21 6846:18          6884:22 6896:13  <b>non-herbicide</b>          6786:25  <b>non-status</b> 6942:14  <b>noon</b> 6903:23  <b>normal</b> 6813:1          6883:20 6896:15          6896:21 6897:9  <b>normally</b> 6812:14          6886:24  <b>north</b> 6788:1          6791:2 6792:21          6824:7 6827:17          6833:17 6835:2          6845:6 6933:25          6949:1,2,14          6952:14  <b>northeast</b> 6891:6  <b>northern</b> 6791:3,4          6830:23 6831:9          6937:20  <b>northerners</b> 6791:5  <b>Northwest</b> 6889:20          6889:25</p>
---	---	---	--	--

<p><b>north/south</b> 6844:6 6844:17 <b>notably</b> 6795:6 <b>note</b> 6797:22 6841:3 6848:17 6954:2 <b>notes</b> 6957:8 <b>nothing</b> 6831:7 6857:19 6936:13 6944:16 <b>notion</b> 6805:23 6860:19 <b>notions</b> 6863:14 6882:8 <b>notwithstanding</b> 6849:15 <b>November</b> 6869:1,8 6870:17,23 6906:6 6908:4 6910:2 6911:17 6911:22 6912:2 6913:17 6924:14 6943:11,13 <b>nowhere</b> 6854:4 <b>number</b> 6796:21 6797:22 6801:1,2 6801:18 6809:2 6810:12 6811:2 6813:7,15 6814:25 6826:3 6828:9 6831:1 6840:16 6847:20 6847:23 6866:6 6872:11 6873:14 6874:2 6875:12 6878:18 6882:10 6904:11,16 6905:1 6934:3 <b>numbers</b> 6795:14 6823:7,9 6825:4 6845:20 6934:6 <b>nutrition</b> 6955:12 <b>nutrient</b> 6955:12</p> <hr/> <p style="text-align: center;"><b>O</b></p> <p><b>objectives</b> 6860:15 <b>obligates</b> 6909:20 <b>obliged</b> 6849:16 <b>observation</b> 6782:15,19 6785:11 <b>observations</b> 6861:22 6930:21 <b>observe</b> 6923:4 <b>observed</b> 6924:13 6931:11 <b>obsolete</b> 6836:10,11 <b>obtained</b> 6831:9 <b>obvious</b> 6945:24 <b>obviously</b> 6799:1 6806:13 6903:6</p>	<p><b>occasion</b> 6861:9 6868:2,7 <b>occasionally</b> 6806:6 6924:13 <b>occur</b> 6898:15 <b>occurred</b> 6813:20 6857:4 6889:1 6935:3 <b>occurs</b> 6852:23 <b>ocean</b> 6800:6 <b>October</b> 6824:22 6908:3 6913:16 6943:21 <b>odd</b> 6935:12,18 <b>off</b> 6781:17,23,25 6791:3,25 6795:4 6810:15 6814:12 6822:25 6824:7 6826:3,6,13 6827:14 6895:3 6895:23 6913:19 6919:11 6935:15 6949:11 <b>offbeat</b> 6818:10 <b>offer</b> 6794:5 6855:23,24 6861:13 6865:3 6926:7 <b>offered</b> 6920:4,5 6922:17 6923:23 6924:6 <b>office</b> 6931:24 6939:17 6946:24 6951:23 <b>officers</b> 6924:3 <b>Official</b> 6957:1,5,15 <b>officially</b> 6913:2 <b>officials</b> 6923:22 <b>offset</b> 6864:19 <b>offsetting</b> 6909:24 <b>often</b> 6784:25 6854:14 6856:14 6857:9 6858:3 6862:8 6864:16 6886:7 6890:3 6901:8 <b>oh</b> 6940:22 <b>oil</b> 6877:18 6890:10 6890:11 6891:7 6892:14,22 6898:19 6944:20 6944:21 <b>okay</b> 6782:24 6799:3 6805:22 6810:24 6828:4 6833:6 6840:20 6868:5 6870:14 6880:4 6888:8 6903:19 6904:4 6906:8 6912:13</p>	<p>6955:25 <b>once</b> 6833:1 6862:11 <b>one</b> 6781:16,17 6782:10 6784:15 6785:25 6789:10 6791:3,8 6793:18 6794:20 6795:16 6799:6,18,23 6802:2,17,23 6803:17,18 6804:8,12,13,14 6805:8,10 6806:23 6808:5,9 6810:14 6811:16 6814:21 6815:1 6819:16,20 6821:11 6822:11 6823:5 6827:1,6,7 6827:8 6830:9 6831:20 6833:16 6835:16 6837:6 6842:17 6844:24 6845:17,18 6846:10 6851:12 6852:4 6853:6,23 6854:11,17 6856:21 6857:12 6857:20 6859:4 6860:3 6862:9 6864:8 6865:5 6872:17 6875:21 6875:21,22 6879:9,9 6881:10 6882:3 6883:5,15 6884:11,14,15,20 6884:25 6885:5 6885:18 6886:1 6886:17 6887:18 6887:21 6890:13 6890:19 6893:11 6893:22 6894:21 6895:18 6900:9 6900:20 6911:25 6916:4 6918:13 6918:20 6925:4,5 6925:7,17 6928:3 6928:12 6929:22 6930:7,14 6933:20 6934:10 6934:18,22 6935:2 6937:19 6938:11 6941:10 6941:12 6942:7 6942:23 6953:6 6955:16 <b>ones</b> 6936:11 <b>oneself</b> 6802:23 <b>one-on-one</b> 6934:5 <b>only</b> 6793:6 6809:7</p>	<p>6818:7,15 6822:22 6823:4 6831:8 6835:22 6842:4,16 6843:3 6845:17 6853:24 6868:19 6878:7 6917:5 6927:23 6930:1,7 6932:6 6934:18 6936:5 6936:10,11 6945:21 6955:22 <b>Ontario</b> 6949:13 <b>onto</b> 6814:12 6859:4 <b>open</b> 6786:20 6820:1 6855:14 <b>opening</b> 6908:2 <b>opens</b> 6793:12 6895:15 <b>operate</b> 6795:24 <b>operation</b> 6794:12 6801:5 6803:11 6804:7 <b>operational</b> 6931:18 <b>operators</b> 6792:6 6804:6 <b>opinion</b> 6842:6 6923:19 <b>opportune</b> 6846:24 <b>opportunities</b> 6787:4,11,12 6791:10 6792:7 6792:10,19 6793:12 6910:6 6910:14 6911:9 6912:21 6923:3 6936:17 6940:17 6940:18 6946:19 <b>opportunity</b> 6785:12,14 6793:20 6813:11 6829:23 6846:21 6851:1 6860:13 6883:1,4 6886:3 6906:25 6907:2 6913:15,18 6914:6 6925:10 6942:4 6945:21 6954:24 <b>opposed</b> 6794:12 6825:21 <b>opposite</b> 6900:23 6901:14 <b>opted</b> 6821:19 <b>optimal</b> 6843:23 <b>option</b> 6833:16,19 6843:14,14 6844:21,22 6858:12 <b>options</b> 6833:14</p>	<p>6834:9 6835:14 6843:2 6844:21 6845:19 6940:8 6950:12 6954:25 <b>order</b> 6827:24 6832:8 6890:3,19 6901:24 6902:9 6907:5 6916:23 6931:17,21 <b>organization</b> 6937:18 6944:4 <b>organizations</b> 6940:21 6947:5 <b>original</b> 6814:10 6864:21 6901:6 6931:6 <b>originally</b> 6902:14 <b>Ortiz</b> 6780:2 6809:12,12,25 6810:3,22 6813:3 6820:12,13,15 6821:8 <b>Osler</b> 6780:7 6822:3 6865:11 6899:11 6920:25 6922:18 6922:19 <b>ostensible</b> 6858:8 <b>other</b> 6782:17 6786:13 6787:5 6793:25 6794:25 6795:20 6806:23 6807:25 6811:25 6814:3 6816:8,9 6818:16 6819:3 6822:12 6827:7 6827:10 6833:19 6841:22 6842:18 6842:18 6844:4 6845:8 6850:23 6852:21 6853:25 6855:24 6856:22 6857:17 6858:2 6859:12 6876:17 6879:7 6882:11 6883:9 6885:5 6886:17 6887:22 6889:11 6893:5 6896:2,25 6901:11 6909:10 6909:11,25 6910:15 6912:12 6915:18 6920:3 6920:10 6921:25 6923:8 6924:20 6931:16 6933:23 6935:6,17,21 6938:3 6943:24 6953:6 6954:17 6955:17 <b>others</b> 6811:5</p>
---	---	---	---	---

<p>6856:18 6864:6 6900:24 <b>otherwise</b> 6855:16 6903:9 <b>ourselves</b> 6851:1 6873:11 6923:9 6947:22 <b>out</b> 6781:22,23 6782:8 6784:16 6785:3 6786:24 6789:5,9 6791:15 6799:25 6802:25 6805:5 6807:24 6808:11 6813:16 6819:22 6822:1,9 6825:18 6828:9 6828:11 6834:7 6839:6 6841:9,12 6845:9 6855:11 6859:6 6866:4 6874:22 6889:15 6890:13 6892:6,9 6892:19 6893:1 6898:1 6899:20 6899:23 6900:18 6912:17 6913:8 6913:11 6915:12 6939:24 6947:17 6948:1 6951:24 <b>outage</b> 6831:18,19 6831:23 6832:25 6832:25 6845:3 <b>outages</b> 6831:21 6833:5 <b>outcome</b> 6834:17 <b>outfitter</b> 6801:11 6803:11,24 6805:12 <b>outfitters</b> 6799:8,11 6799:16,22 6800:7,8,21 6801:12,21 6802:7,9,14 6804:13 6811:4 6920:8 <b>outside</b> 6820:19 6912:4 <b>outstanding</b> 6910:7 6930:16 <b>over</b> 6781:8 6783:9 6784:19 6817:19 6828:5 6831:4,6 6833:14 6838:7,8 6838:15,16 6848:6 6851:1 6857:4 6872:11 6883:16 6885:17 6903:23 6906:1 6908:14,21 6909:1,16</p>	<p>6912:15,21 6917:12 6919:18 6922:11 6931:5 6941:22 6952:22 6955:21 <b>overall</b> 6783:22 6798:24 6803:7 6806:17 6854:10 6932:5 6933:7 6949:12,23 <b>overarching</b> 6946:17 <b>overhead</b> 6825:21 6826:6 6839:21 <b>overheads</b> 6828:12 <b>overlapping</b> 6925:24 <b>overly</b> 6863:8 6884:19 <b>oversee</b> 6915:17 <b>oversight</b> 6919:14 6923:21 6924:3 6925:19 6926:2,6 <b>overview</b> 6834:20 6834:24 6835:4 6903:4 <b>own</b> 6818:20 6882:7 6918:15 6919:9 6922:3 6932:8 6949:17 6950:5 <b>owners</b> 6918:3 6921:14 <b>owner's</b> 6918:15 <b>oxymoron</b> 6883:22 6896:12</p> <hr/> <p style="text-align: center;"><b>P</b></p> <p><b>P</b> 6780:2,4 <b>pack</b> 6814:24 <b>packs</b> 6814:22 <b>pads</b> 6782:20 <b>page</b> 6779:2 6823:10 6825:10 6825:23 6828:6 6829:3 6833:25 6834:2 6845:19 6867:16,21 6874:2,4 6875:1,2 6876:23 6878:15 6878:17 6879:10 6887:19 6899:22 6935:12,24 <b>pages</b> 6957:7 <b>paid</b> 6790:1 <b>painfully</b> 6910:10 <b>paints</b> 6855:15 <b>panel</b> 6780:2,3,4,5,6 6780:8 6781:7,16 6783:5 6805:7 6820:2 6841:23</p>	<p>6848:5 6884:22 6903:2,7 6906:19 6928:9,23 6937:9 6943:10 6954:7 <b>panels</b> 6942:24 <b>paper</b> 6874:24 6875:17 6876:2 6927:23 6953:25 <b>papers</b> 6821:24 6940:3 <b>paragraph</b> 6834:1 6867:17 6877:6,9 6878:21 6879:12 6899:23 6900:12 <b>parallel</b> 6816:21 6820:18 6827:24 <b>paralleling</b> 6824:9 6825:21 6826:9 6827:11 6828:1 <b>parameters</b> 6885:7 6909:9 <b>pardon</b> 6801:21 6816:24 <b>park</b> 6924:22 <b>parlance</b> 6894:21 <b>part</b> 6783:12 6787:15 6788:8 6788:11,18 6793:3 6797:19 6797:20 6798:23 6798:23 6804:17 6805:21 6806:16 6808:18 6814:15 6819:20 6820:20 6821:12 6832:3,7 6847:7 6855:23 6870:5 6888:2 6912:1,25 6913:20 6917:9 6931:13 6933:17 6935:8 6950:15 <b>partial</b> 6943:15 <b>participant</b> 6781:13 6946:1 <b>participants</b> 6783:13 6841:22 6879:7 6897:3 6906:21 6929:10 6929:19 6938:4 6940:11 6943:24 6946:4 6955:9,10 <b>participate</b> 6794:4 6907:2 6934:4 6938:5 <b>participated</b> 6907:4 6952:15 <b>participating</b> 6907:9 6934:4 6953:12 <b>participation</b></p>	<p>6912:15 6914:15 6927:11 6928:13 6937:23 6955:21 <b>particular</b> 6782:13 6786:4 6787:13 6796:8 6798:11 6800:19 6809:19 6811:7 6812:17 6816:25 6823:8 6823:20 6829:13 6833:7 6834:23 6835:25 6836:22 6837:23 6840:2 6840:12 6908:24 6939:19 6940:11 <b>particularly</b> 6796:21 6807:3 6810:18 6929:17 6934:17 <b>parties</b> 6864:3 6878:5 6889:13 6951:11 <b>partners</b> 6790:14 <b>parts</b> 6883:9 <b>party</b> 6777:18 6918:1 6946:1 6956:7 <b>Pas</b> 6814:22 <b>pass</b> 6895:7 6940:9 <b>passee</b> 6843:21 <b>passed</b> 6855:4 6879:17 <b>past</b> 6863:13 6885:8 6885:10 6886:4 6886:11 6887:1,3 6887:7 6889:16 6912:22 <b>pasts</b> 6859:24 6886:7 <b>pasture</b> 6806:5 <b>Pat</b> 6777:3 6796:9 6816:10 <b>patches</b> 6786:17,20 6788:10 <b>path</b> 6850:23 6930:1 <b>pattern</b> 6787:3 6931:10 6934:20 6943:2 6953:12 <b>patterns</b> 6928:1,8 6941:20 <b>pause</b> 6898:15 <b>pay</b> 6802:16 <b>paying</b> 6817:15 6950:11 <b>pdf</b> 6937:19 <b>peer</b> 6922:20 <b>Peguis</b> 6777:20 6779:13 6904:22 6905:17 6956:6</p>	<p><b>Penner</b> 6780:2 6783:25,25 6786:15 6787:14 6788:19,20 6790:10 6793:18 6794:14,22 6808:20 6813:1 6814:20 6815:14 <b>people</b> 6786:3 6789:20,23 6791:23 6792:10 6792:13 6793:3,6 6794:3 6795:14 6798:18 6800:12 6801:2,18 6802:9 6802:19 6804:6 6806:1,5,25 6807:8 6811:7 6818:25 6857:22 6899:18 6903:21 6912:22 6913:2 6913:14,17 6928:8 6934:3 6942:11,14 6952:19 <b>people's</b> 6909:12 6947:20 <b>per</b> 6931:5 6947:13 <b>percent</b> 6817:15 6901:22 6902:2 <b>perhaps</b> 6781:12 6782:6 6789:21 6793:13 6795:12 6799:19 6803:1 6819:10 6820:4 6842:12 6850:9 6850:11,13 6854:4 6869:18 6883:5,11,20 6887:13 6888:11 6889:16,19 6891:9 6894:13 6895:18 6918:15 6935:20 6936:20 6942:9 6945:16 6953:1 6956:2 <b>period</b> 6783:10 6805:20 6866:23 6937:4 6939:23 6943:19 <b>permit</b> 6925:24 <b>permitted</b> 6787:22 6788:3 <b>permitting</b> 6889:11 <b>persons</b> 6871:16 6934:7 6942:12 <b>perspective</b> 6831:24 6838:3 6842:10 6844:7,12,24 6849:18 6873:2,5</p>
--	--	--	--	--

<p>6875:8 6876:1,15  <b>Petch</b> 6922:21  <b>phase</b> 6796:19  <b>phone</b> 6918:2  <b>photograph</b>  6808:14 6809:7,9  <b>phrase</b> 6796:20  6800:5 6883:22  <b>picked</b> 6918:2  <b>picture</b> 6789:22  6820:16,17,19,22  6820:25 6838:3  6855:16  <b>pictures</b> 6820:11  <b>Pine</b> 6778:2  6780:12 6785:6  6809:19 6904:8  6913:25 6914:4,8  6914:11,14  6915:5 6916:10  6916:12,22  6917:13 6918:22  6919:23 6920:19  6920:21 6922:1,6  6922:23 6923:19  6925:5,17,25  6926:23,25  6940:11  <b>Pines</b> 6820:24  <b>pits</b> 6931:20  6932:12  <b>place</b> 6781:8  6789:15 6794:9  6796:5,16  6815:25 6846:14  6860:11 6864:3  6901:16 6917:11  6948:4 6951:18  6957:9  <b>placed</b> 6904:11  <b>placement</b> 6935:14  6936:4  <b>places</b> 6782:16  6789:8 6807:23  <b>plain</b> 6856:19  <b>plainly</b> 6850:16  <b>plan</b> 6791:19  6812:20,21  6813:22 6814:17  6815:13 6825:17  6825:18 6830:17  6830:19,23  6831:17 6832:10  6832:11,15  6834:10,13  6839:8,14,16,17  6839:23 6842:4  6842:13 6843:5,6  6843:17 6865:1  6890:21 6948:4</p>	<p><b>planned</b> 6847:11  6885:11 6902:11  <b>planning</b> 6798:25  6810:19 6841:8  6841:11,14  6875:9 6928:19  6937:5 6938:25  6951:9  <b>plans</b> 6813:17  6829:1 6831:16  6831:22 6832:17  6890:15,25  6954:15,15  <b>plant</b> 6810:4  <b>plants</b> 6807:22  6809:16 6810:10  <b>play</b> 6863:13 6865:3  <b>played</b> 6821:22  <b>playing</b> 6917:9  <b>please</b> 6875:3  6905:25  <b>pleased</b> 6848:3  6914:14  <b>plus</b> 6829:13  <b>point</b> 6793:23  6794:8 6808:1,5  6824:13 6829:2  6832:14 6833:24  6834:11 6835:11  6835:13,23  6838:10,15  6841:13 6842:20  6843:13 6845:9  6847:8 6852:3  6853:10 6854:14  6854:20 6855:6,9  6856:6,10 6859:6  6870:25 6875:12  6875:15 6879:12  6884:17 6885:20  6885:21 6889:8  6892:21 6894:3  6894:10,14  6897:17,18  6898:22 6901:3  6913:1 6915:8  6925:15 6928:10  6929:2 6935:2,5  6946:9 6947:25  <b>pointed</b> 6802:25  6805:5 6807:24  6839:6 6841:12  <b>pointing</b> 6825:18  6834:7  <b>points</b> 6848:14  6849:7,9,23  6854:5 6856:14  6949:25  <b>point-by-point</b>  6849:20</p>	<p><b>policy</b> 6783:24  6787:8 6789:22  6790:5 6805:6,25  6805:25 6932:9  <b>politicians</b> 6941:15  <b>poorer</b> 6864:12  <b>poorly</b> 6852:15  <b>Poplar</b> 6809:19  6820:23  <b>population</b> 6803:8  6933:19 6934:7  <b>populations</b> 6934:8  <b>Portage</b> 6839:19  6925:4 6955:16  <b>portfolio</b> 6947:10  <b>portfolios</b> 6949:15  <b>portion</b> 6914:13  <b>portions</b> 6816:9  <b>posed</b> 6799:12  6827:10  <b>position</b> 6787:8  6874:12 6893:15  6914:8  <b>positioned</b> 6782:18  <b>positively</b> 6787:10  6787:23  <b>possession</b> 6939:8  <b>possibilities</b>  6863:15 6883:4  <b>possibility</b> 6798:5  6812:3 6855:11  6855:15 6874:10  6895:15  <b>possible</b> 6782:20  6785:22 6803:2  6808:17 6842:21  6850:25 6858:18  6861:18,20,23  6862:1,21,22  6863:25 6864:1,1  6864:11 6883:24  6884:6 6885:3  6895:2 6898:4,10  6898:10 6899:4  6929:9 6931:7  6933:22 6939:5  <b>possibly</b> 6784:15  6798:6  <b>post</b> 6950:14  <b>posted</b> 6929:5  <b>posts</b> 6897:1,2  <b>postulations</b>  6850:14  <b>potential</b> 6798:10  6801:11 6803:6  6807:11 6835:1  6851:13 6852:25  6870:12 6875:6  6910:24 6923:5  <b>potentially</b> 6785:12</p>	<p>6803:24 6938:14  6951:18  <b>potpourri</b> 6781:6  <b>poured</b> 6822:22  <b>power</b> 6804:16  6837:1 6932:19  6933:5 6950:5  <b>practice</b> 6788:7  6849:7,24  6850:14,21  6851:2 6855:6,14  6856:6,23  6859:10,11,12  6860:10 6861:14  6862:19 6863:23  6864:4,8 6872:10  6873:3,6 6874:14  6875:6,9 6876:12  6877:14 6897:19  <b>practices</b> 6908:19  <b>practised</b> 6785:22  <b>practitioner</b>  6855:18 6859:2  6861:12  <b>practitioners</b>  6847:22 6850:1  6855:8 6856:8,24  6859:10,13  6860:10 6861:19  6862:15 6863:2,5  6863:22 6872:19  6875:19 6880:9  6880:10,16,22  6886:16  <b>pragmatic</b> 6861:17  6861:18 6862:20  6864:10 6883:23  6884:5 6885:3,22  6887:2 6898:2  <b>pragmatically</b>  6851:7  <b>pragmatism</b>  6885:22  <b>pre</b> 6891:15  <b>precautionary</b>  6864:22 6900:19  6901:15,23  6902:14  <b>precede</b> 6939:1  <b>precedents</b> 6850:11  6898:19  <b>predation</b> 6813:6  6813:11  <b>predicated</b> 6830:22  <b>predict</b> 6916:22  <b>predictable</b> 6936:25  <b>predictions</b> 6878:9  6899:24  <b>prefer</b> 6906:1  <b>preference</b> 6791:1</p>	<p>6931:13  <b>preferred</b> 6812:4,4  6814:10 6816:17  6833:23 6834:13  6834:22 6835:5  6836:1,7 6843:6  6852:9 6917:14  6917:15 6931:10  6934:23 6935:1  <b>preliminary</b> 6835:6  6837:2 6840:12  <b>preparation</b> 6869:9  <b>preparations</b>  6938:24  <b>prepare</b> 6889:17  6890:21  <b>prepared</b> 6835:4  6865:14 6868:16  6868:24  <b>preparing</b> 6866:11  6867:18,23  6868:1,6,22  6870:15,20  6885:1 6928:20  <b>prescient</b> 6824:20  <b>presence</b> 6908:13  6908:14  <b>present</b> 6863:13  6885:8  <b>presentation</b> 6780:6  6780:7 6799:7  6821:20 6865:7  6866:16 6870:16  6870:22 6879:11  6887:19 6906:17  6908:4 6910:2  6911:17,23  6912:2,11,14  6913:24 6914:17  <b>presentations</b>  6847:24  <b>presented</b> 6787:19  6829:5 6904:6  <b>presenting</b> 6822:15  6955:2  <b>pressured</b> 6921:18  <b>presumably</b> 6786:7  6789:25 6796:2  6796:17 6893:22  <b>presuming</b> 6793:7  <b>presumptions</b>  6925:18  <b>pretty</b> 6812:6  6838:10 6885:9  6928:7 6946:2  <b>prevent</b> 6813:10,24  6814:7  <b>prevention</b> 6812:23  <b>previous</b> 6797:2  6849:19 6858:7</p>
--	---	---	---	---

<p>6953:11  <b>previously</b> 6783:16  6819:16 6852:1,3  6853:14 6876:7  6889:22 6951:20  <b>pre-placement</b>  6794:24  <b>pre-project</b> 6794:24  <b>pricing</b> 6950:9  <b>primary</b> 6796:25  6844:16  <b>prime</b> 6836:2,7  <b>principle</b> 6864:22  6900:19 6901:15  6901:24 6902:14  <b>principles</b> 6882:13  6882:17,23  <b>prints</b> 6782:17,19  <b>prior</b> 6791:18,22  6802:10 6887:4  6897:20,20  6915:14 6917:10  6923:11 6929:18  <b>priority</b> 6791:2  6812:22  <b>private</b> 6797:20  <b>probably</b> 6781:9,24  6783:11,19  6791:3 6812:10  6818:9 6835:16  6841:17 6845:12  6865:13 6916:23  6918:16 6941:14  6942:23 6944:24  6951:23,24  6952:12  <b>problem</b> 6816:15,20  6817:5 6818:13  6843:10 6916:13  <b>problems</b> 6811:9  6896:20 6952:23  6955:12  <b>procedure</b> 6809:23  6892:8  <b>proceed</b> 6838:4  6900:25 6924:11  6924:16,17  <b>proceeding</b> 6847:10  6865:2 6900:22  <b>proceedings</b>  6776:18 6780:1  6810:16 6904:5  6928:25 6930:15  6930:19,25  6932:25 6941:18  6942:22 6946:1  6947:3 6956:1  <b>proceeds</b> 6887:15  <b>process</b> 6784:3  6795:2 6796:4</p>	<p>6800:18 6801:8,8  6801:16,23,25  6802:1,15  6803:20 6804:3  6810:13 6841:8  6842:3 6846:20  6850:24 6851:10  6858:3 6883:13  6887:15 6891:5  6892:16 6897:3  6901:8 6902:9  6913:1,20 6914:7  6914:20,23  6915:15 6916:4  6918:5 6920:14  6920:18 6923:17  6924:5,9,17,20  6925:9,16 6926:3  6927:12,12  6928:16,20,21  6935:3 6937:5,7  6945:25 6952:22  6954:3  <b>processes</b> 6889:11  6889:12 6930:12  <b>produced</b> 6937:7  6949:8  <b>producing</b> 6949:4  <b>production</b> 6800:14  <b>products</b> 6807:5,7  6937:7  <b>profession</b> 6876:9  <b>professional</b> 6884:4  <b>profound</b> 6853:5  <b>program</b> 6793:4,5,9  6793:10,21,23  6794:8 6800:11  6800:19 6803:14  6803:15 6810:19  6818:17 6846:13  <b>programs</b> 6794:21  6794:25 6804:4  6909:24  <b>progress</b> 6910:10  6910:13  <b>project</b> 6776:6  6790:24,25  6791:19,23  6792:2,4 6801:4  6802:4 6807:12  6818:13 6830:21  6848:25 6851:7  6851:20,23  6852:21,23  6853:4,6,7,10,11  6853:11,15,18,20  6853:25 6854:11  6854:22 6856:5  6856:21 6857:14  6857:20 6858:2,3</p>	<p>6858:11 6859:18  6861:15,24  6867:12 6868:10  6868:18 6875:22  6875:23 6884:24  6887:5,21 6891:6  6892:2,9,22  6894:21,23,24  6895:1,13 6896:3  6896:25 6897:13  6897:21 6898:13  6899:15,17,25  6900:5,23 6901:1  6907:6,14,24  6924:1 6928:19  6929:21,21  6931:6 6932:1  6933:1 6934:15  6951:3 6952:10  6954:4  <b>projector</b> 6782:4  <b>projects</b> 6818:23  6851:14 6860:8  6861:2 6862:16  6877:18 6878:7  6878:20 6897:1  6898:20 6908:22  6908:25 6909:10  6909:11,13  6949:1,4 6950:3  <b>project's</b> 6854:8,12  6859:5  <b>project-by-project</b>  6859:1  <b>promised</b> 6889:19  <b>promote</b> 6785:2  <b>promulgation</b>  6880:19  <b>proof</b> 6918:18  <b>proponent</b> 6835:20  6835:24 6891:21  6906:20 6915:8  6931:13 6933:18  6934:25 6936:14  6946:20 6950:24  6953:3  <b>proponents</b> 6836:17  6860:11 6889:14  6896:18 6897:3  6936:11  <b>proponent's</b>  6896:19  <b>proportion</b> 6933:18  6934:9 6947:12  <b>proposal</b> 6828:7  6830:7 6910:12  <b>propose</b> 6892:22  <b>proposed</b> 6805:14  6817:3 6826:7  6828:8 6831:22</p>	<p>6832:11 6843:17  6848:24 6851:13  6876:16 6910:20  6911:1 6914:8  6917:16,22,23  6924:6  <b>protect</b> 6907:7  <b>protected</b> 6908:18  <b>protecting</b> 6816:6  <b>provide</b> 6848:7,21  6851:11,18  6856:3 6866:20  6880:20 6882:5  6882:25 6883:4  6883:12 6884:6  6886:19 6888:10  6892:12 6894:14  6898:2 6901:25  6903:9,12 6922:7  6925:1 6927:23  6949:3 6950:4  6953:24  <b>provided</b> 6805:13  6812:1 6849:20  6865:20 6866:1,8  6867:2 6876:21  6877:23 6878:24  6884:8 6924:24  6931:23  <b>provides</b> 6831:17  6844:25 6887:10  <b>providing</b> 6874:18  6906:25 6937:11  <b>province</b> 6793:14  6793:24 6806:20  6877:14 6890:23  6915:1,3 6917:8  6917:19 6918:14  6918:18 6923:19  6925:23 6926:14  6931:5 6933:7  6938:24 6939:4  6945:13,19  6948:25 6952:13  6957:6  <b>provinces</b> 6793:25  6882:11 6955:13  <b>provincial</b> 6797:20  6806:8,18  6860:20 6888:18  6915:6,13,19  6916:9 6919:1,8  6919:14 6921:14  6923:22 6924:2  6926:16 6955:4  <b>provision</b> 6786:9  6790:7 6794:18  6851:8 6890:16  <b>provisioning</b> 6882:3  <b>provisions</b> 6861:2</p>	<p>6862:17  <b>proximity</b> 6808:1  <b>Pruitt's</b> 6940:3  <b>public</b> 6776:7  6819:23 6829:5  6841:16 6850:12  6850:23 6851:10  6853:16 6865:4  6868:9,16  6889:14 6919:9  6924:21 6928:13  6936:19 6942:8  6945:17 6946:9  6949:16 6950:7  6951:10,22  6952:9,16,23  6953:15  <b>publication</b> 6872:18  6873:14  <b>publicly</b> 6929:7  <b>published</b> 6850:10  6872:9 6880:12  6880:18  <b>Pukatawagan</b>  6933:3  <b>pumps</b> 6948:24  <b>pundits</b> 6860:10  <b>purchase</b> 6837:1  6846:10  <b>purely</b> 6862:24  <b>purpose</b> 6821:25  6844:16 6851:5  6853:14 6860:5  6860:24 6861:5  6866:17 6867:10  <b>purposes</b> 6860:25  6866:10 6887:22  <b>pursue</b> 6853:8  6860:14 6881:15  6901:13  <b>pursued</b> 6895:16  <b>pursues</b> 6853:23  <b>pursuing</b> 6861:10  <b>pursuit</b> 6858:5  6861:7  <b>put</b> 6787:16 6796:5  6796:16 6802:13  6814:16 6819:1  6819:20 6832:7  6837:19 6838:25  6839:1 6875:25  6904:15 6948:3  <b>puts</b> 6937:18  <b>putting</b> 6821:21  6825:4 6842:10  6844:5,10  6896:15  <b>puzzles</b> 6885:6  <b>p.m</b> 6904:2,3  6956:11</p>
--	--	--	---	--

<p style="text-align: center;"><b>Q</b></p> <p><b>qualities</b> 6863:3,7 6863:16</p> <p><b>quality</b> 6892:17 6925:2</p> <p><b>quantifiable</b> 6896:6</p> <p><b>quarter</b> 6817:24 6925:5</p> <p><b>Queen's</b> 6920:16</p> <p><b>question</b> 6785:19 6787:2,15,17 6788:4 6793:2 6795:4 6799:6,12 6800:2 6804:12 6806:23 6810:14 6815:8 6817:7 6818:9 6819:7 6824:20 6829:23 6836:6,22 6838:13 6842:11 6845:18 6849:13 6850:5,17 6871:7 6885:16 6886:12 6887:9,18 6888:2 6888:6 6891:10 6891:12,13 6896:10 6898:8 6900:11 6911:15 6935:2 6940:17 6946:17 6954:8,9 6954:16 6955:6</p> <p><b>questioning</b> 6902:20</p> <p><b>questions</b> 6780:3,5 6780:8 6781:7,15 6781:17 6783:3,6 6783:8,21 6795:8 6797:5 6810:25 6819:4,9 6821:24 6822:1,16,19 6824:16 6827:9 6828:24 6841:23 6847:13,15 6865:9 6879:4,8,9 6887:17 6893:11 6912:12 6927:9 6928:2 6931:2 6933:9,22 6934:12 6937:25 6938:7 6943:8 6947:2 6948:22 6949:22 6950:22 6950:23 6955:3</p> <p><b>quick</b> 6874:23 6890:3 6932:17 6933:14 6942:17 6951:3 6952:6</p> <p><b>quickly</b> 6902:25</p> <p><b>quite</b> 6782:20 6788:6 6799:17</p>	<p>6801:7 6807:18 6810:22 6824:12 6827:12 6841:15 6842:2 6870:25 6894:11 6915:3 6921:3 6926:16 6928:11 6939:19 6954:12</p> <p><b>quotation</b> 6918:1</p> <p><b>quote</b> 6900:14</p> <p><b>quoting</b> 6937:11</p> <p><b>Q.B</b> 6957:15</p> <hr/> <p style="text-align: center;"><b>R</b></p> <p><b>R</b> 6780:10</p> <p><b>radar</b> 6918:19</p> <p><b>rail</b> 6816:21</p> <p><b>raise</b> 6832:12 6921:5 6922:3</p> <p><b>raised</b> 6783:12,21 6785:20,25 6795:6 6796:20 6849:5,21 6852:3 6869:22 6920:19 6920:24 6924:4 6926:11</p> <p><b>raises</b> 6889:7</p> <p><b>range</b> 6843:10 6845:12 6935:23</p> <p><b>ranges</b> 6792:4</p> <p><b>rapidly</b> 6952:24</p> <p><b>Rapids</b> 6808:13,22 6820:10,19 6821:6</p> <p><b>rare</b> 6901:23</p> <p><b>rate</b> 6846:13,17</p> <p><b>rather</b> 6800:17 6817:14 6861:4</p> <p><b>reach</b> 6791:15 6884:11</p> <p><b>reached</b> 6911:7</p> <p><b>reaching</b> 6910:4</p> <p><b>reacquaint</b> 6875:15</p> <p><b>reacquaintance</b> 6874:23</p> <p><b>reactors</b> 6845:23 6846:2</p> <p><b>read</b> 6799:20 6829:3 6874:22 6875:17 6876:1 6925:22</p> <p><b>readily</b> 6913:9</p> <p><b>reading</b> 6843:19 6946:15</p> <p><b>reads</b> 6890:13</p> <p><b>ready</b> 6802:8 6820:9 6903:22 6948:19</p> <p><b>real</b> 6893:3 6926:1 6936:16 6938:7</p>	<p><b>realities</b> 6796:23</p> <p><b>reality</b> 6897:10 6900:23 6933:20</p> <p><b>realized</b> 6940:19</p> <p><b>really</b> 6782:7 6801:2 6817:8 6834:15 6837:3 6843:13 6845:13 6853:2 6880:15 6899:1 6921:6 6933:10 6935:6,8 6937:12,22 6938:22 6942:3 6943:3 6945:9,23 6947:2 6950:17 6950:17 6951:7 6955:17</p> <p><b>reason</b> 6825:16 6831:15 6857:7 6893:22 6894:7 6895:5 6900:22 6900:25 6901:15 6910:17</p> <p><b>reasonable</b> 6814:9 6855:20 6877:8 6886:9 6903:14 6930:24</p> <p><b>reasonably</b> 6807:23 6817:3 6856:2 6878:11</p> <p><b>reasoning</b> 6862:24</p> <p><b>reasons</b> 6860:2 6933:21 6934:10</p> <p><b>rebuttal</b> 6779:14 6780:4 6781:10 6781:11 6821:12 6821:16,20,24 6822:1 6823:6,10 6825:9,11,23 6826:24 6827:14 6843:1 6845:20 6848:16 6866:11 6866:22 6867:10 6869:9 6903:17 6904:23 6905:17</p> <p><b>recall</b> 6783:15,19 6797:16 6799:9 6799:13 6823:23 6835:8 6847:20 6873:9</p> <p><b>receive</b> 6921:9</p> <p><b>received</b> 6834:19 6923:23 6924:15 6924:16 6953:13</p> <p><b>receives</b> 6921:10</p> <p><b>receiving</b> 6945:8</p> <p><b>recent</b> 6797:9 6898:19 6915:7 6922:2 6923:24</p> <p><b>recently</b> 6788:3</p>	<p>6795:20 6797:3 6807:4 6818:7 6824:6 6834:19 6892:15 6906:14 6915:4 6924:22 6947:6,8</p> <p><b>receptors</b> 6855:25</p> <p><b>recess</b> 6912:18</p> <p><b>recessed</b> 6820:6 6904:2</p> <p><b>recognition</b> 6862:20 6885:3</p> <p><b>recognize</b> 6793:22 6798:2 6800:23 6801:23 6803:21 6819:18 6891:16 6891:19 6898:9 6898:16</p> <p><b>recognized</b> 6800:15 6801:10 6862:9 6864:25 6872:23 6889:1 6901:8 6911:2 6914:10</p> <p><b>recollection</b> 6830:8</p> <p><b>recommend</b> 6911:4</p> <p><b>recommendation</b> 6921:7</p> <p><b>recommendations</b> 6863:19 6864:17 6910:23 6911:3 6926:21 6929:6 6936:24 6951:9</p> <p><b>recommended</b> 6873:7</p> <p><b>reconstruct</b> 6887:6</p> <p><b>reconvene</b> 6781:4 6956:9</p> <p><b>reconvened</b> 6820:7 6904:3</p> <p><b>record</b> 6779:6 6791:3 6814:1 6819:20,23,24 6820:3 6822:21 6824:22 6849:22 6869:19 6899:12 6900:10 6904:12 6904:15,17 6905:7 6906:11 6944:22</p> <p><b>Recovery</b> 6943:9,12 6943:21 6944:9 6944:15,17</p> <p><b>Red</b> 6793:3,10,21 6793:22 6794:7 6794:10,21</p> <p><b>redo</b> 6922:8</p> <p><b>redone</b> 6850:3</p> <p><b>reduced</b> 6809:21</p> <p><b>reducing</b> 6798:3</p> <p><b>reduction</b> 6824:22</p>	<p><b>refer</b> 6861:17 6862:25 6863:10 6884:19 6887:3 6887:20,22 6896:23 6897:15 6911:18 6912:10 6918:8 6924:14</p> <p><b>reference</b> 6788:4 6789:18 6880:17 6882:15 6900:13 6952:1,2</p> <p><b>referenced</b> 6839:2 6847:23 6927:2</p> <p><b>references</b> 6896:14 6935:7 6943:10 6943:14 6945:5</p> <p><b>referencing</b> 6823:9</p> <p><b>referred</b> 6882:16</p> <p><b>referring</b> 6788:9,17 6805:13 6840:15 6844:14 6857:6 6868:13 6875:18 6880:8 6900:12 6934:22</p> <p><b>refers</b> 6837:8</p> <p><b>reflect</b> 6849:24</p> <p><b>reflecting</b> 6852:10 6860:4 6863:16</p> <p><b>reflection</b> 6898:22</p> <p><b>reflects</b> 6837:20 6863:7 6873:13 6908:18 6909:16</p> <p><b>refurbish</b> 6846:22</p> <p><b>refurbishing</b> 6845:25</p> <p><b>refurbishment</b> 6847:9</p> <p><b>refusal</b> 6914:23 6915:4</p> <p><b>regard</b> 6783:24 6863:3 6869:21 6871:3,6 6915:24 6920:7 6921:4 6922:18 6926:6 6934:19 6936:24 6938:20 6954:21</p> <p><b>regarding</b> 6828:25 6842:3 6852:4 6857:3,5 6859:17 6943:8,11</p> <p><b>regards</b> 6787:5 6789:22 6869:22 6875:20 6883:3 6887:1 6896:7 6901:9 6915:3 6921:18</p> <p><b>regeneration</b> 6788:11</p> <p><b>region</b> 6816:24 6852:22 6933:6</p>
--	--	---	--	--

<p>6934:7 6938:13  <b>regional</b> 6857:17,21  6857:24 6858:10  6887:22,24  6888:13,13,19  6890:14,18,25  6892:6,18,19,20  6893:1,6  <b>regions</b> 6938:12  6949:3  <b>register</b> 6820:3  <b>registry</b> 6924:21  6945:17 6951:22  6952:23  <b>regrettably</b> 6920:1  <b>regrow</b> 6807:22  <b>regrowth</b> 6787:3,3  6787:9,22 6788:3  6788:10,16  <b>regulated</b> 6860:8  <b>regulation</b> 6888:1  6892:6 6951:21  <b>regulator</b> 6863:2  <b>regulators</b> 6841:17  6858:17  <b>regulatory</b> 6841:9  6856:25 6857:13  6857:20 6858:15  6861:15 6862:10  6862:16,23  6881:22 6887:21  6889:10 6945:15  6945:16 6951:21  6951:22  <b>rehabilitation</b>  6932:15  <b>Reid</b> 6957:5,14  <b>rejected</b> 6850:3  <b>rejections</b> 6943:20  <b>related</b> 6787:1  6801:19 6804:9  6806:4 6807:25  6823:5 6828:24  6855:3 6877:18  <b>relates</b> 6785:19  6879:10  <b>relating</b> 6796:8  6868:9 6869:15  6870:2,16,22  6903:3  <b>relation</b> 6802:22  6934:8  <b>relationship</b>  6908:18 6921:1,2  6923:6  <b>relationships</b>  6908:17  <b>relatively</b> 6786:11  6786:12 6807:20  <b>relaxing</b> 6946:22</p>	<p><b>relevant</b> 6819:17,19  6837:25 6897:18  6936:12  <b>reliability</b> 6827:25  6831:18,24  6832:20,22  6843:10,23  6844:8,25  6845:14 6950:13  <b>reliance</b> 6923:16  <b>relies</b> 6922:2  <b>relocation</b> 6801:13  6805:16 6823:17  6823:22 6843:12  6844:22  <b>remain</b> 6815:25  6843:24 6914:20  <b>remained</b> 6914:19  <b>remaining</b> 6895:3  <b>remains</b> 6820:1  6851:3  <b>remark</b> 6908:2  <b>remedy</b> 6920:17  <b>remember</b> 6797:25  <b>remind</b> 6869:18  6873:11  <b>reminding</b> 6947:22  <b>remote</b> 6810:18,20  <b>remove</b> 6923:15  <b>removed</b> 6828:23  <b>removes</b> 6816:19  <b>render</b> 6851:19  <b>renewable</b> 6947:10  6949:14  <b>rent</b> 6806:5  <b>repeat</b> 6882:6  6928:1,2,3  <b>repeated</b> 6852:5  <b>repeating</b> 6950:18  <b>repetition</b> 6928:10  <b>repetitive</b> 6947:17  <b>replaced</b> 6828:12  <b>replacement</b>  6845:22 6846:2  <b>replicated</b> 6893:5  <b>reply</b> 6796:10  <b>report</b> 6779:17  6796:1 6825:25  6827:4 6832:3,11  6835:10 6836:10  6836:14,21  6843:19,20,22  6844:13,15,16  6845:1,5 6865:13  6865:15,23  6867:3,15,18,24  6868:2,6,8,16,23  6868:24 6870:15  6870:21 6874:13  6874:16,20</p>	<p>6876:23 6877:1,2  6904:25 6905:20  6910:1 6926:23  <b>reports</b> 6825:17  6869:7  <b>represent</b> 6863:15  <b>represented</b>  6898:19 6927:13  <b>representing</b>  6860:13 6890:12  <b>represents</b> 6825:24  <b>repulsive</b> 6923:12  <b>request</b> 6799:22  6823:19,21  6824:1 6826:22  6922:7,9 6932:11  6932:21  <b>requested</b> 6800:6  <b>requests</b> 6924:25  6951:4,5 6955:11  <b>required</b> 6784:20  6784:23 6827:23  6840:6 6863:23  6882:14 6923:21  <b>requirement</b>  6887:14  <b>requirements</b>  6857:13 6858:15  6945:17 6947:11  6951:15  <b>requires</b> 6909:23  <b>reread</b> 6926:10  <b>research</b> 6850:15  6856:22 6862:8  6864:15 6925:21  6938:5 6949:19  <b>researcher</b> 6931:1  6939:23  <b>researchers</b>  6858:22 6859:16  <b>reservations</b> 6802:8  6804:18,19  <b>reserve</b> 6936:7  <b>reside</b> 6852:22  <b>resident</b> 6802:18  <b>residents</b> 6795:7  <b>residual</b> 6851:24  6879:25 6894:15  6895:3,13 6896:2  6896:25  <b>resolve</b> 6845:13  6917:17 6921:21  <b>resolves</b> 6845:7  <b>resource</b> 6858:17  6883:13 6888:17  6889:4 6890:3  6908:12,22  6909:1,22  6911:11 6912:5,7  <b>resources</b> 6837:19</p>	<p>6877:24 6922:8  6926:2,5  <b>respect</b> 6802:7  6836:21 6838:23  6908:1 6910:23  6911:21 6920:10  6930:17 6932:25  6934:15 6945:18  <b>respects</b> 6882:8  <b>respond</b> 6801:22  6819:14 6821:23  6829:24 6849:16  6938:5  <b>responded</b> 6800:24  6917:14  <b>responding</b> 6894:1  6946:16  <b>response</b> 6779:13  6779:15 6783:23  6802:14 6823:19  6823:21 6826:7  6827:9 6849:20  6894:1 6903:4  6904:21,23  6905:15,18  6910:12 6922:21  6925:7  <b>responses</b> 6783:9  6799:20 6893:14  <b>rest</b> 6855:3 6879:15  6913:12  <b>restate</b> 6848:14  6869:18 6908:9  <b>restoration</b> 6932:15  <b>restrict</b> 6813:8  <b>result</b> 6788:5  6799:7 6801:14  6825:9 6848:2  6858:13 6873:23  6892:19 6895:1  6898:10  <b>resulting</b> 6855:21  6910:25  <b>results</b> 6856:3  <b>resume</b> 6903:19  <b>resumés</b> 6791:24  6792:1  <b>retained</b> 6866:10,18  6866:19 6867:2,9  <b>retainer</b> 6865:24  6866:3,7  <b>return</b> 6894:13  <b>returned</b> 6947:9  <b>returning</b> 6898:7  <b>reveal</b> 6883:10  <b>review</b> 6834:12  6837:25 6841:12  6851:10 6853:20  6857:20 6861:24  6862:17 6865:4</p>	<p>6868:7,20,23  6869:14,25  6870:1,4,8,15,18  6870:21 6871:1  6887:15 6900:1  6914:15 6916:17  6917:6 6921:17  6924:2,12,13,20  6924:21,24  6933:22 6951:2  6952:9 6954:5  <b>reviewed</b> 6867:18  6867:23 6869:3,8  6869:19 6929:5,8  6954:4  <b>reviewing</b> 6812:5  6813:18 6863:18  6946:15  <b>reviews</b> 6850:13  6856:13 6953:12  <b>revised</b> 6824:14  <b>revision</b> 6824:11  6825:9 6839:8  6917:16,22  6923:25  <b>revolves</b> 6854:21  6855:11  <b>re-establishment</b>  6801:13 6805:17  <b>Re-examination</b>  6780:9  <b>rhyme</b> 6895:23  <b>Riel</b> 6824:2 6825:21  6827:3,7,15,19  6828:3 6829:9,17  6830:3,10 6832:4  6839:10,10  6842:14 6843:25  6844:3,10  <b>right</b> 6791:19  6802:6,6 6803:19  6804:8 6805:11  6812:20 6823:13  6825:23 6827:20  6832:18 6835:17  6839:4 6846:23  6871:23 6890:12  6892:17 6898:4,6  6898:11,24  6901:5,10  6912:24 6919:4  6931:1 6936:5,7  6936:17 6939:13  6941:13 6949:10  6951:6 6954:10  6954:22  <b>rights</b> 6907:7,12  6910:5 6934:14  6935:1,16  6942:15</p>
---	--	---	--	---

<b>rights-of-way</b> 6807:22 6809:24	6954:11	<b>satisfies</b> 6782:25	6935:10,24	<b>semi-retired</b> 6800:3
<b>rights-of-ways</b> 6815:3	<b>route</b> 6805:14	<b>save</b> 6839:11	6941:23	<b>Senate</b> 6947:8
<b>right-hand</b> 6875:2	6811:6 6812:4	6918:25	<b>secondly</b> 6888:3	<b>senior</b> 6926:13
6878:16	6814:10 6816:17	<b>saw</b> 6781:23,25	<b>secrecy</b> 6915:7	<b>sense</b> 6788:2 6792:1
<b>right-of-way</b>	6830:9 6833:12	6794:11 6936:5	<b>secretary</b> 6777:5	6793:4 6803:3
6784:11 6787:10	6834:22 6835:6,6	6951:25	6904:12 6906:3	6818:2 6842:20
6788:15 6789:3	6836:18 6838:14	<b>saying</b> 6784:1	6943:6	6844:11 6850:20
6789:11 6790:18	6914:13 6917:13	6787:16 6809:10	<b>section</b> 6815:15,19	6853:6 6864:2
6803:9 6806:17	6917:13,15,15,16	6879:19 6891:20	6817:24,25,25	6893:2,21
6808:18 6810:6	6917:20,24	6891:23 6895:9	6839:18 6919:21	<b>sensible</b> 6930:24
6811:15 6812:24	6918:5,10	6931:3 6940:9,24	6942:3	<b>sensing</b> 6810:18,20
6813:4,25	6920:22 6923:24	6942:6	<b>sectionalization</b>	<b>sensitive</b> 6786:24
6814:13,25	6944:25	<b>says</b> 6840:12	6832:5	6816:1
6816:4,7 6817:10	<b>routes</b> 6812:4	6843:20 6850:19	<b>sections</b> 6791:6	<b>sensitivity</b> 6786:7
6917:5,10	6918:25 6920:2	6902:7 6930:22	6918:17	6786:21
6920:13 6932:7	6935:4	6947:25	<b>security</b> 6950:13	<b>sent</b> 6834:19 6841:3
6934:23 6935:1	<b>routing</b> 6833:24	<b>scale</b> 6859:24	<b>see</b> 6782:2,2,4,6,7	<b>sentence</b> 6879:14
<b>right-of-ways</b>	6835:19 6841:13	6888:18,19	6801:10 6804:16	<b>separate</b> 6845:10
6788:22 6789:2	6917:18	6909:13	6820:17,23	<b>separated</b> 6827:23
6789:13 6817:18	<b>ROW</b> 6783:19	<b>scary</b> 6824:20	6821:1 6822:10	<b>separation</b> 6954:14
<b>rinse</b> 6916:14	6932:3 6935:16	<b>schedule</b> 6813:12	6834:5 6853:25	<b>septic</b> 6916:25
6919:12	<b>ROWS</b> 6787:22	6953:14	6865:23 6877:8	<b>sequence</b> 6941:17
<b>riparian</b> 6785:9	6790:9	<b>scheduled</b> 6903:21	6878:17,19	6951:17
6816:5	<b>rule</b> 6886:12	<b>science</b> 6850:24	6879:23 6888:21	<b>series</b> 6936:1
<b>risk</b> 6861:9	<b>ruled</b> 6819:17	6851:12 6862:2	6889:2 6893:14	6938:11 6940:16
<b>risk</b> 6831:20	<b>rules</b> 6796:5,15,19	6884:2,9 6901:7	6894:25 6896:3	6950:2
6832:25 6845:14	<b>run</b> 6806:16 6811:8	6901:20 6902:4,5	6899:4 6929:1	<b>serious</b> 6915:9
6863:15 6901:19	6833:16,20	6942:18,21	6941:3,4,4,13	6918:23 6919:17
6946:19 6948:13	6839:10 6919:11	6945:3,9 6946:10	6955:23	6920:19 6922:3
6949:25	6934:6	6952:3 6954:18	<b>seeing</b> 6838:3	6923:21
<b>risks</b> 6842:22	<b>running</b> 6790:16	6954:24 6955:1	<b>seek</b> 6859:11	<b>seriously</b> 6921:3
<b>River</b> 6811:16	6830:10 6844:6,9	<b>scientific</b> 6862:8,24	<b>seeking</b> 6903:1	6948:8
6955:7	6852:6	6884:10 6901:9	<b>seem</b> 6783:10	<b>serve</b> 6851:6,11
<b>road</b> 6781:24,25	<b>runs</b> 6820:18	6943:4 6945:10	6803:25 6885:9	<b>served</b> 6851:4
6797:15,16,19	<b>rural</b> 6817:20	<b>scientist</b> 6944:4	6926:12 6930:12	6861:5
6811:19,21	6818:3 6937:20	<b>scientists</b> 6939:18	<b>seemed</b> 6814:9	<b>serves</b> 6871:14
6816:22 6955:18	<b>rush</b> 6903:11	<b>scope</b> 6852:17	6817:2 6843:21	<b>service</b> 6832:12
<b>roads</b> 6811:15	<b>S</b>	6866:4 6932:23	<b>seemingly</b> 6878:8	<b>services</b> 6937:11
6931:19 6932:13	<b>safe</b> 6838:22	6950:21	6930:1,10	<b>servicing</b> 6858:18
<b>Robert</b> 6777:20	<b>sake</b> 6899:12	<b>scoped</b> 6859:19	<b>seems</b> 6800:4,6	<b>set</b> 6802:16 6893:13
<b>robustness</b> 6863:5	<b>sake</b> 6799:1	<b>scoping</b> 6852:10,11	6918:14	6934:18 6936:5
<b>role</b> 6821:22 6941:2	6810:15 6818:24	6852:14 6861:22	<b>seen</b> 6804:1 6834:23	6938:16 6946:3
<b>roles</b> 6928:13	6850:22 6854:1	6928:24 6929:4,7	6834:25 6900:18	6949:23 6951:4
6930:25 6932:25	6857:10 6862:13	6929:13 6936:20	6900:22 6934:18	6952:9,11,21
<b>rolling</b> 6931:8	6896:16 6921:9	6953:1,4	6940:4	6954:7
<b>Ron</b> 6911:24	6935:3,18	<b>screen</b> 6918:19	<b>sees</b> 6842:20	<b>sets</b> 6928:25
<b>room</b> 6931:12	6938:16 6945:1	6927:23 6953:24	<b>segments</b> 6790:19	6938:12 6945:5
6937:2,3 6942:16	6948:7	<b>seaboard</b> 6947:23	6790:20	6947:2
6952:19	<b>sands</b> 6877:18	<b>Seal</b> 6793:4,10,21	<b>select</b> 6834:15	<b>setting</b> 6866:4
<b>root</b> 6860:3	6890:10,11	6793:22 6794:8	<b>selected</b> 6838:7,14	<b>settle</b> 6909:20
<b>rooted</b> 6884:1	6892:14,22	6794:10,21	6853:9 6855:23	<b>settlers</b> 6942:12
<b>Rose</b> 6821:2	6898:19	<b>search</b> 6935:7	<b>selection</b> 6918:5	<b>seven</b> 6840:9
<b>Ross</b> 6872:14,16	<b>sandy</b> 6807:13	<b>season</b> 6813:14	<b>selective</b> 6808:23	<b>Seventy</b> 6827:22
6873:2,18	<b>Sapotaweyak</b>	<b>second</b> 6784:12	6809:14	<b>several</b> 6783:20
6874:12 6875:7	6956:7	6788:18 6793:18	<b>self-assessment</b>	6784:13 6804:6
<b>roughly</b> 6828:6	<b>Sargeant</b> 6777:2	6855:9 6856:5,22	6936:19	6833:15 6834:9
<b>round</b> 6794:16	6893:12 6894:2	6859:9 6860:8	<b>sell</b> 6807:5	6844:21 6893:10
<b>rounds</b> 6941:10,12	6896:11	6867:16 6873:18	<b>selling</b> 6807:7	6919:24
	<b>satisfied</b> 6817:3	6877:5,9 6891:12	<b>semantics</b> 6875:12	<b>Shannon</b> 6777:9
		6896:10 6898:24	6897:7 6898:7	6782:6



<p><b>share</b> 6782:23 6848:4 6915:4,5 <b>shared</b> 6925:11 <b>Shaun</b> 6777:22 <b>shedding</b> 6833:2 <b>sheet</b> 6935:15 <b>short</b> 6792:21 6819:10 6820:10 6822:9 6855:25 6916:23 6951:4 <b>shortage</b> 6818:11 <b>shortly</b> 6880:19 <b>show</b> 6822:22 6837:14 <b>showed</b> 6808:14 6809:7 6893:24 <b>showing</b> 6788:15 <b>shown</b> 6820:15,16 <b>shows</b> 6926:1 <b>shrubs</b> 6785:2 6809:7,18 6821:1 <b>shutting</b> 6954:23 <b>sickness</b> 6916:14 <b>side</b> 6792:8 6907:1 6939:3 <b>sight</b> 6813:9,10 <b>signed</b> 6836:25 6866:3 <b>significance</b> 6854:7 6894:19 6922:19 <b>significant</b> 6789:8 6803:24 6808:24 6809:2 6855:4 6879:17,20,24 6893:17,24 6894:6 6895:5,8 6895:13 6916:20 6923:25 6924:25 6925:19 6933:1 6948:23 <b>significantly</b> 6920:22 6955:13 <b>similar</b> 6803:15 6816:4 6833:15 6901:21 <b>Similarly</b> 6938:3 <b>simple</b> 6803:16 6818:3 6853:5 6885:9 6922:6 6943:18 6949:23 6952:4 <b>simpler</b> 6878:6 <b>simplest</b> 6853:6 6888:9,15 <b>simplistic</b> 6859:20 <b>Simplet</b> 6955:16 <b>simply</b> 6852:21 6862:4,9 6864:1 6926:17 <b>simulate</b> 6859:24</p>	<p><b>Simultaneous</b> 6919:7 <b>since</b> 6806:24 6816:20 6874:22 6880:23 6940:16 6955:4 <b>sincerity</b> 6926:2 <b>single</b> 6810:4 6888:17 <b>Sipihk</b> 6781:20 6808:11 6944:23 <b>sir</b> 6820:14 6822:20 6822:22 6824:9 6824:16,22 6829:23,25 6834:5 6835:9 6836:14 6837:14 6838:2,7 6841:6 6841:19 6848:11 6865:8,15 6866:2 6866:4 6867:1,4,9 6867:20 6868:1 6868:14,22 6869:5,10,12,25 6870:6,14,20 6871:5,12,19 6872:7,14,16,22 6873:1,17 6874:7 6874:11,16,19 6876:22 6877:9 6877:22 6878:1,4 6878:12,16,21,24 <b>sit</b> 6798:12 6837:13 6939:11 <b>site</b> 6842:14 6885:11 6912:3 <b>sites</b> 6815:22 6922:4 6936:10 <b>sitting</b> 6871:23 <b>situ</b> 6892:23 <b>situation</b> 6810:5 6833:16 6860:1 6860:23 6889:9 6892:14 6945:12 6951:1 <b>situations</b> 6902:3 <b>size</b> 6796:24 6843:15 6925:5 <b>skidoos</b> 6811:8 <b>skill</b> 6818:11 <b>skilled</b> 6818:18 <b>skills</b> 6793:14 6818:22 <b>slight</b> 6802:24 <b>slightly</b> 6789:16 6800:10,24 <b>slotted</b> 6846:12 <b>slow</b> 6910:10 <b>slow-played</b> 6923:5 <b>small</b> 6801:2 6803:9</p>	<p>6803:21,22 6807:20 6809:17 6845:18 <b>smaller</b> 6784:18 6789:15 6804:7 6925:3 <b>smoothing</b> 6845:23 6846:2 <b>snake</b> 6944:20,21 <b>Snowman</b> 6814:22 6815:2 <b>snowmobile</b> 6815:3 <b>snowmobilers</b> 6815:1,5 <b>social</b> 6796:15,23 <b>society</b> 6950:5 <b>socioeconomic</b> 6797:21 6910:24 <b>soil</b> 6936:3 <b>solar</b> 6947:24 6948:25 6950:17 <b>sold</b> 6807:6 <b>solid</b> 6878:9 6943:3 <b>solidified</b> 6834:15 <b>solution</b> 6832:23 6843:23 6845:5 6917:23 <b>solutions</b> 6914:9 <b>solve</b> 6843:9 6950:12 <b>some</b> 6781:6,11 6783:2,8,11,13 6785:16,23 6786:9,23 6788:11,14 6789:21 6790:2 6792:17,18 6793:2,11 6794:7 6796:3,4,15,17 6797:4,6 6798:5 6800:15,22 6803:1 6805:15 6806:6 6807:7,16 6810:17 6811:11 6820:10 6823:7,9 6823:16 6824:23 6825:3,6,13 6827:17 6828:24 6838:15 6839:15 6843:13 6845:9 6846:11 6849:20 6850:13 6851:5 6852:19 6854:25 6855:22 6857:21 6865:19 6867:22 6873:15 6874:21 6876:7 6881:9,9 6883:16 6884:3 6885:24 6888:10 6889:16 6890:4</p>	<p>6890:12 6891:11 6891:21 6893:13 6893:22 6894:16 6898:7 6899:9,10 6899:18 6900:21 6901:25 6903:1 6903:15,20,22 6910:12 6928:8 6928:10 6932:10 6933:14 6935:20 6936:16,16,20 6937:14 6938:7 6939:17 6945:6 6946:25 6948:21 6950:22 6952:22 6953:7 6954:14 <b>somebody</b> 6782:10 6816:22 6900:4 <b>someone</b> 6785:10 6852:23 6889:7 <b>something</b> 6785:15 6786:5,16 6792:16 6793:5 6795:1 6798:19 6816:2 6831:5,11 6832:16 6833:16 6838:18 6853:21 6885:23 6889:8 6889:13 6892:5 6893:16 6901:17 6944:8 <b>sometime</b> 6834:14 6841:2 <b>sometimes</b> 6802:5,6 6862:4 6939:15 <b>soon</b> 6805:2 6842:21 6915:21 6947:14 6953:10 <b>sores</b> 6917:1 <b>sorry</b> 6787:14 6793:19 6796:9 6798:14 6824:18 6827:12 6829:25 6839:9,20 6840:4 6878:13 6880:11 6951:21 <b>sort</b> 6783:22 6785:23 6786:24 6787:8 6794:7 6808:11 6810:15 6810:20 6819:21 6833:21 6883:20 6912:25 6930:21 6932:18 6933:19 6936:6 6939:16 6940:21 <b>sought</b> 6799:9 6907:10 <b>sounds</b> 6896:12 6914:18 6920:16</p>	<p><b>soup</b> 6930:22 6931:3 <b>source</b> 6848:3 6850:9 6917:2 <b>sources</b> 6850:10 <b>south</b> 6796:18 6827:2,19 6828:2 6828:17 6829:17 6830:10,11 6831:3 6833:18 6835:20 6846:23 <b>so-called</b> 6826:9 6846:21 6851:22 6857:17 <b>space</b> 6909:8 <b>spare</b> 6846:5,9,9 <b>speak</b> 6788:9 6821:20 6890:4 6912:23 6913:2,6 6913:15,18 6915:21 6953:22 <b>speaker</b> 6913:10,21 6948:3 <b>speaking</b> 6868:3 6927:20 <b>speaks</b> 6861:18 6862:1 <b>specialty</b> 6941:2 <b>species</b> 6800:13 6809:18 <b>specific</b> 6796:12 6798:8 6812:2,14 6813:20 6814:11 6814:18 6816:9 6833:12 6918:17 6944:9,10,16 6955:10 <b>specifically</b> 6821:17 6851:22 6862:15 6862:17 6887:14 6934:8 6952:7 <b>specifications</b> 6790:24 6791:12 <b>specifics</b> 6797:25 <b>speed</b> 6921:8 <b>spelled</b> 6915:12 <b>spent</b> 6786:5 6895:24 6921:25 6940:1 <b>spirit</b> 6948:7 <b>spit</b> 6800:6 <b>spite</b> 6798:3 <b>split</b> 6790:18 6911:10 6912:5,6 6933:4 <b>splitting</b> 6846:24 <b>spoke</b> 6915:14 <b>spoken</b> 6866:14 6918:2 <b>spot</b> 6784:4 6785:24</p>
--	--	--	--	---

6786:13 <b>sprayed</b> 6820:20,23 6919:18 <b>spring</b> 6800:25 6841:4 6939:24 <b>Spur</b> 6807:18 <b>St</b> 6827:17 <b>stacks</b> 6892:24 <b>staff</b> 6871:16 6919:10 6937:9 <b>stage</b> 6812:20 <b>stages</b> 6841:11 6930:14 <b>stakeholder</b> 6914:12 <b>stalled</b> 6864:10 <b>stand</b> 6782:4 6890:19 6896:4 <b>standard</b> 6788:6 6848:1 6850:6 6862:25 6863:17 6873:12 6951:22 <b>standards</b> 6929:6 6933:23,24 6934:2 6936:22 6937:14 6945:10 6945:10,16 6947:11 6949:15 6951:15 6952:9 6952:10,20,25 <b>stands</b> 6801:9 6863:7 <b>start</b> 6781:17 6791:22 6792:18 6886:10 6903:20 <b>started</b> 6892:15 6900:5 6907:19 6930:19 6946:24 6953:23 <b>starting</b> 6784:6 6791:18 6853:10 6885:19,21 <b>state</b> 6836:16 6874:13 6906:10 6947:13 <b>stated</b> 6825:19 6850:16 6858:7 6876:10 6901:6 6901:14 6957:9 <b>statement</b> 6869:16 6870:2 6871:2 6929:12 <b>statements</b> 6927:21 <b>states</b> 6833:9 6844:6 6864:22 <b>static</b> 6900:1 <b>station</b> 6794:12 6801:14 6805:14 6827:19 6829:10 6829:10 6830:3,3	6831:20 6843:3,4 6843:15 6847:1 6908:13 6912:3 <b>stations</b> 6805:15 <b>status</b> 6948:20 <b>statutory</b> 6859:7 6890:15 <b>stay</b> 6805:23 <b>stayed</b> 6797:24 <b>steadily</b> 6810:12 <b>steer</b> 6931:14 <b>Stenotype</b> 6957:8 <b>step</b> 6802:3 6880:1 <b>steps</b> 6901:25 6928:19 6934:24 6936:18 <b>Stewardship</b> 6777:6 6916:16 <b>still</b> 6783:10 6798:5 6809:4,4 6812:7 6815:20 6819:18 6821:3 6831:3 6832:14 6841:10 6842:1 6847:4 6879:20 6883:2 6883:18 6893:23 6895:3 6908:6,7 6910:7 6922:21 6930:17 6939:8 6950:8 <b>Stockwell</b> 6778:3 6780:12 6914:1 6927:10 <b>stop</b> 6815:6 6952:7 6953:21 <b>stopped</b> 6952:7 <b>story</b> 6890:14 6907:1,1 <b>straight</b> 6833:18 6835:6 <b>strain</b> 6909:13 <b>strategic</b> 6887:23 <b>strategic</b> 6857:18 6857:25 6888:13 <b>strategy</b> 6889:24 6943:9,12,21 6944:10,15,17 <b>straw</b> 6894:4 <b>stream</b> 6789:7 6816:6 <b>stretch</b> 6859:16 <b>strictly</b> 6798:19 <b>strikes</b> 6883:21 6900:18,19 6930:5 <b>stringing</b> 6792:11 6792:15 <b>strip</b> 6817:23 <b>strong</b> 6864:9 <b>stronger</b> 6936:20,21	<b>strongly</b> 6928:7 <b>struck</b> 6929:22 <b>students</b> 6794:10 <b>studied</b> 6893:18 <b>studies</b> 6788:14 6837:5 6858:10 6859:3,8 6862:7 6864:16 6873:6 6888:14 6891:17 6892:11,20 <b>study</b> 6796:2 6801:20,21 6837:14,18,20 6840:12,16 6856:22 6857:1 6857:18 6873:20 6874:8 6875:10 6890:18 6891:22 6891:23 6892:7 6893:2,3,6 6931:6 6932:2,2 <b>sub</b> 6818:21 <b>subject</b> 6826:18 6828:14,23 6851:8 6853:16 6861:2 6862:16 6874:23 6882:2 6883:17 <b>submission</b> 6848:15 6849:19 6858:8 6869:4 <b>submit</b> 6867:5 <b>submitted</b> 6907:25 <b>subsequent</b> 6866:16 <b>subset</b> 6785:18 <b>subsistence</b> 6930:9 <b>substance</b> 6923:14 <b>substantial</b> 6901:18 6907:15,17 6908:15 6912:3 6918:14 6956:4 <b>substantially</b> 6872:10 6876:12 6909:3 <b>succinctly</b> 6896:23 <b>suffice</b> 6908:10 <b>sufficient</b> 6894:7 <b>suggest</b> 6842:11 6871:17 6921:7 6947:19,21 <b>suggested</b> 6944:5 <b>suggesting</b> 6805:7 6869:6,13 6870:1 6870:7 6871:9 6875:8 6895:18 <b>suggestion</b> 6832:20 6832:21 <b>suggests</b> 6833:1 <b>suite</b> 6813:1 6814:16	<b>summarize</b> 6787:7 6787:18,21 6896:23 <b>summer</b> 6820:25 6934:18,21 6935:11 6939:25 <b>summing</b> 6783:23 <b>sun</b> 6807:14 <b>Sunday</b> 6781:22 <b>super</b> 6811:6 <b>supplemental</b> 6869:14 <b>supplemented</b> 6861:21 <b>supply</b> 6792:7 6831:25 6832:4,7 <b>support</b> 6857:13 6860:15 6863:1 6884:24 6910:3 6910:18 6927:1 6945:13 <b>supportable</b> 6863:20 <b>supported</b> 6858:24 6893:6 <b>supporting</b> 6779:19 6859:19 6865:19 6874:3 6905:1,22 <b>suppose</b> 6786:6 6844:9 <b>supposed</b> 6834:12 <b>supposition</b> 6852:18 <b>sure</b> 6782:24 6788:6 6790:10 6799:18 6821:11 6822:8 6824:13 6838:22 6894:11 6903:14 6928:10 6954:4 <b>surprised</b> 6936:5 <b>surround</b> 6897:13 <b>surrounding</b> 6915:7 <b>surrounds</b> 6855:2 <b>surveillance</b> 6812:1 6812:15 <b>surveys</b> 6782:21 <b>survive</b> 6821:6 <b>survives</b> 6821:8 <b>suspect</b> 6876:3 <b>sustainability</b> 6861:8 6881:21 6882:8 6883:6 6889:22 6950:14 <b>sustainable</b> 6860:9 6860:15 6861:3 6881:13,15 6882:11,22 <b>sustenance</b> 6929:24 6930:10 <b>Swan</b> 6811:16 6921:18,21	<b>swear</b> 6906:4 <b>sweeping</b> 6849:12 <b>switch</b> 6805:24 6847:18 <b>switched</b> 6947:7 <b>Switching</b> 6817:6 <b>sworn</b> 6848:6,10 6906:5,12 <b>system</b> 6797:15 6950:15 <b>systems</b> 6933:12 6950:1 <hr/> <b>T</b> <hr/> <b>table</b> 6814:17 6819:11 6828:5 6831:4,12 6923:15 <b>tabled</b> 6904:25 <b>tabletop</b> 6835:1 <b>TAC</b> 6916:17 6923:17 6924:2,7 6924:7,8,12,17,19 6924:20,21,24 6925:7,8 6953:16 <b>tainted</b> 6916:11 <b>take</b> 6784:16,19 6788:13 6789:9 6795:25 6804:14 6805:17 6815:5 6817:4,16 6819:10 6820:4 6821:11 6824:15 6826:3,5 6834:24 6838:21 6840:19 6862:4 6866:2 6878:13 6881:9 6882:16 6884:25 6886:2 6891:24 6895:20 6899:24 6902:23 6915:16 6926:15 6930:6 6932:22 6934:3 6938:11 6941:8,9 6943:22 6950:3 6951:25 <b>taken</b> 6788:23 6802:8 6817:19 6818:7 6845:3 6927:25 6928:6 6934:24 6936:18 6946:20 6957:8 <b>takes</b> 6792:14 6875:23 6948:12 6948:12,13,13 <b>taking</b> 6817:14,21 6849:16 6862:6 6917:11 6954:24 <b>talk</b> 6833:25 6834:2 6877:6 6881:13
---	--	--	---	--

<p>6898:25 6924:7 6942:1 <b>talked</b> 6811:14 6815:19 6824:6 6941:22 <b>talking</b> 6785:6 6791:10 6800:5 6802:20 6803:22 6815:21 6823:12 6828:16 6829:11 6897:6,12 6911:19 6931:19 6931:19,20 6936:14 6947:6 6948:15 <b>tall</b> 6786:18 <b>tallest</b> 6815:23 <b>tangible</b> 6914:21 <b>tap</b> 6827:14 <b>taps</b> 6827:1 <b>targeted</b> 6810:4 <b>targets</b> 6790:6 <b>tariff</b> 6949:5,7 <b>task</b> 6823:8 <b>Tataskweyak</b> 6777:21 6780:10 6870:22 6904:7 6905:24 6906:15 6906:23 6907:4 6907:10,13 <b>Taxpayers</b> 6779:4 6904:16 6905:5 <b>TCN</b> 6906:23 6907:6,25 6909:25 6910:12 6911:8 6913:24 <b>TCN's</b> 6907:16,23 6909:21 6911:1 <b>tea</b> 6951:25 <b>teams</b> 6847:18 <b>tear</b> 6935:14 <b>technical</b> 6842:5,5 6842:10,16,18 6844:7,8,20 6845:7 6849:15 6850:8 6856:10 6862:25 6868:24 6869:7 6923:17 6923:18,21 6937:14 6940:10 <b>Technically</b> 6853:8 6888:24 <b>technology</b> 6862:3 <b>tell</b> 6781:21 6793:9 6805:24 6809:8 6836:5 6917:19 6917:21 6950:18 6951:5 <b>telling</b> 6821:5 <b>tells</b> 6918:9</p>	<p><b>tempered</b> 6864:9 <b>temporarily</b> 6803:4 6806:10 <b>temporary</b> 6798:4 6798:11,13 <b>ten</b> 6820:4 6932:9 <b>tend</b> 6785:1 <b>tenders</b> 6791:13 <b>tension</b> 6860:4 <b>tenure</b> 6932:20 6933:5 6934:13 <b>term</b> 6851:25 6852:11,14 6853:10 6864:14 6883:21 6896:11 6896:14 6946:12 <b>terminate</b> 6837:7 <b>terminating</b> 6839:7 6839:9 <b>termination</b> 6830:11 6838:9 <b>terms</b> 6787:22 6788:10 6798:12 6798:17 6802:16 6803:7 6804:2 6806:15 6807:20 6812:22 6831:25 6834:22 6837:15 6843:14 6874:11 6881:7,23 6882:15 6884:11 6886:14 6891:3 6926:7 6928:1,4 6928:13 6930:6 6930:25 6931:6,8 6932:5,18 6933:9 6934:2 6935:4 6936:4,17 6938:22 6939:20 6940:6,8,14 6941:9 6942:8 6947:12,15 6948:16 6949:25 6950:6,19 6951:18 6952:3 6954:25 <b>terrain</b> 6924:22 <b>territorial</b> 6860:20 6888:18 <b>Territories</b> 6889:21 6889:25 <b>territory</b> 6907:18 6933:3 <b>Terry</b> 6777:2 <b>test</b> 6851:7 6853:15 6853:17 6915:11 6936:3 <b>testimony</b> 6779:11 6781:19 6783:15 6825:19 6903:25</p>	<p>6904:20 6905:14 <b>testing</b> 6936:10 <b>thank</b> 6795:3 6799:3 6803:12 6808:7 6810:24 6819:1,3 6821:10 6822:7 6823:15 6841:6,19,20,21 6845:16 6847:12 6847:17 6848:9 6865:6,8 6867:14 6874:5,17 6877:4 6877:11 6879:2,5 6880:4 6881:12 6887:16 6902:16 6902:18,22 6903:25 6905:23 6911:11,12 6912:9,11,13,14 6912:19 6913:20 6913:24 6914:5 6927:6,8,10,11,14 6927:15 6942:7 6946:7 6950:19 6950:21 6951:3 6954:1 6955:19 6955:20,23,24 6956:8 <b>thanking</b> 6906:24 <b>Thanks</b> 6821:4 <b>their</b> 6781:13 6784:8 6785:7,16 6788:11 6791:1 6791:24,25 6794:3 6797:24 6799:22,24 6800:23,24 6802:10 6804:9 6804:15 6806:19 6807:2,5 6808:11 6808:12 6811:8 6812:8 6819:1 6821:25 6849:6 6851:5,19 6862:5 6863:3,19 6871:20 6882:7 6912:24 6916:5 6917:9,18 6918:3 6919:17,18,25 6920:8,15,17 6922:11 6930:24 6937:5,6 6940:21 6942:24 6944:4 6946:4,5 6947:8 6947:10,12 6949:17 6955:10 <b>themselves</b> 6863:18 6865:4 <b>theoretician</b> 6861:12</p>	<p><b>theoreticians</b> 6859:13,15 6862:5 6863:23 <b>theory</b> 6864:4 <b>thereabouts</b> 6842:14 <b>thermal</b> 6948:24 <b>thick</b> 6788:24 <b>thicker</b> 6784:22 <b>thing</b> 6787:19 6797:10 6798:15 6802:17 6808:9 6814:21 6853:21 6883:15 6886:3 6890:2 6892:10 6896:16 6897:11 6899:6 6901:23 6929:22 6935:10 6935:17 6940:23 6941:24 6945:1 <b>things</b> 6783:9 6792:8 6793:11 6795:16 6807:1 6815:21 6853:7 6854:16 6855:11 6857:10,22 6858:2 6881:5 6886:15 6888:3 6891:11 6892:16 6896:15 6897:7 6897:11,25 6928:11,12 6930:23 6932:19 6934:22 6936:22 6937:1 6942:17 6945:22 6948:12 6948:21 6950:20 6952:6 6953:6 <b>think</b> 6781:16 6783:6,20 6786:15 6788:1 6791:2 6793:11 6795:6 6796:25 6799:17,23 6801:24 6802:12 6804:2 6805:2 6808:10 6811:17 6815:7,9 6816:25 6819:8 6820:4 6825:2,18 6826:12 6827:18 6830:7,21 6833:11 6838:10 6840:25 6841:2 6845:18 6847:7 6847:12 6873:10 6876:8 6881:1,3,8 6882:4,19,24 6886:8 6888:7,9 6888:11 6889:19</p>	<p>6892:13 6899:12 6900:1,9 6902:6 6903:13 6918:7 6921:11 6923:8 6931:15 6932:1,3 6932:10,14 6933:8,11 6938:1 6938:21 6939:16 6940:11,15,23 6941:1,2 6942:22 6944:6 6945:9 6946:13,14 6947:16,24 6948:8 6949:23 6951:7,8,17 6952:11 6955:8 <b>thinking</b> 6786:4 6787:18 6835:12 6837:15 6894:2,3 6932:6 6941:5 6946:10 6947:3 6949:20 <b>third</b> 6878:21 6899:23 <b>thirds</b> 6949:2 <b>Thompson</b> 6913:14 <b>thorough</b> 6939:4 6940:13 <b>thoroughly</b> 6938:6 6953:17 <b>though</b> 6852:19 6904:10 6911:16 6912:25 6931:11 6935:5 <b>thought</b> 6875:16 6890:5 6932:22 6945:11 <b>thousands</b> 6916:18 6921:24 6933:5 6949:18 <b>thread</b> 6852:6 <b>three</b> 6784:15 6792:23 6831:16 6904:5 6916:25 6919:13 6929:18 6939:4 6940:7 6941:23 6944:24 6945:22 <b>three-pronged</b> 6790:11 <b>threshold</b> 6893:25 6894:9 6896:5,6 <b>thresholds</b> 6892:18 6892:25 6895:18 6895:20 6949:24 <b>through</b> 6781:25 6783:16 6789:11 6790:2,8,23,23 6791:1,8,25 6795:2 6800:17</p>
---	---	---	---	--

6804:2,10 6814:15,17 6817:11 6819:25 6850:12 6852:7 6858:9,19 6860:20 6889:10 6898:12 6907:21 6916:3,8,19 6917:4 6920:13 6924:4,8 6928:22 6938:12 6947:23 6951:6 <b>throughout</b> 6816:3 6816:7 6913:16 6914:19 6920:18 6929:22 6954:5 <b>tie</b> 6829:1 6831:9 6833:7,12 6834:3 <b>tied</b> 6861:23 <b>time</b> 6782:5 6784:13 6795:5 6800:18 6805:20 6808:2 6813:14 6817:19 6818:24 6819:19 6820:17 6820:25 6822:9 6823:4 6832:10 6834:21 6835:12 6835:24 6836:24 6837:9 6840:1,6 6840:13 6841:5 6842:24 6843:13 6843:16 6846:24 6851:1 6857:10 6858:4 6861:22 6864:20 6866:23 6873:13 6874:21 6874:24 6875:14 6877:6 6880:18 6880:21 6881:5 6882:2 6887:6 6889:6 6895:24 6898:2 6899:16 6900:6 6901:18 6909:8 6912:17 6913:8,20 6921:20 6923:20 6927:21 6929:3 6930:19 6935:18 6938:23 6940:1,2 6943:19 6948:14 6953:7,22 6956:6 6957:9 <b>times</b> 6794:5 6795:6 6847:23 6863:15 6864:9 6870:25 6884:10 6887:13 6895:6,11 6896:14 6901:21 6925:6 6943:7	<b>tiny</b> 6933:18,18 <b>tipped</b> 6822:24 <b>tipping</b> 6894:2,10 6949:25 <b>title</b> 6817:10,16,19 6818:3,7 <b>titled</b> 6870:8 6874:13 <b>today</b> 6781:5 6783:1 6798:12 6803:17 6827:25 6833:16 6834:8 6835:13 6837:11 6837:13 6840:9 6842:2 6848:4 6849:2,16 6857:15 6865:5 6865:21 6884:8 6887:19 6899:21 6903:17 6908:6,7 6912:14 6917:1 6917:20 6918:10 6918:21 6926:18 6946:25 6948:5 6956:8 <b>today's</b> 6956:1 <b>toes</b> 6782:19 <b>together</b> 6783:8 6786:22 6815:24 6825:4 <b>told</b> 6807:4 6808:14 6809:21 6866:5 6937:8 6953:13 6953:14,16 <b>tomorrow</b> 6819:5 6903:10,12,13 6944:24 6956:2 6956:10 <b>tools</b> 6953:19 <b>top</b> 6791:4 6875:2 6877:10 6878:15 6896:25 6949:1,1 <b>topic</b> 6806:24 6822:5 6852:5 6898:18 6929:15 6945:16 <b>topical</b> 6784:8 <b>topics</b> 6823:3 <b>total</b> 6826:12 6876:16 6934:3,6 <b>totally</b> 6808:17 6845:2 <b>touch</b> 6881:16,17 <b>touchstone</b> 6907:23 <b>tour</b> 6788:1 6942:1 <b>tourism</b> 6929:25 <b>toward</b> 6829:17 6830:10 6833:21 6833:22 6837:12 <b>towards</b> 6794:7,20	6808:12 <b>tower</b> 6792:8,9 6815:22 <b>towers</b> 6815:23 6931:22 6936:4 <b>town</b> 6796:24 <b>township</b> 6935:23 <b>track</b> 6782:14,17,21 <b>tracks</b> 6782:3,5,5,8 <b>traction</b> 6917:23 <b>traditional</b> 6907:18 6908:16 6919:19 6919:22 6920:11 6933:3,13 6951:14 <b>traditionally</b> 6788:12 <b>traditions</b> 6908:19 <b>traffic</b> 6920:21 <b>tragically</b> 6920:11 6923:20 <b>trail</b> 6811:21 6813:13,24 6814:22,24 <b>trails</b> 6811:13,21 6813:9,23 6815:3 6815:22 <b>trained</b> 6794:3 <b>training</b> 6792:15,18 6793:23 6818:17 6910:6 6911:9 6941:1 6949:19 <b>trains</b> 6794:1 <b>trajectory</b> 6889:2 <b>transcript</b> 6776:18 6870:16,21 6937:12 6957:8 <b>transcripts</b> 6870:19 6926:10 <b>transformed</b> 6909:2 <b>transformer</b> 6846:5 <b>transformers</b> 6845:23 6846:4,8 6846:16 <b>transmission</b> 6776:6 6790:23 6801:4 6807:15 6807:19,25 6816:21 6818:21 6821:13 6829:7,9 6829:13 6830:2 6830:16 6844:17 6868:10,18 6908:12 6925:3 6952:21 <b>transparency</b> 6928:16 <b>transparent</b> 6914:23 <b>transpired</b> 6926:17	<b>trap</b> 6930:4 <b>trapline</b> 6800:16 <b>traps</b> 6921:15 <b>trapper</b> 6800:18 6802:1 <b>trappers</b> 6799:16 6800:8 6801:20 6803:15 6804:5 6920:9 6921:12 <b>trapping</b> 6800:11 6930:2 6932:8 <b>travel</b> 6815:1 <b>traverse</b> 6836:7 <b>traverses</b> 6836:2 6938:13 <b>treat</b> 6810:9,10,11 <b>treated</b> 6808:16,19 6809:17 6810:7 <b>treating</b> 6809:19 <b>Treaty</b> 6942:11,14 6942:16 <b>tree</b> 6809:18 <b>trees</b> 6784:5,7,16,22 6784:25 6785:3 6786:18 6788:5 6788:23,25 6789:4,5,9,15 6808:24,25 6809:1,3,16 6810:7 6811:19 6815:24 6820:22 6821:3 <b>tremendously</b> 6838:1 <b>trenches</b> 6811:14,25 6812:15 <b>tried</b> 6812:12 6899:13 <b>trifle</b> 6783:11 <b>trigger</b> 6851:25 6859:7 6879:10 6887:24 6889:7 6891:18 <b>triggers</b> 6894:15 <b>trim</b> 6784:25 <b>tripped</b> 6952:22 <b>trouble</b> 6857:8 <b>Trout</b> 6916:6 <b>true</b> 6864:21 6942:6 6942:9 6957:7 <b>truncated</b> 6954:6 <b>trust</b> 6908:4 6911:1 <b>try</b> 6797:23 6798:9 6813:3 6837:5 6900:9 <b>trying</b> 6783:8 6790:5 6823:6 6864:7 6883:18 6900:2 6901:17 6930:21 6939:24	<b>Tuesday</b> 6776:19 6781:1 <b>Turenne</b> 6799:8,12 6801:6 6802:20 <b>turn</b> 6848:6 <b>turning</b> 6781:15 <b>two</b> 6781:24 6799:21 6800:21 6804:19 6805:17 6808:18 6821:16 6821:20 6827:1 6835:14,16 6841:18 6846:6 6854:16,17 6856:12,21 6857:10,12 6860:5,14 6879:9 6887:20 6888:2 6900:20 6901:25 6902:23 6924:1 6927:22 6929:17 6933:4 6934:22 6939:18 6949:2 6953:23 6954:11 6955:13 6956:3 <b>Tymofichuk</b> 6780:2 6780:4 6817:17 6818:14 6822:17 6836:23 6837:17 6838:9,17,20 6841:3 <b>type</b> 6792:12 6797:10 6844:17 6846:5 6881:16 <b>types</b> 6792:19 6812:16 6833:3 6846:7 6856:21 6886:22 6889:4,5 <b>typically</b> 6783:17 6786:18,19 6789:14 6853:16 6882:15 6888:16 <b>typo</b> 6824:12 <hr/> <b>U</b> <b>Ugly</b> 6874:15 <b>ultimate</b> 6844:15 <b>ultimately</b> 6949:12 <b>UN</b> 6948:5 <b>unacceptable</b> 6833:4 6902:10 <b>unbearable</b> 6909:14 <b>uncertain</b> 6834:11 <b>uncertainties</b> 6861:25 6864:19 <b>uncertainty</b> 6878:7 6901:22 6902:1 6902:11 <b>unclear</b> 6783:11 6852:12
--	---	---	--	--

<p><b>uncovering</b> 6803:1  <b>under</b> 6815:3          6838:16 6852:18          6853:20 6861:24          6862:17 6875:5,7          6878:21 6885:21          6899:25 6919:2          6921:23 6928:21          6929:4 6952:8  <b>underestimate</b>          6878:10  <b>underground</b>          6825:20 6826:2          6828:10,12  <b>undergrowth</b>          6784:18 6788:22          6788:24 6789:14          6809:4  <b>underlying</b> 6856:12  <b>underneath</b> 6818:8  <b>understand</b> 6782:25          6783:16 6805:7          6817:9 6820:9          6830:25 6840:5          6843:20 6856:15          6857:23 6866:18          6869:24 6875:17          6883:10,20          6884:21 6889:14          6890:8 6897:6          6918:14 6919:5          6921:5 6922:14          6922:20  <b>understandable</b>          6859:14 6886:2,9          6928:16 6930:13          6930:23  <b>understandably</b>          6885:16  <b>understanding</b>          6793:21 6808:20          6827:13 6838:24          6842:15 6848:18          6854:10 6876:15          6878:11 6915:9          6922:12  <b>understands</b>          6918:20  <b>understatement</b>          6946:8  <b>understood</b> 6799:17          6856:15 6914:9          6922:24,24  <b>undertaking</b>          6779:15 6904:23          6905:19 6940:15          6941:1  <b>undue</b> 6804:1  <b>unencumbered</b>          6858:2</p>	<p><b>unfamiliar</b> 6852:11  <b>unfortunate</b>          6860:23 6938:2  <b>unfortunately</b>          6892:11  <b>unilateral</b> 6934:21  <b>union</b> 6794:19  <b>unions</b> 6791:21  <b>unique</b> 6890:16          6907:20  <b>United</b> 6844:5  <b>universal</b> 6812:24  <b>universally</b> 6814:7  <b>universe</b> 6853:12  <b>University</b> 6940:3  <b>unless</b> 6816:9  <b>unrealistic</b> 6881:17  <b>unresolved</b> 6860:4  <b>until</b> 6803:5          6834:14 6845:13          6862:9 6918:19          6943:21  <b>unusual</b> 6838:23          6890:1  <b>update</b> 6880:25          6881:2,11  <b>updated</b> 6836:21          6837:14 6880:23          6945:12  <b>updating</b> 6812:21          6881:4  <b>upset</b> 6922:10  <b>USA</b> 6947:23  <b>use</b> 6783:15 6784:2          6785:12,21,24          6786:2,10,12          6787:13 6789:18          6802:9 6803:8          6809:21 6810:18          6810:20,22          6813:5,14          6815:23 6816:5          6822:13 6833:2          6851:22 6858:17          6859:23 6887:2          6887:25 6890:15          6891:23,23,24          6899:13 6900:8          6909:9 6918:17          6932:18 6937:15          6941:21,25          6948:7,24          6953:19  <b>used</b> 6783:17,18          6785:24 6786:2,9          6786:13 6788:13          6809:23 6812:16          6813:23 6815:11          6815:12 6825:20          6846:9 6857:9</p>	<p>6859:3 6864:24          6865:1 6875:9          6893:25 6894:15          6896:8,11          6899:18 6900:16          6901:7,7 6931:9          6932:5 6933:24          6937:4 6938:8          6943:15 6944:15          6947:12  <b>useful</b> 6856:4          6858:21 6870:11          6877:7 6888:5          6889:19 6891:14          6892:5 6897:16  <b>uses</b> 6894:22  <b>using</b> 6788:14          6789:19 6810:19          6815:13 6816:13          6818:19 6853:2          6876:11 6899:14          6900:4 6933:25          6940:5 6947:24  <b>usual</b> 6946:14,18          6947:1,16          6948:11  <b>utilities</b> 6829:6          6833:20 6877:24  <b>utility</b> 6818:15          6836:25 6837:6          6932:20 6933:6          6936:15,19          6938:24 6939:1          6946:21  <b>utilizing</b> 6784:10  <b>U.S</b> 6829:6,14          6830:11 6837:7          6839:5</p> <hr/> <p style="text-align: center;"><b>V</b></p> <hr/> <p><b>vacated</b> 6803:5  <b>valid</b> 6875:24          6896:1  <b>validity</b> 6922:2  <b>value</b> 6817:16          6854:7 6891:17          6926:3  <b>valued</b> 6852:17  <b>values</b> 6948:14  <b>valve</b> 6845:22          6846:6,7  <b>valves</b> 6846:2  <b>variance</b> 6938:18  <b>variety</b> 6860:2          6863:3 6929:5,18          6930:11 6936:22  <b>various</b> 6795:6          6849:7 6871:21          6882:8,13 6889:5          6889:12 6894:24</p>	<p>6898:15  <b>VEC</b> 6853:9 6873:5          6874:7 6875:8,25  <b>VECs</b> 6852:18,19          6853:24 6854:1          6854:18 6855:10          6855:14,20,21          6858:1 6873:21          6875:22 6876:17          6933:10  <b>VEC's</b> 6852:24  <b>vegetation</b> 6810:17          6810:21 6813:8  <b>vehicle</b> 6813:5          6924:22  <b>vehicles</b> 6811:9          6932:14  <b>venture</b> 6790:14,21  <b>vernacular</b> 6948:2  <b>version</b> 6857:19          6880:15 6889:20          6891:16  <b>versions</b> 6857:12          6887:20  <b>versus</b> 6845:2          6944:7  <b>very</b> 6784:8 6785:4          6789:13 6797:17          6799:2,3 6802:20          6803:9 6804:7          6805:15 6809:20          6812:7 6816:4          6820:4 6821:4          6837:1,1,3,9          6841:10 6845:18          6847:24 6848:3          6849:13 6863:16          6882:25 6885:15          6885:16,17          6886:19 6890:1,4          6890:16,16,20          6893:3 6894:5          6896:1,23          6897:10 6898:18          6898:18 6901:18          6902:22,25          6909:11 6912:9          6912:13,14          6917:16 6919:2          6923:22 6928:9          6928:24 6935:12          6940:12 6944:8          6947:14,17          6951:17 6952:24          6954:1,2 6955:10          6955:10,19,20,23          6955:24 6956:1,9  <b>vestments</b> 6862:6  <b>view</b> 6808:14          6842:6 6849:17</p>	<p>6854:6 6855:13          6858:24 6860:9          6863:22 6873:5          6876:16 6885:1          6885:19 6887:9          6892:20 6895:6          6900:21 6907:20          6909:19 6929:3          6946:9  <b>viewed</b> 6859:18          6863:12 6876:20  <b>views</b> 6849:6          6856:25 6862:5          6873:14 6885:18          6913:7  <b>vigorously</b> 6922:1  <b>VII/428</b> 6823:20  <b>virtues</b> 6861:19  <b>visible</b> 6934:16  <b>vision</b> 6948:13          6949:12  <b>visited</b> 6823:3  <b>visualize</b> 6832:6  <b>vis-a-vis</b> 6799:16          6800:8  <b>voiced</b> 6928:2  <b>voltage</b> 6835:22          6836:19  <b>VOLUME</b> 6776:16  <b>volunteer</b> 6939:22  <b>volunteered</b>          6824:21  <b>volunteering</b>          6824:17</p> <hr/> <p style="text-align: center;"><b>W</b></p> <hr/> <p><b>W</b> 6780:12  <b>Wabowden</b> 6814:10          6817:1,5  <b>wait</b> 6792:24          6804:22  <b>waiting</b> 6910:11  <b>wake</b> 6819:6  <b>Walkerton</b> 6916:24  <b>walking</b> 6781:23  <b>want</b> 6781:21          6794:3 6800:5          6802:9,12 6815:6          6893:14 6930:6          6932:17 6937:1          6942:5 6948:22          6950:19,21  <b>wanted</b> 6816:22          6912:23 6947:19          6947:21  <b>wanting</b> 6793:13          6945:20,23  <b>war</b> 6948:2,5  <b>warrant</b> 6855:12  <b>warranted</b> 6924:1</p>
--	--	--	---	---

<p><b>Warren</b> 6778:3  <b>wasn't</b> 6818:6  6825:16 6845:4  6880:14  <b>waste</b> 6916:11  6919:12 6923:20  <b>watching</b> 6927:25  <b>water</b> 6777:6  6822:23 6916:8  6916:16,19  6917:2,3 6925:2  6932:19,19  6933:5,11,11  6947:24  <b>waters</b> 6909:3  6916:7  <b>watershed</b> 6916:5  6925:4  <b>way</b> 6782:15 6783:9  6791:9 6815:1  6854:25 6856:16  6862:13 6863:24  6881:24 6882:7  6883:6 6884:1  6886:16 6888:11  6888:11 6893:4  6898:4 6899:13  6899:14 6908:24  6909:7 6934:6  6936:8,9,12  6937:13 6939:12  6944:3  <b>Wayne</b> 6809:12  <b>ways</b> 6800:10  6813:3 6893:5  6900:20 6951:8  6954:23  <b>weak</b> 6852:20  6859:19 6950:17  <b>Webb</b> 6777:6  <b>week</b> 6815:8  6827:18 6846:20  6950:23,23  <b>weeks</b> 6783:10  6847:20 6866:6  6867:10 6912:22  6955:22  <b>weight</b> 6820:2  <b>welcome</b> 6912:24  6913:21  <b>well</b> 6785:9,11  6791:17 6796:18  6797:8 6800:9  6802:15 6803:16  6803:23 6805:5  6805:22 6809:6  6813:6 6816:15  6822:11 6829:21  6836:9 6843:10  6844:11,25</p>	<p>6848:17 6851:4,5  6851:6,11 6861:6  6861:6 6865:18  6872:9 6886:15  6886:17 6887:7  6889:12 6893:5  6895:6 6901:11  6907:1,2 6912:10  6919:24 6927:13  6930:5 6931:3  6934:10 6947:25  6952:22 6954:20  <b>Wellman</b> 6916:5  <b>well-being</b> 6922:16  <b>well-regulated</b>  6800:12  <b>went</b> 6781:25  6808:12 6875:1  6926:9 6952:14  <b>were</b> 6786:8 6787:7  6790:5 6793:3  6795:23,23  6796:5,15,20  6797:22 6799:9  6808:24 6809:18  6812:7 6817:1  6820:16 6825:4  6834:7 6860:21  6865:20 6866:9  6866:19 6867:1,9  6869:8 6871:16  6871:17 6873:1  6880:5 6894:1  6901:3 6906:5  6908:8 6909:10  6911:19 6912:24  6913:15,17  6919:22 6920:23  6924:3,4,8 6925:8  6925:18 6926:11  6926:18 6929:5  6930:16 6934:1  6934:17,20,24  6935:16 6937:8  6937:14 6939:20  6942:19 6946:22  6948:1,3 6952:11  6952:21 6953:14  6954:13,18,25  6955:1,2,10  <b>weren't</b> 6786:13  <b>west</b> 6828:22  6955:13  <b>we'll</b> 6781:3,9  6805:22 6818:1  6818:25 6819:10  6820:4 6822:12  6847:17 6873:17  6902:23 6903:9  6903:20,23</p>	<p>6912:17  <b>we're</b> 6789:3  6797:13 6803:18  6806:24 6811:10  6815:21 6816:23  6818:19 6820:8  6825:18 6829:10  6831:4 6832:8  6834:8 6835:13  6841:10 6846:15  6846:22 6882:16  6890:8 6895:9  6897:6,11  6903:10  <b>we've</b> 6792:21  6804:1 6831:6  <b>whatsoever</b> 6919:15  <b>Whelan</b> 6777:17  6780:14 6954:2  <b>Whelan-Enns</b>  6927:17,19,20  6954:8,22  6955:24  <b>whichever</b> 6906:1  <b>while</b> 6861:24  6863:14 6865:2  6871:15 6878:6  6884:20 6908:23  6910:8 6917:24  6918:12,24  6944:14  <b>white</b> 6921:10  6935:19  <b>Whitebird</b> 6942:8  <b>whole</b> 6802:17  6838:3 6890:14  6933:7 6934:20  6950:2  <b>wide</b> 6818:11  6931:24  <b>widely</b> 6873:4  <b>wider</b> 6932:7  <b>wilderness</b> 6804:15  6811:8  <b>Wildlands</b> 6777:17  6780:14 6904:9  6927:18,18,21  6929:2  <b>wildlife</b> 6813:5  6816:24  <b>Williams</b> 6777:13  6779:19 6780:8  6865:9,10,18  6866:2,6,9,17,21  6867:1,8,14,20  6868:1,5,14,22  6869:5,12,24  6870:6,14,20  6871:4,8,15,23  6872:2,5,13,16,21</p>	<p>6873:1,17 6874:3  6874:6,11,19  6875:1,5 6876:5  6876:14,22  6877:2,5,13,17,21  6878:4,15,19,23  6879:2,6 6899:21  6902:24,25  6903:14 6905:1  6905:21  <b>willing</b> 6792:18  <b>wind</b> 6948:25  <b>window</b> 6846:21  6855:23  <b>Winnipeg</b> 6776:18  6776:19 6817:20  6913:17  <b>winter</b> 6792:25  6820:21 6821:7,8  <b>wire</b> 6792:11  <b>wise</b> 6841:9  <b>wish</b> 6848:13,17  6851:22 6856:9  6856:18 6857:1  6862:5 6863:9,21  6869:17 6882:5  6884:22 6892:22  6949:24 6950:3  <b>witness</b> 6879:8  6902:20  <b>witnesses</b> 6820:1  6841:23  <b>wolf</b> 6813:6,11,13  <b>wonder</b> 6953:7  <b>wonderful</b> 6942:19  <b>wondering</b> 6782:7  6799:15 6815:10  <b>wonders</b> 6892:13  <b>Woodford</b> 6821:18  <b>Woodland</b> 6943:9  6943:11,12,16,20  6943:24 6944:10  6944:11,17  <b>word</b> 6840:19  6893:25 6894:2  6894:15,18  6895:5 6899:12  6900:3 6935:7  6941:25 6950:18  <b>words</b> 6786:13  6852:21 6857:5,9  6859:12 6875:25  6876:7,12  6881:20 6884:7  6896:2 6897:8  6918:15 6928:3  <b>work</b> 6785:15,16  6786:22 6789:21  6790:1,15,17,21  6791:14,23</p>	<p>6792:1,3,5,6,10  6792:12,14,15,20  6792:21,24  6795:15 6809:13  6837:17 6856:16  6863:4,25 6864:6  6870:5 6877:18  6885:2 6886:6  6890:13 6902:8  6910:15 6914:7  6920:13 6932:13  6937:19 6938:4  6938:25 6939:2,6  6939:7,18 6940:5  6940:8 6942:20  6946:7,23 6948:4  6949:12  <b>worked</b> 6817:25  6841:9  <b>worker</b> 6798:5,12  <b>workers</b> 6794:17  6797:11,23  6798:4,11,13  6818:18 6908:14  <b>working</b> 6790:13  6794:7,11,19  6798:8 6859:16  6872:17 6940:2  6942:8 6946:2  <b>works</b> 6818:21  6861:16 6863:25  6892:13  <b>workshop</b> 6871:11  6871:16  <b>workshops</b> 6934:5  <b>world</b> 6842:12  6864:11 6887:4  6897:12 6899:15  6899:16 6900:5,6  6907:20 6918:16  6948:2,6  <b>worst</b> 6789:12  <b>worth</b> 6940:24  6947:22  <b>wouldn't</b> 6784:9  6816:8 6819:17  6830:20 6831:14  6831:15 6834:15  6839:13  <b>wrestle</b> 6883:18  <b>writing</b> 6927:3  <b>written</b> 6821:16  6849:19 6862:15  6865:14 6931:11  <b>wrong</b> 6842:7  <b>Wuskwatim</b>  6795:21 6797:3,9  6797:16 6868:9  6868:17 6930:15  6930:16 6952:11</p>
--	---	--	--	--

6952:20 <b>Wuskwi</b> 6781:20 6808:11 6944:22	<b>\$1.78</b> 6823:22 6824:11 <b>\$204</b> 6829:15,16 6839:11 <b>\$21,000</b> 6799:23 <b>\$430</b> 6825:14 <b>\$580</b> 6824:23 <b>\$766</b> 6831:2 <b>\$850</b> 6828:6 6831:2 <b>\$900</b> 6847:2	<b>18th</b> 6779:10 6848:15 6865:14 6865:23 6867:3,6 6867:16,22 6868:6,23 6869:4 6877:3 6904:20 6905:12 <b>19</b> 6812:3 6813:20 6814:3 <b>19A</b> 6815:16 <b>1940s</b> 6947:22 <b>1957</b> 6907:19 <b>1960</b> 6938:15 <b>1985</b> 6938:15 <b>1988</b> 6939:1,2 <b>1990</b> 6939:3 <b>1990s</b> 6952:6 6953:7,9 6954:11 <b>1991</b> 6939:3 <b>1992</b> 6909:19 6912:7 <b>1993</b> 6938:15 <b>1999</b> 6872:18 6880:12,23	<b>21</b> 6878:15 6899:22 <b>21st</b> 6891:3 <b>2191E</b> 6925:24 <b>22</b> 6919:22 <b>23rd</b> 6871:11 <b>24th</b> 6871:11 <b>25</b> 6802:4 6924:2 <b>272</b> 6845:23 6847:3 <b>278</b> 6826:14	<b>65</b> 6839:20,20 6847:7 <b>66</b> 6931:14,17 <b>6782</b> 6780:3 <b>68</b> 6829:20 6830:2 <b>6820</b> 6780:4 <b>6822</b> 6780:5 <b>6842</b> 6780:5 <b>6848</b> 6780:7 <b>6865</b> 6780:8 <b>6879</b> 6780:8 <b>6905</b> 6779:2,4,6,8,9 6779:11,13,15,17 6779:19 <b>6906</b> 6780:10 <b>6914</b> 6780:12 <b>6927</b> 6780:14
<hr/> <b>Y</b> <hr/> yards 6932:13 <b>Yeah</b> 6786:15 6800:16 6825:2,3 6827:16 <b>year</b> 6789:1,10 6793:6 6800:14 6800:14 6804:20 6804:20 6805:1,3 6805:17 6808:18 6821:1 6834:14 6841:16 <b>yearly</b> 6802:7 <b>years</b> 6784:3,13,14 6784:15 6802:4 6804:19 6810:8 6810:10 6818:1 6828:21 6831:20 6833:1,15 6835:16 6840:9 6840:22 6841:18 6850:11 6857:4 6883:16 6885:18 6890:1 6897:24 6908:15,22 6909:2 6937:5 6941:23 6948:15 6948:17,18 6952:18 <b>yesterday</b> 6781:20 6799:7 6808:10 6808:13 6811:5 6819:14,24 6820:16 6904:14 6913:11 6929:12 6938:16 6944:20 6945:4 6946:11 <b>yesterday's</b> 6781:18 <b>young</b> 6780:10 6793:3 6906:12 6906:14,16,18,22 6911:13,24 6913:4,23 <b>youth</b> 6786:6	<hr/> <b>1</b> <hr/> 1 6828:5 6831:4,12 6832:3 6867:16 6867:21 6939:16 6939:16 <b>1st</b> 6908:3 <b>1.2</b> 6824:23 <b>1.3</b> 6832:3 <b>1:15</b> 6903:24 6904:3 <b>10</b> 6810:8,10 6890:1 <b>10:10</b> 6820:7 <b>100</b> 6901:22 6902:2 6948:18 <b>105</b> 6839:18 <b>11</b> 6874:4 6935:12 6935:25 6938:12 <b>11th</b> 6910:1 <b>1100</b> 6843:9 <b>12</b> 6776:19 6779:19 6781:1 6905:2,21 <b>12:15</b> 6904:2 <b>120</b> 6782:9 <b>122</b> 6779:6 6904:18 6905:7 <b>123</b> 6779:8 6829:13 6904:19 6905:10 <b>124</b> 6779:9 6904:20 6905:11 <b>125</b> 6779:11 6904:21 6905:13 <b>126</b> 6779:13 6904:23 6905:15 <b>127</b> 6779:15 6904:24 6905:18 <b>13th</b> 6870:23 6908:4 <b>14</b> 6935:12 <b>15</b> 6802:4 6810:10 <b>150</b> 6817:15 6937:19 <b>1500</b> 6832:8 <b>16</b> 6804:20 <b>16th</b> 6915:14 6926:10,18 <b>167</b> 6826:10 <b>17</b> 6788:5 6815:25 6938:12 <b>18</b> 6779:17 6829:4 6904:25 6905:20	<hr/> <b>2</b> <hr/> 2 6953:12 <b>2nd</b> 6924:14 <b>2:00</b> 6903:21 <b>2:30</b> 6903:22 <b>2:40</b> 6956:11 <b>20</b> 6802:4 6831:20 6833:1 6845:12 6931:5 6952:18 <b>2000</b> 6832:10 <b>2004</b> 6868:15 <b>2009</b> 6940:16 <b>2010</b> 6834:19 6836:11 6843:19 6844:13,15 6874:16 <b>2011</b> 6869:1,8 <b>2012</b> 6823:19 6869:15 6870:17 6870:23 6871:8 6871:10 6891:15 6891:16 6908:3,4 6943:14,21 <b>2013</b> 6776:19 6781:1 6865:23 6867:22 6868:6,7 6868:23 <b>2017</b> 6832:6 <b>2018</b> 6835:8,15 <b>2020</b> 6839:3,25 6840:1,10,11 <b>2025</b> 6831:5,18,24 6832:10,20 6834:7 <b>2040</b> 6843:10	<hr/> <b>3</b> <hr/> 3 6823:10 6825:10 6825:23 6844:21 6845:19 6876:23 6879:10 6952:10 6953:10,12 6954:4,13 <b>3rd</b> 6827:10 <b>32</b> 6776:16 6779:2 6904:15 6905:3 <b>33</b> 6779:4 6904:16 6905:5 <b>35</b> 6908:22,25 6909:12 6919:21 6942:3 <b>350</b> 6930:16 <b>370</b> 6825:22 6826:3 6826:5 <b>39</b> 6840:8,13	<hr/> <b>7</b> <hr/> 7 6875:2 <b>70</b> 6824:1 6826:8,22 6827:5,10,21 6828:17 6918:17 <b>700</b> 6843:8 <b>750</b> 6834:4
<hr/> <b>Z</b> <hr/> <b>zero</b> 6832:13 <b>zone</b> 6786:24 6816:1 6931:24 6932:8 <b>zones</b> 6785:9 6816:6	<hr/> <b>2</b> <hr/> <b>2000</b> 6832:10 <b>2004</b> 6868:15 <b>2009</b> 6940:16 <b>2010</b> 6834:19 6836:11 6843:19 6844:13,15 6874:16 <b>2011</b> 6869:1,8 <b>2012</b> 6823:19 6869:15 6870:17 6870:23 6871:8 6871:10 6891:15 6891:16 6908:3,4 6943:14,21 <b>2013</b> 6776:19 6781:1 6865:23 6867:22 6868:6,7 6868:23 <b>2017</b> 6832:6 <b>2018</b> 6835:8,15 <b>2020</b> 6839:3,25 6840:1,10,11 <b>2025</b> 6831:5,18,24 6832:10,20 6834:7 <b>2040</b> 6843:10	<hr/> <b>4</b> <hr/> 4 6825:10 6833:25 6876:24 6887:19 <b>4,000</b> 6916:11 <b>4.5</b> 6931:24 <b>40</b> 6839:19,20 6840:2,7 6845:12 6947:13 <b>437</b> 6908:11 <b>45</b> 6916:8 <b>450</b> 6839:22	<hr/> <b>8</b> <hr/> 8 6870:8,10 <b>8th</b> 6870:17 <b>889</b> 6847:3 <b>890</b> 6847:2	
<hr/> <b>\$</b> <hr/> <b>\$1.2</b> 6824:14 <b>\$1.35</b> 6826:14 <b>\$1.631</b> 6825:11	<hr/> <b>5</b> <hr/> 5 6844:22 <b>50</b> 6827:17 6843:10 6845:12 6948:15 6948:17 <b>500</b> 6824:2 6826:23 6828:25 6829:7,9 6829:20 6830:2,4 6830:15 6831:3 6834:2 6844:6 <b>55</b> 6908:22 6909:2	<hr/> <b>6</b> <hr/> 6 6814:12 6816:16 6870:2 <b>6th</b> 6779:2 6904:14 6905:4 <b>60</b> 6829:8 6933:25	<hr/> <b>9</b> <hr/> 9 6804:20 <b>9:00</b> 6781:2 6956:9 <b>9:56</b> 6820:6 <b>90s</b> 6954:3 <b>92</b> 6826:6 <b>94</b> 6880:5 <b>96</b> 6933:15 <b>97</b> 6939:25 <b>98</b> 6939:25 <b>99</b> 6955:5	

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